



An
Bord
Pleanála

Inspector's Report ABP-315145-22

Question	Whether a domestic shed in the rear garden is or is not development or is or is not exempted development
Location	4 Hazelwood, Dargle Road, Bray, County Wicklow
Declaration	
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	EX57/2022
Applicant for Declaration	Derek and Martina McLaughlin
Planning Authority Decision	Is not exempted development
Referral	
Referred by	Applicant
Owner/ Occupier	Derek and Martina McLaughlin
Observer(s)	None
Date of Site Inspection	16 th February 2024
Inspector	Philip Maguire

1.0 Site Location and Description

- 1.1. The referral site is located in Hazlewood, a housing estate on the outskirts of Bray, Co. Wicklow. Hazlewood lies to the west of the Upper Dargle Road and forms part of the established Fassaroe residential area, east of the M11 and some 1.25km west of the town centre. The surrounding area is characterised by medium density housing.
- 1.2. The referral site is rectangular shaped and consists of a pitched roof two-storey mid-terrace house with flat roof building to the rear. The front of the house is west facing with brick and render finishes and black roof tiles. There is a small timber shed to the front of the house. The building to the rear is sited on the rear boundary wall and along the boundary walls with the adjoining houses to the south and north, Nos. 3 and 5 respectively. The rear boundary adjoins Hazlewood Lane, an L-shaped cul-de-sac off Old Connaught Grove which serves the rear of the adjoining and adjacent houses.
- 1.3. Access was not gained to the rear of the property at the time of inspection, but I was able to take some measurements and make some general observations from the lane. In this regard, I measured the subject building as 5.46m wide and 3.75m deep. The underside of the timber fascia on the flat roof building was c. 3.56m from the ground level adjoining the laneway and it was c. 3.89m to the underside of the roof flashing.
- 1.4. During the inspection I observed a timber structure connecting the subject building to the rear wall of the house. This structure had a corrugated Perspex roof. I also observed a small timber shed between the subject building and the rear wall of the house. I was unable to ascertain the ground level to the rear of the house, but I noted a split level in the private amenity space of the adjoining houses. The area immediately to the rear of these houses appears to be consistent with the front of the houses and then drops by c. 0.65m adjacent to, and consistent with, the level of the laneway.

2.0 The Question

- 2.1. The matter has been referred by the applicants for the declaration. The referred query, as outlined in section 3(iv) of the application form, is 'shed for storage, playroom' etc.
- 2.2. In addition to the application form, the submission to the planning authority included:
 - Aerial photos and 'streetview' image of the referral site/building; and

- A hand drawn section of the 'back garden' and 'shed' with dimensions illustrated.
- 2.3. The referral documentation date received 18th November 2022 includes a Planning Appeal Form, which is summarised in section 6.1 below, and a revised hand drawn section. The Board should note the additional decking illustrated in this drawing. Internal and external photographs, during and post construction, are also included.
- 2.4. By correspondence date received 5th January 2023, the referrer submitted OS Site Location Maps at scale 1:1000 and 1:10,560 in response to a Section 132 Notice.
- 2.5. Having regard to the above and in the absence of a properly defined question by the referrer, and notwithstanding the planning authority's formulation of the question, I intend to proceed with my assessment on the basis of the following question:

Whether the existing flat roof shed to the rear of No. 4 Hazlewood, Upper Dargle Road, Bray, County Wicklow is or is not development, or is or is not exempted development.

3.0 Planning Authority Declaration

3.1. Declaration

- 3.1.1. A declaration was issued on 8th November 2022. It states:

The Planning Authority considers that "a 16sq.m and 3m high flat roof domestic shed located in the rear garden of a dwelling house at 4 Hazlewood, Dargle Road, Bray, Co Wicklow" is development and is not exempted development.

3.2. Planning Authority Reports

- 3.2.1. Planning Officer Report (24/10/22) can be summarised as follows:

- Satisfied that the proposal involves the carrying out of works and therefore constitutes development.
- From the laneway, measured the height of the shed at 3.7m and calculated the area as c. 24sq.m within an overall private open space area of c. 48sq.m.
- It notes that the remaining private open space is reduced to less than 25sq.m.

