Application for Declaration of Exempted Development

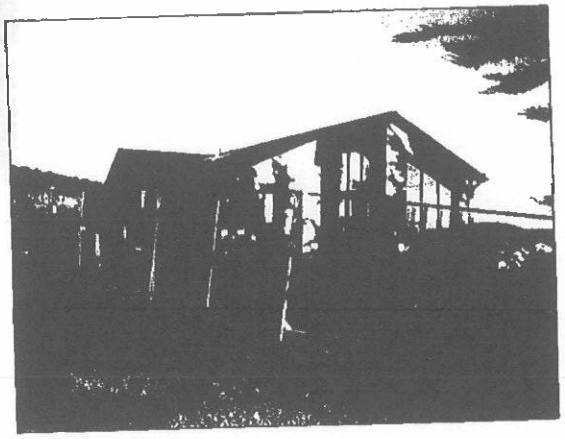
Register No: EXD00511

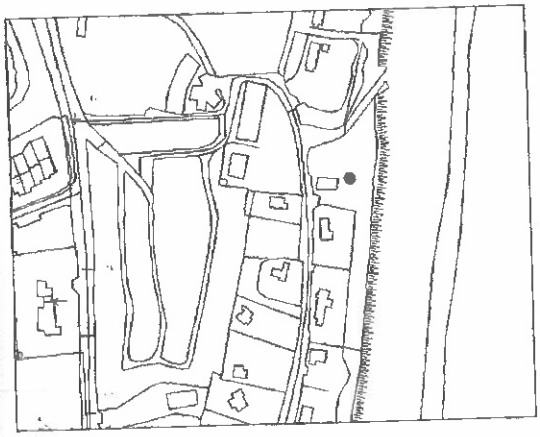
Applicant: NOEL DORAN

Proposal: Whether the erection of a domestic garage constitutes exempted development.

Location: MIDDLETOWN, ARDAMINE

Nature of Referral:
The applicant has a sought a declaration as to whether the erection of a domestic garage is exempted development. The structure measures a stated 24.94 sq. m. and has a stated ridge height of 3.786m. The garage is located to the side of the existing dwelling behind the front building line.





Assessment

The proposal will be assessed within the provisions of:

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

Application for Declaration of Exempted Development

Register No: EXD00311

Applicant: NOEL DORAN

Proposal: Whether the erection of a domestic garage constitutes exempted development.

Location: MIDDLETOWN, ARDAMINE

Nature of Referral:
The applicant has a sought a declaration as to whether the erection of a domestic garage is exempted development. The structure measures a stated 24 sq. m. and has a stated ridge height of 3.780m. The garage is located to the side of the existing dwelling behind the front building line.

Assessment

The proposal will be assessed within the provisions of

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

Does the proposal constitute development?
Section 3 of the Planning and Development Act 2000 (as amended) defines development as "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".

The erection of a domestic garage is deemed to constitute development.

Does the proposal constitute exempted development?

Article 6 (1) of the Regulations states that subject to Article 9, development of a class specified in Part 1 of Schedule 2 of the Regulations shall be exempted development provided that such development complies with the conditions and limitations specified.

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.

Conditions of this exemption are as follows:

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

- The total areas 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 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 side of the house to less than 25 square metres

- 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 height of any such structure shall not exceed, in the case of a building with a tiled or slated pitch roof, 4 metres or, in any other case, 3 metres –

- 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.

Does the proposal constitute development?

Section 3 of the Planning and Development Act 2000 (as amended) defines development as "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".

The erection of a domestic garage is deemed to constitute development.

Does the proposal constitute exempted development?

Article 6 (1) of the Regulations states that subject to Article 9, development of a class specified in Part 1 of Schedule 2 of the Regulations shall be exempted development provided that such development complies with the conditions and limitations specified

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."

Conditions of this exemption are as follows:

- No such structure shall be constructed, erected or placed forward of the front wall of a house
- The total areas of such structure 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 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 side of the house to less than 25 square metres
- 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 height of any such structure shall not exceed in the case of a building with a tiled or slated pitch roof, 4 metres or, in any other case, 3 metres
- 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

Conclusion
Having had regard 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),
- Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001 (as amended),

With reference to the plans and particulars submitted and the stated restrictions on exempted development as outlined above, I am satisfied that the proposal does constitute development that is exempted development.

Recommendation: Is Development and is Exempted Development.

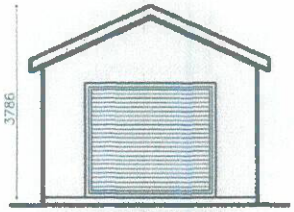
Date: 27/11/13.

Marcus Linehan
Assistant Planner

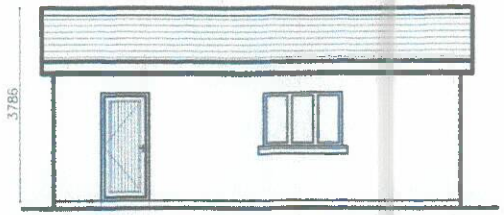
Date: 27/11/13.

Liam Bowe
A/Senior Executive Planner

SCANNED



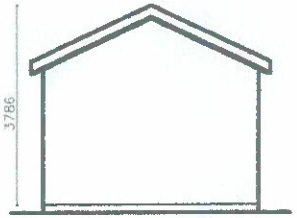
FRONT ELEVATION



SIDE ELEVATION

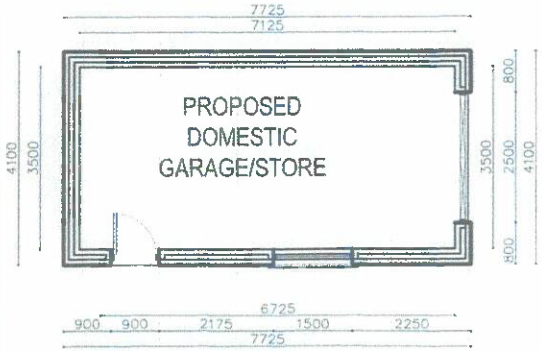
SECTION THROUGH

SIDE ELEVATION



REAR ELEVATION

Selected Slates on Roof
Style and Pitch to Match Dwelling
Selected Fascia, Soffit and Downpipes to Match Dwelling House
2x 100mm Leaf Conc. Block Wall Construction with External Finish to Match Dwelling
150mm Powerfloated Concrete Floor on 1000g D.P.M
on 25mm Sand Blinding on 225mm Well Consolidated Hardcore
Foundations to Engineers Decision after Trenches have been excavated and investigated
Selected Fascia, Soffit and Downpipes
Selected Roller Garage Door or similar
Selected Window in Garage to Match Dwelling



FLOOR LAYOUT PLAN

FLOOR AREA 24.94 SQ MTRS 268.00 SQ FT

EMK design Ltd
MONAMOLIN
GOREY
CO. WEXFORD
TEL/FAX: (053) 9389452

E-MAIL: emkdesign@eircom.net

Drawn By: WJ	Checked By: MK
Date: NOVEMBER 2013	Disc Ref: 2499
Scales: 1 : 100 AND AS SHOWN	

This drawing is for planning permission purposes only. It does not portray a structural survey. No responsibility for the work carried out on site is attached to this drawing. Use figure dimensions only. Do not scale from drawing. If in doubt - Ask.

