

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 25/78

NAME OF APPLICANT: Kevin McGrath

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 renovation of existing toilet block, remove roof and replace with new roof, remove interior walls and redesign layout internally to add wheelchair accessible toilets is or is not development and is or is not exempted development at Ballycommon, Tullamore, Co Offaly, R35 H663.

LOCATION OF DEVELOPMENT: Ballycommon, Tullamore, Co Offaly, R35 H663

WHEREAS a question has arisen as to whether or not the proposed works consisting of renovation of existing toilet block, remove roof and replace with new roof, remove interior walls and redesign layout internally to add wheelchair accessible toilets is or is not development and is or is not exempted development at Ballycommon, Tullamore, Co Offaly, R35 H663.

AS INDICATED on the particulars received by the Planning Authority on the 4th June 2025.

AND WHEREAS Kevin McGrath 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(1)(h) of the Planning and Development Act 2000, as amended.

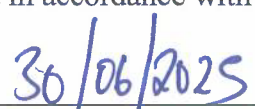
AND WHEREAS Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to section 4(1)(h).

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:

- Renovation of existing toilet block, remove roof and replace with new roof, remove interior walls and redesign layout internally to add wheelchair accessible toilets is development and is exempted development at Ballycommon, Tullamore, Co Offaly, R35 H663.

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. 25/78
Question:	Whether or not the proposed works consisting of renovation of existing toilet block, remove roof and replace with new roof, remove interior walls and redesign layout internally to add wheelchair accessible toilets is or is not development and is or is not exempted development at Ballycommon, Tullamore, Co Offaly, R35 H663.
Applicant:	Kevin McGrath
Correspondence Address:	[REDACTED]
Location:	Ballycommon, Tullamore, Co Offaly, R35 H663

1. Introduction

The question has arisen as to whether the proposed works consisting of renovation of existing toilet block, remove roof and replace with new roof, remove interior walls and redesign layout internally to add wheelchair accessible toilets is or is not, development and is, or is not, exempted development.

2. Background

The subject site is Ballycommon Bake House, located within the Ballycommon Sráid in the *Offaly County Development Plan 2021-2027* and is approximately 9km east of Tullamore Town. The existing dwelling is a detached two-storey former public house.



Figure 1: Site location (red arrow)

