An Bord Pleanála

Planning Appeal Form

AN BORD PLEANÁLA
LDG- 026297-20
ABP-
02 JUN 2020
Fee: € 220 Type: Cash
Time: 12:53 By: hand

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name	Daniel Fanning
(b) Address	Rose Cottage Brackenstown Road Swords Co. Dublin K67 H4F8

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name	Not applicable

An Bord Pleanála

Planning Appeal Form

Your details

1. **Appellant's details (person making the appeal)**

Your full details:

(a) Name

Daniel Fanning

(b) Address

Rose Cottage
Brackenstown Road
Swords
Co. Dublin
K67 HA78

Agent's details

2. **Agent's details (if applicable)**

If an agent is acting for you, please also provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Not applicable

(b)	Agent's address	Not applicable

(b) Agent's address | Not applicable

Postal address for letters

3. During the appeal we will post information and items to you **or** to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1	✓	**The agent at the address in Part 2**	☐

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Fingal County Council

(b) Planning authority register reference number

(for example: 18/0123)

FS5/007/20

AN BORD PLEANÁLA
02 JUN 2020
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Rose Cottage, Brackenstown Road, Swords, Co. Dublin, K67 H4F8

Postal address for letters

3. During the appeal we will post information and items to you or to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1 ☐ **The agent at the address in Part 2** ☐

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(for example: Ballytown City Council)

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(for example: 18/0123)

FS5/007/20

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(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Rose Cottage, Brackenstown Road, Swords, Co. Dublin, K67 HA78

AN BORD PLEANÁLA

02 JUN 2020

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

Proposed Development is Exempt Development based on:

1. Information received at Fingal County Council Offices.
2. Public information given by Department of Housing, Planning and Local Government on their website, PL 5, Doing Work around the House – The Planning Issues, No.7 states: The floor area limitation for exempt development is 25 square meters.
3. Gross Floor Area as defined in Article 3 of the Planning and Development Regulations 2001
   - An Bord Pleanala Ref: 09.RL.2885 Order
   - An Bord Pleanala Ref: PL44.239090 Inspector's Report

AN BORD PLEANÁLA
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LTR DATED _____ FROM _____
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3. Gross Floor Area as defined in Article 3 of the Planning and Development Regulations 2001

- An Bord Pleanala Ref: 09.RL 2885 Order
- An Bord Pleanala Ref: PL44.239090 Inspector's Report

Supporting material

6. If you wish you can include supporting materials with your appeal. Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Supporting material

6. If you wish you can include supporting materials with your appeal. Supporting materials include:

- photographs
- plans,
- surveys
- drawings,
- digital videos or DVDs,
- technical guidance, or
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Fee

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Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the "yes, I wish to request an oral hearing" box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the "No, I do not wish to request an oral hearing" box.

Yes, I wish to request an oral hearing ☐

No, I do not wish to request an oral hearing ✓

AN BORD PLEANÁLA
02 JUN 2020
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

NALA has awarded this document its Plain English Mark

Last updated: April 2019.

Plain English
Approved by NALA

Oral hearing request

5. If you wish to request a hearing in relation to your appeal, please tick the 'Yes, I wish to request an oral hearing' box below.

Please note you will have to pay an additional non-refundable fee of €50. You can find information on how to make this request on the website or by contacting us.

If you do not wish to request an oral hearing, please tick the 'No, I do not wish to request an oral hearing' box.

Yes, I wish to request an oral hearing ☐

No, I do not wish to request an oral hearing ☐

Documents Included

1. Fingal County Council, Notification of Declaration Under Section 5 of the Planning & Development Acts 2000, As Amended

2. Case for Appeal, Declaration Under Section 5 of The Planning & Development Acts 2000, As Amended

3. Email from Jackie Fowler, Senior Staff Officer

4. Original Printout from Fingal County Council Planning Department, Class 3 of The Planning and Development Regulations 2001

5. Email from Margaret Rice, Planning Policy, Department of Housing, Planning and Local Government

6. An Bord Pleanala Order No. 09.RL.2885

7. An Bord Pleanala Inspectors Report PL44.239090

8. Application Form for Declaration Under Section 5 of the Planning & Development Act 2000

9. Hand-Drawn Floor Plan

Documents Included

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9. Hand-Drawn Floor Plan

Comhairle Contae Fhine Gall
Fingal County Council

An Roinn um Pleanáil agus Infrastruchtúr Straitéiseach
Planning and Strategic Infrastructure Department

Daniel Fanning
Rose Cottage
Brackenstown Road
Swords
Co. Dublin
K67 H4F8

NOTIFICATION OF DECLARATION UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACTS 2000, AS AMENDED

Decision Order No. PF/0372/20	Decision Date: 12-Mar-2020
Ref: FS5/007/20	Registered: 17-Feb-2020

Area:	Swords
Applicant:	Daniel Fanning
Development:	Timber frame Garden Room/Gym, floor area when fully insulated will be less than 25 sq.m., pitched roof with a height less than 4 metres.
Location:	Rose Cottage, Brackenstown Road, Swords, Co. Dublin, K67 H4F8
Application Type:	Request for Declaration Under Section 5

Dear Sir/ Madam

With reference to your request for a **DECLARATION** under Section 5 (1) received on 17-Feb-2020 in connection with the above, I wish to inform you that the above proposal **IS NOT Exempted Development** under Section 5(1) of the Planning and Development Act 2000 for the following reason(s):

Comhairle Contae Fhine Gaill
Fingal County Council

Rón Éigin um Fhéinrialú Pleanála
Development Determination
Planning and Development
Act 2000 (as amended)

Daniel Fanning
Rose Cottage
Brackenstown Road
Swords
Co. Dublin
K67 H4F8

DECLARATION UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACTS 2000, AS AMENDED

Decision Order No: P/V05/72/20	Decision Date: 12-Mar-2020
Ref: FS/00/22/20	Registered: 17-Feb-2020

Area:	Swords
Applicant:	Daniel Fanning
Development:	Timber frame Garden Room/Study, floor area which fully insulated will be less than 25 sq.m, pitched roof with a height less than 4 metres.
Location:	Rose Cottage, Brackenstown Road, Swords, Co. Dublin, K67 H4F8
Application Type:	Request for Declaration Under Section 5

AN BORD PLEANÁLA
02 JUN 2020
LTR DATED FROM
JBR

Dear Sir/ Madam

With reference to your request for a DECLARATION under Section 5 of the above Act on 17-Feb-2020 in connection with the above, I wish to inform you that the above proposal IS NOT exempted Development within Section 4(1) of the Planning and Development Act 2000 for the following reason(s):

1. Having regard to:

   - Section 3(1) of the Planning and Development Act 2000 (as amended)
   - Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended) and;
   - Class 3, Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended)

   Based on the documentation submitted and having regard to the floor area of the structure proposed, that the provision of a garden room/gym structure to the side of the existing house would not comply with the Conditions and Limitations pertaining to Class 3 Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended) and comprises development and is not exempted development.

NOTE: Where a declaration is issued under section 5 (1) any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such a fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Signed on behalf of Fingal County Council.

13-Mar-2020

for Senior Executive Officer

Having regard to:

- Section 3(1) of the Planning and Development Act 2000 (as amended)
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended) and:
- Class 3, Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended)

Based on the documentation submitted and having regard to the floor area of the structure proposed, that the provision of a garden room/gym structure to the side of the existing house would not comply with the Conditions and Limitations pertaining to Class 3 Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended) and comprises development and is not exempted development.

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Signed on behalf of Fingal County Council.

_____ 13-Mar-2020
for Senior Executive Officer

NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications relate to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of eight weeks beginning on the date of Planning Authority's **decision** on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

(B) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála by the applicant or ANY OTHER PERSON who made submissions or observations in writing to the Planning Authority in relation to this planning application within four weeks beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received). A person who has an interest in land adjoining land in respect of which permission has been granted may within the appropriate period and on payment of the appropriate fee apply to the Board for Leave to Appeal against that decision.

1. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. Appeals should be sent to:
The Secretary, An Bord Pleanála, 64 Malborough Street, Dublin 1.

2. An appeal lodged by an applicant or his agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below. In the case of third party appeals, a copy of the acknowledgement of valid submission issued by F.C.C. must be enclosed with the appeal.

3. A party to an appeal making a request to An Bord Pleanála for an oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (f) below).

4. Where an appeal has already been made, another person can become an "observer" and make submissions or observations on the appeal. A copy of the appeal can be seen at the Planning Authority's office.

5. If the Council makes a decision to *grant permission/ retention/ outline/ permission consequent on the grant of outline* and there is no appeal to An Bord Pleanála against this decision, a final grant will be made by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If every appeal made in accordance with the Acts has been withdrawn, the Council will issue the final grant as soon as may be after the withdrawal.

