

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@wicklowcoc
Suíomh / Website: www.wicklow.ie

 February 2025

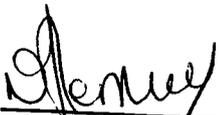
Liz Gleeson

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000
(As Amended) - EX08/2025 -

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 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 ECONOMIC & RURAL DEVELOPMENT



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, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development





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

Applicant: Liz Gleeson

Location: Church Road, Greystones, Co. Wicklow

Reference Number: EX08/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/115

Section 5 Declaration as to whether "the erection of fencing/gate to the rear of Springmount House and Tigh Mhuris" at Church Road, Greystones, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

Having regard to:

- a) The details submitted with the Section 5 Declaration Application, and indication that the existing structure to rear of Springmount is an outhouse.
- b) Planning Permission Register Reference PRR 23/108
- d) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- e) Article 5, Article 6, Article 9 and Class 5: Part 1 : Schedule 2 : Planning and Development Regulations 2001(as amended).

Main Reasons with respect to Section 5 Declaration:

- i. The construction of a fence and gate are works, and therefore development having regard to Section 3 of the Planning and Development Act 2000(as amended).
- ii. The construction of the fence/ gate would come within the description and limitations set out under Class 5: Part 1 : Schedule 2 : Planning and Development Regulations 2001(as amended), and nothing within Article 9 would restrict this exemption.

The Planning Authority considers that "the erection of fencing/gate to the rear of Springmount House and Tigh Mhuris" at Church Road, Greystones, Co. Wicklow is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:


ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated  February 2025



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

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/115

Reference Number: EX08/2025

Name of Applicant: Liz Gleeson

Nature of Application: Section 5 Declaration request as to whether or not: -
"the erection of fencing/gate to the rear of Springmount House and Tigh Mhuris" is or is not development and is or is not exempted development.

Location of Subject Site: Church Road, Greystones, Co. Wicklow

Report from Edel Bermingham, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "the erection of fencing/gate to the rear of Springmount House and Tigh Mhuris at Church Road, Greystones, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Having regard to:

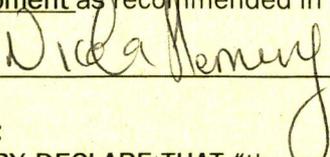
- a) The details submitted with the Section 5 Declaration Application, and indication that the existing structure to rear of Springmount is an outhouse.
- b) Planning Permission Register Reference PRR 23/108
- d) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- e) Article 5, Article 6, Article 9 and Class 5: Part 1 : Schedule 2 : Planning and Development Regulations 2001(as amended).

Main Reason with respect to Section 5 Declaration:

- i. The construction of a fence and gate are works, and therefore development having regard to Section 3 of the Planning and Development Act 2000(as amended).
- ii. The construction of the fence/ gate would come within the description and limitations set out under Class 5: Part 1 : Schedule 2 : Planning and Development Regulations 2001(as amended), and nothing within Article 9 would restrict this exemption.

Recommendation:

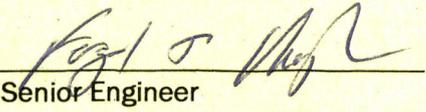
The Planning Authority considers that "the erection of fencing/gate to the rear of Springmount House and Tigh Mhuris at Church Road, Greystones, Co. Wicklow is development and is exempted development as recommended in the report by the SEP.

Signed 

Dated 12th day of February 2025

ORDER:

I HEREBY DECLARE THAT "the erection of fencing/gate to the rear of Springmount House and Tigh Mhuris" at Church Road, Greystones, Co. Wicklow is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed: 

Senior Engineer
Planning, Economic & Rural Development

Dated 12th day of February 2025

Section 5 Application EX 08/2025

Date : 6th February 2025.

Applicant : Liz Gleeson

Address : Springmount House , Greystones.

Query : Whether the division of title of Springmount House and Tigh Mhuris located at A63 AH59 and A63 X9F2 constitutes exempted development

Planning History :

PRR 23/108 Permission granted for partial demolition of existing single storey rear extension, blocking up of existing windows on side of house, removal of existing timber garden room and shed, construction of new three storey house attached to existing dwelling, opening up of existing front garden wall to create new access gate with matching piers and metal gates, new timber boundary wall to side of new dwelling, new rendered wall between new and existing house, and associated site works

3. Development described in Classes 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 shall not be carried out within the curtilage of the proposed dwelling without a prior grant of planning permission.

