




COMHAIRLE CONTAE CHILL Mhantáin
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
Faics / Fax: (0404) 69462
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Suiomh / Website: www.wicklow.ie

 February 2025

Alert Packaging Limited
Bray Business Park
Kilruddery
Bray
Co. Wicklow
A98 NY

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000
(As Amended) – EX07/2025

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

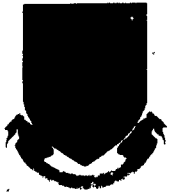
Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,



ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT





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

Applicant: Alert Packaging Limited

Location: Alert Packaging, Bray Business Park, Southern Cross Road, Bray, Co. Wicklow

Reference Number: EX07/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/137

Section 5 Declaration as to whether “1. chimney stack height extension to 14.5m, 2. soundproof housing unit to enclose abatement machine below chimney stack and 3. New access platform and roof staircase” at Alert Packaging, Bray Business Park, Southern Cross Road, Bray, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

Having regard to:

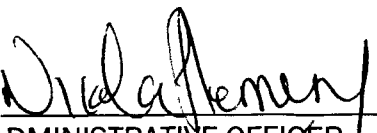
1. The details submitted with the Section 5 application.
2. Section 2, 3 and 4 of the Planning and Development Act 2000(as amended)
3. Article 6, 9 and Schedule 2: Part 1 : Class 21 of the Planning and Development Regulations 2001(as amended).


Main Reasons with respect to Section 5 Declaration:

1. The erection of a chimney stack extension, soundproof housing unit, new access platform and roof staircase would be development having regard to the definition set out under Section 3 of the Planning and Development Act 2000 (as amended).
2. Insufficient details have been submitted to confirm that the chimney stack extension would come within the limitations of development set out under Class 21 : Part 1 : Schedule 2 of the Planning and Development Regulations 2001(as amended), because the height of the extended chimney stack from ground level and its external treatment are not clear from the submitted details.
3. The soundproof housing unit, access platform and roof staircase would not, it is considered, come within the description of Class 21 being neither plant nor machinery.

The Planning Authority considers that “1. chimney stack height extension to 14.5m, 2. soundproof housing unit to enclose abatement machine below chimney stack and 3. New access platform and roof staircase” at Alert Packaging, Bray Business Park, Southern Cross Road, Bray, Co. Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:


ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated  February 2025



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)

SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/137

Reference Number: EX07/2025

Name of Applicant: Alert Packaging Limited

Nature of Application: Section 5 Declaration request as to whether or not: -
"construction of: - 1. chimney stack height extension to 14.5m, 2. soundproof housing unit to enclose abatement machine below chimney stack and 3. New access platform and roof staircase" is or is not development and is or is not exempted development.

Location of Subject Site: Alert Packaging, Bray Business Park, Southern Cross Road, Bray, Co. Wicklow

Report from Suzanne White, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "construction of: - 1. chimney stack height extension to 14.5m, 2. soundproof housing unit to enclose abatement machine below chimney stack and 3. New access platform and roof staircase" at Alert Packaging, Bray Business Park, Southern Cross Road, Bray, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Having regard to:

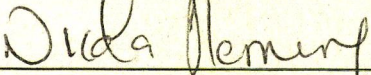
1. The details submitted with the Section 5 application.
2. Section 2, 3 and 4 of the Planning and Development Act 2000(as amended)
3. Article 6, 9 and Schedule 2: Part 1 : Class 21 of the Planning and Development Regulations 2001(as amended).

Main Reason with respect to Section 5 Declaration:

1. The erection of a chimney stack extension, soundproof housing unit, new access platform and roof staircase would be development having regard to the definition set out under Section 3 of the Planning and Development Act 2000 (as amended).
2. Insufficient details have been submitted to confirm that the chimney stack extension would come within the limitations of development set out under Class 21 : Part 1 : Schedule 2 of the Planning and Development Regulations 2001(as amended), because the height of the extended chimney stack from ground level and its external treatment are not clear from the submitted details.
3. The soundproof housing unit, access platform and roof staircase would not, it is considered, come within the description of Class 21 being neither plant nor machinery.

