



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
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Rphost / Email plandev@wicklowcoco.ie
Suíomh / Website www.wicklow.ie

Niall Kiernan

26th Of March 2026

RE: Declaration in accordance with Section 5 of the Planning & Development Acts
2000 (As Amended) -EX32/2026

A Chara,

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 Coimisiún Pleanála of such fee as may be
prescribed, refer a declaration for review by the Coimisiún 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.





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

Applicant: Niall Kiernan

Location: 14 The Avenue, Burkeen, Wicklow Town, Co. Wicklow

Reference Number: EX 32/2026

CHIEF EXECUTIVE ORDER NO. CE/PERD/2026/346

A question has arisen as to whether “*installation of three roof-light windows (velux type) on the rear roof slope of the existing dwelling*” at 14 The Avenue, Burkeen, Wicklow Town, Co. Wicklow is or is not exempted development.

Having regard to:

- a) The details submitted with the Section 5 Declaration Application
- b) Sections 2, 3 and 4, of the Planning and Development Act 2000 (as amended)

Main Reasons with respect to Section 5 Declaration:

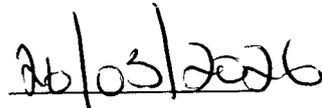
- (i) The installation of three roof-light windows (Velux type) on the rear roof slope of the existing dwelling are works and therefore development having regard to the definition set out in Section 2 and Section 3(a) of the Planning and Development Act 2000(as amended).
- (ii) The installation of three roof-light windows (Velux type) on the rear roof slope of the existing dwelling would be exempted development having regard to the provisions of Section 4(1) (h) of the Planning and Development Act 2000 (as amended), as the works 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;

The Planning Authority considers that “installation of three roof-light windows (velux type) on the rear roof slope of the existing dwelling” at 14 The Avenue, Burkeen, Wicklow Town, Co. Wicklow is development and IS exempted development.

Signed:


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Date:





WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2026/346

Reference Number: EX 32/2026

Name of Applicant: Niall Kiernan

Nature of Application: Section 5 Referral as to whether "*installation of three roof-light windows (velux type) on the rear roof slope of the existing dwelling*" is or is not development and is or is not exempted development.

Location of Subject Site: 14 The Avenue, Burkeen, Wicklow Town, Co. Wicklow

Report from: Michael Woods O'Rourke, AP, Edel Bermingham, T/SP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "*installation of three roof-light windows (velux type) on the rear roof slope of the existing dwelling*" at 14 The Avenue, Burkeen, Wicklow Town, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- a) The details submitted with the Section 5 Declaration Application
- b) Sections 2, 3 and 4, of the Planning and Development Act 2000 (as amended)

Main Reasons with respect to Section 5 Declaration:

- (i) The installation of three roof-light windows (Velux type) on the rear roof slope of the existing dwelling are works and therefore development having regard to the definition set out in Section 2 and Section 3(a) of the Planning and Development Act 2000(as amended).
- (ii) The installation of three roof-light windows (Velux type) on the rear roof slope of the existing dwelling would be exempted development having regard to the provisions of Section 4(1) (h) of the Planning and Development Act 2000 (as amended), as the works 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;

Recommendation

The Planning Authority considers that "*installation of three roof-light windows (velux type) on the rear roof slope of the existing dwelling*" at 14 The Avenue, Burkeen, Wicklow Town, Co. Wicklow is development and is exempted development as recommended in the planning reports.

Signed: Niall Kiernan

Date: 25/03/2026

ORDER:

I HEREBY DECLARE:

THAT "*installation of three roof-light windows (velux type) on the rear roof slope of the existing dwelling*" at 14 The Avenue, Burkeen, Wicklow Town, Co. Wicklow is **development and is exempted** development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed:  _____

T/Senior Planner

Planning, Economic & Rural Development

Date: 26/3/2026



**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

Section 5 – Application for declaration of Exemption Certificate

TO: Edel Bermingham SP
FROM: Michael Woods O'Rourke AP
REF: EX 32/2026
DECISION DUE DATE: 07/04/2026
APPLICANT: NIALL KIERNAN
DEVELOPMENT: 3 NO. VELUX WINDOWS ON REAR ROOF OF EXISTING DWELLING
LOCATION: 14 THE AVENUE, BURKEEN, WICKLOW TOWN

