

WICKLOW COUNTY COUNCIL

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

Director of Services Order No: 1784/2022

Reference Number: EX 62/2022

Name of Applicant: Sarah Pace

Nature of Application: Section 5 Referral as to whether "To change the garage attached to the side of the house into a living space. No additional extension/building etc. to be performed at 12 Ashton, Blessington, Co Wicklow" is or is not exempted development.

Location of Subject Site: 12 Ashton, Blessington, Co Wicklow

Report from Chris Garde EP & Suzanne White SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "To change the garage attached to the side of the house into a living space. No additional extension/building etc. to be performed at 12 Ashton, Blessington, Co Wicklow" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- i. The details submitted on 13/10/2022;
- ii. Sections 2 (1), 3 (1), 4 (1) of the Planning & Development Act 2000 (as amended);
- iii. Articles 6 & 9 of the Planning & Development Regulations 2001 as amended;
- iv. Schedule 2, Pt.1 Class 1 of the Planning & Development Regulations 2001(as amended).

Main Reasons with respect to Section 5 Declaration:

Having regard to the existing dwelling on site, the size, position and the floor area of the extension, it is considered that the existing garage (attached to side of dwelling) conversion comes within the description & limitations of works specified under Schedule 2, Pt.1 Class 1 of the Planning & Development Regulations 2001 as amended.

Recommendation

The Planning Authority considers that "To change the garage attached to the side of the house into a living space. No additional extension/building etc. to be

performed at 12 Ashton, Blessington, Co Wicklow" is development and is exempted development as recommended in the planning reports.

Signed  Dated 7th day of November 2022

ORDER:

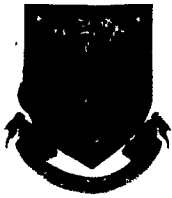
That a declaration to issue stating:

That "To change the garage attached to the side of the house into a living space. No additional extension/building etc. to be performed at 12 Ashton, Blessington, Co Wicklow" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: 
2022

Dated 7th day of November 2022

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
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoc
Suíomh / Website: www.wicklow.ie

Sarah Pace

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 62/2022

Applicant: Sarah Pace

Nature of Application: "To change the garage attached to the side of the
house into a living space. No additional
extension/building etc. to be performed at 12
Ashton, Blessington, Co Wicklow"

Location: 12 Ashton, 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

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

Applicant: Sarah Pace

Location: 12 Ashton, Blessington, Co Wicklow

DIRECTOR OF SERVICES ORDER NO. 1784/2022

A question has arisen as to whether "To change the garage attached to the side of the house into a living space. No additional extension/building etc. to be performed at 12 Ashton, Blessington, Co Wicklow" is or is not exempted development.

Having regard to:

- i. The details submitted on 13/10/2022;
- ii. Sections 2 (1), 3 (1), 4 (1) of the Planning & Development Act 2000 (as amended);
- iii. Articles 6 & 9 of the Planning & Development Regulations 2001 as amended;
- iv. Schedule 2, Pt.1 Class 1 of the Planning & Development Regulations 2001(as amended).

Main Reasons with respect to Section 5 Declaration:

Having regard to the existing dwelling on site, the size, position and the floor area of the extension, it is considered that the existing garage (attached to side of dwelling) conversion comes within the description & limitations of works specified under Schedule 2, Pt.1 Class 1 of the Planning & Development Regulations 2001 as amended.

The Planning Authority considers that "To change the garage attached to the side of the house into a living space. No additional extension/building etc. to be performed at 12 Ashton, Blessington, Co Wicklow" is development and is exempted development.

Signed

ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated November 2022



WICKLOW COUNTY COUNCIL
Planning Department
Section 5 – PLANNING REPORT SECTION 5 APPLICATION

REF: EX 62/2022
APPLICANT: Sarah Pace
DECISION DUE DATE: 09/11/2022
ADDRESS: 12 Ashton, Blessington, Co Wicklow
EXEMPTION QUERY: To change the garage attached to the side of the house into a living space.
No additional extension/building etc. to be performed.

Application Site:

The subject site is located at 12 Ashton, Blessington, Co. Wicklow. Existing detached, two storey dwelling on site. The site is located within a large housing development.