- It recommends that further information is required in respect of all structures in the rear garden area and drawings (plan and elevations) of the shed indicating area measurements and overall height (external).

3.2.2. Planning Officer Report (04/11/22) can be summarised as follows:

- Notes that the applicant's further information response comprises annotated hand drawings of the shed floor area, the shed height and the remaining private open space in the back garden.
- It states that the applicant gives the following information:
 - Internal floor area of shed: 17.07sq.m
 - Height to eaves of shed: 3.02m inside garden, 3.66m from lower ground level
 - Remaining private open space: 24sq.m
- It notes that the applicant's response is consistent with the initial findings, with the shed height in excess of 3m and private open space reduced below 25sq.m.
- It concludes that the development falls outside the scope of Class 3 of Part 1 of Schedule 2 of the Planning Regulations and recommends that the shed be declared not exempted development. This is the basis for the above declaration.

4.0 Planning History

4.1. None relevant.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022-2028

5.1.1. The current Development Plan, as varied, came into effect on 23rd October 2022. The planning authority decision of 8th November 2022 was made under this Development Plan. This referral shall be considered under this current Plan.

5.2. Bray Municipal District (MD) Local Area Plan (LAP) 2018-2024

5.2.1. The Bray MD LAP came into effect on 10th June 2018. In addition to the current Development Plan, this referral shall be determined under the provisions of the LAP.

5.2.2. The appeal site is zoned 'Existing Residential' with a zoning objective '*To protect, provide and improve residential amenities of existing residential areas.*' The vision for this zoning includes for the provision for house improvements, alterations, extensions etc. in accordance with principles of good design and protection of residential amenity.

5.3. Natural Heritage Designations

Ballyman Glen SAC (site code 000713) – 0.9km west

Bray Head SAC (site code 000714) – 2.6km southeast

Knocksink Wood SAC (site code 000725) – 6km southwest

6.0 The Referral

6.1. Referrer's Case

6.1.1. The referrer's case can be summarised as follows:

- No complaints from any neighbours and not interfering with any light or views.
- It suggests that the shed fits in with other sheds in the estate.
- It states that the shed was left as storage space for years but was plastered, wired and heating was installed when required as an office for working from home purposes. It is not used for habitable purposes.
- It states that the shed was built below the ground level of the house, and the Council measured it from the lowest level of the shed, and not the level of the house which is 2.54m in height, not 3m.
- It suggests that the timber 'barna' shed will be removed to allow all the outside space to be available, which is just under 25sq.m. It states that the shed is 16sq.m.

6.2. Planning Authority Response

6.2.1. None.

7.0 Statutory Provisions

7.1. The relevant provisions are set out in the Planning and Development Act 2000, as amended, ('PDA 2000 or the Act') and the Planning and Development Regulations 2001, as amended, ('PDR 2001 or the Regulations').

7.2. Section 2 – PDA 2000

7.2.1. Section 2(1) provides the following interpretations which are relevant:

“alteration” includes—

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

“structure” means *inter alia* any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and where the context so admits, includes the land on, in or under which the structure is situate etc.; and

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal etc.

7.3. Section 3 – PDA 2000

7.3.1. Except where the context otherwise requires, “development” is defined as:

The carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

7.4. Section 4 – PDA 2000

7.4.1. Section 4(1) provides a list of statutory exemptions, including:

(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 or 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 of neighbouring structures.

7.4.2. Section 4(4) provides that development shall not be exempted development if an environmental impact assessment (EIA) or appropriate assessment (AA) is required.

7.5. Section 5 – PDA 2000

7.5.1. Section 5(3)(a) provides for a referral of a declaration for review by the Board within 4 weeks of the date of issuing of the declaration.

7.6. Section 177U – PDA 2000

7.6.1. Section 177U(9) provides that in deciding a referral under S. 5 the Board, shall where appropriate, conduct an AA screening in accordance with the provisions S. 177U.

7.7. Article 5 – PDR 2001

7.7.1. Article 5(2) provides that “ground level” means the level of the ground immediately adjacent to the structure and where the level of the ground where the structure is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.

