



Comhairle Cathrach Chorcaí Cork City Council

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

Christopher Daly and Louise Mackesy,
2 Rosegreen Avenue,
Beaumont,
Blackrock,
Cork

08/04/2024

**RE: Section 5 Declaration R829/24 2 Rosegreen Avenue, Beaumont,
Blackrock, Cork.**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 29/02/2024, I wish to advise as follows:

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

- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- Articles 6, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

the planning authority considers that —

the proposed works to the existing dwelling house, consisting of the following:

The construction of a single storey extension (36.5m²) to rear of dwelling house

at 2 Rosegreen Avenue, Beaumont, Blackrock, Cork **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.

Is mise le meas,



We are Cork.

Application type	SECTION 5 DECLARATION
Question	<i>Whether the following are development and, if so, are they exempted development:</i> <i>The construction of a single storey extension (36.5m²) to rear of dwelling house.</i>
Location	2 Rosegreen Avenue, Beaumont, Blackrock, Cork
Applicant	Christopher Daly and Louise Mackesy
Date	08/04/2024
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.

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.

THE QUESTION BEFORE THE PLANNING AUTHORITY

The question to the planning authority is framed using the phrasing of section 5. The applicant states in the request, "*is the construction of a single storey extension (36.5m²) to rear of 2 Rosegreen Avenue, Beaumont, Blackrock, Cork development and if so, is it exempted development?*"

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

Whether the following are development and, if so, are they exempted development:

- 1. The construction of a single storey extension (36.5m²) to rear of dwelling house.*

SITE DESCRIPTION

The subject property is a two storey semi-detached dwelling in the Sustainable Residential Neighbourhoods zoning area. The area is predominantly residential in nature.

DESCRIPTION OF THE DEVELOPMENT

The proposed development proposes the construction of new single storey extension to the rear of the existing dwelling.

RELEVANT PLANNING HISTORY

None.

LEGISLATIVE PROVISIONS

Planning and Development Act, 2000 as amended

Section 2(1)

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

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

- (a) where the context so admits, includes the land on, in or under which the structure is situate, and*
- (b) in relation to a protected structure or proposed protected structure, includes—*
 - (i) the interior of the structure,*
 - (ii) the land lying within the curtilage of the structure,*
 - (iii) any other structures lying within that curtilage and their interiors, and*
 - (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii).*

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1)

In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4(1)(h)

4.(1) The following shall be exempted developments for the purposes of this Act—

...

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section 4(2)

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001, 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)

See section 1 of this report.

Planning and Development Regulations 2001 to 2018 as amended

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.

(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>
<i>Development within the curtilage of a house</i> <i>CLASS 1</i> <i>The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or</i>	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</i>

<p style="text-align: center;">Column 1 Description of Development</p>	<p style="text-align: center;">Column 2 Conditions and Limitations</p>
<p><i>other similar structure attached to the rear or to the side of the house.</i></p>	<p><i>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>3. 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 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</i></p>

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

(Article 6) Schedule 2, Part 1, Class 50

Class 50 relates to "the demolition of a building, or buildings".

Schedule 2, Part 1, Class 50

Exempted Development — General

Column 1 Description of Development	Column 2 Conditions and Limitations
<p>CLASS 50</p> <p>(a) The demolition of a building, or buildings, within the curtilage of—</p> <p>(i) a house,</p> <p>(ii) an industrial building,</p> <p>(iii) a business premises, or</p> <p>(iv) a farmyard complex.</p> <p>(b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7,</p>	<p>1. No such building or buildings shall abut on another building in separate ownership.</p> <p>2. The cumulative floor area of any such building, or buildings, shall not exceed:</p> <p>(a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and</p> <p>(b) in all other cases, 100 square metres.</p> <p>3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.</p>

Column 1 <i>Description of Development</i>	Column 2 <i>Conditions and Limitations</i>
<i>respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.</i>	

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'.

