

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

Nadine Keane

26th July 2024

RE: Declaration in accordance with Section 5 of the Planning & Development Act 2000 (As Amended) – EX56/2024

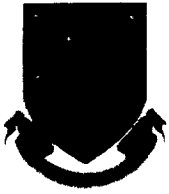
I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000.

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 ECONOMIC & RURAL DEVELOPMENT





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

Applicant: Nadine Keane

CHIEF EXECUTIVE ORDER NO. CE/PERD/954/2024

Section 5 Declaration as to whether "A. breaking out a single door on bungalow side gable and B. closing off of existing back door" at Bolynass Upper, Ashford, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

Having regard to:

- i. The details received on 28/06/2024;
- ii. Sections 2 and 3 of the Planning and Development Act 2000(as amended).
- iii. Section 4(1)(h) of the Planning and Development Act 2000 (as amended)

Main Reasons with respect to Section 5 Declaration:

- a) The breaking out of a single door on side gable and closing off of existing back door is considered works and is therefore development having regard to the provisions of Section 3 of the Planning & Development Act 2000 (as amended).
- b) The breaking out of a single door on side gable, and closing off of existing back door would not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighboring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

The Planning Authority considers that "A. breaking out a single door on bungalow side gable and B. closing off of existing back door" at Bolynass Upper, Ashford, Co. Wicklow "is development and is exempted development"

Signed:


ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated  July 2024



WICKLOW COUNTY COUNCIL
PLANNING & DEVELOPMENT ACT 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/954/2024

Reference Number: EX56/2024
Name of Applicant: Nadine Keane
Nature of Application: Section 5 Declaration request as to whether or not: -
"A. breaking out a single door on bungalow side gable and B. closing off of existing back door" is or is not development and is or is not exempted development.
Location of Subject Site: Bolynass Upper, Ashford, Co. Wicklow
Report from Billy Slater, AP & Edel Bermingham, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether " A. breaking out a single door on bungalow side gable and B. closing off of existing back door" at Bolynass Upper, Ashford, 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 received on 28/06/2024;
- ii. Sections 2 and 3 of the Planning and Development Act 2000(as amended).
- iii. Section 4(1)(h) of the Planning and Development Act 2000 (as amended)

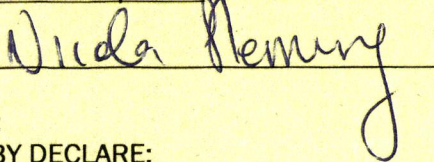
Main Reason with respect to Section 5 Declaration:

- a) The breaking out of a single door on side gable and closing off of existing back door is considered works and is therefore development having regard to the provisions of Section 3 of the Planning & Development Act 2000 (as amended).
- b) The breaking out of a single door side gable, and closing off of existing back door would not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighboring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

Recommendation:

The Planning Authority considers that "A. breaking out a single door on bungalow side gable and B. closing off of existing back door" at Bolynass Upper, Ashford, Co. Wicklow is development and is exempted development as recommended in the report by the SEP.

Signed



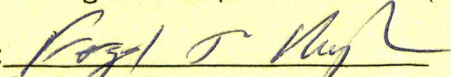
Dated ^{22nd} day of July 2024

ORDER:

I HEREBY DECLARE:

That " A. breaking out a single door on bungalow side gable and B. closing off of existing back door" at Bolynass Upper, Ashford, Co. Wicklow is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:


Senior Engineer
Planning, Economic & Rural Development

Dated ^{24th} day of July 2024



**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

To: Fergal Keogh S.E / Suzanne White S.E.P. / Edel Bermingham S.E.P.
From: Billy Slater A.P.
Type: Section 5 Application
REF: EX 56/2024
Applicant: Nadine Keane
Date of Application: 28/06/2024
Decision Due Date: 25/07/2024
Address: Bolynass Upper, Ashford, Co. Wicklow
Exemption Query: Break out single door on gable.

