



Comhairle Contae Chill Mhantáin
Wicklow County Council

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

Áras An Chontae / County Building
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowc.ie
Suíomh / Website: www.wicklowc.ie

Malachi Cowley
1 Sidmorton Gardens
Bray
Co. Wicklow
A98 XA39

22nd of December 2025

RE: Declaration in accordance with Section 5 of the Planning & Development Acts
2000 (As Amended) -EX 141/2025

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 Coimisiún Pleanála of such fee as may be prescribed, refer a declaration for review by the Coimisiún 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: Malachi Cowley

Location: 1 Sidmonton Gardens, Bray, Co. Wicklow

Reference Number: EX 141/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/1414

A question has arisen as to whether "the widening of an access onto a public local road" at 1 Sidmonton Gardens, Bray, Co. Wicklow is or is not exempted development.


Having regard to:

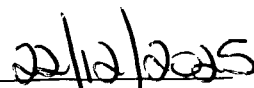
- The details submitted under Section 5 Declaration on 2/12/2025
- The taken in charge register of Wicklow County Council
- Sections 2(1), 3(1), and 4 of the Planning and Development Act 2000 (as amended)
- Articles 6(1) & 9(1) (a) (ii) of the Planning and Development Regulations 2001 as amended
- Class 6 of the Planning and Development Regulations 2001 as amended

Main Reasons with respect to Section 5 Declaration:

- The widening of an access is works and would come within the definition of development as set out under Section 3 of the Planning and Development Act 2000 (as amended).
- The alteration of the entrance by removal of pillar and associated hedging would come within the description of Class 5 of Part 1: Schedule 2 of the Planning and Development Regulations 2001 (as amended). This exemption is subject to the restriction set out under Article 9 (1)(a)(ii) of the Regulations provides that development shall not be exempted development if the carrying out of such development would consist 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. As the housing estate has been taken in charge the estate road is a public road. with a carriageway width of 8m. The proposal which is for the material widening of an access onto a public road which is in excess of 4m wide would therefore contravene the provision set out under Article 9(1) (a) (ii).

The Planning Authority considers that "the widening of an access onto a public local road" at 1 Sidmonton Gardens, Bray, Co. Wicklow is development and is NOT exempted development.

Signed: 
ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated: 



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/1414

Reference Number: EX 141/2025

Name of Applicant: Malachi Cowley

Nature of Application: Section 5 Referral as to whether "The widening of an access onto a public local road" is or is not development and is or is not exempted development.

Location of Subject Site: 1 Sidmonton Gardens, Bray, Co. Wicklow

Report from: Lyndsey Blackmore, EP & Edel Bermingham, T/SP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "the widening of an access onto a public local road" at 1 Sidmonton Gardens, Bray, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

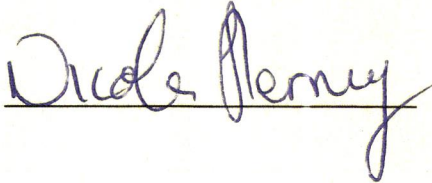
- i. The details submitted under Section 5 Declaration on 2/12/2025
- ii. The taken in charge register of Wicklow County Council
- iii. Sections 2(1), 3(1), and 4 of the Planning and Development Act 2000 (as amended)
- iv. Articles 6(1) & 9(1) (a) (ii) of the Planning and Development Regulations 2001 as amended
- v. Class 6 of the Planning and Development Regulations 2001 as amended

Main Reasons with respect to Section 5 Declaration:

- 1 The widening of an access is works, and would come within the definition of development as set out under Section 3 of the Planning and Development Act 2000 (as amended).
- 2 The alteration of the entrance by removal of pillar and associated hedging would come within the description of Class 5 of Part 1: Schedule 2 of the Planning and Development Regulations 2001 (as amended). This exemption is subject to the restriction set out under Article 9 (1)(a)(ii) of the Regulations provides that development shall not be exempted development if the carrying out of such development would consist 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. As the housing estate has been taken in charge the estate road is a public road. with a carriageway width of 8m. The proposal which is for the material widening of an access onto a public road which is in excess of 4m wide would therefore contravene the provision set out under Article 9(1) (a) (ii).

Recommendation

The Planning Authority considers that "the widening of an access onto a public local road" at 1 Sidmonton Gardens, Bray, Co. Wicklow is development and is NOT exempted development as recommended in the planning reports.


Signed: 

Dated: 22/12/25

ORDER:

I HEREBY DECLARE:

That "the widening of an access onto a public local road" at 1 Sidmonton Gardens, Bray, Co. Wicklow is **development and is NOT exempted** development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: 

T/Senior Planner
Planning, Economic & Rural Development

Dated: 22/12/2025

**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

PLANNING REPORT SECTION 5 APPLICATION

TO: EDEL BERMINGHAM S.P PATRICE RYAN S.E.P.
FROM: LYNDSEY BLACKMORE E.P.
SUBJECT REF: EX 141/2025
DECISION DATE: 07/01/2025
APPLICANT: MALACHI COWLEY
ADDRESS: 1 SIDMONTON GARDENS, BRAY
EXEMPTION: WIDENING OF DRIVEWAY TO ALLOW FOR PARKING FOR A SECOND VEHICLE
AND FACILITATION OF EV CHARGING POINT

Site Location:

The site is located within the settlement of Bray Town in the established housing development Sidmonton Gardens, served by the Local Road L19701.

The subject site consists of a two storey dwelling on the end of the row.



Planning History:

13/630075: Permission granted for a single storey extension to side of dwelling

07/630007: Outline permission granted for two storey extension.

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.

Section 4 :

4.—(1) The following shall be exempted developments for the purposes of this Act—

(3) A reference in this Act to exempted development shall be construed as a reference to development which is—

(a) any of the developments specified in subsection (1), or (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.

(4A) Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

(a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and

(b) as respects which an environmental impact assessment or an appropriate assessment is required, to be exempted development.

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 9(1) restrictions on exemption, 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.

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—

(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,

Schedule 2- Part 1- Development within the curtilage of a house

Class 5- The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete

Conditions & Limitations:

1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.
2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.
3. No such structure shall be a metal palisade or other security fence.

Submission:

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

To determine whether the widening of a driveway at 1 Sidmonton Gardens, Bray 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 an existing housing estate. To the side of the dwelling is a plastered wall which is adjoined by public open space. The front roadside boundary consists of a and low brick wall.

This proposal seeks works consisting of:

- Removing of 2.2m of wall and widening of access;

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

Removing of pillar and hedge and widening of access;

The housing estate has been taken in charge by WCC and therefore is now a public road L19701-0. The road measures c.8m wide. Article 9(1) sets out restrictions on exemption if the carrying out of such development would consist of the material widening of a means of access to a public road which the surfaced carriageway exceeds 4 metres in width, therefore the removing of the wall is development and is not exempt.

Recommendation:

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

The widening of an access onto a public local road at 1 Sidmonton Gardens, Bray, Co. Wicklow, is or is not development and is or is not exempted development within the meaning of the Planning and Development Act, 2000 (as amended).

The Planning Authority considers that:

The widening of an access onto a public local road at Sidmonton Gardens, Bray, is development and is **not** exempted development.

Main Considerations with respect to Section 5 Declaration:

- i. The details submitted under Section 5 Declaration on 2/12/2025
- ii. The taken in charge register of Wicklow County Council
- iii. Sections 2(1), 3(1), and 4 of the Planning and Development Act 2000 (as amended)
- iv. Articles 6(1) & 9(1) (a) (ii) of the Planning and Development Regulations 2001 as amended
- v. Class 6 of the Planning and Development Regulations 2001 as amended

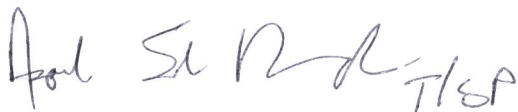
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Lyndsey Blackmore E.P.

Date: 19/12/2025



14/12/2025

MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Lyndsey Blackmore
Executive Planner

FROM: Aoife Kinsella
Clerical Officer

**RE:- EX141/2025 - Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended)**

I enclose herewith for your attention application for Section 5 Declaration
received 02/12/2025.

The due date on this declaration is the 07/01/2026.

Aoife Kinsella

Clerical Officer
Planning Development & Environment



Comhairle Contae Chill Mhantáin Wicklow County Council

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
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Malachi Cowley
1 Sidmorton Gardens
Bray
Co. Wicklow
A98 XA39

2ND of December 2025

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX141/2025

A Chara

I wish to acknowledge receipt on 02/12/2025 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 07/01/2026.

