



Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco
Suíomh / Website: www.wicklow.ie

Ronan Rose Roberts Architects
First Floor
Morton's lane
Wicklow
Co. Wicklow
A67 TF44

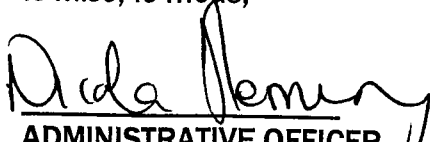
 November 2023

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX71/2023 –Jacks Hole Beach Resort, Brittas Bay, Co. Wicklow

I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT.





Comhairle Contae Chill Mhantáin Wicklow County Council

**Forbairt Pleanála agus Comhshaol
Planning Development and Environment**

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco
Suíomh / Website: www.wicklow.ie

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

Applicant: Jacks Hole Beach Resort DAC

Location: Site R56, Jacks Hole Beach Resort, Brittas Bay, Co. Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PDE/1873/2023

A question has arisen as to whether “the replacement of existing mobile (3960 x 14630mm) with new mobile (4877mm X 14630mm) on same site” at is Site R56, Jacks Hole Beach Resort, Brittas Bay, Co. Wicklow is or is not exempted development.

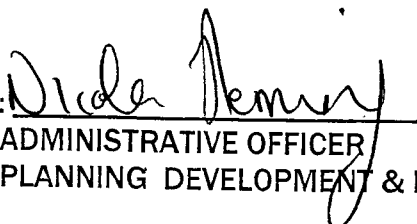
Having regard to:

- a) The details submitted on the 10/10/2023,
- b) Appeal Reference PL27/5/81179 (PRR 89/4826), and associated planning compliance report of the Senior Planner.
- c) Sections 2 , 3 of the Planning and Development Act 2000 (as amended)

Main Reasons with respect to Section 5 Declaration:

The proposed development would not come within the scope of the definition of works in S2 of the Planning & Development Act 2000, as amended, and would therefore not come within the scope of definition of development in S3 of the Planning & Development Act 2000, as amended

The Planning Authority considers that “the replacement of existing mobile (3960 x 14630mm) with new mobile (4877mm X 14630mm) on same site” at is Site R56, Jacks Hole Beach Resort, Brittas Bay, Co. Wicklow is not development.

Signed: 
ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated  November 2023

*Tá an doiciméad seo ar fáil i bhformáidí eile ar iarratas.
This document is available in alternative formats on request.*

Ba chóir gach comhfhreagras a sheoladh chuig an Stiúrthóir Seirbhísí, Forbairt Pleanála agus Comhshaol.
All correspondence should be addressed to the Director of Services, Planning Development & Environment.



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PDE/1873/2023

Reference Number: EX 71/2023

Name of Applicant: Jacks Hole Beach Resort DAC

Nature of Application: Section 5 Referral as to whether or not "the replacement of existing mobile (3960 x 14630mm) with new mobile (4877mm X 14630mm) on same site" is or is not exempted development.

Location of Subject Site: Site R56, Jacks Hole Beach Resort, Brittas Bay, Co. Wicklow

Report from Patrice Ryan, EP & Suzanne White, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "the replacement of existing mobile (3960 x 14630mm) with new mobile (4877mm X 14630mm) on same site" at is Site R56, Jacks Hole Beach Resort, Brittas Bay, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Having regard to:

- The details submitted on the 10/10/2023,
- Appeal Reference PL27/5/81179 (PRR 89/4826), and associated planning compliance report of the Senior Planner.
- Sections 2, 3 of the Planning and Development Act 2000 (as amended)

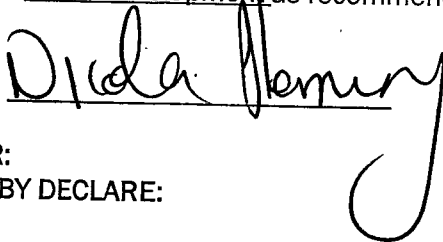
Main Reason with respect to Section 5 Declaration:

The proposed development would not come within the scope of the definition of works in S2 of the Planning & Development Act 2000, as amended, and would therefore not come within the scope of definition of development in S3 of the Planning & Development Act 2000, as amended.

Recommendation

The Planning Authority considers that "the replacement of existing mobile (3960 x 14630mm) with new mobile (4877mm X 14630mm) on same site" at Site R56, Jacks Hole Beach Resort, Brittas Bay, Co. Wicklow is not development as recommended in the report by the SEP.

Signed




Dated 6th day of November 2023

ORDER:

I HEREBY DECLARE:

That "the replacement of existing mobile (3960 x 14630mm) with new mobile (4877mm X 14630mm) on same site" at is Site R56, Jacks Hole Beach Resort, Brittas Bay, Co. Wicklow is not development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:


Senior Engineer
Planning Development & Environment

Dated 06th day of November 2023

Supplementary Report

The question raised via the S5 Declaration request is the standard request as set out in S5 of the P&D Act 2000, as amended, i.e. whether the proposed development is or is not development and is or is not exempted development. However, the proposed development is the replacement of an existing mobile home with a new mobile home on an existing authorised caravan park, which is quite complicated and is not obviously provided for in the legislation.

