

# Comhairle Contae Chorcaí Cork County Council

Angela Butler & Alan Phelan,  
43 Rosary Place,  
Midleton,  
Co. Cork.

Pleanáil agus Forbairt,  
Halla an Chontae,  
Bóthar Charraig Ruacháin,  
Corcaigh T12 R2NC.

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County Hall,  
Carrigrohane Road, Cork T12 R2NC.

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13<sup>th</sup> May 2024

REF: D/222/24  
LOCATION: 43 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 12<sup>th</sup> April 2024 the Planning Authority, having considered the question whether or not the construction of a two-storey rear extension at **43 Rosary Place, Midleton, Co. Cork** is 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(1), 3(1) and 4(4) of the Planning and Development Act, 2000, as amended
- Articles 3, 6 and Class 1, Schedule 2, Part 1 of the Planning and Development Regulations 2001, as amended and
- The particulars received by the Planning Authority on 12<sup>th</sup> April 2024

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

The construction of a two-storey rear extension at **43 Rosary Place, Midleton, Co. Cork** constitutes development which is **not exempted development.**

**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.**



We are Cork.



Recycled

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

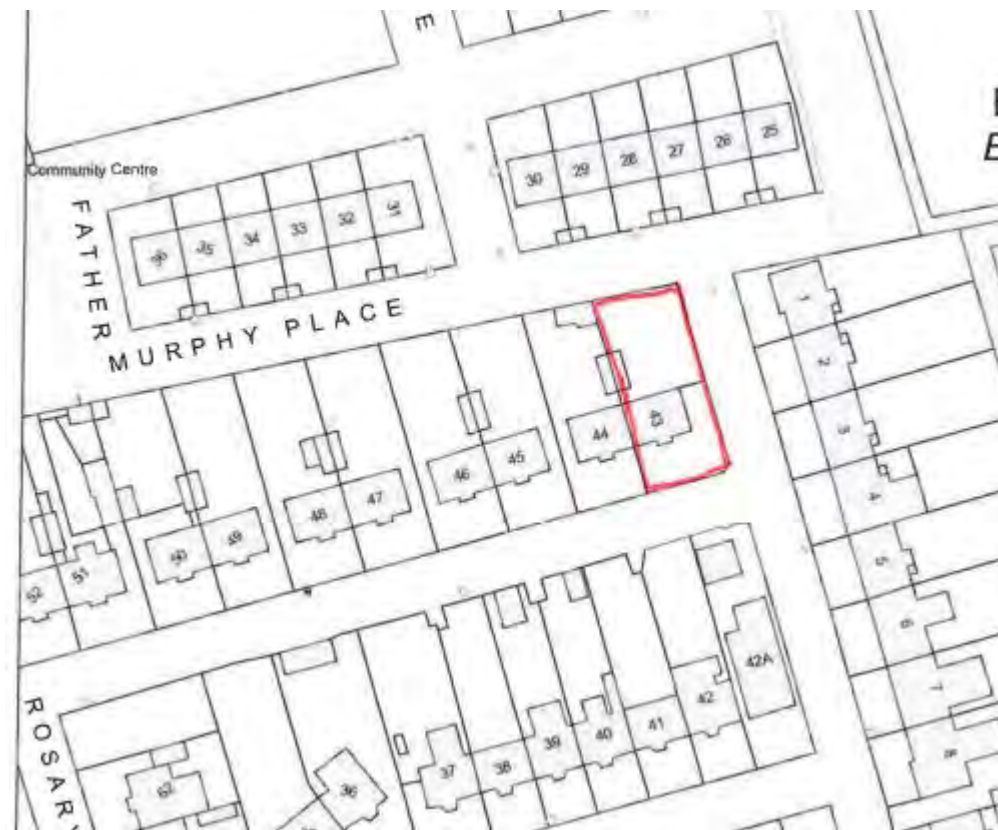
D222-24 Rear extension , Rosary Place Midleton

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The Question

The applicant is querying whether a constructed two storey rear extension of a 37.1sqm is/ is not exempted development for the purposes of the Act. The extension measures 18.55sqm on each floor

Planning History





No relevant 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

### 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 two storey and <40sqm. The applicant has provided basic drawings in respect of the subject extension but has stated that the first floor element is C 18.55sqm. Please note caveat 1(b) attached to class 1, schedule 2 states that “ *..where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.* “. The subject dwelling is semi detached and the first floor extension exceeds this limitation

With regard the remaining caveats, the rear garden area hasn't been dimensioned but the rear curtilage does appear to be in excess of 25sqm. The roof of the extension is visible however it does not exceed the roof height of the existing dwelling. In addition there does not appear to be any first floor windows <2m from a party boundary





*Aerial view of the development*

### Article 9 Restrictions

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

### **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

propsoal 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 Class 1, Schedule 2, part 1 of the Planning and Development Regulations, 2001, as amended,

The Planning Authority has concluded that:

(a)the propsoal constitutes “development” within the meaning of S3 of the Act

(b) The rear extension does not constitute “exempted development” having regard to the provisions of Class 1, Schedule 2, Part 1, (Exempted Development) Regulations 2001 as the first floor extension exceeds 12sqm in size

---

Enda Quinn

Executive Planner

13/5/2024







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

### APPLICANT CHECKLIST

- 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:

(Please tick ✓)

|                                     |
|-------------------------------------|
| <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"/> |

|   |
|---|
| Planning Department<br><br>12 APR 2024<br><br>Cork County Council<br>County Hall<br>Cork. |
|---|

### FOR OFFICE USE ONLY

|                             |          |
|-----------------------------|----------|
| Receipt No.                 |          |
| Cash/Cheque/<br>Credit Card | CARD     |
| Date                        | 16/4/24  |
| Declaration<br>Ref. No.     | D/222/24 |

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 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)

Angela Butler Alan Phelan

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

43 Rosary Place  
Midleton  
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

We are seeking a letter of exemption for a 37.1sqm 2 story extension at the rear of the existing dwelling at 43 Rosary Place Midleton Co. Cork, consisting of 18.55sqm on each floor. There is two velux windows at the rear. Extension was constructed in 2016

**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):   |  |
| (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"/><br>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:<br><br>Existing/previous use<br>_____<br>_____<br>_____  | Proposed use<br>_____<br>_____<br>_____  |
| (d) Are you aware of any enforcement proceedings connected to this site?  | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/><br>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 checked="" type="checkbox"/>                                    |

12 APR 2024  
County Council  
County Hall  
Cork.

**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<br>(By Applicant Only) | Angela Butler |
| Date                          | 29.3.24       |

**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 | Angela Butler |
| Date   | 29.3.24       |

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.*

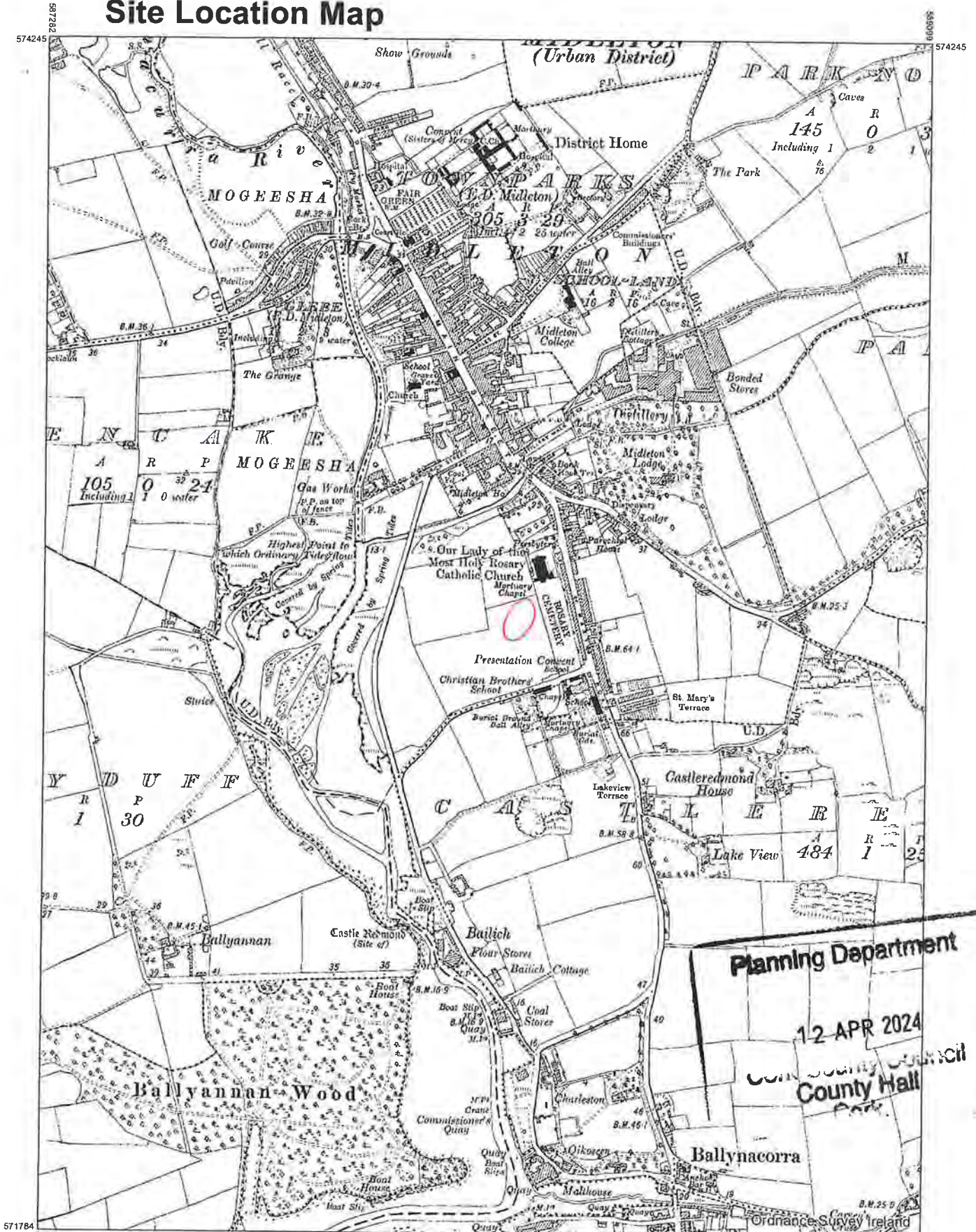
9. **I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the Planning and Development Acts 2000, as amended and the Regulations made thereunder:**

