

WICKLOW COUNTY COUNCIL

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

Director of Services Order No: 2033/2022

Reference Number: EX 77/2022

Name of Applicant: Mary & Tom Keogh C/O John M O'Brien

Nature of Application: Section 5 Referral as to whether "The installation of 6 Velux roof lights to the rear of the house at the Heather, No.4, Burgage More, Blessington Co. Wicklow" is or is not exempted development.

Location of Subject Site: The Heather, No.4, Burgage More, Blessington Co. Wicklow

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 "The installation of 6 Velux roof lights to the rear of the house at the Heather, No.4, Burgage More, Blessington Co. Wicklow" 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 on 1st December 2022.
- Sections 2, 3, & 4 of the Planning & Development Act 2000 (as amended).

Main Reasons with respect to Section 5 Declaration:

1. The installation of 6 Velux roof lights would be development having regard to Section 3 of the Planning & Development Act 2000 (as amended).
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, having regard to the provisions of Section 4(1)(h) of the Planning & Development Act 2000 (as amended).

Recommendation

The Planning Authority considers that "The installation of 6 Velux roof lights to the rear of the house at the Heather, No.4, Burgage More, Blessington Co. Wicklow" **is development and is exempted development** as recommended in the planning reports.

Signed




Dated 22nd day of December 2022

ORDER:

That a declaration to issue stating:

That "The installation of 6 Velux roof lights to the rear of the house at the Heather, No.4, Burgage More, Blessington Co. Wicklow" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed:
2022



Dated 22nd day of December

 Director of Services
Planning Development & Environment



COMHARLE 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@wicklowcoco
Suíomh / Website: www.wicklow.ie

Tom & Mary Keogh
C/O John M O'Brien
Design Workshop
Knockanarrigan
Dunlavin
Co Wicklow

22nd December 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 77/2022

Applicant: Mary & Tom Keogh C/O John M O'Brien

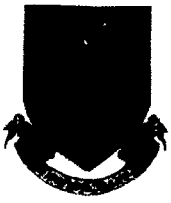
**Nature of Application: "The installation of 6 Velux roof lights to the rear of
the house at the Heather, No.4, Burgage More,
Blessington Co. Wicklow"**

**Location: Heather, No.4, Burgage More, Blessington 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

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@wicklowcoco
Suíomh / Website: www.wicklow.ie

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

Applicant: Mary & Tom Keogh C/O John M O'Brien

Location: The Heather, No.4, Burgage More, Blessington Co. Wicklow

DIRECTOR OF SERVICES ORDER NO 2033/2022

A question has arisen as to whether "The installation of 6 Velux roof lights to the rear of the house at the Heather, No.4, Burgage More, Blessington Co. Wicklow" is or is not exempted development.

Having regard to:

- The details received with this Section 5 application on 1st December 2022.
- Sections 2, 3, & 4 of the Planning & Development Act 2000 (as amended).

Main Reasons with respect to Section 5 Declaration:

1. The installation of 6 Velux roof lights would be development having regard to Section 3 of the Planning & Development Act 2000 (as amended).
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, having regard to the provisions of Section 4(1)(h) of the Planning & Development Act 2000 (as amended).

The Planning Authority considers that "The installation of 6 Velux roof lights to the rear of the house at the Heather, No.4, Burgage More, Blessington Co. Wicklow" is development and is exempted development.

Signed:


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

nd
Dated 22 December 2022



WICKLOW COUNTY COUNCIL
Planning Department

Section 5 – Application for declaration of Exemption Certificate

Ref:	EX 77/2022
Name:	Mary & Tom Keogh
Development:	Installation of 6 Velux roof lights installed in 2002 to the rear of the house.
Location:	The Heather, No.4, Burgage More, Blessington, Co Wicklow

The Site: The site comprises of a large bungalow dwelling located on a site on a cul de sac of Burgage More, a residential area with other bungalows located within the immediate vicinity.

Planning History:

87/3583: Planning permission GRANTED to B.O'Connor for an access road to bungalows and septic tanks.

90/6148: Planning permission GRANTED to Burgagemore Construction for change of house type on site no.4 & 5.

91/7325: Planning permission GRANTED to Burgagemore Construction for retention and completion of dwelling house, garage and septic tank on revised site.

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 the installation of 6 Velux roof lights to the rear of the house at the Heather, No.4, Burgage More, Blessington 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.”

