



Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Barry & Moire Speight,
c/o Edward Raftery t/a MRA Architecture Ltd.,
10 Dundanion Court,
Blackrock Road,
Cork.

14/03/2023

**RE: Section 5 Declaration R764/23 42 Leslie Arch, Old Quarter,
Ballincollig, Co. Cork. P31 TW59**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 21st February 2023, I wish to advise as follows:

The Planning Authority, having regard to:

- Section 2, 3 and 4 of the Planning and Development Act 2000 as amended,
- Article 6 of the Planning and Development Regulations 2001 to 2022, and
- Planning Permission 22/41277 granted subject to conditions

It is considered that *the installation of rooflight to front elevation of house in place of approved pitched dormer under planning reference 22/41277* at 42 Leslie Arch, Old Quarter, Ballincollig, Cork **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT** as it would not be in compliance with condition 1 of that permission. A further planning application, to apply the permitted development to alter the permitted dormer to a velux, will regularise this matter.

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 14th March 2023.

Is mise le meas,

Kate Magner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

Planner's Report Ref. R764/23	Cork City Council, Culture, Community and Placemaking
Application type	Section 5 Declaration
Description	Is the change from the approved 22/41277 'new dormer window' to front elevation to new inline velux rooflight to front elevation, at 42 Leslie Arch development and if so, is it exempted development?
Location	42 Leslie's Arch, Old Quarter, Ballincollig, Cork, P31 TW59
Applicant	Barry and Moire Speight
Date received	21 February 2023
Recommendation	Is Development and Is Exempted Development

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states; 'If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.'

The requirements for making a section 5 declaration are set out in the Act.

2. The question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

"Permission was granted TP 22/41277 (Permission for alterations and extensions to existing semi-detached two storey dwelling consisting of; Ground floor extension to rear, conversion of existing attic to habitable accommodation with new dormer window to front elevation, new windows to existing side elevation, new boundary garden wall and all ancillary site development works). Is the change from the above approved 'new dormer window to front elevation' to 'new inline (Velux) rooflight to front elevation', at 42 Leslies Arch development and if so, is it exempted development?"

Additional details regarding question/ works / development

N/A

3. Site Description

The subject site is located on 42 Leslie’s Arch, Old Quarter, Ballincollig, Cork, P31 TW59. The site comprises an end terrace two-storey dwelling. The house adjoins a three-storey residential block on a corner site. The house is finished in smooth (lined on ground floor) rendered walls with concrete roof tiles. There are small sections of public open space due northwest and southwest of the site. Ballincollig Regional Park and River Lee are further north.

4. Planning History

Subject Site: 22/41277 Permission for alterations and extensions to existing semi-detached two storey dwelling consisting of; ground floor extension to rear, conversion of existing attic to habitable accommodation with new dormer window to front elevation, new windows to existing side elevation, new boundary garden wall and all ancillary site development works at 42 Leslie Arch, Old Quarter, Ballincollig, Cork. **Grant**

Recent applications in the vicinity: 20/39241 – Permission for the construction of a new single storey extension to the side of the existing semi-detached dwelling house, together with all ancillary site works at 22 Millers Court, Old Quarter, Ballincollig, Cork. **Grant**

5. Legislative Provisions

5.1 The Act

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, except where the context otherwise requires, "development" means —
(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or
(b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021)

Section 4(1)(h)

The following shall be exempted developments for the purposes of this Act—
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 4(2)

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

Section 5(1)

(See Section 1 above)

Section 177U (9) (screening for appropriate assessment)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

5.2 The Regulations

Article 6 Exempted Development

(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.

There are no elements of Article 6 which apply in this instance.

6. Assessment

The purpose of this report is to assess whether or not the matter in question constitutes development and whether it falls within the scope of exempted development.

Matters pertaining to the acceptability of the proposal in respect of the proper planning and sustainable development of the area is not a consideration under Section 5.

6.1 Development

The first issue for consideration is whether or not the matter at hand is ‘development’?

‘Development’ as defined in the Act (3)(1) comprises two possible chief components: ‘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’. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

‘Works’ is defined in section 2(1) of the Act as ‘the carrying out of any works on, in, over, or under land’ including ‘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.'

The proposed alteration to front elevation to construct a new inline rooflight falls within the definition of 'works'. Therefore, the proposal constitutes development within the meaning of the Act.

Conclusion: The works are considered development.

6.2 Exempted Development

The next issue for consideration is whether or not the matter at hand is Exempted Development?

Section 2(1) of the Act defines 'exempted development' as having 'the meaning specified in Section 4' of the Act (which relates to exempted development).

Section 4(3) of the Act states that exempted development either means development specified in Section 4(1) or development which is exempted development having regard to any regulations under section 4(2).

I consider that the proposal comes within both subsections (1) and (2) of Section 4.

Section 4(1)

I am of the view that the development falls within the scope of section 4(1), being the works to install a rooflight on the front elevation in place of pitched dormer under permission 22/41277. It is noted that other two-storey houses within Leslie's Arch predominantly have pitched dormers with some having rooflights. I consider these elements come within the scope of section 4(1)(h) where the alterations 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.

However, permission has been granted under Ref. No. 22/41277 and includes a pitched dormer on the front elevation. The proposed works would replace the granted pitched dormer with an inline rooflight of dimensions 780mmx1180mm.

Section 4(2)

It is therefore necessary to consider whether the proposed works to install a rooflight on front elevation comes under the scope of section 4(2) (i.e. exemptions specified in the Regulations), having regard to the use of the word 'or' in section 4(3).

Article 6 Exempted Development allows for development under Part 1 Schedule 2, subject to Article 9 'Restrictions on exemption'. Article 6 does not apply in this instance.

However, planning Condition 1 of permission 22/41277 states: 'The development shall be carried out in accordance with the plans and particulars submitted to the planning

authority on 20/07/22, except where otherwise altered or amended by conditions contained in this Schedule.'

Consequently, the proposed inline rooflight in place of pitched dormer window granted under 22/41277 would not be in accordance with plans granted permission, and so, is not exempted development.

Conclusion: The works are **not** exempted development.

7. Environmental Assessment

7.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly, it is considered that an environmental impact statement is not required to be submitted.

7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the Habitats Directive, the Appropriate Assessment Guidelines for Planning Authorities 2009 (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of the European sites referred to above. Accordingly, it is considered that appropriate assessment is not required.

8. Recommendation

In view of the above and having regard to –

- Section 2, 3 and 4 of the Planning and Development Act 2000 as amended,
- Articles 6 of the Planning and Development Regulations 2001 to 2022, and
- Planning Permission 22/41277 granted subject to conditions.

The Planning Authority considers that the installation of rooflight to front elevation of house in place of approved pitched dormer under planning reference 22/41277 at 42 Leslies Arch, Old Quarter, Ballincollig, Cork is **Development** and is **not Exempted Development** as would not be in compliance with condition 1 of that permission. A further planning application, to apply to amend the permitted development to alter the permitted dormer to a velux, will regularise this matter.

Hugh Killen
Planner
14 March 2023

764

MRA ARCHITECTURE LIMITED

A: 10 Dundanion Court, Blackrock Road, Cork, Ireland

T: 353 87 983 0624 E: edward.raftery@gmail.com

17th February 2023,

The Development Management Section,
Community, Culture and Placemaking Directorate,
Cork City Council,
City Hall,
Anglesea Street,
Cork.

**RE: Section 5 Declaration Application for 42 Leslies Arch, Old Quarter,
Ballingcollig, Cork. P31 TW59.**

Dear Sir / Madam,

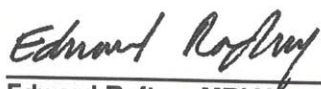
On behalf of the applicants **Barry and Moire Speight**, we submit a Section 5 Declaration Application for 42 Leslies Arch, Old Quarter, Ballingcollig, Cork. P31 TW59.

In support of this application please find enclosed the following documents:

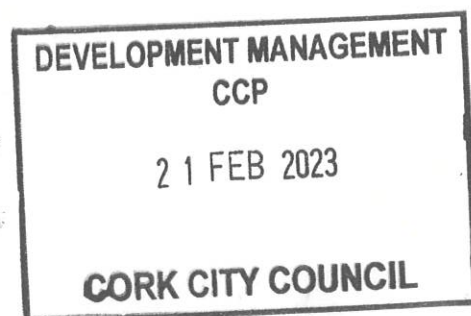
1. Section 5 Declaration Application Form
2. Section 5 Declaration Application Fee of €80
3. OS-01 – Site Location Map @ 1:1000
4. Copy of approved planning drawings with applicants proposed change show coloured (Change from approved 'new dormer window to front elevation' to 'new inline (Velux) rooflight to front elevation'. Approved window 800x1100mm, changed rooflight 780x1180mm)

We look forward to your decision on this Section 5 Declaration Application.

Yours sincerely,



Edward Raftery MRIAI
For MRA Architecture Limited



**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

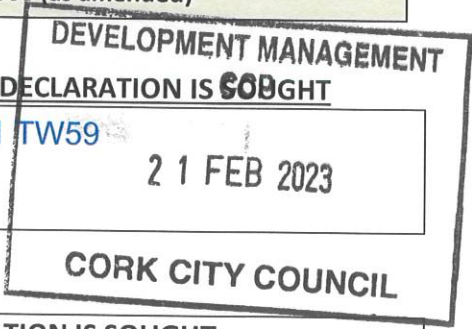
Community, Culture & Placemaking Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie
Fón/Tel: 021-4924762
Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

42 Leslies Arch, Old Quarter, Ballincollig, Co. Cork. P31 TW59



2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:
Sample Question: *Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?*

Note: only works listed and described under this section will be assessed under the section 5 declaration.

Permission was granted TP 22/41277 (Permission for alterations and extensions to existing semi-detached two storey dwelling consisting of; Ground floor extension to rear, conversion of existing attic to habitable accommodation with new dormer window to front elevation, new windows to existing side elevation, new boundary garden wall and all ancillary site development works). Is the change from the above approved 'new dormer window to front elevation' to 'new inline (Velux) rooflight to front elevation', at 42 Leslies Arch development and if so, is it exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets if required).

3. Are you aware of any enforcement proceedings connected to this site?

If so please supply details: n/a

4. Is this a Protected Structure or within the curtilage of a Protected Structure? n/a

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?

5. Was there previous relevant planning application/s on this site?

If so please supply details: T.P.22/41277

6. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	n/a
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas. (sq m) _____
(c) If concerning a change of use of land and / or building(s), please state the following: n/a	
Existing/ previous use (please circle) _____ _____ _____	Proposed/existing use (please circle) _____ _____ _____

8. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	n/a	
If you are not the legal owner, please state the name and address of the owner if available	n/a	

9. I / We confirm that the information contained in the application is true and accurate:

Signature: Edmund Rosling

Date: 17/02/2023



Description:

Digital Landscape Model (DLM)

Publisher / Source:

Ordnance Survey Ireland (OSI)

Data Source / Reference:

PRIME2

File Format:

Autodesk AutoCAD (DWG_R2013)

File Name:

v_50279506_1.dwg

Clip Extent / Area of Interest (AOI):

LLX,LLY= 558735.5,571149.0
 LRX,LRX= 558968.5,571149.0
 ULX,ULY= 558735.5,571321.0
 URX,URY= 558968.5,571321.0

Projection / Spatial Reference:

Projection= IRENET95_Irish_Transverse_Mercator

Centre Point Coordinates:

X,Y= 558852.0,571235.0

Reference Index:

Map Series | Map Sheets
 1:1,000 | 6380-19
 1:2,500 | 6380-D

Data Extraction Date:

Date= 12-Jul-2022

Source Data Release:

DCMLS Release V1.153.113

Product Version:

Version= 1.4

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Arna thionscú agus arna fhoilsiú ag Suirbhéireacht Ordnáis Éireann, Páirc an Fhionnuisce, Baile Átha Cliath 8, Éire.

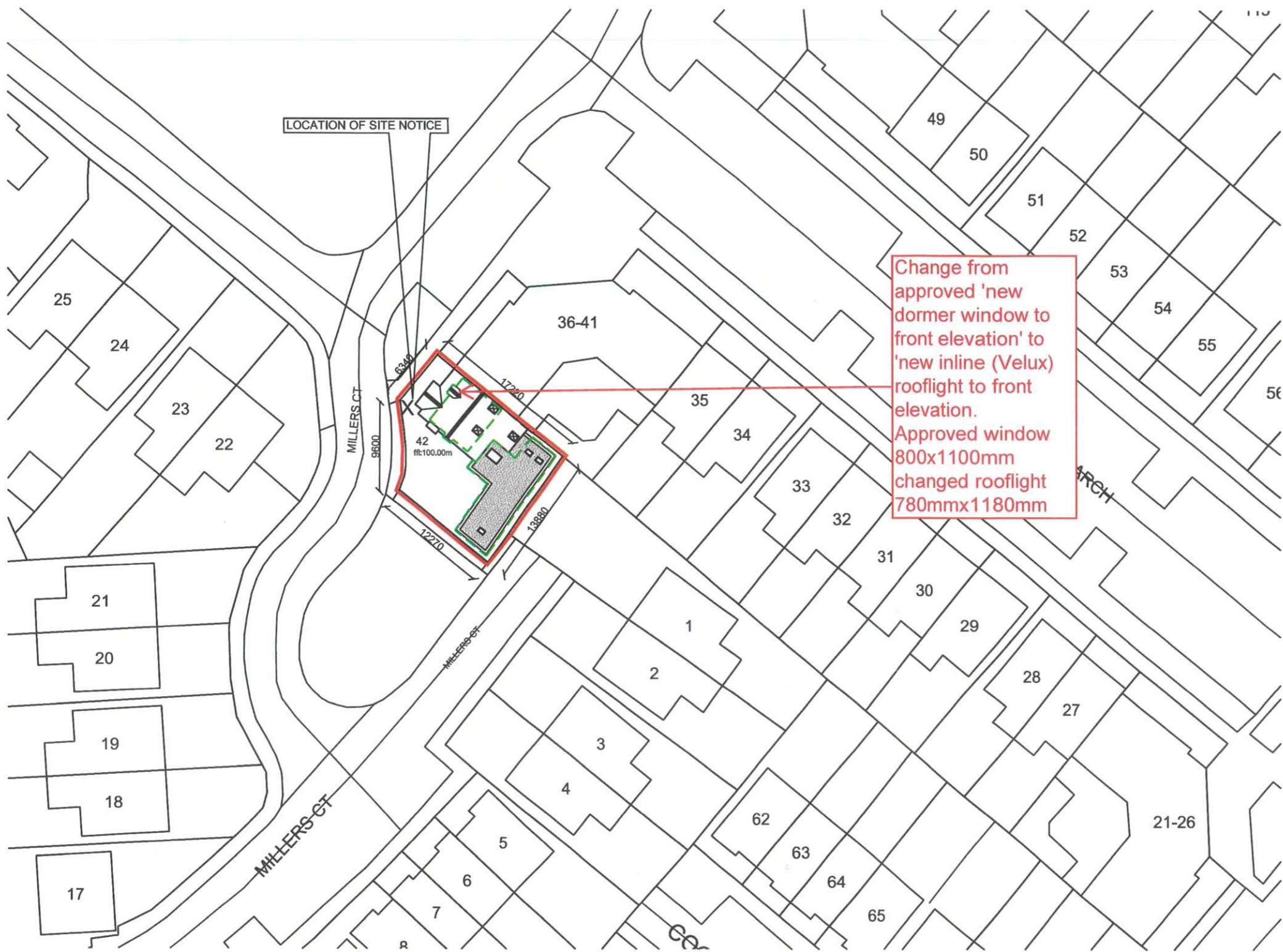
Sáráilonn aithéaradh neamhúdaraithe cóipcheart Shuirbhéireacht Ordnáis Éireann agus Rialtas na hÉireann.

Gach cead ar cosnamh. Ní ceadmhach aon chuid den fhóilseachán seo a chóipeáil, a aithéaradh nó a tharchur in aon fhoirm ná ar aon bhealach gan cead i scríbhinn roimh ré ó úinéirí an chóipchearta.

Ní tionann bóthar, bealach nó cosán a bheith ar an léarscáil seo agus fianaise ar chead eile.

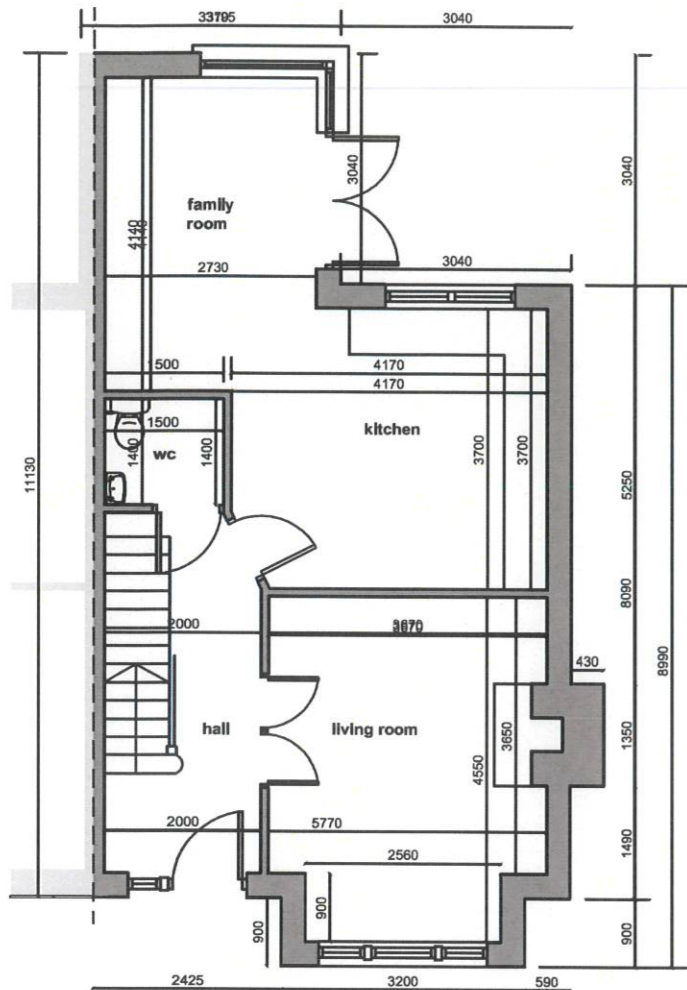
Ní thaispeánann léarscáil de chuid Ordnáis Shuirbhéireacht na hÉireann teorann phointí deathúil de mhaoin riamh, ná úinéireacht de ghnéithe fhisicéala.

			Proposed extension to Dwelling @ 42 Leslie Arch, Old Quarter, Ballincollig, Co. Cork	Planning	Site Location Map	Rev:
				June 2022	MOC-22-102	1:2500 b

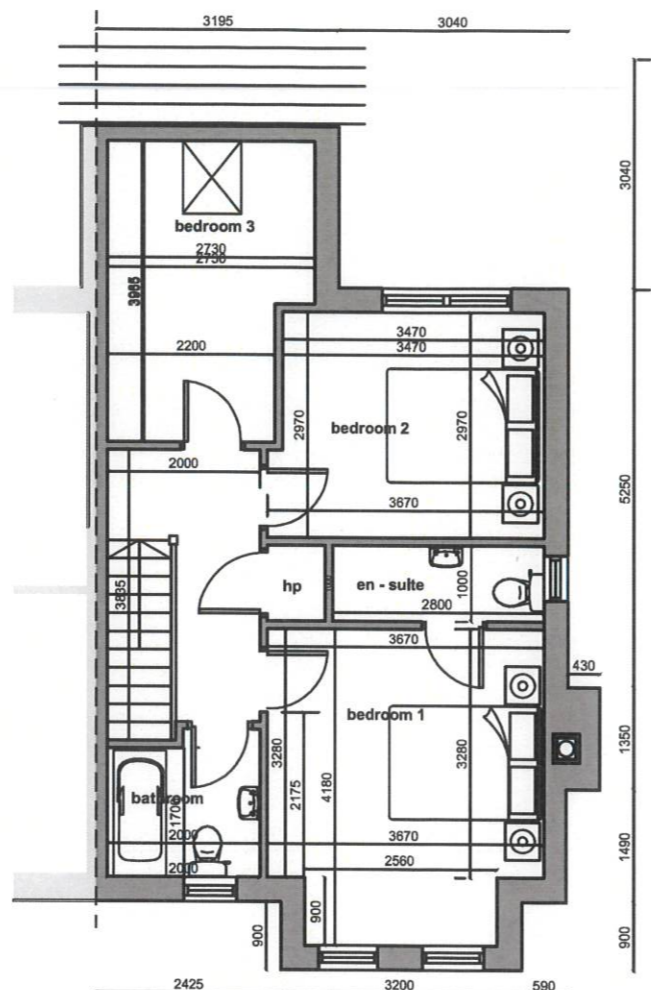


Change from approved 'new dormer window to front elevation' to 'new inline (Velux) rooflight to front elevation.
 Approved window 800x1100mm
 changed rooflight 780mmx1180mm

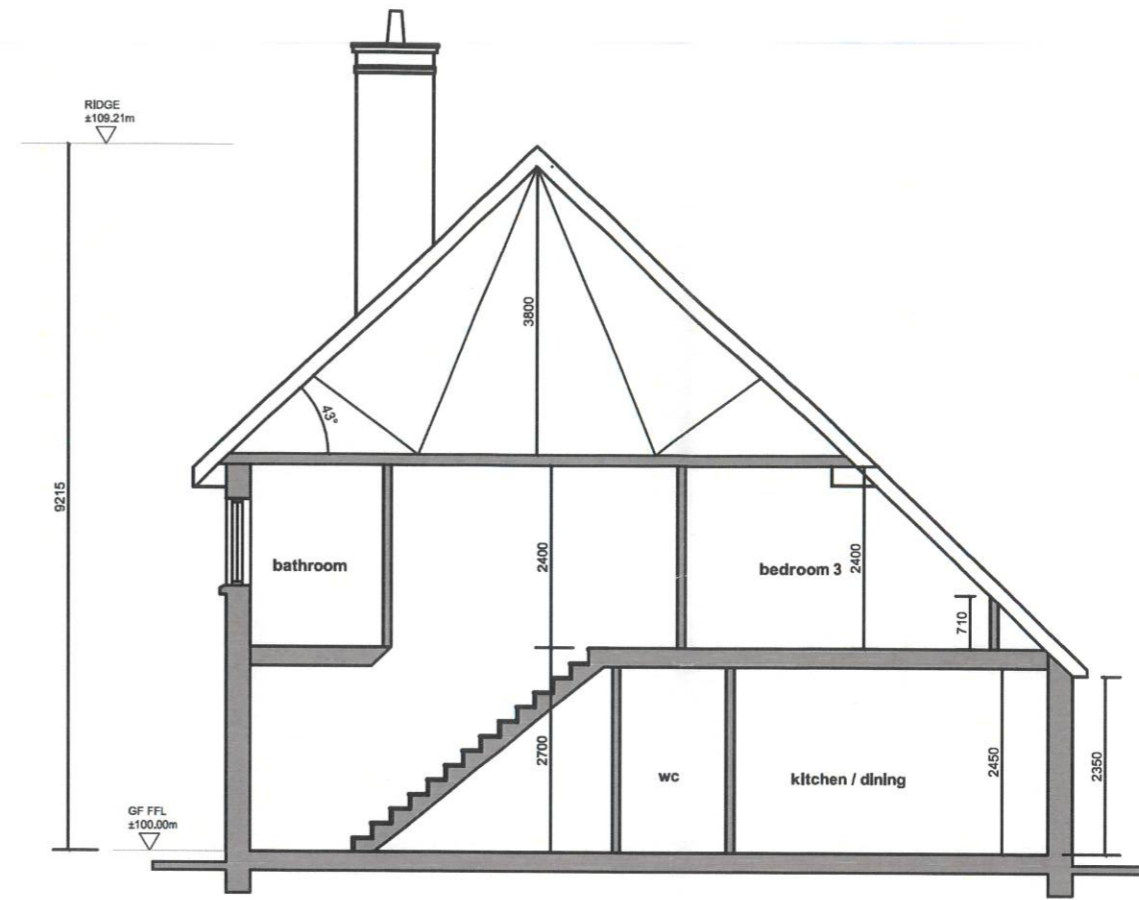
			Proposed extension to Dwelling @ 42 Leslies Arch, Old Quarter, Ballincollig, Co. Cork	Planning	Proposed Site Layout		Rev:
				June 2022	MOC-22-103	1:500/ 1:200	b



GROUND FLOOR PLAN
scale 1:100



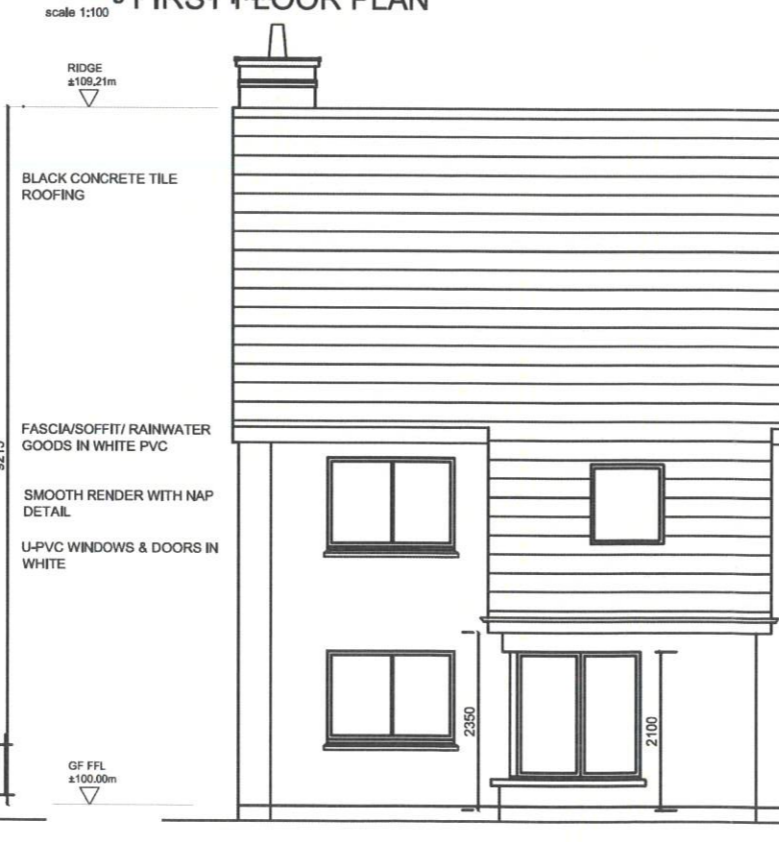
EXISTING FIRST FLOOR PLAN
scale 1:100



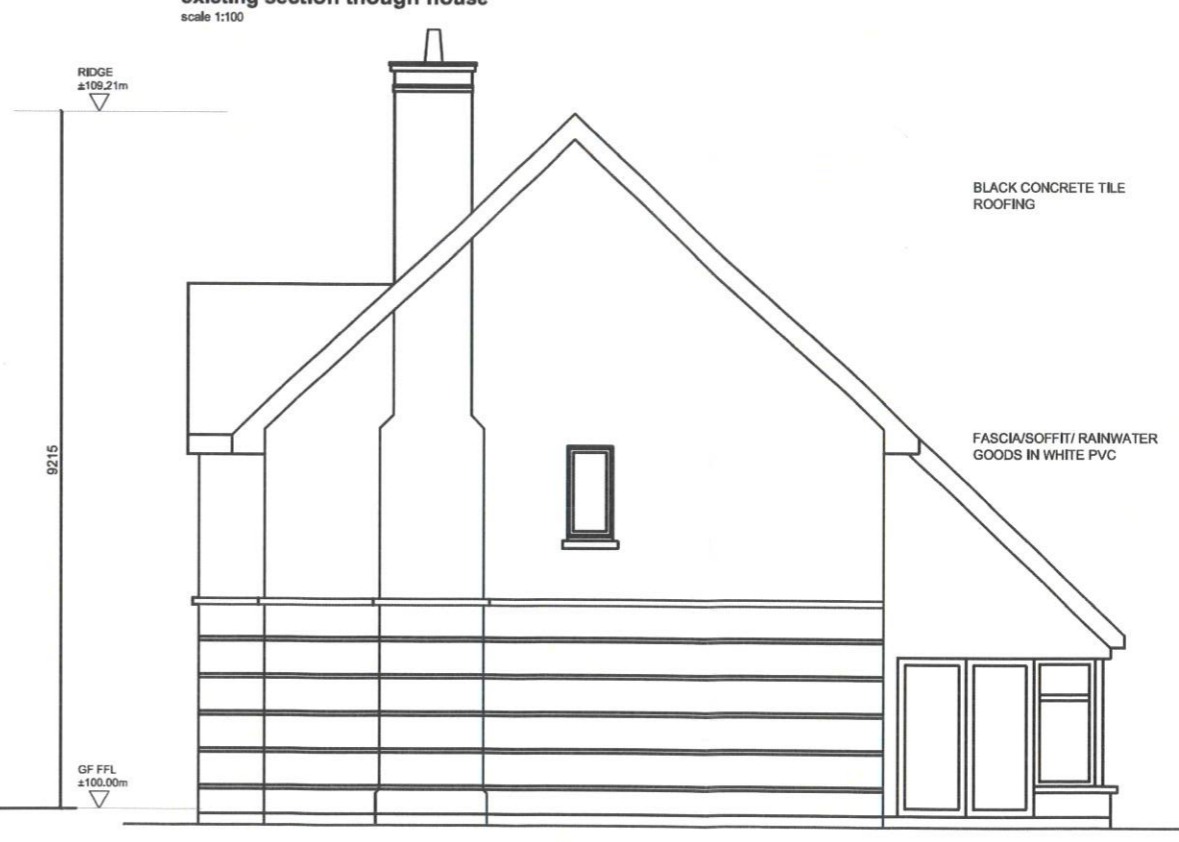
TYPICAL SECTION
EXISTING SECTION THROUGH HOUSE
scale 1:100



EXISTING FRONT ELEVATION
scale 1:100



EXISTING REAR ELEVATION
scale 1:100



EXISTING SIDE ELEVATION
scale 1:100

RIDGE ±109.21m
BLACK CONCRETE TILE ROOFING
FASCIA/SOFFIT/ RAINWATER GOODS IN WHITE PVC
SMOOTH RENDER WITH NAP DETAIL
U-PVC WINDOWS & DOORS IN WHITE
GF FFL ±100.00m

RIDGE ±109.21m
GF FFL ±100.00m

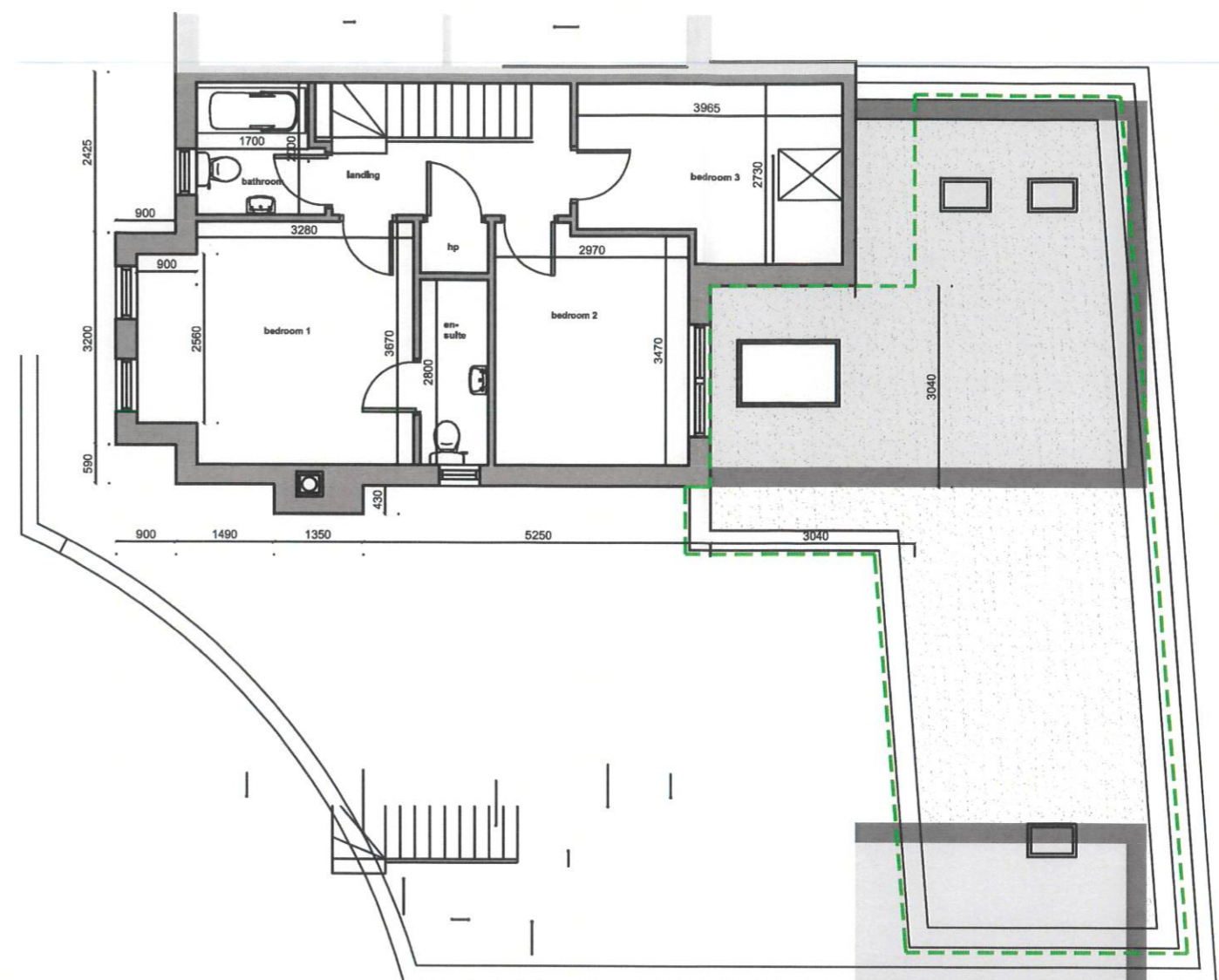
BLACK CONCRETE TILE ROOFING
FASCIA/SOFFIT/ RAINWATER GOODS IN WHITE PVC

Proposed extension to Dwelling @ 42 Leslies Arch, Old Quarter, Ballincollig, Co. Cork	Planning	Existing Plans/Section/ Elevations		Rev:
	June 2022	MOC-22-104	1:100	b

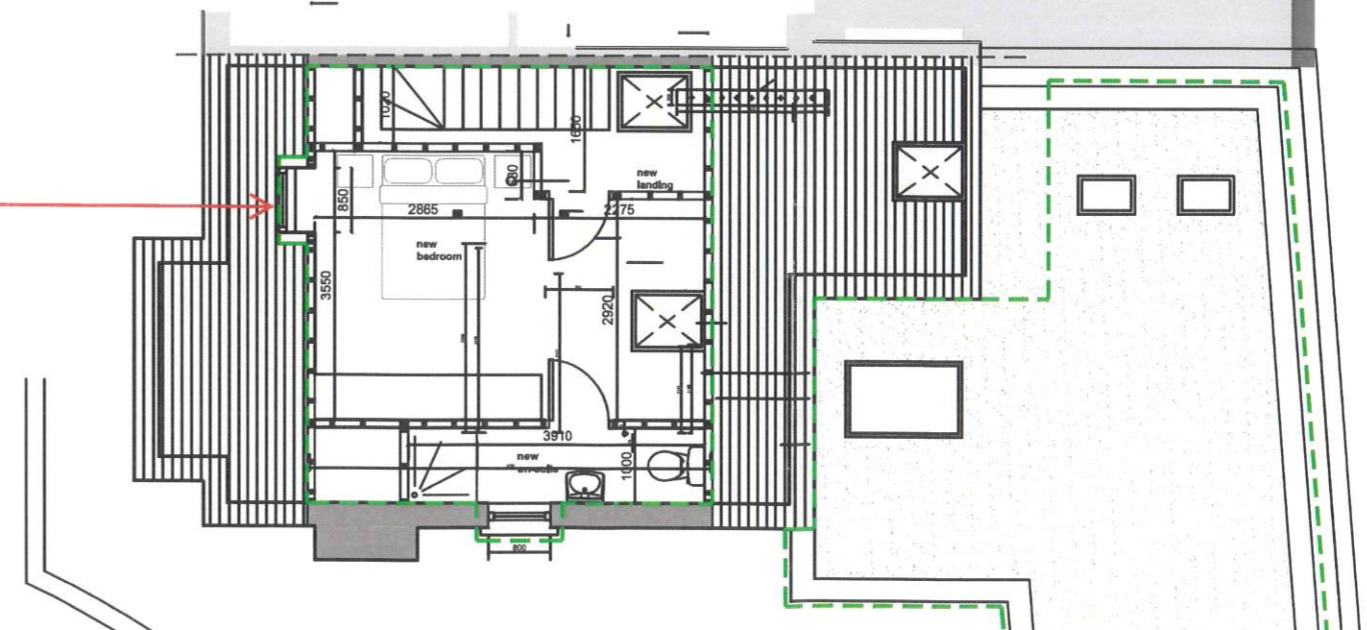


PROPOSED GROUND FLOOR PLAN
Extension area 51.50sq/m

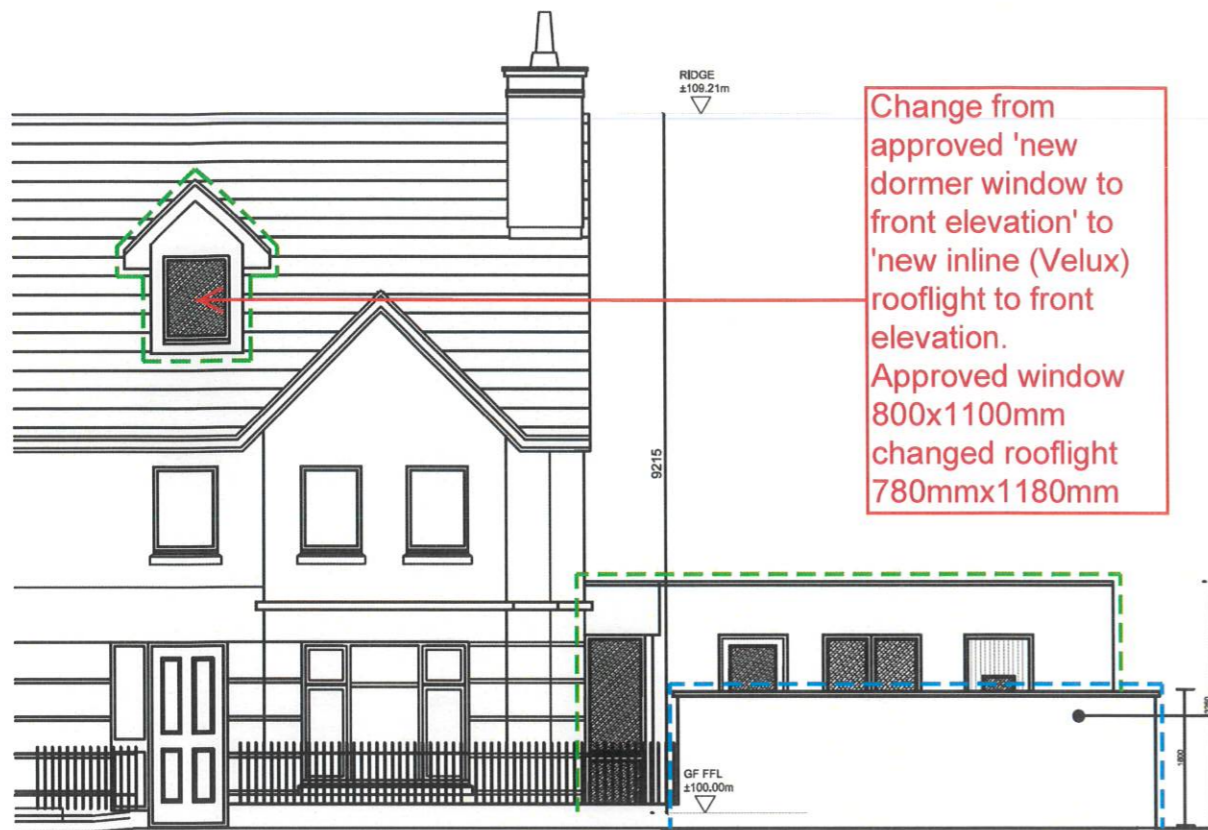
Change from approved 'new dormer window to front elevation' to 'new inline (Velux) rooflight to front elevation.
Approved window 800x1100mm
changed rooflight 780mmx1180mm



PROPOSED FIRST FLOOR PLAN

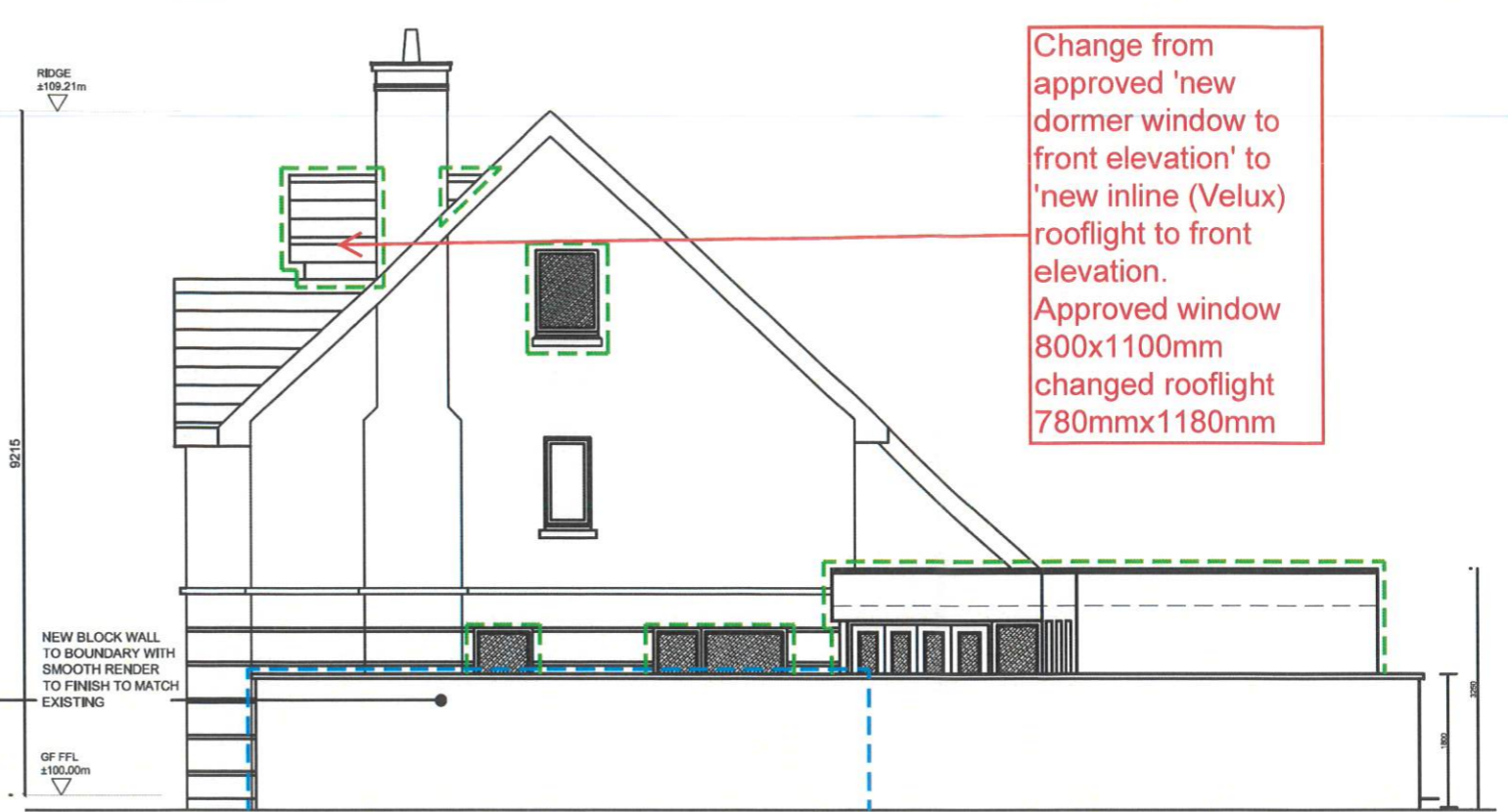


PROPOSED SECOND FLOOR PLAN
Floor area 29.65sq/m



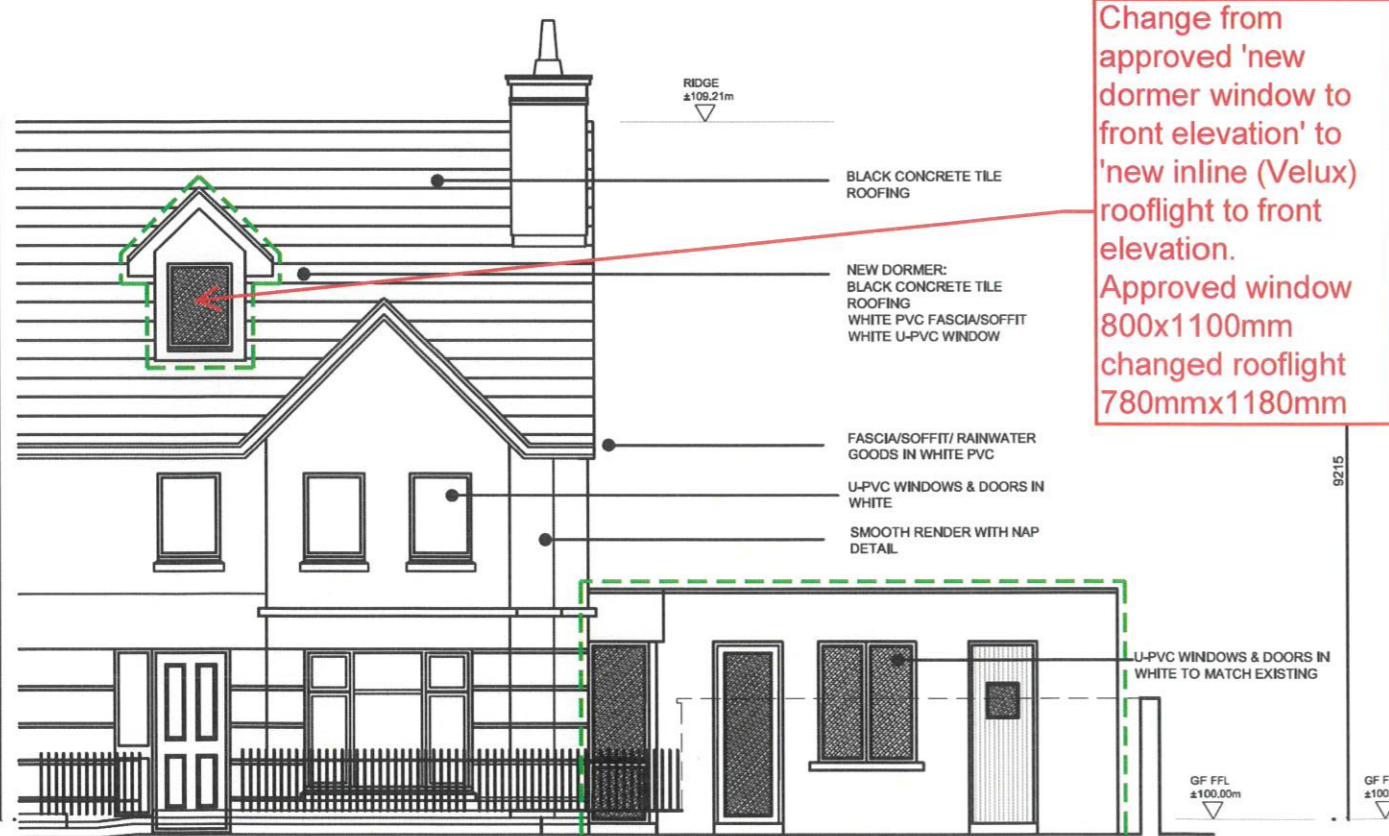
Change from approved 'new dormer window to front elevation' to 'new inline (Velux) rooflight to front elevation. Approved window 800x1100mm changed rooflight 780mmx1180mm

FRONT ELEVATION - WITH WALL - NORTH WEST



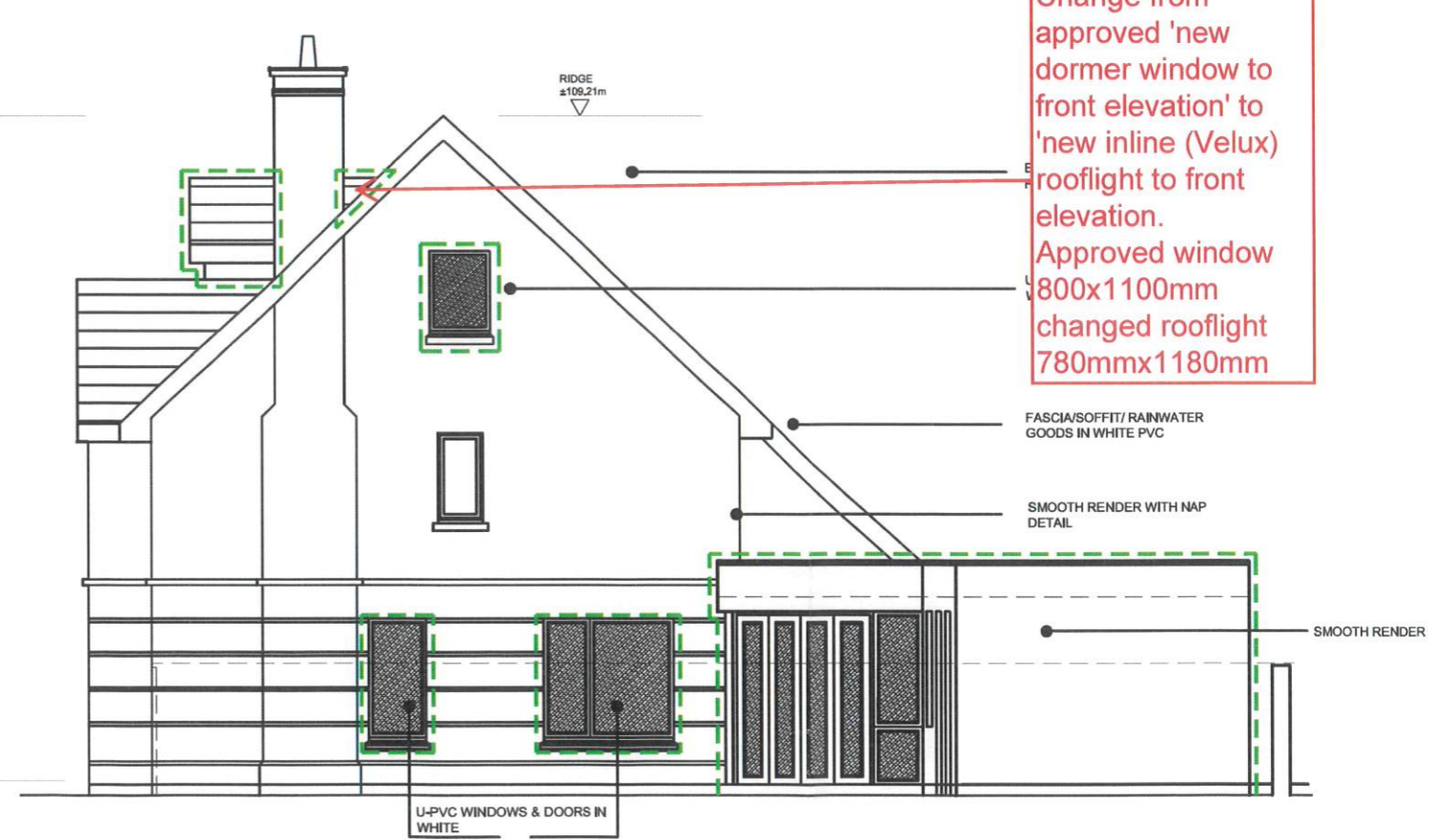
Change from approved 'new dormer window to front elevation' to 'new inline (Velux) rooflight to front elevation. Approved window 800x1100mm changed rooflight 780mmx1180mm

SIDE ELEVATION - WITH WALL - SOUTH WEST



Change from approved 'new dormer window to front elevation' to 'new inline (Velux) rooflight to front elevation. Approved window 800x1100mm changed rooflight 780mmx1180mm

FRONT ELEVATION - NORTH WEST

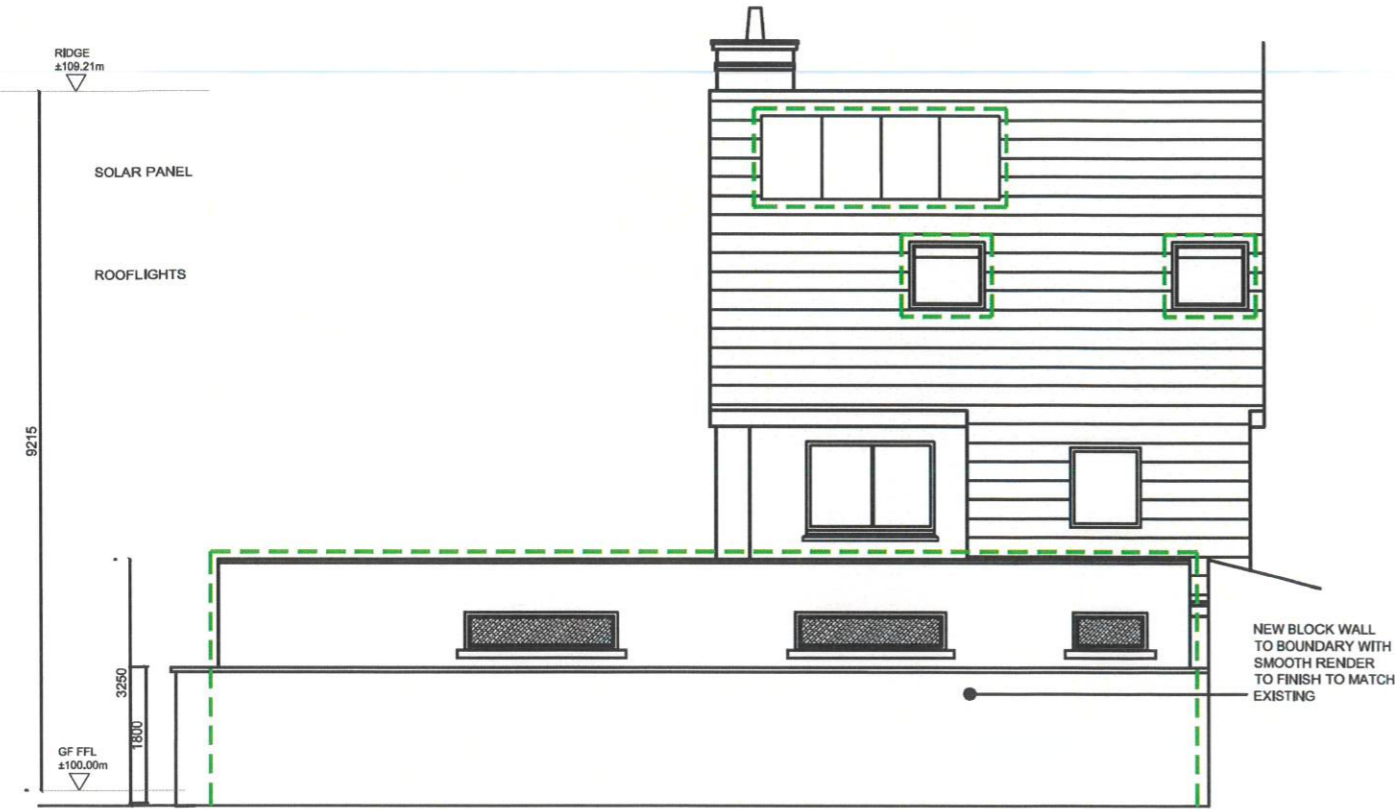


Change from approved 'new dormer window to front elevation' to 'new inline (Velux) rooflight to front elevation. Approved window 800x1100mm changed rooflight 780mmx1180mm

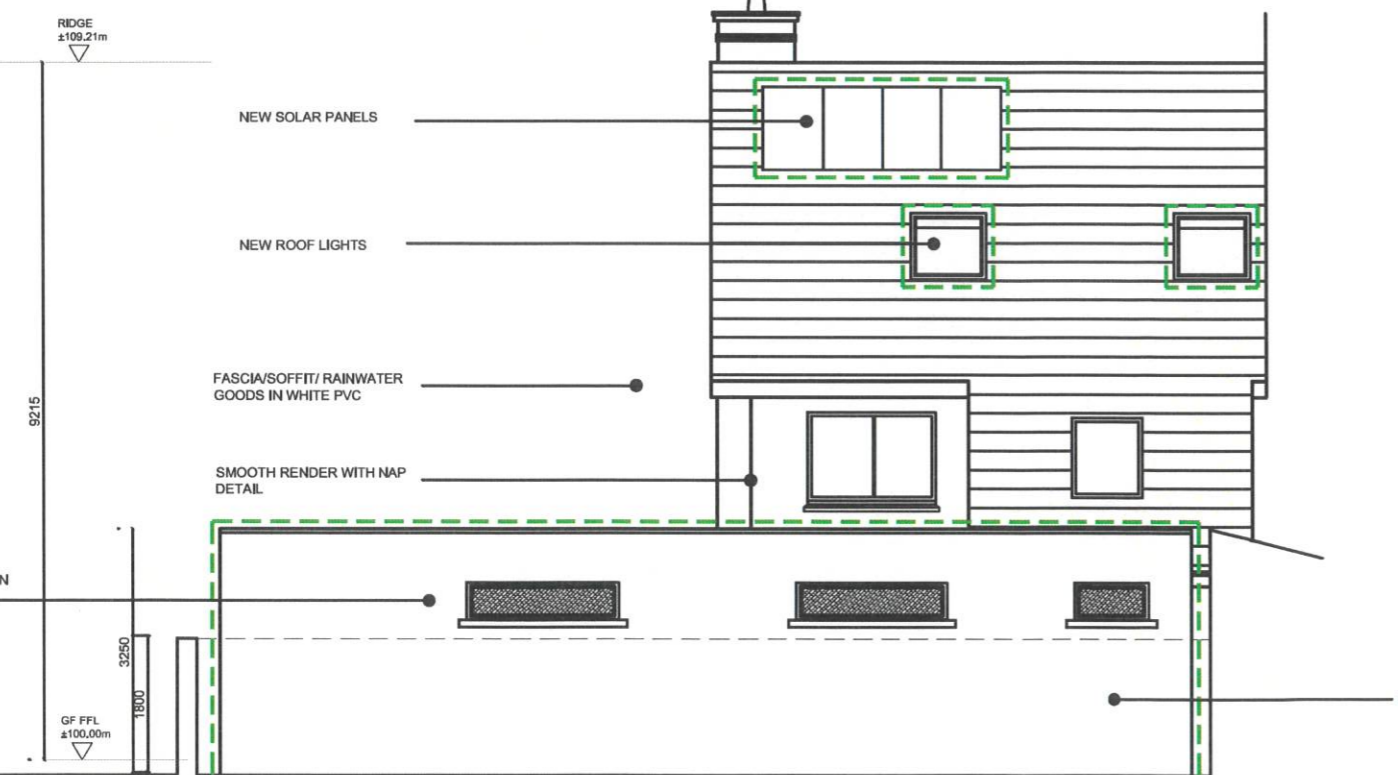
SIDE ELEVATION - SOUTH WEST

				Proposed extension to Dwelling @ 42 Leslies Arch, Old Quarter, Ballincollig, Co. Cork	Planning June 2022	Proposed Elevations MOC-22-107	1:100	Rev: b
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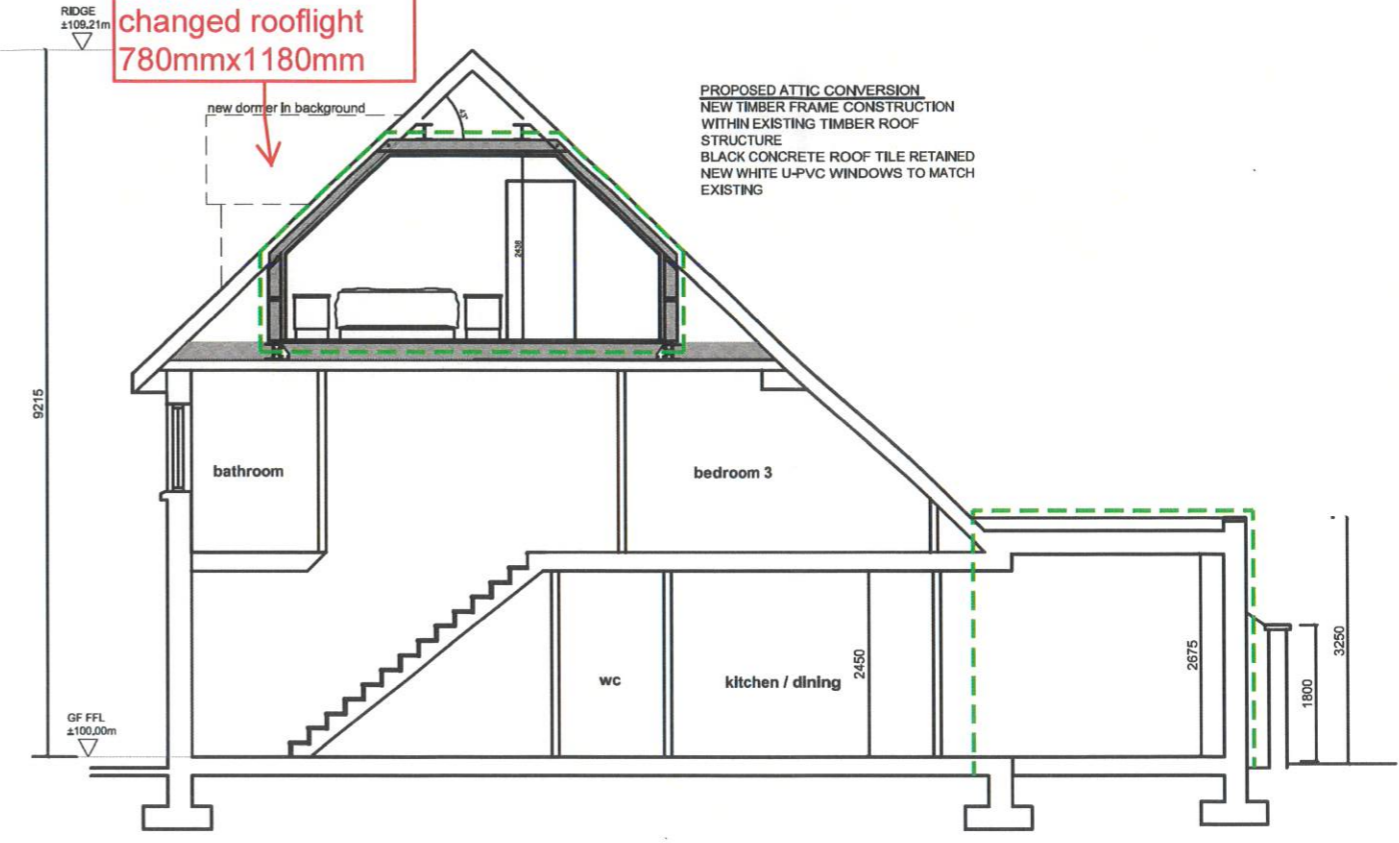
Change from approved 'new dormer window to front elevation' to 'new inline (Velux) rooflight to front elevation.
Approved window 800x1100mm changed rooflight 780mmx1180mm



SIDE ELEVATION - WITH WALL - SOUTH EAST



SIDE ELEVATION - SOUTH EAST



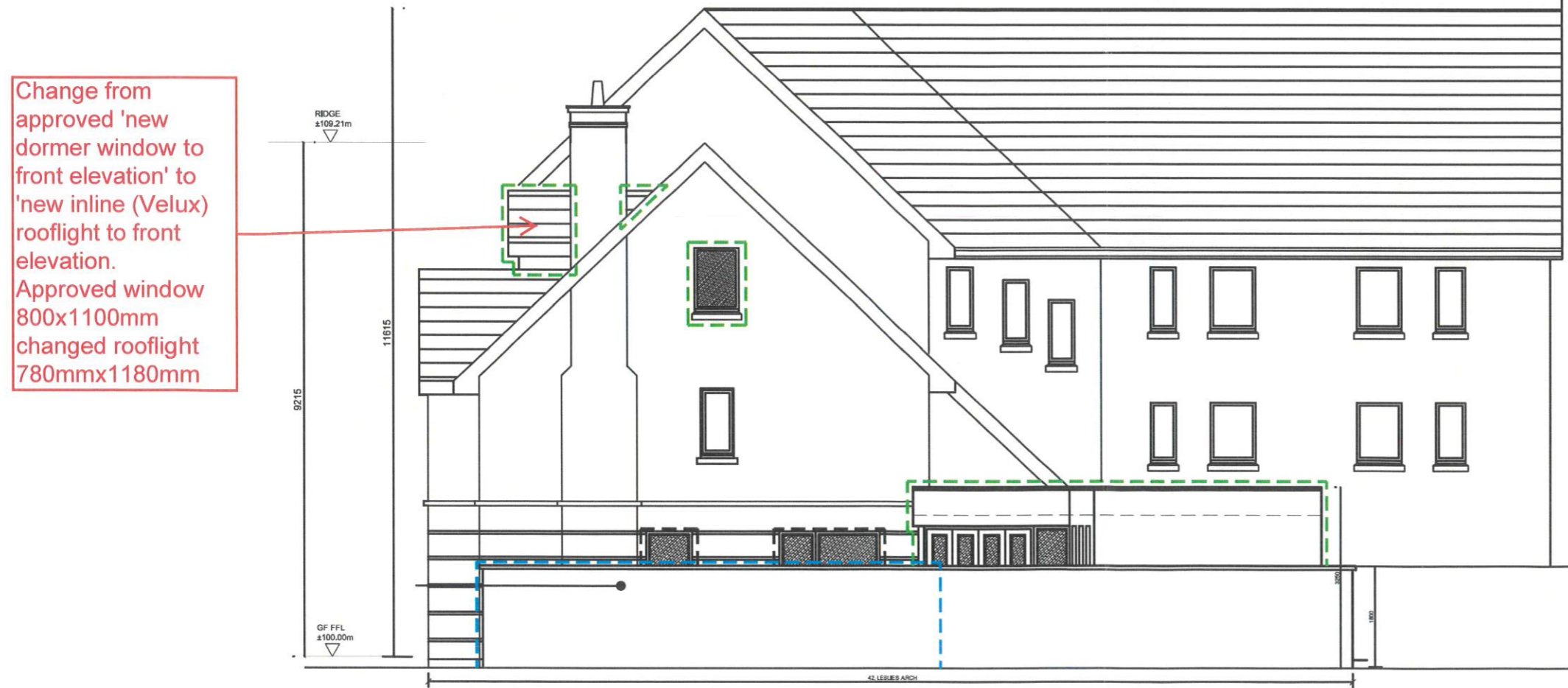
PROPOSED ATTIC CONVERSION
NEW TIMBER FRAME CONSTRUCTION WITHIN EXISTING TIMBER ROOF STRUCTURE
BLACK CONCRETE ROOF TILE RETAINED
NEW WHITE U-PVC WINDOWS TO MATCH EXISTING

PROPOSED EXTENSION
FLAT ROOF MEMBRANE - DARK GREY
TIMBER INSULATED ROOF CONSTRUCTION
MASONRY/TIMBER FRAME WALLS - SMOOTH RENDER EXTERNAL FINISH
CONCRETE INSULATED FLOOR SLAB ON HARDCORE
REINFORCED CONCRETE FOUNDATIONS TO ENGINEERS SPECIFICATIONS

				Proposed extension to Dwelling @ 42 Leslies Arch, Old Quarter, Ballincollig, Co. Cork	Planning June 2022	Proposed Ground Floor Plan MOC-22-108	1:100	Rev: b
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FRONT ELEVATION - CONTIGUOUS



SIDE ELEVATION - CONTIGUOUS

Proposed extension to Dwelling @ 42 Leslies Arch, Old Quarter, Ballincollig, Co. Cork	Planning	Proposed Elevations - Contiguous		Rev:
	June 2022	MOC-22-109	1:100	b



REAR ELEVATION - CONTIGUOUS

			Proposed extension to Dwelling @ 42 Leslies Arch, Old Quarter, Ballincollig, Co. Cork	Planning June 2022	Proposed Elevations - Contiguous MOC-22-110	1:100	Rev: b
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