

WICKLOW COUNTY COUNCIL

**PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5**

Director of Services Order No: 235/2023

Reference Number: EX 4/2023

Name of Applicant: Vincent McEntee & Clara Lynch

Nature of Application: Section 5 Referral as to whether "The proposal is for the installation of a Velux Window to the front of dwelling at 198 Charlesland Wood, Greystones, Co. Wicklow" is or is not exempted development.

Location of Subject Site: 198 Charlesland Wood, Greystones, Co. Wicklow

Report from Billy Slater GP & Edel Bermingham SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "The proposal is for the installation of a Velux Window to the front of dwelling at 198 Charlesland Wood, Greystones, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- i. The details submitted on 01/02/2023;
- ii. Sections 2 , 3 , and 4 of the Planning and Development Act 2000 (as amended);

Main Reasons with respect to Section 5 Declaration:

The instillation of a velux window is considered works and is therefore development having regard to the provisions of Section 3 of the Planning & Development Act 2000 (as amended).

The velux window would 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 and therefore is exempt, having regard to Section 4-1 (h) of the Planning & Development Act 2000 (as amended) .

Recommendation

The Planning Authority considers that "The proposal is for the installation of a Velux Window to the front of dwelling at 198 Charlesland Wood, Greystones, Co. Wicklow" is development and is exempted development as recommended in the planning reports.

Signed  Dated 20th day of February 2023

ORDER:

That a declaration to issue stating:

That "The proposal is for the installation of a Velux Window to the front of dwelling at 198 Charlesland Wood, Greystones, Co. Wicklow" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: 
Director of Services
Planning Development & Environment

Dated 20 day of February 2023



Comhairle Contae Chill Mhantáin
Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

Áras An Chontae / County Buildings
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Suíomh / Website: www.wicklow.ie

Vincent McEntee & Clara Lynch

February 2023

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

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

Exemption Ref No: EX 4/2023

Applicant: Vincent McEntee & Clara Lynch

Nature of Application: "The proposal is for the installation of a Velux
Window to the front of dwelling at 198 Charlesland
Wood, Greystones, Co. Wicklow"

Location: 198 Charlesland Wood, Greystones, Co. Wicklow

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

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

Applicant: Vincent McEntee & Clara Lynch

Location: 198 Charlesland Wood, Greystones, Co. Wicklow

DIRECTOR OF SERVICES ORDER NO 235/2023

A question has arisen as to whether "The proposal is for the installation of a Velux Window to the front of dwelling at 198 Charlesland Wood, Greystones, Co. Wicklow" is or is not exempted development.

Having regard to:

- i. The details submitted on 01/02/2023;
- ii. Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended);

Main Reasons with respect to Section 5 Declaration:

The installation of a velux window is considered works and is therefore development having regard to the provisions of Section 3 of the Planning & Development Act 2000 (as amended).

The velux window would 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 and therefore is exempt, having regard to Section 4-1 (h) of the Planning & Development Act 2000 (as amended).

The Planning Authority considers that "The proposal is for the installation of a Velux Window to the front of dwelling at 198 Charlesland Wood, Greystones, Co. Wicklow" is development and is exempted development.

Signed:

**ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT**

Dated February 2023

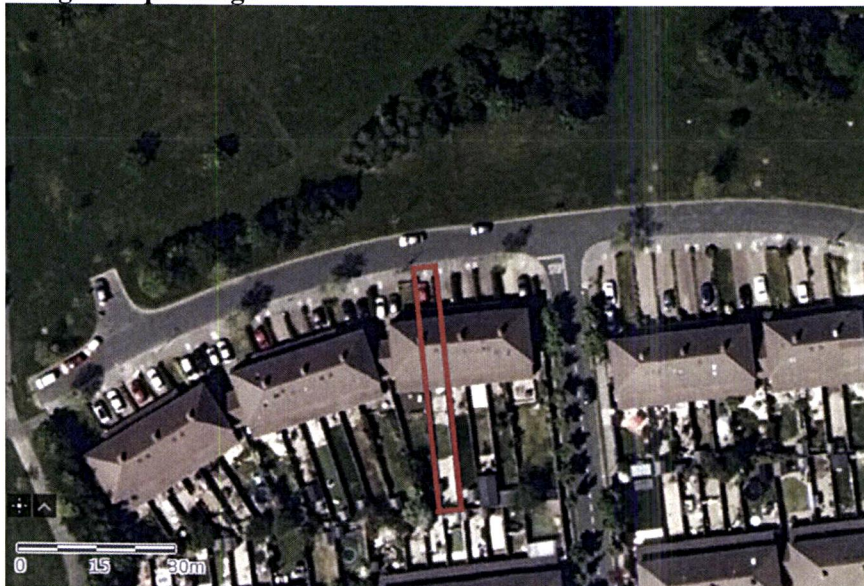


**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

To: Fergal Keogh S.E / Suzanne White S.E.P. / Edel Bermingham S.E.P.
From: Billy Slater G.P.
Type: Section 5 Application
REF: EX 4/2023
Applicant: Vincent McEntee & Clara Lynch
Date of Application: 01/02/2023
Decision Due Date: 28/02/2023
Address: 198 Charlesland Wood, Greystones, Co. Wicklow
Exemption Query: Velux Window to be installed to the front of dwelling.

