

The Secretary
An Coimisiún Pleanála,
64 Marlborough Street,
Dublin 1.
D01 V902

AN COIMISIÚN PLEANÁLA	
LDG-	086571-26
ACP-	
09 FEB 2026	
Fee: €	220 Type: chg
Time: 14:48	By: hand

9th February 2026
[By Hand]

Dear Sir/Madam

RE: SECTION 5 REFERRAL TO AN COIMISIÚN PLEANÁLA FOLLOWING CARLOW COUNTY COUNCIL'S DETERMINATION OF SECTION 5 DECLARATION REQUEST REF. SEC5/25/45, AT BISHOPS HOUSE, OLD DUBLIN ROAD, CO. CARLOW, R93 F6D5.

1.0 INTRODUCTION

1.1 Overview of Referral made to An Coimisiún Pleanála

Tom Phillips + Associates (TPA)¹ Town Planning Consultants have been retained by Kildare and Leighlin Diocesan Trust² to refer a Declaration made by Carlow County Council (CCC) to An Coimisiún Pleanála under Section 5(3)(a) of the Planning and Development Act, 2000 (as amended).

The initial Declaration Request, dated 10th December 2025 and included at Appendix A to this document, raised the following question to Carlow County Council:

"Whether the alteration of the existing stone boundary wall on the grounds of Bishop's House, Old Dublin Road, Carlow, for the purpose of creating a new opening constitutes exempted development."

Carlow County Council subsequently issued a Declaration on 13th January 2026, which concluded that the proposal does not fall for consideration in Class 5 of Part 1, Schedule 2 of the *Planning and Development Regulations, 2001* (as amended), and does not comply with the Conditions/Limitations of Class 9 of Part 1, Schedule 2 of the *Planning and Development Regulations, 2001* (as amended), and thus constitutes development and is not exempted development. Furthermore, Carlow County Council determined that the proposal would not comply with Article 9(1)(a)(iii) of the *Planning and Development Regulations, 2001* (as amended), and would endanger public safety by reason of a traffic hazard.

¹ 80 Harcourt Street, Dublin 2, D02 F449.

² Bishop's House, Old Dublin Road, Co. Carlow.



We disagree with the Determination of the Council as we consider that the proposal constitutes exempted development under Class 5 of Part 1, Schedule 2 of the *Planning and Development Regulations, 2001* (as amended). Additionally, we note that the proposed exempted development would not create a new entrance on to the R-888, the proposed exempted development does not include any accessway works, road works, road opening etc, with the proposed exempted development works c. 22 m from the public road way, as such cannot reasonably be said to endanger public safety by reason of a traffic hazard. For this reason, we now seek the determination of An Coimisiún Pleanála on this matter.

We note that a cheque covering the statutory fee of €220 for making such a Declaration to An Coimisiún Pleanála is included with this document. A copy of Carlow County Council's initial Declaration (SEC5/25/45) has also been included at Appendix B to this document, and Planners Report from Carlow County Council is included at Appendix C. Our response to Carlow County Council's Declaration is set out in the following sections.

2.0 BACKGROUND INFORMATION

2.1 Site Location and Context

The subject site is located at Bishop's House, Old Dublin Road, Co. Carlow. The stone wall adjoins a row of terraced houses, and serves as a boundary wall to the House of the Bishop of the Diocese of Kildare and Leighlin.

The site includes two large houses and outbuildings. One house is directly opposite the site entrance and is the rectory for the parish of Carlow, providing residence for a number of priests.

The second house, along the northern boundary of the site, which is also accessed via the same entrance off Dublin Road is the Bishops House. The Bishops House is the sole residence of the Bishop of Kildare and Leighlin, and has been in use as the sole residence for the relevant serving Bishop since the 1970's. The primary use of the house is residential, although, like many parochial houses, a small portion of the house is used for parish administration purposes. Please refer to the attached letter at Appendix D from Bishop Denis Nulty confirming that the Bishop's House is his residence.

A green space is located between the boundary wall and the (R-888 Dublin Road) roadway, which has been used informally by the public as an open space for a number of years. This land, however, is also under the ownership of the Diocese. An arched gateway exists with accessway.

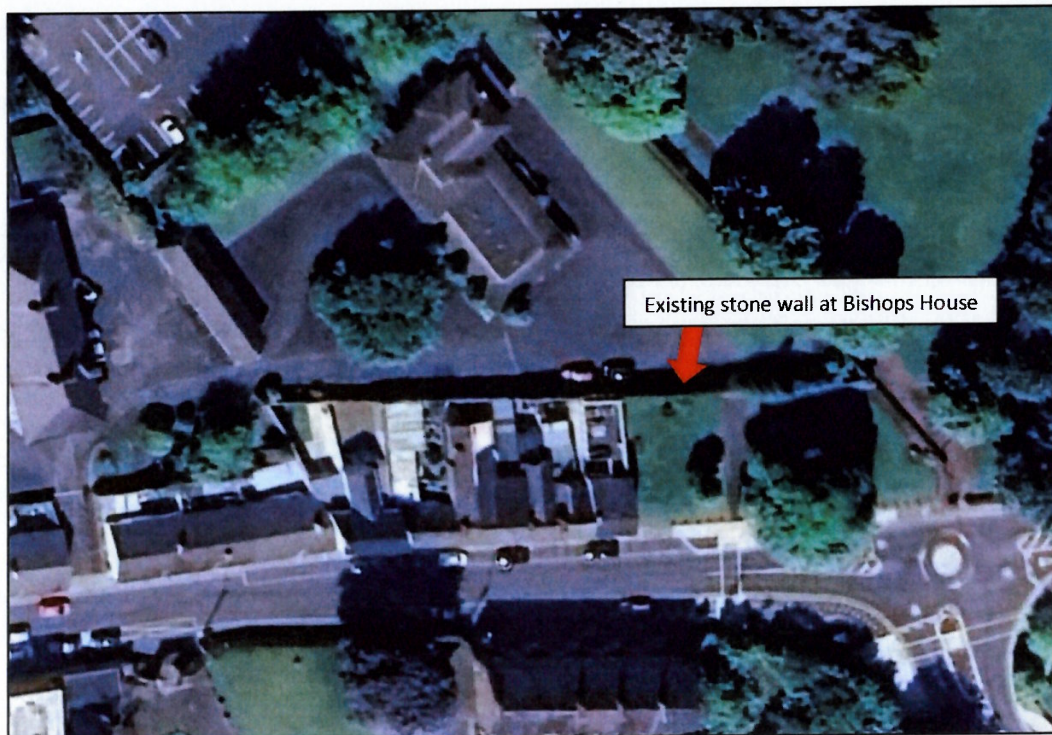


Figure 2.1: Aerial view of subject site, with location of existing stone wall indicated. (Source: Google Earth, cropped and annotated by TPA (2026)).

