

AN BORD PLEANÁLA
LDG- 018829-19
ABP- _____
02 SEP 2019
Fee: € 220 Type: Chq
Time: _____ By: Reg

Chapel Pass
Blackrock
Co Louth
A91 V5X4
02/09/2019

Dear Sir or Mdm,

In accordance with Section 5 (3) (a) of the Planning and Development Act (2000), we wish to refer the attached Louth County Council Exempted Development Declaration ref. S5 2019/33 to An Bord Pleanala.

We remain of the opinion that the construction of the shed in question, contemporaneous with the construction of the adjacent permitted dwellinghouse, conflicts in a significant manner with conditions attached to the permitted dwellinghouse and consequently adversely impacts on our adjacent properties.

The arguments we present for your consideration, as part of this referral, are those which we submitted in our Declaration request to Louth County Council and are herewith attached.

We also attach a copy of Louth County Council Development Declaration ref. S5 2019/17 in relation to the same matter. This concluded that the shed was not an exempt development. The subsequent planting of the few laurel plants in a very confined space sitting on top of the concrete foundation (see Photos 1 & 2 attached) i.e. in a non-survivable environment, is deemed to have brought about compliance with planning permission conditions. We contend that this token and arguably risible gesture does not alter the situation at all.

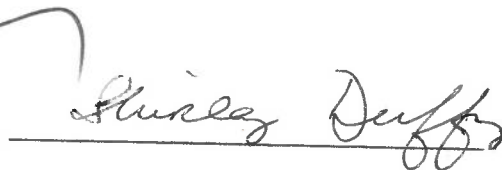
We look forward to hearing your decision on the matter.

Attached please find a cheque in the amount of €220 as the prescribed fee.

Yours respectfully,



Thomas G Duffy



Shirley Duffy



Comhairle Contae Lú
Louth County Council

Mr. Thomas Duffy,
Chapel Pass,
Blackrock,
Co. Louth.

Email: [REDACTED]

RE: Ref. S5 2019/33

Re: Application for Declaration of "Exempted Development" Part 1, Section 5, Planning & Development Act 2000 (as amended) whether the construction of a domestic shed in the south east corner of a residential site is development as if it is, is it exempted development having regard to the conditions attached to Planning Reg. Ref. 17/392 (ABP 15.249291) at Rock Road, Blackrock, Co. Louth is or is not development and is or is not exempt development within the meaning of the Planning and Development Act 2000 (as amended).

Dear Sir/Madam,

I wish to acknowledge receipt of your application received on 1st August, 2019 in relation to the above. Having assessed all information and enclosures received with the application the Planning Authority wishes to advise as follows:-

WHEREAS a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) whether a single storey domestic shed to the south east corner of an existing residential site is exempt from the requirement to obtain planning permission having regard to the conditions attached to PI. Ref. 17/392, ABP 15.249291,

AND WHEREAS the said question was referred to Louth County Council on the 1st August 2019,

AND WHEREAS Louth County Council in consideration of this question has had regard particularly to:-

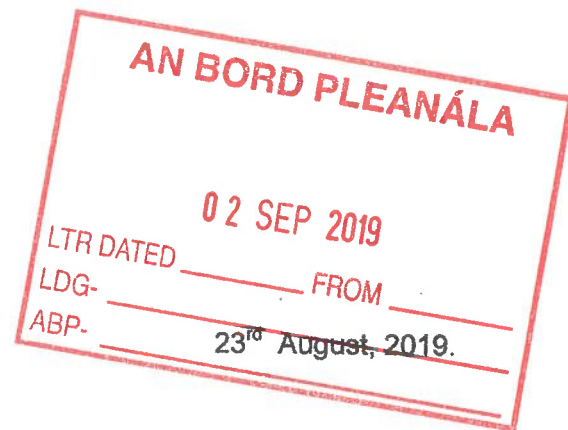
- (a) Class 3 of Schedule 2, Part 1, Exempted Development – which is the relevant exempted development class as set out in the Planning and Development Regulations 2001 (as amended)
- (b) Section 2, 3 and 4 of the Planning and Development Act, 2000 (as amended),
- (c) Article 6, of the Planning and Development Regulations 2001 to 2001 (as amended)
- (d) Article 9(1)(a)(i) of the Planning and Development Regulations 2001 (as amended),

