

WICKLOW COUNTY COUNCIL

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

Director of Services Order No: 1807/2022

Reference Number: EX 63/2022

Name of Applicant: Cosgrove Property Group C/O Michael Higgins (RPS)

Nature of Application: Section 5 Referral as to whether Improvements to an open space area adjacent to a permitted office building known as 'LaVallee House' consisting of:

- a new pedestrian pathway and stone steps
 - new planting throughout the area,
 - new external stairs from the upper level of the garden to the lower level,
 - new guarding along the riverside
 - the provision of 2 no. external pod units bolted to concrete bases, with central communal table, and benches
 - the level of the entire external area to be raised by c 200mm, to allow for new paths, topsoil and drainage
 - removal of existing decking area and associated steps
- is or is not exempted development.

Location of Subject Site: LaVallee House, Upper Dargle Road, Bray, Co Wicklow

Report from: Aisling McNamara EP & Edel Bermingham SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether Improvements to an open space area adjacent to a permitted office building known as 'LaVallee House' consisting of:

- a new pedestrian pathway and stone steps
 - new planting throughout the area,
 - new external stairs from the upper level of the garden to the lower level,
 - new guarding along the riverside
 - the provision of 2 no. external pod units bolted to concrete bases, with central communal table, and benches
 - the level of the entire external area to be raised by c 200mm, to allow for new paths, topsoil and drainage
 - removal of existing decking area and associated steps
- is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- The details submitted on the 13th October 2022 under EX63/2022

- PRR01/150 Bray Urban District Council
- Sections 2, 3 and 4 of the Planning and Development Act 2000
- Article 6 of Planning and Development Regulations 2001 (as amended) including Class 11, 13 and 33.

Main Reasons with respect to Section 5 Declaration:

- The use of the land as external open space for the office block is development in accordance with section 3(1) of the Planning and Development Act 2000, as amended
- The development is a material change of use from informal landscaped open space as part of the river bank to a new use as external communal open space for a use ancillary to the main commercial office block. There is no exempted development provision to allow for this new change of use.
- The new open space does not relate to a development for amenity or recreational purposes and therefore does not fall within the scope of Class 33.
- There are no exempted development provisions that apply to certain works including the external stairwell, construction of meeting pods etc.

Recommendation

The Planning Authority considers that Improvements to an open space area adjacent to a permitted office building known as 'LaVallee House' consisting of:

- a new pedestrian pathway and stone steps
- new planting throughout the area,
- new external stairs from the upper level of the garden to the lower level,
- new guarding along the riverside
- the provision of 2 no. external pod units bolted to concrete bases, with central communal table, and benches
- the level of the entire external area to be raised by c 200mm, to allow for new paths, topsoil and drainage
- removal of existing decking area and associated steps

is development and is not exempted development as recommended in the planning reports.

Signed 

Dated 7th day of November 2022

ORDER:

That a declaration to issue stating:

That Improvements to an open space area adjacent to a permitted office building known as 'LaVallee House' consisting of:

- a new pedestrian pathway and stone steps
- new planting throughout the area,
- new external stairs from the upper level of the garden to the lower level,
- new guarding along the riverside

- the provision of 2 no. external pod units bolted to concrete bases, with central communal table, and benches
 - the level of the entire external area to be raised by c 200mm, to allow for new paths, topsoil and drainage
 - removal of existing decking area and associated steps
- is development and is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: _____
2022

Dated 7th day of November

Director of Services
Planning Development & Environment



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
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Rphost / Email: plandev@wicklowcoco
Suíomh / Website: www.wicklow.ie

Cosgrove Property Group
C/O Michael Higgins (RPS)
15 Hogan Place
Dublin 2
D02 DK23

7th November 2022

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

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

Exemption Ref. No: EX 63/2022

Applicant: Cosgrove Property Group C/O Michael Higgins (RPS)

Nature of Application: Improvements to an open space area adjacent to a
permitted office building known as 'LaVallee House' consisting of:

- a new pedestrian pathway and stone steps
- new planting throughout the area,
- new external stairs from the upper level of the garden to the lower level,
- new guarding along the riverside
- the provision of 2 no. external pod units bolted to concrete bases, with central communal table, and benches
- the level of the entire external area to be raised by c 200mm, to allow for new paths, topsoil and drainage
- removal of existing decking area and associated steps

Location: LaVallee House, Upper Dargle Road, Bray, Co Wicklow

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

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

Applicant: Cosgrove Property Group C/O Michael Higgins (RPS)

Location: LaVallee House, Upper Dargle Road, Bray, Co Wicklow

DIRECTOR OF SERVICES ORDER NO. 1807/2022

A question has arisen as to whether Improvements to an open space area adjacent to a permitted office building known as 'LaVallee House' consisting of:

- a new pedestrian pathway and stone steps
 - new planting throughout the area,
 - new external stairs from the upper level of the garden to the lower level,
 - new guarding along the riverside
 - the provision of 2 no. external pod units bolted to concrete bases, with central communal table, and benches
 - the level of the entire external area to be raised by c 200mm, to allow for new paths, topsoil and drainage
 - removal of existing decking area and associated steps
- is or is not exempted development.

Having regard to:

- The details submitted on the 13th October 2022 under EX63/2022
- PRR01/150 Bray Urban District Council
- Sections 2, 3 and 4 of the Planning and Development Act 2000
- Article 6 of Planning and Development Regulations 2001 (as amended) including Class 11, 13 and 33.

Main Reasons with respect to Section 5 Declaration:

- The use of the land as external open space for the office block is development in accordance with section 3(1) of the Planning and Development Act 2000, as amended
- The development is a material change of use from informal landscaped open space as part of the river bank to a new use as external communal open space for a use ancillary to the main commercial office block. There is no exempted development provision to allow for this new change of use.
- The new open space does not relate to a development for amenity or recreational purposes and therefore does not fall within the scope of Class 33.
- There are no exempted development provisions that apply to certain works including the external stairwell, construction of meeting pods etc.