In a permitted caravan park there is both use and works. In this particular case there would be no change of use in that the use within the caravan park on the subject plot would be the same use before and after the proposed development. Hence, there would be no material change of use and therefore no development in terms of use.

On the basis of the above, the only possible development then would be works.

The existence of a permission does not result in works carried out pursuant to the permission not being development. The carrying out of works is development.

Similarly, having regard to the definition of Exempted Development in S4 of the Act, permitted development is not exempted development. Therefore, if it is concluded that development would take place where a mobile development is replaced, it cannot be exempted development just because it has a permission.

In addition to the above, I would note that a S5 Request/Declaration cannot really relate to whether a development comes within the scope of a permission or not, e.g. whether minor deviations to what is permitted are exempted development. Although, there are some particular situations where this can be asked with a carefully worded query and I understand that this type of question re the scope of a permission may be allowed in the new Planning Act (if as per the Draft Bill).

All of the above leaves it very difficult to answer the question in this case, given it could be argued the replacement of the mobile involves works and a permission for the caravan park exists. It would not make much sense (unless there are specific requirements in a permission) to require planning permission every time a mobile is replaced in an established authorised caravan park. Such upgrades and replacements are a regular occurrence for obvious reasons, particularly given the design/makeup of a mobile. However, the specifics of a permission are of significant relevance, e.g. were the mobile home sizes specified or conditioned in the permission?. Quite often the mobile home sizes are not specified or conditioned, where the number of mobiles/mobile pitches are normally specified or conditioned.

Having regard to previous cases decided by ABP, I would note that a relevant consideration is the type of mobile, where a mobile is considered to be a type of structure that is temporary and can be moved easily, as opposed to something that is more akin to a house in that it is more of a permanent nature

and not easily moved. A further consideration relates to the actual makeup of the pitch, e.g. services, foundations, etc.

Therefore, the fundamental first question is whether works would take place to replace an existing mobile with a new one. If it is decided that works would take place then an examination would have to be undertaken to see if there would be any exemption applicable. In this regard, there is no relevant exemption contained in the P&D regulations, 2001, as amended. The only possible exemption then would be in S4 of the P&D Act 200, as amended, and that realistically could only be S(4) (1) (h).

S(4) (1) (h) states:

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;

For this to apply there has to be a structure in the first place and that structure cannot be completely removed and then replaced. Therefore, if the mobile being replaced is regarded as the "structure" then S(4) (1) (h) cannot apply. Another possible avenue is to consider the caravan park as the "structure" and hence the structure would not be fully replaced but I do not consider this to be a reasonable line of argument.

Alternatively, it could be considered that it is the mobile home pitch within the caravan park that is the "structure". In such a case, the "structure" would include the existing mobile, the services, the foundations/supports, any pathways, etc. If this thought process is followed through it could be contended that S(4) (1) (h) does apply, as not all the structure would be removed. It could therefore, be argued that the replacement of the mobile, would comprise "of works for the maintenance, improvement or other alteration" and would potentially come within the scope of S(4) (1) (h). On this basis the next question would be whether the works do or do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures. In this case, I would then contend that, having regard to the type of mobile replacement proposed, the proposed development would come within the scope of S(4) (1) (h) and therefore is Exempted Development.

The above reasoning is supported by the definition of "structure" in S2 of the Act, i.e.

"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 situated, and.....

The alternative argument, which is concluded in the Planner's Report, which appears to arise from the referred to letter of 15/03/21, is that the replacement of a mobile is not development. However, it is not

clear as to the full basis of this contention. There is no assessment as to whether works take place or not when a mobile is being replaced. The basis seems to be that a permission exists for the caravan park and therefore, subject to some degree of similarity in the new and old mobiles, the replacement of the mobile is not development. I am not sure that this can be fully supported.

To assess if works would take place in replacing a mobile the definition of works is of relevance, i.e.:

“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.

Having regard to the normal process that takes place when a mobile is being replaced, it could be considered that it would not be an act or operation of construction, excavation or demolition. I also consider that given the mobile is fully replaced it would not be an act or operation of extension, alteration, repair or renewal (although renewal is very close to what is being done, i.e. the existing mobile is being renewed). However, I would consider that if the replacement mobile isn't effectively the same size and type of the existing mobile, then it would open up the consideration of it being an act of extension, where it is bigger or an act of alteration where it is a different type.

On the basis of the above paragraph, it could be considered that the replacement of an existing development with a similar mobile would not be works and therefore would not be development. Whether there is a permission or not for the original mobile, is not really of relevance, as while the replacement of an existing unauthorised mobile may not be development, it does not confer an authorisation on the new mobile where the old one did not have same. However, I am mindful of existing Case Law where it has been decided that an unauthorised structure when fully replaced can lose its protection from enforcement and therefore be no longer statute barred, whereby the logic was that it was a new development. Again given the complexity of this matter, it is difficult to be definitive.

