



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-323858-25

### Question

Whether the construction of an extension to the rear of a dwelling at Broughillstown, Rathvilly, Co. Carlow, R93 XV83 is or is not development and whether it is or is not exempted development.

### Location

Broughillstown, Rathvilly, Co. Carlow, R93 XV83.

### Declaration

Planning Authority

Carlow County Council.

Planning Authority Reg. Ref.

SEC5/25/28

Applicant for Declaration

Garrett Donnelly.

Planning Authority Decision

Is Development and is Not Exempted Development.

### Referral

Referred by

Garrett Donnelly.

Owner/ Occupier

Garrett Donnelly.

Observer(s)

None.

**Date of Site Inspection**

29<sup>th</sup> January 2026.

**Inspector**

Kathy Tuck.

## **1.0 Site Location and Description**

- 1.1. The subject site which has a stated area of c.0.537ha is situated within the townland of Broughillstown, Rathvilly, Co. Carlow. The site is situated approximately c.2km to the north of Rathvilly and c.19.8km to the north-east of Carlow Town Centre.
- 1.2. The site itself comprises of a single storey cottage dwelling with a number of out-houses/sheds situated to the front. The lands to the north (rear) of the dwelling appear to be in agricultural use. There is a single storey dwelling situated to the west. Access to the site is provided from a boreen road which runs from the N81.

## **2.0 The Question**

- 2.1. The question referred to the Board by the landowner, Garrett Donnelly, which was the as asked of the Planning Authority, in accordance with Section 5(4) of the Planning and Development Act 2000 (as amended), is as follows:

“Whether the construction of an extension to the rear of a dwelling at Broughillstown, Rathvilly, Co. Carlow, R93 XV83 is or is not development and whether it is or is not exempted development.”

## **3.0 Planning Authority Declaration**

### **3.1. Declaration**

A declaration of exempted development was refused for the following reasons-

- The proposed rear extension to the dwelling does not comply with the condition and limitations of 2(a) of Class 1 in Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended); and therefore, doesn't come within the scope of Class 1.

## **4.0 Planning Authority Reports**

### **4.1. Planning Report**

The planning report reflects the decision above and can be summarised as follows-

- From a review of the Planning Register the house has previously been extended in 1986 under PA Ref CW8018.
- As evident from plans and particulars, received by the Planning Authority on the 8<sup>th</sup> August 1986, the gross floor area of the extension is 26.4sq.m. The proposed extension has a floor area of 28.8sq.m resulting in a combined floor area of 55.2sq.m.
- Therefore the existing extended floor area together with that subject to this S.5 would exceed the 40sq.m limit.
- Therefore, having regard to the floor area of the previous extension granted under PA Ref CW8018, the proposed extension to the rear of the dwelling does not comply with the condition/limitation 2(a) in Class 1 of Schedule 2, Part 1 of the Planning and Development Act 2000, as amended, as the cumulative floor area of the previous (26.4sq.m) and the proposed extension (28.8sq.m) exceeds 40sq.m.

#### 4.2. Other Technical Reports

None on file.

#### 5.0 Planning History

PA Ref Cw8018      Permission granted for a 26.4sq.m single storey extension to the side and rear.

PA Ref 01/158      Retention Permission GRANTED for single storey cottage and associated site works.

PA Ref 24/60217      Permission GRANTED for the demolition of a single-storey extension to the rear, the construction of a single-storey extension to the side and to the rear, the modification of 2 No. existing bay windows to the front façade, the construction of a single-storey

shed/garage, the enlargement of a window on the rear façade, the modification of a door opening to the side façade, and associated site and ancillary works.

## **6.0 Policy Context**

### **6.1. Carlow County Development Plan, 2022 – 2028**

The site is situated in the Central Lowlands Landscape Character Area.

### **6.2. Natural Heritage Designations**

The subject site is not situated within or directly abutting any Natura 2000 sites. The site is situated c.75m to the west of the Slaney River Valley SAC.

### **6.3. Environmental Impact Assessment**

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations and therefore is not subject to EIA requirements. Refer to appendix 1 below.

## **7.0 The Referral**

### **7.1. Referrer's Case**

The issues raised by the referrer, being the owner, can be summarised as follows-

- Extension was not deemed to be exempt due to a prior 1986 extension undertaken by parents.
- The 1986 extension was built utilising an existing garage that was attached to the house prior to 1986 – image enclosed of the house prior to 1986 showing the garage attached to house (referred to as shed/old barn in notes in 1986 planning submission which is also attached).

- Reference was made in Section 5 application to 1986 extension and made calculations accordingly – no photos were supplied at that time.
- Planning Authority did not account for the presence of this shed in their calculations which led to the unfavourable decision.
- Local Authority made their decision without inclusion of the image and the exact quantum of the shed or old barn is not specified in the 1986 planning documentation.
- Attachments to this referral show the garage was present prior to 1986 and it was larger than the added bedroom and corridor according to the documentation.
- Request the Commission to provide a declaration that newly proposed development meets the limitations and is exempt.