Photographs:

Google Street View Image of subject site.



Planning History:

No recent planning history noted on the subject site.

There is; however, extensive Planning history associated with the overall estate dating back to the 1980's.

Question:

The applicants have applied to see whether or not the following is or is not development and is or is not exempted development:

- 1) To change the garage attached to the side of the house into a living space. No additional extension/building etc. to be performed.

Legislative Context

Planning and Development Act 2000 (as amended)

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

*"**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

*"**works**" includes Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."*

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 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) is relevant for the purposes of this declaration:

"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."

Section 4(2) makes provision for ministerial regulations to set out further exemptions. The 2001 Planning Regulations as amended derive from this section and designate further works as being exempted development for the purposes of the act.

Planning and Development Regulations 2001(as amended)

Article 6 (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.

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) Contravene a condition attached to a permission under Act or be inconsistent with any use specified in a permission under the Act,

(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,

Planning and Development Regulations 2001 as amended: Schedule 2, Pt.1 Class 1, states that the following constitutes exempted development:

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

The conditions and limitations include:

1. (a) *Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.*

2. (a) *Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*

4. (a) *Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.*

(c) *The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.*

5. *The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.*

6. (a) *Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.*

7. *The roof of any extension shall not be used as a balcony or roof garden.*

Other Conditions and Limitations include:

1. *No such structure shall be constructed, erected or placed forward of the front wall of a house.*

2. *The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*

3. *The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.*

4. *The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*

5. *The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.*

6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

Details Submitted in support of Application:

The applicants are applying for a Section 5 Declaration in relation to the following;

1. *To change the garage attached to the side of the house into a living space. No additional extension/building etc. to be performed.*

Assessment:

It is proposed to remodel the existing garage(attached to side of dwelling) i.e. conversion from garage to study and internal linkage of the dwelling with the extension in place. The plans do not state the floor area of the proposed conversion, however, they approximate area is calculated to be c.20 sqm.

The total area of the garage conversion indicated, appear to be accurate and are less than 40sqm in total.

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 would involve works to the existing structure and therefore the proposal does constitute development.

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

As to whether the following proposed works: 1. The existing garage(attached to side of dwelling) conversion and the new proposed extension to the side and rear of the dwelling, is or is not exempted development.

The proposed remodelling of the existing garage conversion measures c. 20sqm in floor area. The roof over the side garage conversion is unchanging. The proposal does not reduce the remaining the area of private open space to the rear of the house to less than 25 square metres.

Schedule 2, Pt.1 Class 1 checklist

| | |
|---|------|
| <i>Is the extension to the rear?</i> | No |
| <i>Was the house extended previously?</i> | No |
| <i>Would the extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, exceed 40 square metres?</i> | No |
| <i>Would the height of the walls of the extension exceed the height of the rear wall of the house?</i> | No |
| <i>Is the roof flat and does the height of the highest part of the roof of the extension exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, exceed the height of the highest part of the roof of the dwelling?</i> | No |
| <i>Would the construction or erection of the extension to the rear of the house reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.</i> | N/A. |
| <i>Would the window proposed at ground level in the extension be less than 1 metre from the boundary it faces?</i> | No. |
| <i>Would the roof of the extension be used as a balcony or roof garden?</i> | No |

Recommendation:

With respect to the query under Section 5 of the Planning and Development Act 2000 (as amended), as to whether or not the:

- To change the garage attached to the side of the house into a living space. No additional extension/building etc. to be performed at 12 Ashton, Blessington, Co Wicklow is or is not exempted development.

The Planning Authority considers that:

In consideration of the above, the proposed development is considered to come within the scope of Section 4-1 (h) of the Planning & Development Act 2000 (as amended) and therefore is exempt development.

Main Considerations with respect to Section 5 Declaration:

- i. The details submitted on 13/10/2022;
- ii. Sections 2 (1), 3 (1), 4 (1) of the Planning and Development Act 2000 (as amended);
- iii. Articles 6 & 9 of the Planning and Development Regulations 2001 as amended;
- iv. Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001(as amended).

