

Planning Appeal Form³ DEC 2021
Type: Cheque

By: Reg Port

Your details

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

(a) Name

Helen Meehan

(b) Address

Carraig Ard, Coolcotts Lane, Wexford, Y35 T2P2

Agent's details

2. Agent's details (if applicable)

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

(a) Agent's name

Leo Meehan

(b) Agent's address

Carraig Ard, Coolcotts Lane, Wexford, Y35 T2P2



Planning Appeal Form

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Agent's details

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Postal address for letters

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	You (the appellant) at the	1	The agent at the address in	
	address in Part 1		Part 2	
eta	ails about the prope	ose	d development	
4.			anning authority decision you wis	
	decision as the appeal details	S .		
a)	Planning authority			
	(for example: Ballytown City	Counc	cil)	
	Wexford County Council			
o)		refer	ence number	
b)	Planning authority register	refer	ence number	
b)		refer	ence number	
	Planning authority register (for example: 18/0123) EXD00927			
(b)	Planning authority register (for example: 18/0123)	opme	ent	

Postal address for letters

During the appeal we will post information and items to you or for year agent. For this applies, who should we write to? (Please that viune box only.)

You (the appellant) at the 🧪 The agent at the address in 🗇

address in Part 1 Part

Details about the proposed development

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(b) Planning sumorty register reference number

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UX000027

(a) Location of proposed development

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Appeal details

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

In summary, we are referring this Declaration of Wexford County Council to An Bord Pleanala for the following reasons:

- The Declaration goes against the provisions in the Regulations regarding areas of exempted developments
- The Declaration goes against government advice which is provided on Wexford County Council's website concerning the interpretation of the Regulations in this regard
- The Declaration goes against the definition of floor area provided by Article
 3 of the Planning and Development Regulations 2001 to 2011
- The Declaration goes against previous Declarations by Wexford County Council and An Bord Pleanala

Please see the attached documents for further information.

Appeal details

Please describe the grounds of your appeal (planting reasons arts arguments). You not 'you ear him in the appeal below of your ear collect them seems rest.

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Supporting material

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

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

Acknowledgement from planning authority (third party appeals)

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

Fee

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

Supporting material

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Acknowledgement from planning authority (third party appeals)

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Oral hearing request

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

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

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

Yes, I wish to request an oral hearing



No, I do not wish to request an oral hearing



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NALA has awarded this document its Plain English Mark Last updated: April 2019.



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Lest updated. App. 2019.



Date: 21-12-21

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902

Section 5(3)a)

Referral of a declaration by a planning authority in relation to a question as to what is or is not development or exempted development.

Planning Authority: Wexford County Council Wexford County Council Case Reference: EXD 00927 (Declaration under Section 5 of the Planning & Development Act 2000)

Dear Secretary,

We are writing to refer for appeal the Declaration under Section 5 of Wexford County Council referred to above.

The dwelling at this site was granted planning permission by An Bord Pleanala on July 21st 2020, (reference ABP-306854-20), Wexford County Council reference 20191681.

There were no conditions attached forbidding exempted developments at the site.

The Section 5 Declaration application (copy attached) refers to a shed of 19.9 square metres floor area built to the rear of the house for purposes incidental to the enjoyment of the house.

Background

On 15 July 2021 we received a Planning Enforcement warning letter (Ref PE 0208/2021) from Wexford County Council stating that there may be an unauthorised development at the site. We replied stating that we believed the shed was an exempt development, and inviting Wexford County Council to inspect the building at any time.

On 18 August 2021 a technician from Wexford County Council visited the site and measured the shed, finding the internal floor area to be 19.84 square metres, and measured the external area to be 28.08 square metres.

Over subsequent correspondence, we explained why we believed the shed was an exempt development, including drawings detailing the shed and its floor area, and the site layout (copies attached), and confirming the proposed use of the shed as being for purposes incidental to the enjoyment of the house, and not for human habitation.

So we were surprised to receive an Enforcement Notice on 08 November 2011, as we felt that we had answered all questions satisfactorily. (Ref 0208/2021 -copy attached)

Therefore we decided to submit a formal request for a Section 5 Declaration of Exemption, which is the subject of this Referral to the Board.

