

# Comhairle Contae Chorcaí Cork County Council

Seamus Coleman,  
Rathduff,  
Grenagh,  
Co. Cork.  
T23 Y726.

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14<sup>th</sup> December 2023

REF: D/247/23  
LOCATION: Rathduff, Grenagh, Co. Cork, T23 DX44.

**RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE  
PLANNING & DEVELOPMENT ACT 2000 - 2010.**

Dear Sir,

On the basis of the information submitted by you on 30<sup>th</sup> May and 11<sup>th</sup> December 2023 the Planning Authority, having considered the question whether the proposed conversion of a former public house to apartments, along with associated site works at **Rathduff, Grenagh, Co. Cork, T23 DX44** is or is not development and is or is not exempted development has declared that it **is development and is not exempted development.**

## **Reason for Decision**

The Planning Authority in considering this referral had particular regard to:

- Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended)
- Article 10(6) and Schedule 2 of the Planning and Development Regulations 2001 (as amended), and
- The particulars received by the Planning Authority on 30<sup>th</sup> May and 11<sup>th</sup> December 2023

**And Whereas Cork County Council has concluded that –**

The proposed conversion of a former public house to apartments, along with associated site works at **Rathduff, Grenagh, Co. Cork, T23 DX44** constitutes **development that is not exempted development.** On the basis of the information submitted it is considered that you have not demonstrated that the conditions and limitations of Article 10 and Schedule 2 of the Planning and Development Regulations, 2001 (as amended) can be met and that the development is exempt.

**Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.**

Yours faithfully,

  
**KEVIN O' REGAN,  
SENIOR EXECUTIVE OFFICER,  
PLANNING DEPARTMENT.**

- I. Application Type – Section 5 Declaration – **Response to Further Information**
- II. Description - Whether or not the proposed conversion of former public house to apartments and associated site works is or is not development and is nor is not exempted development.
- III. Location – Rathduff, Grenagh, Co. Cork T23DX44
- IV. Applicant – Seamus Coleman

## 1.0 Introduction

The subject application was deferred for Further Information on the 20.06.2023. The applicant was requested to submit the following further information:

1. The applicant should provide sufficient documentation to demonstrate that the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development.
2. The applicant should provide a Housing Quality Assessment demonstrating that all areas with the development comply with the minimum floor area requirements and minimum storage space requirements set out in The Sustainable Urban Housing: Design Standards for New Apartments, December 2022.
3. The applicant should provide sufficient information to demonstrate that proposed development would not consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

The applicant formally responded on 11/12/2023.

## 2.0 Planning Assessment

The applicant has submitted a letter from Irwin, Kilcullen & Co in response to the Request for Further Information.

The letter outlines that a caretaker was resident of the upper level of the premises over the past 2 no. years. The upper level of the premises is subject of the change of use and therefore it has not been demonstrated that *'the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,...'*

The applicant refers to a Fire Safety Certificate. It should be noted that the fire code and regulations is independent of Planning. A Housing Quality Assessment demonstrating that all areas with the development comply with the minimum floor area requirements and minimum storage space requirements set out in The Sustainable Urban Housing: Design Standards for New Apartments, December 2022 has not been provided as requested. I note that some internal areas are annotated, however there is no indication of private/communal open space, storage, refuse, children's play, cycle parking, car parking as set out in the guidelines.

The response letter states that ‘There is a sufficient on-site wastewater treatment capacity for the renovations.’ No technical information in respect of the capacity of the existing waste water system has been provided, nor has it been demonstrated that it would be in compliance with EPA code of practice.

In conclusion, the applicant has not demonstrated that the structure/premises subject to the declaration has been vacant for a period of 2 years, has not demonstrated compliance with the minimum floor area requirements and minimum storage space requirements set out in *The Sustainable Urban Housing: Design Standards for New Apartments, December 2022* and has not demonstrated that it would be in compliance with EPA code of practice for Wastewater.

It is therefore considered that the applicant has not demonstrated that the conditions and limitations of Article 10 and Schedule 2 of the Planning and Development Regulations, 2001 (as amended) can be met and the works are not exempted.

### **3.0 Recommendation**

In considering this referral, regard has been had to:

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000 (as amended);
- (b) Article 10 (6) and Schedule 2 of the Planning and Development Regulations, 2001 (as amended)

And whereas, the Planning Authority has concluded that:

- (a) The works constitute ‘works’ that are ‘development’.
- (b) The works **is development and is not exempted development.**

Ciara Cosgrave  
Assistant Planner  
13/12/2023

### **A/Senior Executive Planner Comments**

On the basis of the information submitted technically the overall structure subject of the proposal under this S5 application has not been fully vacant for a period of 2 years or more immediately prior to the commencement of the proposed development.

With respect to (vi) the applicant has not given information in the requested format to enable the Planning Authority make a full determination against 10(6)(d)(vi).

I note that the applicant’s response state that there is sufficient onsite treatment capacity however public records conflict with this.

With regard to waste water treatment the assessment within the previously refused application on the site reg. ref. 20/4369 for “(1) to demolish existing public house and ancillary outbuildings (2) to construct 2 no. dwellinghouses, each served with its own mechanical treatment unit, intermittent filter and polishing filter (3) all associated site works” is noted. The Area Engineer’s report on this assessment stated that “the existing public house was served by a septic tank and a soakpit not on this site but across the N20 on another site. This septic tank and soakpit do not meet the EPA code of practice standards.”

The submitted independent engineering report with the refused application 20/4369 refers to the existing treatment system as *“the existing badly functioning septic tank”*.

It appears that the existing treatment system requires upgrade.

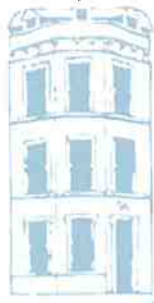
It is noted that Article 10(6)(d)(xii) stipulates that:

*“No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it”*.

On the basis of the information submitted the recommendation is endorsed as it is considered that the applicant has not demonstrated that the conditions and limitations of Article 10 and Schedule 2 of the Planning and Development Regulations, 2001 (as amended) can be met and that the development is exempt.

Recommendation

Is Development and Is Not Exempted Development.



# Irwin, Kilcullen & Co

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Your Ref: EF/23/188

Cork County Council,  
Planning and Development Section,  
County Hall,  
Carrigrohane Road,  
Cork.

Dear Sirs,

**Re: Declaration of exempted development under section 5 of the Planning and Development act 2000 to 2010.  
Former public house at Rathduff, Grenagh, County Cork.**

We apologise for the delay in replying to all your queries of 20 June 2023 (D/247/23). We now reply to the outstanding matters.

Our client purchased a former public house and dwellinghouse which had been known as the Stags Head Public House, Rathduff, Grenagh, County Cork.

The public house had been closed since late 2004 and consisted of the entire ground floor of the premises. This had been vacant since that time as the publicans licence was sold and extinguished on the property.

Point 1: The property had been vacant for a number of years but for the last two years a caretaker had been employed by the then owner of the property to ensure the safety of the property and the caretaker would have been resident upstairs only in the property. The upstairs of the property was only a small portion of the overall property.

Point 2: We confirm that our client has already submitted a Housing Quality Assessment with his plans further to your letter of 20 June 2023; and has also applied for, and been granted a Fire Safety Certificate through BCMS Reference Number 3014917 on the 3<sup>rd</sup> of November 2023 (Cert. no FSC2307045CC).

