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BY POST

The Secretary,
An Coimisiún Pleanála,
64 Marlborough Street,
Dublin 1.

4 November 2025

Dear Sir/Madam,

AN COIMISIÚN PLEANÁLA
LDG- 083898-25
ACP- _____
06 NOV 2025
Fee: € 220 Type: LG
Time: 9:15 By: P27 (M)

Section 5 (3)(a) and section 127 (1)(b) of the Planning and Development Act 2000 (as amended) declaration referral to An Bord Pleanála. Referral pertains to a section 5 referral / exemption declaration application, Reg. Ref. EX110/2025 made to Wicklow County Council - for which a declaration has been issued - pertaining to a site at 15A St. Kevin's Square, Bray, Co. Wicklow, A98 T2K4. A question arises as to whether: (1) The change of use from a standalone property containing a commercial garage structure to a standalone property containing a residential studio apartment; and (2) The carrying out of works for the maintenance, improvement or other alteration of the structure, constitute development, and is or is not exempted development.

BPS Planning and Development Consultants LTD, a firm of Irish Planning Institute accredited town planning consultants, has been retained by Noel Sweeney of No. 15 St. Kevin's Square, Bray, County Wicklow, A98D6K5¹ [hereafter "client"] to prepare and to lodge a Section 5 (3)(a) and section 127 (1)(b) of the Planning and Development Act 2000 (as amended) declaration referral to An Coimisiún Pleanála [hereafter "ACP"], in respect of a site at 15A St. Kevin's Square, Bray, Co. Wicklow, A98 T2K4. The referral pertains to a section 5 application made to and a declaration issued by Wicklow County Council [hereafter "WCC"] under Application Number EX110/2025 (and Chief Executive Order No. CE/PERD/2025/1138) on 21 of October 2025.

Our client asked WCC to determine whether: "(1) The change of use from a standalone property containing a commercial garage structure to a standalone property containing a residential studio apartment; and (2) The carrying out of works for the maintenance, improvement or other alteration of the structure, constitute development, and is or is not exempted development."

For the attention of ACP, this letter addresses matters pertaining to the validation of the referral, notes relevant areas of background information, and then sets out a complete section 5 referral

Validation and background matters are addressed below and in the attached section 127 checklist form pertaining to section 5 referrals.

I Validation

The statutory basis for this referral is section 5 (3)(a) of the Planning and Development Act 2000 (as amended) ("the Act") which provides for referrals of section 5 declarations issued by local authorities to ACP. Section 5(3)(a) states:

(3) (a) Where a declaration is issued under this section, any person issued with a declaration under subsection (2)(a) may, on payment to the Board [Commission] of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

The decision of WCC was issued on 21 of October 2025. This section 5 referral is submitted to AP within 4 weeks of the date of the issuing of the declaration. This section 5 referral is accompanied by:

- A completed section 127 'Provisions as to making of appeals and referrals' of the Planning and Development Act 2000 (as amended) Referral to An Coimisiún Pleanála – CHECKLIST. This includes, inter alia, the name and address of our client and fully addresses all validation requirements arising.
- The prescribed statutory fee of €220.
- A copy of the section 5 declaration issued by WCC.
- This letter setting out our client's grounds for referring the WCC declaration to ABP.

¹ Mr Sweeney's address has previously been included in WCC correspondence, and this has referred to his job and the address of his employer which is: Engineering, Furniture and Jewellery Making Tutor, Bray Institute of Further Education, Kildare and Wicklow Education and Training Board, Novara Avenue, Bray, Co. Wicklow. A98 ND89

- A copy of section 5 details originally issued to WCC (including: WCC section 5 Form, OS Site Location Map, etc.).

This section 5 referral arises because our client, now the owner of this property, contacted the WCC Planning Department regarding this matter and was advised that this was the appropriate course of action in this instance.

The structure has been a standalone property for many years. It is not attached to any existing property in St. Kevin's Square. There is also no planning history pertaining to this structure. Section 1.1 of this letter sets out the limited information which our client has been able to obtain. It is possible that WCC may consider the structure to already be in residential use; if so, this section 5 referral asks only if section 4(1)(h) applies to refurbishing the structure. This section 5 referral takes the position that the building's most recent use appears to have been garage/office structure and, as such, a change of use would be required to residential.

II Grounds for referral regarding the WCC section 5 determination

In assessing and determining this section 5 referral, ACP is asked to have regard to the following concerns over the WCC assessment of this section 5.

(a) Concern over the WCC referral decision as regards assessment of the existing use

The WCC section 5 declaration states:

A question has arisen as to whether '(1) Change of use from commercial garage structure to residential dwelling and (2) The carrying out of works for the maintenance, improvement or other alterations of structure' at 15A St. Kevins Square, Bray, Co. Wicklow is or is not exempted development.

Having regard to:

The details received with this Section 5 application (EX110/2025) on the 25th September 2025 Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended).

Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, (as amended).

Part 4 Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

(a) Change of use from 'commercial garage' to residential dwelling is development having regard to Section 2 and 3 of the Planning and Development Act 2000 (as amended)

(b) The carrying out of works for the maintenance, improvement or other alterations of the structure is development having regard to Section 2 and 3 of the Planning and Development Act 2000 (as amended)

(a) The change of use from 'commercial garage' for a 'taxi business' to residential use falls outside the scope of Exempted Development with respect to Article 10 of the Planning and Development Regulations 2001 (as amended) as

The proposed change of use does not come within the scope of Article 10 (1) as it would not comprise a change of use within any one of the classes of use specified in Part 4 of Schedule 2 and

The proposed change of use does not come within the scope of Article 10 (6) a 'commercial garage' for a 'taxi business' does not constitute a class of use that falls within use Classes 1, 2, 3, 6 or 12, in accordance with the provisions of Article 10(2)(b).

(b) The carrying out of works for the maintenance, improvement or other alterations of the structure falls outside the scope of Section 4 (1)(h) of the Planning and Development Act 2000 (as amended) as such works are works related to the continuation of and completion of the works related to the conversion of this structure into a residential unit (which is not an exempted development) and are not for the maintenance and repair of a 'commercial garage' for 'taxi business'.

BPS submits that the WCC assessment's argument that a building, originally a garage, previously operated as a taxi business – where it was the public office for that business – does not come within any one of the classes of use specified in Part 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) is not justified.

WCC has interpreted our site description of the building originally being a garage and then an office for a taxi business to mean that the use of the site is as a garage. The site is clearly not in use as a garage. Its most recent and established use was as the HQ of a local taxi business. This business served local people who would present at the premises or would call for a taxi or to book a taxi.

BPS asked our client to provide additional evidence as to the established taxi business office use and so he asked the previous owner of the site for a letter. Please find this letter set out in Fig. 1 (this is addressed to WCC but is here being submitted in the first instance to ACP). It confirms the use and sets out a detailed history of the site. We note how the family support this section 5 to preserve the history of the structure.

Catherine Kerwin
40 Oldcourt Avenue
Bray
Co. Wicklow

Date: 29 October 2025

To:
The Planning Authority
Wicklow County Council
County Buildings
Wicklow Town
Co. Wicklow

**Re: Statement Regarding Historic Use of Garage Premises at 15A St. Kevin's Square,
Bray, Co. Wicklow, A98 T2K4**

Dear Sir / Madam,

I am writing in connection with the above property, which was previously owned by my late mother, Laticia Kerwin, to provide clarification regarding the historic use of the garage located on the premises.

During the period of my mother's ownership the garage was used as the base for what became Bray's first taxi business. The business, which she operated herself, was an important and well-known local service at the time.

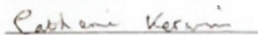
The garage was not simply a storage space for the vehicle, but the operational centre and office for the taxi business. My mother managed all customer bookings, dispatches, and business records directly from the garage, which she had set up with office equipment suitable for running her taxi service.

This historic commercial use of the garage, as both a business base and office, was well known within the local community and continued consistently throughout the years the taxi operated from the property.

I trust that this statement assists in clarifying the original and long-established use of the garage, and supports the application under Section 5 for exemption status in recognition of its historic and functional use.

Please do not hesitate to contact me if any further information or verification is required.

Yours faithfully,



Catherine Kerwin
Daughter of Laticia Kerwin, Former Owner of 15A St. Kevin's Square, Bray, Co. Wicklow,
A98 T2K4

Fig. 1: Letter from the daughter of the previous owner of the site

Below we set out Classes 2 and 3 and note how Part 4 of Schedule 2 does not provide a list of every use which is covered by a respective use class. WCC's position is that, unless specifically listed, the taxi business office is not an included use. This is not correct. Neither Class 2 or 3 (or the other use classes) are accompanied by a long list of uses included in each. WCC and now ACP is required to interpret which box a given use falls into.

Class 2

Class 2 provides for "Use for the provision of— (a) financial services, (b) professional services (other than health or medical services), (c) any other services (including use as a betting office), where the services are provided principally to visiting members of the public."

Compliance: The building was used as the public office of a taxi firm for a long period. The taxi business use is accepted by WCC. The use is either Class 2 (c) or Class 3 (see below).

Class 3

Class 3 provides for "Use as an office, other than a use to which class 2 of this Part of this Schedule applies."

