



An
Bord
Pleanála

Inspector's Report ACP-324002-26

Question

Whether the erection of a two-storey portacabin structure within the attending grounds of the existing Sallynoggin Holy Child Community School for the provision of a new primary school is or is not development and is or is not exempted development as per Class 20D, Schedule 2, Part 1 of the Planning and Development Regulations, 2001, as amended wherein the new structure is to be used for the purpose of facilitating the delivery of a new primary school education as opposed to the continued delivery of the existing secondary school education.

Location

Sallynoggin Killiney Educate Together Primary School, Pearse Street, Sallynoggin, Co. Dublin

Declaration

None

Referral	Dun Laoghaire Rathdown County Council
Referred by	Dun Laoghaire Rathdown County Council
Owner/ Occupier	Sallynoggin Killiney Educate Together Primary School
Observer(s)	Department of Education and Youth
Date of Site Inspection	March 15 th , 2025
Inspector	Lorraine Dockery

1.0 Site Location and Description

1.1 The subject site, as outlined in red, is located east of the Holy Child Community School and south-east of St. Kevin's National School, Sallynoggin, Co. Dublin. The site is fenced off with green metal fencing from the existing grounds of Holy Child Community School with a gated access through the grounds/car park of the Holy Child Community School. Access is from Pearse Street and although double gate access is provided onto Glenageary Avenue to the rear of the portacabin building, this access does not appear to be utilised. The overall site is currently in educational use.

2.0 The Question

2.1 Whether the erection of a two-storey portacabin structure within the attending grounds of the existing Sallynoggin Holy Child Community School for the provision of a new primary school is or is not development and is or is not exempted development as per Class 20D, Schedule 2, Part 1 of the Planning and Development Regulations, 2001, as amended wherein the new structure is to be used for the purpose of facilitating the delivery of a new primary school education as opposed to the continued delivery of the existing secondary school education.

3.0 Planning Authority Declaration

3.1 Declaration

None

3.2 Planning Authority Reports

3.2.1 Planning Reports

- See section 6.1 below.

3.2.2 Other Technical Reports

None

4.0 Planning History

No relevant history

Enforcement

ENF GC 35725- Subject to live enforcement investigation; no further details available

5.0 Policy Context

5.1 Development Plan

The Dun Laoghaire Rathdown County Development Plan 2022-2028 applies.

Zoning- 'Objective SNI' which seeks 'to protect, improve and encourage the provision of sustainable neighbourhood infrastructure'.

'Education' is 'Permitted in Principle' under this zoning objective.

5.2 Natural Heritage Designations

None

6.0 The Referral

6.1 Referrer's Case

- In July 2025, Planning Enforcement received complaints that a portacabin was installed on the site. At that time, a first storey extension was being added
- It became apparent that this structure established a new primary school, Sallynoggin Killiney Educate Together National School (Sallynoggin ETNS), for which no planning permission had been obtained, independent of Holy Child Community School (HCCS) that was established on the site,

- Sallynoggin ETNS is under separate patronage to that of Holy Child Community School
- New portacabin is accessed via an entrance into Holy Child Community School from Pearse Street. Double gate access is available onto Glenageary Avenue to the rear of the portacabin building, which does not appear to be utilised.
- Portion of land on which the portacabin school is positioned has been fenced off from the rest of the lands. This was previously a grassed area before the initial single storey portacabins were placed there in 2022- photograph and google imagery attached illustrating same
- Requests ACP to determine whether the provision of a two-storey portacabin for the provision of a new primary school (Sallynoggin Killiney Educate Together National School) as opposed to continuing delivery of existing secondary school education is or is not development and is or is not exempted development.

6.2 Planning Authority Response

N/A

6.3 Further Responses

In accordance with section 129 of the Planning and Development Act 2000, as amended, Hughes Planning & Development Consultants, acting on behalf of the Department of Education and Youth, were invited to make a submission or observation in relation to this referral. A response was received on 29th January 2026 and may be summarised as follows:

- Outlines background to Sallynoggin Killiney Educate Together National School and need for subject portacabins
- Modular school accommodation is being provided on Holy Child Community School site to accommodate pupils of Sallynoggin EDNS, which shares the

Holy Child site on an interim basis while they await construction of a permanent school for Sallynoggin EDNS on Rochestown Avenue