Main Reasons with respect to Section 5 Declaration:

Having regard to the existing dwelling on site, the size, position and the floor area of the extension, it is considered that the existing garage(attached to side of dwelling) conversion comes within the description and limitations of works specified under Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 as amended.



Chris Garde
Executive Planner

Agreed
Sullivan SEP
28/10/22

Date: 19/10/2022

Please Note:

~~The issue of encroachment or overhanging is a civil matter the applicant is advised that in the event of encroachment or overhanging of adjoining property, the consent of the adjoining property owner is required.~~

Duke
SW

MEMORANDUM

WICKLOW COUNTY COUNCIL

**TO: Chris Garde
Executive Planner**

**FROM: Crystal White
Assistant Staff Officer**

**RE:- EX 62/2022 - Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended)
Change the Garage attached to the side of the house into a living space**

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**



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

Sarah Pace

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 62/2022

Change of the garage attached to the side of the house into a living space

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**



Wicklow County Council
County Buildings
Wicklow
0404-20100

13/10/2022 10 12 12

Receipt No L1/0/302963
***** REPRINT *****

SARAH PACE
12 ASHTON
BLESSINGTON
CO WICKLOW

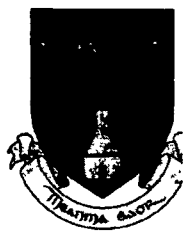
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| GOODS | 80 00 |
| VAT Exempt/Non-vatable | |

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

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| Tendered | |
| Credit Card | 80 00 |

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| Change | 0 00 |
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Wicklow County Council
County Buildings
Wicklow
Co Wicklow
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Fax 0404 69462

Office Use Only

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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: Sarah Pace
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) n/a
Address of Agent :



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

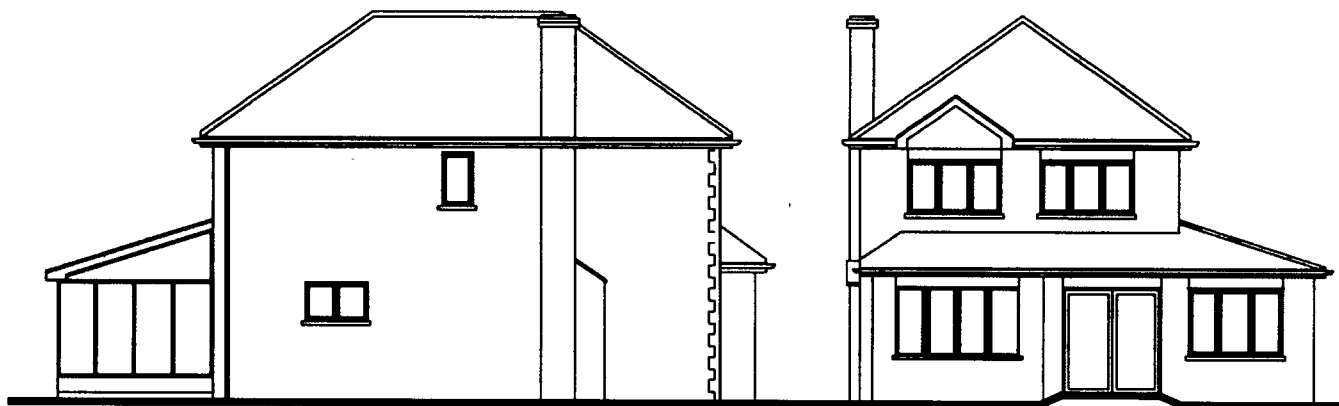
3. Declaration Details

- i. Location of Development subject of Declaration: 12 Ashton, Blessington, Co. Wicklow, W91 F8C7
- 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: To change the garage attached to the side of the house into a living space. No additional extension/building etc to be performed. *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. That a garage attached to the rear or side of the house to domestic use provided it has a floor area of less than 40 square metres. *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. See attached
- viii. Fee of € 80 Attached ? Paid over the phone 13/10/2022

Signed : Sarah Pace Digitally signed by Sarah Pace
Date 2022.10.13 10:17:32 +01'00' Dated : _____



