

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  
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Genna Patterson Murray

01<sup>st</sup> August 2024

RE: Declaration in accordance with Section 5 of the Planning & Development Act 2000 (As Amended) – EX65/2024 for Genna Patterson Murray – Thistlestone, Blackhill Road, Ballinabarney, Wicklow A67 H968

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 ECONOMIC & RURAL DEVELOPMENT





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

Applicant: Genna Patterson Murray

Location: Thistlestone, Blackhill Road, Ballinabarney, Co Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PERD/2024/1019

Section 5 Declaration as to whether "Construction of a workshop/office structure under 25sqm" at Thistlestone, Blackhill Road, Ballinabarney, Co Wicklow is exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

Having regard to:

- (a) The details received on 17/07/2024;
- (b) Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended);
- (c) Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended);
- (d) Schedule 2, Pt.1 Class 3 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

- (a) The construction of a workshop / office structure under 25sqm 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 workshop / office structure would not come within the description and limitations as set out under Schedule 2, Part 1, Class 3, of the Planning and Development Regulations 2001 (as amended) as it has not been shown that the structure shall be to the rear of the front wall of the house, the structure would in combination with existing sheds on site exceed 25sqm, and the proposed use of the structure would not be considered to be incidental to the enjoyment of the house as such.

The Planning Authority considers that The construction of a workshop / office structure under 25sqm" at Thistlestone, Blackhill Rd, Co. Wicklow **is development and is NOT exempted development**

Signed: \_\_\_\_\_

ADMINISTRATIVE OFFICER  
PLANNING, ECONOMIC & RURAL DEVELOPMENT

Dated: 01<sup>st</sup> August 2024



WICKLOW COUNTY COUNCIL  
PLANNING & DEVELOPMENT ACT 2000 (As Amended)  
SECTION 5  
CHIEF EXECUTIVE ORDER NO. CE/PERD/2024/1019

Reference Number: EX65/2024  
Name of Applicant: Genna Patterson Murray  
Location of Subject Site: Thistlestone, Blackhill Road, Ballinabarney, Co Wicklow  
Nature of Application: Section 5 Declaration request as to whether or not "Construction of a workshop/office structure under 25sqm" constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).  
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 "Construction of a workshop/office structure under 25sqm" at Thistlestone, Blackhill Road, Ballinabarney, Co Wicklow is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

**Having regard to:**

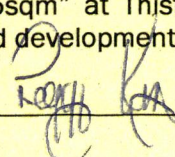
- (a) The details received on 17/07/2024;
- (b) Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended);
- (c) Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended);
- (d) Schedule 2, Pt.1 Class 3 of the Planning and Development Regulations 2001 (as amended).

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

- (a) The construction of a workshop / office structure under 25sqm 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 workshop / office structure would not come within the description and limitations as set out under Schedule 2, Part 1, Class 3, of the Planning and Development Regulations 2001 (as amended) as it has not been shown that the structure shall be to the rear of the front wall of the house, the structure would in combination with existing sheds on site exceed 25sqm, and the proposed use of the structure would not be considered to be incidental to the enjoyment of the house as such.

**Recommendation:**

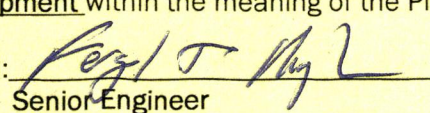
The Planning Authority considers that "The construction of a workshop / office structure under 25sqm" at Thistlestone, Blackhill Rd, Co. Wicklow is development and is NOT exempted development as recommended in the report by the SEP.

Signed  \_\_\_\_\_

Dated 01<sup>st</sup> August 2024

**ORDER:**

I HEREBY DECLARE: that "The construction of a workshop / office structure under 25sqm" at Thistlestone, Blackhill Rd, 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 01<sup>st</sup> August 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 65/2024  
**Applicant:** Genna Patterson Murray  
**Date of Application:** 17/08/2024  
**Decision Due Date:** 13/08/2024  
**Address:** Thistlestone, Blackhill Rd, Co. Wicklow  
**Exemption Query:** Workshop / office structure under 25sqm

**Application Site:** The application site is located in the level 10 Open Countryside within the townland of Ballynabarny, and is occupied by a detached single storey dwelling with parking facilities to the front and a large private garden to the rear. The site is accessed via the L-5112-0 public road (Blackhill Rd) and is bound by a dwelling to the east, with agricultural lands present beyond all remaining site parameters.

