

Comhairle Cathrach Chorcaí Cork City Council

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

Tom Hegarty Architects Ltd.,
6 North Mall,
Cork

17th April, 2019

RE: R505/19 – Section 5 Declaration
Property: Scoil Mhuire Secondary School, 1, 2, 3 Sidney Place, Cork

Dear Sir,

I am asked by Mr. Fearghal Reidy, Director of Services, Strategic Planning & Economic Development to refer to your request received on the 13th March, 2019 for a Section 5 Declaration regarding whether alterations to Scoil Mhuire Secondary School is development or exempted development.


Having regard to:

- The particulars received by the Planning Authority on 13/03/19
- Sections 2, 3, 4, 5, 57 & 82 of the Planning and Development Act 2000 (as amended)
- Class 40 & Class 41 (e) of Schedule 2, Part 1 *Exempted Development – General of the Planning and Development Regulations 2001 (as amended)*.

the Planning Authority considers that –

***the proposal IS DEVELOPMENT* and that the development IS EXEMPTED DEVELOPMENT.**

Yours faithfully,



Senior Staff Officer,
Strategic Planning & Economic
Development Directorate



We are Cork.

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference:	R 505/19
Description:	Is the following considered exempted development: Two new doors, a rail, (West courtyard) wall, (East courtyard) and stepped paved areas are proposed for two existing courtyard spaces at Scoil Mhuire No. 2 and 3 Sidney Place, Cork City. The courtyards are proposed to be used for maintenance access, as outdoor amenity spaces, as visual focal points containing landscaping for the internal areas of the school.
Applicant:	Mary O’ Donovan, Scoil Mhuire Secondary School. Agent: Tom Hegarty Architects
Location:	Schoil Mhuire Secondary School, 1/2/3/ Sidney Place, Cork.

SUMMARY OF RECOMMENDATION

CONSTITUTES DEVELOPMENT AND IS EXEMPTED DEVELOPMENT

Purpose of Report

Under Section 5 (1) of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the 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. 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.

Subject Development, and question before the Local Authority is:

Is the following considered exempted development:

Two new doors, a rail, (West courtyard) wall, (east courtyard) and stepped paved areas are proposed for two existing courtyard spaces at Scoil Mhuire No. 2 and 3 Sidney Place, Cork City. The courtyards are proposed to be used for maintenance access, as outdoor amenity spaces, as visual focal points containing landscaping for the internal areas of the school.

• RELEVANT PLANNING HISTORY

TP 16/36790

PERMISSION GRANTED for alterations to internal layout of No. 1 Sidney Place, alterations and change of use of the adjoining Green Building including incorporating the Green Building, which is a former orthodontists office, into the main school building and alterations to existing external third floor walkway to convert it to an internal corridor.

TP 16/36790

PERMISSION GRANTED for alterations to internal layout (a protected structure) at No. 1,2,3 Sidney Place, Wellington Road, Cork.

TP 12/35366

PERMISSION GRANTED to increase eavs level and change elevational treatment to the rear façade of previously granted permission 08/32949.

TP 08/32949

PERMISSION GRANTED for the re-development, alteration and extension of existing school consisting of internal alterations, 4 no. velux windows to rear and extension of the rear no. 2 and 3 Sidney Place, the demolition and re-development of existing classroom and laboratory to the rear laneway and internal alterations to no. 1 Sidney Place. This application includes for the refurbishment of the front and the side facades, railings and steps to No. 1, 2 & 3 Sidney Place which has protected structures.

TP 01/24947

PERMISSION GRANTED for the redevelopment & extension of existing school at 1,2 & 3 Sidney Place, Wellington Road.

- **Planning and Development Act, 2000 as amended**

Section 2(1)

"exempted development" has the meaning specified in section 4.

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

- *where the context so admits, includes the land on, in or under which the structure is situate, and*
- *in relation to a protected structure or proposed protected structure, includes—*
 - *the interior of the structure,*
 - *the land lying within the curtilage of the structure,*
 - *any other structures lying within that curtilage and their interiors, and*
 - *all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii).*

"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(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, as amended.

Section 4(3)

A reference in this Act to exempted development shall be construed as a reference to development which is—

- *any of the developments specified in subsection (1), or*
- *development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.*

Section 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.

Section 57(1)

“Notwithstanding section 4(1)(h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—

(a) the structure, or

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.”

Section 82(1),

82.—(1) [Notwithstanding paragraph (a), (h), (i), (ia), (j), (k) or (l) of section 4(1), or any regulations made under section 4(2),] the carrying out of works to the exterior of a structure located in an architectural conservation area shall be exempted development only if those works would not materially affect the character of the area.

• **ENVIRONMENTAL ASSESSMENT**

I note the provisions of sections 4(4), 4(4A) and 177U(9) of the Act which state,

Section 4(4),

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Section 4(4A)

Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and*
- as respects which an environmental impact assessment or an appropriate assessment is required,*

to be exempted development.

Section 177U(9)

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.

• **Screening for Environmental Impact Assessment**

Pursuant to article 103(1) of the Planning and Development Regulations 2001 as amended, having regard to the nature and scale of the proposed development and following a preliminary

etermination of, at the least, the nature, size or location of the proposed development, it is considered that there is no real likelihood of significant effects on the environment and it is consequently concluded that **EIA is not required**.

- **Screening for Appropriate Assessment**

The applicant has not submitted an appropriate assessment screening report. 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 these European sites. Accordingly it is considered that **appropriate assessment is not required**.

- **Assessment**

Zoning and Development Objectives

The subject site has Protected Structure status PS779 & PS780, is on the NIAH as being of regional significance (Ref: 20512554), and being within the Wellington Road Architectural Conservation Area, and has ZO 3 *Inner City Residential Neighbourhoods* zoning. The objective of this zoning is *'To reinforce the residential character of inner city residential neighbourhoods, while supporting the provision and retention of local services, and civic and institutional functions.'*

- **Development**

The first issue for consideration is whether or not the matter at hand is *'development'*, which is defined in the Act as comprising two chief components: *'works'* and / or *'any material change in the use of any structures or other land'*. It is clear that the proposal constitutes *'works'*, which is defined in section 3(1) of the Act as including *'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'*. As the proposal comprises *'works'*, **it is clearly therefore 'development' within the meaning of the Act.**

CONCLUSION

Is development

- **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).

