

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 25/79

NAME OF APPLICANT: Jessica Water and Jospeh Dolan

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 of existing dwelling is or is not development and is or is not exempted development at Hillview House, Ballykilleen, Edenderry, Co Offaly, R45 XN20.

LOCATION OF DEVELOPMENT: Hillview House, Ballykilleen, Edenderry, Co Offaly, R45 XN20

WHEREAS a question has arisen as to whether or not the renovation of existing dwelling is or is not development and is or is not exempted development at Hillview House, Ballykilleen, Edenderry, Co Offaly, R45 XN20.

AS INDICATED on the particulars received by the Planning Authority on the 11<sup>th</sup> June 2025.

AND WHEREAS Jessica Water and Jospeh Dolan, [REDACTED] 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*.

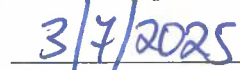
AND WHEREAS Offaly County Council has concluded that the proposed works is development and is exempted development particularly having regard to section 4(1)(h).

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 the existing dwelling is development and is exempted development at Hillview House, Ballykilleen, Edenderry, Co Offaly, R45 XN20.

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 3/7/2025

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

<b>File Reference:</b>	Dec. 25/79
<b>Question:</b>	Whether or not the renovation of existing dwelling is or is not development and is or is not exempted development at Hillview House, Ballykilleen, Edenderry, Co Offaly, R45 XN20
<b>Applicant:</b>	Jessica Water and Jospeh Dolan
<b>Correspondence Address:</b>	[REDACTED]
<b>Location:</b>	Hillview House, Ballykilleen, Edenderry, Co Offaly, R45 XN20

#### 1. Introduction

The question has arisen as to whether or not the renovation of an existing dwelling is, or is not, development and is, or is not, exempted development.

#### 2. Background

The subject site is in the townland of Ballykilleen, 4.5km south-west of Edenderry Town and is classified as a *Rural Area Under Strong Urban Influence* in the *Offaly County Development Plan 2021-2027*. The existing dwelling is a detached bungalow, which is off Local Secondary Road L-5006-1.

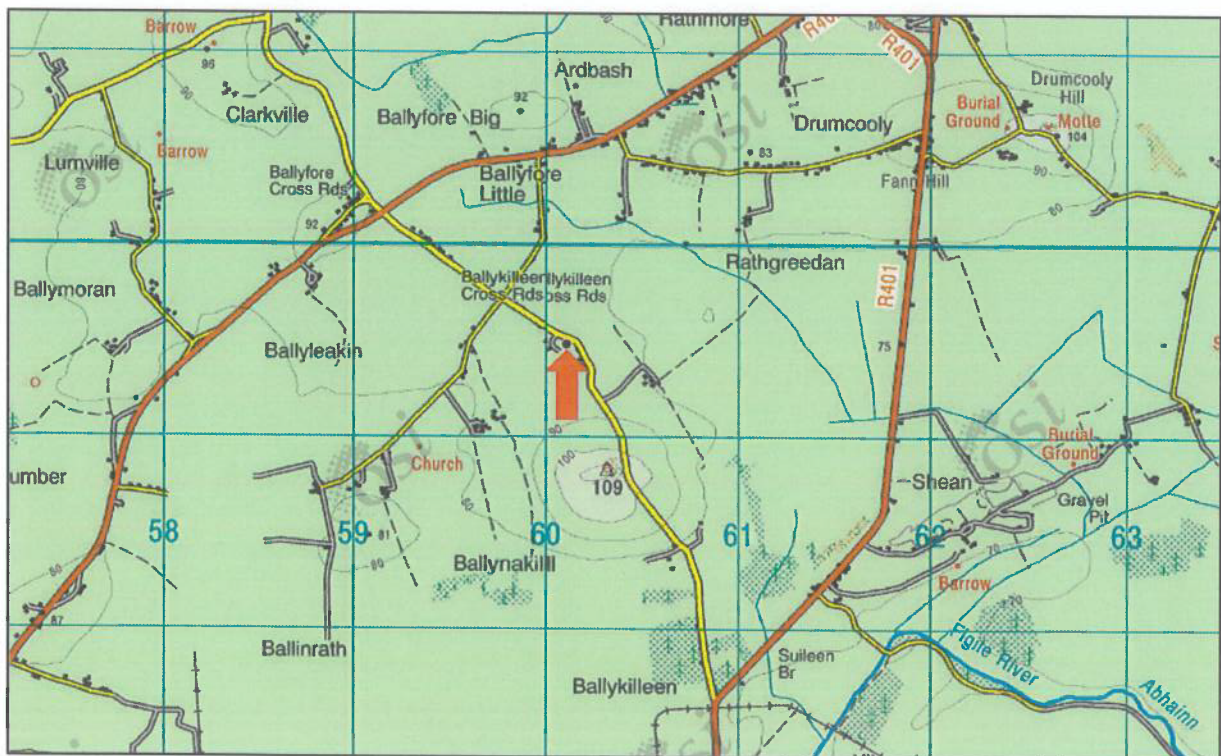
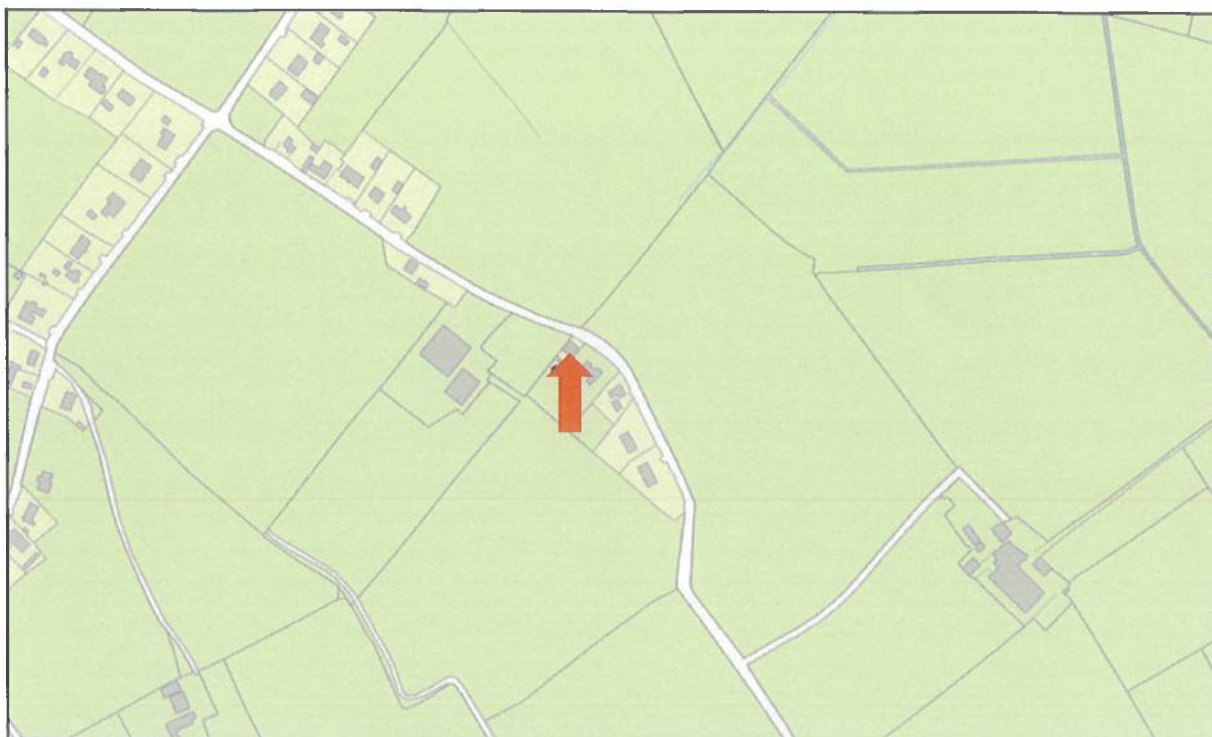


