

COMHAIRLE CHONTAE CEATHARLOCHA
CARLOW COUNTY COUNCIL

CARLOW
COUNTY COUNCIL
COMHAIRLE CHONTAE CEATHARLOCHA



COUNTY BUILDINGS, ATHY ROAD, CARLOW.

Tel: Phone: 059-9170300/ Fax: 059-9170836

Website: www.carlow.ie

**Application Form for Section 5 Declaration on Development &
Exempted Development**

1. Name of applicant: Sophia Jones

2. Address of applicant: [REDACTED]

3. Name and address for correspondence: As Above

Tel. No: [REDACTED] Fax No: [REDACTED] E-mail: [REDACTED]

4. Location of Development: Townland: The Orchard, Burrin Road, Paupish, Co. Carlow

Postal Address: (if different from Townland): [REDACTED]

5. Name and Address of Agent: Séamus Grogan, BE CEng MIEI

EssGee Consultants, 1 Southern Gardens, Kilkenny Road, Carlow 087 2505438

6. Outline clearly the description of the development / proposal:

An extension to a bedroom on the first floor to the rear of the two storey house.

The house is detached, the floor area of the extension above ground level does not exceed 20 square metres. (Schedule 2 Part 1, Class 1, Condition 1(c))

7. Is this a Protected Structure or within the curtilage of a Protected Structure: No
8. List any previous applications relating to the site: PL 22/24
9. Are you aware of any enforcement proceedings relating to this site: No
10. Please state applicant's interest in this site: Owner
11. List of plans, drawings etc. submitted with this application: _____

Site Location Map

Site Layout Map

PP -001 Plans & Elevations

Signed: _____

Sophia Jones
(Signature of Applicant)

Date: 23/01/2023

Note: This application must be accompanied by:

Payment of Fee: This application must be accompanied by the statutory fee of €80

Lodgement: The application should be forwarded to:
Planning Department
Carlow County Council
Athy Road
Carlow

OFFICE USE ONLY

Date Received: _____

Date Decision Due: _____

Date of Decision: _____

Recommendation: _____

Advice Note:

This is a non-statutory advice note prepared by Carlow County Council for the purposes of advising applicants what information is required for a decision to be made under Section 5 by the Planning Authority.

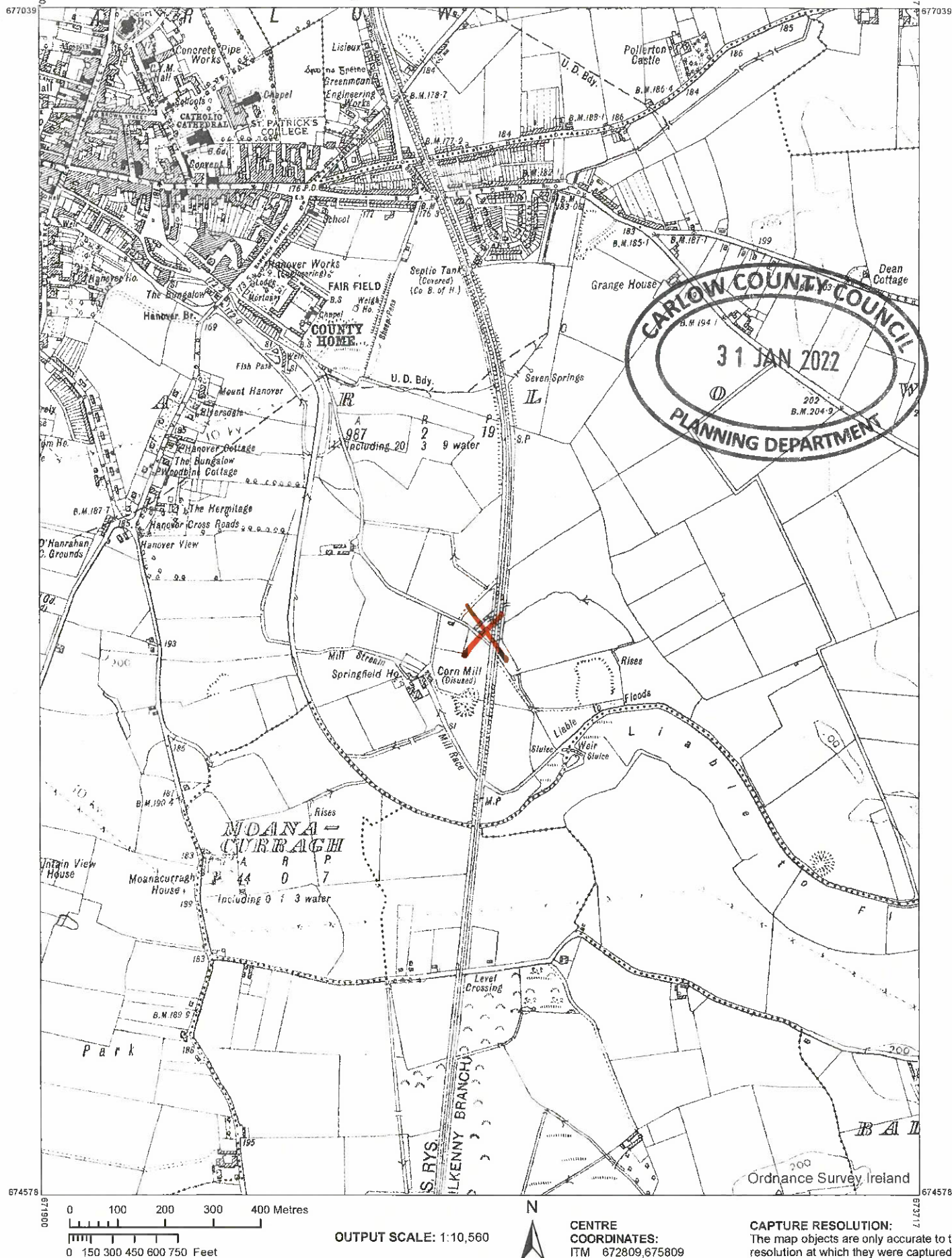
Under Section 5 of the Planning and Development Act 2000 as amended any person may request in writing from the Planning Authority as declaration as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of the Planning and Development Act 2000 as amended.