Essentially the proposal involves a number of modifications to the existing school:

- Two new doors,
- a rail,
- (West courtyard) wall,
- East courtyard
- Stepped paved areas are for two existing courtyard spaces

The Agent has stated in his submission that the works pertain to a Fire / DAC application, and that the courtyards are proposed to be used for maintenance access, as outdoor amenity spaces, as visual focal points containing landscaping for the internal areas of the school.

I have met with the Conservation Officer regarding this on **9/4/2019**, given that the subject site is within an ACA and has Protected Structure status and on the NIAH, and he confirms that the proposed development *would not materially affect* the character of the area in the ACA or the building.

I consider the works to the West courtyard i.e. new stepped paved area, new door & rail to be related to the use and maintenance of the school, and no over-looking issues arise as it is fully enclosed within the school buildings.

I also consider the works to the East courtyard i.e. new stepped paved area, access door & wall to fully relate to the use and maintenance of the school.

I consider the works therefore to come within the scope of Schedule 2, Article 6, Exempted Development:

Class 40

Works incidental to the use or maintenance of any burial ground, churchyard, monument, fairgreen, market, **schoolgrounds** or showground except –

- (a) the erection or construction of any wall, fence or gate bounding or abutting on a public road,
- (b) the erection or construction of any building, other than a stall or store which is wholly enclosed within a market building, or
- (c) the reconstruction or alteration of any building, other than a stall or store which is wholly enclosed within a market building.

As the proposed alterations relate to a fire application by the application, I consider the works therefore also come within the scope of Schedule 2, Article 6, Exempted Development:

Class 41

Works consisting of or incidental to-

- (e) The carrying out of development in compliance with a condition or conditions attached to a fire safety certificate granted in accordance with Part III of the Building Control Regulations, 1997 other than the construction or erection of an external fire escape or water tank.

Recommendation

Having regard to —

- The particulars received by the Planning Authority on 13/03/19
- Sections 2, 3, 4, 5, 57 & 82 of the Planning and Development Act 2000 (as amended)
- Class 40 & Class 41 (e) of Schedule 2, Part 1 *exempted Development - General of the Planning and Development Regulations 2001 as amended*).

the Planning Authority considers that —

the proposal **IS DEVELOPMENT** and that the development **IS EXEMPTED DEVELOPMENT.**

Helen O' Sullivan
A.Planner
10/4/2019.

*Agreed,
Sighlan
4/SEP
12/4/19.*

East Courtyard

Site Visit by
A.O.S on
12/4/19

Mellor



East
Courtyard

Neighbour



New Port
Gate wall







Handwritten scribbles and markings on the left side of the image, possibly indicating a location or object.



West Coast yard

West Courtyard

New Rail
↓



West
Courtyard



COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

Strategic Planning & Economic Development Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924564/4321

Lionra/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

Scoil Mhuire, 1/2/3 Sidney Place, Cork.

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.

Two new doors, a rail, [west courtyard] wall, [east courtyard] and stepped paved areas are proposed for two existing courtyard spaces at Scoil Mhuire No.2 and 3 Sidney Place, Cork. The courtyards are proposed to be used for maintenance access, as outdoor amenity spaces, as visual focal points containing landscaping for the internal areas of the school. Is this proposal considered an exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

* Please see attached sheet

The reason that the declaration is sought is that building control has asked for an opinion on exemption from planning permission as part of a Fire/DAC application in relation to the changes. It is believed that the development is minor in nature and that these changes do not affect the external appearance of the building so as to render the appearance inconsistent with the character of the structure or neighbouring structures.

We believe that these changes to be exempted development under part 4. (1) (h) of the Planning and Development Act and seek a declaration from Cork City Council on this to allow the Fire and DAC applications to proceed.

The two existing external courtyards are within a new building that was built in 2012 within the walls of the original protected structures at No. 2 [REF PS780] and No.3 [PS 781] Sidney Place. The two courtyards are remote from the surrounding streets as they are inside the city block.

Currently the two courtyard areas exist on first floor level. There are currently no doors out onto these two areas, only windows.

There are two roof-lights in the east courtyard which are leaking. Both courtyards need repair and maintenance on an ongoing basis.

Both courtyards are seen from many places in the school and give light and ventilation to rooms and circulation areas within the school.

The level of the internal corridor which abuts both courtyards at first floor level is at a higher level than the courtyards themselves and therefore the courtyards are proposed to be stepped to give access to both levels.

Proposals:

- Two new doors to give access to both courtyards.
- Stepped roof area to provide access to the lower level within courtyards.
- Miniature trees to provide focal points for the classrooms and circulation areas of the school surrounding the courtyards,
- A wall and fence for safety to prevent falling.

3. 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	67 sq.metres
(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 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:	
Existing/ previous use (please circle)	Proposed/existing use (please circle)
School	School
_____	_____
_____	_____

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Mary O' Donovan
Applicants Address	Scoil Mhuire, 1/2/3 Sidney Place, Cork.	
Person/Agent acting on behalf of the Applicant (if any):	Name:	Tom Hegarty
	Address:	6 North Mall, Cork
	Telephone:	[REDACTED]
	Fax:	
	E-mail address:	
Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

5. 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
Where legal interest is 'Other', please state your interest in the land/structure in question		
If you are not the legal owner, please state the name and address of the owner if available		

6.1 / We confirm that the information contained in the application is true and accurate:

Signature: Thom P. Kelly
Date: 12-3-2019

.....

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

DATA PROTECTION

The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution

076 _ Scoil Mhuire _ West Courtyard Photos

* Please note scaffolding is present in photographs for maintenance purposes.

