

To whom it may concern

Almost every house
on my row had done similar works to
their houses like the works I am going
to do to mine at S Idone Park
Tullon Road Carlow.



COMHAIRLE CHONTAE CEATHARLOCHA
CARLOW COUNTY COUNCIL

C A R L O W
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: PADDY FARRELL
2. Address of applicant: 
3. Name and address for correspondence: SAME
-
- Tel. No:  Fax No: _____ E-mail: _____
4. Location of Development: Townland: DRONE PARK.
- Postal Address: (if different from Townland): _____
5. Name and Address of Agent: _____
-
6. Outline clearly the description of the development / proposal: CONVERSION OF GARAGE TO BEDROOM & BATHROOM

7. Is this a Protected Structure or within the curtilage of a Protected Structure: No
8. List any previous applications relating to the site: N/A
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: DRAWING PENDING.

Signed: Paddy Farrell Date: 27-7-23
(Signature of Applicant)

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.



NO 5 IDRONE PARK, TULLOW ROAD, CARLOW.

GARAGE DOOR TO BE REPLACED BY WINDOW.

**CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

SECTION 5 DECLARATION



**COMHAIRLE CONTAE
CHEATHARLACH**
CARLOW COUNTY COUNCIL

Reg. Ref.	SEC5/23/28
Name of Applicant	Paddy Farrell
Address of Development	5 Idrone Park, Tullow Road, Carlow
Development Description	Conversion of garage into a bedroom and bathroom.

1) Site Location/Context

The Section 5 declaration site relates to a residential property at 5 Idrone Park, Tullow Road, Carlow town. The site is located within an established residential housing estate and currently comprises a two-storey, semi-detached property with attached garage. Houses in the vicinity appear to have been subject to similar garage conversions.



SITE LOCATION



AERIAL IMAGE

2) Relevant Planning History

There is no recent planning history noted for this particular site at 5 Idrone Park.

3) Description of the Referral/Proposal

An exempted development declaration is being sought for the conversion of a garage into a bedroom and bathroom. The Applicant would appear to be the owner of the subject property in this instance and it has been submitted that surrounding dwellings have carried out similar works. The Section 5 application has been accompanied with a hand-drawn elevation indicating the proposal.

4) Relevant Legislative/Regulatory Provisions

Planning and Development Act 2000 (as amended)

- Section 2

“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 4(1)

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;

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)

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—

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 meters in width,*
- (iii) endanger public safety by reason of a traffic hazard or obstruction of road users.*

Schedule 2, Part 1, Class 1 (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 houses.

Conditions / 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

The submitted Section 5 Declaration application relates to the conversion of an existing attached garage, located to the side of the dwelling, to habitable space comprising a bedroom and a bathroom. From the outset, I note that the application is not accompanied by drawings or dimensions / measurements to enable the Planning Authority to carry out an assessment of the Section 5 Declaration question being asked. A site inspection was carried out on 16th August 2023 in order to ascertain the measurements of the subject garage. The width of the structure comprised c. 2.5m and the depth was c. 6.5m, thus equating to a floor area of 16.25m², internally. I can also confirm that the dwelling has not been previously extended. Accordingly, the provisions of Class 1, Part 1, Schedule 2 would appear to be applicable. It is also noted that details of fenestration have not been submitted; however, I spoke with the Applicant on site who stated that there would be a window to the front elevation to replace the existing garage door. This was stated to be a window identical to the existing window at front elevation. There is no window proposed at the shared boundary.

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 conversion of an existing garage attached to the to the side of a dwelling 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 is relevant in this instance and 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 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.

- *The existing dwelling is a semi-detached dwelling which has not been previously extended. The proposed conversion has a total floor area of 16.25 m².*

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.

➤ *The above is not applicable as the house has not been previously extended.*

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

➤ **The proposed conversion relates to an existing single storey garage. The above is therefore not applicable.**

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.

➤ **There is no 'new-build' element to the proposed garage conversion, thus heights shall not be altered. The above is therefore not applicable.**

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 above is not applicable as the quantum of open space is not altered by the proposed conversion.**

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.

- **A new window is to be provided on the front elevation, replacing an existing garage door. No windows are to be placed along the boundary. The above is therefore considered to be complied with.**

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

- **The conversion does not result in any balcony or roof garden, thus the above has been complied with.**

Accordingly, the proposed conversion is considered to be exempted development pursuant to Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended).

