

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 23/26

NAME OF APPLICANT: Carole Loonam

ADDRESS:

ADDRESS FOR CORRESPONDENCE: Oughter, Rahan, Tullamore, Co. Offaly.R35 P422

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the proposed renovation internal and external works comprising of new doors, new windows, new plumbing, rewiring, insulation, paint & floor finishes, new kitchen, stairs and full plastering is or is not development and if so, are they exempted development.

LOCATION OF DEVELOPMENT: Ballycumber Road, Ferbane, Co. Offaly. R42 E029

WHEREAS A question referred to Offaly County Council on 27/09/2023 as to whether the proposed renovation internal and external works comprising of new doors, new windows, new plumbing, rewiring, insulation, paint & floor finishes, new kitchen, stairs and full plastering is or is not development and if so, are they exempted development at Ballycumber Road, Ferbane, Co. Offaly. R42 E029

AND WHEREAS the Planning Authority, in considering this declaration request, had regard particularly to-

- (a) Section 2, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended.
- (b) Article 6(3) of the Planning and Development Regulations 2001, as amended.
- (c) Schedule 2, Part 3, Class 12 of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that –


- The proposed renovation internal and external works comprising of new doors, new windows, new plumbing, rewiring, insulation, paint & floor finishes, new kitchen, stairs and full plastering is or is not development and if so, are they exempted development.

NOW THEREFORE Offaly 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 proposed renovation internal and external works comprising of new doors, new windows, new plumbing, rewiring, insulation, paint & floor finishes, new kitchen, stairs and full plastering is **development** and is **exempted development** at Oughter, Rahan, Tullamore, Co. Offaly.R35 P422.

MATTERS CONSIDERED In making its decision, the Planning Authority had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.



Administrative Officer



Date

Note: Any person issued with a Declaration may on payment to An Bord Pleanála, 64 Marlborough Street Dublin 2 of such fees as may be described refer a declaration for review by the board within four weeks of the issuing of the Declaration.

Planning Report

Section 5 Declaration

File Reference:	<i>Dec. 23/26</i>
Question:	<i>Whether the proposed renovation internal and external works comprising of new doors, new windows, new plumbing, rewiring, insulation, paint & floor finishes, new kitchen, stairs and full plastering is or is not development and if so, are they exempted development?</i>
Applicant:	<i>Carole Loonam</i>
Correspondence Address:	<i>Oughter, Rahan, Tullamore, Co. Offaly.R35 P422.</i>
Location:	<i>Ballycumber Road, Ferbane, Co. Offaly. R42 E029</i>

1. Introduction

The question has arisen as to whether the proposed works to an existing dwelling is or is not development and if so, are they exempted development?

2. Background

The existing terraced two storey dwelling which has a pebble dash facade is located on lands which are zone as 'residential' under the Ferbane Town Plan as contained within Volume 2 of the Offaly County Council County Development Plan 2021 – 2027.



3. Site History

On Site – No recent planning history associated with the subject site.

Enforcement – No recent history associated with the subject site.

Adjoining Lands - No recent planning history associated with the adjoining lands.

4. Legislative Context

In order to assess whether or not the proposed works constitute exempted development, regard must be had to the following items of legislation:

Statutory Provisions

Section 2 (1) Planning and Development Act 2000, as amended, states as follows:

“house” means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

“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) Planning and Development Act 2000, as amended, defines development.

“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

Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of this Act including:

(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 and 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 neighbouring structures.

Section 4 (2) (a) - The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that -

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development.

Regulatory Provisions

Article 6 of the Planning and Development Regulations 2001 (as amended) states, *inter alia*, that:

“Subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in Column 2 of the said Part 1 opposite the mention of that class in the said Column 1”.

Article 9 of the Planning and Development Regulations 2001 (as amended), identifies restrictions on exemption.

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.

Schedule 2 – Exempted Development, Part I - Development Within the Curtilage of a House, Class 12 specifies:

The painting of any external part of any building or other structure.

This is considered to be exempted development if the following limitations are complied with:

'such painting may not, except in the case of a hoarding or other temporary structure bounding land on which development consisting of works is being or will be carried out in pursuance of a permission granted under Part III of the Act or as exempted development, be for the purposes of creating a mural'.

