



Comhairle Cathrach Chorcaí

Cork City Council

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



30/01/2026

**RE: Section 5 Declaration: R1015-26 6 Friary Gardens, Friars Walk,
Cork. T12 W3P6**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 05th January 2026.

The Question before the Planning Authority was whether the reduction in size of a window at 6 Friary Gardens, at the rear of the house, is exempted development.

Having regard to —

The planning history of the site, and
Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),



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It is considered that the reducing of the size of a window to the rear of the dwelling at 6 Friary Gardens, Friars Walk, Cork, **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

It is considered that replacing 6 roof tiles with clear roof tiles of the same pattern located to the front of the dwelling at 6 Friary Gardens, Friars Walk, Cork, does not fall within the scope of Section 4(1) h of the Act as it would 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 and Article 9 (i) of the Act as it would contravene a condition attached to a permission under the Act. Accordingly, the replacing of 6 roof tiles with clear roof tiles of the same pattern located to the front of the dwelling at 6 Friary Gardens, Friars Walk, Cork, **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT**.

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 Coimisiún Pleanála within 4 weeks of the date it is issued, the 30th of January, 2026.

Is mise le meas,

Anthony Angelini

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



We are Cork.

PLANNER'S REPORT Ref. R1015/26		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Is the reducing of size of window at 6 Friary Gardens, at the rear of the house exempt development.</i> <u><i>Additional Details Regarding the Question</i></u> <i>Replace 6 tiles with clear roof tiles of the same pattern of the existing tiles to provide natural light into a hallway.</i>	
Location	6 Friary Gardens, Friars Walk, Cork.	
Applicant	John Donohoe.	
Date of receipt	31/10/2025	
Recommendation	The reducing in size of rear window Is Development and Is Exempted Development. & Replace 6 tiles with clear roof tiles of the same pattern of the existing tiles (front of dwelling) 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 framing the question to the planning authority, the applicant states in Q3 of the application form:

Is the reducing of size of window at 6 Friary Gardens, at the rear of the house exempt development.

Additional Details Regarding the Question

Replace 6 tiles with clear roof tiles of the same pattern of the existing tiles to provide natural light into a hallway.

Site Description

The development in question is located at 6 Friary Gardens, Friars Walk, Cork, and consists of a two-storey semi-detached dwelling at the southern end of a row of similar type dwellings. The dwelling occupies a corned site at the junction of Friars Walk and Friars Gardens.

3. Planning History

TP 9923654 – Permission Refused to construct an apartment.

TP 0125275 – Permission Refused to construct granny flat & single storey rear extension, close pedestrian entrance & open new pedestrian entrance & new separate vehicular entrance.

TP 0125510 – Permission granted to construct front porch, two storey & extension to form granny flat & single storey rear extension, new pedestrian entrance & vehicular entrance.

TP 0631066 – Permission Refused to change the use from two storey granny flat to use as an apartment.

Section 5 History

R95/04 – the planning authority declared that the installation of two Velux type windows and removal of another window from side of doorway at 6 Friary Gardens, Cork is exempted development.

Legislative Provisions

3.1 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(1)(h),

The following shall be exempted developments for the purposes of this Act-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 2001-2013.

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.

3.2 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.

Article 9 (1)

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

- (a) (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,*
- (a) (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,*

4. 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 proposed works as described in the application documentation constitutes development.

6.2 Exempted development

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

The structure subject to this Section 5 declaration is a two-storey semi-detached dwellinghouse.

The following is given consideration in the assessment of the exempted nature of the proposal.

Section 4(1)(h) states:

The following shall be exempted developments for the purposes of this Act-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;

Article 9 (1) states:

Development to which article 6 relates shall not be exempted development for the purposes of the Act –
(a) (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,
(b) (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,

The question before the planning authority is as follows:

'Is the reducing of size of window at 6 Friary Gardens, at the rear of the house exempt development.'

The application documentation includes photographs of the window and its location on the building, the dimensions of the existing window and the proposed dimensions of the reduced window size. The window is located to rear of the dwelling at first floor level. It is proposed to reduce the size of the window from 1120mm x 1000mm to 800mm x 1000mm.

It is considered that the reduction in the size of the window to the rear of the dwelling would 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 and accordingly is development and is exempted development.

Additional Information

It is considered that the additional information should have formed part of the question before the planning authority rather than an addendum to the question.

Notwithstanding this,

The application has provided additional information as follows:

'Replace 6 tiles with clear roof tiles of the same pattern of the existing tiles to provide natural light into a hallway.'

The clear roof tiles are proposed to be located to the front of the dwelling as indicated in the application documentation. See figure 1 below submitted with the application documentation of the proposed clear roof tile(s), and figure 2 of the proposed location of the tiles.



Figure 1 example of proposed clear roof tile.



Figure 2 approx. location of the tiles

It is considered that the roof tile(s) by reason of the transparent material finish and location to the front of the dwelling would be inconsistent with the character of the dwelling and would 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. Accordingly, it is considered that the replacement of 6 no. roof tiles with 6 no. clear roof tiles to the front of the dwelling does not fall within the scope of Section 4(1)(h) of the Act.

In addition to this,

Having reviewed the planning history of the site, planning reference 01/25510 and associated condition no. 2 which states, *'All external finishes to include roof finish shall harmonise in colour and texture with the existing premises. In the interest of visual amenities.'*

In this regard, Article 9 (1) of the Act is noted,

'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'

The proposed clear roof tiles are considered to contravene planning condition no. 2 (ref. 01/25510) and are considered to not harmonise with the existing roof finish of the premises.

ENVIRONMENTAL ASSESSMENT

4.1 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.

4.2 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.

5. Conclusion

The question has been asked:

'Is the reducing of size of window at 6 Friary Gardens, at the rear of the house exempt development?'

Additional Details Regarding the Question

'Replace 6 tiles with clear roof tiles of the same pattern of the existing tiles to provide natural light into a hallway.'

6. RECOMMENDATION

In view of the above and having regard to —

- The planning history of the site, and
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),

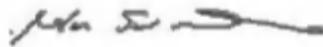
It is considered that the reducing of the size of a window to the rear of the dwelling at 6 Friary Gardens, Friars Walk, Cork, **Is Development and Is Exempted Development.**

Additional Details Regarding the Question

In view of the above and having regard to —

- The planning history of the site, and
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that replacing 6 roof tiles with clear roof tiles of the same pattern located to the front of the dwelling at 6 Friary Gardens, Friars Walk, Cork, does not fall within the scope of Section 4(1) h of the Act as it would 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 and Article 9 (i) of the Act as it would contravene a condition attached to a permission under the Act. Accordingly, the replacing of 6 roof tiles with clear roof tiles of the same pattern located to the front of the dwelling at 6 Friary Gardens, Friars Walk, Cork, **Is Development and Is Not Exempted Development.**



Alan Swanwick

Assistant Planner

30/01/2026

Gwen Jordan McGee

Gwen Jordan McGee

Senior 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

Líonra/Web: www.corkcity.ie

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

1. NAME OF PERSON MAKING THE REQUEST

JOHN DONOHUE

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

6 FRIARY GARDENS FRIARS WALK CORK
T12W3PE

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.

① IS THE REDUCING OF SIZE OF WINDOW AT 6 FRIARY GARDENS, AT THE REAR OF HOUSE EXEMPT DEVELOPMENT

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

② Replace ¹⁰ tiles with clear roof tiles of the same pattern as the existing tiles to provide natural light in to a hallway

CORK CITY COUNCIL
PLANNING & DEVELOPMENT

31 OCT 2025

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?

6. Was there previous relevant planning application/s on this site?
 If so please supply details:

7. APPLICATION DETAILS

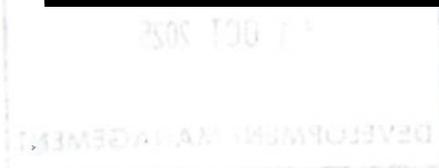
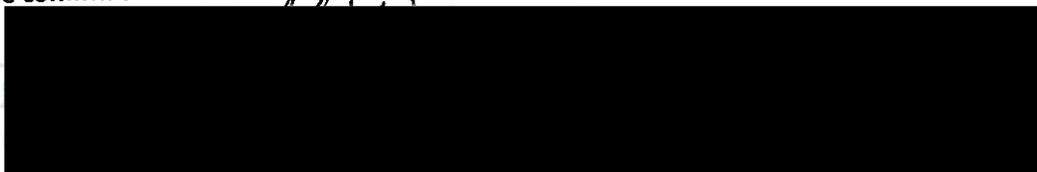
Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m)
(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)

7. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question		
If you are not the legal owner, please state the name of the owner if available		

8. I / We confirm that the information contained in the application is true and accurate:



CONFIDENTIAL CONTACT DETAILS

These details will not be made available to the public.

9. Applicant:

[Redacted]

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

[Redacted]

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

Name(s)	
Address	

12. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

[Redacted]

For Office Use Only:

File Ref. No. _____

ADVISORY NOTES:

The application must be accompanied by the required fee of €80. Payment may be made at the Cork City Council cash desk, by cheque, by telephone with a credit/debit card, or by electronic fund transfer.

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.**

Please email planning@corkcity.ie with any queries.

- 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

"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protection policy is available at <https://www.corkcity.ie/en/council-services/public-info/gdpr/>

We request that you read these as they contain important information about how we process personal data.

1. Plan, drawings and maps accompanying an application for a Section 5 Declaration on exempted development shall all be in metric scale and comply with the following requirements:-
 - * NOTE 2 COPIES OF PLANS AND PARTICULARS ARE REQUIRED
 - (a) site or layout plans shall be drawn to a scale of not less than 1:500 (which shall be indicated thereon), the site boundary shall be clearly delineated in red, and buildings, roads, boundaries, septic tanks and percolation areas, bored wells, significant tree stands and other features on, adjoining or in the vicinity of the land or structure to which the application relates shall be shown, land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant or the person who owns the land, which is subject of the application, shall be outlined in blue and wayleaves shall be shown in yellow,
 - (b) other plans, elevations and sections shall be drawn to a scale of not less than 1:200 (which shall be indicated thereon), or such scale as may be agreed with the Planning Authority prior to the submission of the application in any particular case,
 - (c) the site layout plan and other plans shall show the level or contours, where applicable, of any land and the proposed structures relative to Ordnance survey datum or a temporary local benchmark,
 - (d) drawings of elevations of any proposed structure shall show the main features of any buildings which would be contiguous to the proposed structure if it were erected, whether on the application site or in the vicinity at a scale of not less than 1:200, as may be appropriate,
 - (e) plans relating to works comprising reconstruction, alteration or extension of a structure shall be so marked or coloured as to distinguish between the existing structure and the works proposed,
 - (f) plans and drawings of floor plans, elevations and sections shall indicate in figures the principal dimensions (including overall height) of any proposed structure and the site, and site layout plans shall indicate the distances of any such structure from the boundaries of the site,
 - (g) any map or plan which is based on an Ordnance Survey map shall indicate the relevant Ordnance survey sheet number,
 - (h) the north point shall be indicated on all maps and plans other than drawings of elevations and sections,
 - (i) plans and drawings shall indicate the name and address of the person by whom they were prepared.
2. An application for development consisting of or comprising the carrying out of works to a protected structure, or proposed protected structure or to the exterior of a structure which is located within an architectural conservation area in a draft of a proposed development plan or a proposed variation of a development plan, shall, in addition to meeting the requirements above, be accompanied by such photographs, plans and other particulars as are necessary to show how the development would affect the character of the structure.
3. A planning authority may, by notice in writing, require an applicant to provide additional copies of any plan, drawing, map, photograph or other particular, which accompanies the application.



10/

C



Proposed CLEAR tiles

K+ampuz



Proposed Tiles Color

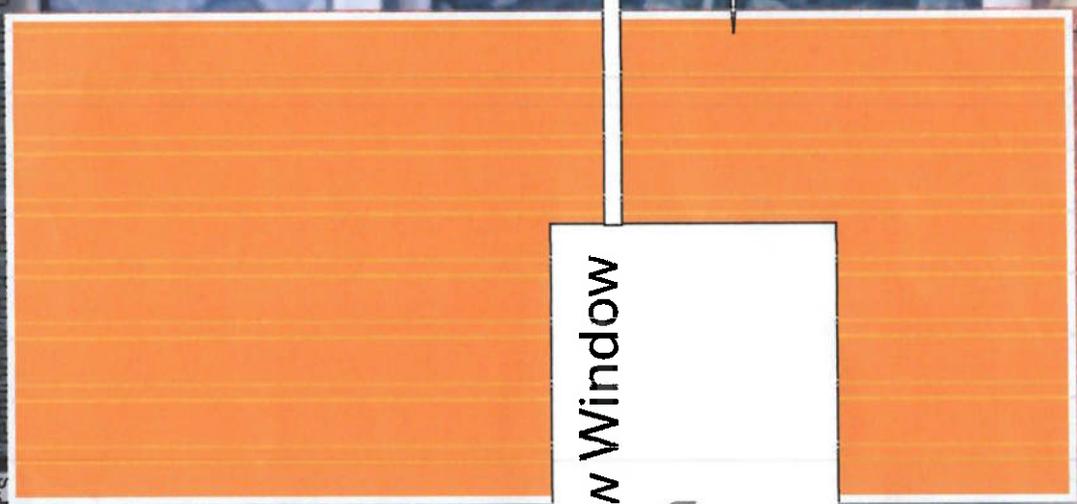
Example

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The Proposed New Window
1000mm*800mm
Picture (A)

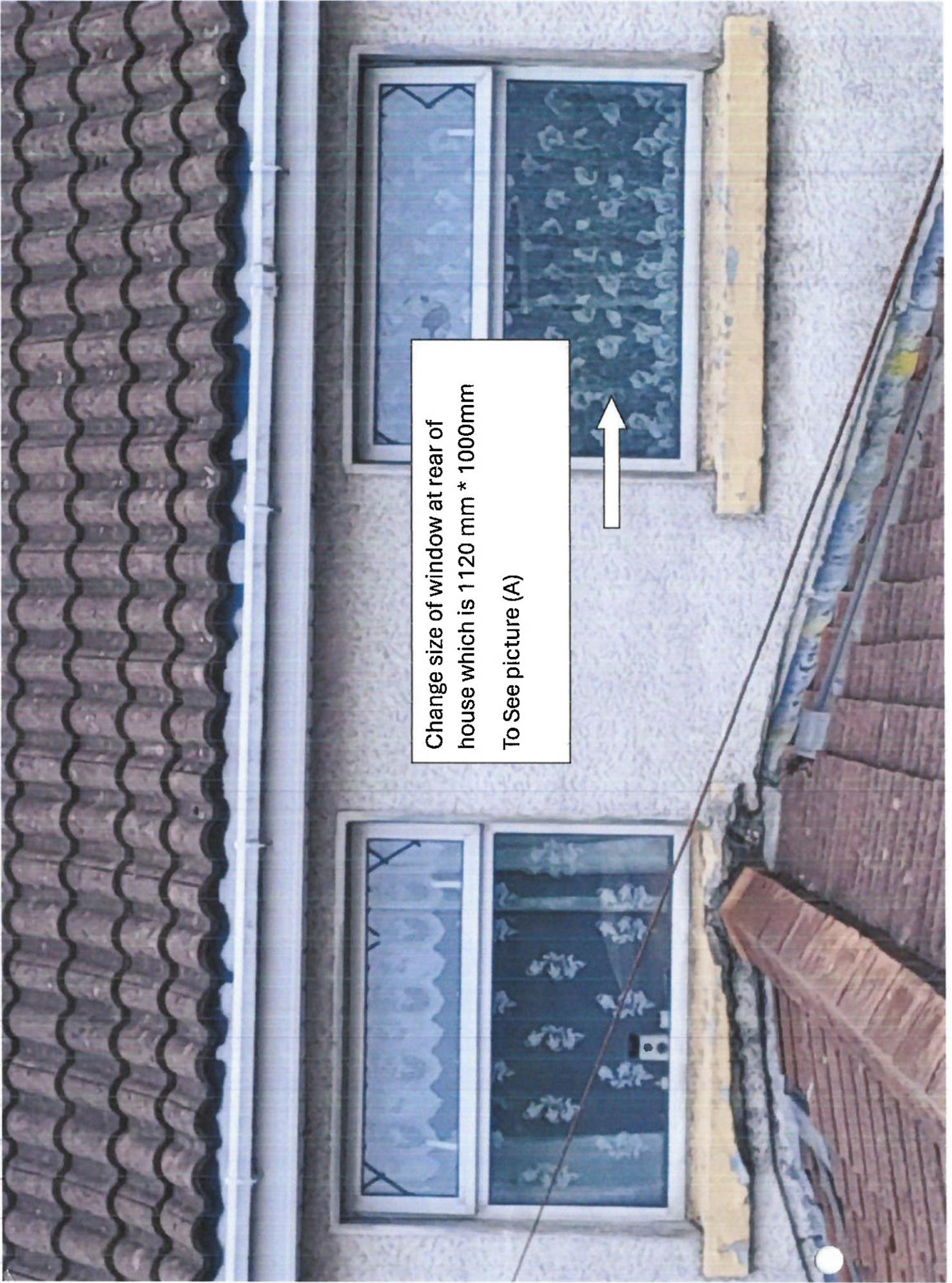


800mm



Replace existing tiles with clear roof tiles of same pattern. In this position approx.





Change size of window at rear of house which is 1120 mm * 1000mm
To See picture (A)



