

Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

G O'Corrain
Ulysses
Ardbrough Road
Dalkey
Co Dublin

31/10/18

RE: R491/18 Section 5 Declaration 18 Halldene Drive

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.

Further information is requested as follows:

Request further information under Section 5(2)(c) of the Act as follows:


1. The applicant states in the Section 5 Declaration form that house is one of the original 4-bed house types and is unchanged except for the garage. However, it is noted that a second storey exists above the former garage, for which the precise planning status is unclear. In this respect the applicant is requested to submit the following details:
 - a) Provide details on when the conversion of the garage was undertaken;
 - b) Provide details on when the second storey side extension was constructed;
 - c) Clarify if any additional extensions were made to the rear of the property.

2. The submitted ground floor plan at 1:100 and the site layout plan at 1:200 appear to be inconsistent. The Site Layout Plan shows an extent of 1.9m from below the roof overhang to the rear wall, while when measured the ground floor plan has an extent of up to c. 2.3m. The site section similarly has a rear single storey extent of 2.3m. The applicant is therefore requested to:
 - a) Provide consistent plans and to include dimensions of the rear single storey portion of the dwelling on all plans and drawings;

Please ensure that any information you submit is received by the planning authority as expeditiously as possible.

In accordance with section 5(2)(a) of the abovementioned Act, you will be issued with the declaration on the question that has arisen and the main reasons and considerations on which the decision of the planning authority is based.

Yours Faithfully,



Paul Hartnett

Assistant Staff Officer
Strategic Planning & Economic
Development
Cork City Council

PLANNER'S REPORT Ref. R 491/18	Cork City Council
	Development Management
	Strategic Planning and Economic Development

Application type Section 5 Declaration

Description Whether the following works are considered to be development and if so are they exempted development?

1. The replacement of a garage door with a window and wall measuring 0.85m in height.
2. The conversion of the related garage attached to the side of the house into (i) utility room or habitable room (11.9sq.m) and (ii) the extension of the original downstairs wc by 1.05 sq.m to form wetroom.

Location 18 Halldene Drive, Bishopstown, Cork City

Applicant G O' Corrain

REQUIREMENTS FOR A SECTION 5 DECLARATION APPLICATION

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.¹

THE QUESTION BEFORE THE PLANNING AUTHORITY

The question has arisen as to whether the following works are considered to be development and if so are they exempted development;

1. The replacement of a garage door with a window and wall measuring 0.85m in

¹ In this report '**the Act**' refers to the Planning and Development Act 2000 (as amended) and '**the Regulations**' refers to the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

height.

2. The conversion of the related garage attached to the side of the house into (i) utility room or habitable room (11.9sq.m) and (ii) the extension of the original downstairs wc by 1.05 sq.m to form wetroom.

SITE LOCATION AND DESCRIPTION

The subject site comprises a two storey semi-detached house at Halldene Drive, Bishopstown, Cork. The house comprises an attached side garage with second storey extension.

RELEVANT LEGISLATION AND PLANNING POLICY

Planning and Development Act, 2000, as amended:

Section 2(1) of the Act defines "works" as follows:

"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...

"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.

"alteration" includes—

- (a) plastering or painting or the removal of plaster or stucco, or*
- (b) 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;*

"use", in relation to land, does not include the use of the land by the carrying out of any works thereon;

Section 3(1) of the Planning and Development Act, 2000, as amended, states as follows:

"Development" in this Act 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 use of any structures or other land.

Section 4(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;

(j) development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such;

Planning and Development Regulations, 2001, as amended:

Article 6(1) provides that 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 mention of that class in the said column 1. Column 1 of Class 1 of Part 1 of Schedule 2 to Article 6 of the aforementioned Regulations, states the following:

*"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."* [my emphasis]

Column 2 of the aforementioned Class sets out the following conditions and limitations:

1. (a) *Where the house has been extended previously, the floor area of any such extension shall not exceed 40 sqm.*
- (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 sqm.*
- (c) *Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 sqm.*
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.*
3. *Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.*
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 the height of the side walls of the house.*

(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.

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.

(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.

7. The roof of any extension shall not be used as a balcony or roof garden.

Cork City Development Plan 2015-2021

The subject site is located within an area zoned ZO4 Residential, Local Services and Institutional Uses, where it is an objective of the Council to –

"To protect and provide for residential uses, local services, institutional uses, and civic uses, having regard to employment policies outlined in Chapter 3."

PLANNING HISTORY

T.P. 69/2216 – Planning permission was granted on 19.02.1970 for the development of Halldene Estate.

ENVIRONMENTAL ASSESSMENT

Section 4 (4) of the Planning and Development Act (as amended) sets out that:

"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."

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 the nature, size and location of the 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.

Appropriate Assessment

The relevant European sites are the Cork Harbour SPA (Site Code 004030) and the Great Island Channel cSAC (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.

PLANNING ASSESSMENT

Is or is not development

There are a number of issues which require to be taken into consideration in assessing this Section 5 application, and in determining whether or not the following constitutes development –

1. The replacement of a garage door with a window and wall measuring 0.85m in height.
2. The conversion of the related garage attached to the side of the house into (i) utility room or habitable room (11.9sq.m) and (ii) the extension of the original downstairs WC by 1.05 sq.m to form a wetroom.

