

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 19/7

NAME AND ADDRESS OF APPLICANT: GALRO,
Mill House,
Killashee Street,
Longford,
Co. Longford N39 A8X5

ADDRESS FOR CORRESPONDENCE: Mill House,
Killashee Street,
Longford,
Co. Longford N39 A8X5

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the use of the dwelling house for providing living support services for people with disabilities or mental illness at Ballycollin, Geashill, Co. Offaly, whereby the number of persons residing therein shall not exceed 6 and the number of carers shall not exceed 2, under the care of GALRO, is or is not development and is or is not exempted development under the Planning and Development Act 2000 (as amended).

LOCATION OF DEVELOPMENT: Ballycollin, Geashill, Co. Offaly R35 P525

WHEREAS a question referred to Offaly County Council on 05th April 2019 has arisen as to whether the use of the dwelling house for providing living support services for people with disabilities or mental illness at Ballycollin, Geashill, Co. Offaly, whereby the number of persons residing therein shall not exceed 6 and the number of carers shall not exceed 2, under the care of GALRO 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 & Development Act 2000, as amended and
- (b) Section 3 of the Planning & Development Act 2000, as amended and
- (c) Planning and Development Regulations 2001-2018, Article 6 (1) and Article 9
- (d) Planning and Development Regulations 2001-2018, Schedule 2, Part 1, Class 14 (f)

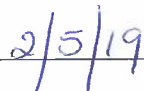
AND WHEREAS Offaly County Council has concluded that –

The proposed works **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 the use of the dwelling house for providing living support services for people with disabilities or mental illness at Ballycollin, Geashill, Co. Offaly, whereby the number of persons residing therein shall not exceed 6 and the number of carers shall not exceed 2, under the care of GALRO **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

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

Ref No: 19/7

APPLICANT: GALRO, Mill House, Killashee Street, Longford N39 A8X5

REFERRER'S QUESTION:

The question before the planning authority is whether the use of the dwelling house for the purposes of providing care services for people with disabilities or mental illness is or is not development or is or is not exempted development.

The following question has arisen:

"We intend to provide living support services for people with disabilities or mental illness at Ballycollin, Geashill, Co. Offaly. The number of persons residing shall not exceed 6 and the number of carers shall not exceed 2. Please advise us if the use of this dwelling for the purposes of providing care for 6 persons under the care of GALRO, constitute development or constitute development, which is exempted development?"

SUBJECT SITE:

The subject site is located approximately 3.8 km west of Geashill in a rural area, which is typified by rural farmsteads and one off rural housing. The site contains a dwelling house with outbuildings.

LEGISLATIVE CONTEXT:

The following statutory provisions are relevant in this case Section 2(1) of the Planning and Development Act 2000 as amended states as follows:

"In this Act, accept where the context otherwise requires – "development" has the meaning assigned to it by Section 3.1 of the Planning and Development Act. The Act states as follows:

Section 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 Act defines 'works' as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

Section 4 (1) (a) – (l) set out what is exempted development for the purposes of this Act.

Planning and Development Regulations, 2001- 2018 Article 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.

The following exempted development provisions should be considered in the context of the subject referral:

Schedule 2, Part 1, Exempted Development, General

CLASS 14

Development consisting of a change of use:

(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

Subject to the following Conditions and Limitations under Column 2:

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2

ASSESSMENT:

The subject question entails a material change of use as described with respect of Section 3 (1) above whereas the use of a dwelling house is being materially altered to use of the subject dwelling house for providing care for persons with an intellectual or physical disability or mental illness.

Therefore, the proposal comprises 'development' as per the above definition.

However, pursuant to the Planning and Development Regulations 2018, Schedule 2, Part 1, Exempted Development, General CLASS 14, the proposed development is considered to be development, which is exempted development under the aforesaid Class.

It should be noted that there are no restrictions on exemption with respect of Article 9 (1) in this instance.

I therefore recommend that the following Chief Executive Order be issued.

WHEREAS a question has arisen as to whether:

Providing living support services for people with disabilities or mental illness at Ballycollin, Geashill, Co. Offaly, whereby the number of persons residing therein shall not exceed 6 and the number of carers shall not exceed 2, under the care of GALRO, constitute development or constitute development, which is exempted development.

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

- (a) Sections 2 of the Planning & Development Act 2000, as amended and
- (b) Section 3 of the Planning & Development Act 2000, as amended and
- (c) Planning and Development Regulations 2001 -2018, Article 6 (1) and Article 9
- (d) Planning and Development Regulations 2001-2018, Schedule 2, Part 1, Class 14 (f)

AND WHEREAS Offaly County Council has concluded that --

The proposed works is **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 use of the dwelling house for providing living support services for people with disabilities or mental illness at Ballycollin, Geashill, Co. Offaly by GALRO, constitutes development and is exempted development.



Aisling Cunnane
A/Planner
2nd May 2019



A/SEP

2/5/19