



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
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco.ie
Suíomh / Website: www.wicklow.ie

Hanely Taite Design Partnership
Virginia Shopping Centre
Virginia
Co. Cavan

22nd
December 2023

**RE: Declaration in accordance with Section 5 of the Planning & Development Acts
2000 (As Amended) – EX80/2023**

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 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.**

*Tá an doiciméad seo ar fáil i bhformáidí eile ar iarratas
This document is available in alternative formats on request.*

Ba chóir gach comhfhreagras a sheoladh chuig an Stiúrthóir Seirbhísí, Forbairt Pleanála agus Comhshaol.
All correspondence should be addressed to the Director of Services, Planning Development & Environment.





COMHAIRLE CONTAE Chill Mhantáin Wicklow County Council

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1

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

Applicant: Talbot Group

Location: 31 Marlton Ct, Friarshill, Wicklow, A67 AX81

CHIEF EXECUTIVE ORDER NO. CE/PDE/2177/2023

A question has arisen as to whether “change of use of single residence to residence of persons with intellectual or physical disabilities” at 31 Marlton Ct, Friarshill, Wicklow, A67 AX81 is or is not exempted development.

Having regard to:

- (a) The details submitted with this Section 5 Application.
- (b) Sections 2 and 3 of the Planning and Development Act 2000 (as amended),
- (c) Schedule 2, Part 1, Class 14 of the Planning and Development Regulations 2001 (as amended)

Main Reasons with respect to Section 5 Declaration:

- 1. The permitted use of the existing dwelling onsite for residential use granted as part of a residential development under PRR 96/622057.
- 2. The proposed use as a residence for up to 6 persons with an intellectual or physical disability with the appropriate level of care staff to meet the clients' needs (no. of resident carers will not exceed 2 no.) as detailed in the submission;
- 3. Schedule 2, Part 1, Class 14 (f) of the Planning and Development Regulations 2001 as amended.

The Planning Authority considers that “change of use of single residence to residence of persons with intellectual or physical disabilities” at 31 Marlton Ct, Friarshill, Wicklow, A67 AX81 is development and is exempted development.

Signed:


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated  December 2023



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PDE/2177/2023

Reference Number: EX 80/2023

Name of Applicant: Talbot Group

Nature of Application: Section 5 Referral as to whether "change of use of single residence to residence of persons with intellectual or physical disabilities" is or is not exempted development

Location of Subject Site: 31 Marlton Ct, Friarhill, Wicklow, A67 AX81

Report from Dara Keane, AP and Edel Bermingham, SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "change of use of single residence to residence of persons with intellectual or physical disabilities" at 31 Marlton Ct, Friarhill, Wicklow, A67 AX81 is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- The details submitted with this Section 5 Application.
- Sections 2 and 3 of the Planning and Development Act 2000 (as amended),
- Schedule 2, Part 1, Class 14 of the Planning and Development Regulations 2001 (as amended)

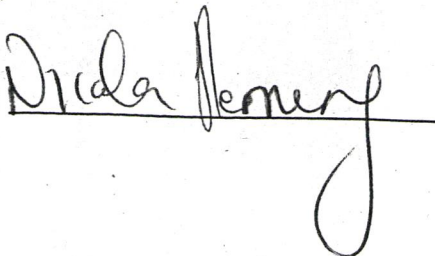
Main Reason with respect to Section 5 Declaration:

- The permitted use of the existing dwelling onsite for residential use granted as part of a residential development under PRR 96/622057.
- The proposed use as a residence for up to 6 persons with an intellectual or physical disability with the appropriate level of care staff to meet the clients' needs (no. of resident carers will not exceed 2 no.) as detailed in the submission;
- Schedule 2, Part 1, Class 14 (f) of the Planning and Development Regulations 2001 as amended.

Recommendation

The Planning Authority considers that "change of use of single residence to residence of persons with intellectual or physical disabilities" at 31 Marlton Ct, Friarhill, Wicklow, A67 AX81 is development and is exempted development as recommended in the report by the SEP

Signed



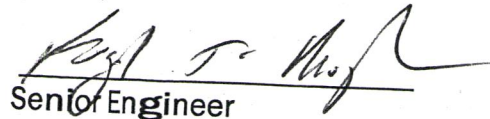
Dated 21st day of December 2023

ORDER:

I HEREBY DECLARE:

That "change of use of single residence to residence of persons with intellectual or physical disabilities" at 31 Marlton Ct, Friarhill, Wicklow, A67 AX81 is development and is exempted development within the meaning of the Planning & Development Act 2000

Signed:


Senior Engineer
Planning Development & Environment

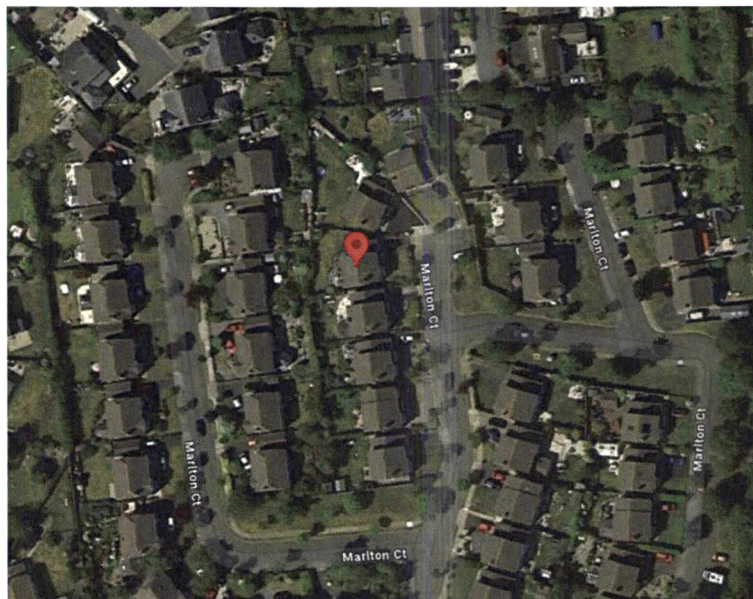
Dated 22nd day of December, 2023

**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT****PLANNING REPORT SECTION 5 APPLICATION**

TO:	FERGAL KEOGH S.E. / EDEL BERMINGHAM S.E.P/ SUZANNE WHITE S.E.P
FROM:	DARA KEANE A.P.
SUBJECT REF:	EX 80/2023
DECISION DATE:	02/01/2024
APPLICANT:	TALBOT GROUP
ADDRESS:	31 MARLTON CT, FRIARSHILL, CO. WICKLOW
EXEMPTION:	CHANGE OF USE SINGLE RESIDENCE TO RESIDENCE OF PERSONS WITH INTELLECTUAL OR PHYSICAL DISABILITIES

Site Location:

The site is located within the urban townland of BALLYNERRIN (Newcastle By) in Wicklow Town. The proposed is a detached dwelling which is located within the Marlton Court residential estate accessed via the R-751-0. The dwelling has other dwellings located within its immediate vicinity.

Aerial Image:**Site Image:**

Planning History:

89/621579- Housing Development.

93/621849- Erection of 37 Houses.

96/622125- Revised House Type.

96/622057- 46 Houses.

96/622085- Revised house type on sites 16, 17, 18, 19, 20, 21.

97/622137- Revised House Type on sites 37, 38, 39.

Relevant legislation:Planning and Development Act 2000 (as amended)

“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

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

Section 3:

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

“house” means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

Planning and Development Regulations 2001(as amended)**Part 2**

“care” means personal care, including help with physical, intellectual or social needs;

“house” does not, as regards development of classes 1, 2, 3, 4, 6(b)(ii), 7 or 8 specified in column 1 of Part 1 of Schedule 2, or development to which articles 10(4) or 10(5) refer, include a building designed for use or used as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

Section 10: Change of Use;

(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, or

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

Article 6(1) states that certain classes of development which are specified in Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, subject to compliance with any associated conditions and limitations;

Part 1- Exempt Development Classes of Use

CLASS 14

Development consisting of a change of use—

(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

Conditions and limitations

The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

Article 9(1) (a) details a number of circumstances under which the development to which Article 6 relates shall not be exempted development for the purposes of the Act, specifically (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.

Submission:

The applicants are applying for a Section 5 Exemption in relation to the following;

'The change of use of the existing house from a single residence to a residence for up to 6 persons with an intellectual or physical disability with the appropriate level of care staff to meet the clients' needs (no. of resident carers will not exceed 2 no) at 31 Marlton Ct, Friarshill Co. Wicklow.'

Assessment:

The dwelling which is located on land zoned for residential use is located within an existing built up residential estate of Marlton Court within the town of Wicklow. The original dwelling onsite was permitted under 96/622057 as part of a residential estate. The applicant is seeking the change of use of the existing house from a single residence to a residence for persons with an intellectual or physical disability and persons providing care for such persons. It is stated that that the dwelling will accommodate up to 6 no. resident service users with a maximum of 2 care staff to meet the clients' needs. CLASS 14 allows for a change of use from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons with the no. of residences limited to 6 and resident carers limited to 2, the proposal is in line with the limitations. There are no circumstances applicable in this instance under which the development to which Article 6 relates shall not be exempted development for the purposes of the Act.

