

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 25/73

NAME OF APPLICANT: Holly Breen

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 proposed works consisting of refurbishments to the interior and rear of a vacant residential property (as detailed in the submitted documentation) is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Castle Street, Townparks, Birr, Co Offaly, R42 PR82

WHEREAS a question has arisen as to whether or not, the proposed work consisting of refurbishments to the interior and rear of a vacant residential property (as detailed in the submitted documentation) is or is not development and is or is not exempted development at Castle Street, Townparks, Birr, Co Offaly, R42 PR82.

AS INDICATED on the particulars received by the Planning Authority on the 3rd June 2025.

AND WHEREAS Holly Breen 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 proposed work consisting of refurbishments to the interior and rear of a vacant residential property (as detailed in the submitted documentation) is development and is exempted development at Castle Street, Townparks, Birr, Co Offaly, R42 PR82.

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. 25/73
Question:	Whether or not the proposed works consisting of refurbishments to the interior and rear of a vacant residential property is or is not development and is or is not exempted development
Applicant:	Holly Breen
Correspondence Address:	[REDACTED]
Location:	Castle Street, Townparks, Birr, Co Offaly, R42 PR82.

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 Birr Town and is zoned as *Town Centre / Mixed Use* under the Birr Local Area Plan 2023 - 2029. The property comprises a vacant terraced three storey dwelling. The Planner notes that the dwelling is not a protected structure but is located within the zone of Archaeological inclusion.

3. Site Inspection

A site inspection was carried out by the Area Planner.

4. 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 adjoining lands.



Figure 1 - Subject Site Location.



Photo 1 - Subject Site (as indicated) – source: Google Streetview April 2025.



Photo 2 - Subject Site – existing rear boundary – source: Google Streetview April 2025.

5. 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.*

6. Proposal by Applicants

The Applicant has advised that there will be no additions or extension to the existing dwelling with the following description of works provided:

"THE PROPOSED WORKS CONSIST OF REFURBISHMENTS TO THE INTERIOR AND REAR OF A VACANT RESIDENTIAL PROPERTY. THE SCOPE INCLUDES ENERGY UPGRADE MEASURES, INTERNAL LAYOUT ALTERATIONS, REMOVAL OF AN EXISTING EXTERNAL STAIRCASE, WINDOW REPLACEMENTS, REINSTATEMENT OF THE ORIGINAL STAIRS TO THE GROUND FLOOR, REPAIR AND RESTORATION OF ORIGINAL BUILDING FABRIC, AND THE CONSTRUCTION OF A NEW REAR BOUNDARY WALL, ALONG WITH ALL ASSOCIATED SITE WORKS."

Please refer to Appendix A for additional details on the proposed works.

The Planner notes that the submitted plan of the existing floor layout refers to an 'old hairdresser unit' on the ground floor at the front of the property. This has not been occupied for a significant period – Google Streetview show this unit vacant in 2009.



Photo 3: Image from Google Streetview August 2009.

7. 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 as 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).

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

8. Appropriate Assessment

Having regard to nature of the development which comprises of the renovation of an existing dwelling at Castle Street, Birr; distance of approximately 2.4km from the Dovegrove Callows SPA 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.

9. Environmental Impact Assessment Screening

Please refer to Appendix B; no EIA required.

10. 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 proposed work consisting of refurbishments to the interior and rear of a vacant residential property (as detailed in the submitted documentation) is or is not development and is or is not exempted development at Castle Street, Townparks, Birr, Co Offaly, R42 PR82.

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AND WHEREAS Holly Breen [REDACTED] has requested a declaration on the said question from Offaly County Council;

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- The proposed work consisting of refurbishments to the interior and rear of a vacant residential property (as detailed in the submitted documentation) **is development and is exempted development** at Castle Street, Townparks, Birr, Co Offaly, R42 PR82.

