

Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

Denis O'Sullivan

DL Group
1 Hodders Villas
Ballincollig
Cork

08/06/18

RE: Section 5 Declaration 13 Merlyn Lawn, Bishopstown

Dear Sir/Madam,

I am asked by Mr. Patrick Ledwidge, Director of Services, Strategic Planning & Economic Development to refer to your request for a section 5 Declaration at the above address.

Having regard to:

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),
- Section 4 of the Planning and Development Act 1963 (as amended); and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that the insertion of two rooflights in the southern roofslope of 13 Merlyn Lawn, Bishopstown **Is Development** and is **Exempted Development**.

Yours Faithfully,

Paul Hartnett
Assistant Staff Officer
Strategic Planning & Economic
Development
Cork City Council

PLANNER'S REPORT Ref. R475/18		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Whether modifications to the plans do not affect the planning permission granted?</i>	
Location	13 Meryvn Lawn, Bishopstown.	
Applicant	Denis O'Sullivan (DL Group Consulting Engineers) on behalf of the Estate of Sheila Dineen.	
Date	23/05/2018	
Recommendation	<i>Is Development and Is Exempted Development</i>	

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,

5.—(1) 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 asks for the provision of a certificate of exemption to confirm that these modifications to the plans so not affect the planning application as granted? Prior to this question, it was outlined that permission was received under TP95/20123 however, 2 no. roof lights were installed after construction. The modifications referred to in the question posed are the 2no. roof lights in the southern elevation.

Therefore, I am surmising that the question before the Planning Authority is whether the 2 no. roof lights in the southern elevation require permission or not.

3. Site Description

The property in question is a two storey detached dwelling with single storey element to the rear in an established residential area of detached and semi-detached dwellings.

4. Planning History

Two planning applications are referred to which are both attached to this site:

TP95/20123: Permission granted for an extension at first floor level at 'Hillcrest', 13 Merlyn Lawn, Bishopstown.

TP18/37759: Permission granted to retain (1) an existing single storey lean to roof extension to the rear of the original dwellings with 3 windows and 2 doors; and (2) an existing WC within the

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, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or ‘the making of any material change in the use of any structures or other land’

Section 4(1)(h),

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 of this report)

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 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act –

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

Article 10 (1)

Development which consists of a change of use within any one of the classes of use as specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –

- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned*

6. ASSESSMENT

5.1 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. '.

I consider that the proposed element constitutes development as it comprises of works which includes construction and alteration.

5.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. It is not known when the roof-lights were installed; the explanation merely states "after construction". Therefore the exemptions to be tested are those listed in the planning acts both pre 2000; and post 2000.

Under the 1963 Planning Regulations, Section 4 (1) (g) states:

g) 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 such appearance inconsistent with the character of the structure or of neighbouring structures;

Under the 2001 Planning Regulations (as amended), Section 4 (1) (h) states

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;

In both cases, the relevant wording is "...works which only affect the interior of the structure or which do not materially affect the external appearance of the structure so as to render the/such appearance inconsistent with the character of the structures or of neighbouring structures".

I am of the opinion that the 2 no. roof lights in the southern elevation 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 and therefore can be considered exempt.

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. Conclusion

The question has been asked whether the 2 no. roof lights in the southern elevation require permission or not.

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed altered roof layout is development and is exempted development

9. RECOMMENDATION

In view of the above and having regard to —


- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),
- Section 4 of the Planning and Development Act 1963 (as amended); and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that ~~alteration to the roof plan as granted under TP 95/20123~~ **Is Development** and is **Exempted Development**.


Mary Doyle
Executive Planner

↓
...the insertion of two rooflights
in the southern roof slope of
13 Merlyn Lawn, Bishopstown...

Agreed - subject to amendment as indicated. →


SSP.
23/05/2018



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Ballincollig
Co. Cork

Tel: 021 4876650 /
021 4877149
Fax: 021 4876651

Email: info@dlgroup.ie
Web: www.dlgroup.ie

Our Ref: 52217/B/DOS/ROS

Your Ref:

Date: 16.04.2018

Planning Department,
Cork City Council,
City Hall,
Anglesea Street,
Cork City



**Re: Estate of Sheila Dineen – Request for Certificate of Exemption
Property at 13 Merlyn Lawn, Bishopstown, Cork City
Planning Number T.P. 95/20123 - Granted**

Dear Sir/Madam,

We act on behalf of our client who has completed works to a dwelling which has received planning permission under Planning Number T.P. 95/20123. We wish to apply for a **Certificate of Exemption** for minor changes to house plans.

We attach 2 No. copies of the site location maps of the site in question. We also attach a cheque made payable to Cork City Council to the value of €80.00.

