

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

To: Justin Fannon – A/Director of Services
From: Deirdre Lardner – A/Executive Planner
Reference No.: ED 25-06
Referrer: Ivan Huston
Subject Matter Declaration under Section 5 of the Planning and Development Act 2000 (as amended) as to whether, the renovation of the existing dwelling (comprising rewiring, plumbing, internal insulation and external nap plastering) and construction of a single storey extension with a floor area of 22m² to the rear of the existing dwelling, is exempted development under the said Act.
Location Bridge Street, Mohill, Co. Leitrim N41 DK79
Date Received: 27 January 2025

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 renovation of the existing dwelling (comprising rewiring, plumbing, internal insulation and external nap plastering) and the construction of a single storey extension with a floor area of 22m² to the rear of the existing dwelling is development and is exempted development.

1.1 The subject site is located on Bridge Street in Mohill and has been attributed a 'Mixed Use' zoning designation in the Leitrim County Development Plan 2023-2029. The land has been identified as subject to inundation associated with the Rinn river which flows through the town. The land is within the Mohil Architectural Conservation Area. The land contains a two storey, semi-detached dwelling. The dwelling is well established at this location and is in a state of disrepair. The recent Mohill Public Realm works have installed a paved public footpath along the front boundary.

1.2 There are no Natura 2000 sites proximate to the subject site. The land is within the zone of archaeological potential for recorded sites and monuments LE032-068002; LE032-068001; LE032-068004; LE032-068003;

2. REFERRAL SUBMISSIONS

2.1 The subject application was received by the Planning Authority on the 27 January 2025 from the owner Ivan Huston c/o Louise Huston.

2.2 The proposed single storey dwelling extension will be sited to the rear of the existing dwelling and will comprise a floor area of 22m².



Existing dwelling – side access and rear garden

3. PLANNING HISTORY

- Ref P.7757 – on 25/11/1983 a temporary permission, limited to 3 years, was granted to Mr. Ivan Huston for change of use from a shoe shop to a video games arcade at the subject site. There is correspondence on file dated 08/07/1986 advising that the premises did operate as a video games arcade following the granting of planning permission but that the use had ceased.
- Ref P.290 – on 31/05/1968 permission was granted to Mr. Frank Heeran to erect a lean/to shed on the subject site.

4. RELEVANT LEGISLATION

4.1 Planning and Development Act, 2000 (as amended)

S.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.

*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.

4.2 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, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area 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 and the development would materially affect the character of the area

Class 1 of Schedule 2 Part 1 of the *Exempted Development –General* allows for the following exemption:

Description of Development:

Development within the curtilage of a house

CLASS 1 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.

5. ASSESSMENT

5.1 The subject dwelling extension will be located fully to the rear of the existing dwelling and comprises of a single storey addition with a floor area of 22m². This is within the condition limitations of Class 1 of Schedule 2 Part 1 of the *Exempted Development –General*.

5.2 The property is within the Mohill Architectural Conservation Area. No changes are proposed to the building in terms of openings, but a new nap plaster external finish is proposed. This will not materially affect the character of the area, and the overall scale and traditional form will be maintained and preserved through the renovation and reoccupation of the vacant dwelling.

5.3 The land is within the zone of archaeological potential for recorded sites and monuments LE032-068002; LE032-068001; LE032-068004; LE032-068003; which are subject to statutory protection in the Record of Monuments and Places, established under Section 12 of the National Monuments Act 1930 (as amended).

In consideration of the scale of the extension proposed, which comprises a floor area of 22m², it is considered unlikely that the development will impact on the recorded site. Nevertheless, I consider it important to advise the applicant to be mindful of the presence of the Recorded Monuments and that in the event that archaeological material is shown to be present during the course of the works, works 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. The applicant should consult with the Development Applications Unit in this regard.

6. 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 site is Clooneen Bog SAC (Site Code 002348) which is located c.12km south 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 proposed 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.

7. CONCLUSION

Having examined the submission and reviewed all of the documents relating to this development, along with the relevant legislation and the history of the site, I conclude that the renovation of the existing dwelling (comprising rewiring, plumbing, internal insulation and external nap plastering) and construction of a single storey extension with a floor area of 22m² to the rear of the existing dwelling at Bridge Street, Mohill, Co. Leitrim N41 DK79 is development and is exempted development. Therefore, I recommend that the referrer be advised that the renovation of the existing dwelling (comprising rewiring, plumbing, internal insulation and external nap plastering) and construction of a single storey extension with a floor area of 22m² to the rear of the existing dwelling at the subject site 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 renovation of the existing dwelling (comprising rewiring, plumbing, internal insulation and external nap plastering) and the construction of a single storey extension with a floor area of 22m² to the rear of the existing dwelling at Bridge Street, Mohill, Co. Leitrim N41 DK79 constitutes development which is exempted development

AND WHEREAS the said question was referred to Leitrim County Council by Ivan Huston c/o Louise Huston on 27 January 2025

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

- (a) Section 3(1) and 4(2) of the Planning and Development Act, 2000 (as amended)
- (b) Article 6 (1) and Article 9 (1)(a) of the Planning and Development Regulations 2001 (as amended)
- (c) 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 renovation of the existing dwelling (comprising rewiring, plumbing, internal insulation and external nap plastering) constitutes development within the meaning of Section 3 of the Planning and Development Act 2000 (as amended)
- (b) the construction of a single storey extension with a floor area of 22m² to the rear of the existing dwelling at Bridge Street, Mohill, Co. Leitrim N41 DK79 constitutes development within the meaning of Section 3 of the Planning and Development Act 2000 (as amended) and satisfies the exemption at Class 1 of Schedule 2 Part 1 of the *Exempted Development –General*
- (c) the proposed renovation works, specifically the external nap plastering finish, will not materially affect the character of the area and the architectural conservation area in which it is situated and is considered exempted development

NOW THEREFORE Leitrim 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 declares that:

The renovation of the existing dwelling (comprising rewiring, plumbing, internal insulation and external nap plastering) and the construction of a single storey extension, with a floor area of 22m² to the rear of the existing dwelling at Bridge Street, Mohill, Co. Leitrim N41 DK79 constitutes development which is exempted development.

As a separate addendum to the above declaration, I recommend that the referrer be advised of the following:


The following limitations as set out in Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) are applicable to the exemption issued in respect of the provision of the extension to the rear of the dwelling:

- The height of the walls of any such extension shall not exceed the height of the rear wall of the house.
- 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.
- Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.
- The roof of any extension shall not be used as a balcony or roof garden.

You are also advised that the National Monuments Service has identified the land as being within the zone of archaeological potential for recorded sites and monuments LE032-068002; LE032-068001; LE032-068004; LE032-068003; which are subject to statutory protection in the Record of Monuments and Places, established under Section 12 of the National Monuments Act 1930 (as amended). In the event that archaeological material is shown to be present during the course of the development works, works 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. You are required to liaise with the Development Applications Unit with regards archaeological impact (manager.dau@chg.gov.ie).



Deirdre Lardner
A/Executive Planner
Date: 12/02/2025



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