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 of the existing house from a single residence to a residence for up to 6 persons with an intellectual or physical disability with the appropriate level of care staff to

meet the clients' needs (no. of resident carers will not exceed 2 no) at 31 Marlton Ct, Friarshill Co. Wicklow.' constitutes exempted development within the meaning of the Planning and Development Acts, 2000 (as amended).

The Planning Authority considers that:

The change of use of the existing house from a single residence to a residence for up to 6 persons with an intellectual or physical disability with the appropriate level of care staff to meet the clients' needs (no. of resident carers will not exceed 2 no) is development and is exempt development.

Main Considerations with respect to Section 5 Declaration:

- (a) The details submitted with this Section 5 Application.
- (b) Sections 2 and 3 of the Planning and Development Act 2000 (as amended),
- (c) Schedule 2, Part 1, Class 14 of the Planning and Development Regulations 2001 (as amended).

(1) WTC PRR 96/2057

Main Reasons with respect to Section 5 Declaration:

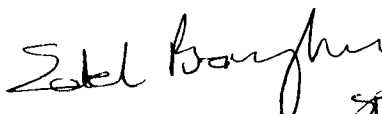
1. The permitted use of the existing dwelling onsite for residential use granted as part of a residential development under PRR 96/2057.

2. The proposed use as a residence for up to 6 persons with an intellectual or physical disability with the appropriate level of care staff to meet the clients' needs (no. of resident carers will not exceed 2 no.) as detailed in the submission, ~~the proposed would come~~ within the provisions of Schedule 2, Part 1, Class 14 (f) of the Planning and Development Regulations 2001 as amended.



Dara Keane A.P

Date: 21/12/2023

Agreed 
modified 21/12/2023

Issue is recommended
for PRR 96/2057
22/12/23

MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Dara Keane
Assistant Planner

FROM: Nicola Fleming
Staff Officer

RE:- Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 80/2023
Talbot Group

I enclose herewith for your attention application for Section 5 Declaration received 27/11/2023

The due date on this declaration is the 02/01/2024.



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

29th November 2023

**Hanley Taite Design Partnership
Virgina Shopping Centre
Virginia
Co. Cavan
A82 W5W5**

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). EX80/2023- Talbot Group at 31 Marlton Ct, Friarshill, Wicklow

A Chara

I wish to acknowledge receipt on 27/11/2023 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 02/01/2024.

Mise, le meas

NICOLA FLEMING

STAFF OFFICER

PLANNING DEVELOPMENT AND ENVIRONMENT





HANLEY TAITE DESIGN PARTNERSHIP

Architects & Design Consultants

Planning Office, Wicklow County Council,
County Buildings, Whitegates
Wicklow Town.
A67 FW96.

Planning & Design
Architects & Design
Consultants
A67 FW96

Architects & Design
Consultants
A67 FW96

www.hanleytaite.com
info@hanleytaite.com
info@hanleytaite.com

ph 00353 49 854550
ph 00353 49 854550
fax 00353 49 854550

24th November 2023.

Re: Application for Section 5 Declaration for existing building at 31 Marlton Ct, Friarhill, Wicklow,
A67 AX81 on behalf of Talbot Group.

Dear sir/madam,

WICKLOW COUNTY COUNCIL
CUSTOMER SERVICE

27 NOV 2023

Enclosed please find the following in respect of existing property 31 Marlton Ct, Friarhill, Wicklow,
A67 AX81 on behalf of Talbot Group:

- Section 5 Declaration application form.
- Site Location Map.
- Site Layout Plan.
- Floor Plans and Elevations.
- Application fee €80.

I confirm that the applicants, Talbot Group, are an organisation who care for individuals with varying levels of intellectual disabilities. Talbot Group have a number of similar type properties in the general Louth and Meath area and they are a very reputable organisation providing a much needed and valued service to some of the most vulnerable members of society. They wish to seek a Section 5 Declaration to change the use of the existing house from a single family residence to a residence for up to 6 persons with an intellectual or physical disability with the appropriate level of care staff to meet the clients needs (no. of resident carers will not exceed 2 no.).

I hope this application is to your satisfaction, should you have any queries please do not hesitate to contact the undersigned.

Kind regards,

Paul Taite.

Hanley Taite Design Partnership.

WICKLOW COUNTY COUNCIL

27 NOV 2023

PLANNING DEPT.



Wicklow County Council
County Buildings
Wicklow
0404-20100

27/11/2023 09 44 17

Receipt No L1/0/321994

Mr Paul Taite
Virginia Shopping Centre
Virginia
A82 W5W5
Co Cavan

PLANNING APPLICATION FEES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total	80 00 EUR
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Tendered
Cheque 80 00
31 Marlton Court Friarstown

Change	0 00
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Issued By Lorraine Byrne
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: Talbot Group

Address of applicant: Redwood Extended Care Facility, Stamullen, Co. Meath

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

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) Hanley Taite Design Partnership

Address of Agent: Hanley Taite Design Partnership, Virginia Shopping Centre,
Virginia, Co. Cavan

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

3. Declaration Details

i. Location of Development subject of Declaration 31 Marlton Ct, Friarshill,
Wicklow, A67 AX81

ii. Are you the owner and/or occupier of these lands at the location under i. above ?
Yes/ No: 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, 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: It is proposed to change the use of
the existing house from a single-family residence to a residence for up to 6
persons with an intellectual or physical disability with the appropriate level of
care staff to meet the client's needs. (no. of carers will not exceed 2 n0.)

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 Planning and Development
Regulations, Schedule 2, Part 1, Class 14 (F)

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) ?N/A _____

vii. List of Plans, Drawings submitted with this Declaration Application _____
Site Location Map (1:1000 Rural Areas) _____
Site Layout Plan (1:500) _____
Plans, Elevations, Section _____

viii. Fee of € 80 Attached ? Yes _____

Signed : _____ Dated : 24/11/2023 _____

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 -

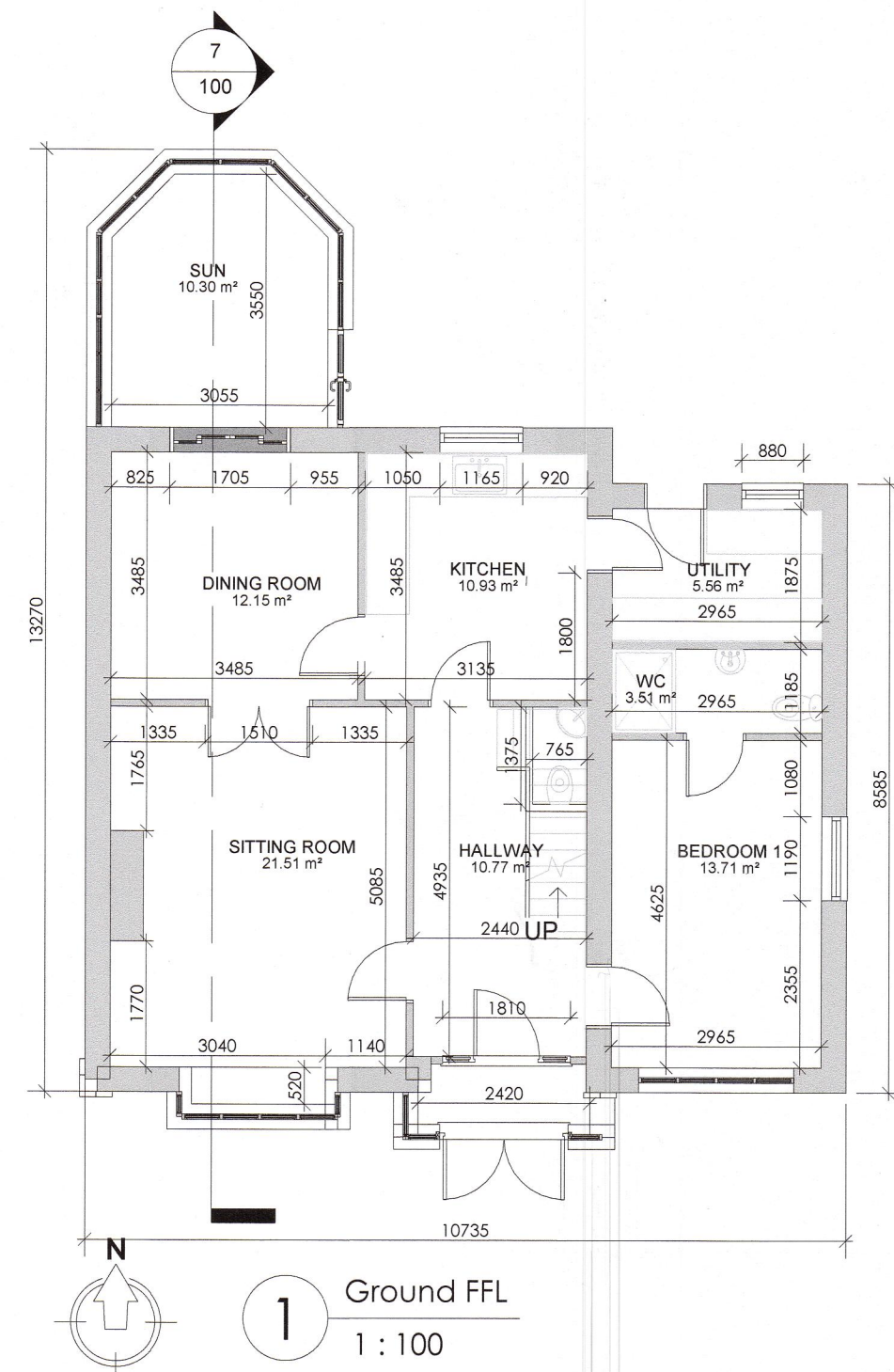
The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 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.

