

Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

Gary Quigley
QDM Architecture
19 South Mall
Cork

10/09/18

Section 5 Declaration Reference:	Ref. R487 /18
Description	<i>Whether proposing converting the existing attic to include a dormer style structure to rear of roof requires a setback of 2m to be considered exempted development?</i>
Location	"Annville", 6 Ballinlough Road.
Applicant	Gary Quigley
Date	10/09/2018

Dear Sir/Madam,

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

Having regard to:

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

It is considered the proposed box dormer structure to the rear **Is Development** and is **Not Exempted Development**.

Yours Faithfully,

Paul Hartnett

Assistant Staff Officer
Strategic Planning & Economic
Development
Cork City Council

PLANNER'S REPORT Ref. R487 /18		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Whether proposing converting the existing attic to include a dormer style structure to rear of roof requires a setback of 2m to be considered exempted development?</i>	
Location	"Annville", 6 Ballinlough Road.	
Applicant	Gary Quigley	
Date	03/09/2018	
Recommendation	<i>Is Development and Is Not Exempted Development</i>	

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a section 5 declaration are set out in the Act.

2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form that they are proposing an attic conversion which will include a dormer style structure at the rear, and whether this element requires a 2m set back to be considered exempt. The question relates to the dormer structure to the rear.

3. Site Description

The property in question is a two storey mid terrace dwelling with a single storey side element in an established residential area of detached dwellings.

4. Planning History

No known applications.

5. Legislative Provisions

5.1 The Act

Section 2(1),

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1),

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

Section 4(1)(h),

The following shall be exempted developments for the purposes of this Act-development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section 4(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

Section 5(1),

(See section 1 of this report)

Section 177U (9) (screening for appropriate assessment)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

5.2 The Regulations**Article 9 (1)**

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

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

Article 10 (1)

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

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

6. ENVIRONMENTAL ASSESSMENT**6.1 Screening for Environmental Impact Assessment**

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that an environmental impact statement is not required to be submitted.

6.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of the European sites referred to above. Accordingly it is considered that appropriate assessment is not required.

7. ASSESSMENT

7.1 Development

The first issue for consideration is whether or not the matter at hand is 'development'.

'Development' as defined in the Act (3)(1) comprises two possible chief components: *'the carrying out of any works on, in, over or under land'*, or *'the making of any material change in the use of any structures or other land'*. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

'Works' is defined in section 2(1) of the Act as *'the carrying out of any works on, in, over, or under land'* including *'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal, and in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.'*

I consider that the proposed element constitutes development as it comprises of works which includes both extension and alteration to the existing roof and construction.

7.2 Exempted development

Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. The dwelling is not an unauthorised dwelling nor is its use. The dwelling is not a protected structure and is not located in an architectural conservation zone

As aforementioned, certain minor internal works are considered exempt under the following Section:

Section 4(1)(h),

The following shall be exempted developments for the purposes of this Act-development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

However, the works proposed are to construct a box dormer structure to the rear which is entirely external.

Development within the curtilage of a house

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.

Provided:

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.*

3. *Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.*

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.*

6. (a) *Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.*

(b) *Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.*

The proposal is to convert an existing attic by construction of a box dormer. The dwelling has been previously extended. It is also noted that the proposed windows in the rear dormer would be 6m from the boundary it faces. Notwithstanding same, the aforementioned attic does not come under the terms under which extension of a house is considered. Therefore Class 1 does not apply.

8. Conclusion

The question has been asked whether the conversion of an existing attic by adding dormer with windows to the rear is exempted development or not.

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed box dormer structure to the rear is development and is not exempted development.

9. RECOMMENDATION

In view of the above and having regard to —

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

It is considered the proposed box dormer structure to the rear **Is Development** and is **Not Exempted Development**.



 Mary Doyle
 A/Senior Executive Planner

03/09/2018 -



QDM Architecture,
19 South Mall,
Cork.

T: (087) 284 3889
E: info@qdmarchitecture.com
W: www.qdmarchitecture.com

Attention: Cork City Council

Company: -

Client Name: Eddie Mullins

Project Name: Annaville 6 Ballinlough Rd **Project Number:** 18-30

Description / Reference:

Section 5 Declaration

Issue Date: 23 Aug '18

Page 1 of 1.

PLANNING - FIRE CERTS - CONSULTATION - PROJECT MANAGEMENT

SECTION 5 DECLARATION

Dear Sir / Madame,

We enclose a copy of the Section 5 Declaration Application, along with the statutory fee of €80.

We would ask that the following be noted;

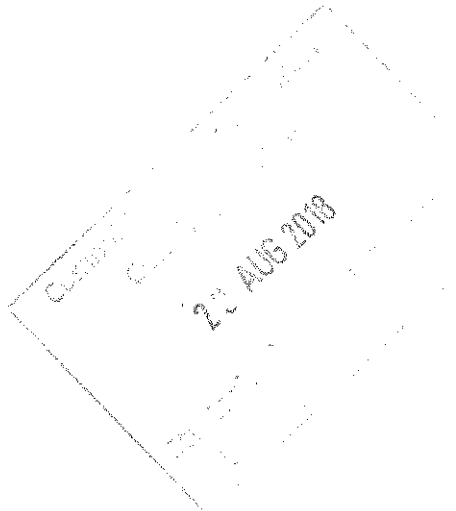
1. Our query relates to the conversion of the existing attic to allow for living accommodation, along with associated access stairs.
2. It is proposed to construct a dormer style, timber framed structure, which will not be visible from the public road.
3. The overall area of the proposed attic conversion will be 27.2 sqM. Due to the nature of the dormer construction, no additional floor space will be created.
4. The height of the proposed extension will be below the existing ridge line.
5. The works have no impact on the available private amenity space.

We would consider the works as being minor, however given the fact that alterations would involve alteration to the building envelope above ground floor level, we would appreciate the Council's view on this matter.

We trust the above is satisfactory, however should any further information be required, please do not hesitate to contact this office.

Regards,

Gary Quigley.



**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
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

Annaville,
6 Ballinlough 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.

An attic conversion is proposed. No increase in floor area is proposed as it is an attic conversion, however we propose a Dormer Style structure located on the rear of the roof. Do we require a step back of 2m from the party boundary of the external elements to be considered exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

There will be no affect on the private amenity space, which exceeds 25 sqM.

The proposed structure will be below the existing ridge level.

Similar conversions have been carried out to neighbouring properties.

No loss of light shall result form the conversion.

No overlooking shall result form the conversion.

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	121.4 sqM / 148.6 sqM
(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 checked="" 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)
_____	_____
_____	_____
_____	_____

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Eddie Mullins
Applicants Address	Annville, 6 Ballinlough Road, Cork.	
Person/Agent acting on behalf of the Applicant (if any):	Name:	Gary Quigley
	Address:	QDM Architecture, 19 South Mall, Cork.
	Telephone:	_____
	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	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: Edward Mullin

Date: 23/8/18

7. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Contact number	
Email address	

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.



Description:
Digital Cartographic Model (DCM)

Publisher / Source:
Ordnance Survey Ireland (OS)

Data Source / Reference:
PRINKE2

File Format:
Autodesk AutoCAD (DWG, R2013)

File Name:
v_50020111_1.dwg

Clip Extent / Area of Interest (AOI):
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LRX:LRX= 568914.4363,570657.417
ULX:ULY= 568084.4363,571272.417
URX:URY= 568914.4363,571272.417

Projection / Spatial Reference:
Projection= IRENET195_Irish_Transverse_Mercator

Centre Point Coordinates:
X:Y= 568499.4363,570964.977

Data Extraction Date:
Date= 14-Aug-2018

Version / Release:
Version= 10

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The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

Ordnance Survey maps never show legal property boundaries, nor do they show ownership of physical features.

© Suibhítreacht Ordánis...Ireann, 2018

Arno thionsc agus arno thionsc ag Suibhítreacht Ordánis...Ireann, Páirc an Fhionnuisce, Baile ítha Clíath 8, ...Ire.

Srálann aicirgeadh neamh-darthe eilipheacht Shuibhítreacht Ordánis...Ireann agus Rialtas na h-Ireann.

Cach cead ar cosnamh. Ní ceadmhach aon chuid den fhóisceach seo a chloipeall, a aicirgeadh nU a thoirchur in aon foirm n. or aon bhealach gan cead i scríbhinn roimh fé U'Inéirí an eilipheir.

Ní hionann bíthar bealach nU cosn a bheith ar an léarscail seo agus fionisce or chead aill.

Ní thaispeánann léarscail de chuid Ordánis Shuibhítreacht na h-Ireann teorann pleanú díreachthil de mhóiní Thom, n. Inéireacht de ghineithe fisicaila.

