

WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

Director of Services Order No: 1999/2022

Reference Number: EX 76/2022

Name of Applicant: Mairead Kelly C/O John Burgess, Burgess Construction

Nature of Application: Section 5 Referral as to whether "The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling at Edward St, Baltinglass, Co Wicklow" is or is not exempted development.

Location of Subject Site: Edward St, Baltinglass, Co Wicklow

Report from Andrew Spencer AP & Suzanne White SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling at Edward St, Baltinglass, Co Wicklow" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:


- The details received with this Section 5 application (EX76/2022) on the 24th November 2022.
- Sections 2, 3, and 4 of the Planning and Development Act 2000(as amended).
- Article 6(1) of the Planning and Development Regulations, 2001, (as amended).
- Article 9 of the Planning and Development Regulations, 2001(as amended).
- Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

1. The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
2. The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling accords with the provisions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) and therefore is exempted development.

Recommendation

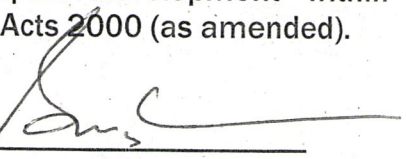
The Planning Authority considers that "The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling at Edward St, Baltinglass, Co Wicklow" is development and is exempted development as recommended in the planning reports.

Signed  Dated 15th day of December 2022

ORDER:

That a declaration to issue stating:

That "The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling at Edward St, Baltinglass, Co Wicklow" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: 
2022

Dated 19th day of December 2022

Director of Services
Planning Development & Environment



COMHAIRLE CONTAE CHILL MhANTÁIN
Wicklow County Council

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

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

Mairead Kelly
C/O John Burgess
Burgess Construction Services Ltd
Raheenbawn
Kildavin
Bunclody
Co Wexford

13th December 2022

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

I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000 in respect of the following:

Exemption Ref No: EX 76/2022

Applicant: Mairead Kelly C/O John Burgess, Burgess Construction

Nature of Application: "The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling at Edward St, Baltinglass, Co Wicklow"

Location: Edward St, Baltinglass, 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

Áras An Chontae / County Buildings
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Suíomh / Website: www.wicklow.ie

Forbairt Pleanála agus Comhshaol Planning Development and Environment

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

Applicant: Mairead Kelly C/O John Burgess, Burgess Construction

Location: Edward St, Baltinglass, Co Wicklow

DIRECTOR OF SERVICES ORDER NO: 1999/2022

A question has arisen as to whether "The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling at Edward St, Baltinglass, Co Wicklow" is or is not exempted development.

Having regard to:

- The details received with this Section 5 application (EX76/2022) on the 24th November 2022.
- Sections 2, 3, and 4 of the Planning and Development Act 2000(as amended).
- Article 6(1) of the Planning and Development Regulations, 2001, (as amended).
- Article 9 of the Planning and Development Regulations, 2001(as amended).
- Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

1. The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
2. The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling accords with the provisions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) and therefore is exempted development.

The Planning Authority considers that "The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling at Edward St, Baltinglass, Co Wicklow" is development and is exempted development.

Signed: 

ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 3rd December 2022



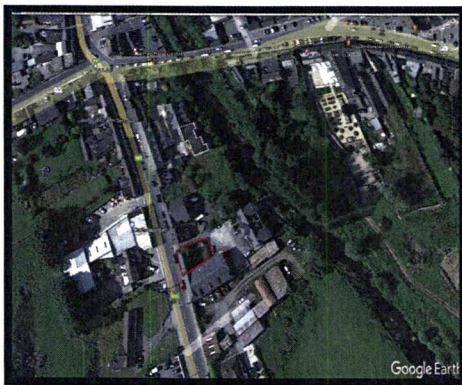


**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

Section 5 – Application for declaration of Exemption Certificate

REF: EX 76/2022
NAME: MAIREAD KELLY
DEVELOPMENT: LESS THAN 24SQM EXTENSION TO REAR OF DWELLING.
LOCATION: RIVERVIEW, CARRIGEEN, BALTINGLASS.

