

WICKLOW COUNTY COUNCIL

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

Director of Services Order No: 553/2023

Reference Number: EX 9/2023

Name of Applicant: David & Edel Foster

Nature of Application: Section 5 Referral as to whether "40sqm extension to replace current extension, Ridge of new extension will match the ridge of the existing house & build a 15sqm garden store/boiler room alongside the new extension to provide ancillary storage to the house at 2 Willow Grove, Old Downs, Delgany, Co Wicklow" is or is not exempted development.

Location of Subject Site: 2 Willow Grove, Old Downs, Delgany, Co Wicklow

Report from Solomon Aroboto EP & Edel Bermingham SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "40sqm extension to replace current extension, Ridge of new extension will match the ridge of the existing house & build a 15sqm garden store/boiler room alongside the new extension to provide ancillary storage to the house at 2 Willow Grove, Old Downs, Delgany, Co Wicklow" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- The details submitted under Section 5 Declaration on 23/02/2023 and 20/03/2023.
- Sections 2(1) and 3(1), of the Planning and Development Act 2000 (as amended)
- Articles 6 & 9 of the Planning & Development Regulations 2001 as amended
- Schedule 2, Pt.1 Classes 1,2,3 of the Planning & Development Regulations 2001 (as amended)
- Planning History of the site
- Site inspection carried out

Main Reasons with respect to Section 5 Declaration:

set out under Section 3 of the Planning and Development Act 2000 (as amended)

- b) Having regard to the existing dwelling on site, the height, position and the floor area of the extension, the rear extension would come within the description and limitations of works specified under Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended)
- c) Having regard to the existing dwelling on site, the size, position and the floor area of the garden store/boiler structure and new heating system to serve the house on site, the garden store/boiler and the new heating system would come within the description and limitations of works specified under Schedule 2, Pt.1 Classes 2 & 3 of the Planning and Development Regulations 2001 (as amended)

Recommendation

The Planning Authority considers that "40sqm extension to replace current extension, Ridge of new extension will match the ridge of the existing house & build a 15sqm garden store/boiler room alongside the new extension to provide ancillary storage to the house at 2 Willow Grove, Old Downs, Delgany, Co Wicklow" is development and is exempted development as recommended in the planning reports.

Signed  Dated 28th day of March 2023

ORDER:

That a declaration to issue stating:

That "40sqm extension to replace current extension, Ridge of new extension will match the ridge of the existing house & build a 15sqm garden store/boiler room alongside the new extension to provide ancillary storage to the house at 2 Willow Grove, Old Downs, Delgany, Co Wicklow" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: 
Director of Services
Planning Development & Environment

Dated 28 day of March 2023



Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

David & Edel Foster

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

28th March 2023

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 9/2023

Applicant: David & Edel Foster

Nature of Application: 40sqm extension to replace current extension, Ridge of new extension will match the ridge of the existing house & build a 15sqm garden store/boiler room alongside the new extension to provide ancillary storage to the house at 2 Willow Grove, Old Downs, Delgany, Co Wicklow

Location: 2 Willow Grove, Old Downs, Delgany, Co Wicklow

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

Is mise, le meas,

ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT.



Comhairle Contae Chill Mhantáin Wicklow County Council

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

Applicant: David & Edel Foster

Location: 2 Willow Grove, Old Downs, Delgany, Co Wicklow

DIRECTOR OF SERVICES ORDER NO 553/2023

A question has arisen as to whether "40sqm extension to replace current extension, Ridge of new extension will match the ridge of the existing house & build a 15sqm garden store/boiler room alongside the new extension to provide ancillary storage to the house at 2 Willow Grove, Old Downs, Delgany, Co Wicklow" is or is not exempted development.

Having regard to:

- The details submitted under Section 5 Declaration on 23/02/2023 and 20/03/2023.
- Sections 2(1) and 3(1), of the Planning and Development Act 2000 (as amended)
- Articles 6 & 9 of the Planning & Development Regulations 2001 as amended
- Schedule 2, Pt.1 Classes 1,2,3 of the Planning & Development Regulations 2001 (as amended)
- Planning History of the site
- Site inspection carried out

Main Reasons with respect to Section 5 Declaration:

- a) The construction of an extension and garden store/boiler including the new heating system would come within the definition of development as set out under Section 3 of the Planning and Development Act 2000 (as amended)
- b) Having regard to the existing dwelling on site, the height, position and the floor area of the extension, the rear extension would come within the description and limitations of works specified under Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended)
- c) Having regard to the existing dwelling on site, the size, position and the floor area of the garden store/boiler structure and new heating system to serve the house on site, the garden store/boiler and the new heating system would come within the description and limitations of works specified under Schedule 2, Pt.1 Classes 2 & 3 of the Planning and Development Regulations 2001 (as amended)



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The Planning Authority considers that "40sqm extension to replace current extension. Ridge of new extension will match the ridge of the existing house & build a 15sqm garden store/boiler room alongside the new extension to provide ancillary storage to the house at 2 Willow Grove, Old Downs, Delgany, Co Wicklow" is development and is exempted development.

Signed


ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 29th March 2023

Report for – Section 5 declaration

File Reference: EX 9/2023

Applicant's Name: David & Edel Foster

Address: 2 Willow Grove, Old Downs, Delgany, Co. Wicklow.

Description: 40sqm extension to replace current extension. Ridge of new extension will match the ridge of the existing house.
Also build a 15sqm garden store/boiler room alongside the new extension to provide ancillary storage to the house.

Please this report in conjunction with the previous report. Further information was sought on 16/03/23 and response was received on 20/03/23. The further information request, response and assessment are as follow,

In accordance with Section 5(2) (b) of the Planning and Development Act 2000 (as amended) the following information should be submitted to allow the Planning Authority to fully assess the submission.

- a) Please confirm the wood pellet stove is a wood pellet boiler which forms part of the heating system for the dwelling
- b) Please confirm whether an external flue or similar for air venting will be required for the heating system. The location of any flue/height should be indicated on the drawings.

Response

- It is stated that the wood pellet stove is a wood pellet boiler which forms part of the heating system for the dwelling.
- The location of flue/height should be indicated on a revised drawing

Assessment

This is considered acceptable.

The issue is to determine whether the construction of,

- Demolition of the existing rear extension and replacement with the 40sqm rear extension
- Construction of a stand-alone 15sqm garden store/boiler room beside the replacement extension

is or is not exempted development within the meaning of the Planning and Development Acts, 2000 as amended.

The site measures 0.0428ha and is located within the development boundary of Kilppeder on a row with similar houses. Existing on site is single storey semi-detached dwelling, a shed and garden with planting along the boundaries. There are dwellings on adjacent and opposite site.

Having regard to the definition of development in Section 3 of the Planning and Development Act 2000 (as Amended), it is considered that the works of

- *Demolition of the existing rear extension and replacement with the 40sqm rear extension*
- *Construction of a stand-alone 15sqm garden store/boiler room beside the replacement extension*

Is development.

The next question therefore to ask is whether

- *Demolition of the existing rear extension and replacement with the 40sqm rear extension*
- *Construction of a stand-alone 15sqm shed (garden store/boiler room) beside the replacement extension*

is or is not exempted development.

a)The proposed extension is single storey, measures 40sqm in floor area and is c.5.4m at the highest point. The extension would be 11.5m in length. The full length of the garden is c.7m and the width 4.4m. It is connected to the rear of the existing dwelling (kitchen).

