

Comhairle Contae Chill Mhantáin Wicklow County Council

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

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

February 2025

Piotr Alama ZOHA Arechitecture & Design Santa Rita Monbeg Ballindaggin Co. Wexford

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX10/2025

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.

Is mise, le meas,

ADMINISTRATIVE OFFICER

PLANNING ECONOMIC & RURAL DEVELOPMENT







Comhairle Contae Chill Mhantáin Ulicklow County Council

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

Áras 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

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

Applicant: Joseph Germaine

Location: Germaine's, Main Street, Baltinglass, Co. Wicklow

Reference Number: EX10/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/131

Section 5 Declaration as to whether "change of use from hot food takeaway to accommodation being Class 20F" at Germaine's, Main Street, Baltinglass, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

Having regard to:

- The details received on 23/01/2025;
- ii. Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended);
- iii. Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- iv. Schedule 2, Pt.1 Class 20F of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

- 1. The change of use from hot food takeaway to accommodation being Class 20F is development, having regard to section 3(1)(a) of the Planning & Development Act 2000 (as amended) as it would result in a material change of use given that the use as accommodation under Class 20F would be different in character and the nature of the use would have materially different planning considerations to a use as a hot food takeaway.
- 2. The change of use from hot food takeaway to accommodation being Class 20F would not fall within the remit of Schedule 2, Part 1, Class 20F of the Planning and Development Regulations 2001 (as amended) as the prevailing use on site, being that of a hot food take away, is not included within the description of Class 20F.

The Planning Authority considers that "change of use fromm hot food takeaway to accommodation being Class 20F" at Germaine's, Main Street, Baltinglass, Co. Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed

ADMINISTRATIVĚ OFFICER(

PLANNING ECONOMIC & RUHAL DEVELOPMENT

Dated February 2025





WICKLOW COUNTY COUNCIL PLANNING & DEVELOPMENT ACTS 2000 (As Amended) SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/131

Reference Number:

EX10/2025

Name of Applicant:

Joseph Germaine

Nature of Application:

Section 5 Declaration request as to whether or not: -

"change of use from hot food takeaway to accommodation being Class 20F" is or is not development and is or is not

exempted development.

Location of Subject Site:

Germaine's, Main Street, Baltinglass, Co. Wicklow

Report from Billy Slater, AP & Edel Bermingham, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "change of use from hot food takeaway to accommodation being Class 20F" at Germaine's, Main Street, Baltinglass, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Having regard to:

The details received on 23/01/2025: i.

Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended); ii.

Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended); iii.

Schedule 2, Pt.1 Class 20F of the Planning and Development Regulations 2001 (as amended). iv

Main Reason with respect to Section 5 Declaration:

- 1. The change of use from hot food takeaway to accommodation being Class 20F is development, having regard to section 3(1)(a) of the Planning & Development Act 2000 (as amended) as it would result in a material change of use given that the use as accommodation under Class 20F would be different in character and the nature of the use would have materially different planning considerations to a use as a hot food takeaway.
- 2. The change of use from hot food takeaway to accommodation being Class 20F would not fall within the remit of Schedule 2, Part 1, Class 20F of the Planning and Development Regulations 2001 (as amended) as the prevailing use on site, being that of a hot food take away, is not included within the description of Class 20F.

Recommendation:

The Planning Authority considers that "change of use from hot food takeaway to accommodation being Class 20F" at Germaine's, Main Street, Baltinglass, Co. Wicklow is development and is NOT exempted development as recommended in the report by the SEP.

Signed

ORDER:

I HEREBY DECLARE THAT "change of use from hot food takeaway to accommodation being Class 20F" at Germaine's, Main Street, Baltinglass, Co. Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:

Planning, Economic & Rural Development

Dated 4 day of February 2025



WICKLOW COUNTY COUNCIL PLANNING DEPARTMENT

To: Fergal Keogh S.E / Suzanne White S.E.P. / Edel Bermingham S.E.P.

From: Billy Slater A.P.

Type: Section 5 Application

REF: EX 10/2025 **Applicant:** Joseph Germaine

Date of Application: 23/01/2025 **Decision Due Date:** 19/02/2025

Address: Germaine's, Main Street, Baltinglass, Co. Wicklow

Exemption Query: Change of use from hot food takeaway to accommodation being Class 20F.

