

# 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<sup>\*</sup> (0404) 69462 Rphost / Email plandev@wicklowcoco is Suíomh / Website<sup>\*</sup> www wicklow ie

**Antony Green** 

**July** 2024

RE: Declaration in accordance with Section 5 of the Planning & Development Act 2000 (As Amended) – EX57/2024

A Chara.

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 Pleanala 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







# Comhairle Contae Chill Mhantáin Ulicklow 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

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

Applicant: Antony Green

Location: 96 Applewood Heights, Greystones, Co. Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PERD/961/2024

Section 5 Declaration as to whether "single storey extension to the rear of the property comprising kitchen/open plan living space/toilet and laundry room, replacement roof to side of property and erection of small porch" at 96 Applewood Heights, Greystones, Co. Wicklow\_constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

#### Having regard to:

- 1. The details received with this section 5 application (EX57/2024) on the 27<sup>th</sup> June 2024
- 2. Sections 2, 3 and 4 of the Planning and Development Act 2000(as amended).
- 3. Schedule 2, Part 1, Class 1 and Class 7 of the Planning and Development Regulations (as amended).
- 4. Section 4(1)(h) of Planning and Development Act 2000 (as amended)
- 5. Article 6 and 9, Planning and Development Regulations 2001 (as amended).

# Main Reasons with respect to Section 5 Declaration:

- a) The development does accord with the conditions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) and complies with the relevant conditions / limitations therein.
- b) The new 'replacement' roof is a roof that is to be constructed over the new extension and as this has been deemed to be exempt, it is considered that the roof structure being part of the extension is exempt.
- c) The porch is in accordance with Schedule 2, Part 1, Class 7 of the Planning and Development Regulations 2001 (as amended).

The Planning Authority considers that "single storey extension to the rear of the property comprising kitchen/open plan living space/toilet and laundry room, replacement roof to side of property and erection of small porch" at 96 Applewood Heights, Greystones, Co. Wicklow is development and is exempted development

Signed:

ADMINISTRATIVE OFFICER

PLANNING, ECONOMIC & BURAL DEVELOPMENT

Dated Vuly 2024





#### WICKLOW COUNTY COUNCIL

# PLANNING & DEVELOPMENT ACT 2000 (As Amended) SECTION 5

## CHIEF EXECUTIVE ORDER NO. CE/PERD/961/2024

Reference Number:

EX57/2024

Name of Applicant:

Antony Green

Location of Subject Site:

96 Applewood Heights, Greystones, Co. Wicklow

Nature of Application:

Section 5 Declaration request as to whether or not "single storey extension to the rear of the property comprising kitchen/open plan living space/toilet and laundry room, replacement roof to side of property and erection of small porch" constitutes exempted development within the meaning of the Planning and

Development Act, 2000(as amended).

## Report from Dara Keane, AP & Suzanne White, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "single storey extension to the rear of the property comprising kitchen/open plan living space/toilet and laundry room, replacement roof to side of property and erection of small porch" at 96 Applewood Heights, Greystones, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

#### Having regard to:

- 1. The details received with this section 5 application (EX57/2024) on the 27<sup>th</sup> June 2024
- 2. Sections 2, 3 and 4 of the Planning and Development Act 2000(as amended).
- 3. Schedule 2, Part 1, Class 1 and Class 7 of the Planning and Development Regulations (as amended).
- 4. Section 4(1)(h) of Planning and Development Act 2000 (as amended)
- 5. Article 6 and 9, Planning and Development Regulations 2001 (as amended).

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

- a) The development does accord with the conditions of Schedule 2, Part 1, Class
   . 1 of the Planning and Development Regulations 2001 (as amended) and complies with the relevant conditions / limitations therein.
- b) The new 'replacement' roof is a roof that is to be constructed over the new extension and as this has been deemed to be exempt, it is considered that the roof structure being part of the extension is exempt.
- c) The porch is in accordance with Schedule 2, Part 1, Class 7 of the Planning and Development Regulations 2001 (as amended).

#### Recommendation:

The Planning Authority considers that "single storey extension to the rear of the property comprising kitchen/open plan living space/toilet and laundry room, replacement roof to side of property and erection of small porch at 96 Applewood Heights, Greystones, Co. Wicklow is development and is exempted development as recommended in the report by the SEP.