'Works' is defined in section 3(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

With regard to the proposed development, the main issues to consider is as follows:

The construction of a single storey extension (36.5m²) to rear of dwelling house.

- I consider that the construction or the rear extensions constitutes 'works' as it comprises the alteration to a building on the site. As the proposal comprises 'works', it is clearly therefore 'development' within the meaning of the Act.

Therefore, 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).

With regard to the proposed development, the main issues to consider is as follows:

The construction of a single storey extension (36.5m²) to rear of dwelling house.

- I consider that article 6 and **Class 1** applies, as it is an extension of a house by the construction of an extension to the rear of the house.

Having assessed the proposed extension against Class 1 and its conditions and limitations I find as follows:

Condition / Limitation 1

The house, from reviewing planning history, has not been previously extended. The proposed extension is approximately 36.5m² in area and is a single storey extension. Therefore part (a) of this condition and limitation are satisfied (parts (b) and (c) do not apply).

Condition / Limitation 2

The house does not appear to have been previously extended therefore this condition/limitation does not apply.

Condition / Limitation 3

The proposed works are ground floor only therefore this condition/limitation does not apply.

Condition / Limitation 4

The height of the walls of the proposed extension do not exceed the height of the rear wall of the house. The highest part of the roof of the proposed extension does not exceed the height of the highest part of the roof of the dwelling. Therefore parts (a) and (c) of this condition and limitation are satisfied (part (b) does not apply).

Condition / Limitation 5

More than 25m² of open space will remain to the rear of the dwelling. No proposed site layout drawings have been submitted it is noted however aerial imagery indicates that in excess of 100m² of open space will remain to the rear of the dwelling.

Condition / Limitation 6

Ground floor windows proposed are more than 1 metre 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.

Restrictions on exemption

I do not consider that any apply in this instance.

CONCLUSION

Is exempted development

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.**

RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- Articles 6, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

the planning authority considers that —

the proposed works to the existing dwelling house, consisting of the following:

The construction of a single storey extension (36.5m²) to rear of dwelling house

at 2 Rosegreen Avenue, Beaumont, Blackrock, Cork **IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.**

T. Hartnett

Tadhg Hartnett
Executive Planner
05/04/2024

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

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

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

Fón/Tel: 021-4924029

Líonra/Web: www.corkcity.ie

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

1. NAME OF PERSON MAKING THE REQUEST

CHRISTOPHER DALY + LOUISE MACKESY

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

2, ROSEGREEN AVENUE, BEAUMONT, BLACKROCK.
T12 NND4.

3. QUESTION/ DECLARATION DETAILS

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

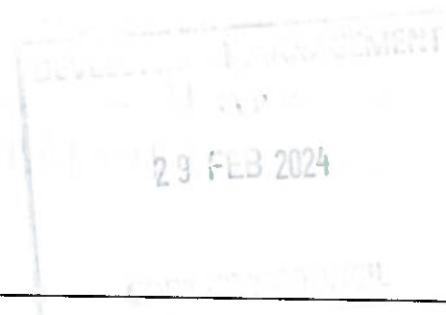
Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

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

Is the construction of a single storey rear extension at 2, Rosegreen Avenue, Beaumont, Blackrock, considered exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).



4. Are you aware of any enforcement proceedings connected to this site?
 If so please supply details: NO

5. Is this a Protected Structure or within the curtilage of a Protected Structure? NO
 If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority? N/A

6. Was there previous relevant planning application/s on this site?
 If so please supply details:
NO

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	EXISTING DWELLING: 52 sq. m PROPOSED EXTENSION: 36.5 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) <u>N/A</u>
(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)

7. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	<u>N/A</u>	
If you are not the legal owner, please state the name of the owner if available	<u>N/A</u>	

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

Signature: [Signature]
 Date: 28/02/24

1. Plan, drawings and maps accompanying an application for a Section 5 Declaration on exempted development shall all be in metric scale and comply with the following requirements:-