Application Site: The application site is located in the level 9 Rural Cluster of Bolynass and is occupied by a detached dormer 1.5 storey dwelling ,with garage to its side (northern) and large private garden to the rear. The site is accessed via the L-50721-0 and is bound by further dwellings to the north-west and south-east.

Aerial / Site Image



Section 5 Referral

From examining the submitted particulars, it is noted that the section 5 query should be re-worded as follows. The:

- A. Breaking out of a single door on bungalow side gable, and
- B. Closing off of existing back door

at Bolynass Upper, Ashford, Co. Wicklow.

Relevant Planning History:

Ref 91/7272
Applicant Paul & Patricia Smullen
Development Bungalow, garage and septic tank
Decision Grant

Ref	12/6799
Applicant	Martin Woods
Development	first floor bedroom attic conversion with gable and velux windows and removal of condition 1a of 91/7272 and permission to upgrade existing septic tank and all associated site works
Decision	Grant

Question:

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

- A. Breaking out of a single door on bungalow side gable, and
- B. Closing off of existing back door

at Bolynass Upper, Ashford, Co. Wicklow is or is not exempted development:

Legislative Context:

Planning and Development Act 2000 (as amended)

Section 2(1) of the Act states the following in respect of the following:

“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

“works” includes Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...”

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 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) is relevant for the purposes of this declaration:

“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.”

Section 4(2) makes provision for ministerial regulations to set out further exemptions. The 2001 Planning Regulations as amended derive from this section and designate further works as being exempted development for the purposes of the act.

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):

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 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,

And so on,

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.

Details submitted in support of the application:

- Land registry maps
- House plans / ground floor plans indicating the location of the door to be opened up and to be closed over.
- Elevation drawings of the proposed door have also been provided.

Assessment:

The Section 5 declaration application seeks an answer with respect to the following question:

Whether the Breaking out of a single door on bungalow side gable and closing off of an existing back door at Bolynass Upper, Ashford, Co. Wicklow 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*” 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.

I am satisfied that the proposal would involve *works* to the existing dwelling and therefore the proposal does constitute 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 its associated Regulations.

Having regard to the minor nature of the proposed works and location restricted to the side and rear of the existing dwelling, I do not consider that the breaking out of a single door on bungalow side gable and closing off of existing back door would materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the house or neighbouring houses. I

therefore consider that the works would fall under the remit of 4(1)(h) of the Planning and Development Act 2000 (as amended).

Recommendation:

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

- A. Breaking out of a single door on bungalow side gable, and
- B. Closing off of existing back door

at Bolynass Upper, Ashford, Co. Wicklow is or is not exempted development:

The Planning Authority considers that:

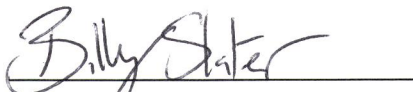
The Breaking out of a single door on bungalow side gable, and Closing off of existing back door at Bolynass Upper, Ashford, Co. Wicklow is development and is exempted development

Main Considerations with respect to Section 5 Declaration:

- i. The details received on 28/06/2024;
- ii. Sections 2 and 3 of the Planning and Development Act 2000(as amended).
- iii. Section 4(1)(h) of the Planning and Development Act 2000 (as amended)

Main Reasons with respect to Section 5 Declaration:

- (a) The breaking out of a single door on ~~bungalow~~ side gable and closing off of existing back door is considered works and is therefore development having regard to the provisions of Section 3 of the Planning & Development Act 2000 (as amended).
- (b) The breaking out of a single door on ~~bungalow~~ side gable, and closing off of existing back door would not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighboring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).



Billy Slater A.P.
16/07/2024


18/7/2024

*Issue declaration as recommended
18/7/24
28/07/24*

MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Billy Slater
Assistant Planner

FROM: Nicola Fleming
Staff Officer

**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).**
EX05/2024
56

I enclose herewith application for Section 5 Declaration received 28th June

The due date on this declaration is 25th July 2024.



