



Comhairle Cathrach Chorcaí Cork City Council

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

MediGroup
c/o Magee Creedon Architects
11 North Abbey St
North Gate Bridge
Cork

07/05/2019

RE: Section 5 R512/19 MediGroup, Cathedral Road, Cork

Dear Sir/Madam,

With reference to your request for a section 5 Declaration at the above named property, I wish to advise as follows:

Having regard to —

- The particulars received by the Planning Authority on 27/03/19
- Sections 2, 3, 4 and 82 (1) of the Planning and Development Act 2000 (as amended)
 - Class 13 and Class 5 (1) 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**.

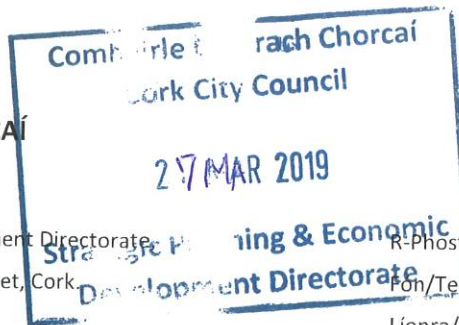
Yours Faithfully,

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



We are Cork.

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL



Strategic Planning & Economic Development Directorate
Cork City Council, City Hall, Anglesea Street, Cork
E-Mail: planning@corkcity.ie
Phone/Tel: 021-4924564/4321

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

ENTRANCE AREA OF MEDIGROUP, CATHEDRAL ROAD,
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.

IS THE CONSTRUCTION OF A SLOPED SURFACE FROM
THE PUBLIC FOOTPATH TO THE EXISTING FRONT DOOR
WITH REWORKED STEPS AND ASSOCIATED HANDRAILS,
EXEMPTED DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

THE MEDIGROUP DOCTORS' SURGERY WISHES TO PROVIDE WHEELCHAIR
ACCESS TO THE FRONT DOOR BY PROVIDING A SLOPED SURFACE
FROM THE PUBLIC FOOTPATH TO THE FRONT DOOR. THIS WILL
INVOLVE RAISING THE LANDING BY ABOUT 200mm AND
PROVIDING NEW RAILINGS. THE ADJOINING STEPS WILL BE
REWORKED TO PROVIDE ACCESS TO THE PARK. THE EXISTING
STEPS AT ST. MARY'S ROAD WILL BE BLOCKED OFF. THE
OVERALL HEIGHT OF THE RAILINGS, AT THE FRONT DOOR
LANDING, WILL BE 1.95m FROM PARK LEVEL AND 2.76m
AWAY FROM THE EXISTING BUILDING.
ALL TO BUILDING REGULATIONS. ANY CONCRETE BLOCKS WILL
BE RENDERED. ALL WALLS WILL BE CAPPED.
SEE DRAWINGS ATTACHED: SURVEY PLAN + ELEVATION (1:100),
PROPOSED PLAN + ELEVATION (1:100), PROPOSED PLAN + ELEVATION (1:50).

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	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) N/A
(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)
N	A

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):	MEDIGROUP	
Applicants Address	CATHEDRAL RD. CORK	
Person/Agent acting on behalf of the Applicant (if any):	Name:	MAGEE CREEDON ARCHITECTS
	Address:	11 NORTH ABBEY ST. NORTH GATE BRIDGE, CORK T23 YY5T
	Telephone:	[REDACTED]
	Fax:	[REDACTED]
	E-mail address:	[REDACTED]
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 <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	

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

Signature: ADAM D'ARCY (MAOEE CREEDON ARCHITECTS)

Date: 12.03.2019

.....

