

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 24/100

NAME OF APPLICANT: LEANNE MCNAMARA

ADDRESS FOR CORRESPONDENCE: MAIN ST.,  
PORTARLINGTON,  
CO. LAOIS  
R32 TE2W.

**NATURE OF APPLICATION:** request for declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the proposed renovations of existing dwelling which comprises of: painting, new windows and doors, roof repairs, electrical, plumbing, drylining/plastering, floors and wall finishes, carpentry works, fitted furniture, damp proofing is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** 3 PATRICK STREET, PORTARLINGTON, CO OFFALY

**WHEREAS** a question has arisen as to whether the proposed renovations of existing dwelling which comprises of: painting, new windows and doors, roof repairs, electrical, plumbing, drylining/plastering, floors and wall finishes, carpentry works, fitted furniture, damp proofing is or is not development and if so is or is not exempted development at 3 Patrick Street, Portarlington, Co. Offaly.

**AS INDICATED** on the particulars received by the Planning Authority on the 30<sup>th</sup> September 2024.

**AND WHEREAS** Leanne McNamara 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 –

(a) Section 2, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended

**AND WHEREAS** Offaly County Council has concluded that the proposed renovations of existing dwelling which comprises of: painting, new windows and doors, roof repairs, electrical, plumbing, drylining/plastering, floors and wall finishes, carpentry works, fitted furniture, damp proofing **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 proposed renovations of existing dwelling which comprises of: painting, new windows and doors, roof repairs, electrical, plumbing, drylining/plastering, floors and wall finishes, carpentry works, fitted furniture, damp proofing **is development and is exempted development** at 3 Patrick Street, Portarlington, Co. Offaly.

**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

**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.

## Planning Report

### Section 5 Declaration

<b>File Reference:</b>	Dec. 24/100
<b>Question:</b>	Whether the renovation of an existing dwelling is or is not development and is or is not exempted development.
<b>Applicant:</b>	Leanne McNamara
<b>Correspondence Address:</b>	Main Street, Portarlinton, Co . Laois. R32 TE2W
<b>Location:</b>	3 Patrick Street, Portarlinton, Co. Offaly



#### 1. Introduction

The question has arisen as to whether the proposed renovation of existing dwelling is or is not development and if so is it or is it not exempted development.

#### 2. Background

The existing dwelling is located on 'Existing Residential' zoned land within the boundary of Portarlinton Town. It is noted that a vacant single commercial unit (with direct access via a shop door onto Patrick Street) is also located on part of the ground floor of the dwelling in question

#### 3. Site History

None

#### 4. Legislative Context

In order to assess whether or not the proposed works constitute exempted development, regard must be had to the following items of legislation:

#### Statutory Provisions

**Section 2 (1) Planning and Development Act 2000, as amended, states as follows:**

*“house” means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;*

*“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*

**Section 3 (1) Planning and Development Act 2000, as amended, defines development.**

*“development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.*

**Section 4 - Exempted Development**

Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of this Act including:

*(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure and which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.*

**5. Proposal by Applicants**

The Applicants have indicated that the following works will be carried out:

- External
  - Paint front of building
  - New windows and doors
  - Roof Repairs
  
- General Building
  - Repair work around external door
  - Strip out and skip
  - Take out all window/doors and skip
  - Level floors
  
- Electrical
  - Rewire house and fittings
  
- Plumbing
  - Labour and small materials
  - Sanitary ware
  
- Drylining/Plastering

- Ceiling repairs
- General make good repairs
- Slabbing & insulating
- 100mm IB perimeter walls & skim GF
- 100mm IB perimeter walls & skim FF
- 100mm IB ceilings & skim FF
- Floors and Wall Finishes
  - Floor GF
  - Wall tiling shower and tanking
  - Floor tiling bathroom
- Second Fix Carpentry
  - 3 new doors and frames
  - New door to landing including architrave
  - New door with frame and architrave
  - 3 doors GF including architraves
  - Skirtings throughout
- Fitted Furniture
  - Kitchen
  - 2 Wardrobes
- Other
  - Damp proofing
  - Internal Painting

## 6. Evaluation

**Question: *Whether the proposed works (as listed) to the existing dwelling are 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 alterations and repairs to the existing dwelling.

**Question: *Is this proposal considered as Exempted Development?***

With regard to the proposed works which are described in the submitted documents, the Planning Authority are satisfied that the proposed works would not result in a material alteration to the dwelling appearance and the finished development would not be inconsistent with the character of the structure.

**Question: *Do the works require EIA?***

It is considered that the proposed development does not constitute a development listed in Schedule 5 of the Planning and Development Regulations 2001 as amended. Furthermore, it is not a sub-threshold development. Accordingly an EIAR is not required.

## 7. Conclusion

It is recommended that the Applicants be advised that the proposed development is **development and is 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 renovations of existing dwelling which comprises of:

- Painting
- New windows and doors
- Roof repairs
- Electrical
- Plumbing
- Drylining/Plastering
- Floors and Wall Finishes
- Carpentry works
- Fitted furniture
- Damp proofing

is or is not development and if so is or is not exempted development at 3 Patrick Street, Portarlington, Co. Offaly

**AS INDICATED** on the particulars received by the Planning Authority on the 30<sup>th</sup> September 2024.

**AND WHEREAS** Leanne McNamara 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:

- (a) Section 2, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended.