Signed Wildle Nemur

Dated Hay of July 2024

ORDER:

#### I HEREBY DECLARE:

That "single storey extension to the rear of the property comprising kitchen/open plan living space/toilet and laundry room, replacement roof to side of property and erection of small porch" at 96 Applewood Heights, Greystones, Co. Wicklow is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:

Senior Engineer

Planning, Economic & Rural Development

Date of July 2024



#### WICKLOW COUNTY COUNCIL PLANNING DEPARTMENT

Section 5 – Application for declaration of Exemption Certificate

TO:

FERGAL KEOGH SE, EDEL BERMINGHAM, SEP

REF:

EX57/2024

NAME:

**ANTONY GREEN** 

**DEVELOPMENT:** 

EXTENSION TO REAR, REPLACEMENT ROOF AND NEW PORCH

LOCATION:

96 APPLEWOOD HEIGHTS, GREYSTONES

#### The site

Existing 2 storey semi detached house within urban area

#### **Planning History:**

none

#### Question:

The applicant has applied to see whether or not the following is or is not exempted development:

- Single storey extension to the rear of the property comprising kitchen / open plan living space / toilet and laundry room
- Replacement roof to the side of the property
- Erection of small porch

#### **Legislative Context:**

Planning and Development Act, 2000 (as amended):

#### Section 2

"development" has the meaning assigned to it by section 3, and "develop" shall be construed accordingly;

"exempted development" has the meaning specified in section 4;

"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 (b) in relation to a protected structure or proposed protected structure, includes— (i) the interior of the structure, (ii) the land lying within the curtilage of the structure, (iii) any other structures lying within that curtilage and their interiors, and (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

"use", in relation to land, does not include the use of the land by the carrying out of any works thereon;

"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.

#### 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.

**Section 4 (4)** Notwithstanding *paragraphs (a), (i), (ia)* and *(l)* of *subsection (1)* and any regulations under *subsection (2)*, development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

#### 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;

Article 9(1)(a) details a number of circumstances under which the development to which Article 6 relates shall not be exempted development for the purposes of the Act

Part 1 (Classes 1-8) of Schedule 2 describes classes of development situated within the curtilage of a house which are exempted development, provided that such development complies with the associated conditions and limitations.

Class 1 refers to: "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"

- 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 sidewalls 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.

Class 7 refers to "The construction or erection of a porch outside any external door of a house."

- 1. Any such structure shall be situated not less than 2 metres from any road.
- 2. The floor area of any such structure shall not exceed 2 square metres.
- 3. The height of any such structure shall not exceed, in the case of a structure with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

#### **Assessment:**

Single storey extension to the rear of the property comprising kitchen / open plan living space / toilet and laundry room.

This rear extension constitutes works and is a form of development.

The extension is to the rear of the existing house and is in accordance with Class 1 description.

I have considered the conditions and limitations relating to Class 1:

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

  garage conversion carried out previously
- (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.

  n/a
- (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.

The reference to extension in class 1 refers to the construction of an extension to the rear of the house or conversion of structures including garage to the rear or the side of the house. The house would have originally contained a side garage. This is still evident on some similar houses. The garage has been converted to an office. It is 12.65sqm. Taking measurements from the scaled drawings, the proposed total new extension area is c 25.45sqm. Therefore the combined total is 38.1sqm. This is within the 40sqm limit. Complies.

(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.

n/a

(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.

n/a

- 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.

  The height of the walls of the extension do not exceed the height of the principal 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 sidewalls of the house.

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

  complies
- (b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.

  n/a
- (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.

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

#### **Conclusion:**

Is exempted development.

Replacement roof to the side of the property

Any act of alteration, repair or renewal includes works.

Therefore works are to be carried out.

The definition of development involves the carrying out of works.

Therefore development is to be carried out.

Section 4(1)(h) indicates that works which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure are exempted development.

The drawings show works for a new flat roof. The new roof extends over and forms part of the new extension.

As the new extension is exempt and the new roof is part of the extension and has been considered within the assessment pertaining to the extension above it is considered that it would be exempted development.

#### Erection of small porch

The construction of a porch consists of works and is a form of development.

The porch is to be constructed outside of the external door of the house and is in accordance with the Class 7 description.

I have considered the conditions and limitations relating to Class 7:

- 1. Any such structure shall be situated not less than 2 metres from any road. Complies
- 2. The floor area of any such structure shall not exceed 2 square metres. (1.8sgm) Complies
- 3. The height of any such structure shall not exceed, in the case of a structure with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

  Complies

The Article 9 restrictions on exemption have been considered and none of the restrictions apply.

#### Appropriate Assessment

Having regard to the nature, scale and location of the proposed development and the lack of pathways between the proposed development and the Natura 2000 site network, it is considered that there would not be a likely significant effect on a Natura 2000 site in combination with other plans or projects.

