

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

REFERENCE: DEC 20/11

NAME OF APPLICANT: Naionra Gaelach

ADDRESS FOR CORRESPONDENCE: C/o Miriam Kelly
St. Mary's Youth Centre
Harbour St.,
Tullamore
Co. Offaly.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the intensification of use of a preschool facility from occupation by 20 children to 22 children is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: St. Mary's Youth Centre, Harbour St.,
Tullamore, Co. Offaly.

WHEREAS a question referred to Offaly County Council on 6th of July has arisen as to whether the intensification of use of a preschool facility from occupation by 20 children to 22 children at St. Mary's Youth Centre, Harbour Street, Tullamore, 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-
Sections 2 and 3 of the Planning and Development Act 2000 (as amended);

AND WHEREAS Offaly County Council has concluded that –

The intensification of use of a preschool facility from occupation by 20 children to 22 children **IS NOT 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 intensification of use of a preschool facility from occupation by 20 children to 22 children at St. Mary's Youth Centre, Harbour Street, Tullamore, Co. Offaly **IS NOT 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

31.07.20

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:	Dec 20-11
Question:	<i>Whether the intensification of use of a preschool facility from occupation by 20 children to 22 children is or is not development and is or is not exempted development.</i>
Applicant:	<i>Miriam Kelly</i>
Correspondence Address:	<i>St. Mary's Youth Centre Harbour St., Tullamore</i>
Location:	<i>St. Mary's Youth Centre, Harbour St., Tullamore</i>

1. Introduction

The question has arisen as to whether the intensification of use of a preschool facility from occupation by 20 children to 22 children is or is not development and is or is not exempted development at St. Mary's Youth Centre, Harbour St., Tullamore.

2. Site Location & Description

The site is located on the grounds of St. Mary's Youth Centre, Tullamore. There is a protected structure on site, ref. 23/274 –the youth centre. The site is zoned for public and educational use in the development plan.

3. Relevant Planning History

15/51: Permission granted for 10 years of a pre-school facility to cater for 20 pre-school children. The building is a prefabricated building (67.1 sqm), within the curtilage of a protected structure (Ref. 23/274). Final grant date: 19.06.15. 3 no. conditions attached.

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:

"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.

'structure' means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and— (a) where the context so admits, includes the land on, in or under which the structure is situate,

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.

5. Proposal by Applicants

The Applicant wishes to ascertain whether the intensification of use of a preschool facility from occupation by 20 children to 22 children is or is not development and is or is not exempted development

6. Evaluation

Question: Is the following works considered as Development?

It is considered that the proposal to increase capacity of the preschool facility from 20 to 22 does not constitute development or works within the meaning of the Act. It is not considered that the development constitutes a material change in use, as no change of use is proposed.

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

It is not necessary to consider this question as it is considered that the proposal to increase occupation of the preschool from 20 to 22 is not development.

7. Appropriate Assessment Screening

Screening is not required as no development occurs.

8. Recommendation

It is recommended that the intensification of use of a preschool facility from occupation by 20 children to 22 children is not development.

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to the intensification of use of a preschool facility from occupation from 20 children to 22 children is not development and is or is not exempted development.

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~~**AS INDICATED** on the plans and particulars received by the Planning Authority on 6th July 2020;~~

AND WHEREAS Miriam Kelly requested a declaration on the said question from Offaly County Council;

AND WHEREAS Offaly County Council as the Planning Authority, in considering this declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- Sections 2 and 3 of the Planning and Development Act 2000 (as amended);

AND WHEREAS Offaly County Council has concluded that the intensification of occupancy of the childcare facility does not constitute development as no works are proposed and no material change of use occurs. The question of exempted development therefore does not arise.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the intensification of a preschool facility from 20 children to 22 children is not development.

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

Alaine Clarke

Alaine Clarke
Executive Planner

23.07.20

Carroll Melia

Carroll Melia
A/Senior Executive Planner

28/7/20