



# 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  
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Rphost / Email: [plandev@wicklowcoco.ie](mailto:plandev@wicklowcoco.ie)  
Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

P Allen and D Pemberton  
Hillview  
Raheen  
Beech Road  
Arklow  
Co. Wicklow  
Y14 XK75

13<sup>th</sup> Of April 2026

**RE: Declaration in accordance with Section 5 of the Planning & Development Acts  
2000 (As Amended) -EX39/2026**

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:** P Allen and D Pemberton

**Location:** Hillview, Raheen, Beech Road, Arklow, Co. Wicklow

**Reference Number:** EX 39/2026

### CHIEF EXECUTIVE ORDER NO. CE/PERD/2026/416

A question has arisen as to whether “(i) removal of an unused chimney, (ii) reorientation of an existing window in a detached garage” at Hillview, Raheen, Beech Road, Arklow, Co. Wicklow is or is not exempted development.

#### Having regard to:

- a. The details submitted with the Section 5 declaration application.
- b. PRR 95/2243.
- c. Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended)

#### Main Reasons with respect to Section 5 Declaration:

- i. The removal of an existing chimney at an existing detached dwelling and reorientation of an existing window to a detached single storey garage come within the meaning of works as set out in Section 2 of the Planning and Development Act 2000 (as amended).
- ii. The removal of an existing chimney at an existing detached dwelling and reorientation of an existing window to a detached single storey garage are works and therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- iii. The removal of an existing chimney at an existing detached dwelling and reorientation of an existing window to a detached single storey garage would come within the description and limitations as set out under Section 4 (1) (h) of the Planning and Development Act 2000 (as amended) and is therefore exempted development.

**The Planning Authority considers that “(i) removal of an unused chimney, (ii) reorientation of an existing window in a detached garage” at Hillview, Raheen, Beech Road, Arklow, Co. Wicklow is development and IS exempted development.**

Signed:   
ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT

Date: 13/04/2026



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)  
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2026/416

Reference Number: EX 39/2026  
Name of Applicant: P Allen and D Pemberton  
Nature of Application: Section 5 Referral as to whether "(i) removal of an unused chimney, (ii) reorientation of an existing window in a detached garage" is or is not development and is or is not exempted development.  
Location of Subject Site: Hillview, Raheen, Beech Road, Arklow, Co. Wicklow  
Report from: Neal Murphy, EP, Edel Bermingham, T/SP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "(i) removal of an unused chimney, (ii) reorientation of an existing window in a detached garage" at Hillview, Raheen, Beech Road, Arklow, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

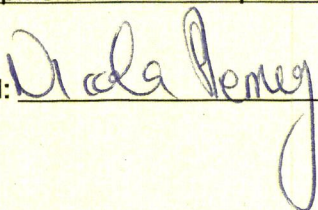
- a. The details submitted with the Section 5 declaration application.
- b. PRR 95/2243.
- c. Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended)

Main Reasons with respect to Section 5 Declaration:

- i. The removal of an existing chimney at an existing detached dwelling and reorientation of an existing window to a detached single storey garage come within the meaning of works as set out in Section 2 of the Planning and Development Act 2000 (as amended).
- ii. The removal of an existing chimney at an existing detached dwelling and reorientation of an existing window to a detached single storey garage are works and therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- iii. The removal of an existing chimney at an existing detached dwelling and reorientation of an existing window to a detached single storey garage would come within the description and limitations as set out under Section 4 (1) (h) of the Planning and Development Act 2000 (as amended) and is therefore exempted development.

Recommendation

The Planning Authority considers that "(i) removal of an unused chimney, (ii) reorientation of an existing window in a detached garage" at Hillview, Raheen, Beech Road, Arklow, Co. Wicklow is development and is exempted development as recommended in the planning reports.

