



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

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

Áras An Chontae / County Buildings  
Cill Mhantáin / Wicklow  
Guthán / Tel: (0404) 20148  
Faics / Fax: (0404) 69462  
Rphost / Email: [plandev@wicklowcc.ie](mailto:plandev@wicklowcc.ie)  
Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

**Teresa Heffernan & David Hempenstall**

10<sup>th</sup> August 2023

**RE: Declaration in accordance with Section 5 of the Planning & Development Acts  
2000 (As Amended) – EX48/2023**

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

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,

**ADMINISTRATIVE OFFICER**  
**PLANNING DEVELOPMENT & ENVIRONMENT.**

*Tá an doiciméad seo ar fáil i bhformáidí 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.





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

**Applicant: Teresa Heffernan & David Hempenstall**

**Location: Brook Avenue, Tinnapark, Kilpedder A63 PF75**

**CHIEF EXECUTIVE ORDER NO. Brook Avenue, Tinnapark, Kilpedder A63 PF75**

A question has arisen as to whether "bay window on front of property" at Brook Avenue, Tinnapark, Kilpedder, A63 PF75 is or is not exempted development.

Having regard to:

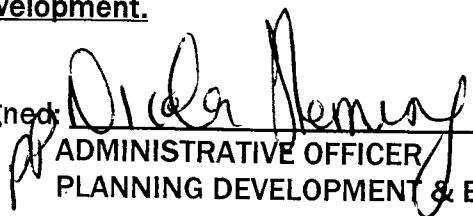
- The details received with this section 5 application (EX 48/2023) on the 18<sup>th</sup> July 2023.
- Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended).

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

1. The proposal for 'a bay window on the front of a property at Brook Avenue, Tinnapark, Kilpeddar Co Wicklow' would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
2. The works do not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighbouring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

**The Planning Authority considers that "bay window on front of property" at Brook Avenue, Tinnapark, Kilpedder, A63 PF75 is development and is exempted development.**

Signed:

  
ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 10<sup>th</sup> August 2023



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)  
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PDE/1424/2023

Reference Number: EX 48/2023

Name of Applicant: Teresa Heffernan & David Hempenstall

Nature of Application: Section 5 Referral as to whether "bay window on front of property" is or is not exempted development

Location of Subject Site: Brook Avenue, Tinnapark, Kilpedder A63 PF75

Report from Dara Keane, GP & Edel Bermingham, SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "bay window on front of property" at Brook Avenue, Tinnapark, Kilpedder, A63 PF75 is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- The details received with this section 5 application (EX 48/2023) on the 18<sup>th</sup> July 2023.
- Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended).

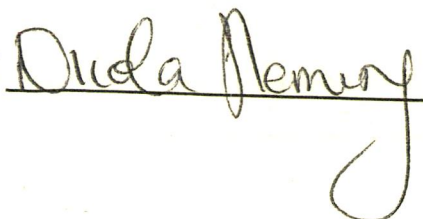
Main Reasons with respect to Section 5 Declaration:

- 1) The proposal for 'a bay window on the front of a property at Brook Avenue, Tinnapark, Kilpeddar Co Wicklow' would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
- 2) The works do not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighbouring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

Recommendation

The Planning Authority considers that "bay window on front of property" at Brook Avenue, Tinnapark, Kilpedder, A63 PF75 is development and is exempted development, as recommended in the report by the SEP.

Signed



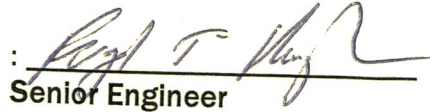
Dated 4<sup>th</sup> day of August 2023

**ORDER:**

I HEREBY DECLARE:

That "bay window on front of property" at Brook Avenue, Tinnapark, Kilpedder, A63 PF75" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed

: 

Senior Engineer

Planning Development & Environment

Dated 09<sup>th</sup> day of August 2023



**WICKLOW COUNTY COUNCIL**

**Planning Department**

**Section 5 – Application for declaration of Exemption Certificate**

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<b>Ref:</b>	<b>EX 48/2023</b>
<b>Name:</b>	<b>Teresa Heffernan &amp; David Hempenstall</b>
<b>Development:</b>	<b>Bay Window on front of property</b>
<b>Location:</b>	<b>Brook Avenue, Tinnapark, Kilpeddar Co Wicklow A63PF75</b>

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**The Site:** The site comprises of a single storey bungalow and attached garage located on a private lane in the townland of Tinnapark Demesne, a rural area with the rear gardens of other dwellings located to the west of the site and an agricultural shed to the east.