The Planning Authority is required to make a decision within 4 weeks of receipt of a Declaration Request under Section 5, along with the prescribed fee, however the Planning Authority can also request Additional Information if it is considered that insufficient information has been submitted.

Therefore, it is advised that the following information should be submitted to enable the Planning Authority to make a qualified decision within the prescribed period:

- A site location map (Scale 1:2500 in rural area and 1:1000 in an urban area), with the site clearly outlined in red.
 - Site Layout Map (Scale 1:500) in compliance with Article 23 of the Planning and Development Regs 2001 as amended.
 - Drawings (Scale 1:50) Where development involves any construction of a new structure, increase in size of existing structure or alterations to an existing structure, scaled floor plans and elevations. Drawings should differentiate between the original building, all extension and proposed development.
-

Site Location Map



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CENTRE COORDINATES: ITM 672809, 675809

PUBLISHED: 19/01/2022
ORDER NO.: 50244399_1
MAP SERIES: 6 Inch Raster
MAP SHEETS: CW007, LS037

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LEGEND: <http://www.osi.ie>; search 'Large Scale Legend'

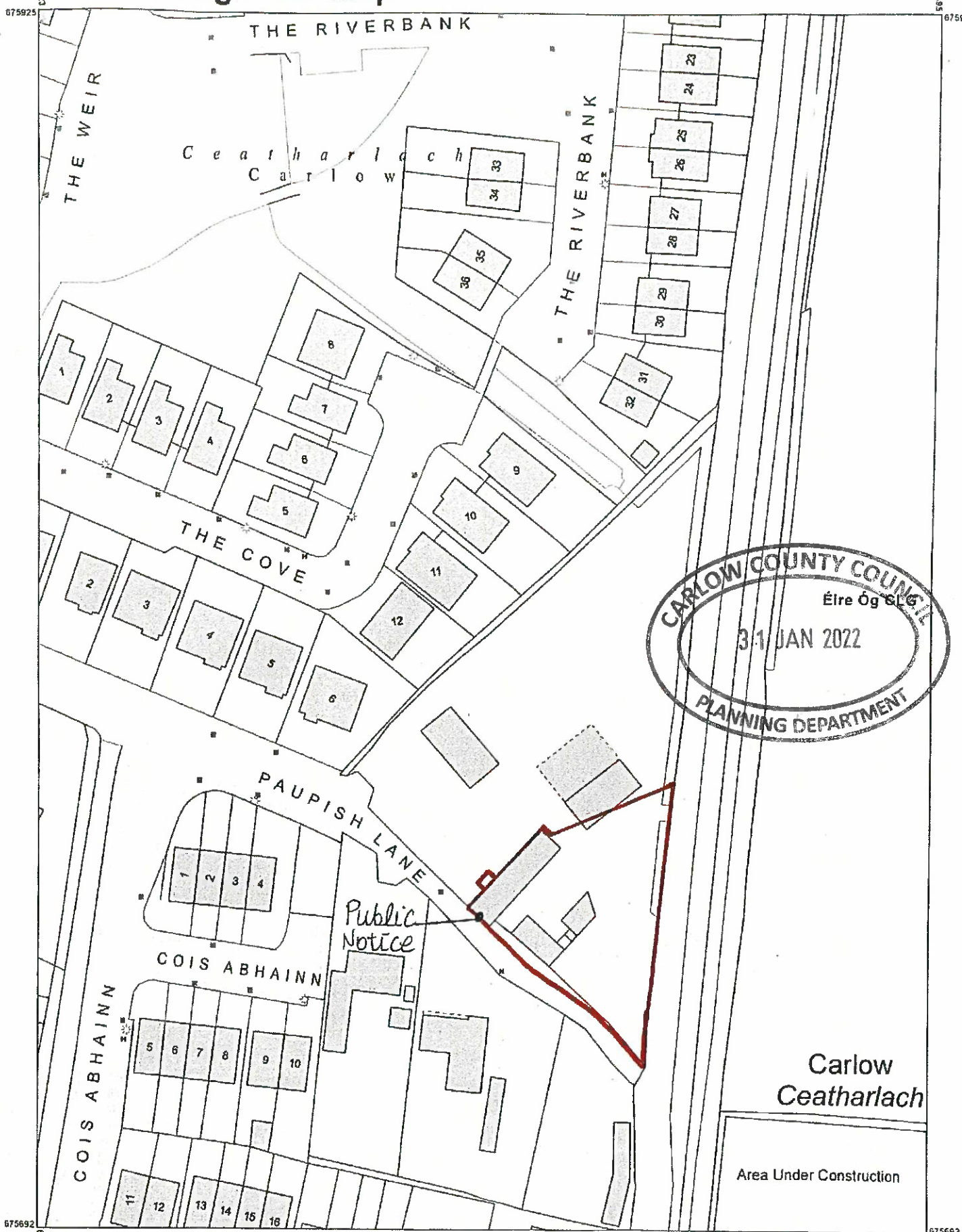
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www.osi.ie

site in Red

Planning Pack Map

675925

675925



675692 672723 672895

0 9.5 19 28.5 38 Metres