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Halla an Bhaile
Sráid Crowe
Dún Dealgan
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A91 W20C

Louth County Council
Town Hall
Crowe Street
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(e) Condition 4 attached to Pl. Ref. 17/392, (ABP 15.249291)

AND WHEREAS Louth County Council has concluded based on the information submitted that: -

The existing single storey domestic shed structure falls under Class 3 of Schedule 2, Part 1 of the Planning & Development Regulations, 2001 (as amended) and satisfies all of the conditions and limitations under that Class 3. Furthermore, the structure does not materially contravene condition 4 of Pl. Ref. 17/392, (ABP 15.249291) and as such is not de-exempted having regard to Article 9(1)(a)(i) of the Planning and Development Regulations 2001 (as amended),

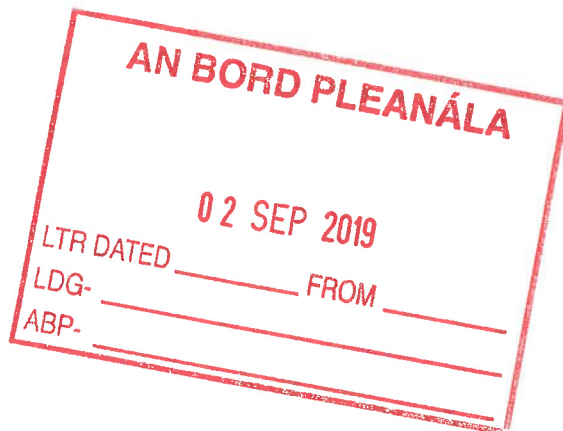
NOW THEREFORE Louth County Council in exercise of the powers conferred on it by Section 5 (2) (a) of the Planning and Development Acts 2000 (as amended), hereby decides that the development is 'development' and is 'exempted development'.

In Summary

A Declaration of Exemption is Granted for the following proposed works as detailed on plans and particulars submitted on 1st August, 2019.

Yours faithfully,

Celine Breen
Celine Breen,
Planning Section.



Dundalk Town Council

****All correspondence must be submitted to**

Loun County Council, Planning Office, County Hall, Millennium Centre, Dundalk Tel.
042-9353180

Application For Declaration on Development and Exempted Development Under Part 1, Section 5 of the Planning and Development Act 2000 (as amended)

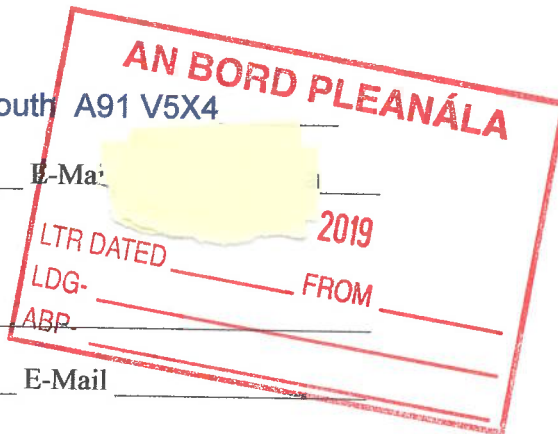
1. Name and address of Applicant:

Thomas Duffy, Chapel Pass. Blackrock, Co. Louth A91 V5X4

Ph: [redacted] Fax No: [redacted] E-Mail: [redacted]

2. Name and address of Applicant (if different from above):

Phone Number [redacted] Fax No: [redacted] E-Mail [redacted]



3. Name and address for all correspondence (if not completed, correspondence will be sent to applicant)
Please copy correspondence to email address

4.

5. Applicants interest in site:

Adjacent property_- owners are Aidan and Eileen Donnelly____
(if applicant is not freehold owner of the property in question, please provide name & address of owner)

6. Location of proposed development (Specify house no. and street name, where applicable)
Rock Road, Blackrock, Co. Louth LCC PA Ref 17/392

7. Description of proposed development:

Construction of shed adjacent to boundary; planting of trees along boundary

8. Does the development consist of works to be carried out to an existing or proposed protected structure
Yes No

If yes, has a Declaration under Section 57 of the Planning and Development Act 2000 been requested or issued for the property by the Planning Authority:

9. (a) If the proposed development is an extension to a dwellinghouse, please include the following:

- Floor area of Proposed Extension _____ sq.m
- Floor area Existing Dwelling _____ sq.m
- Area of Rear Private Open Space _____ sq.m
- Overall Height of Structure _____ metres

(b) Have any previous extensions been carried out: Yes No

If Yes, please specify: _____

9. (a) If the development is for the erection of a garage/shed/store etc. please include the following

- Proposed garage/shed/store unknown sq.m
- Floor area Existing Structure(s) unknown sq.m
- Area of Rear Private Open Space unknown sq.m
- Overall Height of Structure unknown metres

(b) Has any previous garage/shed/store been constructed: Yes No
 If Yes, please specify: _____

10. For any building to be retained on site, or for a change of use of the property please indicate:

- Existing Use _____
- Proposed Use _____

11. Please state, where applicable, materials to be used in construction of any boundary wall or fence:

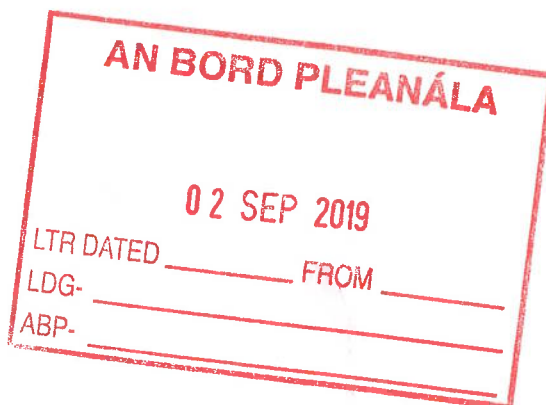
I certify that the aforementioned is correct.



Signature of Applicant: _____ Date 01/08/2019

Please include the following documents with this application form:

- Site Location Map: (Scale 1:1000)
- Site Layout Map: (Scale 1:200 or 1:500)
- Floor Plans & Elevations: (Scale 1:50, 1:100 or 1:200)
- Application fee: (€80)





The development in relation to which this Declaration is sought is located as follows:- the shed is at the south-east corner of the area outlined in red and the treeplanting is along the southern boundary of the area outlined in red.

I request that the Declaration be made considering the conditions attached to planning permission LCC PA Ref 17/392, ABP PL 15.249291 and the attached comments.

Completed Application form & Fee should be submitted to:

**Planning Office
Louth County Council
County Hall
Millennium Centre
Dundalk
County Louth**

AN BORD PLEANÁLA	
02 SEP 2019	
LTR DATED _____	FROM _____
LDG- _____	_____
ABP- _____	_____

1. It is our belief that it is not permitted to carry out exempted development contemporaneous with and adjacent to a permitted development. Construction of the shed commenced some months prior to the house being occupied.
2. We contend that the construction of the shed prevents the planting of the laurel hedge along the eastern and southern boundaries; shown on the permitted drawing number 3641-FI-01 dated 10/08/17 and specifically referred to in the Planning Inspector's report. The recent insertion of laurel plants into the 350 mm wide dark space between the shed and the solid boundary fence does not constitute compliance with this requirement (photos 1 & 2). Referring to Section 9 of the current Planning and Development Regulations, development cannot be classified as exempted 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"*.
3. During the planning and appeal process, the setback of the proposed development from the eastern boundary was increased from 1.5 to 3 m and this was deemed to be of great importance by the planners concerned (see Planner Report on Further Information, Section 5.0 Assessment as well as Condition 4 of Board Order PL 15.249291). The construction of this shed completely undermines this requirement as it brings construction within 350 mm of the boundary fence and 400 mm above it (photos 3-6).
4. The shed is approximately 400 mm higher than the existing boundary fence on the eastern and southern boundaries. It is less than 1 m from a window on the property to the south and reduces the light entering that window and has an adverse impact on the visual amenity.
5. In relation to our previous complaint about this development relating to the rear elevation not being constructed in accordance with the permitted drawings, Louth County Council Planning Enforcement Section took a very liberal view in accepting more windows than were permitted.
6. Under other circumstances, these matters might not be deemed to be of great significance. However, because of the extreme proximity of this dwelling house to the existing properties to the east and south, they take on great significance.

