

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 25/38

NAME OF APPLICANT: Jason Codd,

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 non-habitable standard attic conversion is or is not development and is or is not exempted development.

**LOCATION OF DEVELOPMENT:** 24 Carrick Vale, Edenderry, Co. Offaly, R45 VY16.

**WHEREAS** a question has arisen as to whether or not, non-habitable standard attic conversion is, or is not, exempted development at 24 Carrick Vale, Edenderry, Co. Offaly R45 VY16.

**AS INDICATED** on the particulars received by the Planning Authority on the 21st February 2025.

**AND WHEREAS** Jason Codd 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:

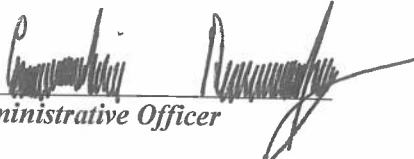
(a) Section 2(1), 3(1), and 4(1)(h) of the Planning & Development Act 2000 (as amended).

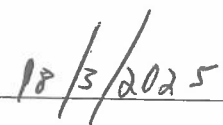
**AND WHEREAS** Offaly County Council has concluded that the proposed works is development and is exempted development having particular regard to 4(1)(h) of the aforementioned Act.

**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:

non-habitable standard attic conversion **is development** and is **exempted development** at 24 Carrick Vale, Edenderry, Co. Offaly R45 VY16.

**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 18/3/2025

**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.

## OFFALY COUNTY COUNCIL

## Planning Report

## Section 5 Declaration

<b>File Reference:</b>	Dec 25/38
<b>Question:</b>	Whether or not non-habitable standard attic conversion is or is not development and is or is not exempted development
<b>Applicant:</b>	Jason Codd
<b>Correspondence address:</b>	
<b>Location:</b>	24 Carrick Vale, Edenderry, Co. Offaly R45 VY16
<b>Date received:</b>	21 <sup>st</sup> February 2025

**1. Proposal**

The question has arisen, whether or not, non-habitable standard attic conversion is, or is not, exempted development at 24 Carrick Vale, Edenderry, Co. Offaly R45 VY16.

**2. Background**

The subject site is in Edenderry Town (north). The existing dwelling is a two-storey semi-detached dwelling located in the Carrick Vale Estate located off Regional Road R-401.