Recommendation:

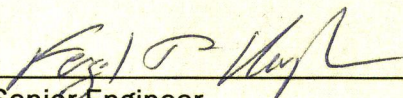
The Planning Authority considers that "1. chimney stack height extension to 14.5m, 2. soundproof housing unit to enclose abatement machine below chimney stack and 3. New access platform and roof staircase" at Alert Packaging, Bray Business Park, Southern Cross Road, Bray, Co. Wicklow is development and is NOT exempted development as recommended in the report by the SEP.

Signed: 

Dated 13th day of February 2025

ORDER:

I HEREBY DECLARE THAT "1. chimney stack height extension to 14.5m, 2. soundproof housing unit to enclose abatement machine below chimney stack and 3. New access platform and roof staircase" at Alert Packaging, Bray Business Park, Southern Cross Road, Bray, Co. Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed: 
Senior Engineer

Dated 14th day of February 2025

Planning, Economic & Rural Development

Section 5 Application EX 07/2025

Date : 13th February 2025

Applicant : Alert Packaging Limited

Address : Bray Business Park, Kilruddery, Bray, Co. Wicklow

Exemption Whether or not:

"1. chimney stack height extension to 14.5m and 2. soundproof housing unit to enclose abatement machine below chimney stack" at Alert Packaging Limited, Bray Business Park, Kilruddery, Bray, Co. Wicklow

is or is not development and is or is not exempted development.

Site Location

The subject site is located within Bray Business Park, positioned to the south of the Southern Cross Road (R768) and within the settlement boundary of Bray. Access is taken from the internal Business Park Road, close to the junction with the Southern Cross to the north. The present application relates to the existing abatement system area (Google streetview image below, dated May 2019), which is located on the southern side of the main building on site.



The subject site is zoned E1- Employment in the Bray Municipal District Local Area Plan 2018.

The site is located to the west of the 50m buffer zone of RM WI02703 (relating to a road/trackway). It is c 2km west of Bray Head SAC and Bray Head pNHA.

Planning History:

93/91 – permission granted for industrial building

03/630040 - to install a Bio-Scrubber unit for the treatment of exhaust gasses from prining presses, this involves the installation of a scrubbing column, buffer tank, and bio-trickling filter, to be installed at the rear

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 ‘works’:

‘Works’ includes “Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...”

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

(4A) Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and
- b) as respects which an environmental impact assessment or an appropriate assessment is required, to be exempted development.

Planning and Development Regulations 2001 (as amended)

Article 6 states:-

“(1) Subject to Article 9, development of a class specified in column 1 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) 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 - — (See Regs for full list)

Part 1 Exempted Development – General – Development for industrial purposes

Class 21

(a) Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking—

(i) the provision, rearrangement, replacement or maintenance of private ways or private railways, sidings or conveyors,

(ii) the provision, rearrangement, replacement or maintenance of sewers, mains, pipes, cables or other apparatus,

(iii) the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.

(b) Any works for the provision within the curtilage of an industrial building of a hard surface to be used for the purposes of or in connection with the industrial process carried on in the building.

Conditions and limitations

1. Any such development shall not materially alter the external appearance of the premises of the undertaking.
2. The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater.

ASSESSMENT

The querist seeks confirmation as to whether:

- 1. chimney stack height extension to 14.5m and*
 - 2. soundproof housing unit to enclose abatement machine below chimney stack”*
- at Alert Packaging Limited, Bray Business Park, Southern Cross, Bray, Co. Wicklow*

is or is not development and is or is not exempted development.

From the details set out in the application the actual works consist of Chimney Stack extension, soundproof housing unit to enclose abatement machine below base of chimney stack, new access platform with kickboards and roof staircase.

The permitted structure on site is for industrial use and Class 21 is therefore considered relevant.

The proposed chimney stack extension, soundproof housing unit, new access platform and roof staircase would be works and is therefore development having regard to the provisions of Section 3 of the Planning and Development Act 2000(as amended).

The soundproof housing unit would wrap around the existing abatement machine on three sides (the fourth comprising the existing outer wall of the industrial unit). It is stated that it would be c. 7.45m in height and comprise a metal/foam sheet construction. The housing unit would enclose a larger area around the abatement machine than the existing low level wall around the unit. The covering letter submitted with the application

states that a 'soundproof housing unit drawing' has been submitted, however only a reference photograph for a similar unit has been submitted. There is an existing duct/pipe leading from the existing chimney and on to the roof of the main building. It is not clear from the information submitted whether there would be any change to this duct.