Compliance: The building was used as the public office of a taxi firm for a long period. The taxi business use is accepted by WCC. The use is either Class 3 or Class 2 (c) (see above).

(b) Concern over the WCC referral decision as regards works

As noted elsewhere in this letter, WCC's Enforcement Section has determined that our client's works to date constitute exempted development. The current WCC section 5 determination argues that the works are not exempt as they are related to the continuation of and completion of the works related "to the conversion of this structure into a residential unit (which is not an exempted development) and are not for the maintenance and repair of a 'commercial garage' for 'taxi business'". We submit

that our client understood that, for the reasons set out in this referral letter, that a change of use from commercial to residential was exempted development. ACP is asked to confirm how this is the case. This will allow the existing commercial taxi business office unit to be brought into residential use including by way of section 4 (1)(h) of the Act.

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Attachments:

- Section 5 declaration issued by Wicklow County Council.
- Letter issued by the previous owner's daughter to Mr Sweeney.
- Letter from the WCC Planning Department Re. applying for exempted development.
- Correspondence from the WCC Enforcement Section.
- Electricity connection details at No. 15A.

1.0 Site location & description

This section 5 pertains to an existing garage/office structure at 15A St. Kevin's Square, Bray, Co. Wicklow, A98 T2K4 (see Figs. 1 to 4).

The existing single storey flat roofed structure adjoins St. Kevin's Square on three sides (the west, north, and south). The structure is accessed via the footpaths and public open spaces of St. Kevin's Square. Its full extent is the footprint of the building.

The structure is built up to the shared boundary wall with No. 7 St. Kevin's Terrace to the east. The structure is block built with a nap render finish and a flat roof finished in bitumen sheeting. Prior to recent maintenance the building was in a poor condition.

The existing structure has its own, separate, Eircode and electricity, water, and waste connections. The electricity connection details are provided in Appendix 3.

Google Maps shows out of date images for the structure from September 2014. At that time, the west elevation contained plywood opening doors (which blew down in a storm not long after our client purchased the building – there was no option but to replace them), while the north and south elevations each contained a single window also in poor condition with rotten timbers and held together with mesh wire – the windows have also been replaced (see Figs. 2 to 4). The garage/office has since had new windows and doors, etc. fitted so it no longer looks like it did in 2014 on Google Maps. Up-to-date images are shown in Figs. 5 to 7. WCC's Enforcement Section deemed these works to constitute works permitted under section 4(1)(h) of the Planning and Development Act 2000 (as amended) which provides that works for the maintenance, improvement or other alteration of a structure constitute exempted development.

The structure maintains a hybrid commercial garage/office and residential garage/office appearance. As noted in Section 1.1 of this letter, the recent WCC Enforcement Section's descriptions of the structure have left its planning status lacking clarity. This is one of the reasons for submitted this section 5.

ACP is asked to note how WCC was aware, arising from the inspection visit conducted by the WCC Enforcement Section, of how our client has completed works which were deemed to be exempted development under section 4(1)(h) of the Planning and Development Act 2000 (as amended). The photographs provided below including those of the inside of the structure are exactly as in place during that inspection visit. This section 5 is accompanied by a site layout plan which would slightly alter the interior of the structure to provide for a studio unit with a dining/living/kitchen/bedroom room (as required by the Apartment

Guideline 25). Those works would be carried out once ACP confirms how they constitute exempted development (see below).

The structure maintains all mains water, foul drainage, surface water drainage, and electrical services.

If further details are required, these can be provided on request.

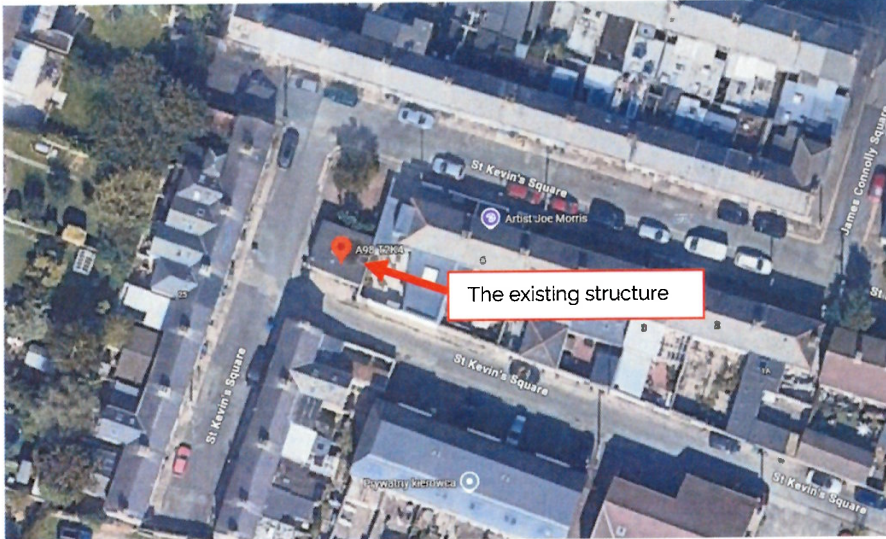


Fig. 2A: The location of the existing structure within St. Kevin's Square (1)



Fig. 3A: The location and appearance of the existing structure within St. Kevin's Square – Google Streetview 2014



Fig. 3B: The location and appearance of the existing structure within St. Kevin's Square – Google Streetview 2014



Fig. 4: The location and appearance of the existing structure within St. Kevin's Square – Google Streetview 2014



Fig. 5: The location and appearance of the existing structure within St. Kevin's Square – Client photo 2025



Fig. 6: The location and appearance of the existing structure within St. Kevin's Square – Client photo 2025



Fig. 7A: The interior of the structure (unchanged from the site visit conducted by the WCC Enforcement Officer)



Fig. 7B: The interior of the structure (unchanged from the site visit conducted by the WCC Enforcement Officer)



Fig. 7C: The interior of the structure (unchanged from the site visit conducted by the WCC Enforcement Officer)



Fig. 7D: The interior of the structure (unchanged from the site visit conducted by the WCC Enforcement Officer)



Fig. 7E: The interior of the structure (unchanged from the site visit conducted by the WCC Enforcement Officer)

1.1 History of the standalone structure, its use, and recent works

The structure has always been somewhat of an anachronism within St. Kevin's Square. In our client's memory and that of the person he purchased the structure from (the owner of No. 15 St. Kevin's Square, since deceased) and her daughter (please see the letter provided in Fig. 1), it was built to serve Bray's first taxi service as a garage for taxi cars. This original use can be confirmed by the children or grandchildren of the family from whom our client purchased the structure. The previous owner of the structure used it at times to park her car after the taxi business closed.

Over time the structure came to be used as the HQ of the taxi business. It became its office with a public waiting room and despatcher at a desk. BPS accepts that we did not explain this very well to WCC. We considered that it was obvious the structure had been used as a commercial office for the taxi business. We say obvious because the area around the building has become a de facto public open space and the structure has not maintained a garage appearance for many years. Taxis would park on the public road waiting call outs, etc.

No. 15A is a separate unit and was sold to our client as a separate property. It has an Eircode and is connected to all services. We note that paragraph 2 of the WCC Enforcement Section's letter to our client states that he "... was issued the letter as the registered owner of the property ..." This is because our client is the registered owner of the property and WCC has already confirmed this.

In 1989 (see Fig. 8), the movie 'My Left Foot' used the structure as a local newsagent temporarily removing all signage, etc. pertaining to the taxi business. It has not been used as a commercial garage/office for as long as the previous owner's family can remember. It was clearly built as a commercial building; however, that use has essentially been abandoned (having regard to the planning law tests of abandonment which provide that re-establishing an abandoned use requires planning permission²). Under Cork County Council vs Ardfert Quarry Products [December 1982 unreported High Court] a premises had lain vacant for a period of four years and thereafter was used for a succession of different uses. The High Court found that in view of the lapse of time and the absence of any satisfactory explanation, the original use had been abandoned.

It is the case, therefore, that it could be argued that the structure has no currently established use. However, regarding the current planning status of the structure, on the 9th of June 2025, our client received a letter from WCC Enforcement Section (see Appendix 2 of this letter) which noted how a neighbour had complained that our client had carried out unauthorised development. An Enforcement File, ref. UD5937, had been opened. A follow-up letter was issued by WCC on the 27th of June (see Appendix 2 of this letter) including "renovation works to some exterior structural parts of a **standalone residential out-building** and the potential material change of use of it, on the western side of dwelling house; No. 15 St. Kevin's Square" (emphasis added by BPS).

WCC visited the structure, and a subsequent response was received by our client in a letter dated 22 July 2025 (see Appendix 2 of this letter). This letter referred to the complaint in different terms stating: "Renovation works to and the potential material change of use of a flat roofed detached garage/office to a self-contained independent dwelling house, without authorisation by planning permission." The WCC letter then states:

It is the opinion of Wicklow County Council (the Planning Authority) arising from the conclusion of its investigations and assessment under this planning enforcement file, in accordance with the provisions of Sections 152 of PART VIII (Enforcement) of the Planning and Development Act 2000 (as amended); that this planning enforcement file is appropriate for closure for the reasons outlined hereunder:

Investigations by the Planning Authority, including an internal inspection of the subject out-building by one of its Planning Officers, have established that as matters currently prevail thereon that:

(a) This building remains in use for personal hobby type workshop uses and thus for purposes incidental to the enjoyment of the dwelling house on the same site (emphasis added by BPS).