**Aerial Image**



**Relevant Planning History:**

Ref	18/748
Applicant	Genna Patterson
Development	dwelling, waste water treatment system to EPA 2009 standards, garage, entrance and associated 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;

- Construction of a workshop / office structure under 25sqm

at Thistlestone, Blackhill Rd, 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,*

**Schedule 2, Part 1** outlines classes of exempt development as well as associated conditions and limitations. The following are of relevance.

### CLASS 3

*The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.*

#### Associated conditions and limitations:

1. *No such structure shall be constructed, erected or placed forward of the front wall of a house.*
2. *The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*
3. *The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.*
4. *The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*
5. *The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.*
6. *The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.*

#### **Details submitted in support of the application:**

- Land registry maps.
- Site layout as permitted under PRR18/748.
- Elevation / floor plan drawings of the proposed workshop / office structure.

#### **Assessment:**

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

Whether the Construction of a workshop / office structure under 25sqm at Thistlestone, Blackhill Rd, 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* by way of construction 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.

Schedule 2, Pt.1 Class 3 of the Planning and Development Regulations 2001 (as amended) states that the following constitutes exempted development:

*The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.*

Relevant Schedule 2, Pt.1 Class 3 Checklist

<i>No such structure shall be constructed, erected or placed forward of the front wall of a house.</i>	Unknown - The location of the proposed workshop / office structure has not been denoted on layout plan provided.
<i>The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.</i>	No – as per site layout plan provided the presence of existing sheds on site is noted which in combination with the proposed structure of 24.91sqm would exceed 25sqm.
<i>The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres</i>	Yes - The proposed structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.
<i>The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.</i>	Unknown - The location of the proposed workshop / office structure has not been denoted on layout plan provided – External finishes denoted as Timber Cladding.
<i>The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres</i>	Yes – structure is below 3m in height.
<i>The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.</i>	No – it is stated that the proposed workshop / office structure is to be used for a 'nature club for toddlers and kids and an adult therapeutic horticulture workshop'. Such a use would not be considered to be incidental to the enjoyment of the house as such.

It is noted that the proposed works to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such works would contravene with the limitations as set out per **Article 9 (1)**.

**Recommendation:**

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

- Construction of a workshop / office structure under 25sqm

at Thistlestone, Blackhill Rd, Co. Wicklow is or is not exempted development:

The Planning Authority considers that:

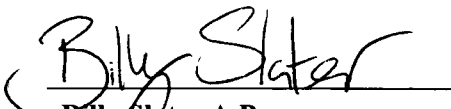
The construction of a workshop / office structure under 25sqm at Thistlestone, Blackhill Rd, Co. Wicklow **is development and is NOT exempted development**

Main Considerations with respect to Section 5 Declaration:

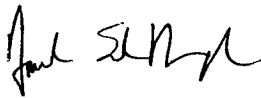
- i. The details received on 17/07/2024;
- ii. Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended);
- iii. Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended);
- iv. Schedule 2, Pt.1 Class 3 of the Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

- The construction of a workshop / office structure under 25sqm is considered works and is therefore development having regard to the provisions of Section 3 of the Planning & Development Act 2000 (as amended).
- The workshop / office structure would not come within the description and limitations as set out under Schedule 2, Part 1, Class 3, of the Planning and Development Regulations 2001 (as amended) as it has not been shown that the structure shall be to the rear of the front wall of the house, the structure would in combination with existing sheds on site exceed 25sqm, and the proposed use of the structure would not be considered to be incidental to the enjoyment of the house as such.



Billy Slater A.P.  
01/08/2024



Paul Slater  
17/08/2024

Issue described as recommended  
Paul Slater  
01/08/24



# MEMORANDUM

## WICKLOW COUNTY COUNCIL

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**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).  
EX65/2024**

I enclose herewith application for Section 5 Declaration received completed on 17/07/2024

The due date on this declaration is 13<sup>th</sup> August 2024.



---

**Staff Officer  
Planning, Economic & Rural Development**



**COMHAIRLE CONTAE CHILL Mhantáin**  
**Wicklow County Council**

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe**  
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23<sup>rd</sup> July 2024

**Genna Patterson Murray**

**RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX65/2024**

A Chara

I wish to acknowledge receipt on 17/07/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 13/08/2024.

Mise, le meas

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**Nicola Fleming**  
**Staff Officer**  
**Planning, Economic & Rural Development**



Wicklow County Council  
Cou Buildings  
Wicklow  
0404-20100

17/07/2024 10 34 32

Receipt No L1/0/331999

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

GENNAPATTERSONMURRAY  
THISTLESTONE  
BLACKHILL RD  
BALLINABARNEY  
CO WICKLOW

PLANNING SUBMISSIONS	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total 80 00 EUR

Tendered  
Credit Card 80 00

Change 0 00

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Fax 0404 69462

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Date Received \_\_\_\_\_

Fee Received \_\_\_\_\_

**APPLICATION FORM FOR A  
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &  
DEVELOPMENT ACTS 2000 (AS AMENDED) AS TO WHAT IS OR IS NOT  
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

WICKLOW COUNTY COUNCIL

17 JUL 2024

PLANNING DEPT.

**1. Applicant Details**

- (a) Name of applicant: Genna Patterson Murray  
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) N/A \_\_\_\_\_

Address of Agent : \_\_\_\_\_

\_\_\_\_\_

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

**3. Declaration Details**

Location of Development subject of Declaration At my home premises, Thistlestone, Blackhill Road, Ballinabarney, Wicklow, A67 H968

i.

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

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

\_\_\_\_\_  
\_\_\_\_\_

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 plan to build a workshop/office structure under 25sqm and with LEADER funding (already agreed subject to other matters) and therefore need to know if I need planning permission or not.

Dear sirs as stated in the form, I aim to build a structure under 25 sqm for use in facilitating Nature club for toddlers and kids and Adult Therapeutic Horticulture workshops. I have already had conditional enthusiastic agreement for LEADER funding, pending either exemption or planning permission. I wish to note that the permitted garage as shown on Plan A was not built and there are five small sheds also indicated on the map. There are no plans to include any cooking or living accommodation in this 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

The development is under 25sq m in the regulations. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

*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) ? N/A

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

Plan A: Site Map with existing dwellings shown \_\_\_\_\_

Plan B: Land registry Map \_\_\_\_\_

Drawings C: pictures and drawings of office/workshop \_\_\_\_\_

viii. Fee of € 80 Attached ? pay at desk

Signed :

*Jenne Peltzer Murray*

Dated :

9/07/2024

**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 -

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.

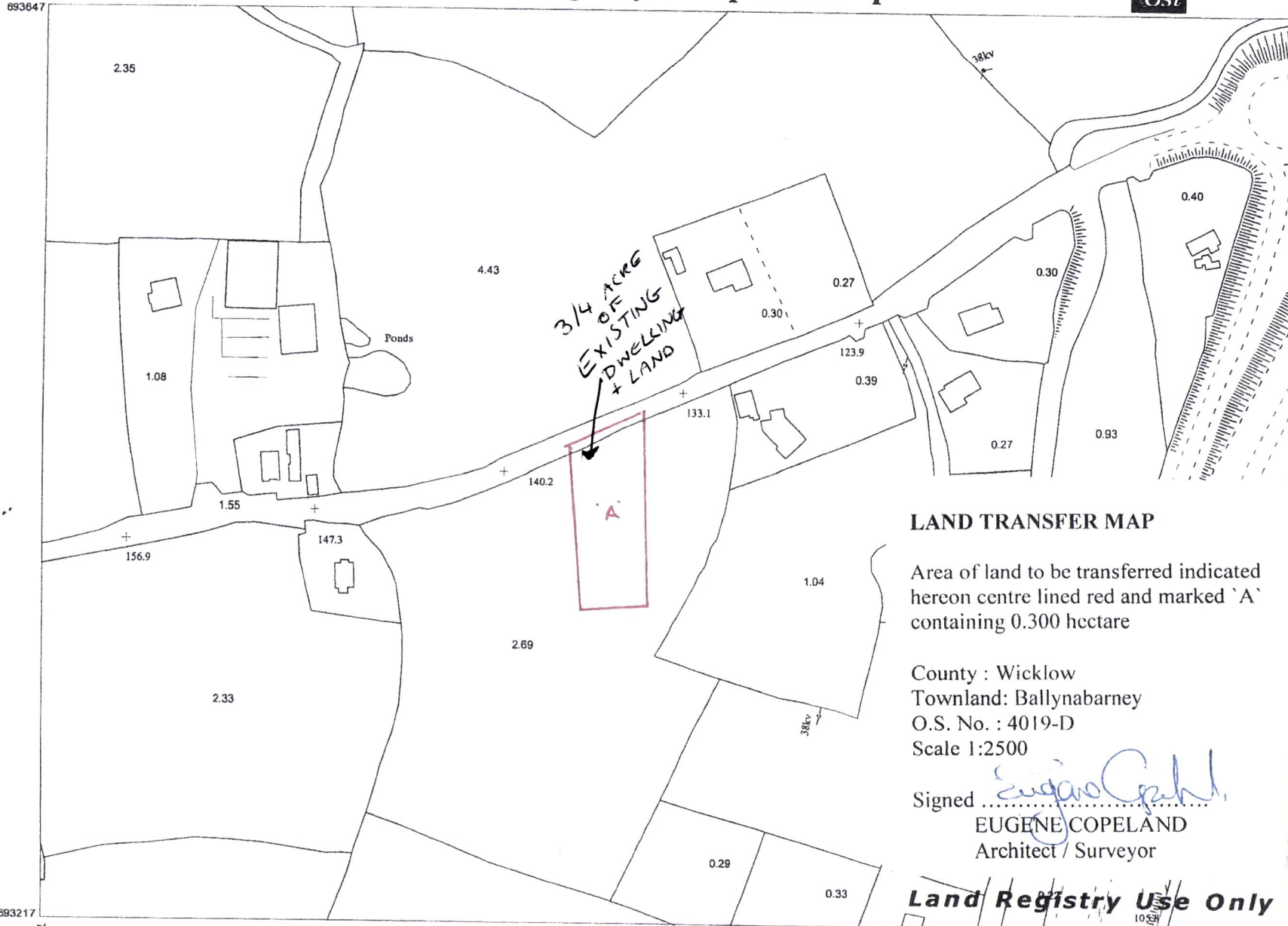
## C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

- 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.

# PLAN B : LAND REGISTRY MAP

Surveyed 1998  
Revised 2010  
Levelled

## Land Registry Compliant Map



ITM CENTRE PT. COORDS  
727627,693432

DESCRIPTION

MAP SHEETS

1:2500  
4019-D



### LAND TRANSFER MAP

Area of land to be transferred indicated hereon centre lined red and marked 'A' containing 0.300 hectare

County : Wicklow  
Townland: Ballynabarney  
O.S. No. : 4019-D  
Scale 1:2500

Signed *Eugene Copeland*  
EUGENE COPELAND  
Architect / Surveyor

**Land Registry Use Only**

Arna bhreathnó agus arna fhoilsiú ag Suirbhéireacht Ordnáis Éireann, Páirc an Fhionnsaice, Baile Átha Cliath 8, Éire.  
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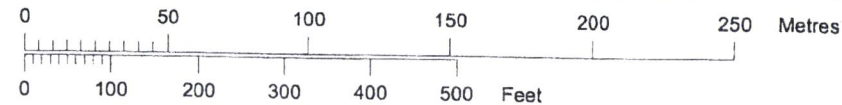
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Ní thaispeánann léarscáil de chuid Ordnáis Suirbhéireacht Éireann boram phaidéil de eithne riath, ná úireacht de ghnéithe fhisiciúla.  
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Scála:- 1:2,500



Plot Ref. No. 19627646\_1\_1  
Plot Date 02-NOV-2012



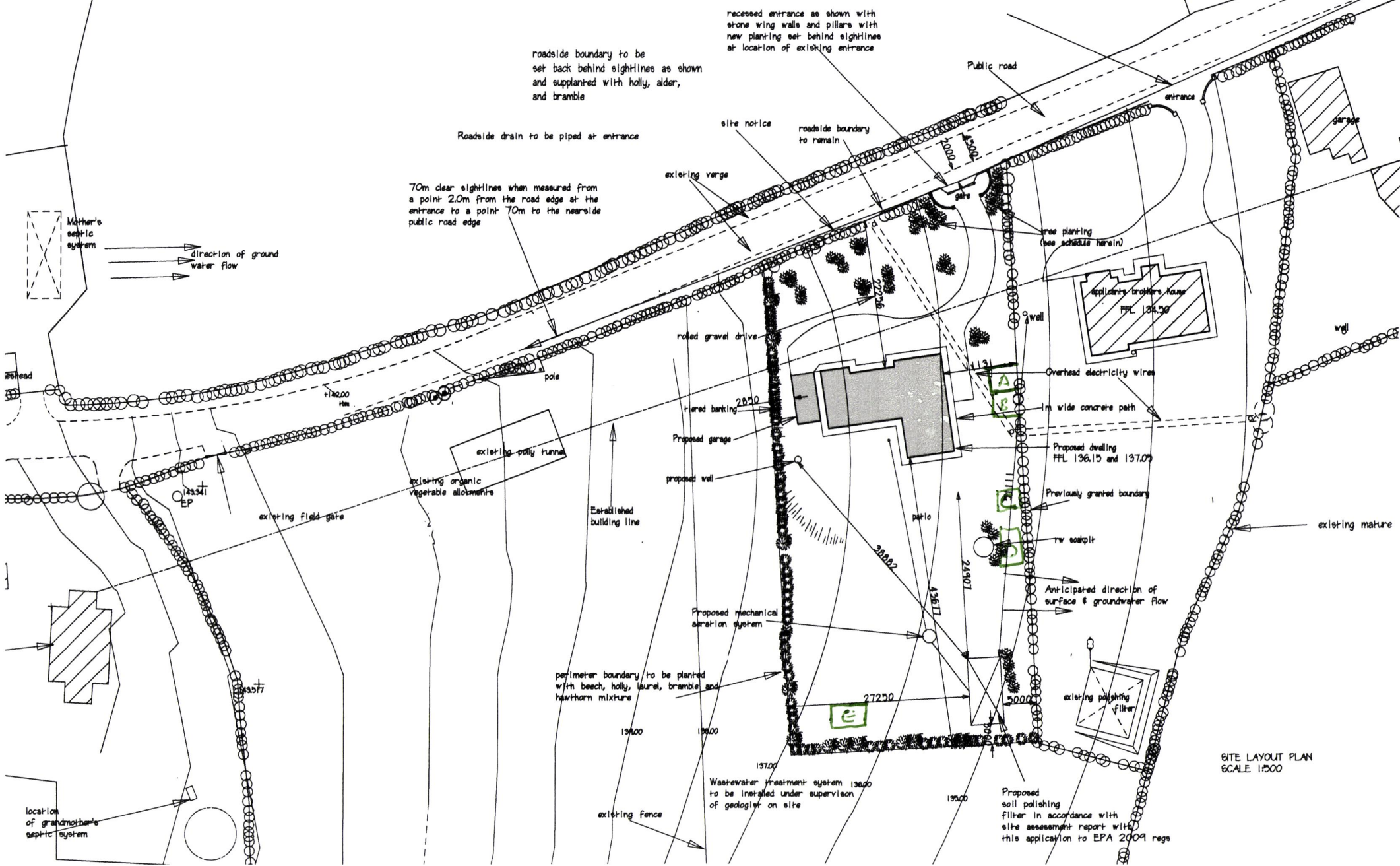


# PLAN A: SITE MAP

D = HEN HOUSE 6X6FT  
 E = GARDEN SHED 6X8FT

SHEDS:  
 A = 10 x 8ft shed for motorbike  
 B = 6 x 8ft potting shed  
 C = HEN FEED STORAGE 5X5FT

70m clear sightlines when measured from a point 2.0m from the road edge at the entrance to a point 70m to the nearside public road edge



SITE LAYOUT PLAN  
 SCALE 1:500

# Drawings C: Pictures & drawings of Office/Workshop



FRONT



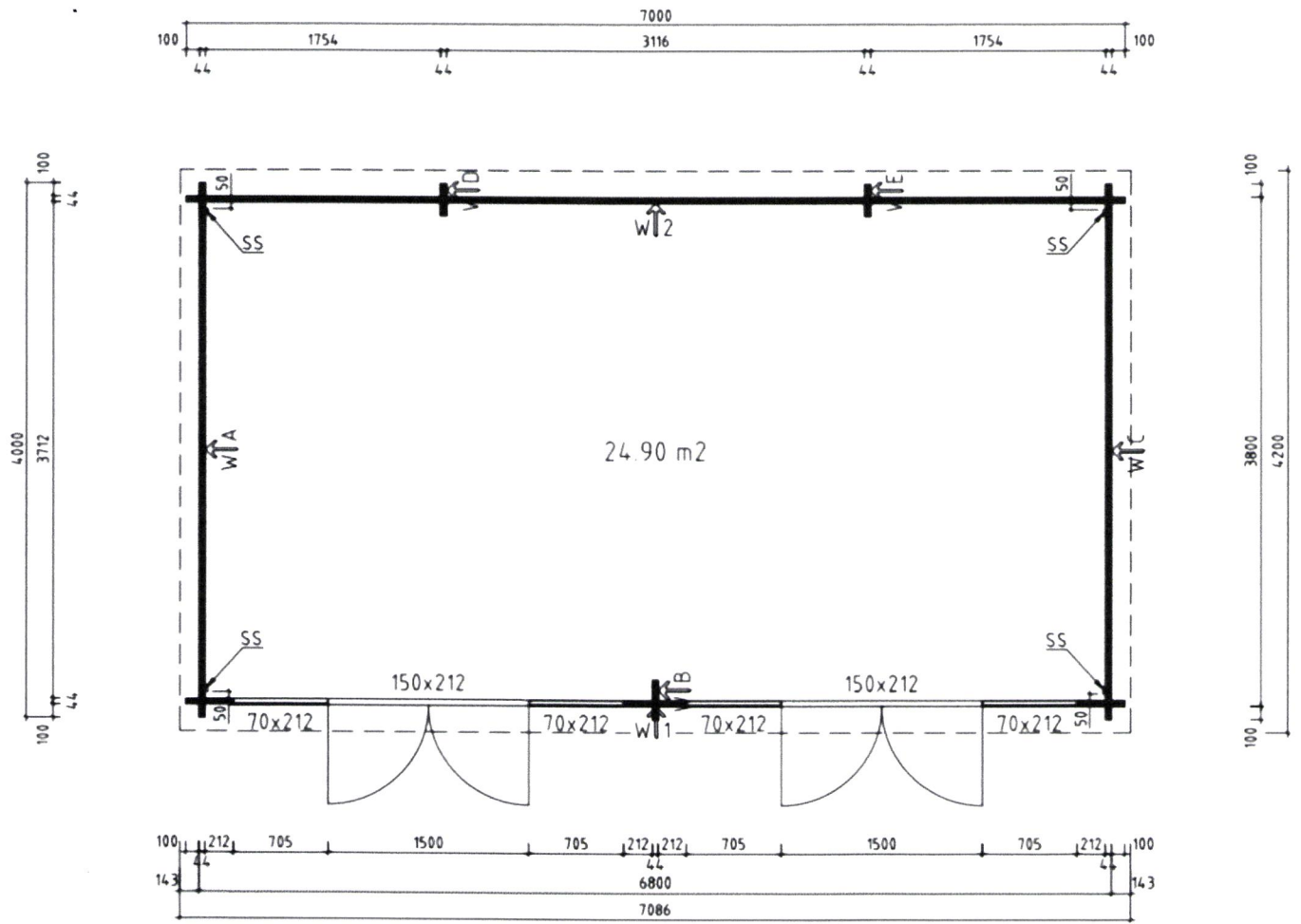
BACK



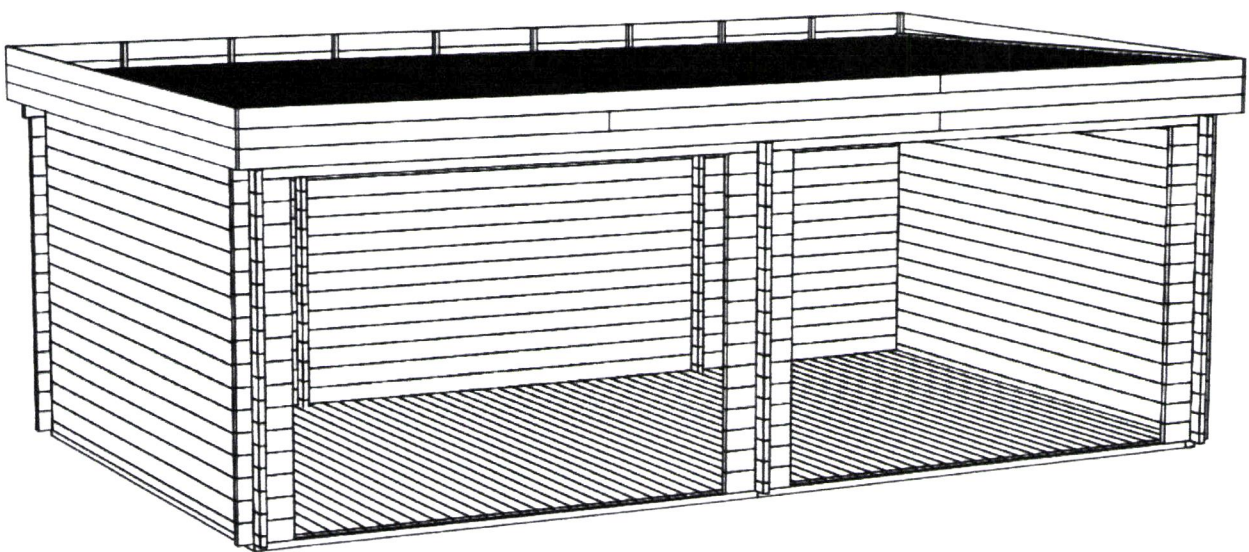
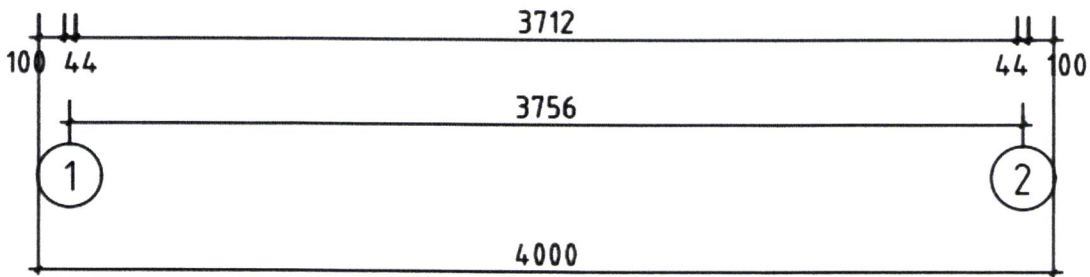
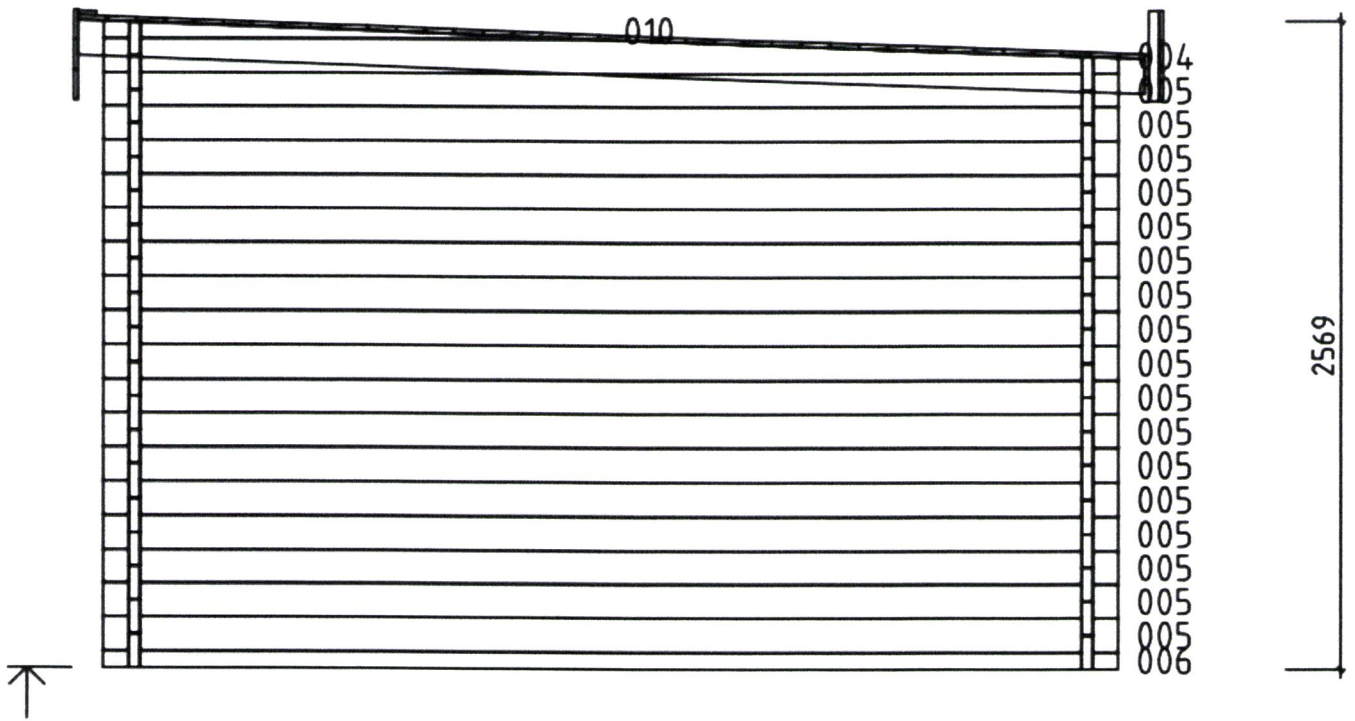
SIDE



SIDE



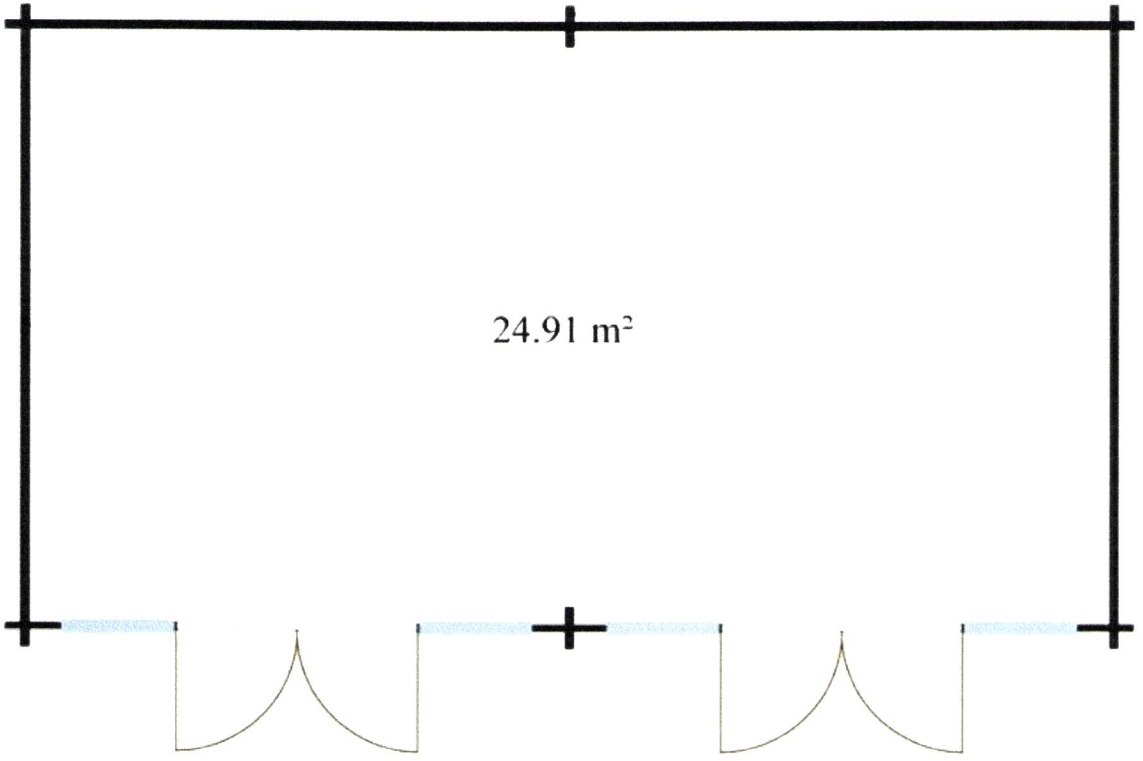
FLOOR PLAN



700

400

24.91 m<sup>2</sup>



23'

13'1"

268 sq ft.