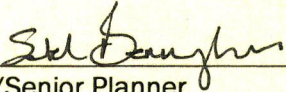
Signed: 

Date: 13/04/2026

ORDER:

I HEREBY DECLARE:

THAT "(i) removal of an unused chimney, (ii) reorientation of an existing window in a detached garage" at Hillview, Raheen, Beech Road, Arklow, 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: 12/4/2026



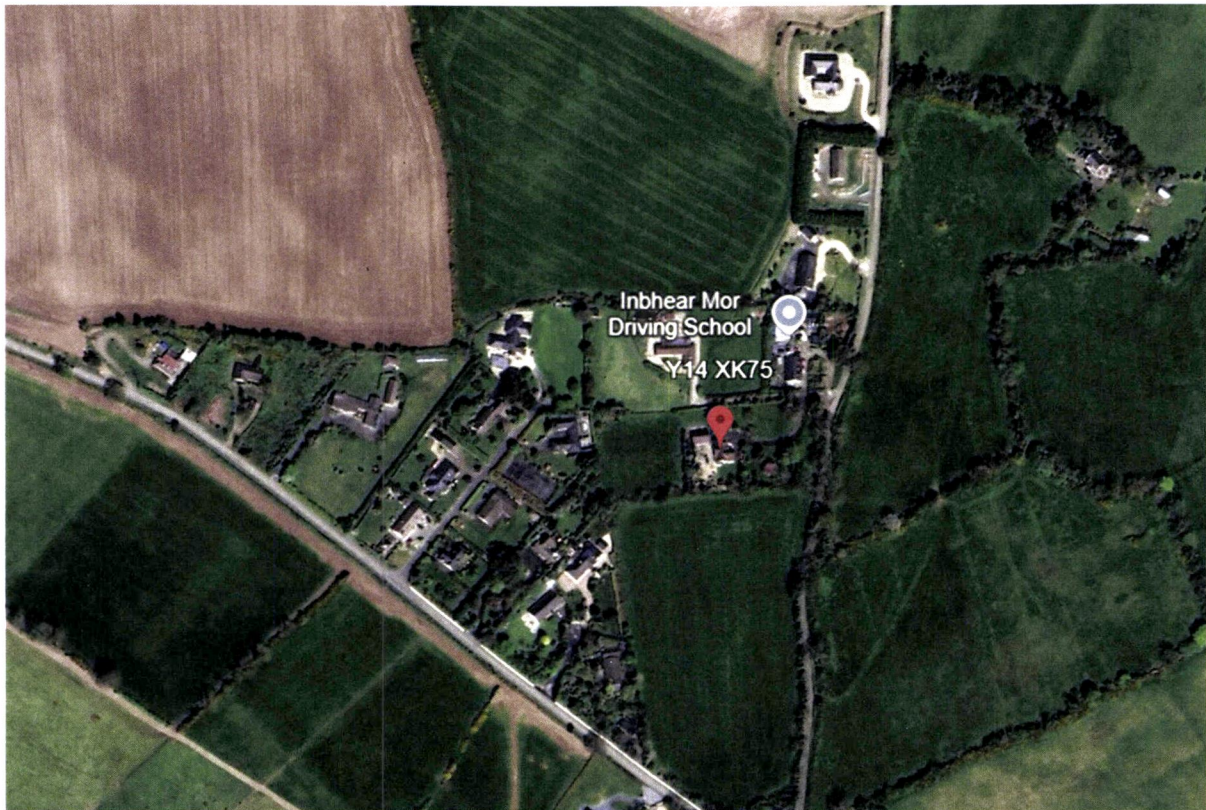
**WICKLOW COUNTY COUNCIL  
PLANNING DEPARTMENT**

**Section 5 – Application for declaration of Exemption Certificate**

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**TO:** Edel Bermingham T.S.P / Patrice Ryan S.E.P.  
**FROM:** Neal Murphy E.P  
**REF:** EX39/2026  
**DECISION DUE:** 21/04/2026  
**NAME:** P ALLEN AND D PEMBERTON  
**DEVELOPMENT:** REMOVAL OF UNUSED CHIMNEY TO ALLOW FOR IMPROVED INSULATION IN ATTIC, BEDROOM, AND DOWNSTAIRS LIVING ROOM/STUDY, AND IN ADDITION TO MAKE THE BEDROOM A MORE USABLE SPACE  
**LOCATION:** HILLVIEW, RAHEEN, BEECH ROAD, ARKLOW, CO. WICKLOW Y14 XK75

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**Site Location and Description**

The subject property is located off the Beech Road in the townland of Raheen, approximately 3.5km northwest of Arklow Town. The site contains a detached dormer bungalow and a detached garage. The immediate area is a mix of residential and agricultural uses.

