

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

19th February 2025

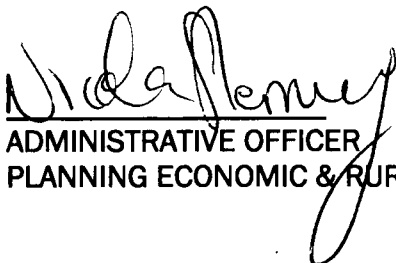
Pat Cullen
Knockrath
Co. Wicklow
A67 PN28

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000
(As Amended) – EX09/2025 – for Dominic Campbell

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: Dominic Campbell

Location: Rathdrum, Co. Wicklow

Reference Number: EX09/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/144

Section 5 Declaration as to whether “the construction of a driveway and gateway onto Killian’s Glen Housing Estate” at Rathdrum, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).


Having regard to:

- i. The details submitted with the Section 5 Declaration Application.
- ii. Site Inspection on the 11th February 2025
- iii. Section 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)
- iv. Articles 6 and 9 and of the Planning and Development Regulations 2001(as amended).
- v. Engineer’s roads report of PRR24503.

Main Reasons with respect to Section 5 Declaration:

1. The proposal would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
2. The proposed gateway would result in additional traffic movements in close proximity to a road junction and at a road junction which is substandard. Hence, the proposed gateway would result in a traffic hazard and therefore the provisions of Article (1)(a)(iii) of the Planning & Development Regulations 2001, as amended, would apply.
3. There are no exemptions under the Planning & Development Act 2000, as amended, and the Planning & Development Regulations 2001, as amended for the construction of a driveway within the curtilage of a house.

The Planning Authority considers that “the construction of a driveway and gateway onto Killian’s Glen Housing Estate” at Rathdrum, Co. Wicklow **is development and is NOT exempted development** within the meaning of the Planning & Development Act 2000 (as amended).

Signed: 
ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated 19th February 2025



WICKLOW COUNTY COUNCIL
PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5
CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/144

Reference Number: EX09/2025

Name of Applicant: Dominic Campbell

Nature of Application: Section 5 Declaration request as to whether or not: -
"the construction of a driveway and gateway onto Killian's Glen Housing Estate" is or is not development and is or is not exempted development.

Location of Subject Site: Rathdrum, Co. Wicklow

Report from Andrew Spencer, EP & Suzanne White, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "the construction of a driveway and gateway onto Killian's Glen Housing Estate" at Rathdrum, 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 with the Section 5 Declaration Application.
- ii. Site Inspection on the 11th February 2025
- iii. Section 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- iv. Articles 6 and 9 and of the Planning and Development Regulations 2001(as amended).
- v. Engineer's roads report of PRR24503.

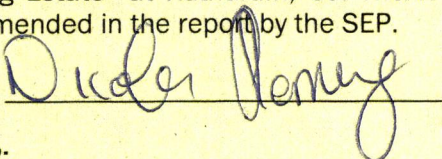
Main Reason with respect to Section 5 Declaration:

- 1) The proposal would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- 2) The proposed gateway would result in additional traffic movements in close proximity to a road junction and ~~a~~ at a road junction which is substandard. Hence, the proposed gateway would result in a traffic hazard and therefore the provisions of Article (1)(a)(iii) of the Planning & Development Regulations 2001, as amended, would apply.
- 3) There are no exemptions under the Planning & Development Act 2000, as amended, and the Planning & Development Regulations 2001, as amended for the construction of a driveway within the curtilage of a house.

Recommendation:

The Planning Authority considers that "the construction of a driveway and gateway onto Killian's Glen Housing Estate" at Rathdrum, Co. Wicklow is development and is NOT exempted development as recommended in the report by the SEP.

Signed

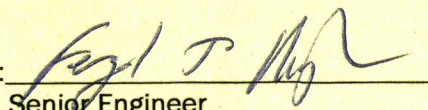


Dated 7th day of February 2025

ORDER:

I HEREBY DECLARE THAT "the construction of a driveway and gateway onto Killian's Glen Housing Estate" at Rathdrum, Co. Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:


Senior Engineer
Planning, Economic & Rural Development

Dated 19th day of February 2025



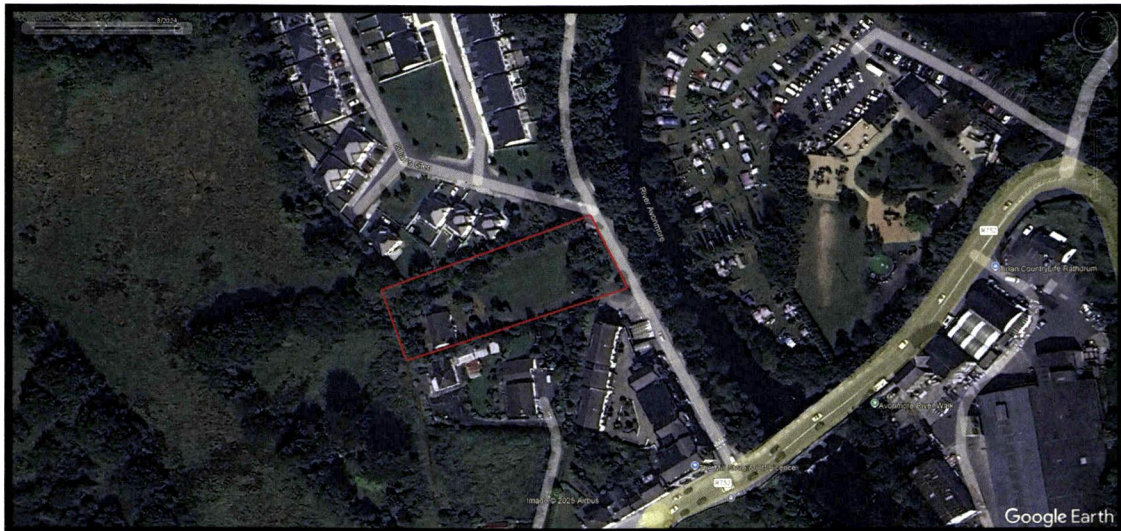
WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT

Section 5 – Application for declaration of Exemption Certificate

REF: EX 09/2025
NAME: DOMINIC CAMPBELL
DEVELOPMENT: NEW DRIVEWAY AT DWELLING ONTO KILLIAN GLEN ESTATE.
LOCATION: RATHDRUM CO. WICKLOW.

The Site:

The site is located to the immediate south of the Killian Glen housing development within the settlement boundary of Rathdrum Town. The site is of a rectangular shape and slopes west to east toward the public road. The existing dwelling on site is toward the western end and the is well screened from the public road. There appear to be two access points. An original access at the northern end of the front (eastern boundary) and an access granted under PRR884363 located at the southern end of the front boundary which is accessed from a cul de sac laneway off Lower Street.



Planning History (subject site):

026490 - Extension to existing cottage - Grant
884363 - New entrance and driveway and septic tank

Question:

The applicant has applied to see whether or not the construction of a driveway from a one off residential onto Killian Glen housing estate is or is not exempted development. From the submitted drawings it would appear that there are two main elements the construction of a gateway for exiting out of the residential site and the construction of a driveway.

For the purposes of clarity the ^{question asked} development will be expanded to include:

- 1) The construction of driveway
- 2) The construction of a gateway bounding the residential property.

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 the following:

'Works' include "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.

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—

(iii) endanger public safety by reason of a traffic hazard or obstruction of road users.

Assessment:

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" 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.

- 1) With respect to the driveway: I am satisfied that the construction of a driveway involves works and therefore constitutes development.
- 2) With respect to the gateway: I am satisfied that the construction of a gateway bounding the residential property involves works and therefore constitutes development.

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

- 1) With respect to the driveway I found no exempted development relating to driveways under Section 4 of the Planning and Development Act 2000 (as amended) and I found no exempted development description relating to driveways within the Column 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). As such I consider that the construction of a driveway is development and is not exempted development.

- 2) With respect to the gateway the relevant Class 5 of Column 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) reads:

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 subject to the following 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.*

Given the above it would appear that the construction of a gateway bounding the site could be exempt however given the insufficient construction detail submitted it is not possible to ascertain if the gateway would meet the limitations/conditions.

Notwithstanding the above it is considered that having regard to the proximity of the junction of the access onto Killian's Glen estate and the required sightlines at the junction of the estate road and the Rugby Club road which are currently not available, the opening of an access onto Killian's Estate would endanger public safety by reason of a traffic hazard or obstruction of road users.

As such the development would be **not** be exempted development ~~under~~ *being regarded* Article 9(1) of the Planning and Development Regulations 2001 (as amended) which states

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—

iii) endanger public safety by reason of a traffic hazard or obstruction of road users.

Conclusion:

Having regard to the above assessment it is considered that the construction of a driveway and gate providing access onto the Kilian Glen Estate road is development and is **not** exempted development.

Recommendation:

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

- 1) The construction of a driveway and gate ^{now} providing access onto the Kilian Glen Estate road constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended)

The Planning Authority considers that the construction of a driveway and gate ^{now} providing access onto the Kilian Glen Estate is development and is **not** exempted development,

Main Considerations with respect to Section 5 Declaration:

- The details submitted with the Section 5 Declaration Application.
- Site Inspection on the 11th February 2025
- Section 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- Articles 6 and 9 and of the Planning and Development Regulations 2001(as amended).
- Engineer's roads report of PRR24503.

