

Comhairle Contae Chill Dara
Kildare County Council



Date: 8th January 2024.
Our Ref: ED/1084.

C

Ciaran O'Callaghan,
c/o Brian Connolly & Associates,
The Studio,
Wood's Way,
Clane,
Co. Kildare.

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at 129 The Park, Sallins Road, Naas, Co. Kildare.

Dear Sir/Madam,

I refer to your correspondence received on 22nd November 2023 in connection with the above.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 (as amended) in this regard. Please also find enclosed receipt no. FIN1/0/493689 in relation to fee paid.

Yours sincerely,

**Senior Executive Officer,
Planning Department.**



Declaration of Development & Exempted Development under Section 5 of the Planning and Development Act 2000 (as amended).

ED/001084.

WHEREAS a question has arisen as to whether a single storey domestic extension to the rear of a two-storey semi-detached type dwelling at 129 The Park, Sallins Road, Naas, Co. Kildare, is exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 22nd November 2023

AND WHEREAS Ciaran O'Callaghan requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended) and
- (b) Planning and Development Regulations 2001 (as amended); and

AND WHEREAS Kildare County Council has concluded that the proposal comprises development to which the provisions of the following applies:

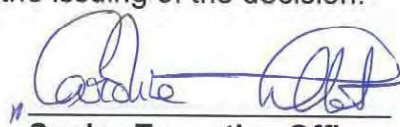
- (a) Sections 2, 3, and 5 of the Planning and Development Act 2000 (as amended);
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended)
- (c) Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Exempted Development – "Development within the curtilage of a house" "Development within the curtilage of a house"
- (d) The nature, extent and purpose of the works,

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the single storey domestic extension to the rear of a two-storey semi-detached type dwelling at 129 The Park, Sallins Road, Naas, Co. Kildare

IS development and IS EXEMPTED development pursuant to Sections 2, 3, and 5 of the Planning and Development Act as amended and Article 6, Article 9 and Class 1, Part 1, Schedule 2 of the Planning and Development Regulations as amended.

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

8th January 2024.


**Senior Executive Officer,
Planning Department.**

KILDARE COUNTY COUNCIL



PLANNING & STRATEGIC DEVELOPMENT DEPARTMENT

Section 5 referral & declaration on development & exempted development

Planning & Development Act 2000 (as amended)

Reference No. ED/1084

Name Of Applicant(s):	Ciaran O' Callaghan
Address Of Development:	129 The Park, Sallins Road, Naas, Co. Kildare W91 PCP4
Development Description:	Single Storey Domestic Extension to the rear of a two-storey Semi-Detached Type Dwelling.
Due date	20/12/2023

Introduction

This is a request for a **DECLARATION** under Section 5(1) of the Planning and Development Act 2000 (as amended) to establish whether under Section 5 of the Act the works the construction of a single storey domestic extension to the rear of a two-storey semi-detached type dwelling is development and is exempted development.

Site Location

The site is located at 129 The Park, Sallins Road, Naas, an established residential development c.2km from the centre of Naas. The existing dwelling is a two storey semi detached dwelling. The site is zoned 'Existing Residential' in the Naas Local Area Plan 2021-2027.

Description of Proposed Development

The application form describes the proposed development thus;

The subject property. Consists of a two storey semi-detached type of dwelling. Situated within a mature residential development in the town of Naas. The applicant recently constructed a single storey extension of living space to the rear of the originally approved dwelling. Confirmation of compliance with section 5 of the Planning and Development Act for this relevant extension is sought in this application. Close consideration of planning regulations was implemented into the design and construction of the relevant house extension. It is single storey, with a floor area of 39.9m², and has been constructed with a materials palette in keeping with that of the original property. Care has been given to ensure that subject works do not interfere

with adjoining properties. The required separation distances to boundaries, and also provisions for the required levels of private open space, have been facilitated.



