




Comhairle Contae Chill Mhantáin
Wicklow County Council

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

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

 March 2025

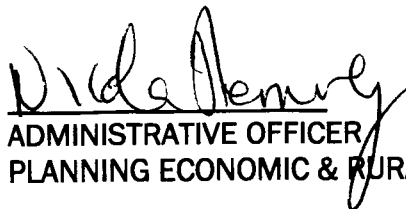
Betty Wogan

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

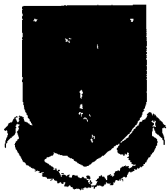
I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning &
Development Act 2000.

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 ECONOMIC & RURAL DEVELOPMENT





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

Applicant: Betty Wogan

Location: 9 O'Byrne Road, Bray, Co. Wicklow

Reference Number: EX27/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/295

Section 5 Declaration as to whether "Provision of a 10.29sqm rear extension to existing two storey terrace dwelling" at 9 O'Byrne Road, Bray, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

Having regard to:

- i. The details submitted on 28/02/2025;
- ii. Sections 2 , 3 , and 4 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:

- 1) The provision of a rear extension is works and therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- 2) The rear extension would come within the description and limitations as set out under Schedule 2, Part 1, Class 1, of the Planning and Development Regulations 2001 (as amended) and is therefore exempted development.

The Planning Authority considers that "Provision of a 10.29sqm rear extension to existing two storey terrace dwelling" at 9 O'Byrne Road, Bray, Co. Wicklow **is development and is exempted development** within the meaning of the Planning & Development Act 2000 (as amended).

Signed:

ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated 27th March 2025



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

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/295

Reference Number: EX27/2025

Name of Applicant: Betty Wogan

Nature of Application: Section 5 Declaration request as to whether or not: -
"Provision of a 10.29sqm rear extension to existing two storey terrace dwelling" is or is not development and is or is not exempted development.

Location of Subject Site: 9 O'Byrne Road, Bray, Co. Wicklow

Report from Dara Keane, AP & Fergal Keogh, SE

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "Provision of a 10.29sqm rear extension to existing two storey terrace dwelling" at 9 O'Byrne Road, Bray, 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 28/02/2025;
- ii. Sections 2, 3, and 4 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 Reason with respect to Section 5 Declaration:

- 1) The provision of a rear extension is works and therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- 2) The rear extension would come within the description and limitations as set out under Schedule 2, Part 1, Class 1, of the Planning and Development Regulations 2001 (as amended) and is therefore exempted development.

Recommendation:

The Planning Authority considers that "Provision of a 10.29sqm rear extension to existing two storey terrace dwelling" at 9 O'Byrne Road, Bray, Co. Wicklow is development and is exempted development as recommended in the report by the SEP.

Signed: Dara Keane

Dated: 26th day of March 2025

ORDER:

I HEREBY DECLARE THAT "Provision of a 10.29sqm rear extension to existing two storey terrace dwelling" at 9 O'Byrne Road, Bray, Co. Wicklow is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed: Fergal J. Keogh
Senior Engineer
Planning, Economic & Rural Development