In conclusion, I would note that this is a very complex issue and in the absence of a definitive declaration from ABP on a situation like this or some relevant Case Law, I consider that there is merit in both the above arguments and that I could potentially support either one. However, on balance, I consider that the replacement of an existing mobile with a new like for like/similar mobile would not be development for the purposes of the Planning Acts.

It may be appropriate to not issue a declaration given the uncertainty and then the Applicant would have the opportunity to seek a declaration from ABP, however, given the Planning Authority previously issued a declaration on a similar matter in the same caravan site, I consider a declaration should issue

I therefore consider that a declaration is issued as follows:

With respect to the query under Section 5 of the Planning and Development Act 2000(as amended), as to whether the replacement of existing mobile home (3960 x 14630 mm) with new mobile home (4877mm x 14630 mm) on same site Plot R56, Jack's Hole Beach Resort Brittas Bay, Co. Wicklow is or is not development and is or is not exempted development within the meaning of the Planning and Development Acts, 2000(as amended), the Planning Authority consider that :

The replacement of existing mobile home (3960 x 14630 mm) with new mobile home (4877mm x 14630 mm) on same site Plot BR56, Jack's Hole Beach Resort Brittas Bay, Co. Wicklow is not development

Main Considerations with respect to Section 5 Declaration:

- a) The details submitted on the 10/10/2023,
- b) Appeal Reference PL27/5/81179 (PRR 89/4826), and associated planning compliance report of the Senior Planner.
- c) Sections 2 , 3 of the Planning and Development Act 2000 (as amended)

Main Reasons with respect to Section 5 Declaration:

1. The proposed development would not come within the scope of the definition of works in S2 of the Planning & Development Act 2000, as amended, and would therefore not come within the scope of definition of development in S3 of the Planning & Development Act 2000, as amended.

For 1 T. May L
06/11/23



WICKLOW COUNTY COUNCIL
Planning Department

Section 5 – Application for declaration of Exemption Certificate

Ref:	EX 71/2023
Name:	Ronan Road-Roberts.
Development:	Replace existing mobile home with a new mobile home.
Location:	Jacks Hole Beach Resort, Brittas Bay, Co. Wicklow.

Application Site

The site comprises of site no. R56 locating within the Jacks Hole Beach Resort in Ballinacarrig, Brittas Bay.

Planning History Application Site

92/8661 - PL27.091078: Permission granted for 9 mobile homes and associated roads and services.

89/4826 - PL 27/5/81179: Permission granted for extension of caravan park at Jack's Hole, Ballinacarrig, Brittas Bay.

Section 5- EX82/2021.

Exemption Query: Whether the replacement of existing mobile home (3960 x 14630 mm) with new mobile home (4877mm x 14630 mm) on same site is or is not development at Plot B23, Jack's Hole Beach Resort Brittas Bay, Co. Wicklow.

Recommendation: Not development.

Current Exemption Query:

Whether the replacement of existing mobile home (3960 x 14630 mm) with new mobile home (4877mm x 14630 mm) on same site is or is not development and is or is not exempted development at Plot BR56, Jack's Hole Beach Resort Brittas Bay, Co. Wicklow.

Legislative Context

Planning and Development Act 2000 (as amended)

Section 3(1) of the Act states the following in respect of 'development':

"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."

Section 2(1) of the Act states the following in respect of the following:

'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 4 sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act.

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."*

Planning and Development Regulations 2001 (as amended).

Article 6(1) states that certain classes of development which are specified in Schedule 2 shall be exempted development for the purposes of the Act, subject to compliance with any associated conditions and limitations;

Article 9(1) (a) and (b) details a number of circumstances under which the development to which Article 6 relates shall not be exempted development for the purposes of the Act.

Assessment

The Section 5 declaration application seeks an answer with respect to the following question i.e. whether or not:

The replacement of existing mobile home (3960 x 14630 mm) with new mobile home (4877mm x 14630 mm) on same site is or is not development and is or is not exempted development at Plot BR56, Jack's Hole Beach Resort Brittas Bay, Co. Wicklow

The proposal will result in an increase in height of the mobile home from 2370mm to 2985mm and an increase in floor area from 57.93sq.m to 71.35sq.m (difference of 13.4sq.m or 23% increase).

The first assessment must be whether or not the proposal outlined above constitutes development within the remit of Section 3 of the Planning and Development Act 2001. In this regard, Section 3 of the Planning and Development Act provides that:

"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.

It should be noted that Section 2 of the Act defines works as:

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

A letter was issued to Jack's Hole Caravan Park from the planning section in March 2021 to indicate that the replacement of mobile with a like for like with an increase not exceeding 10% would come within the scope of PRR89/4826. The Senior Planner in the compliance report, see Appendix 1 attached, of the 15/03/2021 identified the following:

"I have considered the two Bord decisions carefully on which the SEP based their assessment and I am satisfied that they are not perfect precedents in relation to a 'like for like' (or very similar) replacement of a mobile on a permitted caravan park site for the following reasons:

- *RL 2500 related to the replacement of a traditional 'mobile homes' with 'modular dwellings' which the Bord deemed was 'development' and not 'exempted development' on the basis principally that such modular mobiles homes, having regard to the ground works, service connections, internal layouts and specifications etc did not come within the meaning of a 'caravan' which is understood to be a vehicle readily transportable single unit, as well as the fact that the proposed development entailed changes to the layout of the caravan park. This is differed from the current request as what is being sought in Jack's Hole is a like for like replacement unit with no layout changes;*
- *RL 2925 refers to the replacement of a mobile home with another mobile home at a different location on a 'established ' (i.e. pre '63) site which the Bord said constituted development as it was works of replacement and not repair / maintenance etc. I consider these circumstances different as this was a single mobile on a stand-alone site not in a permitted caravan park, and it was intended to move the unit on site. .*

I consider that once we grant permission for a caravan / mobile home park, it can be expected that units will be replaced from time to time given the 'lower' quality construction of such units which would only be expected to last 20 years; otherwise each time a unit fell into disrepair and became uninhabitable that 'plot' would lose its consent and gradually the caravan park use would have to 'cease'. This clearly cannot be the intention of a grant of permission for a caravan park, unless that is a specified term / condition of the permission. I am also cognisant that while it has been our practice to only grant permission for caravan parks for 5 years and therefore after use shall cease unless another grant of permission is secured (to allow the impact of same to be assessed on an ongoing basis), the Bord regularly omits such conditions when appeals are made (as in 92/8661).

I am therefore of the view that like-for-like replacement of mobile homes in permitted mobile home parks is 'allowable' without a fresh grant of planning permission".

Whilst the new proposal is for a c. 23% increase based on the layout/ drawings the impact would be in line with the existing, and the replacement is a modification/ improvement of the existing structure and would be in accordance with the terms and conditions of PL 27/5/81179 (PRR 89/4826) .

RECOMMENDATION

With respect to the query under Section 5 of the Planning and Development Act 2000(as amended), as to whether the replacement of existing mobile home (3960 x 14630 mm) with new mobile home (4877mm x 14630 mm) on same site Plot ~~BR56~~^{BR55}, Jack's Hole Beach Resort Brittas Bay, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended), the Planning Authority consider that :

The replacement of existing mobile home (3960 x 14630 mm) with new mobile home (4877mm x 14630 mm) on same site ~~is or is not development and is or is not exempted development~~ at Plot BR56, Jack's Hole Beach Resort Brittas Bay, Co. Wicklow is not development

Main Considerations with respect to Section 5 Declaration:

- a) The details submitted on the 10/10/2023,
- b) Appeal Reference PL27/5/81179 (PRR 89/4826), and associated planning compliance report of the Senior Planner.
- c) Sections 2 , 3 of the Planning and Development Act 2000 (as amended)

Main Reasons with respect to Section 5 Declaration:

Given the existing permitted Caravan Park development Appeal Reference PL 27/5/81179, the scale/ type of replacement mobile home, it is considered that the replacement of an existing permitted mobile home, with a similar scale of unit would be permitted by reference to the provisions of PL27/5/81179.


Patrice Ryan
Executive Planner
26/10/2023

*Agreed as amended
Shirley SEP
26/10/23*

*C.F. attached supplementary Report.
Issue declaration as detailed in
supplementary report.
Agd P. M. L. SR
06/11/23*

Appendix 1 –Compliance Report

Compliance Report

File Ref: PRR 89/4826 (copy to go on 92/8661)
Location: Jack's Hole Caravan Park
Date: 15/03/2021

This report relates to a 'compliance' submission made in relation to Jack's Hole on 07/10/2020 (on file). In this submission, the landowner representative requested to utilise the 'compliance' mechanisms to secure the Planning Authority 'consent' for the replacement of a mobile home on Site No. R31 via Condition 10 of that permission.

In their assessment of the request the SEP indicated that it was not possible to utilise the compliance mechanisms to 'approve' the replacement of a mobile on a site, and that planning permission was required for such development. In this regard, reference was made to two Bord decision as precedent. The developer was advised therefore that this proposed replacement could not be 'approved'.

Thereafter the developer rep wrote directly to me to question that decision. This request was made on the grounds that in our previous interaction with the developer, we had advised in writing (08/02/2019) that minor changes, including like-for-like unit replacements, may be feasible to 'approve' via the compliance process. Understandably, the landowner rep was concerned about carrying out *any* works / alterations at all on the site without pre-approval of the Council given that our interaction to that point had been in relation to unauthorised development, which is prevalent on the site (but historic so no action in train). This site was more recently purchased by the site holders, and they are keen to have a 'compliant' development and positive relationship with the Council going forward.

On 20/03/2019, a request was received under file 92/8661 and related to the proposed change of the roof profile of one existing mobile. In that case, the SEP indicated that this could be 'approved' via the compliance process following discussion with me in relation to same (letter issued to this effect on 29/04/2019).

The developer is now understandably confused that one year was advised that the compliance process could be used to approve certain changes on site, but the following year advised it was not.

