

# Comhairle Cathrach Chorcaí Cork City Council

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

Paul Keating
JE Keating & Associates Architects
4 Albert House
East Douglas Road
Cork

05/10/2020

RE:

<u>Section 5 Declaration R590/20</u> 78 Millers Court, Old Quarter, Ballincollig, Cork

Dear Mr. Keating

With reference to your request for a Section 5 Declaration at the above named property, I wish to advise as follows:

In view of the above and having regard to —

Sections 2, 3(1), Planning and Development Act 2000, articles 6 and 9 of the Planning and Development Regulations, 2001 and Classes 1, 3, 5 and 6 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001: -

- 1. the construction of the extension to the rear of the house is development and is not exempted development as it fails to comply with condition and limitation number 6(a) of Class 1
- 2. the construction of a screen wall is development and is not exempted development as it fails to comply with condition and limitation number 1 of Class 5
- 3. there is insufficient information to determine if the proposed shed complies with Class 3.

all at 78 Millers Court, Old Quarter, Ballincollig, Cork.

Yours sincerely

Kerry Bergin

**Development Management Section** 

Community, Culture and Placemaking Directorate

Cork City Council



## **Kerry Bergin**

From:

Evelyn Mitchell

Sent:

30 September 2020 18:05

To:

Kerry Bergin

Subject:

FW: R590.20 78 Millers Court

**Attachments:** 

R590\_20 78 MillersCourt.docx

# Kerry – please find attached report by Yvonne on this Section 5 – endorsed by myself – Evelyn

The agent's details are: -

Paul Keating

JE Keating + Associates Architects

4 Holbar House East Douglas Village

Cork

#### SECTION 5 DECLARATION - PLANNER'S REPORT

File Reference:

R 590.20

Description:

Whether the contruction of an extension to the rear of a dwelling is or

is not exempted development

Applicant:

Sarah Fitzgerald

Location:

78 Millers Court, Old Quarter, Ballincollig

Site inspection:

29.09.2020

#### 1. Purpose of Report

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the 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.

#### 2. Site Inspection and Location

The site is located at 78 Millers Court. On the site there is a semi-detached dwelling with houses to the east, west and north.

#### 3. Subject Development

Whether the construction of an extension to the rear of a dwelling is or is not exempted development.

#### 4. Sub-threshold EIAR

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No3) 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 EIAR is not required to be submitted.

#### 5. 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.

#### 6. Planning history

On subject site:

155788 – O'Flynn Construction BTC – construction of 96 no. two and three storey detached, semi-detached, and terraced houses, together with associated site development works (Permission previously granted under planning ref: 02/5827

Millers Court & Coopers Grange, Ballincollig

Grant conditional

#### 7. Planning policy

<u>Cork County Development Plan 2014 & Ballincollig Carrigaline Municipal District Local Area Plan 2017</u> The site is existing built up area.

#### 8. Planning legislation

- Planning and Development Act 2000 as amended Sections 2, 3(1) and Section 4(1)(h)
- Planning and Development Regulations 2001

Article 6

Article 9

Class 1 of Part 1 of Schedule 2

Class 3 of Part 1 of Schedule 2

Class 5 of Part 1 of Schedule 2

Class 6 of Part 1 of Schedule 2

#### 9. Assessment

The question before the Planning Authority is -

'Whether the construction of an extension to the rear of a dwelling is or is not development or is or is not exempted development'

It is noted from the drawings that a screen wall, shed and landscaping works are also proposed.

#### Is or is not development?

The extension of the house and the other works as outlined constitute development under the above provisions of the Act.

#### Is or is not exempted development?

Extension to dwelling

Class 1 of the Planning Development Regulations relates to extensions to dwellings.

The description of the development is:

<u>The extension of a house, by the construction or erection of an extension (including a conservatory)</u> 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 [emphasis added]

The extension is a 5m long approx. 1 metre wide corridor from the dining room to the main house with the main part of the extension in the northern portion of the garden. The extension is single storey with a floor area of 24.62m2.

Page 2 of 6

As the proposed development is to the rear of the house and it is connected to the house, it is considered that it comes within the scope of Class 1.

The following table will examine whether the proposal complies with the conditions and limitations associated with this class of development:

1a	Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.	There have been no previous extensions.  The floor area of extension is stated to be 24.62m2².  This is satisfactory.
1b	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.	n/a
1c	Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.	n/a
2a	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.	House has not been extended previously. This is satisfactory.
2b	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.	n/a
2c	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.	n/a
3	Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.	n/a
4a	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.	n/a

4b	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.	There is a gable to the rear of the house; the height of the walls do not exceed the height of the side walls of the house.
4c	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.	The extension has flat roof/monopitch roof and the height of the roof does not exceed the height of the eaves or parapet.
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.	There is approximately 60m2 of private open space remaining.
6a	Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.	On the west elevation there is a full length window beside the glazed door and on the east elevation there is a window. Both of these are less than 1 metre from the boundaries they face. On the north elevation there would appear to be glazing beside the pivot doors. It would appear that this glazing at the north east is less than 1 metre from the boundary it faces.
	Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.	n/a
6c	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.	n/a
7	The roof of any extension shall not be used as a balcony or roof garden.	The roof is a monopitch. There is no indication that it will be used as a balcony or roof garden.

The proposed extension fails to comply with Condition and Limitation Number 6a of Class 1.

### Screen Wall

The application form states that the extension is surrounded in a screen wall which prevents any glazed element looking into any adjoining neighbours. There is no provision in the legislation to use another class to offset a condition and limitation in another class.

The wall is along the northern and eastern boundaries of the site.

Class 5 of the Planning Development Regulations relates to boundary walls in the curtilage of a dwelling.

The description of the class is 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.

There are 3 no conditions and limitations in this class.

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.	The height of the wall exceeds 2 metres (ref drawing number P.06 north elevation and P.11 east boundary – elevation).
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.	n/a
3. No such structure shall be a metal palisade or other security fence.	n/a

The proposed screen wall fails to comply with Condition and Limitation Number 1 of Class 5.

