

**OFFALY COUNTY COUNCIL  
DECLARATION UNDER SECTION 5 OF THE**

**PLANNING & DEVELOPMENT ACT 2000, AS AMENDED**

**REFERENCE:** DEC 21/30

**NAME OF APPLICANT:** TULLAMORE TENNIS CLUB

**ADDRESS FOR CORRESPONDENCE:** C/O MR NIALL O'MARA, CHAIRPERSON  
ARDEN ROAD  
TULLAMORE  
CO. OFFALY

**NATURE OF APPLICATION:** Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the replacement of existing tennis court perimeter fencing 2.4m high with new fencing 2.4m high is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** Arden Road, Tullamore, Co. Offaly

**WHEREAS** a question referred to Offaly County Council on 01/11/2021 as to whether the replacement of existing tennis court perimeter fencing 2.4m high with new fencing 2.4m high at Arden Road, 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-

- (a) Section 2 of the Planning & Development Act 2000 as amended and
- (b) Section 3 of the Planning & Development Act 2000 as amended and
- (c) Section 4(1)(h) of the Planning & Development Act 2000 as amended and

**AND WHEREAS** Offaly County Council has concluded that proposed works **is development** and **is exempted development**.

**NOW THEREFORE** Offaly County Council, in exercise of powers conferred on it by Section 5 (2)(a) of the Planning and Development Act 2000, as amended hereby decides that the replacement of existing tennis court perimeter fencing 2.4m high with new fencing 2.4m high at Arden Road, Tullamore, 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*

25/11/2021

\_\_\_\_\_  
*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 Dec 21/30

## Re: Section 5 Declaration

A question has arisen as to whether:

Replacement of existing tennis court perimeter fencing 2.4 metres high with new fencing 2.4 metres high and associated works at Tullamore Tennis Club, Arden Road, Tullamore, Co Offaly is/is not development and is or is not exempted development.

### Assessment

I refer to the above. I have inspected the site and noted and considered the submissions on file. I would consider the proposed changes to be development having considered Sections 3 of the Planning & Development Act 2000 as amended.

#### Section 2

2.—(1) In this Act, except where the context otherwise requires—  
“development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly;

#### Section 3:

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.

Furthermore I would consider that the development is exempt due to the following exemptions in the planning regulations as amended.

### Planning and Development Regulations 2001 as amended:

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

### PART 1

#### Class 11

Column 1 Description of Development	Column 2 Conditions and Limitations
CLASS 11 The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of – (a) any fence (not being a hoarding or sheet metal fence), or (b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.	1. The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres.

	<p>2. Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered.</p>
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The proposed replacement fence is 2.4 metres high.

However I note that the fence in question has limited visibility outside the Tennis Club and will be identical in height to the existing fence and I therefore have regard to section 4 of the Planning and Development Act which states:

**4.—(1) The following shall be exempted developments for the purposes of this 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;*

I would therefore recommend that the following Managers Order issue

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

Replacement of existing tennis court perimeter fencing 2.4 metres high with new fencing 2.4 metres high and associated works at Tullamore Tennis Club, Arden Road, Tullamore, Co Offaly is development and is or is not exempted development.

At Tullamore Tennis Club, Arden Road, Tullamore, Co Offaly and associated works is development and is or is not exempted development.

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

- (a) Section 2 of the Planning & Development Act 2000 as amended and
- (b) Sections 3 of the Planning & Development Act 2000 as amended and
- (c) Section 4 (1)(h) Planning & 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 the powers conferred on it by Section 5 (2) hereby decides that the

Replacement of existing tennis court perimeter fencing 2.4 metres high with new fencing 2.4 metres high and associated works at Tullamore Tennis Club, Arden Road, Tullamore, Co Offaly

at Arden Road, Tullamore, Co Offaly and associated works is development and is exempted development.



**Ed Kelly**  
**ASEP**  
**23/11/2021**