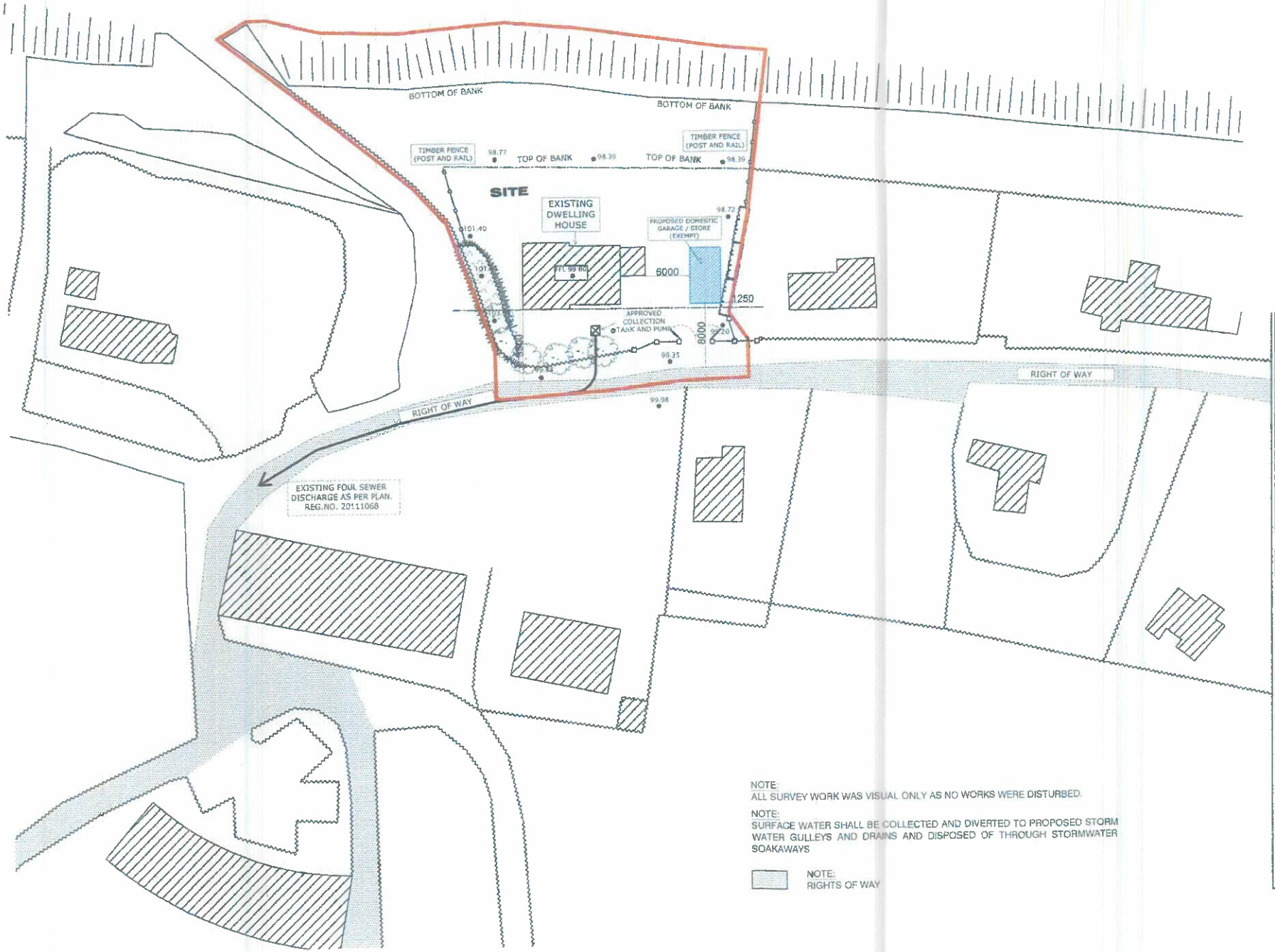
SITE LAYOUT MAP

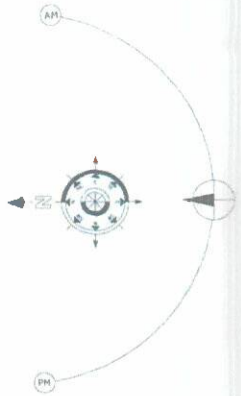
SITE SHOWN EDGED IN RED

AREA OF SITE SHOWN = 0.15 HECTARES

SITE SHOWN EDGED IN RED

= POSITION OF PUBLIC SITE NOTICE





SUN PATH ANALYSIS

NOTE:
ALL SURVEY WORK WAS VISUAL ONLY AS NO WORKS WERE DISTURBED.

NOTE:
SURFACE WATER SHALL BE COLLECTED AND DIVERTED TO PROPOSED STORM WATER GULLEYS AND DRAINS AND DISPOSED OF THROUGH STORMWATER SOAKAWAYS

NOTE:
RIGHTS OF WAY

No.	Date	Ref	Note

-REVISIONS-

EMK DESIGN LTD
MONAMOLIN
GOREY
CO. WEXFORD

TEL/FAX: (053) 9389452
MOBILE: (087) 2402829
E-MAIL: mkdesign@eircom.net

Applicant:

NOEL DORAN

Project Title:

EXEMPTED DEVELOPMENT FOR A DOMESTIC GARAGE / STORE AT MIDDLETON (ED ARDAMINE), COURTOWN, GOREY, CO. WEXFORD

Drawing Title:

SITE LAYOUT PLAN

BUILDINGS

SERVICES

DIMENSIONS

Client Approval & Date:

Drawn By: RJ	Checked By: MK
Date: NOVEMBER 2013	Disc Ref: 2499
Scales: 1 : 500	

Drawing No: 3 OF 4

Rev: 0

REGISTER OF EXECUTIVE ORDERS

PLANNING AND DEVELOPMENT ACT 2000 (as amended)

PLANNING REGISTER NO: EXD00829 **ORDER NO:** P.0966/20

ORDER: In exercise of the powers, functions and duties vested in the Chief Executive of Wexford County Council by Section 149 of the Local Government Act, 2001 (as amended), which were on the 13th May, 2020, delegated to me by the Chief Executive of Wexford County Council pursuant to Section 154 of the Local Government Act, 2001 (as amended), it is hereby ordered that the decision of the Wexford County Council on the application described in the Schedule to this Order is as shown therein, and that the appropriate notifications be issued pursuant to Section 5 of the Planning & Development Act 2000 (as amended).

