

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 25/77

NAME OF APPLICANT: Foscadh Óg Ltd.

ADDRESS FOR CORRESPONDENCE: C/O Hughes Planning & Development Consultants, 85 Merrion Square,
Dublin 2 D02 FX60.

NATURE OF APPLICATION: request for declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether or not the use of a residential dwelling to provide a residence for 6 no. minors with intellectual or physical disabilities or mental illness, with a maximum of 2 no. resident carers pursuant to class 14(f) of the *Planning and Development Regulations 2001 (as amended)* is or is not development and is or is not exempted development at Hill View House, Killaderry, Daingean, Co. Offaly R35 N523.

LOCATION OF DEVELOPMENT: Hill View House, Killaderry, Daingean, Co. Offaly R35 N523.

WHEREAS a question has arisen as to whether the use of a residential dwelling to provide a residence for 6 no. minors with intellectual or physical disabilities or mental illness, with a maximum of 2 no. resident carers pursuant to class 14(f) of the *Planning and Development Regulations 2001 (as amended)* is or is not development and is or is not exempted development at Hill View House, Killaderry, Daingean, Co. Offaly R35 N523.

AS INDICATED on the particulars received by the Planning Authority on the 9th June 2025.

AND WHEREAS Foscadh Óg Ltd, C/o Hughes Planning & Development Consultants, 85 Merrion Square, Dublin 2 D02 FX60 has requested a declaration on the said question from Offaly County Council.

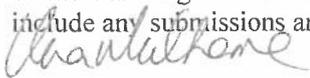
AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to:
Section 2(1), 3(1) and 4(2)(a)(i) of the *Planning and Development Act 2000, as amended*.
Articles 6 of the *Planning and Development Regulations 2001, as amended*.
Schedule 2, Part 1, Class 14(f) of the *Planning and Development Regulations 2001, as amended*.

AND WHEREAS Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to Schedule 2, Part 1, Class 14 (f) of the *Planning and Development Regulations 2001, as amended*.

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 the use of a residential dwelling to provide a residence for 6 no. minors with intellectual or physical disabilities or mental illness, with a maximum of 2 no. resident carers pursuant to class 14(f) of the *Planning and Development Regulations 2001 (as amended)* **is development and is exempted development** at Hill View House, Killaderry, Daingean, Co. Offaly R35 N523.

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

01/07/2025

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.

OFFALY COUNTY COUNCIL

Planning Report

Section 5 Declaration

File Reference:	Dec 25/77
Question:	Whether or not the use of a residential dwelling to provide a residence for 6 no. minors with intellectual or physical disabilities or mental illness, with a maximum of 2 no. resident carers pursuant to class 14(f) of the <i>Planning and Development Regulations 2001 (as amended)</i> is or is not development and is or is not exempted development at Hill View House, Killaderry, Daingean, Co. Offaly R35 N523.
Applicant:	Foscadh Óg Ltd, C/o Hughes Planning & Development Consultants, 85 Merrion Square, Dublin 2 D02 FX60.
Location:	Hill View House, Killaderry, Daingean, Co. Offaly R35 N523.
Date received:	9 th June 2025

1. Proposal

The question has arisen as to whether or not the use of a residential dwelling to provide a residence for 6 no. minors with intellectual or physical disabilities or mental illness, with a maximum of 2 no. resident carers pursuant to class 14(f) of the *Planning and Development Regulations 2001 (as amended)* is or is not development and is or is not exempted development at Hill View House, Killaderry, Daingean, Co. Offaly R35 N523. The Applicant has advised that there are no proposed physical alterations to the existing dwelling.

2. Background

The subject site is located in the townland of Killaderry, which is 1.5Km north-west of Daingean Town. The existing dwelling is a detached, two-storey dwelling.