It is stated that the existing chimney is 12.9m in height. The extended chimney would extend upwards from the roof of the soundproof housing unit by 7.05m (giving a total stated height of 14.5m). The elevation/section drawing submitted shows the height to be 14.5m from factory floor level. Having regard to the google streetview image above, it is evident that the existing chimney and abatement system is located on a plinth, above ground level. The plinth does not appear to exceed 0.5m in height, however this has not been clearly shown. Additionally, the submitted drawing does not include any details of external treatments, though the finish of the extended chimney would likely be similar to the existing. The covering letter states that a 'Biounit stack pipe modification' document has been submitted, however this does not appear to have been enclosed.

Class 21 of the Planning and Development Regulations 2001 (as amended) provides for the following exemption for an industrial undertaker i.e.

Development of the following descriptions, carried out by an industrial undertaker on land occupied and used by such undertaker for the carrying on, and for the purposes of, any industrial process, or on land used as a dock, harbour or quay for the purposes of any industrial undertaking

(iii)the installation or erection by way of addition or replacement of plant or machinery, or structures of the nature of plant or machinery.

It is considered that the chimney extension would come within the description set out above. This exemption is restricted by two limitations i.e.

- 1. Any such development shall not materially alter the external appearance of the premises of the undertaking*
- 2. The height of any plant or machinery, or any structure in the nature of plant or machinery, shall not exceed 15 metres above ground level or the height of the plant, machinery or structure replaced, whichever is the greater.*

Having regard to the lack of clarity with regard to the height from ground level and external finish of the extended chimney in the submitted drawing, it is considered that insufficient information has been submitted to demonstrate that the extended chimney would fall within the conditions and limitations applicable to Schedule 2: Part 1 : Class 21 of the Planning and Development Regulations 2001(as amended).

The soundproof housing unit, new access platform and roof staircase would not, it is considered, come within the description of Class 21 being neither plant nor machinery. There are no other exemptions for these structures set out under Schedule 2.

Conclusion

Having regard to the above assessment, it is considered that the chimney stack extension, soundproof housing unit to enclose abatement machine below base of chimney stack, new access platform with kickboards and roof staircase would be development and would not be exempted development.

Recommendation

With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether

- “1. chimney stack height extension to 14.5m;*
- 2. soundproof housing unit to enclose abatement machine below chimney stack; and;*

3. new access platform and roof staircase”

at Alert Packaging, Bray Business Park , Southern Cross Road, Bray, Co. Wicklow

is or is not exempted development

The Planning Authority considers that:

The construction of:

- “1. chimney stack height extension to 14.5m;
- 2. soundproof housing unit to enclose abatement machine below chimney stack; and;
- 3. new access platform and roof staircase”

at Alert Packaging, Bray Business Park , Southern Cross Road, Bray, Co. Wicklow

is development and is **NOT exempted development**

Main Considerations with respect to Section 5 Declaration:

- The details submitted with the Section 5 application.
- Section 2, 3 and 4 of the Planning and Development Act 2000(as amended)
- Article 6, 9 and Schedule 2: Part 1 : Class 21 of the Planning and Development Regulations 2001(as amended).

Main Reasons with respect to Section 5 Declaration:

- The erection of a chimney stack extension, soundproof housing unit, new access platform and roof staircase would be development having regard to the definition set out under Section 3 of the Planning and Development Act 2000 (as amended).
- Insufficient details have been submitted to confirm that the chimney stack extension would come within the limitations of development set out under Class 21 : Part 1 : Schedule 2 of the Planning and Development Regulations 2001(as amended), because the height of the extended chimney stack from ground level and its external treatment are not clear from the submitted details.
- The soundproof housing unit, access platform and roof staircase would not, it is considered, come within the description of Class 21 being neither plant nor machinery.

I recommend that the applicant be informed accordingly.