Figure 1: Site location (red arrow)



**Figure 2:** Site location map (red arrow)



**Photo 1:** Front (north) elevation of existing dwelling





Photo 2: North-east elevation of existing dwelling

### 3. Site History

#### *On Site*

Ref: 23/288 Joan O'Sullivan **granted** permission conditionally for retention of the as built side and rear single storey extension to the original cottage including all ancillary services and site works.

#### *Enforcement*

No recent history associated with the subject site.

#### *Adjoining Lands*

Ref: 19/102 Rita and Robert Simpson **granted** permission conditionally for the construction of a new single storey dwelling house and detached fuel/ storage/ garage building, new wastewater treatment plant and percolation area, new site entrance, revisions to front boundary and all ancillary site works

### 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 renovation and upgrade works to the existing dwelling are considered to be in accordance with section 4 (1)(h) outlined above. The proposed renovations would not materially affect the appearance of the existing dwelling.

## 5. Proposal by Applicants

The Applicants have advised that they propose the following mainly internal renovation of the existing dwelling, including demolition/strip out/site clearance, substructure works, superstructure works, doors and windows, finishes, services, fittings and some external works.

## 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 the 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 renovation of existing dwelling is or is not development and is or is not exempted development at Hillview House, Ballykilleen, Edenderry, Co Offaly, R45 XN20.

**AS INDICATED** on the particulars received by the Planning Authority on the 11<sup>th</sup> June 2025.

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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 the existing dwelling is development and is exempted development at Hillview House, Ballykilleen, Edenderry, Co Offaly, R45 XN20.

*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

12<sup>th</sup> June 2025



Ed Kelly  
Acting Senior Planner

3<sup>rd</sup> July 2025

### Appendix A

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	Dec 25/79
Development Summary:	Declaration as to whether or not the renovation of existing dwelling is or is not development and is or is not exempted development at Hillview House, Ballykilleen, Edenderry, Co Offaly, R45 XN20
Was a Screening Determination carried out under Section 176A-C?	No, Proceed to <b>Part A</b>
<b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
No	Proceed to <b>Part B</b>
<b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , of the Planning and Development Regulations 2001 (as amended) <b>and</b> does it meet/exceed the thresholds? (Tick as appropriate)	
No, the development is not a project listed in Schedule 5, Part 2	<b>No Screening required</b>