6. Fees payable to An Bord Pleanála from 5th September 2011 are as follows:

Case Type	
Planning Acts	
(a) Appeals against decisions of Planning Authorities	
Appeal	
(i) 1st party appeal relating to commercial development where the application included the retention of development	€4,500 or €9,000 if an EIS or NIS involved
(ii) 1st party appeal relating to commercial development (no retention element in application	€1,500 or €3,000 in EIS or NIS involved
(iii) 1st party appeal non-commercial development where the application included the retention of development.	€660
(iv) 1st party appeal solely against contribution condition(s) – 2000 Act Section 48 or 49	€220
(v) Appeal following grant of leave to appeal (An application for leave to appeal is also €110)	€110
(vi) An appeal other than referred to in (i) to (v) above.	€220
(b) Referral	€220
(c) Reduced fee for appeal or referral (applies to certain specified bodies)	€110
(d) Application for leave to appeal (section 37(6)(a) of 2000 Act	€110
(e) Making submission or observation (specified bodies exempt).	€50
(f) Request for oral hearing under Section 134 of 2000 Act	€50

NOTE: the above fee levels for planning appeals and referrals remain unchanged from those already in force since 2007 (but note the addition of NIS in (i) and (ii) above).

Fees apply to: All third party appeals at 7(a)(iv) above except where the appeal follows a grant of leave to appeal; First party (section 37 appeals) planning appeals not involving commercial or retention development, an EIS or NIS. All other (non section 37) first party appeals.

These bodies at 7(c) above are specified in the Board's order which determined fees. They include planning authorities and certain other public bodies e.g. National Roads Authority, Irish Aviation Authority.

NB. This guide does not purport to be a legal interpretation of the fees payable to the Board. A copy of the Board's order determining fee under the Planning Act is obtainable from the Board. Further information about fees under other legislation may be found in the appropriate legislation and is also available from the Board.

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at **(01) 8588 100.**

Case For Appeal
Declaration Under Section 5 Of The Planning & Development Acts 2000, As Amended

Applicant: Daniel Fanning

Address: Rose Cottage, Brackenstown Road, Swords, Co. Dublin, K67 H4F8

Planning Authority: Fingal County Council

Planning Authority Register Reference Number: FS5/007/20

Background as to how I, Daniel Fanning, applied for Declaration Under Section 5 Of The Planning & Development Acts 2000, As Amended:

I went to view Timber Frame Companies around Ireland and was informed that I would be able to build a Garden Room/Gym up to 25 square metres of floor area under Exempt Development.

In order to confirm the above, I phoned Fingal County Council Planning Department to request information regarding Exempt Development and asked could I make a pre-planning consultation to discuss. I was told to send an email to make an appointment.
I also asked what was the process involved in making a Section 5 Declaration and along with the process time I was informed there would be a site visit and if any additional information was needed, I would be contacted.
I sent an email and received a reply from Jackie Fowler, Senior Staff Officer. (Document 3)

As I was unable to arrange a pre-planning consultation and I had a couple of questions in order to proceed with the Garden Room/ Gym, I went down to Fingal County Councils offices in Swords.
At the reception I asked could I talk with someone from the Planning Department. I explained I would like to build a Garden Room/ Gym under Exempt Development and the person at reception placed a call to the Planning Department.
After explaining to the person in the Planning Department my proposal, she hung up the phone and told me that the person in the Planning Department had a printout for me.

Case For Appeal
Declaration Under Section 5 Of The Planning & Development Acts 2000, As Amended

Applicant: Daniel Fanning

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Planning Authority: Fingal County Council

Planning Authority Register Reference Number: FSS/007/20

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After explaining to the person in the Planning Department my proposal, she hung up the phone and told me that the person in the Planning Department had a printout for me.

She returned with a printout which was, Class 3 of the Planning and Development Regulations 2001. (Document 4)

I read the printout at the reception desk and asked could I just clarify a couple of more questions. She called back to the same person and I asked the following questions:

Question 1. Was the 25 square meters limit an internal or external measurement?
Answer. When we measure, it's internally, as walls can be different sizes.

Question 2. I have a small garden shed, am I allowed to have this as well?
Answer. We are very strict on this, the total of all structures cannot be greater than 25 square meters.

I was then informed that the person we were talking to was very busy and the phone call ended.
I asked who we had been speaking to and I was informed it was one of the Senior Planners.

As I am 100% satisfied that I have satisfied Class 3 of the Planning and Development Regulations 2001 (as amended)

By:

1. The Garden Room/ Gym will not be placed forward of the front wall of the house.
2. The floor area of the Garden Room/ Gym will be less than 25 square meters and will be the only structure in the garden.
3. When the Garden Room/ Gym is constructed the amount of private open space left will be greater than 25 square meters.
4. As the Garden Room/ Gym will be to the side of the house the external finish and tiled roof will conform with those of the house.
5. As the Garden Room/ Gym will have a tiled roof the height will be less than 4 meters.
6. The Garden Room/ Gym will only be used for the purpose incidental to the enjoyment of the house. Will not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses.

And by the advice from Jackie Fowler's email, 'if people are satisfied that what they are proposing is Exempt Development, they can proceed to carry out the works', I paid a deposit and started the process of employing a company to design the Garden Room/Gym.

The only reason I sent in a Section 5 Declaration was if further down the road i.e. I go to sell my house or need to make an insurance claim that I have a piece of paper that says this Garden Room/ Gym is legal.

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The only reason I sent in a Section 5 Declaration was if further down the road i.e. I go to sell my house or need to make an insurance claim that I have a piece of paper that says this Garden Room/ Gym is legal.

Arguments:

1. I have practiced my due diligence through contact with Fingal County Council Planning Department.

2. A person would expect when you contact a Planning Department, that the people who are employed there would give you correct information and guidance.

   - I was given information by a Senior Planner that the 25 square metres is calculated internally. This was clearly related to the Class 3 printout which I was given.
   - Jackie Fowler, Senior Staff Officer has guided me in her reply email that 'if people are satisfied that what they are proposing is exempted development, they can proceed to carry out the works'
     I am totally satisfied with the information received by the Senior Planner that the proposed Garden Room/ Gym satisfies all the conditions and limitations under Class 3, Exempt Development.
   - No site visit was carried out or any request for any additional information was asked.

3. A deposit has been paid to the Timber Frame Company.

Planning Reasons:

1. Department of Housing, Planning and Local Government has published on their website, housing.gov.ie., under Doing Work around the Houses (2003), PL5, No.7. Can I build a garage? States: You can build a garage, carport, shed, greenhouse, kennel for domestic pets etc. The floor area limitation for exempt development is 25 square metres.

   I sent an email to Department of Housing, Planning and Local Government to confirm if the above information on the government website is correct and up to date.
   I received a reply from Margaret Rice, Planning Policy, which confirms the information is up to date. (Document 5).

   Irish Statute Book
   Article 3 of the Planning and Development Regulations 2001.
   "gross floor space" means the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions), disregarding any floor space provided for the parking of vehicles by persons occupying or using the building or buildings where such floor space is incidental to the primary purpose of the building.

Argument:

1. I have practiced my due diligence through contact with Fingal County Council Planning Department.

2. A person would expect when you contact a Planning Department, that the people who are employed there would give you correct information and guidance.

I was given information by a Senior Planner that the 25 square metres is calculated internally. This was clearly stated to the Class 3 printout which I was given.
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2. An Bord Pleanala cases:

- 09.RL.2885 Order (Document 6)

  And WHEREAS An Bord Pleanala has concluded that –
  (a) the gross floor area internally, which is the internal floor area as defined in Article 3 of the Planning and Development Regulations 2001 to 2011, of the said structure does not exceed 25 square metres,
  (e) the structure comes within the provisions of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2011:

- PL44.239090 Inspector's Report (Document 7)

  10.0 ASSESSMENT

  The storage shed/games room which it is proposed to retain is only marginally in excess of that which would constitute exempt development under Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (floor area – 25.62 square metres vs. 25 square metres).