REASON: In the interest of residential amenity.

Relevant legislation :

Planning and Development Act 2000 (as amended)

"development" has the meaning assigned to it by section 3, and "develop" shall be construed accordingly;

exempted development" has the meaning specified in section 4;

"habitable house" means a house which—

- (a) is used as a dwelling,
- (b) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or
- (c) was provided for use as a dwelling but has not been occupied;

"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
- (b) in relation to a protected structure or proposed protected structure, includes—
 - (i) the interior of the structure,
 - (ii) the land lying within the curtilage of the structure,
 - (iii) any other structures lying within that curtilage and their interiors, and
 - (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in *subparagraph (i) or (iii)*;

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

Section 3 :

3.—(1) In this Act, "development" means, except where the context otherwise requires,

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

Section 4 :

4.—(1) The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

(3) A reference in this Act to exempted development shall be construed as a reference to development which is—

(a) any of the developments specified in *subsection (1)*, or

(b) development which, having regard to any regulations under *subsection (2)*, is exempted development for the purposes of this Act.

(4A) Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

(a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and

(b) as respects which an environmental impact assessment or an appropriate assessment is required, to be exempted development.

Planning and Development Regulations 2001(as amended).

Article 6

(1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9(1) Note see Regulations for full Article

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—

< See Regulations for List >

Schedule 2 : Part 1

CLASS 5

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

Limitations

1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.
2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.
3. No such structure shall be a metal palisade or other security fence.

Submission :

The proposal relates solely to administrative and legal title arrangements and will not result in any physical development or alterations, with the exception of a proposed wooden fence to delineate the new boundaries.

1. Property Overview:

- The existing property consists of Springmount House, a large house, and Tigh Mhuiris, a newly constructed house (Planning Application No: 23/108), which was completed in 2024 and adjoins the side of Springmount House.
- At the rear of Springmount House lies an 82 sqm yard, with an outhouse beyond it.

2. Proposed Titles:

- Springmount House, a 5 bed property will retain 50 sqm of private open space, adhering to national planning guidelines for private amenity space requirements. Taking into consideration its urban context and proximity to many local amenities.
- Tigh Mhuiris will retain private open space, the outhouse, and access to the outhouse.

3. Key Points of Clarification:

- The outhouse was not explicitly conditioned to remain associated with Springmount House in the planning permission for Tigh Mhuiris.
 - Both properties are within an Architectural Conservation Area (ACA).
 - No external facades, structures, or architectural features of either property will be altered.
 - The only proposed physical work involves the installation of a wooden fence to delineate the boundary between the two properties.
-
- The division of title has no physical impact on the properties or their surroundings.
 - All proposed arrangements comply with private open space requirements, the terms of the original planning permission (23/108), and the regulations governing works in an Architectural Conservation Area.

Assessment :

The query submitted with the Section 5 as to whether the division of title for Springmount House and Tigh Mhuiris, located at A63 AH59 and A63 X9F2 constitutes exempted development.

The question is noted however this question is not one that can be assessed under Section 5 as the issue of title does not come within the meaning of development or the meaning of exempted development within the Planning and Development Act 2000 (as amended) .

The submitted details indicate that there are works involved i.e. it is proposed to erect a fence to the rear of Springmount and to the front of an outhouse that sits at the rear, and also provide a new side fence/ gate between Springmount and Tigh Mhuiris i.e. the house constructed under PRR 23/108 . This fence will then provide for the rear identified outhouse to be accessible solely from TighMhuris. Accordingly the question is rephrased as follows –

Whether the erection of fencing/ gate to the rear of Springmount House, and Tigh Mhuris at Church Road, Greystones, Co. Wicklow is or is not development, and is or is not exempted development.

The first question therefore to be asked is whether there is or is not development. The erection of a fence is works, and therefore development having regard to the provisions of Section 3 of the Planning and Development Act 2000(as amended).

Class 5 is the relevant class under which the construction of a fence would be exempted i.e.

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

Therefore the works would come within the description.

There are a number of limitations to this Exemption, with Limitation 1 and 2 being the only applicable restriction i.e.

1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.

The submitted details indicate that the works would come within the height restriction as it is to the rear boundaries, and in front of an outhouse and not to the front of the house.

