

Date: 13<sup>th</sup> March 2024. Our Ref: ED/1106.

Leoina Byrne, c/o DB Design Studio, Parkhill, Ballyadams, Co. Laois. R14 WA25.

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at 2959 Maryville Grove, Kildare Town, Co. Kildare.

Dear Madam,

I refer to your correspondence received on 23<sup>rd</sup> February 2024 in connection with the above. Enclosed is Receipt no. FIN1/0/496798 in relation to fee paid.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 (as amended) in this regard.

Yours sincerely,





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

ED/1106.

WHEREAS a question has arisen as to whether the extension of 25 sqm onto the rear of an existing dwelling within its boundaries at 2959 Maryville Grove, Kildare Town, Co. Kildare is exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 23rd February 2024

AND WHEREAS Leoina Byrne 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 development comprises works to which the provisions of the following applies:

- (a) Sections 2, 3, and 5 of the Planning and Development Act 2000 (as amended); and
- (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"

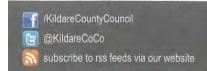
**NOW THEREFORE** Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that the domestic extension to rear of dwelling as set out in plans and details received on 23<sup>rd</sup> February 2024

IS development and IS NOT EXEMPTED development.

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.

13th March 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)

Re	eference No. ED/1106.
Name Of Applicant(s):	Leoina Byrne.
Address Of Development:	2959 Maryville Grove, Kildare Town, Co. Kildare.
Development Description:	Domestic extension to rear of dwelling.
Due date	22/3/2024.

#### **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 of a 25msq floor level extension to the back of an existing house.

#### **Site Location**

The proposed site is located in the northern part of Kildare town situated 214 meters from the Kildare train Station platform and 281 meters from the Kildare train Station building. The site is situated in a housing estate next to the R413 next to two primary schools and the Melitta Road business park.

#### **Description of Proposed Development**

The proposed development involves the construction of a single storey extension to the rear of existing dwelling. The extension will contain a rear hall, a bedroom and ensuite. A canopy will be placed over the extension door to give shelter. A rooflight window will be constructed just above the rear hall at the external entrance to the extension to allow sunlight to enter. A door in the existing house will link it to the extension by the extension's only exterior door. The demolition of an existing garden shed is to facilitate the said development.

Fig 1: Site Location and context



### <u>Planning</u> **History**

There is no planning history to this site nor any neighbouring houses.

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 4(1)

The following shall be exempted development for the purposes of the Act-

(h) development consisting of the carrying out of works for the maintenance, improvement, or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

#### 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 —
- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.,
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan, save any excavation, pursuant to and in accordance with a licence granted under section 26 of the National Monuments Act, 1930 (No. 2 of 1930),,
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
- (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other

structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

- (x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,
- (xi) obstruct any public right of way,
- (d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.

#### Part 1, Class 1

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

#### **Assessment**

Having regard to definition of "development" under Section 3(1) of the Planning and Development Act 2000 (as amended), the proposed 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 (domestic extension) 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: Domestic Extension

"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 floor area of the proposed rear extension (ground floor) is 25sqm.

(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.

The extension is ground floor only.

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

Not applicable as the existing house is not a detached unit and the addition is ground floor only.

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 meters.

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 meters.

The house has not been extended previously and the proposed development is at ground floor only.

(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 meters.

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.

There is no first-floor extension proposed.

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 ground floor 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.

Not applicable as the rear wall of the dwelling does not include a gable.

(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 proposed extension is single storey to the rear of an existing two storey dwelling, the height of the roof of the extension 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 proposed development reduces the area of private open space, specifically *to the rear of the house*, reserved exclusively for the use of the occupants of the houses, to the rear of the house to less than 25sqm. The indicated remaining private open space would be approimately15sqm. Therefore, the development is not considered to comply with this stated stipulation.

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.

There is no first-floor extension.

(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 dwelling is not detached.

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

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

#### **Conclusion**

Section 2 of the Planning and Development Act 2000 (as amended) defines an extension and interior and or external alternation or construction as 'works'.

Section 3(1) of the Act defines a 'development' as 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. Thus, the extension in question **does constitute development** as defined by section 3(1).