I have considered the two Bord decisions carefully on which the SEP based their assessment and I am satisfied that they are not perfect precedents in relation to a 'like for like' (or very similar) replacement of a mobile on a *permitted caravan park site* for the following reasons:

- RL 2500 related to the replacement of a traditional 'mobile homes' with 'modular dwellings' which the Bord deemed was 'development' and not 'exempted development' on the basis principally that such modular mobiles homes, having regard to the ground works, service connections, internal layouts and specifications etc did not come within the meaning of a 'caravan' which is understood to be a vehicle readily transportable single unit, as well as the fact that the proposed development entailed changes to the layout of the caravan park. This is differed from the current request as what is being sought in Jack's Hole is a like for like replacement unit with no layout changes;
- RL 2925 refers to the replacement of a mobile home with another mobile home at a different location on a 'established' (i.e. pre '63) site which the Bord said constituted development as it was works of replacement and not repair / maintenance etc. I consider these circumstances different as this was a single mobile on a stand-alone site not in a permitted caravan park, and it was intended to move the unit on site. .

I consider that once we grant permission for a caravan / mobile home park, it can be expected that units will be replaced from time to time given the 'lower' quality construction of such units which would only be expected to

last 20 years; otherwise each time a unit fell into disrepair and became uninhabitable that 'plot' would lose its consent and gradually the caravan park use would have to 'cease'. This clearly cannot be the intention of a grant of permission for a caravan park, unless that is a specified term / condition of the permission. I am also cognisant that while it has been our practice to only grant permission for caravan parks for 5 years and therefore after use shall cease unless another grant of permission is secured (to allow the impact of same to be assessed on an ongoing basis), the Bord regularly omits such conditions when appeals are made (as in 92/8661).

I am therefore of the view that like-for-like replacement of mobile homes in permitted mobile home parks is 'allowable' without a fresh grant of planning permission.

Recommendation

Please write to John McCarthy (as per contact details supplied) as follows:

I refer to your submission of 07/10/2020, our response of 13/11/2020, and your subsequent submissions (by email) of 19/11/2020, 19/01/2021 and 25/02/2021.

Please be advised that in these regards, having reviewed matters, we are happy in this case to advise that the replacement of the mobile home on site R31, with a like for like mobile, of the same dimensions (not exceeding 10% in increase in area or height) is considered to be in accordance with the scope of PRR 89/4826.

Please be advised that having regard to the Planning Authority's statutory obligations and resources, we are not in a position to offer a service whereby every time a minor change is desired, we can provide a letter of 'approval'. It is incumbent on you to take your own advice to determine if any intended works come within the scope of the existing permissions granted or are changes / works that require planning permission. Where you are in any doubt as to whether any particular works require a new grant of permission, it is open to you to seek a declaration under Section 5.

As previously advised, it is important you stay within the scope of these permissions in order avoid the emergence of unauthorised development (which is already prevalent on the lands) and the possibility of enforcement action.

Sorcha Walsh SP
15/03/2021



Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

MEMORANDUM

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco.ie
Suíomh / Website: www.wicklow.ie

WICKLOW COUNTY COUNCIL

TO: Patrice Ryan
Executive Planner

FROM: Nicola Fleming
Staff Officer

**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Act 2000 (as amended).
EX71/2023 – Jacks Hole Beach Resort, Brittas Bay, Co.
Wicklow**

I enclose herewith for your attention application for Section 5 Declaration received.

The due date on this declaration is the 8th November 2023.

Staff Officer
Planning Development & Environment





Comhairle Contae Chill Mhantáin Wicklow County Council

**Forbairt Pleanála agus Comhshaol
Planning Development and Environment**

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco.ie
Suíomh / Website: www.wicklow.ie

13th October 2023

**Ronan Rose Roberts Architects
First Floor
Morton's Lane
Wicklow
Co. Wicklow
A67 TF44**

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). EX71/2023 – Jacks Hole Beach Resort, Brittas Bay, Co. Wicklow

A Chara

I wish to acknowledge receipt on 10th October 2023 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 8th November 2023.

Mise, le meas



NICOLA FLEMING

STAFF OFFICER

PLANNING DEVELOPMENT AND ENVIRONMENT



Wicklow County Council
County Buildings
Wicklow
0404-20100

12/10/2023 10:30:36

Receipt No. : L1/310943/320046
***** REPRINT *****

RONAN ROSE/ROBERTS
MORTANS LANE
WICKLOW TOWN
CO WICKLOW

EXEMPTION CERTIFICATES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	

Total : 80.00 EUR

Tendered :
Credit Card 80.00

Change : 0.00

Issued By : Marian Jameson
From : Customer Service Hub
Vat reg No.0015233H

RONAN
ROSE
ROBERTS
ARCHITECTS

Chief Planning Officer,
Planning Department
Wicklow County Council
Whitegates, Wicklow
Co Wicklow

10th October 2023

Re: Section 5 Declaration Application for Exempted Development, Mobile Home R56, Jacks Hole Beach Resort, Brittas Bay , Co Wicklow

Dear Sir/Madam,

On behalf of our client, Jacks Hole Beach Resort DAC, we submit a Section 5 Declaration application for the replacement of an existing mobile home with a new similar mobile home. The reason for the replacement is due the age and condition of the existing mobile home.