There is nothing in Article 9 that would clawback the Exemption under Class 5, and therefore the works are development and are exempted development.

Recommendation

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

- The erection of fencing/gate to the rear of Springmount House, and Tigh Mhuris at Church Road, Greystones, Co. Wicklow

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

The Planning Authority considers that

the erection of fencing/gate to the rear of Springmount House, and Tigh Mhuris at Church Road, Greystones, Co. Wicklow is Development and is Exempted development.

Main Considerations with respect to Section 5 Declaration :

- a) The details submitted with the Section 5 Declaration Application, and indication that the existing structure to rear of Springmount is an outhouse.
- b) Planning Permission Register Reference PRR 23/108
- d) Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)
- e) Article 5, Article 6, Article 9 and Class 5: Part 1 : Schedule 2 : Planning and Development Regulations 2001(as amended).

Main Reasons with respect to Section 5 Declaration :

~~i. The query as originally proposed cannot be assessed under Section 5 as the issue of title does not come within the meaning of development or the meaning of exempted development within the Planning and Development Act 2000 (as amended)~~

(i) The construction of a fence and gate are works, and therefore development having regard to Section 3 of the Planning and Development Act 2000(as amended).

(ii) The construction of the fence/ gate would come within the description and limitations set out under Class 5: Part 1 : Schedule 2 : Planning and Development Regulations 2001(as amended), and nothing within Article 9 would restrict this exemption.

Edel Donoghue SP.

6/2/2025

*Issue described as resolved
Kyl J May 13
11/02/25*

Edel Bermingham

From: Nicola Fleming
Sent: Wednesday 22 January 2025 08:59
To: Edel Bermingham
Subject: FW: FW: Section 5 Declaration

From: Liz Gleeson
Sent: Tuesday 21 January 2025 18:42
To: Nicola Fleming
Subject: Re: FW: Section 5 Declaration

External Sender - From: (Liz Gleeson)
This message came from outside your organisation.

CAUTION This email originated from outside Wicklow County Council. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Nicola,

No, that's not quite right. In your drawing, you haven't left the access.

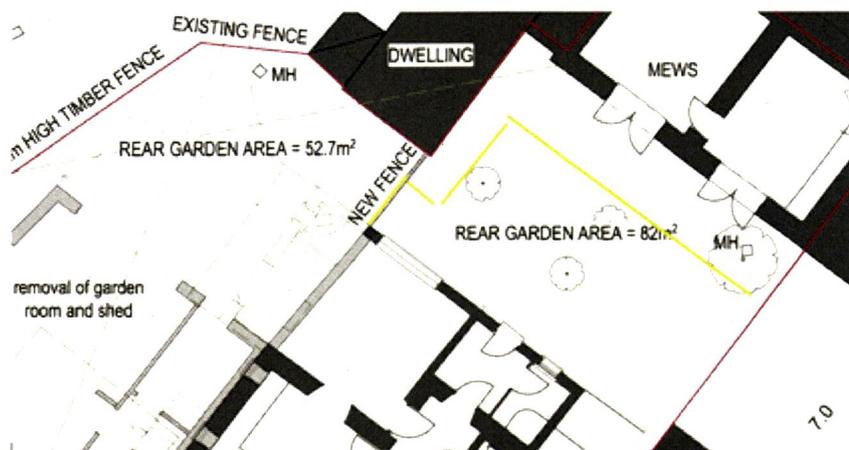
The new boundary is leaving enough space to create an access path (approx 1m wide) from the new build into the outhouse (labelled 'mews' on diagram). The new boundary is also leaving some of the backyard in front of the outhouse, to enable access. The new proposal is leaving 50m² of back garden with Springmount House, in accordance with development guidelines for the amount of bedrooms in the house, and is leaving 30m² in front of the outhouse.

I hope the attached drawings are clearer for you. I've cobbled it together without a design package, so it may not be exactly accurate/to scale, but should be close. AS you will see, there will be access to the outhouse/mews via the 'new fence' with a strip of land to the front. This will be retained with the Tigh Mhuirirs property (A63 X9F2). The remaining rear garden (50sqm) will be retained by Springmount House (A63 AH59). I hope to put Springmount House on the market once I get clarification.

