



Comhairle Cathrach Chorcaí Cork City Council

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

Mary Buckley
c/o Ian White
DMA Consulting Engineers
14 South Bank
Crosses Green
Cork

12/12/2024

**RE: Section 5 Declaration R895/24 81A Parklands Drive, Commons
Road, Cork**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 13th November 2024, I wish to advise as follows:

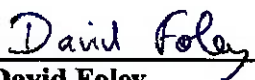
The Planning Authority, in view of the above and having regard to —

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

It is considered that the *specific question for which a declaration is sought* IS **DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT** at 81A Parklands Drive, Commons Road, Cork.

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 12/12/2024

Is mise le meas,


David Foley
Development Management Section



We are Cork.

**Planning & Integrated Development
Cork City Council**

PLANNER'S REPORT
Ref. R 895/24

**Cork City
Council**
Development Management
Strategic Planning and
Economic Development

Application type **SECTION 5 DECLARATION**
Question *Whether the following is development and, if so, is it exempted development:*

"Is the Installation of 1 roof light at the rear of existing dwelling to provide light into landing/stairwell an exempted development"

Location 81A Parklands, Commons road, Cork
Applicant Mary Buckley
Date 12/12/2024
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.

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.

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, "

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

Whether the following are development and, if so, are they exempted development:

"Is the Installation of 1 roof light at the rear of existing dwelling to provide light into landing/stairwell an exempted development"

SITE DESCRIPTION

The subject property is a two-storey semi-detached dwelling in the Sustainable Residential Neighbourhoods zoning area. The area is predominantly residential in nature.

DESCRIPTION OF THE DEVELOPMENT

The structure in question has been constructed.

RELEVANT PLANNING HISTORY

None.

LEGISLATIVE PROVISIONS

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.

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

Classes 1-8 relate to development within the curtilage of a house. Having examined the Classes it is considered that no specific Class relates to the works that have been carried out on site to date.

ASSESSMENT**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'.

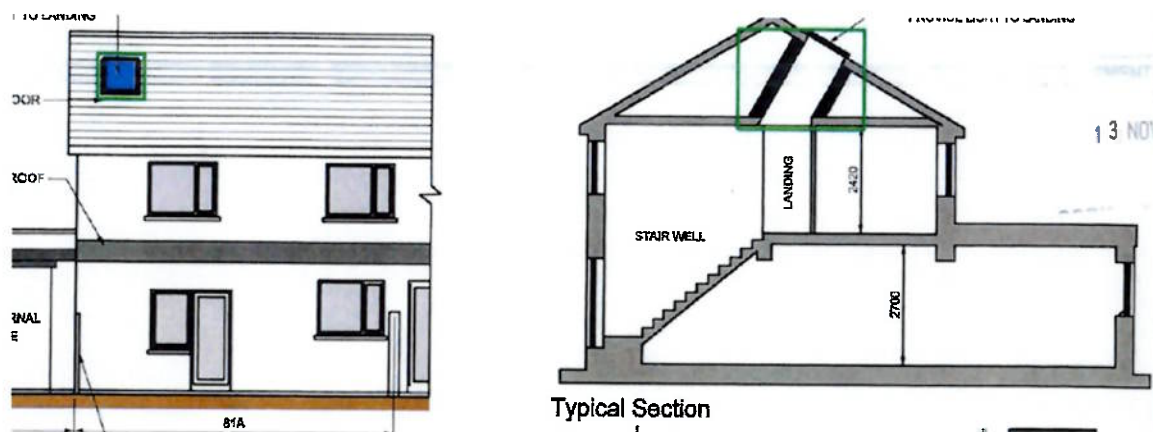
'Works' is defined in section 3(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

With regard to the proposed development, the main issue to consider is as follows:

1 No. Velux window located to the rear elevation of the dwelling

- I consider that the specific details set out above constitutes 'works' as they comprise the alteration to a building on the site. As the proposal comprises 'works', it is clearly therefore 'development' within the meaning of the Act.

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



Aforementioned velux

CONCLUSION Is development

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).

With regard to the proposed development, the main issues to consider is as follows:

1 No. Velux window located to the rear elevation of the dwelling

- I consider that there is no Class of works as set out in (Article 6) Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) that covers the specific works carried out to date on site.
- I further consider that the works carried out to date can be considered exempt under Section 4(1)(h) of the Planning and Development Act 2000 (as amended) as they a) are not works that affect only the interior of the structure and b) 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.

Restrictions on exemption

I do not consider that any apply in this instance.

CONCLUSION

Is not exempted development

ENVIRONMENTAL ASSESSMENT

I note the provisions of sections 4(4), 4(4A) and 177U(9) of the Act 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**.

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

the planning authority considers that —

the works carried out to the existing dwelling house, consisting of the following:

1 No. Velux window located to the rear elevation of the dwelling

at 81A Parklands, Commons road, Cork **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

Melissa Walsh

Senior Executive Planner

12/12/2024



14 South Bank,
Crosse's Green,
Cork City

DMA Ref: 23167
Your Ref:

Planning Department,
Cork City Council,
City Hall,
Cork

Date: 12/11/2024

Section 5 Declaration



Dear. Sir/Madam

We are requesting a Section 5 Declaration on behalf of our client Mary Buckley of 81A Parklands Drive, Commons Road, Cork involving the installation of a Velox window to the rear of the house.

List of Documents attached

Drawing Schedule: 2 Copies of each.

: Existing Site Location Map (1:1000)

Existing Site Location Map (1:10,560))

Existing Site Layout Plan (1:200)

Existing Floor Plan and elevations (1:100)

Proposed Floor Plan and elevations (1:100)

Existing Section A-A (1:100)

Fee for 80 euro

Dan Mulvihill.

On Behalf of
DMA Consulting Engineers

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

Community, Culture & Placemaking Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

DEVELOPMENT MANAGEMENT

CCP

13 NOV 2024

R-Phost/ E-Mail: planning@ccorkcity.ie

Fón/Tel: 021-4924029

Lionra/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

Mary Buckley

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

81A Parklands Drive, Commons Road, Cork

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 Installation of 1 roof light at the rear of existing dwelling to provide light into landing / stairwell an exempted development.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

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? ☒ N

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? ☐

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

If so please supply details:

TP No 2341931(Withdrawn) & TP 2342019

7. APPLICATION DETAILS

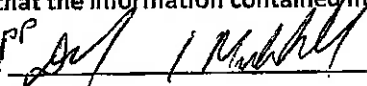
Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	240.10m2
(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 ☒ Y No ☐ If yes, please provide floor areas. (sq m) 0m2
(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)
Na	Na

7. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner ☒ X	B. Other ☐
Where legal interest is 'Other', please state your interest in the land/structure in question	Na	
If you are not the legal owner, please state the name of the owner if available	Na	

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

Signature: 

Date: 12/11/2024

Site Location Map



**Tailte
Éireann**

**CENTRE
COORDINATES:**
ITM 566010,574547

PUBLISHED: 15/03/2023
ORDER NO.: 50323523_1

MAP SERIES: 6 Inch Raster
CK063
6 Inch Raster
CK074

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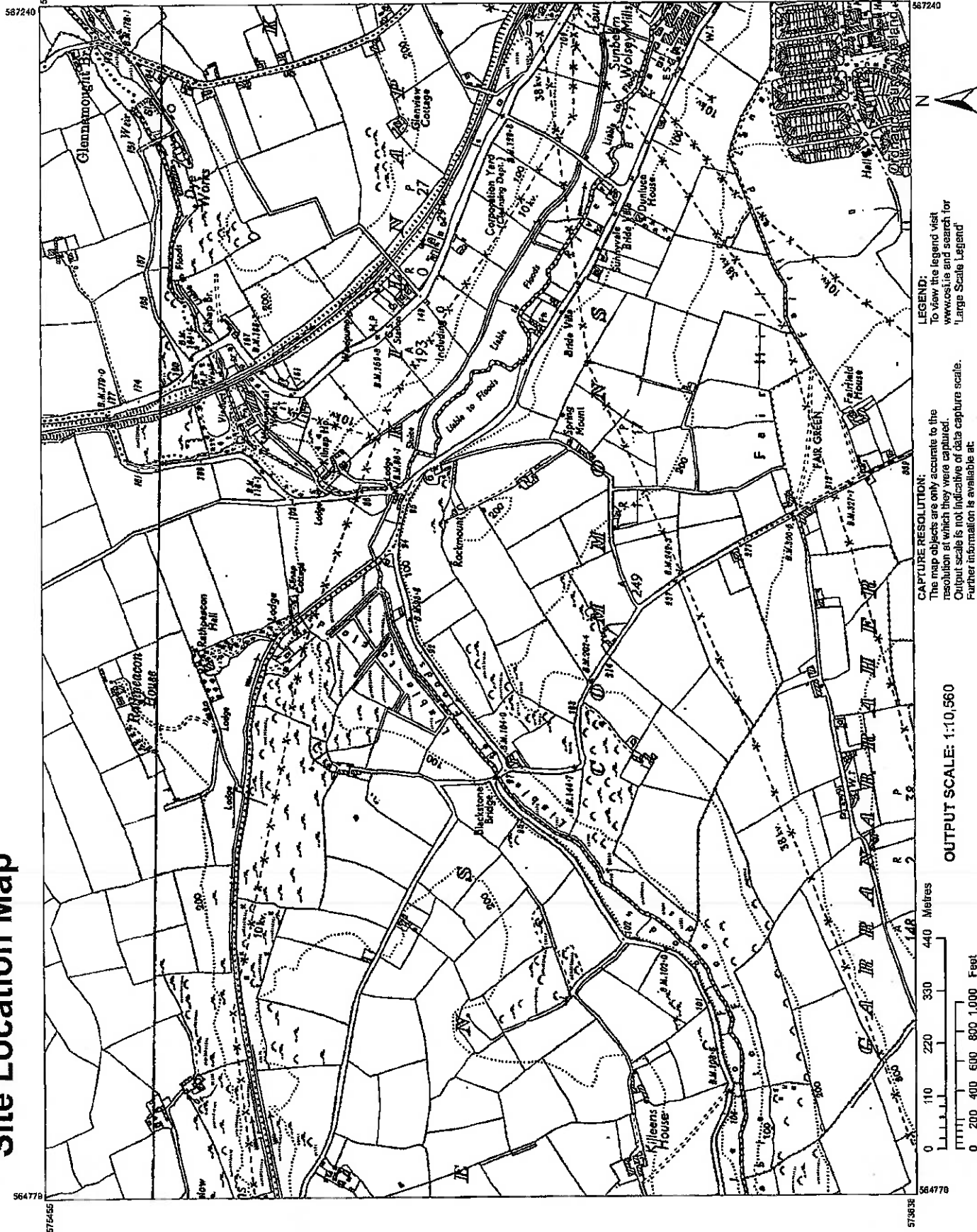
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OUTPUT SCALE: 1:10,560

Planning Pack Map



**Tailte
Éireann**

**CENTRE
COORDINATES:**
ITM 568010,574547

ORDER NO.:
50323523_1

PUBLISHED:
15/03/2023

MAP SERIES:
6337-13

MAP SHEETS:
1:1,000

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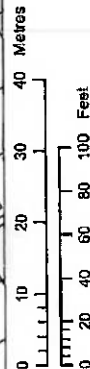
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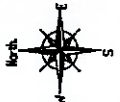
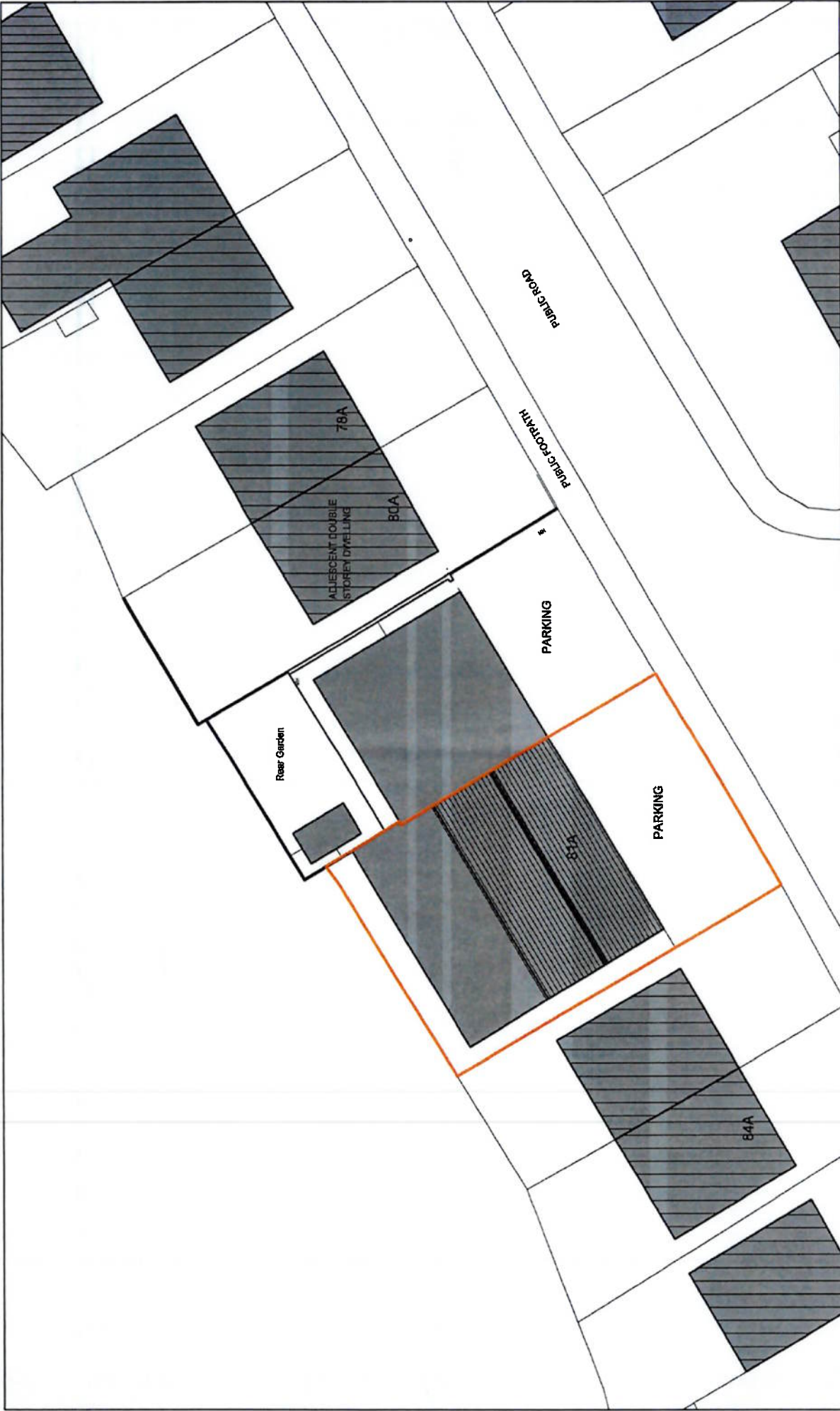


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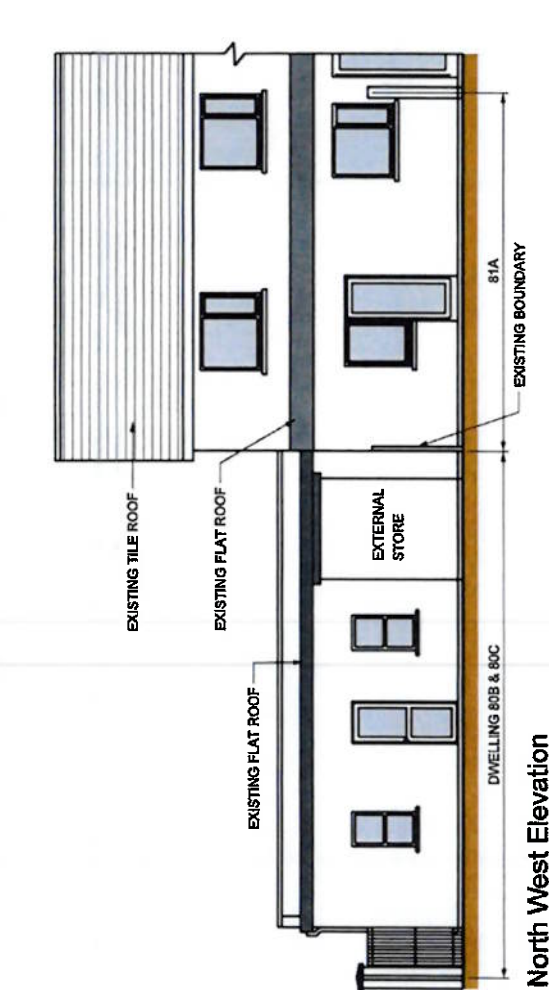
Client	Basheer Khalid Hilal Alaqili
Project	Proposed Rooflight in North West Elevation At 81A Parkland Drive, Commons Road, Cork
Drawing Title	Existing Site Layout Plan
Drawn	Scale 1:200
Checked	Drawn by 22197-RDS
	23197



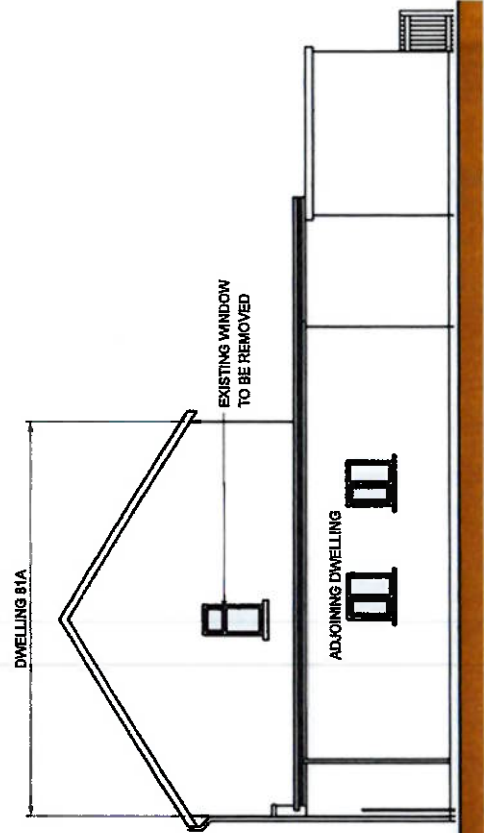
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Unit 14 South Bank,
Crosse's Green, Cork
Tel: 00 353 21 4296023
email: info@dmaltd.com

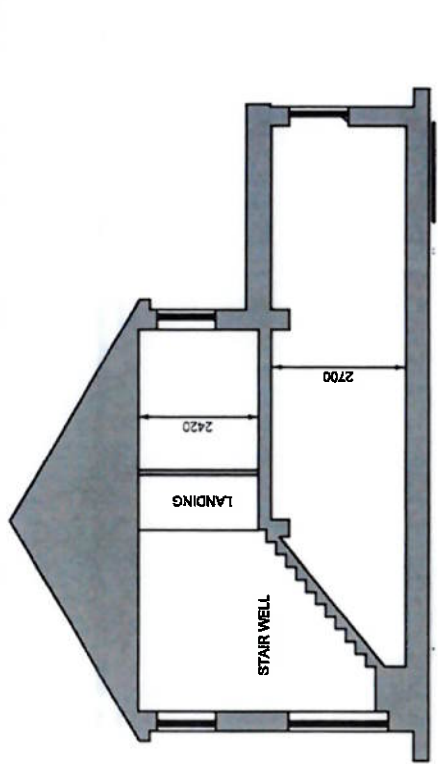
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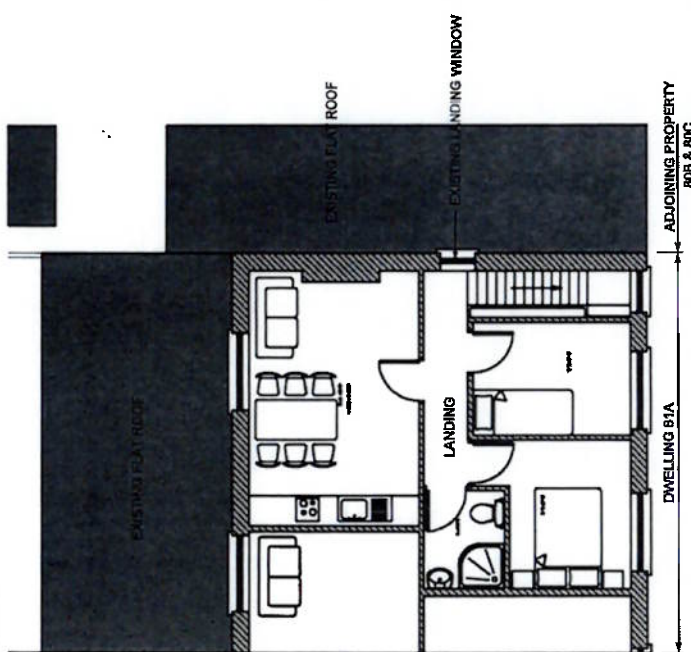
North West Elevation



North East Elevation



Typical Section



Existing First Floor Plan



Unit 14 South Bank,
Croses Green, Cork
Tel: 00 353 21 4298023
email: info@dmaid.com

Client Basheer Khalid Hlail Alaqili

Project Proposed Rooftight In North West Elevation
At 81A Parkland Drive, Commons Road, Cork

Drawing Title Existing Elevations Plan & Section

Drawn Scale 1:100 Date October 2024

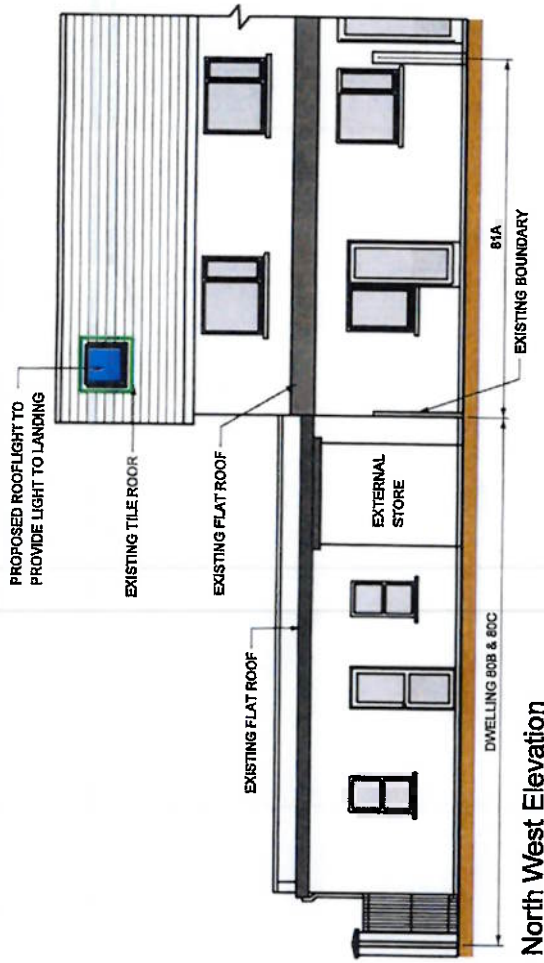
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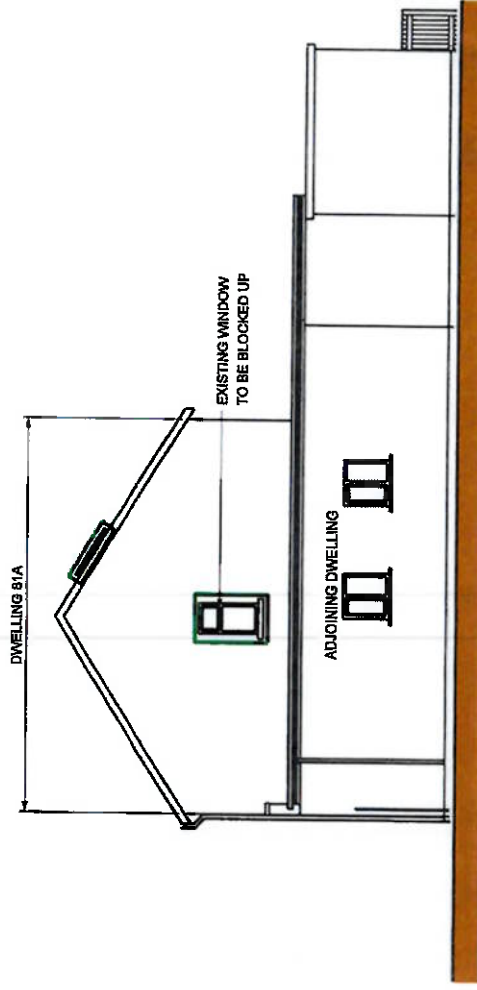
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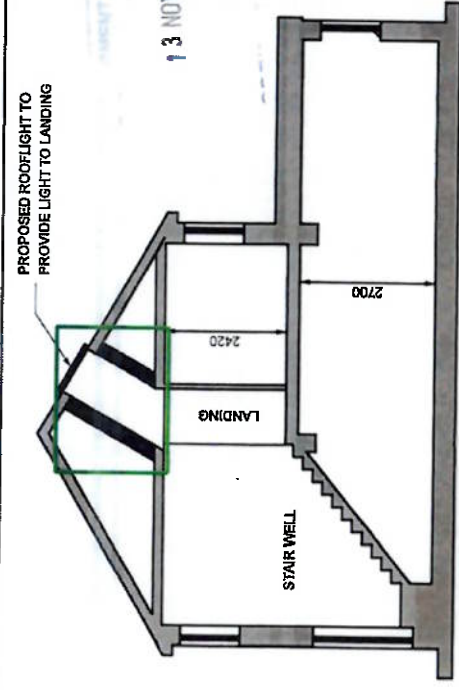




