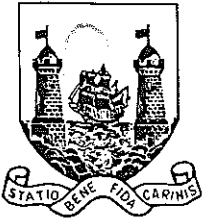


Comhairle Cathrach Chorcaí Cork City Council



Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

Mr. John Keane,
Millbrook House,
Hyde Park,
Sunday's Well,
Cork T23 PP38

18th July, 2018

Re: R477/18 - Section 5 Declaration
Property: The Brambles, 45 Wilton Road, Cork

Dear Sir/Madam,

I am asked by Mr. Patrick Ledwidge, Director of Services, Strategic Planning & Economic Development to refer to your request received on the 29th June, 2018 for a Section 5 Declaration regarding whether the existing extension to the rear and the existing shed to the rear is development or is exempted development.

Based on the exact question before the Planning Authority, namely whether the "Construction of the existing 16.47m² single storey extension to rear of main dwelling and the existing 7.7 m² shed to the rear" requires planning: it is considered that they are development, and are exempt development. (As an aside, it is to be noted that the change of use of the garage to the side is not exempted development).

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, and 9 of the Planning and Development Regulations 2001 (as amended),

- 1) It is considered that Element 1, i.e. the attached extension to the rear of main dwelling house: **Is Development and Is Exempted Development**; and
- 2) It is considered that Element 2, i.e. the detached shed in rear garden **Is Development and Is Not Exempted Development**

Yours faithfully,

Senior Staff Officer
Strategic Planning & Economic
Development Directorate

PLANNER'S REPORT		Cork City Council Development Management Strategic Planning and Economic Development
Ref. R477/18		
Application type	Section 5 Declaration	
Description	<i>Whether the existing extension to the rear and the existing shed to the rear requires planning permission.</i>	
Location	The Brambles, 45 Wilton Road, Cork	
Applicant	John Keane	
Date	17/07/2018	
Recommendation	<p><i>Element 1:</i> Attached extension to the rear of main dwelling house: <i>Is Development and Is Exempted Development</i></p> <p><i>Element 2:</i> Detached shed in rear garden <i>Is Development and Is Not Exempted Development</i></p>	

To be read in conjunction with previous report which required further information with regard to existing structures, dimensions, uses etc.

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

1. Requirements for a Section 5 Declaration

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

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

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

2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

"Construction of the x16.47m² single storey extension and 7.7m² shed to the rear of the above named premises"

Applicant has now clarified that the question refers to the existing single storey rear existing to the dwelling and the single storey detached shed at the rear of the garden.

3. Site Description

The property in question is a two storey detached dwelling with single storey elements to the side and rear.

4. Planning History

No known applications.

5. Legislative Provisions

5.1 The Act

Section 2(1),

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

Section 3(1),

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

Section 4(1)(h),

The following shall be exempted developments for the purposes of this 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;

Section 4(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

Section 5(1),

(See section 1 of this report)

Section 177U (9) (screening for appropriate assessment)

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

5.2 The Regulations

Article 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act –

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

Article 10 (1)

Development which consists of a change of use within any one of the classes of use as specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –

- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned*

6. ASSESSMENT

6.1 Development

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

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

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

As aforementioned, the applicant has clarified that the question is referring to the retention of existing structures on site. These elements constitute development as they comprised of works including construction, extension and alteration.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

Applicant has indicated that no other structures/extensions have been erected at this location since 1964, but in response to the further information requested, has detailed that the rear extension and the shed were both built in 2001.

The floor area of the extension to the rear is given as 16.47m².

The floor area of the shed in the rear garden is given as 7.7m² and appears to be built on 2 of the party boundary walls.

The garage to the side has been converted to a self-contained unit and is detailed as a bedroom with hall and WC on the plans. It is fully carpeted and has two pedestrian doors (front and rear). This change of use has not been mentioned and is relevant in terms of accumulated floor area. There is external access to same from the front and the rear but no internal access intrinsically linking it to the existing dwelling. This is a separate unit. No evidence of planning permission for this unit. The floor area of this element is 20m². Photographic evidence of the interior has been submitted. With regards to planning permission, a letter dated 11th April 2005 from their engineers states that following consultation with the Council regarding **replacing the existing lean to roof**, they can confirm that “...**you can alter your roof** without requiring an Exemption Certificate or Planning permission provided you ensure that the ground to apex level remains less than 4m and that you do not increase the garage size to greater than 25m².” The drawings submitted from their engineers also include samples of different front facades and a two storey side extension which indicates that the possibility of extending the main dwelling house and changing the use of the garage was being explored in 2004.

Notwithstanding same, it is to be noted that the query and response relate solely to the garage roof and the repair of same. However, both the front elevation and the use of the garage has changed. This is not internally linked to the main dwelling and therefore is not an extension of same but a separate unit. It does not come under Class 1 as it is not being used as part of the house.

Shed to the Rear:

There is only 1 no. shed to the rear. There are no other such structures. It is stated that this is 7.7m². Class 3 (below) states that the...

*"...total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed **25 square metres.**"*

The accompanying letter refers to the attached structure to the side of the main dwelling as a garage. (It is noted that no change of use application has been granted for this structure; and notwithstanding that there is no garage door, that it is carpeted and has a hallway, and two pedestrian doors). At 20m², it combined with the floor area of the shed to the rear (7.7m²) exceed the limit of 25m² for garages and such structures.

<i>Exempted Development — General Column 1</i> Description of Development	Column 2 Conditions and Limitations
<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 to the rear or to the side of the house.</i></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>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>7. The roof of any extension shall not be used as a balcony or roof garden.</p>
<p>CLASS 3 <i>The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</i></p>	<p>1. No such structure shall be constructed, erected or placed forward of the front wall of a house.</p> <p>2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.</p> <p>3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.</p>

	<p>4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.</p> <p>5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.</p> <p>6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.</p>
--	--

There is more than 25sq.m of private open to the rear and roof heights appear to comply with the limits and conditions of the regulations. The width between the rear extension and the side boundary wall has been clarified as 1.27m. As the existing extension to the rear is under the limits of the permitted 40sq.m defined in the exemptions, the extension to the rear would be exempt.

which is less than 25sq.m and thus would be exempt.

7. ENVIRONMENTAL ASSESSMENT

7.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that an environmental impact statement is not required to be submitted.

7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of the European sites referred to above. Accordingly it is considered that appropriate assessment is not required.

8. Conclusion

Based on the exact question before the Planning Authority, namely whether the "Construction of the existing 16.47m² single storey extension to rear of main dwelling and the existing 7.7m² shed to the rear" requires planning: it is considered that they are development, and are exempt development. (As an aside, it is to be noted that the change of use of the garage to the side is not exempted development.)



9. RECOMMENDATION

In view of the above and having regard to —

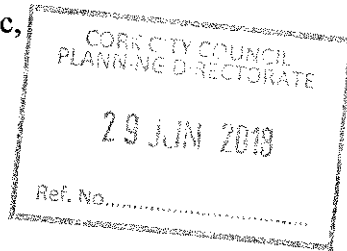
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
 - Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),
- 1) It is considered that Element 1, i.e. the attached extension to the rear of main dwelling house: **Is** Development and **Is** Exempted Development; and
 - 2) It is considered that Element 2, i.e. the detached shed in rear garden **Is** Development and **Is Not** Exempted Development

Mary Doyle
A/Senior Executive Planner

Millbrook House,
Hyde Park,
Sundays Well,
Cork.
T23 PP38
087-4160142

26th June 2018

Mr Paul Hartnett,
Assistant Staff Officer,
Strategic Planning & Economic,
Development,
Cork City Council,
City Hall,
Cork
T12 T997



*Keane, Mary
F.I response for
Section 5 for request
Regards
Paul*

RE: Section 5 Declaration, The Brambles, 45 Wilton Road

Dear Paul,

Further to your letter dated 08th June, I provide the following response to your request for further information.

1. I wish to confirm a declaration is being sought with respect to the existing rear extension and shed constructed by my late mother in 2001.
2. Planning Permission was not required for the 2005 garage works, as the limits set by Cork City Council in the D.L. Group Consulting Engineers letter dated 05th May 2005 attached, were not exceeded. The roof height is 3.54m and the floor area is 20m² as shown in the documents included with the application. In relation to photographs, please find attached G1 to G3 showing the interior of the garage.
3. Please find attached drawing TB-SK003, revision 1.0 at a scale of 1:50, showing the dimensions and gross internal floor area of the rear extension, which are the same included with the application.
4. Please find attached drawing TB-SK001 Site Layout Plan version 1.0 at a scale of 1:100.

I trust this provides the information required to issue a Section 5 Certificate. Should you require further clarification, please advise.

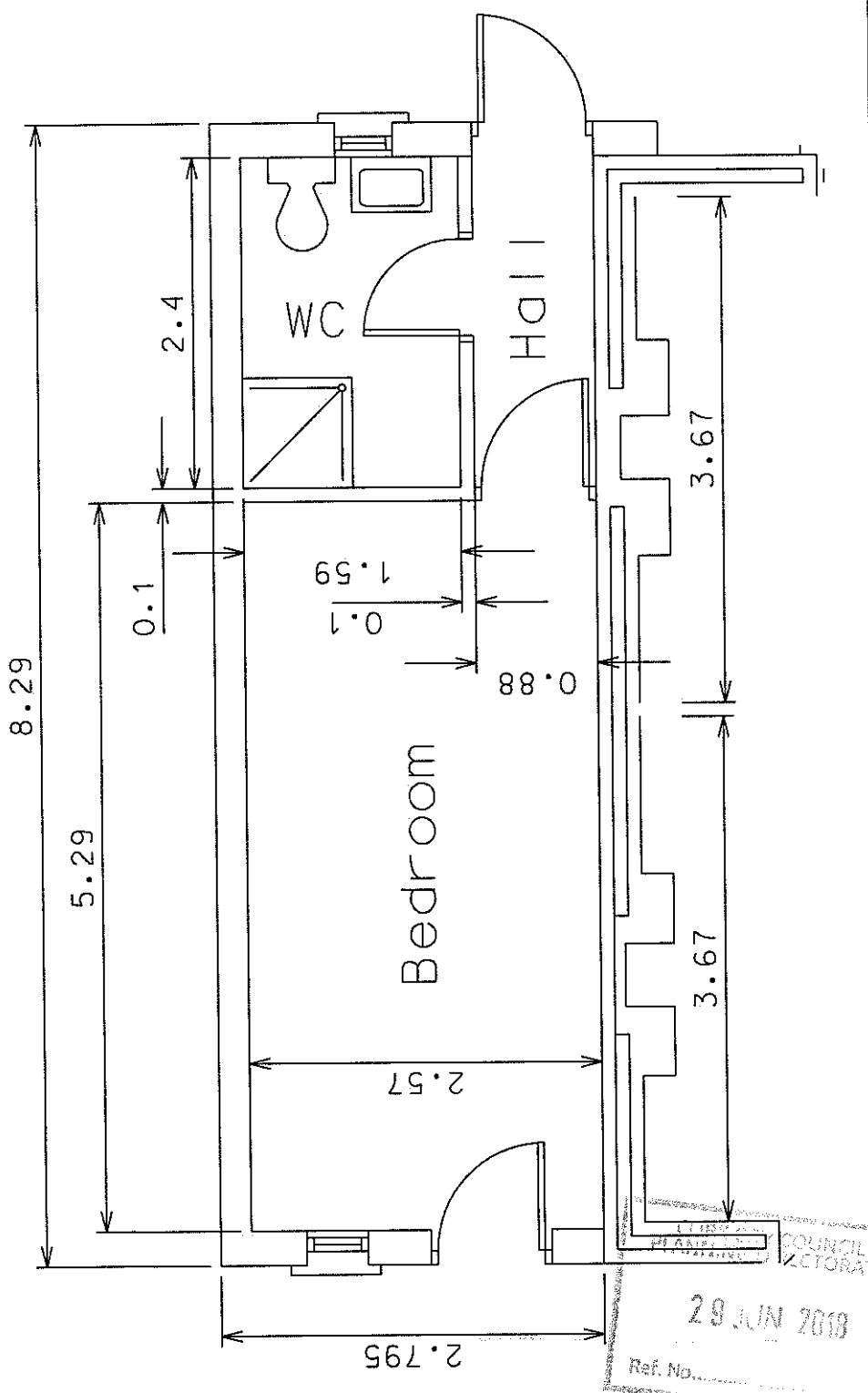
Yours faithfully


John Keane

Enclosures:

1. D.L. Group Consulting Engineers letter dated 05th May 2005;
2. Drawing TB-SK001 version 1.0, 1:100 Site Layout Plan;
3. Drawing TB-SK002 version 1.0, 1:50 Garage Floor Plan;
4. Drawing TB-SK003 version 1.0, 1:50 Rear Extension Floor Plan;
5. Drawing TB-SK004 version 1.0, 1:50 Ground Floor Plan;
6. Drawing TB-SK005 version 1.0, 1:100 North Elevation;
7. Drawing TB-SK006 version 1.0, 1:100 South Elevation;
8. Drawing TB-SK007 version 1.0, 1:100 Rear (East Elevation);
9. Drawing TB-SK008 version 1.0, 1:100 Front (West Elevation);
10. Drawing TB-SK009 version 1.0, 1:100 Rear Shed; and
11. Photographs G1 to G3.

Garage Internal Area 20m²



Scale: 1:50

Rev: 1.0

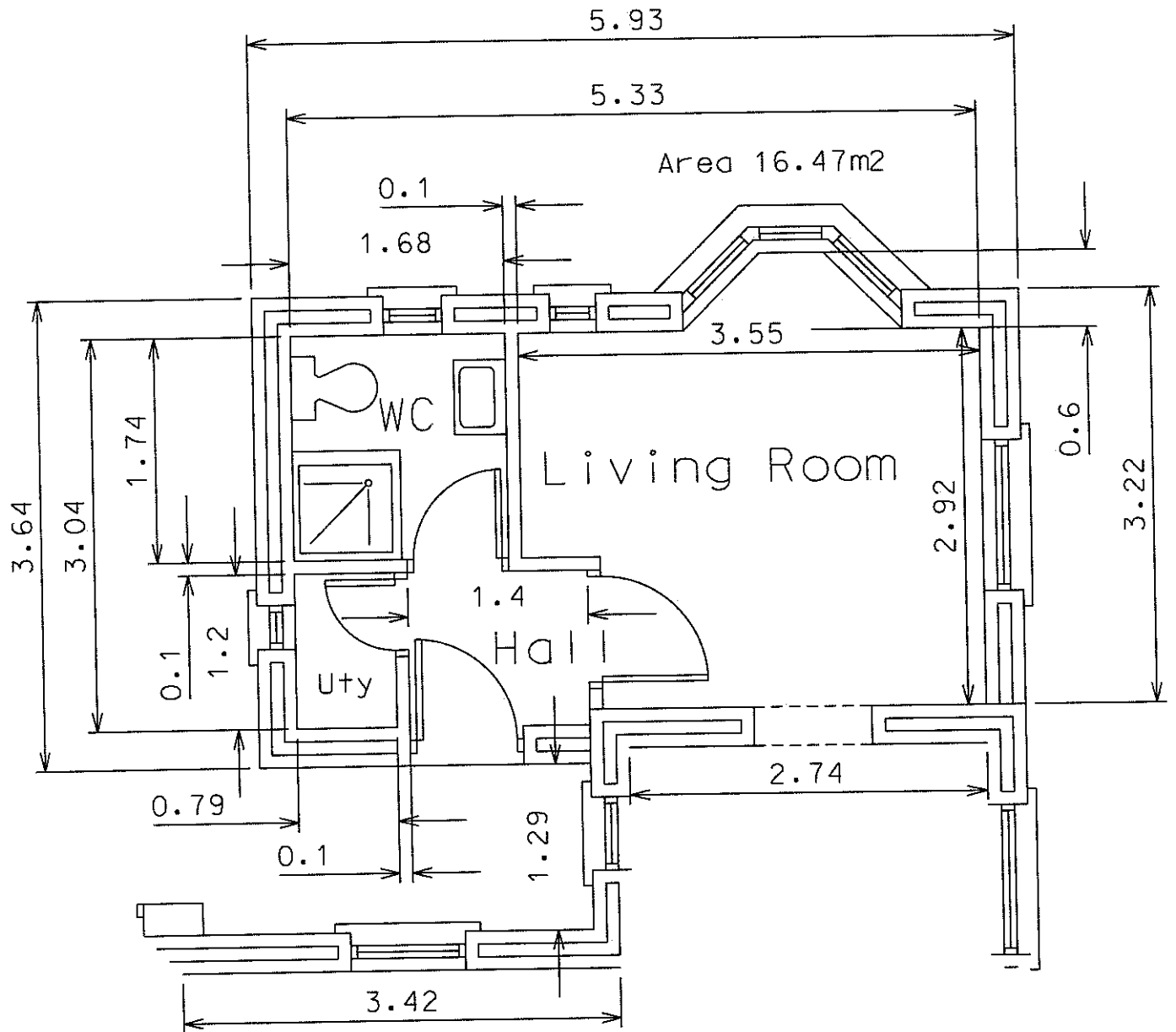
Garage Floor Plan

Drawing Number: TB-SK002

Date: 24 Jun 2018

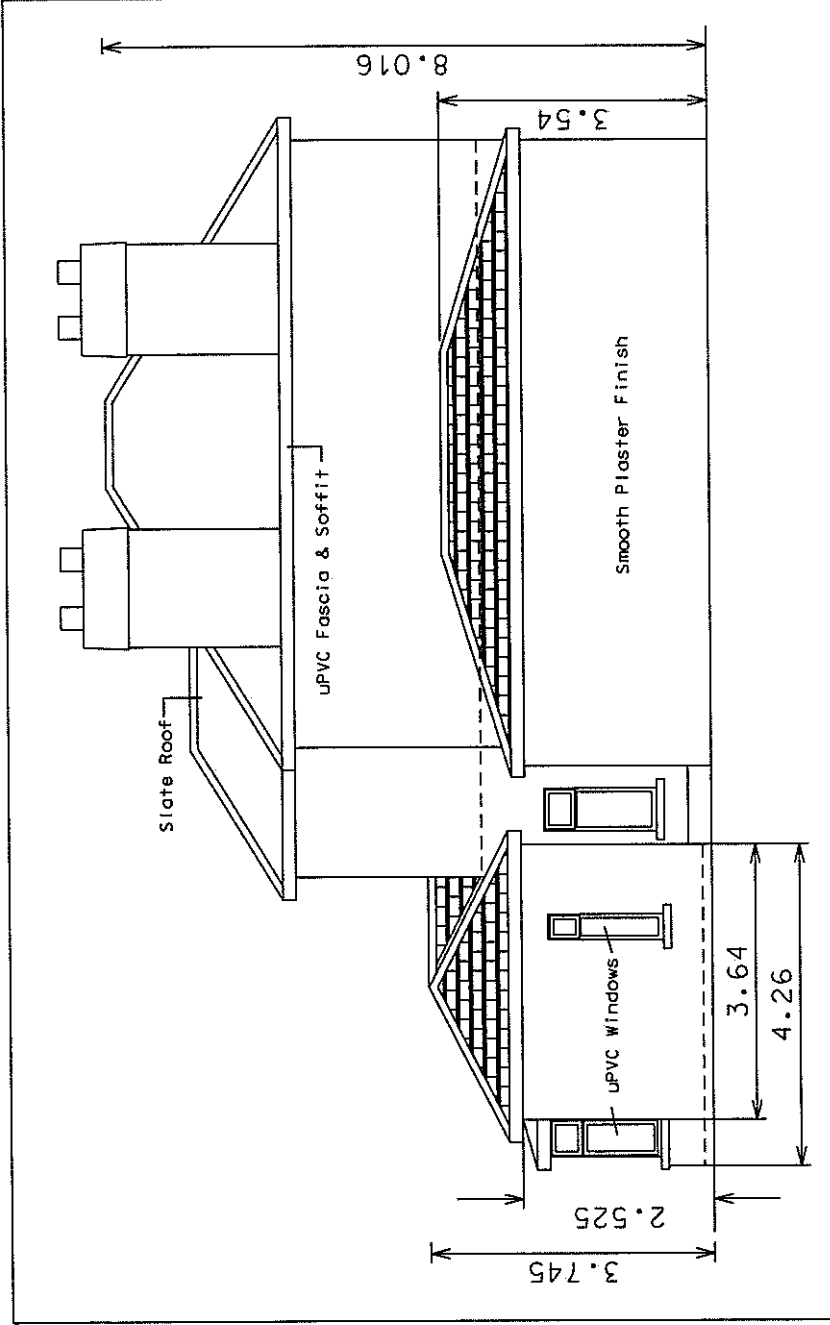
Ref. No. 6102 NPT 62
29 JUN 2018
COUNCIL
PLANNING
DIRECTORATE

