Comhairle Contae Chill Dara Kildare County Council

Date: 7th May 2024. Our Ref: ED/1119.

Mary Kelly, c/o James Fagan & Associates, Hawkfield, Newbridge, Co. Kildare. W12 WC93.

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Mapas, Cutbush, The Curragh, Co. Kildare.

Dear Madam,

I refer to your correspondence received on 29th March 2024 in connection with the above. Please find emclosed Receipt no. FIN1/0/498182 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,

Senior Executive Officer, Planning Department.





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

ED/001119.

WHEREAS a question has arisen as to whether a sunroom to the rear of the dwelling at Mapas, Cutbush, The Curragh, Co. Kildare is exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 29th March 2024

AND WHEREAS Mary Kelly 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, 4, 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 of Part 1 in Schedule 2 of the Planning and Development Regulations 2001 (as amended) and
- (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 construction of a sunroom with a stated area of 13 sqm to the rear of a dwelling* at Mapas, Cutbush, The Curragh, Co. Kildare

IS development and IS EXEMPTED development pursuant to Section 2, 3, 4, and 5 of the Planning and Development Act as amended and Article 6, Article 9 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.

7th May 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/1119.		
Name Of Applicant(s):	Mary Kelly.	
Address Of Development:	Mapas, Cutbush, the Curragh, Co. Kildare.	
Development Description:	Sunroom to rear of dwelling.	
Due date	26/4/2024.	

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 construction of a sunroom to the rear of a dwelling is or is not exempted development.

Site Location

The application site is located within the rural settlement boundary of Cutbush on lands zoned 'Existing Settlement'. The site comprises a single storey detached dwelling with private open space to the front and rear.

Description of Proposed Development

The proposal relates to the construction of an existing sunroom with a stated floor area of 13 sqm located to the rear of the single storey detached dwelling. The documents submitted to the Planning Authority state that the sunroom "..was constructed as an extension to the kitchen/living area."

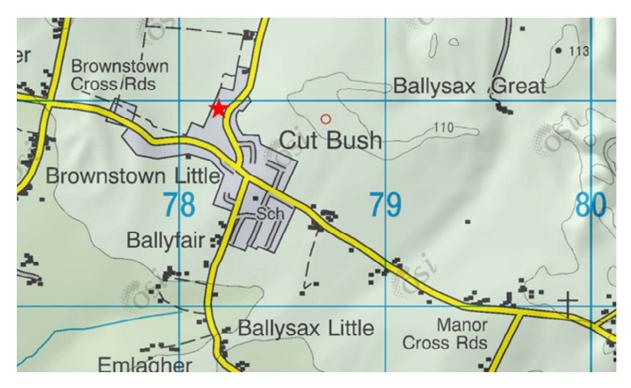


Fig 1: Site Location and context (approximate site location denoted by red star)



Fig 2: Aerial view of subject site (Google Images)

Planning History

None on the subject site according to 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 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—....(15 items)

Part 1, Schedule 2

Class 1

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.

- 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 side walls 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.

See assessment below for further details.

<u>Assessment</u>

This Section 5 declaration relates to the development of a sunroom (already constructed) with a floor area of 13 m² to the rear of a single storey detached dwelling.

The application has been assessed under the provisions of Class 1 (Exempted Development - General), in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended). Class 1 is noted as follows:

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.

- 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 side walls 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.

There does not appear to be any planning history pertaining to the application site. The house does not appear to have been extended previously.

It is noted that the development relates to a ground floor level extension of a single storey dwelling only and the roof of the sunroom does not exceed the highest part of the roof. It is considered that sufficient open space is provided.

