

**WICKLOW COUNTY COUNCIL**

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

Director of Services Order No: 1900/2022

Reference Number: EX 67/2022

Name of Applicant: Noel & Dolores Heatley C/O John Hodgins

Nature of Application: Section 5 Referral as to whether "The Rear single storey extension of 22msq at 1 Stonebridge House, Bond Street, Wicklow Town, Co Wicklow" is or is not exempted development.

Location of Subject Site: 1 Stonebridge House, Bond Street, Wicklow Town, Co Wicklow

Report from Lyndsey Blackmore AP & Suzanne White SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "The Rear single storey extension of 22msq at 1 Stonebridge House, Bond Street, Wicklow Town, Co Wicklow" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

**Having regard to:**

- a) The details submitted on the 27th October 2022;
- b) The Wicklow Town and Rathnew Local Area Plan 2013 - 2019
- c) Section 2, 3, 4(1)(h) of the Planning and Development Act 2000 (as amended);
- d) Article 9 (1) (a)(xii) of the Planning and Development Regulations 2001 (as amended);
- e) Classes 1 Part 1, Schedule 2, of the Planning and Development Regulations 2001 (as amended).

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

The extension to the rear of the dwelling would come within the scope of the exemption provided in Class 1, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended), and would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.



**Recommendation**

The Planning Authority considers that "The Rear single storey extension of 22msq at 1 Stonebridge House, Bond Street, Wicklow Town, Co Wicklow" is development and is exempted development as recommended in the planning reports.

Signed  Dated 22<sup>nd</sup> day of November 2022

ORDER:  
\_\_\_\_\_

That a declaration to issue stating:

That "The Rear single storey extension of 22msq at 1 Stonebridge House, Bond Street, Wicklow Town, Co Wicklow" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed:  
2022

  
Director of Services  
Planning Development & Environment

Dated 22 day of November



# 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  
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Suíomh / Website: www.wicklow.ie

Noel & Dolores Heatly  
C/O John Hodgins  
Amalfi  
Rocky Road  
Wicklow Town  
Co Wicklow  
A67 FA46

22<sup>nd</sup> November 2022

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

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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 67/2022

Applicant: Noel & Dolores Heatley C/O John Hodgins

Nature of Application: "The Rear single storey extension of 22msq at 1 Stonebridge House, Bond Street, Wicklow Town, Co Wicklow"

Location: 1 Stonebridge House, Bond Street, Wicklow Town, 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: Noel & Dolores Heatley C/O John Hodgins**

**Location: 1 Stonebridge House, Bond Street, Wicklow Town, Co Wicklow**

**DIRECTOR OF SERVICES ORDER NO: 1900/2022**

A question has arisen as to whether "The Rear single storey extension of 22msq at 1 Stonebridge House, Bond Street, Wicklow Town, Co Wicklow" is or is not exempted development.

**Having regard to:**

- a) The details submitted on the 27th October 2022;
- b) The Wicklow Town and Rathnew Local Area Plan 2013 - 2019
- c) Section 2, 3, 4(1)(h) of the Planning and Development Act 2000 (as amended);
- d) Article 9 (1) (a)(xii) of the Planning and Development Regulations 2001 (as amended);
- e) Classes 1 Part 1, Schedule 2, of the Planning and Development Regulations 2001 (as amended).

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

The extension to the rear of the dwelling would come within the scope of the exemption provided in Class 1, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended), and would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

**The Planning Authority considers that "The Rear single storey extension of 22msq at 1 Stonebridge House, Bond Street, Wicklow Town, Co Wicklow" is development and is exempted development.**

Signed: 

ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT

Dated <sup>22</sup> November 2022



## Section 5 Declaration

Ref: 67/2022  
Name: Noel and Dolores Heatley  
Development: Single storey rear extension to dwelling  
Location: 1 Stonebridge House, Bond Street, Wicklow Town

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**Observations:** The applicant is seeking a Section 5 Declaration for extension to a dwelling house

### The site

The subject site is located at 1 Stonebridge House, Bond Street, Wicklow Town, Existing two storey terraced dwelling on site.

