Comhairle Contae Chill Dara
Kildare County Council

Date: 16th June 2026.
Our Ref: ED/1343.

Timothy Kelly,
33 North Glebe,
Kildare Town,
Co. Kildare R51 YA27.

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at 33 North Glebe, Kildare Town, Co Kildare R51 YA27.

Dear Sir/Madam,

I refer to your correspondence received on 20th April 2026 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,

PP
Senior Executive Officer,
Planning Department.

Comhairle Contae Chill Dara
Kildare County Council

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

ED/1343.

WHEREAS a question has arisen as to whether "Erection of one rear sliding gate, 1.8metres in height and 3.5 metres in total width, installed inside the rear boundary wall, with a vehicular entrance opening in the boundary wall of less than 2.5 metres." at 33 North Glebe, Kildare Town, Co Kildare R51 YA27, is exempted development,

AS INDICATED on the plans and particulars received by the Planning Authority on 20th April 2026

AND WHEREAS Timothy 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
(c) Documentation received with the application

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

(a) Section 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 5, of Part 1 of Schedule 2 of The Planning and Development Regulations 2001 (as amended)
(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 one rear sliding gate, 1.8metres in height and 3.5 metres in total width, installed inside the rear boundary wall, with a vehicular entrance opening in the boundary wall of less than 2.5 metres." at 33 North Glebe, Kildare Town, Co Kildare R51 YA27 **is development and is Not Exempted Development** pursuant to Section 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended) and Class 5, of Part 1 of Schedule 2 and Article 6 and Article 9 of the Planning and Development Regulations, 2001, (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.

16th June 2026.

PP
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/1343

Name Of Applicant(s):	Timothy Kelly
Address Of Development:	33 North Glebe, Kildare Town, Co. Kildare R51 YA27
Development Description:	Erection of a metal/steel sliding gate at the rear boundary of residential property 1.8m in height and 3.5m in width
Due date	18/05/2026

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:

"Erection of one rear sliding gate, 1.8metres in height and 3.5 metres in total width, installed inside the rear boundary wall, with a vehicular entrance opening in the boundary wall of less than 2.5 metres."

is or **is not** development and **is** or **is not** exempted development.

Site Location

The site is located in the established residential development of North Glebe, to the north of Kildare town. The site comprises a 2-storey semi-detached dwelling with a single storey extension to the side. The residential development of Bishopland and its associated access road is located to the rear of the site.

Planning History

92/27- Permission granted for a 55 house development subject to conditions.

Condition 3

3 (d). Car parking spaces shall be provided for 2 cars within the curtilage of each site.

Condition 10
10.(a) All screen walls shall be 1.8 metres in height, constructed in solid blockwork (or brickwork if appropriate) 225mm thick, capped and plastered, (or dashed) on both sides. Piers 450 x 450mm shall be provided at intervals of 3 metres, with an expansion joint at every third pier.
(b) All front gardens shall be bounded by a dwarf wall, 205mm in height as proposed.

(c) All rear gardens shall be bounded by block walls, or by lattice timber panel fences 1.8metres in height, constructed with concrete uprights. (This shall include the boundaries marked by existing hedges which shall be retained).

06/33 - Permission granted subject to conditions for development consisting of single storey extension to side of existing double storey house and will comprise new utility room and spare room along with associated drainage works.

Relevant Legislative Background

Primary Legislation: 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) (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;

(j) development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such;

Secondary Legislation: 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.

Following the provisions of Article 6 of the Regulations, Part 1 of Schedule 2 of the Regulations sets out classes of development which constitute exempted development, subject to conditions and limitations. Class 5 is as follows;

CLASS 5 The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.	1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres. 2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered. 3. No such structure shall be a metal palisade or other security fence.

Article 9 (1)
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 or be inconsistent with a use of permission
(ii) material widening of a means of access to a public road ……
(iii) traffic hazard or obstruction of road user…
(iii A) hazardous glint and/or glare….
(iv) infringes building line ….
(v) works under a public road (other than certain infrastructural works) …
(vi) interfere with the character of a landscape/view of special interest ….
(vii) excavation/alteration/demolition of features/places/caves.
(vii A) excavation, alteration or demolition of any archaeological monument …
(vii B) likely to have a significant effect on the integrity of a European site ….
(vii C) likely to have an adverse impact on a natural heritage area ...
(viii) extension, alteration, repair or renewal of an unauthorised structure or use….

