Comhairle Contae Chill Dara
Kildare County Council

Date: 9th July 2026
Our Ref: ED/1369

Marlena Kaminska-Kalinecka,
Apartment 25 Cluain Dara,
Leixlip,
Co. Kildare W23 A367.

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Apt. 25 Cluain Dara, Leixlip, Co. Kildare W23 A367.

Dear Sir/Madam,

I refer to your correspondence received on 11th June 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,

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/1369

WHEREAS a question has arisen as to whether the replacement of windows with same size, colour and design from wood to PVC finish at Apt. 25, Cluain Dara, Leixlip, Co. Kildare W23 A367, is exempted development

AS INDICATED on the plans and particulars received by the Planning Authority on 11th June 2026

AND WHEREAS Marlena Kaminska-Kalinecka 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) Condition No. 3 of the parent planning permission Kildare County Council Ref. 04/157, An Comisiún Pleanála Ref. PL09.209299; 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 replacement of the existing hardwood window units with wood effect uPVC window units at Apt. 25, Cluain Dara, Leixlip, Co. Kildare W23 A367 ***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 Articles 6 and 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 Coimisiún of the prescribed fee, refer a declaration to An Coimisiún Pleanála within 4 weeks of the issuing of the decision.

9th July 2026

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/1369

Name Of Applicant(s):	Marlena Kaminska Kalinecka
Address Of Development:	Apt 25, Cluain Dara, Leixlip, Co Kildare, W23 A367
Development Description:	Replacement of windows with same size, colour and design from wood to PVC finish.
Due date	09/07/2026

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 the works *the replacement of windows same colour and design from wood to PVC* **is** or **is not** development and **is** or **is not** exempted development.

Site Location

The site is located in the Cluain Dara apartment complex, Leixlip, Co. Kildare.

Description of Proposed Development

The replacement of windows with same size, colour and design from wood to PVC finish.



Fig 1: Site Location and context

Planning History

04157 permission granted for *36 apartments - 9 being 1 beds, 27 x 2 beds accommodated in 3x3 storey buildings: 26 houses - 17 being terraced 3 bed 2 storey, + attic houses; 2 x terraced 3 bed 2 storey houses; etc.*

Appealed and directed to grant under ABP reference PL 9.2092990

Relevant conditions:

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed dwelling units and hard surfaces for the development and details of all boundaries of and within the site, including around the boundaries of and between the apartment blocks, shall be submitted to and agreed in writing with the planning authority. Brick or reconstituted stone detailing shall be permitted, as shall the use of close board fencing for plot partitions. Windows shall be of hardwood construction only.

Reason: In the interest of orderly development and the visual amenities of the area, and in the interest of clarity.

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,

Assessment

Question 1 - Is it development?

The first question to address is whether or not:

The replacement of windows with same size, colour and design from wood to PVC finish.

would constitute development in accordance with the provisions of the Planning and Development Act, 2000 (as amended). The Act defines "development" as 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 3(1)) and defines "*'works' to include any act or operation of* **construction,** *excavation, demolition, extension, alteration, repair or renewal"*

Having regard to the description resulting in: **the *act of renewal*** it is therefore, deemed that the replacement of the existing hardwood window units with PVC units is works and would therefore constitute **development**.

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

Is the development of:

the replacement of windows same colour and design from wood to PVC

exempted development?

Having regard to:

Secondary Legislation

Article 9 (1) of the Planning and Development Regulations (as amended) Restrictions on development states:

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,

Condition No.3 of KCC ref 04/157 ABP ref PL09.209299 requires:

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed dwelling units and hard surfaces for the development and details of all boundaries of and within the site, including around the boundaries of and between the apartment blocks, shall be submitted to and agreed in writing with the planning authority. Brick or reconstituted stone

detailing shall be permitted, as shall the use of close board fencing for plot partitions. Windows shall be of hardwood construction only.

***Reason**: In the interest of orderly development and the visual amenities of the area, and in the interest of clarity.*

The proposed development; the replacement of the existing hardwood windows with hardwood effect uPVC windows would materially contravene Condition No.3 of KCC ref 04/157 ABP ref PL09.209299 which requires that w*indows shall be of hardwood construction only*. The proposed development would therefore not be considered exempted under Article 9(1)(a)(i) of the Planning and Development Regulations (as amended).

Conclusion

Having regard to:

- Sections 2, 3, 5 of the Planning and Development Act 2000 (as amended);
- Articles 6 and 9 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 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: James Kelly
Planner: Assistant Planner
Date: 08/07/2026

J. O'Reilly
A/Senior Planner
09/07/2026

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 *replacement of windows with same size, colour and design from wood to PVC finish at Apt 25, Cluain Dara, Leixlip, Co Kildare, W23 A367 is or is not exempted development.*

AS INDICATED on the plans and particulars received by the Planning Authority on *11/06/2026*

AND WHEREAS Marlena Kaminska Kalinecka 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, 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) Condition No. 3 of the parent planning permission KCC ref 04/157, ABP ref PL09.209299, 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 replacement of the existing hardwood window units with wood effect uPVC window units at Apt 25, Cluain Dara, Leixlip, Co Kildare, W23 A367

IS development and IS NOT 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	ED/1369
Applicant name	Marlena Kaminska Kalinecka
Development Location	Apt 25, Cluain Dara, Leixlip, Co Kildare, W23 A367
Site size	0.01Ha
Application accompanied by an EIAR (Yes/NO)	NO
Distance from Natura 2000 site in km	The application site is located approx. 0.7km from Rye Water Valley/Carton SAC
Description of the project/proposed development – *the replacement of the existing hardwood window units with wood effect uPVC window units.*	

(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.** Sites to consider: River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh lake	*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?*	**No**
2	**Impacts on sites designated for wetland**	*Is the development within a Special Area of Conservation whose*	**No likely significant negative impact**

	habitats - bogs, fens, marshes and heath. Sites to consider: River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Mouds Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake	*qualifying interests include wetland habitats (bog, marsh, fen or heath), or within 1 km of same?*	**by nature of development**
3	**Impacts on designated terrestrial habitats.** Sites to consider: River Barrow and Nore, Rye Water/Carton Valley, Pollardstown Fen, Ballynafagh Lake	*Is the development within a Special Area of Conservation whose qualifying interests include woodlands, dunes or grasslands, or within 100m of same?*	**No**
4	**Impacts on birds in SPAs** Sites to consider: Poulaphouca Resevoir	*Is the development within a Special Protection Area, or within 5 km of same?*	**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 *Selected relevant category for project assessed by ticking box.*		
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 regrd to the nature and extent of the proposed development and the distance to the nearest SAC it is considered that the proposed development is not likely tohave a significant negative impact on the nearest SAC.

Name:	James Kelly
Position:	Assistant Planner
Date:	08/07/2026

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: DO66683 **Section:** Planning

SUBJECT: ED/1369
Marlena Kaminska-Kalinecka of Apt. 25, Cluain Dara, Leixlip, Co. Kildare W23 A367. Exempt Development Application for the replacement of the existing hardwood window units with wood effect uPVC window units at Apt. 25, Cluain Dara, Leixlip, Co. Kildare W23 A367.

SUBMITTED: File Ref. ED1369 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 9th DAY

OF July YEAR 2026

SIGNED: _____

DIRECTOR OF SERVICES

Comhairle Contae Chill Dara
Kildare County Council

Date: 12th June 2026.
Our Ref: ED/1369.

Marlena Kaminska Kalinecka,
Apartment 25,
Cluain Dara,
Leixlip,
Co Kildare
W23 A367

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at Apt 25, Cluain Dara, Leixlip, , Co. Kildare. W23 A367

Dear Sir/Madam,

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 11th June 2026 in connection with the above.

Yours sincerely,

Senior Executive Officer,
Planning Department.

Kildare County Council

Declaration of Exempt Development under Section 5,

of the Planning and Development Act 2000 as amended

Incomplete application forms will be deemed invalid and returned

All responses must be in block letters

Section 1	Details of Applicants

1. Name of Applicant(s) A. Surname KAMINSKA-KALWECKA Forenames MARLENA
Phone No [redacted] Fax No
2. Address APT 25 CLUAIN DARA, LEIXLIP, CO. KILDARE W23 A367

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)

1. Name of Company
Phone No Fax No
2. Company Reg. No
3. Address

Section 4	Details of Site

1. Planning History of Site ATTACHED
2. Location of Proposed Development APT 25 CLUAIN DARA, LEIXLIP, CO. KILDARE, W23 A367
3. Ordnance Survey Sheet No
4. Please state the Applicants interest in the site HOMEOWNER of THE APARTMENT
5. Please state the extent of the proposed development REPLACEMENT OF WINDOWS

6. Under what Section of the Planning and Development 2000 as amended and/or what provision of the Planning and Development Regulations 2001 as amended is exemption sought *(specific details required)*.....

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

WINDOWS REPLACEMENT AS THEY ARE OUT OF WARRANTY.
WINDOWS ARE GOING TO BE EXACT SAME SIZE, COLOR AND DESIGNE AS PER ATTACHED PHOTOGRAPH. THE ONLY DIFFERENCE IS THAT THEY ARE PVC FINISH.

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

(Please Tick)

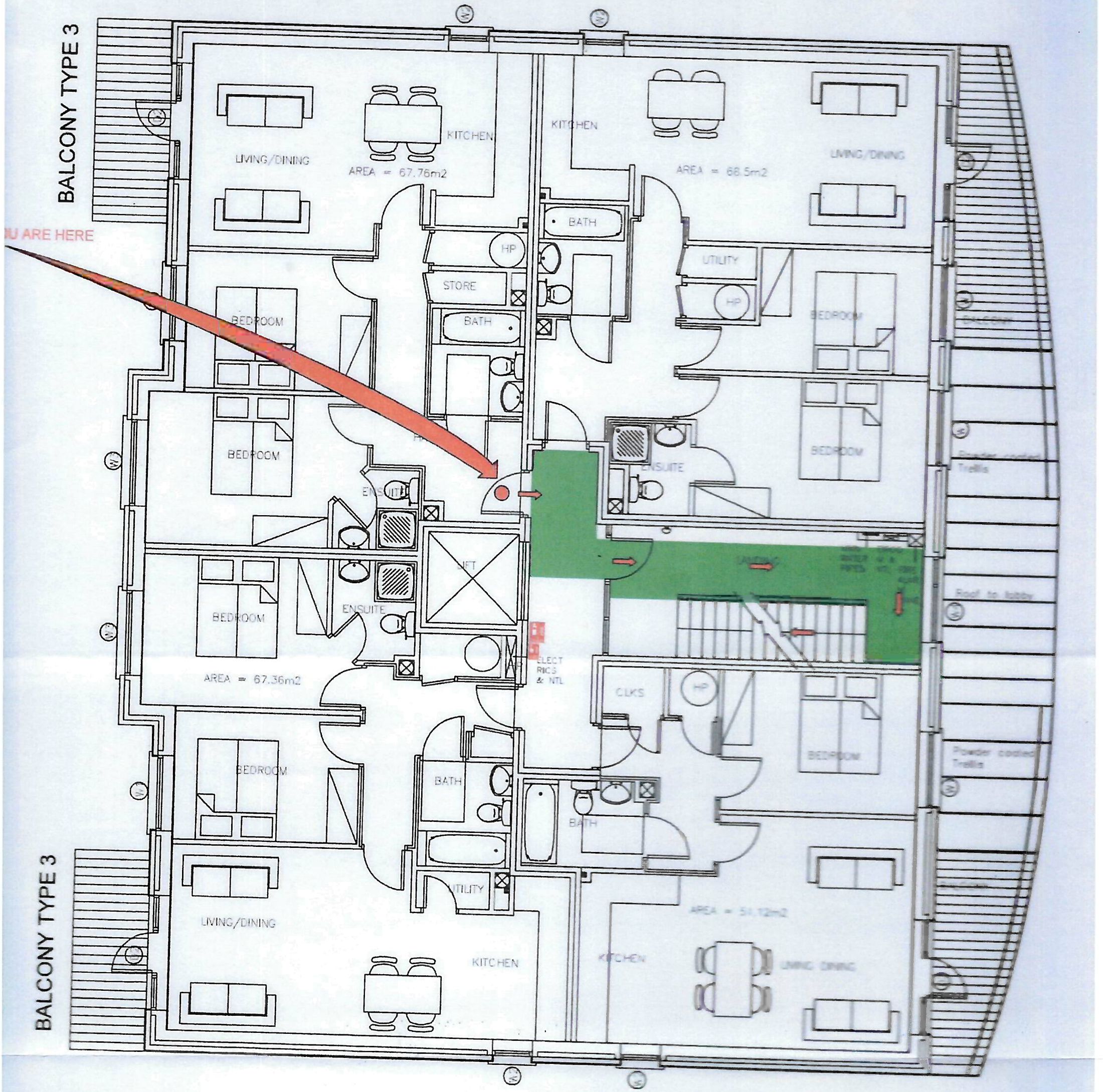
1.	Site Location Map (1:2500 Rural Areas) (1:1000 Urban Areas)	✓
2.	A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended	✓
3.	Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development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

Section 6	**Declaration**

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

Signature: Kaminska Kalinecka Date: 2/06/2026

APT NO: 25 CLUAIN DARA



FIRSTFLOOR



BOIHSR	365 PLANNING FEE	80 00		BANK	2010494	1	0	11/06/2026

11/06/2026 — 365 Planning fee — + €80.00

Payee Name:	KILDARE COUNTY COUNCIL
Payee IBAN:	IE69 BOFI 9012 3911 0668 06
Originator Name:	MARLENA KAMINSKAKALINECKA
Amount:	+ €80.00
Value Date:	11/06/2026
Payment Reference:	365 Planning fee
Originator Reference Party:	Not provided by sender
ID code or Originating reference party:	Not provided by sender
Originator ID:	Not provided by sender
Purposes of the Credit Transfer:	Not provided by sender
Payee Reference Party Name:	Not provided by sender
ID code of Payee Reference Party:	Not provided by sender
Remittance Information:	KCC-247606