#### Shed

A small shed is proposed at the north east corner. There is provision in Class 3 for a shed subject to a number of conditions and limitations. There are no drawings of the shed and it is not possible to determine if it would comply with Class 3.

#### **Landscaping**

It seems that there will be landscaping works undertaken in the area between the house and the main extension. One condition attached to Class 6 is that the level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground. There is no detail as to the existing and proposed ground levels. From site inspection there is no significant change in in ground levels.

### Restrictions on exemption

A number of restrictions on exemption are set out in Article 9 and none of these apply.

#### 10. Recommendation

It is recommended that the applicant is advised as follows:

Having regard to Sections 2, 3(1), Planning and Development Act 2000, articles 6 and 9 of the Planning and Development Regulations, 2001 and Classes 1, 3, 5 and 6 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001: -

- the construction of the extension to the rear of the house is development and is not exempted development as it fails to comply with condition and limitation number 6(a) of Class 1
- 2. the construction of a screen wall is development and is not exempted development as it fails to comply with condition and limitation number 1 of Class 5
- 3. there is insufficient information to determine if the proposed shed complies with Class 3.

all at 78 Millers Court, Old Quarter, Ballincollig, Cork.



Yvonne Hogan 30.09.2020



View to north of rear garden

#### J.E. KEATING + ASSOCIATES ARCHITECTS

4 Holbar House East Jglas Village, Cork 021-4562506 fax 4362510



DATE: 22.07.2020

**CLIENT: Sarah Fitzgerald** 

JOB NO: 20016

The Secretary Planning Department, Cork County Council, County Hall, Carrigrohane Road, Cork.

22.07.2020

Re: Section 5 application for exemption from planning for Sarah Fitzgerald at 78 Millers Court, Old Quarter, Ballincollig, Cork P31 W726

#### **Applicant:** Sarah Fitzgerald

I enclose here with the following documents in support of an application for outline permission on the above project. Please find attached:

- 4 No. Copies of Cork County Council section 5 application forms duly completed and signed on behalf of our client

4 No. Copies of Data Protection form signed by the client

- 1 No. Correct Application Fee €80
- 4 No. Copies of Set of drawings reporting:
  - Site Map (1:1000)
  - Site plan proposed (1:500)
  - Site plan proposed (1:500)
  - Ground Floor Plan proposed
  - Proposed rear extension East Elevations (1:50)
  - Proposed rear extension South Elevations (1:50)
  - Proposed rear extension West Elevations (1:50)
  - Proposed rear extension section (1:50)

Clarification that the upper removal of the balcony, minor alterations to the rear elevation and construction of 37 sq m extension are exmept under class 1 and class 3 of the planning regulations.

If you require any further information, please don't hesitate to contact me.

Yours faithfully

JE KEATING + ASSOCIATES ARCHITECTS

Comhairle Cathrach Charcai Cork City Council

2 3 -07 - 2020

Strategic Planning & Economic

Development Timedorate

# COMHAIRLE CATHRACH CHORCAÍ CORK CITY COUNCIL

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

# Comhairle Cathrach Chorcaí Cork City Council

2 3 -07 - 2020

Strategic Planning & Economic

R-Phost/E-Mail planning at Julie Corate

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)

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78 Millers Court, Old Quarter, Ballincollig, Cork P31 W726

2. QUESTION/ D	ECLARATION 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.

---The proposed rear extension is an additional 23 sq metres and is not wider than the existing house and is 3 metres high at its highest point. The remainder of the existing back garden is 60 sq metres after the new proposed rear extension is taken off. We have surrounded the extension in a screen wall which prevents any glazed element looking into any adjoining neighbours. We are assuming planning would not be required for this proposed exempted rear extension under class 1 and class 3.

(Use additional sheets if required).				
none				
3. Are you aware of any enforcement proceedings connected to this site?  If so please supply details:n/anone				

- 4. 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
- 5. Was there previous relevant planning application/s on this site? NO If so please supply details:

ADDITIONAL DETAILS DECARDING OLIECTION (MODES / DEVELOPMENT

	n/a		
_			
6. APPLICATION DETAIL  swer the following if applicable	· · · · ·	are measured	from the inside of the external walls and
ould be indicated in square me		ne measarea,	from the holde of the external walls and
(a) Floor area of existing	ng/proposed structu	ire/s	Existing- 128sqm Proposed-23sqm
location after 1 <sup>st</sup> Oo for which planning obtained)?	res been erected at a tober, 1964, (include permission has been	this ling those n	Yes No X  If yes, please provide floor areas. (sq m)
(c) If concerning a chai	nge of use of land ar	nd / or buildi	ing(s), please state the following:
Existing/ previous use (plea	se circle)	Proposed/	existing use (please circle)
NOT APPLIC			NOT APPLICABLE
//			
7. APPLICANT/ CONTAGE Name of applicant (princit Applicants Address	pal, not agent):		Ballincelle, Cork (S) (#7.2)
Name of applicant (princi Applicants Address	pal, not agent):	As Vuerser	Ballincollig Cork (Cl. 1907)
Name of applicant (princi Applicants Address  Person/Agent acting on behalf of the Applicant	pal, not agent):	Paul Ke	
Name of applicant (princi Applicants Address  Person/Agent acting on	pal, not agent):	Paul Ke	eating MRIAI
Name of applicant (princi Applicants Address  Person/Agent acting on behalf of the Applicant	pal, not agent):	Paul Ke	eating MRIAI sting 4 Holbar House, East Douglas Douglas, Cork T12 X300
Name of applicant (princi Applicants Address  Person/Agent acting on behalf of the Applicant	Name: Address:	Paul Ke J.E. Kea Village,	eating MRIAI sting 4 Holbar House, East Douglas Douglas, Cork T12 X300
Name of applicant (princi Applicants Address  Person/Agent acting on behalf of the Applicant	Name: Address: Telephone:	Paul Ke J.E. Kea Village,	eating MRIAI sting 4 Holbar House, East Douglas Douglas, Cork T12 X300

### 5. 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	n/a		***************************************
If you are not the legal owner, please state the name and address of the owner if available	n/a		

6. I / We confirm that the information contained in the application is true and accurate:
Signature:
Date: 21,07.2020
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.

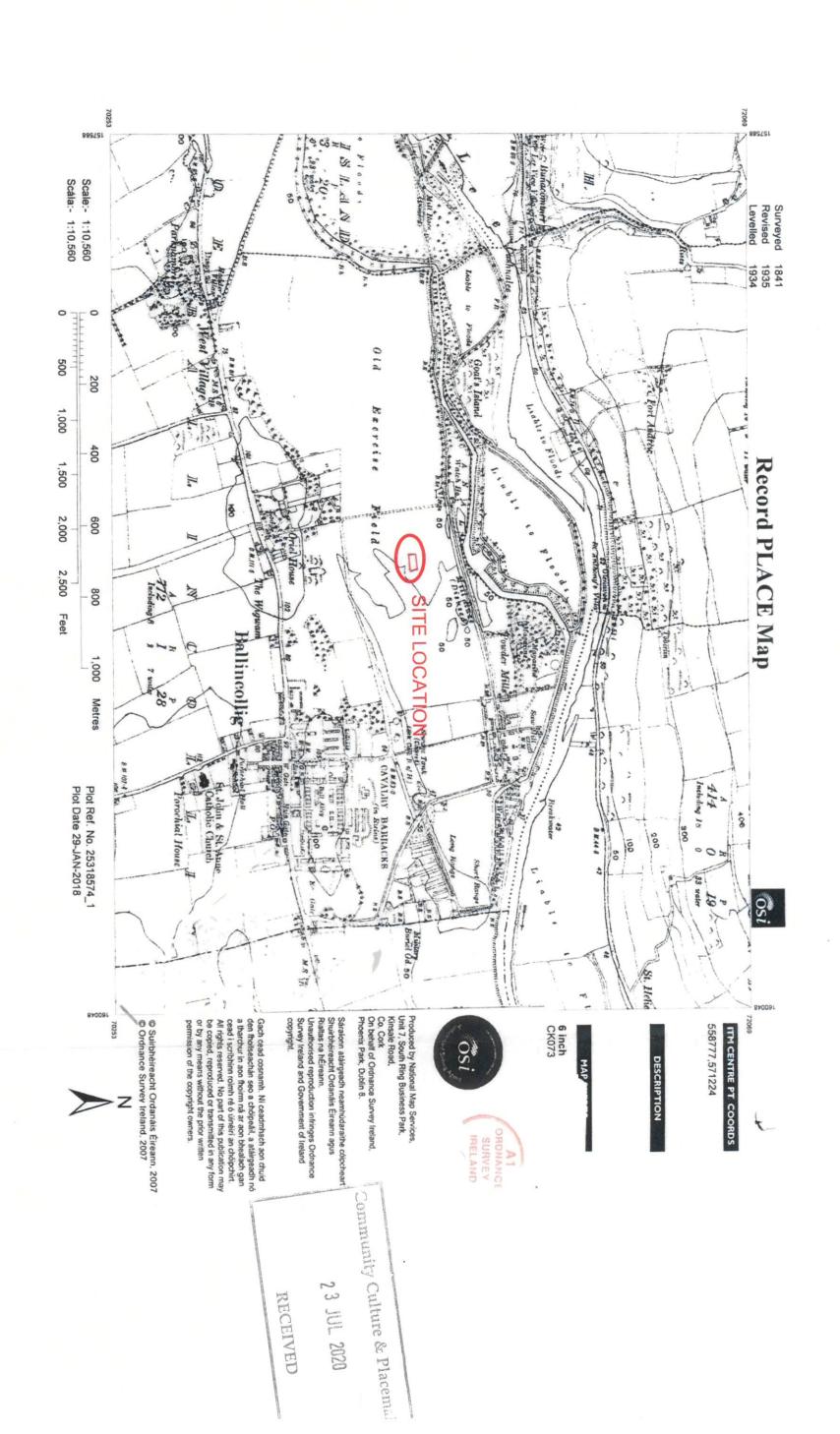
The application should be sent to the following address:

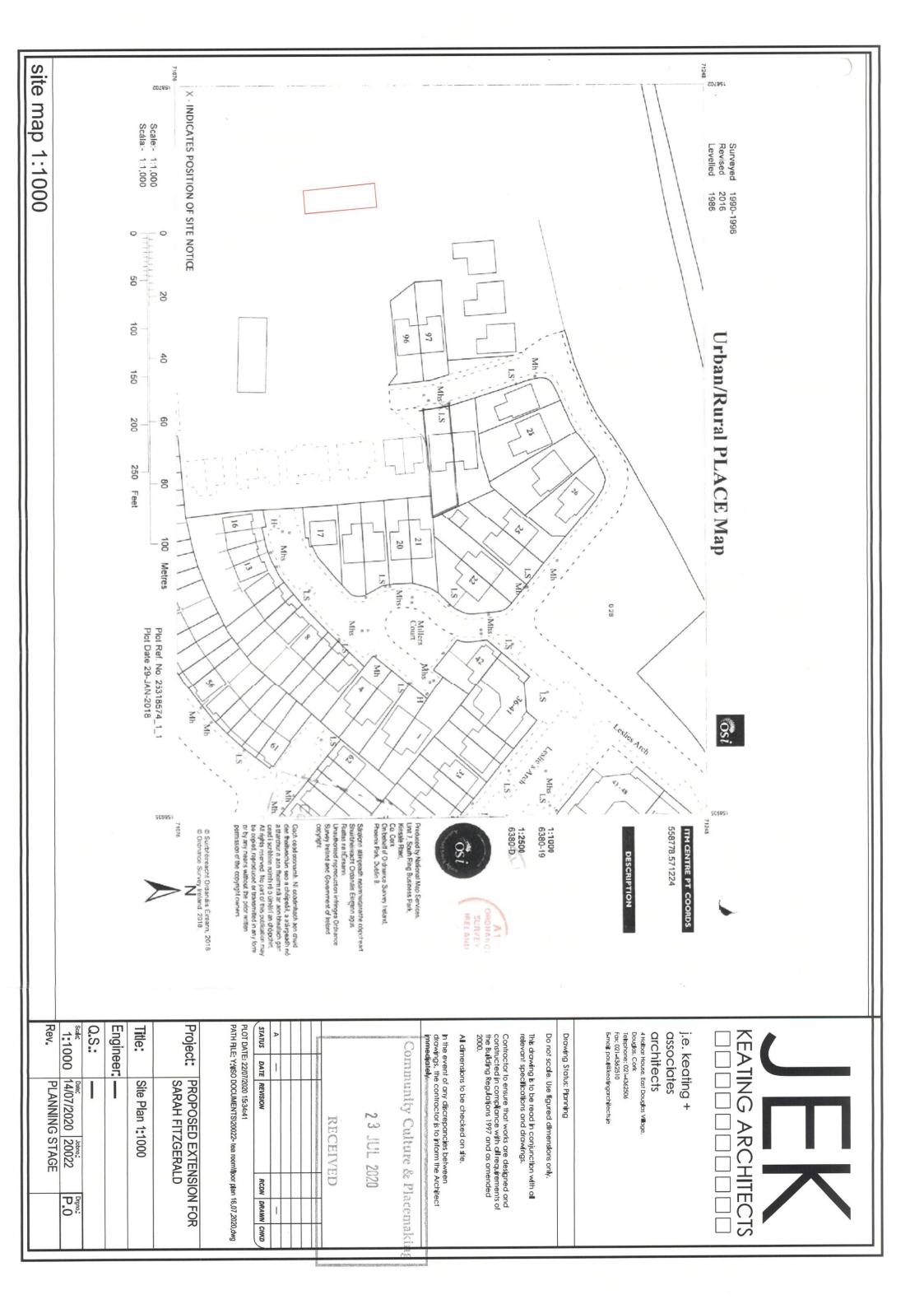
The Development Management Section, Community, Culture & Placemaking Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

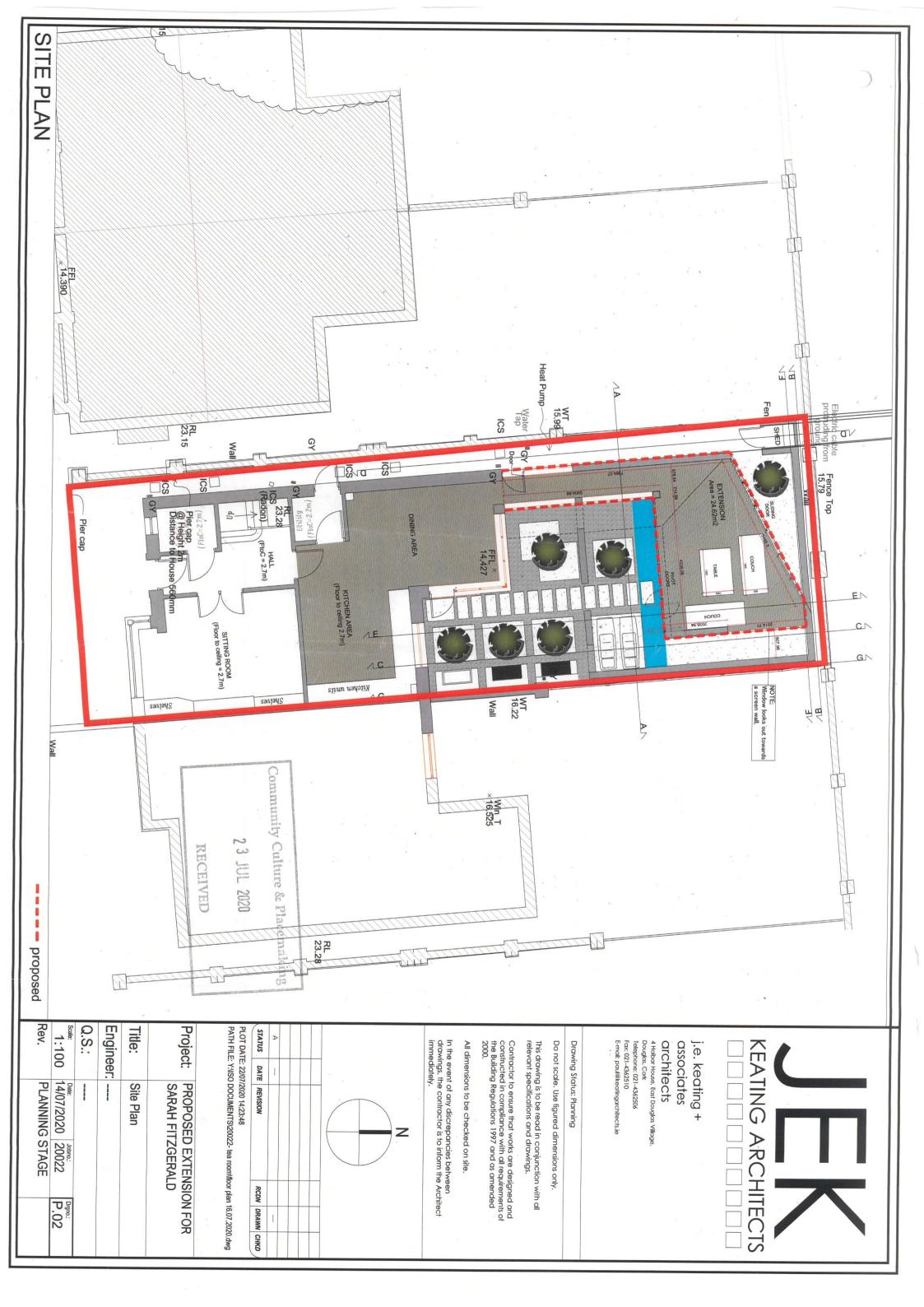
- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any 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.

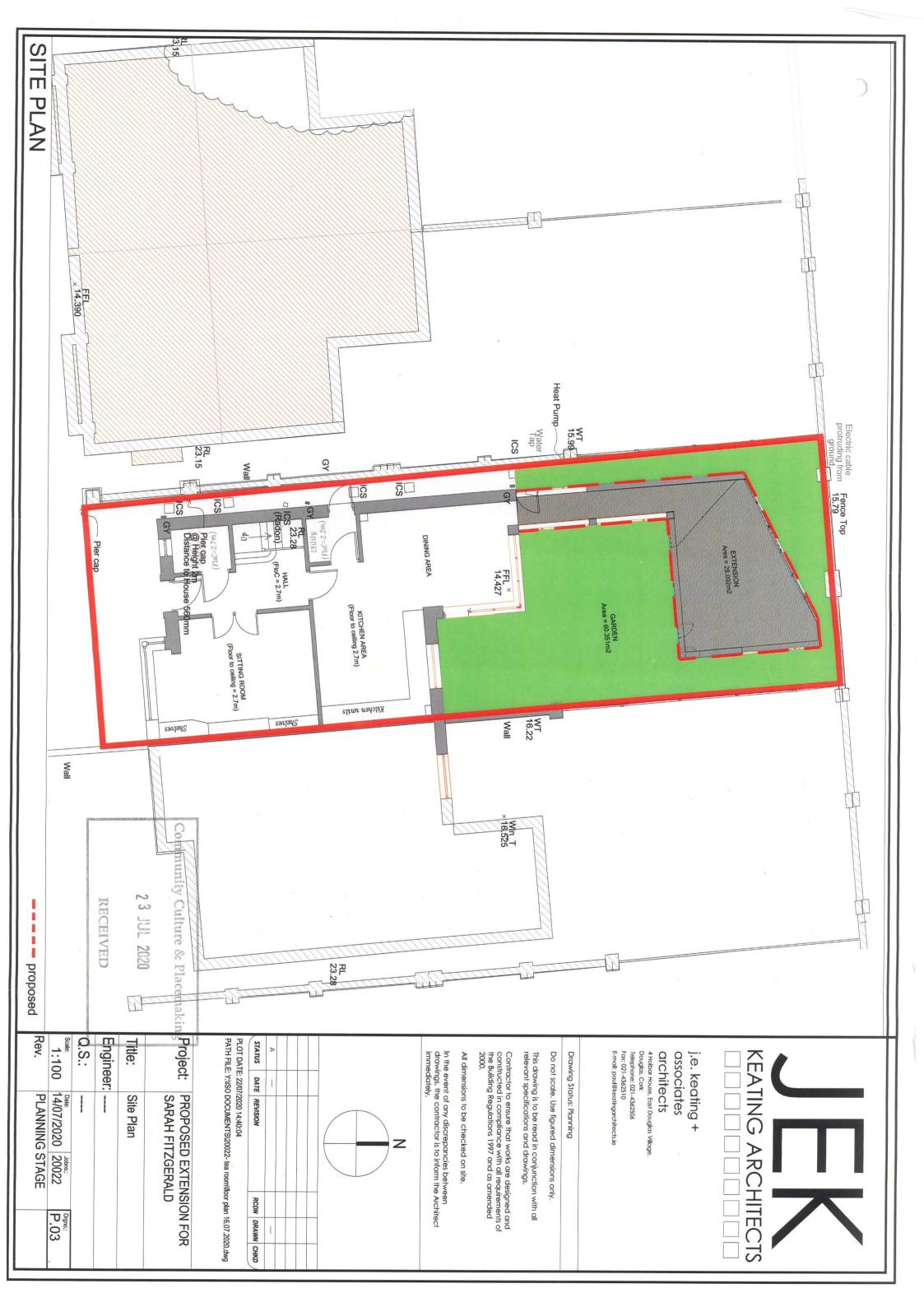
The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation 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.

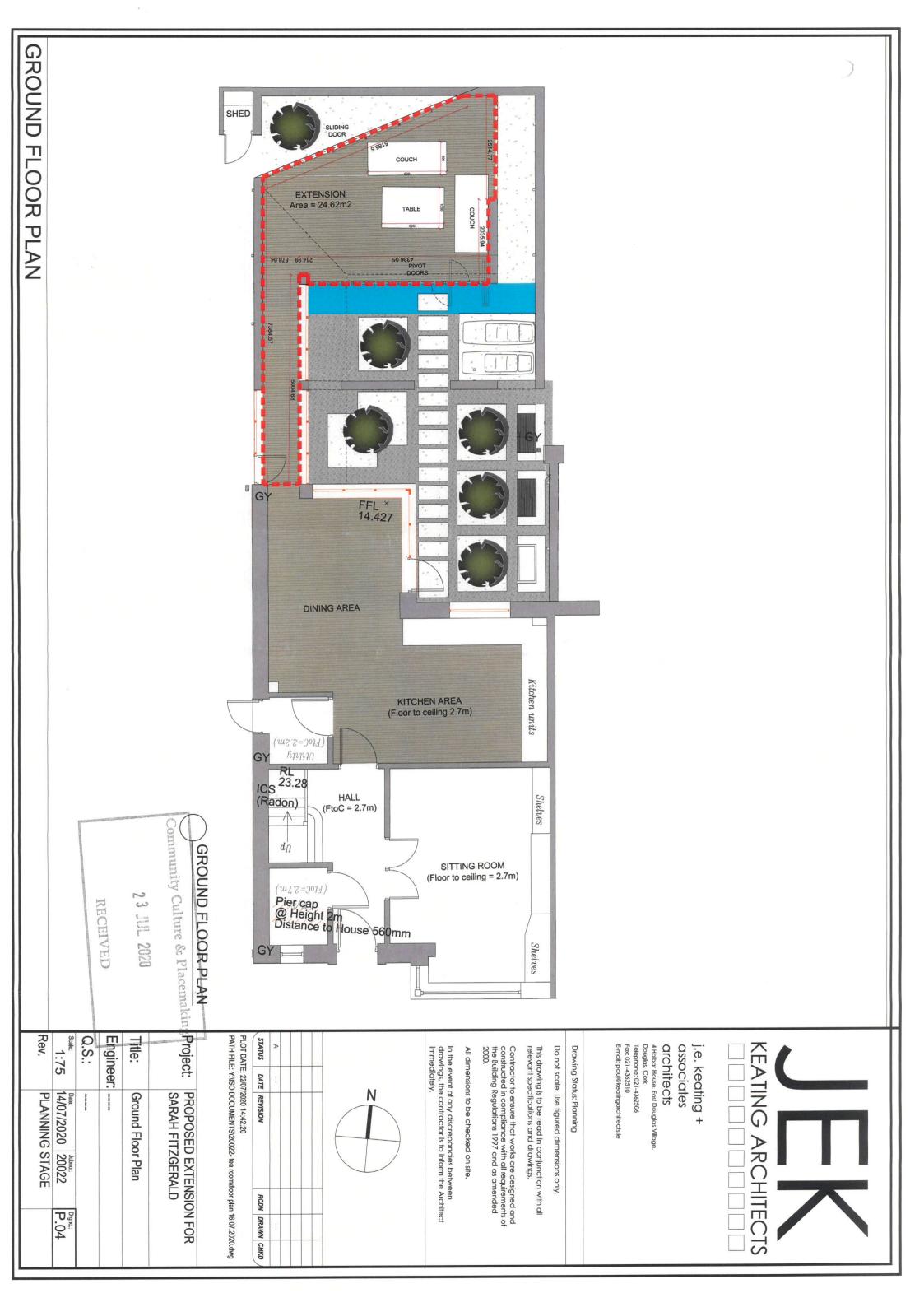
**DATA PROTECTION:** The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution.

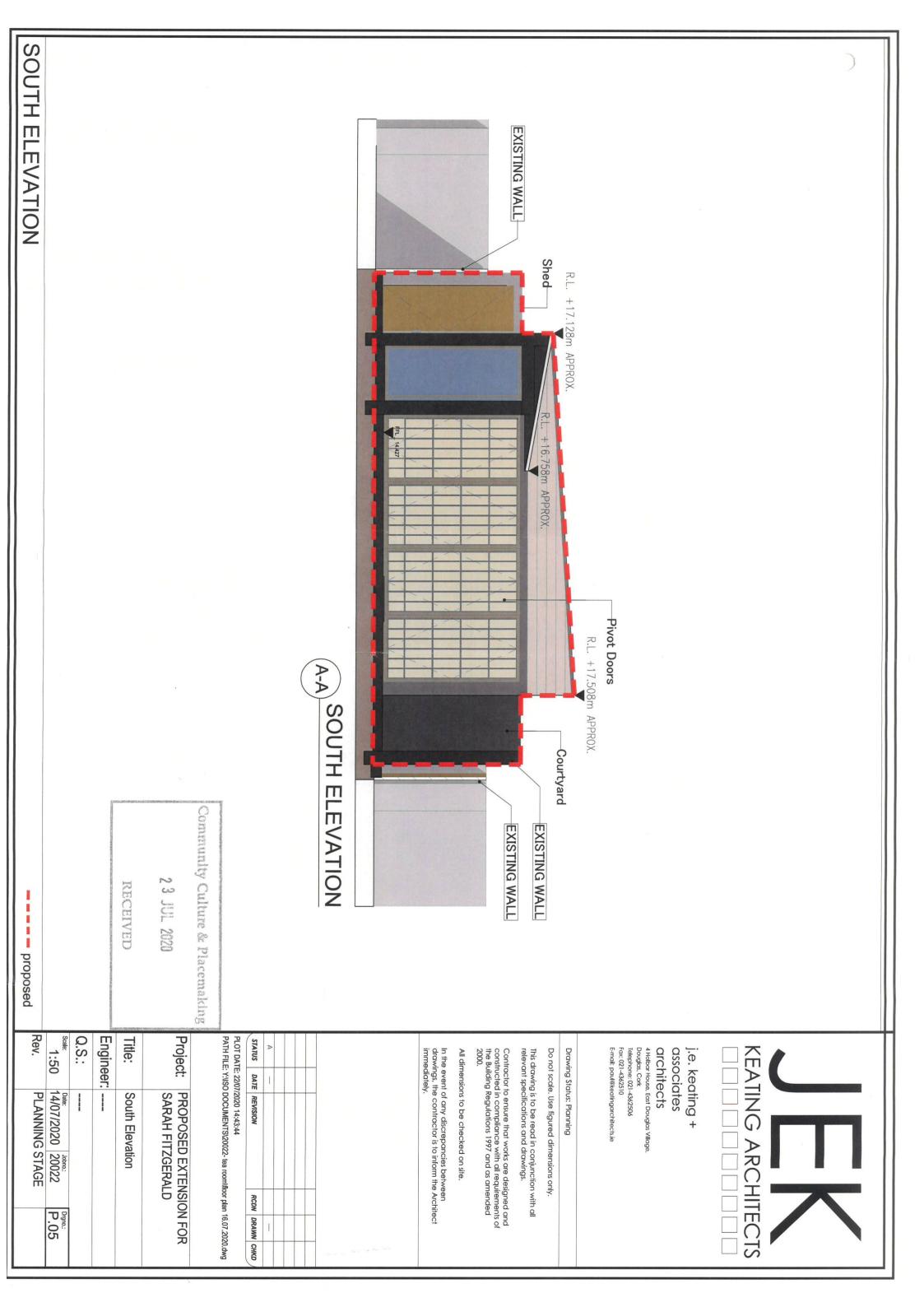




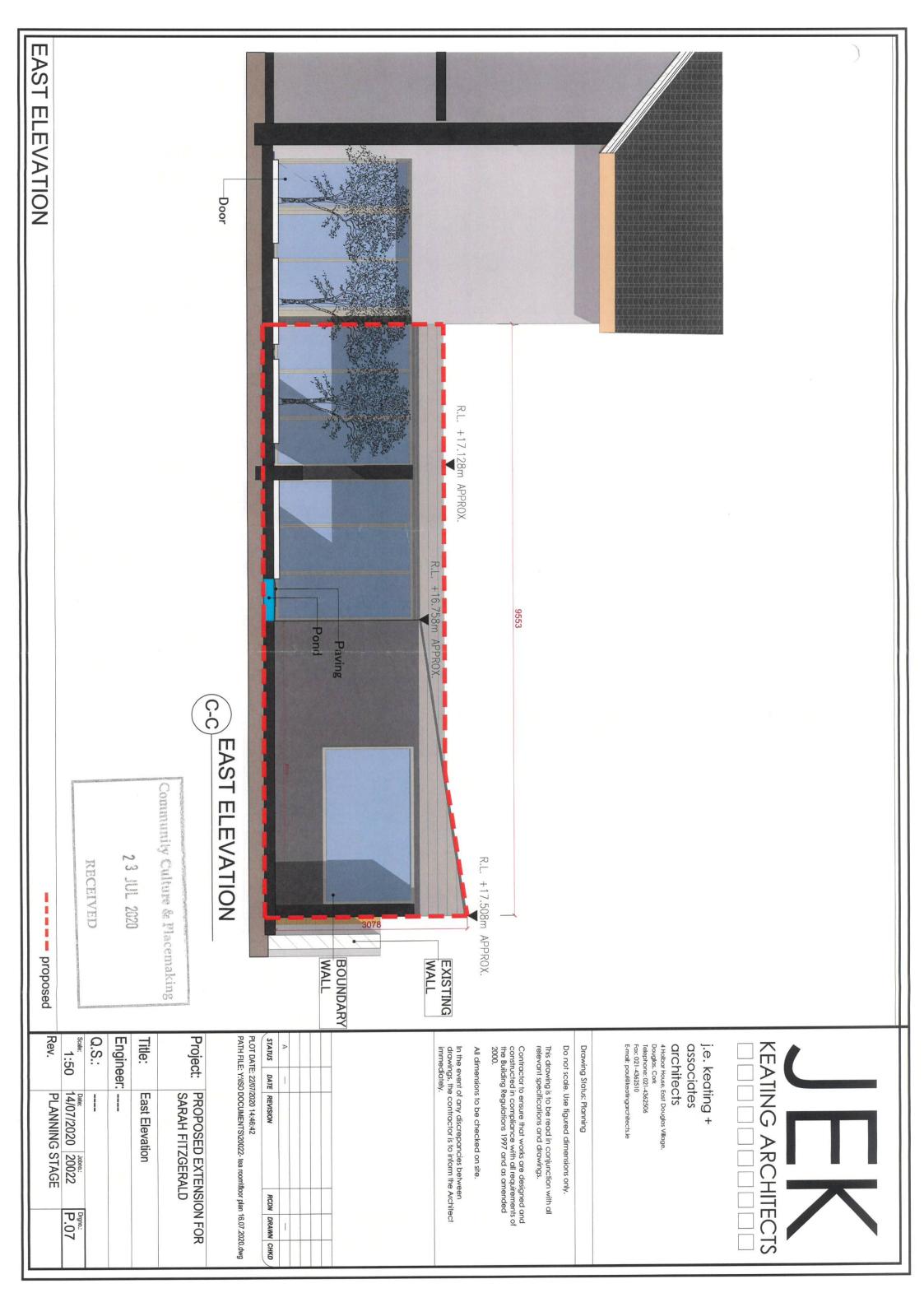


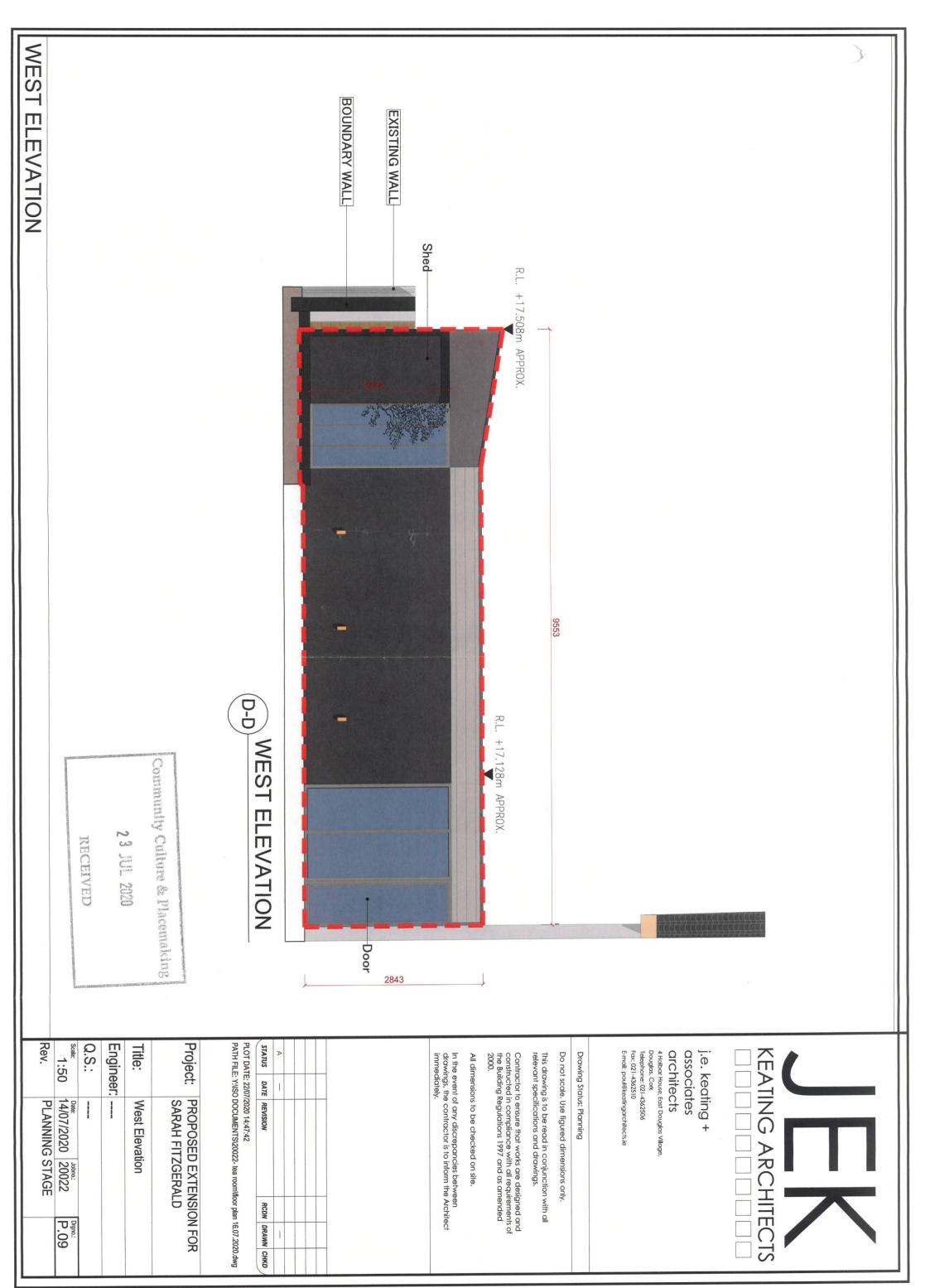


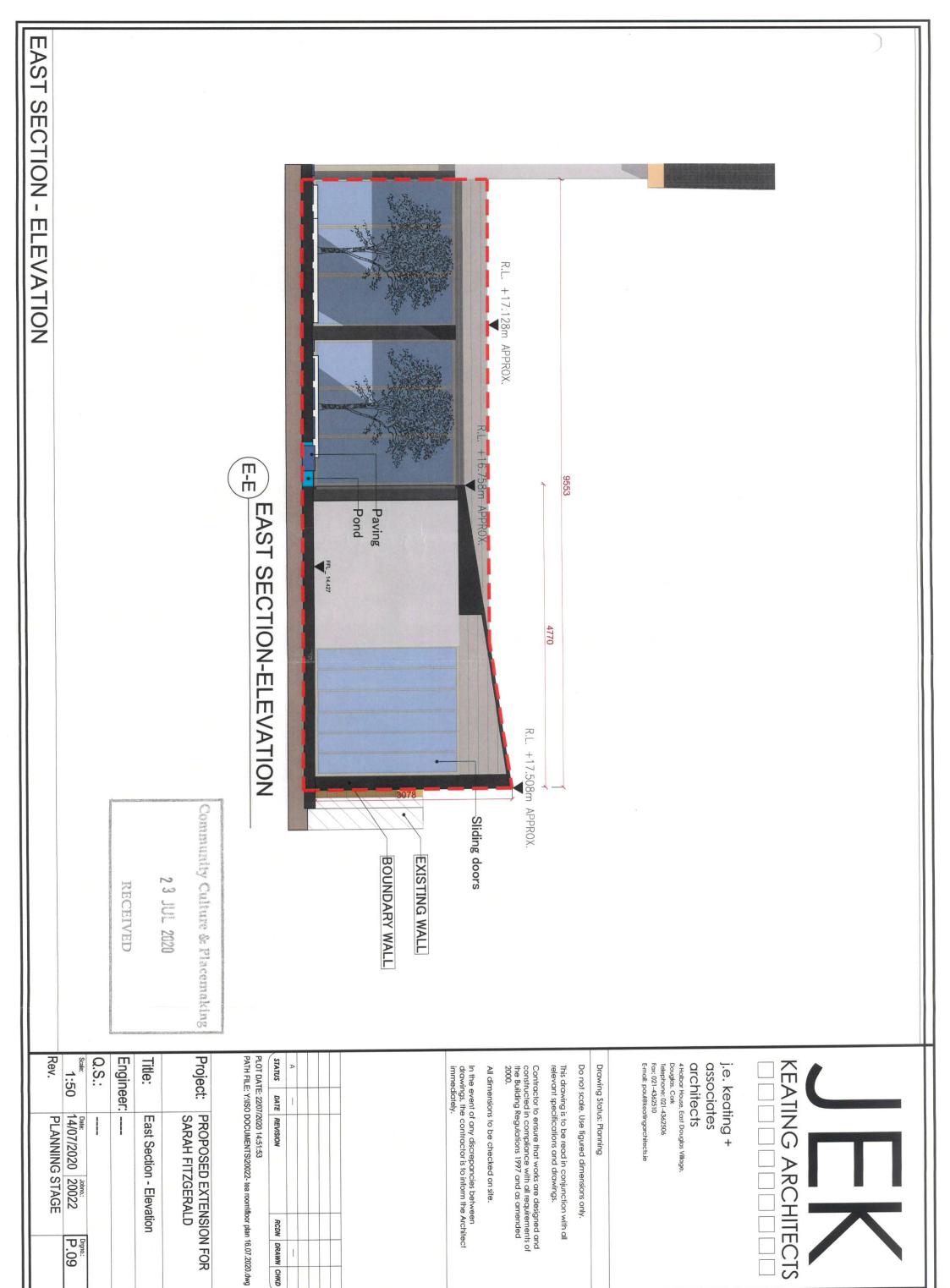












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