Comhairle Contae Chill Dara
Kildare County Council

Date: 22nd September 2026
Our Ref: ED/1384

Malcom O'Brien,
C/O Robert Turley,
D.C Turley & Associates,
2 The Crescent,
Pipers Hill,
Naas, Co. Kildare
W91 V9Y3

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at 6 Cleevaun, Naas, Co. Kildare.

Dear Sir/Madam,

I refer to your correspondence received on 22nd July 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/1384

WHEREAS a question has arisen as to whether raising the rear boundary wall of his property to 2m from 1m in height, however, this will mean that the wall will be 2.6m high in the rear garden of 14 Cleevaun, because there is a 600mm drop down to this garden from the applicant's garden at 6 Cleevaun, Naas, Co. Kildare, is exempted development

AS INDICATED on the plans and particulars received by the Planning Authority on 22nd July 2026

AND WHEREAS Malcom O'Brien 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. Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended);
b. Articles 6 and 9 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/development,

AND WHEREAS Kildare County Council has concluded that

a. The raising of a rear boundary wall involves the carrying out of works, which constitutes development under Section 3 of the Planning and Development Act 2000 (as amended)
b. The development complies with the scope and thresholds of exempted development provided by Article 6(1) and contained in Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001.

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 raising the rear boundary wall of his property to 2m from 1m in height, however, this will mean that the wall will be 2.6m high in the rear garden of 14 Cleevaun, because there is a 600mm drop down to this garden from the applicant's garden at 6 Cleevaun, Naas, Co. Kildare **IS development and IS NOT EXEMPTED development** pursuant to the provisions of the Planning and Development Act, 2000 (as amended) and 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 Coimisiún Pleanála within 4 weeks of the issuing of the decision.

23rd September 2026

pp
Senior Executive Officer,
Planning Department.

KILDARE COUNTY COUNCIL

PLANNING, ENTERPRISE & ECONOMIC DEVELOPMENT DEPARTMENT

Section 5 referral & declaration on development and exempted development

Planning & Development Act 2000 (as amended)

Reference No. ED/1384

Name Of Applicant(s):	Malcom O'Brien
Address Of Development:	6 Cleevaun, Naas, Co. Kildare
Question to which this Declaration is sought:	Raising rear boundary wall of property to 2m resulting in 2.6m height in adjoining garden
Due date	19/08/2026

Declaration Question

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:

1. *(...) raising the rear boundary wall of his property to 2m from 1m in height, however, this will mean that the wall will be 2.6m high in the rear garden of 14 Cleevaun, because there is a 600mm drop down to this garden from the applicant's garden. The applicant wishes to know if such an increase in height will be exempt from a requirement for planning permission, bearing in mind the height the wall will be from the 14 Cleevaun side."*

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

Site Location

The subject site is located off Craddockstown Road in the existing residential development of Cleevaun to the south of Naas town centre. The site comprises a single storey detached dwelling. Naas General Hospital is located approximately 300m to the west of the site. A block wall forms the boundaries of the site.



Site Location (subject site outlined in red – map submitted as part of application documents)

Planning History

None on the application site.

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)

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;

Secondary Legislation: Planning and Development Regulations 2001 (as amended)

Article 6(1) [Exempted Development – General]

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)(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,

EIA and AA Screening

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.

An Appropriate Assessment Screening accompanies this report.

Assessment

Question 1 - Is it development?

The first question to address is whether or not "*....(..) raising the rear boundary wall of his property to 2m from 1m in height, however this will mean that the wall will be 2.6m high in the rear garden of 14 Cleevaun, because there is a 600mm drop down to this garden from the applicant's garden"*

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 question asked, which involves an act or operation of **construction / excavation,** it is therefore considered that this constitutes works as defined by Section 3 and would therefore constitute **development.**

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

Is the development of "*....(..) raising the rear boundary wall of his property to 2m from 1m in height, however this will mean that the wall will be 2.6m high in the rear garden of 14 Cleevaun, because there is a 600mm drop down to this garden from the applicant's garden."*

exempted development?

Having regard to:

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.

