



Comhairle Contae Chill Mhantáin
Wicklow County Council

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

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

Gordon Hudson
Tubberville Farm
Arklow
Co. Wicklow
A67 WR67

September 2025

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000
(As Amended) – EX92/2025

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

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,

ADMINISTRATIVE OFFICER
PLANNING, ECONOMIC & RURAL DEVELOPMENT



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

Applicant: Gordon Hudson

Location: Tubberville Farm, Co. Wicklow A67 WR67

Reference Number: EX 92/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/997

A question has arisen as to whether “the resurfacing and extension of existing cow paths” at Tubberville Farm, Co. Wicklow A67 WR67 is or is not exempted development.

Having regard to:

- i. The details submitted to the Planning Authority on 25/07/2025
- ii. Sections 2(1) and 3(1), of the Planning and Development Act 2000 (as amended)
- iii. Articles 6 & 9 of the Planning and Development Regulations 2001 as amended
- iv. Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001(as amended)

Main Reasons with respect to Section 5 Declaration:

- A. The resurfacing and extension of existing paths are works and would be development having regard to Section 2 and 3 of the Planning & Development Act 2000 (as amended)
- B. The development would meet the conditions and limitations of Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001 (as amended) being for the repair and improvement of a private way that does not exceed 3 metres, and the construction of a private pathway that does not exceed 3 metres.

The Planning Authority considers that “the resurfacing and extension of existing cow paths” at Tubberville Farm, Co. Wicklow A67 WR67 **is development and is exempted development**

Signed:

**ADMINISTRATIVE OFFICER
PLANNING, ECONOMIC & RURAL DEVELOPMENT**

Dated 15th September 2025

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

SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/997

Reference Number: EX 92/2025

Name of Applicant: Gordon Hudson

Nature of Application: Section 5 Referral as to whether or not "the resurfacing and extension of existing cow paths" is or is not development and is or is not exempted development.

Location of Subject Site: Tubbervilla Farm, Co. Wicklow A67 WR67

Report from Holly O'Connor, EP & Edel Bermingham, A/SP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "the resurfacing and extension of existing cow paths" at Tubbervilla Farm, Co. Wicklow A67 WR67 is or is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Having regard to:

- i. The details submitted to the Planning Authority on 25/07/2025
- ii. Sections 2(1) and 3(1), of the Planning and Development Act 2000 (as amended)
- iii. Articles 6 & 9 of the Planning and Development Regulations 2001 as amended
- iv. Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001(as amended)

Main Reason with respect to Section 5 Declaration:

- A. The resurfacing and extension of existing paths are works and would be development having regard to Section 2 and 3 of the Planning & Development Act 2000 (as amended)
- B. The development would meet the conditions and limitations of Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001 (as amended) being for the repair and improvement of a private way that does not exceed 3 metres, and the construction of a private pathway that does not exceed 3 metres.

Recommendation:

The Planning Authority considers that "the resurfacing and extension of existing cow paths" at Tubbervilla Farm, Co. Wicklow A67 WR67 is development and is exempted development as recommended in the report by the A/SP.

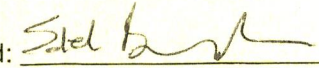
Signed 

Dated  day of September 2025

ORDER:

I HEREBY DECLARE:

That "the resurfacing and extension of existing cow paths" at Tubbervilla Farm, Co. Wicklow A67 WR67 is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed: 

