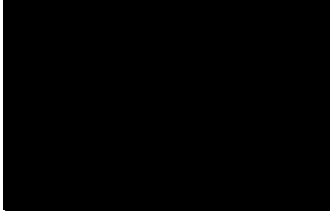


Comhairle Cathrach Chorcaí

Cork City Council

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

Helen Harrington,



20/08/2026

RE: **Section 5 Declaration: R1062/26 Foscadh, Mount Oval,**
Rochestown Road, Cork. T12 Y9YK

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 15th of July, 2026.

The Question before the Planning Authority was as follows: "I am requesting an exemption from planning to alter the windows in my house?"

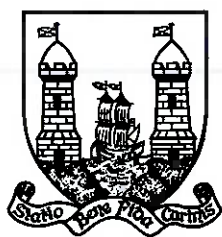
Development

The first issue for consideration is whether or not the matter at hand is '*development*', which is defined in the Act as comprising two chief components: '*works*' and / or '*any material change in the use of any structures or other land*'.

'*Works*' is defined in section 3(1) of the Act as including '*any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal*'. In relation to the proposed alterations and replacement of the windows to the front and rear elevations of a dwelling, it is clear that alterations to the elevations of a dwelling comprises '*works*'. As the proposal comprises '*works*', it is clearly therefore '*development*' within the meaning of the Act.



We are Cork.



Comhairle Cathrach Chorcaí

Cork City Council

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

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).

The proposed works are not listed within Schedule 2 Part 1 of the Planning and Development regulations 2001 (as amended) which lists Exempted Development. Article 6 therefore does not provide for this type of development.

Section 4(1)(h) of the Act provides that 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*.

The proposed altered windows, including the change in orientation and open size of same, is considered to come under improvement or other alteration. The alterations to the windows to this dwelling will alter the external appearance of the house. The test is whether it would materially affect the external appearance of the structure so as to render the appearance consistent with the character of the structure or of neighbouring structures.

In terms of whether the works would render the appearance inconsistent with the character of the structure, the Planning Authority would refer to case law (*Cairnduff v. O'Connell*, 1986), in which the matter of the character of the structure was discussed. The key elements of character to which the Supreme Court had regard included shape, colour, design, ornamental features and layout.

In terms of the character of the house and the neighbouring houses, it is a detached house, in the middle of a row of detached dwellings, in an established urban residential area. The external finish is a brick and render finish on the front elevation with a timber detail beneath the largest front window of the front elevation. It is proposed to alter the majority of the windows on the front and rear elevation of the dwellings, with many windows being changed to doors and the size and orientation of the windows almost all changing.



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Cork City Council

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

It is noted that Section 4(1)(h) of the Act provides that development consisting of the carrying out of works 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 would be exempted development. The works proposed will substantially alter the external appearance of the dwelling. While the principle of the alterations are acceptable, it is considered, in this case, that the works will render the appearance inconsistent with the character of the structure or of neighbouring structures in this urban location.

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 6, 9 and 10 of the Planning and Development Regulations 2001 to 2024

the planning authority considers that —

the alteration and replacement of the existing windows in a dwelling house at Foscadh, Mount Oval, Rochestown Road, Cork. T12 Y9YK, **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, 20/08/2026

.

Is mise le meas,

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



We are Cork.

PLANNER'S REPORT
Ref. R 1062/26

Cork City
Council
Development Management
Strategic Planning and
Economic Development

Application type	SECTION 5 DECLARATION
Question	<i>Is the alteration and replacement of the existing windows in a dwelling house development and, if so, is it exempted development?</i>
Location	Foscadh, Mount Oval, Rochestown Road, Cork. T12 Y9YK
Applicant	Helen Harrington (owner)
Date	04/09/2026
Recommendation	Is development and is not exempted development

INTERPRETATION

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 APPLICATION

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

The question to the planning authority is not framed using the phrasing of section 5. The applicant states in the request, "I am requesting an exemption from planning to alter the windows in my house?"

It is considered that the intention of the request is clear, and that it is entirely reasonable to consider the question before the planning authority as being:

Is the alteration and replacement of the existing windows in a dwelling house development and, if so, is it exempted development?

3. SITE DESCRIPTION

The subject property is a single storey, detached dwelling in the Sustainable Residential Neighbourhoods zoning area. The area is predominantly residential in nature.

4. DESCRIPTION OF THE DEVELOPMENT

The proposed development proposes the alteration and replacement of the windows in the front and rear elevations of a detached dwelling house, including changing the orientation and open sizes of the windows and the replacement of a number of windows with doors.

