

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

REFERENCE: DEC 24/10

NAME OF APPLICANT: Alison Hayden

ADDRESS:

ADDRESS FOR CORRESPONDENCE:

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not replacement of the roof, gutters, downpipes and insulation of the existing dwelling house is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Raheenmoyle, Kilcormac, Co Offaly

WHEREAS a question has arisen as to whether the replacement of the roof, gutters, downpipes and insulation of the existing dwelling house is or is not development and is or is not exempted development at Raheenmoyle, Kilcormac, Co Offaly.

AS INDICATED on the particulars received by the Planning Authority on the 23rd January 2024.

AND WHEREAS Alison Hayden 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.

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 replacement of the roof, gutters, downpipes and insulation of the existing dwelling house **is development and is exempted development** at Raheenmoyle, Kilcormac, 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

Date



16th Feb. 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.

Planning Report - Section 5 Declaration

File Reference:	Dec. 24/10
Question:	<i>Whether or not replacement of the roof, gutters, downpipes and insulation of the existing dwelling house is or is not development and is or is not exempted development</i>
Applicant:	<i>Alison Hayden</i>
Correspondence Address:	
Location:	<i>As above</i>

1. Introduction

The question has arisen as whether the proposed replacement of the roof, gutters, downpipes and insulation of the existing dwelling house is or is not development and if so, are they exempted development.

2. Background

The dwelling is located within the open countryside approximately 2km south west of Kilcormac Town. The Area Planner visited the site in February 2024.



Figure 1 - Subject Site Location (as indicated).



Photo 1 – Existing Dwelling



Photo 2 – Existing Dwelling

3. Site History

On Site:

- 07/877 - Alison Hayden sought permission for construction of a new two storey granny flat to the side of an existing dwelling house and all associated site works – Refused.
- 07/1376 – Alison Hayden sought permission for construction of dormer type extension to the side of existing single storey dwelling – Granted.

Enforcement – No recent history associated with the subject site.

Adjoining Lands - No recent planning history associated with the adjoining lands.

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.*

5. Proposal by Applicants

The Applicant has advised that the proposed works will include the replacement of the roof, gutters, downpipes and insulation of the existing dwelling house. The Planner notes that the replacement of roof will include replacing the flat roof section with a hipped roof.

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 refurbishments 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.

The refurbishments proposed by the applicant are harmonious with Section 4 1 (h) of the Planning and Development Act 2000 (as amended). It is the opinion of the Planning Authority that these works meet the criteria of exempt development under statutory provisions.

An appropriate assessment screening has been carried out see attached.

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)

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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.



Una McCafferkey

Executive Planner

15th February 2024



Ed Kelly

(A/Senior Executive Planner)

16th February 2024

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 24/10

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether or not replacement of the roof, gutters, downpipes and insulation of the existing dwelling house is or is not development and is or is not exempted development		
Site location:	Raheenmoyle, Kilcormac, Co Offaly		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	Clonaslee Eskers and Derry Bog SAC – 6.04km Slieve Bloom Mountains SAC – 8.47km Slieve Bloom Mountains SPA – 6.14km		
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?	No: X		
(B) IDENTIFICATION OF THE RELEVANT EUROPEAN SITE(S):			
The reasons for the designation of the European site(s):			
Clonaslee Eskers and Derry Bog SAC - Features of interest include: - Alkaline fens [7230] - Vertigo geyeri (Geyer's Whorl Snail) [1013] Slieve Bloom Mountains SAC - Features of interest include: - Northern Atlantic wet heaths with Erica tetralix [4010] - Blanket bogs (* if active bog) [7130] - Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Slieve Bloom Mountains SPA - Features of interest include: - Hen Harrier (Circus cyaneus) [A082]			
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: Clonaslee Eskers and Derry Bog SAC Site Code: 000859 Located approximately 5 km west of the town of Clonaslee, and largely in Co. Laois, this site consists of a series of morainic hills and esker ridges which are the legacy of the last period of glaciation. To the north-west, the Derry Hills are two isolated hills situated in a bog, which forms part of the site. The main esker ridge runs along the southern part of the 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): [7230] Alkaline Fens			

