

Comhairle Contae Chill Dara
Kildare County Council



Date: 21st June 2024.
Our Ref: ED/1129.

Mohammed Mohiuddin,
c/o Furey Consulting Engineers Ltd.
Olde World Cottage,
Rathasker Road,
Naas,
Co. Kildare.

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at 66 Millfield Manor, Newbridge, Co. Kildare.

Dear Sir/Madam,

I refer to your correspondence received on 24th May 2024 in connection with the above.

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/1129.

WHEREAS a question has arisen as to whether the erection of a temporary modular structure at 66 Millfield Manor, Newbridge, Co. Kildare is exempted development

AS INDICATED on the plans and particulars received by the Planning Authority on 24th May 2024

AND WHEREAS Mohammed Mohiuddin 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 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) Article 6, Part 1, Schedule 2 Exempted Development – Class 17 (Temporary Structures and Uses) 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 erection of a temporary modular building for the purpose of living accommodation while the applicants home is constructed (Planning Ref. 24/60054)

IS development and IS NOT EXEMPTED development pursuant to Sections 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.

21st June 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/1129

Name Of Applicant(s):	Mohammed Mohiuddin
Address Of Development:	66 Millfield Manor, Newbridge, Co. Kildare
Development Description:	Erection of temporary modular building as living accommodation while dwelling is being built.
Due date	21 st June 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 which include the erection of a temporary modular building for the purpose of living accommodation while the applicants home is being constructed is Development and/or is Exempted Development.

Site Location

The application site is located within an established residential area of Millfield Manor in Newbridge, to the southwest of Newbridge Shopping Centre.

Description of Proposed Development

The proposed development is described as follows:

"The proposed development is for the erection of a temporary modular building for the purpose of living accommodation while the applicants home is constructed (Planning Ref. 24/60054). The temporary structure will be erected to the rear of the site at 66 Millfield Manor, Newbridge, Co. Kildare, and will be removed on completion of the dwelling granted under 24/60054."

