

COMHAIRLE CHONTAE CEATHARLOCHA
CARLOW COUNTY COUNCIL

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COUNTY COUNCIL

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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: Ciara Morgan
2. Address of applicant: [REDACTED]
3. Name and address for correspondence: (as above) _____

- Tel. No: [REDACTED] Fax No: _____ E-mail: [REDACTED]
4. Location of Development: Townland: 2 Seven Springs, Tullow Road, Carlow, R93 Y5A4
Postal Address: (if different from Townland): _____
5. Name and Address of Agent: None
6. Outline clearly the description of the development / proposal: We wish to retain the existing window to the front right of the property installed in the early 1990's. For safety reasons it replaced a faulty garage door which was part of the original structure (see appendix ii for visual). The structure is as originally built with no increase in floor plan, and it remains to be used as a garage. It is consistent with neighbouring properties for e.g., houses 11 & 15 Seven Springs.



7. Is this a Protected Structure or within the curtilage of a Protected Structure: No
8. List any previous applications relating to the site: None
9. Are you aware of any enforcement proceedings relating to this site: No
10. Please state applicant's interest in this site: [REDACTED]

The house is currently for sale.

11. List of plans, drawings etc. submitted with this application: Appendix (i) Land registry map scale 1:1000 folio [REDACTED] Appendix (ii) image of a neighbouring property showing an original garage door, Appendix (iii) current image of house.

Signed: Cian Morgan
(Signature of Applicant)

Date: 10/02/2023

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: _____



673020 mE, 676550 mN



The Property
Registration Authority
An tÚdarás
Clárúcháin Maoinne
Folio: CW8570F

This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.prsa.ie

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(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- Subleasehold

Burdens (may not all be represented on map)

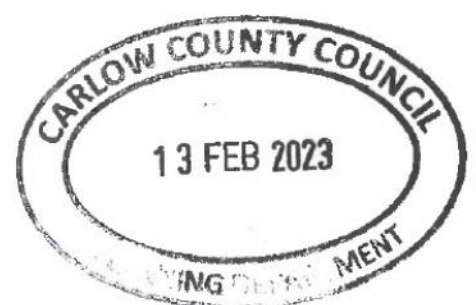
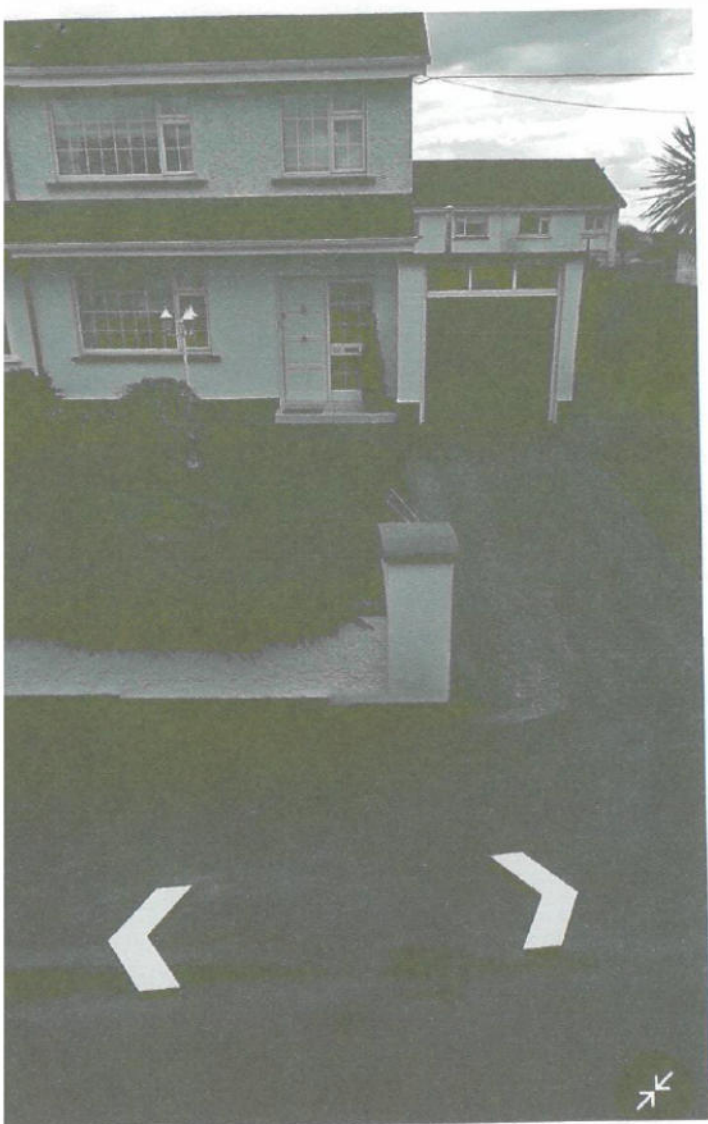
- Right of Way / Wayleave
- Turbidity
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit

A full list of burdens and their symbology can be found at: www.landdirect.ie

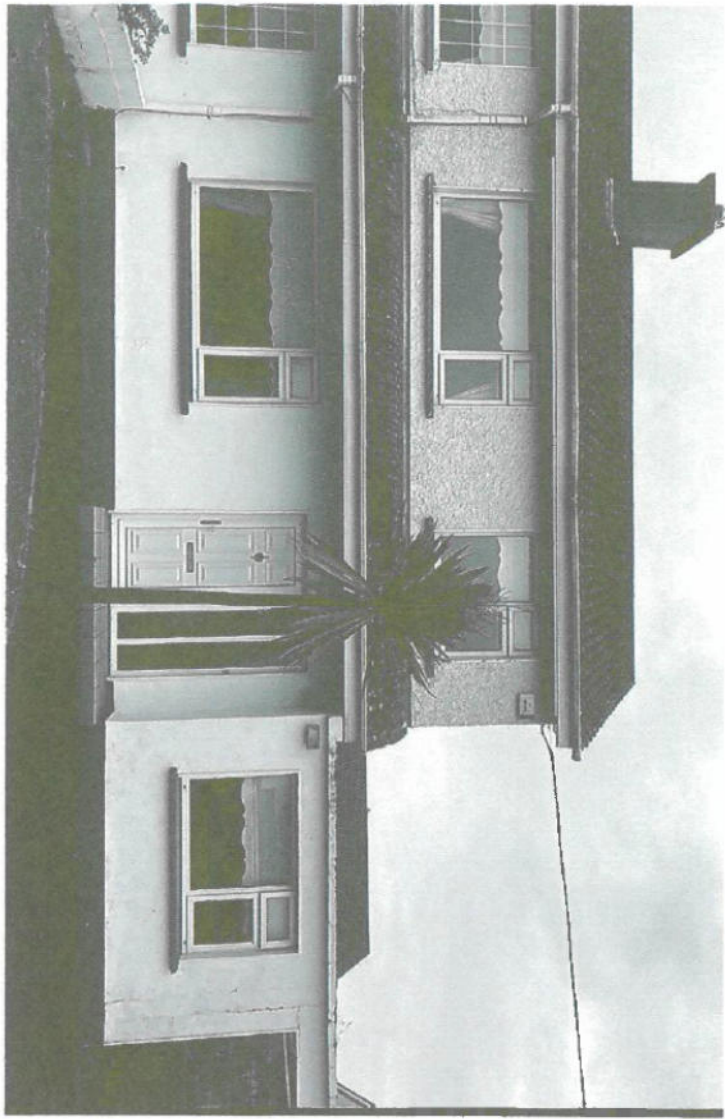
The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deeds and Title Act 2006.



Appendix (ii)



Appendix (ii)



673020 mE, 676550 mN



**The Property
Registration Authority**
An tUdarás
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(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold

Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- ▽ Soak Pit

A full list of burdens and their symbology can be found at:
www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.



Re: Sec 5/23/08 - Application for Exemption Certificate under Section 5 of the Planning and Development Act, 2000 (as amended) – Window inserted in place of a faulty garage door installed in the 1990's on the front elevation of attached flat roofed garage to dwelling house for safety reasons. There is no increase in floor area and the attached garage remains in use as a garage at 2 Seven Springs, Tullow Road, Carlow, R93 Y5A4.

Applicant: Ciara Morgan

Name and Address for Correspondence: Ciara Morgan, [REDACTED]
[REDACTED]

I refer to documentation submitted to the Planning Authority in relation to the above on the 13th February 2023.

Planning History

There are no traceable previous planning applications to this site.

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.

The culverted Askea Stream is located approx. 223m from the site, the Burren River is located approx. 414m from the site with the River Barrow SAC located approx. 1.25km from the site.

It is determined that a Stage 1 Appropriate Assessment Screening Report is not required.

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.

Relevant Legislative/Regulatory Provisions

Planning and Development Act 2000 (as amended) – (hereafter the Act)

- Section 2(1)

“alteration” includes—

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate,

“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.

(2) For the purposes of subsection (1) and without prejudice to the generality of that subsection—

(b) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

the use of the land shall be taken as having materially changed.

- Section 4(1)

(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;

Also Section 4(2) of the Act, which makes a provision for ministerial regulations to set out further exemptions. The Planning and Development Regulations as amended derive from this section and designate further works as being exempted development for the purposes of the Act.

Planning and Development Regulations 2001 (as amended) – (hereafter the Regulations)

Part 2 of the Regulations deals with exempted development.

- 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 2.

Article 9(1) as referred to in Article 6(1) sets out a list of restrictions on exempted development.

Assessment

The application is accompanied by site location map and photographs of the before with the faulty garage door in place on the front elevation and the after with the attached garage door replaced with a window on the front elevation of the attached garage of the dwelling as constructed development.

