

**Leitrim County Council**  
**Declaration of Exempted Development under Section 5 of**  
**Planning & Development Act, 2000 (as amended)**



**To:** Justin Fannon, A/Director of Services  
**From:** Geraldine Coen, Assistant Planner  
**Reference No.:** ED25-005  
**Referrer:** Cyril & Ann Doherty  
**Subject Matter:** Declaration under Section 5 of the Planning and Development Act 2000, as amended, as to whether **the construction of an extension, of floor area c.29m<sup>2</sup> and height 3.4m, to the rear of the existing house** constitutes development and, if so, whether such development is or is not exempted development.

**Location:** Drumsna, Carrick-on-Shannon, Co. Leitrim.  
**CC:** **CC68774**  
**Date Received:** **27<sup>th</sup> of January 2025**  
**Due Date:** **23<sup>rd</sup> of February 2025**  
**Date of report:** **14<sup>th</sup> of February 2025**

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**1. Introduction**

This is a request for a Declaration under Part 1, Section 5 of the Planning and Development Act 2000, as amended, as to whether a development is or is not exempted development. This referral case concerns the question as to whether the construction of a new extension, of floor area c.29m<sup>2</sup> and height 3.4m, to the rear of the existing house constitutes development and if so, whether it is or is not exempted development.

**2. Referral Submissions**

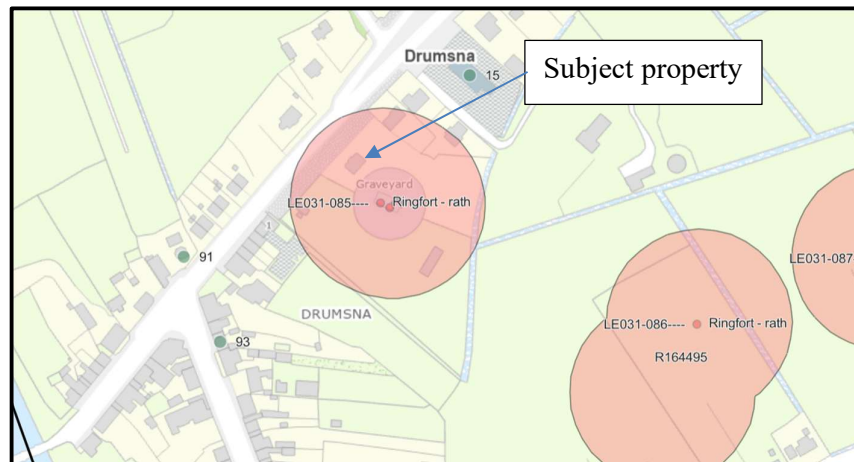
The subject application was received by the Planning Authority on 27<sup>th</sup> of January 2025.

**3. Site location and Description**

The site is located along local primary road LS-3656-2 in Drumsna village. The subject site contains the existing occupied dwelling.

The nearest Natura 2000 sites are Clooneen Bog SAC (Site Code IE002348) located c. 14.5km to the south, Lough Forbes Complex SAC (Site Code IE0001818) and Ballykenny-Fisherstown Bog SPA (Site Code 004101) located 16.5km to the south, and Cuilcagh-Anieran Uplands (Site Code 0000584) located c17km to the north of the subject site.

The subject site is within the zone of archaeological potential established around Recorded Monuments LE031-0085 Ringfort – Rath and LE031-085002 Burial Ground.



#### 4. Planning History

P1636 – Permission to erect bungalow at Quay Street, Drumsna, Co. Leitrim.

At the time of site inspection and upon review of the above history planning file, it is noted that the front elevation of the dwelling is slightly different to that shown on the drawings permitted under the original planning permission in 1971, specifically a window has been omitted from the front elevation of the dwelling. The original permission provided for two number windows on the front elevation to serve the area annotated bedroom 1 on the drawings submitted, whereas only one window has been provided (see photographs below). I consider that this deviation from the original grant of permission does not raise any significant planning concerns and does not materially affect the external appearance of the structure so as to render it inconsistent with the character of the structure or neighbouring structures, and as such can be considered as exempt pursuant to Section 4(1)(h) of the Planning & Development Act 2000 (as amended).

