

# Comhairle Contae Chorcaí Cork County Council

Pat & Fiona Howard,  
Youngrove,  
Midleton,  
Co. Cork.

9<sup>th</sup> May 2023

Pleanáil agus Forbairt,  
Halla an Chontae,  
Bóthar Charraig Ruacháin,  
Corcaigh T12 R2NC.  
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Planning & Development,  
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Web: [www.corkcoco.ie](http://www.corkcoco.ie)



REF: D/233/23  
LOCATION: No. 4 Rosary Place, Midleton, Co. Cork.

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

Dear Sir & Madam,

On the basis of the information submitted by you on 13<sup>th</sup> April 2023 the Planning Authority, having considered the question whether or not the construction of a 38sq. metre single-storey rear extension, 4no. rear Velux rooflights to the rear of the property and a 9 sq. metre garage at **No. 4 Rosary Park, Midleton, Co. Cork** is or is not development and is or is not exempted development has declared that it **is development and is exempted development.**

**Reason for Decision**

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

- Sections 2(1), 3(1), and 4(4) of the Planning and Development Act 2000, as amended,
- Articles 3, 6 and 10 and Class 1 and Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended, and
- Section 4(1) (h) of the Planning and Development Act 2000, as amended, and
- The particulars received by the Planning Authority on 13<sup>th</sup> April 2023

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

The construction of a 38sq. metre single-storey rear extension, 4no. rear Velux rooflights to the rear of the property and a 9 sq. metre garage at **No. 4 Rosary Park, Midleton, Co. Cork** constitutes **development and is exempted development.**

*This exemption does NOT itself empower a person to carry out a development unless that person is legally entitled to do so.*



**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.**

*In order to process your query, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view at <https://www.corkcoco.ie/privacy-statement-cork-county-council>*

# Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

D233-23- Rear extension garage and rooflights, 4 Rosary Place, Midleton

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## The Question

The applicant is querying whether the construction of a 38sqmsqm single storey rear extension, 4 rear velux rooflights and a 9sqm garage and is/ is not exempted development for the purposes of the Act

## Planning History





There is no planning history on the subject site

### Statutory Provisions

I consider the following statutory provisions relevant to this referral case:  
Planning and Development Act, 2000

**Section 3 (1)** states:-

“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 of use of any structures or other land.”

*Works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal”.*

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

### Planning and Development Regulations, 2001

Article 6(1) of the Regulations states as follows:- “(a) Subject to article 9, development consisting 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 Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development.

## **Assessment**

Having regard to the questions posed, the proposal constitutes “development” as set out under S3 of the Planning and Development Act 2000 in that “works” have been carried out on the site. The question therefore is whether or not these “works” constitute “exempted development” for the purposes of the Act

There are three main components to the question- 1. Extension, 2 Rear rooflights, Garage

### **1. Extension**

In relation to the rear extension Class 1, Schedule 2, Part 1, (Exempted Development) Regulations 2001) allows the construction of up to 40sqm new build to be constructed to the rear of an existing dwelling subject to certain caveats. The extension is single storey and measures approx. 38sqm. Having reviewed the drawings submitted, the proposal complies with the caveats listed under class 1 of the exemption class. While the rear garden hasn't been dimensioned, it is measurable on aerial photos and is clearly well in excess of 25sqm. There is an opening on the side elevation which is <1m from side boundary however this is shown as a door (a window needs to be >1m from boundary, a door is permissible)

### **Article 9 Restrictions**

Restrictions on exemptions are listed under Article 9 of the Regulations. Having reviewed same against the subject development, none would apply

### **2. Garage**

A 9sqm domestic shed has also been constructed to the rear of the dwelling. Class 3, Schedule 2, Part 1, (Exempted Development) Regulations 2001) allows the “*construction, erection or placing within the curtilage of a house of any tent, awning, shade, or other objection, greenhouse, garage, shed store or other similar such structure*”. The caveats on this class limit the size of the structure to <25sqm with an overall height of <4m. Having reviewed the drawings/ photos submitted, the proposal complies

with the caveats listed under the class 3. The shed is c.9sqm in size with an overall height of 2.3m.

