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

REFERENCE: DEC 24/33

NAME OF APPLICANT: Thomas and Teresa Murray.

ADDRESS FOR CORRESPONDENCE: 15 Callary Street, Tullamore, Co. Offaly

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not domestic renovations to an existing dwelling is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: 12 Callary Street, Tullamore, Co. Offaly

WHEREAS a question has arisen as to whether the proposed renovation of existing dwelling which consists of demolitions / strip-out / site clearance - (including removal of hazardous materials); substructure works (including works to foundations rising walls; beds/ slabs; damp-proofing; underpinning); superstructure works (including works to internal, external walls; chimneys: upper floor: stairs; roof structure; other structural timbers; completions (including works associated with external doors and windows; internal doors and associated frames, architraves and ironmongery; balustrades; skirtings; rooflights; fascia's/ soffits; rainwater goods); finishes (including finishes to external/ internal walls, ceiling finishes; tiling/ waterproof finishes to wet areas; roof finishes); services (including plumbing; heating; ventilation; power; lighting; telecommunications: smoke/ C02 detection); fittings (including kitchen units; sanitary / bathroom fittings); external works (necessary external / site works carried out within the curtilage of the site) at 12 Callary Street, Tullamore, Co. Offaly is or is not development and is or is not exempted development.

AS INDICATED on the particulars received by the Planning Authority on the 27th March 2024 and Further Information received on 13th May 2024.

AND WHEREAS Thomas & Teresa Murray 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 works is development and is exempted development having particular regard to article 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 proposed renovation of existing dwelling which consists of demolitions / strip-out / site clearance - (including removal of hazardous materials); substructure works (including works to foundations rising walls; beds/ slabs; damp-proofing; underpinning); superstructure works (including works to internal, external walls; chimneys: upper floor: stairs; roof structure; other structural timbers; completions (including works associated with external doors and windows; internal doors and associated frames, architraves and ironmongery; balustrades; skirtings; rooflights; fascia's/ soffits; rainwater goods); finishes (including finishes to external/ internal walls, ceiling finishes; tiling/ waterproof finishes to wet areas; roof finishes); services (including plumbing; heating; ventilation; power; lighting; telecommunications: smoke/ C02 detection); fittings (including kitchen units; sanitary / bathroom fittings); external works (necessary external / site works carried out within the curtilage of the site) **is development** and **is exempted development** at 12 Callary Street, Tullamore, 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* 30/May/'24

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. 24/33***
Question:	*Whether or not domestic renovations to an existing dwelling is or is not development and is or is not exempted development?*
Applicant:	*Thomas & Teresa Murray*
Correspondence Address:	*15 Callary Street, Tullamore, Co. Offaly*
Location:	*12 Callary Street, Tullamore, Co. Offaly*

SECOND REPORT ON FILE

1. Review of Further Information

Further information was sought by the Planning Authority on 22nd April 2024 and subsequently received by the Planning Authority on 13th May 2024. This report should be read in conjunction with the previous planner's report dated 19th April 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, 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.
   (b) a full set of drawings (4 elevations & floor plans) at an 1:100 scale of the existing dwelling.
   (c) a full set of drawings (4 elevations & floor plans) at an 1:100 scale of the dwelling indicating the proposed extension

   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.

Applicants Response: The Applicants have indicated that no extension is proposed to be added to the original dwelling.

Planners Appraisal: The further information received in relation to item 1 was assessed by the Planning Authority and are satisfied that since no extension is proposed, that Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended) is not applicable in this instance.

2. The Applicant is requested to clarify if any domestic extension has been constructed to the dwelling in question and if so please indicate when the extension in question was constructed as well as the gross floor area (m^2) of extension.

Applicants Response: Applicant indicates no extension was built.

Planners Appraisal: The further information received in relation to item 2 was assessed by the Planning Authority and are satisfied.

