

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 25/54

NAME OF APPLICANT: Ciaran Nestor

ADDRESS FOR CORRESPONDENCE:

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

LOCATION OF DEVELOPMENT: Woodfield, Clara, Co. Offaly. R35 PR80

WHEREAS a question has arisen as to whether the proposed renovation of an existing dwelling at Woodfield, Clara, Co. Offaly. R35 PR80 is or is not development is or is exempted development and is or is not exempted development

AND WHEREAS Ciaran Nestor requested a declaration on the said question from Offaly County Council;

AS INDICATED on the particulars received by the Planning Authority on the 3<sup>th</sup> April 2025.

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 works 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 renovation of an existing dwelling **is development and is exempted development** at Woodfield, Clara, Co. Offaly. R35 PR80

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.

**C/O GERARD HYNES COOLVILLE HOUSE RHODE CO. OFFALY Planning Report**

**Section 5 Declaration**

<b>File Reference:</b>	Dec. 25/54
<b>Question:</b>	Whether the renovation of an existing dwelling is or is not development and is or is not exempted development.
<b>Applicant:</b>	Ciaran Nestor
<b>Correspondence Address:</b>	
<b>Location:</b>	Woodfield, Clara, Co. Offaly. R35 PR80

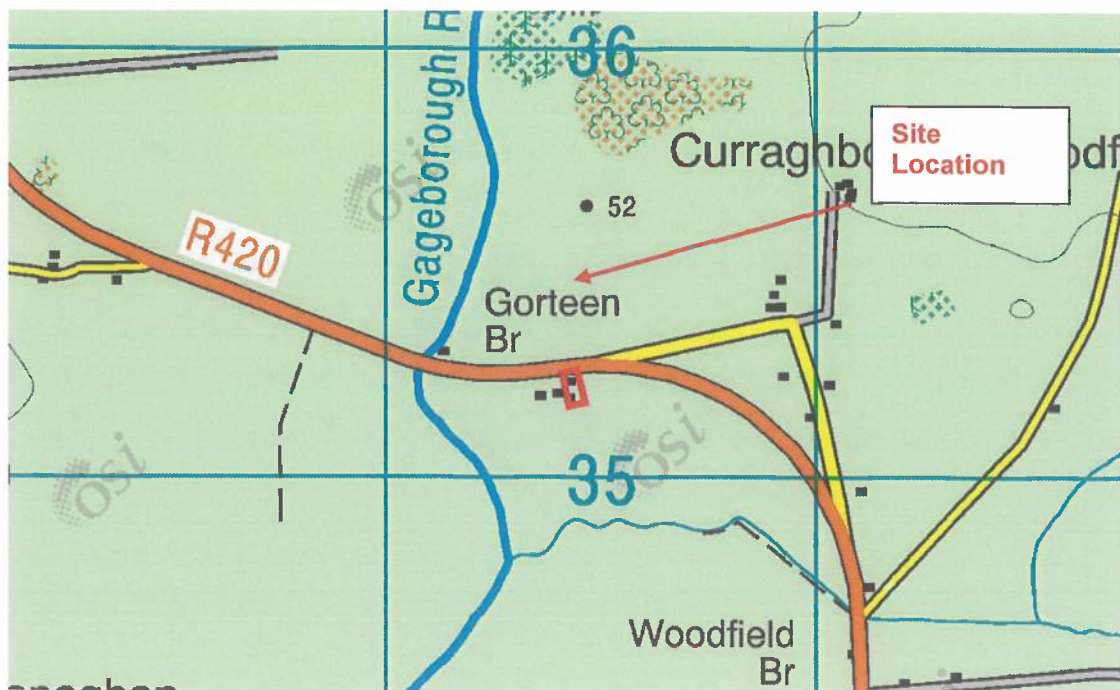


**1. Introduction**

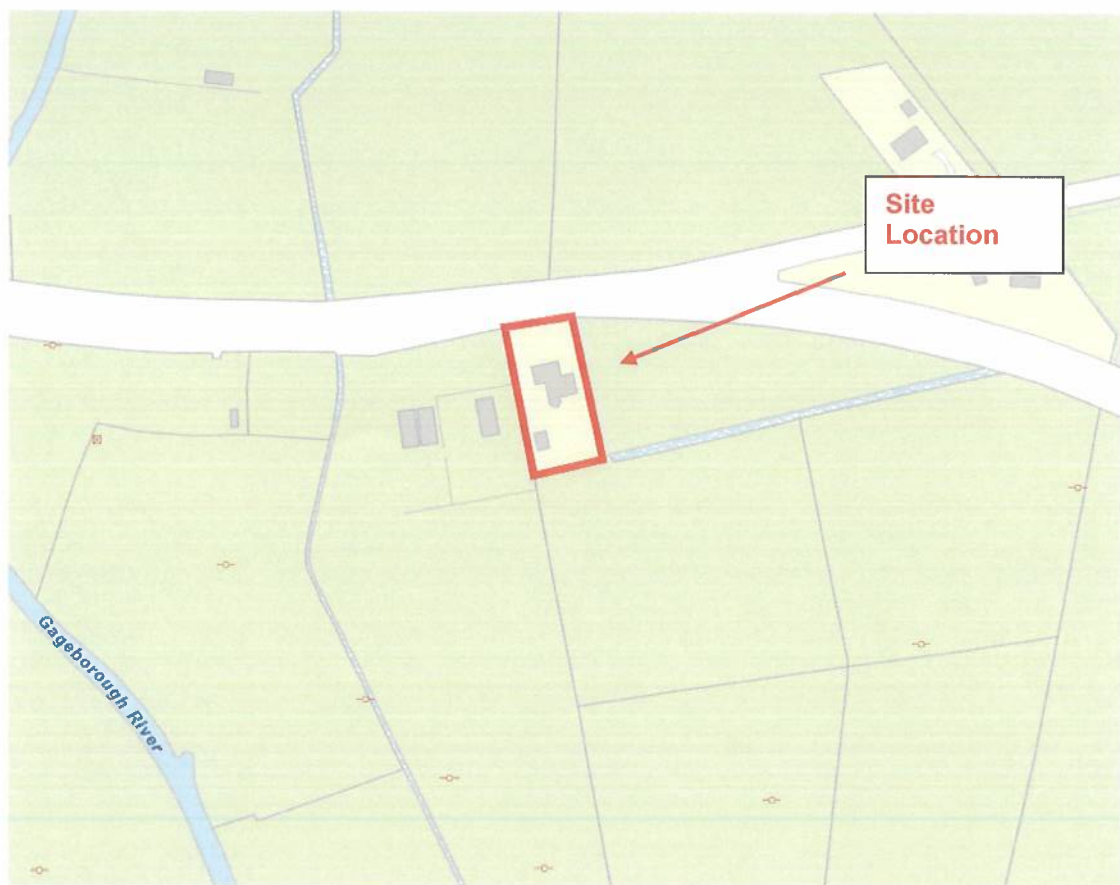
The question has arisen as to whether the proposed renovation of an existing dwelling is or is not development and is or is not exempted development

**2. Background**

The dwelling in question is located in the rural townland of Woodfield, Clara with direct access onto the R420 Restricted Regional Road.



Figs 1: Site Location (Discovery Series)



Figs 2: Site Location





**Figs 3:** Aerial image of location of site

### 3. Site History:

**96/628:** Subject to 3 conditions Michael Nestor was **Granted** permission for extension to existing bungalow.

**92/188:** Subject to 3 conditions Michael Nestor was **Granted** permission for the conversion of attic space to domestic use.

### 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 is proposing to renovate an existing dwelling. The works are internal to the house.