In respect to the first question raised in this Section 5, I am of the considered opinion that the replacement of the garage door with a window would constitute 'works'. Section 2 (1) of the Act defines 'works' as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

The definition of 'alteration' is also provided in Section 2(1) as follows: 'Alteration Includes:

- (a) Plastering or painting or the removal of plaster or stucco, or
- (b) 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.

The conversion of the garage to use as part of the house involves the alteration of the garage, and the extension of the house, which would constitute development under the above provisions of the Act.

I note from my site visit dated 22.10.2018 that this development has been undertaken.

Is or is not exempted development

In respect to the replacement of the garage door with a window I consider the new window to come within the meaning of section 4 (1) (h) "*.....which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure*".

In respect to the conversion of the garage, I note that Class 1 provides for exempted development status to rear extensions or conversions of attached structures to the rear or side of a dwelling. As such, I would consider the conversion of the existing garage, which appears to be an original part of the property, and which is attached to the side of the house, to broadly comply with Class 1.

Whilst I consider the above conversion to fall broadly within Class 1, restrictions relate to this exemption, the most pertinent of which is the following:

- 1(a) – where the house has being extended previously the floor area of any such extension taken together with previous extensions shall not exceed 40 sq. metres.

In summary 'Condition and Limitation' 1 (a) of Class 1 (which limits the maximum floor area to forty square metres) is confined to "extensions" that are to the rear or side of the house only.

While the applicant has stated in the form that the house is unchanged except for garage conversion, I would query the status of the second storey above the original garage, identified as 'Bedroom 2' on the plans submitted. The extent of this floor area is 12.9m. I note that the typical layout of dwellings within Halldene Drive comprised a two storey dwelling with side single storey garage only. The area to which this Section 5 relates is identified in the application form as comprising 12.95 sq.m. To undertake a thorough assessment of this Section 5 application in the Context of Class 1 Part 1, certain details should be clarified by the applicant.

Moreover, a slight discrepancy also relates to the single storey rear section of the property as shown on the planning drawings. The ground floor plan at 1:100 and the site layout plan at 1:200 appear to be inconsistent. The Site Layout Plan shows an extent of 1.9m from below the roof overhang to the rear wall, while when measured the ground floor plan has an extent of up to c. 2.3m. In this respect I feel it is also necessary for the applicant to confirm if any extensions to the rear of the property have occurred.

Based on the above outstanding information I recommend that further information be sought under Section 5(2)(c) to complete the assessment on whether or not this development is or is not exempted development.

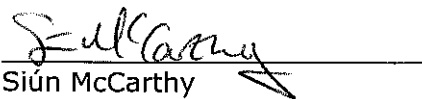
RECOMMENDATION

Request further information under Section 5(2)(c) of the Act as follows:

1. The applicant states in the Section 5 Declaration form that house is one of the original 4-bed house types and is unchanged except for the garage. However, it is noted that a second storey exists above the former garage, for which the precise planning status is unclear. In this respect the applicant is requested to submit the following details:
 - a) Provide details on when the conversion of the garage was undertaken;
 - b) Provide details on when the second storey side extension was constructed;
 - c) Clarify if any additional extensions were made to the rear of the property.
2. The submitted ground floor plan at 1:100 and the site layout plan at 1:200 appear to be inconsistent. The Site Layout Plan shows an extent of 1.9m from below the roof overhang to the rear wall, while when measured the ground floor plan has an extent of up to c. 2.3m. The site section similarly has a rear single storey extent of 2.3m. The applicant is therefore requested to:
 - a) Provide consistent plans and to include dimensions of the rear single storey portion of the dwelling on all plans and drawings;

Please ensure that any information you submit is received by the planning authority as expeditiously as possible.

In accordance with section 5(2)(a) of the abovementioned Act, you will be issued with the declaration on the question that has arisen and the main reasons and considerations on which the decision of the planning authority is based.



Siún McCarthy
Assistant Planner
**Strategic Planning & Economic
Development Directorate**

Date 30/10/2018

I agree with the assessment + recommendation
of the AP.

Brigid Lys
A/SEP - 30/10/18.

APPENDIX 1 – SITE PHOTOS



2 OCT 2018

MHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

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

R-Phost/E-Mail planning@corkcity.ie
Fón/Tel: 021-4924564/4321
Lionra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

18 Haldene Drive, Bishopstown, Cork City

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.

- (i) The replacement of a garage door with a window and wall measuring 0.85m in height
- (ii) The conversion of the related garage attached to the side of the house into a (I) utility room or habitable room^(11.95m²) and (II) the extension of the original downstairs WC by 1.05m² to form wetroom

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

- Parent permission for dwelling house T.P 2216/69 granted on 19/02/1970 for Haldene Estate
- House one of original 4-bed house types, unchanged except for garage conversion
- Declaration sought pursuant to Article 6, Part 1, Class 1 - " by the conversion for use as part of the house of any garage [...] attached [...] to the side of the house

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	12.95 sq m
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) _____
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ <u>previous</u> use (please circle)	Proposed/ <u>existing</u> use (please circle)
domestic garage	utility / habitable room wet room (part thereof)


4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		G. O'CORRAIN	
Applicants Address		ULYSSES, ARDBRUGH RD, DALKEY, CO. DUBLIN	
Person/Agent acting on behalf of the Applicant (if any):	Name:		
	Address:		
	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 <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		

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

Signature: 