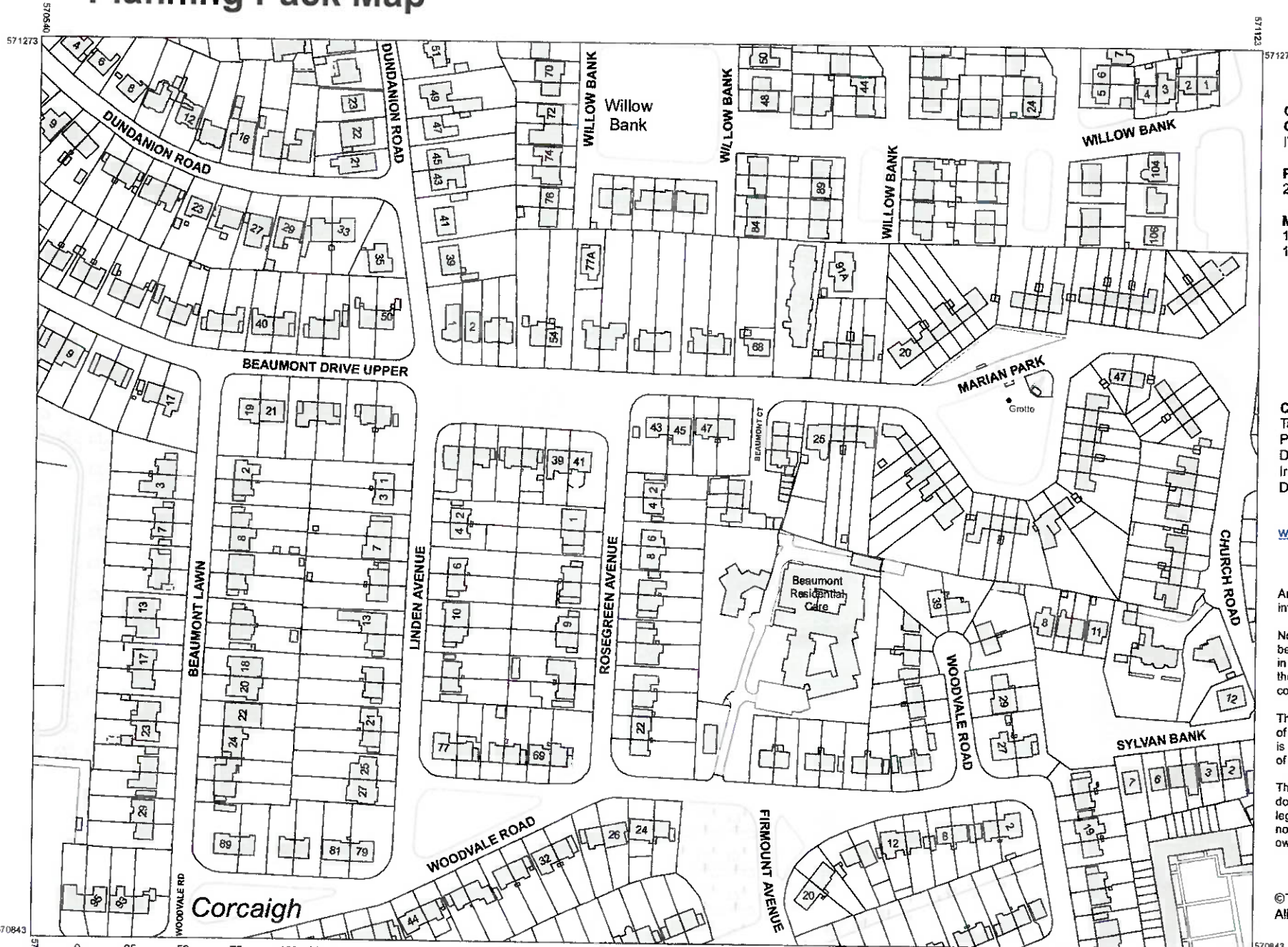
* NOTE 2 COPIES OF PLANS AND PARTICULARS ARE REQUIRED

- (a) site or layout plans shall be drawn to a scale of not less than 1:500 (which shall be indicated thereon), the site boundary shall be clearly delineated in red, and buildings, roads, boundaries, septic tanks and percolation areas, bored wells, significant tree stands and other features on, adjoining or in the vicinity of the land or structure to which the application relates shall be shown, land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant or the person who owns the land, which is subject of the application, shall be outlined in blue and wayleaves shall be shown in yellow,
 - (b) other plans, elevations and sections shall be drawn to a scale of not less than 1:200 (which shall be indicated thereon), or such scale as may be agreed with the Planning Authority prior to the submission of the application in any particular case,
 - (c) the site layout plan and other plans shall show the level or contours, where applicable, of any land and the proposed structures relative to Ordnance survey datum or a temporary local benchmark,
 - (d) drawings of elevations of any proposed structure shall show the main features of any buildings which would be contiguous to the proposed structure if it were erected, whether on the application site or in the vicinity at a scale of not less than 1:200, as may be appropriate,
 - (e) plans relating to works comprising reconstruction, alteration or extension of a structure shall be so marked or coloured as to distinguish between the existing structure and the works proposed,