Fig 1: Site Location and context (site shaded in red)



Fig 2: Site layout Plan (extension in centre)

Planning History

None indicated on GIS.

Relevant Legislative Background

Planning and Development Act 2000 (as amended)

Section 2(1)

'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)

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 5(7) EIA Screening

The proposed development is not specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001(as amended). In any event, it is considered, having regard to nature, size and location, the proposed development would not be likely to have significant effects on the environment. Therefore, EIA is not required.

Planning and Development Regulations 2001 (as amended)

Article 6(1)

Subject to article 9, development of a class specified in column 1 of 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.

Article 9 (1)(a)(i)

Restrictions on exemption.

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—.....(15 items)

Assessment

Having regard to definition of “development” under Section 3(1) of the Planning and Development Act 2000 (as amended), the subject works are considered to constitute development.

The application seeks a Declaration of Exempted Development on the basis of Article 6, which relates to development within the curtilage of a house.

The application has been assessed against each of the provisions of Class 1, column 2 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)

Development Within the Curtilage of a House.

“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.”

There are a number of conditions and limitations attached to Class 1, which have been assessed in the context of the extension as follows:

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

The existing house does not appear to have been extended previously. The floor area of the subject single storey extension is 39.97sqm.

(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.

Not applicable as the subject extension is single storey.

(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.

Not applicable as the existing house is not a detached unit.

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.

Not applicable as the house has not been extended previously.

(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.

Not applicable as the subject extension is single storey.

(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.

The existing house is not detached.

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

Not applicable the subject extension is single storey.

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 subject extension is a single storey extension to the rear of an existing two storey dwelling. Therefore, the height of the walls of the subject extension does not exceed the height of the rear wall of the existing 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 side walls of the house.

As above.

(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.

The subject extension is a single storey extension to the rear of an existing two storey dwelling, the height of the roof does not therefore extend beyond that 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.

The development does not reduce the area of private open space, reserved exclusively for the use of the occupants of the houses, 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.

There are no windows less than 1m from the boundary they face.

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

Not applicable the subject extension is single storey.

(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.

Not applicable the subject extension is single storey and the existing dwelling is a semi-detached dwelling.

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

The subject works do not include a balcony or roof garden.

Conclusion

Having regard to:

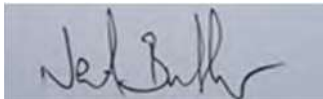
- Sections 2, 3, and 5 of the Planning and Development Act 2000 (as amended);
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended);
- Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Exempted Development – “Development within the curtilage of a house” and

- The nature, extent and purpose of the works;

it is considered that the subject works **constitutes development** as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and **is exempted development** as defined by the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

Recommendation (*amend as required*)

It is recommended that the applicant be advised that the development as described in the application *is development and is exempted development*.



A/Executive Planner
15.12.23



Kehinde Oluwatosin
Senior Executive Planner
15/12/2023



Aoife Brangan
A/SP
18/12/23

Declaration of Development & Exempted Development under

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether a single storey domestic extension to the rear of a two-storey semi-detached type dwelling is exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 22.11.23

AND WHEREAS Ciaran O'Callaghan requested a declaration on the said question from Kildare County Council,

AND WHEREAS Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended); and
- (b) Planning and Development Regulations 2001 (as amended);

AND WHEREAS Kildare County Council has concluded that the proposal comprises of development to which the provisions of the following applies:

- (a) Sections 2, 3, and 5 of the Planning and Development Act 2000 (as amended);
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended)
- (c) Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) - Exempted Development – “Development within the curtilage of a house “Development within the curtilage of a house”
- (d) The nature, extent and purpose of the works,

NOW THEREFORE Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that -

a single storey domestic extension to the rear of a two-storey semi-detached type dwelling

IS development and IS EXEMPTED development pursuant to Sections 2, 3, and 5 of the Planning and Development Act as amended and Article 6, Article 9 and Class 1, Part 1, Schedule 2 of the Planning and Development Regulations as amended.

Please note that any person issued with a declaration under Section 5 of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision.

Signed: _____

Appendix 1: Appropriate Assessment Screening



APPROPRIATE ASSESSMENT SCREENING REPORT AND DETERMINATION

(A) Project Details

Planning File Ref	ED1084
Applicant name	Ciaran O'Callaghan
Development Location	41 Kerdiff Avenue, Naas, Co. Kildare W91 A6CV
Site size	0.07ha
Application accompanied by an EIS (Yes/NO)	No
Distance from Natura 2000 site in km	Ballynafagh Lake SAC is c.9km northwest of the site
Description of the project/proposed development – Domestic extension	

(B) Identification of Natura 2000 sites which may be impacted by the proposed development

			Yes/No If answer is yes, identify list name of Natura 2000 site likely to be impacted.
1	Impacts on sites designated for freshwater habitats or species. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh lake	<i>Is the development within a Special Area of Conservation whose qualifying interests include freshwater habitats and/or species, or in the catchment (upstream or downstream) of same?</i>	No
2	Impacts on sites designated for wetland habitats - bogs, fens, marshes and heath. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley,	<i>Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats (bog, marsh, fen or</i>	No

	Pollardstown Fen, Mouds Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake	<i>heath), or within 1 km of same?</i>	
3	Impacts on designated terrestrial habitats. <u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh Lake	<i>Is the development within a Special Area of Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?</i>	No
4	Impacts on birds in SPAs <u>Sites to consider:</u> Poulaphouca Reservoir	<i>Is the development within a Special Protection Area, or within 5 km of same?</i>	No

Conclusion:

If the answer to all of the above is **No**, significant impacts can be ruled out for habitats and bird species.

No further assessment in relation to habitats or birds is required.

If the answer is **Yes** refer to the relevant sections of **C**.

(G) SCREENING CONCLUSION STATEMENT		
<i>Selected relevant category for project assessed by ticking box.</i>		
1	AA is not required because the project is directly connected with/necessary to the conservation management of the site	
2	No potential significant affects/AA is not required	X
3	Significant effects are certain, likely or uncertain. Seek a Natura Impact Statement Reject proposal. (Reject if potentially damaging/inappropriate)	
Justify why it falls into relevant category above (based on information in above tables)		
Having regard to the proximity of the nearest Natura 2000 site and given the nature and extent of the proposed development, it is not considered there would be potential for significant effects on the Natura 2000 network.		
Name:	Neil Butler	
Position:	A/Executive Planner	
Date:	15.12.23	

COMHAIRLE CONTAE CHILL DARA

KILDARE COUNTY COUNCIL

Director of Services Order



I, Alan Dunney, Director of Services, am duly authorised and delegated by Chief Executive's Order number: CE48043 to make the following Order in accordance with Section 154 of the Local Government Act, 2001, as amended.

ORDER NO: DO50601 **Section:** Planning

SUBJECT: ED/1084.
Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at 129 The Park, Sallins Road, Naas, Co. Kildare.

SUBMITTED: File Ref. ED/1084 with recommendation from the A/Senior Planner and reports from the Council's Technical Officers.

ORDER:  I hereby order the following Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended) hereby decides that the proposed development is development and is exempted development.

MADE THIS 21st DAY
OF January YEAR 2024

SIGNED: 
DIRECTOR OF SERVICES

Kildare County Council

Declaration of Exempt Development under Section 5, of the Planning and Development Act 2000 as amended



Incomplete application forms will
be deemed invalid and returned

All responses must be in block
letters

Section 1 Details of Applicants

1. Name of Applicant(s) A. Surname **O' Callaghan** Forenames **Ciaran**
Phone No. [REDACTED] Fax No.
2. Address **41 Kerdiff Avenue, Naas, Co. Kildare (Eircode W91 A6CV).**
.....

Section 2 Person/Agent acting on behalf of applicant (if applicable)

1. Name of Person/Agent: Surname **Connolly** Forenames **Brian**
Phone No **045 892211** Fax No **N/A.**
2. Address **The Studio, Wood's Way, Clane, Co. Kildare.**
.....

Section 3 Company Details (if applicable) **N/A.**

1. Name of Company **N/A.**
Phone No Fax No
2. Company Reg. No
3. Address



Section 4 Details of Site

1. Planning History of Site **Not Known.**
2. Location of Proposed Development **129 The Park, Sallins Road, Naas, Co. Ke. (Eircode W91 PCP4)**
3. Ordnance Survey Sheet No **KE 3509-18**
4. Please state the Applicants interest in the site **Owner**
5. Please state the extent of the proposed development **Single Storey Domestic Extension To The Rear Of A Two-Storey Semi-Detached Type Dwelling.**
6. Under what Section of the Planning and Development 2000 as amended and/or what provision of the Planning and Development Regulations 2001 as amended is exemption sought (*specific details required*)
Planning and Development Regulations 2001, Schedule 2, Class 1.

7. Please give a detailed description of the Proposed Development (Use separate page if necessary).....

The subject property consists of a two-storey, semi-detached type dwelling, situated within a mature residential development in the town of Naas. The applicant recently constructed a single-storey extension of living space to the rear of the originally approved dwelling. Confirmation of compliance with section 5 of the planning and development act for this relevant extension is sought in this application. Close consideration of planning regulations was implemented into the design and construction of the relevant house extension. It is single storey, with a floor area of 39.9m², and has been constructed with a materials palette in keeping with that of the original property. Care has been given to ensure that the subject works do not interfere with adjoining properties. The required separation distances to boundaries, and also provisions for the required levels of private open space, have been facilitated.

Section 5	The following must be submitted for a valid application
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		(Please Tick)
1.	Site Location Map (1:2500 Rural Areas) (1:1000 Urban Areas)	✓
2.	A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended	✓
3.	Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended	✓
4.	All drawings to differentiate between the original building, all extensions and proposed development	✓
5.	Fee of 80 Euro	✓

Section 6	Declaration
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I, **Derek Malone** certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Signature: Derek Malone

07.11.2023
Date: _____



Brian Connolly
Chartered Engineer
BSc (Eng) MSc DIC Ceng MIEI

The Studio, Woods Way, Clane, Co. Kildare

14/11/2023

Planning Department
Kildare County Council,
Aras Chill Dara,
Devoy Park,
Naas,
Co. Kildare.

Re: - Application for Declaration Of Exempt Development under Section 5 of the Planning and Development Act in relation to an existing residential property at 129 The Park, Naas, Co. Kildare (Eircode W91 PCP4).

(Applicant: - Ciaran O'Callaghan)

A chara,

Enclosed please find application documents for a development as described above, and on behalf of our client. The subject property consists of a two-storey, semi-detached type dwelling, situated within a mature residential development in the town of Naas. The applicant recently constructed a single-storey extension of living space to the rear of the originally approved dwelling. Confirmation of compliance with section 5 of the planning and development act for this relevant extension is sought in this application. As demonstrated on the accompanying relevant drawings, close consideration of planning regulations was implemented into the design and construction of the subject house extension. The subject house extension single-storey, and has a height of less than that of the originally constructed two-storey type property. It has a floor area of 39.9m², and has been constructed with a materials palette in keeping with that of the original property. Care has been given to ensure that the subject works do not interfere with adjoining properties. The required separation distances to boundaries, and also provisions for the required levels of private open space, have been facilitated.

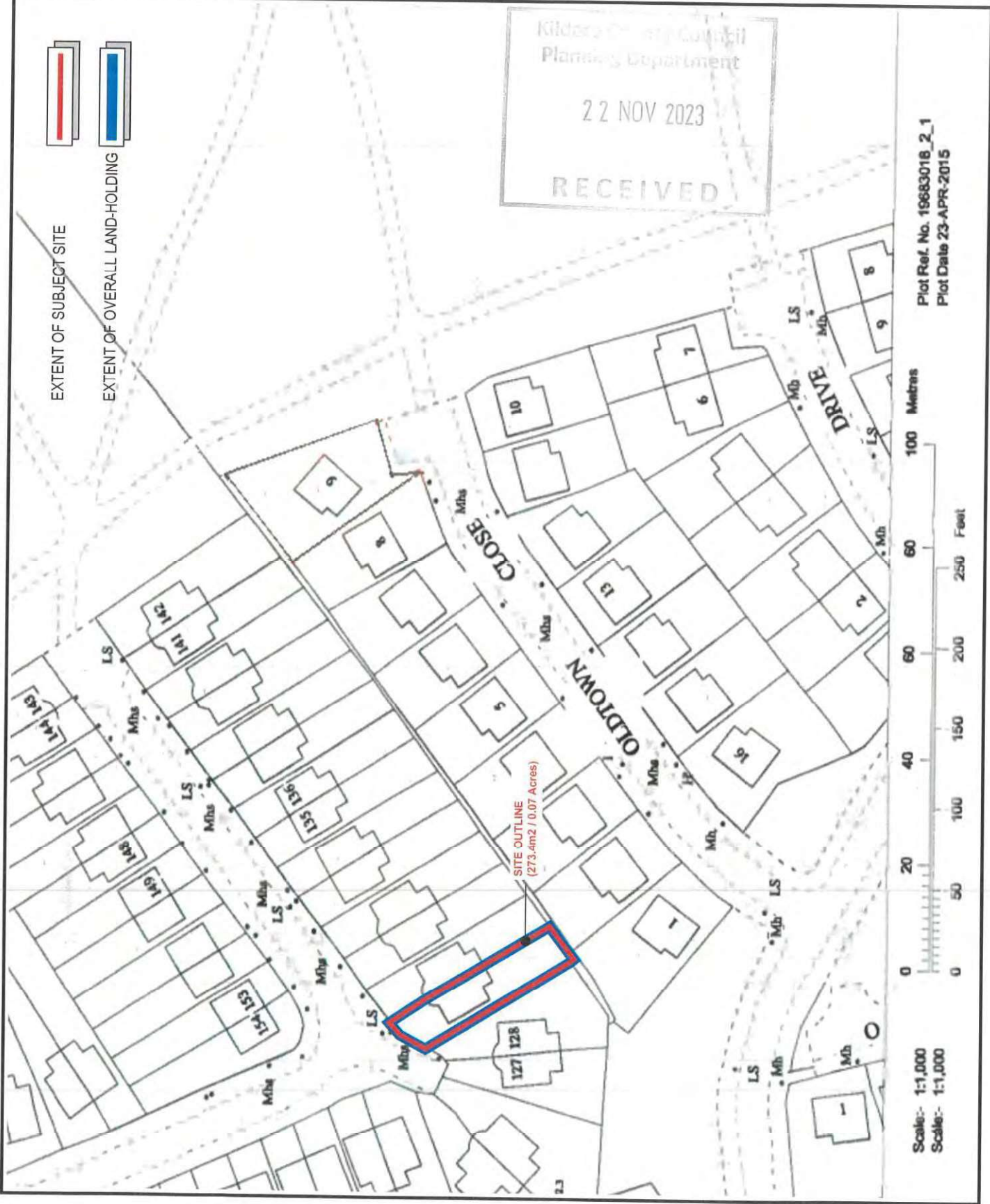
We trust this is in order. Should you require any further information, please contact us.

Yours Sincerely

Brian Connolly Associates.



THIS IS A COMPUTER GENERATED O.S. MAP



Title: Site Location Map

Drawn By: Derek Malone
Address: Brian Connolly Associates
Wood's Way, Clane
Co. Kildare.

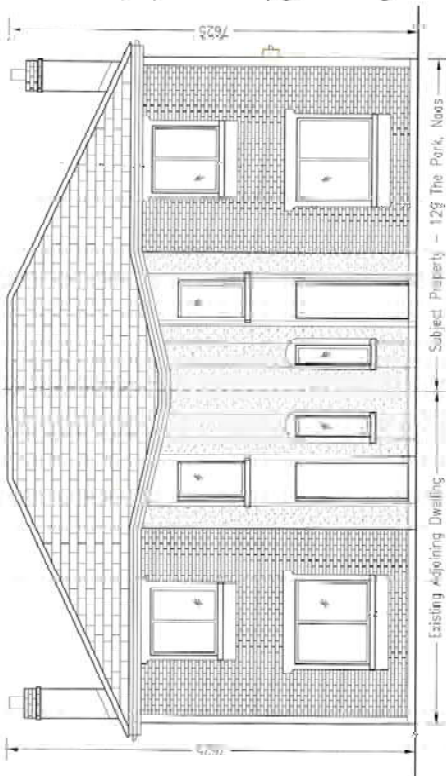


O.S. sheet no. KE 3509-18

O.S.I. LICENCE NO.
EN 0008919

SCALE 1:1000

Client: Ciaran O'Callaghan	
Job: Proposed Declaration Of Exempt Development For An Existing Two-Storey Type Dwelling At 'The Park', Naas, Co. Kildare	
Location: 133 The Park, Naas Road, Naas, Co. Du. (Eassey Hill 1504)	
Drawing Title: Site Location Map	
BSc Eng. MSc. DIC. CEng. MFI The Sault, 'Wood's Way', Clane, Co. Kildare. 1.945 82271 1.945 82020 e: bconnolly@eircom.net	
Declaration Of Exemption Application Issue	
job no. 23045	date 07.11.2023
scale 1:1000 @ A4	drawn by Derek Malone
cad ref no.	planning ref no.
fire ref no.	drawing no. 23045-100



Existing Adjoining Dwelling — Subject Property — 125 The Park, Naas

CONTIGUOUS FRONT/NORTH ELEVATION (1:1, 100.0m)

Scale 1:50



The Park, Naas, Co. Kildare

This document is a preliminary drawing and is not to be used for construction purposes. It is the responsibility of the client to ensure that the drawing is accurate and that all necessary permissions are obtained before construction begins. The drawing is not to be used for any other purpose without the written consent of the architect.



Key to symbols

Existing Dwelling	As shown on map (1:100)
Existing Open Space	As shown on map (1:100)
Proposed Extension	As shown on map (1:100)

Site Name: 125 The Park, Naas, Co. Kildare
 Site Area: 27.2m x 10.2m (10.2 Ha.)

Client: Clarendon O'Callaghan
 Project: Proposed Extension
 Location: 125 The Park, Naas, Co. Kildare
 Drawing Title: Proposed Extension

Scale: 1:100
 Date: 13.11.2024
 Project No: 125/2024
 Project Name: Proposed Extension

Declaration of Exempt Application Issue
 Date: 13.11.2024
 Project No: 125/2024
 Project Name: Proposed Extension
 Declaration of Exempt Application Issue



FINANCE CASH OFFICE
Kildare County Council
Aras Chill Dara
Devoy Park
Naas
Co. Kildare
22/11/2023 15:53:32

Receipt No. : FIN170/493689

Ciaran O' Callaghan

PLANNING EXEMPT DEVELOP FEES 80.00
GOODS 80.00
VAT Exempt/Non-vatable

Total : 80.00 EUR

Tendered :
Cheque 80.00

Change : 0.00

Issued By : Sally Pallister Finance Section
From : Financial Lodgement Area
Vat reg No.0440571C