

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 24/102

NAME OF APPLICANT: SINEAD BROWN

ADDRESS FOR CORRESPONDENCE: C/O ANDREW DRIVER, DEC ENGINEERING & COMMERCIAL LTD, CORVILLE ROAD, ROSCREA, CO. TIPPERARY, E53 AE67.

NATURE OF APPLICATION: request for declaration under section 5 of the planning & development act 2000, as amended as to whether the renovations to bring the existing dwelling to habitable standard with no change to the footprint of the house is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Gurteen, Ballybritt, Roscrea, E53 NP64.

WHEREAS a question has arisen as to whether the renovations to bring the existing dwelling to habitable standard with no change to the footprint of the house is or is not development and if so, are they exempted development at Gurteen, Ballybritt, Roscrea, E53 NP64

AS INDICATED on the particulars received by the Planning Authority on the 4th October 2024 and 6th November 2024.

AND WHEREAS Sinead Brown c/o Andrew Driver, Dec Engineering & Commercial Ltd, Corville Road, Roscrea, Co. Tipperary, E53 AE67 has requested a declaration on the said question from Offaly County Council.

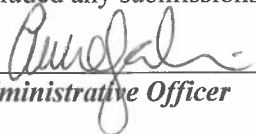
AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to –

- Section 3(1) and 4(1)(a) of the Planning & Development Act 2000 (as amended).
- Article 6 of the Planning and Development Regulations 2001 (as amended).
- Schedule 2 – Exempted Development, Part I - Development Within the Curtilage of a House, Class 7 (of the Planning and Development Regulations 2001 (as amended).

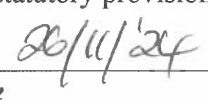
AND WHEREAS Offaly County Council has concluded that the works are development and are exempted development.

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 renovations to bring the existing dwelling to habitable standard with no change to the footprint of the house **is development and is exempted development** at Gurteen, Ballybritt, Roscrea, E53 NP64.

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 – 2nd Report

File Reference:	Dec. 24/102
Question:	Whether the renovations to bring the existing dwelling to habitable standard with no change to the footprint of the house is or is not development and if so, are they exempted development.
Applicant:	Sinead Brown
Correspondence Address:	c/o Andrew Driver, Dec Engineering & Commercial Ltd, Corville Road, Roscrea, Co. Tipperary, E53 AE67
Location:	Gurteen, Ballybritt, Roscrea, E53 NP64

This report should be read in conjunction with the previous planner's report dated 31st October 2024.

1. Introduction

The question has arisen as whether the proposed renovations to bring the existing dwelling to habitable standard with no change to the footprint of the house is or is not development and if so, are they exempted development.

2. Review and Evaluation of Further Information

Further information (FI) was sought by the Planning Authority on the 31st October 2024 and a response was subsequently received by the Planning Authority on the 6th November 2024.

The following FI was sought and the response is as follows:

- The Applicant shall submit a photographic survey of the interior and exterior of the existing dwelling.*

A suitable photographic survey has been submitted.

- Having regard to the submitted builders quote, the Applicant shall confirm whether a new wastewater treatment system to service the dwelling is proposed as part of the renovation works. Please submit details of the existing wastewater treatment system on site.*

The Applicant confirms that a new onsite wastewater treatment system is not proposed. They advise that new covers were installed on the existing septic tank and that the existing septic tank and percolation area are in good condition and fit for purpose.

- Having regard to the conditions and limitations of Class 7 (The construction or erection of a porch outside any external door of a house) of Schedule 2 – Exempted Development, Part I (Development within the curtilage of a house) of the Planning and Development Regulations 2001 (as amended) and the submitted builders quote, the Applicant shall confirm whether it is intended to construct a new front porch to the existing dwelling. If a porch is proposed, the Applicant shall provide details and confirm whether it will meet the Conditions and Limitations of Class 7.*

The Applicant confirms that a new porch is not proposed and that the existing footprint of the dwelling shall be maintained and will not be altered.

3. Appropriate Assessment

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

4. Environmental Impact Assessment Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the *Planning and Development Regulations 2001 (as amended)* and therefore is not subject to EIA requirements.

5. Conclusion & Recommendation

Having assessed the Further Information received and the previous planning report on file, it is considered that the proposed extension and associated works at the subject site **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 renovations to bring the existing dwelling to habitable standard with no change to the footprint of the house is or is not development and if so, are they exempted development at Gurteen, Ballybritt, Roscrea, E53 NP64.