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Date: 21-12-21

The Secretary. An Bord Pleanala. 54 Maribarough Street. Dublin 1 2011/2012

Section 5(3)a)

Referral of a declaration by a planning authority in relation (c.a. question as to what is or is not development or exempted development.

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Grounds for Appeal

The shed was built at the same time as the house, and to the same standards, for the purpose of housing water pump, water softener, general storage, and possible use as a home office. We built the shed in good faith, in the reasonable belief that the building was in compliance with exempted development regulations.

This belief was based on several factors:

- A reading of the Regulations relating to exempted developments and their conditions and limitations.
- The advice given in the documents provided by Wexford County Council's website, which included "Planning Leaflet 8 A Guide to Doing Work Around The House", published by the Office of the Planning Regulator in January 2021. (copy attached)

This guidance leaflet advises on Page 5-6 that:

"You can build a garage, store, shed, greenhouse or similar structure as long as:.... the floor area of the structure, taken on its own or in conjunction with any similar structures does not exceed 25 square metres;"

This seemed to confirm what is stated in the regulations under Condition 2 of Class 3 and clarifies that floor area is to be measured, and the sum of floor areas are to be considered if there is a number of such buildings on the site.

While there are disclaimers that the guides are not a legal interpretation, we believe a reasonable person would not expect this interpretation to be contradicted by a planning authority.

- We understood "floor area" to be defined in Article 3 of Part 1 of the Planning & Development Regulations 2001as follows:
- ""gross floor space" means the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions), disregarding any floor space provided for the parking of vehicles by persons occupying or using the building or buildings where such floor space is incidental to the primary purpose of the building;"
- A search of previous decisions by Wexford County Council regarding Section 5 Declarations
 for exempt development showed that their criteria for determining the Condition 2 area limit for Class
 3 structures was consistent with the factors above in using internal floor area, and was consistent
 through time for all cases that we could find, some of which are listed below.
- A search of previous decisions from An Bord Pleanala showed the same interpretation and consistency in these respects.

For these reasons, we submit that the building complies with all six conditions for Class 3 exemption:

- 1. The structure is not placed forward of the front wall of the house.
- 2. The area of the structure is less than 25 square metres, the area is 19.9 square metres.
- 3. The area of private open space is not reduced to less than 25 square metres.
- 4. The structure is to the rear of the house, and the nature of the finishes conform to those of the house, i.e. lightweight horizontal cladding.
- 5. The height of the structure does not exceed 3 metres.
- 6. The structure is not 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."

In this case, Wexford County Council have made a Declaration under Section 5 of "Not Exempt" (Ref EXD00927, 10 December 2021 – copy attached).

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Graunds for Appeal

The shed was built of the some time as the house, and to the same standards for the purpose of his is no water punip, water softener, general storage, and possible use as a borne office. We built the shed in good 1341, to the reasonable belief that the building was in conquiance with executed development regulations.

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LEOMEEHAN architectural technologist carraig ard coolcotts lane wexford 0857175146 leomeehan@gmail.com

The Planner's Report for the Decision (copy attached) states that the reason for this decision is that the 25 sq metre limit has been breached, as follows:

"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 19.84 sqm. The external dimensions (i.e. 7.2m x 6.4m [sic]) is calculated as 28.08 sq. 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".

We find it hard to understand the reasoning here.

The decision seems to be using a different criteria for the area measurement for this case compared to previous cases.

All of the precedents we could find from Wexford County Council planning decisions show that the basis for deciding Condition 2 compliance in these types of cases by Wexford planners is internal floor area and not external area. This has included cases where external area exceeds 25 sq metres and internal floor area is less than 25 sq metres, as in the present case. Some of the precedent cases are listed below.

We believe that the same criteria should be used in all cases, i.e. internal floor area and not external area, as per previous decisions; and therefore we are referring this Section 5 Declaration by Wexford County Council to An Bord Pleanala.

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The Planner's Report for the Decision (nony attached) states that the reason for this decision is that the 25 squaetre limit has been breached, as follows:

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LEOMEEHAN architectural technologist carraig ard coolcotts lane wexford 0857175146 leomeehan@gmail.com

Precedent Cases: Wexford County Council

EXD00511: (extract attached)

This is a very similar case in Ardamine, Co Wexford.

In that case, a drawing is provided which shows both internal and external dimensions of the building.

The dimensions given show that the internal floor area is 24.94 square metres, and the external area is 31.67 square metres.

