Comhairle Cathrach Chorcaí
Cork City Council

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

Sarah Kelly
kelly.barry.obrien.whelan architects
2 Empress Place,
Summer Hill,
Cork,
T23 KH68

10/03/2022

RE: Section 5 Declaration R704/22 St. Francis College, Rochestown

A Chara,

With reference to your request for a Section 5 Declaration at the above named property, I wish to advise and having regard to:-

the provisions of section 5(2)(b) of the Planning and Development Act 2000, as amended, that the following further information is required in order to properly assess this application:

1. Please confirm the duration of time that the proposed and relocated temporary structures would be in situ.
2. Please provide evidence that the proposed structures shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.

Is misa le meas,

Kerry Bergin

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

We are Cork.

PLANNER'S REPORT **Ref.** R704/22	Cork City Council Development Management Strategic Planning and Economic Development

Application type	**SECTION 5 DECLARATION**
Question	
Location	St. Francis College, Rochestown, Cork
Applicant	Board of Management of St Francis College, Rochestown, Cork
Date	10/03/2022
Recommendation	**Constitutes development; 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. THE QUESTION BEFORE THE PLANNING AUTHORITY

The question to the planning authority is as follows:

Is the relocation of the existing temporary buildings and the provision of new temporary buildings for educational use exempted development?

3. SITE DESCRIPTION

The 3.7ha site is on a steeply sloping site. A three and partly four storey school building occupies the centre of the site, with disused playing courts to the upper northern half of the site. There are several one and two storey prefabricated buildings to the rear of the existing school. There are tarmac areas to the front and sides of the buildings for parking areas and narrow areas to the rear used as playgrounds.

4. DESCRIPTION OF THE DEVELOPMENT

To facilitate a major construction project to the existing school building, the existing temporary classrooms must be relocated, along with the provision of replacement temporary classrooms and temporary toilets. At the end of the construction of the new extension, all temporary accommodation will be removed from the site.

Of the 17 existing temporary classrooms,

- 9 will be temporarily relocated during construction
- 8 will be demolished (due to poor condition) and replaced with
    - 8 new temporary classrooms provided in a 2 storey temporary block
    - 2 new temporary toilet blocks will be required due to the distance from the existing schools toilet facilities

5. RELEVANT PLANNING HISTORY

22/40789 Current planning application for (I) the demolition of the existing sports hall building: (II) The reconfiguration of and alterations to the existing school building with link building and a new entrance canopy: (III) The construction of a partly 3 - storey and partly 4 - storey extension comprising classrooms, science laboratories, specialist teaching rooms, offices, PE Hall, changing rooms, fitness suite, general purpose room, special education needs base, stores, toilets, ancillary spaces, ESB substation, plant rooms, external stores, covered yard and photovoltaic panels: (IV) Site works, including widening of 2 no. existing vehicular entrances to L2474 public road, ballcourts and all weather playing pitch, roadworks, bus set - down areas, surface car parking, bicycle parking, alterations to existing boundary walls, new vehicular entrance for deliver y maintenance, new gates, fencing, drainage and surface water attenuation works, landscaping, signage and all associated site works. Determination date: 07.03.2022

17/06579 Permission granted for the demolition of the existing front entrance porch and construction of a new entrance extension to include a meeting room, secretary's office, reception and waiting area, with external access ramp, steps and ancillary associated works at St. Francis College.

10/8291 –Temporary permission granted to St. Francis College for the retention of a 4 no. modular cabin classroom extension to existing school, retention of extension to existing toilet area to provide additional facilities following increased pupil numbers and ancillary works including retention of alterations to fire escape stairs, levels, retaining walls and external stairs.

07/9148 – permission granted to the Board of Mgt. Of St. Francis College Rochestown for the construction of 6 no. modular cabin classrooms and retention of 1 no. modular cabin classroom.

6. LEGISLATIVE PROVISIONS

6.1 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(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.

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 9(1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development, including (a) if the carrying out of such development would:-

(i) "Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act"...

Planning and Development (Exempted Development) Regulations 2021 (S.I. 114 of 2021) – School Buildings

These new Regulations increase the existing provisions in the Planning and Development Regulations 2001, as amended (the Principal Regulations), to exempt specified works for School buildings and to enable the temporary use of public buildings as schools.

- Article 2(a) of these Regulations amends CLASS 20C to allow the temporary use as a school of all public buildings.
- Article 2(b) of these Regulations inserts a new CLASS 20D to allow schools to construct temporary structures to facilitate the continued delivery of education subject to certain conditions.
- Articles 2(c) and 2(d) of these Regulations increase the existing exemption under
- CLASS 57 for extensions to schools from 160sqm up to 210sqm and inserts a limit
- on the use of the exemption to just once.

The proposed development falls under ***Schedule 2, Part 1, Class 20D***

Column 1 *Description of Development*	*Column 2* *Conditions and Limitations*
Class 20D Development consisting of – The erection on land on which a school is situated of a structure to facilitate the continued delivery of education.	1. No such structure shall be erected for a period exceeding 5 years. 2. The gross floor area of such structure shall not exceed 30% of the gross floor area of the existing school. 3. No such structure shall exceed two storeys. 4. Distance to party boundary - (a) any single storey structure shall be a distance of not less than 2 metres from any party boundary, (b) any two-storey extension facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling, or (c) any two-storey extension closer than 12.5m to a party boundary, or facing and closer than 22 metres to the dwelling shall - (i) have no windows overlooking, or (ii) have obscure glass. 5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.

7. ASSESSMENT

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'*.

'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'*. In relation to proposed temporary accommodation, it is described in the application form as comprising the relocation of 9 will be existing temporary buildings, demolition of 8 structures due to poor condition, the construction of 8 new temporary classrooms provided in a 2 storey temporary block and the construction of 2 new temporary toilet blocks. The proposals as described and shown on the submitted drawings constitute *'works'*. 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).

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(1)
I do not consider that the proposal comes within the scope of section 4(1) of the Act.

Section 4(2)
It is therefore necessary to consider whether the proposed temporary education accommodation 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 20** applies, as the development is for the erection on land on which a school is situated of a structure to facilitate the continued delivery of education.

Column 1 *Description of Development*	*Column 2* *Conditions and Limitations*	*Proposed development*
Class 20D Development consisting of - The erection on land on which a school is situated of a structure to facilitate the continued delivery of education.	1. No such structure shall be erected for a period exceeding 5 years.	1. The timeframe for which the temporary structures would be in situ has not been provided on the application form. This information is required and will be sought under Further Information.

Column 1 *Description of Development*	*Column 2* *Conditions and Limitations*	*Proposed development*
	2. The gross floor area of such structure shall not exceed 30% of the gross floor area of the existing school.	2.The proposed temporary accommodation strategy for St. Francis College would have an area of 1,083sqm which does not exceed 30% of the gross floor area of existing buildings (5,348sqm).
	3. No such structure shall exceed two storeys.	3.None of the proposed temporary structure exceeds two storeys.
	4. Distance to party boundary - (a) any single storey structure shall be a distance of not less than 2 metres from any party boundary, (b) any two-storey extension facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling, or (c) any two-storey extension closer than 12.5m to a party boundary, or facing and closer than 22 metres to the dwelling shall - (i) have no windows overlooking, or (ii) have obscure glass.	4. (a) The proposed plan identifies the location of the temporary buildings an confirms that none of them would be less than 2 m from any party boundary. (b)The proposed plan identifies the location of the temporary two storey building and confirms that it would not be less than 22 m from any party boundary. (c)The proposed plan identifies the location of the temporary two storey building and confirms that it would not be less than 22 m from any party boundary
	5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.	5.No evidence of the proposed structures compliance with the Department of Education Primary and Post Primary Technical Guidance Documents has been provided. Further information in this regard is required.

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:

Gillian Tyrrell
Assistant Planner
04.03.2022

Further Information Request

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

1. Please confirm the duration of time that the proposed and relocated temporary structures would be in situ.
2. Please provide evidence that the proposed structures shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.