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

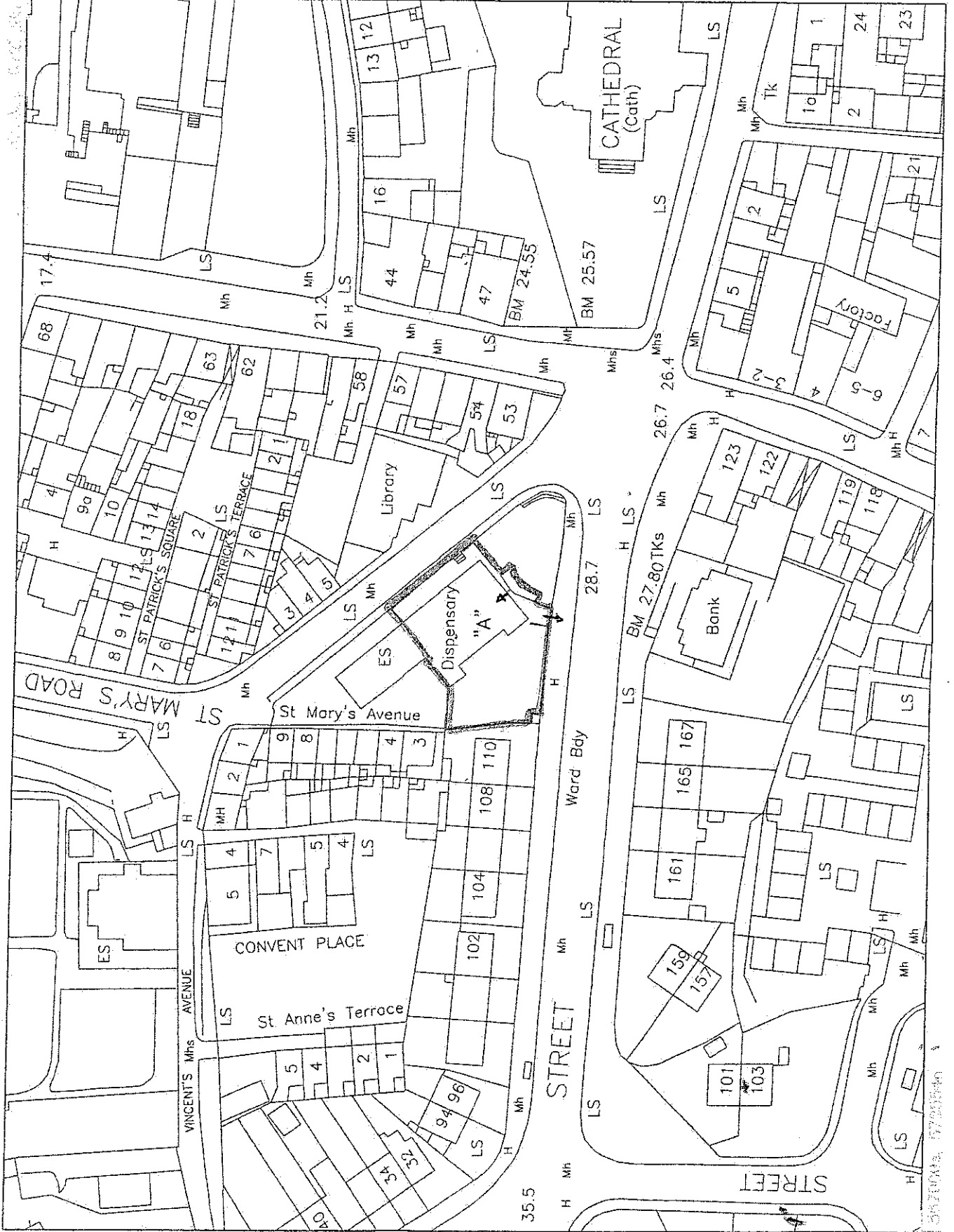
The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution

Property at:
 Cathedral Road, Cork City.

First Registration Map
 Land to be registered is
 edged in red and
 labelled "A".
 Area: 0.066 Hectares.



Job Nr: 17011
 Drawing: 17011FirstReg
 Date: 11/2/17
 Plot Scale : 1:1000



SECTION 5 DECLARATION – PLANNER'S REPORT	
File Reference:	R 512/19
Description:	Is the construction of a sloped surface from the public footpath of the existing front door with re-worked steps and associated handrails, exempted development?
Applicant:	MediGroup
Location:	Cathedral Road, Cork City.
SUMMARY OF RECOMMENDATION	
CONSTITUTES DEVELOPMENT AND IS EXEMPTED	

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 construction of a sloped surface from the public footpath of the existing front door with re-worked steps and associated handrails, exempted development?