5. Proposal by Applicants

The Applicants have advised that the proposed renovation works including internal and external works comprising of new doors, new windows, new plumbing, rewiring, insulation, paint & floor finishes, new kitchen, stairs and full plastering are works subject of a croi conaithne grant. The Planner obtained the following information from the Regeneration Section of the Local Authority. This was submitted by the Applicant as part of the Vacant Property Refurbishment Grant / Croí Cónaithe grant application for the subject site:

Please see attached our quotation for works required at the above address:

1. 24no. 62.5mm Insulated Boards. Dab & skim front and rear walls on both floors. skim all internal walls and ceilings of all rooms upstairs and downstairs.
2. 20no. 37.5mm Insulated Boards. Dab & skim both party walls on both floors.
3. Joint Tape, 2 types of bond, bags of skim.
4. 5no. front windows rough size 1m high x 0.8m wide. supply and fit.
5. 2no. external PVC Doors 1m x 2.1m, supply and fit.
6. 5no. rear windows sizes vary but generally 1m x 0.8m, supply and fit.
7. 5no. 6m lengths of 175mm x 40mm C16 joist, to strengthen first floor notched joist ends where structural damage noted by engineer.
8. complete rewiring required, all sockets, switches, cabling, lights etc. kitchen/dining, living room, entrance, landing, 3no. bedrooms, 1no. bathroom.
9. complete replumbing required, 7no. aluminium rads, new copper cylinder 1.5m long, new pipework, manifolds, water tanks in attic, pumps, etc.
10. 7no. solid timber doors and frames, with new skirting and architrave upstairs and downstairs. kitchen/dining, living room, entrance, landing, 3no. bedrooms, 1no. bathroom.
11. 2no. 175x175 Timber beams to be installed to support span of living room ceiling, joists are undersized (175x40) spanning 5.5m, engineer noted spring in floor.
12. 40m² of Rock wool for attic x 2no. layers (80m²), supply and fit.
13. Supply and fit new bath, sink, toilet and wet shower in upstairs bathroom, includes floor tiles 4m², 1m² mosaic tiles, wall tiles 20m².
14. Sand and varnish upstairs' timber floors 35m²
15. Paint & decorate upstairs walls, ceilings, skirtings, architraves etc. 3no. bedrooms, 1no. landing.
16. Paint & decorate downstairs walls, ceilings, skirtings, architraves etc. kitchen/dining, living room & stairs walls.
17. 20m² of semi-solid flooring or laminate, supply and fit.
18. 20m² of ceramic floor tiling, supply and fit.
19. New kitchen units and worktops, supply and fit.
20. New timber stairs, with open handrail, and 2 step landing, supply and fit.
21. Power wash & paint front and rear elevations.
22. Supply and fit new air to water heating unit.

6. Evaluation

Question: *Whether the proposed works (as listed) to the existing dwelling are development and if so, are they exempted development?*

In considering the proposed works against the definitions of 'development' and 'works' as provided in the Act, it is the view of the Planning Authority that the proposed works are deemed as development as it includes alterations and repairs to the existing dwelling.

Question: Is this proposal considered as Exempted Development?

With regard to the proposed works which are described in the submitted documents and the information received from the Regeneration Section, the Planning Authority are satisfied that the proposed works would not result in a material alteration to the dwelling appearance and the finished development would not be inconsistent with the character of the structure.

7. Conclusion

It is recommended that the Applicant be advised that the proposed development is **development and is exempted development.**

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether the proposed renovation internal and external works comprising of new doors, new windows, new plumbing, rewiring, insulation, paint & floor finishes, new kitchen, stairs and full plastering is or is not development and if so, are they exempted development at Ballycumber Road, Ferbane, Co. Offaly. R42 E029

AS INDICATED on the particulars received by the Planning Authority on the 27th September 2023, is development and is or is exempted development,

AND WHEREAS Carole Loonam requested a declaration on the said question from Offaly County Council;

AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to:

- (a) Section 2, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended.
- (b) Article 6(3) of the Planning and Development Regulations 2001, as amended.
- (c) Schedule 2, Part 3, Class 12 of the Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that the proposed renovation internal and external works comprising of new doors, new windows, new plumbing, rewiring, insulation, paint & floor finishes, new kitchen, stairs and full plastering is or is not development and if so, are they exempted development.

NOW THEREFORE Offaly 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 proposed renovation internal and external works comprising of new doors, new windows, new plumbing, rewiring, insulation, paint & floor finishes, new kitchen, stairs and full plastering **is development and is exempted development** at Ballycumber Road, Ferbane, Co. Offaly. R42 E029

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.



Úna McCafferkey
Executive Planner

20th October 2023

Date

A handwritten signature in black ink that reads "Ed Kelly". The signature is written in a cursive style with a long, sweeping underline.

Ed Kelly
(A/Senior Executive Planner)

Date 23/10/2023