

AN BORD PLEANÁLA
LDG- 098605-21
ABP- _____
13 DEC 2021
Fee: € 220 Type: cheque
Time: 9:30 By: hand

Head Office
Trammon, Rathmolyon
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10/12/2021

An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

Planning Authority Reference Number: ED/00900

Re: Referral for a Declaration of Exempted Development under Section 5, for a steel container, for use as a temporary shelter
Address: Ballyonan, Broadford, Co. Kildare.

Dear Sir/Madam,

Following on from a letter issued by the Kildare County Council dated the 17th of November 2021, under Section 5 (3) of the Planning and Development Act 2000, we refer the declaration for review.

Whereas Kildare County Council has found that:

- (a) the erection of a steel container for use as an on-site welfare facility (temporary shelter, drying room and personal storage room) constitutes the carrying out of works which results in development as defined by Section 3(1) of the Planning and Development Act 2000 (as amended)
and
(b) These works do not fall within the parameters of Article 6 or Schedule 2 of the Planning and Development Regulations, as amended, or Section 4 of the Planning and Development Act 2000 (as amended) and therefore is not exempted development.

We now wish to refer this decision of Kildare County Council to An Bord Pleanála for consideration.

Grounds of Referral

It is our respectful submission that the placement/erection of a steel shipping container for use as a temporary shelter, a drying room and personal storage room for on-site staff, is considered exempted development under Class 16 and/or Class 17 and/or Class 18 of Schedule 2, Part 1 of the Planning and Development Regulations.

Under Part 2 Article 6 of the Planning & Development Regulations, as amended "*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 16, 17 & 18 of Schedule 2 Part 1 Exempted Development states the following:

Column 1 Description of Development	Column 2 Conditions and Limitations
Class 16	
<p>The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development, during the period in which it is being carried out.</p>	<p>Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.</p>
Class 17	
<p>The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary on-site accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out.</p>	<p>Such accommodation shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by the permission, consent, approval or confirmation granted under the Act or any other enactment.</p>
Class 18	
<p>The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of mining is to be carried out pursuant to a permission under the Act, of structures, works, plant or machinery needed temporarily in connection with preparation for the development.</p>	<p>Such structures, works, plant or machinery shall be removed when commissioning of the mine, and any ancillary structures or facilities, has been completed pursuant to a permission under the Act.</p>

The development in question is a steel container which is used as a temporary shelter, a drying room and personal storage room for the on-site staff at the Sand and Gravel Pit, which

meets with the Description of Development, Column 1 and Conditions and Limitations, Column 2 as shown above for Class 16 and/or Class 17 and/or Class 18.

The modified steel transport container which was modified to include 2 windows and 1 door is 20 ft x 10 ft (6.10 x 3.05m) in size, 3.09m high. There are no foundations, no permanent power supply and the container sits on the original ground beside a weighbridge. There are no water or sewerage connections to the container.

A temporary structure can be described as “any structure that is not designed for long-term use, but merely to serve some function in the short-term is deemed to be ‘Temporary’”, as described in *Designing Buildings*.

Planning permission is being sought of a development adjacent to the sand and gravel pit (KCC Ref 191138 and now sitting with An Bord Pleanála) for a concrete and ready-mix batching plant, block yard and associated infrastructure. Included in the development is a staff office and administration building. With the grant of permission, the steel container will no longer be necessary and can be removed from the site and are therefore temporary in nature.

We respectfully request that the Bord overturns the decision of Kildare County Council and confirms that the erection of a temporary steel container for use as described above is indeed considered exempted development.

In support of this referral, please also find enclosed the following:

- Cheque for €220 to refer a declaration made by a planning authority
- Copy of the application submitted to Kildare County Council for Section 5 Declaration
- Copy of the response received from Kildare County Council Re the Application for a Declaration of Exempted Development under Section 5.

Yours sincerely



John Keegan
Managing Director
Keegan Landholdings

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Planning Department
Kildare County Council
Devoy Park
Naas
County Kildare
W91 X77F

20/10/2021

Re: Section 5 Application for a Declaration of Exempted Development, Ballyonan, Co. Kildare

Dear Sir or Madam,

Please find enclosed a completed application form for a Declaration of Exempt Development under Section 5.

The development in question is a steel container which is used as a temporary shelter, a drying room and personal storage room for the on-site staff at the Keegan's Sand and Gravel Pit at Ballyonan, Clonard, Co. Kildare.


We enclose the following drawings in support of this application:

- Site Location Map 1:2500
- Site Layout Plan 1:100
- Plan Views, Elevations & Sections of the Steel Container 1:25

Also enclosed is a cheque in the sum of €80.

If you have any queries in relation to the application, please do not hesitate to contact me.

