Comhairle Contae Chill Mhantáin
Wicklow County Council

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

Áras An Chontae / County Buildings
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Guthán / Tel (0404) 20148
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Rphost / Email. plandev@wicklowcoco.ie
Suíomh / Website. www.wicklow.ie

OTE Solutions
Dublin Road
Arklow
Co. Wicklow

2ND Of November 2026

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) -EX 126/2026

A Chara,

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 Coimisiún Pleanála of such fee as may be prescribed, refer a declaration for review by the Coimisiún within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,

pp Dianne Byrne.
ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT.

Comhairle Contae Chill Mhantáin
Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
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DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT ACT 2000 AS AMENDED

Applicant: Eimear McElheron & Ian O'Toole

Location: Malbay, Ticknock, Sea Road, Arklow, Co. Wicklow

Reference Number: EX126/2026

CHIEF EXECUTIVE ORDER NO. CE/PERD/2026/1318

A question has arisen as to whether *"a dormer roof extension and the removal of a chimney" at* Malbay, Ticknock, Sea Road, Arklow, Co. Wicklow is or is not exempted development.

Having regard to:

i. The details received with this Section 5 request on the 9th October 2026
ii. Section 2(1) of the Planning and Development Act 2000, as amended
iii. Section 3 of the Planning and Development Act 2000, as amended
iv. Section 4 (1) of the Planning and Development Act 2000, as amended
v. Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, particularly Class 1B and 2A

Main Reasons with respect to Section 5 Declaration:

1) The works are development given the provisions of Section 3(1) (a) of the Planning and Development Act 2000 (as amended).
2) The proposed dormer extension is to the side of the dwelling and therefore falls under the provisions of Schedule 2, Part 1, Class 1B of the Planning and Development Regulations 2001 (as amended).
3) In relation to the removal of the chimney, the removal of the chimney falls under the provisions of Schedule 2, Part 1, Class 2A of the Planning and Development Regulations 2001 (as amended).

The Planning Authority considers that *"a dormer roof extension and the removal of a chimney" at* Malbay, Ticknock, Sea Road, Arklow, Co. Wicklow **is development and IS exempted development.**

Signed: Dianne Byrne. Date: 02/11/2026
pp ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2026/1318

Reference Number:	EX 126/2026
Name of Applicant:	Eimear McElheron & Ian O'Toole
Nature of Application:	Section 5 Referral as to whether *"a dormer roof extension and the removal of a chimney"* is or is not development and is or is not exempted development.
Location of Subject Site:	Malbay, Ticknock, Sea Road, Arklow, Co. Wicklow
Report from:	Lyndsey Blackmore EP Patrice Ryan SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether *"a dormer roof extension and the removal of a chimney" at* Malbay, Ticknock, Sea Road, Arklow, Co. Wicklow Is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

i. The details received with this Section 5 request on the 9th October 2026
ii. Section 2(1) of the Planning and Development Act 2000, as amended
iii. Section 3 of the Planning and Development Act 2000, as amended
iv. Section 4 (1) of the Planning and Development Act 2000, as amended
v. Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, particularly Class 1B and 2A

Main Reasons with respect to Section 5 Declaration:

1) The works are development given the provisions of Section 3(1) (a) of the Planning and Development Act 2000 (as amended).
2) The proposed dormer extension is to the side of the dwelling and therefore falls under the provisions of Schedule 2, Part 1, Class 1B of the Planning and Development Regulations 2001 (as amended).
3) In relation to the removal of the chimney, the removal of the chimney falls under the provisions of Schedule 2, Part 1, Class 2A of the Planning and Development Regulations 2001 (as amended).

Recommendation

The Planning Authority, as recommended by the above named, considers that *"a dormer roof extension and the removal of a chimney" at* Malbay, Ticknock, Sea Road, Arklow, Co. Wicklow **is development and is exempted development** as recommended in the planning reports.

Signed: Dianne Byrne **Date:** 02/11/2026

ORDER:

I HEREBY DECLARE:

THAT *"a dormer roof extension and the removal of a chimney"* at Malbay, Ticknock, Sea Road, Arklow, Co. Wicklow is **development and is exempted** development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: Helena Donoghy Date: 2/11/26

Director of Services

Planning, Economic & Rural Development

WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT
Section 5 – Request for Declaration of Exemption

REF:	EX126/2026
NAME:	Eimear McElheron & Ian O 'Toole
DEVELOPMENT:	Extension to dwelling
LOCATION:	Malbay, Ticknock, Sea Road, Arklow, Co. Wicklow

The Site:
The site comprises a detached two storey dormer dwelling with a mix of render and red brick and slate roof.

Planning History:
None available

Question:
The applicant has applied to see whether or not the removal of a chimney and the dormer roof extension and addition of a dormer window to the side or rear of the house is or is not development; and is or is not exempted development.

It is noted from the drawings that a dormer window is proposed to the side and roof light is proposed to the side.

Legislative Context:

Planning and Development Act 2000 (as amended)

Section 2 (1)

"exempted development" has the meaning specified in section 4;

"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,
(b) in relation to a protected structure or proposed protected structure, includes—
(i) the interior of the structure,
(ii) the land lying within the curtilage of the structure,
(iii) any other structures lying within that curtilage and their interiors, and
(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

"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, except where the context otherwise requires, "development" means—
(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or
(b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).

Section 4 sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act (subject to certain conditions and limitations as set out in Section 4).

The Planning and Development Regulations 2001 (as amended)

Part 1, Schedule 2 of the Planning and Development Regulations 2001 lists the classes of development that are considered to be exempted development, subject to conditions and limitations, and the 'Restrictions on Exemptions' set out in Article 6.

The applicant has referenced Class 1B, which states: A dormer roof extension and insertion of a dormer window to the side or rear of the house.

Conditions and Limitations

1. The internal volume of the development either singularly or in combination with other dormer roof extensions shall not exceed 30 cubic metres.
2. The dormer extension shall be no higher than the roof ridge and there shall be at least 20 centimetres eaves setback.

As noted above, the dormer window is proposed to the side. It is noted that a new roof light has been shown proposed to the side above the dormer , however an exemption certificate has no been sought for this part of the development.