Valerie Kavanagh

From: Valerie Kavanagh
Sent: Thursday 10 February 2022 08:29
To: Eoghan Fahy
Subject: Payment for Section 5

Hi Eoghan,

Could you contact St. Francis College, Rochestown on 021 4502319 for €80 payment for section 5 application.

Thanks
Val.

Valerie Kavanagh | Senior Staff Officer
Planning Development Management
Community, Culture & Placemaking Directorate
Cork City Council | Civic Offices | Cork T12 T997
021 4924762 | 086 0338158 | valerie_kavanagh@corkcity.ie

Comhairle Cathrach Chorcaí
Cork City Council

file to be allocated + sent to Gillian.

kobw

kelly.barry.obrien.whelan architects

7th February 2022 Our Ref: 2690/ 3.1

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

Section 5 Declaration Application for Temporary Accommodation at St. Francis College, Rochestown, Cork.

Dear Sir/ Madam,

On behalf of our clients, The Board of Management of St. Francis College, we enclose a Section 5 Declaration Application with the following documents:

- 2 no. copies of the application form.
- 2 no. copies of drawings prepared by KOBW Architects.

As per your email correspondence dated 7th February, please contact Sinéad in our office on 021 4502319 to arrange payment of the €80 fee by phone.

We trust that the application addresses all relevant issues and look forward to your decision in due course. Please address all correspondence to this office.

Yours faithfully,

Sarah Kelly, B. Arch (UCD), FRIAI, RIBA.
KOBW Architects

Enc.

DEVELOPMENT MANAGEMENT
CCP
0 8 FEB 2022
CORK CITY COUNCIL

Contact details: 2 Empress Place, Summer Hill, Cork, T23 KH68, Ireland. | **t: +353 (0)21 4502319** | **e: arch@kobw.ie w: www.kobw.ie**

Directors: Joseph O'Brien, B.Arch., (UCD), FRIAI , RIBA. Sarah I. Kelly, B.Arch., (UCD), FRIAI, RIBA.

Registered in Ireland as: Kelly Barry O'Brien Ltd. **Reg. No.** 202946 **Registered office:** 2 Empress Place, Summer Hill, Cork, T23 KH68 .

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

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

R-Phost/E-Mail planning@corkcity.ie
Fón/Tel: 021-4924564/4321
Líonra/Web: www.corkcity.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

St. Francis College, Rochestown, Cork

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 relocation of existing temporary buildings and the provision of new temporary buildings for educational use exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

In order to facilitate a major construction project to the existing school building, existing temporary classrooms must to be relocated, along with the provision of replacement temporary classrooms and temporary toilets. At the end of the construction of the new extension, all temporary accommodation will be removed from the site.

Of the 17 existing temporary classrooms located to the rear of the existing school building,

- 9 will be temporarily relocated during construction
- 8 will be demolished (due to poor condition) and replaced with
  - o 8 new temporary classrooms provided in a 2 storey temp block
  - o 2 new temporary toilet blocks will be required due to distance from the existing schools toilet facilities

S.I. No. 114 of 2021 allows for a planning exemption for Temporary Buildings Class 20D Development consisting of the erection on land on which a school is situated of a structure to facilitate the continued delivery of education. The proposed temporary accommodation strategy (floor area 1,083sqm) does not exceed 30% of the gross floor area of existing buildings (5,348sqm) and does not exceed 2 storeys.

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 temporary buildings to be relocated = 456sqm Proposed new temporary replacement classrooms & new temporary toilets = 627sqm
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1st October, 1964, (including those for which planning permission has been obtained)?	Yes ☐ No ☐ 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):		Board of Management, St. Francis College
Applicants Address	St. Francis College, Rochestown, Cork	
Person/Agent acting on behalf of the Applicant (if any):	Name:	KOBW Architects
	Address:	2 Empress Place, Summer Hill, Cork
	Telephone:	[redacted]
	Fax:	
	E-mail address:	[redacted]
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	Yes ☑	No ☐

5. 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	The land is in the ownership of the Capuchin Franciscan Order and is used by the Board of Management for the operation of the school	
If you are not the legal owner, please state the name and address of the owner if available	Capuchin Franciscan Order, Provincial Office 12 Halston Street Dublin 7 D07 Y2T5	

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

Signature: _____

Date: 02/02/2022

.....