(b) Recent works carried to this building are primarily of an internal nature for improvement-maintenance purposes and have not materially affected the external appearance of this structure so as to render its appearance inconsistent with its established character or that of neighbouring structures. The Planning Authority therefore considers that such structural improvement works are of a nature that comes within the scope of the exempted development provisions of Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

As a consequence of the preceding reasons, no further actions by the Planning Authority in the context of this file are considered warranted and therefore it has been closed

In the absence of any other planning history details of the structure, it appears WCC decided that the building was a "residential out-building" and that "This building remains in use for personal hobby type workshop uses and thus for purposes incidental to the enjoyment of the dwelling house on the same site". The works undertaken to maintain, improve, and alter the structure were, as noted above, deemed exempt under section 4 (1)(h).

While our client was pleased to have the enforcement case closed, the WCC Enforcement Section correspondence has left the planning status of the building requiring clarification. Critically:

² Tallaght County Council vs Tallaght Block Company Limited [1985] IRN 512 & Hartley vs Minister of Housing in Local Government [1970] IQB 413

- While our client owns No. 15 and this structure, the two properties are in no way physically related. No. 15 and No. 15A are divided by a road, footpaths, and public open space areas. The subject structure is a standalone one with its own address and Eircode at No. 15A. The structure is not within the curtilage of No. 15, etc.
- WCC accepted that the structure has not been converted into "a self-contained independent dwelling house, without authorisation by planning permission".
- While the use of the building is described as incidental to the "dwelling house on the same site", this is not currently the case and was clearly not always the case. The only link between our client's property at No. 15 and this structure is that he owns them both. He could have chosen only to purchase No. 15 and not also No. 15A. In this regard, we note how:
 1. The WCC Planner's Report issued under planning application reg. ref. 191229 does not refer to No. 15A as being in any way related to No. 15. It refers to No. 7, the applicant property, adjoining "a single storey storage structure" (see Figs. 9 & 10A/B).
 2. The owner of the adjoining property, No. 7, had hoped to make use of the public open space area to the west side of her house (see Figs. 9 and 10A/B). Under planning application, reg. ref. 191229, CathyAnne MacAllister, applied for permission for "demolition of rear extension, construction of single storey rear extension, two storey side extension, new window and canopy above existing front door, removal of cross over and reinstatement of pavement, creation of new vehicular access and crossover etc.". The decision was split with a proposal to build a parking space on the adjoining public open space refused by WCC as they were sited on publicly owned open space. WCC may wish to note how her extensions are now built. The as-built relationship to the new extensions and No. 15A could reasonably be viewed by WCC as part of assessing this section 5. BPS offers no opinion on this matter other than to note that, in 2019, Ms. MacAllister clearly viewed No. 15A as a standalone property and the adjoining public open space as available for her development. She has previously approached our client to purchase No 15A and, as such, he has confirmed and asserted his rights as owner of the property. Our client did not object to No. 7's planning application.
- The structure was once in commercial use. This commercial use has ceased, and it was used for some years as a de facto garage for No. 15; however, no planning permission was ever granted for this use. The most recent permitted use – the historic use – is as a commercial garage/office structure serving a taxi business. BPS can find no planning history pertaining to No. 15A (see Section 3.1 of this letter).

To conclude, the building is a standalone building which WCC has variously deemed to be in storage use, personal hobby type workshop uses, and not to be an authorised standalone residential unit. All WCC references to the building in recent enforcement correspondence and in a recent planning application do not rely on any new planning permission or acceptance that any new use has arisen (for example, under the 7-year statute of limitations).

The current section 5 asks ACP to take as its starting point for this section 5 that No. 15A is a standalone building/property whose most recent permitted use was as a commercial office for a taxi business – where visiting members of the public could walk to get a taxi or they could call, and a taxi would travel to their location.

If, however, ACP decides that the structure is already in residential use, we submit that, as No. 15A is a standalone property, it should be deemed to be and should not require planning permission for use as a residential unit.



Fig. 8A: The movie 'My Left Foot' used the structure as a local newsagent removing all signage, etc. pertaining to the taxi business



Fig. 8B: The movie 'My Left Foot' used the structure as a local newsagent removing all signage, etc. pertaining to the taxi business

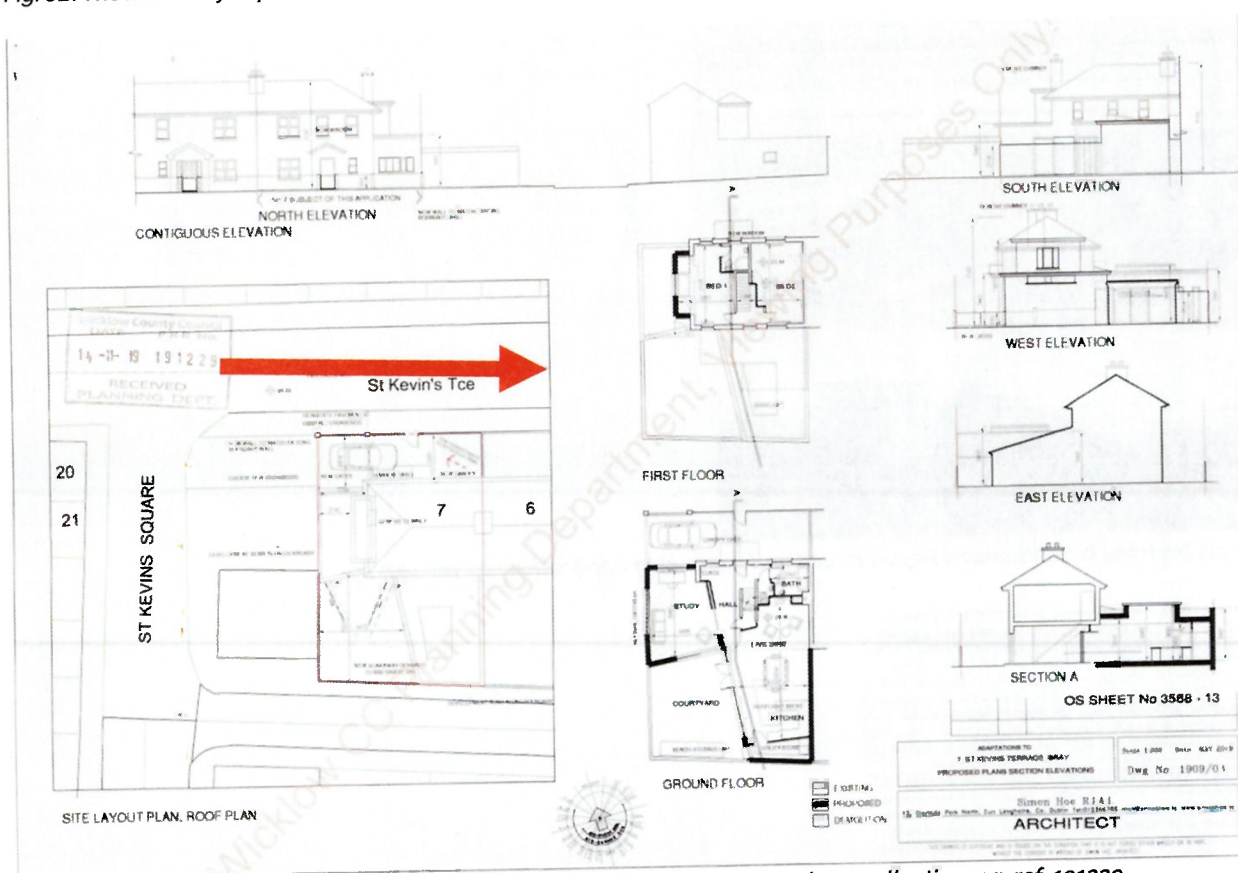


Fig. 9: Adjoining property's permitted planning drawings issued under planning application reg. ref. 191229

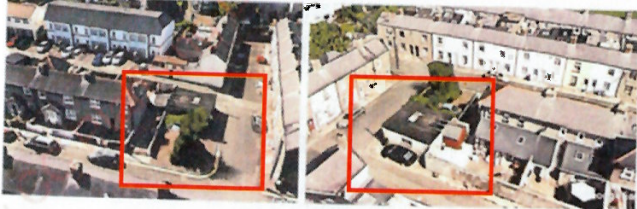
WICKLOW COUNTY COUNCIL
Planning Department

TO: Brege Kilkeny, Director Of Services
Edel Bermingham, SEP
From: Lucy Roche, Executive Planner
Ref.: 19/1229
Name: CathyAnne MacAllister
Proposal: Demolition of rear extension, construction of single storey rear extension, two storey side extension, new window and canopy above existing front door, removal of cross over and reinstatement of pavement, creation of new vehicular access and crossover, removal of chimney and associated works
Location: 7 St Kevins Terrace, Bray, Co. Wicklow
Date Due: 17/01/2020
Site Visit: 18/12/2019
Site Notice: Present and in Order

Site Details:

Site Area: 0.0178ha
Description: The subject site comprises an end of terrace two storey dwelling previously extended via the construction of a single storey addition to the rear. The site benefits from front and rear garden areas and on-site parking for one vehicle to the site. Lands to the west of the application site comprise an area of public open space and a single storey storage structure.