 - (f) plans and drawings of floor plans, elevations and sections shall indicate in figures the principal dimensions (including overall height) of any proposed structure and the site, and site layout plans shall indicate the distances of any such structure from the boundaries of the site,
 - (g) any map or plan which is based on an Ordnance Survey map shall indicate the relevant Ordnance survey sheet number,
 - (h) the north point shall be indicated on all maps and plans other than drawings of elevations and sections,
 - (i) plans and drawings shall indicate the name and address of the person by whom they were prepared.
2. An application for development consisting of or comprising the carrying out of works to a protected structure, or proposed protected structure or to the exterior of a structure which is located within an architectural conservation area in a draft of a proposed development plan or a proposed variation of a development plan, shall, in addition to meeting the requirements above, be accompanied by such photographs, plans and other particulars as are necessary to show how the development would affect the character of the structure.
3. A planning authority may, by notice in writing, require an applicant to provide additional copies of any plan, drawing, map, photograph or other particular, which accompanies the application.

Planning Pack Map



**Tailte
Éireann**



**CENTRE
COORDINATES:**
ITM 570832,571058

PUBLISHED: 25/02/2024 **ORDER NO.:** 50385173_1

MAP SERIES: 1:1,000 **MAP SHEETS:** 6383-14
1:1,000 6383-19

COMPILED AND PUBLISHED BY:
Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
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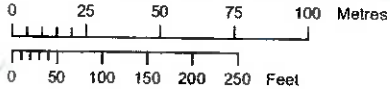
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LEGEND:
To view the legend visit
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'Large Scale Legend'



