

**WICKLOW COUNTY COUNCIL**

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

CHIEF EXECUTIVE ORDER NO. CE/PDE/1051/2023

Reference Number: EX 30/2023

Name of Applicant: Ashford GAA Club

Nature of Application: Section 5 Referral as to whether "Demolition of existing wall & gates & replacement of same" is or is not exempted development

Location of Subject Site: Main St, Ashford Co Wicklow

Report from Holly O'Connor, EP & Edel Bermingham, SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "Demolition of existing wall & gates & replacement of same at Main St Ashford" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- a) The details submitted under Section 5 Declaration on 26/05/2023
- b) Sections 2(1), 3(1), 4(1) of the Planning and Development Act 2000 (as amended)
- c) Articles 5(2), 6(1) & 9(1) of the Planning and Development Regulations 2001 as amended
- d) Class 9 & 11 of the Planning and Development Regulations 2001 as amended

**Main Reasons with respect to Section 5 Declaration:**

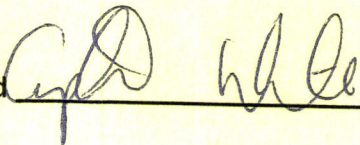
- a) The demolition of the wall and gates and replacement is development having regard to the provision of section 3 of the P&D Act 2000 (as amended)
- b) Given the works involve the full demolition of the wall, it is considered these are not works of maintenance, improvement or alteration of an existing structure, and therefore would not come within the provisions of section 4 (1) (h) of the Planning and Development Act 2000 (as amended). Neither would the works come within the provision/limitations of the Class 9 & Class 11 of the Planning & Development Regulations 2001 (as amended)

**Recommendation**

The Planning Authority considers that "Demolition of existing wall & gates & replacement of same at Main St, Ashford, Co Wicklow is development and is not exempted development as recommended in the planning report.



Signed



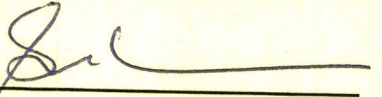
Dated 16 day of June 2023

**ORDER:**

I HEREBY APPROVE that a declaration to issue stating:

That "Demolition of existing wall & gates & replacement of same at Main St, Ashford, Co Wicklow" is development and is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed:



**Director of Services  
Planning Development & Environment**

Dated 16 day of June 2023



# Comhairle Contae Chill Mhantáin Wicklow County Council

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

Áras An Chontae / County Buildings  
Cill Mhantáin / Wicklow  
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Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

**Stephen Behan  
Milltown North  
Ashford  
Co Wicklow**

16 June 2023

**RE: Declaration in accordance with Section 5 of the Planning & Development Acts  
2000 (As Amended) – EX30/2023**

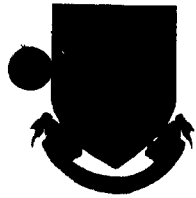
I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

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 DEVELOPMENT & ENVIRONMENT.**





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

**Applicant:** Ashford GAA Club

**Location:** Main St, Ashford, Co Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PDE/1051/2023

A question has arisen as to whether "Demolition of existing wall & gates & replacement of same at Main St Ashford, Co. Wicklow" is or is not exempted development.

Having regard to:

- a) The details submitted under Section 5 Declaration on 26/05/2023
- b) Sections 2(1), 3(1), 4(1) of the Planning and Development Act 2000 (as amended)
- c) Articles 5(2), 6(1) & 9(1) of the Planning and Development Regulations 2001 as amended
- d) Class 9 & 11 of the Planning and Development Regulations 2001 as amended

**Main Reasons with respect to Section 5 Declaration:**

- a) The demolition of the wall and gates and replacement is development having regard to the provision of section 3 of the P&D Act 2000 (as amended)
- b) Given the works involve the full demolition of the wall, it is considered these are not works of maintenance, improvement or alteration of an existing structure, and therefore would not come within the provisions of section 4 (1) (h) of the Planning and Development Act 2000 (as amended). Neither would the works come within the provision/limitations of the Class 9 & Class 11 of the Planning & Development Regulations 2001 (as amended)

