

**OFFALY COUNTY COUNCIL
DECLARATION UNDER SECTION 5 OF THE**

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 21/31

NAME OF APPLICANT: LORRAINE & CATHAL REILLY

ADDRESS:

ADDRESS FOR CORRESPONDENCE: C/O MARAIS ROUX ARCHITECTURAL SERVICES
154 THE LINKS,
DONABATE,
CO. DUBLIN

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the replacement windows and externally insulated rendering to improve heat retention of house and minor internal alteration with omission of rear bay window is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: 14 WOODFIELD, EDENDERRY, CO. OFFALY.

WHEREAS a question referred to Offaly County Council on 18/11/2021 as to whether the replacement windows and externally insulated rendering to improve heat retention of house and minor internal alteration with omission of rear bay window at 14 Woodfield, Edenderry, Co. Offaly is or is not development and is or is not exempted development under the Planning and Development Act 2000, (as amended).

AND WHEREAS the Planning Authority, in considering this declaration request, had regard particularly to-

- (a) Section 2 of the Planning & Development Act 2000, as amended.
- (b) Section 3 of the Planning & Development Act 2000, as amended.
- (c) Section 4(1)(h) of the Planning & Development Act 2000, as amended.

AND WHEREAS Offaly County Council has concluded that the works considered is development and is exempted development.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) hereby decides that the replacement windows and externally insulated rendering to improve heat retention of house and minor internal alteration with omission of rear bay window at 14 Woodfield, Edenderry, 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

15/12/2021

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.

OFFALY COUNTY COUNCIL

Planning Report

Section 5 Declaration

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|------------------------|--|
| File Reference: | Dec 21/31 |
| Question: | Whether the replacement windows and externally insulated rendering to improve heat retention of house and minor internal alteration with omission of rear bay window is or is not exempted development or is not exempted development; |
| Applicant: | Lorraine & Cathal Reilly |
| Location: | 14 Woodfield, Edenderry, Co. Offaly |
| Date received: | 18 th November 2021 |
| Date due: | 15 th December 2021 |

1. Proposal

The question has arisen as to whether the replacement windows and externally insulated rendering to improve heat retention of house and minor internal alteration with omission of rear bay window is or is not exempted development or is not exempted development;

2. Background

The subject site is zoned for 'residential' use in the Edenderry Local Area Plan 2017-2023. There is an existing detached house on site.

3. Relevant Planning History:

PL2/06/561: Cathal & Lorraine Reilly were **Granted** permission for the construction of (a) a two storey extension to side of existing dwelling house and (b) all associated site works and boundary treatments subject to 9 conditions.

PL2/99/628: Cora Burke was **Granted** permission for a dwelling house subject to 12 conditions.

4. Legislative Context

Planning and Development Act 2000 and Development Regulations 2001 (as amended)

The Planning and Development Act 2000 (as amended) Section 3(1) defines development:

In this Act, "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.

The Planning and Development Act 2000 (as amended) Section 2(1) provides a definition of "works" in the Act:

"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.

The Planning and Development Act 2000 (as amended) Section 4(1)(h) states

"The following shall be exempted developments for the purposes of this Act— 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 or 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 of neighbouring structures"

5. Proposal by Applicant

The applicants wish to ascertain whether the replacement windows and externally insulated rendering to improve heat retention of house and minor internal alteration with omission of rear bay window is or is not exempted development or is not exempted development;

6. 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.

7. Evaluation

Question: Is the following works considered as Development?

It is considered that the proposal constitutes 'development' as defined by Section 3(1) of the Act.

Question: Is the following works proposal considered as Exempted Development?

It is considered the proposed works would not materially affect the character of the dwelling house or adjoining dwellings, therefore, the proposed works are considered exempted development in accordance with Section 4(1)(h) of the Planning and Development Act 2000 as amended.

8. Conclusion

It is recommended that the applicants 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 replacement windows and externally insulated rendering to improve heat retention of house and minor internal alteration with omission of rear bay window is or is not exempted development or is not exempted development;

At 14 Woodfield, Edenderry, Co. Offaly.

AND WHEREAS Lorraine & Cathal Reilly 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 of the Planning & Development Act 2000, as amended.
- (b) Section 3 of the Planning & Development Act 2000, as amended.
- (c) Section 4(1)(h) of the Planning & Development Act 2000, as amended.

AND WHEREAS Offaly County Council has concluded that –

- The works are considered development and is exempted development.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) hereby decides that;

- The replacement of windows and externally insulated rendering to improve heat retention of house and minor internal alteration with omission of rear bay window is **development** and is **exempted development**.

Michael Duffy

Michael Duffy

Assistant Planner

9th December 2021

Carroll Melia

Carroll Melia

Acting Senior Executive Planner

15th December 2021



APPROPRIATE ASSESSMENT SCREENING REPORT FOR PLANNING APPLICATION



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: DEC/21/31

| (A) BACKGROUND SITE INFORMATION : | | | |
|---|---|------------|-----|
| Nature of Project: | THE REPLACEMENT WINDOWS AND EXTERNALLY INSULATED RENDERING TO IMPROVE HEAT RETENTION OF HOUSE AND MINOR INTERNAL ALTERATION WITH OMISSION OF REAR BAY WINDOW | | |
| Site location: | 14 WOODFIELD, EDENDERRY, CO. OFFALY | | |
| Site Area: | 0.01ha | Floor Area | N/A |
| Identification of nearby European Site(s): | European site(s): The Long Derries, Edenderry SAC 925 | | |
| Distance to European Site(s): | 4km. | | |
| 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: | Given the scale of the development applied for, it is not considered that it will have any interactive / cumulative impacts with any other plan or project in the vicinity. | | |
| 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):

The site is a Special Area of Conservation (SAC) selected for the following habitats:

- [6210] Orchid-rich Calcareous Grassland

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 Natura 2000 site synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) **(ATTACH INFO.)**

To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:

Code Description

6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco Brometalia) (* important orchid sites)*

* denotes a priority habitat

(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)

| | |
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| 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(s)? | There will be no reduction in the habitat area. |
| ... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the European Site(s)? | 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 | Not likely due to the location and type of development. The site is sufficient distance from the European site. |

| | |
|--|---|
| human activity)? | |
| ... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site? | Not likely to have an adverse impact due to its location, scale and characteristics. |
| 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 |
| (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: | The proposed development is unlikely to have significant effects on any European site. |
| Signed: Michael Duffy | Date: 9 th December 2021 |