

WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

Director of Services Order No: 1813/2022

Reference Number: EX 64/2022

Name of Applicant: Mairead Kelly C/O John Burgess Burgess Construction

Nature of Application: Section 5 Referral as to whether "The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling at Riverview, Carrigeen, Baltinglass, Co Wicklow" is or is not exempted development.

Location of Subject Site: Riverview, Carrigeen, Baltinglass, Co Wicklow

Report from Andrew Spencer AP & Suzanne White SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling at Riverview, Carrigeen, Baltinglass, Co Wicklow" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- The details received with this Section 5 application (EX64/2022) on the 14th October 2022.
- Sections 2, 3, and 4 of the Planning and Development Act 2000(as amended).
- Article 6(1) of the Planning and Development Regulations, 2001, (as amended).
- Article 9 of the Planning and Development Regulations, 2001(as amended).
- Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

1. The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
2. The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling would not accord with the provisions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) and therefore is not exempted development.

Recommendation

The Planning Authority considers that "The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling at Riverview, Carrigeen, Baltinglass, Co Wicklow" is development and is not exempted development as recommended in the planning reports.

Signed  Dated 7th day of November 2022

ORDER:

That a declaration to issue stating:

That "The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling at Riverview, Carrigeen, Baltinglass, Co Wicklow" is development and is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: 
2022

Dated 7th day of November

Director of Services
Planning Development & Environment



Comhairle Contae Chill Mhantáin
Wicklow County Council

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Suíomh / Website: www.wicklow.ie

Mairead Kelly
C/O John Burgess
Burgess Construction Ltd
Raheenbawn
Kildavin
Bunclody
Co Wexford

November 2022

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 64/2022

Applicant: Mairead Kelly C/O John Burgess Burgess Construction

Nature of Application: "The construction of a 2-storey extension with a GFA
of 30sqm located to the rear of the dwelling at
Riverview, Carrigeen, Baltinglass, Co Wicklow"

Location: Riverview, Carrigeen, Baltinglass, 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.

Tá an doicimead 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.





COMHAIRLE CONTAE CHILL Mhantáin Wicklow County Council

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Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
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Suíomh / Website: www.wicklow.ie

Forbairt Pleanála agus Comhshaol Planning Development and Environment

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

Applicant: Mairead Kelly C/O John Burgess Burgess Construction

Location: Riverview, Carrigeen, Baltinglass, Co Wicklow

DIRECTOR OF SERVICES ORDER NO. 1813/2022

A question has arisen as to whether "The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling at Riverview, Carrigeen, Baltinglass, Co Wicklow" is or is not exempted development.

Having regard to:

- The details received with this Section 5 application (EX64/2022) on the 14th October 2022.
- Sections 2, 3, and 4 of the Planning and Development Act 2000(as amended).
- Article 6(1) of the Planning and Development Regulations, 2001, (as amended).
- Article 9 of the Planning and Development Regulations, 2001(as amended).
- Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

1. The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
3. The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling would not accord with the provisions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) and therefore is not exempted development.
- 4.

The Planning Authority considers that "The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling at Riverview, Carrigeen, Baltinglass, Co Wicklow" is development and is not exempted development.

Signed: 

ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated November 2022

*To an d'iciméad seo ar fáil i bhformáid eile ar iarratas
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All correspondence should be addressed to the Director of Services, Planning Development & Environment.





**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

Section 5 – Application for declaration of Exemption Certificate

REF: EX 64/2022
NAME: MAIREAD KELLY
DEVELOPMENT: LESS THAN 40SQM EXTENSION TO REAR OF DWELLING.
LOCATION: RIVERVIEW, CARRIGEEN, BALTINGLASS.

The Site: Existing 2-storey semidetached house located on Edward Street (N81), in the centre of the town of Baltinglass.



Planning History (subject site): None.

Planning History (adjoining building):

PI Ref 041657	Const. 6 apts and partially demolish existing building and rebuild two apts and 1 office on first floor and commercial / office units on ground floor.	Grant
PI Ref 138859	Amalgamation of two ground floor retail units granted under pl. re. no. 04/1657 and change of use of those units from retail use to use as a small animal veterinary clinic/surgery incorporating a veterinary retail shop and all associated site works	Grant

Question:

The applicant has applied to see whether or not the following is or is not development; and is or is not exempted development:

- 1) The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling.