It is considered that the development meets the limitations under Class 1 (Exempted Development - General), in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

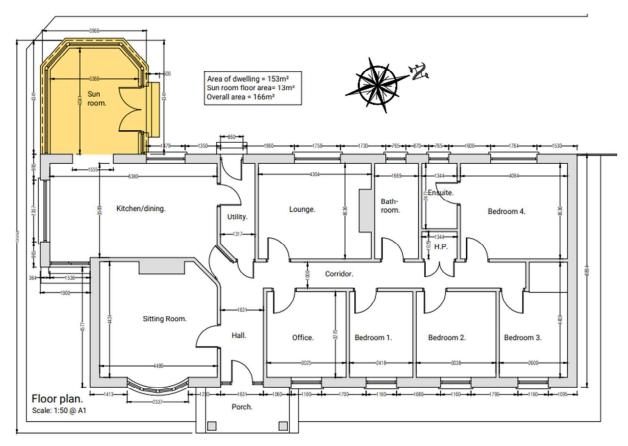


Fig 3: Floor Plan of existing dwelling (existing sunroom highlighted in yellow)





Fig 4: Existing front and rear elevations

Conclusion

Having regard to:

- Sections 2, 3, 4, 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 of Part 1 in Schedule 2 of the Planning and Development Regulations 2001 (as amended) and
- The nature, extent and purpose of the works;

It is considered that the proposed 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

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

0	
Signed: Caixiona Dockery.	Date: <u>01/05/2024</u>
Assistant Planner	
Signed:	
Λ	
Thate Vonohol	
A/Senior Executive Planner	
01/05/2024	
A-svanger	
•	
Aoife Brangan	
A/SP	
02/05/24	

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 construction of a sunroom to the rear of a dwelling at Mapas, Cutbush, Curragh, Co. Kildare, R56 E395

AS INDICATED on the plans and particulars received by the Planning Authority on 29/03/2024

AND WHEREAS Mary Kelly 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, 4, 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 of Part 1 in Schedule 2 of the Planning and Development Regulations 2001 (as amended) and
- (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 construction of a sunroom with a stated area of 13 sqm to the rear of a dwelling

IS development and IS EXEMPTED development pursuant to Section 2, 3, 4, and 5 of the Planning and Development Act as amended and Article 6, Article 9 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	ED1119	
Applicant name	Mary Kelly	
Development Location	Mapas, Cutbush, Curragh, Co. Kildare, R56 E395	
Site size	Stated as 0.24 Ha	
Application	No	
accompanied by an EIS		
(Yes/NO)		
Distance from Natura	c.11km south of Pollardstown Fen SAC	
2000 site in km		
Description of the project/proposed development –		
Construction of a sunroom to the rear of a dwelling (already constructed)		

	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	
	Sites to consider: River	include freshwater	No
	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	No
	marshes and heath.	qualifying interests	140
	Sites to consider: River	include wetland habitats	
	Barrow and Nore, Rye	(bog, marsh, fen or	

	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**.

The diswer is Tes reich to the relevant sections of C.			
(G) SCREENING CONCLUSION STATEMENT			
Sele	cted relevant c	ategory for project assessed by ticking box.	
1	AA is not re	quired because the project is directly connected	
	with/necess	ary to the conservation management of the site	
2	No potential	significant affects/AA is not required	Х
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 scale and nature of the development and the distance			
to the nearest designated site, it is not considered there would be potential			
for any significant effects on the European sites network.			
Nam	Name: C. Dockery		
Posi	Position: Assistant Planner		
Date: 01/05/2024			

COMHAIRLE CONTAE CHILL DARA





Director of Services Order

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

ORDER NO:	DO52537	Section:	Planning
SUBJECT:	5 of Planning and Dev	aration of Exempted Development under Section velopment Act 2000 (as amended) for s, Cutbush, The Curragh, Co. Kildare.	
SUBMITTED:		with recommendation from the A/Senior Planner and Council's Technical Officers.	
ORDER:	the powers conferred Development Act 200	following Kildare County Council, in exercise of ed on it by Section 5(2)(a) of the Planning and 000 (as amended) hereby decides that the nent is development and is exempted development.	
MADE THIS 7/10	DAY	SIGNED: Man	u Denny
OF Man	YEAR 9094	DIRECTOR OF SI	ERVICES

Kildare County Council

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

Incomplete application forms will be deemed <u>invalid</u> and <u>returned</u>



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

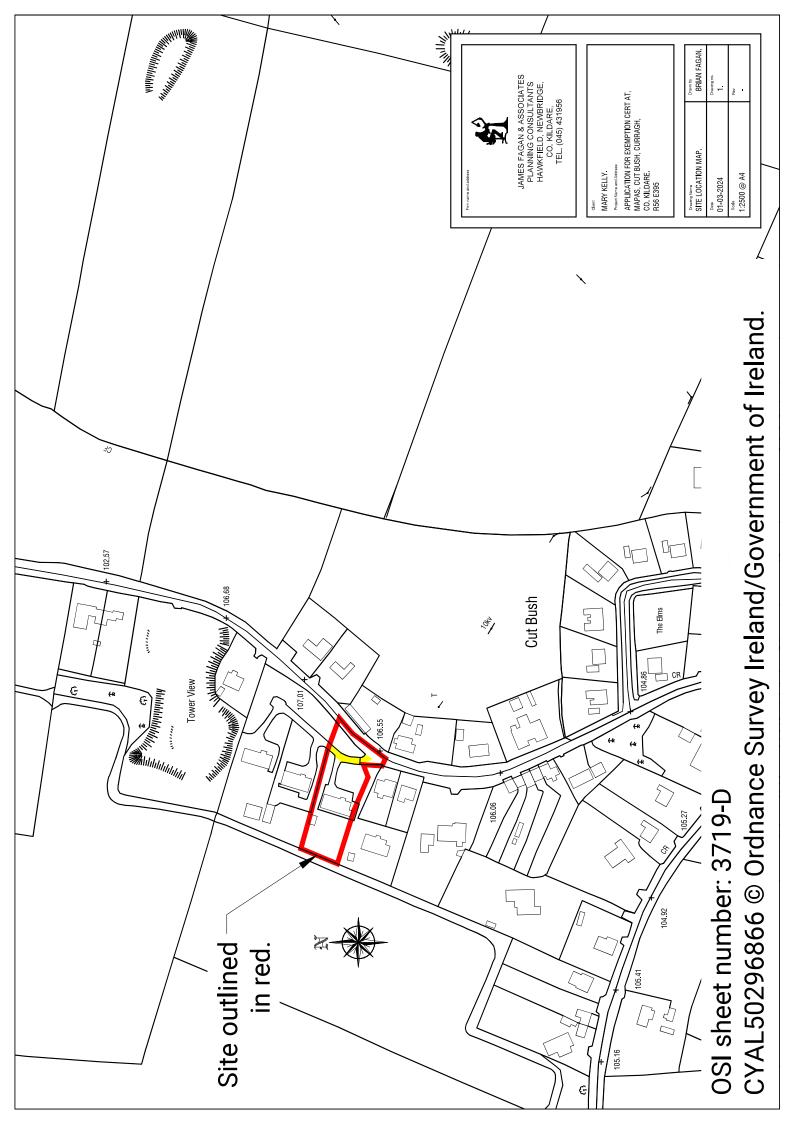
Section 1	Details of Applicants
1. Name of A	Phone No. Phone No. Phone No. Fax No. Fax No. Fax No. Fax No. Curragh, Co. Kildare, R56 E396
Section 2	Person/Agent acting on behalf of applicant (if applicable)
1. Name of Pe	Phone No. 045 431 956 Fax No James Fagan and Associates, Hawkfield, Newbridge, Co. Kildare, W12 WC93
Section 3	Company Details (if applicable)
	laukfield, Newbridge, Co. Kildare.
	Details of Site
1. Planning His	story of Site none found on KCC system
2. Location of R56	Proposed Development Mapas, Cut Bush, Curragh, Co. Kildare,
3. Ordnance Su	rvey Sheet No. 3719 - D
	the Applicants interest in the site Owner
5. Please state t	he extent of the proposed development. Existing surroom to rear