Application Site: The application site is located on the Main Street of the level 4 settlement of

Baltinglass Town, and is occupied by an end-of-terrace two-storey five-bay structure, with open space / yard to the rear. The application site is located within a 'Town Centre' zoning and is bound by further terraced structures to

the east and west, with open space present to the rear (south-east).

Aerial / Site Image





Relevant Planning History:

Ref 07/1141

Applicant Joseph Germaine & John Wall

Development Change of use from dwelling house[on ground and first floor] to fast food

restaurant and take away, single storey extension to rear, and all associated

site works

Decision Grant

Ref 07/1493

Applicant Joseph Germaine & John Wall

Development Erection of 2No. three bedroom, semi-detached town houses with access

through existing archway from main street, and all associated site works at

rear premises

Decision Refused

Ouestion:

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 hot food takeaway to accommodation being Class 20F

at Germaine's, Main Street, Baltinglass, Co. Wicklow is or is not exempted development:

Legislative Context:

Planning and Development Act 2000 (as amended)

Section 2(1) of the Act states the following in respect of the following:

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

"works" includes Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

Section 3(1) of the Act states the following in respect of 'development':

"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 sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act.

Section 4 (1) (h) is relevant for the purposes of this declaration:

"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) makes provision for ministerial regulations to set out further exemptions. The 2001 Planning Regulations as amended derive from this section and designate further works as being exempted development for the purposes of the act.

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):

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—
 - (i) Contravene a condition attached to a permission under Act or be inconsistent with any use specified in a permission under the Act,
 - (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
 - (iii) Endanger public safety by reason of traffic hazard or obstruction of road users,

And so on,

Schedule 2, Part 1 outlines classes of exempt development as well as associated conditions and limitations. The following are of relevance.

CLASS 20F

Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.

Associated conditions and limitations:

- 1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.
- 2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001².
- 3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.
- 4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.
- 5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.
- 6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.
- 7. 'International protection', for the purpose of this class, has the meaning given to it in section 2(1) of the International Protection Act 2015 (No. 66 of 2015).
- 8. 'Temporary protection', for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.

Details submitted in support of the application:

- Unit floorplans and elevations.
- Site layout plan and site location map.

Assessment:

The Section 5 declaration application seeks an answer with respect to the following question:

Whether the change of use from hot food takeaway to accommodation being Class 20F at Germaine's, Main Street, Baltinglass, Co. Wicklow is or is not exempted development.

The first assessment must be whether or not the proposal outlined above constitutes development within the remit of Section 3 of the Planning and Development Act 2000 (as amended). 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.

As such the change of use from use as a hot food takeaway to accommodation is development, having regard to section 3(1)(a) of the Planning & Development Act 2000 (as amended), as it would result in a material change of use given that the use as accommodation being Class20F would be different in character and the nature of the use would have material different planning considerations to use as a hot food takeaway.

The second stage of the assessment is to determine whether or not the proposal would be exempted development under the Planning and Development Act 2000 (as amended) or it's associated Regulations. Schedule 2, Part 1, Class 20F of the Planning and Development Regulations 2001 (as amended) relates to the change of use from a number of specified classes of uses to that of a use to accommodate or support displaced persons or persons seeking international protection. The applicable prevailing uses are inclusive of a use as a 'school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction'.

It is observed in this regard that the prevailing use on site being that of a 'hot food takeaway' (as permitted under PRR07/1141) would not fall within the remit of Schedule 2, Part 1, Class 20 (F) of the Planning and Development Regulations 2001 (as amended).

Conclusion:

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 hot food takeaway to accommodation being Class 20F

at Germaine's, Main Street, Baltinglass, Co. Wicklow is or is not exempted development:

The Planning Authority considers that:

The change of use from hot food takeaway to accommodation being Class 20F at Germaine's, Main Street, Baltinglass, Co. Wicklow is Development and is Not Exempted Development.