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' include "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.

-Planning and Development Regulations, 2001 (as amended):

Article 6(1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9 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 - *None are considered applicable in this instance.*

Schedule 2: Part 1

<p>CLASS 1</p> <p>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.</p>	<p>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</p> <p>(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.</p> <p>(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</p> <p>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.</p> <p>(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.</p> <p>(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.</p> <p>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p> <p>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</p>
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	<p>exceed the height of the rear wall of the house.</p> <p>(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.</p> <p>(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.</p> <p>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.</p> <p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p> <p>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</p> <p>(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.</p> <p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>
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Assessment:

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 for the construction of a 2-storey extension with a GFA of 30sqm involves works and therefore constitutes development.

The second assessment is to determine whether or not the works would be exempted development under the Planning and Development Act 2000 (as amended) or it's associated Regulations.

The development is the type of development which could come under Class 3 of the Planning & Development Regulations 2001.

Development Description:

1). The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling.

Relevant Conditions and Limitations:

1. (a) Floor area does not exceed 40 square metres? Yes.
- (b) First floor area doesn't exceed 12sqm for semidetached dwelling? No.
2. Total area of extensions since 1/10/1964 doesn't exceed 40sqm? Yes
3. Above ground floor extension not less than 2m from boundary wall? Yes.
4. (a) Height of the walls of any such extension shall not exceed the height of the rear wall of the house? – Yes.
5. Open space to the rear of the house reduced to less than 25 square metres? No.
6. (a) Window proposed at ground level not less than 1 metre from the boundary it faces? Yes
- (b) Window proposed above ground level not less than 11 metres from the boundary it faces? N/A - no first floor boundary facing windows proposed.
7. Roof used as balcony or roof garden? No.

Recommendation:

Given that the proposed first floor of the extension exceeds 12sqm in area (15sqm proposed) as per condition 1(b) of Class 1 it is considered as a consequence that the proposed development falls outside the scope of the Schedule 2 Part 1 Class1 of the Planning and Development Regulations 2001 (as amended).

With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether or not the construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling at Riverview, Carrigeen, Baltinglass, Co. Wicklow is or is not development; and is or is not exempted development:

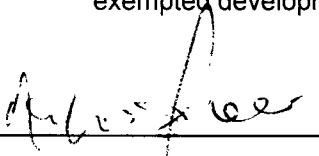
The Planning Authority considers that the construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling is development and is **not** exempted development.

Main Considerations with respect to Section 5 Declaration:

- The details received with this Section 5 application (EX64/2022) on the 14th October 2022.
- Sections 2, 3, and 4 of the Planning and Development Act 2000(as amended).
- Article 6(1) of the Planning and Development Regulations, 2001, (as amended).
- Article 9 of the Planning and Development Regulations, 2001(as amended).
- Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

- 1) The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
- 2) The construction of a 2-storey extension with a GFA of 30sqm located to the rear of the dwelling would not accord with the provisions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) and therefore is not exempted development.



Andrew Spencer
Assistant Planner

Agreed as Amended
SP
2/11/22

Agreed I note that the extension would include a window at 1st floor level facing to the rear within 11m of the boundary, which would not accord with the limitations of Schedule 1 Part 1, Class 1 of the Regulations. However, this does not change the wording of the recommendation and reasons.
SP
2/11/22

**Comhairle Contae Chill Mhantáin
Wicklow County Council**

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

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

WICKLOW COUNTY COUNCIL

**TO: Andrew Spencer
Assistant Planner**

**FROM: Crystal White
Assistant Staff Officer**

**RE:- EX 64/2022 - Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended)
Whether purposed development of less than 40msq to the rear of the
existing building at Riverview, Carrigreen, Baltinglass, Co Wicklow**

I enclose herewith for your attention application for Section 5 Declaration received 14th of October 2022.

The due date on this declaration is the 10th November 2022.



**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

18/10/2022

Mairead Kelly
C/O John Burgess
Burgess Construction Services Ltd
Raheenbawn
Kildavin
Bunclody
Co Wexford

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 64/2022
Whether purposed developmment of less than 40msq to the rear of the existing building at Riverview, Carrigreen, Baltinglass, Co Wicklow

A Chara

I wish to acknowledge receipt on the 14th of October 2022 details supplied by you in respect of the above section 5 application. A decision is due in respect of this application by 10/11/2022.