Mise, le meas

Aoife Kinsella

Aoife Kinsella
Clerical Officer
Planning, Economic & Rural Development



Wicklow County Council
County Buildings
Wicklow
0404-20100

02/12/2025 10 03 30

Receipt No L1/0/355581
***** REPRINT *****

MR MALACHI COWLEY
1 SIDMONTON GARDENS
BRAY
CO WICKLOW
A98 XA39

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

Total	80 00 EUR
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Tendered
Cheque 80 00
1 Sidmanton Gardens, Bray

Change	0 00
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Wicklow County Council
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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**

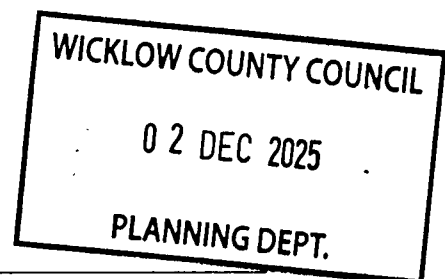
1. Applicant Details

- (a) Name of applicant: **Mr Malachi Cowley**
Address of applicant: **1 Sidminton Gardens, Bray, Co, Wicklow,
A98XA39**

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

2. Agents Details (Where Applicable)

- (b) Name of Agent (where applicable) **None**
Address of Agent : N/A



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

3. Declaration Details

- i. Location of Development subject of Declaration:
- ii. 1 Sidmonton Gardens, Bray, A98XA39
- _____
- iii. 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 _____

- 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 _____
Removal of a 2.20 m section of the front garden wall to allow for vehicular access for a send vehicle and for the facilitation of an EV charging point installation,
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 _____

- 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
SITE	WORKS DESCRIPTION
SITE	PHOTO

viii. Fee of € 80 Attached ? Cheque for €80 payable to Wicklow County Council Attached

Signed : Malachi Conboy Dated : 30/11/2025

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 Attached
- Floor area of structure in question - whether proposed or existing. Not Applicable
- Floor area of all relevant structures e.g. previous extensions. Not Applicable
- Floor plans and elevations of relevant structures. Not Applicable
- Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc. Attached together with photo

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

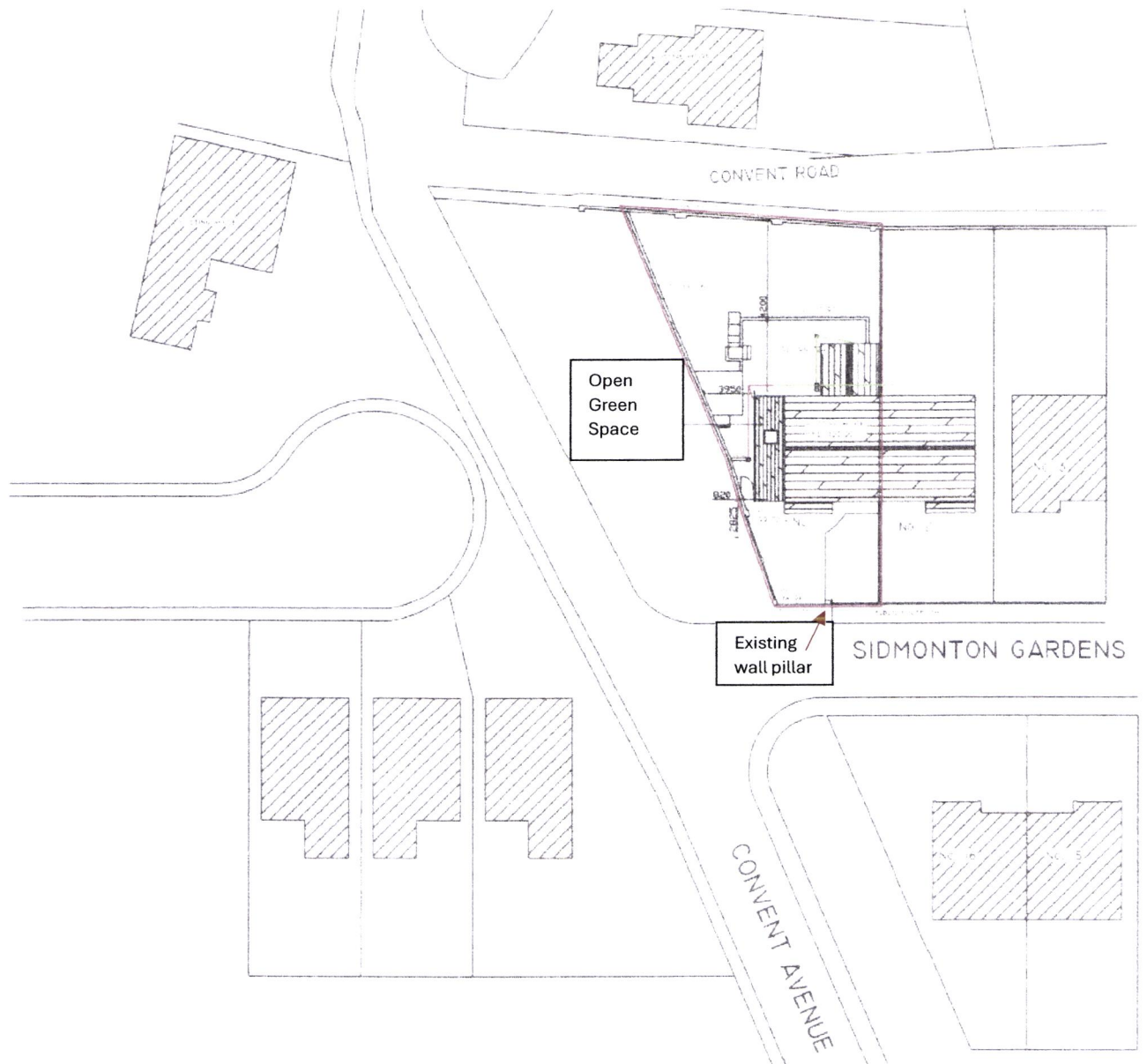
Agriculture, Fisheries and Food.