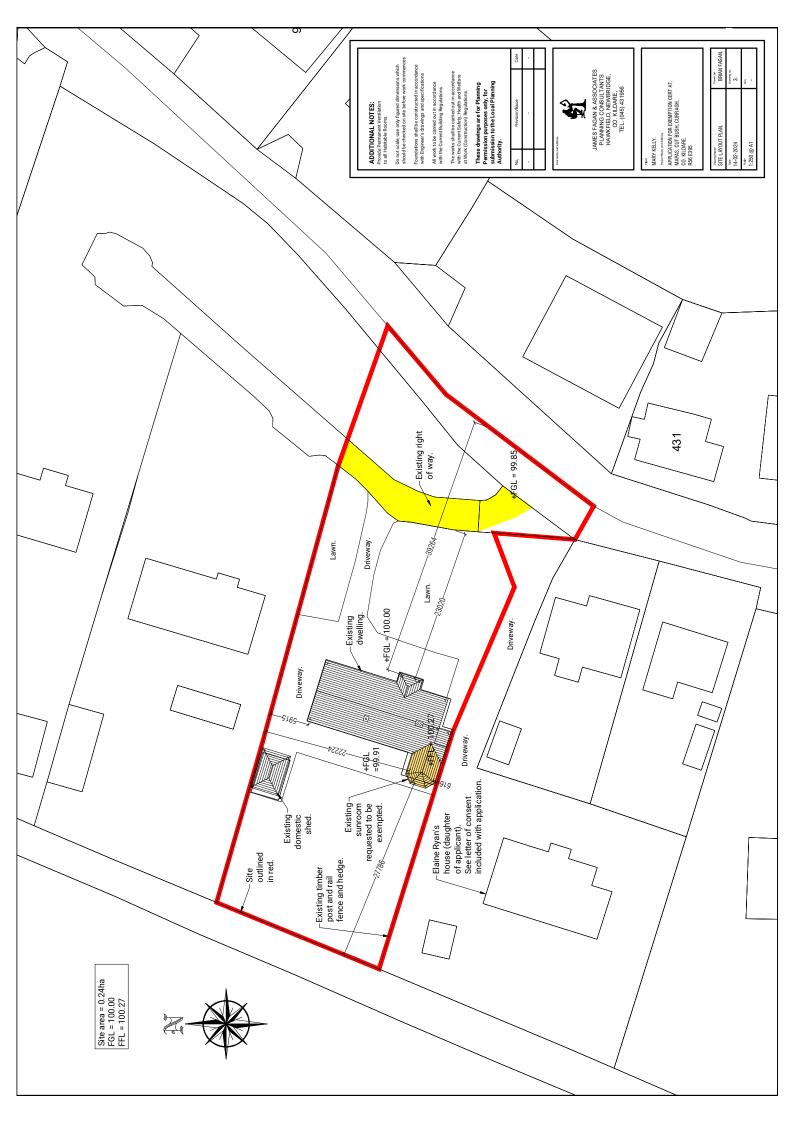
6. Under what Section of the Planning and Development 2000 and/or what provision of the Planning Development Regulations 2001 is exemption sought (specific details required)	ng and
7. Please give a detailed description of the Proposed Development (Use separate page if necessary)	
The applicant seeks a certificate of exemption for an existing surroom that was built of July 2004. The surroom is to the rear of house, and was constructed as an extension to kitchen / living area. It is less than 40m² in f	irca the o the loor
area, at 13m², and it is not constructed over any drainage or utility lines. The overall height of the sourcom does not exceed the overall is of the pre-existing dwelling. Section 5 The following must be submitted for a valid application	J
(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	V
3. Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001	1 /
4. All drawings to differentiate between the original building, all extensions and proposed development	V
5. Fee of 80 Euro	V
Section 6 Declaration	

I, Brian Fagan certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Signature: Brian Fagan.

Date: 5-3-2024





Elaine Ryan Cut Bush, Curragh, Co. Kildare. R56 CP49.

Date: 14-02-2024

FAO: Planning Department, Kildare County Council, Áras Chill Dara, Devoy Park, Naas, Co Kildare

Letter of support regarding application for exempt development.

