

Comhairle Contae Chorcaí Cork County Council

Fiona Barrett,
11 Maglin View,
Ballincollig,
Co. Cork.
P31 K292.

Pleanáil agus Forbairt,
Halla an Chontae,
Bóthar Charraig Ruacháin,
Corcaigh T12 R2NC.
Fón: (021) 4276891
R-phost: planninginfo@corkcoco.ie
Suíomh Gréasáin: www.corkcoco.ie
Planning & Development,
County Hall,
Carrigrohane Road, Cork T12 R2NC.
Tel (021) 4276891
Email: planninginfo@corkcoco.ie
Web: www.corkcoco.ie



26th March 2024

REF: D/215/24
LOCATION: Briar Hill, Liskillea, Waterfall, Cork, T12 YY66.

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

Dear Madam,

On the basis of the information submitted by you on 7th March 2024 the Planning Authority, having considered the question whether or not the change of use of the Montessori school to residential use to form part of the main residential dwelling at **Briar Hill, Liskillea, Waterfall, Co. Cork** 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 1, 2, 3, 4 and 6 of the Planning and Development Act 2000, (as amended),
- Schedule 2, Part 1, Exempted Development of the Planning and Development Regulations 2001, (as amended), and
- The particulars received by the Planning Authority on 7th March 2024

And Whereas Cork County Council has concluded that –

The proposed change of use does not comply with any of the Classes of exemptions as outlined in the Planning and Development Regulations 2001 (as amended) nor Section 4 of the Planning and Development Act, 2000, (as amended). The proposed change of use is considered development which is **not exempted development**, and a planning application would be required for said change of use.

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,



**CATHAL DE BARÓID,
ADMINISTRATIVE OFFICER,
PLANNING DEPARTMENT.**

D/215/24 – Section 5 Declaration

A Section 5 declaration is sought by Fiona Barrett of Briar Hill, Liskella, Waterfall Co. Cork T12YY66 for *change of use of the montessori school to residential use to form part of the main residential dwelling.*



Figure 1 Subject site location

Question subject of the Section 5

On the basis of the information submitted the question to be addressed under this request is as follows:

“Whether the change of use of the montessori school to residential use to form part of the main residential dwelling is development and is or is not exempted development.

Planning History

On site

22/5694 Permission granted to Fiona Barrett for retention of the change of use of part of ground floor of existing dwelling to Montessori school for sessional hours and new access ramp to entrance to side.

03/2127 Permission refused to Tony and Miriam Collins for a dwelling

The original house was granted permission under Reg. Ref 1991/84P.

A planning application to '*Retain conversion of attic space to living accommodation, construction of extension and partial change of use of bung. for use as Montessori school*' was granted under 7704/OOP subject to conditions.

1. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000, as amended

Section 2(1) states as follows:-

"In this Act, except where the context otherwise requires – 'development' has the meaning assigned to it by Section 3 ..."

Section 3 (1) states as follows:-

"In this Act, 'development' means, except where the context otherwise requires, the carrying out of 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) identifies what may be considered as exempted development for the purposes of the Act, and Section 4(2) of the Act provides that the Minister, 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.

Planning and Development Regulations, 2001 as amended

Article 6(1) of the Planning & Development Regulations, 2001 as amended states as follows:-

"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(1) of the Planning & Development Regulations, 2001 as amended, provides a number of scenarios whereby development to which article 6 relates shall not be exempted development for the purposes of the Act.

Assessment

I note the details and drawings submitted as part of the application.

The site is occupied by a single storey dwelling. The dwelling was the subject of a planning application in 2022, Pl. Ref 22/5694 for permission for the retention of the change of use of part of the single storey residential dwelling to a Montessori school and permission was granted.

The works proposed are considered 'development' in accordance with Section 3 (1) of the Planning and Development Act, 2000 as the change of use is a material change.

I have reviewed the development proposal in relation to exemptions as provided in the Planning and Development Regulations 2001, as amended and Section 4 of the Planning and Development Act, 2000 as amended and would contend that there are no exemptions for the proposed change of use proposed. Therefore planning permission is required.

Conclusion

WHEREAS a question has arisen as to *Whether the change of use of a montessoiri school to residential use to form part of the main residential dwelling is development and is or is not exempted development:***AND WHEREAS** Cork County Council, in considering this referral, had regard particularly to

- Sections 1,2, 3, 4 and 6 of the Planning and Development Act, 2000, as amended
- Schedule 2, Part 1, Exempted Development – General of the Planning and Development Regulations 2001, as amended

The Planning Authority has concluded that:

- The proposed change of use does not comply with any of the Classes of exemptions as outlined in the Planning and Development Regulations 2001 as amended nor Section 4 of the Planning and Development Act, 2000, as amended.
- The proposal is considered development and is not exempted development.



Carol Dunne
Executive Planner

21.03.2024

29/2/2024

Re: Briar Hill, Liskillea, Waterfall, Cork T12yy66

Reverting from Montessori School to Residential

TO WHOM IT CONCERNS

Following communications with Tracy O'Callaghan, following my parents passing and the closing of the school June 2023 the house is now for sale and on the advice of the Estate Agent for Stamp Duty Purposes we wish to revert to Residential planning. I have enclosed original plans, the approval for the school in 2001 and the updated plans for Túsla in 2020/2021, so I hope it will be straightforward to yourselves and we can get a very quick decision on this.

Thanking you for your help.