Having regard to the remaining private open space to the rear of the dwelling being reduced to less than 25sqm, it is considered that the extension does not fall within the scope of exempted development for an extension to dwelling as set out in Class 1, column 2 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

The development of a single storey rear extension of 25sqm to the existing semi detached **constitutes development** as defined in Section 3(1) of the Planning and Development Act 2000 (as amended) and **is NOT exempted development** as defined under Class 1 of the Planning and Development Regulations 2001(as amended), as amended.

#### **Recommendation**

It is recommended that the applicant be advised that the development as described in the application **Is development** and **is Not exempted development**.

Thomas Mooney Graduate Planner

Thomas Mooner

08/03/2024

Signed:

A/Senior Executive Planner

08/03/2024

Aoife Brangan A/SP

08/03/24

#### **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 the extension of 25 sqm onto the rear of an existing dwelling in Kildare town within its boundaries constitutes a development or exempted development.

**AS INDICATED** on the plans and particulars received by the Planning Authority on 23/02/2024.

**AND WHEREAS** Leoina Byrne 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 provision of the following applies:

- (1) Sections 2, 3, and 5 of the Planning and Development Act 2000 (as amended); and
- (2) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended)
- (3) 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

**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 domestic extension to rear of dwelling as set out in plans and details received on 23/02/2024 *IS development and IS NOT EXEMPTED development.* 

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.

### Appendix 1: Appropriate Assessment Screening



# APPROPRIATE ASSESSMENT SCREENING REPORT AND DETERMINATION

(A) Project Details		
Planning File Ref	ED/1106	
Applicant name	Leoina Byrne	
Development Location	2959 Maryville Grove, Kildare Town, Co. Kildare.	
Site size	25sqm	
Application	No	
accompanied by an EIS		
(Yes/NO)		
Distance from Natura	3.7km (Pollardstown Fen)	
2000 site in km		

**Description of the project/proposed development** – Construct a single storey extension to the rear of existing dwelling demolish existing shed to facilitate the said development.

` '	Identification of Natura 2000 posed development	) sites which may be impa	cted by the
			Yes/No
			If answer is yes, identify list name of Natura 2000 site likely to be
			impacted.
1	Impacts on sites	Is the development	
	designated for freshwater	within a Special Area of	
	habitats or species.	Conservation whose	
		qualifying interests	No
	Sites to consider: River	include freshwater	
	Barrow and Nore, Rye	habitats and/or species,	
	Water/Carton Valley,	or in the catchment	

	Pollardstown Fen,	(upstream or	
	Ballynafagh lake	downstream) of same?	
2	Impacts on sites	Is the development	
	designated for wetland	within a Special Area of	
	habitats - bogs, fens,	Conservation whose	
	marshes and heath.	qualifying interests	
	Sites to consider: River	include wetland habitats	No
	Barrow and Nore, Rye	(bog, marsh, fen or	NO
	Water/Carton Valley,	heath), or within 1 km of	
	Pollardstown Fen, Mouds	same?	
	Bog, Ballynafagh Bog, Red		
	Bog, Ballynafagh Lake		
3	Impacts on designated	Is the development	
	terrestrial habitats.	within a Special Area of	
	Sites to consider: River	Conservation whose	
	Barrow and Nore, Rye	qualifying interests	No
	Water/Carton Valley,	include woodlands,	
	Pollardstown Fen,	dunes or grasslands, or	
	Ballynafagh Lake	within 100m of same?	
4	Impacts on birds in SPAs	Is the development	
	Sites to consider:	within a Special	No
	Poulaphouca Resevoir	Protection Area, or within	140
		5 km of same?	

#### **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**.

(C) (		PONCI LICION CTATEMENT			
		CONCLUSION STATEMENT			
Sele	cted relevant c	ategory for project assessed by ticking box.			
1	AA is not red	quired because the project is directly connected	X		
	with/necess	/necessary to the conservation management of the site			
2	No potential	significant affects/AA is not required			
3	Significant e	effects are certain, likely, or uncertain.			
	Seek a Natu	ıra İmpact Statement			
	Reject propo	osal. (Reject if potentially damaging/inappropriate)			
Justif	fy why it falls i	into relevant category above (based on information			
in abo	ove tables)				
Nam	ie:	Thomas Mooney			
Posi	ition:	Graduate Planner			

