

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

REFERENCE: DEC 24/21

NAME OF APPLICANT: Kevin Dunne

ADDRESS FOR CORRESPONDENCE: [REDACTED]

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

LOCATION OF DEVELOPMENT: Erry, Clara, Co. Offaly, R35 P6Y9

WHEREAS a question has arisen as to whether the proposed renovations of existing dwelling which comprises of: Demolition and removal of roof chimney stack, windows, doors & flooring, New flooring system consisting of 250mm of 804, Radon barrier, DPC, 150mm concrete & 75mm concrete screed, Electrical & plumbing first fix, New roof structure consisting of Brazilian natural slate, standing clad, ventilation system throughout roof & concrete ring beam to underside of roof, Proposed external finish consisting of replastering external walls with a nap finish, A2 rated windows & composite door, Proposed interior finish consisting of 50ml PRi board, 12ml plasterboard, all walls skimmed, 1hr fire doors throughout, Skirting & architrave & bathroom renovations, Windows & doors - Supply and fit double doors glazed PVC A rated, Sash windows, Front door & French door, Installation of a second door opening on gable end of structure for fire exit and ease to garden is or is not development and is or is not exempted development at Erry, Clara, Co. Offaly, R35 P6Y9.

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

AND WHEREAS Kevin Dunne 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: Demolition and removal of roof chimney stack, windows, doors & flooring, New flooring system consisting of 250mm of 804, Radon barrier, DPC, 150mm concrete & 75mm concrete screed, Electrical & plumbing first fix, New roof structure consisting of Brazilian natural slate, standing clad, ventilation system throughout roof & concrete ring beam to underside of roof, Proposed external finish consisting of replastering external walls with a nap finish, A2 rated windows & composite door, Proposed interior finish consisting of 50ml PRi board, 12ml plasterboard, all walls skimmed, 1hr fire doors throughout, Skirting & architrave & bathroom renovations, Windows & doors - Supply and fit double doors glazed PVC A rated, Sash windows, Front door & French door, Installation of a second door opening on gable end of structure for fire exit and ease to garden. 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:

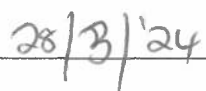
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MATTERS CONSIDERED In making its decision, the Planning Authority had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.



Administrative Officer



Date

Note: 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.

Planning Report

Section 5 Declaration

FILE REFERENCE:	DEC. 24/21
QUESTION:	WHETHER OR NOT THE RENOVATION OF EXISTING DWELLING IS OR IS NOT DEVELOPMENT AND IS OR IS NOT EXEMPTED DEVELOPMENT
APPLICANT:	KEVIN DUNNE
CORRESPONDENCE ADDRESS:	
LOCATION:	ERRY, CLARA, CO. OFFALY. R35P6Y9

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 in the townland of Erry, Clara with direct access onto R436 regional road via an 130m private laneway. Additionally the Galway - Dublin railway line is located 25m to the south (rear) of the existing dwelling.



3. Relevant Site History

None indicated on the Planning GIS

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 indicated that the following works will be carried out:

- Demolition and removal of roof chimney stack, windows, doors & flooring
- New flooring system consisting of 250mm of 804, Radon barrier, DPC, 150mm concrete & 75mm concrete screed.
- Electrical & plumbing first fix.
- New roof structure consisting of Brazilian natural slate, standing clad, ventilation system throughout roof & concrete ring beam to underside of roof.
- Proposed external finish consisting of replastering external walls with a nap finish, A2 rated windows & composite door.
- Proposed interior finish consisting of 50ml PRi board, 12ml plasterboard, all walls skimmed, 1hr fire doors throughout, Skirting & architrave & bathroom renovations.
- Windows & doors - Supply and fit double doors glazed PVC A rated, Sash windows, Front door & French door.

