



Comhairle Contae Chill Mhantáin Wicklow County Council

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

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

Juris Eksts

09/02/2024

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX06/2024

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: Juris Eksts

Location: 10 Fitzwilliam Terrace, Strand Road, Bray, Co. Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PDE/161/2024

A question has arisen as to whether “widening of front gate to drive a car in” at 10 Fitzwilliam Terrace, Strand Road, Bray, Co. Wicklow is or is not exempted development.

Having regard to:

- a) The details submitted with the Section 5 Declaration.
- b) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- c) Schedule 2 : Part 1 : Class 5 of the Planning and Development Regulations 2001 (as amended)
- d) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

- The removal of pier and widening of existing entrance would be development having regard to the provisions of Section 3 of the Planning and Development Act 2001(as amended).
- The works would come within the description of Class 5 of Part 1 : Schedule 2 of the Planning and Development Regulations 2001 (as amended). These exemptions however are subject to the restriction set out under Article 9 of the Regulations which 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. Given the public road width exceeds 4m at this point, the proposal which includes the widening of a means of access on to this public road would not be exempted development given the restriction under Article 9 of the Planning and Development Regulations 2001 (as amended).

The Planning Authority considers that widening of front gate to drive a car in” at 10 Fitzwilliam Terrace, Strand Road, Bray, Co. Wicklow is development and is not exempted development.

Signed: 
ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 9th February 2024



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PDE/161/2024

Reference Number: EX06/2024

Name of Applicant: Juris Eksts

Nature of Application: Section 5 Referral as to whether or not "widening of front gate to drive a car in" is or is not exempted development.

Location of Subject Site: 10 Fitzwilliam Terrace, Strand Road, Bray, Co. Wicklow

Report from Edel Bermingham SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "widening of front gate to drive a car in" at 10 Fitzwilliam Terrace, Strand Road, Bray, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Having regard to:

- a) The details submitted with the Section 5 Declaration.
- a) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- b) Schedule 2 : Part 1 : Class 5 of the Planning and Development Regulations 2001 (as amended)
- c) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

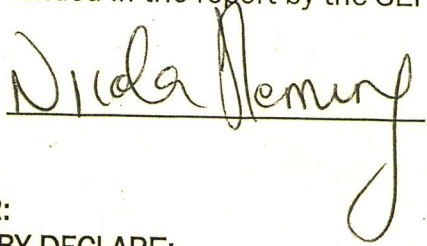
Main Reason with respect to Section 5 Declaration:

- The removal of pier and widening of existing entrance would be development having regard to the provisions of Section 3 of the Planning and Development Act 2001(as amended).
- The works would come within the description of Class 5 of Part 1 : Schedule 2 of the Planning and Development Regulations 2001 (as amended). These exemptions however are subject to the restriction set out under Article 9 of the Regulations which 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. Given the public road width exceeds 4m at this point, the proposal which includes the widening of a means of access on to this public road would not be exempted development given the restriction under Article 9 of the Planning and Development Regulations 2001 (as amended).

Recommendation:

The Planning Authority considers that "widening of front gate to drive a car in" at 10 Fitzwilliam Terrace, Strand Road, Bray, Co. Wicklow is development and is not exempted development as recommended in the report by the SEP.

Signed



Dated

7th

day of February 2024

ORDER:

I HEREBY DECLARE:

That "widening of front gate to drive a car in" at 10 Fitzwilliam Terrace, Strand Road, Bray, Co. Wicklow is development and is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:


Senior Engineer
Planning Development & Environment

Dated

01st

day of February 2024

Section 5 Application EX 06/2024

Date : 31st January 2024

Site Visit: 30th January 2024

Applicant : Juris Eksts

Address : 10 Fitzwilliam Terrace, Bray, Co.Wicklow

Exemption Whether or not :

Widening of front gate to drive a car in

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

Relevant legislation :

Planning and Development Act 2000 (as amended)

"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, ...