• RELEVANT PLANNING HISTORY

None

- **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 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 examination 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 is located at the junction of Cathedral Street & Gerald Griffin Street & has ZO4 Residential, Local Services and Institutional Uses zoning. The objective of this zoning is *'To protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3.*

- **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 the construction of a new sloped surface on an existing path on one section, & on another section the construction of new steps with new railings and paving, along with the removal of the existing concrete, steps and paths and seeding with grass in place, at MediGroup building.

I consider that works to the private footpath to provide a new sloped surface and new paving comes within the scope of Schedule 2, Article 6, Exempted Development:

Class 13

The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.

New handrails up to a height of 1.951 m. are proposed, & as they are under 2m. in height, I consider it to come within the scope of Schedule 2, Article 6, Exempted Development:

Class 5

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

1. The height of the wall or fence, other than a fence referred to in paragraph 2, 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.

Recommendation

Having regard to —

- The particulars received by the Planning Authority on 27/03/19
- Sections 2, 3, 4 and 82 (1) of the Planning and Development Act 2000 (as amended)
- Class 13 and Class 5 (1) of Schedule 2, Part 1 *Exempted Development- General of the Planning and Development Regulations 2001*(as amended)

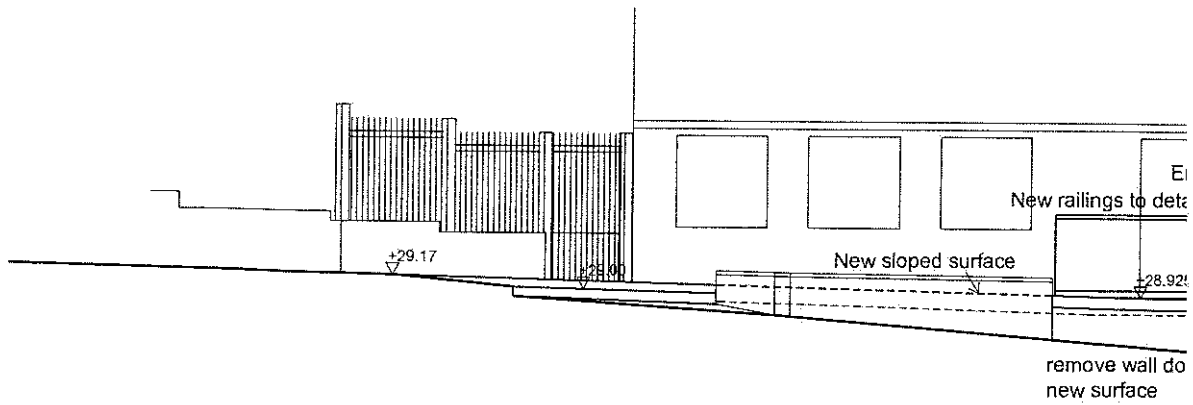
the Planning Authority considers that —

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

Helen O' Sullivan 26/3/2019.

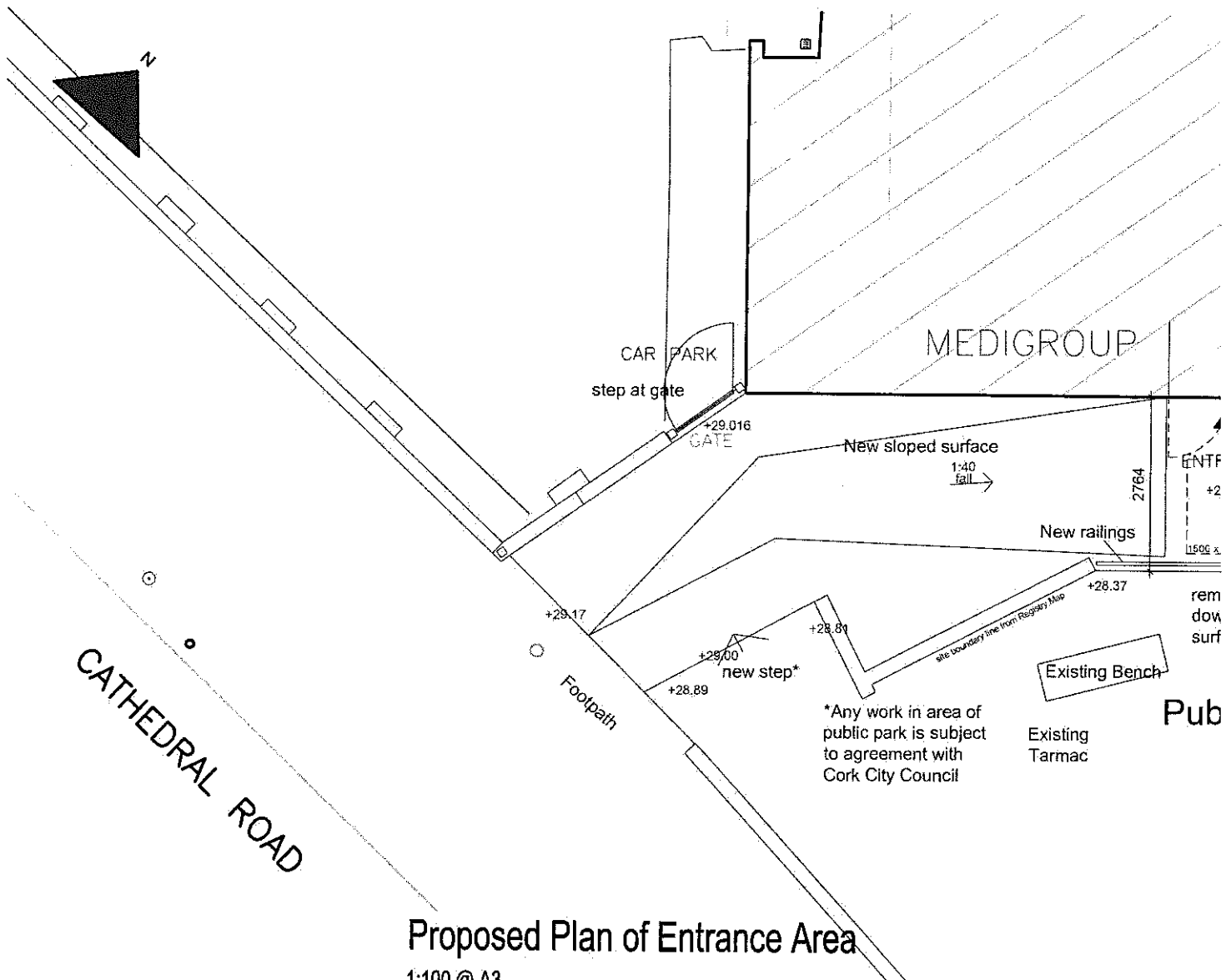
A.Planner

Agreed. S. Jordan, SEP
29/4/2019



Proposed Elevation of Entrance Area

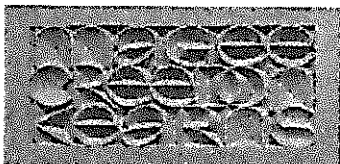
1:100 @ A3



Proposed Plan of Entrance Area

1:100 @ A3

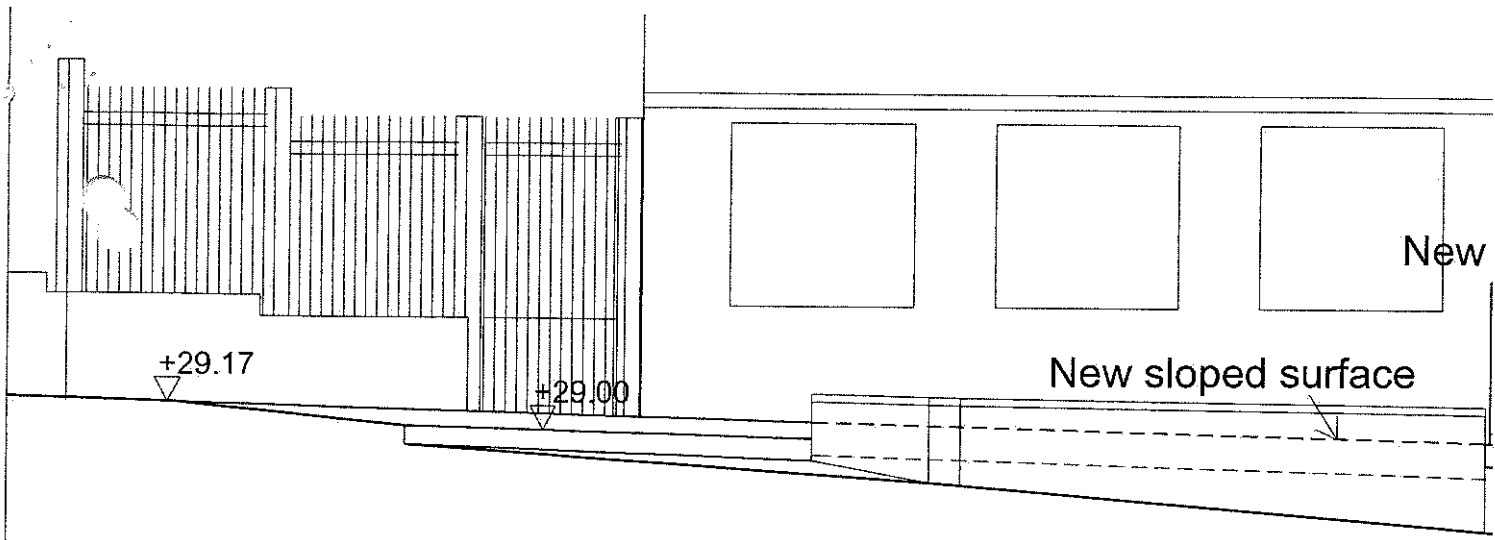
ALL DIMENSIONS ARE TO BE CHECKED ON SITE AND CONFIRMED WITH MAGEE CREEDON ARCHITECTS BEFORE ANY WORK IS CARRIED OUT. DO NOT USE SCALED DIMENSIONS



MAGEE CREEDON ARCHITECTS

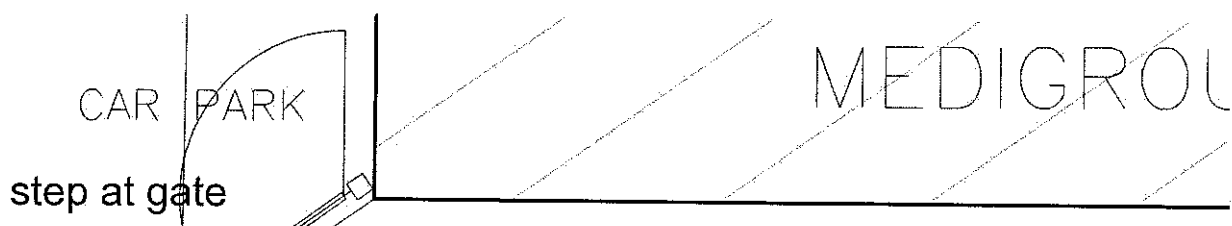
11 NORTH ABBEY STREET, Tel: 021 493 27 02
 NORTH GATE BRIDGE,
 CORK, T23 YY5T
 email: mail@mageecreedon.com

REV:	DATE:	DESCRIPTION:



Proposed Elevation of Entrance Area

1:50 @ A3



New sloped surface

1:40
fall →

New rail

+29.17

+29.00
new step*

+28.81

+28.89

site boundary line from Registry Map

Footpath

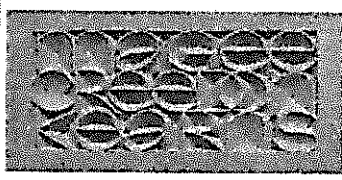
Proposed Plan of Entrance Area

1:50 @ A3

*Any work in area of public park is subject to agreement with Cork City Council

Existing Tarmac

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NORTH GATE BRIDGE,
CORK, T23 YY5T
email: mail@mageecreedon.com

REV:	DATE:	DESCRIPTION: