

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 24/72

NAME OF APPLICANT: Mark Cleary

ADDRESS FOR CORRESPONDENCE: C/O Ed Horan Architects, Strahard, Mountmellick, Co. Laois,
R32 D7W7

NATURE OF APPLICATION: Request for declaration under section 5 of the planning & development act 2000, as amended as to whether or not remodelling of existing house and elevations, 12m² rear extension, include new façade treatment in the form of external insulation all round and some brick slips to the front, new windows added and some existing windows changed to doors and lowering the external ground level to part of the front elevation by approximately 850mm and all associated site works is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Newtown, Co. Offaly, R35 PN50.

WHEREAS a question has arisen as to whether or not remodelling of existing house and elevations, 12m² rear extension, include new façade treatment in the form of external insulation all round and some brick slips to the front, new windows added and some existing windows changed to doors and lowering the external ground level to part of the front elevation by approximately 850mm and all associated site works is or is not development, and is or is not exempted development at Newtown, Co. Offaly, R35PN50.

AS INDICATED on the particulars received by the Planning Authority on the 27th June 2024 and 6th August 2024.

AND WHEREAS Mark Cleary has requested a declaration on the said question from Offaly County Council.

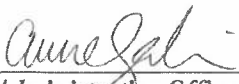
AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to -

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

AND WHEREAS Offaly County Council has concluded that the proposed works including remodelling of existing house and elevations, 12m² rear extension, include new façade treatment in the form of external insulation all round and some brick slips to the front, new windows added and some existing windows changed to doors and lowering the external ground level to part of the front elevation by approximately 850mm and all associated site 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 proposed works including remodelling of existing house and elevations, 12m² rear extension, include new façade treatment in the form of external insulation all round and some brick slips to the front, new windows added and some existing windows changed to doors and lowering the external ground level to part of the front elevation by approximately 850mm and all associated site works at Newtown, Co. Offaly, R35PN50 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

26/08/2024
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:	<i>Dec. 24/72</i>
Question:	Whether or not remodelling of existing house and elevations, 12m ² rear extension, include new façade treatment in the form of external insulation all round and some brick slips to the front, new windows added and some existing windows changed to doors and lowering the external ground level to part of the front elevation by approximately 850mm and all associated site works is or is not development and is or is not exempted development at Newtown, Co. Offaly, R35PN50.
Applicant:	Mark Cleary.
Correspondence Address:	Ed Horan Architects, Strahard, Mountmellick, Co. Laois, R32D7W7.
Location:	Newtown, Co. Offaly, R35PN50.

Second Report

1. Introduction

The question has arisen as to whether the following proposed works: remodelling of existing house and elevations, 12m² rear extension and all associated site works. The proposal would deliver new façade treatment in the form of external insulation all round and some brick slips to the front. In addition, some new windows are added, and some existing windows will change to doors. Lowering the external ground level to part of the front elevation by approximately 850mm, is or is not development and if so is it exempted development.

2. Review of Further Information

Further information (FI) was sought by the Planning Authority on the 23rd July 2024 and subsequently received by the Planning Authority on the 6th August 2024.

This report should be read in conjunction with the previous planner's report dated 22nd July 2024. The following FI was sought, and the response is as follows:

1.

(a) Please indicate the full extent of the open area of the site which is forward of the front building line on a 1:500 site layout map. Please indicate the extent of existing hard surfaced impermeable areas on this site layout map.

The Applicant has supplied a site layout map (Ref: SCH24-01-002) which shows the extent of open area forward of the building line and the extent of hard-surfaced, impermeable areas. The area forward of the building line is given as 1795m².

(b) Please indicate, on a separate site layout map at 1:500 scale, the area of land to be lowered and which is subject of this request for a declaration.

The Applicant has supplied a site layout map (Ref: SCH24-10-001) which details the area of land to be lowered, which amounts to 52m².

(c) Please indicate if the floor area of ground to be lowered, which is subject to this request for a declaration, is less than 25 square metres or less than 50% of the area of the garden forward of the front building line of the house. Please indicate if the area of ground to be lowered is to be constructed using permeable materials or will otherwise allow for rainwater to soak into the ground.

In this regard the applicant's attention is brought to Class 6, Part1, Schedule 2 of the Planning and Development Regulations 2001 (as amended).

