

Comhairle Contae Chill Dara
Kildare County Council



Date: 31st May 2024
Our Ref: ED/1113.

Paul McGuinness
c/o Alfred Jones,
The Studio,
Summerhill Court,
Summerhill Road,
Sandycove
Dun Laoghaire
Co. Dublin

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at 27 Osberstown Park, Sallins, Co. Kildare.

Dear Sir/Madam,

I refer to your correspondence received on 14th March 2024 in connection with the above.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 (as amended) in this regard.

Yours sincerely,



**Senior Executive Officer,
Planning Department.**



**Declaration of Development & Exempted Development under
Section 5 of the
Planning and Development Act 2000 (as amended).**

ED/1113.

WHEREAS a question has arisen as to whether a proposed single storey, pitched roof extension to the rear of an existing dwelling at 27 Osberstown Park, Sallins, Co. Kildare, is exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 14th March 2024

AND WHEREAS Paul McGuinness requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended); and
- (b) Planning and Development Regulations 2001 (as amended);

AND WHEREAS Kildare County Council has concluded that the development comprises works to which the provisions of the following applies:

NOW THEREFORE Kildare 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 single storey, pitched roof extension to the rear of an existing dwelling at 27 Osberstown Park, Sallins, Co. Kildare **is development and is exempted development pursuant to Section 4(1)(h) of the Planning and Development Act 2000 (as amended)** for the following reason:

- Sections 2, 3, and 5 of the Planning and Development Act 2000 (as amended);
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Exempted Development – “*Development within the curtilage of a house*” and
- The nature, extent and purpose of the works.

Comhairle Contae Chill Dara Kildare County Council



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.

31st May 2024.


Senior Executive Officer,
Planning Department.

KILDARE COUNTY COUNCIL



PLANNING & STRATEGIC DEVELOPMENT DEPARTMENT

Section 5 referral & declaration on development & exempted development

Planning & Development Act 2000 (as amended)

Reference No. ED/1113.

Name Of Applicant(s):	Paul McGuinness.
Address Of Development:	27 Osberstown Park, Sallins, Co. Kildare.
Development Description:	Extension to rear of dwelling.

Introduction

This is a request for a **DECLARATION** under Section 5(1) of the Planning and Development Act 2000 (as amended) to establish whether under Section 5 of the Act the construction of a single storey domestic extension to the rear of a two-storey semi-detached type dwelling is development and is exempted development.

Site Location

The application site is located in the existing residential development of Osberstown Park to the west of Sallins National School and to the northwest of Sallins and Naas Train Station.

Description of Proposed Development

The proposed development as described on the application form is as follows:

“Proposed single storey, pitched roof extension to rear with a floor area of 20.00sqm.”



Fig 1: Site Location and context (Approximate site location denoted by red star)

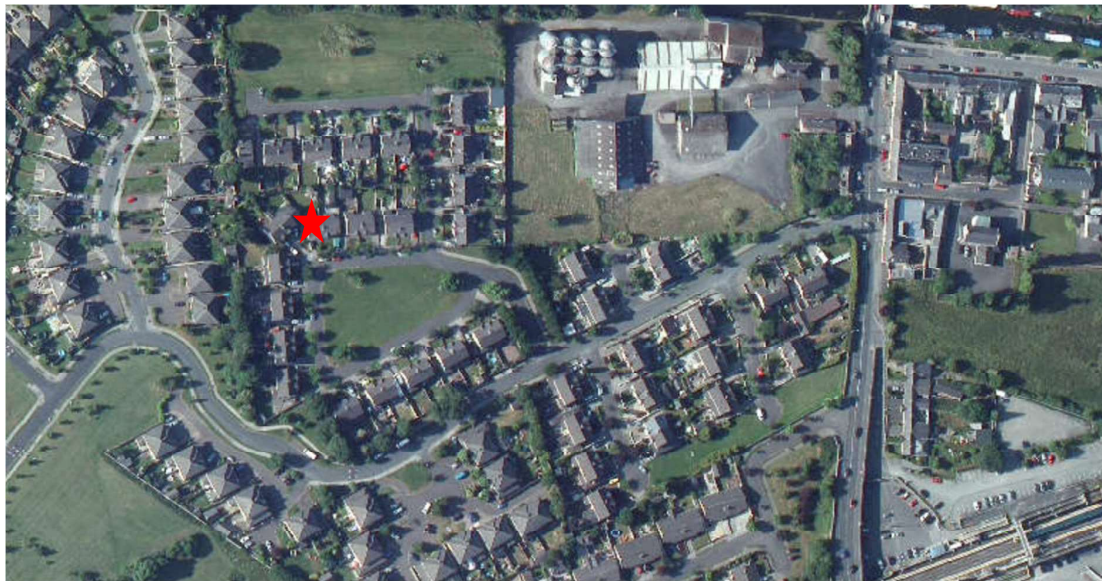


Fig 2: Aerial view of subject site (Google Images)

Planning History

None indicated on GIS.

