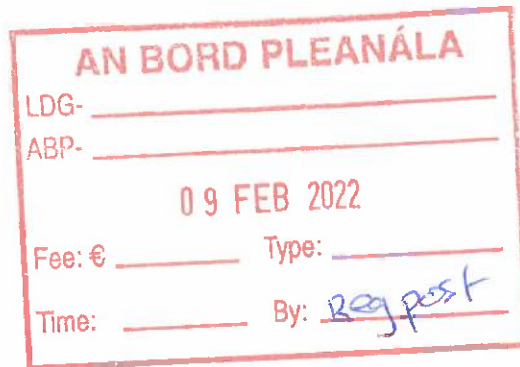


7 February 2022

REGISTERED POST

An Bord Pleanála
64 Marlborough Street
Dublin 1



PLANNING AND DEVELOPMENT ACT 2000 (as amended)

Planning Reg No: EXD00927

Applicant: Helen Meehan

Proposed: Shed of 19.9 sqm internal floor area to rear of house

Location: Doogan's Warren, Rosslare Strand, Co. Wexford, Y35HY00

Your Ref No: ABP-312339-21


A Chara

I refer to your letter dated 04 February 2022 in connection with the Planning Appeal lodged on 23 December 2021 relating to the above.

Attached, please find the following:

1. Copy of the report that led to the decision.
2. History file 20191681 board order attached. No final grant was issued as the file was appealed.

Mise le meas

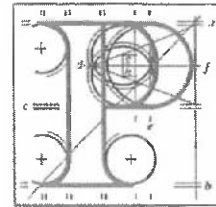


Staff Officer
Planning and Development



Our Case Number: ABP-306854-20

Planning Authority Reference Number: 20191681



An
Bord
Pleanála



Wexford County Council
Planning Department
Carricklawn
Wexford

Re: Demolition of existing chalet and erection of replacement chalet.
Doogan's Warren, Rosslare, Co. Wexford.

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned matter under the Planning and Development Acts 2000 to 2019. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

Yours faithfully,

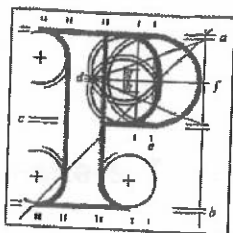
B. Mc Manus

Brid McManus
Executive Officer

BP100N

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Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



**An
Bord
Pleanála**

**Board Order
ABP-306854-20**

Planning and Development Acts 2000 to 2019

Planning Authority: Wexford County Council

Planning Register Reference Number: 20191681

Appeal by Philip Ryan and others care of Diarmuid Ó Gradá of 16 Louvain, Roebuck Road, Dublin against the decision made on the 14th day of February, 2020 by Wexford County Council to grant subject to conditions a permission to Helen Meehan care of Leo Meehan of Carraig Ard, Coolcotts Lane, Wexford in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of existing chalet and the erection of a replacement chalet, together with all associated site works at Doogan's Warren, Rosslare, County Wexford.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

4. Prior to commencement of development, details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority.

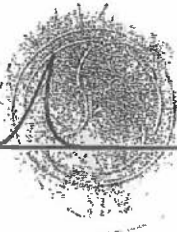
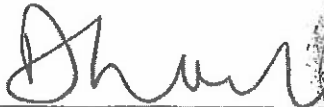
Reason: In the interest of visual amenity.

5. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority plans and particulars for the implementation of an Invasive Species Management Plan. This plan shall include the employment of suitably qualified and experienced personnel to monitor the development works and the treatment, and/or removal and safe disposal, of contaminated material where it arises within the application site.

Reason: To prevent the spread of invasive plant species.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Dave Walsh

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

Dated this 21st day of July 2020.

Mary Long

From: Diarmuid Houston
Sen. 09 December 2021 10:03
To: Mary Long
Subject: FW: EXD00927 NOT EXEMPT
Attachments: EXD00927 not exempt.docx

I agree that the development is not exempted development

Diarmuid Houston
Senior Planner

From: Mary Long <Mary.Long@wexfordcoco.ie>
Sent: 08 December 2021 10:24
To: Diarmuid Houston <Diarmuid.Houston@wexfordcoco.ie>
Subject: EXD00927 NOT EXEMPT

Hi Diarmuid

EXD00927 is Not Exempt. Please may I have your recommendation.

Regards

Mary

Mary Long | Assistant Staff Officer | Planning Department

Wexford County Council, County Hall, Carricklawn, Wexford Y35 WY93
Comhairle Contae Loch Garman, An Charrig Leathan, Loch Garman

☎ 053 919 6211 | ✉ mary.long@wexfordcoco.ie | www.wexfordcoco.ie



13.12.21

WEXFORD COUNTY COUNCIL
RECEIVED
8 DEC 2021
PLANNING SECTION

Planning and Development Act 2000 (as amended)

Application for Declaration of Exempted Development
(Part 1, Section 5)

Register No.: EXD00927
Proposal: Shed of 19.9 sqm internal floor area to rear of house ✓
Location: Doogan's Warren, Rosslare Strand, Co. Wexford, Y35HY00 ✓

Site Location and Description:



The site is located in Rosslare village. It is between the Coast Road and the beach. There is current construction work ongoing on the site in relation to planning ref 20191681 and the shed subject to this application. There is a single storey dwelling immediately adjacent ✓

