

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@wicklowco.ie
Suíomh / Website: www.wicklow.ie

Nicola Ilori

 July 2023

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX47/2023

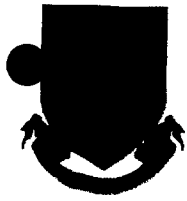
I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

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.





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

Applicant: Nicola Ilori

Location: 37 Oak Drive, Blessington, Co. Wicklow W91 T922

CHIEF EXECUTIVE ORDER NO. CE/PDE/1325/2023

A question has arisen as to whether “moving existing peer in front wall over by 47 inches” at 37 Oak Drive, Blessington, Co. Wicklow W91 T922” is or is not exempted development.

Having regard to:

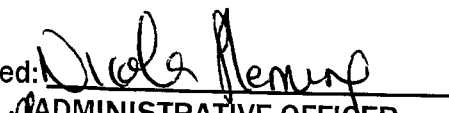
- The details submitted with the Section 5 Declaration.
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- Schedule 2, Part 1 Class 5 of the Planning and Development Regulations 2001 (as amended)
- Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

- The movement of the existing peer which involves works of demolition and construction would be development having regard to the provisions of Section 3 of the Planning and Development Act 2000 (as amended).
- The alteration of this entrance area by the movement of the peer would come within the description and limitations set out under Class 5 : Part 1: Schedule 2 of the Planning and Development Regulations 2001 (as amended).
- The widening of the entrance is not considered material given the existing entrance area serving the dwelling.

The Planning Authority considers that “moving existing peer in front wall over by 47 inches” at 37 Oak Drive, Blessington, Co. Wicklow W91 T922” is development and is exempted development.

Signed:


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 28th July 2023



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PDE/1325/2023

Reference Number: EX 47/2023

Name of Applicant: Nicola Ilori

Nature of Application: Section 5 Referral as to whether "moving existing peer in front wall over by 47 inches" is or is not exempted development

Location of Subject Site: 37 Oak Drive, Blessington, Co. Wicklow W91 T922

Report from Edel Bermingham, SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "moving existing peer in front wall over by 47 inches" at 37 Oak Drive, Blessington, Co. Wicklow W91 T922 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 the Section 5 Declaration.
- b) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- c) Schedule 2, Part 1 Class 5 of the Planning and Development Regulations 2001 (as amended)
- d) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

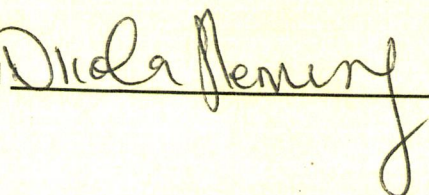
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- The alteration of this entrance area by the movement of the peer would come within the description and limitations set out under Class 5 : Part 1: Schedule 2 of the Planning and Development Regulations 2001 (as amended).
- The widening of the entrance is not considered material given the existing entrance area serving the dwelling.

Recommendation

The Planning Authority considers that "moving existing peer in front wall over by 47 inches" at 37 Oak Drive, Blessington, Co. Wicklow W91 T922 is development and is exempted development, as recommended in the report by the SEP.

Signed



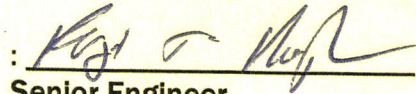
Dated 28th day of July 2023

ORDER:


I HEREBY DECLARE:

That "moving existing ¹²peer in front wall over by 47 inches" at 37 Oak Drive, Blessington, Co. Wicklow W91 T922" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed

: 

Senior Engineer
Planning Development & Environment

Dated  day of July 2023

Section 5 Application EX 47/2023

Date : 25th July 2023..

Applicant : Nicola Ilori

Address : 37 Oak Drive , Blessington.

Exemption Whether or not :

Move existing peer in front wall by over 47 inches

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

Relevant legislation :

Planning and Development Act 2000 (as amended)

"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, ...

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

Section 3 :

3.—(1) In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4 :

4.—(1) The following shall be exempted developments for the purposes of this Act—

;

(3) A reference in this Act to exempted development shall be construed as a reference to development which is—

(a) any of the developments specified in *subsection (1)*, or

(b) development which, having regard to any regulations under *subsection (2)*, is exempted development for the purposes of this Act.

(4A) Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

(a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and

(b) as respects which an environmental impact assessment or an appropriate assessment is required, to be exempted development.

Planning and Development Regulations 2001(as amended).

Article 6

(1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9(1) Note see Regulations for full Article

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 meters in width,

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

Schedule 2 : Part 1

Class 5

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

Limitation

1. The height of any such structure shall not exceed 2 meters 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.

Assessment :

The Section 5 declaration application seeks an answer with respect to the following question i.e. whether the moving of the existing pier in front wall by over 47 inches i.e. c. 1.2m is or is not exempted development.

The first question that must be asked is whether demolition of the existing wall and movement of the pier is or is not development. In this regard the proposal would involve the demolition and movement of an existing wall and relocation of the pier, and would be works of construction and demolition and as such the operations would come within the definition of development as set out under Section 3 of the Act :-

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.

The exemptions for such works are set out under the Planning and Development Regulations 2001 (as amended). In this regard Class 5 : Part 1 : Schedule 2 would allow for the erection or alteration within or bounding the curtilage of a house, of a gate, gateway, railing or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete. This exemption is subject to a number of limitations which the identified works would not breach.