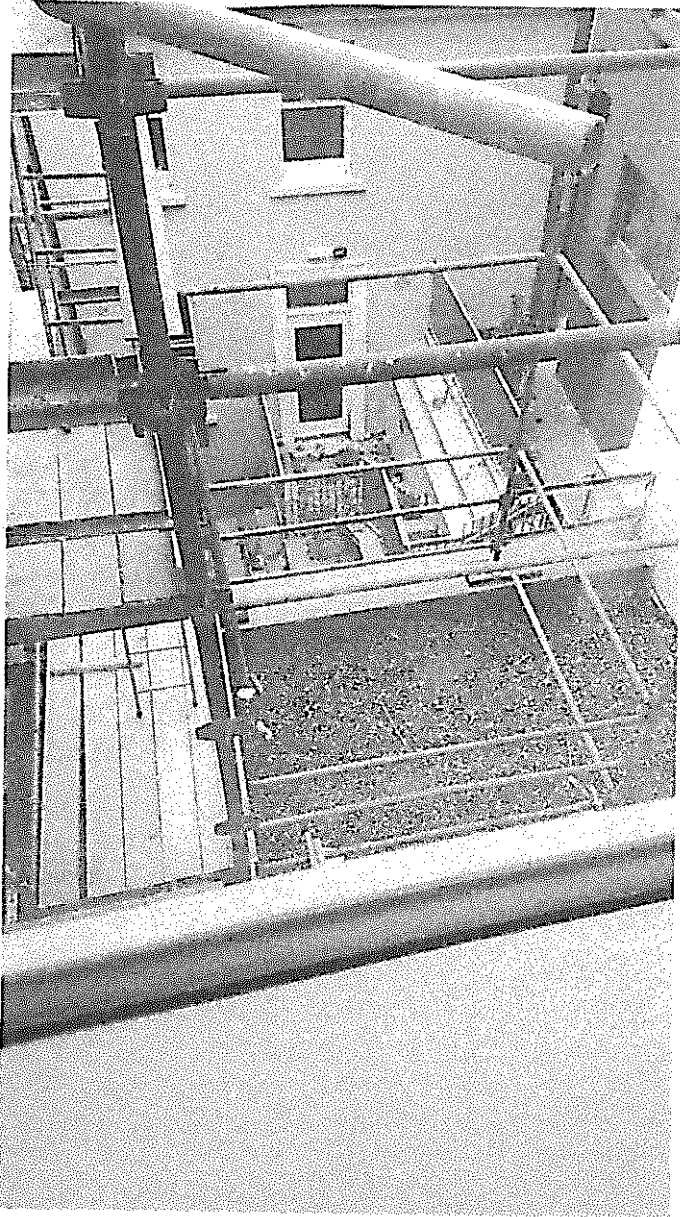


Fig 1



Fig 2.

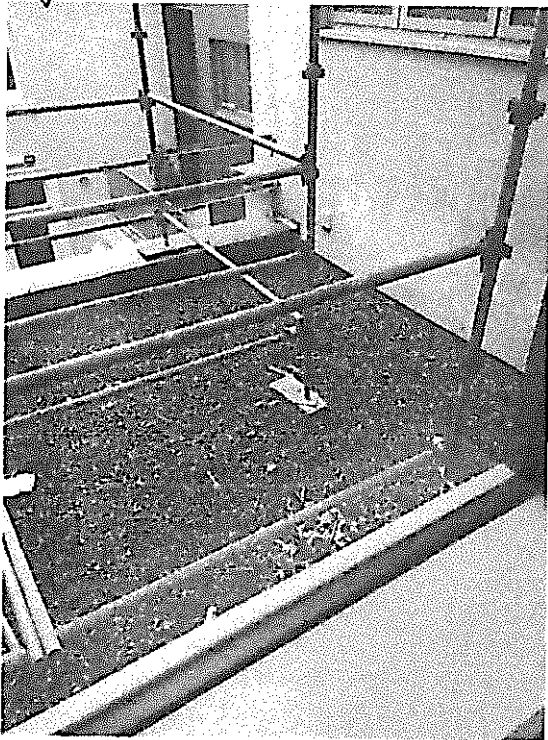


Fig 3.