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 Applicant seeks to raise the rear boundary wall of the property to 2m from 1m in height. However, this will mean that the wall will be **2.6m high in the rear garden of 14 Cleevaun**, (neighbouring dwelling) because there is a 600mm drop down. **This condition / limitation is not 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.*
      Exact details of wall finishes have not been provided. **This condition / limitation is not met.**

   3. *No such structure shall be a metal palisade or other security fence.*
      It is not proposed to erect a fence. **This condition / limitation is met.**

The development does not meet the conditions/limitations as set out under **Class 5** *of*, Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended*).*

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).

Conclusion
Having regard to:

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

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

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).

Caitriona Dockery.

Executive Planner
11/09/2026

Carroll Melia

_____

Carroll Melia

Senior Executive Planner

22nd September 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

"(...) raising the rear boundary wall of his property to 2m from 1m in height, however, this will mean that the wall will be 2.6m high in the rear garden of 14 Cleevaun, because there is a 600mm drop down to this garden from the applicant's garden. The applicant wishes to know if such an increase in height will be exempt from a requirement for planning permission, bearing in mind the height the wall will be from the 14 Cleevaun side."

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 22/07/2026

AND WHEREAS Malcolm O'Brien 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. Sections 2, 3, and 4 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),

AND WHEREAS Kildare County Council has concluded that:

a. The raising of a rear boundary wall involves the carrying out of works, which constitutes development under Section 3 of the Planning and Development Act 2000 (as amended)
b. The development complies with the scope and thresholds of exempted development provided by Article 6(1) and contained in Class 5 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

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 -

"(...) raising the rear boundary wall of his property to 2m from 1m in height, however, this will mean that the wall will be 2.6m high in the rear garden of 14 Cleevaun, because there is a 600mm drop down to this garden from the applicant's garden. The applicant wishes to know if such an increase in height will be exempt

from a requirement for planning permission, bearing in mind the height the wall will be from the 14 Cleevaun side."

IS development and IS NOT EXEMPTED development pursuant to the provisions of the Planning and Development Act, 2000 (as amended) and 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 Commission of the prescribed fee, refer a declaration to An Coimisiún Pleanála within 4 weeks of the issuing of the decision.

APPROPRIATE ASSESSMENT SCREENING REPORT
AND
DETERMINATION

(A) Project Details	
Planning File Ref	ED1384
Applicant name	Malcolm O'Brien
Development Location	6 Cleevaun, Naas, Co. Kildare
Site size	Approximately 0.05 ha
Application accompanied by an EIAR (Yes/NO)	No
Distance from Natura 2000 site in km	Approximately 7.9km from Red Bog, Kildare SAC
Description of the project/proposed development – Raising boundary wall	

(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	*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 habitats - bogs, fens, marshes and heath.** <u>Sites to consider</u>: River Barrow and Nore, Rye Water/Carton	*Is the development within a Special Area of Conservation whose qualifying interests include wetland habitats (bog, marsh, fen or heath), or within 1 km of same?*	No

	Valley, Pollardstown Fen, Mouds Bog, Ballynafagh Bog, Red Bog, Ballynafagh Lake		
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	
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 proposed works, it is not considered that there will be any impact on the nearest SAC.	
Name:	C. Dockery
Position:	Executive Planner
Date:	11/09/2026

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: DO68038 **Section:** Planning

SUBJECT: ED/1384
Malcom O'Brien, C/O Robert Turley, D.C Turley & Associates, 2 The Crescent, Pipers Hill, Naas, Co. Kildare, W91 V9Y3. Exempt Development Application for raising the rear boundary wall of his property to 2m from 1m in height, however, this will mean that the wall will be 2.6m high in the rear garden of 14 Cleevaun, because there is a 600mm drop down to this garden from the applicant's garden at 6 Cleevaun Naas, Co Kildare.

SUBMITTED: File Ref. ED1384 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 22ND DAY OF SEPTEMBER YEAR 2026

SIGNED: Alan Dunney

DIRECTOR OF SERVICES

Comhairle Contae Chill Dara
Kildare County Council

Date: 24th July 2026.
Our Ref: ED/1384.