### Article 9 Restrictions

Restrictions on exemptions are listed under Article 9 of the Regulations. Having reviewed same none would apply to the subject proposal

### 3. Velux rooflights

4no. rooflights have been added to the rear roof plane. In this respect S 4(1)(h) is relevant.

*(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*

The test on S4 is whether or not the works would “*materially affect the external appearance of the structure so as to render the appearance inconstant with the character of the structure or of neighboring structures*”. Having considered the works in light of this test, I would be satisfied that the revisions would not materially alter the “character” of the dwelling such that it would fail both elements of the test

Please note the restrictions on exemption listed under Article 9 would not apply to S(4)(1)(h).

### **AA/ EIA**

Section 4(4) of the Act essentially de-exempts any development which attracts a requirement for Environmental Impact Assessment (EIA) or Appropriate Assessment (AA).

In relation to EIA, part 2 of schedule 5 lists development which may require EIA for the purposes of part 10 of Part 10 of the Planning and Development Act. Having considered that detail I am satisfied the proposal does not trigger any requirement for mandatory or sub-threshold EIA. Similarly and having regard to the



nature of the proposal and the distance to Natura 2000 site, I am satisfied that requirement for AA is not warranted

## **Conclusion**

In considering this referral, and having had regard particularly to –

- (a) Section 2(1), 3(1), 4(4), of the Planning and Development Act, 2000, as amended,
- (b) Articles 3, 6 and 10 and Class 1 and Class 3 of Schedule 2, part 1 of the Planning and Development Regulations, 2001, as amended,
- (c) Section 4 (1)(h) of the Act

The Planning Authority has concluded that:

- (a) the proposal constitutes “development” within the meaning of S3 of the Act
- (b) The rear extension is considered to constitute “exempted development” having regard to the provisions of Class 1, Schedule 2, Part 1, (Exempted Development) Regulations 2001
- (c) The garage that has been constructed is considered to constitute “development” as defined by S3 of the Planning and Development Act 2000 and is considered to constitute “exempted development” as per the provisions of Class 3, Schedule 2, Part 1, (Exempted Development) Regulations 2001)
- (d) The 4no velux rooflights on the rear roof plane are considered to constitute “development” as defined by S3 of the Planning and Development Act 2000 and are considered to constitute “exempted development” as per Section 4 (1)(h) of the Act

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Enda Quinn  
Executive Planner  
5/5/2023



## **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:


### FOR OFFICE USE ONLY

Receipt No.	P12/0002247
Cash/Cheque/ Credit Card	Cash
Date	13/04/2023
Declaration Ref. No.	D/233/23

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)**

PAT AND FIONA HOWARD

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

NO. 4 ROSARY PLACE  
MIDDLETON  
CO. COCK

**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

WE ARE SEEKING A LETTER OF EXEMPTION FOR  
A 38sqm EXTENSION AT THE REAR OF THE EXISTING  
DWELLING A NO 4 ROSARY PLACE, MIDDLETON, CO. COCK.  
THIS EXTENSION WAS CONSTRUCTED BY THE PREVIOUS  
OWNERS IN THE 1980'S.  
ALSO THERE WAS 4 VELUX WINDOWS FITTED TO THE  
REAR OF THE EXISTING HOUSE.  
AND A GARDEN SHED 9sqm BUILT AT THE REAR  
OF THE GARDEN.

**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):	38 SEM - Extension   Shed - 9m <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 _____ _____ _____
(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):		

**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 checked="" 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 type="checkbox"/>

**7. APPROPRIATE ASSESSMENT:**

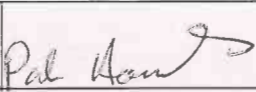
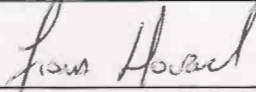
Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes  No

**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	11-4-2023

**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.

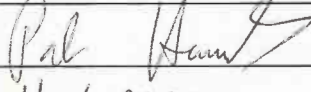
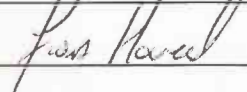
Special Categories of data / Sensitive Personal data include:

- 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	11-4-2023

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)	
Date	11-4-2023

# Site Location Map



Tailte Éireann

**CENTRE COORDINATES:**  
ITM 588220,572975

**PUBLISHED:** 11/04/2023  
**ORDER NO.:** 50328119\_1

**MAP SERIES:** 6 Inch Raster  
**MAP SHEETS:** CK076

**COMPILED AND PUBLISHED BY:**  
National Mapping Division of Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F6E4

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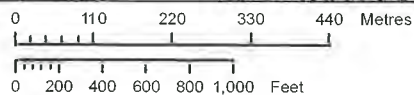
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573883  
572066  
586989  
586430

573883  
572066  
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586430



OUTPUT SCALE: 1:10,560

**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'



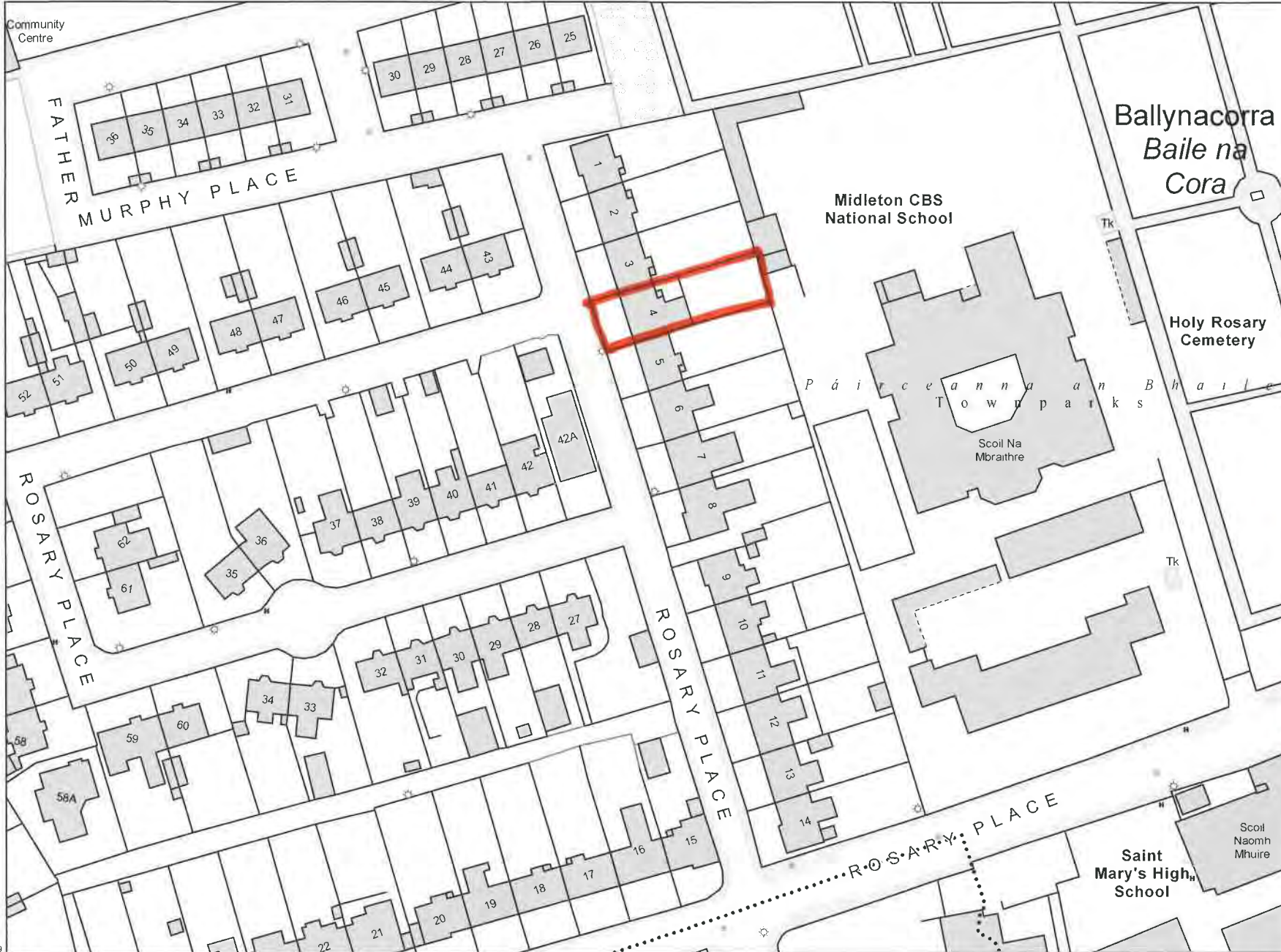
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# Planning Pack Map



