

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

**REFERENCE:** DEC 24/75

**NAME OF APPLICANT:** Ger Flattery and Eileen Clavin Flattery

**ADDRESS FOR CORRESPONDENCE:** No.61 East Green, Clara, Co. Offaly, R35 HR64

**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the change of use of an old fuel shed into a laundry room is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** No.61 East Green, Clara, Co. Offaly, R35 HR64

**WHEREAS** a question has arisen as to whether the change of use of an old fuel shed into an laundry room is or is not development and is or is not exempted development and if so, is it or is not exempted development at No 61 East Green, Clara, Co. Offaly R35 HR64

**AS INDICATED** on the particulars received by the Planning Authority on the 8th July 2024.

**AND WHEREAS** Ger Flattery and Eileen Clavin Flattery 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:

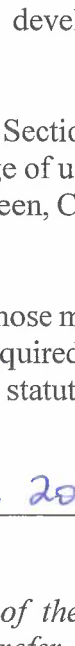
- Section 2, 3(1) and 4(2)(a)(i) of the Planning & Development Act 2000, as amended.
- Schedule 2 – Exempted Development, Part I - Development Within the Curtilage of a House, Class 3 of the Planning & Development Regulations 2001 (as amended).
- Article 6 of the Planning and Development Regulations 2001 (as amended), and
- Article 9 of the Planning and Development Regulations 2001 (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 proposed change of use of an old fuel shed into an laundry room is **development** and is **exempted development** at No 61 East Green, Clara, Co. Offaly R35 HR64

**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.*



## Planning Report

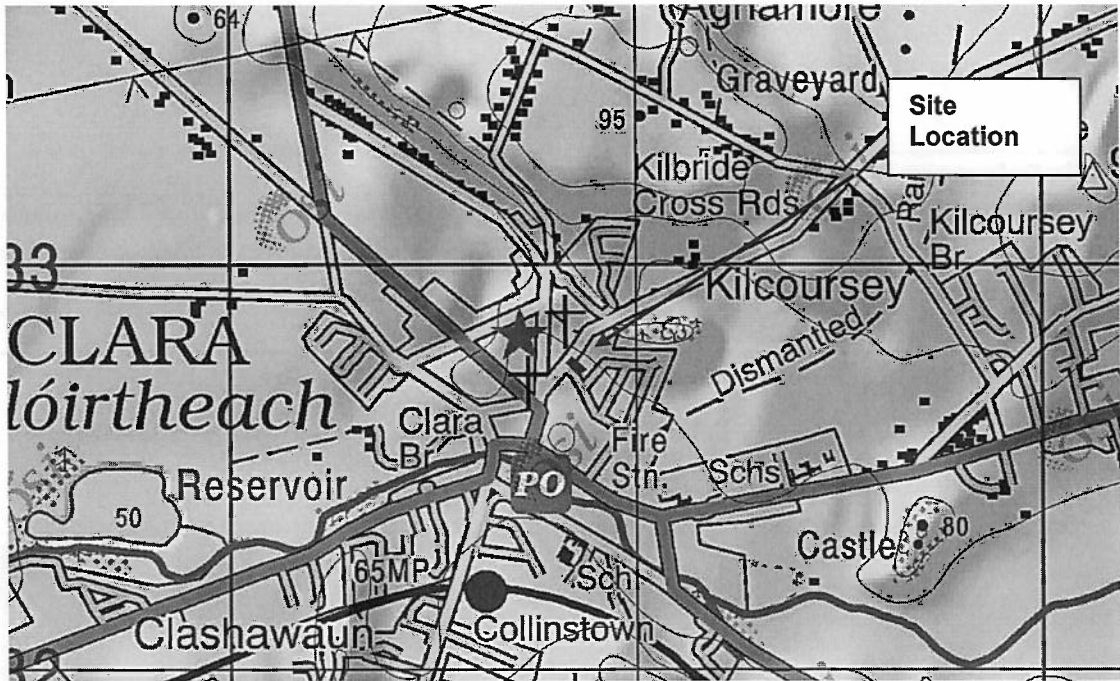
### Section 5 Declaration

<b>File Reference:</b>	Dec. 24/75
<b>Question:</b>	Whether the change of use of an old fuel shed into an laundry room is or is not development and is or is not exempted development.
<b>Applicant:</b>	Ger Flattery & Eileen Clavin Flattery
<b>Correspondence Address:</b>	No 61 East Green, Clara, Co. Offaly R35 HR64
<b>Location:</b>	No 61 East Green, Clara, Co. Offaly R35 HR64

