

WICKLOW COUNTY COUNCIL

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

Director of Services Order No: 435/2023

Reference Number: EX 12/2023

Name of Applicant: Sarah Murphy

Nature of Application: Section 5 Referral as to whether "Erection of 3m x 4.5m garden room to front garden at 3 Diamond Terrace, Greenpark Road, Bray, Co Wicklow" is or is not exempted development.

Location of Subject Site: 3 Diamond Terrace, Greenpark Road, Bray, Co Wicklow

Report from Edel Bermingham SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "Erection of 3m x 4.5m garden room to front garden at 3 Diamond Terrace, Greenpark Road, Bray, 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.
- b) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended).
- c) Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001 (as amended)
- d) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

- The erection of a garden room is development having regard to Section 3 of the Planning and Development Act 2001 (as amended).
- The garden room would not come within the descriptions and limitations set out under Class 3: Part 1: Schedule 2 of the Planning & Development Regulations 2001 (as amended), as the structure would be located forward of the front wall of the dwelling, and therefore would be contrary to the restriction set out under Limitation 1 of Class 3.

Recommendation

The Planning Authority considers that "Erection of 3m x 4.5m garden room to front garden at 3 Diamond Terrace, Greenpark Road, Bray, Co Wicklow" is development and is not exempted development as recommended in the planning reports.

Signed  Dated 3rd day of March 2023

ORDER:

That a declaration to issue stating:

That "Erection of 3m x 4.5m garden room to front garden at 3 Diamond Terrace, Greenpark Road, Bray, Co Wicklow" is development and is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: 
Director of Services
Planning Development & Environment

Dated 3 day of March 2023



Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco
Suíomh / Website: www.wicklow.ie

Sarah Murphy

3rd March 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 12/2023

Applicant: Sarah Murphy

Nature of Application: Erection of 3m x 4.5m garden room to front garden at 3 Diamond Terrace, Greenpark road, Bray, Co Wicklow

Location: 3 Diamond Terrace, Greenpark road, Bray, 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 doiciméad seo ar fáil i bhfórmáidí 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

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

Applicant: Sarah Murphy

Location: 3 Diamond Terrace, Greenpark Road, Bray, Co Wicklow

DIRECTOR OF SERVICES ORDER NO 435/2023

A question has arisen as to whether "Erection of 3m x 4.5m garden room to front garden at 3 Diamond Terrace, Greenpark road, Bray, Co Wicklow is or is not exempted development.

Having regard to:

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

Main Reasons with respect to Section 5 Declaration:

- The erection of a garden room is development having regard to Section 3 of the Planning and Development Act 2001 (as amended).
- The garden room would not come within the descriptions and limitations set out under Class 3: Part 1: Schedule 2 of the Planning and Development Regulations 2001 (as amended), as the structure would be located forward of the front wall of the dwelling, and therefore would be contrary to the restriction set out under Limitation 1 of Class 3.

The Planning Authority considers that "Erection of 3m x 4.5m garden room to front garden at 3 Diamond Terrace, Greenpark road, Bray, Co Wicklow is development and is not exempted development.

Signed: 

ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 3rd March 2023

*Tá an doiciméad 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.



Section 5 Application EX 12/2023

Date : 2nd March 2023.

Applicant : Sarah Murphy

Address : 3 Diamond Terrace, Greenpark Road, Bray

Exemption Whether or not :

Erection of 3m x 4.5m garden room to front garden.

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

Planning History :

BTC PRR 06/ 293 Permission granted for a single storey first floor extension to rear.

Relevant legislation :

Planning and Development Act 2000 (as amended)

"habitable house" means a house which—

- (a) is used as a dwelling,
- (b) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or
- (c) was provided for use as a dwelling but has not been occupied;

"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
- (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, "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 :

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>

Schedule 2 : Part 1

<p><i>Development within the curtilage of a house</i></p> <p>CLASS 3</p> <p>The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</p>	<ol style="list-style-type: none"> 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.
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Assessment :

The Section 5 declaration application queries whether or not the provision of a 3m x 4.5m garden room to front garden of 3 Diamond Terrace, Greenpark Road, Bray is or is not development, and is or is not exempted development .