In respect of the proposed replacement window to front elevation, I would consider this to constitute exempted development pursuant to Section 4(1)(h) of the Planning and Development Act 2000 (as amended) as the window does not materially affect the the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

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 of the Planning and Development Regulations 2001 (as amended),

The Planning Authority consider that the conversion of a single storey garage attached to the side of a house to habitable space as part of the dwelling, as submitted to the Planning Authority on the 9th August 2023 is development and is exempted development as the the development falls within the Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). Further, the replacement of an existing garage door and subsequent replacement with a window matching existing windows is development and is exempted development pursuant to Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

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 garage conversion and replacement of garage door with a window as submitted is development and is exempted development.

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

Reg. Ref: SEC5/23/28

WHEREAS a question has arisen as to whether the conversion of a single storey garage attached to the side of the existing dwelling house to habitable space and the replacement of a garage door with a window of similar style of existing windows at front elevation at 5 Idrone Park, Tullow Road Carlow, is or is not exempted development;

AS INDICATED on the particulars received by the Planning Authority on **09/08/2023** and information acquired on site inspection on **16/08/2023**;

AND WHEREAS Paddy Farrell, [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) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- (c) Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended);

AND WHEREAS Carlow County Council has concluded that the 'conversion of an existing garage attached to the side of the existing dwelling house' would come within the scope of Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended),

AND WHEREAS Carlow County Council has concluded that the 'replacement of an existing garage door with a window of similar style of existing windows would come within the scope of Section 4(1)(h) of the Planning and Development Act 2000 (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 comprising the 'conversion of an existing garage to bedroom and bathroom' at 5 Idrone Park, Tullow Road, Carlow, 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.


Bryan Joyce
A/Executive Planner

Date: 16/08/2023


Anita Sweeney
Senior Planner

Date: 16/8/23.

Appendix 1

APPROPRIATE ASSESSMENT SCREENING REPORT

Planning Application Reg. Ref: SEC5/23/28

A. DESCRIPTION OF PROJECT AND LOCAL SITE

Site Location:	5 Idrone Park, Tullow Road, Carlow
Total Site Area :	Not stated
Floor Area of Proposed Development:	Unknown total floor area.
Identification of Natura 2000 site(s):	River Barrow and River Nore cSAC.
Is the application accompanied by an EIAR?	No.

B. IDENTIFICATION OF RELVANT 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:

C. NPWS ADVICE:

Summary of advice received in written form:	None Received.
Advice received over the over phone:	None Received.

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.

1.1	Would there be any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance)	No.
1.2	Would there be a reduction in habitat area on a Natura 2000 site?	No.
1.3	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.
1.4	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.
1.5	Would there be direct/indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site?	No.
1.6	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/)	No.

E. SCREENING CONCLUSION

At its closest point, the River Barrow is circa 1.4km west of the site which forms part of the River Barrow and River Nore SAC. The development as proposed has been assessed having regard to the requirements of the EU Habitats Directive. Given the proximity of the nearest European Site and the nature and extent of the development on the site and intervening land uses located in the area, it is considered reasonable to conclude on the basis of the information available, that the development on its own or in combination with other plans or projects, would not be likely to result in any potential significant effects on the European Site. Therefore, a Stage 2 Appropriate Assessment is not required.

Signed: *Brian Joyce*

Position: A/Executive Planner

Date: 16th August 2023



Declaration on Development & Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)
Reg. Ref: SEC5/23/28

WHEREAS a question has arisen as to whether the conversion of a single storey garage attached to the side of the existing dwelling house to habitable space and the replacement of a garage door with a window of similar style of existing windows at front elevation at 5 Idrone Park, Tullow Road Carlow, is or is not exempted development;

AS INDICATED on the particulars received by the Planning Authority on **09/08/2023** and information acquired on site inspection on **16/08/2023**;

AND WHEREAS Paddy Farrell, [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) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- (c) Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended);

AND WHEREAS Carlow County Council has concluded that the 'conversion of an existing garage attached to the side of the existing dwelling house' would come within the scope of Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended),

AND WHEREAS Carlow County Council has concluded that the 'replacement of an existing garage door with a window of similar style of existing windows would come within the scope of Section 4(1)(h) of the Planning and Development Act 2000 (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 comprising the 'conversion of an existing garage to bedroom and bathroom' at 5 Idrone Park, Tullow Road, Carlow, 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:

Nicola Cawler

Date:

17/08/2023