In their report, the planners base their decision on the internal dimensions amounting to 24.94 square metres.

Because the floor area is less than 25 square metres, the development was exempt according to the planning officials.

EXD00829: (extract attached)

This is again similar in featuring a shed which has an internal floor area of 25 square metres and an external area of 32.49 square metres.

In this case, the planners also decided that the building was exempt based on the internal floor area.

EXD00924: (extract attached)

In this case, the internal floor area was again used to determine the relevant area to be considered. This case also confirms that the proposed uses, including "utility use, drying room, toilet and bicycle store....[]... 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".

EXD00896: (extract attached)

In this case, floor area was also used to determine compliance, and the proposed use an office was considered acceptable.

There are many other examples of similar Wexford County Council exemption decisions, in which the internal floor area is accepted as the relevant area, including the following:

EXD00838

EXD00859

EXD00870

EXD00896

EXD00696

EXD00688

EXD00664

EXD00883

Precedent Cashs, Wexterd County Council

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Precedent Cases: An Bord Pleanala

09.RL.2885 (September 2011): (extract attached)

This case, in which the Inspector is of the opinion that it is the external "footprint" of the building which is to be considered for Condition 2, is also cited in the Planner's Report in the present case. But the Board here overrules the Inspector's Report and rules that it is, in fact, the internal floor area which is the relevant area to be considered.

The Board concluded that:

"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"

06S.RL.2484 (2008):

This case involves a number of Class 3 structures and is an example of "total area" being interpreted as "aggregate of areas":

"AND WHEREAS An Bord Pleanála has concluded that the garage, having been erected with the construction of the house, does not come within the scope of Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, and, therefore, the utility room/shed which comes within the scope of Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, by reason of the aggregate floor area of structures in the rear garden being less than 25 square metres."

28. RL2860 (2011): (extract attached)

In this case, the Inspector discusses the "total area" versus "floor area" question in relation to Condition 2, and remarks 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."

However he concludes that:

"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."

In the event, the internal floor area only is tested, and the Board appears to agree with the interpretation in their decision.

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Precedent Cases: An Bord Pleanala

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E architectural technologist

carraig ard coolcotts lane wexford 085 7175146 leomeehan@gmail.com

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- The Declaration goes against the provisions in the Regulations regarding areas of exempted developments
- The Declaration goes against government advice which is provided on Wexford County Council's website concerning the interpretation of the Regulations in this regard
- The Declaration goes against the definition of floor area provided by Article 3 of the Planning and Development Regulations 2001 to 2011
- The Declaration goes against previous Declarations by Wexford County Council and An Bord Pleanala

We hope we have provided sufficient information to enable a decision to be made, but please advise if further information is required.

Yours Sincerely,

Leo Meehan BSc Hons Sust Arch Tech

Helen Meeton

Please find attached:

Form: ABP Planning Appeal Form

Form: Application for Exempted Development (Section 5 - Planning & Development Act 2000) Application for Exempted Development - Cover Letter

C-115 Shed Drawings C-116 Site Layout w/shed Site Location Map

EXD00927 Chief Executive Order EXD00927 Notification of Decision Letter EXD00927 Planners Report

"Planning Leaflet 8 - A Guide to Doing Work Around The House",

WCC precedent case EXD00511: (extract attached) WCC precedent case EXD00829: (extract attached) WCC precedent case EXD00924: (extract attached) WCC precedent case EXD00896: (extract attached)

ABP precedent case 09.RL.2885 (September 2011): (extract attached)

ABP precedent case 28. RL2860 (2011): (extract attached)

€220: R1 fee cheque

n summary, we are retending this Declaration of Woxford County Council to An Bord Pleanata forms allowing reasons.

- The Declaration goes against the provisions in the Egulations (Egalding hiers of exempted decements)
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- The Declaration goes ngainst previous Declarations by Wexford County Council and An Sord

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Additional to be as as a

Form Application for Exampted Description (Section 5 - Fraging & Severcoment Act 2020) Application for Exampted Developing of - Cover Letter

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SCD00927 Chief Executive Order EXD00927 Notification of Decision Letter EXD00927 Planners Report

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Will precedent case EXU00611 (Frankd affauted) Will precedent case EXU00618 (extract affached) WCC precedences (EXU00624 (extract affached) will consider that case EXU00804 (extract affached)

APP premercant case 09 Rt. 2883 (September 2011), relies a starched. ARP procedural case 28, RL2860 (2014), (extract stracked).