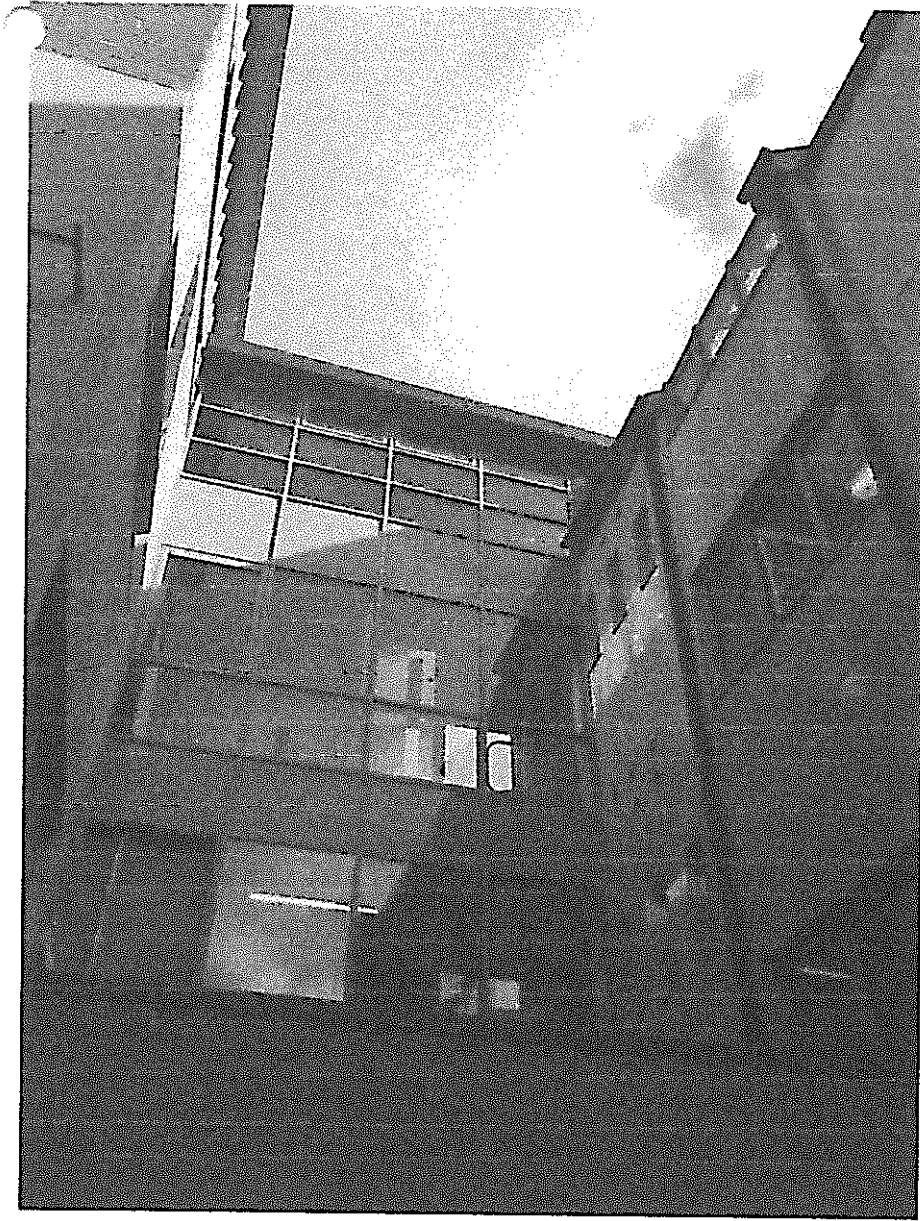


Fig 4.

076 _ Scoil Mhuire _ East Courtyard Photos

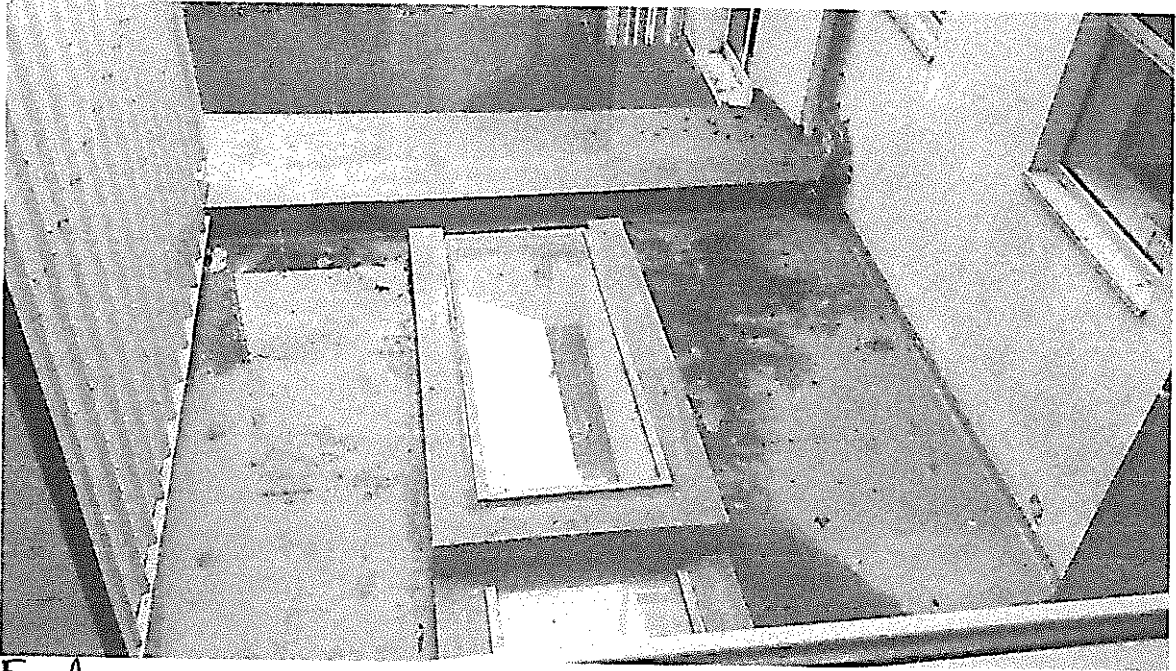


Fig. A.



