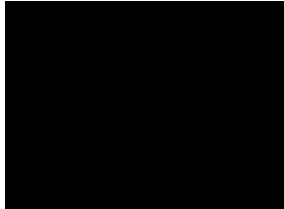




Comhairle Cathrach Chorcaí Cork City Council

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

Miriam and Chris Casey



23/04/2025

Section 5 Request:

RE: R935/25. Casa Maria, 3 Aylsbury Mews, Ballincollig

A Chairde,

With reference to your request for a Section 5 Declaration at the above-named property, received on the 31st of March 2025, I wish to advise as follows:

The question placed before the Planning Authority was whether the pumping of cavity insulation and the smooth plastering of the external walls, replacement of windows, removal of porch tiled roof and replacing it with a flat roof and parapet roof design exempted development.

The Planning Authority had regard particularly to –

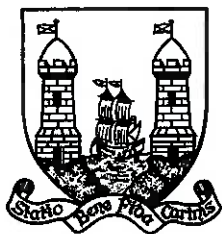
- (a) Sections 2, 3 and 4(1)(h) of the Planning and Development Act, 2000, as amended, and
- (b) the character and pattern of development of the house and in the area.

The Planning Authority has concluded that:

- (a) The pumping of cavity insulation and the smooth plastering of the external walls, replacement of windows, removal of porch tiled roof and replacing it with a flat roof and parapet roof design constitutes works which are development, as defined in Section 3 of the Planning and Development Act, 2000, as amended.
- (b) The pumping of cavity insulation and the smooth plastering of the external walls, replacement of windows, removal of porch tiled roof and replacing it with a flat roof and parapet roof design constitutes “works for the maintenance, improvement or other alteration of any structure” as defined in Section 4(1)(h) of the said Act.



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- (c) The pumping of cavity insulation and the replacement of windows are works which do not materially affect the external appearance of the existing dwelling so as to render its appearance inconsistent with its own character and that of neighbouring structures and accordingly would come within the scope of Section 4(1)(h) of the Planning and Development Act, 2000, as amended.
- (d) The smooth plastering of the external walls and removal of porch tiled roof and replacing it with a flat roof and parapet roof design are works which materially affect the external appearance of the existing dwelling so as to render its appearance inconsistent with its own character and that of neighbouring structures, and accordingly does not come within the scope of Section 4(1)(h) of the Planning and Development Act, 2000, as amended.

The Planning Authority decides that the pumping of cavity insulation and the replacement of windows at Casa Maria, 3 Aylsbury Mews, Ballincollig **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

The Planning Authority decides that the smooth plastering of the external walls and removal of porch tiled roof and replacing it with a flat roof and parapet roof design at Casa Maria, 3 Aylsbury Mews, Ballincollig **IS DEVELOPMENT** and is **NOT EXEMPTED DEVELOPMENT**.

Is mise le meas,

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



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PLANNER'S REPORT Ref. R934/25		Cork City Council Planning and Integrated Development
Application type	Section 5 Declaration	
Description	<i>Metal railing to front of dwelling .</i>	
Location	19A Glen Ryan Road, Ballymacthomas	
Applicant	Eileen McSweeney	
Date	15/04/2025	
Recommendation	Is Development and is exempt development	

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

As per Q2 of the application form:

Can the construction of metal fabricated and galvanized railing and access gate (1.0 m high from ground level) to front of the existing dwelling at 19A Glen Ryan Road be treated as an exempted development?

3. SITE DESCRIPTION

The subject site is located at 19A Glen Ryan Road. On site is an end of terrace two storey dwelling.

There is a metal railing along the front boundary with a pedestrian access.

4. PLANNING HISTORY

01/25448 ALTERATIONS & EXTENSIONS TO REAR & REFURBISHING EXISTING 2 STOREY DWELLINGS
WITH 1 NO TWO STOREY DWELLING ATTACHED & ANCILLARY SITE WORKS

11/35008 Retention for alterations and single storey rear extension.

5. STATUTORY 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, except where the context otherwise requires, “development” means, -

- a) The carrying out of any works in, on, over or under land or the making of any material change in the use of any land or structures situated on land, or*
- b) Development within the meaning of Part XXI.*

Section 4(1)(a) –

The following shall be exempted developments for the purposes of this Act – development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used.

5.2 The Regulations

Article 9 (1)(a)

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

- (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,*
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,*
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area*

in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(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,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,

SCHEDULE 2 Article 6 PART 1 Exempted Development - General

CLASS 5	
The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.	1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.
	2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.
	3. No such structure shall be a metal palisade or other security fence

6. ASSESSMENT

The purpose of this report is to assess whether or not the matter in question constitutes development and whether it falls within the scope of exempted development. Matters pertaining to the acceptability of the proposal in respect of the proper planning and sustainable development of the area is not a consideration under section 5.

6.1 Development

The proposal includes an act of construction and therefore falls within the definition of 'works'. Therefore, the proposal constitutes development within the meaning of the Act.

