

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

Antony Green
96 Applewood Heights
Greystones
Co. Wicklow

31st May 2024

RE: Declaration in accordance with Section 5 of the Planning & Development Act 2000 (As Amended) – EX44/2024

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

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: Antony Green

Location: 96 Applewood Heights, Greystones, Co. Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PERD/759/2024

A question has arisen as to whether "single storey extension to rear of property comprising kitchen/open plan living space/wetroom & laundry room, replacement roof to side of property and erection of small porch" is or is not exempted development.

Having regard to:

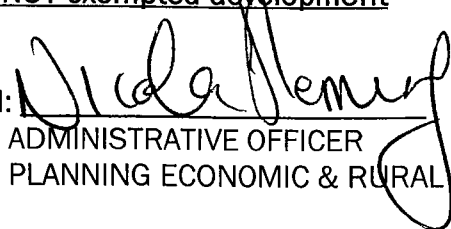
- 1) The details received with this section 5 application (EX44/2024) on the 13th May 2024
- 2) Sections 2, 3 and 4 of the Planning and Development Act 2000(as amended).
- 3) Schedule 2, Part 1, Class 1 and Class 7 of the Planning and Development Regulations 2001 (as amended).
- 4) Section 4(1)(h) of Planning and Development Act 2000 (as amended)
- 5) Article 6 and 9, Planning and Development Regulations 2001 (as amended).

Main Reasons with respect to Section 5 Declaration:

- 1) The development does not accord with the conditions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) because the development does not comply with the condition / limitation 2(a). The garage has been converted to an office. The total area of extensions comprising the proposed works and the converted garage exceed the 40sqm limit.
- 2) -The new 'replacement' roof is a roof that replaces the existing roof over the side office and porch and which is also a new roof constructed over the new extension . Because the roof forms part of the roof structure of the extension that is not exempt, the overall roof structure is not exempt.

The Planning Authority considers that "single storey extension to rear of property comprising kitchen/open plan living space/wetroom & laundry room, replacement roof to side of property and erection of small porch" at 96 Applewood Heights, Greystones, Co. Wicklow **is development and is NOT exempted development**

Signed:


ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated 31st May 2024



WICKLOW COUNTY COUNCIL

PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/759/2024

Reference Number: EX44/2024

Name of Applicant: Antony Green

Nature of Application: Section 5 Referral as to whether or not “single storey extension to rear of property comprising kitchen/open plan living space/wetroom & laundry room, replacement roof to side of property and erection of small porch” is or is not development and is or is not exempted development.

Location of Subject Site: 96 Applewood Heights, Greystones, Co. Wicklow

Report from Aisling McNamara, EP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether “single storey extension to rear of property comprising kitchen/open plan living space/wetroom & laundry room, replacement roof to side of property and erection of small porch” at 96 Applewood Heights, Greystones, Co. Wicklow is or is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Having regard to:

1. The details received with this section 5 application (EX44/2024) on the 13th May 2024
2. Sections 2, 3 and 4 of the Planning and Development Act 2000(as amended).
3. Schedule 2, Part 1, Class 1 and Class 7 of the Planning and Development Regulations 2001 (as amended).
4. Section 4(1)(h) of Planning and Development Act 2000 (as amended)
5. Article 6 and 9, Planning and Development Regulations 2001 (as amended).

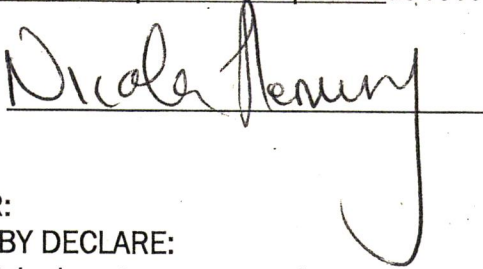
Main Reason with respect to Section 5 Declaration:

1. The development does not accord with the conditions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) because the development does not comply with the condition / limitation 2(a). The garage has been converted to an office. The total area of extensions comprising the proposed works and the converted garage exceed the 40sqm limit.
2. -The new ‘replacement’ roof is a roof that replaces the existing roof over the side office and porch and which is also a new roof constructed over the new extension . Because the roof forms part of the roof structure of the extension that is not exempt, the overall roof structure is not exempt.

Recommendation:

The Planning Authority considers that "single storey extension to rear of property comprising kitchen/open plan living space/wetroom & laundry room, replacement roof to side of property and erection of small porch" at 96 Applewood Heights, Greystones, Co. Wicklow is development and is NOT exempted development as recommended in the report by the SEP.

Signed




Dated 31st day of May 2024

ORDER:

I HEREBY DECLARE:

That "single storey extension to rear of property comprising kitchen/open plan living space/wetroom & laundry room, replacement roof to side of property and erection of small porch" at 96 Applewood Heights, Greystones, 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 31st day of May 2024



**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

Section 5 – Application for declaration of Exemption Certificate

TO: FERGAL KEOGH SE, EDEL BERMINGHAM, SEP
REF: EX44/2024
NAME: ANTONY GREEN
DEVELOPMENT: EXTENSION TO REAR, REPLACEMENT ROOF AND NEW PORCH
LOCATION: 96 APPLEWOOD HEIGHTS, GREYSTONES

The site:

Existing 2 storey semi detached house within urban area

Planning History:

none

Question

The applicant has applied to see whether or not the following is or is not exempted development:

- Single storey extension to the rear of the property comprising kitchen / open plan living space / wetroom and laundry room
- Replacement roof to the side of the property
- Erection of small porch

Legislative Context

Planning and Development Act, 2000 (as amended):

Section 2

“development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly;

“exempted development” has the meaning specified in section 4;

“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 situated, 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);

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon;

“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.

