

Referral of Section 5 Declaration

Replacement of Existing Log Cabin and Alteration to Boundary Wall

No. 6 Glenalua Road, Killiney, Co. Dublin

Dún Laoghaire-Rathdown County Council Reg. Ref. Ref 11520

January 2021

AN BORD PLEANÁLA	
LDG-	<u>034638-21.</u>
ABP-	<u></u>
28 JAN 2021	
Fee: € <u>200</u>	Type: <u>Change</u>
Time: <u>16.05</u>	By: <u>Harold</u>



Hughes Planning & Development Consultants

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1.0 Introduction

This referral to An Bord Pleanála, pursuant to Section 5(3)(a) of the Planning and Development Act 2000 (as amended), has been prepared by Hughes Planning and Development Consultants, 70 Pearse Street, Dublin 2, on behalf of our clients, Owen and Gina Lavery of No. 6 Glenalua Road, Killiney, Co. Dublin, and relates to a Section 5 Declaration made by Dún Laoghaire-Rathdown County Council on 4th January 2021 under Ref11520, regarding the replacement of an existing log cabin and alteration to the boundary wall at No. 6 Glenalua Road, Killiney, Co. Dublin.

We request that An Bord Pleanála review the Section 5 Declaration issued by Dún Laoghaire-Rathdown County Council and make a determination that the replacement of an existing log cabin and alteration to the boundary wall at No. 6 Glenalua Road, Killiney, Co. Dublin, constitutes exempted development.

In the interests of clarity, we would ask the following question to An Bord Pleanála:

'Whether the replacement of an existing log cabin at No. 6 Glenalua Road, Killiney, Co. Dublin is or is not development, and whether this replacement constitutes exempted development or not; and whether works to the existing boundary wall is or is not exempted development, and whether these works constitute exempted development or not'.

The prescribed fee of €220.00 is enclosed, along with a copy of the declaration issued by Dún Laoghaire-Rathdown County Council. This report sets out the rationale for the development being deemed exempted development. We request that An Bord Pleanála set aside the decision of Dún Laoghaire-Rathdown County Council and issue a declaration stating that the proposed development, comprising the replacement of an existing log cabin and alterations to the boundary wall, constitutes exempted development.

We submit from the outset, that, pursuant to Article 6(1) and Class 3, Part 1 of Schedule 2 within the Planning and Development Regulations 2001, (as amended), we believe that the works which took place at No. 6 Glenalua Road, Killiney, Co. Dublin 4, constitute exempted development and we are of the opinion that planning permission is not required to allow such development.

1.1 Section 5 Declaration Issued by Dún Laoghaire-Rathdown

On 4th January 2021, Dún Laoghaire-Rathdown County Council issued the following notice with regards to the Section 5 declaration sought for the replacement log cabin alterations to the boundary wall at No. 6 Glenalua Road, Killiney, Co. Dublin:

"In pursuance of its functions under the Planning & Development Acts 2000 (as amended), Dún Laoghaire-Rathdown County Council has, by Order No. Ref.REF01/21 dated 04-Jan-2021 decided to issue a Declaration that:

The Planning Authority hereby determines that the replacement of existing log cabin structure located beyond the front wall of the existing dwelling and alterations to boundary wall, is development, and would not be exempted development, having regard to

- Class 3 (Condition/Limitation 1 and Condition/Limitation 4), and*
- Class 5 (Condition/Limitation 1)*

of Part 1, of Schedule 2, of the Planning Development Regulations, 2001 (as amended), and having regard to Section 82(1) of the Planning and Development Act, 2000 (as amended).

In light of this decision, we strongly consider that the Planning Authority's assessment has not duly considered a number of key items which we respectfully request that the Board consider in their assessment of this referral.

1.2 Summary of Grounds for Referral

The applicant's grounds for referral can be summarised by the following points:

- The log cabin is a replacement of a previous log cabin which had been located on the site since 2007. The original log cabin fell within the category of 'exempted development' as per the Planning and Development Regulations 2001 (as amended);
- The proposed development is considered to constitute exempted development pursuant to Article 6(1) and Class 3(c), Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

The above points will be expanded in Section 6.0 and 7.0 of this referral.