### Question

The applicant has applied to see whether or not the following is or is not exempted development:

Rear single storey extension of 22msq.

### Relevant Legislation:

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

**Section 2 (1)** defines works as including: *"Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal"*;

**Section 3 (1)** defines development as: *"The carrying out of works on, in, over or under land or the making of any material change in the use of structures or other land"*;

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

**Section 4(1)(h)** relates to *"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 characters of the structure or of neighbouring structures"*.

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

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

**Article 9 (1)** states that certain development to which article 6 relates shall not be exempted development for the purposes of the Act, when certain instances apply;

**Part 1 (Classes 1-8) of Schedule 2** describes classes of development within the curtilage of a house, which are exempted development, provided that such development complies with the associated conditions and limitations;

*The extension of house, by the construction of or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed of similar structure attached to the rear or to the side of the house.*

#### **Conditions and Limitations:**

*Where the house has not been previously extended, the floor area of any such extension shall not exceed 40msq.*

### **Wicklow Town – Rathnew Development Plan 2013-2019**

**Zoning** Existing Residential: To protect and preserve existing residential uses and provide for infill residential development.

#### **Assessment:**

**Assessment:** The applicant is requesting a Declaration in accordance with Section 5 for an extension and to a dwelling at Bond Street, Wicklow.

The applicants propose:

- 1 A new single storey extension of 22msq to rear of existing terraced dwelling;

The first assessment must be whether or not the works outlined above constitute development within the remit of Section 3 of the Planning and Development Act 2001. In this regard, Section 3 of the Planning and Development Act provides that:

“development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

It should be noted that Section 2 of the Act defines works as:

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

The proposal involves alterations and extensions (additional floor space) to an existing dwelling and would therefore involve works within the meaning of Section 3 of the Act. As such it constitutes development.

Having regard to the nature of the proposed works, the proposed development can be examined in accordance with the exempted development provisions of the Planning and Development Act 2000 (as amended) and Planning and Development Regulations 2001 (as amended) as follows:

#### **New single storey extension to eastern (rear) elevation :**

As detailed on the proposed site layout plan, the applicants are seeking an extension of 22msq to the rear of an existing two storey dwelling.

Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) permits *“The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house or any garage, store, shed or other similar structure attached to the rear or to the side of the house”* subject to 7 No. Conditions and Limitations.



This extension is solely to the rear of the existing dwelling and accords with the conditions and limitations and therefore is development and is exempt development.

**Recommendation:**

With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether Anew single storey extension to rear of dwelling constitutes exempted development within the meaning of the Planning and Development Act 2000 (as amended)

**The Planning Authority considers that:**

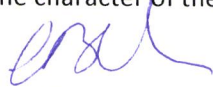
Construction of a 22sqm single storey extension to the rear of the dwelling is development and is exempted development

**Main Considerations with respect to Section 5 Declaration:**

- a) The details submitted on the 27<sup>th</sup> October 2022;
- b) The Wicklow Town and Rathnew Local Area Plan 2013 - 2019
- c) Section 2, 3, 4(1)(h) of the Planning and Development Act 2000 (as amended);
- d) Article 9 (1) (a)(xii) of the Planning and Development Regulations 2001 (as amended);
- e) Classes 1 Part 1, Schedule 2, of the Planning and Development Regulations 2001 (as amended).

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

The extension to the rear of the dwelling would <sup>come</sup> within the scope of the exemption provided in Class 1, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended), and would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.



Lyndsey Blackmore  
Assistant Planner  
16/11/22

Agreed as amended  
S. White SEP  
20/11/22



# MEMORANDUM

## WICKLOW COUNTY COUNCIL

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**TO: Lyndsey Blackmore  
Assistant Planner**

**FROM: Crystal White  
Assistant Staff Officer**

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**RE:- EX 67/2022 - Declaration in accordance with Section 5 of the  
Planning & Development Acts 2000 (as amended)  
Single storey extension to the rear of the property at 1 Stonebridge House,  
Bond Street, Wicklow Town, Co Wicklow**

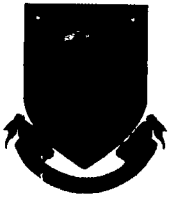
I enclose herewith for your attention application for Section 5 Declaration received 27<sup>th</sup> of October 2022.