Site Location Map



Tailte
Éireann

**CENTRE
COORDINATES:**
ITM 570832,571058

PUBLISHED: 25/02/2024
ORDER NO.: 50385173_1

MAP SERIES: 6 Inch Raster
MAP SHEETS: CK074

COMPILED AND PUBLISHED BY:
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Dublin 8,
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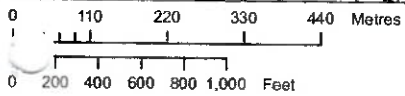
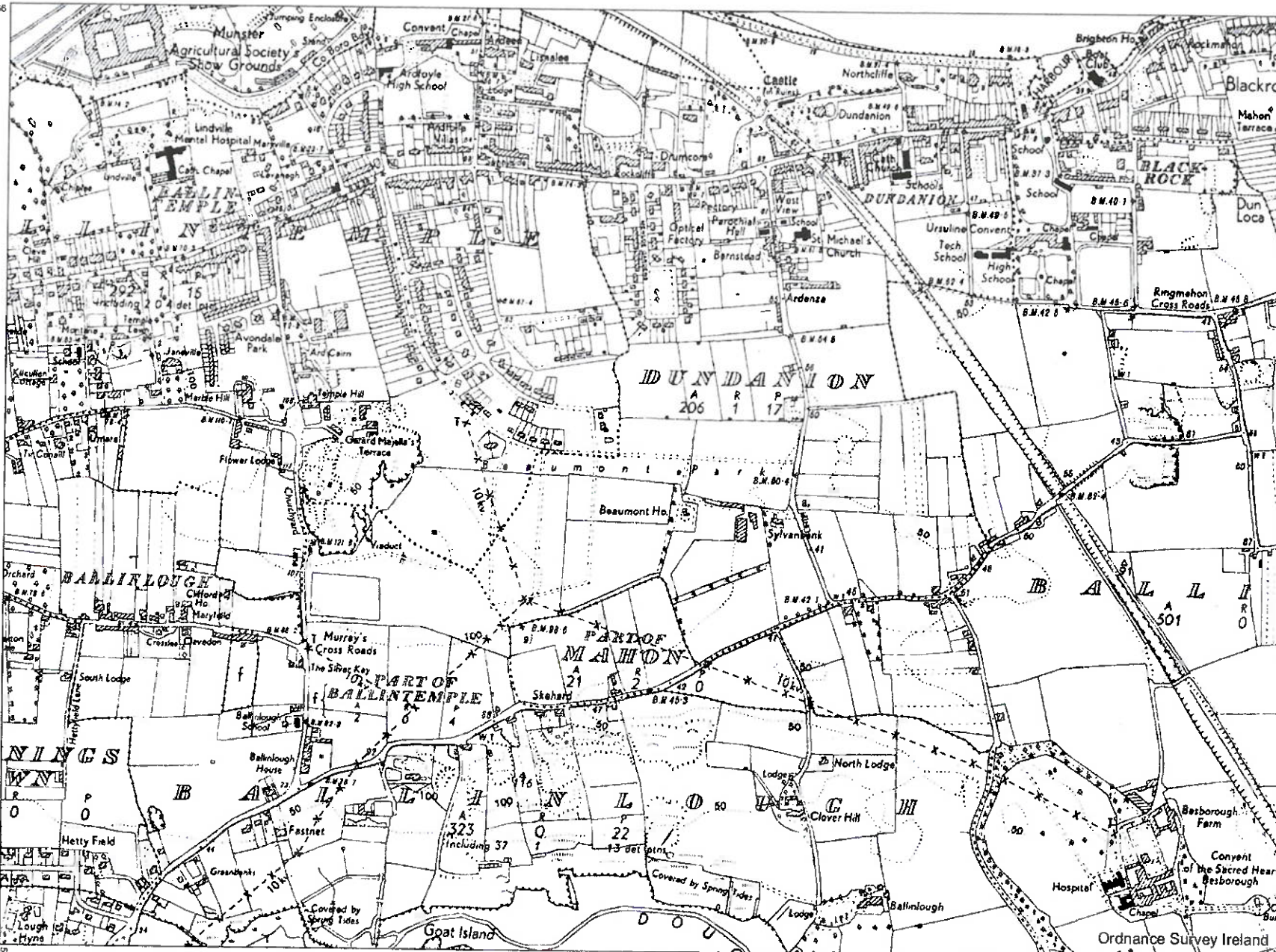
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LEGEND:
To view the legend visit
www.tailte.ie and search for
'Large Scale Legend'





30m
570836.19 571057.98 Meters

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POW
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Jacqueline Manley

Chartered Engineer BE C.ENG. DIPMECH ENG. DIP ENVIRON. ENG. MIEI

Civil Structural Architectural Planning Consultant
FETAC Level 6 Site Suitability Assessor for
Domestic Waste Treatment Systems

Louise Mackesy, Chris Daly'

15th January 2024

Re: Premises at "Marden", No 2 Rosegreen Avenue, Beaumont, Blackrock, Cork.

Dear Louise & Chris,

With respect to the above and the extension to the rear as designed by me, this is to confirm that the extension is exempt from planning permission. It is exempt under Class 1 Schedule 2 Article 6 of S.I. No. 600 of 2001.