The proposed changes are:

- Changes to elevations as described on drawings.
- Change in the overall plan dimensions of the mobile home from 3,960 x 14,630 mm (13 x 48 ft) to 4,877 x 14,630mm (16 x 48 ft)
- Increase in height of the mobile home from 2370mm to 2985 mm (difference 615mm).
- Increase in floor area from 57.93sqm to 71.35sqm (difference 13.4sqm, 23% increase)

We enclose: application form, this letter and a copy of the following drawings, all on 1 no A1 sheet:

Site Location Map survey drawing, 1:2000

Site layout plan 1:200

Proposed elevations of mobile home, 1:100

The fee (€80.00) has been paid by credit transfer.

If you have any queries please don't hesitate to make contact.

We look forward to a positive response at your earliest convenience.

Yours faithfully,

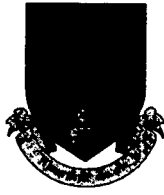


Ronan Rose-Roberts, MRIAI

CC Client

Morton's Lane, Wicklow,
Co Wicklow A67 TF44
01-4753796 0404-34652
info@ronanroseroberts.com
www.ronanroseroberts.com





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

Office Use Only

Date Received 10/10/23
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: Jacks Hole Beach Resort DAC
Address of applicant: Jacks Hole Beach Resort, Brittas Bay, Co Wicklow

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

2. Agents Details (Where Applicable)

- (b) Name of Agent (where applicable) Ronan Rose Roberts Architects
Address of Agent : First Floor, Mortons Lane, Wicklow, Co Wicklow

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

3. Declaration Details

- i. Location of Development subject of Declaration Site R56, Jacks Hole beach Resort,
Brittas Bay, Co Wicklow
-

- ii. Are you the owner and/or occupier of these lands at the location under i. above ? Yes/
No. **Yes.**

- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or
occupier _____
-

- 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 :

**Whether the replacement of existing mobile home (3960 x 14630 mm) with new
mobile home (4877 x 14630 mm) on same site is or is not development and is or is
not exempted development under the Planning and Development Act 2000 (as
modified) and the regulations made thereunder.**

Additional details may be submitted by way of separate submission.

- v. Indication of the Sections of the Planning and Development Act or Planning
Regulations you consider relevant to the Declaration _____
Section 5 Planning and Development Act 2000
-

Additional details may be submitted by way of separate submission.

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 _____
Site Location map 1:2000, Site layout plan 1:200, elevations 1:100

viii. Fee of € 80 Attached ? Yes

Signed : Ronan Pore Roberts Dated : 10/10/2023

Additional Notes :

As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below :

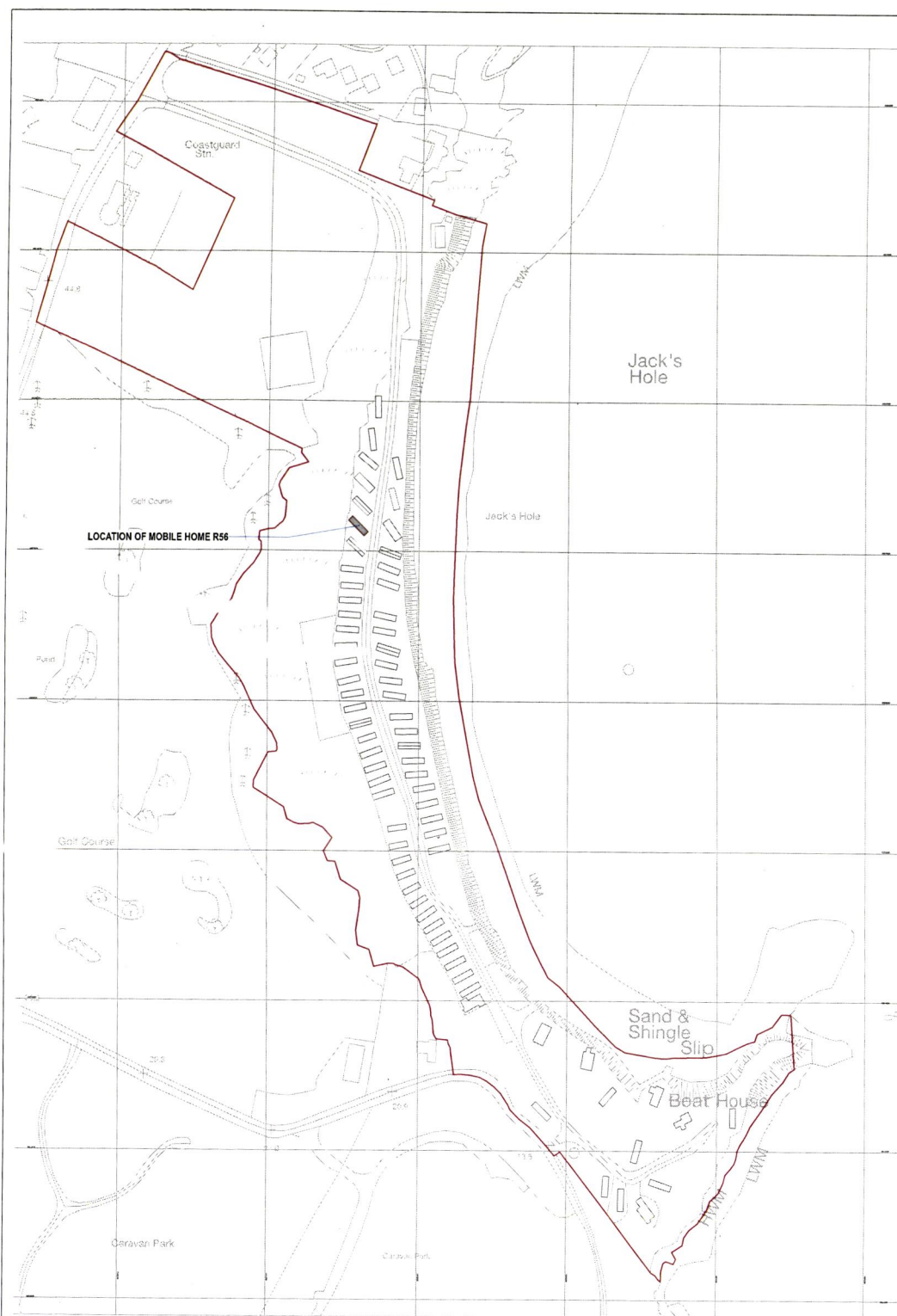
- A. Extension to dwelling - Class 1 Part 1 of Schedule 2
 - Site Location Map
 - Floor area of structure in question - whether proposed or existing.
 - Floor area of all relevant structures e.g. previous extensions.
 - Floor plans and elevations of relevant structures.
 - Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.
- B. Land Reclamation -