Schedule 2, Pt.1 Class 1 checklist

<i>Is the extension to the rear?</i>	<i>Yes</i>
<i>Was the house extended previously?</i>	<i>Yes</i>
<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>	<i>No</i>
<i>Would the height of the walls of the extension exceed the height of the rear wall of the house?</i>	<i>No</i>

<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>	<i>The roof is both flat and gable ended. The highest part of the roofs of the extension would not exceed the height of the eaves or parapet or height of the highest part of the roof of the dwelling,</i>
<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>	<i>No, the private open would not be reduced to less than 25sqm.</i>
<i>Would the window proposed at ground level in the extension be less than 1 metre from the boundary it faces?</i>	<i>No, the window in the rear elevation would be more than 1m from the boundary it faces.</i>
<i>Would the roof of the extension be used as a balcony or roof garden?</i>	<i>No</i>

From the foregoing, it is considered that the extension by reason of its attachment to rear of the house, its size and height would come within the meaning of development described in Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended), and the conditions and limitations as set out in Column 2.

Therefore in this case, the proposed extension is development and is exempted development.

b)The proposed shed measures 15sqm in floor area and 3m high and the roof would be flat. The external wall finish is render. It is located to the side of the proposed replacement extension but not internally connected. Schedule 2, Pt.1 Class 3 of the Planning and Development Regulations 2001 (as amended), provides for such development subject to certain conditions and limitations.

Relevant Schedule 2, Pt.1 Class 2 checklist

<i>Would the development be part of a heating system of a house, of a chimney or flue, boiler house or fuel storage tank or structure ?</i>	<i>Yes, it is a wood pellets heating system for a house and consist of a pellet stove(boiler) and pellet store/hopper. information is submitted on the proposed flue</i>
<i>Would the capacity of the oil storage tank exceed 3,500 litres?</i>	<i>No oil storage tank is proposed.</i>

From the foregoing, it is considered that the development would be part of a heating system of a house, would come within the meaning of development described in Schedule 2, Pt.1 Class 2 of the Planning and Development Regulations 2001 (as amended), and the conditions and limitations as set out in Column 2.

Schedule 2, Pt.1 Class 3 checklist

Is the structure constructed, erected or placed forward of the front wall of a house?	No, the structure is located to the side of the house.
Is the structure constructed, erected or placed within the curtilage of house?	Yes
Would the construction, of the structure 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.	No
Would the total area of the structure constructed, erected or placed within the curtilage of a house, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.	Yes. The total floor area of the structure is 15sqm and there is 10sqm log cabin on site.
Is the structure to the side of the house?	Yes, it is located to the rear of the house
Is the roof tiled or slated pitched roof and does the height exceed 4m or, in any other case, 3 metres.	The roof of the structure is flat. The height of the roof is 3m
Is the structure 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.	No, the structure is to be used as <i>garden store/boiler room</i> shed which it is considered would be incidental to the enjoyment of the house.

From the foregoing, it is considered that the shed (garden store/boiler room) by reason of its location within the curtilage of house, to the size of the house, its size and use would come within the meaning of development described in Schedule 2, Pt.1 Class 3 of the Planning and Development Regulations 2001 (as amended), and the conditions and limitations as set out in Column 2.

Therefore in this case, the erection of shed (garden store/boiler room) is development and is exempted development.

I have examined Article 9 (1) (Restrictions on Exemption) of the Planning and Development Regulations 2001 (as amended), it is considered that the development would not come within this provision.

Conclusion

On basis on the previous and current assessments, it is considered that,

- *Demolition of the existing rear extension and replacement with the 40sqm rear extension*
- *Construction of a stand-alone 15sqm shed (garden store/boiler room) beside the replacement extension*

At 2 Willow Grove, Old Downs, Delgany, Co. Wicklow, is development and is exempted development.

Recommendation

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

- *Demolition of the existing rear extension and replacement with the 40sqm rear extension*
- *Construction of a stand-alone 15sqm shed (garden store/boiler room) beside the replacement extension*

At 2 Willow Grove, Old Downs, Delgany, Co. Wicklow, is or is not development and is or is not exempted development within the meaning of the Planning and Development Act, 2000 (as amended)

The Planning Authority considers that:

- *Demolition of the existing rear extension and replacement with the 40sqm rear extension*
- *Construction of a stand-alone 15sqm shed (garden store/boiler room) beside the replacement extension*

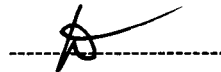
At 2 Willow Grove, Old Downs, Delgany, Co. Wicklow, is development and is exempted development.

Main Considerations with respect to Section 5 Declaration:

- The details submitted under Section 5 Declaration on 23/02/23 and 20/03/23
- Sections 2(1) and 3(1), of the Planning and Development Act 2000 (as amended)
- Articles 6 & 9 of the Planning and Development Regulations 2001 as amended
- Schedule 2, Pt.1 Classes 1 , 2, 3 of the Planning and Development Regulations 2001(as amended)
- Planning History of the site
- Site inspection carried out


Main Reasons with respect to Section 5 Declaration:

- a) The construction of an extension and garden store/boiler including the new heating system would come within the definition of development as set out under Section 3 of the Planning and Development Act 2000(as amended)
- b) Having regard to the existing dwelling on site, the height, position and the floor area of the extension, the rear extension would come within the description and limitations of works specified under Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended.)
- c) Having regard to the existing dwelling on site, the size, position and the floor area of the garden store/boiler structure and new heating system to serve the house on site, the garden store/boiler and new heating system would come within the description and limitations of works specified under Schedule 2, Pt.1 Classes 2 and 3 of the Planning and Development Regulations 2001 (as amended.)



Solomon Aroboto E/P
21/03/23


23/3/23


Bee
DOS
28/3/23

David & Edel Foster

Wicklow County Council
County Buildings, Whitegates
Wicklow Town, A67 FW96

Date: 20/03/2022

Subject: Planning Authority Reference Number EX 9/2023

Dear Sirs,

In response to your request for further information please see the reply below.

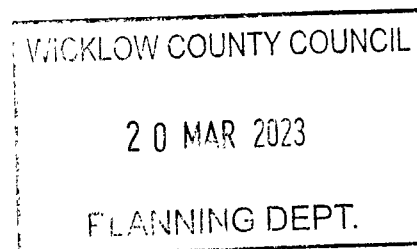
- a. We confirm that it is a wood pellet boiler that forms part of the heating system for the dwelling
- b. Please see the location of the ventilation flue on the attached drawing