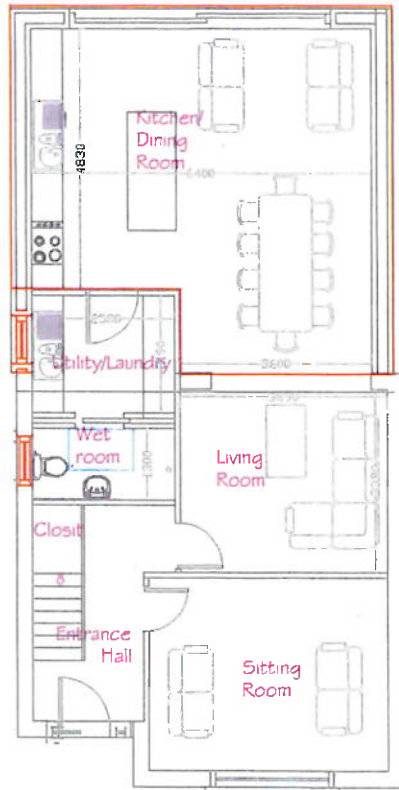
Please contact me if you have any questions.

Sincerely

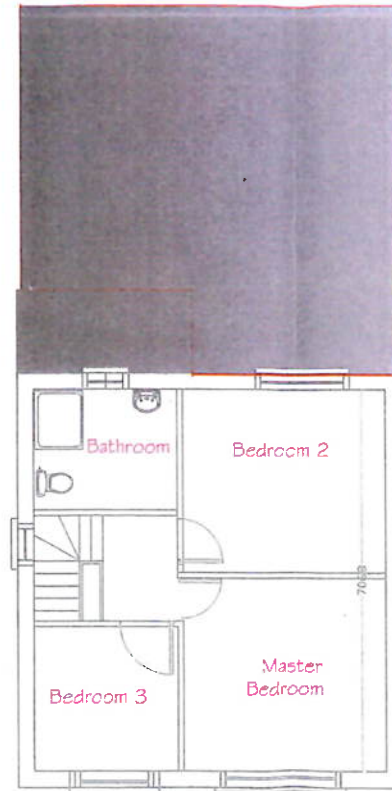
Yours

Jacqueline Manley

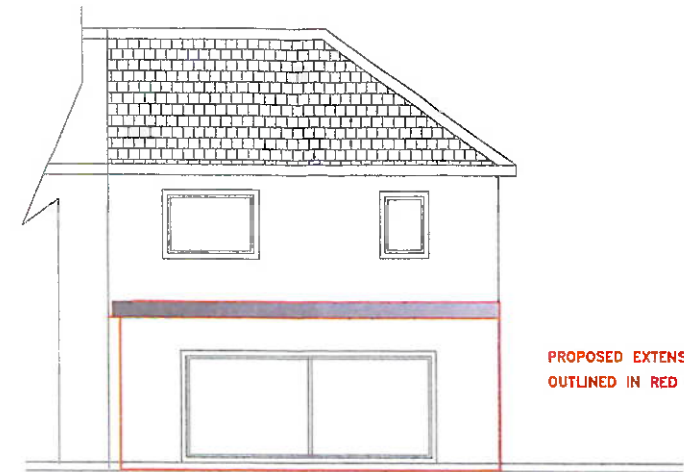
PROPOSED EXTENSION
OUTLINED IN RED



Proposed Ground Floor Plan

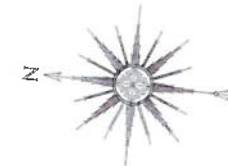


First Floor Plan
(Unchanged)



