

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 23/36

NAME OF APPLICANT:

NAOMI CLARKE & AARON DONOGHUE

ADDRESS:



NATURE OF APPLICATION:

REQUEST FOR DECLARATION UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000, AS AMENDED AS TO WHETHER OR NOT THE PROPOSED INTERNAL & EXTERNAL RENOVATIONS TO DWELLING IS OR IS NOT DEVELOPMENT, AND IS OR IS NOT EXEMPTED DEVELOPMENT.

LOCATION OF DEVELOPMENT:

20 THE MANOR, MONASTERORIS, EDENDERRY, CO. OFFALY.

WHEREAS A question referred to Offaly County Council on 17/10/2023 as to whether or not the proposed internal & external renovations to dwelling at 20 The Manor, Monasteroris, 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 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**.

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 the proposed internal & external renovations to dwelling is **development** and is **exempted development** at 20 The Manor, Monasteroris, Edenderry, Co. Offaly.

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

13/11/23

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. 23/36
Question:	<i>Whether the internal & external renovations to dwelling is or is not development and if so, are they exempted development?</i>
Applicant:	<i>Naomi Clarke & Aaron Donoghue</i>
Correspondence Address:	
Location:	<i>20 The Manor, Monasteroris, Edenderry, Co. Offaly</i>

1. INTRODUCTION

The question has arisen as to whether the proposed internal & external renovations to dwelling is or is not development and if so, are they exempted development?

2. BACKGROUND

The existing detached dormer dwelling is located within a mature residential area within the boundary of Edenderry town.



Photo 1: Subject Site.

3. SITE HISTORY

98/620: Permission **Granted** to Cushvale Ltd for the construction of 41 no dwellinghouses and ancillary works subject to 20 conditions.

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 5 Ref. DEC 23/36

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.*

5. PROPOSAL BY APPLICANTS

The Applicants has advised that the property has been vacant for more than 5 years and due to a leak way issues have arose internally and externally. The Applicants plan to renovate it back to its original state. The internal & external renovations to dwelling include the following:

- Replacement of windows and doors
- Replacement of internal doors, skirting and architrave
- Internal floor replacement
- Kitchen counter and doors replaced
- Painting and slabbing of internal walls
- Replacement of bathroom sanitary
- Oil boiler repair
- Replacement of radiators
- Testing of pipework for water leaks
- Cleaning of gutters

- Replacement of fence panels
- Replacement of missing roof tiles and pointing needs to be replaced on gables &
- Removal of overground trees and decking in the back garden

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 alterations and repairs 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 dwelling appearance.

7- 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. 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 proposed internal & external renovations to dwelling is or is not development and if so, are they exempted development at 20 The Manor, Monasteroris, Edenderry, Co. Offaly

AS INDICATED on the particulars received by the Planning Authority on the 17th October 2023,

AND WHEREAS Clarke & Aaron Donoghue 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 internal & external residential renovations 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 internal & external renovations to dwelling is **development** and is **exempted development** at 20 The Manor, Monasteroris, Edenderry, Co. Offaly

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

Michael Duffy

Executive Planner

9th November 2023

Ed Kelly

Ed Kelly

Acting Senior Executive Planner

10/11/2023

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.

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(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Internal & external renovations to dwelling		
Site location:	20 The Manor, Monasteroris, Edenderry, Co. Offaly		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	THE LONG DERRIES SAC, EDENDERRY		
Distance to European Site(s):	5.17km		
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 site:	Given the limited 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?	No		
(B) IDENTIFICATION OF THE RELEVANT European sites (S):			
The reasons for the designation of the European sites (s):	The Long Derries is of botanical importance due to the presence of good quality dry, calcareous grassland, an interesting gravel pit flora and the presence of three rare plant species, two of which are legally protected. The presence of an interesting transition habitat from Esker to peatland, and a varied bird population, including the rare Nightjar and Partridge, adds to the site's importance.		
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 sites synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) (ATTACH INFO.)			
An important aspect of this site is the presence of the rare, Red Data Book species, Blue Fleabane (<i>Erigeron acer</i>), and the legally protected (Flora Protection Order, 1987), Basil Thyme (<i>Acinos arvensis</i>) and Green-winged Orchid (<i>Orchis morio</i>). A large population of the latter species occurs in the grassland			

communities, including those in the transition to peatland zone. Blue Fleabane is found in grassland and gravel pits on the site, the latter habitat also supporting Basil Thyme.

The summer birdlife of this area includes Sand Martin, Whinchat, Whitethroat and Cuckoo. Nightjar, a rare species listed in Annex I of the EU Birds Directive, breeds on the site. Partridge, an endangered species in Ireland and one listed in the Red Data Book, is known from the site. Badgers have setts along some of the mature hedgerows.

(C) NPWS ADVICE:

Advice received from NPWS over phone:	None received.
Summary of advice received from NPWS in written form (ATTACH SAME):	

(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 sites?	Not likely due to the location and type of development. 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 sites?	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 sites 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 sites?	Not 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.		
Conclusion:		2	
Justify why it falls into relevant category above:		Given the location and the nature and size of the development applied for and the characteristics of European sites in the vicinity and the appropriate assessment guidelines it is considered that the development will have no likely significant impacts on any European sites	
Name:		Michael Ouffy	
Position:		Executive Planner.	Date: 9th November 2023

