

WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

Director of Services Order No: 12/2023

Reference Number: EX 78/2022

Name of Applicant: Lloyd & Molly Williams C/O BPS Planning & Development

Nature of Application: Section 5 Referral as to whether "Change of Name from Hidden Valley Caravan Park and / or Hidden Valley Resort to Holiday Camp at Hidden Valley Resort, Rathdrum, Co. Wicklow" is or is not exempted development.

Location of Subject Site: Hidden Valley Resort, Rathdrum, Co. Wicklow

Report from Edel Bermingham SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "Change of Name from Hidden Valley Caravan Park and / or Hidden Valley Resort to Holiday Camp at Hidden Valley Resort, Rathdrum, 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) Planning Permissions PRR21/1047, PRR 18/1083 , PRR 18/790, PRR 17/1522 ,PRR 17/856 , PRR 16/939 , PRR14/1495, PRR14/1478 PRR13/8782 ,PRR99/990, PRR 91/748, PRR 87/2826
- c) Sections 2, 3 of the Planning and Development Act 2000 (as amended).

Main Reasons with respect to Section 5 Declaration:

- The change of name does not give rise to any material changes to the use of the overall facility from that already permitted on the overall site.

Recommendation

The Planning Authority considers that "Change of Name from Hidden Valley Caravan Park and / or Hidden Valley Resort to Holiday Camp at Hidden Valley Resort, Rathdrum, Co. Wicklow" is not development as recommended in the planning reports.

Signed  Dated 5th day of January 2023

ORDER:

That a declaration to issue stating:

That "Change of Name from Hidden Valley Caravan Park and / or Hidden Valley Resort to Holiday Camp at Hidden Valley Resort, Rathdrum, Co. Wicklow" is not development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: 
Director of Services
Planning Development & Environment

Dated 6 day of January 2023



Comhairle Contae Chill Mhantáin
Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

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Lloyd & Moly Williams
C/O BPS Planning Consultants Ltd
Ballinatone Lower
Greenan
Co Wicklow
A67 W662

January 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 78/2022

Applicant: Lloyd & Molly Williams C/O BPS Planning & Development

Nature of Application: "Change of Name from Hidden Valley Caravan Park and / or Hidden Valley Resort to Holiday Camp at Hidden Valley Resort, Rathdrum, Co. Wicklow"

Location: Hidden Valley Resort, Rathdrum, Co. Wicklow

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT.



Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

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

Applicant: Lloyd & Molly Williams C/O BPS Planning & Development

Location: Hidden Valley Resort, Rathdrum, Co. Wicklow

DIRECTOR OF SERVICES ORDER NO 12/2023

A question has arisen as to whether "Change of Name from Hidden Valley Caravan Park and / or Hidden Valley Resort to Holiday Camp at Hidden Valley Resort, Rathdrum, Co. Wicklow" is or is not exempted development.

Having regard to:

- a) The details submitted with the Section 5 Declaration.
- b) Planning Permissions PRR21/1047, PRR 18/1083 , PRR 18/790, PRR 17/1522 ,PRR 17/856 , PRR 16/939 , PRR14/1495, PRR14/1478 PRR13/8782 ,PRR99/990, PRR 91/748, PRR 87/2826
- c) Sections 2, 3 of the Planning and Development Act 2000 (as amended).

Main Reasons with respect to Section 5 Declaration:

- The change of name does not give rise to any material changes to the use of the overall facility from that already permitted on the overall site.

The Planning Authority considers that "Change of Name from Hidden Valley Caravan Park and / or Hidden Valley Resort to Holiday Camp at Hidden Valley Resort, Rathdrum, Co. Wicklow" is not development.

Signed: _____

**ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT**

Dated January 2023

Section 5 Application : EX 78 /2022

Date : 20th December 2022.

Applicant : Lloyd & Molly Williams

Address : Hidden Valley Resort, Rathdrum, Co. Wicklow

Exemption Whether or not :

Change of Name from *Hidden Valley Caravan Park* and / or *Hidden Valley Resort* to *Holiday Camp*.

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

Planning History :

22/ 757 – Current application for the 1) 2 storey children's indoor climbing & play centre; (2) Tiki Shelter structure, (3) climbing tree structure (18.45m tall); (4) a raised resort events stage and 9.6m X 4.8m silent big flat screen TV & associated use of adjoining car park/circulation areas; (5) all associated site works. These developments to be served by existing parking/access arrangements granted under PRR 16/939, as amended by PRR 17/856 & 18/1083 @ The Hidden Valley Resort, Rathdrum, Co. Wicklow.

21/1047 – Permission granted for

1. Semi-indoor structure for safe archery

2. 2 No. skytrail climbing frames to heights of 14.65m and 2.5m

3. A raised resort events stage and 9.6m wide by 4.8m high silent big flat screen tv behind connecting only to visitor bluetooth headphones.

4. All associated site works

18/1083 – Permission granted for the erection of a pagoda waiting structure to the east of the reception building, a covered/slated seating area to the rear of the reception building and a sheltered walkway between the front and back of the reception building, as well as the retention of alterations to the fenestration and roof pitch of the reception building and internal alterations.