Dated: 27th day of March 2025

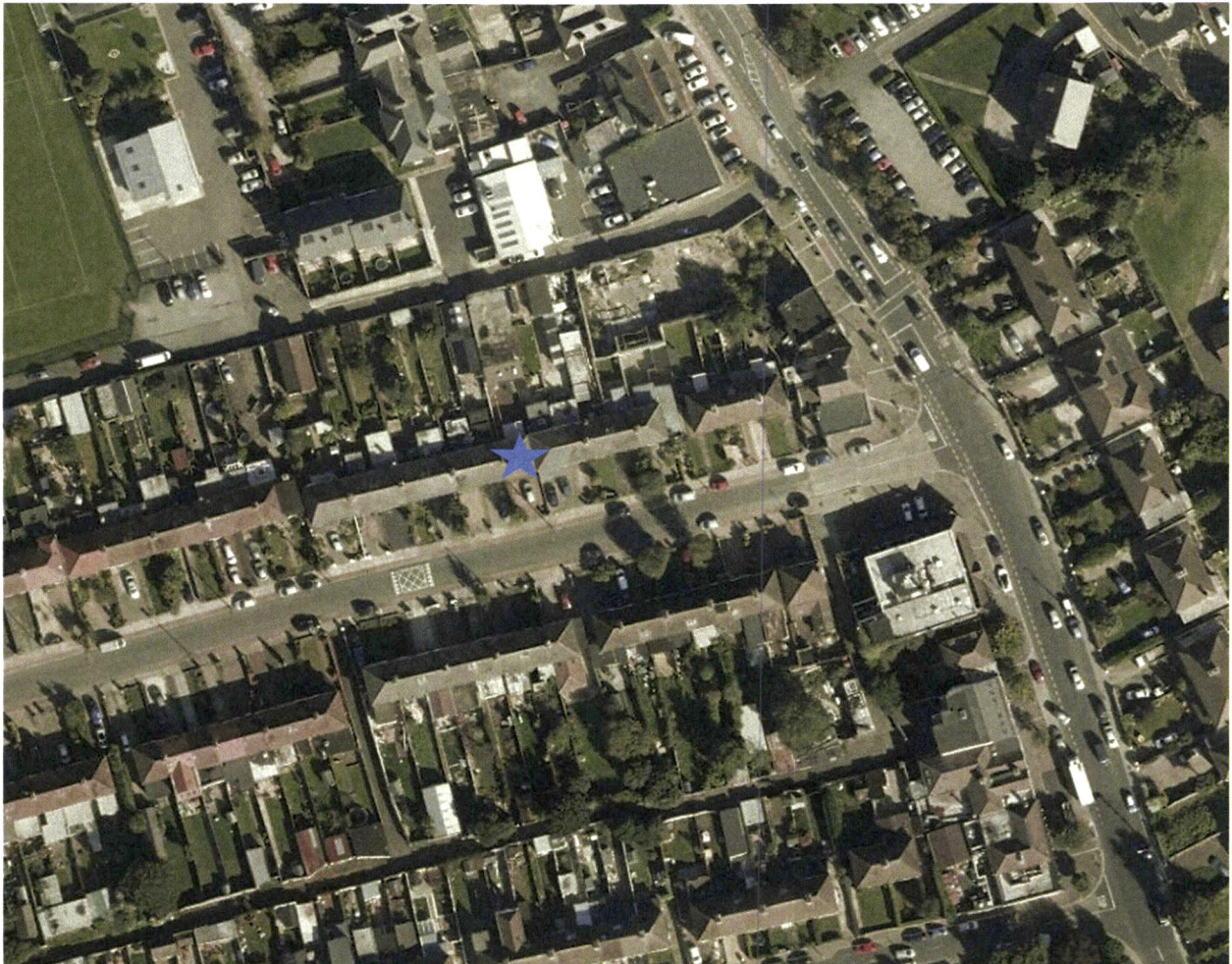


**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

To: Fergal Keogh S.E / Edel Bermingham S.E.P. / Suzanne White S.E.P
From: Dara Keane A.P.
Type: Section 5 Application
REF: EX 27/2025
Applicant: Betty Wogan
Date of Application: 28/02/2025
Decision Due Date: 27/03/2025
Address: No. 9 O'Byrne Road, Bray, Co. Wicklow
Exemption Query: Rear Extension

Application Site: The application site is a two storey end of terrace dwelling located along O'Byrne road in the townland of Oldcourt, Bray, Co. Wicklow.

Aerial Image



Section 5 Referral

From examining the submitted particulars, it is noted that the section 5 query should be reworded as follows:

'Provision of a 10.29sqm rear extension to existing two storey terrace dwelling at No. 9 O'Byrne Road, Bray, Co. Wicklow.'

Relevant Planning History: None noted on site.

Question:

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

'Provision of a 10.29sqm rear extension to existing two storey terrace dwelling at No. 9 O'Byrne Road, Bray, Co. Wicklow' is or is not development and is or is not exempted development:

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)

"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 permission under Act or be inconsistent with any use specified in 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,
- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,

Schedule 2, Part 1 outlines classes of exempt development as well as associated conditions and limitations. The following are of relevance.