Google Earth Image:



Photographs:



Fig. 10A: Excerpts from the WCC Planner's Report issued under planning application reg. ref. 191229

Car Parking At present the application site is served by 1 no off street parking space located to the side of the existing dwelling. This space is accessed from the public road to the front of the site. The proposed extension is to be constructed over the existing parking area as a result the applicant is seeking permission to relocate this parking space to the front of the proposed extended dwelling with access being provided from the west, across an area of public open space. The applicant has however failed to demonstrate that she has sufficient interest over these lands to carry out such works. Notwithstanding, such works would not be considered acceptable as they would result in the loss of public open space. It is noted that the majority of existing dwellings within the immediate vicinity do not benefit from on-site parking. As detailed in the submitted drawings the proposed extended dwelling will comprise of a two bedroom unit which would generate a need for 1 parking space. It is considered that this space could be accommodated on the public road to the front of the site (which would accord with the parking arrangements for neighbouring residential units).

Refuse: creation of new vehicular access and crossover
1 The proposed development would be contrary to proper planning and development because:
(a) It would be reliant upon works outside of the redline site boundary on lands over which the applicant has no control
(b) It would result in the loss of public open space which would be contrary to the amenities of the area

Fig. 10B: Excerpts from the WCC Planner's Report issued under planning application reg. ref. 191229

2.0 Section 5 question arising

The question referred to the planning authority pursuant to section 5(1) of the Planning and Development Act, 2000, as amended ("the Act") for review is, as follows: (1) The change of use from a standalone property containing a commercial garage structure to a standalone property containing a residential dwelling; and (2) The carrying out of works for the maintenance, improvement or other alteration of the structure, constitute development, and is or is not exempted development.

3.0 Background to the referral

3.1 Planning History

BPS has carried out a planning history search at the WCC Planning Department website. We can find no planning history for the site. A Planning Register search of WCC's planning application archives has not been conducted.

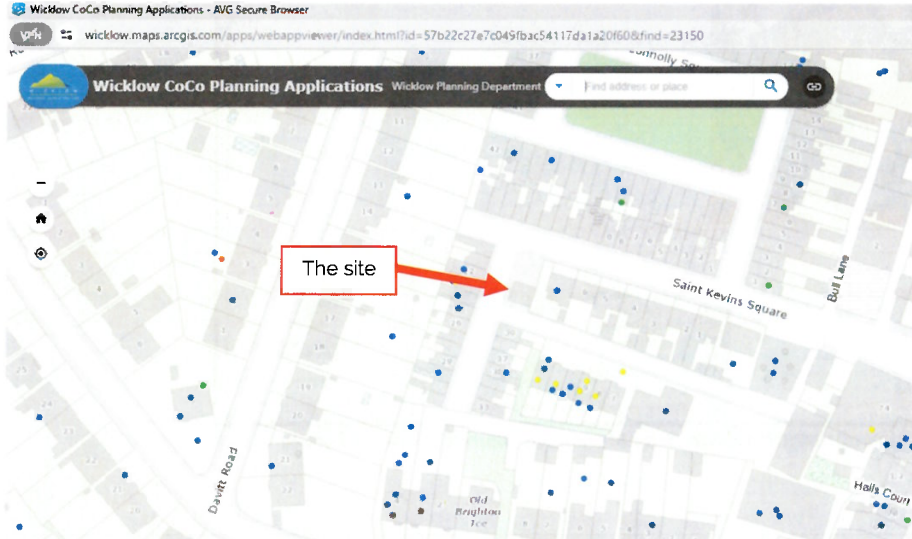


Fig. 11: Results of a search of the WCC Planning Applications Online Database

3.2 Enforcement History

An Enforcement File, ref. UD5937, was opened in June 2025 in regard to No. 15A. The following WCC Enforcement Section description of the concerns arising are included in the correspondence received by our client (see Appendix 2 of this letter): "renovation works to some exterior structural parts of a **standalone residential out-building** and the potential material change of use of it, on the western side of dwelling house; No. 15 St. Kevin's Square" and "Renovation works to and the potential material change of use of a flat roofed detached garage to a self-contained independent dwelling house, without authorisation by planning permission".

The enforcement case was closed on 22 July 2025. Please refer to Sections 1.1 and 3.2 and Appendix 2 of this letter for full details of the matter.

4.0 Policy Context

4.1 Land Use Plan

The Settlement: Bray - Level 1 Metropolitan

Land Use Plan: Bray - Level 1 Metropolitan Bray Municipal District Plan 2018.

Zoning: 'RE' - 'Existing Residential':

Zoning Objective: "To protect, provide and improve residential amenities of existing residential areas."

Zoning Description - "To provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development; however new housing or other non-community related uses will not normally be permitted."

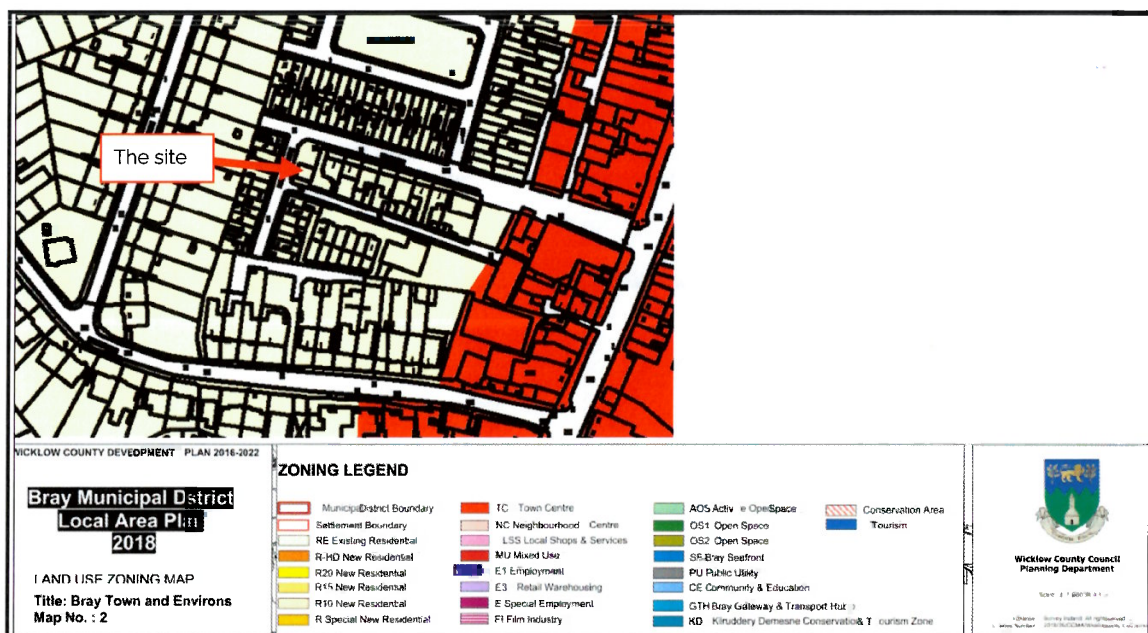


Fig.12: The zoning of the site under the Bray - Level 1 Metropolitan Bray Municipal District Plan 2018-2024

5.0 Statutory Provisions

5.1 PDA - Planning and Development Act 2000 (as amended)³

Section 2(1)

In this Act, except where the context otherwise requires—

"Structure" means:

any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

"house" means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building."

"habitable house" means a house which—

(a) is used as a dwelling,

(b) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or

(c) was provided for use as a dwelling but has not been occupied."

"use", in relation to land, does not include the use of the land by the carrying out of any works thereon;

"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 or exterior of a structure.

Section 3

3.—(1) In this Act:

"development" means, 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 structures or other land.

³ References refer to: <https://revisedacts.lawreform.ie/eli/2000/act/30/revised/en/html#SEC4>

"alteration" includes—

- (a) plastering or painting or the removal of plaster or stucco, or
- (b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.

Section 4

Section 4(1) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act, including:

- Section 4(1)(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.'
- Section 4(1)(j) 'development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such.'

5.2 PDR - Planning and Development Regulations, 2001 (as amended)

Article 5

"house" does not, as regards development of classes 1, 2, 3, 4, 6(b)(ii), 7 or 8 specified in column 1 of Part 1 of Schedule 2, or development to which articles 10(4) or 10(5) refer, include a building designed for use or used as 2 or more dwellings or a flat, an apartment or other dwelling within such a building.

Article 6(1)

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

Article 9(1)(a)

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,
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users ...
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
- (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan ...

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

Changes of use

Article 10 (1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out, would not—

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

Article 10(2)(a) states: "A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use."

Article (6)(a) In this sub-article— 'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres; 'relevant period' means the period from 8 February 2018 until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2 (c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d). (d)(i) The development is commenced and completed during the relevant period. (ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall –

(i) primarily affect the interior of the structure,

(ii) retain 50 per cent or more of the existing external fabric of the building, and

(iii) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8 of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

(e)(i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure.

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode for the relevant property, shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2026 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii).