**The Planning Authority considers that Demolition of existing wall & gates & replacement of same at Main St, Ashford, Co Wicklow is development and is not exempted development.**

Signed: 

ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 16 June 2023





**WICKLOW COUNTY COUNCIL  
PLANNING DEPARTMENT**

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**PLANNING REPORT SECTION 5 APPLICATION**

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**TO:** FERGAL KEOGH S.E. / EDEL BERMINGHAM S.E.P  
**FROM:** HOLLY O'CONNOR E.P.  
**SUBJECT REF:** EX 30/2023  
**DECISION DATE:** 19/06/2023  
**APPLICANT:** ASHFORD GAA  
**ADDRESS:** MAIN ST. ASHFORD  
**EXEMPTION:** DEMOLITION OF EXISTING WALL AND GATES AND REPLACEMENT OF SAME

**Site Location:**

The site is located within the settlement of Ashford, along the Main St accessed via the R772. The subject site consists of an established GAA pitch with club house facilities. The Vartry River flows adjacent the site (north).

**Planning History:**

- 20/191: PP GRANTED for RETENTION of importation of topsoil and subsoil for the purposes of creating a spectator viewing embankment to the north of the main playing pitch and the provision of an underage training area to the west of the grounds.
- 19/8163: PP REFUSED for importation of top soil for the purposes of a spectator viewing embankment for GAA pitch to north of grounds and provision of an underage training area to west of grounds.
- 14/1132: PP GRANTED for two storey 260sqm extension to existing 128sqm dressing rooms. 1. Ground floor upgrade and extend existing dressing rooms toilets and showers with reception area 2. First floor meeting room with balcony and gym 3. Car parking at the GAA Grounds.
- 12/6008: PP REFUSED for two no existing advertising signs structures and all associated works.

**Relevant legislation:**

Planning and Development Act 2000 (as amended)

*"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, and*

**Section 3:**

- (1) 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.

***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*

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 2 opposite the mention of that class in the said column 1.

Article 5(2)

(2) In Schedule 2, unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose “ground level” means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.

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 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

Sundry Works

CLASS 9- The construction, erection, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway.

Condition & Limitation- The height of any such structure shall not exceed 2 metres.

Class 11- The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of – (a) any fence (not being a hoarding or sheet metal fence), or (b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

Condition & Limitation-



1. The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres.
2. Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered.

**Submission:**

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

To determine whether the demolition of existing rendered block wall and gates and replacement with new stone wall and gates at Ashford, 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).

**Assessment:**

The site is located within town centre envelope of Ashford town and is currently in use by Ashford GAA Club and comprises of a playing pitch and two storey club house. Along the front boundary of the site is a 2m high wall which is dashed and capped. There is a large entrance gate and 2 smaller pedestrian gates. A bus stop and footpath abuts the front boundary.

A Section 5 declaration was issued in 2021 in which the question that arose was whether or not alterations to the existing walls and gates were considered to be exempt development. Here it was found that the proposed works would not materially affect the external appearance of the front boundary of the GAA so as to render the appearance inconsistent with the character of the structure therefore it was considered to be exempt development within the parameters of S.4(1)(h).

This proposal seeks works consisting of;

- Replacement of the entire exiting boundary wall (2.1m capped and plastered) with a stone granite wall (2.1m).
- Replacement of existing gates with new splayed set back entrance with low stone wall and galvanised rail and gates.
- Replacement of existing pedestrian dual gate(s) with single access with piers and steel gate.

The applicant states that Section 4 (1) (h) of the P&D Act is the relevant legislation.