Point 3: There is a sufficient on-site wastewater treatment capacity for the renovations. The premises consisted of a very large public house/restaurant with residential accommodation upstairs. The public house/restaurant and a large toilet extension for the public house/restaurant (for which planning was obtained) which took up the entire ground floor of the property.

At one point in time the restaurant would have been serving 100 dinners a day. It was a very large and popular public bar also with a considerable throughflow of people. Hence the wastewater treatment capacity for the property had to be quite large and is more than sufficient for the present refurbishment that has taken place.

Please also note that in the course of renovations to the property our client was advised that there was a serious structural fault in the property and he had to install a ring beam in the walls of the property after removing the roof to stabilise the walls and make the building safe to reinstall the roof to the building.

Trusting the above will answer all queries posed we would appreciate if you could confirm that this is an exempted development Under Section 5 of the Planning and Development Act 2000 - 2010.

Yours faithfully,  
David O'Connor  
Solicitor  
Irwin Kilcullen & Co,  
Solicitors



Richard Irwin B.A. D.L.S., M.I.I. Accredited Mediator, David O'Connor, B.C.L.

Chris O'Shea B.C.L., LL.B. Accredited Mediator

# Comhairle Contae Chorcaí Cork County Council

Seamus Coleman,  
Rathduff,  
Grenagh,  
Co. Cork.  
T23 Y726.

20<sup>th</sup> June, 2023

Our Ref.: D/247/23

RE: Declaration of Exempted Development under Section 5 of The Planning and Development Act 2000 – 2010.

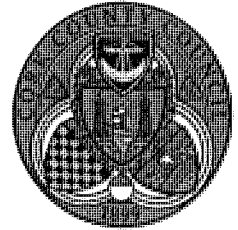
*Whether the proposed conversion of a former public house to apartments at Rathduff, Grenagh, Co. Cork is or is not development and is or is not exempted development.*

Dear Sir,

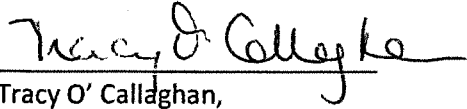
I refer to your application for a Declaration of Exemption in relation to the above. To enable the Planning Authority to issue the declaration on the question, you are requested to submit the following further information:

1. You should provide sufficient documentation to demonstrate that the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development.
2. You should provide a Housing Quality Assessment demonstrating that all areas with the development comply with the minimum floor area requirements and minimum storage space requirements set out in The Sustainable Urban Housing: Design Standards for New Apartments, December 2022.
3. You should provide sufficient information to demonstrate that proposed development would not consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

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Yours faithfully,



Tracy O' Callaghan,  
Staff Officer  
Planning Department.



- I. Application Type – Section 5 Declaration
- II. Description - Whether or not the proposed conversion of former public house to apartments and associated site works is or is not development and is nor is not exempted development.
- III. Location – Rathdduff, Grenagh, Co. Cork T23DX44
- IV. Applicant – Seamus Coleman

**1.0 Requirements for a Section 5 Declaration Application**

Section 5(1) of the Planning and Development Act 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.*

**2.0 The Question Before The Planning Authority**

Whether or not the proposed conversion of former public house to apartments and associated site works is or is not development and is nor is not exempted development.

**3.0 Site Location**

The subject site is located at the ‘Old Stags Head’ Rathdduff, Grenagh, Co. Cork T23DX44.

The site is located in an area designated as a Rural Area under Strong Urban Influence and not located within a settlement boundary in the Cork County Development Plan 2022. The site is not located in Flood Zone A or B. The site is located within the N/M20 Cork – Limerick Project control zone

**4.0 Relevant Planning History**

20/4369 - John and Peggy Sheehan were refused Outline Planning Permission (1) to demolish existing public house and ancillary outbuildings (2) to construct 2 no. dwellinghouses, each served with its own mechanical treatment unit, intermittent filter and polishing filter (3) all associated site works for the following reasons:

1	Having regard to the ground conditions on site, as evidenced by the soil suitability tests carried out on the sites, it is considered that 2 houses on this site with 2 treatment unit and polishing filters cannot be drained satisfactorily by means of a wastewater treatment system. The proposed development would therefore be prejudicial to public health.
2	Having regard to the reports of Transport Infrastructure Ireland, the Cork National Road Design Office and the NM20 Project Roads Design Office in relation to this application, it is considered that the proposed development which falls within the study area of the M20 road scheme is premature at this point in time as it would prejudice the delivery of the proposed M20 road scheme. Accordingly, it is considered that the proposed development at this location is contrary to policy objective TM 3-1 (a) and (b) of the Cork County Development Plan 2014 which seeks to support the national roads authority in implementing major road projects and provide for improvements to the national road

	network, including reserving corridors for proposed routes free of inappropriate development so as not to compromise future road schemes.
3	Having regard to the historic mapping record, it appears that there has been a building/public house at this location for many years, dating back to the 1st edition historic OSi maps. The preference of the Planning Authority is for the refurbishment and re-use of the existing building. On the basis of the information submitted and having regard to objective HE 3-4 of the Cork County Development Plan, 2014, it is considered that the applicant has not submitted sufficient information within this application to support the demolition of the existing building/public house.

11/5677 – John and Peggy Sheehan - Change of use of existing disused carpark area to yard for the storage and sale of tyres and change of use of existing store to office – Refused

11/5680 – John and Peggy Sheehan - Change of use of existing disused carpark area to yard for the storage and sale of timber garden sheds and construction of an office unit. – Granted

14/6705 – John and Peggy Sheehan - Change of use of existing disused carpark area to yard for the storage and sale of timber garden sheds and construction of an office unit. – Extension of Duration to 11/5680 Granted

## 5.0 Relevant Planning Legislation and Regulations

### Planning and Development Act 2000, (as amended)

Section 2(1) of the Act defines “works” as follows:

*“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) of the Act defines “development” as follows:

*“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.”*

### Planning and Development Regulations 2001 to 2018 (as amended)

Amendment of Article 10 of the Principal Regulation

## 6.0 AA and EIA

The application site is not located within the screening zone of any Natura 2000 sites therefore having regard to the lack of ecological or hydrological connection between the development site and any European Site, there is no requirement for Appropriate Assessment.

The development is not of a scale that requires EIA.

## 7.0 Planning Assessment

Works is defined in the Act as *'the carrying out of works on, in, under or works and includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'*. The submitted documents refer to a change of use from public house to 4 no. apartments and associated site works. Having regard to the above, it can be reasonably determined that the change of use referred to above is development.

The question before the Planning Authority is to determine, whether or not the change of use is or is not exempted development.

The Principal Regulations are amended in Part 4 of Schedule 2 by the insertion after CLASS 11 of the following CLASS:

*Class 12 Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018."*

Details of licencing have not been provided to demonstrate the established use of the building however having regard to the architectural drawings and available aerial photography it is considered that the building falls within the definition of Class 12.

Article 10 of the Planning and Development Regulations 2001 (as amended) states:

*"(6) (a) In this sub-article—  
'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;  
'relevant period' means the period from 8 February 2018 until 31 December 2025.*

Noted.

*(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.*

The development relates to a change of use to residential from Class 12 of Part 4 of Schedule 2. The declaration has been received by the Planning Authority within the relevant period.

*(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—*

*(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,*

The structure is visible on aerial photography prior to the making of the relevant amendments.

