

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 24/113

NAME OF APPLICANT: Tony and Barbara Cummins

ADDRESS FOR CORRESPONDENCE:

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

LOCATION OF DEVELOPMENT: 16 Killane View, Edenderry, Co. Offaly, R45 HY49.

WHEREAS a question has arisen as to whether the renovations to existing dwelling is, or is not development, and is, or is not, exempted development at 16 Killane View, Edenderry, Co. Offaly, R45HY49.

AS INDICATED on the particulars received by the Planning Authority on the 7th November 2024 and 6th January 2025.

AND WHEREAS Tony and Barbara Cummins, have 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 –

- Section 2(1), 3(1), 4(1)(h) and 4(2)(a) of the Planning and Development Act 2000 (as amended).
- Article 6 of the Planning and Development Regulations 2001 (as amended).
- Schedule 2 – Exempted Development, Part I - Development Within the Curtilage of a House, Class 2(a) and 2(c) of the Planning and Development Regulations 2001 (as amended).

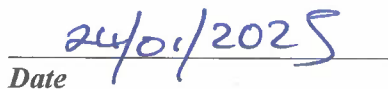
AND WHEREAS Offaly County Council has concluded that the works are development and are exempted development.

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 renovations to an existing dwelling **is development** and **is exempted development** at 16 Killane View, Edenderry, Co. Offaly, R45HY49.

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


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:	<i>Dec. 24/113</i>
Question:	Whether the renovations to existing dwelling is, or is not development, and is, or is not, exempted development
Applicant:	<i>Tony and Barbara Cummins</i>
Correspondence Address:	[REDACTED]
Location:	<i>16 Killane View, Edenderry, Co. Offaly, R45HY49</i>

This report should be read in conjunction with the previous planner's report dated 3rd December 2024

1. Introduction

The question has arisen as to whether or not the renovations to existing dwelling is, or is not development, and is, or is not, exempted development at 16 Killane View, Edenderry, Co. Offaly R45 HY49.

2. Review and Evaluation of Further Information

Further information (FI) was sought by the Planning Authority on the 3rd December 2024 and a response was subsequently received by the Planning Authority on the 6th January 2025.

The following FI was sought, and the response is as follows:

1. Having regard to the conditions and limitations of *Class 2(c) (Development within the curtilage of a house) of Schedule 2 – Exempted Development, Part I of the Planning and Development Regulations 2001 (as amended)* the Applicants shall submit details to ascertain whether the proposed solar panel installation meets the conditions and limitations of Class 2 (C) (see above). This shall include:

- *The total aperture area of the panels.*

The Applicants have advised that the total area of the panels is 24m²

- *The distance between the plane of the wall or a pitched roof and the solar panels (if applicable)*

The Applicants have advised that the distance between the plane of the pitched roof and the solar panels is approximately 5cm.

- *The distance between the plane of a flat roof and the panels (if applicable)*

Not applicable.

- *The height of any free-standing solar array above ground level. (if applicable)*

Not applicable.

- *Whether any free-standing solar array shall not be placed on or forward of the front wall of a house. (if applicable)*

Not applicable.

- *Whether the panels shall reduce the rear garden area below 25 square metres.*

No applicable.

3. Appropriate Assessment

The subject site is located 3.89 km from The Long Derries SAC. Having regard to nature of the development domestic development its location in Edenderry and lack of any pathway to a European site given that the proposal connects to a public sewer 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.

4. Environmental Impact Assessment Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the *Planning and Development Regulations 2001 (as amended)* and therefore is not subject to EIA requirements.

5. Conclusion and Recommendation

Having assessed the Further Information received and the previous planning report on file, it is considered that the proposed renovations to an existing dwelling **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 the renovations to existing dwelling is, or is not development, and is, or is not, exempted development at 16 Killane View, Edenderry, Co. Offaly, R45HY49.

AS INDICATED on the particulars received by the Planning Authority on the 7th November 2024 and 6th January 2025.

AND WHEREAS Tony and Barbara Cummins, [REDACTED] have 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), 4(1)(h) and 4(2)(a) of the *Planning and Development Act 2000 (as amended)*.
- (b) Article 6 of the *Planning and Development Regulations 2001 (as amended)*.
- (c) Schedule 2 – Exempted Development, Part I - Development Within the Curtilage of a House, Class 2(a) and 2(c) of the *Planning and Development Regulations 2001 (as amended)*.

AND WHEREAS Offaly County Council has concluded that the works are development and are 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 renovations to an existing dwelling **is development** and **is exempted development** at 16 Killane View, Edenderry, Co. Offaly, R45HY49.

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.



Enda Finlay
Graduate Planner

6th January 2025



Ed Kelly
ASEP

23th January 2025

Appendix A

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	DEC24/113
Development Summary:	Renovations of existing dwelling
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



Enda Finlay
Graduate Planner

6th January 2025