Date: 2/10/18

Planning Pack Map



National Mapping Agency

CENTRE
COORDINATES:
ITM 563326,569321

PUBLISHED: 27/09/2018
ORDER NO.: 50026856_1

MAP SERIES: 1:1,000
MAP SHEETS: 6426-10

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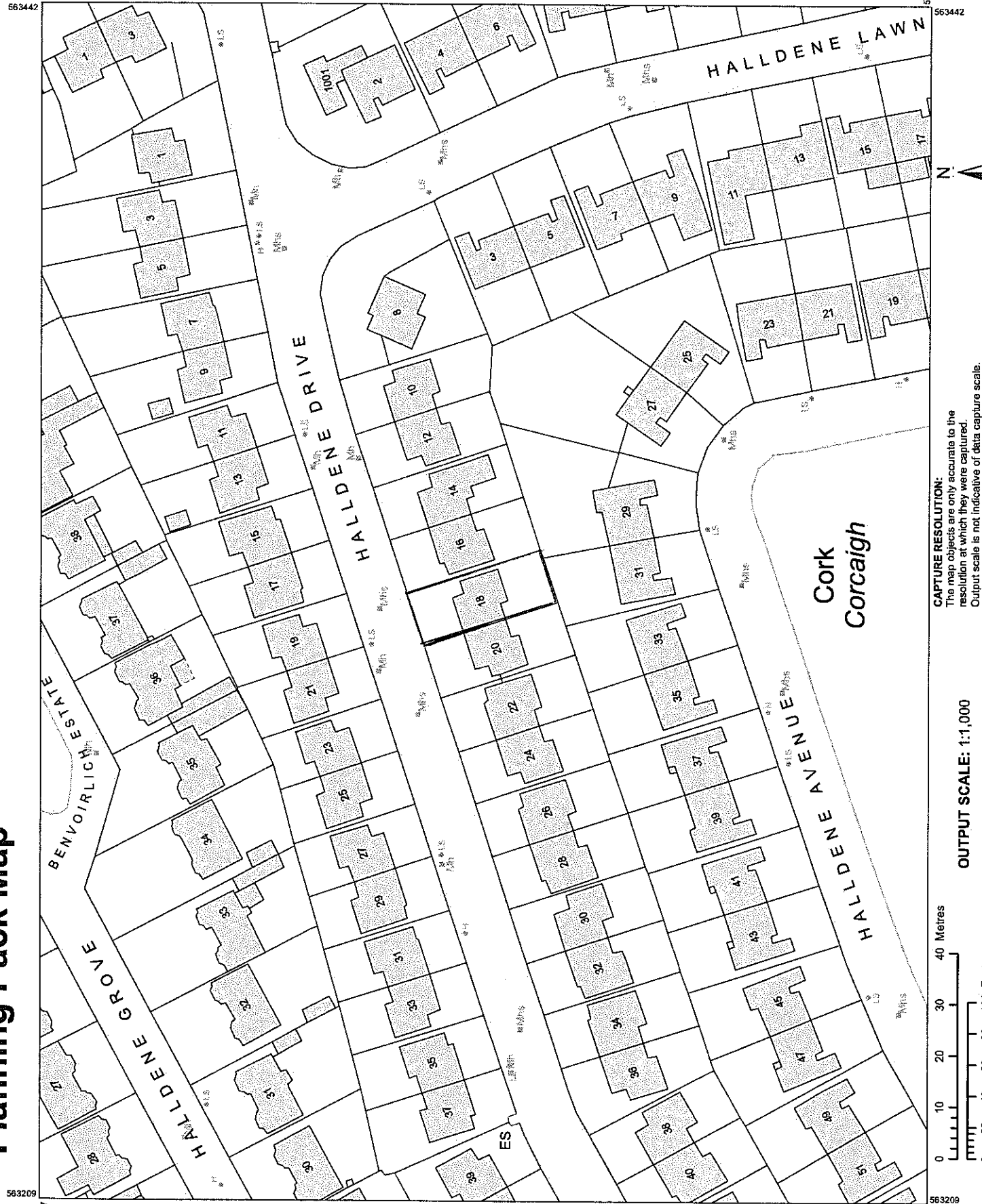