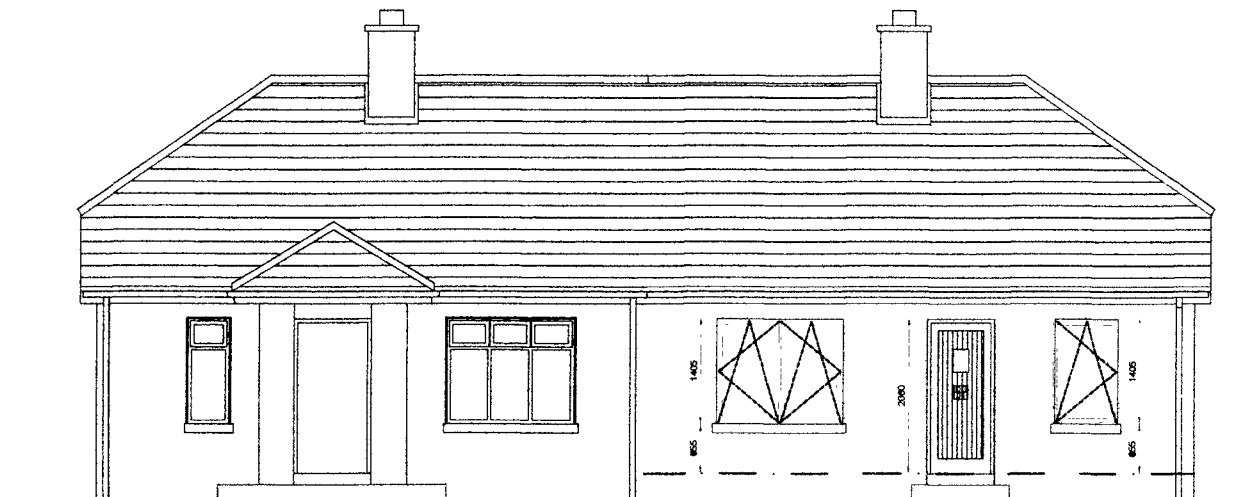
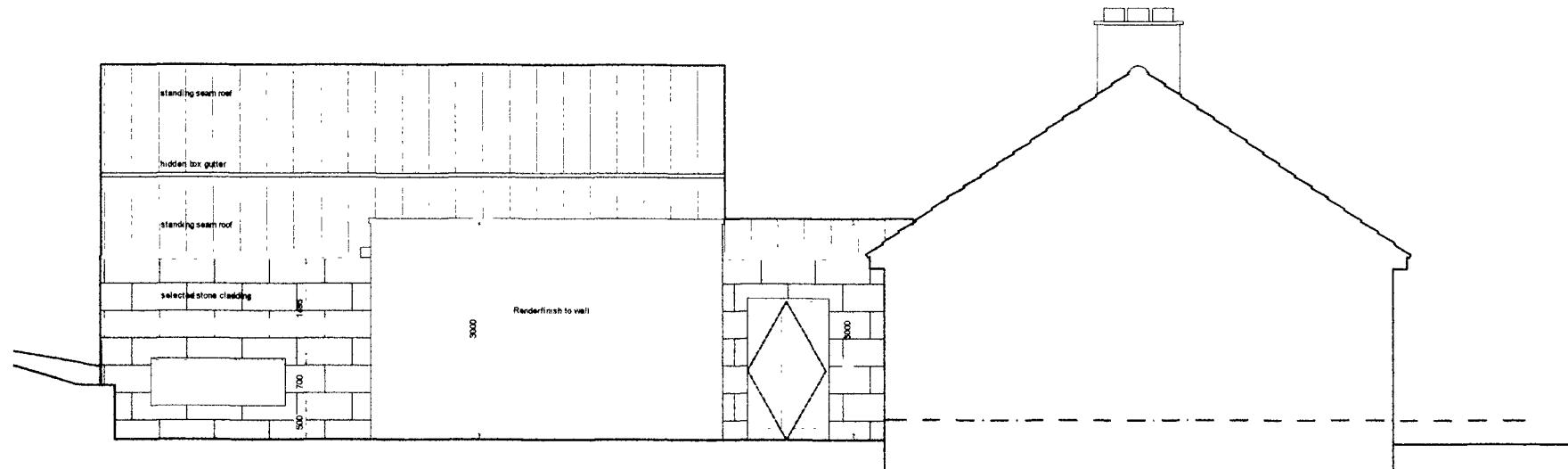
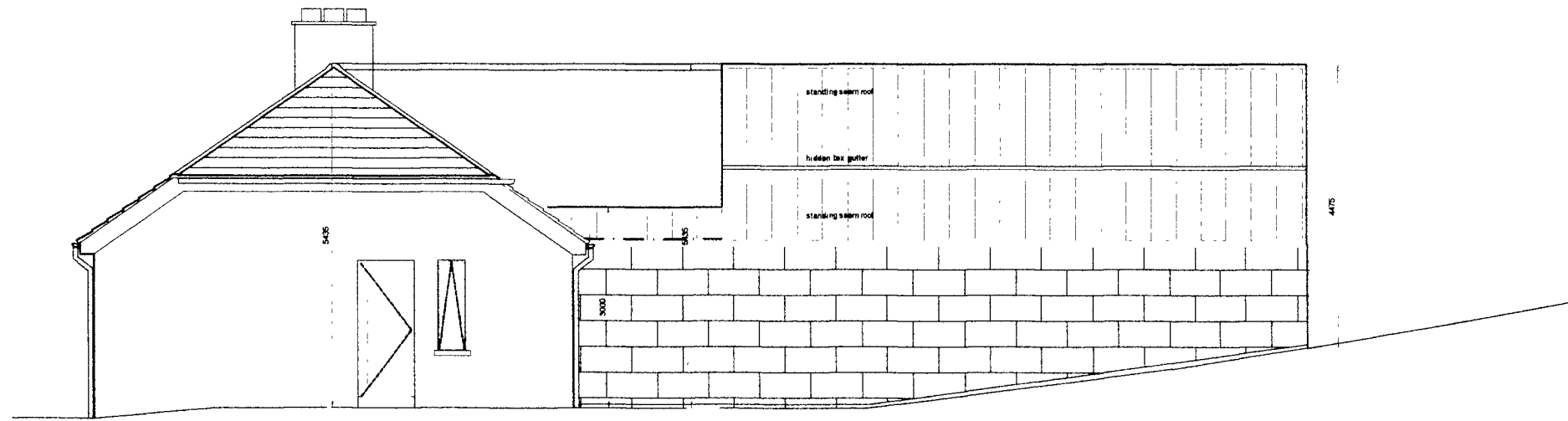
We trust that this answers the request to your satisfaction.

Kind Regards,



David & Edel Foster





TITLE	PROPOSED ELEVATIONS	DATE	23/02/2023
SUBJECT	2 WILLOW GROVE, OLD DOWNS ROAD DELGANY, WICKLOW A63 EY86	DRAWN BY	DAVID FOSTER
		SCALE	1:100
		REF	EX 9/2023
		SHEET	E-001



Comhairle Contae Chill Mhantáin Wicklow County Council

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16/03/2023

David & Edel Foster

RE: EX 9/2023

'Build 40m² extension to replace current extension. Ridge of new extension will match the ridge of the existing house, also build a 15m² Garden Store/Boiler room alongside the new extension to provide ancillary storage to the house. Structure will have a flat roof no windows in the external walls one vented louvered panel and one access door from the rear garden. Store room will only be accessible from the garden at 2 Willow Grove, Old Downs Road, Delgany, Co Wicklow'

A Chara

I wish to acknowledge receipt of your application for a declaration in respect of Section 5 for the above proposal on 23rd February 2023.

Further Information:

Further information is required to fully assess the application.

1) In accordance with Section 5(2) (b) of the Planning & Development Act 2000 (as amended) the following information should be submitted to allow the Planning Authority to fully assess the submission.

- a) Please confirm the wood pellet stove is a wood pellet boiler which forms part of the heating system for the dwelling.
- b) Please confirm whether an external flue or similar for air venting will be required for the heating system. The location of any flue/height should be indicated on the drawings.

Mise, le meas

SENIOR STAFF OFFICER

PLANNING DEVELOPMENT AND ENVIRONMENT

Report for – Section 5 declaration

File Reference: EX 9/2023

Applicant's Name: David & Edel Foster

Address: –

Description: 40sqm extension to replace current extension. Ridge of new extension will match the ridge of the existing house.
Also build a 15sqm garden store/boiler room alongside the new extension to provide ancillary storage to the house.