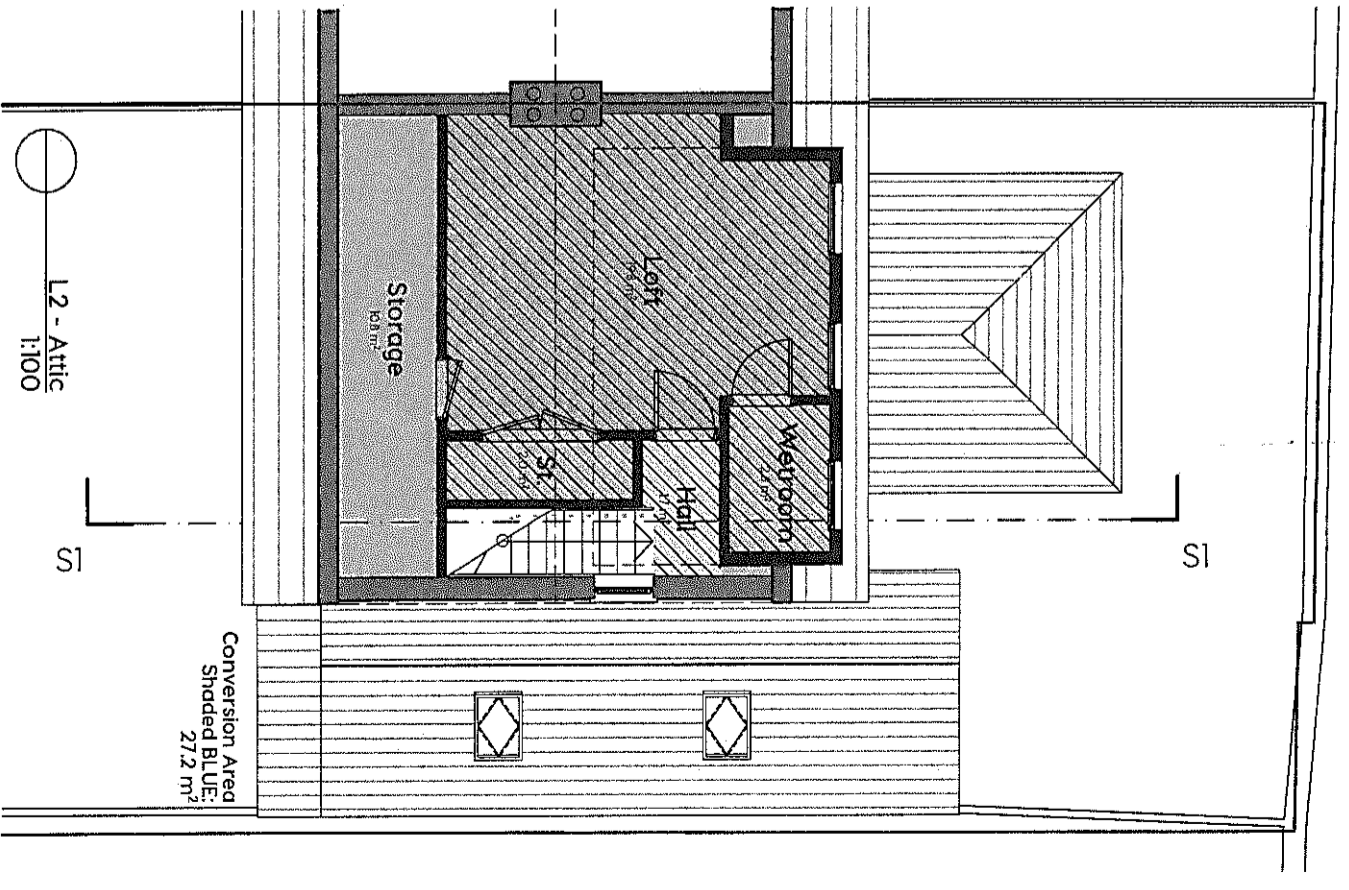
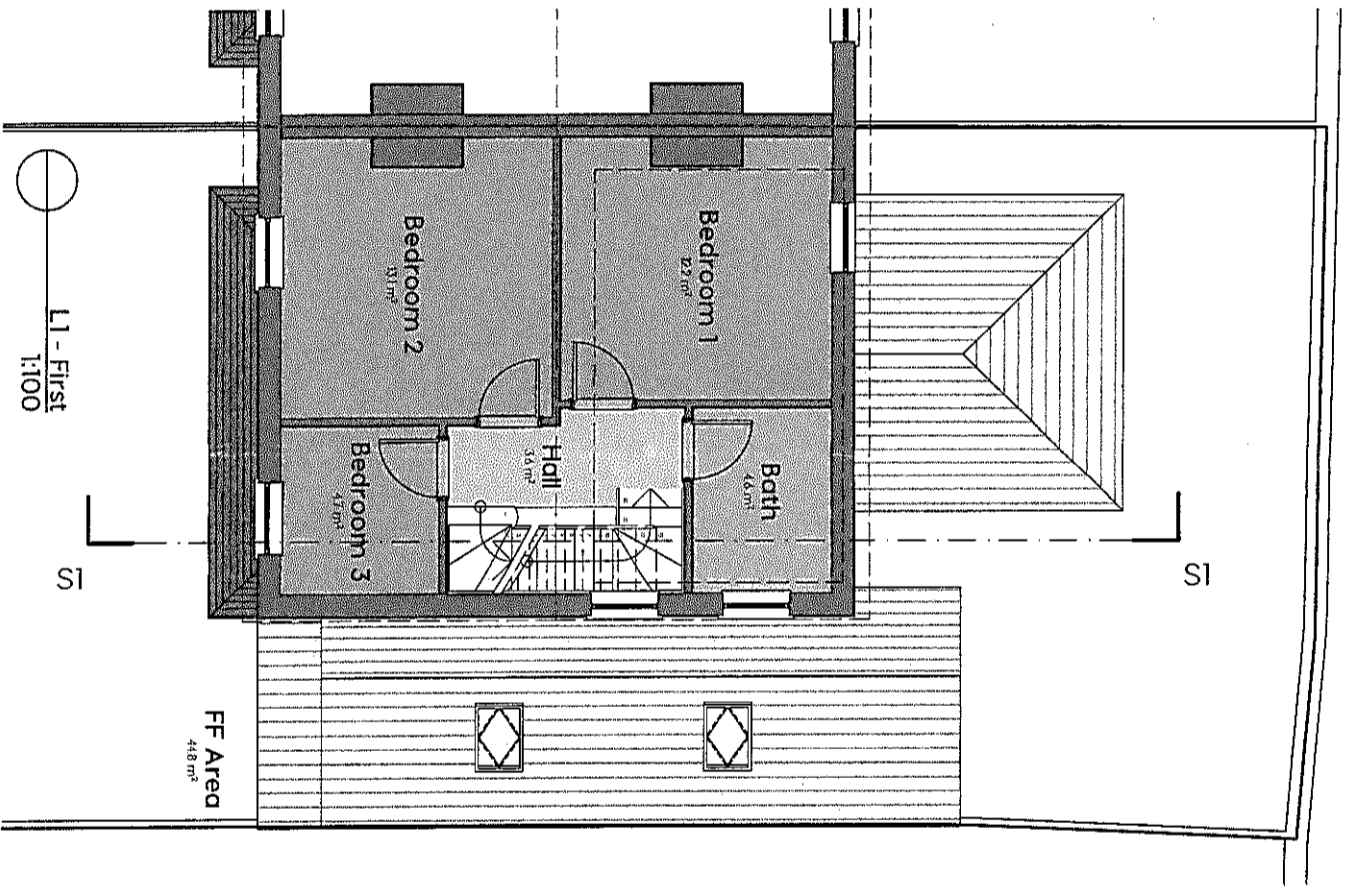
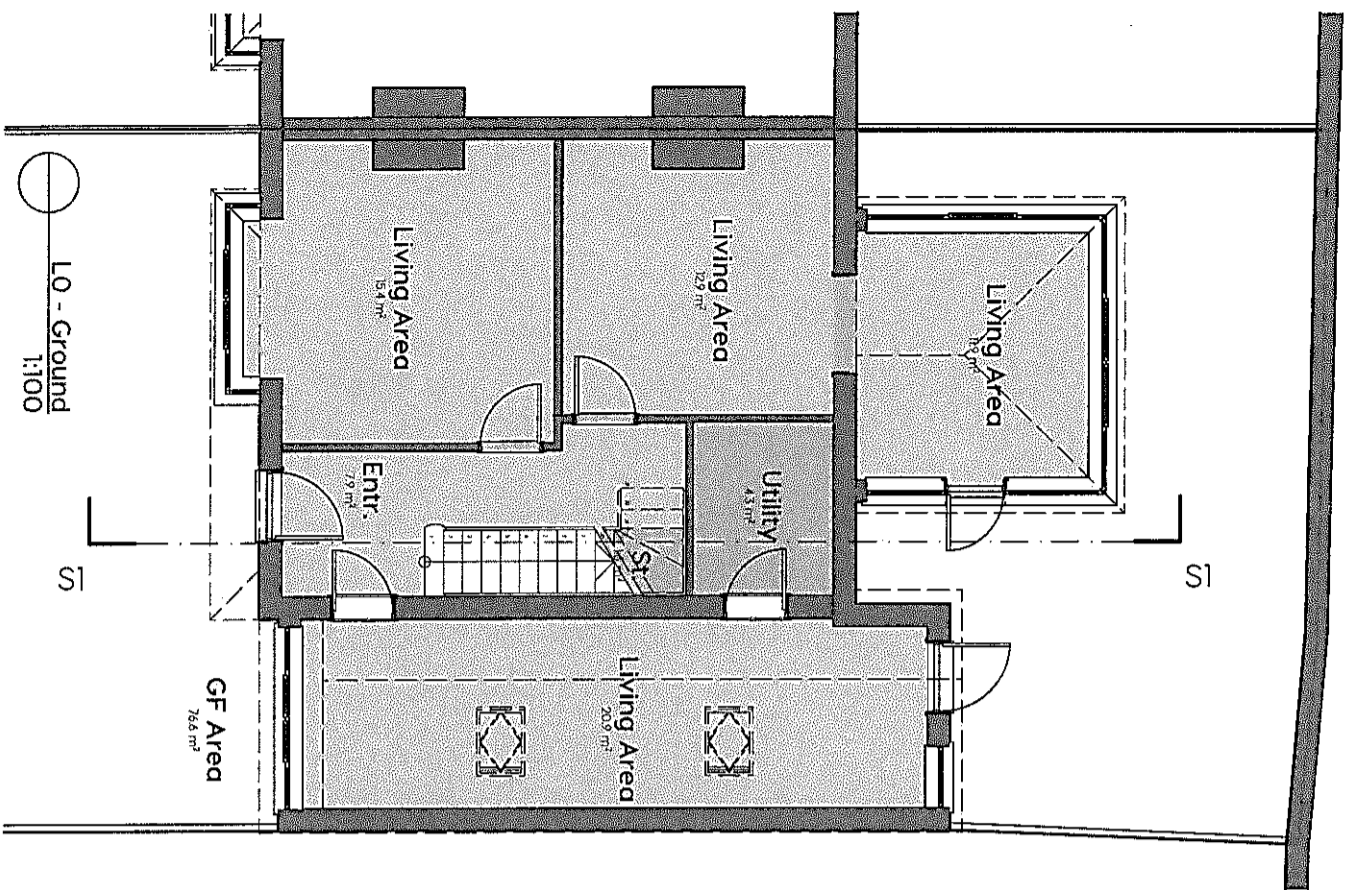


