



# Comhairle Cathrach Chorcaí Cork City Council

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

Jerry O Connor  
O Connor Architectural Design and Planning  
38 Old Avenue  
Riverstown  
Glanmire  
Cork

06<sup>th</sup> February 2021

**RE: R631/20 – Section 5 Declaration**  
**Property: No 11 Knockrea Lawn, Ballinlough Road, Cork**

Dear Sir/Madam,

With reference to your request for a section 5 Declaration at the above named property, I wish to advised and 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, as amended

The Planning Authority has concluded that –

- The construction of a single storey extension at the rear of dwelling house, of 26 sqm internal floor area at 11 Knockrea Lawn, Ballinlough road, Cork **is development** and **is exempted development**.

Yours faithfully,

Assistant Staff Officer  
Community, Culture and Placemaking  
Cork City Council



We are Cork.

## SECTION 5 DECLARATION – PLANNER’S REPORT

**File Reference:** R 631/20

**Description:** Whether the construction of a single storey 26sqm extension to the rear of the existing dwelling exempted development

**Applicant:** Marie and John Lecane

**Location:** 11 Knockrea Lawn, Ballinlough road, Cork

**Date:** 26/01/21

### SUMMARY OF RECOMMENDATION

**Constitutes development; is exempted development**

#### Interpretation

In this report the ‘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.

#### Purpose of Report

Under Section 5 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 Questions before the Planning Authority

The Question to the Planning Authority is,

*‘Whether the construction of a single storey 26sqm extension at the rear of dwelling house is exempted development.’*

In my opinion the intention of the request is clear.

#### Site Description

The subject site comprises a two storey, detached dwelling, located at Knockrea Lawn, accessed off the Ballinlough Road, Cork. The site is bound by a low wall to the front of the property, with car parking for 2 no. cars.

#### Description of Development

The proposed development comprises the construction of a single storey extension to the rear of the existing dwelling measuring at 26sqm internal floor area, with a roof ridge height of less than that of the existing dwelling.

#### Planning History

There is no recent planning history associated with the subject dwelling.

## **Relevant Legislation**

### **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—

- a) where the context so admits, includes the land on, in or under which the structure is situate, and
- b) in relation to a protected structure or proposed protected structure, includes—
  - i. the interior of the structure,
  - ii. the land lying within the curtilage of the structure,
  - iii. any other structures lying within that curtilage and their interiors, and
  - iv. 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(1) (h)**

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

...

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

#### **Section 4(2)**

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempt 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—

- a) any of the developments specified in subsection (1), or

- b) 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.

### Planning and Development Regulations, 2001 as amended

#### Article 6 (1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

#### SCHEDULE 2, ARTICLE 6, PART 1, *Exempted Development — General*

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>Development within the curtilage of a house</i> CLASS 1 The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.\</p>	<p>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</p> <p>2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.</p> <p>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p> <p>4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house. (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed</p>

	<p>the height of the side walls of the house.</p> <p>(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.</p>
	<p>5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.</p>
	<p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p> <p>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</p> <p>(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.</p>
	<p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>

**Article 9 (1)**

1. Development to which article 6 relates shall not be exempted development for the purposes of the Act—
  - a) if the carrying out of such development would—
    - i. Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
    - ii. Consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width
    - iii. Endanger public safety by reason of traffic hazard or obstruction of road users,
    - iv. Except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
    - v. Consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies
    - vi. Interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

- vii. Consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,
  - A consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended.
  - B comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,
  - C consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- viii. Consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
- ix. Consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan in the draft variation of the development plan or the draft development plan,
- x. Consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,
- xi. Obstruct any public right of way.
- xii. Further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,

**Sub-threshold EIS**

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No3) 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 EIS is not required to be submitted.

#### **Appropriate Assessment**

The relevant European sites are the Cork Harbour SPA (Site Code 004030) and the Great Island Channel SAC (site code 001058). Having regard to its nature, scale and location it is considered that the proposed development would not affect the integrity of the sites referred to. Accordingly it is considered that a Natura impact statement for the purposes of Article 6 of the Habitats Directive is not required to be submitted.