- Contends that Class 20D of Planning and Development Regulations, 2001 (as amended by article 2(b) of S.I. No. 114 of 2021) applies
- Contends that the installation of two-storey modular structures on the subject site constitutes exempted development pursuant to Class 20D of the Planning and Development Regulations 2001, as amended
- Modular school accommodation and Sallynoggin ETNS generally complies with conditions/limitations No. 2, 3 and 4 specified in Column 2
- Modular structures have been erected for a short period of time, less than 5 years and have been designed to comply with the Department of Education Primary and Post Primary Technical Guidance Documents currently in place (Limitation No. 1 and 5)
- School is being temporarily accommodated in standard modular classrooms on land that is currently used as a school
- A Fire Safety Certificate and 7 Day Building Control Notice were submitted in July 2025, which is within 5-year limitation of Class 20D
- Class 20D acts as a flexible tool for schools to allow them expand, adjust and develop without the burden of planning regulations and this proposal directly alludes to the type of exempted development that Class 20D aims to achieve
- Education is permitted in principle under the zoning objective
- Modular structures located east of Holy Child Community School and south-east of St. Kevin's National School
- Sets out a number of examples which they contend as a precedent including Leixlip ETNS operating on the grounds of Colaiste Chiarian, Leixlip, Co. Kildare where the planning authority deemed works to be exempted development under Class 20D. Contends that this acts as a directly comparable example to subject site
- Obtained legal advice from Counsel Kevin Bell BL and highlights summary of same

- Circular letter makes no reference to ‘existing school’ nor contains language that suggests that Class 20D cannot be relied upon in the manner it seeks to do
- The structures at issue here were clearly erected on land on which Holy Child Community School is situated and are used for the continued delivery of education. Prima facie, the class covers the structure at issue.
- Neither the Class, nor its limitations, provide any express prohibition of a newly established school availing of the exemption by way of campus sharing. The ‘existing school’ in Limitation 2 is the original school building against which the size of the new structures must be measured- there is nothing further in that provision that stipulates that only the ‘existing school’ may operate the erected structures for the continued delivery of education
- Therefore, when the provisions of Class 20D are applied to Sallynoggin ETNS, it is apparent that the structures have been erected on Holy Child Community School lands and are used for the continued delivery of education. The buildings comply with all of the provisions of the Conditions and Limitations. It can be said with certainty that the ordinary meaning of the language of Class 20D does not prohibit its use by a second school sharing the site of the existing school by way of campus sharing
- To conclude, based on opinion of counsel that Class 20D of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended does not preclude a newly established school from availing of that exemption for relevant works carried out on the site of an established school

A response was received from Dun Laoghaire-Rathdown County Council on 11th February 2026, which includes for correspondence between the planning authority and Hughes Planning & Development Consultants in relation to this matter.

7.0 Statutory Provisions

6.1 Planning and Development Act, 2000

Section 2(1)

In this Act, except where the context otherwise requires –

"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”

“structure” as any building, structure, excavation or other thing constructed or made on, in or under any land, or 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

Section 3(1)

In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, or under land or the making of any material change in the use of any such structures or other land.

Section 4(1)

The following shall be exempted developments for the purposes of this Act -

(h) development consisting of the use 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;

Section 5(1) of the aforementioned Act, states the following:

If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority

a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

6.2 Planning and Development Regulations, 2001

Article 9 of the Regulations sets out restrictions on exemption.

Schedule 2, Part 1 deals with Exempted Development- General

Class	Limitations
<p>Class 20D</p> <p>Development consisting of –</p> <p>The erection on land on which a school is situated of a structure to facilitate the continued delivery of education.</p>	<ol style="list-style-type: none"> 1. No such structure shall be erected for a period exceeding 5 years. 2. The gross floor area of such structure shall not exceed 30% of the gross floor area of the existing school. 3. No such structure shall exceed two storeys. 4. Distance to party boundary - <ol style="list-style-type: none"> (a) any single storey structure shall be a distance of not less than 2 metres from any party boundary, (b) any two-storey extension facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling, or (c) any two-storey extension closer than 12.5m to a party boundary, or facing and closer than 22 metres to the dwelling shall - <ol style="list-style-type: none"> (i) have no windows overlooking, or (ii) have obscure glass.

	5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.
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6.3 Other

Circular Letter PL04/2021 Planning and Development Act 2000 (Exempted Development) Regulations 2021 - S.I. 114 and 115 of 2021- issued by Department of Housing, Local Government and Planning (18th March 2021)

- increase the existing provisions in the Planning and Development Regulations 2001, as amended (the Principal Regulations), to exempt specified works for School buildings and to enable the temporary use of public buildings as schools.
- Article 2(b) of these Regulations inserts a new CLASS 20D to allow schools to construct temporary structures to facilitate the continued delivery of education subject to certain conditions.
- These amendments to the exempted development provisions in relation to schools are considered to be proportionate and reasonable, and will enable schools to more easily comply with Covid-related public health and social distancing requirements from September next onwards thereby creating safer environments for both pupils and teachers, while also being consistent with the general principle of proper planning and sustainable development.