The first question to be asked is whether or not the erection of a garden room is or is not development. The erection of the garden room comes within the definition of works under the Planning and Development Act 2000(as amended), being works of construction, and as such the operations would come within the definition of development as set out under Section 3 of the Act.

Schedule 2, Part 1, Class 3 of the Planning and Development Regulations 2001(as amended) sets out the exemption for such structures. Class 3 is defined as :

The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure

For this exemption to apply the development must comply with the limitations set out under Class 3. It is evident from the particulars submitted that the unit is forward of the front wall of the house, and therefore would not come within the exemption limitations. It should be noted that the Planning Authority is restricted in its assessment to compliance with the legislation, and whilst there may be personal requirements for the structure, these are not matters that can be taken into consideration in any deliberation with respect to compliance with the exempt Classes.

In light of the above the proposal cannot be considered exempt development .

Recommendation :

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

Erection of 3m x 4.5m garden room to front garden at 3 Diamond Terrace, Greenpark Road, Bray, Co. Wicklow.

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

The Planning Authority considers that :

Erection of 3m x 4.5m garden room to front garden at 3 Diamond Terrace, Greenpark Road, Bray, Co. Wicklow **is development and is Not exempted development**

Main Considerations with respect to Section 5 Declaration :

- a) The details submitted with the Section 5 Declaration.
- b) Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)
- c) Schedule 2, Part 1 , Class 3 of the Planning and Development Regulations 2001 (as amended)
- d) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration :

- The erection of a garden room is development having regard to Section 3 of the Planning and Development Act 2001(as amended)
- The garden room would not come within the descriptions and limitations set out under Class 3 : Part 1 : Schedule 2 of the Planning and Development Regulations 2001 (as amended), as the structure would be located forward of the the front wall of the dwelling, and therefore would be contrary to the restriction set out under Limitation 1 of Class 3.

Edel Bermingham
SEP
2/3/2023

Agreed
2/3/23

MEMORANDUM

WICKLOW COUNTY COUNCIL

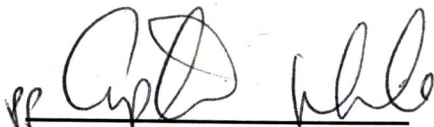
TO: Edel Bermingham
Senior Executive Planner

FROM: Crystal White
Assistant Staff Officer

**RE:- EX 12/2023 - Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended)**
**Garden room 3m x 4.5m to be put in the front garden. The front garden is
20m x 5.5m no space in back garden at Diamond Terrace, Greenpark Road,
Bray, Co Wicklow**

I enclose herewith for your attention application for Section 5 Declaration
received 21st of February 2023.

The due date on this declaration is the 20th of March 2023.



Senior Staff Officer
Planning Development & Environment



Comhairle Contae Chill Mhantáin Wicklow County Council

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

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

21/02/2023

**Sarah Murphy
3 Diamond Terrace
Greenpark Road
Bray
Co Wicklow**

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 12/2023

Garden room 3m x 4.5m to be put in the front garden. The front garden is 20m x 5.5m no space in back garden at Diamond Terrace, Green park Road, Bray, Co Wicklow

A Chara

I wish to acknowledge receipt on the 21st 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 20/03/2023.

Mise, le meas



**SENIOR EXECUTIVE OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT**



Wicklow County Council
County Buildings
Wicklow
0404-20100

21/02/2023 12 16 56

Receipt No L1/0/309091
***** REPRINT *****

SARAH MURPHY

B.

EXEMPTION CERTIFICATES	80 00
GOODS	80.00
VAT Exempt/Non-vatable	

Total	80 00 EUR
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Tendered	
Cheque	80 00

Change	0 00
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Issued By Annmarie Ryan
From Customer Service Hub
Vat reg No 0015233H



Wicklow County Council
County Buildings
Wicklow
Co Wicklow
Telephone 0404 20148
Fax 0404 69462

Office Use Only

Date Received _____

Fee Received _____

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

1. Applicant Details

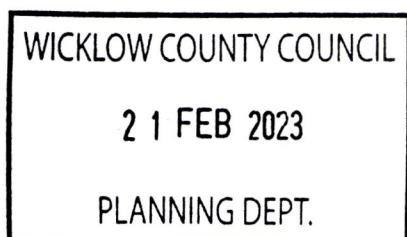
(a) Name of applicant: Sarah Murphy
Address of applicant: 22
St. Mary's Road