[1013] Geyer's Whorl Snail (*Vertigo geyeri*)

An unusual assemblage of plants is found on the western part of the esker and on the Derry Hills. Calcicole species such as Mountain Everlasting (*Antennaria dioica*), Yellow-wort (*Blackstonia perfoliata*), Autumn Gentian (*Gentianella amarella*) and Carline Thistle (*Carlina vulgaris*) grow with species more typical of acid heaths. These include Tormentil (*Potentilla erecta*), Fragrant Orchid (*Gymnadenia conopsea*), Goldenrod (*Solidago virgaurea*) and Heather (*Calluna vulgaris*). Wood Vetch (*Vicia sylvatica*) and Bitter-vetch (*Lathyrus montanus*) occur in limestone heath on the Derry Hills. These species are very restricted in their distribution in Ireland. Blue Moor-grass (*Sesleria albicans*) has also been recorded, a rare occurrence of this species in a location east of the River Shannon.

Small disused gravel pits occur within the site, which are vegetated by species such as Field Madder (*Sherardia arvensis*), Common Whitlowgrass (*Erophila verna*) and Thyme-leaved Sandwort (*Arenaria serpyllifolia*).

Both the southern esker and the Derry Hills support patches of woodland. In some areas, an open canopy of Sessile Oak (*Quercus petraea*) and Silver Birch (*Betula pendula*) occurs. Beneath this, the ground flora includes Wood Anemone (*Anemone nemorosa*), Wood Sage (*Teucrium scorodonia*) and Bilberry (*Vaccinium myrtillus*). In the south-western part of the site, woodland dominated by Hazel (*Corylus avellana*) is more common. Ash (*Fraxinus excelsior*), Hawthorn (*Crataegus monogyna*) and Sycamore (*Acer pseudoplatanus*) also occur, with Sessile Oak and Downy Birch.

To the east of the road water percolates down through the glacial material of the esker ridge and emerges in a series of small, calcium-rich springs which flow into cut-away bog to the north. This has resulted in the creation of a species-rich alkaline fen. Black Bog-rush (*Schoenus nigricans*) dominates the vegetation here. Also present are Pale Butterwort (*Pinguicula lusitanica*), Meadow Thistle (*Cirsium dissectum*), Round-leaved Sundew (*Drosera rotundifolia*) and the distinctive Fly Orchid (*Ophrys insectifera*). The latter species is confined to parts of the west and midlands of Ireland, where it occurs only occasionally.

Derry Bog, which is a cut-away raised bog, lies to the north-west of the site. This supports a typical range of bog mosses (*Sphagnum* spp.) and flowering plants, such as Heather and Bog Asphodel (*Narthecium ossifragum*).

The rare whorl snail *Vertigo geyeri* was recorded from the fen area at this site in 1998. This species is a glacial relic with a disjunct European population, which is considered vulnerable due to loss of habitat, particularly through drainage.

Two plant species protected under the Flora (Protection) Order, 1999, occur within the site. Wood Bitter-vetch (*Vicia orobus*) occurs in quantity among oak/birch scrub on the Derry Hills. This species has declined due to land reclamation and has only been seen at one other location since 1970. Basil Thyme (*Acinos arvensis*) occurs in a disused gravel pit and has been seen at only three other sites since 1970. This species favours open gravel and has declined due to the agricultural use of herbicides. Blue Fleabane (*Erigeron acer*) had been recorded with Basil Thyme at this site. This species is rare and threatened in Ireland, and is listed in the Red Data Book as a species confined mostly to open gravel habitats in central and south-eastern Ireland.