The Yellow line on both diagrams marks the location of the fence. The current fence around my property is 6' high, I plan to continue the same fencing around the back also, to divide the properties. If you need me to pop down to wicklow to go through it with you, or to have a zoom call, I'd be happy to do that.

Kind regards,

Liz



On Tue, Jan 21, 2025 at 4:24 PM Nicola Fleming <NFleming@wicklowcoco.ie> wrote:

Hi Liz,

I have highlighted in yellow what I believe your drawing is showing as the 'New Fence'.

Can you confirm the exact line of New fencing on the other drawings, and confirm the height of the fencing.

Regards,

Nicola Fleming

Staff Officer

Planning, Economic & Rural Development

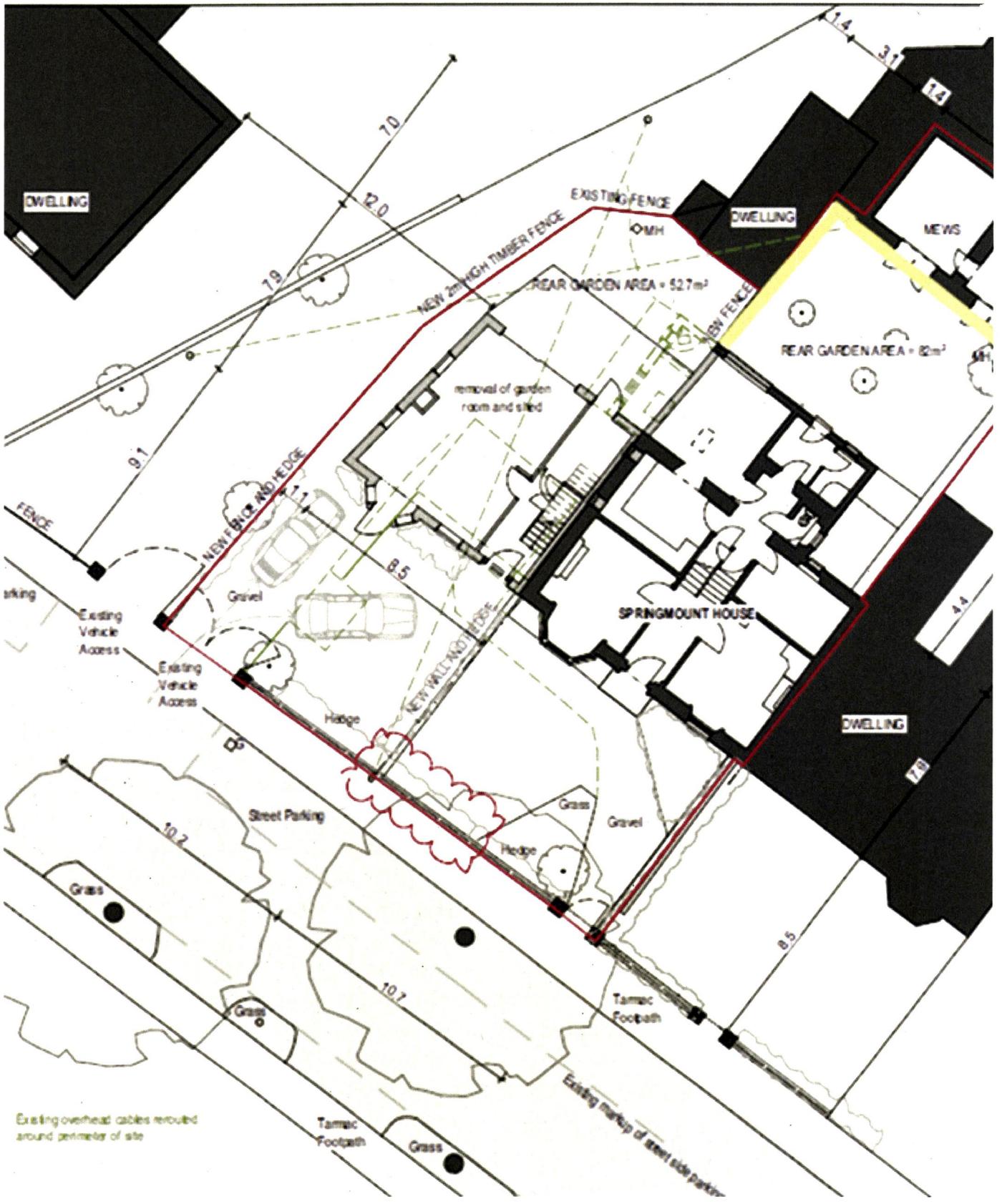
Wicklow County Council, County Buildings, Wicklow Town, A67 FW96