The Applicant confirms that *"the area of ground to be lowered (52m²) is less than 50% of the area of garden forward of the front of the building line (1795m²) of the house"*. The Applicant has also stated that *"the area of ground to be lowered will be finished with a paved surface and surface water drainage to connect into the rainwater drainage system. The surface water drainage drains to soakaways on site towards the lower part of the site to the north"*.

The Planner notes that this would seem to satisfy the condition and limitation of developments exempted by Class 6, namely:

"if the area of the hard surface is 25 square metres or greater or comprises more than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, it shall be constructed using permeable materials or otherwise allow for rainwater to soak into the ground".

3. Evaluation

Having considered the FI response and having particular regard to *Class 6, Schedule 2, Part 1, Exempted Development - General, Development within the curtilage of a house of the Planning and Development Regulations 2001 (as amended)*, it is the view of the Planner that the proposed works are exempted development and do not require planning permission.

It is considered that the proposed development does not constitute a development listed in Schedule 5 of the *Planning and Development Regulations (2001) as amended*. Furthermore, it is not a sub-threshold development. Accordingly, an Environmental Impact Assessment Report is not required.

4. Conclusion

Having assessed the Further Information received and the previous planning report on file, it is considered that the proposed works at the subject site is **development** and is **exempted development**.

Development and Exempted Development

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

WHEREAS a question has arisen as to whether or not remodelling of existing house and elevations, 12m² rear extension, include new façade treatment in the form of external insulation all round and some brick slips to the front, new windows added and some existing windows changed to doors and lowering the external ground level to part of the front elevation by approximately 850mm and all associated site works is, or is not development, and if so is it exempted development at Newtown, Co. Offaly, R35PN50.

AS INDICATED on the particulars received by the Planning Authority on the 27th June 2024 and 6th August 2024,

AND WHEREAS Mark Cleary 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 -

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

AND WHEREAS Offaly County Council has concluded that the proposed works including remodelling of existing house and elevations, 12m² rear extension, include new façade treatment in the form of external insulation all round and some brick slips to the front, new windows added and some existing windows changed to doors and lowering the external ground level to part of the front elevation by approximately 850mm and all associated site 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 proposed works including remodelling of existing house and elevations, 12m² rear extension, include new façade treatment in the form of external insulation all round and some brick slips to the front, new windows added and some existing windows changed to doors and lowering the external ground level to part of the front elevation by approximately 850mm and all associated site works at Newtown, Co. Offaly, R35PN50 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 Finlay
Graduate Planner

21st August 2024

Ed Kelly

Ed Kelly
ASEP

22nd 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: Offaly County Council

Planning Application Ref. DEC24/72

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Proposed remodelling of an existing dwelling.		
Site location:	Newtown, Co. Offaly, R35PN50.		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	River Barrow and River Nore SAC 6.03km		
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: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>	
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
River Barrow and River Nore SAC – Features of interest include: Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140]			

Reefs [1170]
 Salicornia and other annuals colonising mud and sand [1310]
 Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]
 Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
 Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]
 European dry heaths [4030]
 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]
 Petrifying springs with tufa formation (*Cratoneurion*) [7220]
 Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
 Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]
Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]
Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]
Austropotamobius pallipes (White-clawed Crayfish) [1092]
Petromyzon marinus (Sea Lamprey) [1095]
Lampetra planeri (Brook Lamprey) [1096]
Lampetra fluviatilis (River Lamprey) [1099]
Alosa fallax fallax (Twait Shad) [1103]
Salmo salar (Salmon) [1106]
Lutra lutra (Otter) [1355]
Trichomanes speciosum (Killarney Fern) [1421]

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: River Barrow and River Nore SAC **Site Code:** 002162
<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002162.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.
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... 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 closest European site (River Barrow and River Nore SAC) from the proposed development due to the scale and nature of the proposed development and the separation distance between the subject site and the European Site.		
Name:	 Enda Finlay		
Position:	Graduate Planner		Date: 21 st August 2024

Given the location, the nature, and size of the development applied for and the characteristics of European sites in the vicinity it is considered that 500 metres should be used as a potential zone of

impact of the project in accordance with section 3.2.3 of the appropriate assessment guidelines. There are no European sites within 500 metres of the development applied for.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal would not adversely affect the integrity of the nearest European Site (River Barrow and Rover Nore SAC) having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.