



# Comhairle Cathrach Chorcaí Cork City Council

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

Sarah Kelly

KOBW Architects

2 Empress Place

Summer Hill

Cork

T23 KH68

16/12/2021

**RE: Section 5 Declaration R699/21 St Gabriel's Special School,  
Murphys Farm, T12EK57**

A Chara,

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended
- (d) Section 4(4) of the Planning and Development Act, 2000, as amended
- (e) the pattern of development in the area
- (f) the submissions on file

The Planning Authority has concluded that –

- (a) The modifications to the exterior of the school building consisting of provision of insulated external render, painted a similar colour to the existing brickwork and fascia cladding and new powder coated aluminum sills with colour to match existing at St Gabriel's Special School, Murphy's Farm, Curraheen Estate, Bishopstown, Cork constitutes 'works' which in turn constitutes 'development' as defined in section 2 of the Act, as amended and
- (b) The works are exempted development because they would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the



**We are Cork.**

## SECTION 5 DECLARATION – PLANNER’S REPORT

**File Reference:** R699.21

**Description:** Whether the application of insulated external render, painted to a similar colour to existing brickwork and fascia cladding, and new powder coated aluminium sills with colour to match existing is development and if so, is it exempted development?

**Applicant:** Board of Management, St Gabriel’s Special School

**Location:** St Gabriel’s Special School, Murphy’s Farm, Bishopstown

**Site inspection:** 13.12.2021

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### 1. 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.

### 2. Site Location

The subject site is located in Bishopstown. The site is located at the end of a cul de sac road and access is via Uam Var/Chestnut Grove residential area. There is pedestrian access from Curraheen Drive and Curraheen Close residential area. Murphy’s Farm (a park/recreational area) is to the north of the site, Bishopstown Tennis Club is to the northeast. Residential estates are to the south and southwest. There is a single storey educational building on the site. The building is flat roof with a red brick finish. There are play areas within the site. The northern boundary is a stone wall with palisade fencing on top, and the remaining boundaries are palisade fencing with a stone wall at the eastern end. The site area is 0.6ha and the floor area of the school building is 2122m<sup>2</sup>.

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### 3. The Question before the Planning Authority

Whether the application of insulated external render, painted to a similar colour to existing brickwork and fascia cladding, and new powder coated aluminium sills with colour to match existing is development and if so is it exempted development?

### 4. Planning history

*On application site:*

2140648 Board of Management of St. Gabriels Special School

Development Description: Permission for minor reconfiguration extensions to entrance and rear, together with alterations, including new external doors and windows, insulated external cladding, photovoltaic panels, changes to rooflights, new canopies, signage, fencing and all associated site works, which form part of an energy and accessibility upgrade and refurbishment project

Decision due date: 17.01.2022

0428484 Board of Management St Gabriels Special School  
Development Description: Alterations and extension for 2 no. classrooms and caretakers room  
Grant conditional

0125280 Brothers of Charity Services  
Development Description: Retain an access road for ambulance & mini-bus use only  
Withdrawn

9923776 Board of Management St Gabriels School (western half of site)  
Development Description: Extensions to the school building at the south & west entrances  
Grant conditional

*Nearby Sites:*

2139927 Bishopstown Lawn Tennis Club  
Development Description: Permission for development to (a) Refurbish and reconfigure existing 6 no. tennis courts, update 3 of these tennis courts with full ITF Professional standard 12m high Sports Lighting and associated ground works and fencing, (b) Construct a proprietary fixed cover structure/membrane system with removable sides (for Summer play) to permanently cover 3 no. tennis courts for indoor play including internal lighting only, (c) Extend and refurbish existing clubhouse to incorporate a Club gym, expanded changing rooms and accessible toilets, dedicated meeting room, lounge/social area, coffee bar/tea room and office, (d) Construct 2 no. ITF approved mini tennis courts/padel tennis courts, one to include practice wall area, with associated Court Sports Lighting, walls and fencing, (e) Construct a sports equipment and maintenance storage shed to west of site adjacent to practice wall, (f) Construct a court viewing area to south of site, (g) Construct general site security fencing and all associated site works.  
On further information

## 5. Pre-planning

Yes – see 21.254

## 6. Planning policy

### Cork City Development Plan 2015

The site is situated in an area zoned ZO 4 Residential, Local Services and Institutional Uses with the objective to protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3. Paragraph 15.10 of the Plan states that the provision and protection of residential uses and residential amenity is a central objective of this zoning.

The northeast corner of the site (which is a hard-surface area only) is within the Bishopstown Park Architectural Conservation Area.

### Objective 9.29 Architectural Conservation Areas

To seek to preserve and enhance the designated Architectural Conservation Areas in the City.