|  |               |
|--|---------------|
| Signed<br>(Applicant or Agent<br>as appropriate) | Angela Butler |
| Date   | 29.3.24       |





# Site Location Map



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

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**CENTRE COORDINATES:**  
 ITM 588191,573015  
**PUBLISHED:**  
 22/03/2024  
**MAP SERIES:**  
 6 Inch Raster

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

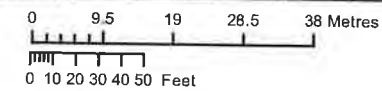
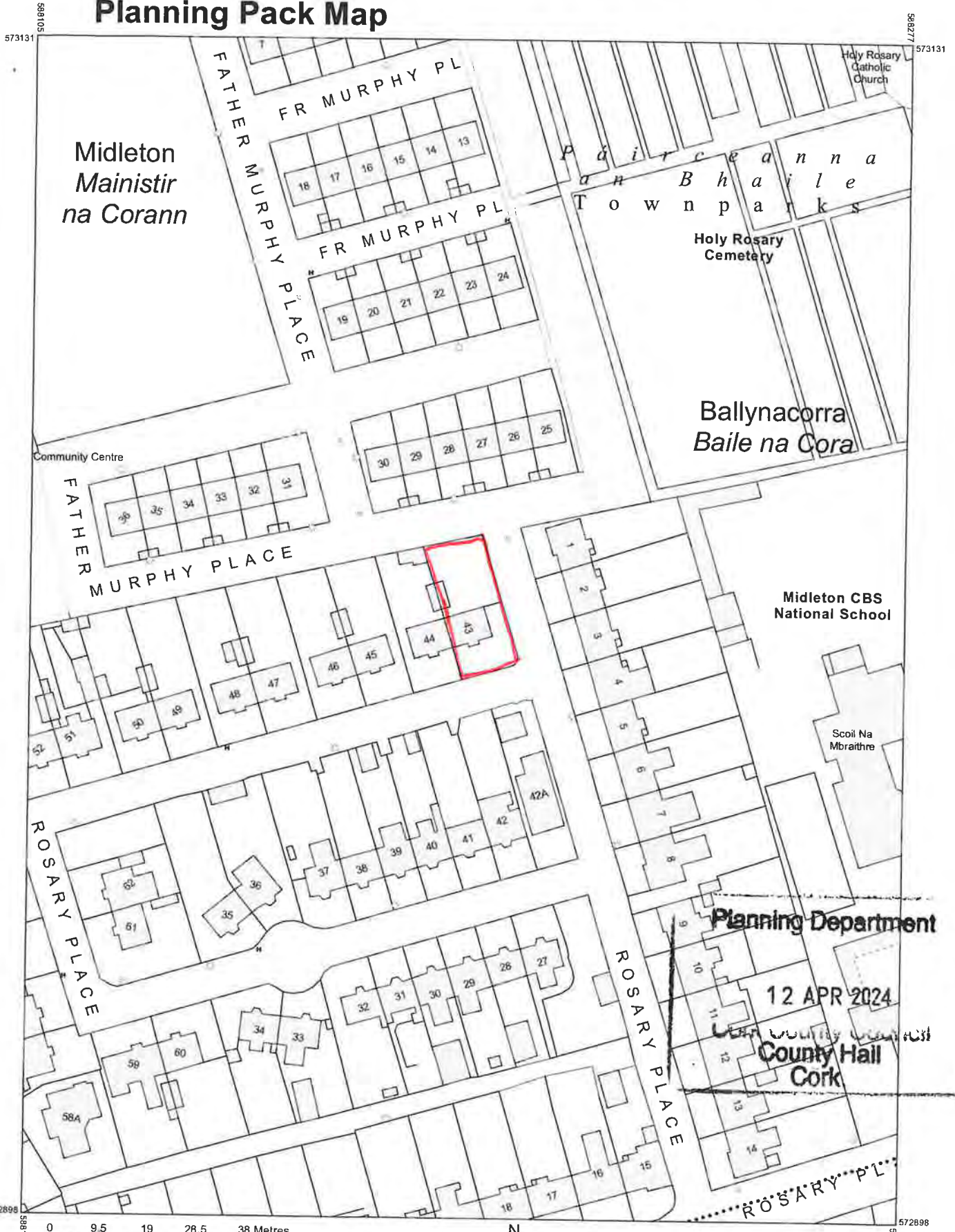
**Planning Department**  
 12 APR 2024  
 County Council  
**County Hall**