Main Considerations with respect to Section 5 Declaration:

- i. The details received on 23/01/2025;
- ii. Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended);
- iii. Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- iv. Schedule 2, Pt.1 Class 20F of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

• The change of use from hot food takeaway to accommodation being Class 20F is development, having regard to section 3(1)(a) of the Planning & Development Act 2000 (as amended) as it would result in a material change of use given that the use as accommodation under Class 20F would be different in character and the nature of the use would have materially different planning considerations to a use as a hot food takeaway.

The change of use from hot food takeaway to accommodation being Class 20F would not fall within the remit of Schedule 2, Part 1, Class 20F of the Planning and Development Regulations 2001 (as amended) as the prevailing use on site, being that of a hot food take away, is not included within the description of Class 20F.

05/02/2025

05/02/2023 April Sil PA 80 6/2/2025.

5



Comhairle Contae Chill Mhantáin Ulickloui County Council

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

Áras 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

MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Billy Slater FROM: Nicola Fleming Assistant Planner Staff Officer

RE:- Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). EX10/2025

I enclose herewith application for Section 5 Declaration received completed on 23/01/2025

The due date on this declaration is 19th February 2025.

Staff Officer

Planning, Economic & Rural Development







Comhairle Contae Chill Mhantáin Ulicklow County Council

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

Áras 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

Piotr Alama
ZOHA Architecture & Design
Santa Rita
Monbeg
Ballindaggin
Co. Wexford

28th January 2025

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX10/2025 – Joseph Germaine

A Chara

I wish to acknowledge receipt on 23/01/2025 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 19/02/2025.

Mise, le meas

Nicola Fleming

Staff Officer

Planning, Economic & Rural Development





Wicklow County Council County Buildings Wicklow 0404-20100

23/01/2025 09 49 21

Receipt No L1/0/339994

MR PIOTR MICHAL ALAMA

EXEMPTION CERTIFICATES
GOODS 80 00
VAT Exempt/Non-vatable

80.00

Total

80 00 EUR

Tendered
Cheque 80 00
GERMAINES MAIN ST BALTINGLASS

Change 0 00

Issued By Ciridy Driver From Customer Service Hub Vat reg No 0015233H

WICKLOW COUNTY COUNC!L
CUSTOMER SERVICE •
2 3 JAN 2025



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

Office	Use	Only
<u>Ulliec</u>	000	CALLY

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

<u>1. Ar</u>	oplicant Details		
(a)	Name of applicant: Address of applicant:	Joseph Germaine	
		ne's, Main Street, Baltinglass, C	o. Wicklow
Note	Phone number and email to	be filled in on separate page.	
			WICKLOW COUNTY COUNCIL
			2 3 JAN 2025
2. Ag	ents Details (Where Appli	cable)	PLANNING DEPT.
(b)	Name of Agent (where ap	plicable) Piotr Alama M	RIAI
	• ===	DHA Architecture & Design, Sant onbeg, Ballindaggin, Co. Wexfor	
			

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

3. Declaration Details

i.	Location of Development subject of Declaration
	Main Street, Baltinglass, Co. Wicklow
	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
	
	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
	change of use from bot food take away to accompand the hairs
	change of use from hot food takeaway to accommodation being Class 20F development of SI 605/2022
	Additional details may be submitted by way of separate submission.
٧.	Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration
	SI 605/2022
	Additional details may be submitted by way of separate submission.

	ed protected Structure or is it within the curtilage of a sed protected structure)?
vii. List of Plans, Drawings submit	tted with this Declaration Application
EX.1 - Site Location Map EX.2 - Existing Plans EX. 3 - Existing Elevations and	Sections
viii.Fee of € 80 Attached ?	cheque
Signed://MMMa	Dated :

Additional Notes:

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

- A. Extension to dwelling Class 1 Part 1 of Schedule 2
 - Site Location Map
- Floor area of structure in question whether proposed or existing.
- Floor area of all relevant structures e.g. previous extensions.
- Floor plans and elevations of relevant structures.
- Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.

B. Land Reclamation -

The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still

governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 2000(as amended) there is a certification process with respect to land reclamation works as set out under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 S.I. 456 of 2011. You should therefore seek advice from the Department of Agriculture, Fisheries and Food.

Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

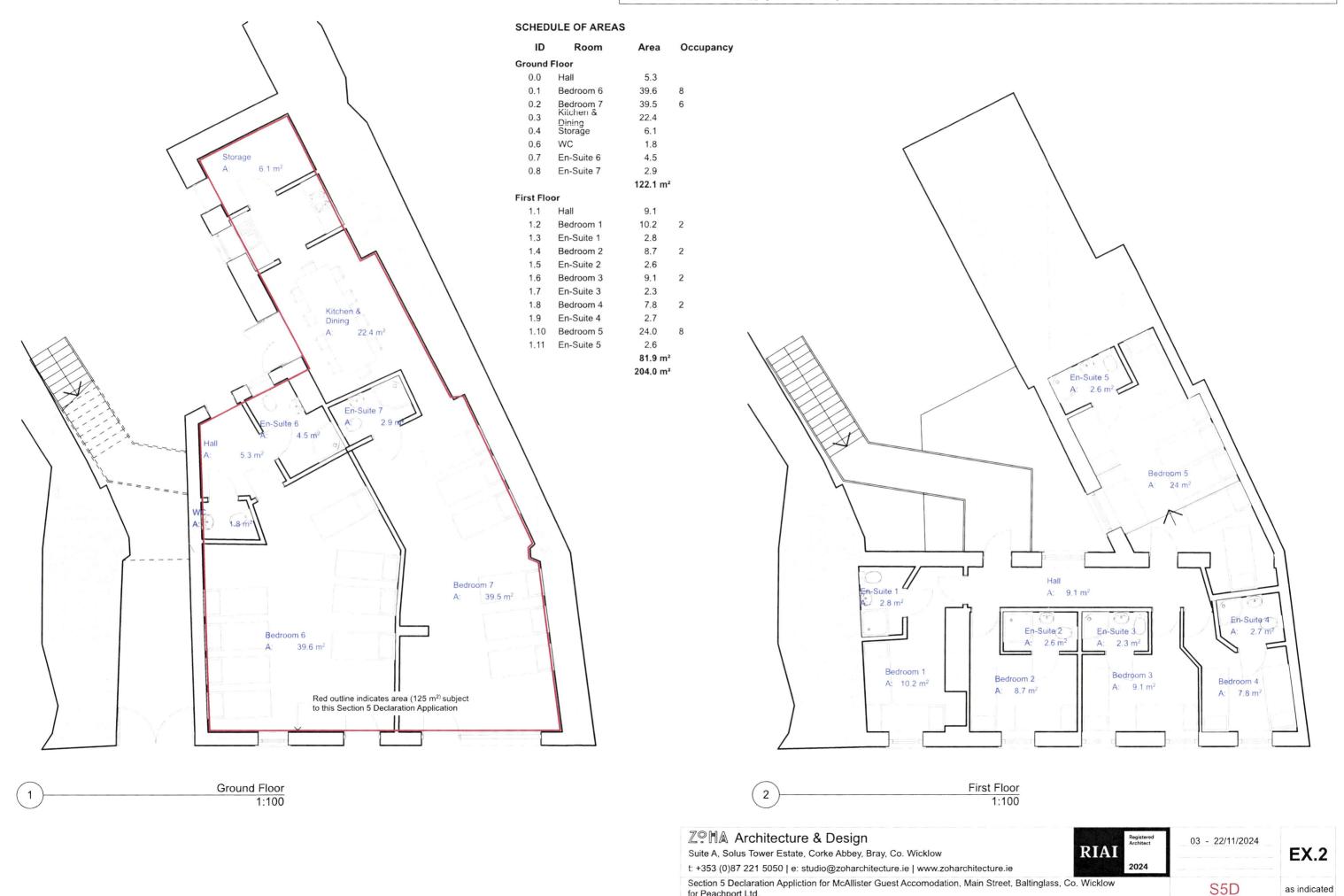
C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

- Site layout plan showing location of structure and any adjoining farm structures and any dwellings within 100m of the farm structure.
- •Gross floor area of the farm structure
- •Floor plan and elevational details of Farm Structure and Full details of the gross floor area of the proposed structure.
- •Details of gross floor area of structures of similar type within the same farmyard complex or within 100metres of that complex.