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

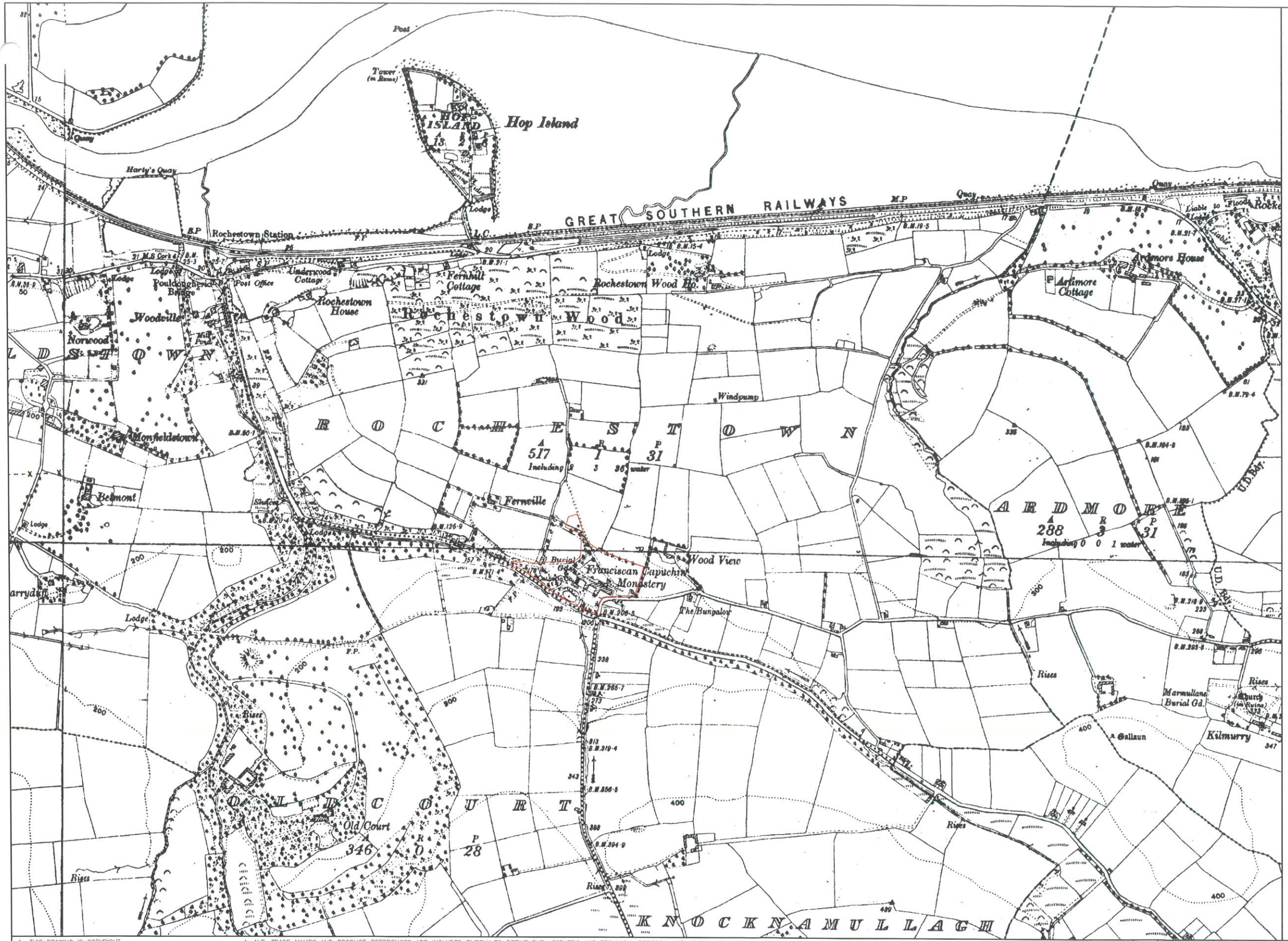
Temporary Accommodation at St. Francis College, Rochestown, Cork.

Section 5 - Application Drawings

Reference	Title	Scale
PL-01	Record Place Map	1:10560
PL-02	Rural Place Map	1:2500
PL-03	Existing Site Plan	1:500 @ A1
PL-04	Site Plan Temporary Accommodation Strategy	1:500

kobw

Kelly Barry O'Brien Whelan Architects
2 Empress Place, Summer Hill, Cork, T23 KH68 Ireland t: +353 21 4502319 e: arch@kobw.ie **w: www.kobw.ie**



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Historic 6" Latest Edition

Publisher / Source:
Ordnance Survey Ireland (OSi)

Data Source / Reference:
CK074
Revision Date =
Survey Date = 31-Dec-1928
Levelled Date = 31-Dec-1956

CK075
Revision Date =
Survey Date = 31-Dec-1929
Levelled Date = 31-Dec-1935

CK086
Revision Date =
Survey Date =
Levelled Date = 31-Dec-1938

CK087
Revision Date =
Survey Date = 31-Dec-1929
Levelled Date = 31-Dec-1934

File Format:
Tagged Image File Format (TIFF)

File Name:
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Clip Extent / Area of Interest (AOI):
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LRX,LRY= 577542.0,566067.0
ULX,ULY= 570532.0,571261.0
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Data Extraction Date:
29-Oct-2019

Product Version:
1.3

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LEGEND

SITE BOUNDARY OUTLINED IN RED SITE AREA = 3.7ha (9.2acres)

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Rev	Date	Inl	Revision

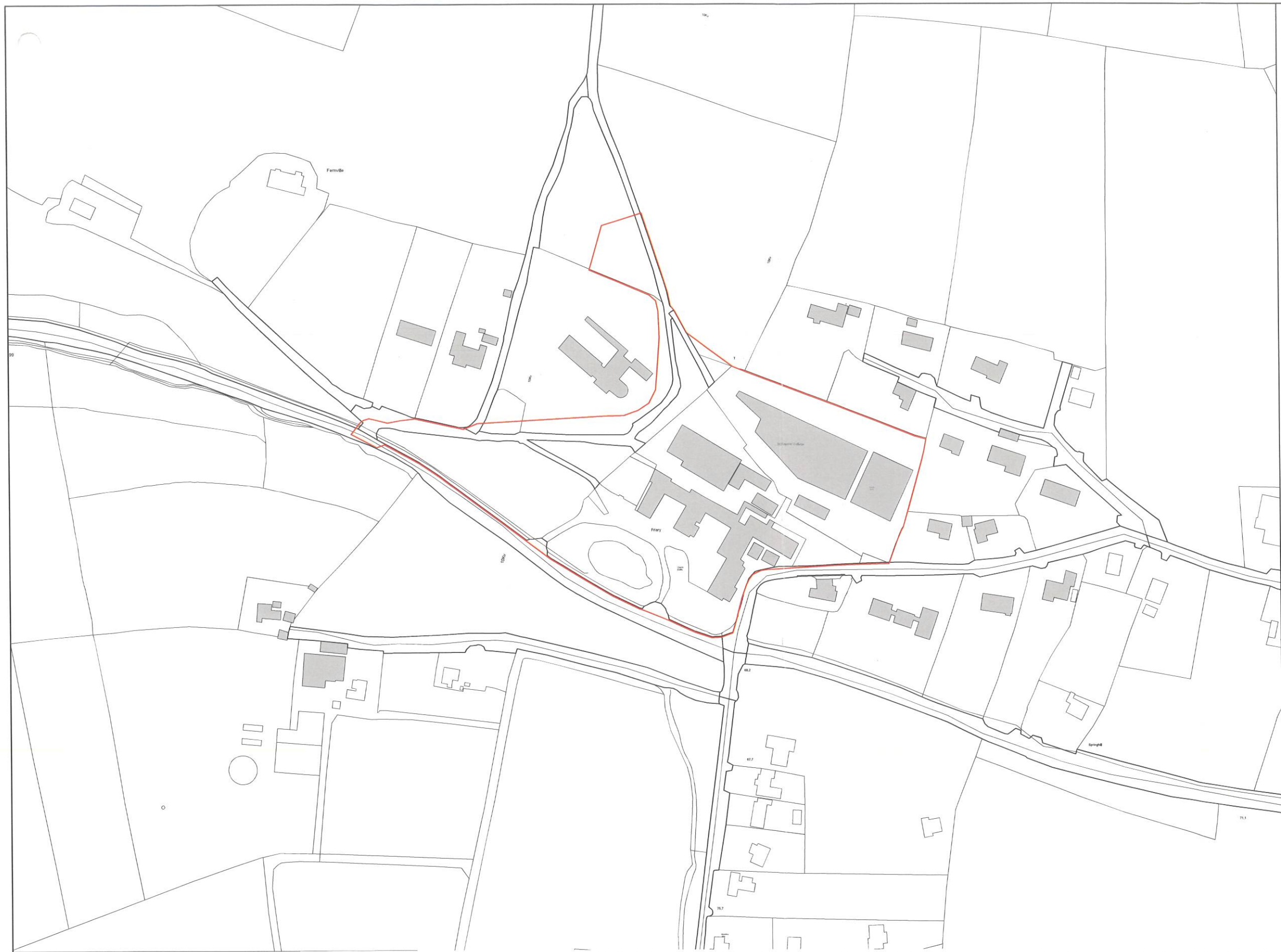
kobw
kelly.barry.obrien.whelan architects
2 Empress Place, Summer Hill, Cork, T23 KH68, Ireland
t: +353 21 4502319 f: +353 21 4502454 e: arch@kobw.ie w: www.kobw.ie

