

**WICKLOW COUNTY COUNCIL**

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

**CHIEF EXECUTIVE ORDER NO. CE/PDE/1081/2023**

**Reference Number:** EX 33/2023

**Name of Applicant:** Daniel Hayden

**Nature of Application:** Section 5 Referral as to whether "Change front grass lawn into gravelled area for additional parking space" is or is not exempted development

**Location of Subject Site:** 16 Woodleigh Park, Blessington.

**Report from Edel Bermingham, SEP**

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "Change front grass lawn into gravelled area for additional parking space at 16 Woodleigh Park, Blessington" 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 6 of the Planning and Development Regulations 2001 (as amended)
- d) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

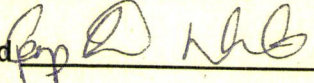
**Main Reasons with respect to Section 5 Declaration:**

- The gravelling of the front lawn to provide a parking space would be development having regard to the provisions of Section 3 of the Planning and Development Act 2001(as amended).
- Article 6 of the Planning and Development Regulations 2001 (as amended) provides that 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. The gravelling of the front lawn would come within the provisions of Class 6 of Part 1 : Schedule 2 but would contravene the restrictions set out under Article 9 of the Regulations as
  - i. development would consist of the formation, of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width, as the proposed works would require the opening up/ formation of a means of access

- over the public footpath into the front private space which currently does not exist.
- ii. the works would result in traffic movements over a public footpath in an area where no such traffic movements take place, and would therefore give rise to a traffic hazard .

#### Recommendation

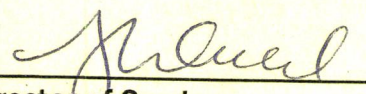
The Planning Authority considers that "Change front grass lawn into gravelled area for additional parking space at 16 Woodleigh Park, Blessington" **is development and is not exempted development** as recommended in the planning report.

Signed  Dated 21<sup>st</sup> day of June 2023

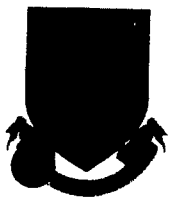
#### ORDER:

I HEREBY APPROVE that a declaration to issue stating:

That "Change front grass lawn into gravelled area for additional parking space at 16 Woodleigh Park, Blessington" **is development and is not exempted development** within the meaning of the Planning & Development Acts 2000 (as amended).

Signed:   
A/ Director of Services  
Planning Development & Environment

Dated 21<sup>st</sup> day of June 2023



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

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

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Daniel Hayden

21<sup>st</sup> June 2023

**RE: Declaration in accordance with Section 5 of the Planning & Development Acts  
2000 (As Amended) – EX34/2023**

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.**





# 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: Daniel Hayden**

**Location: 16 Woodleigh Park, Blessington**

**CHIEF EXECUTIVE ORDER NO. CE/PDE/1081/2023**

A question has arisen as to whether "Change front grass lawn into gravelled area for additional parking space at 16 Woodleigh Park, Blessington" is or is not exempted development.

#### 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 6 of the Planning and Development Regulations 2001 (as amended)
- d) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

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

- The gravelling of the front lawn to provide a parking space would be development having regard to the provisions of Section 3 of the Planning and Development Act 2001 (as amended).
- Article 6 of the Planning and Development Regulations 2001 (as amended) provides that 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. The gravelling of the front lawn would come within the provisions of Class 6 of Part 1 : Schedule 2 but would contravene the restrictions set out under Article 9 of the Regulations as
- i. development would consist of the formation, of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width, as the proposed works would require the opening up/ formation of a means of access





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over the public footpath into the front private space which currently does not exist.

- ii. the works would result in traffic movements over a public footpath in an area where no such traffic movements take place, and would therefore give rise to a traffic hazard.

**The Planning Authority considers that "Change front grass lawn into gravelled area for additional parking space at 16 Woodleigh Park, Blessington" is development and is not exempted development.**

Signed:

ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 20<sup>th</sup> June 2023



## **Section 5 Application EX 33/2023**

Date : 12<sup>th</sup> June 2023..

Applicant : Daniel Hayden

Address :

Exemption Whether or not :

Change front grass lawn into gravelled area for additional parking space

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

### **Planning History :**

PRR 00/2892 Permission granted for 152 Dwellings at Santryhill, Blessington

### **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

<p>CLASS 6</p> <p>(a) The construction of any path, drain or pond or the carrying out of any landscaping works within the curtilage of a house.</p> <p>(b) Any works within the curtilage of a house for—</p> <p>(i) the provision to the rear of the house of a hard surface for use for any purpose incidental to the enjoyment of the house as such, or,</p> <p>(ii) the provision of a hard surface in the area of the garden forward of the front building line of the house, or in the area of the garden to the side of the side building line of the house, for purposes</p>	<p>The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground.</p> <p>Provided that the area of the hard surface is less than 25 square metres or less than 50% of the area of the garden forward of the front building line of</p>
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incidental to the enjoyment of the house as such.	the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, whichever is the smaller, or if the area of the hard surface is 25 square metres or greater or comprises more than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, it shall be constructed using permeable materials or otherwise allow for rainwater to soak into the ground.
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#### **Assessment :**

The Section 5 declaration application seeks an answer with respect to the following question i.e. whether the change of front grass lawn into gravelled area for additional car space is or is not exempted development.

The submitted documents indicate that the area to be gravelled is 18sqm. From inspection it is evident that the overall estate is characterised by open fronts with a footpath located between these open areas and the on-street parking. The applicant has enclosed part of their front garden area by the erection of boundary fencing along the front side boundary with number 17, and partially along the boundary with the footpath. This fencing is not part of the Section 5 declaration and has not been assessed. The footpath forward of the front grassed area has been taken in charge by WCC from the details set out in the Taking in Charge map attached.

It is clear therefore that the proposal will do the following gravel an area of 18sqm to front of No.16, in addition the works will create a new car parking space and to allow for same a vehicular entrance where none exists at present.

The first question that must be asked is whether the gravelling of the front lawn and use for carparking is or is not development. In this regard the works would be works of construction and alteration, 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 area set out under the Planning and Development Regulations 2001(as amended) . In this regard Class 6 : Part 1 : Schedule 2 would allow for the provision of a hard surface to

the area of the garden forward of the front building line of the house, or in the area of the garden to the side of the side building line of the house, for purposes incidental to the enjoyment of the house as such.

The installation of gravel to the front lawn would come within this description . This exemption is limited by the following –

Provided that the area of the hard surface is less than 25 square metres or less than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, whichever is the smaller,

or

if the area of the hard surface is 25 square metres or greater or comprises more than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, it shall be constructed using permeable materials or otherwise allow for rainwater to soak into the ground

The area is to be less than 25sqm and would be less than to 50% of the front garden area given the overall site which extends to the west. Therefore the works would come within the exemption. This exemption must be reviewed having regard to the provisions of Article 9 as provided for in the Regulations (see Article 6).

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

The proposed gravelling and laying out of the front lawn for use as a car space would result in the opening of a vehicular entrance from the front garden area to the estate road over an existing public footpath. The existing estate road is in excess of 4m, and therefore the proposal would be de-exempted by the provisions of Article 9(a) (ii) as it would comprise the formation of a means of access to a public road the surfaced carriageway which exceeds 4m . Furthermore as the access is across a public footpath within an estate where there are no existing vehicular movements across the footpaths the proposal would endanger public safety and would be a traffic hazard.

Accordingly, in light of the above assessment the proposal is not exempted development.

**Recommendation :**

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

the change of front grass lawn into gravelled area for additional car space at 16 Woodleigh Park, Blessington, Co.Wicklow

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

The Planning Authority consider that the change of front grass lawn into gravelled area for additional car space **IS DEVELOPMENT AND IS NOT EXEMPTED DEVELOPMENT**

Main Considerations with respect to Section 5 Declaration :

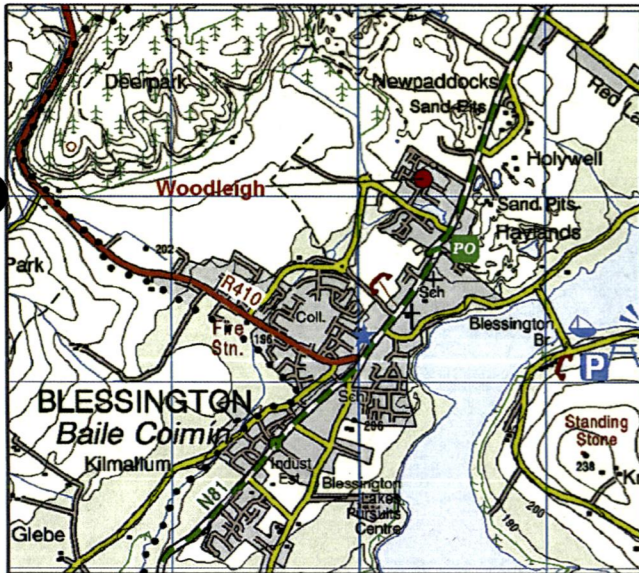
- a) The details submitted with the Section 5 Declaration.
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Main Reasons with respect to Section 5 Declaration :

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  - i. development would consist of the formation, of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width, as the proposed works would require the opening up/ formation of a means of access over the public footpath into the front private space which currently does not exist.
  - ii. the works would result in traffic movements over a public footpath in an area where no such traffic movements take place, and would therefore give rise to a traffic hazard .

  
888P  
26/2023

Agreed & Signed A/DOS  
21/06/23



Location Map

OpenSpace	Area_ha
OS1	0.330
OS2	0.235
OS3	0.076
OS4	0.035
OS5	0.025

Open Space Schedule

ROAD_NO	LEN_M	Road_Adj	Public_Road
1	187	N-81-346	
2	165		
3	309		
4	93		

Road Schedule

0 25 50  
metres

Legend :

Estate TIC Boundary shown thus:

Roads/Pavement shown thus:

Public Open Space shown thus:

Notes:

- 1.This map refers to the taking in maintainance only those roads,open spaces and shown in colour.
- 2.See file for drainage and water layouts.

Dm: P0'D Date: May 2012 Drwg. No: PC-TIC 2012-008

Taking In Charge Roads, Open Spaces,Site Layout Plan  
Woodleigh ,Newpaddocks/Santryhil,Blessington.



ECONOMIC PLANNING  
& DEVELOPMENT  
DIRECTOR OF SERVICES  
DES O'BRIEN

No Window



# Comhairle Contae Chill Mhantáin Wicklow County Council

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## MEMORANDUM

### WICKLOW COUNTY COUNCIL

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


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

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**RE:- EX 33/2023 - Declaration in accordance with Section 5 of the  
Planning & Development Acts 2000 (as amended)  
Daniel Hayden**

I enclose herewith for your attention application for Section 5 Declaration  
received 1<sup>st</sup> June 2023.

The due date on this declaration is 28<sup>th</sup> June 2023.

  
\_\_\_\_\_  
**Staff Officer**  
**Planning Development & Environment**





# Comhairle Contae Chill Mhantáin Wicklow County Council

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Daniel Hayden

1<sup>st</sup> June 2023

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 33/2023  
Proposed grass lawn to hardstanding conversion**

A Chara

I wish to acknowledge receipt on 1<sup>st</sup> June 2023 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 28<sup>th</sup> June 2023.

Mise, le meas

NICOLA FLEMING  
STAFF OFFICER  
PLANNING DEVELOPMENT AND ENVIRONMENT



Wicklow County Council  
County Buildings  
Wicklow  
0404-20100

01/06/2023 11 25 11

Receipt No L1/0/314006  
\*\*\*\*\* REPRINT \*\*\*\*\*

DANIEL HAYDEN  
16 WOODLEIGH PARK  
BLESSINGTON  
CO WICKLOW  
W91R599

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  
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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**

WICKLOW COUNTY COUNCIL

01 JUN 2023

PLANNING DEPT.

**1. Applicant Details**

(a) Name of applicant: \_\_\_\_\_ Daniel Hayden \_\_\_\_\_

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) \_\_\_\_\_ 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