#### **Assessment**

##### **Is it 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 construction of the extension would constitute the carrying out of works and as such constitute development.

#### **CONCLUSION**

##### **Is development**

##### **Is it Exempted Development?**

The next issue for consideration is whether or not the matter at hand is exempted development. Class 1 developments, as set out in Schedule 2 of the *Planning and Development Regulations 2001* (as amended), include extensions to dwellings. The query here is whether the subject development meets the conditions and limitations as set out in Column 2.

Having assessed the proposed extension against Class 1 and its conditions and limitations I find as follows:

##### *Condition / Limitation 1*

The house has not been previously extended. The proposed extension is indicated as being 26m<sup>2</sup> in area and is a single storey extension. Therefore part (a) of this condition and limitation are satisfied (parts (b) and (c) do not apply).

##### *Condition / Limitation 2*

The house has not been previously extended therefore this condition/limitation does not apply.

**Condition / Limitation 3**

The proposed works are ground floor only therefore this condition/limitation does not apply.

**Condition / Limitation 4**

The highest part of the roof of the proposed extension does not exceed the height of the highest part of the roof of the dwelling. Therefore part (c) of this condition and limitation is satisfied (part (b) does not apply). The heights of the walls of the proposed extension do not exceed the height of the rear wall of the house, therefore part (a) of this condition and limitation is satisfied.

**Condition / Limitation 5**

More than 25m<sup>2</sup> of open space will remain to the rear of the dwelling. Proposed drawings indicate approximately 210m<sup>2</sup> of open space will remain to the rear of the proposed extension.

**Condition / Limitation 6**

Windows are located at least 1m from the boundary wall.

**Condition / Limitation 7**

It does not appear that the roof is proposed to be used as a balcony or roof terrace.

Having regard to the above, it is considered that the proposed development satisfies the conditions and limitations set out for Class 1 developments.

**Restrictions on exemption**

I do not consider that any apply in this instance.

**CONCLUSION  
Is Exempted Development**

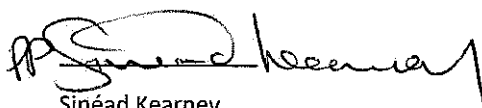
**Recommendation**

In view of the above, and having regard to-

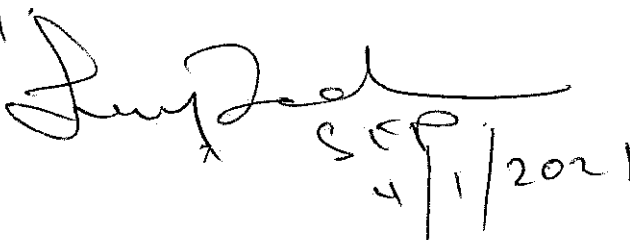
- Section 2, 3, and 4 of the Planning and Development Act 2000, as amended,
- Article 6 of the Planning and Development Regulations, 2001, as amended

The Planning Authority has concluded that –

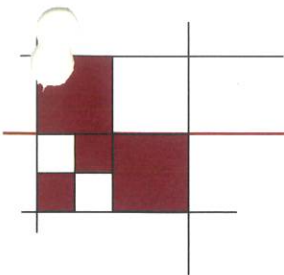
- The construction of a single storey extension at the rear of dwelling house, of 26 sqm internal floor area at 11 Knockrea Lawn, Ballinlough road, Cork **is development and is exempted development.**



Sinéad Kearney  
Assistant Planner







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

7<sup>th</sup> January 2021

**Declaration Of Exemption Application For Proposed Extension At 11 Knockrea Lawn,  
Ballinlough Road, Cork. T12 TW9K**

Dear Sir / Madam,

We have been asked by Marie & John Lecane to apply for a Declaration of Exemption from the requirement of planning permission for a proposed extension to the rear of their existing dwelling. We enclose the following:

- 3 copies of the site location maps, scale 1:10,560, showing the site in red.
- 3 copies of the site location maps, scale 1:1000, showing the site in red.
- 3 copies of A3 site layout at 1:250 scale.
- 3 copies of A3 drawings, showing the existing floor plan and elevations.
- 3 copies of A3 drawings, showing floor plan and elevations, with the extension.
- Application fee of €80.

As can be seen on the attached drawings, the proposed extension has a floor area of just 26 sq.m and is single storey, with a roof ridge height of less than that of the existing dwelling.

The private open space remaining behind the rear walls of the proposed extension will be approximately 210 sq.m.

In our opinion the proposed extension is exempt from the requirement of planning and we look forward to receiving confirmation of this.

Yours sincerely

  
Jerry O'Connor B.Sc Arc. Tech. RIAI

Cathairle Cathrach Chorcaí  
Cork City Council

12-01-2021

Strategic Planning & Economic  
Development Directorate

R631/20

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](mailto:planning@corkcity.ie)

Fón/Tel: 021-4924762

Líonra/Web: [www.corkcity.ie](http://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**

No 11 Knockrea Lane, Ballinlough Road,  
Cork - T12 TW9K

**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 SINGLE STOREY,  
26 sq.m EXTENSION TO THE REAR OF THE  
EXISTING DWELLING EXEMPTED DEVELOPMENT.

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT.**

(Use additional sheets if required).

Community Culture & Placemaking

12 JAN 2021

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

If so please supply details: NO.

4. Is this a Protected Structure or within the curtilage of a Protected Structure?  No

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?  No

If so please supply details:

### 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	26 sqm
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> 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:	
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	/	
If you are not the legal owner, please state the name and address of the owner if available	/	

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

Signature: [Signature] (AGW)

Date: 7/1/21

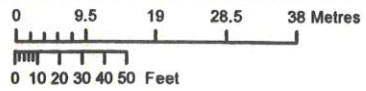
# Planning Pack Map

Planning Extension Application 12 JAN 2021



**O'CONNOR**  
 Architectural Design & Planning  
 43 Bank Place, Mallow, Co. Cork  
 Tel: 022 53520 • info@ocadp.ie

Proposed  
 Extension



OUTPUT SCALE: 1:1,000



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**CENTRE  
 COORDINATES:**  
 ITM 568757,570867

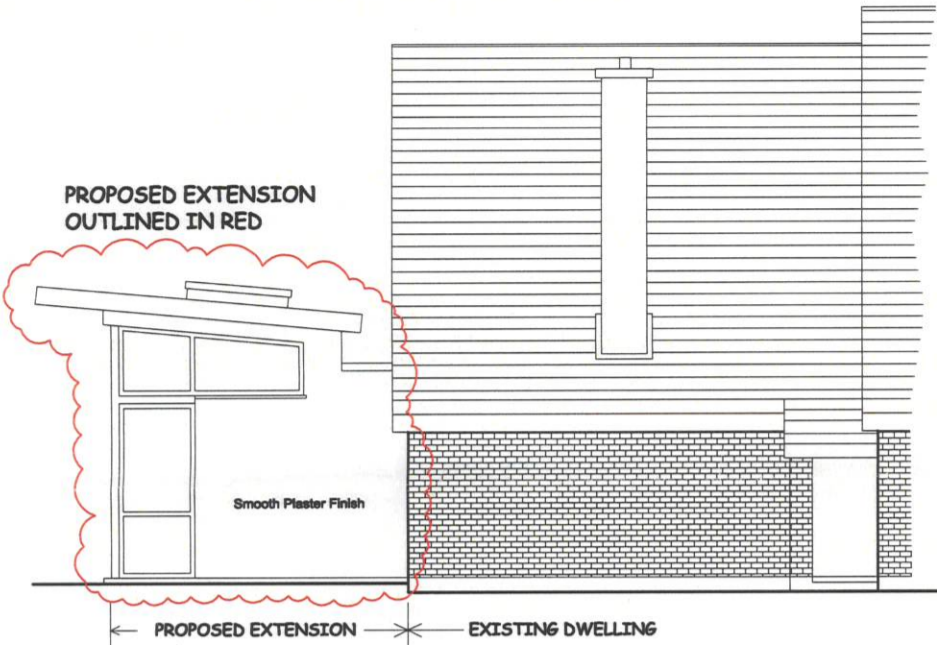
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**ORDER NO.:** 50164250\_1