There were changes made to the south elevation after construction which were not shown on the planning application drawings which was granted. 2 No. velux rooflights on the southern elevation were installed after construction. The sole purpose of these rooflights is for lighting only, i.e. they do not cause overlooking of neighbouring properties as they cannot be seen out of.

I attach elevation drawings of the dwelling & extension as is today. I also attach layout plans of the first floor as it is today. 2 No. copies of each drawing has been provided. Said rooflights are highlighted 'green' on the drawings.

Can you please provide a certificate of exemption to confirm that these modifications to the plans do not affect the planning application as granted? If you require any further information, please don't hesitate to contact me.

Yours sincerely,

Denis O' Sullivan, B.Eng., M.I.E.I.



Receipt Details
 Order No. 25310230
 Account No. 002088
 PO Number N/A
 Sales Person Karen Burke
 Date 12/10/2017

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Map Series:
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 SURVEY DATE = 31-Dec-1974
 LEVELLED DATE = 31-Dec-1973
 6382-21

REVISION DATE = 30-Mar-2016
 SURVEY DATE = 31-Dec-1973
 LEVELLED DATE = 31-Dec-1973

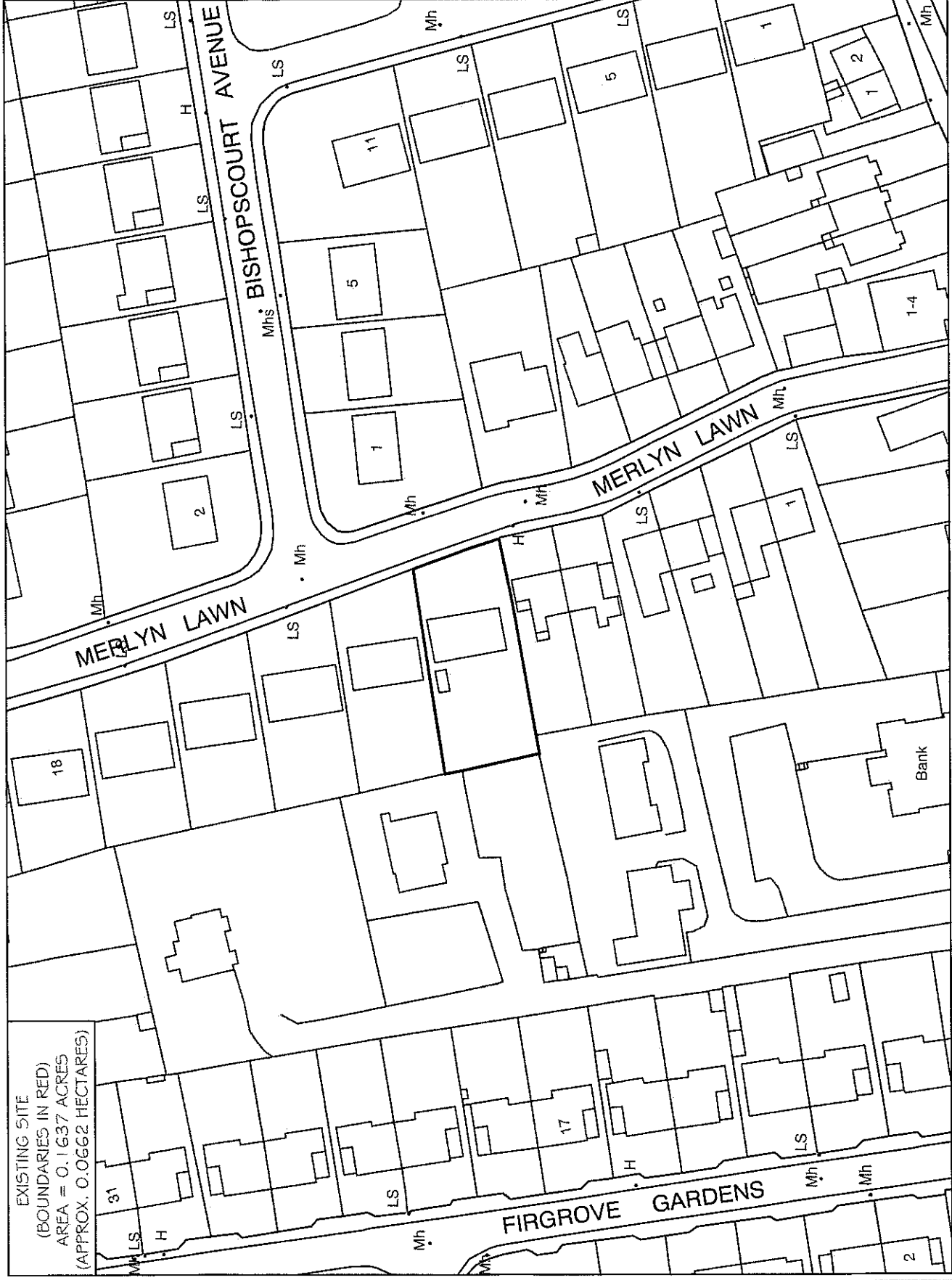
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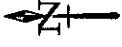
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EXISTING SITE
 (BOUNDARIES IN RED)
 AREA = 0.1637 ACRES
 (APPROX. 0.0662 HECTARES)

