

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 25/86

NAME OF APPLICANT:

William Molloy

ADDRESS FOR CORRESPONDENCE:

NATURE OF APPLICATION: request for declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not the refurbishment of existing dwelling, as detailed on the submitted documents, is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT:

Cushcallow, Banagher, Co. Offaly R42 ED76.

WHEREAS a question has arisen as to whether or not the refurbishment of existing dwelling, as detailed on the submitted documents, is or is not development and is or is not exempted development at Cushcallow, Banagher, Co. Offaly R42 ED76.

AS INDICATED on the particulars received by the Planning Authority on the 3rd July 2025.

AND WHEREAS William Molloy has requested a declaration on the said question from Offaly County Council;

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

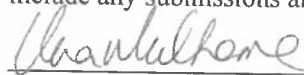
- (a) Section 2(1), 3(1) and 4(1)(h), of the Planning & Development Act 2000, as amended.

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)(a) of the Planning and Development Act 2000 (as amended), hereby decides that:

- The refurbishment of the existing dwelling, as detailed on the submitted documentation, is development and is exempted development at Cushcallow, Banagher, Co. Offaly R42 ED76.

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 include any submissions and observations received by it in accordance with statutory provisions.



Administrative Officer

29/07/2025

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. 25/86
Question:	Whether or not the refurbishment of existing dwelling is or is not development and is or is not exempted development
Applicant:	William Molloy
Correspondence Address:	
Location:	Cushcallow, Banagher, Co. Offaly R42 ED76.

1. Introduction

The question has arisen as whether the proposed internal renovation work, to the existing dwelling, is or is not development and if so, are they exempted development.

2. Background

The detached dwelling is located within the open countryside, on the approach road (R356) to Banagher Town, approximately 1.6km northeast of the town. The site comprises of a single storey semi-detached dwelling.

3. Site History

- *On Site* – No recent planning history associated with the subject site.
- *Enforcement* – No recent history associated with the subject site.
- *Adjoining Lands* – No recent planning history associated with adjoining lands.



Photo 1: Subject site (source: Google Streetview, April 2025).



Photo 2: Subject site (source: Google Streetview, April 2025).



Figure 1 - Subject Site Location (top right of image).

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:

"house" means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

"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.

"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

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 the structure 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.*

5. Proposal by Applicants

The Applicant has advised that they intend to carry out essential refurbishment works to bring the property to minimum rental standards and 'no works will impact the original layout/use of the property'. The list of proposed works includes:

- 4a external completions (incl. doors, windows, sills)
- 4b internal completions (incl. doors, frames, architraves, ironmongery)
- 4c skirtings
- 4d fascias, soffits, rainwater goods
- 4e roof completions (incl. flashings, fascias, soffits, gutters, downpipes)
- 5. Finishes (including finishes to external / internal walls; ceiling finishes; tiling / waterproof finishes to wet areas; roof finishes)
- 5a tiling / waterproof finishes to wet areas
- 5b painting and decorating
- 5c roof finishes
- 6. Services (including plumbing; heating; ventilation; power; lighting; telecommunications; smoke / CO2 detection)
- 7. Fittings (including kitchen units; sanitary / bathroom fittings)
- 7a kitchen units
- 7b sanitary ware / bathroom fittings
- 8. External Works cleaning and making good of external garden area – Removal of excess foliage / vegetation and waste

6. Evaluation

Question: Whether the proposed works (as listed) to the existing dwelling are development and if so, are they exempted development?

In considering the proposed works against the definitions of 'development' and 'works' as provided in the Act, it is the view of the Planning Authority that the proposed works are deemed as development as it includes refurbishments to the existing dwelling.

Question: Is this proposal considered as Exempted Development?

With regard to the proposed works which as described in the submitted documents, the Planning Authority are satisfied that the proposed works would not result in a material alteration to the appearance of the dwelling and would not be inconsistent with the character of area. The refurbishments proposed by the Applicant is harmonious with Section 4 (1) (h) of the Planning and Development Act 2000 (as amended).

Given the appearance of the dwelling including the modern windows, the Planning Authority are satisfied that the residential use of the dwelling has not been abandoned. It is therefore the opinion of the Planning Authority that these works meet the criteria of exempt development under statutory provisions.

7. Appropriate Assessment

Having regard to nature of the development which comprises of the renovation of an existing dwelling at the Cushcallow, Banagher; the distance of approximately 0.42km from the Middle Shannon Callows

SPA and the lack of any pathway to a European site it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

8. Environmental Impact Assessment Screening

Please refer to Appendix B; no EIA is required.

9. Conclusion & Recommendation

It is recommended that the Applicants be advised that the proposed development **is development** and **is exempted 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 whether or not the refurbishment of existing dwelling, as detailed on the submitted documentation, is or is not development and is or is not exempted development at Cushcallow, Banagher, Co. Offaly R42 ED76.

AS INDICATED on the particulars received by the Planning Authority on the 3rd July 2025.

AND WHEREAS William Molloy has requested a declaration on the said question from Offaly County Council;

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


(a) Section 2(1), 3(1) and 4(1)(h), of the 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)(a) of the Planning and Development Act 2000 (as amended), hereby decides that:

- The refurbishment of the existing dwelling, as detailed on the submitted documentation, is **development** and is **exempted development** at Cushcallow, Banagher, Co. Offaly R42 ED76.

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.



Úna McCafferkey

Executive Planner

29th July 2025

Date



Ed Kelly
Acting Senior Executive Planner

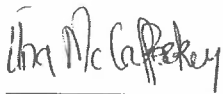
29th July 2025

Date

APPENDIX A

EIA Screening

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	Dec 25/86
Development Summary:	Whether or not the refurbishment of existing dwelling is or is not development and is or is not exempted development at Cushcallow, Banagher, Co. Offaly R42 ED76.
Was a Screening Determination carried out under Section 176A-C?	No, Proceed to Part A
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1, of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
No	Proceed to Part B
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2, of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)	
No, the development is not a project listed in Schedule 5, Part 2	No Screening required



Úna McCafferkey

Executive Planner

29th July 2025

Date