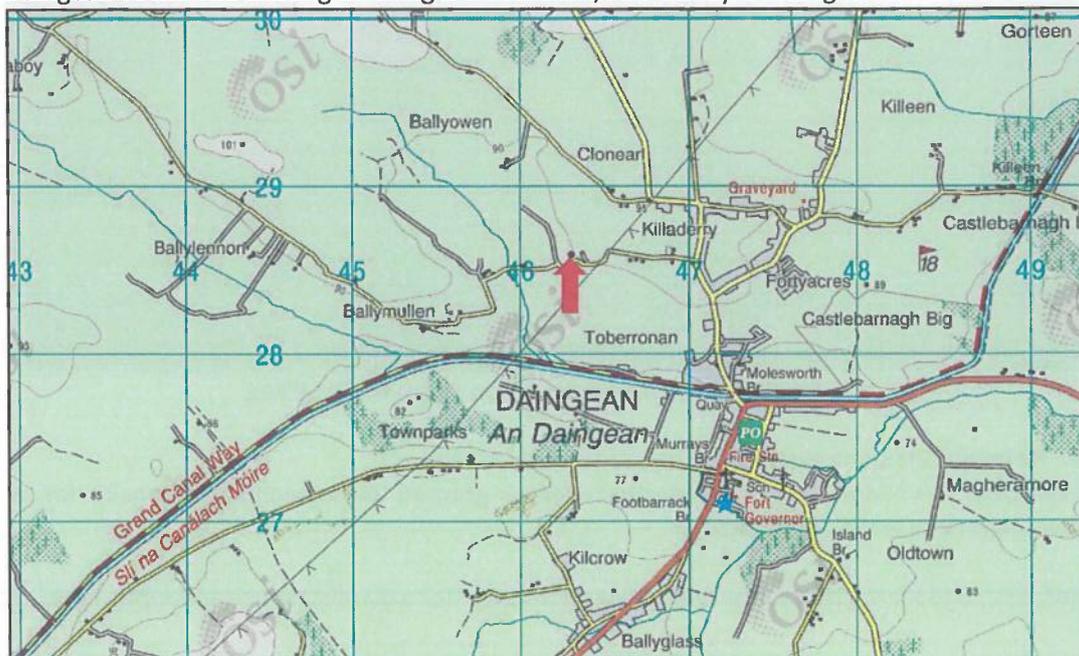


Figure 1: Site Location (red arrow)

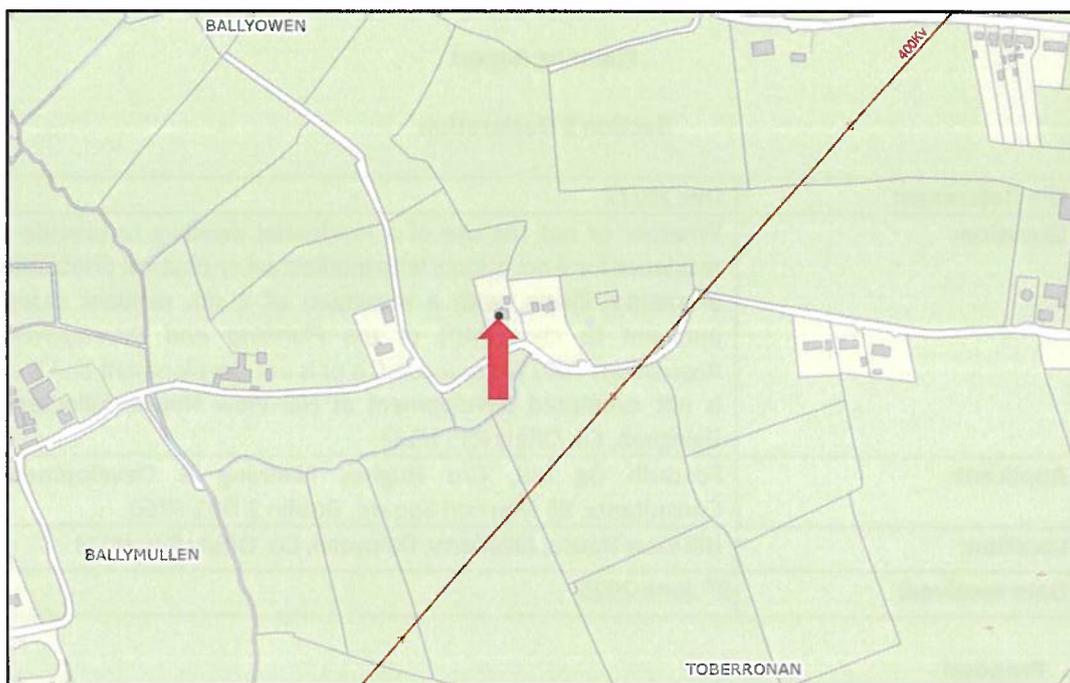


Figure 2: Site Location (red arrow)



Photo 1: Front (south) elevation of existing dwelling

3. Relevant Planning History:

Ref: 00/1190 Kieran and Collette Harte were **granted** permission conditionally for a dwellinghouse and a septic tank.