Mise, le meas

SENIOR EXECUTIVE OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT



County Council
y F dings
slow
404-20100

14/10/2022 15 30 07

Receipt No L1/0/303108
***** REPRINT *****

MAIREAD KELLY
RIVERVIEW
CARRIGEEN
BALTINGLASS

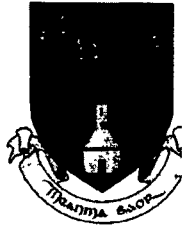
EXEMPTION CERTIFICATE-S	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total 80 00 EUR

Tendered
Credit Card 80 00

Change 0 00

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Co Wicklow
Telephone 0404 20148
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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: Mairéad Kelly

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) JOHN BURGESS
BURGESS CONSTRUCTION SERVICES LTD.

Address of Agent : Raheenbawn, Kildavin, Bunclody, Co. Wexford

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

3. Declaration Details

i. Location of Development subject of Declaration Edward St, Baltinglass, Co.
Wicklow. W91 H7V7

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 _____

N/A

iv. Section 5 of the Planning and Development Act provides that : If any question arises as to what, in any particular case, is or is not development and is or is not exempted development, within the meaning of this act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question. You should therefore set out the query for which you seek the Section 5 Declaration _____

THE PROPOSED DEVELOPMENT IS LESS THAN 40M2 IN AREA AND TO THE REAR OF THE EXISTING BUILDING

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 LAYOUT
FLOOR PLANS AND SECTION
ELEVATIONS
SITE LOCATION MAP

viii. Fee of € 80 Attached ? _____

Signed : Mairéad Kelly _____ Dated : 14/10/22 _____

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.