Kind Regards

Fíona Barrett

0872333070





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.	PL2-0002355
Cash/Cheque/ Credit Card	Please phone 087 2333070 CASH
Date	08/03/2024
Declaration Ref. No.	D/215/24



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 3rd 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 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)

Fiona Barrett

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

Briar Hill
Liskillea
Waterfall
Cork
T12yy66

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

House has been used as a Montessori School since 2001. Following my Parents passing the house is now being sold and I wish to have the property reverted to Residential use for Stamp Duty Purposes as discussed with the Estate Agent for Sales purposes. There are no other parties involved so I am hoping this is very straight forward as we had planning and this was even updated a few years ago for Túsla and we just need to now revert back to residential please. I'm hoping this can be done as soon as possible please.

PLANNING DEPARTMENT

07 MAR 2024

CURK COUNTY COUNCIL
County Hall, Cork

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 (m²)

(a) Floor area of existing/proposed structure(s):	
(b) If a domestic extension is proposed, 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 (m ²) 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 Montessori School	Proposed use Residential
(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:	<div style="border: 1px solid black; padding: 5px;"> <p>PLANNING DEPARTMENT</p> <p>07 MAR 2024</p> <p>CORK COUNTY COUNCIL</p> <p>County Hall, Cork</p> </div>	
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):		

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

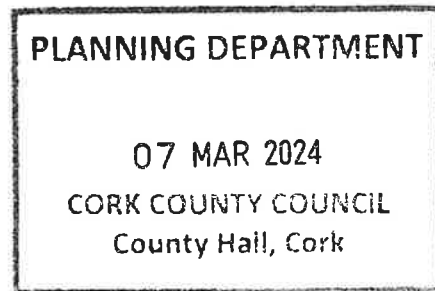
Signed (By Applicant Only)	<i>Fiona Barrett</i>
Date	<i>27/2/2024</i>

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	<i>Fiona Barrett</i>
Date	<i>27/2/2024</i>

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 or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: 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.

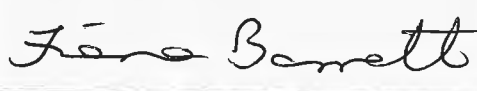
ADVISORY NOTES:

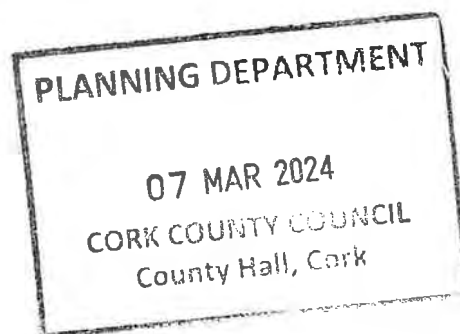
The application must be accompanied by the required fee of €80
The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.
Sufficient information should be submitted 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)	
Date	27/2/2024



Permission for Montessori School 2001

PLANNING DEPARTMENT
07 MAR 2024
CORK COUNTY COUNCIL
County Hall, Cork

CORK COUNTY COUNCIL

LOCAL GOVERNMENT (PLANNING & DEVELOPMENT) ACTS, 1963-1993

2 NOTIFICATION OF DECISION TO GRANT PERMISSION (with conditions)

Reference No. in Planning Register
S/00/7704

KEVIN & MARGARET DAVIS
Briar Hill,
Lisskillea,
Waterfall,
Cork

In pursuance of the powers conferred upon them by the above mentioned Acts, the Council of the County of Cork have by Order dated **21 MAY 2001** decided to GRANT PERMISSION for the development of land namely:

Retain conversion of attic space to living accommodation,
construction of extension and partial change of use of bung.
for use as Montessori school.
AT: BRIAR HILL, LISKILLEA,
WATERFALL

in accordance with the plans and particulars submitted by the applicant

On: 20/12/00

And as amended by Drawings on 16/01/01 and 23/03/01 and 29/03/01

and subject to the conditions (9 No.) set out in column 1 of the Schedule attached hereto. The reasons for the imposition of the said conditions are set out in column 2 of the Schedule.

An appeal against a decision of the Planning Authority may be made to An Bord Pleanála by any person before the EXPIRATION of the period of ONE MONTH beginning on the day of the giving (..e. Date of Order) of the decision of the Planning Authority. (SEE NOTES ATTACHED)

If there is no appeal against the said decision, a grant of PERMISSION in accordance with the decision will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanála.

It should be noted that until a grant of PERMISSION has been issued, the development in question is NOT AUTHORISED.

Planning Department,
County Hall,
Cork.

Signed on Behalf of the said Council

DATE:

21 MAY 2001

SEE NOTES ATTACHED

CORK COUNTY COUNCIL

Local Government (Planning & Development) Acts, 1963 - 1998

PLANNING DEPARTMENT

07 MAR 2024

CORK COUNTY COUNCIL
County Hall, Cork

TO: KEVIN & MARGARET DAVIS
Briar Hill,
Lisskillea,
Waterfall,
Cork

Planning
Register No: S/00/7704

Application by KEVIN & MARGARET DAVIS

Of Briar Hill, Lisskillea,
Waterfall, Cork

On 20/12/00 And as amended by Drawings on 16/01/01 and 23/03/01 and 29/03

for Retain conversion of attic space to living accommodation,
construction of extension and partial change of use of bung.
for use as Montessori school.

at BRIAR HILL, LISKILLEA,
WATERFALL

Further to Notice dated 21/05/01 the Cork County Council hereby
conveys a grant of PERMISSION for the application described above
subject to the conditions set out in the schedule (if any) attached
to the said Notice dated 21/05/01 of its intention to grant
PERMISSION.

Signed on behalf of Cork County Council

Planning Dept.,
County Hall,
Cork.

Date: 25/06/01

NOTE FOR GUIDANCE OF DEVELOPERS

A grant of Planning Permission or Approval does NOT of itself empower
a person to carry out a development unless that person is otherwise
legally entitled to do so. Unless otherwise stated or unless it is
revoked a Permission is valid for a period of five years.
Approval is valid only for the period of the Outline Permission to
which it relates.

