

Comhairle Contae Chill Mhantáin Ulicklow County Council

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

Áras An Chontae / County Buildings Cill Mhantain / Wicklow Guthán / Tel (0404) 20148 Faics / Fax (0404) 69462 Rphost / Email plandev@wicklowcoco ie Suiomh / Website www.wicklow.ie

Alphaplan Design Suite 14, Block 1 Broomhall Business Park Rathnew Co. Wicklow

 \mathcal{W}^{87} October 2025

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX113/2025

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 Pleanala 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, ECONOMIC & RURAL DEVELOPMENT





WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACT 2000 (As Amended)

SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/1131

Reference Number:

EX 113/2025

Name of Applicant:

Zara Gleeson Cully

Nature of Application:

Section 5 Referral as to whether or not "the construction of a

200sqm stable" is or is not development and is or is not exempted

development.

Location of Subject Site:

Sallymount, Arklow, Co., Wicklow

Report from Holly O'Connor, EP & Sorcha Walsh, SP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "the construction of a 200sqm stable" at Sallymount, Arklow, Co., Wicklow is or is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Having regard to:

- i. The details submitted to the Planning Authority on 30/09/2025;
- ii. Sections 2(1), 3(1) and 4 of the Planning and Development Act 2000 (as amended);
- iii. Section 177U of the Planning and Development Act 2000 (as amended);
- iv. Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- v. Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001 (as amended).
- vi. County Policy Objectives CPO 17.4, 17.5 17.6, 17.7, 17.15, 17.24, 17.35, 17.36, 17.38 as set out in the Wicklow County Development Plan 2022-2028.

Main Reason with respect to Section 5 Declaration:

- 1. The proposed development is located in an SAC and comprises development in relation to which the planning authority is the competent authority in relation to appropriate assessment and having screened the proposed development for appropriate assessment is has been determined that the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site. Therefore, as set out in Section 4 of the Planning and Development Act 2000 (as amended) and Article 9(1)(viiB)of the Planning and Development Regulations 2001 (as amended) no exemption under the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended) is applicable to this proposed development.
- 2. The proposed development is located within a designated SAC, pNHA, wetland and vulnerable aquifer. The proposed development would consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the

- preservation, conservation or protection of which is an objective of a development plan for the area. Therefore, as set out in 9(1)(vii) no exemption under Article 6 under the Planning and Development Regulations is applicable to this proposed development.
- 3. The proposed development is located in an Area of Outstanding Natural Beauty and within Listed Prospect No 31 so designated in the Wicklow County Development Plan. The proposed development has the potential to interfere with the character of the landscape and with a view or prospect of special amenity value or special interest, the preservation of which is an objective of the development plan for the area. Therefore, as set out in 9(1)(vi) no exemption under Article 6 under the Planning and Development Regulations is applicable to this proposed development.

Recommendation:

The Planning Authority considers that "the construction of a 200sqm stable" at Sallymount, Arklow, Co., Wicklow is development and is NOT exempted development as recommended in the report by the SP.

Dated Day of October 2025

ORDER:

I HEREBY DECLARE:

That "the construction of a 200sqm stable" at Sallymount, Arklow, Co., Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:

Senior Planner

Planning, Economic & Rural Development

Dated 2 day of October 2025



Combairle Contae Chill Mhantáin Wicklow County Council

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

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

Applicant: Zara Gleeson Cully
Location: Sallymount, Arklow, Co., Wicklow
Reference Number: EX 113/2025
CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/1131

A question has arisen as to whether "the construction of a 200sqm stable" at Sallymount, Arklow, Co., Wicklow is or is not exempted development.

Having regard to:

- i. The details submitted to the Planning Authority on 30/09/2025;
- ii. Sections 2(1), 3(1) and 4 of the Planning and Development Act 2000 (as amended);
- III. Section 177U of the Planning and Development Act 2000 (as amended);
- iv. Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- v. Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001 (as amended).
- vi. County Policy Objectives CPO 17.4, 17.5 17.6, 17.7, 17.15, 17.24, 17.35, 17.36, 17.38 as set out in the Wicklow County Development Plan 2022-2028.

