



An
Bord
Pleanála

Inspector's Report ABP321043-24

Question

Whether the alterations of column at front/side windows side windows to concrete blockwork on four holiday pods is or is not development and or is or is not exempted development.

Location

Shanks Mare, Collegelands and Arodstown, Summerhill, County Meath.

Declaration

Planning Authority

Meath County Council.

Planning Authority Reference.

RA552466

Applicant for Declaration

Meath County Council

Planning Authority Decision

No declaration.

Referral

Second Party

Referred by

Meath County Council

Owner Occupier

Collegelands Forge Ltd

Observer(s)

None.

Date of Site Inspection

20th January 2025

Inspector

Derek Daly.

1.0 Site Location and Description

- 1.1. The proposed site is located in a rural area approximately three kilometres to the northeast of the village of Summerhill in County Meath.
- 1.2. The site fronts onto two public roads which define the site's southwestern and southeastern boundaries with access to the site via the southwestern boundary. On the site is a two storied premises located in the western area of the site. To the rear of the premises in the eastern section of the site is a timber clad single storied structure and four other single storied structures. In the vicinity there are a number of detached dwellings.

2.0 The Question

- 2.1. The question before the Board relates to whether the alterations of column at front/side windows side windows to concrete blockwork on four holiday pods is or is not development and or is or is not exempted development. The question arises from an application to the planning authority for a request for a declaration from the owner submitted to the planning authority on the 13th September 2024.
- 2.2. In the submission made to the planning authority reference is made to the planning history and states a case that the alterations are exempted development

3.0 Planning Authority Declaration

3.1. Declaration

- 3.1.1. Meath County Council has not issued a declaration and in a letter to the Board dated 10th October 2024 considers it appropriate to refer the application made to it for a declaration from the Board under section 5(4) of the Planning and Development Act 2000-2022.

4.0 Planning History

- 4.1. P.A Ref. No. 22629.

Planning permission was granted subject to 7 conditions on the 17th November 2022 for the development consisting of

- The erection of four 51.5m² detached pods, each of which would be 3m in height and which would provide two bedrooms and a combined kitchen/dining area as well as a bathroom along with the use of these four structures for tourism accommodation purposes.
- The retention of an existing timber log cabin 54m² whose removal was required under condition no. 4 permission ref no RA/191557 and its use for short-term residential accommodation.
- The decommissioning of a septic tank permitted under ref no RA/191557.
- The provision of new soakaways and new WWTP.
- Upgrading of access and internal road serving the development and other site development works.

4.2. P.A Ref. No RA191557

Permission granted for a development subject to 22 conditions which included alterations to the two storied public house on the site, the conversion to residential accommodation and associated works and alterations to waste water treatment on the site. Condition no.4 required the removal of an unauthorised log cabin on the site.

5.0 Policy Context

5.1. Local Planning Policy

The relevant statutory plan is the Meath County Development Plan 2021-2027

5.2. Natural Heritage Designations

None relevant. The site is not within a Natura Site or directly connected with a Natura Site.

5.3. Environmental Impact Assessment (EIA) Preliminary Examination

- 5.3.1. Development in respect of which an environmental impact assessment or appropriate assessment is required cannot be exempted development (Section 4(4))

of the Planning and Development Act 2000 (as amended)). Schedule 5, Part 1 and Part 2 of the Planning and Development Regulations, 2001 (amended) sets out specified development for which EIA is mandatory and development which requires screening for EIA.

- 5.3.2. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Referral Response

6.1. Owner's response

- 6.1.1. In summary the owner indicates;

- Reference is made to the planning history of the site.
- Reference is made to the case of Drumaprop Limited v Leitrim County Council.
- Reference is made to Section 4(1)(h) of the Planning and Development Act 2000 as amended, Articles 6(1) and 9 of the Planning and Development Regulations 2001 as amended and that the current development satisfies the criteria set out.
- The current authorised use of the four pods is as holiday homes within the hotel complex.
- The builder made a minor alteration to the approved drawing.
- In relation to this minor alteration reference is made to Section 4(1)(h) of the Planning and Development Act 2000 as amended which provides for improvement or alteration.
- The four pods are not readily visible and located to the rear of the main building and the alterations do not materially affect the external appearance as to render the appearance inconsistent with the character of the structure or neighbouring structures.

- The substitution of the concrete blockwork was a practical solution because the proposed steel columns required a separate trade which was not readily available due to the current labour shortage.
- The deviation from what was granted planning permission had no consequential impact on the proper planning and development of the area as expressed in the final grant of planning permission and had planning permission be sought in the first instance it would have been granted.
- Reference is made to court judgements in relation to in practical terms there may be modest variation between the plans submitted and the structures as occurred similar to the argument made in relation to ABP 321042.
- Reference is also made to the specific provision of Article 9(1)(a) and the substitution of the concrete columns on the pods will have no impact on any element of Article 9 and as a result are deemed to satisfy Section 4(1)(h) of the Planning Act 2000 as amended and Article 6 (1) of the Planning and Development Regulations 2001 as amended and conform with court judgements.
- The Board is requested to conclude the immaterial variation does 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 within the scope of exempted development.
- The judgements of the Supreme Court and High Court judgement which are cited are attached to the response.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

Section 2(1) – Interpretation

“development” has the meaning assigned to it by section 3 and ‘develop’ shall be construed accordingly.