AS INDICATED on the particulars received by the Planning Authority on the 4th October 2024 and 6th November 2024,

AND WHEREAS Sinead Brown c/o Andrew Driver, Dec Engineering & Commercial Ltd, Corville Road, Roscrea, Co. Tipperary, E53 AE67 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 3(1) and 4(1)(a) of the Planning & Development Act 2000 (as amended).
- (b) Article 6 of the Planning and Development Regulations 2001 (as amended).
- (c) Schedule 2 – Exempted Development, Part I - Development Within the Curtilage of a House, Class 7 (of the Planning and Development Regulations 2001 (as amended)).

AND WHEREAS Offaly County Council has concluded that the works are development and are 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 renovations to bring the existing dwelling to habitable standard with no change to the footprint of the house is **development** and is **exempted development** at Gurteen, Ballybritt, Roscrea, E53 NP64.

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.



Úna McCafferkey

Executive Planner

26th November 2024

Date



Michael Duffy

A/Senior Executive Planner

26th November 2024

Date

APPENDIX B

**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 24/102

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the whether renovations to bring the existing dwelling to habitable standard with no change to the footprint of the house is or is not development and if so, are they exempted development.		
Site location:	Gurteen, Ballybritt, Roscrea, E53 NP64		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Slieve Bloom Mountains SPA – 0.24km Slieve Bloom Mountains SAC – 3.26km River Nore SPA – 8.35km Coolrain Bog SAC – 9.01km		
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 Mountains SPA - Features of interest include: Hen Harrier (Circus cyaneus) [A082] Slieve Bloom Mountains SAC - Features of interest include: Northern Atlantic wet heaths with Erica tetralix [4010] Blanket bogs (* if active bog) [7130] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] River Nore SPA - Features of interest include: Kingfisher (Alcedo atthis) [A229] Coolrain Bog SAC - Features of interest include: Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150]			
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 Mountains SAC, Site Code: 000412			

The Slieve Bloom Mountains lie on the Offaly-Laois border, starting about 8 km north-east of Roscrea and running about 24 km north-east, towards Clonaslee. The mountains are of Old Red Sandstone, flanked by Silurian rocks. The site extends from approximately 180 m to 529 m O.D.

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets are Natura 2000 codes):

[4010] Wet Heath

[7130] Blanket Bogs (Active)*

[91E0] Alluvial Forests*

This site is remarkable for its mountain blanket bog habitat. Generally uniform in character, the vegetation consists of a deep, spongy mat of the bog moss *Sphagnum capillifolium*, with other mosses and lichens. Growing on this are Heather (*Calluna vulgaris*) and Crowberry (*Empetrum nigrum*), with smaller amounts of Cottongrasses (*Eriophorum* spp.), Bilberry (*Vaccinium myrtillus*), Deergass (*Scirpus cespitosus*) and Bog Asphodel (*Narthecium ossifragum*). An unusual feature is the abundance of Bog-rosemary (*Andromeda polifolia*) and Cranberry (*Vaccinium oxycoccos*), species usually associated with raised bogs. The uncommon Lesser Twayblade (*Listera cordata*) occurs under Heather at this site.

This extensive site is dominated by blanket bog on a high plateau. However, on more steeply-sloping flanks wet heath vegetation occurs on shallower peat (typically 0.5-1.5 m deep). The dominant species in the wet heath are Heather and Purple Moor-grass (*Molinia caerulea*), with species such as Cross-leaved Heath (*Erica tetralix*), Tormentil (*Potentilla erecta*), Lousewort (*Pedicularis sylvatica*) and the bog moss *S. capillifolium* also being frequent components. Often wet heath vegetation is associated with flushed areas along the margins of narrow streams.

Alluvial forest occurs along the Camcor River in the northern part of the site, on the floodplain of the river and on adjacent slopes along the valley. The canopy consists of scattered tall Ash (*Fraxinus excelsior*), Pedunculate Oak (*Quercus robur*) and Alder (*Alnus glutinosa*). Rusty Willow (*Salix cinerea* subsp. *oleifolia*), Hawthorn (*Crataegus monogyna*), Hazel (*Corylus avellana*) and Downy Birch (*Betula pubescens*) form a lower canopy. The ground flora is species-rich, with Bluebell (*Hyacinthoides non-scripta*), Enchanter's-nightshade (*Circaea lutetiana*), Wood-sorrel (*Oxalis acetosella*) and Bugle (*Ajuga reptans*). Marsh-marigold (*Caltha palustris*) and Meadowsweet (*Filipendula ulmaria*) typify the wetter areas. The natural flood regime at the site has been altered by drainage activities for forestry (embankments, etc.), though the least disturbed areas in the floodplain still retain a substantial wetness. Seepage areas on the slopes also contribute to the wetness of the woods.

