

OFFALY COUNTY COUNCIL

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

REFERENCE: DEC 19/11

NAME AND ADDRESS OF APPLICANT:

Oana Anghelus,



ADDRESS FOR CORRESPONDENCE:

Oana Anghelus,



NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the change of use from bedroom to office, which is not open to visiting members of the public/ customers at Clongarett, Clonbullogue, Co. Offaly is or is not development and is or is not exempted development under the Planning and Development Act 2000, as amended.

LOCATION OF DEVELOPMENT: Clongarett, Clonbullogue, Co. Offaly.

WHEREAS a question referred to Offaly County Council on 26th June 2019 has arisen as to whether change of use from bedroom to office, which is not open to visiting members of the public/ customers at Clongarett, Clonbullogue, Co. Offaly, is or is not development and is or is not exempted development under the Planning and Development Act 2000, (as amended).

AND WHEREAS the Planning Authority, in considering this declaration request, had regard particularly to-

(a) Sections 2, 3 and 4 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 powers conferred on it by Section 5 (2) of the Planning and Development Act 2000, as amended hereby decides that the change of use from bedroom to office, which is not open to visiting members of the public/ customers at Clongarett, Clonbullogue, Co. Offaly **IS DEVELOPMENT AND IS EXEMPTED**

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 included any submissions and observations received by it in accordance with statutory provisions.

Administrative Officer

22/07/2019

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 19/11
Question:	<i>Whether the change of use from bedroom to office, which is not open to visiting members of the public/customers, is or is not development and is or is not exempted development</i>
Applicant:	Oana Anghelus.
Correspondence Address:	[REDACTED]
Location:	Existing dwelling at Clongarret, Clonbullogue. Co. Offaly.

1. Introduction

The question has arisen as to *Whether the change of use from bedroom to office, which is not open to visiting members of the public/customers, is or is not development and is or is not exempted development* under Schedule 2, Part 1 Class 14(f) of the Planning and Development Regulations 2001 (as amended).

2. Background

The subject site is on unzoned/whitelands in the countryside of County Offaly and occupied by a single storey dwelling.

3. 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:

(j) development consisting of the use of any structure of other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such

4. Proposal by Applicants

The applicant wishes to ascertain whether the proposed use of the bedroom as 'home' office (*which is not open to visiting members of the public/customers*) is development which is exempted development.

5. Evaluation

Question: *Is the proposed change of use change of use from bedroom to office, which is not open to visiting members of the public/customers, is or is not development and is or is not exempted development?*

The change from a use from a bedroom to an office use represents a material change in the use of the structure and as such, the proposal constitutes development.

However, as the office is a home office and is not open to visiting members of the public/customers, the

(a) Material alterations to dwelling: the submitted plans show the following proposed alterations.

(i) Bedroom to Office (*which is not open to visiting members of the public/customers*)

Question this proposal considered as Exempted Development?

With regard to the 'works' which are described in the submitted documents and which are proposed, the Planning Authority notes the following:

Section 4 of Planning and Development Act 2000 as amended, Exempted Development

(j) development consisting of the use of any structure of other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such

Therefore, in accordance with Section 4 of the Act, the development is considered as exempted development.

It is concluded that the proposed change of use of the bedroom to an office, which is not open to the visiting members of the public/customers, is exempted development.

7. Conclusion

WHEREAS a question has arisen as to whether or not *the change of use from bedroom to office, which is not open to visiting members of the public/customers, is or is not development and is or is not exempted development*, at Clongarret, Clonbullogue. Co. Offaly.

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

- (a) Sections 2, 3 and 4 of the Planning & Development Act 2000.

AND WHEREAS Offaly County Council has concluded that –

The proposed development is development and is exempted development.

NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) of the Planning and Development Act, as amended, hereby decides;

That *change of use from bedroom to office*, which is not open to visiting members of the public/customers, is development and is exempted development


Declan Meehan
Executive Planner

Date

15.07.19


Carroll Melia
(A/Senior Executive Planner)

Date

22/7/2019

CM

ok on existing dwelling at Clongarret, Clonbullogue Co. Offaly