**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. removal of unused chimney to allow for improved insulation in attic, bedroom, and downstairs living room/study, and in addition to make the bedroom a more usable space
2. change of orientation of existing window to existing garage

#### Planning History

95/2243 – **PERMISSION GRANTED** for a house, garage & septic tank.

#### Relevant Legislation:

##### Planning and Development Act, 2000 (as amended):

Section 2 (1) defines works as 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 (1)(a) defines development as: “The carrying out of works on, in, over or under land or the making of any material change in the use of any land or structures on land”;

Section 4 (1)(a) to (l) specifies various categories of development, which shall be exempted for the purposes of the Act;

In particular, section 4 (1) (h) is:

*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) provides for certain classes of development to be designated as exempted development by way of legislation.

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

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

Article 9(1)(a) 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;

#### Details Submitted in support of Application:

The applicants are applying for a Section 5 Declaration in relation to the following;

- 1) Removal of unused chimney
- 2) Reorientation of existing window in detached garage

The applicant submitted the following information:

- Site Location Map
- Photographs of the front of the dwelling
- Drone photograph of the site
- Folio Map
- Drawing of proposed reorientation of window

Assessment:

Removal of unused chimney and Reorientation of existing window in detached garage

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.

The Planning Authority is satisfied that the proposal would involve *works* to the existing structures and therefore the proposal does constitute development.

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

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

*“development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.”*

Removal of Chimney

The proposed removal of the chimney of an existing detached dwelling relatively remote from neighbouring dwellings is considered to come within the provisions of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) as although the works would affect the external appearance of the property, the impact 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.

Therefore, it is considered **exempt development** as per Section 4 (1) (h) of the Planning and Development Act 2000 (as amended).

Reorientation of existing window in detached garage

The proposed reorientation/repositioning of an existing window on a single storey detached garage to the rear of an existing dwelling is considered come within the provisions of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) also and it is considered that these works 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 would not injure or alter the residential amenities of neighbouring properties via overlooking.

Therefore, it is considered **exempt development** as per Section 4 (1) (h) of the Planning and Development Act 2000 (as amended).

Recommendation

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

- 1) Removal of an unused chimney
- 2) Reorientation of an existing window in a detached garage

at Hillview, Raheen, Beech Road, Arklow, Co. Wicklow Y14 XK75 is or is not development and is or is not exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The Planning Authority considers that the:

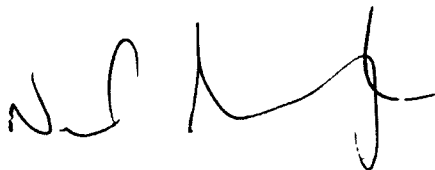
- 1) Removal of an unused chimney **is development and is exempted development.**
- 2) Reorientation of an existing window in a detached garage **is development and is exempted development.**

Main Considerations with respect to Section 5 Declaration:

- a. The details submitted with the Section 5 declaration application;
- b. PRR 95/2243;
- c. Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended);

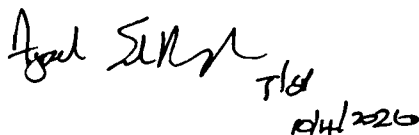
Main Reasons with respect to Section 5 Declaration:

- i. The removal of an existing chimney at an existing detached dwelling and reorientation of an existing window to a detached single storey garage come within the meaning of works as set out in Section 2 of the Planning and Development Act 2000 (as amended).
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- iii. The removal of an existing chimney at an existing detached dwelling and reorientation of an existing window to a detached single storey garage would come within the description and limitations as set out under Section 4 (1) (h) of the Planning and Development Act 2000 (as amended) and is therefore exempted development.



---

Neal Murphy  
Executive Planner  
10/04/2026



T/14  
10/4/2026



**Comhairle Contae Chill Mhantáin  
Wicklow County Council**

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe  
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**MEMORANDUM**

**WICKLOW COUNTY COUNCIL**

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**TO: Neal Murphy  
Executive Planner**

**FROM: Nicola Fleming  
Staff Officer**

**RE: - EX39/2026 - Declaration in accordance with Section 5 of the  
Planning & Development Acts 2000 (as amended)**

I enclose herewith for your attention application for Section 5 Declaration received 25/03/2026.

