## Comhairle Contae Chorcaí Cork County Council

Charley McCarthy, 17 Bridget Street, Fermoy, Co. Cork. P61 XT82.

13th March 2023

REF: D/209/23

LOCATION: 17 Bridget Street, Fermoy, Co. Cork, P61 XT82.

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

Dear Sir,

On the basis of the information submitted by you on 9th February 2023 the Planning Authority, having considered the question whether or not the construction of a single storey extension to the rear of a house at 17 Bridget Street, Fermoy, Co. Cork, P61 XT82 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(1)(h) 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 of the site, and
- The particulars received by the Planning Authority on 9th February 2023

#### And Whereas Cork County Council has concluded that -

The construction of a single storey extension at the rear of a house at 17 Bridget Street, Fermoy, Co. Cork, P61 XT82 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.







Pleanáil agus Forbairt, Halla an Chontae,

Bóthar Charraig Ruacháin, Corcaigh T12 R2NC.

R-phost: planninginfo@corkcoco.ie Suíomh Gréasáin: www.corkcoco.ie

Planning & Development,

County Hall,

Carrigrohane Road, Cork T12 R2NC.

Tel (021) 4276891 • Fax (021) 4276321

Email: planninginfo@corkcoco.ie Web: www.corkcoco.ie

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 <a href="https://www.corkcoco.ie/privacy-statement-cork-county-council">https://www.corkcoco.ie/privacy-statement-cork-county-council</a>

#### PLANNER'S REPORT - Ref. D/209/23

**Application Type:** Section 5

**Description:** Domestic extension

**Location:** 17 Bridget Street, Fermoy, Co. Cork

**Applicant:** Charley McCarthy

#### 1. Requirements for a Section 5 Declaration Application

Section 5(1) of the Planning and Development Act, 2000 (as amended) states:

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

#### 2. The question before the planning authority

The question on which this declaration is made is whether the following is or is not development and is or is not exempted development:

'single storey extension at rear of house.'

Consideration of same is set out hereunder.

#### 3. Site Location and Description

This site is located on the northern side of the town of Fermoy along Bridget's Street. The site forms part of the terraced streetscape that is also a designated Architectural Conservation Area as per the Cork County Development Plan, 2022. The subject site comprises an existing two-storey, three bay end of terrace dwelling. There is a public footpath to the front with side access to the rear of the dwelling.



Figure 1: Subject Site

#### 4. Relevant Planning Legislation and Regulations

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

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

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3 (1) of the Act defines "development" as follows:

"In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."

Section 4(1) states that the following shall be exempted development for the purposes of this Act:

(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;

#### Planning and Development Regulations, 2001, as amended

Article 6(1) defines the scope of exempted development for the purposes of the Act as referred in Section 4(2) of the Act. The article refers to Schedule 2 forming part of the Regulations. Article 6(1) is subject to provisions of Article 9.

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".

There is no relevant class set out under Part 1 of the Second Schedule that would be of relevance to the referral.

#### 5. Relevant Planning History

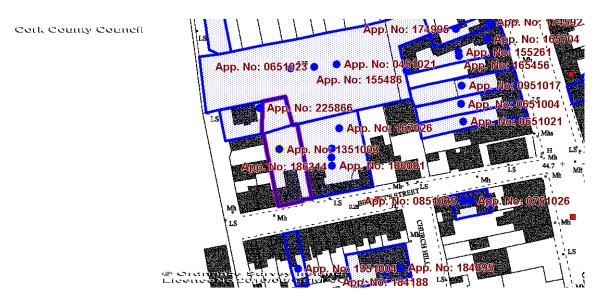


Figure 4: Planning History

Table 1: Planning History of the subject site

Planning ref. no.	Description	Status
22/5866	Permission to erect 2 number single storey extensions to the eastern and western gables, of existing storey and a half dwelling house to carry out internal alterations to dwelling and all associated site works (Charlie and Vanessa McCarthy)	Conditional
13/51003	Permission to erect domestic detached storey-and-a-half garage, consisting of loft storage to rear of existing property (Charlie and Vanessa McCarthy)	Conditional

Planning permission was granted in 2013 for a storey-and a half type detached garage to the rear of the property (planning ref. no. 13/51003).

#### 6. Internal Consultation

No internal consultees contacted in respect of this application.