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.

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.

Details submitted in support of the application

Existing Dwelling GFA: N/A

Proposed Extension GFA: 10.29sqm

Assessment:

The Section 5 declaration application seeks an answer with respect to the following question: Whether the;

'Provision of a 10.29sqm rear extension to existing two storey terrace dwelling at No. 9 O'Byrne Road, Bray, 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 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 its associated Regulations.

A. Provision of a new rear extension to dwelling.

Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended) 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.

Relevant Schedule 2, Pt.1 Class 1 Checklist

| | |
|--|---|
| <i>Is the extension to the rear?</i> | Yes |
| <i>Was the house extended previously? Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</i> | No, No - The proposed extension does not exceed 40sqm (10.29sqm). |
| <i>Where the house is detached, 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.</i> | No- No extensions proposed above ground level. |
| <i>Is any part of the extension above ground floor and would its distance be less than 2 metres from any party boundary.</i> | No- No extensions proposed above ground level. |
| <i>Would the height of the walls of the extension exceed the height of the rear wall of the house?</i> | No– Heights of the walls of the extension do not exceed the height of the rear wall of the house. |
| <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</i> | No, flat roof extension which does not exceed the height of the eaves or parapet. |

| | |
|--|--|
| <i>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> | No – c.40sqm available to the rear. |
| <i>Would the window proposed at ground level in the extension be less than 1 metre from the boundary it faces?</i> | No – all windows are in excess of 1 metre from the boundary it faces |
| <i>Would the window proposed at first floor level in the extension be less than 11 metre from the boundary it faces?</i> | N/A- No windows proposed above ground level. |
| <i>Would the roof of the extension be used as a balcony or roof garden?</i> | No – proposed is a pitched roof with no balcony or roof garden included in proposal. |

Accordingly, the extension would come within the provisions of Class 1.

It is noted that the proposed works to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such works would contravene with the limitations as set out per Article 9 (1). However, it is considered that none of the provisions of Article 9 of the Planning and Development Regulations would apply to the extensions, such that it would no longer be exempted development.

Conclusion:

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

'Provision of a 10.29sqm rear extension to existing two storey terrace dwelling' at No. 9 O'Byrne Road, Bray, Co. Wicklow is or is not development and is or is not exempted development:

The Planning Authority considers that:

The provision of a 10.29sqm rear extension to existing two storey terrace dwelling is **development and is exempted development.**

Main Considerations with respect to Section 5 Declaration:

- i. The details submitted on 28/02/2025;
- ii. Sections 2 , 3 , and 4 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:

- 1 The provision of a rear extension is works and therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- 2 The rear extension would come within the description and limitations as set out under Schedule 2, Part 1, Class 1, of the Planning and Development Regulations 2001 (as amended) and is therefore exempted development.



Dara Keane
Assistant Planner
19/03/2025

Agreed as modified
Kegyl T. Myles SE
19/03/25

Issue declaration as recommended
Kegyl T. Myles SE
27/03/25

MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Dara Keane
Assistant Planner

FROM: Nicola Fleming
Staff Officer

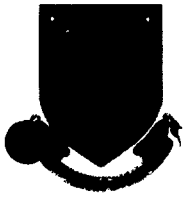
**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX27/2025**

I enclose herewith application for Section 5 Declaration received completed
on 28/02/2025

The due date on this declaration is 27th March 2025



Staff Officer
Planning, Economic & Rural Development



COMHAIRLE CONTAE CHILL Mhantáin
Wicklow County Council

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

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Suíomh / Website: www.wicklow.ie

Betty Wogan

4th March 2025

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX27/2025

A Chara

I wish to acknowledge receipt on 28/02/2025 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 27/03/2025.

Mise, le meas



Nicola Fleming
Staff Officer
Planning, Economic & Rural Development



Tá an doicimead seo ar fáil i bhformáidí eile ar iarratas
This document is available in alternative formats on request

Ba chóir gach comhfhreagras a sheoladh chuig an Stúirthóir Seirbhísí, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development



Nicola Fleming

From: Betty Wogan
Sent: Monday 3 March 2025 12:34
To: Nicola Fleming
Subject: Re: Section 5 exemption application

External Sender - From: (Betty Wogan)

This message came from outside your organisation.