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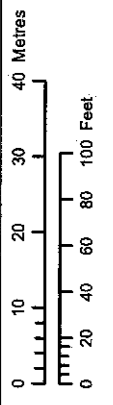
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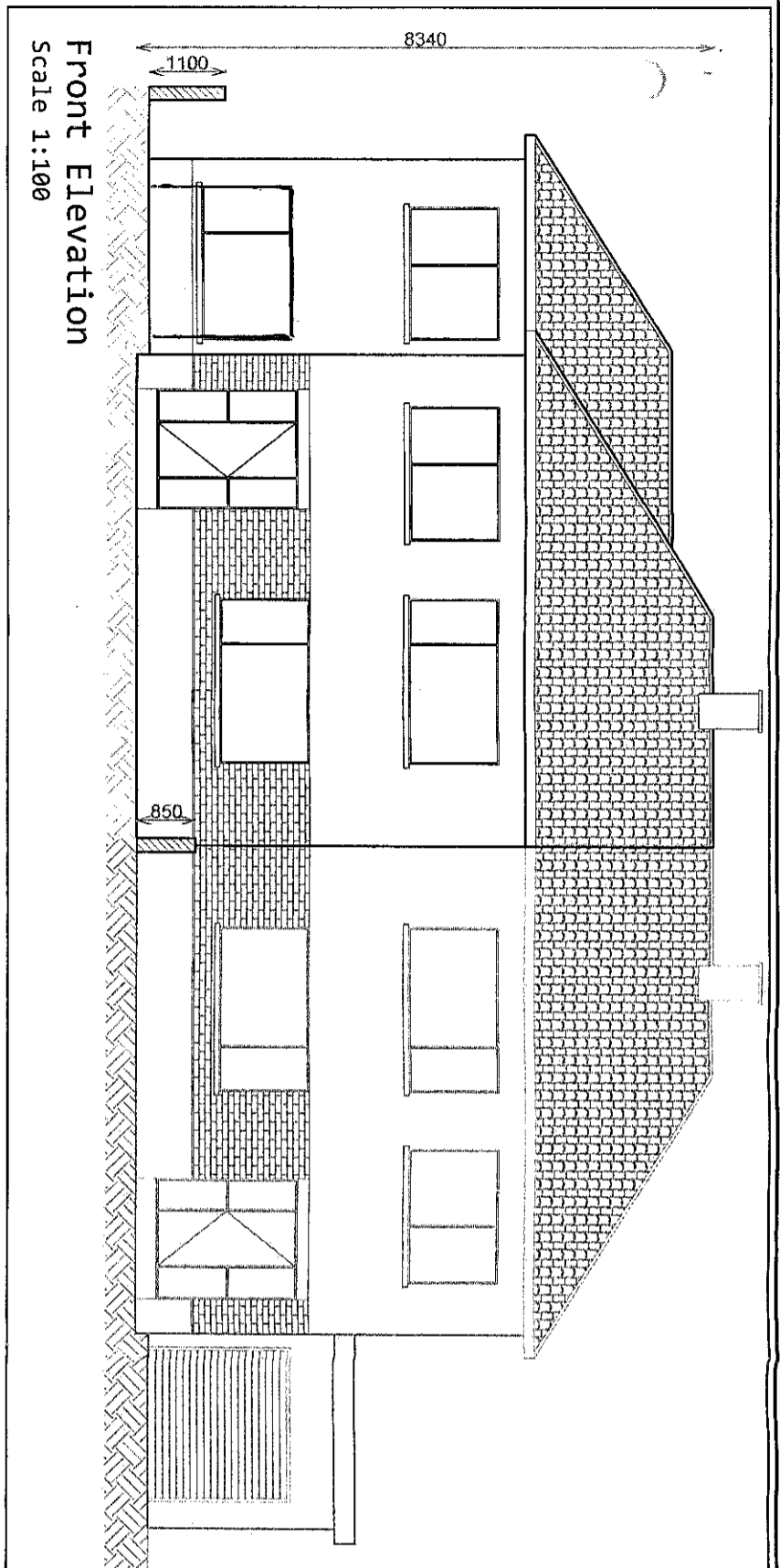
LEGEND:
<http://www.osi.ie>,
search 'Large Scale Legend'



