

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

REFERENCE: DEC 24/43

NAME OF APPLICANT: Sinead and Terry Wearen

ADDRESS FOR CORRESPONDENCE: Dun Aitinn, Clonagh, Rhode, Co. Offaly R35 XY95.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the installation of a staircase into the attic is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Dun Aitinn, Clonagh, Rhode, Co. Offaly R35 XY95.

WHEREAS a question has arisen as to whether the installation of a staircase into the attic (to allow access to non-habitable space) is or is not development and is or is not exempted development at Dun Aitinn, Clonagh, Rhode, Co. Offaly R35 XY95.

AS INDICATED on the particulars received by the Planning Authority on the 29th April 2024 and the 27th May 2024.

AND WHEREAS Sinead and Terry Wearen 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.

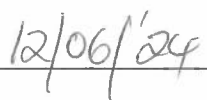
AND WHEREAS Offaly County Council has concluded that the proposed work is development and is exempted development.

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 installation of a staircase into the attic (to allow access to non-habitable space) **is development and is exempted development** at Dun Aitinn, Clonagh, Rhode, Co. Offaly R35 XY95.

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.

OFFALY COUNTY COUNCIL

Planning Report

Section 5 Declaration

File Reference:	<i>Dec. 24/43</i>
Question:	<i>Whether the installation of a staircase into the attic is or is not development and is or is not exempted development.</i>
Applicant:	<i>Sinead and Terry Wearan</i>
Correspondence Address:	<i>Dun Aitinn, Clonagh, Rhode, Co. Offaly</i>
Location:	<i>Dun Aitinn, Clonagh, Rhode, Co. Offaly</i>

SECOND REPORT ON FILE

1. Proposal

The question has arisen as to whether the proposed works of the installation of a staircase into the attic is or is not development and if so, is it exempted development.

Review of Further Information

Further information was sought by the Planning Authority on 22nd May 2024 and subsequently received by the Planning Authority on the 27th May 2024. This report should be read in conjunction with the previous planner's report dated 13th May 2024. The following Further Information was sought and the response is as follows:

- Please indicate if the attic space of the dwelling on site is proposed to be converted into part of the habitable area of the house as an ancillary element of the staircase subject of this declaration.*

In the event that the attic space is proposed to be used as a habitable area the requirements of Schedule 2, Part 1 Class 1 of the Planning and Development regulations 2001 are of relevance to this request for a declaration.

In the event that the attic space is to be used as a habitable area and not purely for domestic storage purposes, please submit floor plans at 1:500 scale of the dwelling house. These floor plans shall clearly indicate the attic area which is to be converted into part of the habitable area of the house.

Please also indicate, on the floor plans, where existing extensions which have been built onto the house and the date of such extensions were constructed and the area of each existing extension.

In the event that windows are proposed to be placed within the roof space please indicate the positioning of such windows on elevation drawings. It should be noted that windows to the front or sides of the dwelling may not be exempted development.

Applicants Response: The Applicant's have clarified that the staircase is to gain access to the attic only. The attic space will not be used as a habitable area.

Planners Appraisal: The further information received in relation to item 1 was assessed by the Planning Authority, who subsequently are satisfied with the response.

2. Appropriate Assessment

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.

3. Evaluation

I consider that the proposed development complies with Section 4 (1)(h) of the Planning and Development Act 2000 (as amended) and is thereby considered to constitute exempted development.

4. Conclusion

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.

With regard to the proposed works which are described in the submitted documents and FI response, 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 detrimental to the character of the site or surrounding area. It is the opinion of the planning authority that these works meet the criteria of exempt development under section 4(1)(h) of the Planning and Development Act 2000 (as amended).

It is recommended that the Applicant be advised that the proposed development **is development and is exempted development.**

Exempted Development

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether the installation of a staircase into the attic (to allow access to non-habitable space) is or is not development and is or is not exempted development at Dun Aitinn, Clonagh, Rhode, Co. Offaly.

AS INDICATED on the particulars received by the Planning Authority on the 29th April 2024 and the 27th May 2024.

AND WHEREAS Sinead and Terry Wearan 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:

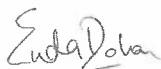
- (a) Section 2, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended.

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

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 installation of a staircase into the attic (to allow access to non-habitable space) is **development and is exempted development** at Dun Aitinn, Clonagh, Rhode, 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.



Enda Dolan
Assistant Planner

30th May 2024



Úna McCafferkey (Executive Planner)

12th 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 24/43

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the installation of a staircase into the attic is or is not development and is or is not exempted development.		
Site location:	Dun Aitinn, Clonagh, Rhode, Co. Offaly		
Site size:	0.14 hectares	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Raheenmore Bog SAC – 0.04km		
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):			
Raheenmore Bog SAC– Features of interest include:	<ul style="list-style-type: none"> [7110] Raised Bog (Active)* [7120] Degraded Raised Bog [7150] Rhynchosporion Vegetation 		
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: Raheenmore Bog SAC Site Code: 000582 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000582.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:	Enda Dolan 		
Position:	Assistant Planner	Date:	30 th May 2024