CAUTION This email originated from outside Wicklow County Council. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Nicola,

My apologies - yes, it's the kitchen extension to the rear of the house. It's outlined on the map. We require the Exemption Cert as the house will be going up for sale once Probate is granted.

If you need anything further, please let me know.

Kind regards,
Betty Wogan
Mobile 086 8276858

On Mon 3 Mar 2025 at 09:40, Nicola Fleming <NFleming@wicklowcoco.ie> wrote:

I refer to your application for Declaration in accordance with Section 5 of the P&D Act 2000 (as amended), can you please clarify what you are asking us to assess and you have not stated in 3iv of the form what you are asking. Is it the extension?

We cannot assess the application without this information.

Regards,

Nicola Fleming

Staff Officer

Planning, Economic & Rural Development

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

Ph☎: +353 (0404) 20148 | ✉: nfleming@wicklowcoco.ie


Website: <http://www.wicklow.ie>



Comhairle Chontae Chill Mhantáin
Wicklow County Council

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Wicklow County Council 
County Buildings
Wicklow
0404-20100

28/02/2025 14:40:05

Receipt No L1/0/341675

***** REPRINT *****

Betty Wogan

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

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

| | |
|-------------|-------|
| Tendered | |
| Credit Card | 80 00 |

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

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Wicklow County Council
County Buildings
Wicklow
Co Wicklow
Telephone 0404 20148
Fax 0404 69462

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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: BETTY WOGAN

Address of applicant: _____

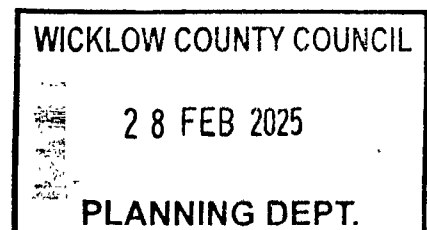
Note Phone number and email to be filled in on separate page.

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) _____

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
9 O'BYRNE ROAD, BRAY
CO. WICKLOW A98 N948
- 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. HOUSE VACANT. THE OWNER WAS CARMEL WOGAN,
WHO PASSED AWAY ON 30TH JUNE LAST. I AM
CO-EXECUTOR OF HER WILL. (COPY OF EXTRACT FROM
THE WILL ATTACHED)

- 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
THE OWNER OF THE PROPERTY PASSED AWAY LAST
JUNE. WE REQUIRE THE CERT AS THE HOUSE
WILL BE SOLD ONCE PROBATE HAS BEEN GRANTED

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

SECTION 5 - P + D ACT

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 (OUTLINED IN RED) } EXTENSION OUTLINED
AERIAL PHOTO " " " } IN BLUE.
DRAWING WITH MEASUREMENTS OF EXTENSION
FOR WHICH EXEMPTION CERT IS REQUIRED.

viii. Fee of € 80 Attached ? PAID

Signed : Elizabeth (Betty) Hogan Dated : 28/2/2025

Additional Notes :

As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below :

A. Extension to dwelling - Class 1 Part 1 of Schedule 2

- Site Location Map
- Floor area of structure in question - whether proposed or existing.
- Floor area of all relevant structures e.g. previous extensions.
- Floor plans and elevations of relevant structures.
- Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.