Schedule 2

Part 1 'Exempted Development', 'General', of Schedule 2 sets out classes for exempted development general to which Art 6(1) refers.

Schedule 2 sets out a wide range of 'Development within the curtilage of a house' which can take place without requiring planning permission including extensions, sheds, etc.

6.0 Assessment

The purpose of this assessment is not to determine the acceptability or otherwise of the matters raised 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 within the meaning of the relevant legislation.

6.1 Assessment under the PDA

6.1.1 Is or is not development

Section 3.—(1) of the Act defines "development". It means: "the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land".

The existing building's original use was as a taxi business, and this is a commercial use. We consider that a change of use from a standalone property containing a commercial taxi business office structure to a standalone property containing a residential dwelling is development.

The existing building has had some recent works undertaken and further works are anticipated. We consider these previous and future necessary works to constitute development.

The existing building is a "structure" as it is a building, structure, made on, in or under any land, or any part of a structure defined. The structure includes the land on, in or under which the structure is situated, the interior of the structure, the land lying within the curtilage of the structure, and all fixtures and features which form part of the interior or exterior of the structure.

It is important that the structure be recognised as such as this is important when one considers section 4(1)(h) of the PDA.

6.1.2 Is or is not a "residential dwelling"?

Section 2(1) of the PDA states, inter alia, that a "house" means "a building or part of a building which is being or has been occupied as a dwelling ..." The existing structure is not currently occupied as a dwelling and as such it is not a house.

Section 2(1) defines a "habitable house" which means "a house which— (a) is used as a dwelling, (b) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or (c) was provided for use as a dwelling but has not been occupied." Our structure is not currently used as a dwelling, and its last use was not as a dwelling and as such it is not a house.

WCC Enforcement Section has stated – see Appendix 2 – that the structure is not a residential unit. The most recent use of the structure was as an office for a taxi business (see Fig. 1).

6.1.3 Conclusion re. 'development'

It is the professional opinion of BPS that, for the purposes of the Act, a change in use from commercial building to residential and the works necessary to achieve this (existing and anticipated) constitutes development

6.2 The question of "exempted development"

6.2.1 Change of use from Class 2 to residential

The existing standalone property's building's original and only permitted use was as a taxi business. This is a Class 2 commercial business under PART 4, Article 10, 'Exempted development – Classes of Use'. This is a: "Use for the provision of— (a) financial services, (b) professional services (other than health or medical services), (c) any other services (including use as a betting office), where the services are provided principally to visiting members of the public".

Article (6)(a) of the PDR sets out a 'relevant period' from 8 February 2018 until 31 December 2025 wherein a change of use to residential use from Class 1, 2, 3, 6 or 12.

A change of use from a standalone property containing a commercial garage/office structure to a standalone property containing a residential dwelling may constitute exempted development and the necessary works to achieve the development also deemed exempted development if the following conditions arise:

- Article (6)(a)(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018.

Compliance: The structure was built prior to 2018.

- Article (6)(a)(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and

Compliance: The structure was used as a taxi business for many years, and its original and authorised use is Class 2. This can be confirmed by affidavit from the family members of the previous owner (now deceased).

- Article (6)(a)(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act,

Compliance: The structure has been vacant for over 2 years. The structure has been described by the WCC Enforcement Section and Planning Department as being in use for storage, for some hobby use by our client, etc. The building has been vacant and our client has sought only to maintain it and ensure it does not become derelict.

- ... subject to the conditions and limitations set out in paragraph (d). (d)(i) The development is commenced and completed during the relevant period.

Compliance: The structure would be converted to residential use prior to the end of December 2025.

- (ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall:

(i) primarily affect the interior of the structure,

Compliance: The necessary works will primarily affect the interior of the structure.

(II) retain 50 per cent or more of the existing external fabric of the building.

Compliance: The necessary works will not permanently remove any of the existing fabric of the building. The roof may be replaced with a new flat roof and internal works undertaken, but these will restore and convert the structure only.

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

Compliance: The structure will look much the same after the project is completed. Necessary works will not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

Compliance: The structure has no existing shopfront. The original commercial garage doors have been removed and already replaced under section 4(1)(h) of the PDA.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

Compliance: The structure is not in retail use and its zoning is 'RE' – 'Existing Residential' which provides for and appropriate infill residential development.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

Compliance: The development would consist of one residential unit.

- (vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

Compliance: Floor area and minimum storage space requirements are met as follows. The development would consist of one studio residential unit of 32.28sq.m. This is the minimum size of a studio apartment under the guidelines. The main living/dining/kitchen/bedroom will be more than 4m wide (see the attached internal layout plan). The studio bedroom will meet the studio minimum floor area requirement as it will have a combined living/dining/bedspace. A storage area of 3sq.m is provided which is accessible internally and externally. Private and communal open spaces are not required by the PDR.

Appendix 1 - Minimum Floor Areas and Standards

Minimum overall apartment floor areas

Studio	32 sq.m	n/a*
One bedroom	43 sq.m	(38 sq.m)*
Two bedrooms (3 person)	63 sq.m	(55 sq.m)*
Two bedrooms (4 person)	73 sq.m	
Three bedroom (4 persons)	76 sq.m	(70 sq.m)*
Three bedrooms (5 persons)	90 sq.m	

* Figures in brackets refer to 1995 Guidelines

Fig. 13: Excerpt from Appendix 1 'Minimum Floor Areas and Standards' of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

Compliance: The development would be served by 5 no. windows (one on the front, one in the kitchen, one bathroom, and two serving the living/kitchen/dining/bedroom) and 2 no. doors (one lobby and one storage) – these were in place with WCC Enforcement Section inspected the site. The storage room would be internally and externally accessible.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

Compliance: The existing structure is not a protected structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

Compliance: The development would not contravene any planning condition.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

Compliance: The existing structure is not sited within an area controlled by a special amenity area order.

(II) an area of special planning control;

Compliance: The existing structure is not sited within an area of special planning control.

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8 of any type of establishment to which the Major Accident Regulations apply.

Compliance: The existing structure is not sited within the relevant perimeter distance area, as set out in Table 2 of Schedule 8 of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

Compliance: See the box below.

***Compliance with Sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a) and paragraph (c) or (d) of article (9)(1),**

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

Compliance: The existing structure's external wall positions are to remain unchanged.

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

Compliance: The existing structure is not sited in an area containing places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan.

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

Compliance: The development will not consist of the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994.

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

Compliance: The development does not require appropriate assessment.

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

Compliance: The development would not adversely impact any natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

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

Compliance: The structure is not unauthorised as WCC Enforcement Section has confirmed (see Appendix 2 of this letter). The original authorised use of the structure was as a taxi company's premises. WCC Enforcement Section has confirmed that the structure is not in residential dwelling use leaving only the original use as its actual standalone use.

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

Compliance: The development does not include the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.

(c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,

Compliance: The development is not development to which Part 10 applies

(d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.

Compliance: The development does not consist of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

Compliance: The existing structure would be served by mains foul water drainage. It has its own connection.

(e)(i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure,

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode for the relevant property, shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2026 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii).

Compliance: This requirement will be addressed in the event WCC confirms that this development is exempted development.

The above assessment confirms that the development is exempted development under the Article (6)(a) of the PDR.

While Article (6)(a) of the PDR provides that certain future and associated works constitute exempted development, we note how the works carried out to the structure to date have been, as WCC Enforcement Section has confirmed, exempt under Section 4(1) of the PDA. Section 4(1) sets out various forms and circumstances in which development is exempted development for the purposes of the Act, including section 4(1)(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.' Our client was entitled to carry out these exempted development works.

6.3 "Exempted Development" – conclusion

Arising from the above, we conclude that the change of use from a standalone property containing a commercial garage/office structure to a standalone property containing a residential studio unit constitutes exempted development under Article (6)(a) of the

PDR. This is subject to addressing the notification requirements set out therein (i.e. to notify WCC that these exempted development works are to proceed – see above).

The existing works completed on site were required for maintenance, improvement or other alterations to the existing "structure". They constitute, in the opinion of BPS, exempted development under Section 4(1)(h) of the PDA. This is also the opinion of WCC Enforcement Section (see details submitted to WCC).

7.0 Conclusion

In conclusion, it is our professional opinion that:

- The change of use from a standalone property containing a commercial garage/office structure to a standalone property containing a residential studio apartment; and
- The carrying out of works for the maintenance, improvement or other alteration of the structure, constitute development, and is or is not exempted development,

constitutes "exempted development", having regard to:

- Article (6)(a) of the PDR.
- Section 4(1)(h) of the PDA.

No requirement to obtain planning permission arises.

8.0 Recommendation

BPS recommends that An Coimisiún Pleanála should decide this section 5 referral in accordance with the following.

WHEREAS a question has arisen as to whether:

- The change of use from a standalone property containing a commercial garage/office structure to a standalone property containing a residential studio apartment; and
- The carrying out of works for the maintenance, improvement or other alteration of the structure, constitute development, and is or is not exempted development,

BPS, in considering this matter, has had regard particularly to –

- (a) Sections 2(1), 3(1) and 4(1) of the Planning and Development Act, 2000, as amended,
- (b) Articles 5, 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (c) The nature of the permitted development previously and currently on site and the pattern of development in the area.

AND WHEREAS BPS has concluded that both questions pertain to existing and proposed "development" within the meaning of Section 3(1) of the Planning and Development Act, 2000. The development is exempted development having regard to:

- Article (6)(a) of the PDR.
- Section 4(1)(h) of the PDA.

NOW THEREFORE BPS submits that the questions pertain to development which is exempted development. A planning permission requirement does not arise.

9.0 Finally

We trust that sufficient information has been provided to allow this section 5 to be fully assessed.

Please direct all correspondence to this office. If you have any questions, please call BPS on 01-5394960 or 087-2615871.

Best wishes,

Brendan Buck

Brendan Buck MIP
Managing Director
BPS Planning & Development Consultants LTD
Corporate Member of the Irish Planning Institut

Attachments

- Section 5 declaration issued by Wicklow County Council.
- Letter issued by the previous owner's daughter to Mr Sweeney.
- Letter from the WCC Planning Department Re. applying for exempted development.
- Correspondence from the WCC Enforcement Section.
- Electricity connection details at No. 15A.



COMHAIRLE CONTAIE CHILL MHCANTÁIN Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development

Áras An Chontae / County Buildings
CR Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Facs / Fax: (0404) 69462
Aphost / Email: plandev@wiclcoo.ie
Seíomh / Website: www.wicklow.ie

DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT ACT 2000 AS AMENDED

Applicant: Noel Sweeney

Location: 15A St. Kevins Square, Bray, Co. Wicklow

Reference Number: EX 110/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/1138

A question has arisen as to whether "(1) Change of use from commercial garage structure to residential dwelling and (2) The carrying out of works for the maintenance, improvement or other alterations of structure" at 15A St. Kevins Square, Bray, Co. Wicklow is or is not exempted development.

Having regard to:

- a) The details received with this Section 5 application (EX110/2025) on the 25th September 2025
- b) Sections 2, 3, and 4 of the Planning and Development Act 2000(as amended).
- c) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, (as amended).
- d) Part 4 Schedule 2 of the Planning and Development Regulations, 2001(as amended).

Main Reasons with respect to Section 5 Declaration:

- 1) (a) Change of use from 'commercial garage' to residential dwelling is development having regard to Section 2 and 3 of the Planning and Development Act 2000 (as amended)
- (b) The carrying out of works for the maintenance, improvement or other alterations of the structure is development having regard to Section 2 and 3 of the Planning and Development Act 2000 (as amended)
- 2) (a) The change of use from 'commercial garage' for a 'taxi business' to residential use falls outside the scope of Exempted Development with respect to Article 10 of the Planning and Development Regulations 2001 (as amended) as
 - The proposed change of use does not come within the scope of Article 10 (1) as it would not comprise a change of use within any one of the classes of use specified in Part 4 of Schedule 2 and
 - The proposed change of use does not come within the scope of Article 10 (6) a 'commercial garage' for a 'taxi business' does not constitute a class of use that falls within use Classes 1, 2, 3, 6 or 12, in accordance with the provisions of Article 10(2)(b).
- (b) The carrying out of works for the maintenance, improvement or other alterations of the structure falls outside the scope of Section 4 (1)(h) of the Planning and Development Act 2000 (as amended) as such works are works related to the continuation of and completion of the works related to the conversion of this structure into a residential unit (which is not an exempted development) and are not for the maintenance and repair of a 'commercial garage' for 'taxi business'.

The Planning Authority considers that "(1) Change of use from commercial garage structure to residential dwelling and (2) The carrying out of works for the maintenance, improvement or other alterations of structure" at 15A St. Kevins Square, Bray, Co. Wicklow is development and is NOT exempted development

Signed:

ADMINISTRATIVE OFFICER
PLANNING, ECONOMIC & RURAL DEVELOPMENT

Dated 21st October 2025



Buairtín gach comhairle agus a thagairt chuig an tAire Seirbhíse, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development.

Letter from the daughter of the previous owner of the site

Catherine Kerwin
40 Oldcourt Avenue
Bray
Co. Wicklow

Date: 29 October 2025

To:
The Planning Authority
Wicklow County Council
County Buildings
Wicklow Town
Co. Wicklow

**Re: Statement Regarding Historic Use of Garage Premises at 15A St. Kevin's Square,
Bray, Co. Wicklow, A98 T2K4**

Dear Sir / Madam,

I am writing in connection with the above property, which was previously owned by my late mother, Laticia Kerwin, to provide clarification regarding the historic use of the garage located on the premises.

During the period of my mother's ownership the garage was used as the base for what became Bray's first taxi business. The business, which she operated herself, was an important and well-known local service at the time.

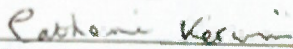
The garage was not simply a storage space for the vehicle, but the operational centre and office for the taxi business. My mother managed all customer bookings, dispatches and business records directly from the garage, which she had set up with office equipment suitable for running her taxi service.

This historic commercial use of the garage, as both a business base and office, was well known within the local community and continued consistently throughout the years the taxi operated from the property.

I trust that this statement assists in clarifying the original and long-established use of the garage, and supports the application under Section 5 for exemption status in recognition of its historic and functional use.

Please do not hesitate to contact me if any further information or verification is required.

Yours faithfully,



Catherine Kerwin

Daughter of Laticia Kerwin, Former Owner of 15A St. Kevin's Square, Bray, Co. Wicklow,
A98 T2K4

Letter from the WCC Planning Department Re. applying for exempted development



COMHAIRLE CONTAE CHILL MHANTÁIN
Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development

Áras An Chontae / County Buildings
Oif Mhantáin / Wicklow
Guthán / Tel. (0404) 20148
Faisc / Fax: (0404) 69462
Ríphost / Email: plandev@wicklowcoco.ie
Sulomh / Website: www.wicklow.ie

1st September 2025

Noel Sweeney,
Engineering, Furniture & Jewellery Making Tutor,
Bray Institute of Further Education,
Kildare and Wicklow Education and Training Board,
Novara Avenue,
Bray,
Co. Wicklow A98ND89.

Re: **Planning and Development Act (Exempted Development) Regulations 2022**
(S.I. 75 of 2022)
Change of use of certain vacant commercial premises to residential without the need to
obtain planning permission.

Applicant: Noel Sweeney, Change of use of premises at 15A St Kevin's Square, Bray, Co. Wicklow

NOTIFICATION NO 47

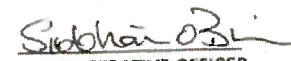
A Chara,

I wish to acknowledge receipt of your notification received on 28th July 2025 with regard to the change of use of the above premises to residential use. Please find attached copy of the Planning & Development (Amendment) (No 2) Regulations 2018 and Planning & Development (Exempted Development) Regulations 2022. It is noted that you are declaring that you are fully compliant with these Regulations which are subject to numerous conditions and caveats. Please be aware that the Planning Authority has not carried out an examination for compliance of the proposed change of use with these Regulations.

If you wish the Planning Authority to examine whether or not you meet the exemptions set out under the Regulations, you must make a Section 5 Referral to the Planning Authority, further details which are available on the Council's website at [https://www.wicklow.ie/Living/Services/Planning/Planning-applications/Exempted development](https://www.wicklow.ie/Living/Services/Planning/Planning-applications/Exempted%20development). The Section 5 referral should include sufficient details in order to assess the proposal. Alternatively you may wish to seek your own independent planning advice in relation to this exemption.

The Planning Authority will enter on record this notification which shall be available for inspection at the office of the Planning Authority during its office hours and on the Planning Authority's website.

Mise le meas


ADMINISTRATIVE OFFICER

PLANNING


Encl.



To an dúineáil seo ar fíil / bhíonáil eile ar líonraí
This document is available in alternative formats on request
Bá léire gach comhfhreagras a shreabhadh chuig an Seirbhís Seirbhíú, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe.
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development.



Correspondence from the WCC Enforcement Section



COMHAIRLE CONTAE CHILL MHADEÁIN
Wicklow County Council
Pleanáil, Forbairt Eacnamaíochta agus Tuisithe
Planning, Economic and Rural Development

Áras An Chontae / County Buildings
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Guthán / Tel: (0404) 20148
Fáil / Fax: (0404) 49462
Póist / Email: plandev@wicklowcoco.ie
Suíomh / Website: www.wicklow.ie

LJ/SC

Noel Sweeney
15 Kevins Square
Bray
Co. Wicklow
A98 D6K5

9th June, 2024

UD 5937: Alleged Unauthorised Development consisting of change of use of garage to residential rental on lands at 15A St. Kevin's Square, Bray, Co. Wicklow without the authorisation of Planning Permission

A Chara,

I wish on behalf of Wicklow County Council [the Planning Authority] to advise that it has received written complaint(s) under Section 152(1) of the Planning and Development Act 2000. (as amended), concerning the carrying out of the developments referenced in the above heading.


This correspondence has been issued to you/other listed parties hereunder in your capacity as the registered owner(s) of the lands referenced in the above heading with the Land Registry as provided in the associated Folio on the Property Registration Authority of Ireland's website: www.landdirect.ie.


In accordance with the provisions of Section 253 of the said Act it is proposed that an authorised planning officer of the Planning Authority will carry out an inspection of the subject site of this file, during the week of 16th June, 2025.

In the meantime, it is open to you to contact this office by phone on 0404-20100 or letter or by email enforcements@wicklowcoco.ie to make arrangements for the facilitation of the said pending inspection of the subject site by a Planning Officer.


You are advised that in accordance with the provisions of Section 253 of the said Planning Act, an authorised Planning Official may at all reasonable times or at any time, enter onto lands for planning enforcement inspection purposes.

Mise le meas,


ADMINISTRATIVE OFFICER
PLANNING ENFORCEMENT



To an deimníodh seo ar fáil ar shuíomh seo ar líne.
This document is available in alternative formats on request.
Is chár gach comheagraí a shealladh thug an tArdhúdaire Pleanála, Forbairt Eacnamaíochta agus Tuisithe.
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development.





COMHAIRLE CONTAE CHILL MHADEAÍN
Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Facs / Fax: (0404) 29462
Rípost / Email: grainne@wicklow.ie
Láimh / Website: www.wicklow.ie

LJ/ROC

Noel Sweeney
15 St. Kevin's Square
Bray
Co. Wicklow
A98 D6K5

23 June 2025

UD5937: Alleged unauthorised development consisting of the carrying out without authorisation by planning permission of; renovation works to some exterior structural parts of a stand-alone residential out-building and the potential material change of use of it, on the western side of dwelling house; No. 15 Saint Kevin's Square Bray Co. Wicklow, A98D6K5.

A Chara,

I wish on behalf of Wicklow County Council [the Planning Authority] to advise that it has received written complain(s) under Section 152(1) of the Planning and Development Act 2000 (as amended), concerning the carrying out of the developments referenced in the above heading.

Within the context of this planning enforcement file, I wish on behalf of Wicklow County Council (the Planning Authority) to advise you of the following update:

1. The contents of email submission received from you on the 9th of June 2024, in response to the pre-inspection advisory letter issued hereunder on that same date, has been considered by the Planning Authority.
2. The findings of a Planning Officer inspection of the subject out-building structure, from the adjoining public road, during mid-June.
3. In accordance with the provisions of Section 152 of the Planning and Development Act 2000 (as amended), the Planning Authority is statutorily required to establish:
 - (a) if there is substance and foundation to the reported cases of alleged unauthorised development.
 - (b) Where such developments are occurring, are they of a material significance from a proper planning and sustainable development perspective to warrant the undertaking of enforcement action.
4. In order to adequately inform its pending decision whether or not there is sufficient proper planning and sustainable development grounds for the Planning Authority to issue a Warning Letter under this file, it is deemed that an internal inspection of the



To an áireamh nó ar gáil - information also in gaeilge.
This document is available in alternative formats on request.
Bíodh gach comhthreagras a shealladh chug an tAireoir Seirbhíse, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe.
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development.



subject out-building by one of its Planning Officers, in the short term, is deemed warranted.

You are therefore invited to contact this office by phone at 0404/20148, by letter or e-mail at enforcements@wicklowcoco.ie to make arrangements for the facilitation of the said pending inspection of the subject site by a Planning Officer within two weeks of the date of this letter.

It is also open to you/your agents to make a written submission to this file that may include reports, plans, photographs, etc. deemed relevant to the investigativework of the Planning Authority hereunder.

You are advised that in accordance with the provisions of Section 253 of the said Planning Act, an authorised Planning Official may at all reasonable times or at any time; enter onto lands for planning enforcement inspection purposes.

Misele meas,

Rubod
ADMINISTRATIVE OFFICER
PLANNING ENFORCEMENT

Summary definition of 'unauthorised development' in Section 2(1) of the Planning and Development Act 2000 (as amended).

- The carrying out of any works to and/or the material change of use of any structure/land, (including the construction, erection or making of any structure) respectively, without the benefit of a grant of planning permission(s) under PART 3 of the Planning and Development Act 2000 (as amended) or under preceding planning legislative provisions; where such developments are considered **not to be exempt** from the requirement to obtain a grant of planning permission(s).
- The carrying of works to and/or a material change of use of any structure/land respectively, which are deemed to be **not in compliance** with a relevant grant of planning permission(s) or any condition(s) attached thereto.

Summary definition of 'unauthorised development' in Section 2(1) of the Planning and Development Act 2000 (as amended).

- The carrying out of any works to and/or the material change of use of any structure/land, (including the construction, erection or making of any structure) respectively, without the benefit of a grant of planning permission(s) under PART 3 of the Planning and Development Act 2000 (as amended) or under preceding planning legislative provisions; where such developments are considered **not to be exempt** from the requirement to obtain a grant of planning permission(s).
- The carrying of works to and/or a material change of use of any structure/land respectively, which are deemed to be **not in compliance** with a relevant grant of planning permission(s) or any condition(s) attached thereto.



Comhairle Contae Chill Mhantáin
Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development

Árasán n-Contae / County Buildings -
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Facs / Fax: (0404) 94652
Ripost / Email: plandev@wicklowcoco.ie
Tulaith / Website: www.wicklow.ie

LJ/ROC

Noel Sweeney
15 St. Kevin's Square
Bray
Co. Wicklow
A98D6K5

22 July 2025

Re: UD5937: Alleged Unauthorised Development on the part of the residential site of 15 St. Kevin's Square, Bray, Co. Wicklow, A98 D6K5, consisting of;

- Renovation works to and the potential material change of use of a flat roofed detached garage to a self-contained/independent dwelling house, without authorisation by planning permission.

A Chara,

It is the opinion of Wicklow County Council (the Planning Authority) arising from the conclusion of its investigations and assessment under this planning enforcement file, in accordance with the provisions of Sections 152 of PART VIII (Enforcement) of the Planning and Development Act 2000 (as amended); that this planning enforcement file is appropriate for closure for the reasons outlined hereunder:

1. Investigations by the Planning Authority, including an internal inspection of the subject out-building by one of its Planning Officers, has established that as matters currently prevail thereon that:
 - (a) This building remains in use for personal hobby type workshop uses and thus for purposes incidental to the enjoyment of the dwelling house on the same site.
 - (b) Recent works carried to this building are primarily of an internal nature for improvement-maintenance purposes and have not materially affected the external appearance of this structure so as to render its appearance inconsistent with its established character or that of neighbouring structures. The Planning Authority therefore considers that such structural improvement works are of a nature that comes within the scope of the exempted development provisions of Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

As a consequence of the preceding reasons, no further actions by the Planning Authority in the context of this file are considered warranted and therefore it has been closed.

Mise le meas,

R. Wood
ADMINISTRATIVE OFFICER
PLANNING ENFORCEMENT



Tá an doiciméad seo ar fáil i bhformáid eile ar iarratas.
This document is available in alternative formats on request.
Ba chóir gach comhleigreas a sheoladh chuig an Stiúrthóir Seirbhíse, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe.
All correspondence should be addressed to: the Director of Services, Planning, Economic and Rural Development.



Electricity connection details at No. 15A

DESCRIPTION	Value
Meter Point Reference Number (MPRN)	10 310 660 186
Metering Configuration Code	MCC01 Single Tariff 24 hour meter
DUoS Tariff Group	DG5
Maximum Import Capacity (MIC) (kVA)	16
Maximum Export Capacity (MEC**) (kVA)	0
Export Limiting Scheme (ELS) (kVA)	N/A
Embedded Generation (kVA)	0
Inverter Capacity (kVA)	0
Connection Voltage (V)	LV
No. of Phases	1
Phase Rotation	
Frequency	50 Hz
Minimum Short Circuit Level (kA)	9.0
Normal Short Circuit Level (MVA)	

Section 127 'Provisions as to making of appeals and referrals' of the Planning and Development Act 2000 (as amended) Referral to An Coimisiún Pleanála - CHECKLIST

- Section 127 (1) An appeal or referral shall—

(a) be made in writing.

Response: Please find a written referral attached.

(b) state the name and address of the appellant or person making the referral and of the person, if any, acting on his or her behalf.

Response:

The person making the referral is Noel Sweeney of No. 15 St. Kevin's Square, Bray, County Wicklow, A98D6K5

The name and address of the person acting on Mr Sweeney's behalf is Brendan Buck of BPS Planning Consultants Ltd., PO Box 13658, Dublin 14, D14RW01.

(c) state the subject matter of the referral.

Response: The attached letter sets out a Section 5 (3)(a) and section 127 (1)(b) of the Planning and Development Act 2000 (as amended) declaration referral to An Bord Pleanála. Referral pertains to a section 5 referral / exemption declaration application, Reg. Ref. EX110/2025 made to Wicklow County Council - for which a declaration has been issued - pertaining to a site at 15A St. Kevin's Square, Bray, Co. Wicklow, A98 T2K4. A question arises as to whether: (1) The change of use from a standalone property containing a commercial garage structure to a standalone property containing a residential studio apartment; and (2) The carrying out of works for the maintenance, improvement or other alteration of the structure, constitute development, and is or is not exempted development.

(d) state in full the grounds for referral and the reasons, considerations and arguments on which they are based.

Response: Please find a written referral attached which sets out full grounds for referral and the reasons, considerations and arguments on which they are based.

(e) in the case of an appeal under section 37 by a person who made submissions or observations in accordance with the permission regulations, be accompanied by the acknowledgement by the planning authority of receipt of the submissions or observations.

