

**WICKLOW COUNTY COUNCIL**

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

**Director of Services Order No:** 473/2023

**Reference Number:** EX 13/2023

**Name of Applicant:** Christopher & Alexander Walsh

**Nature of Application:** Section 5 Referral as to whether "The proposal is for 2 no. Velux roof lights to the front of house at 32 Eastmount Gardens, Delgany, Co Wicklow, A63 AK29" is or is not exempted development.

**Location of Subject Site:** 32 Eastmount Gardens, Delgany, Co Wicklow, A63 AK29

**Report from Dara Keane GP & Edel Bermingham SEP**

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "The proposal is for 2 no. Velux roof lights to the front of house at 32 Eastmount Gardens, Delgany, Co Wicklow, A63 AK29" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

**Having regard to:**

- The details received with this Section 5 application (EX13/2023) on 22<sup>nd</sup> of February 2023.
- Sections 2, 3 & 4 of the Planning & Development Act 2000 (as amended).

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

- 1) The proposal for 2 no. Velux roof lights to front of house at 32 Eastmount Gardens would be development having regard to Section 3 of the Planning & Development Act 2000 (as amended), as set out in the documents lodged.
2. The works do not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighbouring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning & Development Act 2000 (as amended).



**Recommendation**

The Planning Authority considers that "The proposal is for 2 no. Velux roof lights to the front of house at 32 Eastmount Gardens, Delgany, Co Wicklow, A63 AK29" is development and is exempted development as recommended in the planning reports.

Signed  Dated 15<sup>th</sup> day of March 2023

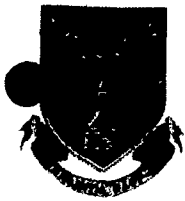
ORDER:

That a declaration to issue stating:

That "The proposal is for 2 no. Velux roof lights to the front of house at 32 Eastmount Gardens, Delgany, Co Wicklow, A63 AK29" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed:   
Director of Services  
Planning Development & Environment

Dated 14 day of March 2023



**Comhairle Contae Chill Mhantáin**  
**Wicklow County Council**

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

Áras An Chontae / County Buildings  
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Faics / Fax: (0404) 69462  
Rphost / Email: [plandev@wicklowcoco.ie](mailto:plandev@wicklowcoco.ie)  
Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

Christopher & Alexandra Walsh

18<sup>th</sup> March 2023

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

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

Exemption Ref No: EX 13/2023

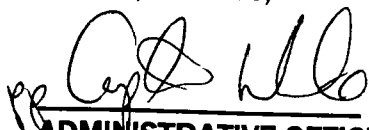
Applicant: Christopher & Alexandra Walsh

Nature of Application: "The proposal is for 2 no. Velux roof lights to the front of house at 32 Eastmount Gardens, Delgany, Co Wicklow, A63 AK29"

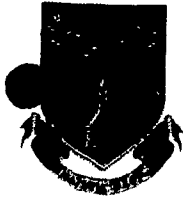
Location: 32 Eastmount Gardens, Delgany, Co Wicklow, A63 AK29

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.**



**Comhairle Contae Chill Mhantáin**  
**Wicklow County Council**

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

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

**Applicant: Christopher & Alexander Walsh**

**Location: 32 Eastmount Gardens, Delgany, Co Wicklow, A63 AK29**

**DIRECTOR OF SERVICES ORDER NO 473/2023**

A question has arisen as to whether "The proposal is for 2 no. Velux roof lights to the front of house at 32 Eastmount Gardens, Delgany, Co Wicklow, A63 AK29" is or is not exempted development.

**Having regard to:**

- The details received with this Section 5 application (EX13/2023) on 22<sup>nd</sup> of February 2023.
- Sections 2, 3 & 4 of the Planning & Development Act 2000 (as amended).

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

- 1) The proposal for 2 no. Velux roof lights to front of house at 32 Eastmount Gardens would be development having regard to Section 3 of the Planning & Development Act 2000 (as amended), as set out in the documents lodged.
3. The works do not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighbouring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning & Development Act 2000 (as amended).

