

Comhairle Cathrach Chorcaí Cork City Council

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



24/06/2025

RE: Section 5 Request:

R952/25. 53 Cooper's Grange, Old Quarter, Ballincollig, Cork.

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on the 26th of May 2025, I wish to advise as follows:

In framing the question to the planning authority, the applicant states in Q3 of the application form: 'Is the construction of a sunroom to the rear of my property an exempted development?"

Additional details regarding question/ works / development: "Was advised planning was not required due to the size (2.23m x 2.63m) but require an exemption in order to be able to sell my property."

Having regard to:

- Section 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, 9, and Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

The Planning Authority considers that the rear sunroom at 53 Cooper's Grange, Old Quarter, Ballincollig, Cork IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.

Is mise le meas,

Anthony Angelini
Assistant Staff Officer

Planning & Integrated Development

Cork City Council



Planner's Report Ref. R952/25	Cork City Council, Planning and Integrated Development
Application type	Section 5 Declaration
Description	Is the construction of a sunroom to the rear of my property an exempted development?
Location	53 Cooper's Grange, Old Quarter, Ballincollig, Cork City
Applicant	Joanne Horgan
Date	10 June 2025
Recommendation	Is Development and Is 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;

"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 construction of a sunroom to the rear of my property an exempted development?"

Additional details regarding question/ works / development

"Was advised planning was not required due to the size (2.23m x 2.63m) but require an exemption in order to be able to sell my property."

3. Site Description

The subject site is located at 53 Cooper's Grange, Old Quarter, Ballincollig, Cork. The site comprises a two-storey two-bedroom mid terrace house with front and rear gardens. The house is finished with plastered walls and concrete tiled roof. There is communal parking to front and an area of public open space to front of terrace. Cooper's Grange is situated between urban town centre and Ballincollig Regional Park (with River Lee adjoining Park to north).

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.

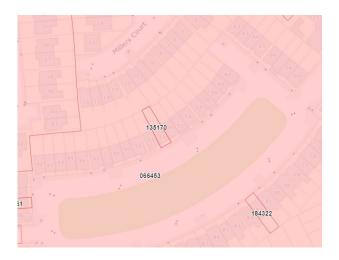
Section 5(1)

section.

(See Section 1 above)

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

3.1 Planning History



On site planning history

135170 Attic conversion with a front dormer window, a front rooflight and 2no. rear rooflights to dwelling house @ 53 Cooper's Grange, Old Quarter, Ballincollig. **Grant**

Adjacent / Estate planning history

066453 Plan & elevational changes to Building C (permitted office building) to include extension to office area at lower ground floor level, subdivision of 2 no. office units at ground & first floor level to provide 4 no. office units, reduced level of plant area at roof level, modifications & extension to building D (permitted office building) over three floors, to provide a total additional floor area of 195 sq metres, plan & elevations changes to building G (permitted hotel building) to include change of use from permitted hotel to office use, omission of external deck at ground level & extension of floor area at ground floor level, changes to fenestration on all elevations, addition of external plant area at second floor level, plan & elevational changes to building J (permitted multi-storey car park) to include the addition of glass louvres on north, south and west elevations,

reduction in building length and floor area over three floors (totalling 174sq metres) & all ancillary works @ Area 5 Main St, Ballincollig. **Grant**

058856 Modifications to northern and part of western elevation of multi-storey car park to include alterations to window opes, omission of timber cladding and replace with slate cladding, alterations to roof profile and inclusion of timber cladding on adjoining service yard elevation and associated development works. @ Area 3, Former Murphy's Barracks, Ballincollig. **Grant**

055012 Plan and elevational changes to Building 5K,permitted under 03/122,to include (a) minor alterations to floor levels (b) relocation of bar entrance and modification to bistro entrance to provide for a new fire escape stairs (c) modifications to fire escapes, internal stairs and lifts and to the existing barracks wall along Main St (d) increase in plant area and (e) all ancillary works. @ Main St, Ballincollig. **Grant**

052524 Change of use from ground floor retail and first floor office/storage as permitted under planning ref no. 03/0121 to i) financial services at unit 12, ii) betting office at ground floor of unit 23, iii) restaurant use at units 26 to 31, and new canopy for units 26 to 31 and units 14 to 16 inclusive, and associated site ancillary works. @ Former Murphy's Barracks, Main Street, Ballincollig. **Grant**

051675 Change of use of part mezzanine floor from storage to cafe use with ancillary areas. @ Units 10 & 11, Ballincollig Town Centre, Main Street. **Grant**

049569 Construction of 100 bedroom hotel with basement to include restaurant, public bar, board room, leisure centre, function room, chilled yard, generator, switch room and E.S.B. sub-station, car parking, 2 no. vehicular accesses, removal of boundary wall and ruin, vehicular accesses and associated site development works. @ Former Murphy, Military Barracks, Ballincollig. **Grant**

049568 Construction of 138 bedroom hotel with basement to include restaurant, public bar, board room, function room, leisure centre, chilled yard, generator, switch room and ESB sub-station, carparking, removal of boundary wall and ruin, vehicular accesses & associated site development works. @ The Former Murphy, Military Barracks, Ballincollig. **Refused**

046220 Variations to 28 no. dwellinghouses permitted under Reg. No. S/02/5827 by the addition of a ground floor bay window to the front elevation ,an additional second floor gable window to side elevation ,the removal of a velux window from the rear elevation, the reduction of the roof pitch from 45 degrees to 42 degrees and the reduction of overall building height by 595mm. (Nos. 200, 202, 203, 204, 206, 207, 208, 210, 211, 213, 214, 221, 222, 368, 371, 386, 390, 391, 394, 397, 451, 454, 45, 458, 459, 462, 475 & 476. @ Murphy Barracks, Main Street, Ballincollig. **Grant**

4. Planning and Development 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.

Article 9

Article 9 sets out restrictions on exemptions specified under article 6.

(Article 6) Schedule 2, Part 1 'Exempted Development - General', Class 1 'Development within the curtilage of a house'

Classes 1-8 relate to development within the curtilage of a house and Class 1 relates to: "The extension of a house, by the construction or erection of an extension (including a conservatory) 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."

Schedule 2, Part 1, Class 1

Exempted Development — General

Column 1	Column 2
Description of Development	Conditions and Limitations
CLASS 1 The extension of a house, by the construction or erection of an extension (including a conservatory) 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.	1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (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. (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. 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 extension above ground level, taken together with the floor area of any previous extension or extensions above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or

Column 1	Column 2
Description of Development	Conditions and Limitations
	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.

5. 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 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.'

The construction of a sunroom to the rear of the property falls within the definition of 'works'.

Therefore, the proposal constitutes development within the meaning of the Act.

Conclusion: The existing rear sunroom is considered development.

6.2 Exempted Development

The next issue for consideration is whether or not the matter at hand is Exempted Development?

Section 2(1) of the Act defines 'exempted development' as having 'the meaning specified in Section 4' of the Act (which relates to exempted development).

Section 4(3) of the Act states that exempted development either means development specified in Section 4(1) or development which is exempted development having regard to any regulations under section 4(2).

I consider that the proposal comes within subsection (2) of Section 4.

Section 4(2)

It is therefore necessary to consider whether the rear sunroom (2.23m x 2.63m) comes under the scope of section 4(2) (i.e. exemptions specified in the Regulations), having regard to the use of the word 'or' in section 4(3).

Article 9 sets out the restrictions on exemptions, and these include (1) (a) which states "(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,..."

I have reviewed the historic planning files and have found no conditions de-exempting rear extensions.

I consider that **Article 6 and Class 1** applies. I am satisfied that the rear extension can therefore be assessed against the exemption criteria of Article 6 of Schedule 2, Part 1, Class 1.

Having assessed the development against Class 1 'Development within the curtilage of a house' and its conditions and limitations I find as follows:

Condition / Limitation 1

- 1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.
- (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.
- (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.

Assessment

The house has previously had the attic converted 21.7sqm under planning reference 13/5170, and so; this limitation does not apply.

Condition / Limitation 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.

Assessment

The rear sunroom already exists and has a floor area of 5.8649 sqm (2.23m x 2.63m) and so, this limitation does apply.

There is some ambiguity in whether or not to include attic conversions within this limitation. For the sake of argument, the cumulative total of 21.7sqm (converted attic) + 5.8649sqm (rear extension) gives a total floor area of 27.5649sqm, which remains below the 40sqm limit. This development complies with this limitation.

Condition / Limitation 3

Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

Assessment

The rear extension is single storey only. This development does not conflict with this limitation.

Condition / Limitation 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.

Assessment

The flat roof rear sunroom is single storey only and the main house is two storeys. This proposal does not conflict with this limitation.

Condition / Limitation 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 25m².

Assessment

The rear sunroom reduces the rear garden space slightly, however the private amenity space shall continue to have 30+sqm of private open space (as per Sustainable Residential Development and Compact Settlements Guidelines requirement for 2-bed houses). This limitation does not apply.

Condition / Limitation 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.

Assessment

This proposal does not conflict with this limitation as there are no windows less than 1 metre from the boundary it faces.

Condition / Limitation 7

The roof of any extension shall not be used as a balcony or roof garden.

Assessment

This proposal should not conflict with this limitation.

Conclusion: The rear sunroom is exempted development as the cumulative floor area of the attic conversion and rear extension (27.5649sqm) falls within the maximum amount of 40sqm. The proposal does not conflict with this limitation.

5. Environmental Assessment

5.1 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.

5.2 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 does not affect the integrity of the European sites referred to above. Accordingly, it is considered that Appropriate Assessment is not required.

6. Recommendation

In view of the above and having regard to –

- Section 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, 9, and Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

The Planning Authority considers that the rear sunroom at 53 Cooper's Grange, Old Quarter, Ballincollig, Cork is **Development** and is **Exempted Development**.

Hugh Killen
Executive Planner

24 June 2025

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I concur with the above recommendation.

Evely Wheel

Evelyn Mitchell Senior Executive Planner

24 June 2025

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

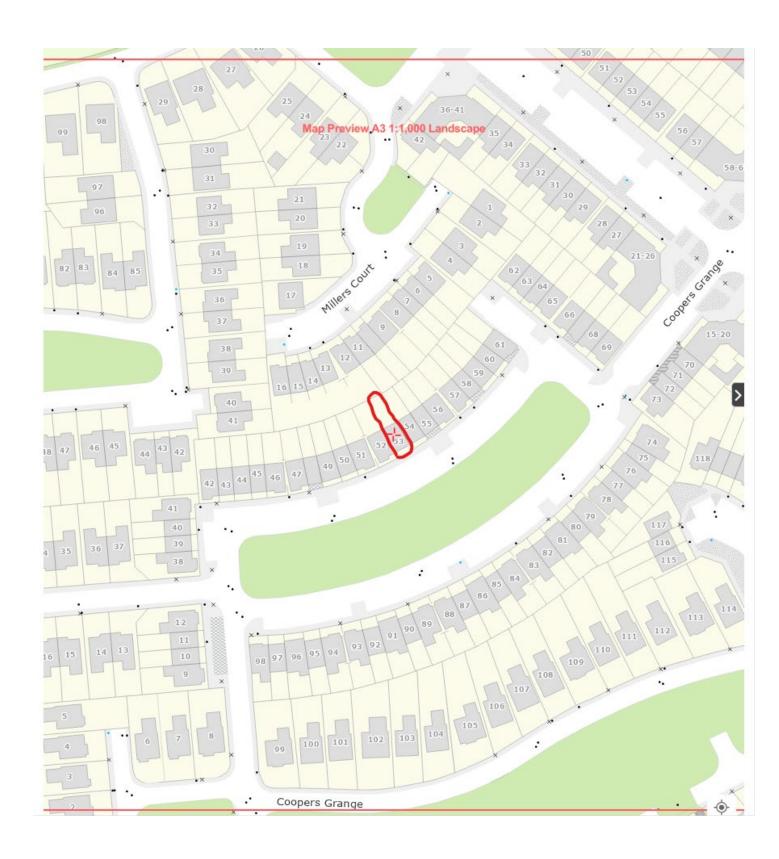
Fón/Tel: 021-4924029

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
JOANNE HORGAN
2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT
53 Cooper's Grange, Old Quarter,
Ballincollie, Co. Cork, P31 NP79
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
is the construction of a surroom to the rear
of my projectly on exempted development?
ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT: (Use additional sheets if required).
Was advised planning was not required the
to the size (2.237 x 2.6371) but require
an exemption in ader to ve 20k to
sell my property.

If so please supply details:	ngs connected to this sit	er
5. Is this a Protected Structure or within the cu	rtilage of a Protected St	ructure? 🗌 N 🔿
If yes, has a Declaration under Section 57 of requested or issued for the property by the		ment Act 2000 been
6. Was there previous relevant planning applic If so please supply details:		,
yes- others	5107, not	<u>acted upon</u>
7. APPLICATION DETAILS		
Answer the following if applicable. Note: Floor areas walls and should be indicated in square meters (sq. M.		inside of the external
(a) Floor area of existing/proposed structure/		(2, 23 x 2, 63)
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including for which planning permission has been obtained)?	those m)	provide floor areas. (sq
(c) If concerning a change of use of land and /		
Existing/ previous use (please circle)	roposed/existing use (pl	ease circle)
7. LEGAL INTEREST		
Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner	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. I / We confirm that the information contained in	the application is true a	nd accurate:
Signature:		
Date: 6/5/2025		





Showroom: Unit 23, Axis Business Park, Tullamore, Co Offaly Showroom: Unit 23, Axis Business Park, Tullamore, Co Offaly
Office: 51 Bracken Rd, Sandyford Business Park, Sandyford, Dublin
Tel: 1800 938 883 • Email: sales@ecosolution.ie

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Showroom: Unit 23, Axis Business Park, Tullamore, Co Offaly Office: 51 Bracken Rd, Sandyford Business Park, Sandyford, Dublin

Tel: 1800 938 883 • Email: sales@ecosolution.ie

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During window and/or door insta for the removal and re-installation	llation, EcoSolution are not responsible n of alarm sensors or broken tiles.	Signed:	

Sunroom Measurements:

Front façade

Width: 2.230 x Height 2.345

Side of sunroom

Width: 2.8M x 2.7M

Floor length: 2.5M

Floor width: 2.1M

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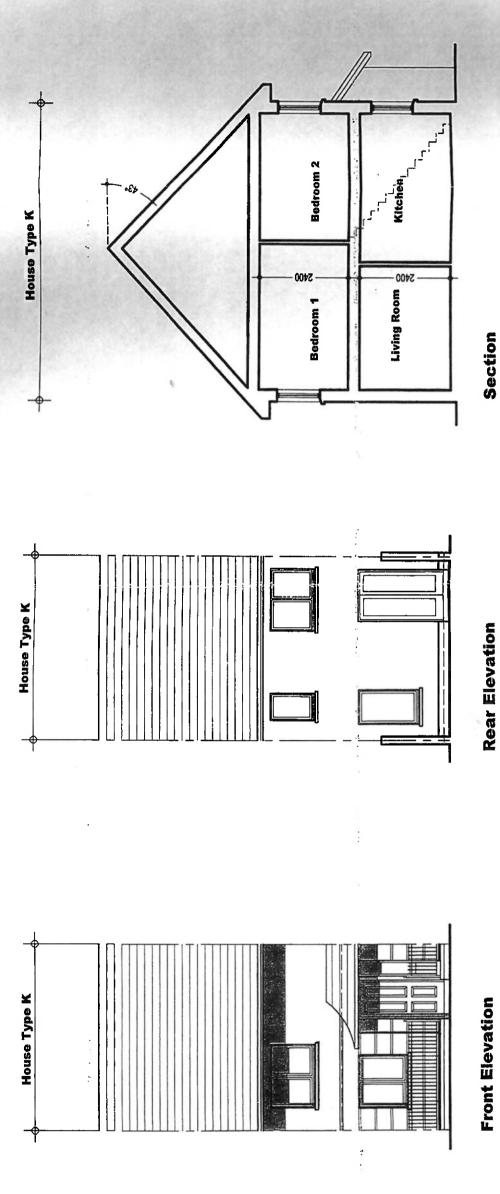
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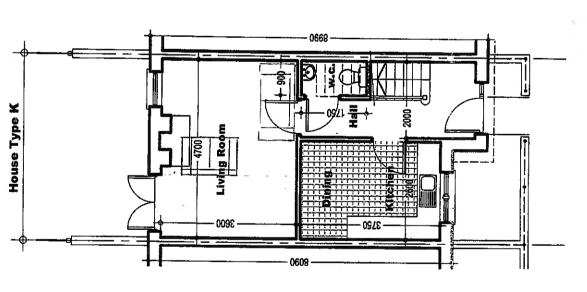








Hogan Associates
Architects & urban Designers
The Lodge, Proby Courk, Courk
Tak (021) 43:1726 Fax: (021) 43:17883
e:mail@roddy/nogen.com October 2004 1:100 629 Job No. 659.CT.34 Contract House Type K - Elevations & Section O'Flynn Construction Co. Ltd. Drawing Title y Town Centre,



Landing

House Type K

Ground Floor Plan

First Floor Plan

DEVELOPMENT MANAGEMENT CORK CITY COUNCIL PLANNING & DEVELOPMENT 2 7 MAY 2025

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