



Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

Mary Long
10 Silverwood
Ballinlough
Cork

11/05/18

RE: Section 5 Declaration 25 South Lodge, Ballinlough, Cork

Dear Sir/Madam,

I am asked by Mr. Patrick Ledwidge, Director of Services, Strategic Planning & Economic Development to refer to your request for a section 5 Declaration at the above address.

Having Regard to:

- Sections 2, 3, and 4 of the Planning and Development, 2000 as amended, and
- Article 6 and Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended,
-

the planning authority has concluded that —

the construction of a rear extension at 25 South Lodge, Ballinlough, Cork comes within the scope of Class 1 of the Regulations,

and therefore the planning authority considers that —

the construction of a rear extension at 25 South Lodge, Ballinlough, Cork **IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.**

Yours Faithfully,

Paul Hartnett
Assistant Staff Officer
Strategic Planning & Economic
Development
Cork City Council

Cowhey Walshe Solicitors

12th April, 2018

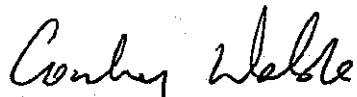
To Whom It May Concern

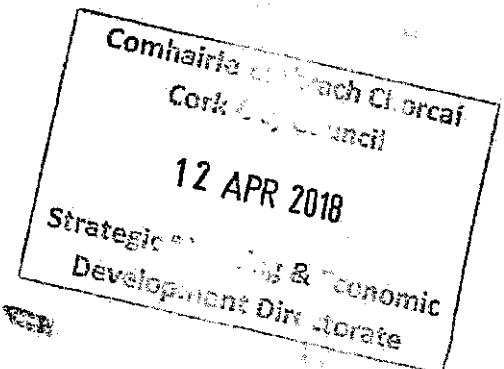
**Re: Our clients: Eddie and Mary Long
Property: 25 South Lodge, Ballinlough, Cork**

We refer to the above mentioned matter and confirm that we acted for Mr Eddie Long and Mrs Mary Long in relation to the purchase of this property.

The vendors were the personal representatives of the original owners who purchased the plot by way of lease dated the 9th May, 1963. The personal representatives declared that to the best of their knowledge the property was constructed prior to the coming into force of the Planning legislation and that the garage was constructed at the same time as the property.

Yours faithfully


COWHEY WALSHE SOLICITORS





Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

Mary Long
10 Silverwood
Ballinlough
Cork

05/04/18

RE: Section 5 Declaration 25 South Lodge, Ballinlough, Cork

Dear Sir/Madam,

I am asked by Mr. Patrick Ledwidge, Director of Services, Strategic Planning & Economic Development to refer to your request for a section 5 Declaration at the above address.

Having regard to the provisions of section 5 (2) (b) of the Planning and Development Act 2000 (as amended), it is considered that the following **further information** is required in order to properly assess this application for a Section 5 Declaration:

1. The drawings submitted are not to scale. Please submit revised drawings to an appropriate accurate scale, with clearly legible dimensions.
2. The drawings submitted do not appear to accurately reflect the existing situation on site. Please submit revised drawings accordingly.
3. Please provide evidence as to when the garage extension to the side was constructed. That is whether it is part of the original house or whether it was constructed before or after 1st October 1964. The floorspace (m²) of the garage should also be submitted. The garage is shown on the existing drawings as having a flat roof and not a mono-pitched roof as was seen on site. Please clarify on the submitted drawings what is proposed with regard to the garage.

Yours Faithfully,

Paul Hartnett
Assistant Staff Officer
Strategic Planning & Economic
Development
Cork City Council

KEVIN,
Section 5 Doe 06/04/18
Paul
09/03/16

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

"CARVE", 25 SOUTH LODGE, BALLINLOUGH,
CORK, T12 CP2X

2. QUESTION/ DECLARATION DETAILS

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

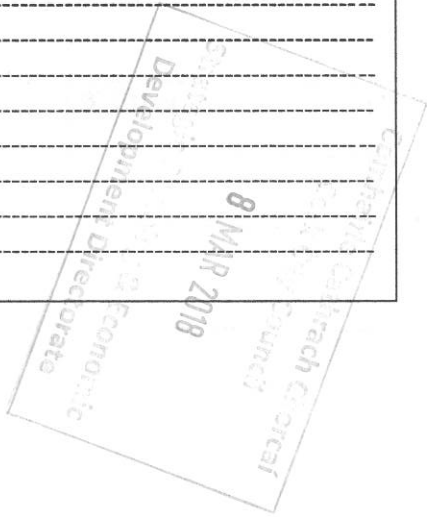
Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

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

Is the construction of the 29 sq. m extension
(proposed plans attached) at the rear of
the house at 25 South Lodge, Ballinlough
exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).



3. 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 <u>proposed</u> structure/s	29 sq. M
(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)
_____	_____
_____	_____
_____	_____

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):	MARY LONG	
Applicants Address	10 SILVERWOOD, BALLINLOUGH, CORK, T12 XN02	
Person/Agent acting on behalf of the Applicant (if any):	Name:	/
	Address:	
	Telephone:	
	Fax:	
	E-mail address:	
Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

