

WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

746/2024 EB

CHIEF EXECUTIVE ORDER NO. CE/PERD/496/2024

Reference Number: EX46/2024

Name of Applicant: Patricia Harnett

Nature of Application: Section 5 Referral as to whether "3 no. Velux windows to rear roof to light attic storage space" is or is not development and is or is not exempted development.

Location of Subject Site: 31 Waverley Meadow, Rathnew, 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 "3 no. Velux windows to rear roof to light attic storage space" 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 21/05/2024;
- 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:

1. The installation of velux windows is considered works and is therefore development having regard to the provisions of Section 3 of the Planning & Development Act 2000 (as amended).
2. The installation of a velux rooflights to the rear roof profile 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 "3 no. Velux windows to rear roof to light attic storage space" is development and is exempted development as recommended in the planning reports.

Signed  Dated 10th day of June 2024

ORDER:

I HEREBY DECLARE:

That "3 no. Velux windows to rear roof to light attic storage space" is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: 
Senior Engineer
Planning, Economic & Rural Development

Dated 07th day of June 2024



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

Patricia Harnett

07th June 2024

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) –EX 46/2024 – Patricia Harnett, 31 Waverley Meadow, Rathnew, Co Wicklow

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.





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
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Sulomh / Website: www.wicklow.ie

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

Applicant: Patricia Harnett

Location: 31 Waverley Meadow, Rathnew, Co Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PERD/496/2024

A question has arisen as to whether "3 no. Velux windows to rear roof to light attic storage space" is or is not exempted development.

Having regard to:

- i. The details received on 21/05/2024;
- 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:

1. The installation of velux windows is considered works and is therefore development having regard to the provisions of Section 3 of the Planning & Development Act 2000 (as amended).
2. The installation of a velux rooflights to the rear roof profile 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 "3 no. Velux windows to rear roof to light attic storage space" is development and is exempted development.

Signed: _____

ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 10th day of June 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 46/2024
Applicant: Patricia Harnett
Date of Application: 21/05/2024
Decision Due Date: 17/06/2024
Address: 31 Waverly Meadow, Rathnew, Co. Wicklow
Exemption Query: 3 no. velux windows to rear roof to light attic storage space.

Application Site: The application site is occupied by a semi-detached two-story dwelling within the 'Waverly Meadow' housing estate located in the south-western parameters of the level 2 Settlement of Wicklow-Rathnew.

Aerial / Site Image



Relevant Planning History:

Ref	18/50
Applicant	Broomhall Estates Ltd
Development	Housing development consisting of 92 dwellings with connection to mains services and associated works including attenuation, roads, footpaths, boundaries and boundary treatments, public lighting, mini pillars, open spaces and landscaping
Decision	Grant
Ref	19/1179
Applicant	Broomhall Estates Ltd
Development	Proposed bay windows to side of dwelling at ground and first floor levels and 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;

- Provision of 3 no. velux windows to rear roof to light attic storage space.

At 31 Waverly Meadow, Rathnew, 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:

A map is included showing the location of the velux windows.

Elevation drawings as well a site photograph of the no.3 existing rear velux windows have also been provided.

Assessment:

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

Whether the provision of 3 no. velux windows to rear roof to light attic storage space at 31 Waverly Meadow, Rathnew, 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 structure 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.

I consider that the works would fall under the remit of 4(1)(h). Having regard to the size and location of the proposed velux windows, I do not consider that the alteration of the roof via installation of the velux windows 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.

Recommendation:

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

Provision of 3 no. velux windows to rear roof to light attic storage space at 31 Waverly Meadow, Rathnew, Co. Wicklow is or is not exempted development.