Application Site: The application site is a mid-terrace two-story dwelling located in Charlesland Wood, Greystones.

Google Maps Image



Site Image



Relevant Planning History: None.

Question:

The applicants have applied to see whether or not the following is or is not development and is or is not exempted development:

- 1) The proposal is for the installation of a Velux Window to the front of dwelling at 198 Charlesland Wood, Greystones, Co. Wicklow

Legislative Context

Planning and Development Act 2000 (as amended)

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

*“**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

*“**works**” includes Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...”*

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 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) is relevant for the purposes of this declaration:

“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(2) makes provision for ministerial regulations to set out further exemptions. The 2001 Planning Regulations as amended derive from this section and designate further works as being exempted development for the purposes of the act.

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):

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 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,*

Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended) states that the following constitutes exempted development:

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

The conditions and limitations include:

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

7. The roof of any extension shall not be used as a balcony or roof garden.

Other Conditions and Limitations include:

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

2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.

3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.

4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.

5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

Part 1 (Classes 1-8) of Schedule 2 describes classes of development situated within the curtilage of a house which are exempted development, provided that such development complies with the associated conditions and limitations.

Assessment:

The Section 5 declaration application seeks an answer with respect to the following question: Whether or not *'The proposal for the installation of a Velux Window to the front of dwelling at 198 Charlesland Wood, Greystones, Co. Wicklow'* is or is not exempted development.

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.

I am satisfied that the proposal would involve *works* to the existing structure and therefore the proposal does constitute development.

The second stage of the assessment is to determine whether or not the proposal would be exempted development under the Planning and Development Act 2000 (as amended) or its associated Regulations. The works are inclusive of the installation of a Velux Window to the front of dwelling at 198 Charlesland Wood, Greystones, Co. Wicklow. I consider that the works would fall under the remit of 4(1)(h). I do not consider that the alterations materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the house or neighbouring houses.

Recommendation:

With respect to the query under Section 5 of the Planning and Development Act 2000 (as amended), as to whether or not the 'the installation of a Velux Window to the front of dwelling' at 198 Charlesland Wood, Greystones, Co. Wicklow is or is not exempted development,

The Planning Authority considers that:

The installation of a Velux Window to the front of dwelling at 198 Charlesland Wood, Greystones, Co. Wicklow is ~~exempt~~ development *and is exempted development.*

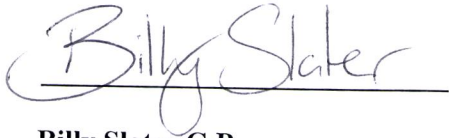
Main Considerations with respect to Section 5 Declaration:

- i. The details submitted on 01/02/2023;
- ii. Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended);

Main Reasons with respect to Section 5 Declaration:

The installation of a velux window is considered works and is therefore development having regard to the provisions of Section 3 of the Planning & Development Act 2000 (as amended).

The velux window would not to 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 and therefore is exempt, having regard to Section 4(1)(h) of the Planning & Development Act 2000 (as amended).

A handwritten signature in black ink that reads "Billy Slater". The signature is written in a cursive style and is positioned above a horizontal line.

Billy Slater G.P.
07/02/2023

A handwritten signature in blue ink that reads "Anne Seaton". The signature is written in a cursive style and is positioned above the date "7/2/2023".

MEMORANDUM

WICKLOW COUNTY COUNCIL

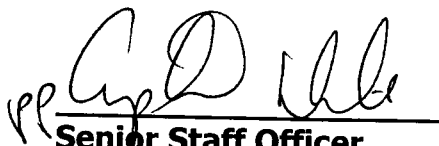
TO: Billy Slater
Graduate Planner

FROM: Crystal White
Assistant Staff Officer

**RE:- EX 4/2023 - Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended)
Velux Window to be added to the front of the house at 198 Charlesland
Wood, Greystones, Co Wicklow**

I enclose herewith for your attention application for Section 5 Declaration
received 1st of February 2023.

The due date on this declaration is the 28th of February 2023.



Senior Staff Officer
Planning Development & Environment



Comhairle Contae Chill Mhantáin Wicklow County Council

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

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Suíomh / Website: www.wicklow.ie

02/02/2023

Vincent McEntee & Clara Lynch

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 4/2023
Velux Window to be added to the front of the house at 198 Charlesland Wood,
Greystones, Co Wicklow**

A Chara

I wish to acknowledge receipt on the 1st of February 2023 details supplied by you in respect of the above section 5 application. A decision is due in respect of this application by 28/02/2023.