COURSE WE have cheering

REGISTER OF EXECUTIVE ORDERS

PLANNING AND DEVELOPMENT ACT 2000 (as amended)

PLANNING REGISTER NO: EXD00927

ORDER NO: P-1829/21

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 10 December 2021

TONY LARKIN

DIRECTOR OF SERVICE

DECLARATION OF EXEMPTED DEVELOPMENT

SCHEDULE

REGISTER NUMBER:

EXD00927

DATE OF APPLICATION:

16 November 2021

APPLICANT:

Helen Meehan

PROPOSED DEVELOPMENT:

Shed of 19.9 sqm internal floor area to rear of house

LOCATION:

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

DECISION:

Not Exempt

DATE OF DECISION:

10 December 2021

END OF SCHEDULE

RECISTER OF EXECUTIVE ORDERS

PLANNING AND DEVELOPMENT ACT 2000 (as amounted)

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AND IN LOWERSHO

ORDER: In exercise of the powers, functions and cut as vested in the Chief Executive of Avesticity Council by Section 140 of the Local Government Act 2001 (as amended), which wells on any 10 May 2001 delegated to the by the Chief Executive of Wexford County Council pursuant to Section 154 of the Local Government Act 2001 (as amanded), it is hereby ordered that the decision of the visit of County Council on the September of the visit of County Council on the September as as shown that the appropriate notifications for detection to decide to the Planma Shown the cooleans of the Planma

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DIRECTOR OF SERVICE

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W HISTORY

WEXFORD COUNTY COUNCIL PLANNING AUTHORITY PLANNING AND DEVELOPMENT ACT 2000 (as amended)

NOTIFICATION OF DECISION ON PLANNING APPLICATION

The Decision of Wexford County Council on the application described in the Schedule to this Notice is as shown therein.

Signed on behalf of Wexford County Council ____ Reado_

Date 10 December 2021

DECLARATION OF EXEMPTED DEVELOPMENT

SCHEDULE

PLANNING REG. NO.:

EXD00927

DATE OF APPLICATION:

16 November 2021

APPLICANT:

Helen Meehan

Carraig Ard

Coolcotts Lane, Wexford

Y35T2P2

TYPE OF APPLICATION:

Exempted Development

PROPOSED DEVELOPMENT:

Shed of 19.9 sqm internal floor area to rear of house

LOCATION:

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

DECISION:

Not Exempt.

DATE OF DECISION:

10 December 2021

END OF SCHEDULE

WILLIAM COURT COUNCIL PLANWING A STREET OF RELAYING AND DEVELOPMENT ACT 2000 Instanced

MODIFICATION OF DECISION ON PLANNING APPLICATION

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8 DEC 2021

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

Planning and Development Act 2000 (ex amended)

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

Needstee No.

EXD00927

Record 7

Shed of 19.2 squ internal floor area to rear of house

Location

Googan's Warren, Rossian Strand, Co. Wextern, Yash'Y.W.

Site! occasion and Description:

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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.

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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.19.84m. 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 Board Pleanála website and

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It is also noted that the ness of this application is it at the applicant consider that the naise for the calculation of the shed having equal is the Calculation of the second of the Cagadations is the second management of the shed and the second of the shed and the second of the shed and the second of the second of the shed and the second of the sec

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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,

Development that is Not Exempted Development Recommendation: 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)

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ns Rt. 2885 (Seviember 2011)

The question here returned to wrigher a structure in the rear datuen area at the team Plant. Maynouth Co. Kittare is on a not exampled development. It is board described the cold attructure was exempted development. Element of note is industry prosection area interruptly of the said structure did not example. We square metres while did also based on external measurements, was stated to be 27 of square metres.

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Recommendation: Development that is Not Exampled Development Having regard to the Integuing I be discreted the culptocition of a slate of the larger enternal floor area to train of house awaiting is development and it not example of development.