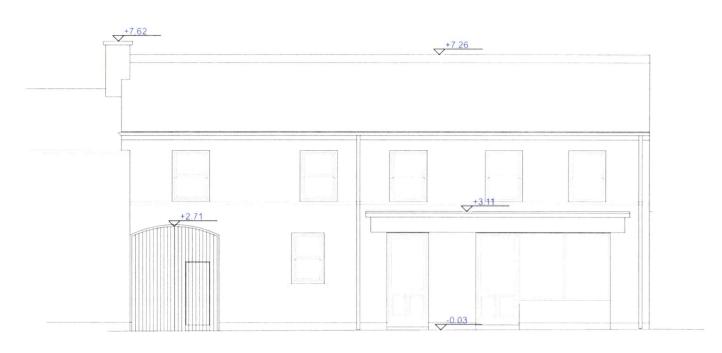
Planning Pack Map Tailte Éiream 688618 0 Station I S₅D CENTRE D COORDINATES: 0 686845,688532 MAIN STREET PUBLISHED: ORDER NO.: 20/11/2024 50435170 1 Site outlined in red Library MARKET SQUARE MAP SERIES: MAP SHEETS: 1:1,000 4127-14 SITE LOCATION MAP Section 5 Declaration Appliction for McAllister Guest Accomodation, Main Street, Baltinglass, Co. Wicklow for Peachport Ltd. # 2112-09 COMPILED AND PUBLISHED BY: Tailte Éireann, Phoenix Park. Dublin 8. 0.24 Ireland. D08F6E4 www.tailte.ie EX.1 01 - 22/11/2024 Any unauthorised reproduction infringes Tailte Éireann copyright, No part of this publication may be copied, reproduced or transmitted in any form or by any means without Conglais Thiar 0.41 the prior written permission of the Baltinglass West copyright owner. Na Bánóga. The representation on this map of a road, track or footpath is not evidence of the existence Bawnoge of a right of way. This topographic map does not show Baltinglass B e a l a c hlegal property boundaries, nor does it show C o n g l a i s T h o i r
B a l t i n g l a s s E a s Bealach ownership of physical features. Conglais ©Tailte Éireann, 2024. All rights reserved. 688446 688446 30 40 Metres CAPTURE RESOLUTION: LEGEND: The map objects are only accurate to the To view the legend visit **OUTPUT SCALE: 1:1.000** resolution at which they were captured. www.tailte.ie and search for Output scale is not indicative of data capture scale. 'Large Scale Legend' 20 40 60 80 100 Feet Further information is available at: www.tailte.ie; search 'Capture Resolution'

as indicated

2112-09



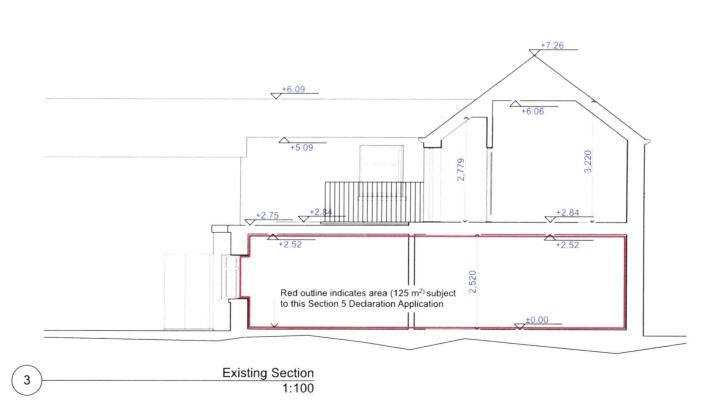
for Peachport Ltd. FLOOR PLANS





Existing South Elevation to Rear 1:100

Existing North Elevation to Main Street
1:100



Z◎	RIAI Registered Architect 2024	02 - 22/11/2024	EX.3
Section 5 Declaration Appliction for McAllister Guest Accomodation, Main Street, Baltinglass, Co. Wicklow for Peachport Ltd.		S5D	as indicated
ELEVATIONS & SECTION		# 2112-09	