Response: This is not applicable. BPS has however provided details of the Wicklow County Council section 5 case to which this referral refers.

(f) be accompanied by such fee (if any) as may be payable in respect of such appeal or referral in accordance with section 144.

Response: Please find the statutory fee of €220 attached.

(g) be made within the period specified for making the referral.



**Planning & Development
Consultants**

Response: This referral submission is made to the Commission within 4 weeks of the Wicklow County Council section 5 declaration being issued on the 21st of October 2025. The deadline for submission is the 17th of November 2025.

- (2) (a) An appeal or referral which does not comply with the requirements of subsection (1) shall be invalid.

Response: This referral complies with the requirements of subsection (1).

- (b) The requirement of subsection (1)(d) shall apply whether or not the appellant or person making the referral requests, or proposes to request, in accordance with section 134, an oral hearing of the appeal or referral.

Response: This referral complies with the requirements of subsection (1)(d). Please refer to the attached BPS letter.

- (3) Without prejudice to section 131 or 134, an appellant or person making the referral shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds of appeal or referral stated in the appeal or referral or to submit further grounds of appeal or referral and any such elaboration, submissions or further grounds of appeal or referral that is or are received by the Board shall not be considered by it.

Response: Our client has been advised of this.

- (4) (a) An appeal or referral shall be accompanied by such documents, particulars or other information relating to the appeal or referral as the appellant or person making the referral considers necessary or appropriate.

Response: This referral includes all the details which were required to make a valid section 5 submission to Wicklow County Council and all the details required to make a valid section 5 referral to the Commission. Please refer to the attached BPS letter.

- (b) Without prejudice to section 132, the Board shall not consider any documents, particulars or other information submitted by an appellant or person making the referral other than the documents, particulars or other information which accompanied the appeal or referral.

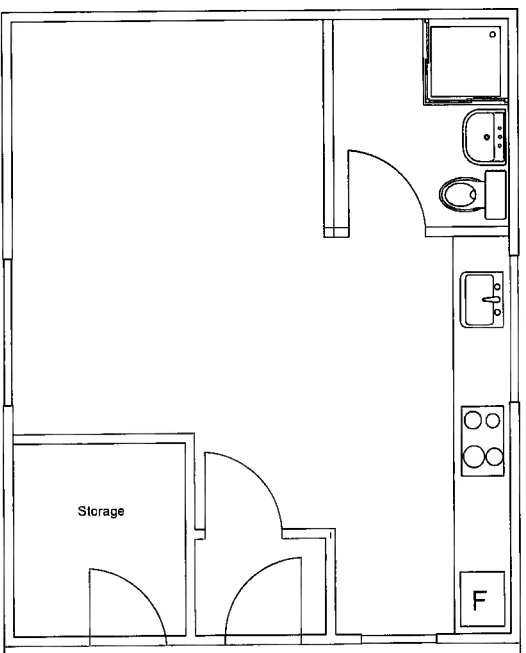
Response: Our client has been advised of this.

- (5) An appeal or referral shall be made—

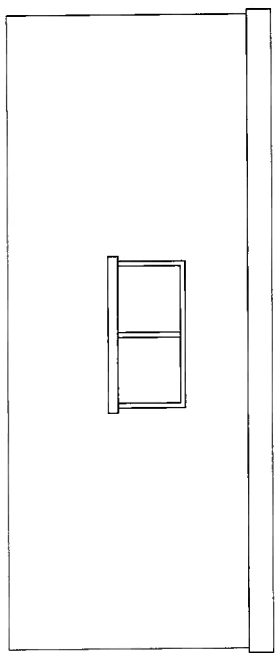
- (a) by sending the appeal or referral by prepaid post to the Board,
(b) by leaving the appeal or referral with an employee of the Board at the offices of the Board during office hours (as determined by the Board), or
(c) by such other means as may be prescribed.

Response: This referral is issued by prepaid post to the Commission

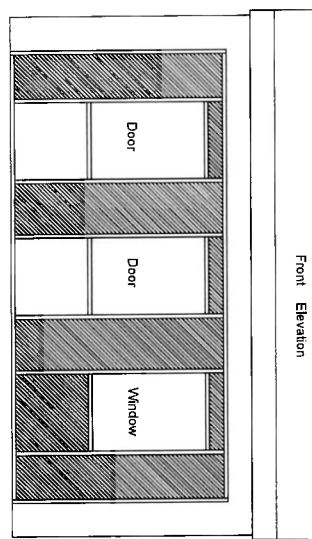
Floor Plan



Side Elevation



Front Elevation



Drawing Title: Plans

Address: 15A St. Kevins Square,
Bray,
Co. Wicklow
A98 T2K4

Centre coordinates (ITM) 726108, 718540

----- Forwarded message -----

From: **National Mapping Store** <mapsales@osi.ie>

Date: Wed, 10 Jan 2024, 16:35

Subject: National Mapping Store Order #50376580 has been completed

To: Noel Sweeney <nollaig88@hotmail.com>



**Tailte
Éireann**

Your order is complete!

Hi Noel Sweeney,

Your recent order from Tailte Éireann Surveying is now complete. Thank you very much for shopping with us.

If you have questions about your order, you can email us at customer.services@tailte.ie or call us at [+353-1-802-5300](tel:+353-1-802-5300). Our hours are Mon-Fri 9am to 4.45pm.

Here's what you should do next

For Digital items: If your purchase contained digital downloads (i.e. A3-A4 PDF products) a secure download link (i.e. ZIP FILE) to your item(s) should now be visible in the [My Downloadable Products](#) area under the [My Account](#) section. Please ensure you download and save all order item(s) promptly as **all download links will expire after 7 days!**

For Postal items: Any items to be delivered by post (i.e. paper publications, A2-A0 PDF products) have now been despatched by our warehouse. You donot have to do anything else. Please allow two business days for all postal deliveries.

Your receipt invoice details for order #50376580

Date: 10 January 2024 at 16:30:40 GMT

Billing Info

Noel Sweeney

[39 Oldcourt Avenue](#)

[Bray, Wicklow, A98x6v3](#)

[Ireland](#)

T: [0863414243](tel:0863414243)

Payment Method

Pay by Credit or Debit Card

Items	Qty	Price
Planning Pack SKU: 471016	1	€85.00
Coordinates 726108,718540		
Coordinate System 2157		
Language English		
Page Size A4		
Scale 1:1,000		
Orientation Landscape		
File Format AutoCAD DWG		
Horizontal Spatial Reference ITM		
Links ZIP File (download)		
	Subtotal	€85.00
	Tax	€19.55
	Grand Total	€104.55

IE 4102063GH

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[Further Information](#)



Wicklow County Council
County Buildings
Wicklow
Co Wicklow
Telephone 0404 20148
Fax 0404 69462

Office Use Only

Date Received _____

Fee Received _____

**APPLICATION FORM FOR A
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &
DEVELOPMENT ACTS 2000 (AS AMENDED) AS TO WHAT IS OR IS NOT
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

1. Applicant Details

- (a) Name of applicant: **Noel Sweeney.**
- (b) Address of applicant: **No. 15 St. Kevin's Square. Bray, County Wicklow.**

Note: Phone number and email to be filled in on separate page.

2. Agents Details (Where Applicable)

- (b) Name of Agent (where applicable): **Brendan Buck MIPI.**

Address of Agent: **BPS Planning & Development Consultants LTD, PO Box 13658, Dublin 14, D14 RW01.**

Note: Phone number and email to be filled in on separate page.

3. Declaration Details

- i. Location of Development subject of Declaration: **15A St. Kevins Square, Bray, Co. Wicklow, A98 T2K4.**
- ii. Are you the owner and/or occupier of these lands at the location under i. above?
Yes. Mr Sweeney is the property owner.
- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier: **N/A.**
- iv. Section 5 of the Planning and Development Act provides that: If any question arises as to what, in any particular case, is or is not development and is or is not

exempted development, within the meaning of this act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question. You should therefore set out the query for which you seek the Section 5 Declaration:

A question arises as to whether: (1) the change of use from commercial garage structure to residential dwelling; and (2) The carrying out of works for the maintenance, improvement or other alteration of the structure, would constitute development and is or is not exempted development.

Additional details may be submitted by way of separate submission.

Please find a covering letter attached which has been prepared by BPS Planning & Development Consultants LTD.

- v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration:

Please refer to the attached covering letter which has been prepared by BPS Planning & Development Consultants LTD.

- vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure): **No.**

- vii. List of Plans, Drawings submitted with this Declaration Application:

- OS based site location map with the subject lands outlined in red.
- Elevation and floor plan drawings prepared by Mr Sweeney.

- viii. Fee of € 80 Attached? **Cheque for €80 attached.**

Signed: *Brendan Buck*

Dated: *25 September 2025*

ADDITIONAL CONTACT INFORMATION
NOT TO BE MADE AVAILABLE WITH APPLICATION

Please note:

- This page will not be published as part of the planning file.

Applicant:

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<i>Fax No.</i>	N/A

Person/Agent acting on behalf of the Applicant (if any):

<i>Telephone No.</i>	087-2615871
<i>Email Address (if any)</i>	info@bpsplanning.ie
<i>Fax No. (if any)</i>	N/A