ΕIΑ

Not a type of 'project' and therefore does not fall within the scope of EIA.

#### Recommendation:

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

- Single storey extension to the rear of the property comprising kitchen / open plan living space / toilet and laundry room
- Replacement roof to the side of the property
- Erection of small porch

At 96 Applewood Heights, Greystones

#### The Planning Authority considers that:

- Single storey extension to the rear of the property comprising kitchen / open plan living space / toilet and laundry room and replacement roof to the side of the property IS development and IS exempted development
- Erection of small porch IS development and IS exempted development

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

- The details received with this section 5 application (EX57/2024) on the 27<sup>th</sup> June 2024
- Sections 2, 3 and 4 of the Planning and Development Act 2000(as amended).
- Schedule 2, Part 1, Class 1 and Class 7 of the Planning and Development Regulations (as amended).
- Section 4(1)(h) of Planning and Development Act 2000 (as amended)
- Article 6 and 9, Planning and Development Regulations 2001 (as amended).

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

- The development does accord with the conditions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) and complies with the relevant conditions / limitations therein.
- The new 'replacement' roof is a roof that is to be constructed over the new extension and as this has been deemed to be exempt, it is considered that the roof structure being part of the extension is exempt.
- The porch is in accordance with 12 Schedule 2, Part 1, Class 7 of the Planning and Development Regulations 2001 (as amended).

Andrew Spencer A/Executive Planner

22/7/2024

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# **MEMORANDUM**

# **WICKLOW COUNTY COUNCIL**

TO: Andrew Spencer

**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).

EX57/2023

I enclose herewith application for Section 5 Declaration received completed on 27/06/2024.

The due date on this declaration is 24<sup>th</sup> July 2024.

Staff Officer

Planning Development & Environment



# 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<sup>-</sup> (0404) 69462 Rphost / Email<sup>-</sup> plandev@wicklowcoco.ie Suíomh / Website. www.wicklow.ie

Antony Green		
C. 1	•	
Disc + Marie		
		2 <sup>nd</sup> July 2024

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX57/2024

#### A Chara

I wish to acknowledge receipt of your application and details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 24<sup>th</sup> July 2024.

Mise, le meas

Nicola Fleming

Staff Officer

Planning, Economic & Rural Development





Wicklow County Council County Buildings Wicklow 0404-20100

27/06/2024 15 09 21

Receipt No L1/0/331152

ANTHONY GREEN 96 APPLEWOOD HIGHTS GREYSTONS CO WICKLOW

EXEMPTION CERTIFICATES
GOODS 80 00
VAT Exempt/Non-vatable

Total 80 00 EUR

Tendered Credit Card

80 00

80.00

Change

0 00

Issued By VANESSA PORTER 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

<u>1. Ap</u>	plicant Details	RECEIVED 271
(a)	Name of applicant: Antony Green Address of applicant:	
	Phone number and email to be filled in on separate page.	
2. Ag	ents Details (Where Applicable)	
(b)	Name of Agent (where applicable) N/A	<u>.</u>

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

# 3. Declaration Details

	eystones, A63 KP57
Are Ye	e you the owner and/or occupier of these lands at the location under i. about
	No' to ii above, please supply the Name and Address of the Owner, ar upier
_	
aut	ment of the prescribed fee, request in writing from the relevant plan hority a declaration on that question. You should therefore set out the q
Th pro roc poi Ple	which you seek the Section 5 Declaration  e proposed works incorporate a single story extension to the rear of operty comprising kitchen/ open plan living space/ toilet and laurem. Replacement roof to the side of the property and erection of sech. All works fall below planning permission thresholds (total 39.9 second to the side of the existing garage within the property due to the roof being replaced.
Th pro roc por Ple wo	which you seek the Section 5 Declaration  e proposed works incorporate a single story extension to the rear of  operty comprising kitchen/ open plan living space/ toilet and laudem. Replacement roof to the side of the property and erection of sech. All works fall below planning permission thresholds (total 39.9 sease note that we have included the existing garage within the prop

Additional details may be submitted by way of separate submission.

	Does the Declaration relate to a Protected Structure or is it within the curtilar a Protected Structure (or proposed protected structure)? No	_
	List of Plans, Drawings submitted with this Declaration Application	
	96 AH Site Layout Plan	
	96 AH Proposed Extension Plan	
	To of 6 80 Attached ? No. Please email	1
	went	
	-	
d	Dated :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.