The Planning Authority considers that:

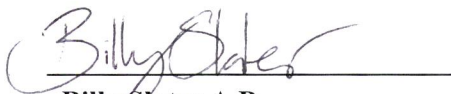
The provision of 3 no. velux windows to rear roof to light attic storage space at 31 Waverly Meadow, Rathnew, Co. Wicklow is development and is exempted development

Main Considerations with respect to Section 5 Declaration:

- i. The details received on 21/05/2024;
- 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:

- The installation of velux windows is considered works and is therefore development having regard to the provisions of Section 3 of the Planning & Development Act 2000 (as amended).
- The installation of a velux rooflights to the rear roof profile 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.
06/06/2024

Agreed S. Slater A.P. 06/06/2024

Issue declaration is recommended
Agreed P. Kelly 07/06/24

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).
EX46/2024**

I enclose herewith application for Section 5 Declaration received 21st May 2024.

The due date on this declaration is 17th June 2024.


Staff Officer
Planning Development & Environment



Comhairle Contae Chill Mhantáin
Wicklow County Council

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

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

21st May 2024

Patricia Harnett

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX46/2024

A Chara

I wish to acknowledge receipt on 21/05/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 17/06/2024.

Mise, le meas

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



Wicklow County Council
County Buildings
Wicklow
0404-20100

21/05/2024 13:54:57

Receipt No L1/0/3:29549
***** REPRINT *****

EUGENE COPELAND

PLANNING APPLICATION FEES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total	80 00 EUR
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Tendered	
Credit Card	80 00
PATRICIA HARNETT	

Change	0 00
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From Customer Service Hub
Vat reg No 0015233H



Wicklow County Council
County Buildings
Wicklow
Co Wicklow
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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: PATRICIA WALNETT

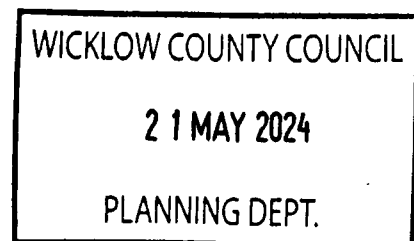
Address of applicant: _____

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

2. Agents Details (Where Applicable)

(b) Name of Agent (where applicable) ALPHAPLAN DESIGN
Suite 14 Block 1, Broomhall Business Park
Rathnew, Co Wicklow
Address of Agent : _____
Tel. 086 2461269 & 0404 64123
Email eugene@alphaplandesign.com
Website www.alphaplandesign.com

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



3. Declaration Details

i. Location of Development subject of Declaration 31 WYNLEY MEADOW
NATHANIEL COWICKLOW

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, 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 _____
3 NO VELUX WINDOWS TO REAR ROOF
TO LIGHT ATTIC STORAGE SPACE

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 _____
SCHEDULE 2

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

SITE LAYOUT PLAN

HOUSE FLOOR PLANS

HOUSE ELEVATIONS INDICATING THE LOCATION OF THE 3 VELUX WINDOWS

viii. Fee of € 80 Attached ?

Signed : Eugene Grech (Agent) Dated : 21ST MAY 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.

B. Land Reclamation - N/A

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. ↗\A

- 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.

Harnett

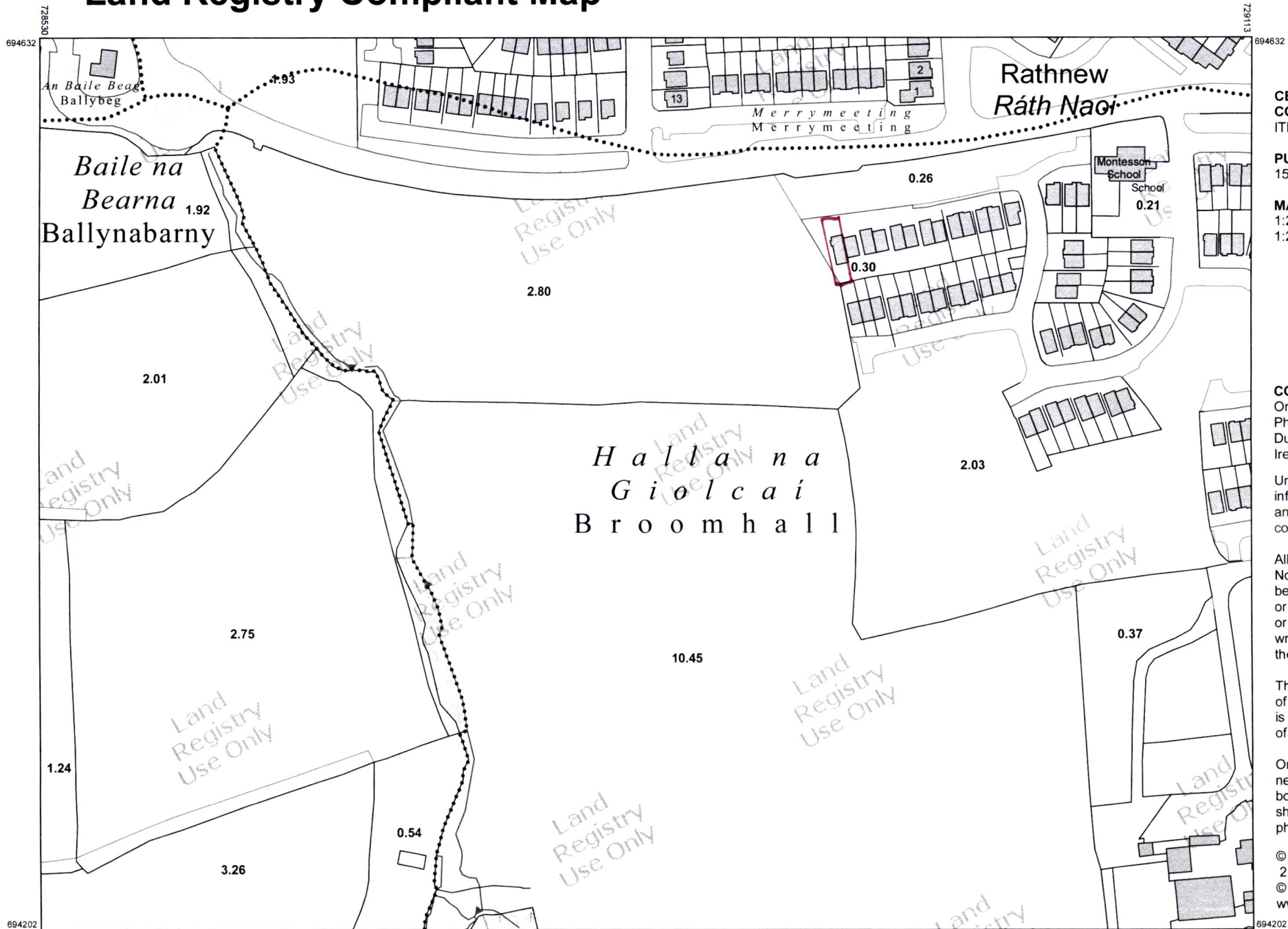
Eugene Copeland <alphalandesign@gmail.com>

Tue 21/05/2024 06:56

To:eugene alphalandesign.com <eugene@alphalandesign.com>



Land Registry Compliant Map



CENTRE COORDINATES:
ITM 728822,694417

PUBLISHED: 15/03/2021
ORDER NO.: 50178444_1

MAP SERIES: 1:2,500
MAP SHEETS: 4020-A, 4020-C

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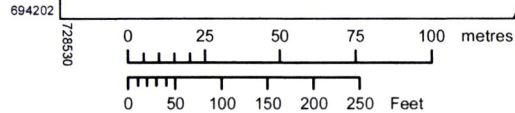
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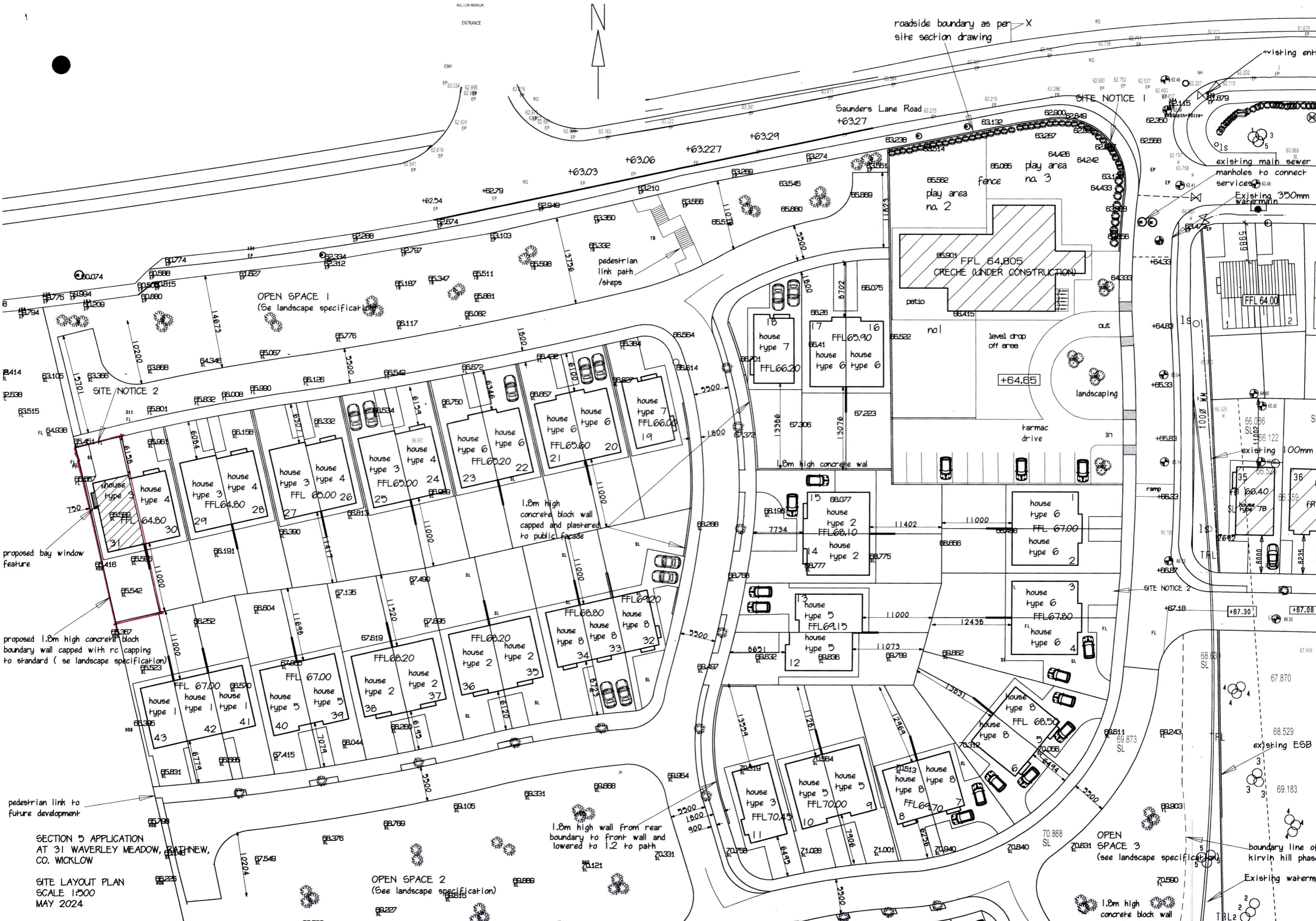
LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'



OUTPUT SCALE: 1:2,500

CAPTURE RESOLUTION:
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SECTION 5 APPLICATION
 AT 31 WAVERLEY MEADOW, BALLYNEW,
 CO. WICKLOW

SITE LAYOUT PLAN
 SCALE 1:500
 MAY 2024

OPEN SPACE 2
 (See landscape specification)

OPEN SPACE 3
 (see landscape specification)

1.8m high wall from rear
 boundary to front wall and
 lowered to 1.2 to path

proposed 1.8m high concrete
 block boundary wall capped with rc
 capping to standard (see landscape
 specification)

proposed bay window
 feature

roadside boundary as per
 site section drawing

boundary line of kirvin hill phase
 Existing watermain

existing ESB

existing 100mm

existing main sewer
 manholes to connect
 services

Existing 350mm
 watermain

SITE NOTICE 1

SITE NOTICE 2

OPEN SPACE 1
 (See landscape specification)

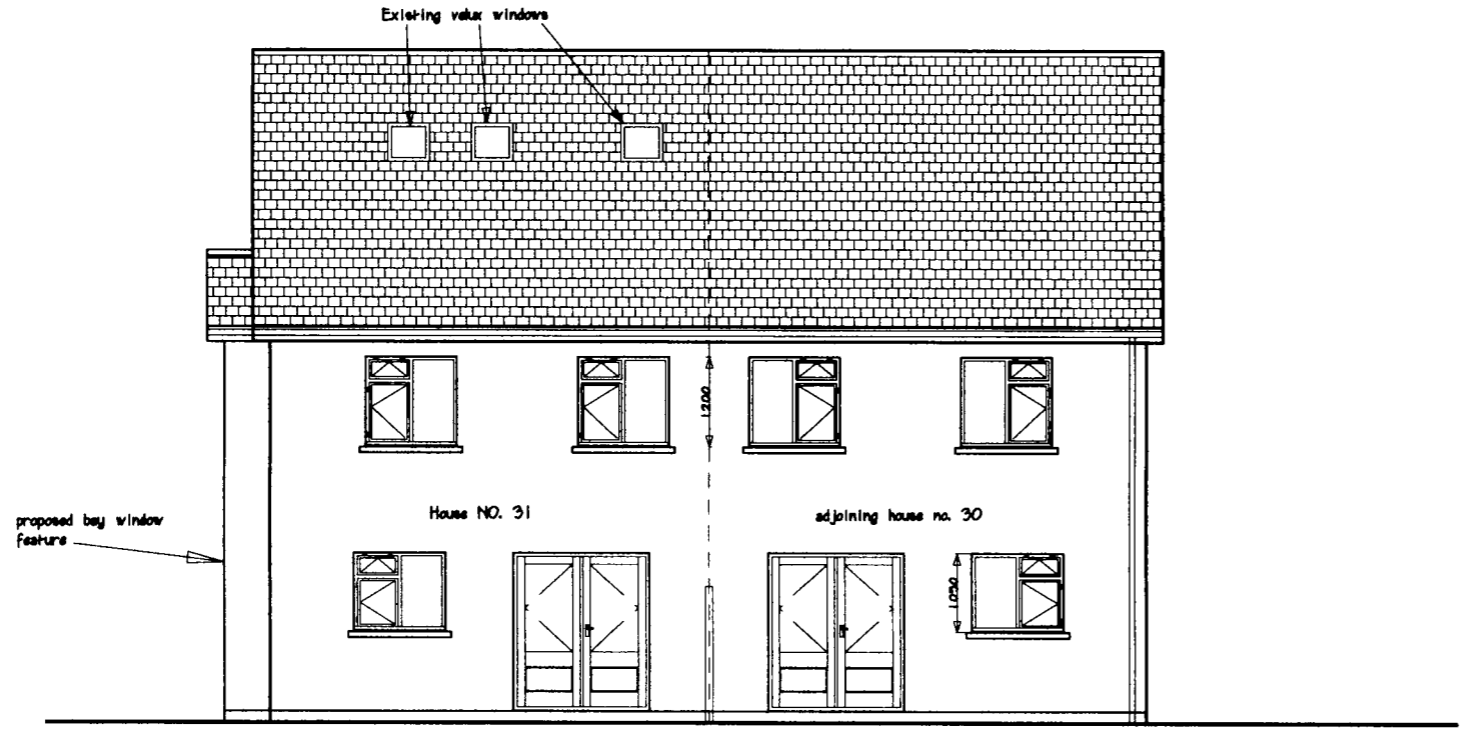


Saunders Lane Road
 +63.27

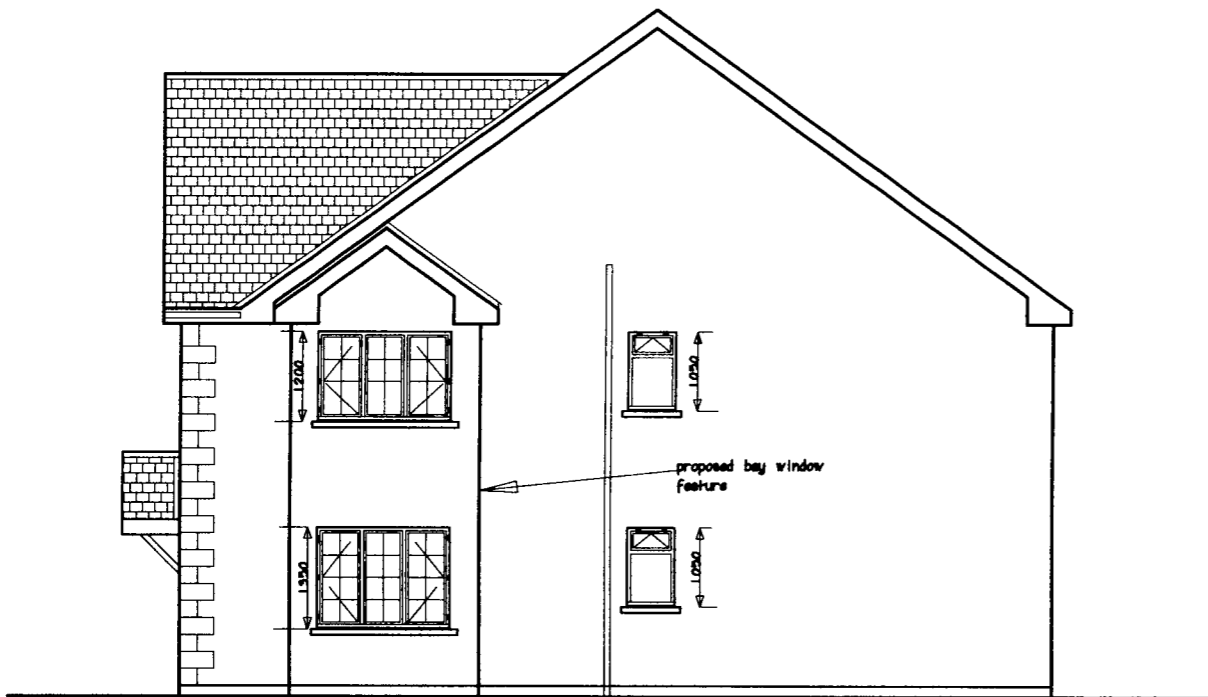
existing entr

SITE NOTICE 2

1.8m high
 concrete block wall



REAR (SOUTH) ELEVATION



WEST ELEVATION

NO. 31

SECTION 5 APPLICATION AT NO.
31 WAVERLEY MEADOW, RATHNEW
CO. WICKLOW

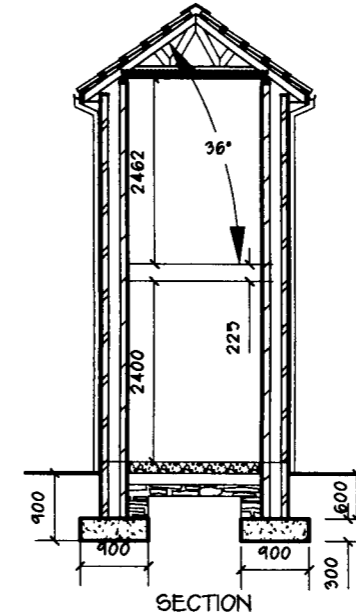
REAR AND SIDE ELEVATIONS

SCALE 1:100

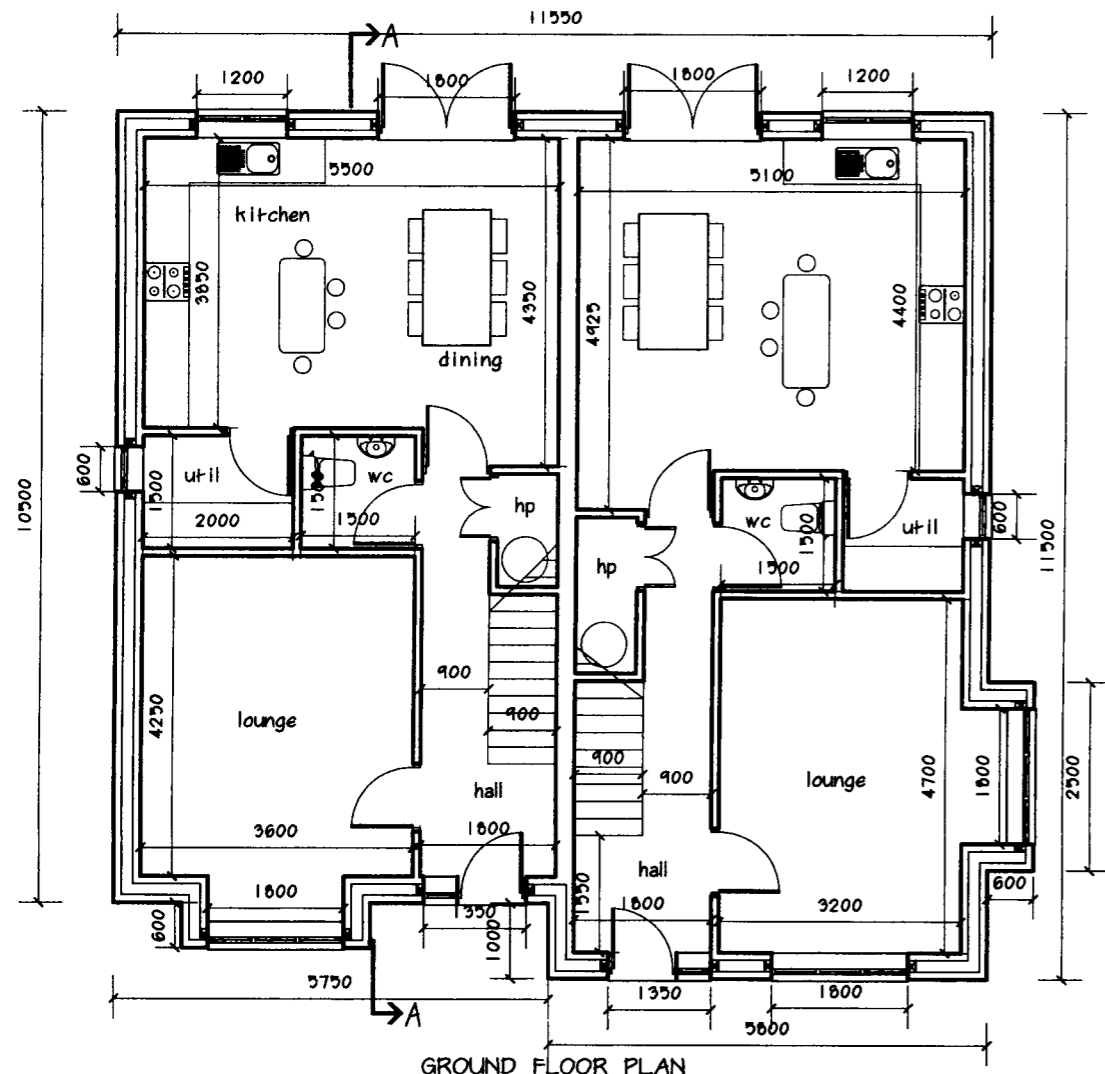
MAY 2024



house type 4
house type 3
FRONT ELEVATION
NO 31



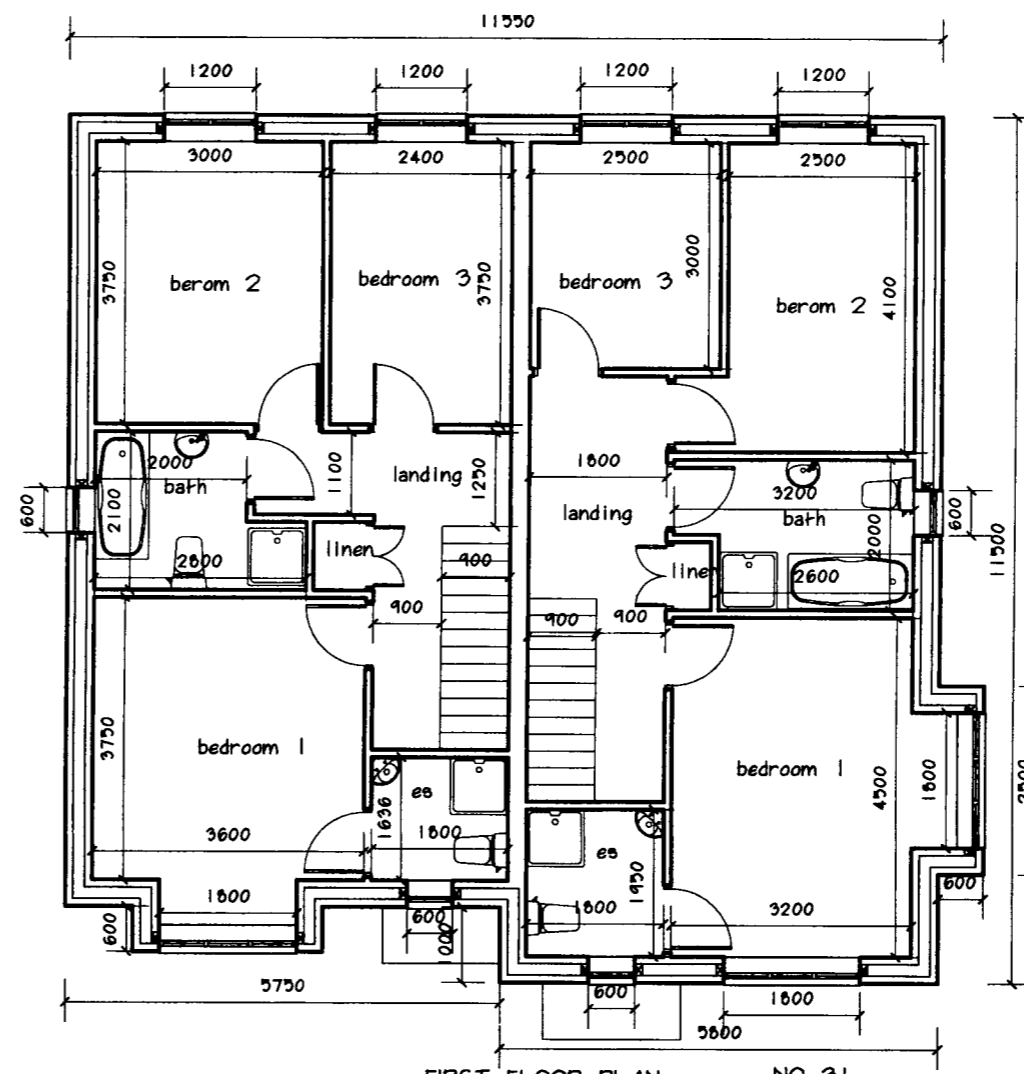
SECTION



GROUND FLOOR PLAN

NO 31

HOUSE TYPE 4
110 sqm (1184 sq.ft)



FIRST FLOOR PLAN

NO 31

HOUSE TYPE 4

HOUSE TYPE 3

SECTION 5 APPLICATION AT
HOUSE NO. 31
WAVERLEY MEADOW, RATHNEW,
CO. WICKLOW

PLAN
SECTION
FRONT ELEVATION

SCALE 1:100