

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 24/107

NAME OF APPLICANT: Pavashne Mariah

ADDRESS FOR CORRESPONDENCE: 32 Cill Ban, Tullamore, Co. Offaly, R35 Y4N2.

NATURE OF APPLICATION: request for declaration under section 5 of the planning & development act 2000, as amended as to whether or not the extension and renovation of existing dwelling is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Ava Maria, Sragh Road, Tullamore, Co. Offaly, R35 XV12.

WHEREAS a question has arisen as to whether the proposed extension and renovations of existing dwelling at Ave Maria, Sragh Road, Tullamore, Co. Offaly. R35 XV12 is or is not development is or is exempted development and is or is not exempted development

AS INDICATED on the particulars received by the Planning Authority on the 23<sup>rd</sup> October and 18th November 2024,

AND WHEREAS Pavashne Mariah, 32 Cill Ban, Tullamore, Co. OFFALY. R35 Y4N2 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) and 4(1)(h), 4(2)(a)(i) of the Planning & Development Act 2000, as amended.
- Article 6 of the Planning and Development Regulations 2001 (as amended), and
- Article 9 of the Planning and Development Regulations 2001 (as amended)
- Class 1 and Class 7, in 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 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 extension and renovation of existing dwelling is development and is exempted development at Ave Maria, Sragh Road, Tullamore, Co. Offaly, R35 XV12.

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

06/12/24  
\_\_\_\_\_  
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>	<b>Dec. 24/107</b>
<b>Question:</b>	Whether or not the extension and renovation of existing dwelling is or is not development and is or is not exempted development.
<b>Applicant:</b>	Pavashne Mariah
<b>Correspondence Address:</b>	32 Cill Ban, Tullamore, Co. Offaly. R35 Y4N2
<b>Location:</b>	Ave Maria, Sragh Road, Tullamore, Co. Offaly. R35 XV12

### SECOND REPORT ON FILE

#### 1. Review of Further Information

Further information was sought by the Planning Authority on 14<sup>th</sup> November 2024 and subsequently received by the Planning Authority on 18<sup>th</sup> November 2024. This report should be read in conjunction with the previous planner's report dated 13<sup>th</sup> November 2024. The following Further Information was sought and the response is as follows:

1. In order for the Planning Authority to determine if the proposed works complies with Class 1 and Class 7, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended), the Applicant is requested to submit the following information
  - (a) a site layout plan at 1:500 scale which indicates the proposed and existing development on site in different colours.
  - (b) a full set of drawings (4 elevations & floor plans) at a 1:100 scale of the dwelling indicating the proposed extension highlighted in different colours.

For reference, please see a copy of Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended):

1.(a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.

(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.

2. (a) 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.

(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.

(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

7. The roof of any extension shall not be used as a balcony or roof garden.

For reference, please see a copy of Class 7 which relates to the construction or erection of a porch outside any external door of a house.

There are a number of conditions and limitations attached to Class 7, which are listed below

1. Any such structure shall be situated not less than 2 metres from any road.
2. The floor area of any such structure shall not exceed 2 square metres.
3. The height of any such structure shall not exceed, in the case of a structure with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

**Applicants Response:** The Applicant has submitted the following:

- (c) a site layout plan at 1:500 scale indicating the proposed and existing development on site in different colours.
- (d) a full set of drawings (4 elevations & floor plans) at a 1:100 scale of the dwelling indicating the proposed extension highlighted in different colours.

**Planners Appraisal:** The further information received in relation to item 1 was assessed by the Planning Authority and are satisfied the proposed development complies with Class 1 and Class 7, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001

## **2. APPROPRIATE ASSESSMENT SCREENING:**

The subject site is located 1.98km from SAC 000571– Charleville Wood SAC Having regard to nature of the development which consists of the domestic extensions and renovations at Ave Maria, Sragh Rd Tullamore, Co. Offaly, and due to lack of any pathway to a European site given that the proposal connects to a public sewer it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

## **3. EIA SCREENING:**

No screening required, see appendix A

## **CONCLUSION:**

Having assessed the Further Information received and the previous planning report on file, it is considered the proposed extension and renovation of existing dwelling 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 extension and renovations of existing dwelling at Ave Maria, Sragh Road, Tullamore, Co. Offaly. R35 XV12 is or is not development is or is exempted development and is or is not exempted development

**AS INDICATED** on the particulars received by the Planning Authority on the 23rd October and 18th November 2024,

**AND WHEREAS** Pavashne Mariah, 32 Cill Ban, Tullamore, Co. OFFALY. R35 Y4N2 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), 4(2)(a)(i) of the Planning & Development Act 2000, as amended.
- (b) Article 6 of the Planning and Development Regulations 2001 (as amended), and
- (c) Article 9 of the Planning and Development Regulations 2001 (as amended)
- (d) Class 1 and Class 7, in 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 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 extension and renovation of existing dwelling **is development** and **is exempted development** at Ave Maria, Sragh Road, Tullamore, Co. Offaly. R35 XV12


*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*

*Michael Duffy*

*Executive Planner*

*4<sup>th</sup> December 2024*

A handwritten signature in cursive script that reads "Ed Kelly". The signature is written in dark ink and is positioned above a horizontal line.

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*Ed Kelly*

*Acting Senior Executive Planner*

*5<sup>th</sup> December 2024*

## Appendix A

Establishing if the proposal is a ' <i>sub-threshold development</i> ':	
Planning Register Reference:	DEC 24-107
Development Summary:	
Was a Screening Determination carried out under Section 176A-C?	No, Proceed to <b>Part A</b>
<b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
No	Proceed to <b>Part B</b>
<b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)	
No, the development is not a project listed in Schedule 5, Part 2	<b>No Screening required</b>