2.0 Site Description

The subject site, which contains a triangular parcel of land comprising approximately 0.0266 hectares, is located at the corner of Glenalua Road, Killiney, Co. Dublin. The site is bound by the Glenalua Road to the south and east and by residential dwellings to the north and west.

The site is occupied by an end of terrace two-storey dwelling which comprises a kitchen, playroom, lounge and bathroom at ground floor level, and 4 no. bedrooms and family bathroom at first floor level.

The site is located in a mature residential area, which consists of a mix of residential units with regards to building type and height.



Figure 1.0 Street view image of the subject site.



Figure 2.0 Bird's eye view image indicating the subject site, No. 6 Glenalua Road, outlined in red.



Figure 3.0 Aerial view indicating the subject site, No. 6 Glenalua Road, outlined in red.

3.0 Site Planning History

Following an examination of the Dún Laoghaire-Rathdown County Council planning register, the following previous planning applications were revealed:

Reg. Ref. D19A/0368 Permission granted by Dún Laoghaire-Rathdown County Council on 29th August 2019 for development comprising single storey rear extension and associated site development works.

4.0 Proposed Development

The applicant is seeking a Section 5 Declaration for works which comprise the replacement of an existing log cabin located within the garden of the dwelling. The replacement cabin has been constructed in timber. The external elevations of the log cabin have been painted white to match the existing dwelling.

It is noted that a log cabin has been present on site since 2007, approximately 13 years, which has provided space incidental to the main use of the dwelling, improving the overall quality of the home.

The proposed development also relates to the works to the existing boundary wall.



Figure 4.0 Street view image of the dwelling taken in November 2020 which outlines the existing log cab, painted white to accord with the existing dwelling.



Figure 5.0 Street view image of the dwelling taken in July 2009 which outlines the presence of the previous log cabin, albeit with blue painted exterior.

5.0 Planning Context

5.1 Dún Laoghaire-Rathdown County Development Plan 2016-2022

The Dún Laoghaire-Rathdown County Development Plan 2016-2022 is the relevant statutory development plan for the subject site.

5.1.1 Zoning Objective

The subject site is zoned 'Objective A' in the Dún Laoghaire-Rathdown County Development Plan 2016-2022. The objective of which is *'to protect and/or improve residential amenity.'*