#### 5. Photographs of subject property taken 12<sup>th</sup> of February 2025



*Front elevation of subject property*



*Rear elevation of subject property showing extension*



*Rear elevation of subject property showing extension*

## **6. Relevant Legislation**

### **6.1 Planning and Development Act, 2000 (as amended)**

#### ***Section 3 Development***

*Section 3 (1) In this Act ‘development’ means, except where the context otherwise requires, the carrying out of any works on, in, or under land or the making of any material change in the use of any structures or other land.*

#### ***Section 4 Exempted Development***

*S. 4.(1) The following shall be exempted developments for the purposes of this Act—*

*(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 or 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 of neighbouring structures;*

*S.4 (2) (a) 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, or*

*(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).*

*(b) Regulations under paragraph (a) may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.*

*(c) Regulations under this subsection may, in particular and without prejudice to the generality of paragraph (a), provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.*

## **6.2 Planning and Development Regulations, 2001 (as amended)**

*Article 6(1) of the Planning and Development Regulations 2001, as amended, states 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.*

Article 9(1) of the Planning and Development Regulations 2001, as amended, identifies restrictions on exemptions. Of relevance in this case would be the following:

*(a) if the carrying out of such development would –*  
*(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*  
*(iii) endanger public safety by reason of traffic hazard or obstruction or road users*  
*(vi), interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*  
*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan, save any excavation, pursuant to and in accordance with a licence granted under [section 26](#) of the [National Monuments Act, 1930](#) (No. 2 of 1930),*

Class 1 of Schedule 2 Part 1 of *Exempted Development – General* allows for the following exemption subject to conditions and limitations as set out in column 2;

*Description of Development:**Development within the curtilage of a house*

*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.*

*Conditions and Limitations:*

*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.

## 7. ASSESSMENT

Having reviewed all of the documents relating to this referral, I consider the question to be based simply on whether or not **the construction of a new extension, of floor area c.29m<sup>2</sup> and height 3.4m to the rear of the existing dwelling** constitutes development and whether such development is or is not exempted development.

The **construction of a new extension, of floor area c.29m<sup>2</sup> and height 3.4m to the rear of the existing dwelling**, is *development* within the meaning of the Act.

### New Extension

In order to ascertain whether or not the development works constitute development which could be considered exempted development, the Planning Authority must consider whether the development will meet the conditions and limitations set out in Class 1 of Schedule 2 Part 1 of *Exempted Development – General* as set out above.

On the basis of my site inspection and the detail outlined in Q7 of the application form submitted, it is noted that the floor area of the extension is 29m<sup>2</sup>, therefore satisfying the limitation set out in Class 1(a).

Furthermore, based on the documentation submitted and further to a site inspection, I consider that the development will meet the applicable conditions and limitations set out in Class 1 of Schedule 2 Part 1 of *Exempted Development – General* as set out in Section 6 above.

### Minor alterations to the original dwelling

The alterations to the elevations of the dwelling must also be considered having regard to Section 4(1)(h) of the Planning & Development Act 2000 (as amended).

On the basis of the drawings attached to the history planning application associated with the subject property and an inspection of the development on site, it appears that other minor works have been carried out to the dwelling i.e. the closing up of one number window and the replacement of a window with patio doors on the rear elevation of the dwelling (see photographs above), together with the replacement of all windows and doors in the dwelling. I consider that these works do not materially affect the external appearance of the dwelling so as to render it inconsistent with the character of the dwelling and as such the works can be considered pursuant to Section 4 (1)(h) of the Planning & Development Act, 2000 (as amended) and are therefore exempt.

## 8. Environmental Impact Assessment and Appropriate Assessment

Section 4(4) of the Act sets out that development shall not be exempted development if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required.

The Planning Authority is satisfied that the subject development would not give rise to significant environmental effects and would therefore not require EIA.

The nearest Natura 2000 sites are Clooneen Bog SAC (Site Code IE002348) located c. 14.5km to the south, Lough Forbes Complex SAC (Site Code IE0001818) and Ballykenny-Fisherstown Bog SPA (Site Code 004101) located 16.5km to the south, and Cuilcagh-Anieran Uplands (Site Code 0000584) located c17km to the north of the subject site. Having regard to the nature and scale of the development, to the nature of the receiving environment and the proximity to the nearest European site, no Appropriate Assessment issues are considered likely to arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site. The Planning Authority is satisfied that the project does not require Stage II Appropriate Assessment under the Habitats Directive.