Conclusion:

From the Notification Of Declaration Under Section 5 Of The Planning & Development Acts 2000, As Amended from Fingal County Council on Page 2:

'Based on the documentation submitted and having regard to the floor area of the structure proposed, that the provision of a garden room/gym structure to the side of the existing house would not comply with the Conditions and Limitations pertaining to Class3 Schedule2 Part 1 of the Planning and Development Regulations 2001 (as amended) and comprises development and is not exempt development'

I would like to clarify the floor plan that was sent in with the Section 5 Declaration to Fingal County Council. (Document 8)

Wall Construction: 60mm External Solid Wood
100mm Internal Insulation
19mm Internal Cladding

2. An Bord Pleanala case:

09 RL 2585 Order (Document 6)

And WHEREAS An Bord Pleanala has concluded that –

(a) the gross floor area internally, which is the internal floor area as defined in Article 3 of the Planning and Development Regulations 2001 to 2011, of the said structure does not exceed 25 square metres,

(e) the structure comes within the provisions of Class 3 of Part 1 of schedule 2 of the Planning and Development Regulations 2001 to 2011:

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From the Notification Of Declaration Under Section 5 Of The Planning & Development Acts 2000, As Amended from Fingal County Council on Page 4:

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I would like to clarify the floor plan that was sent in with the Section 5 Declaration to Fingal County Council. (Document 8)

Wall Construction: 50mm External Solid Wood
100mm Internal Insulation
19mm Internal Cladding

The Timber Frame Company floor plan shows the internal measurement from the external solid wood wall. The 26.85m2 shown on floor plan is the floor area excluding the insulation and internal cladding.
When the insulation and internal cladding are included to complete the wall, the floor area will be 24.23 square metres. (Document 9)

Unfortunately, the Timber Frame Company design software does not allow the insulation and internal cladding to be included on the floor plan.

As when the walls of the proposed structure are complete and the floor area will be less than 25 square metres, I am unclear as to why Fingal County Council Planning Department have not issued a Declaration for Exempt Development.

If you require any more information, please contact me.

Thanking you for your time,

Daniel Fanning

AN BORD PLEANÁLA

02 JUN 2020

LTR DATED _____ FROM _____
LDG- _____
ABP- _____

The Timber Frame Company floor plan shows the internal measurement from the external solid wood wall. The 25.85m2 shown on floor plan is the floor area excluding the insulation and internal cladding.
When the insulation and internal cladding are included to complete the wall, the floor area will be 24.23 square metres. (Document 3)

Unfortunately, the Timber Frame Company design software does not allow the insulation and internal cladding to be included on the floor plan.

As when the walls of the proposed structure are complete and the floor area will be less than 25 square metres, I am unclear as to why Fingal County Council Planning Department have not issued a Declaration for Exempt Development.

If you require any more information, please contact me.

Thanking you for your time,

Daniel Fanning

From: Planning Department Planning@fingal.ie
Subject: RE: Pre-planning Consultation
Date: 11 Feb 2020 at 16:15:53
To: Daniel Fanning danfan46@live.com

Dear Mr. Fanning,

My sincerest apologies in delay in responding to your query. I wish to advise that Fingal County Council cannot tell people conclusively whether something is exempted development or not unless they make a formal application for a Section 5 declaration. This is because there are various limitations to exempted which all need to be checked by the Council in addition to visiting the site itself. If people are satisfied that what they are proposing is exempted development, they can proceed to carry out the works.

If you are in doubt as to whether planning permission is required, you can apply for a document from us, called a Declaration of Exemption, which confirms if you need planning permission or not. Further information on the Declaration of Exemption, further details can be found here: https://www.fingal.ie/council/service/planning-permission

Le gach dea-mhéin,

Jackie Fowler | Senior Staff Officer | Planning & Strategic Infrastructure Department | County Hall | Main Street | Swords | Fingal | Co. Dublin | K67 X8Y2
Phone (01) 890 5750 | Email: jackie.fowler@fingal.ie

From: Daniel Fanning <danfan46@live.com>
Sent: 22 January 2020 12:10
To: Planning Department <Planning@fingal.ie>
Subject: Re: Pre-planning Consultation

Hello Jackie,

Planning Reference F18B/0216 has not commenced.

Garden Room proposed has not commenced.

Kind Regards

Dan

From: Planning Department <Planning@fingal.ie>
Sent: Wednesday 22 January 2020 11:52
To: Daniel Fanning <danfan46@live.com>
Subject: RE: Pre-planning Consultation

Hi Daniel,

Planning Department
RE: Pre-planning Consultation
11 Feb 2020 at 16:15:03
Daniel Fanning

Dear Mr Fanning,

My sincerest apologies in delay in responding to your query. I wish to advise that Fingal County Council cannot tell people conclusively whether something is exempted development or not unless they make a formal application for a Section 5 declaration. This is because there are various limitations to exempted which all need to be checked by the Council in addition to visiting the site itself. If people are satisfied that what they are proposing is exempted development, they can proceed to carry out the works.

If you are in doubt as to whether planning permission is required, you can apply for a document from us, called a Declaration of Exemption, which confirms if you need planning permission or not. Further information on the Declaration of Exemption, further details can be found here https://www.fingalcoco.ie/services/planning/exemptions/

Le gach dea-mhéin,

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Sent: Wednesday 22 January 2020 11:52
To: Daniel Fanning <danfanning@live.com>
Subject: RE: Pre-planning Consultation

Hi Daniel,

Can you confirm if the works have commenced?

Le gach dea-mhéin,

Jackie Fowler | Senior Staff Officer | Planning & Strategic Infrastructure Department | County Hall | Main Street | Swords | Fingal | Co. Dublin | K67 X8Y2
Phone (01) 890 5750 | Email: jackie.fowler@fingal.ie

Jackie Fowler |Rannóg Achomhairc | An Roinn um Pleanáil agus Infrastruchtúr Straitéiseach | Comhairle Contae Fhine Gall | Áras an Chontae |
Sord |Fine Gall |Contae Átha Cliath | K67 X8Y2 | Telefón 01 890 5750 | Ríomhphost: jackie.fowler@fingal.ie

Comhairle Contae
Fhine Gall
Fingal County
Council

From: Daniel Fanning <danfan46@live.com>
Sent: 21 January 2020 21:37
To: Planning Department <Planning@fingal.ie>
Subject: Pre-planning Consultation

Dear Sir/ Madam,

Could we please request a Pre-planning Consultation.

We currently have a Grant Permission, Planning Reference F18B/0216.

We have not completed this build to date and would like to build a Garden Room under Exempt Development.

Please find attached Site location Map with area marked 'X' for proposed Garden Room.

Daniel Fanning (owner of site)

Can you confirm if the works have commenced?

Le gach le meas,

Jackie Fowler | Senior Staff Officer | Planning & Strategic Infrastructure Department | County Hall |
Main Street | Swords | Fingal | Co. Dublin | K67 X8Y2
Phone (01) 890 5720 | Email: [illegible]

Jackie Fowler | Rannóg Ackomhaire | An Roinn um Pleanáil agus Bonaithiúchán Straitéisiúil |
Comhairle Contae Fhine Gall | Áras an Chontae |
Sráid Main | Sord | Fine Gall | Contae Átha Cliath | K67 X8Y2 | Teileafón (01 890 5720) |Ríomhphost:
[illegible]

From: Daniel Fanning <[illegible]>
Sent: 21 January 2020 21:37
To: Planning Department <[illegible]>
Subject: Pre-planning Consultation

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We currently have a Grant Permission, Planning Reference F18B/0216.

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Please find attached Site location Map with area marked 'X' for proposed Garden Room.

Daniel Fanning (owner of site)

086-1243713

Rose Cottage
Brackenstown Road
Swords
Co. Dublin
K67 H4F8

Ross Cottage
Rathcoole Road
Swords
Co. Dublin
K67 H4F8

Planning Original

4

	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.
(d) The installation on or within the curtilage of a house of a ground heat pump system (horizontal and vertical) or an air source heat pump.	1. The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground. 2. The total area of such a heat pump, taken together with any other such pump previously erected, shall not exceed 2.5 square metres. 3. The heat pump shall be a minimum of 50cm from any edge of the wall or roof on which it is mounted. 4. No such structure shall be erected on, or forward of, the front wall or roof of the house. 5. Noise levels must not exceed 43db(A) during normal operation, or in excess of 5db(A) above the background noise, whichever is greater, as measured from the nearest neighbouring inhabited dwelling.
CLASS 3 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.	1. No such structure shall be constructed, erected or placed forward of the front wall of a house. 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. 3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of 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.

Comment [i372]: Subst 2 of S.I. No. 83/2007 – Plan Development Regulations 2

	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. 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. 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.
CLASS 4 (a) The erection of a wireless or television antenna, other than a satellite television signal receiving antenna, on the roof of a house.	The height of the antenna above the roof of the house shall not exceed 6 metres.
(b) The erection on or within the curtilage of a house, of a dish type antenna used for the receiving and transmitting of signals from satellites.	1. Not more than one such antenna shall be erected on, or within the curtilage of a house. 2. The diameter of any such antenna shall not exceed 1 metre. 3. No such antenna shall be erected on, or forward of, the front wall of the house. 4. No such antenna shall be erected on the front roof slope of the house or higher than the highest part of the roof of the house.
CLASS 5 The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.	1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.

