WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended) SECTION 5

Director of Services Order No:

1778/2022

Reference Number:

EX 60/2022

Name of Applicant: Kildare & Wicklow Education Training Board C/O Michael

Connolly Architect

Nature of Application:

Section 5 Referral as to whether "the change of use of the 626sqm commercial building to office and

adult education / guidance services at Unit 32. Beechwood Close, Boghall Road, Bray, Co Wicklow"

is or is not exempted development.

Location of Subject Site:

Unit 32, Beechwood Close, Boghall Road, Bray, Co

Wicklow

Report from Aisling McNamara EP & Edel Bermingham SEP.

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "the change of use of the 626sqm commercial building to office and adult education / guidance services at Unit 32, Beechwood Close, Boghall Road, Bray, Co Wicklow" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- (i) The details submitted on 11th October 2022, EX60/2022
- (ii) PRR105/99 Bray UDC
- (iii) Sections 2, 3 and 4 of the Planning and Development Act 2000
- (iv) Article 10 of the Planning and Development Regulations 2001 (as amended)
- (v) Part 4 of Schedule 2 to Planning and Development Regulations 2001 (as amended)

Main Reasons with respect to Section 5 Declaration:

- ${\rm (i)}\ \ {\rm The}\ {\rm use}\ {\rm off}\ {\rm the}\ {\rm structure}\ {\rm on}\ {\rm site}\ {\rm for}\ {\rm a}\ {\rm KWETB}\ {\rm office}\ {\rm and}\ {\rm adult}\ {\rm education}\ /$ guidance service building is a material change of use from that granted permission under PRR105/99 Bray Urban District Council.
- (ii) There is no exemption that allows this development to be 'exempted development'. Part 4 of Schedule 2 of the Planning and Development Regulations only allows changes within classes to be exempted development.

Recommendation

The Planning Authority considers that "the change of use of the 626sqm commercial building to office and adult education / guidance services at Unit 32, Beechwood Close, Boghall Road, Bray, Co Wicklow" is development and is not exempted development as recommended in the planning reports.

Signed Dated Tday of October 2022

ORDER:

That a declaration to issue stating:

That "the change of use of the 626sqm commercial building to office and adult education / guidance services at Unit 32, Beechwood Close, Boghall Road, Bray, Co Wicklow" is development and is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed:

Director of Services
Planning Development & Environment

Dated 27 day of October 2022



Comhairle Contae Chill Mhaitáin Ulicklow County Council

Forbairt Pleanála agus Comhshaol Planning Development and Environment Áras An Chontae / County Bund. Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcocc
Suíomh / Website: www.wicklow.ie

Kildare & Wicklow Education Training Board C/O Michael Connolly Architects Unit C4 Wicklow Enterprise Centre The Murrough Wicklow Town Co Wicklow

October 2022

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 60/2022

Applicant:

Kildare & Wicklow Education Training Board C/O Michael

Connolly Architect

Nature of Application:

"the change of use of the 626sqm commercial building to office and adult education / guidance services at Unit 32, Beechwood Close, Boghall Road,

Bray, Co Wicklow"

Location:

Unit 32, Beechwood Close, Boghall Road, Bray, Co

Wicklow"

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord 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 DEVELOPMENT & ENVIRONMENT.



Comhairle Contae Chill Mhantáin Uicklow County Council

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

Forbairt Pleanála agus Comhshaol Planning Development and Environment

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

Applicant: Kildare & Wicklow Education Training Board C/O Michael Connolly Architect

Location: Unit 32, Beechwood Close, Boghall Road, Bray, Co Wicklow

DIRECTOR OF SERVICES ORDER NO. 1778/2022

A question has arisen as to whether "the change of use of the 626sqm commercial building to office and adult education / guidance services at Unit 32, Beechwood Close, Boghall Road, Bray, Co Wicklow" is or is not exempted development.

Having regard to:

- (i) The details submitted on 11th October 2022, EX60/2022
- (ii) PRR105/99 Bray UDC
- (iii) Sections 2, 3 and 4 of the Planning and Development Act 2000
- (iv) Article 10 of the Planning and Development Regulations 2001 (as amended)
- (v) Part 4 of Schedule 2 to Planning and Development Regulations 2001 (as amended)

Main Reasons with respect to Section 5 Declaration:

- (i) The use of the structure on site for a KWETB office and adult education / guidance service building is a material change of use from that granted permission under PRR105/99 Bray Urban District Council.
- (ii) There is no exemption that allows this development to be 'exempted development'. Part 4 of Schedule 2 of the Planning and Development Regulations only allows changes within classes to be exempted development.