7.8. Article 6 – PDR 2001

7.8.1. Subject to the restrictions in Article 9, Article 6(1) provides for the classes of exempted development under column 1 of Parts 1, 2 and 3 of Sch. 2, subject, where applicable, to the conditions and limitations opposite such classes as set out in column 2.

7.8.2. Schedule 2, Part 1 (Development within the curtilage of a house), Class 3:

<i>Column 1</i>	<i>Column 2</i>
<i>The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</i>	<p><i>1. No such structure shall be constructed, erected or placed forward of the front wall of a house.</i></p> <p><i>2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.</i></p> <p><i>3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of</i></p>

	<p><i>private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.</i></p> <p><i>4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.</i></p> <p><i>5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.</i></p> <p><i>6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.</i></p>
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7.9. Article 9 – PDR 2001

7.9.1. Article 9 imposes specific restrictions on development of classes specified in Parts 1, 2 and 3 of Schedule 2 and in effect de-exempts certain classes of development that would be exempt under normal circumstances. The restrictions under Article 9(1)(a) apply if the carrying out of such development would:

(iv) [...] comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan etc.,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

7.10. Precedent Referral Cases

7.10.1. The following referral determinations by the Board provide some useful context.

Sheds etc.

7.10.2. Under case ref. ABP-310229-21, the Board considered whether the construction of a 16sq.m shed to the rear of a house at Kill West, Kill, Co. Kildare, was or was not development etc. The Board concluded that the nature and scale of the shed structure came within the scope of Class 3 of Part 1 of Schedule 2 of the Planning Regulations.

7.10.3. Under case ref. RL3062, the Board considered whether the construction of a domestic shed in the rear garden space of 31 Rockfield Green, Maynooth, Co. Kildare, was or was not development etc. The Board concluded that the shed came within the scope of Class 3 of Part 1 of Schedule 2 of the PDR, and noted that the shed was not located forward of the front wall of the house and there was no line determined as the building line for this location etc. having regard to Article 9(a)(iv) of the Planning Regulations.

Interpretation of Incidental Use

7.10.4. Under case ref. ABP-307272-20, the Board considered whether the construction of a garden room/gym to the side of the existing dwelling, was or was not development etc. In this case, the Inspector was satisfied that the proposal complied with condition and limitation 6 pertaining to Class 3 of Part 1 of Schedule 2 of the PDR, as the proposed structure would only be used for purposes incidental to the enjoyment of the house. The Board agreed and concluded that it would come within the scope of Class 3.

7.10.5. Under case ref. ABP-302959-18, the Board considered whether an extension and outhouse at 8 Herbert Park, Bray, Co. Wicklow was or was not development etc. The Board concluded that the outhouse would come within the scope of Class 3 of Part 1 of Schedule 2 of the PDR if used as a gym or other purpose incidental to the enjoyment of the house, and would not come within the scope of Class 3 if used for human habitation, as it would not comply with condition and limitation 6 of this particular class.

Interpretation of Ground Level

7.10.6. Under case ref. RL3370, the Board considered whether the erection of decking at 'Villa Maria', Sorrento Heights, Dalkey, Co. Dublin was or was not development etc. In not accepting the recommendation of the Planning Inspector that part of the decking was exempted development, the Board considered that the decking constituted a single development, and that it was not appropriate to distinguish between parts of this development. As a single development, the Board considered that the provisions of

Article 5(2) of the PDR 2001 applied to the issue of what constituted the level of the adjoining ground, for the purposes of interpreting the condition and limitation of Class 6(a), and the Board decided that the decking was therefore development but was not exempted development as it did not comply with this condition and limitation.

7.11. Precedent Judgements

Reformulation of Referral Question

7.11.1. In *Roadstone Provinces Ltd v An Bord Pleanála [2008] IEHC 210*, the High Court considered that the Board is entitled to reformulate questions posed where necessary. In this instance, Finlay Geoghegan J. noted at para. 31 that the Planning Inspector was critical of the content of the referral, having regard to S. 127 of the PDA 2000, and that the Inspector summarised the questions which she considered she could extract.

Improvement of a Structure etc.