The due date on this declaration is the 21/04/2026.



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**Staff Officer  
Planning Development & Environment**





# Comhairle Contae Chill Mhantáin Wicklow County Council

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P Allen & D Pemberton  
Hillview  
Raheen  
Beech Road  
Arklow  
Co. Wicklow  
Y14 XK75

25<sup>th</sup> March 2026

**RE: Application for Certificate of Exemption under Section 5 of the Planning and  
Development Acts 2000 (as amended). – EX39/2026**

A Chara

I wish to acknowledge receipt on 25/03/2026 full details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 21/04/2026.

Mise, le meas

---

Nicola Fleming  
Staff Officer  
Planning, Economic & Rural Development



Wicklow County Council  
County Buildings  
Wicklow  
0404-20100



20/03/2026 15:51:12

Receipt No L1/0/360869

DEIRDRE PEMBERTON  
HILLVIEW  
RAHEEN  
BEECH ROAD  
ARKLOW

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

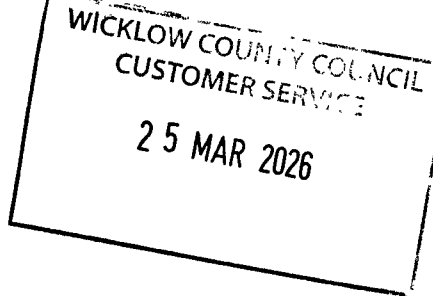
Total 80 00 EUR

Tendered  
Credit Card 80 00  
HILLVIEW, RAHEEN

Change 0 00

Issued By Ruth Graham  
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: P Allen and D Pemberton  
Address of applicant: \_\_\_Hillview, Raheen, Beech Road, Arklow, Co Wicklow  
Y14XK75

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

**2. Agents Details (Where Applicable). N/A**

(b) Name of Agent (where applicable)

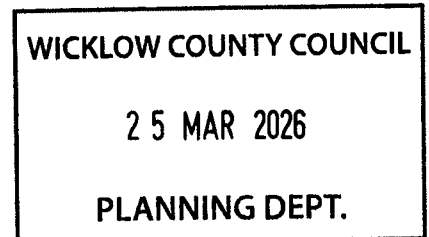
Address of Agent :

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

**3. Declaration Details**

Location of Development subject of Declaration

Hillview, Raheen, Beech Road, Arklow, Co Wicklow Y14XK75



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

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

Removal of unused chimney to allow for improved insulation in attic, bedroom and downstairs living room/study, and in addition to make the bedroom a more usable space.

The guidance for exempted developments notes that,  
*External works for repair, maintenance and improvement such as painting or replastering do not need planning permission, as long as they do not materially affect the external appearance of the house in a way that would make its appearance inconsistent with neighbouring buildings.*

As a stand alone house we do not believe that the removal of the chimney will make the house inconsistent with our neighbours who are not close to us.

The change in window orientation is not significant in that the concept of a window on this wall is already established.

*Additional details may be submitted by way of separate submission.*

See earlier documents submitted.

Site layout

Location of site

Photographs of front of house and drone view of site layout.

Folio map of site.

Drawing of proposed window

Details of development

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

*Additional details may be submitted by way of separate submission.*

Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure ( or proposed protected structure) ? No

Fee of € 80 Attached ?  
Paid by phone 20.3.2026

Signed : Jude Palletta Dated : 20.3.2026

**Additional Notes :**

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

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.

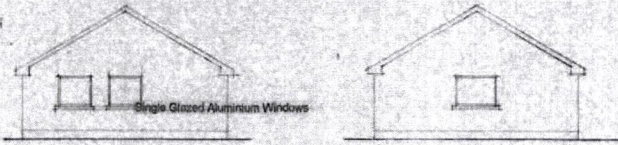
Site layout plan showing location of structure and any adjoining farm structures and any dwellings within 100m of the farm structure.

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.

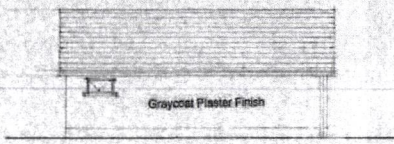
Details of gross floor area of structures of similar type within the same farmyard complex or within 100metres of that complex.