"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 :

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

Article 9(1) Note see Regulations for full Article

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,

Schedule 2 : Part 1

<p>CLASS 5</p> <p>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.</p>	<p>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.</p> <p>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.</p> <p>3. No such structure shall be a metal palisade or other security fence.</p>
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Assessment :

The Section 5 declaration application seeks an answer with respect to the following question i.e. Whether the Widening of front gate to drive a car in or not the entrance is or is not exempted development

The first question to be asked therefore is whether the act of widening is or is not development. In this regard the propos provides for the removal of an existing pier, and widen entry area from 1250mm to 1900mm. The removal of pier and entrance widening would be considered works of construction and alteration, such operations would come within the definition of development as set out under Section 3 of the Act :-

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.

Currently No. 10 is served by a pedestrian gate, the proposal will remove this gate and one pier and widen gap from 1.2m to 1.9m. The works would it is considered come with the description set out in Schedule 2 : Part 1 : Class 5 i.e.

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.

Article 9 of the Planning and Development Regulations 2001 (as amended) provides that the exemptions under Schedule 2 ; Part 1 are clawed back where the works would

- (a) 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,

The public road to the front of the dwelling is in excess of 4m, and therefore the proposal would not be exempted development as it would contravene Article 9.

Recommendation :

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

Widening of front gate to drive a car in at 10 Fitzwilliam Terrace, Bray, Co.Wicklow

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The Planning Authority consider that :


Widening of front gate to drive a car is development and is **not exempted development**

Main Considerations with respect to Section 5 Declaration :

- a) The details submitted with the Section 5 Declaration.
- a) Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)
- b) Schedule 2 : Part 1 : Class 5 of the Planning and Development Regulations 2001 (as amended)
- c) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration :

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- The works would come within the description of Class 5 of Part 1 : Schedule 2 of the Planning and Development Regulations 2001 (as amended). These exemptions however are subject to the restriction set out under Article 9 of the Regulations which 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. Given the public road width exceeds 4m at this point, the proposal which includes the widening of a means of access on to this public road would not be exempted development given the restriction under Article 9 of the Planning and Development Regulations 2001 (as amended).


31/1/2024



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MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Edel Bermingham
Senior Executive Planner

FROM: Nicola Fleming
Staff Officer

**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX06/2023**

I enclose herewith application for Section 5 Declaration received 29th January 2024.

The due date on this declaration is 26th February 2024.

Staff Officer
Planning Development & Environment





Comhairle Contae Chill Mhantáin
Wicklow County Council

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Juris Eksts

30th January 2024

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). *EX66/2024*

A Chara

I wish to acknowledge receipt on 29/01/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 26/02/2024.

Mise, le meas



NICOLA FLEMING
STAFF OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT



Wicklow County Council
County Buildings
Wicklow
0404-20100

29/01/2024 15 02 22

Receipt No L1/0/324526

JURIS EKSTS
10 FITSWILLIAM TERRACE
STRAND RD
BRAY

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

Total	80 00 EUR
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Tendered	
Credit Card	80 00

Change	0 00
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Issued By Marian Jameson
From Customer Service Hub
Vat reg No 0015233H



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

Office Use Only

Date Received _____

Fee Received _____

**APPLICATION FORM FOR A
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &
DEVELOPMENT ACTS 2000(AS AMENDED) AS TO WHAT IS OR IS NOT
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

1. Applicant Details

- (a) Name of applicant: Juris Eksts
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
10 Fitzwilliam Terrace, Strand Road, Bray

- 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 _____

- 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 _____
_____ We would like to widen our front gate to be able to drive in a small car. For the purpose of parking, and being able to home charge our electric car.
_____ The present gap is 1250mm we would wish to extend to about 1900mm

- 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 _____

viii. Fee of € 80 Attached ? _____

Signed : _____ Dated : 29th Jan 2024

Additional Notes :

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

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

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

B. Land Reclamation -

Nicola Fleming

From: Nicola Fleming
Sent: Monday 29 January 2024 14:23
To: 'Juris Eksts'
Subject: RE: 10 Fitzwilliam Terrace, Bray

Hi Juris,

I require a site location map in order to process your application (eircode map will do) . You can call our customer care team on 0404-20100 to pay for €80 fee. The process will take 4 weeks.