Main Reasons with respect to Section 5 Declaration:

- 1. The proposed development is located in an SAC and comprises development in relation to which the planning authority is the competent authority in relation to appropriate assessment and having screened the proposed development for appropriate assessment is has been determined that the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site. Therefore, as set out in Section 4 of the Planning and Development Act 2000 (as amended) and Article 9(1)(viiB)of the Planning and Development Regulations 2001 (as amended) no exemption under the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended) is applicable to this proposed development.
- 2. The proposed development is located within a designated SAC, pNHA, wetland and vulnerable aquifer. The proposed development would consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan for the area. Therefore, as set out in 9(1)(vii) no exemption under Article 6 under the Planning and Development Regulations is applicable to this proposed development.
- 3. The proposed development is located in an Area of Outstanding Natural Beauty and within Listed Prospect No 31 so designated in the Wicklow County Development Plan. The proposed development has the potential to interfere with the character of the landscape and with a view or prospect of special amenity value or special interest, the preservation of which is an objective of the development plan for the area. Therefore, as set out in 9(1)(vi) no exemption under Article 6 under the Planning and Development Regulations is applicable to this proposed development.

The Planning Authority considers that "the construction of a 200sqm stable" at Sallymount, Arklow, Co., Wicklow is development and is NOT exempted development

Signed: **///**

ADMINISTRATIVE OFFICER

PLANNING, ECONOMIC & RURAL DEVELOPMENT

Dated 21 October 2025





WICKLOW COUNTY COUNCIL PLANNING DEPARTMENT

PLANNING REPORT SECTION 5 APPLICATION

TO:

SORCHA WALSH SP

FROM:

HOLLY O'CONNOR E.P.

SUBJECT REF:

EX 113/2025

DECISION DATE:

27/10/2025

APPLICANT:

ZARA GLENNON CULLY SALLYMOUNT ARKLOW

ADDRESS: EXEMPTION QUERY:

200SQM STABLE BUILDING

Site Location:

The subject site is located in the rural townland of Sallymount, c.7km to the north-east of the settlement of Arklow. The site is along/adjoins the Regional Road R750. The subject site is undeveloped, the ground levels vary, and it is overgrown with rush, bracken and may bush.

The subject site is located in an area designated as an AONB- Coastal Area.

The site is located within the Buckroney-Brittas Dunes & Fen SAC/pNHA/ Wetlands.

Planning History:

None of subject site.

The question:

Whether the construction of a 200sqm horse stable is or is not development/ exempt development.

Relevant legislation:

Planning and Development Act 2000 (as amended)

Section 2:

"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market

"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, 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);

"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.

Development -Section 3:

"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).

Exempted Development Section 4:

- (1) The following shall be exempted developments for the purposes of this Act—
- (a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;
- (2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—
 - (i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or
 - (ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the ,grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).
- 4 (4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Part X (S) (177U): Screening for appropriate assessment.

Section 177U(9) "In deciding upon a declaration or a referral under section 5 of this Act a Planning Authority or the Board, as the case may be shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section"

Planning & Development Regulations 2001 (as amended)

Restrictions on exemption (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—
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which

the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

Schedule 2, Part 3- Exempted Development – Rural

Description of Development	Conditions and Limitations	
Agricultural Structures	1.	No such structure shall be used for any purpose
CLASS 6		other than the purpose of agriculture.
Works consisting of the provision of a		
roofed structure for the housing of	2.	The gross floor space of such structure together
cattle, sheep, goats, donkeys, horses,		with any other such structures situated within the
deer or rabbits, having a gross floor		same farmyard complex or within 100 metres of
space not exceeding 200 square		that complex shall not exceed 300 square metres
metres (whether or not by extension		gross floor space in aggregate.
of an existing structure), and any		
ancillary provision for effluent	3.	Effluent storage facilities adequate to serve the
storage.		structure having regard to its size, use and location
		shall be constructed in line with Department of
		Agriculture, Food and Rural Development and
		Department of the Environment and Local
		Government requirements and shall have regard to
		the need to avoid water pollution.
	4.	No such structure shall be situated, and no effluent
		from such structure shall be stored, within 10
		metres of any public road.
	5.	No such structure within 100 metres of any public
		road shall exceed 8 metres in height.

- 6. No such structure shall be situated, and no effluent from such structure shall be stored, within 100 metres of any house (other than the house of the person providing the structure) or other residential building or school, hospital, church or building used for public assembly, save with the consent in writing of the owner and, as may be appropriate, the occupier or person in charge thereof.
- 7. No unpainted metal sheeting shall be used for roofing or on the external finish of the structure.

Declaration details submitted:

Applicant wishes to construct a 200sqm stable building for her retired horses at Sallymount. The site is already serviced by ESB and a well. This is for private use only. Map submitted showing proposed stable being 150m from the shared boundary to the west and being 200m from the dwelling on the neighbouring site to the west.

Note:

I note that the details submitted do not make any indication to a vehicular entrance or access roadway. There is an existing agricultural gate on the north-western roadside boundary of the site. The question of whether access would be exempt is not put forward under this S.5 Declaration.

Assessment:

The first matter relates to whether or not the works comprises development. Having regard to sections 2 and 3 of the Planning and Development Act 2000, I consider that the erection of an agricultural shed c.200sq.m constitutes 'development' within the meaning of the Act, being the carrying on of an act of construction (i.e. 'works') on land.

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 the Planning and Development 2001 (as amended).

I have considered the exemption set out under Section 4(1)(a) of the Act and consider that this is not applicable to this case as this exemption does not provide for the **works** of building on new agricultural structures, but rather refers to the **use** of land and buildings for agriculture only.

In any event, were a case to be made that 4(1)(a) provides for works of construction of new structures, Section 4(4) of the Act essentially de-exempts any development which attracts a requirement for Environmental Impact Assessment (EIA) or Appropriate Assessment (AA). I have carried out an AA screening exercise and found that insufficient information has been provided to conclude that this development will **not** have any direct or indirect significant effects on the Buckroney-Brittas Dunes & Fen SAC. Accordingly, Appropriate Assessment (Natura Impact Statement) is required and therefore

the development cannot fall within the scope of the Section 4(1)(a) exemption or any other exemption under Section 4.

I have considered the exemption set out in the PDA Regulations 2001 (as amended). The particular type of rural development which is the subject of this referral relates to Class 6 (Schedule 2, Part 3 Exempted Development – Rural). The structure (as per the information submitted), is to be used as a stables for horses and with a gross floor area of 200sqm, there are no other structures on site. Therefore, it is not proposed that the development will exceed the maximum 200sq.m threshold as per the Class 6 Rural Exemption. The height of the proposed structure has not been provided. The map submitted shows the nearest dwelling to be 200m away. The finish of the structure has not been provided. The proposed structure is located c.100m from the public road. It has been shown that there is a well on the site, but no details have been provided with respect to effluent storage facilities. As detailed above there is no information with respect to the effluent. There are several items of further information that would be required to clarify if the development falls within the criteria set down in Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001 (as amended).

I have considered the restrictions on exemption set out in the PDA Regulations.

- The proposed development is located in an SAC and comprises development in relation to which the planning authority is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site. Therefore, as set out in 9(1)(viiB) this development shall not be exempted.
- The proposed development is located within a designated SAC, pNHA, wetland and vulnerable aquifer. The proposed development would consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan for the area. Therefore, as set out in 9(1)(vii) this development shall not be exempted. (Objectives CPO 17.35, 17.36, 17.38 refer).
- The proposed development is located in an Area of Outstanding Natural Beauty and within Listed Prospect No 31 so designated in the Wicklow County Development Plan. The proposed development has the potential to interfere with the character of the landscape and with a view or prospect of special amenity value or special interest, the preservation of which is an objective of the development plan for the area. Therefore, as set out in 9(1)(vi) this development shall not be exempted. (Objectives CPO 17.4, 17.5 17.6, 17.7, 17.15, 17.24 refer).