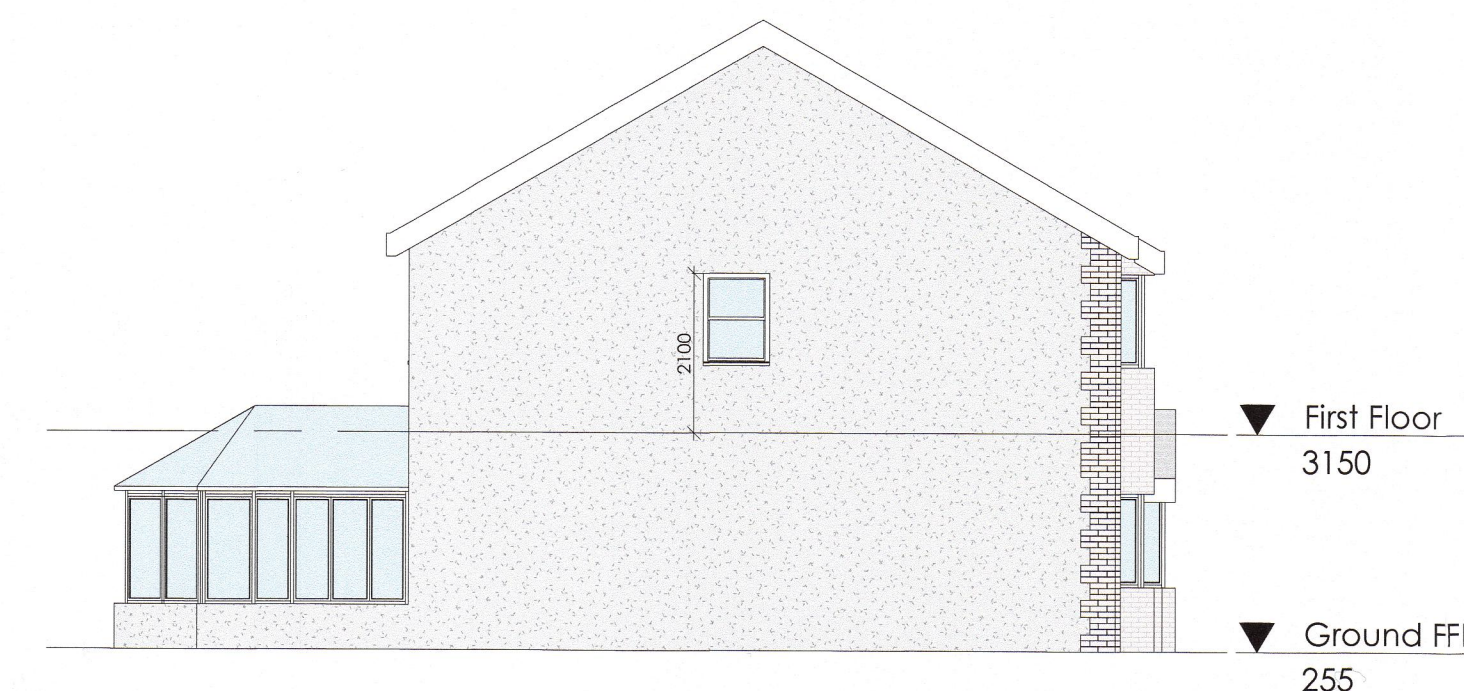
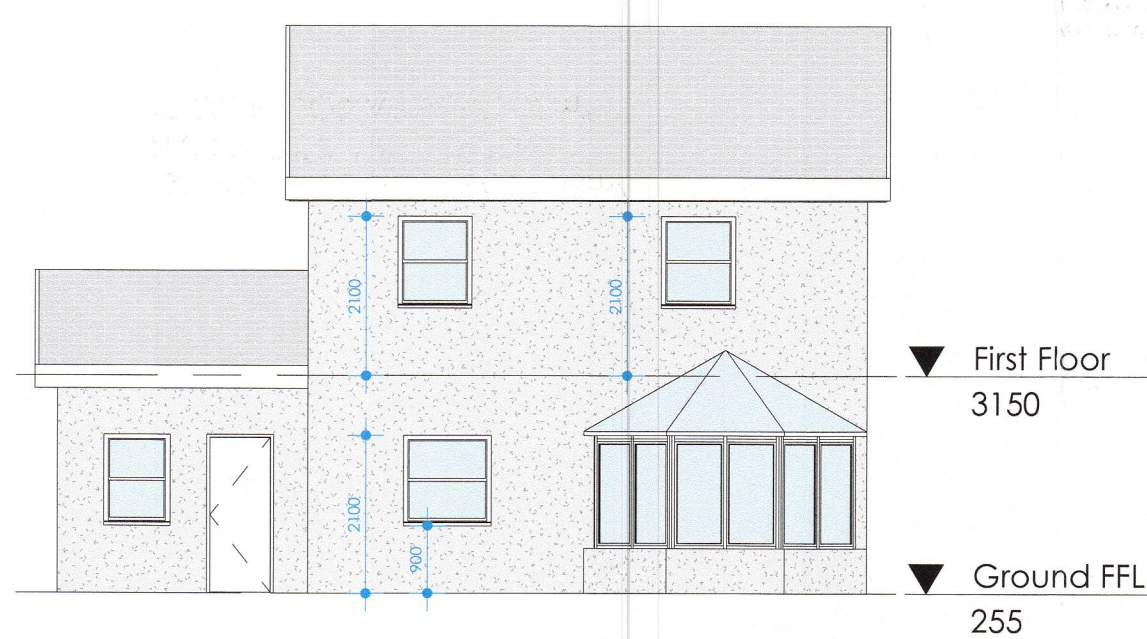
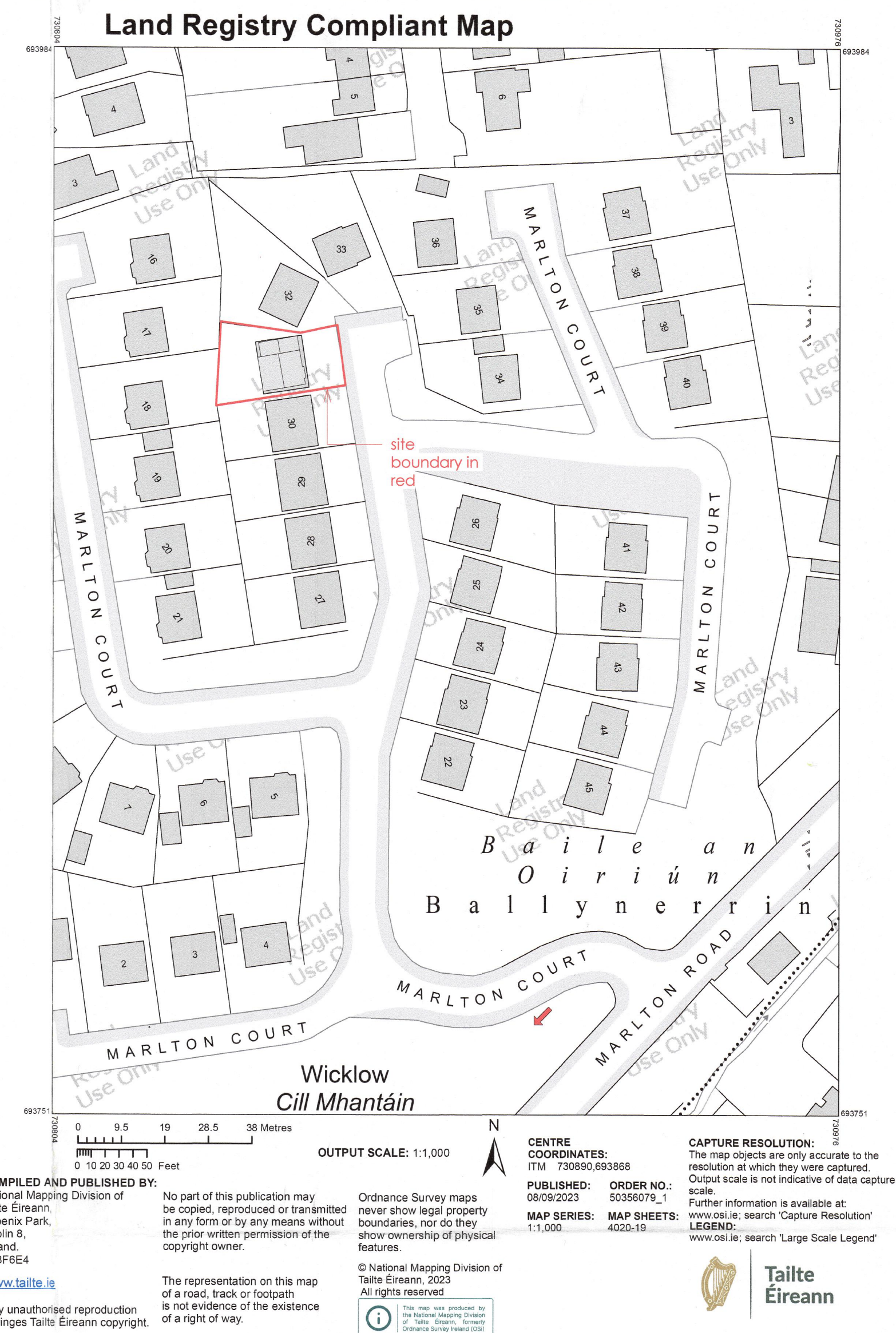
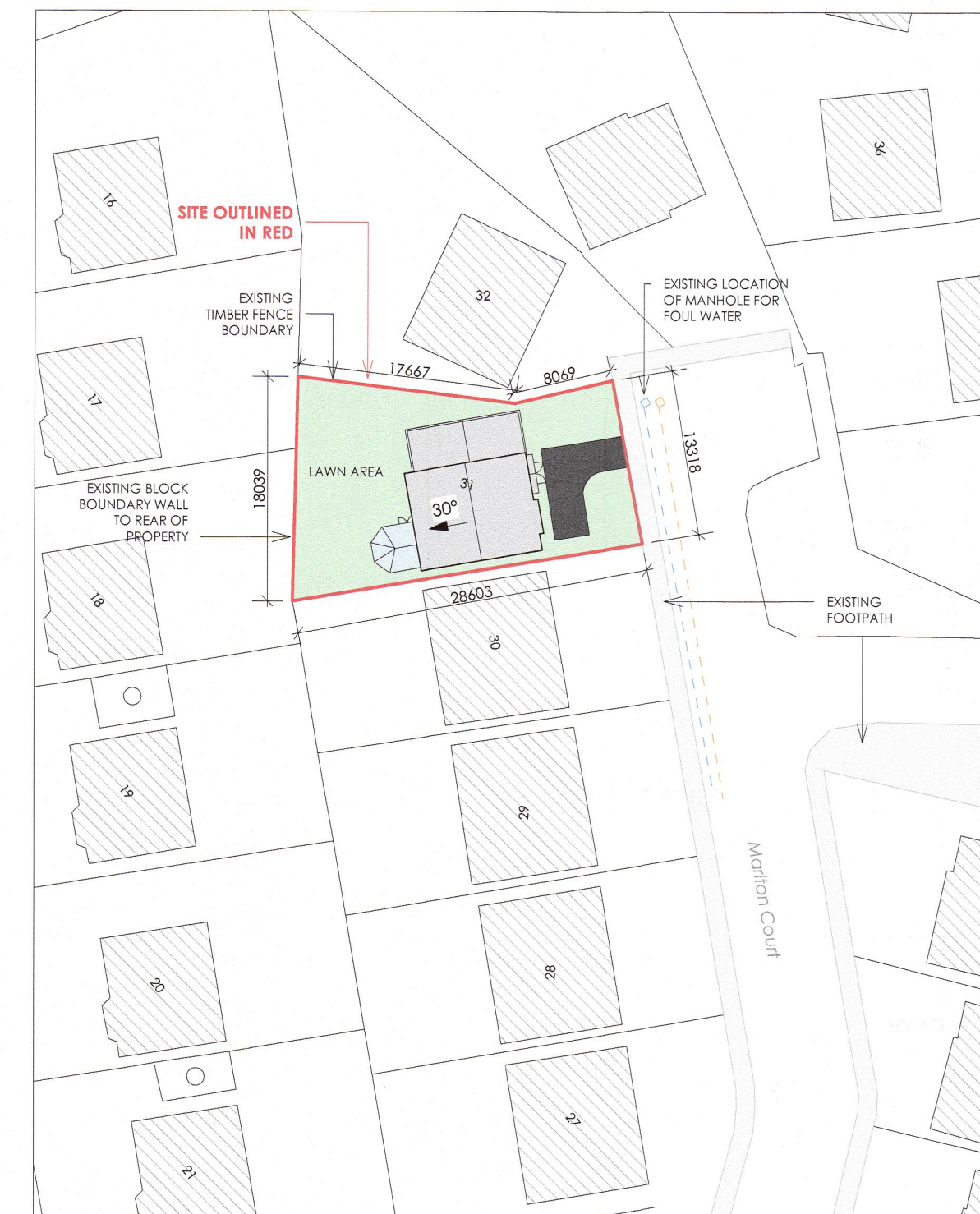
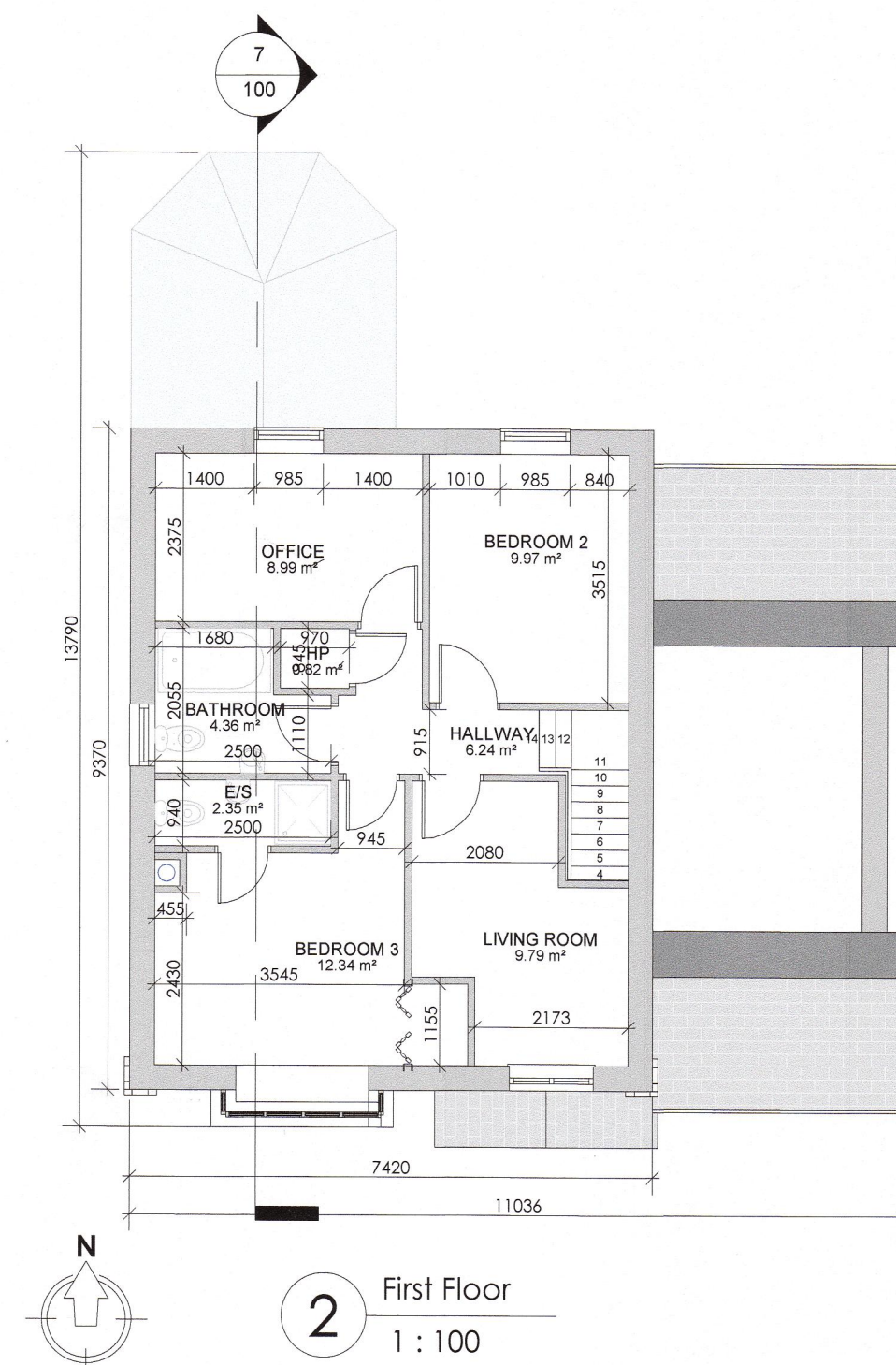
Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

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.



GROUND FLOOR AREA: 96.33m²
FIRST FLOOR AREA: 55.82m²
TOTAL FLOOR AREA: 151.15m²



Figured dimensions only to be used. This drawing is copyright of Hanley/Taite Design Partnership. Do not scale from drawings.



REPUBLIC OF IRELAND ENGLAND, UK
Unit 11, Virginia Shopping Centre, 23 Cecil Rd, Harrow, London, United Kingdom
A12 W3 5S 353 49 854 8342
Virginia, Co. Cavan H83 5QY 353 49 854 8343
www.hanleytaite.com

Project:
Location: 31 Marlton Court, Wicklow
Client:

Drawing Title: Plans & Elevations

Drawing No.: 2049-59 - 100

Project No.: 2049-59 Scale @ A1 / A3
Project Lead: JV Date: November 2023
Draw By: Current Rev.:
Model No.: 2049-59 - 100
Purpose:

