

WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

Director of Services Order No: 22/2023

Reference Number: EX 79/2022

Name of Applicant: Aidan Keating C/O Liam Kenna Design

Nature of Application: Section 5 Referral as to whether "Conversion of attached garage to domestic use as a study & installation of a window in place of garage doors at Boleynass Upper" is or is not exempted development.

Location of Subject Site: Boleynass Upper, Ashford, Co. Wicklow

Report from Billy Slater GP & Suzanne White SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "Conversion of attached garage to domestic use as a study & installation of a window in place of garage doors at Boleynass Upper" 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 09/12/2022;
- ii. Sections 2 (1), 3 (1), 4 (1) of the Planning and Development Act 2000 (as amended);
- iii. Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended);
- iv. Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

Having regard to the existing dwelling on site, the size, position and the floor area of the application, it is considered that the conversion of the existing garage comes within the description and limitations of works specified under Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 as amended, and within the scope of Section 4-1 (h) of the Planning & Development Act 2000 (as amended) and therefore is exempt development.

Recommendation

The Planning Authority considers that "Conversion of attached garage to domestic use as a study & installation of a window in place of garage doors at Boleynass Upper" is development and is exempted development as recommended in the planning reports.

Signed Carol Murphy Dated 09th day of January 2023

ORDER:

That a declaration to issue stating:

That "Conversion of attached garage to domestic use as a study & installation of a window in place of garage doors at Boleynass Upper" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: [Signature]
Director of Services
Planning Development & Environment

Dated 7th day of January 2023



Comhairle Contae Chill Mhantáin
Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

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

Aidan Keating
C/O Liam Kenna Design
Boleynass Upper
Ashford
Co Wicklow

9th January 2023

**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 79/2022

Applicant: Aidan Keating C/O Liam Kenna Design

Nature of Application: Conversion of attached garage to domestic use as a study & installation of a window in place of garage doors at Boleynass Upper

Location: Boleynass Upper, Ashford, Co. Wicklow

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,

ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT.



Comhairle Contae Chill Mhantáin
Wicklow County Council

Forbairt Pleanála agus Comhshaol
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**DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING &
DEVELOPMENT ACT 2000 AS AMENDED**

Applicant: Aidan Keating C/O Liam Kenna Design

Location: Boleynass Upper, Ashford, Co. Wicklow

DIRECTOR OF SERVICES ORDER NO 22/2023

A question has arisen as to whether "Conversion of attached garage to domestic use as a study & installation of a window in place of garage doors at Boleynass Upper" is or is not exempted development.

Having regard to:

- i. The details submitted on 09/12/2022;
- ii. Sections 2 (1), 3 (1), 4 (1) of the Planning and Development Act 2000 (as amended);
- iii. Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended);
- iv. Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

Having regard to the existing dwelling on site, the size, position and the floor area of the application, it is considered that the conversion of the existing garage comes within the description and limitations of works specified under Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 as amended, and within the scope of Section 4-1 (h) of the Planning & Development Act 2000 (as amended) and therefore is exempt development.

The Planning Authority considers that "Conversion of attached garage to domestic use as a study & installation of a window in place of garage doors at Boleynass Upper" is development and is exempted development.

Signed: 

**ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT**

Dated 9th January 2023



**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

To: Fergal Keogh S.E / Suzanne White S.E.P. / Edel Bermingham S.E.P.
From: Billy Slater G.P.
Type: Section 5 Application
REF: EX 79/2022
Applicant: Aidan Keating
Date of Application: 09/12/2022
Decision Due Date: 13/01/2023
Address: Boleynass Upper, Ashford, Co. Wicklow
Exemption Query: Conversion of attached garage to domestic use as a study and installation of a new window in place of garage doors.

Application Site: The subject site is located at Boleynass Upper, Ashford, Co. Wicklow and is accessed via the L-5072-0 public road. The application site is located within a level 10 rural area and is surrounded by similarly scaled dwellings as well as agricultural land.

Google Maps Image



Site Image



Planning History:**Subject Site:**

Ref 92/8706
Applicant Martin and Colette Hanlon
Development Construction of Bungalow
Decision Grant

Question:

The applicants have applied to see whether or not the following is or is not development and is or is not exempted development:

- 1) Conversion of attached garage to domestic use as a study and installation of a new window in place of garage doors.

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):**

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):

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,

Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended) states that the following constitutes exempted development:

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

The conditions and limitations include:

1. *(a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.*

2. *(a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*

4. *(a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.*

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5. *The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.*

6. *(a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.*

7. *The roof of any extension shall not be used as a balcony or roof garden.*

Other Conditions and Limitations include:

1. *No such structure shall be constructed, erected or placed forward of the front wall of a house.*

2. *The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*

3. *The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.*

4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.