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 3 Diamond Tce,
Greepark Rd. Bray

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

iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier _____

iv. Section 5 of the Planning and Development Act provides that : If any question arises as to what, in any particular case, is or is not development and is or is not exempted development, within the meaning of this act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question. You should therefore set out the query for which you seek the Section 5 Declaration I want to put a 3m x 4.5m
garden room in the front garden (no space in the back yard)
Front Garden is 20m x 5.5m. I already have garden shed
(2m x 1.5m) there.

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 _____

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 _____

viii. Fee of € 80 Attached ? yes (No - please advise of Bank Details)

Signed : Sarah Murphy Dated : 27/10/22

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. drawings

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

Surveyed 1978-1981
Revised 2005
Levelled 1977

Urban PLACE Map



325495

218750

ITM CENTRE PT. COORDS

725535,718694

DESCRIPTION

MAP SHEETS

1:1000

3568-12-8568-18



Produced by The Map Centre,
John Roberts Square, Waterford City
On behalf of Ordnance Survey Ireland,
Phoenix Park, Dublin 8.

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cead i scríbhinn roimh ré ó úinéirí an chóipchirt.
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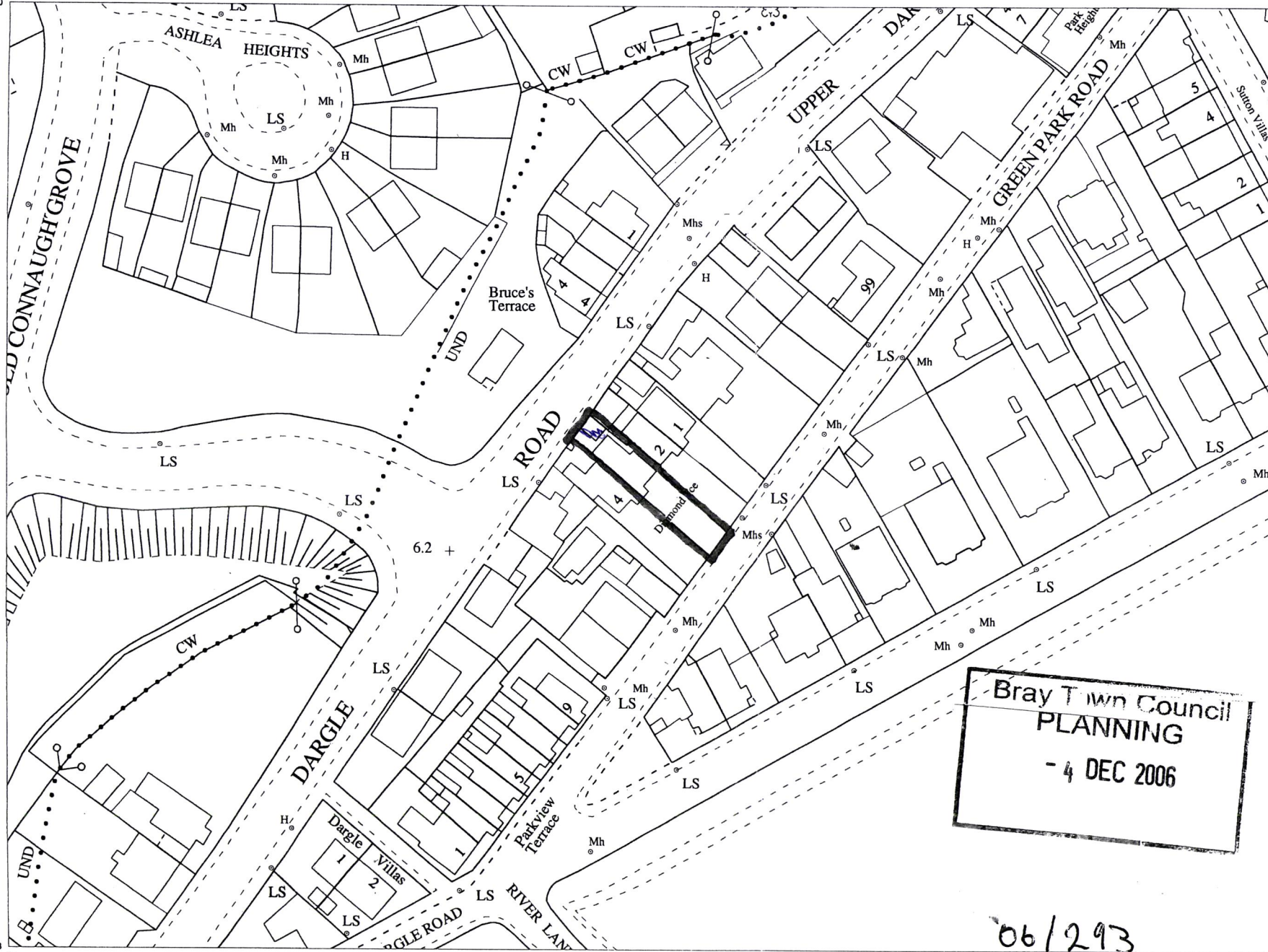
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Bray Town Council
PLANNING
- 4 DEC 2006