0 10 20 30 40 50 Feet

OUTPUT SCALE: 1:1,000



CENTRE
COORDINATES:
ITM 672809,675809

PUBLISHED: 19/01/2022
MAP SERIES: 1:1,000
ORDER NO.: 50244399_1
MAP SHEETS: 4357-16
4357-17

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area in red

Re: Sec 5/23/05 - Application for Exemption Certificate under Section 5 of the Planning and Development Act, 2000 (as amended) – An extension to a bedroom on the first floor to the rear of a detached house. The floor area of the extension above ground level does not exceed 20 square metres (Schedule 2 Part 1, Class 1, Condition 1(c)).

Applicant: Sophia Jones

Name and Address for Correspondence: Sophia Jones, 

I refer to documentation submitted to the Planning Authority in relation to the above on the 24th January 2023.

Planning History

There is one number recent previous planning application on this site.

PL. 22/24 – Permission for the following, the demolition of an existing storey and a half type dwelling and existing sheds. Permission for the construction of a replacement two storey dwelling and domestic garage, new entrance, associated boundary treatments, connection to services, and all associated site works at The Orchard, Burrin Road, Paupish, Co. Carlow. Permission Granted on the 07/10/2022 subject to 13 number conditions.

Archaeology/Protected Structures/Architectural Conservation Area/SAC

The site is located outside the Zone of Archaeological Potential for Carlow town and there are therefore no archaeological implications associated with the proposed development.

