

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 25/53

NAME OF APPLICANT: SADHBH DUGGAN,

ADDRESS FOR CORRESPONDENCE: HIGHFIELD HOUSE, CARBURY, CO KILDARE.

NATURE OF APPLICATION: DECLARATION UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT, 2000 AS AMENDED IN RELATION TO WHETHER OR NOT THE RENOVATION OF EXISTING DWELLING TO BRING IT TO A MODERN AND HABITABLE STANDARD WHILE PRESERVING THE EXISTING CHARACTER AND APPEARANCE IS OR IS NOT DEVELOPMENT AND IS OR IS NOT EXEMPTED DEVELOPMENT.

LOCATION OF DEVELOPMENT: RAHEENAKEERAN, WALSH ISLAND, CO. OFFALY, R35 VY68.

WHEREAS a question has arisen as to whether the renovation of existing dwelling to bring it to a modern and habitable standard while preserving the existing character and appearance is or is not development and is or is not exempted development at Raheenakeeran, Walsh Island, Co. Offaly R35 VY68.

AS INDICATED on the particulars received by the Planning Authority on the 31st March 2025.

AND WHEREAS Sadhbh Duggan, Highfield House, Carbury, Co Kildare 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:

Section 2(1), 3(1) and 4(1)(h) of the Planning and Development Act 2000, as amended.

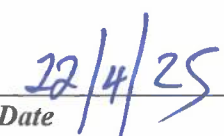
AND WHEREAS Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to section 4(1)(h)

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 of existing dwelling to bring it to a modern and habitable standard while preserving the existing character and appearance **is development and is exempted development** at Raheenakeeran, Walsh Island, Co. Offaly, R35 VY68.

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:	Dec. 25/53
Question:	Whether or not the renovation of existing dwelling to bring it to a modern and habitable standard while preserving the existing character and appearance is or is not development and is or is not exempted development at Raheenakeeran, Walsh Island, Co. Offaly R35 VY68
Applicant:	Sadhbh Duggan
Correspondence Address:	Highfield House, Carbury, Co Kildare
Location:	Raheenakeeran, Walsh Island, Co. Offaly R35 VY68

1. Introduction

The question has arisen as to whether the renovation of existing dwelling to bring it to a modern and habitable standard while preserving the existing character and appearance is, or is not, development and is, or is not, exempted development.

2. Background

The subject site is in the townland of Raheenakeeran, which is about 7km north Portarlinton Town. The site is in an area which is classified as *rural area under strong urban influence* in the *Offaly County Development Plan 2021-27* (OCDP). The existing dwelling is rural cottage with farm sheds to the rear, which is off Local Road L-1011-1.

