OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 24/17

NAME OF APPLICANT: Danielle Kielty

ADDRESS FOR CORRESPONDENCE: Lumcloon, Cloghan, Birr, Co. Offaly, R42 PF58

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the renovation to a liveable standard and extension to the rear of the existing dwelling is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Seffin, Birr, Co. Offaly, R42 A092

WHEREAS a question has arisen as to whether the renovation to a liveable standard and construction of a two storey extension to the rear of an existing dwelling is or is not development and is or is not exempted development at Seffin, Birr, Co. Offaly. R42 AO92.

AS INDICATED on the particulars received by the Planning Authority on the 14th February 2024 and 20th March 2024.

AND WHEREAS Danielle Kielty 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) Section3(1) and 4(2)(a) of the Planning & Development Act 2000 (as amended).
(b) Article 6 of the Planning and Development Regulations 2001 (as amended).
(c) Schedule 2 – Exempted Development, Part I - Development Within the Curtilage of a House, Class 1 (of the Planning and Development Regulations 2001 (as amended).
(d) The proposed first floor area

AND WHEREAS Offaly County Council has concluded that the renovation to a liveable standard and construction of a two storey extension to the rear of an existing dwelling is development and is not 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 renovation to a liveable standard and construction of a two storey extension to the rear of an existing dwelling at Seffin, Birr, Co. Offaly, R42 AO92 **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* 09/4/2024

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. 24/17***
Question:	*Whether the renovation to a liveable standard and extension to the rear of an existing dwelling is or is not development and if so, are they exempted development*
Applicant:	*Danielle Kielty*
Correspondence Address:	*Lumcloon, Cloghan, Birr, Co. Offaly. R42 PF58*
Location:	*Seffin, Birr, Co. Offaly. R42 AO92*

1. Introduction

The question has arisen as whether the renovation to a liveable standard and extension to the rear of an existing dwelling is or is not development and if so, are they exempted development.

2. Review of Further Information

Further information (FI) was sought by the Planning Authority on the 12th March 2024 and subsequently received by the Planning Authority on the 20th March 2024.

This report should be read in conjunction with the previous planner's report dated 11th March 2024.

The following FI was sought and the response is as follows:

1. *Having regard to the conditions and limitations of Class 1 (Development within the curtilage of a house) of Schedule 2 – Exempted Development, Part I of the Planning and Development Regulations 2001 (as amended), the Applicant is required to submit the following:*

   (a) *Confirmation that the proposed extension is at ground level only.*

The Applicant confirms that the proposed extension is a 2 storey structure noting that the 'extension ridge will match the existing ridge heights and is behind the existing building and is in line with other extensions on neighbouring properties'.

   (b) *Confirmation of the gross floor area of the proposed extension.*

The Applicant confirms that the GFA of the extension (ground and first floor) is 37m².

   (c) *Confirmation that the proposed extension will extend along the rear elevation of the dwelling with no setbacks from side boundary walls i.e. wall to wall.*

The Applicant confirms that the proposed extension is along the rear of the dwelling only with a setback of 100mm on each side.

   (d) *Suitably scaled elevation providing details of the proposed extension at the rear of the dwelling with overall height provided.*

The Applicant has provided an elevation drawing which confirms that the overall height (roof ridge) of the proposed extension is 7.12m while the wall height is 5.08m.

2. *Having regard to the provisions of Section 4(1)(h) of the Planning & Development Act (as amended), the Applicant shall provide a description of the proposed external works to the*

existing dwelling. This shall include, but not be limited to, details of proposed window repair/replacement; door repair/replacement, replacement of gutters, plastering, painting and roof repairs.

In response, the Applicant confirms that the structure is currently derelict and require remediation as per the submitted structural engineers report to being the dwelling to a liveable standard. They note that the proposed works include replacing the windows and doors to match existing, replacing roof and entrance canopy to match existing, replacing gutters and repainting the external of the dwelling to match existing.

3. Evaluation

Having considered the FI response and had regard to *Schedule 2 – Exempted Development, Part I - Development Within the Curtilage of a House, Class 1*, Planning and Development Regulations 2001 (as amended), the Planner notes the following:

1.

(a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.

The total GFA of the proposed extension is 37m² however the GFA of the first floor is 18.45m² and therefore <u>does not meet the above criteria</u> i.e. 12m².

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

The applicant states that there is a 100mm (10cm) setback. This appears to be a setback from the gable wall of the subject houses. Distance to adjoining party boundaries has not been given.

Having considered the FI response and had regard to *Section 4(1)(h) - Exempted Development of the Planning and Development Act 2000 (as amended),* it is the view of the Planner that these works are not exempted development and would require planning permission.

3. Recommendation

Having assessed the Further Information received and the previous planning report on file, it is considered the renovation to a liveable standard and construction of a two storey extension to the rear of an existing dwelling at the subject site **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 the renovation to a liveable standard and construction of a two storey extension to the rear of an existing dwelling is or is not development and is or is not exempted development at Seffin, Birr, Co. Offaly. R42 AO92.

