

# Comhairle Contae Chorcaí Cork County Council

Patrick O'Connell,  
c/o Declan O'Callaghan,  
O'Callaghan Engineering & Design Ltd.,  
Ballynona North,  
Dungourney,  
Co. Cork.

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



19<sup>th</sup> December 2023

REF: D/312/23  
LOCATION: Ballycurraginny, Killeagh, Co. Cork.

**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> November 2023 the Planning Authority, having considered the question whether or not the widening of a vehicular entrance onto the public road at **Ballycurraginny, Killeagh, 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 3 and 4 of the Planning and Development Act, 2000 (as amended),
- Articles 6 and 9 of the Planning and Development Regulations, 2001 (as amended),
- The Planning History on the site, and
- The particulars received by the Planning Authority on 30<sup>th</sup> November 2023

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

The widening of a vehicular entrance onto the public road at **Ballycurraginny, Killeagh, Co. Cork** constitutes **development that is not exempted development.**

You are advised that the Area Engineer has raised concerns regarding the ability to achieve the required sightlines to the south of the entrance and has recommended that a planning application be submitted to the Planning Authority for assessment.

**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.**

## Planners Report

### Section 5 Declaration Reference D/312/23

#### The Question

Whether the widening of a vehicular entrance onto the public road is / is not exempted development for the purposes of the Planning and Development Act.

#### Site Context

The subject site is located at Ballycurraginny, approximately 2.4km to the north-east of Killeagh and the vehicular entrance subject of this section 5 report is associated with an existing dwelling house adjacent the public road. There are a series of farm buildings on the adjoining site to the north-east and a bungalow dwelling is located in a more elevated position directly opposite.



*Figure 1: Site Location at Ballycurraginny, Killeagh. Source: EPA Maps.*

#### Planning History

**16/5518:** Conditional permission granted on 16/09/2016 to Declan O'Connell for the renovation and one and a half storey extension to single storey dwellinghouse and associated works at Ballycurraginny, Killeagh, Co. Cork.

Works to the vehicular entrance did not form part of this planning application and the Area Engineer's report dated 19/07/2016 had no objections to the proposed development, subject to conditions.

## **Appropriate Assessment / Environmental Impact Assessment**

Section 4(4) of the PDA 2000 (as amended) de-exempts any development which requires an EIA or AA.

Parts 1 and 2 of Schedule 5 of the Planning and Development Regulations lists the development types which may require an EIA, for the purposes of Part 10 of the Planning and Development Regulations 2001, (as amended).

Having regard to the above, it is considered that the development proposal would not require a mandatory or sub-threshold EIA. Furthermore, having regard for the nature of the development proposal and the distance to the Natura 2000 site, it is considered that the proposal would not trigger the need for an Appropriate Assessment.

## **Statutory Provisions**

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

**Section 3 (1)** states that,

*“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”.*

*“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 from development for the purposes of the Planning and Development Act.

### **Planning and Development Regulations, 2001 (as amended)**

#### **Article 6, Part 1**

*“Subject to article 9, development consisting of a class specified in column 1 of part 1 of schedule 2 shall be exempted for the purposes of the Act, provided that such development complied 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.”*

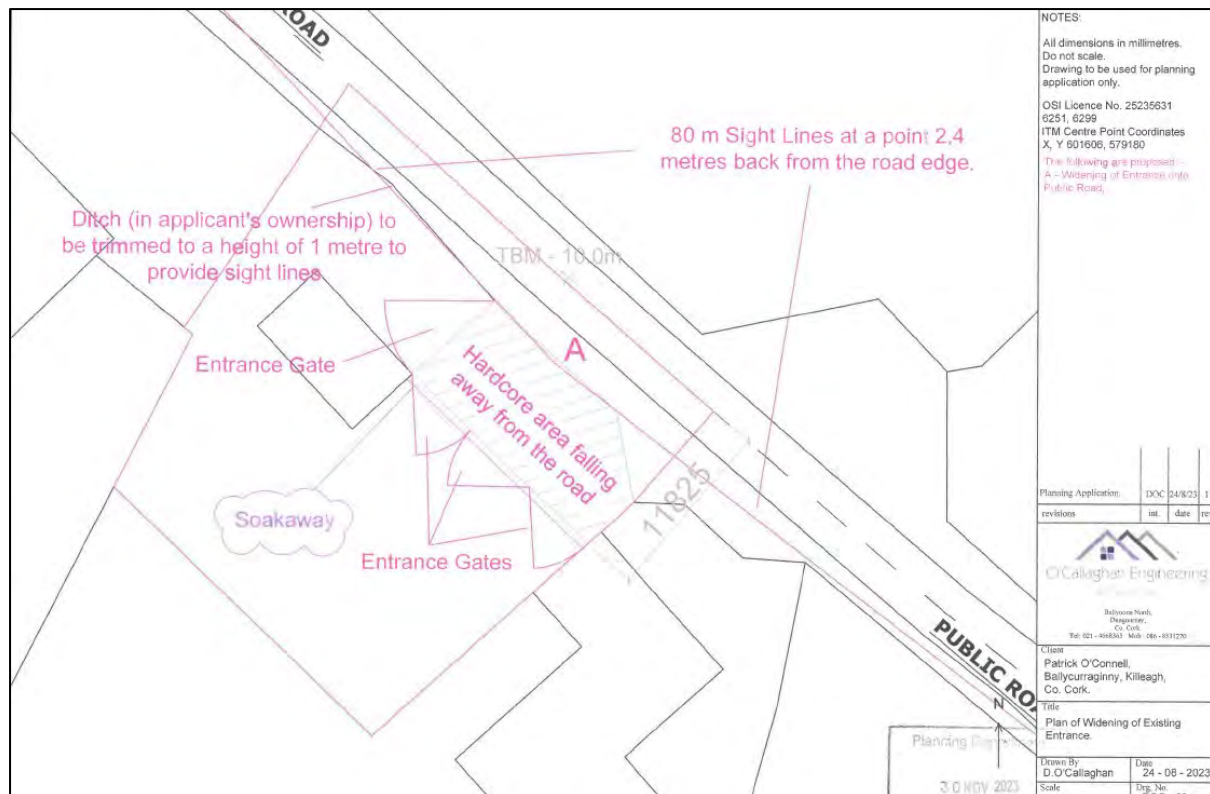
**Article 9(1)** sets out circumstances in which exempted development defined by Article 6 Second Schedule shall not be exempted development, including if the carrying out of development would:

*“(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act”.*

*(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*

*(iii) endanger public safety by reason of traffic hazard or obstruction of road users,*

## Assessment



**Figure 2: Details associated with the widening of the vehicular entrance.**

Having regard for the question posed to the Planning Authority, the proposal constitutes “development” as set out under Section 3 of the Planning and Development Act 2000, in that “works”, which by interpretation as set out under Section 2 of the Act, includes “any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal”, are proposed to be carried out on the subject site.

### **Is or is not development?**

The first issue for consideration is whether or not the widening of a vehicular entrance onto the public road is ‘development’ which is defined in Section 3(1) and ‘works’ is defined in Section 2(1) of the Act. It is considered that the development as described by the Referrer clearly falls within the definition of ‘development’.

### **Is or is not exempted development?**

Development can be exempted from the requirement for planning permission by either Section 4 of the Act, or Article 6 of the Regulations.

In this case the said development does not come within the scope of any class specified in any part of Schedule 2, having particular regard for *Part 1: Exempted Development – General* and *Part 3: Exempted Development – Rural*, of the Planning & Development Regulations.

## **Recommendation**

It is considered that the widening of a vehicular entrance onto the public road is works and amounts to development. The issue to be considered is whether the development is exempted development or not.

Article 9 (1)(iii) sets out circumstances in which exempted development defined by Article 6 Second Schedule shall not be exempted development, including if the carrying out of development would endanger public safety by reason of traffic hazard or obstruction of road users.

The Applicant should be advised that the Area Engineer has raised concerns regarding the ability to achieve the required sightlines to the south of the entrance and has recommended that a planning application be submitted to the Planning Authority for assessment.

The Planning Authority has therefore concluded that the widening of a vehicular entrance onto the public road at Ballycurraginny, Killeagh, Co. Cork **“is development and is not exempted development”**.



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**Alannah Hurley**

**Assistant Planner**

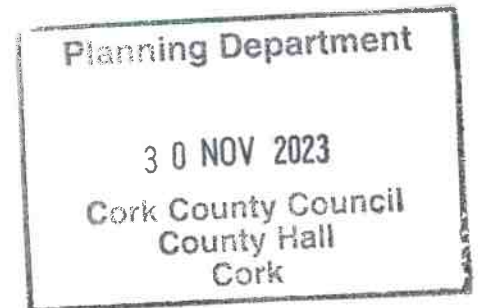
**13/12/2023**



Planning Department,  
Cork County Council,  
County Hall,  
Cork.

24 / 08 / 2023

**Re: Planning Exemption for Patrick O'Connell,  
at Ballycurraginny, Killeagh, Co. Cork.**



Dear Sir / Madam,

Please find enclosed the following: -

1. 4 no. copies of Section 5 Declaration of Exemption Application Form.
2. 4 no. copies of 6" O.S. Map.
3. 4 no. copies of 25" O.S. Map.
4. 4 no. copies of Site Layout Plan.
5. 4 no. copies of Scaled Drawings of Development.
6. €80 Application fee.

I trust that this is to your satisfaction but should you have any questions or queries, please contact the undersigned.