Suzanne White
Senior Executive Planner
13/02/2025

*Issue deskwork as recommended
Agd to Proj 2 13
14/02/25*



Comhairle Contae Chill Mhantáin
Wicklow County Council

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MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Suzanne White
Senior Executive Planner

FROM: Nicola Fleming
Staff Officer

RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX07/2025

I enclose herewith application for Section 5 Declaration received completed on 21/01/2025

The due date on this declaration is 17th February 2025.



Staff Officer
Planning, Economic & Rural Development





Comhairle Contae Chill Mhantáin
Wicklow County Council

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21st January 2025

Alert Packaging Limited
Bray Business Park
Kilruddery
Bray
Co. Wicklow
A98 NY65

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX07/2025.

A Chara

I wish to acknowledge receipt on 21/01/2025 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 17/02/2025.

Mise, le meas

Nicola Fleming
Staff Officer
Planning, Economic & Rural Development



Proposed Development Details

Alert Packaging is considering making the following modifications to its existing abatement system:

1. Extending the height of the chimney stack to 14.5m
2. Building a soundproof housing unit around the existing abatement system machine below the scrubber tower chimney stack

Stack height extension

Currently, the height of the chimney stack is 12.9m above the ground. The proposed modification will extend this height to 14.5m. Along with this extension, a new access platform and roof staircase will be built to allow personnel access to the chimney stack.

The new access platform will have kickboards installed as well as edge protection on the roof either side of the platform entrance. The chimney stack will also have a new air sampling port installed. Details of these new modifications can be viewed in the '*Biunit stack pipe modification*' document.

Soundproof housing unit

Currently, the abatement machine only has a 1m concrete bund wall enclosing it. The proposed modification will see a metal/foam sheet housing unit built around the whole machine, apart from the chimney stack (i.e. the chimney stack will be the only structure protruding out of the soundproof housing unit roof).

This housing unit will extend 1.5m from the current bund wall on three sides of the machine. The backside of the machine will be enclosed by the exterior wall of the main building. The roof of this housing unit will extend up to the base level of the chimney stack (i.e. 7.45m above the ground). The housing unit will also include an access door to allow staff to enter and exit the housing unit.

Details of these proposed modifications can be viewed in the '*Soundproof housing unit drawing*' document.

Wicklow County Council
County Buildings
Wicklow
0404-20100

11/12/2024 11 46 53

Receipt No L1/0/338417

ALERT PACKAGING
BRAY BUSINESS PARK
KIL RUDDERY
CO WICKLOW
A98 NY65

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 Annmarie Ryan
From Customer Service Hub
Vat reg No 0015233H



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: Alert Packaging Limited
Address of applicant: Alert Packaging Limited, Bray
Business Park, Kilruddery, Bray, Co. Wicklow, A98 NY65

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

2. Agents Details (Where Applicable)

- (b) Name of Agent (where applicable) Alert Packaging Limited
Address of Agent : Alert Packaging Limited, Bray Business
Park, Kilruddery, Bray, Co. Wicklow, A98 NY65

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

3. Declaration Details

i. Location of Development subject of Declaration Alert Packaging
abatement system area (southern side of
main building)

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

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 _____

- 1) Chimney stack height extension to 14.5m
- 2) Soundproof housing unit to enclose abatement machine below chimney stack

Additional details may be submitted by way of separate submission. → See additional documents attached

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

Class 21 of Schedule 2 of the Planning
and Development Regulations 2001

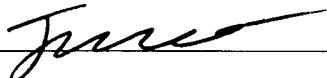
Additional details may be submitted by way of separate submission.

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 _____

- 1) Location Map
- 2) Fee payment receipt
- 3) Proposed Development Details
- 4) Biocunit stack pipe modification
- 5) Soundproof housing unit drawing

viii. Fee of € 80 Attached ? Yes

Signed :  Dated : 20/1/2025

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.

SOUNDPROOF HOUSING UNIT



Figure 1: Alert Packaging abatement system enclosed with concrete bund wall



Figure 2: Proposed abatement system soundproof housing extension. Yellow line outlines current bund wall. Red line outlines proposed housing unit extension perimeter.



Figure 3: Proposed abatement soundproof housing unit



Figure 1: Aerial photograph showing Alert Packaging location in Bray, County Wicklow. Red dashed line outlines Alert Packaging property perimeter. Yellow solid line outlines abatement system area.