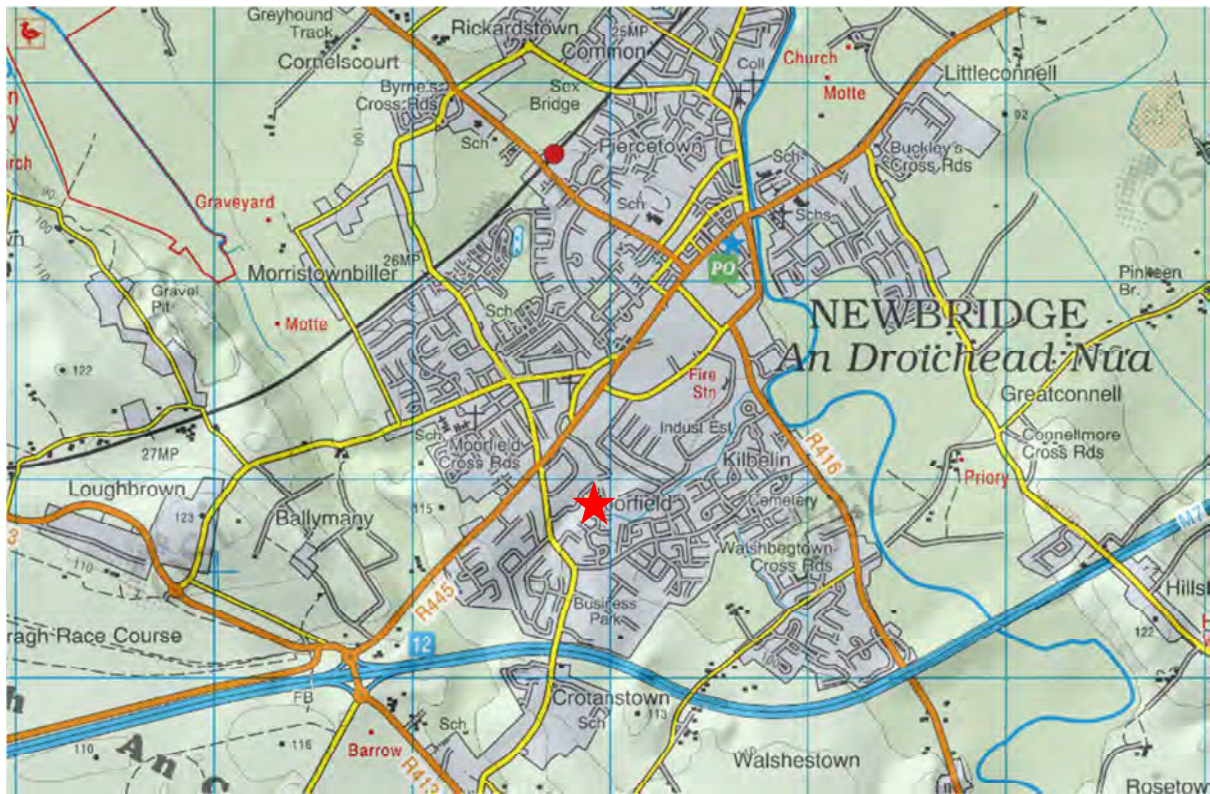


Fig 1: Site Location and context



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

Planning History

24/60054 - Permission was **granted** subject to conditions to Mohammed Mohiuuddin for the construction of a two-storey infill dwelling and all associated site works.

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)

Assessment

The proposal provides for the development of a temporary modular building for the purpose of living accommodation while the applicants home is being constructed. Permission was granted under Pl. Ref. 24/60054 for the construction of a two-storey infill dwelling on lands between no. 65 and no. 67 Millfield Manor. The application form

states that the structure will be erected to the rear of the site (no. 66) and will be removed on completion of the dwelling granted under Pl. Ref. 24/60054.

The proposed structure has a stated area of 24.8 sqm and comprises 1 no. En-suite bedroom and a kitchen/dining/living area. Details of external finishes have not been provided.

Under Article 6, Part 1, Schedule 2 Exempted Development – Class 17 (Temporary Structures and Uses) it is stated that:

“The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development (other than mining) is being, or is about to be carried out, pursuant to any permission, consent, approval or confirmation granted under the Act or any other enactment or as exempted development, of temporary onsite accommodation for persons employed, or otherwise engaged, in connection with the carrying out of the development, during the period in which it is being carried out.”

However, it is considered that this exemption relates to welfare facilities, site offices etc for those carrying out the development, but not for dwellings.

Having regard to the nature of the development, it is considered that the proposal constitutes development and does not constitute exempted development. It is also considered that the proposal would set an undesirable precedent for similar type developments.

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);
- Article 6, Part 1, Schedule 2 Exempted Development – Class 17 (Temporary Structures and Uses) 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 NOT 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 NOT exempted development*.

Signed: 

Assistant Planner

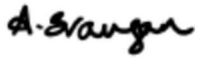
Date: 13/06/2024



Bébhinn O'Shea

Senior Executive Planner

19/6/2024



Aoife Brangan

A/SP

20/06/24

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 erection of a temporary modular building for the purpose of living accommodation while the applicants home is being constructed

AS INDICATED on the plans and particulars received by the Planning Authority on 24/05/2024

AND WHEREAS Mohammed Mohiuddin 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) Article 6, Part 1, Schedule 2 Exempted Development – Class 17 (Temporary Structures and Uses) 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 erection of a temporary modular building for the purpose of living accommodation while the applicants home is constructed (Planning Ref. 24/60054). The temporary structure will be erected to the rear of the site at 66 Millfield Manor, Newbridge, Co. Kildare, and will be removed on completion of the dwelling granted under 24/60054.”

IS development and IS NOT EXEMPTED development pursuant to Sections 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	ED1129
Applicant name	Mohammed Mohiuddin
Development Location	66 Millfield Manor, Newbridge, Co. Kildare
Site size	c.0.013 Ha
Application accompanied by an EIS (Yes/NO)	No
Distance from Natura 2000 site in km	Pollardstown Fen SAC is located c. 1.5km northwest of the site Mouds Bog SAC is located c. 4km north of the site
Description of the project/proposed development – Temporary modular building to be used as living accommodation	

(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.	<i>Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats</i>	No

	<u>Sites to consider:</u> River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Mouds Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake	<i>(bog, marsh, fen or 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 nature of the proposed development, it is not considered that the proposal would have potential significant effects on the Natura 2000 network.		
Name:	C. Dockery	
Position:	Assistant Planner	
Date:	13/06/2024	

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: DO53350 **Section:** Planning

SUBJECT: ED1129.
Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at 66 Millfield Manor, Newbridge, Co. Kildare.