#### 9. Archaeological Impact

The subject site is within the zone of archaeological potential established around Recorded Monument LE031-0085 Ringfort – Rath and LE031-085002 Burial Ground.

It is noted that the development works are located on the northern periphery of the zone of potential established around the recorded site. The Planning Authority have not been informed of any archaeological remains being encountered during the course of construction of the extension. Nevertheless, the applicant shall be reminded of the presence of the Recorded Monuments and their obligations to consult with the National Monuments Service should the need arise.

#### 10. CONCLUSION

Having examined the submission, reviewed the planning history, inspected the site and reviewed all of the documents relating to this development, along with the relevant legislation, I consider the question to be based simply on whether or not **the construction of a new extension, of floor area c.29m<sup>2</sup> and height 3.4m to the rear of the existing dwelling** constitutes development and whether such development is or is not exempted development.

I have concluded that **the construction of a new extension, of floor area c.29m<sup>2</sup> and height 3.4m to the rear of the existing dwelling**, is *development* within the meaning of the Act.

I have also concluded that the newly built extension, is to the rear of the dwelling and therefore can be considered under Class 1 of Schedule 2 Part 1 of *Exempted Development – General*. The floor area of the newly built extension proposed does not exceed 40m<sup>2</sup>, thereby satisfying the conditions and limitations set out in Class 1(a).

I also consider that the minor alterations to the elevations of the dwelling do not materially affect the external appearance of the structure so as to render it inconsistent with the character of the structure and as such the works can be considered pursuant to Section 4 (1)(h) of the Planning & Development Act, 2000 (as amended).

I therefore conclude that **the construction of a new extension, of floor area c.29m<sup>2</sup> and height 3.4m to the rear of the existing dwelling** at Drumsna, Carrick-on-Shannon, Co. Leitrim is development and is exempted development.

#### **RECOMMENDATION**

Having regard to the foregoing I recommend that the Planning Authority issue the following Declaration under Section 5 of the Planning and Development Act 2000 (as amended):

**WHEREAS** a question has arisen as to whether **the construction of a new extension, of floor area c.29m<sup>2</sup> and height 3.4m to the rear of the existing dwelling**, constitutes development which is exempted development.

**AND WHEREAS** the said question was referred to Leitrim County Council by Cyril & Ann Doherty on 27<sup>th</sup> of January 2024.

**AND WHEREAS** Leitrim County Council, in considering this referral, had regard particularly to –

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

**AND WHEREAS** Leitrim County Council has concluded that –

- a) The construction of a new extension, of floor area c.29m<sup>2</sup> and height 3.4m, to the rear of the existing dwelling, constitutes development which is exempted development with the provisions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) applying in this instance, and;
- b) Section 4(1)(h) of the Planning and Development Act, 2000 (as amended) applies in this instance to the minor alterations works which have been carried out to the elevations of the dwelling. Said works, as observed at the time of site inspection, do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

**NOW THEREFORE** Leitrim County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the 2000 Act, as amended, hereby declares that:

**The construction of a new extension, of floor area c.29m<sup>2</sup> and height 3.4m to the rear of the existing dwelling**, constitutes development which is **exempted development**.

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**As a separate addendum to the above declaration, I recommend that the referee be advised of the following;**


Any existing or additionally proposed refurbishment works to the existing dwelling will need to satisfy the requirements of Section 4(1)(h) of the Planning & development Act 2000 (as amended) which states;



*S. 4.(1) The following shall be exempted development for the purposes of this Act—*

*(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 or 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 of neighbouring structures.*

As you may be aware your property is within the zone of archaeological potential established by the National Monuments Service around Recorded Monument LE031-0085 Ringfort – Rath and LE031-085002 Burial Ground. Please be advised that in the event that archaeological material was/is shown to be present during the course of any development works, works should/shall cease pending consultation with the National Monuments Service. Avoidance, preservation in-situ, preservation by record [archaeological excavation] and/or monitoring may be required. Any archaeological mitigation requirements specified by the National Monuments Service, shall be complied with by the developer. All resulting and associated archaeological costs shall be borne by the developer.



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**Geraldine Coen**  
**Assistant Planner**  
**Date: 14<sup>th</sup> of February 2025**



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**Liam Flynn**  
**Senior Executive Planner**  
**Date: 14/02/2025**