PROPOSED EXTENSION
OUTLINED IN RED

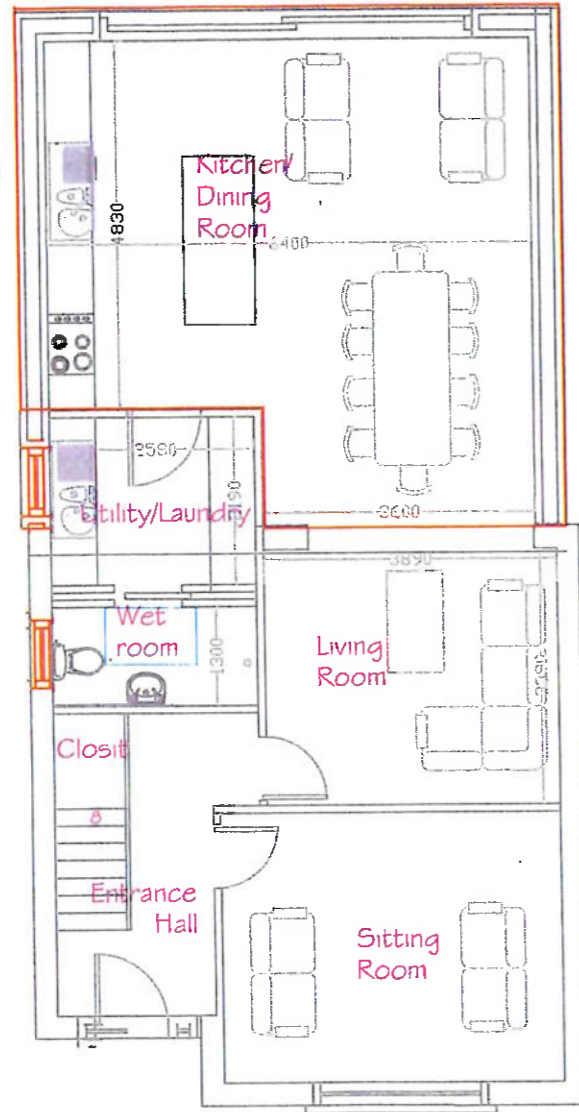
Rear Elevation



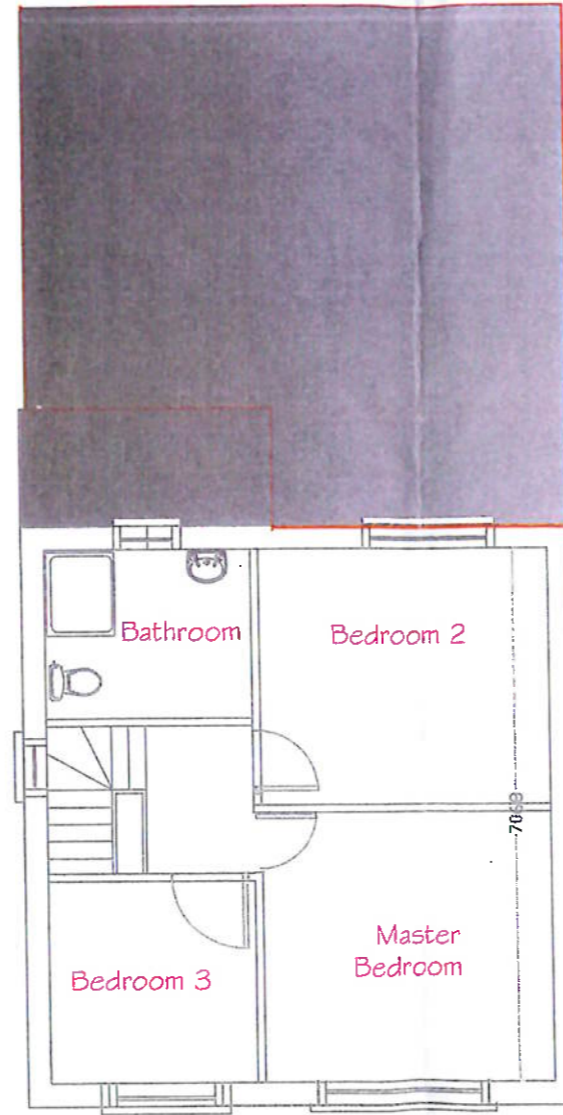
EXISTING GROUND FLOOR 52 SQ.M, FIRST FLOOR 48 SQ.M TOTAL 100 SQ.M.
PROPOSED EXTENSION 36.5 SQ. M

