

**COMHAIRLE CONTAE CHILL Mhantáin**  
**Wicklow County Council**

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe**  
**Planning, Economic and Rural Development**

Áras An Chontae / County Buildings  
Cill Mhantáin / Wicklow  
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10<sup>th</sup> March 2025


Huw O'Toole  
Jacksmill Forest Gardens  
Kiltimon  
Newcastle  
Co. Wicklow  
A63 RW84

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000  
(As Amended) – EX19/2025

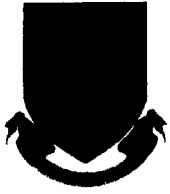
I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

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

Is mise, le meas,

  
ADMINISTRATIVE OFFICER  
PLANNING ECONOMIC & RURAL DEVELOPMENT





# Comhairle Contae Chill Mhantáin Wicklow County Council

## Pleanáil, Forbairt Eacnamaíochta agus Tuaithe Planning, Economic and Rural Development

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

Applicant: Huw O'Toole

Location: Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow

Reference Number: EX19/2025

### CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/236

Section 5 Declaration as to whether "i)The carrying out of educational and demonstration activities, ii)The provision of a tented structure to accommodate such educational and demonstration events, iii)The provision of a well and pump house on the same site, iv)The construction of a service road on the farm, v)The erection of a perimeter fence not higher than 1.2m around fields at Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

#### Having regard to:

- The details submitted with this Section 5 Application,
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- Article 6 and 9 of the Planning and Development Regulations 2001 (as amended)
- Schedule 2, Part 1 Class 13 and Part 3 Class 4 and 9 of the Planning and Development Regulations 2001 (as amended)
- The planning history of the site.

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

- The (i) carrying out of educational and demonstration activities; (ii) provision of a tented structure to accommodate such educational and demonstration events; (iii) provision of a well and pump house on the same site; (iv) construction of a service road on the farm; and (v) erection of a perimeter fence not higher than 1.2m around fields, would be development having regard to the definition set out under Section 3 of the Planning and Development Act 2000 (as amended).
- Having regard to the nature of the education and demonstration events use and the scale of same, this would represent a material change of use, for which no exemption is available within the Planning and Development Act 2000 (as amended) and Planning and Development Regulations 2001 (as amended).
- The proposed use of the tented structure for education/demonstration events would not fall within the definition of 'agriculture' and would not therefore benefit from the exemptions available for agricultural structures. There is no other exemption available for such a structure.
- The proposed well and pumphouse would not fall within the description of Class 44 of Schedule 2, Part 1 of the Planning and Development Regulations, because they would not be installed for the purpose of providing a domestic water supply or a group water supply scheme.

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

Ba chóir gach comhfhreagras a sheoladh chuig an Stúirthóir Seirbhísi, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe  
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development



- (v) The proposed service road would not fall within the description of Class 13 of Part 1 of Schedule 2, because the width of the proposed service road as indicated exceeds that of the existing internal access road/bridle path.
- (vi) Insufficient information has been submitted to determine whether the proposed perimeter fence would fall within the description of Class 4 of Part 3 of Schedule 2.

**The Planning Authority considers that: -**

i) The carrying out of educational and demonstration activities, ii) The provision of a tented structure to accommodate such educational and demonstration events, iii) The provision of a well and pump house on the same site, iv) The construction of a service road on the farm, v) The erection of a perimeter fence not higher than 1.2m around fields at Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

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

*D. O'Connell*  
ADMINISTRATIVE OFFICER  
PLANNING ECONOMIC & RURAL DEVELOPMENT

*10*  
Dated 10 March 2025

WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)

SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/236

Reference Number: EX19/2025

Name of Applicant: Huw O'Toole

Nature of Application: Section 5 Declaration request as to whether or not i)The carrying out of educational and demonstration activities, ii)The provision of a tented structure to accommodate such educational and demonstration events, iii)The provision of a well and pump house on the same site, iv)The construction of a service road on the farm, v)The erection of a perimeter fence not higher than 1.2m around fields is or is not development and is or is not exempted development.