The Planning Authority considers that "the change of use of the 626sqm commercial building to office and adult education / guidance services at Unit 32, Beechwood Close, Boghall Road, Bray, Co Wicklow" is development and is not exempted development.

Signed:

ADMINISTRATIVE OFFICER

PLANNING DEVELOPMENT & ENVIRONMENT

Dated October 2022



Section 5 Declaration

Ref:

60/2022

Name:

Kildare and Wicklow Education Training Board

Development:

change of use from commercial building to office and adult education / guidance

services

Location:

32 Beechwood Close, Boghall Road, Bray

Observations: The applicant is seeking a Section 5 Declaration for change of use of existing commercial building of626sqm for office and adult education / guidance services

Relevant Legislation:

Planning and Development Act, 2000, as amended ('the Act')

Section 2 (1) 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."

Section 3 (1) states: '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 (1) (h) states: '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) provides for certain classes of development to be designated as exempted development by way of legislation.

Section 4(4) states: Notwithstanding.....any regulations under subsection 2, development shall not be exempted development if an environmental impact assessment or appropriate assessment of the development is required.

Planning and Development Regulations, 2001 as amended ('the Regulations')

Article 10 of the Regulations states that:

- (1) 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,
- (d) be a development where the existing use is an unauthorised development save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.
- (2)(a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use

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 5
Use as a wholesale warehouse or as a repository.

Part 4 of Schedule 2 to Article 10: Exempted development Classes of use

"wholesale warehouse" means a structure where business, principally of a wholesale nature is transacted, and goods are stored or displayed incidentally to the transaction of that business.

"industrial building" means a structure (not being a shop, or a structure in or adjacent to and belonging to a quarry or mine) used for the carrying on of any industrial process;

"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:

Planning History:

99/630105 – WJ Rickard – grant – permission for 2 storey commercial building of 626sq m comprising mixed office and warehouse/storage use with a parking and ancillary works

Development plan:

n/a

Assessment:

The question is asked whether the change of use of the 626sqm commercial building to office and adult education / guidance services is development and whether it is exempted development.

Permission was granted under 99/105 for a two storey commercial building of 626sqm comprising mixed office and warehouse / storage use with parking and ancillary works.

The building is a commercial building. The drawings label the ground floor as 'warehouse and general store' and the first floor as 'office'. It would appear that the office use was ancillary to service the principal function as commercial warehouse / store.

The definition of "wholesale warehouse" means a structure where business, principally of a wholesale nature is transacted, and goods are stored or displayed incidentally to the transaction of that business. While the permission relates to many different types of uses ranging from 'commercial', 'office', 'warehouse' 'general store', it would appear that the structure was used to house a business which was a type of commercial wholesale and that the offices were used incidental to the business.

The building is to be used for office and adult education /guidance services.

It is considered that this would be a 'change of use'.

Having regard to:

- the nature and characteristics of the proposal, which is a significantly different type of use
- the intensification of staff and visitors to the site arising from the change of use
- the likely increase in traffic and transport movements associated with the change of use

It is considered that the change of use would be a 'material change of use' and therefore would be development.

I am not aware of any exemption available under the Act or Regulations that would allow for the development to be an 'exempted development'.

The applicant has submitted that the proposed use is not a change of use for which planning permission is required, being described in Schedule 2, Part 4 Exempted Development Classes of Use, class 2 or 3 of the Regulations.

However, the applicant is not proposing a change within classes and therefore this exemption does not apply.

I also note that 'wholesale warehouse' is within class 5, services are within class 2 and offices are within class 3. These uses are all within different classes.

Therefore this would not constitute exempted development.

Recommendation:

With respect to the query under Section 5 of the Planning and Development Act 2000 as to whether the change of use from 626m² commercial building to office and adult education / guidance services by KWETB

constitutes exempted development within the meaning of the Planning and Development Act 2000 (as amended)

The Planning Authority considers that:

the change of use from $626m^2$ commercial building to office and adult education / guidance services by KWETB

IS development and IS NOT exempted development.