Date of site visit 02/03/2023

Section 5 Referral

From examining the submitted particulars, it is noted that the section 5 query should be re-worded as follows,

- Demolition of the existing rear extension and replacement with the 40sqm rear extension
- Construction of a stand-alone 15sqm garden store/boiler room beside the replacement extension

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

- Demolition of the existing rear extension and replacement with the 40sqm rear extension
- Construction of a stand-alone 15sqm garden store/boiler room beside the replacement extension

At 2 Willow Grove, Old Downs, Delgany, Co. Wicklow, is or is not development and is or is not exempted development within the meaning of the Planning and Development Act, 2000 (as amended)

Planning History

Ex 10/2023 – current Section 5 query – as to whether, demolition of the existing rear extension and replacement with the 40sqm rear extension is or is not development and is or is not exempted

(ABP – 313900-22) - 21/1517 – Currently on appeal - the demolition of existing flat roof extension to rear of current dwelling and construction of new 74sqm split level single storey over sunken ground floor and site associated works.

06/6670 – Permission was refused for bungalow, bio-cycle treatment system and polishing filter and boundary revisions, all with ancillary works. The refusal reasons are as follows,
The proposed development would be prejudicial to public health because the existing dwelling would not have an adequately large site size (0.06 ha) to comply with the Appendix B of NSAI:SR6 of 1991: which requires sites with an on site wastewater treatment system and being served by public main water to have a minimum size requirement of 0.15 ha. In this regard both existing and proposed site would be required to meet this site requirement. The proposed development would therefore set an undesirable precedent for similar type development which would not be in accordance with the proper planning and sustainable development of the area.

04/563: Pat Tighe - Permission refused for a new bungalow. There were 6 no. reasons. They include, Failure to satisfy local need, Public health, Result in excessive density of septic tanks, Traffic hazard, Interfere with traffic, Height of the proposed development.

Relevant Legislation

Planning and Development Act 2000 as amended Section 2(1)

“Works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal

“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,

Section 3(1) of the Planning and Development Act 2000 as amended defined a development as follows: -

“Development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Planning and Development Act 2000- 2010 Section 4(1)(h) as amended - defined an Exempted development as follows: -

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

The Planning and Development Regulation 2001 as amended

Article 6

(3) 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,*
- (iii) Endanger public safety by reason of traffic hazard or obstruction of road users,*
- (viii) Consist of or compromise the extension, alteration, repair or renewal of an unauthorized structure or a structure the use of which is an unauthorized use*

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.*
(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.
(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 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.*
(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.
c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.
- 3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.*
- 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.*
(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls 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.*
(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

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

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

Class 2 (a) The provision as part of a heating system of a house, of a chimney or flue, boiler house or fuel storage tank or structure.

Conditions and Limitations

The capacity of an oil storage tank shall not exceed 3,500 litres.

Planning and Development Regulations 2001 as amended: Schedule 2, Pt.1 Class 3, states that the following constitutes exempted development:

Description of Development

The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

Conditions and Limitations

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.

Assessment

The issue is to determine whether the construction of,

- Demolition of the existing rear extension and replacement with the 40sqm rear extension
- Construction of a stand-alone 15sqm garden store/boiler room beside the replacement extension

is or is not exempted development within the meaning of the Planning and Development Acts, 2000 as amended.

The site measures 0.0428ha and is located within the development boundary of Kilppeder on a row with similar houses. Existing on site is single storey semi- detached dwelling, a shed and garden with planting along the boundaries. There are dwellings on adjacent and opposite site.

Having regard to the definition of development in Section 3 of the Planning and Development Act 2000 (as Amended), it is considered that the works of

- *Demolition of the existing rear extension and replacement with the 40sqm rear extension*
- *Construction of a stand-alone 15sqm garden store/boiler room beside the replacement extension*

The next question therefore to ask is whether

- *Demolition of the existing rear extension and replacement with the 40sqm rear extension*
- *Construction of a stand-alone 15sqm shed (garden store/boiler room) beside the replacement extension*

is or is not exempted development.

The proposed extension is single storey, measures 40sqm in floor area and is c.5.4m at the highest point. The extension would be 11.5m in length. The full length of the garden is c.7m and the width 4.4m. It is connected to the rear of the existing dwelling (kitchen).

Schedule 2, Pt.1 Class 1 checklist

<i>Is the extension to the rear?</i>	<i>Yes</i>
<i>Was the house extended previously?</i>	<i>Yes</i>
<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>	<i>No</i>

<i>Would the height of the walls of the extension exceed the height of the rear wall of the house?</i>	<i>No</i>
<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>	<i>The roof is both flat and gable ended. The highest part of the roofs of the extension would not exceed the height of the eaves or parapet or height of the highest part of the roof of the dwelling,</i>
<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>	<i>No, the private open would not be reduced to less than 25sqm.</i>
<i>Would the window proposed at ground level in the extension be less than 1 metre from the boundary it faces?</i>	<i>No, the window in the rear elevation would be more than 1m from the boundary it faces.</i>
<i>Would the roof of the extension be used as a balcony or roof garden?</i>	<i>No</i>

The proposed shed measures 15sqm in floor area and 3m high and the roof would be flat. The external wall finish is render. It is located to the rear of the proposed replacement extension but not internally connected. Schedule 2, Pt.1 Class 3 of the Planning and Development Regulations 2001 (as amended), provides for such development subject to certain conditions and limitations.

Relevant Schedule 2, Pt.1 Class 2 checklist

<i>Would the development be part of a heating system of a house, of a chimney or flue, boiler house or fuel storage tank or structure ?</i>	<i>Yes, it is a wood pellets heating system for a house and consist of a pellet stove(boiler) and pellet store/hopper. However no information is submitted on air venting i.e chimney /flue</i>
<i>Would the capacity of the oil storage tank exceed 3,500 litres?</i>	<i>No oil storage tank is proposed.</i>

Further information is required *on air venting i.e chimney /flue.*

Schedule 2, Pt.1 Class 3 checklist

Is the structure constructed, erected or placed forward of the front wall of a house?	No, the structure is located to the side of the house.
Is the structure constructed, erected or placed within the curtilage of house?	Yes
Would the construction, of the structure 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.	No
Would the total area of the structure constructed, erected or placed within the curtilage of a house, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.	Yes. The total floor area of the structure is 15sqm and there is 10sqm log cabin on site.
Is the structure to the side of the house?	Yes, it is located to the rear of the house
Is the roof tiled or slated pitched roof and does the height exceed 4m or, in any other case, 3 metres.	The roof of the structure is flat. The height of the roof is 3m
Is the structure 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.	No, the structure is to be used as <i>garden store/boiler room</i> shed which it is considered would be incidental to the enjoyment of the house.

From the foregoing, it is considered that the shed (garden store/boiler room) by reason of its location within the curtilage of house, to the size of the house, its size and use would come within the meaning of development described in Schedule 2, Pt.1 Class 3 of the Planning and Development Regulations 2001 (as amended), and the conditions and limitations as set out in Column 2.

Therefore in this case, the erection of shed (garden store/boiler room) is development and is exempted development.

I have examined Article 9 (1) (Restrictions on Exemption) of the Planning and Development Regulations 2001 (as amended), it is considered that the development would not come within this provision.

Conclusion

On basis on the above assessment, it is considered that, further information should be sought on the air venting provision for the proposed wood pellets heating system

Recommendation

Further Information.