18/790 - Advertising signage – Grant

17/1522 - storage building – Grant

17/856 – (a) retention of completed construction works in forming the boat lake not located as Grant of Permission Reg Ref No 16/939 (b) Permission for completion of all construction work necessary to form the boat lake, changes in the locations of the gravelled road tracks, the reindeer enclosure and associated parking (60 spaces) from those approved under Grant of Permission Reg Ref 16/939. (C) Permission for a 2 storey reception building of 780 sqm gross floor area comprising of check in office, reception, café area, 2 no meeting rooms, 2 no function rooms, toilet and storage facilities including connections to the foul water drainage system and water supply system of the adjacent caravan park (connected to mains), provision of a kayak boat dock and all other associated site works - Granted

16/939 – Permission granted for change of use of lands and the construction on those lands of a fishing area, an extension to an existing boat lake served by 9 no projecting wooden mooring jetties to provide a recreational facility, a 5m wide gravelled road track to facilitate a Christmas train and a dog walking route, a reindeer enclosure to permit viewing and associated car parking - 60 spaces

14/1495 Retention permission granted for (1) tarmac surfaced access roads and 75 no. flagstone surfaced hardstanding areas each approx 3m x 9m and (2) retention of the change of use to caravanning/camping of areas amounting to 477sqm formerly part of a man made lake.

14/1478 Permission granted for modifications to existing dwelling (224sqm gross floor area) and the provision of extensions of 321.5sqm total gross floor area. Development also includes a car port, timber decked area and first floor balconies and all associated site works

13/8782 Permission granted for a storage shed and mini crazy golf course

99/990 –Permission granted for dwelling & new toilet/shower building incl. conversion of ex. toilet/shower bld. to domestic use ancillary to dwelling – Grant

91/7485 Permission granted for change of use of Leisure Park to Caravan Park at Rathdrum.

87/2826 Permission granted for Leisure Park including pedestrian toll bridge, lake and golf course .

Relevant Legislation

Planning and Development Act 2000 (as amended)

Section 2 of the Planning and Development Act 2000:

“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.

(2) For the purposes of *subsection (1)* and without prejudice to the generality of that subsection—

(a) where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or

(b) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

(ii) the storage of caravans or tents, or

(iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders' waste, rubbish or debris, the use of the land shall be taken as having materially changed.

Assessment :

The applicant has requested a Section 5 Declaration Change of Name from *Hidden Valley Caravan Park* and / or *Hidden Valley Resort* to *Holiday Camp* is exempted development.

The submitted details indicate that the requirement arises as Faillte Ireland require this confirmation to allow the site to be promoted as a Holiday Camp.

From the information submitted there are no works proposed. In addition given that the overall usage of the site will remain unchanged, and will accord with the permissions granted on site, it is considered that no material change of use occurs, and therefore no development as defined under Section 3(1).

Recommendation:

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

Change of Name from *Hidden Valley Caravan Park* and / or *Hidden Valley Resort* to *Holiday Camp*, Rathdrum, Co. Wicklow

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


The Planning Authority consider that the Change of Name from *Hidden Valley Caravan Park* and / or *Hidden Valley Resort* to *Holiday Camp*, Rathdrum, Co. Wicklow is not development.

Main Considerations with respect to Section 5 Declaration :

- a) The details submitted with the Section 5 Declaration.
- b) Planning Permissions PRR21/1047, PRR 18/1083 , PRR 18/790, PRR 17/1522 ,PRR 17/856 , PRR 16/939 , PRR14/1495, PRR14/1478 PRR13/8782 ,PRR99/990, PRR 91/748, PRR 87/2826
- c) Sections 2 , 3 of the Planning and Development Act 2000 (as amended).

Main Reasons with respect to Section 5 Declaration :

- The change of name does not give rise to any material changes to the use of the overall facility from that already permitted on the overall site.


21/2/22



**Planning & Development
Consultants**

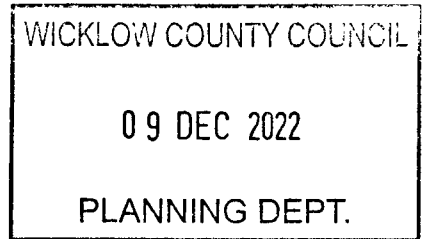
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Planning Department,
Wicklow County Council,
County Buildings,
Wicklow Town,
County Wicklow.

8 December 2022

Dear Sir/Madam,



Section 5 referral / exemption declaration. A question arises as to whether a change of name from "Hidden Valley Caravan Park" and/or "Hidden Valley Resort" to "Holiday Camp" is development by way of a change of use and/or is exempted development and therefore whether a planning permission requirement arises at Hidden Valley Resort, Rathdrum, Co. Wicklow.

BPS Planning and Development Consultants LTD, a firm of Irish Planning Institute accredited town planning consultants has been retained by Lloyd and Molly Williams [hereafter "clients"] of Hidden Valley Resort, Rathdrum County Wicklow to prepare and to lodge a Section 5 referral / exemption declaration application to Wicklow County Council [hereafter "WCC"].

The requirement for a Section 5 Declaration arises from discussions with Fáilte Ireland regarding the registration of Hidden Valley Resort as a "Holiday Camp". Under the Tourist Traffic Acts 1939-2016, any tourism business calling itself a "Holiday Camp" must be registered with Fáilte Ireland. Such registration requires confirmation from the relevant planning authority that a given tourism facility maintains planning permission as a "holiday camp".

This Section 5 therefore asks for a declaration from WCC as to whether a change of name from "Hidden Valley Caravan Park" (so named under planning permission reg. ref. 211047, other previous permissions and in the Rathdrum Town Plan 2022-2028) and/or "Hidden Valley Resort" (so named under current validated planning application, reg. ref. 22757), to "Holiday Camp" is development by way of a change of use and/or is exempted development and therefore whether a planning permission requirement arises.