### Objective 9.30 Demolition in Architectural Conservation Areas

### Objective 9.31 Recording of Structures in Architectural Conservation Areas

### Objective 9.32 Development in Architectural Conservation Areas

Volume 3 (pp 39-41) gives an overview of the Bishopstown Park ACA.

### Draft Cork City Development Plan 2022

The site is within the ZO 01 zoning – sustainable residential neighbourhoods.

The northeast corner of the site (which is a hard-surface area only) is within the Bishopstown Park Architectural Conservation Area. There are no changes proposed to the Bishopstown Park ACA in the Draft Cork City Development Plan 2022.

Volume 3 (pp 18-21) gives an overview of the Bishopstown Park ACA.

## **7. Planning legislation**

### **7.1 Planning and Development Act 2000 (as amended)**

#### **Section 2 Interpretation**

##### **Section 2(1)**

In this Act, except where the context otherwise requires—

“alteration” includes (a) plastering or painting or the removal of plaster or stucco the replacement of a door, window or roof, that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.

“exempted development” has the meaning specified in section 4

“use”, in relation to land, does not include the use of the land by the carrying out of works thereon.

“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....

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

#### **Section 3 Development**

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##### **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 - Exempted development**

##### **Section 4(1)**

Section 4(1) sets out a number of categories of development which shall be exempted developments for the purposes of the Act.

##### **Section 4(1)(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 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—

- (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 82 Development in architectural conservation areas**

- (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.

#### *Interpreting Section 4 - Cairnduff vs O'Connell 1986*

The matter of the character of the structure was discussed. The key elements of character to which the Supreme Court had regard included shape, colour, design, ornamental features and layout.

## **8. Assessment**

### **8.1 Is or is not development**

Firstly, it is necessary to establish if the subject works constitutes development.

'Works' as defined under Section 2 of the Act includes any act of construction, extension, repair or renewal. The 'works' subject of this Section 5 referral comprise the application of insulated external render, painted a similar colour to existing brickwork and fascia cladding and new powder coated aluminium sills with colour to match existing.

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Section 3 (1) of the Planning and Development Act, 2000, as amended defines 'development' as follows: "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."

Having regard to the legislative provisions, the specific elements referred to in the referral question consist of 'works' as defined in Section 2(1) of the Act and which in turn is 'development' within the meaning of Section 3(1) of the Act.

### **8.2 Is or is not exempted development**

Section 4(1) of the Planning and Development Act, 2000, as amended refers to exempted development and Section 4 (1) (a) – (l) sets out what is exempted development for the purposes of the Act. In the case of the subject referral Section 4(1)(h) is of relevance.

Section 4 (1)(h) which states;

*(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.*

The subject site contains a single storey flat roof building, and the external finish is red brick, with grey/brown metal fascia cladding near at eaves and roof level. There a smooth plaster finish underneath some windows. The building is a stand-alone structure, enclosed by green palisade fencing. There is a park/recreational area to the north and there some older buildings in community use to the northeast. To the east there a tennis club and the clubhouse has a mansard type roof (there is a pending application to extend and refurbish existing clubhouse and other works to the tennis courts). To the rear there are housing estates. The building is located at the end of a cul de sac road.

The proposed works are to externally clad the school building with an insulated render, and to install new powder coated aluminum sills. The colours of the painted render are to match the existing red brickwork and grey/brown fascia cladding as closely as possible. The new window sills would match the existing in colour.

The purpose of the cladding it to improve comfort level within the school for the special needs pupils while reducing carbon emissions. I note from the pre-planning documents that the school was built in 1960 and it is stated that the building's condition is poor, with the cavity walls are uninsulated.

I consider that the works as set out are for the 'maintenance, improvement or other alteration' of the structure as set out in Section 4(1)(h) of the Act.

In terms of the subject Section 5 referral, it is necessary to determine whether the fitting of external insulation on the walls of the building and new window sills would materially alter the structure so that it would appear inconsistent with the original structure in the context of Section 4(1)(h) of the Act.

While it is a long building (approx. 85m on northeast/front and south/rear elevation), due to it being single storey (height ranges between approx. 3m and 4m) and the boundary fencing (approx. 2m), the school building is not overtly prominent when viewed from the public realm. The ground levels rise to the rear and the houses to the rear of the site are at a higher level than the school building. It is not a protected structure, nor it is included in the National Inventory of Architectural Heritage. There are no nearby structures with the same character and design of the school building.

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The proposed insulated external render is a change. The noticeable differences would be a smooth render in place of the brick finish and the removal horizontal metal cladding at roof level. The finishes will be shaded the same colours as existing.

I do not consider that the works proposed would 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.

Part of the site is in the Bishopstown Park Architectural Conservation Area – the area within Bishopstown Park ACA is a hard-surface area to the east of the site and not the school building. As the school building is outside ACA the issue of whether the proposed works would materially affect the character of Bishopstown Park ACA in the context of Section 82(1) of the 2000 Act does not arise.

