

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 24/111

NAME OF APPLICANT: ANNA LENTZ AND SHANE MCDONNELL

ADDRESS FOR CORRESPONDENCE:

NATURE OF APPLICATION: request for declaration under section 5 of the planning & development act 2000, as amended as to whether the proposed renovation of existing dwelling which comprises of Updating Plumbing, Heating Upgrade, Electrics Upgrade, Add Vents, Repair External Paving, Upgrade Insulation is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Witterings, Daingean Road, Tullamore, Co. Offaly, R35 KH48

WHEREAS a question has arisen as to whether the proposed renovations of existing dwelling which comprises of: Updating Plumbing, Heating Upgrade, Electrics Upgrade, Add Vents, Repair External Paving & Upgrade Insulation is or is not development and if so is or is not exempted development at The Witterings, Daingean Road, Tullamore, Co. Offaly, R35KH48

AS INDICATED on the particulars received by the Planning Authority on the 1st November 2024.

AND WHEREAS Anna Lentz & Shane McDonnell requested a declaration on the said question from Offaly County Council.

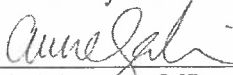
AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to:

- 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 renovations of existing dwelling which comprises of Updating Plumbing, Heating Upgrade, Electrics Upgrade, Add Vents, Repair External Paving & Upgrade Insulation 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 renovations of existing dwelling which comprises of Updating Plumbing, Heating Upgrade, Electrics Upgrade, Add Vents, Repair External Paving, Upgrade Insulation is **development** and is **exempted development** at development at The Witterings, Daingean Road, Tullamore, Co. Offaly, R35KH48.

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

25/11/2024
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. 24/111
Question:	Whether the proposed renovation of existing dwelling which comprises of: • Updating Plumbing • Heating Upgrade • Electrics Upgrade • Add Vents • Repair External Paving • Upgrade Insulation
Applicant:	Anna Lentz & Shane McDonnell
Correspondence Address:	
Location:	Witterings, Daingean Road, Tullamore R35 KH48

