



# Comhairle Contae Chill Mhantáin Wicklow County Council

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

Áras An Chontae / County Buildings  
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**McAulay Rice Architects  
1st Floor  
Greentree House  
Fitzwilliam Square  
Wicklow Town**

**19<sup>th</sup> February 2024**

**RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX03/2024 – Mairead Doyle**

I wish to refer to your application for Certificate of Exemption under Section 5 of the Planning & Development Act 2000 (as amended) and to advise that the question been asked does not come within the scope of A Section 5 Declaration.

Is mise, le meas,

  
**ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT.**

## Section 5 Application: EX 03/2024

**Date:** 15/02/2024

**Applicant:** Mairead Doyle

**Address :** Sea Road, Kicoole , Co. Wicklow

**Exemption** Whether or not the removal of excessive topsoil in order to provide a suitable access road and driveway to permitted dwellings is or is not exempted development

### Application Site

The site comprises a development site on which planning permission has been granted planning permission under PRR22/1114 for the development of 3 new dwellings.

### Planning History

**22/1114:** Planning permission GRANTED to Mairead Doyle for 3 no. new dwellings, connection to all services and all associated site works.

## 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."*

In this regard I am satisfied the removal of excessive top soil is development and is works as defined in the Planning and Development Act 2000 ( as amended).

### 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;

I note that there is no class of exempted development relating to the removal of excessive topsoil to carry out works associated with a permitted development.

### RECOMMENDATION

The declaration submitted relates to the removal of excessive topsoil in order to carry out works permitted under PRR22/1114. It is considered that the question been asked does not come within the scope of a Section 5 Declaration and the applicant needs to satisfy themselves that the works been carried out are within the scope of the permission as granted under PRR22/1114 and do not result in a material change to the planning permission as submitted and permitted under PRR22/1114.

I recommend that the applicant be informed accordingly.

  
Patrice Ryan  
Executive Planner  
15/02/2024.

Agreed with L53  
15/2/24

**MEMORANDUM**  
**WICKLOW COUNTY COUNCIL**

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**TO: Patrice Ryan**  
**Executive Planner**

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

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**RE:- Application for Certificate of Exemption under Section 5 of the**  
**Planning and Development Acts 2000 (as amended).**  
**EX03/2024 –**

I enclose herewith application for Section 5 Declaration received 23<sup>rd</sup> January 2024.

The due date on this declaration is 19<sup>th</sup> February 2024.



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**Staff Officer**  
**Planning Development & Environment**



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23<sup>rd</sup> January 2024

**McAulay Rice Architects  
1<sup>st</sup> Floor, Greentree House  
Fitzwilliam Square  
Wicklow Town**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX03/2024 – Mairead Doyle**

A Chara

I wish to acknowledge receipt on 23/01/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 19/02/2024.

Mise, le meas

  
\_\_\_\_\_  
**NICOLA FLEMING**

**STAFF OFFICER**

**PLANNING DEVELOPMENT AND ENVIRONMENT**



Wicklow County Council  
County Buildings  
Wicklow  
0404-20100

23/01/2024 11:58:08

Receipt No L1/0/324265

IAN McCAULEY  
C/O MAIREAD DOYLE  
SEA ROAD

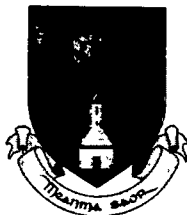
|                           |       |
|---------------------------|-------|
| PLANNING APPLICATION FEES | 80.00 |
| GOODS                     | 80.00 |
| VAT Exempt/Non-vatable    |       |

|       |           |
|-------|-----------|
| Total | 80.00 EUR |
|-------|-----------|

|             |       |
|-------------|-------|
| Tendered    |       |
| Credit Card | 80.00 |
| SECTION 5   |       |

|        |      |
|--------|------|
| Change | 0.00 |
|--------|------|

Issued By Katie Finn  
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

**Mairead Doyle**

(b)

Address of applicant:

**Sea Road, Kilcoole, Co Wicklow**

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

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

(a) Name of Agent (where applicable)

**McAulay Rice Architects**

(b) Address of Agent :

**1<sup>st</sup> Floor, Greentree House, Fitzwilliam Square, Wicklow Town**

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

RECEIVED 23 JAN 2024

### **3. Declaration Details**

- i. Location of Development subject of Declaration  
**Sea Road, Kilcoole Co Wicklow**
- 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

**The site requires the removal of excessive topsoil in order to provide a suitable access road and driveway to the dwellings – We cannot construct the road off such soil as it would sink and break up**

*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.