We note that the existing stone wall is not listed on Carlow County Council's Record of Protected Structures, and is not located within an Architectural Conservation Area (ACA). Therefore, policies and objectives relating specifically to protected structures and conservation are largely not applicable in this instance and no 'de-exemptions' apply.

2.2 Initial Determination

The initial Declaration Request was submitted by Tom Phillips + Associates on behalf of the Applicant on 10th December 2025, with a determination sought on the following question:

"Whether the alteration of the existing stone boundary wall on the grounds of Bishop's House, Old Dublin Road, Carlow, for the purpose of creating a new opening constitutes exempted development."

This declaration was sought in relation to the proposed alteration of the existing stone boundary wall to create a new opening with associated new gate, at Bishop's House, Old Dublin Road, Co. Carlow for the purpose of facilitating improved access to and from the grounds.

The proposed gate is to consist of double-leaf timber and measure 1.2m in height, and, thus conforming to the parameters of Class 5 of Part 1, Schedule 2 of the *Planning and Development Regulations, 2001* (as amended).

We note that Part 1 of Schedule 2 of the *Planning and Development Regulations, 2001* (as amended), sets out various classes of development that are considered 'exempted



development'. In the context of this referral to An Coimisiún Pleanála, and in relation to the initial Declaration request submitted to Carlow County Council, Class 5 of the *Planning and Development Regulations, 2001* (as amended) is considered to be relevant and appropriate.

Class 5 states that the following shall be exempted development:

"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."

[Our emphasis]

Furthermore, the following conditions/limitations are set out in relation to Class 5:

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.**

[Our emphasis]

The proposal comprises the creation of an opening within the existing stone wall bounding the curtilage of the site, measuring 3.3m in width, and the installation of an access gate in this opening measuring 1.2m in height, comprised of double-leaf timber.

We note that no condition/limitation is set with regard to the width of any such structure. Thus, it is our professional opinion that the proposed opening and associated timber gate complies with the parameters of Class 5 of Part 1, Schedule 2 of the *Planning and Development Regulations, 2001* (as amended).

3.0 CARLOW COUNTY COUNCIL DECLARATION REF: SEC5/25/45

3.1 Carlow County Council Assessment

3.1.1 Class 5, Part 1, Schedule of the *Planning and Development Regulations, 2001* (as amended)

It is noted that at Section 5 of the Carlow County Council's Planners Report, the following question is asked:

"Does the proposal fall within the criteria specified in Schedule 2, Part 1, Class 5?"

The Planners Report notes that,

"The structure is not located within the curtilage of a dwelling, thus would not avail of exemptions regarding same. The application site comprises parochial buildings/diocese offices and is not in use as a house, thus it is not considered to be



located within the curtilage of a house. Accordingly, it is considered that the proposal does not meet the criteria set out in Schedule 2, Part 1, Class 5."

[Our emphasis]

Firstly, we confirm that while parochial/diocese offices are located on site, the site is also in use as the primary residence of the Bishop of Kildare & Leighlin. Therefore, we highlight that the position of Carlow County Council on this matter is incorrect in the first instance. A letter confirming same has been obtained from Bishop Nulty, and accompanies this submission to An Coimisiún Pleanála. We note that photographs of the gardens and outdoor area surrounding the Bishop's House are included in the Planner's Report (Appendix B), however officers from Carlow County Council did not request to visit or inspect the interior of Bishop's House to come to the conclusions reached within the Planner's Report. As such, no evidence has been provided to suggest that the Bishop's House is not his house/dwelling.

No definition of 'house' exists within the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended), however the *Housing Act 1966* provides a definition of a 'house' which is used in Irish housing legislation. The definition of a 'house' under the *1966 Act* is,

"house", except in Part V of this Act, includes any out office, yard, garden or other land appurtenant thereto or usually enjoyed therewith and, except as aforesaid and in section 15, 16, and 17 of this Act, includes any part of a building used or suitable for use as a dwelling... "

[Our emphasis]

As noted in Section 2.1, the subject site includes two large houses and a number of outbuildings. The house along the northern boundary of the site is the sole residence of the Bishop, with a small portion of the house is used for parish administration purposes. Like any other typical dwelling, the site includes a garden area, yard area as part of its appurtenant lands.

The Bishop's house is a building that is used as a dwelling, and as it is fit and suitable for that residential use, we consider that the subject property satisfies the parameters of the definition included within the *1966 Act*.

3.1.2 Class 9, Part 1, Schedule 2 of the *Planning and Development Regulations, 2001* (as amended)

We note that Carlow County Council, at Section 4 of their Planner's Report, included Class 9 of the *Regulations*, (Sundry Works) in their determination of the proposal.

~~Class 9 states that the following shall be exempted development:~~

"The construction, erection, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway."

[Our emphasis]

1 No. condition is set out in relation to Class 9, namely that *"the height of any such structure shall not exceed 2 metres."*

We note that at Section 5 of the Carlow County Council's Planners Report, the following question is asked:

"Does the proposal fall within the criteria specified in Schedule 2, Part 1, Class 9?"