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AND WHEREAS Westond County Council, at considering this feteral rise regard

- Sections 3 and 4 of the Planeting and Development Acquireums 1961 (as Amobin, bland 8 on the Planeting set Condignment Acquireums 1961 (as
- Signature 2: Part (1004se 3: eithra Parting aud Dévelopmer 15: de l'esterns (1004)
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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

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James Lavin

Days - Dr December 202

APPLICATION FOR DECLARATION OF EXEMPTED DEVELOPMENT SECTION 5 – PLANNING & DEVELOPMENT ACT 2000 (as amended)

Name and address of applicant(s)	Helen Meehan	
	Carraig Ard, Coolcotts Lane, Wexford	
Eirc	ode: Y35 T2P2	
If applicant is a company –		
Names of Company Directorsn/	a	
Registered address of company n	/a	
Companies office registration number	rn/a	
Name and address of person	eo Meehan	
acting on behalf of applicant	arraig Ard, Coolcotts Lane, Wexford	
Eircode:	Y35 T2P2	
Location townland and postal Doogan's Warren, Rosslare Strand, Co. Wexford, Y35 HY00		
address of land or structure concerned		
	(Please attach site location map)	
Nature and extent of development		
	o rear of house: Please see attached Drawings C-115; C-116;	
Site Location Map, and attached Cover Let	ter for details.	
(Please attach drav	wings in detail to support application)	
Regulations under which exemption	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.	
SIGNED	DATE	

Fee of €80.00 to accompany application

Version September 2017

Fee of £80,00 to accompany application

SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 (as amended) Additional personal information (not for public viewing): Telephone No. & E-Mail Address (if any) of Applicant: 086 8500884 helengmeehan@gmail.com Telephone No. & E-Mail Address of Applicant's Agent (if any): 085 7175146 leomeehan@gmail.com

SECTION S OF THE FLANNING & DEVELOPMENT ACT 2000 (as assended)

Additional personal information (not for public viewing).

Telephone No. 8 E-Mail Address of anyt of Applicant.

4-3000cc 380

naishd. reedu raightail cara

Telephone No. & E Mail Address of Applicant's Agent (if any):

the Park of the

mon kanna principalitical

L E O M E E H A N

architectural technologist carraig ard coolcotts lane wexford 085 7175146 leomeehan@gmail.com

Date: 15-11-21

Wexford County Council County Hall Carricklawn Wexford

Re: Application for Declaration of Exemption

The dwelling at this site was granted planning permission on July 21st 2020, reference 20191681.

There were no conditions attached forbidding exempted developments at the site.

The attached Application refers to a storage shed/office for purposes ancillary to the enjoyment of the house.

We believe that the building complies with all six conditions for Class 3 exemption:

- 1. The structure is not placed forward of the front wall of the house.
- 2. The area of the structure is less than 25 square metres, the area is 19.9 square metres.
- 3. The area of private open space is not reduced to less than 25 square metres.
- 4. The structure is to the rear of the house, and the nature of the finishes conform to those of the house, i.e. lightweight horizontal cladding.
- The height of the structure does not exceed 3 metres.
- 6. The structure is not 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."

In deciding this case, we would ask you to consider Planning Reference EXD00511, which is a very similar case in Ardamine,

In that case, a drawing is provided which also shows internal and external dimensions of the building.

The dimensions given show that the internal floor area is 24.94 square metres, and the external area is 31.67 square metres.

In their report, the planners base their decision on the internal dimensions amounting to 24.94 square metres.

Because the floor area is less than 25 square metres, the development was exempt according to the planning officials.

Planning Reference EXD00829 is again similar in featuring a shed which has an internal floor area of 25 square metres and an external area of 32.49 square metres.

In this case, the planners also decided that the building was exempt based on the internal floor area.

The Arman Ar

Date: 15-11-21

Westerd County Counsi County Hall Carrioldawn Westerd

Re. Application for Daularation of Examption

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There were no conditions abad set to bidding ever ipsed developments at the site.

The attaiched Application relats to a storage shedraffice for purposes intelluty to the enjoyal art of not brusse.

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- Fore area of the succelarate last than 25 server a matres, the green a 19 Bisquare mount
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in this case, the plannars also decided that the building was exempt based on the internal floor area.

LEOMEEHAN architectural technologist carraig ard coolcotts lane wexford 085 7175146 leomeehan@gmail.com

There are many other examples of Wexford County Council exemption decisions similar to this, in which the internal floor area is accepted as the relevant area, including the following;

EXD00838

EXD00859

EXD00870

EXD00896

EXD00696

EXD00688

EXD00664

EXD00511

EXD00883

These precedents would seem to confirm our understanding that the basis for exemption decisions by Wexford County Council is not external dimensions, but rather internal floor area.