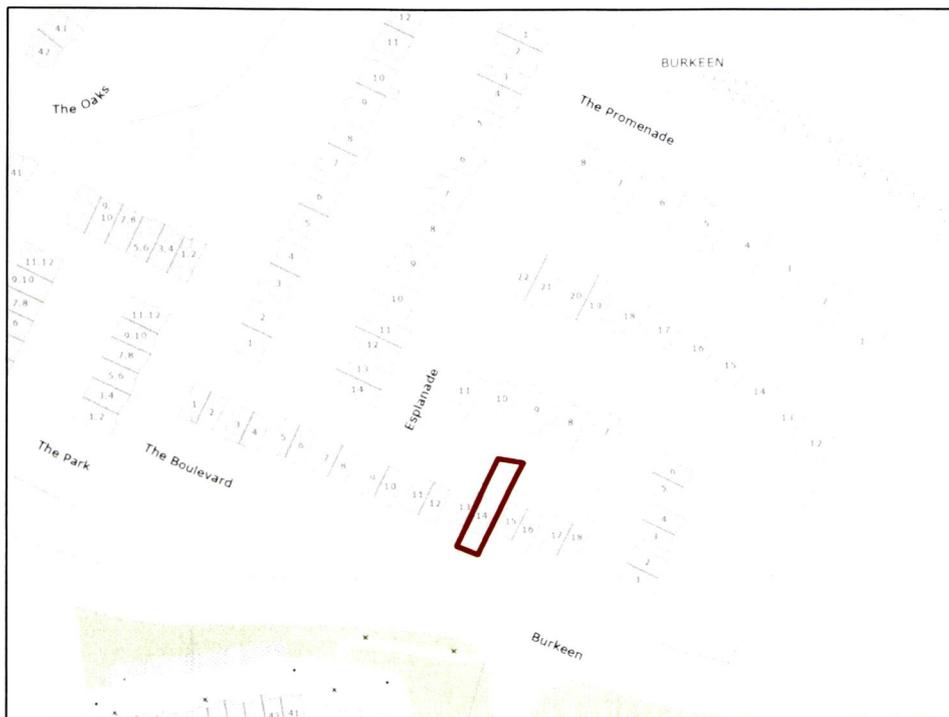


Figure 1: Site Location



Figure 2: View of No. 14 The Avenue, Burkeen, Wicklow Town (on left)

Initial Exemption as per Section 5 Application

Whether or not:

Installation of three roof-light windows (Velux type) on the rear roof slope of the existing dwelling at 14 The Avenue Burkeen, Wicklow Town, Co. Wicklow

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

Section 5 Application

The submitted application form states additional details of the proposed works within the query, i.e. that the roof-lights:

- *'will be installed flush with the existing roof pane'*
- *'will be positioned horizontally across the rear roof slope'*
- *'will not alter the roof ridge height'*
- *'will not alter the roof pitch'*
- *'will not involve dormer construction'*
- *'will not extend the footprint of the dwelling'*
- *'are intended to provide natural daylight and ventilation to the attic space'*

However, it is not considered necessary to re-word the section 5 query to include these elements, which are elements generally consistent with the installation of Velux type windows.

Relevant Planning History:

PRR 25/60672 - conversion of attic for storage use, including the construction of dormer windows to the front and rear roof slopes, and the installation of a velux rooflight to the front at 14 The Avenue, Burkeen, Wicklow, Co. Wicklow – final grant 25 November 2025

UD3645C – Alleged unauthorised development at Burkeen, Wicklow, Co. Wicklow consisting of:

- non-compliance with Conditions 14, 16, 19, 31 & 35 as attached to PRR 041792; final grant date 2510512005;
- non-compliance with Conditions 1, 15(h), 15(i), 17,79,20,23(b),23(h), 36 & 40 as attached to PRR 0512702 final grant date 1810712005;
- non-compliance with Conditions 1, 2, & 4 as attached to PRR 0615224: final grant date 2311112006; non-compliance with Conditions 1 & 3 as attached to PRR 0614836: final grant date 0610612006.
- non-compliance with Conditions 1, 3, 4, 14, 15, 16, 19,32(b) & 36 as attached to PRR 041792; final grant date 25105/2005;
- non-compliance with Conditions 1,2,3, 15(h), 17,18,79,23,26,37(b) & 41 as attached to PRR 0512702: final grant date 18107/2005;
- non-compliance with Conditions 7, 2, & 8(c) as attached to PRR 0615224: final grant date 23111/2006;
- non-compliance with Conditions 1,2,3,4, 5,6,7, 8, 10, 13, 15 & 16 as attached to PRR 1216301: final grant date 16107/2012.