To Kildare County Council,

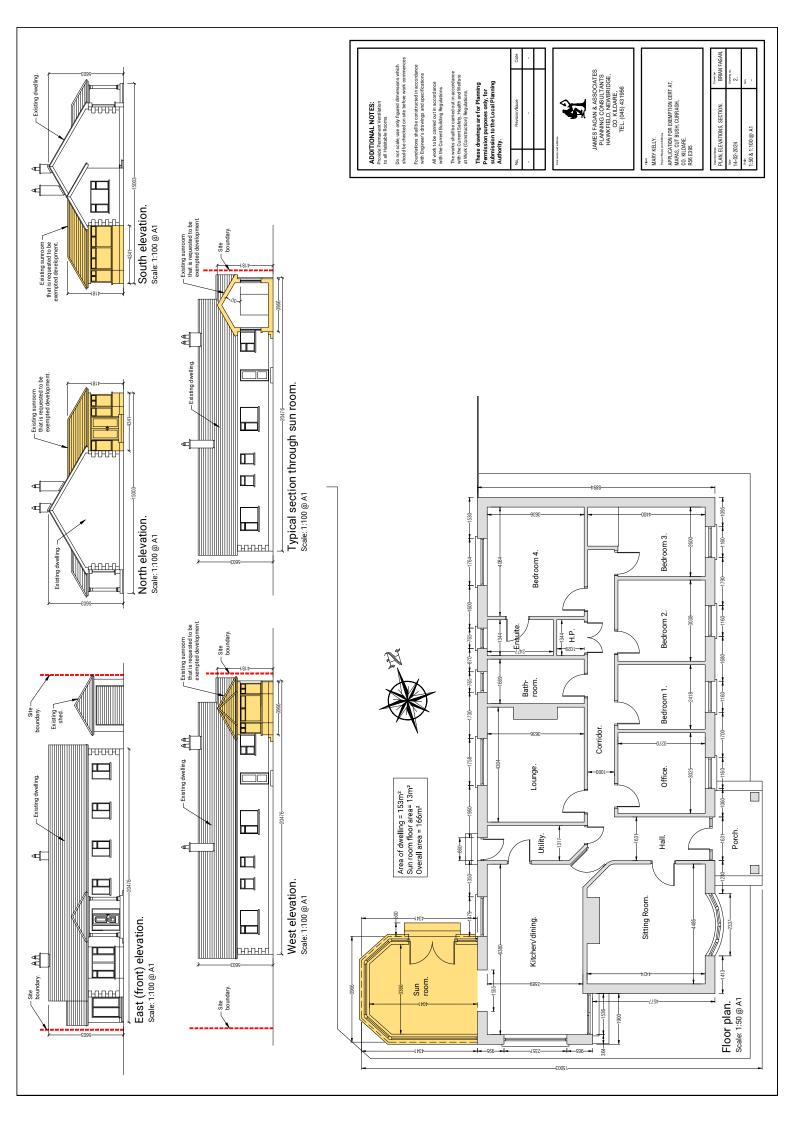
I, Elaine Ryan, hereby express my support for the enclosed application for exempt development regarding the sunroom, as constructed, in the rear garden of my parent's house at Eircode R56 E395, which is directly adjacent to my site. I have no issue with or concerns regarding the scale, form, appearance, or proximity of the sunroom to my plot of land. The sun room was constructed largely aligned with the pre-existing southern building line of my parent's house. In fact, the sun room is slightly set back to the north from even that line, as the enclosed drawings detail. If you have any questions or require anything from me to allow you to grant this application for exempt development, please contact me at the below address or number. Thank you.

Best regards,

Signed: Elaine Ryan

Cut Bush, Curragh, Co. Kildare. R56 CP49.

Tel: 087-8519720





FINANCE CASH OFFICE Kildare County Council Áras Chill Dara Devoy Park Maas Co. Kildare 03/04/2024 12:18:50

Receipt No.: FIN1/0/498182

KCC-173-444 Mary Kelly

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

Total:

80,00 EUR

Tendered: Credit Card VD **2766 0000

80.00

Change:

0.00

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