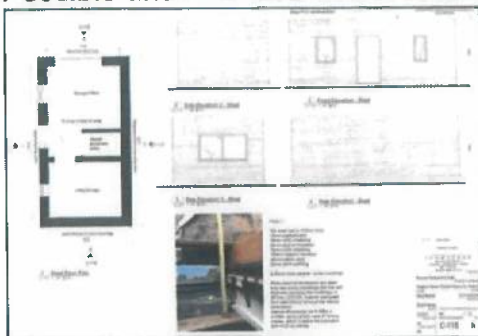
Site History:

20191681 Helen Meehan

PERMISSION FOR THE DEMOLITION OF EXISTING CHALET AND THE ERECTION OF A REPLACEMENT CHALET, TOGETHER WITH ALL ASSOCIATED SITE WORKS

0208/2021

Possible unauthorised chalet exceeding the exempt development limitations ✓



Submitted elevation drawings of shed

Development in Question:

This proposal is a request for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) to determine whether or not the construction of a shed with 19.9 sqm internal floor area to rear of house dwelling constitutes exempted development.

Statutory Provisions

The proposal will be assessed within the provisions of:

- Sections 3 and 4 of the Planning and Development Act 2000 (as amended);
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended); and
- Schedule 2, Part 1 Class 3 of the Planning and Development Regulations 2001 (as amended)

'Section 3(1) of the Planning and Development Act, 2000 (as amended) defines 'development' as meaning, except where the context otherwise requires, *'the carrying out of any works on, in, over or under land or the making of any material change in the use of any structure or other land'*.

'Works' are defined under Section 2 of the Planning and Development Act 2000 (as amended) as including *'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...'*.

It is considered having regard to the above definitions that the proposal constitutes 'works' and 'development' within the meaning of the Act. ✓

Class 3 of Part 1 of Schedule 2 relates to the following development:

"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."

There are a number of conditions and limitations attached to this exemption including the following:

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.* ✓

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.*

Article 9(1) of the Planning and Development Regulations 2001 provides for restrictions on exemption and states

"9(1) Development to which Article 6 relates shall not be exempted development for the purposes of the Act.

(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.

Article 6(1) states *"Subject to Article 9 development of a class specified in Column 1 and Part 1 of Schedule 2 shall be exempted development for the purposes of the Act"*.

Assessment

It should be stated at the outset that the purpose of this referral is not to determine the acceptability or otherwise of the development in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development.

From measurements carried out by technical staff of Wexford County Council (on the 18/08/2021) site the internal floor area of the structure (i.e. 6.4m x 3.1m) is calculated as 19.84sqm. The external dimensions (i.e. 7.2m x 6.4m) is calculated as 28.08sqm. The total area therefore exceeds 25 square meters.

I consider, therefore, that the floor area shed exceeds the allowance of 25sqm and thus cannot avail of the exemption as set out in Class 3 of Part 1 of Schedule 2 of the Regulations. ✓

Precedent Cases

It is also noted that the basis of this application is that the applicant considers that the basis for the calculation of the shed having regard to Class 3 of Part 1 of Schedule 2 of the Regulations is the internal measurement of the shed and not the external measurements

As the applicant has proposed that the internal floor area of the shed is the appropriate measurement when assessing if the shed subject to this application can avail of the exemption as set out in Class 3 of Part 1 of Schedule 2 of the Regulations. I have reviewed similar cases from An Bord Pleanála website and

have concluded that the appropriate floor space for measuring the size of a shed is the external area

09.RL.2885 (September 2011)

The question here referred to whether a structure in the rear garden area at 16 Rail Park, Maynooth, Co. Kildare is or is not exempted development. The Board decided the said structure was exempted development. Element of note is that the gross floor area internally of the said structure did not exceed 25 square metres while the area, based on external measurements, was stated to be 27.17 square metres. ✓

06D.RL2420 (July 2007)

The question here referred to whether a structure in the rear garden at 8 Glenabbey Road, Mount Merrion, Co. Dublin is or is not exempted development. The Board decided the said structure was not exempted development as the structure exceeded 25 square metres in total floor area. In this case, the area as measured externally was stated as being 31.734 square metres with the internal floor area being stated as being 24.58 square metres. ✓

Conclusion:

- (a) The development comes within the scope of Sections 2(1), and 3(1) of the Planning and Development Act 2000, as amended, and constitutes development, and
- (b) The total floor area, which exceeds 25 square metres, does not come within the scope of Class 3, Part 1, Schedule 2, of the Planning and Development Regulations, as amended,

Recommendation: Development that is Not Exempted Development
Having regard to the foregoing, it be decided that construction of a shed of 19.9 sqm internal floor area to rear of house dwelling, is development and is **not exempted development.** ✓

A draft order is set out below.

WHEREAS a question has arisen as to whether a shed of 19.9 sqm internal floor area to rear of house constitutes exempted development;

AND WHEREAS Wexford County Council, in considering this referral, had regard particularly to -

- Sections 3 and 4 of the Planning and Development Act 2000 (as amended);
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended); and
- Schedule 2, Part 1 Class 3 of the Planning and Development Regulations 2001 (as amended)

Wexford County Council has concluded that the construction of a Shed of 19.9 sqm internal floor area to rear of house dwelling is development and is not exempted development.

NOW THEREFORE Wexford 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 construction of a shed of 19.9 sqm internal floor area to rear of a dwelling **is development and is not exempted development.**


James Lavin
Senior Executive Planner

Date: 08 December 2021