The Planners Report notes that,

"The proposal does meet the criteria, conditions and limitations set out in Class 9 in some respects, as it does not relate to a house and the proposed gate is less than 1.2m in height. However, as the alteration involves the partial demolition of a wall, which is 3.0m in height, it is considered that the 2m height limitation applies. Accordingly, it is considered that the proposal does not meet the criteria set out in Schedule 2, Part 1, Class 9."

[Our emphasis]

In the first instance we consider that the Council have misapplied Class 9 with regard to the proposal, based on their incorrect assumption that the application site is not in use as a house, as clarified in Section 3.1.1. of this document previous. As such, we consider that Class 9 can not apply to the proposed exempted development works.

Furthermore, the following comment is noted at Section 5 of the Planners Report:

"However, as the alteration involves the partial demolition of a wall, which is 3.0m in height, it is considered that the 2m height limitation applies."

[Our emphasis]

This comment from Carlow County Council appears to suggest that Class 9 of the *Regulations* is applicable to the pre-existing stone wall which bounds the curtilage of the Bishop's House.

We highlight to An Coimisiún Pleanála that, although we consider that Class 9 is not relevant in this case, that if the relevant conditions and limitations of Class 9 *were* to be applied to the proposed gateway, the proposal would be in compliance, as the gateway is proposed to measure 1.2m in height. Similar to Class 5 of the *Regulations*, we note that no condition/limitation is set with regard to the width of any gate or gateway structure under Class 9.

Finally, we note that demolition is neither implied nor referred to explicitly under Class 9 of the *Regulations*. Thus, we question the Council's reference to such in their determination. The exemption under Class 5 allows for alteration of a natural stone wall and provision of a gate/gateway which does not exceed 1.2m. The height of the existing wall is not relevant to the Class 5 exemption as it is clear that the exemption is provided to facilitate the provision of low walls, fences, gateways etc along front residential property boundaries, not restrict the removal of high walls, fences, gateways.

While not directly relevant to this request, we note Class 50 of the *Planning and Development Regulations*, 2001 (as amended) provides exemptions for certain forms of demolition, namely:

- The demolition of a building or other structure, other than a habitable house, a building which forms part of a terrace of buildings, or a building which abuts on another building in separate ownership, and



The demolition of a building or other structure, other than the demolition of a habitable house in connection with the provision of an extension or porch in accordance with class 1 or 7, respectively, of this Part of the Schedule or in accordance with a permission for an extension or porch under the Act..We note that there are no conditions or limitations associated with Class 50, and that the class does not restrict demolition on the basis of height. Therefore, demolition that complies with the criteria as listed constitutes exempted development. As such, we consider that it would be illogical of Carlow County Council to apply Class 5 or Class 9 in a manner that restricts the removal, alteration or demolition of a wall, structure, or building, based on its height.

Overall, we consider that Carlow County Council have misapplied Class 9 of the Part 1, Schedule 2 of the *Planning and Development Regulations, 2001* (as amended), which in our professional opinion is set out to apply in the case of construction, erection, renewal or replacement of a new gate or gateway structures that are not within or bounding the curtilage of a house.

3.1.3 Article 9(1)(a)(iii)

We note that Carlow County Council appear to have assumed that the proposed opening in the wall is to be used for the purpose of vehicular access, stating that, *"the proposed creation of a new entrance onto the R-888 circa 40m from the junction with L-4012 (Railway Road) would endanger public safety by reason of a traffic hazard or obstruction of road users and contravene Article 9(1)(a)(iii) of the Planning and Development Regulations 2001 (as amended)."*

Article 9(1)(a)(iii) of the *Regulations* states that,

"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—....

(iii) endanger public safety by reason of traffic hazard or obstruction of road users."

In this regard, we wish to reiterate to An Coimisiún Pleanála that vehicular access to the R-888 does not form part of the proposed works. No road, accessway works, road opening etc is proposed as part of this request for declaration. The works proposed are clearly identified in the drawings prepared by Eugene Keyes and submitted with the application. All works are c. 22 metres from the Dublin Road as such we consider there can be no way in which the exempted development works can result in the endangering public safety by reason of traffic hazard or obstruction of road users, and that the proposal therefore aligns with Article 9(1)(a)(iii) of the *Regulations* as per the initial Section 5 Declaration document submitted.



4.0 CONCLUSION

In summary, we strongly contend that the alteration of the existing stone boundary wall on the grounds of Bishop's House, Old Dublin Road, Carlow, for the purpose of creating a new opening constitutes *exempted development* under Class 5 of Part 1, Schedule 2 of the *Planning and Development Regulations, 2001* (as amended).

It is considered that the alteration of the wall for the purpose of creating an opening is consistent with the parameters set out in Class 5 of the *Regulations* and its associated conditions/limitations, with the proposed access gate measuring 1.2m in height, and comprising double-leaf timber.

In addition, we consider that Carlow County Council have misapplied Class 9 of the Part 1, Schedule 2 of the *Planning and Development Regulations, 2001* (as amended), which does not apply to walls bounding or within the curtilage of an existing house.

Vehicular access does not form part of the proposed works; thus, we consider that the proposed works overall would not endanger public safety by reason of a traffic hazard or obstruction of road users.

In this regard, we respectfully request that An Coimisiún Pleanála carefully consider this matter and overturn the Declaration issued by Carlow County Council.

We look forward to acknowledgement of receipt from An Coimisiún Pleanála of this submission in due course. Should any further clarification or information be required, please do not hesitate to contact the undersigned.

Yours sincerely

Brian Minogue
Associate Director
Tom Phillips + Associates



Appendix A: Initial Declaration Request to Carlow County Council, dated 10th December 2025

Planning Department
Carlow County Council,
Athy Road,
Co. Carlow,
R93 E7R7.

10th December 2025
[By Email]

Dear Sir/Madam,

RE: SECTION 5 DECLARATION REQUEST IN RELATION TO THE PROPOSED ALTERATION OF THE EXISTING STONE BOUNDARY WALL AT BISHOP'S HOUSE, OLD DUBLIN ROAD, CO. CARLOW.

