



# 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](mailto:plandev@wicklowcoco.ie)  
Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

St Patrick Church  
Church Road  
Greystones  
Co. Wicklow  
A63, WK71.

3/5 May 2024

RE: Declaration in accordance with Section 5 of the Planning & Development  
Act 2000 (As Amended) – EX35/2024

A Chara,

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

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

Is mise, le meas,

ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT.





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

Applicant: St. Patricks Church

Location: Church Road, Greystones, Co. Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PERD/755/2024

A question has arisen as to whether “laying decking down on existing bank, removal of old steps and making new steps and ramp into garden” at Church Road, Greystones, Co. Wicklow is or is not exempted development.

### Having regard to:

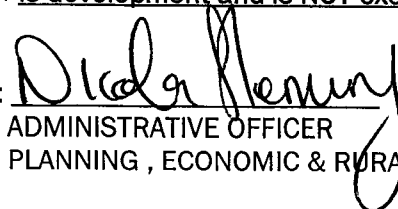
1. The details submitted with this Section 5 Application,
2. Planning Permission Register Reference PRR 02/7392
3. Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
4. Article 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended)
5. Schedule 2, Pt.1, Class 11, 33 and 40 of the Planning and Development Regulations 2001 (as amended)

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

- i. The “laying decking down on existing bank, removal of old steps and making new steps with handrail and ramp into garden” is works and is therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- ii. The works comprising of “laying decking down on existing bank, removal of old steps and making new steps with handrail and ramp into garden” does not come within the scope of the exempted development provisions of Class 33 or Class 40 of Part 1 of Schedule 2, having regard to the extent and nature of the works involved, which includes changes to ground levels and the creation of a decked structure.

The Planning Authority considers that “laying decking down on existing bank, removal of old steps and making new steps and ramp into garden” at Church Road, Greystones, Co. Wicklow is development and is NOT exempted development.

Signed:

  
ADMINISTRATIVE OFFICER  
PLANNING, ECONOMIC & RURAL DEVELOPMENT

Dated  May 2024



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)  
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/755/2024

**Reference Number:** EX35/2024

**Name of Applicant:** St. Patricks Church

**Nature of Application:** Section 5 Referral as to whether “laying decking down on existing bank, removal of old steps and making new steps and ramp into garden” is or is not development and is or is not exempted development.

**Location of Subject Site:** Church Road, Greystones, Co. Wicklow

Report from Suzanne White, SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether “laying decking down on existing bank, removal of old steps and making new steps and ramp into garden” at Church Road, Greystones, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

**Having regard to:**

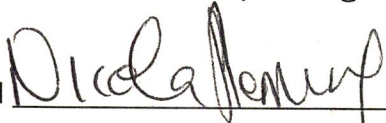
1. The details submitted with this Section 5 Application,
2. Planning Permission Register Reference PRR 02/7392
3. Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
4. Article 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended)
5. Schedule 2, Pt.1, Class 11, 33 and 40 of the Planning and Development Regulations 2001 (as amended)

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

- (i) The “laying decking down on existing bank, removal of old steps and making new steps with handrail and ramp into garden” is works and is therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- (ii) The works comprising of “laying decking down on existing bank, removal of old steps and making new steps with handrail and ramp into garden” does not come within the scope of the exempted development provisions of Class 33 or Class 40 of Part 1 of Schedule 2, having regard to the extent and nature of the works involved, which includes changes to ground levels and the creation of a decked structure.

**Recommendation:**

The Planning Authority considers that "laying decking down on existing bank, removal of old steps and making new steps and ramp into garden" at Church Road, Greystones, Co. Wicklow is development and is not exempted development as recommended in the planning reports.

Signed  Dated 29<sup>th</sup> day of May 2024

**ORDER:**

I HEREBY DECLARE that "laying decking down on existing bank, removal of old steps and making new steps and ramp into garden" at Church Road, Greystones, Co. Wicklow is development and is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed:  Dated 31<sup>st</sup> day of May 2024  
Senior Engineer  
Planning, Economic & Rural Development



## Section 5 Application EX 35/2024

Date : 27<sup>th</sup> May 2024

Applicant : St Patricks Church, Church Road, Greystones

Address : Church Road, Greystones, Co. Wicklow.

Exemption

I note the description provided of:

*"Laying decking down on existing bank, removal of old steps and making new steps and ramp into garden"*

From review of the submitted plan, I consider that the description should be expanded as follows:

Whether or not:

*"Laying decking down on existing bank, removal of old steps and making new steps and ramp into garden"*

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

### Site Location

The subject site is located within the town of Greystones.

