

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 25/65

NAME OF APPLICANT: Kieran Mann.

ADDRESS FOR CORRESPONDENCE: C/o Frank Murray Architectural Services Ltd, Pallas Park, Blueball, Tullamore, Co. Offaly.

NATURE OF APPLICATION: Request for declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not an extension to rear of house forming kitchen dining, bathroom, utility and wardrobe is or is not development and is or is not exempted development at Rathdrum, Ballycommon, Derrygrogan Big, Co. Offaly R35 XV66

LOCATION OF DEVELOPMENT: Rathdrum, Ballycommon, Derrygrogan Big, Co. Offaly R35 XV66

WHEREAS a question has arisen as to whether or not an extension to rear of house forming kitchen dining, bathroom, utility and wardrobe is or is not development and is or is not exempted development at Rathdrum, Ballycommon, Derrygrogan Big, Co. Offaly R35 XV66.

AS INDICATED on the particulars received by the Planning Authority on 8<sup>th</sup> May 2025.

AND WHEREAS Kieran Mann, C/o Frank Murray Architectural Services Ltd, Pallas Park, Blueball, Tullamore, Co. Offaly 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 –

- (a) Section 2, 3(1) and 4(1)(h), 4(2)(a)(i) of the Planning and Development Act 2000, as amended.
- (b) Article 6 of the Planning and Development Regulations 2001 (as amended), and
- (c) Article 9 of the Planning and Development Regulations 2001 (as amended)
- (d) Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

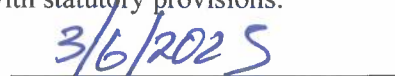
AND WHEREAS Offaly County Council has concluded that the works are development and are exempted development.

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 extension to rear of house forming kitchen dining, bathroom, utility and wardrobe at Rathdrum, Ballycommon, Derrygrogan Big, Co. Offaly R35 XV66 **is development and is exempted development.**

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

<b>File Reference:</b>	<b>Dec. 25-65</b>
<b>Question:</b>	<b>Whether or not an extension to rear of house forming kitchen dining, bathroom, utility and wardrobe is or is not development and is or is not exempted development at Rathdrum, Ballycommon, Derrygrogan Big, R35 XV66</b>
<b>Applicant:</b>	<b>Kieran Mann c/o Frank Murray Architectural Services Ltd</b>
<b>Correspondence Address:</b>	<b>Kieran Mann, C/O Frank Murray Architectural Services Ltd Pallas Park, Blueball, Tullamore, Co. Offaly</b>
<b>Location:</b>	<b>Rathdrum, Ballycommon, Derrygrogan Big, R35 XV66</b>

#### 1. Introduction

The question has arisen as to whether or not an extension to rear of house forming kitchen dining, bathroom, utility and wardrobe is or is not development and is or is not exempted development at Rathdrum, Ballycommon, Derrgrogan Big, R35 XV66.

#### 2. Background

The dwelling is located in the townland of Derrygrogan Big which is 7.2Km north-east of Tullamore Town. The subject site is classified as a *rural area under strong influence* in the *Offaly Conty Development Plan 2021-2027*. The existing dwelling is located off Local Tertiary Road L-10232-1. It is noted that the dwelling does not front towards the road.

