

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 25/48

NAME OF APPLICANT: Cara O'Neill.

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 roof refurbishments and replacement of windows and doors is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Nahana, Rathangan, Co. Offaly R51 N526

WHEREAS a question has arisen as to whether or not roof refurbishments and replacement of windows and doors is or is not development and is or is not exempted development at Nahana, Rathangan, Co. Offaly, R51 N526.

AS INDICATED on the particulars received by the Planning Authority on the 6<sup>th</sup> March 2025.

AND WHEREAS Cara O'Neill Clonmore, Clonbullogue, Tullamore, Co. Offaly R45FCO3 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:

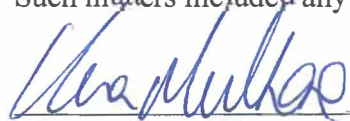
(a) Section 2(1), 3(1) and 4(1)(h) of the *Planning and Development Act 2000*, as amended.

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 proposed works of roof refurbishments and replacement of windows and doors as detailed in the documentation received, **is development** and **is exempted development** at Nahana, Rathangan, Co. Offaly, R51 N526.

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

Date

  
1/4/2025

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.

## Planning Report

### Section 5 Declaration

<b>File Reference:</b>	Dec. 25/48
<b>Question:</b>	Whether or not roof refurbishments and replacement of windows and doors is or is not development and is or is not exempted development
<b>Applicant:</b>	Cara O'Neill
<b>Correspondence Address:</b>	[REDACTED]
<b>Location:</b>	Nahana, Rathangan, Co. Offaly R51 N526

#### 1. Introduction

The question has arisen as whether or not roof refurbishments and replacement of windows and doors is or is not development and is or is not exempted development.

#### 2. Background

The subject site is in the townland of Nahana, it is 2km north-west of Bracknagh Village. In the Offaly County development Plan 2021-2027, the area is classified as a *rural area under strong urban influence*. The subject existing single-storey dwelling is located off Local Tertiary Road L-10053-1, adjoining a farmyard.