SUBMITTED: File Ref. ED1129 with recommendation from the Senior Executive 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 not exempted development.

MADE THIS 21st DAY
OF June YEAR 2024

SIGNED: Alan Dunney
DIRECTOR OF SERVICES [Signature]

ED1129

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

Incomplete application forms will
be deemed invalid and returned



All responses must be in block
letters

Section 1	Details of Applicants
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1. Name of Applicant(s) A. Surname MOHIUDDIN Forenames MOHAMMED
 Phone No. [REDACTED] Fax No.

2. Address 2 GLEANN NA RIOGH CRESCENT, MONREAD, NAAS, CO. KILDARE

Section 2	Person/Agent acting on behalf of applicant (if applicable)
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1. Name of Person/Agent: Surname FUREY Forenames NIALL
 Phone No. 045486229 Fax No.

2. Address FUREY CONSULTING ENGINEERS LTD., OLDE WORLD COTTAGE, RATHASKER ROAD, NAAS, CO. KILDARE

Section 3	Company Details (if applicable)
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1. Name of Company FUREY CONSULTING ENGINEERS LTD.
 Phone No. 045486229 Fax No.

2. Company Reg. No. 8211853D

3. Address OLDE WORLD COTTAGE, RATHASKER ROAD, NAAS, CO. KILDARE

Kildare County Council
Planning Department

24 MAY 2024

Section 4	Details of Site
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1. Planning History of Site GRANTED PLANNING NO. - 24/60054

2. Location of Proposed Development 66 MILLFIELD MANOR, NEWBRIDGE, CO. KILDARE

3. Ordnance Survey Sheet No. 3661-05

4. Please state the Applicants interest in the site OWNER

5. Please state the extent of the proposed development ERECTION OF A TEMPORARY MODULAR STRUCTURE

RECEIVED

6. Under what Section of the Planning and Development 2000 and/or what provision of the Planning and Development Regulations 2001 is exemption sought (specific details required).....
STAND ALONE TEMPORARY STRUCTURE UNDER 25m² IN AREA.

7. Please give a detailed description of the Proposed Development (Use separate page if necessary).....
THE PROPOSED DEVELOPMENT IS FOR THE ERECTION OF A TEMPORARY MODULAR
BUILDING FOR THE PURPOSE OF LIVING ACCOMMODATION WHILE THE APPLICANT'S HOME
IS CONSTRUCTED. (PLANNING REF: 24/60054). THE TEMPORARY STRUCTURE WILL BE.....
ERECTED TO THE REAR OF THE SITE AT 66 MILLFIELD MANOR, NEWBRIDGE, CO. KILDARE,
AND WILL BE REMOVED ON COMPLETION OF THE
DWELLING GRANTED UNDER 24/60054.

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	
3.	Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001	
4.	All drawings to differentiate between the original building, all extensions and proposed development	
5.	Fee of 80 Euro	

Kildare County Council
Planning Department

24 MAY 2024

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

Signature: Niall Furey

Date: 21/5/24

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Kildare County Council
Planning Department
24 MAY 2021
RECEIVED

REV	DESCRIPTION	DATE	BY	CHK
-----	-------------	------	----	-----

(+353) 45 446 1229
Mobile consulting
Ode World Ccorg-
Rathbarney Road,
Nash, Co. Kildare

FUREY
CONSULTING ENGINEERS

PROJECT	PROPOSED DEVELOPMENT AT MILLFIELD MANOR, NEWBRIDGE, CO. KILDARE	DWG NO	A1-001
DRAWING TITLE	SITE LOCATION MAP	SCALE	1:1000 @ A3
CLIENT	O.S. SHEET NO.: 361-05 MOHAMMED MOHIDDIN	DATE	20-05-24
STATUS	PLANNING PERMISSION	BY	—
		IN	REV
		CF	REF
			23/46

10

LOCATION OF PROPOSED
24.8m² TEMPORARY MODULAR
UNIT DURING CONSTRUCTION
OF DWELLING

LOCATION OF
SITE BOUNDARY

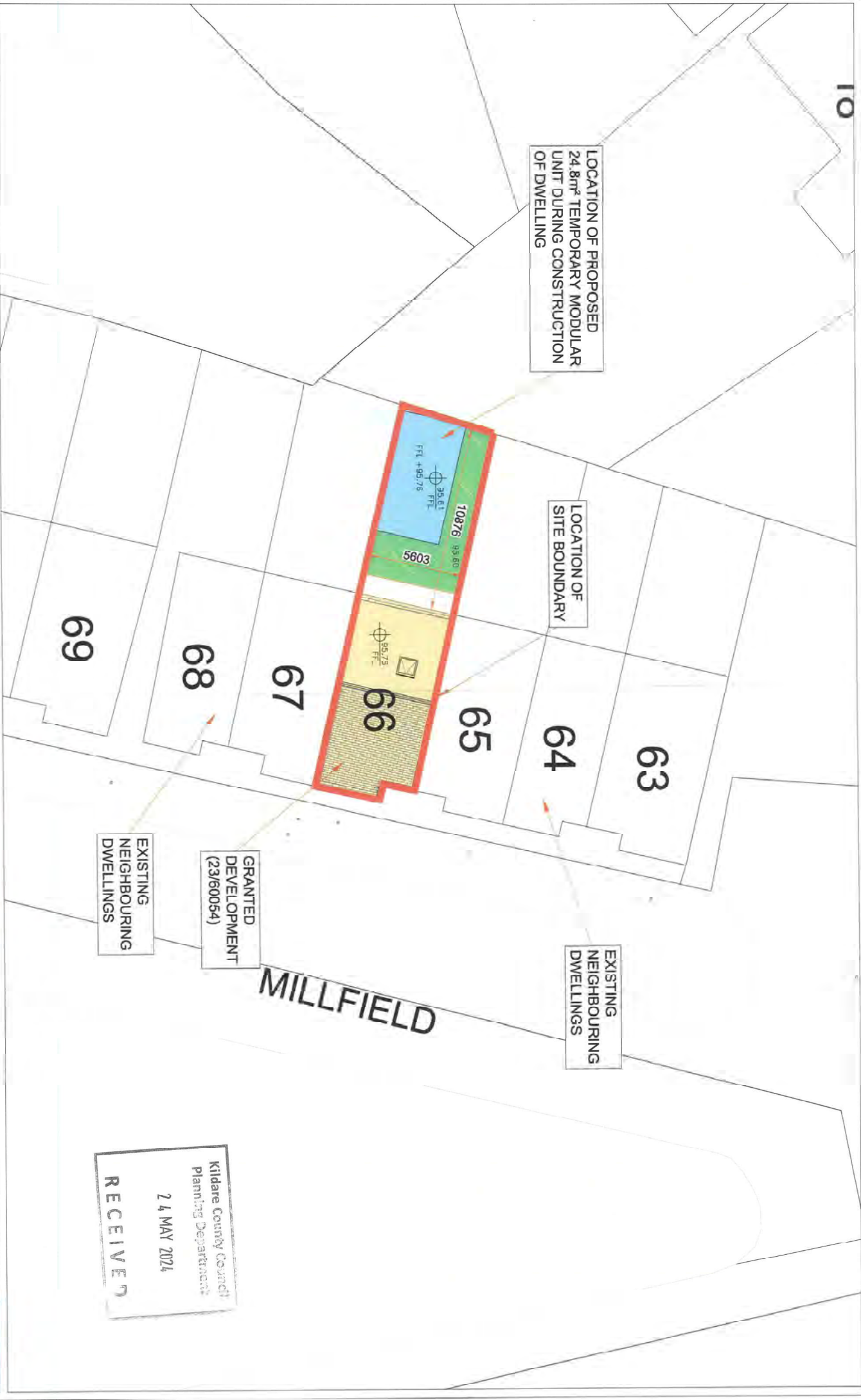
EXISTING
NEIGHBOURING
DWELLINGS

GRANTED
DEVELOPMENT
(23/60054)

