



Comhairle Cathrach Chorcaí Cork City Council

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



18/02/2026

RE: **Section 5 Declaration: R1012/25 4 Ashton Place, Blackrock Road, Cork. T12 E3X2**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 17th of December, 2025.

The Question before the Planning Authority was whether the addition of solar panels to the rear slopes only of the double-pile roof is development and, if so, is it exempted development?



We are Cork.



Comhairle Cathrach Chorcaí Cork City Council

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

Having regard to —

- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- Articles 6, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

the planning authority considers that —

the proposed addition of solar panels to the rear slopes only of the double-pile roof at 4 Ashton Place, Blackrock Road, Cork **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

Is mise le meas,

Anthony Angelini

Anthony Angelini
Assistant Staff Officer
Planning & Integrated Development
Cork City Council



We are Cork.

PLANNER'S REPORT
Ref. R 1012/25

Cork City
Council
Development Management
Planning and Integrated
Development

Application type	SECTION 5 DECLARATION
Question	<i>Is the addition of solar panels to the rear slopes only of the double-pile roof development and, if so, is it exempted development?</i>
Location	4 Ashton Place, Blackrock Road, Cork
Applicant	Frankie and Josephine Whelehan (Owner)
Date	26/02/2026
Recommendation	Is development and is exempted development

INTERPRETATION

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 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.

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

2. THE QUESTION BEFORE THE PLANNING AUTHORITY

The question to the planning authority is framed using the phrasing of section 5. The applicant states in the request, "*Is the addition of solar panels to the rear slopes only of the double-pile roof at 4 Ashton Place (A Protected Structure) exempted development? The rear slopes are not visible from the street*"

It is considered that the intention of the request is clear, and that it is entirely reasonable to consider the question before the planning authority as being:

Is the addition of solar panels to the rear slopes only of the double-pile roof development and, if so, is it exempted development?

3. SITE DESCRIPTION

The subject property is a two-storey, semi-detached dwelling, located on the Blackrock Road. The building is a Protected Structure and, following a site visit, is currently in the process of being renovated. The property is situated in an area zoned ZO2 Sustainable Residential Neighbourhoods. The area is predominantly residential in nature.

4. DESCRIPTION OF THE DEVELOPMENT

The proposed development provides for the addition of solar panels to the rear slopes of the double-pile roof.

5. RELEVANT PLANNING HISTORY

TP 23/42245 Permission GRANTED for (1) Demolition of a section of the existing vehicular entrance wall to allow for pedestrian access from the public footpath and to improve vehicular visibility, (2) Construction of a new part two-storey/ part single-storey extension to the side, (3) Construction of new part single-storey and part single-storey and a half extension to the rear. The proposed extensions will increase the total habitable floor area from 249.4 sq.m to 431.0 sq.m, (4) Internal and elevational alterations and (5) All associated site and landscaping works at 4 Ashton Place, Blackrock Road, Cork

6. LEGISLATIVE PROVISIONS

6.1 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)

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;

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 5(1)

See section 1 of this report.

6.2 Planning and Development Regulations 2001 to 2018 as amended

Article 5(2)

In Schedule 2, unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose “ground level” means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.

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.

Article 9

Article 9 sets out restrictions on exemptions specified under article 6.

(Article 6) Schedule 2, Part 1, Class 2(c)

Classes 1-8 relate to development within the curtilage of a house and Class 2(c) relates to *“the placing or erection on a roof of a house, or within the curtilage of a house, or on a roof of any ancillary buildings within the curtilage of a house (this class does not include apartments) of a solar photo-voltaic and/or a solar thermal collector installation.”*

Schedule 2, Part 1, Class 2(c)

Exempted Development — General

<i>Column 1 Description of Development</i>	<i>Column 2 Conditions and Limitations</i>
<i>Development within the curtilage of a house</i>	