Tailte Éireann



**CENTRE COORDINATES:**  
ITM 588220,572975

**PUBLISHED:** 11/04/2023  
**ORDER NO.:** 50328119\_1

**MAP SERIES:** 1:1,000  
**MAP SHEETS:** 6388-01

**COMPILED AND PUBLISHED BY:**  
National Mapping Division of Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F6E4

[www.tailte.ie](http://www.tailte.ie)

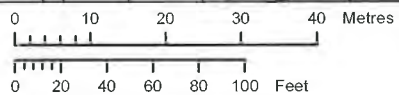
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**OUTPUT SCALE: 1:1,000**

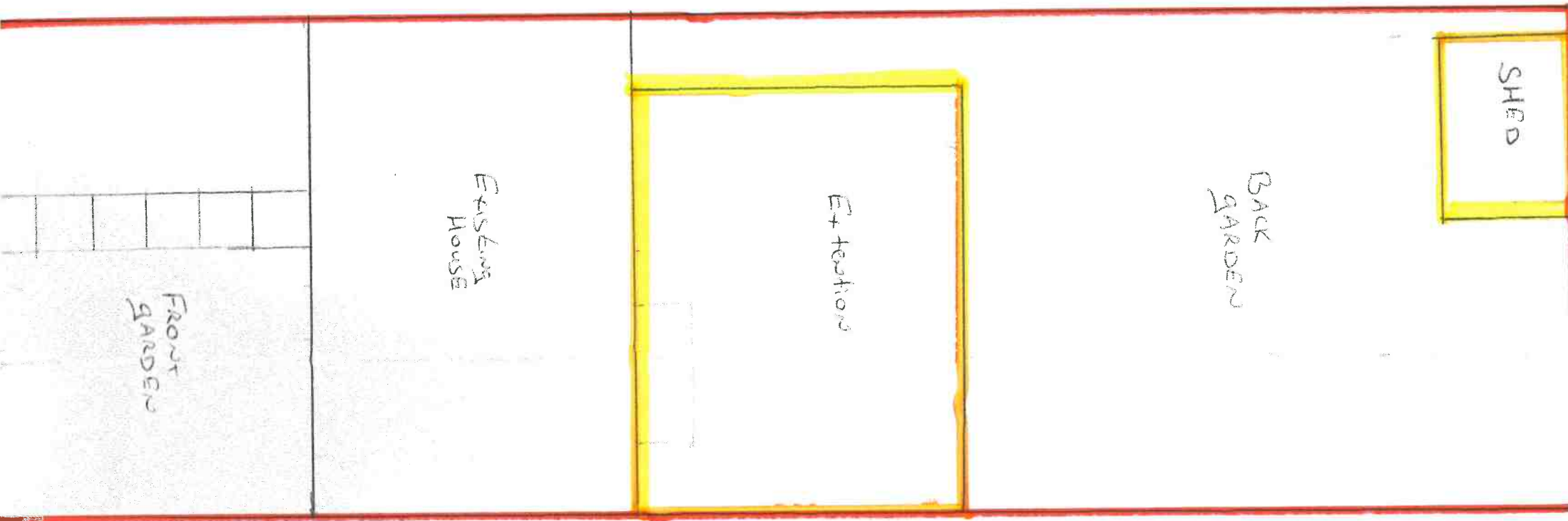
**CAPTURE RESOLUTION:**  
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: [www.osi.ie](http://www.osi.ie), search 'Capture Resolution'