We built this shed in good faith, believing that we were in compliance with exemption rules based on these precedents.

In the interests of consistency and fairness, we would ask you to consider our application under the same criteria.

Please find attached:

Form: Application for Exempted Development (Section 5 - Planning & Development Act 2000) C-115 Shed Drawings
C-116 Site Layout w/shed
Site Location Map
€80 fee cheque

Yours Sincerely,

Leo Meehan BSc Hons Sust Arch Tech Helen Meehan



There are many other examples of Wexturd County Council exemption decisions similar to this in which the internal floor area is accepted as the relevant area, including the following.

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Enese precedents would seem to confirm our understanding that the basis for exemption decisions by Weyford County Council is not external dimensions, but rather internal floor area.

We built this shed myour faith, believing that we were in numpliance with exemption rules have too bese precedents

in the interests of consistency and isimess, we would ask you to consider our application under line same criteria.

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Form: Application for Exempted Development (Section 5. - Planung & Development Pot 2000)

Cat S Shed Drawings

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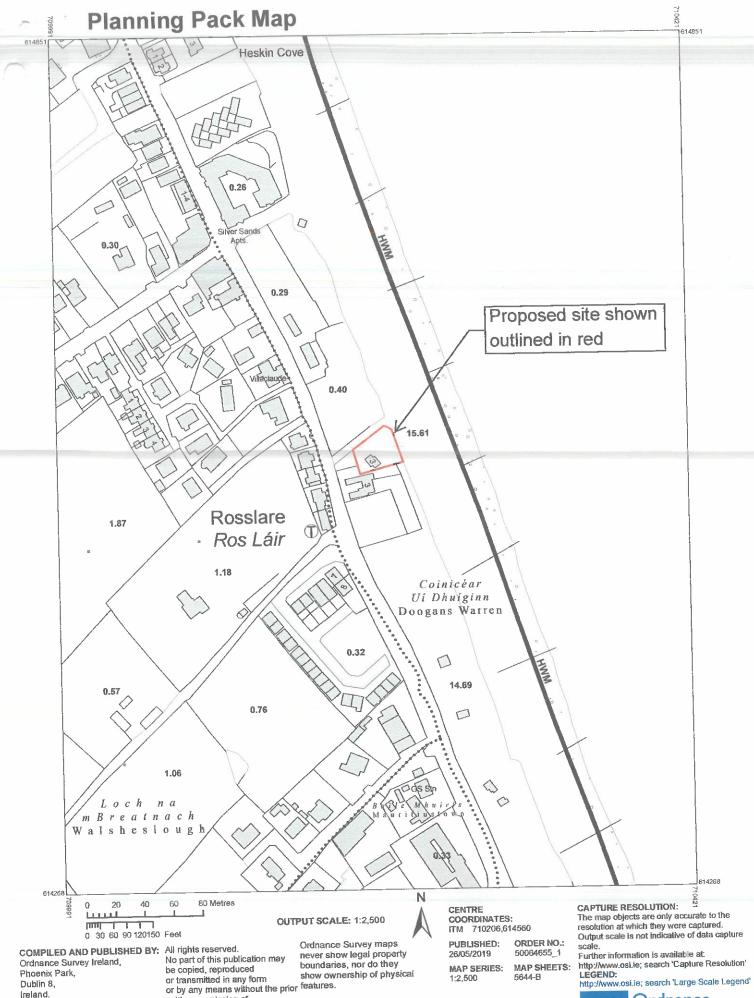
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Site Location Map Parchial Ho. Catholic Cb. School WIIITEMOU 33 36 Hotel & I' Proposed site Leipster min Lodge location marked X Rosslare Residere Strang Resslare Strand Station THI 0 25-5 28 174 8. oastrilard Station C E LE ${\it T}$ Villa Murio MADRITAUS TOWN W IR. 0 IR O SE ĥ nee Cottage Ordnance Survey Ireland 613329 613329 N 400 Metres CAPTURE RESOLUTION: CENTRE The map objects are only accurate to the resolution at which they were captured. OUTPUT SCALE: 1:10,560 COORDINATES: ITM 710206,614560 0 150 300 450 600 750 Feet Output scale is not indicative of data capture Ordnance Survey maps PUBLISHED: ORDER NO .: COMPILED AND PUBLISHED BY: All rights reserved. never show legal property 26/05/2019 50064655_1 No part of this publication may Further information is available at: Ordnance Survey Ireland, boundaries, nor do they http://www.osi.ie; search 'Capture Resolution' be copied, reproduced or transmitted in any form MAP SERIES: MAP SHEETS: Phoenix Park, show ownership of physical 6 Inch Raster 6 Inch Raster Dublin 8, 9900-11 http://www.osi.ie; search 'Large Scale Legend' or by any means without the prior features. Ireland. written permission of 6 Inch Raster WX048 Ordnance © Suirbhéireacht Ordanáis Éireann, the copyright owners. 2019