Yours sincerely,

  
Declan O'Callaghan, BE (Civil), MIEI

## **Ballynona North, Dungourney, Co.Cork**

Directors: D.O'Callaghan, A.Hynes  
O'Callaghan Engineering & Design Ltd, T/A O'Callaghan Engineering & Design  
Company Registration Number: 425965

Tel: 021-4658365 / 086-8534270  
Email: declanocallaghan@gmail.com  
VAT No: IE9579223 G



# 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.	PL20002319
Cash/Cheque/ Credit Card	Cheque
Date	30/11/23
Declaration Ref. No.	D/312/23

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:

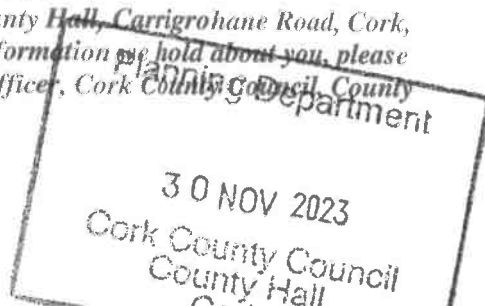
- A copy of the details submitted to the Council's Environment Department (Inniscarra) for a Waste Licence Permit
- Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural purposes)
- Details of existing and proposed levels
- Details of fill 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 [dpp@corkcoco.ie](mailto:dpp@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)**

Patrick O'Connell

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

Ballycurraginny, Killeagh, Co. Cork.

**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

Widening of vehicular entrance onto the public road.

Planning Department

30 NOV 2023

Cork 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 (m<sup>2</sup>)

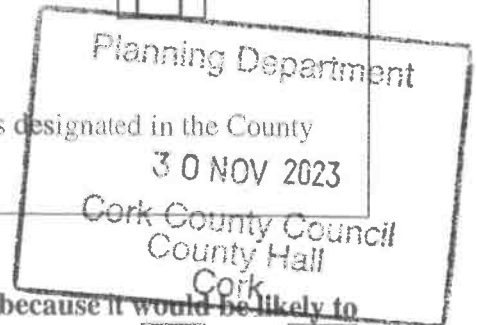
(a) Floor area of existing/proposed structure(s):	N/A
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964 (including those for which planning permission has been obtained):	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas (m <sup>2</sup> ) and previous planning reference(s) where applicable: N/A
(c) If a change of use of land and/or building(s) is proposed, please state the following:  Existing/previous use N/A	Proposed use N/A
(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 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)	<i>Pd O. Linnell</i>
Date	26/9/2023

**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:

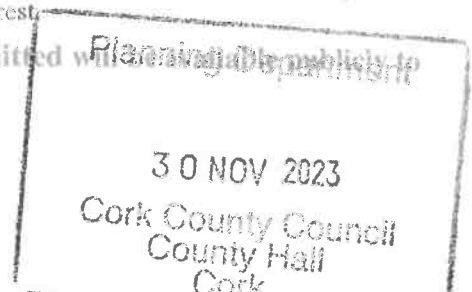
**Sensitive personal data being submitted in support of Declaration of Exemption Application**

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

Signed	<i>Pd O. Linnell</i>
Date	26/9/2023

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.



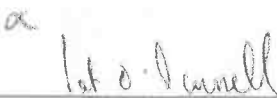
**ADVISORY NOTES:**

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	26/9/2023





MONA-BRAHER  
(E.D. Ardagh)

DRISHANE BEG

MONA-BRAHER  
(E.D. Killeagh)

(E.D.C)  
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DRISHANE MOHE

NACARRICA  
(E.D. Killeagh)