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



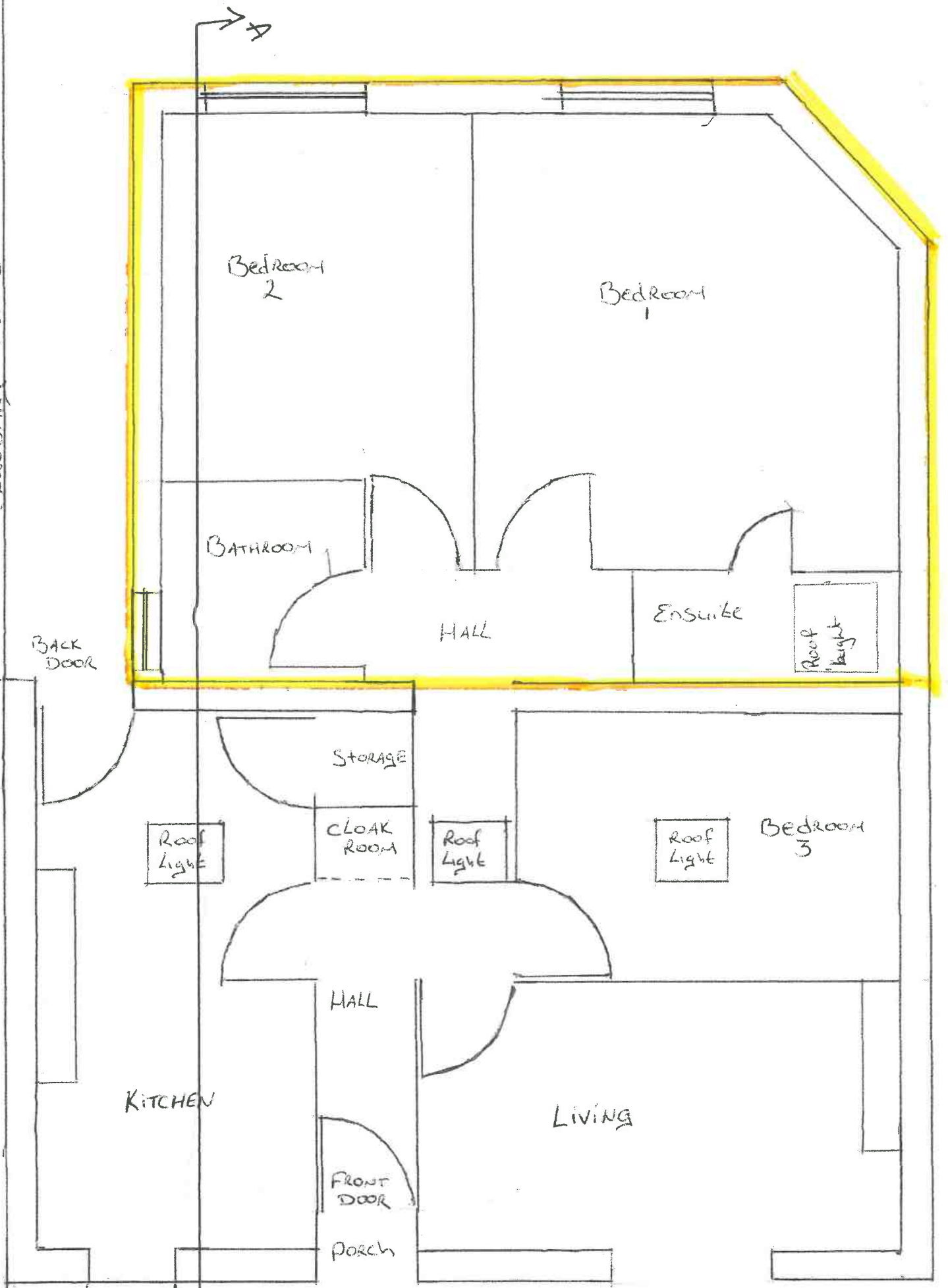
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