

# Comhairle Cathrach Chorcaí Cork City Council

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

Tony Keegan  
c/o Steve McClew  
McClew Architecture  
Douglas Business Centre  
Douglas  
Cork

14/11/19

**RE: Section 5 Declaration R542/19 27 Coolroe Heights,  
Ballincollig, Cork**

A Chara,

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

having regard to —

Section 2(1), 3(1) and 4 (1)(h) of the Planning and Development Act 2000 (as amended)

(a) the conversion of first floor attic storage to a bedroom 'is development' and 'is exempted development';

(b) the construction of a box dormer roof to the rear of the dwelling is an alteration to the dwelling which does not come within the scope of Section 4 (1)(h) of the Planning and Development Act 2000 and therefore 'is development' and 'is not exempted development'.

Yours faithfully,

**Kerry Bergin**  
Development Management Section  
Community, Culture and Placemaking Directorate  
Cork City Council



**We are Cork.**

PLANNER'S REPORT  
Ref: R 542/19

Cork City Council  
Development  
Management  
Strategic Planning  
and Economic  
Development

Application type **SECTION 5 DECLARATION**

Question *Whether the conversion of first floor attic/storage roof space to form a bedroom including dormer extension to rear of is development or is exempted development.*

Location *27 Coolroe Heights, Ballincollig.*

Applicant *Tony Keegan*

#### **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. THE QUESTION BEFORE THE PLANNING AUTHORITY**

The question to the planning authority is

*"Whether the conversion of first floor attic/storage roof space to form a bedroom including dormer extension to rear of is development or is exempted development."*

#### **3. SITE DESCRIPTION**

The subject property comprises a two storey semi-detached dwelling house in 'Coolroe Heights' a housing estate in Ballincollig accessed off Main Road.

The question relates to the roof space located over a former (single storey) structure (original garage) located to the side of the house which has been converted for use as part of the house (see photos). It is now proposed to convert this attic space to a bedroom and to construct a dormer window to the rear.

#### **4. PLANNING HISTORY**

05/7564: (incomplete application)

05/8782: Permission granted for the retention of alterations, garage conversion, attic conversion to storage area and extensions to dwelling house and detached garage.

08/10278: Permission granted for the construction of a first floor extension to the side of dwelling. This permission was not enacted.

Schedule 2, Part 1, Class 1

Exempted Development — General

Column 1 Description of Development within the curtilage of a house	Column 2 Conditions and Limitations
<p>CLASS 1</p> <p>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.</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</p>



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

**6. ASSESSMENT**

**6.1 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’.

As noted above Section 3 (1) of the Planning and Development Act states that: ‘development’ means, *except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land.”*

The attic conversion and rear dormer both constitute ‘works’, which is defined in section 2(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**

**6.2 Exempted Development**

The next issue for consideration is whether or not the matter at hand is exempted development. The two aspects of the development are examined separately – i.e. the attic conversion and the rear dormer:

**6.2.1 Attic Conversion**

The original garage is likely to have been either flat roof or would have had a shallow pitch as per other dwellings. The existing side area has a separate front door with a high pitched roof which has a gable end facing the green space.

The conversion of the garage including the front door and the construction of the steeply pitched area over the original garage and the use of this space as a study formed part of a retention planning application granted permission (Ref: 05/8782).<sup>1</sup> It is noted that no limiting condition was placed on the use of the study space as such other than Condition 3 – ‘The proposed<sup>2</sup> extension shall be used solely for purposes incidental to residential use and enjoyment of the existing dwelling.’

As noted above, Section 4 (1) (h) of the Planning and Development Act 2000 (as amended) states that the following shall be exempted development for the purposes of the Act – ‘development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures’

<sup>1</sup> The drawings attached to that file did not show how this space was accessed from the ground floor.

<sup>2</sup> states ‘proposed’ extension although the development was already in place.

**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.*

**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. CONCLUSION & RECOMMENDATION**

Having regard to Section 2(1), 3(1) and 4 (1)(h) of the Planning and Development Act 2000 (as amended)