7 Assessment

7.1 The question under consideration in this referral is as follows: Whether the erection of a two-storey portacabin structure within the attending grounds of the existing Sallynoggin Holy Child Community School for the provision of a new primary school is or is not development and is or is not exempted development as per Class 20D, Schedule 2, Part 1 of the Planning and Development Regulations, 2001, as

amended wherein the new structure is to be used for the purpose of facilitating the delivery of a new primary school education as opposed to the continued delivery of the existing secondary school education at Sallynoggin Killiney Educate Together National School, Sallynoggin, Co. Dublin.

Is or is not development

- 7.2 I consider that the erection of two-storey modular accommodation on the site of an existing school would involve works within the meaning of Section 3 of the Act. As such it constitutes development. This does not appear to be disputed by the parties to the referral.

Is or is not exempted development/ Restrictions on exempted development

- 7.3 The second part of this question is whether the erection of a two-storey portacabin structure within the attending grounds of the existing Sallynoggin Holy Child Community School for the provision of a new primary school is or is not exempted development as per Class 20D, Schedule 2, Part 1 of the Planning and Development Regulations, 2001, as amended wherein the new structure is to be used for the purpose of facilitating the delivery of a new primary school education as opposed to the continued delivery of the existing secondary school education.
- 7.4 The planning authority did not issue a Section V Declaration in this instance. However, the referrer (Dun Laoghaire-Rathdown County Council) has set out in the submitted documentation that the subject works are considered not to be exempted development and their case is outlined above. In summary, the referrer notes that the Sallynoggin ETNS is under separate patronage to that of Holy Child Community School (HCCS). The school is accessed by separate entrance and the site has been subdivided with the relevant portion of land fenced off. The existing HCCS offers secondary education while the Sallynoggin EDNS offers primary education. In correspondence to the Department of Education and Youth from the planning authority (by letter dated 03/09/2025), the planning authority state that there is no reference in Class 20D to permitting the establishment of a new school without the benefit of a grant of planning permission. They also highlight that Condition and

Limitation No. 2 attached to Class 20D references the 'existing school' and read in conjunction with the stated intention of the purpose of the introduction of the exemptions (as contained in Circular Letter PL 04/2021), they consider this reinforces the position of the planning authority.

- 7.5 The submission received on behalf of the Department of Education and Youth refute this opinion. Their submission states that they have obtained Legal Counsel in relation to the matter. See above for a summary of their submission. They highlight that the site forms part of an overall school site and that campus sharing is occurring on a temporary basis until such time as their permanent school on Rochestown Avenue is completed. They state that neither Class 20D nor its limitations provide any express prohibition on a newly established school availing of this exemption by way of campus sharing. They contend that the 'existing school' in Limitation 2 is the original school building against which the size of the new structures must be measured- there is nothing further in that provision that stipulates that only the 'existing school' (in this instance HCCS) may operate the erected structures for the continued delivery of education. They continue by stating that it is apparent that the structures have been erected on Holy Child Community School lands and are used for the continued delivery of education. The buildings comply with all of the provisions of the Conditions and Limitations. They further contend that it can be said with certainty that the ordinary meaning of the language of Class 20D does not prohibit its use by a second school sharing the site of the existing school by way of campus sharing.
- 7.6 I have examined all of the information before me in this regard, including Class 20D of the Planning and Development Regulations 2001, as amended, together with Circular Letter PL04/2021 Planning and Development Act 2000 (Exempted Development) Regulations 2021 - S.I. 114 and 115 of 2021- issued by Department of Housing, Local Government and Planning (18th March 2021). I have examined the submissions received and I have visited the site and its environs.
- 7.7 Without doubt, the overall lands involve the delivery of education with two other schools located within this zoning. The Sallynoggin ETNS becomes the third school on the overall parcel within this zoning objective. The three separate schools have

been clearly demarcated on Figure 2.0 contained on page 5 of the submission received on behalf of the Department of Education and Youth.