**MAP SERIES:** 1:1,000  
**MAP SHEETS:** 6383-16  
 1:1,000 6383-17

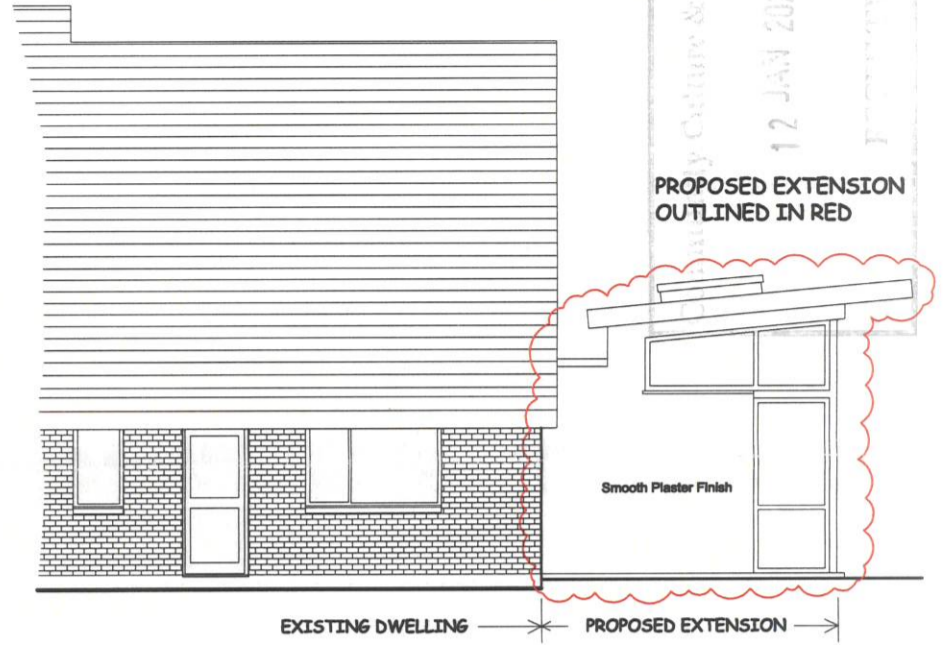
**CAPTURE RESOLUTION:**  
 The map objects are only accurate to the  
 resolution at which they were captured.  
 Output scale is not indicative of data capture  
 scale.  
 Further information is available at:  
<http://www.osi.ie>; search 'Capture Resolution'  
**LEGEND:**  
<http://www.osi.ie>; search 'Large Scale Legend'