- Installation of a second door opening on gable end of structure for fire exit and ease to 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 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.**

Declaration on Development and Exempted Development Section 5 of the Planning and Development Act 2000 (as amended)
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Michael Duffy

Michael Duffy
Executive Planner
25th March 2024

Ed Kelly

Ed Kelly
Acting Senior Executive Planner
27th March 2024

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 24/21

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Proposed renovation of existing dwelling		
Site location:	Erry, Clara, Co. Offaly. R35P6Y9		
Site size:	n/a	Floor Area of Proposed Development:	n/a
Identification of nearby European Site(s):	2000 site(s): SAC 000572– Clara Bog SAC		
Distance to European Site(s):	0.1km		
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:	Clara Bog has long been regarded as one of the most important lowland raised bogs in the country, being the largest remaining example of the true Midland sub-type. The ecology supports breeding Merlin (1-2 pairs), a scarce species in Ireland and one that is listed on Annex I of the EU Birds Directive		
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.)			

PLEASE SEE SHEET ATTACHED

(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).*

Given the location the limited nature and size of the development applied for and the characteristics of *European* sites in the vicinity it is considered that 100 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 100 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.

Would there be... ... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).	No
... a reduction in habitat area on a <i>European</i> site?	No
... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the <i>European</i> site?	No
... serious / ongoing disturbance to species / habitats for which the <i>European</i> site is selected (e.g. because of increased noise, illumination and human activity)?	No
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the <i>European</i> site?	No
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 <i>European</i> sites and identify them].	No

Simply stating that there are no cumulative			
(E) SCREENING CONCLUSION:			
Screening can result in:			
1	<i>AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.</i>		
2	<i>No potential for significant effects / AA is not required.</i>		
3	<i>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.</i>		
	Conclusion:2		
	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		
	Michael Duffy		
Position:	Executive Planner	Date:	25 th March 2024

SITE SYNOPSIS

SITE NAME: CLARA BOG

SITE CODE: 000572

Clara Bog is situated some 2 km south of Clara village. Much of it is state-owned and designated a statutory Nature Reserve.

Clara Bog has long been regarded as one of the most important lowland raised bogs in the country, being the largest remaining example of the true Midland sub-type. It has well developed hummock and hollow complexes and one of the few remaining soak systems. The bog vegetation has been much studied and is well known. Variations in the proportions of Bog moss (*Sphagnum* spp.), Heather (*Calluna vulgaris*) and Cottongrass (*Eriophorum* spp.) has been related to ecological features such as pools, soaks and ridges.

Several rare invertebrate species are associated with the soak, including the midge, *Lasiodiamesa sphagnicola*, for which Clara Bog is its only known Irish site, a click beetle, *Ampedus pomorum* and another midge, *Parhelophilus consimilis*. The bog is also important for the rare moss, *Tetraplodon angustatus*, at its only known Irish station here.

Clara Bog supports breeding Merlin (1-2 pairs), a scarce species in Ireland and one that is listed on Annex I of the EU Birds Directive. Red Grouse also breeds, along with other common bogland species such as Meadow Pipit and Skylark.

To the east the transition into calcarous woodland, and to the north the transition to the esker ridge have been retained and some excellent examples of esker grassland occur in the site. Some peripheral reclaimed farmland is also included in the site, because management undertaken in these areas can have a profound effect upon the rest of the bog.

The site has been divided into a western and an eastern section by a road. The eastern part of the site has been damaged by previous drainage attempts, however, restoration work is in progress. Continuing peat extraction from the southern margins is also damaging and has potential effect upon much of the internal bog, including the soak system. Ideally the whole bog should be managed as a hydrological unit.

Active raised bogs, once characteristic of central Ireland, are now rare and vulnerable, and have been recognised by the European Union as a habitat of international importance.

Ireland has a special responsibility to conserve the best of its remaining bogs. Further drainage, peat extraction, burning or attempted land reclamation is not consistent with this responsibility.

25.2.1999

Conservation objectives for Clara Bog SAC [000572]

The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. These habitats and species are listed in the Habitats and Birds Directives and Special Areas of Conservation and Special Protection Areas are designated to afford protection to the most vulnerable of them. These two designations are collectively known as the Natura 2000 network. European and national legislation places a collective obligation on Ireland and its citizens to maintain habitats and species in the Natura 2000 network at favourable conservation condition. The Government and its agencies are responsible for the implementation and enforcement of regulations that will ensure the ecological integrity of these sites. The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and
- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

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 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco Brometalia*) (* important orchid sites)* 7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the *Rhynchosporion* 91D0 Bog woodland* * denotes a priority habitat