Scale: 1:1000



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19 South Mall
Cork
www.qdmarchitecture.com
info@qdmarchitecture.com

Job Number
18-30
Job Name
Annville



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 info@qdmarchitecture.com
QDM Architecture
 19 South Mall,
 Cork.

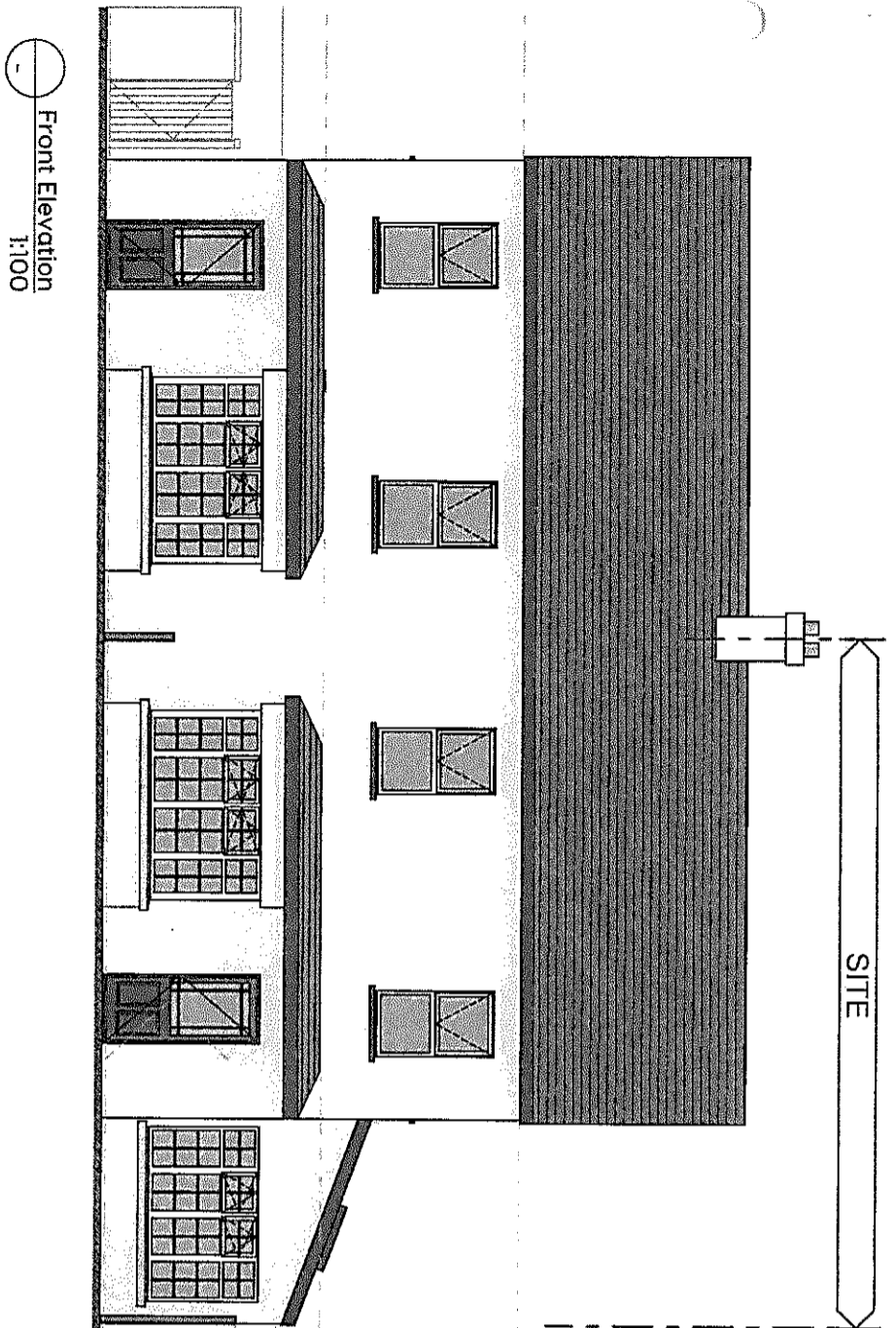
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18-30
 Job Name
Annaville
 Original Design by
GC
 Date
14 Aug '18

Drawing Name
Proposed Floor Plans

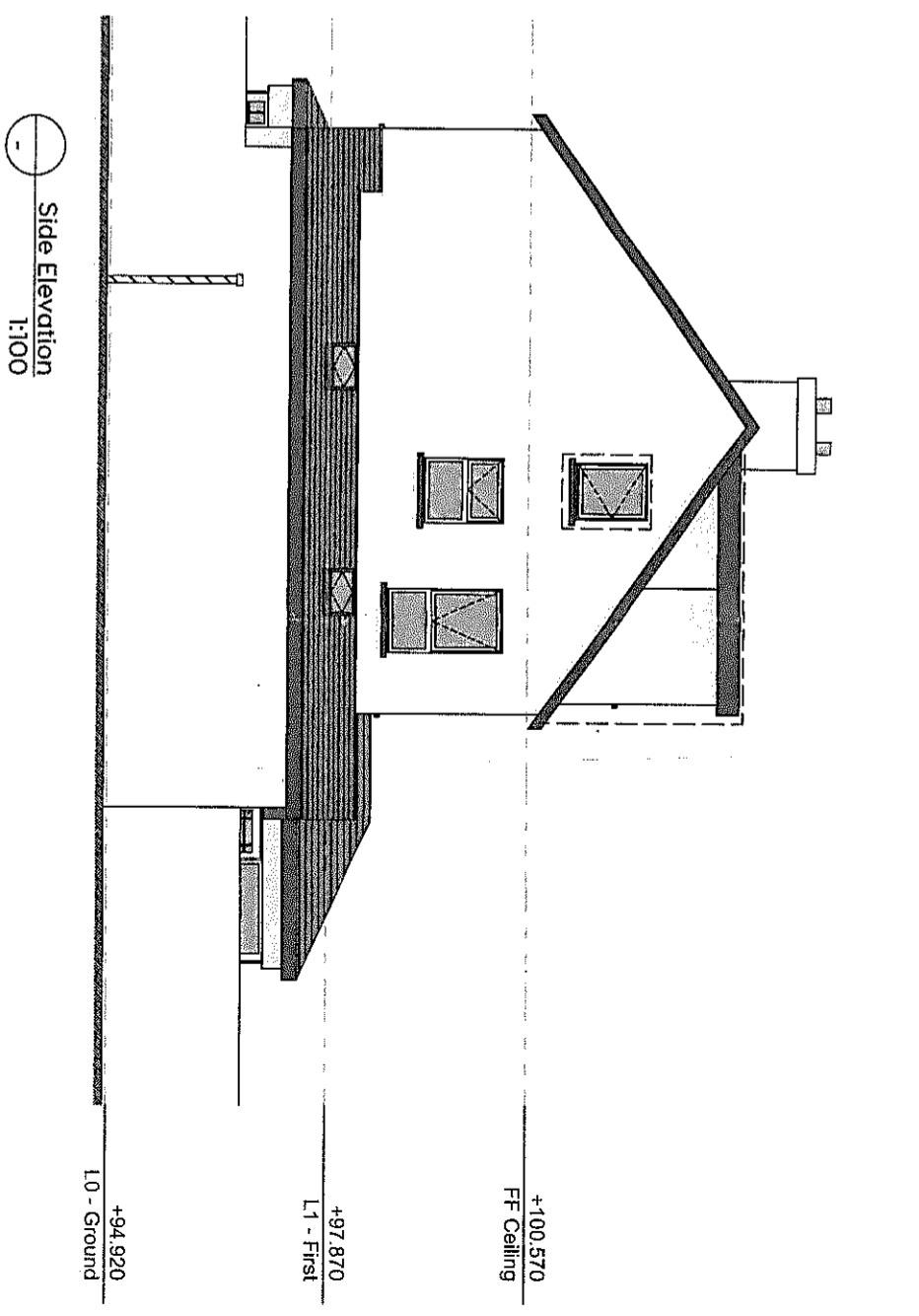
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S5-1
 Current Revision