5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

Details Submitted in support of Application:

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

(1) Conversion of attached garage to domestic use as a study and installation of a new window in place of garage doors.

No additional extension/building etc. to be performed.

Existing structures 160sqm

Proposed area for conversion 13.3sqm

Assessment:

It is proposed to remodel the existing garage (which makes up the north-eastern portion of the dwelling) i.e. conversion from garage to study via the installation of a front facing window in place of the garage door. The plans state the gross floor area of the proposed conversion to be 13.3sqm.

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 2001. In this regard, Section 3 of the Planning and Development Act provides that:

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

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

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

I am satisfied that the proposal would involve works to the existing structure and therefore the proposal does constitute development.

The second stage of the assessment is to determine whether or not the proposed works would be exempted development under the Planning and Development Act 2000 (as amended) or it's associated Regulations. The proposed remodelling of the existing garage conversion measures c. 13.3sqm in floor area. The roof over the garage portion of the dwelling is unchanging. The proposal does not reduce the remaining the area of private open space to the rear of the house to less than 25 square metres nor does it materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

Recommendation:

With respect to the query under Section 5 of the Planning and Development Act 2000 (as amended), as to whether or not the 'Conversion of attached garage to domestic use as a study and installation of a new window in place of garage doors' at Boleynass Upper, Ashford, Co. Wicklow is or is not exempted development,

The Planning Authority considers that:

In consideration of the above, the proposed development is considered to come within the scope of Section 4-1 (h) of the Planning & Development Act 2000 (as amended) and therefore is exempt development.

Main Considerations with respect to Section 5 Declaration:


- i. The details submitted on 09/12/2022;
- ii. Sections 2 (1), 3 (1), 4 (1) of the Planning and Development Act 2000 (as amended);
- iii. Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended);
- iv. Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

Having regard to the existing dwelling on site, the size, position and the floor area of the application, it is considered that the conversion of the existing garage comes within the description and limitations of works specified under Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 as amended. ~~Such works come~~ within the scope of Section 4-1 (h) of the Planning & Development Act 2000 (as amended) and therefore is exempt development.

end

Agreed
Sullivan SEP
20/12/22


Billy Slater G.P.
16/12/2022

Agreed
BC
DOS.
9/1/23

MEMORANDUM

WICKLOW COUNTY COUNCIL

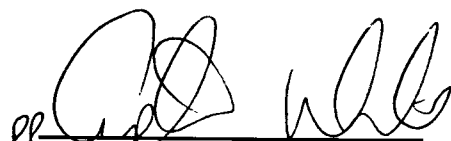
TO: Billy Slater
Graduate Planner

FROM: Crystal White
Assistant Staff Officer

**RE:- EX 79/2022 - Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended)**
**Conversion of attached garage to domestic use as a study & installation of
a window in place of garage doors at Boleynass Upper, Ashford, Co
Wicklow**

I enclose herewith for your attention application for Section 5 Declaration received 09th of December 2022.

The due date on this declaration is the 13th of January 2023.



Senior Staff Officer
Planning Development & Environment



Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

Áras An Chontae / County Buildings
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Rphost / Email: plandev@wicklowcoco.ie
Suíomh / Website: www.wicklow.ie

12/12/2022

Aidan Keating
C/O Liam Kenna Design
Moneygreen
Roundwood
Co Wicklow

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 79/2022
Conversion of attached garage to domestic use as a study & installation of a window in place of garage doors at Boleynass Upper, Ashford, Co Wicklow

A Chara

I wish to acknowledge receipt on the 9th of December 2022 details supplied by you in respect of the above section 5 application. A decision is due in respect of this application by 13/01/2023.

Mise, le meas

SENIOR EXECUTIVE OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT

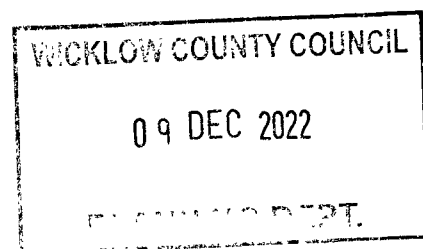


Document Schedule

01 Cover Letter

02 Section 5 Application Form

03 Drawing schedule



L/K DESIGN
Moneystown,
Roundwood,
Co. Wicklow
E-mail: liam@kse.ie
Mob: 0879636167
06.12.22

Wicklow County Council
Planning Department,
County Council Buildings,
Wicklow Town.

RE: Section 5 application for Aidan Keating, Boleynass Upper, Ashford, Co. Wicklow who is seeking section 5 approval for the conversion of his attached garage to a domestic study under Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001.

