

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 25/29

NAME OF APPLICANT: Damien and Catherine Colgan

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 the refurbishment of an outbuilding to a liveable standard in the yard of the existing dwelling house is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Bella Vista, St. Mary's Road, Edenderry, Co Offaly, R45 ED59.

WHEREAS a question has arisen as to whether refurbishment of an outbuilding to a liveable standard in the yard of the existing dwelling is or is not development and is or is not exempted development at *Bella Vista, St. Mary's Road, Edenderry, Co Offaly R45 ED59*.

AS INDICATED on the particulars received by the Planning Authority on the 12th February 2025 and 7th April 2025.

AND WHEREAS Damien and Catherine Colgan 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(1), 3(1) and 4(1)(h) of the *Planning & Development Act 2000, as amended*.
- (b) The structure on site has been uninhabitable for 15 years

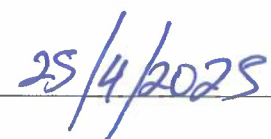
AND WHEREAS Offaly County Council has concluded that the proposed refurbishment of an outbuilding to a liveable standard in the yard of the existing dwelling **is development and is not exempted development** because the use of the outbuilding structure on site as a house is deemed to have been abandoned.

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 refurbishment of an outbuilding to a liveable standard in the yard of the existing dwelling **is development and is not exempted development** at Bella Vista, St. Mary's Road, Edenderry, Co Offaly R45 ED59.

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 include any submissions and observations received by it in accordance with statutory provisions.


Administrative Officer


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:	<i>Dec. 25/29</i>
Question:	Whether or not the refurbishment of an outbuilding to a liveable standard in the yard of the existing dwelling house is or is not development and is or is not exempted development
Applicant:	<i>Damien and Catherine Colgan</i>
Correspondence Address:	
Location:	<i>Bella Vista, St. Mary's Road, Edenderry, Co Offaly R45 ED59</i>

Second report of this application

Please refer to previous planner's report dated 25th February 2025

1. Introduction

The question has arisen as whether not the refurbishment of an outbuilding to a liveable standard in the yard of the existing dwelling house is or is not development and is or is not exempted development.

2. Review and Evaluation of Further Information

Further information (FI) was sought by the Planning Authority on the 10th March 2025 and a response was subsequently received by the Planning Authority on the 7th April 2025.

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

1.
 - (a) *Clarify if the structure subject of this declaration was previously used as a dwelling and if so please provide documentary proof of same and dates of when it was last used as a dwelling.*
 - (b) *Please indicate when the structure subject of this declaration was constructed.*
 - (c) *If the structure subject of this declaration has been extended, please provide details of and date(s) when this occurred.*

The applicant have not responded to this further information request. The Applicants previously stated that the property has been “**uninhabitable** for over 15 years”.

2. *Please submit a site layout plan and full set of plans and elevations of the existing structure and of the works subject of this request for a declaration.*

The Applicants have provided the requested drawings and a detailed list of the proposed works (see Drawing Ref: 1775.102).

3. *Please provide a detailed description of the proposed external finishes subject of this declaration. This shall include, but not be limited to, details of proposed window repair/replacement and door replacement, plastering, painting and any roof repairs, etc.*

The Applicants have provided a detailed list of the proposed works.

4. Evaluation

The Planning Authority note the following:

The applicants have stated that the structure subject of this declaration has been “uninhabitable for over 15 years” and its use as a houses is deemed to have been abandoned. I note the following from OPR practice note 5:

Abandonment: Abandonment can occur in relation to either development consisting of works or the operation of a use. Abandonment may occur where the development has ceased for a considerable period of time with no intention of resuming it. Unless it is exempt from the requirement to obtain planning permission for other reasons, the resumption of an abandoned development is likely to represent a material change of use.

I consider that the works are not exempted development as the structure is in a dilapidated condition and would require extensive material works in order to restore the dwelling to a liveable standard. The structure does not appear to have been in a habitable state for a considerable period and the use as a residence was therefore abandoned.

5. Appropriate Assessment

A screening exercise for an appropriate assessment has been carried out and it has been concluded that the existing development is unlikely to have significant effects on any European sites. Please see attached report under Appendix A.

4. Environmental Impact Assessment Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the *Planning and Development Regulations 2001 (as amended)* and therefore is not subject to EIA requirements.

5. Conclusion

It is recommended that the Applicants be advised that the proposed works 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 refurbishment of an outbuilding to a liveable standard in the yard of the existing dwelling is or is not development and is or is not exempted development at *Bella Vista, St. Mary's Road, Edenderry, Co Offaly R45 ED59*.

AS INDICATED on the particulars received by the Planning Authority on the 12th February 2025 and 7th April 2025.

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

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- (b) The structure on site has been uninhabitable for 15 years

AND WHEREAS Offaly County Council has concluded that the proposed refurbishment of an outbuilding to a liveable standard in the yard of the existing dwelling **is development and is not exempted development** because the use of the outbuilding structure on site as a house is deemed to have been abandoned.

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 refurbishment of an outbuilding to a liveable standard in the yard of the existing dwelling **is development and is not exempted development** at Bella Vista, St. Mary's Road, Edenderry, Co Offaly R45 ED59.

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.



Enda Finlay
Graduate Planner

25th April 2025

A handwritten signature in cursive script, reading "Ed Kelly". The signature is written in dark ink and is positioned above a horizontal line.

Ed Kelly
ASEP

25th April 2025

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 25/29

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:

Proposed development:	Whether or not the refurbishment of an outbuilding to a liveable standard in the yard of the existing dwelling house is or is not development and is or is not exempted development		
Site location:	Bella Vista, St. Mary's Road, Edenderry, Co Offaly R45 ED59		
Site size:	N/A	Floor Area of Proposed Development:	N/A
Identification of nearby European Site(s):	The Long Derries SAC 4.3Km		
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):	
The Long Derries SAC – Qualifying interest: Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]	
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: The Long Derries SAC, SITE CODE: 000925 https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000925.pdf	

(C) NPWS ADVICE:

Advice received from NPWS over phone:	None Received
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Summary of advice received from NPWS in written form (ATTACH SAME):	None Received
(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:	
<i>(The purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).</i>	
If the answer is 'yes' to any of the questions below, then the effect is significant. <i>(Please justify your answer. 'Yes' / 'No' alone is insufficient)</i>	
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.	<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 due to the scale of the proposed development and the separation distance between the subject site and European Site.

Name:			
Position:	Graduate Planner	Date:	25 th April 2025