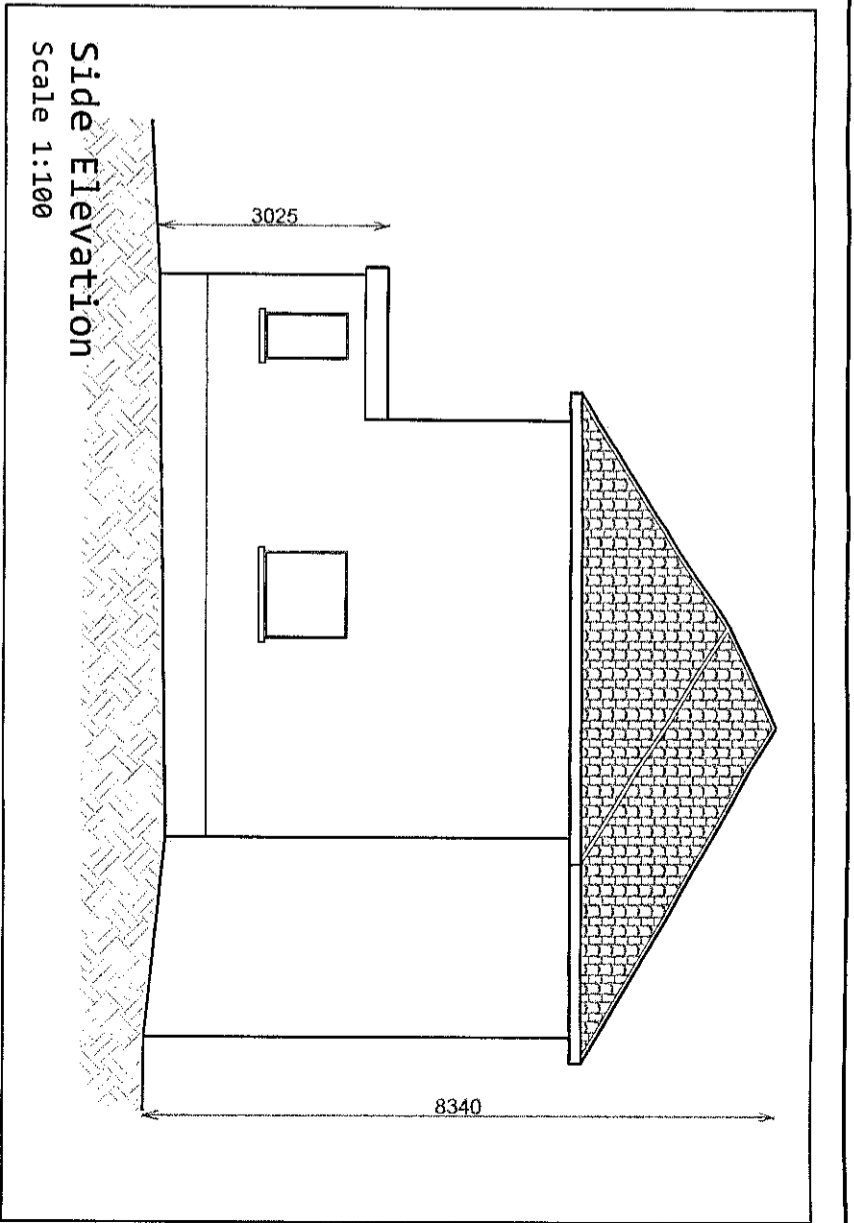
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OUTPUT SCALE: 1:1,000