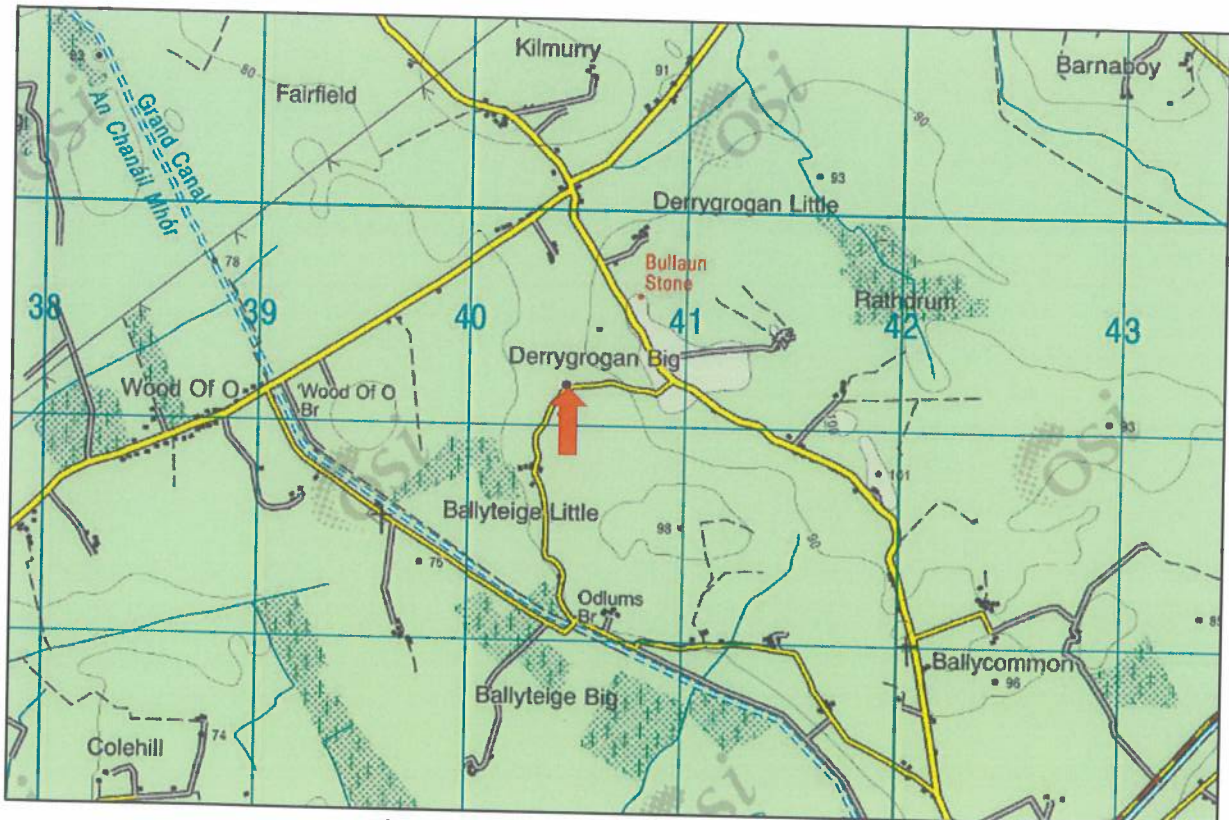


Figure 1: Site location map (red arrow)