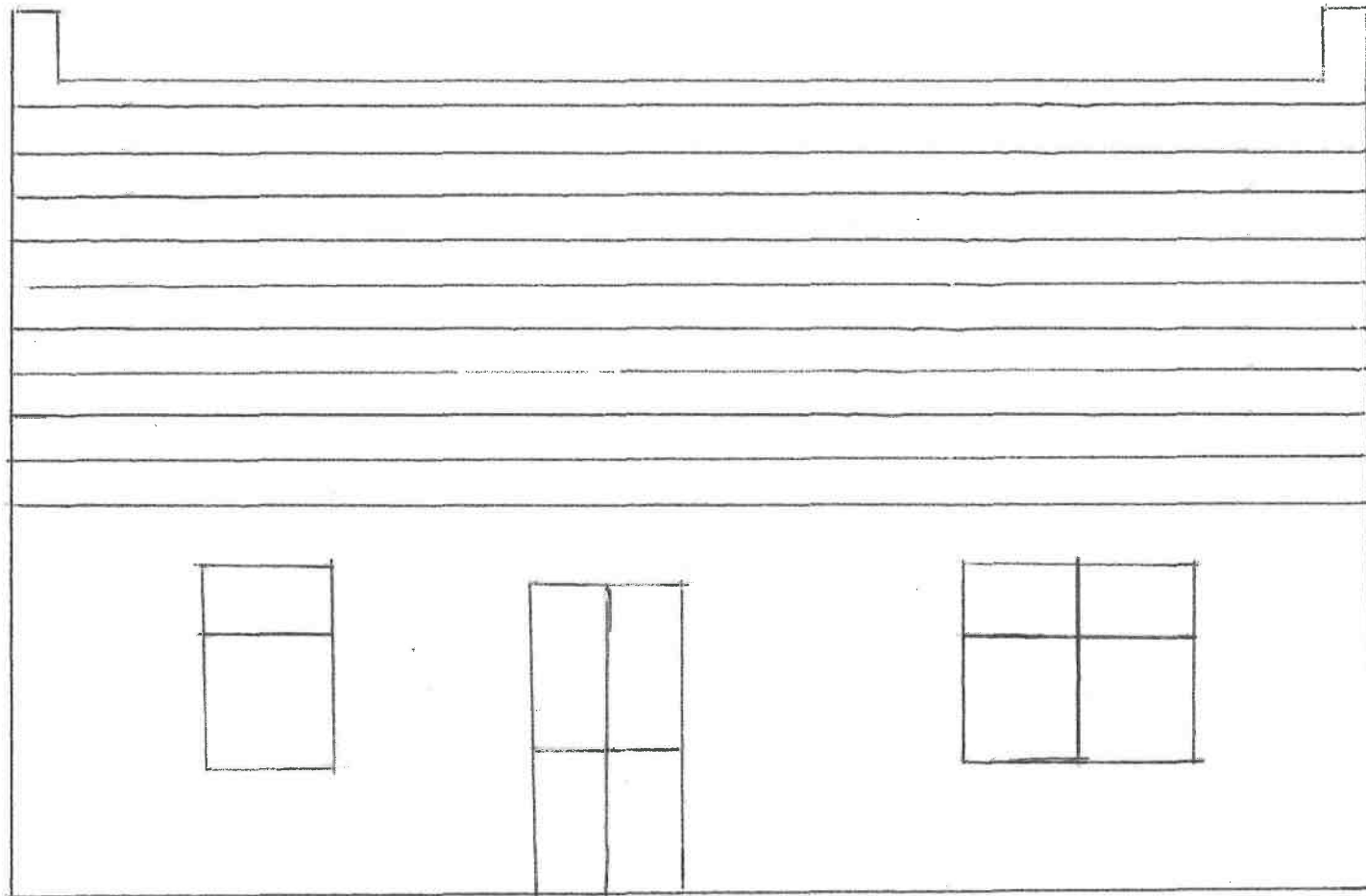
PAT AND FIONA HOWARD, NO 4 ROSARY PLACE, MIDLETON, CO CORK
TITLE: DECLARATION OF EXEMPTION
DATE: 11/04/2023
SCALE: 1:100
SITE LAYOUT

