

**OFFALY COUNTY COUNCIL**  
**DECLARATION UNDER SECTION 5 OF THE**  
**PLANNING & DEVELOPMENT ACT 2000, AS AMENDED**

**REFERENCE:** DEC 20/1

**NAME OF APPLICANT:** Mary Hanley

**ADDRESS FOR CORRESPONDENCE:** Mary Hanley, Doire Óg,  
Coolderry,  
Birr,  
Co. Offaly  
R42 HX77

**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether repairs and upgrade the ladies and men's toilets painting and repair to lobby and main hall areas to Coolderry Community Hall) is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** Coolderry Community Hall,  
Coolderry,  
Birr,  
Co. Offaly  
R42 DH05

**WHEREAS** a question referred to Offaly County Council on 17<sup>th</sup> January 2020 has arisen as to whether repairs and upgrade the ladies and men's toilets painting and repair to lobby and main hall areas to Coolderry Community Hall 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) Section 2, 3 and 4 of the Planning and Development Act 2000, 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 repairs and upgrade the ladies and men's toilets painting and repair to lobby and main hall areas to Coolderry Community Hall at Coolderry, Birr, Co. Offaly, R42 DH05 **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*

11/2/2020  
\_\_\_\_\_  
*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

<b>File Reference:</b>	<b>Dec 20-01</b>
<b>Question:</b>	<i>Whether the following is development and exempted development: (a) Upgrade works to existing toilet facilities. (b) Existing back stage door to be put back in working order. (c) Double and single emergency exit from hall area to be put back in working order with repairs to existing wall at single door. (d) Works within entrance lobby including replace existing double door; replacement of tiles; and, painting of walls. (e) Electrical work including replacement of stage lights and circuit board.</i>
<b>Applicant:</b>	<i>Coolderry Community Hall</i>
<b>Correspondence Address:</b>	<i>c/o Mary Hanley, Doire Óg, Coolderry, Birr, Co. Offaly</i>
<b>Location:</b>	<i>Coolderry Community Hall, Co. Offaly.</i>

#### 1. Introduction

The question has arisen as to whether the proposed development (as listed above) is development, and if so, is it exempted development under Schedule 2, Part 1 Class 14(f) of the Planning and Development Regulations 2001 (as amended).

#### 2. Background

The subject site is on lands zoned as Public/Community/Educational under the Offaly County Development Plan 2014 - 2020. It is currently occupied by the Coolderry Community Hall. The site is located within the inner zone of the Coolderry GAA Borehole which is part of the Coolderry Public Water Scheme.

#### 3. Site History

There is no recent planning history on the subject site.

#### 4. Legislative Context

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

**Section 2 (1) Planning and Development Act 2000 (as amended) states as follows:**

*“alteration” includes— (a) plastering or painting or the removal of plaster or stucco, or (b) the replacement of a door, window or roof, that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;*

*“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*

**Section 3 (1) Planning and Development Act 2000 (as amended) defines development as:**

*“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 - Exempted Development, Planning and Development Act 2000 (as amended)**

Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of this Act including:

*(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 and which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of other structures or neighbouring structures.*

*Section 4 (2) (a) - The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that -*

*(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development.*

### **Regulatory Provisions**

Article 6 of the Planning and Development Regulations 2001 (as amended) states, *inter alia*, that:

*“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”.*

## **5. Proposal by Applicants**

The Applicant wishes to ascertain whether the following proposed works to the Coolderry Community Hall are deemed to be development and if so, is it exempted development:

- (a) Upgrade works to existing toilet facilities.
- (b) Existing back stage door to be put back in working order.
- (c) Double and single emergency exit from hall area to be put back in working order with repairs to existing wall at single door.
- (d) Works within entrance lobby including replace existing double door; replacement of tiles; and, painting of walls.
- (e) Electrical work including replacement of stage lights and circuit board.

## 6. Evaluation

### **Question: Is the following works considered as Development?**

As the proposed works comprises of alterations and improvements to an existing structure, it is considered that the works are 'development' in accordance with section 3(1) of the Planning and Development Act, 2000, as amended.

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

These works are deemed as exempted development in accordance with Section 4 (1) (h) of the 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 structures.*

With the exception of the replacement of doors, the proposed works are internal and are being carried out for maintenance/improvement/alteration purposes. The Planning Authority deems the works to be exempted development.

## 7. Recommendation

**WHEREAS** a question has arisen as to whether or not the proposed works to the existing community hall are or are not development and, where it is development, whether or not it is or is not exempted development at Coolderry Community Hall, Coolderry, Birr, Co. Offaly.

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

- (a) Sections 2, 3 and 4 of the Planning & Development Act 2000 as amended.

**AND WHEREAS** Offaly County Council has concluded that –

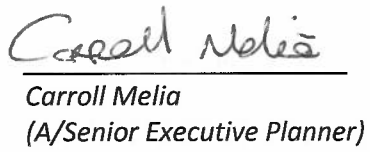
The undertaking of works to the existing community hall (as listed by the Applicants and considered cumulatively) is development and is exempted development.

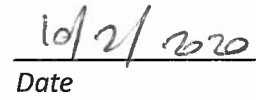
**NOW THEREFORE** Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) of the Planning and Development Act, as amended, hereby decides;

That the undertaking of works at the existing community hall at Coolderry Community Hall, Coolderry, Birr, Co. Offaly is development and is exempted development.

  
Una McCafferkey  
Assistant Planner

  
Date

  
Carroll Melia  
(A/Senior Executive Planner)

  
Date