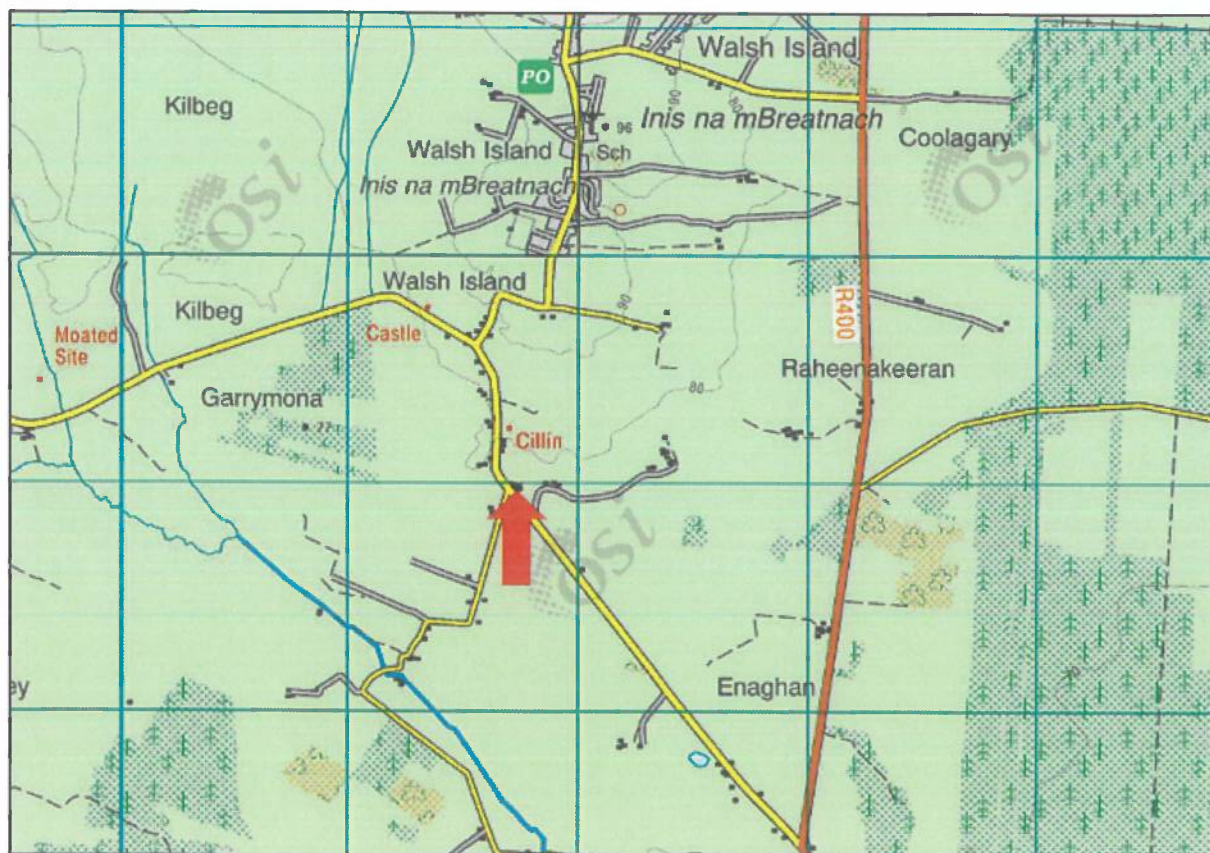


Figure 1: Site location (red arrow)

