

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 23/64

NAME OF APPLICANT: Avril Browne.

ADDRESS FOR CORRESPONDENCE: Corville Road, Roscrea, Co. Tipperary.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the proposed works of an extension to the rear of the dwelling and renovations to existing dwelling is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Lettybrook, Kinnitty, Birr, Co. Offaly, R42 XY84.

WHEREAS a question has arisen as to whether the proposed works of an extension to the rear of the dwelling and renovations to existing dwelling is or is not development and is or is not exempted development at Lettybrook, Kinnitty, Birr, Co. Offaly, R42 XY84.

AS INDICATED on the particulars received by the Planning Authority on the 6th December 2023 and 12th February 2024.

AND WHEREAS Avril Browne has requested a declaration on the said question from Offaly County Council;

AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to -

- Sec 2(1), 3(1) and 4(2)(a) of Planning and Development Act 2000 (as amended).
- Article 6 of the Planning and Development Regulations 2001 (as amended).
- Class 1 and Class 50(b), of Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Offaly County Council has concluded that the proposed works of an extension to the rear of the dwelling and renovations to existing dwelling **is development** and is **not exempted development**.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the proposed works of an extension to the rear of the dwelling and renovations to existing dwelling is development and is **not exempted development** at Lettybrook, Kinnitty, Birr, Co. Offaly, R42 XY84.

MATTERS CONSIDERED In making its decision, the Planning Authority had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.



Administrative Officer

Date 29/2/24

Note: Any person issued with a Declaration may on payment to An Bord Pleanála, 64 Marlborough Street Dublin 2 of such fees as may be described refer a declaration for review by the board within four weeks of the issuing of the Declaration.

OFFALY COUNTY COUNCIL

Planning Report

Section 5 Declaration

File Reference:	<i>Dec. 23/64</i>
Question:	<i>Whether the proposed works of an extension to the rear of the dwelling and renovations to existing dwelling is or is not development and if so, are they exempted development?</i>
Applicant:	<i>Avril Browne</i>
Correspondence Address:	<i>Corville Road, Roscrea, Co. Tipperary.</i>
Location:	<i>Lettybrook, Kinnitty, Birr, Co. Offaly, R42 XY84.</i>

SECOND REPORT ON FILE

1. Proposal

The question has arisen whether the proposed works of an extension to the rear of the dwelling and renovations to existing dwelling is or is not development and if so, are they exempted development.

Review of Further Information

Further information was sought by the Planning Authority on 8th January 2024 and subsequently received by the Planning Authority on 12th February 2024. This report should be read in conjunction with the previous planner's report dated 8th January 2024. The following Further Information was sought and the response is as follows:

- Please submit a site layout plan at 1:500 scale and elevation drawings at 1:100 scale of the existing structures on site and the proposed works in order to determine if the proposed works complies with Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended).*

Applicants Response: The applicant has provided drawings which provides dimensions of the existing and proposed extension. The existing extension has a total floor area of 18m². The proposed extension has a total floor area of 32m².

Planners Appraisal: The further information received in relation to item 1 was assessed by the Planning Authority, who subsequently have determined the proposed works are not exempt development.

The proposed removal and replacement of the extension does not comply with Class 1 of Schedule 2 – Exempted Development, Part I of the Planning and Development Regulations 2001 (as amended).

'Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.'

As the existing extension's total floor area is 18m² and the proposed extension total floor area is 32m², totalling 50m², the existing and proposed extension works exceeds limitations set

out in 2(a), Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

2. Appropriate Assessment

A screening exercise for an appropriate assessment has been carried out and it is concluded that the development is unlikely to have significant effects on any European sites. Please see attached report under Appendix A.

Evaluation

Question: Whether the proposed works of an extension to the rear of the dwelling and building a new extension and renovations to existing dwelling is or is not development and if so, are they exempted development?

In considering the proposed works against the definitions of 'development' and 'works' as provided in the Act, it is the view of the Planning Authority that the proposed works are deemed as development as it includes renovations and alterations to the existing dwelling.

Question: Is this proposal considered as Exempted Development?

I consider that the works are development and I consider that the works are not exempted development based on limitations set out in 2(a), Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

Conclusion

It is recommended that the Applicant be advised that the proposed works is development and **is not exempted development.**

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether the proposed works of an extension to the rear of the dwelling and renovations to existing dwelling is or is or is not development and if so, are they exempted development at Lettybrook, Kinnitty, Birr, Co. Offaly, R42 XY84.