**Tailte Éireann**



# Planning Pack Map



OUTPUT SCALE: 1:1,000



**CENTRE COORDINATES:**  
ITM 588191,573015

**PUBLISHED:** 22/03/2024  
**ORDER NO.:** 50390529\_1  
**MAP SERIES:** 1:1,000  
1:1,000

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Floor Plan

SHED

Back  
Garden

5.3m

Extension

0.8

2.2m

3.5m

2.4m

5.3m

Existing

House

Planning Department

12 APR 2024

CORK COUNTY COUNCIL  
County Hall  
Cork.

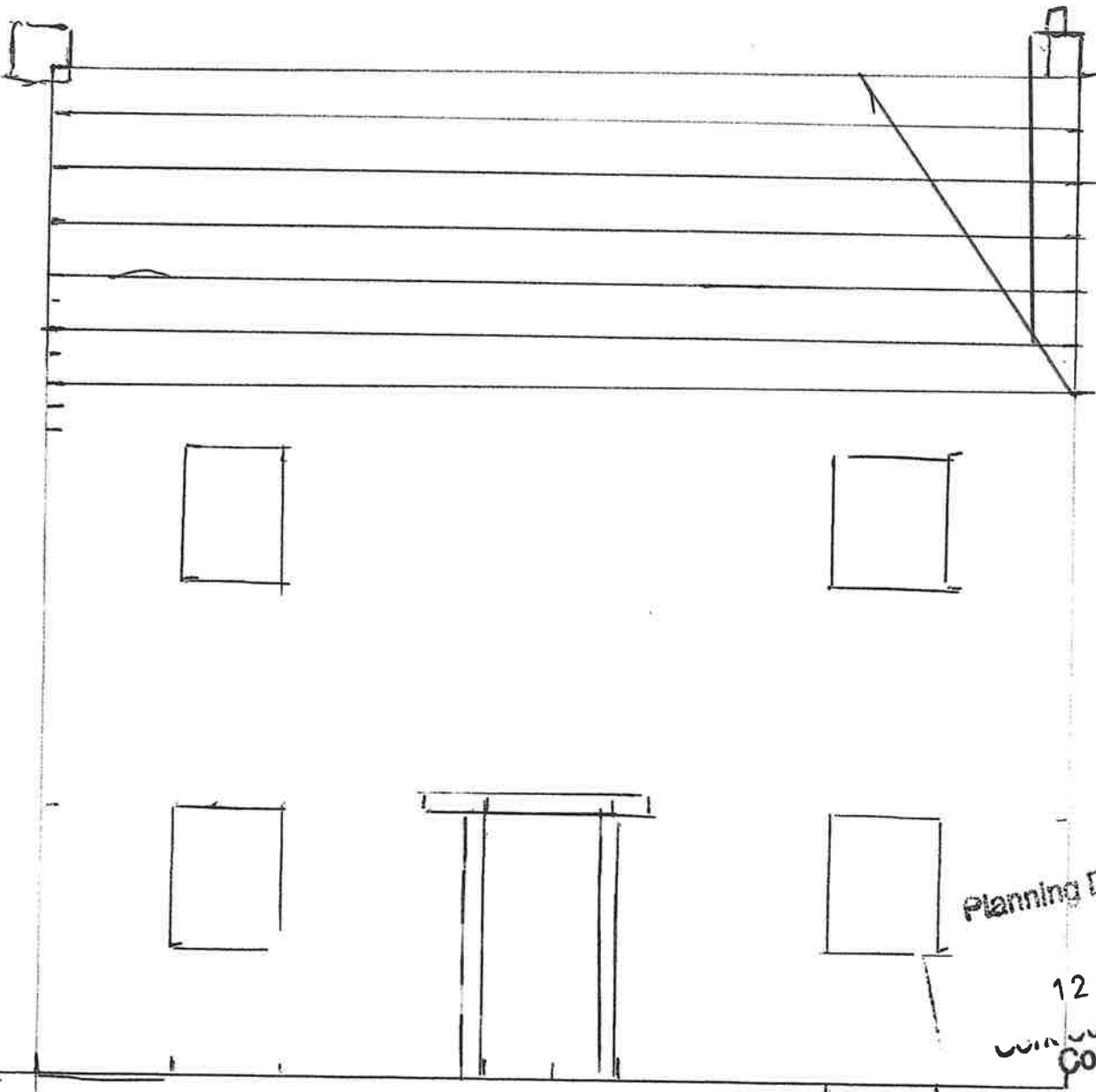
5.6m

Front

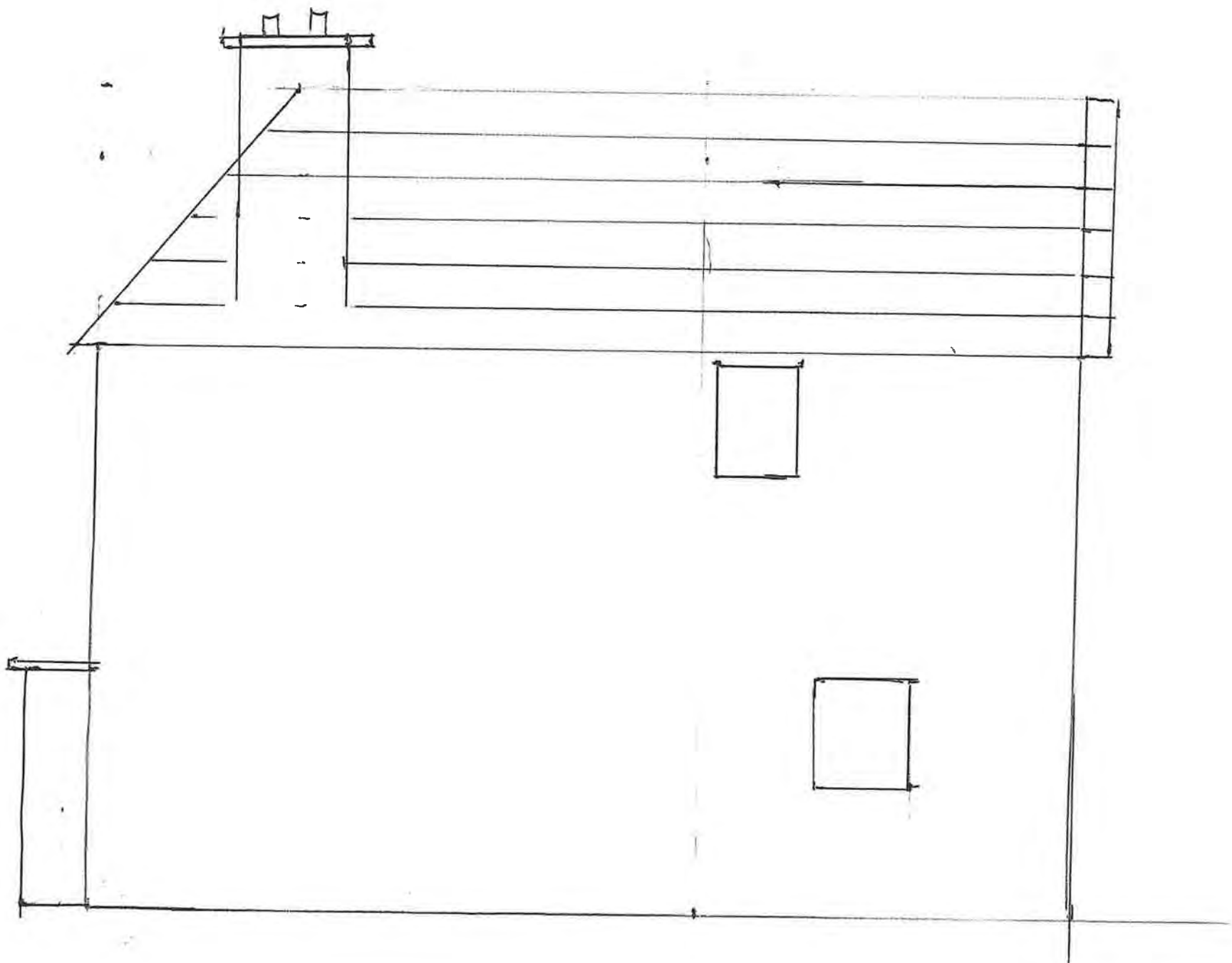
garden

7.7m

Front

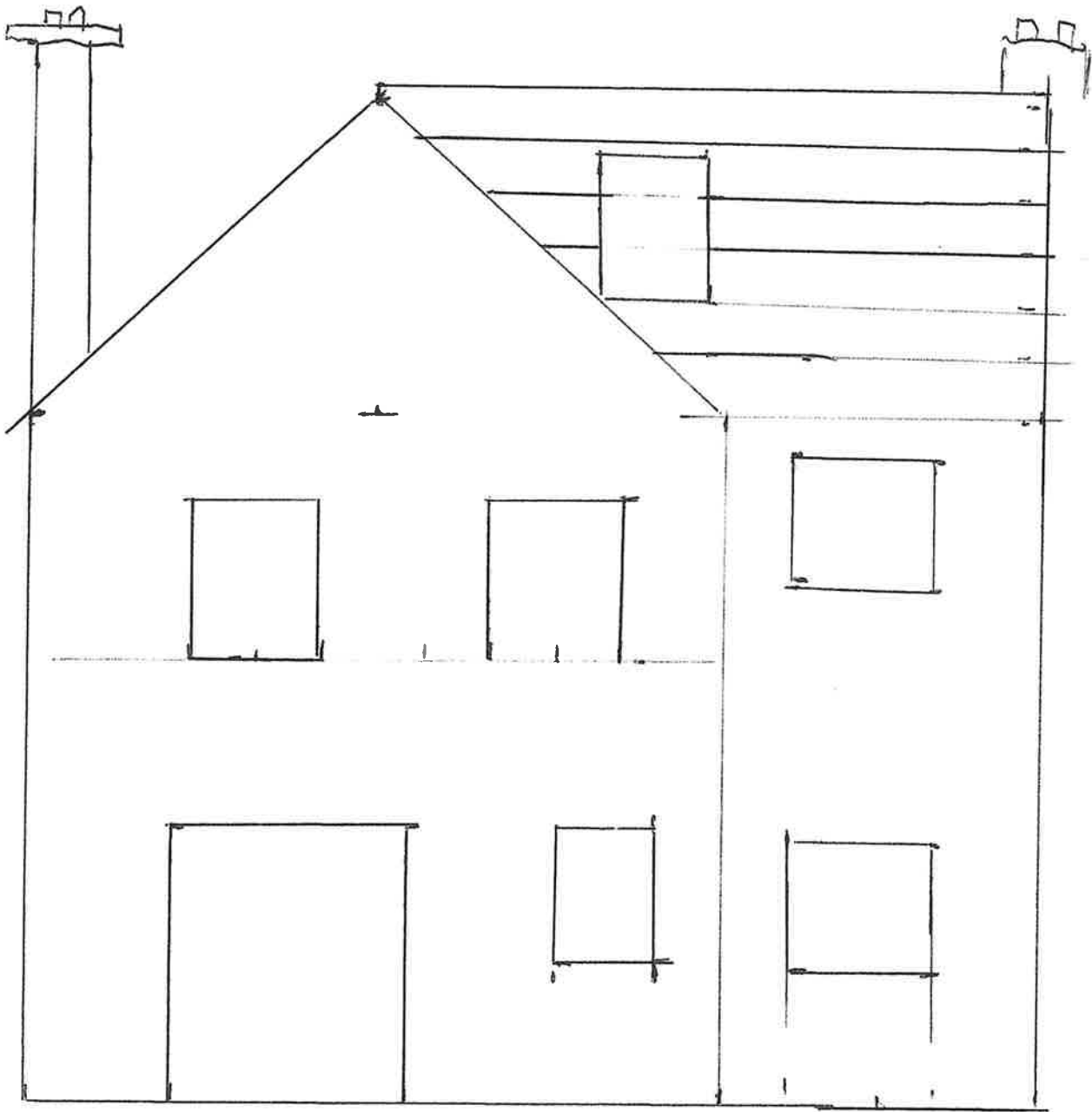


Planning Department  
12 APR 2024  
Cork County Council  
County Hall  
Cork.



