

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

REFERENCE: DEC 23/68

NAME OF APPLICANT: Brendan Dunne

ADDRESS:



ADDRESS FOR CORRESPONDENCE: C/O Frank Murray Architectural Services Ltd, Pallas Park,
Blueball, Tullamore, Co. Offaly.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether reconstruction of existing dwelling incorporating new layout as shown on drawing, electrics, plumbing, insulation, heating, ventilation, roof is **or is not development and is or is not exempted development.**

LOCATION OF DEVELOPMENT: Killurin, Tullamore, Co Offaly.

WHEREAS a question has arisen as to:

- Whether reconstruction of existing dwelling incorporating new layout as shown on drawing, electrics, plumbing, insulation, heating, ventilation, roof at Killurin, Tullamore, Co. Offaly.

AND WHEREAS Brendan Dunne 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 of the Planning & Development Act 2000, as amended.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Section 4(1)(h) of the Planning & Development Act 2000, as amended. (All the regs exemption)
- (d) The period during which the structure has not been occupied results in the use having been abandoned.

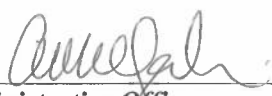
AND WHEREAS Offaly County Council has concluded that –

- The work is considered **development and is not exempted development.**

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

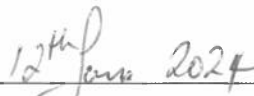
- The reconstruction of existing dwelling incorporating new layout as shown on drawing, electrics, plumbing, insulation, heating, ventilation, roof is **development and is not exempted development.**

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



12th Jan 2024

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

File Reference:	Dec 23/68
Question:	Whether Reconstruction of existing dwelling incorporating new layout as shown on drawing, electrics, plumbing, insulation, heating, ventilation, roof is/ is not development and is /is not exempted development
Applicant:	Brendan Dunne
Location:	Killurin, Tullamore
Date received:	8/12/2023
Date due:	13/1/2024

1. Proposal

The question has arisen as to whether reconstruction of existing dwelling incorporating new layout as shown on drawing, electrics, plumbing, insulation, heating, ventilation, roof is/ is not development and is /is not exempted development

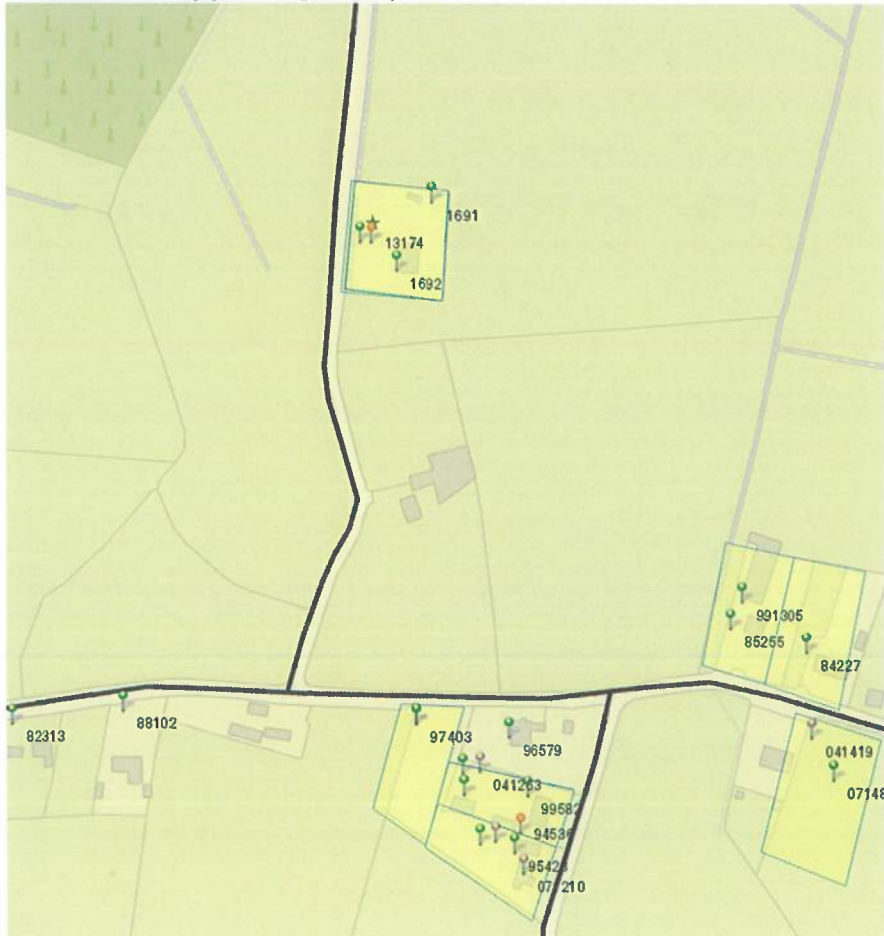
Location

The site is located at Killurin, Tullamore



2. Relevant Planning History:

No record of any planning history on site.



3. Legislative Context:

Section 2 (1) Planning and Development Act 2000, as amended:

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 (1) Planning and Development Act 2000, as amended:

“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 Planning and Development Act 2000, as amended:

4.—(1) The following shall be exempted developments for the purposes of this
Act—

(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 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;

4. Appropriate Assessment

A screening exercise for an appropriate assessment has been carried out and it has been
deemed that the development is unlikely to have significant effects on any European sites.
Please see attached report.

Other than the European sites addressed in the AA no other AA is potentially within the
zone of influence of the project.

5. Evaluation

Question: Is the following works considered as Development?

YES

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

NO. On the basis of my site inspection I consider that the structure in question has not been
a dwelling for a substantial period of time and I consider that if the structure was once a
dwelling the use as a dwelling has long since been abandoned.

Question: Does the development require environmental impact assessment?

No

6. Conclusion

It is recommended that the applicant be advised that the proposed development is **development** and is **not 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 reconstruction of existing dwelling incorporating new layout as shown on drawing, electrics, plumbing, insulation, heating, ventilation, roof

At Killurin, Tullamore LOCATION

AND WHEREAS Brendan Dunne 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 of the Planning & Development Act 2000, as amended.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Section 4(1)(h) of the Planning & Development Act 2000, as amended. (All the regs exemption)
- (d) The period during which the structure has not been occupied results in the use having been abandoned

AND WHEREAS Offaly County Council has concluded that –

- The work is considered development and is not exempted development.

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

- The reconstruction of existing dwelling incorporating new layout as shown on drawing, electrics, plumbing, insulation, heating, ventilation, roof

Is development and is not exempted development.



Ed Kelly

ASEP

12/1/2023

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.

Planning Application Ref. No.: Dec 23/68

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Reconstruction of existing dwelling incorporating new layout as shown on drawing, electrics, plumbing, insulation, heating, ventilation, roof		
Site location:	Killurin, Tullamore		
	0.52ha.s.	Floor Area of Proposed Development:	119 sq.m
Identification of nearby European Site(s):	2000 site(s): SAC 000571– Charleville Wood SAC		
Distance to European Site(s):	2.9 km		
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 (Vertigo moulinsiana)	
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 Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)* * denotes a priority habitat Code Common Name Scientific Name 1016 Desmoulin's Whorl Snail Vertigo moulinsiana	
(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. <i>(Please justify your answer. 'Yes' / 'No' alone is insufficient)</i>	
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 NIS 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 European sites from the proposed development.	
Name:	Ed Kelly		
Position:	ASEP	Date:	12/1/2024

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>