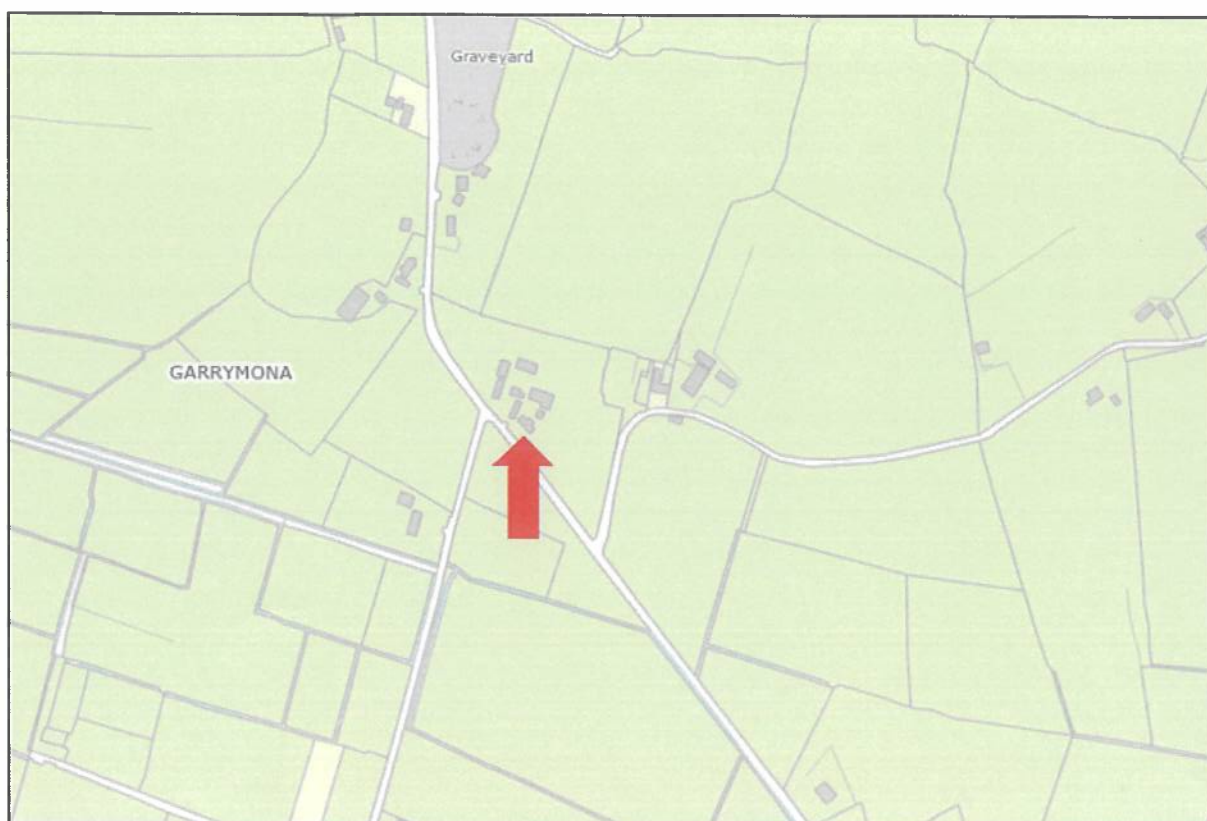


Figure 2: Site location map (red arrow)



Photo 1: Front (south-west) elevation of existing dwelling

3. Site History

On Site

Ref 06/1759: Michael Dempsey was granted permission conditionally for the construction of a slatted cattle shed.

Enforcement – No recent history associated with the subject site.

Adjoining Lands - No recent, relevant planning history associated with the adjoining lands.

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:

(a) 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 (1) Planning and Development Act 2000 as amended.

Furthermore, in relation to the proposed development, which includes substantial renovations of the existing dwelling Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of this Act including:

*4(1)(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.***

The subject mainly internal renovation is considered to be in accordance with section 4 (1)(h) outlined above. The proposed renovations would change the appearance of the fenestration and door details of the front elevation but not to the extent that the dwelling’s appearance would be inconsistent with the character of the existing structure.

5. Proposal by Applicants

The Applicants has advised that they propose the following mainly internal renovation of the existing dwelling:

The property is currently in need of refurbishment, and I am proposing the following works:

1. Replacement of External Completions
 - o Replacement of 2 external doors and 10 windows.
 - o All replacements will be in keeping with the existing style, materials, and dimensions.
2. Replacement of Internal Completions
 - o Replacement of 6 internal doors.
3. Internal Improvements
 - o Drywalling and internal insulation of external walls.
 - o Installation of new skirting boards throughout.
4. Rainwater Goods
 - o Replacement of rainwater goods, including guttering and downpipes.
5. Roof Repairs
 - o Localised repair work to a section of the existing roof.
6. Bathroom Works
 - o Tiling and waterproofing of the bathroom.
 - o Replacement of sanitary ware and bathroom fittings.
7. Painting and Decorating
 - o Internal and external painting and decorating.
8. Service Upgrades
 - o Replacement and upgrading of the existing plumbing, heating, ventilation, and telecommunications systems.
9. Kitchen Replacement
 - o Removal and replacement of the existing kitchen unit.

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6. Evaluation

Question: Whether the proposed works 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 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 appearance of the dwelling and would not be inconsistent with the character of area.

It is the opinion of the Planning Authority that the proposed works meet the criteria of exempt development under statutory provisions.

7. Screening

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

It is considered that the proposed development does not constitute a development listed in Schedule 5 of the *Planning and Development Regulations 2001 as amended*. Furthermore, it is not a sub-threshold development. Accordingly, an EIAR is not required.

8. 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.

10. Conclusion

It is recommended that the Applicant 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 renovation of existing dwelling to bring it to a modern and habitable standard while preserving the existing character and appearance is or is not development and is or is not exempted development at Raheenakeeran, Walsh Island, Co. Offaly R35 VY68.

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

Section 2(1), 3(1) and 4(1)(h) of the *Planning and Development Act 2000, as amended*.

AND WHEREAS Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to section 4(1)(h)

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 of existing dwelling to bring it to a modern and habitable standard while preserving the existing character and appearance is development and is exempted development at Raheenakeeran, Walsh Island, Co. Offaly R35 VY68.

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

4th April 2025



Ed Kelly
ASEP

22th April 2025

Appendix A

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	Dec 25/53
Development Summary:	Declaration as to whether the renovation of existing dwelling to bring it to a modern and habitable standard while preserving the existing character and appearance is or is not development and is or is not exempted development at Raheenakeeran, Walsh Island, Co. Offaly R35 VY68.
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