“exempted development” has the meaning specified in section 4;

“structure” means 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—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

“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) – Development

In this Act, except where the context otherwise requires, "development" means—

(a) 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,

Section 4 – Exempted Development

Section 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 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;

7.2. Planning and Development Regulations, 2001

7.2.1. “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.

7.2.2. Article 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 (relevant excerpts referenced)

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(iii) Endanger public safety by reason of a traffic hazard or obstruction to road users.

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

7.2.3. Schedule 2, Part 1: Exempted Development outlines development which is considered to be exempted development subject to conditions and limitations.

8.0 **Assessment**

8.1. The purpose of this referral is not to determine the acceptability or otherwise of the development referred to in the question but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development.

8.2. Is or is not development.

8.2.1. Section 3 of the Planning and Development Act, 2000, as amended, defines “development” as 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. Having regard to Section 2 of the Act where “works” are defined as including ‘any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

- 8.2.2. The permitted authorised use and the construction of the structures is not in dispute based on the planning history of the site. The construction of the pods constitutes development and planning permission was sought and granted for the development.
- 8.2.3. Planning permission was granted under P.A Ref. No. 22629 subject to 7 conditions on the 17th November 2022 for the development which included the erection of four 51.5m² detached pods, each of which would be 3m in height and which would provide two bedrooms and a combined kitchen/dining area as well as a bathroom along with the use of these four structures for tourism accommodation purposes.
- 8.2.4. Documentation submitted with the application indicated a plan, elevation and sections of the proposed pods. Information in relation to external finishes on the drawings referred to selected cladding, render finish and UPVC windows. No specific details are indicated in relation to the use of steel and concrete columns on the external elevations.
- 8.2.5. The information as submitted by the owner/occupier to Meath County Council in the request for a declaration includes the planning drawing and also a further set of drawings of the pods as constructed with detail in relation to the finishes etc. which would appear to have prepared for fire certificate compliance.
- 8.2.6. Based on the planning drawings and the conditions which were included in the grant of permission under P.A Ref. No. 22629 there is nothing to indicate specific requirements in relation to the use of steel or concrete columns.
- 8.2.7. There is nothing to suggest that permission was granted for using or not using either steel or concrete columns in the elevations.
- 8.2.8. Condition No. 1 of the grant of permission states *“the development shall be retained, constructed and completed in accordance with the plans and particulars lodged with the Planning Authority on the 16/05/11 and further information received on the 05/09/2 and 12/09/22 except where conditions specify otherwise. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars”*.
- 8.2.9. There is no condition requiring agreement in relation to external finishes.

- 8.2.10. There is no reference in the planning to a requirement for steel columns or specific requirements in relation to external finishes.
- 8.2.11. Addressing the question raised and submitted to the Board based on the definition of works, the alterations of column at front/side windows side windows from steel to concrete blockwork on four holiday pods involves the carrying out of 'works' through an act of construction or alteration and therefore I considered solely and strictly within this definition would constitute development. Accordingly, having established that the works in question constitute development within the strict definition and meaning of the Act it would be necessary to ascertain whether or not they can be considered to be exempted development.
- 8.2.12. However, the authorised permission, submitted drawings and conditions of the permission I consider do not establish an alteration in the elevations which is not in compliance with the permission has occurred the drawings submitted with the application and the conditions of the planning permission. There is no specific reference or requirement on the material to be used in the construction of the columns and in effect the works carried out are development but authorised development granted planning permission and there is nothing to suggest the works are not in compliance with the planning permission.
- 8.3. Is or is not exempted development
- 8.3.1. The issue of exempted development is now considered.
- 8.3.2. In relation to exempted development there are no specific exemption provisions as defined in Schedule 2 Article 6, Part 1 of the Planning and Development Regulation 2001 as amended which are considered to be exempted development in relation to development within the curtilage of a house subject to conditions and limitations in relation to alteration in the appearance of a column of material used.
- 8.3.3. I wish to address issues in relation to restrictions on exempted development
- 8.3.4. In relation to Article 9 this Article relates to development to which article 6 relates shall not be exempted development for the purposes of the Act. Notwithstanding that the development on the site it is not provided for in Article 6 it is noted that Article 9(a)(i) refers to development shall not be exempted development for the purposes of the Act if the carrying out of such development would contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a

permission under the Act. The relevance of this provision is that it applies in the case of a development which has the benefit of a planning permission as granted under the planning act. As indicated previously there is nothing to indicate that development would contravene a condition attached to a permission.