**The Planning Authority considers that "The proposal is for 2 no. Velux roof lights to the front of house at 32 Eastmount Gardens, Delgany, Co Wicklow, A63 AK29" is development and is exempted development.**

Signed:

**ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT**

Dated/ 4 March 2023



WICKLOW COUNTY COUNCIL  
PLANNING DEPARTMENT

Section 5 – Application for declaration of Exemption Certificate

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REF:	EX13/2023
NAME:	CHRISTOPHER & ALEXANDER WALSH
DEVELOPMENT:	2 SMALL WINDOWS TO THE FRONT OF THE PROPERTY AS PART OF ATTIC CONVERSION & WITHIN ROOFLINE
LOCATION:	32 EASTMOUNT GARDENS, DELGANY, CO. WICKLOW. A63 AK29

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**The Site:** A semi-detached 2-storey dwelling located within the Eastmount Gardens residential development.

**Relevant Planning History:** None.

**Question:**

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

*'The proposal is for 2 no. Velux rooflights to front of house at 32 Eastmount Gardens, Delgany, Co. Wicklow A63 AK29.'*

**Legislative Context:**

**-Planning and Development Act 2000 (as amended)**

**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 2(1)** of the Act states the following in respect of 'works':

*"Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."*

**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;

**-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.

**Assessment:**

The Section 5 declaration application seeks an answer with respect to the following question i.e. whether or not *'the proposal is for 2 no. Velux rooflights to front of house at 32 Eastmount Gardens, Delgany, Co.Wicklow A63 AK29.'* is or is not development; and is or is not exempted development.

The first assessment must be whether or not the proposal outlined above constitutes development within the remit of Section 3 of the Planning and Development Act 2001. In this regard, Section 3 of the Planning and Development Act provides that:

"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.

It should be noted that Section 2 of the Act defines works as:

"works" include any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

I am satisfied that the proposal involved works to the existing property and therefore constituted development.

The second stage of the assessment is to determine whether or not the proposal would be exempted development under the Planning and Development Act 2000 (as amended) or it's associated Regulations.

The works involved the installation of 2 no. Velux rooflights to front of house at 32 Eastmount Gardens, Delgany, Co.Wicklow A63 AK29.

I consider that the works would fall under the remit of 4(1)(h). I do not consider that the alterations materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the house or neighbouring houses.

**Recommendation:**

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

Whether or not the proposal for 2 no. Velux rooflights to front of house at 32 Eastmount Gardens, Delgany, Co. Wicklow A63 AK29 is or is not development, and is or is not exempted development.

**The Planning Authority considers that:**

The proposal for 2 no. Velux rooflights to front of house at 32 Eastmount Gardens, Delgany, Co. Wicklow A63 AK29 is development, and is exempted development.

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

- The details received with this section 5 application (<sup>EX 13 / 2023</sup>~~EX 33 / 2022~~) on the 22<sup>nd</sup> February 2023.
- Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended).

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

- 1) The proposal for 2 no. Velux rooflights to front of house at 32 Eastmount Gardens, ~~Delgany, Co. Wicklow A63 AK29~~ would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended), as set out in the documents lodged.
- 2) The works do not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighbouring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).



Dara Keane  
Graduate Planner  
10/03/2022

Appl 51/22-12  
SLP  
14/3/23

Agreed  
Bik  
D.S.  
14/3/23

# **MEMORANDUM**

## **WICKLOW COUNTY COUNCIL**

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**TO: Dara Keane**  
**Graduate Planner**

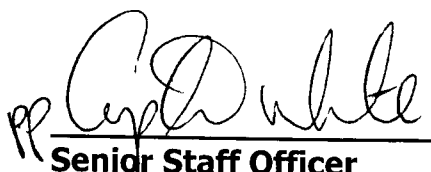
**FROM: Crystal White**  
**Assistant Staff Officer**

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**RE:- EX 13/2023 - Declaration in accordance with Section 5 of the  
Planning & Development Acts 2000 (as amended)**  
**Two small windows to the front of the property as part of the attic  
conversion & within roofline at 32 Eastmounnt Gardens, Delgany,  
Wicklow.**

I enclose herewith for your attention application for Section 5 Declaration  
received 22<sup>nd</sup> of February 2023.

The due date on this declaration is the 21<sup>st</sup> of March 2023.

A handwritten signature in cursive script, appearing to read 'Crystal White', is written over a horizontal line.

**Senior Staff Officer**  
**Planning Development & Environment**





**Comhairle Contae Chill Mhantáin**  
**Wicklow County Council**

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

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23/02/2023

**Christopher & Alexandra Walsh**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 13/2023**

**Two small windows to the front of the property as part of the attic conversion & within roofline at 32 Eastmounnt Gardens, Delgany, Wicklow**

A Chara

I wish to acknowledge receipt on the 22<sup>nd</sup> of February 2023 details supplied by you in respect of the above section 5 application. A decision is due in respect of this application by 21/03/2023.

Mise, le meas

**SENIOR EXECUTIVE OFFICER**  
**PLANNING DEVELOPMENT AND ENVIRONMENT**



Wicklow County Council  
County Buildings  
Wicklow  
0404-20100

23/02/2023 09 29 57

Receipt No L1/0/309181

\*\*\*\*\* REPRINT \*\*\*\*\*

CHRISTOPHER WALSH  
32 EASTMOUNT  
DELGANY  
CO WICKLOW

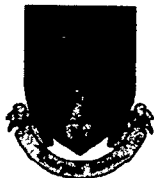
EXEMPTION CERTIFICATES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total	80 00 EUR
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Tendered	
Credit Card	80 00

Change	0 00
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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 CHRISTOPHER AND ALEXANDRIA WALSH of  
applicant: \_\_\_\_\_

Address of applicant: \_\_\_\_\_

100 \_\_\_\_\_

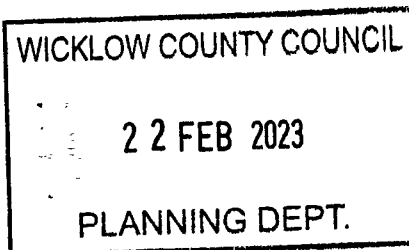
Note Phone number and email to be filled in on separate page.

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

(b) Name of Agent (where applicable)

N/A

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

32 EASTMOUNT GARDENS  
A63 AK29

- ii. Are you the owner and/or occupier of these lands at the location under i. above ? Yes/

~~NO~~

YES

- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier

N/A

- 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

*Additional details may be submitted by way of separate submission.*

TWO ~~SMALL~~ SMALL WINDOWS TO THE FRONT OF THE  
PROPERTY AS PART OF ATTIC CONVERSION AND WITHIN  
ROOFLINE

- 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 MAP
- PLAN AND ELEVATION OF PROPOSED CONVERSION
- PLAN AND ELEVATION OF PROPOSED OPENING IN ROOF

- viii. Fee of € 80 Attached ?

WILL PAY or Contribute

Signed : 

Dated : ~~22~~ 22/02/2023

**From:** Christopher Walsh  
**Sent:** Wednesday 22 February 2023 20:28  
**To:** Planning - Planning and Development Secretariat  
**Cc:** Alexandria Walsh  
**Subject:** Section 5 Referral - 32 Eastmount Gardens  
**Attachments:** Section5.pdf; Site Location Map.pdf; Planning Pack Map.pdf; Attic Plan.pdf; Proposed Front Elevation Feb 2023.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

To whom it may concern,

I wish to submit a Section 5 referral in relation to an attic conversion we are building at 32 Eastmount Gardens, Delgany Wicklow.

Please find attached the following documents:

- Site Map with red 'X' marking the property
- Front elevation of the proposed openings
- Plan of the floor area of the attic
- Application Form

Please let me know how I can pay the 80 Euro fee and submit this referral.

Thanks and regards,  
Christopher Walsh

--  
Chris



# Planning Pack Map



National Mapping Agency

**CENTRE COORDINATES:**  
ITM 728015,711797

**PUBLISHED:** 03/02/2023  
**ORDER NO.:** 50315721

**MAP SERIES:** 1:2,500  
1:1,000  
1:1,000  
**MAP SHEETS:** 3673-D  
3674-16  
3674-21

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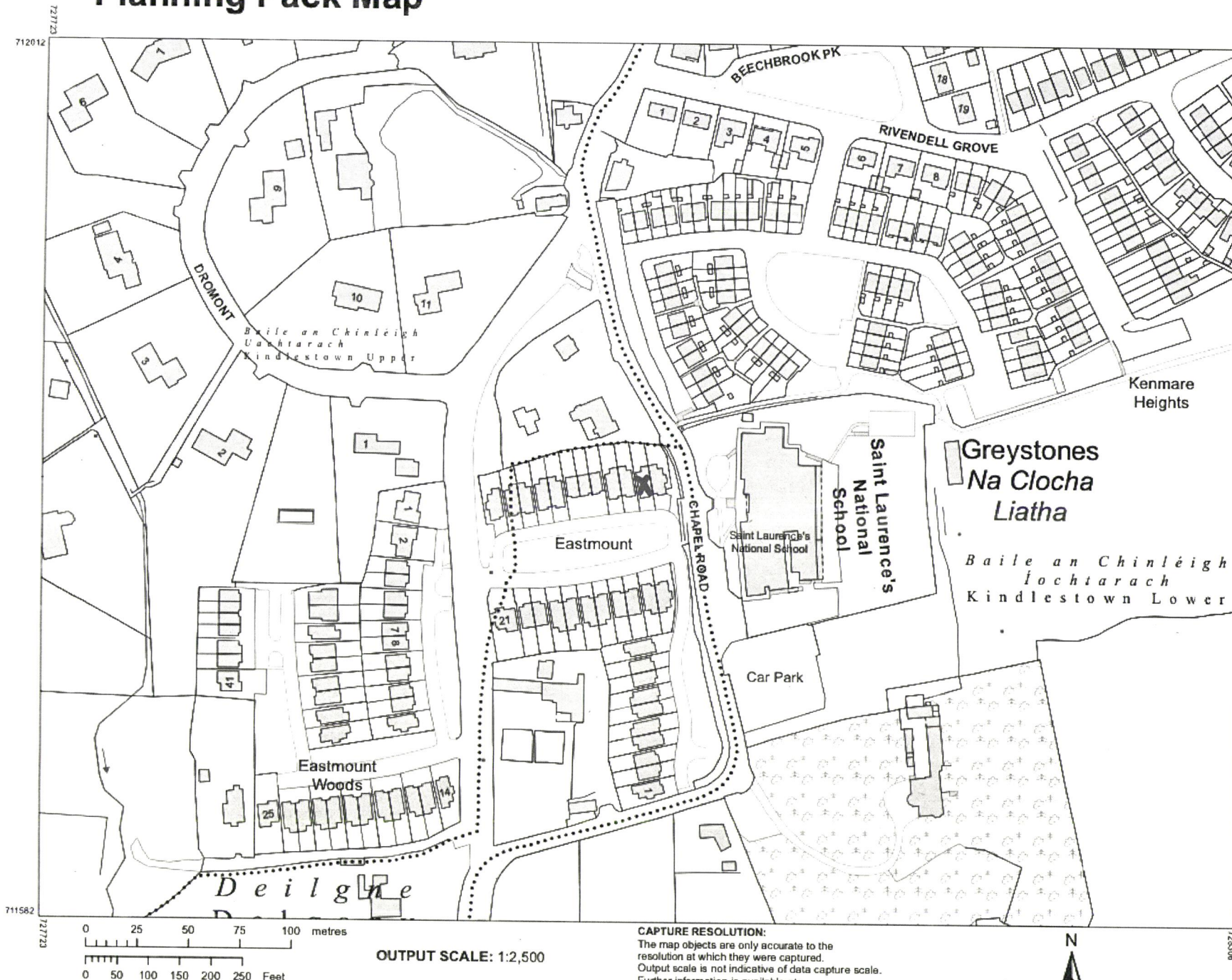
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## LEGEND:

<http://www.osi.ie>;  
search 'Large Scale Legend'



OUTPUT SCALE: 1:2,500

**CAPTURE RESOLUTION:**  
The map objects are only accurate to the  
resolution at which they were captured.  
Output scale is not indicative of data capture scale.  
Further information is available at:  
<http://www.osi.ie>; search 'Capture Resolution'



# Site Location Map

**CENTRE COORDINATES:**  
ITM 728015,711797

**PUBLISHED:** 03/02/2023  
**ORDER NO.:** 50315727\_1

**MAP SERIES:** 6 Inch Raster  
**MAP SHEETS:** WW008  
6 Inch Raster WW013

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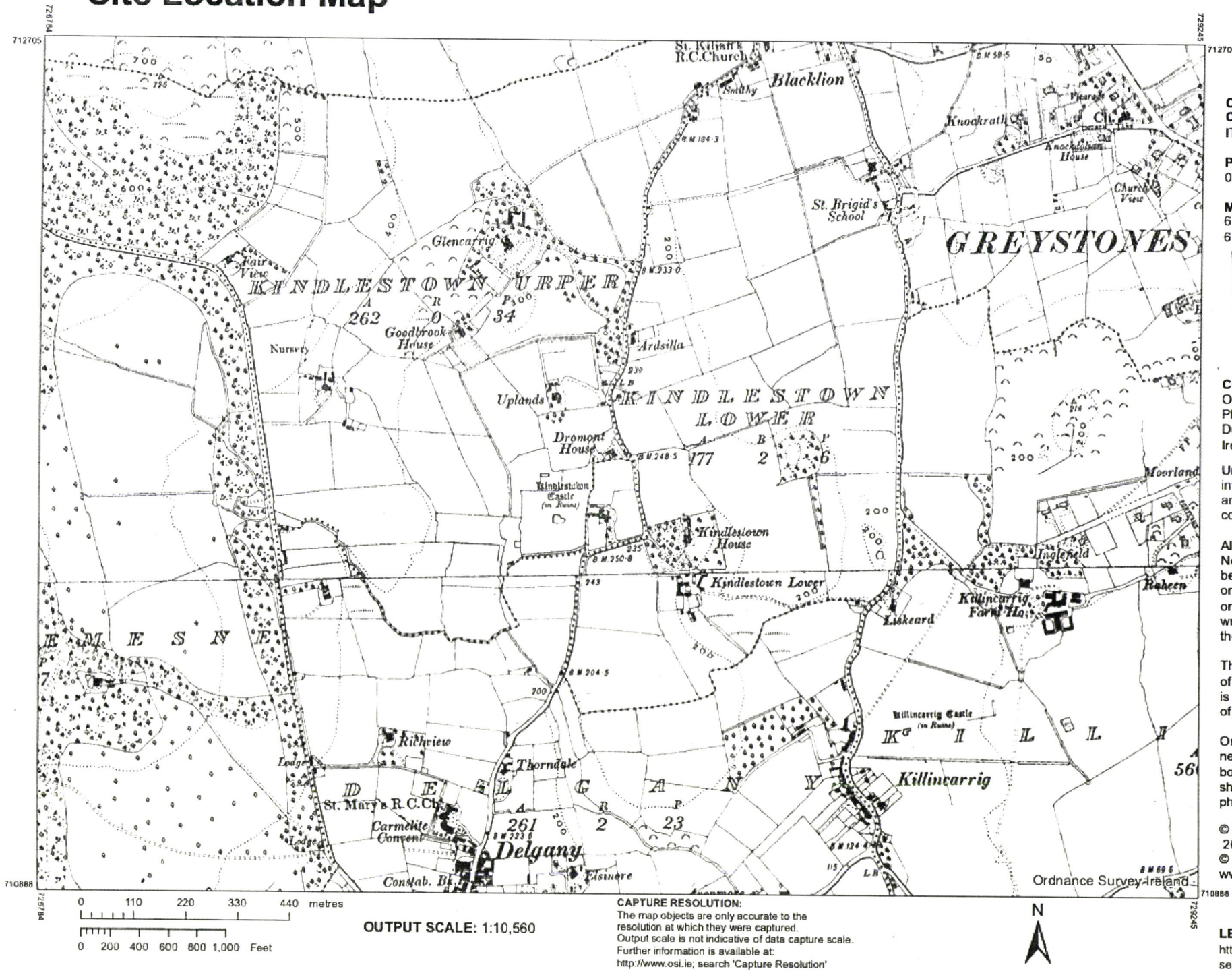
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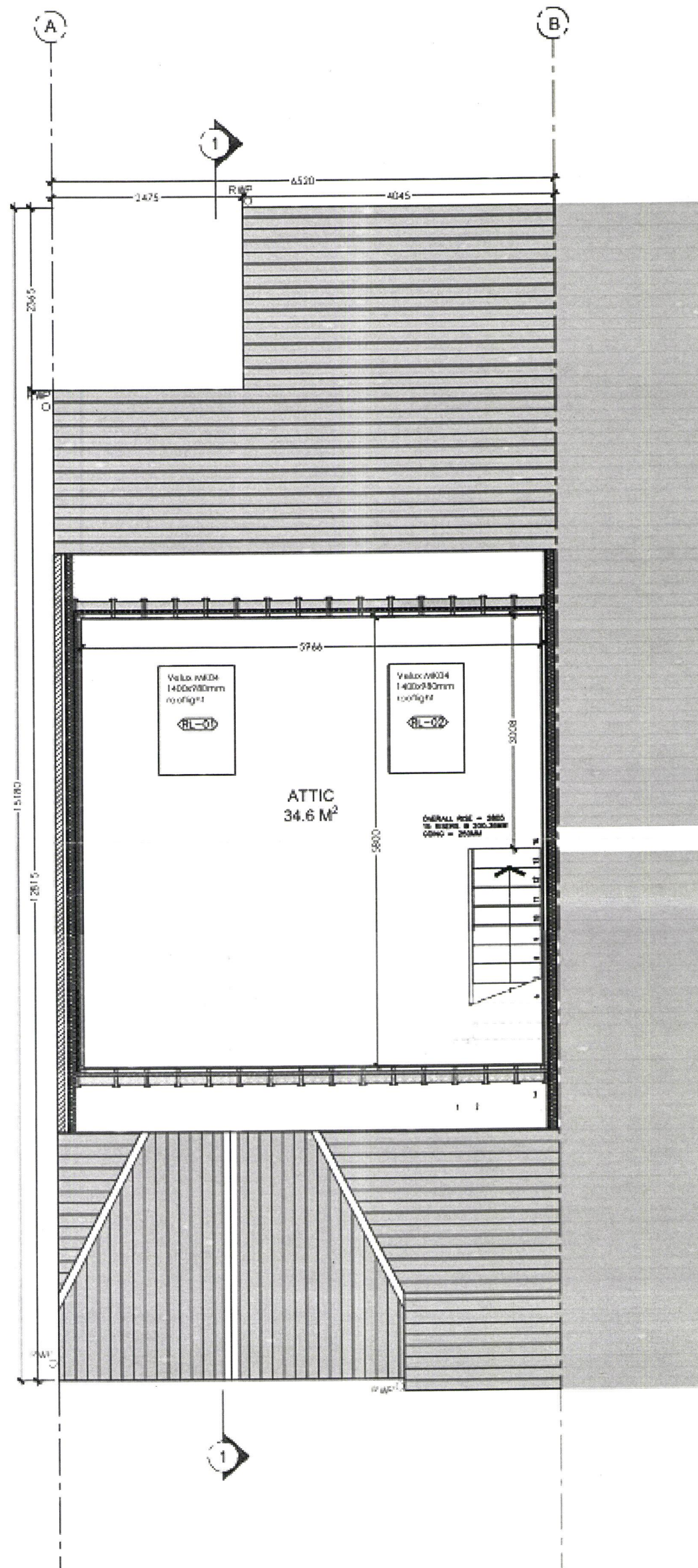
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search 'Large Scale Legend'







**PROPOSED ATTIC PLAN**  
SCALE 1:50

WICKLOW COUNTY COUNCIL  
22 FEB 2023  
PLANNING DEPT.





LEGEND										
	RF	100 00	LEVELS		ROOFLIGHT NUMBER					
	W	100 00	WINDOW NUMBER		DOOR NUMBER					
	R	100 00	RADIATOR NUMBER							
CONSTRUCTION NOTES										
<b>New Ground Floor:</b> 50mm screed on polythene layer over 150mm PIR insulation with 25mm PIR edge insulation on on DPM / Radon Membrane on 150mm reinforced concrete slab over compacted hardcore										
<b>New External Walls:</b> 20mm sand cement plaster on 100mm block outer leaf with 150mm cavity fully filled with Ecobead Platinum pumped cavity insulation and 100mm block inner leaf, parge coat plaster for air-tightness & 62.5mm insulated plasterboard & skim finish.										
<b>New Dormer Walls:</b> Coloured render finish on basecoat with mesh embedded on Cem-Rock cement board or similar fixed to pressure treated timber battens on breather membrane on 18mm OSB on timber frame with 120mm Xtratherm PIR fitted tightly between studs. 40mm Xtratherm PIR fixed internally with joint tape for air-tightness. Fix 50mm SW battens to form service void with 12.5mm plasterboard & skim finish.										
<b>Stud Partitions:</b> Stud partitions generally to be 100x50mm SW studs with 12.5mm plasterboard to both sides with skim finish & rockwool acoustic insulation within stud partition										
<b>Main roof (insulation on ceiling):</b> 300mm blown fibreglass insulation between & over ceiling joists with airtight membrane to underside & foil backed plasterboard & skim finish to ceilings. Install vent card at eaves to maintain 50mm ventilation space.										
<b>Main roof (insulation on slope):</b> 120mm Xtratherm XtraUnder insulation between rafters with 40mm Xtratherm PIR fixed to underside, joints foil taped for airtightness. Fix 50mm battens below to form service void & with 12.5mm plasterboard & skim finish										
<b>Flat Roof:</b> New flat roof with fibreglass finish on 18mm OSB deck on 2 no. layers 80mm Xtratherm PIR insulation (total 160mm) laid with joints staggered over 18mm OSB deck on firing pieces over 225x44mm flat roof joists at 300mm c/c with plasterboard fixed to underside and skimmed finish.										
<b>Heating:</b> Heating & hot water to be provided by condensing gas boiler. Standards radiators with TRVs to be installed (locations to be agreed with client) & time and temperature zone controls with min. 2 thermostats. Where an alternative is proposed it must be confirmed with BER Assessor. Supplementary heating provided by wood burning stove.										
<b>Ventilation &amp; Air-tightness:</b> Airtightness tapes & membranes to be fitted to all windows, doors, external walls & ceilings & around all penetrations for services.  Wall vents to provide ventilation with closable covers, locations to be agreed with client. Note where a room contains a fireplace / stove a permanently open vent should be included.  Mechanical extract ventilation to be provided to all wet rooms. WC / Bathroom extracts to be switched with lighting & have timer over-run. Utility extractor to be humidity controlled.  Roof space to be ventilated with over fascia vents to comply with 2.1.11 - 2.1.13 and as per Diagram 11 of TGD-F.										
<b>Gutters &amp; Downpipes:</b> Gutters & downpipes to match existing										
<b>Windows &amp; Doors:</b> New windows & doors to be triple glazed uPVC, certified with maximum U value = 1.2w/m2k & G glass = 0.70										
<b>Rooflights:</b> New Velux rooflights to extension to be certified windows with maximum U value = 1.3w/m2k & G glass = 0.81										
<b>Fire Safety:</b> Fire detection system to be upgraded to Grade D, category LD2 alarm system as per Part 1.3.6 of TGD-B Fire Safety - Volume 2 (2017), mains powered / battery backed smoke / heat alarm to (1) all circulation areas that form an escape route, (2) all high risk areas/rooms e.g. kitchen, living rooms, garages, utility rooms & (3) all bedrooms.										
REV	AMENDMENTS		BY	CHKD	APRD DATE					
Ian Heffernan & Associates										
Cnoc Dubh Ballymanus Lower Blackhill, Glenealy Co. Wicklow			Tel: 086 8891862 ian@heffernancivilengineers.ie www.heffernancivilengineers.ie							
Ian Heffernan BEng, MIEI, Certified Site Assessor										
CLIENT CHRISTOPHER & ALEXANDRA WALSH										
PROJECT DWELLING AT EASTMOUNT, DELGANY, CO. WICKLOW										
TITLE PROPOSED FRONT ELEVATION										
DRAWING STATUS CONSTRUCTION										
DATE FEB_2023		DRAWN BY IH								
SCALE 1:50										
DRAWING NO 2023/C003				REV -						

NOTE: All dimensions to be checked on site & any discrepancies notified. Do NOT scale off these drawings