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

Given the scale of works which is for the demolition of the entire wall it is considered that the works would not come within the provisions of S. (4)(1)(h) as the whole structure is being removed therefore the works are not for the improvement or alteration of the structure. Furthermore the works would not come within the scope of Class 9 as the height of the structure exceeds 2 metres. The works would not come within the scope of Class 11 as the height of the new structure would exceed 1.2 metres and exceed 2 metres.

On this basis, it is considered that, the proposed works to the existing walls and gate is development and is **not** exempted development.

## Recommendation:

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

The demolition of existing rendered block wall and gates and replacement with new stone wall and gates at Ashford, 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).

*demolition of existing rendered block wall and gates and replacement with new stone wall and gates*  
The Planning Authority considers that:

The ~~proposed work~~ is development and is **not** exempted development.

## Main Considerations with respect to Section 5 Declaration:

- The details submitted under Section 5 Declaration on 26/05/2023
- Sections 2(1), 3(1), 4(1)(h) of the Planning and Development Act 2000 (as amended)
- Articles 5(2), 6(1) & 9(1) of the Planning and Development Regulations 2001 as amended
- Class 9 & 11 of the Planning and Development Regulations 2001 as amended

## Main Reasons with respect to Section 5 Declaration:

*and replacement is development having regard to the provisions of Section 2 of the P&D Act 2000 (as amended)*  
(b) The proposed works for the demolition of the entire wall is not considered to come within the scope of S. 4(1)(h) or Class 9 or Class 11. On this basis, the proposed works to the existing walls and gate is development and is not exempted development.

*(c) Given the extensive works involve the full demolition of the wall, it is considered that these are not works of maintenance, improvement or alteration of an existing structure, and therefore would not come within the provisions of section 4(1)(h) of the Planning and Development Act 2000 (as amended). Neither would the works come within the provisions/limitations of Class 9 and Class 11 of the Planning and Development Regulations 2001 (as amended)*  
Holly O'Connor

Holly O'Connor E.P. Date: 06/06/2023

*Agreed as amended*  
*9/6/23*

*Agreed as amended*  
*By DCS.*  
*16/6/23*



# **MEMORANDUM**

## **WICKLOW COUNTY COUNCIL**

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**TO: Holly O'Connor**  
**Executive Planner**


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

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**RE:- EX 30/2023 - Declaration in accordance with Section 5 of the  
Planning & Development Acts 2000 (as amended)  
Ashford GAA Club**

I enclose herewith for your attention application for Section 5 Declaration  
received 26<sup>th</sup> May 2023.

The due date on this declaration is 22<sup>nd</sup> June 2023.

  
\_\_\_\_\_  
**Staff Officer**  
**Planning Development & Environment**



# Comhairle Contae Chill Mhantáin Wicklow County Council

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Planning Development and Environment**

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Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

31<sup>st</sup> May 2023

**Stephen Behan  
Milltown North  
Ashford  
Co. Wicklow**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 30/2023  
For Ashford GAA Club**

A Chara

I wish to acknowledge receipt on 26<sup>th</sup> May 2023 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 22<sup>nd</sup> June 2023.

Mise, le meas

**NICOLA FLEMING  
STAFF OFFICER  
PLANNING DEVELOPMENT AND ENVIRONMENT**



Wicklow County Council  
County Buildings  
Wickl  
0404-20100

26/05/2023 14 27 13

Receipt No L1/0/313772  
\*\*\*\*\* REPRINT \*\*\*\*\*

ASHFORD GAA CLUB  
MAIN STREET  
ASHFORD  
CO WICKLOW

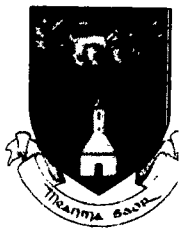
EXEMPTION CERTIFICATES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total	80 00 EUR
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Tendered	
Cash	80 00
EXEMPTION	

Change	0 00
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26/05/23

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: **Ashford GAA Club**\_\_\_\_\_

Address of applicant: **Main Street, Ashford, Co. Wicklow**\_\_\_\_\_

\_\_\_\_\_

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

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

(b) Name of Agent (where applicable) **Stephen Behan**\_\_\_\_\_

Address of Agent : **Milltown North, Ashford, Co. Wicklow**\_\_\_\_\_

\_\_\_\_\_

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



### **3. Declaration Details**

- i. Location of Development subject of Declaration - **Main Street, Ashford, Co. Wicklow** \_\_\_\_\_  
\_\_\_\_\_
- ii. Are you the owner and/or occupier of these lands at the location under i. above ?  
Yes/ No. **YES**
- iii. If 'No' to ii above, please supply the Name and Address of the Owner. and or occupier \_\_\_\_\_
- 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  
**Works involve the demolition of existing rendered block boundary wall and gates and replacement with new stone boundary wall and gates for health and safety reasons. A previous Section 5 exemption order no 1746/2021 was issued by Wicklow County Council for the replacement of the gates and some of the boundary wall. Following on from this a grant was approved under the Town and Village Renewal Scheme (project reference no. is TV22WW04) to replace more of the boundary wall as shown in attached drawings.**  
*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 4 (1) (h) of the Planning & Development Act 2000 (as amended)**  
**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.**  
*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  
**2 copies of Plans & Elevations of Existing & Proposed Works**

WICKLOW COUNTY COUNCIL

26 MAY 2023

PLANNING DEPT.

viii. Fee of € 80 Attached ? **YES** \_\_\_\_\_

Signed : *Seán Bel* Dated : 18/05/2023

**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.

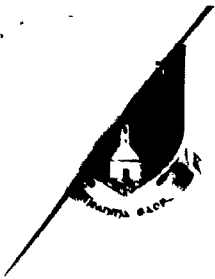
B. Land Reclamation -

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.



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

Applicant: Ashford GAA Club  
Location: Main Street, Ashford

DIRECTOR OF SERVICES ORDER NO. 1746/2021

A question has arisen as to whether or not alterations to existing walls and gates is or is not exempted development.

### Having regard to:

- The details submitted under Section 5 Declaration on 03/09/2021
- Sections 2 (1), 3 (1), 4 (1) (h) of the Planning & Development Act 2000 (as amended)
- Articles 5 (2), 6 (1) & 9 (1) of the Planning & Development Regulations 2001 (as amended)
- Schedule 2, Pt.1 Classes 5 and 9 of the Planning & Development Regulations 2001 (as amended)
- Site inspection carried out on 23/9/2021.

### Main Reasons with respect to Section 5 Declaration:

The improvement works to walls and gate would not increase the width of the entrance or impact on the existing building line of front boundary, would not impact on the adjoining footpath / bus stop and would not materially affect the external appearance of the front boundary of the Ashford GAA so as to render the appearance inconsistent with the character of the structure and therefore comes within the exempted development described under Sections 4 (1) (h) of the Planning & Development Act 2000 (as amended)

The Planning Authority considers that alterations to existing walls and gates is development and is exempted development.

Signed: \_\_\_\_\_  
ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT

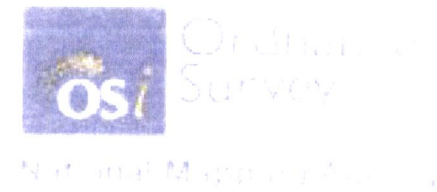
Dated: 11 September 2021





# Planning Pack Map

## PROPOSED ALTERATIONS TO EXISTING ENTRANCE GATE AND BOUNDARY WALL



**CENTRE COORDINATES**  
ITM 726848 697412

**PUBLISHED** 23/11/2018 **ORDER NO.** 50035433\_1

**MAP SERIES:** 1:2,500 **MAP SHEETS:** 3962-B, 3962-D

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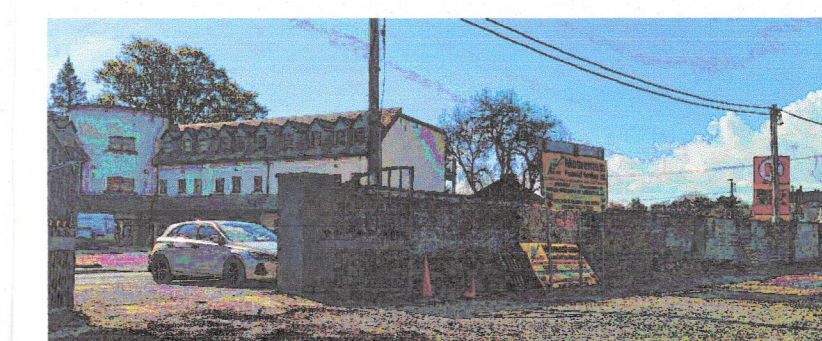
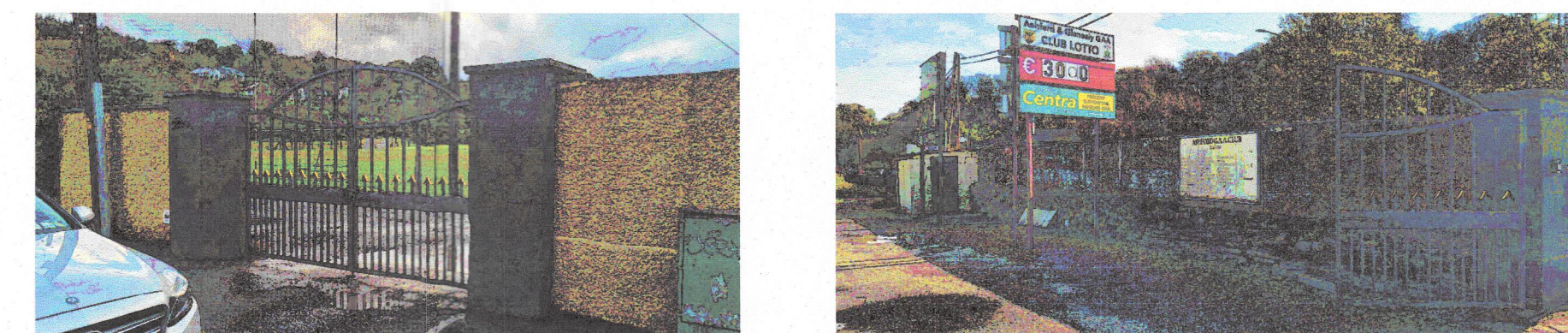
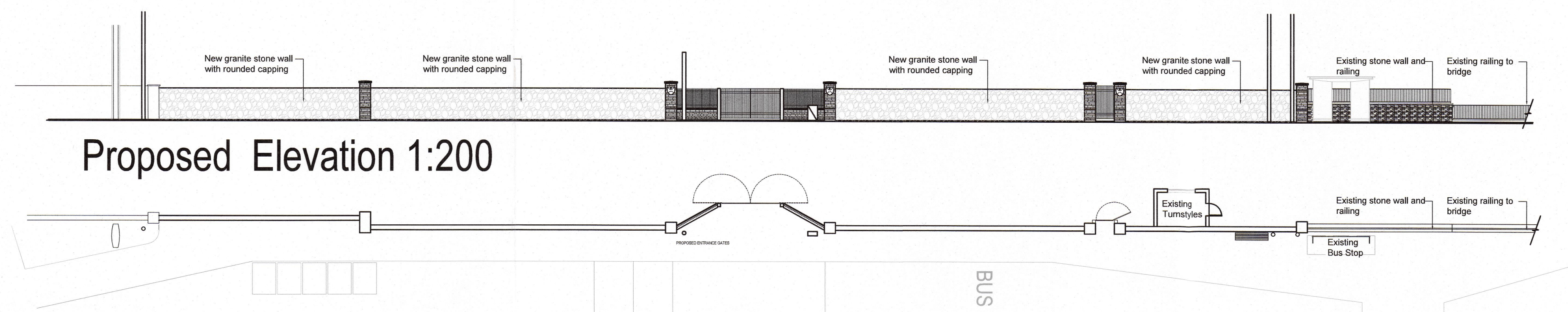
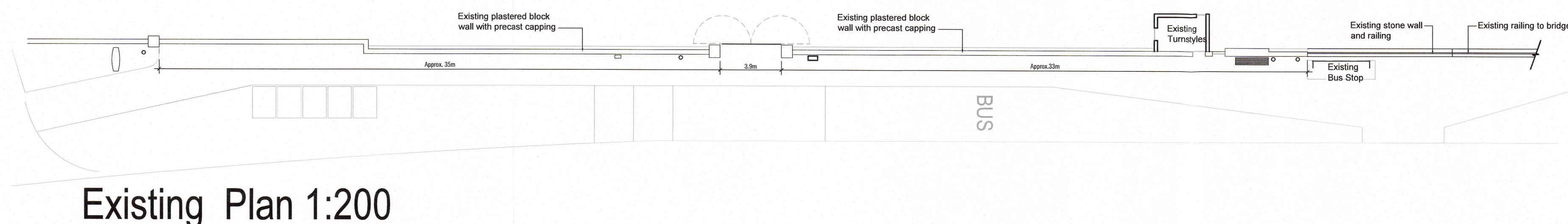
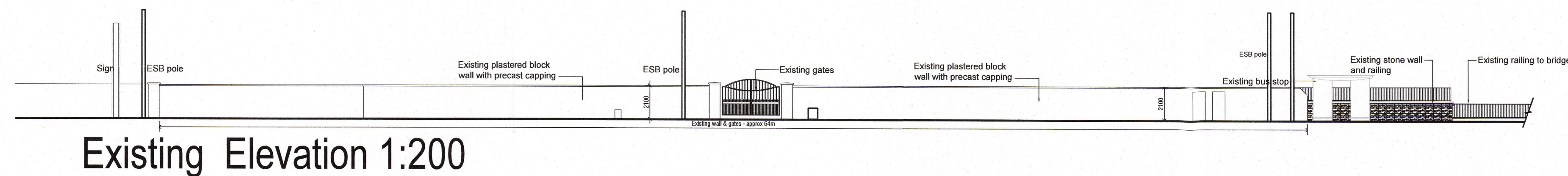
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Search for your feature on the map



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Output scale is not indicative of data capture scale.  
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**OUTPUT SCALE: 1:2,500**

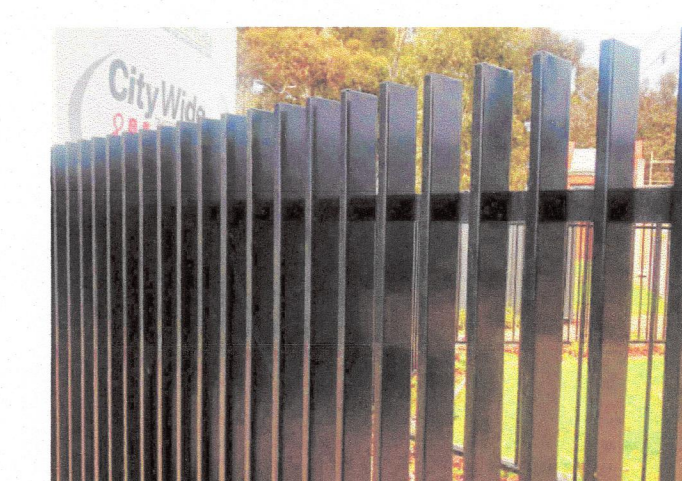
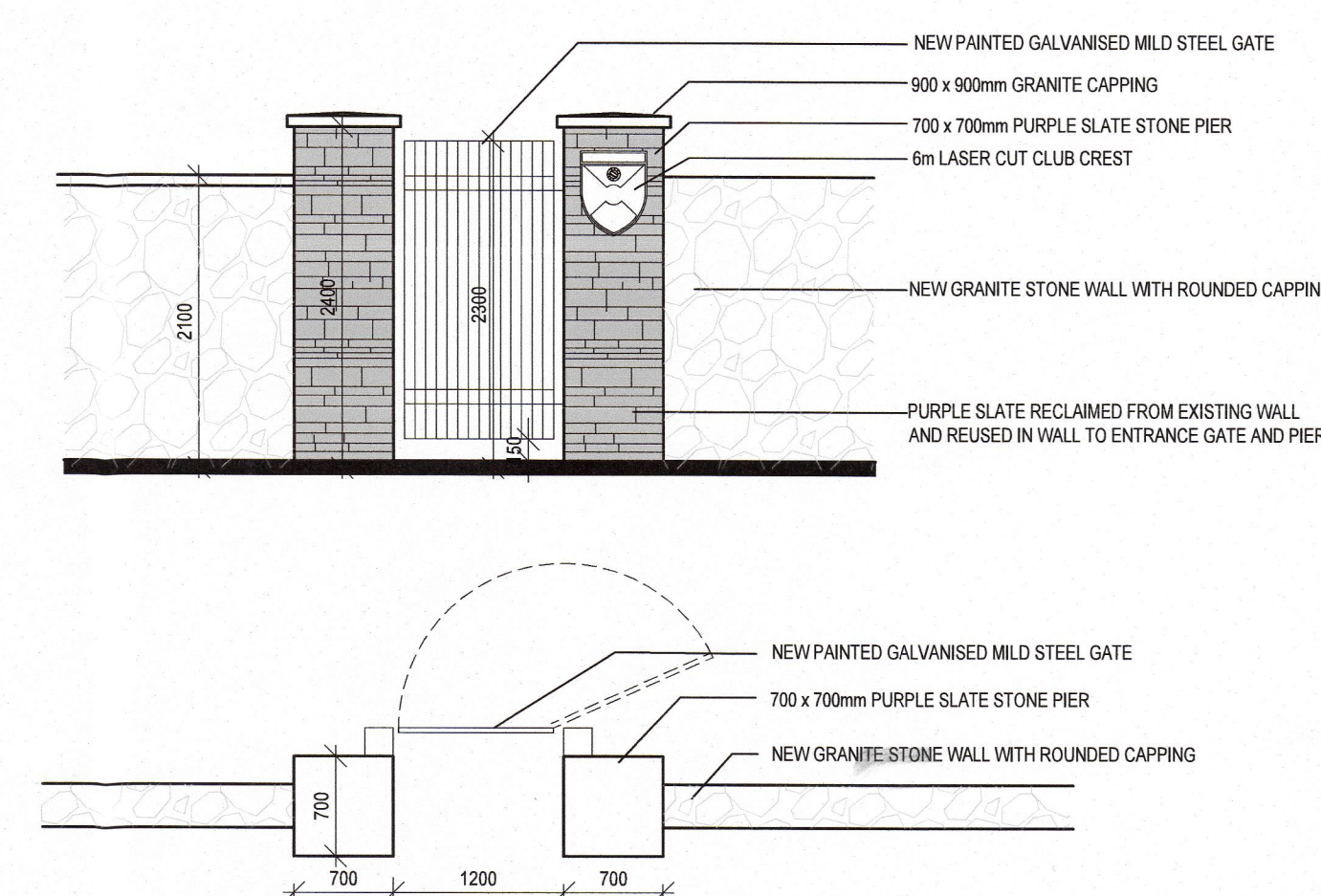