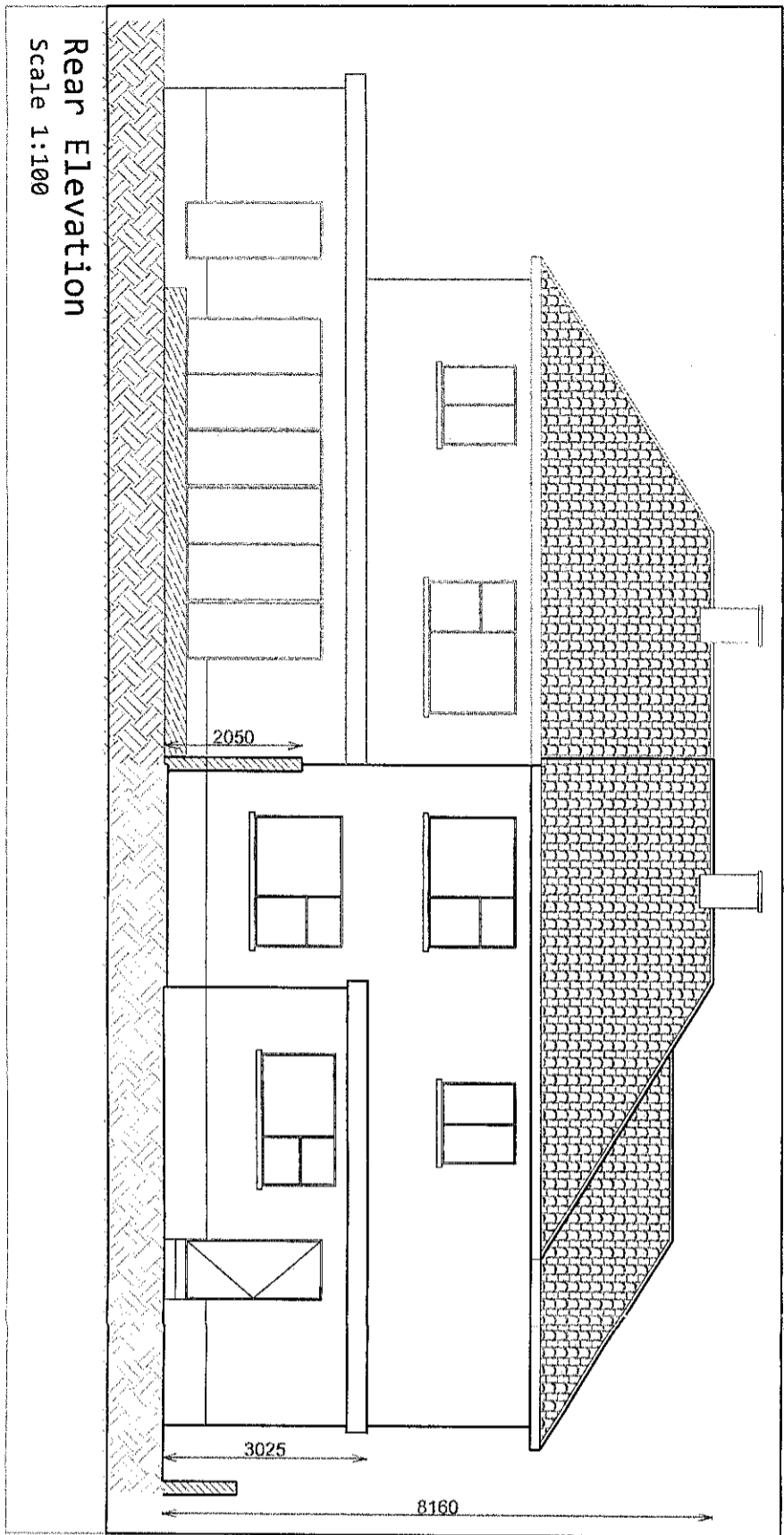




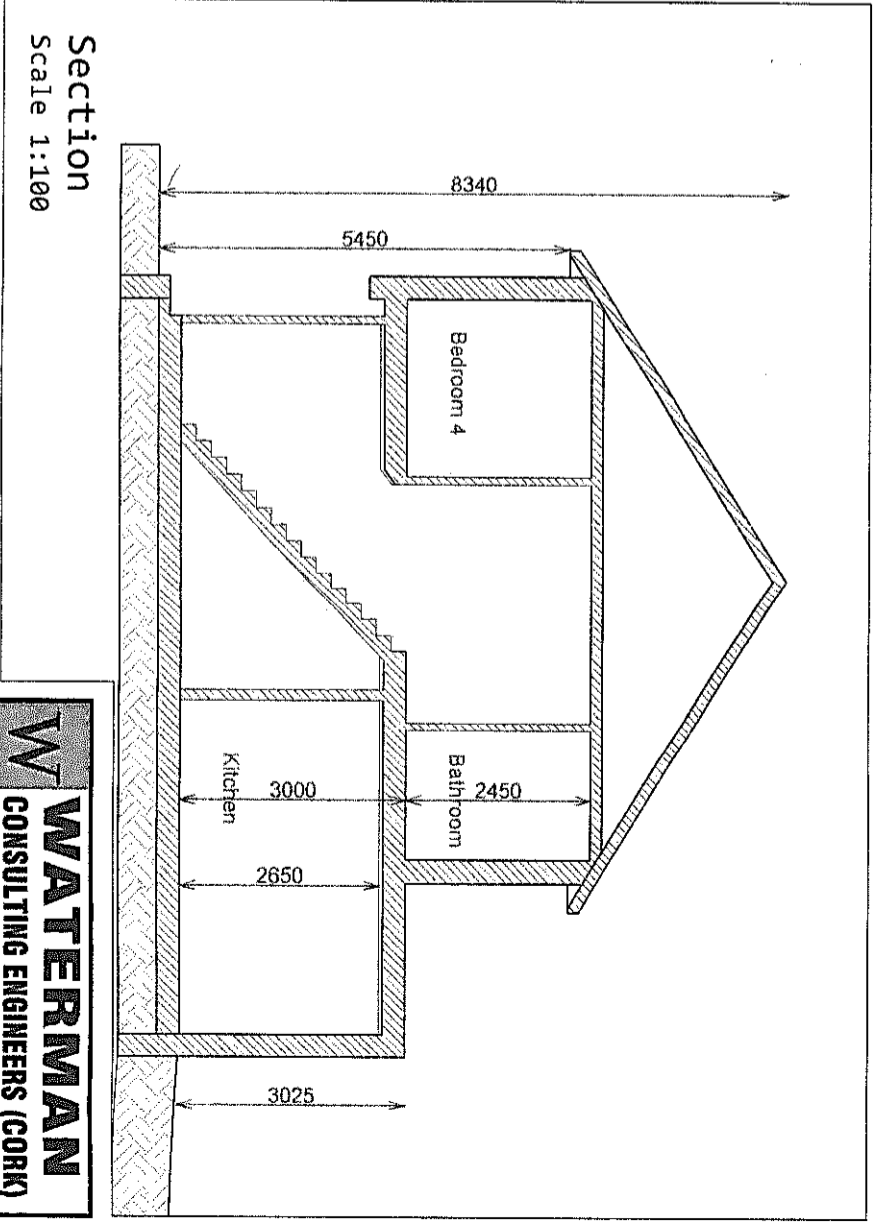
Front Elevation
Scale 1:100



Side Elevation
Scale 1:100



Rear Elevation
Scale 1:100



Section
Scale 1:100

- NOTES:
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 2. DO NOT SCALE
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 - PLANNING PURPOSES
 - DISABLED ACCESS CERTIFICATE APPLICATION PURPOSES
 - FIRE SAFETY CERTIFICATE APPLICATION PURPOSES
 - TENDERING PURPOSES
 - CONSTRUCTION PURPOSES
 5. ALL MEASUREMENTS TO BE COVERED ON SITE PRIOR TO CARRYING OUT ANY WORKS.

Rev.	Date	By	Description
A	07/09/18	DT	For Information Purposes

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 CONSULTING ENGINEERS (CORK)