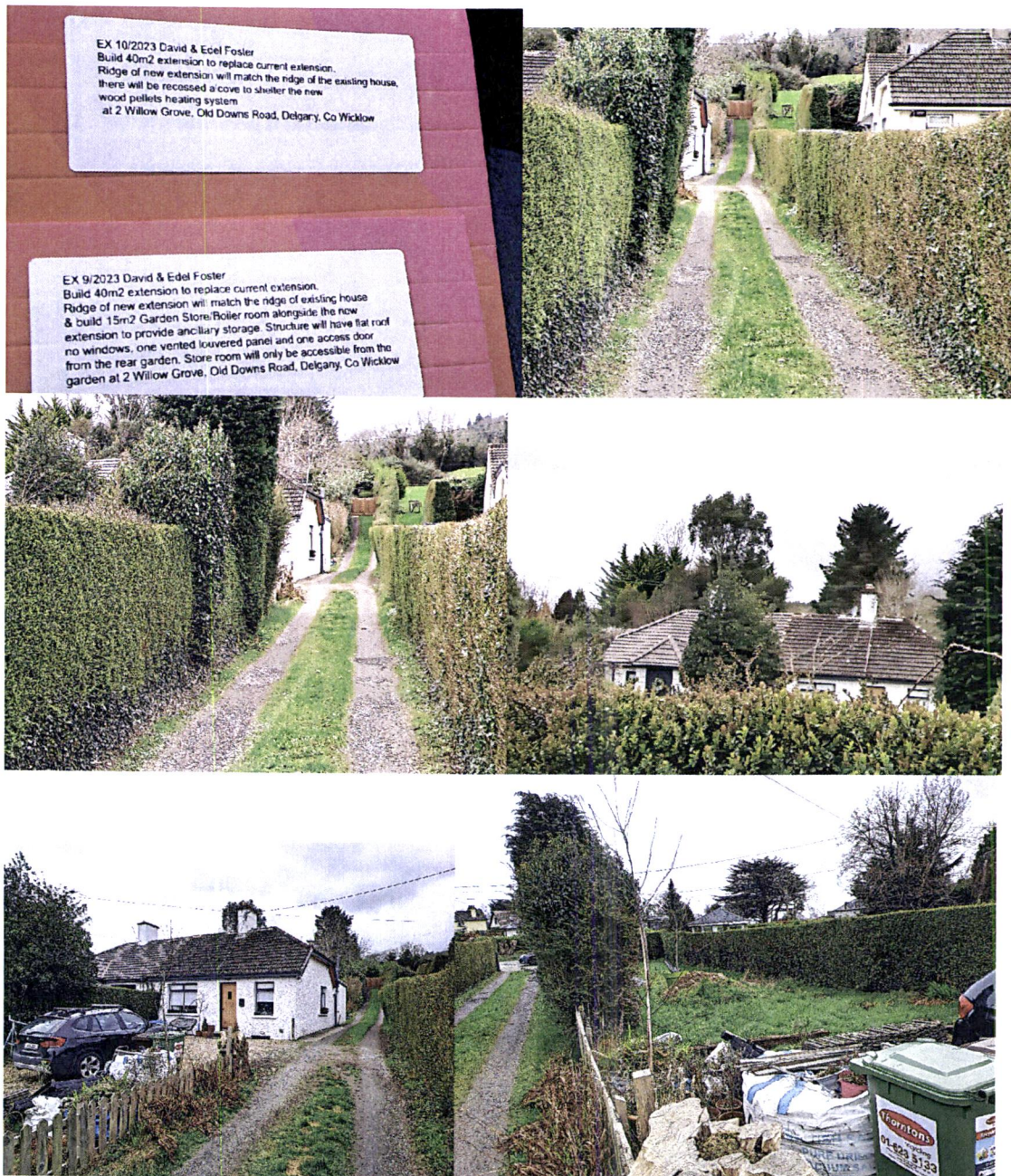
1. In order to fully assess the section 5 query, you are requested to submit the full details of the proposed wood pellets heating system (boiler). You should outline how air venting would be provided for the system.

Solomon Aroboto E/P
14/03/23

- ① In accordance with Section 5(2)(b) ^{of the Planning Act 2008 (as amended)} the following information should be submitted to allow the Planning Authority to fully assess the submission:
- a) Please confirm the wood pellet stove is a wood pellet boiler which forms part of the heating system for the dwelling
 - b) Please confirm whether an external flue or similar for air venting will be required for the heating system. The location of any flue ^{ports} should be indicated on the drawings

Agreed as amended

Julian
12/3/2023





MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Solomon Arborto
Executive Planner

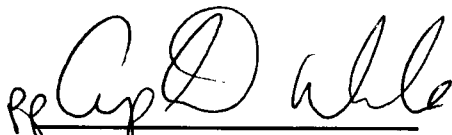
FROM: Crystal White
Assistant Staff Officer

RE:- EX 9/2023 - Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (as amended)

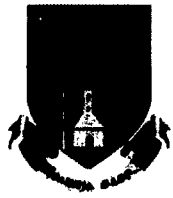
Build 40m2 extension to replace current extension. Ridge of new extension will match the ridge of the existing house, also build a 15m2 Garden Store/Boiler room alongside the new extension to provide ancillary storage to the house. Structure will have a flat roof no windows in the external walls one vented louvered panel and one access door from the rear garden. Store room will only be accessible from the garden at 2 Willow Grove, Old Downs Road, Delgany, Co Wicklow

I enclose herewith for your attention application for Section 5 Declaration received 23rd of February 2023.

The due date on this declaration is the 22nd of March 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
Suíomh / Website: www.wicklow.ie

23/02/2023

David & Edel Foster

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 9/2023

Build 40m² extension to replace current extension. Ridge of new extension will match the ridge of the existing house, also build a 15m² Garden Store/Boiler room alongside the new extension to provide ancillary storage to the house. Structure will have a flat roof no windows in the external walls one vented louvered panel and one access door from the rear garden. Store room will only be accessible from the garden at 2 Willow Grove, Old Downs Road, Delgany, Co Wicklow

A Chara

I wish to acknowledge receipt on the 23rd of February 2023 details supplied by you in respect of the above section 5 application. A decision is due in respect of this application by 22/03/2023.

Mise, le meas

**SENIOR EXECUTIVE OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT**





Comhairle Contae Chill Mhantáin Wicklow County Council

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

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

20/02/2023

David & Edel Foster

RE: EX 9/2023

'Build 40m² extension to replace current extension. Ridge of new extension will match the ridge of the existing house, also build a 15m² Garden Store/Boiler room alongside the new extension to provide ancillary storage to the house. Structure will have a flat roof no windows in the external walls one vented louvered panel and one access door from the rear garden. Store room will only be accessible from the garden at 2 Willow Grove, Old Downs Road, Delgany, Co Wicklow'

A Chara

I wish to acknowledge receipt of your application for a declaration in respect of Section 5 for the above proposal on 20th of February 2023.

We received your Section 5 application form however this is incomplete as per our additional notes section,

We will require Floor Plans and elevations of relevant structures.

Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures.

We need these documents to be able to access the application.

Application is currently classed as incomplete and decision date cannot be noted until documentation is received.