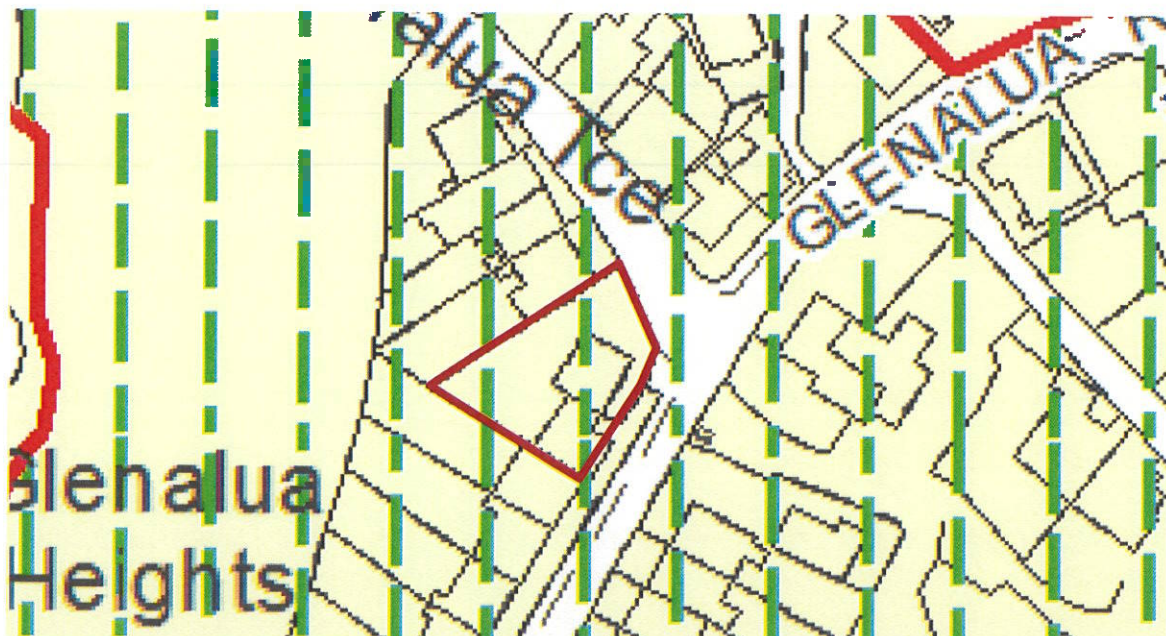


Figure 6.0 Extract from Zoning Map 7 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 showing the subject site (outlined in red) zoned 'Objective A'.

As illustrated above, the subject site is also located within an Architectural Conservation Area (ACA), in this instance, the Killiney Road ACA. The subject site is not a listed within Dún Laoghaire-Rathdown County Council's Record of Protected Structures, and is therefore not a protected structure.

6.0 Legislative Context

As outlined above, this application is for a declaration, pursuant to Section 5 of the Planning and Development Act 2000 (as amended), that the works outlined are exempt from the requirement to obtain planning permission.

Section 5(1) reads as follows:

5.—(1) 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.

Section 5(3) reads as follows:

5.—(3) Where a declaration is issued under this section, any person issued with a declaration under subsection (2)(a) may on payment to the Board of such 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

The application for the declaration relies on the provisions of Article 6(1) and Class 3, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). Article 6(1) reads as follows:

'Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1'

Class 3, Part 1 of Schedule 2 of the Regulations reads as follows:

'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.'

The limitations associated with this class are set out as follows:

1. *No such structure shall be constructed, erected or placed forward of the front wall of a house.*

The subject replacement log cabin is located behind the front wall of the house and replaces a previous shed.

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.*

The total area of the subject log cabin does not 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.*

The subject log cabin does not reduce the amount of private open space reserved for the use of the occupants to less than the existing space which existed prior to the replacement log cabin.

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.*

The subject log cabin is a replacement to an existing log cabin which has existing on site for over 10 years. This replacement log cabin has been painted white to ensure conformity with the dwelling.

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.*

The subject log cabin has a maximum height of 2.48 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.*

The replacement log cabin is not used for human habitation or 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.

It is submitted that the proposed replacement cabin located within the private amenity area of an existing house accords with the limitations of Class 3, Part 1 of Schedule 2. Thereby, the replacement log cabin is considered to be exempted development.

Development

With regards to current planning legislation, we note the following:

Under Section 2(1) 'Interpretation' of the Planning and Development Act 2000 (as amended) states:

'In this Act, except where the context otherwise requires'—

'Development' has the meaning assigned to it by Section 3 ...

'Works are interpreted as including "any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure'.

Section 3(1) of the Planning and Development Act 2000 (as amended) states:

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

It is considered that the replacement log cabin constitutes exempted development as it involves the replacement of an existing log cabin to provide a structure of a higher quality.

Article 9

Article 9 lists the circumstances in which development that would be classified as exempted under Article 6 is not exempted. Specifically, we note that Article 9 (1)(a) states: -

"(a) if the carrying out of such development would—

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

It is noted that the proposed development does not contravene a condition attached to a permission under the Act, nor is it inconsistent with any use specified under the Act.

- (ii) *consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

No amendments are proposed to the existing access.

- (iii) *endanger public safety by reason of a traffic hazard or obstruction of road users.*

The replacement log cabin will not endanger public safety by reason of a traffic hazard or obstruction. It is noted that the previous log cabin which was located on site did not result in the endangering of public safety. Additionally, the works to the boundary wall have no impact on traffic safety.

