

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 19/13

NAME OF APPLICANT: Brendan McAuliffe

ADDRESS FOR CORRESPONDENCE: C/O MURRAY ARCHITECTURAL SERVICES
FOUR WINDS
PALLAS PARK
BLUEBALL
TULLAMORE
CO. OFFALY

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the change of use of a derelict shop to two houses, is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Main Street, Daingean, Co. Offaly.

WHEREAS a question referred to Offaly County Council on 4th September 2019 has arisen as to whether the change of use of a derelict shop to two houses at Main Street, Daingean, Co. Offaly and associated works is or is not development and is or is not exempted development under the Planning and Development Act 2000, (as amended).

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

- (a) Sections 2 of the Planning and Development Act 2000, as amended
- (b) Sections 3 of the Planning and Development Act 2000, as amended.
- (c) Article 2 of SI No 30 of 2018 Planning and Development (Amendment) (No 2) Regulations 2018.

AND WHEREAS Offaly County Council has concluded that –

☉ The proposed works and change of use **Is Development and IS Exempted Development** subject to the works being completed by the 31st December 2021 and that the Planning Authority is notified two weeks prior to the commencement of the change of use.

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 the change of use of a derelict shop to two houses at Main Street, Daingean, Co. Offaly and associated works **IS DEVELOPMENT AND IS EXEMPTED DEVELOPMENT** subject to the works being completed by the 31st December 2021 and that the Planning Authority is notified two weeks prior to the commencement of the change of use.

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

29/10/19

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 19/13</i> <i>derelict</i> |
| Question: | <i>Whether the change of use from a shop to two houses is or is not development and is or is not exempted development</i> |
| Applicant: | <i>Brendan McAuliffe</i> |
| Correspondence Address: | <i>Murray Architectural Services Four Winds Pallas Park Blueball Tullamore Co. Offaly County Council R35 V044.</i> |
| Location: | <i>Main Street, Daingean</i> |
| Date due: | <i>31/10/2019</i> |

Ek.

Re: Section 5 Declaration

A question has arisen as to whether: *derelict*
Whether the change of use from a shop to two houses is or is not development and is or is not exempted development

Ek.

and associated works at *Main Street, Daingean Co Offaly* is/is not development and is or is not exempted development.

Assessment

I refer to the above. I have inspected the 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.

The applicant for the declaration was requested to provide further information, in blue font:

1. Submit a schedule, accompanied by scaled drawings at not less than 1:100, which indicate that the proposed dwelling floor areas and storage spaces have minimum floor area requirements and minimum storage space requirements as per the “Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.

No schedule has been submitted as the applicants agent has stated that two houses are proposed, not apartments. Notwithstanding this I note that the proposal generally meets the requirements of appendix one of the Guidelines, although private open space has not been provided. In this regard I note that section 6.9 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities March 2018 states:

“Planning authorities are also requested to practically and flexibly apply the general requirements of these guidelines in relation to refurbishment schemes, particularly in historic buildings, some urban townscapes and ‘over the shop’ type or other existing building conversion projects, where property owners must work with existing building fabric and dimensions.”

In this regard the proposal is deemed to comply with the guidelines given its location on an historic street.

2. Submit a landholding map, scale 1:2500, outlining your landholding in blue. Any wayleaves over the land should be indicated in yellow.

The applicant has submitted the required map.

On the basis of the previous assessment and article two of SI no 30 of 2018 I consider that the development is exempt.

I would therefore recommend that the following Managers Order issue

WHEREAS a question has arisen as to whether the:
Change of use from a shop to two houses

derelict

etc.

At *Main Street, Daingean* and associated works 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 2 of SI no 30 of 2018 Planning and Development (Amendment) (no 2) regulations 2018

AND WHEREAS Offaly County Council has concluded that –

The proposed works and change of use is development and is exempted development subject to the works being completed by the 31st of December 2021 and that the planning authority is notified two weeks prior to the commencement of the change of use.

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

The change of use from a ^{develop}shop to two houses

at *Main Street, Daingean* Co Offaly and associated works is development and is exempted development. subject to the works being completed by the 31st of December 2021 and that the planning authority is notified two weeks prior to the commencement of the change of use.


Ed Kelly
Acting Senior Executive Planner
25/10/2019