## 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 internal alterations as well as minor external openings modifications

**Question: Is this proposal considered to be Exempted Development?**

With regard to the proposed works which are described in the submitted documents, the Planning Authority are of the opinion that the proposed renovation of an existing dwelling does 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.

## 7. APPROPRIATE ASSESSMENT (AA)

The subject site is located 0.58km from SAC 000572-Clara Bog Having regard to nature of the proposed development which comprises of the renovation of an existing dwelling at Woodfield, Clara, Co. Offaly. R35 PR80 and due to a lack of any pathway to a European site it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

## 8. EIA SCREENING:

No EIA required, see appendix A attached.

## 9. OTHER SCREENING:

The proposed development is not contrary to the RSES and so it was not referred to the Eastern and Midland Regional Assembly

## 10. CONCLUSION

Having assessed the information received, it is considered the proposed renovation of an existing dwelling 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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**AND WHEREAS** Ciaran Nestor requested a declaration on the said question from Offaly County Council;

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**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 renovation of an existing dwelling **is development and is exempted development** at Woodfield, Clara, Co. Offaly. R35 PR80

*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

*Michael Duffy*

*Executive Planner*

*29<sup>th</sup> April 2025*

*Ed Kelly*

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*Ed Kelly*

*ASEP*

*30<sup>th</sup> April 2025*

## Appendix A

Establishing if the proposal is a ' <i>sub-threshold development</i> ':	
Planning Register Reference:	Dec 25/54
Development Summary:	Renovations to dwelling
Was a Screening Determination carried out under Section 176A-C?	No, Proceed to <b>Part A</b>
<b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
No	Proceed to <b>Part B</b>
<b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , 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	<b>No Screening required</b>