AS INDICATED on the particulars received by the Planning Authority on the 14th February 2024 and 20th March 2024,

AND WHEREAS Danielle Kielty 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) Section3(1) and 4(2)(a) of the Planning & Development Act 2000 (as amended).
(b) Article 6 of the Planning and Development Regulations 2001 (as amended).
(c) Schedule 2 – Exempted Development, Part I - Development Within the Curtilage of a House, Class 1 (of the Planning and Development Regulations 2001 (as amended).
(d) The proposed first floor area

AND WHEREAS Offaly County Council has concluded that the renovation to a liveable standard and construction of a two storey extension to the rear of an existing dwelling is development and is not 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 renovation to a liveable standard and construction of a two storey extension to the rear of an existing dwelling at Seffin, Birr, Co. Offaly. R42 AO92 **is development** and **is not exempted development**.

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 Pleanala within 4 weeks of the issuing of the decision.

Úna McCafferkey

Úna McCafferkey
Executive Planner

8th April 2024
Date

Ed Kelly

8th April 2024

Ed Kelly
A/Senior Executive Planner

Date

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 24/17

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	**Whether the renovation to a liveable standard and extension to the rear of an existing dwelling is or is not development and if so, are they exempted development**		
Site location:	**Seffin, Birr, Co. Offaly. R42 AO92**		
Site size:	**N/A**	Floor Area of Proposed Development:	**N/A**
Identification of nearby European Site(s):	**Dovegrove Callows SPA – 3.23km** **Lisduff Fen SAC – 3.79km** **Sharavogue Bog SAC – 4.55km** **River Little Brosna Callows SPA – 6.19km** **All Saints Bog SPA – 7.64km** **Middle Shannon Callows SPA – 11.8km** **Slieve Bloom Mountains SPA – 11.69km** **Island Fen SAC – 6.11km** **Ballyduff/Clonfinane Bog SAC – 5.04km** **All Saints Bog and Esker SAC – 7.69km** **River Shannon Callows SAC – 11.63km**		
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):			

River Shannon Callows SAC – Features of interest include:

- Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]
- Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]
- Limestone pavements [8240]
- Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]
- Lutra lutra (Otter) [1355]

Dovegrove Callows SPA – Features of interest include:

- Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]

Lisduff Fen SAC– Features of interest include:

- Petrifying springs with tufa formation (Cratoneurion) [7220]
- Alkaline fens [7230]
- Vertigo geyeri (Geyer's Whorl Snail) [1013]

Sharavogue Bog SAC – Features of interest include:

- Active raised bogs [7110]

- Degraded raised bogs still capable of natural regeneration [7120]
- Depressions on peat substrates of the Rhynchosporion [7150]

River Little Brosna SPA – Features of Interest:

- Whooper Swan (Cygnus cygnus) [A038]
- Wigeon (Anas penelope) [A050]
- Teal (Anas crecca) [A052]
- Pintail (Anas acuta) [A054]
- Shoveler (Anas clypeata) [A056]
- Golden Plover (Pluvialis apricaria) [A140]
- Lapwing (Vanellus vanellus) [A142]
- Black-tailed Godwit (Limosa limosa) [A156]
- Black-headed Gull (Chroicocephalus ridibundus) [A179]
- Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]
- Wetland and Waterbirds [A999]

Middle Shannon Callows SPA - Features of interest include:

- Whooper Swan (Cygnus cygnus) [A038]
- Wigeon (Anas penelope) [A050]
- Corncrake (Crex crex) [A122]
- Golden Plover (Pluvialis apricaria) [A140]
- Lapwing (Vanellus vanellus) [A142]
- Black-tailed Godwit (Limosa limosa) [A156]
- Black-headed Gull (Chroicocephalus ridibundus) [A179]
- Wetland and Waterbirds [A999]

All Saints Bog SPA - Features of interest include:

- Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]

Slieve Bloom Mountains SPA- Features of interest include:

- Hen Harrier (Circus cyaneus) [A082]

Ballyduff/Clonfinane Bog SAC - Features of interest include:

- Active raised bogs [7110]
- Degraded raised bogs still capable of natural regeneration [7120]
- Depressions on peat substrates of the Rhynchosporion [7150]
- Bog woodland [91D0]

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: Middle Shannon Callows SPA, Site Code: 004096
https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004096.pdf
Site Name: River Shannon Callows SAC, Site Code: 000216
https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000216.pdf
Site Name: Dovegrove Callows SPA, Site Code: 004137
https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004137.pdf
Site Name: Lisduff Fen SAC, Site Code: 002147
https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY002147.pdf
Site Name: Sharavogue Bog, Site Code: 000585
https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000585.pdf
Site Name: River Little Brosna SPA, Site Code: 004086
https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004086.pdf
Site Name: All Saints Bog SPA, Site Code: 004103
https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004103.pdf
Site Name: Slieve Bloom Mountains SPA Site Code: 004160
https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004160.pdf
Site Name: Ballyduff/Clonfinane Bog SAC, Site Code: 000641
https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000641.pdf

(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 *in-combination effects* 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** Úna McCafferkey		
Position:	**Executive Planner**	**Date:**	**8th April 2024**