

Comhairle Cathrach Chorcaí Cork City Council

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

Mr. Trevor O Sullivan
30 Sundrive Park
Ballinlough
Cork
T12A5W7

20/08/2020

**RE: Section 5 Declaration R592/20 30 Sundrive Park,
Ballinlough, Cork**

A Chara,

With reference to your request for a Section 5 Declaration at the above named property, I wish to advise as follows:

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 5(2) and 6(1) and Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended,

the planning authority has concluded that —

- a 30.4 square metre rear extension would satisfy the conditions and limitations of 1(a) and 2(a) of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended.

and therefore the Planning Authority considers that —

the construction of a 30.4 sq m rear extension at 30 Sundrive Park , Ballinlough, Cork IS **DEVELOPMENT** and IS **EXEMPTED DEVELOPMENT**.

Is misa le meas,

Kerry Bergin
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

SENIOR EXECUTIVE PLANNER'S REPORT

Ref. R 592/20

Cork City Council
Development Management
Strategic Planning and
Economic Development

Application type	SECTION 5 DECLARATION
Question	<i>Whether a rear extension to dwelling is exempt development.</i>
Location	30 Sundrive Park, Ballinlough, Cork
Applicant	Trevor O'Sullivan
Date	17/08/2020
Recommendation	<i>Is development and is exempted development</i>

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.

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,

"Is the demolition of existing galley kitchen and proposed single storey flat roofed extension to rear of dwelling exempted development"

In my opinion the intention of the request is clear, and that it is reasonable to consider the question before the planning authority as being:

"Whether the construction of a rear extension is development or is exempted development."

3. SITE DESCRIPTION

The subject property is a two-storey semi-detached dwelling house located in Sundrive Park, Ballinlough.

4. DESCRIPTION OF THE DEVELOPMENT

The proposed development comprises the demolition of an existing galley kitchen and a proposed new single storey flat roofed extension to rear of dwelling with a floor area of 30.4 sq metres.

RELEVANT PLANNING HISTORY

N/A.

5. LEGISLATIVE PROVISIONS

5.1 THE ACT

Section 2(1),

"exempted development" has the meaning specified in section 4.

"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(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),

Quoted above under section 1 of this report.

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 1.

(Article 6) Schedule 2, Part 1, Class 1

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

<i>Column 1 Description of Development</i>	<i>Column 2 Conditions and Limitations</i>
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<p style="text-align: center;">Column 1 Description of Development</p>	<p style="text-align: center;">Column 2 Conditions and Limitations</p>
<p><i>Development within the curtilage of a house</i></p> <p>CLASS 1 <i>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.</i></p>	<ol style="list-style-type: none"> 1. (a) <i>Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</i> (b) <i>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.</i> (c) <i>Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</i> 2. (a) <i>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.</i> (b) <i>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.</i> (c) <i>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,</i>

<p style="text-align: center;">Column 1 Description of Development</p>	<p style="text-align: center;">Column 2 Conditions and Limitations</p>
	<p>including those for which planning permission has been obtained, shall not exceed 20 square metres.</p> <p>(a) Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</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.</p> <p>(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.</p> <p>(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. 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>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>(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>(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</p>

Column 1 Description of Development	Column 2 Conditions and Limitations
	<p>faces.</p> <p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>

6. ASSESSMENT

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'. It is clear that the demolition of an existing galley kitchen and the development of an extension to a dwelling house comprises 'works' which is defined in section 3(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'. As the proposal comprises 'works' it is clearly therefore 'development' within the meaning of the Act.

Conclusion: *is development*

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). In my opinion the proposed development to which this request relates does not come within the scope of section 4(1).

It is therefore necessary to consider whether it 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).

At 30.4 sq sq m, the proposed rear extension satisfies *Condition and Limitation 1(a) and 2(a)* of Class 1, and is therefore considered exempted development.

Conclusion: *The development is exempted development*

7. 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.

7.1 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**.

7.2 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**.

8. RECOMMENDATION

In view of the above and having regard to —

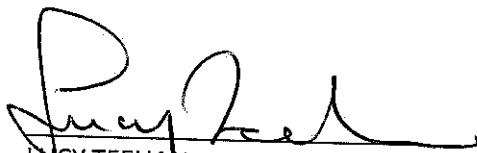
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- Articles 5(2) and 6(1) and Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended,

the planning authority has concluded that —

- a 30.4 square metre rear extension would satisfy the conditions and limitations of 1(a) and 2(a) of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended.

and therefore the Planning Authority considers that —

the construction of a 30.4 sq m rear extension at 30 Sundrive Park , Ballinlough, Cork **IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT**,


LUCY TEEHAN
SENIOR EXECUTIVE PLANNER

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

Community, Culture & Placemaking Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.