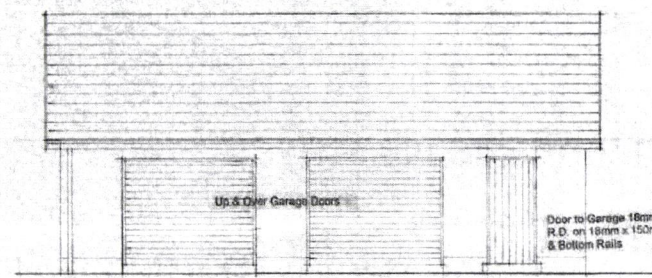
East Elevation

West Elevation



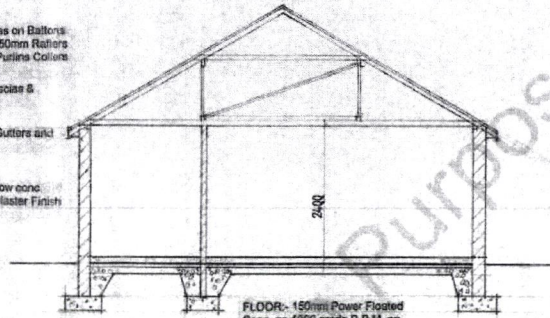
North Elevation

Scale 1:100



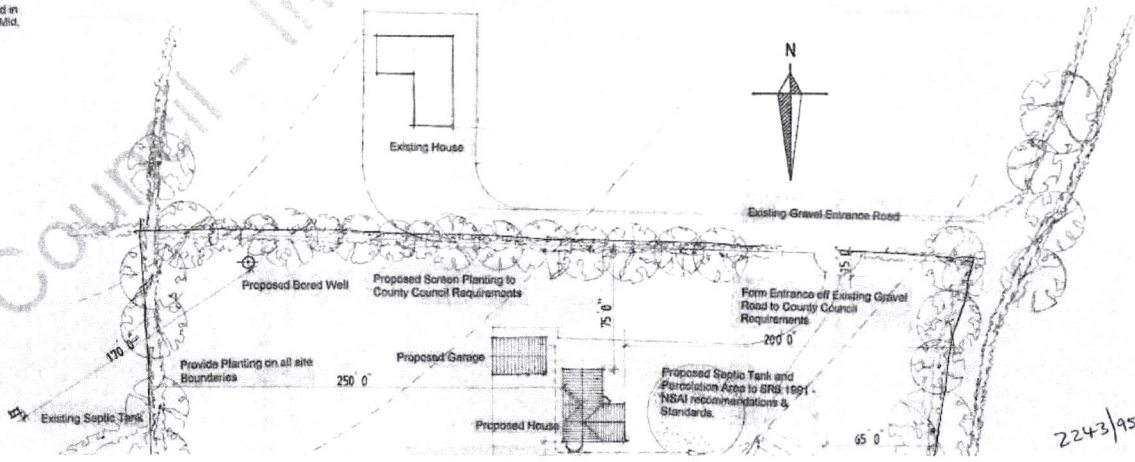
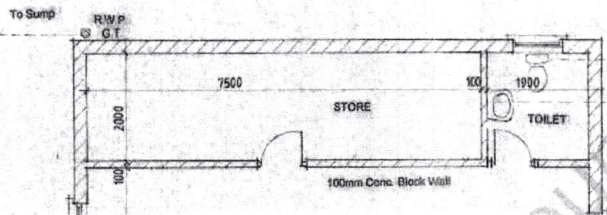
South Elevation

ROOF- Tru-tone Slates on Battens on Felt on 100mm x 50mm Battens with 75mm x 50mm Purline Collars Hangers & Ties.  
RD Barge Boards Fascias & Soffits.  
Extruded Aluminium Gutters and Downpipes  
WALLS- 225mm Hollow conc. Block with Graycoat Plaster Finish Externally