- **CONCLUSION: IS DEVELOPMENT**

6.2 Exempted development

Is it exempted development?

The proposal is assessed below against the conditions/ limitations of Class 6.

CLASS 5	
The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.	1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.
	2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.
	3. No such structure shall be a metal palisade or other security fence

Exemption:

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

Assessment:

The construction is a railing bounding the curtilage of a house.

Conditions/limitations

1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres

Assessment:

The railing does not appear to exceed 1.2 metres in height.

Conditions/limitations

2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.

Assessment:

No wall is proposed.

Conditions/limitations

3. No such structure shall be a metal palisade or other security fence

Assessment:

Not applicable.

Article 9 (1)(a) – no issues of non-compliance arise.

CONCLUSION:

- **Is exempted.**

7. ENVIRONMENTAL ASSESSMENT

7.1 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.

7.2 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.

8. RECOMMENDATION

In view of the above and having regard to –

- Section 2(1), 3(1) and 4 of the Planning and Development Act 2000 (as amended), and
- Article 6, Schedule 2, Part 1, Class 5 of the Planning and Development Regulations 2001 (as amended)

The Planning Authority considers that – the construction of a metal fabricated and galvanized railing and access gate (1.0 m high from ground level) to front of the existing dwelling at 19A Glen Ryan Road

IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.

Michelle Delaney

Executive Planner

Melissa Walsh

S.Executive Planner.

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

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

MIRIAM & CHRIS CASEY

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

CASA MARIA
8. AYSBURY MEWS
Ballincollig
CORK P31 YX44

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 pumping of CAVITY INSULATION AND THE SMOOTH PLASTERING OF the EXTERNAL WALLS, REPLACEMENT OF WINDOWS, REMOVAL OF PORCH TILED ROOF AND REPLACING it with a FLAT ROOF AND PARAPET ROOF DESIGN EXEMPTED DEVELOPMENT ?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Please find attached Photos of the Existing Property, Photo of a Property with the PLASTER finish & PARAPET ROOF DESIGN and a DRAWING OF WHAT THE PROPOSED HOUSE would look like.

CORK CITY COUNCIL
PLANNING & DEVELOPMENT

01 APR 2025

DEVELOPMENT MANAGEMENT

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? ☐ NO

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? ☐ N/A

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

If so please supply details:

NO

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	N/A
(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 checked="" 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)
N/A	N/A

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
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		

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

Signature:

Date: 19-03-2023

557450 mE, 570380 mN



Tailte Éireann
Clárúcháin, Luachail,
Suirbhéireacht
Registration, Valuation,
Surveying

Folio: CK100335F

This map should be read in conjunction with the folio.

Tailte Éireann (TÉ) Registration mapping is based on TÉ Surveying mapping. Where TÉ Registration maps are printed at a scale that is larger than the TÉ Surveying scale, accuracy is limited to that of the TÉ Surveying map scale.

For details of the terms of use and limitations of scale, accuracy and other conditions relating to TÉ Registration maps, see www.tailte.ie.

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(centre-line of parcel(s) edged)

Freehold

Leasehold

SubLeasehold



Burdens (may not all be represented on map)

Right of Way / Wayleave

Turbary

Pipeline

Well

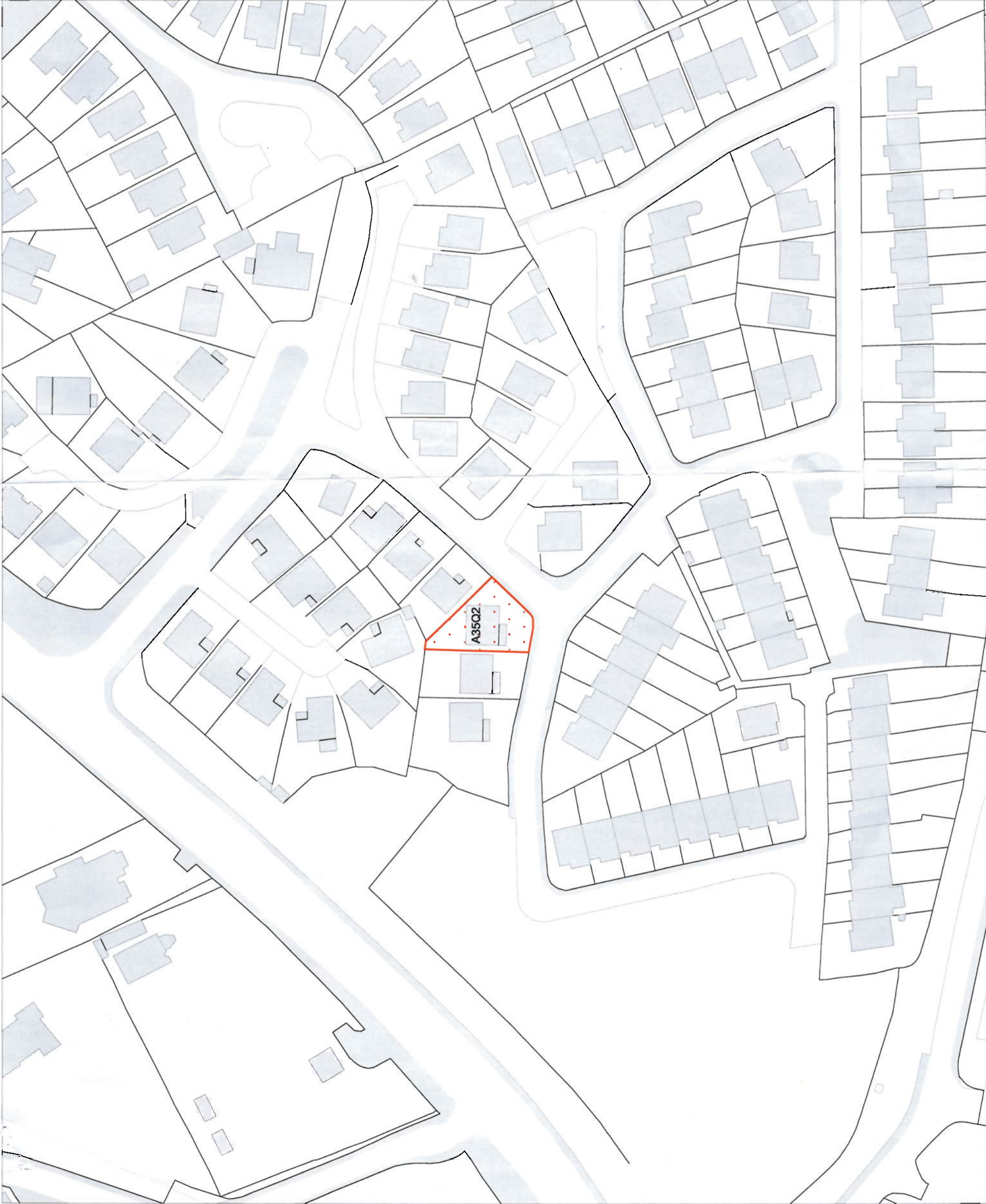
Pump

Septic Tank

Soak Pit

A full list of burdens and their symbology can be found at: www.landdirect.ie

Tailte Éireann Registration operates a non-conclusive boundary system. The TÉ Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a TÉ Registration map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.

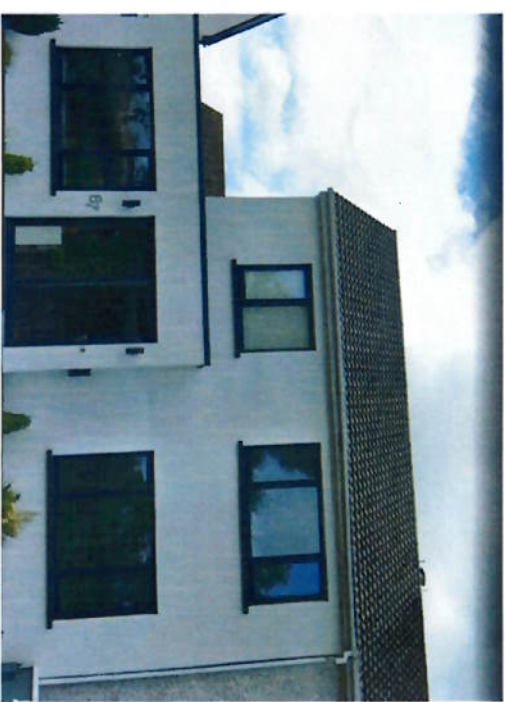




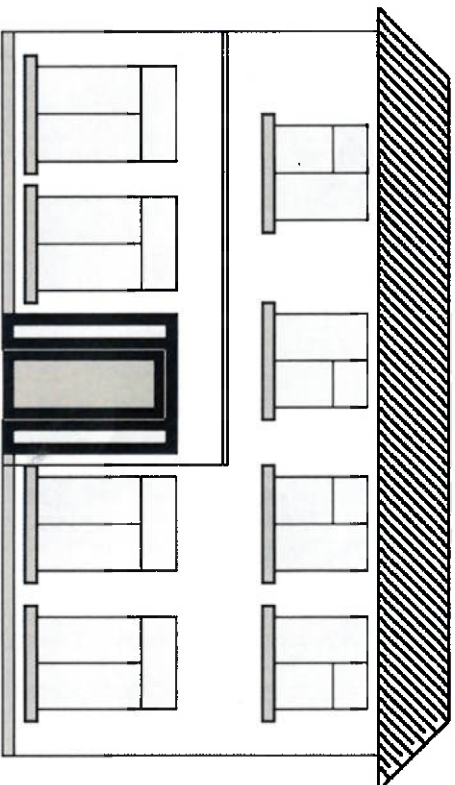




EXISTING PROPERTY



NEW FINISH AND WINDOW
COLOUR WITH NEW PORCH ROOF



NEW LOOK AFTER INSULATION WITH
NEW PORCH ROOF