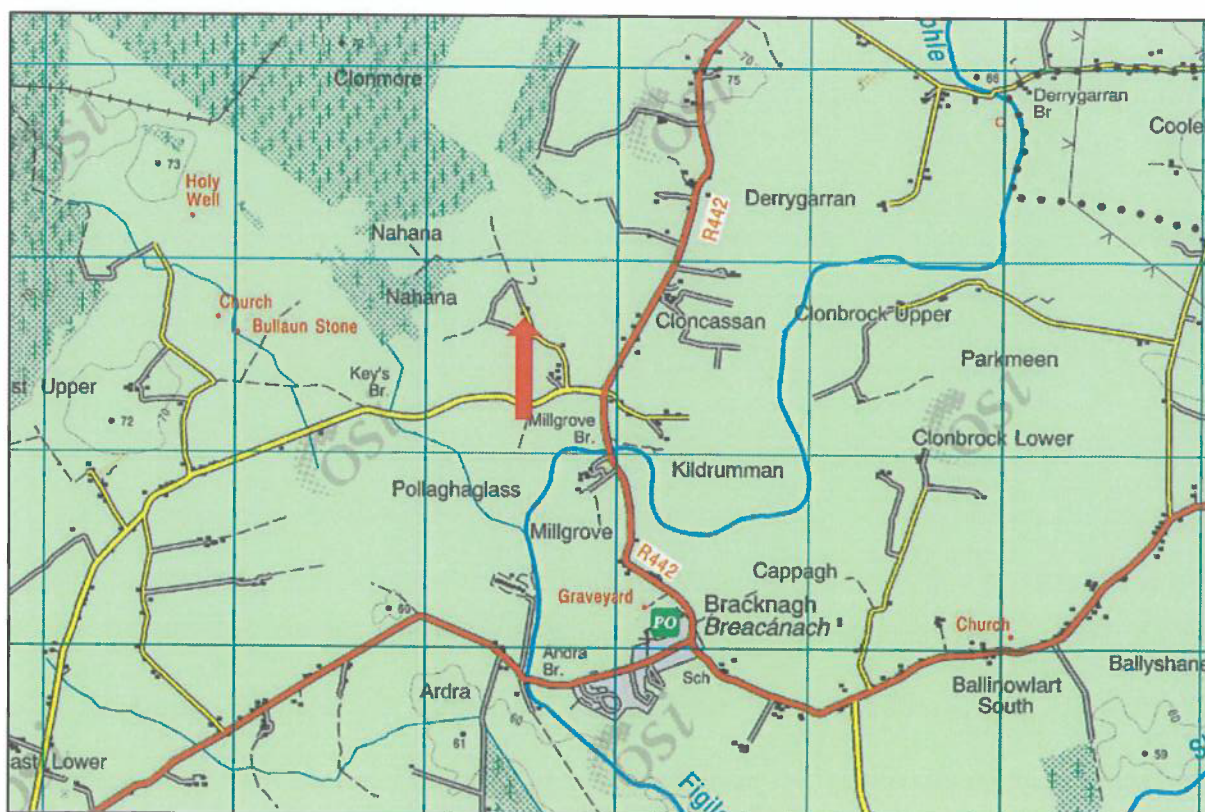


Figure 1: Site location (red arrow)

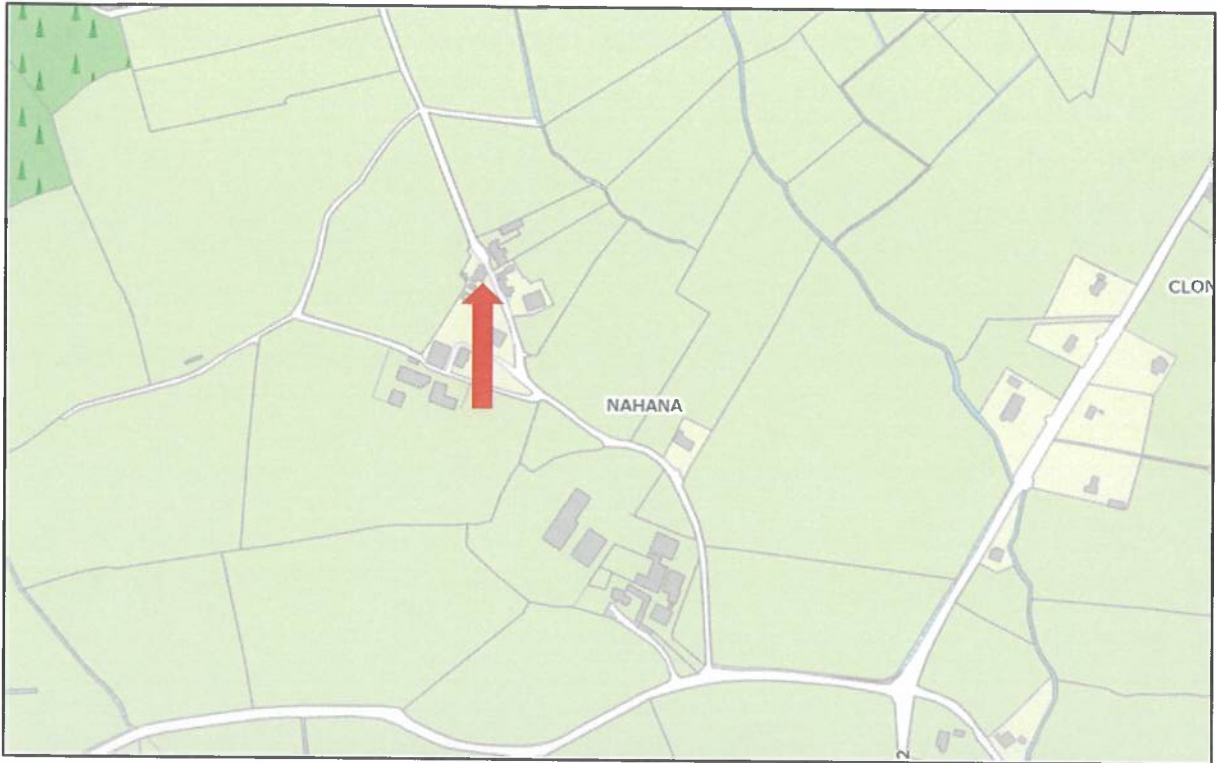


Figure 2: Site location (red arrow)



Photo 1: Front (north-west) elevation of existing dwelling





**Photo 2:** Side (north-west) elevation of existing dwelling



**Photo 3:** Side (south-east) elevation of existing dwelling

### 3. Site History

#### *On Site*

No recent, relevant planning history. According to the submitted Engineer's report the property was built in 1900 and renovated in 1988.

*Enforcement* – No recent history associated with the subject site.

#### *Adjoining Lands*

No recent, relevant planning history.

### 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:

#### (a) 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 (1) *Planning and Development Act 2000 as amended*.**

Furthermore, in relation to the proposed development, which includes replaced of windows, doors and roof, Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of this Act including:

*4(1)(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.*

### 5. Proposal by Applicants

The Applicants has advised that they propose to:

- (a) Replace windows and doors,
- (b) Replace and reinforce "structurally unsound roof",
- (c) Cosmetic internal work.

### 3.0 Summary

The house would classify as being derelict as it has not been lived in for a reported 15 years. The structural timber in the roof is currently structurally unsound, as well as the structural integrity being compromised from more recent attempts at reinforcement.

The roof needing major repair and refurbishments will have a subsequent effect on the superstructure of the house, resulting in necessary replacing of many fixtures and fittings; flashings, fascias, soffits, gutters, downpipes.

The rooms of the house are in reasonably good condition, but do need a lot of modernization to make the house more energy efficient. Completions of the floors, levelling of the concrete, replacement of the current single pane, wooden windows and doors, replacement or reparation of skirtings and door frames, updated tiling and waterproof finishes to wet areas, upgraded single to double panel radiators, replacement of certain bathroom fittings and kitchen units all recommended based on our internal and external visual inspection.

Figure 3: Engineer's report summary

## 6. Evaluation

**Question: Whether or not roof refurbishments and replacement of windows and doors is or is not development and is or is not 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.

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

With regard to the proposed works which are 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 works proposed by the applicant are congruent with Sections 4(1)(h) of the *Planning and Development Act 2000, as amended* (see above). It is the opinion of the Planning Authority that these works meet the criteria of exempt development under the relevant statutory provisions.

An appropriate assessment screening has been carried out (see attached Appendix A). The proposal is not a class of development subject to EIA.

## 7. Conclusion

It is recommended that the Applicant be advised that the proposed development is **development** and is **exempted development**.

**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 roof refurbishments and replacement of windows and doors is or is not development and is or is not exempted development at Nahana, Rathangan, Co. Offaly, R51 N526.

**AS INDICATED** on the particulars received by the Planning Authority on the 6<sup>th</sup> March 2025.

**AND WHEREAS** Cara O'Neill [REDACTED] 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 and 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 proposed works of roof refurbishments and replacement of windows and doors as detailed in the documentation received, **is development and is exempted development** at Nahana, Rathangan, Co. Offaly, R51 N526.

*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

31<sup>st</sup> March 2025



## Appendix A – EIA Screening Form



**Comhairle Chontae Uíbh Fhailí**  
Offaly County Council

Establishing if the proposal is a 'sub-threshold development':	
<b>Planning Register Reference:</b>	DEC 25/48
<b>Development Summary:</b>	Whether or not roof refurbishments and replacement of windows and doors is or is not development and is or is not exempted development
<b>Was a Screening Determination carried out under Section 176A-C?</b>	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> No, Proceed to <b>Part A</b>
<b>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)</b>	
<input type="checkbox"/> Yes, specify class <u>                    [insert here]                    </u>	<b>EIA is mandatory</b>  No Screening required
<input checked="" type="checkbox"/> No	Proceed to <b>Part B</b>
<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)</b>	
<input checked="" type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	<b>No Screening required</b>
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 <b>and</b> meets/exceeds the threshold, specify class (including threshold): <u>                    [specify class &amp; threshold here]                    </u>	<b>EIA is mandatory</b>  No Screening required
<input type="checkbox"/> Yes the project is of a type listed <b>but</b> is <i>sub-threshold</i> : <u>                    [insert here]                    </u>	Proceed to <b>Part C</b>
<b>C. If Yes, has Schedule 7A information/screening report been submitted?</b>	
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	<b>Screening Determination required</b>
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	



	<b>Preliminary Examination required</b>
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