Planning and Development Regulations 2001 (as amended).

Article 6(1) states that certain classes of development which are specified in Schedule 2 shall be exempted development for the purposes of the Act, subject to compliance with any associated conditions and limitations;

Article 9(1)(a) details a number of circumstances under which the development to which Article 6 relates shall not be exempted development for the purposes of the Act:

Part 1 (Classes 1-8) of Schedule 2 describes classes of development situated within the curtilage of a house which are exempted development, provided that such development complies with the associated conditions and limitations.

Assessment:

The Section 5 declaration application seeks an answer with respect to the following question i.e. whether or not *‘the installation of 6 velux roof lights installed in 2002 to the rear of the house at the Heather, No. 4, Burgage More, Blessington, Co Wicklow’* is or is not development; and is or is not exempted development.

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 involves works to the existing property and therefore constituted development.

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

The proposal consists of:

“the installation of 6 Velux roof lights installed in 2002 to the rear of the house at the Heather, No.4, Burgage More, Blessington Co.Wicklow.

I consider that the works would fall under the remit of *Section 4(1) (h) of the Planning and Development Act 2000 (as amended)* which refers to exempted development as been:

“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”.

Recommendation:

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

Whether or not the ~~proposal for~~ installation of 6 velux roof lights ~~previously installed~~ in 2002 to the rear of the house at the Heather, No.4, Burgage More, Blessington, Co. Wicklow.

The Planning Authority considers that:

The ~~proposal for the~~ installation of 6 velux roof lights installed in 2002 to the rear of the house at the Heather, No. 4, Burgage More, Blessington, 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 77/2022~~) on the 1st December 2022.
- 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 the installation of~~ ^{installation of} 6 Velux roof lights installed in 2002 to the rear of the house at The Heather, No.4 Burgage More, Blessington, 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~~ ^{having regard to the provisions of} Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

Dara Keane

Dara Keane
Graduate Planner
12/12/2022

Approved as amended

Edel Byrne
15/12/2022

*Dara Keane is issuing a decision
12/12/22*

MEMORANDUM

WICKLOW COUNTY COUNCIL

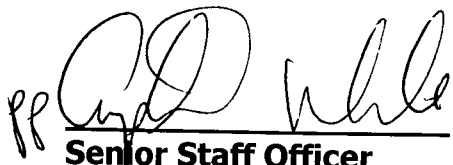
TO: Dara Keane
Graduate Planner

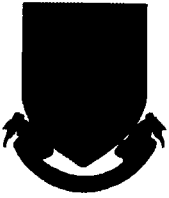
FROM: Crystal White
Assistant Staff Officer

**RE:- EX 77/2022 - Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended)
Purposed development is less than 24M2 in area and to the rear of the
existing dwelling at Edward St, Baltinglass, Co Wicklow**

I enclose herewith for your attention application for Section 5 Declaration received 01st of December 2022.

The due date on this declaration is the 6th of January 2023.


Senior Staff Officer
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
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco.ie
Sulomh / Website: www.wicklow.ie

02/12/2022

Mary & Tom Keogh
C/O John M O'Brien
The Heather
No. 4 Burgage More
Blessington
Co Wicklow

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 77/2022
Installation of 6 Velux roof lights installed in 2002 to the rear of the house at The Heather, No 4, Burgage More, Blessington, Co Wicklow

A Chara

I wish to acknowledge receipt on the 1st of December 2022 details supplied by you in respect of the above section 5 application. A decision is due in respect of this application by 06/01/2023.

Mise, le meas

SENIOR EXECUTIVE OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT



Wicklow County Council
County Buildings
Wicklow
0404-20100

01/12/2022 14 30 11

Receipt No L1/0/305454

MARY & TOM KEOGH
CO JOHN M O BRIEN
DEIGN WORKSHOP
KNOCKANARRIGAN
DUNLAVIN
CO WCKLOW

EXEMPTION CERTIFICATES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total	80 00 EUR
-------	-----------

Tendered Cheque	80 00
--------------------	-------

Change	0 00
--------	------

Issued By Charlie Redmond
From Customer Service Hub
Vat reg No 0015233H

JOB/ST/201705

17th. November 2022

Senior Executive Officer
Department of Planning & Economic Development
Wicklow County Council
County Hall
Wicklow Town
Co. Wicklow

Design Workshop
Knockanarrigan
Dunlavin
Co. Wicklow

Tel 045 404526
Mobile. 087 2517 180
Email merlinfly1@gmail.com

Dear Sir

**Re: Section -5 Declaration Application; Six Velux rooflights to rear of property
at The Heather, No.4 Burgage More, Blessington, Co. Wicklow .**
Applicants: Mary & Tom Keogh.