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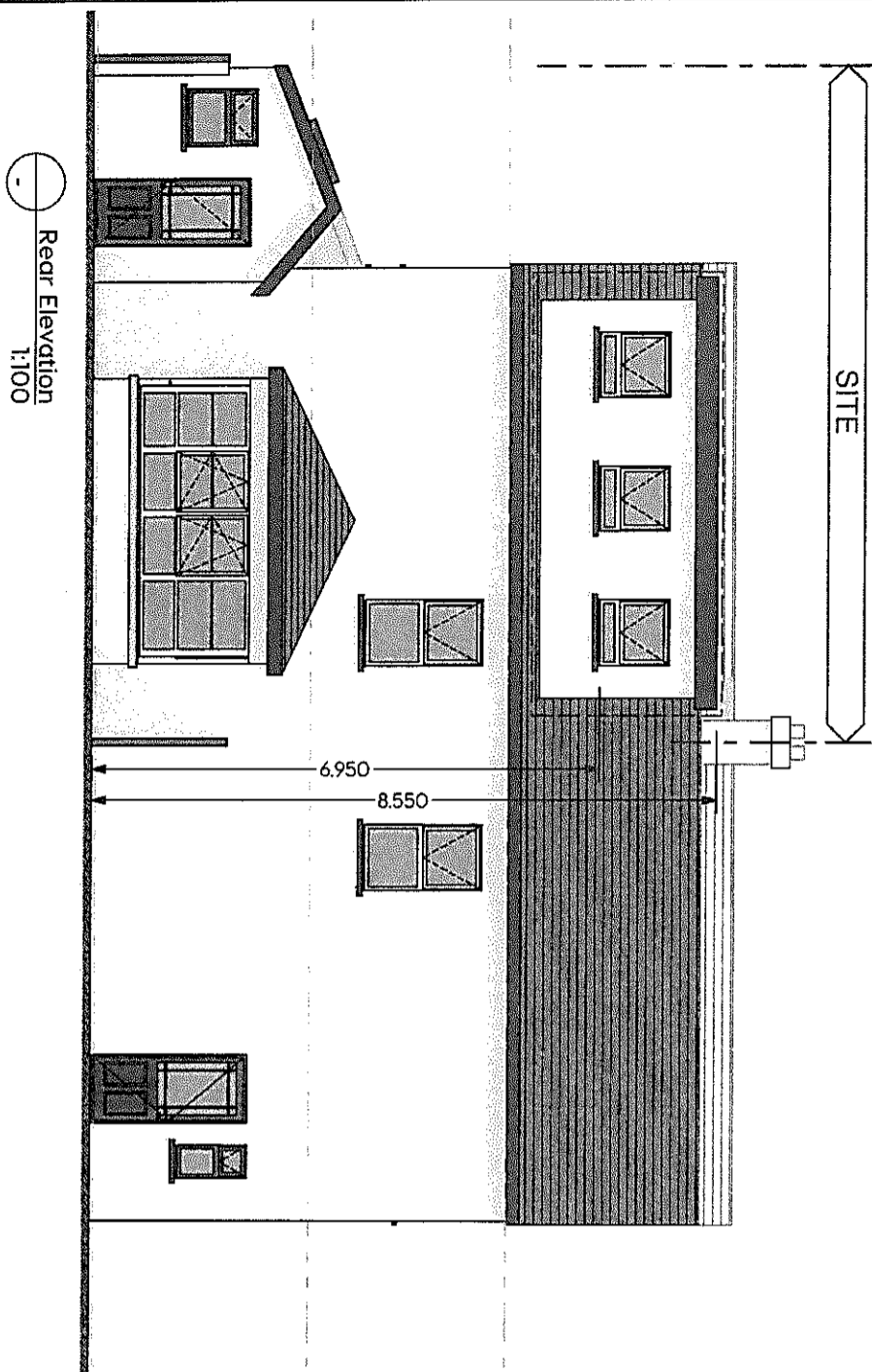
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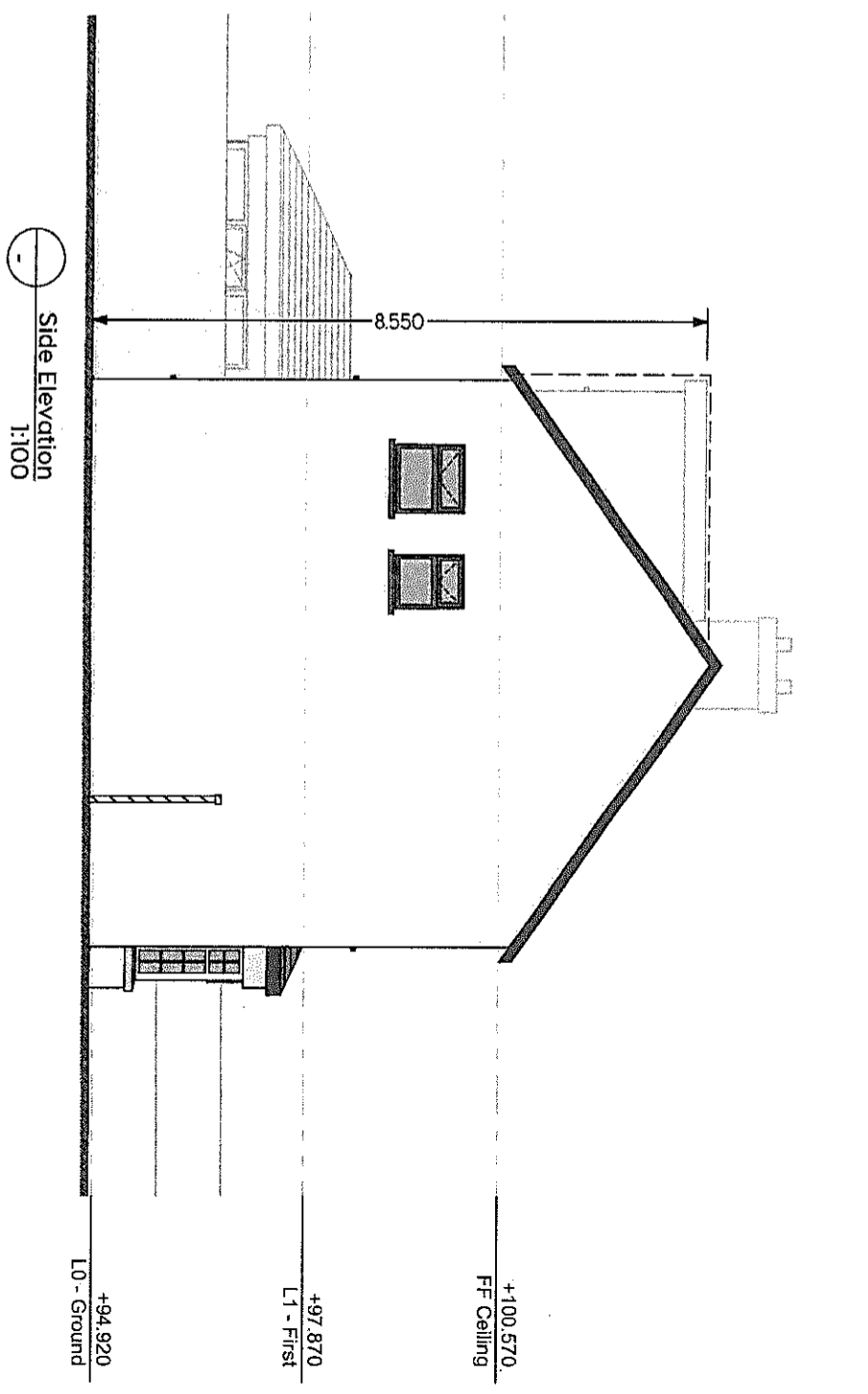
Front Elevation
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Side Elevation
1:100