BALLYCURRAGINNY

SITE

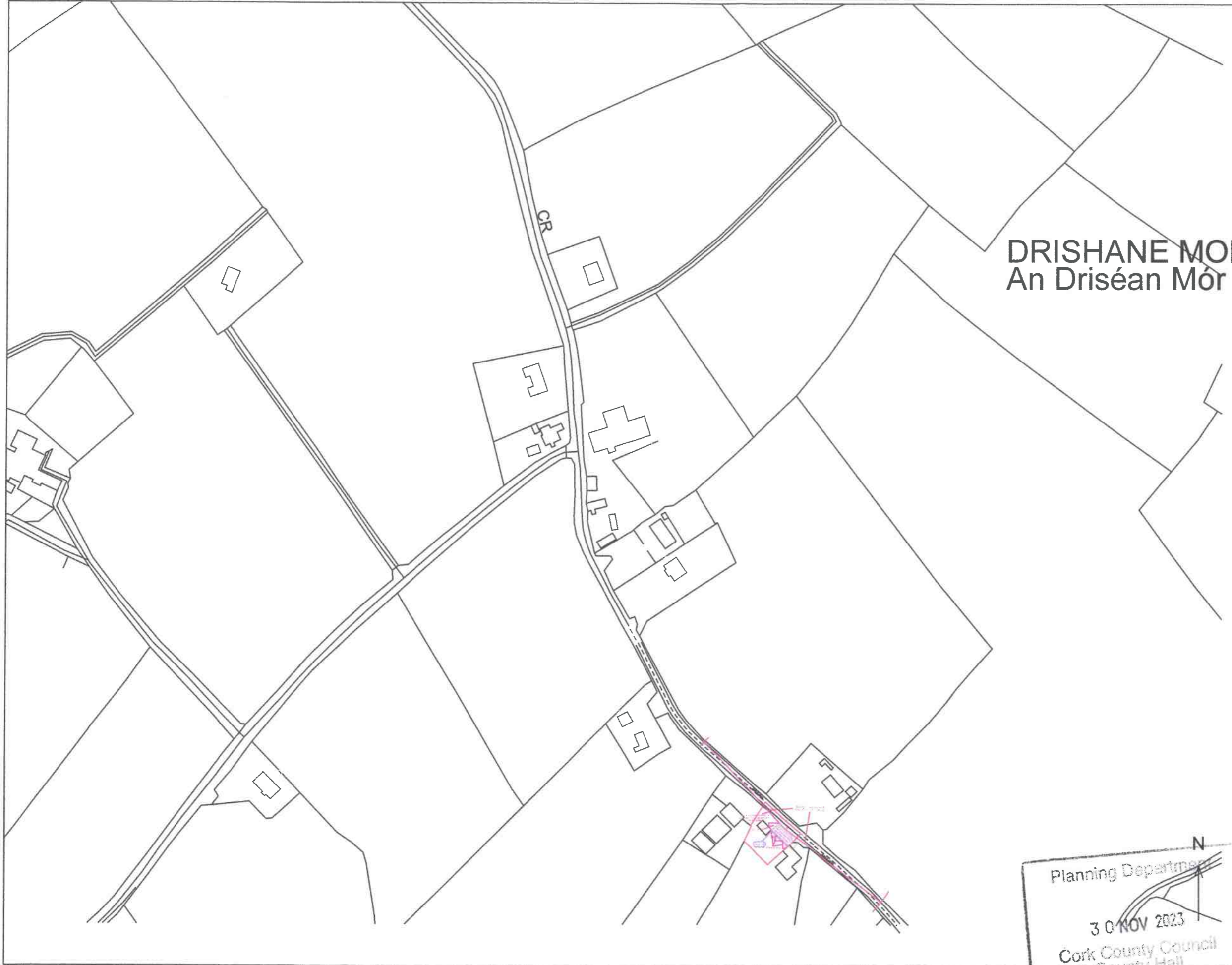
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Gortnagappul Wood

Aghadoe House

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



# DRISHANE MOR

## An Driséan Mór

NOTES:  
 All dimensions in millimetres.  
 Do not scale.  
 Drawing to be used for planning application only.

OSI Licence No. 25235631  
 6251, 6299  
 ITM Centre Point Coordinates  
 X, Y 601606, 579180

The following are proposed: -  
 A - Widening of Entrance onto  
 Public Road.

Planning Application.	DOC	24/8/23	1
revisions	int.	date	rev

O'Callaghan Engineering  
 & Design Ltd

Ballynora North,  
 Dungourmey,  
 Co. Cork.  
 Tel: 021 - 4668365 Mob.: 086 - 8531270

