

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 17/6

NAME AND ADDRESS OF APPLICANT: Mary O'Neill

ADDRESS FOR CORRESPONDENCE: Derrygrogan, Tullamore, Co. Offaly.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Acts 2000, as amended as to whether (A) a window placed where an up and over door was at the side of the house which is used as a garage (B) a conservatory 10ft by 10ft at the rear of the house is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Derrygrogan, Tullamore, Co. Offaly.

WHEREAS a question referred to Offaly County Council on 5th May 2017 has arisen as to whether (A) a window placed where an up and over door was at the side of the house which is used as a garage (B) a conservatory 10ft by 10ft at the rear of the house at Derrygrogan, Tullamore, Co. Offaly is development and is or is not exempted development in the Planning and Development Regulations 2001 (as amended).

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

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

AND WHEREAS Offaly County Council has concluded that –

The work **IS Development** and **IS Exempted Development**.

NOW THEREFORE Offaly County Council, in exercise of powers conferred on it by Section 5 (2) of the Planning and Development Act 2000, as amended, hereby decides that (A) a window placed where an up and over door was at the side of the house which is used as a garage (B) a conservatory 10ft by 10ft at the rear of the house at Derrygrogan, Tullamore, Co. Offaly **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 included any submissions and observations received by it in accordance with statutory provisions.



Administrative Officer

Date 22/6/17

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 Dec 17/6

Re: Section 5 Declaration

A question has arisen as to whether:

- (A) A WINDOW PLACED WHERE AN UP AND OVER DOOR WAS AT THE SIDE OF THE HOUSE WHICH IS USED AS A GARAGE (B) A CONSERVATORY 10FT BY 10FT AT THE REAR OF THE HOUSE

and associated works at Derrygrogan Co Offaly is/is not development and is or is not exempted development.

Assessment

The following information was requested.

“Please submit a site location map scale 1:2500 with the site subject of this declaration request outlined in red.”

A map has been submitted on the site and I have inspected the development.



I refer to the above. I have inspected the site of the detached house on site and noted and considered the submissions on file. I would consider the proposed changes to be development having considered Sections 3 of the Planning & Development Act 2000 as amended.

Section 2

2.—(1) 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:

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.

Furthermore I would consider that the development is exempt due to the following exemptions in the planning regulations.

Article 6

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.

SCHEDULE 2, PART 1

Development within the curtilage of a house

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 other similar structure attached to the rear or to the side of the house.

I also note the following condition of this exemption.

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

I would therefore recommend that the following Managers Order issue

WHEREAS a question has arisen as to whether ~~it~~ ^{EC}:

(A) A WINDOW PLACED WHERE AN UP AND OVER DOOR WAS AT THE SIDE OF THE HOUSE WHICH IS USED AS A GARAGE (B) A CONSERVATORY 10FT BY 10FT AT THE REAR OF THE HOUSE

At Derrygrogan, Co Offaly is development and is or is not exempted development.

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

- (a) Sections 2 and of the Planning & Development Act 2000 as amended and
- (b) Sections 3 and of the Planning & Development Act 2000 as amended and
- (c) Article 6 of the planning and development regulations 2001 as amended
- (d) SCHEDULE 2, PART 1, Class 1 of the planning and development regulations 2001 as amended

AND WHEREAS Offaly County Council has concluded that –

The ~~proposed~~ ^{are} works ~~is~~ ^{are} development and ~~is~~ ^{are} exempted development. ST

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

- (A) A WINDOW PLACED WHERE AN UP AND OVER DOOR WAS AT THE SIDE OF THE HOUSE WHICH IS USED AS A GARAGE (B) A CONSERVATORY 10FT BY 10FT AT THE REAR OF THE HOUSE

at Derrygrogan, ^{Tullamore} ~~Co Offaly~~ Co Offaly and associated works is development and is exempted development.

Ed Kelly
Ed Kelly
Exec Planner
22/6/2017

ASW
22/6/

Report Noted

D 22/6/17