Surveyed 1990
 Revised 2012
 Levelled 1989

Urban PLACE Map



688517

688517

ITM CENTRE PT COORDS

686724,688431

DESCRIPTION

MAP SHEETS

1:1000
 4127-14



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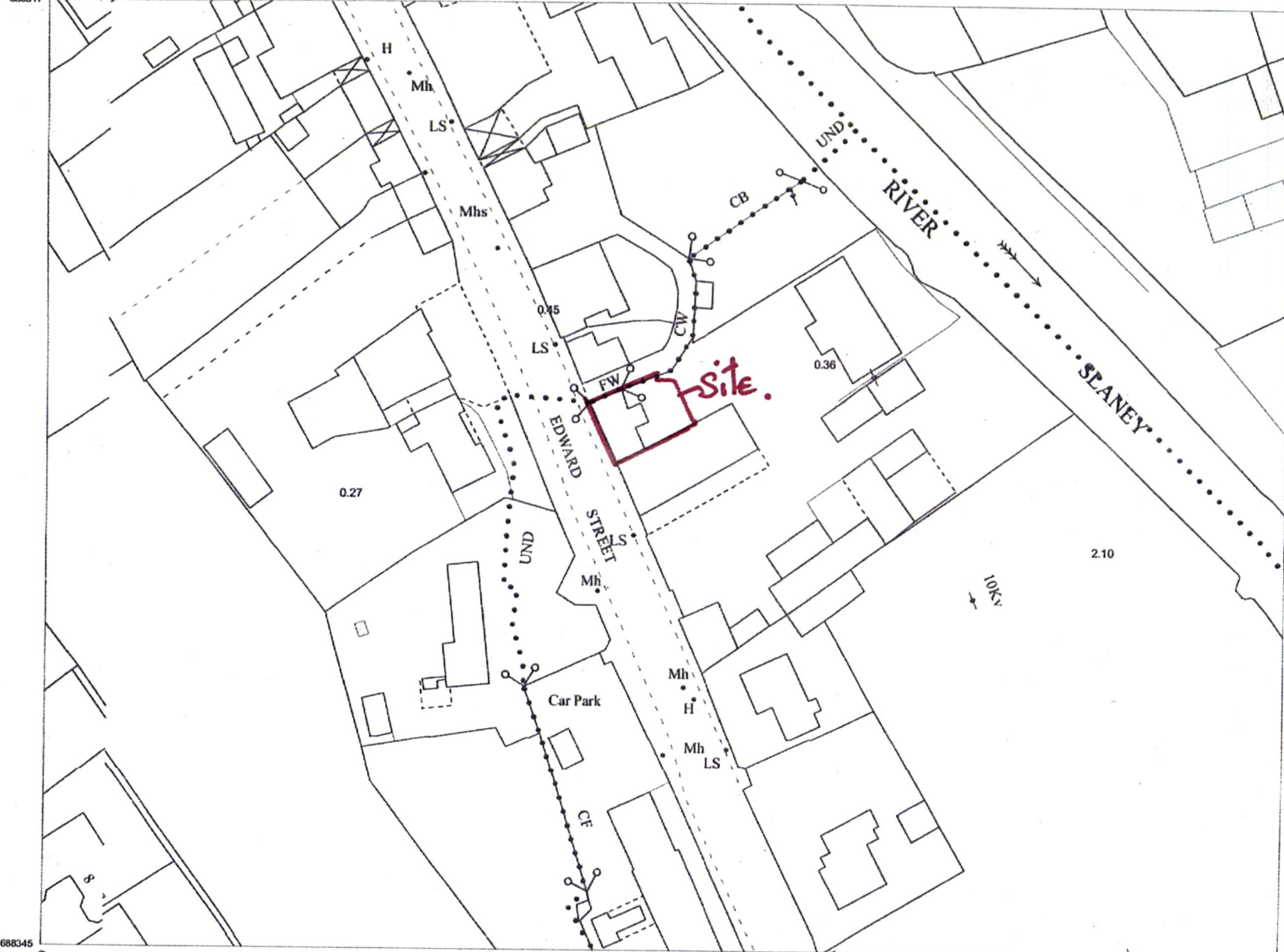
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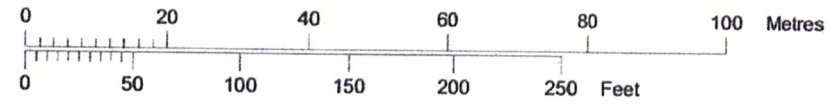
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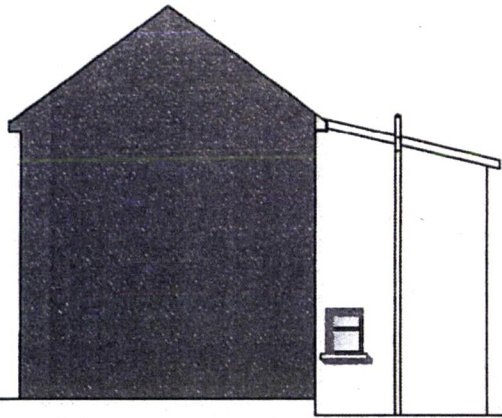
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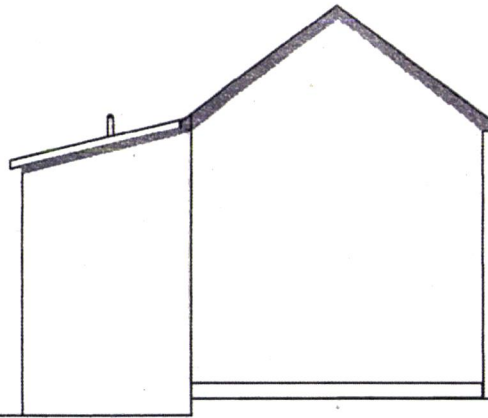
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Plot Ref. No. 19647641_1_1
 Plot Date 12-NOV-2013