The Section 5 declaration arising from WCC's determination will form the basis for Fáilte Ireland to allow Hidden Valley to be marketed as a "Holiday Camp". This Section 5 is therefore primarily an administrative process required to satisfy the Fáilte Ireland application for "Holiday Camp" status.

Section 1 of this Section 5 sets out how all relevant validation requirements have been addressed, while Sections 1 to 7 provide all relevant information required to assess this matter. Section 7.0 offers a conclusion and Section 10 a recommendation. If WCC requires any further details these can be provided on request.

i Validation of this Section 5

In terms of validation of this Section 5, we refer to Section 5—(1) of the Planning and Development Act 2000 (as amended) which states:

If any question arises as to what, in any particular case, is or is not development or 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, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

Please find a cheque for €80 attached which is the statutory fee payable for a Section 5.

To further support this Section 5 application, BPS has:

1. Set out in this letter the question which has arisen in this case as to whether naming Hidden Valley Resort a "Holiday Camp" is or is not development or is or is not exempted development within the meaning of this Act.
2. Set out in this letter details of matters relevant to the assessment of this Section 5.
3. Set out in this letter the planning history of Hidden Valley.
4. Attached OS Site Location Maps.

We accept that WCC may need more detail and we note how under Section 5 (2) (b) "A planning authority may require any person who made a request under subsection (1) to submit further information with regard to the request in order to enable the authority to issue the declaration on the question ."

BPS Planning Consultants Ltd
Company reg no 702762
VAT no IE3796154CH

Director Brendan Buck
BA MRUP Dip (UD) Dip
(EIA/SEA) MIPI MHSA

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1.0 Site location & description

This Section 5 refers to the existing use of lands within the Hidden Valley Resort on the edge of Rathdrum, County Wicklow and adjoining the Avonmore River. Please refer to the attached OS Location Map.

Hidden Valley Resort is an established tourism facility containing the caravan and camping park, Splash Valley Aqua Park, kayaking lakes, playgrounds, the Christmas Island experience and many other holiday camp type activities.

The WCC planner's Report includes the following 'Site location/Description' wording:

The site taken from a large landholding, measures 2.7ha. and is located immediately outside the development boundary of Rathdrum. The site is triangular in shape and forms part of the Splash Valley Aqua Park facility in Hidden Valley Caravan Park facility. Existing on site is the lakeside reception building, recreation lake, car park and trees. The area of site to be developed is currently covered in vegetation. The Avonmore River runs along the eastern and northern boundaries of the site. There are trees along the western boundary. Car park abuts the southern part the development area. The site is located within the floodplain of the Avonmore River

If further details are required, these can be provided on request.

2.0 Section 5 question arising

The question referred to the planning authority pursuant to Section 5(1) of the Planning and Development Act, 2000, as amended ("the Act") for review is, as follows: "Whether a change of name from "Hidden Valley Caravan Park" and/or "Hidden Valley Resort" to "Holiday Camp" is development by way of a change of use and/or is exempted development and therefore whether a planning permission requirement arises."

This question is addressed in more detail in Section 6.0 of this letter.

As noted above, this Section 5 is very important as it would allow Hidden Valley Resort to be marketed as a "Holiday Camp" by Failte Ireland with a likely consequent increase in demand from tourists and visitors to Hidden Valley, to Rathdrum and to this part of County Wicklow.

3.0 Planning History

Our clients have lodged the following planning applications pertaining to Hidden Valley Resort. The resultant planning permissions have provided for and/or provide for, inter alia, the following holiday camp activity related developments (in no particular order):

- A semi-indoor structure for safe archery;
- Skytrail climbing frames to heights of 14.65m and 2.5m;
- A raised resort events stage and 9.6m wide by 4.8m high silent big flat screen tv behind;
- Splash Valley Aqua Park lake and associated buildings (single storey pagoda style waiting building & Lakeside Reception Building, café/restaurant, etc.) – use permitted for residents and visitors.
- Boat lake;
- Christmas Island and associated developments (Christmas train, reindeer enclosure, etc.);
- Fishing area;
- Projecting wooden mooring jetties;
- Caravanning/camping areas;

- Mini crazy golf course;
- Toilet/shower block building;
- Change of use of leisure park to caravan park; and
- Planning permission for leisure park including pedestrian toll bridge and lake and island golf course.

All previous planning permissions include

- **Reg. ref. 211047:** Planning permission was granted for: (1) a semi-indoor structure for safe archery; (2) 2 No. skytrail climbing frames to heights of 14.65m and 2.5m; (3) a raised resort events stage and 9.6m wide by 4.8m high silent big flat screen tv behind connecting only to visitors Bluetooth headphones; (4) all associated site works These developments to be served by existing parking/access arrangements granted under planning permission 16939 as amended by 17856 & 181083 There were no objections to this planning application and no planning appeal was lodged by any party. This planning permission is proposed to be voided by the current planning application.
- **Reg. ref. 181083:** Single storey pagoda style waiting building of 68.2 sqm gross floor area, provision of roofed (slated)seating area to rear of Lakeside Reception Building (granted permission under reg ref 17/856) including the extension of the lean to roof around the east and north faces of the building to provide a sheltered walkway between the front and back of the building. Alterations to Lakeside Reception Building (granted permission under Reg Ref 17/856) including changes to fenestration throughout including dormer windows, slight changes to roof configuration and roof pitch, changes to external finishes, increase of first floor level by circa 350mm, increase of main roof ridge height by circa 800mm, changes to internal layouts at ground floor and first floor levels including changes to internal stairs and toilet areas, provision of lift, provision of kitchen / cold room area
- **Reg. ref. 17856:** (a) completed construction works in forming the boat lake not located as Grant of Permission Reg Ref No 16/939 (b) Permission for completion of all construction work necessary to form the boat lake, changes in the locations of the gravelled road tracks, the reindeer enclosure and associated parking (60 spaces) from those approved under Grant of Permission Reg Ref 16/939. (C) Permission for a 2 storey reception building of 780 sqm gross floor area comprising of check in office, reception, café area, 2 no meeting rooms, 2 no function rooms, toilet and storage facilities including connections to the foul water drainage system and water supply system of the adjacent caravan park (connected to mains), provision of a kayak boat dock and all other associated site works. Decision: Grant planning permission subject to conditions. Date 05/09/2017.
- **Reg. ref. 171522:** Storage building. Decision: Grant planning permission subject to conditions. Date: 20/02/2018
- **Reg. ref. 16939:** Change of use of lands and the construction on those lands of a fishing area, an extension to an existing boat lake served by 9 no projecting wooden mooring jetties to provide a recreational facility, a 5m wide gravelled road track to facilitate a Christmas train and a dog walking route, a reindeer enclosure to permit viewing and associated car parking - 60 spaces. Decision: Grant planning permission subject to conditions. Date: 08/02/2017.
- **Reg. ref. 141478:** For modifications to existing dwelling (224sqm gross floor area) and the provision of extensions of 321.5sqm total gross floor area Development also includes a car port, timber decked area and first floor balconies and all associated site works. Address Hidden Valley Caravan Park, Rathdrum, Co. Wicklow Decision: Grant planning permission subject to conditions. Date: 25/9/2014.
- **Reg. ref. 141495:** Retention of (1) tarmac surfaced access roads and 75 no. flagstone surfaced hardstanding areas each approx 3m x 9m and (2) retention of the change of use to caravanning/camping of areas amounting to 477sqm formerly part of a man made lake. All above within a site area of 1288 hectares. Application includes revised Flood Risk Assessment and proposals for connection to public sewer. Address: Hidden Valley Caravan Park, Rathdrum, Co. Wicklow Decision: Grant planning permission subject to conditions Date 26/06/2015
- **Reg. ref. 138782:** Storage shed and mini crazy golf course. Address: Hidden Valley Caravan Park, Rathdrum, Co. Wicklow. Decision: Grant planning permission subject to conditions. Date: 25/04/2014
- **Reg. ref. 99/990:** Planning permission for dwelling and new toilet/shower block building including conversion of existing toilet/shower building to domestic use ancillary to dwelling Address: Hidden Valley Caravan Park, Rathdrum, Co. Wicklow. Decision. Grant planning permission subject to conditions. Date: 26/06/2015.
- **Reg. ref. 91/7485:** Planning permission granted for change of use of leisure park to caravan park. Address: Hidden Valley Caravan Park, Rathdrum, Co. Wicklow. Decision. Grant planning permission subject to conditions. Date. 26/06/2015.
- Reg. ref. 87/2826: Planning permission for leisure park including pedestrian toll bridge and lake and island golf course Address: Hidden Valley Caravan Park, Rathdrum, Co. Wicklow. Decision: Grant planning permission subject to conditions. Date: 26/06/2015.

4.0 Policy context

4.1 Development Plan

The Statutory County Development Plan is the Wicklow County Development Plan 2022-2028 (the "CDP"). There is no definition of 'Holiday Camp' within the CDP There are references to tourism facilities, caravan and mobile home parks, touring caravan sites and camping/glamping sites, hotels and golf resorts, adventure centres, etc.

The CDP is supportive of tourism development in the county especially where this takes place at existing tourism facilities. A full planning policy review is not included here as the Rathdrum Town Plan addresses the same policy approach.

4.2 Town Plan

Hidden Valley is also sited at Rathdrum which maintains a 'LEVEL 4 Self Sustaining Town Plan' which forms part of the CDP Within the Rathdrum Town Plan Map No 1 – 'Land Use Zoning Objectives' Hidden Valley Resort is zoned 'T-Tourism' - 'To provide for tourism related development'. Section 1.2.1 'Zoning Objectives' outlines how this zoning is:

To provide for the sustainable development of tourism related structures, uses and infrastructure. To provide for the development of tourism facilities including accommodation of an excellent sustainable design and aesthetic quality. Tourism related office, civic and cultural and commercial development will be facilitated.

Uses generally appropriate for tourism (T) zoned land are tourism accommodation and tourism / recreational uses such as Bed & Breakfast, cultural uses, holiday homes, hotels, recreational facilities.

While there are no land use definitions provided within the Town Plan, the existing and permitted land uses of Hidden Valley Resort are clearly conforming land uses under the Town Plan. As with the CDP, the Town Plan does not include a definition of a "Holiday Park".

Regarding the tourism development at Rathdrum:

The Town Plan states of LEVEL 4 towns:

Level 4 settlements in County Wicklow are identified in the Core Strategy 'self sustaining towns' which are defined as 'towns with high levels of population growth and a weak employment base which are reliant on other areas for employment and/or services and which require targeted 'catch up' investment to become more self-sustaining'. Self-Sustaining Towns are towns that require contained growth, focusing on driving investment in services, employment growth and infrastructure whilst balancing housing delivery. There is a strong emphasis on aligning population growth with employment growth to make these towns more self-sustaining and capable of accommodating additional growth in the future

Section 1.13 'Economic Development & Employment Objectives' of the Town Plan aims:

To promote tourist developments at suitable locations that are of an appropriate scale and design, particularly developments that are associated with the tourism products or themes associated with any town and its hinterland and maximise the town's location as a destination and gateway between the tourism assets.

Section 4.2 'Overall Vision & Development Strategy' states. "The vision for Rathdrum is: ... Develop the tourism potential of the area as a visitor / tourist destination in itself and in its role as a 'gateway' to surrounding attraction such as Avondale House and the Wicklow Mountains" and "In recognition of the historical pattern of development, the profile of the settlement, the demands of higher order strategies and the vision for the town set out above, the development strategy is as follows: ... To identify tourism assets and opportunities for the town and put in place a framework that supports and facilitates the development of tourism and tourism infrastructure, such as visitor attractions, accommodation and linkages to established tourism sites "

Section 4.4 'Economic Development & Employment' states.

*As set out in Section 1, it is an objective to increase the 2016 jobs ratio by 25% by 2031, which equates to an increase in the number of jobs in the town to c. 1,050 (from c. 465 in 2016). In order to accommodate this jobs growth by c. 600, and in recognition that it is unlikely that all of this required growth could occur within the town centre or existing employment sites, this plan provides for the zoning of greenfield lands for new employment development of c. 10ha ... The remainder of the jobs growth required is targeted for the town and village centres, **tourism** and community zoned lands, in the areas of retail, general business and community services, **tourism** and education / health (emphasis added).*

Section 4.4 'Economic Development & Employment' states: "The **Hidden Valley caravan park** also draws significant visitors to the town. However, work still needs to be done to define and publicise the overall product on offer ..." (emphasis added).

Objective RT3 aims:

To facilitate and support the development of the tourism industry in Rathdrum and maximise the town's location as a gateway between the tourism assets within Co. Wicklow. To particularly support projects that - provide for new tourism overnight accommodation including but not limited to the development of new hotels, guesthouses / B&Bs, camping / glamping sites, - provide facilities and services to those accessing the wider Wicklow Mountains and Laragh - Glendalough area.

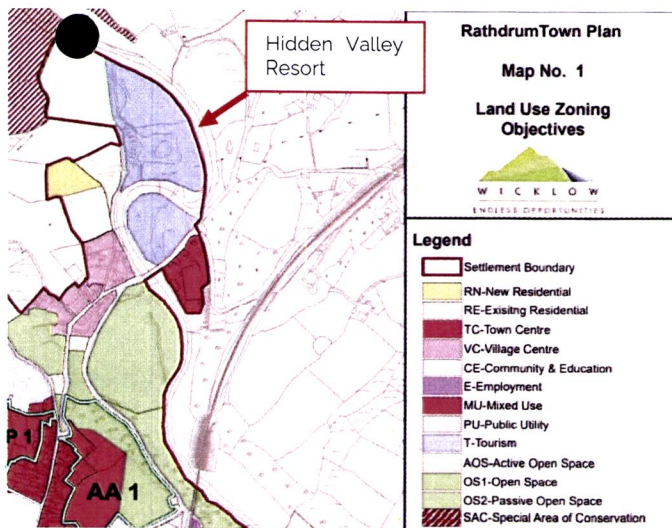


Fig. 1: Excerpt from the Rathdrum Town Plan Map No. 1 – Land Use Zoning Objectives

4.3 Natural Heritage Designations

The nearest European site is Vale of Clara (Rathdrum Wood) SAC.

5.0 Statutory Provisions

5.1 Planning and Development Act 2000 (as amended)

Section 2(1)

In this Act, except where the context otherwise requires—

"use", in relation to land, does not include the use of the land by the carrying out of any works thereon;

"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

Section 4(1) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act, including:

Section 4(1)(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.'

Section 4(2) of the Act provides that 'the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations 2001, as amended.'

5.2 Planning and Development Regulations, 2001 (as amended)

Article 5

Article 5 does not define "Holiday Camp" or any land uses relevant to this Section 5.

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 6(1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act – (a) if the carrying out of such development would –

Article 10 (1)

Article 10 (1) states Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

- (a) involve the carrying out of any works other than works which are exempted development,
- (b) contravene a condition attached to a permission under the Act,
- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned

Schedule 2

Part 1 'Exempted Development' of Schedule 2 sets out exempted development class for exempted development general to which Art 6(1) refers.

6.0 Assessment

The purpose of this assessment is not to determine the acceptability or otherwise of the matters raised in respect of the proper planning and sustainable development of the area, but rather **whether or not** the matter in question constitutes development, and if so, falls within the scope of exempted development within the meaning of the relevant legislation.

6.1 Is or is not "Development"

Bord Failte has asked whether the re-naming of Hidden Valley Resort to Hidden Valley "Holiday Camp" is development and/or is exempted development. Our clients therefore ask WCC to determine if such a name change would constitute development.

Section 3 –(1) defines "development" to include "the making of any material change in the use of any structures or other land."

There is no statutory definition of 'material change of use', however, it is linked to the degree of a change and the associated impacts which are determined on the individual merits of a case. I note the test proffered by Barron. J in *The County of Galway v Lackagh Rock Ltd [1984 21 MCA]* in the determining of whether or not a material change of use has occurred. In this case, Barron J considered that "in determining whether or not a present use was materially different from a use being made on the appointed day one must look at matters which the planning authority would take into consideration if a planning application were made on both dates and if these matters were materially different then the present use must be equally materially different."