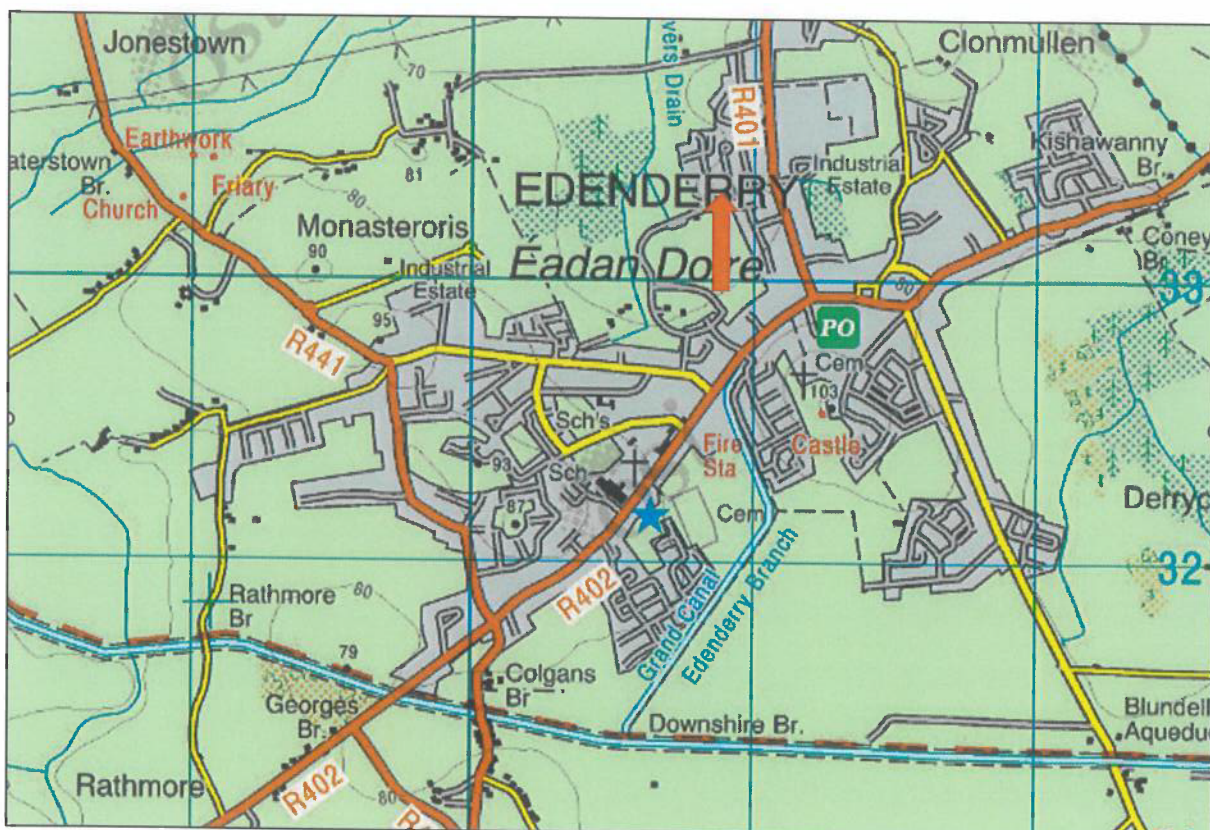


Figure 1: Site Location (red arrow)



### 3. Relevant Planning History:

*On site:*

No recent, relevant planning history.

*Enforcement:*

No enforcement history.

### 4. Legislative Context

To assess, whether or not, the existing works constitute exempted development, regard must be had to the following items of legislation:

Section 2(1) of the *Planning and Development Act 2000 (as amended)* provides a definition of 'house' and 'works' in the Act, it states that:

*"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) of the *Planning and Development Act 2000 (as amended)* defines development as:

*"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, in relation to the proposed development – create storage space in an attic – Section 4(1)(h) of the *Planning and Development Act 2000 (as amended)* states that the following shall be exempted development, namely (emphasis added):

*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;*

The subject attic conversion to storage space is considered to be in accordance with section 4 (1)(h) outlined above.

### 5. Proposal by the Applicant

The Applicant has advised that the proposed works consist of non-habitable standard attic conversion.

## 6. Appropriate Assessment

A screening exercise for an appropriate assessment has been carried out and it has been concluded that the existing development is unlikely to have significant effects on any European sites. Please see attached report under Appendix A.

## 7. 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.

## 8. Evaluation

**Question: Whether the existing works 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 conversion of attic space in an existing dwelling.

**Question: Is this proposal considered as Exempted Development?**

Based on the information received, 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 detrimental to the character of the site or the surrounding area. It is the opinion of the Planning Authority that these works meet the criteria of exempt development under section 4(1)(h) of the act.

## 9. Recommendation

It is recommended that the Applicant 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)**

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**AS INDICATED** on the particulars received by the Planning Authority on the 21<sup>st</sup> February 2025.

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**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 having particular regard to 4(1)(h) of the aforementioned Act.

**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:

non-habitable standard attic conversion is **development** and is **exempted development** at 24 Carrick Vale, Edenderry, Co. Offaly R45 VY16.

*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

Date 12<sup>th</sup> March 2025

Graduate Planner



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Ed Kelly

Date 18<sup>th</sup> March 2025

ASEP

## Appendix A

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	Dec 25/38
Development Summary:	Declaration as to whether non-habitable standard attic conversion is or is not development and is or is not 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) <b>and</b> 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>