Fig. B

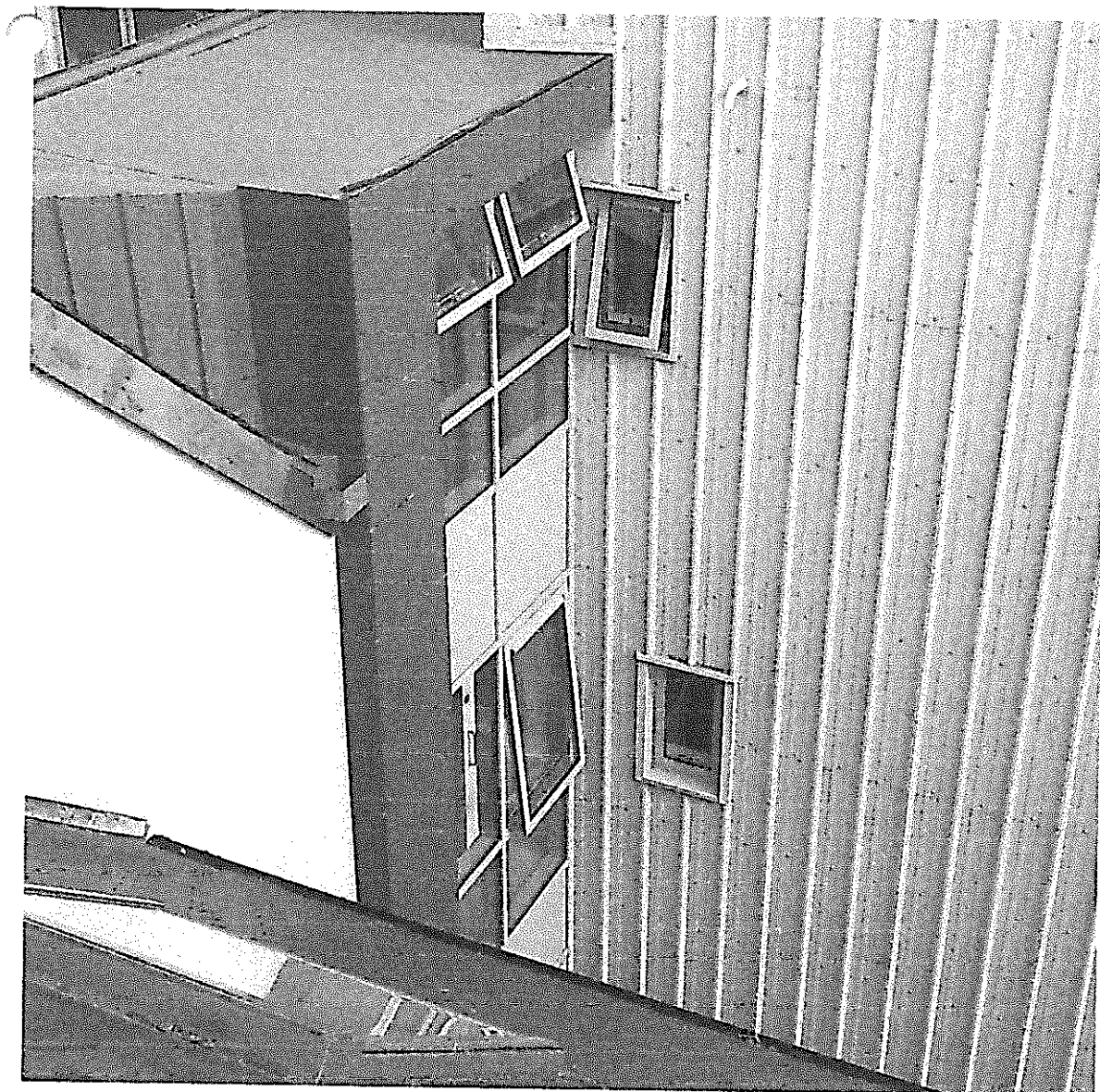


Fig. C.

Tom Hegarty Architects

Architecture
Urban Design
Project Management

12th March 2019.

The Development Management Section,
Strategic Planning & Economic Development Directorate,
Cork City Council,
City Hall,
Anglesea St.,
Cork.

6 North Mall
Cork

t: + 353 (0)21 4932845
e: info@hega.ie
w: www.hega.ie

Dear Sirs,

RE: SCOIL MHUIRE SECONDARY SCHOOL – SECTION 5 DECLARATION APPLICATION REQUEST FOR ALTERATIONS TO SCOIL MHUIRE SECONDARY SCHOOL.

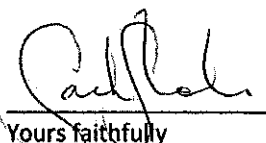
We wish to apply for a Section 5 declaration request for alterations to Scoil Mhuire Secondary School, Wellington Rd, Cork.

In support of our application please find, in duplicate, the following documents:

1. Completed Application Form for Section 5 Declaration request.
2. 076_Record Place Map
3. 076_Urban Place Map
4. 076_A-03_rev A Site Plan.
5. 076_C-04_rev A First Floor Plan.
6. 076_B-01C_rev A Section C-C.
7. 076_D-01A_rev A Elevations.
8. 076_East Courtyard Photos.
9. 076_West Courtyard Photos.

In relation to the application fees payable, please find payment enclosed.
Should you wish to contact me by phone my number is below.

We look forward to hearing from you in due course.



Yours faithfully

Sarah Sheehan
Tom Hegarty Architects.
021-4932845.

Comhairle Cathrach Chorcaí
Cork City Council

13 MAR 2019

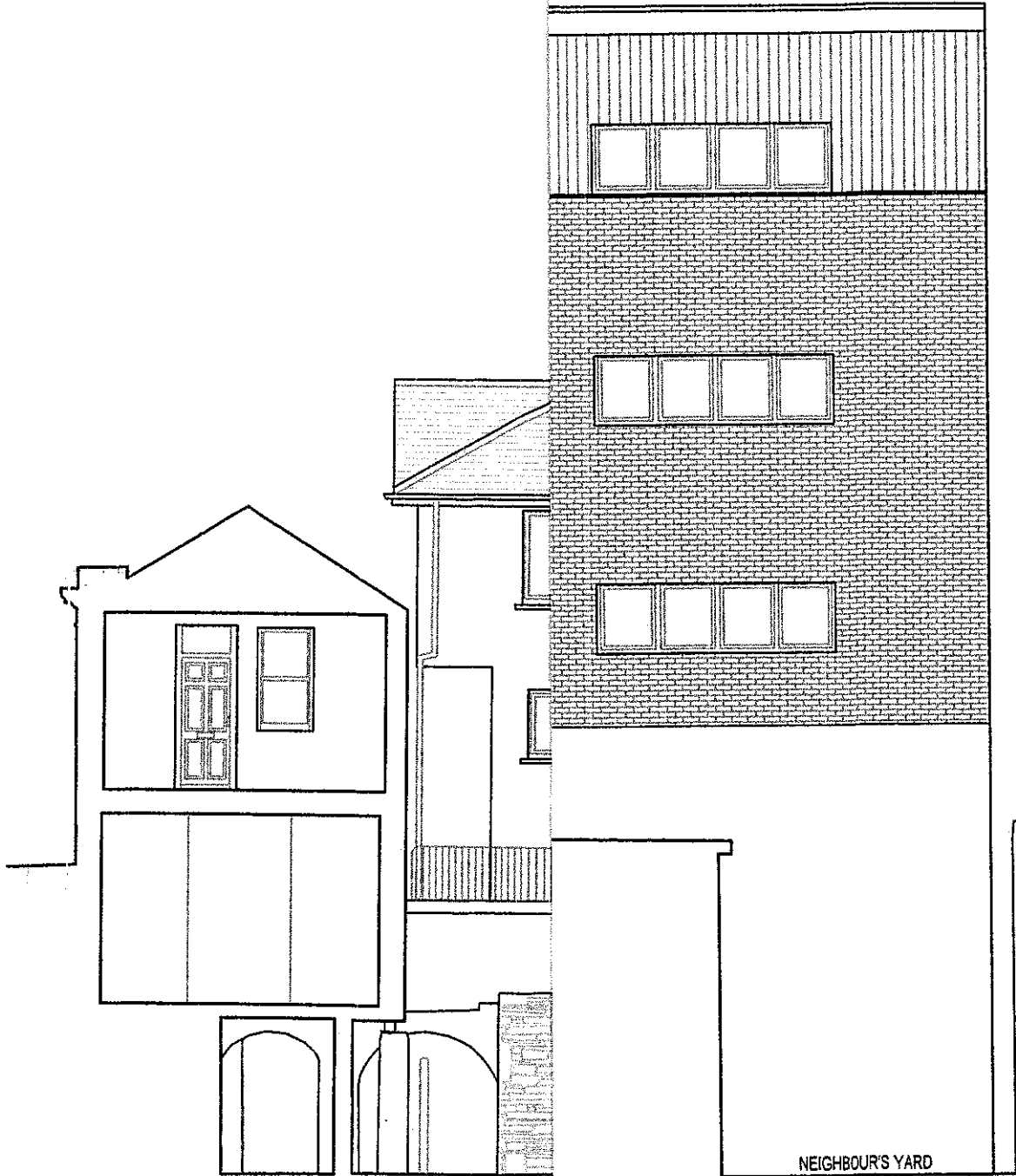
Strategic Planning & Economic
Development Directorate