EXISTING
NEIGHBOURING
DWELLINGS

MILLFIELD

Kildare County Council
Planning Department
24 MAY 2024
RECEIVED



REV / DESCRIPTION

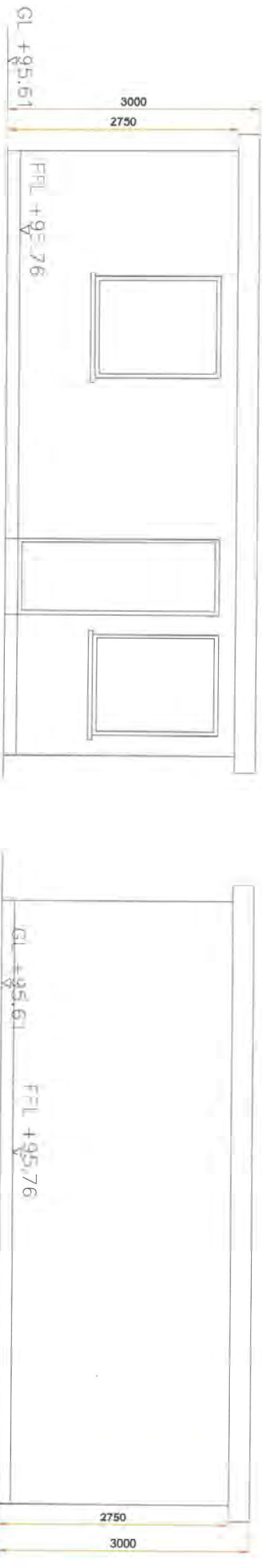
DATE BY CHK

(+353) 45 486 229
fureyconsulting
Older World Estate,
Keshikerr Road,
Mullin, Co. Kildare

FUREY
CONSULTING ENGINEERS

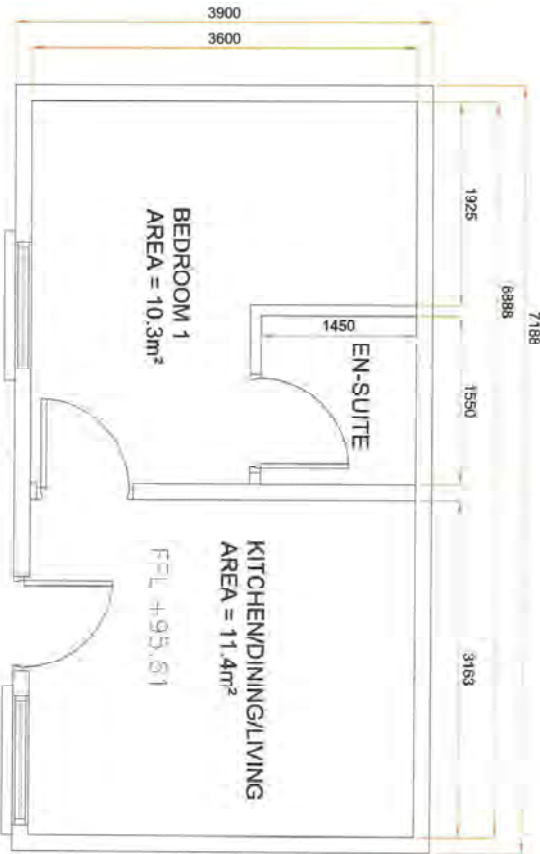
PROJECT PROPOSED DEVELOPMENT AT
MILLFIELD MANOR, NEWBRIDGE, CO. KILDARE
DRAWING TITLE PROPOSED SITE LAYOUT
CLIENT MOHAMMED MOHIDDIN
STATUS PLANNING PERMISSION

DWG NO. A1-002
SCALE 1:200 @ A3
DATE 20-05-24
BY NF
CHK CF
REV
REF 23-M5

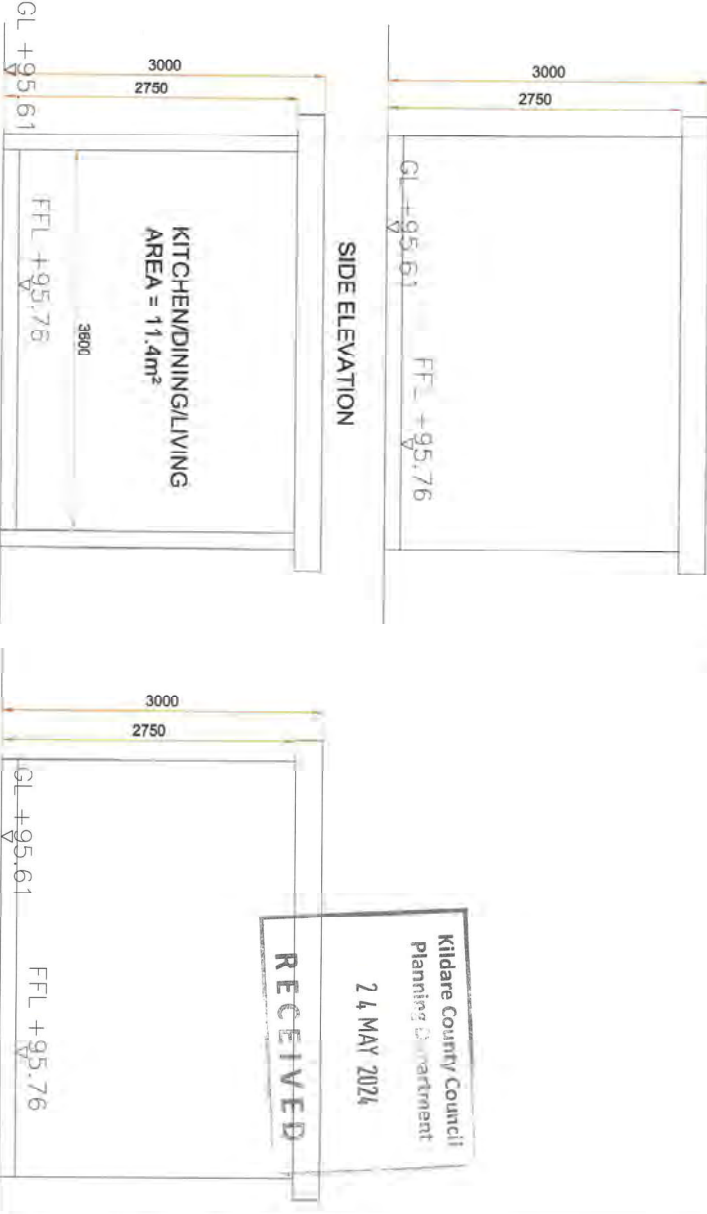


FRONT ELEVATION

REAR ELEVATION



FLOOR PLAN
AREA = 24.8m²



SIDE ELEVATION

SIDE ELEVATION



REV | DESCRIPTION

DATE | BY | CHK

PROJECT	PROPOSED DEVELOPMENT AT	DWG NO.	A2-001
DRAWING TITLE	COOLE, CO. WESTMATH	SCALE	1:50 @ A3
CLIENT	PLANS, ELEVATIONS AND SECTION	DATE	22-05-24
STATUS	MORANMID MORLUDIN	BY	NE
		EF	REV
		REF	23-046

(+353) 45 486229

fuireyconsulting

Older World Centre

Robbester Road,

Meath, Co. Kildare

FUREY

CONSULTING ENGINEERS



FINANCE CASH OFFICE
Kildare County Council
Aras Chill Dara
Devoy Park
Naas
Co. Kildare
27/05/2024 10:57:04

Receipt No. : FIN1/0/500078
***** REPRINT *****

MAHAMMED MOHIUDDIN
ED1129

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

Total : 80.00 EUR

Tendered :
Credit Card
MASTER
3277 80.00

Change : 0.00

Issued By : Patricia Ryan Finance Cash Office
From : Financial Lodgement Area
Vat reg No.0440571C