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): 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.

Section 4 (4) Notwithstanding *paragraphs (a), (i), (ia) and (l) of subsection (1)* and any regulations under *subsection (2)*, development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

-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)(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

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.

Class 1 refers to: "The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house"

1. (a) *Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.*

(b) *Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.*

(c) *Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.*

2. (a) *Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*

(b) *Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.*

(c) *Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension*

or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the sidewalls of the house.

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5 The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

6 (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

7 The roof of any extension shall not be used as a balcony or roof garden.

Class 7 refers to "The construction or erection of a porch outside any external door of a house."

1. Any such structure shall be situated not less than 2 metres from any road.

2. The floor area of any such structure shall not exceed 2 square metres.

3. The height of any such structure shall not exceed, in the case of a structure with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

Assessment

Single storey extension to the rear of the property comprising kitchen / open plan living space / wetroom and laundry room

The construction of an extension to the rear of the house consists of works and is a form of development.

The extension is to the rear of the existing house and is in accordance with Class 1 description.

I have considered the conditions and limitations relating to Class 1:

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.

garage conversion carried out previously

(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.

n/a

(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.

n/a

2. (a) *Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*

The reference to extension in class 1 refers to the construction of an extension to the rear of the house or conversion of structures including garage to the rear or the side of the house. The house would *of course* originally contained a side garage. This is still evident on some similar houses. The garage has been converted to an office. It is 12.65sqm. Taking measurements from the scaled drawings, the proposed new extension is c 32.04sqm. Therefore the combined total is 44.69sqm. This exceeds the 40sqm limit. Therefore not compliant with this limitation.

(b) *Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.*

n/a

(c) *Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.*

n/a

3. *Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.*

n/a

4. (a) *Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.*

The height of the walls of the extension do not exceed the height of the principal rear wall of the house.

(b) *Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the sidewalls of the house.*

n/a

(c) *The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.*

complies

5. *The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.*

complies

6. (a) *Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.*

complies

(b) *Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.*

n/a

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

n/a

7. The roof of any extension shall not be used as a balcony or roof garden.

complies

Conclusion:

Is not exempted development.

Replacement roof to the side of the property

Any act of alteration, repair or renewal includes works.

Therefore works are to be carried out.

The definition of development involves the carrying out of works.

Therefore development is carried out.

Section 4(1)(h) indicates that works which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure are exempted development.

The drawings show works for a new warm roof. The new roof extends over the existing office and forms the roof of the new extension.

|| Because the new roof is part of the non exempt extension, it is considered that it would not be exempted development.

Erection of small porch

The construction of a porch consists of works and is a form of development.

The porch is to be constructed outside of the external door of the house and is in accordance with the Class 7 description.

|| I have considered the conditions and limitations relating to Class 7. It complies with the conditions. However, again, the replacement roof is part of the porch construction and as per above, by virtue of the fact that the roof is not exempt, the porch is considered to be not exempt.

Appropriate Assessment

Having regard to the nature, scale and location of the proposed development and the lack of pathways between the proposed development and the Natura 2000 site network, it is considered that there would not be a likely significant effect on a Natura 2000 site in combination with other plans or projects.

EIA

Not a type of 'project' and therefore does not fall within the scope of EIA.

Recommendation

With respect to the query under Section 5 of the Planning and Development Act 2000 (as amended), as to whether the following is or is not exempted development:

- Single storey extension to the rear of the property comprising kitchen / open plan living space / wetroom and laundry room
- Replacement roof to the side of the property
- Erection of small porch

At 96 Applewood Heights, Greystones

The Planning Authority considers that:

- Single storey extension to the rear of the property comprising kitchen / open plan living space / wetroom and laundry room
- Replacement roof to the side of the property
- Erection of small porch

IS development and IS NOT exempted development

Main Considerations with respect to Section 5 Declaration:

- The details received with this section 5 application (EX44/2024) on the 13th May 2024
- Sections 2, 3 and 4 of the Planning and Development Act 2000(as amended).
- Schedule 2, Part 1, Class 1 and Class 7 of the Planning and Development Regulations 2001 (as amended).
- Section 4(1)(h) of Planning and Development Act 2000 (as amended)
- Article 6 and 9, Planning and Development Regulations 2001 (as amended).

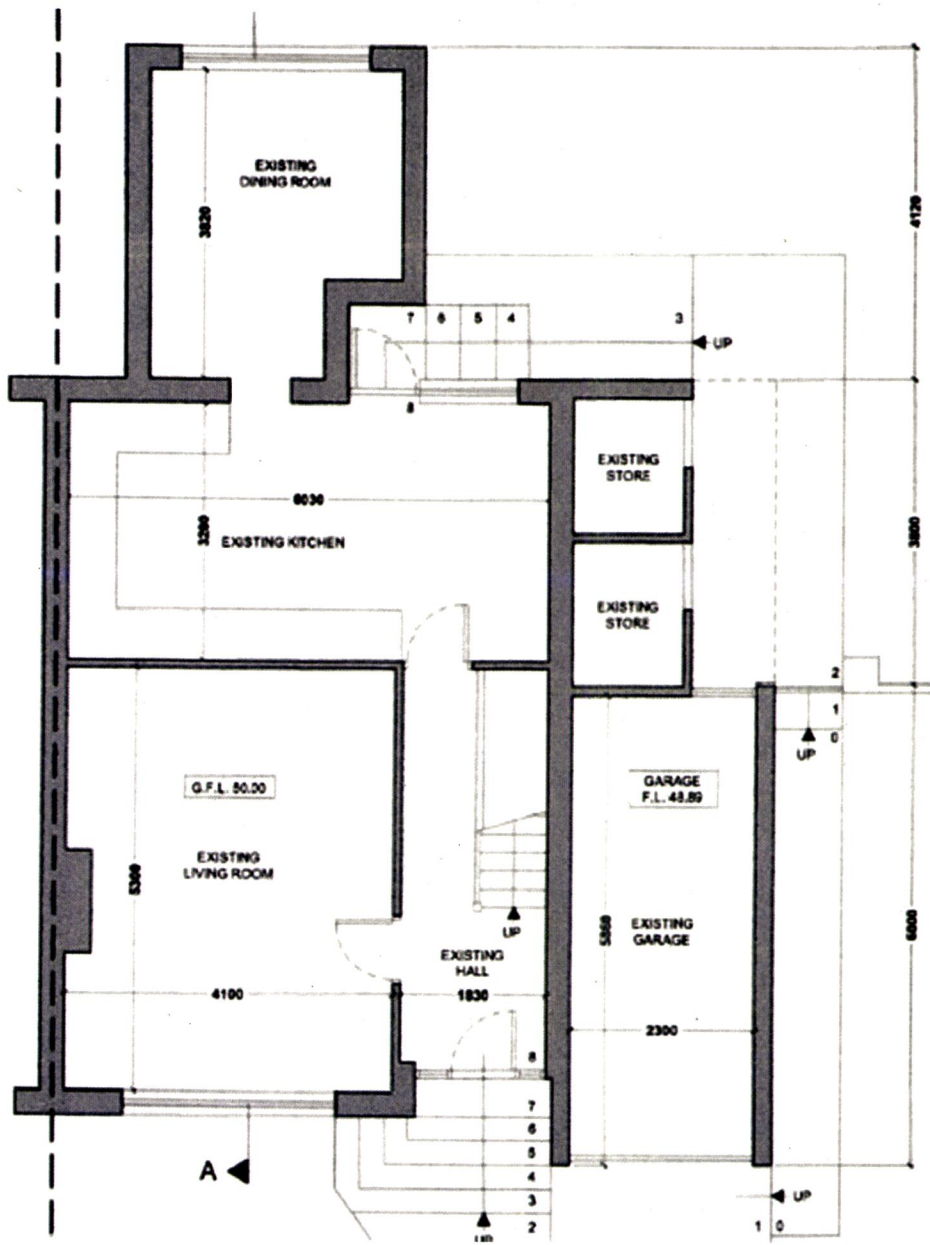
Main Reasons with respect to Section 5 Declaration:

- The development does ^{not} accord with the conditions of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended) because the development does not comply with the condition / limitation 2(a). The garage has been converted to an office. The total area of extensions comprising the proposed works and the converted garage exceed the 40sqm limit.
- The new 'replacement' roof is a roof that replaces the existing roof over the side office and porch and which is also a new roof constructed over the new extension . Because the roof forms part of the roof structure of the extension that is not exempt, the overall roof structure is not exempt.

A. MacNamara
EA PA
30 - 05 - 2024

Issue declaration as modified
Regl T Reg 252
31/05/24

Examples of other similar houses in estate



19/1102



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

MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Aisling McNamara
Executive Planner

FROM: Nicola Fleming
Staff Officer

RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX44/2024

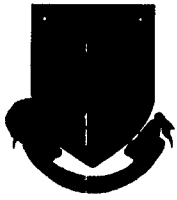
I enclose herewith application for Section 5 Declaration received 13th May 2024.

The due date on this declaration is 9th June 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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14th May 2024

Antony Green
96 Applewood Heights
Greystones
Co. Wicklow
A63 KP57

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX44/2024

A Chara

I wish to acknowledge receipt on 13/05/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 09/06/2024.

Mise, le meas

Nicola Fleming
Staff Officer
Planning, Economic & Rural Development



Wicklow County Council
County Buildings
Wicklow
0404-20100

15/05/2024 09 19 38

Receipt No L1/0/329284
***** REPRINT *****

ANTHONY GREEN
96 APPLEWOOD HEIGHTS
GREYSTONES
CO WICKLOW
A63 KP57

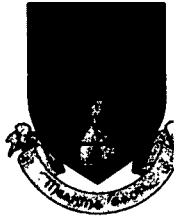
EXEMPTION CERTIFICATES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total 80 00 EUR

Tendered
Credit Card 80 00

Change 0 00

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Date Received _____

Fee Received _____

RECEIVED
13 MAY 2024

**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: _____ **Antony
Green**

Address of applicant: _____ **96
Applewood Heights, Greystones, A63 KP57**

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 : N/A

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

3. Declaration Details

i. Location of Development subject of Declaration 96 Applewood Heights, Greystones, A63 KP57

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

N/A

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 Single story extension to the rear of the property comprising kitchen/open plan living space/wetroom and laundry room. Replacement roof to the side of the property and erection of small porch. All works fall below planning permission thresholds.

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 extension falls below 40sqm and is to the rear of the property therefore does not require planning permission. The extension works also includes a small porch which falls below 2 sqm.

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 _____

Attached Appendix A

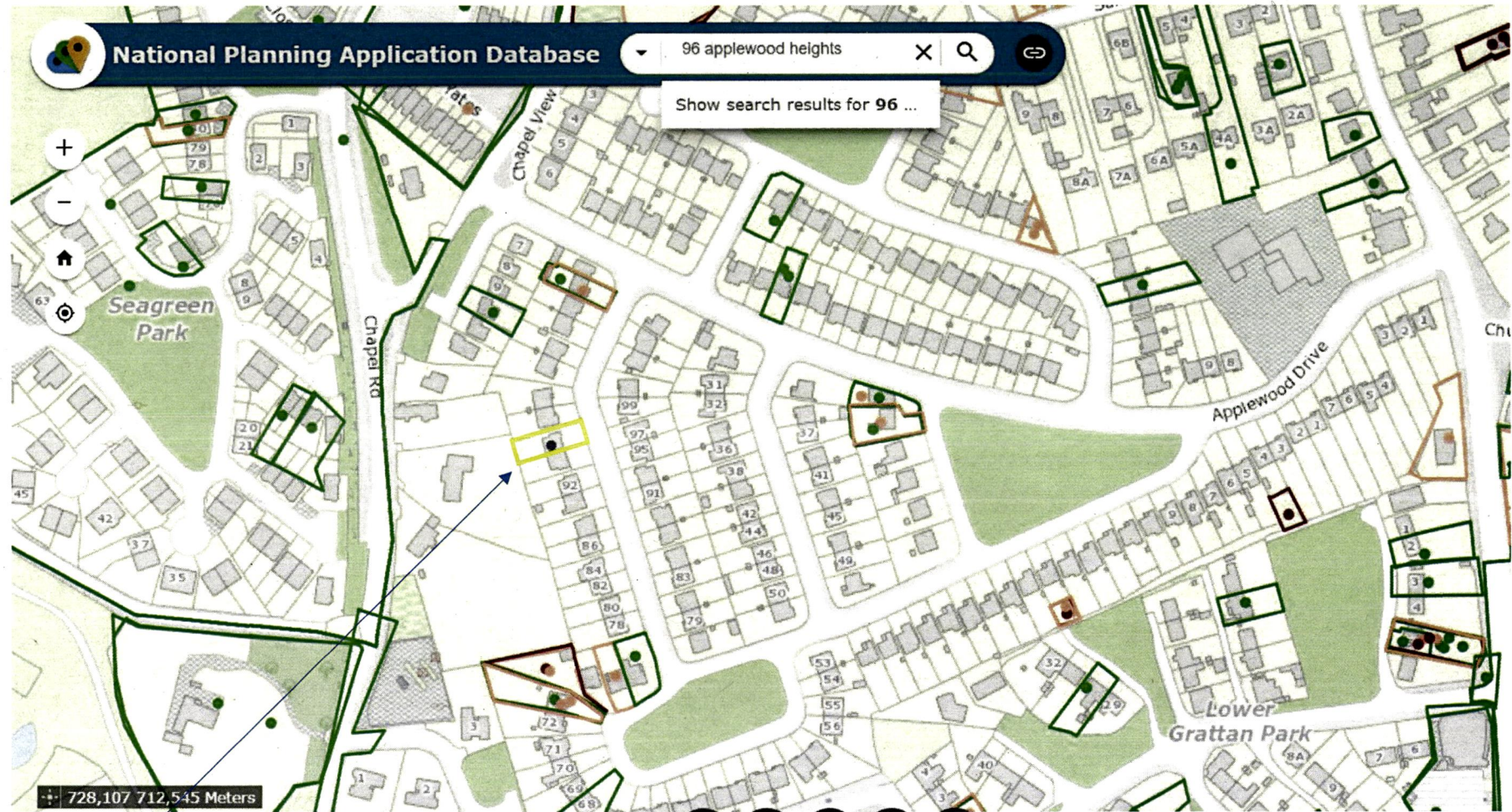
viii. Fee of € 80 Attached ? **No. Please email antgills1@hotmail.co.uk or call 0871036352 to arrange payment.** _____

Signed :  _____ Dated : 13/05/2024

Additional Notes :

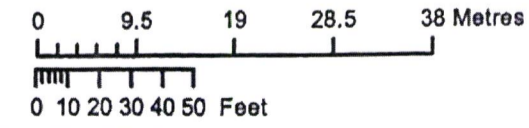
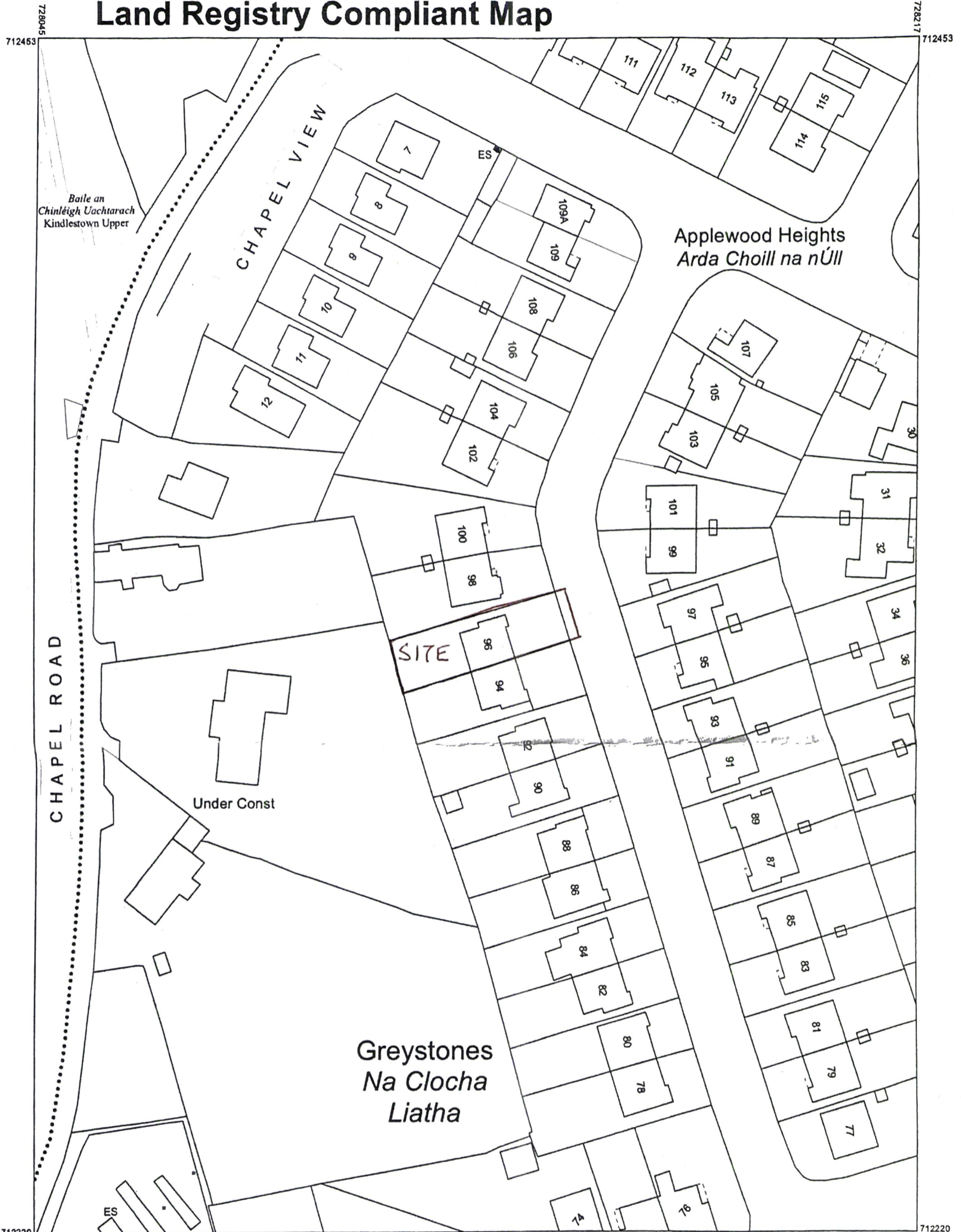
As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below :

- 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.



LOCATION HIGHLIGHTED IN YELLOW

Land Registry Compliant Map



OUTPUT SCALE: 1:1,000



CENTRE COORDINATES:
ITM 728131,712337

PUBLISHED: 22/05/2024
ORDER NO.: 50401883_1
MAP SERIES: 1:1,000
1:1,000
MAP SHEETS: 3674-11
3674-16

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LEGEND: To view the legend visit www.tailte.ie and search for 'Large Scale Legend'

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*SITE LOCATION MAP
96 APPLEWOOD HEIGHTS
GREYSTONES
1/1000 22.05.2024*

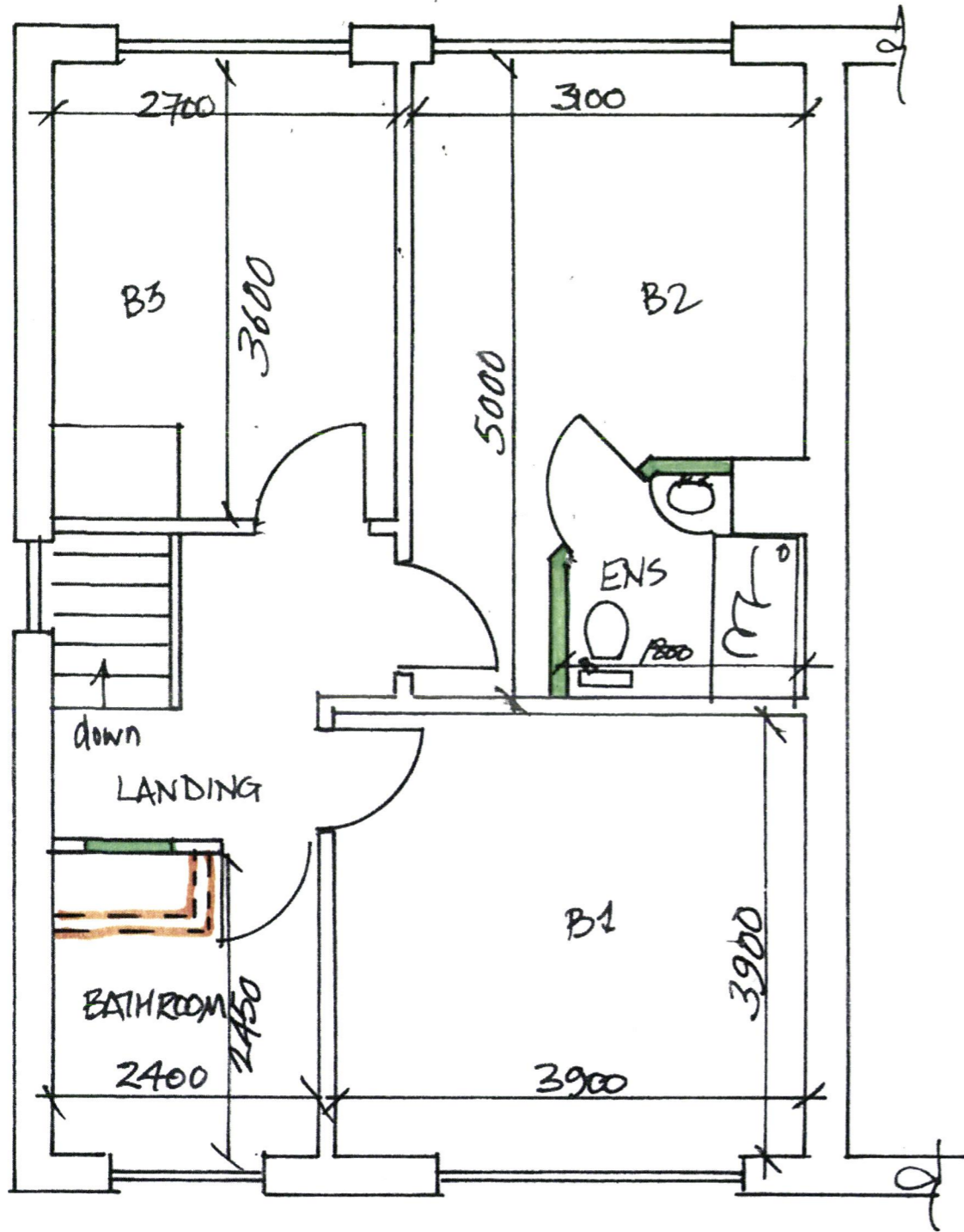


Tailte Éireann

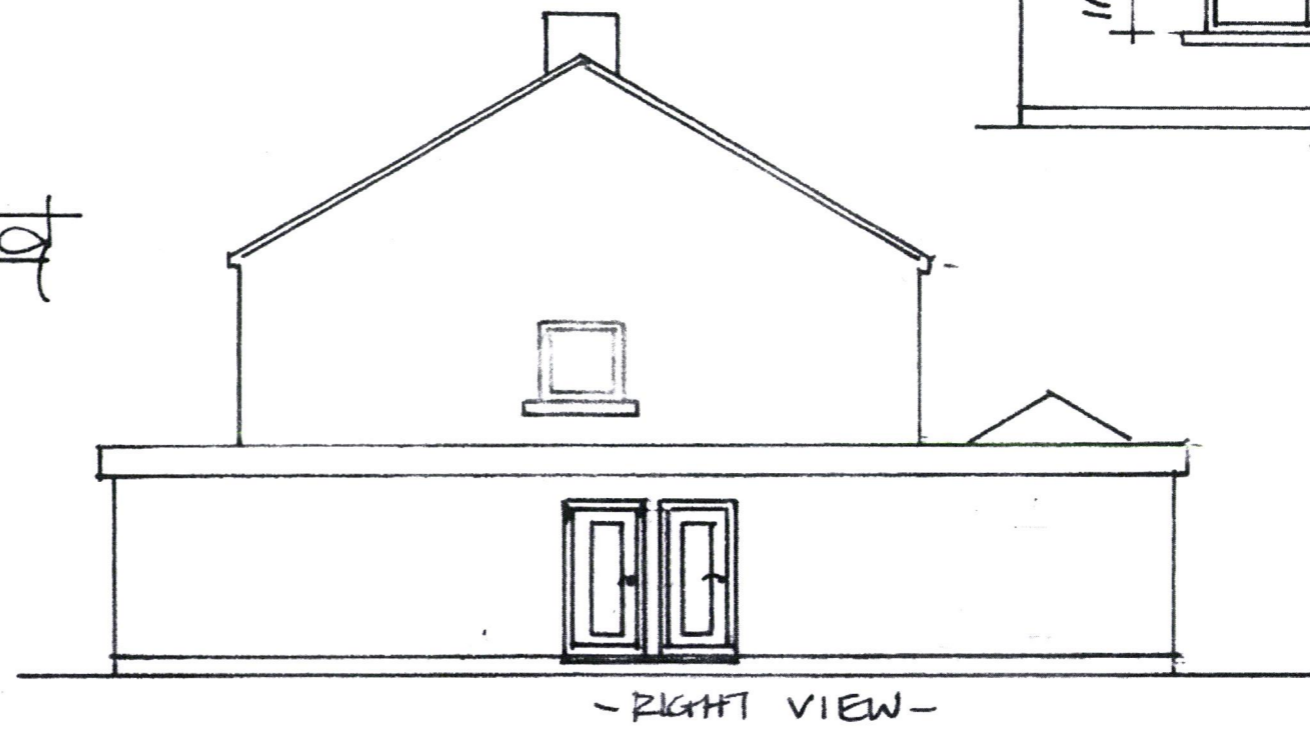
