

Comhairle Cathrach Chorcaí Cork City Council

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

Tim Blanchard & Catherine White,
21 Richmond Estate,
Blackrock Road,
Cork T12 H6P7

16/02/2024

RE: Section 5 Declaration R824/24 21 Richmond Estate, Blackrock Road, Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 22nd January 2024, I wish to advise as follows:

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, 10 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 – 2018,

The Planning Authority considers that –

the construction of a garden sun room and extension to existing garden shed to the front of the dwelling at 21 Richmond Estate, Blackrock Road, Cork **IS DEVELOPMENT** and **IS NOT 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, 16th February 2024.



We are Cork.

Is mise le meas,



Kate Magner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council

WATERLOO ROAD, CORK CITY COUNCIL

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PLANNER'S REPORT

Ref. R 824/24

Cork City Council

Development Management
Strategic Planning and
Economic Development

Application type	SECTION 5 DECLARATION
Question	<i>Is the construction of a garden sun room and extension to existing garden shed to the front of the dwelling development and, if so, is it exempted development?</i>
Location	21 Richmond Estate, Blackrock Road, Cork
Applicant	Tim Blanchard and Catherine White (owners)
Date	16/02/2024
Recommendation	Is development and is not 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 not framed using the phrasing of section 5. The applicant states in the request details of the proposed development.

While the applicant states in their request that the proposed development is to the rear of the dwelling, it is clear from the maps and drawings provided that the proposed development is located forward of the front building line of the dwelling and, therefore, in the front garden area.

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:

Is the construction of a garden sun room and extension to existing garden shed to the front of the dwelling development and, if so, is it exempted development?

3. SITE DESCRIPTION

The subject property is a single storey, detached dwelling in the Sustainable Residential Neighbourhoods zoning area. The area is predominantly residential in nature.

4. DESCRIPTION OF THE DEVELOPMENT

The proposed development proposes the removal of the existing greenhouse, the construction of a single storey garden room of approximately 12.75m², and the extension of an existing garden shed, all located to the front of the existing property.

5. RELEVANT PLANNING HISTORY

- R-573-20 Section 5 application for the construction of a separate garden room to the rear of the dwelling
Decision: Considered development and exempted development.
- TP 12/35280 Permission GRANTED for retention permission for material alterations to dwelling including the addition of roof-light and garden shed, change of use of internal areas and all associated site works at 21 Richmond Estate, Blackrock Road, Cork.
- TP 10/34526 Permission GRANTED for demolition of existing carport and store, alterations to existing curtilage entrance and North boundary, alterations to elevations to include addition of new windows to gable elevations, works to existing roof to include provision of natural slate, installation of 6 no. rooflights & 1 no. solar panel, construction of single storey side extension and all associated landscape and site works at 21 Richmond Estate, Blackrock Road, Cork.
-
- E7321: Enforcement investigated unauthorised development in relation to Non Compliance on T.P. No: 10/34526. Case was closed 12/09/2012.

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(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.

6.2 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 3 relates to “*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.*”

Schedule 2, Part 1, Class 3

Exempted Development — General

<p>Column 1 <i>Description of Development</i></p>	<p>Column 2 <i>Conditions and Limitations</i></p>
<p><i>Development within the curtilage of a house</i></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>	<ol style="list-style-type: none"> 1. <i>No such structure shall be constructed, erected or placed forward of the front wall of a house.</i> 2. <i>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.</i>
	<ol style="list-style-type: none"> 3. <i>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.</i> 4. <i>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.</i>
	<ol style="list-style-type: none"> 5. <i>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.</i> 6. <i>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.</i>

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 garden room to the rear of the existing dwelling, it is clear that a garden room constructed to the front of a dwelling house comprises '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 rear extension 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 3** applies, as the development is for a detached room/garden room to the front of the house.

Having assessed the proposed development against Class 3 and its conditions and limitations I find as follows:

Condition / Limitation 1

The proposed structure is to be constructed forward of the front building line of the existing dwelling. In this regard the proposed structure is not considered to be exempt.

