

Comhairle Contae Chill Dara
Kildare County Council



Date: 13th February 2024.
Our Ref: ED/1090.

Kennedy Oenga,
c/o Cedarleaf Healthcare Services,
31 Norbury Woods Green,
Tullamore,
Co. Offaly.

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Gurteennoona, Monasterevin, Co. Kildare.

Dear Sir/Madam,

I refer to your correspondence received on 11th December 2023 in connection with the above.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 (as amended) in this regard.

Yours sincerely,

Senior Executive Officer,
Planning Department.



Declaration of Development & Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended).

ED/001090.

WHEREAS a question has arisen as to whether change of use from residential to child support on behalf of TUSLA at Gurteenoon, Monasterevin, Co. Kildare, is exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 11th December 2023

AND WHEREAS Kennedy Oenga c/o Cedarleaf Healthcare Services requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended); and
- (b) Planning and Development Regulations 2001 (as amended);

NOW THEREFORE Kildare 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 change of use of a private residential dwelling to a residence to care for up to 2 no. children who do not have a physical or intellectual disability and a maximum of 2 social care workers

IS development and IS NOT EXEMPTED development pursuant to Section 3 of the Planning and Development Act as amended and Article 6, Article 9 of the Planning and Development Regulations as amended.

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.

13th February 2024.


Senior Executive Officer,
Planning Department.

KILDARE COUNTY COUNCIL



PLANNING & STRATEGIC DEVELOPMENT DEPARTMENT

Section 5 referral & declaration on development & exempted development

Planning & Development Act 2000 (as amended)

Reference No. ED/1090

Name Of Applicant(s):	Kennedy Oenga
Address Of Development:	Gurteenoon, Monasterevin, Co. Kildare. W34 N282
Development Description:	There will be no structural changes to the internal or external of the building, except for changing the internal doors to fire doors to meet regulatory standards.
Due Date	17/01/2024

Introduction

This is a request for a **DECLARATION** under Section 5(1) of the Planning and Development Act 2000 (as amended) to establish whether under Section 5 of the Act for the change of use of a private residential residence to a residence to care for up to 2no. of children and maximum of 2 social care workers to support the children in the house. The children do not have a physical or intellectual disability.

Site Location

The subject site is located in the area of Gurteenoon, approximately 1km south east of Monasterevin town centre. The subject dwelling is located in an established residential area on the outskirts of the town, characterised by low density dwellings. The subject dwelling is located in the backlands of an existing single storey dwelling.

Description of Proposed Development

The Applicant seeks A Section 5 Exemption Cert in relation to the change of use of a private residential residence to a residence to care for up to 2no. of children and maximum of 2 social care workers to support the children in the house. The children do not have a physical or intellectual disability, rather are taken out of the care of their own home for social reasons. No works are proposed to the house other than replacement of internal doors with fire doors to meet regulations.

Article 6(1)

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.

Article 9 (1)(a)(i)

Restrictions on exemption.

9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—.....(15 items)

Schedule 2, Part 1, Class 14(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons. 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.

Assessment

The Applicant seeks A Section 5 Exemption Cert in relation to the change of use of a private residential residence to a residence to care for up to 2no. of children and maximum of 2 social care workers to support the children in the house. The children do not have a physical or intellectual disability, rather are taken out of the care of their own home for social reasons. No works are proposed to the house other than replacement of internal doors with fire doors to meet regulations.

The applicant seeks an exemption cert under Schedule 2, Part 1, Class 14(f) of the Planning and Development Regulations, 2001, as amended which states:

Change of use from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

Limitation: 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.

The Applicant is clear that the children do not have an intellectual or physical disability and require accommodation for social reasons which is beyond the scope of this class of exemption. There is no further class of exemption which would provide exemptions for the proposed change of use.

Conclusion

Having regard to:

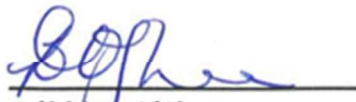
- Sections 3 of the Planning and Development Act 2000 (as amended);
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended); and
- The nature, extent and purpose of the works;

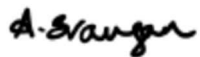
it is considered that the proposed change of use **constitutes development** as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and **is not exempted development**.

Recommendation

It is recommended that the applicant be advised that the development as described in the application for a change of use from private dwelling to residential care (for social reasons only) is development and is not exempted development.