Rear Elevation
1:100



Side Elevation
1:100

6.950
8.550

8.550

+100.570
FF Ceiling
+97.870
L1 - First
+94.920
L0 - Ground

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info@qdmarchitecture.com



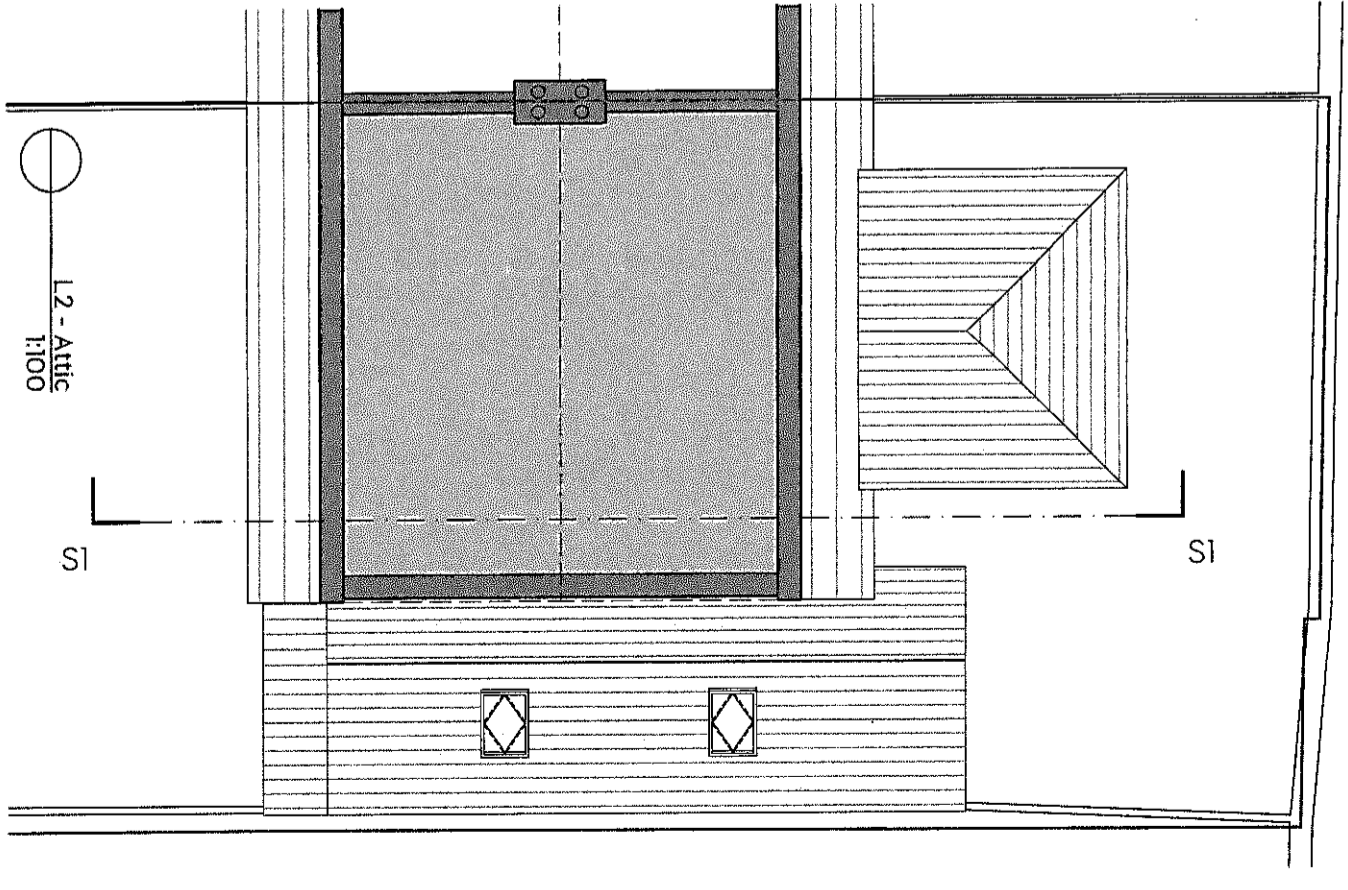
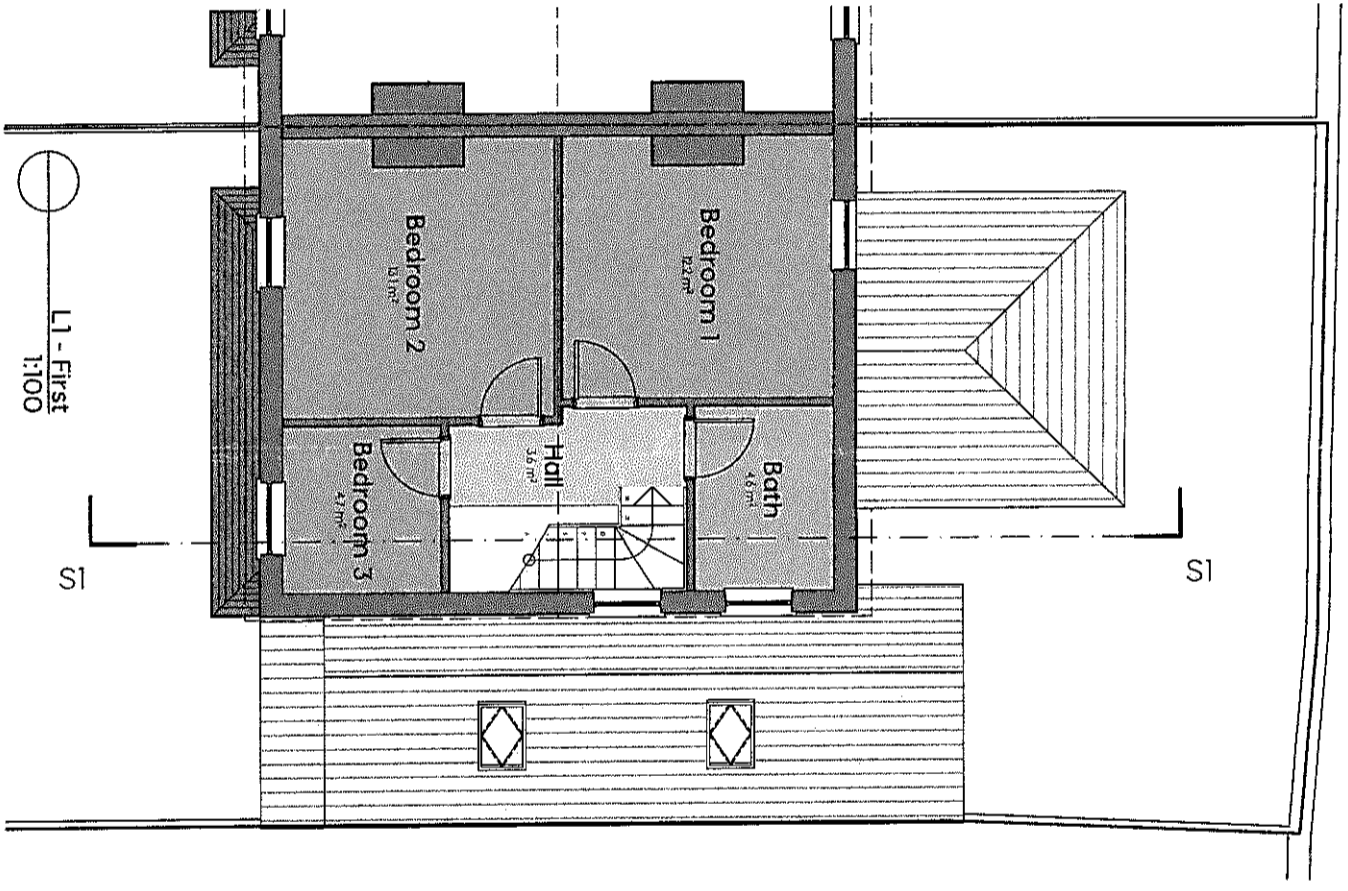
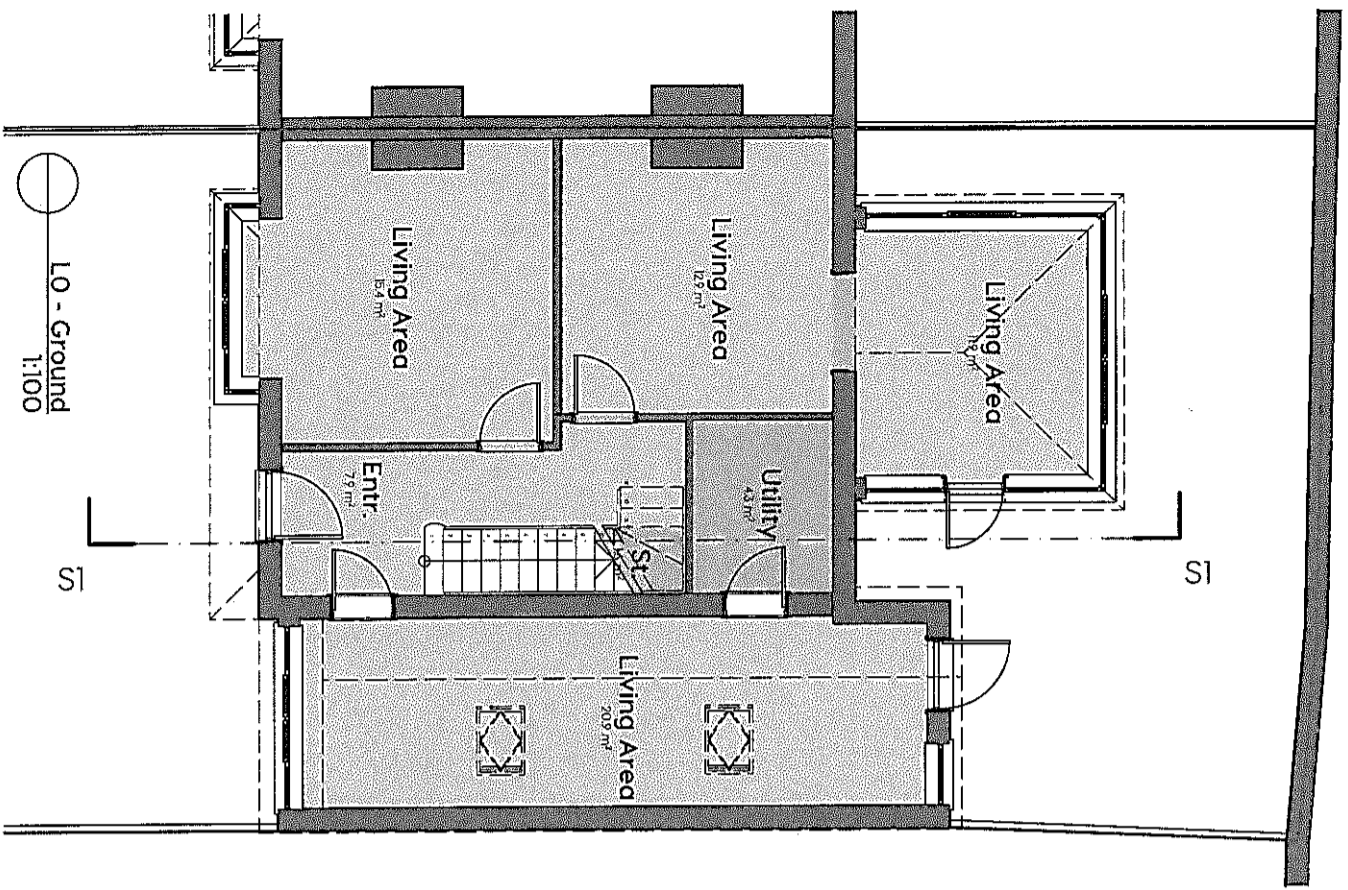
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JOB NAME
Annville

