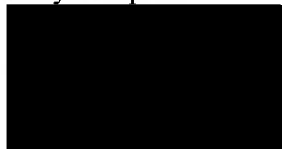




# Comhairle Cathrach Chorcaí Cork City Council

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

Judy Philpott



06/08/2025

RE: Section 5 Request:  
R974/25. 10 Princes Street.

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on the 16<sup>th</sup> of July 2025, I wish to advise as follows:

The question placed before the Planning Authority was whether the “Change of use of 1st, 2nd and 3rd floors of existing building from commercial use to 3 studio apartments residential” is considered exempted development.

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 (as amended),

It is considered that the proposed “Change of use of first, second and third floors of existing building from commercial use to 3 no. studio apartments residential.” **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

Is mise le meas,

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



**We are Cork.**

|  |   |  |
|--|---|--|
| <b>PLANNER'S REPORT</b><br><b>Ref. R974/25</b> |   | Cork City Council<br>Development<br>Management<br>Strategic Planning and<br>Economic Development |
| <b>Application type</b>                        | Section 5 Declaration   |  |
| <b>Description</b>                             | <i>"Change of use of first, second and third floors of existing building from commercial use to 3 no. studio apartments residential."</i> |  |
| <b>Location</b>                                | 10 Princes Street, Cork   |  |
| <b>Applicant</b>                               | Judy Philpott   |  |
| <b>Date</b>                                    | 06/08/2025  |  |
| <b>Recommendation</b>                          | <i>Is Development and Is Exempted Development</i>   |  |

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 Q2 of the application form:

*"Is the provision of a 1 Bed apartment over 3 floors above ground floor commercial unit considered exempted development."*

### 3. Site Description

The property in question is 4 storey mid terrace building in the city centre. The ground floor is in retail use. It is located within the Oliver Plunkett ACA.

### 4. Planning History

There is no known history at this site.



**Google Maps Image**

### 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(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.*

## **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.*

*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,*

*Article 10 (1)*

*Development which consists of a change of use within any one of the classes of use as specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –*

- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned*

## **SI No. 75 of 2022 -Planning and Development Act (Exempted Development) Regulations 2022**

### Amendment of Article 10 of Principal Regulations

3. *The Principal Regulations are amended in article 10 (as amended by article 2 of the Planning and Development (Amendment) (No. 2) Regulations 2018 ( S.I. No. 30 of 2018 )) by substituting for sub-article (6) the following:*

*“(6) (a) In this sub-article—*

*‘habitable room’ means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;*

*‘relevant period’ means the period from 8 February 2018 until 31 December 2025.*

*b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.*

*(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—*

*(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,*

*(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and*

*(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,*

*then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).*

*(d) (i) The development is commenced and completed during the relevant period.*

*(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall -*

*(I) primarily affect the interior of the structure,*

*(II) retain 50 per cent or more of the existing external fabric of the building, and*

*(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.*

*(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.*

*(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.*

*(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.*

*(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.*

*(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.*

*(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under*

section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

## **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.

As per Google Images, the upper floors appear to have been in use as commercial use (hair salon) historically. I consider that the proposed change of use from commercial constitutes a material change of use of the upper floors of the structure in question and therefore is "Development".

### **6.2 Exempted development**

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

*S.I.No. 75 of 2022 is the relevant legislation (see above).*

The premises is not registered on the NIAH but is located within the Oliver Plunkett Street ACA, it is not a protected structure. The accompanying maps detail that all the works are to the interior and re-iterate that no changes to the external façade are proposed. Therefore, the external appearance of the structure will not be rendered inconsistent with the character of the structure or of neighbouring structures.

There are no proposed alterations to the ground floor retail space and shopfront. The proposal is for 3 no. studio units – it does not exceed 9 no. units. There is no known planning history at this site and therefore no conditions attached to the property.

The scheme must comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities.

The floor areas being provided in comparison to that currently required under the latest edition (2025) are as follows:

| <b><i>Sustainable Urban Housing: Design Standards for New Apartments 2025</i></b> | <b>Studio<br/>(2 Person)</b> | <b>Unit 1</b> | <b>Unit 2</b> | <b>Unit 3</b> |
|---|------------------------------|---------------|---------------|---------------|
| <b>Overall Floor Area</b>   | 32sq.m                       | 37sq.m        | 37.2          | 38.6          |
| <b>Minimum widths for the main living/dining rooms</b>                            | 4m                           | 5.4m          | 5.4m          | 5.5m          |
| <b>Minimum bedroom floor areas</b>  | 25sq.m                       | 28sq.m        | 28sq.m        | 29sq.m        |
| <b>Minimum bedroom widths</b>   | 4m                           | 8.5m          | 8.5m          | 8.5m          |
| <b>Minimum storage space requirements</b>   | 3sq.m                        | 0sq.m         | 0sq.m         | 0sq.m         |
| <b>Minimum recommended floor areas for private amenity space*</b>                 | 4sq.m                        | 0sq.m         | 0sq.m         | 0sq.m         |
| <b>Minimum recommended floor areas for communal amenity space~</b>                | 4sq.m                        | 0sq.m         | 0sq.m         | 0sq.m         |

\*For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, private amenity space requirements may be further relaxed, on a case-by-case basis, subject to overall design quality.

~For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality

## **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 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.

### **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 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.

## **8. Conclusion and Recommendation**

Aside from the lack of storage areas for each unit, the proposal meets the required minimum standards for all other areas and widths. It is noted that the overall floor areas are all in excess of the more recently adopted lower standards for studio units. Each unit provides an additional 5 sq.m over the minimum required 32sq.m. Therefore, there is area for storage within this overall excess, and it is considered reasonable to take this additional floor area into account against the storage area requirements.

The question has been asked whether

*“Change of use of first, second and third floors of existing building from commercial use to 3 no. studio apartments residential.”*

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed altered layout is development and is exempted development

#### 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 (as amended),

It is considered that the proposed *“Change of use of first, second and third floors of existing building from commercial use to 3 no. studio apartments residential.”* **Is Development and Is Exempted Development.**



---

Mary Doyle  
A/Senior Executive Planner  
06/08/2025

**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](mailto:planning@corkcity.ie)

Fón/Tel: 021-4924029

Líonra/Web: [www.corkcity.ie](http://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**

Judy PHILPOTT

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

10, Princes Street, Cork T12 TPA 8

**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.*

Change of use of First, Second & Third  
Floors of existing Building from Commercial use  
to 3 Studio Apartments Residential.

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**

(Use additional sheets if required).

**CORK CITY COUNCIL**  
**PLANNING & DEVELOPMENT**

25 JUN 2025

**DEVELOPMENT MANAGEMENT**



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  | FIRST FLOOR - 37.10 m <sup>2</sup><br>SECOND FLOOR - 37.2 m <sup>2</sup><br>THIRD FLOOR - 38.64 m <sup>2</sup> |
| (b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including those for which planning permission has been obtained)? | Yes <input type="checkbox"/> No <input type="checkbox"/><br>If yes, please provide floor areas. (sq m)<br>N/A. |
| (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)  |
|  | THREE Studio Apartments  |

#### 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 this application is true and accurate:

Signature:

Date:

25-June 2025

# Planning Pack Map

Tailte  
Éireann



**CENTRE COORDINATES:**  
ITM 567428,571822

**PUBLISHED:** 27/03/2023  
**ORDER NO.:** 50325590\_1

**MAP SERIES:** 1:1,000  
**MAP SHEETS:** 6382-10  
1:1,000 6382-15

*SITE LOCATION MAP*

*Ms. JUDY PULLPOTT*

*10 PANCES STREET;*

**COMPILED AND PUBLISHED BY:**  
National Mapping Division of  
Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F6E4

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571808

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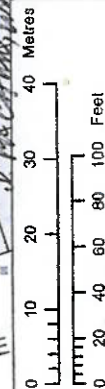
567544



**LEGEND:**  
To view the legend visit  
[www.osi.ie](http://www.osi.ie) and search for  
'Large Scale Legend'

**CAPTURE RESOLUTION:**  
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.osi.ie](http://www.osi.ie), search 'Capture Resolution'

**OUTPUT SCALE: 1:1,000**



71736

567311







SITE LAYOUT PLAN  
for

Ms. JUDY PHILPOTT  
at

10 PRINCESS STREET

Scale 1" = 250'

OLLIV

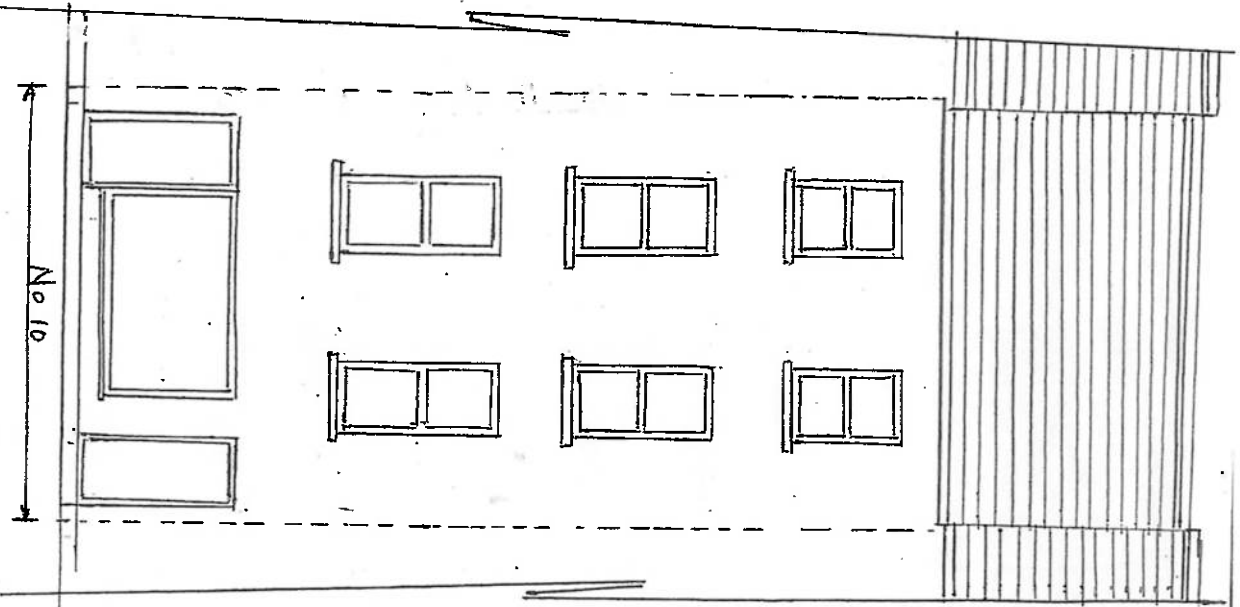
56,5'

TK

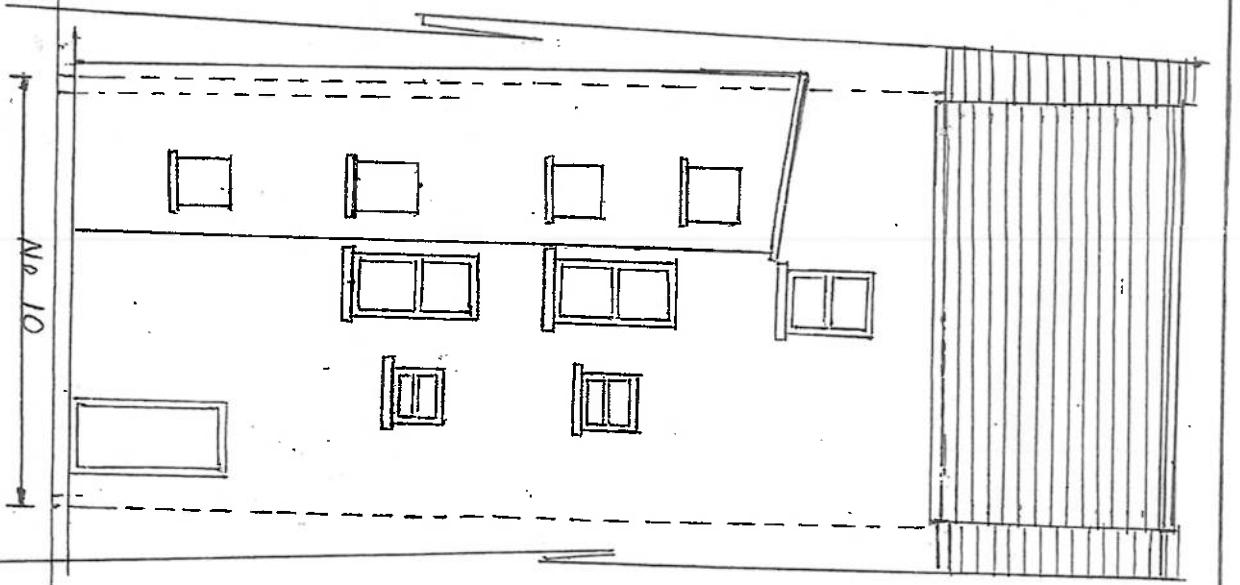
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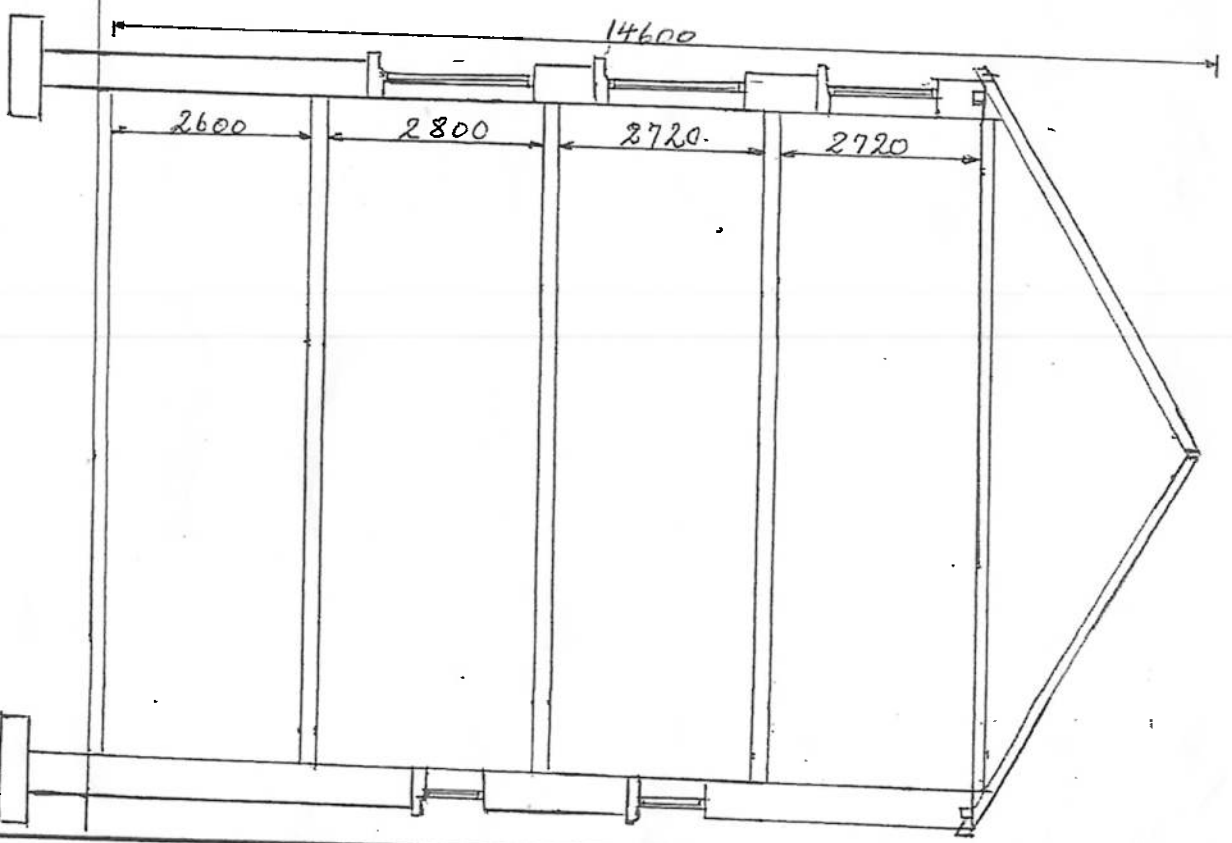
FRONT ELEVATION