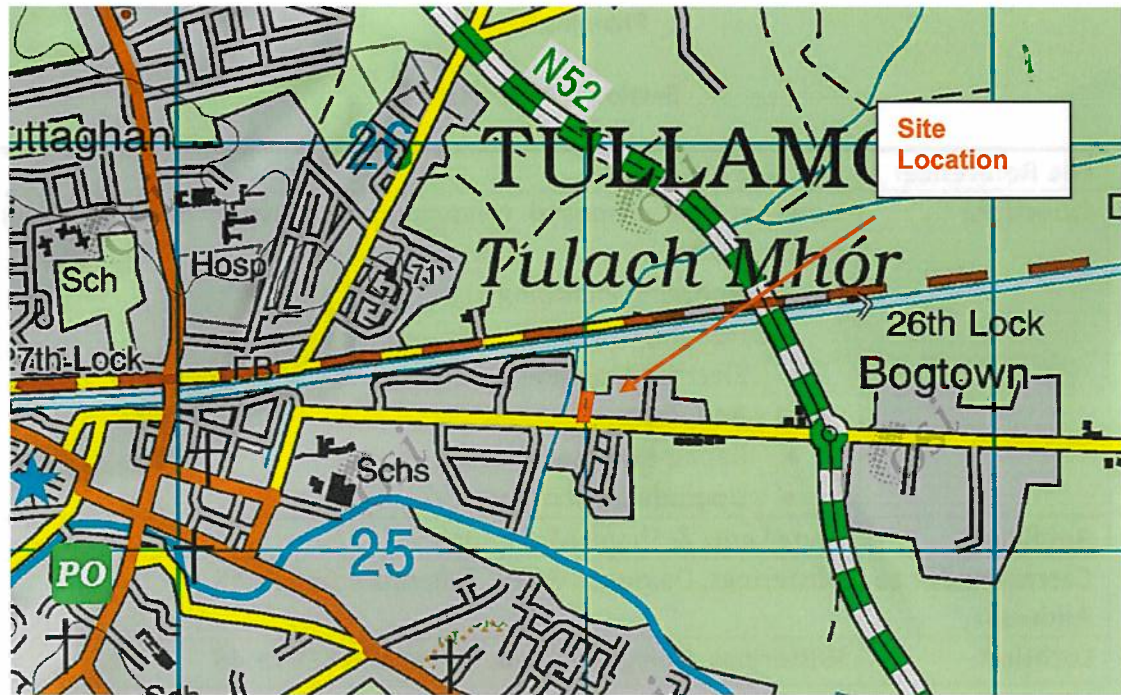
1. Introduction

The question has arisen as to whether the proposed renovation of existing dwelling is or is not development and if so is it or is it not exempted development.

2. Background

The existing dwelling is located on 'Existing Residential' zoned land. The site is 0.118ha in area with direct access onto the L-2025-5 Local Primary Road.





Figs 1: Site Location (Discovery Series)



Figs 2: Site Location



Figs 3: Aerial image of location of site

3. Site History

24/60151: Pauline and Richard Doyle as Executors of the Estate Of Patrick Delaney was **Granted** retention permission for dwelling house as constructed and all associated site works and services subject to 1 condition.

07/1596: Pat Delaney was **Granted** permission for an "A" roof storage shed to rear of dwelling house subject to 3 conditions.

PL2/2462: John Wrafter was **Granted** permission for a dwelling house subject to 11 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 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 Applicant

The Applicants have indicated that the following works will be carried out:

- Updating Plumbing
- Heating Upgrade
- Electrics Upgrade
- Add Vents
- Repair External Paving
- Upgrade Insulation

6. APPROPRIATE ASSESSMENT (AA)

The subject site is located 2.48km from SAC 000571-Charleville Woods

Having regard to nature of the proposed development which comprises of the proposed renovation of existing dwelling at The Witterings, Daingean Road, Tullamore, Co. Offaly, R35KH48 and due to a lack of any pathway to a European site it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

7. EIA SCREENING:

No Screening required, see appendix A attached.

8. OTHER SCREENING:

The proposed development is not contrary to the RSES and so it was not referred to the Eastern and Midland Regional Assembly

9. 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 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 and the finished development would not be inconsistent with the character of the structure.

7. Conclusion

It is recommended that the Applicants be advised that the proposed development is **development and is exempted development.**

Michael Duffy

Michael Duffy

Acting Senior Executive Planner

25th November 2024

**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 renovations of existing dwelling which comprises of:

- Updating Plumbing,
- Heating Upgrade,
- Electrics Upgrade,
- Add Vents,
- Repair External Paving &
- Upgrade Insulation,

is or is not development and if so is or is not exempted development at The Witterings, Daingean Road, Tullamore, Co. Offaly, R35KH48

AS INDICATED on the particulars received by the Planning Authority on the 1st November 2024.

AND WHEREAS Anna Lentz & Shane McDonnell 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 renovations of existing dwelling which comprises of:

- Updating Plumbing,
- Heating Upgrade,
- Electrics Upgrade,
- Add Vents,
- Repair External Paving &
- Upgrade Insulation

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 renovations of existing dwelling which comprises of:

- Updating Plumbing
- Heating Upgrade
- Electrics Upgrade

- Add Vents
- Repair External Paving
- Upgrade Insulation

is **development** and is **exempted development** at development at The Witterings, Daingean Road, Tullamore, Co. Offaly, R35KH48

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.

Appendix A

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	Dec24/111
Development Summary:	Renovations of existing dwelling
Was a Screening Determination carried out under Section 176A-C?	No, Proceed to Part A
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1 , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
No	Proceed to Part B
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2 , of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)	
No, the development is not a project listed in Schedule 5, Part 2	No Screening required