5. 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		

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

Signature: Mary Long

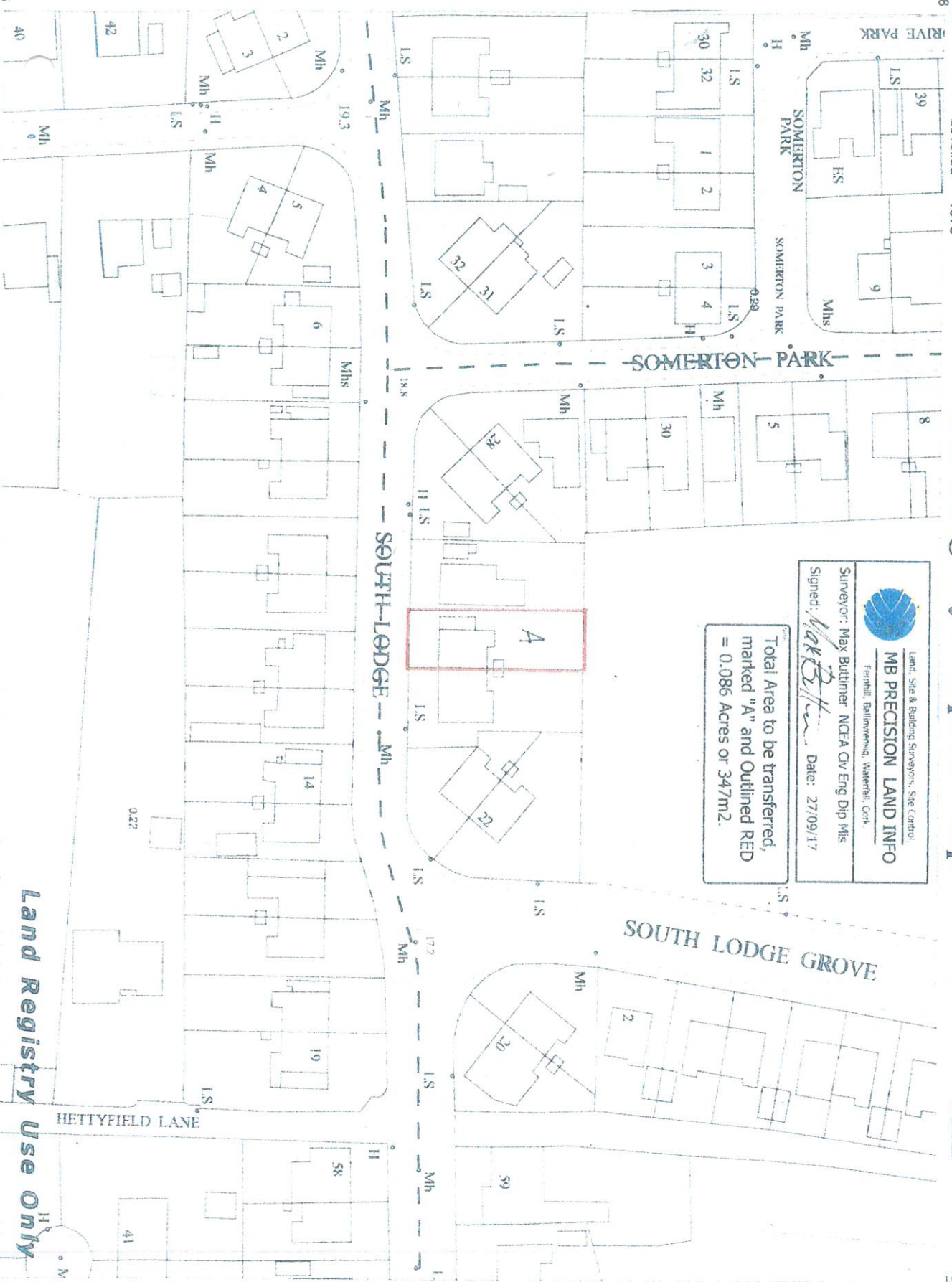
Date: 7/3/18

Land Registry Compliant Map



Land, Site & Building Surveys, Site Control
MB PRECISION LAND INFO
 Ferrill, Ballinacorney, Waterfall, Cork
 Surveyor: Max Buttner NCEA Civ Eng Dip MSc
 Signed: *Max Buttner* Date: 27/09/17

Total Area to be transferred,
 marked "A" and Outlined RED
 = 0.086 Acres or 347m².



ITM CENTRE PT COORDS
 569634, 570662

DESCRIPTION

MAP SHEETS

1:1000
 6383-23 6383-22

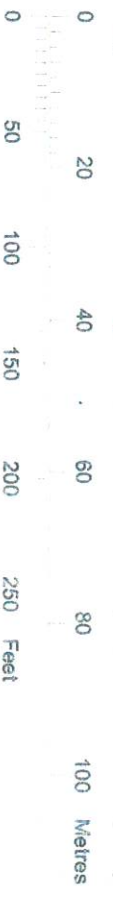


This map is a reproduction of the original map and is not a substitute for the original map. It is intended for use as a reference only and should not be used for legal purposes. The map is a reproduction of the original map and is not a substitute for the original map. It is intended for use as a reference only and should not be used for legal purposes. The map is a reproduction of the original map and is not a substitute for the original map. It is intended for use as a reference only and should not be used for legal purposes.

Land Registry Use Only

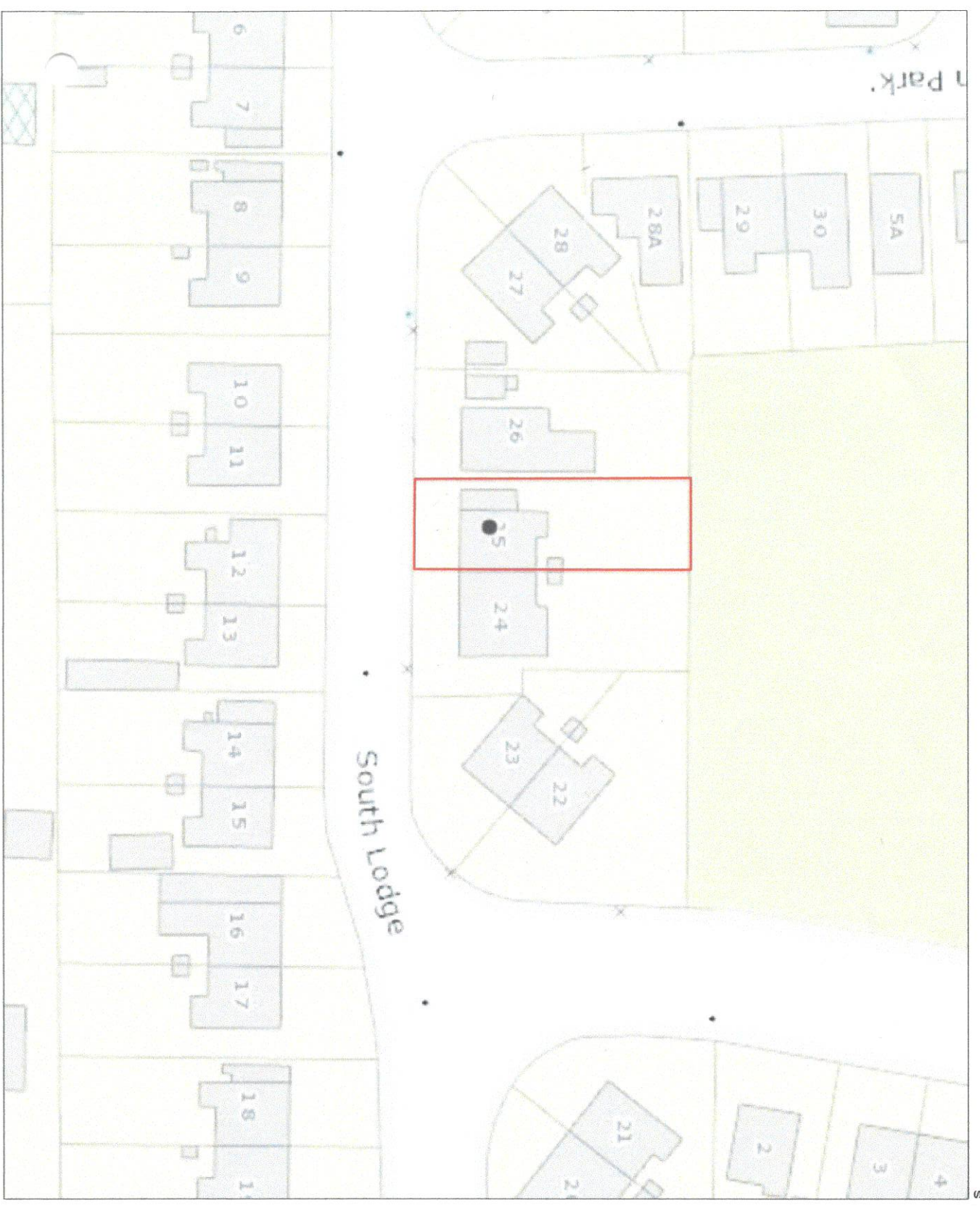
Plot Ref. No. 19759873_1_1
 Plot Date 27-SEP-2017