As detailed above, the development for which a declaration is being sought comprises an:

Existing Window inserted in place of a faulty garage door installed in the 1990's on the front elevation of attached flat roofed garage to dwelling house for safety reasons. There is no increase in floor area and the attached garage remains in use as a garage.

In terms of the provisions of Section 4(1)(h) of the Act and on the basis of the information submitted by the applicant, the replacement of a faulty garage door with a window on the front elevation of attached flat roofed garage to dwelling house comprises works for the maintenance and improvement of the garage and dwelling. The replacement window does not materially affect the external appearance of the dwelling i.e. does not render the appearance of the dwelling and attached garage inconsistent with its character nor inconsistent with the character of adjoining dwellings.

On the basis of the submitted photographs, it is considered that the replacement of the garage door with a window, comes within the scope of Section 4(1)(h) of the Act.

The following is concluded:

The development of the replacement of a faulty garage door with a window on the front elevation of an attached garage to a dwelling house. On the basis of the submitted details and photographs received on the **13th February 2023** it is considered that the replacement of the garage door with a window, comes within the scope of Section 4(1)(h) of the Act and is **exempted development**.

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 replacement of the faulty garage door with a window on the front elevation of attached flat roofed garage to dwelling house as submitted is development and is exempted development.

Signed

Paula Murphy
Exec. Planner
13th March 2023

A.P.
S.P.
13/3/23.

Declaration on Development & Exempted Development

Section 5 of the

Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether development consisting of a window inserted in place of a garage door installed in the 1990's on the front elevation of attached flat roofed garage to dwelling house for safety reasons, ^{is there} there is no increase in floor area and the ^{where} attached garage remains in use as a garage at 2 Seven Springs, Tullow Road, Carlow, R93 Y5A4, is or is not exempted development;

AS INDICATED on the photographs and particulars received by the Planning Authority on 13/02/2023;

AND WHEREAS Ciara Morgan, [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) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);

(b) Section 4 (1) (h) of the Planning and Development Act 2000 (as amended);

(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;

AND WHEREAS Carlow County Council has concluded that:

(a) The window to replace previous garage door on the front elevation of flat roofed attached garage to dwelling house for safety reasons, comes within the scope of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and Class 7 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

existing window on the front elevation of an attached garage to dwelling house, which replaced a previous faulty garage door for safety reasons, at 2 Seven Springs, Tullow Road, Carlow, R93 Y5A4, **is development and is 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
13th March 2023

APPENDIX ONE

DESCRIPTION OF PROJECT AND LOCAL SITE

Sec 5/23/08 - Application for Exemption Certificate under Section 5 of the Planning and Development Act, 2000 (as amended) – Window inserted in place of a faulty garage door installed in the 1990's on the front elevation of attached flat roofed garage to dwelling house for safety reasons. There is no increase in floor area and the attached garage remains in use as a garage at 2 Seven Springs, Tullow Road, Carlow, R93 Y5A4.

Site Location:

2 Seven Springs, Tullow Road, Carlow, R93 Y5A4.

Site Size:

Floor area of proposed development:

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

The culverted Askea Stream is located approx. 223m from the site, the Burren River is located approx. 414m from the site with the River Barrow SAC located approx. 1.25km from the site.

It is determined that a Stage 1 Appropriate Assessment Screening **is not required.**

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:

The culverted Askea Stream is located approx. 223m from the site, the Burren River is located approx. 414m from the site with the River Barrow SAC located approx. 1.25km from the site.

It is determined that a Stage 1 Appropriate Assessment Screening **is not required.**

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)

No.

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

No.

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?

No.

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)?

No.

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

No.

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).

No.

E. SCREENING CONCLUSION

It is determined that a Stage 1 Appropriate Assessment **is not required**.

Signed:

Paula Murphy
Esce. Planner
13th March 2023



Declaration on Development & Exempted Development
Section 5 of the
Planning and Development Act 2000 (as amended)
Reg Ref S5.23.08

WHEREAS a question has arisen as to whether development consisting of a window inserted in place of a garage door installed in the 1990's on the front elevation of attached flat roofed garage to dwelling house for safety reasons where there is no increase in floor area and where the attached garage remains in use as a garage at 2 Seven Springs, Tullow Road, Carlow, R93 Y5A4, is or is not exempted development;

AS INDICATED on the photographs and particulars received by the Planning Authority on 13/02/2023;

AND WHEREAS Ciara Morgan, [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) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);

(b) Section 4 (1) (h) of the Planning and Development Act 2000 (as amended);

(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;

AND WHEREAS Carlow County Council has concluded that:

(a) The window to replace previous garage door on the front elevation of flat roofed attached garage to dwelling house for safety reasons, comes within the scope of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and Class 7 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 existing window on the front elevation of an attached garage to dwelling house, which replaced a previous faulty garage door for safety reasons, at 2 Seven Springs, Tullow Road, Carlow, R93 Y5A4, **is development and is 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 Pleanala within 4 weeks of the issuing of the decision.

Signed: Nicola Lawler

Date: 13/03/2023