

WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)  
SECTION 5

Director of Services Order No: 2026/2022

Reference Number: EX 75/2022

Name of Applicant: Brendan & Eileen Buck C/O BPS

Nature of Application: Section 5 Referral as to whether "The Construction of Residential Chalet built in September & October 2022 on lands at Ballinatone Lower Greenan, Co. Wicklow" is or is not exempted development.

Location of Subject Site: Ballinatone Lower Greenan, 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 Construction of Residential Chalet built in September & October 2022 on lands at Ballinatone Lower Greenan, Co. Wicklow" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- The details submitted with the Section 5 application.
- PRR 05/3286, PRR 11/4667, PRR 22/800 and EX 39/ 2022
- Section 2, 3 , 4, 5 of the Planning and Development Act 2000(as amended)
- Article 6, 9 and Schedule 2: Part 1 : Class 3 and Class 16 of the Planning and Development Regulations 2001(as amended).

Main Reasons with respect to Section 5 Declaration:

- The erection of a triangular Shelter/ shed Structure on site would come within the definition of development having regard to the provisions of Section 3 (1) of the Planning and Development Act 2000(as amended).
- The structure would not come within any of the exemptions set out in Schedule 2 of the Planning and Development Regulations 2001 (as amended), as it would not come within the provisions of Class 3 or Class 16 of Schedule 2: Part 1.

**Recommendation**

The Planning Authority considers that "The Construction of Residential Chalet built in September & October 2022 on lands at Ballinatone Lower Greenan, Co. Wicklow" **is development and is not exempted development** as recommended in the planning reports.

Signed  Dated 19<sup>th</sup> day of December 2022

ORDER:

\_\_\_\_\_

That a declaration to issue stating:

That "The Construction of Residential Chalet built in September & October 2022 on lands at Ballinatone Lower Greenan, Co. Wicklow" is development and is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed:  Dated 19<sup>th</sup> day of December 2022

 Director of Services  
Planning Development & Environment



**Comhairle Contae Chill Mhantáin**  
**Wicklow County Council**

**Forbairt Pleanála agus Comhshaol**  
**Planning Development and Environment**

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Cill Mhantáin / Wicklow  
Guthán / Tel: (0404) 20148  
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Rphost / Email: [plandev@wicklowcoc](mailto:plandev@wicklowcoc)  
Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

19<sup>th</sup> December 2022

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

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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 75/2022

Applicant: Brendan & Eileen Buck C/O BPS

Nature of Application: "The Construction of Residential Chalet built in September & October 2022 on lands at Ballinatone Lower Greenan, Co. Wicklow"

Location: Ballinatone Lower Greenan, 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: Brendan & Eileen Buck C/O BPS**

**Location: Ballinatone Lower Greenan, Co. Wicklow**

**DIRECTOR OF SERVICES ORDER NO 2026/2022**

A question has arisen as to whether "The Construction of Residential Chalet built in September & October 2022 on lands at Ballinatone Lower Greenan, Co. Wicklow" is or is not exempted development.

**Having regard to:**

- The details submitted with the Section 5 application.
- PRR 05/3286, PRR 11/4667, PRR 22/800 and EX 39/ 2022
- Section 2, 3 , 4, 5 of the Planning and Development Act 2000(as amended)
- Article 6,9 and Schedule 2: Part 1 : Class 3 and Class 16 of the Planning and Development Regulations 2001(as amended).

**Main Reasons with respect to Section 5 Declaration:**

- The erection of a triangular Shelter/ shed Structure on site would come within the definition of development having regard to the provisions of Section 3 (1) of the Planning and Development Act 2000(as amended).
- The structure would not come within any of the exemptions set out in Schedule 2 of the Planning and Development Regulations 2001 (as amended), as it would not come within the provisions of Class 3 or Class 16 of Schedule 2: Part 1.

**The Planning Authority considers that "The Construction of Residential Chalet built in September & October 2022 on lands at Ballinatone Lower Greenan, Co. Wicklow" is development and is not exempted development.**

Signed

**ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT**

Dated 9<sup>th</sup> December 2022

## **Section 5 Application EX 75/2022.**

Date : 15<sup>th</sup> December 2022

Applicant : Eileen & Brendan Buck

Address : Ballinatone Lower, Greenane, Co. Wicklow.

### Exemption Query :

Whether or not :

Construction of Residential Chalet built in September & October 2022 on lands at Ballinatone Lower Greenan, Co. Wicklow.

### **Planning History :**

PRR 22/800 Current application on site for the retention permission of foundations and rising walls constructed on site (granted under PRR11/4667 & 05/3286) and Permission for completion of dwelling with some alterations to same with associated site works

PRR 05/3286 Permission granted for Dwelling, Septic tank and Percolation Area on site. Final Grant Date 12/10/2006.

PRR 11/4667 Extension of Time - 21/6/2014.

UD 3237 File closed on foot of compliance with enforcement notice. (march 2015)

### **Section 5 Declarations**

EX 39/2022

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

- Existing substantially incomplete works toward building a rural house started under a now lapsed planning permission .
  - Whether upon lapsing of permission for rural house the future use of lands for residential
  - New development works carried on an incomplete rural house after the lapsing of 5 years planning permission .
  - Erection of and inhabitation of 2 tents on with no planning permission
  - Storage of waste and construction materials on lands
- at Ballintone Lower, Co. Wicklow is or is not exempted development

### **The Planning Authority considers that:**

- Existing substantially incomplete works toward building a rural house started under a now lapsed planning permission is not development

- Whether upon lapsing of permission for rural house the future use of lands for residential is not development
- New development works carried on an incomplete rural house after the lapsing of 5 years planning permission is development and is not exempted development
- Erection of and inhabitation of 2 tents on with no planning permission is development and is not exempted development
- Storage of waste and construction materials on lands is development and is not exempted development.

**Main Reasons with respect to Section 5 Declaration:**

- Section 40 (1) of the Planning and Development Act 2000 (as amended) provides that a permission granted under this Part, shall on the expiration of the appropriate period (but without prejudice to the validity of anything done pursuant thereto prior to the expiration of that period) cease to have effect as regards— (b) in case the development is commenced during that period, so much of the development as is not completed within that period. Therefore, the works carried out prior to the expiration of the appropriate period are deemed to come within that permitted by reference to PRR 05/3286.
- The abandonment of the development does not constitute works on, in over or under land or the making of any material change of use of any structure or other land, therefore, it does not constitute 'development'.
- Works carried out after the duration of permission of PRR 05/3286 to complete the dwelling would not come within the provisions of Section 40 (2) (iii), and therefore are not exempted development.
- The placement of two tents on site would come within the definition of development having regard to the provisions of Section 3 (2) (b)(i). Given two tents have been placed on site, and for in excess of 10 days, they would not come within the exemption provisions of Schedule Part 3: Class 1 of the Planning and Development Regulations 2001(as amended)
- The storage of waste and construction materials on lands would be development having regard to the provisions of Section 3 (2) (b)(iii). There is no exemption for such storage as it would not come within the provisions of Class 16 : as there is no current valid permission on site, and the works would not be taking place on foot of exempted development .