The Site: Existing 2-storey semidetached house located on Edward Street (N81), in the centre of the town of Baltinglass.



Planning History (subject site): None.

Planning History (adjoining building):

PI Ref 041657	Const. 6 apts and partially demolish existing building and rebuild two apts and 1 office on first floor and commercial / office units on ground floor.	Grant
PI Ref 138859	Amalgamation of two ground floor retail units granted under pl. re. no. 04/1657 and change of use of those units from retail use to use as a small animal veterinary clinic/surgery incorporating a veterinary retail shop and all associated site works	Grant

Question:

The applicant has applied to see whether or not the following is or is not development; and is or is not exempted development:

- 1) The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling.

Legislative Context:

Planning and Development Act, 2000 (as amended):

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 2(1) of the Act states the following in respect of the following:
 'Works' include "Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

Section 4 sets out the types of works that while considered 'development', can be considered '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 details a number of circumstances under which the development to which Article 6 relates shall not be exempted development for the purposes of the Act - *None are considered applicable in this instance.*

Schedule 2: Part 1

<p>CLASS 1</p> <p>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.</p>	<p>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</p> <p>(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.</p> <p>(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</p> <p>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.</p> <p>(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.</p> <p>(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.</p> <p>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p> <p>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</p>
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	<p>exceed the height of the rear wall of the house.</p> <p>(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.</p> <p>(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.</p> <p>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.</p> <p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p> <p>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</p> <p>(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.</p> <p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>
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Assessment:

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 for the construction of a 2-storey extension with a GFA of 24sqm involves works and therefore constitutes development.

The second assessment is to determine whether or not the works would be exempted development under the Planning and Development Act 2000 (as amended) or it's associated Regulations.

The development is the type of development which could come under Class 3 of the Planning & Development Regulations 2001.

Development Description:

1). The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling.

Relevant Conditions and Limitations:

1. (a) Floor area does not exceed 40 square metres? Yes.
- (b) First floor area doesn't exceed 12sqm for semidetached dwelling? Yes.
2. Total area of extensions since 1/10/1964 doesn't exceed 40sqm? Yes
3. Above ground floor extension not less than 2m from boundary wall? Yes.
4. (a) Height of the walls of any such extension shall not exceed the height of the rear wall of the house? – Yes.
5. Open space to the rear of the house reduced to less than 25 square metres? No.
6. (a) Window proposed at ground level not less than 1 metre from the boundary it faces? Yes
- (b) Window proposed above ground level not less than 11 metres from the boundary it faces? N/A - no first floor boundary facing windows proposed.
7. Roof used as balcony or roof garden? No.

Recommendation:

As the proposed extension meets the relevant conditions and limitations as above it is considered as a consequence that the proposed development comes within the scope of Schedule 2 Part 1 Class1 of the Planning and Development Regulations 2001 (as amended).

With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether or not the construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling at Riverview, Carrigeen, Baltinglass, Co. Wicklow is or is not development; and is or is not exempted development:

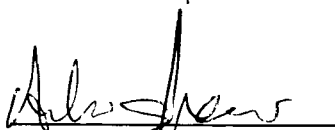
The Planning Authority considers that the construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling is development and is exempted development.

Main Considerations with respect to Section 5 Declaration:

- The details received with this Section 5 application (EX76/2022) on the 24th November 2022.
- Sections 2, 3, and 4 of the Planning and Development Act 2000(as amended).
- Article 6(1) of the Planning and Development Regulations, 2001, (as amended).
- Article 9 of the Planning and Development Regulations, 2001(as amended).
- Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

- 1) The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
- 2) The construction of a 2-storey extension with a GFA of 24sqm located to the rear of the dwelling accords with the provisions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) and therefore is exempted development.