CONSULTING ENGINEERS 1 HODDERS VILLAS BALLINCOLLIG CO.CORK 	e-mail : info@dgroup.ie phone : (021) 4876650 fax : (021) 4876651	job no. 52217/B	date 01.12.17	drawn by ROS	client Patrick Meehan	drawing drawing no. 01
	project Retention of an existing single storey lean-to roof extension at 13 Merlyn Lawn, Bishopstown, Cork.	issue A	scale 1:1000, A4	issue A	project Retention of an existing single storey lean-to roof extension at 13 Merlyn Lawn, Bishopstown, Cork.	drawing Site Location Map, 1:1000



Receipt Details
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 Account No. 002088
 PO Number N/A
 Sales Person Karen Burke
 Date 12/10/2017

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Output File:
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Map Series:
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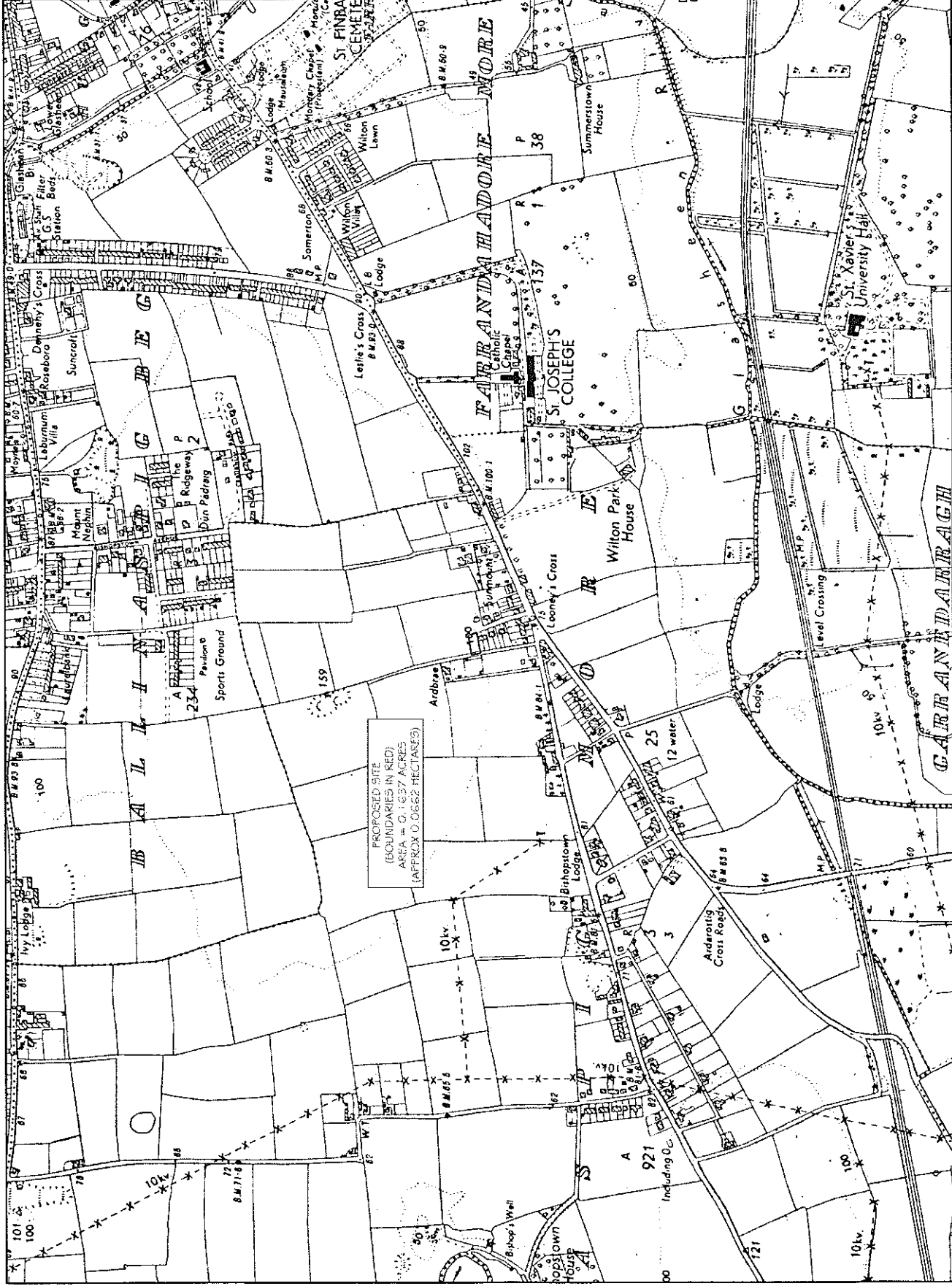
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Projection:
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ITM Centre Point Co-ordinate:
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 12-Oct-2017