I refer to the above Section -5 Declaration application, the requirement for which has arisen following a sale agreement to prospective purchasers by the applicants, Mary & Tom Keogh.

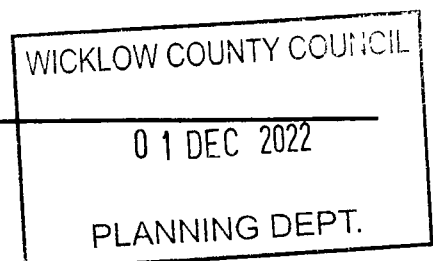
As indicated in the application form, the applicants installed the Velux rooflights in 2002, following referral to Wicklow County Council as to whether they required permission. At that time, they were informed that as the rooflights were to be situated to the rear of the property, that they did not overlook any other property and that as they were located in what was considered a rural property they did not require planning consent. Although back in 2002, such development rarely created any legal difficulties when selling, it has now become a problem in that the prospective purchasers solicitors are requiring a formal Section-5 Declaration, despite the installation of the windows falling within the remit of Section 157 of the Planning & Development Act 2000, in that they were constructed back in 2002, some twenty years ago.

The house was constructed in full compliance with the Planning Consent (91/7325), and the only alterations constructed subsequently were the rear conservatory extensions, which are certified as Exempt Development as their total combined area is only 25.7 mt.sq. In view of the nature of the limited extent of the works requiring the Section-5 Declaration and the additional expense that would be required to undertake a full measured survey and preparation of drawings, we understand, from a conversation with a member of the Planning Department staff, that the documents provided should suffice in this particular case.

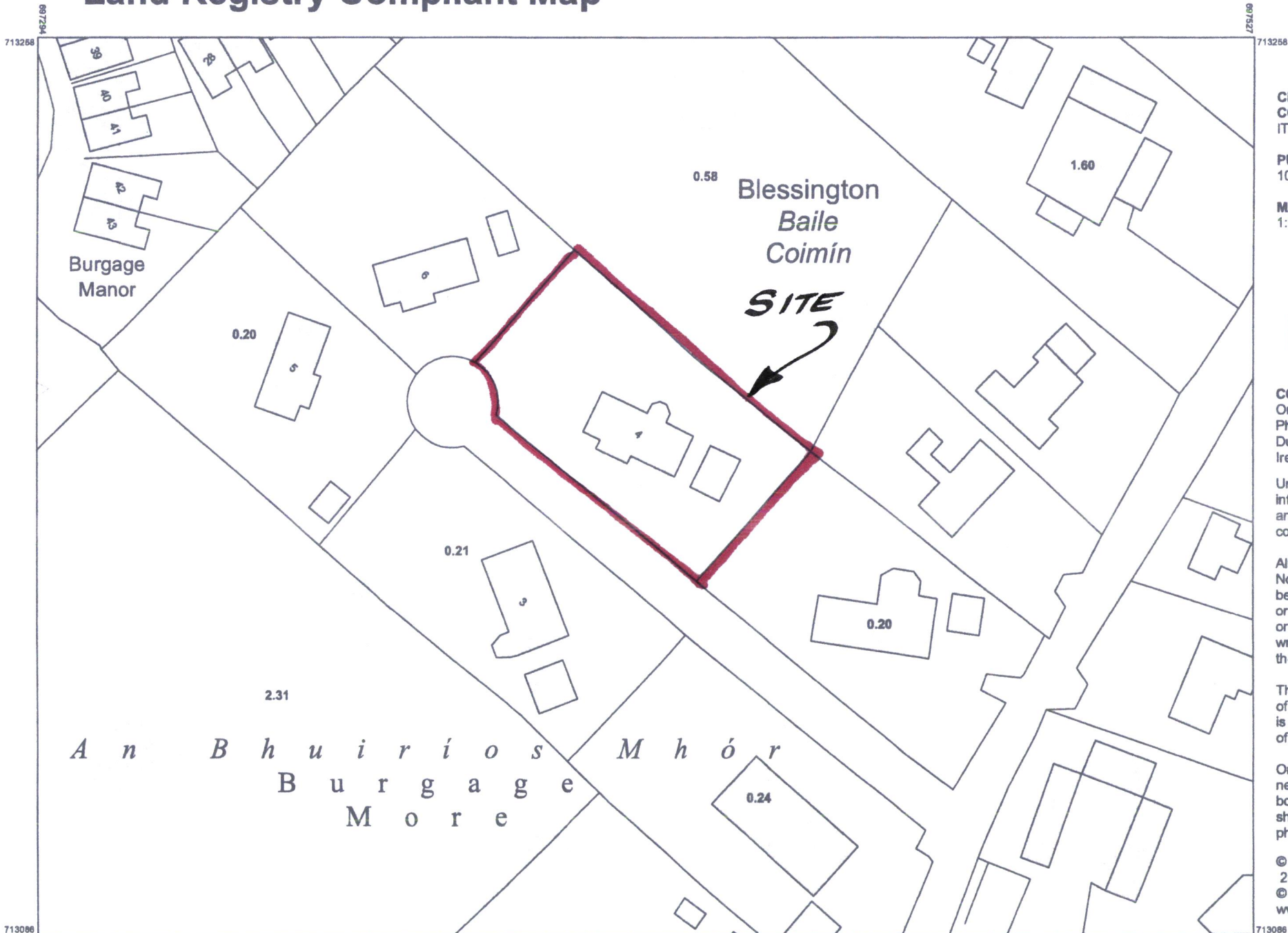
As this is the only item holding up the closing of the sale, and in view of the time that has elapsed since installation of the rooflights, we would be obliged if an early decision could be made by the Council. If you require any additional information or clarification, please do not hesitate to contact the undersigned.

