

Comhairle Contae Chill Mhantáin Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe Planning, Economic and Rural Development

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

Philip Ennis **Ennis Martin Architecture Main Street Ferns Enniscorthy** Co. Wicklow

September 2025

Declaration in accordance with Section 5 of the Planning & Development Acts 2000 RE: (As Amended) - EX101/2025

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 Bord Pleanala 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.

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PLANNING, ECONOMIC & KURAL DEVELOPMENT





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

Applicant: Anthony Murphy & Nicolas Murphy

Location: Fairgreen, Tinahely, Co. Wicklow

Reference Number: EX 101/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/998

A question has arisen as to whether "the change of use from commercial to residential" at Fairgreen, Tinahely, Co. Wicklow is or is not exempted development.

Having regard to:

- a) The details submitted with the Section 5 Declaration.
- b) Exemption Declaration EX 60/11
- d) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- e) Article 2, 5, 10 (6), and Schedule 2: Part 4 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

- i. The change of use of the structure to use as 8 residences would be materially different in character, have differing traffic movement, patterns of usage, and amenity requirements to use as a workshop for the repair of domestic appliances.
- ii. The use as a workshop for the repair of domestic appliances would come within the definition of an industrial process, and would therefore be classified as an industrial building having regard to the definitions set out under Article 5 of the Planning and Development Regulations 2001 (as amended).
- iii. The change of use would not come within the provisions of Article 10(6) (b) and (c) (ii) as the use as a repair workshop would not come within Class 1, 2, 3, 6 or 12 of Schedule 2: Part 4 of the Planning and Development Regulations 2001(as amended), and therefore Article 10(6) (b) does not apply to the change of use.

The Planning Authority considers that "the change of use from commercial to residential" at Fairgreen, Tinahely, Co. Wicklow is development and is NOT exempted development

ADMINISTRATIVE OFFICER

PLANNING, ECONOMIC & RURAL DEVELOPMENT

Dated \(\sum_{\text{September 2025}} \)



WICKLOW COUNTY COUNCIL PLANNING & DEVELOPMENT ACTS 2000 (As Amended) SECTION 5 CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/998

Reference Number:

EX 101/2025

Name of Applicant:

Anthony Murphy & Nicolas Murphy

Nature of Application:

Section 5 Referral as to whether or not "the change of use from commercial to residential" is or is not development and is or is not

exempted development.

Location of Subject Site:

Fairgreen, Tinahely, Co. Wicklow

Report from Edel Bermingham, A/SP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "the change of use from commercial to residential" at Fairgreen, Tinahely, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Having regard to:

- a) The details submitted with the Section 5 Declaration.
- b) Exemption Declaration EX 60/11
- d) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- e) Article 2, 5, 10 (6), and Schedule 2: Part 4 of the Planning and Development Regulations 2001 (as amended).

Main Reason with respect to Section 5 Declaration:

- i. The change of use of the structure to use as 8 residences would be materially different in character, have differing traffic movement, patterns of usage, and amenity requirements to use as a workshop for the repair of domestic appliances.
- ii. The use as a workshop for the repair of domestic appliances would come within the definition of an industrial process, and would therefore be classified as an industrial building having regard to the definitions set out under Article 5 of the Planning and Development Regulations 2001 (as amended).
- iii. The change of use would not come within the provisions of Article 10(6) (b) and (c) (ii) as the use as a repair workshop would not come within Class 1, 2, 3, 6 or 12 of Schedule 2: Part 4 of the Planning and Development Regulations 2001(as amended), and therefore Article 10(6) (b) does not apply to the change of use.

Recommendation:

The Planning Authority considers that "the change of use from commercial to residential" at Fairgreen, Tinahely, Co. Wicklow is development and is NOT exempted development as recommended in the report by the A/SP.

Signed

Dated S day of September 2025

ORDER:

I HEREBY DECLARE:

That "the change of use from commercial to residential" at Fairgreen, Tinahely, Co. Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:

A/Senior Planner

Planning, Economic & Rural Development

Dated 15 day of September 2025

Section 5 Application: EX 101/2025

Date:

8th September 2025.

Applicant:

Anthony Murphy & Nicolas Murphy

Address:

Fairgreen, Tinahely

Whether or not:

The change of use from commercial to residential

Section 5 Declaration

EX 60/11 Declaration issued confirming that the use of an existing building for a workshop utilised for domestic repairs is not development.