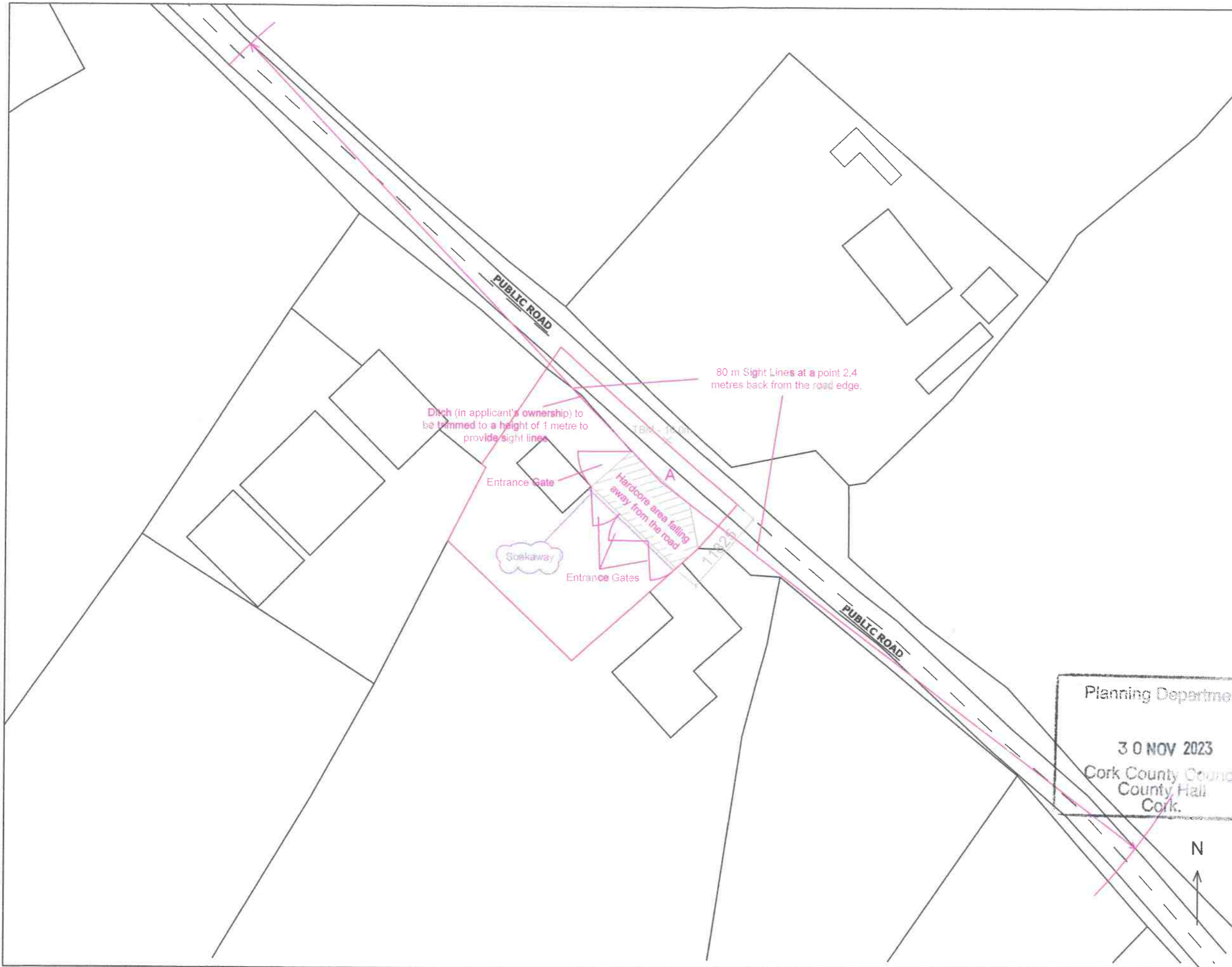
Client  
 Patrick O'Connell,  
 Ballycurraginny, Killeagh,  
 Co. Cork.

Title  
 Site Location Map.

Drawn By D.O'Callaghan	Date 24 - 08 - 2023
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Scale 1 / 2500	Drg. No. POC - 01
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Planning Department  
 30 NOV 2023  
 Cork County Council  
 County Hall  
 Cork.



NOTES:  
 All dimensions in millimetres.  
 Do not scale.  
 Drawing to be used for planning application only.  
 OSI Licence No. 25235631  
 6251, 6299  
 ITM Centre Point Coordinates  
 X, Y 601606, 579180  
 The following are proposed: -  
 A - Widening of Entrance onto Public Road.