CONCLUSION — is exempted development

### 8.3 Environmental Impact Assessment and Appropriate Assessment

Section 4(4) of the Act sets out that development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Having regard to the contents of Article 103 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 environmental impact assessment is not required.

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.

### 9. Conclusion and Recommendation

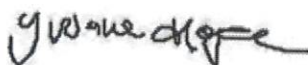
The Planning Authority, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended
- (d) Section 4(4) of the Planning and Development Act, 2000, as amended
- (e) the pattern of development in the area
- (f) the submissions on file

The Planning Authority has concluded that –

- (a) The modifications to the exterior of the school building consisting of provision of insulated external render, painted a similar colour to the existing brickwork and fascia cladding and new powder coated aluminum sills with colour to match existing at St Gabriel's Special School, Murphy's Farm, Curraheen Estate, Bishopstown, Cork constitutes 'works' which in turn constitutes 'development' as defined in section 2 of the Act, as amended and
- (b) The works are exempted development because they would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure and neighbouring properties as defined under section 4(1)(h) of the Planning and Development Act, 2000, as amended.

The Planning Authority hereby decides the proposed works consisting of provision of insulated external render, painted a similar colour to the existing brickwork and fascia cladding, and new powder coated aluminum sills with colour to match existing at St Gabriel's Special School, Murphy's Farm, Curraheen Estate, Bishopstown, Cork is development and is exempted development.



Yvonne Hogan, A/SEP

15.12.2021

17<sup>th</sup> November 2021

Our Ref: 2757/ 3.1

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

**Section 5 Declaration Application for  
Insulated, Painted Render to St. Gabriel's Special School, Bishopstown.**

Dear Sir/ Madam,

On behalf of our clients, The Board of Management of St. Gabriel's Special School, we enclose a Section 2 Declaration Application with the following documents:

- 2 no. copies of the application form.
- 2 no. copies of drawings prepared by KOBW Architects.

The purpose of the cladding is to improve comfort level within the school for the special needs pupils, while reducing carbon emissions.

**Fee Exemption.**

St. Gabriel's Special School it is a voluntary organisation. The proposed works are intended to be used for educational purposes by special needs pupils from the locality. The works not to be used for profit purposes and that as such, in accordance with article 157, SI No. 600 of 2001, the applicant wishes to claim exemption from statutory fees.

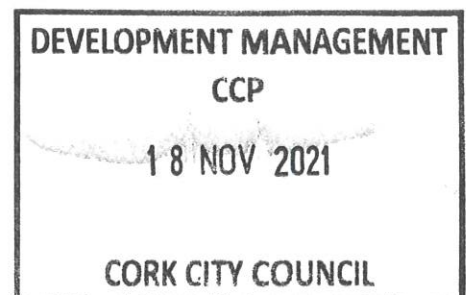
We trust that the application addresses all relevant issues and look forward to your decision in due course. Please address all correspondence to this office.

Yours faithfully,



Sarah Kelly, B. Arch (UCD), FRIAI, RIBA.  
**KOBW Architects**

Enc.

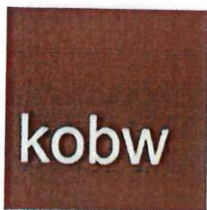




New insulated external render, painted to match existing fascia colour and brickwork, new powder coated aluminium sills, colour to match existing and all associated site works, which form part of an energy and accessibility upgrade and refurbishment project at St. Gabriel's Special School, Bishopstown.

Planning Application Drawings

Reference	Title	Scale
PL-001	Rural Place Map	6 Inch
PL-002	Rural Place Map	1:500
SY-050	Existing Site Survey	1:200
SY-100	Existing Ground Floor Plan	1:200
SY-200	Existing Cross Sections	1:100
SY-300	Existing Elevations	1:100 & 1:125
PL-202	Proposed Elevations	1:100 & 1:125



Kelly Barry O'Brien Whelan Architects

2 Empress Place, Summer Hill, Cork, T23 KH68 Ireland t: +353 21 4502319 e: [arch@kobw.ie](mailto:arch@kobw.ie)

**DEVELOPMENT MANAGEMENT  
CCP  
18 NOV 2021**

**CORK CITY COUNCIL**

**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**

St. Gabriel's Special School, Murphy's Farm, Curraheen Estate, Bishopstown, Cork, T12 EK57.

**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 application of insulated render, painted a similar colour to the existing brickwork and fascia cladding, development and if so, is it exempted development?*

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

*(Use additional sheets if required).*

*The colours of the painted render would match the existing red brickworks and grey/brown fascia cladding as closely as possible. New powder coated aluminium windows sills would match the existing in colour.*

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**DEVELOPMENT MANAGEMENT**

**CCP**

**18 NOV 2021**

**CORK CITY COUNCIL**

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?