Submission is accompanied by:

1. Decision of Planning Authority.
2. Post decision correspondence with Planning Authority.
3. Image of the farmhouse 1953.
4. Site Plan 1986.
5. Proposed extension 1986 -floor plan and elevations.
6. Site location map.
7. Site layout plan.
8. Rear elevation of proposed development.
9. West facing elevation.

## 7.2. Planning Authority Response

A response from the Planning Authority was received on the 2<sup>nd</sup> of December 2025 and states the following:

- Section 5 was assessed on its merits with regards to submitted plans and particulars and sites planning history.
- House was previously extended in 1986 (CW8018) evident from plans and particulars associate with that application – extended by 26.4sq.m. The

proposed extension has a floor area of 28.8sq.m resulting in a combined floor area of 55.2sq.m therefore exceeding the 40sq.m limit.

- Having regard to:
  - Section 2, 3 and 4 of the Planning and Development Acts 2000 ( as amended)
  - Articles 5, 6 and 9 of the Planning and Development Regulations 2001 (as amended)
  - Schedule 2, Part 1 Class 1 of o the Planning and Development Regulations 2001 (as amended).

The Planning Authority concluded that it was development and not exempt.

### 7.3. Further Responses

None.

## 8.0 Statutory Provisions

### 8.1. Planning and Development Act, 2000, as amended

Section 2(1): Interpretation

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

“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...

“unauthorised development” means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use;

“unauthorised structure” means a structure other than—

(a) a structure which was in existence on 1 October 1964, or

(b) a structure, the construction, erection or making of which was the subject of a permission for development granted under Part IV of the Act of 1963 or deemed to be such under section 92 of that Act (or under section 34 , 37G or 37N of this Act), being a permission which has not been revoked, or which exists as a result of the carrying out of exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act);

“unauthorised works” means any works on, in, over or under land commenced on or after 1 October 1964, being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 F21 (or under section 34 , 37G or 37N of this Act), being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;

### Section 3(1): Development

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: Exempted development

(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;

(j) development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such;

## 8.2. **Planning and Development Regulations, 2001, as amended**

### Article 3: Interpretation

“gross floor space” means the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions), disregarding any floor space provided for the parking of vehicles by persons occupying or using the building or buildings where such floor space is incidental to the primary purpose of the building;

### Article 6: Exempted Development

‘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): Restrictions on exemption:

(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 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,

**Class 1 in Part 1 of Schedule 2 - Exempted Development: Classes of Use**

**Development for amenity or recreational purposes**

<b>Column 1</b> <b>Description of Development</b>	<b>Column 2</b> <b>Conditions and Limitations</b>
<p style="text-align: center;"><i>Development within the curtilage of a house</i></p> <p>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 similar structure attached to the rear or to the side of the house.</p>	<p>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 floor 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</p>

	<p>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 floor 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 floor 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</p>
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	<p>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.</p> <p>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.</p> <p>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 metre 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.</p> <p>7.</p>
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	The roof of any extension shall not be used as a balcony or roof garden
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## 9.0 Assessment

### 9.1. Introduction

- 9.1.1. The purpose of this referral is not to determine the acceptability or otherwise of the rear extensions in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development within the meaning of the relevant legislation.
- 9.1.2. Based on the information available on file and on the previous planning applications pertaining to the subject site I note that the subject dwelling was previously extended to the side, under permission granted under PA Ref CW8018. The Planning Authority assert that they concluded that the extension proposed when considered with the extension permitted under PA Ref CW8018, was not exempt from planning permission, as the extensions failed to comply with the limitations and conditions set for Class 1 of Part 1 to the Second Schedule of the Planning and Development Regulations, 2001 (as amended).
- 9.1.3. The Referrer considers that the Planning Authority were incorrect in their assessment as the floor area subject to the previously permitted extension forms part of an existing garage that was attached to the house prior to 1986 and photos were provided to this end. As such the referrer is asking the Commission to reconsider the proposed single storey extension in light of this information and determine it to be exempted development.

## 9.2. Is or is not development

- 9.2.1. The initial question that arises is, whether the construction, as proposed, is or is not development. Sections 3 of the 1963 Act and 2000 Act define development as ‘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’.
- 9.2.2. As defined in sections 2(1) of the 1963 Act and 2000 Act, works include ‘any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal’.
- 9.2.3. The act of extending the house therefore constitutes development. This would not appear to be at issue, as the Planning Authority are in agreement with same.