7.11.2. In *Michael Cronin (Readymix) Ltd v An Bord Pleanála and Others [2017] IESC 36, [2017] 2 I.R. 658*, the Supreme Court considered whether an extension to a structure (a concrete yard within a quarry) constituted exempted development. The court agreed with the Board's submission that the exemption under Section 4(1)(h) of the Act applies to a limited category of works that amount to alterations (with the concepts of maintenance and improvement being subsets), which are either wholly internal or, if external, are insignificant. An "improvement", for the purposes of an exemption, must be something that relates to the internal use and function of the structure, resulting in either no externally noticeable difference or an insignificant difference.

8.0 Planning Assessment

8.1. Preliminary Points

8.1.1. The question has arisen as to whether a domestic shed is or is not development or is or is not exempted development. Having regard to the *Roadstone* judgement, I consider this referral relates specifically to an existing flat roof shed to the rear of No. 4 Hazlewood, as noted above. Neither party is prejudiced by this minor reformulation.

8.1.2. The planning authority concluded that the development falls outside the scope of Class 3 of Part 1 of Schedule 2 of the Planning Regulations. It declared that the shed was

not exempted development by virtue of its height above 3m and the reduction in private open space below 25sq.m, as provided for in condition numbers 3 and 5 respectively.

8.2. Development – *Is or is not?*

- 8.2.1. The shed subject of this referral is currently *in situ* to the rear of No. 4 Hazlewood. As noted above, it is a flat roof structure sited on the rear boundary wall and along the boundary walls with the adjoining houses, Nos. 3 and 5 Hazlewood. The shed has a plaster finish with timber fascia and metal clad roof. There are a number of vents and a white waste pipe in the rear wall and a chimney flue protruding through the roof. The photographs submitted with the referral illustrate a door and window in the front, west facing, elevation and the internal use of the shed for purposes incidental to the house.
- 8.2.2. The hand drawn section submitted with the referral illustrates an internal area of c. 16sq.m. Although I note that the further information response to the planning authority stated that the internal floor area is 17.07sq.m. The free garden space is illustrated as 24.5sq.m. This drawing also illustrates the height of the shed as 2.54m from the ground level of the house or c. 3m from what appears to be the floor level of the shed.
- 8.2.3. The photographs submitted with the referral show the steps down into the shed from the decking area which is finished in artificial grass. This reflects the steps shown on the section drawing and corroborates the suggested height from the floor level of the shed, albeit inaccurately illustrated on the drawing. The photographs also show the shed during construction including breeze blocks and the suspended floor joists.
- 8.2.4. The referred question evidently involved operations of construction and alteration. Section 2(1) of the PDA 2000 defines “works” as including “any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal” etc. I am satisfied that, in accordance with the above definition, the construction of the existing shed constituted ‘works’ at the time of operation. This is not disputed by the parties.
- 8.2.5. In terms of Section 3(1)(a), “development” means, except where the context otherwise requires, the carrying out of works on, in, over or under land etc. I am therefore satisfied that these ‘works’ comprise ‘development’ and this is not a source of dispute.

Conclusion on Development

- 8.2.6. The existing flat roof shed to the rear of No. 4 Hazlewood is evidently development.

8.3. Exempted Development – *Is or is not?*

- 8.3.1. Having established that the existing flat roof shed constituted works being development, one must now consider whether it is, or is not, exempted development.

Section 4

- 8.3.2. Section 4(1)(h) of the PDA 2000 provides a broad statutory exemption for the carrying out of works for the maintenance, improvement or other alteration of any structure etc. Having visited the site, reviewed the documentation and having particular regard to the *Readymix* judgement where ‘alteration’ has a limited meaning, I do not consider that this exemption applies. It is therefore necessary to consider the referred question in terms of the express provisions under the PDR 2001. I will now do so as follows.