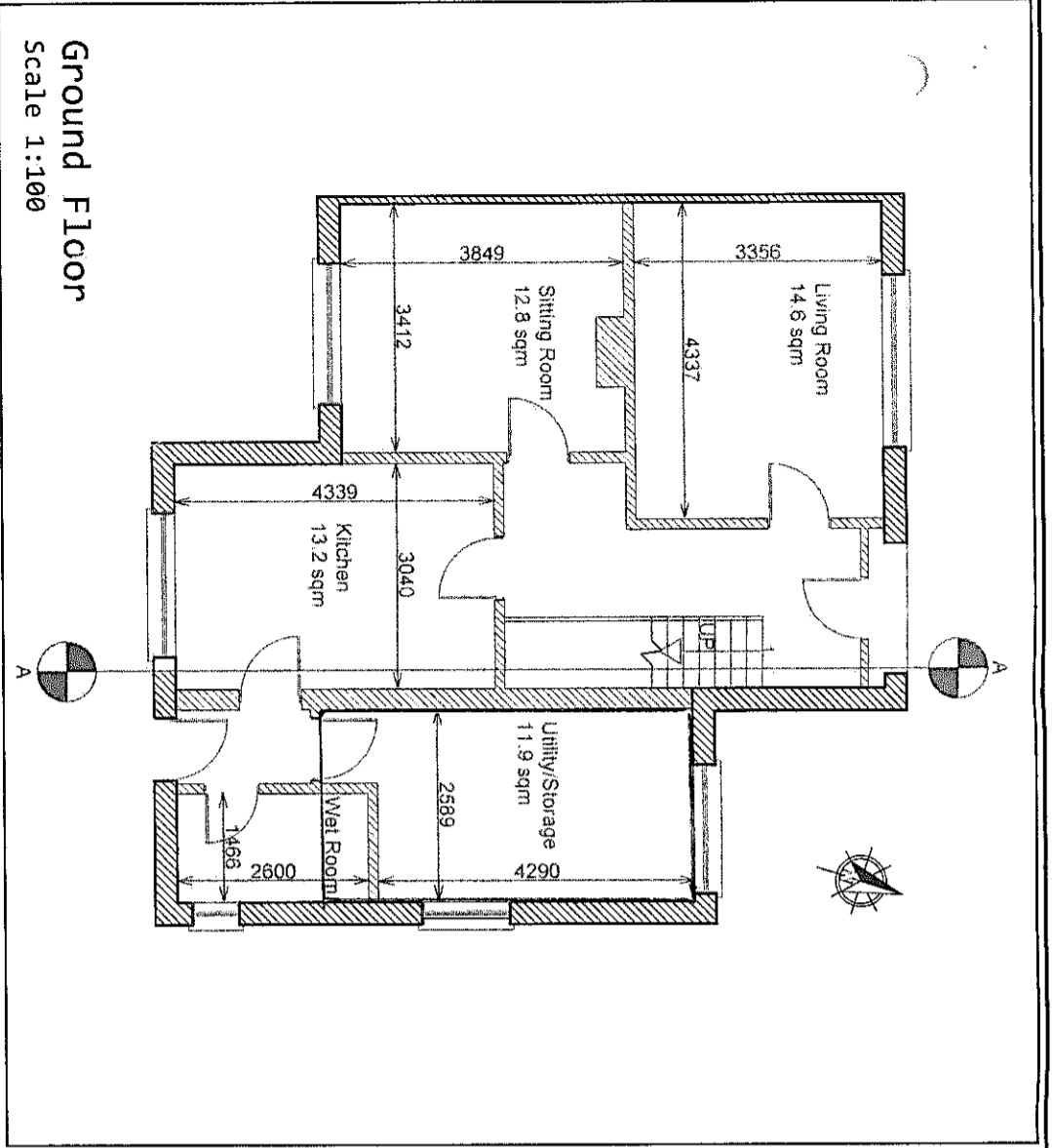
ERIC WATERMAN B.E., M.I.E.I.
 4 UNION QUAY,
 CORK.
 Tel: 021 - 4315730
 Fax: 021 - 4315774
 Email: info@watermans.ie

Client: **Gormla O'Corrain**

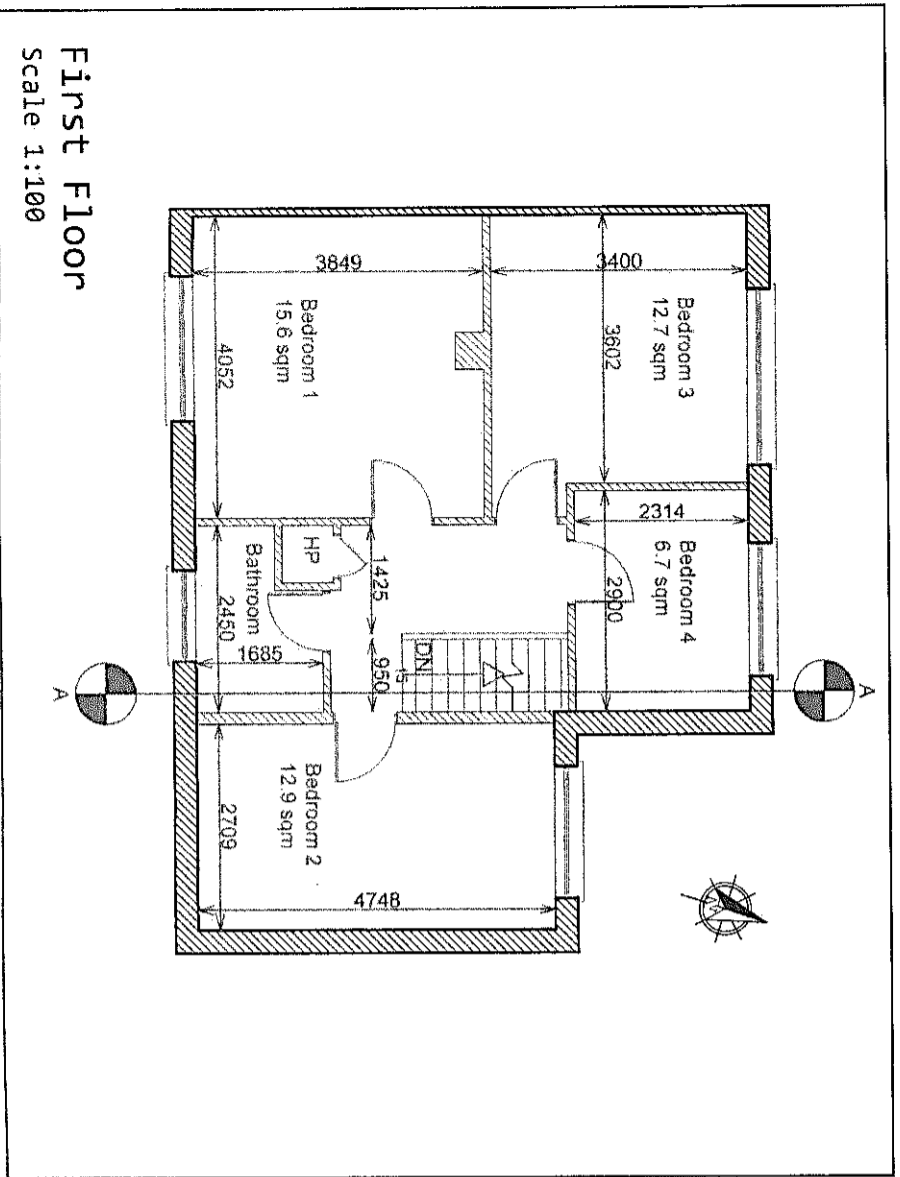
Project: **18 Halldene Drive
 Bishopstow, Cork**