Dear Sir / Madame,

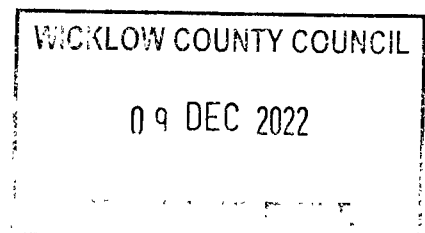
Please find enclosed our clients request for exempt development for the conversion of attached garage to domestic use as a study and installation of a window in place of garage doors. The space was originally used and granted planning permission as an attached garage until my clients converted it into a study for domestic use. My client now seeking section 5 approval for the conversion under Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001.

I hope you find this satisfactory and look forward to hearing form you.

Kind Regards

Liam Kenna

Signed:
Liam Kenna



Wicklow County Council
County Buildings
Wicklow
0404-20100

14/12/2022 10 10 53

Receipt No L1/0/306051
***** REPRINT *****

LIAM KENNA
MONEYSTOWN
ROUNDWOOD
CO WICKLOW

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

Total 80 00 EUR

Tendered
Credit Card 80 00
AIDAN KEETING

Change 0 00

Issued By Annmarie Ryan
From Customer Service Hub
Vat reg No 0015233H



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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: Aidan Keating
Address of applicant: _____

Boleynass Upper, Ashford, Co. Wicklow _____

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

2. Agents Details (Where Applicable)

- (b) Name of Agent (where applicable) LIAM KENNA
Address of Agent : _____

 MONEYSTOWN, ROUNDWOOD, CO. WICKLOW

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

3. Declaration Details

- i. Location of Development subject of Declaration
Boleynass Upper, Ashford, Co. Wicklow
- 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 _____

N/A

- 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

Please find enclosed our clients request for exempt development for the conversion of attached garage to domestic use as a study and installation of a window in place of garage doors. The space was originally used and granted planning permission as an attached garage until my clients converted it into a study for domestic use. My clients now seek section 5 approval for the conversion under Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001.

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

Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001.
- 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 _____
PLEASE SEE ATTACHED

viii. Fee of € 80 Attached ? PLEASE CONTACT AGENT FOR PAYMENT

Signed : Liam LAMA Dated : 6/12/22

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.