The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 2000(as amended) there is a certification process with respect to land reclamation works as set out under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 S.I. 456 of 2011. You should therefore seek advice from the Department of Agriculture, Fisheries and Food.

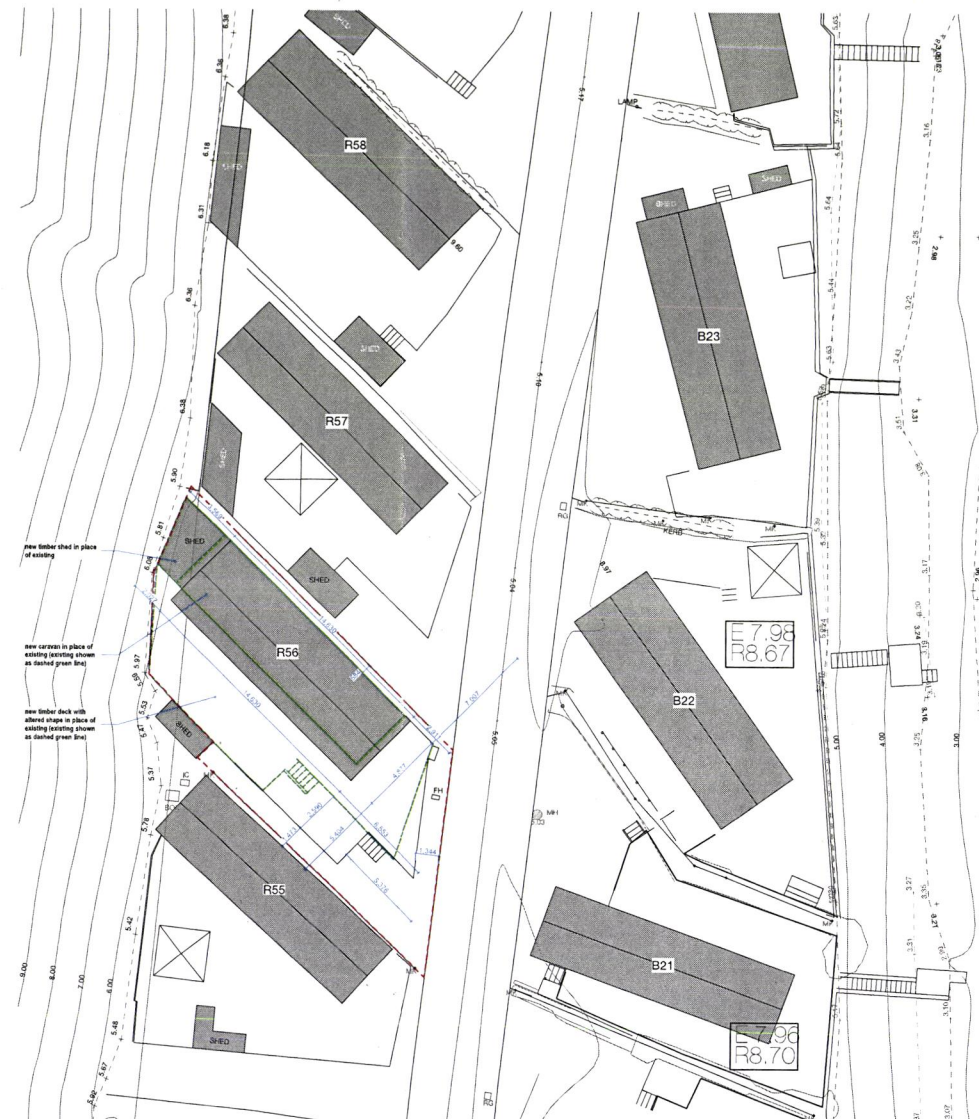
Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