Date:	08/03/2024

# **COMHAIRLE CONTAE CHILL DARA**

# KILDARE COUNTY COUNCIL



## **Director of Services Order**

Gabriel Conlon Director of Services, am duly authorised and delegated by Chief Executiverder number: CE51474 to make the following Order in accordance with Section 154 of the ocal Government Act, 2001, as amended.	e's

ORDER NO:	DO51685	Section:	Planning
SUBJECT:	3 of Planning and Dev	aration of Exempted De velopment Act 2000 (as Maryville Grove, Kildar	evelopment under Section amended) for e Town, Co. Kildare.
SUBMITTED:	File Ref. ED1106 with reports from the Coun	recommendation from cil's Technical Officers.	the A/Senior Planner and
ORDER:	Development Act 2000	llowing Kildare County on it by Section 5(2)(a) (as amended) hereby It is development and is	decides that the
MADE THIS 1316	DAY	SIGNED: Tal	if hih
OF March	YEAR 20914	A DIRECTOR OF SEL	

Kildare County Council Planning Department

### 2 3 FEB 2024

# Kildare County Council

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

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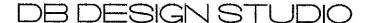
Incomplete application forms will be deemed invalid and returned



All responses must be in <u>block</u> <u>letters</u>

Section 1	Details of Applicants
	Phone No. Fax No. Fax No. Phone ROVE, KILDARE TOWN, CO KILDARE R51HK59
Section 2	Person/Agent acting on behalf of applicant (if applicable)
1. Name of Pe	Prson/Agent: Surname BRENNAN Forenames DECLAN Phone No. 0858676577 Fax No. ARKHILL, BALLYADAMS CO LAOIS R14WA25
Section 3	Company Details (if applicable)
2. Company F	Phone No. Fax No
Section 4	Details of Site
1. Planning H	istory of Site NOT AVAILABLE
2. Location of 2959 MARYV	Proposed Development. ILLE GROVE, KILDARE TOWN, CO KILDARE R51HK59
3. Ordnance S	Survey Sheet No. 3660-07
4. Please state	the Applicants interest in the site APPLICANT LIVES WITH HER MOTHER P.CURRENTLY BEING TRANSFERRED TO APPLICANT, LEOINA BYRNE
5. Please state	the extent of the proposed development. PROPOSED REAR EXTENSION - 25M2

. Ple	ease give a	detailed description of the Proposed Development (Use separate page if necessary)	**********
		T A SINGLE STOREY EXTENSION TO THE REAR OF EXISTING DWELLING	
		EXISTING SHED TO FACILITATE THE SAID DEVELOPMENT	
EXIS	STING SI	TE AREA - 155M2	
XIS	STING DI	VELLING FLOOR AREA - 82M2	
EXIS	STING SI	HED TO BE DEMOLISHED - 8M2	
		REAR EXTENSION - 25M2	
PRI	VATE OF	PEN SPACE TO FRONT GARDEN - 51M2	
Sect	ion 5	The following must be submitted for a valid application	
		(Pleas	e Tick)
1.	Site Loc	ation Map (1:2500 Rural Areas) (1:1000 Urban Areas)	<b>V</b>
2.		ayout Plan (Scale 1:500) in full compliance with Article 23 of Planning and ment Regulations 2001	/
3.	Drawing Develop	s of the development (Scale 1:50) in full compliance with Article 23 of Planning and ment Regulations 2001	/
4.	All draw develops	rings to differentiate between the original building, all extensions and proposed ment	/
5.	Fee of 8	) Euro	<b>✓</b>
Sect	ion 6	Declaration	



#### ARCHITECTURAL DESIGN AND PLANNING

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

#### 20th February 2024

Dear Sir/Madam,

Re: Declaration of Exempt Development under Section 5 of the Planning & Development Act 2000 to construct an extension to the rear of existing dwelling and all associated site works at 2959 Maryville Grove, Kildare Town, Co Kildare R51HK59 on behalf of Leoina Byrne.

#### SCHEDULE OF ENCLOSURES

- 1) Declaration of Exempt Development Form
- 2) Site Location Map 1:1000 (Drawing Ref. 24-02-P01-001).
- 3) Site Location Map 1:10560 (Drawing Ref. 24-02-P02-001).
- 4) Existing Site Layout (Drawing Ref. 24-02-P03-001).
- 5) Proposed Site Layout (Drawing Ref. 24-02-P04-001).
- 6) Existing Dwelling (Drawing Ref. 23-15-P04-001).
- 7) Proposed Extension to Dwelling (Drawing Ref. 23-15-P04-001).