Staff Officer
Planning Development & Environment



COMHAIRLE CONTAE CHILL Mhantáin
Wicklow County Council

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

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Suíomh / Website: www.wicklow.ie

Nadine Keane

2nd July 2024

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX56/2024

A Chara

I wish to acknowledge receipt of your application and details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 25th July 2024.

Mise, le meas

Nicola Fleming
Staff Officer
Planning, Economic & Rural Development

Ta an doicimead seo ar fáil i bhformáid eile ar iarratas
This document is available in alternative formats on request

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
Wick
0404-20100

28/06/2024 11 16 40

Receipt No L1/0/331195
***** REPRINT *****

NADINE KEAN
BOLEYNASS UPPER
ASHFORD
CO WICKLOW
A67 A727

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 Annmarie Ryan
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:

NADINE KEANE

Address of applicant: P. _____

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 :

WICKLOW COUNTY COUNCIL
28 JUN 2024
PLANNING DEPT.

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

3. Declaration Details

i. Location of Development subject of

Declaration

BOLEYNASS UPPER,
ASHFORD,
CO. WICKLOW, A67 A727

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

Additional details may be submitted by way of separate submission.

MAY I BREAK OUT A SINGLE DOOR WITH THIN SIDE GLASS PANEL ON THE GABLE END OF THE DORMER BUNGALOW FROM THE DINING ROOM AND BLOCK AND PLASTER THE CURRENT BACK DOOR.

v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration

SECTION 5 - DEVELOPMENT OF A MINOR NATURE

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

- 1) LAND REGISTRY MAP SHOWING SITE POSITION
- 2) HOUSE PLANS - FRONT ELEVATION, GROUND FLOOR PLAN AND FIRST FLOOR PLAN
- 3) PROPOSED DOOR DIMENSIONS
- 4) HOUSE AND GARDEN PLAN

viii. Fee of € 80 Attached ?

Signed : Machine Keane Dated : 28/06/24

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.