From: Planning PLANNING@housing.gov.ie
Subject: RE: Hello, Question regarding information posted on www. gov.ie
Date: 25 May 2020 at 12:00:18
To: danfan46@live.com
Cc: Minister MINISTER@housing.gov.ie

Good afternoon,

Yes this information is up to date and you can find further details in the Planning and Development regulations – Exempted Development (starting on pg 344) which I have linked below.

https://www.housing.gov.ie/sites/default/files/legislations/planning_and_development_regulations_2001_-_2019unofficial_consolidationannotated12.11.19.pdf

Kind regards

Regards,

Margaret Rice

Planning Policy

An Roinn Tithíochta, Pleanála agus Rialtais Áitiúil
Department of Housing, Planning and Local Government

Teach an Chustaim, Baile Átha Cliath 1, D01 W6X0
Custom House, Dublin 1, D01 W6X0

T +353 (0)1 888 2003

www.tithiocht.gov.ie www.housing.gov.ie

Disclaimer:
Please be advised that the Department cannot give advice on the interpretation of planning legislation. The relevant planning authority and in certain cases, An Bord Pleanála, are the appropriate bodies to consult about proposed developments and applications and are empowered to give advice where appropriate. Under section 30 of the Planning and Development Act 2000 (as amended), the Minister is precluded from exercising any power or control in relation to any particular case with which a planning authority or An Bord Pleanála is or may be concerned. The content of this email does not constitute an interpretation of the legislation, legal advice or planning advice. Advice on planning matters including legislation should be sought from the relevant planning authority, a planning consultant or a solicitor.

Hello, Question regarding information posted on www.gov.ie

Hello Niamh,

Hope you are keeping well😊

Information available on www.gov.ie.
PL5 Doing Work Around the Houses (2003) No.7
Can I build a garage? states: The floor area limitation for exempt development is 25 square metres.
Could I please confirm this information is correct and up to date?
Thanking you for your time.
Daniel Fanning
086-1243713

AN BORD PLEANÁLA
02 JUN 2020
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

This leaflet sets out the main planning issues when doing work around the house - domestic extensions, minor works etc.

This leaflet is intended as a practical guide. It is not a definitive legal interpretation of planning law. For more information you should consult your planning authority.

1. *When do I need planning permission?*

Generally, you need planning permission for any development of land or property unless it is specifically exempted from this need. The term development includes the carrying out of works (building, demolition, alteration) on land or buildings, and the making of a material (i.e. significant) change of use of land or buildings.

2. *What is exempted development?*

Exempted development is development for which planning permission is not required. Categories of exempted development are set out in planning law.
Relevant exemptions in relation to domestic developments are outlined in this leaflet. There are usually certain thresholds relating to, for example, size or height. Where these thresholds are exceeded, the exemptions no longer apply. The purpose of exemption is to avoid controls on developments of a minor nature, such as small extensions to houses.

3. *Can a change of use be exempted development?*

Yes. Where a change of use is not "material", planning permission is not required. (See Q3 PL7)

4. *What is a 'material change of use'?*

This depends on the circumstances of each situation.
Generally, any change of use of a substantial nature which has an impact or potential impact on neighbours or the local community will need planning permission.
The planning authority can give advice on whether it considers any particular change of use is significant enough to be "material" for planning purposes.
See Question 19 below for details of how to resolve a question whether a development is or is not exempted.

5. *Can I build an extension?*

Small scale domestic extensions, including conservatories, do not require planning permission if the extension is to the rear of the house and comply with the following:

- the original floor area of the house is not increased by more than 40 square metres. It is important to note that where the house has been extended before, the floor area of the extension you are now proposing and the floor area of any previous extension, including those for which you got planning permission, cannot exceed 40 square metres;
- for terraced or semi-detached houses, the floor area of any extension above ground level does not exceed 12 square metres, this includes any previous extensions carried out;
- any extension above ground floor level is at least 2m from any boundary;
- any extension does not exceed the height of the house;
- any extension does not reduce the area of private open space, reserved for the occupants of the house, to less than 25 square metres.

There are also rules about the height allowed in such an extension. These are that:

- If the rear wall of the house does not include a gable, the height of the walls of the extension must not exceed the height of the rear wall of the house;
- If the rear wall of the existing house has a gable, the walls of the extension (excluding any gable being built as part of the extension) shall not be higher than the side walls of the house;
- In the case of a flat roofed extension, the height of the highest part of the roof may not exceed the height of the eaves or parapet. In any other case, no part of the new roof may exceed the highest part of the roof of the house;
- a gable is the upper part of a wall (normally triangular), between the sloping ends of a pitched roof.

There are also rules about the required distances between windows in extensions, the facing boundary of the adjoining property and the use of the roof of the extension. These are:

- any windows proposed at ground floor level as part of an extension should not be less than 1 metre from the boundary they face;
- any windows proposed at above ground level should be not less than 11 metres from the boundary they face;
- the roof of any such extension should not be used as a balcony or roof garden.

6. *Can I convert my garage to domestic use?*

The conversion for use as part of a dwelling house (e.g. as a living room or bedroom) of a garage, store, shed etc. attached to the rear or side of a house is normally exempted development, subject to the 40 square metre limit and conditions as set out in Question 5 above.

Note: You should contact your planning authority if you are unsure of any of the above conditions in relation to any proposed extension.

7. *Can I build a garage?*

You can build a garage, carport, shed, greenhouse, kennel for domestic pets etc., as long as it does not extend out in front of the building line of the house and does not exceed 4 metres in height, (if it has a tiled or slated pitched roof), or 3 metres (if it has any other roof type). The floor area limitation for exempted development is 25 square metres. The structure may not be lived in, used for commercial purposes or for keeping pigs, poultry, pigeons, ponies or horses. Garages, sheds etc. to the side of the house must match the finish of the house. You cannot reduce the open private space, reserved exclusively for the use of the occupants of the house, at the side or rear of the house below 25 square metres.

8. *Can I build a front porch?*

You can build a porch without planning permission, as long as it does not exceed 2 square metres in area and is more than 2 metres from any public road or footpath. Where the porch has a tiled or slated pitched roof, it must not exceed 4 metres in height, or 3 metres for any other roof type. A front porch within these limits is the only type of development allowed to extend beyond the front wall of the building (the building line) and still remain exempted.

9. *Can I erect walls, fences and gates?*

Capped walls made of brick, stone or block with a decorative finish, railings and wooden fences, but not a metal palisade or security fences, can be erected as long as they do not exceed 1.2 metres in height in front of your house or 2 metres at the side or rear. If the wall is made of plain blocks or mass concrete it must be rendered or plastered. Gates and gateways may be built or replaced providing they do not exceed 2 metres in height. You will need planning permission if you wish to make a new or wider access to the public road.

10. *Can I build a chimney and a boiler house?*

A boiler house or a chimney for a central heating system, or an oil storage tank (up to 3,500 litres capacity), is exempted development.

11. *Can I build paths, ponds and patios?*

Car parking spaces, hard surfacing, garden paths, garden ponds and patios etc. are exempt once they are not more than 1 metre above or below existing ground level. There are no other limitations to the rear of the house but no more than 2 car parking spaces to the side or front of the house are exempt.

12. *Can I put up a television aerial?*

A radio or TV aerial on your roof is exempt once it does not exceed 6 metres in height above the roof. A satellite dish up to 1 metre across and below the top of the roof is exempted development only to the rear or side of the house. Only one dish may be erected on a house. A dish to the front needs permission.

13. *Can I carry out internal alteration, external repairs and maintenance?*

You can carry out any internal alteration you wish as long as you do not alter the domestic use of the house.
External works of repair, maintenance and improvement such as painting or replastering do not need planning permission so long as they do not materially affect the external appearance, thus rendering the appearance inconsistent with neighbouring buildings. You may need approval for certain external alteration e.g. a new connection to a sewer.

This exemption does not apply to protected structures, nor to the subdivision of a house into flats or granny flats. Planning permission must be obtained for such works.

14. *Can I demolish an old building?*

You can demolish without permission a building other than:

- a habitable house, or;
- a protected structure or a proposed protected structure;
- a building in a terrace, or one which is attached to another building in separate ownership.

However, it does not automatically follow that you will get permission to build a replacement.

A habitable house is a house which is:

- used as a dwelling;
- is not in use, but when last used it was a dwelling and is not derelict;

  or

- is provided for use as a dwelling but has not been occupied;
- it also includes a building where the last permitted use was as a house, even if it has been in unauthorised use since then.

15. *Can I store caravans and boats?*

One caravan, one campervan or one boat may be stored in your garden for up to 9 months of the year as long as it is not lived in or used for business purposes.