The due date on this declaration is the 23<sup>rd</sup> November 2022.



**Senior Staff Officer  
Planning Development & Environment**





**Comhairle Contae Chill Mhantáin  
Wicklow County Council**

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

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Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

28/10/2022

**Noel & Dolores Heatley  
C/O John Hodgins  
Amalfi  
Rocky Road  
Wicklow Town  
A67 FA46**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 67/2022  
Single storey extension to the rear of the property at 1 Stonebridge House, Bond Street, Wicklow Town, Co Wicklow**

A Chara

I wish to acknowledge receipt on the 27<sup>th</sup> of October 2022 details supplied by you in respect of the above section 5 application. A decision is due in respect of this application by 23/11/2022.

Mise, le meas

**SENIOR EXECUTIVE OFFICER  
PLANNING DEVELOPMENT AND ENVIRONMENT**



Wicklow County Council  
County Buildings  
Wicklow  
0404-20100

28/10/2022 09 57 39

Receipt No L1/0/303734

NOEL AND DOLORES HEATLEY  
'OAKLAWN'  
BOLLARNEY NORTH  
WICKLOW  
CO WICKLOW

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

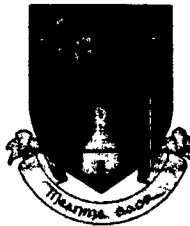
Total 80 00 EUR

Tendered  
Cheque 80 00

Change 0 00

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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**

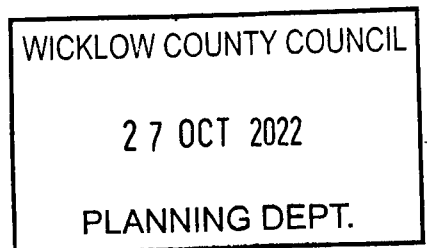
- (a) Name of applicant: Noel and Dolores Heatley \_\_\_\_\_  
Address of applicant: \_\_\_\_\_

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

**2. Agents Details (Where Applicable)**

- (b) Name of Agent (where applicable) John Hodgins

Address of Agent : \_\_\_\_\_ Amalfi,  
Rocky Road  
Wicklow Town  
A67 FA46



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

**3. Declaration Details**

- i. Location of Development subject of Declaration \_\_\_\_\_  
No 1 Stonebridge House, Bond Street, Wicklow Town, Co. Wicklow
  
- ii. Are you the owner 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 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
- 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 \_\_\_\_\_  
\_\_\_\_\_  
Whether the single storey extension to the rear of No 1 Stonebridge House comprising 22.5 m2 is or is not exempted development

*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

That the single storey extension to the rear of No 1 Stonebridge House is exempted development defined as such as development of a class 1 specified in column 1 of Part 1 of Schedule 2 .

- v. \_\_\_\_\_  
*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 \_\_\_\_\_

Drawings 2216-HA-A.01 and -A.02

No 1 Stonebridge House (edged Blue)

viii. Fee of € 80 Attached \_\_\_\_\_

Signed: Noel Healy Dated: 27/10/22

## HODGINS ARCHITECTS

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Wicklow Co. Council  
Planning Department  
County Buildings  
Station Road  
Wicklow Town

27<sup>th</sup> October 2022

**Re UD 5560 Nos 1 and 2 Bond Street, Wicklow Town:UD response and request for referral.**

Dear Sirs

In response to your letter of 4<sup>th</sup> October 2022, my client accepts that the first floor extension to the rear of No 2 Bond Street and the single store extension to the side of No 2 Bond street do not fall within the limitations of the exempted development provisions and consequently an application for planning permission is being made.