Ballinlough Road,
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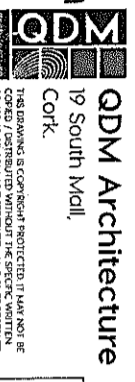
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Date
14 Aug '18

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Proposed Elevations

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Drawing No
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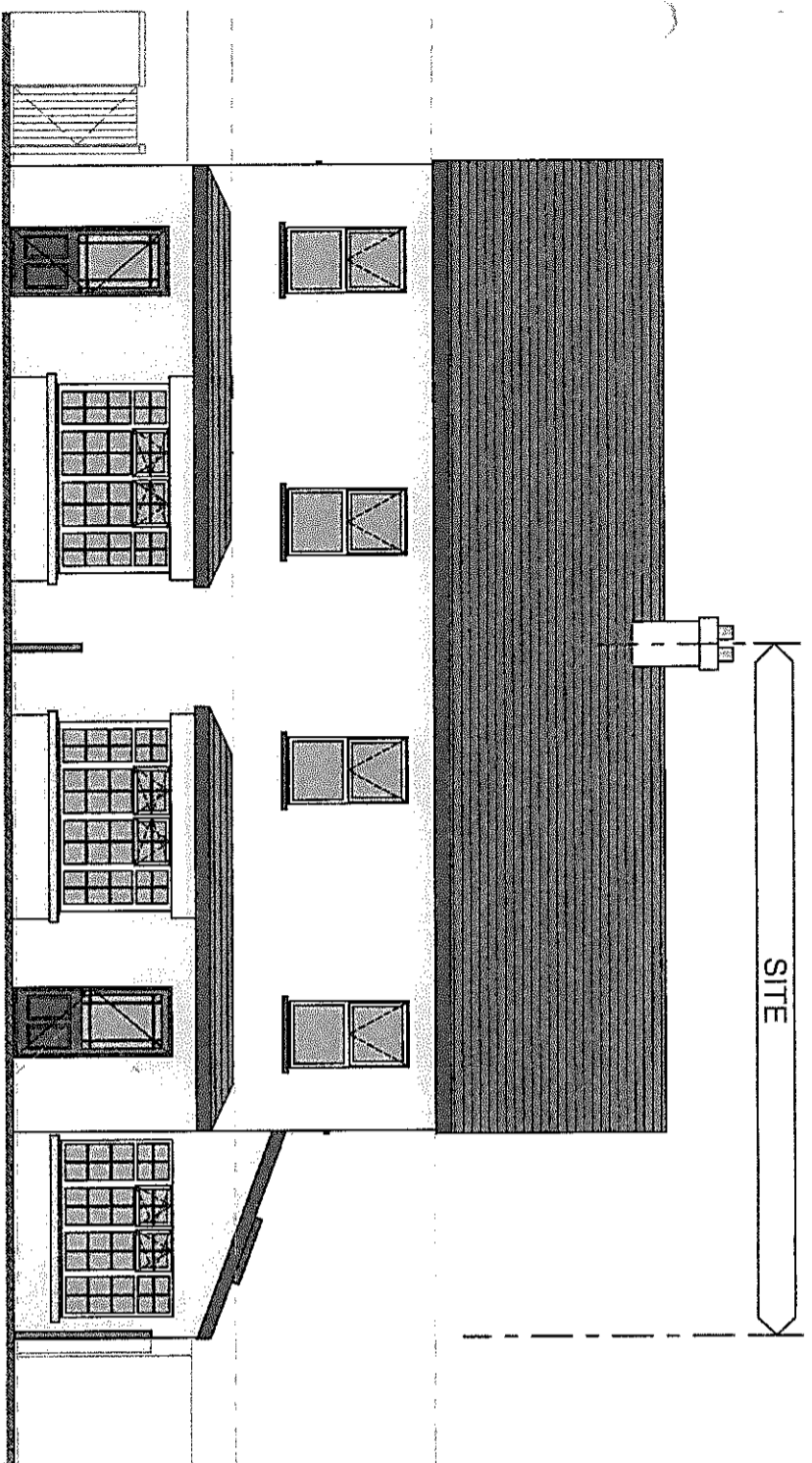
18-30
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 Annaville