Malcolm O'Brien
C/O, Robert Turley
D.C. Turley & Associates,
2 The Crescent,
Piper's Hill, Naas.
Co Kildare W91 V9Y3

RE: Application for a Declaration of Exempted Development under Section 5 of Planning and Development Act 2000 (as amended) for development at 6 Cleevaun, Naas, Co. Kildare. W91 HA2C

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 22nd July 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

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....O'Brien..... Forenames..Malcolm.....
Phone No. [redacted]..... Fax No.....
2. Address 6 Cleevaun, Naas, Co. Kildare, W91 HA2C.....
.....

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

1. Name of Person/Agent: Surname...Turley..... Forenames..Robert.....
Phone No. [redacted]..... Fax No.....
2. Address. D. C. Turley & Associates.....
.....2 The Crescent, Piper's Hill, Naas, Co. Kildare, W91V9Y3.....

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...None.....
2. Location of Proposed Development...6 Cleevaun, Naas, Co. Kildare, W91 HA2C.....
.....
3. Ordnance Survey Sheet No....3559-C.....
4. Please state the Applicants interest in the site ..Owner.....
.....
5. Please state the extent of the proposed development...Rear boundary wall shared with 14 Cleevaun.

Kildare County Council
Planning Department
22 JUL 2026
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6. Under what Section of the Planning and Development 2000 and/or what provision of the Planning and Development Regulations 2001 is exemption sought: Section 2, Part 1, Class 5.

7. Please give a detailed description of the Proposed Development: The applicant is desirous of raising the rear boundary wall of his property to 2m from 1m in height, however this will mean that the wall will be 2.6m high in the rear garden of 14 Cleevaun, because there is a 600mm drop down to this garden from the applicant's garden. The applicant wishes to know if such an increase in height will be exempt from a requirement for planning permission, bearing in mind the height the wall will be from the 14 Cleevaun side.



Section 5	The following must be submitted for a valid application

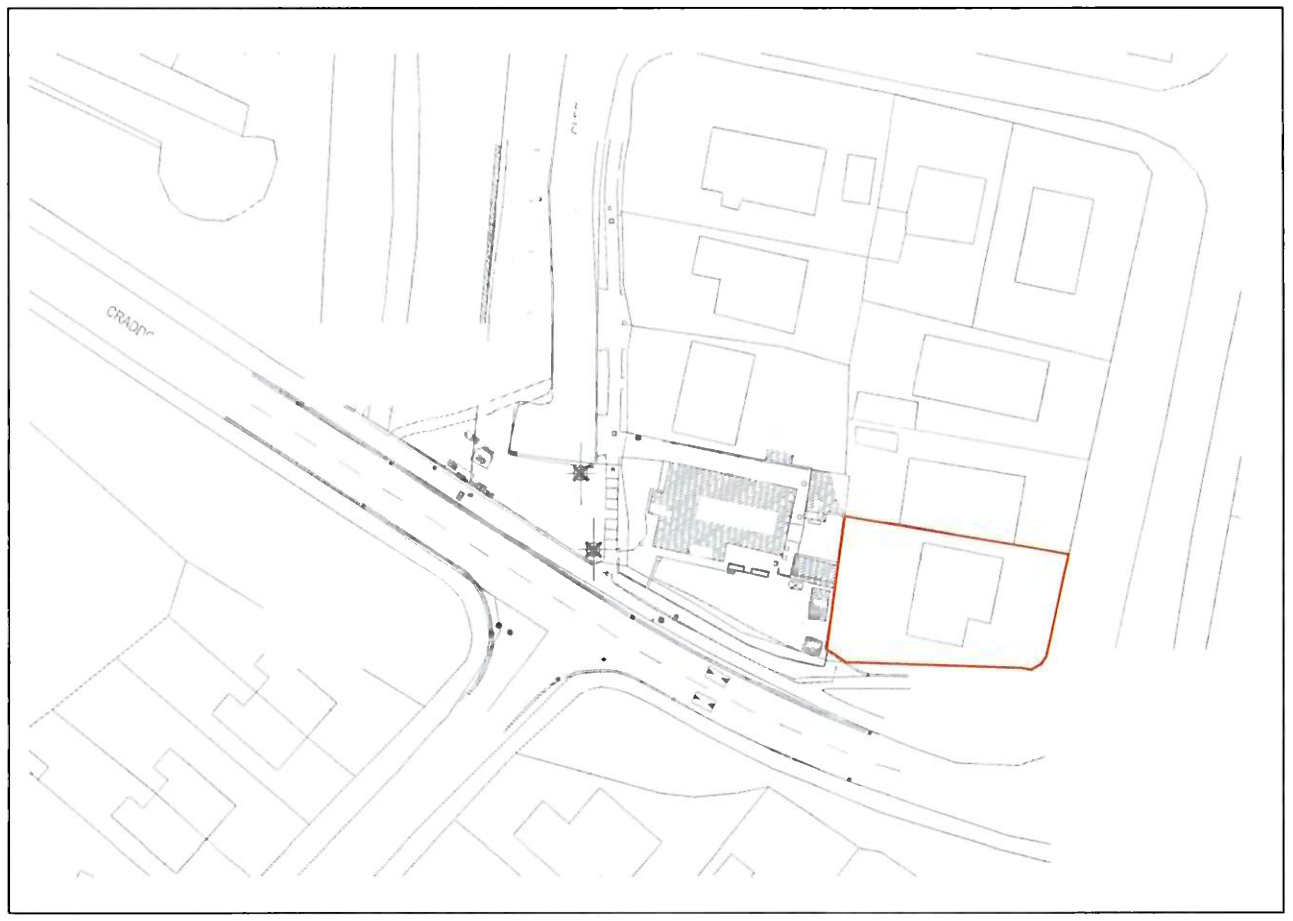
(Please Tick)