A/Senior Planner
Planning, Economic & Rural Development

Dated  day of September 2025

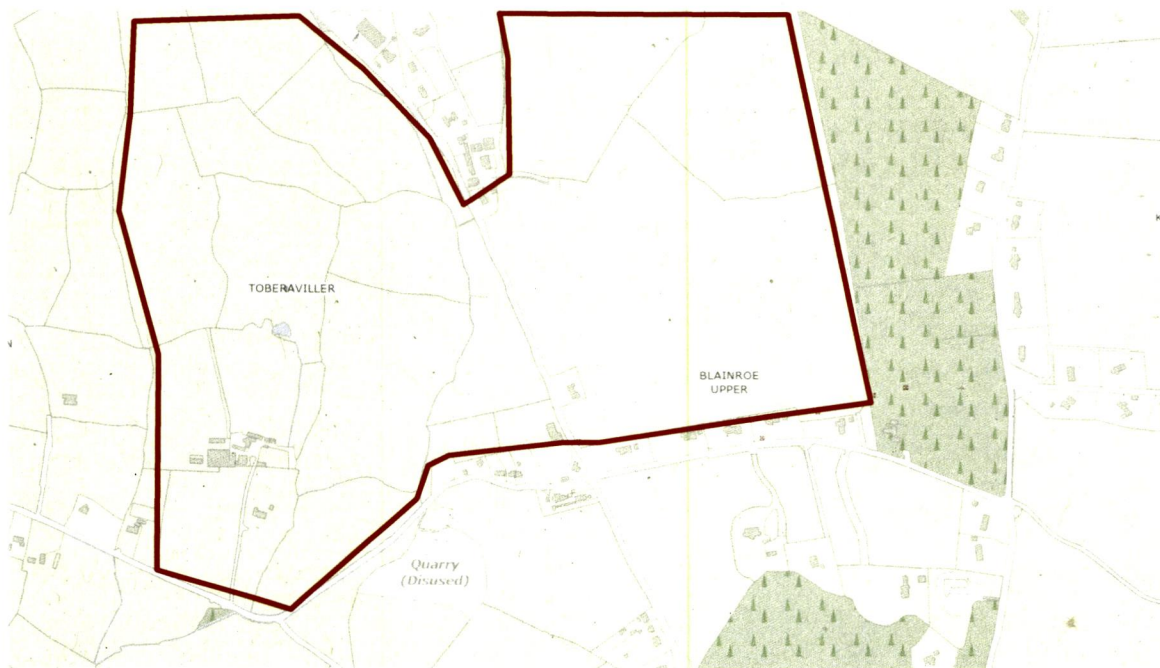
**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT****PLANNING REPORT SECTION 5 APPLICATION**

TO: EDEL BERMINGHAM E.P/ PATRICE RYAN S.E.P
FROM: HOLLY O'CONNOR E.P.
SUBJECT REF: EX 92/2025
DECISION DATE: 18/09/2025
APPLICANT: GORDON HUDSON
ADDRESS: TUBBERVILLA FARM, CO. WICKLOW A67WR67
EXEMPTION QUERY: EXTEND AND RESURFACE EXISTING COWPATHS

Site Location & Details:

The subject site is a large farm holding that spans across the rural townlands of Toberaviller and Blainroe Upper with the Local Road L1102 traversing the farm land. The farmyard associated with the land is located in Toberaviller and is accessed via the local road L5106. The site is located in the Eastern Corridor Area in terms of Landscape Category. A stream flows through the land holding which is hydrologically linked to the Three Mile Water River.

There is a listed monument (WI031-005- Ritual site - holy well) located on the landholding to the south-east of the cluster of farm buildings.

**Planning History:**

17/962: PP granted to Gordon Hudson to construct cubicle Shed incorporating slatted tanks and all associated site works.

Relevant legislation:**Planning and Development Act 2000 (as amended)****Section 2:**

"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);

Section 3:

3.—(1) In this Act, except where the context otherwise requires, "development" means—

- (a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or
- (b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021).]

Planning & Development Regulations 2001 (as amended)

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.

Restrictions on exemption

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 the Act or be inconsistent with any use specified in a permission under the Act,
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,

.....

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

.....

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments

(Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

Schedule 2, Part 1- Exempted Development

<p>CLASS 13</p> <p>The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.</p>	<p>Conditions and Limitations:</p> <p>The width of any such private footpath or paving shall not exceed 3 metres</p>
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Submission:

The applicant has submitted the following;

- Existing paths for resurfacing of approx. 450m
- Extension to existing paths of approx. 370m
- All paths are 2.5m wide and 15cm deep
- Shale is the material being used

The applicant details 'recycling of shale of local site to resurface and extend existing cowpaths. Import approx. 500 tonnes'. While the question being asked is not clearly laid out on the application form it is clear that the Section 5 Declaration question being asked is as follows:

Whether the resurfacing and extension of existing cow paths using shale is or is not exempted development.

Assessment:

Under Section 3(1)(a) of the Planning and Development Act 2000 (as amended), "development" includes "the carrying out of any works in, on, over or under land", where "works" includes "any act or operation of construction, excavation", and "land" includes "any structure". In the light of these definitions, the proposed development would constitute development.

The applicant proposes to resurface existing pathways and extend same, it is detailed that the pathways are 2.5m in width and 15cm depth, finished with shale. There is a pathway already in existence and the width of the pathways (existing and proposed extension) do not exceed 3metres therefore would meet the conditions and limitations of Class 13.

I don't consider any of the restrictions on exemptions to apply to this development;

- the access off the public road is not impacted or altered in anyway by this development;
- there is a recorded monument on the landholding that is over 150m from the existing pathways and is not impacted by this development;

- there is a watercourse through the site that is linked to the Three Mile Water River which feeds into the Magherabeg Dunes SAC, however there will be no impact to the watercourse from this development.

Appropriate Assessment

Having regard to the nature of the proposed development and its distance from this Natura 2000 sites, it not considered that the proposed development would give rise to any adverse impacts on the qualifying interests and conservation objectives of these Natura sites and therefore would not necessitate the carrying out of an Appropriate Assessment in accordance with the requirements of Article 6(3) of the EU Habitats Directive.

EIA Assessment

Having regard to nature and scale of the development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Recommendation:

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

The resurfacing and extension of existing cow paths at Tubbervilla Farm Co. Wicklow A67WR67 is or is not exempt development.

The Planning Authority considers that:

The resurfacing and extension of existing cow paths is development and is exempt development.

Main Considerations with respect to Section 5 Declaration:

- The details submitted to the Planning Authority on 25/07/2025
- Sections 2(1) and 3(1), of the Planning and Development Act 2000 (as amended)
- Articles 6 & 9 of the Planning and Development Regulations 2001 as amended
- Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001(as amended)

Main Reasons with respect to Section 5 Declaration:

- A:** The resurfacing and extension of existing paths are works, and would be development having regard to Section 2 and Section 3 of the P&D Act 2000 as amended.
- B:** The development ~~does~~^{would} meet the conditions and limitations of Schedule 2, Part 1, Class 13 of the Planning and Development Regulations 2001 (as amended) being for the repair and improvement of a private way that does not exceed 3 metres, and the construction of a private pathway that does not exceed 3 metres.


Holly O'Connor E.P. Date: 11/09/2025

  11/9/2025



Comhairle Contae Chill Mhantáin Wicklow County Council

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MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Holly O'Connor
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).
EX92/2025**

I enclose herewith application for Section 5 Declaration received completed on 22nd August 2025.

The due date on this declaration is 18th September 2025.

Staff Officer
Planning, Economic & Rural Development





Comhairle Contae Chill Mhantáin Wicklow County Council

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25th August 2025

**Gordon Hudson
Tubberville Farm
Arklow
Co. Wicklow
A67 WR67**

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Act 2000 (as amended). – EX92/2025 –

A Chara

I wish to acknowledge receipt on 22/08/2025 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 18/09/2025.

Mise, le meas



**Nicola Fleming
Staff Officer
Planning, Economic & Rural Development**



*Tuairim de réir na sonraí a bhí ann nuair a bunaíodh an t-ábhar.
This document is provided as a guide only and is not intended to be used as a basis for decision making.*

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





Comhairle Contae Chill Mhantáin Wicklow County Council

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

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25th July 2025

**Gordon Hudson
Tubbervilla Farm
Arklow
Co. Wicklow
A67 WR67**

Re: Application for a Declaration in accordance with Section 5 of the Planning & Development Act 2000 (as amended) : - EX92/2025

A Chara

I wish to acknowledge receipt of your application for a declaration in respect of Section 5 for the above proposal on 25th July 2025.


We received your Section 5 application form however this is incomplete as per our additional notes section the following is required: -

- site location map (eircode map will suffice).
- Details of the resurfacing and extension of cow paths i.e. width, length depth etc. clear drawings are required for same.

