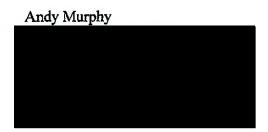


Comhairle Cathrach Chorcaí Cork City Council

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



02/10/2024

RE: Section 5 Declaration R876/24 No. 6 Hazel Hill, Maryborough Ridge, Douglas, Cork, T12THW7

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 23RD September 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 5(2) and 6(1) and Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended,

the Planning Authority has concluded that —

• the 38.5 sq m extension erected to the rear and side of the property protrudes beyond the side wall of the house and therefore does not fall within the exemption criteria set out within Class 1, part 1, Schedule 2, of the Planning and Development Regs 2001, 2001 as amended.

therefore the Planning Authority considers that —

It is considered that the specific question for which a declaration is sought IS **DEVELOPMENT** and IS **NOT EXEMPTED DEVELOPMENT** at No.6 Hazel Hill, Maryborough Ridge, Douglas, Cork T12THW7



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, 02nd October, 2024.

Is mise le meas,

David Foley David Foley

Development Management Section

Community, Culture and Placemaking Directorate

Cork City Council

PLANNER'S REPORT Ref. R876/24	Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration
Description	The extension to the permitted dwelling at no. 6 Hazel Hill, is or is not development, and is or is not exempted development?
Location	6 Hazel Hill, Maryborough, Cork
Applicant	Andy Murphy
Date	06/06/2025
Recommendation	Is Development and Is Not Exempted 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

In response to Q2 on the application for the applicant frames the following question:

The extension to the permitted dwelling an no. 6 Hazel Hill, is or is not development, and is or is not exempted development?

3. Site Description

The property in question is a two-storey detached house located on a west facing row of houses in an estate of houses in Maryborough.

4. Planning History

There are no recent planning applications associated with this specific site save for the parent permissions for the wider development.

TP 05/2671 – Grant of permission for 60 no. dwelling units comprising of 28 no. apartment s, 28 no. duplex units and 4 no. townhouses and associated site works.

TP 07/11814 – Grant of permission for residential development of 21 no. detached dwellinghouses (change of house type, partial change of site layout and decrease in density to that permitted under 04/5681).

TP 08/8063 - Construction of 3 no. dwellinghouses (handed housetype and partial change of site layout for Nos. 4-6) and retention and completion of 3 no. dwellinghouses (handed housetype and partial change of site layout for Nos. 1-3).

TP 16/7271 (ABP – 307941 - 19 SHD) – Grant of permission for the construction of 200 no. residential units (comprising 86 no. semi - detached dwellinghouses, 70 no. townhouses, 22 no. ground - floor apartments with 22 no. duplex apartments overhead), crèche and all associated ancillary development works including the completion of a roundabout and road improvements onto Maryborough Hill, footpaths and cycle lanes, bus stop, foul and storm water drainage, boundary treatments, landscaping and amenity areas and the removal of existing electricity transformer/substation and construction of new electricity substation

5. Legislative 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, "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(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 2001-2013.

Section 5(1),

(See section 1 of this report)

Section 177U (9) (screening for appropriate assessment)

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.

5.2 The Regulations

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.

SCHEDULE 2, ARTICLE 6, PART 1, Exempted Development — General

Column 1	Column 2
Description of Development	Conditions and Limitations
Development within the curtilage	1. (a) Where the house has not been extended previously, the
of a house	floor area of any such extension shall not exceed 40
CLASS 1	square metres.
The extension of a house, by the	(b) Subject to paragraph (a), where the house is terraced or
construction or erection of an	semi-detached, the floor area of any extension above
extension (including a	ground level shall not exceed 12 square metres.
conservatory) to the rear of the	(c) Subject to paragraph (a), where the house is detached, the
house or by the conversion for use	floor area of any extension above ground level shall not
as part of the house of any garage,	exceed 20 square metres.
store, shed or other similar	2. (a) Where the house has been extended previously, the floor
structure attached to the rear or	area of any such extension, taken together with the floor
to the side of the house.	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.

6. ASSESSMENT

6.1 Development

The first issue for consideration is whether or not the matter at hand is 'development'.

'Development' as defined in the Act (3)(1) comprises two possible chief components: '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'. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

'Works' is defined in section 2(1) of the Act as 'the carrying out of any works on, in, over, or under land' including '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. '.

I consider that the erection of the extension constitutes the carrying out of works and as such it constitutes development.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

The extension may be exempt if it accords with the exemption set out in Class 1 in Schedule 2 of the *Planning and Development Regulations 2001* (as amended). However, as the extension as proposed is extending beyond the side wall of the existing dwelling, the conditions / limitations set out in Class 1 do not apply in this instance and the works cannot be considered against them. For an extension to be considered against these conditions/limitations, it should be to the rear of the building only. As the extension protrudes beyond the side wall of the house and therefore does not fall within the exemption criteria set out within Class 1, part 1, Schedule 2, of the Planning and Development Regs 2001.

Therefore, it can be concluded that the extension is development and is not exempted development.

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 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 development site relative to these European sites and related watercourses and to the nature and scale of the development it is considered that the 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 —

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

the Planning Authority has concluded that -

• the 38.5 sq m extension erected to the rear and side of the property protrudes beyond the side wall of the house and therefore does not fall within the exemption criteria set out within Class 1, part 1, Schedule 2, of the Planning and Development Regs 2001, 2001 as amended.

therefore the Planning Authority considers that -

the 38.5 sqm extension to the rear and side of the property at 6 Hazel Hill, Maryborough IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.

Is development, and is not exempted development.

Gillian Tyrrell Assistant Planner

02.10.2024

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

Andy Murphy

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

No. 6, Hazel Hill Maryborough Ridge, Douglas Cork T12 THW7

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?

The question on which the Declaration is sought is whether the extension to the permitted dwelling at no. 6 Hazel Hill is or is not, development and is, or is not, exempted development.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Please refer to the attached appendix A on cover letter outlining details of the schedule of drawings Nos, 23127-1000, 1001, 1150, 1250, 1251, 1300, 1350 and 1351.

2 3 SEP 2024

CORK CITY COUNCIL

5. 1					
	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? Was there previous relevant planning application/s on this site?				
,					
6. V					
	APPLICATION DETAILS	-			
alls and	he following if applicable. Note: Floor and I should be indicated in square meters (sq	. M)	asured from the	inside of the external	
(a)	Floor area of existing/proposed structur	e/s		38.5 m²	
	If a domestic extension, have any previous extensions/structures been erected at the location after 1st October 1964, (including for which planning permission has been obtained)?	this ng those	m)	Nd √ provide floor areas. (sq	
	If concerning a change of use of land and g/ previous use (please circle)		ing(s), please st /existing use (p		
		·		•	
LEGAL I	INTEREST		3		
Please t	tick appropriate box to show applicant's	A. 00	vner	B. Other	
Please t legal int Where I	tick appropriate box to show applicant's terest in the land or structure legal interest is 'Other', please state your	7	vner	B. Other	
Please t legal int Where I interest If you a	tick appropriate box to show applicant's terest in the land or structure	7	vner	B. Other	
Please t legal int Where I interest If you a	tick appropriate box to show applicant's terest in the land or structure legal interest is 'Other', please state your tin the land/structure in question re not the legal owner, please state the f the owner if available				
Please t legal int Where I interest If you a	tick appropriate box to show applicant's terest in the land or structure legal interest is 'Other', please state your in the land/structure in question re not the legal owner, please state the				
Please t legal int Where interest If you a name of	tick appropriate box to show applicant's terest in the land or structure legal interest is 'Other', please state your tin the land/structure in question re not the legal owner, please state the f the owner if available				
Please t legal int Where interest If you a name of	tick appropriate box to show applicant's terest in the land or structure legal interest is 'Other', please state your tin the land/structure in question re not the legal owner, please state the f the owner if available				



Acorn Business Centre, Mahon Industrial Park, Blackrock Cork T12 K7CV T: 363(0)21 461 4286 F: 363(0)2T 435 0666 E: info@prarch.ie W: www.prarch.ie

September 19th 2024

The Development Management Section,
Community, Culture & Placemaking Directorate,
Cork City Council,
City Hall
Anglesea Street
Cork City
T12 T997

2 3 SEP 2024

Re: Request for a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended) regarding the extension to the permitted dwelling at no. 6 Hazel Hill, Maryborough Ridge, Cork City, T12 THW7

Dear Sir/Madam,

We act for Andy Murphy, No. 6 Hazel Hill, Maryborough Ridge, Cork City, T12 THW7, and submit on their behalf this request for a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended)¹.

We attach herewith the completed application form and the required fee of €80.00.

The question on which the Declaration is sought is whether the extension to the permitted dwelling at no. 6 Hazel Hill is or is not, development and is, or is not, exempted development. The works in question are shown on attached 2 No. copies of the following Drawing Nos, 23127-1000 to 1351 as outlined on appendix A, also includes Site Location Map, Site Layout Plan, Plans, Elevations and Section of the building as constructed.

Class 1 of Part 1 of Schedule 2 of the Planning Regulations: The works in question fall within the definition of "development" in Section 3(1) of the Planning Act. The question to be determined is whether the works are "exempted development" under the Regulations published by the Minister under Section 4(2)(a) of the Act. Article 6(1) of the Planning, and Development Regulations, 2001 (as amended)² 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.

In our opinion the extension to the permitted dwelling falls within the scope of Class 1 of Part 1 of Schedule 2 of the Planning Regulations, which provides the following exemptions regarding development within the curtilage of a house. Please see table 1 below setting out the 'Description of Development' in column 1 and the relevant 'Conditions and Limitations' in

¹ Hereafter referred to as "the Planning Act".

[&]quot;Hereafter referred to as "the Planning Regulations."

Table 1. Exempted Development – General, Development within the Curtilage of a House

Schedule 2	
Part 1 Example of Powelerment Conserved	
Exempted Development – General	
Column 1	Column 2
Description of Development	Conditions and Limitations
Development within the curtilage of a house	1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.
CLASS 1	
The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the	(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 square metres.
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	(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.
of the house	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.

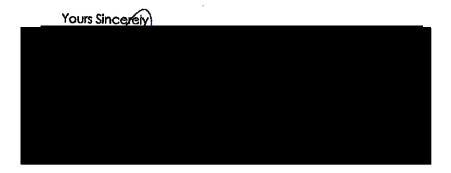
Contd.

Conclusion

The works as completed are less than 40 m2 (actual \sim 38.5m²) and the resulting works have permitted the retention of 25m2 (actual \sim 76.5m²)

Therefore, it is our opinion the extension as constructed is development and is exempted development subject to the conditions and limitations of Class 1 of Part 1 of Schedule 2 of the Planning Regulations 2001, as amended.

Should you require any further clarification to assist this request please do not hesitate to get in touch.



APPENDIX A

Schedule of Maps and Drawings:

Site Location Map	OSI Planning Pack Map - scale 1:1000
Drawing No. 23127 – 1000 - P1	Proposed Site Layout Scale 1:250 @A3
Drawing No. 23127 – 1001 - P1	Proposed Site Layout – Larger Scale Scale 1:125 @A3
Drawing No. 23127 – 1150 - P1	Proposed Floor and Roof Plans. Scale 1:100 @A3
Drawing No. 23127 – 1250 – P1	Proposed sections A-A and B-B Scale 1:100 @A3
Drawing No. 23127 – 1251 – P1	Proposed sections C-C, D-D and E-E scale 1:100 @A3
Drawing No. 23127 – 1300 – P1	Existing Elevations Scale 1:100 @A3
Drawing No. 23127 - 1350 - P1	Proposed RHS (Southeast) Elevations Scale 1:100 @A3
Drawing No. 23127 – 1351 – P1	Proposed Front, Rear and LHS Elevations Scale 1:100 @A3

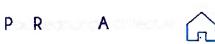
Request for a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended) regarding the extension to the permitted dwelling at no. 6 Hazel Hill, Maryborough Wood, Cork City.