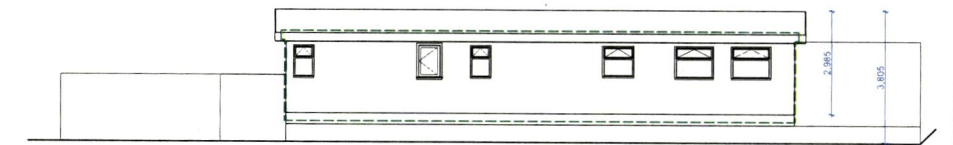
- Site layout plan showing location of structure and any adjoining farm structures and any dwellings within 100m of the farm structure.
- Gross floor area of the farm structure
- Floor plan and elevational details of Farm Structure and Full details of the gross floor area of the proposed structure.
- Details of gross floor area of structures of similar type within the same farmyard complex or within 100metres of that complex.



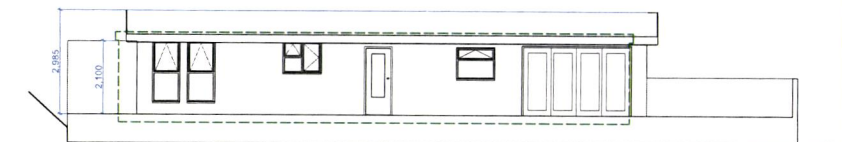
Site Location Map 1:2000



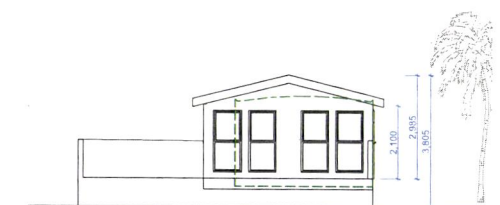
Site Layout Plan 1:200



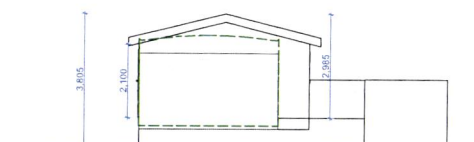
**Proposed Side Elevation facing North East
1:100**



Proposed Side Elevation facing South West
1:100



**Proposed Front Elevation facing South East
1:100**



Proposed Rear Elevation Facing North West
1:100

EXISTING EXTERNAL FINISHES:

BARREL SHAPED ROOF -
MODIFIED BITUMEN WATERPROOF FINISH, HIDDEN
GUTTERING BEHIND PARAPET

EXTERNAL WALLS -
PAINTED ALUMINIUM, OFF-WHITE, GREEN

EXTERNAL WINDOWS / DOORS
PVC DOUBLE-GLAZED, WHITE

RAINWATER GOODS -
WHITE PVC ROUND RWPS, GUTTERS

PROPOSED EXTERNAL FINISHES:

PITCHED ROOF -
POLYESTER POWDERCOATED PRESSED METAL
SHEETS WITH TILE PATTERN, DARK GREEN COLOUR

EXTERNAL WALLS -
PAINTED RENDER

EXTERNAL WINDOWS / DOORS
WHITE PVC

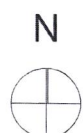
RAINWATER GOODS •
WHITE PVC GUTTERING & RWPS

**FASCIAS & SOFFITS -
WHITE PVC**

DEMOLITIONS/REMOVALS - - - - -

EXTENT OF JACKS HOLE BEACH RESORT ———

EXTENT OF SUBJECT SITE - - - - -



REV.	DATE	DESCRIPTION	AUTHOR
			wicklow, mortons lane, wicklow town, A677F44, t:0404-34652, dublin: synge street, dublin 8 t:01-4753796 e: info@ronanrosoberts.com w: www.ronanrosoberts.com
			PROJECT: Works to to Jack's Hole Beach Resort Unit R56 CLIENT: JHBR DAC
			JOB NO: 1904 DATE: 10/10/2023
			DRAWING: Site location, Layout & Elevations STAGE Section 5 Declaration
			SCALE: As pr notes. Print @ 100% on Arch D, Do not "scale to fit". DRAWING NO. R56.01
			NOTIFY ARCHITECTS OF ANY DISCREPANCIES DO NOT SCALE FROM DRAWING CHECK DIMENSIONS ON-SITE COPYRIGHT RESERVED

SECTION 5

RONAN
ROSE
ROBERTS
ARCHITECTS