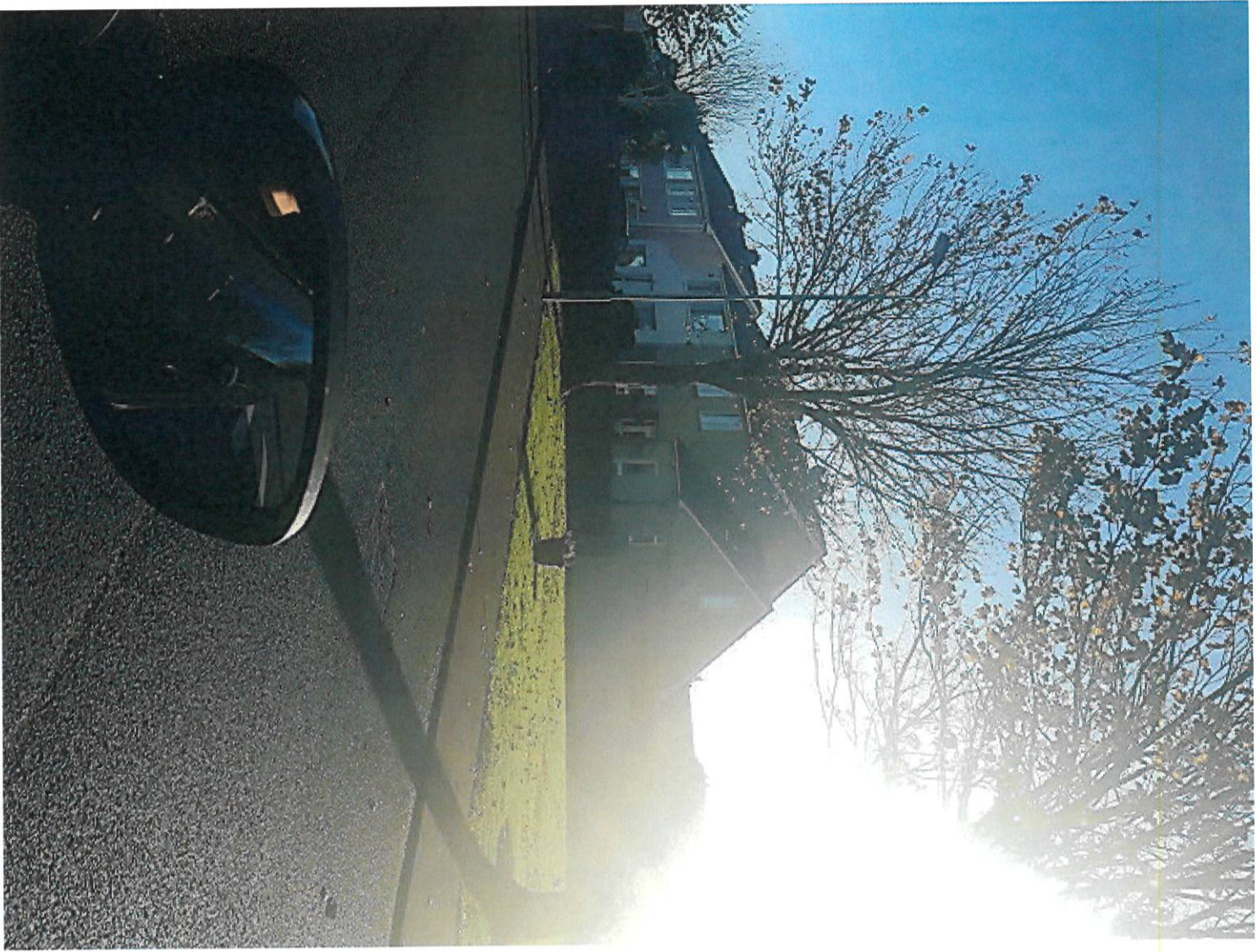
(a) the conversion of first floor attic storage to a bedroom ‘is development’ and ‘is exempted development’;

(b) the construction of a box dormer roof to the rear of the dwelling is an alteration to the dwelling which does not come within the scope of Section 4 (1)(h) of the Planning and Development Act 2000 and therefore ‘is development’ and ‘is not exempted development’.



Evelyn Mitchell,  
Senior Executive Planner,  
14.11.2019









COMHAIRLE CATHRACH CHORCAI  
CORK CITY COUNCIL

Strategic Planning & Economic Development Directorate,  
Cork City Council, City Hall, Anglesea Street, Cork.

13 SEP 2019  
Strategic Planning & Economic  
Development Directorate  
R-Post/E-Mail: [planning@corkecity.ie](mailto:planning@corkecity.ie)  
Fon/Tel: 021-4924564/4321  
Lionra/Web: [www.corkecity.ie](http://www.corkecity.ie)

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  
NO.27 COOLROE HEIGHTS, COOLROE, BAWNICOILLY.

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.  
CONVERSION OF FIRST FLOOR ATTIC/STORAGE  
BOX SPACE INCLUDING DOWNER EXTENSION  
TO REAR OF ROOF TO FORM 12.5QM BEDROOM.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:  
(Use additional sheets if required).  
1. ROOFSPACE CONVERSION/ DOWNER EXTENSION TO A SEMI-DETACHED HOUSE CREATES A 12 SQ.M. BEDROOM AT FIRST FLOOR. THIS EQUALS THE MAXIMUM PERMITTED DEVELOPMENT ALLOWED AT AN UPPER LEVEL - THERE ARE NO OTHER UPPER LEVEL EXTENSIONS. - EXTENSION IS TO REAR.  
2. THE PROVIDED 12 SQ.M FIRST FLOOR EXTENSION COMBINED WITH PREVIOUS GROUND FLOOR EXTENSION/ GARAGE CONVERSION AT GROUND LEVEL OF 20 SQ.M GIVES A TOTAL OF 32 SQ.M. THIS IS BELOW THE 40 SQ.M TOTAL OF PERMITTED DEVELOPMENT FOR EXTENSION TO A HOUSE. THERE ARE NO OTHER EXTENSIONS TO THE HOUSE.  
3. THE EXTENSION DOES NOT REDUCE OR IMPACT AT ALL THE PRIVATE OPEN SPACE OF THE BACK GARDEN.