## 9.3. Is or is not exempted development

- 9.3.1. 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. 8.3.3.
- 9.3.2. Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended), addresses rear extensions to houses. Insofar that the extension proposed is situated to the rear of the property, it therefore falls within the class. The question therefore arises if the works would accord with Column 2 of Class 1 which sets out a number of limitations and conditions which the proposed extension must comply with.
- 9.3.3. Condition/Limitation 2(a) of Class 1 clearly states:

*“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.”*

- 9.3.4. The planning history pertaining to the subject site clearly indicates that the dwelling has previously been extended by c.26.4sq.m which was permitted under PA Ref CW8018. This was highlighted by the Planning Authority within their determination.
- 9.3.5. The extension subject to this referral has a stated area of c.28.8sq.m. The works undertaken to date together with the proposed extension would have an area of c.55.2sq.m which would exceed the limitation of 40sq.m, as prescribed by Condition/Limitation 1(a) of Class 1 of Part 1 Schedule 2 of the Planning and Development Regulations, 2001 (as amended). I therefore consider that the proposed extension could not be deemed to be Exempt Development.
- 9.3.6. I have read the wider ranging submissions of the applicant and the Planning Authority. While I note that the referrer, the landowner in this instance, has made the case that the extension permission under PA Ref CW8018 was built utilising an existing garage that was attached to the house prior to 1986, photographic evidence was included of such, the permission granted still extended the residential floor area of the existing dwelling. From undertaking a site visit I observed that the shed/old barn did not form part of the residential floor area of the original dwelling and was demolished to accommodate the extension permitted.
- 9.3.7. In conclusion, I do not consider that the comments made by the referrer in this instance affect the above cited conclusion.

## 10.0 EIA Screening

- 10.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

## 11.0 Appropriate Assessment

- 11.1. I have considered case ABP-323858-25 in light of the requirements S177U of the Planning and Development Act, 2000, as amended.

- 11.2. The closest European Sites, part of the Natura 2000 Network, is the Slaney River Valley SAC, located approximately c.75m east of the referral site.
- 11.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.
- 11.4. The reason for this conclusion is as follows:
- Location-distance from nearest European site.
  - The nature and scale of development.
  - The absence of any ecological pathway from the development site to the nearest European Site.
- 11.5. I conclude, on the basis of objective information, that the development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 11.6. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## 12.0 **Water Framework Directive**

- 12.1.1. I have individually assessed the subject development use and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the subject development, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 12.1.2. The reason for this conclusion is as follows.
- The minor nature and scale of development.
  - The location of the site in a developed urban area.
  - The absence of any hydrological connections.

12.1.3. I conclude that on the basis of objective information, that the subject development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 13.0 Recommendation

13.1. I recommend that the Commission should decide this referral in accordance with the following draft order.

**WHEREAS** a question has arisen as to whether a ground floor extension works to the rear of the house at Broughillstown, Rathvilly, Co. Carlow is or is not development or is or is not exempted development:

**AND WHEREAS:** Garrett Donnelly requested a declaration on this question on the 3rd day of November, 2025 from An Bord Pleanála:

**AND WHEREAS:** An Coimisiun Pleanála, in considering this referral, had regard particularly to –

- a) section 2(1) and 3(1) of the Local Government (Planning and Development) Act 1963, as amended,
- b) section 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended,
- c) article 9(1) and article 10(1) of the Local Government (Planning and Development) Regulations 1994 and Class 1 of Part 1 of the Second Schedule to those Regulations,
- d) article 6(1) and article 9(1) of the Planning and Development Regulations 2001-2018 and Class 1 of Part 1 of Schedule 2 to those Regulations,

- e) the planning and development history of the site,
- f) the submission of the Planning Authority,
- g) the report of the Planning Inspector:

**AND WHEREAS** An Coimisiún Pleanála has concluded that:

- (a) The development as proposed constitutes development.
- (b) the gross floor area of the extension together with the previously permitted extension as per PA Ref CW8018 exceeds 40sq.m.
- (c) the extension, therefore, fails to come within the scope of Class 1 of Part 1 of the Second Schedule to the Planning and Development Regulations 2000, as amended, and all Conditions and Limitations attached to this Class.

**NOW THEREFORE:** An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the proposed alterations to the single storey extension to the dwelling house at Broughillstown, Rathvilly, Co. Carlow is development and is not exempted development

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Kathy Tuck  
Planning Inspector  
11<sup>th</sup> February 2026.

**Appendix 1  
EIA Pre-Screening**

<b>Case Reference</b>	ACP-323858-25
<b>Proposed Development Summary</b>	whether the construction of an extension to the rear of a dwelling at Broughillstown, Rathvilly, Co. Carlow, is or is not development and whether it is or is not exempted development.
<b>Development Address</b>	Broughillstown, Rathvilly, Co. Carlow, R93 XV83
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	

<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	<p>No Screening required.</p>
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	

<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
<b>Yes</b> <input type="checkbox"/>	<b>Screening Determination required (Complete Form 3)</b>
<b>No</b> <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