Mise, le meas

SENIOR STAFF OFFICER

PLANNING DEVELOPMENT AND ENVIRONMENT

Wicklow County Council
County Buildings
Wicklow
0404-20100

20/02/2023 12 07 03

Receipt No L1/0/309046
***** REPRINT *****

David Foster
2 Willow Grove
Old Downis Road
Delgany
Wicklow
A63 EY86

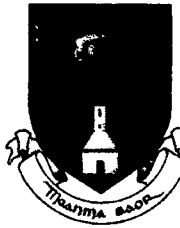
EXEMPTION CERTIFICATES	80 00
GOODS	80.00
VAT Exempt/Non-vatable	

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

Tendered	
Credit Card	80 00
Extension	

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

Issued By Lorraine Byrne
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: David & Edel Foster _____

Address of applican

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 : N/A _____

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

3. Declaration Details

WICKLOW COUNTY COUNCIL

20 FEB 2023

PLANNING DEPT.

i. Location of Development subject of Declaration 2 Willow Grove, Old Downs Road, Delgany Wicklow _____

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, 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: We are proposing to build 40m² extension to replace current extension. The ridge of the new extension will match the ridge height of the existing house. We would also like to build a 15m² Garden Store / Boiler room alongside the new extension to provide ancillary storage to the house. The structure will have a flat roof and be less than 3 meters in height. There are no windows in the external walls, the wall contain one vented louvered panel and one access door from the rear garden. The store room will abut the extension but will only be accessible from the garden and not directly from the house. _____

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

S.I. No. 600/2001 - Planning and Development Regulations, 2001

SCHEDULE 1, Article 6,

CLASS 1 - 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.

CLASS 3 - The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

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: Site location Map; Existing Floor Plan; Proposed Floor Plan; Boiler installation guidelines _____

viii. Fee of € 80 Attached ? Yes _____

Signed : _____

Dated : _____

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.

4.3. LOCATION OF THE BOILER



The boiler room must comply with air venting requirements and regulations applicable in terms of fire protection, safety in use, etc.



The boiler should be installed in a boiler room frost-protected.



An adequate supply of combustion air and ventilation openings should be ensured by minimum net free area of 10 cm² for each kW of nominal heat output, never less than 200 cm².



The boiler must have an adequate smoke discharge.



All necessary safety distances to combustible materials must be respected.

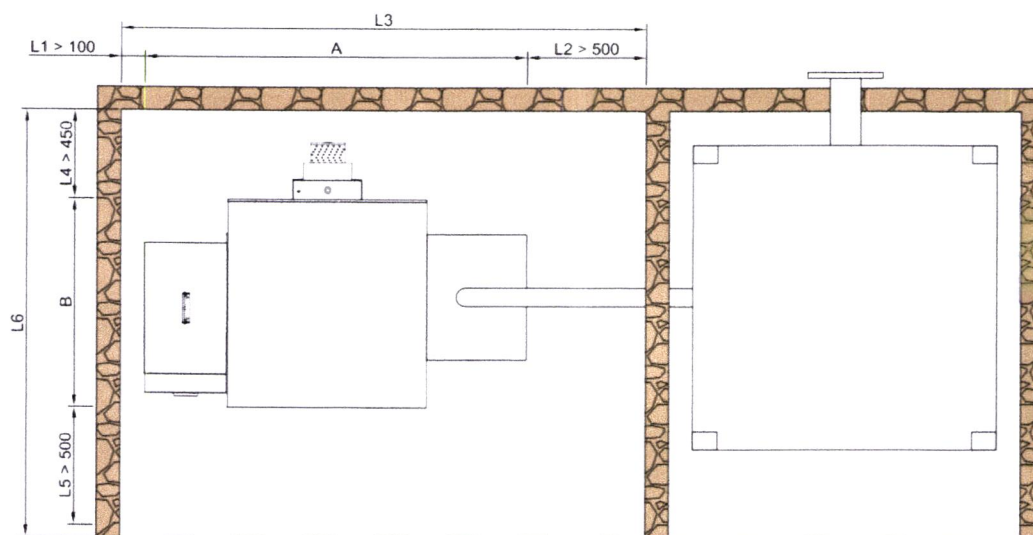


Locating the appliance in a room with an explosive/flammable atmosphere is prohibited

The boiler must have around it clearance enough to let servicing be carried out easily. Be aware of complying minimum distances imposed by local regulations

The minimum distances shown in the diagrams are:

L1	mm	Separation to the wall
L2	mm	Necessary to remove the burner
L3	mts	Required minimum width of the boiler room
L4	mm	Necessary for flue gas evacuation and drainage installation
L5	mm	Necessary to remove the ash pan and door opening.
L6	mts	Required minimum depth of boiler room



	BCH-25	BCH-30	BCH-40	BCH-50	BCH-60	BCH-70	BCH-100
A			1.365				1.610
B			700				875
L3			1.965				2.210
L6			1.600				1.775