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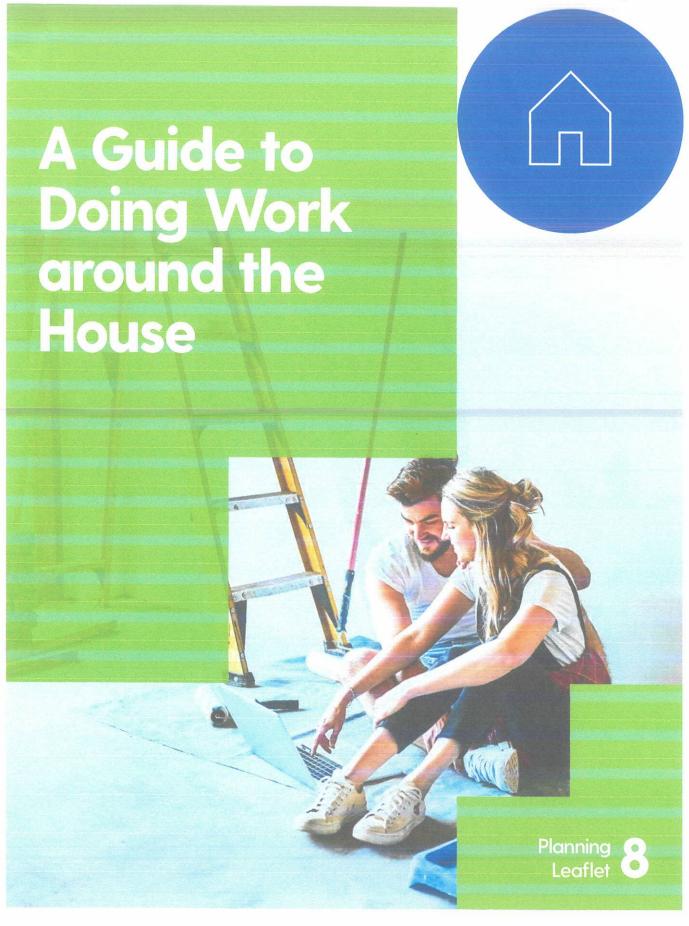
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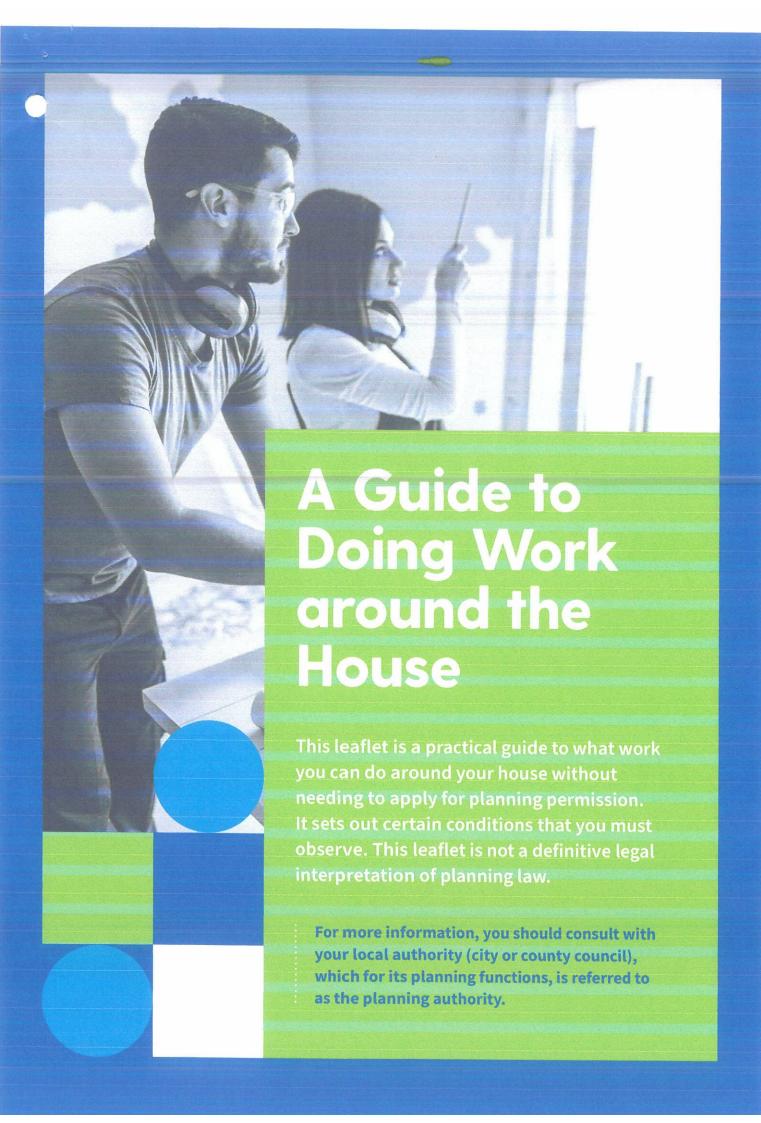