Relevant Legislative Background

Planning and Development Act 2000 (as amended)

Section 2(1)

'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)

In this Act, '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 5(7) EIA Screening

The proposed development is not specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001(as amended). In any event, it is considered, having regard to nature, size and location, the proposed development would not be likely to have significant effects on the environment. Therefore, EIA is not required.

Planning and Development Regulations 2001 (as amended)

Article 6(1)

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)(a)(i)

Restrictions on exemption.

9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—.....(15 items)

Assessment

Having regard to definition of "development" under Section 3(1) of the Planning and Development Act 2000 (as amended), the subject works are considered to constitute development.

The application seeks a Declaration of Exempted Development on the basis of Article 6, which relates to development within the curtilage of a house.

The application has been assessed against each of the provisions of Class 1, column 2 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)

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."

There are a number of conditions and limitations attached to Class 1, which have been assessed in the context of the extension as follows:

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

The existing house does not appear to have been extended previously. The floor area of the subject single storey extension is 20 sqm.

(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.

Not applicable as the subject extension is single storey.

(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.

Not applicable as the existing house is not a detached unit.

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.

Not applicable as the house has not been extended previously.

(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.

Not applicable as the subject extension is single storey.

(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.

The existing house is not detached.

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

Not applicable the subject extension is single storey.

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.

The subject extension is a single storey extension to the rear of an existing two storey dwelling. Therefore, the height of the walls of the subject extension does not exceed the height of the rear wall of the existing 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.

As above.

(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 subject extension is a single storey extension to the rear of an existing two storey dwelling, the height of the roof does not therefore extend beyond that 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 development does not reduce the area of private open space, reserved exclusively for the use of the occupants of the houses, 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.

There are no windows less 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.

Not applicable, the subject extension is single storey.

(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.

Not applicable, the subject extension is single storey and the existing dwelling is a semi-detached dwelling.

7. The roof of any extension shall not be used as a balcony or roof garden.

The subject works do not include a balcony or roof garden.

Conclusion

Having regard to:

- Sections 2, 3, and 5 of the Planning and Development Act 2000 (as amended);
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Exempted Development – “*Development within the curtilage of a house*” and
- The nature, extent and purpose of the works;

it is considered that the proposed works **constitutes development** as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and **is exempted development** as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

Recommendation

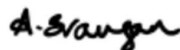
It is recommended that the applicant be advised that the development as described in the application *is development and is exempted development*.

Signed: 
Assistant Planner
Date: 17/05/2024

Signed:


A/Senior Executive Planner

31/05/2024



Aoife Brangan
A/SP
31/05/24

Declaration of Development & Exempted Development under

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether a proposed single storey, pitched roof extension to the rear of an existing dwelling

AS INDICATED on the plans and particulars received by the Planning Authority on 14/03/2024

AND WHEREAS *Paul McGuinness* requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended); and
- (b) Planning and Development Regulations 2001 (as amended);

AND WHEREAS Kildare County Council has concluded that the proposal comprises of development to which the provisions of the following applies:

NOW THEREFORE Kildare 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 -

- Sections 2, 3, and 5 of the Planning and Development Act 2000 (as amended);
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Exempted Development – “Development within the curtilage of a house” and
- The nature, extent and purpose of the works;

IS development and IS EXEMPTED development pursuant to Section 2, 3 and 5 of the Planning and Development Act as amended and Article 6, Article 9 of the Planning and Development Regulations as amended and Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations as amended.

Please note that any person issued with a declaration under Section 5 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.

Signed: _____

Appendix 1: Appropriate Assessment Screening

**APPROPRIATE ASSESSMENT SCREENING REPORT
AND
DETERMINATION**



(A) Project Details

Planning File Ref	ED1113
Applicant name	Paul McGuinness
Development Location	27 Osberstown Park, Sallins, Co. Kildare.
Site size	c. 0.03 Ha
Application accompanied by an EIS (Yes/NO)	No
Distance from Natura 2000 site in km	c. 8km from Ballynafagh Bog SAC
Description of the project/proposed development – Single storey extension to rear of dwelling	

(B) Identification of Natura 2000 sites which may be impacted by the proposed development

			Yes/No If answer is yes, identify list name of Natura 2000 site likely to be impacted.
1	Impacts on sites designated for freshwater habitats or species. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh lake	<i>Is the development within a Special Area of Conservation whose qualifying interests include freshwater habitats and/or species, or in the catchment (upstream or downstream) of same?</i>	NO
2	Impacts on sites designated for wetland habitats - bogs, fens, marshes and heath. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Mouds	<i>Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats (bog, marsh, fen or heath), or within 1 km of same?</i>	NO

	Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake		
3	Impacts on designated terrestrial habitats. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh Lake	<i>Is the development within a Special Area of Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?</i>	NO
4	Impacts on birds in SPAs <u>Sites to consider:</u> Poulaphouca Reservoir	<i>Is the development within a Special Protection Area, or within 5 km of same?</i>	NO

Conclusion:

If the answer to all of the above is **No**, significant impacts can be ruled out for habitats and bird species.

No further assessment in relation to habitats or birds is required.

If the answer is **Yes** refer to the relevant sections of **C**.