Our clients are not proposing to make any material change to the use of their business at Hidden Valley As WCC is aware, under previous and current planning applications, Hidden Valley has been referred to as

- "Hidden Valley Caravan Park" - see, for example, planning permission reg ref. 211047 and in the) and/or "Hidden Valley Resort".
- "Hidden Valley Resort" – see current validated planning application, reg ref 22757

Under the Rathdrum Town Plan 2022-2028, Hidden Valley is named as "Hidden Valley Caravan Park" and zoned for tourism purposes

Failte Ireland requires that to register as a "Holiday Camp," a business should provide sporting and recreational facilities and accommodation. Full details of the Failte Ireland regulations of holiday camps are available online¹ The planning history of Hidden Valley confirms that it is now operating as a de facto "Holiday Camp" and there is no material change required to the use of any part of the existing facility for this name change to be achieved such that registration under the Tourist Traffic Acts 1939–2016 can be completed and the benefits of such a formal re-naming to the business, to Rathdrum and to Wicklow can be achieved²

It is the professional opinion of BPS that no "development" is required to change the name of the Hidden Valley tourism business to "Holiday Camp"

Accordingly, the change of use from Hidden Valley Caravan Park and/or Resort to a use described as Hidden Valley "Holiday Camp" would not constitute development as defined for the purposes of the Act.

¹ <https://www.failteireland.ie/Supports/Get-quality-assured/Holiday-camps.aspx>

² [https://www.failteireland.ie/Failteireland/media/WebsiteStructure/Documents/2_Develop_Your_Business/4_Quality_Assurance/Benefits-of-Approval-\(NEW-July-2019\).pdf](https://www.failteireland.ie/Failteireland/media/WebsiteStructure/Documents/2_Develop_Your_Business/4_Quality_Assurance/Benefits-of-Approval-(NEW-July-2019).pdf)

6.2 The question of 'exempted Development'

As the proposed name change does not, in our professional opinion, constitute development, it cannot therefore be, nor does it require to be, exempted development.

However, we also consider it reasonable to note how Article 10(1) of the Regulations states that development, which consists of a change of use within one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act. The change from one use to another within the same use class does not require planning permission. BPS has examined the use in terms of the provisions set out under of Articles 5, 6, 9 and 10 the Regulations, including Parts 1 and 4 of Schedule 2 to the Regulations. The only exemption under Part 1 of Schedule 2 in relation to 'Change of use' which may be of relevance is listed under Class 2.

Hidden Valley may be considered a CLASS 2 "Use for the provision of— (c) any other services ..., where the services are provided principally to visiting members of the public." The proposal to change the name of this tourism business to "Holiday Camp" would not (as required by Article 10 (1)):

- (a) involve the carrying out of any works
- (b) contravene a condition attached to a permission under the Act (as all previous permissions relate to development one would expect to find in a holiday camp.
- (c) be inconsistent with any use specified or included in such a permission.
- (d) be a development where the existing use is an unauthorised use

WCC may not consider Hidden Valley to be a Class 2 land use and may consider it to be a *sui generis* land use. In this case, the proposed name change would not change the nature of the land use which would remain a *sui generis* land use. This does not constitute a material change of use by reason of providing a different service to a different user group. Hidden Valley will serve the same visiting members of the public whatever it is called. The only reason for the required name change is Failte Ireland regulatory requirements. In our opinion this change of use would come within the scope of Article 10(1) of the Planning and Development Regulations 2001, as amended, as it does not constitute a change of use within any one class and therefore would be considered exempt development.

This being the case, if WCC considers the name change to constitute "development" then the development can be considered "exempted development".

7.0 Conclusion

In conclusion, it is our professional opinion that the proposed change of name from Hidden Valley Caravan Park and/or Resort to a Hidden Valley "Holiday Camp" does not constitute a material change of use and, as such, is not "development" under the Act. In the event that the name change – required to register with Failte Ireland as a "holiday Camp" – was deemed by WCC to constitute "development" we submit that the change of use arising takes place within the same use class and is therefore exempted development under Article 10(1) of the Regulations.

In view of the foregoing, we submit that that the proposed name change to "Holiday Camp" is not development and no requirement to obtain planning permission arises.

8.0 Environmental Impact Assessment

Having regard to the fact that there is no material change of use as referenced in the questions above, and the absence of any connectivity from the referral site to any sensitive location, there is no real likelihood of significant effects on the environment arising from the development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

9.0 Appropriate Assessment

Having regard to the fact that there is no material change of use as referenced in the questions above, the location of the referral site in a serviced area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 Recommendation

BPS recommends that the WCC should decide this referral in accordance with the following.

WHEREAS a question has arisen as to whether a change of use from Hidden Valley Caravan Park and/or Resort to a Hidden Valley "Holiday Camp" at Rathdrum, County Wicklow is or is not development or is or is not exempted development:

BPS, considering this matter, has had regard particularly to –

- (a) Section 2(1), 3(1) and 4(1) of the Planning and Development Act, 2000, as amended,
- (b) Articles 5, 6, 9 and 10 of the Planning and Development Regulations 2001, as amended,
- (c) Class 2 of Part 1 of the Second Schedule to the Planning and Development Regulations 2001, as amended,
- (d) The provisions of the Wicklow County Development Plan 2022-2028,
- (e) the planning history of the site, the nature of the uses previously and currently on site and the pattern of development in the area

AND WHEREAS BPS has concluded that the proposed name change is not a material change of use and, as such, does not constitute "Development) as defined under Section 3(1) of the Act

Further, were the name change deemed a material change of use, it would come within the scope of Article 10(1) of the Planning and Development Regulations 2001, as amended, as it constitutes a change of use within any one class

NOW THEREFORE BPS submits that the proposed name change is not development, and no planning permission requirement arises.