Neighbours Property

2540

5200

3980

2450

Vented Louvre Panel
External Wall

Class 3
Use: Garden Store /
Boiler Room
Area: 15m²

Store Room Only
Accessible from Garden

New Wood Pellet
Store / Hopper

New Wood
Pellet Store

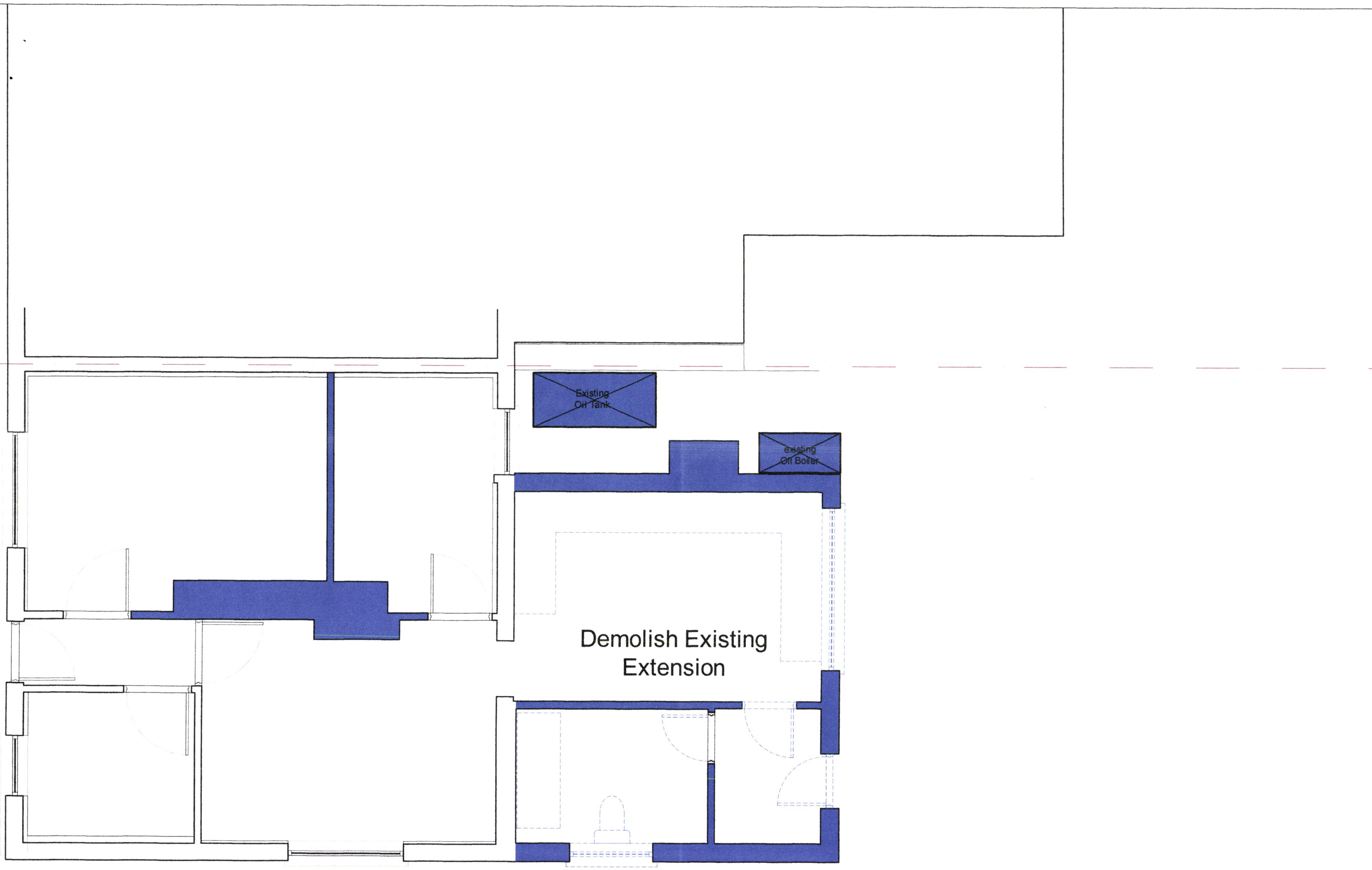
Line of External Wall

Class 1
Use: Domestic Extension
Area: 40m²

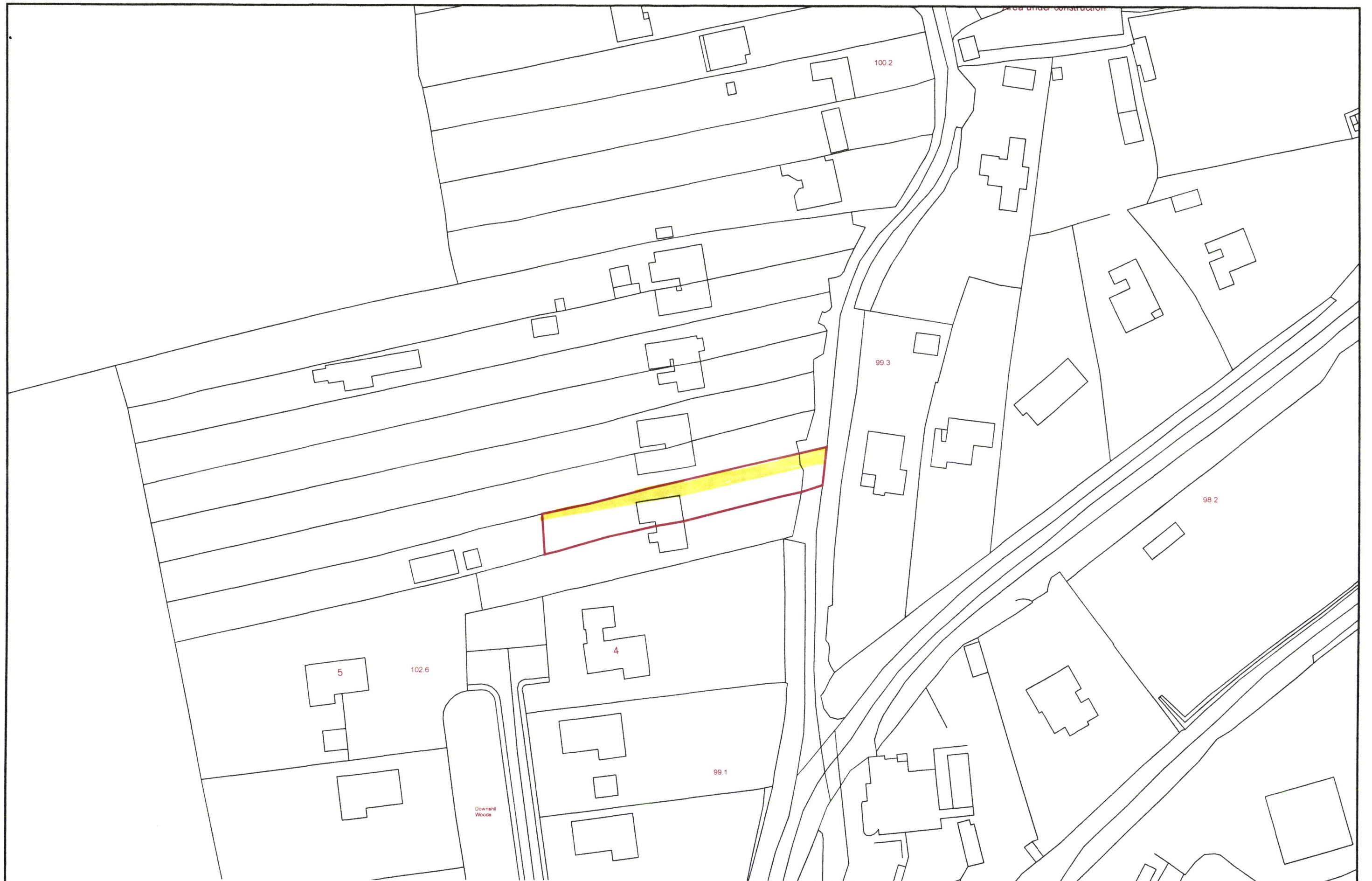
4595

11755

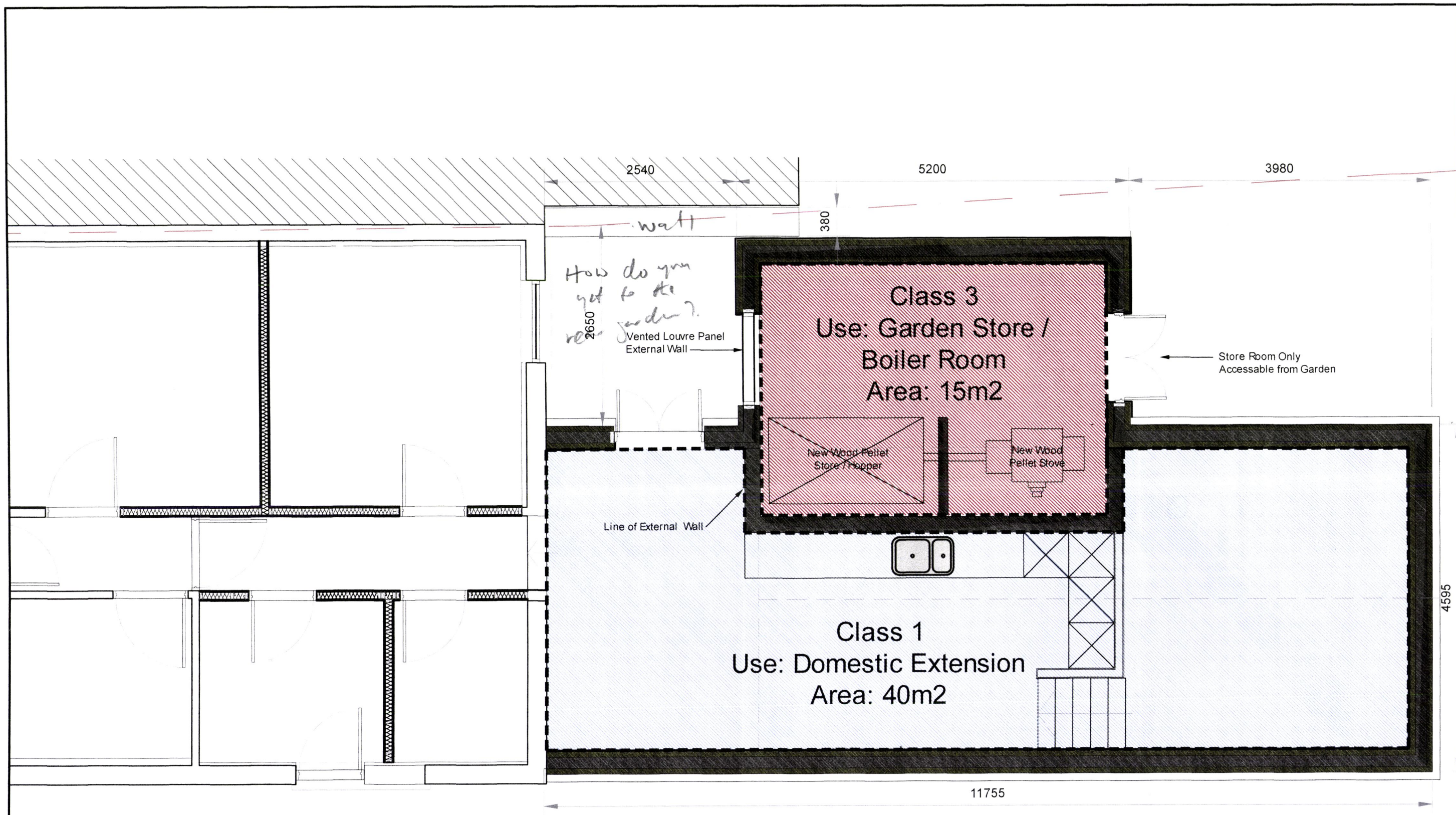
Proposed Floor Plan
Scale 1:100



Existing Floor Plan
Scale 1:100

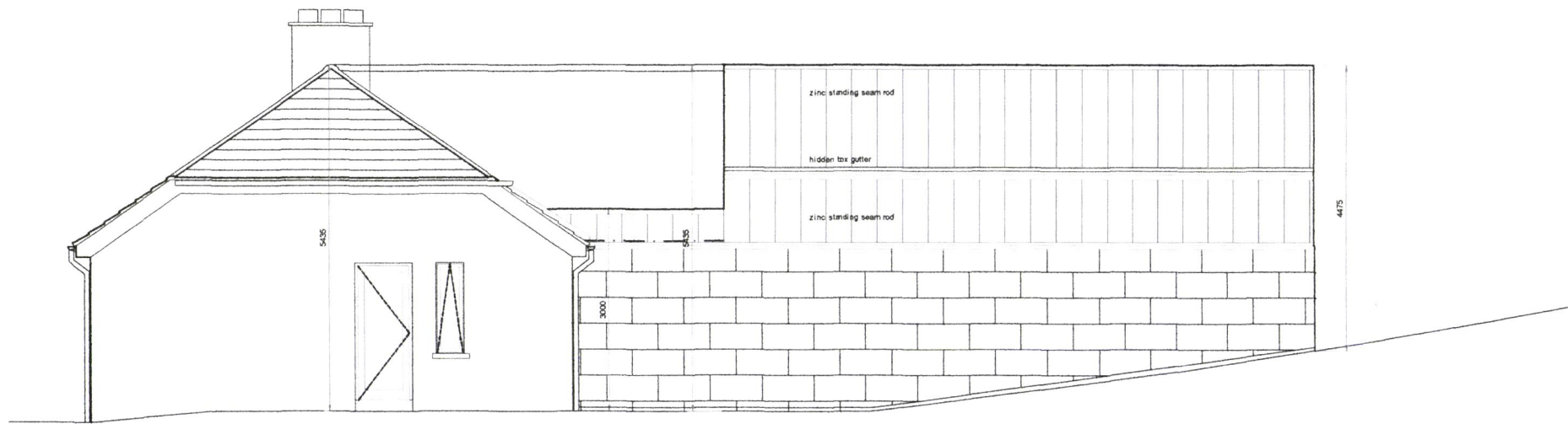


Title:	Location Map	Client:	Edel Foster	Date:	20/02/2023
Subject:	2 Willow Grove, Old Downs Road Delgany, Wicklow A63 EY86	Drawn By:		Scale:	1:2500
		Map Sheet Refs:	3731-D 3731-B	Sheet:	M-001

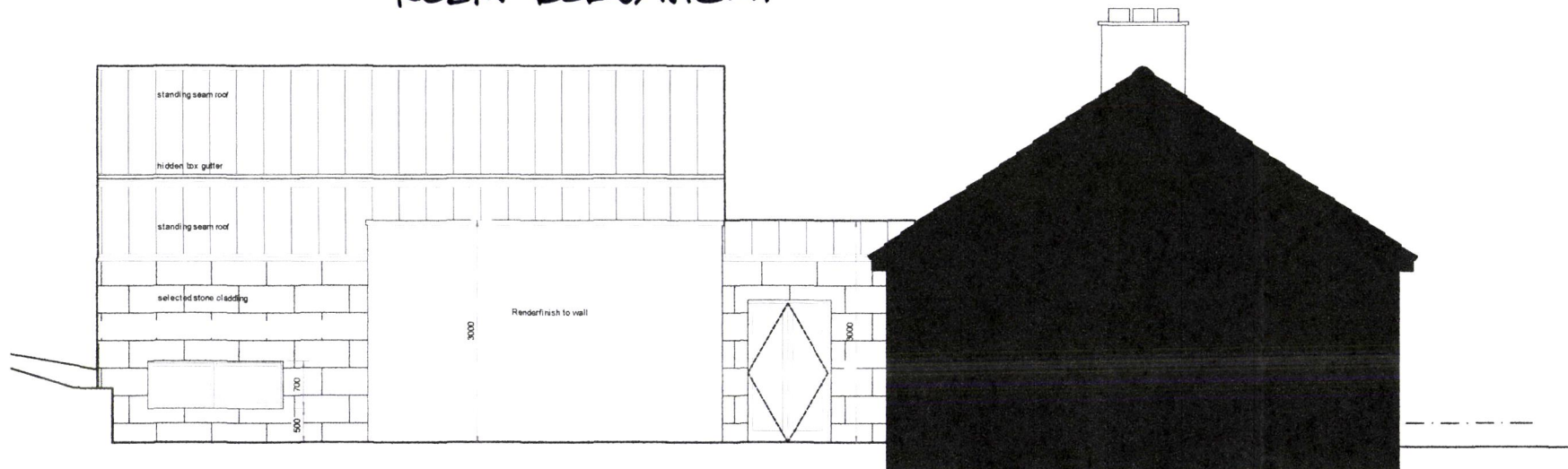