16. *Can I put up advertisements?*

You do not need permission for domestic advertisements up to 0.3 square metres in area, such as your house name or number and "Beware of Dog" type signs. If selling or letting your house the size increases to 0.6 metres but only one advertisement is allowed and it may not be left up any longer than 7 days after the sale or letting.

17. Are there any limitations to exempted development?

All forms of development which are normally exempted lose this status and require planning permission if they:

- contravene a condition of a planning permission;
- endanger public safety by causing a traffic hazard or obstructing the view of road users;
- build forward of the building line (except in the case of small porches);
- involve a new or wider access to a public road;
- affect a building, feature, site, character of landscape, view of special amenity value or special interest, etc., (check your local development plan);
- obstruct a public right of way;
- are not wholly related to the use of the house for domestic purposes;
- involve development within a special amenity area;
- involve development to a protected structure;
- include any works to, or changes to, an unauthorised structure, or one where there is an unauthorised use. ("Unauthorised" means without the benefit of planning permission or exempted development status).

18. Do the exemptions apply to apartments?

The exemptions listed above at 5, 7,8, 10, 11, 12 and 15 do not apply in the case of flats or apartments and the provision of car parking is only exempt when to the rear.

19. Where can I get more information on exemptions?

The full list of exempted developments is set out in the Planning Acts and Regulations (details at the end of this leaflet). The planning authority can advise on whether they consider planning permission is necessary, or not, in a particular case. If you disagree with the planning authority on whether planning permission is needed, you can obtain a formal ruling by referring the decision to An Bord Pleanála on payment of the appropriate fee. Further information is available directly from the Board at 64 Marlborough Street, Dublin 1, Telephone (01) 8588100.

20. What happens if exemption limits are exceeded?

The limits must be observed and the planning authority has powers to stop the development if they are breached. If, due to an oversight an error is made, you should apply to the planning authority for permission to retain the work done. This is generally known as "retention" permission. It does not automatically follow that this will be granted. This fee for a retention application is 3 times more than the standard fee and you may have to take down, alter or rectify work done, which can be costly. Prosecution for breaches of planning law can result in heavy fines or imprisonment. You may also find it difficult to sell property which does not comply with planning requirements. If buying property check that the building itself and any extensions or alterations comply with planning requirements or you, as the new owner, may be liable to enforcement action.

21. Should I consult the planning authority before carrying out exempted development?

If you have any doubts or queries on any planning aspect you can contact the planning authority.

See also Question 23 in relation to Building Regulations.

22. Should I consult any other bodies?

You should contact your local E.S.B. office (see PL. 6 Paragraph 13) if your proposed works are near existing electricity lines, if there is a question of clearance heights under power lines or if the construction work will bring anyone within reach of the electricity supply to your house. In fact, you must do so where any overhead lines come within 6 metres of the construction works.

23. Do Building Regulations Apply?

Your development must be in accordance with the building regulations. These regulations set out the basic design and construction requirements and apply to all new buildings, extensions, alterations and certain changes of use of existing buildings. Details of the building regulations and of the associated procedures are available in PL.11 - A Guide to the Building Regulations. Further information may be obtained from your local authority. You may also need other types of approval e.g. making a new connection to a sewer. Contact your local authority in such cases.

24. Should I notify my neighbours beforehand?

This is not a legal requirement for exempted development. However, it is in your interest to let neighbours know about work you intend to carry out to your property. They are likely to be as concerned about work which might affect them as you would be if the roles were reversed. You may be able to meet some of your neighbour's worries by modifying your proposals. Even if you decide not to change, it is usually better to have told your neighbours before the building work starts.

If you or your contractor need to go on to a neighbour's property, you should obtain his or her consent before doing so.

Alterations or additions to your house may make it more vulnerable to burglary. Your local Garda Station can provide helpful advice on ways of reducing risk.

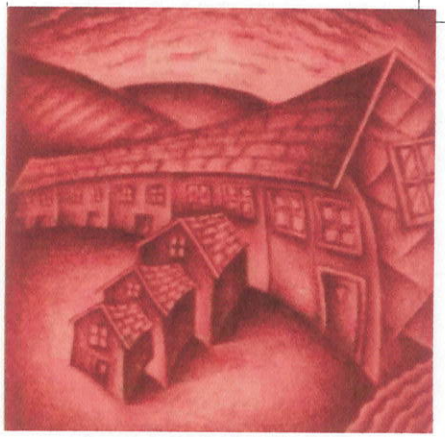
The law governing the planning system is set out in the Planning and Development Acts 2000 and 2001 and the Planning and Development Regulations 2001 to 2002. These may be purchased from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2. Telephone (01) 6476995/4.

October, 2002.

The leaflets in this series are:

A Guide to Planning Permission	PL.1
Making a Planning Application	PL.2
Commenting on a Planning Application	PL.3
Building A House - The Planning Issues	PL.4
Doing Work around the House - The Planning Issues	PL.5
Agriculture and Farm Development - The Planning Issues	PL.6
Planning for the Business Person	PL.7
The Development Plan	PL.8
Environmental Impact Assessment	PL.9
Making a Planning Appeal	PL.10
A Guide to the Building Regulations	PL.11
A Guide to Architectural Heritage	PL.12

Tálleagan Gaeilge den bhileog seo ar fáil.



PL 5 - *Doing Work around the House – The Planning Issues*

Printed on recycled paper containing 100% post-consumer waste

An Bord Pleanála

PLANNING AND DEVELOPMENT ACTS 2000 TO 2011

Kildare County

An Bord Pleanála Reference Number: 09.RL.2885

WHEREAS a question has arisen as to whether a structure in the rear garden at 16 Rail Park, Maynooth, County Kildare is or is not exempted development:

AND WHEREAS the said question was referred to An Bord Pleanála by Kildare County Council on the 2nd day of June, 2011:

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 6 and 9 of the Planning and Development Regulations 2001 to 2011,

(c) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2011 and the Conditions and Limitations under Column 2 of this Class, and

(d) the location of the structure to the rear of the house and the size, fabric and characteristics of the structure:

AND WHEREAS An Bord Pleanála has concluded that -

(a) the gross floor area internally, which is the internal floor area as defined in Article 3 of the Planning and Development Regulations 2001 to 2011, of the said structure does not exceed 25 square metres,

(b) the roof is pitched and the tile type finish satisfies Condition and Limitation number 5 under Column 2 of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2011,

An Bord Pleanála

PLANNING AND DEVELOPMENT ACTS 2000 TO 2011

Kildare County

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(b) articles 6 and 9 of the Planning and Development Regulations 2001 to 2011,

(c) Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2011 and the Conditions and Limitations under Column 2 of this Class, and

(d) the location of the structure to the rear of the house and the size, height and characteristics of the structure:

AND WHEREAS An Bord Pleanála has concluded that -

(a) the gross floor area internally, which is the habitable floor area as defined in Article 3 of the Planning and Development Regulations 2001 to 2011, of the said structure does not exceed 25 square metres,

(b) the roof is pitched and the tile type finish satisfies Condition and Limitation number 5 under Column 2 of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2011,

(c) the inclusion of a rooflight to the shed is considered to be de minimus,

(d) the use of the structure is for a purpose incidental to the enjoyment of the dwellinghouse, and

(e) the structure comes within the provisions of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2011:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that a structure in the rear garden at 16 Rail Park, Maynooth, County Kildare is exempted development.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Member of An Bord Pleanála duly authorised to authenticate the seal of the Board.

Dated this day of 2011.

(c) the inclusion of a rooflight to the shed is considered to be de minimis;

(d) the use of the structure is for a purpose incidental to the enjoyment of the dwellinghouse; and

(e) the structure comes within the provisions of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2011;

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that a structure in the rear garden at 15 Hall Park, Maynooth, County Kildare is exempted development.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2011.

An Bord Pleanála

Inspector's Report

Development: Retention of storage shed/games room at 3 Ard Mhuire, Carrick-on-Suir, County Tipperary.

Planning Application

Planning Authority:	Carrick-on-Suir Town Council
Planning Authority Reg. Ref.:	2011/8
Applicant:	Anthony Benesch
Type of Application:	Permission
Planning Authority Decision:	Grant permission

Planning Appeal

Appellant:	Honora Purcell
Type of Appeal:	3rd party against decision to grant permission
Date of Site Inspection:	22nd July 2011

Inspector: **Andrew Boyle.**

An Bord Pleanála

Inspector's Report

Development:	Retention of storage shed/garage room at 3 Ard Mhuire, Carrick-on-Suir, County Tipperary.