Scale: 1:1,000
 Scale: 1:1,000





NOTES:
All dimensions are in millimeters



Rev.	Description	Drawn	Checkd	Date
B	Revised as per clients request	AB	EL	15.11.17
A	Issued to Client for Construction	PG	PG	11.11.17

Client: **Eddie & Mary Long**
Bathlough



Drawn By: **25 South Lodge**
Bathlough, Cork

Drawing Title: **SITE LOCATION PLAN**

Drawn by: PG	Date: 11.11.2017
Checked by: PG	Date: 11.11.2017
Approved by: PG	Date: 11.11.2017

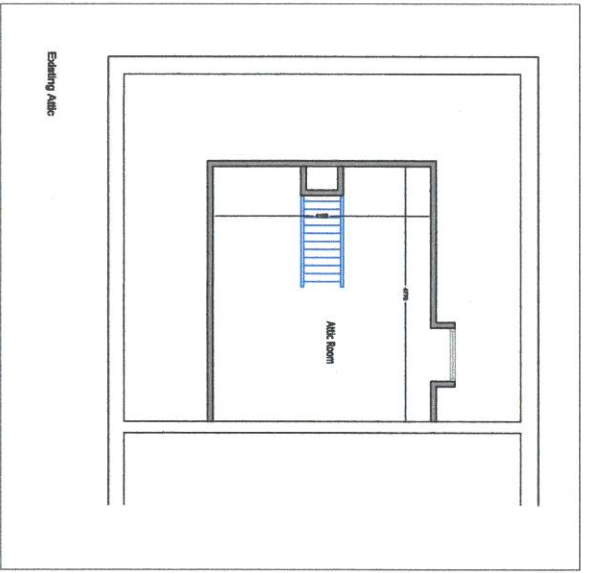
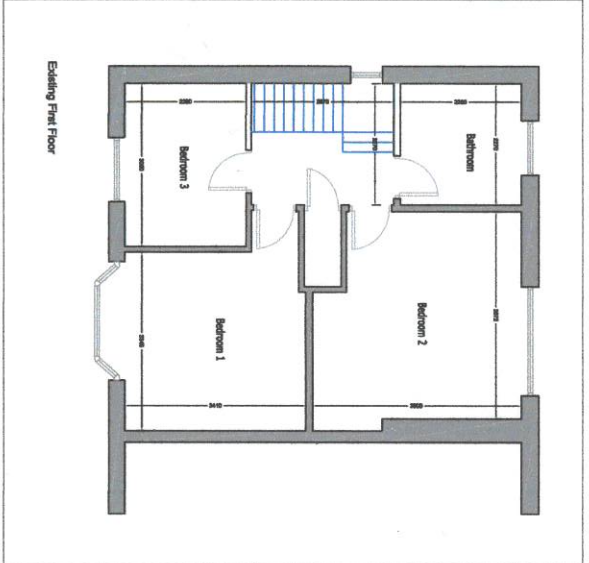
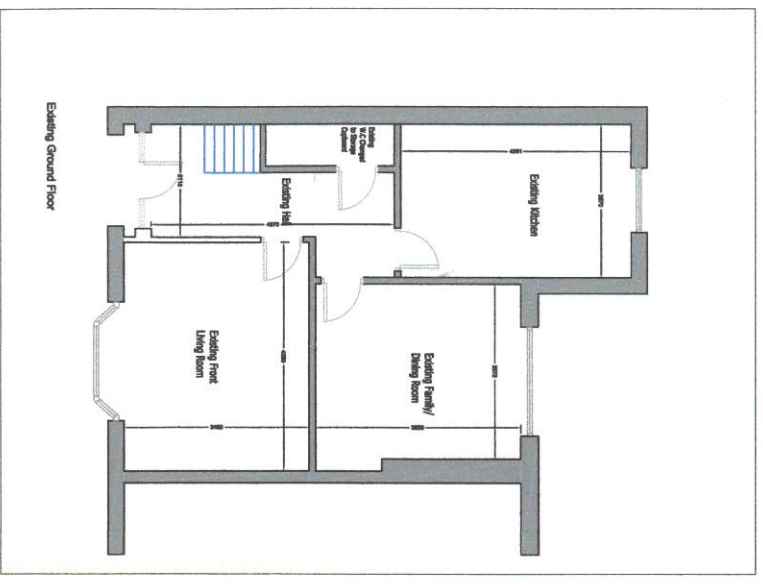
Scales: **NTS**

Stage: **SKETCH**

Drawing No.: **GL17115 SK01** Revision: **B**



NOTES:
All dimensions are in millimeters



Rev.	Description	Drawn	Check	Date
A	Issued for Costing	AB	PG	26.01.18

Client: **Eddie & Mary Long**
Ballinough

Drawn By:



Project: **25 South Lodge**
Ballinough, Cork

Drawing Title: **EXISTING PLANS**

Drawn by:	AB	Date:	10.01.18
Checked by:	PG	Date:	10.01.18
Approved by:	PG	Date:	10.01.18