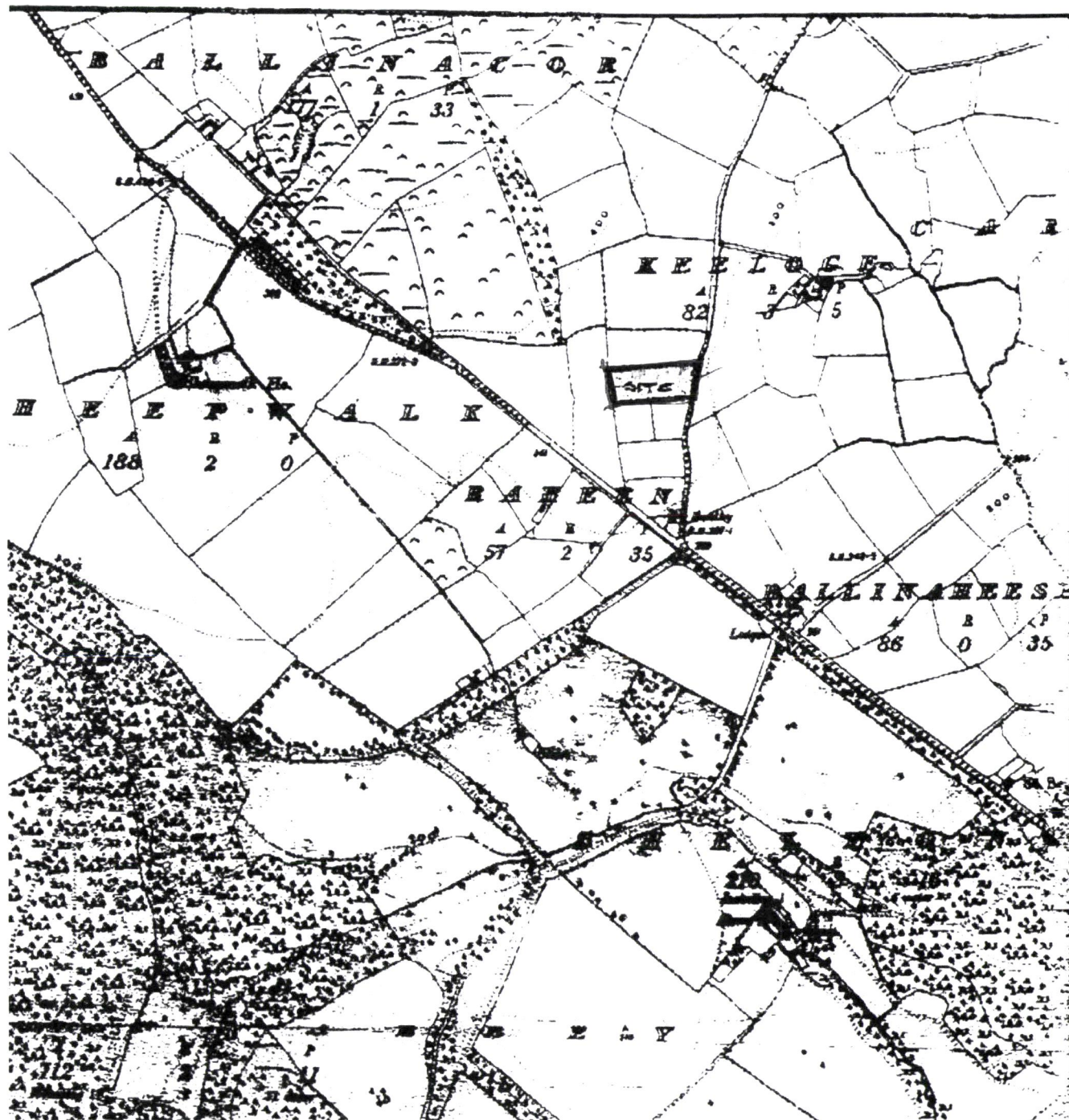
Section A-A

FLOOR- 150mm Power Floated Conc. on 1500 grade D.P.M. on 50mm Blinding on 150mm hardcore  
Take Foundations down to Required Depth



2243/95





POSITION  
OF PUBLIC  
NOTICE



File: WW14804F

This map should be read in conjunction with the title.

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(Indication of parcel edge)

- Freehold
- Leasehold
- Sub-Leasehold

Borders may not all be represented

- Right of Way / Wayleave
- Tutory
- Rights
- Well
- Pump
- Septic Tank
- ▽ Septic Pit

A full list of borders and their symbology can be found at [www.t2.ie](http://www.t2.ie)

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1:2500 Scale

