


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@wicklowcoc
Suíomh / Website: www.wicklow.ie

Barry & Bernadette McHugh

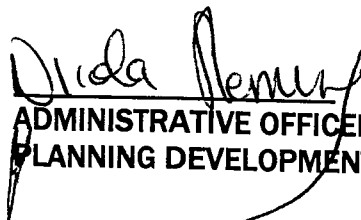
 July 2023

RE: Declaration in accordance with Section 5 of the Planning & Development Acts
2000 (As Amended) – EX43/2023

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.

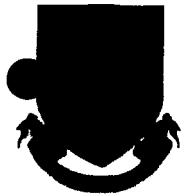
Is mise, le meas,


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT.

Tá 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 chuig an Stiúrthóir Seirbhísí, Forbairt Pleanála agus Comhshaol.
All correspondence should be addressed to the 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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DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT ACT 2000 AS AMENDED

Applicant: Barry & Bernadette McHugh

Location: 30 Seapoint, Dunbur, Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PDE/1326/2023

A question has arisen as to whether "the formation of a gateway to the side of the house" at 30 Seapoint, Dunbur, Wicklow" is or is not exempted development.

Having regard to:

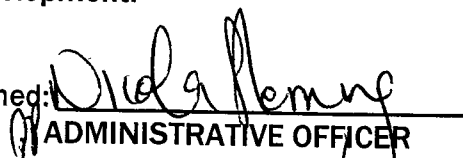
- The details submitted under Section 5 Declaration on 07/07/2023
- The taken in charge register of Wicklow County Council
- Sections 2(1), 3(1), of the Planning and Development Act 2000 (as amended)
- Articles 6(1) & 9(1) (a) (ii), and **Class 5 : Part 1: Schedule 2** of the Planning and Development Regulations 2001 as amended

Main Reasons with respect to Section 5 Declaration:

- The provision of a gate would be works, and would therefore be development having regard to the provisions of Planning and Development Act 2000 (as amended).
- The erection of a gate would not be exempted development under Class 5 : Part 1 : Schedule 2 of the Planning and Development Regulations 2001(as amended) as the provisions of Article 9(1)(a)(ii) are applicable which provides that works shall not be exempted development where the proposal would result in the formation of a means of access onto a public road the surface carriageway width exceeds 4m , as in this instance the gate would allow for a new access onto the adjoining road network and this carriageway is in excess of 5m.

The Planning Authority considers that "the formation of a gateway to the side of the house" at 30 Seapoint, Dunbur, Wicklow" is development and is not exempted development.

Signed:


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated  July 2023



WICKLOW COUNTY COUNCIL

**PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5**

CHIEF EXECUTIVE ORDER NO. CE/PDE/1326/2023

Reference Number: EX 43/2023

Name of Applicant: Barry & Bernadette McHugh

Nature of Application: Section 5 Referral as to whether "the formation of a gateway to the side of the house" is or is not exempted development

Location of Subject Site: 30 Seapoint, Dunbur, Wicklow

Report from Holly O'Connor, EP & Edel Bermingham, SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "the formation of a gateway to the side of the house" at 30 Seapoint, Dunbur, Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- i. The details submitted under Section 5 Declaration on 07/07/2023
- ii. The taken in charge register of Wicklow County Council
- iii. Sections 2(1), 3(1), of the Planning and Development Act 2000 (as amended)
- iv. Articles 6(1) & 9(1) (a) (ii), and **Class 5 : Part 1: Schedule 2** of the Planning and Development Regulations 2001 as amended

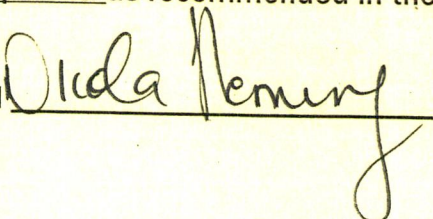
Main Reasons with respect to Section 5 Declaration:

- The provision of a gate would be works, and would therefore be development having regard to the provisions of Planning and Development Act 2000 (as amended).
- The erection of a gate would not be exempted development under Class 5 : Part 1 : Schedule 2 of the Planning and Development Regulations 2001(as amended) as the provisions of Article 9(1)(a)(ii) are applicable which provides that works shall not be exempted development where the proposal would result in the formation of a means of access onto a public road the surface carriageway width exceeds 4m , as in this instance the gate would allow for a new access onto the adjoining road network and this carriageway is in excess of 5m.

