

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

REFERENCE: DEC 24/44

NAME OF APPLICANT: Tara-Leigh Roe

ADDRESS FOR CORRESPONDENCE: Townparks, Daingean, Co. Offaly, R35 KH68.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the proposed works of an extension to the rear of house and renovations of the derelict property is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Clyduff, Rhode, Co. Offaly, R35 E2NO

WHEREAS a question has arisen as to whether the proposed works of an extension to the rear of house and renovations of the derelict property is or is or is not development and if so, are they exempted development at Clyduff, Rhode, Co. Offaly, R35 E2NO.

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

AND WHEREAS Tara-Leigh Roe 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 -

- Sections 2(1) and 3(1) of the Planning & Development Act 2000, as amended; and,

AND WHEREAS Offaly County Council has concluded that the works of an extension to the rear of house and renovations of the derelict property is development and is not 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 works of an extension to the rear of house and renovations of the derelict property **is development and is not exempted development** at Clyduff, Rhode, Co. Offaly, R35 E2NO.

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

21/5/2024.

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. 24/44
Question:	<i>Whether the proposed works of an extension to the rear of house and renovations of the derelict property is or is not development and if so, are they exempted development.</i>
Applicant:	<i>Tara-Leigh Roe</i>
Correspondence Address:	<i>Townparks, Daingean, Co. Offaly, R35 KH68.</i>
Location:	<i>Clyduff, Rhode, Co. Offaly, R35 E2NO</i>

1. Introduction

The question has arisen whether the proposed works of an extension to the rear of house and renovations of the derelict property is or is not development and if so, are they exempted development.

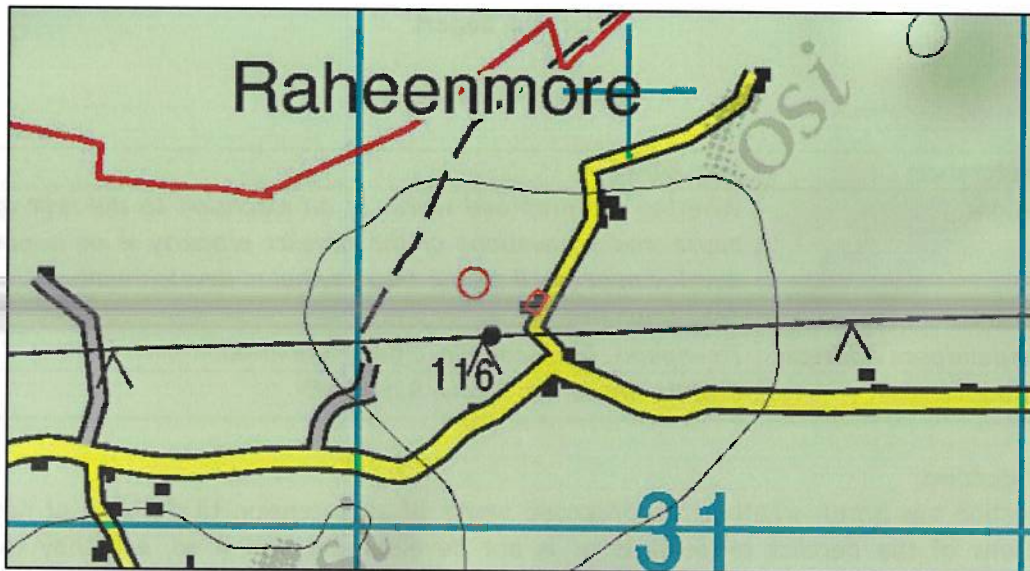
2. Background

The site is located within a Rural Area Under Strong Urban Influence and has a low sensitivity classification. The site is located off a local tertiary road. The dwelling on site is one storey and is in a derelict condition.

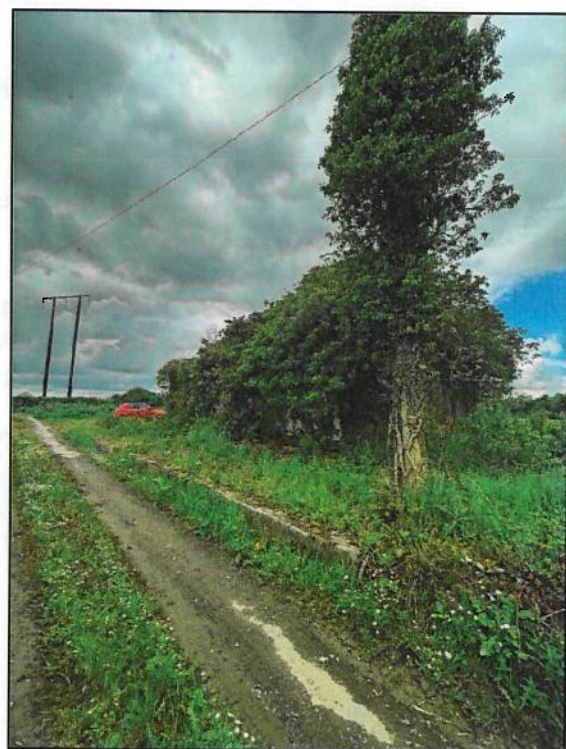
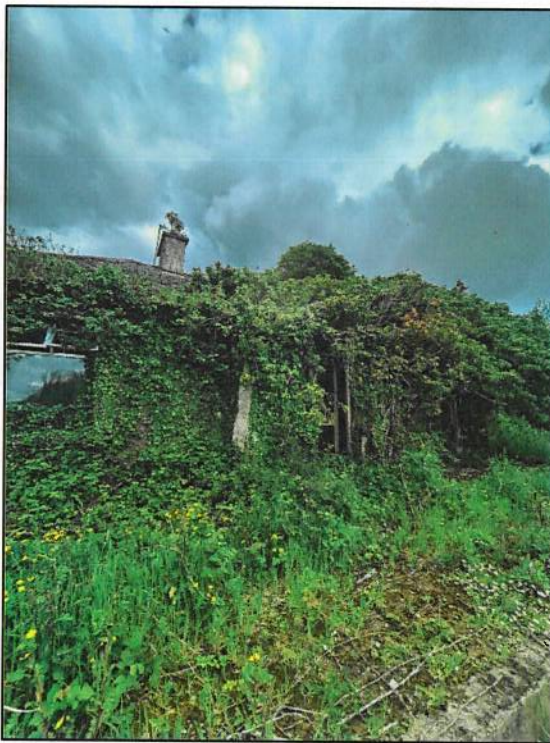
A national monument is located adjacent to the rear of the site. www.archaeology.ie descriptions include:

Ref OF010-023---- : **Enclosure : PUTTAGHAN (Phillipstown Lower By.), RAHEENMORE:** Enclosure or possible remains of ringfort (max. int. diam. NE-SW c. 43m) situated on W end of a large flat ridge and defined in part only from SW to NNE. Quarried at W and levelled from SE to SW. (ITA Survey 1942).





Images 1-2: Site location (red line boundary).



Images 3-4: Site inspection images.

3. Site History

On site:

No relevant planning or enforcement history.

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:

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.

5. Proposal by Applicants

The Applicant has advised on the proposed works of an extension to the rear of a house and renovations to the derelict property.

Number	Works Category
1	Demolitions/ Strip-out / Site Clearance (including removal of hazardous materials)
2	Substructure works (including works to foundations; rising walls; beds / slabs; damp-proofing; underpinning)
3	Superstructure works (including works to internal / external walls; chimneys; upper floors; stairs; roof structure; other structural timbers)
4	Completions (including works associated with external doors and windows; internal doors and associated frames, architraves and ironmongery; balustrades; skirtings; rooflights; fascias / soffits; rainwater goods)
4a	External completions (incl. doors, windows, sills). Part of extension completions.
4b	Internal completions (incl. doors, frames, architraves, ironmongery)
4c	Skirtings
4d	Fascias, soffits, rainwater goods
4e	Roof completions (incl. flashings, fascias, soffits, gutters, downpipes)
5	Finishes (including finishes to external / internal walls; ceiling finishes; tiling / waterproof finishes to wet areas; roof finishes)
5a	Tiling / waterproof finishes to wet areas (max allowable figure)
5b	Painting and decorating (max allowable figure)
5c	Roof finishes (included costings elsewhere)
6	Services (including plumbing; heating; ventilation; power; lighting; telecommunications; smoke / CO2 detection). Figure includes for total new electrical system for existing property
7	Fittings (including kitchen units; sanitary / bathroom fittings)
7a	Kitchen units (max allowable figure)
7b	Sanitary ware/ bathroom fittings (max allowable figure)
8	External Works (necessary external / site works carried out within the curtilage of the site). Includes for all works to boundary walls in rear garden
9	Extension either within the ambit of exempt development under planning regulations or as part of a planning as part of a wider refurbishment.
9a	substructure
9b	superstructure
9c	roof work
9d	plumbing & heating
9e	electrical
9f	structure beams
9g	plastering
9h	joinery

6. Evaluation

Question: Whether the proposed works (as listed) to the existing dwelling are 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 demolitions, refurbishments and alterations to the existing structure.

Question: Is this proposal considered as Exempted Development?

The use of the structure on site as a house is deemed to have been abandoned. I note the following from OPR practice note 5:

Abandonment: Abandonment can occur in relation to either development consisting of works or the operation of a use. Abandonment may occur where the development has ceased for a considerable period of time with no intention of resuming it. Unless it is exempt from the requirement to obtain planning permission for other reasons, the resumption of an abandoned development is likely to represent a material change of use.

I consider that the works are not exempted development as the structure and property as a whole, is in a derelict, dilapidated condition that would require extensive material works in order to restore the dwelling and property to a liveable standard.

7. Recommendation

It is recommended that the Applicant be advised that the proposed works is development and is not exempted development.

Declaration on Development and Exempted Development

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

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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 works of an extension to the rear of house and renovations of the derelict property is **development** and is **not exempted development** at Clyduff, Rhode, Co. Offaly, R35 E2NO.

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 Pleanala within 4 weeks of the issuing of the decision.



Enda Dolan
Assistant Planner

Date: 14th May 2024



Ed Kelly A/Senior Executive Planner

Date: 21st 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. No: DEC 24/44

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the proposed works of an extension to the rear of house and renovations of the derelict property is or is not development and if so, are they exempted development.		
Site location:	Clyduff, Rhode, Co. Offaly, R35 E2NO		
Site size:	0.06m ²	Floor Area of Proposed Development:	
Identification of nearby European Site(s):	Raheenmore Bog SAC – 0.26km		
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: <input checked="" type="checkbox"/>
(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)

<p>Would there be...</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.	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:	 Enda Dolan		
Position:	Assistant Planner	Date:	14 th May 2024.