CLASS 2A The removal of a chimney from a house

Conditions and Limitations

1. No chimney shall be removed where it forms part of a joint chimney stack with a separate dwelling house.
2. Roof finishes shall be the same as the existing roof.
3. This exemption is subject to compliance with Section 22 (protection of nests of wild birds) and Section 23 (breeding or resting places of protected wild animals including bats) of the Wildlife Act 1976, as amended.

Assessment:
The first assessment must be whether or not the proposal outlined above constitutes development within the remit of Sections 2 and 3 of the Planning and Development Act 2001.

"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.

Having regard to the definition of "development" and "works" above, I am satisfied that the extension to the dwelling is "development".

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

Development description: A dormer roof extension to the side of the house.

As noted above, a dormer extension is proposed to the side of the dwelling . Therefore, Class 2B applies to the proposed application.
The Conditions and Limitations are as follows:

1.The internal volume of the development either singularly or in combination with other dormer roof extensions shall not exceed 30 cubic metres.

2. The dormer extension shall be no higher than the roof ridge and there shall be at least 20 centimetres eaves setback.

The proposed dormer roof extension is to the side of the dwelling, does not exceed 30 cubic metres, is not higher then the roof ridge, and has a st back in excess of 20cm and is therefore considered to be exempted development. The existing dormer to the sorthen side is considered to be part of the original hard structure and therefore is not a dormer extension

Development description: Removal of Chimney.

With respect to the removal of the chimney, the relevant exempted development class as per Schedule 2: Part 1 of the Planning & Development Regulations 2001 is Class 2A.

Class 2A:
With respect to the conditions and limitations respecting class 2A above the following is noted:

1. n/a detached dwelling
2. The applicant states that the material proposed is the same as what is in situ, although the materials have not been labelled on the drawings.
3. Complies – no impact on bird nests.

Recommendation:

With respect to the request under Section 5 of the Planning and Development Act 2000, as to whether a dormer roof extension and the removal of a chimney

is development and is exempted development

Having regard to:

- The details received with this Section 5 request on the 9th October 2026
- Section 2(1) of the Planning and Development Act 2000, as amended
- Section 3 of the Planning and Development Act 2000, as amended
- Section 4 (1) of the Planning and Development Act 2000, as amended
- Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, particularly Class 1B and 2A

The Planning Authority considers that:

a dormer roof extension and the removal of a chimney is development, and is exempted development.

Main Reasons with respect to Section 5 Declaration:

1) The works are development given the provisions of Section 3(1) (a) of the Planning and Development Act 2000 (as amended).
2) The proposed dormer extension is to the side of the dwelling and therefore falls under the provisions of Schedule 2, Part 1, Class 1B of the Planning and Development Regulations 2001 (as amended).
3) In relation to the removal of the chimney, the removal of the chimney falls under the provisions of Schedule 2, Part 1, Class 2A of the Planning and Development Regulations 2001 (as amended).

Lyndsey Blackmore EP
28/10/2026

Section 5 to issue in accordance with the recommendation above.
Agreed as amended
SEP
28/10/2026.

Noted + Agreed 2/11/26
H Deneby DOS

MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Keara Kennedy
Executive planner

FROM: Joanne Byrne
A/ Staff Officer

RE:- EX126/2026 - Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (as amended)

I enclose herewith for your attention application for Section 5 Declaration received 09/10/2026.

The due date on this declaration is the **05/11/2026.**

Joanne Byrne.

A/Staff Officer
Planning, Development & Environment

Comhairle Contae Chill Mhantáin
Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
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OTE Solutions,
Dublin Road,
Arklow,
Co. Wicklow

12th October 2026

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended) – EX126/2026

A Chara

I wish to acknowledge receipt on 09/10/2026 full details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 05/11/2026.

Mise, le meas

Joanne Byrne.

Joanne Byrne
A/ Staff Officer
Planning, Economic & Rural Development

te solutions
design energy

Dublin Road, Arklow,
Co. Wicklow.
0402 22263
087 2666062
info@otesolutions.ie
www.otesolutions.ie

Planning Department
Wicklow County Council
County Buildings
Wicklow

Date: 28-09-26

Applicants: Eimear McElheron & Ian O'Toole

Re: Section 5 Declaration on whether the (1) removal of a chimney & (2) the construction of a dormer roof extension to the side elevation is or is not exempted development at Malbay, Ticknock, Sea Road, Arklow, Co. Wicklow.

09 OCT 2026

A Chara,

Please find enclosed a completed section 5 application for the above client. We would like to add the following information in support of their application.

Proposal

The applicant seeks a declaration that the (1) removal of a chimney & (2) the construction of a dormer roof extension to the side elevation is or is not exempted development under the new Planning and Development (Exempted Development (Act of 2000)) Regulations 2026 SI 343 of 2026

1. Removal of Chimney

Please see the attached existing and proposed drawings showing the removal of an existing chimney.

WICKLOW COUNTY COUNCIL
09 OCT 2026
PLANNING DEPT.

Amendment of Part 1 of Schedule 2 of the Principal Regulations

3. Part 1 of Schedule 2 of the Principal Regulations is amended by the insertion of the following after Class 2:

Class 2A The removal of a chimney from a house.	1. No chimney shall be removed where it forms part of a joint chimney stack with a separate dwelling house. 2. Roof finishes shall be the same as the existing roof. 3. This exemption is subject to compliance with Section 22 (protection of nests of wild birds) and Section 23 (breeding or resting places of protected wild animals including bats) of the Wildlife Act 1976, as amended.

In accordance Planning and Development (Exempted Development (Act of 2000)) (No. 6) Regulations 2026,

Part 1 of Schedule 2 Class 2A:

1. The removal of the chimney does not form part of a joint chimney stack.

2. The roof finish shall be the same as the existing roof.

3. There is no resting place for protected wild animals to the existing habitable and in use flue.

2. Dormer Extension

Please see the attached existing and proposed drawings showing the addition of a dormer extension to the side elevation.

Amendment of Part 1 of Schedule 2 of the Principal Regulations

3. Part 1 of Schedule 2 of the Principal Regulations is amended by the insertion after Class 1 of:

CLASS 1B A dormer roof extension and insertion of a dormer window to the side or rear of the house.	1. The internal volume of the development either singularly or in combination with other dormer roof extensions shall not exceed 30 cubic metres. 2. The dormer extension shall be no higher than the roof ridge and there shall be at least 20 centimeters eaves setback.