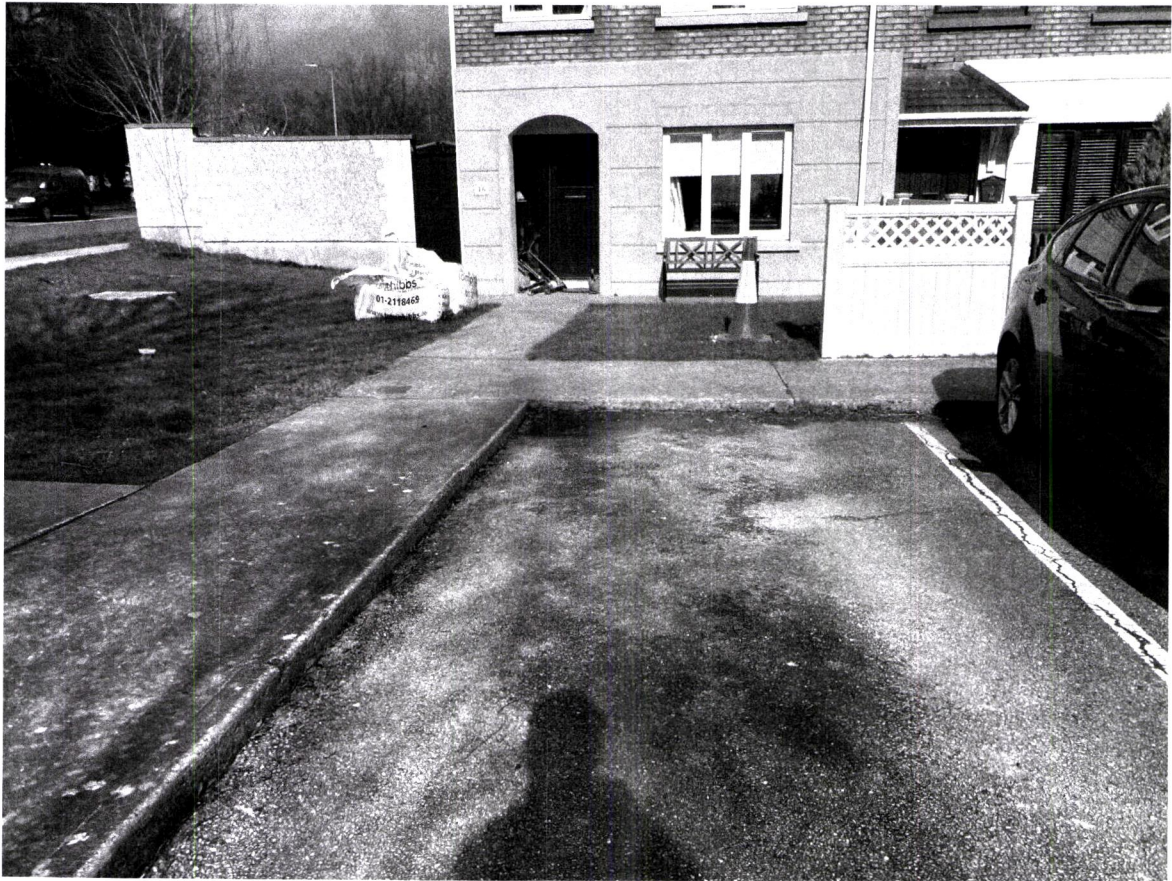
Proposal to change the front grass lawn into a landscaped gravel driveway for one additional car parking space. The grass lawn to be converted is in front of the living room window and east of the existing main entrance path. The gravel driveway area will **not** extend to the grass lawn to the west of the main entrance path.

The dimension of the proposed gravel driveway is 3m x 6m (18m<sup>2</sup>). Existing drainage will be improved following removal of front grass lawn.

The level of the ground will not be altered above or below the existing level of the adjoining ground. This level will be retained.



### Driveway Entrance Photos



- Wicklow County Council have the authority over the public access road, pedestrian paths and parking bays.
- I want to engage with the local MD Engineer regarding plans to alter the pedestrian path and create a suitable lip or ramp to access the proposed gravel driveway.



ii. Are you the owner and/or occupier of these lands at the location 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, 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

The proposed grass lawn to hardstanding conversion is considered to fall within the following Class of Exempted Development under Schedule 2, Article 6.

**CLASS 6 – subsection (b, (ii)) - the provision of a hard surface in the area of the garden forward of the front building line of the house, or in the area of the garden to the side of the side building line of the house, for purposes incidental to the enjoyment of the house as such.**

Proposal is considered to be compliant with the following corresponding conditions -  
Provided that the area of the hard surface is less than 25 square metres or less than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, whichever is the smaller, or if the area of the hard surface is 25 square metres or greater or comprises more than 50% of the area of the garden forward of the front building line of the house

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

1. Schedule 2, Part 1, Class 6 of the Planning and Development Regulations 2001 – 2022, as amended

2. Articles 6 & 9 of the Planning and Development Regulations 2001 – 2022, as amended.

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

N/A

- viii. Fee of € 80 Attached? Yes

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

### **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.