The site is not located within an Architectural Conservation Area and there are no designated Protected Structures in close proximity to the site.

There is a waterbody which runs along the sites side /eastern boundary which flows into the Burren River located approx. 265m to the southeast of the site which is a tributary of the River Barrow cSAC which is located approx. 1.17km to the west of the site.

A Stage 1 Appropriate Assessment Screening Report and Construction Environmental Management Plan carried out by Panther Environmental Solutions Ltd was carried out under the permission PL. 22/24.

The report/assessment concluded that there will be no significant effects arising from the proposed development in relation to the River Barrow and River Nore SAC or any other Natura 2000 site in the wider hinterland.

The site is not located within an area identified as a Flood Risk Zone under the CFRAM mapping system nor under the Carlow Town Land Use Zoning Map contained within the Carlow County Development Plan 2022-2028.

The site and area is zoned Existing/Infill Residential in the Carlow Town Land Use Zoning Map contained within the Carlow County Development Plan, 2022-2028.

Environmental Impact Assessment (EIA)

Having regard to the nature, size and location of the proposed development as detailed in the plans and particulars received, it is considered that there is no real probability of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination would not be required.

Unauthorized Development

There are no unauthorized development/enforcement files in relation to the property in question.

Considerations

The proposal will be assessed within the provisions of:

- Sections 3 & 4 of the Planning and Development Act 2000 (as amended); and
- Articles 5, 6 and 9 and Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended).

Does the proposal constitute development?

Section 3 of the Planning and Development Act 2000 (as amended) defines development as “the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land”. The proposed works, which involve the construction of a single storey extension to the rear elevation of an existing dwelling house currently under construction are deemed to constitute development within the meaning of this definition.

Does the proposal constitute exempted development?

Article 6 (1) of the Regulations state that subject to Article 9, development of a class specified in Part 1 of Schedule 2 of the Regulations shall be exempted development provided that such development complies with the conditions and limitations specified.

Class 1 of Part 1 of Schedule 2, Condition 1 (c) relates to the following development:

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.

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

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

Assessment

A site inspection was carried out on Wednesday 8th February 2023 by the undersigned. The two storey dwelling house with single storey rear element/extension permitted under planning reference number PL.22/24 is **under construction and not finished and not occupied**. The dwelling house under construction is up to roof level with roof timbers and felt over same in place. The extension is being constructed in conjunction with the development permitted under ref: 22/24. The development does not therefore constitute an extension to a dwelling.

The proposal the subject of this Section 5 Exemption Certificate consisting of the construction of an extension to a bedroom at first floor level to the rear of the permitted two storey detached house with the floor area of the extension above ground level not exceeding 20 square metres with a measured gross floor area of 9.4m² and externally a measurement of 12.42m² is **being constructed to the rear of the permitted dwelling under planning reference number PL. 22/24 – which is currently unfinished and unoccupied**.

This first-floor extension represents a material alteration to the dwelling design which was permitted namely a two storey with single storey rear element/extension dwelling house which is under construction and is unoccupied and **not** an extension to an existing dwelling house. Consequently, the exemptions in relation to extensions to dwellings under Planning and Development Regulations 2001-2022, Schedule 2, Part 1, Class 1, Condition 1 (c) Exempted Development and the Conditions and Limitations as set out in Column 2 **are not applicable in this instance**.

Conclusion

Having had regard to:

- Sections 3 and 4 of the Planning and Development Act 2000 (as amended),
- Articles 5, 6 and 9 of the Planning and Development Regulations 2001 (as amended),
- Schedule 2, Part 1, Class 1 Condition 1 (c) of the Planning and Development Regulations 2001 (as amended),

The following is concluded:

The development of an extension to a bedroom on the first floor to the rear of a detached house. The floor area of the extension above ground level does not exceed 20 square metres as submitted on the 24th January 2022 to an unfinished and unoccupied detached dwelling is considered to be development and is not exempted development. The proposal constitutes development by reference to the definition of works and development given in Section 3 of the Act. The development contravenes condition no. 1 of permission ref: 22/24. Furthermore the extension is being carried out concurrent with the development permitted under ref 22/24 and does not constitute an extension to a dwelling.

NOW THEREFORE Carlow County Council, in exercise of the powers conferred on it by Section 5(2)(a) of Planning and Development Act 2000 (as amended), hereby decides that the development of the extension as submitted is development and is not exempted development.

Signed

Paula Murphy
Exec. Planner

9th February 2023.

L.S.

S.P

13/2/23.

Declaration on Development & Exempted Development

Section 5 of the

Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether an extension to a bedroom on the first floor to the rear of a detached house. The floor area of the extension above ground level does not exceed 20 square metres is or is not development and is or is not exempted development, at The Orchard, Burrin Road, Paupish, Co. Carlow;

AS INDICATED on the plans and particulars received by the Planning Authority on 24/01/23;

AND WHEREAS Sophia Jones, [REDACTED] requested a declaration on the said question from Carlow County Council;

AND WHEREAS Carlow 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) The proposal as detailed in the submitted plans and particulars;
- (b) Permission reference no. 22/24 and condition no. 1 pertaining thereto;
- (c) Sections 3 and 4 of the Planning and Development Act 2000 (as amended);
- (d) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- (e) Class 1 in Part 1 of Schedule 2, Condition 1 (c) of the Planning and Development Regulations 2001 (as amended);

AND WHEREAS Carlow County Council has concluded that;

- (a) The proposal constitutes works and therefore development within the meanings ascribed to same in Sections 3 of the Planning and Development Act 2000 (as amended);
- (b) The proposal which includes an extension to a bedroom on the first floor to the rear of a detached house. The floor area of the extension above ground level does not exceed 20 square metres to a detached two storey with single storey element to the rear as permitted under planning reference PL. 22/24 which is currently **under construction and unoccupied would contravene Condition Number 1(a) attached to PL. 22/24**

and therefore as detailed under Article 9 (1) (a) (i) of the Planning and Development Regulations 2001 (as amended), is not exempted development for the purposes of the Act. Condition Number 1(a) attached to PL. 22/24 reads –

In so far as the Planning and Development Act 2000 (as amended) and the Regulations made thereunder are concerned, the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application on 31/01/2022, as amended by plans and particulars lodged on 02/08/2022 and 09/08/2022, save as required by the conditions attached hereto.

Reason: In the interests of proper planning and development and to clarify the detailed development proposals authorised by this permission.

- (c) The proposal includes an extension to a bedroom on the first floor to the rear of a detached house. The floor area of the extension above ground level does not exceed 20 square metres to a detached dwelling **under construction and unoccupied** and therefore does not come within the scope of Class 1 in Part 1 of Schedule 2, Condition 1 (c) of the Planning and Development Regulations 2001 (as amended);

NOW THEREFORE Carlow 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 proposal for an extension to a bedroom on the first floor to the rear of a detached house. The floor area of the extension above ground level does not exceed 20 square metres to a detached dwelling **under construction and unoccupied, is development and is not exempted development.**

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.

Signed:

Paula Murphy
Exec. Planner

9th February 2023.

APPENDIX ONE

DESCRIPTION OF PROJECT AND LOCAL SITE

Sec 5/23/01 - Application for Exemption Certificate under Section 5 of the Planning and Development Act, 2000 (as amended) – An extension to a bedroom on the first floor to the rear of a detached house. The floor area of the extension above ground level does not exceed 20 square metres (Schedule 2 Part 1, Class 1, Condition 1(c)) at The Orchard, Burrin Road, Paupish, Co. Carlow.

Site Location:

The Orchard, Burrin Road, Paupish, Co. Carlow.

Site Size:

Floor area of proposed development:

The extension above ground level not exceeding 20 square metres with a measured gross floor area of 9.4m² and externally a measurement of 12.42m²

Identification of nearby Natura 2000 site(s): The River Barrow and River Nore SAC

There is a waterbody which runs along the sites side /eastern boundary which flows into the Burren River located approx. 265m to the southeast of the site which is a tributary of the River Barrow cSAC which is located approx. 1.17km to the west of the site.

A Stage 1 Appropriate Assessment Screening Report and Construction Environmental Management Plan carried out by Panther Environmental Solutions Ltd was carried out under the permission PL. 22/24.

The report/assessment concluded that there will be no significant effects arising from the proposed development in relation to the River Barrow and River Nore SAC or any other Natura 2000 site in the wider hinterland.