In relation to No 1 Bond street my client does not accept your contention that the single storey extension to the rear is not exempted development by virtue of the fact that it is “attached” to No 2 Bond street.

The limitation on exemption to which you refer is stated below.

*(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

It is accepted that the unauthorised development is the first floor part of No 2 - (by virtue of its height and floor area) and that the ground floor side bathroom is unauthorised being a reconstruction of an structure of uncertain date. The ground floor extensions to the rear of No 1 and No 2 are exempted development and while they share a party wall at ground floor only, this does not constitute an “extension” of an unauthorised structure because:-

- a) The rear extension of No 1, is an extension to No 1 and is not constitute an extension of No 2 and
- b) The ground floor rear extensions to both No 1 and No 2 are exempted development by virtue of being Class 1 development of Schedule 2 of the planning and development regulations. and
- c) “attachment” (to a separate property)is not a provision for limitation of exempted development. By this logic all attached properties in the terrace would become unauthorised by a domino effect.

Accordingly my client does not intend to apply for the retention of the single storey extension to the rear of No 1 and seeks an exemption referral in lieu.

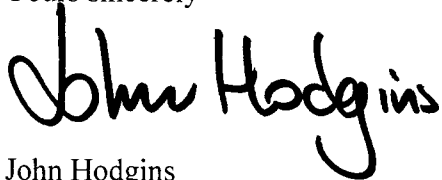


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While you may think that this is of little consequence when an application for No 2 is being made, but the situation is that there is a potential purchaser anxious to occupy the house as soon as it can be completed and time is of the essence.

Along with this application we request that you confirm by way of referral under part 5 of the act that the rear extension of No 1 is exempted development and enclose an €80.00 referral fee and application form together with the €165.00 planning application fee and planning application documents.

Yours sincerely

A handwritten signature in black ink that reads "John Hodgins". The signature is written in a cursive, flowing style with a large initial 'J'.