Tom Hegarty Architects Ltd.
Registered in Ireland

Registered Address:
6 North Mall
Cork

Company Registration No:
592477

Vat No:
IE3441596EH



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REV	DATE	DRN	NOTES
A	11/03/19	SS	ISSUE FOR SECTION 5 DECLARATION APPLICATION

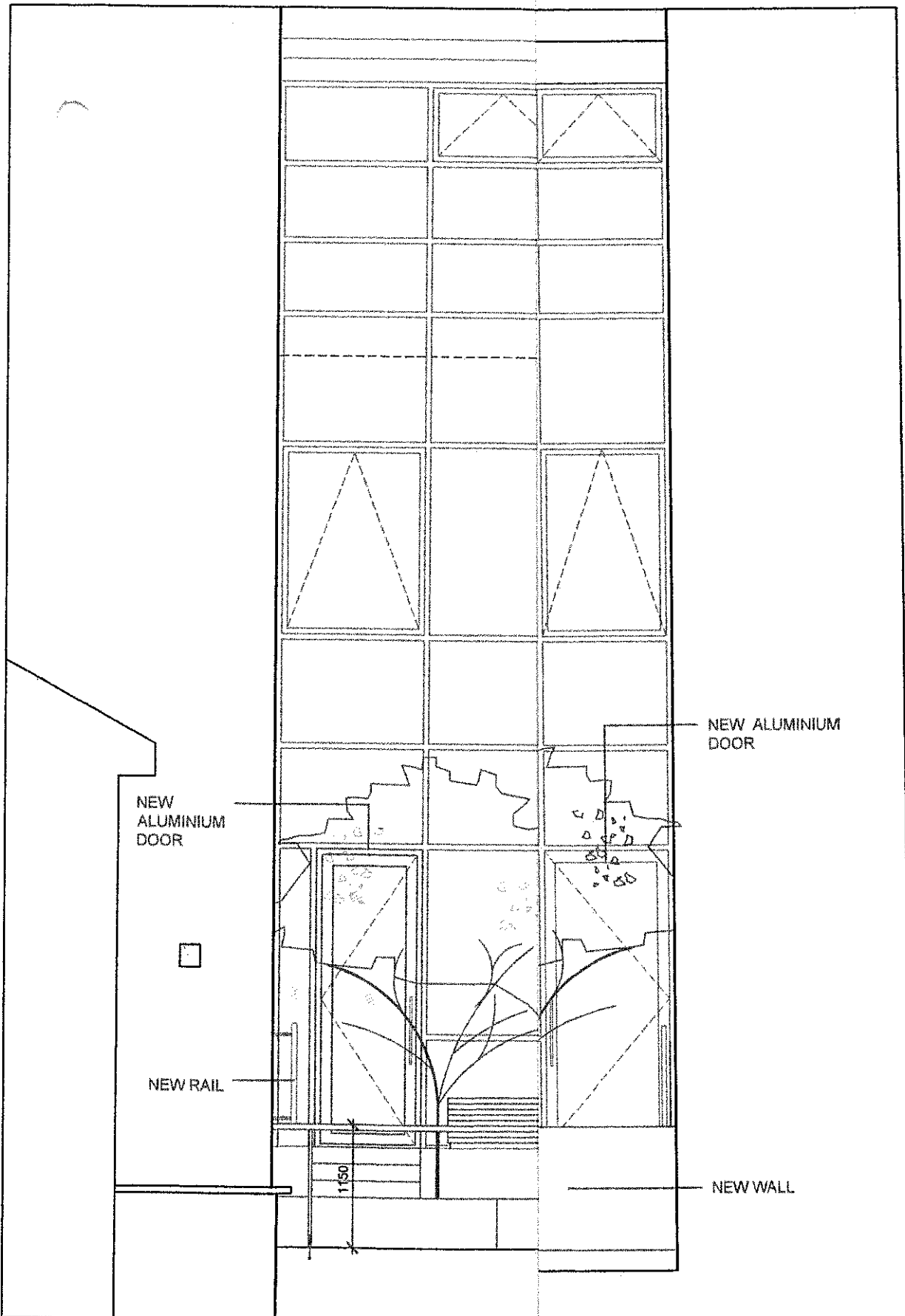
NOTES

DRAWING
**SECTION C - C
 COURTYARDS**

DATE 14-02-2019	SCALE 1:100 @ A3
DRN SS	CHECKED TH
JOB NUMBER	DWG NUMBER
076	B-01C
	REVISION
	A

**TOM HEGARTY
 ARCHITECTS**

6 North Mall
 Cork
 T: + 353 (0)21 4932845
 E: info@hega.ie
 W: www.hega.ie



1 WEST COURTYARD ELEVATION

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REV	DATE	DRN	NOTES
A	11/03/19	SS	ISSUE FOR SECTION 5 DECLARATION APPLICATION

NOTES

E

DRAWING

ELEVATIONS

DATE 14-02-2019	SCALE 1:50 @ A3	
DRN SS	CHECKED TH	
JOB NUMBER	DWG NUMBER	REVISION
076	D-01A	A

TOM HEGARTY ARCHITECTS

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REV	DATE	BY	NOTES
A	11/02/18	SS	ISSUE FOR SECTION 5 DECLARATION APPLICATION

