

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 25/59

NAME OF APPLICANT: Aidan Conway.

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 renovation to an existing dwelling is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: 8 The Elms, Spollanstown, Tullamore, Co. Offaly R35 X516

WHEREAS a question has arisen as to whether the proposed renovation of existing dwelling is or is not development and if so is or is not exempted development at 8 The Elms, Spollanstown, Tullamore, Co. Offaly R35 X516

AS INDICATED on the particulars received by the Planning Authority on the 14th April 2025.

AND WHEREAS Aidan Conway 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, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended.

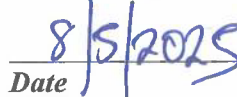
AND WHEREAS Offaly County Council has concluded that the proposed renovation of existing dwelling is development and is exempted development.

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 renovation of existing dwelling is development and is exempted development at 8 The Elms, Spollanstown, Tullamore, Co. Offaly R35 X516.

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:	Dec. 25/59
Question:	Whether or not the renovation to an existing dwelling is or is not development and is or is not exempted development
Applicant:	Aidan Conway
Correspondence Address:	[REDACTED]
Location:	8 The Elms, Spollanstown, Tullamore, Co. Offaly R35 X516



1. INTRODUCTION:

The question has arisen as to whether the proposed renovation of existing dwelling is development and if so is it exempted development.

2. BACKGROUND:

The existing dwelling is located on 'Existing Residential' zoned land within the boundary of Tullamore Town.



Figs 1: Site Location (Discovery Series)



Figs 2: Site Location



Figs 3: Aerial image of location of site

3. SITE HISTORY:

TU262193: Permission **Granted** to John Flanagan & Sons to construct 6 no. semi-detached dwellings

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.*

5. PROPOSAL BY APPLICANTS:

In regard to the proposed renovation of the existing dwelling, the Applicants have indicated that the following works will be carried out:

- Supply and fit of pvc windows and doors
- Slab and skim on all ceilings
- Slab external walls and skim
- New shaker primed doors with new skirting and architraves throughout
- New stira stairs
- Remove bathroom make into wet room
- Fit new sanitary wear
- Tile shower area and floor.
- Fit new laminated floor.
- Supply and fit wardrobe units with pull down hang rails.
- Sliding doors
- Supply and fit kitchen with vinyl doors
- Firmica countertop

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 alterations and repairs to the existing dwelling.

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 dwelling appearance and the finished development would not be inconsistent with the character of the structure.

7. APPROPRIATE ASSESSMENT (AA):

The subject site is located 0.81km from SAC 000571-Charleville Wood. Having regard to nature of the proposed development which comprises of the renovation of an existing dwelling at the Elms, Spollanstown, Tullamore, Co. Offaly R35 X516 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. EIA SCREENING:

No EIA required, see appendix A attached.

9. OTHER SCREENING:

The proposed development is not contrary to the RSES and so it was not referred to the Eastern and Midland Regional Assembly.

10. CONCLUSION:

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 14th April 2025.

AND WHEREAS Aidan Conway [REDACTED]
[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, 3(1) and 4(1)(h) of the Planning & Development Act 2000, as amended.

AND WHEREAS Offaly County Council has concluded that the proposed renovation of existing dwelling 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 renovation of existing dwelling **is development and is exempted development** at 8 The Elms, Spollanstown, Tullamore, Co. Offaly R35 X516

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.

Michael Duffy

Michael Duffy

Executive Planner

2nd May 2025

Ed Kelly

Ed Kelly

ASEP

7th May 2025

Appendix A

Establishing if the proposal is a ' <i>sub-threshold development</i> ':	
Planning Register Reference:	Dec 25/59
Development Summary:	Renovations to 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