KNOCKADREET

40

BOI

722670 mE, 700300 mN

**The Property
Registration Authority
An tÚdarás
Clárúcháin Maoine**



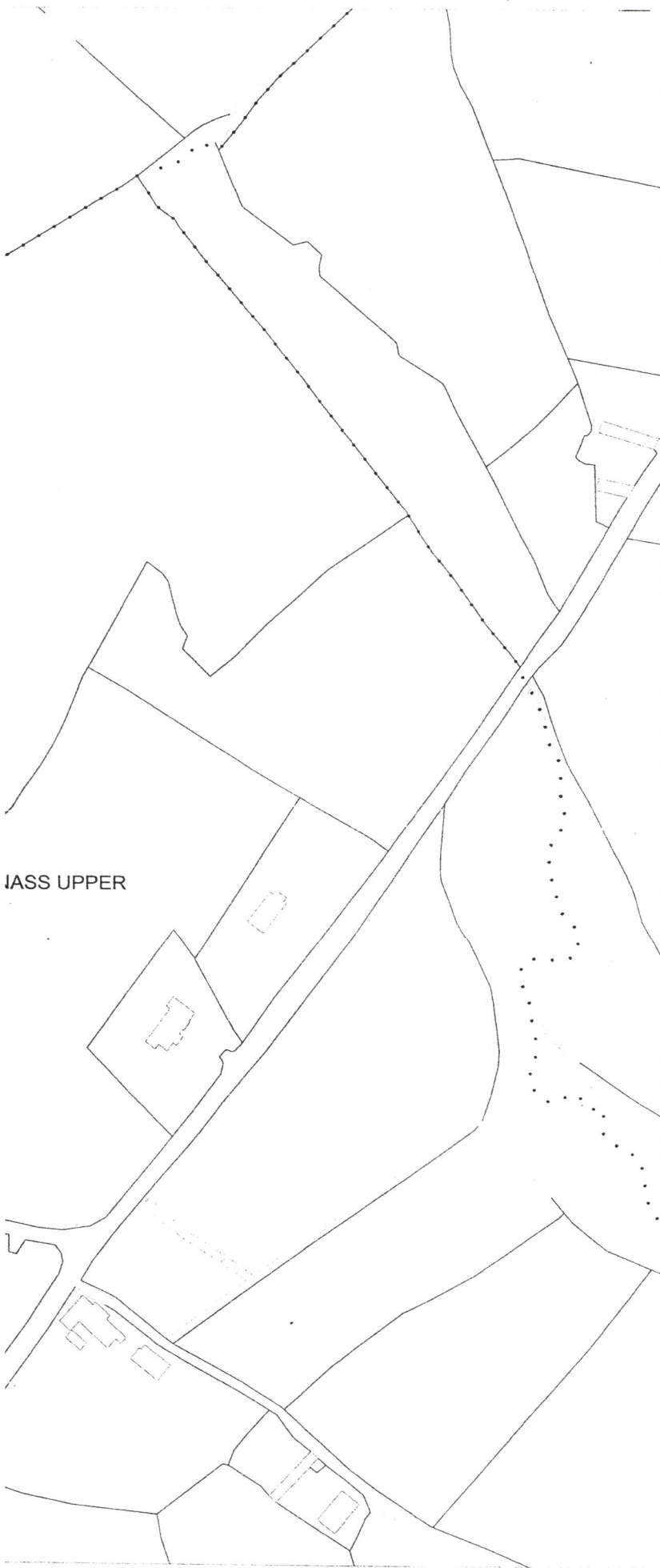
Folio: WW15092F

This map should be read in conjunction with the folio.




Registry maps are based on OSi topographic mapping. Where registry maps are printed at a scale that is larger than the OSi published scale, accuracy is limited to that of the original OSi map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.prai.ie.








This map incorporates Ordnance Survey Ireland (OSi) mapping data under a licence from OSi. Copyright © OSi and Government of Ireland.



(centre-line of parcel(s) edged)

-  Freehold
-  Leasehold
-  SubLeasehold

Burdens (may not all be represented on map)

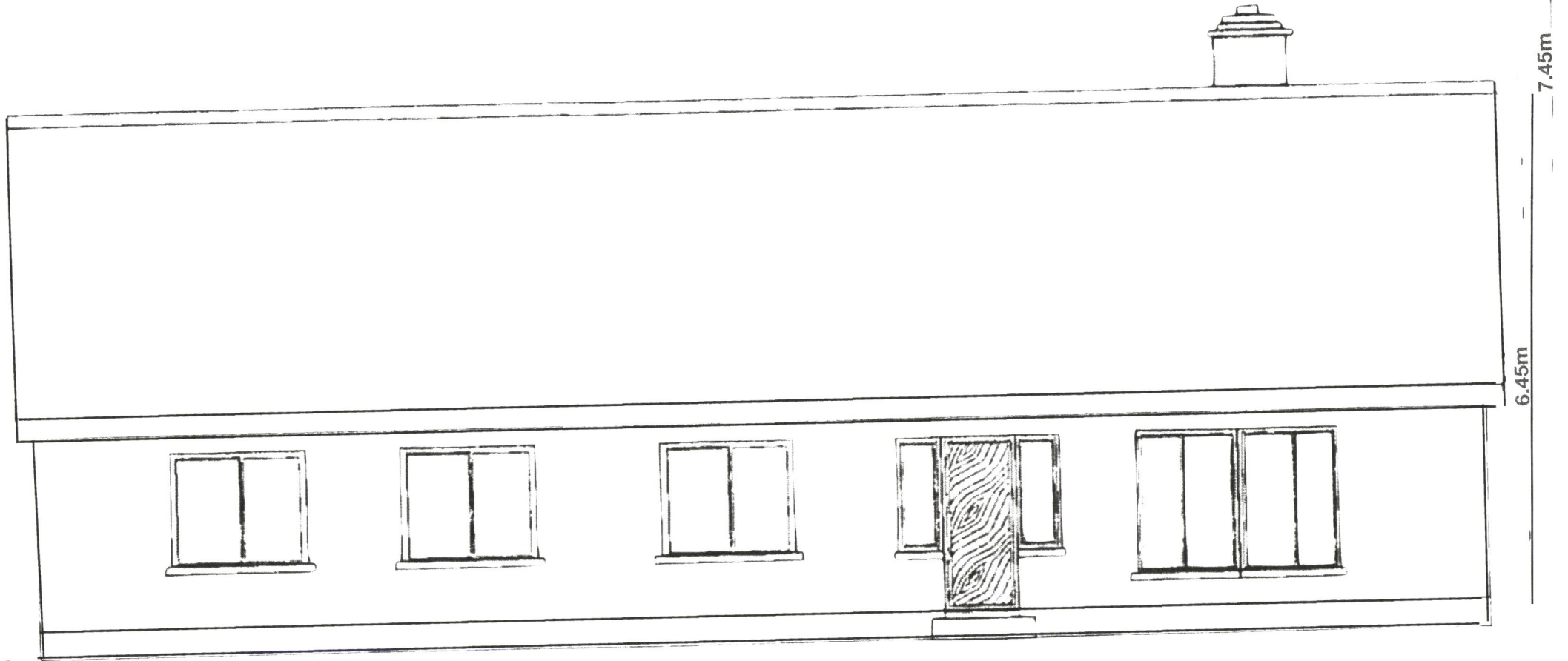
-  Right of Way / Wayleave
-  Turbary
-  Pipeline
-  Well
-  Pump
-  Septic Tank
-  Soak Pit

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

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry 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.



TOTAL FLOOR AREA
≈212.85 SQM

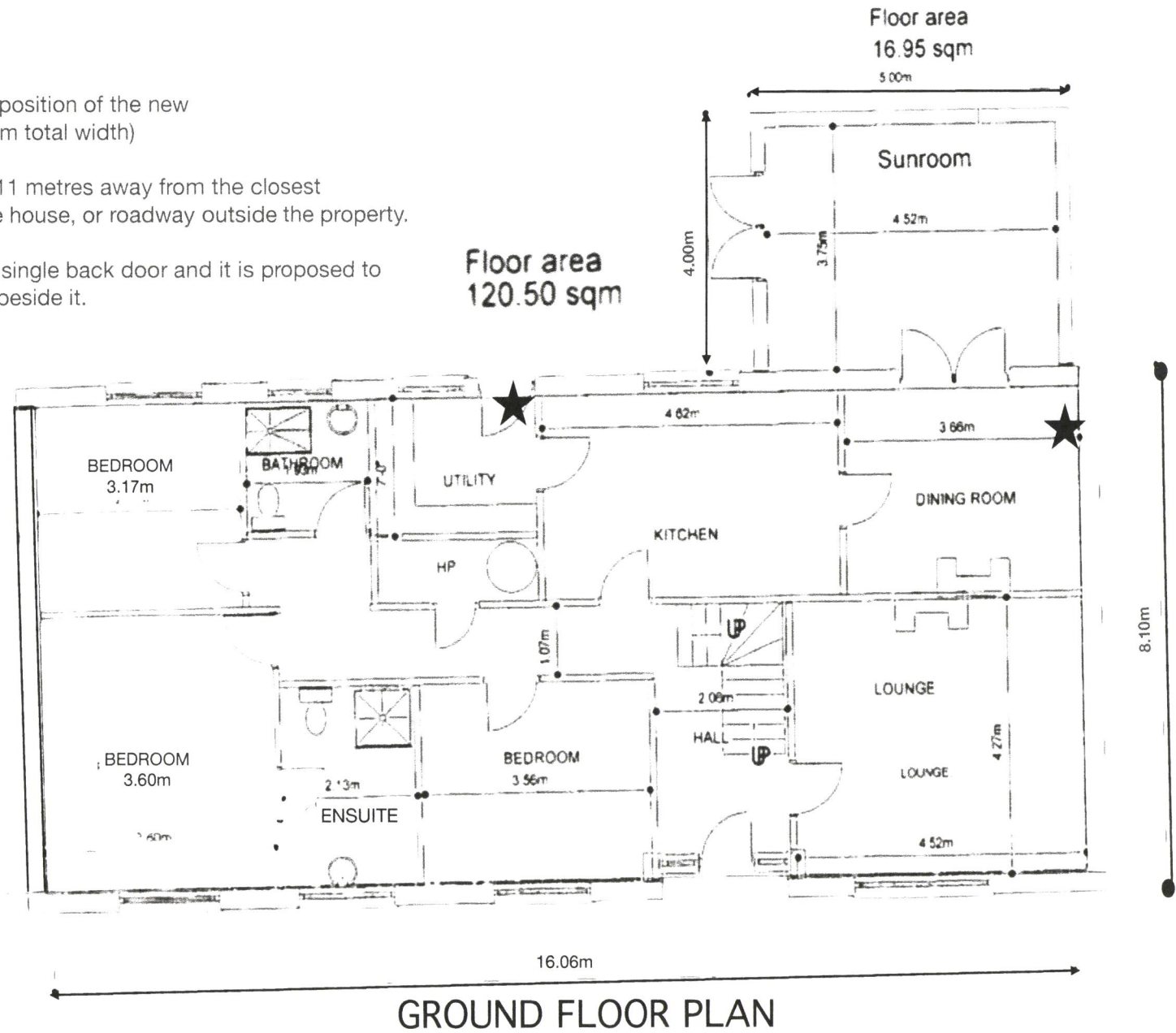


FRONT ELEVATION

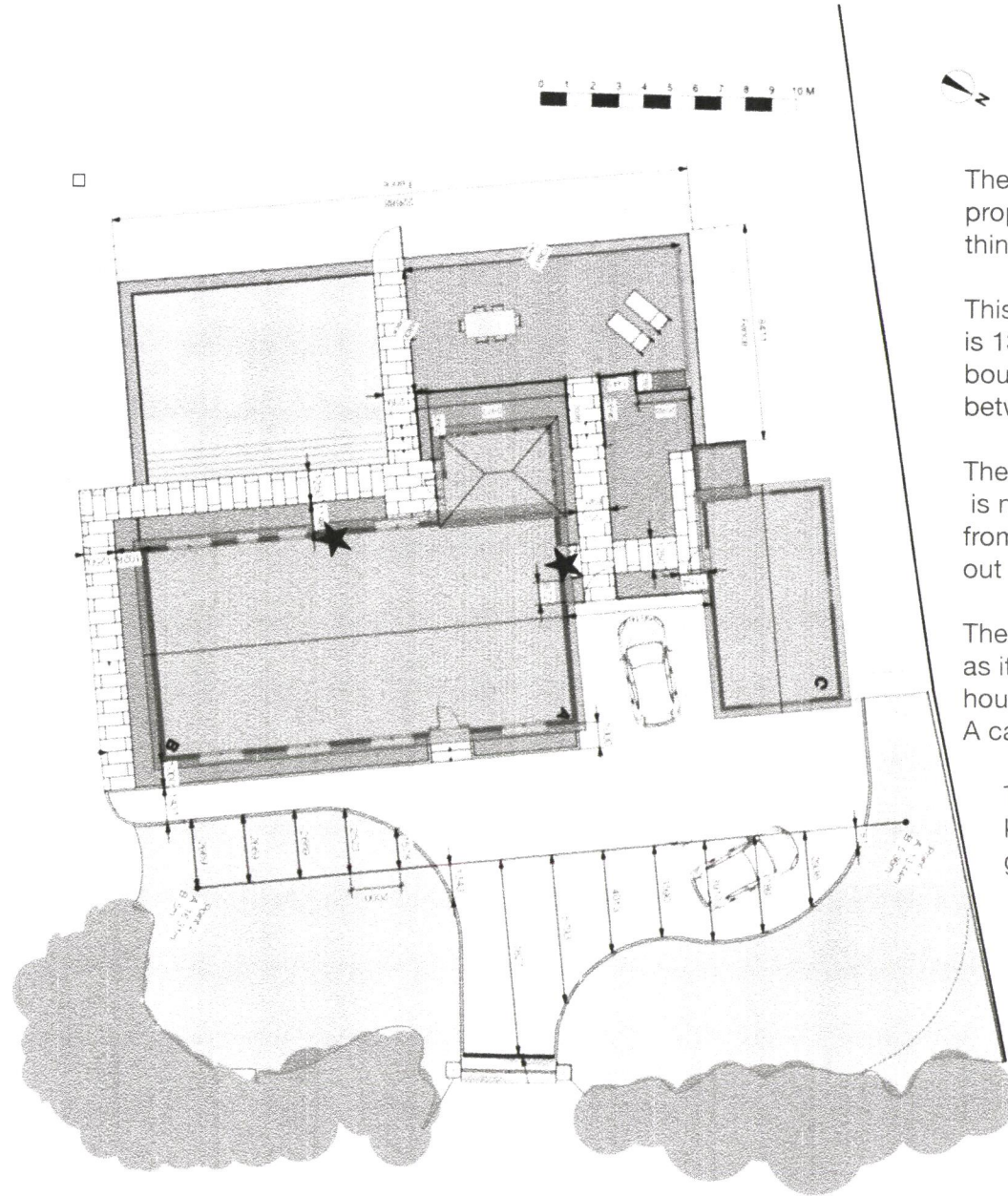
The Star shown in dining room is the proposed position of the new single door with thin side panel of glass. (1200cm total width)