## **Relevant Legislation**

### *Planning and Development Act 2000 (as amended)*

Section 2 of the Planning and Development Act 2000:

"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, 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.

(2) For the purposes of *subsection (1)* and without prejudice to the generality of that subsection—

(a) where any structure or other land or any tree or other object on land becomes used for the exhibition of advertisements, or

(b) where land becomes used for any of the following purposes—

(i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,

(ii) the storage of caravans or tents, or

(iii) the deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders' waste, rubbish or debris,

the use of the land shall be taken as having materially changed.

Section 4

(2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act

(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

*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—

( See Regs for full list)

<p><b>CLASS 3</b></p> <p>The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</p>	<ol style="list-style-type: none"> <li>1. No such structure shall be constructed, erected or placed forward of the front wall of a house</li> <li>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.</li> <li>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.</li> <li>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</li> <li>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.</li> </ol>
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	<ol style="list-style-type: none"> <li>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</li> </ol>
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<p>CLASS 16</p> <p>The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.</p>	<p>Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.</p>
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## ASSESSMENT

The site the subject of this Section 5 query is located in Ballinatone Lower. Permission was granted for a dwelling on the site in 2005 under PRR 05/3286, and the duration of this permission was extended in 2011 up to 21/6/2014. There is currently a retention application for the retention of existing works and completion of the dwelling on site.



The querist, who is not the landowner, seeks a declaration on whether the Construction of Residential Chalet built in September & October 2022 on lands at Ballinatone Lower Greenan, Co. Wicklow.

Photographs of the structure have been submitted which identifies a triangular structure with an exterior of corrugated metal. The structure appears to be a shelter/ storage structure, which has been placed to adjoin the rising walls of the uncompleted dwelling on site. Permission for that dwelling has already ceased and there is a current application to complete this structure.

The first question to be asked therefore is has development occurred. In this regard the erection of the structure would come within the definition of works, and is therefore development having regard to the provisions of Section 3 of the Planning and Development Act 2000(as amended).

The structure would not come within any of the exemptions set out in Schedule 2 of the Planning and Development Regulations 2001, as

- i. Class 3 is not applicable as the structure is not within the curtilage of a house given that there is no house constructed to which it relates. Furthermore its use

for shelter i.e. human habitation would be contrary to the limitation set out under Class 3.

- ii. Class 16 is not applicable as there are no current planning permission for development on site, and where such a structure is being used for domestic habitation it would not come within the provisions of Class 16.

In conclusion the structure is development and is not exempted development .

With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether the Construction of Residential Chalet built in September & October 2022 on lands at Ballinatone Lower Greenan, Co. Wicklow is or is not exempted development

**The Planning Authority considers that:**

The Construction of Residential Chalet built in September & October 2022 on lands at Ballinatone Lower Greenan, Co. Wicklow **is development and is not exempted development**

**Main Considerations with respect to Section 5 Declaration:**

- The details submitted with the Section 5 application.
- PRR 05/3286, PRR 11/4667, PRR 22/800 and EX 39/ 2022.
- Section 2, 3 , 4, 5 of the Planning and Development Act 2000(as amended)
- Article 6,9 and Schedule 2: Part 1 : Class 3 and Class 16 of the Planning and Development Regulations 2001(as amended).

**Main Reasons with respect to Section 5 Declaration:**

- The erection of a triangular Shelter/ shed Structure on site would come within the definition of development having regard to the provisions of Section 3 (1) of the Planning and Development Act 2000(as amended).
- The structure would not come within any of the exemptions set out in Schedule 2 of the Planning and Development Regulations 2001 (as amended), as it would not come within the provisions of Class 3 or Class 16 of Schedule 2: Part 1.

  
15/12/22

Declaration as detailed to issue  
Karl T. Kelly  
19/12/22

# MEMORANDUM

## WICKLOW COUNTY COUNCIL

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**TO: Edel Bermingham**  
**Senior Executive Planner**

**FROM: Crystal White**  
**Assistant Staff Officer**

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**RE:- EX 75/2022 - Declaration in accordance with Section 5 of the  
Planning & Development Acts 2000 (as amended)  
Whether a residential chalet built to date in September and October 2022  
on lands at Ballinatone Lower, Greenan, Co Wicklow**

I enclose herewith for your attention application for Section 5 Declaration received 23<sup>rd</sup> of November 2022.

The due date on this declaration is the 20<sup>th</sup> of December 2022.

PR   
**Senior 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](http://www.wicklow.ie)

29/11/2022

**Eileen & Brendan Buck  
C/O BPS Planning Consultants Ltd  
Ballinatone Lower  
Greenan  
Co Wicklow  
A67 W662**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 75/2022  
Whether a residential chalet built to date in September and October 2022 on lands at Ballinatone Lower, Greenan, Co Wicklow**

A Chara

I wish to acknowledge receipt on the 23<sup>rd</sup> of November 2022 details supplied by you in respect of the above section 5 application. A decision is due in respect of this application by 20/12/2022.

Mise, le meas

  
\_\_\_\_\_  
**SENIOR EXECUTIVE OFFICER  
PLANNING DEVELOPMENT AND ENVIRONMENT**



Wicklow County Council  
County Buildings  
Wicklow  
0404-20100

23/11/2022 11 56 49

Receipt No L1/0/304981  
\*\*\*\*\* REPRINT \*\*\*\*\*

BPS PLANNING CONSULTANTS  
BALLINTONE  
GREENANE  
RATHDRUM  
CO WICKLOW

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

Total 80 00 EUR

Tendered  
Cheque 80 00

Change 0 00

Issued By Margaret Cullen  
From Customer Service Hub  
Vat reg No 0015233H



## Planning & Development Consultants

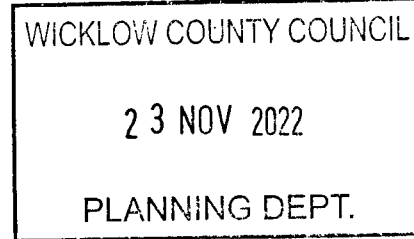
Planning Department,  
Wicklow County Council,  
County Buildings,  
Wicklow Town,  
County Wicklow

23 November 2022

Dear Sir/Madam,

087 261 5871  
01 539 4960  
info@bpsplanning.ie  
www.bpsplanning.ie

Ballinatone  
Greenan  
Wicklow  
A67W662



***Section 5 referral / exemption declaration. A question arises as to whether a residential chalet built to date in September and October 2022 on lands at Ballinatone Lower, Greenan, County Wicklow without the benefit of planning permission constitutes development or is exempted development and therefore whether planning permission is required.***

BPS Planning and Development Consultants LTD, a firm of Irish Planning Institute accredited town planning consultants has been retained by Brendan and Eileen Buck (hereafter referred to as "client" or "clients") of Ballinatone, Greenan, County Wicklow, A67 W662 to prepare and to lodge a Section 5 referral / exemption declaration application to Wicklow County Council (hereafter "WCC") regarding a new question which has arisen as to what is or is not development or exempted development on land adjoining their home property

The area of land adjoining our clients' home is owned by Kerrin Buck (hereafter "the adjoining landowner") whose postal address is currently that of his parents' which is Caroline and Tony Buck of Ballinatone Lower, Greenan, County Wicklow<sup>2</sup>

Section 10 of this Section 5 sets out a summary of the question which arises as to what is and what is not development and/or exempted development. This question is set out in more detail in Section 4.0. Section 2.0 sets out the location of the subject land relative to our clients' property, while Section 3.0 sets out the previous and current enforcement history of the site.

### **i Validation of this Section 5**

In terms of validation of this Section 5, we refer to Section 5—(1) of the Planning and Development Act 2000 (as amended) which states

*If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter*

Please find a cheque for e80 attached which is the statutory fee payable for a Section 5

To further support this Section 5 application, BPS has

- 1 Set out in this letter the question which has arisen in this case as to whether development undertaken on the lands the subject of this Section 5 is or is not development or is or is not exempted development within the meaning of this Act
- 2 Set out in this letter details including aerial photographs of the site and photographs of the matters the subject of the Section 5
- 3 Set out in this letter the planning history and enforcement history of this land – these are taken as read and copies are not provided herein but they can be provided on request
- 4 Attached OS Site Location Maps

We accept that WCC may need more detail and we note how under Section 5 (2) (b) "A planning authority may require any person who made a request under subsection (1) to submit further information with regard to the request in order to enable the authority to issue the declaration on the question "

However, we consider that the details required would be needed from the landowner. In this regard, we note how under Section 5 (2) (c) **"A planning authority may also request persons in addition to those referred to in paragraph (b) to submit information in order to enable the authority to issue the declaration on the question"** [emphasis added] and how Section 5 (7) sets out how "A planning authority, before making a declaration under this section, shall consider the record forwarded to it in accordance with subsection (6)(c)"

<sup>1</sup> Unauthorised tents on a piece of land cannot be considered a postal address

<sup>2</sup> This property is currently for sale at <https://search.savills.com/ie/en/property-detail/gbcounduy220018>

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5.1	Planning and Development Act 2000 (as amended)
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8.0	Krikke v Barranafaddock Sustainability Electricity Ltd – <u>the issue of unauthorised development</u>
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### 1.0 Section 5 question arising

The question over which this Section 5 is submitted is:

1. Whether a residential chalet built to date in September and October 2022 on lands at Ballinatone Lower, Greenan, County Wicklow without the benefit of planning permission constitutes development or is exempted development and therefore whether planning permission is required.

This question is set out in more detail in Section 4.0 of this letter.

This Section 5 is very important as there is currently a valid planning application lodged with WCC for retention and for development on the subject lands which arises from enforcement proceedings taken by WCC under enforcement file ref. UD5592. This new residential chalet development does not form part of this planning application.

### 2.0 The location of the subject lands relative to clients' property

Our clients live at Ballinatone Lower – see Figs. 1 and 2 - where they obtained planning permission in 2006 (under permission reg. ref. 06/6091) for a rural house which was revised in 2008 (under permission reg. ref. 08/47). This house has been completed since 2009 and is their home. The house has been completed for 14 years. If WCC would like to inspect any part of our clients' property and home at any time this would be welcomed. The records of our clients' two planning permissions are available at the offices of WCC.

The land the subject of this Section 5 adjoins our clients' property to the east. The subject land also adjoins our clients' access laneway. A previous Section 5 Declaration issued by WCC earlier in 2022 - Declaration EX 39/2022 – has confirmed that planning permission is needed to live continuously on the lands in a tent and/or to carry out any further development therein. This Section 5 Declaration and correspondence from the WCC Enforcement Section caused the lodgement of a planning application to WCC in 2022 under reg. ref. 22800. Further Information was requested in September 2022. Following receipt of this FI request, the landowner appears to have taken the opportunity offered by the 6 month period in which to submit the FI to create a residential chalet which is now mostly built. Previous enforcement proceedings required the removal of a permanently installed caravan on the site. The landowner appears to have now replaced this with a residential chalet

This Section 5 asks in effect whether the construction of the residential chalet does or does not require planning permission.



**Fig. 1: Location of client property relative to Ballinaclash**



**Fig. 2: Location of client property relative to subject lands**

### 3.0 Enforcement history of the landowner and this land

BPS notes that there have been enforcement cases pertaining to the subject land (see Appendix 1) arising from:

- The non-payment of development contributions that were, we understand, eventually paid.
- The installation of a mobile home on the site which was eventually removed by the landowner's father in 2015 after the site had been abandoned. The responsibility for living with the mess is repeatedly left for the landowner's parents and our clients to live with.

See WCC Enforcement File, reg. ref. UD/3237 and Enforcement Notice Order No. Enf. 1688/2010, Enf. 1846/2011, Enf. 3021/2014.

The decision of the landowner to live on the site in tents is contrary to the previous Enforcement Notice matters – an excerpt is provided in Fig. 3. The landowner was to cease any such use which BPS assumes would include living in tents on this land. It certainly would have included the residential chalet now mostly built on the subject lands.

<b>Reason for Service Of Enforcement Notice.</b>	<p><b>E.N. 09/09/14</b></p> <p><b>Within eight weeks of the date of this Enforcement Notice:</b></p> <ol style="list-style-type: none"> <li>1. Cease the use of the lands for the placement of a mobile home.</li> <li>2. Cease the residential use of the mobile home and desist from recommencing any such use</li> <li>3. Remove the mobile home from the lands and desist from replacing or relocating same in the vicinity of the lands in question and restore the lands to their condition prior to the commencement of the unauthorised development.</li> </ol> <p>Continued existence of unauthorised development as specified in the Enforcement Notice.</p>
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**Fig. 3: Abandonment of site for 9 years left it overgrown and full of trees and vegetation - this is now cleared**

### 3.1 Current Enforcement File – an Enforcement File was opened re. this site on the 3rd of May

The matters the subject of this Section 5 are already the subject of an Enforcement File opened on the 3<sup>rd</sup> of May - ref. UD5592. This Section 5 is lodged such as to determine what exactly does and does not require planning permission.

BPS notes how under Section 162-(1) 'Evidence of permission' of the Planning and Development Act 200 (as amended): "In any proceedings for an offence under this Act, the onus of proving the existence of any permission granted under Part III shall be on the defendant". We are unable to find any planning permission granted on this land since 2005 which was extended in 2011. There has been no valid planning permission on this site for over 9 years. There is no legal ambiguity in this instance and the landowner is fully in control over the ongoing unauthorised development.

Section 151 'Offence' of the Act states: "Any person who has carried out or is carrying out unauthorised development shall be guilty of an offence". Regarding penalties for offences, Section 156—(1) states (6):

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***In a prosecution for an offence under sections 151 and 154 it shall not be necessary for the prosecution to show, and it shall be assumed until the contrary is shown by the defendant, that the subject matter of the prosecution was development and was not exempted development [emphasis added].***

**This Section 5 is therefore critical to the proper assessment of whether the landowner is guilty of an offence under Section 151 of the Act.**

Further, we note how under Section 162-(2) the Act states: "Notwithstanding subsection (1) of this section, it shall not be a defence to a prosecution under this Part if the defendant proves that he or she has applied for or has been granted permission under section 34 (12)" ... and "Section 162-(3) states (3) No enforcement action under this Part (including an application under section 160 ) shall be stayed or withdrawn by reason of an application for retention of permission under section 34 (12) or the grant of that permission".

Recent correspondence from WCC Enforcement Section notes how no further action is to be taken until a decision is made under planning application reg. ref. 22800. Given the mostly constructed residential chalet, it is not clear how WCC Planning Department can continue to assess this planning application. This leaves our clients facing another approx. 4 months of witnessing ongoing unauthorised development.

**From:** Lynda Doherty <LDoherty@wicklowcoco.ie>  
**Sent:** Wednesday 4 May 2022 09:42  
**To:** info@bpsplanning.ie  
**Subject:** RE: Confirmation of ongoing unauthorised development at Ballinatone Lower, Greenan, County Wicklow

A Chara,

I wish to acknowledge your further submission and enclosures received on the 3<sup>rd</sup> May 2022 in relation to the above matter. A file will be established from the 3<sup>rd</sup> May 2022.

As previously advised and acknowledged by you, the Planning Authority due to the high volume of files cannot indicate when this matter will be investigated.

Mise le meas.

Lynda Doherty  
Planning Enforcement

#### **Fig. 4: Confirmation that an Enforcement File has again been re-opened regarding these lands**

### **4.0 Question over which this Section 5 referral application is submitted to WCC**

The following question arises for the purposes of this Section 5.

#### **4.1 Is planning permission required to build a residential chalet on the subject lands?**

Photos provided below in Figs. 5 to 10 confirm ongoing works pertaining to an emerging new habitable residential chalet structure being built out of wood and corrugated iron. Can WCC formally confirm that this is development and is not exempted development and therefore requires planning permission?

This structure has been built:

- By the landowner whose residential occupation of these lands in tents was found to require planning permission under WCC Declaration EX 39/2022.
- Using building materials (insulation, corrugated iron, timber, stone, etc.) the storage of which on site was declared to require planning permission under WCC Declaration EX 39/2022.

The structure is large with an insulated interior that is designed to be a chalet.

We ask that WCC declare this residential chalet to constitute development which is not exempted development.

It is also the intention of Brendan and Eileen Buck to refer this Section 5 to An Bord Pleanála for review such that if this matter ends up in the courts it has been fully reviewed at local and ABP levels.



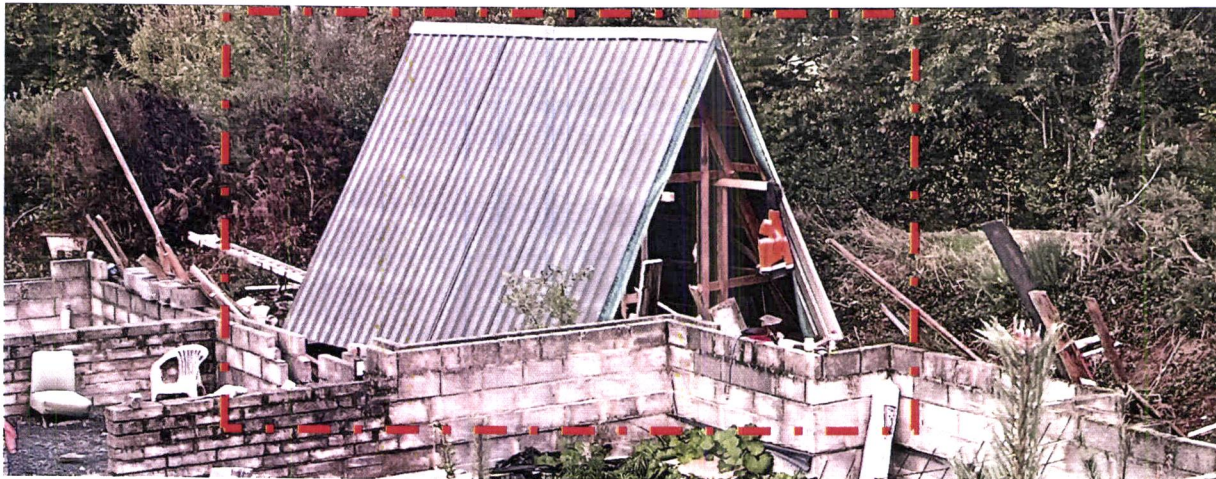
*Fig. 5: Photograph taken of the site using an iPhone camera on the 14<sup>th</sup> of November 2022 (1)*



*Fig. 6: Photograph taken of the site using an iPhone camera on the 14<sup>th</sup> of November 2022 (2)*



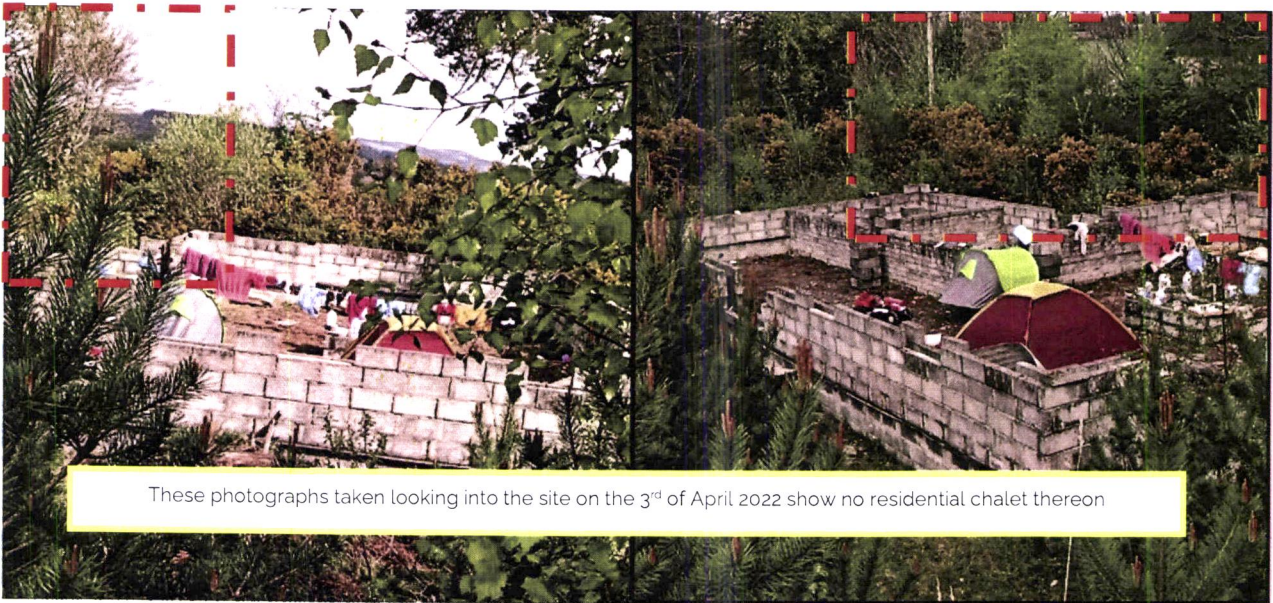
*Fig. 7: Photograph taken of the site using an iPhone camera on the 15<sup>th</sup> of October 2022 (1)*



*Fig. 8: Photograph taken of the site using an iPhone camera on the 15<sup>th</sup> of October 2022 (2)*



**Fig. 9: Photograph taken of the site using an iPhone camera on the 15<sup>th</sup> of October 2022 (3)**



These photographs taken looking into the site on the 3<sup>rd</sup> of April 2022 show no residential chalet thereon

**Fig. 10: Tents erected on the site with no residential chalet under construction**

## 5.0 Statutory Provisions

### 5.1 Planning and Development Act 2000 (as amended)

#### Section 2(1)

In this Act, except where the context otherwise requires—

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

“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, 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

4—(1) The following shall be exempted developments for the purposes of this Act – (a) development consisting of the use of any land for the purposes of agriculture and development consisting of the use for that purpose of any building occupied together with land so used.

## **5.2 Planning and Development Regulations, 2001 (as amended)**

### PART 2 - Exempted Development

#### 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 – ... (see Section 9.3 of this report)

### Schedule 2

Part 1 Exempted Development – General (see Section 9.2 of this report)

## **6.0 The question of "Development"**

The erection of a residential chalet comes within the definition of "development" in section 3 of the Act. It is evident, therefore, that the erection of the residential chalet shown in Figs. 5 to 10 constitutes "development" for the purposes of the Planning and Development Act under section 3, involving the carrying out of works on, in, over and under land

## **7.0 The question of "exempted Development"**

There is no exemption for a residential chalet contained in Section 4 of the Planning Act 2000

The works are not exempted development under the Act or under the Planning Regulations 2001 (as amended) In particular, the works are not exempt under SCHEDULE 2, ARTICLE 6, PART 1 'Exempted Development – General', 'Development within the curtilage of a house' does not apply as the land has no planning permission and is not a dwelling and Part 3 does not permit rural dwellings without planning permission. We note in particular how Article 9 of the Planning Regulations 2001 (as amended) includes the following 'Restrictions on exemption'.

***Restrictions on exemption. 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 the Act or be inconsistent with any use specified in a permission under the Act, 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 ... [emphasis added]***

The ongoing unauthorised works on the site are contrary to planning conditions attached to the previous grant of planning permission including the permitted duration of those permissions and the ongoing works are alteration works to what is now an unauthorised structure and an unauthorised use.

## **8.0 Krikke v Barranafaddock Sustainability Electricity Ltd – the issue of unauthorised development**

BPS acknowledges how under *Krikke v Barranafaddock Sustainability Electricity Ltd*<sup>3</sup> the Court of Appeal held that under section 5 of the PDA, a declaration from the planning authority can only decide on what "development" and/or "exempted development" is. The Court added that the decision-making authority of the Board or the planning authority under section 5 does not extend to making declarations regarding "unauthorised development"

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<sup>3</sup> [2019] IEHC 825

Section 5 does not therefore ask WCC to determine if the residential chalet constitutes unauthorised development. Its purpose is to confirm that planning permission is required for this chalet and to show how it was built 'after' a planning application for retention of development required to address other unauthorised development had been submitted under reg. ref. 22800.

It is for WCC to determine how to proceed to use the results of this Section 5. As to there being sufficient evidence to move forward with further enforcement proceedings BPS notes how the landowner has misused WCC Enforcement and Planning by promising the former he would desist from unauthorised development while seeking retention permission under reg. ref. 22800 and he has not. Then he has misused the latter by submitting plans and details under planning application, reg. ref. 22800 which are no longer valid.

Correspondence from WCC Enforcement received by Brendan and Eileen Buck state an intention to wait for the WCC Planning Department decision under planning application reg. ref. 22800, yet how can a decision be made when this may consolidate unauthorised development?

The implications of this residential chalet for WCC are clear:

1. Further unauthorised works have been carried out. These works are not exempted development under the Planning Acts or Regulations. The current planning application is no longer compliant with the Planning and Development Regulations 2001 (as amended) as the site contains new unauthorised development.
2. Unauthorised works now include the creation of what is clearly to be an emerging habitable chalet structure which in the absence of enforcement action will remain on site for many years. This chalet structure is built with insulation panels, corrugated iron, built on a hardcore foundation, has a pipe connecting to a non-functioning septic tank, etc.
3. The recent planning application currently out on Further Information is now void - see reg. ref. 22800 - because, as WCC is aware, a Planning Application Form is a statutory declaration confirming that everything which has been submitted is accurate. This cannot be the case when there is an emerging habitable dwelling being built on the site in flagrant disregard for any and all planning permission requirements. This planning application would now, if permitted consolidate unauthorised development. There is no further legal basis for BPS to make a submission to WCC Planning Department regarding this. We therefore trust that WCC is now fully aware of this new unauthorised development.
4. The new emerging habitable chalet structure seeks to ignore the fact that WCC Enforcement Section previously issued an Enforcement Notice regarding an unauthorised mobile home on this site which was eventually dismantled by the landowner's parents to avoid legal proceedings. See WCC Enforcement File, reg. ref. UD/3237 and Enforcement Notice Order No. Enf. 1688/2010, Enf. 1846/2011, and Enf. 3021/2014. The decision of the landowner to live on the site in one or more tents on the site and now to build this emerging habitable dwelling is in flagrant disregard of the previous Enforcement Notice. That the landowner's parents spent time removing the previous unauthorised mobile home only for a de facto immobile home to be built in its place is hard to understand.