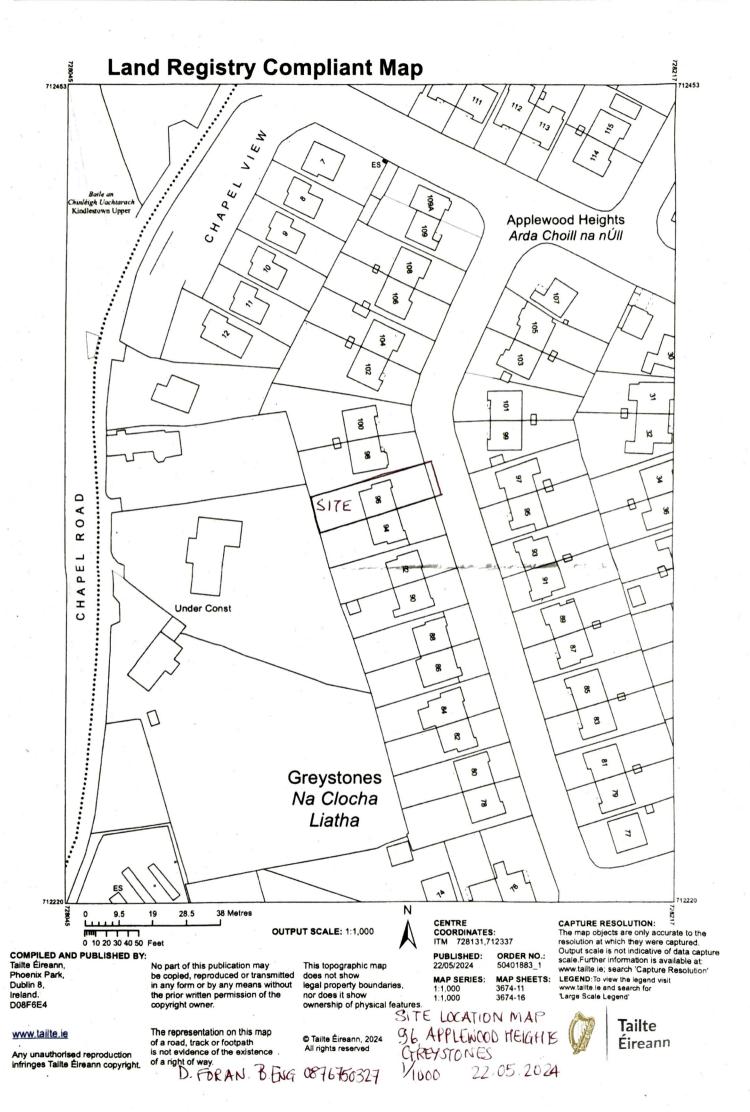
#### B. Land Reclamation -

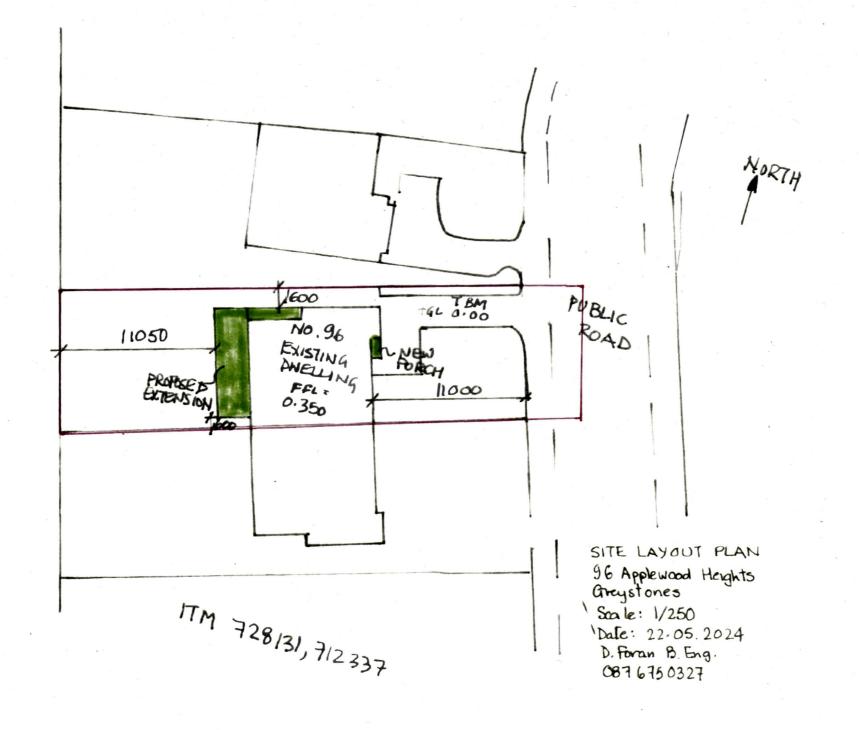
The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 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.