**Planning permission has been granted and the works do not involve any change to the permission but merely to construct things correctly and to do things right . Many sites will need to bring in and out soils and stones and fill throughout the duration of the works – no alterations to the works are proposed . etc**

*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

RECEIVED 23 JAN 2024



a Protected Structure ( or proposed protected structure) ?  
**No**

vii. List of Plans, Drawings submitted with this Declaration Application  
**Site layout plan showing affected area**  
**Ie driveway and laneway**

viii. Fee of € 80 Attached ?  
**Paid by Credit Card**

Signed :



Dated :22<sup>nd</sup> Jan 2024

**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

# Planning Pack Map

CENTRE  
COORDINATES:  
ITM 729782,707996

PUBLISHED: 23/02/2022 ORDER NO.: 50252239\_1

MAP SERIES: 1:2,500  
1:2,500  
1:2,500  
1:2,500  
MAP SHEETS: 3732-C  
3732-D  
3790-A  
3790-B

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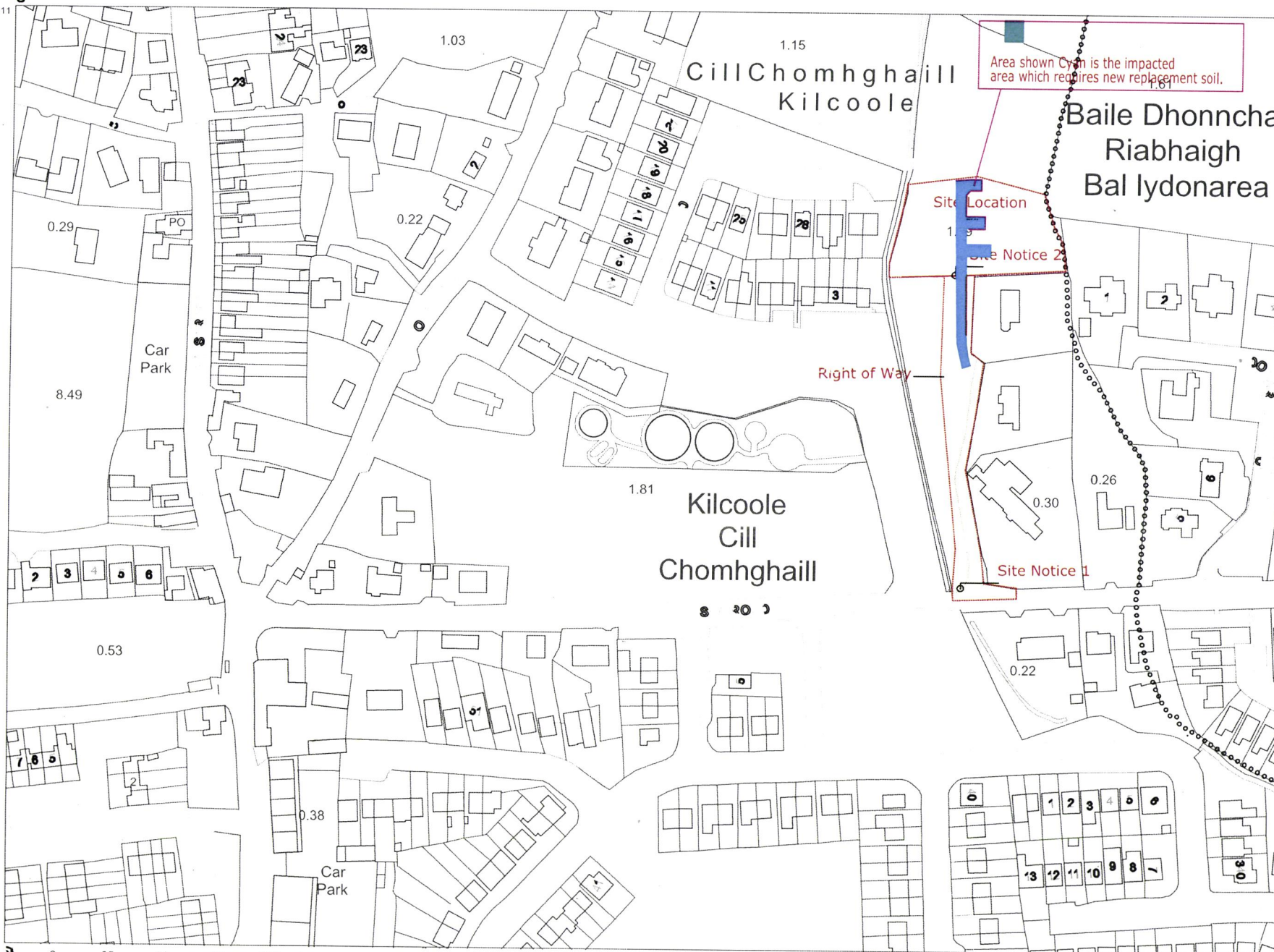
The representation on this map  
of a road, track or footpath  
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of a right of way.