Ph☎: +353 (0404) 20148 | ✉: nfleming@wicklowcoco.ie

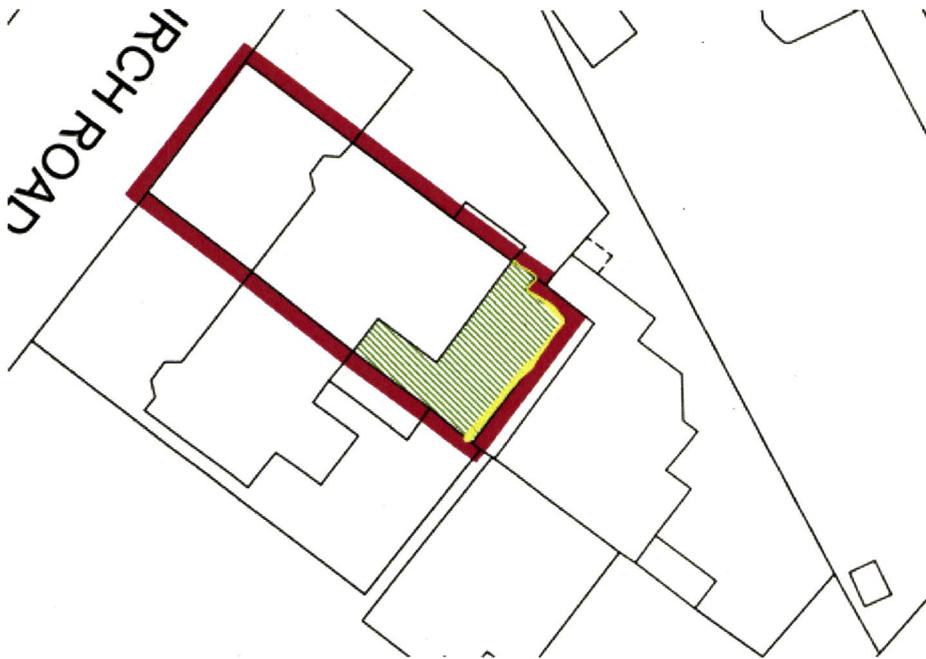
Website: <http://www.wicklow.ie>



Comhairle Chontae Chill Mhantáin
Wicklow County Council



From: Liz Gleeson [mailto:lgleeson@wiclowsolicitors.com]
Sent: Tuesday 21 January 2025 15:38
To: Nicola Fleming
Subject: Re: Section 5 Declaration



Hi Nicola,

Is this sufficient? I have marked in yellow where the proposed fence will be. The green lines depict the 50sqm of garden that will remain with Springmount House. If you need a more official drawing, please let me know and I will refer back to my planning consultant.

Kind regards,

Liz

On Tue, Jan 21, 2025 at 3:25 PM Nicola Fleming <NFleming@wicklowcoco.ie> wrote:

Hi Liz I acknowledge receipt of Section 5 application can you please mark clearly on the maps attached where the wooden fence is going to be.

Regards,

Nicola Fleming

Staff Officer

Planning, Economic & Rural Development

Wicklow County Council, County Buildings, Wicklow Town, A67 FW96

Ph ☎: +353 (0404) 20148 | ✉: nfleming@wicklowcoco.ie

Website: <http://www.wicklow.ie>



Comhairle Chontae Chill Mhantáin
Wicklow County Council

From: Liz Gleeson [redacted]
Sent: Tuesday 21 January 2025 14:45
To: Planning - Planning and Development Secretariat
Subject: Section 5 Declaration

Hello,

Please find attached my application form for a section 5 declaration, along with supporting documents.

I will call your offices shortly to pay the €80 fee with my credit card.

Please let me know if you need anything else from me.

Kind regards,

Liz

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

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Wicklow County Council
County Buildings
Wicklow
0404-20100

21/01/2025 15:05:31

Receipt No L1/0/339926
***** REPRINT *****

LIZ GLEESON
STRING MOUNT HEIGHTS
GREYSTONES
CO WICKLOW

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

Total 80 00 EUR

Tendered
Credit Card 80 00

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 _____

RECEIVED 21 JAN 2025

**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: Liz Gleeson
Address of applicant: Springmount House, Church Road, Greystones, Co.
Wicklow A63 AH59

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

2. Agents Details (Where Applicable)

- (b) Name of Agent (where applicable) _____ N/A _____

Address of Agent : _____

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

3. Declaration Details

- i. Location of Development subject of Declaration Springmount House, Church Road, Greystones, Co. Wicklow A63 AH59
- ii. 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 _____

- 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 _____

Subject: Application for a Section 5 Declaration Regarding Division of Title for Springmount House and Tigh Mhuiris

Details of the Query

This application seeks a declaration under **Section 5 of the Planning and Development Act 2000 (as amended)** to determine whether the division of title for Springmount House and Tigh Mhuiris, located at A63 AH59 and A63 X9F2 constitutes **exempted development**.

Description of the Proposed Development

The proposal relates solely to administrative and legal title arrangements and will not result in any physical development or alterations, with the exception of a proposed **wooden fence** to delineate the new boundaries.

1. Property Overview:

- The existing property consists of Springmount House, a large house, and Tigh Mhuiris, a newly constructed house (Planning Application No: **23/108**), which was completed in 2024 and adjoins the side of Springmount House.
- At the rear of Springmount House lies an **82 sqm yard**, with an **outhouse** beyond it.

2. Proposed Titles:

- **Springmount House**, a 5 bed property will retain **50 sqm of private open space**, adhering to national planning guidelines for private amenity space requirements. Taking into consideration its urban context and proximity to many local amenities.
 - **Tigh Mhuiris** will retain private open space, the outhouse, and access to the outhouse.
- 3. Key Points of Clarification:**
- The **outhouse** was not explicitly conditioned to remain associated with Springmount House in the planning permission for Tigh Mhuiris.
 - Both properties are within an **Architectural Conservation Area (ACA)**.
 - No external facades, structures, or architectural features of either property will be altered.
 - The only proposed physical work involves the installation of a **wooden fence** to delineate the boundary between the two properties.
- The division of title has no physical impact on the properties or their surroundings.
 - All proposed arrangements comply with private open space requirements, the terms of the original planning permission (23/108), and the regulations governing works in an Architectural Conservation Area.

v.

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 _____

Relevant Provisions of the Planning and Development Act and Regulations

1. Definition of Development (Section 3 of the Planning and Development Act 2000)

- Section 3 defines “development” as carrying out any works or making a material change in the use of land or structures.
- This proposal involves **no construction or works** beyond the erection of a wooden fence and no material change in the use of land.

2. Exempted Development (Section 4(1) and Schedule 2 of the Planning and Development Act and Regulations)

- Under **Section 4(1)(h)** of the Act, works for the maintenance, improvement, or alteration of structures within the curtilage of a property are exempted, provided they do not materially affect the external appearance of the structure.
- The **wooden fence** is exempt under **Class 5 of Schedule 2, Part 1** of the Planning and Development Regulations 2001 (as amended), as it constitutes a boundary structure under 2 meters in height.

3. Private Open Space Requirements

- The retention of **50 sqm of private open space** for Springmount House complies with national guidelines as outlined in the **Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009)**.

4. Architectural Conservation Area (ACA)

- The division of title and proposed fence will not alter the external appearance of the properties or the character of the ACA, in compliance with **Section 81(1) of the Planning and Development Act**.

5. No New Development

- No new development is proposed. This declaration confirms that the division of title is an administrative matter and that no new dwellings, structures, or uses are being created beyond those already permitted.

Conclusion

This application seeks confirmation that the proposed division of title for Springmount House and Tigh Mhuiris, along with the installation of a wooden fence, constitutes **exempted development** under the Planning and Development Act 2000 (as amended).

v. _____

Additional details may be submitted by way of separate submission.