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.

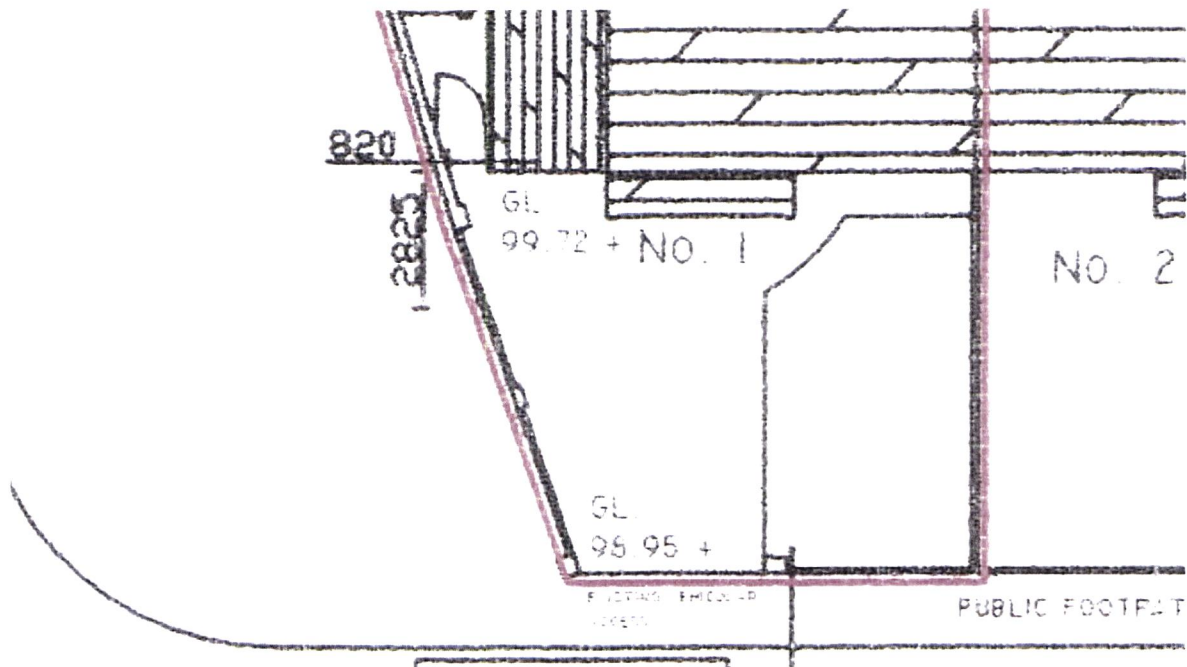
C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

- **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.**

SITE LOCATION
1 Sidmonton Gardens, Bray.
Eircode A98XA39



SITE LOCATION
1 Sidminton Gardens, Bray.
Eircode A98XA39



Existing [----3.75m-----]

Proposed [-----5.95m-----]

Current vehicle access width - pillar to pillar is 3.75m. This includes pedestrian access.

Wall/pillar height is 0.65m

Proposal is to part demolish the wall and move the central pillar by 2.20m to allow access for two vehicles plus pedestrian access across a widened dimension of 5.95m.