Planning Application

Planning Authority:	Carrick-on-Suir Town Council
Planning Authority Reg. Ref.:	201178
Applicant:	Anthony Renesch
Type of Application:	Permission
Planning Authority Decision:	Grant permission

Planning Appeal

Appellant:	Honora Purcell
Type of Appeal:	3rd party against decision to grant permission
Date of Site Inspection:	22nd July 2011

Inspector:	**Andrew Boyle.**

1.0 THE SITE

The site is located at 3 Ard Mhuire in a long established suburban area in the town of Carrick-on-Suir in County Tipperary. It is approximately 500 metres north of the town centre and just inside the Waterford - Limerick junction railway line. The site is that of a small 2-storey mid-terrace house dating from the 1930s. To the north and south, the site adjoins those of the adjoining mid-terrace units at nos. 2 and 4 Ard Mhuire. To the rear (west), the site adjoins that of a similar mid-terrace house at no. 28 Ard Mhuire.

2.0 THE PROPOSED DEVELOPMENT

It is proposed to retain a storage shed/games room at the foot of the 18 metre long back garden of no. 3 Ard Mhuire. The storage shed/games room is shown to have a width of 6.7 metres and spans almost the full width of the back garden. It is shown to have a depth of 4.8 metres and a height to the highest point of its gently sloping mono-pitched roof of 2.73 metres on the boundary with no. 28 Ard Mhuire. The storage shed/games room has been constructed of plain concrete block work, which has been given a knapp render finish on its front (eastern) elevation, only, facing towards the main house. On this front elevation, the building has a central door flanked by two casement windows, all in white uPVC. The building has a profiled steel roof finish. This is penetrated, centrally, at the rear, by a chimney which acts as a flue for a wood burning stove. Internally, taking up about 30% of the floor area and externally, extending forward of the building by 2.4 metres, is a series of four dog pens extending up to a height of 1 metre. The internal and external sections are linked by hatches.

3.0 THE PLANNING AUTHORITY'S DECISION

On 24th May 2011, Carrick-on-Suir Town Council decided to grant permission for this development, subject to three conditions. All of these conditions appear to be of standard type. Condition 3 requires that the structure should be used for purposes incidental to the enjoyment of the dwellinghouse and should not be used for any residential, commercial or industrial purposes.

4.0 RELEVANT PLANNING HISTORY OF THE SITE

I am unaware of any previous planning applications on this site and I note that the planning authority's planner's report states "no planning history".

Enforcement proceedings may, or may not have been initiated against this development on the basis of a letter of complaint lodged by the third party appellant.

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5.0 DEVELOPMENT PLAN PROVISIONS

The site lies within the functional area of Carrick-on-Suir Town Council. It is thus affected by the provisions of the Carrick-on-Suir Town Development Plan, 2008. Under this development plan, the site is located in an area zoned Objective R – Residential – to preserve and enhance existing residential amenity, ensuring that any new development does not result in excessive overlooking of existing residential properties, does not reduce general safety for existing residents and does not reduce the usability and security of existing public and private open space.

Chapter 8 of the development plan refers to development management. However, there is no specific mention of storage sheds or games rooms.

6.0 THE APPEAL

This is a third party appeal against the planning authority's decision to grant permission for this development. The appellant lives in a house diagonally (northwest) to the rear of the appeal site, at no. 29 Ard Mhuire.

The appellant notes that she had lodged an objection to the planning authority, not to the principle of the building, but in relation to a solid fuel stove located in the building. She claims that this causes a lot of smoke, depending on weather conditions, due to the low level of the flue stack. She claims she is unable to hang out her washing, go into her garden or open windows when this happens. She claims that dog litter is burned in the stove, despite the denial of the applicant. This leads to the discharge of thick white smoke. She refers to photographs which were submitted to the planning authority. She refers the Board to the lodged drawings and the four dog cubicles shown on the floor plan. She claims the shed is used for the breeding of dogs.

The appellant notes that the Town Engineer had recommended that permission be granted for the shed, but subject to the removal of the stove. She asks that the stove be removed.

7.0 RESPONSE OF THE APPLICANT

No response has been received from the applicant in relation to this appeal.

8.0 RESPONSE OF THE PLANNING AUTHORITY

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No response has been received from the planning authority in relation to this appeal.

9.0 LETTERS TO THE PLANNING AUTHORITY

A single letter of objection was received by the planning authority in relation to this development. This letter is from the present appellant. She again objected to the solid fuel stove and flue.

10.0 ASSESSMENT

The storage shed/games room which it is proposed to retain is only marginally in excess of that which would constitute exempted development under Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (floor area – 25.62 square metres vs. 25 square metres). Although there is a precedent for various types of garden sheds in the back gardens in the vicinity, the present development is exceptionally large. It is visually obtrusive, being finished in un-plastered blockwork and is particularly so when seen from the houses at the rear spanning, as it does, the full width of the back garden of no. 28 Ard Mhuire. A condition and limitation applied to Class 3 is that the external finishes should conform to the main house. The main house is pink to the front and off-white to the rear. In my view, the blockwork should at least be painted in a subdued uniform colour.

The appellant objects to the smoke which issues, on occasion, from the flue at the back of the structure. The Executive Engineer in the Town Engineer's office recommended that the stove served by this flue be refused, but the planning authority's planner's report notes that following full consideration of the issue and consultation with the Environment Section of South Tipperary County Council, it was considered that the burning of clean fuels to heat this space was acceptable. This report indicates that the applicant stated that he no longer breeds dogs. Nevertheless, on the date of my inspection there were at least four dogs (Yorkshire terriers) present on site and three of the pens were occupied. Their floors were partly covered with pet litter. A small wood burning stove, which was not in use for the summer, was set with sticks and paper. The flue stack which it is proposed to retain is at a relatively low level (approximately 4 metres) about midway between terraces of 2-storey houses separated by about 36 metres. Despite this separation, in such a "valley" situation, I consider that the likelihood of smoke drifting and lingering at a low level, in the manner shown in the photographs submitted by the appellant, would be high. Even if pet litter is not burned, I do not accept that the use of solid fuels would be sufficient in these circumstances. Such fuels still give rise to considerable smoke until the fuel is well alight and up to full working temperature. I consider that the flue stack should be omitted. The structure could be heated electrically or by means of bottled gas piped from outside.

11.0 RECOMMENDATION

Having regard to the forgoing, I recommend that the planning authority's decision be upheld in this instance and that permission be granted for this

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11.0 RECOMMENDATION

Having regard to the foregoing, I recommend that the planning authority's decision be upheld in this instance and that permission be granted for this ABP.

development for the reasons and considerations and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be retained in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

   Reason: In the interest of clarity.

2. Within three months of the date of this permission, the external walls of the storage shed/games room shall, subject to the prior written agreement of the relevant adjoining property owners, be painted in a single subdued and durable colour.

   Reason: In the interest of visual amenity.

3. The flue stack at the rear of the storage shed/games room shall be removed. Unless required otherwise for the provision of a gas exhaust vent, the roof shall be made good. The structure shall cease to be heated directly by the burning of solid fuels.

   Reason: To protect the amenities of the houses on the adjoining sites.

4. The storage shed/games room shall not be used for human habitation or for the keeping of pigs, poultry or pigeons, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

   Reason: In the interest of residential amenity.

Andrew C. Boyle,
Senior Planning Inspector.
27th July, 2011.

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Comhairle Contae Fhine Gall
Fingal County Council

An Roinn um Pleanáil agus Infrastruchtúr Straitéiseach
Planning and Strategic Infrastructure Department

Application Form for Declaration Under *Section 5 of the Planning & Development Act 2000*

Declaration on Development and Exempted Development

1. Applicants' Name: DANIEL FANNING

2. Location of Proposed Development: ROSE COTTAGE BRACKENSTOWN ROAD, SWORDS, CO. DUBLIN, K67 H4F8

3. Agents' Name: N/A

4. Correspondence Address: AS ABOVE

AN BORD PLEANÁLA
02 JUN 2020
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

5. Description of Proposed Development: TIMBER FRAME GARDEN ROOM/GYM, FLOOR AREA WHEN FULLY INSULATED WILL BE LESS THAN 25sqm, PITCHED ROOF WITH A HEIGHT LESS THAN 4 METERS.

6. Is the Proposed Development Situated in a Special Amenity Area? No

7. Is this a Protected Structure, Proposed Protected Structure or within the Curtilage of a Protected Structure? No

The details contained on page 3 will not appear on the Councils' Website

Rev J.

8. If yes to 6 above, has a Declaration Under Section 57 (works affecting character of a Protected Structure(s) or Proposed Protected Structure(s)) of the Planning & Development Act 2000 (as amended) been Requested or issued for the property by the Planning Authority?

N/A

9. Documents Submitted with this Application are as Follows: Application Form, 4 copies of location map, 4 copies of site layout plan, 4 copies of (a) floor measurements (b) picture of proposed development (c) location of proposed development marked with an (X).