The characteristics of existing, proposed or other approved projects which may cause interactive/cumulative impacts with the project being assessed and which may affect the Natura 2000 site:

There is a waterbody which runs along the sites side /eastern boundary which flows into the Burren River located approx. 265m to the southeast of the site which is a tributary of the River Barrow cSAC which is located approx. 1.17km to the west of the site.

A Stage 1 Appropriate Assessment Screening Report and Construction Environmental Management Plan carried out by Panther Environmental Solutions Ltd was carried out under the permission PL. 22/24.

The report/assessment concluded that there will be no significant effects arising from the proposed development in relation to the River Barrow and River Nore SAC or any other Natura 2000 site in the wider hinterland.

Is the application accompanied by an EIS?

No.

B. IDENTIFICATION OF THE RELEVANT NATURA 2000 SITE(S)

The reasons for the designation of the Natura 2000 site:

A site synopsis can be obtained from www.npws.ie

The conservation objectives/qualifying interests of the site and the factors that contributes to the conservation value of the site:

A site synopsis can be obtained from www.npws.ie

C. NPWS ADVICE

Advice received from NPWS over phone:

None.

Summary of advice received from NPWS in written form:

None

D. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

(Purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).

If answer yes to any of the questions, below then the effect is significant.

Would there be any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance)

There is a waterbody which runs along the sites side /eastern boundary which flows into the Burren River located approx. 265m to the southeast of the site which is a tributary of the River Barrow cSAC which is located approx. 1.17km to the west of the site.

A Stage 1 Appropriate Assessment Screening Report and Construction Environmental Management Plan carried out by Panther Environmental Solutions Ltd was carried out under the permission PL. 22/24.

The report/assessment concluded that there will be no significant effects arising from the proposed development in relation to the River Barrow and River Nore SAC or any other Natura 2000 site in the wider hinterland.

Would there be a reduction in habitat area on a Natura 2000 site?

There is a waterbody which runs along the sites side /eastern boundary which flows into the Burren River located approx. 265m to the southeast of the site which is a tributary of the River Barrow cSAC which is located approx. 1.17km to the west of the site.

A Stage 1 Appropriate Assessment Screening Report and Construction Environmental Management Plan carried out by Panther Environmental Solutions Ltd was carried out under the permission PL. 22/24.

The report/assessment concluded that there will be no significant effects arising from the proposed development in relation to the River Barrow and River Nore SAC or any other Natura 2000 site in the wider hinterland.

Would there be direct/indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site?

There is a waterbody which runs along the sites side /eastern boundary which flows into the Burren River located approx. 265m to the southeast of the site which is a tributary of the River Barrow cSAC which is located approx. 1.17km to the west of the site.

A Stage 1 Appropriate Assessment Screening Report and Construction Environmental Management Plan carried out by Panther Environmental Solutions Ltd was carried out under the permission PL. 22/24.

The report/assessment concluded that there will be no significant effects arising from the proposed development in relation to the River Barrow and River Nore SAC or any other Natura 2000 site in the wider hinterland.

Would there be serious/ongoing disturbance to species/habitats for which the Natura 2000 site is selected (e.g. because of increased noise, illumination and human activity)?

There is a waterbody which runs along the sites side /eastern boundary which flows into the Burren River located approx. 265m to the southeast of the site which is a tributary of the River Barrow cSAC which is located approx. 1.17km to the west of the site.

A Stage 1 Appropriate Assessment Screening Report and Construction Environmental Management Plan carried out by Panther Environmental Solutions Ltd was carried out under the permission PL. 22/24.

The report/assessment concluded that there will be no significant effects arising from the proposed development in relation to the River Barrow and River Nore SAC or any other Natura 2000 site in the wider hinterland.

Would there be direct/indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site?

There is a waterbody which runs along the sites side /eastern boundary which flows into the Burren River located approx. 265m to the southeast of the site which is a tributary of the River Barrow cSAC which is located approx. 1.17km to the west of the site.

A Stage 1 Appropriate Assessment Screening Report and Construction Environmental Management Plan carried out by Panther Environmental Solutions Ltd was carried out under the permission PL. 22/24.