Signed by me at the County Hall, Wexford, on **23 September 2020**

TONY LARKIN
DIRECTOR OF SERVICE

DECLARATION OF EXEMPTED DEVELOPMENT

SCHEDULE

REGISTER NUMBER.:	EXD00829
DATE OF APPLICATION:	28 August 2020
APPLICANT:	Richard Gem and Corry Cashman
PROPOSED DEVELOPMENT:	Replacement of an existing dilapidated detached garage with a new Garden Room providing a study/book room, a household storeroom and a garden shed
LOCATION:	Drimroe, Mulgannon
DECISION:	Exempted Development
DATE OF DECISION:	23 September 2020

24.09.20

Planning and Development Act 2000 (as amended)

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

Register No.: **EXD00829**

Proposal: **Whether is the replacement of an existing dilapidated detached garage with a new structure is development and is exempted development.**

Location: **Drimroe, Mulgannon, Wexford**

Site Location and Description:
The site is located on the Mulgannon Road in Wexford Town. There is a single storey dwelling on the site with an associated domestic garage.

Single storey dwelling and garage on the site

Site History
No recent history

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 the replacement of an existing dilapidated detached garage with a new structure is development and is 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);

Planning and Development Act 2000 (as amended)

Application for Declaration of Exempted Development (Part 3, Section 5)

Register No: EXD00029

Proposal: Whether is the replacement of an existing dilapidated detached garage with a new structure is development and is exempted development.

Location: Dilmeo, Mullagmore, Wexford

Site Location and Description

The site is located on the Mullagmore Road in Wexford Town. There is a single storey dwelling on the site with an associated detached garage.

Single storey dwelling and garage on the site

Site History

No recent history

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 the replacement of an existing dilapidated detached garage with a new structure is development and is exempted development.

Statutory Provisions

The proposal will be assessed with 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)

Does the proposal constitute development?
'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…*'.
Having regard to the above definitions, the proposal constitutes 'works' and 'development' within the meaning of the Act.

Exempted Development
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.*

Recommendation:
Having regard to the foregoing, I recommend that it be decided that the replacement of an existing dilapidated detached garage with a new structure is development and is exempted development.

A draft order is set out below.

WHEREAS a question has arisen as to whether the replacement of an existing dilapidated detached garage with a new structure is development and is 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);
- Schedule 2, Part 1 Class 3 of the Planning and Development Regulations 2001 (as amended); and
- Schedule 2, Part 1 Class 50 of the Planning and Development Regulations 2001 (as amended).

Wexford County Council has concluded that the replacement of an existing dilapidated detached garage with a new structure is development and is exempted development.

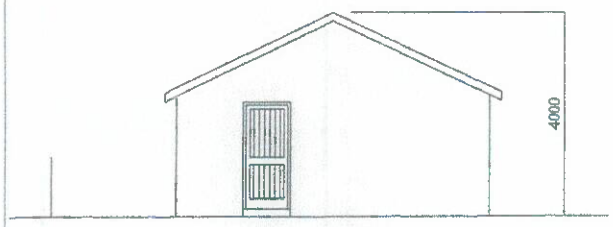
NOW THEREFORE Wexford County Council, in exercise of the powers conferred on it by section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the replacement of an existing dilapidated detached garage with a new structure at Drimroe, Mulgannon, Wexford is development and is exempted development.

