

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 25/20

NAME OF APPLICANT: Didean Dochas Eireann Teoranta

ADDRESS FOR CORRESPONDENCE: Bloom HQ, Mountrath, Co. Laois R32 DC58

NATURE OF APPLICATION: request for declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the use of a dwelling as a residence for a single family of International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.

LOCATION OF DEVELOPMENT: 77 Carraig Cluain, Tullamore, Co. Offaly R35 C8Y8

WHEREAS a question has arisen as to whether use of a dwelling as a residence for a single family of International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development. at 77 Carraig Cluain, Tullamore, Co. Offaly R35 C8Y8

AS INDICATED on the particulars received by the Planning Authority on the 6<sup>th</sup> February 2025 and 25<sup>th</sup> June 2025.

AND WHEREAS Didean Dochas Eireann Teoranta, C/O Stephen Cairns of Damco Ltd, 26 Pembroke Street Upper, Dublin 2, D02 X361 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:

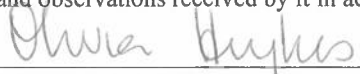
- (a) The plans and particular submitted
- (b) The details within the application which state that the house is occupied by a family of International Protection applicants. Consideration in this decision is based on 'family' being singular, as opposed to multiple occupancy or provision of managed accommodation, provision of care etc.
- (c) Section 2, and 3 of the Planning and Development Act 2000 (as amended);

AND WHEREAS Offaly County Council has concluded that the use of the dwelling as a residence for a single family for International Protection Applicants **does not** constitute development under the Planning and Development Act 2000 (as amended).

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 use of the residential premises at 77 Carraig Cluain, Tullamore, Co. Offaly R35 C8Y8 for a dwelling as a residence for a single family for International Protection Applicants does not constitute development as defined under Section 2(1) of the Planning & Development Act 2000 as amended

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 Coimisiún 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.



## Section 5 Declaration

<b>File Reference:</b>	Dec. 25/20
<b>Question:</b>	Declaration as to whether the use of a dwelling as a residence for a single family of International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.
<b>Applicant:</b>	Didean Dochas Eireann Teoranta
<b>Location:</b>	77 Carraig Cluain, Tullamore, Co. Offaly R35 C8Y8

## SECOND REPORT

The following further information, in blue font, was requested by OCC:

1. Notwithstanding that this Planning Authority has issued positive declarations in respect a number (14 no.) of similar properties in Tullamore, the Authority, in light of the considerable number yet to be determined (16 no.), has concerns regarding the potential distortion of the housing rental and / or sales market in Tullamore. The declarations to date are respect of use by the applicant of individual houses around Tullamore for accommodating individual International Protection (IP) families. In all cases i.e. decided and pending, the cover letter indicates one family per dwelling. In each case adjudicated by Offaly County Council to date, the view was taken that a use of a dwelling by a single family of IP applicants did not constitute 'development,' therefore the question material change of use or intensification etc. did not arise. The Planning Authority's concern is not regarding use of the properties for IP applicants, which is in accordance with government policy, rather it is regarding the potential distortion of the housing rental and / sales market in Tullamore. You are requested to address this concern. Reference in the response should be made to the Council's Housing Strategy and other information e.g. from the Residential Tenancies Board, property websites etc. If it is the case that the market is being distorted, it could be taken to be giving rise to material planning considerations and as such the developments as a collective may not be exempted development.

In response the applicant has stated:

*"The subject property and the remaining 15 no properties, comprising the 16 that are awaiting determination, are unlikely to represent any material distortion to the local sales and rental markets. This report has considered hypothetical scenarios where all 16 become available to either market. There is simply no impact from their non availability to either market.*

*We illustrate that the 16 represent just 0.24% of the total Tullamore housing stock and just 1.08% of active rental tenancies. We further estimate what possible impact the 16 could have on sales prices (if they were all sold) and rent prices (if they were all privately rented).*

*The sales market currently has an average price of €261,000 for a home in Tullamore. The subject additional properties only have the potential to lower this price by just 0.06%. That's equivalent to €169 on a typical property..... The rental market currently has an average rental price of €1,259 per month in Tullamore. All 16 no. properties only have the potential to lower this price by just 0.14%. That's equivalent to just €2 per month."*

The applicant's response includes reference to OCC Housing strategy and detailed calculations.

While I note the applicant's submitted calculations do not reference the 14 positive declarations already given, I consider the projected impacts of the proposed 16 houses on the sales and rental markets in Tullamore, by the collective addition of refugee accommodation, to be limited.

While, based on the applicant's response, the 29 no. (in total) properties represent approx. 0.5 % & 2% of the total properties & active rental tenancies respectively in Tullamore, there are currently only 2 houses available for rent currently listed on Daft.ie. The 29 total properties represents many multiples of the properties currently for rental. However I note that the applicant's projections on house and rental prices and on this basis consider that the proposal is unlikely to distort the housing rental and / or sales market in Tullamore.