WCC has confirmed that an Enforcement File is already open regarding this matter. It is now clear how the landowner has only made a retention application to try to stall enforcement proceedings so as to install a de facto immobile home on these lands.

As to there being sufficient evidence to move forward with further enforcement proceedings:

- We trust that there is no need to supply further evidence of the appearance of these lands prior to the landowner returning to Ireland in March/April of 2022 as this is available on Google Earth and on file at WCC offices arising from the previous multiple enforcement cases.
- We trust that there is no need to provide proof of further development on and habitation of these lands as this has been previously submitted to WCC Enforcement in 2022 and was submitted to WCC Planning Department as part of Section 5 Declaration EX 39/2022 and our objection to WCC planning application reg. ref. 22800.

<b>Reason for Service Of Enforcement Notice.</b>	<b>E.N. 09/09/14</b>
	<b>Within eight weeks of the date of this Enforcement Notice:</b>  <ol style="list-style-type: none"><li>1. <b>Cease the use of the lands for the placement of a mobile home.</b></li><li>2. <b>Cease the residential use of the mobile home and desist from recommencing any such use</b></li><li>3. <b>Remove the mobile home from the lands and desist from replacing or relocating same in the vicinity of the lands in question and restore the lands to their condition prior to the commencement of the unauthorised development.</b></li></ol> <b>Continued existence of unauthorised development as specified in the Enforcement Notice.</b>

**Fig. 11: Details of previous Enforcement Notice in respect of a mobile home**

- We trust that there is no need to set out further details regarding what does and does not require planning permission and/or what is or is not unauthorised development as this is set out in WCC Section 5 Declaration EX 39/2022). The Section 5 makes clear that any further development on the site requires planning permission. This would of course include a new habitable chalet structure
- The photographs provided in Figs 5 to 10 of this letter show the disrespect the landowner has shown for the requirements of the Planning Acts, for WCC Enforcement Section and for WCC Planning Department
- WCC planning application reg ref 22800's drawings and details are wholly at odds with the current appearance of the site now containing a residential chalet.
- The landowner is a serial offender as it comes to unauthorised development – this is undeniable

We reasonably ask that the Enforcement Section require ongoing unauthorised works to construct a residential chalet to cease on these lands and that all ongoing habitation be stopped. The residential chalet should be dismantled and removed as was the previous unauthorised mobile home

### **8.1 Katie Fortune vs. Wicklow County Council, Wicklow County Council v Kinsella, etc.**

Concerns arise that if this matter is allowed to continue for much longer and the structure becomes used as a dwelling then the decision of the High Court in *The County Council of the County of Wicklow v Katie Fortune* [2012] IEHC 406 raises genuine concerns regarding the possible 'inviolability' of a dwelling under Article 40.5 of the Constitution<sup>4</sup>. The landowner may argue that they should be afforded constitutional protection for dwelling under art 40.5 of the Constitution

Under *Wicklow County Council v Kinsella* [2015] IEHC 229,<sup>5</sup> Mr Justice Kearns P granted an order for the demolition of an unauthorized chalet. While the decision of Justice Kearns recognised that it was bound to follow the decisions of other High Court judges including in the Fortune case, he nonetheless, found compelling reasons to depart from the judgment of Hogan J. in said Fortune case. The Court expressed its dissent from the judgment to the extent that the planning authority must objectively justify its decision to enforce procedures irrespective of the conduct of the respondent. The Court opined that the jurisdiction conferred by s 160 of the Planning and Development Act 2000 was a special statutory original jurisdiction. The Court held that the scheme of the Act envisaged an effective planning control, which ultimately depended upon public compliance. The Court was not precluded to take wide factors into account, viz personal hardship, impact of development on others, prospect of retention permission being forthcoming and prolonged unauthorized use, while scrutinizing the planning decisions.

The Court held that citizens who flouted planning rules could not claim immunity under art 40.5 of the Constitution because acceding to such conduct would lead to erection of haphazard and dangerous developments, undermining the scheme of the Act of 2000, giving rise to a free-for-all development culture. The Court found that the respondents despite being aware of the unauthorized status of the chalet had proceeded to construct the same in ignorance of warning letters issued to them in anticipation of the traffic hazard and therefore could not seek protection under the clout of the Fortune case.

BPS understands WCC as the planning authority and enforcement authority in both cases is wholly aware of the above cases and will acknowledge the need to:

- Issue an Enforcement Notice under Section 154 —(1) (a) of the Planning and Development Act 2000 (as amended) which states that "Where a decision to enforce is made under section 153 or where urgent action is required under section 155, the planning authority shall, as soon as may be, serve an enforcement notice under this section"; or

if necessary, (as it was under *Wicklow County Council v Kinsella* [2015]),

- Seek an order under s 160(1) of the Planning and Development Act 2000 (as amended)

This would achieve the objective of restraining the landowner from continuing with an unauthorised development of these lands which now includes a part built residential chalet and it would achieve this before it becomes fully inhabited as a dwelling thereby avoiding any possible defence under *Katie Fortune vs Wicklow County Council* and the protection for a dwelling under art 40.5 of the Constitution

#### **8.1.1 Factors taken into account by Mr. Justice Kearns P.**

While many people wish to build rural houses, there is a planning process to be followed. This process was not followed by Katie Fortune. This story made national news and led to the entirety of rural housing planning policies being challenged by Mr. Justice Hogan's interpretation of the primacy of art 40.5 of the Constitution. Many believe that sympathy with the Fortune family's predicament was at the root of the Justice Hogan judgement.

<sup>4</sup> <https://ie.vlex.com/vid/wicklow-county-council-v-793949065>

<sup>5</sup> [2015] IEHC 229

The current case is another where some may feel sympathy toward the landowner. Under *Wicklow County Council v Kinsella* [2015] IEHC 229,<sup>6</sup> Mr Justice Kearns P. held that the scheme of the Act envisaged an effective planning control, which ultimately depended upon public compliance. The Court was not precluded to take wide factors into account, viz.