Main Considerations with respect to Section 5 Declaration:

- (i) The details submitted on 11th October 2022, EX60/2022
- (ii) PRR105/99 Bray UDC
- (iii) Sections 2, 3 and 4 of the Planning and Development Act 2000
- (iv) Article 10 of the Planning and Development Regulations 2001 (as amended)
- (v) Part 4 of Schedule 2 to Planning and Development Regulations 2001 (as amended)

Main Reasons with respect to Section 5 Declaration:

- (i) The use of the structure on site for a KWETB office and adult education / guidance service building is a material change of use from that granted permission under PRR105/99 Bray Urban District Council.
- (ii) There is no exemption that allows this development to be 'exempted development'. Part 4 of Schedule 2 of the Planning and Development Regulations only allows changes within classes to be exempted development.

A Mac Namara
Executive Planner

27-10-2022

Part SI MA 350 27/10/2022 Wicklow County Council County Buildings Vicklow 0404-20100

11/10/2022 12 45 18

Receipt No L1/0/302851

MICHAEL CONNOLLY ARCHITECTS
UNIT C4, WICKLOW ENTERPRISE CENTRE
THE MURROUGH
WICKLOW TOWN

80 00

EXEMPTION CERTIFICATES
GOODS 80 00
VAT Exempt/Non-vatable

Total 80 00 EUR

80.00

Tendered Cheque KWFTB

Change 0.00

Issued By Cashier5MW From Customer Service Hub Vat reg No 0015233H



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

Office Use Only

Date Received	
Fee Received	

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

1. Applicant Details

(a) Name of applicant: <u>Kildare and Wicklow Education and Training Board</u>

Address of applicant: Áras Chill Dara, Devoy Park, Naas, Co. Kildare

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

WICKLOW COUNTY COUNCIL CUSTOMER SERVICE

1 1 OCT 2022

2. Agents Details (Where Applicable)

Original Sighted

(b) Name of Agent (where applicable) Michael Connolly Architects

Address of Agent:

Unit C4, Wicklow Enterprise Centre,

The Murrough, Wicklow Town

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

3. Declaration Details

i. Location of Development subject of Declaration

Unit 32, Beechwood Close, Boghall Road, Bray, Co. Wicklow

Wicklow County Council

1 1 OCT 2022

PI ANNING DEPT.

- ii. Are you the owner and/or occupier of these lands at the location under i. above? Yes/ No.
- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier

Beechwood Investments, 28 Belgrave Road, Monkstown, Co. Dublin

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

KWETB proposes to use the existing Commercial Building of 626 sqm for OFFICE AND ADULT EDUCATION / GUIDANCE SERVICES.

We seek a Declaration that this proposed use is Exempted Development under the Planning and Development Acts 200 (As Amended).

Additional details may be submitted by way of separate submission.

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

We submit that the proposed use is not a change of use for which planning permission is required being described in Part 4, classes 2 or 3 of the Exempt Development Regulations set down in S.I. No. 600/2001 - Planning and Development Regulations 2001

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
 - A4 Site Location Map LR Compliant Site Outlined in Red
 - A3 Site Layout / Roof Plan nts
 - A3 Floor Plans nts
 - A3 Elevations nts
 - A4 Final Grant of Permission PRR 99/105
 - A4 Letter of Consent from Building Owner