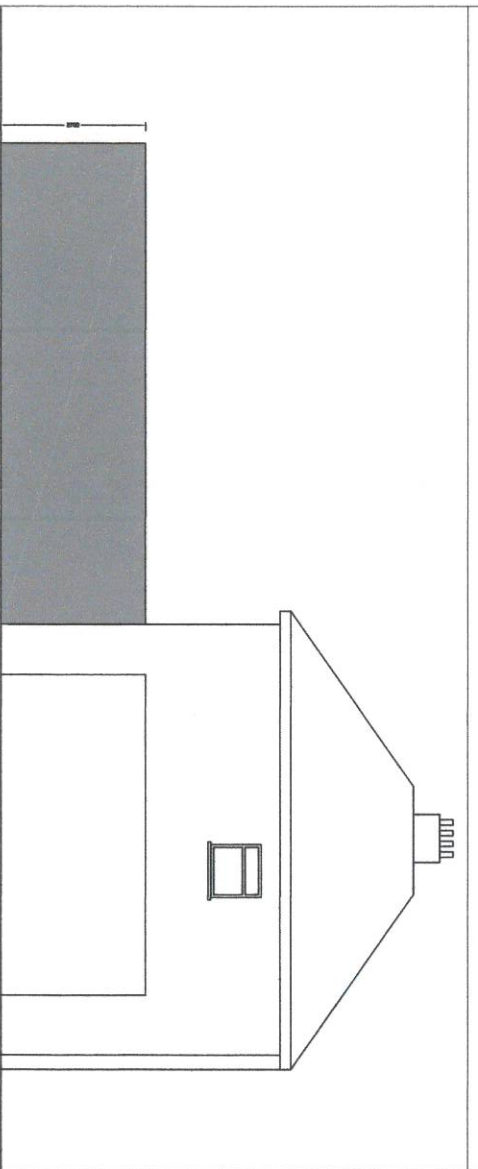
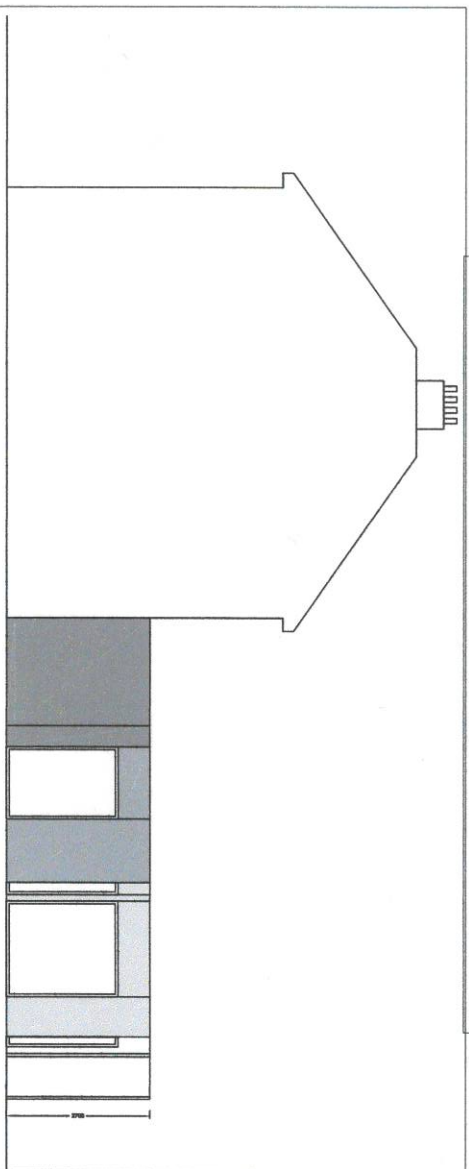
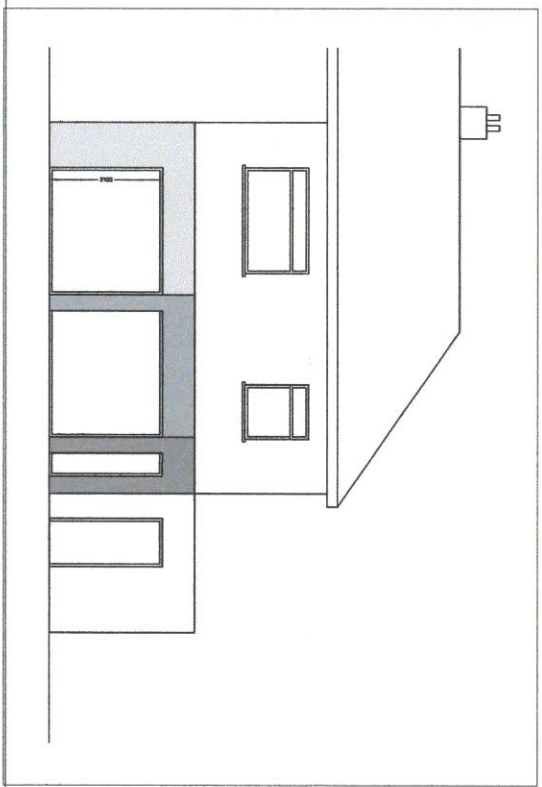
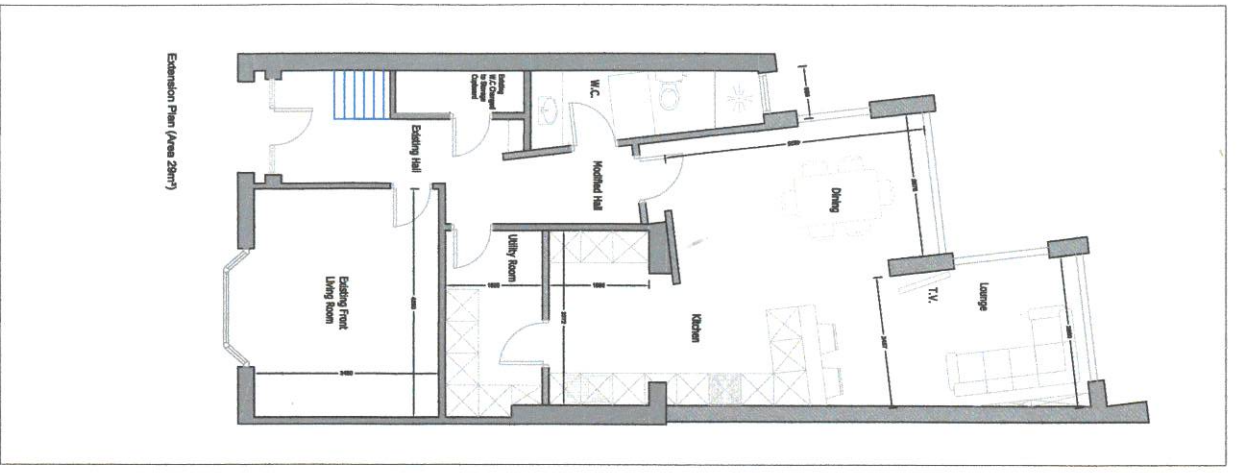
Scales: **1:100@A3**

Stage: **DESIGN**

Drawing No.:	Revision:
GL17115 SK02	A

NOTES:

All dimensions are in millimeters



Rev.	Description	Drawn	Check	Date
B	Revised on per clients request	AB	EL	15.11.17
A	Issued to Client for Consultation	PG	PG	11.11.17

Client: Eddie & Mary Long
Ballylough



Project: 25 South Lodge
Ballylough, Cork

Drawing Title: PROPOSED EXTENSION PLAN & ELEVATIONS

Drawn by: PG	Date: 11.11.2017
Checked by: PG	Date: 11.11.2017
Approved by: PG	Date: 11.11.2017

Scales: 1:100@A3

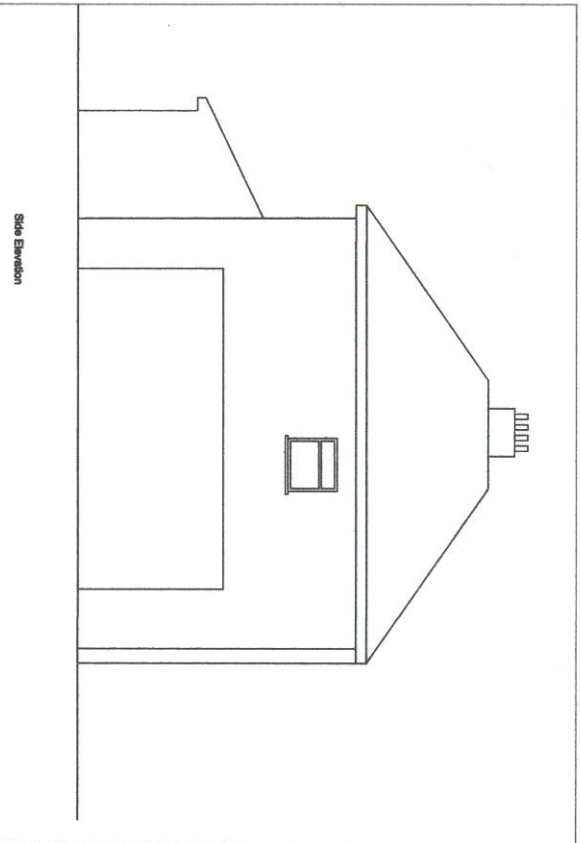
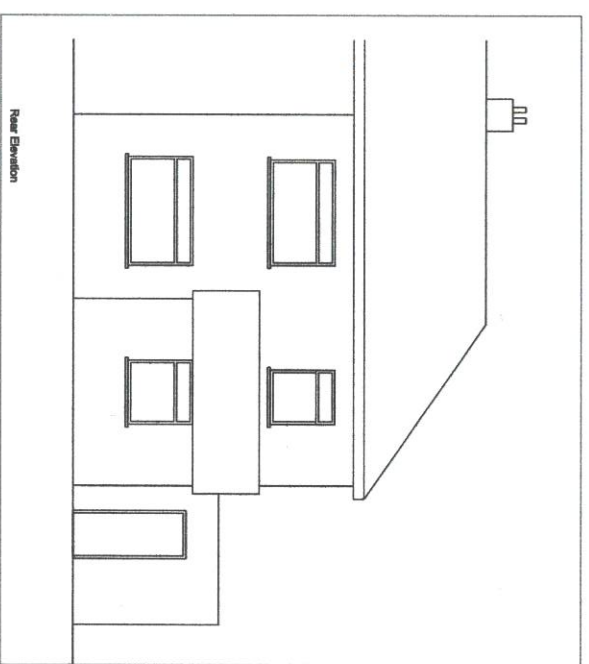
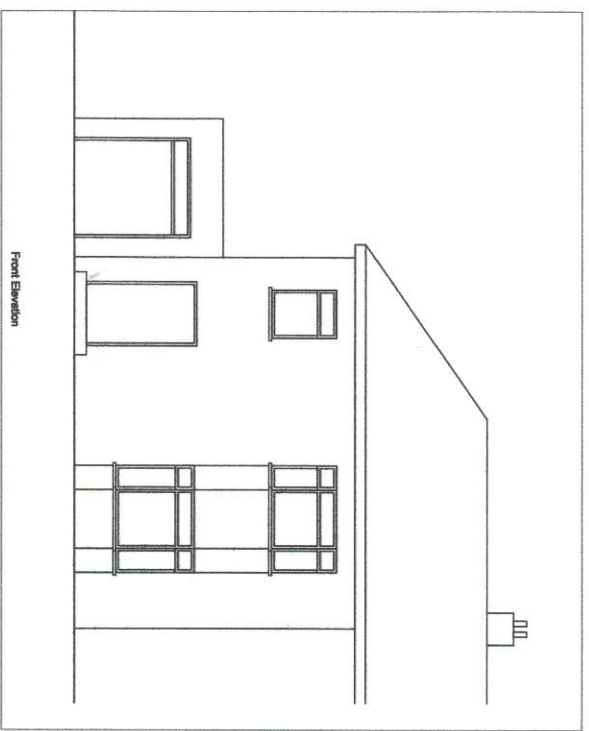
Stage: DESIGN

Drawing No.: GL17115 SK01
Revision: B



NOTES:

All dimensions are in millimeters



Copyright by author
All rights reserved. No part of this drawing may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the author.

