

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

**REFERENCE:** DEC 20/4

**NAME OF APPLICANT:** BENNY O'DWYER, COOLDINE CONSTRUCTION LTD.

**ADDRESS FOR CORRESPONDENCE:** COOLDINE CONSTRUCTION LTD.,  
KYLEROE,  
HORSE & JOCKEY,  
CO. TIPPERARY.

**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether a 9.3sqm extension to rear of dwelling to No. 31 Rathcarn, Moneygall, Co. Offaly is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** No. 31 Rathcarn, Moneygall, Co. Offaly

**WHEREAS** a question referred to Offaly County Council on 19/2/20 has arisen as to whether a 9.3sqm extension to rear of dwelling to No. 31 Rathcarn, Moneygall, 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) Section 2 of the Planning and Development Act 2000, as amended.
- (b) Section 3 of the Planning & Development Act 2000, as amended.
- (c) Section 4(1)(h) of the Planning & Development Act 2000, as amended.
- (d) Section 4(2)(a) of the Planning & Development Act 2000, as amended
- (e) Article 6 Part 1 – Class 1 of the Planning and 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 a 9.3sqm extension to rear of dwelling to No. 31 Rathcarn, Moneygall, 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**

2/4/2020  
\_\_\_\_\_  
**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 20-04</b>
<b>Question:</b>	<i>Whether an extension (9.3m<sup>2</sup>) is development and if so, is or is not exempted development.</i>
<b>Applicant:</b>	<i>Benny O'Dwyer (Cooldine Construction Ltd.)</i>
<b>Correspondence Address:</b>	<i>Cooldine Construction Ltd., Kyleroe, Horse &amp; Jockey, Thurles, Co. Tipperary.</i>
<b>Location:</b>	<i>31 Rathcarn, Moneygall, Co. Offaly.</i>

### SECOND REPORT ON FILE

#### 1. Introduction

The question has arisen as to whether the proposed development, 9.3m<sup>2</sup> extension to the rear of the existing dwelling, is or is not development, and if so, is or is not exempted development.

#### 2. Further Information

Further information (FI) was sought by the Planning Authority on 13<sup>th</sup> March 2020 and subsequently received by the Planning Authority on 18<sup>th</sup> March 2020. This report should be read in conjunction with the previous planner's report dated 12<sup>th</sup> March 2020. The following FI was sought and the response is as follows:

*(a) The Applicant is required to confirm whether the dwelling at No. 31 Rathcarn, Moneygall is existing or is yet to be built.*

The Applicants confirm that the dwelling at No. 31 Rathcarn is existing.

*(b) The Applicant is required to provide the setback of the proposed extension to the party boundary with No. 32 Rathcarn.*

The Applicant confirms that the setback to the party boundary with No. 32 Rathcarn will be 1.6m.

*(c) The Applicant is required to confirm the maximum height (above natural ground level) of the proposed extension.*

The Applicant confirms that the maximum height (above natural ground level) of the proposed extension will be 3.7m.

#### 3. Evaluation

Having assessed the FI response received and the previous planning report on file, it is considered that the dwelling is existing and is exempted development under the provisions which are available under Class 1 - *Development within the curtilage of a house.*

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

As the proposed works comprises of an extension to an existing dwelling, 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?**

The dwelling is existing and exemptions which are available under Class 1 - *Development within the curtilage of a house* are applicable.

**4. Conclusion**

**WHEREAS** a question has arisen as to whether:

- Whether an extension (9.3m<sup>2</sup>) is development and if so, is or is not 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.
- (b) Section 3 of the Planning & Development Act 2000, as amended.
- (c) Section 4(1)(h) of the Planning & Development Act 2000, as amended.
- (d) Section 4(2)(a) of the Planning & Development Act 2000, as amended.
- (e) Article 6 – Class 1 of the Planning and Development Regulations 2001, as amended.


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

- The proposed work is development and is exempted development.

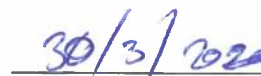
**NOW THEREFORE** Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) hereby decides that;

- The proposed extension (9.3m<sup>2</sup>) is development and is exempted development.

  
Úna McCafferkey  
Assistant Planner

  
Date

  
Carroll Melia  
(A/Senior Executive Planner)

  
Date