Wicklow County Council
23 FEB 2023
PLANNING DEPT.

TITLE	PROPOSED GROUND FLOOR PLAN	DATE	23/02/2023
SUBJECT:	2 WILLOW GROVE, OLD DOWNS ROAD DELGANTY, WICKLOW A63 EY86	DRAWN BY:	DAVID FOSTER
		SCALE	1:100
		REF:	EX 9/2023
		SHEET:	GA-001



NORTH ELEVATION.



SOUTH ELEVATION.



WEST ELEVATION.



EAST ELEVATION

Wicklow County Council
23 FEB 2023
PLANNING DEPT.

TITLE	PROPOSED ELEVATIONS	DATE	23/02/2023
SUBJECT	2 WILLOW GROVE, OLD DOWNS ROAD DELGANY, WICKLOW A63 EY86	DRAWN BY:	DAVID FOSTER
		SCALE	1:100
		REF:	EX 9/2023
		SHEET:	E-001

Wicklow County Council
23 FEB 2023
PLANNING DEPT.

TITLE:	PROPOSED SITE LAYOUT	CLIENT:		DATE:	23/02/2023
SUBJECT:	2 WILLOW GROVE, OLD DOWNS ROAD DELGANTY, WICKLOW A63 EY86	DRAWN BY:	DAVID FOSTER	SCALE:	1:250
		REF: EX 10/2023 EX 9/2023		SHEET:	5-001

