

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 24/15

NAME OF APPLICANT: Katie Bracken

ADDRESS FOR CORRESPONDENCE: Church Street, Clara, Co. Offaly, R35 AW96

**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not the renovation of existing dwelling which consists of demolition, structural works, windows & doors, joinery, rainwater and associated goods, finishes, electrical, plumbing, external works as well as an rear extension is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** 247 Kilcoursey, Clara, Co. Offaly R35DX80

**WHEREAS** a question has arisen as to whether the proposed renovation of existing dwelling which consists of demolition, structural works, windows & doors, joinery, rainwater and associated goods, finishes, electrical, plumbing, external works as well as an extension is or is not development is or is exempted development and is or is not exempted development at 247 Kilcoursey, Clara, Co. Offaly R35DX80.

**AS INDICATED** on the particulars received by the Planning Authority on the 7th February 2024 and 3<sup>rd</sup> April 2024.

**AND WHEREAS** Katie Bracken, Church Street, Clara, R35AW96 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 & Development Act 2000, as amended.
- (b) Class 1, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended),
- (c) Article 6 of the Planning and Development Regulations 2001 (as amended), and
- (d) Article 9 of the Planning and Development Regulations 2001 (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 existing dwelling which consists of demolition, structural works, windows & doors, joinery, rainwater and associated goods, finishes, electrical, plumbing, external works as well as an rear extension is **development** and is **exempted development** at 247 Kilcoursey, Clara, Co. Offaly R35DX80

**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

22/04/2024  
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. 24/15</b>
<b>Question:</b>	<i>Whether or not the renovation of existing dwelling which consists of demolition, structural works, windows &amp; doors, joinery, rainwater and associated goods, finishes, electrical, plumbing, external works as well as an rear extension is or is not development and is or is not exempted development?</i>
<b>Applicant:</b>	<i>Katie Bracken</i>
<b>Correspondence Address:</b>	<i>Church Street, Clara, R35AW96</i>
<b>Location:</b>	<i>247 Kilcoursey, Clara, Co. Offaly R35DX80</i>

### SECOND REPORT ON FILE

#### 1. Review of Further Information

Further information was sought by the Planning Authority on 4<sup>th</sup> March 2024 and subsequently received by the Planning Authority on 3<sup>rd</sup> April 2024. This report should be read in conjunction with the previous planner's report dated 1<sup>st</sup> March 2024. The following Further Information was sought and the response is as follows:

1. In order for the Planning Authority to determine if the proposed works complies with Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended), the Applicant is requested to submit the following information
  - (a) a site layout plan at 1:500 scale which indicates the proposed and existing development on site.
  - (b) a full set of drawings (4 elevations & floor plans) at an 1:100 scale of the existing dwelling.
  - (c) a full set of drawings (4 elevations & floor plans) at an 1:100 scale of the dwelling indicating the proposed extension

For reference, please see a copy of Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended):

*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.*

**Applicants Response:** The Applicant has submitted the following information:

- A site layout plan at 1:500 scale indicates both the proposed extension and existing dwelling on site.
- A full set of drawings (4 elevations & floor plans) at an 1:100 scale of the existing dwelling.
- A full set of drawings (4 elevations & floor plans) at an 1:100 scale of the dwelling indicating the proposed extension.

**Planners Appraisal:** The further information received in relation to item 1 was assessed by the Planning Authority and are satisfied the proposed extension complies with Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended),

2. Following a site inspection, it is noted an existing extension has been constructed to the rear of the dwelling. The Applicant is requested to clarify what date the same extension was constructed and the gross floor area (m<sup>2</sup>)

**Applicants Response:** The Applicant has submitted an existing floor planning of the dwelling and has also indicated the existing extension located to the rear of the dwelling was constructed prior to 1<sup>st</sup> October 1964.