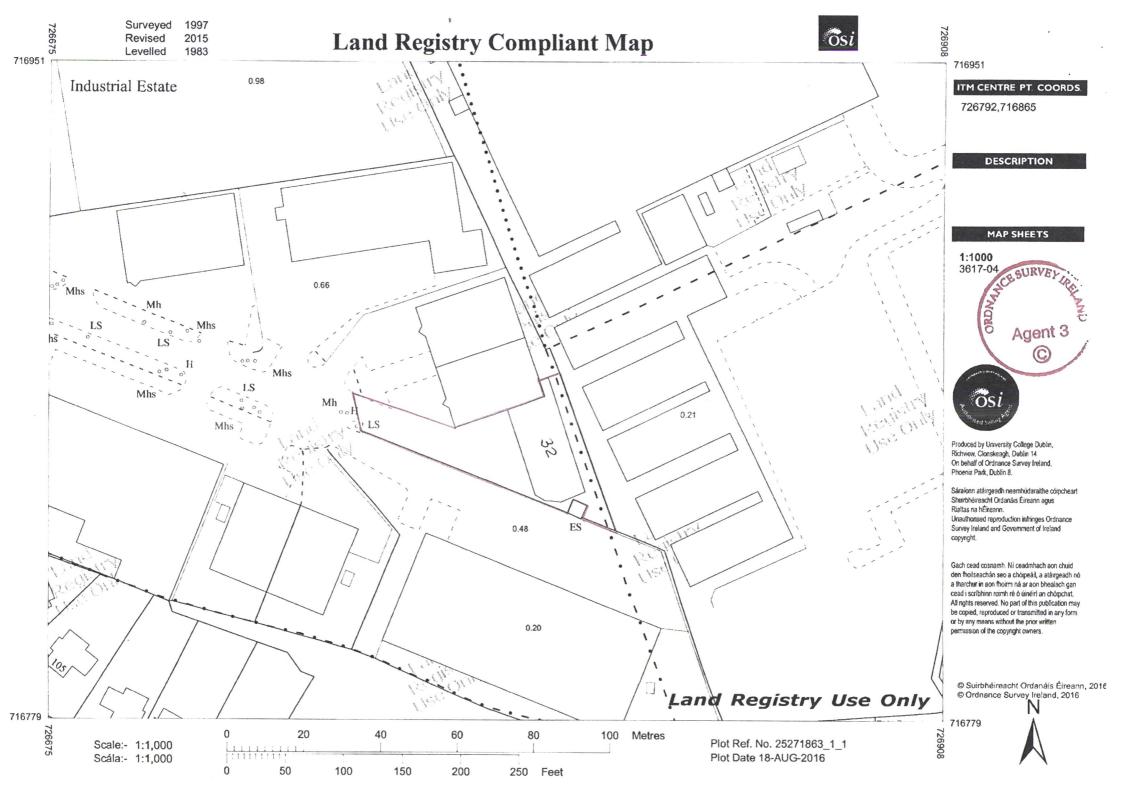
viii. Fee of € 80 Attached?

Cheque No. 228

Signed:

Dated:

10th October 2022



Beechwood in estments

28 Belgrave Road, Scientistes Co Dublin, A94 E1 66

Mr George Murphy
Buildings Programme Manager
Kildare and Wicklow Education and Training Board
Level 5, Áras Chill Dara
Devoy Park
Naas
Co. Kildare W91X77F

12 September 2022

RE: 32 Beechwood Close, Bray, Co. Wicklow Subject to Contract/Contract Denied

Dear George,

As requested, we hereby grant Kildare and Wicklow Education and Training Board permission to apply for an exemption under Section 5 of the Planning Act to enable you to use the premises at 32 Beechwood Close under the current planning permissions.

Please let us know the outcome of your application when it is received.

Yours sincerely,

William J Rickard Acting Partner

BRAY URBAN DISTRICT COUNCIL

NOTIFICATION OF A GRANT OF PERMISSION

LOCAL GOVERNMENT (PLANNING & DEVELOPMENT) ACTS, 1963 TO 1998

REF NO. IN REG.: 99/105

TO: Mr. W. J. Rickard

C/o 132 Lower George's Street

Dun Laoghaire Co. Dublin

PER: Oliver Carty & Associates

132 Lower George's Street

Dun Laoghaire Co. Dublin

Application on 10/05/1999 from Mr. W. J. Rickard, e/o 132 Lower George's Street, Dun Laoghaire, Co. Dublin for permission for 2 storey commercial building of 626m² comprising mixed office and warehouse/storage use with parking and ancillary works at site adjacent to no. 33 Beechwood Close, Bray.

A permission has been granted for the development described above, subject to the conditions contained in the attached schedule.

SIGNED:

A/TOWN CLERK.

DATED:

6/17/1999



Local Government (Planning & Development) Acts, 1963 to 1998

PLANNING REG. REF. NO. 105/99

SCHEDULE

CONDITION NO. 1 of 13:

Prior to commencement of development, a capital levy in the sum of £5,695 00 (five thousand six hundred and ninety five pounds) shall be paid to Bray Urban District Council. Amendment of this contribution based on actual or estimated increases in costs of providing the services may be made by the Council after the expiry period of a year from the date of the grant of this permission, so long and in so far as the contribution remains unpaid.