*(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and*

From review of available aerial and street photography, it is noted that that the building was known and used as the 'Old Stag's Head'.

*(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,*

*then the proposed development for residential use, and any related works, shall be exempted*

*development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).*

The submitted documents do not provide any information to demonstrate that the structure has been vacant for a period of 2 no. years. There are 4 no. bedrooms at first floor level, it is not known whether these are occupied or when such use ceased.

Section 5(2)(b) of the Planning and Development Act 2000 (as amended) states that:

*'A planning authority may require any person who made a request under subsection (1) to submit further information with regard to the request in order to enable the authority to issue the declaration on the question and, where further information is received under this paragraph, the planning authority shall issue the declaration within 3 weeks of the date of the receipt of the further information.'*

It is recommended that the applicant is requested to provide sufficient documentation to demonstrate that the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development.

*(d) (i) The development is commenced and completed during the relevant period.*

It is recommended that an advisory note to this effect is attached where the development is determined to be exempted development.

*(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall -*

*(I) primarily affect the interior of the structure,*

Works principally comprise the internal rearrangement of rooms to provide 4 no. apartments. Elevational drawings submitted annotate new upvc window.

*(II) retain 50 per cent or more of the existing external fabric of the building, and*

The development would retain the existing external fabric of the building.

*(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.*

No changes are proposed that would materially affect the external appearance of the structure

*(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.*

Not applicable

*(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely*

*provide on street access to the upper floors of the structure concerned.*

The structure is not located within a defined settlement boundary in the Cork County Development Plan 2022. There are no relevant objectives pertaining to the structure to be retained as retail use or conflicts with objectives of the development plan with regard to Part 1 Schedule 1 of the act.

*(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.*

The development would comprise 4 no. units.

*(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.*

The Sustainable Urban Housing: Design Standards for New Apartments, December 2022 is the relevant guidelines. It is recommended that the applicant is requested to provide a Housing Quality Assessment demonstrating that all areas comply with the minimum floor area requirements and minimum storage space requirements set out in the above document.

*(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.*

All habitable rooms are served with access to natural lighting.

*(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.*

The structure is not a protected structure.

*(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.*

The development would not contravene a condition attached to a permission.

*(x) No development shall relate to any structure in any of the following areas:*

*(I) an area to which a special amenity area order relates;*

*(II) an area of special planning control;*

*(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.*

The structure is not located in an area to which a special amenity area order relates, in an area of special planning control or within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

*(xi) No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d)*

of article (9)(1), would apply.

The relevant sections of Article 9 of the Planning and Development Regulations are provided below:

9. (1) *Development to which article 6 relates shall not be exempted development for the purposes of the Act— (a) if the carrying out of such development would—*

*(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan*

Not applicable

*(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,*

Not applicable

*(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,*

Not applicable

*(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,*

Not applicable

*(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.*

Not applicable

*(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,*

Not applicable

*ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

Not applicable

*(c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,*

Not applicable

*(d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.*

Not applicable

*(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.*

The submitted documents do not provide any information to demonstrate that proposed development would not consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

It is recommended that the applicant is requested to provide sufficient documentation to demonstrate that such works are not required.

*(e) (i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;*

*(ii) Details of each notification under subparagraph (i), which shall include information on—*

*(I) the location of the structure,*

*(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and*

*(III) the Eircode for the relevant property,*

*shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.*

*(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2026 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii)."*

It is recommended that an advisory note to this effect is attached where the development is determined to be exempted development.

## **8.0 Recommendation**

In considering this referral, regard has been had to:

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000 (as amended);
- (b) Article 10 and Schedule 2 of the Planning and Development Regulations, 2001 (as amended)

And whereas, the Planning Authority has concluded that:

- (a) The conversion of former public house to apartments and associated site works constitute 'works' that are 'development'.
- (b) The conversion of former public house to apartments and associated site works requires Further Information to determine whether the development and is or is not exempted development. It is recommended that the Section 5 is deferred for the following further information:
  - 1. The applicant should provide sufficient documentation to demonstrate that the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development.
  - 2. The applicant should provide a Housing Quality Assessment demonstrating that all areas with the development comply with the minimum floor area requirements and minimum storage space requirements set out in The Sustainable Urban Housing: Design Standards for New Apartments, December 2022.
  - 3. The applicant should provide sufficient information to demonstrate that proposed development would not consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

Ciara Cosgrave  
Assistant Planner  
20/06/2023





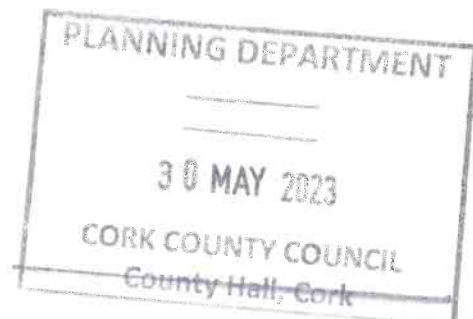
## CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

### APPLICANT CHECKLIST

(Please tick ✓)

- 4 No. Copies of Application Form:
- 1 No. Copy of Contact Details:
- 4 No. Copies 6" O.S. Maps:
- 4 No. Copies 25" O.S. Maps:
- 4 No. Copies of Site Layout Plan:
- 4 No. Copies Scaled Drawings of Development:
- €80 Application Fee:

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>



### FOR OFFICE USE ONLY

Receipt No.	R50041151
Cash/Cheque/ Credit Card	Cash
Date	30/05/2023
Declaration Ref. No.	D1247/23

DATE STAMP HERE

You should make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed by the public. Please do not submit any information that you do not want 3<sup>rd</sup> parties to view.

In the case of a Declaration of Exemption for Land Reclamation, the following additional information is required:

- A copy of the details submitted to the Council's Environment Department (Inniscarra) for a Waste Licence Permit
- Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural purposes)
- Details of existing and proposed levels
- Details of fill material and duration of fill.

### DATA PROTECTION

The planning process is an open and public one. In that context, all applications for Declarations of Exemption are made available for public inspection.

Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data is a key priority for the Council and your data will be processed in line with our Privacy policy which is available at <http://www.corkcoco.ie/Privacy-Policy> or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to [dpo@corkcoco.ie](mailto:dpo@corkcoco.ie) or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

1. NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A - CONTACT DETAILS)

SEAMUS COLEMAN

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

RATHDUFF  
CREMAGIA  
CO CORK (T23DX44)

3. QUESTION/DECLARATION DETAILS:

Please state the specific question for which a Declaration of Exemption is sought

Note: Only works listed and described under this section will be assessed under the Section 5 Declaration of Exemption

Planning Department  
30 MAY 2023  
Cork County Council  
County Hall  
Cork

PROPOSED CONVERSION OF  
PUBLIC HOUSE TO APARTMENTS AND  
ASSOCIATED SITE WORKS

4. **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 metres (m<sup>2</sup>)

(a) Floor area of existing/proposed structure(s):	324.69m <sup>2</sup>
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964 (including those for which planning permission has been obtained):	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas (m <sup>2</sup> ) and previous planning reference(s) where applicable:
(c) If a change of use of land and/or building(s) is proposed, please state the following:  Existing/previous use  Proposed use	  <u>PUBLIC HOUSE</u>  <u>APARTMENTS</u>
(d) Are you aware of any enforcement proceedings connected to this site?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please state relevant reference number(s):

5. **LEGAL INTEREST OF APPLICANT IN THE LAND/STRUCTURE:**

Please tick appropriate box to show applicant's legal interest in the land or structure:	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is "Other", please state your interest in the land/structure:		
If you are not the legal owner, please state the name of the owner/s (address to be supplied at Question C in Contact Details):		

Planning Department  
30 MAY 2023  
Cork County Council  
County Hall  
Cork.

6. **PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:**

Is this a Protected Structure/Proposed Protected Structure or within the curtilage of a Protected Structure: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
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: Yes <input type="checkbox"/> No <input type="checkbox"/>	
If yes, please state relevant reference No. _____	
Is this site located within an Architectural Conservation Area (ACA), as designated in the County Development Plan? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	

7. **APPROPRIATE ASSESSMENT:**


Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes  No

8. **DATA PROTECTION DECLARATION:**

In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <http://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

*Processing of your Declaration of Exemption application by the Planning Authority*

I give permission for my personal information to be processed for the purpose stated above

Signed (By Applicant Only)	
Date	30/05/2023

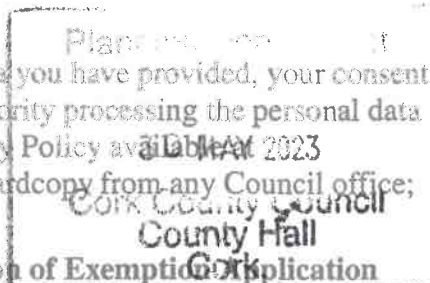
**GDPR Special Categories of data / Sensitive Personal data - Explicit Consent**

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, **explicit consent** to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:


- Race
- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Concerning a natural person's sex life
- Sexual orientation

In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <https://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:



**Sensitive personal data being submitted in support of Declaration of Exemption Application**

I give permission for my sensitive personal data submitted to the Planning Authority to be processed for the purpose stated above.

Signed	
Date	30/5/2023

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: [planninginfo@corkcoco.ie](mailto:planninginfo@corkcoco.ie) or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: [westcorkplanninginfo@corkcoco.ie](mailto:westcorkplanninginfo@corkcoco.ie) However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

**Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.**

**ADVISORY NOTES:**

The application must be accompanied by the required fee of €80

The application must 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 Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- 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 of Exemption is sought.
- Any person issued with a Declaration of Exemption may on payment to An Bord Pleanála refer a Declaration of Exemption for review by the Board within 4 weeks of the date of the issuing of the Declaration of Exemption decision.
- In the event that no Declaration of Exemption 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 of Exemption was due to be issued by the Planning Authority.

*The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption 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.*

9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the Planning and Development Acts 2000, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)		Planning Department 30 MAY 2023 Cork County Council County Hall Cork.
Date	30/05/2023	

# Planning Pack Map



Tailte  
Éireann



**CENTRE COORDINATES:**  
ITM 559670,584952

**PUBLISHED:**  
29/03/2023

**ORDER NO.:**  
50326045\_1

**MAP SERIES:**  
1:5,000  
1:5,000  
1:2,500  
1:5,000

**MAP SHEETS:**  
6145  
6146  
6192-B  
6193

**COMPILED AND PUBLISHED BY:**  
National Mapping Division of  
Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F1E4

**Planning Department**

30 MAY 2023

Cork County Council  
County Hall  
Cork

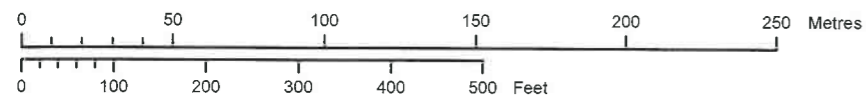
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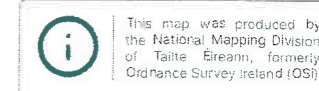
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**OUTPUT SCALE:** 1:2,500

**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:  
[www.osi.ie](http://www.osi.ie), search 'Capture Resolution'

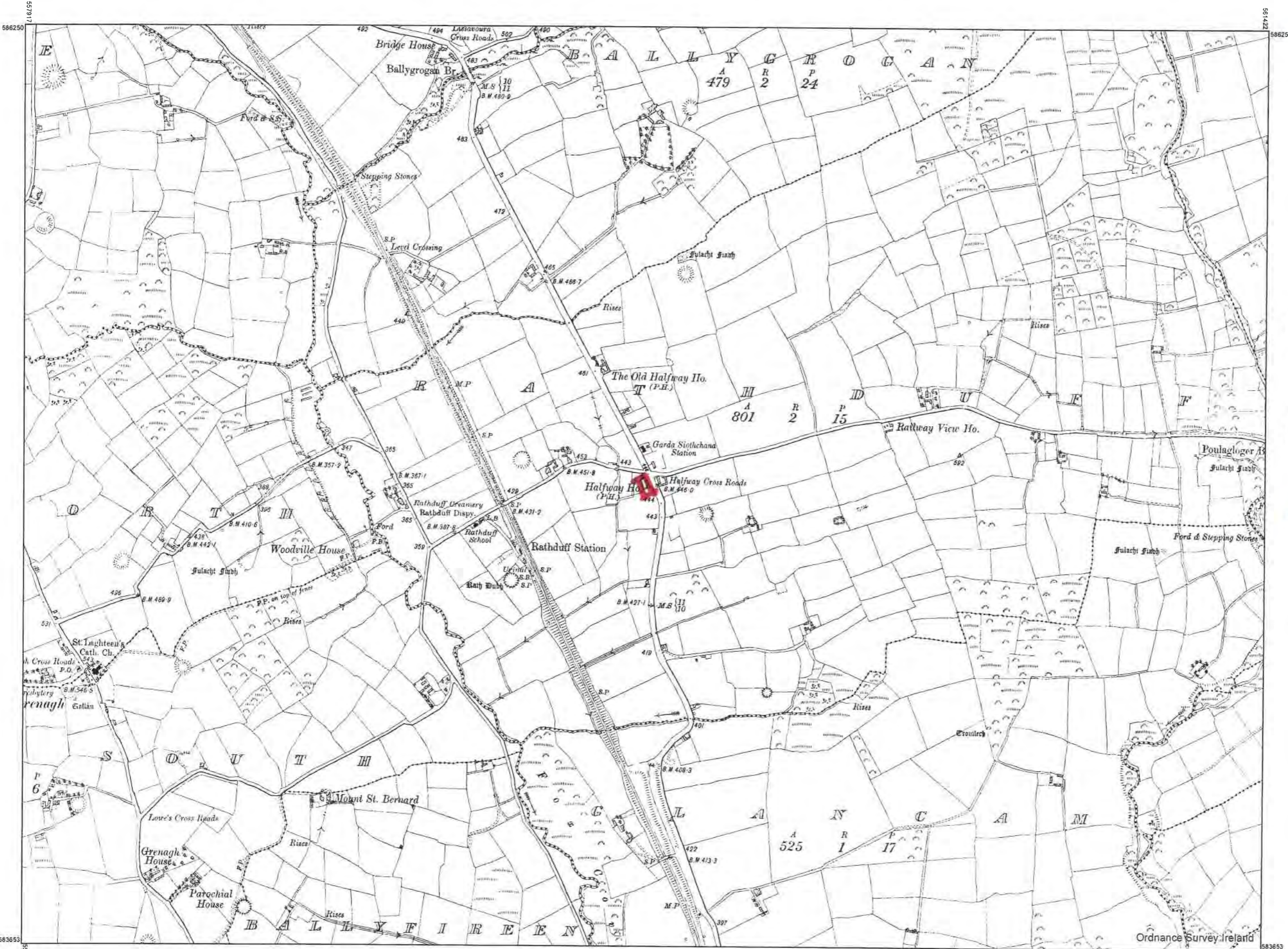
**LEGEND:**  
To view the legend visit  
[www.osi.ie](http://www.osi.ie) and search for  
'Large Scale Legend'



# Site Location Map



Tailte Éireann



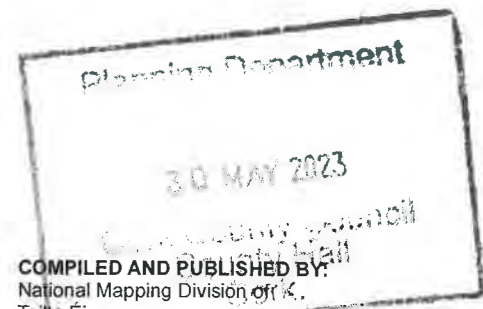
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ITM 559670,584952

**PUBLISHED:**  
29/03/2023

**ORDER NO.:**  
50326045\_1

**MAP SERIES:**  
6 Inch Raster

**MAP SHEETS:**  
CK051



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National Mapping Division of Tailte Éireann,  
Phoenix Park,  
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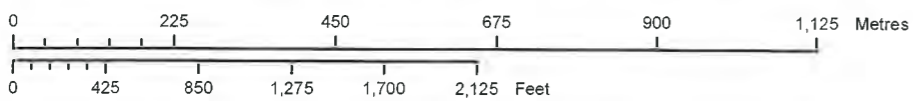
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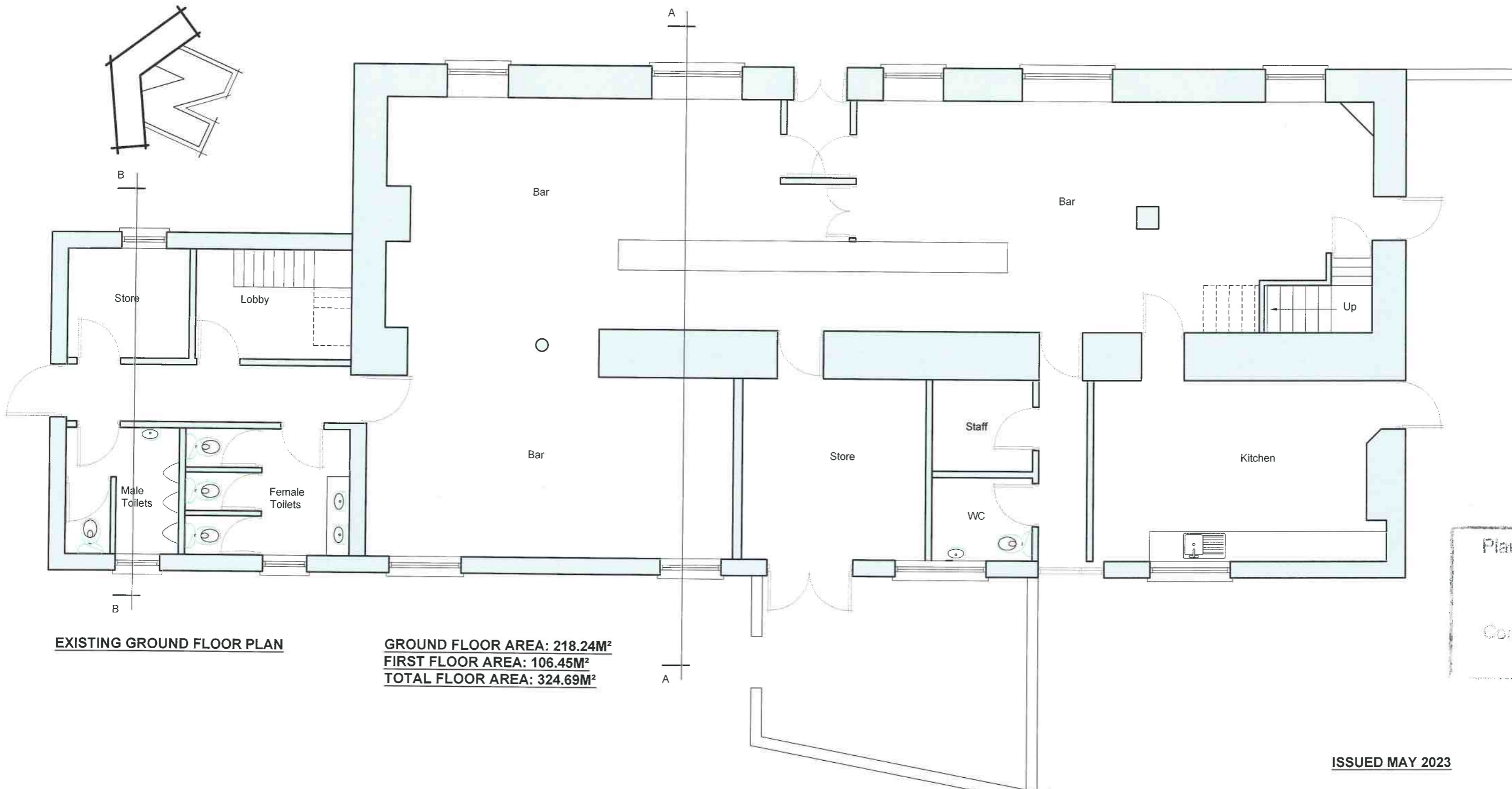


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**CAPTURE RESOLUTION:**  
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: [www.osi.ie](http://www.osi.ie), search 'Capture Resolution'

**LEGEND:**  
To view the legend visit [www.osi.ie](http://www.osi.ie) and search for 'Large Scale Legend'





**EXISTING GROUND FLOOR PLAN**

**GROUND FLOOR AREA: 218.24M<sup>2</sup>**  
**FIRST FLOOR AREA: 106.45M<sup>2</sup>**  
**TOTAL FLOOR AREA: 324.69M<sup>2</sup>**

Planning Department

30 MAY 2023

Cork County Council  
 County Hall  
 Cork

**ISSUED MAY 2023**

Proposed conversion of former public house to apartments and associated site works

At: Rathduff,  
 Co.Cork.

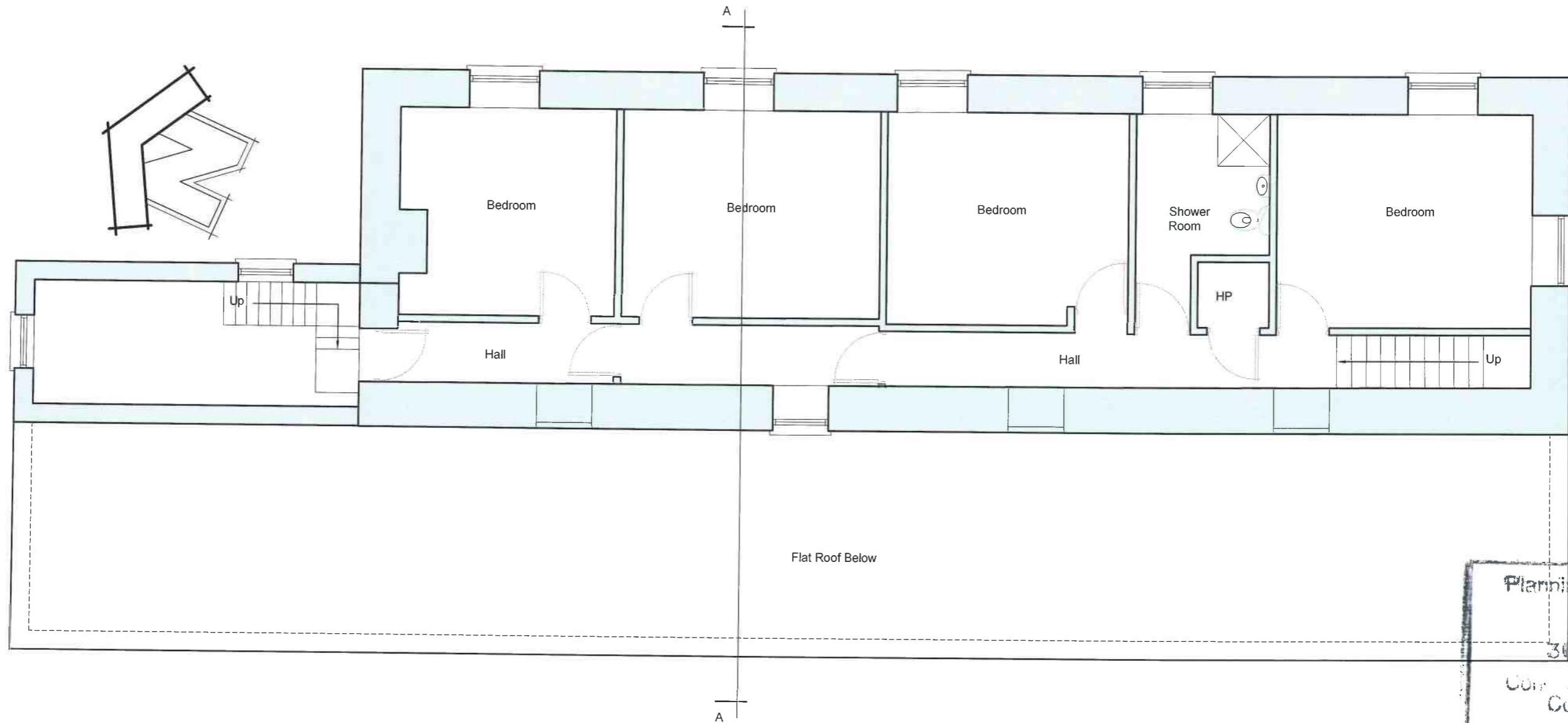
For: Seamus Coleman

**EXISTING GROUND FLOOR PLAN**

Date: 27.05.2023  
 Scale: 1:100

Sheet no.01





**EXISTING FIRST FLOOR PLAN**

Planning Department  
 30 MAY 2023  
 County Council  
 County Hall  
 Cork

**ISSUED MAY 2023**

Proposed conversion of former public house to apartments and associated site works

At: Rathduff,  
 Co.Cork.

For: Seamus Coleman

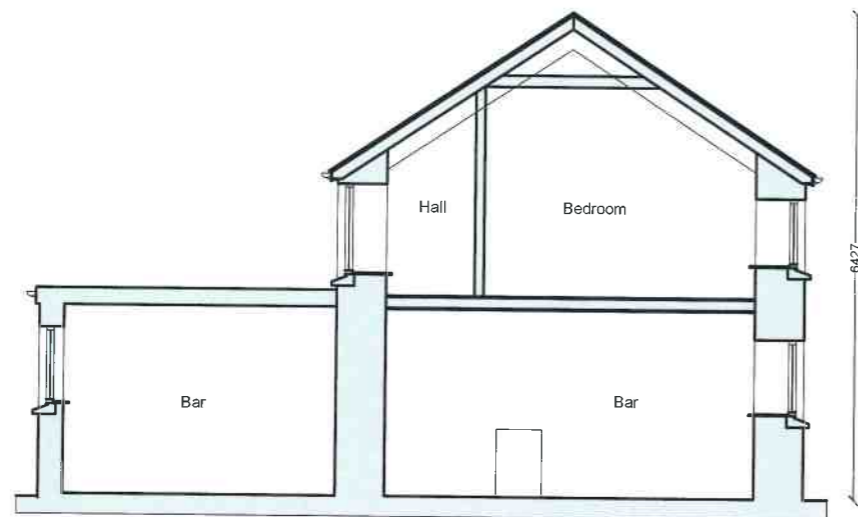
**EXISTING FIRST FLOOR PLAN**

Date: 27.05.2023  
 Scale: 1:100

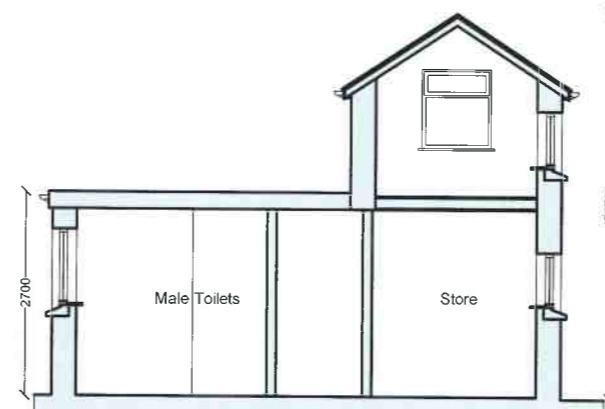
Sheet no.02



**EXISTING EAST ELEVATION**



**EXISTING SECTION AA**



**EXISTING SECTION BB**

Planning Department  
 30 MAY 2023  
 Consulting Council  
 County Hall  
 Cork.

**ISSUED MAY 2023**

Proposed conversion of former public house to apartments and associated site works

At: Rathduff,  
Co.Cork.

For: Seamus Coleman

**EXISTING EAST ELEVATION  
& SECTION AA / BB**

Date: 27.05.2023  
Scale: 1:100



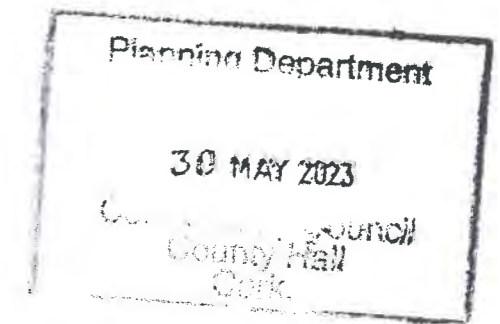
**EXISTING WEST ELEVATION**



**EXISTING SOUTH ELEVATION**



**EXISTING NORTH ELEVATION**



**ISSUED MAY 2023**

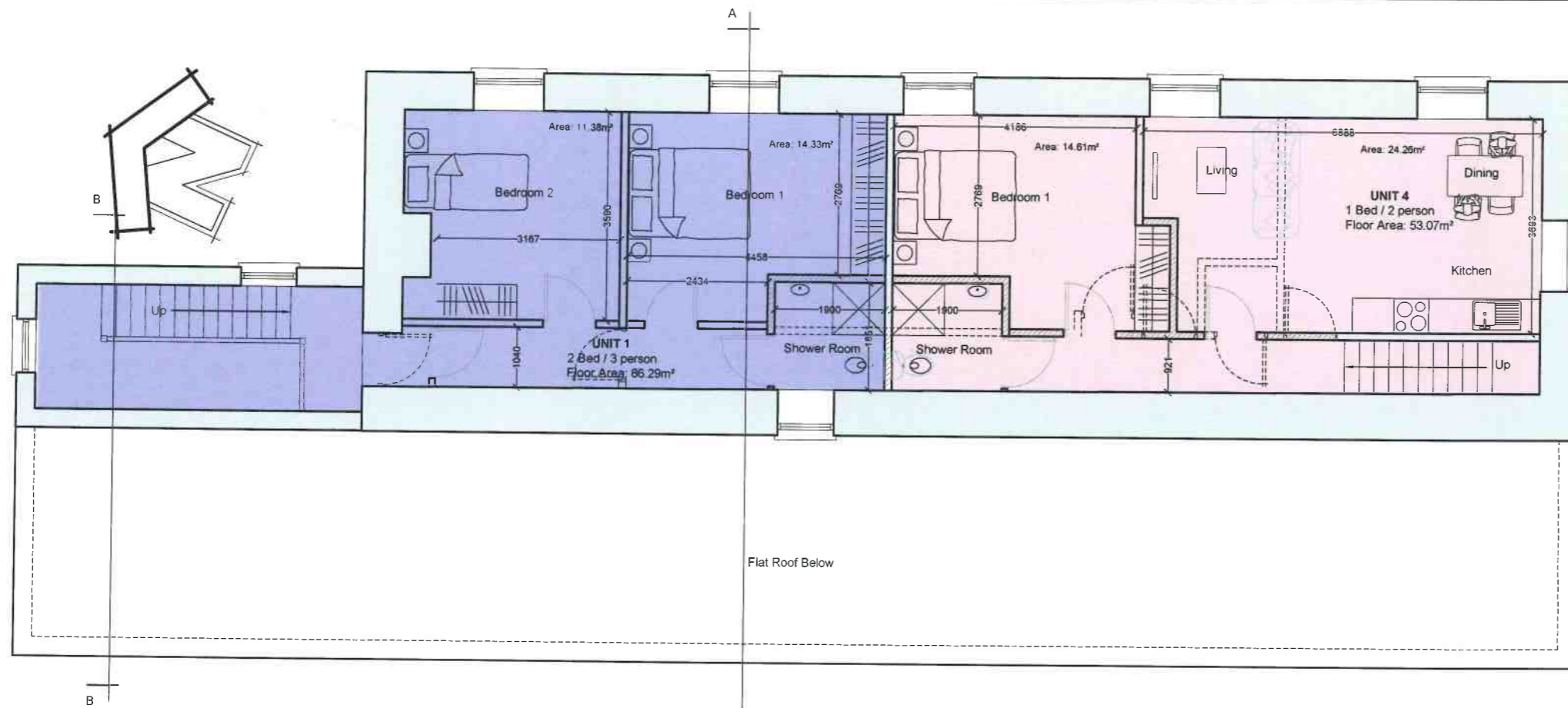
Proposed conversion of former public house to apartments and associated site works

At: Rathduff,  
Co.Cork.

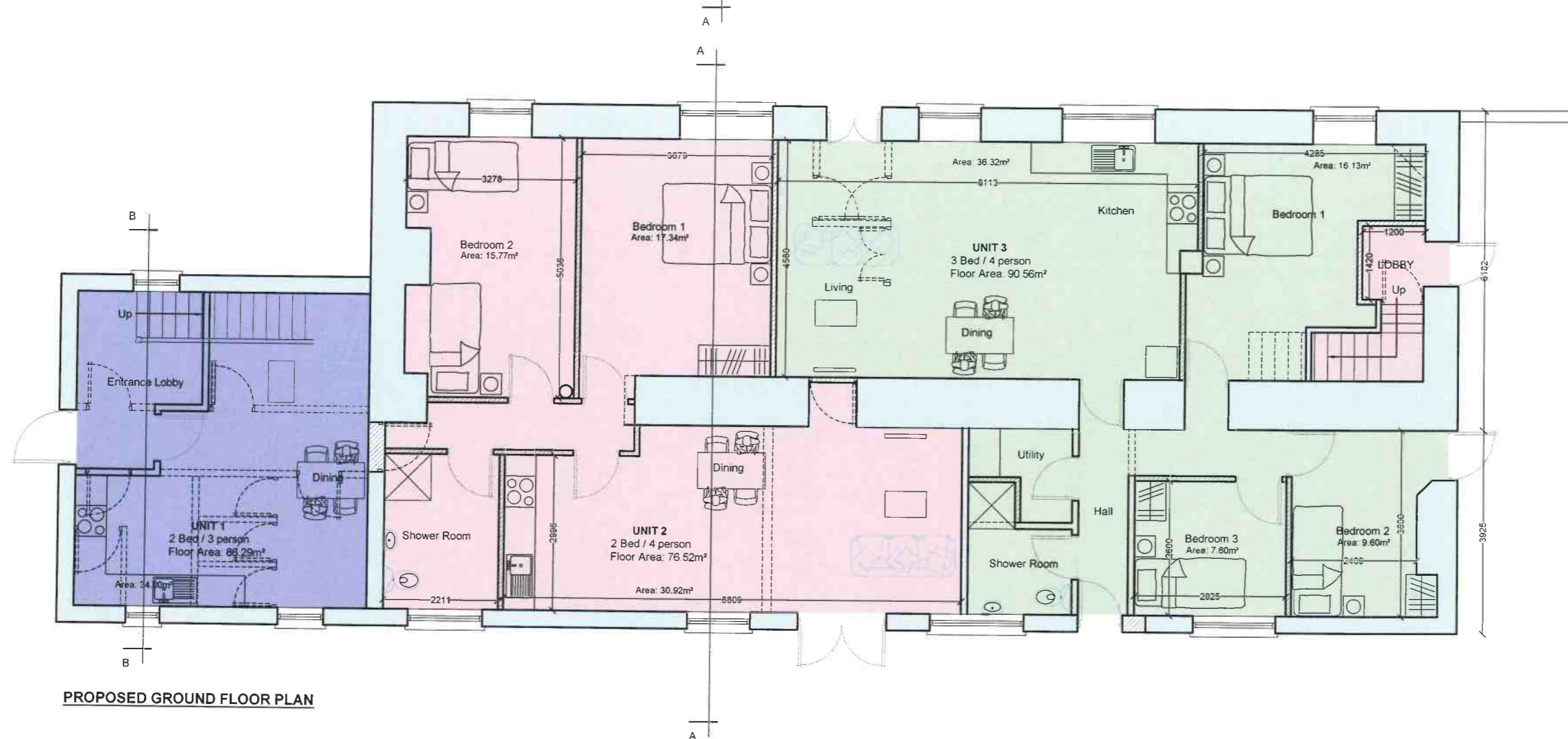
For: Seamus Coleman

**EXISTING WEST, SOUTH & NORTH ELEVATIONS**

Date: 27.05.2023  
Scale: 1:100



**PROPOSED FIRST FLOOR PLAN**



**PROPOSED GROUND FLOOR PLAN**

Planning Department  
 30 MAY 2023  
 Cork County Council  
 County Hall  
 Cork.

**ISSUED MAY 2023**

Proposed conversion of former public house to apartments and associated site works

At: Rathduff, Co.Cork.

For: Seamus Coleman

**PROPOSED GROUND & FIRST FLOOR PLANS**

Date: 27.05.2023  
 Scale: 1:100



**PROPOSED EAST ELEVATION**



**PROPOSED WEST ELEVATION**

Planning Department  
 30 MAY 2023  
 Cork County Council  
 County Hall  
 Cork.

**ISSUED MAY 2023**

Proposed conversion of former public house to apartments and associated site works

At: Rathduff,  
 Co.Cork.

For: Seamus Coleman

**PROPOSED EAST & WEST ELEVATIONS**

Date: 27.05.2023  
 Scale: 1:100

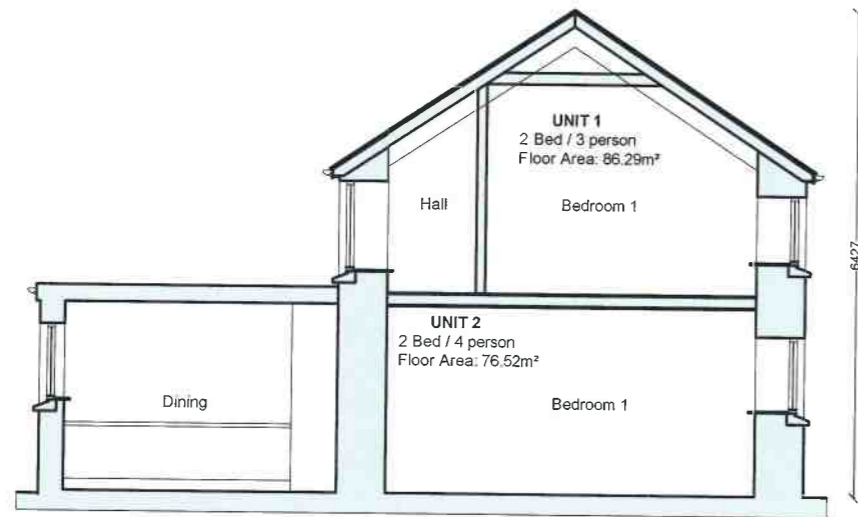
Sheet no.06



**PROPOSED SOUTH ELEVATION**



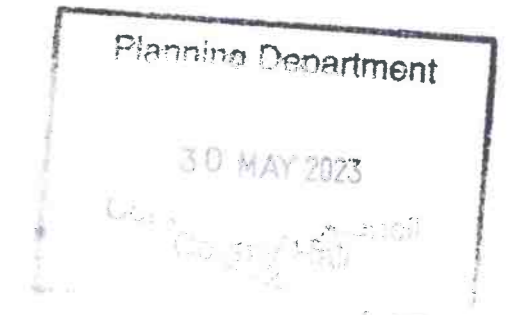
**PROPOSED NORTH ELEVATION**



**PROPOSED SECTION AA**



**PROPOSED SECTION BB**



**ISSUED MAY 2023**

Proposed conversion of former public house to apartments and associated site works

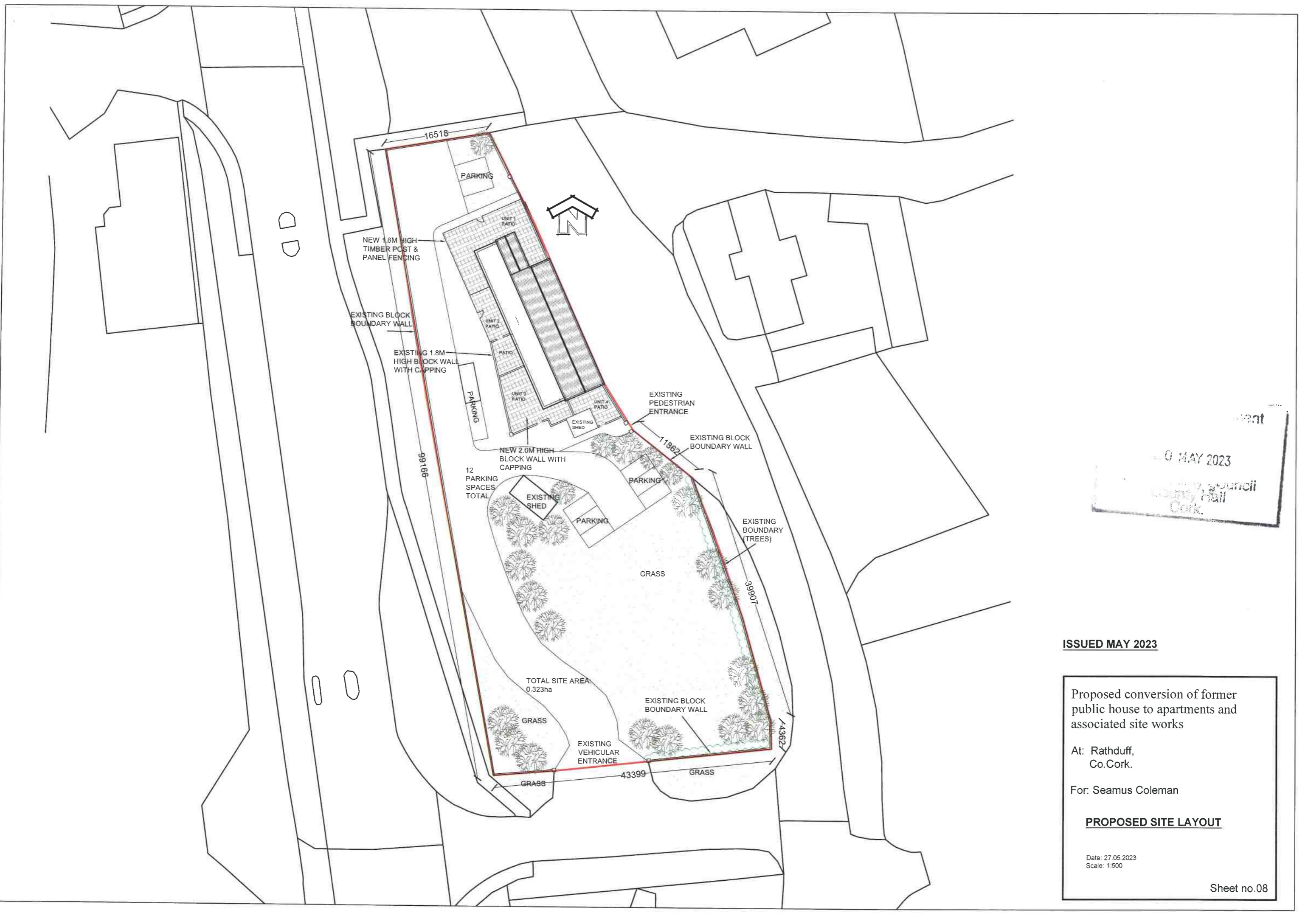
At: Rathduff,  
Co.Cork.

For: Seamus Coleman

**PROPOSED NORTH / SOUTH  
ELEVATIONS & SECTIONS AA / BB**

Date: 27.05.2023  
Scale: 1:100

Sheet no.07



10 MAY 2023  
 Planning Council  
 County Hall  
 Cork.

**ISSUED MAY 2023**

Proposed conversion of former  
 public house to apartments and  
 associated site works  
  
 At: Rathduff,  
 Co.Cork.  
  
 For: Seamus Coleman  
  
**PROPOSED SITE LAYOUT**  
  
 Date: 27.05.2023  
 Scale: 1:500  
  
 Sheet no.08