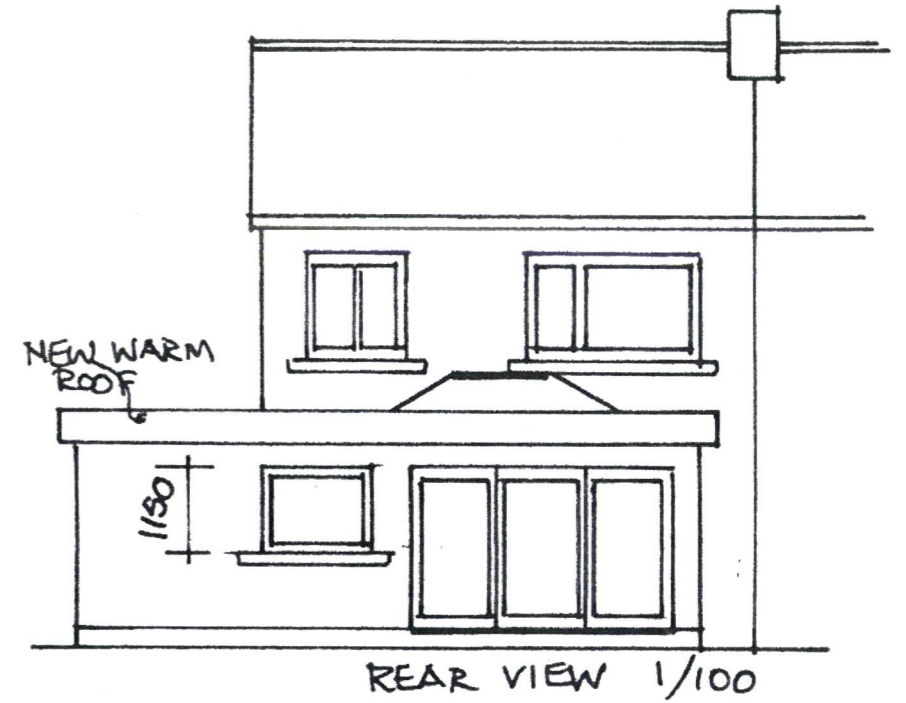
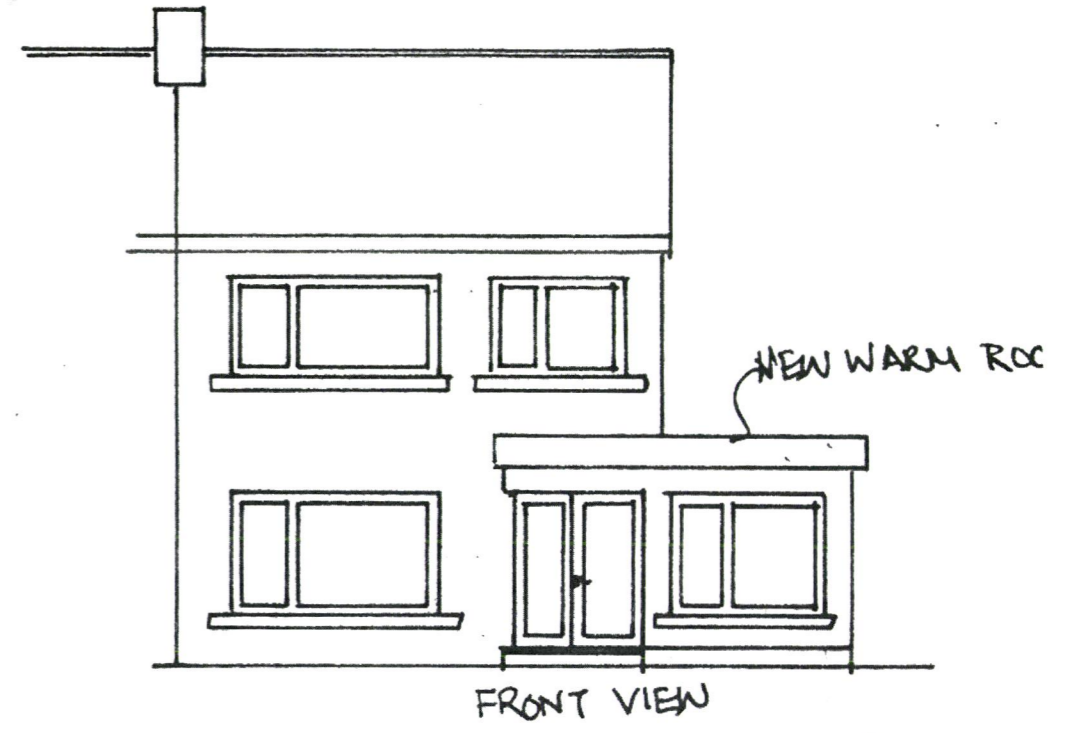
D. FORAN. B.ENG 0876750327

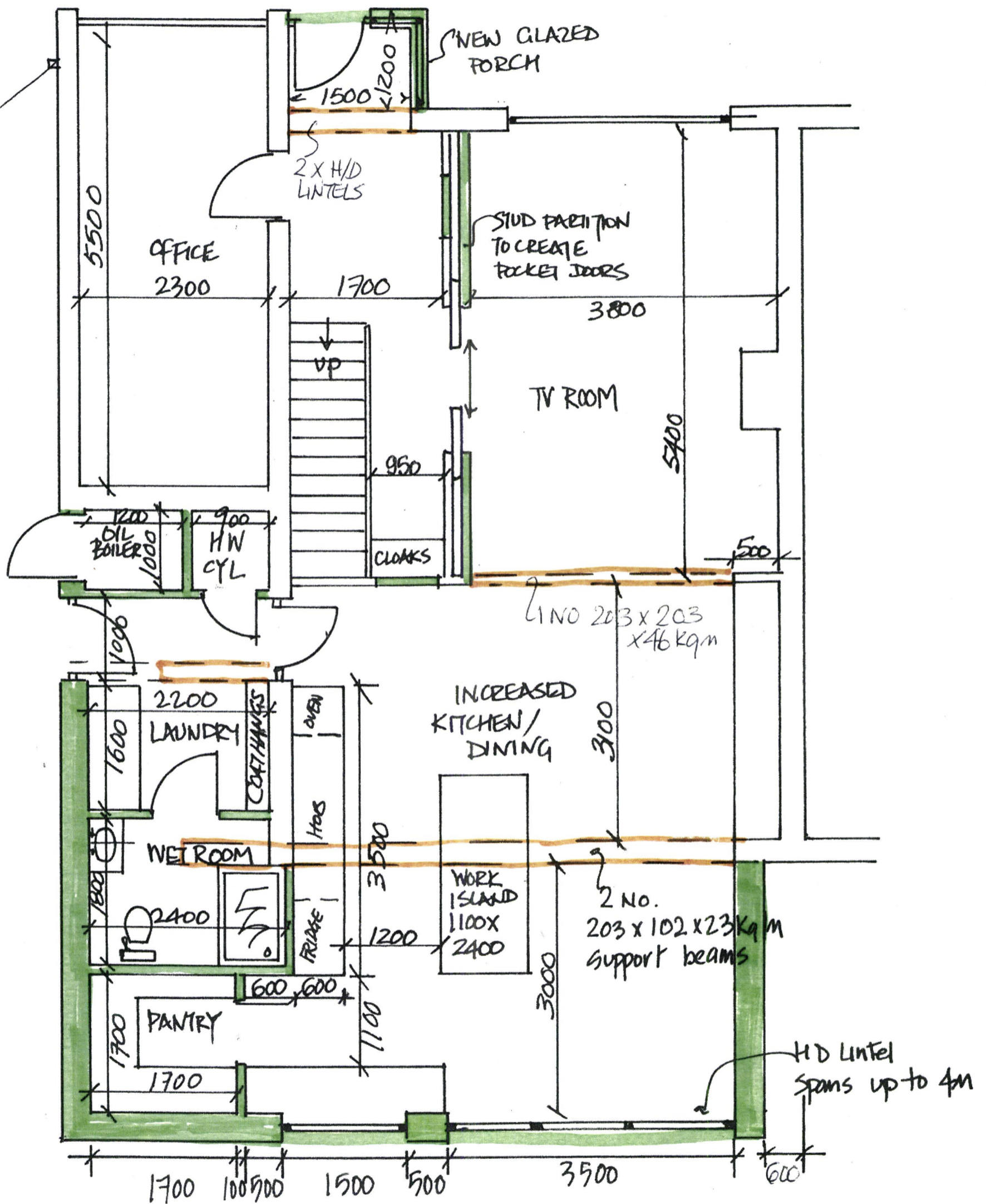


SITE LAYOUT PLAN
 96 Applewood Heights
 Graystones
 Scale: 1/250
 Date: 22.05.2024
 D. Foran B. Eng.
 087 675 0327



== NEW WALLS
 - - - WALLS REMOVED
 FIRST FLOOR PLAN
 1/50





 WALLS REMOVED
 NEW WALLS

- GROUND FLOOR PLAN -
 1/50

AOIFE & ANTHONY
 96 APPLEWOOD HEIGHTS
 GREYSTONES