Signed: 
C Scanlon
Executive Planner
Date: 08/01/24


Bébhinn O'Shea
Senior Executive Planner
18/01/2024


Aoife Brangan
A/sp
12/02/24

Declaration of Development & Exempted Development under

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether change of use of a private residential dwelling to a residence to care for up to 2no. of children who do not have a physical or intellectual disability and maximum of 2 social care workers at Gurteenooona, Monasterevin, Co Kildare

is or is not exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 11/12/2023

AND WHEREAS Kennedy Oenga of Cedarleaf Healthcare Services with an address of 31 Norbury Woods Green, Tullamore, Co Offaly requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended); and
- (b) Planning and Development Regulations 2001 (as amended);

NOW THEREFORE Kildare 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 -

change of use of a private residential dwelling to a residence to care for up to 2no. of children who do not have a physical or intellectual disability and maximum of 2 social care workers

IS development and IS NOT EXEMPTED development pursuant to Section 3 of the Planning and Development Act as amended and Article 6, Article 9 of the Planning and Development Regulations as amended.

Please note that any person issued with a declaration under Section 5 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.

Signed: _____

Appendix 1: Appropriate Assessment Screening



APPROPRIATE ASSESSMENT SCREENING REPORT AND DETERMINATION

(A) Project Details

Planning File Ref	ED1090
Applicant name	Kennedy Oenga
Development Location	Gurteenoonna, Monasterevin
Application accompanied by an EIS (Yes/NO)	No
Distance from Natura 2000 site in km	1.39km east of the River Barrow SAC
Description of the project/proposed development – Change of use of private dwelling to residential care for social reasons	

(B) Identification of Natura 2000 sites which may be impacted by the proposed development

			Yes/No If answer is yes, identify list name of Natura 2000 site likely to be impacted.
1	Impacts on sites designated for freshwater habitats or species. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh lake	<i>Is the development within a Special Area of Conservation whose qualifying interests include freshwater habitats and/or species, or in the catchment (upstream or downstream) of same?</i>	no
2	Impacts on sites designated for wetland habitats - bogs, fens, marshes and heath. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Mouds	<i>Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats (bog, marsh, fen or heath), or within 1 km of same?</i>	no

	Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake		
3	Impacts on designated terrestrial habitats. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh Lake	<i>Is the development within a Special Area of Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?</i>	no
4	Impacts on birds in SPAs <u>Sites to consider:</u> Poulaphouca Reservoir	<i>Is the development within a Special Protection Area, or within 5 km of same?</i>	no

Conclusion:

If the answer to all of the above is **No**, significant impacts can be ruled out for habitats and bird species.

No further assessment in relation to habitats or birds is required.

If the answer is **Yes** refer to the relevant sections of **C**.

(G) SCREENING CONCLUSION STATEMENT		
<i>Selected relevant category for project assessed by ticking box.</i>		
1	AA is not required because the project is directly connected with/necessary to the conservation management of the site	
2	No potential significant affects/AA is not required	x
3	Significant effects are certain, likely or uncertain. Seek a Natura Impact Statement Reject proposal. (Reject if potentially damaging/inappropriate)	
Justify why it falls into relevant category above (based on information in above tables)		
Having regard to the proximity of the nearest European Site and given the location, nature and extent of the proposed development it is not considered there would be potential to affect the ecological integrity and conservation objectives of the site.		
Name:	C Scanlon	
Position:	Executive Planner	
Date:	08/01/24	

COMHAIRLE CONTAE CHILL DARA

KILDARE COUNTY COUNCIL

Director of Services Order



I, Alan Dunney, Director of Services, am duly authorised and delegated by Chief Executive's Order number: CE48043 to make the following Order in accordance with Section 154 of the Local Government Act, 2001, as amended.

ORDER NO: DO51200 **Section:** Planning

SUBJECT: ED1090.
Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Gurteenooona, Monasterevin, Co. Kildare.

SUBMITTED: File Ref. ED/1090 with recommendation from the A/Senior Planner and reports from the Council's Technical Officers.

A handwritten signature in blue ink, likely of the Director of Services, Alan Dunney.

ORDER: I hereby order the following Kildare 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 development is development and is not exempted development.

MADE THIS 13th DAY
OF February YEAR 2024

SIGNED: A handwritten signature in blue ink, likely of the Director of Services, Alan Dunney.
DIRECTOR OF SERVICES

Kildare County Council

Declaration of Exempt Development under Section 5, of the Planning and Development Act 2000 as amended

ED1090

rec'd 11/12/23

Incomplete application forms will
be deemed invalid and returned



All responses must be in block
letters

Section 1

Details of Applicants

Name of Applicant(s) A. Surname...OENGA... Forenames...KENNEDY

Phone No. [REDACTED] Fax No.....

2. Address 31, NORBURY WOODS GREEN, TULLAMORE. CO. OFFALY

Section 2

Person/Agent acting on behalf of applicant (if applicable)

1. Name of Person/Agent: Surname..... Forenames.....
Phone No..... Fax No.....

2. Address.....

Section 3

Company Details (if applicable)

1. Name of Company ...CEDARLEAF HEALTHCARE SERVICES

Phone No...0876726185..... Fax No.....

