

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

**REFERENCE:** DEC 24/76

**NAME OF APPLICANT:** Colm and Colleen Quinn

**ADDRESS FOR CORRESPONDENCE:** c/o John Madden and Associates, Blackhall St, Mullingar,  
Co. Westmeath, N91 V32W

**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not a 28.8m<sup>2</sup> residential extension to the rear of an existing dwelling is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** 50 The Grove, Hophill, Tullamore, Co. Offaly.

**WHEREAS** a question has arisen as to, whether or not, a single storey residential extension (28.8m<sup>2</sup>) to the rear of an existing dwelling is, or is not development, and is or is not exempted development at 50 The Grove, Hophill, Tullamore, Co. Offaly.

**AS INDICATED** on the particulars received by the Planning Authority on the 11th July and 14th August 2024 (revised floor plan, reduced to 28.8m<sup>2</sup>).

**AND WHEREAS** Colm and Colleen Quinn have 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(1), 3(1) and 4 of the Planning and Development Act 2000 (as amended).
- Article 6 (1) of the Planning and Development Regulations 2001 (as amended).
- Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended).

**AND WHEREAS** Offaly County Council has concluded that the proposed single storey residential extension (28.8m<sup>2</sup>) to the rear of an existing dwelling (as detailed on the plans submitted to the Planning Authority on the 14th August 2024) 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 single storey residential extension (28.8m<sup>2</sup>) to the rear of an existing dwelling as detailed on the plans submitted to the Planning Authority on the 14th August 2024 at 50 The Grove, Hophill, Tullamore, Co. Offaly 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*

03/09/'24  
\_\_\_\_\_  
*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

<b>File Reference:</b>	Dec 24/76
<b>Question:</b>	Whether or not a 28.8m <sup>2</sup> residential extension to the rear of an existing dwelling is, or is not development, and is or is not exempted development.
<b>Applicant:</b>	Colm & Colleen Quinn
<b>Location:</b>	50 The Grove, Hophill, Tullamore
<b>Date received:</b>	11 <sup>th</sup> July 2024

*Second Report*

**1. Proposal**

The question has arisen as to, whether or not, a 28.8m<sup>2</sup> residential extension to the rear of an existing dwelling is, or is not development, and is or is not exempted development at 50 The Grove, Hophill, Tullamore (as Part of the Applicants' response the size of the proposed extension was reduced to 28.8m<sup>2</sup>).

**2. Background**

The subject site is located within the town boundary of Tullamore on *Existing Residential* zoned land with direct access onto the public road.

**3. Review of Further Information**

Further information (FI) was sought by the Planning Authority on the 7<sup>th</sup> August 2024 and subsequently received by the Planning Authority on the 14<sup>th</sup> August 2024.

This report should be read in conjunction with the previous planner's report dated 2<sup>nd</sup> August 2024. The following FI was sought, and the response is as follows:

- 1. According to Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended), the conversion for use as part of the house of any attached garage for use as part of the house is deemed an residential extension and the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*

*The Applicant is therefore requested to clarify the floor area of the attached garage which has been converted into residential use.*

The Applicants have responded to the FI with the following information: (a) they have reduced the area of the proposed extension from 32.5m<sup>2</sup> to 28.8m<sup>2</sup>. When this is added to area of the previously converted garage (10.4m<sup>2</sup>), the combined floor area will be 39.2m<sup>2</sup>.

The Planner notes that this would seem to satisfy the conditions and limitations of development exempted by Class 1, 2(a), in Part 1, of Schedule 2 of the *Planning and Development Regulations 2001 (as amended)* which specifies that:

*Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*

### **3. Evaluation**

Having considered the Applicants' FI response and having particular regard to *Class 1, 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 FI 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, a single storey residential extension (28.8m<sup>2</sup>) to the rear of an existing dwelling is, or is not development, and is or is not exempted development at 50 The Grove, Hophill, Tullamore, Co. Offaly.

**AS INDICATED** on the particulars received by the Planning Authority on the 11<sup>th</sup> July and 14<sup>th</sup> August 2024 (revised floor plan, reduced to 28.8m<sup>2</sup>),

**AND WHEREAS** Colm and Colleen Quinn have 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) and 4 of the *Planning and Development Act 2000 (as amended)*.
- (b) Article 6 (1) of the *Planning and Development Regulations 2001 (as amended)*.
- (c) Schedule 2, Part 1, Class 1 of the *Planning and Development Regulations 2001 (as amended)*.

**AND WHEREAS** Offaly County Council has concluded that the proposed single storey residential extension (28.8m<sup>2</sup>) to the rear of an existing dwelling (as detailed on the plans submitted to the Planning Authority on the 14<sup>th</sup> August 2024) **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 single storey residential extension (28.8m<sup>2</sup>) to the rear of an existing dwelling as detailed on the plans submitted to the Planning Authority on the 14<sup>th</sup> August 2024 at 50 The Grove, Hophill, Tullamore, Co. Offaly **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

26<sup>th</sup> August 2024



Úna McCafferkey  
A/Senior Executive Planner

2<sup>nd</sup> September 2024  
Date

**APPENDIX 1**  
**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. No.:** DEC 24/76

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Existing development:	Whether or not a 32.5m <sup>2</sup> residential extension to the rear of an existing dwelling is, or is not development, and is or is not exempted development.		
Site location:	50 The Grove, Hophill, Tullamore, Co Offaly		
Site size:	0.29HA	Floor Area of Proposed Development:	Reduced to 28.8m <sup>2</sup> (total)
Identification of nearby European Site(s):	Charleville Wood SAC 2.14km		
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):			
<b>Charleville Wood SAC – Features of interest include:</b> <b>SAC – Qualifying interest include:</b> Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> ( <i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i> ) [91E0]  <i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]			

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> ) (ATTACH INFO.)	
<b>SITE NAME:</b> Charleville Wood SAC Site Code: 000571 <a href="https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000571.pdf">https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000571.pdf</a>	
<b>(C) NPWS ADVICE:</b>	
Advice received from NPWS over phone:	None Received
Summary of advice received from NPWS in written form (ATTACH SAME):	None Received
<b>(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:</b>	
<i>(The purpose of this is to identify if the effect(s) identified could be significant – if <b>uncertain</b> assume the effect(s) are significant).</i>	
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)	
<b>Would there be...</b> ... 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/projects known of in the vicinity of the site. The site is sufficient distance from the European site.
<b>(E) SCREENING CONCLUSION:</b>	

<b>Screening can result in:</b>	
1.	<i>AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.</i>
2.	<i>No potential for significant effects / AA is not required.</i>
3.	<i>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.</i>
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 impacts on the nearest European site from the existing development due to the scale of the existing development and the separation distance between the subject site and the European Site.
<b>Name:</b>	
<b>Position:</b>	Graduate Planner
<b>Date:</b>	26 <sup>th</sup> August 2024

Given the location, the nature, and size of the existing 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.

The nearest European site is 2.14km from the existing development, but, due to the existing development's nature and scale, it is highly unlikely that there will be any significant effects on the nearest European site, either alone, or in combination with other plans and projects.