### **Planning History:**

EX25/2024: Proposal to upgrade church garden including wheelchair access is development and is NOT exempted development. Reason: The proposed works to the church garden do not come within the scope of the exempted development provisions of Class 33 or Class 40 of Part 1 of Schedule 2, having regard to the extent and nature of the works involved, which includes changes to ground levels and the creation of a decked structure. Additionally, there is no exempted development provision for the erection of a permanent umbrella structure.

02/7392 Permission granted for a 542sqm single storey with part first floor parish centre at St. Patrick's Church, Church road, Greystones. The parish hall was indicated to be used for housing of badminton, meals on wheels, horticultural society, artists exhibitions, youth activities etc.

### **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':

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

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

"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 4** sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act.

4.—(1) The following shall be exempted developments for the purposes of this Act—;

- 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.

(3) A reference in this Act to exempted development shall be construed as a reference to development which is—

- a) any of the developments specified in subsection (1), or
- b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.

(4A) Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and
- b) as respects which an environmental impact assessment or an appropriate assessment is required, to be exempted development.

Section 34 (13) of the Act states that 'A person shall not be entitled solely by reason of a permission under this section to carry out any development'

It is noted that the church building itself is a protected structure and that both the church and rectory buildings are listed on the NIAH. In this regard Section 57(1) is noted and states the following:

Section 57 – (1) states that Notwithstanding section 4(1)(a), (h), (i), F480[(ia)] (j), (k), or (l) and any regulations made under section 4(2), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of— (a) the structure, or (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

**Planning and Development Regulations 2001(as amended)**

**Article 6 states:-**

“(1) Subject to Article 9, development of a class specified in column 1 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.

| <b>Column 1<br/>Description of Development</b>   | <b>Column 2<br/>Conditions and Limitations</b>   |
|--|--|
| <p><b>CLASS 11</b><br/>The construction, erection, lowering, repair or replacement, other than within or bounding the curtilage of a house, of –<br/>(a) any fence (not being a hoarding or sheet metal fence), or<br/>(b) any wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.</p>  | <p>1. The height of any new structure shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres.<br/>2. Every wall, other than a dry or natural stone wall, constructed or erected bounding a road shall be capped and the face of any wall of concrete or concrete blocks (other than blocks of a decorative finish) which will be visible from any road, path or public area, including a public open space, shall be rendered or plastered.</p> |
| <p>Development for amenity or recreational purposes<br/><b>CLASS 33</b><br/>Development consisting of the laying out and use of land—<br/>(a) as a park, private open space or ornamental garden,<br/>(b) as a roadside shrine, or<br/>(c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.</p>   | <p>The area of any such shrine shall not exceed 2 square metres, the height shall not exceed 2 metres above the centre of the road opposite the structure and it shall not be illuminated.</p>   |
| <p><b>CLASS 40</b><br/>Works incidental to the use or maintenance of any burial ground, churchyard, monument, fairgreen, market, schoolgrounds or showground except—<br/>(a) the erection or construction of any wall, fence or gate bounding or abutting on a public road,<br/>(b) the erection or construction of any building, other than a stall or store which is wholly enclosed within a market building, or<br/>(c) the reconstruction or alteration of any building, other than a stall or store which is wholly enclosed within a market building.</p> |  |

**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, including:

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,

## ASSESSMENT

This is a revised proposal to the garden works which formed part of the Section 5 referral EX25/2024. From the plan submitted, the works include:

- Level and resurface existing patio
- Additional planting
- Existing grassbank replaced by terraced composite decking, 1800mm wide steps with handrail and 1300mm wide 1:12 gradient path with handrail. Decking level to be max 800mm above existing bank
- Existing boundaries and boundary planting retained
- Level and resurface existing lawn

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 proposals would involve works and therefore the proposals do constitute development.

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

### Question:

*Whether or not:*

*“Laying decking down on existing bank, removal of old steps and making new steps with handrail and ramp into garden”*

With regard to the handrail, based on the section drawing provided, the height indicated is less than 1.2m.

