

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 24/79

NAME OF APPLICANT:

SIOBHAN ROGERS & RICHARD BULFIN

ADDRESS FOR CORRESPONDENCE:

C/O DEC ENGINEERING & COMMERCIAL, CORVILLE ROAD, ROSCREA, CO TIPPERARY. E53 AE67.

NATURE OF APPLICATION: REQUEST FOR DECLARATION UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000, AS AMENDED AS TO WHETHER THE RENOVATION OF AN EXISTING VACANT DWELLING TO A LIVEABLE STANDARD IS OR IS NOT DEVELOPMENT AND IS OR IS NOT EXEMPTED DEVELOPMENT.

LOCATION OF DEVELOPMENT:

NO 2 LISMOONEY COURT, KINNITY, CO.OFFALY, R42 KA66.

WHEREAS a question has arisen as to whether the renovation (as detailed) of an existing vacant dwelling to a liveable standard is or is not development and is or is not exempted development at No. 2 Lismooney Court, Kinnity, Co.Offaly. R42 KA66.

AS INDICATED on the particulars received by the Planning Authority on the 15th July 2024.

AND WHEREAS Siobhan Rogers & Richard Bulfin c/o DEC Engineering & Commercial, Corville Road, Roscrea, Co. Tipperary, E53 AE67. 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, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended.


AND WHEREAS Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to section 4(1)(h)

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 renovation (as detailed) of an existing vacant dwelling to a liveable standard **is development and is exempted development** at No 2 Lismooney Court, Kinnity, Co.Offaly, R42 KA66.

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: 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. 24/79
Question:	Whether the renovation of an existing vacant dwelling to a liveable standard is or is not development and is or is not exempted development.
Applicant:	Siobhan Rogers & Richard Bulfin
Correspondence Address:	c/o DEC Engineering & Commercial, Corville Road, Roscrea, Co Tipperary. E53 AE67
Location:	No 2 Lismooney Court, Kinnitty, Co.Offaly, R42 KA66.

1. Introduction

The question has arisen as whether the renovation of an existing vacant dwelling to a liveable standard is or is not development and is or is not exempted development at 56 St Cormac's Park, Kilcormac, Co. Offaly

2. Background

The subject site is located within an established residential development in Kinnitty Village with 6 of the permitted 8 dwellings fully constructed. Under the current Kinnitty Village Plan (Volume 2 of the Offaly County Development 2021 – 2027), the subject site is zoned as *Existing Residential*. The dwelling is a semi-detached dormer style house which appears to have been vacant for a number of years. The subject site is located within a defined Area of High Amenity and is serviced by public infrastructure (water and wastewater).



Figure 1: Subject Site Location.



Photo 1 - Subject Site.



Photo 2 - Subject Site.

3. Site History

On Site – the following planning applications are associated with the subject site:

- 04/1298 - James O'Brien sought permission for the construction of 8 no. two storey semi-detached 3 bedroom dwellings with all associated site works – Granted.
- 06/1317 - Vinmar Construction sought permission to extend site boundaries and construct 4 no. additional dwellings, change of house type on dwelling numbers 7, 8 and ancillary works on previous approved development (planning ref. no. 04/1298) – Granted.

Enforcement – No current enforcement associated with the subject site.

Adjoining Properties: No recent planning history associated with the adjoining properties.

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 (1) (a) – (l) sets out what is exempted development for the purposes of this Act including:

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure and which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.

(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.

5. Proposal by Applicants

As detailed on the submitted planning documentation, the Applicant intends to:

1	Strip out first floor bathrooms of all fittings ,skirting and architrave and prepare for tanking , Strip out all skirting and architrave in first floor ,remove all plywood floors and prepare for sound proofing layer ,
2	Make new ope in kitchen to accommodate new double doors to the garden
	Clear away rough ground in back garden and prepare for new oil boiler plinth , new oil tank,and new paved area
	Break out pavement to allow for heating pipes to the boiler and repair after ,
	Remove existing back door and block up the ope and make good inside and out
	Fit new double door from the kitchen to the garden and make good around it
	Core hole for new chimney flue and fit stainless steel chimney flews including support brackets
	Fit wool insulation between first floor joists and fit a layer of soft board soundproofing before replacing the plywood ,
	Fit new laminate flooring throughout first floor except the bathrooms

Apply tanking system to both first floor bathrooms and fit foam tile backer board to leave redy for tiling
Fit new fire surround and grate in sitting room fireplace
Fit insulated slabs to sloped ceilings in first floor rooms and fininh with skimplaster to upgrade the insulation value of the ceilings
Fit new 300 mm of rockwool in attic including duck walks to access water tanks etc,
Fit new stove wood burning stove
Pluming including Supply of new boiler and oil tank And all work to fit same 2 bathrooms to be replumed Kitchen sink and dishwasher Heating upgrade with thermostatic valves and zone controls
Electrical as per attached list
Replace facia and rainwater chutes as existing are covered in black mould
Supply of new sanitary ware and fittings
Tiling to bathrooms
Floor finishes ground floor
Supply and fit new kitchen
Fit skirting to entire house
Paint and decorate
Exterior ground work to construct a paved area aprox 30 msq and level the remaining area and plant a lawn

6. 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 renovations to the existing dwelling.

Question: Is this proposal considered as Exempted Development?

With regard to the proposed works which are described in the submitted documents, the Planning Authority are satisfied that the proposed works would not result in a material alteration to the appearance of the dwelling and would not be inconsistent with the character of area.

It is the opinion of the Planning Authority that the proposed works meet the criteria of exempt development under statutory provisions.

7. Screening

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.

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 EIAR is not required.

8. 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)

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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.



Úna McCafferkey

Executive Planner

9th August 2024

Date



Ed Kelly

(A/Senior Executive Planner)

9th August 2024

Date

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 24/79

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether the renovation of an existing vacant dwelling to a liveable standard is or is not development and is or is not exempted development.		
Site location:	No 2 Lismooney Court, Kinnity, Co.Offaly, R42 KA66.		
Site size:	Not provided	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Slieve Bloom Mountains SPA – 1.67km Slieve Bloom Mountains SAC – 3.1km		
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):			
Slieve Bloom Mountains SPA - Features of interest include: <ul style="list-style-type: none"> Hen Harrier (<i>Circus cyaneus</i>) [A082] Slieve Bloom Mountains SAC - Features of interest include: <ul style="list-style-type: none"> Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] Blanket bogs (* if active bog) [7130] 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] 			
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: SLIEVE BLOOM MOUNTAINS SPA, SITE CODE: 004160 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004160.pdf SITE NAME: SLIEVE BLOOM MOUNTAINS SAC, SITE CODE: 000412 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000412.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 <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 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:	Úna McCafferkey 		
Position:	Executive Planner	Date:	9 th August 2024