- 8.3.5. In this regard therefore, as noted that the site has the benefit of a planning permission P.A Reference No. 22/629. The use of the site was therefore authorised by a grant of planning permission which including the erection of four pods and the conditions of the permission outlined requirements to be adhered to in relation to compliance with the grant of permission. The development, therefore, I consider is authorised for the use permitted notwithstanding the issue of development or exempted development raised in the question presented initially to the planning authority and the declaration requested by the planning authority under Section 5 of the Planning and Development Act 2000.
- 8.3.6. As a general position development which is compliance with the grant of planning permission would be authorised development in effect in this case authorising works which are deemed to be development. Development deemed not to be in compliance with the grant of planning permission would be unauthorised development and where the development breaches the grant of permission and conditions attached to the grant of permission would not be considered exempted development. There is nothing as already stated based on the documentation available to suggest the development breaches the grant of permission and conditions attached to the grant of permission.
- 8.3.7. I note that in the submission by the owner/occupier to the Board reference is made to Section 4(1)(h) of the Planning and Development Act 2000 as amended, Articles 6(1) and 9 of the Planning and Development Regulations 2001 as amended and that the current development satisfies the criteria set out as the builder made a minor alteration to the approved drawing and in relation to this minor alteration reference is made to Section 4(1)(h) of the Planning and Development Act 2000 as amended which provides for improvement or alteration. It is also contended that the four pods are not readily visible and located to the rear of the main building and the alterations do not materially affect the external appearance as to render the appearance inconsistent with the character of the structure or neighbouring structures.

The substitution of the concrete blockwork was a practical solution because the proposed steel columns required a separate trade which was not readily available due to the current labour shortage.

Reference is also made to court judgements in relation to in practical terms there may be modest variation between the plans submitted.

- 8.3.8. I am satisfied that given the nature and limited scale of the alteration in terms of the material used, this alteration is of minor significance and in the context of the overall development as approved under PA Ref. No. 22629 is not a material alteration and that the alteration is not inconsistent with the character of the structure and that it would not be inconsistent with the character of neighbouring structures.
- 8.3.9. However, notwithstanding the foregoing conclusion, I note that in accordance with the judgement given in the case of *Horne v Freeney* for any development to avail of the exempted development rights conferred by Section 4(1)(h) of the Act, it must first have been completed in full accordance with its grant of permission.
- 8.3.10. I would also note in this regard the reference in the owner/occupier response to the judgement of the Supreme Court Appeal No.006/2005 to *Kenny v Dublin City Council* on deviations to permitted development and the issue of whether such deviations are material departures from the terms of the permission.
- 8.3.11. For reasons already stated I do not consider the development deviates from and complies with the permitted plans and particulars of conditions of the planning permission.
- 8.3.12. I therefore consider, the alterations of column at front/side windows side windows to concrete blockwork if it were it is deemed as development complies with the exempted development provisions of Section 4(1)(h) and therefore would be exempted development being works 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 as the works are internal and do not materially affect the external appearance of the structure.

9.0 Appropriate Assessment Screening

- 9.1. I have considered the proposal which is for the alterations of column at front/side windows side windows to concrete blockwork on four holiday pods and no extension in floor area is proposed in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is not located within nor within close proximity to a designated European site. The proposed development comprises the alterations of side windows a change of use as outlined in section 2 in the Inspectors report. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows; the small scale and nature of the development and the absence of a pathway to the European site
- 9.1.1. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects and likely significant effects are excluded and therefore, Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

WHEREAS a question has arisen as to whether the alterations of column at front/side windows side windows to concrete blockwork on four holiday pods is or is not development and or is or is not exempted development: AND

WHEREAS the Meath County Council requested a declaration on this question from on the 10th day of October 2024 from An Bord Pleanála: AND

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3 of the Planning and Development Act, 2000,
- (c) Section 4 of the Planning and Development Act, 2000, as amended,
- (d) articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,

(e) Schedule 2, Part 1 of the Planning and Development Regulations, 2001, as amended:

(f) the planning history of the site,

(g) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

(a) alterations of columns at front/side windows side windows to concrete blockwork is development;

(b) the construction of the concrete columns form part of an overall development which was authorised by and the subject of a grant of planning permission under P.A. Ref. No. 22/629 subject to conditions and the documentation submitted with the application and the conditions attached to the permission do not preclude the construction of the said concrete columns.

(c) Notwithstanding the conclusion as set out in (b) the concrete blockwork on four holiday pods is exempted development having regard to the provisions of Section 4(1)(h) of the Planning and Development Act as amended, and

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act (as amended), hereby decides that the alteration of columns from steel to concrete blockwork on four holiday pods is exempted development.

and

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act (as amended), hereby decides that the alterations of columns at front/side windows side windows from steel to concrete blockwork is development and is 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.

Derek Daly
Planning Inspector

30th January 2025

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	321043-24		
Proposed Development Summary	Section 5 referral in relation to alterations of columns at front/side windows side windows to concrete blockwork		
Development Address	Collegelands and Arodstown, Summerhill, County Meath.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	Tick if relevant and proceed to Q2.	
	No x	Tick if relevant. No further action required	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	Tick/or leave blank	State the Class here.	Proceed to Q3.
No	x		Tick if relevant. No

			further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	Tick/or leave blank		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Screening determination remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: Derek Daly Date: 31st January 2025