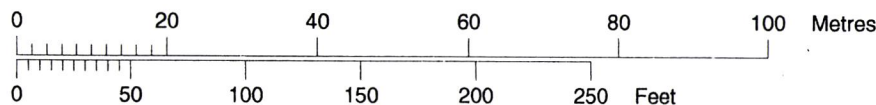
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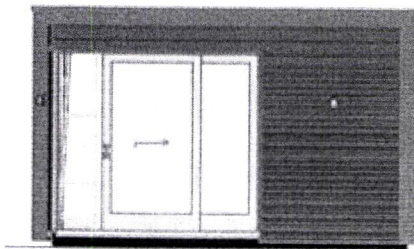
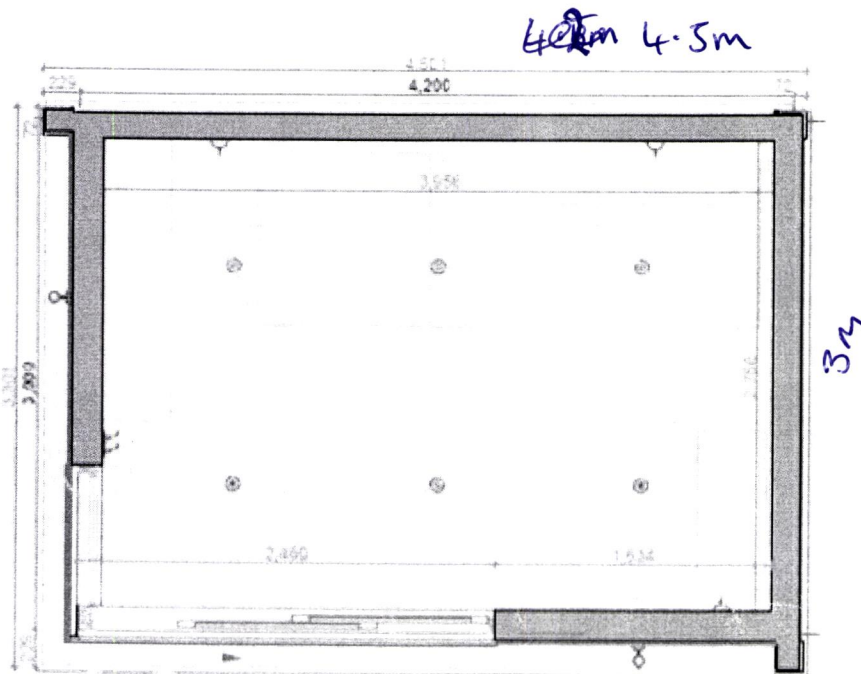
Plot Ref. No. 1141336_1_4
Plot Date 30-AUG-2006

SHOMERA (<https://www.shomera.ie>)

Garden Rooms

*Proposed
Garden room*

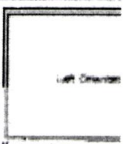
As th
from
office
Gard



2xno. Double Sockets
1xno. 2Gang Light Switch

6xno. Internal Downlights (White LED Bulb)
- 2xno. External Up-Down Light, or
- 4xno. External Soffitlight (Black LED Bulb)