BOUNDARY FENCE



PAT AND FIONA HOWARD, NO 4 ROSARY PLACE, MIDLETON, CO CORK  
TITLE: DECLARATION OF EXEMPTION  
DATE: 11/04/2023  
SCALE: 1:50  
GROUND FLOOR PLAN

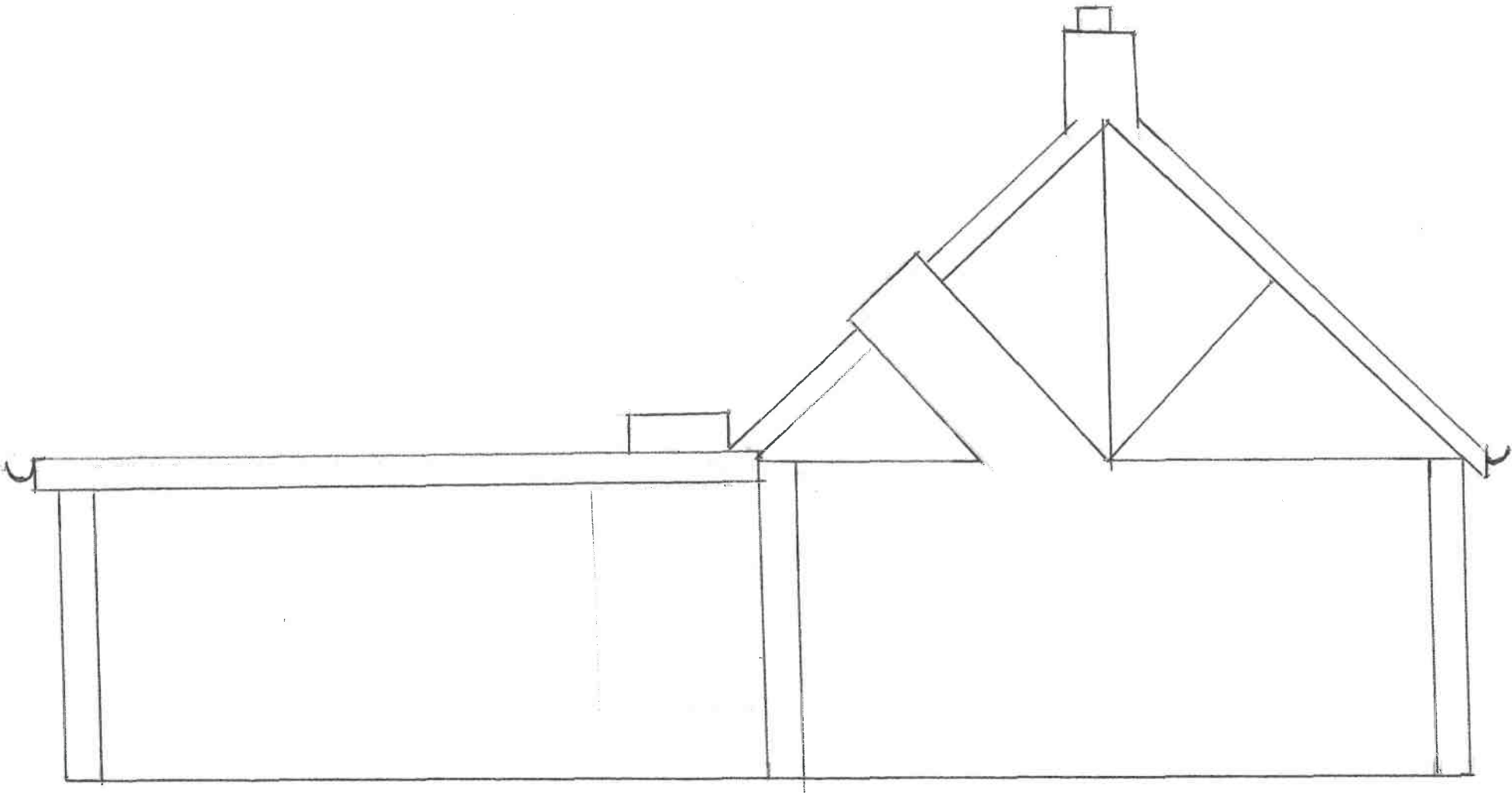
PAT AND FIONA HOWARD, NO 4 ROSARY PLACE, MIDLETON, CO CORK
TITLE: DECLARATION OF EXEMPTION
DATE: 11/04/2023
SCALE: 1:50
FRONT ELEVATION



PAT AND FIONA HOWARD, NO 4 ROSARY PLACE, MIDLETON, CO CORK
TITLE: DECLARATION OF EXEMPTION
DATE: 11/04/2023
SCALE: 1:50
REAR ELEVATION



PAT AND FIONA HOWARD, NO 4 ROSARY PLACE, MIDLETON, CO CORK
TITLE: DECLARATION OF EXEMPTION
DATE: 11/04/2023
SCALE: 1:50
SIDE ELEVATION



SECTION A-A









SHED. SCALE 1:50