We need this document to be able to access the application.

Application is currently classed as incomplete and decision date cannot be noted until the above documentation is received.

Mise, le meas


**STAFF OFFICER
PLANNING, ECONOMIC & RURAL DEVELOPMENT**



*Ta an doicimeas seo in teilifonnaim agus in eilintais.
This document is a digital alternative format only.*

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



Wicklow County Council
County Buildings
Wicklow
0404 20100

25/07/2025 14:00:58

Receipt No L1/0/349004
***** REPRINT *****

GORDON HUDSON
TUBBERVILLA FARM
WICKLOW
CO WICKLOW
A67 WR67

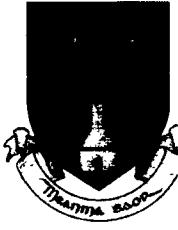
EXEMPTION CERTIFICATES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	

Total	80.00 EUR
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Tendered	
Cheque	80.00

Change	0.00
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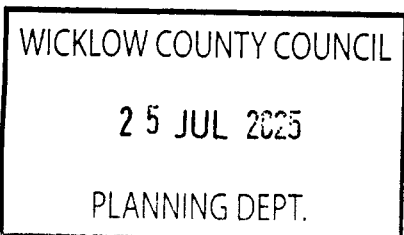
Fee Received _____

**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: Gordon Hudson
Address of applicant: Tubberville Farm.
Wicklow Co. Wicklow A67WR67

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 Tabberville Farm
on B4100000

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 _____

Reycling of shale of local
site to resurface and extend existing
cow paths
Impact approx 500 tonnes.

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 Article 27 exception.

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 _____

Map of Farm with Pathways
marked.

viii. Fee of € 80 Attached ? _____

Signed : Jordan Hulsen Dated : 25/7/25

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.