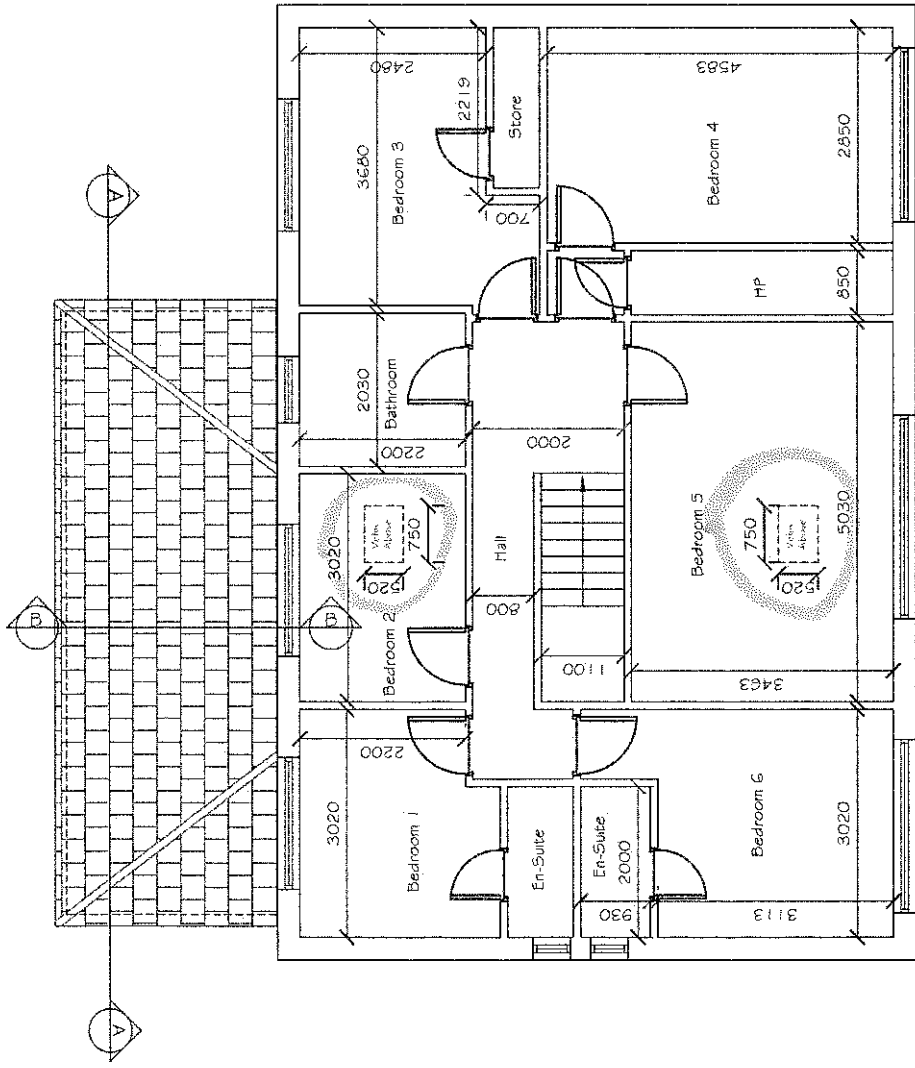
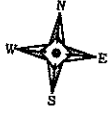
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PROPOSED SITE
 (BOUNDARIES IN RED)
 AREA = 0.1637 ACRES
 (APPROX 0.0662 HECTARES)

	CONSULTING ENGINEERS I HODDERS VILLAS BALLINCOLLIG CO. CORK	e-mail : info@digroup.ie phone : (021) 4876650 fax : (021) 4876651	job no. 52217/B drawing no. 02	date 01.12.17 scale 1:10560, A4	drawn by ROS issue A	client Patnck Meehan project Retention of an existing single storey lean-to roof extension at 13 Menlyn Lawn, Bishopstown, Cork.	drawing Site Location Map, 1:10560
	GROUP <small>CONSTRUCTION SERVICES</small>						

DRAWING KEY:



1st Floor Plan
Scale: 1:100

Revision	Issue	Date	By
For Retention	A	01.12.17	ROS

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Client: Patrick Meenan

Project: Retention of an existing single storey lean-to roof extension at 13 Merlyn Lawn, Bishopsdown, Cork.