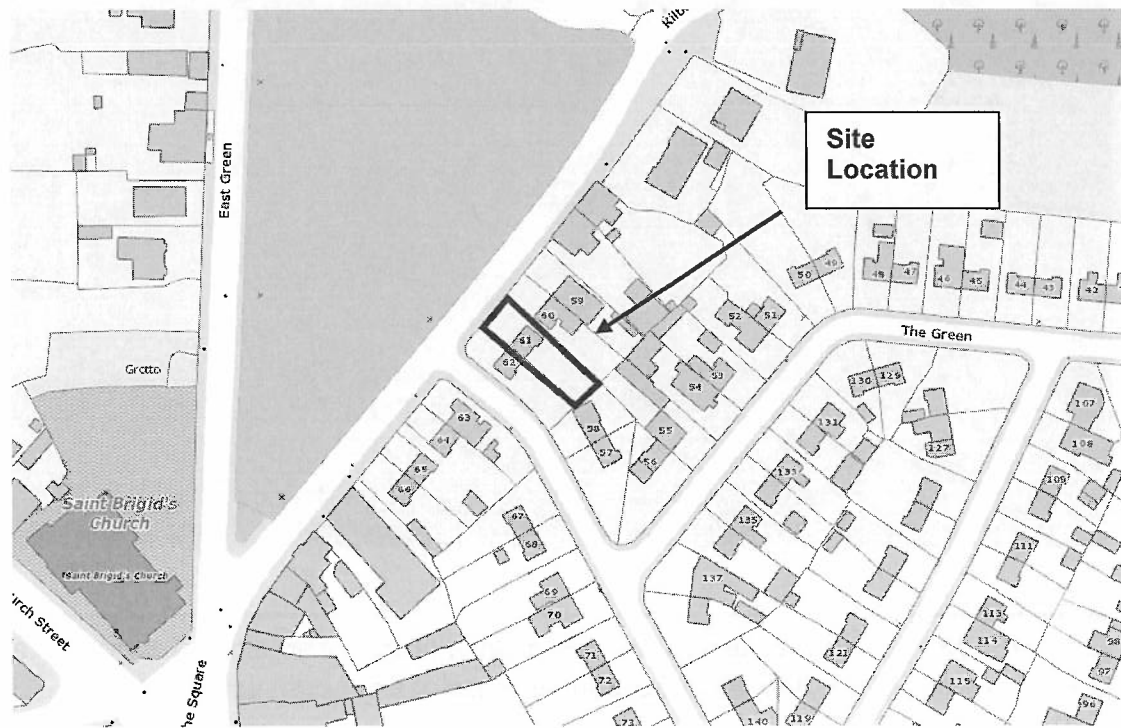


#### 1. Introduction

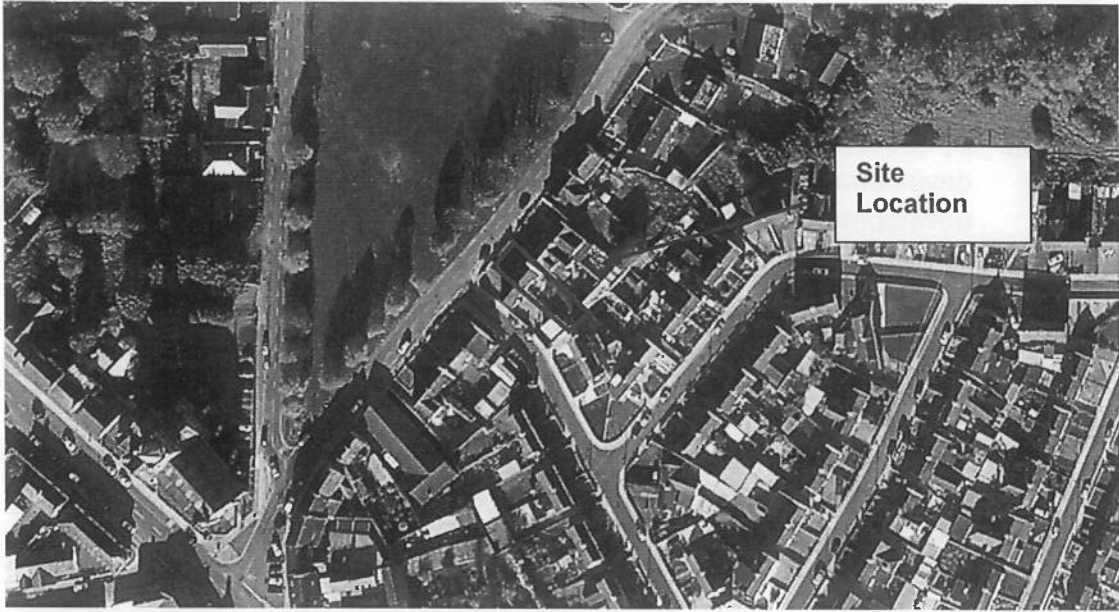
The question has arisen as to whether the change of use of an old fuel shed into an laundry room is or is not development and is or is not exempted development.