Any development which takes place prior to the payment of a financial
contribution required by any of the conditions attached to a permission
or approval will be unauthorised until compliance with the condition or
conditions.

Please note that there is an onus on developers to ensure that there is
no danger to the public as a result of the proposed development.



PLANNING DEPARTMENT
07 MAR 2024
CORK COUNTY COUNCIL
County Hall, Cork

Planning Pack Map



CENTRE COORDINATES:
ITM 562380,563831

PUBLISHED: 24/02/2022
ORDER NO.: 50252664_1

MAP SERIES: 1:5,000
MAP SHEETS: 6468, 6507

Planning Department

18 JUL 2022
Cork County Council
County Hall
Cork.

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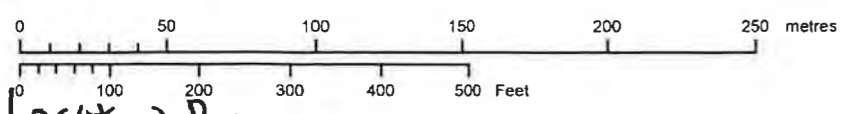
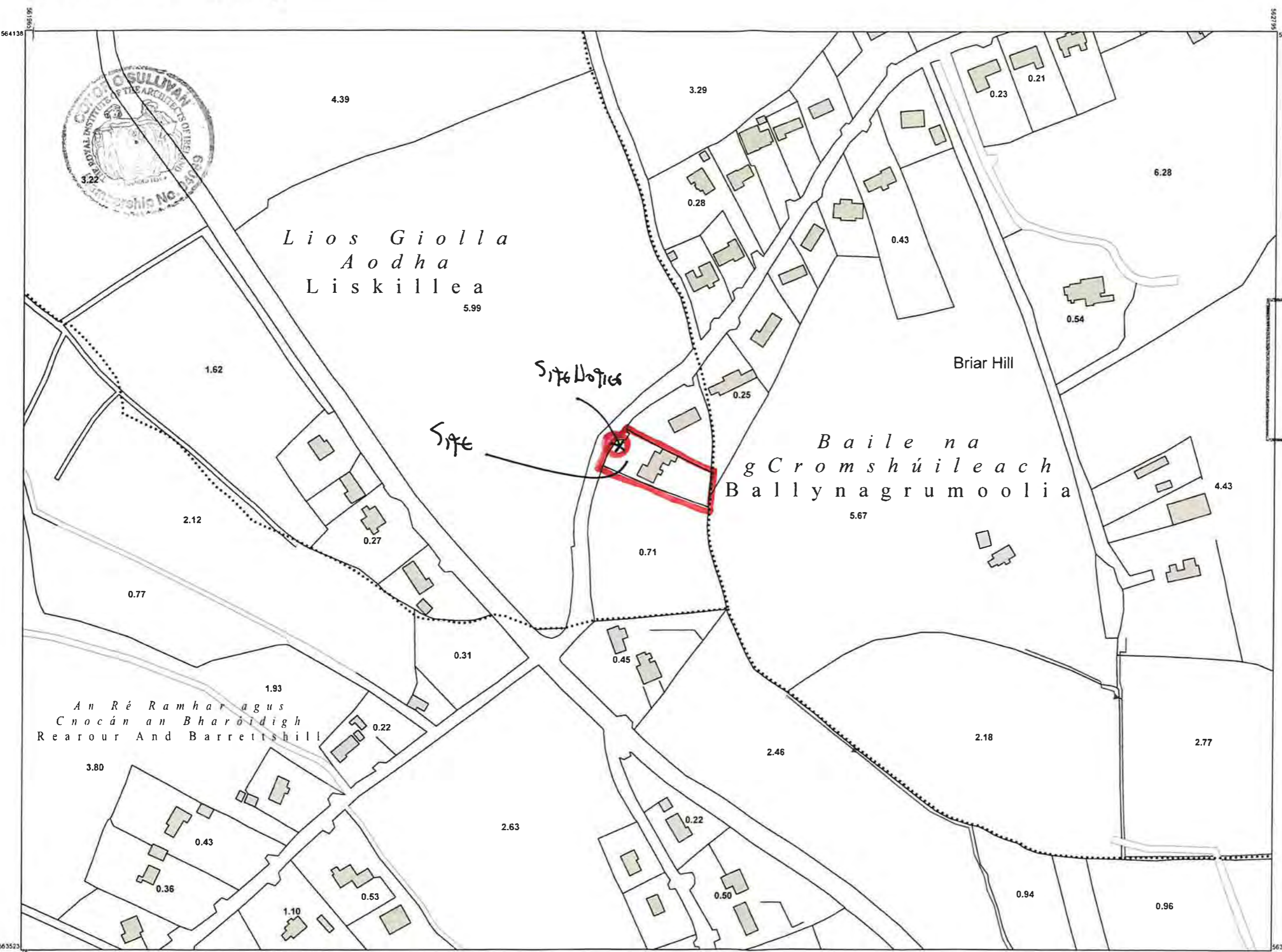


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LEGEND:

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



OUTPUT SCALE: 1:2,500

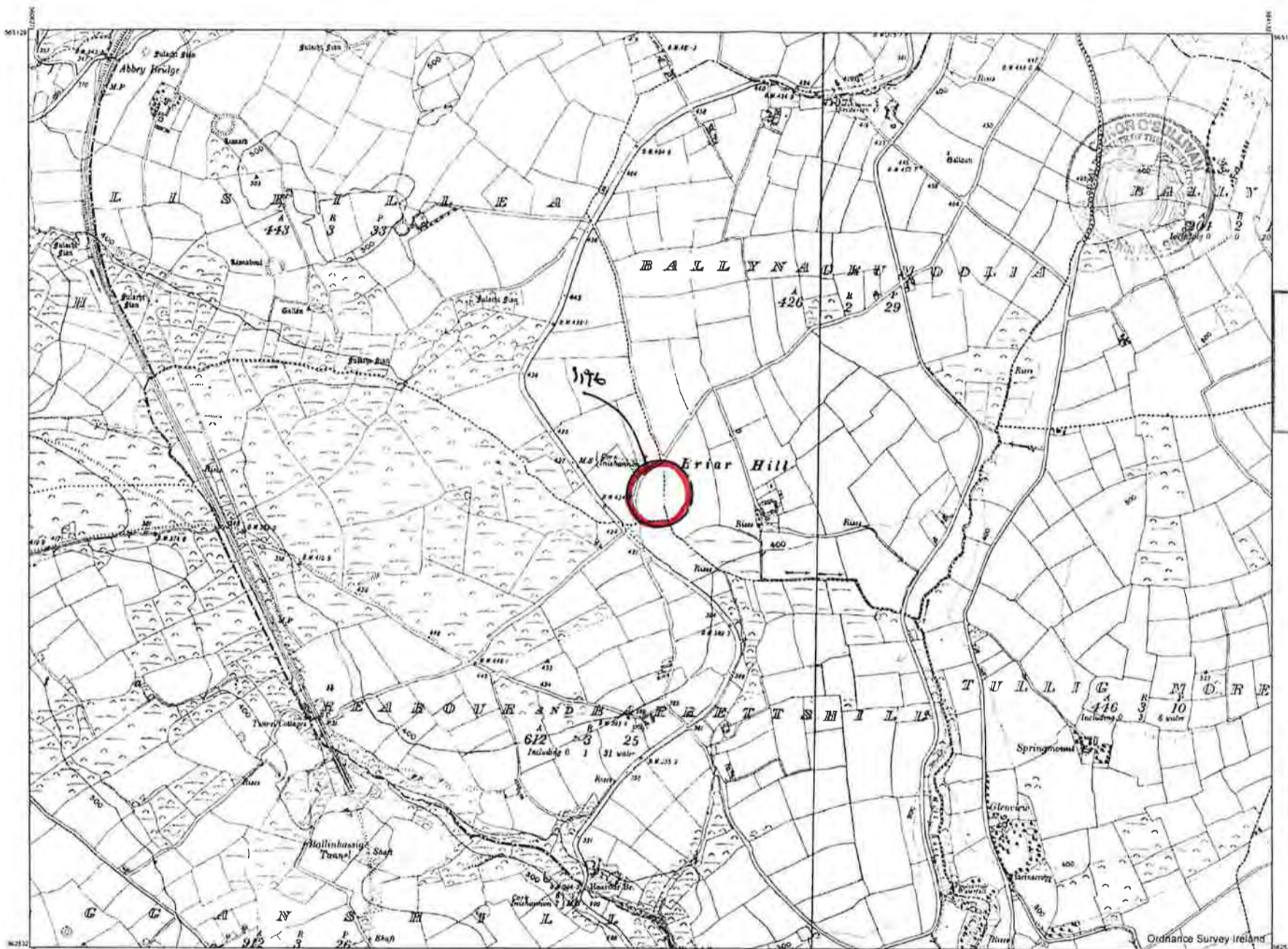
CAPTURE RESOLUTION:
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Site Location Plan

1138.sk2

Site Location Map



CENTRE COORDINATES:
ITM 562380,563831

PUBLISHED:
24/02/2022

ORDER NO.:
50252664_1

MAP SERIES:
6 Inch Raster
6 Inch Raster

MAP SHEETS:
CK085
CK086

Planning Department

18 JUL 2022
Cork County Council
County Hall
Cork.

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LEGEND:

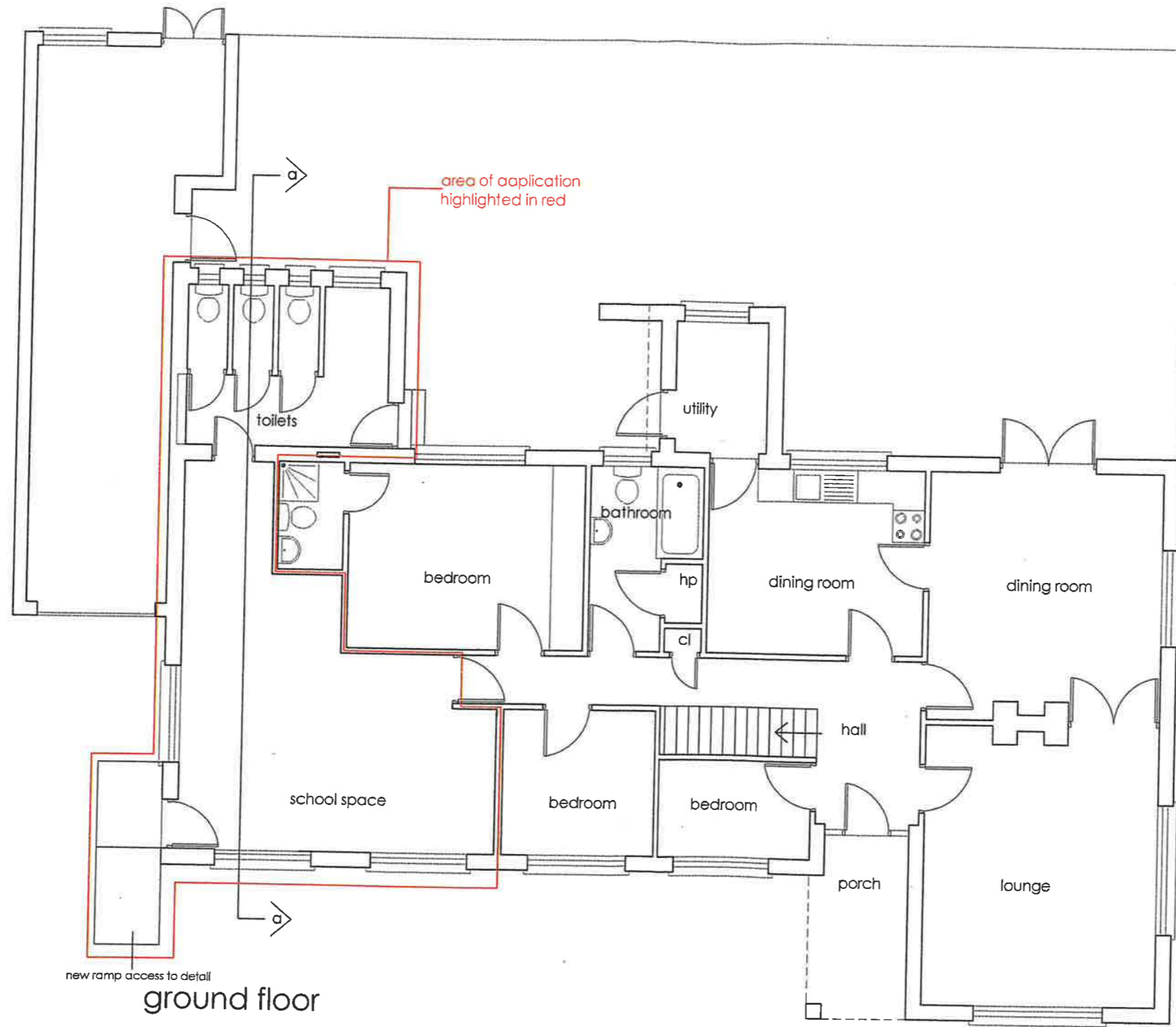
<http://www.osi.ie>,
search "Large Scale Legend"

CAPTURE RESOLUTION:
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resolution at which they were captured.
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Further information is available at
<http://www.osi.ie>, search "Capture Resolution"



Site Location Plot

188.s.k



PLANNING DEPARTMENT
 07 MAR 2024
 CORK COUNTY COUNCIL
 County Hall, Cork



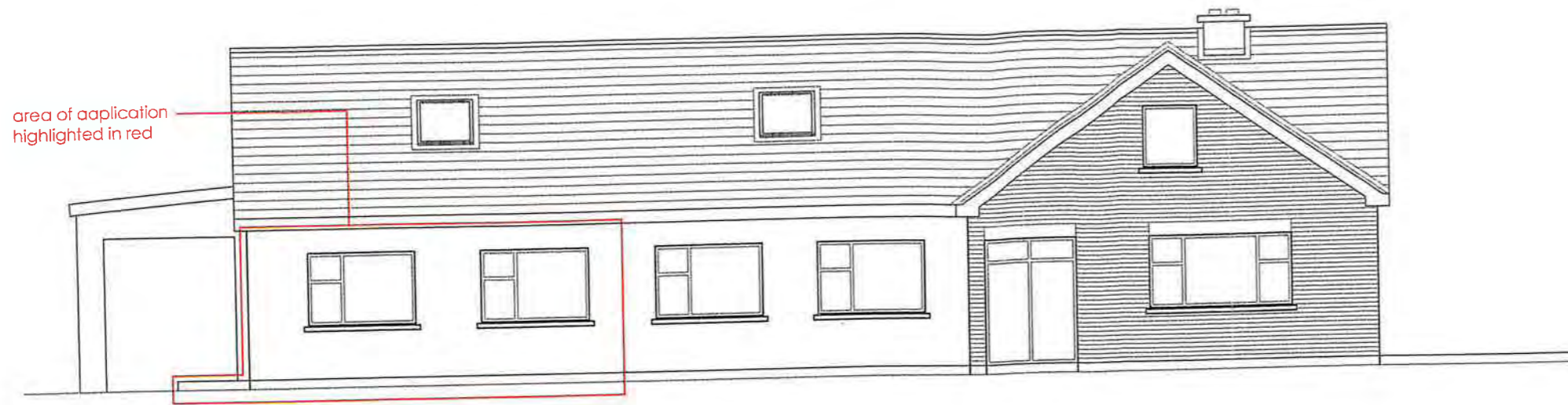
revisions

dig type	planning permission	drawn	co's
title	ground floor plan	date	february 2022
scale	1/100		

conor o'sullivan b.a.(hons), dip.arch(oxford), mtd, rba.
 architect
 www.casarchitect.com
 tel 084 390 7303
 email info@casarchitect.com

manuscript school in part of dwelling
 for fiona banett

drp no	
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front elevation



rear elevation

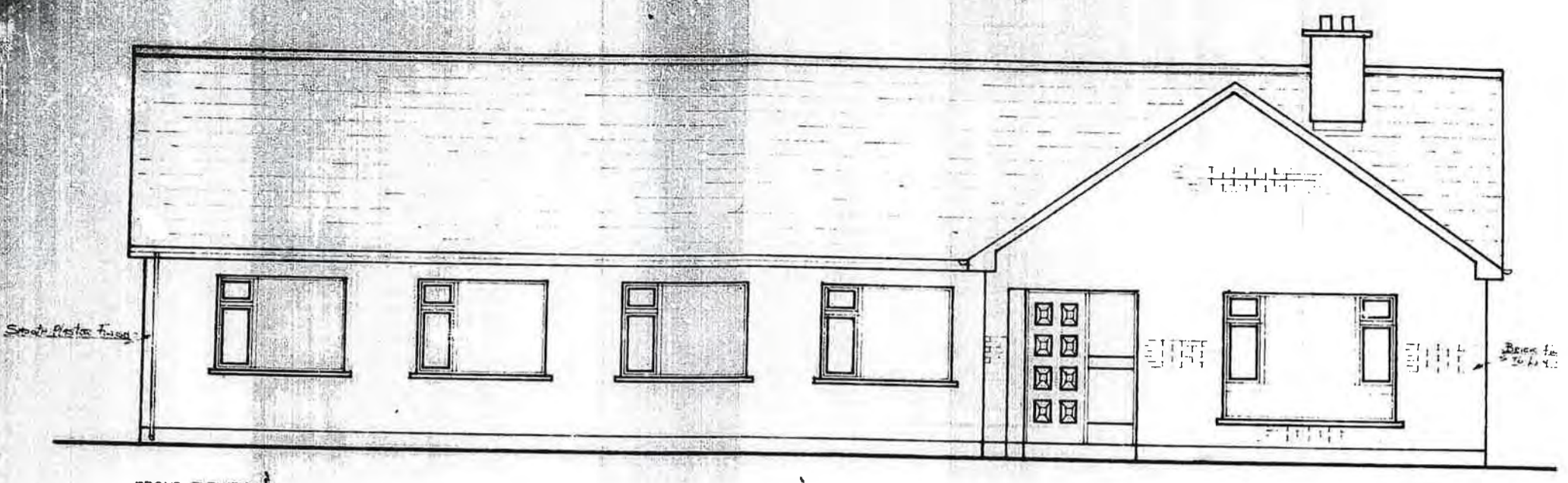
PLANNING DEPARTMENT
 07 MAR 2024
 CORK COUNTY COUNCIL
 County Hall, Cork

revisions	dsg type planning permission title front + rear elevations scale 1/100	drawn ca's date february 2022	cenor a'uisian b a' hana), do architead, mfol, d'ba architect siacusa, church hill, glanville, co. cork	web www.cosaarchitect.com tel 086 390 7303 email info@cosaarchitect.com	monies of school in part of dwelling for lona basall at piar hi, killea, waterfall, co. cork	dsg no 1138 AP-300	COSA
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Updated Planning for Tisla 2021

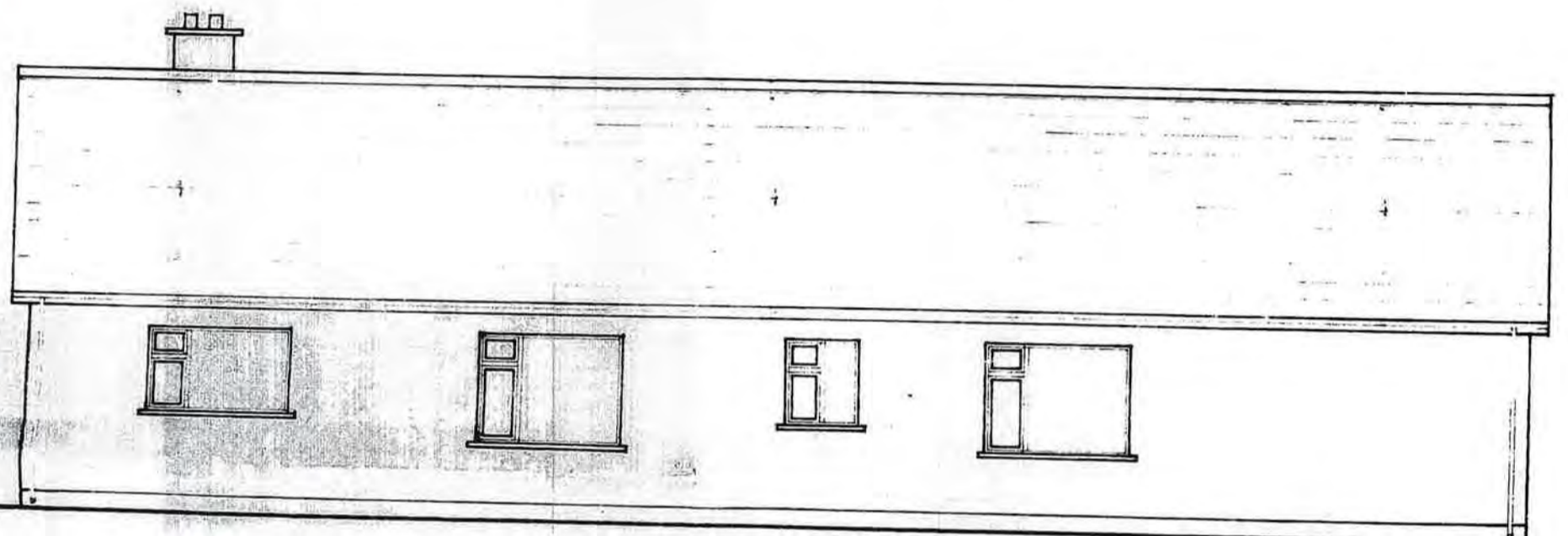
PLANNING DEPARTMENT
07 MAR 2024
CORK COUNTY COUNCIL
County Hall, Cork

15

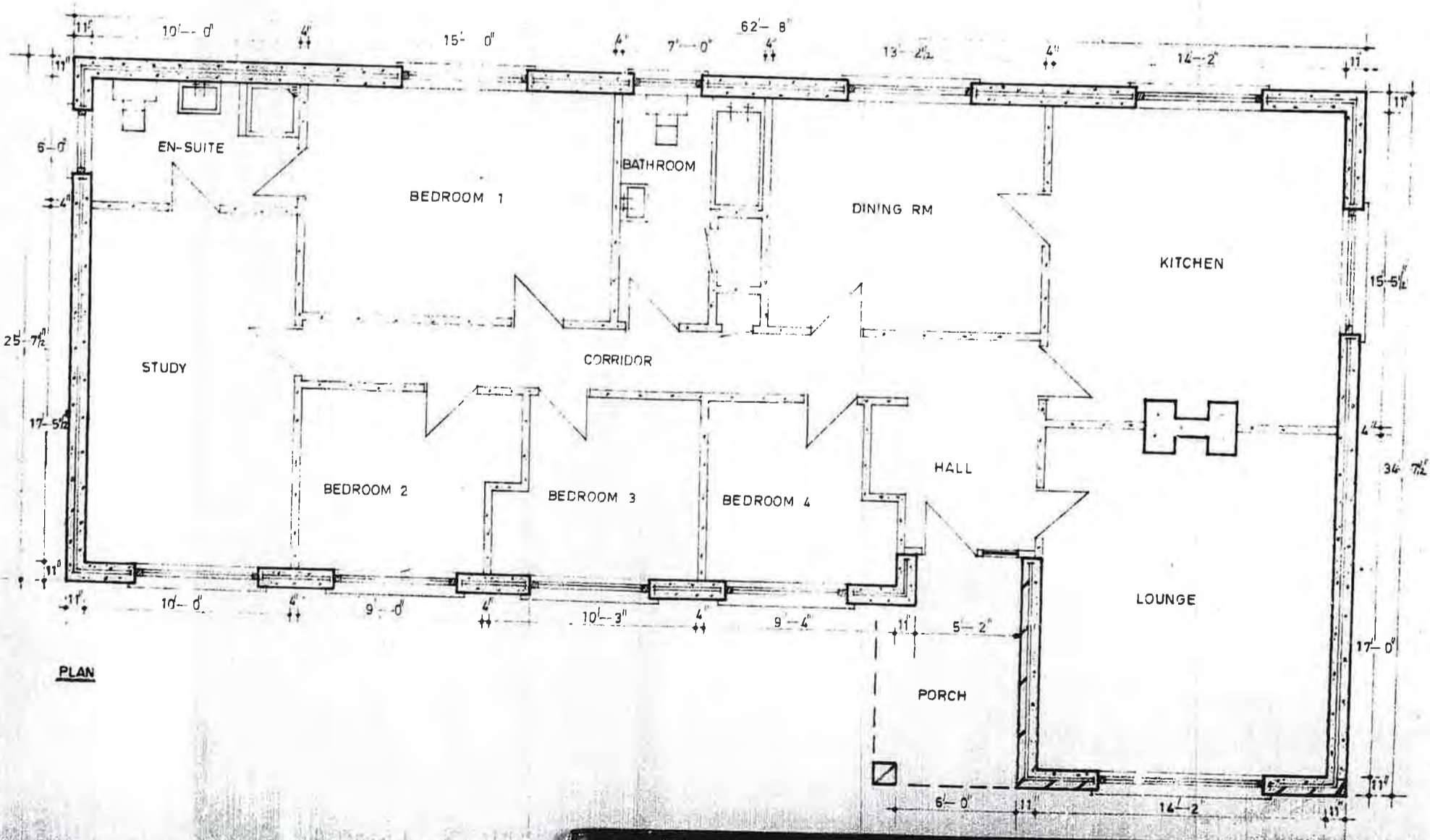


FRONT ELEVATION

(Original 1934 Plan)

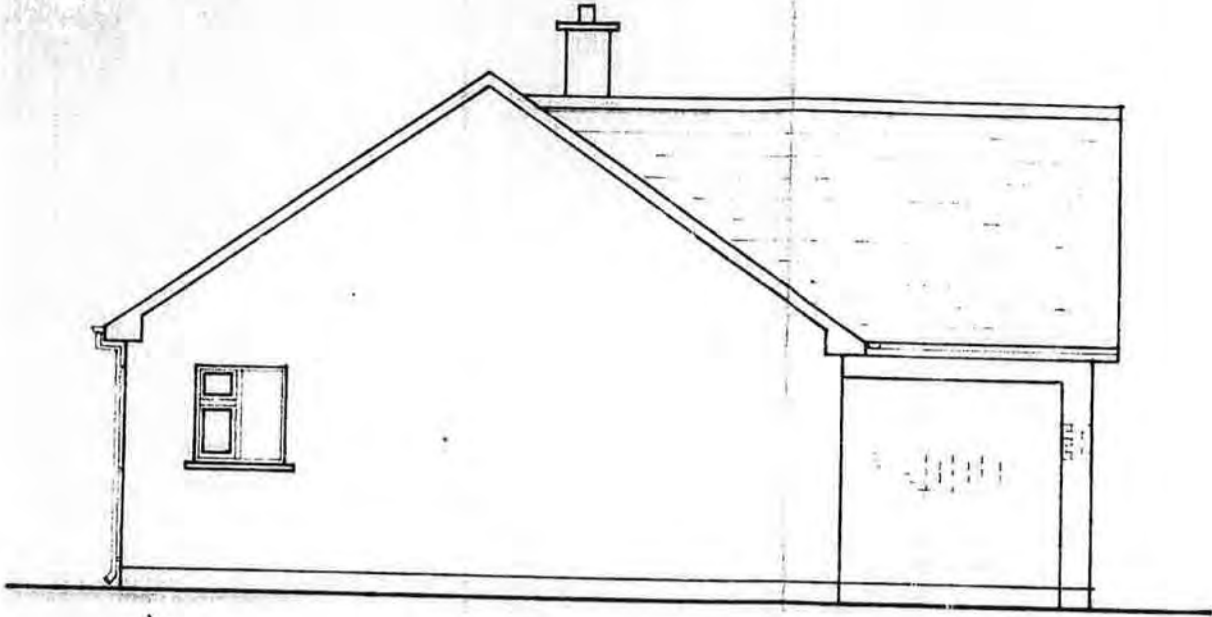


REAR ELEVATION

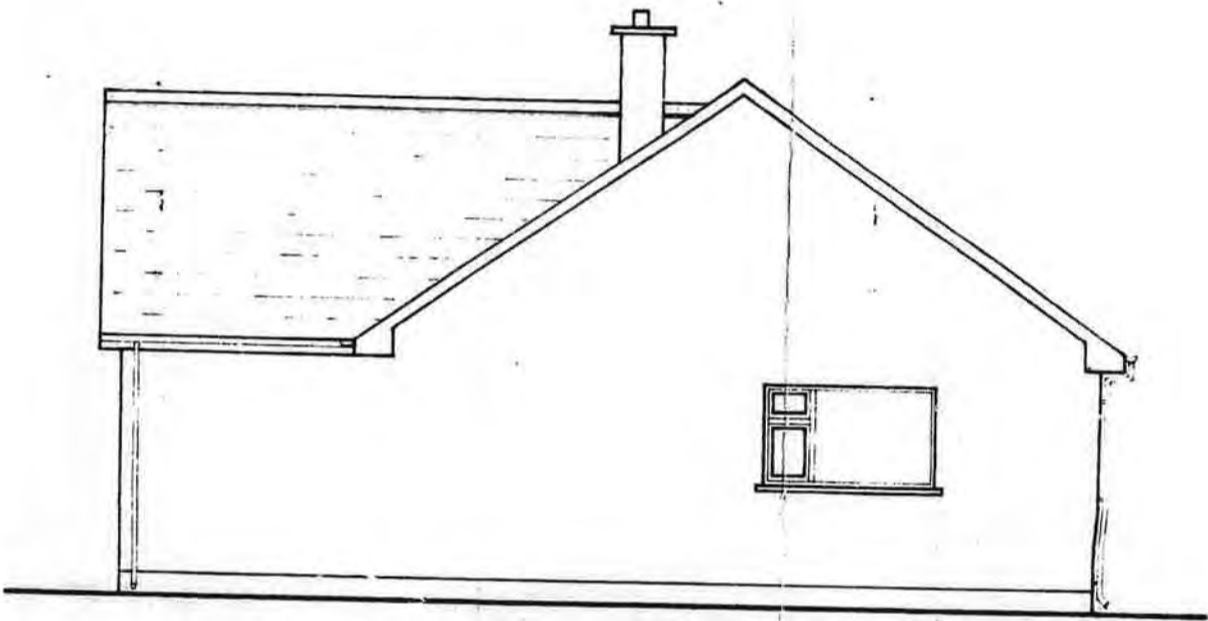


PLAN

as noted
to notes

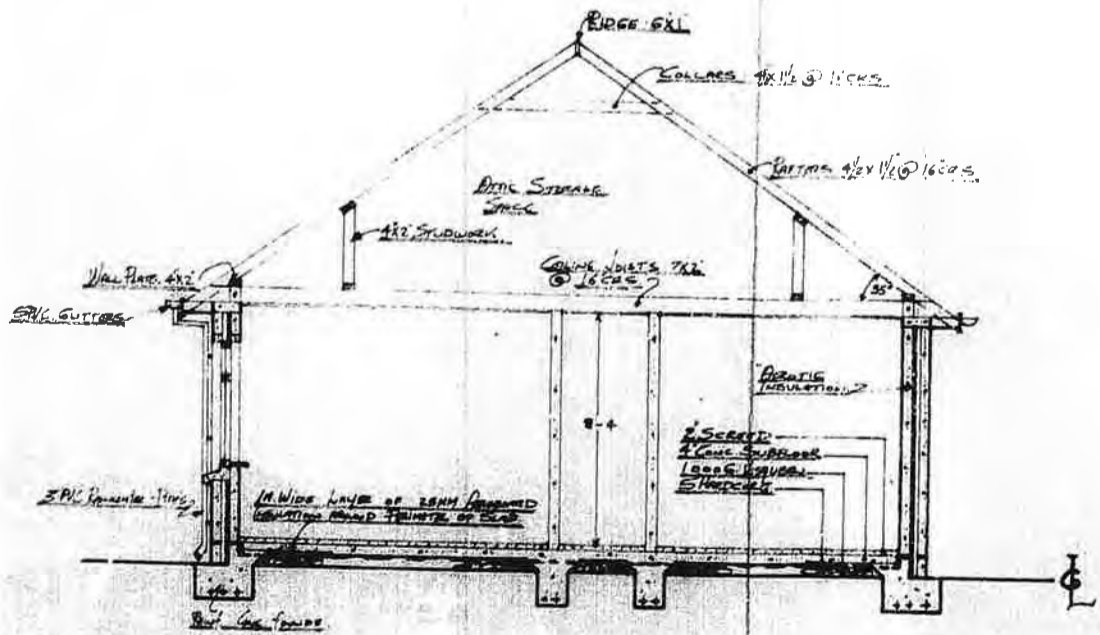


END ELEVATION



END ELEVATION

7/2



Rep. No. S 1041/84
Planning L
0 1 OCT 1984
CORSE COUNTY ENGINEERS
County Hall
W. A.

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ROCKGROVE, LITTLE ISLANDS, IONA
Phone 528221

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