Andrew Spencer
Assistant Planner

Agreed
13/12/22

13/12/2022

with new
E.C.
O.S.
14/12/22

MEMORANDUM

WICKLOW COUNTY COUNCIL

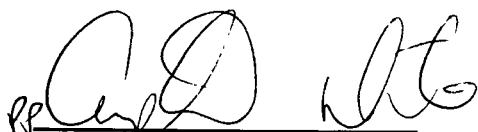
TO: Andrew Spencer
Assistant Planner

FROM: Crystal White
Assistant Staff Officer

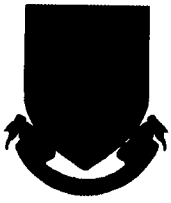
**RE:- EX 76/2022 - Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended)
Purposed development is less than 24M2 in area and to the rear of the
existing dwelling at Edward St, Baltinglass, Co Wicklow, W91 H7V7**

I enclose herewith for your attention application for Section 5 Declaration received 24th of November 2022.

The due date on this declaration is the 20th of December 2022.



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
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco.ie
Suíomh / Website: www.wicklow.ie

28/11/2022

Mairead Kelly
C/O John Burgess
Burgess Construction Services Ltd
Raheenbawn
Kildavin
Bunclody
Co Wexford

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 64/2022
Purposed development is less than 24M2 in area and to the rear of the existing dwelling at Edward St, Baltinglass, Co Wicklow, W91 H7V7

A Chara

I wish to acknowledge receipt on the 24th 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 21/12/2022.

Mise, le meas

SENIOR EXECUTIVE OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT



Wicklow County Council
County Buildings
Wicklow
0404-20100

23/11/2022 15 29 29

Receipt No L1/0/305008
***** REPRINT *****

Mairead Kelly
Edward street
Baltinglass
w91 h7v7

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

Total	80 00 EUR
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Tendered	
Credit Card	80 00

Change	0 00
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Issued By Margaret Cullen
From Customer Service Hub
Vat reg No 0015233H

WICKLOW COUNTY COUNCIL

24 NOV 2022

PLANNING DEPT.



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: Mairéad Kelly

Address of applicant: Riverview, Carrigeen, Baltinglass, Co. Wicklow.
W91 NH42

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

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) JOHN BURGESS
BURGESS CONSTRUCTION SERVICES LTD.

Address of Agent : Raheenbawn, Kildavin, Bunclody, Co. Wexford

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

3. Declaration Details

i. Location of Development subject of Declaration Edward St, Baltinglass, Co.
Wicklow. W91 H7V7

ii. Are you the owner and/or occupier of these lands at the location under i. above ?
Yes/ No.

iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier _____

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 _____

THE PROPOSED DEVELOPMENT IS LESS THAN 24M2 IN AREA AND TO THE REAR OF THE EXISTING BUILDING

Additional details may be submitted by way of separate submission.

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

SECTION 5 PLANNING AND DEVELOPMENT ACT 2000

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 LAYOUT
FLOOR PLANS AND SECTION
ELEVATIONS
SITE LOCATION MAP

viii. Fee of € 80 Attached ? _____

Signed : Mairéad Kelly Dated : 23/11/22

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.