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NOTES

SITE BOUNDARY

OWNERSHIP BOUNDARY

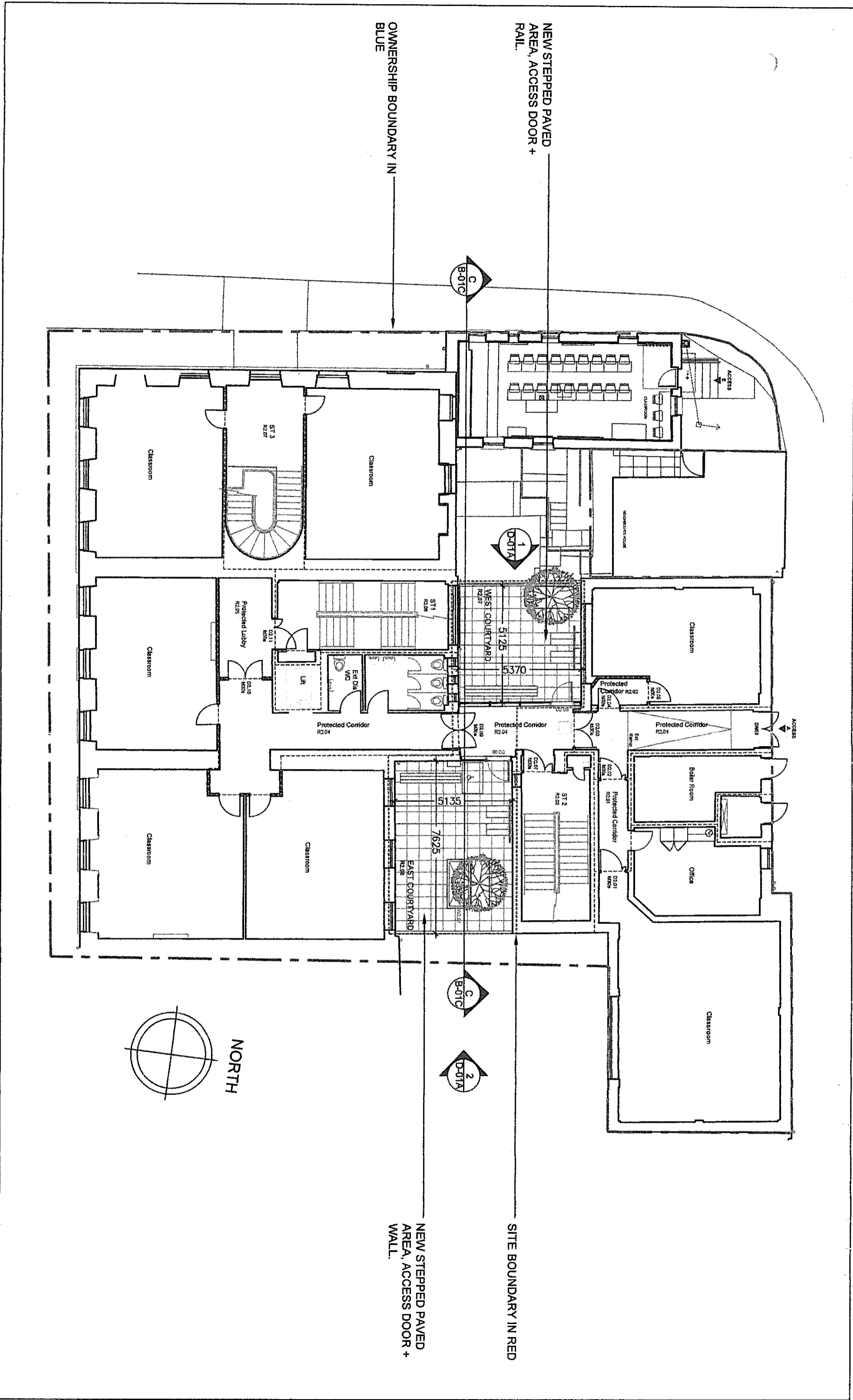
JOB
 SCOIL MHUIRE - PHASE
 3 (2019)