Rear Extension Internal Area 16.47m²



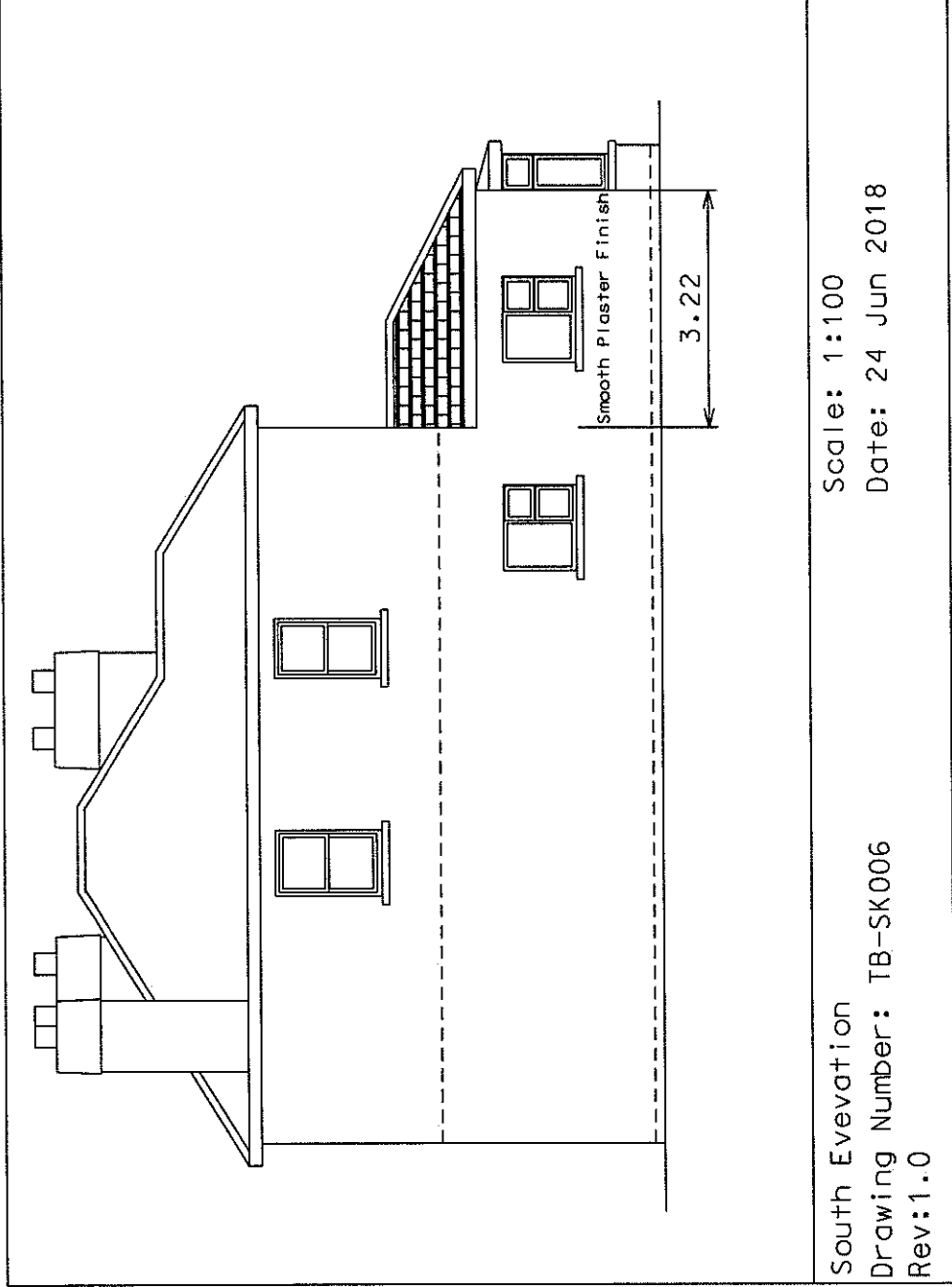
Extension Floor Plan
Drawing Number: TB-SK003
Date: 24 Jun 2018

Scale: 1:50
Rev: 1.0



North Elevation
 Drawing Number: TB-SK005
 Rev: 1.0

Scale: 1:100
 Date: 24 Jun 2018



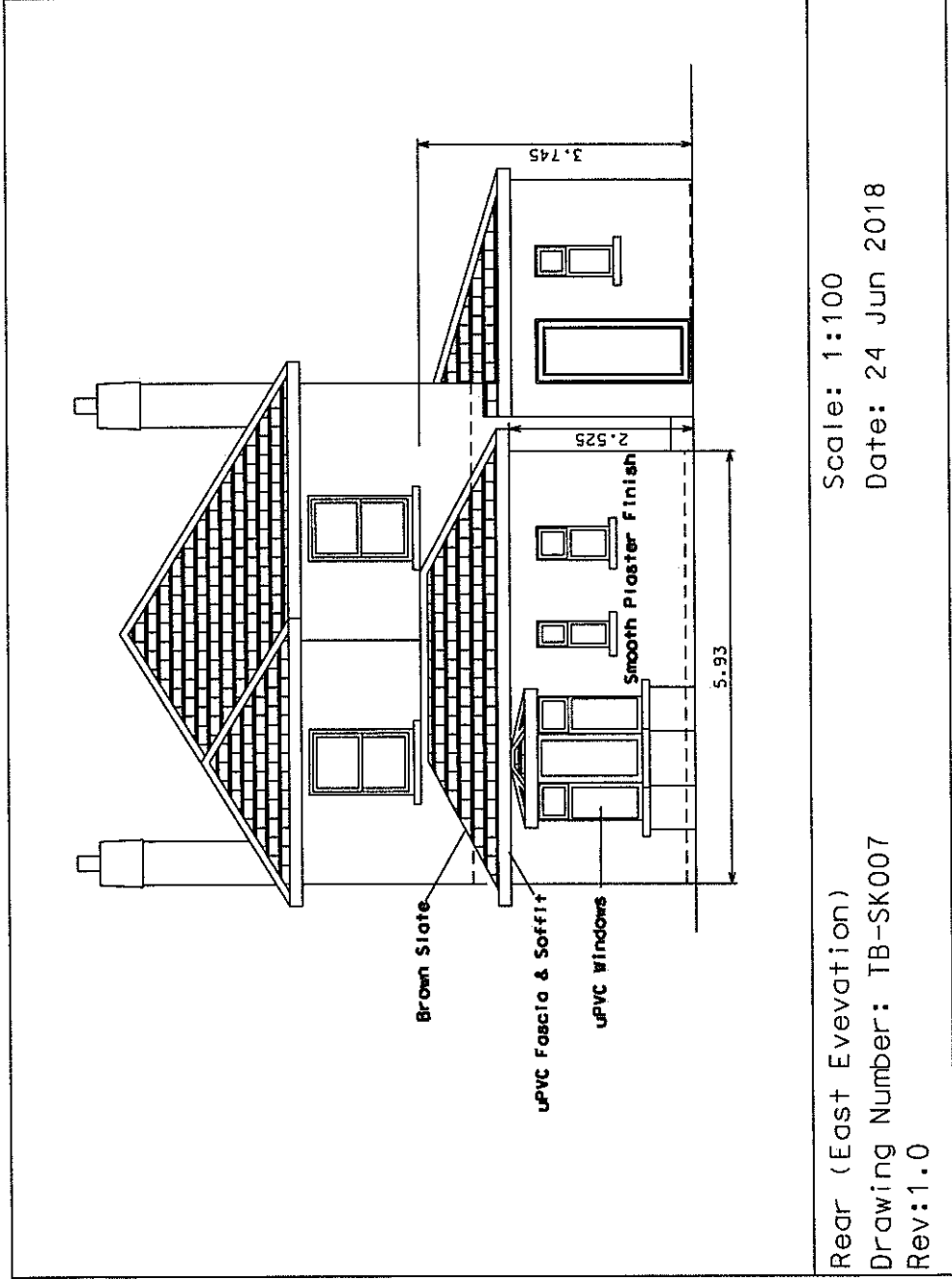
South Elevation

Drawing Number: TB-SK006

Rev: 1.0

Scale: 1:100

Date: 24 Jun 2018



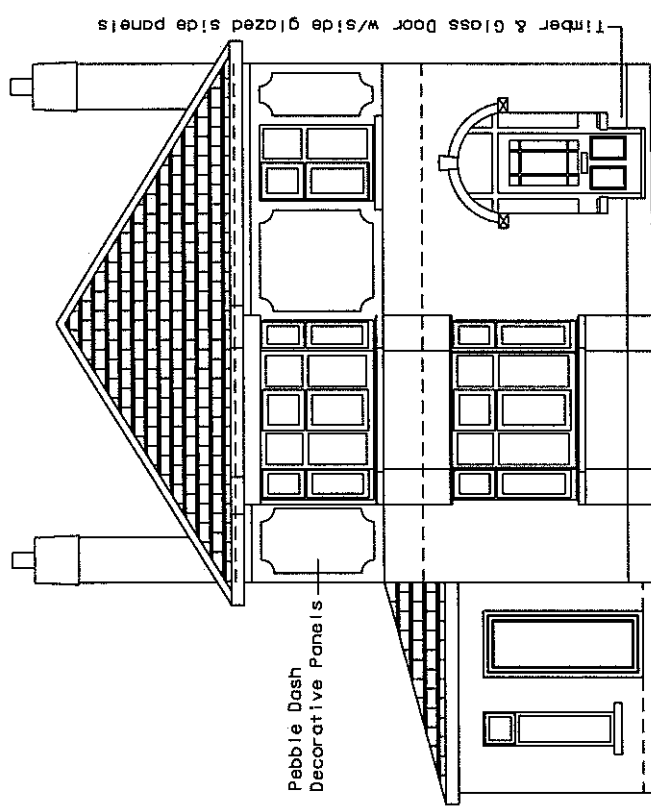
Rear (East Elevation)

Drawing Number: TB-SK007

Rev:1.0

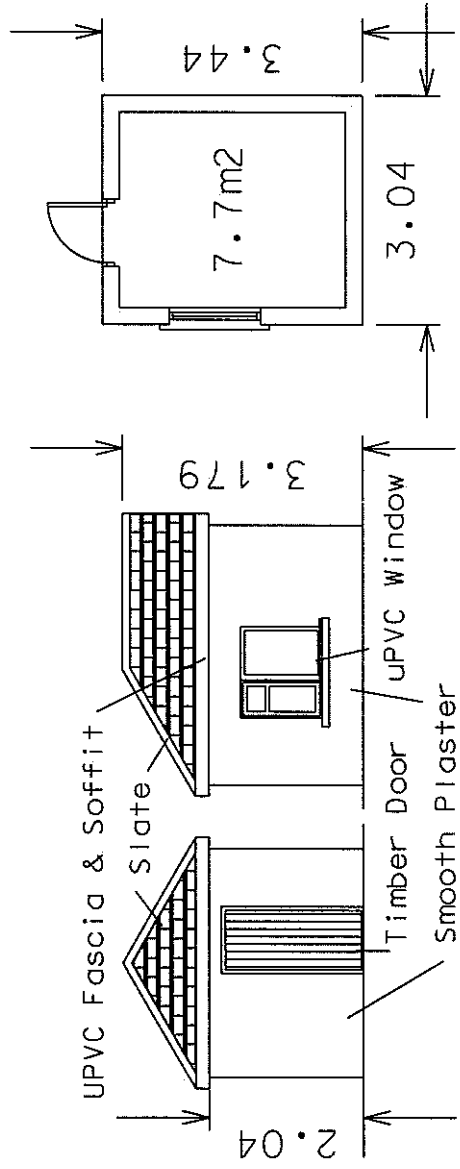
Scale: 1:100

Date: 24 Jun 2018



West (Front Elevation)
Drawing Number: TB-SK008
Rev: 1.0

Scale: 1:100
Date: 24 Jun 2018



Rear Shed

Drawing Number: TB-SK009

Rev: 1.0

Scale: 1:100

Date: 24 Jun 2018

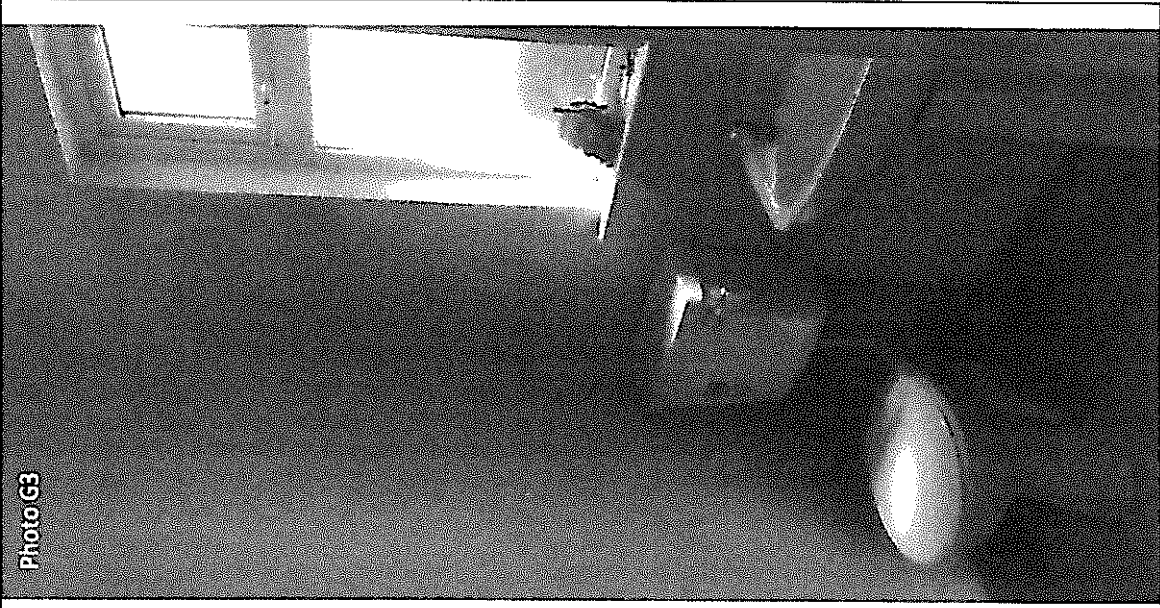


Photo G3



Photo G2

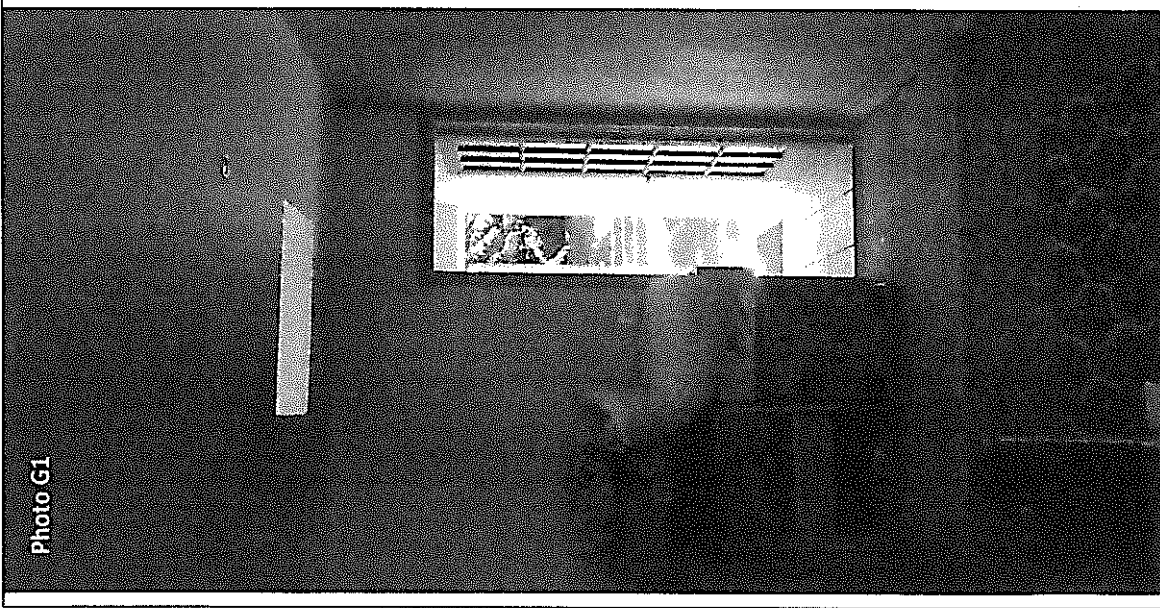


Photo G1

D. L. GROUP

CONSULTING ENGINEERS

1 Hodders Villas,
Ballincollig
Co. Cork
Tel: 021 4876650 / 4877149
Fax: 021 4876651
Email: dlgroup@eircom.net

Our Ref: 10201/S/CD/LH

Your Ref:

Date: Thursday, 05 May 2005

Mrs. Margaret Keane,
The Brambles,
No. 45, Wilton Road,
Cork

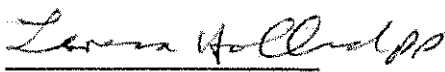
**Re/ Alterations of Existing Garage Roof,
Property @ The Brambles, No. 45, Wilton Road, Cork.**

Dear Mrs. Keane,

Following on from my telephone conversation with Cork City Council, I am writing to confirm that you can alter your roof without requiring an Exemption Certificate or Planning Permission provided that you ensure that the ground to apex level remains less than 4m and that you do not increase the garage size to greater than 25m².

If you require any further information please don not hesitate to contact me.

Yours sincerely,



Chris Donovan M.I.E.I.

D. L. GROUP

CONSULTING ENGINEERS

1 Hodders Villas,
Ballincollig
Co. Cork
Tel: 021 4876650 / 4877149
Fax: 021 4876651
Email: dlgroup@eircom.net

Our Ref: 10201/S/CD/LH

Your Ref:

Date: Monday, 11 April 2005

Mrs. Margaret Keane,
The Brambles,
No. 45, Wilton Road,
Cork.

Re/ Alterations of Existing Garage Roof,
Property @ The Brambles, No. 45, Wilton Road, Cork.

Dear Mrs. Keane,

Following on from our telephone conversation please find attached a copy of the correspondence sent to Mr. Michael Lynch, Planner, acknowledging his agreement to replacing the existing lean too roof to a hip roof.

I trust the attached is to yours satisfaction and if you require any further information please do not hesitate to contact me.

Yours sincerely,

p.f. Lawrence
Chris Donovan M.I.E.I.

D.L. GROUP

CONSULTING ENGINEERS

1 Hodders Villas,
Ballincollig
Co. Cork
Tel: 021 4876650 / 4877149
Fax: 021 4876651
Email: dlgroup@eircom.net

Our Ref: 10201/S/CD/LH

Your Ref:

Date: Monday, 11 April 2005

Michael Lynch,
Cork City Council,
Planning Department,
Navigation House,
Alberts Quay,
Cork.

Re/ Our Client – Mrs. Peggy Keane,
Property @ The Brambles, No. 45, Wilton Road, Cork.

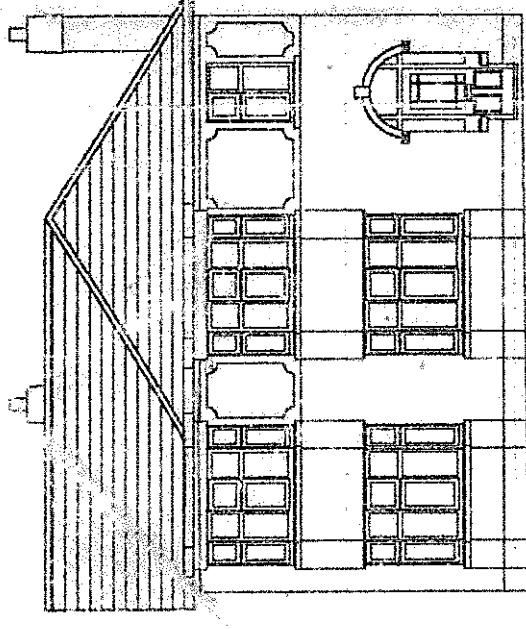
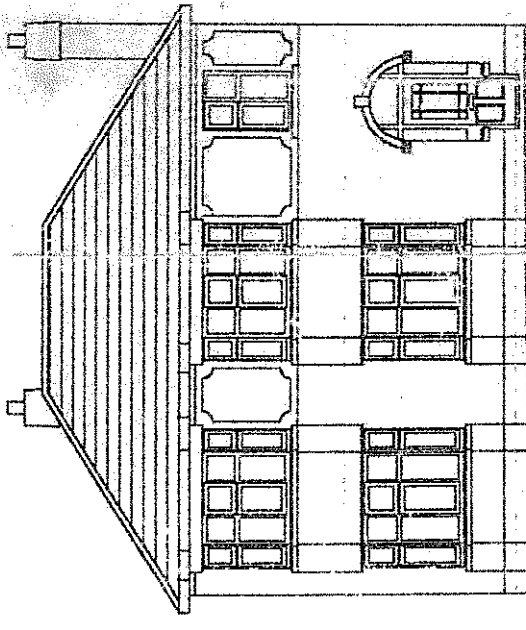
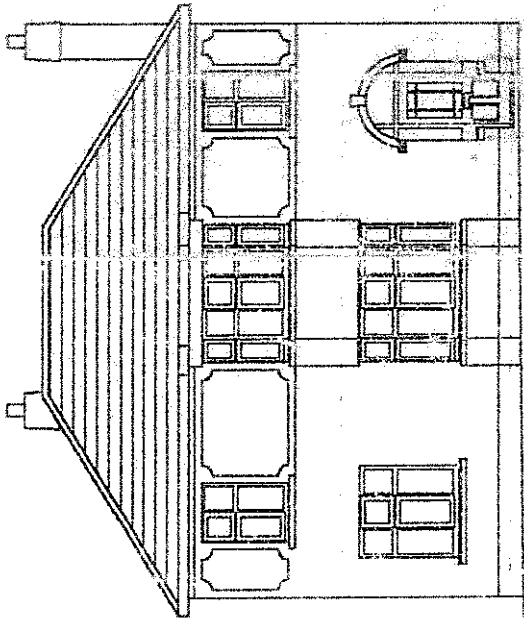
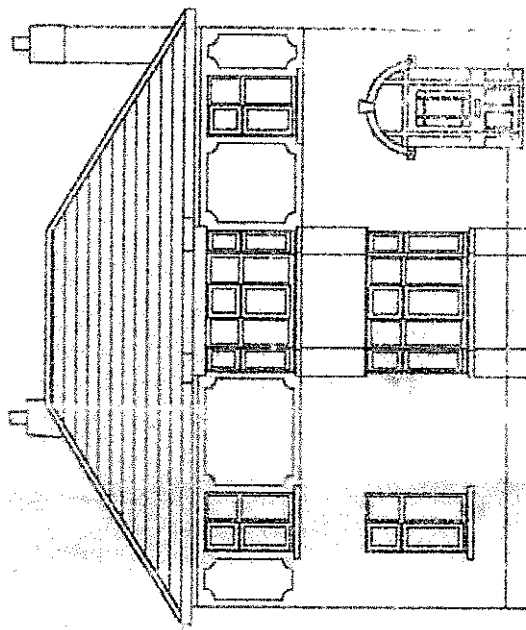
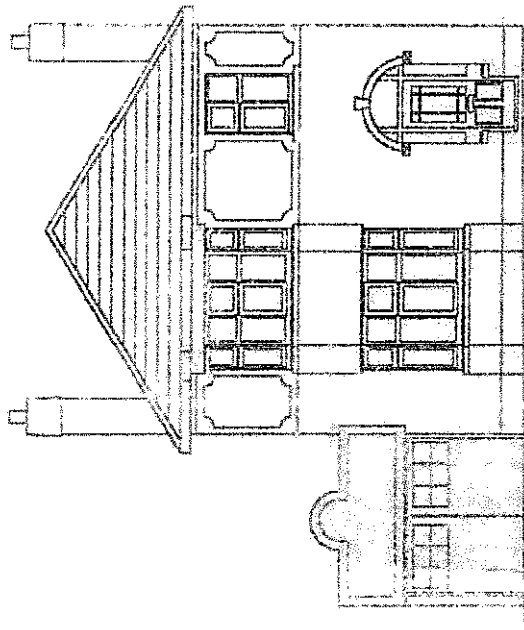
Dear Mr. Lynch,

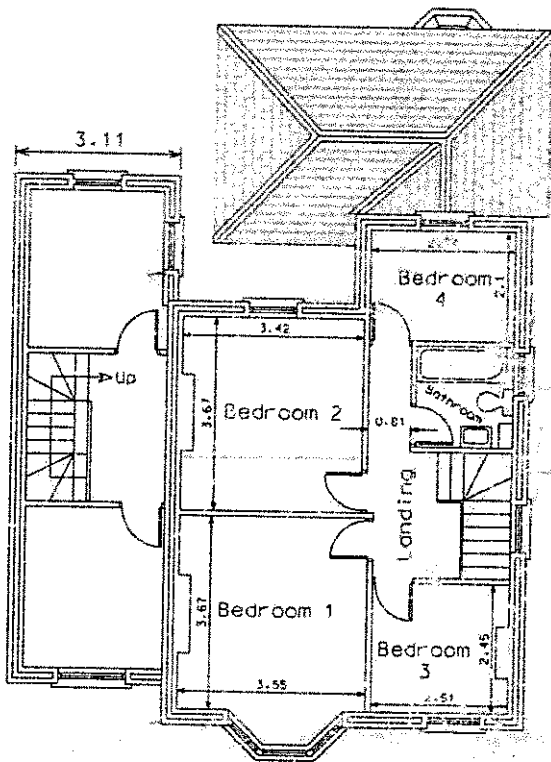
As instructed by our client, Mrs. Peggy Keane, I am writing confirming your agreement to replacing the existing lean too roof which is in a very poor state of repair to a hip roof, not increasing the ridge height.

Many thanks for all your assistance and if you require any further information please do not hesitate to contact me.

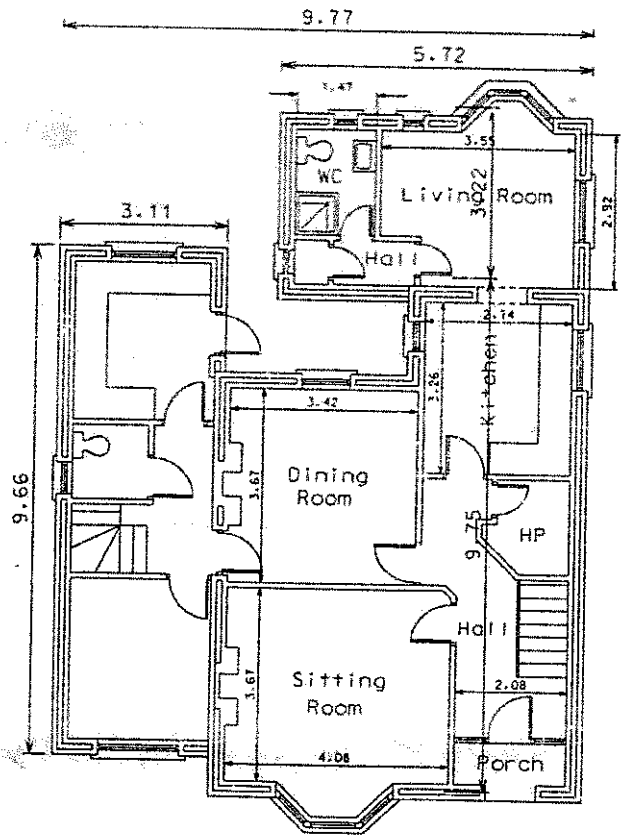
Yours sincerely,

pp 
Chris Donovan M.I.E.I.

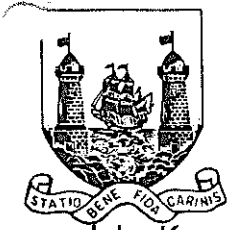




First Floor Plan



Ground Floor Plan



Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

John Keane

Millbrook House
Hyde Park
Sundays Well
Cork

08/06/18

RE: Section 5 Declaration The Brambles, 45 Wilton Road, 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.

Further information is required in order to provide exact details for a proper assessment,

1. In framing the question to the planning authority, the applicant states in Q2 of the application form: "*Construction of x16.47m² single storey extension and 7.7m² shed to the rear of the above named premises*". While it is noted that there is an existing shed at the rear of the garden and also a single storey element at the rear of the dwelling, please clarify if you are requesting a declaration regarding the construction of new structures in lieu of the existing; or whether the declaration is being sought regarding the existing structures.
2. It is noted that the extension to the side was previously a garage that has been converted to a self-contained unit.
 - i) Please provide the planning permission reference for this change of use.
 - ii) Please provide the internal dimensions and floor area (m²) of this self-contained unit.
 - iii) Please provide a number of internal photographs of this unit showing its current use.
3. Having measured the lengths of widths of the internal areas, there appears to be some discrepancy between the correct figures e.g. the internal width of the living room appears to be 2.2m as opposed to the stated 2.92m. Please clarify the exact internal dimensions (in metres) and floor areas (in metres²) of the single storey extension and the shed.

4. The width between the rear extension and the boundary wall appears to be 0.8m as opposed to the stated 1.27m. Please submit a site layout map at a scale of 1:100 to include the neighbouring property and party boundary wall and clarifying the measurement between the extension and this boundary.

Yours Faithfully,



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

PLANNER'S REPORT Ref. R477/18		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Whether requires planning permissions</i>	
Location	The Brambles, 45 Wilton Road, Cork	
Applicant	John Keane	
Date	29/05/2018	
Recommendation	<i>Further Information Required</i>	

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

1. Requirements for a Section 5 Declaration

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

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

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

2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

"Construction of x16.47m² single storey extension and 7.7m² shed to the rear of the above named premises"

There is an existing shed at the rear of the premises and also an existing single storey extension to the rear. The question appears to imply that new structures are to be built. While no demolition has been mentioned, the drawings appear to refer to the same footprint of the existing single storey extension to the rear and also to the existing shed. Rather than presuming this is what is intended, the applicant shall be asked to clarify this so as a definite and proper assessment can be undertaken.

3. Site Description

The property in question is a two storey detached dwelling with single storey elements to the side and rear.

4. Planning History

No known applications.

5. Legislative Provisions

5.1 The Act

Section 2(1),

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected

structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1),

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

Section 4(1)(h),

The following shall be exempted developments for the purposes of this 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;

Section 4(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

Section 5(1),

(See section 1 of this report)

Section 177U (9) (screening for appropriate assessment)

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

5.2 The Regulations

Article 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act –

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

Article 10 (1)

Development which consists of a change of use within any one of the classes of use as specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –

- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned

6. ASSESSMENT

6.1 Development

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

‘Development’ as defined in the Act (3)(1) comprises two possible chief components: ‘the carrying out of any works on, in, over or under land’, or ‘the making of any material change in the use of

any structures or other land’. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

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

As aforementioned, the applicant shall be requested to clarify whether new structures are proposed, or whether the question is referring to the retention of existing structures on site. Notwithstanding same, in both scenarios elements constitute development as they do/would comprise of works including construction, extension and alteration.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

All comments below are referenced on the **presumption** of retention of existing structures:

The date of the build is unknown. Applicant has indicated that no other structures/extensions have been erected at this location since 1964. However, a change of use has occurred which has not been mentioned and is relevant in terms of accumulated floor area. The garage to the side has been converted to a self-contained unit. There is external access to same from the front and the rear but no internal access intrinsically linking it to the existing dwelling. This is a separate unit. No evidence of planning permission for this unit. Applicant to clarify its existing use; to provide full photographic evidence of the interior of same and to submit any relevant planning for same. The floor area of this unit is also required.

The floor area of the extension to the rear, (again on presumption that the question is referring to the existing element), is given as 16.47m².

The floor area of the shed in the rear garden (again on presumption that the question is referring to the existing element), is given as 7.7m² and appears to be built on 2 of the party boundary walls.

<i>Exempted Development — General</i> Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>Development within the curtilage of a house</i></p> <p>CLASS 1</p> <p><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 to the rear or to the side of the house.</i></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>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</p>

	<p>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>7. The roof of any extension shall not be used as a balcony or roof garden.</p>
<p><i>CLASS 3</i> <i>The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</i></p>	<p>1. No such structure shall be constructed, erected or placed forward of the front wall of a house.</p> <p>2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.</p> <p>3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.</p> <p>4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.</p> <p>5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.</p> <p>6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.</p>

The existing floor area of the change of use of the garage would have to be included with that of the rear extension. Applicant to clarify.