Recommendation

The Planning Authority considers that "the formation of a gateway to the side of the house" at 30 Seapoint, Dunbur, Wicklow is development and is not exempted development. as recommended in the report by the SEP.

Signed



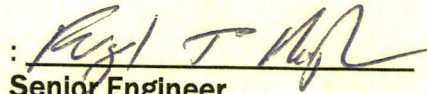
Dated 28th day of July 2023

ORDER:

I HEREBY DECLARE:

That "the formation of a gateway to the side of the house" at 30 Seapoint, Dunbur, Wicklow" is **development and is not exempted development** within the meaning of the Planning & Development Acts 2000 (as amended).

Signed

: 

Senior Engineer
Planning Development & Environment

Dated 28th day of July 2023

**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

PLANNING REPORT SECTION 5 APPLICATION

TO: FERGAL KEOGH S.E. / EDEL BERMINGHAM S.E.P
FROM: HOLLY O'CONNOR E.P.
SUBJECT REF: EX 43/2023
DECISION DATE: 03/08/2023
APPLICANT: BARRY & BERNADETTE MCHUGH
ADDRESS: 30 SEA POINT DUNBUR WICKLOW A67C528
EXEMPTION: CONSTRUCTION OF GATE TO SIDE/REAR

Site Location:

The site is located within the settlement of Wicklow Town in the established housing development Seapoint on the south-east end of the settlement. The subject site consists of a single storey dwelling on the end of the row.

Planning History:

None on subject site- housing development built in 1990s.

Relevant legislation:

Planning and Development Act 2000 (as amended)

"Works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

Section 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.

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 2 opposite the mention of that class in the said column 1.

Article 9(1) restrictions on exemption, 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.

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—

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

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

Schedule 2- Part 1- Development within the curtilage of a house

Class 5- The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete

Conditions & Limitations:

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

Submission:

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

To determine whether the formation of a gateway to the side of the house at 30 Seapoint, Dunbur , Wicklow, Co. Wicklow, is or is not development and is or is not exempted development within the meaning of the Planning and Development Act, 2000 (as amended).

Assessment:

The site is located within an existing housing estate and is at the end of the row in a cul-de-sac. Along the side and rear boundary of the dwelling is a 1.9m capped and plastered wall.

This proposal seeks works consisting of;

- Installation of 3m wooden gate.

Having regard to the definition of development in Section 3 of the Planning and Development Act 2000 (as Amended), it is considered that alterations to existing wall is development.

The housing estate has been taken in charge by WCC and therefore is now a public road. The road measures c.5m wide and 12m at the cul-de-sac end where the gate is proposed. This development relates to the formation of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width. Article 9(1) sets out restrictions on exemption if the carrying out of such development would 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, therefore the development is not exempt.

Recommendation:

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

The formation of a gateway to the side of the house at 30 Seapoint, Dunbur, Wicklow, Co. Wicklow, is or is not development and is or is not exempted development within the meaning of the Planning and Development Act, 2000 (as amended).

The Planning Authority considers that:

The proposed works is development and is **not** exempted development.

Main Considerations with respect to Section 5 Declaration:

- i. The details submitted under Section 5 Declaration on 07/07/2023
- ii. The taken in charge register of Wicklow County Council
- iii. Sections 2(1), 3(1), of the Planning and Development Act 2000 (as amended)
- iv. Articles 6(1) & 9(1) (a) (ii), and **Class 5 : Part 1: Schedule 2** of the Planning and Development Regulations 2001 as amended

Main Reasons with respect to Section 5 Declaration:

- The provision of a gate would be works, and would therefore be development having regard to the provisions of Planning and Development Act 2000 (as amended).
- The erection of a gate would not be exempted development under Class 5 : Part 1 : Schedule 2 of the Planning and Development Regulations 2001(as amended) as the provisions of Article 9(1)(a)(ii) are applicable which provides that works shall not be exempted development where the proposal would result in the formation of a means of access onto a public road the surface carriageway width exceeds 4m, as in this instance the gate would allow for a new access onto the adjoining road network and this carriageway is in excess of 5m.

~~The housing estate has been taken in charge, therefore is a public road. The road is 5m wide throughout the estate and 12m at the cul-de-sac. The proposal is for the formation of a means of access onto a public road which is in excess of 4m wide. Article 9(1) (a)(ii) sets restrictions on this type of development.~~

Holly O'Connor

Date: 20/07/2023
Holly O'Connor E.P.

Agreed as modified Sted Bourne SEP 27/7/2023

Declaration to use as
recommended
Kajal P. May L
28/07/23



Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

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MEMORANDUM

WICKLOW COUNTY COUNCIL


TO: Holly O'Connor
Executive Planner

FROM: Nicola Fleming
Staff Officer

**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
Ex 43/2023 – Barry & Bernadette McHugh**

I enclose herewith for your attention application for Section 5 Declaration received 27th July 2023.

The due date on this declaration is 3rd August 2023.


Staff Officer
Planning Development & Environment





Comhairle Contae Chill Mhantáin
Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

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5th July 2023

Barry & Bernadette McHugh

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 43/2023
Open the back/side wall to put camper van in back garden

A Chara

I wish to acknowledge receipt on 7th July 2023 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 3rd August 2023.

Mise, le meas

NICOLA FLEMING
STAFF OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT



Nicola Fleming

From: Bernadette MacHugh
Sent: Wednesday 5 July 2023 12:44
To: Nicola Fleming
Subject: Re: 30 Seapoint Wicklow
Attachments: image001.jpg

Hi Nicola,

Following on from our phone call

I hope the two previous emails with application form and photos are clear enough for the planning officer to understand.

As I explained we will be taking ownership and moving into the above address on the 10th August.

The present owner Stephen Morrison gave permission for us to take the photo (last night) and is aware of our application.

We have a camper van (not the one in the photo) which is 7.5 mts long. We wish to open up the wall marked with red pen on the map. This is to allow us put gates there so as we can park our camper van in the garden.

We don't want to have our camper on the road for several reasons. Two being security and to be respectful to our neighbours.

After reading the planning regulations 2001. Schedule 2 part 1, class 5, It is our understanding that this work would be exempted development. The road is a cul-de-sac with only residential traffic.
We would very much appreciate a positive prompt response.

Thanking you in anticipation

Kind regards

Bernadette Machugh

On Thu, 29 Jun 2023, 14:48 Nicola Fleming. _____ ote:

<https://www.wicklow.ie/Living/Services/Planning/Planning-Applications/Exempted-Development>

find attached link to our website with details in relation to Section 5

Regards,

Nicola Fleming

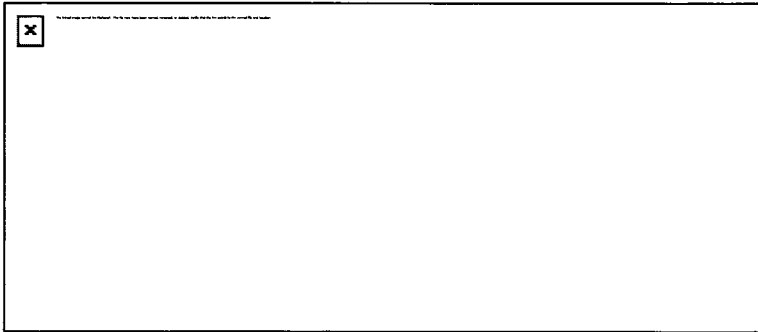
Staff Officer

Planning Department

WICKLOW COUNTY COUNCIL, COUNTY BUILDINGS, WICKLOW TOWN, A67 FW96

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

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



Wicklow County Council
County Buildings
Wicklow
0404-20100

10/07/2023 10:35:20

Receipt No L1/0/315/83
***** REPRINT *****

BERNADETTE & BARRY MACHUGH
44 MOUNTSHANNON ROAD
KILMAINHAM
DUBLIN 8
D08EADY

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 Charlie Redmond
From Customer Service Hub
Vat reg No 0015233H



County Buildings
Wicklow
Co Wicklow
Telephone 0404 20148
Fax 0404 69462

Date Received

Fee Received

07/07/23 JF

**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: Barry & Bernadette MacHugh

Address of applicant: [REDACTED]
[REDACTED]

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

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) _____

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 30 Seapoint
Wicklow A67 C528

ii. Are you the owner and/or occupier of these lands at the location under i. above?
Yes/No (No) - we will be on the 10th August 23

iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier MR Stephen Morrison
30 Seapoint Wicklow A67 C528

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, on 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 Planning Regulations 2001
Schedule 2, Part 1, Class 5.

Please see Eircode map attached. We wish to
open the back/side wall where marked to put wooden
gates in order to put our camper van in the
back garden.

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 Class 5 as
above.

Additional details may be submitted by way of separate submission.

gates
will need to
be 3m wide
+ no more than
the height of
existing wall.

i. 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 MAP FROM EIRCODE.IE.

viii. Fee of € 80 Attached ? _____

Signed: B MacHugh Dated: 30/06/23

Additional Notes :

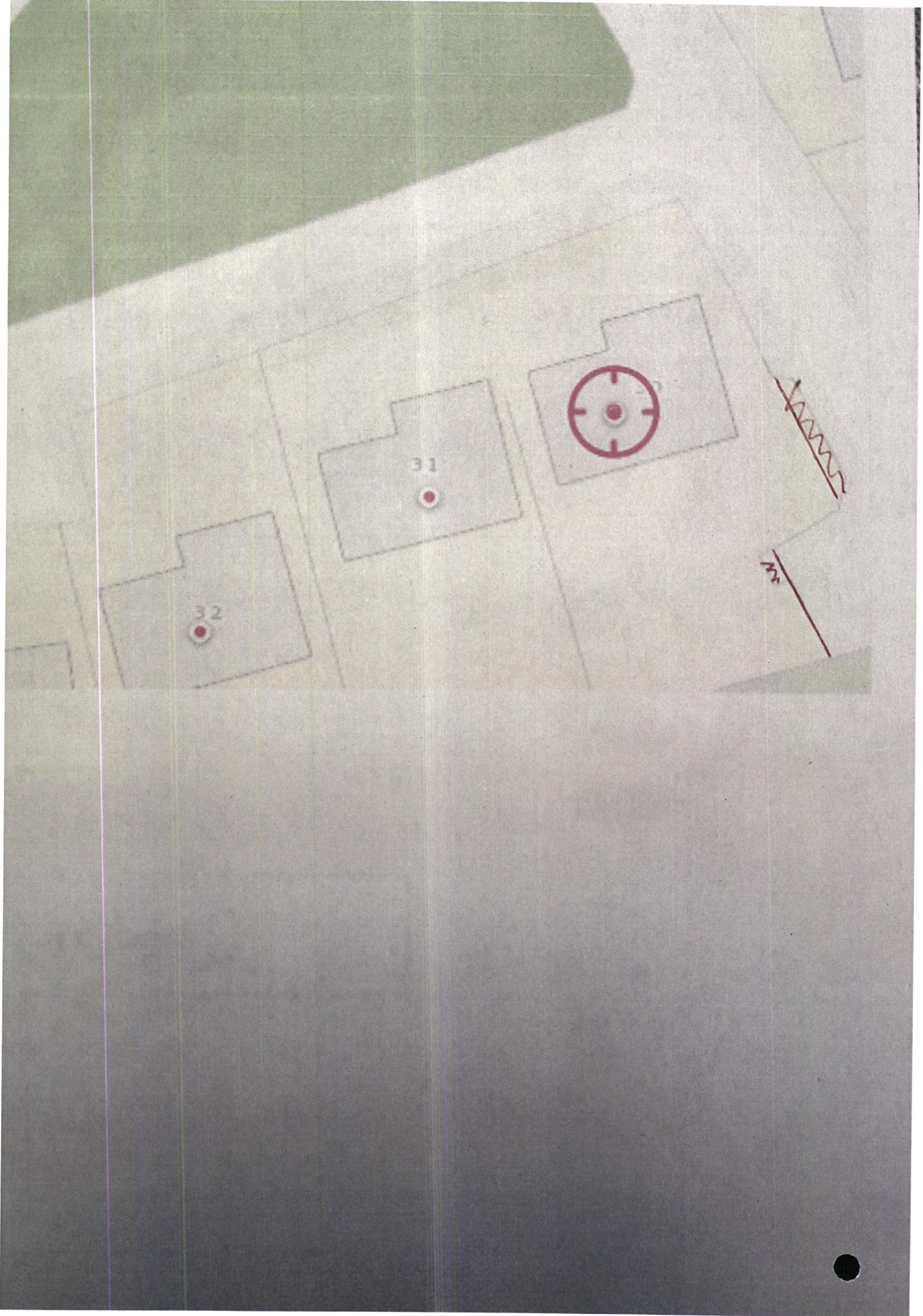
As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below :

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.

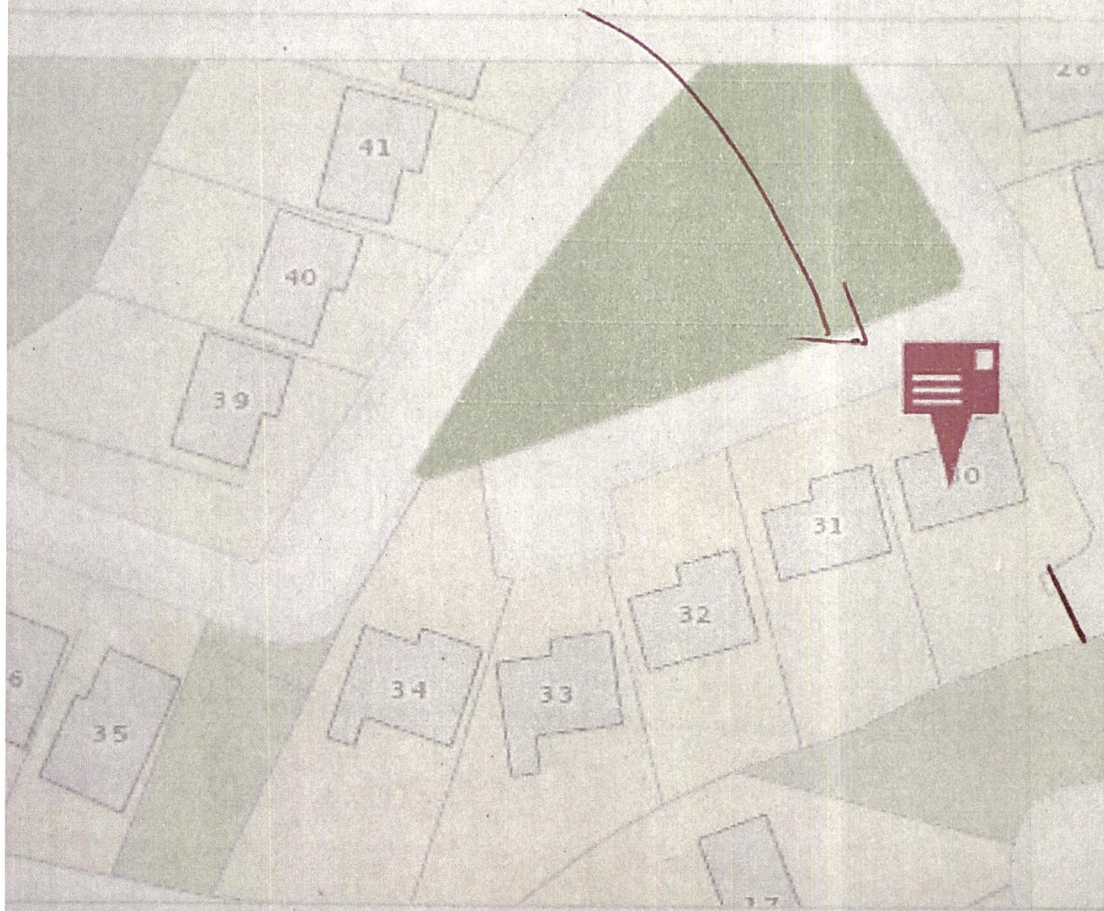
Land Reclamation -

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



WICKLOW

A67 C528



9.3mtrs wide
Require
3mtr wide gates
Wall is
1.9mtrs High
so gates will
match



EIRCODE