 where the house is detached and the floor area of the extension above ground floor level exceeds 12 square metres, any window proposed above ground level shall be at least 11 metres from the boundary it faces.

The roof of any such extension should not be used as a balcony or roof garden.

6. Can I convert my garage to domestic use?

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

Note: You should contact your planning authority if you are unsure of any of the conditions regarding a proposed extension.

7. Can I build a garage?

You can build a garage, store, shed, greenhouse or similar structure as long as:

- no part of the structure is constructed or placed forward of the front wall of the house;
- the height of the structure does not exceed four metres, (if it has a tiled or slated pitched roof), or three metres (if it has any other roof type);
- the external finishes of any garage, store, shed or other structure constructed to the side of a house must match the finish of the house, including the roof of the structure where that structure has a tiled or slated roof;



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- the area of private open space reserved exclusively for the use of the occupants of the house, at the side or rear of the house is not reduced below 25 square metres; and
- the structure is not used for human habitation, for keeping pigs, poultry, pigeons, ponies or horses, or any purpose other than for normal domestic purposes i.e. not for commercial businesses.

8. Can I build a front porch?

You can build a porch without planning permission, as long as it does not exceed two square metres in area and is more than two metres from any public road or footpath. Where the porch has a tiled or slated pitched roof, it must not exceed four metres in height, or three metres for any other roof type.

A front porch within these limits is the only type of development allowed to extend beyond the front wall of the house (the building line) and still remain exempted.

9. Can I erect walls, fences and gates?

Capped walls made of brick, stone or block with a decorative finish, railings and wooden fences, but not a metal palisade or security fence, can be erected as long as they do not exceed 1.2 metres in height in front of your house or two metres at the side or rear. If the

wall is made of plain blocks or mass concrete it must be rendered or plastered.

Gates and gateways may be built or replaced, providing they do not exceed two metres in height. Please note that in some situations conditions attached to an original grant of planning permission, for example for a rural house, may have prohibited the building of a wall. Alternative natural boundary treatments such as fences and hedgerow planting may have been required. It is important to check the planning history of a site as exemptions do not apply where there is a pre-existing condition requiring to the contrary. See also Question 19 below.

In all cases, you will need planning permission if you wish to make a new or wider access to the public road.

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

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

11. Can I erect a wind turbine within the curtilage of my house?

Installation of one wind turbine for domestic use is exempted development, provided that:

the floor area of the structure, taken on its case of inconjunction with any similar structures does not exceed its square mattres;

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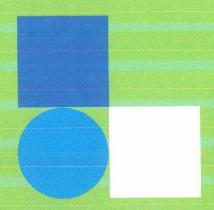
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