In accordance Planning and Development (Exempted Development (Act of 2000)) (No. 7) Regulations 2026,

Part 1 of Schedule 2 Class 1B:

1. The internal volume of the proposed dormer extension measures 27 cubic metres and does not exceed 30 cubic metres. (Please refer to proposed drawings)

2. The dormer extension is no higher than the roof ridge and there is over 20 centimetres eaves setback.

   Please also note that there are no windows proposed to the side elevation and both windows proposed to the front and rear elevation above ground level are greater than 8 metres from the boundary they face.

The proposal submitted is compliant with all limiting conditions of the exempted development regulations 2026 and so we ask that it be determined that the proposal is an exempted development.

Yours sincerely,

Jonathan O' Toole
BA. BSc. Civil Tech. IEI.

Wicklow County Council
County Buildings
Wicklow
0404-20100

09/10/2026 09 23 51

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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: Eimear McElheron & Ian O'Toole

Address of applicant: Mallay, Tuknock, Sea Road, Arklow, Co Wicklow

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

WICKLOW COUNTY COUNCIL
09 OCT 2026
PLANNING DEPT.

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) OTE Solutions

Address of Agent : Dublin Road Arklow, Co Wicklow.

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

3. Declaration Details

i. Location of Development subject of Declaration Mallay Tuknock Sea Road, Arklow Co Wicklow

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

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

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

class 2A - Removal of chimney - is it exempt Development ?

class 1B - Dormer Roof extension - is it exempt Development ?

(Please see cover letter & drawings)

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 2A

class 1B

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 _____

- Existing & Proposed Plns, Elevations, Section A-A
- Site Location Map
- Existg & Proposed Site Layout Plan.

viii. Fee of € 80 Attached ? Yes

Signed : _____ (Agent) Dated : 08/10/2026

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.

Planning Pack Map



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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.
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http://www.osi.ie; search 'Capture Resolution'

Ordnance Survey Ireland
National Mapping Agency

CENTRE COORDINATES:
ITM 725167,674137

PUBLISHED: 19/02/2021
ORDER NO.: 50173238_1

MAP SERIES: 1:1,000
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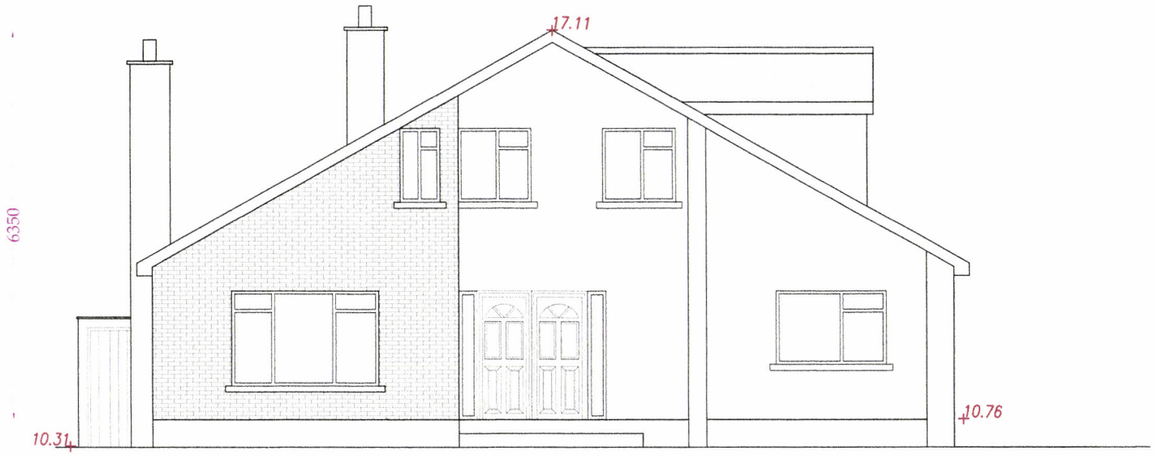
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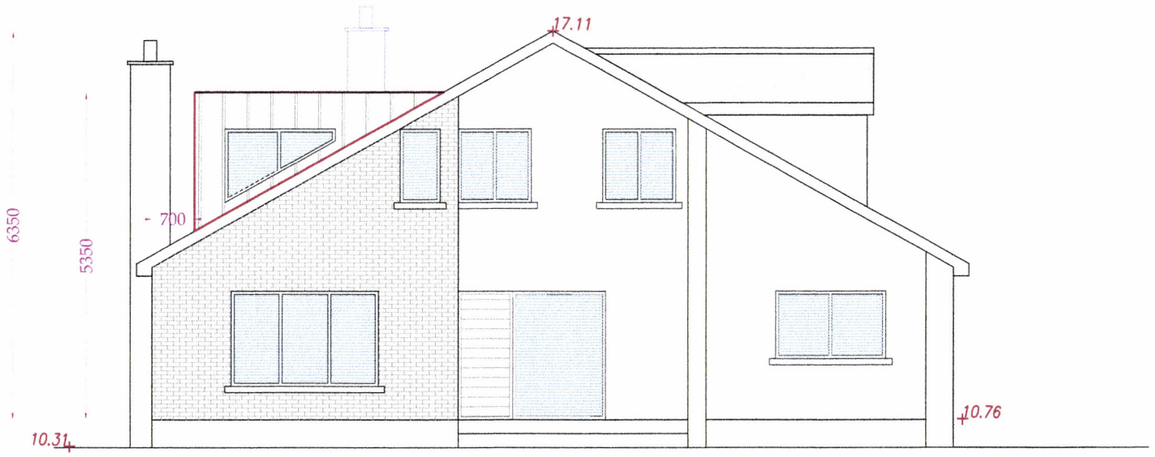
AS-BUILT

LEGEND

- Original Building
- New Blockwork
- New Studwork
- Structure outlined in blue to be removed
- Proposed alterations outlined in red

For EXEMPTION Purposes Only

All dimensions to be checked on site



North West (Front) Elevation

PROPOSED

Drawing Number: 2026-EMC-002

ote solutions
planning design energy
Dublin Road, Arklow, Co. Wicklow
Tel/Fax 0402-22263 E-mail info@oteSolutions.ie

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LEGEND

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- New Blockwork
- New Studwork
- Structure outlined in blue to be removed
- Proposed alterations outlined in red

AS-BUILT

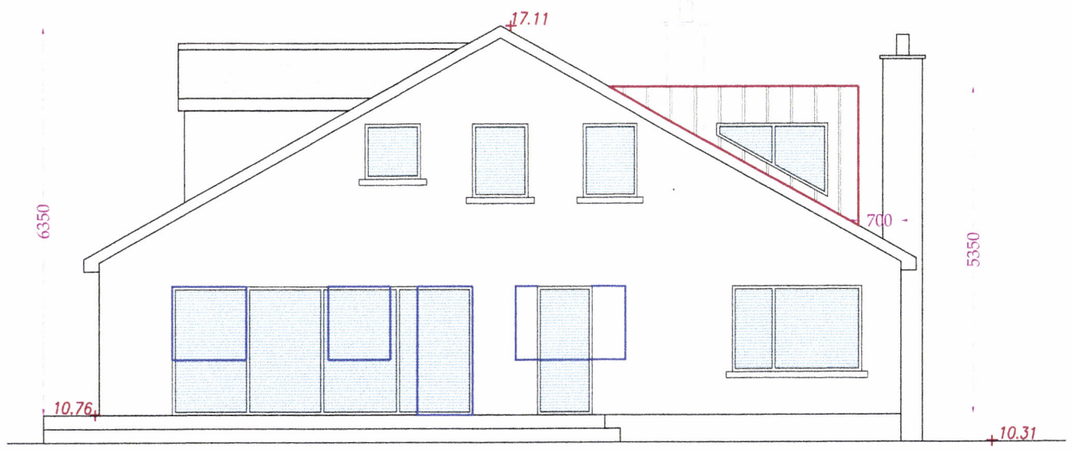


South East (Rear) Elevation

For EXEMPTION Purposes Only

All dimensions to be checked on site

PROPOSED



South East (Rear) Elevation

Drawing Number: 2026-EMC-003

ote solutions
planning design energy
Dublin Road, Arklow, Co. Wicklow
Tel/Fax 0402-22263 E-mail: info@otesolutions.ie

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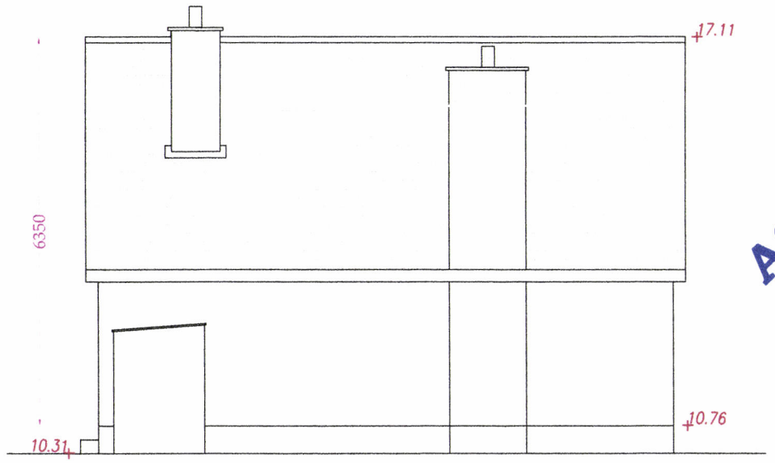
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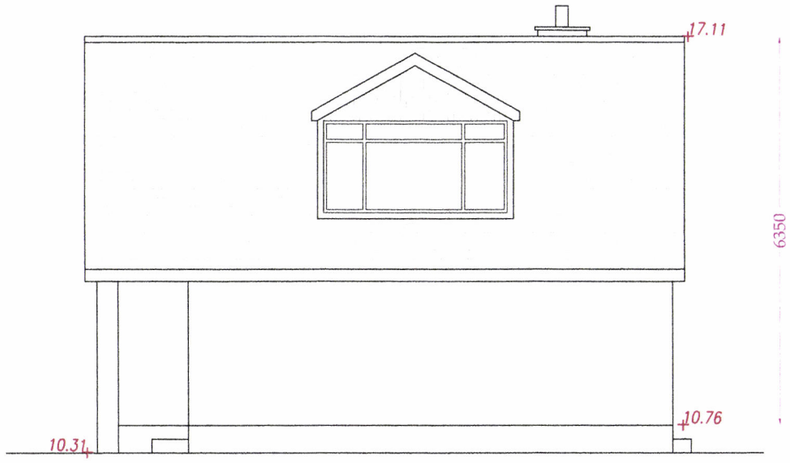
LEGEND

- Original Building
- New Blockwork
- New Studwork
- Structure outlined in blue to be removed
- Proposed alterations outlined in red

AS-BUILT



North East (Side) Elevation

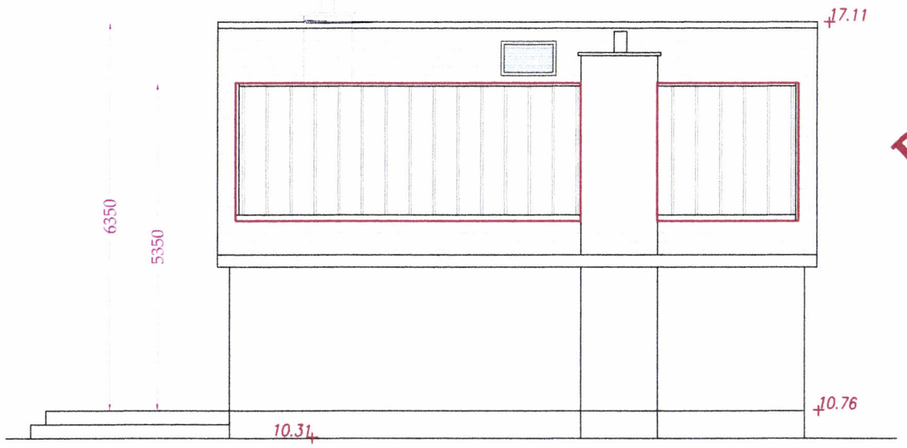


South West (Side) Elevation

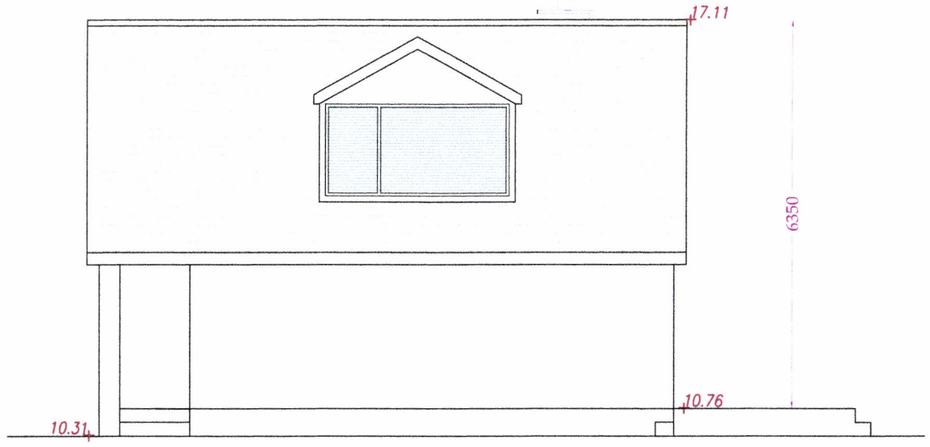
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PROPOSED



North East (Side) Elevation



South West (Side) Elevation

Drawing Number: 2026-EMC-004

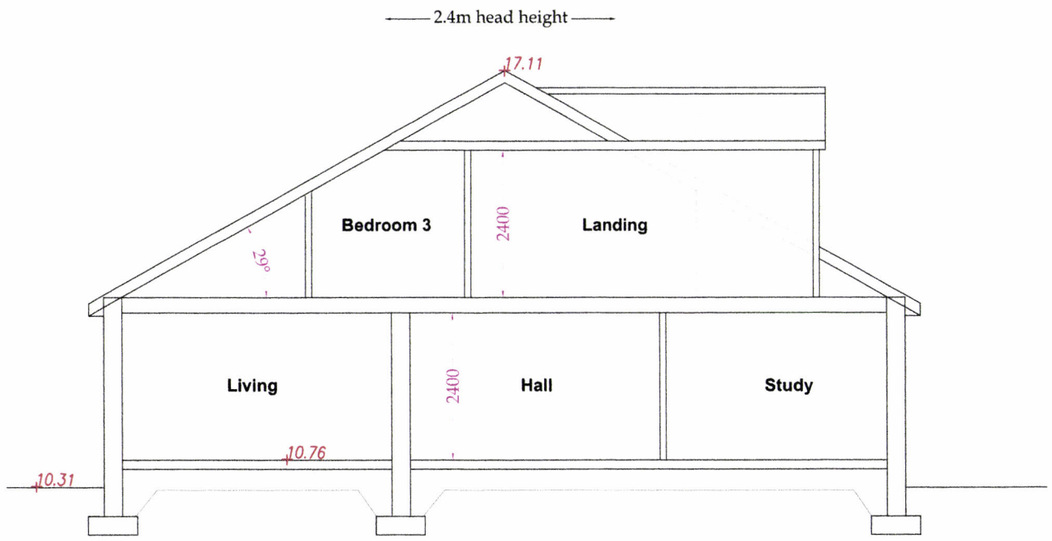
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SECTION A-A

AS-BUILT

LEGEND

- Original Building
- New Blockwork
- New Studwork
- Structure outlined in blue to be removed
- Proposed alterations outlined in red

For EXEMPTION Purposes Only

All dimensions to be checked on site

Amendment of Part 1 of Schedule 2 of the Principal Regulations

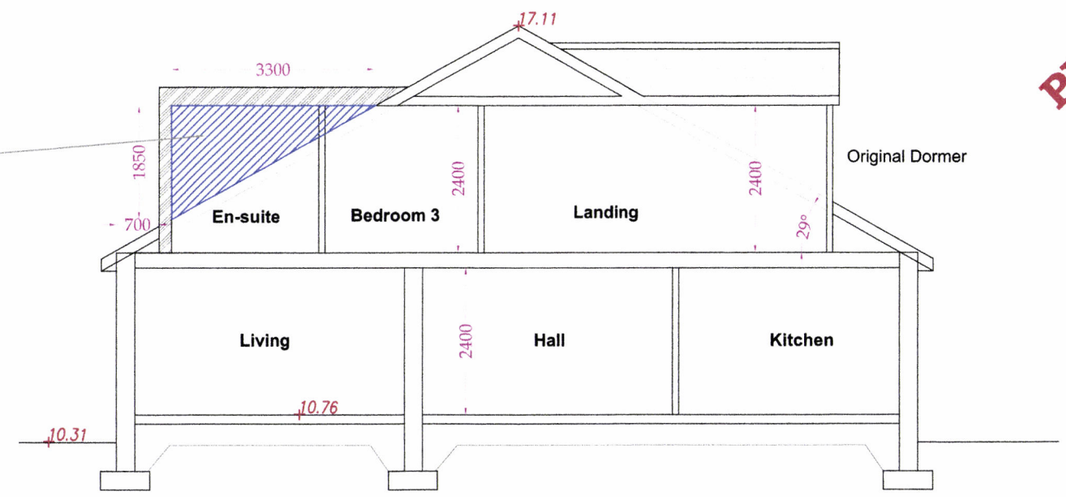
3. Part 1 of Schedule 2 of the Principal Regulations is amended by the insertion after Class 1 of:

CLASS 1B A dormer roof extension and insertion of a dormer window to the side or rear of the house.	1. The internal volume of the development either singularly or in combination with other dormer roof extensions shall not exceed 30 cubic metres. 2. The dormer extension shall be no higher than the roof ridge and there shall be at least 20 centimeters eaves setback.

PLANNING AND DEVELOPMENT (EXEMPTED DEVELOPMENT (ACT OF 2000)) (NO. 7) REGULATIONS

Amendment of Part 1 of Schedule 2 of the Principal Regulations 2026

Dormer Volume = 3.05m2 (hatched blue) x 8.8m long = 27 cubic metres



SECTION A-A

PROPOSED

Drawing Number: 2026-EMC-005

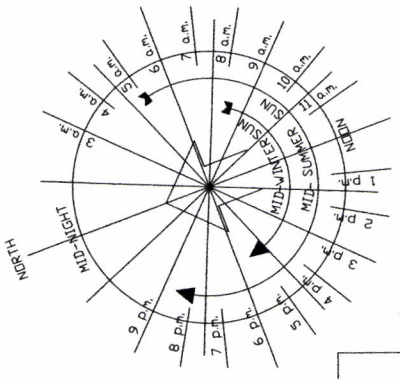
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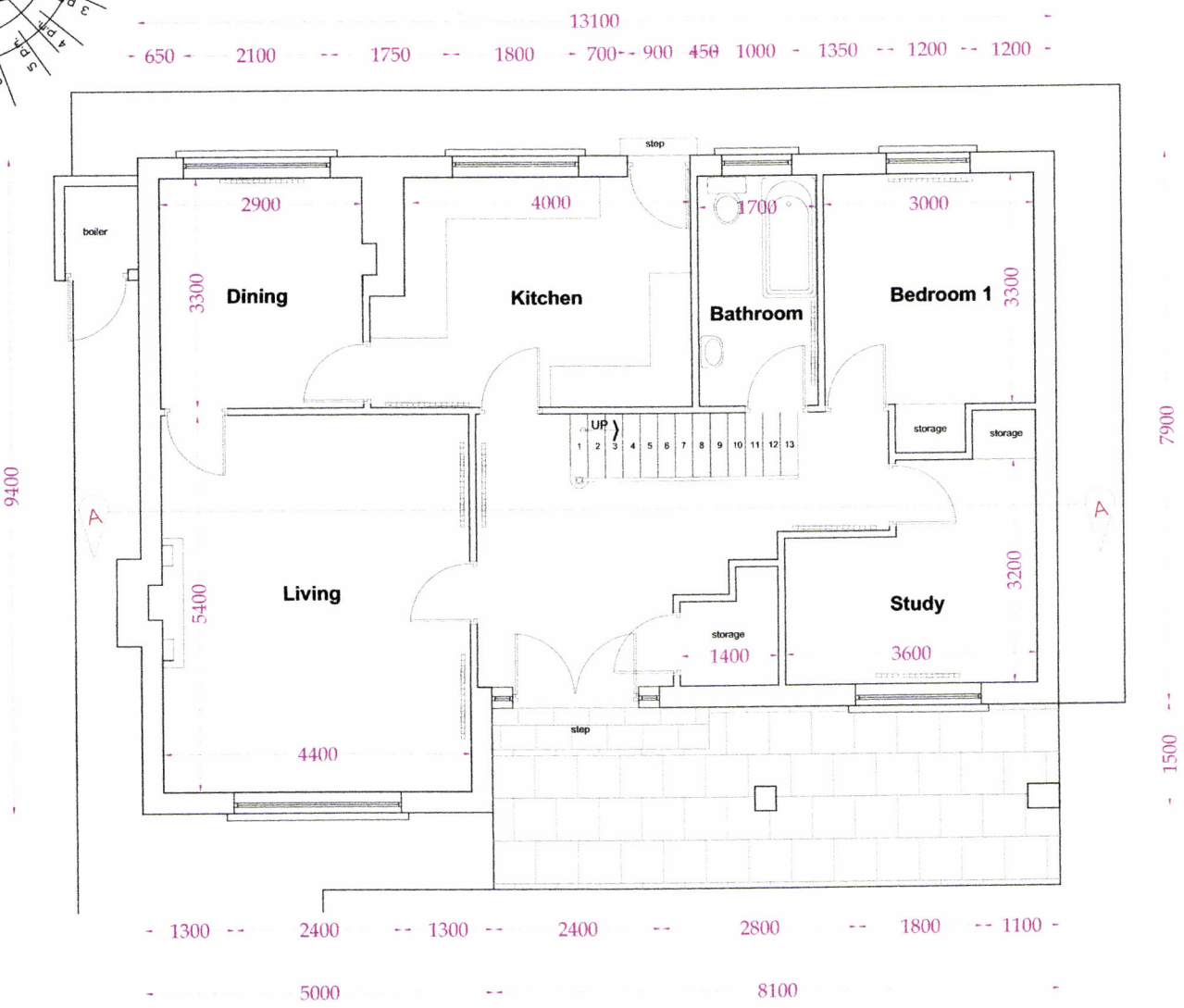
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Existing Ground Floor Plan (95m2)

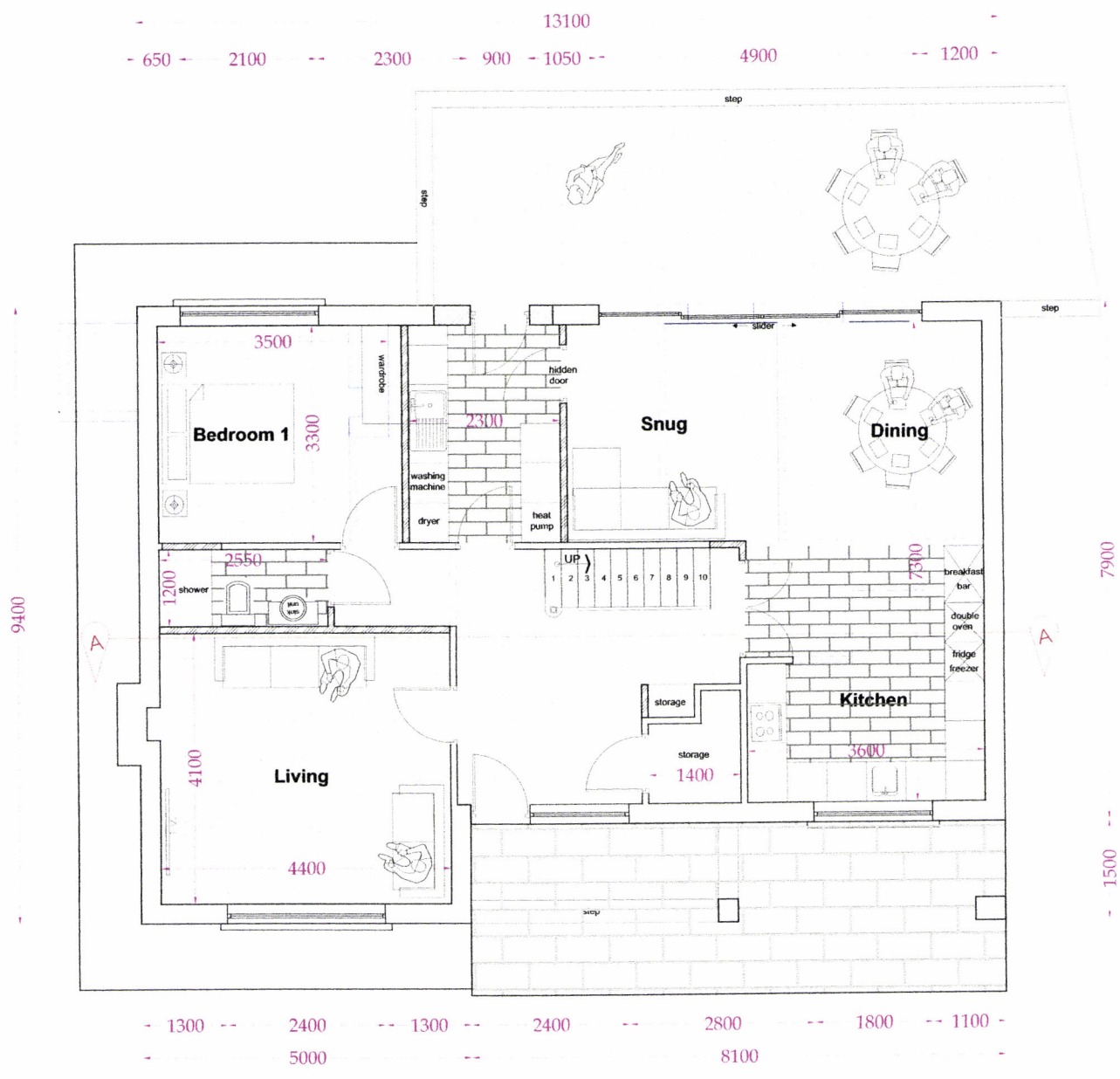
AS-BUILT

LEGEND

- Original Building
- New Blockwork
- New Studwork
- Structure outlined in blue to be removed
- Proposed alterations outlined in red

For EXEMPTION Purposes Only

All dimensions to be checked on site



Proposed Ground Floor Plan (95m2)

PROPOSED

Drawing Number: 2026-EMC-006

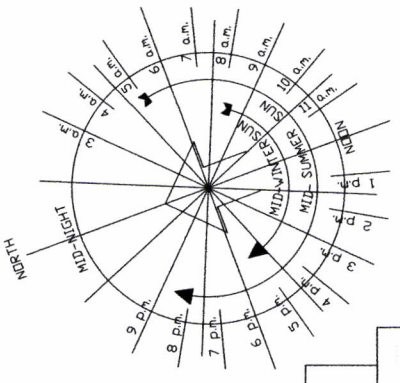
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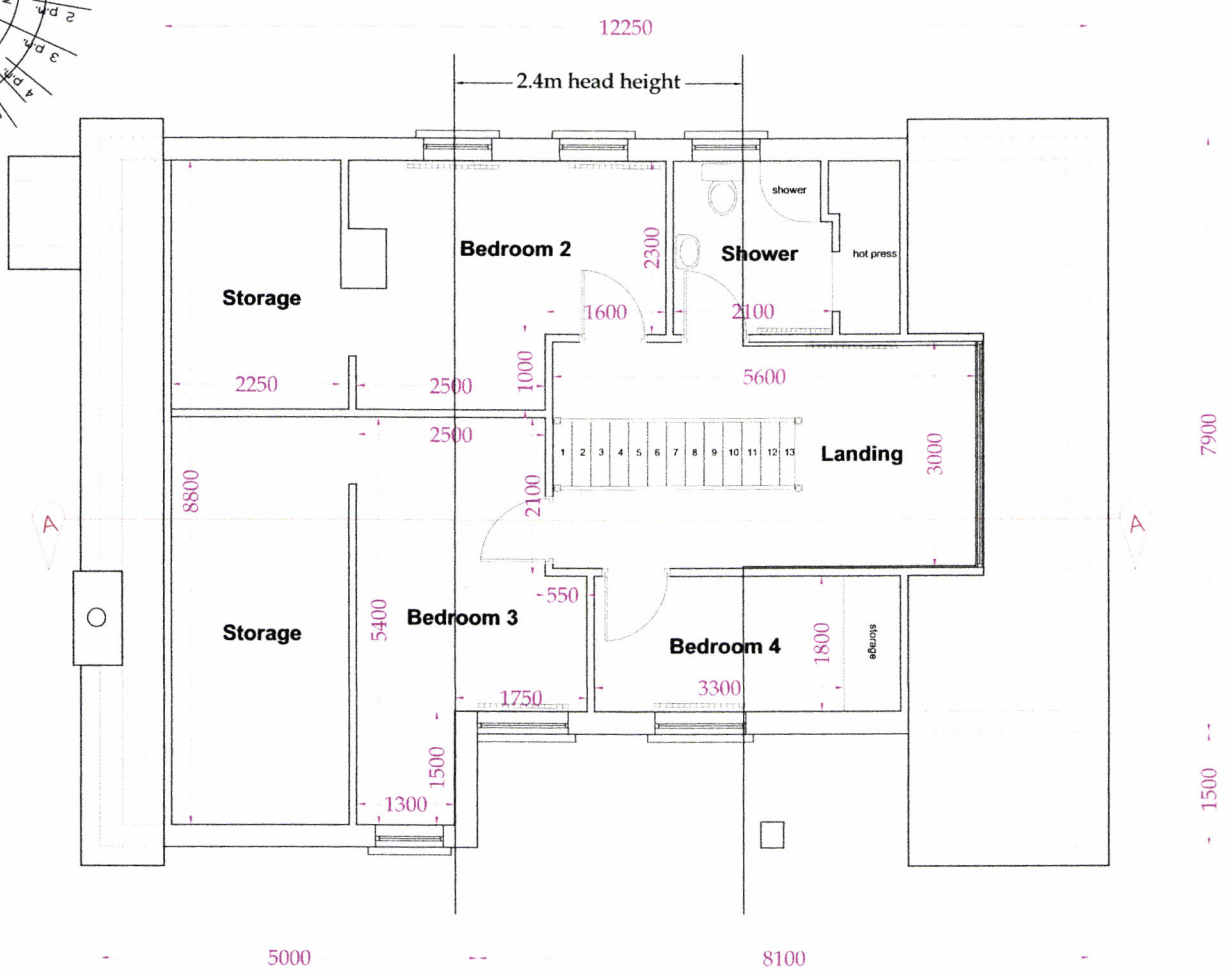
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LEGEND

- Original Building
- New Blockwork
- New Studwork
- Structure outlined in blue to be removed
- Proposed alterations outlined in red

For EXEMPTION Purposes Only

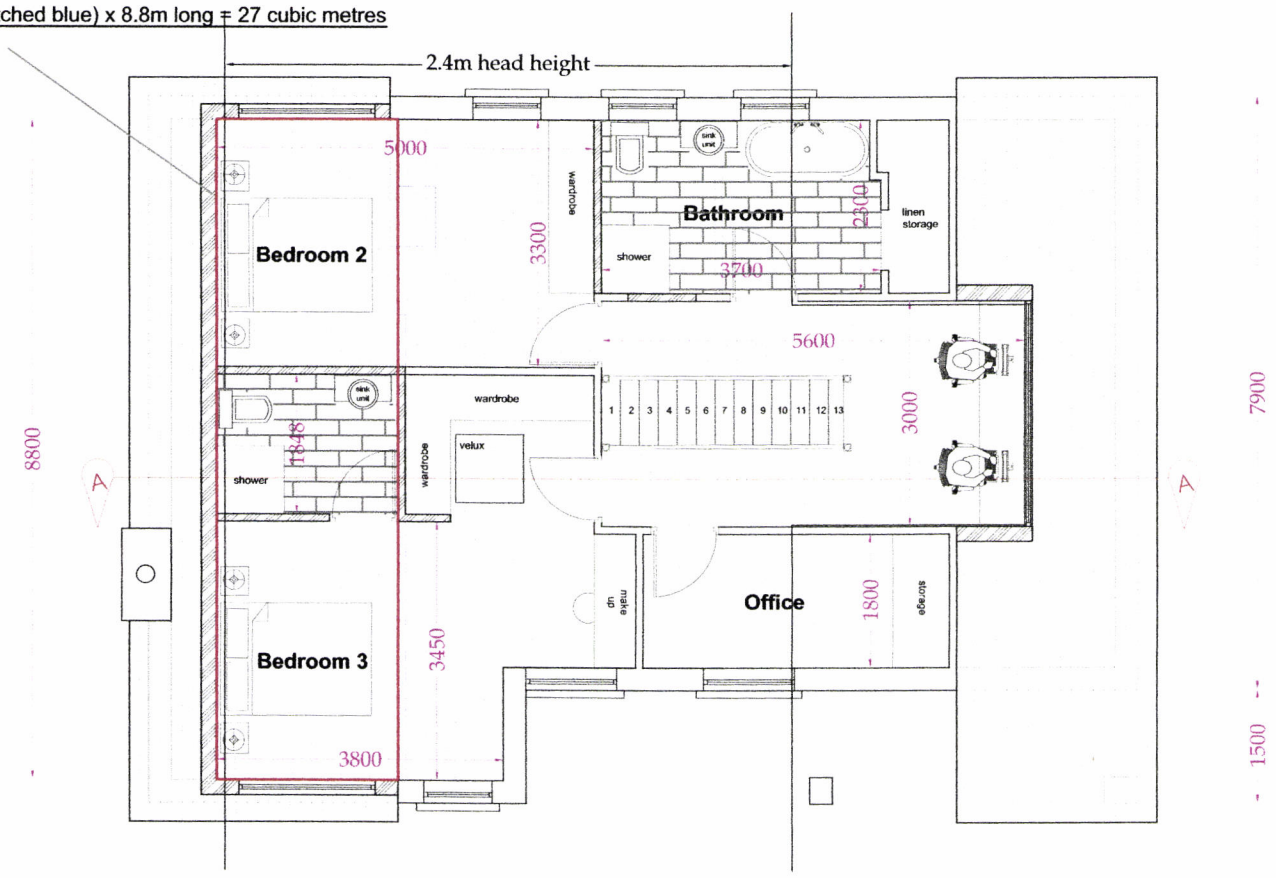
All dimensions to be checked on site

Existing First Floor Plan (71m2)

PLANNING AND DEVELOPMENT (EXEMPTED DEVELOPMENT (ACT OF 2000)) (NO. 7) REGULATIONS

Amendment of Part 1 of Schedule 2 of the Principal Regulations 2026

Dormer Volume = 3.05m2 (hatched blue) x 8.8m long = 27 cubic metres



Drawing Number: 2026-EMC-007

Proposed First Floor Plan (71m2)

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For Exemption Purposes Only

All Dimensions to be checked on site

AS BUILT

REVISIONS:	DATE:	DRAWN BY:

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CLIENT:	MS. EIMEAR McELHERON & MR. IAN O TOOLE	
TITLE:	SECTION 5 APPLICATION - WHETHER THE ERECTION OF A DORMER EXTENSION TO THE SIDE ELEVATION IS OR IS NOT EXEMPTED DEVELOPMENT AT MALBAY, TICKNOCK, SEA ROAD, ARKLOW, CO WICKLOW.	
DRAWING:	EXISTING SITE LAYOUT PLAN	
SCALE:	1:250@ A3	
SHEET No:	8 OF 9	
DRAWN BY:	J OTOOLE	
DATE:	28.09.2026	DRAWING No: 2026- EMC - 008

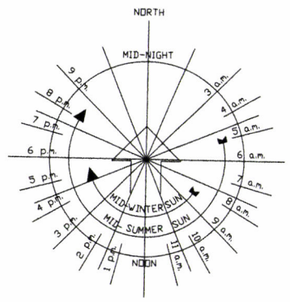


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Proposed

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DRAWING:	PROPOSED SITE LAYOUT PLAN	
SCALE:	1:250@ A3	
SHEET No:	9 OF 9	
DRAWN BY:	J O'TOOLE	
DATE:	28.09.2026	DRAWING No: 2026- EMC - 009