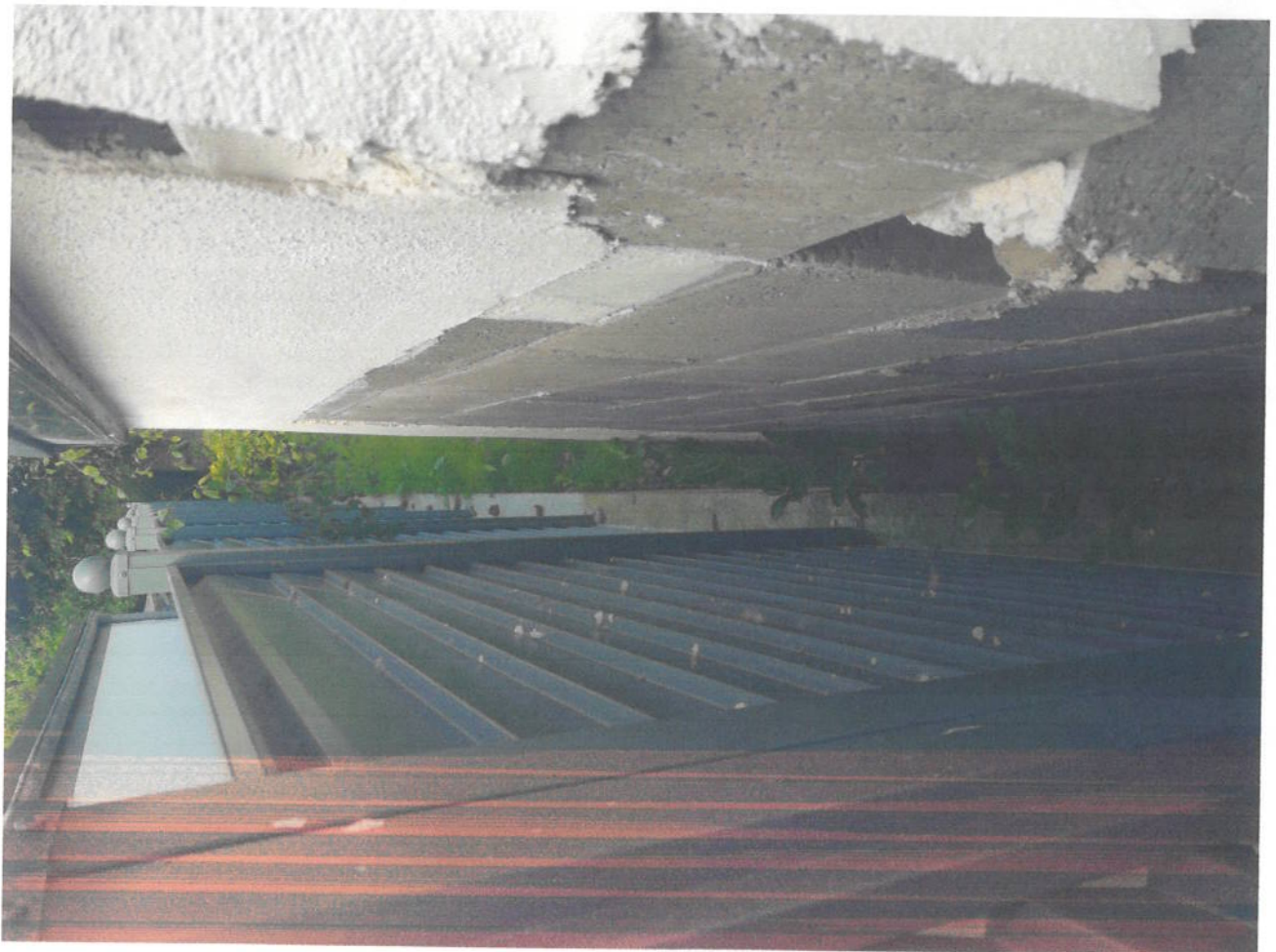
AN BORD PLEANÁLA

02 SEP 2019

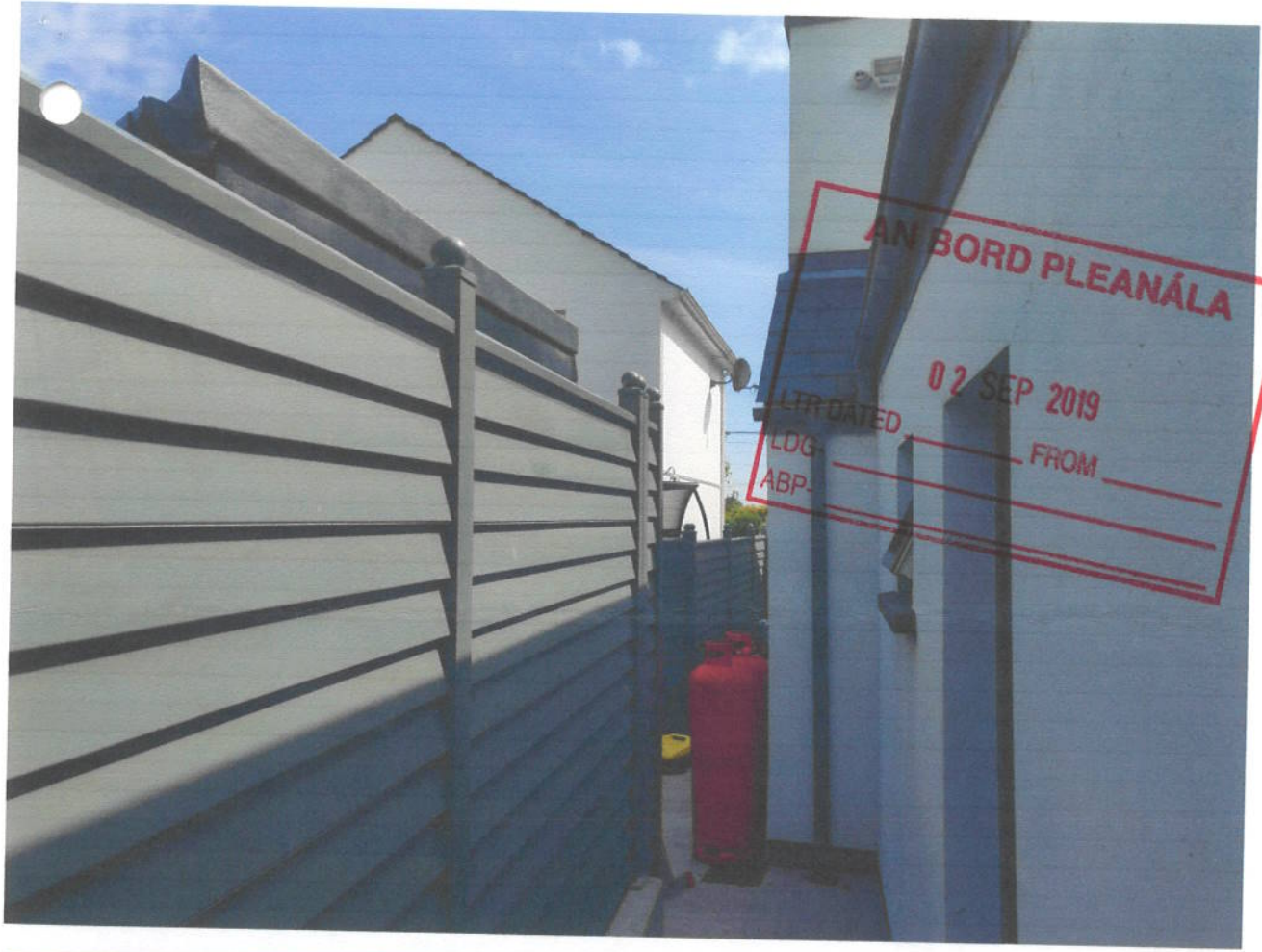
LTR DATED _____ FROM _____

J.DG.

ABP.



Photos 1 & 2



Photos 3 & 4 from South



Photo 5 from South



Photo 6 from East



Comhairle Contae Lú
Louth County Council

Mr. Thomas Duffy,
Chapel Pass,
Blackrock,
Co. Louth.
V91 V5X4

AN BORD PLEANÁLA

02 SEP 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- **23rd May, 2019.**

RE: Ref. S5 2019/17

Re: Application for Declaration of "Exempted Development" Part 1, Section 5, Planning & Development Act 2000 (as amended) whether the construction of a domestic shed in the south east corner of a residential site at Rock Road, Blackrock, Co. Louth is not 'Development' within the meaning of the Planning & Development Act, 2000 (as amended)

Dear Sir/Madam,

I wish to acknowledge receipt of your application received on 1st May, 2019 in relation to the above. Having assessed all information and enclosures received with the application, the Planning Authority wishes to advise as follows:-

Recommendation: I hereby recommend that a Declaration of Exemption be Refused for the development described above, for the reason(s) set out hereunder:-

WHEREAS a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) whether a single storey domestic shed to the south east corner of an existing residential site is exempt from the requirement to obtain planning permission,

AND WHEREAS the said question was referred to Louth County Council on the 1st May 2019,

AND WHEREAS Louth County Council in consideration of this question has had regard particularly to:

- (a) Class 3 of Schedule 2, Part 1, Exempted Development – which is the relevant exempted development class as set out in the Planning and Development Regulations 2001 (as amended)