Yours sincerely



John Keegan
Director Keegan Quarries

Kildare County Council

Declaration of Exempt Development under Section 5, of the Planning and Development Act 2000 as amended

Incomplete application forms will
be deemed invalid and returned



All responses must be in block
letters

Section 1 Details of Applicants

1. Name of Applicant(s) A. Surname KEEGAN Forenames JOHN
Phone No 046 9555116 Fax No N/A
2. Address TRAMMON, RATHMOLYON, CO. MEATH, A83 DA36

Section 2 Person/Agent acting on behalf of applicant (if applicable) N/A

1. Name of Person/Agent: Surname Forenames
Phone No Fax No
2. Address

Section 3 Company Details (if applicable)

1. Name of Company KEEGAN QUARRIES LTD
Phone No 046 9555116 Fax No N/A
2. Company Reg. No 214494
3. Address TRAMMON, RATHMOLYON, CO. MEATH, A83 DA36

Section 4 Details of Site

1. Planning History of Site PRE '64 SAND & GRAVEL PIT
2. Location of Proposed Development BALLYONAN, BROADFORD, CO. KILDARE
ITM 667303, 743574
GRID REFERENCE N 67358 43550
EASTING 267358, NORTHING 243550
LAT 53.4379, LONG -6.9870
3. Ordnance Survey Sheet No DISCOVERY SERIES 49.
1:2500 SHEET NOS 2981-D, 2982-C, 3051-B, 3052-A
4. Please state the Applicants interest in the site OWNER & OPERATOR

5. Please state the extent of the proposed development
STEEL CONTAINER FOR USE AS A TEMPORARY SHELTER, A DRYING ROOM AND PERSONAL STORAGE ROOM FOR THE ON-SITE STAFF

6. Under what Section of the Planning and Development 2000 as amended and/or what provision of the Planning and Development Regulations 2001 as amended is exemption sought (*specific details required*).....

**SECTION 5 OF THE PLANNING AND DEVELOPMENT ACT 2000
 SCHEDULE 2, PART 1, ARTICLE 6 EXEMPTED DEVELOPMENT, OF THE PLANNING & DEVELOPMENT REGULATIONS 2001**

7. Please give a detailed description of the Proposed Development (*Use separate page if necessary*)

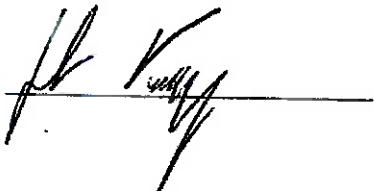
THE STEEL CONTAINER IS USED AS A TEMPORARY SHELTER, A DRYING ROOM AND PERSONAL STORAGE ROOM FOR THE ON-SITE STAFF. THE MODIFIED STEEL TRANSPORT CONTAINER WHICH WAS MODIFIED TO INCLUDE 2 WINDOWS AND 1 DOOR IS 20 FT X 10 FT (6.10 x 3.05 M) IN SIZE. THERE ARE NO FOUNDATIONS, NO PERMANENT POWER SUPPLY AND THE CONTAINER SITS ON ORIGINAL GROUND BESIDE A WEIGHBRIDGE. THERE ARE NO WATER OR SEWERAGE CONNECTIONS TO THE CONTAINER. SEE PHOTOGRAPHS ON ATTACHED PAGE.