**Planning History:** None

**Question:**

The applicant has applied to see whether or not the following is or is not development; and is or is not exempted development:

*'The proposal is for a bay window on the front of a property at Brook Avenue, Tinnapark, Kilpeddar Co Wicklow'.*

**Legislative Context:**

**Planning and Development Act 2000 (as amended)**

**Section 3(1)** of the Act states the following in respect of 'Development':

*"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 2(1)** of the Act states the following in respect of the following:

'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 4** sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act.

**Section 4(1)(h):** *"Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the*

*structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures."*

**Assessment:**

The first assessment must be whether or not the proposal outlined above constitutes development within the remit of Section 3 of the Planning and Development Act 2001. In this regard, Section 3 of the Planning and Development Act provides that:

"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.

It should be noted that Section 2 of the Act defines works as:

"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.

I am satisfied that the proposal involved works to the existing structure and therefore constitutes development.

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

The works involve a bay window on the front of a property at Brook Avenue, Tinnapark, Kilpeddar Co Wicklow'.

I consider that the works do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

**Recommendation:**

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

'A bay window on the front of a property at Brook Avenue, Tinnapark, Kilpeddar Co Wicklow is exempted development'

**The Planning Authority considers that:**

The bay window on the front of a property at Brook Avenue, Tinnapark, Kilpeddar Co Wicklow' is development, and is exempted development.



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

- The details received with this section 5 application (EX 48/2023) on the 18<sup>th</sup> July 2023.
- Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended).

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

- 1) The proposal for 'a bay window on the front of a property at Brook Avenue, Tinnapark, Kilpeddar Co Wicklow' would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
- 2) The works do not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighbouring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

*Dara Keane*

Dara Keane  
Graduate Planner  
02/08/2023

*Declaration to issue  
as recommended  
Reg 1 & 2  
09/08/23*

Photos:

*Agreed SLP 21/8/2023*





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## MEMORANDUM

### WICKLOW COUNTY COUNCIL

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**TO: Dara Keane**  
**Graduate Planner**

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

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**RE:- Application for Certificate of Exemption under Section 5 of the  
Planning and Development Acts 2000 (as amended).  
EX 48/2023 – Teresa Heffernan & David Hempenstall**

I enclose herewith for your attention application for Section 5 Declaration  
received 18<sup>th</sup> July 2023

The due date on this declaration is 14<sup>th</sup> August 2023.

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







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20<sup>th</sup> July 2023

**Teresa Heffernan & David Hempenstall**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended).  
Ex 48/2023 – Brook Avenue, Tinnapark, Kilpedder, A63 PF75**

A Chara

I wish to acknowledge receipt on 18<sup>th</sup> July 2023 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 14<sup>th</sup> August 2023.

Mise, le meas

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**NICOLA FLEMING  
STAFF OFFICER  
PLANNING DEVELOPMENT AND ENVIRONMENT**



Wicklow County Council  
County Buildings  
Wicklow  
0404-20100

18/07/2023 12 03 22

Receipt No L1/0/316126  
\*\*\*\*\* REPRINT \*\*\*\*\*

TERESA HEFFERNAN & DAVID HEMPENST/  
BROOK AVENUE  
TINNAPARK  
KILPEDDER  
A63PF75

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 Cashier5MW  
From Customer Service Hub  
Vat reg No 0015233H



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: TERESA HEFFERNAN & DAVID HEMPENSTALL

Address of applicant: \_\_\_\_\_  
\_\_\_\_\_

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

**2. Agents Details (Where Applicable)**

(b) Name of Agent (where applicable) \_\_\_\_\_

Address of Agent : \_\_\_\_\_  
\_\_\_\_\_

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

### 3. Declaration Details

i. Location of Development subject of Declaration BROOK Avenue TIRUPATI  
Kilpedder AB3 PF75

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 we are seeking the  
Section 5 Declaration for an exemption of a Bay  
Window on the front of the property. The reason for  
this is to have things in order when we retire and  
sell our property

*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 \_\_\_\_\_

An exemption for an existing Bay Window to  
the front of the property

*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 \_\_\_\_\_

DRAWING with measurements of Bay window  
photographs of window and land surrounding.

viii. Fee of € 80 Attached ? ✓

Signed : Teresa Weffernan Dated : 17 / 7 / 23

**Additional Notes :**

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

A. Extension to dwelling - Class 1 Part 1 of Schedule 2

- Site Location Map
- Floor area of structure in question - whether proposed or existing.
- Floor area of all relevant structures e.g. previous extensions.
- Floor plans and elevations of relevant structures.
- Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.