This proposed position of the single door is 13.11 metres away from the closest boundary, and is not visible from the front of the house, or roadway outside the property.

The Star at the back of the house is the current single back door and it is proposed to close this opening, but retain the large window beside it.



The Star at the back of the house is the current single back door and it is proposed to close this opening, but retain the large window beside it.



The Star shown at the gable end is the proposed position of the new single door with thin side panel of glass. (1200cm total width)

This proposed position of the single door is 13.11 metres away from the closest boundary, and there is a detached garage between it and the boundary.

The proposed position of the single door is not visible from the front entrance or from the road the front entrance leads out onto.

The proposed position is an improvement as it leads directly via pathway between the house to the adjacent detached garage where a car can park (inside or outside the garage).

The proposed door at the gable end is in keeping with side opening doors into the gardens of both neighbouring properties.

PROPOSED DOOR DIMENSIONS

This shows the proposed new single door with thin glass panel.

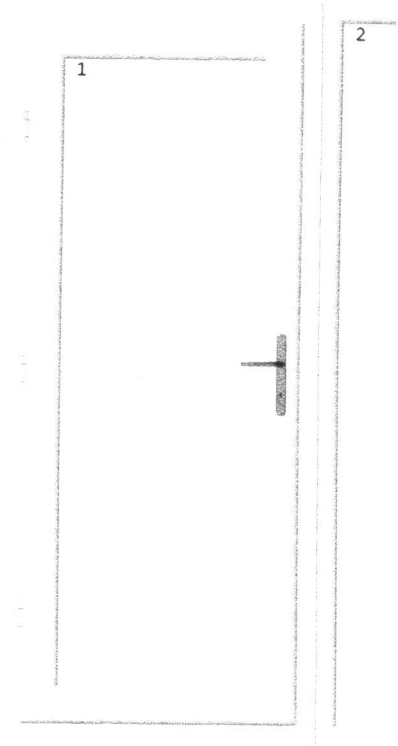
Total width of frame, door, panel = 1200cm