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

25th June 2025

Date

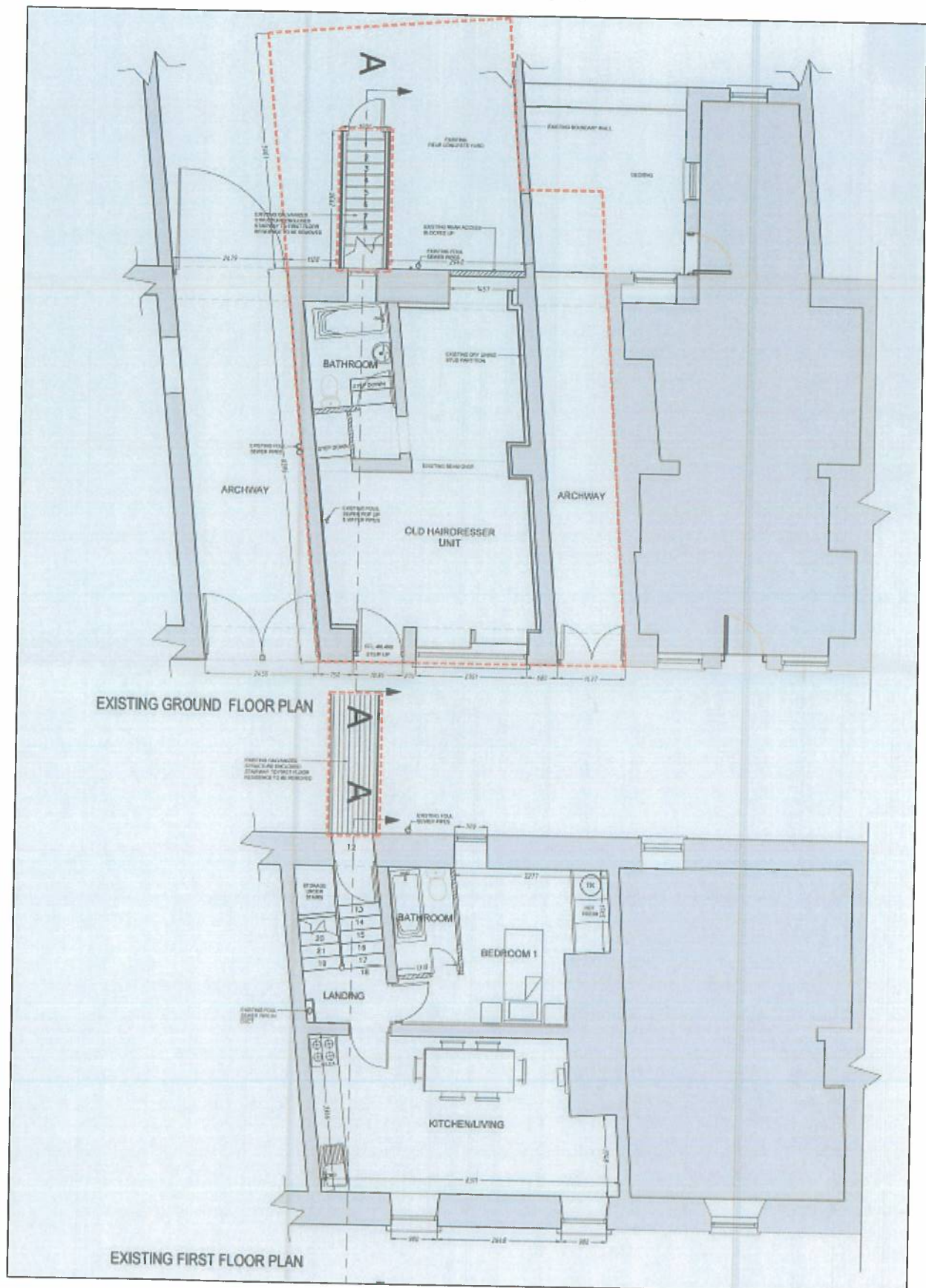


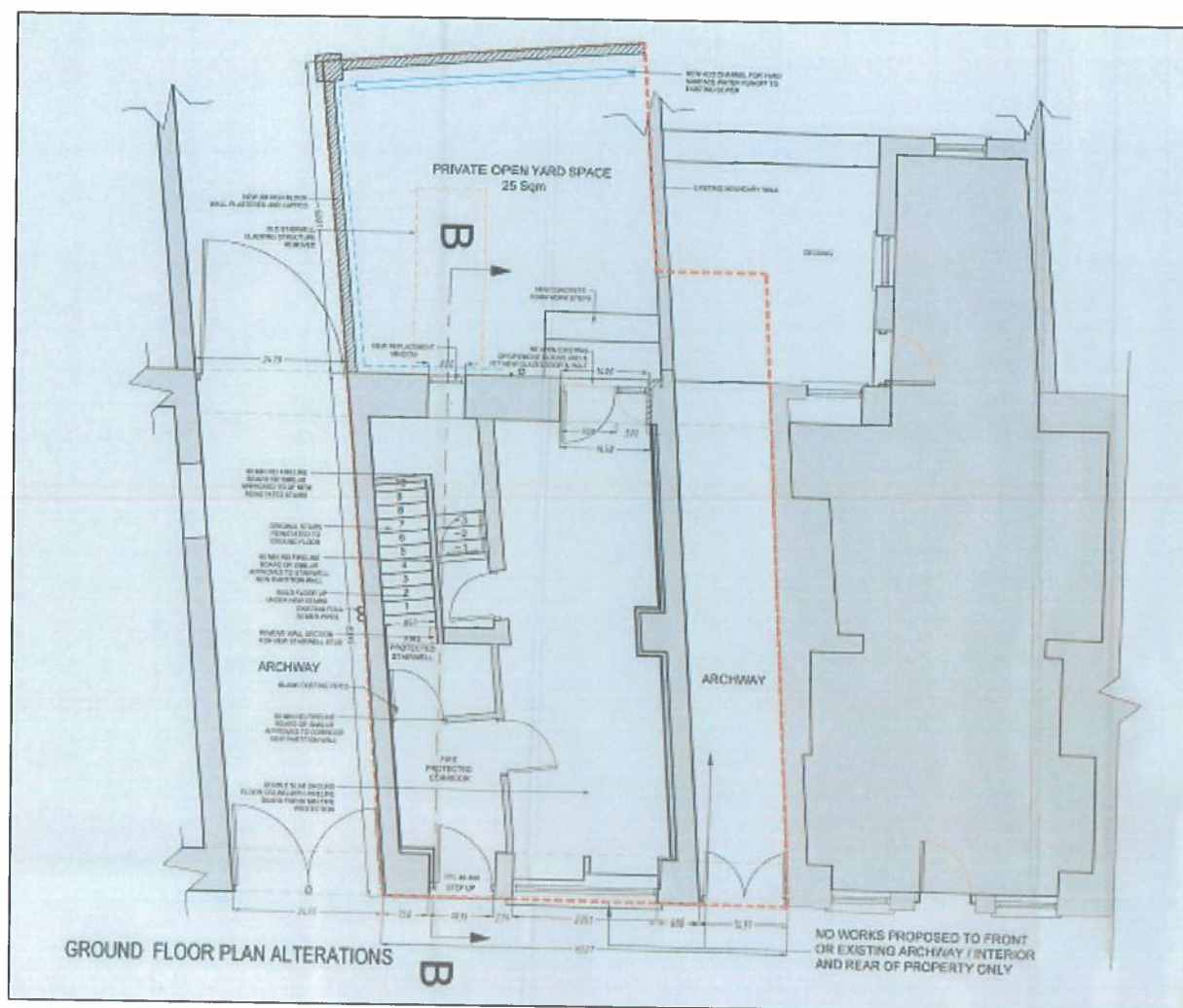
Ed Kelly
Acting Senior Executive Planner

26th June 2025

Date

Extracts from submitted plans of proposed works





EIA Screening

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	Dec 25/73
Development Summary:	Whether or not the proposed works consisting of refurbishments to the interior and rear of a vacant residential property is or is not development and is or is not exempted development at Castle Street, Townparks, Birr, Co Offaly, R42 PR82.
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

25th June 2025

Date