

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

**REFERENCE:** DEC 24/20

**NAME OF APPLICANT:** Shanna May Breen

**ADDRESS FOR CORRESPONDENCE:** The Mews, Cornmarket Street, Co. Offaly, R42 P982.

**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether renovations to the existing house to bring it to a liveable standard is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** 15 Cappaneale Upper, Townspark, Birr, Co. Offaly, R42 KH97.

**WHEREAS** a question has arisen as to whether the renovations to the existing house (protected structure RPS ref. 49-341) to bring it to a liveable standard is or is not development and is or is not exempted development at 15 Cappaneale Upper, Townspark, Birr, Co. Offaly, R42 KH97.

**AS INDICATED** on the particulars received by the Planning Authority on the 1st March 2024 and 31st May 2024.

**AND WHEREAS** Shanna May Breen of The Mews, Cornmarket Street, Co. Offaly, R42 P982 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:

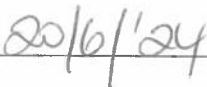
- Section 2, 3(1) and 4(1)(h) of the Planning & Development Act 2000 (as amended).

**AND WHEREAS** Offaly County Council has concluded that the proposed work is development and is exempted development having regard particularly to Section 4 of the act.

**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 the existing house (Protected Structure RPS Ref. 49-341) to bring it to a liveable standard **is development and is exempted development** at 15 Cappaneale Upper, Townspark, Birr, Co. Offaly, R42 KH97.

**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: 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.*

## Planning Report

### Section 5 Declaration

<b>File Reference:</b>	<b>Dec. 24/20</b>
<b>Question:</b>	<i>Whether renovations to the existing house to bring it to a liveable standard is or is not development and is or is not exempted development.</i>
<b>Applicant:</b>	<i>Shanna May Breen</i>
<b>Correspondence Address:</b>	<i>The Mews, Cornmarket Street, Co. Offaly. R42 P982</i>
<b>Location:</b>	<i>15 Cappaneale Upper, Townspark, Birr, Co. Offaly. R42 KH97</i>

#### 1. Introduction

The question has arisen as whether the proposed renovations to the existing house to bring it to liveable standard is or is not development and is or is not exempted development.

#### 2. Review of Further Information

Further information (FI) was sought by the Planning Authority on the 28<sup>th</sup> March 2024 and a response was subsequently received by the Planning Authority on the 31<sup>st</sup> May 2024.

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

*Given that the structure on site is protected please submit an architectural impact assessment in accordance with the requirements of the architectural heritage protection guidelines 2004 regarding the proposed works.*

*Note to applicant. As an alternative to the above request the applicant may wish to consider a section 57(2) declaration as to the type of works which Offaly County Council considers would or would not materially affect the character of the structure. The applicant should note this is carried out by the OCC Conservation Architect.*

In response, the Applicant has provided a Conservation Methodology Statement and Architectural Heritage Impact Assessment with Drawings & Photographic Survey prepared by Michael T Breen who is a Grade 1 Conservation Architect.

In this assessment, Mr Breen concludes that he is 'satisfied that the proposed works in the statement will create no new negative impact on the character of the structure' and 'that the works will add and enhance the structure both internally and externally'.

#### Planner's Assessment:

Based on the information submitted, the Planning Authority are satisfied that the proposed works will not materially affect the integrity of the protected structure and will not render the appearance inconsistent with the character of the structure or neighbouring structures. The proposed works are therefore deemed acceptable.

#### 7. Conclusion

Having assessed the further information received by the Planning Authority on the 31<sup>st</sup> May 2024 and the previous planning report on file, it is considered the renovations of the dwelling 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 the existing house (protected structure RPS ref. 49-341) to bring it to a liveable standard is or is not development and is or is not exempted development at 15 Cappaneale Upper, Townspark, Birr, Co. Offaly, R42 KH97.

**AS INDICATED** on the particulars received by the Planning Authority on the 1<sup>st</sup> March 2024 and 31<sup>st</sup> May 2024.;

**AND WHEREAS** Shanna May Breen of The Mews, Cornmarket Street, Co. Offaly, R42 P982 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 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 work is development and is exempted development having regard particularly to section 4 of the act.

**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 the existing house (protected structure RPS ref. 49-341) to bring it to a liveable standard is **development** and is **exempted development** at 15 Cappaneale Upper, Townspark, Birr, Co. Offaly, R42 KH97.

*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

20<sup>th</sup> June 2024

Date



Ed Kelly

(A/Senior Planner)

20<sup>th</sup> June 2024

Date

## 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 24/20

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether renovations to the existing house to bring it to a liveable standard is or is not development and is or is not exempted development.		
Site location:	15 Cappaneale Upper, Townspark, Birr, Co. Offaly. R42 KH97		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Dovegrove Callows SPA – 1.54km River Little Brosna Callows SPA – 4.94km		
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: <b>X</b>		
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
<b>Dovegrove Callows SPA – Features of interest include:</b>	<ul style="list-style-type: none"> <li>• Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]</li> </ul>		
<b>River Little Brosna SPA – Features of Interest:</b>	<ul style="list-style-type: none"> <li>• Whooper Swan (Cygnus cygnus) [A038]</li> <li>• Wigeon (Anas penelope) [A050]</li> <li>• Teal (Anas crecca) [A052]</li> <li>• Pintail (Anas acuta) [A054]</li> <li>• Shoveler (Anas clypeata) [A056]</li> <li>• Golden Plover (Pluvialis apricaria) [A140]</li> <li>• Lapwing (Vanellus vanellus) [A142]</li> <li>• Black-tailed Godwit (Limosa limosa) [A156]</li> <li>• Black-headed Gull (Chroicocephalus ridibundus) [A179]</li> <li>• Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>		
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 <a href="http://www.npws.ie">www.npws.ie</a> ) (ATTACH INFO.)			
<b>Site Name: Dovegrove Callows SPA, Site Code: 004137</b>	<a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004137.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004137.pdf</a>		
<b>Site Name: River Little Brosna SPA, Site Code: 004086</b>			

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004086.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)

<p><b>Would there be...</b></p> <p>... 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 (e.g. because of increased noise, illumination and human activity)?</p>	<p>Not likely due to the location and type of development. The site is sufficient distance from the European site.</p>
<p>... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?</p>	<p>None likely due to the location and type of development. The site is sufficient distance from the European site.</p>
<p>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.</p>	<p>No other plans known of in the vicinity of the site. The site is sufficient distance from the European site.</p>

**(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: 20<sup>th</sup> June 2024