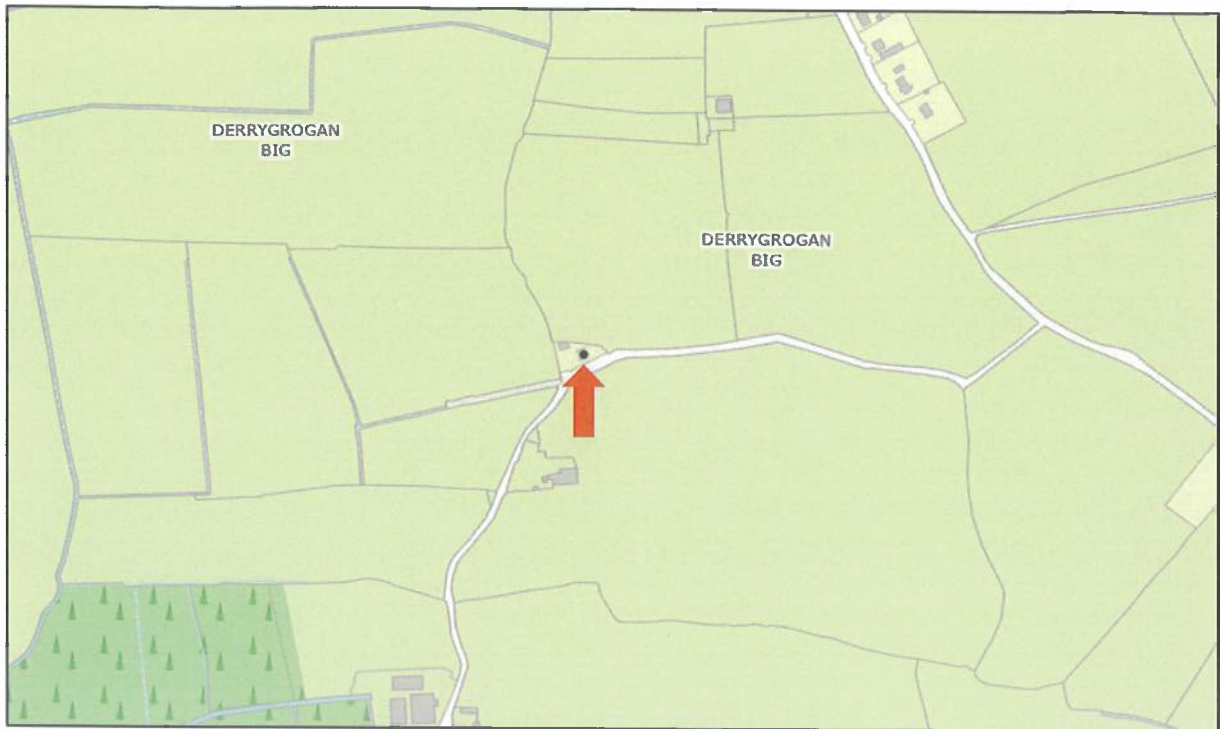


Figure 2: Site location map (red arrow)



Photo 1: North-west view of the existing dwelling





Photo 2: South-east view of existing dwelling

### 3. Site History

- *On Site* – No recent planning history associated with the subject site.
- *Enforcement* – No recent history associated with the subject site.
- *Adjoining Lands* - No recent 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:

#### i. 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) (a) – (l) *Planning and Development Act 2000, as amended*, 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.*

**Section 4 (2) (a) *Planning and Development Act 2000, as amended* states that the Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that -**

- (i) *by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development.*

## **ii. Regulatory Provisions**

**Article 6 of the *Planning and Development Regulations 2001 (as amended)* states, *inter alia*, that:**

*“Subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in Column 2 of the said Part 1 opposite the mention of that class in the said Column 1”.*

***Planning and Development Regulations 2001 (as amended)* Schedule 2 – Exempted Development, Part I - Development Within the Curtilage of a House, Class 1 specifies:**

*The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.*

This is considered to be exempted development if the following limitations are complied with:

1.
  - (a) *Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.*
  - (b) *Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.*
  - (c) *Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.*
2.
  - (a) *Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after*

- 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.
- (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.
  - (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.
3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.
  4.
    - (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.
    - (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.
    - (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.
  5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.
  6.
    - (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.
    - (b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.
    - (c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.
  7. The roof of any extension shall not be used as a balcony or roof garden.