B. Land Reclamation -

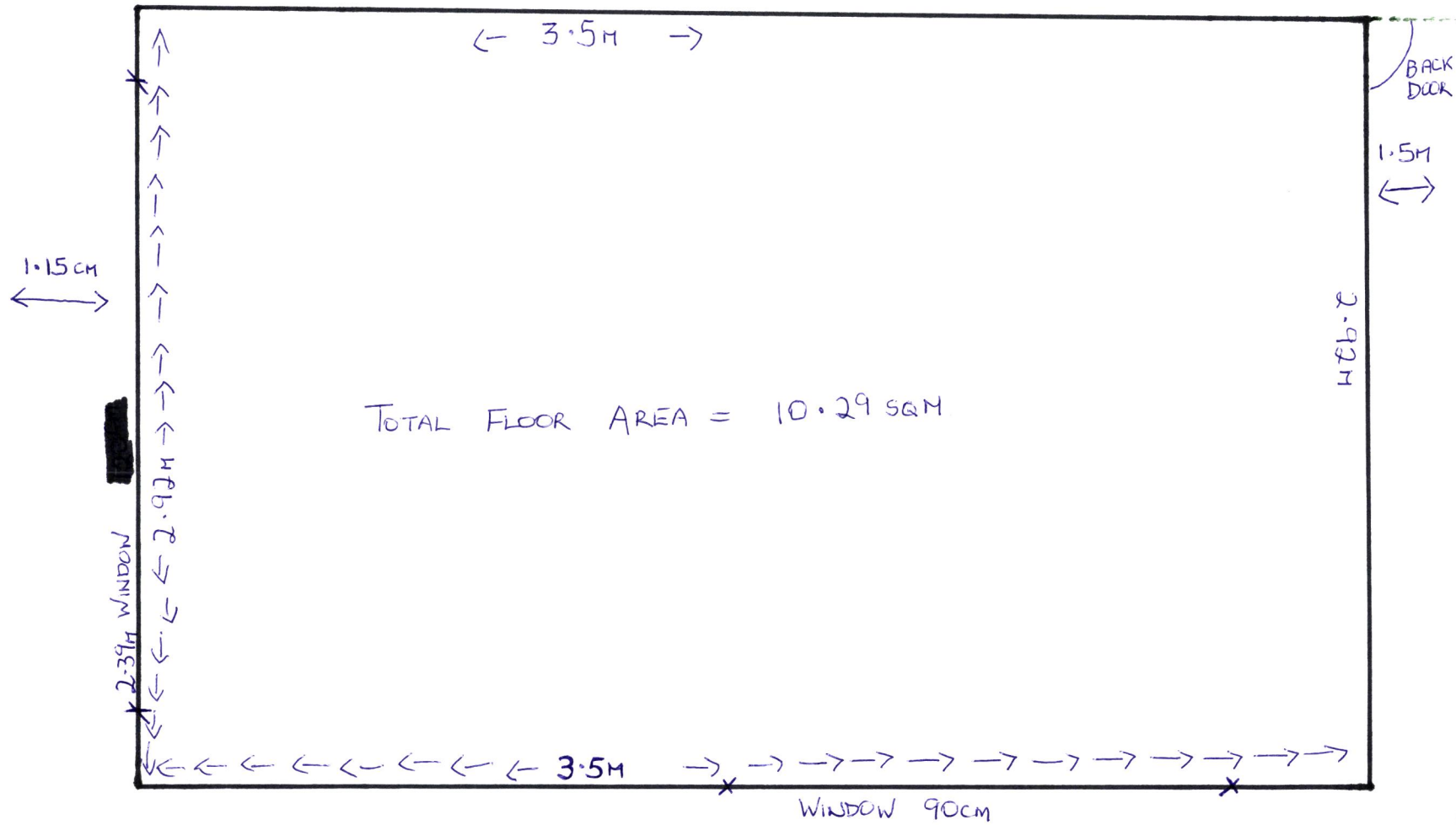
The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still

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.