Bedlinnough Road,
 Bedlinnough,
 Cork

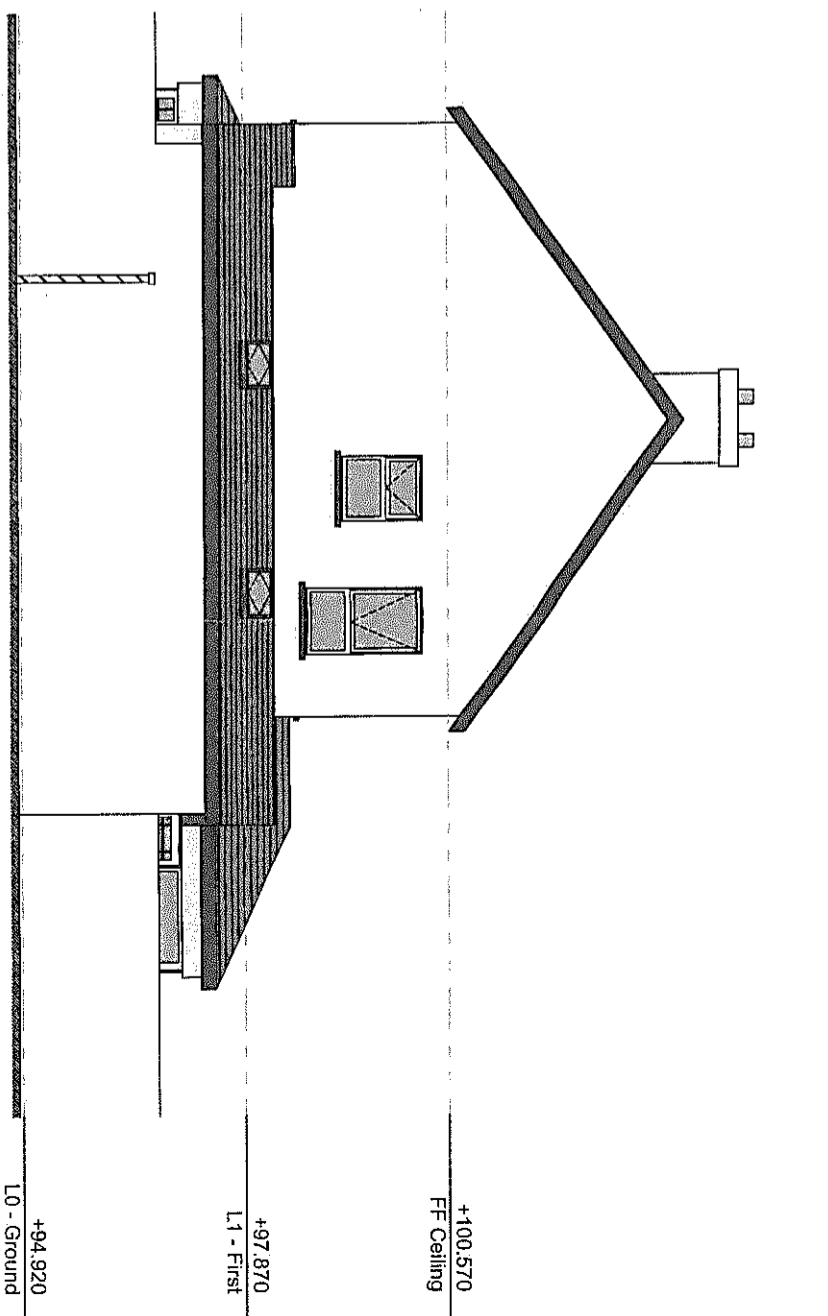
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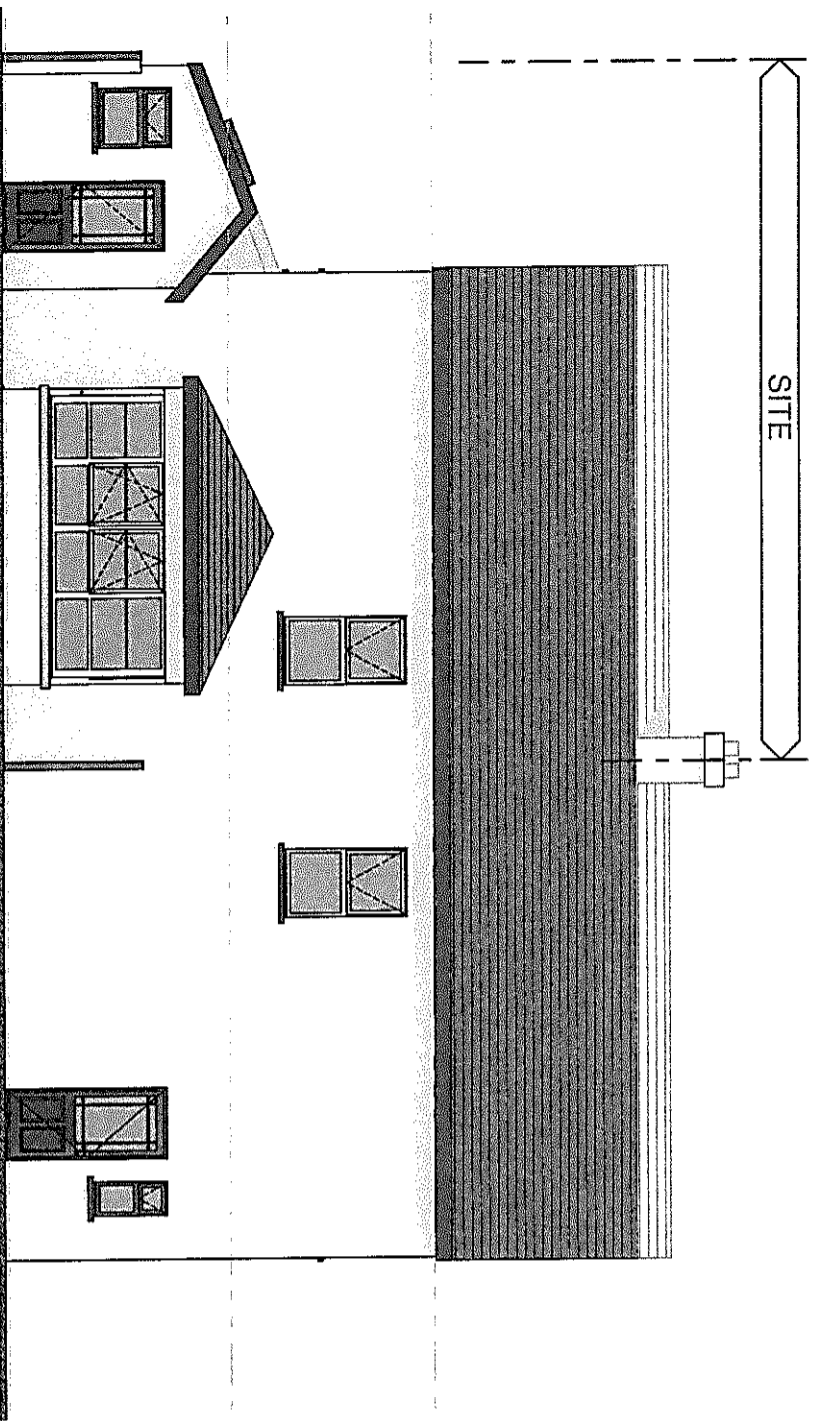
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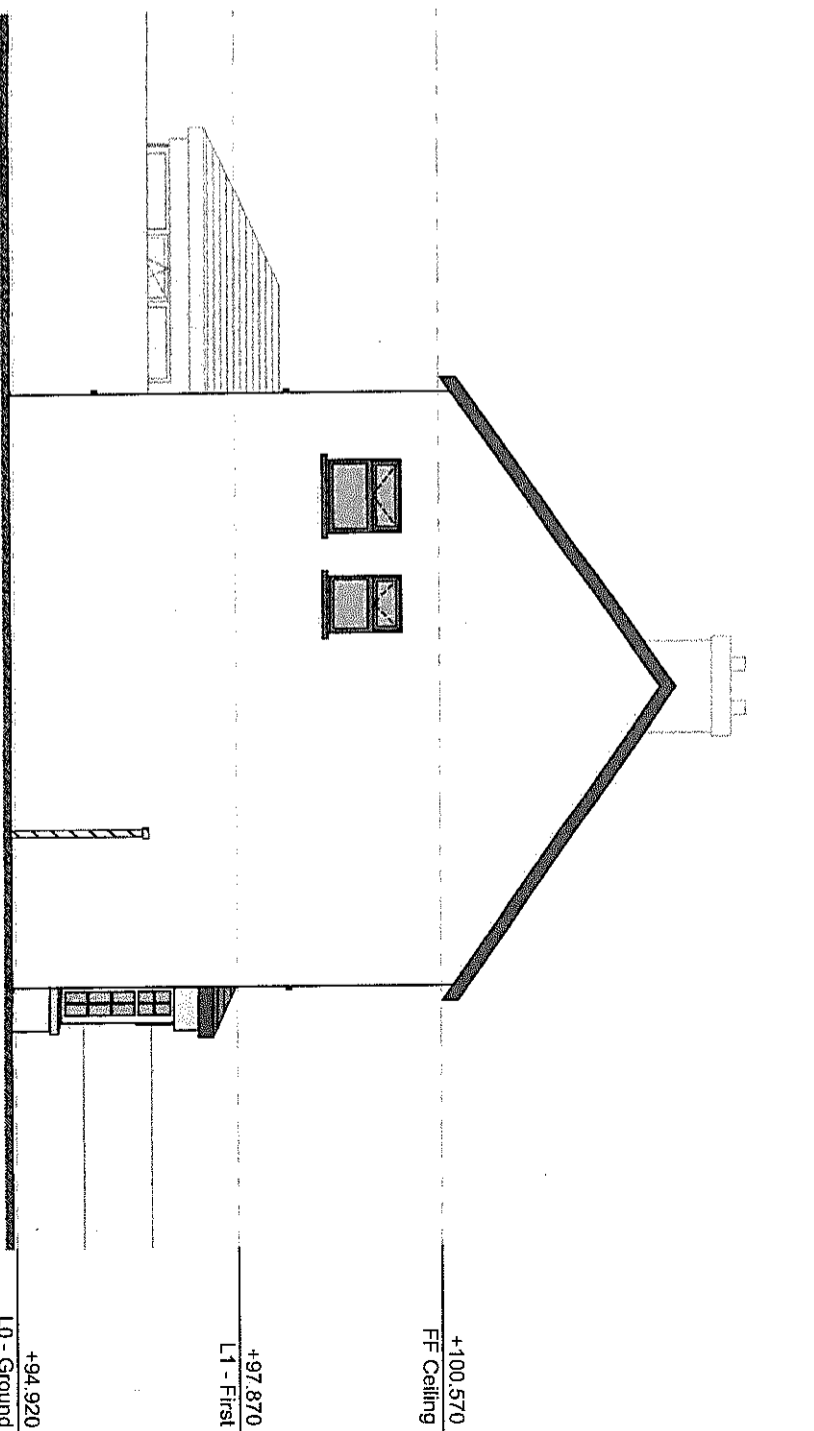
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Side Elevation
1:100