## 6. Proposal by Applicants

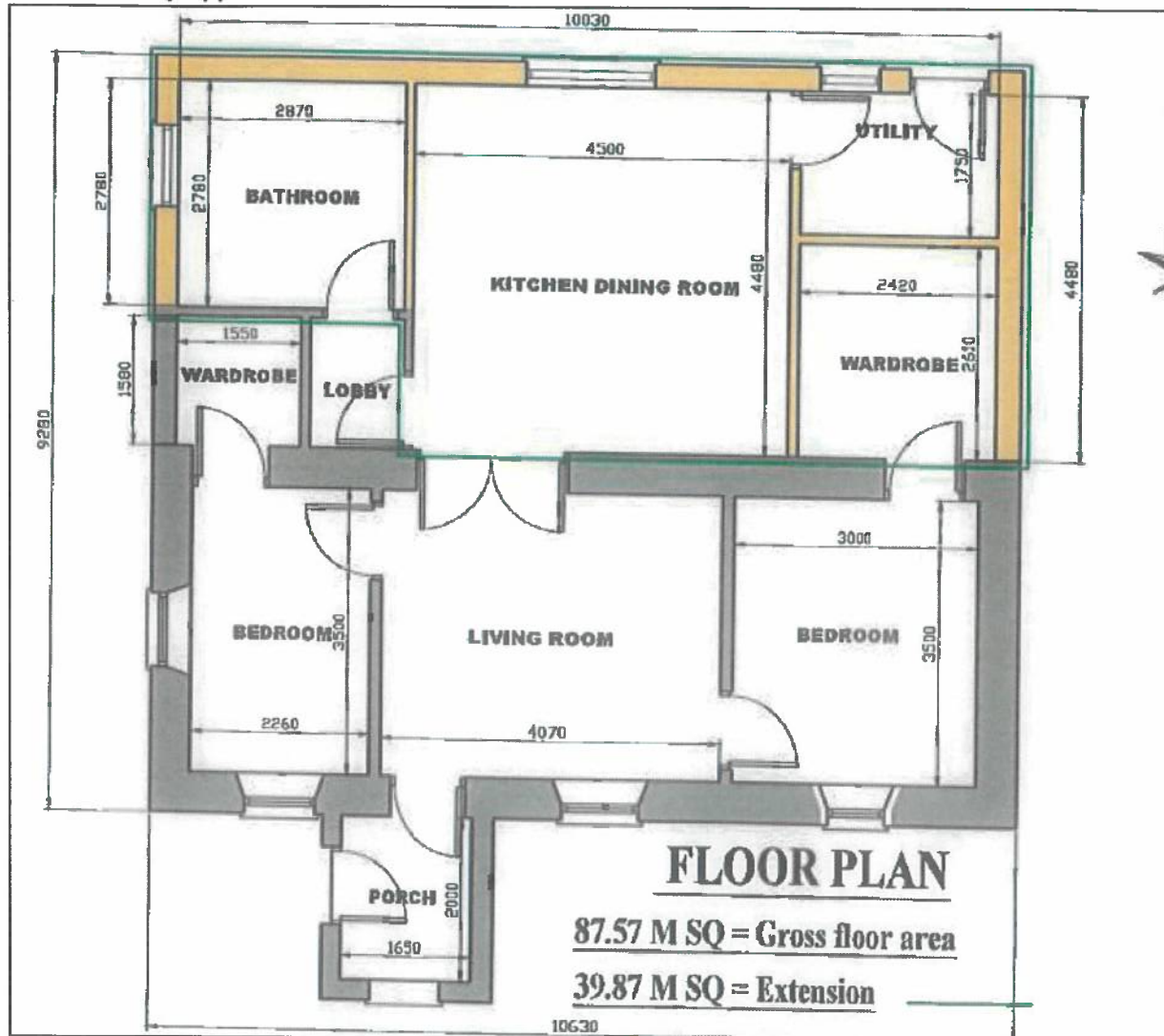


Figure 3: Existing floor plan - note total gross floor area of extension is 39.87m<sup>2</sup>.