**Figs 1: Site Location (Discovery Series)**



**Figs 2: Site Location**



**Figs 3:** Aerial image of location of site.

## **2. Background**

The existing semi-detached dwelling is located within the town boundary of Clara on 'Existing Residential' zoned land with direct access onto the L-6014-3 Local Secondary Road.

## **3. Site History**

None

## **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.*

## **Section 4 - Exempted Development**

Section 4 (2) (a) - The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that -

- (i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development.

**Regulatory Provisions**

Article 6 of the Planning and Development Regulations 2001 (as amended) states, *inter alia*, that:

“Subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in Column 2 of the said Part 1 opposite the mention of that class in the said Column 1”.

Schedule 2 – Exempted Development, Part I - Development Within the Curtilage of a House, Class 3 specifies:

Column 1 Description of Development	Column 2 - Conditions and Limitations
<p>CLASS 3 The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</p>	<ol style="list-style-type: none"> <li>1. No such structure shall be constructed, erected or placed forward of the front wall of a house.</li> <li>2. The <u>total area</u> of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.</li> <li>3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.</li> <li>4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.</li> <li>5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.</li> <li>6. The structure shall not be used for</li> </ol>

	human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.
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## 5. Proposal by Applicants

As part of the conversion of an existing fuel shed to an laundry room, the applicants have indicated the following items will be incorporated into the structure in question;

- Clothes dryer
- Washing machine
- Sink
- Iron board
- Freezer
- Installation of shelving &
- Wiring of shed

Additionally it is noted that that Applicants have indicated the subject shed was erected in the 1950's.

## 6. Appropriate Assessment Screening

A screening exercise for an appropriate assessment has been carried out and it is concluded that insufficient information with regard to the proposed development has been submitted to the Planning Authority, which would allow them to make a decision. Please see attached report under Appendix A.

## 7. Environmental Impact Assessment Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001- 20 (as amended) and therefore is not subject to EIA requirements.

## 8. Evaluation

**Question: *Whether the proposed works (as listed) to the existing dwelling are development and if so, are they exempted 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 change of use of an old fuel shed into an laundry room

**Question: *Is this proposal considered as Exempted Development?***

Given that the applicant has stated that the existing fuel shed in question was constructed prior to the 1<sup>st</sup> October 1964, it is therefore considered that the existing fuel shed is planning complaint. In regard to the change of use of the structure from a fuel shed to an laundry room, it is considered the proposed use is for a purpose incidental to the enjoyment of the house, therefore the Planning Authority are satisfied that the proposed works complies with Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended) and in particular column 6 which states that 'the structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.'

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## **9. Conclusion**

**It is recommended that the Applicant be advised that the proposed development 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 change of use of an old fuel shed into an laundry room is or is not development and is or is not exempted development and if so, is it or is not exempted development at No 61 East Green, Clara, Co. Offaly R35 HR64

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- (c) Article 6 of the Planning and Development Regulations 2001 (as amended), and
- (d) Article 9 of the Planning and Development Regulations 2001 (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 proposed change of use of an old fuel shed into an laundry room is **development and is exempted development** at No 61 East Green, Clara, Co. Offaly R35 HR64

*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

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*Michael Duffy*

*A/Senior Executive Planner*

*31<sup>st</sup> July 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. DEC24/75**

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	The change of use of an old fuel shed into an laundry room		
Site location:	No 61 East Green, Clara, Co. Offaly R35 HR64		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Clara Bog SAC – 1.13km		
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):			
<b>Clara Bog SAC – Features of Interest:</b>			
<ul style="list-style-type: none"> <li>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>Active raised bogs [7110]</li> <li>Degraded raised bogs still capable of natural regeneration [7120]</li> <li>Depressions on peat substrates of the Rhynchosporion [7150]</li> <li>Bog woodland [91D0]</li> </ul>			
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 <a href="http://www.npws.ie">www.npws.ie</a> ) <b>(ATTACH INFO.)</b>			
<b>Site Name: Clara Bog SAC, Site Code: 000572</b> <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000572.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000572.pdf</a>			
(C) NPWS ADVICE:			
Advice received from NPWS over phone:	None Received		
Summary of advice received from NPWS in written form <b>(ATTACH SAME):</b>	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><b>Would there be...</b></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:	Michael Duffy		
Position:	Executive Planner	Date:	31 <sup>st</sup> July 2024