2. Company Reg. No.....742768.....

3. Address... 31, NORBURY WOODS GREEN, TULLAMORE. CO. OFFALY.

Section 4

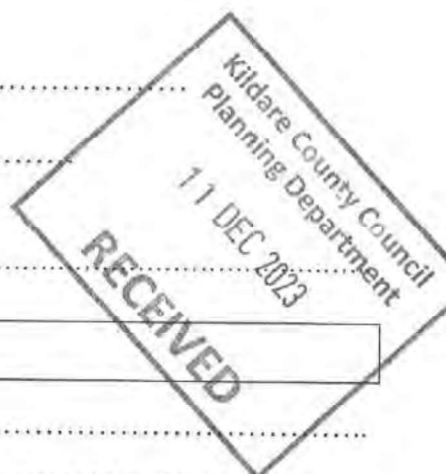
Details of Site

1. Planning History of Site.....

2. Location of Proposed Development: GURTEENOONA, MONASTEREVIN. CO. KILDARE. W34 N282.

3. Ordnance Survey Sheet No.....

4. Please state the Applicants interest in the siteRENTAL PROPERTY.....



5. Please state the extent of the proposed development: The property's use will change from a private residential building to accommodating and supporting up to two children, who do not have physical or intellectual disabilities, on behalf of the Child and Family Agency (TUSLA). At any given time, a maximum of two Social Care Workers will support the children in the house.

6. Under what Section of the Planning and Development 2000 as amended and/or what provision of the Planning and Development Regulations 2001 as amended is exemption sought (*specific details required*).....

Exempted Development: Change of Use. Chapter 2, Schedule 2, Part1 Class 14(f).

7. Please give a detailed description of the Proposed Development (*Use separate page if necessary*).....

There will be no structural changes to the internal or external of the building, except for changing the internal doors to fire doors to meet regulatory standards.

Section 5	The following must be submitted for a valid application
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(Please Tick)

1.	Site Location Map (1:2500 Rural Areas) (1:1000 Urban Areas)	
2.	A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended	
3.	Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended	
4.	All drawings to differentiate between the original building, all extensions and proposed development	
5.	Fee of 80 Euro	

Section 6	Declaration
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I, OENGA KENNEDY certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Signature: Kennedy Oenga

Date: 02/11/2023.



FINANCE CASH OFFICE
Kildare County Council
Áras Chill Dara
Devoy Park
Naas
Co. Kildare
11/12/2023 10:22:34

Receipt No. : FIN1/0/494341
***** REPRINT *****

SECTION 5
KENNEDY OENGA

ED1290

PLANNING EXEMPT DEVELOP FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	

Total : 80.00 EUR

664100 mE, 710020 mN



Folio: KE46219F

This map should be read in conjunction with the folio.

Tailte Éireann (TÉ) Registration mapping is based on TÉ Surveying mapping. Where TÉ Registration maps are printed at a scale that is larger than the TÉ Surveying scale, accuracy is limited to that of the TÉ Surveying map scale.

For details of the terms of use and limitations of scale, accuracy and other conditions relating to TÉ Registration maps, see www.tailte.ie.

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(centre-line of parcel(s) edged)

Freehold

Leasehold

Subleasehold

Burdens (may not all be represented on map)

Right of Way / Wayleave

Turbary

Pipeline

Well

Pump

Septic Tank

Soak Pit



A full list of burdens and their symbology can be found at: www.landdirect.ie

Tailte Éireann Registration operates a non-conclusive boundary system.

The TÉ Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a TÉ Registration map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.



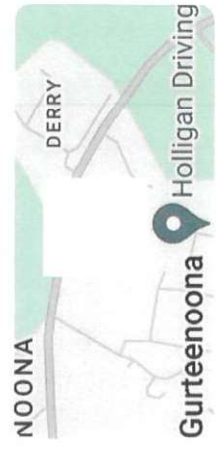
Kildare County Council
Planning Department
11 DEC 2023
RECEIVED

Google Street View

May 2009



Image capture: May 2009 © 2023 Google



Kildare County Council
Planning Department
11 DEC 2023
RECEIVED

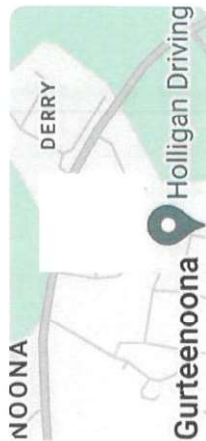


Google Street View

May 2009

Google

Image capture: May 2009 © 2023 Google



Kildare County Council
Planning Department

11 DEC 2023

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Kildare County Council

Áras Chill Dara

Devoy Park

Naas

Co. Kildare

11/12/2023 10:22:34

Receipt No. : FIN1/0/494341

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SECTION 5

KENNEDY OENGA

EDD90

PLANNING EXEMPT DEVELOP FEES 80.00
GOODS 80.00
VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :
Credit Card 80.00
MC
9474

Change : 0.00

Issued By : Maeve Timmons Finance
From : Financial Lodgement Area
Vat reg No.0440571C