The report/assessment concluded that there will be no significant effects arising from the proposed development in relation to the River Barrow and River Nore SAC or any other Natura 2000 site in the wider hinterland.

Would the project interfere with mitigation measures put in place for other plans/projects. (Look at in-combination effects with completed, approved but not completed, and proposed plans/projects. Look at projects/plans within and adjacent to Natura 2000 sites and identify them).

There is a waterbody which runs along the sites side /eastern boundary which flows into the Burren River located approx. 265m to the southeast of the site which is a tributary of the River Barrow cSAC which is located approx. 1.17km to the west of the site.

A Stage 1 Appropriate Assessment Screening Report and Construction Environmental Management Plan carried out by Panther Environmental Solutions Ltd was carried out under the permission PL. 22/24.

The report/assessment concluded that there will be no significant effects arising from the proposed development in relation to the River Barrow and River Nore SAC or any other Natura 2000 site in the wider hinterland.

E. SCREENING CONCLUSION

There is a waterbody which runs along the sites side /eastern boundary which flows into the Burren River located approx. 265m to the southeast of the site which is a tributary of the River Barrow cSAC which is located approx. 1.17km to the west of the site.

A Stage 1 Appropriate Assessment Screening Report and Construction Environmental Management Plan carried out by Panther Environmental Solutions Ltd was carried out under the permission PL. 22/24.

The report/assessment concluded that there will be no significant effects arising from the proposed development in relation to the River Barrow and River Nore SAC or any other Natura 2000 site in the wider hinterland.

Signed: Paula Murphy
Exec. Planner

9th February 2023.



Declaration on Development & Exempted Development
Section 5 of the
Planning and Development Act 2000 (as amended)
SEC5/23/05

WHEREAS a question has arisen as to whether an extension to a bedroom on the first floor to the rear of a detached house. The floor area of the extension above ground level does not exceed 20 square metres is or is not development and is or is not exempted development, at The Orchard, Burrin Road, Paupish, Co. Carlow;

AS INDICATED on the plans and particulars received by the Planning Authority on 24/01/23;

AND WHEREAS Sophia Jones, [REDACTED] requested a declaration on the said question from Carlow County Council;

AND WHEREAS Carlow 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) The proposal as detailed in the submitted plans and particulars;
- (b) Permission reference no. 22/24 and condition no. 1 pertaining thereto;
- (c) Sections 3 and 4 of the Planning and Development Act 2000 (as amended);
- (d) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- (e) Class 1 in Part 1 of Schedule 2, Condition 1 (c) of the Planning and Development Regulations 2001 (as amended);

AND WHEREAS Carlow County Council has concluded that;

- (a) The proposal constitutes works and therefore development within the meanings ascribed to same in Sections 3 of the Planning and Development Act 2000 (as amended);
- (b) The proposal which includes an extension to a bedroom on the first floor to the rear of a detached house. The floor area of the extension above ground level does not exceed 20 square metres to a detached two storey with single storey element to the rear as permitted under planning reference PL. 22/24 which is currently **under construction and unoccupied would contravene Condition Number 1(a) attached to PL. 22/24 and therefore as detailed under Article 9 (1) (a) (i) of the Planning and**

Development Regulations 2001 (as amended), is not exempted development for the purposes of the Act. Condition Number 1(a) attached to PL. 22/24 reads –

In so far as the Planning and Development Act 2000 (as amended) and the Regulations made thereunder are concerned, the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application on 31/01/2022, as amended by plans and particulars lodged on 02/08/2022 and 09/08/2022, save as required by the conditions attached hereto.

Reason: In the interests of proper planning and development and to clarify the detailed development proposals authorised by this permission.

- (c) The proposal includes an extension to a bedroom on the first floor to the rear of a detached house. The floor area of the extension above ground level does not exceed 20 square metres to a detached dwelling **under construction and unoccupied** and therefore does not come within the scope of Class 1 in Part 1 of Schedule 2, Condition 1 (c) of the Planning and Development Regulations 2001 (as amended);

NOW THEREFORE Carlow 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 proposal for an extension to a bedroom on the first floor to the rear of a detached house. The floor area of the extension above ground level does not exceed 20 square metres to a detached dwelling **under construction and unoccupied, is development and is not exempted development.**

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.

Signed:



Date:

23/02/2023