1.0 INTRODUCTION

1.1 Purpose of this Request

Kildare and Leighlin Diocesan Trust has instructed Tom Phillips + Associates (TPA), Town Planning Consultants, to seek a Declaration from Carlow County Council (CCC) as per the provisions of Section 5(2)(a) of the *Planning and Development Act, 2000* (as amended). The question to be determined by Carlow County Council is as follows:

'Whether the alteration of the existing stone boundary wall on the grounds of Bishop's House, Old Dublin Road, Co. Carlow, for the purpose of creating a new opening, constitutes exempted development?'

This Declaration is sought in writing, and is supported by the provision of the considered requisite information and the appropriate fee of €80 as prescribed under Schedule 10 of the *Planning and Development Regulations, 2001* (as amended) ('the Regulations').

2.0 RATIONALE FOR THIS SECTION 5 REQUEST

This declaration request relates to the proposed alteration of the existing stone boundary wall at Bishop's House, Old Dublin Road, Co. Carlow which is being sought by the Applicant to facilitate improved access to and from the grounds.

TOWN PLANNING CONSULTANTS

Directors: Tom Phillips : BA(ARBP) MA (Arch Des) MRTPI FPI (Chairman) John Gannon : BSc (Surv) MRU AMIPi Managing Gavin Lawlor : BSc SA(ARBP) MIPi Jimmy Lucey : BA MBS MIMAS ACMA and Stephen Barrett : BSc (Spatial Planning) Dip ERM MIPi

Registered: Tom Phillips + Associates Limited **Registered in Ireland No.** 353333 **Registered Office:** 80 Harcourt Street Dublin 2 D02 F449, Ireland.

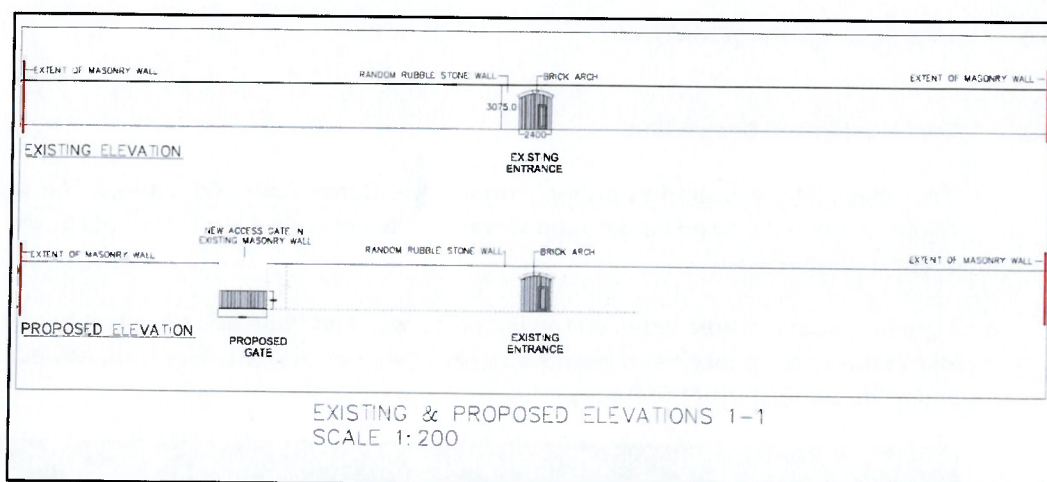


Figure 2.1: Existing and proposed elevations of stone wall. (Source: Eugene Keyes c/o Bishop's House, Carlow).

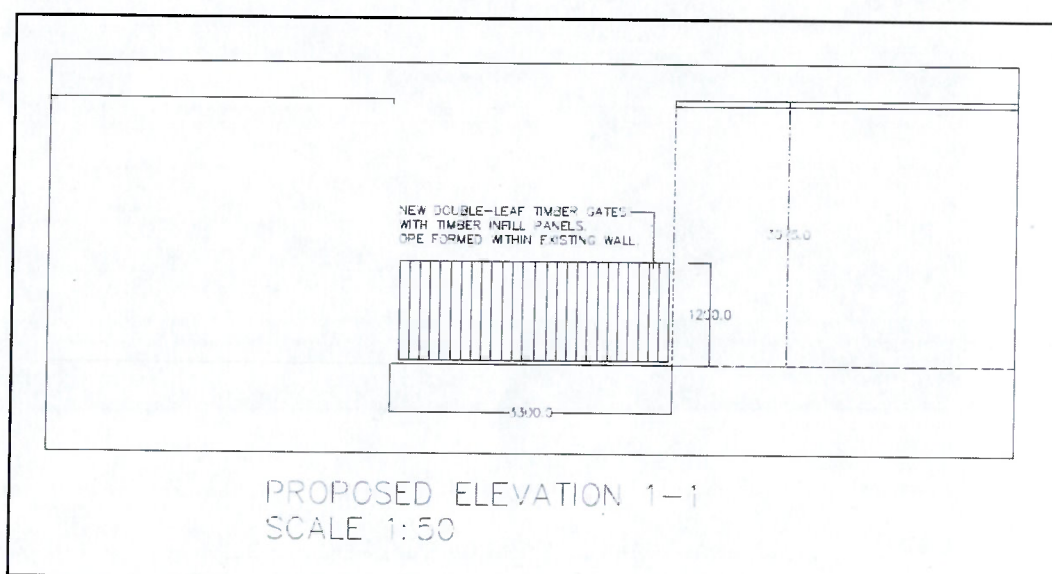


Figure 2.2: Proposed elevation of stone wall. (Source: Eugene Keyes c/o Bishop's House, Carlow).

We note that this current Section 5 Declaration Request relates to the alteration of the existing stone wall to create a new opening and associated new gate only. The proposed timber gates measures 1.2m in height, thus conforming to the parameters of Class 5 of Part 1, Schedule 2 of the *Planning and Development Regulations, 2001* (as amended). In line with Article 9(1)(a)(iii) of the *Regulations*, the proposed opening measures 3.3m in width.