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





PROPOSED SITE PLAN

GREEN TREE HOUSE  
FITZWILLIAM SQUARE  
WICKLOW TOWN  
CO. WICKLOW  
TEL: 0404 62178  
EMAIL: ianm@mcaulayrice.ie / susan@mcaulayrice.ie

THESE DRAWINGS ARE INTENDED FOR PLANNING PURPOSES AND NOT FOR CONSTRUCTION/PRICING PURPOSES. ALL STRUCTURAL ELEMENTS INC. ROOFING MEMBERS SHOULD BE SIZED ACCORDINGLY BEFORE STARTING ON SITE AND READ IN CONJUNCTION WITH ANY ENGINEERS DRAWINGS. IT IS ALSO ADVISABLE TO INSPECT EX. DRAINAGE SYSTEM BEFORE STARTING ON SITE

WE RECOMMEND THAT AN ENGINEER IS EMPLOYED FOR THIS PROJECT AND ALL STRUCTURAL DETAILS AND SPECIFICATIONS ARE AVAILABLE BEFORE ANY WORKS COMMENCE ON SITE

ALL WORKS TO BE IN ACCORDANCE WITH THE CURRENT BUILDING REGULATIONS (IN PARTICULAR PART M AND PART L) AND IN COMPLIANCE WITH NH9GS GUIDE

USE FIGURED DIMENSIONS ONLY. DO NOT SCALE FROM DRAWING. ALL DIMENSIONS TO BE CHECKED ON SITE INCLUDING ALL LEVELS BY MAIN CONTRACTOR BEFORE ANY MANUFACTURERS DRAWINGS ARE PRODUCED /BUILDING WORKS COMMENCES. SHOULD ANY DISCREPANCIES OCCUR CONTACT ARCHITECT IMMEDIATELY

ALL PROPRIETY ITEMS, MATERIALS, ETC. TO BE USED IN STRICT ACCORDANCE WITH MANUFACTURERS INSTRUCTIONS AND DETAILS

THE APPLICANT SHOULD AIM TO ACHIEVE AN A2 ENERGY RATING, OR BETTER FOR THIS DWELLING

Area shown Cyan is the impacted area which requires new replacement soil.

Y:\Clients\Mairead Doyle\fool survey report\Lane, Sea Road.png

Please find attached pipe survey carried out on site.  
A new pipe is proposed as far as the mh on the private lane just before the junction to the south

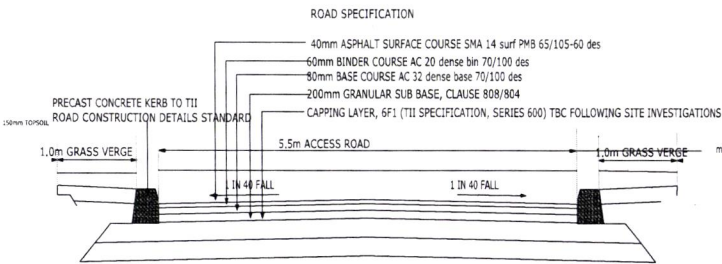
Dotted orange line indicated original road location now removed from open space

Designated open space is not interfered with - Road alignment is not located within the open space provided within the development plan.

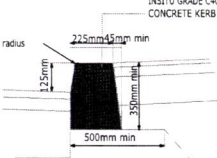
No Potential future links are affected in any way by this application.

2 no pull in sections are provided for any traffic issues

New foul line dotted Cyan



TYPICAL ROAD CROSS SECTION 1:50



KERB DETAIL 1:20

Existing zoned space unaltered and available for future connection

Dotted Orange - original access road - now relocated  
Original access road now moved away from open space provision - no alteration to same

Existing zoned open space unaltered and available for future connection

NO WORKS CARRIED OUT WITHIN DESIGNATED OPEN SPACE AREAS

original access road relocated outside of open space

SITE AND RIGHT OF WAY OUTLINED IN RED

NATIVE HEDGEROW TO FRONT OF SITE 3

1.8M HIGH CONCRETE POST AND TIMBER PANELS BOUNDARY WALLS TO REAR GARDENS

1.0M HIGH RENDERED AND CAPPED BLOCK WALLS TO FRONT GARDENS WITH GRASS MARGIN AND PLANTING

Connection to open space now provided  
WEST FACING WALLED REDUCED TO 1.2M TO FRONT OF SITE  
HOUSE B PROPOSED FFL 13.750

Connection to open space now provided  
WEST FACING WALLED REDUCED TO 1.2M TO FRONT OF SITE  
HOUSE A PROPOSED FFL 14.000

Connection to open space now provided  
WEST FACING WALLED REDUCED TO 1.2M TO FRONT OF SITE  
HOUSE A PROPOSED FFL 14.250

EXISTING MATURE TREES AND HEDGEROW TO BOUNDARIES RETAINED

PROPOSED TARMAC LANE WAY SHOWN IN RED

Surface Water to soakpits on sites.

PROPOSED TARMAC LANE WAY SHOWN IN RED

EXISTING LANE WAY

RIGHT OF WAY SHOWN IN YELLOW

EXISTING LANE WAY

EXISTING ENTRANCE REMAINS UNALTERED

LOCATION OF PUBLIC SITE NOTICE NO. 1

CLIENT  
MAIREAD DOYLE

PROJECT  
PROPOSED RESIDENTIAL DEVELOPMENT  
KILCOOLE, CO. WICKLOW

DRAWING TITLE

PROPOSED SITE PLAN

DRAWING NO 2207 /PP/ 102 SCALE 1:500@ A1

DRAWN BY SR DATE OCT 2022

PROJECT STAGE

FOR PLANNING  
PURPOSES ONLY