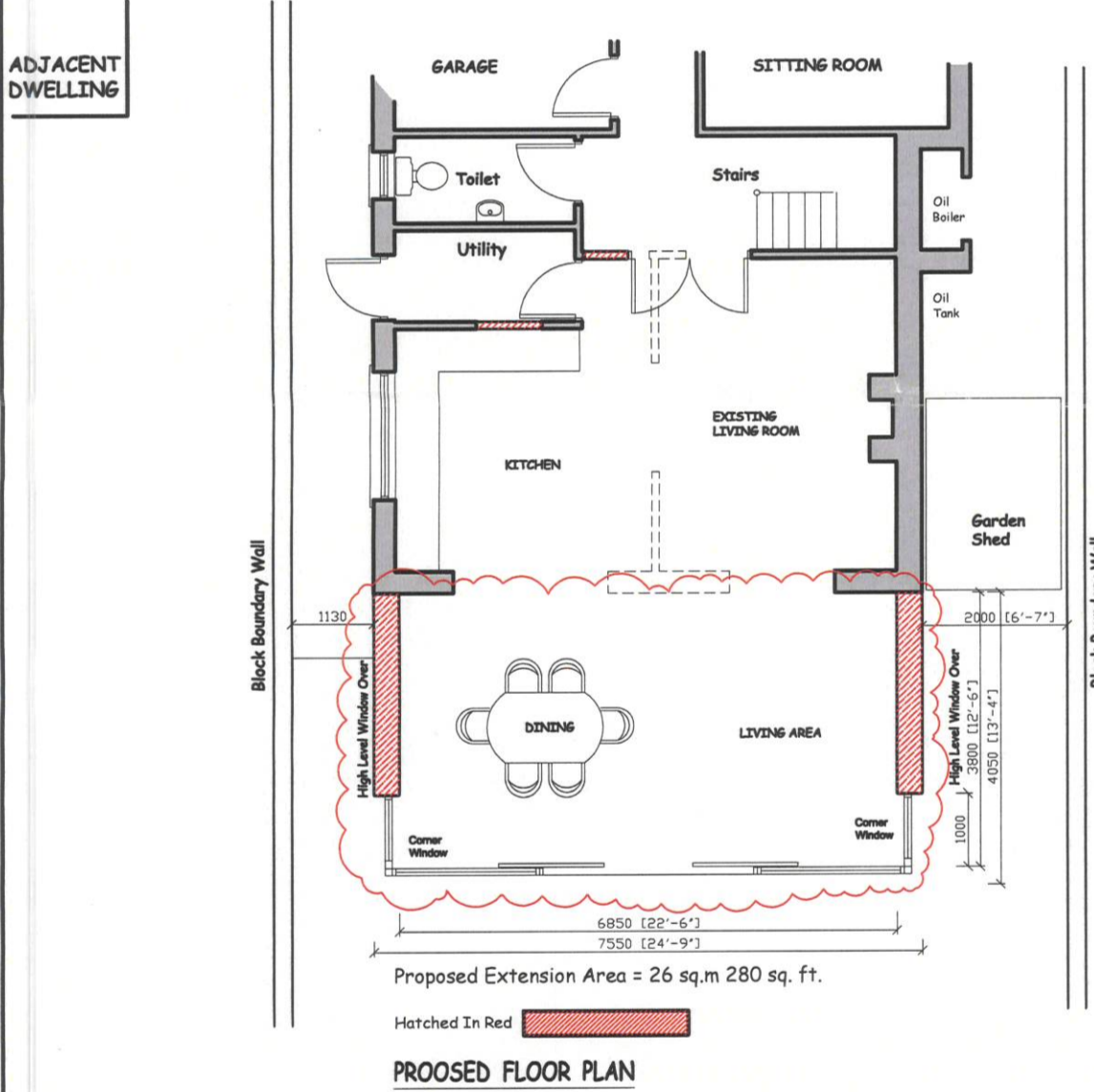
Planning & Architecture  
 12 JAN 2021  
 PROPOSED