Having measured the lengths of widths of the internal areas, there appears to be some discrepancy between the correct figures e.g. the internal width of the living room appears to be 2.2m as opposed to the stated 2.92m. Applicant to clarify.

There is more than 25sq.m of private open to the rear and roof heights appear to comply with the limits and conditions of the regulations. The width between the rear extension and the boundary wall appears to be 0.8m as opposed to the stated 1.27m. Applicant to clarify.

There is only 1 no. shed to the rear. There are no other such structures. It is stated that this is 7.7m² which is less than 25sq.m and thus would be exempt.

7. ENVIRONMENTAL ASSESSMENT

7.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that an environmental impact statement is not required to be submitted.

7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of the European sites referred to above. Accordingly it is considered that appropriate assessment is not required.

8. Conclusion

Further information is required in order to provide exact details for a proper assessment,

9. RECOMMENDATION

It is recommended that the following further information be sought:

1. In framing the question to the planning authority, the applicant states in Q2 of the application form: *“Construction of x16.47m² single storey extension and 7.7m² shed to the rear of the above named premises”*. While it is noted that there is an existing shed at the rear of the garden and also a single storey element at the rear of the dwelling, please clarify if you are requesting a declaration regarding the construction of new structures in lieu of the existing; or whether the declaration is being sought regarding the existing structures.
2. It is noted that the extension to the side was previously a garage that has been converted to a self-contained unit.
 - i) Please provide the planning permission reference for this change of use.
 - ii) Please provide the internal dimensions and floor area (m²) of this self-contained unit.
 - iii) Please provide a number of internal photographs of this unit showing its current use.

3. Having measured the lengths of widths of the internal areas, there appears to be some discrepancy between the correct figures e.g. the internal width of the living room appears to be 2.2m as opposed to the stated 2.92m. Please clarify the exact internal dimensions (in metres) and floor areas (in metres²) of the single storey extension and the shed.
4. The width between the rear extension and the boundary wall appears to be 0.8m as opposed to the stated 1.27m. Please submit a site layout map at a scale of 1:100 to include the neighbouring property and party boundary wall and clarifying the measurement between the extension and this boundary.

M. Doyle 29/05/2018.

Mary Doyle
Executive Planner

Agreed.

A _____
SEP 30-5-2018

Kevin
Section 5, Dec 15/06/18
Pen
16/05/18



**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

The Brambles, 45 Wilton Road, Cork, T12 Y2D9

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.

Construction of x 16.47m2 single storey extension and 7.7m2 shed to the rear of the above named premise.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Attached site plan, 1:1000 Ordnance Survey Map, 1:250 Site Plan, 1:50 and 1:100 floor plans and 1:100 side and rear elevations. Construction comprises: raft foundation, block walls, with external smooth plaster finish and internal insulated plasterboard. Double glazed white uPVC windows and black fascia, soffit and downpipes. Cut hip roof, with constituted brown slate to match existing dwelling. Sanitary waste and storm water tied into existing sewer to the rear of the premise.

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	142m2 / 16.47m2 rear extension & 7.7m2 shed
(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) Not applicable
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle) Not applicable	Proposed/existing use (please circle) Not applicable
-----	-----
-----	-----

4. APPLICANT/ CONTACT DETAILS

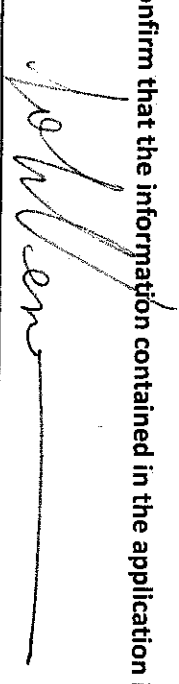
Name of applicant (principal, not agent):		Mr. John Keane
Applicants Address	Millbrook House, Hyde Park, Sundays Well, Cork T23 PP38	
Person/Agent acting on behalf of the Applicant (if any):	Name:	Not Applicable
	Address:	Not Applicable
	Telephone:	[REDACTED]
	Fax:	None
	E-mail address:	[REDACTED]
Should 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	B. Other <input checked="" type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	Son of Mrs Margaret Keane Deceased	
If you are not the legal owner, please state the name and address of the owner if available	Mrs. Margaret Keane Deceased, The Brambles, 45 Wilton Road, Cork, T12 Y2D9.	

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

Signature:

A handwritten signature in black ink, appearing to read 'John W. ...', is written over a horizontal line.

Date:

15 May 2018

Planning Pack Map



National Mapping Agency

565250
570689
565250
570717
565017
570689



CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: <http://www.osi.ie>, search 'Capture Resolution'

OUTPUT SCALE: 1:1,000

0 10 20 30 40 Metres
0 20 40 60 80 100 Feet

LEGEND:
<http://www.osi.ie>, search 'Large Scale Legend'

CENTRE COORDINATES:
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PUBLISHED: 05/05/2018
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MAP SERIES: 1:1,000
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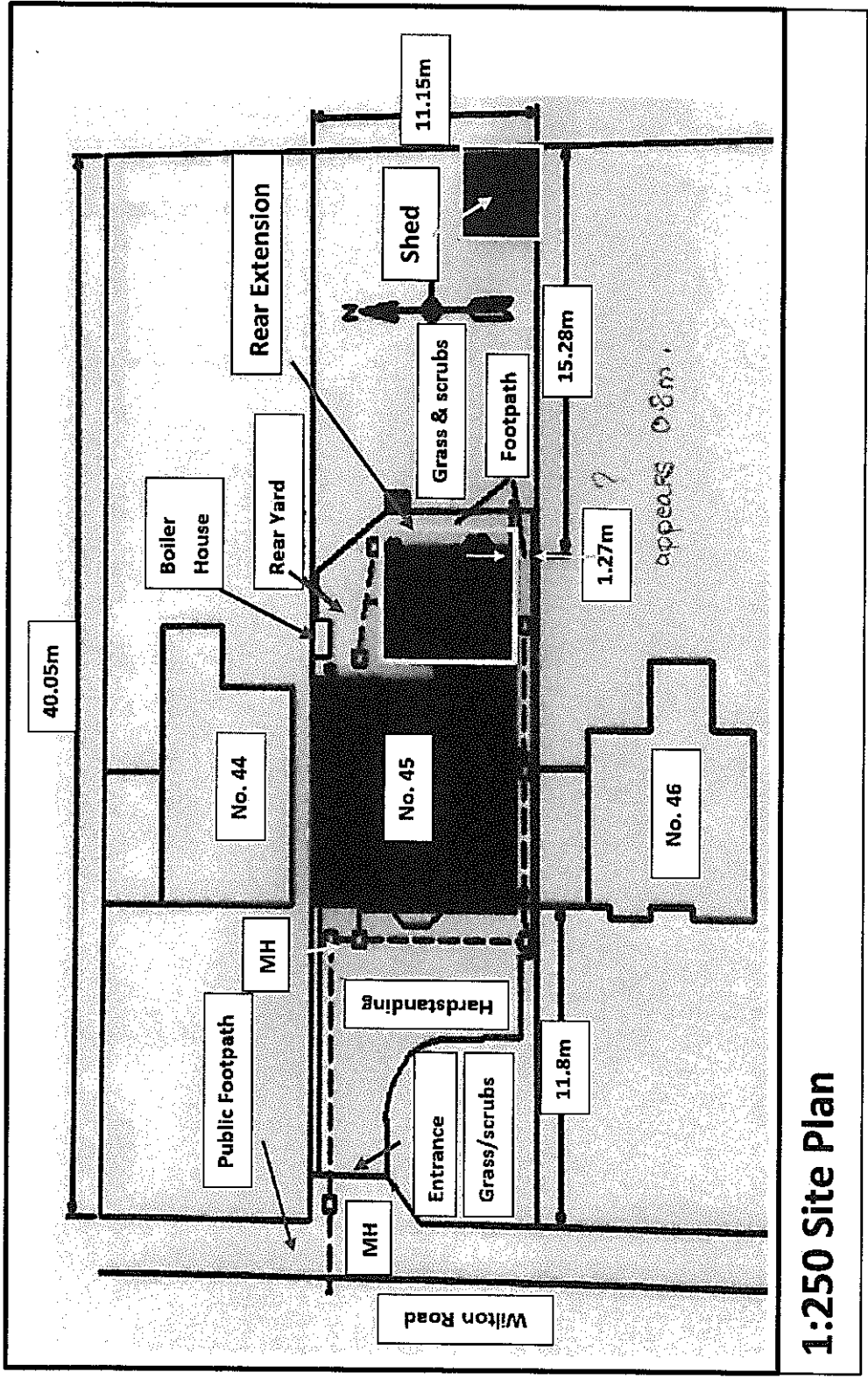
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**Application for Part V Exemption Certificate
The Brambles, 45 Wilton Road, Cork T12 Y2D9**

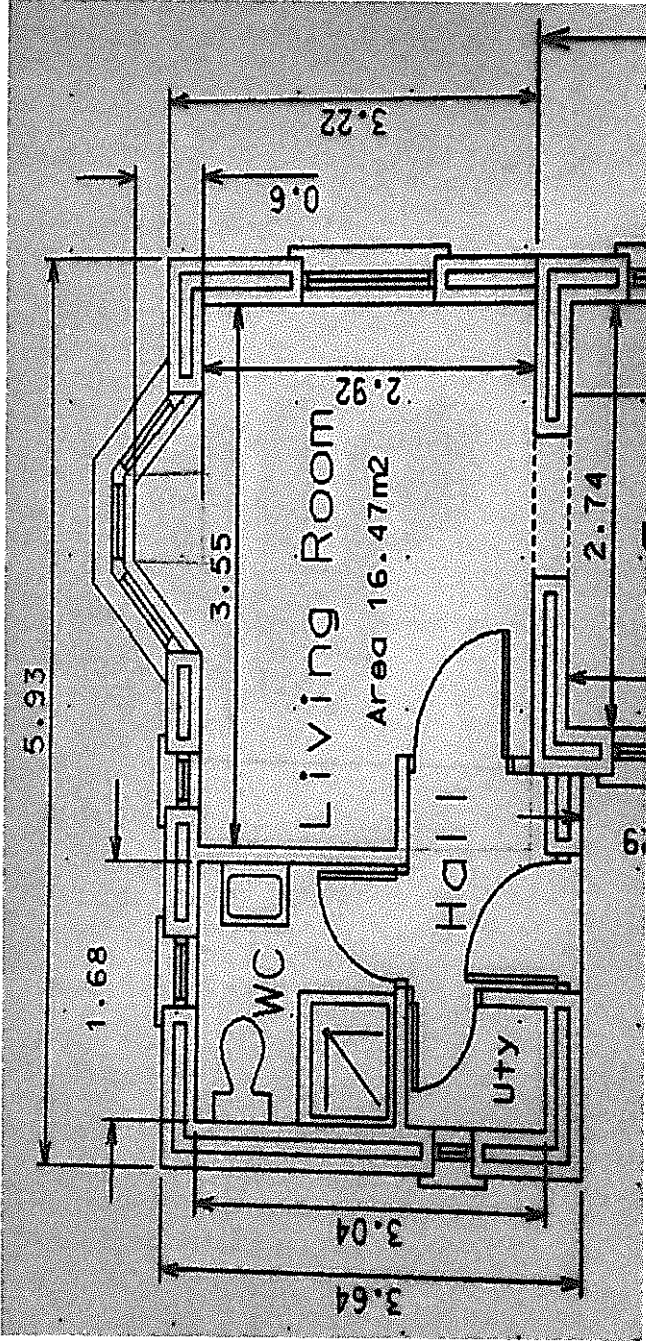
Prepared By: John Keane
Millbrook House
Hyde Park,
Sundays Well
T23 PP38