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AND WHEREAS Offaly County Council has concluded that the works of an extension to the rear of the dwelling and renovations to existing dwelling is **development** and is **not exempted development**.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the works of an extension to the rear of the dwelling and renovations to existing dwelling is **development** and is **not exempted development** at Lettybrook, Kinnitty, Birr, Co. Offaly, R42 XY84.

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.



Enda Dolan
Graduate Planner

22nd February 2024



Ed Kelly

A/Senior Executive Planner

28/2/2024

APPENDIX A

APPROPRIATE ASSESSMENT SCREENING REPORT FOR PLANNING APPLICATIONS



Screening is used to determine if an AA is necessary by examining:

- If the plan / project is directly connected with / necessary to the management of the European site.
- If the effects will be significant on a European site in view of its conservation objectives, either alone / in combination with other plans / projects.

Planning Authority: OCC

Planning Application Ref. No: DEC 23/64

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the proposed works of an extension to the rear of the dwelling and renovations to existing dwelling is or is not development and if so, are they exempted development.		
Site location:	Lettybrook, Kinnitty, Birr, Co. Offaly, R42 XY84.		
Site size:	0.33ha	Floor Area of Proposed Development:	Not given
Identification of nearby European Site(s):	Slieve Bloom Mountains SPA – 1.03km		
Distance to European Site(s):	As above – all as crow flies		
The characteristics of existing, proposed or other approved plans / projects which may cause interactive / cumulative impacts with the project being assessed and which may affect the European site:	None		
Is the application accompanied by an EIAR?			No: X
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
Slieve Bloom SAC – Features of interest include: <ul style="list-style-type: none"> • Hen Harrier (Circus cyaneus) [A082] 			
The conservation objectives / qualifying interests of the site and the factors that contributes to the conservation value of the site: (which are taken from the European site synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) (ATTACH INFO.)			
Site Name: Slieve Bloom SAC, Site Code: 004160 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004160.pdf			
(C) NPWS ADVICE:			
Advice received from NPWS over phone:	None Received		
Summary of advice received from NPWS in written form (ATTACH SAME):	None Received		
(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:			

(The purpose of this is to identify if the effect(s) identified could be significant – if **uncertain** assume the effect(s) are significant).

If the answer is 'yes' to any of the questions below, then the effect is significant. (Please justify your answer. 'Yes' / 'No' alone is insufficient)


<p>Would there be...</p> <p>... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).</p>	<p>Not likely due to the location and type of development. The site is sufficient distance from the European site.</p>
<p>... a reduction in habitat area on a European site?</p>	<p>There will be no reduction in the habitat area. The site is sufficient distance from the European site.</p>
<p>... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the European site?</p>	<p>Not likely due to the location and type of development. The site is sufficient distance from the European site.</p>
<p>... serious / ongoing disturbance to species / habitats for which the European site is selected (e.g. because of increased noise, illumination and human activity)?</p>	<p>Not likely due to the location and type of development. The site is sufficient distance from the European site.</p>
<p>... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?</p>	<p>None likely due to the location and type of development. The site is sufficient distance from the European site.</p>
<p>Would the project interfere with mitigation measures put in place for other plans / projects. [Look at <i>in-combination effects</i> with completed, approved but not completed, and proposed plans / projects. Look at projects / plans within and adjacent to European sites and identify them]. Simply stating that there are no cumulative impacts' is insufficient.</p>	<p>No other plans known of in the vicinity of the site. The site is sufficient distance from the European site.</p>

(E) SCREENING CONCLUSION:

Screening can result in:

1.	AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.
2.	No potential for significant effects / AA is not required.
3.	Significant effects are certain, likely or uncertain. (In this situation seek a Natura Impact Statement from the applicant, or reject the project. Reject if too potentially damaging / inappropriate.

Therefore, does the project fall into category 1, 2 or 3 above?	Category 2
Justify why it falls into relevant category above:	There would be no likely significant impact on the European site from the proposed development due to the scale of the proposed development and the separation distance between the subject site and European Site.

Name:	Enda Dolan 
Position:	Graduate Planner
Date:	22nd February 2024