4. THE DORMER EXTENSION IS MORE THAN 2m FROM THE BOUNDARY OF THE PROPERTY. THE DORMER EXTENSION IS 3m FROM THE SIDE BOUNDARY & 10m FROM THE REAR BOUNDARY.
5. THE ROOFS OF THE DORMER EXTENSION WILL NOT EXCEED THE HEIGHT OF THE REAR WALL OF THE BUILDING.
6. THE PROPOSED DORMER EXTENSION THAT ROOF WILL NOT EXCEED THE EAVES LEVEL OF THE BUILDING.
7. THE WINDOW IN THE PROPOSED DORMER EXTENSION FACES THE REAR GARDEN BOUNDARY AND MEASURES MORE THAN 11m. THE DISTANCE FROM THE PROPOSED WINDOW TO THE REAR BOUNDARY MEASURES 10m.
8. THE ROOF OF THE PROPOSED DORMER EXTENSION WILL NOT FORM NOR BE USED AS A BALCONY OR ROOF GARDEN.
9. THE DORMER EXTENSION IS TO THE REAR OF THE PROPERTY, IS OF A MINOR VISUAL NATURE, WILL BE FINISHED IN SMOOTH RENDER TO MATCH THE EXISTING HOUSE, WILL NOT MATERIALLY AFFECT THE CHARACTER OF THE HOUSE AND IS CONSISTENT WITH NEIGHBOURING HOUSES AND WILL LEAVE THE EXISTING CHARACTER OF THE LOCAL AREA UNCHANGED.

**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/proposed structure/s	EXISTING HOME 90 SQM (PAGE 2) EXISTING EXTENSION 20 SQM (P.O. HOME)
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including those for which planning permission has been obtained)?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) GROUND FLOOR EXTENSION 20 SQM. (NOTE: ABOVE)
(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)
N/A.	N/A.

**4. APPLICANT/ CONTACT DETAILS**

Name of applicant (principal, not agent):	TBY KEEGAN		
Applicants Address	NO 27 COOLROE HEIGHTS, COOLROE, BACUNCOLLA.		
Person/Agent acting on behalf of the Applicant (if any):	Name:	STEVE MCCLEN (ARCHITECT)	
	Address:	MCCLEN ARCHITECTURE DOLGANS BUSINESS CENTRE ARRIGALANE ROAD, DOLGANS, CORE.	
	Telephone:	0878 589 108	
	Fax:	—	
E-mail address:	N/A @ MCCLEN/ARCHITECTURE.COM		
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
Where legal interest is 'Other', please state your interest in the land/structure in question	N/A.	
If you are not the legal owner, please state the name and address of the owner if available	N/A.	



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

Signature:  . STEVE MCEWEN - AGENT .

Date: 12 SEPT 2019 .

**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, Strategic Planning & Economic Development  
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- 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**

The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution



27 COBR POE HEIGHTS, BOUND CONCRETE  
SIDE ELEVATION EXISTING.





Surveyed 1990  
 Revised 2014  
 Levelled 1986

# Urban PLACE Map



Parknam

ITM CENTRE PT. COORDS  
 557821,570379

DESCRIPTION

MAP SHEETS

1:1000  
 6380-23

ORDNANCE SURVEY IRELAND  
 AVENUE NO. 40 O'LEARY  
 © ORDNANCE SURVEY  
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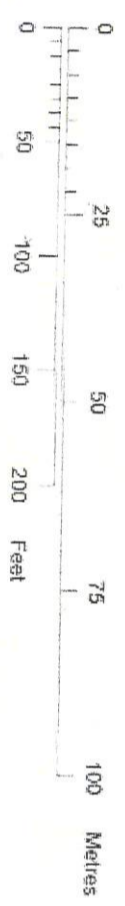
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 On behalf of Ordnance Survey Ireland,  
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Scale: 1:1,000  
 Scale: 1:1,000