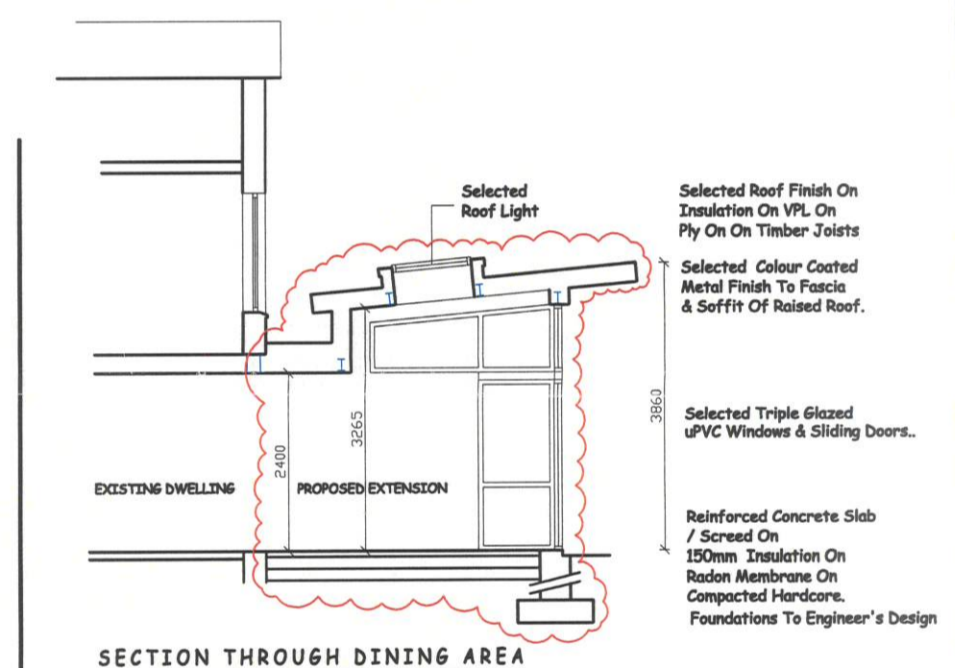
**SIDE ELEVATION - SOUTH EAST**



**SIDE ELEVATION - NORTH WEST**



**PROPOSED FLOOR PLAN**



**SECTION THROUGH DINING AREA**

**NOTE:**  
 NO CHANGE PROPOSED TO  
 FRONT / NORTH ELEVATION  
 OR TO FIRST FLOOR



**REAR ELEVATION - SOUTH WEST**

PLANNING EXEMPTION  
 APPLICATION ISSUE  
 January 2021

Revision:			
Client Marie & John Lecane			
Project Proposed Extension To Existing Dwelling At No. 11 Knockrea Lawn, Ballinlough Road, Cork			
Drawing Title Planning Exemption Application Drawing			
Scale @ A3 1:100	Date Jan 2021	Drawn JO'C	Drawing No. 2020- 13
<b>O'Connor</b> • Architectural Design & Planning ARCHITECTURAL DESIGN, PLANNING CONSULTANTS, PROJECT MANAGEMENT. 43 Bank Place Mallow Co. Cork. Tel: 022 53520 Fax: 022 55448 info@ocadp.ie <a href="http://www.ocadp.ie">www.ocadp.ie</a>			

Community Culture & Planning  
 12 Jul 2021  
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**SITE LAYOUT PLAN**

SITE AREA = 0.053 HECTARES  
 LEVELS TO REMAIN AS EXISTING

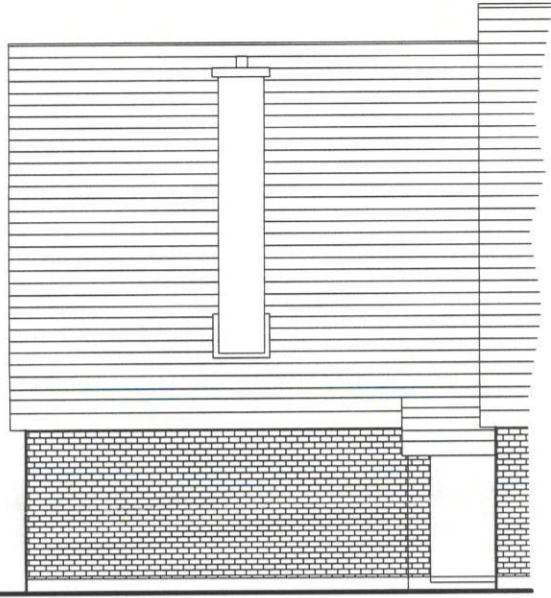
PLANNING EXEMPTION  
 APPLICATION ISSUE  
 January 2021