REASON:

To contribute to the capital cost of the provision of water and sewerage services to the area that will facilitate the development

CONDITION NO. 2 of 13:

Prior to the commencement of the development a capital contribution of £5695 00 (five thousand six hundred and ninety five pounds) shall be paid to Bray Urban District Council Amendment of this contribution based on actual or estimated increases in costs of providing the services may be made by the Council so long and in so far as the contribution remains unpaid

REASON '

To contribute to the capital cost of improvements to the road infractructure in the vicinity which will facilitate the proposed development and because it is reasonable that the developer should so contribute

CONDITION NO 3 of 13

Prior to the commencement of the concerns thousand six numerical pounds is a set of this contribution based on actual to the contribution



services may be made by the Council so long and in so far as the contribution remains unpaid.

REASON:

To contribute to the capital cost of providing three car parking spaces, the shortfall in provision in accordance with Bray Development Plan

CONDITION NO. 4 of 13:

A Cash Deposit in the sum of £5,600 (five thousand six hundred pounds) shall be lodged to Bray Urban District Council to be used in whole or in part by the Local Authority at its absolute discretion towards any repairs to the public roadway and/or services necessary as a result of this development and the completion of the development in accordance with the conditions herein. If development has not commenced within one calendar year from the date of grant of this permission or not completed within two years, the Council may at its discretion require an increase in the amount of the Cash Deposit. The deposit is refundable if no works are required.

REASON

The cash deposit may be used in whole or in part by the Local Authority at its absolute discretion towards completion of the works including services and to make good all damage to adjoining roads which in the opinion of the planning authority were caused as a result of work on the subject site

CONDITION NO 5 of 13:

Full details of external colours and finishes shan or agreed in writing with bras I (ban District Council prior to the commencement of development

REASON

In the interests of visual harmony

CONDITION NO. 6 of 13:

All windows in the rear elevation shall be in obsect a planning

REASON

As the development is easily the boundary of the con-



CONDITION NO. 7 of 13:

Noise from the development shall not exceed 58dBA(LAeq) during the hours of 8a.m. to 10p.m. and shall not exceed 40 dBA(LAeq) during the hours of 10p m to 8a m. No loudspeakers or telephone bells shall be erected at any point exterior to the buildings

REASON:

In the interests of residential amenity

CONDITION NO. 8 of 13:

Full details of signage shall be agreed in writing with Bray Urban District Council prior to the commencement of the development and no signs flags or logos or other advertising matter shall be affixed to the exterior of the building or nearby except with the prior written consent of Bray Urban District Council

REASON

In the interests of visual amenity

CONDITION NO. 9 of 13:

Security and other lighting shall be so arranged as to prevent overspill unto any neighbouring property and shall not dazzle vehicular traffic on adjoining roads

REASON.

In the interest of residential amenity and traffic safety

CONDITION NO. 10 of 13:

At all stages of construction works the approach roads shall be kept clean and free from mud, clay and other debris to the entire satisfaction of Bray Urban District Council

REASON

In the interests of visual amenity

CONDITION NO. 11 of 13:

All services shall be ducted underground

REASON:

In the interests of visual amenity.

CONDITON NO. 12 of 13:

Any machinery or process within the building shall be appropriate to a "Light Industrial Building" as defined in Section 8 of Part III of the Local Government (Planning & development) Regulations, 1994

REASON:

· Kagar

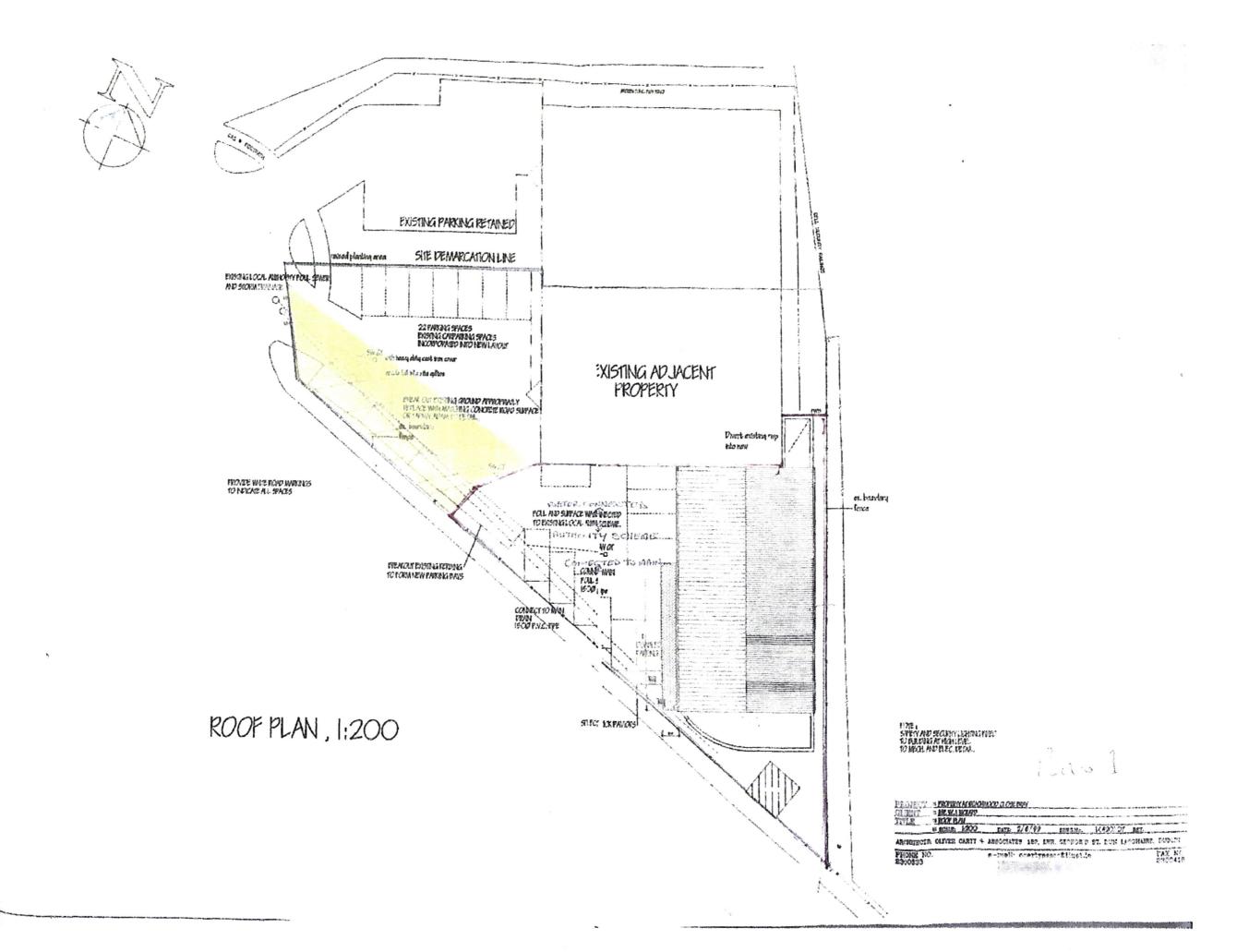
In the interest of residential amenity

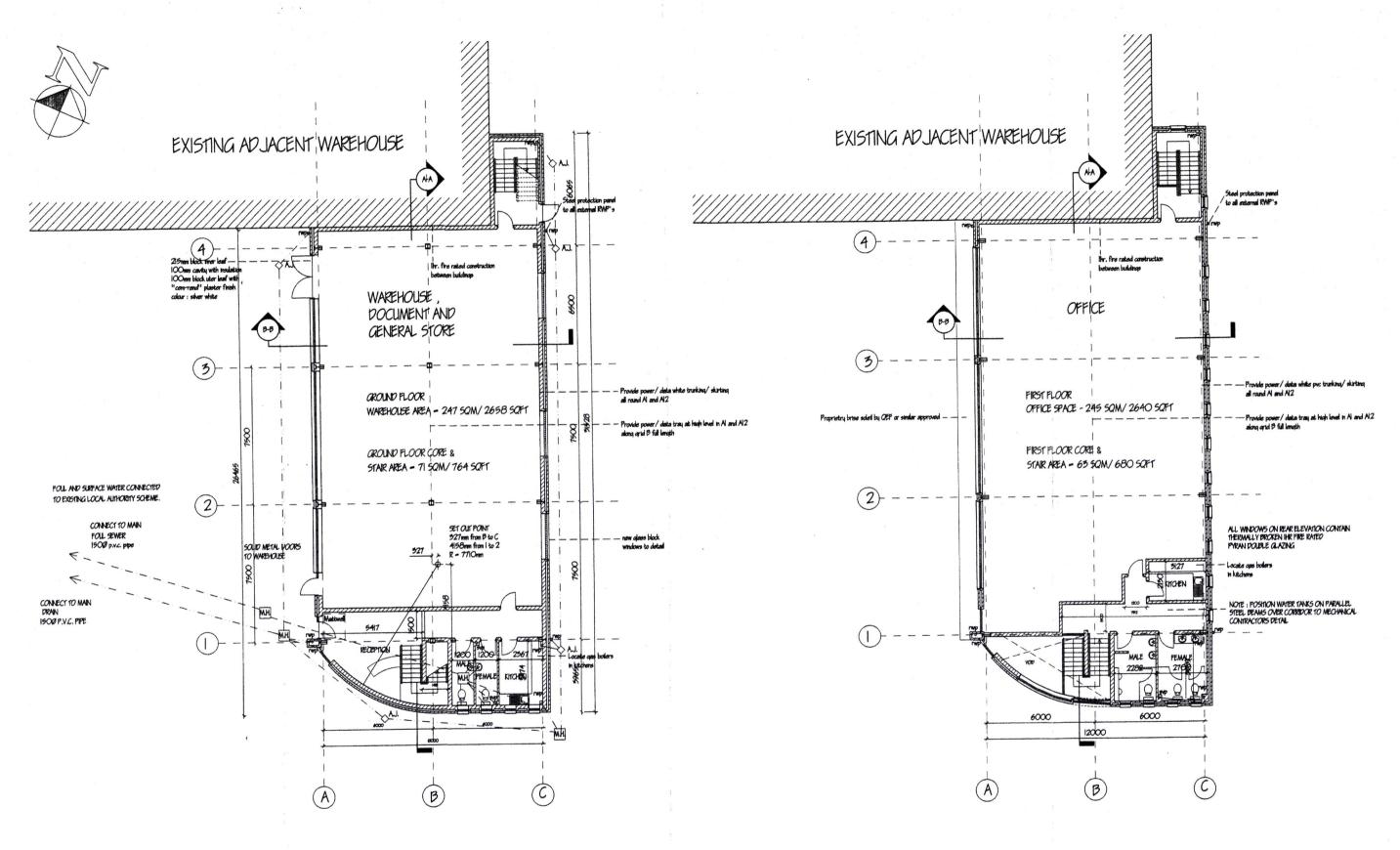
CONDITION NO. 13 of 13:

No storage of goods, material, containers, waste, etc. shall be permitted outside the building.

REASON ·

In the interest of visual amenity





GROUND FLOOR PLAN

OROUND PLOOR AREA = 318 5QM/3423 5QFT FIRST PLOOR AREA = 308 5QM/3315 5QFT TOTAL PLOOR AREA = 626 5QM/6740 5QFT

FIRST FLOOR PLAN

PROJECT PROPERTY AT BEACHMOOD CLOSE PRAY

CLIENT MR. W.J. BICKARD

TITLE ROND AND PRST FLOOR PLANS

SCALE: 1:100 DATE: 1/5/99 DRWG.No. L(420)05 BECON 02/2000)

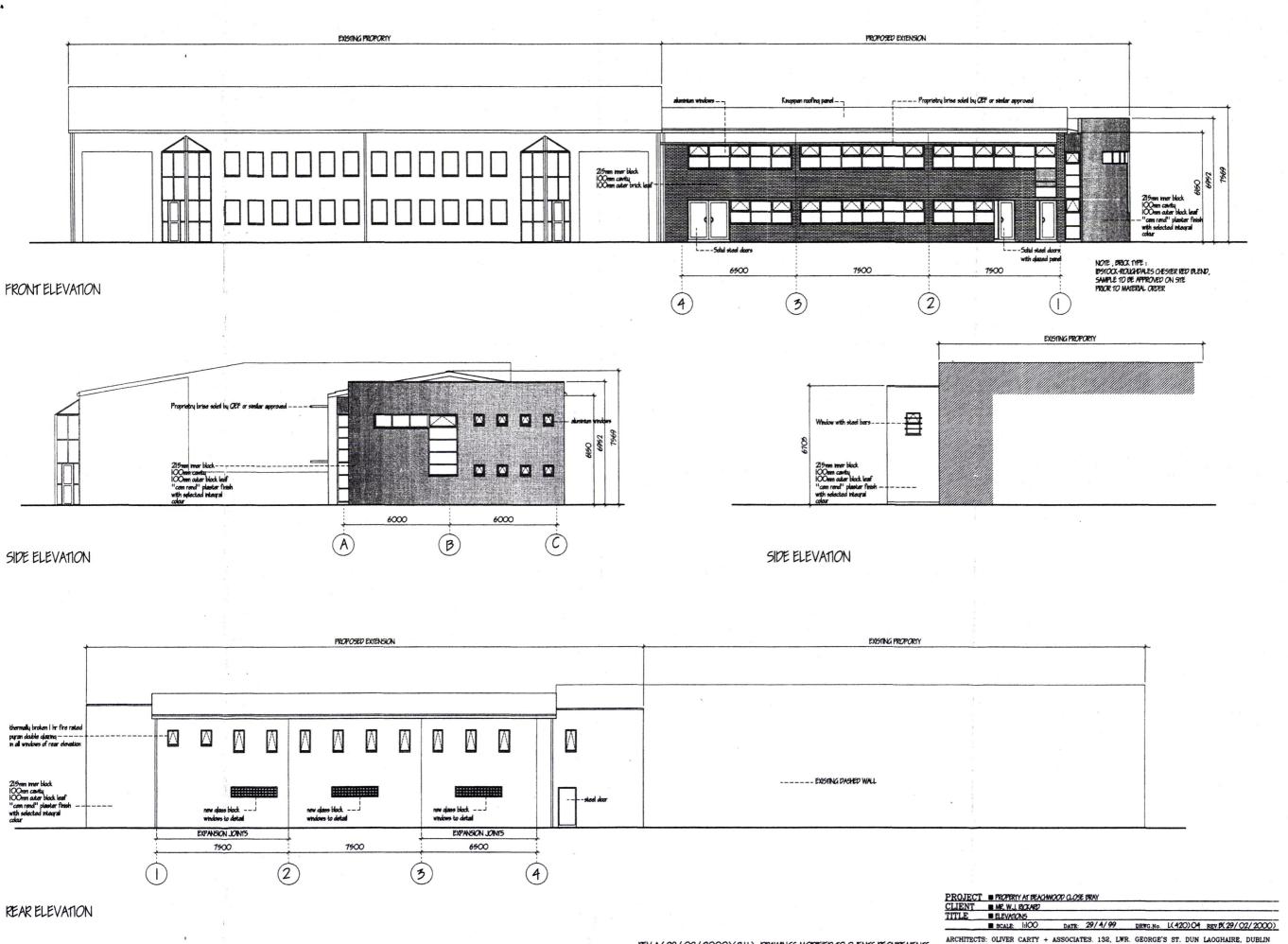
ARCHITECTS: OLIVER CARTY + ASSOCIATES. 132, LWR. GEORGE'S ST. DUN LAOGHAIRE, DUBLIN

REV A (29/O2/2000) (B.H.) ; DRAWINGS MODIFIED TO CLIENTS REQUIREMENTS REV. A : PLANS REVISED FOR CONSTRUCTION

PHONE NO. FAX NO. 2300333 2300418 e-mail: ocart.

e-mail: ocartyassoc@tinet.ie

(b) This drawing and any design hereon is copyright and may not be altered, reproduced or etherwise used without express permission of Oliver Centre and Association.



REV. A (29/O2/2000) (B.H.): DRAWINGS MODIFIED TO CLIENTS REQUIREMENTS
REV. A : PLANS REVISED FOR CONSTRUCTION

e-mail: ocartyassoc@tinet.ie
PHONE NO FAX NO.
2300333 2300418