5. RELEVANT PLANNING HISTORY

None

6. LEGISLATIVE PROVISIONS

6.1 Planning and Development Act, 2000 as amended

Section 2(1)

“exempted development” has the meaning specified in section 4.

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

- (a) where the context so admits, includes the land on, in or under which the structure is situate, and*
- (b) in relation to a protected structure or proposed protected structure, includes—*
 - (i) the interior of the structure,*
 - (ii) the land lying within the curtilage of the structure,*
 - (iii) any other structures lying within that curtilage and their interiors, and*
 - (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii).*

“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)

4.(1) The following shall be exempted developments for the purposes of this Act—

...

(h) 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, as amended.

Section 4(3)

A reference in this Act to exempted development shall be construed as a reference to development which is—

- (a) any of the developments specified in subsection (1), or*
- (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.*

Section 5(1)

See section 1 of this report.

6.2 Planning and Development Regulations 2001 to 2018 as amended

Article 5(2)

In Schedule 2, unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose “ground level” means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.

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 9(1)

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

(a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

...

(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,

7. 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.

7.1 Development

The first issue for consideration is whether or not the matter at hand is ‘development’, which is defined in the Act as comprising two chief components: ‘works’ and / or ‘any material change in the use of any structures or other land’.

‘Works’ is defined in section 3(1) of the Act as including ‘any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal’. In relation to

the proposed alterations and replacement of the windows to the front and rear elevations of a dwelling, it is clear that alterations to the elevations of a dwelling comprises ‘works’. As the proposal comprises ‘works’, it is clearly therefore ‘development’ within the meaning of the Act.

CONCLUSION

Is development

7.2 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).

The proposed works are not listed within Schedule 2 Part 1 of the Planning and Development regulations 2001 (as amended) which lists Exempted Development. Article 6 therefore does not provide for this type of development.

Section 4(1)(h) of the Act provides that 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.

The proposed altered windows, including the change in orientation and ope size of same, is considered to come under improvement or other alteration. The alterations to the windows to this dwelling will alter the external appearance of the house. The test is whether it would materially affect the external appearance of the structure so as to render the appearance consistent with the character of the structure or of neighbouring structures.

In terms of whether the works would render the appearance inconsistent with the character of the structure, I would refer to case law (Cairnduff v. O’Connell, 1986), in which the matter of the character of the structure was discussed. The key elements of character to which the Supreme Court had regard included shape, colour, design, ornamental features and layout.

In terms of the character of the house and the neighbouring houses, it is a detached house, in the middle of a row of detached dwellings, in an established urban residential area. The external finish is a brick and render finish on the front elevation with a timber detail beneath the largest front window of the front elevation. It is proposed to alter the majority of the windows on the front and rear elevation of the dwellings, with many windows being changed to doors and the size and orientation of the windows almost all changing.

It is noted that Section 4(1)(h) of the Act provides that development consisting of the carrying out of works 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 would be exempted development. The works proposed will substantially alter the external appearance of the dwelling. While the principle of the alterations are acceptable, it is considered, in this case, that the works will render the appearance inconsistent with the character of the structure or of neighbouring structures in this urban location.

Restrictions on exemption

I do not consider that any apply in this instance.

CONCLUSION

Is not exempted development

8. ENVIRONMENTAL ASSESSMENT

I note the provisions of sections 4(4), 4(4A) and 177U(9) of the Act which state,

Section 4(4),

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Section 4(4A)

Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

(a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and

(b) as respects which an environmental impact assessment or an appropriate assessment is required,

to be exempted development.

Section 177U(9)

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.

8.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 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 **environmental impact assessment is not required**.

8.2 Screening for Appropriate Assessment

The applicant has not submitted an appropriate assessment screening report. 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 these European sites. Accordingly it is considered that **appropriate assessment is not required**.

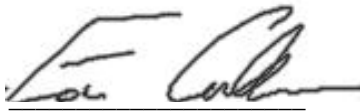
9. RECOMMENDATION

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 6, 9 and 10 of the Planning and Development Regulations 2001 to 2024

the planning authority considers that —

the alteration and replacement of the existing windows in a dwelling house at Foscadh, Mount Oval, Rochestown Road, Cork. T12 Y9YK, **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT**.



Eoin Cullinane
Executive Planner
12/08/2026

Foscadh (formerly Alta Vista),
Mount Ovel,
Rochestown Road,
Cork.
T12Y9YK

11/07/2026

Dear Planner,

I am requesting an Exemption From Planning to replace the old windows in the house I purchased recently. The house, formerly called Alta Vista, was built in 1963 and has had little upgrading since then.