REAR ELEVATION



TYPICAL SECTION



NOTE: ALL ELEVATIONS

CHANGES PROPOSED

DRAWN BY: D.M. CANN, WATERFALL Scale 1:100 March 2023

ELEVATIONS & SECTION

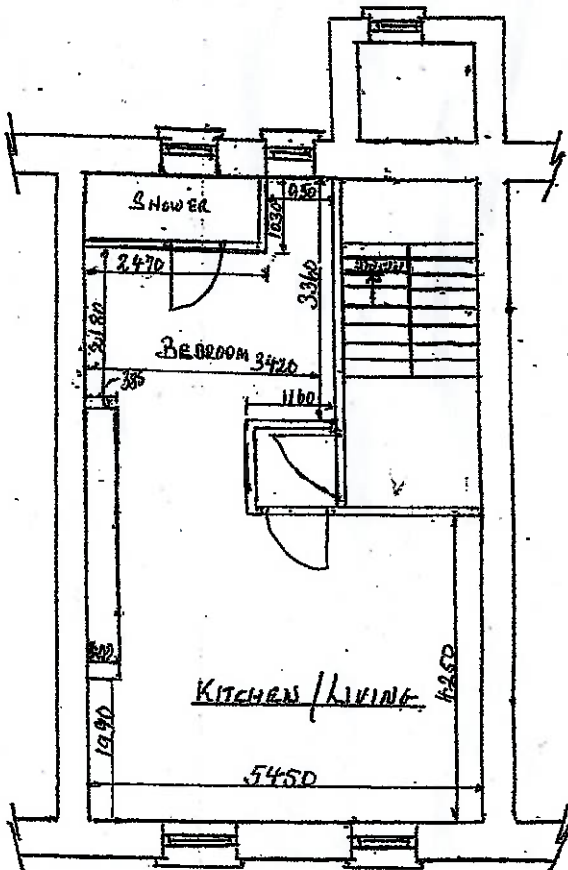
10 PRINCES STREET

for

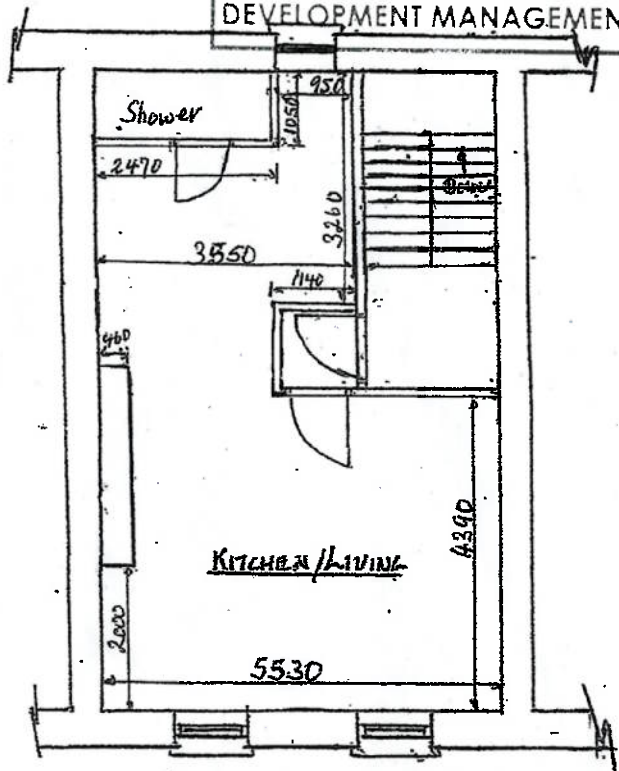
Ms. JUDY PHILPOTT

17 JUL 2025

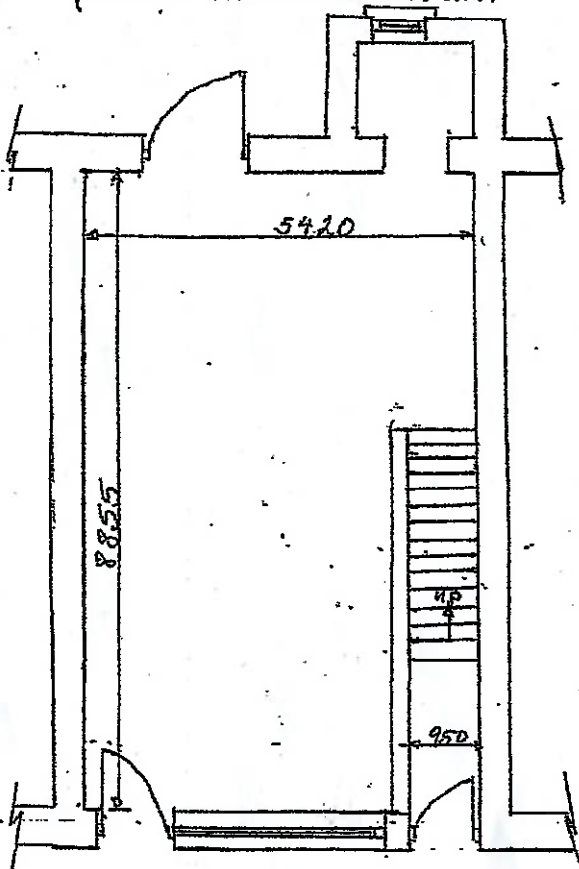
DEVELOPMENT MANAGEMENT



