

Comhairle Cathrach Chorcaí Cork City Council

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

Derrick Knowles & Colin Kenneally,
c/o Paul Butler MRAI,
Butler Cammoranesi architects,
6 George's Quay
Cork T12 Y38A.

25/10/2023

RE: Section 5 Declaration R803/23 12 The Grove, Dublin Hill, Cork City, T23 N521

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 29th September 2023, 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 6, 9 and Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended),

The Planning Authority considers that –

the proposed construction of a 13m² (gross internal) extension to the rear of the existing semi-detached property at 12 The Grove, Dublin Hill, Cork City IS DEVELOPMENT and IS 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 Bord Pleanála within 4 weeks of the date it is issued, 25th October 2023.



We are Cork.

Is mise le meas,



Kate Wagner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



PLANNER'S REPORT Ref. R803/23		Cork City Council Culture, Community and Placemaking
Application type	Section 5 Declaration	
Description	<i>Does the authority agree and will the authority please confirm, that the proposed construction of a 13m² (gross internal) extension to the rear of the existing semi-detached property at 12 The Grove, Dublin Hill, Cork City is considered exempted development.</i>	
Location	12 The Grove, Dublin Hill, Cork City T23 N521	
Applicant	Derrick Knowles and Colin Kenneally	
Date	25/10/2023	
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:

Does the authority agree and will the authority please confirm, that the proposed construction of a 13m² (gross internal) extension to the rear of the existing semi-detached property at 12 The Grove, Dublin Hill, Cork City is considered exempted development.

Additional Details Regarding Question/ Works/ Development

The applicant states:

Proposed single storey 13m² extension constructed to the rear of the existing semi-detached property at 12 The Grove, Dublin Hill, Cork City.

- *Extension to be constructed in blockwork and rendered to match existing.*
- *Mono pitched roof with concrete roof tiles to match existing.*
- *Modifications to existing rear wall of existing dwelling and all related site development works as shown on architects dwgs.*
- *Gross internal floor area 13m² (<40m²), Gross external floor area 17m².*

3. SITE DESCRIPTION

The subject site is located within The Grove housing development off Dublin Hill. The subject site comprises a semi-detached two-storey dwelling with vehicular entrance.

4. PLANNING HISTORY

Subject Site

None.

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(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 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.

Schedule 2, Part 1 of the Planning and Development Regulation 2001 (as amended) relates to general exempted development. Classes 1-8 relate to development within the curtilage of a house and Class 1 relates to “the extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.”

Schedule 2, Part 1, Class 1

Exempted Development — General

Column 1 Description of Development	Column 2 Conditions and Limitations
<p>Development within the curtilage of a house</p> <p>CLASS 1 The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.</p>	<p>1. a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres</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>c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</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>(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.</p> <p>(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.</p>

Column 1 Description of Development	Column 2 Conditions and Limitations
	<p>3. 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 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 faces.</p> <p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>

6. ASSESSMENT

The purpose of this report is to assess whether or not the matter in question constitutes development and whether its fall within the scope of exempted development. Matters pertaining to the acceptability of the proposal in respect of the proper planning and sustainable development of the area is not a consideration under section 5.

6.1 Development

The first issue for consideration is whether or not the matter at hand is 'development'.

'Development' as defined in the Act (3)(1) comprises two possible chief components: *'the carrying out of any works on, in, over or under land', or 'the making of any material change in the use of any structures or other land'*. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

'Works' is defined in section 2(1) of the Act as *'the carrying out of any works on, in, over, or under land' including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal, and in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.'*

The construction of the extension is an act of construction and falls within the definition of 'works'. Therefore, the proposal constitutes development within the meaning of the Act.

CONCLUSION: Is development

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. Section 2(1) of the Act defines 'exempted development' as having 'the meaning specified in section 4' of the Act (which relates to exempted development).

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

I consider that the proposal comes within subsection (2) of section 4, i.e. the Regulations, and not subsection (1).

Section 4(2)

It is therefore necessary to consider whether the proposed extension 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).

I consider that article 6 and Class 1 of Schedule 2, Part 1 applies, as the proposal relates to the construction of an extension to the rear of the existing dwelling.

The proposal is assessed against conditions and limitations set out in Class 1 below.