Notwithstanding that the works would come within the description of Class 5, they have to be reviewed having regard to the provisions of Article 9 of the Regulations which sets out further restrictions in respect to the exemptions set out in Schedule 2.

Article 9 (a) of the Planning and Development Act provides that development which would be exempt having regard to the provisions of Schedule 2 ; Part 1 shall not be exempted development where they result in the following :

- (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,

The proposed moving of the front pier would widen the vehicular entrance at this point by c. 1.2m, it is considered that this widening would not be material given the existing open entrance area at this point, and therefore would be acceptable.



Accordingly, in light of the above assessment the proposal is exempted development.

Recommendation :

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

The Movement of an existing ^{ie} peer in the front wall ^{by} over 47 inches at 37 Oak Drive, Blessington, Co.Wicklow

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The Planning Authority consider that the Movement of an existing ^{ie} peer in the front wall ^{by} over 47 ^{inches} IS
DEVELOPMENT AND IS EXEMPTED DEVELOPMENT

Main Considerations with respect to Section 5 Declaration :

- a) The details submitted with the Section 5 Declaration.
- a) Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)
- b) Schedule 2, Part 1 Class 5 of the Planning and Development Regulations 2001 (as amended)
- c) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration :

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- The alteration of this entrance area by the movement of the peer would come within the description and limitations set out under Class 5 : Part 1: Schedule 2 of the Planning and Development Regulations 2001 (as amended).
- The widening of the entrance is not considered material given the existing entrance area serving the dwelling.

Sub L
25/7/2023

*Decision as modified to
issue.
Fayl T. Mag LSC
28/07/23*

Wicklow County Council
Council Buildings
Wicklow
0404-20100

12/07/2023 11:13:57

Receipt No L11/0315865
***** REPRINT *****

NICOLA ILORI
37 OAK DRIVE
BLESSINGTON
CO WICKLOW
W91 T922

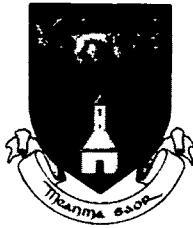
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GOODS	80.00
VAT Exempt/Non-vatable	

Total	80.00 EUR
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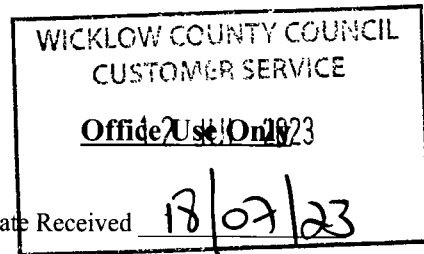
Tendered	
Postal Order	80.00

Change	0.00
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Issued By Andrey Bowen
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Wicklow County Council
County Buildings
Wicklow
Co Wicklow
Telephone 0404 20148
Fax 0404 69462



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:

Nicola Ilori

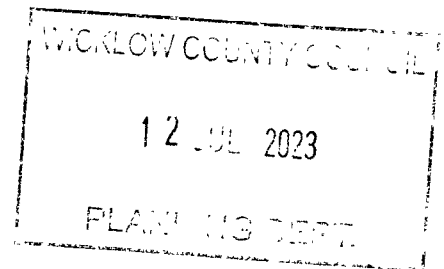
Address of applicant:

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.

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 _____

SEE ATTACHED Drawing + pictures

viii. Fee of € 80 Attached ? yes Money order for €80

Signed : Nicola Jorri Dated : 11/7/23

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.

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.

3. Declaration Details

i. Location of Development subject of Declaration front wall to move
pier over 47 inches
W91 T9 22 - front of House

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

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

N/A

iv. Section 5 of the Planning and Development Act provides that : If any question arises as to what, in any particular case, is or is not development and is or is not exempted development, within the meaning of this act, any person may, 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 moving Pier over

47 inches and Replacing with new
pier

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

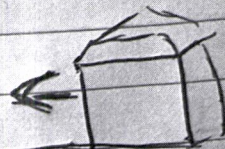
Additional details may be submitted by way of separate submission. _____



Adjoining
Fence

HOUSE

GARDEN



move existing Pier
over 47 INCH

Boherboy

5G

W91 T922



15°



Crossch

RED LANE

N81

Work

Dunnes Stores

N81

Blessington

Knockera

Cottages



LIVE

W91 T922

Haylands, Co. Wicklow

6:05

5G



37 Oak Dr

St. Mary's
Senior National
School

GLENVIEW

VK Beauty

West Wicklow
House

Murphy's Bar
Blessington

KILBRI

Blessington
Community
College

Neighbourhood
Naas Restaurant

BLESSINGTON

R410

E ROAD

N81



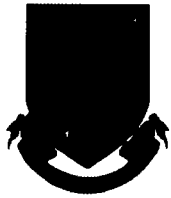
Parked Car

18°

37 Oak Dr



Address · Blessington, Ireland



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Wicklow County Council

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14/07/2023

Nicola Ilori

**Re: Application for a Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended)**

A Chara

I wish to acknowledge receipt of your application for a declaration in respect of Section 5 on 12th July 2023.

We received your Section 5 application form however this is incomplete as No. 3 Declaration Details have not been completed in Full items i, ii, iii, iv and v need to be completed (item i is completed incorrectly).

Please go to our website www.wicklow.ie/Living/Services/Planning/Planning-Applications/Exempted-Development in order to complete question v.

This application is currently classed as incomplete and decision date cannot be noted until a complete application form is received.

Mise, le meas

STAFF OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT