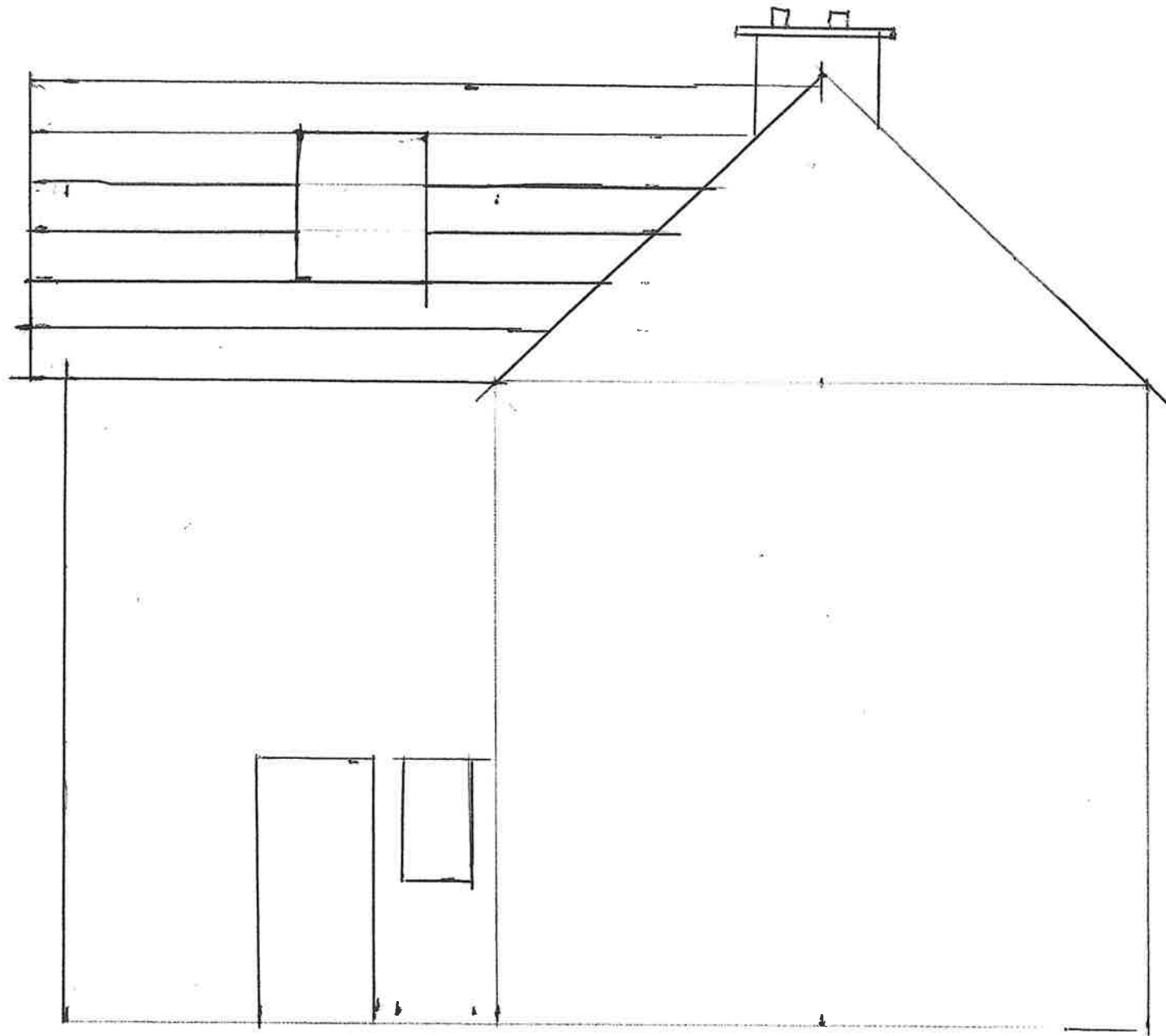
Side

Return to Department  
12 APR 2024  
Fall  
Comm



Rear.

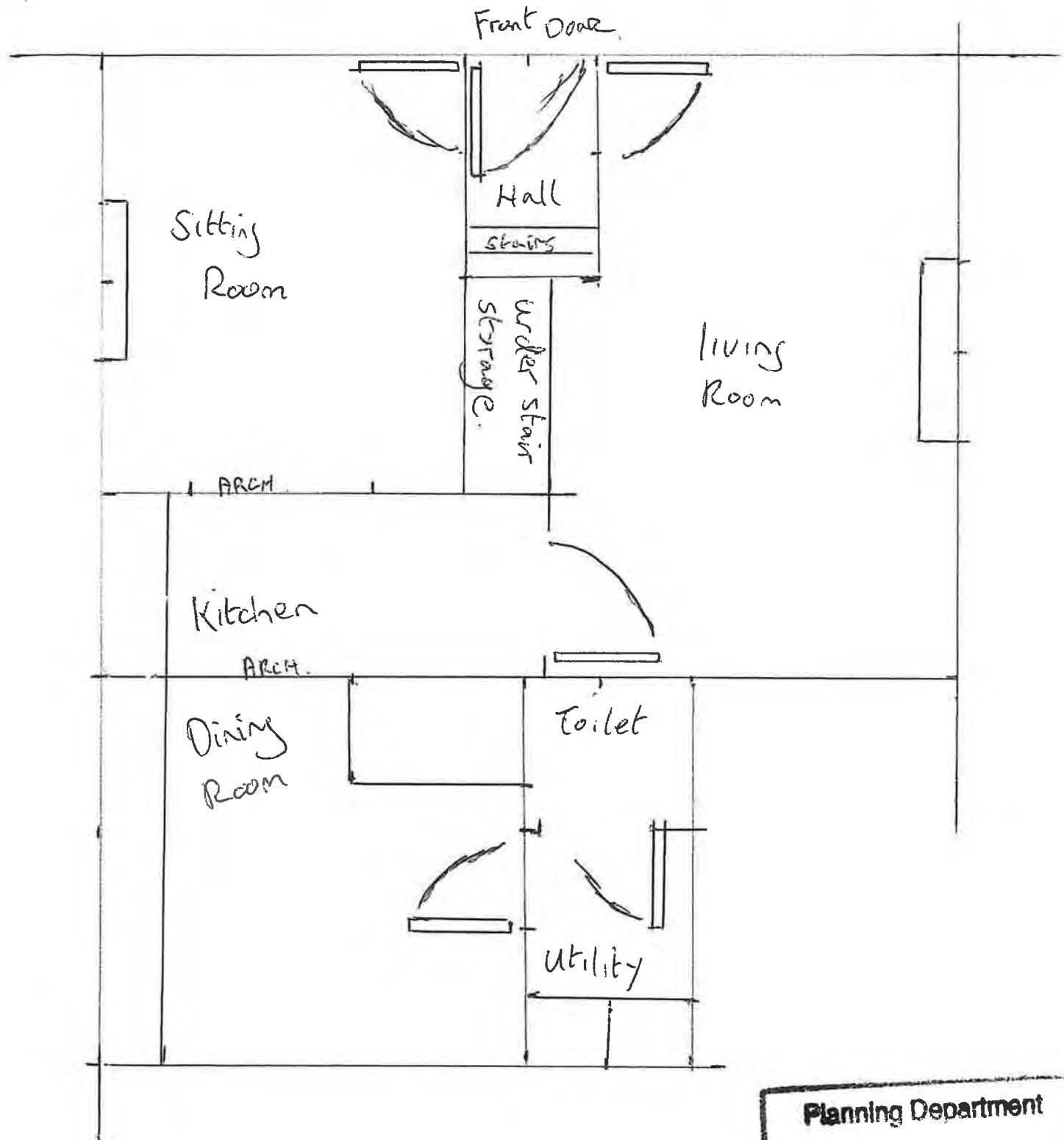
Planning Department  
12 APR 2024  
Corry Hall



Side

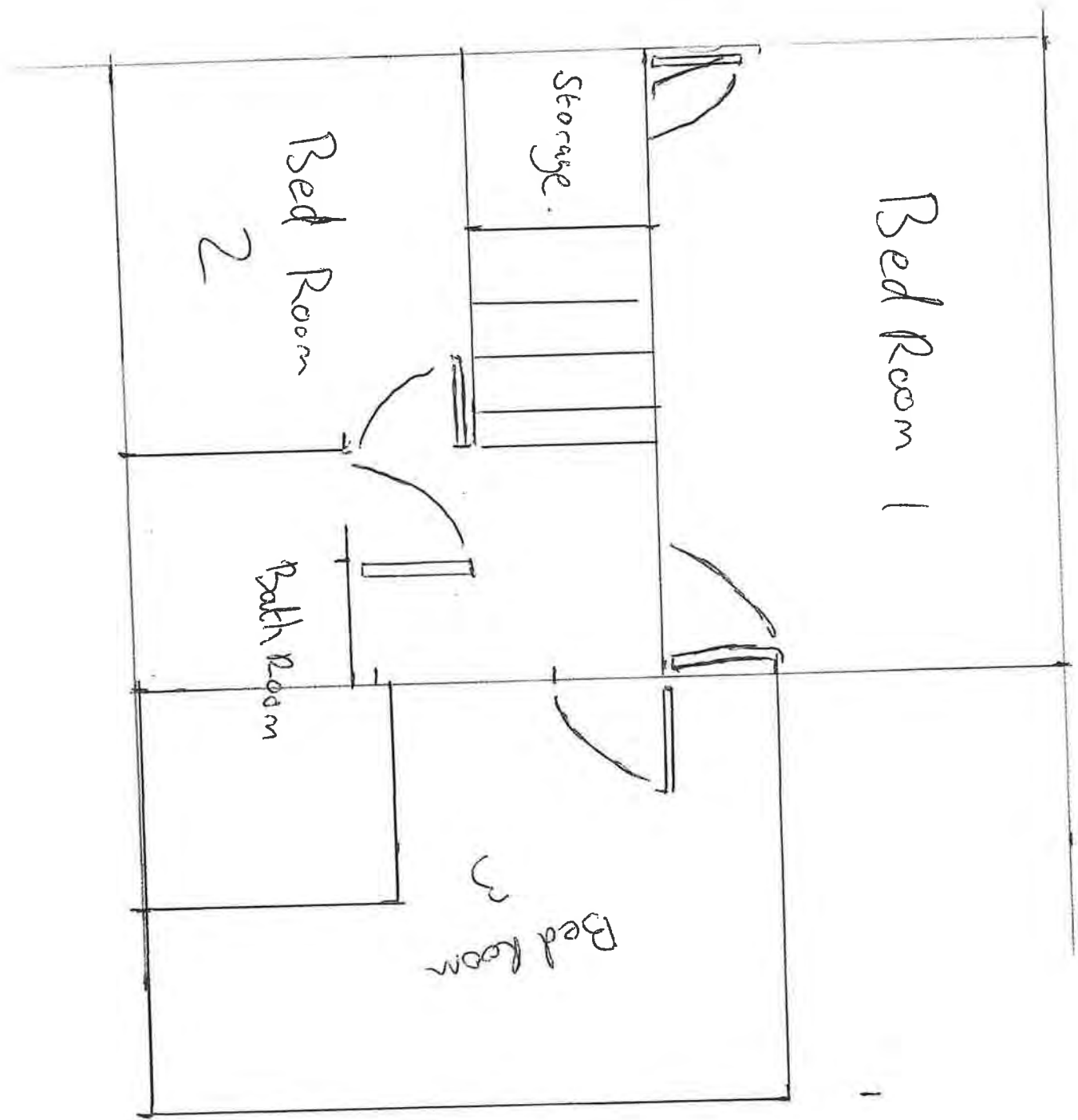
Planning Department

2012



Ground Floor.

Planning Department  
12 APR 2024  
Cwm Ddu, Gwent  
County Hall  
Cardiff



First Floor

Planning Department  
12 APR 2024  
Cork County Council  
County Hall  
Cork.