Yours faithfully


John M. O'Brien Dip.Arch.B.Arch.Sc.



Land Registry Compliant Map



CENTRE COORDINATES:
ITM 697411,713172

PUBLISHED: 10/11/2022
ORDER NO.: 50302003_1

MAP SERIES: 1:2,500
MAP SHEETS: 3666-A



COMPILED AND PUBLISHED BY:
Ordnance Survey Ireland,
Phoenix Park,
Dublin 8,
Ireland.

Unauthorised reproduction infringes Ordnance Survey Ireland and Government of Ireland copyright.

All rights reserved.
No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owners.

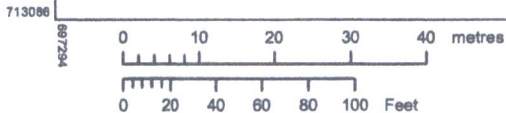
The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

Ordnance Survey maps never show legal property boundaries, nor do they show ownership of physical features.

© Suirbhéireacht Ordanáis Éireann, 2022

© Ordnance Survey Ireland, 2022
www.osi.ie/copyright

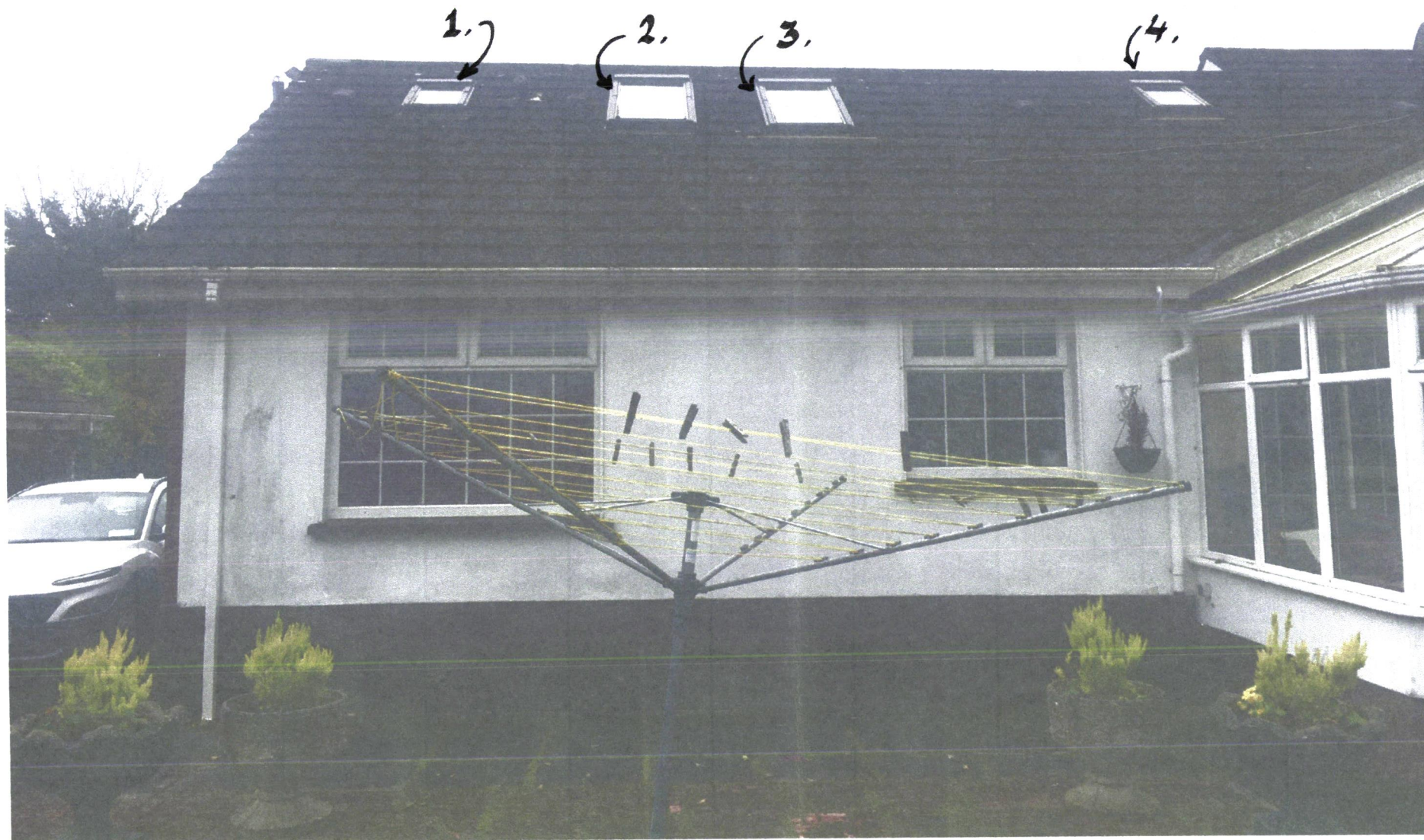
LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'



OUTPUT SCALE: 1:1,000

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









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: **Tom & Mary Keogh**
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) **John M.O'Brien Dip.Arch.B.Arch.Sc.**
Address of Agent :**Design Workshop, Knockanarrigan, Dunlavin,
Co.Wicklow.**

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

3. Declaration Details

- i. Location of Development subject of Declaration, **The Heather, No.4, Burgage**

More, Blessington, Co. Wicklow.

ii. Are you the owner and/or occupier of these lands at the location under i. above ?
Yes/ No. **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, 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 **This application for a Declaration of Exemption arises in relation to the previous conversion of the attic space into attic storage rooms and not habitable accommodation as the ceiling height is not in compliance with the Building Regulation Requirements. The Declaration is required in relation to the previous installation of six Velux