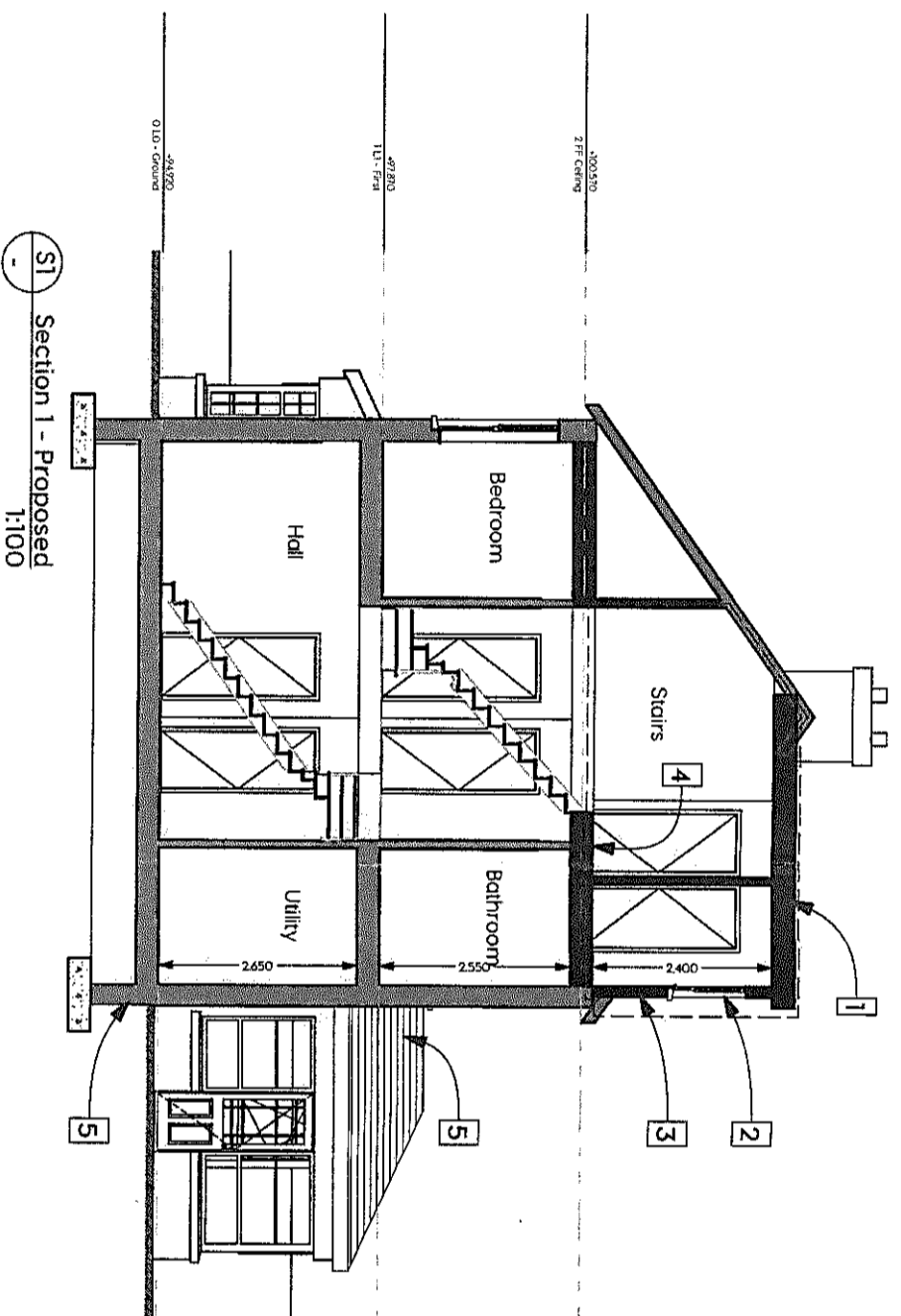


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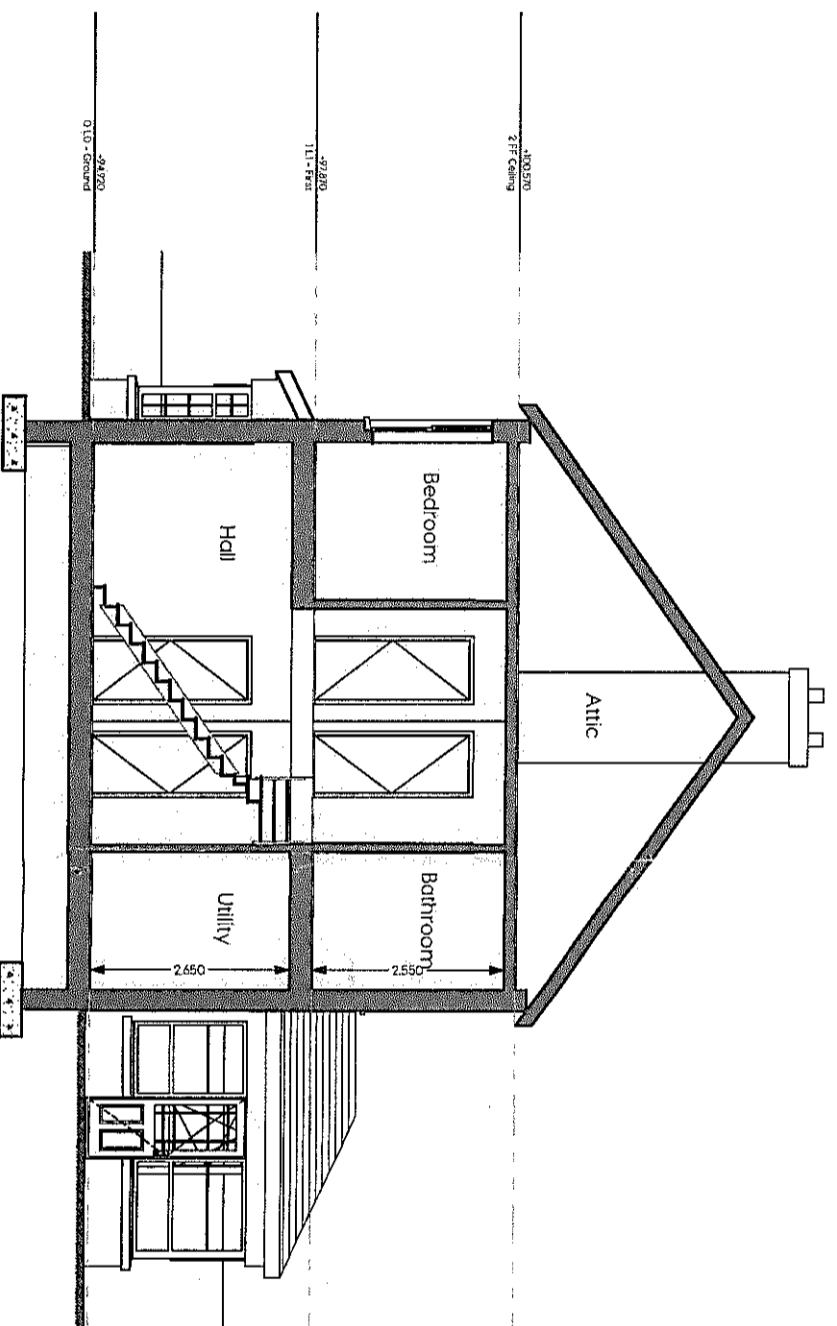


Side Elevation
1:100

- KEY:**
- 1 Flat roof finished in Sarnafil roofing membrane (light grey)
 - 2 Double glazed PVC framed windows.
 - 3 Timber frame with sand and cement render finish.
 - 4 New structural floor between existing ceiling joists.
 - 5 Existing extension unaffected.



SI Section 1 - Proposed
1:100



SI Section 1 - Existing
1:100