Ref: 99/1346 Kieran Harte **granted** outline permission for a dwellinghouse and septic tank.

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 Provision

- i. **Section 2(1) of the *Planning and Development Act 2000 (as amended)*** provides a definition of “works” in the Act:

“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.

- ii. **Section 3(1) of the *Planning and Development Act 2000 (as amended)*** defines development:

In this Act, “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.

- iii. **Section 4 (2) (a) *Planning and Development Act 2000, as amended*** states that 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.

In this regard, the proposed development comprises a change of use and therefore is considered ‘development’.

(b) Regulatory provisions

- i. ***Planning and Development Regulations 2001 (as amended)*** Article 6 states that:

Subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Schedule 2 – Article 6 – Part I, *Planning and Development Regulations 2001 (as amended)* exempted Development - Development consisting of a change of use, Class 14(f) specifies:

(f) from use as a house, to use as a residence for person, with an intellectual or physical disability or mental illness and persons providing care for such persons.

Column 2 outlines conditions and limitations.

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

5. Proposal by Applicant

The description of the proposed development is for the change of use of from a residential property to a residence for the purpose of providing residential accommodation and care for unaccompanied minors with additional and complex needs.

Additionally, the Applicant has stated that the maximum number of residents at any one time will be 6 and that the number of resident carers will be 2. The proposals are compliant with the conditions and limitations set out in Class 14 (f) above.

6. Evaluation

Question: Whether the proposed works (as listed) involving change of use to an existing dwelling is development and if so, are they exempted development?

In considering the proposed change of use 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 Exempted Development?

The Planning and Development Act 2000, as amended makes provision for certain types of development to be exempted from planning permission. These types are listed in Section 4(1) of the Act or are set out in regulations made under Section 4(2). The proposal does not contravene Article 9 of the Planning and Development Regulations 2001, as amended.

Having regard to the details submitted by the Applicant, the Planning Authority considers that works which include the change of use of an existing dwelling at Hill View House, Killaderry, Daingean, Co. Offaly is considered exempted development within the provisions of Class 14(f) in *Part 1, Schedule 2, of the Planning and Development Regulations, 2001, as amended* provided the number of residences shall not exceed 6 and the number of resident carers shall not exceed 2.

7. Appropriate Assessment (AA)

The subject site is located 3.6km from SAC 000582-Raheenmore Bog SAC.

Having regard to whether or not the use of a residential dwelling to provide a residence for 6 no. minors with intellectual or physical disabilities or mental illness, with a maximum of 2 no. resident carers pursuant to class 14(f) of the *Planning and Development Regulations 2001 (as amended)* is or is not development and is or is not exempted development at Hill View House, Killaderry, Daingean, Co. Offaly R35 N523 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

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.

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)

WHEREAS a question has arisen as to whether the use of a residential dwelling to provide a residence for 6 no. minors with intellectual or physical disabilities or mental illness, with a maximum of 2 no. resident carers pursuant to class 14(f) of the *Planning and Development Regulations 2001 (as amended)* is or is not development and is or is not exempted development at Hill View House, Killaderry, Daingean, Co. Offaly R35 N523.

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Enda Finlay
Graduate Planner

13th June 2025



Ed Kelly
Acting Senior Planner

1st July 2025

Appendix A

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	Dec 25/77
Development Summary:	Whether or not the use of a residential dwelling to provide a residence for 6 no. minors with intellectual or physical disabilities or mental illness, with a maximum of 2 no. resident carers pursuant to class 14(f) of the Planning and Development Regulations 2001 (as amended) is or is not development and is or is not exempted development at Hill View House, Killaderry, Daingean, Co. Offaly R35 N523.
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