The uplands at this site provide excellent habitat for Peregrine, a species listed on Annex I of the E.U. Birds Directive. Breeding pairs occur here.

For the main part, the site is fringed by forestry plantations, although in a few places there remains a relatively undisturbed transition downslope to poorly-drained acidic grassland. The primary threats to Irish blanket bogs in general are afforestation, drainage and over-grazing, and current habitat quality is often dependent on past land use. On the Slieve Blooms, the Heather forms tall, dense stands, with individual stems up to 20 years old, suggesting that burning has not been extensive in recent years. There is little evidence of grazing or erosion. Overall, vegetation structure is exceptionally well-conserved due to lack of disturbance. A large portion of the site lies within a Statutory Nature Reserve.

Blanket bogs are an increasingly rare habitat in Europe, and in Ireland are continually under threat. The Slieve Bloom Mountains are an important link in the east-to-west gradient of bogs in Ireland, and are floristically linked to the midland raised bogs north of the site. The intactness of the blanket bog here is remarkable and is echoed in few other areas in Ireland, making this site of unique conservation value. Also of conservation importance is the presence of wet heath and an example of alluvial forest.

SITE NAME: SLIEVE BLOOM MOUNTAINS SPA, SITE CODE: 004160

The Slieve Bloom Mountains SPA is situated on the border between Counties Offaly and Laois, and runs along a north-east/south-west aligned ridge for approximately 25 km. Much of the site is over 200 m in altitude, rising to a maximum height of 527 m at Arderin. The mountains are of Old Red Sandstone, flanked by Silurian rocks. Several important rivers rise within the site, including the Barrow, Delour and Silver.

The site has a near continuous ridge of mountain blanket bog, with wet and dry heaths also well represented. Species present in these habitats include Ling Heather (*Calluna vulgaris*), Crowberry (*Empetrum nigrum*), Bilberry (*Vaccinium myrtillus*), Cottongrasses (*Eriophorum* spp.), Deergass (*Scirpus cespitosus*) and Bog Asphodel (*Narthecium ossifragum*). Much of the slopes are afforested, and overall coniferous plantations account for c. 60% of the site. The forests include first and second rotation plantations, with both

pre-thicket and post-thicket stands present. Substantial areas of clear-fell are also present at any one time. The principal tree species present are Sitka Spruce (*Picea sitchensis*) and Lodgepole Pine (*Pinus contorta*). The remainder of the site is mostly rough grassland that is used for hill farming. This varies in composition and includes some wet areas with rushes (*Juncus* spp.) and some areas subject to scrub encroachment. Some stands of deciduous woodland also occur, especially within the river valleys.

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for Hen Harrier.

This SPA is one of the strongholds for Hen Harrier in the country and, indeed, is the most easterly regular population. A survey in 2005 recorded eight pairs, whereas eleven pairs had been recorded in the 1998-2000 period. The numbers recorded in 2005 represent c. 3.7% of the all-Ireland total. The mix of forestry and open areas provides optimum habitat conditions for this rare bird, which is listed on Annex I of the E.U. Birds Directive. The early stages of new and second-rotation conifer plantations are the most frequently used nesting sites, though some pairs may still nest in tall heather of unplanted bogs and heath. Hen Harriers will forage up to c. 5 km from the nest site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank. Birds will often forage in openings and gaps within forests. In Ireland, small birds and small mammals appear to be the most frequently taken prey.

The site is also a traditional site for a breeding pair of Peregrine. Several pairs of Merlin are known to breed within the site but further survey is required to determine the exact status of this small falcon. Red Grouse is found on many of the unplanted areas of bog and heath – this is a species that has declined in Ireland and is now Red-listed.

The Slieve Bloom Mountains SPA is of ornithological importance because it provides excellent nesting and foraging habitat for breeding Hen Harrier and is one of the top sites in the country for the species. The presence of three species, Hen Harrier, Merlin and Peregrine, which are listed on Annex I of the E.U. Birds Directive is of note. The Slieve Bloom Mountains is a Ramsar Convention site and a Biogenetic Reserve. Part of the Slieve Bloom Mountains SPA is a Statutory Nature Reserve.

SITE NAME: RIVER NORE SPA, SITE CODE: 004233

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004233.pdf>

Site Name: Coolrain Bog SAC, Site Code: 002332

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002332.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)

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.	<i>AA is not required</i> because the project is directly connected with / necessary to the nature conservation management of the site.
2.	<i>No potential for significant effects / AA is not required.</i>
3.	<i>Significant effects are certain, likely or uncertain.</i> (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:	Úna McCafferkey 
Position:	Executive Planner
Date:	26 th November 2024