A significant land use practice within the site is the extraction of gravel. One quarry west of the road is currently being worked. This activity leads directly to destruction of the esker and irreparable damage to the site. Some of the esker grasslands (mostly at the western end) have been improved either for pasture or for arable farming.

This site is of conservation importance for the presence of alkaline fen vegetation and is considered one of the best sites in the south-east region for this habitat. Also of interest is the extremely unusual assemblage of plants associated with the esker ridges, which includes three rare plants, two of which are legally protected in Ireland. Of further conservation importance is the presence of the rare snail *Vertigo geyeri*.

Site Name: Slieve Bloom Mountains SAC

Site Code: 000412

The Slieve Bloom Mountains lie on the Offaly-Laois border, starting about 8 km north-east of Roscrea and running about 24 km north-east, towards Clonaslee. The mountains are of Old Red Sandstone, flanked by Silurian rocks. The site extends from approximately 180 m to 529 m O.D.

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):

[4010] Wet Heath

[7130] Blanket Bogs (Active)*

[91E0] Alluvial Forests*

This site is remarkable for its mountain blanket bog habitat. Generally uniform in character, the vegetation consists of a deep, spongy mat of the bog moss *Sphagnum capillifolium*, with other mosses and lichens. Growing on this are Heather (*Calluna vulgaris*) and Crowberry (*Empetrum nigrum*), with smaller amounts of Cottongrasses (*Eriophorum* spp.), Bilberry (*Vaccinium myrtillus*), Deergrass (*Scirpus cespitosus*) and Bog Asphodel (*Narthecium ossifragum*). An unusual feature is the abundance of Bog-rosemary (*Andromeda polifolia*) and Cranberry (*Vaccinium oxycoccos*), species usually associated with raised bogs. The uncommon Lesser Twayblade (*Listera cordata*) occurs under Heather at this site.

This extensive site is dominated by blanket bog on a high plateau. However, on more steeply-sloping flanks wet heath vegetation occurs on shallower peat (typically 0.5-1.5 m deep). The dominant species in the wet heath are Heather and Purple Moor-grass (*Molinia caerulea*), with species such as Cross-leaved Heath (*Erica tetralix*), Tormentil (*Potentilla erecta*), Lousewort (*Pedicularis sylvatica*) and the bog moss *S. capillifolium* also being frequent components. Often wet heath vegetation is associated with flushed areas along the margins of narrow streams.

Alluvial forest occurs along the Camcor River in the northern part of the site, on the floodplain of the river and on adjacent slopes along the valley. The canopy consists of scattered tall Ash (*Fraxinus excelsior*), Pedunculate Oak (*Quercus robur*) and Alder (*Alnus glutinosa*). Rusty Willow (*Salix cinerea* subsp. *oleifolia*), Hawthorn (*Crataegus monogyna*), Hazel (*Corylus avellana*) and Downy Birch (*Betula pubescens*) form a lower canopy. The ground flora is species-rich, with Bluebell (*Hyacinthoides non-scripta*), Enchanter's-

nightshade (*Circaea lutetiana*), Wood-sorrel (*Oxalis acetosella*) and Bugle (*Ajuga reptans*). Marsh-marigold (*Caltha palustris*) and Meadowsweet (*Filipendula ulmaria*) typify the wetter areas. The natural flood regime at the site has been altered by drainage activities for forestry (embankments, etc.), though the least disturbed areas in the floodplain still retain a substantial wetness. Seepage areas on the slopes also contribute to the wetness of the woods.

The uplands at this site provide excellent habitat for Peregrine, a species listed on Annex I of the E.U. Birds Directive. Breeding pairs occur here.

For the main part, the site is fringed by forestry plantations, although in a few places there remains a relatively undisturbed transition downslope to poorly-drained acidic grassland. The primary threats to Irish blanket bogs in general are afforestation, drainage and over-grazing, and current habitat quality is often dependent on past land use. On the Slieve Blooms, the Heather forms tall, dense stands, with individual stems up to 20 years old, suggesting that burning has not been extensive in recent years. There is little evidence of grazing or erosion. Overall, vegetation structure is exceptionally well-conserved due to lack of disturbance. A large portion of the site lies within a Statutory Nature Reserve.