**Planners Appraisal:** The further information received in relation to item 1 was assessed by the Planning Authority and are satisfied the proposed extension complies with Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended),

#### **CONCLUSION:**

Having assessed the Further Information received and the previous planning report on file, it is considered the proposed renovation of existing dwelling which consists of demolition of site, structural works, windows & doors, joinery, rainwater and associated goods, finishes, electrical, plumbing, external works as well as a rear extension 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 renovation of existing dwelling which consists of demolition, structural works, windows & doors, joinery, rainwater and associated goods, finishes, electrical, plumbing, external works as well as an extension at 247 Kilcoursey, Clara, Co. Offaly R35DX80 is or is not development is or is exempted development and is or is not exempted development

**AND WHEREAS** Katie Bracken, Church Street, Clara, R35AW96 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 & Development Act 2000, as amended.
- (b) Class 1, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended),
- (c) Article 6 of the Planning and Development Regulations 2001 (as amended), and
- (d) Article 9 of the Planning and Development Regulations 2001 (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 existing dwelling which consists of demolition, structural works, windows & doors, joinery, rainwater and associated goods, finishes, electrical, plumbing, external works as well as an rear extension is **development and is exempted development** at 247 Kilcoursey, Clara, Co. Offaly R35DX80

*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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*Michael Duffy*

*Executive Planner*

*19<sup>th</sup> April 2024*

Ed Kelly

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*Ed Kelly*

*Acting Senior Executive Planner*

*19<sup>th</sup> April 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 *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/24/15

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:			
Proposed development:	Whether or not the renovation of existing dwelling which consists of demolition of site, structural works, windows & doors, joinery, rainwater and associated goods, finishes, electrical, plumbing, external works as well as an extension is or is not development and is or is not exempted development?		
Site location:	247 Kilcoursey, Clara, Co. Offaly R35DX80		
Site size:	N/A	Floor Area of Development	N/A
Identification of nearby <i>European Site(s)</i> :	2000 site(s): SAC 000572– Clara Bog SAC		
Distance to <i>European Site(s)</i> :	1.44km		
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 site</i> :	None		
Is the application accompanied by an EIAR?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>	
(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 site</i> synopses and, if applicable, a Conservation Management Plan; all available on <a href="http://www.npws.ie">www.npws.ie</a> ) <b>(ATTACH INFO.)</b>			



PLEASE SEE SHEET ATTACHED	
<b>(C) NPWS ADVICE:</b>	
Advice received from NPWS over phone:	None received
Summary of advice received from NPWS in written form <b>(ATTACH SAME):</b>	None received
<b>(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:</b>	
<i>(The purpose of this is to identify if the effect(s) identified could be significant – if <b>uncertain</b> 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>	
<b>Would there be...</b>	Not likely due to the location and The site is sufficient distance
... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).	
... a reduction in habitat area on a <i>European</i> site?	There will be no reduction in the The site is sufficient distance
... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the <i>European</i> site?	Not likely due to the location and The site is sufficient distance
... 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 The site is sufficient distance
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the <i>European</i> site?	None likely due to the location The site is sufficient distance
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.	No other plans known of in the The site is sufficient distance
<b>(E) SCREENING CONCLUSION:</b>	
<b>Screening can result in:</b>	
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?	<b>Category 2</b>

Justify why it falls into relevant category above:		<b>There would be no likely significant impact on the European site from the proposed development.</b>	
<b>Name:</b>	Michael Duffy		
<b>Position:</b>	Exec. Planner	<b>Date:</b>	19 <sup>th</sup> April 2024

Conservation objectives for Clara Bog SAC [000572]

The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. These habitats and species are listed in the Habitats and Birds Directives and Special Areas of Conservation and Special Protection Areas are designated to afford protection to the most vulnerable of them. These two designations are collectively known as the Natura 2000 network. European and national legislation places a collective obligation on Ireland and its citizens to maintain habitats and species in the Natura 2000 network at favourable conservation condition. The Government and its agencies are responsible for the implementation and enforcement of regulations that will ensure the ecological integrity of these sites. The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. Favourable conservation status of a habitat is achieved when: • its natural range, and area it covers within that range, are stable or increasing, and • the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and • the conservation status of its typical species is favourable. The favourable conservation status of a species is achieved when: • population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and • the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and • there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis. Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected: Code Description 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco Brometalia) (\* important orchid sites)\* 7110 Active raised bogs\* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the Rhynchosporion 91D0 Bog woodland\* \* denotes a priority habitat