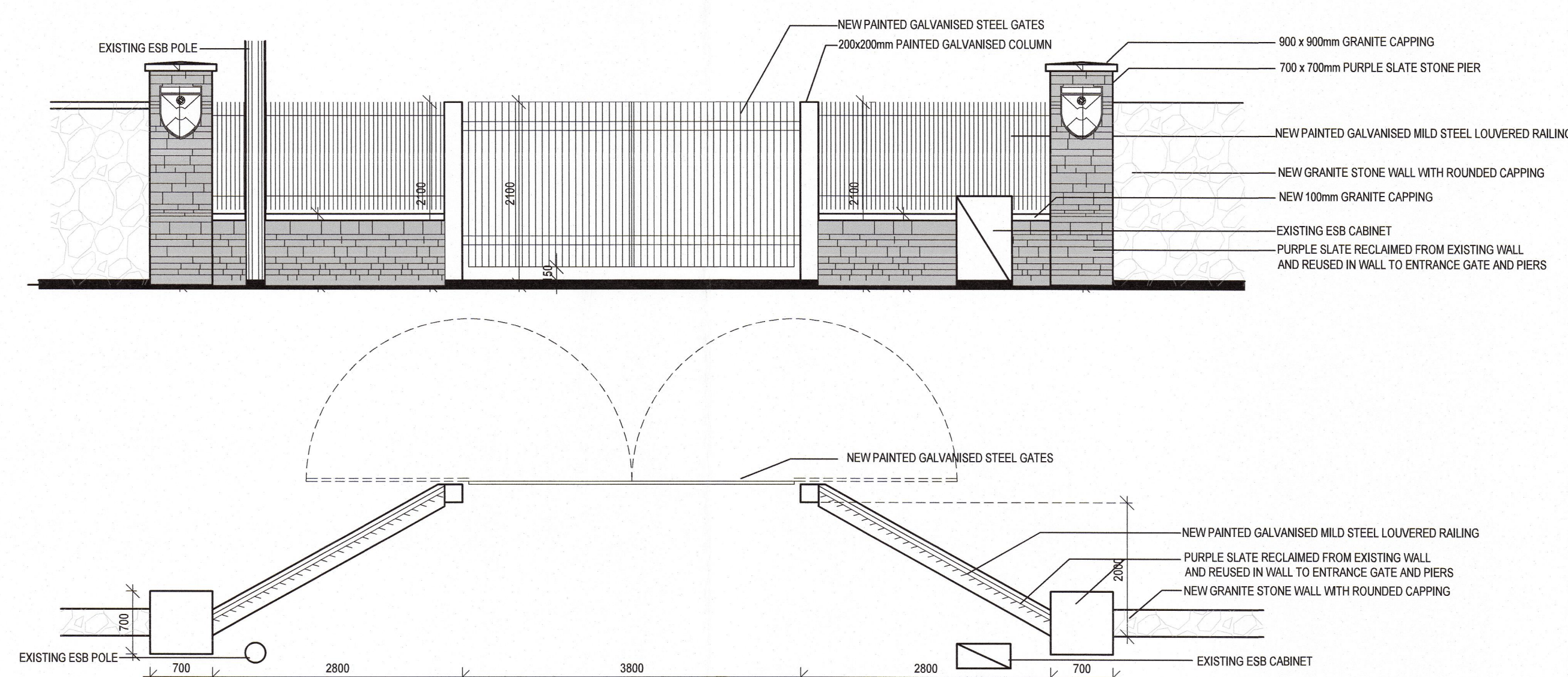




PHOTOS OF EXISTING WALL AND ENTRANCE



STONE WORK TO EXISTING BRIDGE  
TO BE COPIED IN NEW WALL AND PIERS



SAMPLE OF RAILING



SAMPLE OF GRANITE  
WALL AND CAPPING

# Proposed Boundary Wall & Entrance Gate Upgrade

# Ashford GAA Club

