

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 23/70

NAME OF APPLICANT: James Cassidy

ADDRESS: Gallen, Ferbane, Offaly, R42 NH01

ADDRESS FOR CORRESPONDENCE: Gallen, Ferbane, Offaly, R42 NH01

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the works of an extension to the rear of a cottage not exceeding 40sqm is or is not development and if so, are they exempted development

LOCATION OF DEVELOPMENT: Gallen, Ferbane, Offaly, R42 NH01

WHEREAS a question has arisen as to whether the works of an extension to the rear of a cottage not exceeding 40sqm is or is not development and if so, are they exempted development.

AS INDICATED on the particulars received by the Planning Authority on the 6th December 2023 and 30th January 2024.

AND WHEREAS James Cassidy 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:

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

AND WHEREAS Offaly County Council has concluded that the works as detailed in the submitted documentation is development and is 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 a cottage not exceeding 40sqm is development and is exempted development at Gallen, Ferbane, Offaly, R42 NH01.

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.

R. Llanwell
Administrative Officer

Date

19th Feb 2024.

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. 23/70</i>
Question:	<i>Whether the works of an extension to the rear of a cottage not exceeding 40sqm is or is not development and if so, are they exempted development.</i>
Applicant:	<i>James Cassidy</i>
Correspondence Address:	<i>Gallen, Ferbane, Offaly, R42 NH01</i>
Location:	<i>Gallen, Ferbane, Offaly, R42 NH01</i>

SECOND REPORT ON FILE

1. Proposal

Whether works of an extension to the rear of a cottage not exceeding 40sqm 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 11th January 2024 and subsequently received by the Planning Authority on 30th January 2024. This report should be read in conjunction with the previous planner's report dated 9th January 2024. The following Further Information was sought and the response is as follows:

- Please submit elevation drawings at 1:100 scale so as to ascertain the height of the proposed rear extension in order to assess whether the proposal is exempted development under Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended).*

Applicants Response: The applicant has provided information and images on the height of the extension. Extension has a maximum height of 4.2m.

Planners Appraisal: The further information received in relation to item 1 was assessed by the Planning Authority, who subsequently are satisfied with the response. The highest part of the roof extension does not exceed the height of the highest part of the dwelling. The extension complies with 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.

3. Evaluation

I consider that the development complies with Section 4(2)(a) of the Planning and Development Act 2000 (as amended) and Class 1 – Exempted Development, Part I of the Planning and Development Regulations 2001 (as amended): and is thereby considered to constitute exempted development.

4. Conclusion

Having regard to:

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

It is considered that the works of an extension to the rear of a cottage not exceeding 40sqm at Gallen, Ferbane, Offaly, R42 NH01 is **development** as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and is **exempted development** as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

**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 works of an extension to the rear of a cottage not exceeding 40sqm is or is not development and if so, are they exempted development.

AS INDICATED on the particulars received by the Planning Authority on the 6th December 2023 and 30th January 2024.

AND WHEREAS James Cassidy 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:

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

AND WHEREAS Offaly County Council has concluded that the works as detailed in the submitted documentation is development and is 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 a cottage not exceeding 40sqm **is development** and **is exempted development** at Gallen, Ferbane, Offaly, R42 NH01.

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
Date: 8th February 2024



Ed Kelly
A/Senior Executive Planner
16/2/2024

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 23/70

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the proposed works of an extension to the rear of a cottager not exceeding 40sqm is or is not development and if so, are they exempted development?		
Site location:	Gallen, Ferbane, Offaly, R42 NH01		
Site size:	0.6ha	Floor Area of Proposed Development:	39.8m ²
Identification of nearby European Site(s):	Ferbane Bog SAC Moyclare Bog SAC		
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):			
Ferbane Bog SAC – Features of interest include:	<ul style="list-style-type: none"> • [7110] Raised Bog (Active)* • [7120] Degraded Raised Bog • [7150] Rhynchosporion Vegetation 		
Moyclare Bog SAC – Features of interest include:	<ul style="list-style-type: none"> • [7110] Raised Bog (Active)* • [7120] Degraded Raised Bog • [7150] Rhynchosporion Vegetation 		
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: Ferbane Bog SAC, Site Code: 000575 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000575.pdf			
Site Name: Moyclare Bog SAC, Site Code: 000581 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000581.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:			
<i>(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).</i>			
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)			
Would there be...			
... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).			Not likely due to the location and type of development. The site is sufficient distance from the European site.
... a reduction in habitat area on a European site?			There will be no reduction in the habitat area. The site is sufficient distance from the European site.
... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the European site?			Not likely due to the location and type of development. The site is sufficient distance from the European site.
... serious / ongoing disturbance to species / habitats for which the European site is selected (e.g. because of increased noise, illumination and human activity)?			Not likely due to the location and type of development. The site is sufficient distance from the European site.
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?			None likely due to the location and type of development. The site is sufficient distance from the European site.
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.			No other plans known of in the vicinity of the site. The site is sufficient distance from the European site.
(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:	8 th February 2024