I would like to change the dimensions of some of the windows on the ground floor only, in order to reduce the width of the windows and to give the house a slightly more contemporary appearance. It would be really helpful if the window changes to the main house were exempt from Planning as I could get these replaced quickly and it would be another "dirty" job done as soon as possible. We are living in the house while the renovations are going on.

It is my intention to externally wrap the property later to reduce the current BER rating of G. I also intend to apply for Planning Permission to replace the flat roof on the right hand part of the property with a low pitched Gable roof.

All the windows I wish to alter are either to the front (West facing) or the rear (East facing) of the property and are on the ground floor.

Window no. (width x height)

1. Currently 340cm x 130cm to change to 2 windows, each 110cm x 180cm
2. Currently 153cm x 34cm to change orientation 180 degrees and measure 40cm x 180cm
3. Currently 243cm x 130cm to change to 180cm x 180cm
4. Currently 153cm x 34cm to be filled in – no window
5. Currently 230cm x 130cm to change to sliding doors 180cm x 216cm
6. Currently a door to change to a window 40cm x 180cm
7. and 8. Currently two windows measuring 163cm x 130cm each will change to sliding glass door and fixed glass panel of 380cm x 240cm in total.
9. No change to dimensions 195cm x 120cm
10. Currently 102cm x 120cm to reduce to 102cm x 90cm
11. No change to current dimensions 102cm x 90cm
12. Currently 210cm x 130cm to change to a glass door with side windows overall dimension 210cm x 228cm

Please let me know if you need any more details.

Yours sincerely,

[Redacted signature]

Helen Harrington



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

Helen Harrington

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

FOSCADH, MOUNT OVEL, ROCHESTOWN ROAD,
CORK. T12Y9YK

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.

I am requesting an Exemption from Planning to alter the windows in my house.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Please see accompanying letter, drawings and map.

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? ☐ NO

6. Was there previous relevant planning application/s on this site? ☐ NO

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	191 m ²
(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 ☐ No ☒ 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 ☒	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 and accurate:



CONFIDENTIAL CONTACT DETAILS

These details will not be made available to the public.

9. Applicant:

--

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

Name(s):	
Address:	
Telephone:	
E-mail address:	
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 ☒ No ☐

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.

--

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.

571850 mE, 569350 mN



The Property
Registration Authority
An tÚdarás
Clárúcháin Maoin

Folio: CK31984

This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.landdirect.ie.

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- Subleasehold

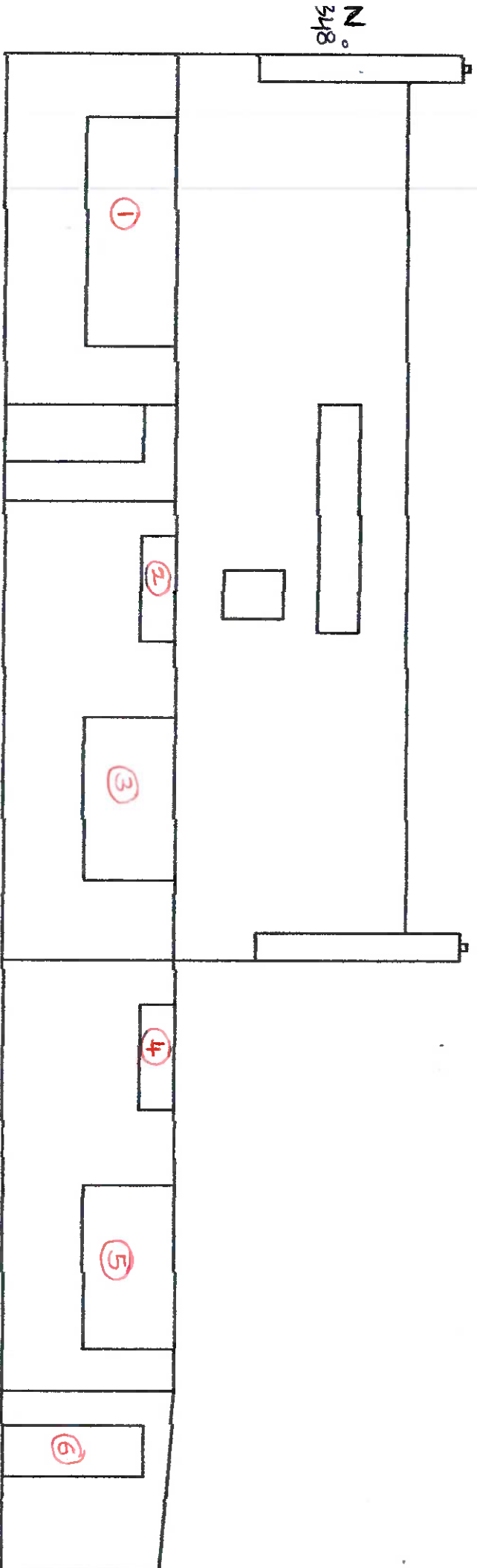
Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbidity
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit

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

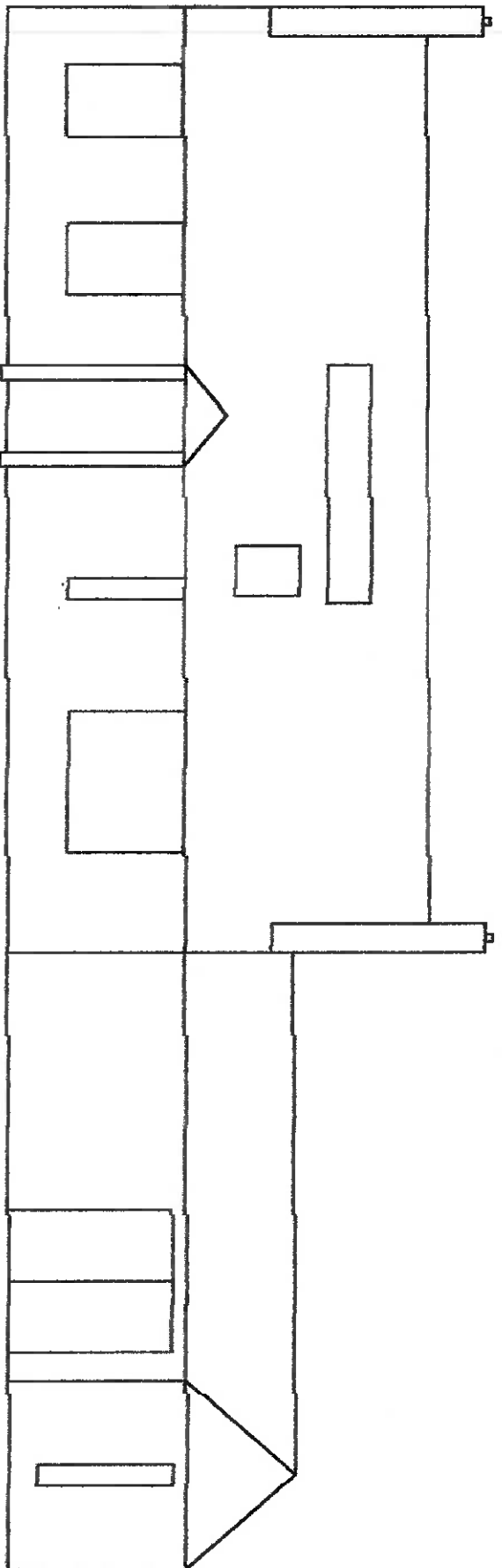
The registry operates a non-conclusive boundary system. The Registry Map identifies property not boundaries meaning neither the description of land in a register nor a identification by reference to a registry map is conclusive as to the boundaries or extent. (see section 88 of the Registration of Title Act, 1984). As inserted by Section 62 of the Registration of Deeds and Title Act 2006.

FRONT OF HOUSE CURRENTLY
WEST FACING



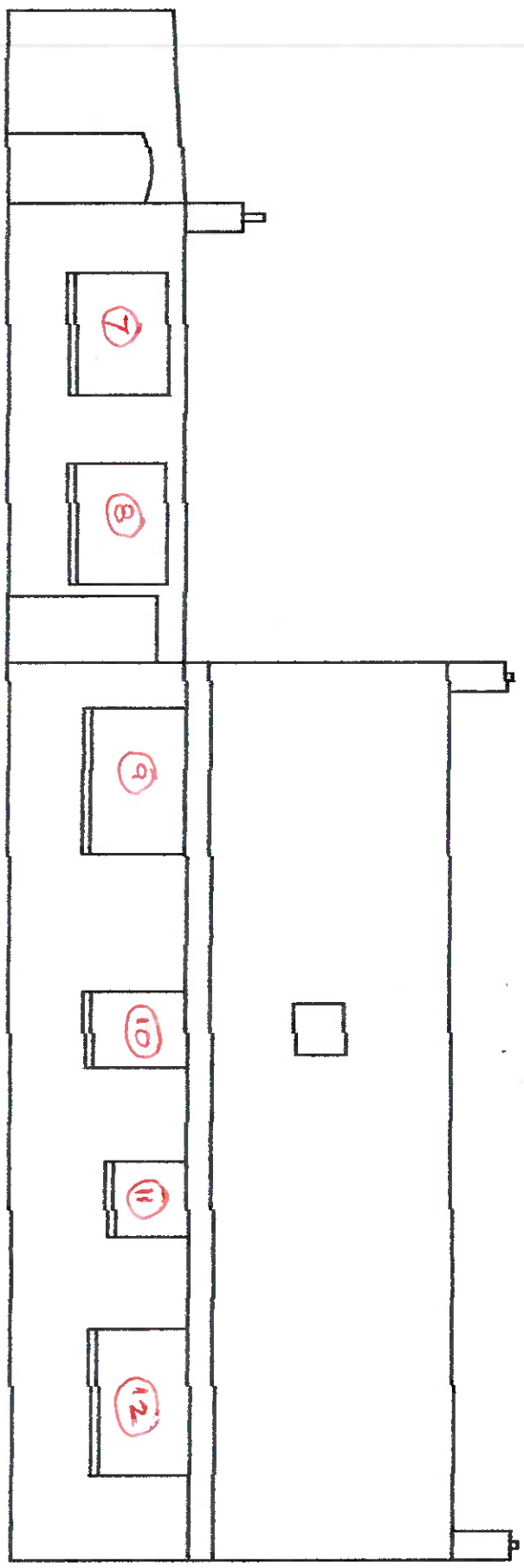
SCALE 1:82

PROPOSED CHANGE TO WINDOWS : FRONT OF HOUSE



348° N

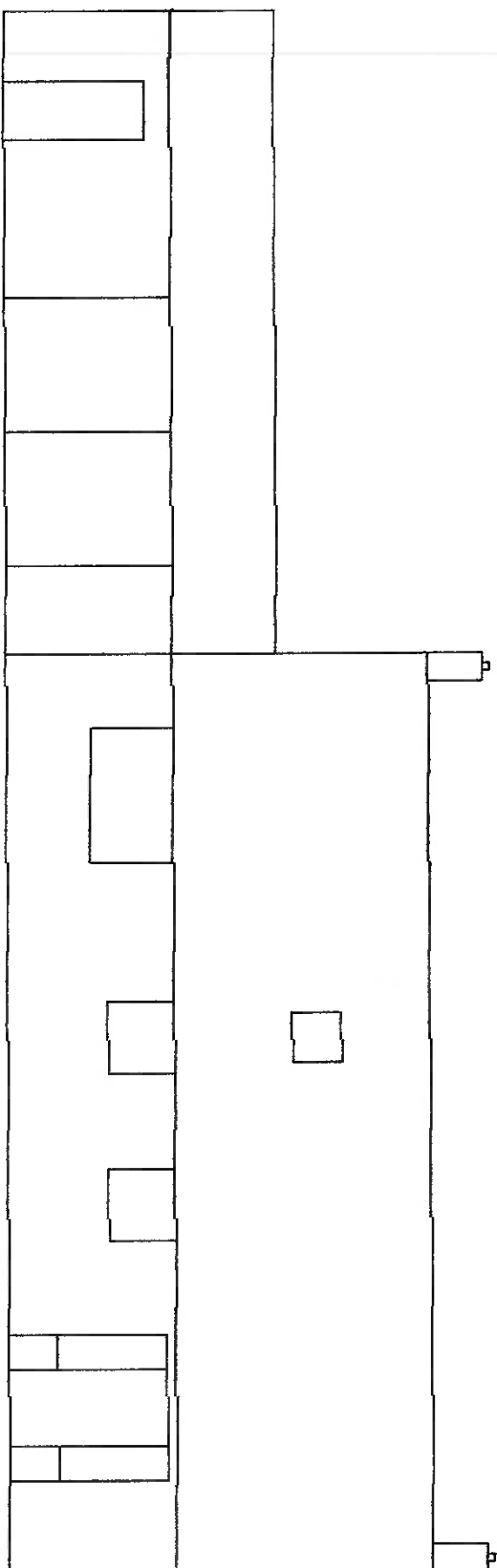
REAR OF HOUSE CURRENTLY
EAST FACING



348" N

SCALE 1:93

REAR OF HOUSE : PROPOSED CHANGE TO WINDOWS



348° N
North