(ix) demolition/alteration of building/structure, precluding a use where it is an objective for the structure to remain available for that use….
(x) consist of the fencing/enclosure of any land habitually used by the public ….
(xi) obstruct any public right of way…
(xii) exterior works materially affecting the character of an ACA…

Assessment

EIA and AA 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 and AA Screening is not required.

Question 1 - Is it development?

The first question to address is whether or not:

"Erection of one rear sliding gate, 1.8metres in height and 3.5 metres in total width, installed inside the rear boundary wall, with a vehicular entrance opening in the boundary wall of less than 2.5 metres."

would constitute development in accordance with the provisions of the Planning and Development Act, 2000 (as amended). Having regard to elements including **construction and excavation**, the *Erection of one rear sliding gate, 1.8metres in height and 3.5 metres in total width, installed inside the rear boundary wall, with a vehicular entrance opening in the boundary wall of less than 2.5 metres.*

is deemed to be **works** under section 2(1) of the Act. The carrying out of works are therefore **deemed to be development** under Section 3(1) of the Act.

Question 2 - Is it or is it not exempted development?

Is the development of:

"Erection of one rear sliding gate, 1.8metres in height and 3.5 metres in total width, installed inside the rear boundary wall, with a vehicular entrance opening in the boundary wall of less than 2.5 metres."

exempted development?

1. **Primary Legislation:** The development has been assessed under the Primary Legislation and it is deemed that there are no exemptions for this development under Section 4 of the Planning and Development Act, 2000, as amended.

2. **Secondary Legislation:** The development has been assessed under the Secondary Legislation and the following sections are relevant:

    a. under **Class 5** *of*, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended*), the construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete* is exempted development subject to conditions and limitations. The development for which the Declaration has been sought has been assessed against these:

        1. *The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.*
        The Application form states it is proposed to provide a rear sliding gate and associated works, 1.8metres in height which is within the parameters set out above. The existing wall height is stated as 2.1m. **This condition / limitation is met.**

        2. *Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.*
        Aluminium sliding gates proposed. It is noted on the submitted drawings that the pilasters are existing. **This condition / limitation is met.**

        3. *No such structure shall be a metal palisade or other security fence.*
        It is not proposed to erect a fence. The sample images provided are of a domestic type of gate with aluminium finish. **This condition / limitation is met.**

    b. The items laid out under Article 9 have been reviewed and the following restrictions apply:

(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;

The development contravenes Condition 10 (a) and (c) of Pl. Ref. 92/27 which states that:

10.(a) All screen walls shall be 1.8 metres in height, constructed in solid blockwork (or brickwork if appropriate) 225mm thick, capped and plastered, (or dashed) on both sides. Piers 450 x 450mm shall be provided at intervals of 3 metres, with an expansion joint at every third pier.

(b) All front gardens shall be bounded by a dwarf wall, 205mm in height as proposed.

(c) All rear gardens shall be bounded by block walls, or by lattice timber panel fences 1.8metres in height, constructed with concrete uprights. (This shall include the boundaries marked by existing hedges which shall be retained).

The provision of an access/sliding gate at this location would be contrary to the parent permission pertaining to the site and is therefore not in accordance with the restrictions as set out in Article 9 of Planning and Development Regulations 2001 (as amended).
(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;
The gateway would provide a means of access to a public road, however, it does not exceed 4m in width.
(iii) endanger public safety by reason of traffic hazard or obstruction of road users;
The proposed access onto a public road associated with a neighbouring residential development is not considered to be appropriate and, it is likely that the development would endanger public safety by reason of a traffic hazard, and obstruction of road users. The proposal would set an undesirable precedent for similar type developments.

Conclusion

Having regard to:

1. Class 5, of Part 1 of Schedule 2, of the Planning and Development Regulations 2001 (as amended),
2. Sections 2, 3, 4, of the Planning and Development Act 2000 (as amended);
3. Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended), and
4. 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.

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

"Erection of one rear sliding gate, 1.8metres in height and 3.5 metres in total width, installed inside the rear boundary wall, with a vehicular entrance opening in the boundary wall of less than 2.5 metres."

Is development and whether such development is or is not exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 20/04/2026

AND WHEREAS the Applicant Timothy Kelly has 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 of the Planning and Development Act 2000 (as amended);
b. Article 6 and 9 of the Planning and Development Regulations 2001 (as amended)
c. Class 5, of Part 1 of Schedule 2, of the Planning and Development Regulations 2001 (as amended),
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 -

"Erection of one rear sliding gate, 1.8metres in height and 3.5 metres in total width, installed inside the rear boundary wall, with a vehicular entrance opening in the boundary wall of less than 2.5 metres."

IS development and IS NOT EXEMPTED development pursuant to Section 2,3,4 & 5 of the Planning and Development Act as amended and* Class 5, of Part 1 of Schedule 2 and *Article 6 and Article 9 of the Planning and Development Regulations, 2001, 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:



Executive Planner
18/05/2026



_____

J. O'Reilly

A/Senior Planner

16/06/2026

<u>Site Sensitivities</u>

SMRs

- None within the application site boundary

SACs

- Approximately 4km from Pollardstown Fen SAC

Land Use and Zoning

- Objective B ‘Existing Residential/Infill’ – Kildare Town LAP 2023-2029

COMHAIRLE CONTAE CHILL DARA

KILDARE COUNTY COUNCIL

Director of Services Order

I, Alan Dunney, Director of Services of Planning, Enterprise & Economic Development, by the powers conferred on the Chief Executive of Kildare County Council under Section 151 of the Local Government Act 2001, as amended by the Local Government Reform Act 2014, and which powers are delegated to me pursuant to Section 154 of the Local Government Act 2001 (as amended) by Chief Executive's Order number: CE63325, do hereby make the following Order:

ORDER NO: DO66195 **Section:** Planning

SUBJECT: ED/1343
Timothy Kelly, 33 North Glebe, Kildare Town, Co Kildare R51 YA27, Exempt Development Application "Erection of one rear sliding gate, 1.8metres in height and 3.5 metres in total width, installed inside the rear boundary wall, with a vehicular entrance opening in the boundary wall of less than 2.5 metres."at 33 North Glebe, Kildare Town, Co Kildare R51 YA27

SUBMITTED: File Ref. ED1343 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 16TH DAY

OF JUNE YEAR 2026.

SIGNED: Alan Dunney

DIRECTOR OF SERVICES

Comhairle Contae Chill Dara
Kildare County Council

Date: 20th April 2026
Our Ref: ED/1343

Timothy Kelly,
33 North Glebe,
Kildare Town,
Co. Kildare R51 YA27.

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at 33 North Glebe, Kildare Town, Co. Kildare R51 YA27.

Dear Sir,

I acknowledge receipt of your application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) received on 20th April 2026 in connection with the above.

Please find enclosed Receipt no. FIN1/0/523378 for €80 application fee.

Yours sincerely,

pp Norma O'Connor

Senior Executive Officer,
Planning Department.

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

1. Name of Applicant(s) A. Surname..*KELLY*..... Forenames..*TIMOTHY*.....
Phone No.[redacted]..... Fax No.....
2. Address ..*33 NORTH GLEBE, KILDARE TOWN, CO KILDARE, R51YA27*.....
.....

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

1. Name of Person/Agent: Surname..... Forenames.....
Phone No..... Fax No.....
2. Address.....
.....

Section 3	Company Details (if applicable)

Kildare County Council
Planning Department
20 APR 2026
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1. Name of Company .....
Phone No..... Fax No.....
2. Company Reg. No.....
3. Address.....
.....

Section 4	Details of Site

1. Planning History of Site..*Residential dwelling house within an established housing estate. No subsequent planning history known.*
2. Location of Proposed Development.....
Rear boundary of 33 North Glebe, Kildare Town, Co Kildare, R51YA27
.....
3. Ordnance Survey Sheet No..*Land Direct Folio Number KE32461F*.....
4. Please state the Applicants interest in the site *Owner/occupier of the residential dwelling.*
.....
5. Please state the extent of the proposed development..*Erection of one rear sliding gate, 1.8 metres in height and 3.5 metres in total width, installed inside the rear boundary wall, with a vehicular entrance opening in the boundary wall of less than 2.5 metres.*

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)* ***Class 5 and Class 6, Part 1, Schedule 2 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001). Class 5 refers to the erection of a gate structure within or bounding the curtilage of a dwelling house, not exceeding 2 metres in height at the rear. Class 6 refers to the construction of a vehicular entrance onto a public road, with an entrance opening not exceeding 2.5 metres in width. The laneway to the rear has been taken in charge by Kildare County Council.***

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

The proposed development consists of the erection of a sliding gate at the rear boundary of the residential property at R51YA27. The gate is constructed of [metal/steel] and measures 1.8 metres in height and 3.5 metres in total width. The gate is installed on a sliding track positioned inside the rear boundary wall, overlapping the inner face of the wall when open or closed. The vehicular entrance opening formed in the existing rear boundary wall does not exceed 2.5 metres in width, in compliance with the Class 6 exemption threshold. The rear laneway onto which the entrance opens has been taken in charge by Kildare County Council. The property is a residential dwelling within an established housing estate and is not a protected structure, nor is it located within an Architecturat Conservation Area. Several properties in the adjoining estate have similar gates and vehicular rear access already in place.

It is submitted that the proposed development is exempt from planning permission under Class 5 and Class 6, Part 1, Schedule 2 of the Planning and Development Regulations 2001, as the gate does not exceed 2 metres in height at the rear of the property, and the vehicular entrance opening does not exceed 2.5 metres in width onto a taken-in-charge public road.

Section 5	**The following must be submitted for a valid application**

		(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	✓

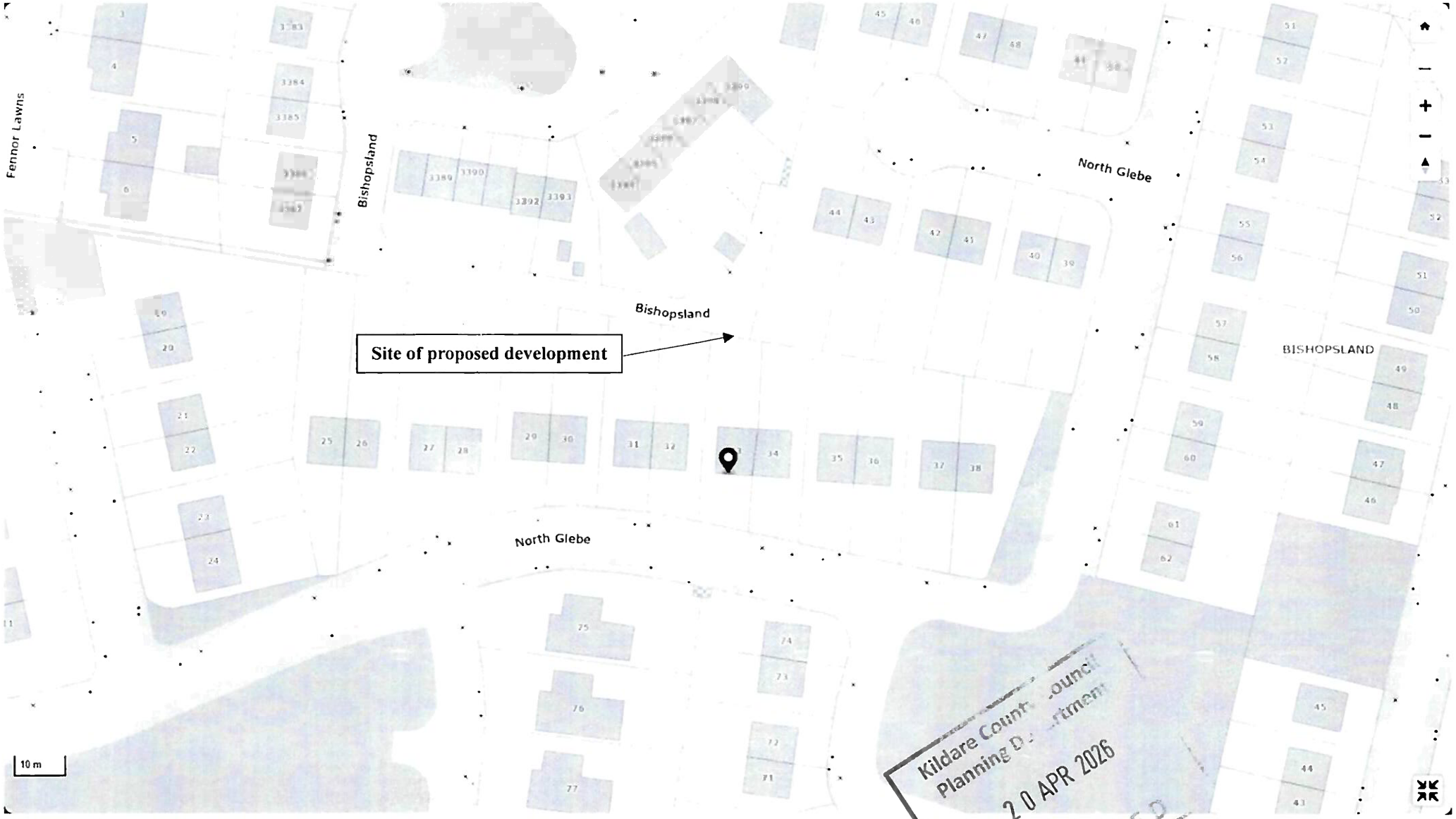
Kildare County Council
Planning Department
20 APR 2026
RECEIVED

Section 6	**Declaration**

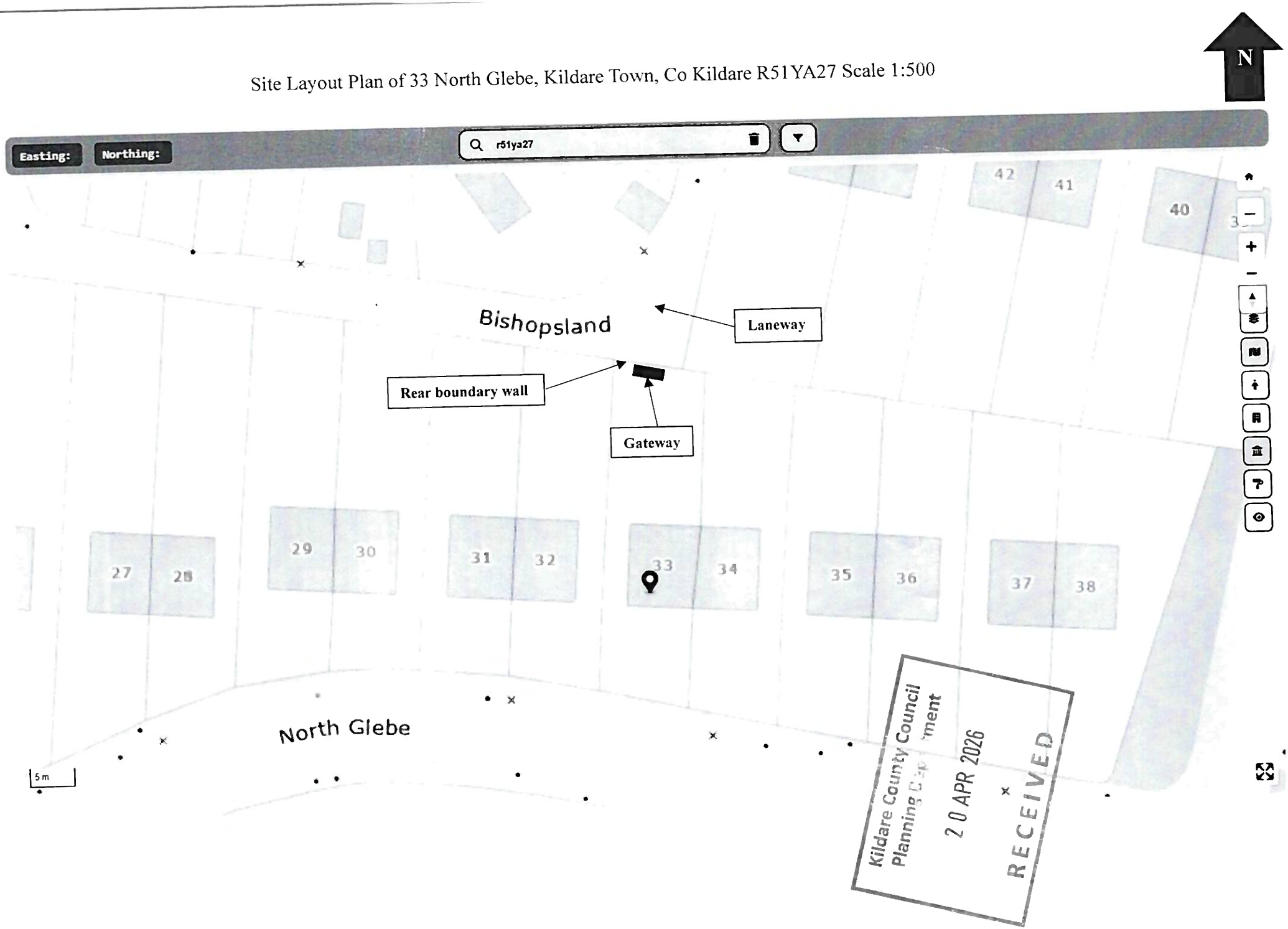
I, Timothy Kelly certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Signature: Timothy Kelly Date: 17/04/26

Site Location Map of 33 North Glebe, Kildare Town, Co Kildare R51YA27 Scale 1:1000



Site Layout Plan of 33 North Glebe, Kildare Town, Co Kildare R51YA27 Scale 1:500



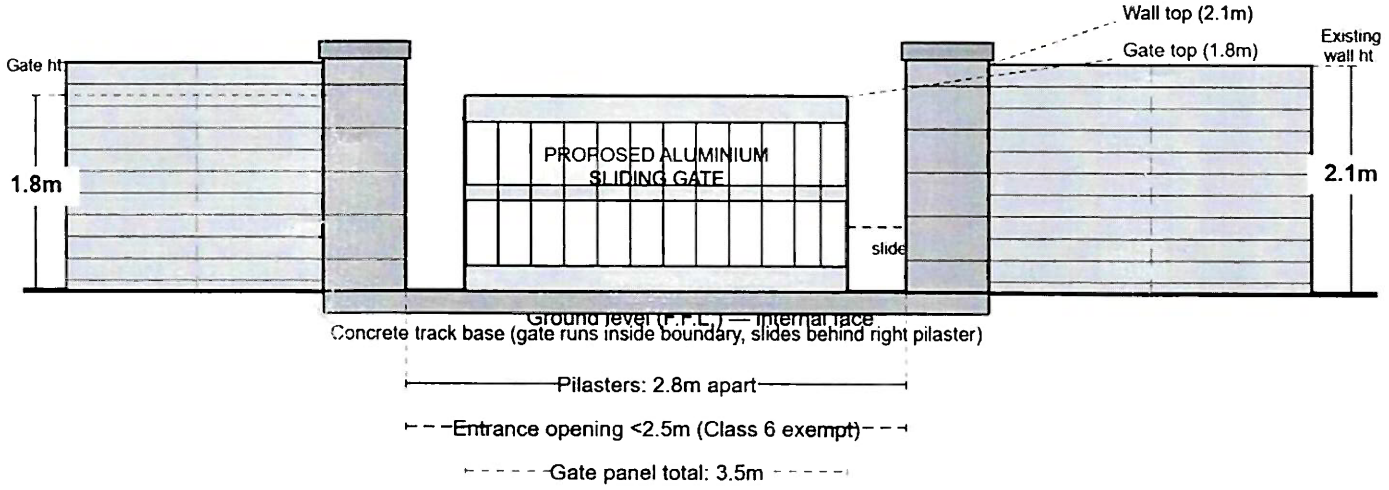
PROPOSED SLIDING GATE — REAR BOUNDARY WALL ELEVATION

Drawings of the development of 33 North Glebe, Kildare Town, Co. Kildare R51YA27

Section 5 Declaration — Kildare County Council | Scale 1:50 | All dimensions in metres

VIEW: INTERNAL ASPECT (viewed from inside property boundary looking outward)

Kildare County Council
Planning Department
20 APR 2026
RECEIVED



Existing concrete block wall & pilasters | Proposed aluminium sliding gate (NEW) | Concrete track base (NEW)

FINANCE CASH OFFICE
Kildare County Council
Áras Chill Dara
Devoy Park
Naas
Co. Kildare
20/04/2026 10:23:31

Receipt No. : FIN1/0/523378
***** REPRINT *****

Timothy Kelly

PLANNING EXEMPT DEVELOP FEES	80.00
GOODS 80.00	
VAT Exempt/Non-vatable	
Total :	80.00 EUR
Tendered :	80.00
Money Order	
Change :	0.00

Issued By : ELLEN MOLLOY
From : Financial Lodgement Area
Vat reg No.0440571C