Drawing: Existing 1st Floor Plan

Sheet No.	Drawing No.	Date
52217/A	06	01.12.17

Scale	Project No.	Client	Sheet No.
1:100	RDS	DOS	A4



Receipt Details
 Order No. 25310230
 Account No. 002088
 PO Number N/A
 Sales Person Karen Burke
 Date 12/10/2017

Output Format:
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Output File:
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Map Series:
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6427-01
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 6382-21
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Clip Extent:

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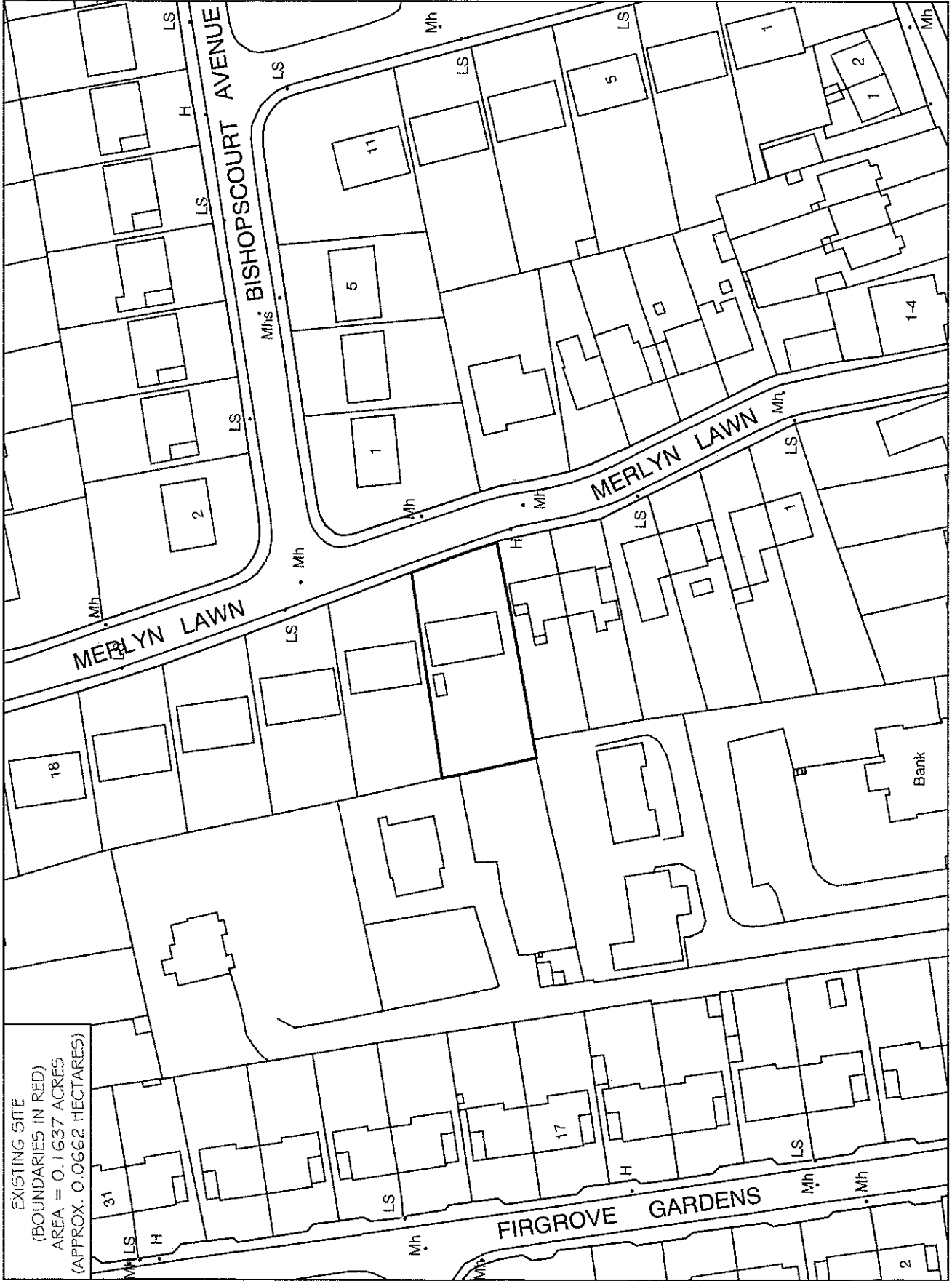
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ITM Centre Point Co-ordinate:
 X,Y = 564394,569980

Extraction Date:
 12-Oct-2017

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drawing

client: Patrick Meehan
 project: Retention of an existing single storey lean-to roof extension at 13 Merlyn Lawn, Bishopscourt, Cork.

drawn by: ROS
 issue: A

date: 01.12.17
 scale: 1:1000, A4

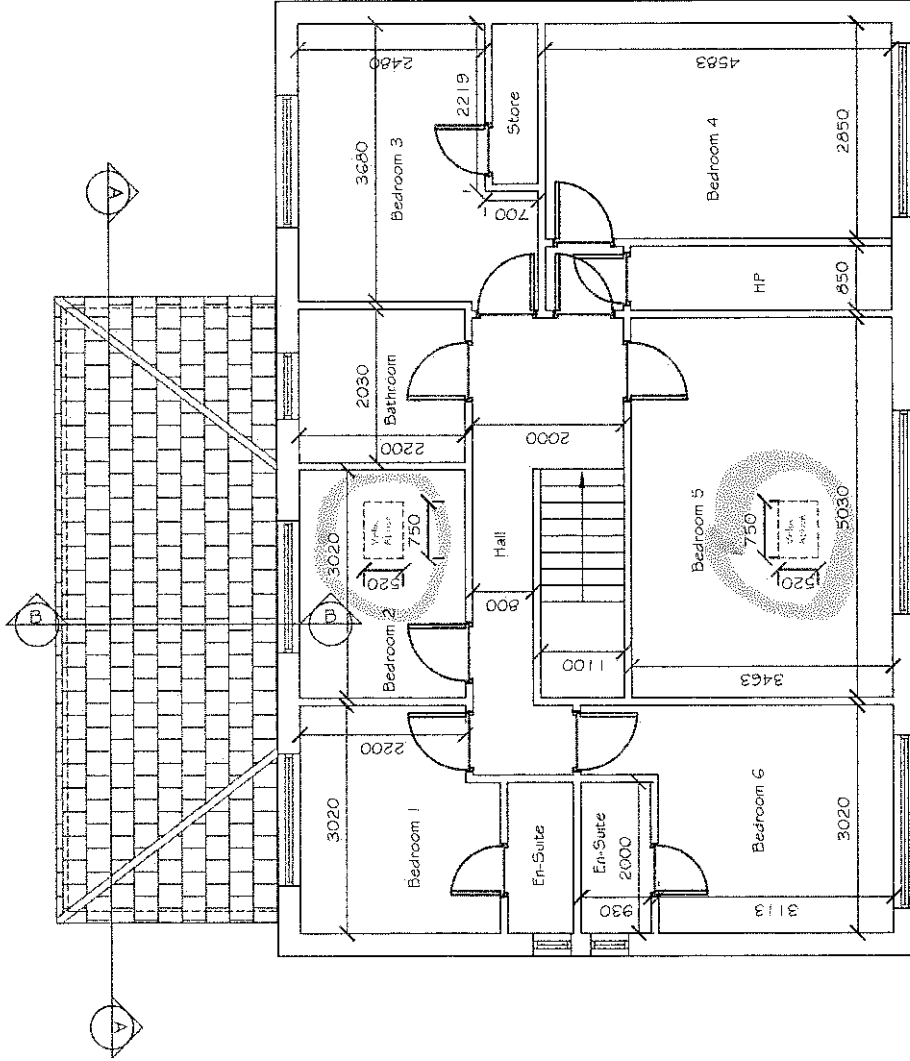
job no.: 52217/B
 drawing no.: 01

CONSULTING ENGINEERS e-mail: info@dlgroup.ie
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 CO.CORK



Site Location Map, 1:1000

DRAWING KEY:



1st Floor Plan
Scale: 1:100

Revision	Issue	Date	By
A	01.12.17	ROS	

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 Email: info@dfgroup.co.uk

Client: Patrick Mezhan

Project: Retention of an existing single storey lean-to roof extension at 13 Merlyn Lawn, Bishopscourt, Cork.

Drawing: Existing 1st Floor Plan

Sheet No.	Drawing No.	Scale	Revision	Issue	Date	By
52217B	06	1:100	ROS	DOS	01.12.17	A4

+8.120m Ridge

Dark Conc.
Roof Tiles

+5.120m Eave

Sandy Brick

Dark Stained
Timber Panels

+2.700m F.L.

PVC
Windows

+0.000m



+8.120m Ridge

Timber
Windows.
Other
Windows = PVC

+5.120m Eave

Pebble Dash

+2.700m F.L.