- (b) Section 2, 3 and 4 of the Planning and Development Act, 2000 (as amended),

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- (c) Article 6, of the Planning and Development Regulations 2001 (as amended)
(d) Article 9(1)(a)(i) of the Planning and Development Regulations 2001 (as amended),

AND WHEREAS Louth County Council has concluded based on the information submitted that: -

The existing single storey domestic shed structure, being in such close proximity to the south eastern boundaries of the site, prevents the completion of the landscaping scheme as required under Condition 4 of Planning Reference 17/392 (An Bord Pleanála PL.15.249291), i.e. the existence of the shed structure contravene a condition attached to a permission under the Act. The Exempted Development rights permitted under Class 3 of Schedule 2, Part 1 are therefore de-exempted by reason of Article 9(1)(a)(i) of the Planning and Development Regulations 2001 (as amended),

NOW THEREFORE Louth County Council in exercise of the powers conferred on it by Section 5 (2) (a) of the Planning and Development Acts 2000 (as amended), hereby decides that the development is 'development' and is not 'exempted development'.

It is therefore recommended that a declaration of Exemption be **REFUSED** for the development set out hereunder.


In Summary

A Declaration of Exemption is hereby REFUSED for the construction of a domestic shed in the south east corner of a residential site at Rock Road, Blackrock, Co. Louth

This decision may be referred by you to An Bord Pleanála for review within 4 weeks of the date of this letter subject to the payment of the appropriate fee.

Trusting that all meets with your understanding.

Yours faithfully,


Celine Breen
Planning Section.

AN BORD PLEANÁLA	
02 SEP 2019	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	