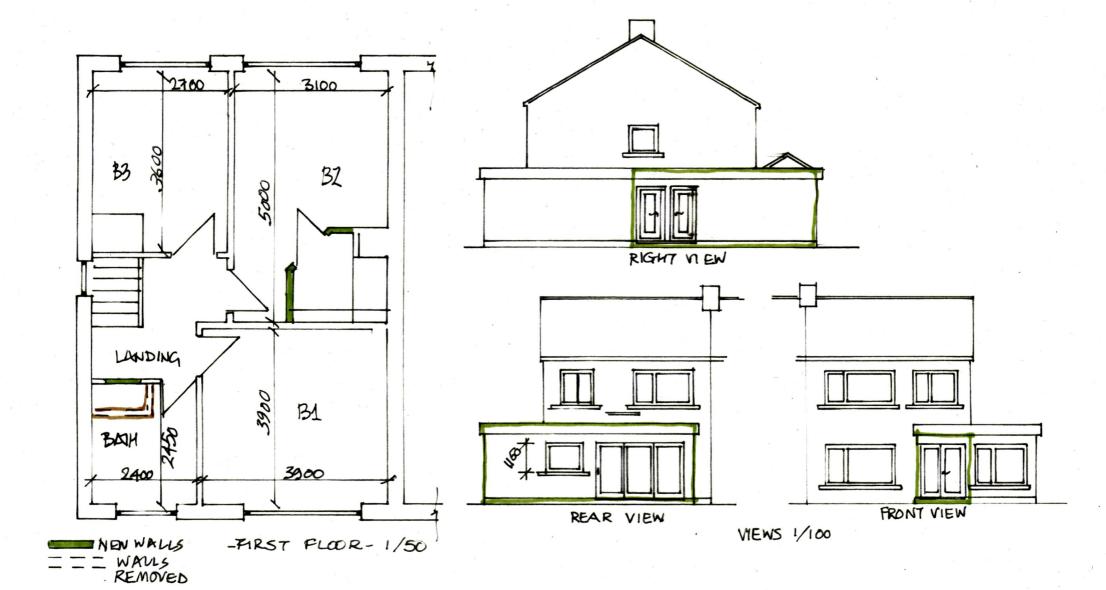
#### C. Farm Structures - Class 6 - Class 10 Part 3 of Schedule 2.

- 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.

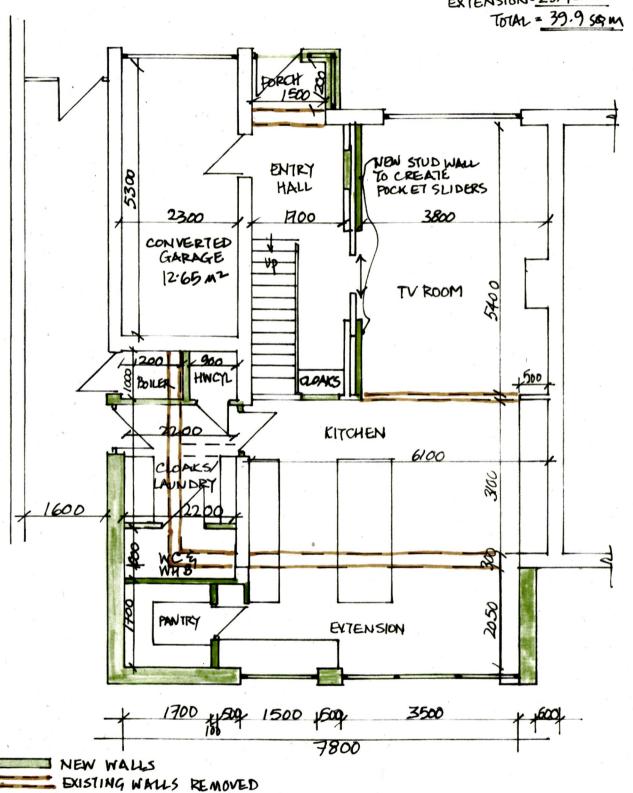




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PORCH = 1-8 SQM GARAGE = 12.65 SQM EXTENSION = 25,45 SQM TOTAL = 39.9 SQM



-GROUND FLOOR PLAN-1/50

96 APPLE NOOD HEIGHTS GREYSTONES CO NICKLOW