Plaster
Finish

+0.000m

East Elevation

Scale: 1:100

West Elevation

Scale: 1:100

+8.120m Ridge

Dark Conc.
Roof Tiles

+5.120m Eave

Sandy
Brick

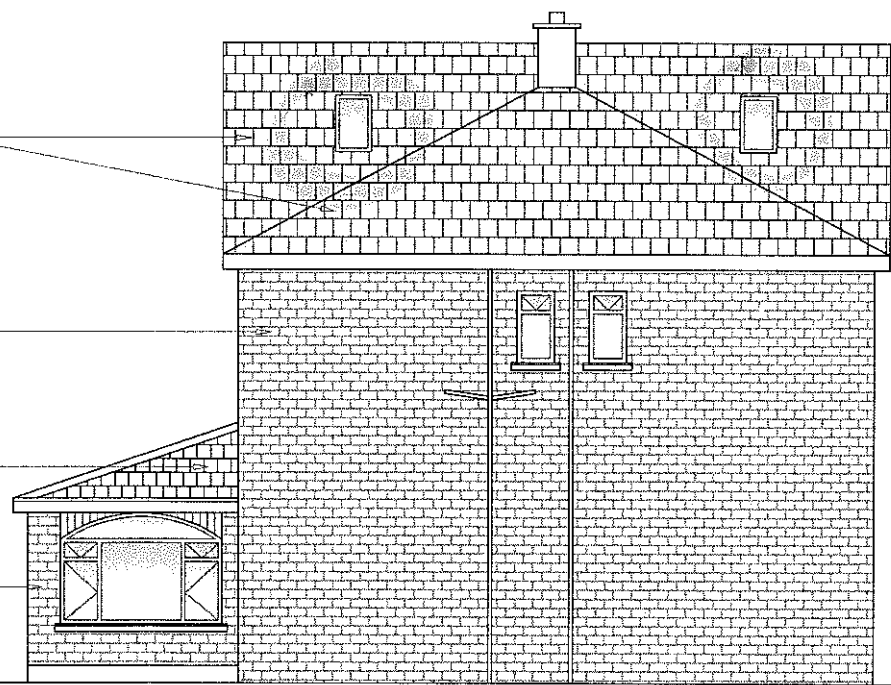
+3.225m Ridge

Black Slate
Tiles

+2.025m Eave

Sandy
Brick

+0.000m



+8.120m Ridge

Dark Conc.
Roof Tiles

+5.120m Eave

Sandy Brick
At Corner

+2.700m F.L.

Pebble Dash

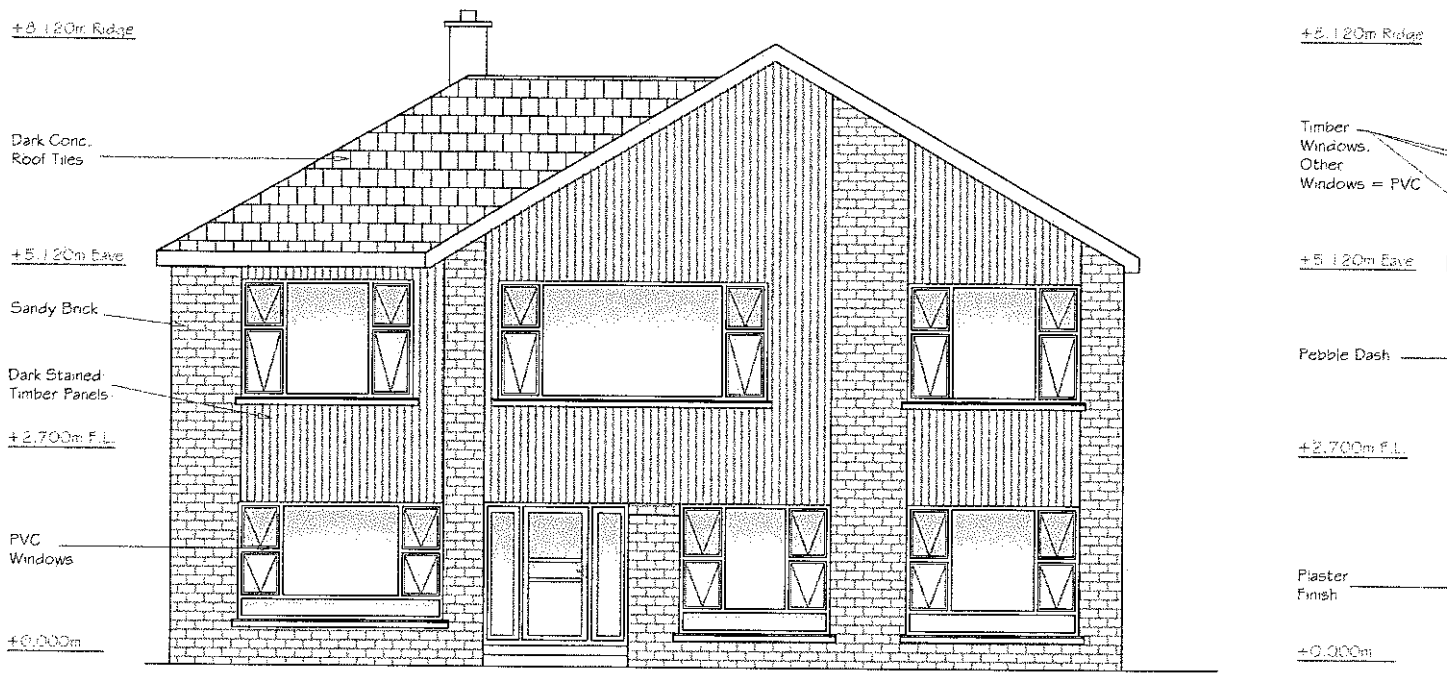
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South Elevation