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>CLASS 2(c)</i> <i>The placing or erection on a roof of a house, or within the curtilage of a house, or on a roof of any ancillary buildings within the curtilage of a house (this class does not include apartments) of a solar photo-voltaic and/or a solar thermal collector installation.</i></p>	<ol style="list-style-type: none"> 1. <i>The distance between the plane of the roof and the solar photo-voltaic or solar thermal collector panels shall not exceed 50cm in the case of a flat roof or 15cm in any other case.</i> 2. <i>The solar photo-voltaic or solar thermal collector panels shall be a minimum of 50cm from the edge of a roof on which it is mounted.</i> 3. <i>Any free-standing solar photo-voltaic or solar thermal collector installation shall not be placed or erected forward of the front wall of the house.</i> 4. <i>The total aperture area of any free-standing solar photo-voltaic and solar thermal collector panels taken together with any other such existing free-standing panels shall not exceed 25 square metres.</i> 5. <i>The placing or erection of any free-standing solar photo-voltaic or solar thermal collector installation shall not reduce the remaining area of private open space, reserved exclusively for the use of the occupants of the house, to the rear or to the side of the house to less than 25 square metres.</i> 6. <i>The height of any free-standing solar photo-voltaic or solar thermal collector installation shall not exceed 2.5 metres at its highest point above ground level.</i> 7. <i>The placing or erection of a solar photo-voltaic or solar thermal collector installation on any wall shall not be exempted development.</i> 8. <i>The placing or erection of any free-standing solar photo-voltaic or solar thermal collector installation within an Architectural Conservation Area shall only be exempted development if those works would not materially affect the character of the area.</i> 9. <i>Development under this Class which causes hazardous glint and/or glare shall not be</i>

<i>Column 1 Description of Development</i>	<i>Column 2 Conditions and Limitations</i>
	<i>exempted development and any solar photo-voltaic or solar thermal collector panels which are causing hazardous glint and/or glare shall either be removed or be covered until such time as a mitigation plan to address the hazardous glint and/or glare is agreed and implemented to the satisfaction of the Planning Authority.</i>

7. ASSESSMENT

7.1 Development

The first issue for consideration is whether or not the matter at hand is ‘development’, which is defined in the Act as comprising two chief components: ‘works’ and / or ‘any material change in the use of any structures or other land’.

‘Works’ is defined in section 3(1) of the Act as including ‘any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal’. In relation to the proposed addition of solar panels to the rear slopes of the roof, it is clear that this proposal comprises ‘works’.

Therefore, as the proposal comprises ‘works’, it is clearly therefore ‘development’ within the meaning of the Act.

CONCLUSION Is development

7.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. Section 2(1) of the Act defines ‘exempted development’ as having ‘the meaning specified in section 4’ of the Act (which relates to exempted development).

Section 4(3) of the Act states that exempted development either means development specified in section 4(1) or development which is exempted development having regard to any regulations under section 4(2).

It is considered that the proposal comes within **subsection (2) of section 4**, i.e. the Regulations, and not subsection (1).

Section 4(1)

It is not considered that the proposal comes within the scope of section 4(1) of the Act.

Section 4(2)

It is therefore necessary to consider whether the proposed addition of solar panels to the roof comes under the scope of section 4(2) (i.e. exemptions specified in the Regulations), having regard to the use of the word ‘or’ in section 4(3).

It is considered that article 6 and **Class 2 (c)** applies, as it is the placing on a roof of a house, of a solar photo-voltaic and/or a solar thermal collector installation.

Having assessed the proposed works against Class 2(c) and its conditions and limitations the following is noted:

Condition / Limitation 1

The drawings indicate that the solar panels are to be flush with the roof.

Condition / Limitation 2

The drawings indicate that the solar panels will not be up to the edge of the roof. From scaling the drawings, there appears to be a separation greater than 50cm from the edge of the roof.

Condition / Limitation 3

The proposed works are to be located on the roof only and are not free-standing, therefore this condition/limitation does not apply.

Condition / Limitation 4

The proposed works are to be located on the roof only and are not free-standing, therefore this condition/limitation does not apply.

Condition / Limitation 5

The proposed works are to be located on the roof only and are not free-standing, therefore this condition/limitation does not apply.

Condition / Limitation 6

The proposed works are to be located on the roof only and are not free-standing, therefore this condition/limitation does not apply.

Condition / Limitation 7

The proposed works are to be located on the roof only and are not to be attached to a wall, therefore this condition/limitation does not apply.

Condition / Limitation 8

The proposed works are to be located on the roof only and are not free-standing, therefore this condition/limitation does not apply.

Condition / Limitation 9

The proposed works are not considered to cause hazardous glint and/or glare and are not located with the Cork Airport Solar Safeguarding Zone

Restrictions on exemption

It is not considered that any apply in this instance.

CONCLUSION

Is exempted development

8. ENVIRONMENTAL ASSESSMENT

The provisions of sections 4(4), 4(4A) and 177U(9) of the Act are noted which state,

Section 4(4),

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Section 4(4A)

Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

(a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and

(b) as respects which an environmental impact assessment or an appropriate assessment is required,

to be exempted development.

Section 177U(9)

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

8.1 Screening for Environmental Impact Assessment

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.**

8.2 Screening for Appropriate Assessment

The applicant has not submitted an appropriate assessment screening report. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of these European sites. Accordingly it is considered that **appropriate assessment is not required.**

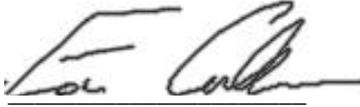
9. RECOMMENDATION

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, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

the planning authority considers that —

the proposed addition of solar panels to the rear slopes only of the double-pile roof at 4 Ashton Place, Blackrock Road, Cork **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

A handwritten signature in black ink, appearing to read 'Eoin Cullinane', written over a horizontal line.

Eoin Cullinane
Executive Planner
18/02/2026

18 DEC 2025

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

Fón/Tel: 021-4924029

Líonra/Web: www.corkcity.ie

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

1. NAME OF PERSON MAKING THE REQUEST

Frankie and Josephine Whelehan

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

4 Ashton Place, Blackrock Road, Cork T12 E3X2

3. 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 addition of solar panels to the rear slopes only of the double-pile roof at 4 Ashton Place (A Protected Structure) exempted development? The rear slopes are not visible from the street.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

4 Ashton Place is an existing semi-detached three-bay three-storey double-pile house with an annex to the rear. It received a grant of permission for refurbishment and extension in 2023, ref. no 23/42245. The works are currently underway. A declaration is being sought to determine if solar panels can be added to the two rear slopes of the double-pile roof in order to improve the energy efficiency of the house. The rear slopes of the roof are not visible from the street and as such would not affect the character of the existing facade of the house.

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

If so please supply details:

No

5. Is this a Protected Structure or within the curtilage of a Protected Structure? Yes

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? No

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

If so please supply details:

Planning for a part single, part two storey extension, internal and elevational alterations was granted in 2023, ref. no 23/42245. The house was added to the RPS in 2024.

7. APPLICATION DETAILS

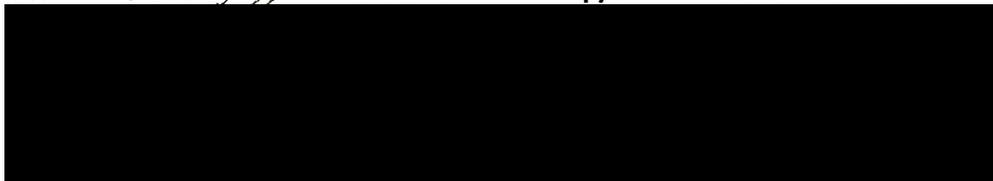
Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	431 sq.m - no change to floor area proposed
(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) N/A
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle) N/A	Proposed/existing use (please circle)

7. 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 of the owner if available		

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



CONFIDENTIAL CONTACT DETAILS

These details will not be made available to the public.

9. Applicant:

10. Person/Agent acting on behalf of the Applicant (if any):

Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
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11. Owner Details (if the applicant above is not the legal owner):

Name(s)	
Address	

12. 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.

Tel. No. _____

Mobile No. _____

Email Address: _____

For Office Use Only: File Ref. No. _____



SECTION AA

01 Section A-A - Sight Lines to Roof
Scale: 1:100@A3

 50 MOUNT STREET UPPER, DUBLIN 2, D02 DP03 T 01 676 6288 info@opkmarchitects.com www.opkmarchitects.com	 RIAJ RIAJ RIAJ	Rev.	Date	Reason For Issue	Chk	Project	4 Ashton Place, Blackrock Road, Cork, T12 E3VZ	Job No.	23-110	Scale	1:50@A1	Date	16/12/2025
						Title	Section A-A - Section 5 Application	Client	Frankie and Josephine Whelehan	Number	S5-P-150	Revision	-
						Stage	Section 5 Application						

ORDNANCE SURVEY IRELAND
LICENCE NO: ARO108823
GOVERNMENT OF IRELAND

Map Series:
1:1,000 | 3394-13
1:1,000 | 3394-14
1:1,000 | 3394-18
1:1,000 | 3394-19
Publisher / Source:

Ordnance Survey Ireland (OSi)

Data Source / Reference:

PRIME 2

File Format:

Autodesk AutoCAD (DWG_R2013)

File Name:

v_50395317_1.dwg

Clip Extent / Area of Interest (AOI):

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LRX,LRY= 569199.52,571331.6554
ULX,ULY= 568966.52,571503.6554
URX,URY= 569199.52,571503.6554

Projection / Spatial Reference:

Projection= IRENET95_Irish_Transverse_Mercator

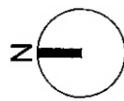
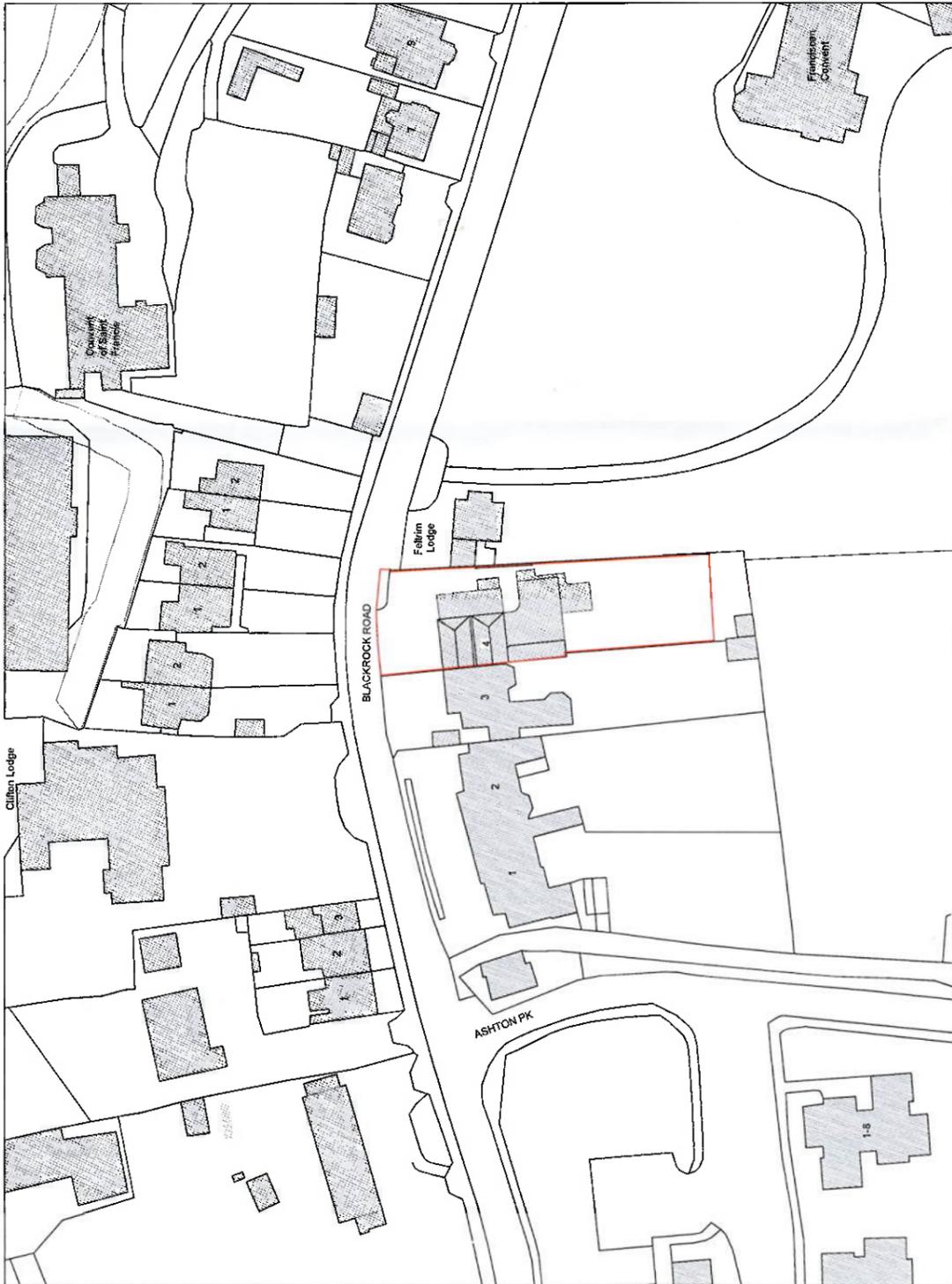
Centre Point Coordinates:

X,Y= 569083.02,571417.6554

SITE OUTLINED IN RED THUS

OTHER AREAS IN CONTROL
OF APPLICANT OUTLINED IN BLUE THUS

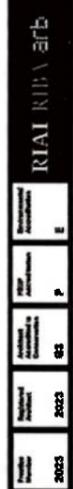
SITE AREA = 0.085 Hectares



01 Site Location Plan

Scale: 1:1000

OPKM ARCHITECTS
50 MOUNT STREET UPPER, DUBLIN 2, D02 DP03
T 01 876 6238
info@opkmarchitects.com
www.opkmarchitects.com



Rev.	Date	Reason For Issue

Chk	Project	Title	Stage
	4 Ashton Place, Blackrock Road, Cork, T12 #3XZ <td>Site Location Plan <td> </td> </td>	Site Location Plan <td> </td>	

Section 5

S5-P-004

Job No.	Scale	Date
23-110	1:1000@A3	16.12.2025

Client	Number	Revision
Frankie and Josephine Whelehan		