Furthermore, it is noted that the existing stone wall is not listed on Carlow County Council's Record of Protected Structures, and is not located within an Architectural Conservation Area (ACA). As such, no 'de-exemptions' apply.

3.0 BACKGROUND INFORMATION

3.1 Site Location and Description

The subject site is located at Bishop's House, Old Dublin Road, Co. Carlow. The stone wall adjoins a row of terraced houses, and serves as a boundary wall to the offices of the Diocese of Kildare and Leighlin.

A green space is located between the boundary wall and the roadway, which has been used informally by the public as an open space for a number of years. This land, however, is also under the ownership of the Diocese.

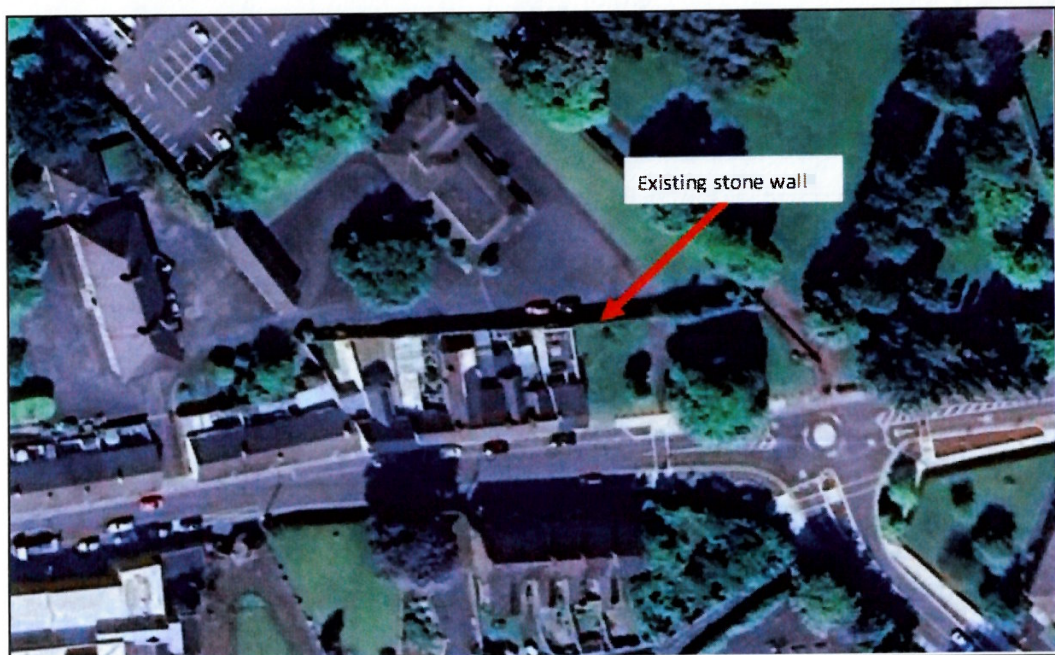


Figure 4.1: Aerial view of subject site, with location of existing stone wall indicated by red arrow. (Source: Google Earth, cropped and annotated by TPA (2025)).

As noted previously in this document, the existing stone wall is not listed on Carlow County Council's Record of Protected Structures, and is not located within an Architectural Conservation Area (ACA). Therefore, policies and objectives relating specifically to protected structures and conservation are largely not applicable in this instance and no 'de-exemptions' apply.

3.2 Planning History

Following a review of the Carlow County Council online planning application search portal, it is noted that there is no recent planning history in relation to the subject site.

A pre-planning meeting was requested on 28th March 2024 in relation to proposed development consisting of an amendment to the existing vehicular access and gated entrance by removing masonry arch and widen existing opening from 2.475m to 3.3m. Written feedback was provided by Carlow County Council on 6th September 2024.



4.0 LEGISLATIVE CONTEXT

Under Section 3(1) of the *Planning and Development Act, 2000* (amended),

“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.”

[Our emphasis]

We consider that the alteration of the existing stone boundary wall for the purpose of creating an opening constitutes ‘development’ as per the definition above, as the process of creating this opening falls under the legal definition of ‘works’, which under the Act includes,

“any act of operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act of 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.”

[Our emphasis]

Therefore, the question is whether the alteration of the wall for the purpose of creating an opening constitutes ‘exempted development’. Part 1 of Schedule 2 of the *Planning and Development Regulations, 2001* (as amended), sets out various classes of development that are considered ‘exempted development’. In the context of this Declaration request, we consider Class 5 of the *Planning and Development Regulations, 2001* (as amended) to be appropriate.

Class 5 states that the following shall be exempted development:

“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.”

[Our emphasis]

The following conditions/limitations are set out in relation to Class 5:

1. The height or 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.

It is considered that the alteration of the wall for the purpose of creating an opening is consistent with the parameters set out in Class 5 of the *Regulations*, and the conditions/limitations associated with Class 5.



Alterations to stone walls within or bounding the curtilage of a house constitute exempted development under Class 5. The proposed development involves an alteration to the existing stone wall that bounds the curtilage of the Bishop's house at Old Dublin Road, Co. Carlow, and in our opinion is therefore exempt.

Furthermore, in line with the limitations outlined under Class 5 of the *Regulations*, the proposed access gate measures 1.2m in height, and in terms of material, is comprised of double-leaf timber.

5.0 CONCLUSION

In our professional planning opinion, the alteration of the existing stone boundary wall for the purpose of creating an opening, as outlined within this request, constitutes 'exempted development' under Class 5 of the *Planning and Development Regulations, 2001* (as amended);

The subject wall is comprised of stone and bounds the curtilage of the Bishop's house and Diocesan offices, therefore, the alteration of the wall to create a new opening complies with the requisites of Class 5 and constitutes exempted development. Similarly, the proposed access gate measures 1.2m in height, and will comprise double-leaf timber, while the proposed opening measures 3.3m in width, in line with Article 9(1)(a)(iii) of the *Planning and Development Regulations, 2001* (as amended).

The following supporting documents are enclosed with this request:

- A fully completed Carlow County Council Section 5 Declaration Application Form, dated 10th December 2025;
- The following drawings prepared by Eugene Keyes, c/o Bishop's House, Carlow:

Drawing Name	Scale
Site Location Map	1:1,000
Site Layout Plan	1:500
Elevations	1:200, 1:50

- Proof of EFT payment of the appropriate fee of €80.

We look forward to a determination on this case from Carlow County Council in the near future. Should any further information be required for the purpose of making this Declaration, please do not hesitate the undersigned.

Yours sincerely,

Brian Minogue
Associate Director
Tom Phillips + Associates



Appendix B: Declaration from Carlow County Council, dated 13th January 2026





COMHAIRLE CONTAE
CHEATHARLACH

CARLOW COUNTY COUNCIL

Oifigí an Chontae,
Bóthar Átha Í,
Ceatharlach, R93E7R7

County Buildings,
Athy Road,
Carlow, R93K7R7

T: 059 9170300

E: See carlow.ie/contact-us

W: carlow.ie

Registered Post

13th January 2026

**Kildare & Leighlin Diocesan Trust,
C/o Brian Minogue,
Tom Phillips & Associates,
80 Harcourt Street,
Dublin 2,
D02 F449.**

Tom Phillips & Associates	
Action:	PR25-3486
Date Recd:	14 JAN 2026
Project Ref & planner	

**Re: S5.25.45: Declaration on Development & Exempted Development.
Site Address: Bishop's House, Old Dublin Road, Carlow.
Development: Alteration of the existing stone boundary wall for the purpose of
creating a new opening.**

A Chara,

Please find attached original copy of Declaration with respect to above application.

If you have any further query, please contact the undersigned at 059-9170346 or planningdevman@carlowcoco.ie.

Mise le meas,

**Eoin Maddock,
A/Administrative Officer.**



Declaration on Development and Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)

Reg. Ref. SEC5/25/45

WHEREAS a question has arisen as to whether the alteration of the existing stone boundary wall on the grounds of Bishop's House, Old Dublin Road, Carlow, for the purpose of creating a new opening **constitutes exempted development**.

AS INDICATED on the plans and particulars received by the Planning Authority on the 10/12/2025.

AND WHEREAS, Kildare and Leighlin Diocesan Trust, Bishop's House, Old Dublin Road, Carlow requested a declaration on the said question from Carlow County Council.

AND WHEREAS Carlow 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) The relevant planning history relating to the site.
- (b) The location of the referral site on a Regional Road.
- (c) Section 2, 3 and 4 of the Planning and Development Act, 2000 as amended.
- (d) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended); and
- (e) Class 5 and Class 9 in Schedule 2, Part 1 of the Planning and Development Regulations, 2001, as amended

AND WHEREAS Carlow County Council has concluded that:

- (a) the works, comprising the creation of a new opening in the existing stone boundary wall, constitute development, being works which come within the scope of section 3(1) of the Planning and Development Act 2000 (as amended).
- (b) The proposal does not fall for consideration in Class 5 in Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), as the proposed structure is not located within the curtilage of a house and therefore cannot avail of exemptions regarding same. The application site comprises parochial buildings / diocese offices, which are not in use as house, thus it is not considered to be located within the curtilage of a house.
- (c) The proposed demolition involves a section of wall which exceeds 2m in height and does not comply with the Condition / Limitation of Class 9 in Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), which restricts the height of any gate or gateway to a maximum of 2m.

- (d) The proposed creation of a new entrance onto the R-888 circa 40m from the junction with L-4012 (Railway Road) would *endanger public safety by reason of a traffic hazard or obstruction of road users* and contravene Article 9(1)(a)(iii) of the Planning and Development Regulations 2001 (as amended).

NOW THEREFORE Carlow 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 creation of a new opening within the existing stone boundary wall to facilitate improved access at Bishop's House, Old Dublin Road, Carlow **is development and is not exempted development.**

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 Coimisiún Pleanála within 4 weeks of the issuing of the decision.

Signed:

Shirley O'Neen

Date: 13th January 2026



Appendix C: Carlow County Council Planners Report

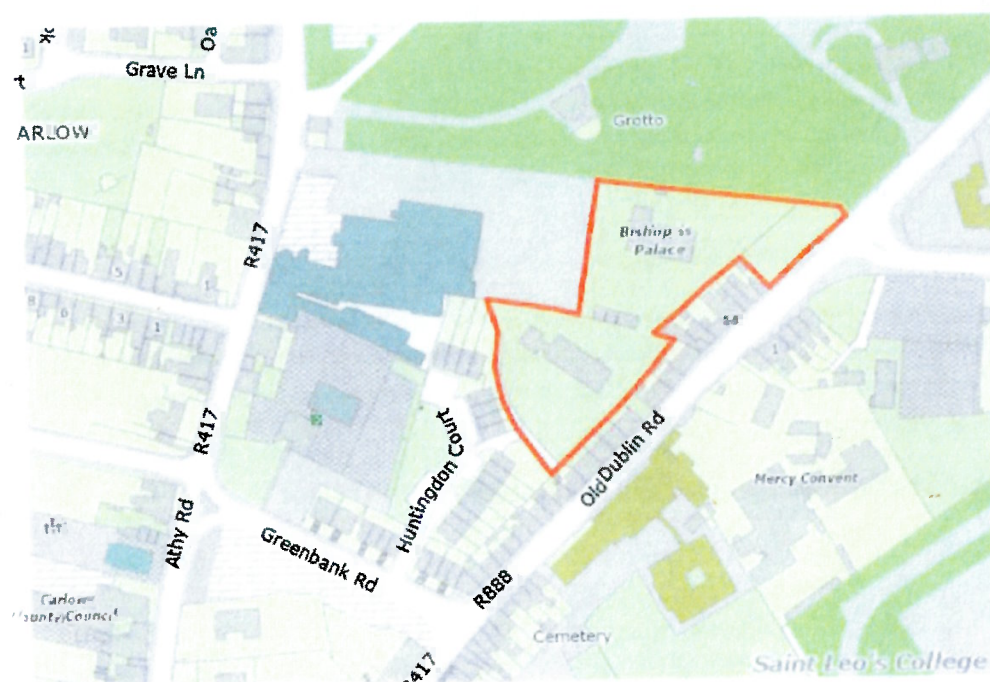
CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT
SECTION 5 DECLARATION



