



Comhairle Cathrach Chorcaí Cork City Council

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

Billy O' Mahony
c/o Pat O' Sullivan
Kiosk Architects
18 Saint Patrick's Place
Wellington Road
Cork
T23A9RP

25/02/2025

RE: Section 5 Declaration R917/25 66A Evergreen Road, Cork
T12F7XV

**Question: Is the construction of as 24sq.m single storey extension domestic extension
at No.66a Evergreen Road, Cork exempted development?**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 29th January 2025, I wish to advise as follows:

The Planning Authority, in view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Article 9 and of the Planning and Development Regulations 2001 (as amended),
- Class 1 of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended)

It is considered that *the specific question for which a declaration is sought* IS
DEVELOPMENT and **IS EXEMPTED DEVELOPMENT** at 66A Evergreen Road, Cork,
T12F7XV



We are Cork.

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 25TH February 2025.

Is mise le meas,

A handwritten signature in blue ink, reading "David Foley", is written over a horizontal line.

David Foley
Development Management Section
Planning & Integrated Development
Cork City Council

PLANNER'S REPORT Ref. R917/25	
Application type	Section 5 Declaration
Description	<i>Is the construction of as 24sq.m single storey extension domestic extension at No.66a Evergreen Road, Cork exempted development?</i>
Location	66A Evergreen Road, Cork
Applicant	Pat O Sullivan (Agent, kiosk Architects)
Date	24/02/2025
Recommendation	<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 construction of as 24sq.m single storey extension domestic extension at No.66a Evergreen Road, Cork exempted development?

3. Site Description

The property in question is an existing 2 storey mid-terrace dwelling with first floor accommodation over a ground floor level.



4. Planning History

No known planning history.

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,

Schedule 2 Part 1 of the Planning and Development Regulations 2001

<i>Class 1</i>	
<i>The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the</i>	<i>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</i>

<p><i>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.</i></p>	<p>(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.</p> <p>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.</p> <p>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.</p> <p>5. <i>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.</i></p> <p>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.</p> <p>7. <i>The roof of any extension shall not be used as a balcony or roof garden.</i></p>
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6. DEFINITION OF WORKS/DEVELOPMENT

The question *"Is the construction of as 24sq.m single storey extension domestic extension at No.66a Evergreen Road, Cork exempted development?"*

This building is not a protected structure, nor listed on the NIAH, but is located within the designated South Parish Architectural Conservation Area.

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 question refers to the "construction" of a rear extension. These works have already been undertaken. The proposal can be defined as works. As a follow on, such works do come under the definition of development. The proposal is therefore "development" as per the definition of the Planning and Development Act 2000 (as amended).

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. The table below provides a comparative assessment of the scheme.

Schedule 2 Part 1, Class 1 Planning Regulations (2001 as amended)	The Extension onto No. 66a Evergreen Road
1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.	The house has not previously been extended.
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.	The overall floor area of the extension to the rear is 24 sq.m.
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.	The overall height of the rear extension is from 3.2m to 4m (as there is a higher section to the rear most aspect of same). The overall height of the two-storey dwelling is 7m.
(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.	The height of the walls of the extension do not exceed the height of the rear wall 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.	The height of the walls of the flat roofed extension do not exceed the height of the eaves or parapet of the house.
	The remaining yard space is approximate 34sq.m

<p>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.</p>	<p>The extension built does not reduce the area of private open space to the rear of the house to less than 25sq.m</p>
<p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p>	<p>Apart from the large glazing to the rear which is 8.6m from the rear boundary it faces, the other windows of the extension mostly look into the site itself and into an internal courtyard. There is one element of glazing – the link corridor which faces a side boundary. This is 2.8m from the boundary it faces.</p> <p>The ground floor windows are not less than 1m from the boundaries they face.</p>
<p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>	<p>The rear extension is not being used as balcony, nor can it be.</p>

Based on the above, it is considered that the built flat roofed, single storey, rear extension comes within the parameters set out under the exempted development planning regulations.

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

Based on the above, it is considered that the built 24sq.m flat-roofed, single-storey, rear extension comes within the parameters set out under the exempted development planning regulations.

9. RECOMMENDATION

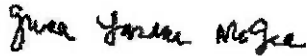
In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Article 9 and of the Planning and Development Regulations 2001 (as amended),
- Class 1 of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended),

It is considered that *"the construction of as 24sq.m single storey extension domestic extension at No.66a Evergreen Road, Cork exempted development?"* **Is Development** and is **Exempted Development**.



Mary Doyle
Executive Planner



Gwen Jordan McGee
Senior Executive Planner



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wellington rd
cork

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f. +353 21 4552541

kioskarchitects.com

29 January 2025

The Secretary
Planning Dept
Cork City Council
Cork



Dear Sir/Madam

Re – Application for Section 5 Declaration in relation to extension at 66a Evergreen Road, T12F7XV, Cork City.

We act on behalf of our client Billy O'Mahony who is seeking confirmation of the exempted development status of the extension to his dwelling on Evergreen Road, Cork. The single storey extension, constructed in 2011, measures only 24m² and the retained external amenity space is 56 m².

We attach the following documentation in support of our client's application –

- 1 copy of Covering Letter.
- Application Fee cheque - €80 [Section 5 Declaration Application].
- 2 copies of - Section 5 Declaration Application Form [inc. original].
- 2 copies of - 2D Drawings set including Location Map, Site Layout Plan, Plans, Sections and Elevations.

We trust that the information submitted is sufficient to adjudicate on our Client's application, but please do not hesitate to contact us if you have queries.

Yours sincerely

Pat O'Sullivan b arch sc mriai
kiosk Architects

enc.

cc. Billy O'Mahony, Client

Director

lony kely b a [hons] dip arch mriai
pat o'sullivan b arch sc mriai

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

Pat O'Sullivan (kiosk Architects).

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

66a Evergreen Road
Cork City
T12F7XV

3. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Is the construction of a 24 sqm. single storey domestic extension at No.66a Evergreen Road, Cork exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

CORK CITY COUNCIL
PLANNING & DEVELOPMENT

29 JAN 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? ☐ n/a

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	original 33 [sqm], extension 24 [sqm].
(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 checked="" 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) n/a	Proposed/existing use (please circle) n/a

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:

Signature: Pat O'Sullivan Pat O'Sullivan, kiosk Architects - agent

Date: 29.01.2025

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.



do not scale use figure dimensions only
levels indicated relate to existing spot levels on site survey drawing
prepared by Absolute Precision, drawing no 152-1-002

submitted for Section 5 Declaration Application 28.07.25



CORK CITY COUNCIL
PLANNING & DEVELOPMENT
29 JAN 2025
DEVELOPMENT MANAGEMENT

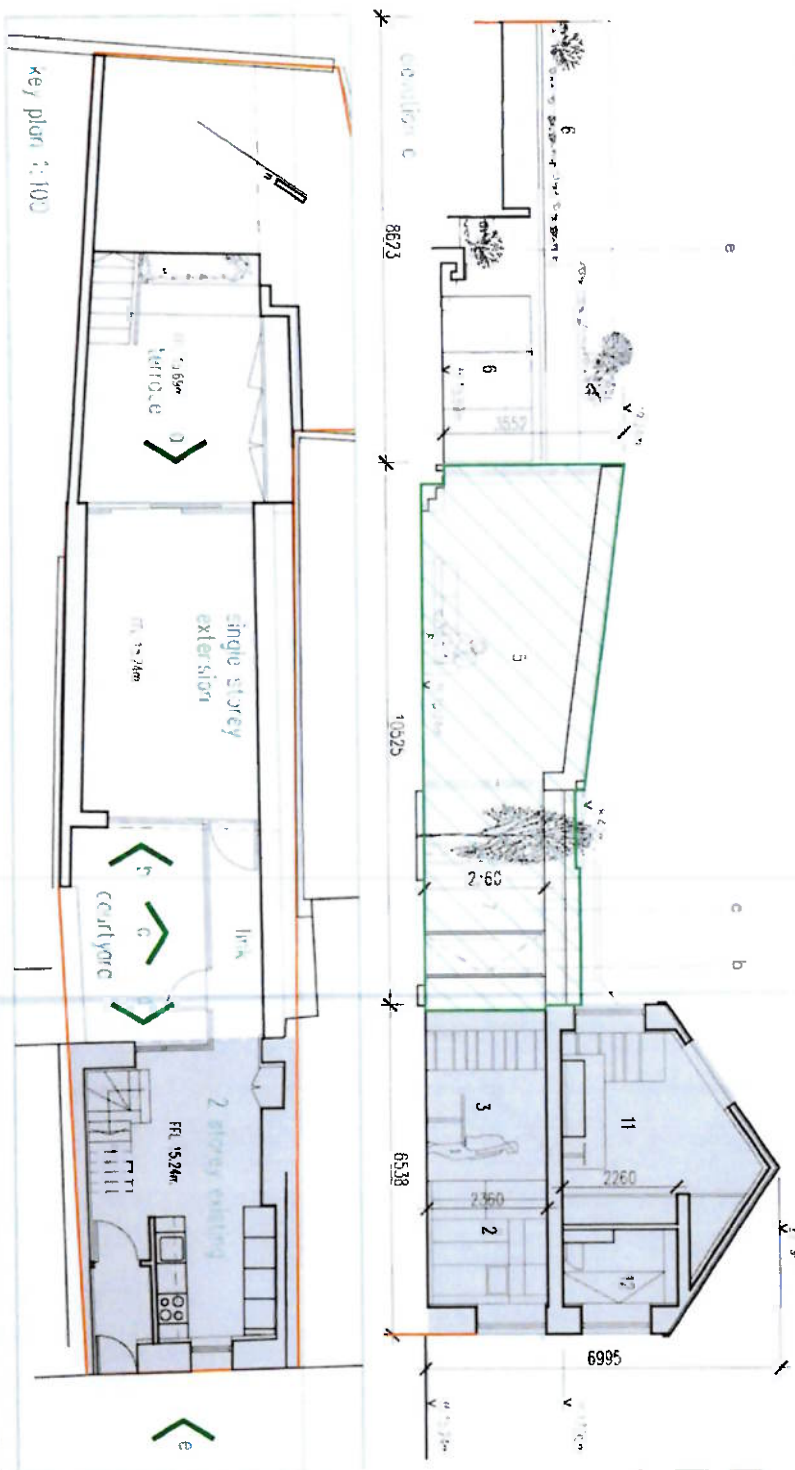
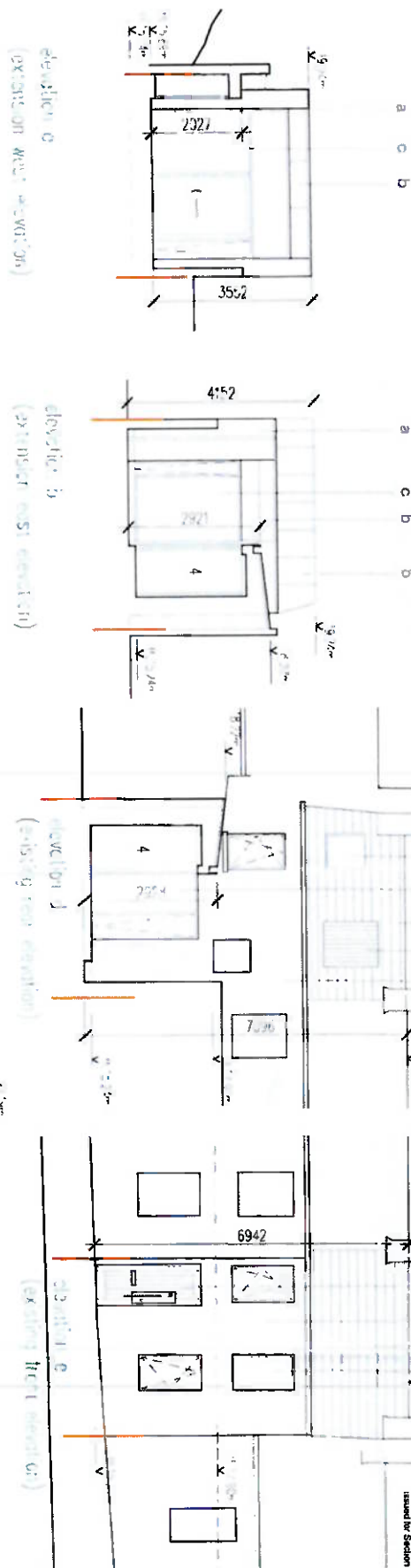
— site boundary - subject of this application

site area 122.0 m²

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credibility, strategic vision
and beyond
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 site bound vary
 - subject of
 this application

material key

- d painted render
- d zinc cladding/roofing
- c powder coated window and door system
- d timber door with s/s fittings
- c timber clauves on glazed screen
- f verux rooflight
- g sport panel
- n slate roofing

kiosk architects

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29 JAN 2025

do not scale, use figure dimensions only
levels indicated relate to existing spot levels on site survey drawing
prepared by Absolute Precision drawing no. 1521-HC

Issued for Section 5 Declaration Application 28.01.25

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ground floor



first floor



Section a-a

1	entrance
2	kitchen
3	dining
4	ink
5	living
6	terrace/deck
7	courtyard/garden
10	bedroom
11	ensuite

	original	extension
ground -	17.8	24.0
first -	15.2	

First 5

33.0sqm 24.0sqm

total	57
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private amenity area - 56.0 sqm.
site area - 122.0 sqm.

— data are —

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— site boundary
subject of 1's application

kiosk architects

ordinary, everyday road project

100

200 Drawing Month

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28.01.25 04:44

॥ श्रीगणेशाय नमः ॥

Post & Inc. created by

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www.koskarchitects.com

18 at petricha place w/ motor rd park island - 353.21.4552329

Issued for Section 5 Deduction Application 28.01.25

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28.01.25

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**CORK CITY COUNCIL
PLANNING & DEVELOPMENT**

29 JAN 2025

DEVELOPMENT MANAGEMENT

site boundary – subject of this application

site area	122.0 m ²
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kiosk architects

உதவி, உதவி, உதவி

Site location map

1000

101 **Answer: D**

D **Answer** **D** is the correct answer.

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