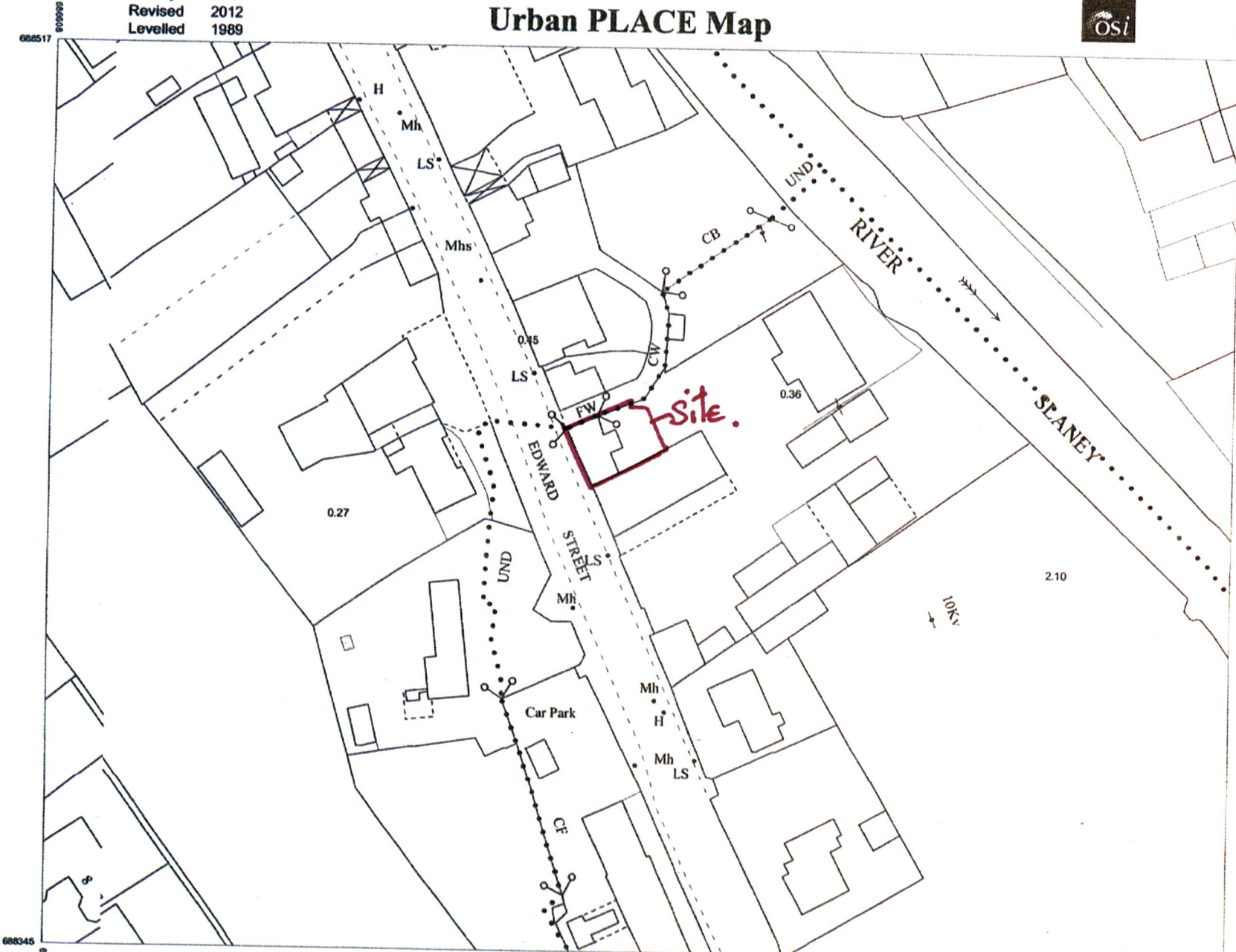
Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

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.

Surveyed 1990
 Revised 2012
 Levelled 1989

Urban PLACE Map



ITM CENTRE PT COORDS

686724,688431

DESCRIPTION

MAP SHEETS

1:1000
 4127-14



Arna thionscáil agus arna bhreithiú ag Suirbhéireacht Ordnáns Éireann. Páirc an Fhionnaisce, Sallán Átha Cliath 2, Éire.
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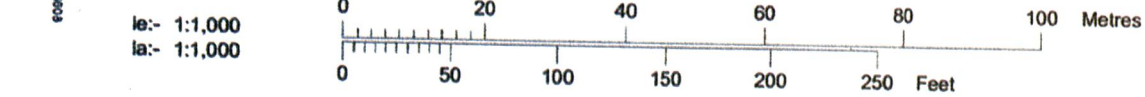
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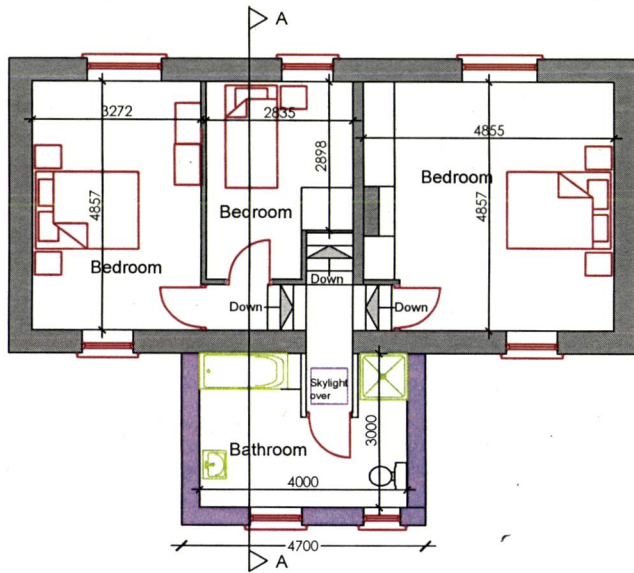
Ní hionann breithneáil, breithneáil nó coisneáil a bheith ar an tsaothair seo
 agus éinneáil ar chloipeáil. The representation on this map of a
 road, track or footpath is not evidence of the existence of a
 right of way.

Ní hionann breithneáil a chloipeáil de chuid Ordnáns Stáitbheireacht na
 hÉireann nó ar an bhreis a chloipeáil de mhianáil, ná
 ceadnóidh de gheallúirí Bialóga.
 Ordnance Survey maps never show legal property boundaries,
 nor do they show ownership of physical features.

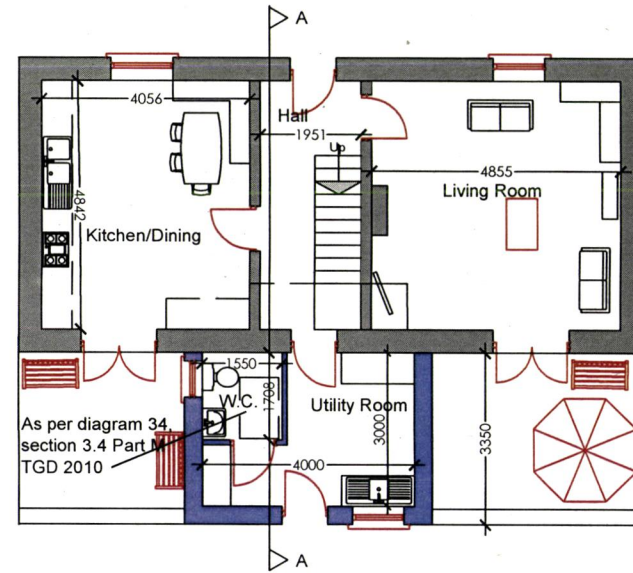
© Suirbhéireacht Ordnáns Éireann, 2013
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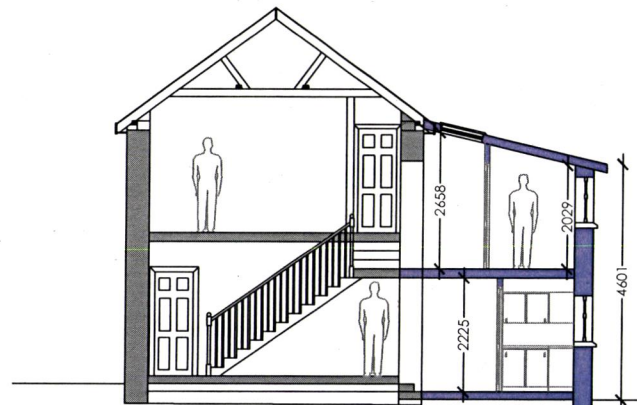
Plot Ref. No. 19647641_1_1
 Plot Date 12-NOV-2013



