

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 19/8

NAME AND ADDRESS OF APPLICANT:

Craig Smart,
C/o Murray Architectural Services,
Four Winds, Pallas Park,
Blueball, Tullamore,
Co. Offaly
R35 V044

ADDRESS FOR CORRESPONDENCE:

Craig Smart,
C/o Murray Architectural Services,
Four Winds, Pallas Park,
Blueball, Tullamore,
Co. Offaly,
R35 V044

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the change of use from 2 existing semi-detached dwelling houses, (No. 21 and No. 22, Island Lodge, Walsh Island) into 1 no. dwelling house at No. 21 and No. 22, Island Lodge, Walsh Island, Co. Offaly is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: No. 21 and No. 22, Island Lodge, Walsh Island, Co. Offaly

WHEREAS a question referred to Offaly County Council on 16th May 2019 has arisen as to whether the change of use from 2 no. existing semi-detached dwelling houses, (No. 21 and No. 22, Island Lodge, Walsh Island) into 1 no. dwelling house at No. 21 and No. 22, Island Lodge, Walsh Island, Co. Offaly 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(1), & 3(1) & 4(1) of the Planning and Development Act 2000, as amended.
- (b) Schedule 2 Article 6 Part 1 – Exempted Development- General Section 14 (E) of Planning & Development Regulations 2001, as amended.

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 change of use from 2 no. existing semi-detached dwelling houses, (No. 21 and No. 22, Island Lodge, Walsh Island) into 1 no. dwelling house at No. 21 and No. 22, Island Lodge, Walsh Island, 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 12/6/19

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:

Dec 19/8

QUESTION:

Whether the change of use from two existing semi-detached houses, into one house. at No. 21 and no. 22, Island Lodge, Walsh Island, Co. Offaly, is or is not development and is or is not exempted development.

APPLICANT:

Craig Smart

CORRESPONDENCE ADDRESS:

Craig Smart C/o Murray Architectural Services,
Four Winds,
Pallas Park,
Blueball,
Tullamore,
Co. Offaly.
R35 V044

LOCATION:

No. 21 and no. 22, Island Lodge, Walsh Island, Co. Offaly.

1. INTRODUCTION

The question is use from two existing semi-detached houses, into one house, at No. 21 and no. 22, Island Lodge, Walsh Island, Co. Offaly is or is not development and is or is not exempted development.

2. SITE HISTORY

Pl. Ref. 001219 Permission for 34 no dwelling houses

3 LEGISLATIVE FRAMEWORK

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:

Planning and Development Act, 2000

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

Planning and Development Regulations, 2001 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.

Schedule 2 Article 6 Part 1 – Exempted Development General

CLASS 14 (e) From use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling.

4. EVALUATION:

A) “Is or is not Development”

In this instance, the proposal involves the change of use of houses no. 21 and 22, into 1 no. unit and hence would involve “works” within the meaning of Section 3 of the Act. Such works constitute “development” within the meaning of the Act.

B) “Is or is not Exempted Development”

According to **Schedule 2 Article 6 Part 1 – Exempted Development General** of the Planning and Development Regulations 2001, as amended, CLASS 14 (e) the change of use from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling is exempt development.

5. CONCLUSION

I conclude that the proposal as outlined in submission is exempted development.

WHEREAS a question has arisen as to whether:

The question is Whether the change of use from two existing semi-detached houses, into one house, at No. 21 and no. 22, Island Lodge, Walsh Island, Co. Offaly is or is not development and is or is not exempted development under the Planning and Development Act 2000 (as amended).

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

- (a) Sections 2(1), 3(1) & 4(1) of the Planning and Development Act 2000, as amended.
- (b) Schedule 2 Article 6 Part 1 – Exempted Development- General *Section 14 (E) of* Planning and Development Regulations 2001, as amended.

AND WHEREAS Offaly County Council has concluded that –

The proposed development 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 change of use from two existing semi-detached houses, into one house, at No. 21 and no. 22, is development under the Planning and Development Act 2000 (as amended), and is exempted development at Island Lodge, Walsh Island.

D. Meehan

D. Meehan
Executive Planner
12/06/2019

Carroll Melia

Carroll Melia
A/Senior Executive Planner

12/6/2019