Revision:			
Client Marie & John Lecane			
Project Proposed Extension To Existing Dwelling At No. 11 Knockrea Lawn, Ballinlough Road, Cork			
Drawing Title Planning Exemption Application Drawing			
Scale @ A3 1:250	Date Jan 2021	Drawn JO'C	Drawing No. 2020- 13

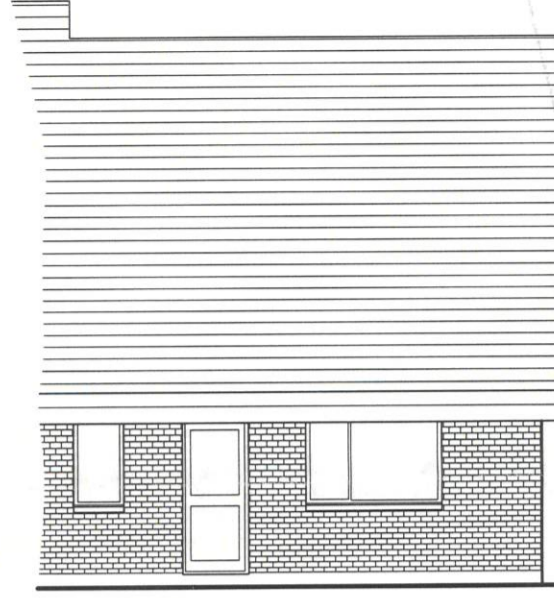

**O'Connor** ■ Architectural Design & Planning  
ARCHITECTURAL DESIGN. PLANNING CONSULTANTS. PROJECT MANAGEMENT.  
 43 Bank Place Mallow Co. Cork.  
 Tel: 022 53520  
 Fax: 022 55448  
 info@ocadp.ie  
[www.ocadp.ie](http://www.ocadp.ie)