Scale: 1:100

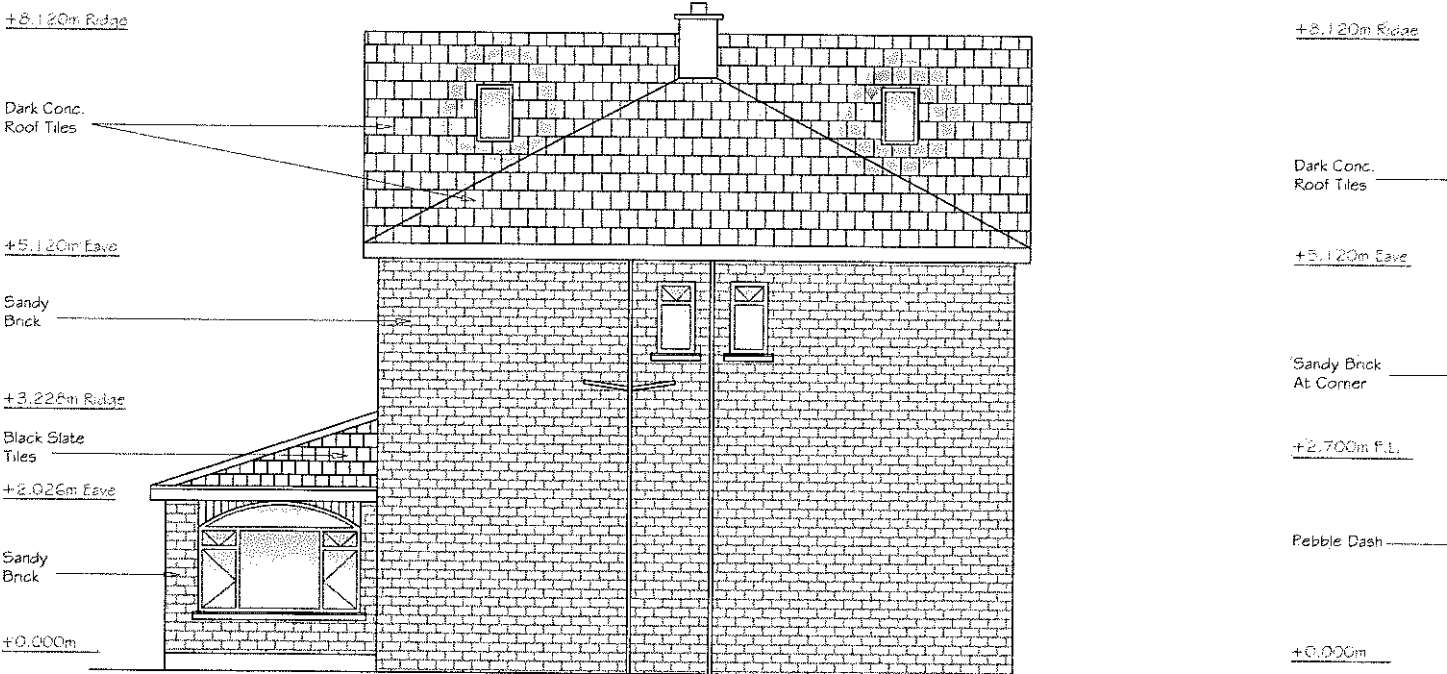
North Elevation

Scale: 1:100



East Elevation
Scale: 1:100

West Elevation
Scale: 1:100



South Elevation
Scale: 1:100

North Elevation
Scale: 1:100