*Ta an doiciméad seo ar fáil i formáidí 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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The Planning Authority considers that Improvements to an open space area adjacent to a permitted office building known as 'LaVallee House' consisting of:

- a new pedestrian pathway and stone steps
 - new planting throughout the area,
 - new external stairs from the upper level of the garden to the lower level,
 - new guarding along the riverside
 - the provision of 2 no. external pod units bolted to concrete bases, with central communal table, and benches
 - the level of the entire external area to be raised by c 200mm, to allow for new paths, topsoil and drainage
 - removal of existing decking area and associated steps
- is development and is not exempted development.**

Signed:


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 7th November 2022



Section 5 Declaration

Ref: EX63/2022
Name: Cosgrave Property Group
Location: La Vallee House, Upper Dargle Road, Bray
Re: works to external open space

Question: The applicant is seeking a Section 5 Declaration for the following works:

Improvements to an existing external private open space area adjacent to a permitted office building known as 'LaVallee House' consisting of:

- a new pedestrian pathway and stone steps
- new planting throughout the area,
- new external stairs from the upper level of the garden to the lower level,
- new guarding along the riverside
- the provision of 2 no. external pod units bolted to concrete bases, with central communal table, and benches
- the level of the entire external area to be raised by c 200mm, to allow for new paths, topsoil and drainage
- removal of existing decking area and associated steps

The applicant indicates that the following are of relevance:

Class 11 (a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)

Class 33 (a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)

Relevant Legislation:

-Planning and Development Act, 2000 (as amended):

Section 2 (1) defines *works* as including "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 2 (1) defines a *protected structure* as "(a) a structure, or (b) a specified part of a structure, which is included in a record of protected structures, and, where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition";

Section 2 (1) defines a *structure* as "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 (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);

Section 3 (1) defines *development* as "The carrying out of works on, in, over or under land or the making of any material change in the use of structures or other land";

Section 4 (1)(a) to (l) specifies various categories of development which shall be exempted for the purposes of the Act;

-Planning and Development Regulations 2001 (as amended):

Article 6 Exempted development

(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.

Restrictions on exemption

Article 9

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would— (i) to (xii)

Schedule 2, Part 1 Exempted development - General

Sundry Works

Class 9

The construction, erection, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway.

Condition / limitation:

The height of any such structure shall not exceed 2 metres.

Class 10

The plastering or capping of any wall of concrete blocks or mass concrete.

Class 11

The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of –

1. The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is

(a) any fence (not being a hoarding or sheet metal fence), or

the greater, and in any event shall not exceed 2 metres.

(b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

2. Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered.

Class 12

The painting of any external part of any building or other structure.

Such painting may not, except in the case of a hoarding or other temporary structure bounding land on which development consisting of works is being or will be carried out in pursuance of a permission granted under Part III of the Act or as exempted development, be for the purposes of creating a mural.

Class 13

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

The width of any such private footpath or paving shall not exceed 3 metres.

Development for amenity or recreational purposes

Class 33

Development consisting of the laying out and use of land—

(a) as a park, private open space or ornamental garden,

The area of any such shrine shall not exceed 2 square metres, the height shall not exceed 2 metres above the centre of the road opposite the structure and it shall not be illuminated.

(b) as a roadside shrine, or

(c) for athletics or sports (other than golf or pitch and putt or sports involving the

use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.

Planning History:

20/296 – Cosgrave Property Group – grant – permission for revisions to the development permitted under Planning Register Reference 01/150. The revisions now proposed include the provision of additional commercial floor space (GFA c. 426m²) by way of an additional floor onto the existing three storey commercial building (GFA c. 1,640m²), resulting in a four storey over basement commercial building with a total gross floor area of c. 2,066m². Minor revisions are also proposed to the third storey of the existing commercial development to accommodate the additional floor above, including revisions to the circulation space at this level, permitted under Planning Register Reference 01/150. A plant enclosure (c. 30m²) is also proposed at roof level. The total gross floor area of the proposed development is c. 456m². A total of 17 no. cycle parking spaces are proposed at surface level. Car parking is provided by the existing surface and basement car parking, permitted under Planning Register Reference 01/150. Reconfiguration of the existing car parking is proposed, with 16 no. spaces to be allocated to the subject proposal. Vehicular access to serve the development is provided by the existing local access road serving the 'La Vallee' development, permitted under Planning Register Reference 01/150; all on an overall site of c.0.37 Ha

12/630081 – Cosgrave Developments – grant – extension of duration of planning permission – 08/68

08/630068 – Cosgrave Developments – grant – permission for development consisting of revisions to the development permitted under Planning Register Reference 01/150. The revisions now proposed include the provision of additional commercial floor space (GFA c. 426sq.m.) by way of an additional floor onto the existing three storey commercial building (GFA c. 1640 sq.m.), resulting in a four storey over basement commercial building with a total gross floor area of c. 2066sq.m. Minor revisions are also proposed to the third storey of the existing commercial development to accommodate the additional floor above, including revisions to the circulation space at this level, permitted under Planning Register Reference 01/150. A plant enclosure (c. 19sq.m.) is also proposed at roof level. The total gross floor area of the proposed development is c. 445sq.m. 14 no. additional basement cycle parking spaces are also proposed to serve the development. Car parking is provided by the existing surface and basement car parking, permitted under Planning Register Reference 01/150. Vehicular access to serve the development is provided by the existing local access road serving the 'La Vallee' development, permitted under Planning Register Reference 01/150; all on an overall site of c.0.35 ha

01/630150 – Borg Developments – grant – permission for 3 storey office block with 23 No. car parking spaces located in a semi basement, and 41 No. car parking spaces on surface level, and 8 No. bicycle parking facilities. Total proposed development comprising circa 2127 sq.m., 1537 sq.m. gross office area

Development plan:

-

Assessment:

The applicants are requesting a Declaration in accordance with Section 5 for the works outlined above.

The applicant states that the purpose of the works is for the refurbishment and upgrading of the existing open space area for the permitted commercial office building.

The permitted drawings 01/150BTC show that the area where the works are proposed is part of the landscaped embankment. The space is not accessible from the office block and does not appear to form part of a formal open space for the use of the people in the office block. It appears that retaining / flood relief works were later carried out and since then is a grassed platform.

Section 3 (1) defines development as *“The carrying out of works on, in, over or under land or the making of any material change in the use of structures or other land”*;

First and foremost it is considered that there is a material change to the use of the land. The section of land relating to the proposed landscape works is shown in the permitted drawings as part of the landscaped bank and is not shown to be accessible by the users of the building for their use as external open space. Therefore the proposal to now bring this space into the office block development for use as external open space for the users of office block would be a material change of use. This is development. The Regulations set out various classes of development that are exempt under Article 6. Class 33 (a) relates to development for amenity or recreational purposes. It states that development consisting of the laying out and use of land as private open space is exempt development. However, this particular open space is incidental for the use of the commercial office block, it is more a communal type of open space and it would not fall under the category of a development for amenity or recreational purposes.

Various works are proposed and described in the submitted.

Class 11 allows for the construction of any fence (not being hoarding or sheet metal fence). The height of the new structure shall not exceed 1.2m. The applicant is proposing new steel guarding of 1.1m.

Class 13 allows for the construction of any private footpath or paving that is max 3m in width.

Two new meeting room pods with concrete bases, and an outside table and chairs are to be installed. These are new structures. There is no exemption that covers this.

New external stairs and steps are to be constructed. There is no exemption that covers this.

The works are not exempted development.

Recommendation:

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

Improvements to an open space area adjacent to a permitted office building known as ‘LaVallee House’ consisting of:

- a new pedestrian pathway and stone steps
- new planting throughout the area,
- new external stairs from the upper level of the garden to the lower level,
- new guarding along the riverside
- the provision of 2 no. external pod units bolted to concrete bases, with central communal table, and benches
- the level of the entire external area to be raised by c 200mm, to allow for new paths, topsoil and drainage
- removal of existing decking area and associated steps

constitutes exempted development within the meaning of the Planning and Development Act 2000 (as amended)

The Planning Authority considers that:

Improvements to an open space area adjacent to a permitted office building known as 'LaVallee House' consisting of:

- a new pedestrian pathway and stone steps
- new planting throughout the area,
- new external stairs from the upper level of the garden to the lower level,
- new guarding along the riverside
- the provision of 2 no. external pod units bolted to concrete bases, with central communal table, and benches
- the level of the entire external area to be raised by c 200mm, to allow for new paths, topsoil and drainage
- removal of existing decking area and associated steps

constitutes exempted development within the meaning of the Planning and Development Act 2000 (as amended)

IS development and IS NOT exempted development

Main Considerations with respect to Section 5 Declaration:

- The details submitted on the 13th October 2022 under EX63/2022
- PRR01/150 Bray Urban District Council
- Sections 2, 3 and 4 of the Planning and Development Act 2000
- Article 6 of Planning and Development Regulations 2001 (as amended) including Class 11, 13 and 33

Main Reasons with respect to Section 5 Declaration:

- The use of the land as external open space for the office block is development in accordance with section 3(1) of the Planning and Development Act 2000, as amended
- The development is a material change of use from informal landscaped open space as part of the river bank to a new use as external communal open space for a use ancillary to the main commercial office block. There is no exempted development provision to allow for this new change of use.
- The new open space does not relate to a development for amenity or recreational purposes and therefore does not fall within the scope of Class 33.
- There are no exempted development provisions that apply to certain works including the external stairwell, construction of meeting pods etc.

A. Mac Namara

Aisling Mac Namara
Executive Planner

27-10-2022

Agree

27/10/2022

Agree
BA
D.S.
7/11/22



Comhairle Contae Chill Mhantáin Wicklow County Council

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

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Suíomh / Website: www.wicklow.ie

13/10/2022

**Cosgrove Property Group
C/O Michael Higgins (RPS)
La Vallee House
Upper Dargle Road
Bray
Co Wicklow**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 62/2022
Improvements to an existing external private open space area adjacent to a permitted office building known as 'La Vallee House'**

A Chara

I wish to acknowledge receipt on the 13th of October 2022 details supplied by you in respect of the above section 5 application. A decision is due in respect of this application by 09/11/2022.

Mise, le meas

**SENIOR EXECUTIVE OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT**



MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Aisling McNamara
Executive Planner

FROM: Crystal White
Assistant Staff Officer

**RE:- EX 63/2022 - Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended)
Improvements to an existing external private open space area adjacent to
a permitted office building known as 'La Vallee House'**

I enclose herewith for your attention application for Section 5 Declaration
received 13th of October 2022.

The due date on this declaration is the 9th November 2022.



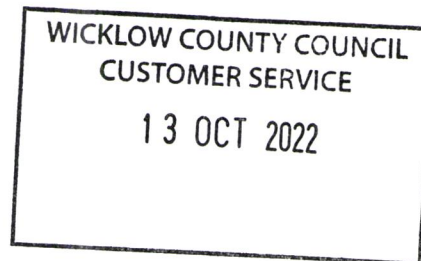
Senior Staff Officer
Planning Development & Environment

Our ref: CP19001Lt.1

West Pier Business
Campus, Dun Laoghaire,
Co. Dublin A96 N6T7
T +353 1 488 2900

Date: 12 October 2022

Attn: Planning Department
Wicklow County Council
County Buildings
Wicklow
Co. Wicklow



RE: Request in relation to Section 5 of the Planning and Development Act 2000, as amended. This Section 5 Declaration Request relates to works to the east of La Vallee House, Upper Dargle Road, Bray, County Wicklow.

Dear Sir / Madam,

RPS is instructed by Cosgrave Property Group to submit this request seeking a declaration of exemption in accordance with Section 5 of the Planning and Development Act 2000, as amended (the Act).

This letter describes the site location and its context and provides an overview of the proposed works (landscape improvements) that are the subject of this Section 5 Declaration Request to the east of La Vallee House, Upper Dargle Road, Bray, County Wicklow.

Location and Context

The subject site is located within the private open space to the east of La Vallee House, Upper Dargle Road, Bray, County Wicklow, and is identified in **Figure 1** below for the purposes of this declaration request. The area shaded in green denotes the subject location of this Section 5 Declaration request Letter.