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	✓

Section 6	Declaration

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

Signature: Robert Turley (Agent) Date: 09/07/26



Output Format:
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DXF_full

Output File:
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3559-C.dxf

Map Series:
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REVISION DATE = 14-May-2010
SURVEY DATE = 01-Jun-1998
LEVELLED DATE = 01-Jan-2000

Clip Extent:
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URX,URY = <ureitm>,<urnitm>

Projection:
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ITM

ITM Centre Point Co-ordinate:
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Kildare County Council
Planning Department
22 JUL 2026
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SITE LOCATION MAP
SCALE 1:1000

CLEEVAUN

CLEEVAUN

CLEEVAUN

CRADDOCKSTOWN ROAD

11

9

IVY HOUSE

6

Tusla's house
14 Cleevaun

Malcolm O'Brien's house
6 Cleevaun

Wall to be raised to 2m

CRADDOCKSTOWN ROAD

THE WAY

2

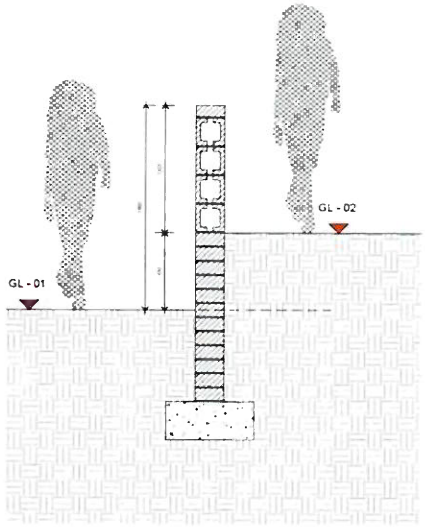
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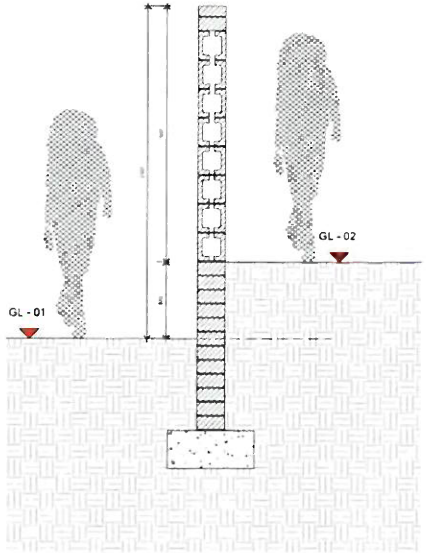
Kildare County Council
Planning Department

22 JUL 2026

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Existing Boundary Wall



Proposed Boundary Wall

Kildare County Council
Planning Department
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