R-Phost/E-Mail planning@corkcity.ie

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

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

30 Sundrive Park, Ballinlough, Cork, T12 A5W7

2. 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.

Is the demolition of the existing galley kitchen and the proposed single story flat-roof extension to the rear of dwelling exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

The proposed extension will consist of a 30.4sqm single story flat-roof extension to the rear of the exiting dwelling, comprising a new living/ dining area, utility room and bathroom. The existing galley kitchen will be demolished to make way for the proposed extension and the existing living/dining area will be altered to accommodate a new kitchen.

3. Are you aware of any enforcement proceedings connected to this site?

If so please supply details: N/A

4. 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?

5. Was there previous relevant planning application/s on this site? No

If so please supply details: N/A

6. 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	Existing -110m2, Proposed - 30.4m2
(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) _____ _____ _____	Proposed/existing use (please circle) _____ _____ _____

8. 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 and address of the owner if available		

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

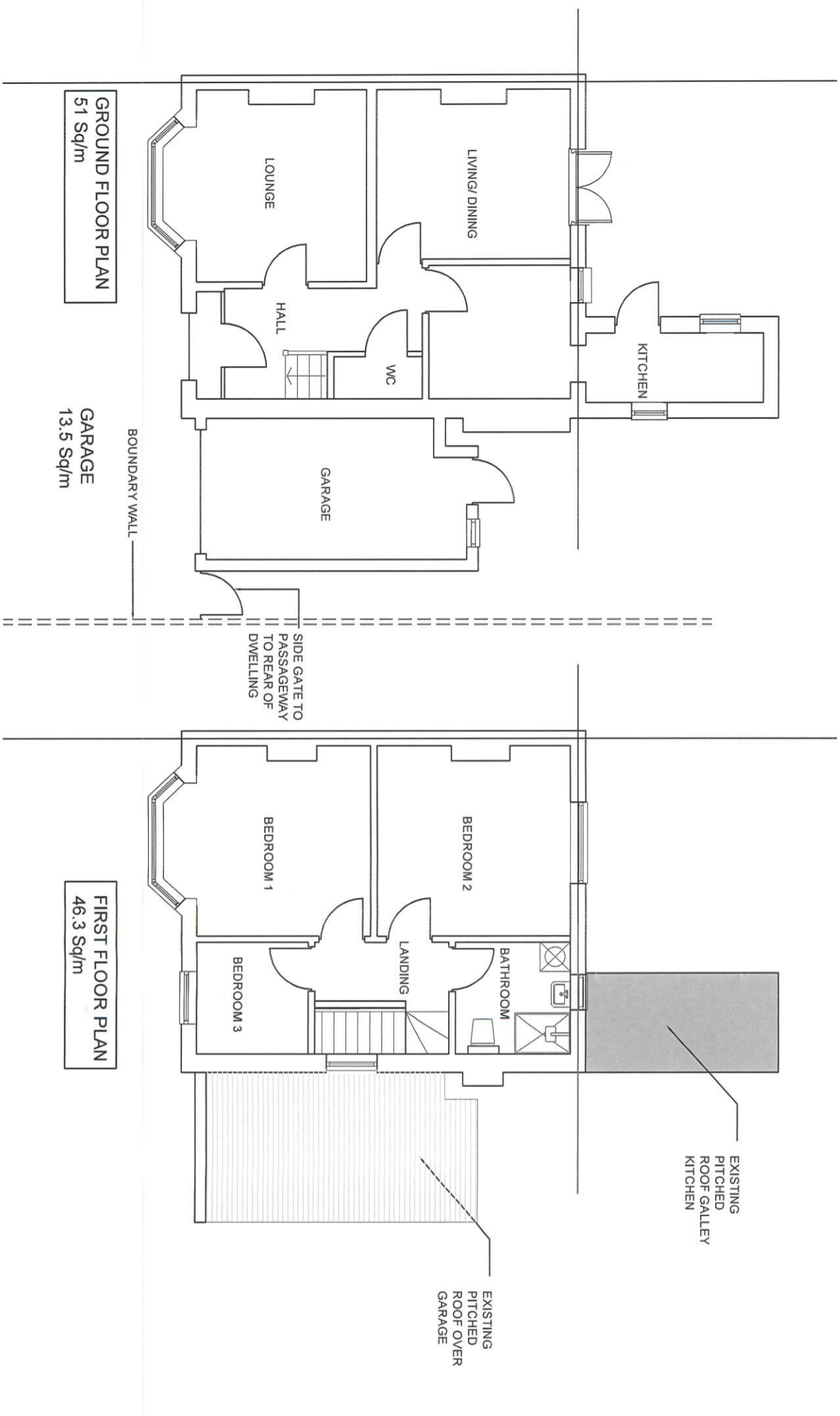
Signature: _____

Date: 28/7/20

PLANNING DRAWING



EXISTING FLOOR PLANS



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SCALE BAR 1:100

Drawing for information purposes only.
Dimensions not to be scaled from drawing.
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Rev	Description	Dsgn	Chkd	Date
P0	PLANNING ISSUE	CJL	CJL	1/7/20