Main Reasons with respect to Section 5 Declaration :

- 1) The proposal 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) Article 9(1) of the Planning and Development Regulations 2001 (as amended) which states:
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—
iii) endanger public safety by reason of a traffic hazard or obstruction of road users.

Ardas from

3. There are no exemptions under the Planning and Development Act 2000, as amended, and the Planning and Development Regulations 2001, as amended for the construction of a driveway within the curtilage of a house.

18/02/2025

Andrew Spencer
Executive Planner

Agreed as modified

The level of detail submitted with the S5 Declaration request is inadequate to allow a full assessment to be made here. Class 5 to be applicable, it would not have been possible to assess compliance with the conditions/limitations attached to Class 5. Furthermore, it is not clear where the proposed gateway would be on the curtilage boundary and how connection to Williams Etn would then be made. It is unclear if the gateway would access the existing driveway and associated gate/gateway or whether access would ~~then~~ be made across the driveway using another existing entrance to Williams Etn. The latter may very well require a 2nd gateway. However, given the basic determination that there are no exemptions for the driveway and Article (9) de-exemption would apply to the gateway, I consider that it would be unnecessary to seek a Declaration for the extra details and that a Declaration can issue.

Reason 2 to be re-written as follows:

2. The proposed gateway would result in additional traffic movements in close proximity to a road junction and at a road junction which is substandard. Hence, the proposed gateway ~~should~~ result in a traffic hazard and therefore the provisions of Article 9(1)(a)(iii) of the P&D Regs. 2001, as amended would apply.

Issue declaration as detailed above
Fergal T. Maguire 18/02/25



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Wicklow County Council

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MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Andrew Spencer
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).
EX09/2025

I enclose herewith application for Section 5 Declaration received completed on 23/01/2025

The due date on this declaration is 19th February 2025.

Staff Officer
Planning, Economic & Rural Development





COMHAIRLE CONTAE CHILL Mhantáin
Wicklow County Council

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28th January 2025

Pat Cullen
Knockrath
Co. Wicklow
A67 PN28

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX09/2025.

A Chara

I wish to acknowledge receipt on 23/01/2025 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 19/02/2025.

Mise, le meas



Nicola Fleming
Staff Officer
Planning, Economic & Rural Development



Wicklow County Council
County Buildings
Wicklow
0404-20100

23/01/2025 11 28 55

Receipt No L1/0/340025

PAT CULLEN
KNOCKRATH
CO WICKLOW

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

Total 80 00 EUR

Tendered
Credit Card 80 00

Change 0 00

Issued By Cindy Driver
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: Dominic Campbell
Address of applicant: 32 Grove Rd
Yunglos Dublin 11

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

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) Pat Cullen
Address of Agent : Knocknath Co Wicklow
A67PN28

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

RECEIVED 23 JAN 2025

3. Declaration Details

i. Location of Development subject of Declaration Millview
Lough Street
Rathdown to Wicklow

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 I wish to build
a driveway to Killa Glen development
to the East of my property has closed
access to the road,

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 Section 5

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 _____

as Supplied
See attached.

viii. Fee of € 80 Attached ? _____

Signed : Dominic Campbell Dated : 21/1/2025

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
- 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.

DOMINIC CAMPBELL
RATHDRUM



Tailte Éireann
Cláruchán, Luacháil,
Suirbhéireacht
Registration, Valuation,
Surveying

Official Tailte Éireann Registration Map

This map should be read in conjunction with the folio.

Tailte Éireann (TÉ) Registration mapping is based on TÉ Surveying mapping. Where TÉ Registration maps are printed at a scale that is larger than the TÉ Surveying scale, accuracy is limited to that of the TÉ Surveying map scale.

For details of the terms of use and limitations of scale, accuracy and other conditions relating to TÉ Registration maps, see www.tailte.ie.

This map incorporates TÉ Surveying map data under a licence from TÉ. Copyright © Tailte Éireann and Government of Ireland.

(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold
- 'S' Register

(see Section 8(b)(ii) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2018).

Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit

A full list of burdens and their symbology can be found at: www.landdirect.ie

Tailte Éireann Registration operates a non-conclusive boundary system. The TÉ Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a TÉ Registration map is conclusive as to the boundaries or extent.

(see Section 85 of the Registration of Title Act, 1964). As Inserted by Section 62 of the Registration of Deed and Title Act 2006.