Planning Application.	DOC	24/8/23	1
revisions	int.	date	rev

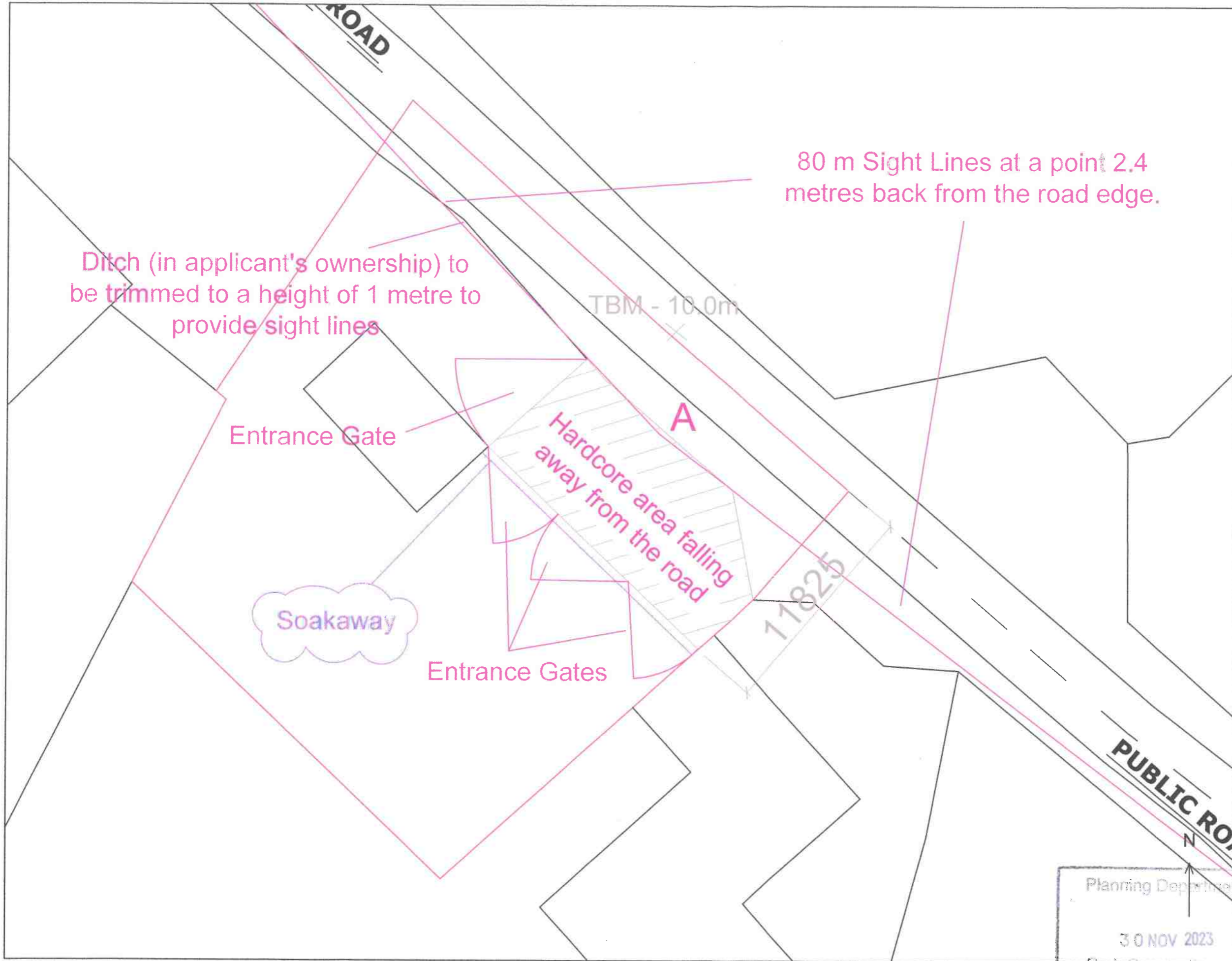
Planning Department  
 30 NOV 2023  
 Cork County Council  
 County Hall  
 Cork.

**Callaghan Engineering & Design Ltd**  
 Ballynona North,  
 Dungourney,  
 Co. Cork.  
 Tel: 021 - 4668365 Mob.: 086 - 8531270

Client  
 Patrick O'Connell,  
 Ballycurraginny, Killeagh,  
 Co. Cork.

Title  
 Site Layout Plan.

Drawn By D.O'Callaghan	Date 24 - 08 - 2023
Scale 1 / 500	Drg. No. POC - 02



NOTES:  
 All dimensions in millimetres.  
 Do not scale.  
 Drawing to be used for planning application only.  
 OSI Licence No. 25235631  
 6251, 6299  
 ITM Centre Point Coordinates  
 X, Y 601606, 579180  
 The following are proposed: -  
 A - Widening of Entrance onto Public Road.

Planning Application.	DOC	24/8/23	1
revisions	int.	date	rev

  
**O'Callaghan Engineering & Design Ltd**  
 Ballynona North,  
 Dungourney,  
 Co. Cork.  
 Tel: 021 - 4668365 Mob: 086 - 8531270

Client  
 Patrick O'Connell,  
 Ballycurraginny, Killeagh,  
 Co. Cork.

Title  
 Plan of Widening of Existing Entrance.

Drawn By D.O'Callaghan	Date 24 - 08 - 2023
Scale 1 / 200	Drg. No. POC - 03

Planning Department  
 30 NOV 2023  
 County Hall,  
 County Hall,  
 Cork.

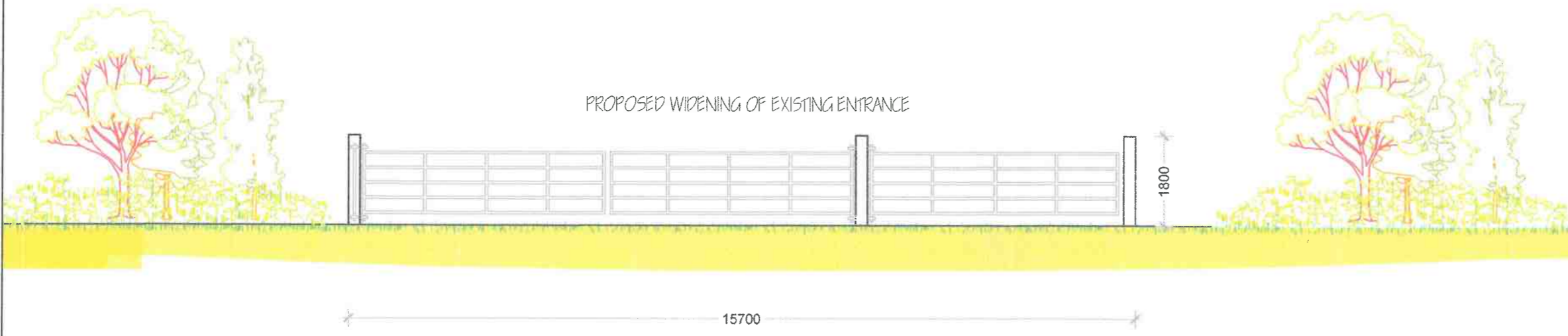


**NOTES:**

All dimensions in millimetres.  
Do not scale.  
Drawing to be used for Planning Application only.