First Floor Layout 12.00M2



Ground Floor Layout 12.00M2



Section A-A

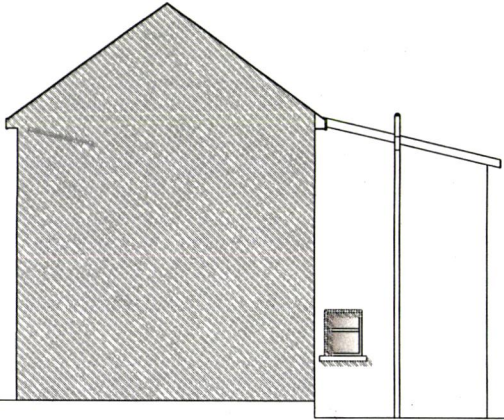
NEW BUILD
IN BLUE

NO.	DATE	DESCRIPTION	BY	CHKD

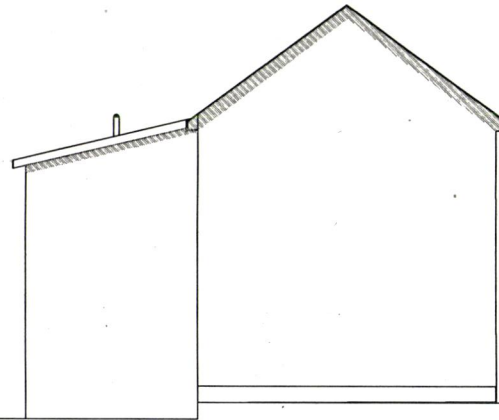
client: Maired Kelly & Petr Voracek
 project: EDWARD STREET
 BALINGLASS
 CO. WICKLOW
 scale: 1/100 @ A3
 drawn: checked: date: 10-11-2022

B
BURGESS
 CONSTRUCTION SERVICES LTD.
 DESIGN • BUILD • RENOVATE
 Raheen, Kildare, Buncraddy, Co. Wicklow.
 MOBILE: +353-083-271888
 EMAIL: info@burgess.ie

FLOOR PLANS & SECTION
 drawing no: 222.21.02 issue: Planning



Side Elevation



Side Elevation



Rear Elevation



Front Elevation

Client:	Mairead Kelly & Petr Voracek			
Project:	EDWARD STREET BALINGLASS CO. WICKLOW			
Scale:	1/100 @ A3			
Drawn:	Checked:	Date:		
JB		10-11-2022		
B				
BURGESS				
CONSTRUCTION SERVICES LTD.				
<small>DESIGN • BUILD • DEMOLITION</small>				
<small>Kilheen, Kildavin, Buncaboy, Co. Wicklow</small>				
<small>Mobile: +353-087-271983</small>				
<small>Email: info@burgess.ie</small>				
Sheet:	ELEVATIONS			
Drawing No.:	222.21.03			
Date:	Planning			

Site outlined in red
186m²

TBM taken from centre
of road = 100.00

Existing single
storey extension to
be demolished
outlined in red 12m²
Proposed two storey
extension outlined in
blue 24m² GFA


Garden area = 98m²

Right of Way

Existing Public
Foul Sewer Line

FH

SCI

Client		Mairead Kelly & Petr Voráček	
Project		EDWARD STREET BALINGLASS CO. WICKLOW	
Scale		1/250 @ A3	
Drawn	Checked	Date	19-11-2022
 B BURGESS CONSTRUCTION SERVICES LTD. <small>DESIGN • BUILD • MAINTENANCE</small>			
<small>Edinvar, Fiskalye, Bunclohy, Co. Wicklow. Auld: +353 (0)87 271 8833 Email: info@burgess.ie</small>			
SITE LAYOUT			
Drawing No.	222.21.01		
Disc	Planning		

KEY