Recommendation:

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

A 200sqm stable at Sallymount, Arklow, Co. Wicklow is or is not exempt development.

The Planning Authority considers that:

The Planning Authority considers that the works proposed is **development** and is **not exempt development**.

Main Considerations with respect to Section 5 Declaration:

- i. The details submitted to the Planning Authority on 30/09/2025;
- ii. Sections 2(1), 3(1) and 4 of the Planning and Development Act 2000 (as amended);
- iii. Section 177U of the Planning and Development Act 2000 (as amended);
- iv. Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- v. Schedule 2, Part 3, Class 6 of the Planning and Development Regulations 2001 (as amended).
- vi. County Policy Objectives CPO 17.4, 17.5 17.6, 17.7, 17.15, 17.24, 17.35, 17.36, 17.38 as set out in the Wicklow County Development Plan 2022-2028.

Main Reasons with respect to Section 5 Declaration:

- The proposed development is located in an SAC and comprises development in relation to which the planning authority is the competent authority in relation to appropriate assessment and having screened the proposed development for appropriate assessment is has been determined that the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site. Therefore, as set out in Section 4 of the Planning and Development Act 2000 (as amended) and Article 9(1)(viiB)of the Planning and Development Regulations 2001 (as amended) no exemption under the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended) is applicable to this proposed development.
- The proposed development is located within a designated SAC, pNHA, wetland and vulnerable aquifer. The proposed development would consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan for the area. Therefore, as set out in 9(1)(vii) no exemption under Article 6 under the Planning and Development Regulations is applicable to this proposed development.
- The proposed development is located in an Area of Outstanding Natural Beauty and within Listed Prospect No 31 so designated in the Wicklow County Development Plan. The proposed development has the potential to interfere with the character of the landscape and with a view or prospect of special amenity value or special interest, the preservation of which is an objective of the development plan for the area. Therefore, as set out in 9(1)(vi) no exemption under

Article 6 under the Planning and Development Regulations is applicable to this proposed development.

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Holly O'Connor E.P. Date: 13/10/2025

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MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Holly O'Connor Executive Planner

FROM:

Nicola Fleming Staff Officer

RE:- EX113/2025 - 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 30/09/2025

The due date on this declaration is the 27/10/2025.

Staff Officer

Planning Development & Environment



Comhairle Contae Chill Mhantáin Wicklow County Council

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

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Alphaplan Design
Suite 14 Block 1
Broomhall Business Park
Rathnew
Co. Wicklow

1st October 2025

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX113/2025 for Zara Glennon Cully

A Chara

I wish to acknowledge receipt on 30/09/2025 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 27/10/2025.

Mise, le meas

Nicola Flerning
Staff Officer

Planning, Economic & Rural Development





Wicklow County Coancil County Buildings Wicklow 0404 20100

30/09/2025 12 38 38

Receipt No L1/0/352337

ZARA GLENNON CULLY SALLYMOUNT ARKLOW CO WICKLOW

EXEMPTION CERTIFICATES
GOODS 80 00
VAT Exempt/Non-vatable

Total 80 00 EUR

Tendered Credit Card

Change

d 80 00

0.00

80.00

Issued By Joanne Tighe From Customer Service Hub Vat reg No 0015233H

Receipt No. 57085



1 Applicant Details

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

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WICKLOW COUNTY COUNCH.

3 0 SEP 2025

PLANNING DEPT.

3. Declaration Details

AR 10	LOW Cowickion
Are you the ow Yes/ No.	vner and/or occupier of these lands at the location under i. above?
	pove, please supply the Name and Address of the Owner, and or
	
arises as to what exempted deve	e Planning and Development Act provides that: If any question at, in any particular case, is or is not development and is or is not elopment, within the meaning of this act, any person may, an a prescribed fee request in writing from the relevant planning
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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.

	Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure)?
	List of Plans, Drawings submitted with this Declaration Application SITE PLANS & LOCATION MAP
	Fee of € 80 Attached ? _ € © ©
ned	: Zara Glennon Cully Dated: 30" SECT. 2025

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