Blanket bogs are an increasingly rare habitat in Europe, and in Ireland are continually under threat. The Slieve Bloom Mountains are an important link in the east-to-west gradient of bogs in Ireland, and are floristically linked to the midland raised bogs north of the site. The intactness of the blanket bog here is remarkable and is echoed in few other areas in Ireland, making this site of unique conservation value. Also of conservation importance is the presence of wet heath and an example of alluvial forest.

SITE NAME: SLIEVE BLOOM MOUNTAINS SPA

SITE CODE: 004160

The Slieve Bloom Mountains SPA is situated on the border between Counties Offaly and Laois, and runs along a north-east/south-west aligned ridge for approximately 25 km. Much of the site is over 200 m in altitude, rising to a maximum height of 527 m at Arderin. The mountains are of Old Red Sandstone, flanked by Silurian rocks. Several important rivers rise within the site, including the Barrow, Delour and Silver.

The site has a near continuous ridge of mountain blanket bog, with wet and dry heaths also well represented. Species present in these habitats include Ling Heather (*Calluna vulgaris*), Crowberry (*Empetrum nigrum*), Bilberry (*Vaccinium myrtillus*), Cottongrasses (*Eriophorum* spp.), Deergrass (*Scirpus cespitosus*) and Bog Asphodel (*Narthecium ossifragum*). Much of the slopes are afforested, and overall coniferous plantations account for c. 60% of the site. The forests include first and second rotation plantations, with both pre-thicket and post-thicket stands present. Substantial areas of clear-fell are also present at any one time. The principal tree species present are Sitka Spruce (*Picea sitchensis*) and Lodgepole Pine (*Pinus contorta*). The remainder of the site is mostly rough grassland that is used for hill farming. This varies in composition and includes some wet areas with rushes (*Juncus* spp.) and some areas subject to scrub encroachment. Some stands of deciduous woodland also occur, especially within the river valleys.

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for Hen Harrier.

This SPA is one of the strongholds for Hen Harrier in the country and, indeed, is the most easterly regular population. A survey in 2005 recorded eight pairs, whereas eleven pairs had been recorded in the 1998-2000 period. The numbers recorded in 2005 represent c. 3.7% of the all-Ireland total. The mix of forestry and open areas provides optimum habitat conditions for this rare bird, which is listed on Annex I of the E.U. Birds Directive. The early stages of new and second-rotation conifer plantations are the most frequently used nesting sites, though some pairs may still nest in tall heather of unplanted bogs and heath. Hen Harriers will forage up to c. 5 km from the nest site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank. Birds will often forage in openings and gaps within forests. In Ireland, small birds and small mammals appear to be the most frequently taken prey.

The site is also a traditional site for a breeding pair of Peregrine. Several pairs of Merlin are known to breed within the site but further survey is required to determine the exact status of this small falcon. Red Grouse is found on many of the unplanted areas of bog and heath – this is a species that has declined in Ireland and is now Red-listed.

The Slieve Bloom Mountains SPA is of ornithological importance because it provides excellent nesting and foraging habitat for breeding Hen Harrier and is one of the top sites in the country for the species. The presence of three species, Hen Harrier, Merlin and Peregrine, which are listed on Annex I of the E.U. Birds Directive is of note. The Slieve Bloom Mountains is a Ramsar Convention site and a Biogenetic Reserve. Part of the Slieve Bloom Mountains SPA is a Statutory Nature Reserve.

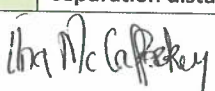
(C) NPWS ADVICE:

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.	AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.		
2.	No potential for significant effects / AA is not required.		
3.	Significant effects are certain, likely or uncertain. (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: 15 th February 2024