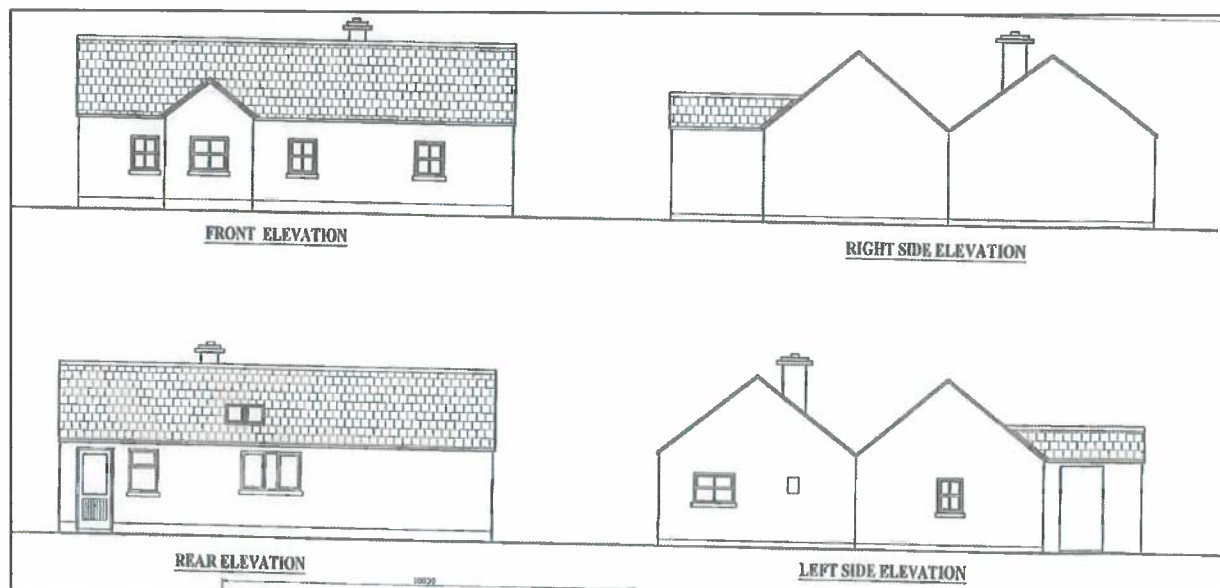


Figure 4: Elevations of existing dwelling

## 7. Evaluation

**Question: Whether the proposed works (as listed) to the existing dwelling is 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 refurbishments and extension to the existing dwelling.

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

Based on the information submitted and the provisions of *Schedule 2 – Exempted Development, Part 1 - Development Within the Curtilage of a House, Class 1 of the Planning and Development Regulations 2001 (as amended)*, the following is considered:

1.

- (a) *Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.*

The gross floor area of the extension is less than 40m<sup>2</sup>.

- (b) *Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.*

N/A.

- (c) *Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.*

N/A.

2.

- (a) *Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*

The gross floor area of the extension is less than 40m<sup>2</sup>. There is no evidence of previous extensions.

- (b) *Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.*

N/A

- (c) *Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.*

N/A



3. *Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.*  
N/A.
4.
  - (a) *Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.*  
N/A
  - (b) *Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.*  
N/A.
  - (c) *The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.*  
The height of the existing extension does not exceed the height of the highest part of the roof of the dwelling.
5. *The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.*  
The area of remaining private open space to the rear of the dwelling will exceed 25m<sup>2</sup>.
6.
  - (a) *Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.*  
All windows are located greater than 1m from the boundary they face.
  - (b) *Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.*  
N/A.
  - (c) *Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.*  
N/A.
7. *The roof of any extension shall not be used as a balcony or roof garden.*  
There is no balcony or roof garden proposed.

From the information submitted, the Planning Authority are satisfied that the proposed extension meets the conditions and limitations attached to Class 1.

#### **8. Appropriate Assessment**

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

#### **9. 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.

#### **10. Conclusion**

Having assessed the information received, it is considered the proposed extension of the existing house 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 or not an extension to rear of house forming kitchen dining, bathroom, utility and wardrobe is or is not development and is or is not exempted development at Rathdrum, Ballycommon, Derrgrogan Big, R35 XV66.

**AS INDICATED** on the particulars received by the Planning Authority on 8<sup>th</sup> May 2025.

**AND WHEREAS** Kieran Mann c/o Frank Murray Architectural Services Ltd, Pallas Park, Blueball, Tullamore, Co. Offaly 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 –

- (a) Section 2, 3(1) and 4(1)(h), 4(2)(a)(i) of the *Planning and Development Act 2000, as amended*.
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- (d) Class 1, in Part 1, of Schedule 2 of the *Planning and Development Regulations 2001 (as amended)*.

**AND WHEREAS** Offaly County Council has concluded that the works are development and are 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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*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

30<sup>th</sup> May 2025



A handwritten signature in cursive script, appearing to read "Ed Kelly", written in dark ink. The signature is fluid and stylized, with a long, sweeping underline that extends to the right.

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Ed Kelly ASEP

Date 3/6/2025

### Appendix A

Establishing if the proposal is a ' <i>sub-threshold development</i> ':	
Planning Register Reference:	Dec 25/65
Development Summary:	Declaration as to whether or not an extension to rear of house forming kitchen dining, bathroom, utility and wardrobe is or is not development and is or is not exempted development at Rathdrum, Ballycommon, Derrygrogan Big, R35 XV66
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) <b>and</b> 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>