(G) SCREENING CONCLUSION STATEMENT		
<i>Selected relevant category for project assessed by ticking box.</i>		
1	AA is not required because the project is directly connected with/necessary to the conservation management of the site	
2	No potential significant affects/AA is not required	X
3	Significant effects are certain, likely or uncertain. Seek a Natura Impact Statement Reject proposal. (Reject if potentially damaging/inappropriate)	
Justify why it falls into relevant category above (based on information in above tables)		
Having regard to the proximity of the nearest Natura 2000 site and given the nature and extent of the proposed development, it is not considered there would be potential for significant effects on the Natura 2000 network.		
Name:	C. Dockery	
Position:	Assistant Planner	
Date:	17/05/2024	

COMHAIRLE CONTAE CHILL DARA

KILDARE COUNTY COUNCIL



Director of Services Order

I, Alan Dunney, Director of Services, am duly authorised and delegated by Chief Executive's Order number: CE48043 to make the following Order in accordance with Section 154 of the Local Government Act, 2001, as amended.

ORDER NO: DO53005 **Section:** Planning

SUBJECT: ED1113
Paul McGuinness, c/o Alfred Jones, The Studio, Summerhill Court, Summerhill Road, Sandycove, Dun Laoghaire, Co. Dublin. Exempt Development for a proposed single storey, pitched roof extension to the rear of an existing dwelling at 27 Osberstown Park, Sallins, Co. Kildare.

SUBMITTED: ED1113 with recommendation from the Senior Executive Planner and reports from the Council's Technical Officers.

ORDER: **I hereby order the following** Kildare 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 development is development and is exempted development.

abt

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act (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.

MADE THIS 31st DAY

OF May YEAR 2024

SIGNED: Alan Dunney

DIRECTOR OF SERVICES

Kildare County Council

Declaration of Exempt Development under Section 5, of the Planning and Development Act 2000 as amended

ED/113

Rec'd 14/3 &

Incomplete application forms will
be deemed invalid and returned



All responses must be in block
letters

Section 1

Details of Applicants

1. Name of Applicant(s) A. Surname McGUINNESS Forenames PAUL
Phone No. [REDACTED] Fax No. [REDACTED]
2. Address 27 OSBERSTOWN PARK SALLINS
CO KILDARE

Section 2

Person/Agent acting on behalf of applicant (if applicable)

1. Name of Person/Agent: Surname JONES Forenames ALFRED
Phone No. 087-2503721 Fax No. [REDACTED]
2. Address THE STUDIO, SUMMERHILL COURT, SUMMERHILL ROAD
SANDYCove, DUN LAOGHAIRE CO DUBLIN

Section 3

Company Details (if applicable)

1. Name of Company N/A
Phone No. [REDACTED] Fax No. [REDACTED]
2. Company Reg. No. [REDACTED]
3. Address [REDACTED]



Section 4

Details of Site

1. Planning History of Site NONE
2. Location of Proposed Development Nº 27 OSBERSTOWN PARK,
SALLINS, CO KILDARE
3. Ordnance Survey Sheet No. 3509-A KEO19
4. Please state the Applicants interest in the site FREE HOLD
5. Please state the extent of the proposed development EXTENSION TO REAR, - 20.00 sqm

6. Under what Section of the Planning and Development 2000 as amended and/or what provision of the Planning and Development Regulations 2001 as amended is exemption sought (specific details required) CLASS 1 OF PART 1 SCHEDULE 2 (EXEMPT DEVELOPMENT)
OF PLANNING & DEVELOPMENT REGULATIONS 2001

7. Please give a detailed description of the Proposed Development (Use separate page if necessary).....

PROPOSED SINGLE STOREY, PITCHED ROOF
EXTENSION TO REAR, WITH A FLOOR
AREA OF 20.00 sq.m



Section 5	The following must be submitted for a valid application
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		(Please Tick)
1.	Site Location Map (1:2500 Rural Areas) (1:1000 Urban Areas) <u>SEE DRAWING NO - S5APPO1</u>	<input checked="" type="checkbox"/>
2.	A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended <u>SEE DRWG NO - S5APPO1</u>	<input checked="" type="checkbox"/>
3.	Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended <u>SEE DRWGS NO - S5APPO1 & S5APPO2</u>	<input checked="" type="checkbox"/>
4.	All drawings to differentiate between the original building, all extensions and proposed development <u>SEE DRWGS NO S5APPO2.</u>	<input checked="" type="checkbox"/>
5.	Fee of 80 Euro	<input checked="" type="checkbox"/>

Section 6	Declaration
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I, ALFRED JONES certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Signature: Alfred Jones FRIAT

Date: 13th MARCH 2024



FINANCE CASH OFFICE
Kildare County Council
Áras Chill Dara
Devoy Park
Naas
Co. Kildare
14/03/2024 14:32:34

Receipt No. : FIN170/497609
***** REPRINT *****

ED113 Paul Mc Guinness

PLANNING EXEMPT DEVELOP FEES 80.00
GOODS 80.00
VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :
Credit Card 80.00
Revolut
**2040
0000

Change : 0.00

Issued By : Sally Pallister Finance Section
From : Financial Lodgement Area
Vat reg No.0440571C