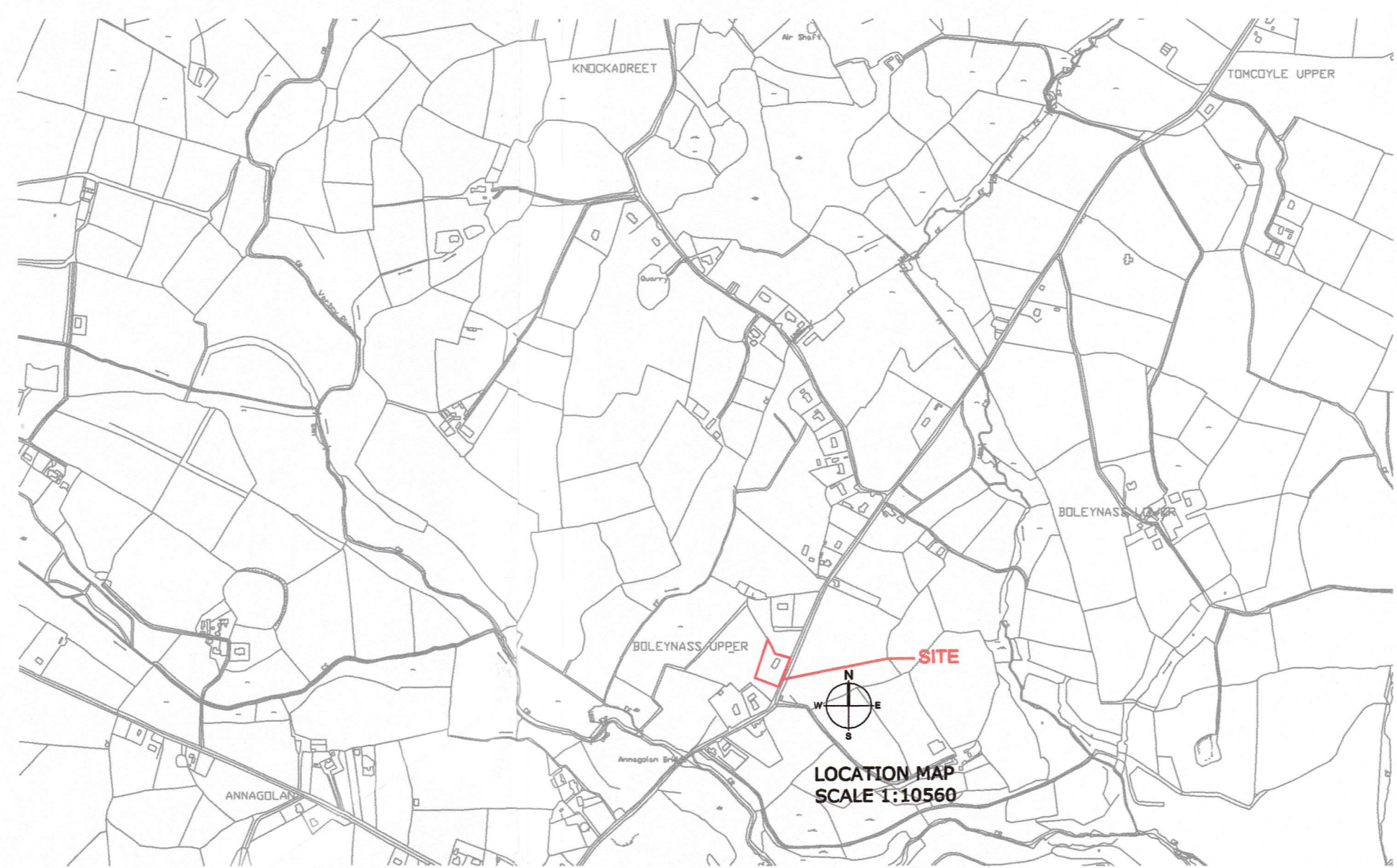
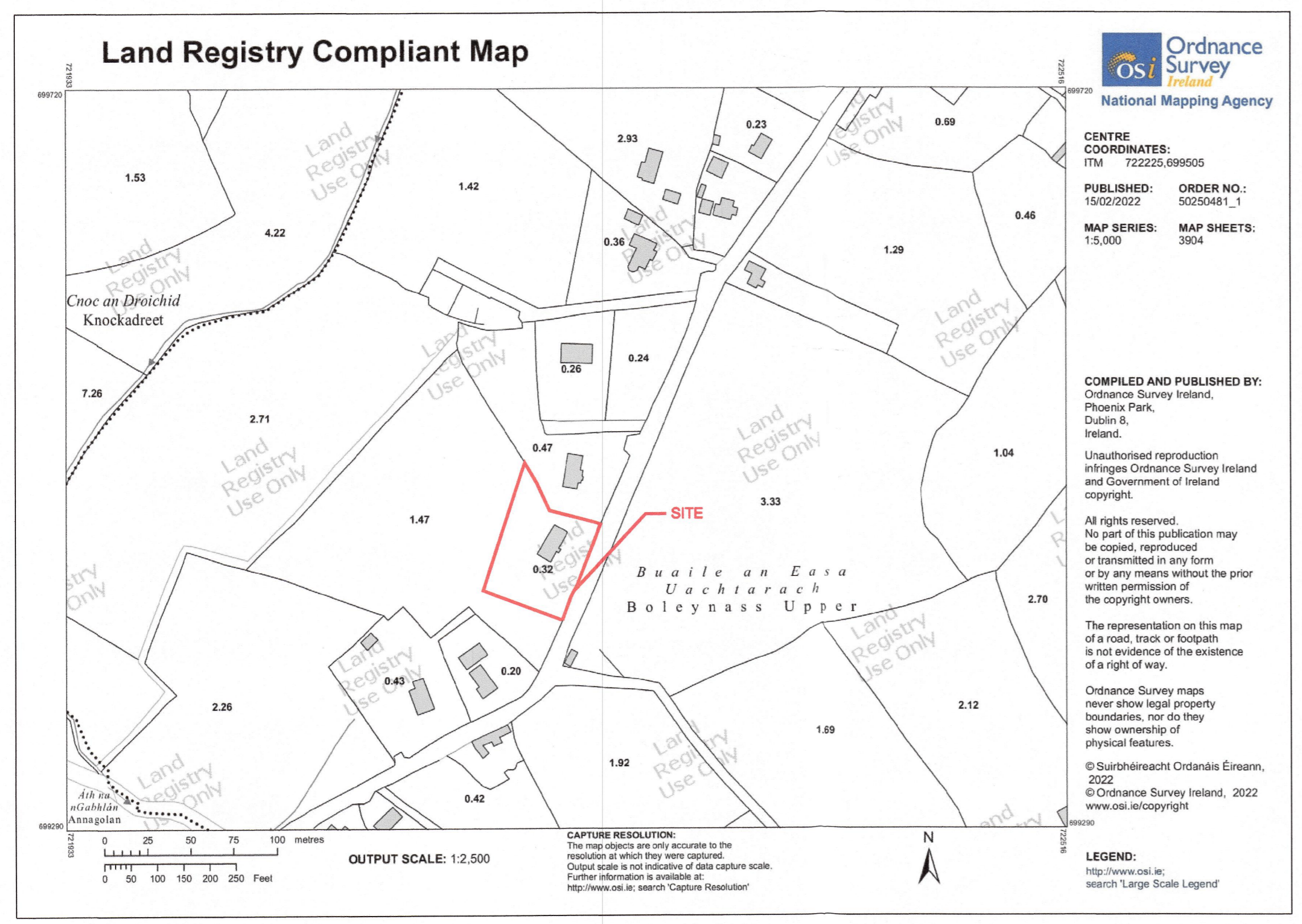
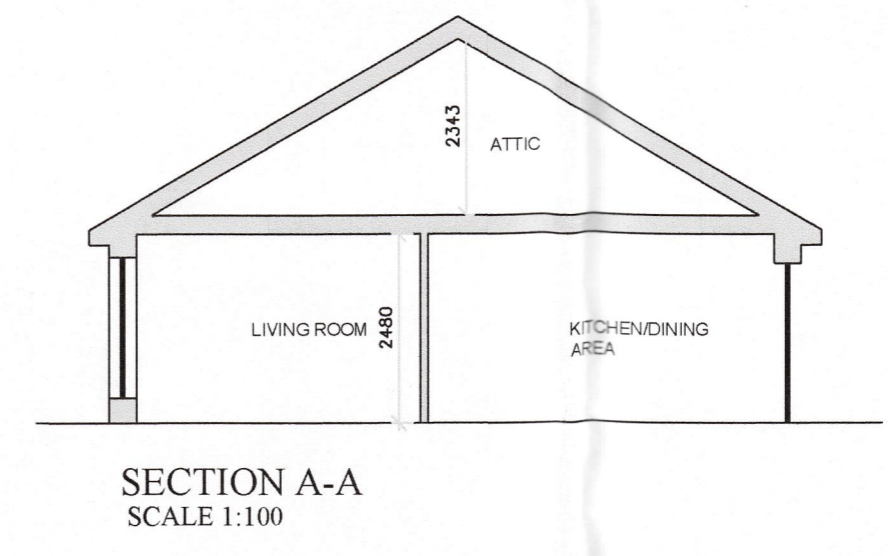
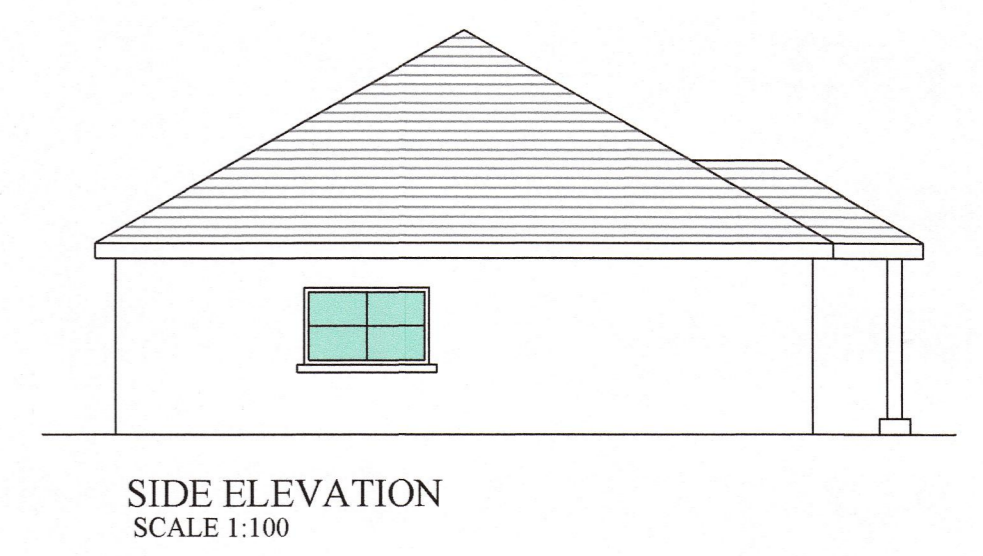
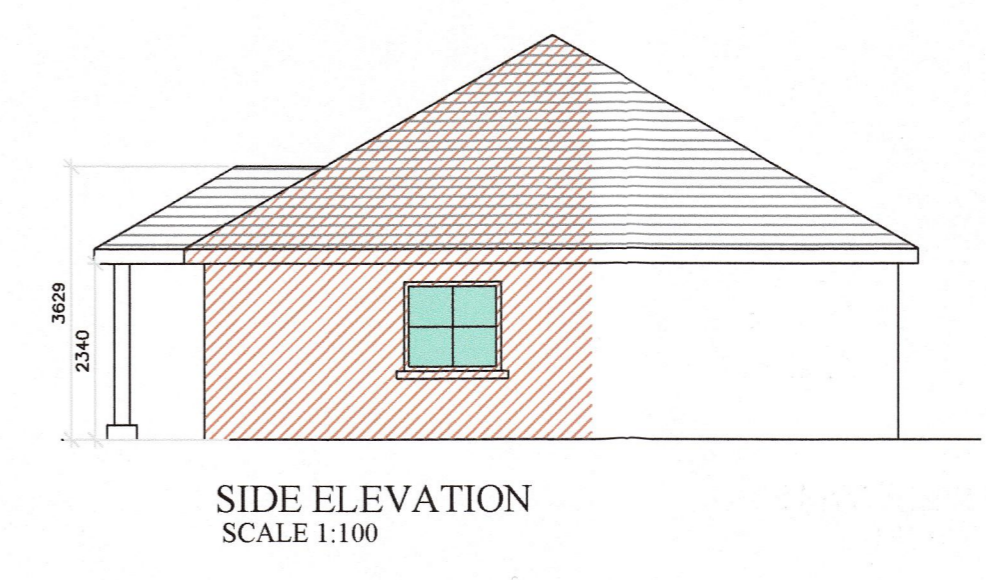