11.0 Finally

We trust that sufficient information has been provided to allow this Section 5 to be fully assessed

Please direct all correspondence to this office

If you have any questions, please call BPS on 01-5394960 or 087-2615871

Best wishes,



Brendan Buck MIPI
Director
BPS Planning & Development Consultants LTD
Member of the Irish Planning Institute

Wicklow County Council
County Buildings
Wicklow
J4-20100

09/12/2022 15 46 13

Receipt No L1/0/305929
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BPS PLANNING & DEVELOPMENTS CONSL
BALLINATONE
GREENANE
CO WICKLOW
A67 W662

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

Total	80 00 EUR
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Tendered Cheque 22757	80 00
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Change	0 00
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**APPLICATION FORM FOR A
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &
DEVELOPMENT ACTS 2000 (AS AMENDED) AS TO WHAT IS OR IS NOT
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

1. Applicant Details

(a) Name of applicant: Lloyd and Molly Williams

Address of applicant: Hidden Valley Resort, Rathdrum, County Wicklow.

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

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable): BPS Planning Consultants LTD.

Address of Agent: Ballinatone Lower, Greenan, County Wicklow, A67W662.

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

3. Declaration Details

- i. Location of Development subject of Declaration: Hidden Valley Resort, Rathdrum, County Wicklow.
- 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: 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, an 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 questions over which this Section 5 is submitted are (see cover letter):

A question arises as to whether a change of name from "Hidden Valley Caravan Park" and/or "Hidden Valley Resort" to "Holiday Camp" is development by way of a change of use and/or is exempted development and therefore whether a planning permission requirement arises at Hidden Valley Resort, Rathdrum, Co. Wicklow.

This question is set out in more detail in the attached letter.

- v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration:

Planning and Development Act 2000:

Section 3 'Development'.

Section 4 'Exempted development'.

Planning and Development Regulations 2001-2021 (consolidated version)

Part 2 'Exempted Development'.

Article 9 'Restrictions on Exemptions'

Part 4 'Control of Development'.

Schedule 2.

- 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 Location Plan (OS).

Site Plan (OS).

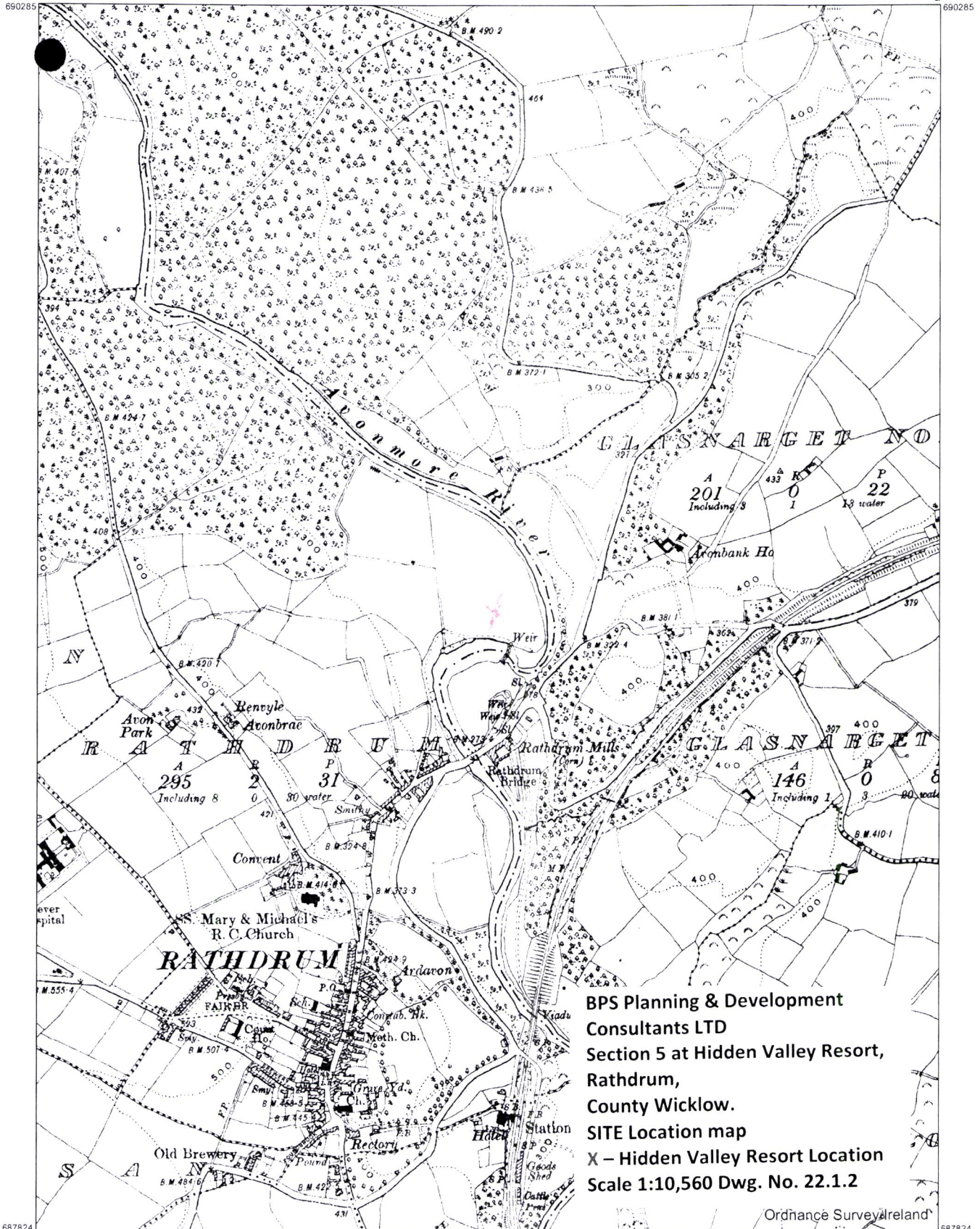
All previous drawings pertaining to Hidden Valley Resort are included in planning applications listed in the attached covering letter.