B. Land Reclamation -

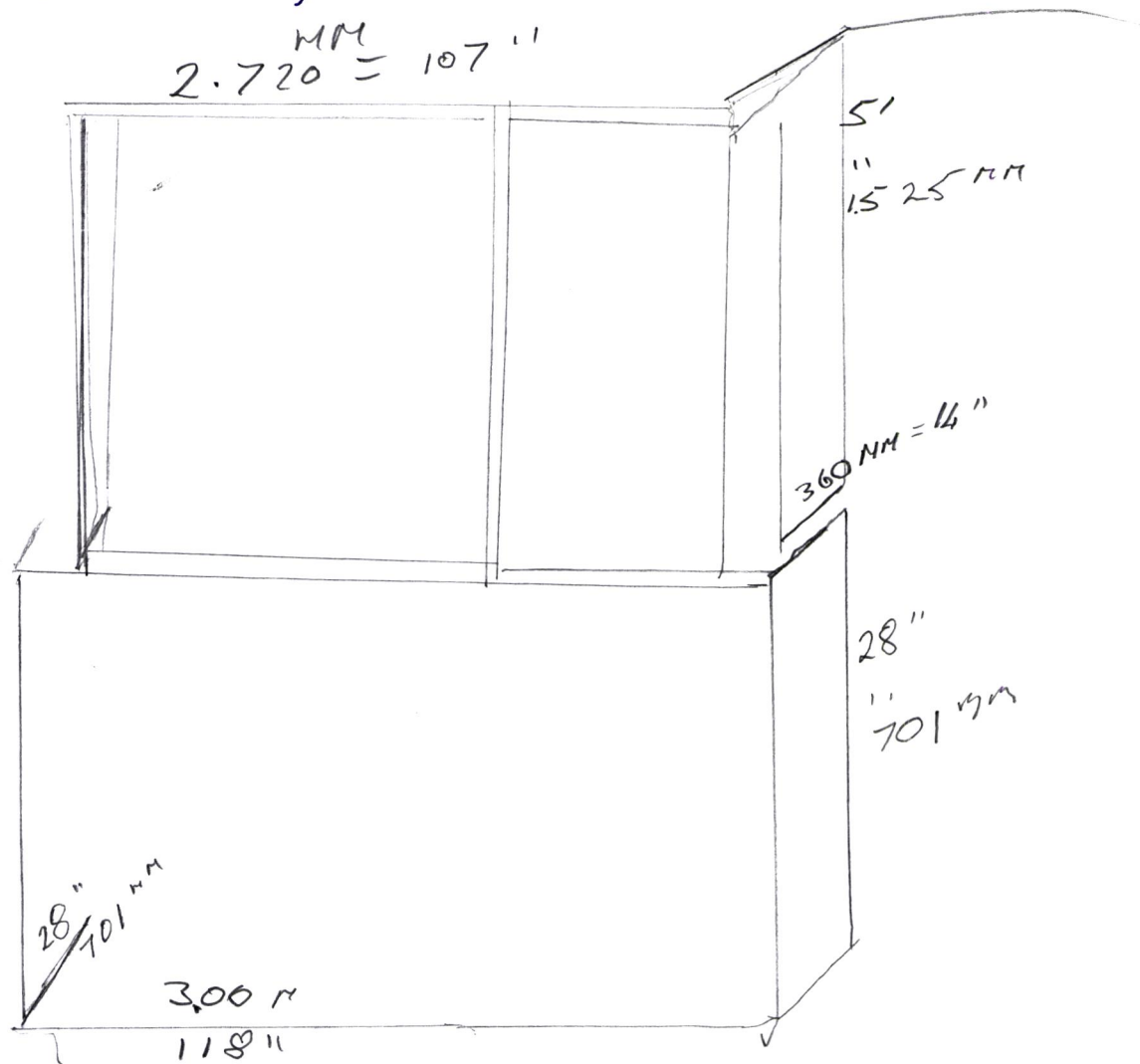
The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still

David Hempenstall 089-4921353

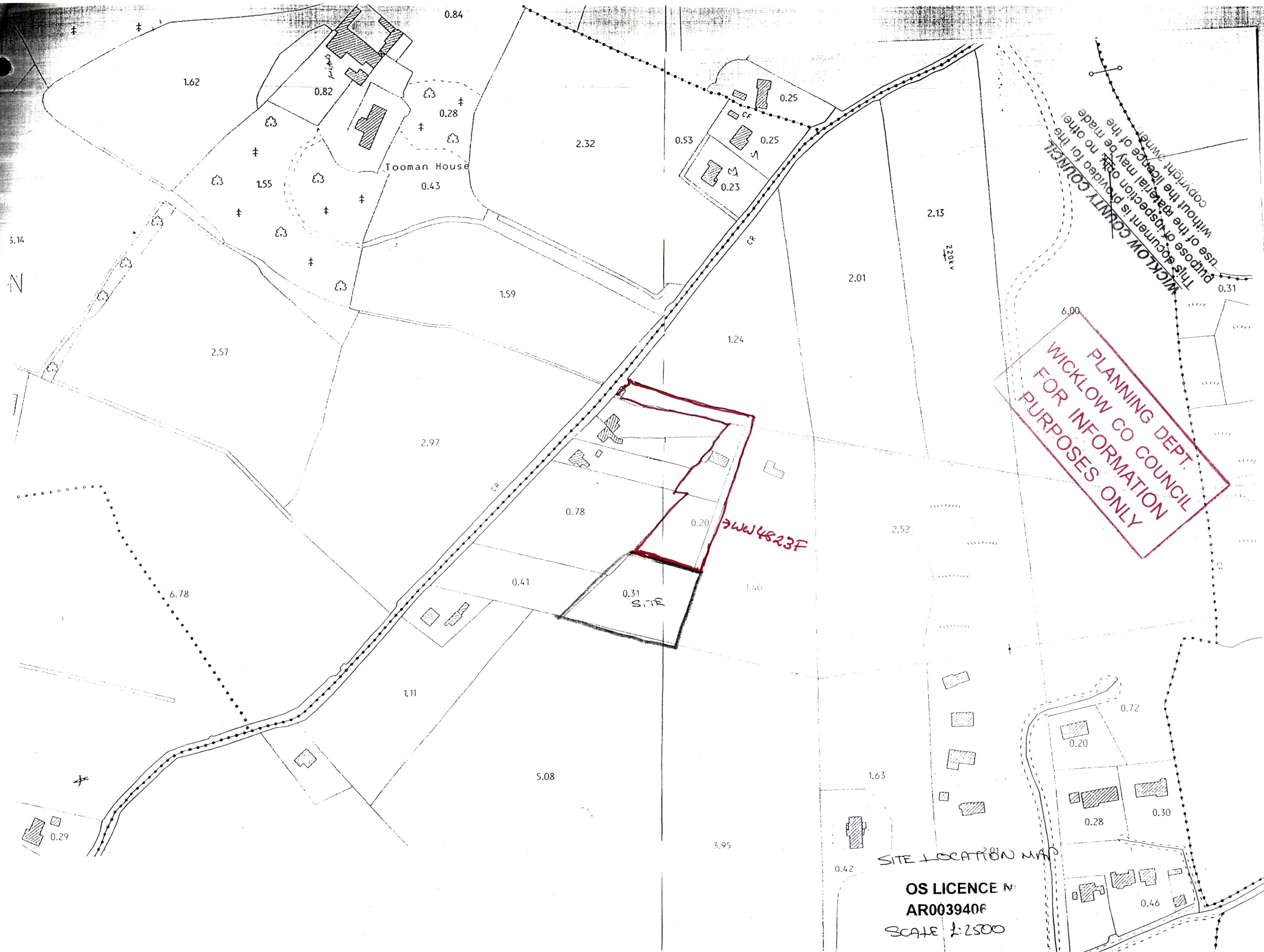
Email hempenstall.david@gmail.com

NON Load-bearing as original  
head has not being disturbed.

Drawing of Bay window plus measurements  
(pictures enclosed)







PLANNING DEPT.  
WICKLOW CO COUNCIL  
FOR INFORMATION  
PURPOSES ONLY

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SITE LOCATION MAP

OS LICENCE N:  
AR003940F  
SCALE 1:2500



Left view of Window  
Seen from Front of  
property





Front of Bay window





VIEW FROM inside  
property through  
Bay window



Side view of window



Entrance to property

From Road







VIEW From property  
to main road



View of Bay window

from House Entrance