Location of Subject Site: Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow

Report from Suzanne White, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "i)The carrying out of educational and demonstration activities, ii)The provision of a tented structure to accommodate such educational and demonstration events, iii)The provision of a well and pump house on the same site, iv)The construction of a service road on the farm, v)The erection of a perimeter fence not higher than 1.2m around fields at Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

**Having regard to:**

- a) The details submitted with this Section 5 Application,
- b) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- c) Article 6 and 9 of the Planning and Development Regulations 2001 (as amended)
- d) Schedule 2, Part 1 Class 13 and Part 3 Class 4 and 9 of the Planning and Development Regulations 2001 (as amended)
- e) The planning history of the site.

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

- (i) The (i) carrying out of educational and demonstration activities; (ii) provision of a tented structure to accommodate such educational and demonstration events; (iii) provision of a well and pump house on the same site; (iv) construction of a service road on the farm; and (v) erection of a perimeter fence not higher than 1.2m around fields, would be development having regard to the definition set out under Section 3 of the Planning and Development Act 2000 (as amended).
- (ii) Having regard to the nature of the education and demonstration events use and the scale of same, this would represent a material change of use, for which no exemption is available within the Planning and Development Act 2000 (as amended) and Planning and Development Regulations 2001 (as amended).

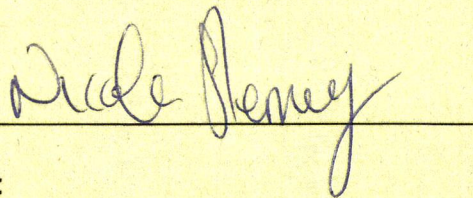
- (iii) The proposed use of the tented structure for education/demonstration events would not fall within the definition of 'agriculture' and would not therefore benefit from the exemptions available for agricultural structures. There is no other exemption available for such a structure.
- (iv) The proposed well and pumphouse would not fall within the description of Class 44 of Schedule 2, Part 1 of the Planning and Development Regulations, because they would not be installed for the purpose of providing a domestic water supply or a group water supply scheme.
- (v) The proposed service road would not fall within the description of Class 13 of Part 1 of Schedule 2, because the width of the proposed service road as indicated exceeds that of the existing internal access road/bridle path.
- (vi) Insufficient information has been submitted to determine whether the proposed perimeter fence would fall within the description of Class 4 of Part 3 of Schedule 2.

**Recommendation:**

The Planning Authority considers that:-

- i) The carrying out of educational and demonstration activities, ii)The provision of a tented structure to accommodate such educational and demonstration events, iii)The provision of a well and pump house on the same site, iv)The construction of a service road on the farm, v)The erection of a perimeter fence not higher than 1.2m around fields at Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow is development and is NOT exempted development as recommended in the report by the SEP.

Signed



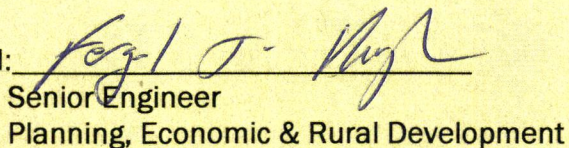
Dated 10<sup>th</sup> day of March 2025

**ORDER:**

**I HEREBY DECLARE THAT**

- i) The carrying out of educational and demonstration activities, ii)The provision of a tented structure to accommodate such educational and demonstration events, iii)The provision of a well and pump house on the same site, iv)The construction of a service road on the farm, v)The erection of a perimeter fence not higher than 1.2m around fields at Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:

  
Senior Engineer  
Planning, Economic & Rural Development

Dated 10<sup>th</sup> day of March 2025

**Section 5 Application EX 19/2025**

Date : 10<sup>th</sup> March 2025

Applicant : Huw O'Toole

Address : Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow

Section 5 Declaration query:

*Do I require permission to carry out educational and demonstration activities at Jacksmill Forest Gardens.*

*Do I require permission for a tented structure, to accommodate such educational and demonstration events.*

*Do I require permission for a well for the same site.*

*Do I require permission for construction of a service road on our farm.*

*Do I need permission to erect a perimeter fence not higher than 1.2m around our fields.*

It is considered that the query can be appropriately reformulated as follows:

*Whether or not:*

- i) The carrying out of educational and demonstration activities*
- ii) The provision of a tented structure to accommodate such educational and demonstration events*
- iii) The provision of a well and pump house on the same site*
- iv) The construction of a service road on the farm*
- v) The erection of a perimeter fence not higher than 1.2m around fields*