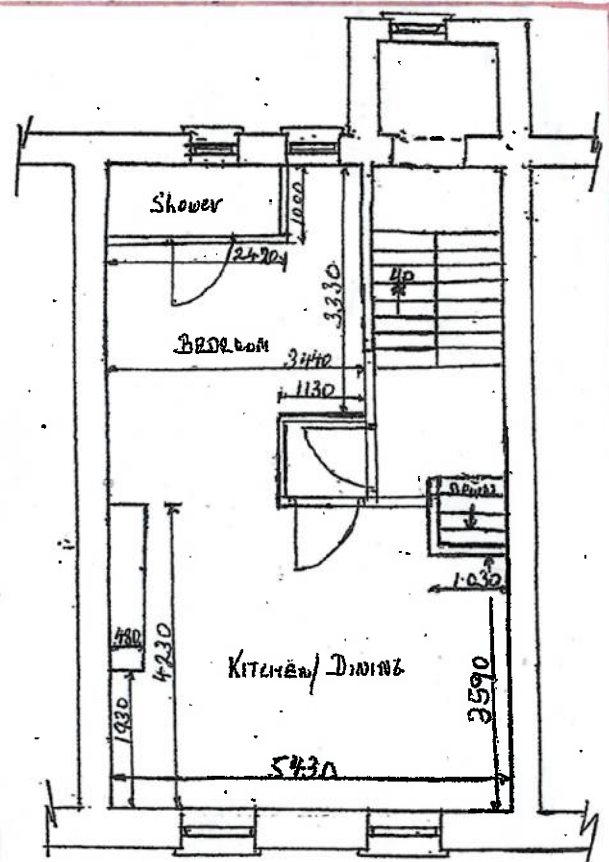
SECOND FLOOR PLAN  
(STUDIO FLOOR AREA 37.2m²)



THIRD FLOOR PLAN  
(STUDIO FLOOR AREA 38.64m²)



GROUND FLOOR PLAN



FIRST FLOOR PLAN  
(STUDIO FLOOR AREA 37.10m²)

AS-CONSTRUCTED

DRAWN BY: D. M. CANN, WATERFALL | Scale 1:100 | JULY 2025

FLOOR PLANS  
AT  
10 PRINCES STREET  
for  
Ms. JUDY PHILPOTT