DRAWING/PROJECT:
Record Place Map
St. Francis Capuchin College,
Rochestown, Co. Cork

JOB REF.:	DWG NO.:	DATE:
2690	PL-01	05.11.2022

DRN.	CHKD.	ISSUE FOR:	SHEET:	SCALE:
CW	ED	SECTION 5	A3	1/10560

KF-14_A3_LANDSCAPE SHEET REV3



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2 Empress Place, Summer Hill, Cork, T23 KH68, Ireland
t: +353 21 4502319 f: +353 21 4502454 e: arch@kobw.ie w: www.kobw.ie

DRAWING/PROJECT:
Rural Place Map
St. Francis Capuchin College,
Rochestown, Co. Cork

JOB REF.:	DWG NO.:	DATE:
2690	PL-02	01.02.2022

DRN.	CHKD.	ISSUE FOR:	SHEET:	SCALE:
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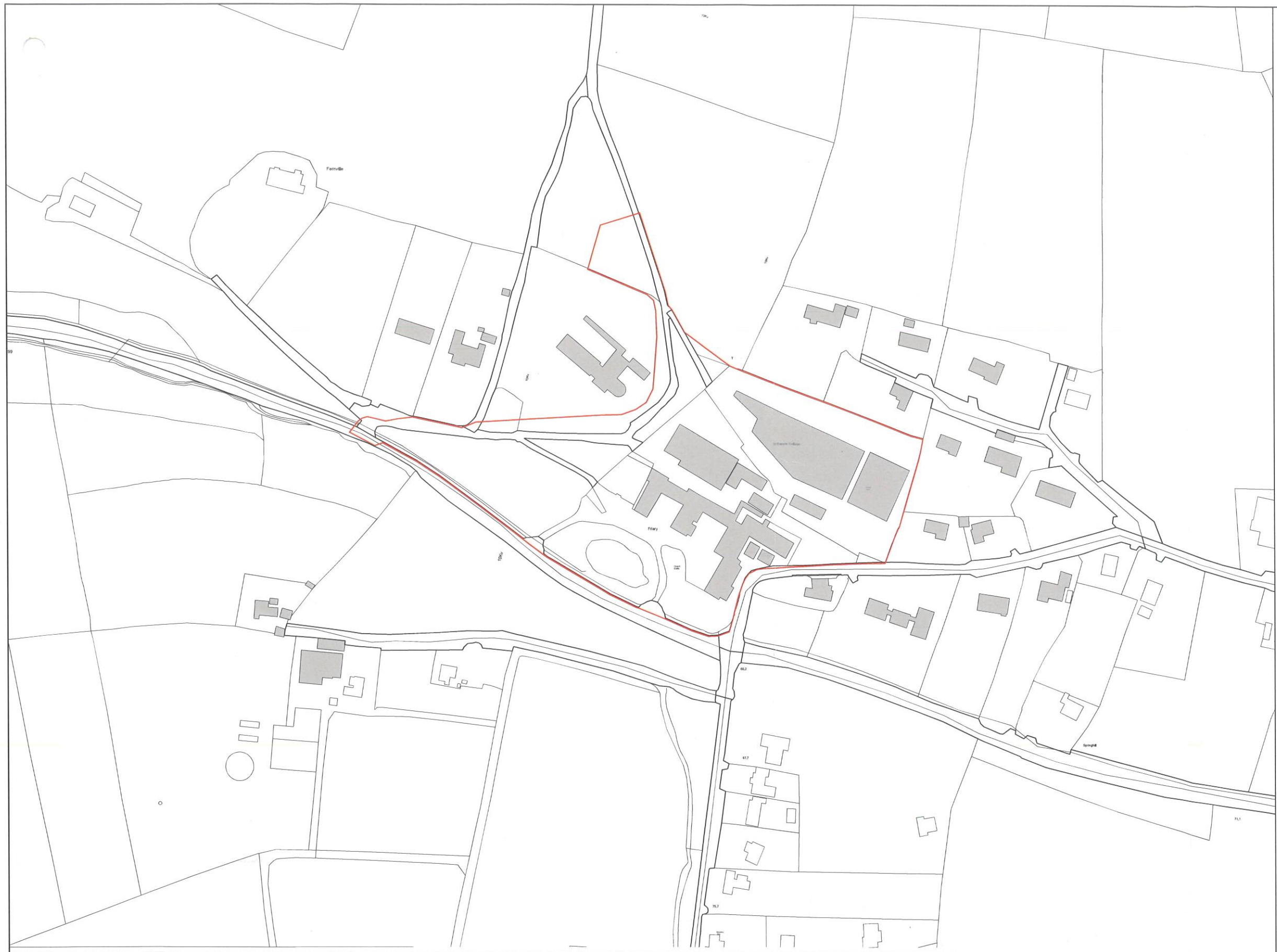
KF-14_A3_LANDSCAPE SHEET REV3



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Ordnance Survey Ireland (OSI)

Data Source / Reference:
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CK074
Revision Date =
Survey Date = 31-Dec-1928
Levelled Date = 31-Dec-1956

CK075
Revision Date =
Survey Date = 31-Dec-1929
Levelled Date = 31-Dec-1935

CK086
Revision Date =
Survey Date =
Levelled Date = 31-Dec-1938

CK087
Revision Date =
Survey Date = 31-Dec-1929
Levelled Date = 31-Dec-1934

File Format:
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Tagged Image File Format (TIFF)

File Name:
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R_50091319_1.tif

Clip Extent / Area of Interest (AOI):
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LLX,LLY= 570532.0,566067.0
LRX,LRY= 577542.0,566067.0
ULX,ULY= 570532.0,571261.0
URX,URY= 577542.0,571261.0

Projection / Spatial Reference:
==========
IRENET95_Irish_Transverse_Mercator

Centre Point Coordinates:
==========
X,Y = 574037.0,568664.0

Data Extraction Date:
==========
29-Oct-2019

Product Version:
==========
1.3

License / Copyright:
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LEGEND

SITE BOUNDARY OUTLINED IN RED SITE AREA = 3.7ha (9.2acres)

N

CK074, CK075, CK086, CK087
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Rev	Date	Inl	Revision

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DRAWING/PROJECT:
Rural Place Map
St. Francis Capuchin College,
Rochestown, Co. Cork

JOB REF.:	DWG NO.:		DATE:
2690	PL-02		01.02.2022
DRN. / CHKD.	ISSUE FOR:	SHEET:	SCALE:
CW / ED	SECTION 5	A3	1/2500

KF-14_A3_LANDSCAPE SHEET REV3