Condition / Limitation 1

- a) *Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres*
- b) *Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.*
- c) *Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.*

Assessment

- a) The house has not been extended previously. The extension measures 16.5m² (gross external area). The extension does not exceed 40m². The proposal does not conflict with this limitation.
- b) No element of the proposal relates to an extension above ground level. The proposal does not conflict with this limitation.
- c) The dwelling is not detached. The proposed does not conflict with this limitation.

Condition / Limitation 2

- a) *Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*
- b) *Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.*
- c) *Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.*

Assessment

- a) The dwelling has not been extended previously. The stated floor area of the extension is 16.5m² (gross external area). The extension is within the 40m² limit. The proposal does not conflict with this limitation.
- b) The proposal does not conflict with this limitation.
- c) The proposal does not conflict with this limitation.

Condition / Limitation 3

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

Assessment

No element of the proposal is above ground floor level. The proposal does not conflict with this limitation.

Condition / Limitation 4

- a) *Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.*
- b) *Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.*
- c) *The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.*

Assessment

- a) The height of walls of the extension do not exceed the height of the rear wall of the house. The proposed extension is single storey and the existing dwelling is two storeys. The proposal does not conflict with this limitation.
- b) The rear wall of the house does not include a gable. The proposal does not conflict with this limitation.
- c) The height of the highest part of the roof of the extension does not exceed the height of the roof of the dwelling. The proposal does not conflict with this limitation.

Condition / Limitation 5

The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

Assessment

It is stated in the documentation submitted that the private external area is c. 35m². This appears to be incorrect. However, I’ve calculated the area of the private amenity space to the rear of the dwelling, and I am satisfied that the proposed extension does not reduce this area to less than 25m². The proposal does not conflict with this limitation.

Condition / Limitation 6

- a) *Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.*
- b) *Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.*
- c) *Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 m*

Assessment

- a) The proposed extension has glazed sliding doors on the rear elevation which is more than 1m from the boundary it faces (the applicant’s rear boundary). The proposal does not conflict with this limitation.
- b) There is no window proposed above ground level. The proposal does not conflict with this limitation.
- c) ~~No extension or windows are proposed above ground level. The proposal does not conflict with this limitation.~~

Condition / Limitation 7

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

Assessment

The extension comprises a pitch roof and would not be suitable for use as a balcony or roof garden. No information provided suggests or indicates that the roof would be used as such. The proposal does not conflict with this limitation.

Restrictions on exemption

I do not consider that any apply in this instance.

CONCLUSION: Is exempted development.

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. RECOMMENDATION

It is in view of the above and having regard to –

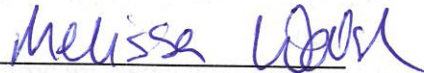
- Section 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, 9, and Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended)

The Planning Authority considers that –

The proposed construction of a 13m² (gross internal) extension to the rear of the existing semi-detached property at 12 The Grove, Dublin Hill, Cork City **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.



Jan Oosterhof
A/ Executive Planner
25/10/2023



Melissa Walsh
Senior Executive Planner
25/10/2023

BUTLER CAMMORANESI

27th September 2023

Planning Department,
Cork City Council,
City Hall,
Cork

Dear Sir / Madam,

Re: 12 The Grove, Dublin Hill - Proposed Single Storey Rear Extension - Declaration of Exemption

In respect of the proposed development outlined above we write to request a declaration of exemption from the obligation to apply for planning permission in accordance with the Planning and Development Regulations Schedule 2 Part 1 Exempted Development (Class 1).

Development within the curtilage of a house Class 1:

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

In respect of the above we note that the house has not been extended previously, the floor area of the proposed extension is approx. 13sqm (internal) and as such does not exceed 40 square metres. The highest part of the roof of the extension does not exceed, the eaves or the highest part of the roof of the existing dwelling. Private external area is approx. 35 square metres. The roof of the extension will not be used as a balcony or roof garden.

In support please find attached:

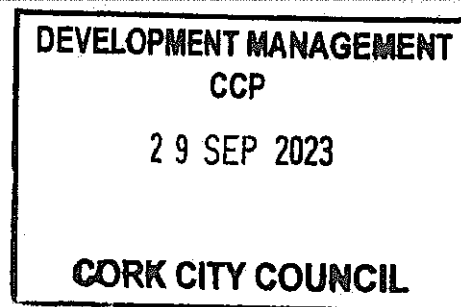
- Section 5 Declaration Application Form;
- Site Location Map (1:1000);
- Proposed Plan, Sections and Elevation Drawing (1:200);
- Required Fee (€80.00).