Reg. Ref.	SEC5/25/45
Name of Applicant	Kildare and Leighlin Diocesan Trust
Address of Development	Bishop's House, Old Dublin Road, Carlow, R93 F6D5.
Development Description	Alteration of the existing stone boundary wall on the grounds of Bishop's House for the purpose of creating a new opening.
Date of Inspection	05/01/2026

1) Site Location/Context

The Section 5 declaration relates to a site on the Old Dublin Road within the town centre of Carlow. Contained within the site delineated in red (area of which is not stated), are 2 no. detached structures and outbuildings. The buildings (The Presbytery and Bishops House) are 2-storey and part single storey and are in use as a parochial house and offices for the Diocese of Kildare and Leighlin. Boundaries to the site are largely defined by stone walls. There are two vehicular entrances off the Old Dublin Road. The main entrance is positioned between No. 19 and No. 20, Old Dublin Road, Carlow. The second entrance is positioned further north of no. 10, Old Dublin Road, Carlow. Access to this entrance traverses through an area of open space, which adjoins the street and consists of a stone / gravel surface. The adjoining road is a Regional Road (R-888).



2) Relevant Planning History

No recent planning applications.

Section 5 – 24/09: Amend existing vehicular access and gated entrance by removing masonry arch and widening existing opening from 2.475 to 3.3m. Deemed not exempt.

3) Description of the Referral/Proposal

The referral relates to the alteration to an existing stone boundary wall, comprising of a new opening adjacent to the existing gated arched access. The Section 5 application form has been accompanied by a site location map (scale 1:1000); a site layout plan (scale 1:500); and an existing and proposed elevational drawing (scale 1:50). A covering letter / report, prepared by the applicant's Planning Consultant (Tom Phillips & Associates), also accompanies the application.

The site layout plan indicates the location of the proposed gateway, which is adjacent / south of the existing northern entrance to the site.

4) Relevant Legislative/Regulatory Provisions

The proposal will be assessed within the provisions of:

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

Planning and Development Act 2000 (as amended)

- Section 2 (1)

In this Act, except where the context requires otherwise,

“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 developments for the purposes of this 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.

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)**

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,*
- (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 meters in width,*
- (iii) endanger public safety by reason of a traffic hazard or obstruction of road users,*
- (iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,*
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*
- (viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorized structure or a structure the use of which is an unauthorized use,

(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

Schedule 2, Part 1, Class 5 and Class 9

See below extract of relevant section, conditions and limitations outlined in the Planning and Development Regulations 2001 (as amended).

Exempted Development – General	
Description of Development	Conditions and Limitations
Class 5: Development within the curtilage of a house	
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.

Class 9: Sundry Works

The construction, erection, renewal or replacement, other than within or bounding the curtilage of a house, of any gate or gateway

The height of any such structure shall not exceed 2 metres

5) Assessment

As noted, the Section 5 Declaration relates to alterations to an existing boundary wall, which includes the creation of a new opening for a timber gate measuring 3.3m. The rationale for proposed alteration is to facilitate improved access to and from the grounds.

Does the proposal constitute development?

Section 3 of the Planning and Development Act 2000 (as amended) defines development as "*the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land*". The proposed works, which involve the creation of a new opening for a timber gate in the existing stone boundary wall, which measures 3.3m in width and 1.2m in height, would constitute development under the provisions of the Planning and Development Act 2000 (as amended).

Does the proposal constitute exempted development?

Section 4(1)(h) of the Planning and Development Act 2000 (as amended) prescribes the following exemption:

The following shall be exempted developments for the purposes of this 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.

The proposed works relates to the exterior of a structure and would be considered to materially impact its character. Accordingly, the above exemption would not be considered applicable.

Does the proposal fall within the criteria specified in Schedule 2, Part 1, Class 5?

The structure is not located within the curtilage of a dwelling, thus would not avail of exemptions regarding same. The application site comprises parochial buildings / diocese offices and is not in use as house, thus it is not considered to be located within the curtilage of a house. Accordingly, it is considered that the proposal does not meet the criteria set out in Schedule 2, Part 1, Class 5.

Does the proposal fall within the criteria specified in Schedule 2, Part 1, Class 9?

The proposal does meet the criteria, conditions and limitations set out in Class 9 in some respects, as it does not relate to a house and the proposed gate is less than 1.2m in height. However, as the alteration involves the partial demolition of a wall, which is 3.0m in height, it is considered that the 2m height limitation applies. Accordingly, it is considered that the proposal does not meet the criteria set out in Schedule 2, Part 1, Class 9.

Article 9(1) of the Planning and Development Regulations 2001 (as amended)

Article 9(1) prescribes restrictions on exemptions. The following is of note:

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—

(iii) endanger public safety by reason of a traffic hazard or obstruction of road users.

There are concerns that the creation of an additional entrance / access onto the R-888 (Old Dublin Road), circa 40m from the Railway Road junction / roundabout would endanger public safety by reason of a traffic hazard and obstruction of road users. It is therefore considered that the restriction set out in Article 9(1)(a)(iii) applies.

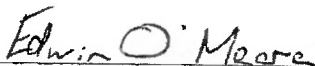
6) Conclusion

It is considered that the proposed development, which comprises the alteration to an existing stone boundary wall to create a new opening measuring 3.3m in width and 1.2m in height, would constitute development and would not constitute exempted development.

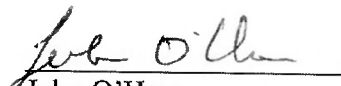
7) Recommendation:

Having regard to the foregoing, it is recommended that the proposed creation a new gate opening measuring 3.3m in width and 1.2m in height within the existing stone boundary is **development and is not exempted development**.

A draft order is set out below.