087 4160142
keanejo1@eircom.net

15 May 2018



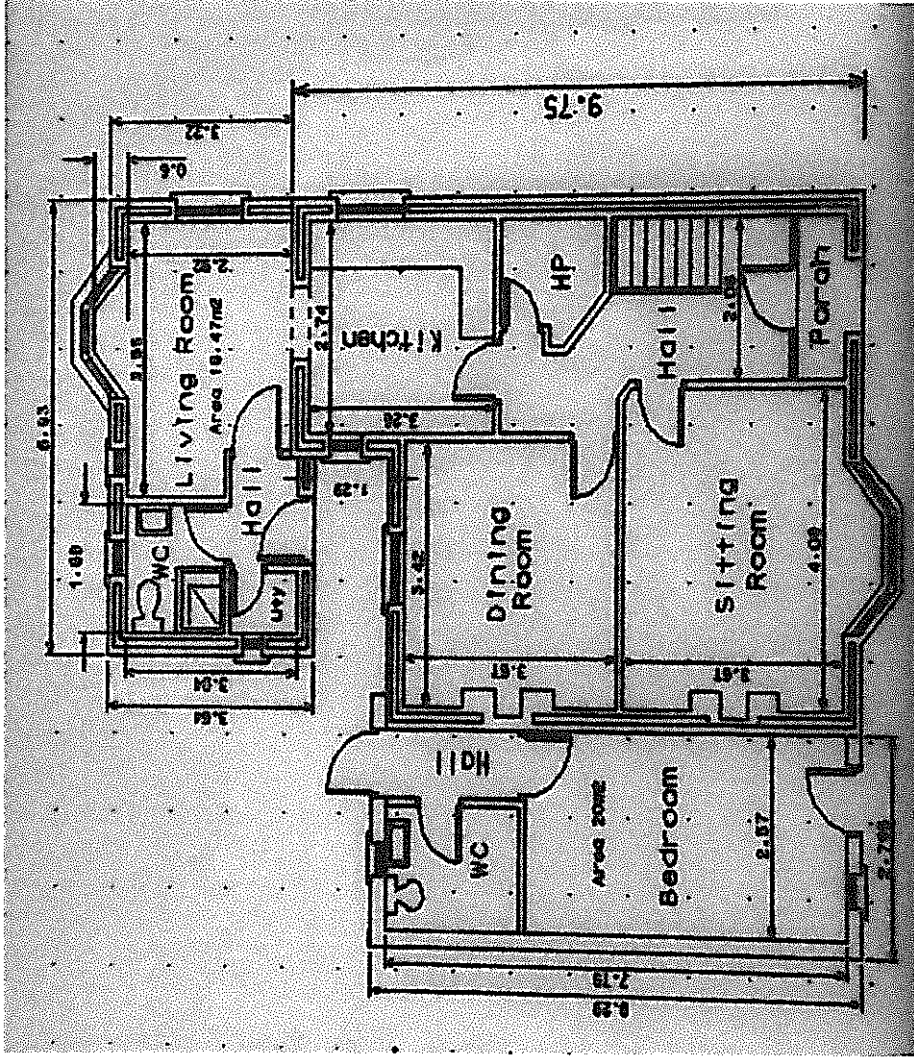
1:250 Site Plan



1:50 Single Storey Extension Floor Plan

$$\begin{array}{r}
 2.4 \\
 \times 2.3 \\
 \hline
 5.52
 \end{array}
 + \frac{3.0}{6.6} + \frac{0.5 \times 2}{0.5} = 12.62$$

$$\begin{array}{r}
 3.6 \\
 \times 2.2 \\
 \hline
 7.92
 \end{array}
 + \frac{(0.5) \times 2}{0.5} + \frac{1.8}{4.14} = 12.5619m$$

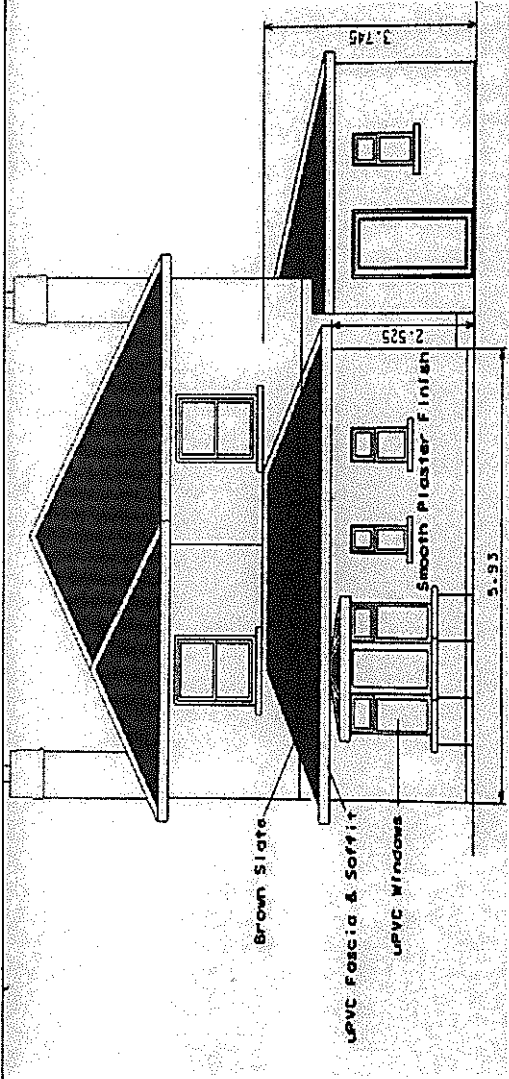


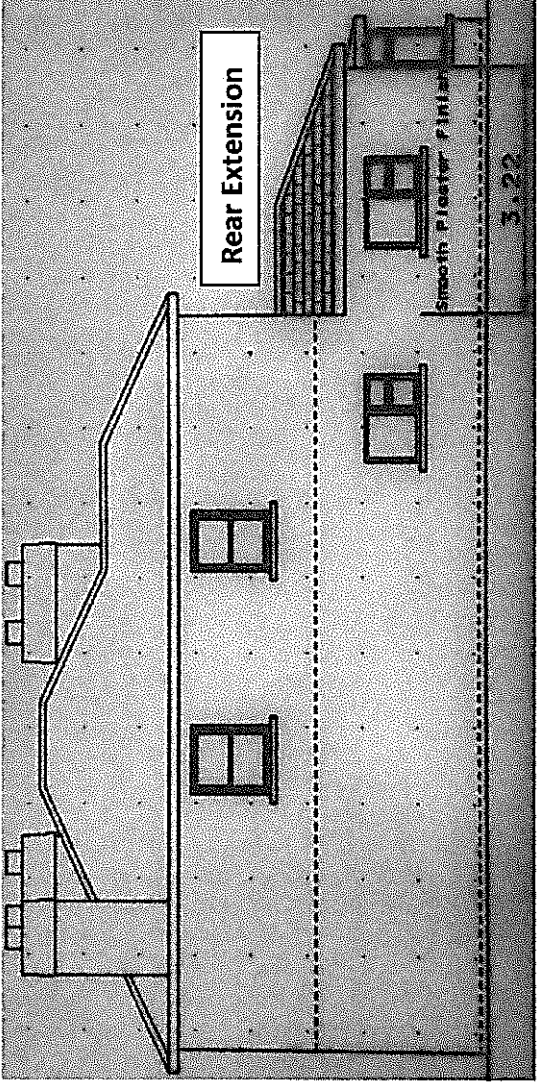
6.1
 x 2.7

 16.47 m²

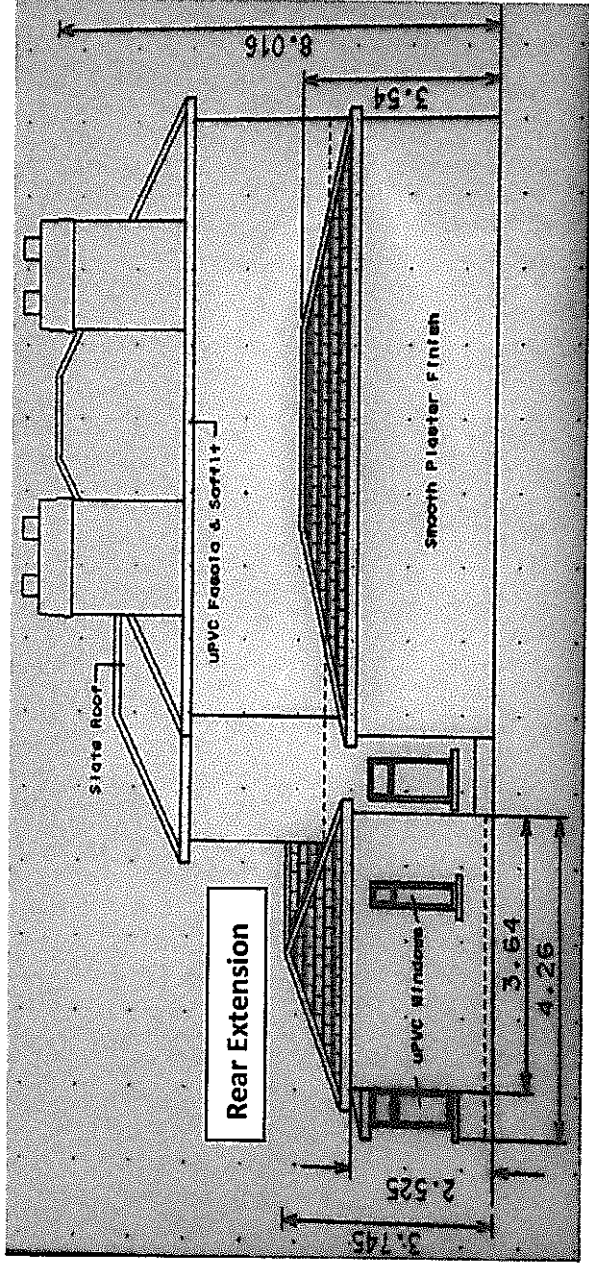
1:100 Rear (east) Elevation of Single Storey Extension