English | Gaeilge

TOBERAVILLER

WICKLOW

A67 WR67

TOBERAVILLER



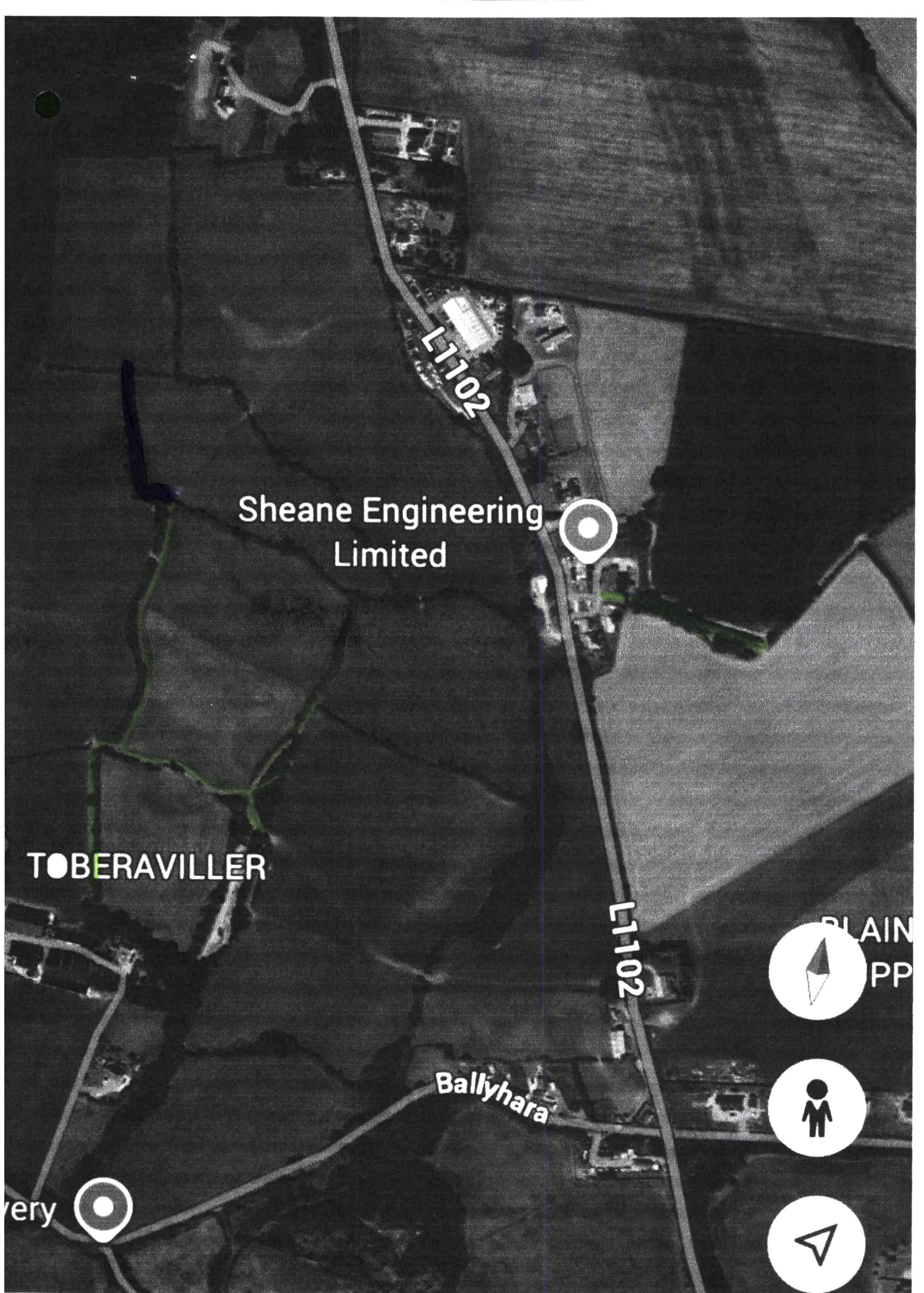
EIRCODE



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WICKLOW COUNTY COUNCIL

22 AUG 2025

PLANNING DEPT.



 - Paths for resurfacing  - Extension to path



For Basic Payment Income Support for Sustainability, Areas of Natural Constraint
Scheme and other Area Based Scheme purposes only
Year: 2025

Name: GORDON HUDSON
Address: TWO MILE WATER
WICKLOW
CO WICKLOW
A67 WR67

Herd Nos: Z1480243
Townland Code : Z14814
Townland Name: BLAINROE UPPER

Parcel	Digitised	Eligible Hectare	Claimed
Z1481400008	6.86	6.86	6.86
Z1481400009	6.6	6.6	6.6
Z1481400010	0.37	0	0
Z1481400011	1.72	1.72	1.72
Z1481400012	13.02	12.8	12.76
Z1481400018	6.27	6.27	6.27
Z1481400019	0.09	0.09	0.09
Z1481400022	0.7	0	0
Z1481400025	1.48	1.48	1.48
Z1481400026	1.22	1.18	1.18
Z1481400027	3.43	3.37	3.37

Exclusions	Parcel	Excl	Area	Red%	Elig	Type
Z1481400012	0091	0.22	100	0		Ineligible
Z1481400012	0092	0	100	0		Farm Road
Z1481400018	0074	0.15	100	0		Stream
Z1481400026	0037	0.04	100	0		Stream
Z1481400027	0088	0.06	100	0		Farm Road
Z1481400027	0089	0.02	5	0.02		Scrub
Z1481400027	0090	0.45	5	0.43		Scrub

Townland Code : Z14846
Townland Name: TOBERAVILLER

Parcel	Digitised	Eligible Hectare	Claimed
Z1484600003	11.56	11.47	11.47
Z1484600007	6.81	6.81	6.81

Exclusions	Parcel	Excl	Area	Red%	Elig	Type
Z1484600003	0071	0.02	100	0		Stream
Z1484600003	0072	0.01	100	0		Farm Road
Z1484600003	0073	0.02	100	0		Stream
Z1484600003	0074	0.04	100	0		Ineligible

Ortho Used: ColOrthoFullCov:WMS:Imagery

All areas displayed above are in hectares



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Z1480243

Page 2 of 4 Thu Dec 19 12:22:14 2024

 = existing paths
for resurfacing
upper 450 metres
 = extension upper 370 metres

All paths are about 25m
wide and will want about
15 cm of shale.



000002

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