

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

REFERENCE: DEC 24/77

NAME OF APPLICANT: Vincent Minnock

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 replacing floor, drylining the exterior walls, insulate floors, walls and ceilings, and skim, paint and decorate property is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Killaghintoher, Ballycumber, Co. Offaly, R35 DV27.

WHEREAS a question has arisen as to whether the proposed renovations of existing dwelling which comprises of replacing floor; drylining the exterior walls; insulate floors, walls & ceilings and skim, paint & decorate property is or is not development and if so is or is not exempted development at Killaghintoher, Ballycumber, Co. Offaly R35 DV27

AS INDICATED on the particulars received by the Planning Authority on the 12th July 2024.

AND WHEREAS Vincent Minnock 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 replacing floor; drylining the exterior walls; insulate floors, walls & ceilings and skim, paint & decorate property 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 replacing floor; drylining the exterior walls; insulate floors, walls & ceilings and skim, paint & decorate property **is development and is exempted development** at development at Killaghintoher, Ballycumber, Co. Offaly R35 DV27

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: 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.

Planning Report

Section 5 Declaration

File Reference:	Dec. 24/77
Question:	Whether the proposed renovation of existing dwelling which comprises of: • Replacing floor • Drylining the exterior walls • Insulate floors, walls & ceilings • Skim, paint & decorate property
Applicant:	Vincent Minnock
Correspondence Address:	[REDACTED]
Location:	Killaghintoher, Ballycumber, Co. Offaly R35 DV27

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 site in question contains a semi-detached dwelling, situated in the countryside of county Offaly located within the townland of Killaghintoher, Ballycumber with direct access onto the L-7001-1 Local Secondary Road.





Figs 1: Site Location (Discovery Series)



Figs 2: Site Location



Figs 3: Aerial image of location of site

3. Site History

None

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 Applicant has indicated that the following works will be carried out:

- Replacing floor
- Drylining the exterior walls
- Insulate floors, walls & ceilings
- Skim, paint & decorate property

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)**

WHEREAS a question has arisen as to whether the proposed renovations of existing dwelling which comprises of:

- Replacing floor
- Drylining the exterior walls
- Insulate floors, walls & ceilings
- Skim, paint & decorate property

is or is not development and if so is or is not exempted development at Killaghintoher, Ballycumber, Co. Offaly R35 DV27

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AND WHEREAS Vincent Minnock 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:

- Replacing floor
- Drylining the exterior walls
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- Skim, paint & decorate property

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:

- Replacing floor
- Drylining the exterior walls
- Insulate floors, walls & ceilings
- Skim, paint & decorate property

is **development** and is **exempted development** at development at Killaghintoher, Ballycumber, Co. Offaly R35 DV27

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.

Michael Duffy

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Acting Senior Executive Planner

2nd August 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 s 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/24/77

:

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Residential extension		
Site location:	Bouerfadda		
Site size:	N/A	Floor Area of Development	N/A
Identification of nearby <i>European</i> Site(s):	2000 site(s): SAC 000572– Clara Bog SAC		
Distance to <i>European</i> Site(s):	4.83kms		
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 <i>European</i> site:	None		
Is the application accompanied by an EIA?	No: ✓		
(B) IDENTIFICATION OF THE RELEVANT NATURA 2000 SITE(S):			
The reasons for the designation of the Natura 2000 site(s):	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 <i>European</i> site synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) (ATTACH INFO.)	PLEASE SEE https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000572.pdf https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000572.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...	Not likely due to the location and type of development
... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).	The site is sufficient distance from the <i>European</i> site.
... a reduction in habitat area on a <i>European</i> site?	There will be no reduction in the habitat area.
... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the <i>European</i> site?	The site is sufficient distance from the <i>European</i> site.
... 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)?	Not likely due to the location and type of development
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the <i>European</i> site?	The site is sufficient distance from the <i>European</i> 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 <i>European</i> sites and identify them]. Simply stating that there are no cumulative impacts' is insufficient.	None likely due to the location and type of development
	The site is sufficient distance from the <i>European</i> 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 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.	
Name:	Michael Duffy		
Position:	Exec. Planner	Date:	2 nd August 2024

