

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

REFERENCE: DEC 24/71

NAME OF APPLICANT: Agnes Bolger

ADDRESS FOR CORRESPONDENCE: Ballyduff South, Geashill, Co. Offaly, R35 AT88.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the retention of any modifications/additions to dwelling is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Circular Road, Daingean, Co. Offaly, R35 FY67

WHEREAS a question has arisen whether the retention of a rear extension, internal wall removal, internal lobby removal and omission of window is or is not development and is or is not exempted development at Circular Road, Daingean, Co. Offaly, R35 FY67.

AS INDICATED on the particulars received by the Planning Authority on the 24th June 2024 and thereafter on the 22nd July 2024.

AND WHEREAS Agnes Bolger 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), 4(1)(h) and 4(2) of the Planning & Development Act 2000, as amended.
Article 6 and Class 1, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

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 retention of a rear extension, internal wall removal, internal lobby removal and omission of window **is development and is exempted development.**

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. 24/71</i>
Question:	<i>Whether the retention of any modifications/additions to dwelling is or is not development and is or is not exempted development.</i>
Applicant:	<i>Agnes Bolger</i>
Correspondence Address:	<i>Ballyduff South, Geashill, Co. Offaly, R35 AT88</i>
Location:	<i>Circular Road, Daingean, Co. Offaly, R35 FY67</i>

SECOND REPORT ON FILE

1. Proposal

The question has arisen as to whether the retention of any modifications/additions to a dwelling is or is not development and is or is not exempted development.

Review of Further Information

Further information was sought by the Planning Authority on 17th July 2024 and subsequently received by the Planning Authority on 22nd July 2024. This report should be read in conjunction with the previous planner's report dated 12th July 2024. The following Further Information was sought and the response is as follows:

- Please submit a full list of the modifications/additions that have occurred to the dwelling subsequent to the grant of planning permission under Ref 82/596.*
- Please submit elevation drawings scale 1:50 and floor plans scale 1:100, outlining in red all modifications/additions to the dwelling subsequent to the grant of planning permission under Ref 82/596, measurements included.*

Applicants Response: The Applicant has detailed the modifications/additions that have occurred to the dwelling subsequent to the grant of planning permission under *Ref 82/596*. These include the removal of a wall and lobby (internal works) and the addition of a back porch. The Applicant also states a window was not installed as granted under *Ref 82/596*.

Planners Appraisal: While I note the applicants description of the "porch" element I consider that it can more appropriately be considered a domestic extension. The further information received in relation to item 1 was assessed by the Planning Authority. The back porch to the rear of the dwelling was assessed against Class 1, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). The works are deemed to be exempted development.

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

Question: Whether the retention of any modifications/additions to dwelling is or is not 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 renovations and alterations to the existing dwelling.

Question: Is this proposal considered as Exempted Development?

Yes

4. Conclusion

Having regard to:

- Section 2, 3(1), 4(1)(h), 4(2) of the Planning & Development Act 2000, as amended.
- Article 6 and Class 1, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

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

Declaration on Development and Exempted Development

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

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AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to:

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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 retention of a rear extension, internal wall removal, internal lobby removal and omission of window is development and is exempted development.

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

Date: 29th July 2024.



Ed Kelly
ASEP

Date: 8th August 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 24/71

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the retention of any modifications/additions to dwelling is or is not development and is or is not exempted development.		
Site location:	Circular Road, Daingean, Co. Offaly, R35 FY67		
Site size:	0.1 hectares	Floor Area of Proposed Development:	Not given
Identification of nearby European Site(s):	Raheenmore Bog – 5.24km		
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 *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?

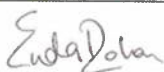
Category 2

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:

Enda Dolan



Position:

Assistant Planner

Date:

29th July 2024.

