



An  
Bord  
Pleanála

**Board Direction**  
**BD-002399-19**  
**ABP-302905-18**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/02/2019.

The Board decided, as set out in the following Order, that

Board Order as follows:-

**WHEREAS** a question has arisen as to whether, following the removal of three features comprising a walkway (between the house and the roof of the shed), a railing atop this shed and a timber fence beside the roof of this same feature, the retention of a garden shed which contains 19.1 sq. metres and which is located to the rear of a dwelling at 3 Wellfield Close, Monkton Row, Wicklow, comprises exempted development. This referral specifically excludes the use of the roof of this structure for sitting out purposes and expressly entails the removal of steps which lead from the surface within the site to this roof.

**AND WHEREAS** Seamus Mitchell of 3 Wellfield Close, Monkton Row, Wicklow, (c/o Vincent JP Farry and Co Ltd of Suite 180, 28 South Frederick Street, Dublin 2) requested a declaration on this question from Wicklow County Council, and the Council declined to issue a declaration for the stated reason that it had effectively already undertaken an assessment and issued a declaration regarding this matter under Ref: Ex 28/18.

**AND WHEREAS** Seamus Mitchell requested a declaration on this question from An Bord Pleanála, on the 31<sup>st</sup> day of October 2018.

**AND WHEREAS** An Bord Pleanála decided to rephrase the question as follows: whether, following the removal of three features comprising a walkway (between the house and the roof of the shed), a railing atop this shed and a timber fence beside the roof of this same feature, the retention of a garden shed which contains 19.1 sq. metres and which is located to the rear of a dwelling at 3 Wellfield Close, Monkton Row, Wicklow, and the removal, by infilling, of steps which lead from the surface within the site to the roof of the shed, is or is not development and is or is not exempted development.

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Article 6 and 9 of the Planning and Development Regulations, 2001, as amended, and Class 3 of Part 1 of Schedule 2 to those Regulations, and the conditions and limitations applicable,
- (c) the planning history of the subject site, including the concurrent referral Reg. Ref. EX 28/18 (ABP 302175-18).

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) the construction of the subject shed and the infilling of the steps constitutes “works” and is therefore “development” within the meaning of Section 3 of the Act, and
- (b) the shed is a development of a type within the scope of the exempted development provisions of Class 3, Part 1, Schedule 2 of the Planning and Development Regulations, 2001, as amended, and

(c) the infilling of the steps is development of a type within the scope of the exempted development provisions of section 4(1)(h) of the Planning and Development Act, 2000, as amended.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that following the removal of three features comprising a walkway (between the house and the roof of the shed), a railing atop this shed and a timber fence beside the roof of this same feature, the retention of a garden shed which contains 19.1 sq. metres and which is located to the rear of a dwelling at 3 Wellfield Close, Monkton Row, Wicklow, and the removal, by infilling, of steps which lead from the surface within the site to the roof of the shed, is development and is exempted development.

In deciding not to accept the recommendation of the Inspector, that the retention of a shed is not exempted development, the Board had particular regard to the permitted and as built levels, marked in red in hand on drawing number 1010-C2B, received with the concurrent referral Reg. Ref. ABP 302175-18 (Ex 28/18).

**Board Member:**

**Date:** 20/02/2019

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John Connolly