Condition / Limitation 2

The house has previously had two garden sheds constructed to the front along with a greenhouse. The existing sheds have areas of approximately 7.2sqm and 1.75sqm respectively. The proposed garden room is approximately 12.75sqm in area and is a single storey structure. The proposed shed extension is approximately 2sqm in area and is a single storey structure. Therefore the cumulative area of all structures is less than the permitted 25sqm (23.7sqm).

Condition / Limitation 3

The proposed development will not reduce the amount of private open space enjoyed by the dwelling to below 25sqm.

Condition / Limitation 4

The proposed finishes are to match that of the existing.

Condition / Limitation 5

The height of the proposed structure is indicated as being 2.25m and will be below the maximum height allowed of 3m.

Condition / Limitation 6

The structure will 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 existing house.

Restrictions on exemption

I do not consider that any apply in this instance.

CONCLUSION

Is not exempted development

8. ENVIRONMENTAL ASSESSMENT

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

Section 4(4),

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

Section 4(4A)

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

- (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and*
 - (b) as respects which an environmental impact assessment or an appropriate assessment is required,*
- to be exempted development.*

Section 177U(9)

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

8.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 and Schedule 7 of the Planning and Development Regulations 2001, as amended it is considered that the proposed development by reason of its

nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that **environmental impact assessment is not required.**

8.2 Screening for Appropriate Assessment

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

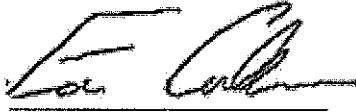
9. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3, and 4 of the Planning and Development 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 construction of a garden sun room and extension to existing garden shed to the front of the dwelling at 21 Richmond Estate, Blackrock Road, Cork **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT.**



Eoin Cullinane
Executive Planner
16/02/2024

Lucca
21 Richmond Estate,
Blackrock, Cork,
T12 H6P7

The Development Management Section
Community, Culture & Planning Placemaking Directorate
Cork City Council
City Hall
Anglesea Street
Cork

22nd January 2024

Re. Section 5 Declaration Application

Dear Sir or Madam,

We seek confirmation that our proposal to construct a Garden Sun Room in the rear garden of our home is exempt from planning as the works are less than the statutory limit of 25 sq. metres.

In order to expedite this application, we enclose the following:

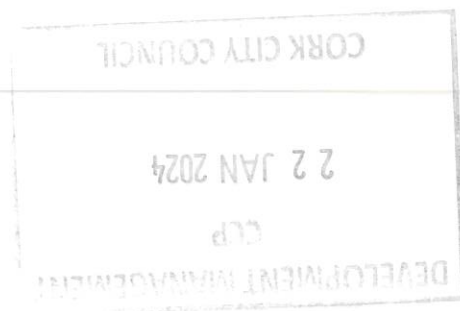
2 copies of completed Section 5 Declaration Application Form
2 copies of Drawing No 2024-GSR-001 Rev. P1 - Site Location Plan O.S. Urban Place Map
2 copies of Drawing No 2024-GSR-002 Rev. P1 - Site Layout Plan
2 copies of Drawing No 2024-GSR-003 Rev. P1 - Proposed Elevations
2 copies of 3D Photo Modelled Images of the Proposal
2 copies of O.S. National Mapping Services Invoice No. 1390126

We also enclose a copy of the Cork City Council receipt in respect of the €80.00 fee paid in respect of this application.

Yours faithfully,

 Catherine White

Tim. Blanchard & Catherine White



**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: 021-4924762

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

21 Richmond Estate, Blackrock Road, Cork T12 H6P7

2. QUESTION/ DECLARATION DETAILS

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

We are considering removing our 2.0m x 2.6m x 2.6m high Greenhouse and replacing it with a timber frame Sun Room in the rear garden of our home at the above address. The footprint of the proposed timber frame building is 4.00m x 3.0m and it is to be clad in shiplap timber to match the finishes of the existing adjacent garden shed. We also proposed extending the front of the small existing Garden Shed 1.15m x 1.8m to align with the face of the main Garden Shed.

The proposed Sun Room is to be built in the area of the garden where the Greenhouse is currently situated. It shall feature a 10 deg. mono-pitch roof with a maximum height of 3.0m to facilitate maximum solar gain for the potential future installation of photovoltaic solar panels.

We wish to clarify: Is this proposal classed as Development and is it an Exempted Development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

We previously submitted a Section 5 Declaration Application (Ref. R573/20) regarding a similar proposal in the Northern end of our garden to build a Garden Isolation Studio. Following receipt of confirmation from Cork City Council that this proposal was an Exempted Development, we realised that the area where we planned to situate that Studio failed to benefit from evening sunlight and we made the decision not to proceed with the construction.

In the above Section 5 Declaration Application (Ref. R573/20), we detailed the previously approved Planning Application Ref. 10-34526 which granted approval for the demolition of an existing Car Port and Garden Store. The total area of this demolition work was 29.70m². During construction slight changes were made due to budget restrictions. The internal layout was revised, a roof window re-located and side window deleted. These changes were addressed under and approved under Retention Application Ref. 12-35280. The footprint of the works remained unchanged.

The single storey extension approved under the above applications was constructed on the ground formerly occupied by the Car Port and Garden Store. The total area of this approved structure is 27.38m². This approved application did not increase the floor area of the existing property, but in fact reduced it by 2,32m².

Please advise if our proposal for a 12.0m² Sun Room and 2.0m² Garden Store extension is considered an Exempted Development in accordance with Schedule 2 Part 1 as a Class 3 development as it is less than the stipulated development area of 25m².

3. Are you aware of any enforcement proceedings connected to this site?

During construction of approved planning 10-34526 a non-compliance warning letter was received. This was addressed immediately - Retention Application No 12-35280. No Enforcement Notice was served on the property owners, but CCC registered one on file, Ref E7321. Case Resolved and Closed - 12/9/2012

4. 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?

5. Was there previous relevant planning application/s on this site? Yes

If so please supply details:

Planning Application Ref. 10-34526; Retention Application Ref. 12-35280 and Section 5 Declaration Ref. R573/20

6. 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 = 143.48m ² & Proposed = 12.00m ²
(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 checked="" type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) Demolition = 29.70m ² Extension = 27.38m ² Reduced Area = 2.32m ²
(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)
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8. LEGAL INTEREST

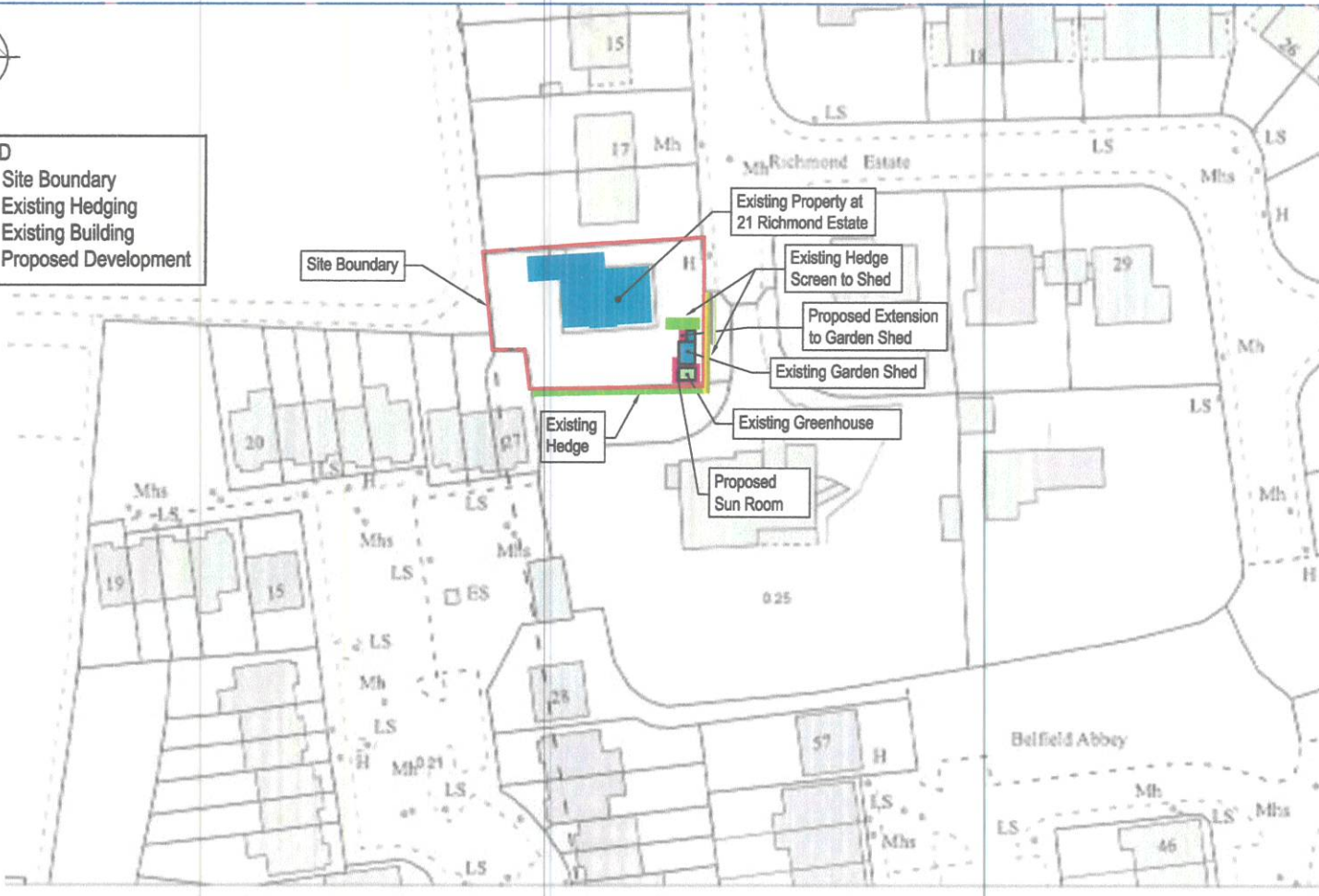
Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other
Where legal interest is 'Other', please state your interest in the land/structure in question		
If you are not the legal owner, please state the name and address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

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

Signature: *P. Blanchard Catherine Walsh*
 Date: *22 January 2024*



LEGEND	
	Site Boundary
	Existing Hedging
	Existing Building
	Proposed Development



ITM CENTRE PT. COORDS

569342.571231

DESCRIPTION

MAP SHEETS

1:1000
6363-12 6363-17



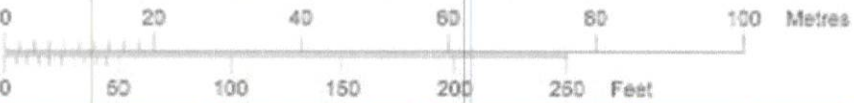
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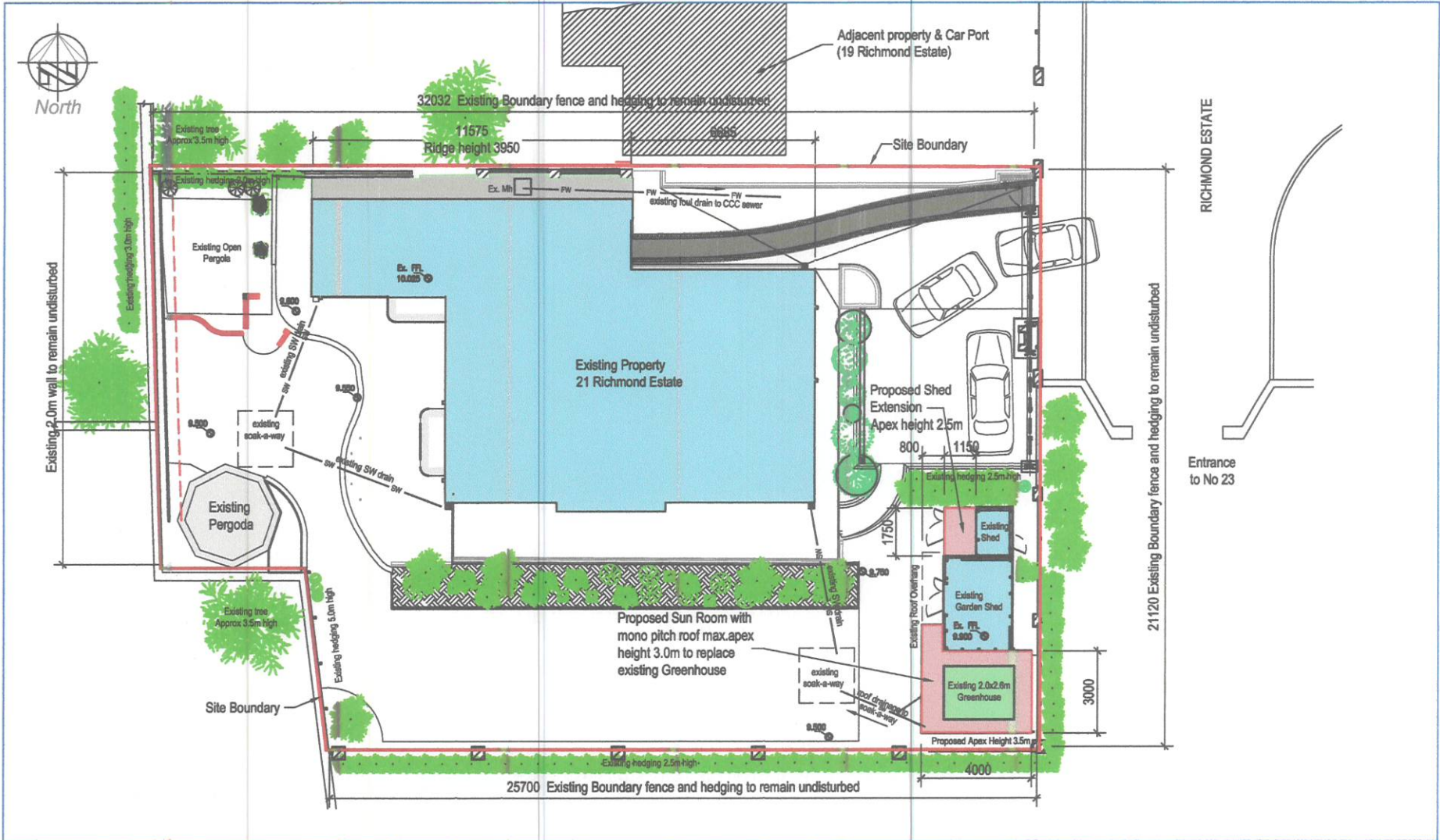
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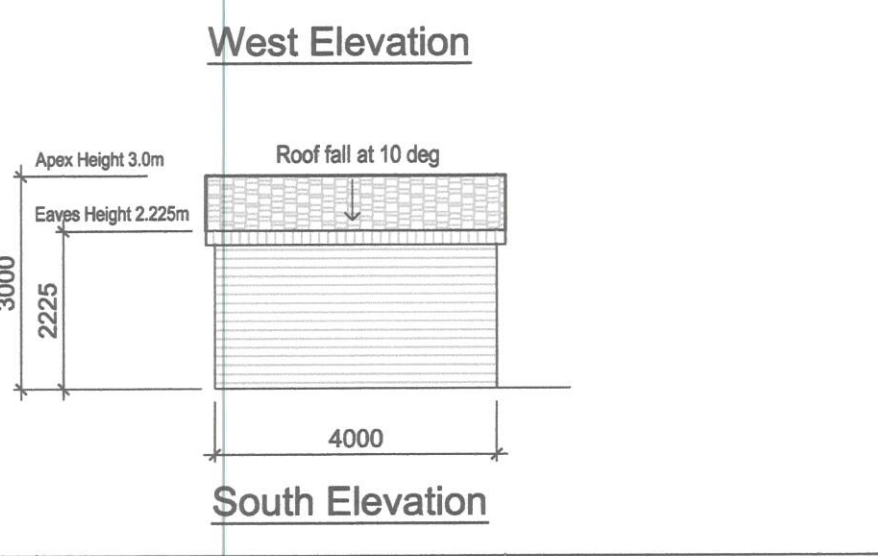
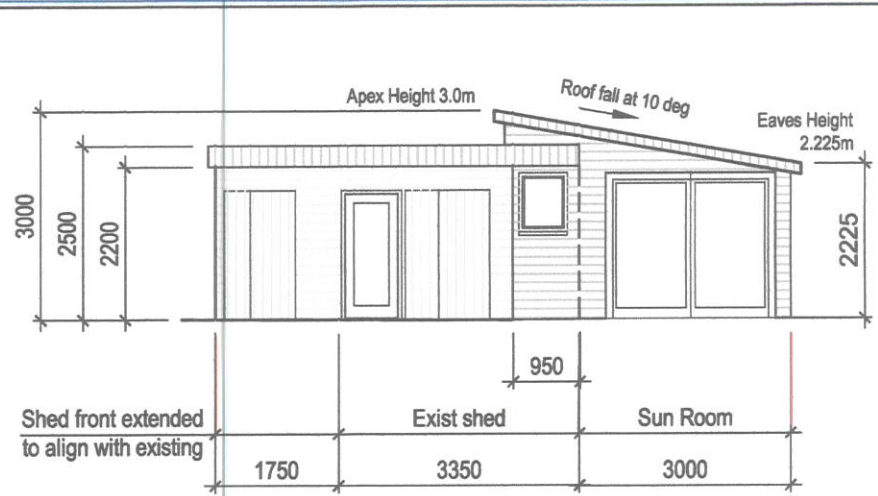
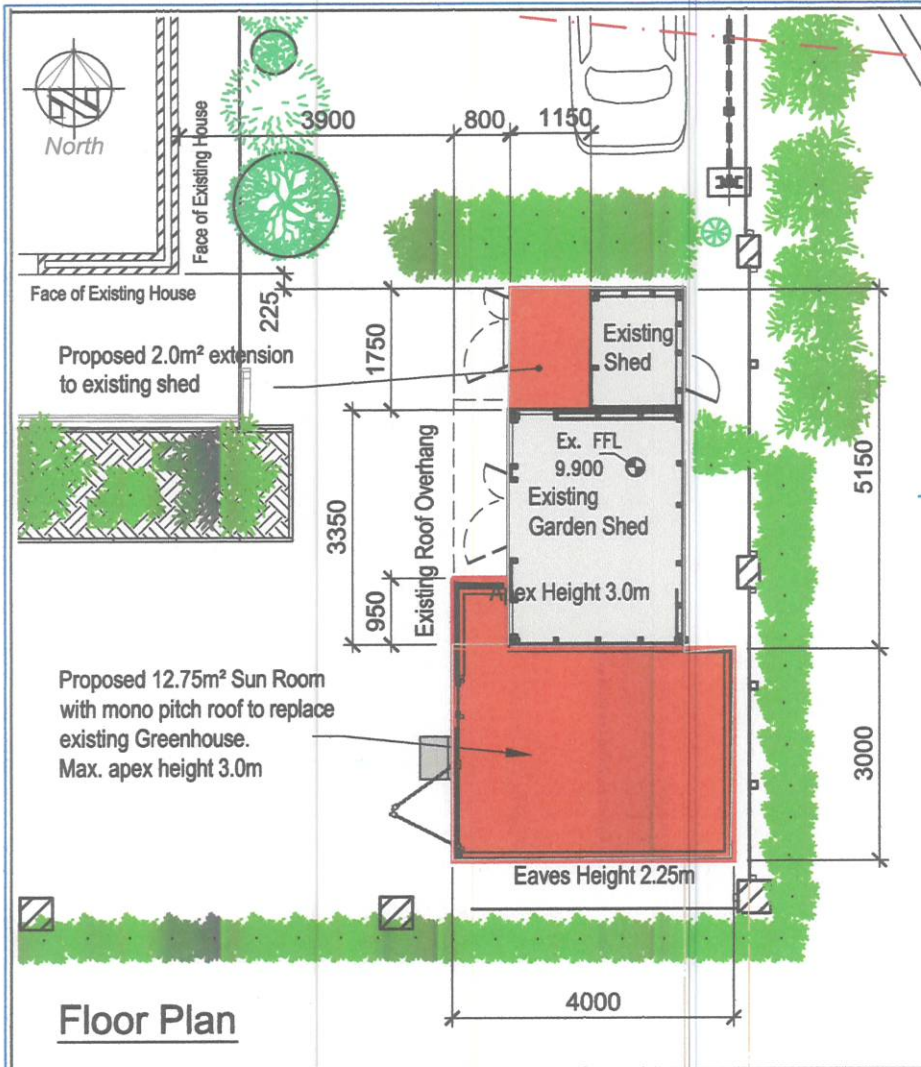
Plot Ref. No. 1390126_1_5
Plot Date 22-DEC-2009

Drawing Status:- PLANNING				Project Title				Drawing Title					
2020 CAD Vision				Proposed Garden Sun Room & Extension to Existing Shed at: 21 Richmond Estate, Blackrock, Cork				SITE LOCATON PLAN O.S. URBAN PLACE MAP					
				22.01.24	P1	Issued for Section 5 Exemption	Tim.B	Scale	at:	Date	Designer	Drawing No.	Revision
21 Richmond Estate, Black ck, Cork.				DATE	REV.	DESCRIPTION	BY	1:1000	A4	Jan. 2024	Blanchard	2024-GSR-001	P1



Drawing Status:- PLANNING				Project Title				Drawing Title	
2020 CAD Vision				Proposed Garden Sun Room & Extension to Existing Shed at: 21 Richmond Estate, Blackrock, Cork				SITE LAYOUT PLAN	
22.01.24	P1	Issued for Section 5 Exemption	Tim.B	Scale	at:	Date	Designer	Drawing No.	Revision
DATE	REV.	DESCRIPTION	BY	1:200	A4	Jan. 2024	Blanchard	2024-GSR-002	P1

21 Richmond Estate, Blackrock, Cork.



Drawing Status:- PLANNING		Project Title				Drawing Title					
2020 CAD Vision		Proposed Garden Sun Room & Extension to Existing Shed at: 21 Richmond Estate, Blackrock, Cork				PROPOSED PLAN & ELEVATIONS					
		22.01.24	P1	Issued for Section 5 Exemption	Tim.B	Scale	at:	Date	Designer	Drawing No.	Revision
21 Richmond Estate, Blackrock, Cork.		DATE	REV.	DESCRIPTION	BY	1:100	A4	Jan.2024	Blanchard	2024-GSR-003	P1

Proposed Garden Sun Room & Extension to Existing Shed at: 21 Richmond Estate,



3D image of Existing Garden Shed & Greenhouse - Looking East



3D image of Proposed Sun Room - Looking East



3D image of Existing Garden Shed & Greenhouse - Looking South



3D image of Proposed Sun Room - Looking South