*At Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow*

*Is or is not development and is or is not exempted development.*

**Details of proposed development:**

- The tented structure would be placed on the site of 'Allotment 9' and part of 'Allotment 6', as indicated on the approved site layout plan for PRR 22/464. It is a 'tipi' type structure, open at the bottom. The submitted details indicate a floor area of 83sqm, height of 7.2m, diameter of 10.3m and capacity of 80no. people standing or 72no. seated
- The well is indicated to be located to the south of Allotment plot no. 6. A pumphouse structure is indicated, which is not shown on the site layout plan for PRR 22/464 and is taken to form part of this query.
- The width of the service road is not stated and the submitted site layout plan does not scale. Based on comparison with the plans submitted under PRR 22/464, where the existing internal access lane is c3-4m in width, it appears that the proposed service road is c. 6m in width. It is noted that the width increases at the western end, where it appears to join western site entrance.
- The proposed fence is indicated to extend only along the western boundary. It is not clear if it would be in place of the permitted bridle path. The materials for the fence are not stated.

- 2no. other structures appear to be indicated (shown yellow on the submitted plan, as are the other items proposed as part of this declaration application). The structures are similar to bin stores in plan form. One is located in the service yard in the southeast corner of the site and the other is located to the east of Allotment plot 2.

### **Site Location**

The proposed site is located off the R772 and off Timmore Lane, approximately 2.5 Kilometres to the west of the Village of Newcastle and 3km south of the Village of Newtownmountkennedy in County Wicklow. The lands are laid out in 2 main fields with peripheral hedgerows and one internal hedgerow. The site is currently used for allotments (Tirmor Allotments) with a number of existing sheds/ ancillary structures on site.

### **Planning History:**

#### **Subject site:**

EX66/2024 – whether the use of land as allotments constitutes exempted development.

Outcome: the use of land as allotments is not development.

EX08/2022 - Provision of composting toilets and 2 no. rainwater harvesting tanks.

Outcome:

*'The provision of composting toilets and 2 no. rainwater harvesting tanks at Timmore Lane, Newcastle, Co. Wicklow', is development and is not exempted development.*

22/464 – permission granted for the installation and use of 2 no. underground Rainwater Harvesting storage vessels of up to 150,000 litres capacity for use by Tirmor allotment users.

22/463 – permission granted for installation and use of 3 no. dry composting toilets for use by Tirmor allotment users.

22/306 – permission granted for the creation of parking spaces including dished entrance from Timmore Lane for Tirmor allotment users.

21/1246- permission refused for a serviced campsite for short term letting comprising, a) toilet and shower facilities b) common area and maintenance shed c) 4Nr tent spaces, 4Nr Campervan spaces and 4Nr mobile accommodation wagons set in a static position d) a waste water treatment plan serves the development and is outlined in the accompanying documentation e) a separate teaching and cooking/demonstration area to be utilised by extending the existing farm swelling house f) car/motorbike/bicycle parking with internal access tracks/pathways with associated low level lighting and all ancillary site works. All set within syntropic agroforestry farmland currently being used for allotment food production and grazing land.

Reason: inappropriate for rural area, insufficient information (access sightlines, surface water management, water supply and wastewater treatment)

#### **Adjacent lands in applicant's ownership:**

Ref: 18/180

Applicant: Huw O'Toole

Development: redevelopment of existing sawmill and workshop to include (a) change of use to existing ground floor workshop to commercial office usage (b) change of use of existing disused metal fabrication workshop for use as domestic storage purposes (i.e. the storing of vintage cars) (c) alterations to the section and the existing roof above the disused metal fabrication workshop to facilitate the provision of additional floor area for use as an office / storage for domestic / non commercial use (d) the provision of an external terrace to serve existing

first floor offices (e) alterations to elevations including new timber sheeting to façade, alterations to fenestration new doors (f) together with all associated site works.

Decision: Refuse

Reasons: not appropriate to the rural area, prejudicial to public health (wastewater treatment), consolidation of unauthorised development, traffic hazard (sightlines).

Ref: 81/6666

Applicant: John O'Toole

Development: - roof part of existing enclosed yard

- Erect extension to existing building
- Erect combined building store and drying shed
- Boiler house
- Timber waste store

Decision: Refused

Reasons:

WCC *It would be contrary to the proper planning and development of the area to permit the extension and consolidation of the existing unauthorised industrial use and structures on the site which is located in an elevated position in a scenic rural area adjoining the National Primary Road because of the alteration to the scenic character of the area and the injury to amenity which would arise and because of the precedent for further consolidation of an unsuitably located use which would be formed*

ABP 1 *the traffic generated by the proposed development would result in the creation of a serious traffic hazard on the adjoining heavily trafficked national primary route (N11) due to the location of the site on a bend in the route and the resultant restricted sight distances*

2 *the proposal is contrary to proper planning and development of the area as it would result in an excessive density of development, on a restricted site, at variance with the rural character of the area.*

Ref: 64/184

Applicant: John O'Toole

Development: Workshop and agricultural machinery store with grain store at upper level

Decision: Grant subject to condition.

It was a condition of this grant of permission that all existing structures sheds and offices etc (except bungalow) be removed from the site.

## 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 Interpretation:**

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and "agricultural" shall be construed accordingly.



"allotment" means an area of land comprising not more than 1,000 square metres let or available for letting to and cultivation by one or more than one person who is a member of the local community and lives adjacent or near to the allotment, for the purpose of the production of vegetables or fruit mainly for consumption by the person or a member of his or her family;

**Section 2(1)** of the Act states the following in respect of 'works':

'Works' includes "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.

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 purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

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

**Article 6 states:-**

"(1) Subject to Article 9, development of a class specified in column 1 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.

#### **Part 1 – Exempted Development - General**

CLASS 13

The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.

Relevant conditions/limitations: The width of any such private footpath or paving shall not exceed 3 metres.

CLASS 44

The sinking of a well, drilling of a borehole, erection of a pump, or construction of a pumphouse, for the purpose of providing a domestic water supply, or a group water supply scheme in accordance with a plan or proposal approved by the Minister or a local authority for the purpose of making a grant towards the cost of such works.

Relevant conditions/limitations: None

#### **Part 3 – Exempted Development - Rural**

CLASS 4

The construction, erection or maintenance of any wall or fence, other than a fence of sheet metal, or a wall or fence within or bounding the curtilage of a house.

Relevant conditions/limitations:

1. The height of the wall or fence, other than a fence referred to in paragraph 2, shall not exceed 2 metres.
2. The height of any fence for the purposes of deer farming or conservation shall not exceed 3 metres.

CLASS 9 (Agricultural Structures)

Works consisting of the provision of any store, barn, shed, glass-house or other structure, not being of a type specified in class 6, 7 or 8 of this Part of this Schedule, and having a gross floor space not exceeding 300 square metres.

Relevant conditions/limitations:

1. No such structure shall be used for any purpose other than the purpose of agriculture or forestry, but excluding the housing of animals or the storing of effluent.
2. The gross floor space of such structures together with any other such structures situated within the same farmyard complex or complex of such structures or within 100 metres of that complex shall not exceed 900 square metres gross floor space in aggregate.
3. No such structure shall be situated within 10 metres of any public road.
4. No such structure within 100 metres of any public road shall exceed 8 metres in height.
5. No such structure shall be situated within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
6. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

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

*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,*

*(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

*(iii) endanger public safety by reason of traffic hazard or obstruction of road users,*

*vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of the development plan.*

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.*

#### **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 proposals would involve works and therefore the proposals do constitute development.

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

**Question:**

*Whether or not:*

- i) The carrying out of educational and demonstration activities*
- ii) The provision of a tented structure to accommodate such educational and demonstration events*
- iii) The provision of a well and pump house on the same site*
- iv) The construction of a service road on the farm*
- v) The erection of a perimeter fence not higher than 1.2m around fields*

*At Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow*

*Is or is not development and is or is not exempted development.*

The items listed above will be considered in turn.

**i) The carrying out of educational and demonstration activities**

A tented structure is to be constructed within the allotments area and this structure is to be used for education and demonstration events. It is not stated whether these education and demonstration events would be related to the allotment use on the wider site. It is noted that the capacity of the structure is stated to be 72no. people seated and 80no. standing.

Under EX66/2024, it was established that the use of the site is 'agriculture'.

It is considered that use for education and demonstration events would be a change of use.

Having regard to:

- the nature and characteristics of the proposal, which is a significantly different type of use
- the intensification of visitors to the site arising from the change of use (having regard to the capacity of the structure proposed for education use)
- the likely increase in traffic and transport movements associated with the change of use (having regard to the capacity of the structure proposed for education use)

It is considered that the change of use would be a 'material change of use' and therefore would be development.

I am not aware of any exemption available under the Act or Regulations that would allow for the development to be an 'exempted development'.

Therefore this would not constitute exempted development.

**ii) The provision of a tented structure to accommodate such educational and demonstration events**

Class 9 of Part 3 of Schedule 2 provides for a structure of up to 300sqm for the purpose of agriculture or forestry. It is not considered that the proposed use for education/demonstration events would fall within the definition of 'agriculture' set out in Section 2 of the Planning and Development Regulations 2001 (as amended). Therefore this element would not constitute exempted development.

**iii) The provision of a well and pump house on the same site**

The proposed well and pump house are indicated to be on the site of the allotments and are not indicated to be associated with a dwelling or group water scheme. Therefore this element would not fall within the description of Class 44 of Schedule 2, Part 1 of the Planning and Development Regulations.

**iv) The construction of a service road on the farm**

Class 13 of Part 1 of Schedule 3 only or the repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way. The width of the proposed service road as indicated exceeds that of the existing internal access road/bridle path. Therefore, this element would not fall within the description of Class 13.

**v) The erection of a perimeter fence not higher than 1.2m around fields**

The construction/erection of a fence of up to 2metres in height in a rural area falls under the description and limitations of Class 4 of Part 3 of Schedule 2. However, it is not clear that the proposed fence would not be of sheet metal. Therefore it is not clear if this element would fall within the description of this Class.

**RECOMMENDATION:**

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

*“Whether or not:*

- i) The carrying out of educational and demonstration activities*
- ii) The provision of a tented structure to accommodate such educational and demonstration events*
- iii) The provision of a well and pump house on the same site*
- iv) The construction of a service road on the farm*
- v) The erection of a perimeter fence not higher than 1.2m around fields*

*At Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow*

*Is or is not development and is or is not exempted development” within the meaning of the Planning and Development Acts, 2000 (as amended).*

**The Planning Authority considers that:**

- i) The carrying out of educational and demonstration activities*
- ii) The provision of a tented structure to accommodate such educational and demonstration events*
- iii) The provision of a well and pump house on the same site*
- iv) The construction of a service road on the farm*
- v) The erection of a perimeter fence not higher than 1.2m around fields*

*At Jacksmill Forest Gardens, Kiltimon, Newcastle, Co. Wicklow*

*as described in the documents submitted, is development and is not exempted development within the meaning of the Planning and Development Acts, 2000 (as amended),*

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

- (a) The details submitted with this Section 5 Application,
- (b) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- (c) Article 6 and 9 of the Planning and Development Regulations 2001 (as amended)

- (d) Schedule 2, Part 1 Class 13 and Part 3 Class 4 and 9 of the Planning and Development Regulations 2001 (as amended)
- (e) The planning history of the site.

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

- (i) The (i) carrying out of educational and demonstration activities; (ii) provision of a tented structure to accommodate such educational and demonstration events; (iii) provision of a well and pump house on the same site; (iv) construction of a service road on the farm; and (v) erection of a perimeter fence not higher than 1.2m around fields, would be development having regard to the definition set out under Section 3 of the Planning and Development Act 2000 (as amended).
- (ii) Having regard to the nature of the education and demonstration events use and the scale of same, this would represent a material change of use, for which no exemption is available within the Planning and Development Act 2000 (as amended) and Planning and Development Regulations 2001 (as amended).
- (iii) The proposed use of the tented structure for education/demonstration events would not fall within the definition of 'agriculture' and would not therefore benefit from the exemptions available for agricultural structures. There is no other exemption available for such a structure.
- (iv) The proposed well and pumphouse would not fall within the description of Class 44 of Schedule 2, Part 1 of the Planning and Development Regulations, because they would not be installed for the purpose of providing a domestic water supply or a group water supply scheme.
- (v) The proposed service road would not fall within the description of Class 13 of Part 1 of Schedule 2, because the width of the proposed service road as indicated exceeds that of the existing internal access road/bridle path.
- (vi) Insufficient information has been submitted to determine whether the proposed perimeter fence would fall within the description of Class 4 of Part 3 of Schedule 2.

I recommend that the applicant be informed accordingly.



**Suzanne White**  
**Senior Executive Planner**  
**10/03/2025**

*Issue declaration as recommended  
10/03/25*



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

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe**  
**Planning, Economic and Rural Development**

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Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

**MEMORANDUM**

**WICKLOW COUNTY COUNCIL**

---

**TO: Suzanne White**  
**Senior Executive Planner**

**FROM: Nicola Fleming**  
**Staff Officer**

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**RE:- Application for Certificate of Exemption under Section 5 of the**  
**Planning and Development Acts 2000 (as amended).**  
**EX19/2025**

I enclose herewith application for Section 5 Declaration received completed on 12/02/2025

The due date on this declaration is 11<sup>th</sup> March 2025

---

**Staff Officer**  
**Planning, Economic & Rural Development**





**COMHAIRLE CONTAE CHILL Mhantáin**  
**Wicklow County Council**

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe**  
**Planning, Economic and Rural Development**

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

**Huw O'Toole**  
**Jacksmill Forest Gardens**  
**Kiltimon**  
**Newcastle**  
**Co. Wicklow**  
**A63 RW84**

14<sup>th</sup> February 2025

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX19/2025**

A Chara

I wish to acknowledge receipt on 12/02/2025 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 11/03/2025.

Mise, le meas

---

**Nicola Fleming**  
**Staff Officer**  
**Planning, Economic & Rural Development**



*Ta an doiciméad seo ar fáil i bhformáid eile ar iarratas*  
*This document is available in alternative formats on request*

Ba chóir gach comhfhreagras a sheoladh chug an Stiúrtóir Seirbhísi, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe  
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development.



Wicklow County Council  
County Buildings  
Wicklow  
0404-20100

12/02/2025 09:44:03

Receipt No L1/0/340829

HUW OTOOLR DESIGN LTD

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

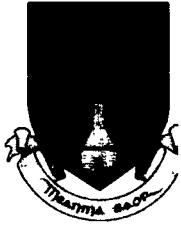
Total 80 00 EUR

Tendered  
Cheque 80 00

Change 0 00

Issued By Ruth Graham  
From Customer Service Hub  
Vat reg No 0015233H





Wicklow County Council  
County Buildings  
Wicklow  
Co Wicklow  
Telephone 0404 20148  
Fax 0404 69462

Office Use Only

Date Received \_\_\_\_\_

Fee Received \_\_\_\_\_

**APPLICATION FORM FOR A  
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &  
DEVELOPMENT ACTS 2000(AS AMENDED) AS TO WHAT IS OR IS NOT  
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

**1. Applicant Details**

- (a) Name of applicant:    Huw O'Toole     
Address of applicant:  
Jacskmill Forest Gardens Kiltimon, Newcastle Greystones Co. Wicklow A63RW84

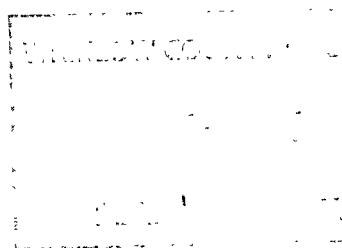
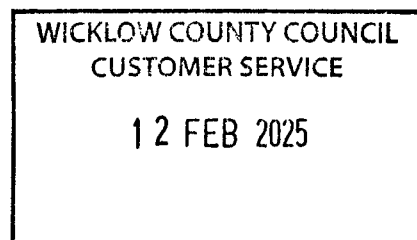
Note Phone number and email to be filled in on separate page.

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

- (b) Name of Agent (where applicable) N/A \_\_\_\_\_  
Address of Agent : \_\_\_\_\_  
\_\_\_\_\_

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

**3. Declaration Details**



- i. Location of Development subject of Declaration  
Jacskmill Forest Gardens \_\_Kiltimon, Newcastle Greystones Co. Wicklow  
A63RW84
- ii. Are you the owner and/or occupier of these lands at the location under i. above ?  
Yes.
- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- iv. Section 5 of the Planning and Development Act provides that : If any question arises as to what, in any particular case, is or is not development and is or is not exempted development, within the meaning of this act, any person may, an payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question. You should therefore set out the query for which you seek the Section 5 Declaration \_\_\_\_\_  
\_\_\_\_\_

Do I require permission to carry out educational and demonstration activities at Jacksmill Forest Gardens.

Do I require permission for a tented structure, to accommodate such educational and demonstration events.

Do I require permission for a well for the same site.

Do I require permission for construction of a service road on our farm.

Do I need permission to erect a perimeter fence not higher than 1.2m around our fields.

*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 \_\_\_\_\_  
\_\_\_\_\_

Im not sure but assume Section 2 and 3.

*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 \_\_\_\_\_

Location map.

Site Layout Plan.

Details

Design of tented structure.

viii. Fee of € 80 Attached ? YES

Signed : 

Dated : 10-02-25

**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 -

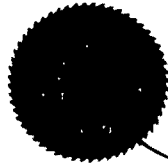
The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act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

Remote working, allotments and forest garden.

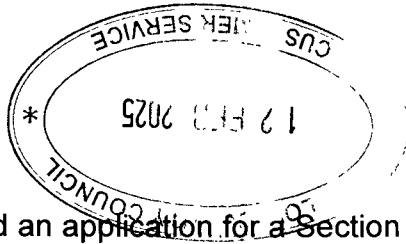


# JACKSMILL

HUB 13

KILTIMON, NEWCASTLE, CO. WICKLOW. A63RW84.

[Hub13@jacksmill.ie](mailto:Hub13@jacksmill.ie) 0878041636



February 10<sup>th</sup> 2025

Dear Sir/ Madam,  
Please find enclosed an application for a Section 5.

I am seeking clarity as to whether I need the following:

Do I require permission to carry out educational and demonstration activities at Jacksmill Forest Gardens.

Do I require permission for a tented structure, to accommodate such educational and demonstration events.

Do I require permission for a well for the same site.

Do I require permission for construction of a service road on our farm.

Do I need permission to erect a perimeter fence not higher than 1.2m around our fields.

I enclose a Site location Plan, Site layout plan, Drawings of Details, Drawing of the tent, Flock Number, application and cover letter.

The areas affected are highlighted in Yellow.

I enclose the fee of Eu80.

If you need any further information, please do contact me.

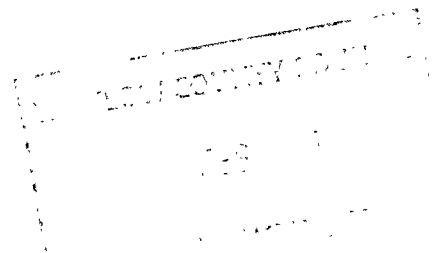
Thank you,

Yours Sincerely

Huw O'Toole

Bsc (hons)Arch Eng. Dip 1 Arch Westminster

Director Jacksmill Ltd



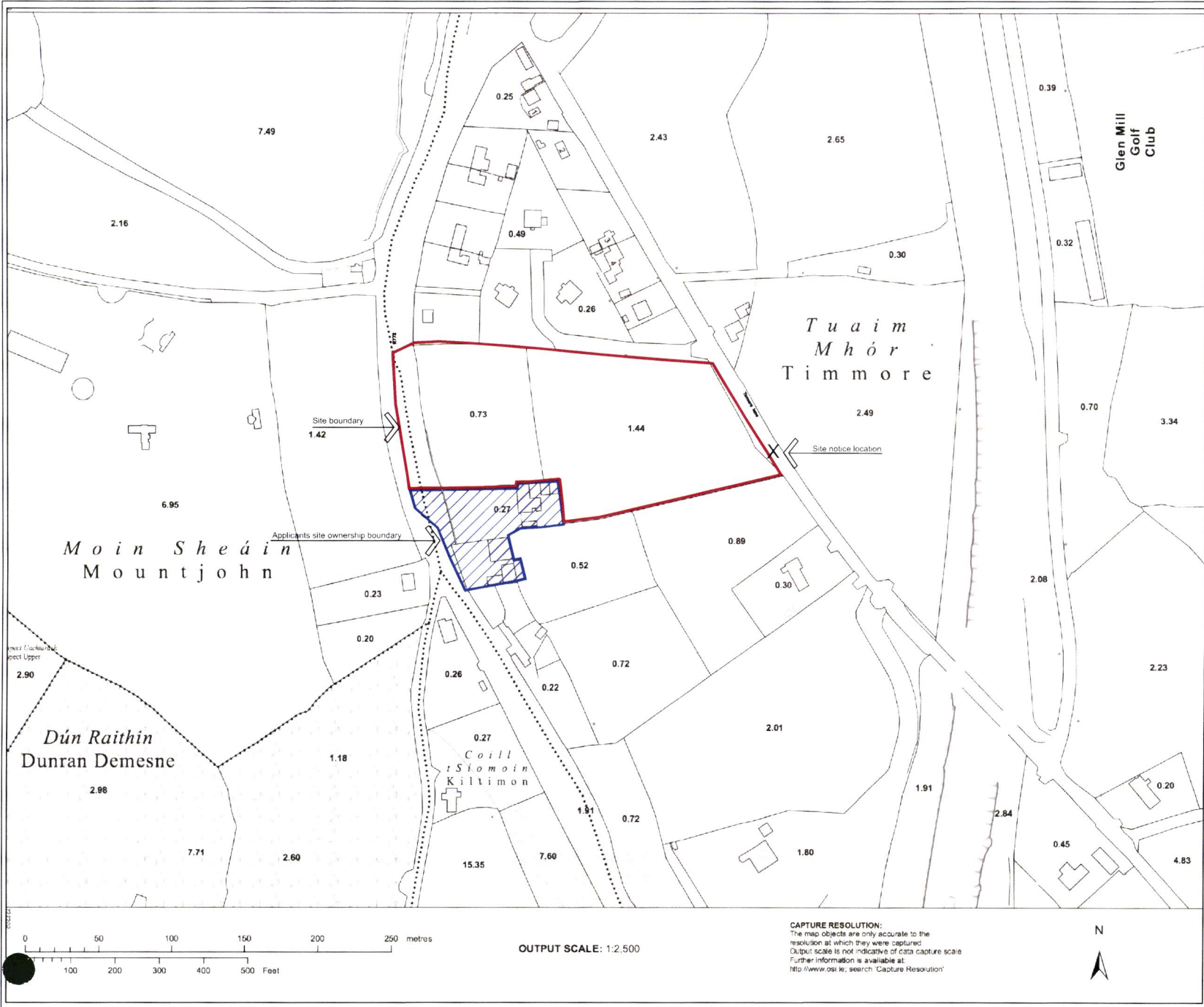
# Stratus 72



*Proposed tent structure subject to Action 5*

# Specifications & functions of Stratus 72-tent

<u>Metric</u>	Imperial			
Name		Stratus 72	Build Team (People)	3
Size		72	Build Time (h)	2
Standing People		80	Diameter (m)	10.3
Seated Capacity (8 per table)		72	Standing (people, sides up) (m)	13.0
Seated Capacity (8 per table, sides up)		128	Height (m)	7.2
Seated Capacity (6 per table)		54	Main Poles Length (m)	8.3
Seated Capacity (6 per table, sides up)		96	Weight (kg)	661.0
Covered Area (m <sup>2</sup> )		83	Weight (Sides Up) (kg)	712.0
Covered Area (Sides Up) (m <sup>2</sup> )		132	SKU	



**Map Key**

- Development Site
- Lands owned by the applicant

<b>CENTRE COORDINATES:</b> ITM: 727617.703466	
<b>PUBLISHED:</b> 17/09/2021	<b>ORDER NO.:</b> 50220649_1
<b>MAP SERIES:</b> 1:2,500 1:2,500 1:2,500 1:2,500	<b>MAP SHEETS:</b> 3847-B 3847-D 3848-A 3848-C

**Cathal O'Meara**  
Landscape Architects  
**087 9202549**  
2 Mc Sweeney St,  
Fermoy, Co. Cork



Chartered member  
of the Irish  
Landscape Institute

Client: Huw O'Toole  
Project: ~~Timmore~~ Jacks mill  
Agroforestry Allotments

Drawing: Site location

Date: 02/03/2022

Drawn By:  
Cathal O'Meara

Issue: Planning

Dwg No: 2102-LA-P001



Scale 1:2500, @ A3

**CAPTURE RESOLUTION:**  
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: <http://www.osi.ie>; search 'Capture Resolution'





**PLANNING**

DRG	ISSUED FOR	DATE	APPROVAL
	APPROVAL ONLY		
	APPROVED		
	PLANNING PERMISSION		
	TENDER		
	CONTRACT		
	CONSTRUCTION		

**IMPORTANT TO READ**

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Kiltimon, Newcastle, Co. Wicklow

Huw O'Toole Designs Ltd

0878041636 info@huwotoole.com

Jacksmill Forest Gardens  
Site Layout Plan

Tented area, Road area and Fenced area affected by application highlighted in yellow.

2025.10.02	Issue 1	Jacksmill 0025.01	A
1:750, 1:100			