- (iv) *except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.*

The location of the previous log cabin, and the subject replacement log cabin is located behind the front building line of the dwelling and is not considered to being close enough to the dwelling to be considered as 'beyond the front wall of a building'. The works to the boundary are located along the side boundary.

- (v) *consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*

It is submitted that the proposal will not comprise the carrying out of works under a public road.

- (vi) *interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

It is not considered that the development will have any impact upon the character of a landscape, view or prospect of special amenity value or special interest. The log cabin is a replacement of a previously existing log cabin, which has been on site for over 10 years.

- (vii) *consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

We note that the proposal does not consist of the excavation, alteration or demolition of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest.

- (viiA) *consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

The proposed development will not comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places.

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

It is considered that the use of the subject unit will not have an effect on the integrity of a European Site, therefore an appropriate assessment is not required.

- (viiC) *consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.*

The proposal will not have an adverse impact on an area designated as a natural heritage area.

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

We note that the proposed development will not comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use. The existing log cabin was constructed over 10 years ago, in 2007, and was considered exempted development falling under Class 3(c), Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). The log cabin met all relevant criteria to ensure that it fell within the remit of exempted development. The replacement log cabin is, therefore, considered a renewal / refurbishment of an exempted development.

- (ix) *consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

In response to the above, it is submitted that the development will not consist of the demolition of a building or structure that would restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or structure would remain available for use.

- (x) *consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility*

The fencing or enclosure of any land is not proposed as part of the development to which a Section 5 Declaration is sought. The proposal occurs within the private amenity space of a family dwelling.

- (xi) *obstruct any public right of way,*

The works relate only to replacement of an existing log cabin on the subject site and works to the boundary and, as such, will not obstruct any public right of way.

- (xii) *further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,*

Although the subject property is located within the Killiney Architectural Conservation Area, as per the Dun Laoghaire-Rathdown County Development Plan 2016-2022, it is noted that the log cabin has existed at the subject site since 2007. It is prudent to note that the original log cabin was constructed prior to the site's designation as an architectural conservation area. In fact, the structure was erected prior to the review of the making of a new development plan. The Killiney ACA, in its current format, was agreed upon and adopted in 2010. The area of land contained within the designation extended outside the boundary of the existing 2009 plan to include the subject site. Therefore, at the time of erecting the original log cabin, the lands were not located within an Architectural Conservation nor any candidate Architectural Conservation Area, and the original log cabin was exempted development.

It is, therefore, submitted to An Bord Pleanála that the proposed replacement log cabin is also exempted development as it does not materially affect the character of the area, due to the former existence of the log cabin.

It is further submitted that the proposed works to the boundary wall do not materially affect the character of the area. The Killiney ACA, prepared by Dún Laoghaire-Rathdown County Council provides discussion on the character of the aca. Glenalua Road and Glenalua Terrace have been included within the architectural conservation area due to their earlier examples of subsidised housing types or social housing.

'Glenalua Terrace represents one of the earliest investment in social housing by the local authority, built early in the 20th century. The housing at the other side represents a further phase built in the second half of the century. This housing type adds to and reinforces the fine grained character of the village. Set centrally between the areas that establish the historic landscape of the proposed ACA the architecture of this element makes its own unique historic statement and is an essential ingredient in maintaining the integrity of the whole ACA.'

The wider Killiney ACA area is noted for its 'high stone boundary walls' and 'random stone walling'. Due to this, it is considered evident that the works to the existing stone wall, which include the provision of an additional dry-wall, are in accordance with the principles of the Killiney Architectural Conservation Area and, therefore, have no materially effect on the ACA. Due to this, it is considered that the works to the existing boundary wall which comprises the provision of additional stone-capping, is exempted development.



Figure 7.0 Photograph which shows an example of the random stone boundary walls in the area.

Furthermore, we refer to Section 82(1) of the Planning and Development Act 2000 (as amended) which states the following:

'82.—(1) Notwithstanding section 4(1)(h), the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.'