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

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

If so please supply details:

9923776, 0428484, 0125280

### 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	2,221m <sup>2</sup>
(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) 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)
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### 8. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner	B. Other <input checked="" type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	Occupier	
If you are not the legal owner, please state the name and address of the owner if available	Diocese of Cork & Ross, Cork & Ross Diocesan Offices, Redemption Road, Cork T23 PXDO	

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

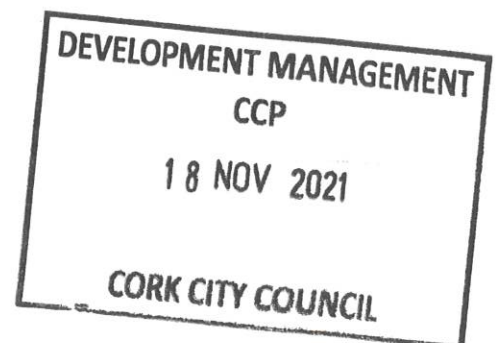
Signature: 

Date: 17-11-2021

- 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.



**DEVELOPMENT MANAGEMENT**  
**CCP**  
**18 NOV 2021**  
**CORK CITY COUNCIL**

**LEGEND**

EXTENT OF SITE SUBJECT OF THIS APPLICATION OUTLINED IN RED



Description: Historic 6" Latest Edition

Publisher / Source: Ordnance Survey Ireland (OSI)

Data Source / Reference:

CK073  
Revision Date =  
Survey Date = 31-Dec-1934  
Levelled Date = 31-Dec-1939

CK074  
Revision Date =  
Survey Date = 31-Dec-1928  
Levelled Date = 31-Dec-1956

CK085  
Revision Date =  
Survey Date = 31-Dec-1934  
Levelled Date = 31-Dec-1940

CK086  
Revision Date =  
Survey Date =  
Levelled Date = 31-Dec-1938

File Format: Tagged Image File Format (TIFF)

File Name: R\_50226112\_1.tif

Clip Extent / Area of Interest (AOI):  
LLX,LLY= 560571.0,567919.0  
LRX,LRY= 565493.0,567919.0  
ULX,ULY= 560571.0,571553.0  
URX,URY= 565493.0,571553.0

Projection / Spatial Reference: IREN95\_Irish\_Transverse\_Mercator

Centre Point Coordinates:  
X,Y = 563032.0,569736.0

Data Extraction Date: 12-Oct-2021

Product Version: 1.3

License / Copyright: Ordnance Survey Ireland 'Terms of Use' apply. Please visit 'www.osi.ie/about/terms-conditions'.

**1** **RURAL PLACE MAP**  
SCALE 6 Inch

1. THIS DRAWING IS COPYRIGHT.  
2. THIS DRAWING MUST NOT BE SCALED.  
3. THE CONTRACTOR IS TO CHECK ALL DIMENSIONS ON SITE.

4. N.B. TRADE NAMES AND PRODUCT REFERENCES ARE INCLUDED PURELY TO DEFINE THE AESTHETIC AND TECHNICAL PERFORMANCE CRITERIA REQUIRED BY THE SPECIFIER. IT IS NOT THE INTENTION TO FAVOUR ONE PRODUCT OVER ANOTHER OR TO EXCLUDE OTHER PRODUCTS WHICH MEET THE PERFORMANCE CRITERIA. IN PROPOSING AN EQUIVALENT PRODUCT/MATERIAL/SYSTEM THE CONTRACTOR WILL NEED TO PROVIDE EVIDENCE OF COMPLIANCE WITH PERFORMANCE CRITERIA AND SUPPLY ALL NECESSARY DESIGN WARRANTIES AND ANCILLARY CERTIFICATION REQUIRED BY THE ASSIGNED CERTIFIER TO COMPLY WITH THE BUILDING CONTROL (AMENDMENT) REGULATIONS.

**kobw**  
kelly.barry.obrien.whelan architects

2 Empress Place, Summer Hill, Cork, T23 KH68, Ireland  
t: +353 21 4502319 f: +353 21 4502454 e: arch@kobw.ie w: www.kobw.ie

DRAWING/PROJECT:  
**RURAL PLACE MAP**  
Refurbishment & Retrofit Works @ St. Gabriel's  
Special School, Bishopstown, Co. Cork

01	17.11.21	EP	Issued for Section 5 Exemption Application
Rev	Date	Inl	Revision
JOB REF.:	DWG NO.:	DATE:	
2757	PL-001	20.10.2021	
DRN:	CHKD.:	ISSUE FOR:	SHEET:
MM	MM	Section 5 Exemption	A3
SCALE:			6 Inch

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