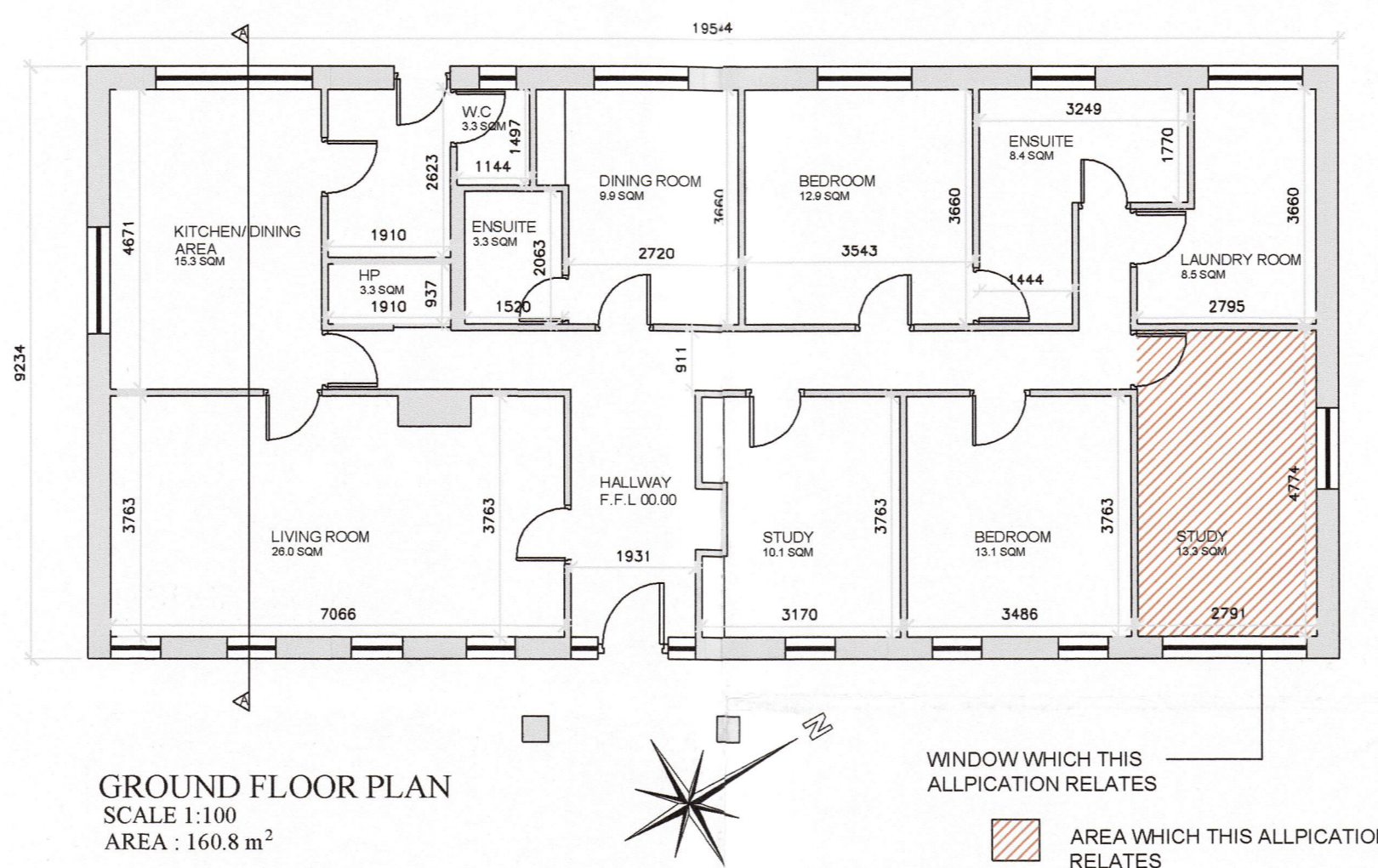
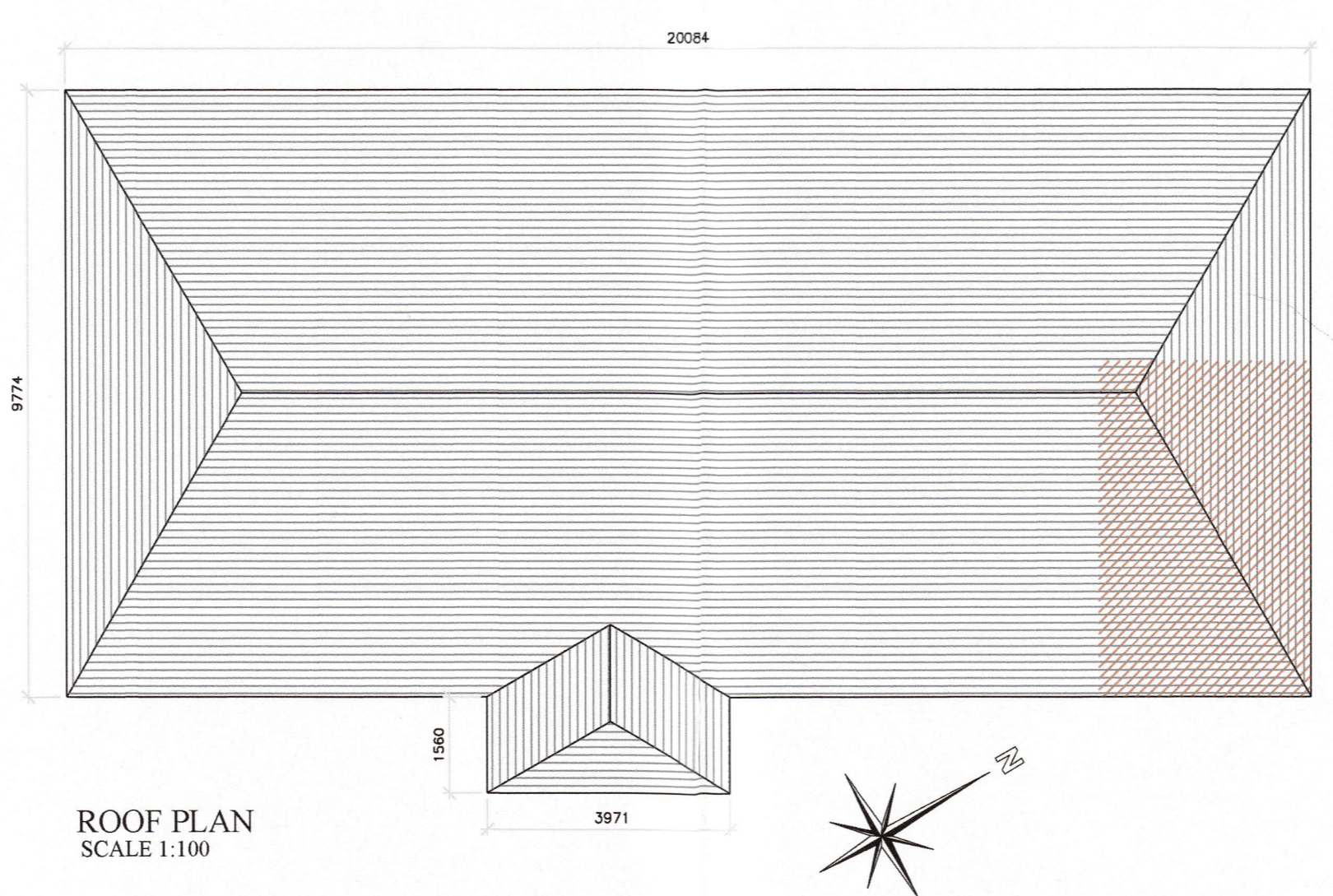
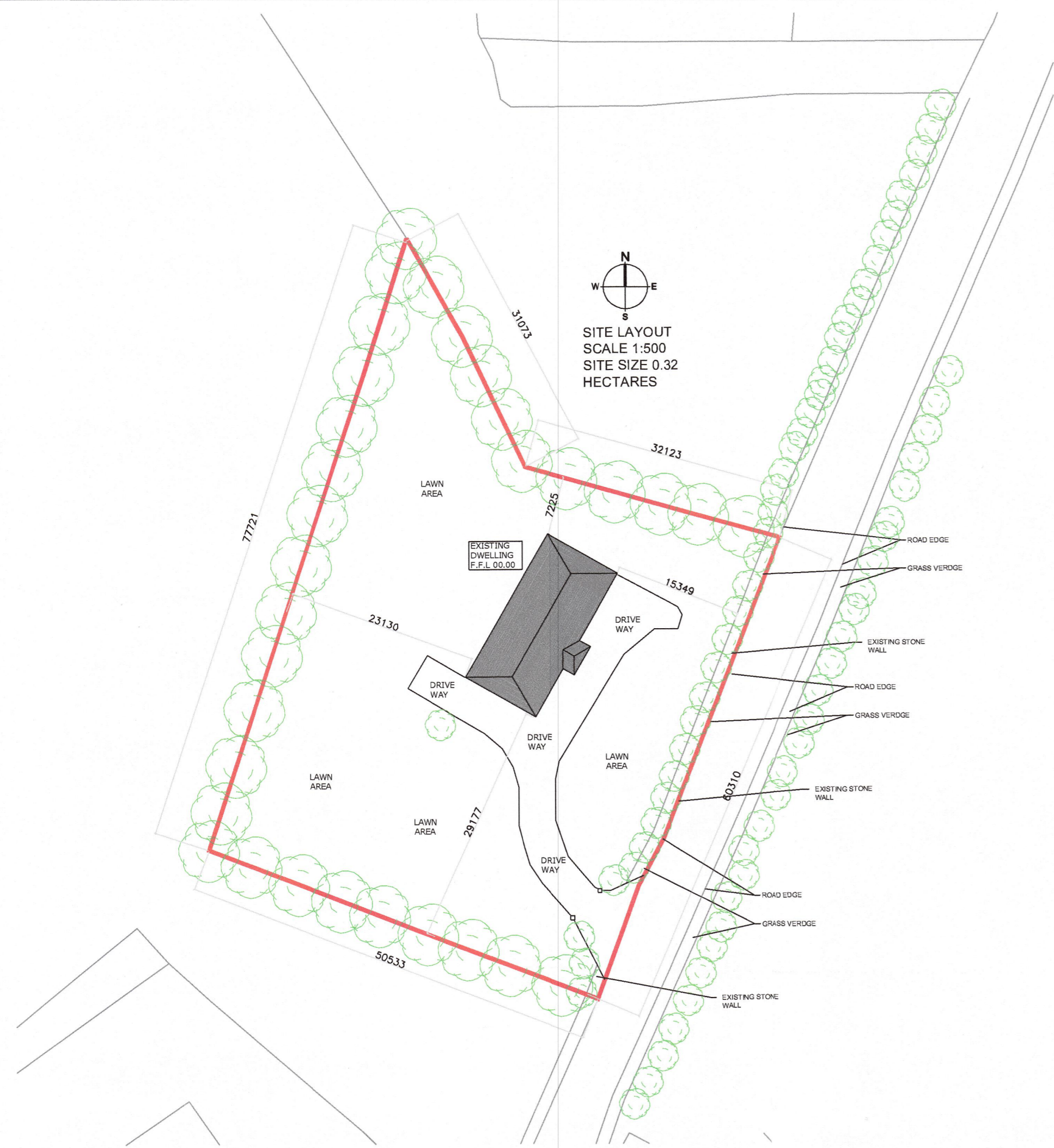
C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

- 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.

Drawing Schedule

001 Site Plan, OS Maps and Dwelling

A1 1:10560, 2500, 500, 100



EX 79/2022

NOTE : FIGURED DIMENSIONS ONLY. DO NOT SCALE DRAWING. CONTRACTOR TO CHECK DIMENSIONS ON SITE BEFORE CONSTRUCTION. DISCREPANCIES ARE TO BE BROUGHT TO ATTENTION OF THE SURVYORS PRIOR TO THE COMMENCEMENT OF WORK.

DRAWING IS INTENDED SOLELY FOR PURPOSE NOTED. ONLY DRAWINGS MARKED CONTRACT ARE TO BE USED FOR CONSTRUCTION.

DRAWING: SITE LAYOUT, OS MAPS AND DWELLING SCALE 1:10560, 2500, 500, 100	DRAWING BY: LIAM KENNA	DATE: 06.12.22
	PROJECT: AIDAN KEATING, BOLEYNASS UPPER, ASHFORD, WICKLOW	DRAWING NO. 001