Options available on Rear & Side elevations: Cement board or Larch Cladding
This drawing does not indicate specific customer choices as Order Confirmation & Receipt documents provide this information



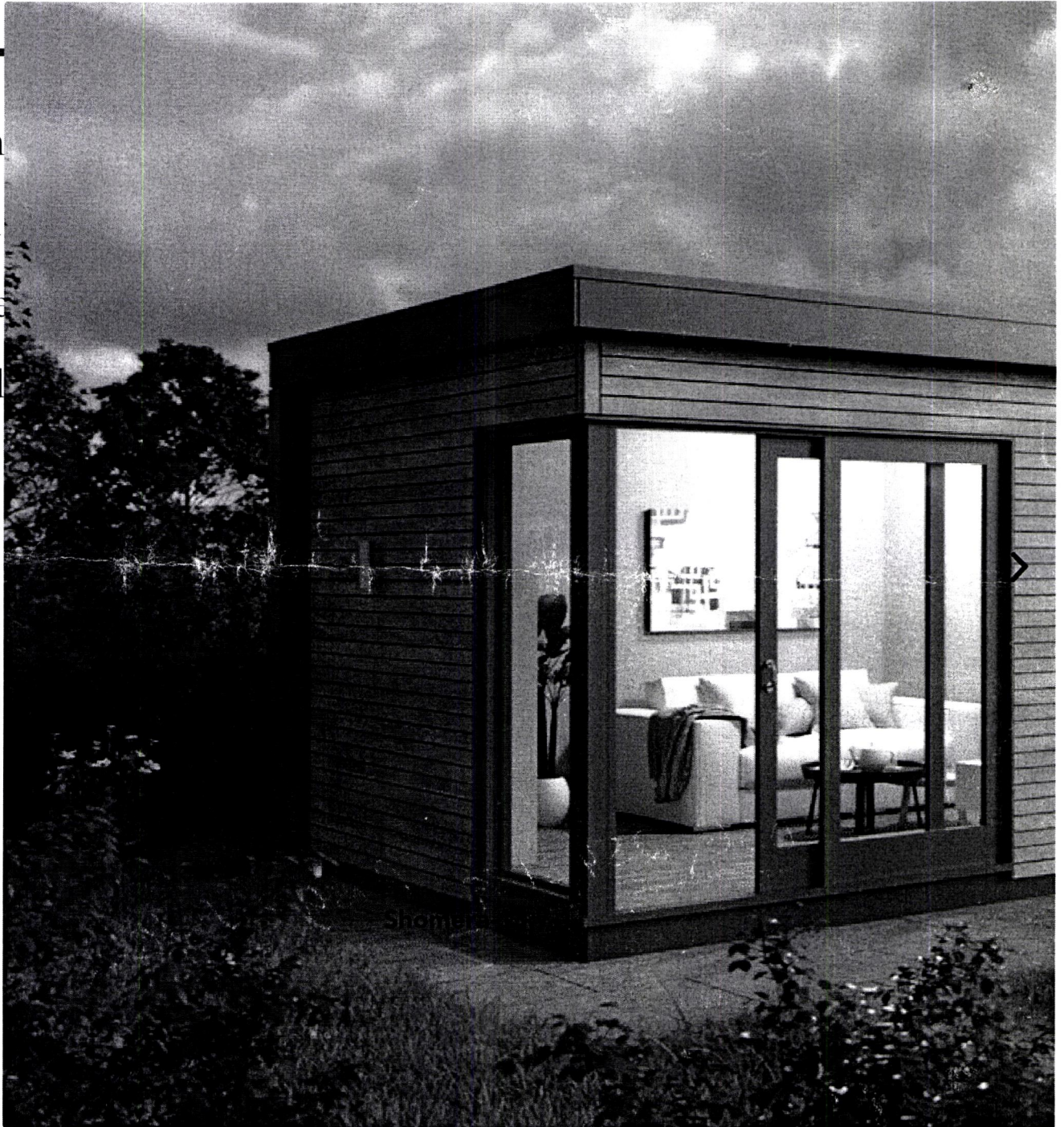
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Proposed

Garden Rooms

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