Planning Design Standards for Apartments : Guidelines for Planning Authorities : 2025

Appendix 1 - Minimum Floor Areas and Standards

Minimum overall apartment floor areas

Studio	32 sq m	(n/a)*
One bedroom	45 sq m	(38 sq.m)*
Two bedrooms (3 person)	63 sq.m	(55 sq m)*
Two bedrooms (4 person)	73 sq m	
Three bedroom (4 persons)	76 sq m	(70 sq.m)°
Three bedrooms (5 persons)	90 sq m	

^a Figures in brackets refer to 1995 Guidelines

Recommended minimum widths for the main living/dining rooms

Apartment type ^b	Minimum width
Studio	4m ^c
One bedroom	3 3 m
Two bedrooms (3 person)	3 6m
Two bedrooms (4 person)	3 6 m
Three bedrooms (4 persons)	3.8 m
Three bedrooms (5 persons)	3.8 m

^{*} Note Vanation of up to 5% can be applied to widths in all apartment types, subject to overall compliance with required minimum overall apartment floor areas.

Recommended minimum bedroom widths

Apartment type ^d	Minimum width	Minimum floor area
Studio	4m ^e	25 sq.m*
Single bedroom	2.1 m	7 1 sq.m
Double/Twin bedroom	28 m	11.4 sq.m

^c Note Combined living/dining/bedspace, also includes circulation

Minimum storage space requirements

Studio	3 sq.m
One bedroom	3 sq.m
Two bedrooms (3 person)	5 sq.m
Two bedrooms (4 person)	6 sq.m
Three bedrooms (4 persons)	6 sq.m
Three bedrooms (5 persons)	9 sq.m

¹ Note: Where secure, allocated storage is provided in addition to that within individual units, it m to satisfy up to half of the minimum storage requirement for individual apartment units, but shall to reduce the minimum floor area required to be provided within each individual apartment unit, a in these Guidelines.

Minimum recommended floor areas for private amenity space, where provided

Studio	4 sq m
One bedroom	5 sq.m
Two bedrooms (3 person)	6 sq.m
Two bedrooms (4 person)	7 sq.m
Three bedrooms (4 persons)	7 sq.m
Three bedrooms (5 persons)	9 sq.m

Minimum recommended floor areas for communal amenity space, where provided

Studio	4 sq.m
One bedrooms	5 sq.m
Two bedrooms (3 person)	6 sq.m
Two bedrooms (4 person)	7 sq m
Three bedrooms (4 persons)	7 sq.m
Three bedrooms (5 persons)	9 sq m

Relevant Legislation:

Planning and Development Act 2000 (as amended)

Section 2: (1) In this Act, except where the context otherwise requires—

- "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.

"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,
- (a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

Section 4(2) provides that the Minister may by regulations provide any class of development to be exempted development. The Regulations which are applicable in this case are the Planning and Development Regulations 2001 (as amended).

Section 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.

Planning and Development Regulations 2001(as amended)

Article 5 Interpretation

'shop' means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public –

- (a) for the retail sale of goods,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and "wine" is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act, 1910), 10 Edw. 7. & 1 Geo. 5, c.8,
- (e) for hairdressing,
- (f) for the display of goods for sale,
- (g) for the hiring out of domestic or personal goods or articles,
- (h) as a launderette or dry cleaners,

(i) for the reception of goods to be washed, cleaned or repaired,

but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;

"light industrial building" means an industrial building in which the processes carried on or the plant or machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit;

"industrial process" means any process which is carried on in the course of trade or business, other than agriculture, and which is-

(a) for or incidental to the making of any article or part of an article, or for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals,

and for the purposes of this paragraph, "article" includes-

- (i) a vehicle, aircraft, ship or vessel, or
- (ii) a sound recording, film, broadcast, cable programme, publication and computer program or other original database;

"industrial undertaker" means a person by whom an industrial process is carried on and "industrial undertaking" shall be construed accordingly;

Article 10(6) – Inserted by the Planning and Development (Amendment) (No. 2) Regulations 2018 (S.I. No. 30 of 2018) -

(a) In this sub-article—

'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

'relevant period' means the period from 8 February 2018 until 31 December 2025.

- (b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2
- < See Full Article for Restrictions >

Schedule 2: Part 4

CLASS 1-Use as a shop

CLASS 2 -Use for the provision of— (a) financial services, (b) professional services (other than health or medical services), (c) any other services (including use as a betting office), where the services are provided principally to visiting members of the public.

CLASS 3 Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

CLASS 4

Use as a light industrial building

CLASS 6-Use as a residential club, a guest house or a hostel (other than a hostel where care is provided).