rooflights that were installed in 2002, situated to the rear of the house. These windows were, at the time of construction, considered to be a non-material alteration by the Council, as no changes were made to the front of the house, the windows were situated to the rear overlooking farmland, and the house was situated in a rural area with no overlooking onto other houses. The applicants are also aware, as the installation of the windows occurred in 2002, that Section 157, Planning & Development Act, 2000 applies.**

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 **Works were considered by Wicklow County Council, Planning Department, at the time of installation (2002) to be a "non-material" alteration and therefore did not require any planning application.**

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 _____
_____ a) O.S.I Map, indicating location of house (scale 1:1,000)
_____ b) Photographs of rear of house indicating Velux rooflights.

viii. Fee of € 80 Attached ? Yes

Signed : _____

Dated : _____

17th November 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 dwellings/structures etc.

B. Land Reclamation -

The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 2000(as amended) there is a certification process with respect to land reclamation works as set out under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 S.I. 456 of 2011. You should therefore seek advice from the Department of

Agriculture, Fisheries and Food.

Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

- Site layout plan showing location of structure and any adjoining farm structures and any dwellings within 100m of the farm structure.
- Gross floor area of the farm structure
- Floor plan and elevational details of Farm Structure and Full details of the gross floor area of the proposed structure.
- Details of gross floor area of structures of similar type within the same farmyard complex or within 100metres of that complex.