Title: **Elevations, Section**

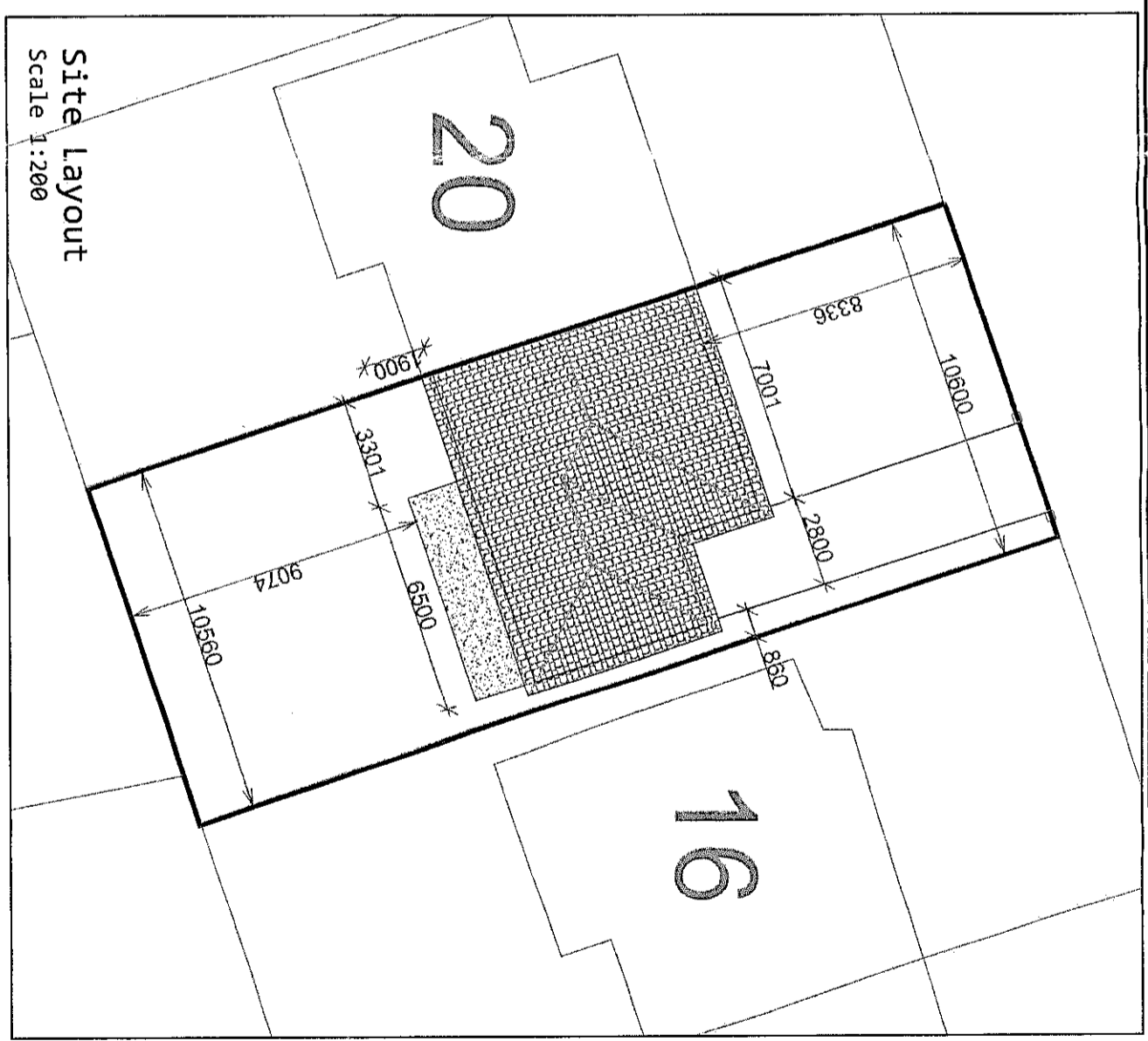
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Date:	Job. No.:	Dwg. No.:	Issue
07/09/2018	EW-5664	02	A



Ground Floor
Scale 1:100



First Floor
Scale 1:100



Site Layout
Scale 1:200

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 - CONSTRUCTION PURPOSES
 5. ALL MEASUREMENTS TO BE CONTINUED ON SITE PRIOR TO CARRYING OUT ANY WORKS.

Rev.	Date	By	Description
A	07/09/18	DT	For Information Purposes

WATERMAN CONSULTING ENGINEERS (CORK)
 ERIC WATERMAN B.E., M.I.E.I.
 4 UNION QUAY,
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 Tel: 021 - 4315730
 Fax: 021 - 4315774
 Email: info@watermans.ie

Client: Gormla O'Corrain

**Project: 18 Halldene Drive
 Bishopstowyn, Cork**

Title: Floor Plans and Site Layout

Scales:	Designed:	Drawn:	Checked:
A.S.	DT	DT	E Waterman
Date:	Job No.:	Dwg. No.:	Issue
07/09/2018	EW-5664	01	A