AS EXISTING DRAWING

O'CONNOR ARCHITECTURAL DESIGN & PLANNING  
 12 JAN 2021  
 PROJECT NO. 2020-13

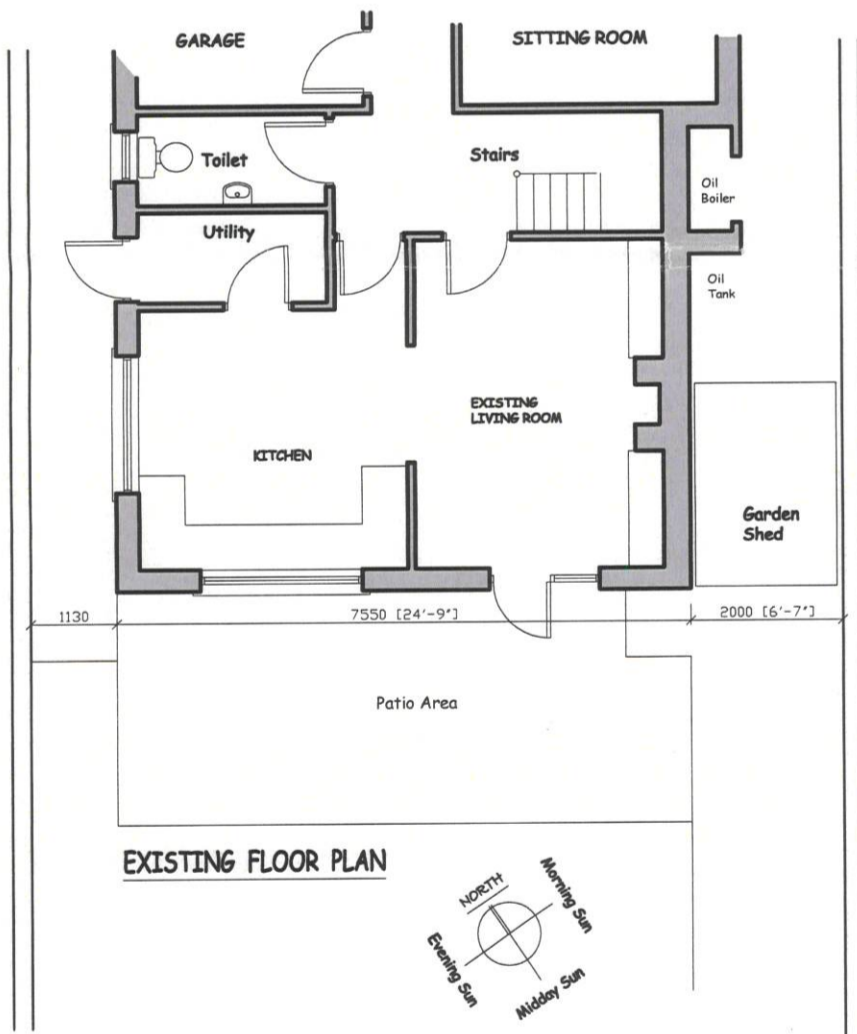


SIDE ELEVATION - SOUTH EAST

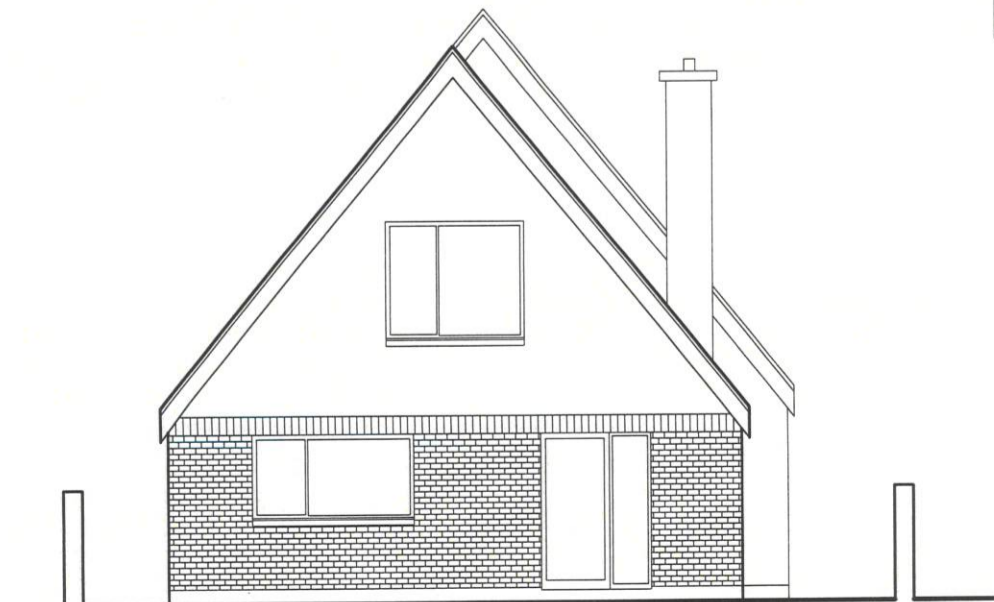
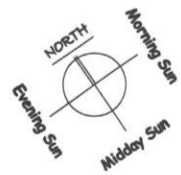


SIDE ELEVATION - NORTH WEST

ADJACENT DWELLING



EXISTING FLOOR PLAN



REAR ELEVATION - SOUTH WEST

PLANNING EXEMPTION  
 APPLICATION ISSUE  
 January 2021

Revision:			
Client Marie & John Lecane			
Project Proposed Extension To Existing Dwelling At No. 11 Knockrea Lawn, Ballinlough Road, Cork			
Drawing Title Planning Exemption Application Drawing			
Scale @ A3 1:100	Date Jan 2021	Drawn JOC	Drawing No. 2020- 13


**O'Connor** • Architectural Design & Planning  
 ARCHITECTURAL DESIGN, PLANNING CONSULTANTS, PROJECT MANAGEMENT.  
 43 Bank Place Mallow Co. Cork.  
 Tel: 022 53520  
 Fax: 022 55448  
 info@ocadp.ie