With regard to the decking, it is considered that the proposed works go beyond 'works incidental to the use or maintenance of a churchyard' and would not therefore fall under Class 40. With regard to Class 33, I note that the area of decking, steps and ramp would be of similar footprint to the existing patio area and is therefore significant in the context. It is noted that the decking would be laid no more than 800mm<sup>1</sup> above existing ground level. I consider that the alteration of ground levels by up to 800mm, over a significant portion of the church garden, is significant in relation to surrounding ground levels and is material. I consider also that the works would constitute the provision of a new structure. Consequently, it is considered that the proposed works to the church garden would not fall within the exemption under Class 33(a) for the laying out and use of land as a park, private open space or ornamental garden.

**RECOMMENDATION: NOT EXEMPT RECOMMENDATION:**

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

*"Laying decking down on existing bank, removal of old steps and making new steps with handrail and ramp into garden"*

at St Patricks Parish Hall, Church Road, Greystones, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Acts, 2000 (as amended).

**The Planning Authority considers that:**

"Laying decking down on existing bank, removal of old steps and making new steps with handrail and ramp into garden" is development and is NOT exempted development.


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

- (a) The details submitted with this Section 5 Application,
- (b) Planning Permission Register Reference PRR 02/7392
- (c) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- (d) Article 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended)
- (e) Schedule 2, Pt.1, Class 11, 33 and 40 of the Planning and Development Regulations 2001 (as amended)

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

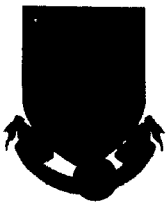
- (i) The "laying decking down on existing bank, removal of old steps and making new steps with handrail and ramp into garden" is works and is therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- (ii) The works comprising of "laying decking down on existing bank, removal of old steps and making new steps with handrail and ramp into garden" does not come within the scope of the exempted development provisions of Class 33 or Class 40 of Part 1 of Schedule 2, having regard to the extent and nature of the works involved, which includes changes to ground levels and the creation of a decked structure.

I recommend that the applicant be informed accordingly.

  
Suzanne White  
Senior Executive Planner  
27/05/2024

*Issue declaration - recommended  
flag to High 82  
31/05/24*





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

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

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9<sup>th</sup> May 2024

Ms Pauline Mungavin  
St Patricks Church  
Church Road  
Delgany  
Co Wicklow A 63 WK71

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX35/2024 for St Patrick's Church Community, Church Road, Greystones, Co Wicklow A63 WK71.**

A Chara

I wish to acknowledge receipt on 09/05/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 06/06/2024.

Mise, le meas

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Peggy King  
A/Assistant Staff Officer  
Planning, Economic & Rural Development



Please find enclosed Pictures of  
GARDEN showing existing steps  
down to the garden from Patio  
Proposal of laying decking down  
on existing bank, Removal  
of old steps and making new  
Steps into garden thus creating  
a more suitable and safer  
entrance. Creating wheelchair  
access. At the moment no  
wheel chair access to garden.  
Existing steps not appropriate

Pauline Mungain

Wicklow County Council  
County Buildings  
Wicklow  
0404-20100

26/04/2024 15 41 26

Receipt No L1/0/328546  
\*\*\*\*\* REPRINT \*\*\*\*\*

ST PATRICKS CHURCH  
GREYSTONES

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

Total 80 00 EUR

Tendered  
Credit Card 80 00  
PRR 02/7392

Change 0 00

Issued By Ruth Graham  
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: St Patrick's Church Community  
Address of applicant: Church Road  
Greystones Co Wicklow A63 WK71

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 CHURCH ROAD  
GREYSTONES CO 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 CHURCH OF IRELAND

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, an 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.*

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) ?



vii. List of Plans, Drawings submitted with this Declaration Application \_\_\_\_\_

GARDEN PLANS and pictures of existing garden

viii. Fee of € 80 Attached ? Yes

Signed: Pauline Munguin Dated: 26 April 2024

**Additional Notes :**

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

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

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

Already sent in  
with previous  
application.

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



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Wicklow County Council

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St Patricks Church  
Church Road  
Greystones  
Co. Wicklow  
A63 WN35

11<sup>th</sup> April 2024

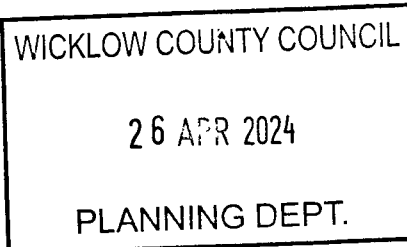
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Is mise, le meas,

  
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: St. Patrick Church

Location: Church Road, Greystones, Co. Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PERD/464/2024

A question has arisen as to whether "1. The creation of an outdoor walkway from hall door to garden room with glass: 2. Proposal to upgrade church garden including wheelchair access: and 3. Upgrade the existing kitchen to HSE standard in same area (no building required)" is or is not exempted development.