- "personal hardship" – the landowner has lodged a planning application which portrays him as an employed and self-employed man of means who runs a business and can finance the building of a home which would cost approx €500,000 to €750,000. It is therefore unclear how on earth this man needs to live in a tent on these lands with his family. While these living circumstances suggest homelessness, this is denied by the planning application's claims. The current situation appears to be all part of an act. If it is not an act, and living on these lands cannot be good for the landowner and his family which includes a small child. We respectfully submit that there are supports available from the Department of Social Protection and Wicklow County Council which would provide money and housing. There is no justification for our family to have to tolerate the current situation with a family camping next door in mud, waste, and unauthorised development – with no running water or sanitation.
- "impact of development on others" – we have had to tolerate ongoing incomplete development and unauthorised development since 2005. Our property and our family have been blighted by this behaviour. The unauthorised development dating back years on this site has meant we cannot get on with our lives. We cannot properly complete our entrance, our driveway, installing property drainage on the driveway, etc. It has and will continue to impact our property value. It has extended building impacts on us including noise for vastly longer than the 5 years of a standard planning permission. We live alongside a mess with spoil heaps visible by any person who visits our property. This matter is having a constant negative impact on us and our family. Concerns genuinely arise as to lack of sanitation on the subject lands and the need to protect our water supply at this location. Our well is sited only a short distance from these adjoining lands, etc. Were this happening in a denser populated area we anticipate that there would be many complainants. That we find ourselves as the only ones is because we are the ones most impacted – the only adjoining neighbours not willing to be bullied.
- "prospect of retention permission being forthcoming" – We submit that arising from this new residential chalet there can be no reasonable expectation that WCC would grant retention permission. We leave WCC to decide how to assess the behaviour of a repeat offender. We only note how Section 35 of the Act (as amended) offers some guidance here. Section 35 (1) asks WCC to consider refusal of reg. ref. 22800 for "past failures to comply".

*35—(1) Where, having regard to— (a) any information furnished pursuant to regulations made under section 33 (2)(l), or (b) any information available to the planning authority concerning development carried out by a person to whom this section applies, pursuant to a permission (in this subsection and subsection (2) referred to as a "previous permission") granted to the applicant or to any other person under this Part or Part IV of the Act of 1963, the planning authority is satisfied that a person or company to whom this section applies is not in compliance with the previous permission, or with a condition to which the previous permission is subject, the authority may form the opinion— (i) that there is a real and substantial risk that the development in respect of which permission is sought would not be completed in accordance with such permission if granted or with a condition to which such permission if granted would be subject, and (ii) that planning permission should not be granted to the applicant concerned in respect of that development. (2) In forming its opinion under subsection (1), the planning authority shall only consider those failures to comply with any previous permission, or with any condition to which that permission is subject, that are of a substantial nature. (3) An opinion under this subsection shall not be a decision on an application for permission for the purposes of this Part. (4) Where the planning authority has formed an opinion under subsection (1), the planning authority shall apply, by motion on notice to the person to whom the opinion concerned relates, to the High Court for an authorisation to refuse permission. [emphasis added]*

Given the chalet now mostly constructed on these lands which is wholly unauthorised and forms no part of any previous planning permission or any part of planning application, reg. ref. 22800 and given the previous multiple Enforcement Notices issued by WCC to the landowner, we submit that the current planning application cannot be completed as per the planning application. This being the case, no retention permission can reasonably be considered likely or even legal, so Section 35 applies. Mr. Justice Kearns P. could find no possible comfort in planning application, reg. ref. 22800 and, reasonably, would be unlikely to find much in the landowner's behaviour whereby a retention planning application is lodged and while it is being assessed more and significant unauthorised development is proceeded with. One might do as far as stating that the behaviours would, if undertaken during a court case, be considered contempt. The landowner's contempt for WCC and its powers to stop him doing as he pleases is clear in the unauthorised chalet now built on the subject lands.

- 'prolonged unauthorised use' – The subject site has been in various states of unauthorised development for many years with a period when unauthorised mobile home was lived in on these lands. There is currently no planning permission on the site for anything and yet a chalet has now been built. One can only reasonably conclude that Mr Justice Kearns P. would review the landowner's planning and enforcement history with little sympathy.
- 'scrutinizing the planning decisions' – Mr. Justice Kearns P. would find no planning permission for the chalet now built on site. No permission for the landowner to live on the site in a tent and no planning permission for any works on the site. He would find a site beset by planning issues and enforcement concerns since 2005. He would, one assumes, think that enough is enough. The landowner had his chances to behave in a planning compliant manner and has chosen to behave instead with contempt for those requirements.

For the reasons given above, we do not believe there should be any sympathy for the landowner as none would likely be offered by the courts arising from the building of a residential chalet in clear contempt of the current planning application being assessed by WCC. This retention application follows enforcement proceedings which have – we assume – been paused pending the

<sup>6</sup> [2015] IEHC 229



outcome of this planning application. There is clearly no longer any basis for pausing enforcement proceedings in the face of this most recent instance of unauthorised development which continues as does the landowner living in tents and storing building materials and waste on these lands.

## 9.0 Conclusion

Our clients have experienced a long journey living alongside the lands the subject of this Section 5 WCC Declaration EX 39/2022 essentially found that there is nothing to be done about what are not the de facto derelict works carried out on the site under a previous planning permission and then abandoned. However, it was found that a new planning permission is required to carry out any further works on the subject lands, to establish a residential use, to store building materials and to erect and to live on this land in tents.

WCC Enforcement Section has clearly corresponded with the landowner regarding unauthorised development on many occasions but most recently under Enforcement File, reg ref UD5592 This caused the lodgement of retention planning application reg ref. 22800 The landowner appeared to be cooperating with WCC Further Information was required in September and almost on receipt of this by the landowner hammering began within the subject lands This hammering continued for weeks and has resulted in a new residential chalet being built. Previous WCC Section 5 Declaration EX 39/2022 found that any further development would require planning permission

This Section 5 asks WCC Planning Department to confirm this and to determine that the 'as-built' residential chalet requires planning permission This is the role of a Section 5

If the Section 5 finds the 'as-built' residential chalet to require planning permission, then WCC Enforcement Section can use this as the basis for further enforcement proceedings The Section 5 also confirms that any decision made by the WCC Planning Department to permit planning application, reg ref 22800, would consolidate unauthorised development

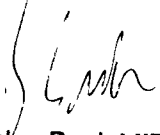
## 10.0 Finally

We trust that sufficient information has now been provided to allow this Section 5 to be fully assessed.

Please direct all correspondence to this office

If you have any questions, please call BPS on 01-5394960 or 087-2615871

Best wishes,



**Brendan Buck MIPI**  
**Director**

**BPS Planning Consultants LTD**  
**Member of the Irish Planning Institute**

Encl. (i) Copy of WCC Section 5 Declaration EX 39/2022, and (ii) Correspondence from WCC Enforcement Section regarding the building of a residential chalet on the subject lands from September 2022 onwards



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: Eileen and Brendan Buck

Address of applicant: Ballinatone Lower, Greenan, County Wicklow, A67W662.

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

**2. Agents Details (Where Applicable)**

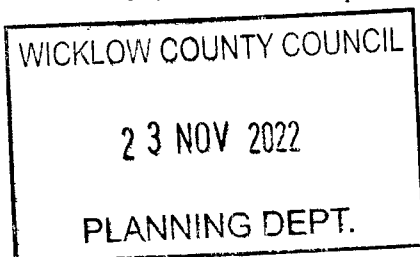
(b) Name of Agent (where applicable): BPS Planning Consultants LTD.