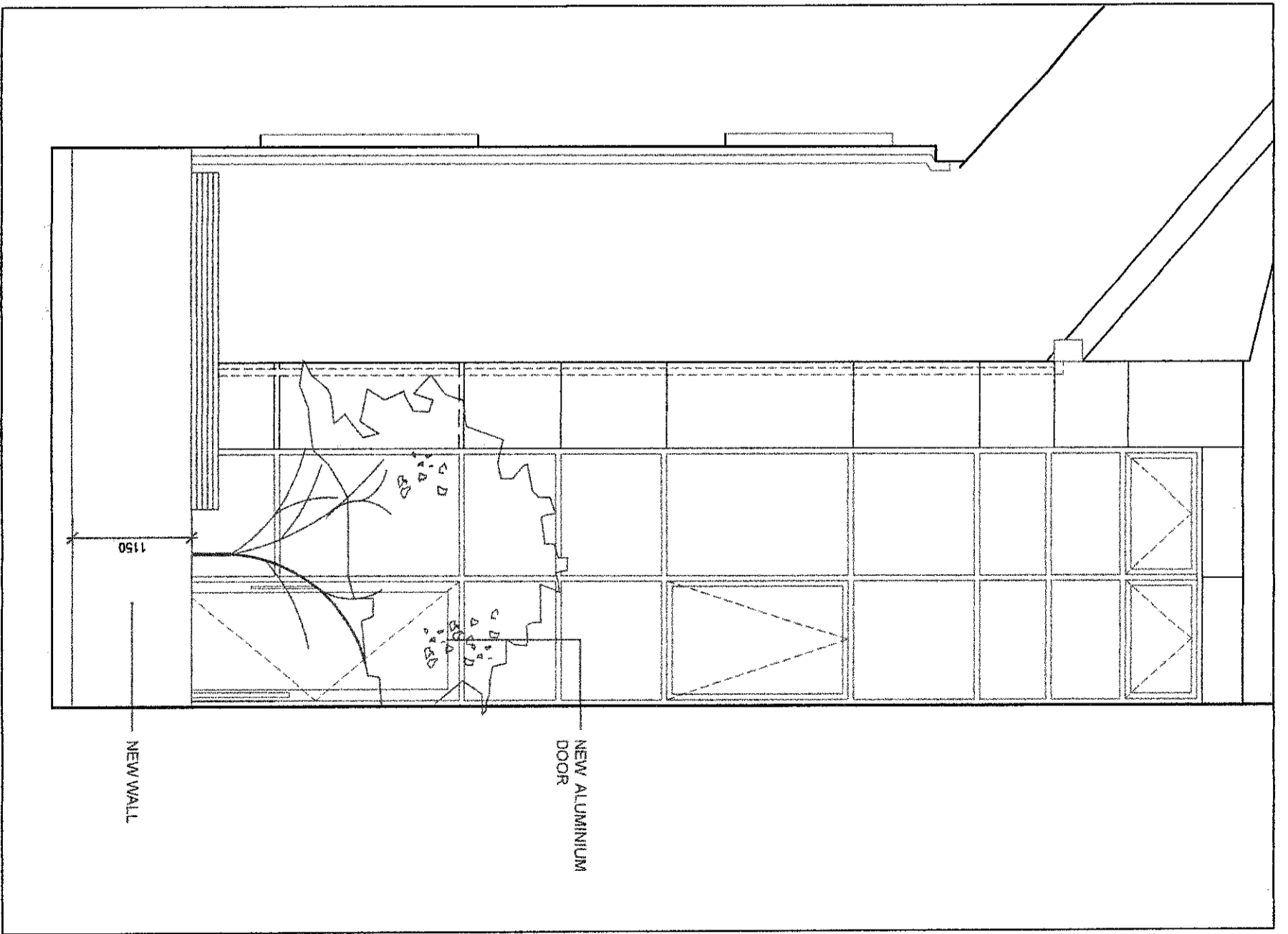
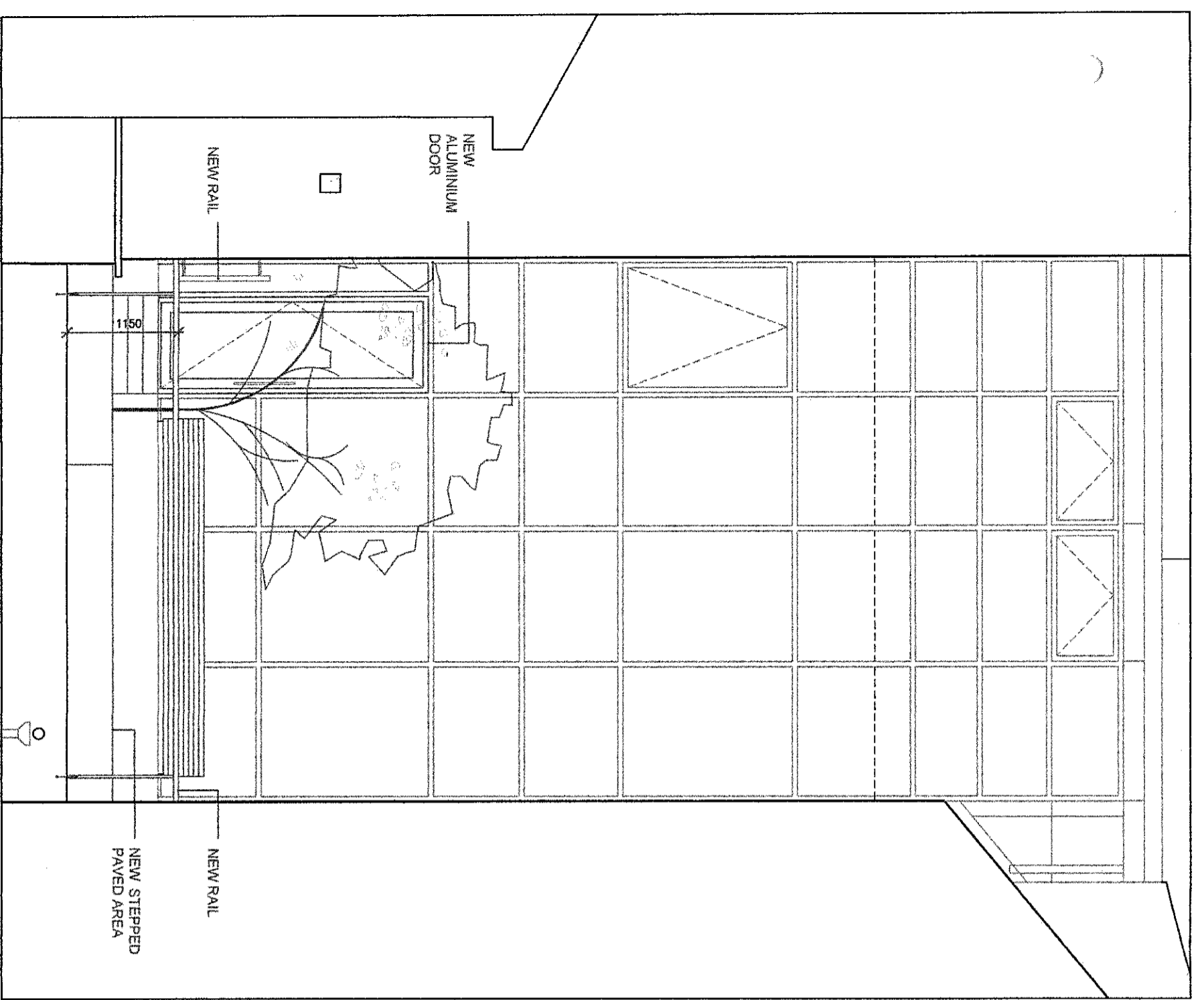
CLIENT
 MARY O'DONOVAN
 SCOIL MHUIRE
 1/2/3 SIDNEY PLACE,
 CORK

DRAWING
 FIRST FLOOR PLAN

DATE	14-02-2018	SCALE	1:150 @ A3
DRN	SS	CHECKED	TH
JOB NUMBER	076	DWG NUMBER	C-04
REVISION	A		

TOM HEGARTY
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REV	DATE	BY	NOTES
A	11/02/19	SS	ISSUE FOR SECTION 5 DECLARATION APPLICATION

NOTES

JOB
SCOIL MHUIRE - PHASE
3 [2019]

CLIENT
MARY O'DONOVAN
SCOIL MHUIRE
1/2/3 SIDNEY PLACE,
CORK

DRAWINGS
ELEVATIONS

DATE 14-02-2018	SCALE 1:50 @ A3
DRN SS	CHECKED TH
JOB NUMBER	DWG NUMBER
076	D-01A
	REVISION
	A

TOM HEGARTY
ARCHITECTS

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