### Having regard to:

1. The details submitted with this Section 5 Application,
2. Planning Permission Register Reference PRR 02/7392
3. Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
4. Article 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended)
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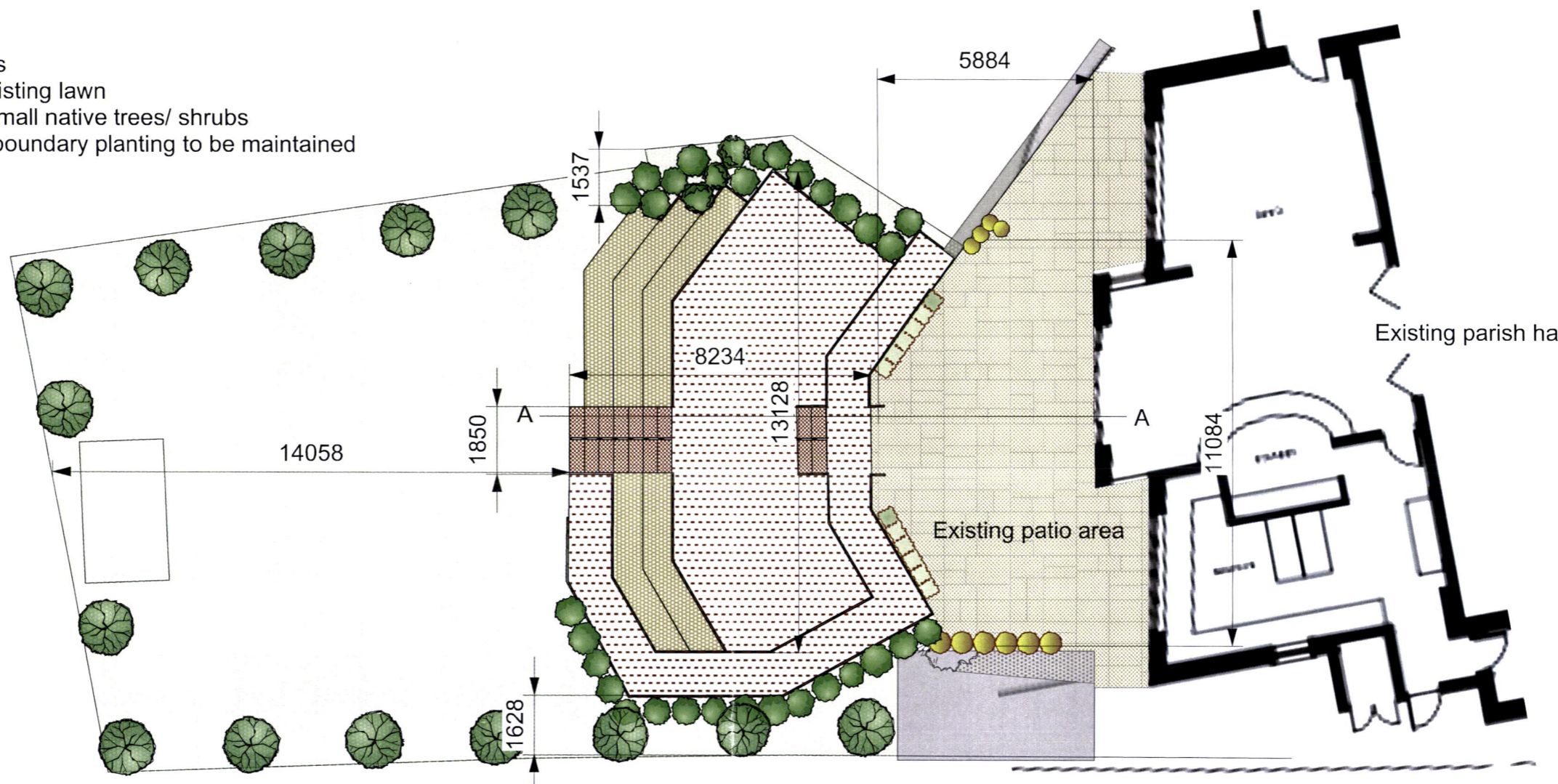
(i) The creation of an outdoor walkway from hall door to garden room with glass; upgrade church garden including wheelchair access; and upgrade of the existing kitchen to HSE standard in same area (no building required) is works and is therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).

(ii) The creation of an outdoor walkway from hall door to garden room with glass and upgrade of the existing kitchen to HSE standard in same area (no building required) would come within the exemption provisions set under Section 4(1)(h) of the Act as they are works for improvement or other alteration of any structure, being 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.

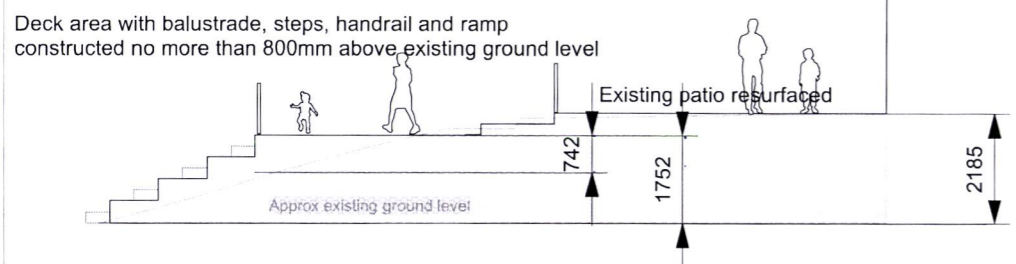
(iii) The proposed works to the church garden do not come within the scope of the exempted development provisions of Class 33 or Class 40 of Part 1 of Schedule 2, having regard to the extent and nature of the works involved, which includes changes to ground levels and the creation of a decked structure. Additionally, there is no exempted development provision for the erection of a permanent umbrella structure.



Lower garden level details  
 Level and resurface of existing lawn  
 Avenue style planting of small native trees/ shrubs  
 Existing boundaries and boundary planting to be maintained



Upper garden level details:  
 Level and resurface of existing patio  
 Additional planting to provide shelter and screening  
 Existing boundaries to be maintained



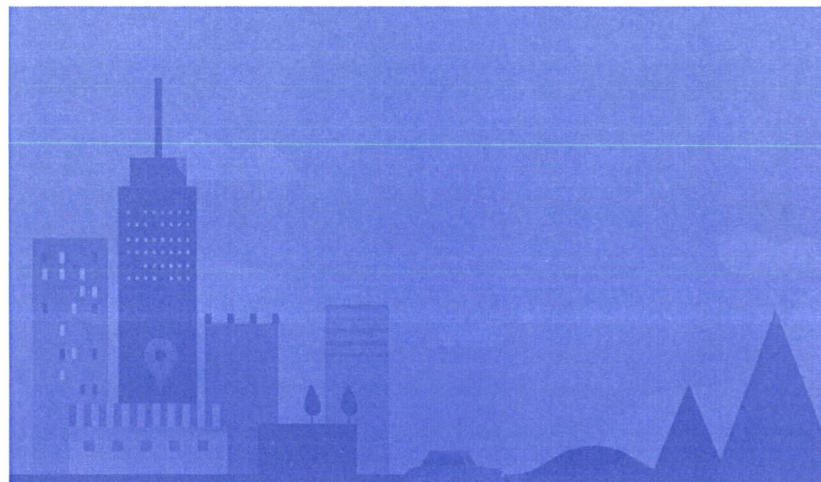
Cross section A of upper level and decked terrace, (approx existing ground level shown in grey)

Decked area details:  
 Existing grass bank to be replaced with terraced composite decking  
 1800mm wide steps with handrail and 1300mm wide  
 1:12 gradient path with handrail to provide access to lower garden  
**Decking level to be max 800mm above existing bank,**  
**Existing boundaries and boundary planting to be retained**

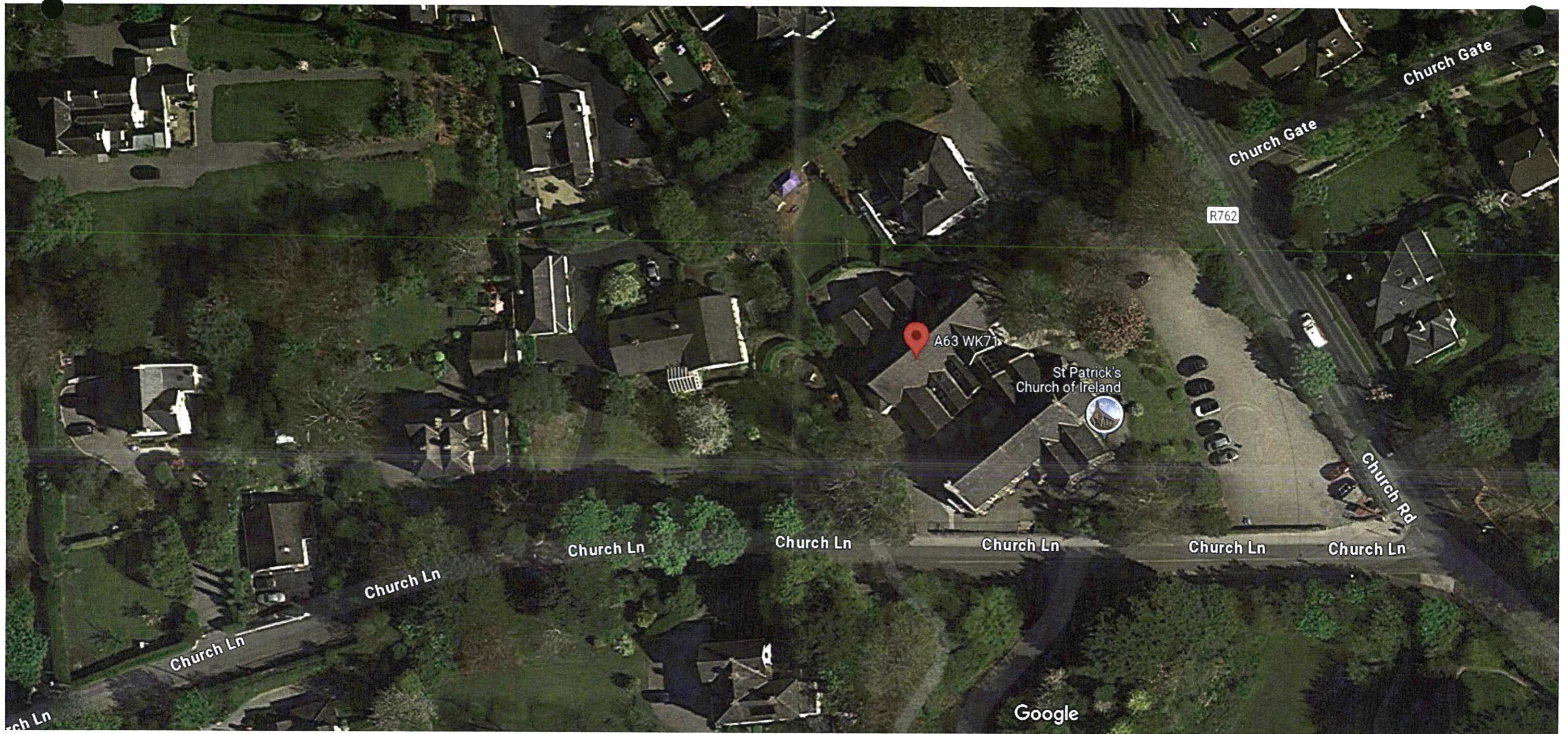




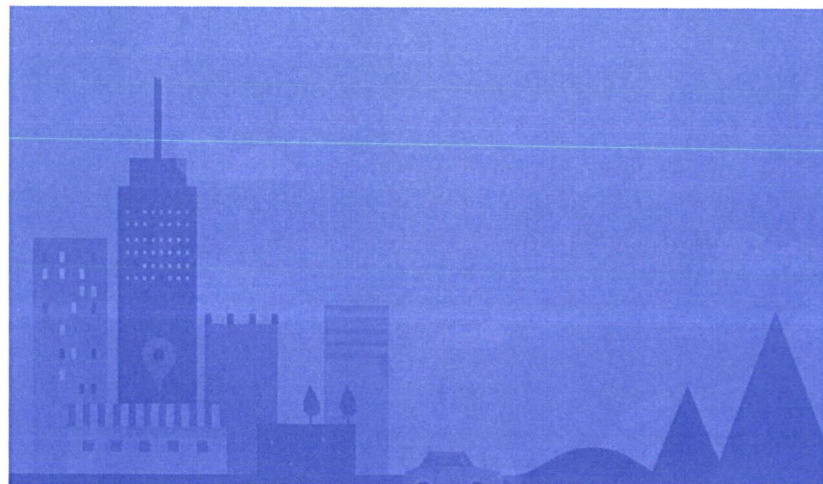
Imagery ©2024 Maxar Technologies, Map data ©2024 10 m







Imagery ©2024 Maxar Technologies, Map data ©2024 20 m





EXISTING  
bank ↓