File closed 26th March 2020 – reason as per CE Order: *'The Enforcement Notice dated 18th February 2014 has been substantially complied with and the estate known as 'Burkeen' has been taken in charge by Wicklow County Council.'*

Relevant legislation:

Planning and Development Act 2000 (as amended)

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

- (i) the interior of the structure,
- (ii) the land lying within the curtilage of the structure,
- (iii) any other structures lying within that curtilage and their interiors, and
- (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in *subparagraph (i) or (iii)*;

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

Section 3:

3.—

(1) In this Act, except where the context otherwise requires, "development" means—

- (a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or
- (b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).

Section 4:

4.—

(1) The following shall be exempted developments for the purposes of this Act—

(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;

3) A reference in this Act to exempted development shall be construed as a reference to development which is—

- (a) any of the developments specified in subsection (1), or
- (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this 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

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

Article 9(1) Note see Regulations for full Article

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—

< See Regulations for List >

Assessment

As identified above the query to be addressed is whether or not

Installation of three roof-light windows (Velux type) on the rear roof slope of the existing dwelling at 14 The Avenue Burkeen, Wicklow Town, Co. Wicklow

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The subject site is located in the settlement of Wicklow Town-Rathnew, in the townland of Burkeen, and is accessed from the L-1098 (Merrymeeting-Friarshill Road). No. 14 The Avenue, the dwelling subject of this Section 5, is located in the south-eastern corner of the Burkeen housing estate, with the topography sloping downwards to the north. It is a brick and render two-storey two-bay dwelling, semi-detached with its neighbour No. 13 to the west. The roof of the dwelling is generally pitched, with a gabled projection to the eastern bay on the front elevation. The recent planning history of the dwelling indicates that permission was granted in 2025 for the installation of, among other works, a dormer window to the rear elevation roof slope. However, this permission does not yet appear to have been enacted. The residential dwelling is not listed on the Record of Protected Structures, nor is it located within an Architectural Conservation Area. National Monument WI01162, a church, is c. 400m to the northeast. The dwelling is outside the corresponding zone of notification. The residential dwelling is not considered to be visible from any view or prospect set out in Wicklow County Development Plan 2022-2028 (including Prospect No. 29 from the R772/previous N11 to the Murrough and the Sea). The residential dwelling is located in the 'Urban Areas' Landscape Category. The site is located in Flood Zone C.

Environmental Impact Assessment

Having regard to nature and scale of the development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Appropriate Assessment

The application site is located c. 1km west of the Murrough SPA/The Murrough Wetlands SAC. The land slopes downward to the east of the site, in the direction of the European sites. Considering that the proposed works would be taking place entirely within the curtilage of the dwelling surrounded by fencing and other dwellings, and having regard to the nature and scale of the proposed development, a source-receptor pathway is unlikely and it is not considered that the proposed development would give rise to any adverse impacts on the qualifying interests and conservation objectives of the Murrough SPA/The Murrough Wetlands SAC or any other Natura sites. Therefore, the proposed development would not necessitate the carrying out of an Appropriate Assessment in accordance with the requirements of Article 6(3) of the EU Habitats Directive.

Article 9 of the Planning and Development Regulations 2001 (as amended)

It is not considered that the provisions of Article 9 are relevant in this case. In particular, in relation to Articles 9(1)(a)(i) & 9(1)(a)(viii), enforcement UD3645C has been closed, with compliance substantially achieved. It is considered that the proposal subject of this Section 5 request is not materially significant to this enforcement case.

It is necessary to consider in turn whether the proposal subject of this Section 5 request is or is not a) development and b) exempted development.

NOT RELEVANT
Sul
TSP

'Installation of three roof-light windows (Velux type) on the rear roof slope of the existing dwelling'

- (a) This element would consist of acts of alteration/construction and would therefore constitute 'works' as defined under Section 2 of the Planning and Development Act 2000 (as amended). As the carrying out of works constitutes development under Section 3(1)(a) of the said Act, it is therefore considered that this element is development.
- (b) The relevant exemption in respect to this element is Section 4(1)(h) of the Planning and Development Act 2000 (as amended). This exemption requires that the works affect only the interior of the structure 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 of neighbouring structures. The proposed works are to the exterior of the structure, to the rear slope of the roof. Considering that No. 14 The Avenue is at a high point, its rear neighbour opposite will have a limited view of upward facing Velux windows to the rear roof slope. The dwelling is a structure of a modern construction in which Velux windows would not be uncommon or inappropriate, and aerial imagery indicates that numerous neighbouring dwellings/structures have similar roof lights to their rear roof slopes. On this basis, it is considered that the proposed development would **not** render the appearance inconsistent with the character of the structure or of neighbouring structures, satisfying the conditions of this exemption.

Based on the documents submitted, **it can be determined that the proposed development does constitute exempted development.**

Recommendation:

With respect to the query under Section 5 of the Planning and Development Act 2000(as amended), as to whether or not:

Installation of three roof-light windows (Velux type) on the rear roof slope of the existing dwelling at 14 The Avenue Burkeen, Wicklow Town, Co. Wicklow.

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The Planning Authority consider that the proposal **is** development and **is** exempted development.

Main Considerations with respect to Section 5 Declaration:

- a) The details submitted with the Section 5 Declaration Application
- b) Sections 2, 3 and 4, of the Planning and Development Act 2000 (as amended)
- c) ~~Article 6 and 9 of the Planning and Development Regulations 2001 (as amended).~~

Main Reasons with respect to Section 5 Declaration:

- (i) The installation of three roof-light windows (Velux type) on the rear roof slope of the existing dwelling are works and therefore development having regard to the definition set out in Section 2 and Section 3(a) of the Planning and Development Act 2000(as amended).

- (ii) The installation of three roof-light windows (Velux type) on the rear roof slope of the existing dwelling would be exempted development having regard to the provisions of Section 4(1) (h) of the Planning and Development Act 2000 (as amended), as the works ~~either affect only the interior of the structure 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 of neighbouring structures;

Michael Woods O'Rourke

Michael Woods O'Rourke AP
23/03/26

Ayud E. Bayl
TCS
23/3/2026

MEMORANDUM

WICKLOW COUNTY COUNCIL

**TO: Michael Woods O'Rourke
Assistant Planner**

**FROM: Aoife Kinsella
Clerical Officer**

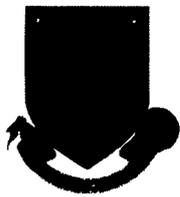
**RE: - EX29/2026 - Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended) -EX32/2026**

I enclose herewith for your attention application for Section 5 Declaration received 11/03/2026.

The due date on this declaration is the 07/04/2026.

Aoife Kinsella

**Clerical Officer
Planning Development & Environment**



COMHAIRLE CONTAE CHILL Mhantáin
Wicklow County Council

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Niall Kiernan
2C Rocky Road
Wicklow Town
Co. Wicklow

11th of March 2026

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX32/2026

A Chara

I wish to acknowledge receipt on 11/03/2026 full details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 07/04/2026.

Mise, le meas



Aoife Kinsella
Clerical Officer
Planning, Economic & Rural Development



Wicklow County Council
County Buildings
Wicklow
0404-20100

11/03/2026 09 11 10

Receipt No L1/0/360282
***** REPRINT *****

NIALL KIERNAN
20 ROCKY ROAD
WICKLOW TOWN
CO WICKLOW

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

Total 80 00 EUR

Tendered
Credit Card 80 00
14 THE AVENUE BURKEEN

Change 0 00

Issued By Adam Copeland
From Customer Service Hub
Vat reg No 0015233H



Wicklow County Council
County Buildings
Wicklow
Co Wicklow
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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: Niall Kiernan
Address of applicant: 2C Rocky Road Wicklow Town, Co. Wicklow,
Ireland _____

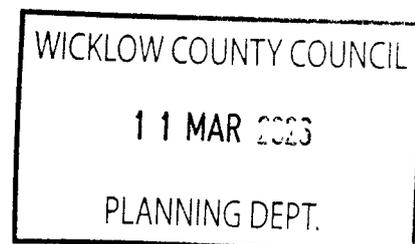
Note Phone number and email to be filled in on separate page.

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) _____
Address of Agent : _____

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

3. Declaration Details



- i. Location of Development subject of Declaration ___14, The Avenue, Burkeen Wicklow Town, Co. Wicklow, Ireland _____
- ii. Are you the owner and/or occupier of these lands at the location under i. above ?
Yes.
- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier _____

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

Proposed works consist of the installation of **three roof-light windows (Velux type)** on the **rear roof slope** of the existing dwelling.

The proposed roof-lights:

- will be installed **flush with the existing roof plane**
- will be positioned **horizontally across the rear roof slope**
- will **not alter the roof ridge height**
- will **not alter the roof pitch**
- will **not involve dormer construction**
- will **not extend the footprint of the dwelling**

The works are intended to provide **natural daylight and ventilation to the attic space.**

A declaration is therefore requested from Wicklow County Council as to whether the installation of these roof-lights constitutes **exempted development** under the Planning and Development Act 2000 (as amended).

Additional details may be submitted by way of separate submission.

Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration The applicant considers the following legislative provisions relevant:

Section 4(1)(h) of the Planning and Development Act 2000 (as amended)

This section provides that development consisting of works for the **maintenance, improvement or alteration of a structure** which **do not materially affect the external appearance of the structure** so as to render it inconsistent with the character of the structure or neighbouring structures shall constitute **exempted development**.

The proposed roof-lights are minor alterations which:

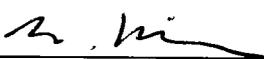
- are located on the **rear roof slope**
- are **flush roof windows**
- **do not materially alter the external appearance** of the dwelling
- **do not alter the structural form of the building**

vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure) ? No. The dwelling is **not a protected structure** and is not located within the curtilage of a protected structure. _____

List of Plans, Drawings submitted with this Declaration Application _____ The following documents are submitted with this application:

1. **Site Location Map** showing the property outlined in red
2. **Roof Plan Drawing** showing the proposed location of three Velux roof-lights
3. **Planning Rationale Document**
4. **Photographs of the existing dwelling and roof**

viii. Fee of € 80 Attached ? Yes _____

Signed :  Dated : 10/03/26

Section 5 Declaration Submission Pack

Property: 14 The Avenue, Burkeen, Wicklow Town, Co. Wicklow (A67 A890)

This document accompanies a request for a declaration under Section 5 of the Planning and Development Act 2000 (as amended) to determine whether the installation of rooflights to the rear roof slope of the dwelling constitutes exempted development.

Proposed Works

Installation of 3 No. Velux rooflights to the rear roof slope of the dwelling. Each rooflight measures approximately 780mm x 1180mm and will be installed flush with the existing roof tiles. The rooflights will be positioned in a single horizontal row and evenly spaced across the rear roof slope. The works will not alter the roof ridge height, roof pitch, or structural form of the dwelling.

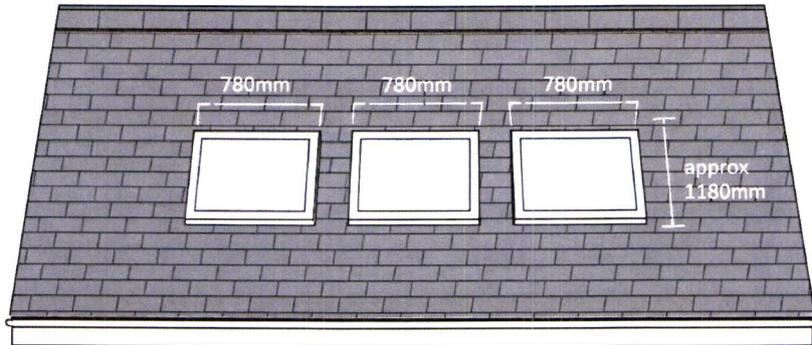
Relevant Planning Legislation

Section 4(1)(h) of the Planning and Development Act 2000 (as amended) provides that development consisting of works for the maintenance, improvement or alteration of a structure 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 neighbouring structures shall constitute exempted development.

Relevant Wicklow County Council Section 5 Precedents

Reference	Description	Outcome
EX 46/2024	Velux rooflights installed to rear roof slope of dwelling.	Declared exempted development under Section 4(1)(h).
EX 32/2025	3 Velux roof windows installed to attic space.	Considered development but exempted development.
EX 13/2023	Velux rooflights installed in residential estate house.	Declared exempted development.
EX 11/2023	Single rooflight to rear roof slope.	Declared exempted development.

Roof Plan Drawing



REAR ROOF SLOPE

3 No. Velux rooflights
Size: approx 780mm x 1180mm
Evenly Spaced across rear roof slope
Installed flush with roof tiles

Location

Real view location