Edwin O'Meara
Executive Planner

Date: 12/01/26


John O'Hara
Senior Executive Planner

Date: 12/01/26

Declaration on Development and Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether the alteration of the existing stone boundary wall on the grounds of Bishop's House, Old Dublin Road, Carlow, for the purpose of creating a new opening **constitutes exempted development.**

AS INDICATED on the plans and particulars received by the Planning Authority on the 10/12/2025.

AND WHEREAS, Kildare and Leighlin Diocesan Trust, Bishop's House, Old Dublin Road, Carlow requested a declaration on the said question from Carlow County Council.

AND WHEREAS Carlow 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) The relevant planning history relating to the site.
- (b) The location of the referral site on a Regional Road.
- (c) Section 2, 3 and 4 of the Planning and Development Act, 2000 as amended.
- (d) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended); and
- (e) Class 5 and Class 9 in Schedule 2, Part 1 of the Planning and Development Regulations, 2001, as amended

AND WHEREAS Carlow County Council has concluded that:

- (a) the works, comprising the creation of a new opening in the existing stone boundary wall, constitute development, being works which come within the scope of section 3(1) of the Planning and Development Act 2000 (as amended).
- (b) The proposal does not fall for consideration in Class 5 in Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), as the proposed structure is not located within the curtilage of a house and therefore cannot avail of exemptions regarding same. The application site comprises parochial buildings / diocese offices, which are not in use as house, thus it is not considered to be located within the curtilage of a house.
- (c) The proposed demolition involves a section of wall which exceeds 2m in height and does not comply with the Condition / Limitation of Class 9 in Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), which restricts the height of any gate or gateway to a maximum of 2m.
- (d) The proposed creation of a new entrance onto the R-888 circa 40m from the junction with L-4012 (Railway Road) would *endanger public safety by reason of a traffic hazard or obstruction of road users* and contravene Article 9(1)(a)(iii) of the Planning and Development Regulations 2001 (as amended).

NOW THEREFORE Carlow 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 creation of a new opening within the existing stone boundary wall to facilitate improved access at Bishop's House, Old Dublin Road, Carlow **is development and is not exempted development.**

APPROPRIATE ASSESSMENT SCREENING REPORT		
Planning Application Reg. Ref: SEC5/25/45		
A. DESCRIPTION OF PROJECT AND LOCAL SITE		
Site Location:	Bishop's House, Old Dublin Road, Carlow.	
Total Site Area:	Not stated	
Floor Area of Proposed Development:	Not applicable.	
Identification of Natura 2000 site(s):	River Barrow and River Nore Valley SAC.	
Is the application accompanied by an EIAR?	No.	
B. IDENTIFICATION OF RELVANT NATURA 2000 SITE(S):		
The reasons for the designation of the Natura 2000 site:(A site synopsis can be obtained from www.npws.ie)The conservation objectives/qualifying interests of the site and the factors that contributes to the conservation value of the site:		
C. NPWS ADVICE:		
Summary of advice received in written form:	None Received.	
Advice received over the over phone:	None Received.	
D. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS		
(Purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).If answer yes to any of the questions, below then the effect is significant.		
1.1	Would there be any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance)	No.
1.2	Would there be a reduction in habitat area on a Natura 2000 site?	No.
1.3	Would there be direct/indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site?	No.
1.4	Would there be serious/ongoing disturbance to species/habitats for which the Natura 2000 site is selected (e.g. because of increased noise, illumination and human activity)?	No.
1.5	Would there be direct/indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site?	No.
1.6	Would the project interfere with mitigation measures put in place for other plans/projects? (Look at in-combination effects with completed, approved but not completed, and proposed plans/projects. Look at projects/plans within and adjacent to Natura 2000 sites and identify/)	No.

E. SCREENING CONCLUSION

At its closest point, the River Barrow is c. 390m west of the site, which forms part of the River Barrow and River Nore SAC. There is no pathway between the referral site and the SAC. The development as proposed has been assessed having regard to the requirements of the EU Habitats Directive. Given the proximity of the nearest European Site and the nature and extent of the development on the site, which comprises removal of a section of masonry wall to create a new gate opening, having regard to the intervening land uses located in the area, it is considered reasonable to conclude on the basis of the information available, that the development on its own or in combination with other plans or projects, would not be likely to result in any potential significant effects on the European Site. Therefore, a Stage 2 Appropriate Assessment is not required.

Signed:

Edna O'Meara

Position:

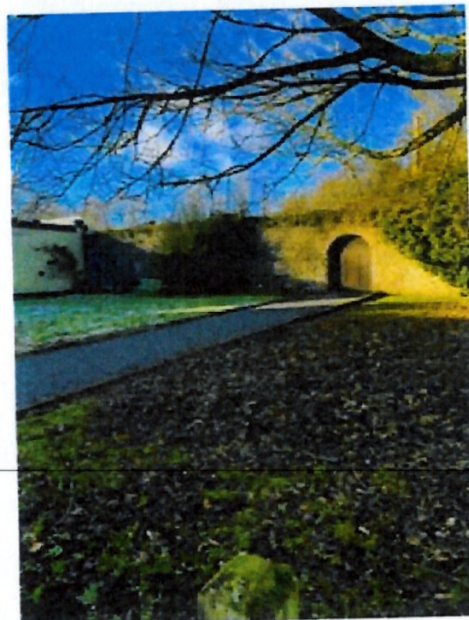
Executive Planner

Date:

12/01/26

Appendix II

Site Photographs: 05/01/2026







Appendix D: Letter from Bishop of Kildare and Leighlin



Diocese of Kildare & Leighlin

Bishop's House, Old Dublin Road, Carlow, R93 F6D5. Tel: 059-9176725

5th February 2026

To whom it may concern

I write to advise that Bishops House, Old Dublin Road, Carlow, R93 F6D5 is my residence as the Bishop of Kildare & Leighlin. The building is my home as well as housing my office and private meeting rooms.

Yours sincerely

✠ Denis Nulty
Bishop of Kildare & Leighlin