Address of Agent: Ballinatone Lower, Greenan, County Wicklow, A67W662.

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

**3. Declaration Details**

- i. Location of Development subject of Declaration: Ballinatone Lower, Greenan, County Wicklow, A67W662.
- ii. Are you the owner and/or occupier of these lands at the location under i. above?  
No.
- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier: Kerrin Buck, Ballinatone Lower, Greenan, County Wicklow (a tent).
- 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:

The questions over which this Section 5 is submitted are (see cover letter):

1. Whether a residential chalet built to date in September and October 2022 on lands at Ballinatone Lower, Greenan, County Wicklow without the benefit of planning permission constitutes development or is exempted development and therefore whether planning permission is required.

These questions are set out in more detail in the attached letter.

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

Planning and Development Act 2000:

Section 3 'Development'.  
Section 4 'Exempted development'.  
Section 32 'General obligation to obtain permission'.  
Section 33 'Regulations regarding applications for permission'.  
Section 34 'Permission for development'.  
Section 40 'Limit of duration of permission'.  
Section 41 'Power to vary appropriate period'.  
Section 42 'Power to extend appropriate period'.  
Section 43 'Regulations regarding sections 40, 41 and 42'.  
Section 48 'Development contributions'.  
Part 8 'Enforcement'.

Planning and Development Regulations 2001-2021 (consolidated version)

Part 2 'Exempted Development'.  
Article 9 'Restrictions on Exemptions'.  
Part 4 'Control of Development'.  
Schedule 2.

- 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 Plan (OS).  
Site Plan (OS).  
Photographs of the site.

All previous drawings pertaining to this land and previous planning permissions are available on WCC planning file, reg. ref. 053286 and a subsequent Extension

of Duration Permission file, reg. ref. 114667.

There is a current enforcement file open for these lands and this landowner ref. UD5592.

Recent plans and details have been lodged to WCC under planning application reg. ref. 22800.

There is no way to offer any more than the photographs in the attached letter without trespassing on the site.

viii. Fee of € 80 Attached? Receipt from WCC for e80 attached

Signed : \_\_\_\_\_ Dated : \_\_\_\_\_

**+ADDITIONAL CONTACT INFORMATION**  
**NOT TO BE MADE AVAILABLE WITH APPLICATION**

**Please note:**

- This page will not be published as part of the planning file.

**Applicant:**

<i>Telephone No</i>	_____
<i>Email Address</i>	_____
<i>Fax No.</i>	n/a _____

**Person/Agent acting on behalf of the Applicant (if any):**

<i>Telephone No.</i>	_____ )
<i>Email Address (if any)</i>	_____
<i>Fax No. (if any)</i>	_____

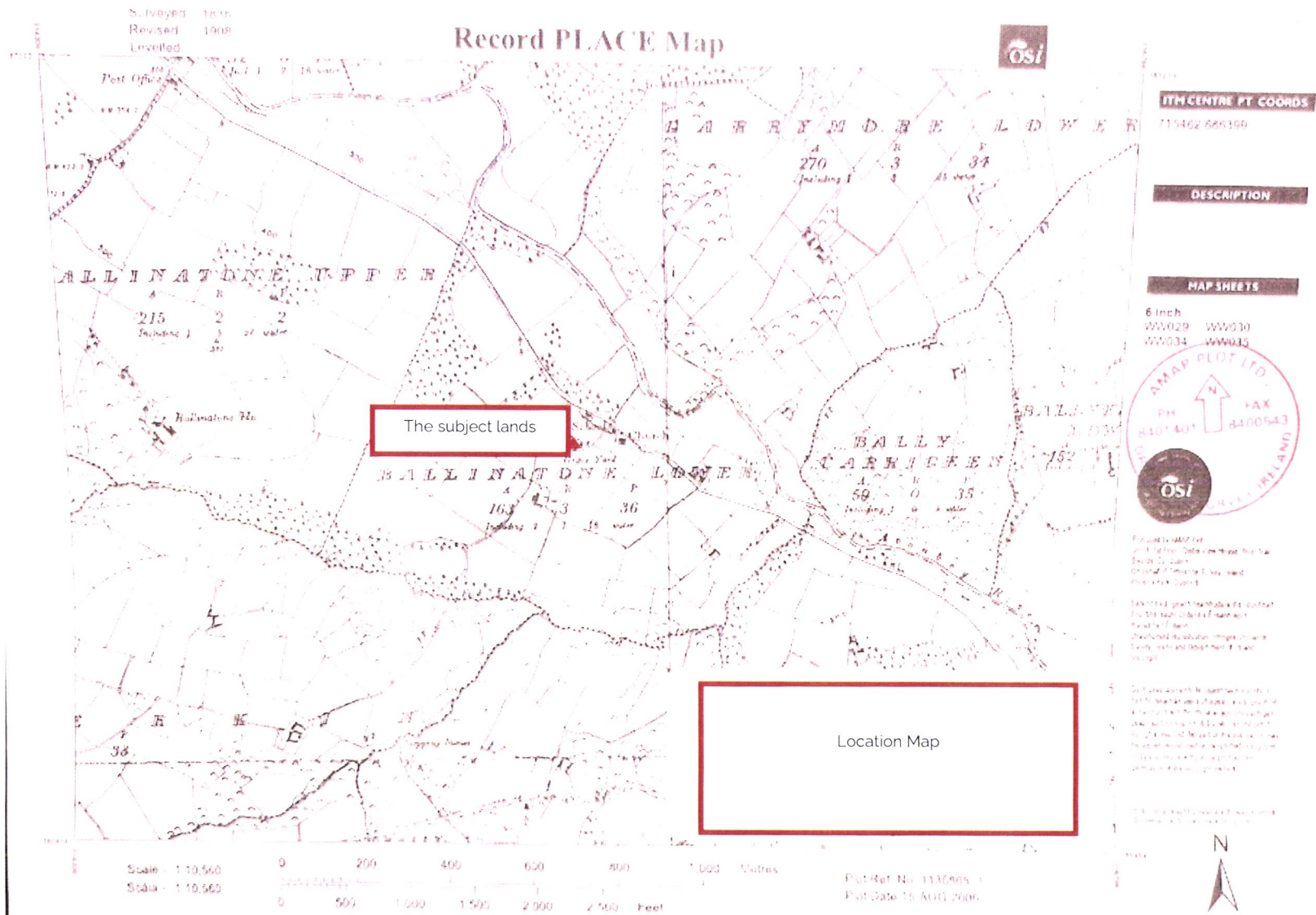


Fig. 1: Location of the subject land (1)



Fig. 2: Location of the subject land (2)