7.8 Article 2(b) of the Planning and Development Regulations, 2001, as amended, inserts a new Class 20D to allow schools to construct temporary structures to facilitate the continued delivery of education subject to certain conditions. Schedule 2, Part 1, Class 20D of the Planning and Development Regulations, 20021, as amended, states that 'Development consisting of the erection on land on which a school is situated of a structure to facilitate the continued delivery of education' is considered exempted development, subject to certain limitations. The development the subject of this referral involves the erection of a structure to facilitate the delivery of education. The issue at hand here, in my opinion, is whether the structure would provide the 'continued' delivery of education. It is my understanding that up until the provision of these structures, this area of land was within the grounds of Holy Child Community School and formed part of their overall educational offering on these lands. A portion of the lands has been fenced off and separated from the Holy Child Community School, thereby forming a physical barrier between the HCCS and the subject site. It has become a separate entity by virtue of the fact that it has been separated from the overall Holy Child school by way of fencing. Access would appear to be through the grounds of the HCCS, although there is a separate access to the newly formed site from Glenageary Avenue. Sallynoggin Killiney EDNS has been established on this site by virtue of the provision of these structures. Without these structures, there is no Sallynoggin Killiney EDNA on these lands. Therefore, the structures are enabling the provision of a new educational use on the site (Sallynoggin EDNS) as opposed to facilitating the continued education use of the lands by Holy Child Community School.

7.9 The spirit of Class 20D refers to existing schools and prior to the erection of the two-storey modular structure (portacabin) there was no existing school situated on the site, as it was physically separated from HCCS by way of fencing. Therefore, I am of the opinion that the provisions of Class 20D do not apply in this instance. I concur with the opinion of the planning authority that there is no reference in Class 20D permitting the establishment of a new school without the benefit of a grant of planning permission. The provision of a new school on lands requires planning

permission.

- 7.10 I note the precedent referenced in the submission received on behalf of the Department of Education and Youth relating to Colaiste Chiarain and Leixlip ETNS. The reference number for this referral does not appear to have been provided. Firstly, I have no information before me to determine whether the site was physically separated or whether actual campus sharing with no physical barriers/separate entrance was in situ. Also, I highlight that this referral was not determined by An Coimisiún Pleanála. In any event, each case is assessed on its own merits.
- 7.11 Therefore, on the basis of all of the above, I am of the opinion that the provision of modular structure (portacabin) is not exempted development and requires a grant of planning permission.

8 Recommendation

- 8.1 I recommend that An Coimisiún should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to Whether the erection of a two-storey portacabin structure within the attending grounds of the existing Sallynoggin Holy Child Community School for the provision of a new primary school is or is not development and is or is not exempted development as per Class 20D, Schedule 2, Part 1 of the Planning and Development Regulations, 2001, as amended wherein the new structure is to be used for the purpose of facilitating the delivery of a new primary school education as opposed to the continued delivery of the existing secondary school education at Sallynoggin Killiney Educate Together National School, Sallynoggin, Co. Dublin:

AND WHEREAS Dun Laoghaire-Rathdown County Council referred this for review to An Coimisiún Pleanála on the 23rd day of December 2025:

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

- (a) Sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended
- (b) Articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended, and,
- (c) Schedule 2, Part 1 of the Planning and Development Regulations, 2001, as amended,
- (d) the provisions of Class 20(D) of the Planning and Development Regulations, 2001, as amended
- (e) Circular Letter PL04/2021 Planning and Development Act 2000 (Exempted Development) Regulations 2021 - S.I. 114 and 115 of 2021- issued by Department of Housing, Local Government and Planning (18th March 2021)
- (f) The submissions received by the Coimisiún and the report of the Inspector:

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) Works that entail the erection of a two-storey portacabin for the provision of a new primary school (Sallynoggin Killiney Educate Together Primary School) are “works” and so constitute development, under Section 3(1) of the Planning and Development Act, 2000 to 2017
- (b) This development would not come within the scope of Section 4(1)(h) not being 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;

- (c) The subject development would comprise development which is not exempted development under Class 20D of the Planning and Development Regulations, 2001, as amended, as the subject modular structures are enabling the provision of a new educational use on the site (Sallynoggin EDNS) as opposed to facilitating the continued education use of the lands by Holy Child Community School.

NOW THEREFORE An Coimisiun Pleanála, in exercise of the powers conferred on it by section 5 of the 2000 Act, hereby decides that the erection of a two-storey portacabin structure within the attending grounds of the existing Sallynoggin Holy Child Community School for the provision of a new primary school is development is not exempted development as per Class 20D, Schedule 2, Part 1 of the Planning and Development Regulations, 2001, as amended wherein the new structure is to be used for the purpose of facilitating the delivery of a new primary school education as opposed to the continued delivery of the existing secondary school education at Sallynoggin Killiney Educate Together National School, Sallynoggin, Co. Dublin.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Lorraine Dockery
Senior Planning Inspector

18th March 2025