2. With reference to HIQUA report reference OSV-0008807, dated Jan 2025, it is stated that "The centre is managed by a social care leader who reports to the chief operations officer of the company. There is a deputy social care leader, and a team of social care workers and assistant support workers also employed in the centre." This is also confirmed as such on the applicant's website. Offaly County Council has issued declarations in favour of a considerable number (14) of properties for this use in Tullamore. The issue of the provision of 'care' as defined in the Planning Regulations 2021 (as amended) was considered on an individual basis and in summary, the view was taken that, by virtue of the description of supports in the cover letters, they did not on an individual basis constitute 'care' and hence did not trigger development and a material change of use. Currently there are a further 16 no. Section 5 applications in the system for consideration by OCC. The Planning Authority has concerns that the proposal for at least 16 more cases, again as a collective, may constitute provision of elements of 'care' as defined in Article 5 of the Planning & Development Regulations 2001 (as amended) and as referred to in Class 9 of Part 4 of Schedule 2 and as such may constitute development which may in turn represent a material change of use. Please address this issue.

In response the applicant has stated:

*"in our original cover letter we indicated that the care provided in these instances would be as per a district nurse or physio visiting an elderly person in their home. The fact that the physio or district nurse might be in a large organisation or have to visit a*

*substantial number of homes on his or her rounds, does not change the nature of care or tip it against the issuing of section 5 exemption in this case"*

*"That our client provides care from a centralised location is not a material consideration in this case, in our opinion. In the example given previously as part of the original S5 lodgement, an element of care being provided in a traditional domestic setting such as a visiting district nurse or physiotherapist for the elderly for example from a local health centre or other centralised location does not result in a material change of use away from domestic use. The planning unit in question is the subject dwelling and this is already confirmed with the local planning authority irrespective of a centralised service under direction of the applicant elsewhere. It has been previously stated that there is no administrative function operated by the applicant from any of their properties including the subject premises."*

On the basis of the above information submitted I consider the proposal does not result in a material change of use.

3. Again, referring to the HIQUA report ref. OSV-0008807, it is noted that in another county, it is commonly the case that families would share a dwelling unit with other families or other IP applicants. While this does not constitute short-term letting, it is the case that Tullamore is a Rent Pressure Zone. As such, therefore, the commercial aspect of the proposal as a collective may have an impact on the rental and or sales market in Tullamore and as such may give rise to matters of material planning consideration and therefore may constitute development and in turn may not constitute exempted development. Please address this issue.

The applicant has responded as follows:

*"The properties in question are;*

- a) in residential use*
- b) no dormitories or communal facilities have been installed to facilitate the use - the permitted kitchen and living room in the house are unaltered;*
- c) the subject accommodation is for protected persons.*
- d) no carers are based in the dwelling and there are no staff located on site supervising the occupants;*
- e) payment is made by a Government Department;*
- f) payment is not made on a nightly basis; and*
- g) accommodation is not being provided on a short term basis — occupants are being accommodated for a period of c 6-8 months at a time.*

*It is clear that the use has not changed and the dwellings continue to be used for the provision of residential accommodation. It is also clear that there is no commercial activity."*

I consider on the basis of the information submitted that there will be no impacts on the RPZ.

4. It is noted that in the current and all applications, the cover letter states the following: "The premises is occupied by a family of international protection applicants at present." Please issue confirmation that this is indeed the case, that is, a single family, particularly with reference to the HIQUA report ref. OSV-0008807 which, it is acknowledged, refers to properties in another county. Please clarify if the current and indeed each property to which a Section 5 application applies is already in use for this purpose.

The applicant has confirmed that each house will be occupied by a single household or family.

#### **APPROPRIATE ASSESSMENT (AA)**

The subject site is located 2.12km from SAC 000571-Charleville Woods.

Having regard to whether use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development at 77 Carraig Cluain, Tullamore, Co. Offaly R35 C8Y8 and due to a 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. Conclusion**

It is considered that the use of the subject premises at 77 Carraig Cluain, Tullamore, Co. Offaly R35 C8Y8 for a dwelling as a residence for a single family for International Protection Applicants **does not** constitute development as defined under Section 2(1) of the Planning & Development Act 2000 as amended.



**Declaration on Development and Exempted Development**

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

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*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.*

Ed Kelly

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Ed Kelly

ASEP

10<sup>th</sup> July 2025





## Appendix A

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	Dec 25/20
Development Summary:	Declaration as to whether the use of a dwelling as a residence for a single family of International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.
Was a Screening Determination carried out under Section 176A-C?	No, Proceed to <b>Part A</b>
<b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
No	Proceed to <b>Part B</b>
<b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , 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	<b>No Screening required</b>