Section 5	The following must be submitted for a valid application
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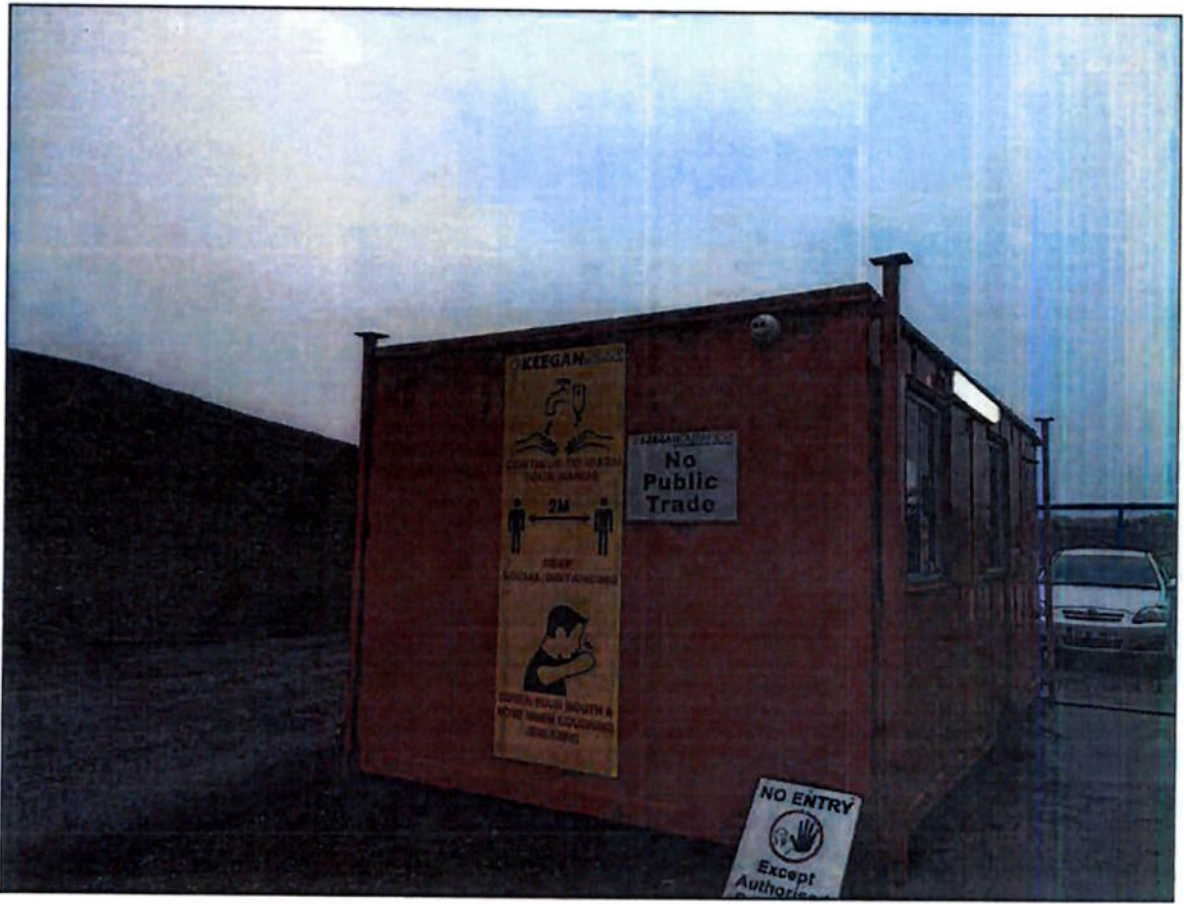
		(Please Tick)
1.	Site Location Map (1:2500 Rural Areas) (1:1000 Urban Areas)	✓
2.	A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended	✓
3.	Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended	✓
4.	All drawings to differentiate between the original building; all extensions and proposed development	N/A
5.	Fee of 80 Euro	✓

Section 6	Declaration
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I, JOHN KEEGAN certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Signature: 

Date: 20/10/2021



Comhairle Contae Chill Dara
Kildare County Council



Date: 17/11/2021
Our Ref: ED/00900

REGISTERED POST

John Keegan,
c/o Keegan Quarries Ltd.,
Trammon,
Rathmolyon,
Co. Meath
A83 DA36

**RE: Application for a Declaration of Exempted Development under Section 5
Address: Ballyonan, Broadford, Co. Kildare**

Dear Sir/Madam,

I refer to your correspondence received 21st October 2021 in connection with the above.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 as amended in this regard.

Yours sincerely,

W. Beer

Senior Executive Officer.
Planning Department

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**Declaration of Development & Exempted Development under
Section 5 of the
Planning and Development Act 2000 (as amended)**

ED/00900

WHEREAS a question has arisen as to whether the erection of a steel container for use as a temporary shelter, a drying room and personal storage room for on-site staff, at Ballyonan, Broadford, Co. Kildare is or is not development and is or is not exempted development;

AS INDICATED on the plans and particulars received by the Planning Authority on 21/10/2021;

AND WHEREAS John Keegan requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended); and
- (b) Planning and Development Regulations 2001 (as amended);

AND WHEREAS Kildare County Council has concluded that the proposal comprises of development to which the provisions of the following applies:

- (a) Sections 3, 4, and 5 of the Planning and Development Act 2000 (as amended);
- (b) Article 6 and Article 9 of the Planning and Development Regulations 2001 (as amended); and
- (c) The nature, extent and purpose of the development

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that -

The erection of a steel container for use as on-site welfare facility (temporary shelter, a drying room and personal storage room for on-site staff):

IS development and IS NOT exempted development for the following reason:

- (a) The erection of a steel container for use as an on-site welfare facility (temporary shelter, drying room and personal storage room) constitutes the carrying out of works which results in development as defined by **Section 3(1)** of the Planning and Development Act 2000 (as amended) Act.

(b) These works do not fall within the parameters of Article 6 or Schedule 2 of the Planning and Development Regulations, as amended, or Section 4 of the Planning and Development Act 2000 (as amended) and therefore is not exempted development.

Please note that any person issued with a declaration under Section 5 of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

17th November 2021



Director of Services