**Front (Northern) Elevation of Proposed Widening of Existing Entrance**  
Scale 1:100



**Rear (Southern) Elevation of Proposed Widening of Existing Entrance**  
Scale 1:100

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

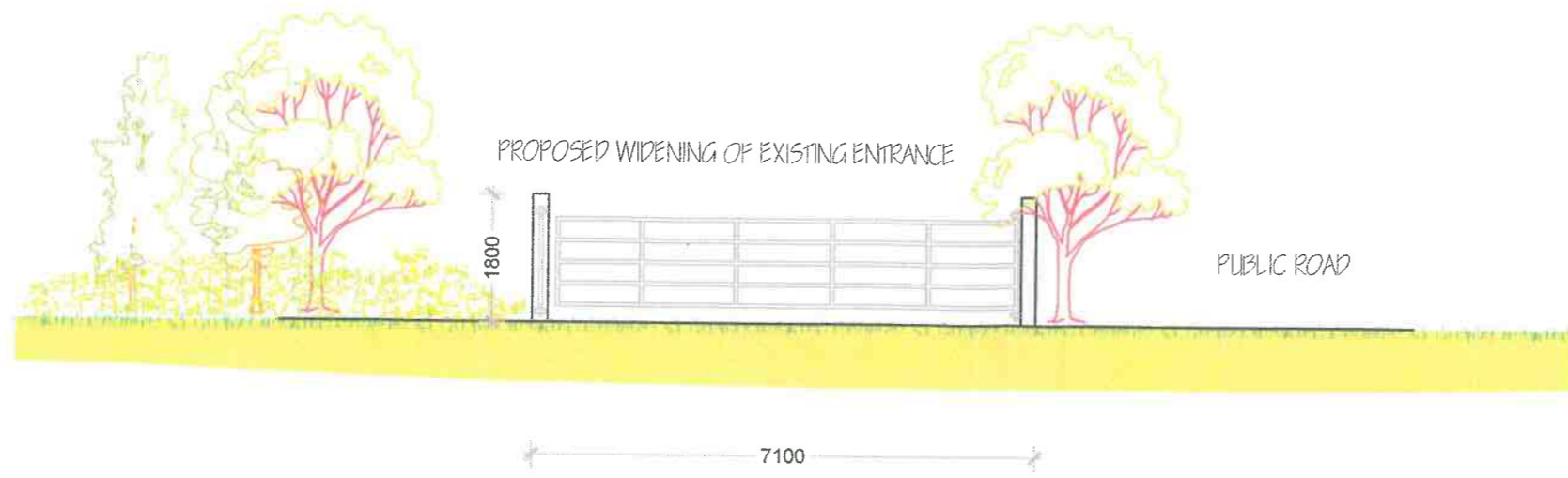
Planning Application.	DOC	24/8/23	1
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O'Callaghan Engineering  
& Design Ltd  
Ballynora North,  
Dungourney,  
Co. Cork.  
Tel: 021 - 4668365 Mob.: 086 - 8531270

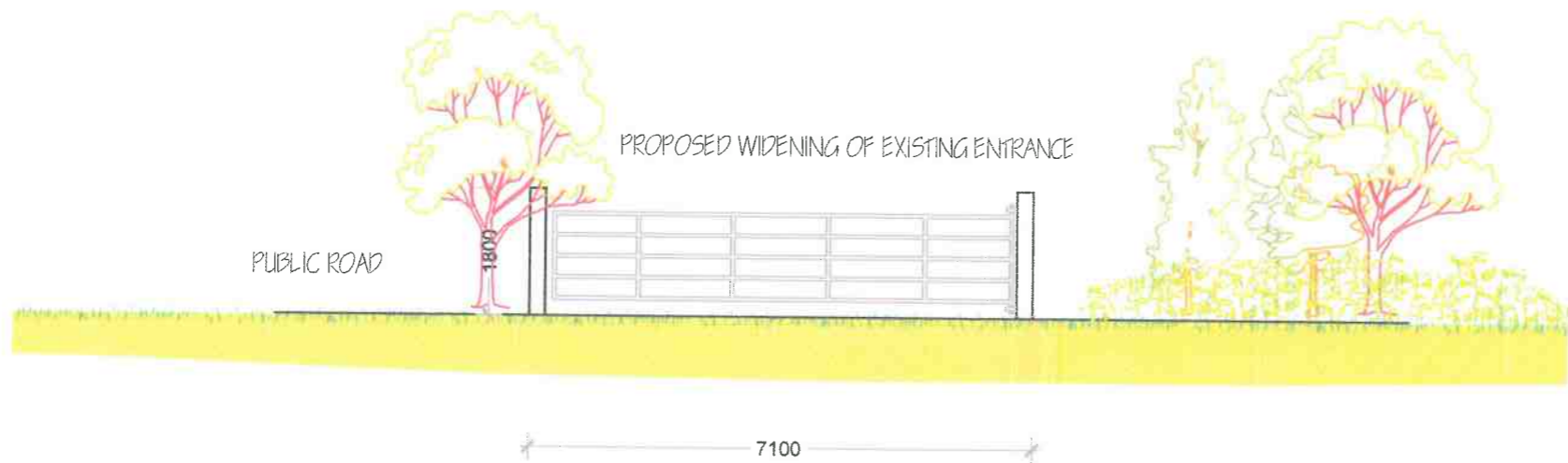
Client  
Patrick O'Connell,  
Ballycurriginny, Killeagh,  
Co. Cork.

Title  
Front & Rear Elevation of  
Proposed Widening of Existing Entrance

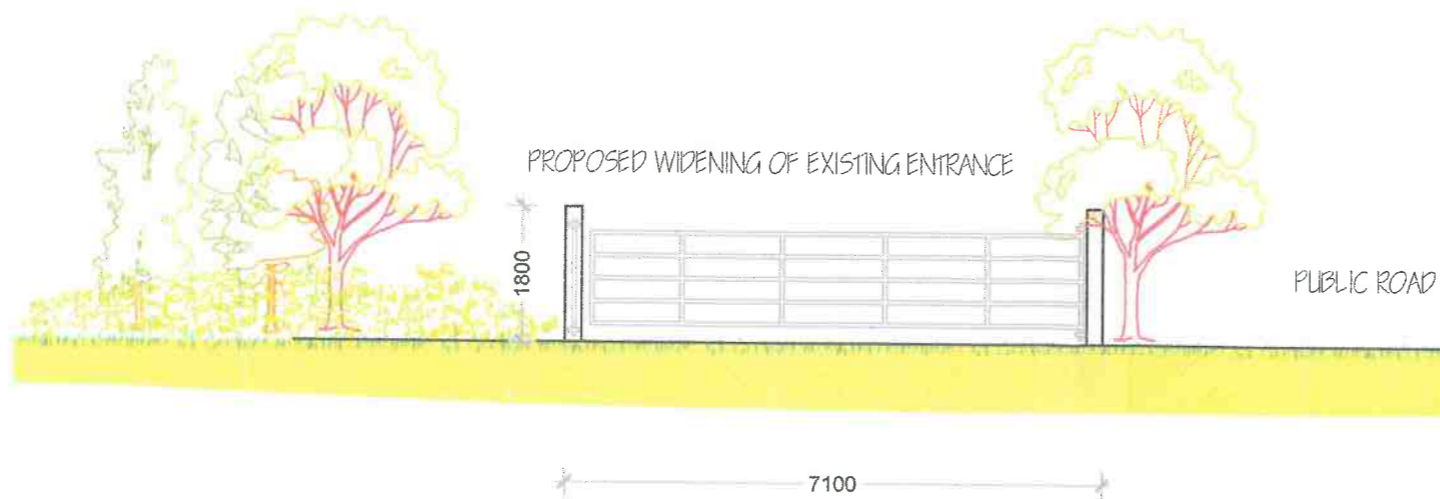
Drawn By D.O'Callaghan	Date 24 - 08 - 2023
Scale 1 / 100	Drg. No. POC - 04



**Side (Western) Elevation of Proposed Widening of Existing Entrance**  
Scale 1:100



**Side (Eastern) Elevation of Proposed Widening of Existing Entrance**  
Scale 1:100



**Section thru' Proposed Widening of Existing Entrance**  
Scale 1:100

**NOTES:**

All dimensions in millimetres.  
Do not scale.  
Drawing to be used for Planning Application only.

Planning Application.	DOC	24/8/23	1
revisions	int.	date	rev

O'Callaghan Engineering  
& Design Ltd  
Ballynora North,  
Dungourney,  
Co. Cork.  
Tel: 021 - 4668365 Mob.: 086 - 8531270

Client  
Patrick O'Connell,  
Ballycurriginny, Killeagh,  
Co. Cork.

Title  
Side Elevations & Section thru'  
Proposed Widening of Existing Entrance

Drawn By D.O'Callaghan	Date 24 - 08 - 2023
Scale 1 / 100	Drg. No. POC - 06

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