Height 2137cm

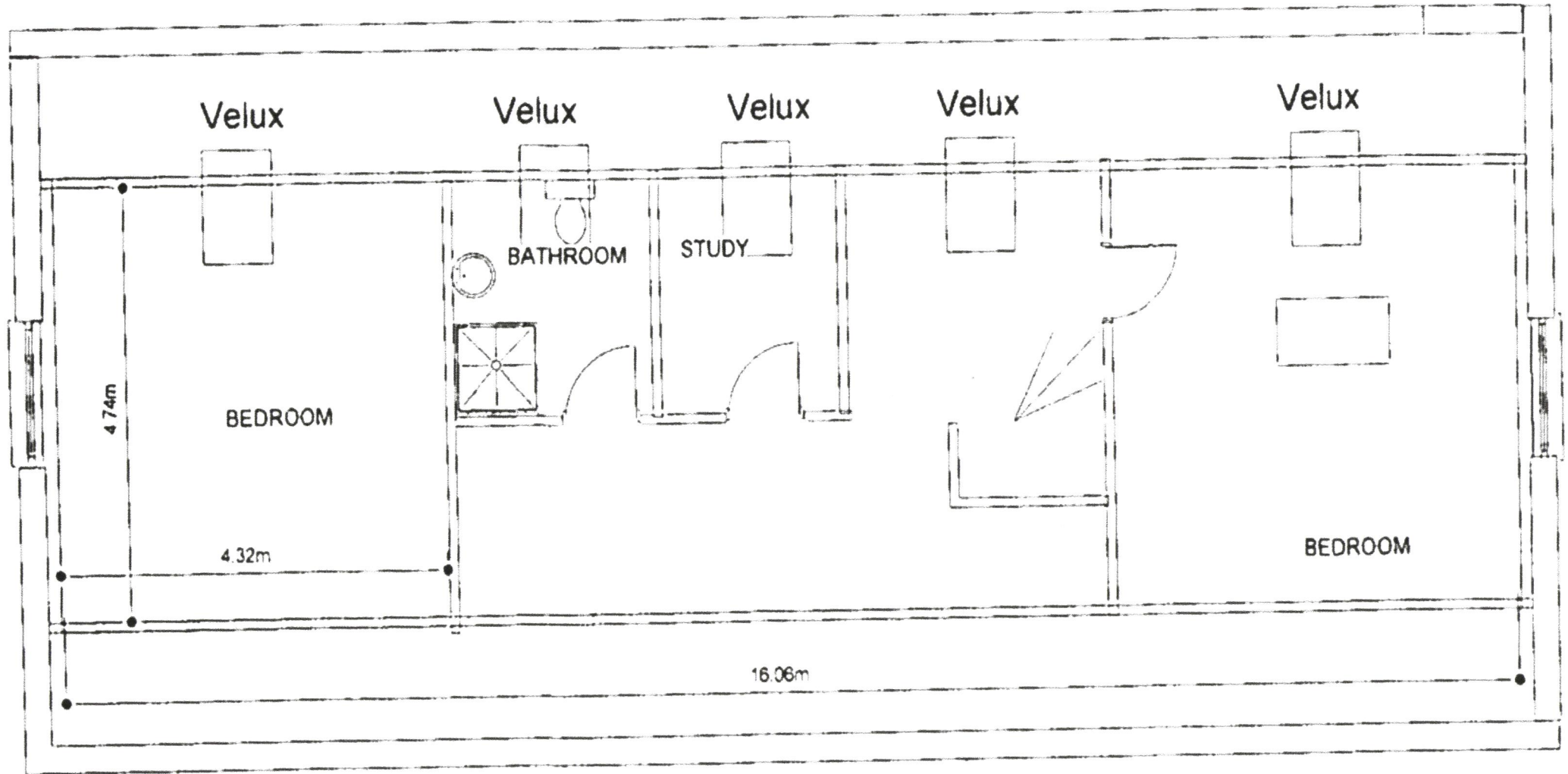
A+ rating

This is the door from the outside in.

From the inside of the house, the door will open towards the back garden.



FIRST FLOOR is unaffected by the proposed current opening being closed and new opening being put in.



FIRST FLOOR PLAN
FLOOR AREA 75.40 SQM