CLASS 12-Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018.

Assessment:

The queriest seeks confirmation as to whether the change of a commercial unit to residential is development and is exempted development.

The details indicate that the change consists of change from existing commercial structure to 8 apartments. No information has been submitted in respect to the usage of the structure. From a review of planning register it is noted that this structure was subject to a Section 5 Declaration by reference to EX 60/11 (see attached). The information submitted under that Section 5 indicated that -

The site known as "Pine Mill" comprises of a two-storey structure located on a backland site to the rear of the Main Street, Tinahely.

The applicant has submitted documentation stating that the structure was utilised from 1939 to 1997 as a workshop for a heavy machinery business, from 1997 to 2001 as a workshop for the making of kitchen units and furniture, and from 2001 as an engineering workshop. The structure is now leased as a workshop for domestic appliance repairs to Murphy's Discount Appliances Ltd. The workshop is ancillary to the applicant's Discount Appliance Business at The Riverside Business Park, Tinahely and The Robinhood Road, Dublin. No sales or retail business is conducted from the premises.

Therefore, the use of the structure is as a workshop for the repair of domestic applicances, and therefore a industrial process given the details under EX 60/11, and the definition of industrial process set out in Article 5 of the Planning and Development Regulations 2001(as amended) i.e.

"industrial process" means any process which is carried on in the course of trade or business, other than agriculture, and which is-

(a) for or incidental to the making of any article or part of an article, or for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals,

It is considered the change of use from repair workshop to use for residential would give rise to differing traffic movement, patterns of usage, and amenity requirements. It is therefore considered that the change of use would be material, and is development having regard to the definition set out in Section 3(1)(a) of the Planning and Development Act 2000(as amended).

The next question is therefore would the conversion come within the provisions set out under Article 10 (6), and the following sets out compliance with respect to each element of Article 10 (6):

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2

The established use of the structure is for a workshop i.e. industrial and therefore this usage would not come within any of the relevant classes, and therefore the provisions of Article 10 do not apply.

As the development does not come within any of the relevant classes it is not intended to review compliance with the other provisions of Article 10(6) as it has failed the first criteria.

Recommendation:

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

the change of use from commercial to residential

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

The Planning Authority considers that the change of use from commercial to residential **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) Exemption Declaration EX 60/11
- d) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- e) Article 2, 5, 10 (6), and Schedule 2: Part 4 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration :

- i. The change of use of the structure to use as 8 residences would be materially different in character, have differing traffic movement, patterns of usage, and amenity requirements to use as a workshop for the repair of domestic appliances.
- ii. The use as a workshop for the repair of domestic appliances would come within the definition of an industrial process, and would therefore be classified as an industrial building having regard to the definitions set out under Article 5 of the Planning and Development Regulations 2001 (as amended).
- iii. The change of use would not come within the provisions of Article 10(6) (b) and (c) (ii) as the use as a repair workshop would not come within Class 1, 2, 3, 6 or 12 of Schedule 2:

Part 4 of the Planning and Development Regulations 2001(as amended) , and therefore Article 10(6) (b) does not apply to the change of use.

All anumfor (A) 1

8/9/2025

WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 - 2010 SECTION 5

Director of Services Order No:

11716/11

Reference Number:

Ex 60/11

Name of Applicant:

Murphy's Discount Applicances

Address:

Unit 4 Riverside Business Park

Tinahely, Co Wicklow

Nature of Application:

Section 5 Referral as to whether or

exempted development.

Location of Subject Site:

Fairgreen, Tinahely, CO Wicklow

RECOMMENDATION:

Report from L Bolger, Assistant

Planner

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether or not the use of existing building as workshop - domestic appliance use constitutes exempt development within the meaning of the Planning & Development Acts 2000 - 2010.

Having regard to:

The details submitted on the 28/11/11 in the application for a

declaration under Section 5 of the Planning and

Development Act 2000 (as amended)

The Planning and Development Act definitions of "works"

Section 2(1) and "Development" (Section 3)

The Planning Authority consider that the subject change of use is not development within the meaning of the Planning and Development Act 2000 (as amended).

ORDER:

That a declaration to issue stating:

The change of use is not development within the meaning of the Planning & Development Act 2000 (as amended).



Comhairle Contae Chill Mhantáin Ulicklow County Council

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MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Edel Bermingham A/Senior Planner

FROM:

Nicola Fleming Staff Officer

RE:- Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). EX101/2025

I enclose herewith application for Section 5 Declaration received completed on $\mathbf{1}^{\text{st}}$ September 2025.