Kildare County Council Planning Department

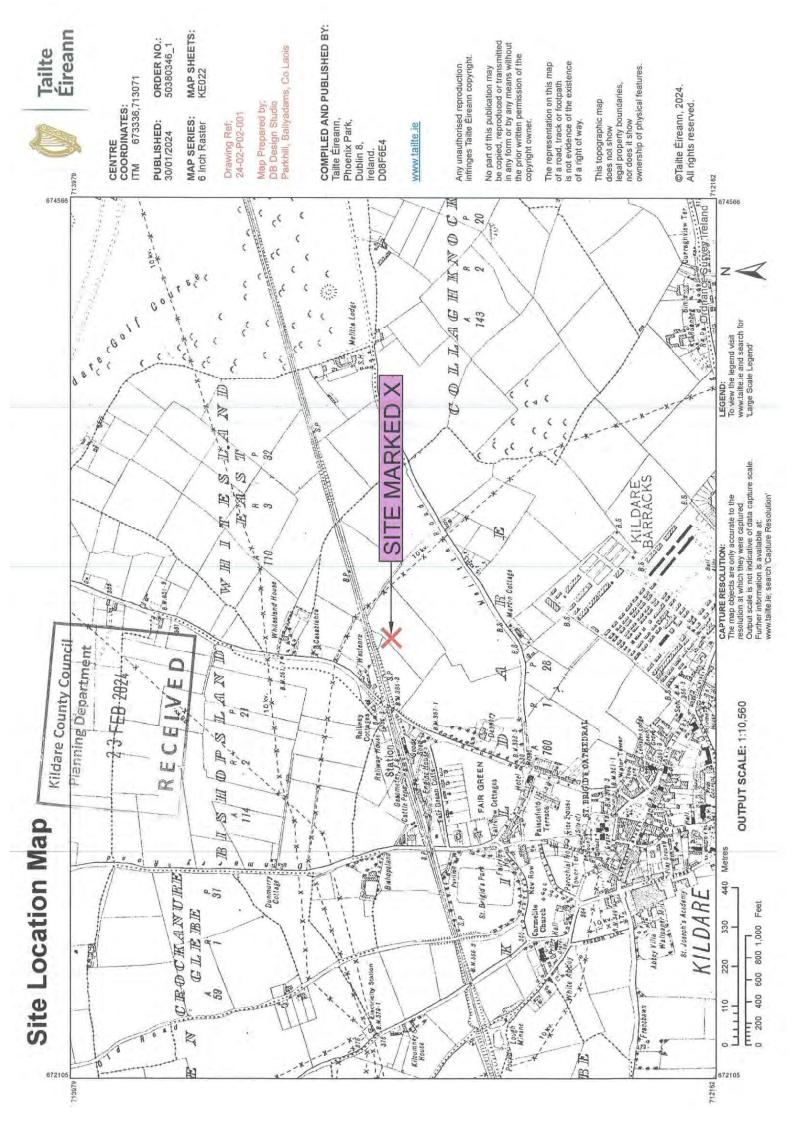
2 3 FEB 2024

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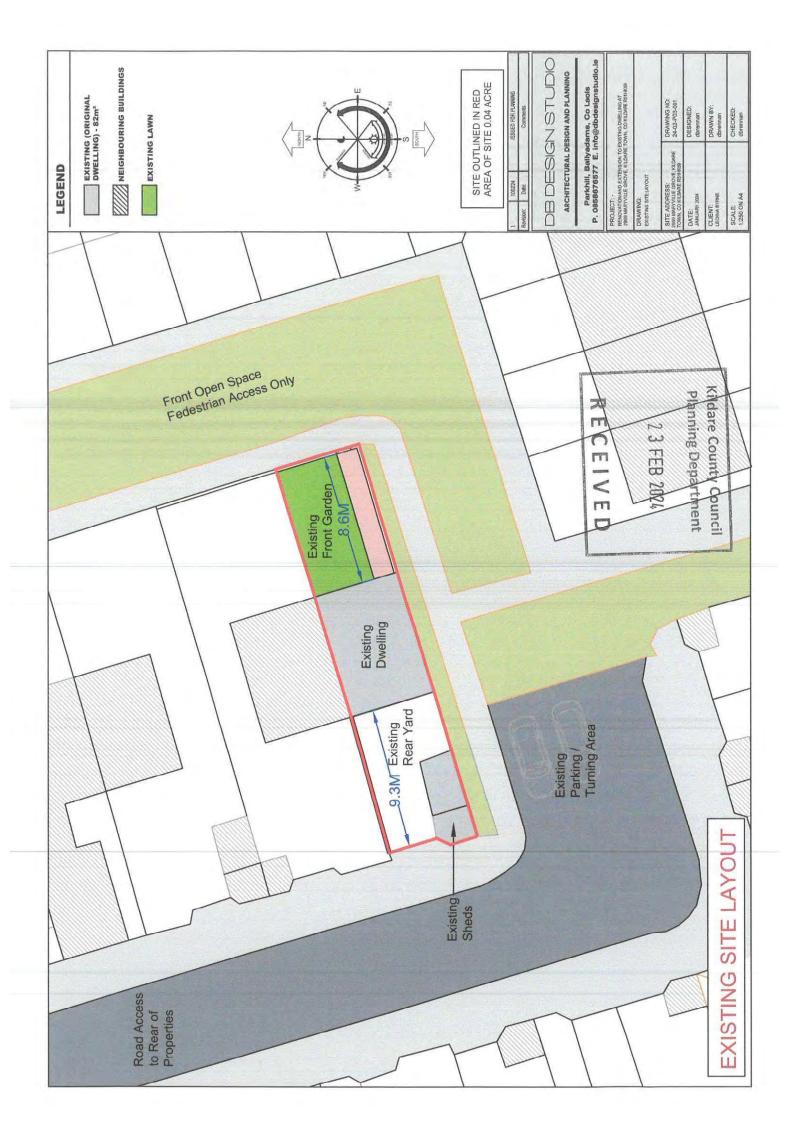
I hope this is to your satisfaction. Regards.