Recent plans and details have been lodged to WCC under planning application reg. ref. 22757.

- viii. Fee of € 80 Attached.

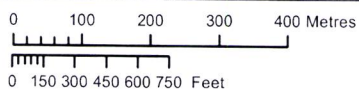
Signed : _____ Dated : _____

Site Location Map



**BPS Planning & Development
Consultants LTD**
Section 5 at Hidden Valley Resort,
Rathdrum,
County Wicklow.
SITE Location map
X – Hidden Valley Resort Location
Scale 1:10,560 Dwg. No. 22.1.2

Ordnance Survey Ireland



OUTPUT SCALE: 1:10,560



**CENTRE
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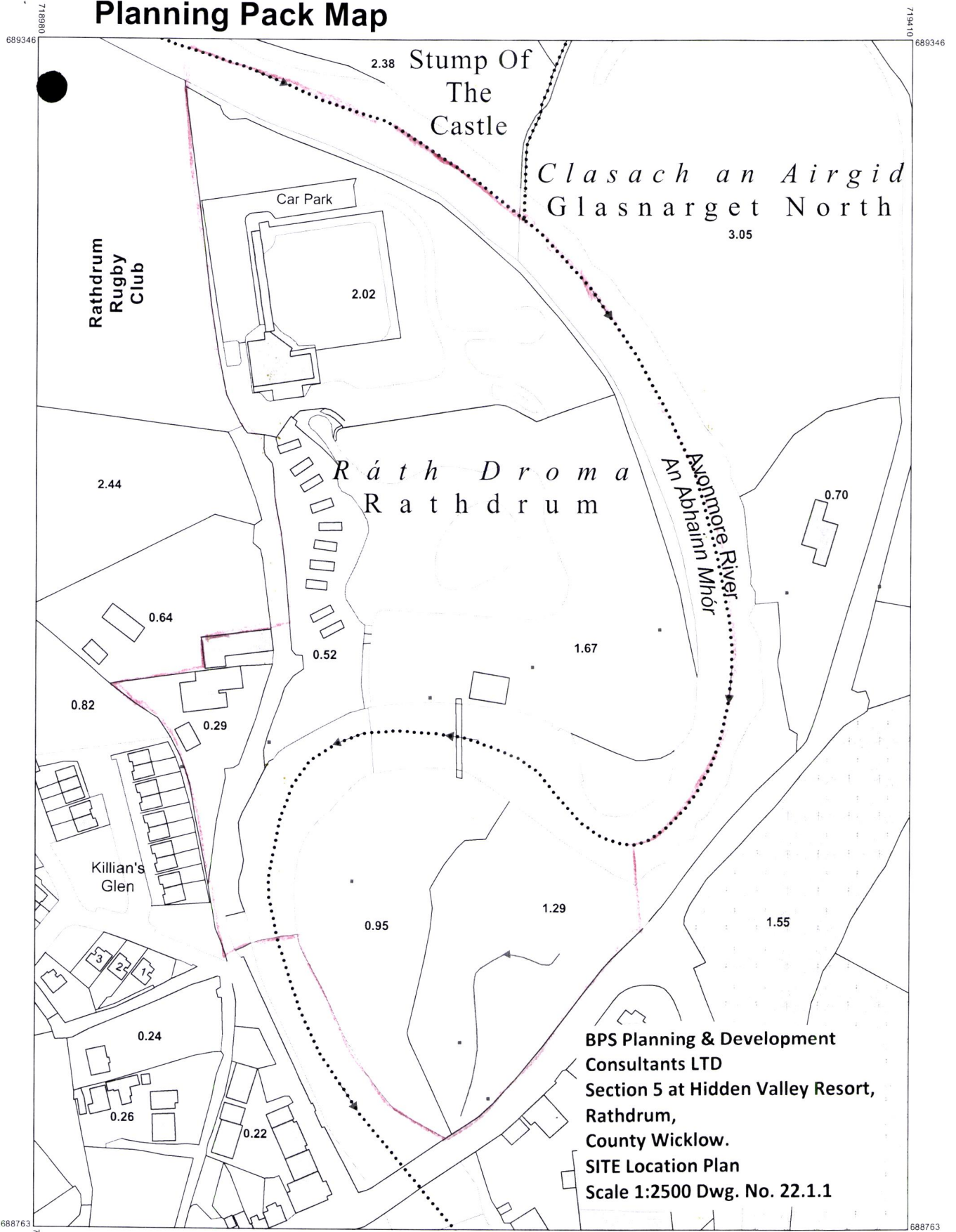
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Planning Pack Map

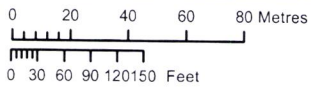


Clasach an Airgid
 Glasnarget North
 3.05

Ráth Droma
 Rathdrum

An Aghainn Mhór
 River

**BPS Planning & Development
 Consultants LTD**
 Section 5 at Hidden Valley Resort,
 Rathdrum,
 County Wicklow.
SITE Location Plan
 Scale 1:2500 Dwg. No. 22.1.1



OUTPUT SCALE: 1:2,500



**CENTRE
 COORDINATES:**
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