The due date on this declaration is 28th September 2025.

Senior Staff Officer

Panning, Economic & Rural Development





All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development



Comhairle Contae Chill Mhantáin Ulicklow County Council

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1st September 2025

Philip Ennis
Ennis Martin Architecture
Main Street
Ferns
Co. Wexford

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Act 2000 (as amended). – EX101/2025 – Anthony Murphy & Nicolas Murphy

A Chara

I wish to acknowledge receipt on 01/09/2025 full details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 28/09/2025.

Mise, le meas

Nicola Fleming
Staff Officer

Planning, Economic & Rural Development





Wicklow County Council County Buildings * Wicklow 0404-20100

01/09/2025 12 17 14 Receipt No L1/0/350815

PAUL MARTIN MAIN ST FERNS CO WEXFORD

EXEMPTION CERTIFICATES
GOODS 80 00

80 00

VAT Exempt/Non-valable

Total 80 00 EUR

Tendered
Credit Card 80 00
Anto & Nicola Murphy

Change 0.00

Issued By Joanne Tighe 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	26 AUG 2025	I diereken, so
M FOR A		

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: Anthony Murphy and Nicolas Murphy
Address of applicant: Unit 4 Riverside Business Centre, Tinahely, Co
Wicklow.

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

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) **Philip Ennis**

Address of Agent: Ennis Martin Architecture, Main Street, Ferns, Enniscorthy, Co Wexford.

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

3. Declaration Details

- i. Location of Development subject of Declaration: Fairgreen, Tinahely, Co Wicklow
- ii. Are you the owner and/or occupier of these lands at the location under i. above ? **Yes.**

WICKLOW COUNTY COUNCIL

2 1 244 1 25

F1 1 1 1 20 27.

- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier **Applicant is owner**
- 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: **Declaration is require in relation**to the proposed change of use of building from commercial to residential.

 Additional details may be submitted by way of separate submission.

Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration S.I. No. 75/2022 - Planning and Development Act (Exempted Development) Regulations 2022

Additional details may be submitted by way of separate submission.

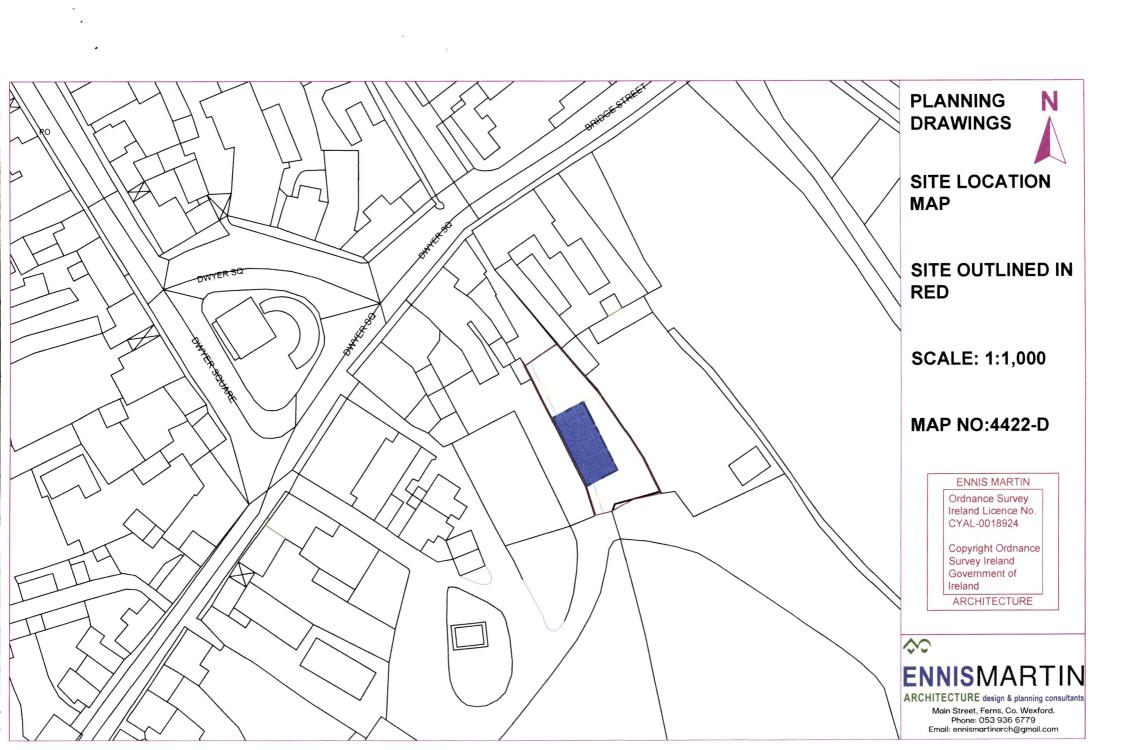
- vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure)? No
- vii. List of Plans, Drawings submitted with this Declaration Application Floor Plans, Section, Elevations, Site Layout Map, Site Location Map

viii. Fee of € 80 Attached ? Yes

Additional Notes:

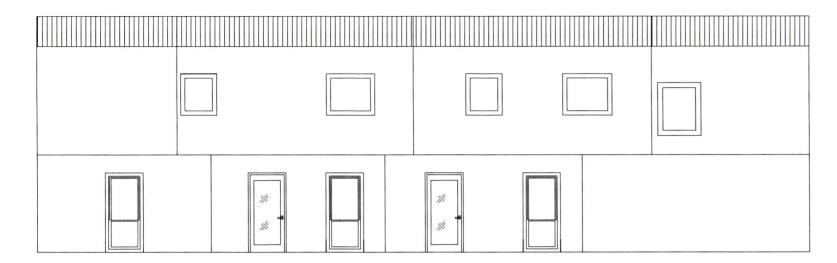
As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below:

- A. Extension to dwelling Class 1 Part 1 of Schedule 2
 - Site Location Map

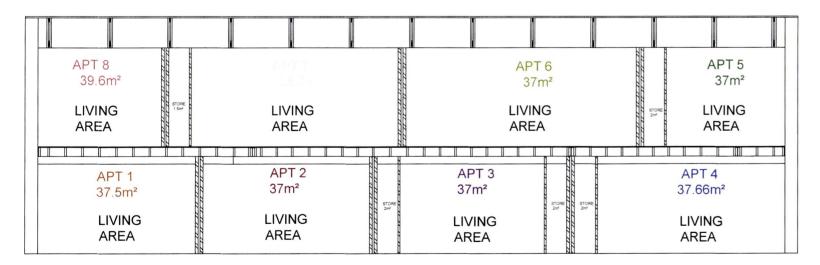




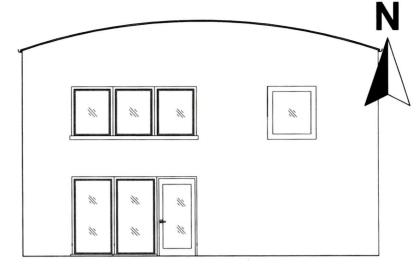
PRELIMINARY DRAWINGS



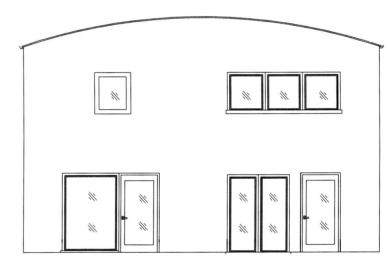
ELEVATION A



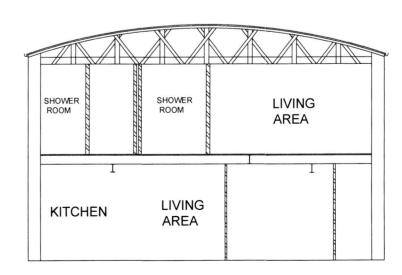
SECTION B-B



ELEVATION B



ELEVATION D



SECTION A-A

REVISI	ONS:	
//	-	
//	-	
//	-	
//	-	

SITE AREA OUTLINED IN RED: C. 0.000 HECTARES (0.000 ACRES)



ENNISMARTIN

ARCHITECTURE design & planning consultants

Main Street, Ferns, Co. Wexford.
Phone: 053 936 6779
Email: ennismartinarch@gmail.com

CLIENT:	ANTHONY MURPHY AND NICHOLAS MURPHY	
TITLE:	PROPOSED APARTMENT	•
	CLIENT: TITLE:	

PROPOSED APARTMENT DEVELOPMENT AT FAIRGREEN, TINAHELY, ARKLOW, CO.WICKLOW.

DRAWING:	ELEVATION/SECTIONS		
SCALE:	1:100 @ A3	JOB NO: -	
DRAWING NO	D: PD24002	DRAWN BY: P.E.	
DATE:	MAY 2024	CHECKED BY: E.M.A.	