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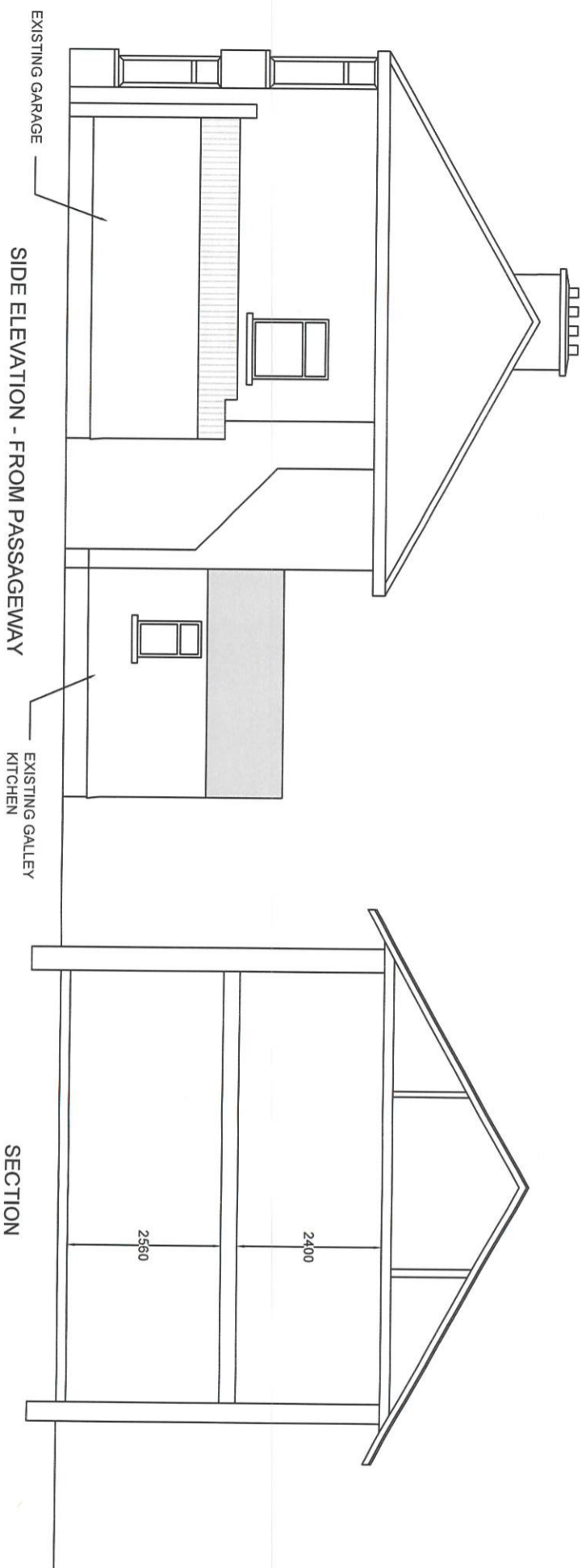
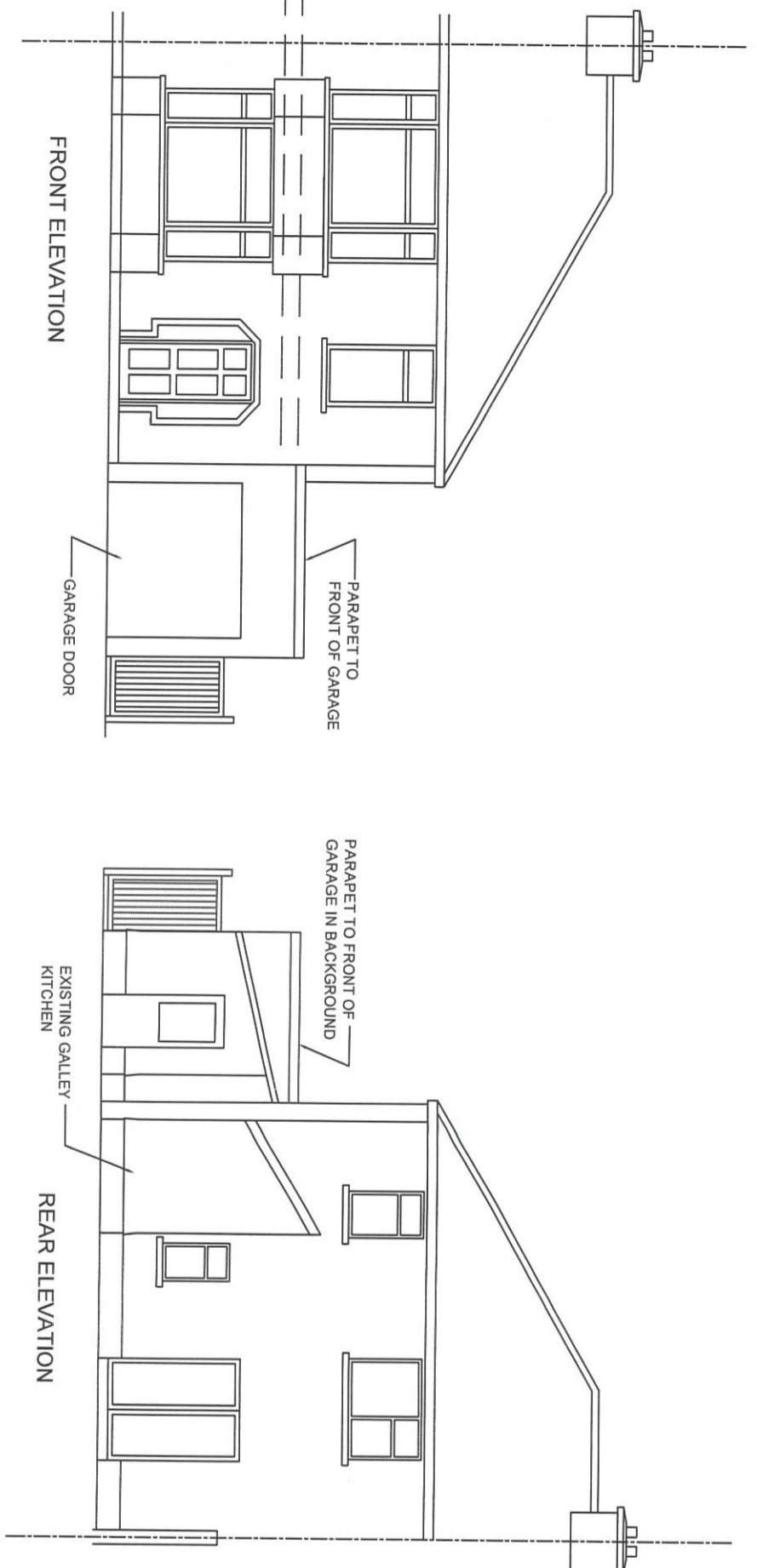
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Project
PROPOSED ALTERATIONS TO EXISTING DWELLING AT 30 SUNDRIVE PARK, CORK, T12A5W7