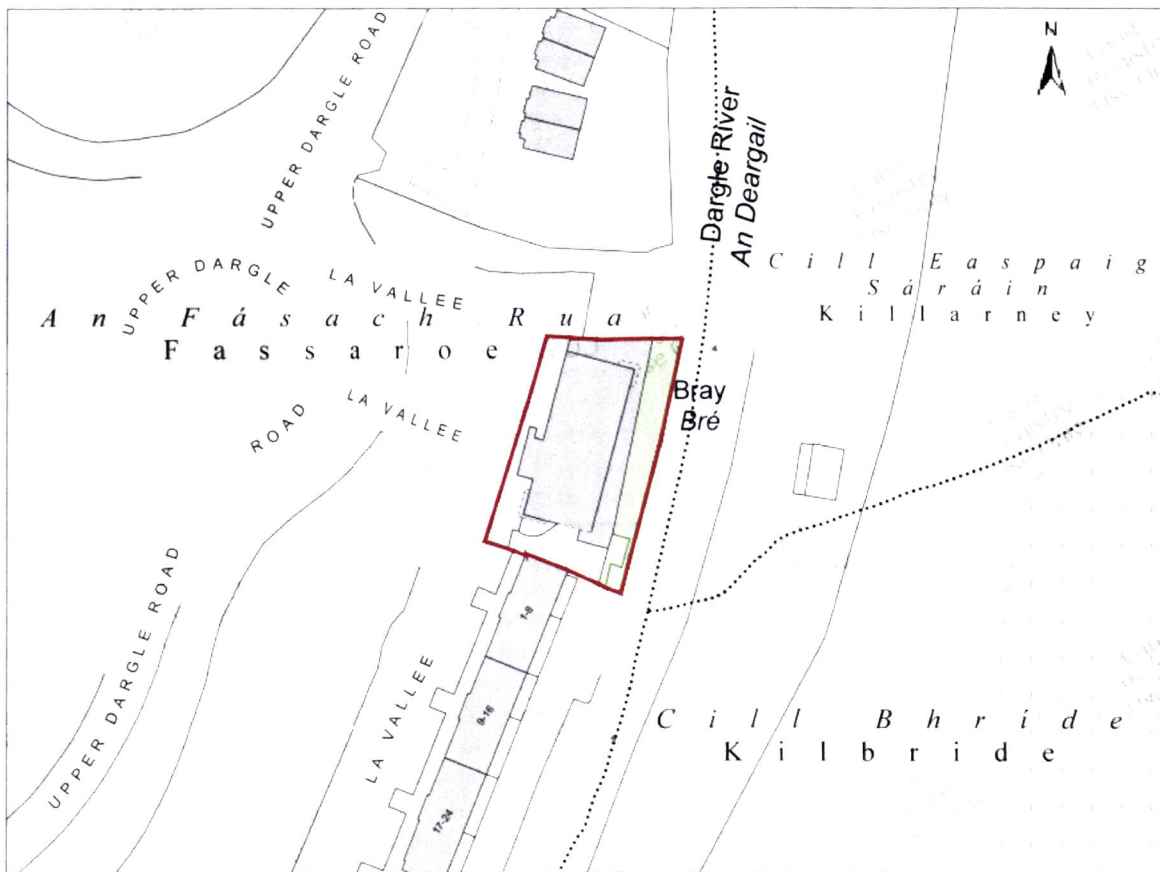


Figure 1: Site Location (outlined in red) and the subject area of this Section 5 Declaration request letter (outlined in green).

The subject site is located to the east of La Vallee House, which is a permitted commercial development (**WCC Pl. Ref. 01/150** as amended). The River Dargle bounds the site to the east, and existing residential development bounds the site to the north and south.

A number of businesses operate in La Vallee House and the private open space to the east of the building is a valuable amenity space for all employees. The proposed development seeks to ensure this space is attractive and useable for employees throughout the year.

Planning History

A desktop review of the WCC online planning search facility was undertaken on 19 September 2022 to determine the planning history for the subject site. The planning history of the subject site is summarised below.

Reg. Ref. 01/630150 – Permission for a 3-storey office block with 23 no. car parking spaces located in a semi-basement. – Granted 26 October 2001 subject to 20 no. conditions

Reg. Ref. 08/630068 – Revisions to permitted development Pl. Ref. 01/630150 to include the provision of additional commercial floor space – Granted 21 August 2008 subject to 12 no. conditions

Reg. Ref. 12/630081 – Extension of Duration to Pl. Ref. 08/630068. – Unconditional grant of permission on 29 January 2013

Reg. Ref. 20/296 – Revisions to permitted development Pl. Ref. 01/630150 to include revisions to the third storey of the existing commercial development to accommodate the additional floor above. – Granted 14 July 2020 subject to 14 no. conditions.

Description of Subject Works

The Section 5 Declaration Request letter seeks to clarify if the proposed works to the rear of the existing commercial building (and not part of residential) development at La Vallee House is considered exempted development.

The site in question consists of a previously permitted commercial development (**WCC PI. Ref. 01/150** as amended) at La Vallee, Dargle Road, Bray, Co. Wicklow. This approved commercial development is constructed and currently occupied. The commercial development consists of a three-storey over basement structure.

The following proposed works are located in the existing garden and comprise hard and soft landscaping to enhance the usability and enjoyment of this space. The proposed development comprises:

- i. Improvements to an existing external private open space area adjacent to a permitted office building known as 'La Vallee House', consisting of:
 - o a new pedestrian pathway and stone steps,
 - o new planting throughout the area,
 - o new external stairs from the upper level of the garden to the lower level,
- ii. New guarding along the riverside.
- iii. The provision of 2 no. external pod units bolted to concrete bases, with central communal table, and benches, c. 6sqm and c. 2.2m in height (see **Figure 3**).
- iv. The level of the entire external area is to be raised by c. 200mm, to allow for new paths, topsoil and drainage.
- v. Removal of existing decking area and associated steps.

Figure 2 shows the proposed landscaping works which are the subject of this Section 5 Declaration Request.

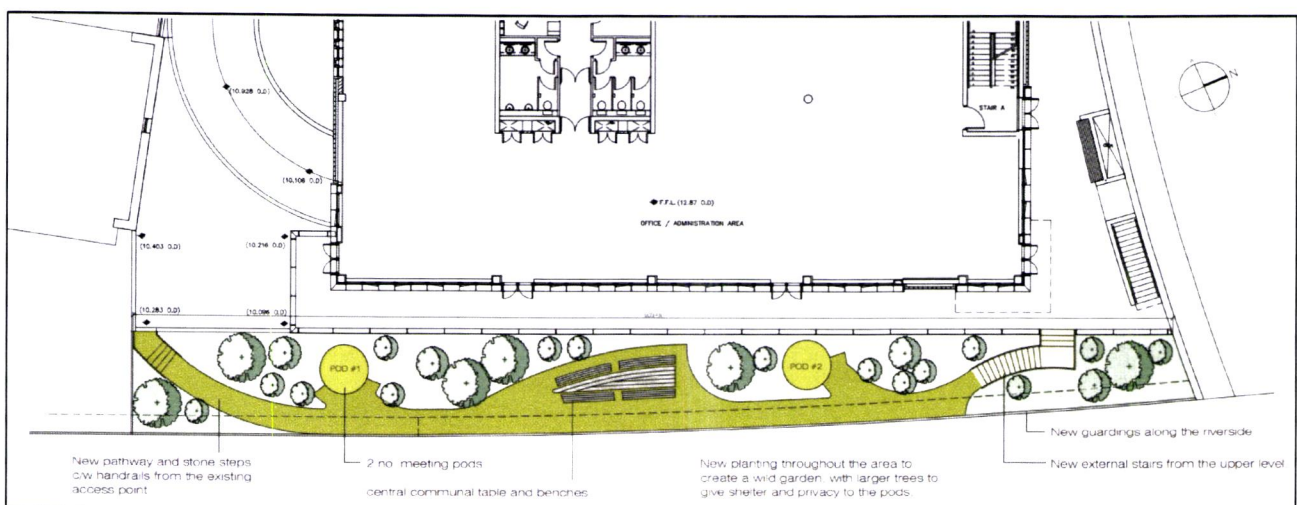


Figure 2: Proposed Landscaping

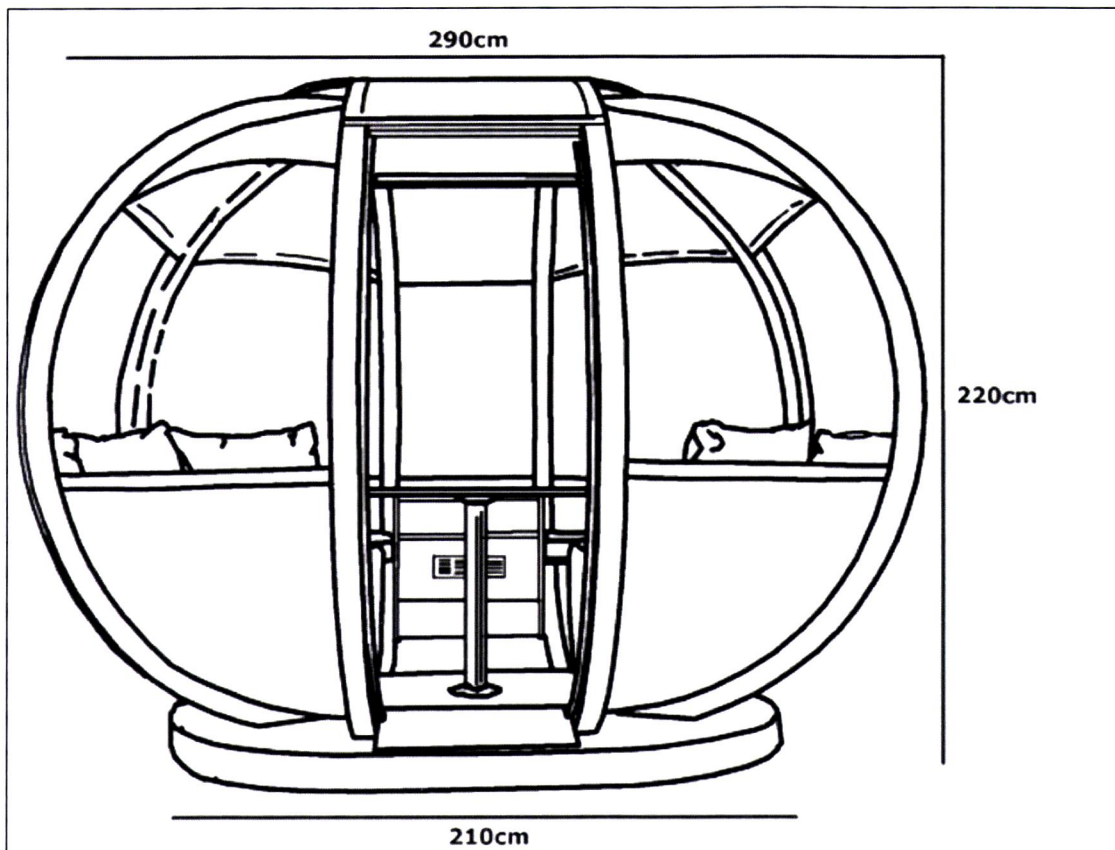


Figure 3: Dimensions of Proposed Pods at La Vallee

Consideration of Requirement for Planning Permission

Under the Act, planning permission shall be required *inter alia* in respect of any development of land, not being exempted development. The Act defines 'works' and 'development', respectively, as follows:

'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.'

'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.'

It is clear that elements of the proposals, including the guardrails and steps constitute works and therefore development.

Various classes of works are exempt, subject to compliance with conditions, limitations, and restrictions set out in planning legislation. Development exemptions are set out Article 6, and 9 of the Planning and Development Regulations 2001, as amended (the Regulations), as well as Classes of Development set out in Schedule 2, subject to restrictions.

RPS has reviewed the content of Schedule 2 Part 1 of the Planning Regulations and considers the following classes to be of relevance to the proposal in question.

Class 11 states that:

'The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of – (a) any fence (not being a hoarding or sheet metal fence), or (b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.'

Overref: CP19001Lt.1

Conditions: The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres.'

Class 33 (a) states that:

'Development consisting of the laying out and use of land— (a) as a park, private open space or ornamental garden'

Article 9 of the Planning Regulations applies further restrictions to the exempted development status of development which otherwise falls within the provisions of Schedule 2. It is considered that none of these restrictions impact on the subject development.

Having regard to the above information, we consider that the new guarding (being less than 1.2m in height) along the riverside and the landscaping elements do not appear to be subject to restrictions and are exempt under Class 11 and Class 33, respectively.

The proposed 2 no. 'pods' form part of the overall private open space layout, and their sole use is for amenity purposes, which will cater for the enjoyment of the space during inclement weather, which will enhance and encourage the use of the overall open space. It is considered that the proposed pods measuring approximately 6 sqm and 2.2 m in height are an ancillary element to the overall open space layout, and are similar in form and function to that of a garden gazebo or shed. As such the pods are exempt under Class 33 (a).

It is therefore considered that the works are exempt under Article 6 of the Planning Regulations, with the works falling within Classes 11(a) or 33(a) Part 1 of Schedule 2.

Item Referred: Can Wicklow County Council confirm that the development described above, including the 6sqm garden pods are exempted development?

We trust all is in order and look forward to hearing from you at your earliest convenience.

Yours faithfully,
for RPS Consulting Services Ltd

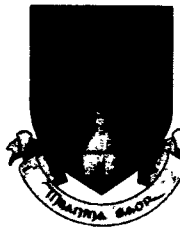


Michael Higgins
Principal Planner
michael.higgins@rpsgroup.com

**LIST OF APPLICATION FOR DECLARATION UNDER SECTION 5 OF THE PLANNING &
DEVELOPMENT ACT 2000 ENCLOSURES**

The following is enclosed as part of the application:

- 1 no. copy of Cover Letter prepared by RPS Group Limited
- 1 no. Section 5 Application Form:
 - A duly completed current Wicklow County Council Section 5 Application Form.
- Planning Fee
 - EFT receipt for the sum of €80 00 as paid on 04 October 2022
- 1 no copy of the following Drawings / Maps:
 - Drwg No. 301, Site Location Map, 1:1,000 @A3
 - Drwg No. 302, Site Layout Plan, 1:500 @A3
 - Drwg No. 303, Existing Riverside Landscaping, scale as stated @A3
 - Drwg No. 304, Initial Sketch Design for Riverside Landscaping, scale as stated @A3



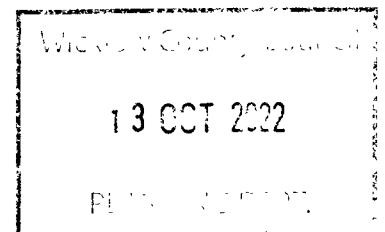
Wicklow County Council
County Buildings
Wicklow
Co Wicklow
Telephone 0404 20148
Fax 0404 69462

Office Use Only

Date Received _____

Fee Received _____

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



1. Applicant Details

(a) Name of applicant: Cosgrave Property Group

Address of applicant: 15 Hogan Place, Dublin 2. D02 DK23

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

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable): Michael Higgins (RPS)

Address of Agent: West Pier Business Campus, Dun Laoghaire, Dublin. A96 N6T7

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

3. Declaration Details

- i. Location of Development subject of Declaration: La Vallee House, Upper /
Road, Bray Co. Wicklow.

- ii. Are you the owner and/or occupier of these lands at the location under i. above ?
Yes.
- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier:
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

The proposed development comprises:

- Improvements to an existing external private open space area adjacent to a permitted office building known as 'La Vallee House', consisting of:
 - A new pedestrian pathway and stone steps,
 - New planting throughout the area,
 - New external stairs from the upper level of the garden to the lower level,
 - New guarding along the riverside.
 - The provision of 2 no. external Pod units bolted to concrete bases, with central communal table, and benches (see Figure 3 in enclosed letter dated 06/10/22).
 - The level of the entire external area is to be raised by c. 200mm, i.e., to allow for new paths, topsoil and drainage.
 - Removal of existing decking area and associated steps.

Additional detail is provided in the enclosed letter dated 06 October 2022.

Additional details may be submitted by way of separate submission.

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

Class 11 (a) in Part 1 of Schedule 2 of the 2001 Planning Regulations (as

amended)

Class 33 (a) in Part 1 of Schedule 2 of the 2001 Planning Regulations (as amended)

Additional details may be submitted by way of separate submission.

Additional detail is provided in the enclosed letter dated 06 October 2022.

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

- Drawing No. 301 Site Location Map 1:1,000 @A3
- Drawing No. 302 Site Layout Plan 1:500 @A3
- Drawing No. 303 Existing Riverside Landscaping scale as stated @A3
- Drawing No. Initial Sketch Design for Riverside Landscaping scale as stated @A3

viii. Fee of € 80 Attached ? Yes.

Signed : Michael Higgins Dated : 12/10/2022

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

dwelling/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.

Wicklow County Council
County Buildings
Wicklow
0404-20100

04-10-2022 00:00:00

Receipt No. : BANKS/7728/1565155
***** REPRINT *****

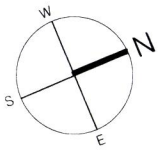
Unallocated Payments OS	80.00
GOODS	80.00
VAT	0.00

Total 80.00 EUR

Tendered:
Cash 80.00

Issued By : Import Cashier
From: Bank Unallocated Payments

Entrance into La Vallee House
is from the Bray by-pass



Existing apartment buildings

Existing landscaped riverbank
to the south of the site.

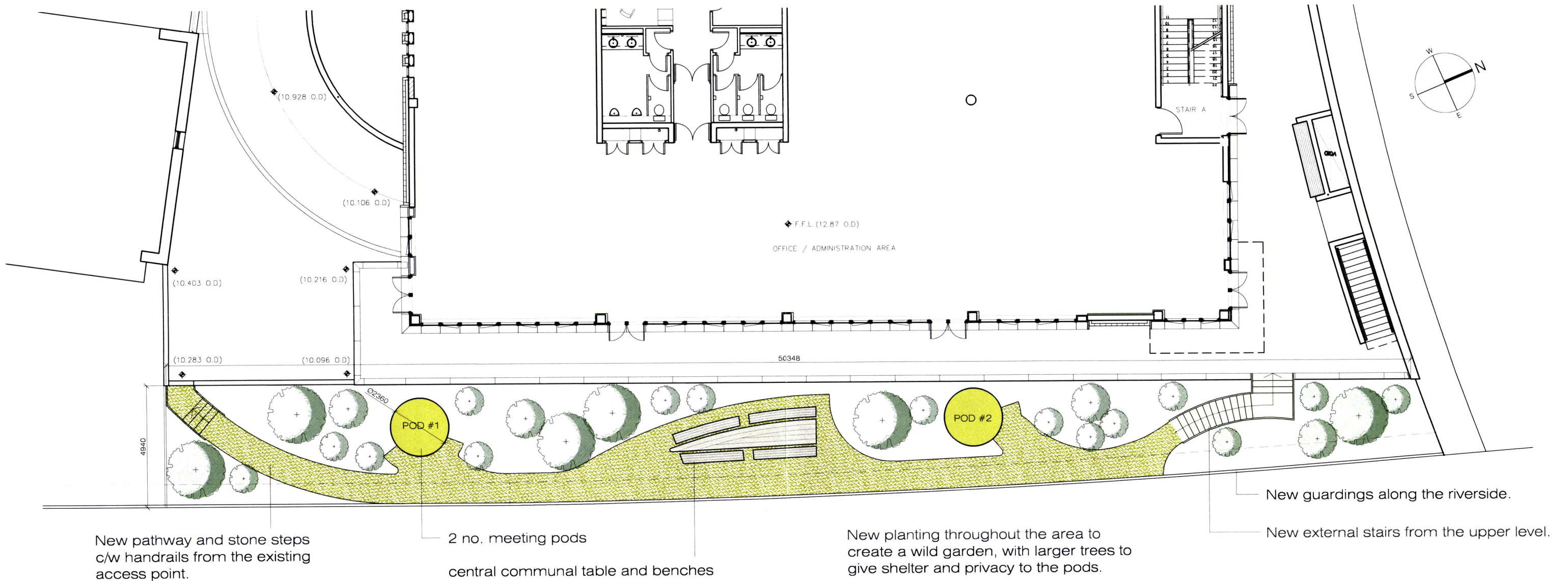
Site for La Vallee
House is outlined in
Red - 1,304 sq.m.

Area highlighted in green is
the area of interest - see
drawing - 304 for details of
the new landscaping.

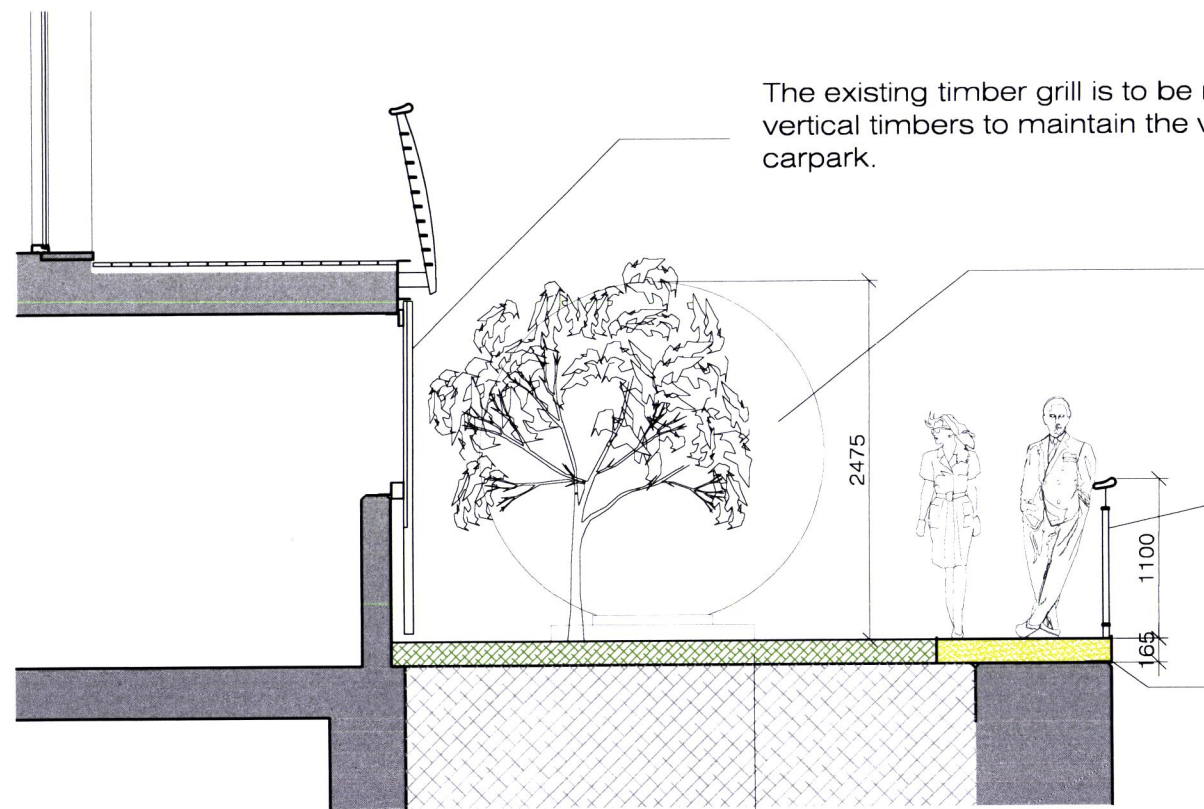
DARGLE RIVER

Site Layout
scale:1:500

	Design - Planning - Project Management Brian Colgan mna Ben O'Reilly mna Colgan O'Reilly Architects 93A Sandymount Road, Sandymount, Dublin 4. +00 86 2630 933 / 2363 090	CLIENT: Cosgrave Property Group	DRAWING TITLE: Site Layout Plan	
		PROJECT: LaVallee House	drawing no. 1583 - 302	date: Oct 2022



Plan of the Riverside Area
scale:1:150



Section through the Riverside Area
scale:1:50

The level of the entire area is to be raised by approx 200mm to accommodate new paths and topsoil and to run services and drainage pipework.

External pod units (2no.) bolted to new conc. bases but capable of rotation to suit weather / wind patterns - from John Lewis & Partners. The pods are 2.2m high, fixed to a base pedestal that is 1.3m in dia and 275mm high and the pods have a diameter of 2.36m.

New powder-coated hot dipped galvanised mild steel guardings with concealed fixing plates bolt-fixed into the existing concrete ground beam along the riverside. Handrail is to be a shaped hardwood, all to match the existing rails at higher level.

Sections of 175 x 175 MS angle (ungalvanised) to be bolt-fixed to the top of the RC ground beam, to hold in the new landscaping finishes.



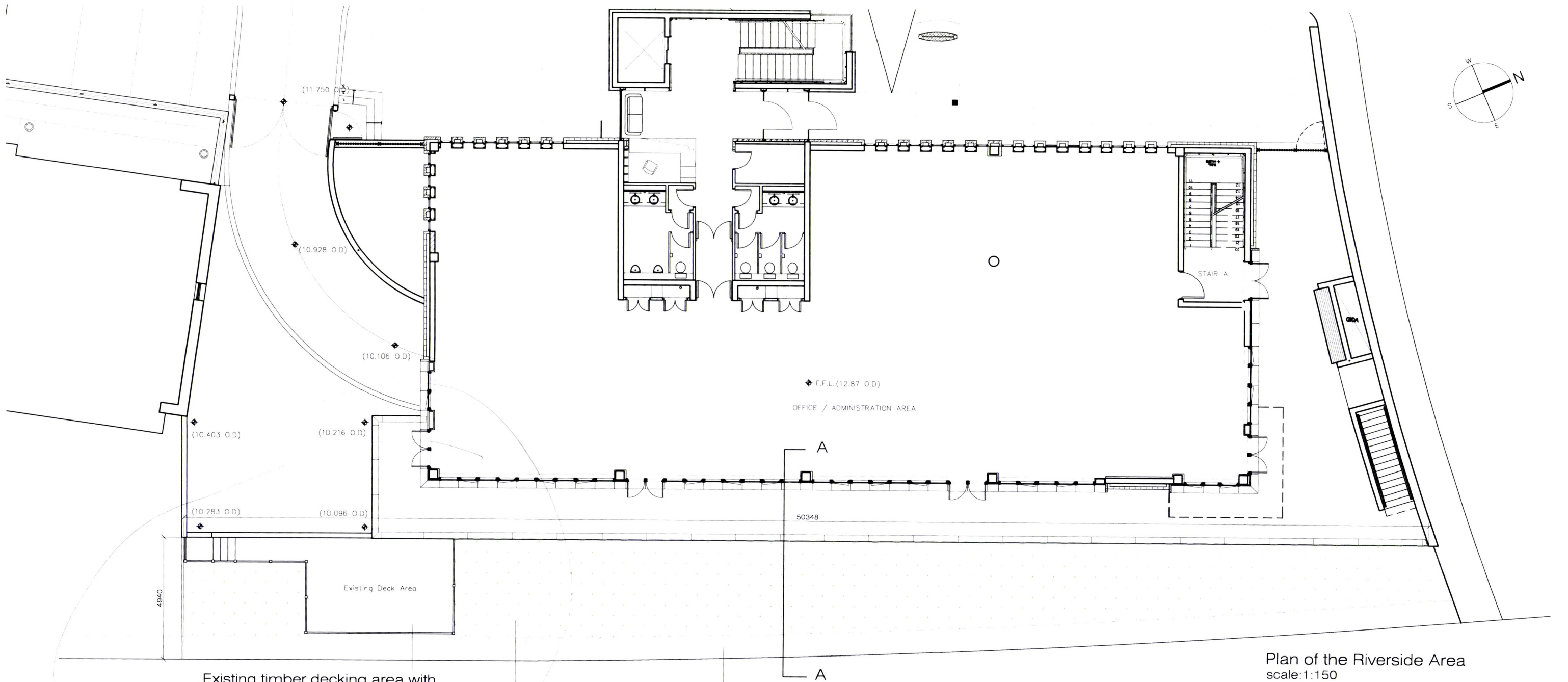
Image of the Pod Units
scale:n.t.s.

core

Design - Planning - Project Management
Brian Colgan mba Ben O'Reilly mba
Colgan O'Reilly Architects
93A Sandymount Road, Sandymount, Dublin 4.
+00 86 2630 933 / 2363 090

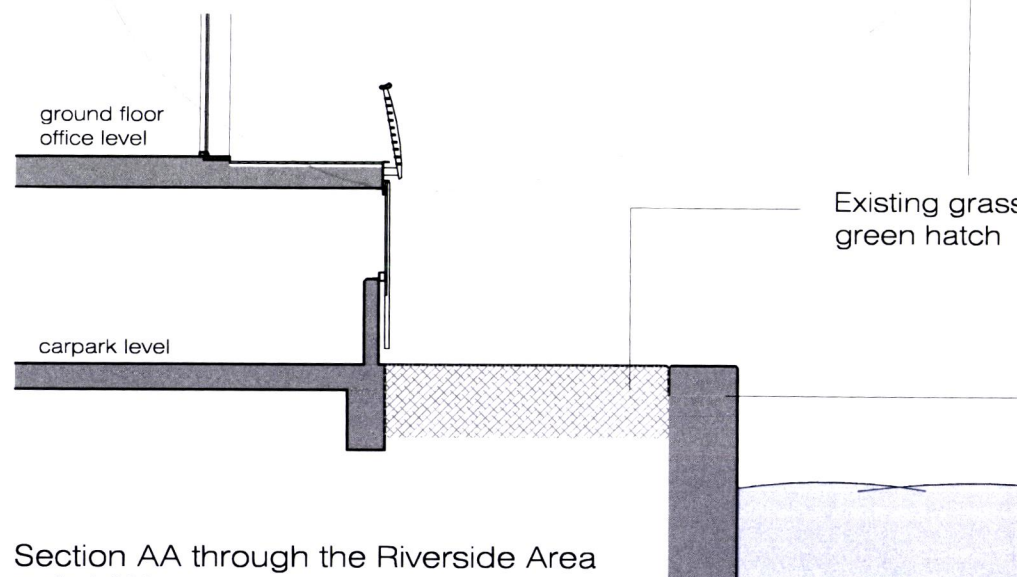
CLIENT:
Cosgrave Property Group
PROJECT:
LaVallee House

DRAWING TITLE:
Initial Sketch Design for
Riverside Landscaping
drawing no.
1583 - 304
date:
Oct 2022
scale:
1:50, 1:150



Plan of the Riverside Area
scale:1:150

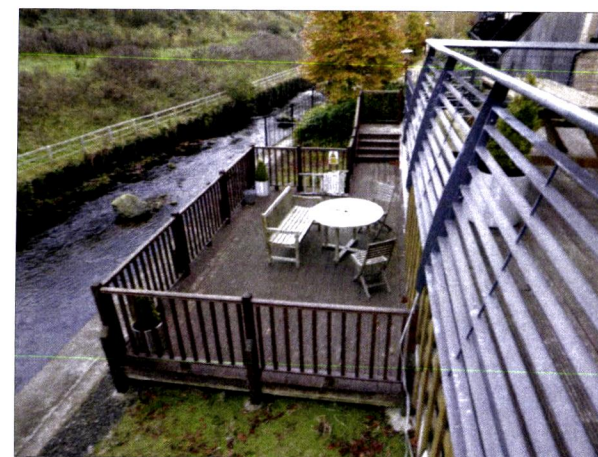
Existing timber decking area with
steps down from the carpark
area.



Existing grassed area in
green hatch

Existing RC ground beam /
retaining structure which runs
along the side of the Dargle River.

Section AA through the Riverside Area
scale:1:100



View of the existing deck area
scale:n.t.s.



View to the North
scale:n.t.s.

core

Design - Planning - Project Management
Brian Colgan mna Ben O'Reilly mna
Colgan O'Reilly Architects
93A Sandymount Road, Sandymount, Dublin 4.
+00 86 2630 933 / 2363 090

CLIENT:
Cosgrave Property Group
PROJECT:
LaVallee House

DRAWING TITLE:
Existing Riverside
Landscaping
drawing no. 1583 - 303 date: Oct 2022 scale: 1:100, :150

CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:

OUTPUT SCALE: 1:1,000



PUBLISHED: 09/05/2019
ORDER NO.: 50061828_1

MAP SERIES: 1:1,000
MAP SHEETS: 3568-17

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LEGEND:

<http://www.osi.ie>;
search 'Large Scale Legend'

Site for La Vallee House is outlined in Red - 1,304 sq.m.

Area highlighted in green is the area of interest

Site Location Map
scale:1:1,000