Yours sincerely



Paul Butler, MRAI

cc – D Knowles, C Kenneally



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T +353 21 2417273 \ E info@butlercammoranesi.ie
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Butler Cammoranesi architects Ltd.
Registered in Ireland. Reg. No.: 568136
Registered office: 6 George's Quay, Cork City
Directors: Paul Butler, Lorenzo Cammoranesi



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: 021-4924709
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

Derrick Knowles & Colin Kenneally

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

12 The Grove, Dublin Hill, Cork City, T23 N521

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.

Does the authority agree and will the authority please confirm, that the proposed construction of a 13m² (gross internal) extension to the rear of the existing semi-detached property at 12 The Grove, Dublin Hill, Cork City is considered exempted development.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Proposed single storey 13m² extension constructed to the rear of the existing semi-detached property at 12 The Grove, Dublin Hill, Cork City.

Extension to be constructed in blockwork and rendered to match existing
Mono pitched roof with concrete roof tiles to match existing.

Modifications to existing rear wall of existing dwelling and all related site development works as shown on architects dwgs.

Gross internal floor area 13m² (<40m²) Gross external area 17m².

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

If so please supply details: NONE

5. Is this a Protected Structure or within the curtilage of a Protected Structure? NA

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? NA

6. Was there previous relevant planning application/s on this site?

If so please supply details: NONE

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	75 sqm / 45 sqm 135sqm.
(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 type="checkbox"/> If yes, please provide floor areas. (sq m) NA
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle) NA / residential	Proposed/existing use (please circle) NA / residential

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	NA	
If you are not the legal owner, please state the name of the owner if available	NA	

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

Signature: Denick Knoaker

Date: 16/09/23 16/09/2023

CONFIDENTIAL CONTACT DETAILS

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

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.**

- 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.

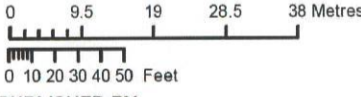
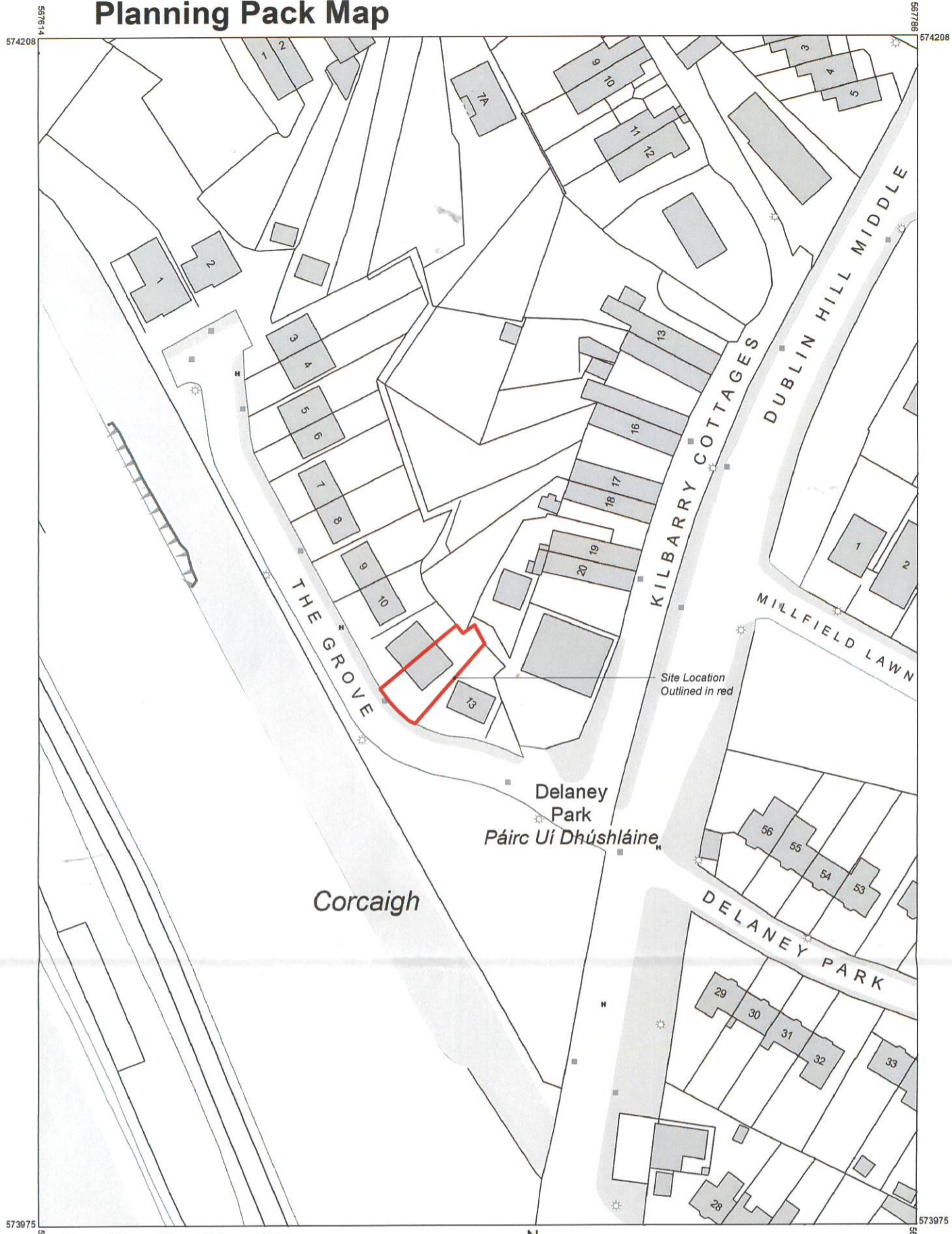
The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation 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 protections 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.

Planning Pack Map



OUTPUT SCALE: 1:1,000



CENTRE COORDINATES:
ITM 567700,574092

PUBLISHED: 25/09/2023
MAP SERIES: 1:1,000

ORDER NO.: 50359016_1
MAP SHEETS: 6337-20

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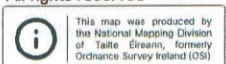
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Tailte Éireann



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butlercammoranesi.ie



Project name
12 The Grove, Dublin Hill

Client
D Knowles, C Kenneally

Project no
23_153

Drawing
OSi Site Location Map

Drawing no.
A01-01

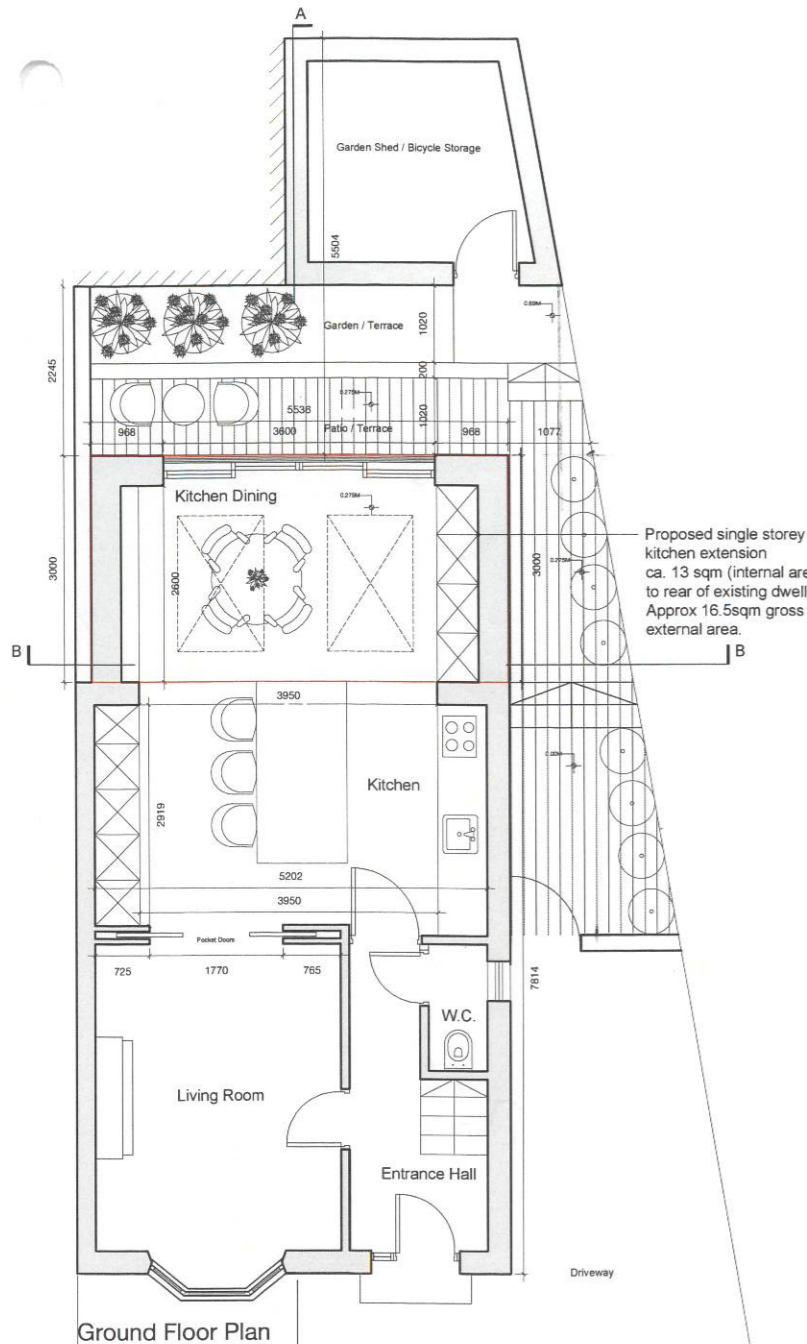
Series
Planning

Revision
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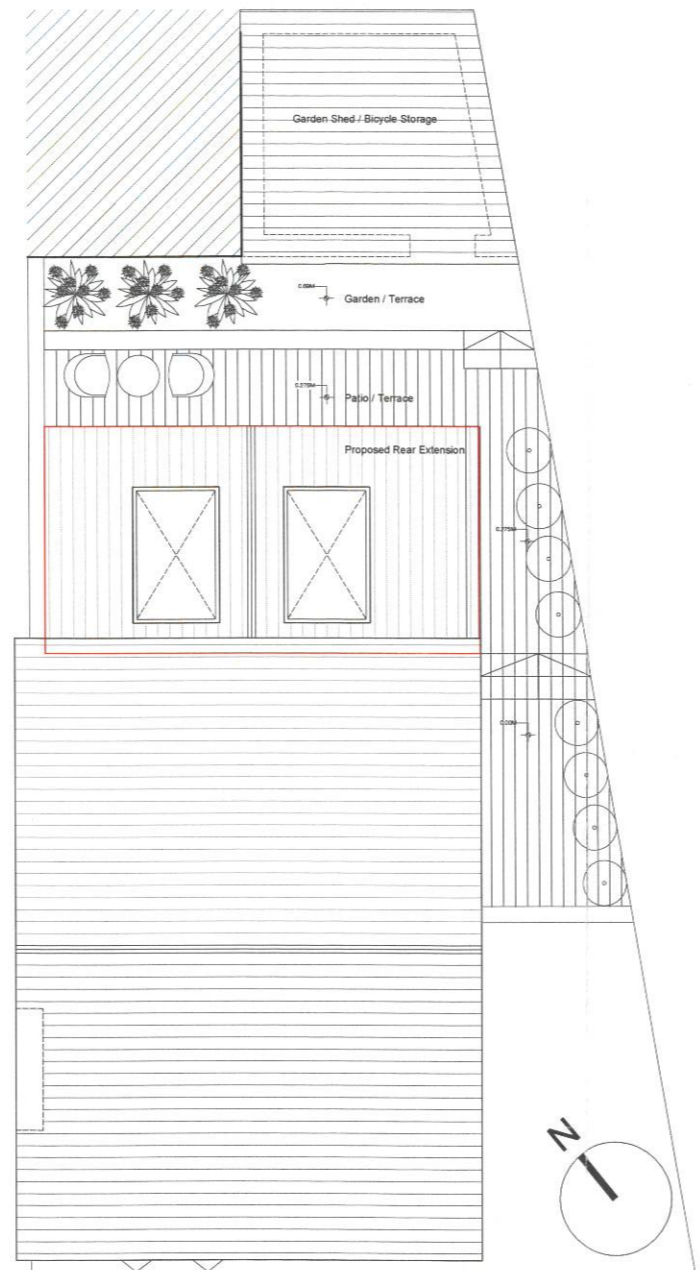
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Date
2023/09/27

