

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 22/2

NAME OF APPLICANT: ROSE ANN KEANE

ADDRESS FOR CORRESPONDENCE:

DUN MHUIRE,
CHURCH ROAD,
TULLAMORE,
CO. OFFALY

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the conversion of attached garage at side of house to a bedroom and shower room 25 years ago and associated works is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: DUN MHUIRE, CHURCH ROAD, TULLAMORE, CO. OFFALY

WHEREAS a question referred to Offaly County Council on 26/1/2022 as to whether conversion of attached garage at side of house to a bedroom and shower room 25 years ago at Dun Mhuire, Church Road, Tullamore Co Offaly and associated works 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 and
- (b) Sections 3 of the Planning & Development Act 2000 as amended and
- (c) Article 11 of the Planning and Development Regulations 2001 as amended and
- (d) Article 9 of the Local government (Planning and Development) Regulations, 1994
- (e) Schedule 2, Part 1, Class 1 of the Local government (planning and development) regulations, 1994

AND WHEREAS Offaly County Council has concluded that –

The works are development and are exempted development.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) of the Planning and Development Act 2000, as amended, hereby decides that the conversion of attached garage at side of house to a bedroom and shower room 25 years ago at Dun Mhuire, Church Road, Tullamore Co Offaly and associated works **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

Date 24/3/2022

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 Dec 22/2

Re: Section 5 Declaration

A question has arisen as to whether:

Conversion of attached garage at side of house to a bedroom and shower room 25 years ago.

and associated works at Dun Mhuire, Church Road, Tullamore Co Offaly is/is not development and is or is not exempted development.

Assessment

Section 2

2.— (1) In this Act, except where the context otherwise requires—
“development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly;

Section 3:

3.—(1) 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.

I note that the submitted application form for the exemption states “I assume that this retention was sought in 2001 when we were granted permission permission for other extension.”

I note that a planning permission was granted in 2001 under referance number PD 3538 for erection of extension of dwelling house at Church Road Tullamore. No mention of a garage conversion is mentioned in this permission.

The applicant has submitted a copy of the elevation drawings from PD 3538 in the current part five submission which includes notation indicating the position of the converted garage element.

I note that the local government (planning and development) regulations, 1994 include the following exemption for such conversion:

CLASS 1

The extension of a dwellinghouse, by the construction or erection of an extension (including a conservatory) to the rear of the dwellinghouse or by the conversion for use as part of the dwellinghouse of any garage, store, shed or other similar structure attached to the rear or to the side of the dwellinghouse.

I note that planning permission was granted under referance TU31570 for a dwelling house on site. I consider that the applicant should indicate if the attached garage was part of the parent planning permission or if it was built separately and if so when.

Recommendation:

Further information is required.

Please issue the following further information request to the applicant:

1. Please indicate when the garage, for which this section five declaration relating to conversion refers, was built.

If the garage was part of the original planning permission for a dwelling house on site, please submit copies of floor plans of the original planning permission for the house. If the garage was built later please indicate a time period within which it was constructed and also please show the area of the garage highlighted in green on a 1:500 site layout map.



Ed Kelly
Executive Planner
22/2/2022



Carroll Melia
A/Senior Executive Planner
23rd February 2022

**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 Application Ref. No.: DEC

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(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Conversion of garage		
Site location:	Tullamore		
	Floor Area of Proposed Development:	unknown	
Identification of nearby European Site(s):	2000 site(s): SAC 000571– Charleville Wood SAC		
Distance to European Site(s):	2km		
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: ✓	
(B) IDENTIFICATION OF THE RELEVANT European SITE(S):			
The reasons for the designation of the European site:			
The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive (* = priority; numbers in brackets			

are Natura 2000 codes): [91E0] Alluvial Forests* [1016] Desmoulin's Whorl Snail (<i>Vertigo moulinsiana</i>)	
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.)	
Objective: 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 91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>)* * denotes a priority habitat Code Common Name Scientific Name 1016 Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i>	
(C) NPWS ADVICE:	
Advice received from NPWS over phone:	None received

(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:	
<i>(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain 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)	
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)?	<p>Not likely due to the location and type of development</p> <p>The site is sufficient distance from the European site.</p>
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the European site?	<p>None likely due to the location and type of development</p> <p>The site is sufficient distance from the European site</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>No other plans known of in the vicinity of the site.</p> <p>The site is sufficient distance from the European site.</p>
(E) SCREENING CONCLUSION:	
Screening can result in:	
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 NIS 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 impact on European sites from the proposed development.
Name: Ed Kelly	
Position: Exec. Planner	Date: 22/2/2022

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 and therefore no significant effects on any European sites either alone or in combination with other plans and projects.

<https://www.npws.ie/protected-sites/sac/000571>