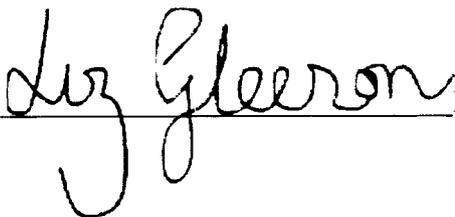
vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure) ? NO

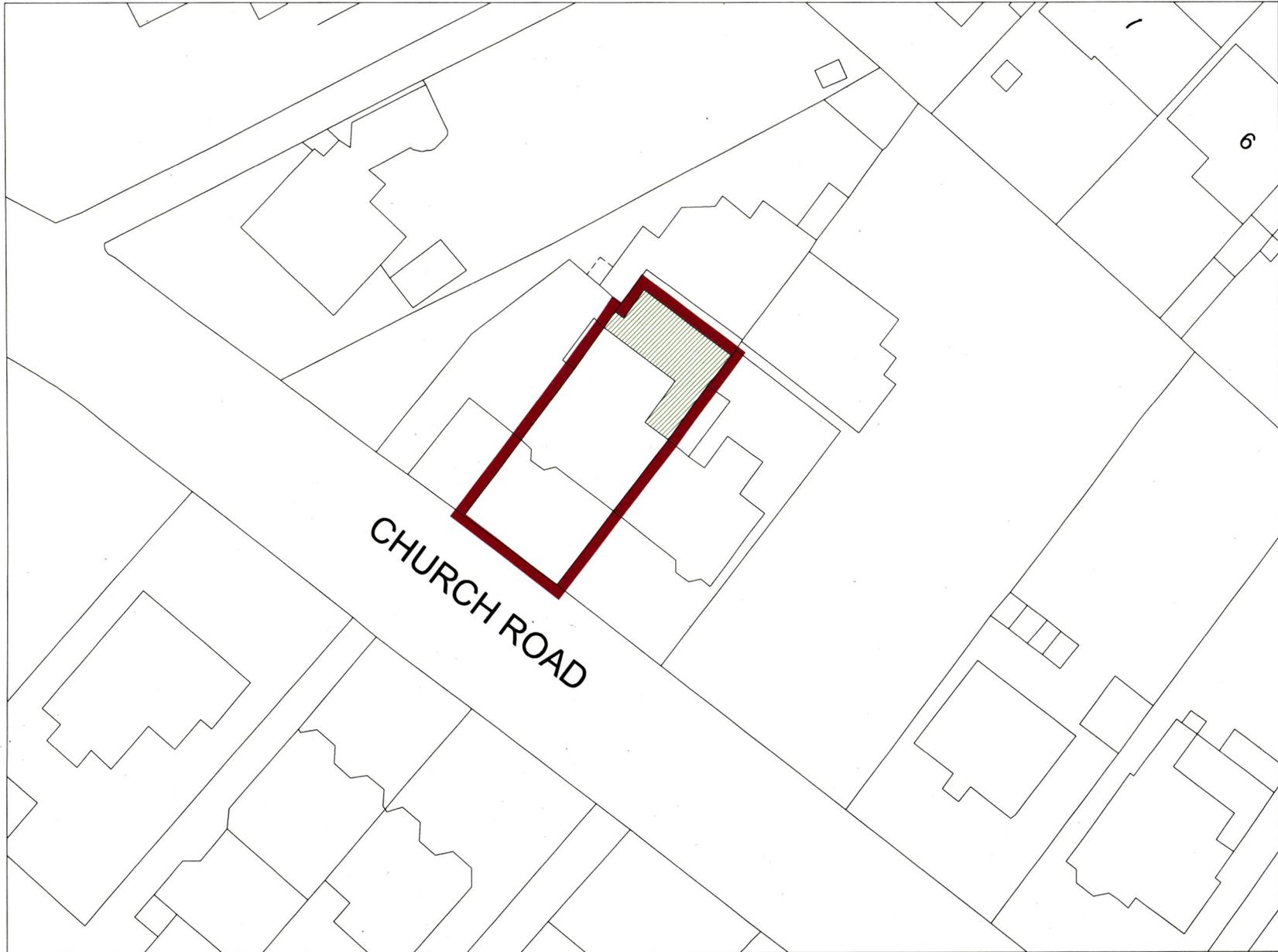
vii. List of Plans, Drawings submitted with this Declaration Application _____

Site Location Map

Proposed title split map

viii. Fee of € 80 Attached ? Paid by card over the phone

Signed :  Dated : 21st January 2025



SPRINGMOUNT HOUSE, CHURCH ROAD, GREYSTONES
GENERAL LAYOUT PLAN 1;500