Liam Bowe

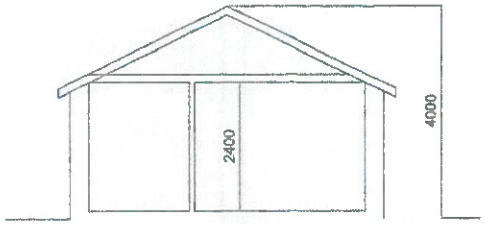
Liam Bowe
Executive Planner

Date: 16th September 2020

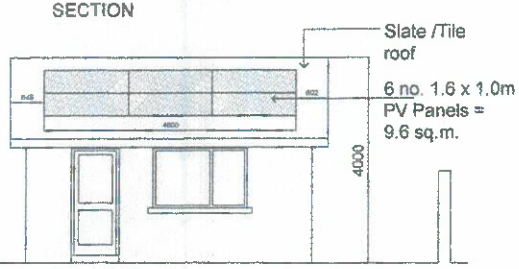
EX 0329 A3



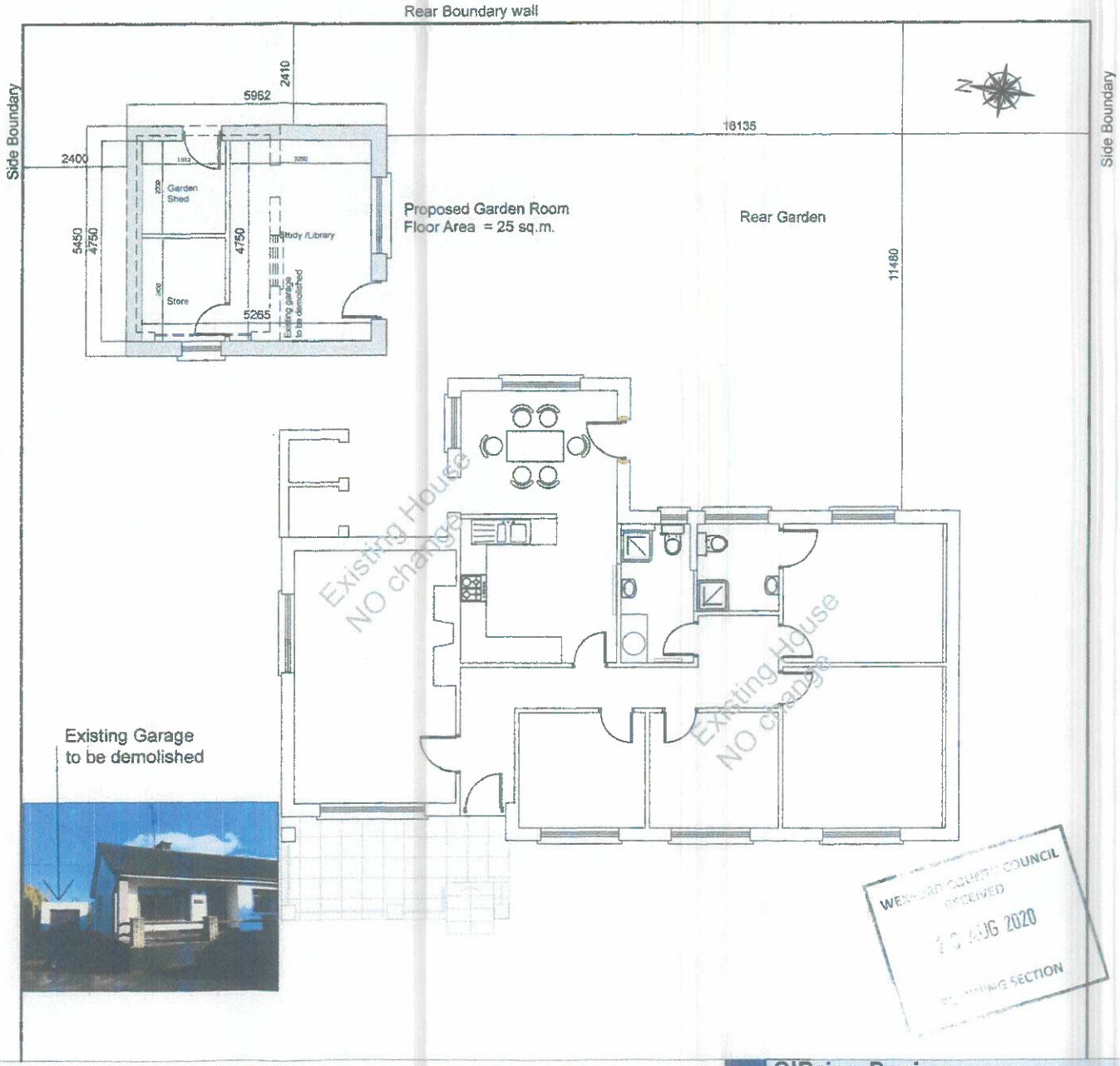
ELEVATION TOWARDS FRONT



SECTION



ELEVATION TOWARDS GARDEN



NOTE:
- USE FIGURED DIMENSIONS ONLY. DO NOT SCALE DRAWINGS.
- READ IN CONJUNCTION WITH SPECIFICATION AND CONSULTANTS DRAWINGS.
- REPORT ANY DISCREPANCIES IN DRAWINGS TO ARCHITECT AND OBTAIN INSTRUCTIONS BEFORE PUTTING WORK IN HANDS.
- CHECK ALL DIMENSIONS ON SITE.

DATE:	REV	BY:	DESCRIPTION.
DD/MM/YY	-	-	FIRST DRAWING

Garden Room at Drimroe- Section 5 Application

O'Brien Design
Architectural - Building Surveying - Environmental.
11a Selskar St. Wexford.
Tel: 087 2939148
Tel: 053 9104914
e-mail: davidobrienarchitect@gmail.com

PROJECT TITLE:	SECTION 5 APPLICATION - GARDEN ROOM AT DRIMROE, MULGANNON Y35 D573
CLIENT:	CORRY CASHMAN & RICHARD GEM
DRAWN BY:	David O'Brien MRIAI AES BSc
DRAWING TITLE:	PROPOSED GARDEN ROOM
SCALE:	1:100
PROJECT REF NO:	R&C 02 S5 02

REGISTER OF EXECUTIVE ORDERS

PLANNING AND DEVELOPMENT ACT 2000 (as amended)

PLANNING REGISTER NO: EXD00924 **ORDER NO:** P. 1770/21

ORDER: In exercise of the powers, functions and duties vested in the Chief Executive of Wexford County Council by Section 149 of the Local Government Act 2001 (as amended), which were on the 13 May 2020, delegated to me by the Chief Executive of Wexford County Council pursuant to Section 154 of the Local Government Act 2001 (as amended), it is hereby ordered that the decision of the Wexford County Council on the application described in the Schedule to this Order is as shown therein, and that the appropriate notifications be issued pursuant to Section 5 of the Planning & Development Act 2000 (as amended).

Signed by me at the County Hall, Wexford, on **1 December 2021**

TONY LARKIN

DIRECTOR OF SERVICE

DECLARATION OF EXEMPTED DEVELOPMENT

SCHEDULE

REGISTER NUMBER:	EXD00924
DATE OF APPLICATION:	11 November 2021
APPLICANT:	Andrew Jacob & Ethel Deacon
PROPOSED DEVELOPMENT:	Existing storage shed. To include: drying room, toilet, utility & bicycle storage area (to be converted)
LOCATION:	Ballypreacus, Bunclody, Co Wexford
DECISION:	Exempted Development
DATE OF DECISION:	1 December 2021

08.12.21

WEXFORD COUNTY COUNCIL EXD00924
RECEIVED
30 NOV 2021
PLANNING SECTION

Planning and Development Act 2000 (as amended)

Application for Declaration of Exempted Development

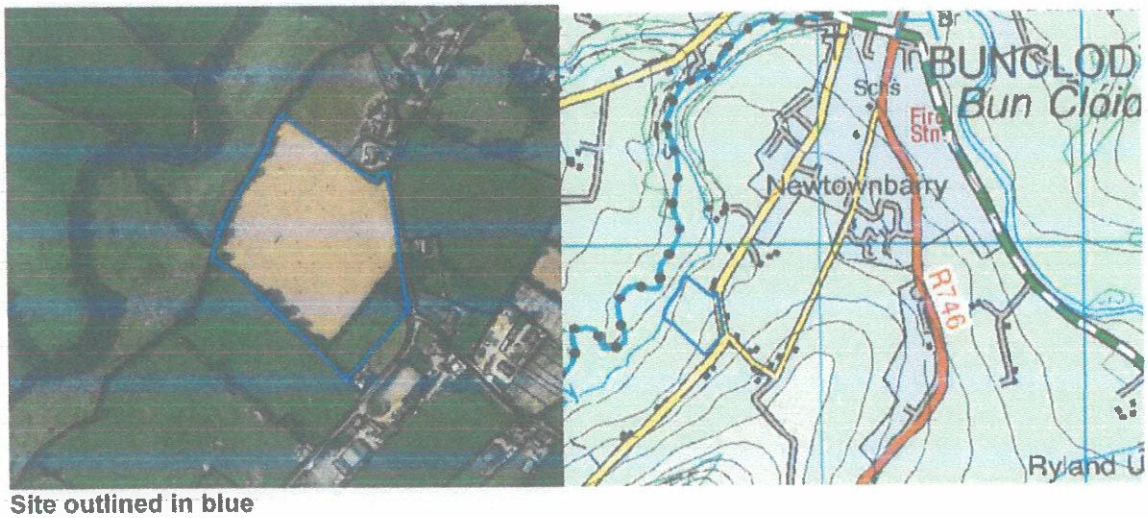
(Part 1, Section 5)