Plot Ref. No. 25226441\_1\_6  
 Plot Date 20-APR-2015



Surveyed 1930  
 Revised 2014  
 Levelled 1986

# Urban PLACE Map



Parknam

**TM CENTRE PT. COORDS.**  
 557821, 570379

**DESCRIPTION**

**MAP SHEETS**

1:1000  
 6380-23

*ORDNANCE SURVEY IRELAND  
 AVENUE NO. 10 O'NEILL  
 © ORDNANCE SURVEY  
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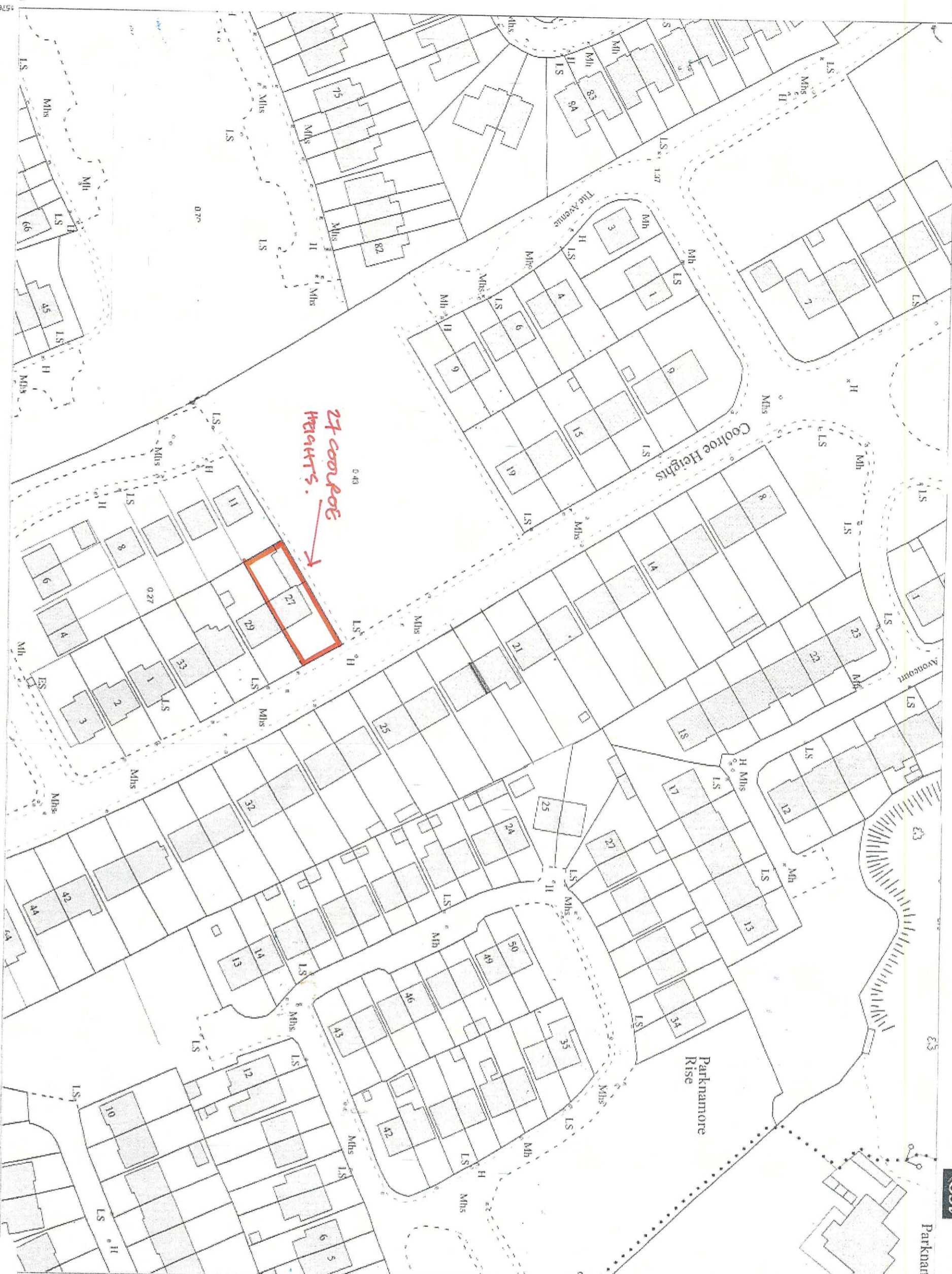


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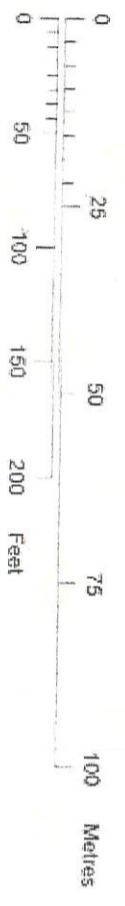
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Scale:- 1:1,000  
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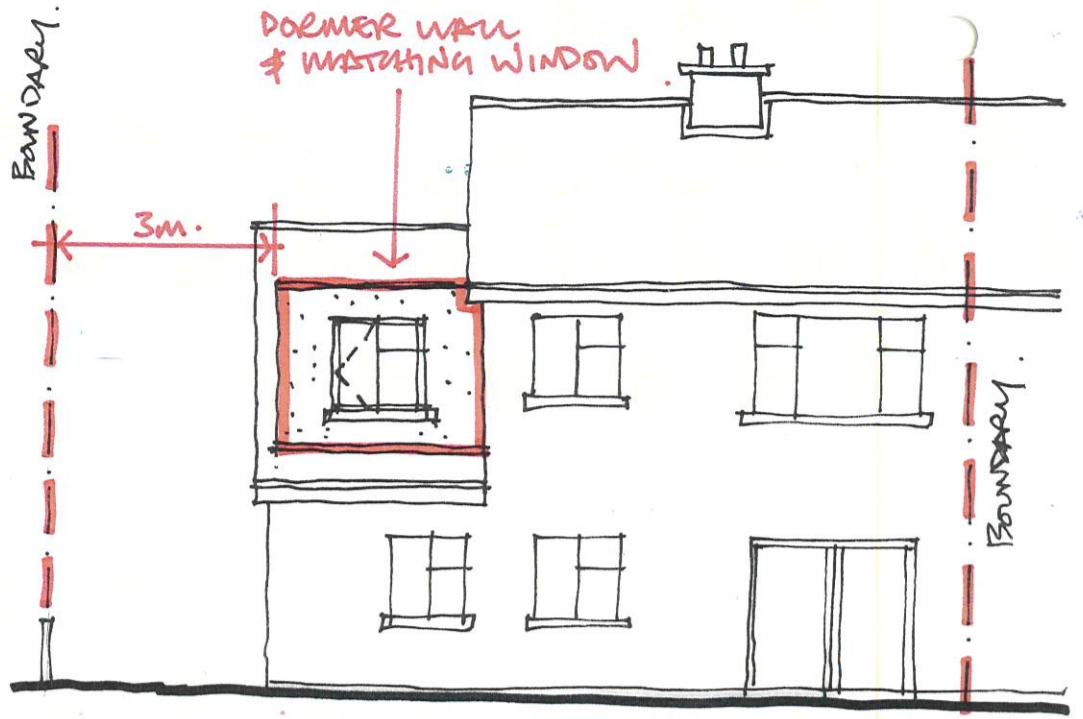


Plot Ref No. 25226441\_1\_6  
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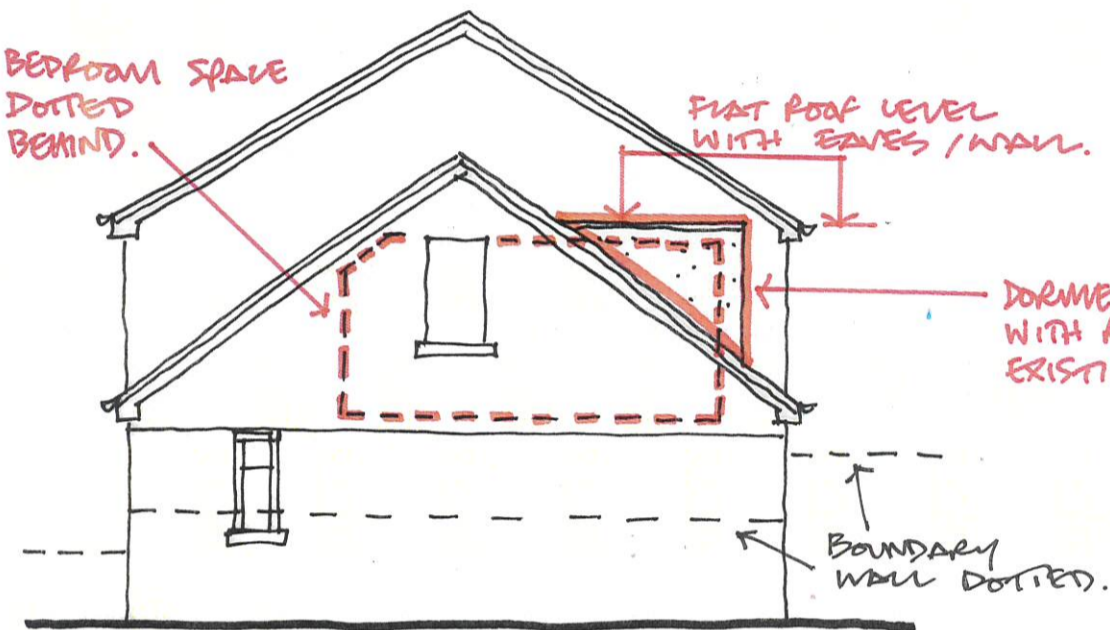




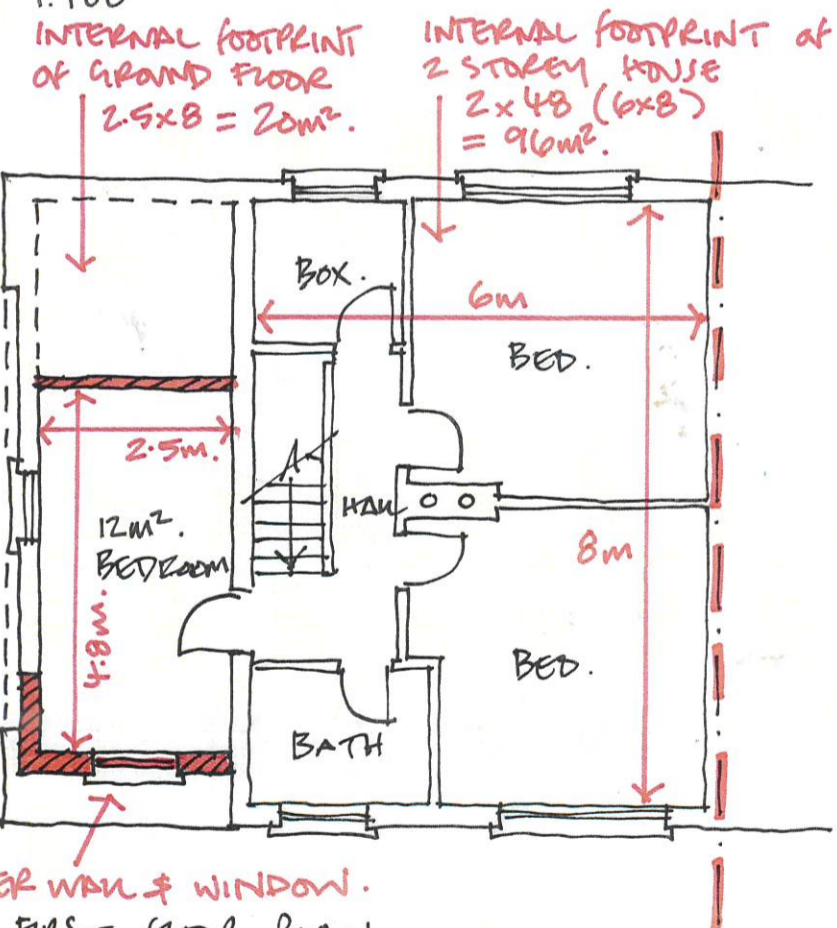
FRONT (EAST) ELEVATION  
1:100



REAR (WEST) ELEVATION  
1:100



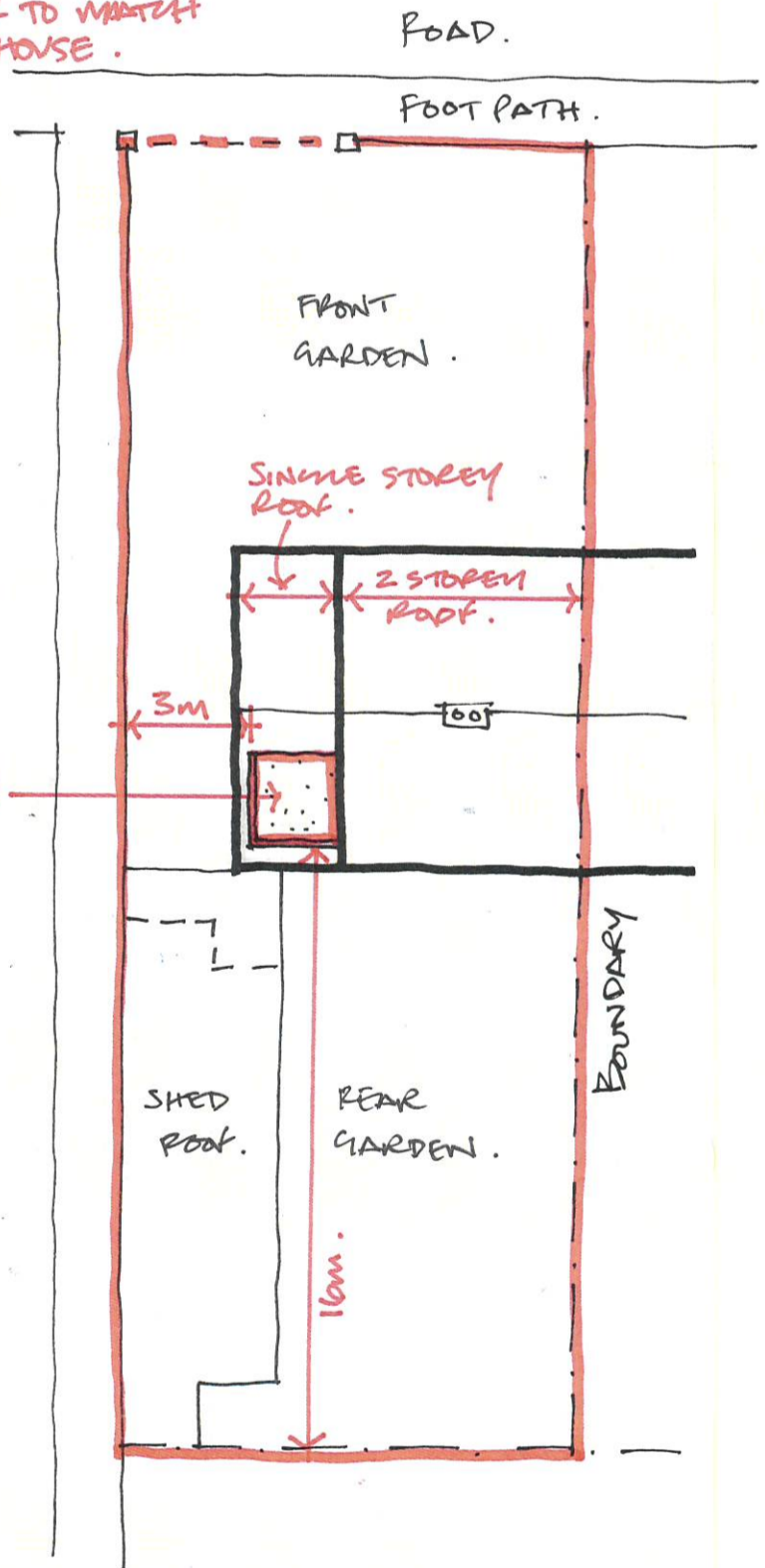
SIDE (NORTH) ELEVATION  
1:100



DORMER WALL & WINDOW.  
FIRST FLOOR PLAN  
1:100

COOLROE HEIGHTS  
BALLINCALUA

SEPT 2019 DWG 001

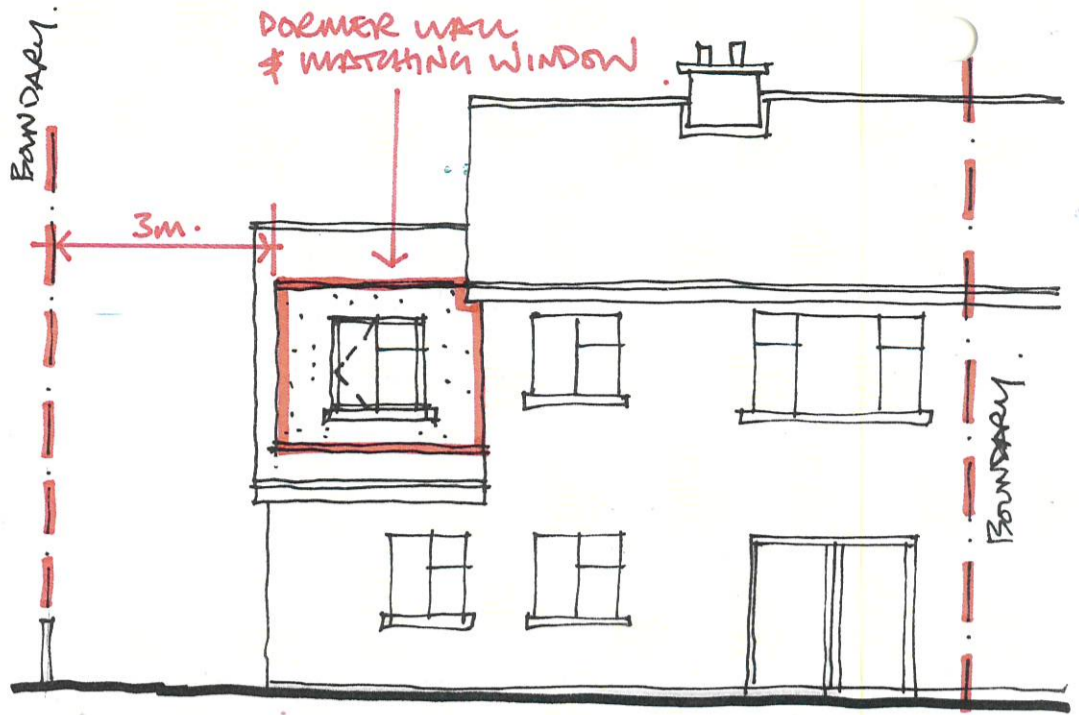


ROOF & SITE PLAN  
1:200

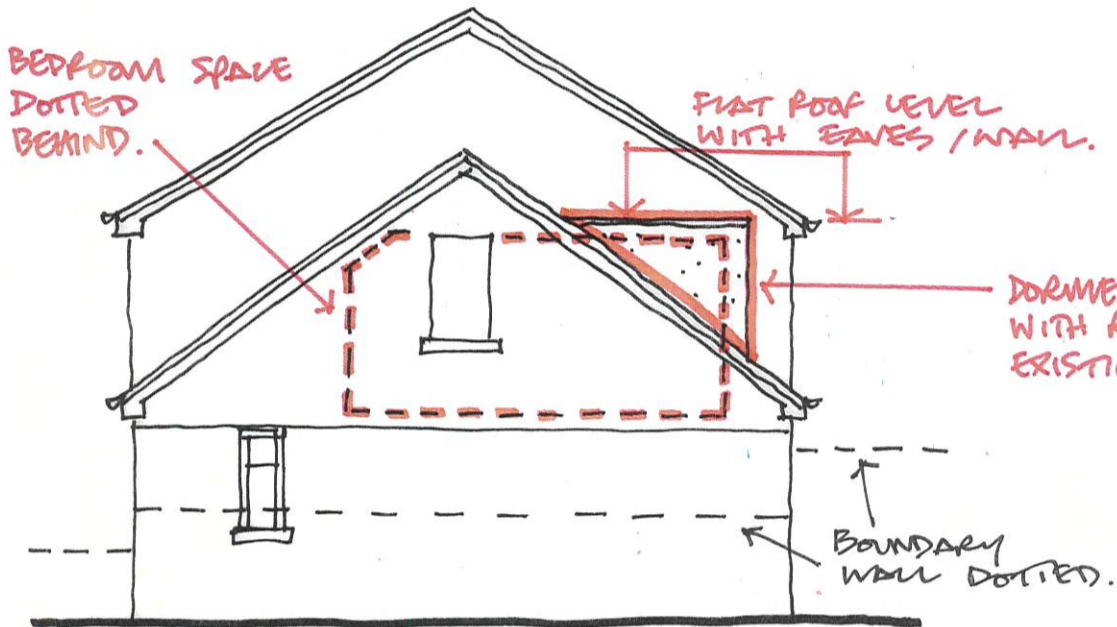




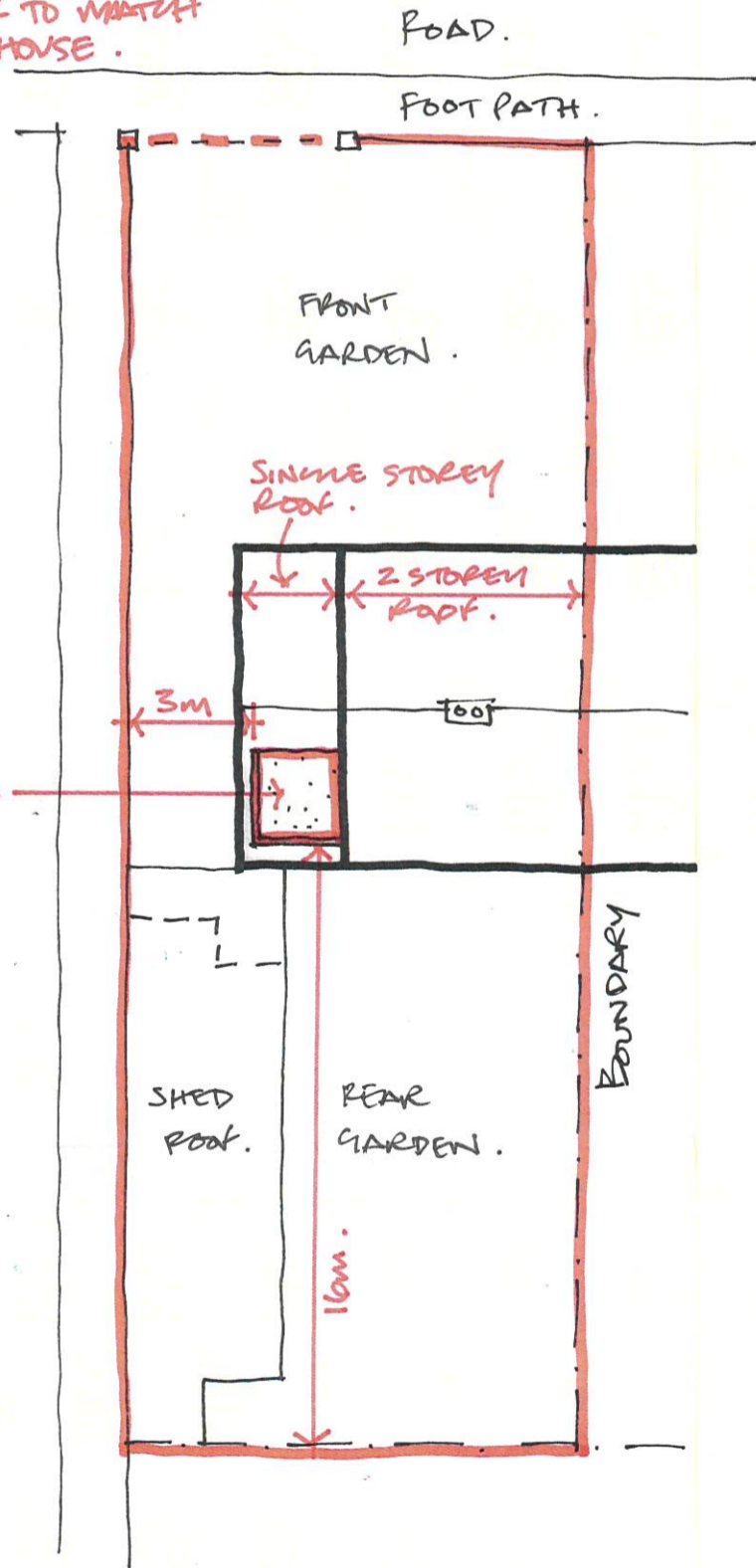
FRONT (EAST) ELEVATION  
1:100



REAR (WEST) ELEVATION  
1:100



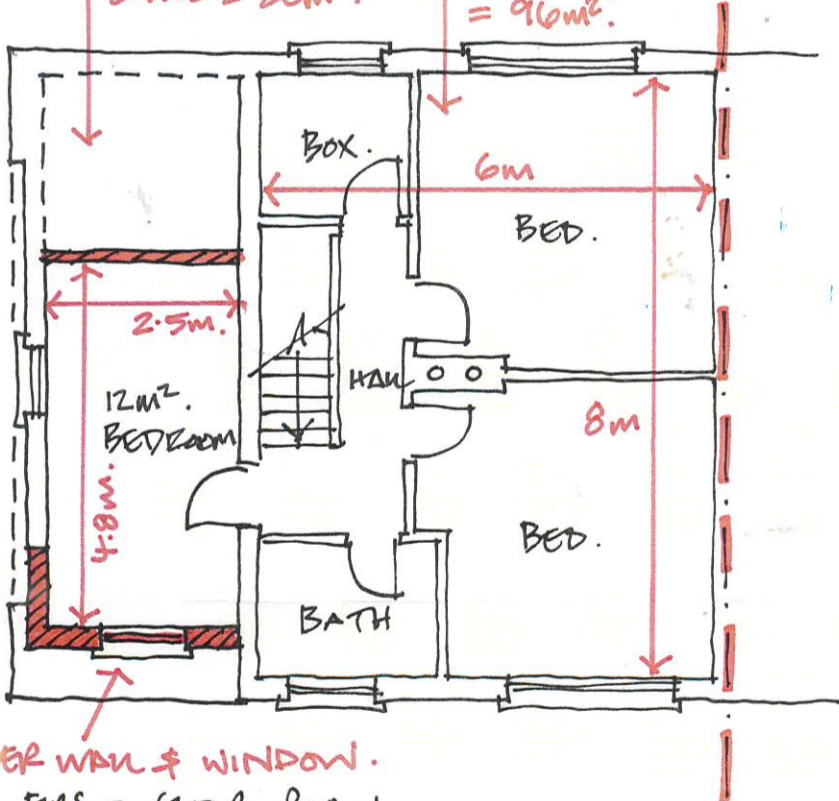
SIDE (NORTH) ELEVATION  
1:100



ROOF & SITE PLAN  
1:200

INTERNAL FOOTPRINT OF GROUND FLOOR  
 $2.5 \times 8 = 20m^2$

INTERNAL FOOTPRINT OF 2 STOREY HOUSE  
 $2 \times 4.8 (6 \times 8) = 96m^2$



DORMER WALL & WINDOW.  
FIRST FLOOR PLAN  
1:100

COOLROE HEIGHTS BALLINCANA	
SEPT 2019	DWG 001