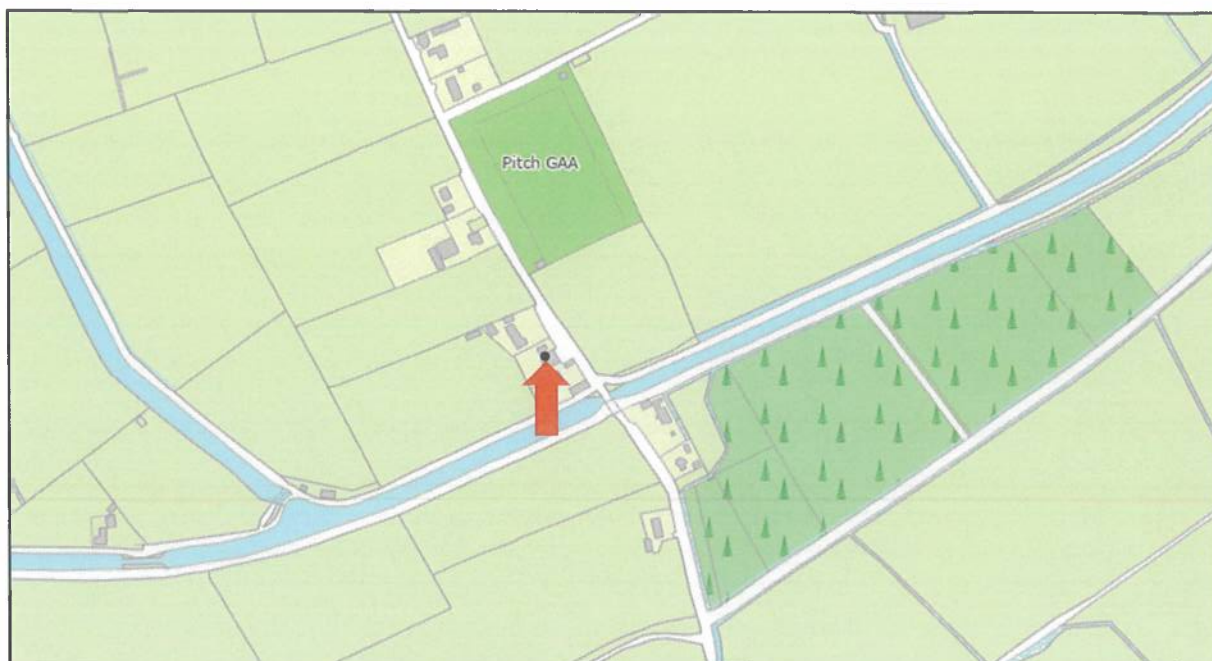


Figure 2: Site location map (red arrow)



Photo 1: Front (east) elevation of existing dwelling

3. Site History

On Site

Ref: 05/1400 Gerry and Marie McGarth granted permission conditionally for (a) change of use of existing two storey storage building to a holiday apartment building comprising of two ground floor apartments and two first floor apartments, associated elevational treatment, car parking and

landscaping and (b) installation of a proprietary effluent system with a raised percolation area and all associated site works.

Enforcement

No recent history associated with the subject site.

Adjoining Lands

No recent history associated with the subject site.

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

- i. **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.

- ii. **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.

- iii. **Section 4 (1) *Planning and Development Act 2000 as amended*.**

Furthermore, in relation to the proposed development, which includes renovations of the existing dwelling, 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.*

The subject mainly internal renovations including the provision of a wheelchair accessible toilet is considered to be in accordance with section 4 (1)(h) outlined above. The proposed renovations would not materially affect the appearance of the existing structure.

5. Proposal by Applicant

The Applicant has advised that they propose the following mainly internal renovation of the existing dwelling:

The enclosed application is for renovations and improvements to a single storey toilet block at the rear of the current premises. These include removing the current roof and putting a new roof on and change of the internal layout only. repositioning of some windows also. The external walls will not be removed or altered. The internal layout is being changed to add wheelchair accessible toilets. This section 5 is required for an application for Just Transition funding for the project.

6. Evaluation

Question: Whether the proposed works 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 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.

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

7. Screening

A screening exercise for an appropriate assessment has been carried out and it is concluded that the development is unlikely to have significant effects on any European sites. Please see attached report under Appendix A.

It is considered that the proposed development does not constitute a development listed in Schedule 5 of the *Planning and Development Regulations 2001 as amended*. Furthermore, it is not a sub-threshold development. Accordingly, an EIAR is not required.

8. Appropriate Assessment

A screening exercise for an appropriate assessment has been carried out and it has been concluded that the existing development is unlikely to have significant effects on any European sites. Please see attached report under Appendix A.

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 or not the proposed works consisting of renovation of existing toilet block, remove roof and replace with new roof, remove interior walls and redesign layout internally to add wheelchair accessible toilets is or is not development and is or is not exempted development at Ballycommon, Tullamore, Co Offaly, R35 H663.

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AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to:

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 particularly having regard to section 4(1)(h).

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:

- Renovation of existing toilet block, remove roof and replace with new roof, remove interior walls and redesign layout internally to add wheelchair accessible toilets is development and is **exempted development** at Ballycommon, Tullamore, Co Offaly, R35 H663.

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

20th June 2025



Michael Duffy ASEP

27th June 2025

Date

Appendix A

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	Dec 25/78
Development Summary:	Declaration as to whether or not the proposed works consisting of renovation of existing toilet block, remove roof and replace with new roof, remove interior walls and redesign layout internally to add wheelchair accessible toilets is or is not development and is or is not exempted development at Ballycommon, Tullamore, Co Offaly, R35 H663.
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