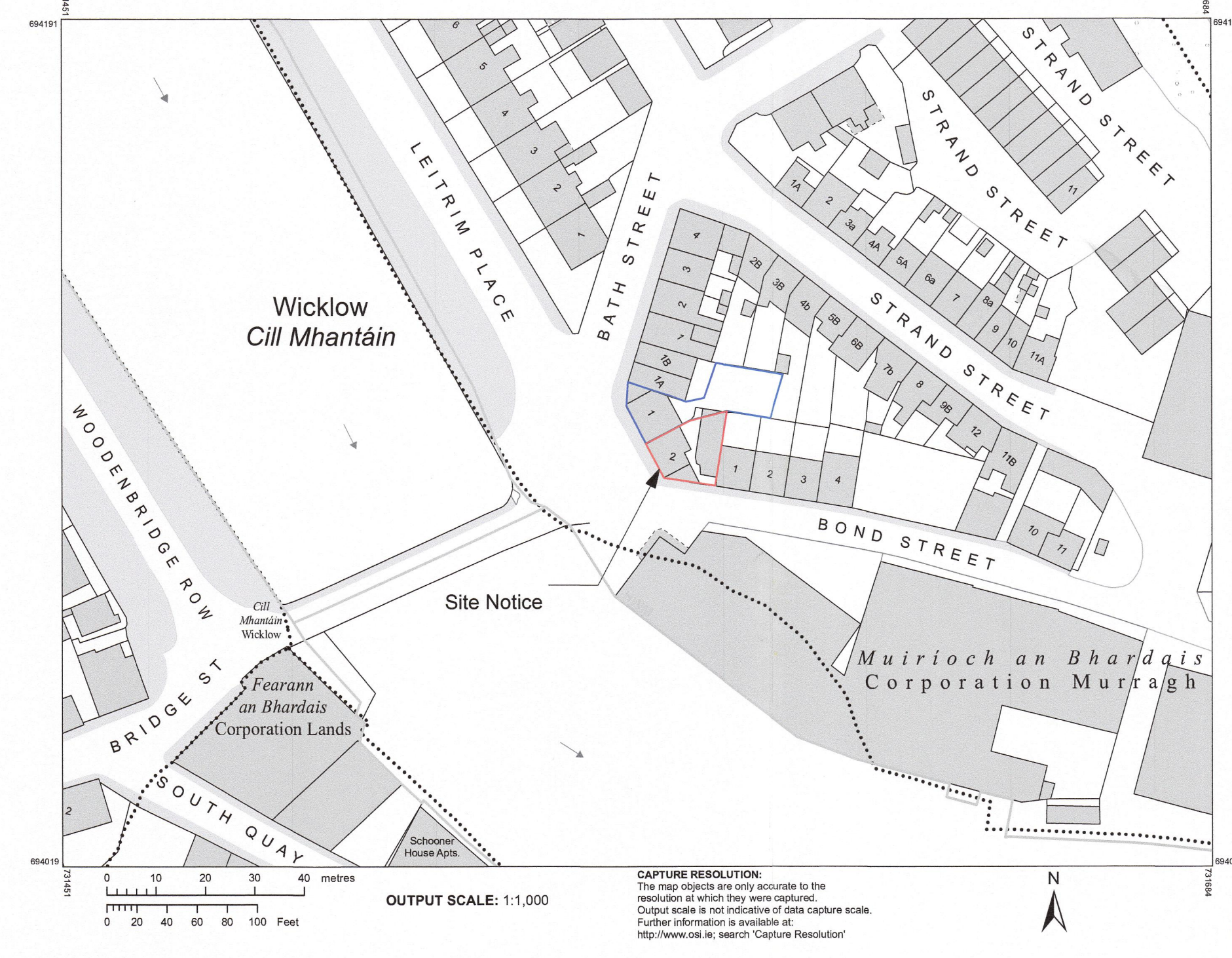
John Hodgins

CC Noel and Dolores Heatley



- Structure for which retention permission is sought (Cut elements)
- Structure for which retention permission is sought (elements in elevation)