Mise, le meas

**SENIOR EXECUTIVE OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT**



Wicklow County Council
County Buildings
Wicklow
0404-20100

01/02/2023 14 24 51

Receipt No L1/0/308112
***** REPRINT *****

Vincent McEntee
198 Charlesland Wood
Greystones
Co Wicklow

EXEMPTION CERTIFICATES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total	80 00 EUR
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Tendered	
Credit Card	80 00

Change	0 00
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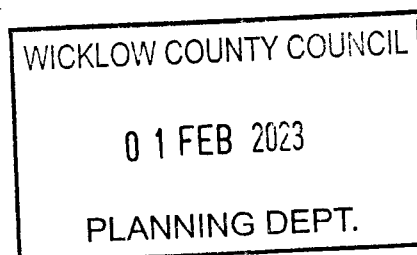
**APPLICATION FORM FOR A
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &
DEVELOPMENT ACTS 2000(AS AMENDED) AS TO WHAT IS OR IS NOT
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

1. Applicant Details

(a) Name of applicant: **Vincent McEntee & Clara Lynch** _____

Address of applicant: _____

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



2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) **NA** _____

Address of Agent : **NA** _____

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

3. Declaration Details

- i. Location of Development subject of Declaration 198 Charlesland Wood, Greystones, Co Wicklow, A63DV26

- 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 1 x velux window (94cm x 160cm) to the front of the house at 198 Charlesland Wood, Greystones, Co Wicklow. Measuring . Please reference EX58/19, EX38/22 for similar application in the vicinity.

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

NA

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 _____
Google map location, photo of the property and photo of view from front of property.

viii. Fee of € 80 Attached ? PAID AT OFFICE

Signed : Val M'Intosh Dated : 29/01/2023
Clara Lynch

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 -

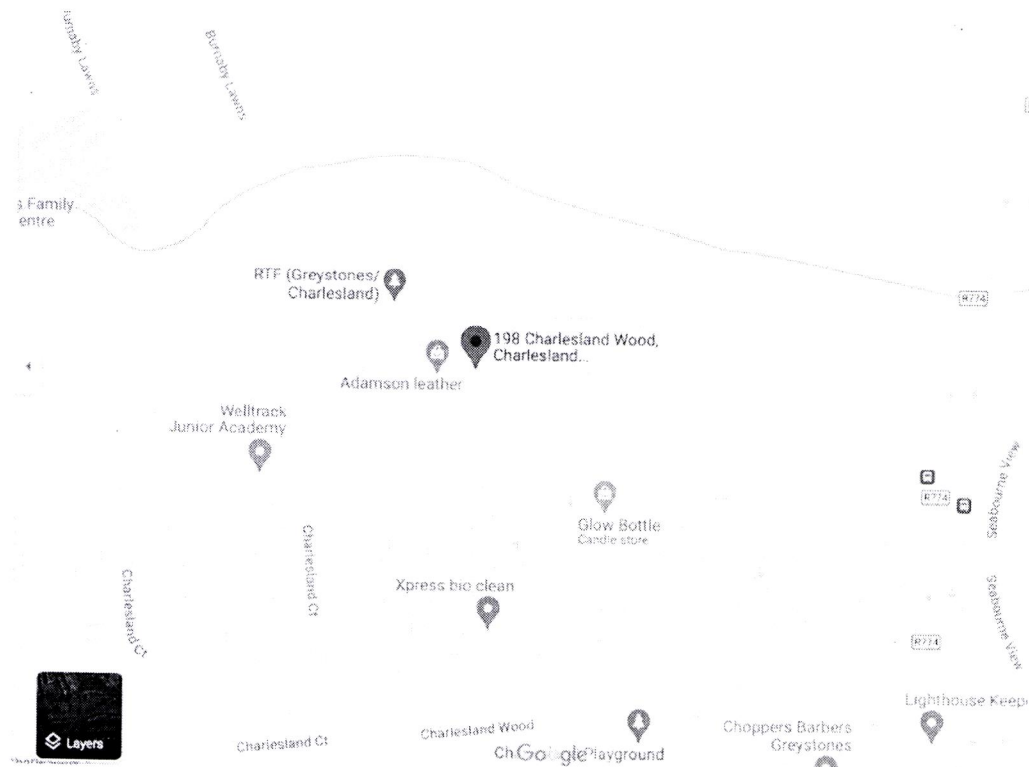
The provisions of Article 8 of the Planning and Development Regulations 2001 (as

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.



Ref: Location Map 1 of 198 Charlesland Wood, Greystones, Co Wicklow, A63 DV26.



Ref: Ref: Location Map 2 of 198 Charlesland Wood, Greystones, Co Wicklow, A63 DV26.



Ref: Photo of front of property.