Class 3

- 8.3.3. As noted, I measured the shed as 5.46m wide and 3.75m deep. The external area of the structure is therefore 20.5sq.m. In the absence of an internal inspection, I was unable to ascertain the internal floor area which both the referrer and planning authority state is 16sq.m, notwithstanding the referrer’s further information response.
- 8.3.4. The planning authority have declared that this shed is not exempt under Class 3 of Part 1 of Schedule 2 of the PDR, which exempts the construction of any awning, shade or other object, store, shed or other similar structure etc. within the curtilage of a house, subject to the conditions and limitations listed opposite this class of development.

Condition 1

- 8.3.5. Condition and limitation 1 of Class 3 of Part 1 restricts any such structure from being constructed forward of the front wall of a house. The existing flat roof shed is sited entirely to the rear and therefore complies with this condition and limitation.

Condition 2

- 8.3.6. Condition and limitation 2 of Class 3 of Part 1 provides that the total area of such structures shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25sq.m. Whilst I am satisfied that the floor area of the shed is below the 25sq.m threshold, I did observe two timber sheds, one to the front of the house and another to the rear. The shed to the front is c. 4.9sq.m. I was unable to measure the shed to the rear, but it appeared

to be of similar size. In this regard, the total area of the shed, taken together with other such structures within the said curtilage, appears to exceed 25sq.m, based on the stated 16sq.m of floor area. Therefore, the existing shed does not appear to comply with this condition and limitation and the Board may wish to seek further information under Section 132 of the Act in respect of the exact size of the timber shed to the rear.

- 8.3.7. Moreover, it is arguable that the timber structure with corrugated Perspex roof, which connects the shed to the rear wall of the house, is a “shade or other object” for the purposes of Class 3. Therefore, this area could also be considered in the overall calculation for such structures, and along with the shed they appear to exceed 25sq.m, irrespective of the timber sheds to the front and rear of the house. This roofed timber structure was not raised by the planning authority however and would be a new issue.

Condition 3

- 8.3.8. Condition and limitation 3 of Class 3 of Part 1 provides that any such structure to the rear of the house shall not reduce the area of private open space to the rear of the house to less than 25sq.m. As noted above, the referrer has illustrated the ‘free garden space’ as 24.5sq.m but suggests that the timber shed to the rear will be removed to allow all outside space to be available. The inference being that it will then comply with this condition. As the timber shed is currently *in situ*, the referred shed does not comply with this condition. Moreover, with the roofed timber structure in place, the exact amount of private “open space” available to the occupants is unclear.

Condition 4

- 8.3.9. Condition and limitation 4 of Class 3 of Part 1 provides that the external finishes of any such structure to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house. As noted, the shed has a flat roof structure and is sited to the rear of the house. This condition does not therefore apply, although the finishes generally conform with the house in any event.

Condition 5

- 8.3.10. Condition and limitation 5 of Class 3 of Part 1 provides that the height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4m or, in any other case, 3m. The referrer has stated that the shed was built below the ground level and has submitted a hand drawn section and photographs to

demonstrate as much. This drawing also illustrates the height of the shed as 2.54m from the ground level of the house or what appears to be c. 3m from the floor level of the shed. Whilst the section is not drawn to scale, it does corroborate my site observations in relation to the drop in levels to the rear of Nos. 3 and 5 Hazlewood by c. 0.65m. It also corroborates the referrers further information response in respect of the height of the shed, which they have stated as '3.66m from lower ground level'.

8.3.11. Therefore, I am satisfied that the shed was built on the lower ground level. This is also illustrated in the submitted photographs, evidently taken during construction, where the suspended floor is shown between 600-700mm above the ground. As noted, 'ground level' is defined in Article 5(2) of the PDR 2001 as the level of the lowest part of the ground adjacent to the structure where the level of the ground is not uniform etc.

8.3.12. In such circumstances, the height of the shed would be between 3.6m and 3.7m above the ground level. This is consistent with the height of the timber fascia (3.56m) and roof flashing (3.89m) as measured from the ground adjacent to Hazlewood Lane. The existing flat roof shed does not appear to comply with this condition and limitation.

Condition 6

8.3.13. Condition and limitation 6 of Class 3 of Part 1 provides that the structure shall not be used for human habitation etc., or for any other purpose other than a purpose incidental to the enjoyment of the house as such. Having regard to the submitted photographs, the existing shed would appear to be laid out as additional living space, suggested by the referrer as an office and playroom. I note that the Board have previously accepted that Class 3 of Part 1 applies to gym-type uses where such usage is incidental to the enjoyment of the house, and I accept this broad interpretation. Therefore, the existing shed would appear to comply with this condition and limitation.

