

**OFFALY COUNTY COUNCIL
DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED**

REFERENCE: DEC 24/127

NAME OF APPLICANT: Chelsea O'Grady and Barry Daly

ADDRESS FOR CORRESPONDENCE: c/o Derek Whyte, Great Connell, Newbridge, Co. Kildare, W12 D251

NATURE OF APPLICATION: Request for declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not the renovation works to an existing bungalow is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Garrymona, Walsh Island, Co. Offaly, R35 Y443.

WHEREAS a question has arisen as to whether the renovation to an existing bungalow is or is not development and is or is not exempted development at Garrymona, Walsh Island, Co. Offaly R35 Y443.

AS INDICATED on the particulars received by the Planning Authority on the 10th December 2024.

AND WHEREAS Chelsea O'Grady and Barry Daly c/o Derek Whyte, Great Connell, Newbridge, Co Kildare, W12 D251 have 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(1), 3(1) and 4(1)(h) of the Planning and Development Act 2000, as amended.

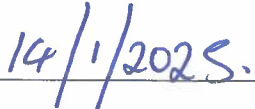
AND WHEREAS Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to section 4(1)(h).

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 renovation works to an existing bungalow **is development and is exempted development** at Garrymona, Walsh Island, Co. Offaly R35 Y443.

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

| | |
|--------------------------------|---|
| File Reference: | Dec. 24/127 |
| Question: | Whether or not the renovation works to an existing bungalow is, or is not, development and is, or is not, exempted development at Garrymona, Walsh Island, Co. Offaly R35 Y443. |
| Applicant: | Chelsea O'Grady and Barry Daly |
| Correspondence Address: | c/o Derek Whyte, Great Connell, Newbridge, Co Kildare, W12 D251 |
| Location: | Garrymona, Walsh Island, Co. Offaly R35 Y443 |

1. Introduction

The question has arisen as to whether the renovation works to an existing bungalow is, or is not, development and is, or is not, exempted development.

2. Background

The subject site is in the townland of Garrymona, which is about 8.5km north-west of Portarlington Town. The site is in an area which is classified as *rural area under strong urban influence* in the *Offaly County Development Plan 2021-27* (OCDP). The existing dwelling is a single-storey, detached, 1970s-style bungalow, which is off Local Road L-10111-1 directly opposite the Ringfort Relic and Hedgeschool.



Figure 1: Site location map (red line boundary)



Photo 1: Front (east) elevation of existing dwelling

3. Site History

On Site – No recent, relevant planning history associated with the subject site.

Enforcement – No recent history associated with the subject site.

Adjoining Lands - No recent, relevant planning history associated with the adjoining lands.

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:

(a) 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 (1) Planning and Development Act 2000 as amended.

Furthermore, in relation to the proposed development, which includes substantial renovations of the existing dwelling Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of this Act including:

4(1)(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.

The subject mainly internal renovation is considered to be in accordance with section 4 (1)(h) outlined above. The proposed renovations would change the appearance of the fenestration and door details of the front elevation but not to the extent that the dwelling’s appearance would be inconsistent with the character of the existing structure.

5. Proposal by Applicants

The Applicants has advised that they propose the mainly internal renovation of the existing bungalow:



Figure 2: Proposed elevation and floor plans

6. Evaluation

Question: Whether the proposed works 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 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 appearance of the dwelling and would not be inconsistent with the character of area.

It is the opinion of the Planning Authority that the proposed works meet the criteria of exempt development under statutory provisions.

7. Screening

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.

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.

8. 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.

10. Conclusion

It is recommended that the Applicant 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 renovation to an existing bungalow is or is not development and is or is not exempted development at Garrymona, Walsh Island, Co. Offaly R35 Y443.

AS INDICATED on the particulars received by the Planning Authority on the 10th December 2024.

AND WHEREAS Chelsea O'Grady and Barry Daly c/o Derek Whyte, Great Connell, Newbridge, Co Kildare, W12 D251 have 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(1), 3(1) and 4(1)(h) of the *Planning and Development Act 2000, as amended*.

AND WHEREAS Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to section 4(1)(h)

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 renovation works to an existing bungalow **is development and is exempted development** at Garrymona, Walsh Island, Co. Offaly R35 Y443.

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 Finlay
Graduate Planner

13th January 2025



Ed Kelly
ASEP

14th January 2025

APPENDIX 1
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.: DEC 24/127

| (A) DESCRIPTION OF PROJECT AND LOCAL SITE: | | | |
|---|--|-------------------------------------|-----|
| Existing development: | Whether or not the renovation works to an existing bungalow is, or is not, development and is, or is not, exempted development | | |
| Site location: | Garrymona, Walsh Island, Co. Offaly R35 Y443.. | | |
| Site size: | n/a | Floor Area of Proposed Development: | n/a |
| Identification of nearby European Site(s): | River Barrow and River Nore SAC 6.7km | | |
| 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): | | | |
| River Barrow and River Nore SAC – Features of interest include: Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Reefs [1170] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] | | | |

| | |
|---|---|
| <p>European dry heaths [4030] Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430] Petrifying springs with tufa formation (Cratoneurion) [7220] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Austropotamobius pallipes (White-clawed Crayfish) [1092] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Alosa fallax fallax (Twaite Shad) [1103] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355] Trichomanes speciosum (Killarney Fern) [1421]</p> | |
| <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) (ATTACH INFO.)</p> | |
| <p>SITE NAME: River Barrow and River Nore SAC Site Code: 002162 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002162.pdf</p> | |
| <p>(C) NPWS ADVICE:</p> | |
| <p>Advice received from NPWS over phone:</p> | <p>None Received</p> |
| <p>Summary of advice received from NPWS in written form (ATTACH SAME):</p> | <p>None Received</p> |
| <p>(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:</p> | |
| <p><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></p> | |
| <p>If the answer is 'yes' to any of the questions below, then the effect is significant. <i>(Please justify your answer. 'Yes' / 'No' alone is insufficient)</i></p> | |
| <p>Would there be... ... 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</p> | <p>Not likely due to the location and type of development</p> |

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| (e.g. because of increased noise, illumination and human activity)? | 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/projects 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 impacts on the nearest European site from the existing development due to the scale of the existing development and the separation distance between the subject site and the European Site. |
| Name: |  |
| Position: | Graduate Planner |
| Date: | 13 th January 2025 |

Given the location, the nature, and size of the existing development applied for, and the characteristics of European sites in the vicinity, it is considered that 500 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.

The nearest European site is 6.7km from the existing development, but, due to the existing development's nature and scale, it is highly unlikely that there will be any significant effects on the nearest European site, either alone, or in combination with other plans and projects.