Title
EXISTING LAYOUT

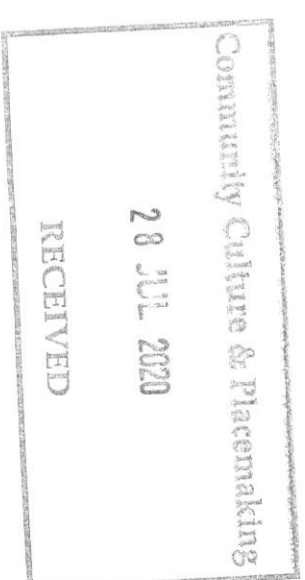
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-	CJL	CJL
Dwg No.	Revision	
01	P0	

PLANNING DRAWING



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SCALE BAR 1:100

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Project
**PROPOSED ALTERATIONS
TO EXISTING DWELLING AT
30 SUNDRIVE PARK, CORK**

Title
EXISTING ELEVATIONS & SECTION

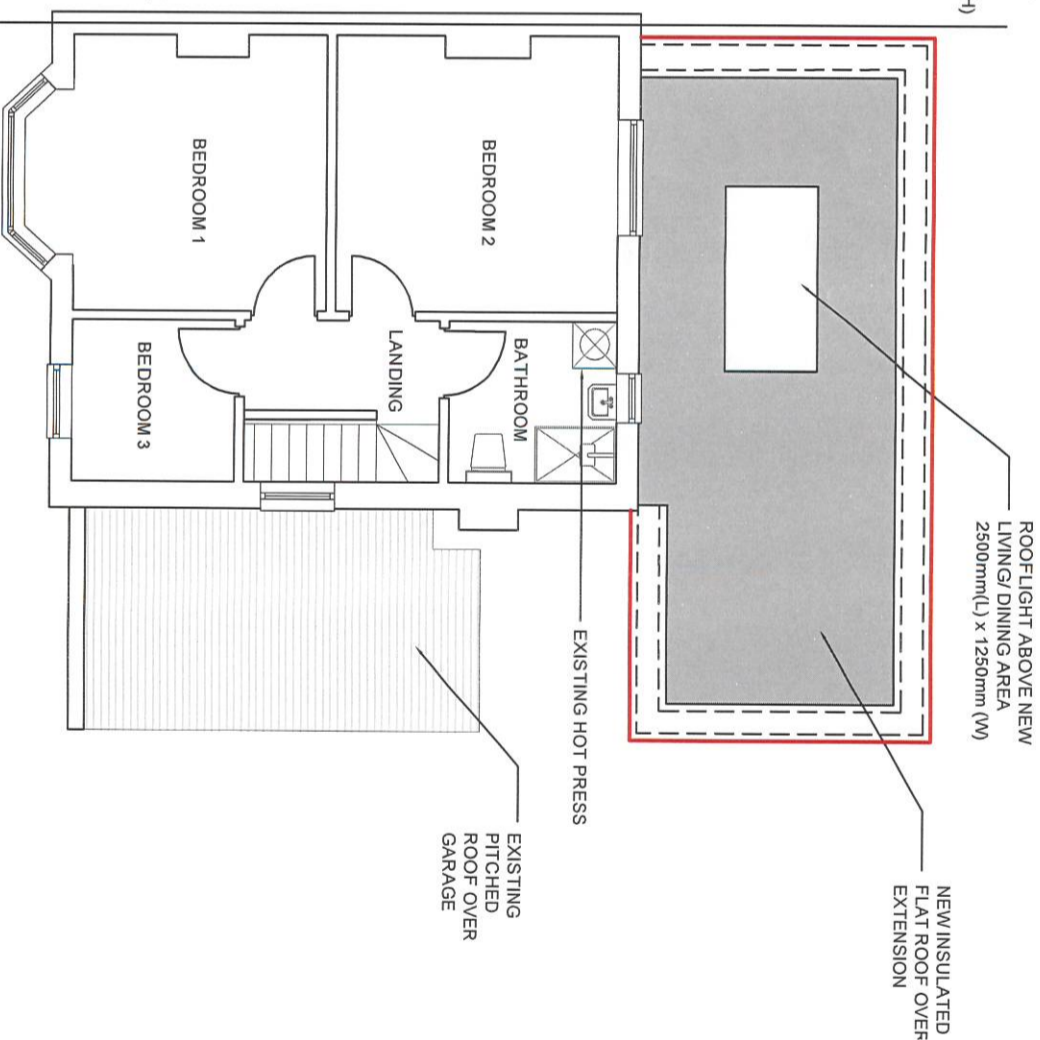
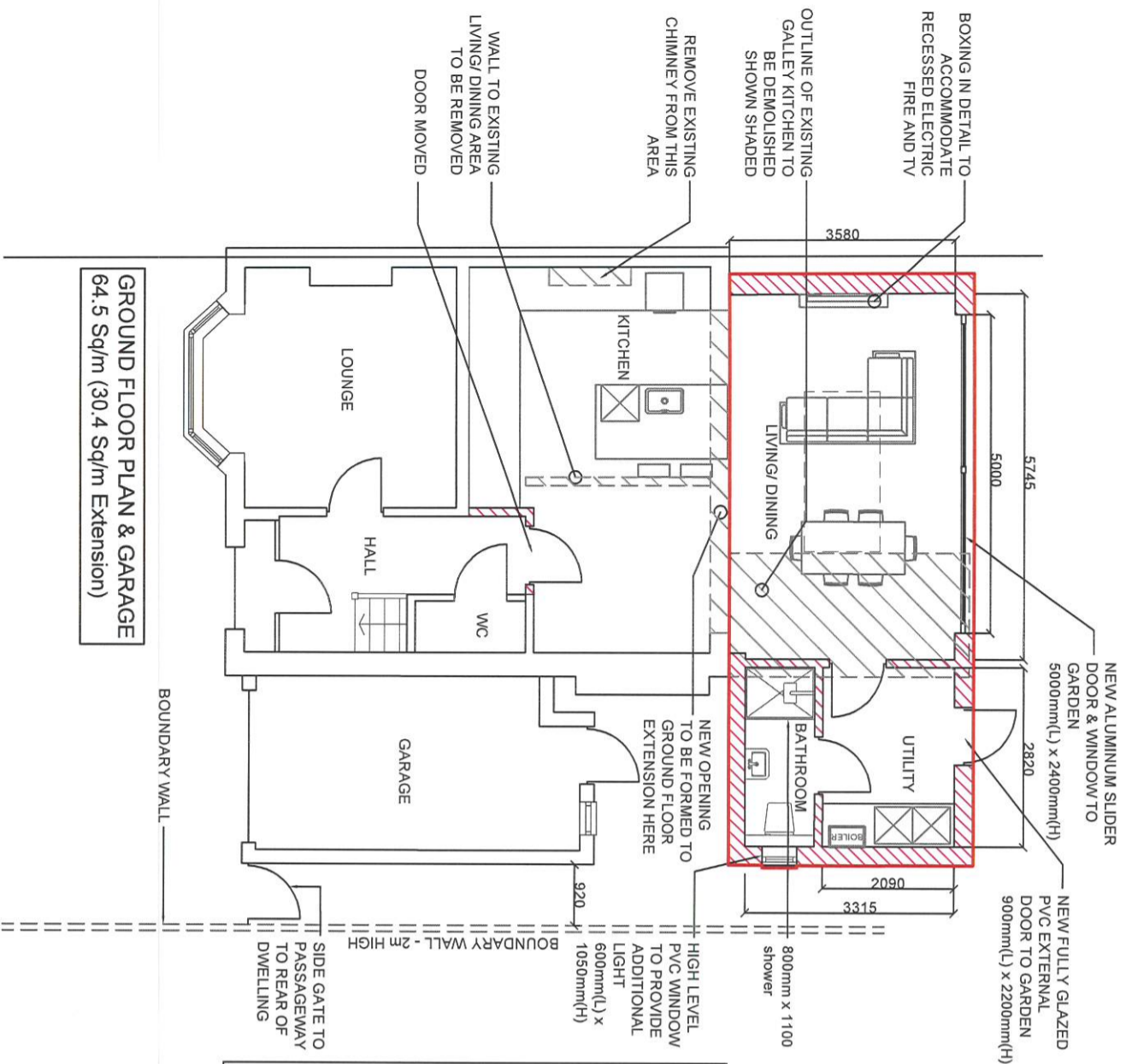
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Drawn	Design	Approved
-	CJL	CJL
Dwg No.	Revision	
02	P0	

PLANNING DRAWING



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PROPOSED FLOOR PLANS



Rev	Description	Dsgn	Chkd	Date
P0	PLANNING ISSUE	CJL	CJL	17/7/20

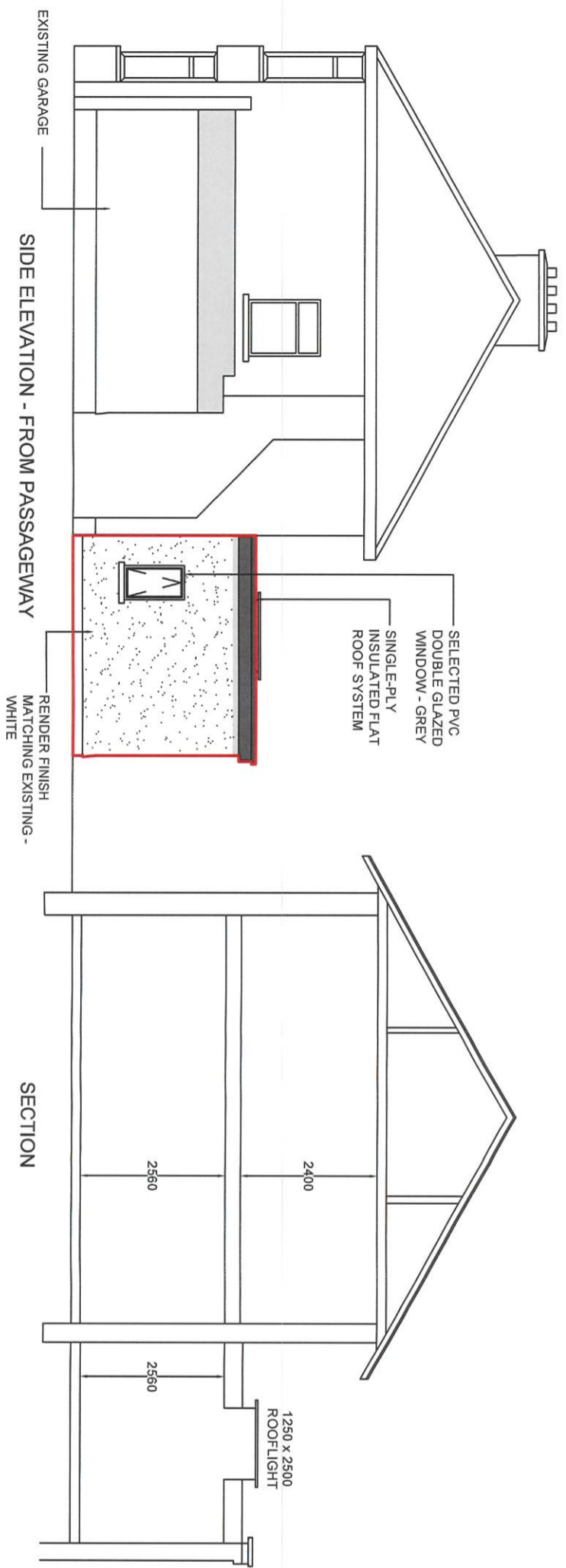
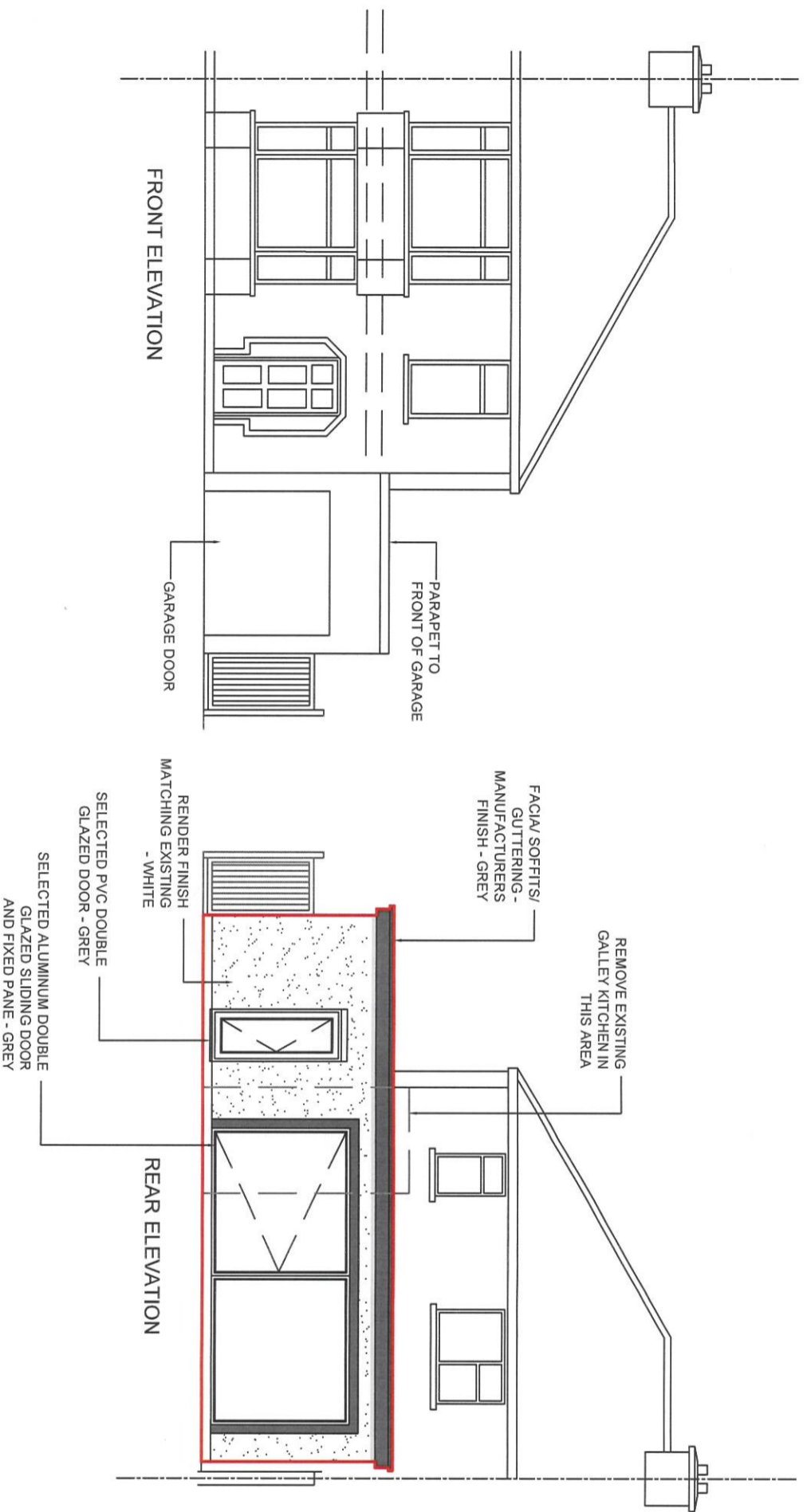
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Project: **PROPOSED ALTERATIONS TO EXISTING DWELLING AT 30 SUNDRIVE PARK, CORK**

Title: **PROPOSED LAYOUT**

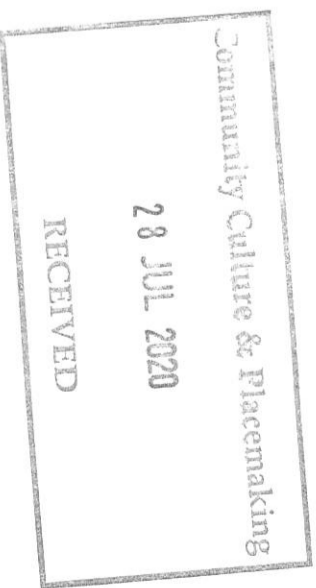
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Drawn	Design	Approved
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Dwg No.	Revision	
03	P0	

PLANNING DRAWING



0 1m 2m
SCALE BAR 1:100

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Project
PROPOSED ALTERATIONS TO EXISTING DWELLING AT 30 SUNDRIVE PARK, CORK, T12A5W7

Title
PROPOSED ELEVATIONS & SECTION

Scale	1:100	Original Size	A3	Date	JULY/2020
Drawn	-	Design	CJL	Approved	CJL
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PLANNING DRAWING

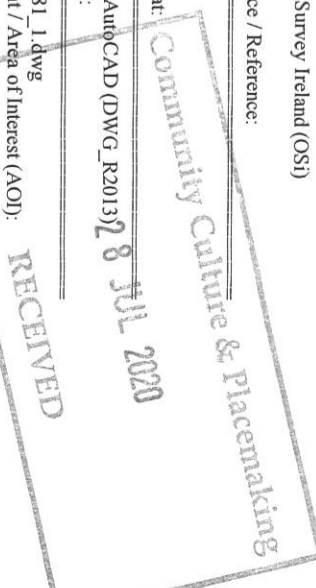


LOCATION OF NOTICE (X)
SITE BOUNDARY (RED)

Data Extraction Date:
Date = 19-Jun-2020
Source Data Release:
DCLMS Release V1.129.109
Product Version:
Version = 1.3
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Sáraron atáirgeadh neamhdaraithe cóipeart Shuirbhreacht Ordánais Éireann agus Rialtas na hÉireann.
1:1,000 | 6383-23

Description:
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Publisher / Source:
Ordnance Survey Ireland (OSi)
Data Source / Reference:
PRIME2
File Format:
Autodesk AutoCAD (DWG_R2013) 28 JUL 2020
File Name:
v_50124881_1.dwg
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LRX,LRX = 569620.86,570591.95
ULX,ULY = 569387.86,570763.95
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X,Y = 569504.36,570677.95
Reference Index:
Map Series | Map Sheets
1:1,000 | 6383-18
1:1,000 | 6383-17
1:1,000 | 6383-22
1:1,000 | 6383-23



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Project
PROPOSED ALTERATIONS TO EXISTING DWELLING AT 30 SUNDRIE PARK, CORK, T12A5W7

Title
PLANNING SITE LOCATION MAP URBAN PLACE MAP

Scale	Original Size	Date
1:1000	A3	JUL2020
Drawn	Design	Approved
CJL	-	CJL
Dwg No.	Revision	
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Description:
Digital Cartographic Model (DCM)

Publisher / Source:
Ordnance Survey Ireland (OSi)

Data Source / Reference:
PRIME2

File Format:
Autodesk AutoCAD (DWG_R2013)

File Name:
v_50124881_1.dwg

Clip Extent / Area of Interest (AOI)
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 LRLRY= 569620.86,570591.95
 ULX,ULY= 569387.86,570763.95
 URX,URY= 569620.86,570763.95

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 28 JUL 2020
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Projection / Spatial Reference:
Projection= IRENE_T95_Irish_Transverse_Mercator

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Reference Index:
Map Series | Map Sheets
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 I:1,000 | 6383-22
 I:1,000 | 6383-23

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Project:
**PROPOSED ALTERATIONS TO
EXISTING DWELLING AT
30 SUNDRIVE PARK, CORK, T12A5W7**

File:
**LS PLANNING
SITE LOCATON MAP
URBAN PLACE MAP**

Scale	Original Size	Date
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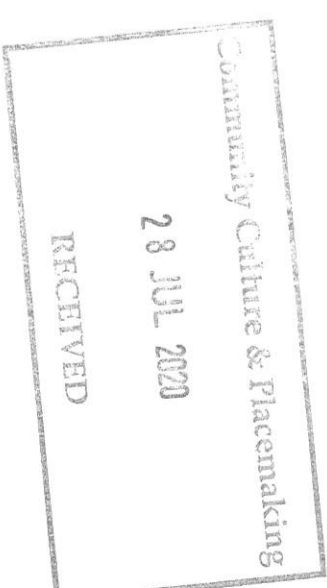
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PLANNING DRAWING



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Project
PROPOSED ALTERATIONS TO EXISTING DWELLING AT 30 SUNDRIVE PARK, CORK, T12A5W7
 Title
PROPOSED SITE LAYOUT

Scale	Original Size	Date
1:100	A3	JULY/2020
Drawn	Design	Approved
-	CJL	CJL
Dwg No.	Revision	
07	P0	