1:100 Rear (east) Elevation of Single Storey Extension Floor Plan

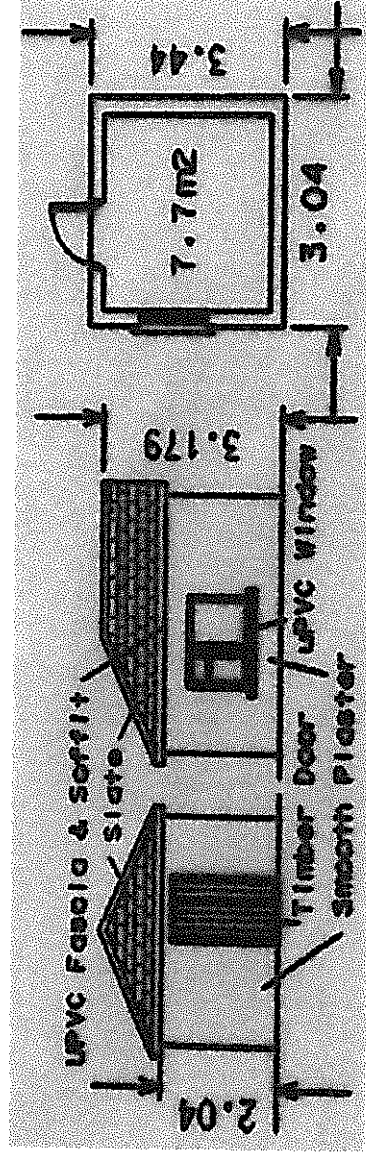




1:100 Side (south) Elevation of Single Storey Extension

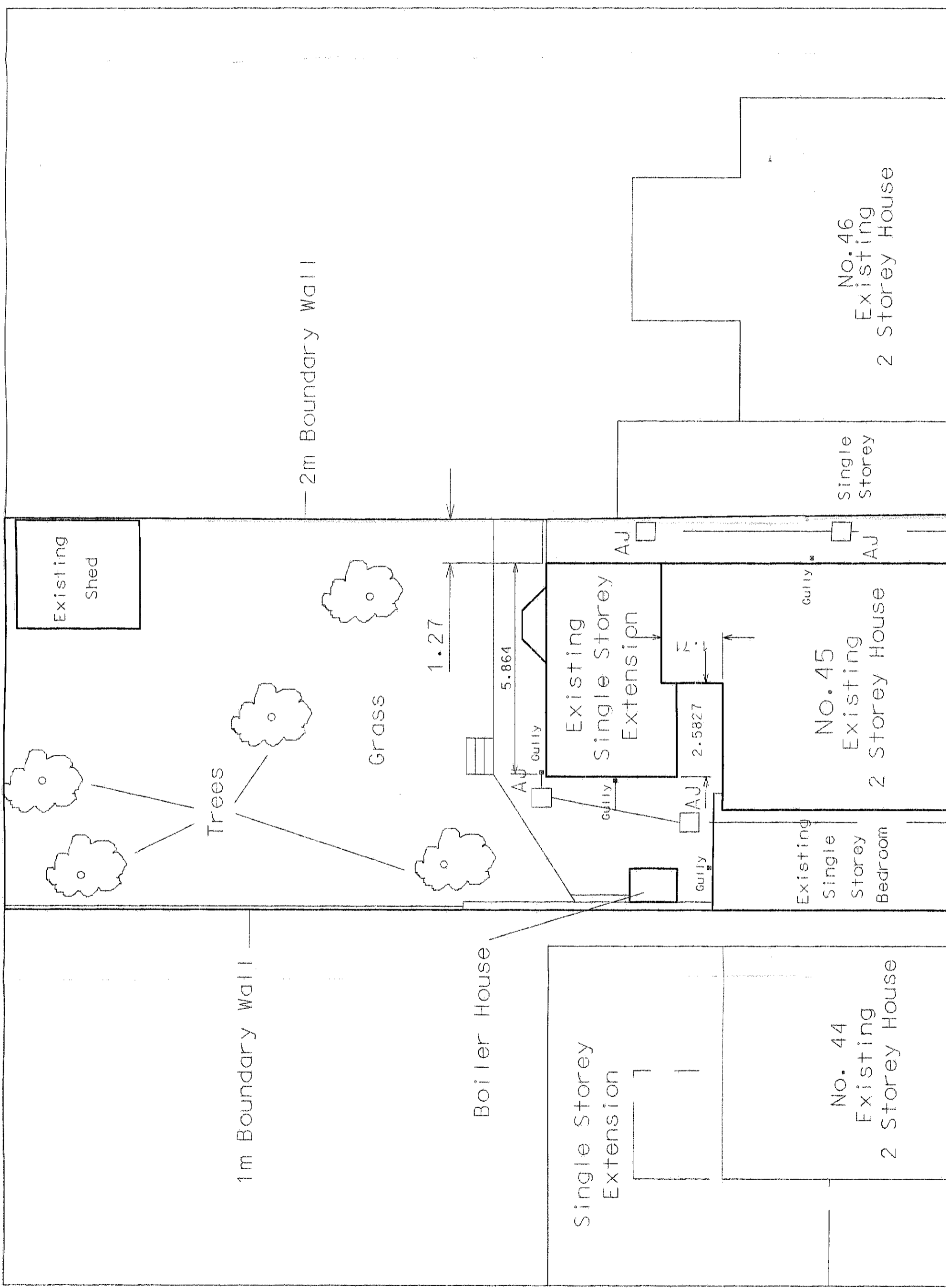


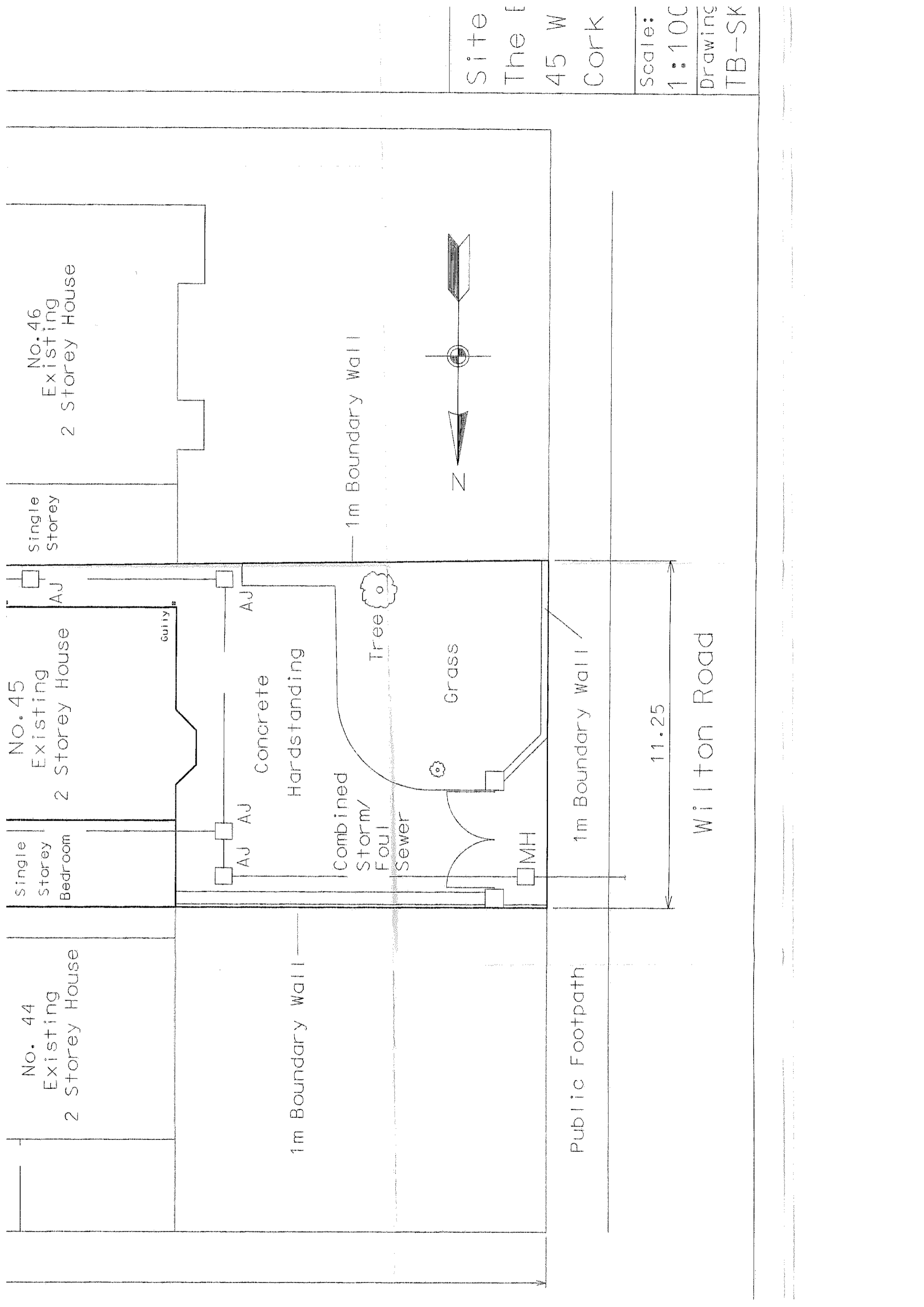
1:100 Side (north) Elevation of Single Storey Extension



1:100 Shed Floor Plan and North & West Elevations

10.9





No. 44
Existing
2 Storey House

Single
Storey
Bedroom

No. 45
Existing
2 Storey House

Single
Storey

No. 46
Existing
2 Storey House

1m Boundary Wall

Concrete
Hardstanding

Combined
Storm/
Foul
Sewer

Tree

Grass

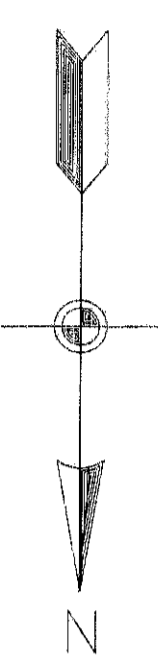
MH

Public Footpath

1m Boundary Wall

11.25

Wilton Road



1m Boundary Wall

Site
The f
45 W
Cork
Scale:
1:100
Drawing
TB-SK

CORK CITY COUNCIL
PLANNING DIRECTORATE
29 JUN 2018
Ref. No.

Site Layout Plan
The Brambles
45 Wilton Road
Cork

Scale:	Date:
1:100	24 Jun 2018

Drawing Number:	Rev:
TB-SK001	1.0