CONCLUSION:

Having assessed the further information received and the previous planning report on file, it is considered the proposed renovation of existing dwelling which consists of:

- Demolitions / strip-out / Site Clearance - (including removal of hazardous materials)
- Substructure works (including works to foundations rising walls; beds/ slabs; damp-proofing; underpinning)
- Superstructure works (including works to internal, external walls; chimneys: upper floor: stairs; roof structure; other structural timbers
- Completions (including works associated with external doors and windows; internal doors and associated frames, architraves and ironmongery; balustrades; skirtings; rooflights; fascia's/ soffits; rainwater goods)
- Finishes (including finishes to external/ internal walls, ceiling finishes; tiling/ waterproof finishes to wet areas; roof finishes)
- Services (including plumbing; heating; ventilation; power; lighting; telecommunications: smoke/ C02 detection)
- Fittings (including kitchen units; sanitary / bathroom Fittings)
- External Works (necessary external / site works carried out within the curtilage of the 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 proposed renovation of existing dwelling which consists of

- Demolitions / strip-out / Site Clearance - (including removal of hazardous materials)
- Substructure works (including works to foundations rising walls; beds/ slabs; damp-proofing; underpinning)
- Superstructure works (including works to internal, external walls; chimneys: upper floor: stairs; roof structure; other structural timbers
- Completions (including works associated with external doors and windows; internal doors and associated frames, architraves and ironmongery; balustrades; skirtings; rooflights; fascia's/ soffits; rainwater goods)
- Finishes (including finishes to external/ internal walls, ceiling finishes; tiling/ waterproof finishes to wet areas; roof finishes)
- Services (including plumbing; heating; ventilation; power; lighting; telecommunications: smoke/ C02 detection)
- Fittings (including kitchen units; sanitary / bathroom Fittings)
- External Works (necessary external / site works carried out within the curtilage of the site)

at 12 Callary Street, Tullamore, Co. Offaly is or is not development is or is exempted development and is or is not exempted development

AND WHEREAS, Thomas & Teresa Murray 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 works is development and is exempted development having particular regard to article 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 proposed renovation of existing dwelling which consists of

- Demolitions / strip-out / Site Clearance - (including removal of hazardous materials)
- Substructure works (including works to foundations rising walls; beds/ slabs; damp-proofing; underpinning)

- Superstructure works (including works to internal, external walls; chimneys: upper floor: stairs; roof structure; other structural timbers
- Completions (including works associated with external doors and windows; internal doors and associated frames, architraves and ironmongery; balustrades; skirtings; rooflights; fascia's/ soffits; rainwater goods)
- Finishes (including finishes to external/ internal walls, ceiling finishes; tiling/ waterproof finishes to wet areas; roof finishes)
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- Fittings (including kitchen units; sanitary / bathroom Fittings)
- External Works (necessary external / site works carried out within the curtilage of the site)

is development and **is exempted development** at 12 Callary Street,Tullamore, 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

Michael Duffy

Executive Planner

27th May 2024

Ed Kelly

Ed Kelly

Acting Senior Executive Planner

30th May 2024

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. DEC24/33

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	RENOVATION TO EXISTING DWELLING		
Site location:	12 CALLARY STREET, TULLAMORE, CO. OFFALY		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Charleville Wood SAC – 1.95km Clara Bog SAC – 8.09km		
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?	Yes: ☐	No: **X**	

(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):	
The reasons for the designation of the European site(s):	

Charleville Wood SAC – Features of Interest:

- Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]
- Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]

Clara Bog SAC – Features of Interest:

- Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]
- Active raised bogs [7110]
- Degraded raised bogs still capable of natural regeneration [7120]
- Depressions on peat substrates of the Rhynchosporion [7150]
- Bog woodland [91D0]

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: Charleville Wood SAC, Site Code: 000571
https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000571.pdf
Site Name: Clara Bog SAC, Site Code: 000572
https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000572.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 *in-combination effects* 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.	*AA is not required* because the project is directly connected with / necessary to the nature conservation management of the site.
2.	*No potential for significant effects / AA is not required.*
3.	*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.

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:	Michael Duffy		
Position:	**Executive Planner**	**Date:**	**27th May 2024**