**Planning Pack Map**



**OSi** Ordnance Survey  
National Mapping Agency

**CENTRE COORDINATES:**  
ITM 731568.694105

**PUBLISHED:** 18/10/2022  
**ORDER NO.:** 50297739\_1

**MAP SERIES:** 1:1,000  
**MAP SHEETS:** 4020-20

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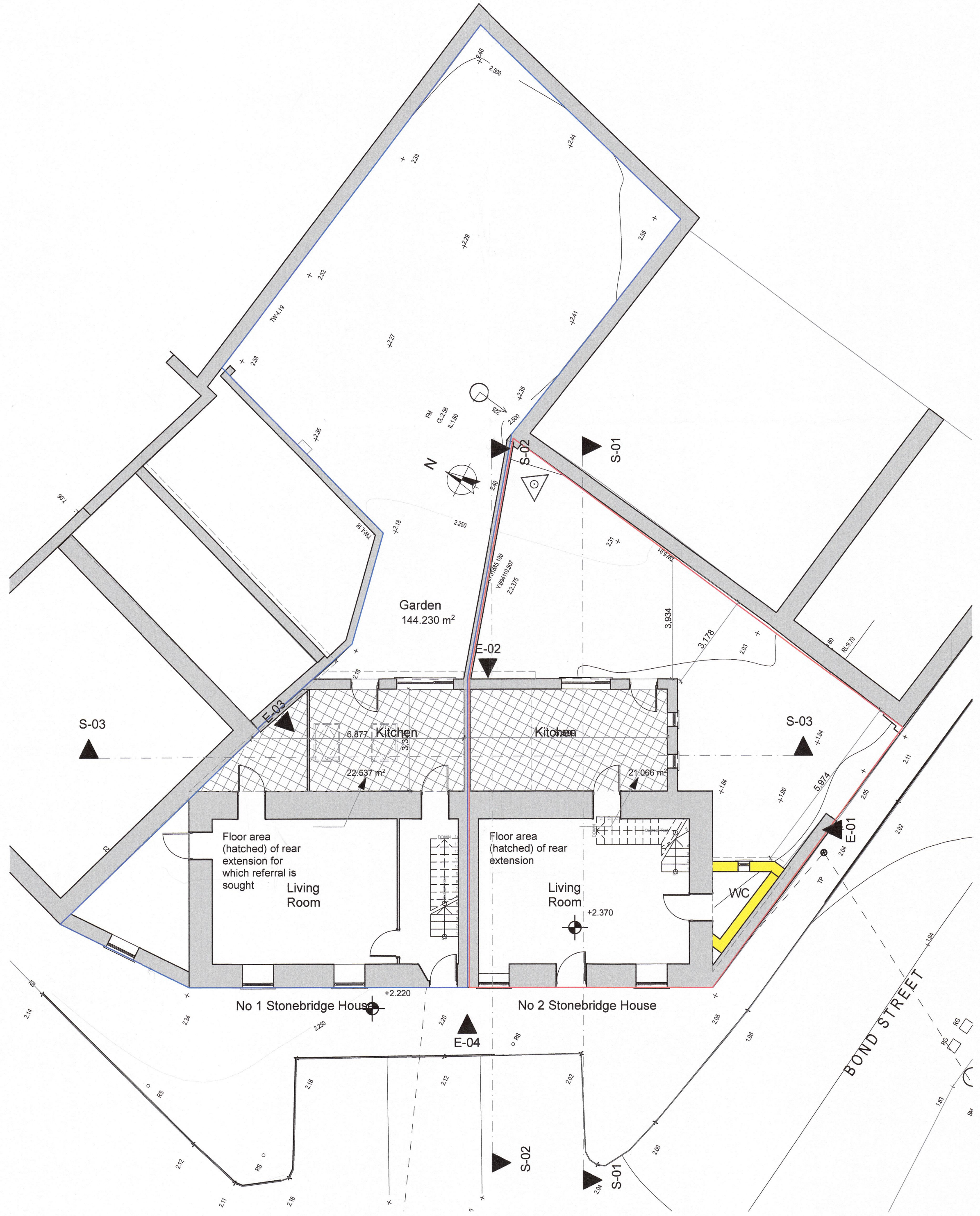
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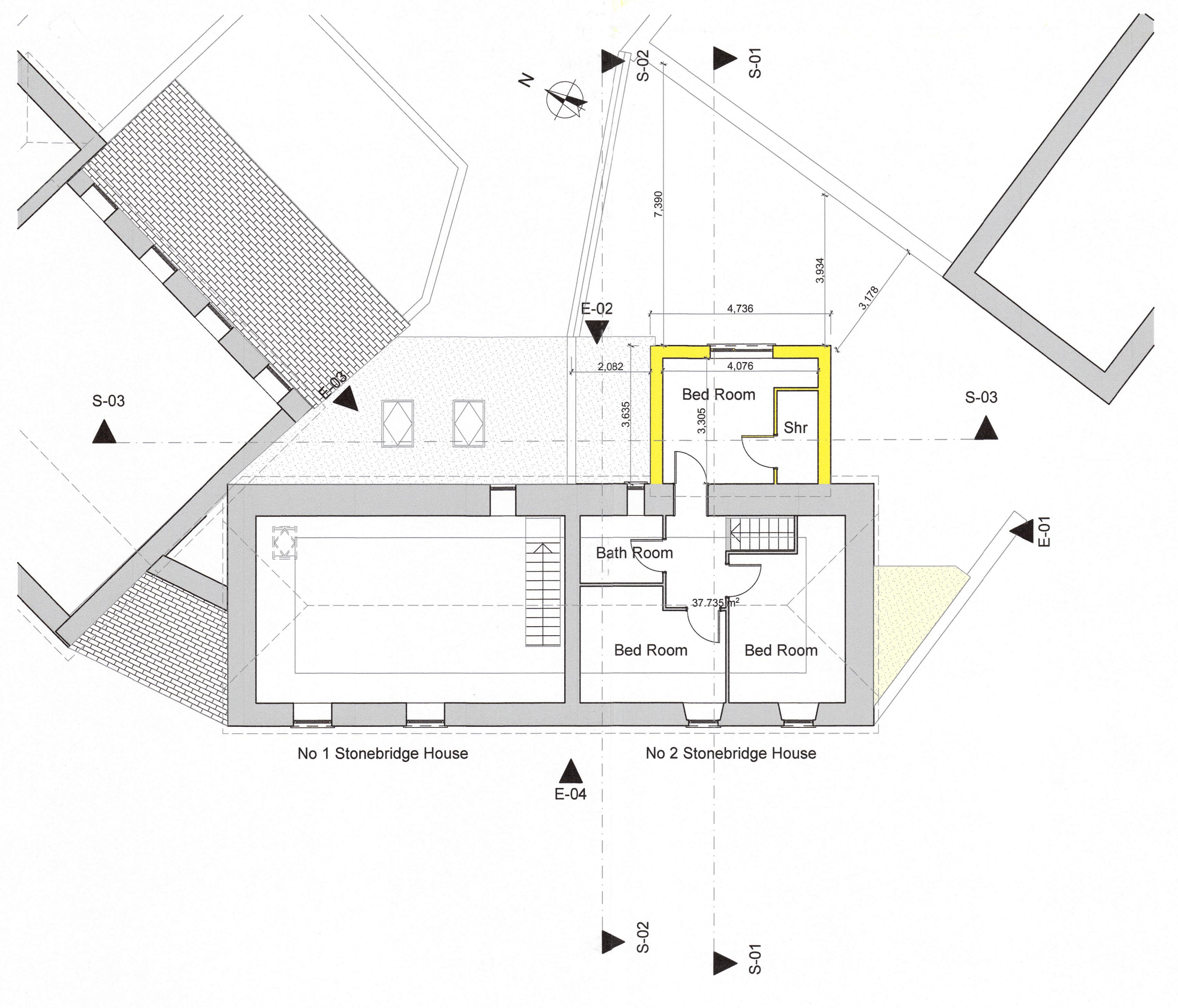
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**LEGEND:**  
<http://www.osi.ie>  
search 'Large Scale Legend'