(See confidential Details, Page 3)

Please Note:
Documents to submit include:

- Completed application form
- 4 copies of site location map with site clearly outlined in red
- 4 copies of site plan/block plan/site layout plan, drawn to a scale of not less than 1:500
- 4 copies of drawing of proposed development, preferably drawn to a scale of not less than 1: 200 and any other particulars required to describe the works to which the development relates.
- Fee of €80

Applications shall be assessed on the basis of the drawings and plans submitted. Drawings/ Plans which are not clearly legible shall result in the referral of the application back to the applicant and may result in the delay of the processing of the application.

Send Application to:
Development Management Section
Planning & Strategic
Infrastructure Department
Fingal County Council
County Hall
Swords
Co. Dublin
K67 X8Y2

For Dublin 15 Area Send to:
Development Management Section
Planning & Strategic
Infrastructure Department
Fingal County Council
Grove Road
Blanchardstown
Dublin 15
D15 W638

AN BORD PLEANÁLA
02 JUN 2020
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

Comhairle Contae Fhine Gall
Fingal County Council

An Roinn um Pleanáil agus Infrastruchtúr Straitéiseach
Planning and Strategic Infrastructure Department

CONFIDENTIAL DETAILS

– Not for Publication –

10. Is the Applicant the owner and occupier of these lands at above location?

Yes ☑ No ☐

If 'No' to 10 above, please supply Name and Address of Owner.

N/A

Applicants' Address: SAME NO. 2 ABOVE
(if different from no. 2 above, page 1)

AN BORD PLEANÁLA
02 JUN 2020
LTR
LDG
ABP

E-mail:

Tel: — Fax: — E-mail: —

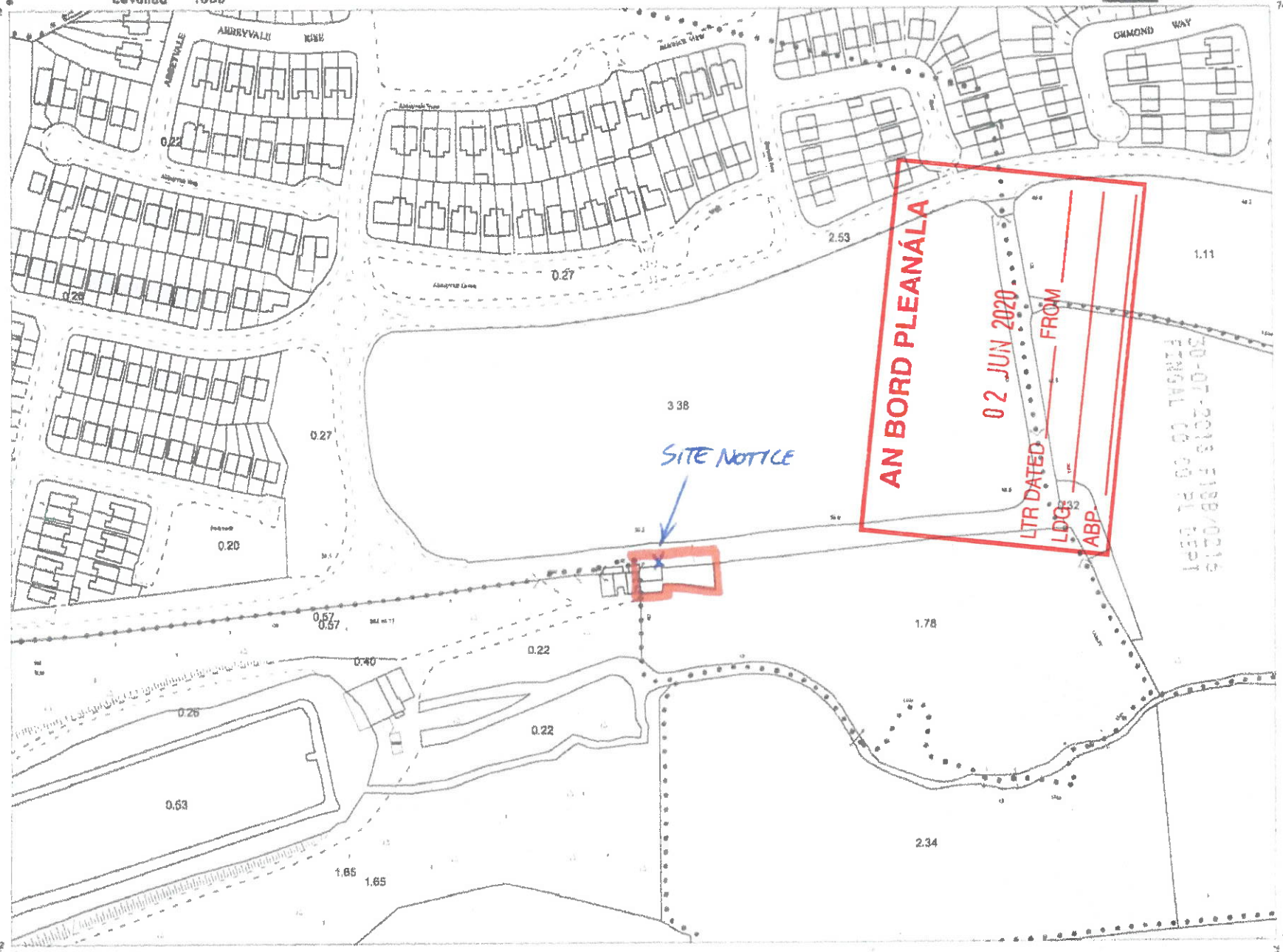
Signed: Date: 16th February 2020

The use of personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Acts 1988 – 2003 and may result in action from the Data Protection commissioner against the Sender, including prosecution.