Conclusion on Exempted Development

8.3.14. The flat roof shed to the rear of No. 4 Hazlewood is not exempted development.

8.4. Restrictions on Exempted Development

8.4.1. As noted, the referred question does not come within the scope of Class 3 of Part 1 of Schedule 2 of the PDR 2001 or any other exemption in the Act or Regulations. However, for completeness it must also be considered in light of the statutory

restrictions set out under Section 4(4) of the Act and under Article 9(1)(a) of the PDR 2001. Section 4(4) de-exempts any development where AA or EIA is required. A similar de-exemption is provided for under Article 9(1)(a)(viiB) in respect of AA only.

- 8.4.2. The following paragraphs set out my assessment of the relevant provisions under Section 4(4) of the PDA 2000 and Article 9(1)(a) of the PDR 2001. In this regard, the Board should note that the referred development is not a class of development set out in Schedule 5, Part 1 or Part 2 of the PDR 2001, and therefore no preliminary EIA examination is required as provided for under Art. 132C of the Planning Regulations.

Appropriate Assessment – Screening

- 8.4.3. Having regard to the nature and scale of the referred development, which is a flat roof shed to the rear of a house in an established housing estate, and the distance from the nearest European sites, no appropriate assessment issues arise. Therefore, it is not considered that the referred development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

- 8.4.4. Accordingly, the restrictions on exempted development status provided for in Article 9(1)(a)(viiB) of the Regulations and Section 4(4) of the Act do not apply in this instance.

Other Relevant Restrictions

Article 9(1)(a)(iv) – Impact on building line etc.

- 8.4.5. As noted, the existing shed is sited to the rear of the house and does not impact upon the building line. The restriction under Article 9(1)(a)(iv) does not therefore apply.

9.0 Recommendation

- 9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the existing flat roof shed to the rear of No. 4 Hazlewood, Upper Dargle Road, Bray, County Wicklow is or is not development, or is or is not exempted development:

AND WHEREAS Derek and Martina McLoughlin requested a declaration on this question from Wicklow County Council and the Council issued a

declaration on the 8th day of November, 2022 stating that a 16 square metre and 3 metre high flat roof domestic shed located in the rear garden of a dwelling house at 4 Hazlewood, Dargle Road, Bray, County Wicklow is development and is not exempted development:

AND WHEREAS Derek and Martina McLoughlin referred this declaration for review to An Bord Pleanála on the 18th day of November, 2022:

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) Articles 5, 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (d) the provisions of the Wicklow Development Plan 2022-2028 and the Bray Municipal District Local Area Plan 2018-2024 as they apply to the referral site,
- (e) the documentation on file, including the submission from the referrer,
- (f) relevant precedent referrals and judgements, and
- (g) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the existing flat roof shed to the rear of No. 4 Hazlewood, Upper Dargle Road, Bray, County Wicklow is development;
- (b) as the amount of private open space to the rear of No. 4 Hazlewood, Upper Dargle Road, Bray, County Wicklow is less than 25 square metres, the shed does not come within the scope of Class 3 of Part 1

of Schedule 2 to the Planning and Development Regulations, 2001, as amended;

(c) as the ground levels to the rear of No. 4 Hazlewood, Upper Dargle Road, Bray, County Wicklow are not uniform, the ground level for determining the height of the shed is the level of the lowest part of the ground adjacent to it as set out in Article 5(2) of the Planning and Development Regulations, 2001, as amended;

(d) as the height of the existing flat roof shed to the rear of No. 4 Hazlewood, Upper Dargle Road, Bray, County Wicklow is more than 3 metres above the lowest part of the ground adjacent to it, the shed does not come within the scope of Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the existing flat roof shed to the rear of No. 4 Hazlewood, Upper Dargle Road, Bray, County Wicklow is development and is not exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Philip Maguire

Planning Inspector

18th February 2024