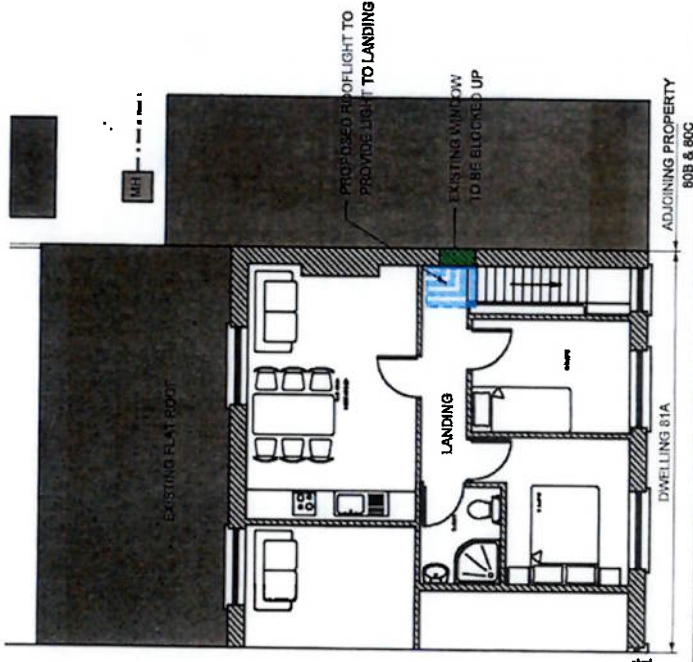
North West Elevation



North East Elevation



Typical Section



Proposed First Floor Plan

DMA CONSULTING ENGINEERS Unit 14 South Bank, Crosses Green, Cork Tel: 00 353 21 4239023 email: info@dmakid.com	Client: Basheer Khalid Hilal Alaqili Project: Proposed Rooflight In North West Elevation At 81A Parkland Drive, Commons Road, Cork Drawing Title: Proposed Elevations, Plan & Section Date: 3 NOV 2024 Scale: 1:100 Drawn: JCB Checked: JCB	REV: A DESCRIPTION: THIS DRAWING IS FOR PLANNING PERMISSION ONLY	23187- R06 23187	23187

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