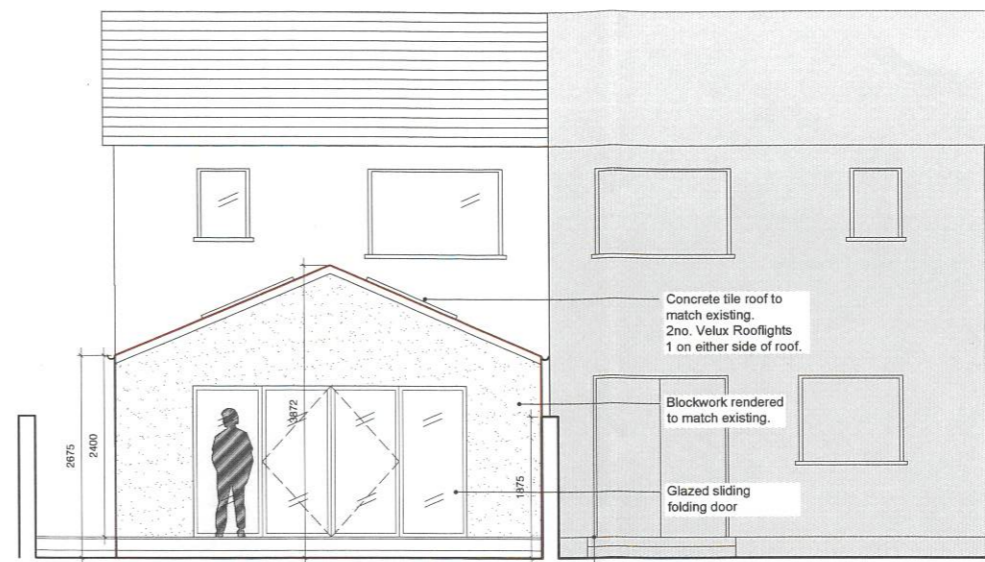
Notes



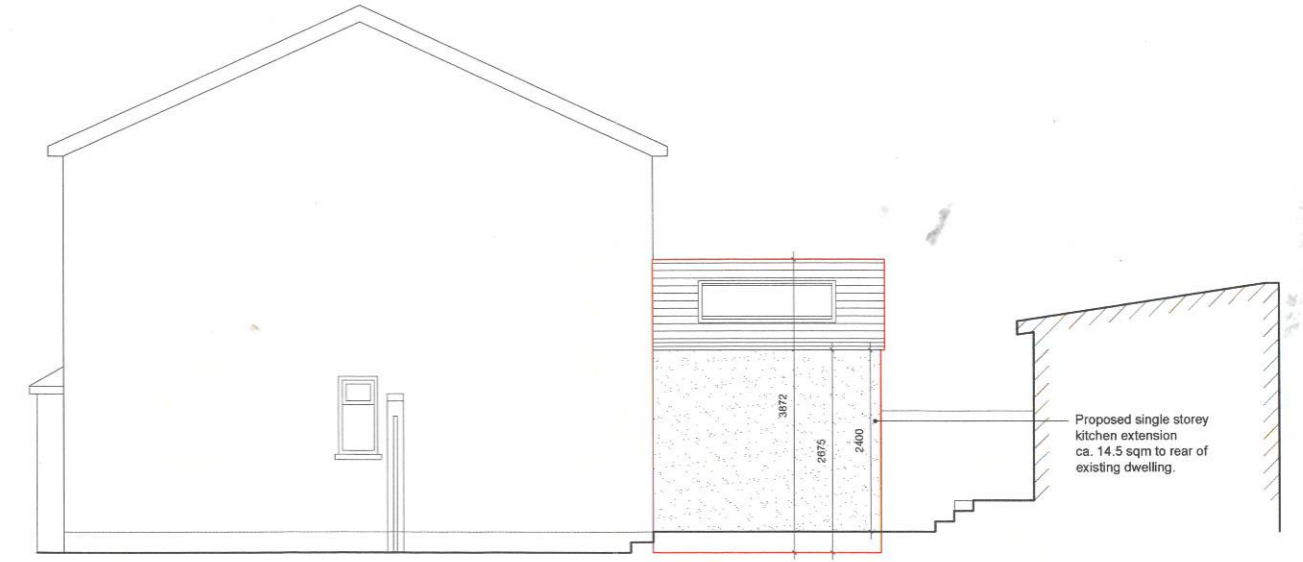
Ground Floor Plan



Roof Plan



North-East Elevation (Rear / Garden)



South East Elevation (Gable)



Section BB



Section AA

Proposed extension outlined in red

Proposed Materials
 Block walls rendered to match existing.
 Concrete roof tiles to match existing.
 Aluminium doors / windows.
 Velux Rooflights.
 Rainwater goods to match existing.

Area
 13 sqm Int. Area
 16.5 sqm Ext. Area
 35 sqm External Area