Rev.	Description	Drawn	Check	Date
—	***	AB	PG	10.01.18

Client: **Eddie & Mary Long**
Ballinlough

Drawn By:  **Clavloc**
BUILD SYSTEMS

Project: **25 South Lodge**
Ballinlough, Cork

Drawing Title: **PROPOSED ELEVATIONS**

Drawn by: AB Date: 10.01.18

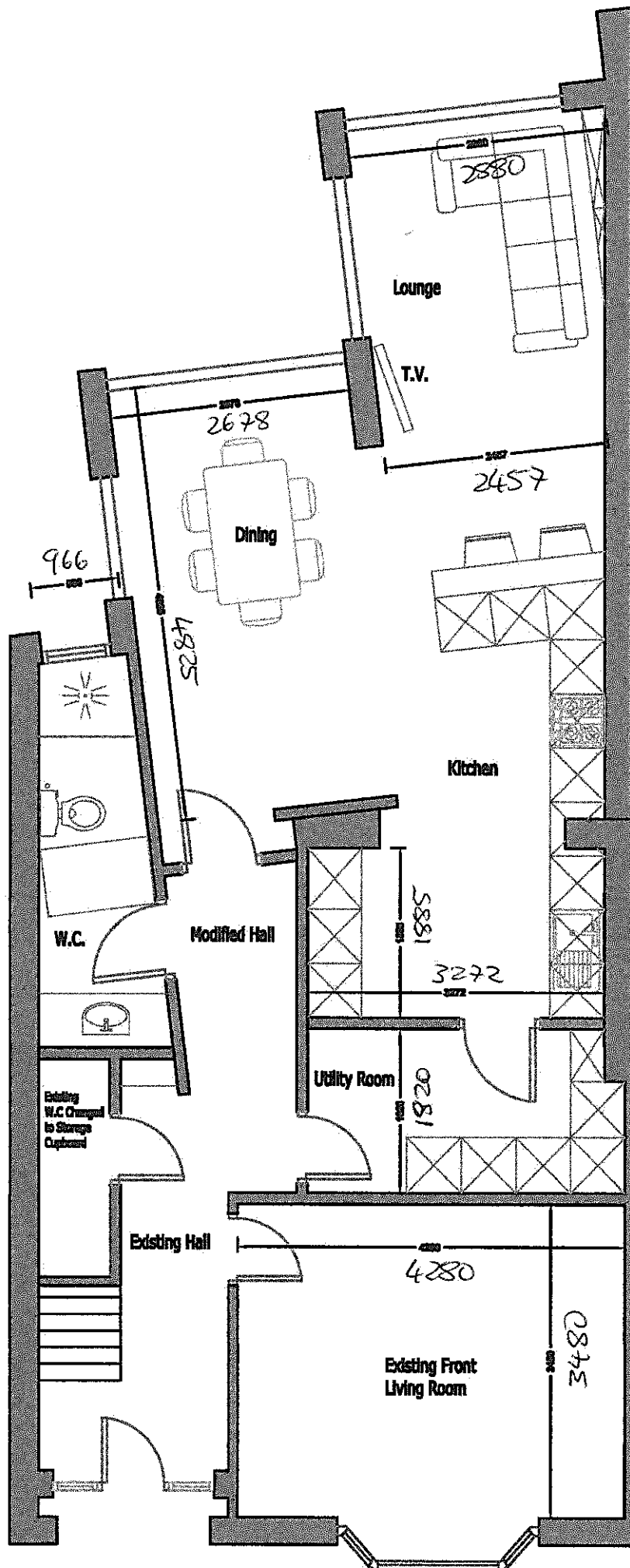
Checked by: PG Date: 10.01.18

Approved by: PG Date: 10.01.18

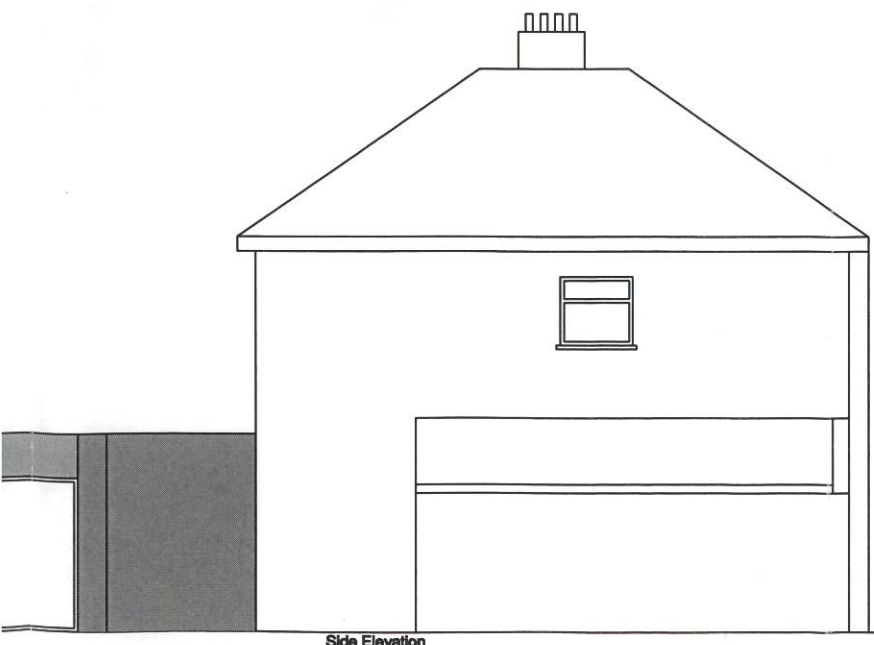
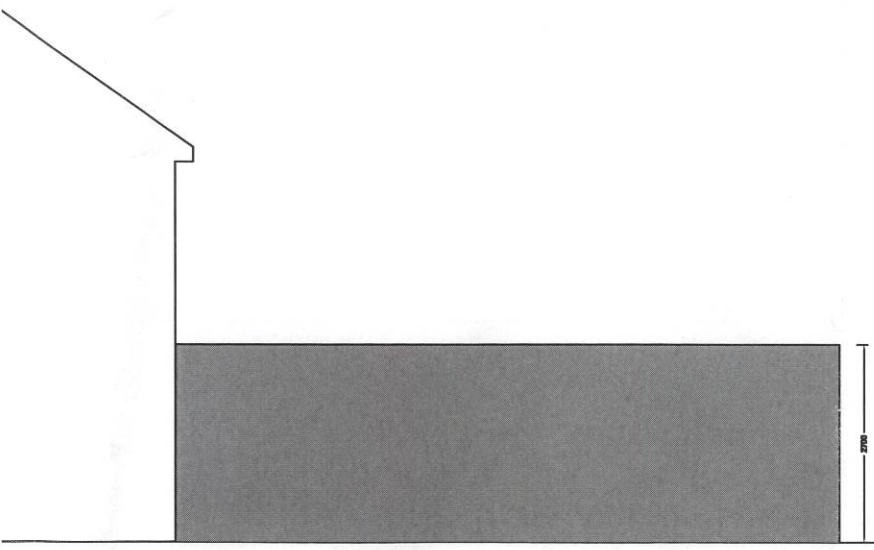
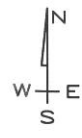
Scale: 1:100@A3

Stage: DESIGN

Drawing No.: GL17115 SK02
Revision: A



Extension Plan (Area 29m²)



Side Elevation

NOTES:

All dimensions are in millimeters

Rev.	Description	Drawn	Chkd	Date
c	Revised as per Section 5 Letter	AB	PG	11.04.18
B	Revised as per clients request	AB	EL	15.11.17
A	Issued to Client for Consultation	PG	PG	11.11.17

Client: **Eddie & Mary Long
Ballinlough**

Drawn By:



Project: **25 South Lodge
Ballinlough, Cork**

Drawing Title: **PROPOSED EXTENSION PLAN & ELEVATIONS**

Drawn by: PG	Date: 11.11.2017
Checked by: PG	Date: 11.11.2017
Approved by: PG	Date: 11.11.2017

Scales: **1:100@A3**

Stage: **DESIGN**

Application type	SECTION 5 DECLARATION
Question	<i>Is the construction of the 29 m2 extension (proposed plans attached) at the rear of the house at 25 South Lodge, Ballinlough exempted development?</i>
Location	<i>25 South Lodge, Ballinlough</i>
Applicant	Mary Long
Date	10/05/2018
Recommendation	<i>Is development and is exempted development</i>

This report should be read in conjunction with my report of 29/03/2018

INTERPRETATION

In this report '*the Act*' means the Planning and Development Act 2000 (as amended) and '*the Regulations*' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. REQUIREMENTS FOR A SECTION 5 DECLARATION APPLICATION

Section 5(1) of the Planning and Development Act 2000 as amended states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a section 5 declaration are set out in the Act.

2. DEVELOPMENT DESCRIPTION

The question has as to whether the construction of a 29m2 extension at the rear of the house at 25 South Lodge, Ballinlough is exempted development.

3. SITE DESCRIPTION

The subject property comprises a two storey semi-detached house. The property has a garage to the side and a single storey extension to the rear. There is also an infill extension which acts as a link between the existing extension and a shed structure in the rear garden.



4. SUBJECT OF THE QUESTION

The question relates to a proposed single-storey extension. The extension is located to the rear of the dwelling and does not project beyond the side elevation of the dwelling.

5. RELEVANT PLANNING HISTORY

There is no relevant planning history.

6. LEGISLATIVE PROVISIONS

6.1 Planning and Development Act, 2000 as amended

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.

6.2 Planning and Development Regulations, 2001 as amended

Article 6(1),

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9,

Article 9 sets out restrictions on exemptions specified under article 6.

(Article 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

<p style="text-align: center;"><i>Column 1</i> <i>Description of Development</i></p>	<p style="text-align: center;"><i>Column 2</i> <i>Conditions and Limitations</i></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</i></p>	<p>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></p> <p>(b) <i>Subject to paragraph (a), where the</i></p>

<p style="text-align: center;">Column 1 Description of Development</p>	<p style="text-align: center;">Column 2 Conditions and Limitations</p>
<p><i>to the rear or to the side of the house.</i></p>	<p><i>house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.</i></p> <p><i>(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.</i></p> <p><i>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.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>1. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</i></p> <p><i>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</i></p>

Column 1 <i>Description of Development</i>	Column 2 <i>Conditions and Limitations</i>
	<p><i>exceed the height of the rear wall of the house.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>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.</i></p> <p><i>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</i></p> <p><i>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</i></p> <p><i>(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.</i></p> <p><i>7. The roof of any extension shall not be used as a balcony or roof garden.</i></p>

7. ASSESSMENT

This application for a Section 5 Declaration relates to the proposed demolition of the existing extension to the rear of the subject dwelling and the construction of a new single storey rear extension.

A request for further information was made on 05/04/2018 for the following information:

1. The drawings submitted are not to scale. Please submit revised drawings to an appropriate accurate scale, with clearly legible dimensions.
2. The drawings submitted do not appear to accurately reflect the existing situation on site. Please submit revised drawings accordingly.
3. Please provide evidence as to when the garage extension to the side was constructed. That is whether it is part of the original house or whether it was constructed before or after 1st October 1964. The floorspace (m²) of the garage should also be submitted. The garage is shown on the existing drawings as having a flat roof and not a mono-pitched roof as was seen on site. Please clarify on the submitted drawings what is proposed with regard to the garage.

The following information was received:

1. Scaled proposed drawings which showed the garage to the side as being unaltered.
2. A letter from the applicants solicitor stating the following:
“The vendors were the personal representatives of the original owners who purchased the plot by way of lease dated the 9th May 1963. The personal representatives declared that to the best of their knowledge the property was constructed prior to the coming into force of the Planning legislation and that the garage was constructed at the same time as the property.”

I consider the submitted information submitted to be sufficient to make an assessment on the application.

7.1 Development

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

7.2 Exempted development

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

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 extension comes within the scope of **section 4(2)**.

Section 4(2) exemptions

Class 1 primary parameters

The proposed development is an extension to a house and is fully to the rear of the existing house.

Condition / Limitation 1

Not applicable as the house was previously extended.

Condition / Limitation 2

The house has a small lean to type extension to the rear but this is to be demolished along with an original extension to the house. The applicant has stated that the proposed extension is 29m². However the original extension has been demolished and as this area is being rebuilt as part of the proposed extension. This area (6.2m²) has to be included in the proposed floorspace. The proposed ground floor measures 35.2m². The proposed development therefore complies with parts a) (parts (b) and (c) do not apply in this case) of this condition / limitation.

Condition / Limitation 3

Does not apply as no first floor extension proposed.

Condition / Limitation 4

The height of the proposed extension does not exceed the height of the side walls of the house. The height of the highest part of the roof does not exceed the eaves or parapet of the dwelling.

Condition / Limitation 5

More than 25m² of open space will remain to the rear of the dwelling.

Condition / Limitation 6

The ground floor windows are more than 1m from the boundaries they face.

Condition / Limitation 7

It does not appear that the roof is proposed to be used as a balcony or roof terrace.

Conclusion – (section 4(2) exemptions) is exempted development

8. ENVIRONMENTAL ASSESSMENT

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

Section 4(4),

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

Section 4(4A)

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

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

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

to be exempted development.

Section 177U(9)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

8.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 and Schedule 7 of the Planning and Development Regulations 2001, as amended it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that **environmental impact assessment is not required**.

8.2 Screening for Appropriate Assessment

The applicant has not submitted an appropriate assessment screening report. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of these European sites. Accordingly it is considered that **appropriate assessment is not required**.

9. RECOMMENDATION

In view of the above and having regard to —

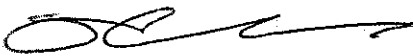
- Sections 2, 3, and 4 of the Planning and Development, 2000 as amended, and
- Article 6 and Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended,

the planning authority has concluded that —

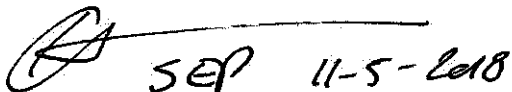
the construction of a rear extension at 25 South Lodge, Ballinlough, Cork comes within the scope of Class 1 of the Regulations,

and therefore the planning authority considers that —

the construction of a rear extension at 25 South Lodge, Ballinlough, Cork **IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.**



SHARON O'CONNELL
ASSISTANT PLANNER
10/05/2018



PLANNER'S REPORT

Ref. R 467/18

Cork City Council
Development Management
Strategic Planning and Economic
Development

Application type SECTION 5 DECLARATION

Question *Is the construction of the 29 m2 extension (proposed plans attached) at the rear of the house at 25 South Lodge, Ballinlough exempted development?*

Location 25 South Lodge, Ballinlough

Applicant Mary Long

Date 29/03/2018

Recommendation *Is development and is exempted development*

INTERPRETATION

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. REQUIREMENTS FOR A SECTION 5 DECLARATION APPLICATION

Section 5(1) of the Planning and Development Act 2000 as amended states,

5. —(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

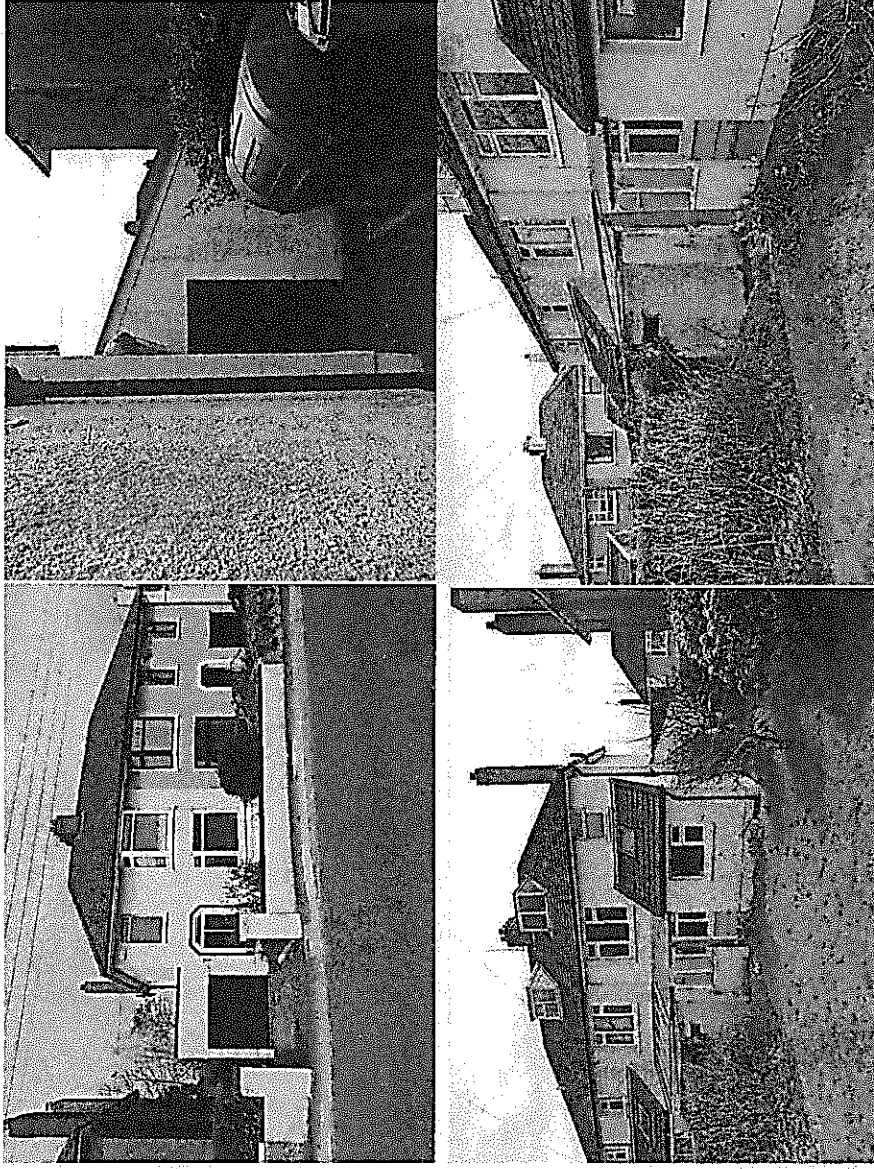
The requirements for making a section 5 declaration are set out in the Act.

2. DEVELOPMENT DESCRIPTION

The question has as to whether the construction of a 29m2 extension at the rear of the house at 25 South Lodge, Ballinlough is exempted development.

3. SITE DESCRIPTION

The subject property comprises a two storey semi-detached house. The property has a garage to the side and a single storey extension to the rear. There is also an infill extension which acts as a link between the existing extension and a shed structure in the rear garden.



4. SUBJECT OF THE QUESTION

The question relates to a proposed single-storey extension. The extension is located to the rear of the dwelling and does not project beyond the side elevation of the dwelling.

5. RELEVANT PLANNING HISTORY

There is no relevant planning history.

6. LEGISLATIVE PROVISIONS

6.1 Planning and Development Act, 2000 as amended

Section 2(1),

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.

6.2 Planning and Development Regulations, 2001 as amended

Article 6(1),

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9,

Article 9 sets out restrictions on exemptions specified under article 6.

(Article 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

Column 1	Column 2
----------	----------

<p>Column 1 Description of Development</p>	<p>Column 2 Conditions and Limitations</p>
<p>to the rear or to the side of the house.</p>	<p>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</p>

<p>Column 1 Description of Development</p>	<p>Column 2 Conditions and Limitations</p>
	<p>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</p>

However, the plans submitted with this application are not to scale, therefore the proposed development cannot be properly assessed in order to establish whether the proposals would be exempt or not. In addition, it appears from the plans that the ‘existing’ drawings do not accurately reflect the existing situation on site. A site visit showed that there is an existing garage on the side elevation with a mono pitched roof and an infill extension to the rear which links the single storey extension to the rear of the main house to what appears to be a shed which is located on the boundary. The garage is shown on the proposed drawings as being retained but with a flat roof and not its existing mono pitched roof. It is not clear when this garage was constructed, whether it was before or after 1st October 1964. It is also not clear from the submitted drawings what the floorspace of this garage is.

It is therefore recommended that further information is required in order to properly assess this application for a Section 5 Declaration.

RECOMMENDATION

Having regard to the provisions of section 5 (2) (b) of the Planning and Development Act 2000 (as amended), it is considered that the following **further information** is required in order to properly assess this application for a Section 5 Declaration:

1. The drawings submitted are not to scale. Please submit revised drawings to an appropriate accurate scale, *with clearly legible dimensions* *etc. so.*
2. The drawings submitted do not appear to accurately reflect the existing situation on site. Please submit revised drawings accordingly.
3. Please provide evidence as to when the garage extension to the side was constructed. That is whether it is part of the original house or whether it was constructed before or after 1st October 1964. The floorspace (m²) of the garage should also be submitted. The garage is shown on the existing drawings as having a flat roof and not a mono-pitched roof as was seen on site. *In addition, the proposed drawings show a flat roof on the existing mono-pitched roof garage.* Please clarify on the submitted drawings what is proposed with regard to the garage.