Rev.	Details.	By	Date.
A	ISSUED FOR DISCUSSION	J.C.M.	28/07/2023
Rev. A	Details.	By	Date.
Client LOUISE MACKESY & CHRIS DALY MARDEN 2, ROSEGREEN AVE. BEAUMONT CORK			
Drawing Title EXISTING FLOOR PLANS AND ELEVATIONS		Project EXTENSION & ALTERATIONS	
JACQUELINE MANLEY Consulting Engineer B.E. C.ENG. M.I.E.I. Loughane, Blarney, Co.Cork			tel. 021-4382027 087 8731362 jmanley.engineer@gmail.com
Scale 1:100	Date AUG. 2023	Drawn JCM	Drawing No 004 Rev. A

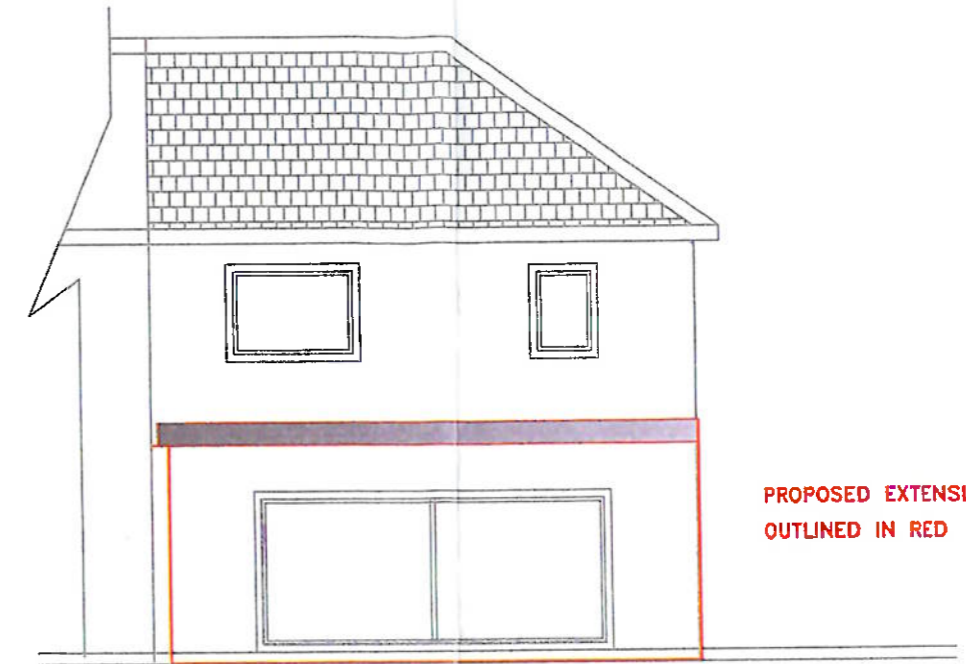
PROPOSED EXTENSION
OUTLINED IN RED



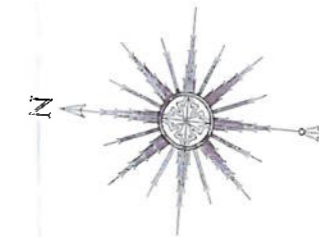
Proposed Ground Floor Plan



First Floor Plan
(Unchanged)



Rear Elevation



EXISTING GROUND FLOOR 52 SQ.M, FIRST FLOOR 48 SQ.M TOTAL 100 SQ.M.
PROPOSED EXTENSION 36.5 SQ. M

Rev.	Details.	By	Date.
A	ISSUED FOR DISCUSSION	J.C.M.	28/07/2023
Rev. A	Details.		
Client LOUISE MACKESY & CHRIS DALY MARDEN 2, ROSEGREN AVE. BEAUMONT CORK			
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