The above states that the development shall not be exempt only if the works materially affect the character of the area. In this instance, the character of the area is not affected noting that the log cabin is a replacement of the previous cabin, that the cabin has been painted to match the existing dwelling (in lieu of the blue) and indeed that the overall character of the area, which comprises a mis-match of materials, has not been materially affected. Therefore, it is considered that the log cabin falls within the exempted development criteria.



Figure 8.0 Photograph which shows a second example of the random stone boundary walls in the area.

Accordingly, we consider that subject to Article 9 of the Regulations, that the development outlined in this Section 5 Application is exempt from the requirement to obtain planning permission.

7.0 Grounds for Referral

This section of the report will seek to expand further on the grounds of referral to An Bord Pleanála. The question before the Board relates to the replacement of an existing log cabin and alterations to the boundary wall of No. 6 Glenalua Road, Killiney, Co. Dublin. The grounds for referral are as follows:

- The log cabin is a replacement of a previous log cabin which had been located on the site since 2007. The original log cabin fell within the category of 'exempted development' as per the Planning and Development Regulations 2001 (as amended);
- The proposed development is considered to constitute exempted development pursuant to Article 6(1) and Class 3(c), Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

The legislative context of the development was discussed in Section 6.0 above. It is submitted that the development is in accordance with the relevant conditions and limitations regarding exempted development as set out in both the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended). The following section will review the grounds for the subject referral to An Bord Pleanála.

The assessment of the Section 5 by Dún Laoghaire-Rathdown County Council resulted in the declaration that the Planning Authority determines that the replacement of existing log cabin structure located beyond the front wall of the existing dwelling and alterations to boundary wall, is development, and would not be exempted development, having regard to

- Class 3 (Condition/Limitation 1 and Condition/Limitation 4), and
- Class 5 (Condition/Limitation 1)

of Part 1, of Schedule 2, of the Planning Development Regulations, 2001 (as amended), and having regard to Section 82(1) of the Planning and Development Act, 2000 (as amended).

The following section will review and refute the above reasons provided by Dún Laoghaire-Rathdown County Council.

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.

Condition/Limitation of Class 3

1. *No such structure shall be constructed, erected or placed forward of the front wall of a house.*
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.*

The replacement structure is located to the rear of No. 6 Glenalua Road and is therefore not considered to be placed forward of the front wall of a house. It is not considered reasonable that the Planning Authority have declared that the log cabin is not exempted development as it is located to the front of a neighbouring dwelling. As the log cabin is located at No. 6, it is reasonable to assess the log cabin against the location of the on-site dwelling and not against the location of dwellings in the vicinity. The log cabin is located behind the front dwelling of No. 6 and is therefore considered to be within condition / limitation no. 1 of of Class 3, Part 1, Schedule 2.

In relation to Condition/Limitation no. 4, it is submitted that the external finishes of the replacement log cabin have been painted white in order to accord with the dwelling. The previous log cabin was a dark blue colour which resulted in the log cabin being more visually dominant. It is, therefore, submitted that the external finish of the replacement log cabin conforms with the dwelling and the replacement log cabin does not exceed condition / limitation no. 4 of Class 3, Part 1, Schedule 2.

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

Condition/Limitation of Class 5

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*

The works to the existing boundary comprised of the removal of part of the rounded wall coping and replacement with a flatter coping. It is submitted that the works have improved the condition of the boundary wall. It is also prudent to note that the works were completed to the side of the rear garden and not located in front of the dwelling. Therefore the 2 metre limitation is considered to be the relevant threshold, as opposed to the 1.2 metre which Dún Laoghaire-Rathdown County Council assessed the proposal against. It is submitted that the minor alterations to the wall satisfy the Conditions of Class 5, Part 1, Schedule 2 of the Planning and Development Regulations.

Article 82(1) — Notwithstanding section 4(1)(h), the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

Article 82(1), above, relates to development within an architectural conservation area. As noted, the subject site is located within the Killiney Road ACA. As noted in Section 6.0, there is no established pattern or material relating to boundary walls within the Architectural Conservation Area which the site is located in. The wall alterations were completed by a professional stonemason to a very high standard. The pattern and materials of boundary walls in the vicinity is very diverse. The works to the boundary wall are not considered to materially affect the character of the area.