Side Elevation



Side Elevation

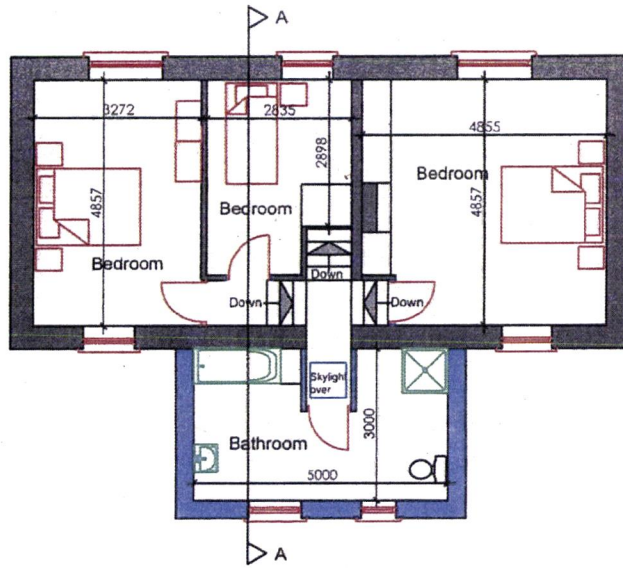


Rear Elevation

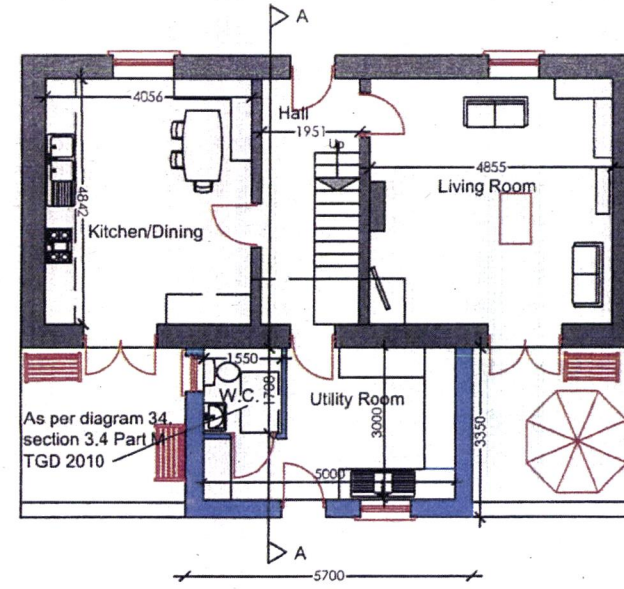


Front Elevation

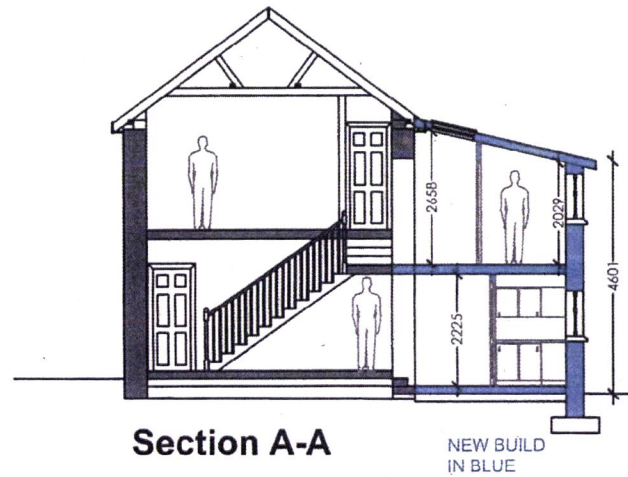
Client:	Marek Kelly
Project:	EDWARD STREET BALINGLASS CO. WICKLOW
Scale:	1/100 @ A3
Drawn:	JR
Checked:	
Date:	10-12-2022
B BURGESS CONSTRUCTION SERVICES LTD. DESIGN • BUILD • REPAIR	
Edwards, 182 Wicklow Road, Co. Wicklow Tel: +353 51 271933 Email: admin@burgess.ie	
ELEVATIONS	
Working No:	222.21.03
Page:	Planning



First Floor Layout



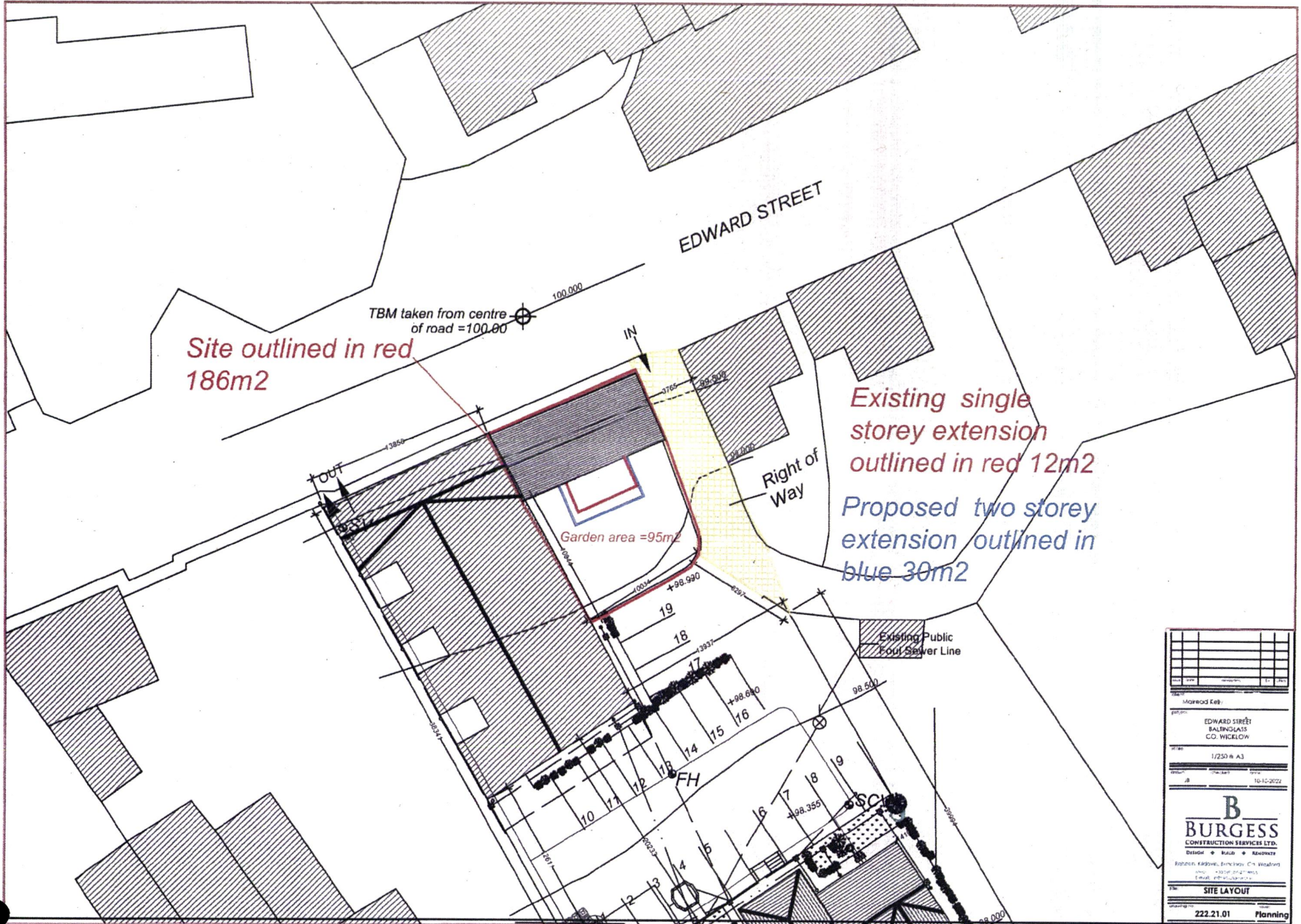
Ground Floor Layout



Section A-A

NEW BUILD
IN BLUE

Name		Maread Kelly	
Project		EDWARD STREET BALINGLASS CO. WICKLOW	
Scale		1/100 @ A3	
Date	Drawn	Scale	
19-10-2022			
B BURGESS CONSTRUCTION SERVICES LTD. DESIGN • BUILD • MAINTENANCE			
Burgess, Kelly, Burgess & Whelan Architects & Surveyors 100, The Square, Ballinacorney Wicklow, Co. Wicklow			
FLOOR PLANS & SECTION			
Drawing No.	Date		
222.21.02	19-10-2022		Planning



Site outlined in red
186m²

Existing single storey extension outlined in red 12m²
Proposed two storey extension outlined in blue 30m²



Garden area = 95m²

TBM taken from centre of road = 100.00

EDWARD STREET

Right of Way

Existing Public Foul Sewer Line

	
Edward Street BAINGLASS CO. WICKLOW	
1/250 @ A3	
10-10-2022	
	
BURGESS CONSTRUCTION SERVICES LTD. Design • Build • Manage	
Robert Karpow, Director, C.Eng. (Retired) Email: r.karpow@burgesscs.com	
SITE LAYOUT	
222.21.01	Planning