*** The details contained on this page will not appear on the Councils' Website**

Surveyed 1992-1997
Revised 2014
Levelled 1989

Urban/Rural PLACE Map



AN BORD PLEANÁLA
02 JUN 2020
LTR DATED FROM
LDC
ABP

ITM CENTRE PT COORDS
716187,746847

DESCRIPTION

MAP SHEETS

1:2500
2924-D 2993-B
2994-A

1:1000
2926-21

Authorised Internet Map

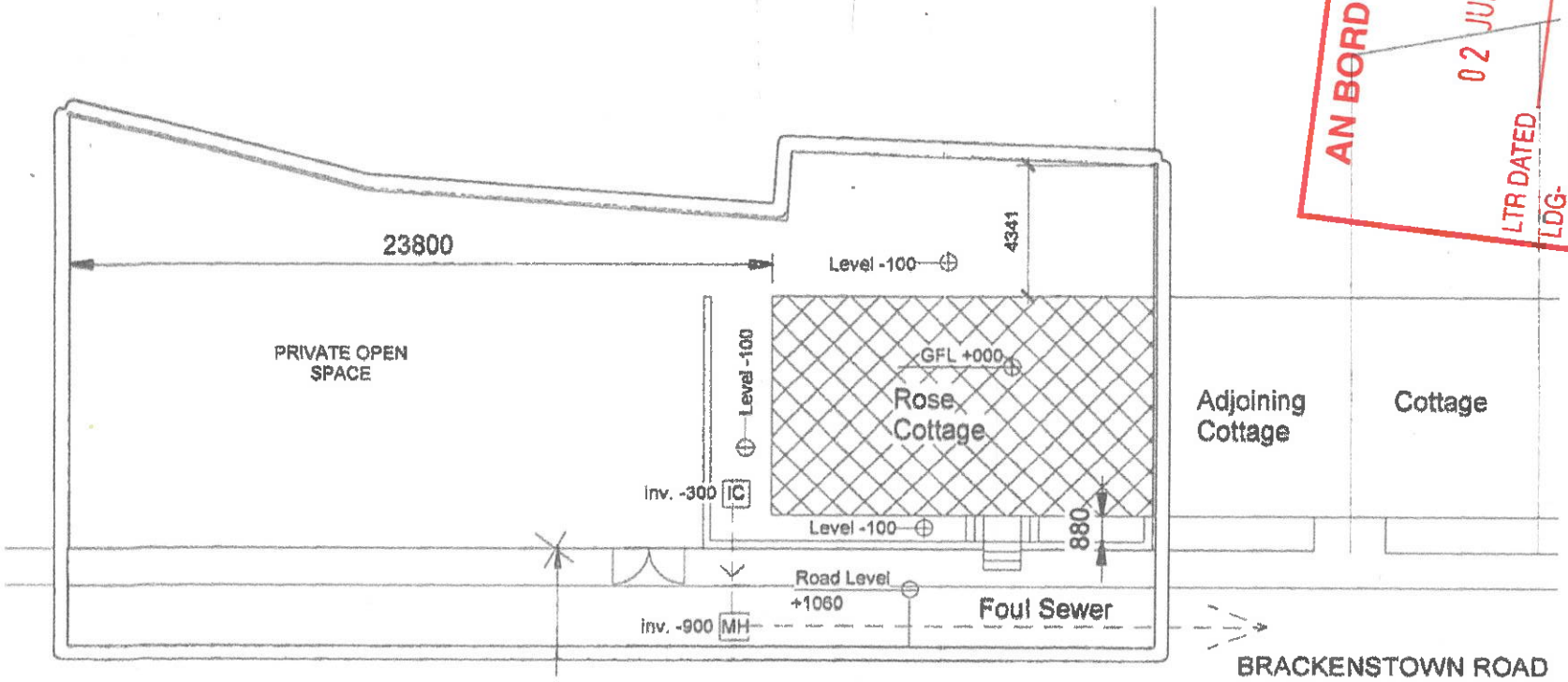
N

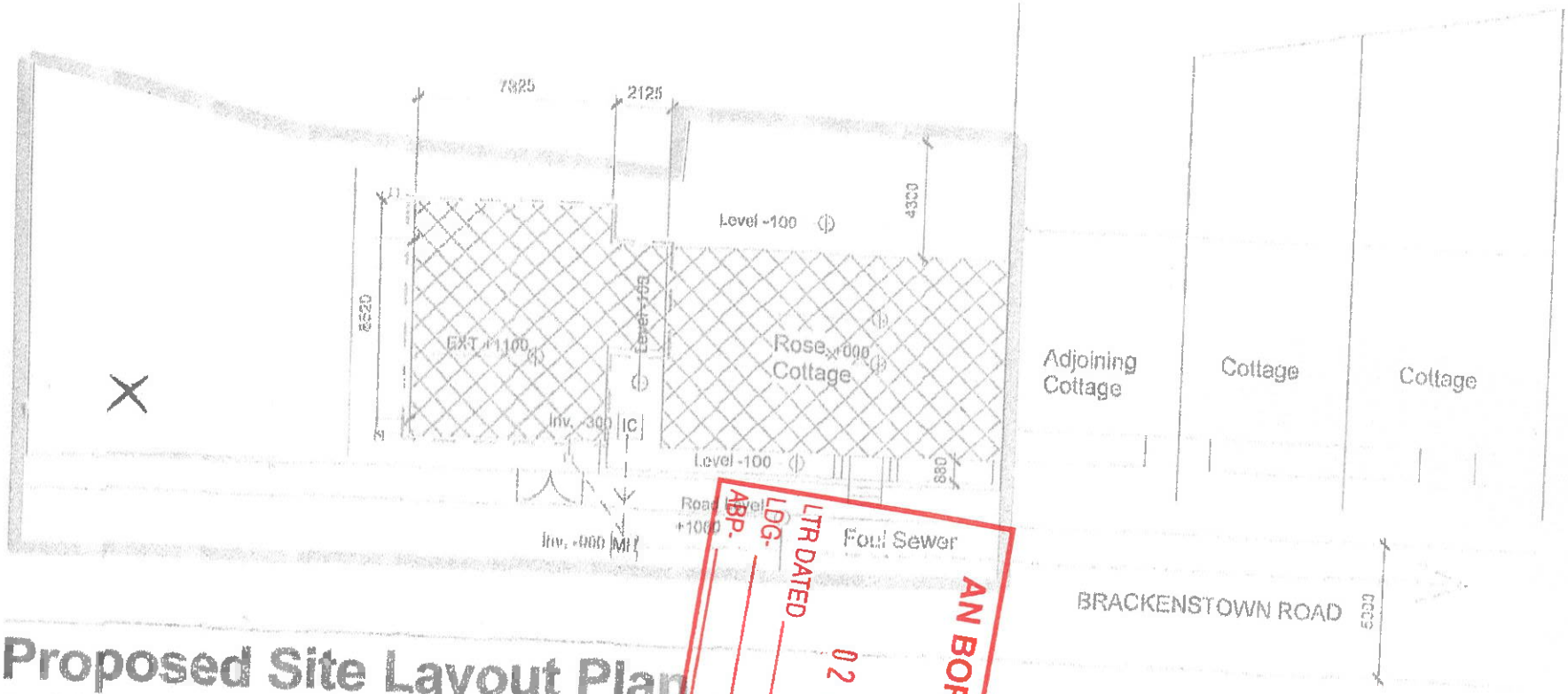
Scale:- 1:2,500
Scála:- 1:2,500

0 50 100 150 200 250 Metres
0 100 200 300 400 500 Feet

Plot Ref. No. 19899439_1_1
Plot Date 12-NOV-2015

Proposed Site Layout Plan

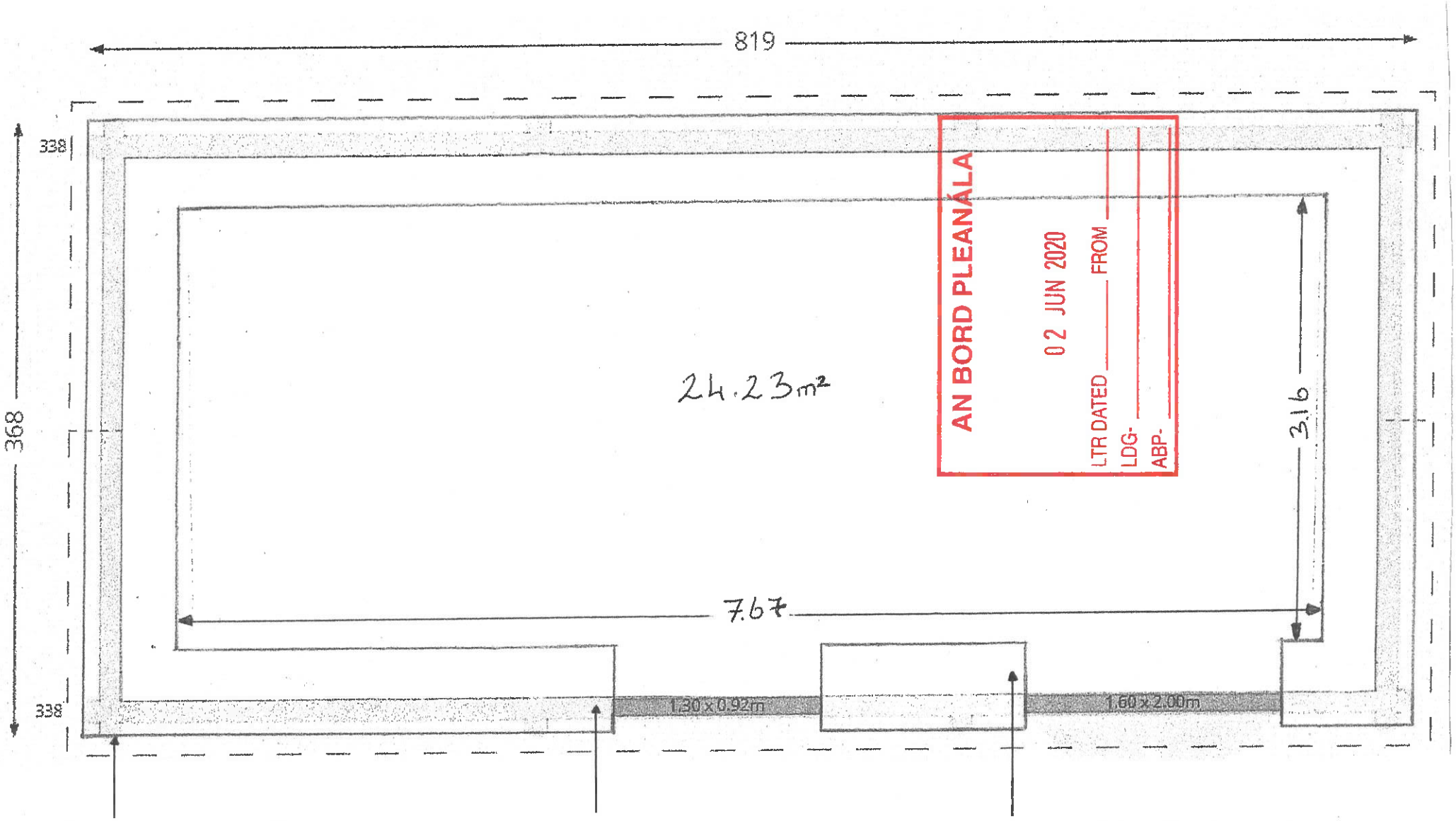




Proposed Site Layout Plan

1 : 250

NOTE: Hand-Drawn Plans



Finish to conform with the house

60mm Solid Wood

100mm Internal Insulation
19mm Internal Cladding
Total 119mm

22