**GF-Ground Floor & Block Plan**  
1:100

**OSI Map**  
1:1000



**01-First Floor**  
1:100

Scale @ 1:100 Scale @ 1:50		<table border="1"> <tr><th>Revised</th><th>Transmitted</th><th>Set Name</th><th>Issue Date</th><th>Issue/Initials</th><th>Status</th><th>Approved by</th></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </table>	Revised	Transmitted	Set Name	Issue Date	Issue/Initials	Status	Approved by								<table border="1"> <tr><th>Purpose of Issue</th><th>Status</th><th>Scales @ A1</th><th>Project No.</th></tr> <tr><td> </td><td> </td><td>1:1000, 1:100</td><td>2216</td></tr> </table>	Purpose of Issue	Status	Scales @ A1	Project No.			1:1000, 1:100	2216	<table border="1"> <tr><th>Originator</th><th>Project</th><th>Client</th><th>Layout Title</th></tr> <tr><td> HODGINS ARCHITECTS Amalfi, Rocky Road, Wicklow Town, Wicklow, A67 FA46 hodginsarchitects@gmail.com</td><td>Nos. 1&amp;2 Stonebridge House Bond Street, Wicklow Town</td><td>Noel and Dolores Heatley</td><td>Plans</td></tr> </table>	Originator	Project	Client	Layout Title	HODGINS ARCHITECTS Amalfi, Rocky Road, Wicklow Town, Wicklow, A67 FA46 hodginsarchitects@gmail.com	Nos. 1&2 Stonebridge House Bond Street, Wicklow Town	Noel and Dolores Heatley	Plans	<table border="1"> <tr><th>Drawing Number</th><th>originator</th><th>number</th><th>rev</th></tr> <tr><td>2216</td><td>-HA-</td><td>A.01</td><td> </td></tr> </table>	Drawing Number	originator	number	rev	2216	-HA-	A.01	
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