Current side elevation

Current front elevation



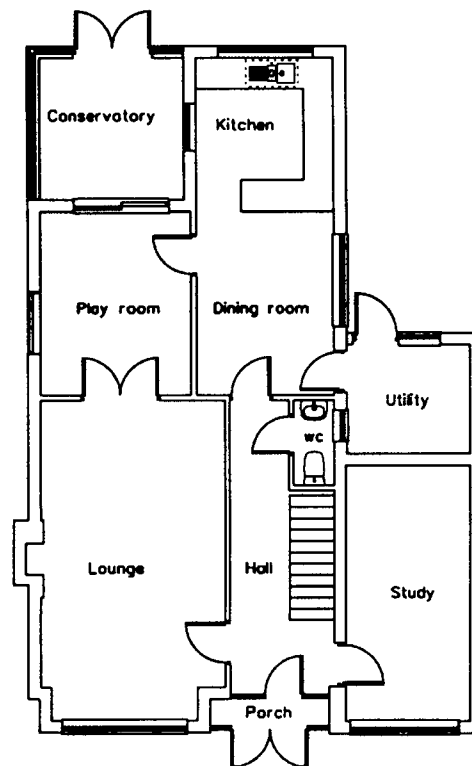
Current side elevation

Current rear elevation

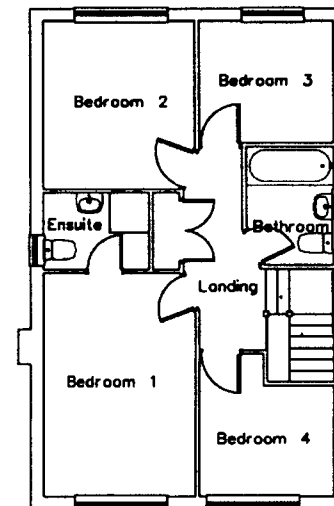
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drawing: Current elevation arrangement
stage: 7

project no:
date:

drawing no: Current elevations
scale: 1:100 @ A3



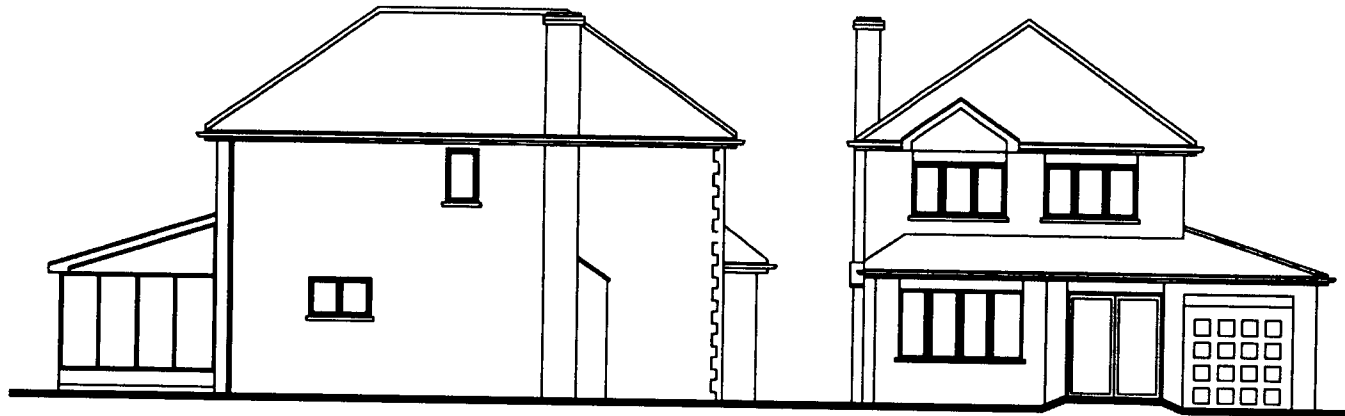
Current ground floor layout



Current first floor layout

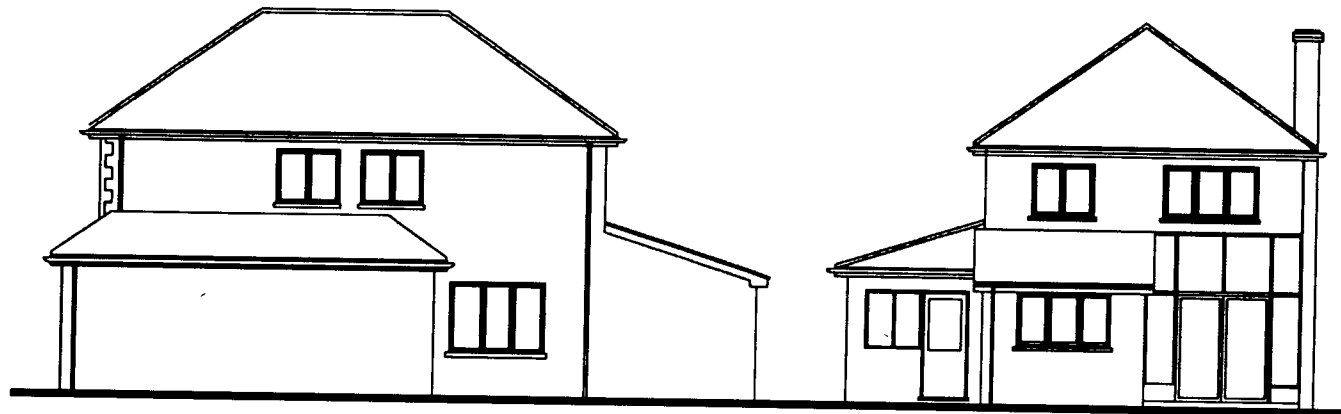
project: 12 Ashton, Blessington, Co. Wicklow
drawing: Current plan arrangement
stage: 1

| | |
|-------------|---------------------------|
| project no: | drawing no: Current plans |
| date: | scale: 1:100 @ A3 |



Previous side elevation

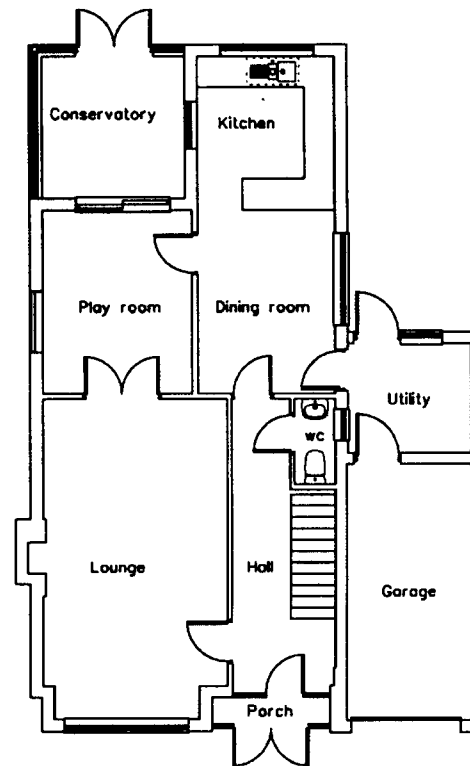
Previous front elevation



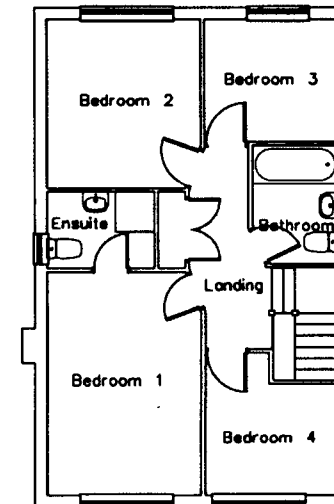
Previous side elevation

Previous rear elevation

| | | |
|--|-------------|---------------------------------|
| project: 12 Ashton, Blessington, Co. Wicklow | project no: | drawing no: Previous elevations |
| drawing: Previous elevation arrangement | date: | scale: 1:100 @ A3 |
| stage: 1 | | |



Previous ground floor layout



Previous first floor layout

project: 12 Ashton, Blessington, Co. Wicklow
drawing: Previous plan arrangement
stage: P

| | |
|-------------|----------------------------|
| project no: | drawing no: Previous plans |
| date: | scale: 1:100 @ A3 |