

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 25/68

NAME OF APPLICANT: Keith Kilroe & Elaine Boland

ADDRESS FOR CORRESPONDENCE: C/O Andrew Driver, DEC Engineering & Commercial Ltd, Corville Road
Roscrea, Co. Tipperary. E53 AE67

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

LOCATION OF DEVELOPMENT: Broughal, Kilcormac, Co Offaly, R42 F972

WHEREAS a question has arisen as to whether or not the renovation of existing dwelling (as detailed in the submitted documentation) is or is not development and is or is not exempted development at Broughal, Kilcormac, Co Offaly, R42 F972.

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

AND WHEREAS Keith Kilroe & Elaine Boland c/o Andrew Driver, DEC Engineering & Commercial Ltd, Corville Road, Roscrea, Co. Tipperary, E53 AE67 has 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.

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 renovation of existing dwelling (as detailed in the submitted documentation) **is development and is exempted development** at Broughal, Kilcormac, Co Offaly, R42 F972.

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. 25/68 |
| Question: | Whether or not renovating the existing dwelling is or is not development and is or is not exempted development |
| Applicant: | Keith Kilroe & Elaine Boland |
| Correspondence Address: | c/o Andrew Driver, DEC Engineering & Commercial Ltd, Corville Road Roscrea, Co. Tipperary. E53 AE67 |
| Location: | Broughal, Kilcormac, Co Offaly, R42 F972 |

1. Introduction

The question has arisen as whether the proposed renovation work (as detailed in the submitted planning documentation) to the existing dwelling is or is not development and if so, are they exempted development.

2. Background

The detached dwelling is located within the open countryside and a Structurally Weaker Rural Area with a landscape classification as low sensitivity, as defined as per Chapters 2 and 4 of the Offaly County Development Plan 2021 -2027. The property has an active mains water supply, live electrical connection and modern septic tank and comprises of a two-bedroom dwelling.



Figure 1 - Subject Site Location.



Photo 1 - Subject Site – site entrance (source: Google Streetview – April 2025).



Photo 2 - Subject Site – site entrance (source: Google Streetview – April 2025).



Photo 3 - Subject Site (source: Google Earth Pro – March 2025).

In the submitted documentation, the Applicants confirms that Offaly County Council placed a temporary portacabin style structred on the site in 2005 and installed a septic tank system. The owner of the dwelling, at this time, relocated from the existing dwelling to the portacabin. The current owners of the dwelling have been advised that the temporary portacabin will be removed by OCC.



Photo 4 - Subject Site (as submitted).



Photo 5 - Subject Site (as submitted).



Photo 6 - Subject Site (as submitted).

3. Site History

On Site – No recent planning history associated with the subject site.

Enforcement – No recent history associated with the subject site.

Adjoining Lands - No recent planning history associated with the adjoining lands.

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.*

Section 4 (2) (a) - The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that -

- (i) *by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development.*

5. Proposal by Applicants

The Applicants have advised that they wish to apply for the Vacant Property Refurbishment Grant for the subject site and have been requested to seek a Section 5 Declaration. They confirm that there will be no additions or extension to the existing dwelling.

The list of proposed works includes:

- a. Removal of existing internal floors and the installation of new DPM, insulation and Concrete Screed,
- b. New Electrical Installation,
- c. New Mechanical [Plumbing & Heating] Installation,
- d. New Window and External Door Installation,
- e. Repairs to existing chimneys,
- f. Internal drylining installation throughout,
- g. Removal of any decayed or damaged timbers within the building and replacement with new elements,
- h. Installation of an insitu concrete ring beam on all external walls.
- i. Removed decayed timber lintels and the Installation of new prestressed concrete lintels over all openings,
- j. Remove the existing damaged roof
- k. Installation of a new roof, reusing the existing natural slate,
- l. Replace fascia and rainwater chutes.

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 refurbishments 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 appearance of the dwelling and would not be inconsistent with the character of area. The

refurbishments proposed by the applicants is harmonious with Section 4 (1) (h) of the Planning and Development Act 2000 (as amended).

The Planner notes that as per the submitted documentation, a septic tank system was installed in 2005.

It is therefore the opinion of the Planning Authority that these works meet the criteria of exempt development under statutory provisions.

7. Appropriate Assessment

Having regard to nature of the development which comprises of the renovation of an existing dwelling at Shinrone; distance of approximately 10kms from the Slieve Bloom Mountains SPA and Ferbane Bog SAC and the 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. Environmental Impact Assessment Screening

Please refer to Appendix A.

9. Conclusion & Recommendation

It is recommended that the Applicants 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)

WHEREAS a question has arisen as to whether or not the renovation of existing dwelling (as detailed in the submitted documentation) is or is not development and is or is not exempted development at Broughal, Kilcormac, Co Offaly, R42 F972.

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- The renovation of existing dwelling (as detailed in the submitted documentation) is **development** and is **exempted development** at Broughal, Kilcormac, Co Offaly, R42 F972.

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.



Úna McCafferkey

Executive Planner

9th June 2025

Date



Michael Duffy

Acting Senior Executive Planner

9th June 2025

Date

APPENDIX A

EIA Screening

| Establishing if the proposal is a 'sub-threshold development': | |
|---|--|
| Planning Register Reference: | Dec 25-68 |
| Development Summary: | Whether or not renovating the existing dwelling is or is not development and is or is not exempted development at Broughal, Kilcormac, Co Offaly, R42 F972 |
| 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 |



Una McCafferkey

Executive Planner

9th June 2025

Date