Register No.: **EXD00924**

Proposal: **Existing storage shed. To include: drying room, toilet, utility & bicycle storage area (to be converted)**

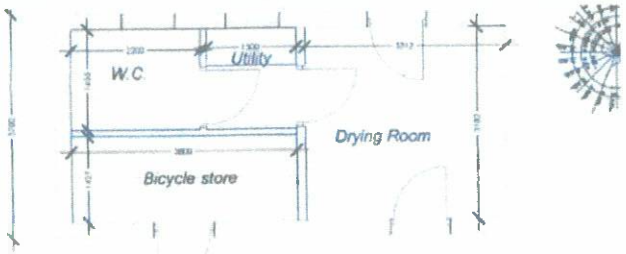
Location: **Ballypreacus, Bunclody, Co Wexford**

Site Location and Description:
The site is located on a county road c.1km to the southwest of Bunclody village. There are a number of one-off houses immediately to the north of the site and on the opposite side of the road. The land slopes down northwestwards to the field boundary toward the river.

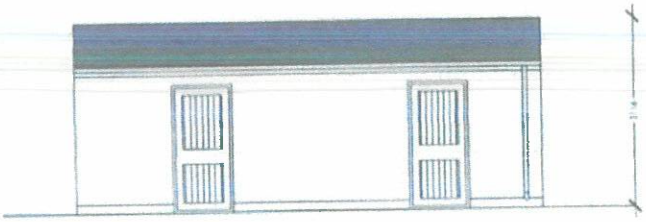


Site outlined in blue

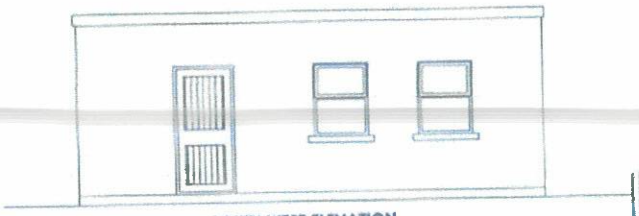
Development in Question:
The question referred relates to whether the conversion of the **existing storage shed, to include: drying room, toilet, utility & bicycle storage area is exempted development.**



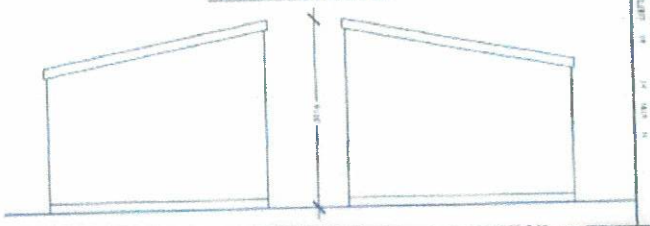
FLOOR LAYOUT

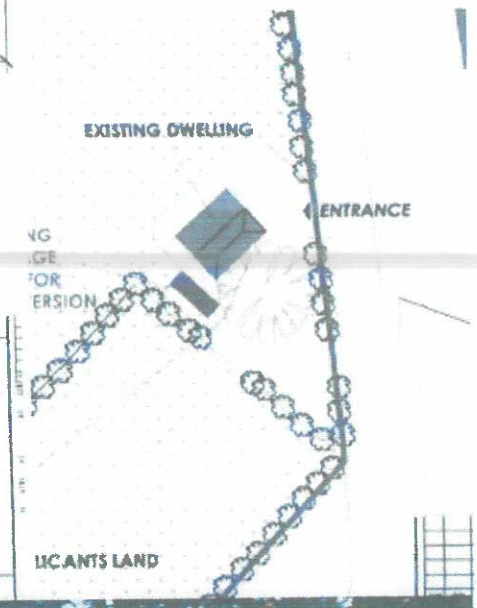


NORTH EAST ELEVATION



SOUTH WEST ELEVATION





Site inspection 24th Nov 2021

Planning History:
APAS records Plan Ref 013404 Miss B Codd – dated 1976

The main dwelling would appear to date from 1950s approximately.

Is it exempt under Planning and Development Act, 2000?

It is understood that the shed (23.10sqm) in question is pre 1963 and therefore the existing garage/store structure did not obtain planning so for the purposes of this Section 5 it will be considered as an authorised development. Under Section 4(1)(h) of the Planning and Development Act 2000.
(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Providing there are no external works proposed so therefore the question is whether the conversion of the existing shed adjacent to the dwelling, to a drying room, toilet, utility and bicycle storage area constitutes a material change in use.

I consider utility use, drying room, toilet and bicycle store is not a material change of use and would fall under the normal associated uses of any normal domestic garage and is therefore a use that is considered ancillary to the main dwelling use.

The relevant exemption for a domestic garage or store within the Planning and Development Regulations 2001 is within Class 3, Part 1, Schedule 2. This refers to development consisting of the construction, erection or placing within the curtilage of a house of a garage or store. However the restrictions of this Class 3 stipulates that it shall not be placed forward of the front building line of the house which is the case here. However taking into account its pre 1963 status the garage is considered author

Conclusion:
It is considered that the conversion of the existing storage shed to include drying room, toilet, utility and bicycle storage area constitutes exempted development.

Recommendation:
Having regard to the foregoing, I recommend that it be decided that the conversion of the existing storage shed to include drying room, toilet, utility and bicycle storage area is exempted development.

A draft order is set out below.

WHEREAS a question has arisen as to whether the conversion of the existing storage shed to include drying room, toilet, utility and bicycle storage area constitutes exempted development

AND WHEREAS Wexford County Council, in considering this application, had regard particularly to -
(a) Section 2, 3, and 4 of the Planning and Development Act, 2000-2010;
(b) Articles 6 and 9 of the Planning and Development Regulations, 2001;

AND WHEREAS Wexford County Council has concluded that –

(a) the conversion of the existing domestic storage shed to include drying room, toilet, utility and bicycle storage area
Is exempted development

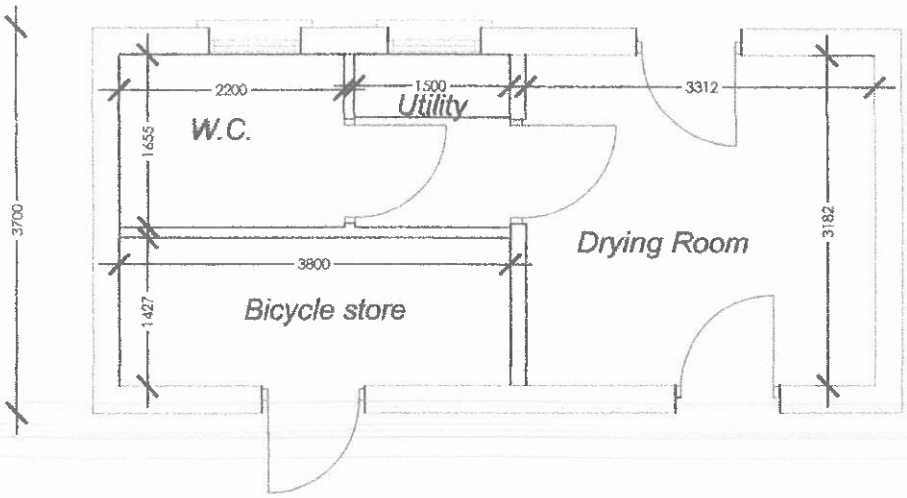
NOW THEREFORE Wexford County Council, in exercise of the powers conferred on it by section 5(2)(a) of the 2000 Act, hereby decides that the conversion of the existing domestic storage shed to include; drying room, toilet, utility and bicycle storage area at Ballypreacus, Bunclody, Co.Wexford is exempted development.

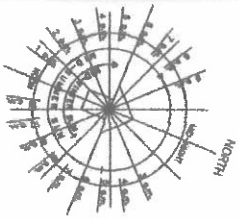
Niamh Lennon

Niamh Lennon
Executive Planner

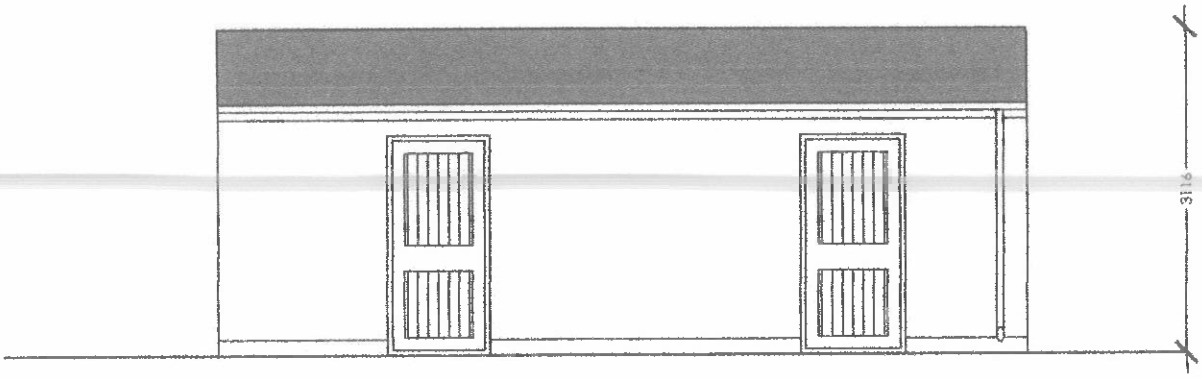
Date: 29th November 2021

EXD00924

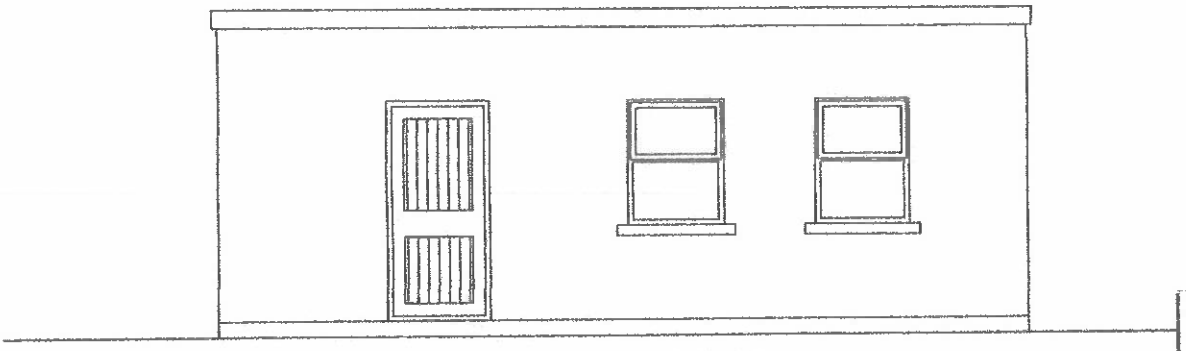




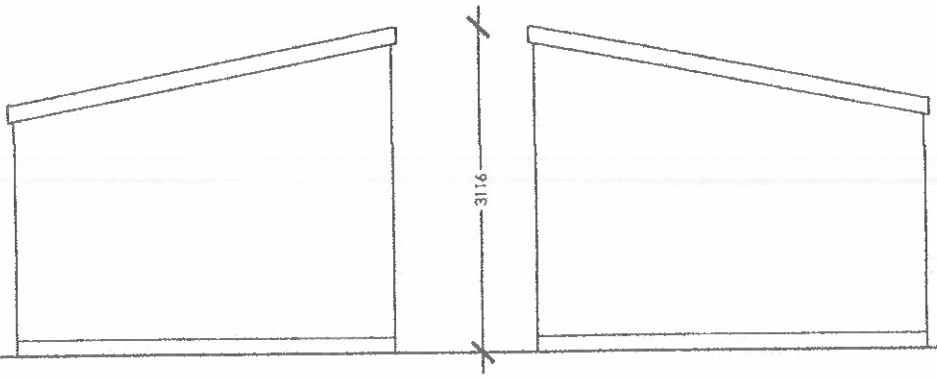
FLOOR LAYOUT



NORTH EAST ELEVATION



SOUTH WEST ELEVATION



NORTH WEST ELEVATION **SOUTH EAST ELEVATION**

FLOOR LAYOUT & ELEVATIONS

issue	date	description	by	chkd

client:
Andrew Jacob & Ethel Deacon.

project:
Ballypreacus,
Bunclody,
Co. Wexford.

scale:
1-100@ A3

drawn: JB
checked:
date: 8-11-2021

BURGESS
CONSTRUCTION SERVICES LTD.
DESIGN ◆ BUILD ◆ RENOVATE
Raheen, Kildavin, Bunclody, Co. Wexford.
Mob: +353-(0)87-2718855
E-mail: info@burgessc.ie

FLOOR LAYOUT & ELEVATIONS

drawing no: 221.15.02
issue: EX. APP.

REGISTER OF EXECUTIVE ORDERS

PLANNING AND DEVELOPMENT ACT 2000 (as amended)

PLANNING REGISTER NO: EXD00896 **ORDER NO:** P-1061/21

ORDER: In exercise of the powers, functions and duties vested in the Chief Executive of Wexford County Council by Section 149 of the Local Government Act 2001 (as amended), which were on the 13 May 2020, delegated to me by the Chief Executive of Wexford County Council pursuant to Section 154 of the Local Government Act 2001 (as amended), it is hereby ordered that the decision of the Wexford County Council on the application described in the Schedule to this Order is as shown therein, and that the appropriate notifications be issued pursuant to Section 5 of the Planning & Development Act 2000 (as amended).

Signed by me at the County Hall, Wexford, on **19 July 2021**

TONY LARKIN

DIRECTOR OF SERVICE

DECLARATION OF EXEMPTED DEVELOPMENT

SCHEDULE

REGISTER NUMBER:	EXD00896
DATE OF APPLICATION:	23 June 2021
APPLICANT:	Brendan Bowe & Gormla Breathnach
PROPOSED DEVELOPMENT:	The placing of an office pod/Sunroom to the east side gable of existing structure. Mostly glazed and/or painted to match existing structure.
LOCATION:	Radharc na Mara (Jeaview), Ballyconnigar, Lower Blackwater, Co. Wexford
DECISION:	Exempted Development
DATE OF DECISION:	19 July 2021

Planning and Development Act 2000 (as amended)

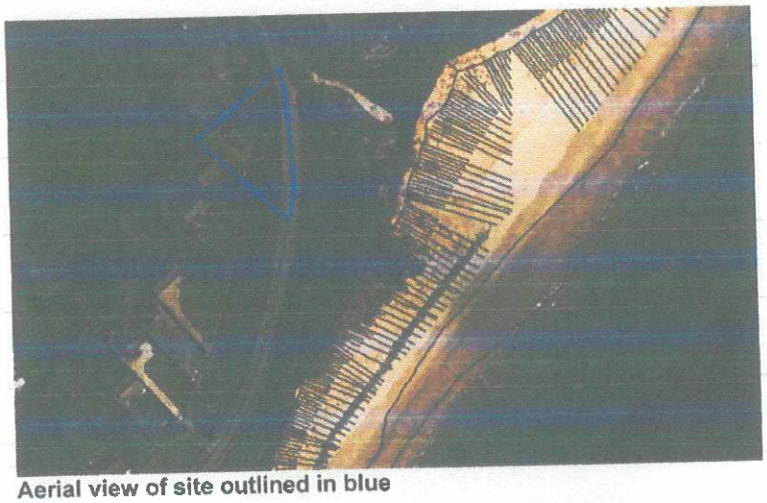
Application for Declaration of Exempted Development (Part 1, Section 5)

Register No.: EXD00896

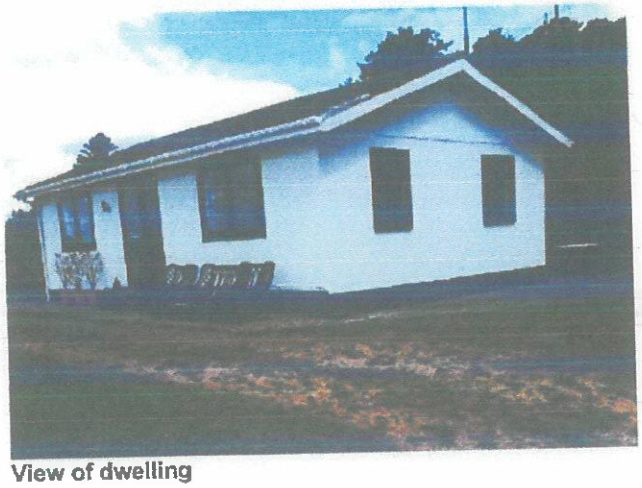
Proposal: Whether the placing of an office pod/sunroom to the east side gable of existing structure is development and is exempted development

Location: Radharc na Mara (Seaview), Ballyconnigar Lower, Blackwater, Co Wexford, Y21 AF58

Site Location and Description:
The site is located at the end of a private lane close to Blackwater Head. On site there is a small single storey dwelling. The site is flat in nature. The ground to the rear leading up to the public road to the east slopes steeply down to the site. There are a number of detached dwellings accessed off this lane.



Aerial view of site outlined in blue



View of dwelling

Aerial view of site outlined in blue

View of dwelling

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 placing of an office pod/sunroom to the east gable side of existing structure 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 relevant conditions and limitations attached to this exemption including:

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.*

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 placing of an office pod/shipping container to the east/side of a existing structure 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 in, on, 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 a structural nature, but excludes overhaul, decoration, alteration, repair or maintenance.

It is considered having regard to the above definitions that the proposed installation 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 a curtilage of a house, of a garage, store, shed or other similar structure."

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

1. No such structure shall be constructed, erected or placed forward of a wall of a house.
2. The total area of such structures constructed, erected or placed within the curtilage of a house, along with any other such structures previously constructed, erected or placed within the curtilage, shall not exceed 25 square metres.
3. The construction, erection or placing within the curtilage of a house of such structures shall not reduce the amount of private open space remaining exclusively for the use of the occupiers 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 flat or pitched roof, shall be consistent 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
The proposed development is considered "works' and therefore constitutes "development" as defined above.

The proposed office pod/sunroom would have a floor area of 14.86m^2. I am satisfied that the office pod/sunroom is consistent with the class 3 definition. The walls of the office pod/sunroom would not exceed 3 metres and is not higher than the existing roof level, the house would continue to have in excess of 25m^2 of private open space and the structure is to be mostly glazed and/or painted to match the existing dwelling.

Conclusion:
It is considered that the placing of an office pod/sunroom to the east gable side of existing structure is within the relevant limits to be considered exempt.

The proposed development considered meets the threshold for exempt development for a rear extension based on the drawings submitted and therefore, is within the definition of the exempted development regulations and meets the conditions of Class 3 of Part 1 of Schedule 2 and is therefore exempt.

Recommendation
Having regard to the foregoing, it is decided that the proposed extension to the rear of an existing dwelling house erection **is development and is exempted development**.

A draft order is set out below.

WHEREAS a question has arisen as to whether the placing of an office pod/sunroom to the east gable side of existing structure, as per the submitted plans, 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 placing of an office pod/sunroom to the east gable side of existing structure as per the submitted plans, is development and is 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 placing of an office pod/sunroom to the east gable side of existing structure; as per the submitted plans at Radharc na Mara (Seaview), Ballyconnigar Lower, Blackwater, Co. Wexford, Y21 AF58 **is development and is exempted development.**

David Wall

Date: 14 July 2021

David Wall
Assistant Planner

James Lavin

Date: 14 July 2021

James Lavin
Senior Executive Planner

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,

(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.

An Bord Pleanála

PLANNING AND DEVELOPMENT ACTS 2000 TO 2011

Cork City

Planning Authority Reference Number: R275/10

An Bord Pleanála Reference Number: 28.RL.2860

WHEREAS a question has arisen as to whether the erection of a shed to the rear of the existing dwellinghouse at number 33/33A Wilton Lawn, Cork is or is not development or is or is not exempted development:

AND WHEREAS Jim and Anne Cunneen and Sheila De Leeuw care of Cunnane Stratton Reynolds of Copley Hall, Cotters Street, Cork requested a declaration on the question from Cork City Council and no declaration issued by the planning authority:

AND WHEREAS the said Jim and Anne Cunneen and Sheila De Leeuw referred the question for decision to An Bord Pleanála on the 11th day of April, 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,

(b) Articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, and

(c) Class 3 of Part 1 of the Second Schedule to the said Regulations, and the conditions and limitations of this Class:

AND WHEREAS An Bord Pleanála has concluded that -

(a) the said works constitute development which comes within the scope of section 3 (1) of the Planning and Development Act, 2000,

(b) the total floor area of said works exceeds 25 square metres, and

(c) the said works do not come within the scope of the exemption provided at Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (b) of the 2000 Act, hereby decides that the said erection of a shed to the rear of the existing dwellinghouse at number 33/33A Wilton Lawn, Cork is development and is not 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.

EXTRACT ONLY:
PAGES 6-7

An Bord Pleanála

Inspector's Report

Ref.: 28. RL2860

Development: Whether the construction of a shed is development or is not development or is exempted development or is not exempted development.

Referred By: Mr. & Mrs. Jim and Anne Cunneen & Mrs. De Leeuw

Other Parties to the Reference: Mr. Denis O'Leary (Owner / Occupier)

Planning Authority: Cork City Council

Location: 33/33A Wilton Lawn, Cork.

INSPECTOR: Robert Speer

Date of Site Inspection: 24th August, 2011

An Bord Pleanála

Inspector's Report

Ref: PL 25. [illegible]

Development: Number [illegible] a dwelling and garage and associated site development in accordance with permission [illegible]

Referred by: [illegible]

Other Parties to the Reference: Mr. [illegible]

Planning Authority: [illegible]

Location: [illegible]

INSPECTOR: [illegible]

Date of Site Inspection: 21st August 2011

change in the use of any structures or other land and, in my opinion, the erection of the existing shed clearly involves an act of development having regard to Section 2 of the Act where "works" are defined as:

> *"works" includes 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 to exterior of a structure.*

7.2 Accordingly, having established that the existing shed constitutes development the question arises as to whether or not these works constitute exempted development.

7.3 Article 6(1) of the Planning and Development Regulations 2001, as amended, states that 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.

7.4 Column 1 of Class 3 of Part 1 of Schedule 2: *Exempted Development – General* of the Regulations refers to *'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'* and, therefore, it is necessary to determine whether or not the subject shed accords with the conditions and limitations set out in Column 2 of Class 3 as follows:

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

   The shed in question is located within the rear garden area of the existing dwelling house and has not been constructed, erected or placed forward of the front wall of same. Accordingly, I am satisfied that the existing shed accords with this requirement.

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.*

   In the first instance, it can be confirmed that there are no other sheds, stores, garages or other similar structures within the curtilage of the existing dwelling house and, therefore, the total area of the subject shed cannot exceed $25m^2$ in order to avail of this exemption.

   At this point I would advise the Board that the foregoing limitation refers to the total 'area' of the structure in question as opposed to its 'floor area'. This is unlike the conditions and limitations imposed in respect of Class 1 of Part 1 of Schedule 2 of the Regulations which instead of referring to the total 'area' of an extension to a dwelling house refers to its 'floor area'. Article 1(3) of the Regulations defines *'gross floor space'* as *'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' and, in my opinion, it would appear that the reference to 'floor area' in Column 2 of Part 1 of Schedule 2 is to be interpreted as referring to 'gross floor space' as defined by the Regulations. Accordingly, I would suggest that the case could be made that as the conditions and limitations imposed in respect of Class 3 refer to the total 'area' of such structures, this could be interpreted as requiring the area of the structure in question to be calculated from the measurement of its external dimensions. To my knowledge such a proposition has never been tested and, therefore, I propose to assume that the reference to the total 'area' of the structure in question in Column 2 of Class 3 of the Regulations simply refers to its gross internal floor space.

From a review of the submitted drawings and the dimensions provided thereon (i.e. 5.6m x 4.45m), the total floor area of the existing shed can be calculated as 24.92m^2, however, from measurement on site the dimensions of the subject shed would actually approximate to 5.42m x 4.73m which would equate to an internal floor area of c. 25.6m^2. Following further measurement on site it has been confirmed that the total floor area of the existing shed marginally exceeds the allowance of 25m^2 and thus it cannot avail of the exemption as set out in Class 3 of Part 1 of Schedule 2 of the Regulations.

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.*

   From a review of the submitted drawings, and following measurement on site, I can confirm that the construction of the shed in question has not reduced the area of private open space reserved exclusively for the use of the occupants of the dwelling house to the rear or to the side of the house to less than 25m^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 confirm with those of the house.*

   The existing shed has been constructed to the rear, as opposed to the side, of the dwelling house. In any event, its external finishes, including its roof covering, match those of the existing dwelling 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.*

   The existing shed has a slated pitched roof construction and following measurement on site I can confirm that its overall height does not exceed 4m. Accordingly, I am satisfied that the shed in question adheres to this requirement.