Regards,

Nicola Fleming

Staff Officer

Planning Department

WICKLOW COUNTY COUNCIL, COUNTY BUILDINGS, WICKLOW TOWN, A67 FW96

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

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



From: Juris Eksts [<mailto:>]
Sent: Monday 29 January 2024 13:58
To: Planning - Planning and Development Secretariat
Subject: 10 Fitzwilliam Terrace, Bray

Dear planning Dept.

We would like to widen our gateby moving the pillar, so we can drive a small car into the front. To be able to park inside and be able to home charge the car.

Photograph attached.

Application form attached.

Payment to be made to you over the phone or by bank transfer.

Can I phone you to discuss.

...

Yours,



Nicola Fleming

From: Juris Eksts
Sent: Monday 29 January 2024 13:58
To: Planning - Planning and Development Secretariat
Subject: 10 Fitzwilliam Terrace, Bray
Attachments: Section 5 application Jan 2024.doc

Dear planning Dept.

We would like to widen our gateby moving the pillar, so we can drive a small car into the front. To be able to park inside and be able to home charge the car.

Photograph attached.

Application form attached.

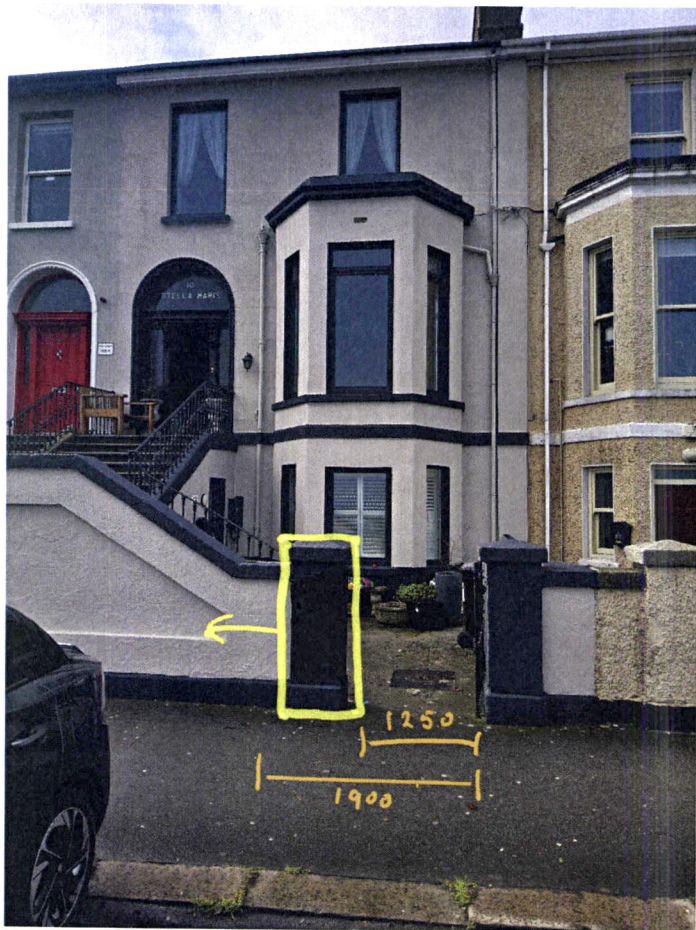
Payment to be made to you over the phone or by bank transfer.

Can I phone you to discuss.

Yours,

Juris Eksts





English | Gaeilge

10 FITZWILLIAM TERRACE

STRAND ROAD

BRAY

CO. WICKLOW

A98 C2R7