Schedule of Maps and Drawings:

Site Location Map	OSI Planning Pack Map - scale 1:1000
Drawing No. 23127 - 1000 - P1	Proposed Site Layout Scale 1:250 @A3
Drawing No. 23127 – 1001 - P1	Proposed Site Layout – Larger Scale Scale 1:125 @A3
Drawing No. 23127 – 1150 - P1	Proposed Floor and Roof Plans. Scale 1:100 @A3
Drawing No. 23127 – 1250 – P1	Proposed sections A-A and B-B Scale 1:100 @A3
Drawing No. 23127 – 1251 – P1	Proposed sections C-C, D-D and E-E Scale 1:100 @A3
Drawing No. 23127 – 1300 – P1	Existing Elevations Scale 1:100 @A3
Drawing No. 23127 – 1350 – P1	Proposed RHS (Southeast) Elevations Scale 1:100 @A3
Drawing No. 23127 - 1351 - P1	Proposed Front, Rear and LHS Elevations Scale 1:100 @A3



CODE ITY COM





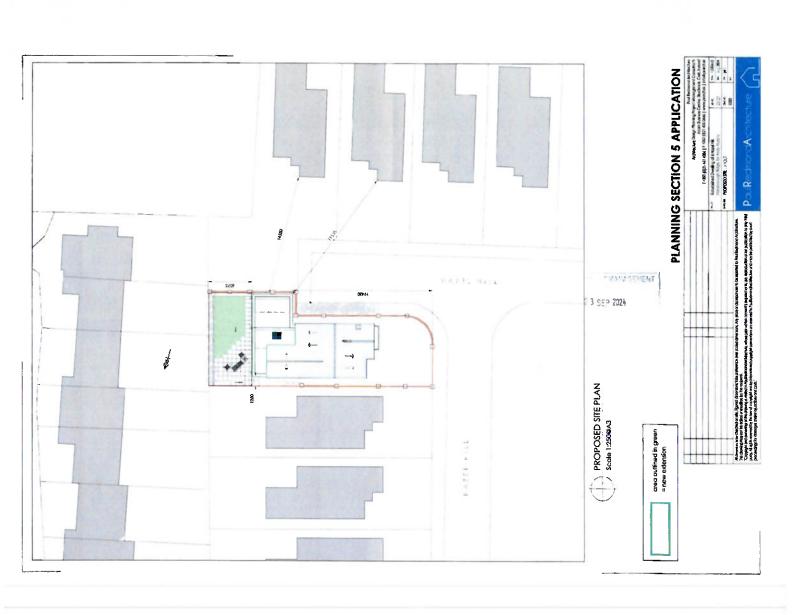
APPENDIX A

Schedule of Maps and Drawings:

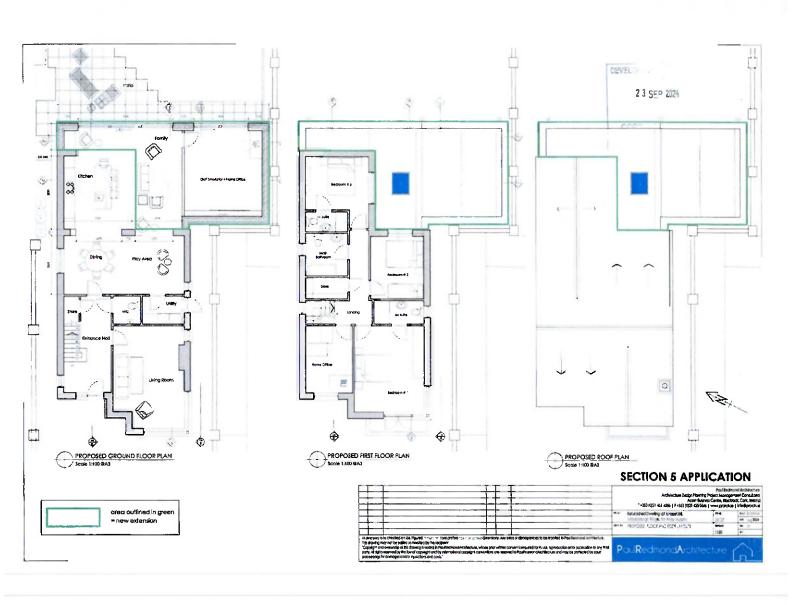
Site Location Map	OSI Planning Pack Map - scale 1:1000
Drawing No. 23127 – 1000 - P1	Proposed Site Layout Scale 1:250 @A3
Drawing No. 23127 – 1001 - P1	Proposed Site Layout – Larger Scale Scale 1:125 @A3
Drawing No. 23127 – 1150 - P1	Proposed Floor and Roof Plans. Scale 1:100 @A3
Drawing No. 23127 – 1250 – P1	Proposed sections A-A and B-B Scale 1:100 @A3
Drawing No. 23127 – 1251 – P1	Proposed sections C-C, D-D and E-E Scale 1:100 @A3
Drawing No. 23127 – 1300 – P1	Existing Elevations Scale 1:100 @A3
Drawing No. 23127 – 1350 – P1	Proposed RHS (Southeast) Elevations Scale 1:100 @A3
Drawing No. 23127 - 1351 - P1	Proposed Front, Rear and LHS Elevations Scale 1:100 @A3

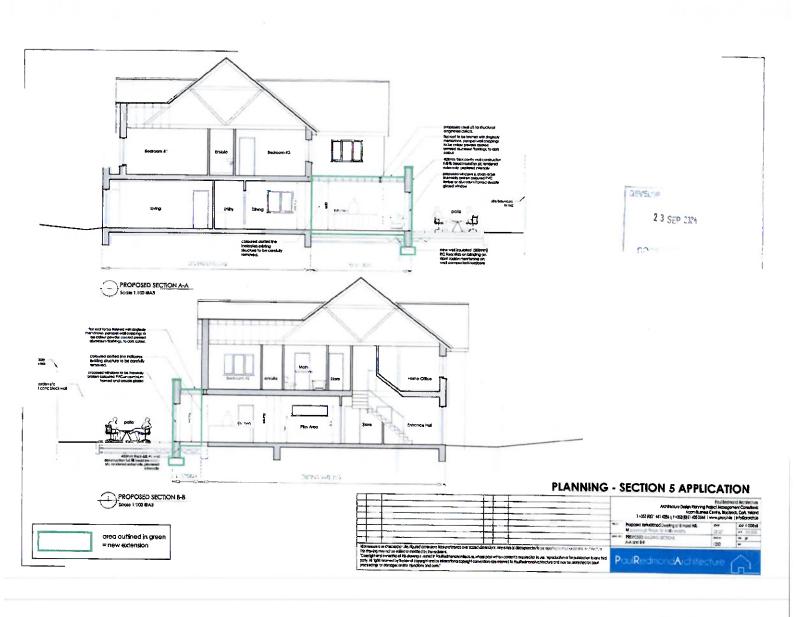
2 3 SEP 2024

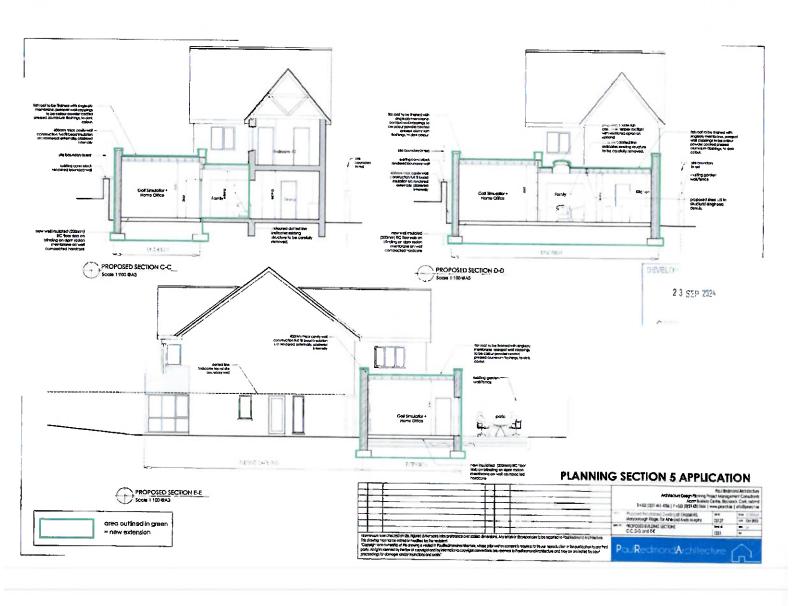
END

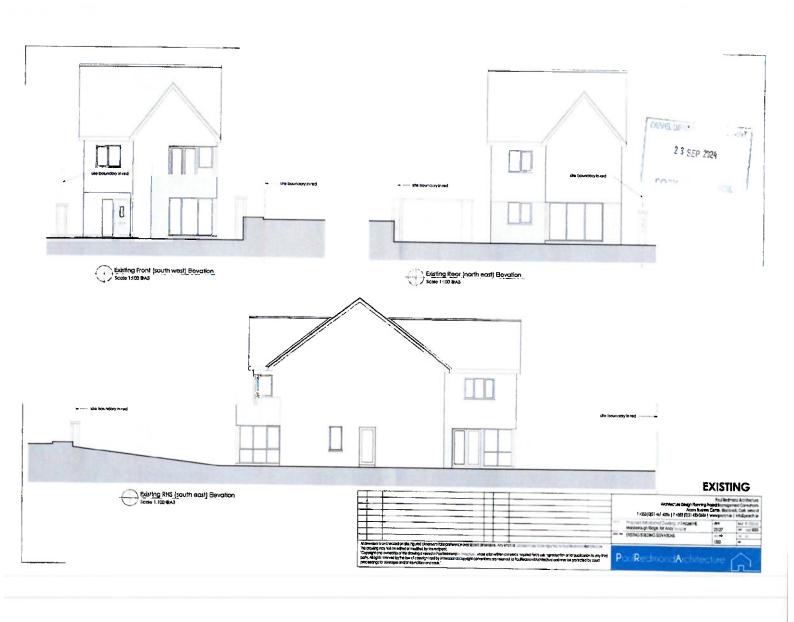




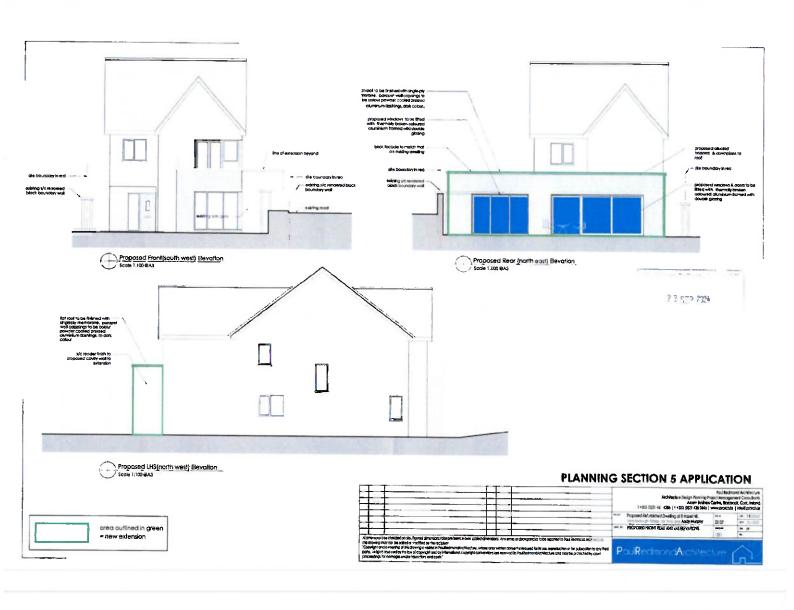














OMPILED AND PUBLISHED BY:

ailte Eireann, hoenix Park, ublin 8, sland. D8F6E4

ww.tailte.ie

ny unauthorised reproduction fringes Taille Éireann copyright.

be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owner.

The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

This topographic map does not show legal property boundaries, nor does it show ownership of physical features.

Tailte Éireann, 2024
 All rights reserved

MAP SERIES: 1:2,500 MAP SHEETS: 6428-D

CAPTURE RESULUTION:
The map objects are only accurate to the resolution at which they were captured.
Output scale is not indicative of data capture scale. Further information is available at: www.tailte.ie; search 'Capture Resolution' LEGEND: To view the legend visit www.tallte.ie and search for 'Large Scale Legend'



Tailte Eireann