Similarly, the replacement cabin is also not considered to materially affect the character of the area. The former log cabin was arguably more visually dominant due to the blue painted finish. The replacement log cabin integrates into the surrounding area due to its consistency with the dwelling. Due to this it is also considered that the replacement dwelling does not materially affect the character of the area.

Furthermore, we note that the commentary within the Case Officer's report that trees and bushes have been removed. It is submitted that the quality of these trees was very poor and they would have been removed regardless of the provision of the replacement log cabin. One tree was removed due to it regularly being entangled with overhead cables to both the applicants' dwelling and neighbouring dwellings. The removal of these plants should have no bearing as to whether the replacement cabin, or alterations to the boundary wall, are exempted development or not.

8.0 Conclusion

The Section 5 referral relates to a development at No. 6 Glenalua Road, Killiney, Co. Dublin. The questions before An Bord Pleanála are as follows:

'Whether the replacement of an existing log cabin at No. 6 Glenalua Road, Killiney, Co. Dublin is or is not development, and whether this replacement constitutes exempted development or not; and whether works to the existing boundary wall is or is not exempted development, and whether these works constitute exempted development or not'.

We submit that the proposed log cabin, which is a replacement log cabin of a previously existing log cabin constitutes exempted development pursuant to Article 6(1) and Class 3(c), Part 1 of Schedule 2 of the Planning and Development Act 2001 (as amended).

The subject log cabin is a replacement of an existing log cabin which has been located for over 13 years on the site. The previous log cabin erected on the site and was exempt from the requirement of obtaining planning permission as it was located outside an Architectural Conservation Area. The replacement of this log cabin is considered to be an exempted from the requirement of obtaining planning permission.

Additionally, the minor alteration to the boundary wall is also considered to be exempted development as it involves the replacement of the capping of a boundary wall to the side boundary of the dwelling on the subject site. .

We trust that the Board will have regard to this submission and look forward to the decision in due course.

Should you have any queries or require any further information, please do not hesitate to contact the undersigned.

Yours sincerely,



Kevin Hughes MIPI MRTPI
Director for HPDC Ltd.

Appendix A

Copy of Declaration issued by Dún Laoghaire-Rathdown County Council on 4th January 2021 under Ref11520.

Planning Department

An Rannóg Pleanála
Registry Section
Ciarán Carolan
Asst. Staff Officer
Direct Tel: 01 2054700
Fax: 01 2803122

Hughes Planning & Development Consultants
70, Pearse Street
Dublin 2

Reference No: Ref11520

Application Type: Declaration on Development and Exempted Development Act
– Section 5, Planning & Development Act (as amended)

Registration Date: 27-Nov-2020

Decision Date: 04-Jan-2021

Location: 6, Glenalua Road, Killiney, Co. Dublin

Development Works: Replacement of existing log cabin structure located beyond the front wall of the the existing dwelling and alterations to boundary wall.

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the planning & Development Act, 2000 (as amended), Dún Laoghaire-Rathdown County Council has, by Order No. Ref.REF01/21 dated 04-Jan-2021 decided to issue a Declaration that:

The Planning Authority hereby determines that the replacement of existing log cabin structure located beyond the front wall of the existing dwelling and alterations to boundary wall, **is development, and would not be exempt development**, having regard to

- Class 3 (Condition/Limitation 1 and Condition/Limitation 4), and
- Class 5 (Condition/Limitation 1)

of Part 1, of Schedule 2, of the Planning and Development Regulations, 2001 (as amended), and having regard to Section 82 (1) of the Planning and Development Act, 2000 (as amended).

Date of issue: 04-Jan-2021

Signed: Ciarán Carolan

For Senior Executive Officer

NOTE: Where a Declaration is issued under Section 5, any Person issued with such a Declaration, may, on payment to An Bord Pleanála, 64 Marlborough Street, Dublin 1, of a fee of €220, refer the Declaration for review, **within 4 weeks** of the date of issue of the Declaration.