**AND WHEREAS** Offaly County Council has concluded that the proposed renovations of existing dwelling which comprises of:

- Painting
- New windows and doors
- Roof repairs
- Electrical
- Plumbing
- Drylining/Plastering
- Floors and Wall Finishes
- Carpentry works
- Fitted furniture
- Damp proofing

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 proposed renovations of existing dwelling which comprises of:

- Painting

- New windows and doors
- Roof repairs
- Electrical
- Plumbing
- Drylining/Plastering
- Floors and Wall Finishes
- Carpentry works
- Fitted furniture
- Damp proofing

is development and is exempted development at development at 3 Patrick Street, Portarlington, Co. Offaly

*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.*

*Michael Duffy*

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*Michael Duffy*

*Executive Planner*

*21<sup>st</sup> October 2024*

*Ed Kelly*

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*Ed Kelly*

*ASEP*

*23<sup>rd</sup> October 2024*



# 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:** Offaly County Council

**Planning Application Ref. No.:** PL2/21/582

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Renovation of an existing dwelling		
Site location:	PATRICKS STREET, PORTARLINGTON, CO. OFFALY		
Site size:	n/a	Floor Area of Proposed Development:	n/a
Identification of nearby European Site(s):	Barrow and river Nore cSAC		
Distance to European Site(s):	30m		
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		
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site:			
<p>The site is a candidate SAC selected for alluvial wet woodlands and petrifying springs, priority habitats on Annex I of the E.U. Habitats Directive. The site is also selected as a candidate SAC for old oak woodlands, floating river vegetation, estuary, tidal mudflats, <i>Salicornia</i> mudflats, Atlantic salt meadows, Mediterranean salt meadows, dry heath and eutrophic tall herbs, all habitats listed on Annex I of the E.U. Habitats Directive. The site is also selected for the following species listed on Annex II of the same directive - Sea Lamprey, River Lamprey, Brook Lamprey, Freshwater Pearl Mussel, Nore Freshwater Pearl Mussel, Crayfish, Twaite Shad, Atlantic Salmon, Otter, Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i> and the Killarney Fern.</p>			

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](http://www.npws.ie)) **(ATTACH INFO.)**

1016 Desmoulin's whorl snail *Vertigo moulinsiana*  
 1029 Freshwater pearl mussel *Margaritifera margaritifera*  
 1092 White-clawed crayfish *Austropotamobius pallipes*  
 1095 Sea lamprey *Petromyzon marinus*  
 1096 Brook lamprey *Lampetra planeri*  
 1099 River lamprey *Lampetra fluviatilis*  
 1103 Twaite shad *Alosa fallax*  
 1106 Atlantic salmon (*Salmo salar*) (only in fresh water) 1130 Estuaries  
 1140 Mudflats and sandflats not covered by seawater at low tide  
 1310 Salicornia and other annuals colonizing mud and sand  
 1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)  
 1355 Otter *Lutra lutra* 1410 Mediterranean salt meadows (*Juncetalia maritimi*)  
 1421 Killarney fern *Trichomanes speciosum*  
 1990 Nore freshwater pearl mussel *Margaritifera durrovensis*  
 3260 Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation  
 4030 European dry heaths  
 6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels  
 7220 \* Petrifying springs with tufa formation (*Cratoneurion*)  
 91A0 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles  
 91E0 \* Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)  
[https://www.npws.ie/sites/default/files/protected-sites/conservation\\_objectives/CO002162.pdf](https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002162.pdf)

**(C) NPWS ADVICE:**

Advice received from NPWS over phone:	None received.
Summary of advice received from NPWS in written form <b>(ATTACH SAME):</b>	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).*

Given the location the limited nature and size of the development applied for and the characteristics of *European* sites in the vicinity it is considered that 100 metres should be used as a potential zone of impact of the project in accordance with section 3.2.3 of the appropriate assessment guidelines. There are no *European* sites within 100 metres of the development applied for and therefore no significant effects on any *European* sites either alone or in combination with other plans and projects.

***Would there be...***

... any impact on an Annex 1 habitat?  
 (Annex 1 habitats are listed in Appendix 1 of AA Guidance).

The proposal is to change the use of the buildings, all works are internal and it is envisaged will not impact upon the *European* site.

... a reduction in habitat area on a *European* site?

There will be no reduction in the habitat area.



... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the <i>European</i> site?	Not likely due to the nature of the works involved.
... serious / ongoing disturbance to species / habitats for which the <i>European</i> site is selected (e.g. because of increased noise, illumination and human activity)?	Not likely due to the nature of the Habitat and the species specified for the <i>European</i> site.
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the <i>European</i> site?	Not likely to have an adverse impact due.
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 <i>European</i> sites and identify them]. Simply stating that there are no cumulative impacts' is insufficient.	No

**(E) SCREENING CONCLUSION:**

**Screening can result in:**

1	<i>AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.</i>
2	<i>No potential for significant effects / AA is not required.</i>
3	<i>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.</i>
	<i>Conclusion:2</i>
	<b>Justify why it falls into relevant category above:</b> <i>Given the location and the nature and size of the development applied for and the characteristics of European sites in the vicinity and the appropriate assessment guidelines it is considered that the development will be unlikely to have significant effects on any European sites.</i>

<b>Signed:</b>	Michael Duffy	<b>Date:</b>	11 <sup>th</sup> November 2021
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