- OUTLINE OF EXTENSION FOR WHICH CERTIFICATE OF EXEMPTION IS REQUESTED
- - - EXISTING ORIGINAL HOUSE
- BOUNDARY

NOT TO SCALE

9 O'BYRNE ROAD, BRAY, CO. WICKLOW A98 N948

Arcade

R761

30

31

11 12

9

5 3 1

7A

9

13 11

15

O'Byrne Road



8

6

4

2

8

7

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5

4

3

2

1

33

35

35a

35b

1

2

76

75

71

FREE-STANDING 6' X 8' WOODEN SHED

O'Byrne Lane

Evay Rd

BoyleSports Bookmakers

30A

Ladbrokes

3

1

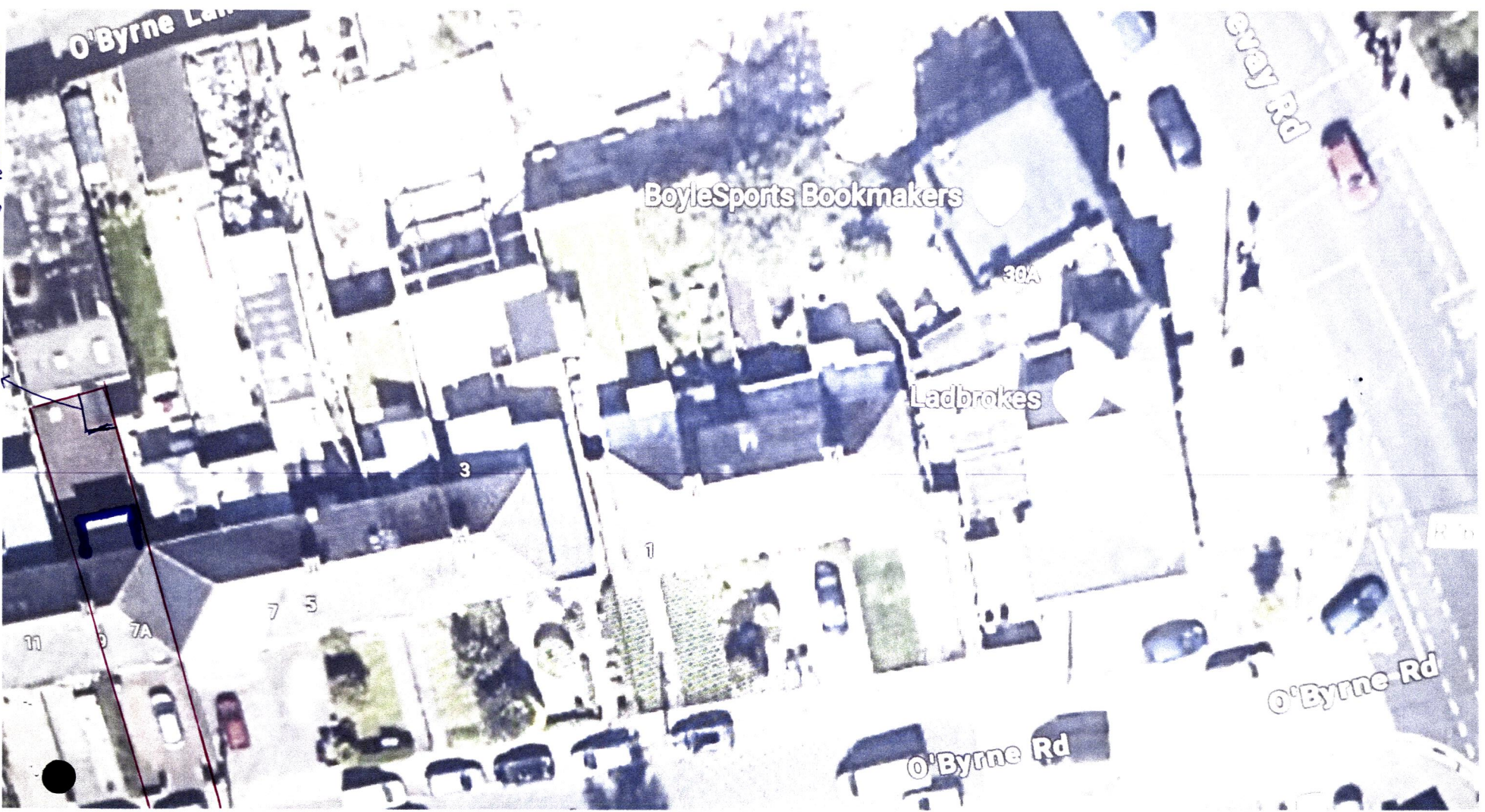
7 5

11

7A

O'Byrne Rd

O'Byrne Rd



From: Betty Wogan
Subject:
Date: 28 February 2025 at 12:24
To:



From: Betty Wogar.
Subject:
Date: 28 February 2025 at 12:23
To:

