

DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 25/37

NAME OF APPLICANT: Michael and Pearl Barnes

ADDRESS FOR CORRESPONDENCE: Lettybrook, Kinnitty, Co. Offaly

NATURE OF APPLICATION: request for declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not internal works to house, replacement of flat roof at back of house and new windows is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Main Street, Kilcormac, Co. Offaly, R42 HN72

WHEREAS a question has arisen as to whether internal works to a house, replacement of flat roof at back of house and new windows is or is not development and is or is not exempted development at Main Street, Kilcormac, Co. Offaly, R42 HN72.

AS INDICATED on the particulars received by the Planning Authority on the 21st February 2025.

AND WHEREAS Michael and Pearl Barnes have 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 of the Planning & Development Act 2000, as amended.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Section 4(1)(h) of the Planning & Development Act 2000, as amended..

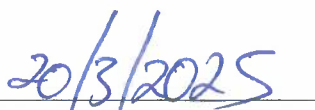
AND WHEREAS Offaly County Council has concluded that the proposed works, which will not materially affect the external appearance of the existing dwelling so as to render the appearance inconsistent with the character of the existing dwelling or of neighbouring structures, and as such the proposed works are deemed exempted under section 4(1)(h) of the Planning and Development Act 2000, as amended. On this basis:

- The work is considered development and is exempted development.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5(2) hereby decides that the renovating of existing house to consist of internal works to house, replacement of flat roof at back of house and new windows is **development and is exempted development**.

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 include 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.

OFFALY COUNTY COUNCIL

Planning Report

Section 5 Declaration

File Reference:	DEC 25/37
Question:	Whether Renovating of existing house to consist of internal works to house, replacement of flat roof at back of house new windows Is/ is not development and is /is not exempted development
Applicant:	Michael and Pearl Barnes
Location:	Main Street, Kilcormac, County Offaly R42HN72
Date received:	21/2/2025
Date due:	20/3/2025

1. Proposal

The question has arisen as to whether Renovating existing house to consist of internal works to house, replacement of flat roof at back of house new windows is not development and is /is not exempted development.

Location

The site is located in Main Street, Kilcormac, County Offaly. R42 HN72

2. Relevant Planning History:

No record of any planning history on site.

3. Legislative Context:

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

In this Act, except where the context otherwise requires—
“development” has the meaning assigned to it by **section 3**, and “develop” shall be construed accordingly;

Section 3 (1) Planning and Development Act 2000, as amended:

“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 Planning and Development Act 2000, as amended:

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 structure

(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;

4. Screening

Having regard to nature of the development, renovations to an existing house its location in Kilcormac and lack of any pathway to a European site given that the proposal connects to a public sewer it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

Please see EIA Screening attached which concludes EIA is not required

5. Evaluation

Question: Is the following works considered as Development?

Yes

Question: Is the following works proposal considered as Exempted Development?

Yes it is exempted under section 4(1)(h) of the planning and development act 2000, as amended

6. 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 internal works to a house, replacement of flat roof at back of house and new windows

At Main Street, Kilcormac, Co. Offaly, R42 HN72

Is/ is not development and is /is not exempted development.

AS INDICATED on the particulars received by the Planning Authority on the 21st February 2025.

AND WHEREAS Michael and Pearl Barnes have 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 of the Planning & Development Act 2000, as amended.
- (b) Section 3(1) of the Planning & Development Act 2000, as amended.
- (c) Section 4(1)(h) of the Planning & Development Act 2000, as amended.

AND WHEREAS Offaly County Council has concluded that the proposed works, which will not materially affect the external appearance of the existing dwelling so as to render the appearance inconsistent with the character of the existing dwelling or of neighbouring structures, and as such the proposed works are deemed exempted under section 4(1)(h) of the Planning and Development Act 2000, as amended. On this basis:

- The work is considered development and is exempted development.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5(2) hereby decides that;

The renovating of existing house to consist of internal works to house, replacement of flat roof at back of house and new windows **Is development and is exempted development.**

Signature

A handwritten signature in cursive script that reads "Ed Kelly". The signature is written in black ink and is positioned above a horizontal line.

Ed Kelly ASEP

20/3/2025

Date



EIA Screening Form

Establishing if the proposal is a <i>'sub-threshold development'</i> :	
Planning Register Reference:	Dec 25/37
Development Summary:	Doctors surgery to residential use
Was a Screening Determination carried out under Section 176A-C?	No, Proceed to Part A
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1 , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
No	Proceed to Part B
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2 , of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)	
No, the development is not a project listed in Schedule 5, Part 2	No Screening required