Declan Brennan

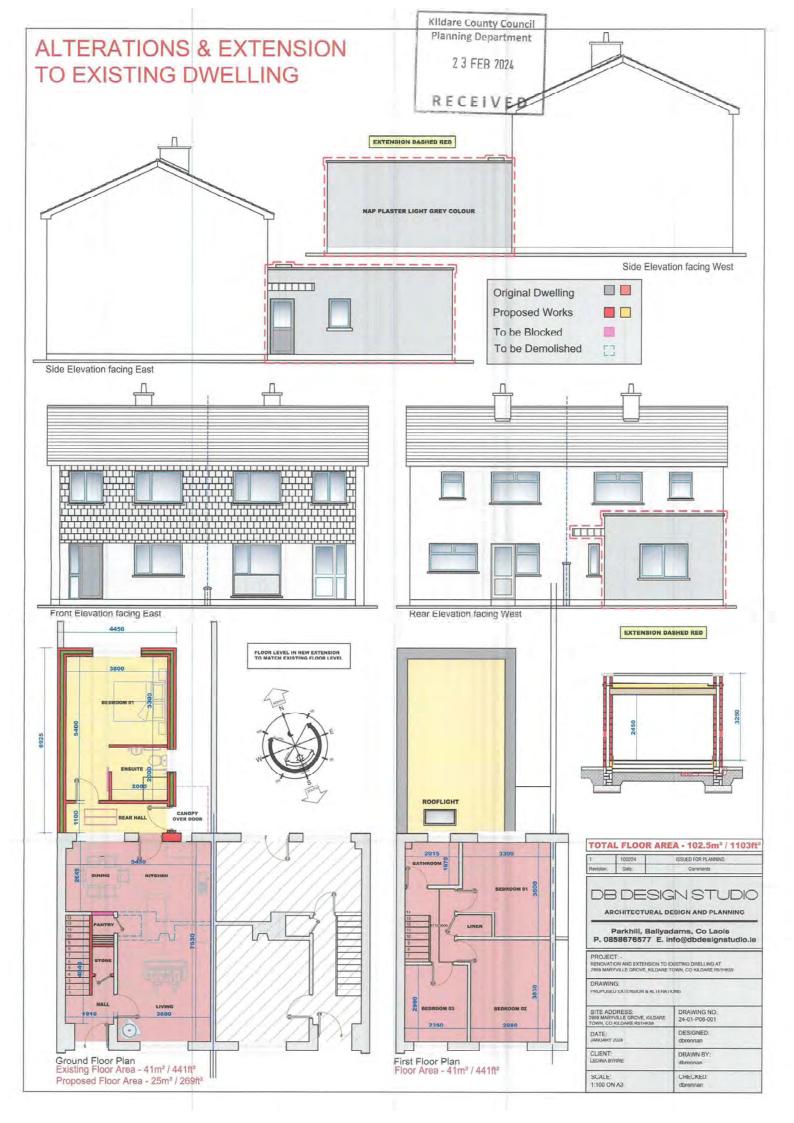
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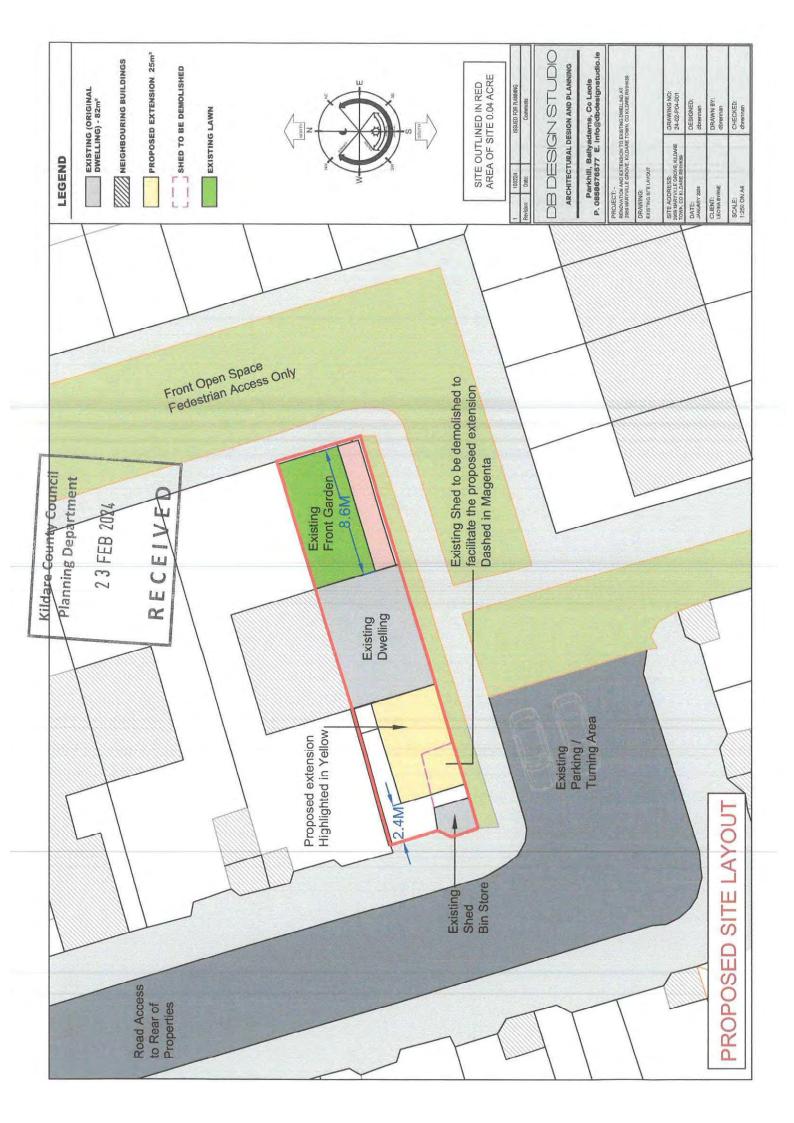














FINANCE CASH OFFICE Kildare County Council Áras Chill Dara Devoy Park Naas Co. Kildare 23/02/2024 12:07:53

Receipt No. : FIN1/0/496798

PL REF: RE: LEOINA BYRNE

PLANNING EXEMPT DEVELOP FEES GOODS 80.00 80,00 VAT Exempt/Non-vatable

Total:

80.00 EUR

Tendered:

Cheque

80.00

Change:

0.00

issued By : Maeve Timmons Finance From : Financial Lodgement Area Vat reg No.0440571C