#### 7. Planning Policy Context

The subject site is located within the development boundary of Fermoy as set out in the Cork County Development Plan, 2022. The site is located on lands zoned 'Existing Residential / Mixed Residential and Other Uses. As such, the following considerations apply in the context of the proposed development:

Cork County Development Plan, 2022

#### ZU 18-9: Existing Residential/Mixed Residential and Other Uses \*

The scale of new residential and mixed residential developments within the Existing Residential/Mixed Residential and Other Uses within the settlement network should normally respect the pattern and grain of existing urban development in the surrounding

area. Overall increased densities are encouraged within the settlement network and in particular, within high quality public transport corridors, sites adjoining Town Centres Zonings and in Special Policy Areas identified in the Development Plan unless otherwise specified, subject to compliance with appropriate design/amenity standards and protecting the residential amenity of the area. Other uses/non-residential uses should protect and/or improve residential amenity and uses that do not support, or threatens the vitality or integrity of, the primary use of these existing residential/mixed residential and other uses areas will not be encouraged.

#### Appropriate Uses in Existing Residential/Mixed Residential and Other Uses Areas

Residential development, residential care, sheltered housing, specialised housing, small scale retail, local centres/neighbourhood centres, small scale commercial, community facilities, childcare facilities, education facilities, places of worship, civic uses, small scale offices, local medical /healthcare services, marine facilities, sports facilities, recreation and amenity facilities, bed and breakfast/guesthouses/hotels.

**ZU 18-7: Ancillary Uses:** Ensure that developments ancillary to the parent use of a site are considered on their merits.

There are no scenic route designations within proximity to the subject site. The receiving environment is defined as a high value landscape.

There are no archaeologically designated sites, monuments, buildings listed on the Record of Protected Structures or National Inventory of Architectural Heritage (NIAH) located in proximity to the proposed development.

#### 8. Planning Assessment

#### Is or is not development?

The first issue for consideration is whether or not extension is 'development' which is defined in Section 3(1) and 'works' is defined in Section 2(1) of the Act.

Section 3(1) of the Planning and Development Act, 2000, as amended, defines development as the 'carrying out of any works on, in or under land or the making of a material change in the use of any structures or other land'.

Section 2 (1) of the Planning and Development Act defines 'works' as 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.'

Reference is also made to Section 4 of the Planning and Development Act which relates to exempted development, and in particular Section 4(1) which describes when development shall be 'exempted development' and Section 4(2) which provides that the Minister may by regulations provide any class of development to be exempted developments.

The extension as constructed to the rear of the dwelling comprises a pitched roof extension to the original dwelling. The extension has a stated floor area of 20.03sqm. The internal floor dimensions are noted as being 4.85m by 4.13m. The structure is stated to have a ridge height of 3.6m.

#### Section 4(1)(h):

Having regard to the nature of the referral at hand, it is necessary to consider same against Section 4(1)(h), prior to any consideration of exempted development and restriction on

exempted development. Section 4(1)(h) indicates the following shall be exempted developments for the purposes of this Act.

"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 development as constructed is an extension to the floor area which has works which are internal and external to the existing dwelling. The extension comprises a sunroom with large portion of glazing along its rear / northern elevation. There are 2 no. roof lights fitted into the roof plan. The structure comprises a pitched roof structure with large panelled glazing along its rear elevation. There is a two-storey pitched gable projection along the rear of the dwelling already and the single storey extension that is subject to this referral mirrors the pitch level of same. The development as constructed does not materially affect the external appearance of the structure as to render the appearance inconsistent with the character of the structure or of neighbouring structures. The extension is not visible from the streetscape owing to its location to the rear of the dwelling. In this regard, it is considered that the subject of this referral is exempt within the provisions of section 4(1)(h).

Section 4(2) of the Planning and Development Regulations provides wherein the Minister may by regulations provide for any class of development to be exempted development. The relevant class set out under same relates to Class 1 of Part 1 of Schedule 2 (Exempted Development - General) which provides for:

"the extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house."

The relevant conditions and limitations for same are as follows:

- "1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.
- (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.
- (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres
- 2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.
- (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.
- (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.

- 3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.
- 4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.
- (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.
- (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.
- 5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.
- 6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.
- (b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.
- (c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.
- 7. The roof of any extension shall not be used as a balcony or roof garden."

The extension is under 40sqm. While there is a rear projection to this dwelling, this would not appear to have been an addition having regard to historic OS mapping and no other similar such extensions exist. The extension is at ground floor level only. The extension is set below the first floor window level. The extension is below the eaves height of the two-storey gable projection to the rear of the property. There is a retained garden depth of approximately 21m with in excess of 25sqm private amenity space afforded.

#### 9. Conclusion and Recommendation

The subject referral relates to a rear extension at 17 Bridget Street, Fermoy, Co. Cork. Having regard to the consideration set out above, whereas a question has arisen as to whether the extension at 17 Bridget Street is or is not development,

And whereas, Charley McCarthy, 17 Bridget Street, Fermoy, Co. Cork requested a declaration on this question from Cork County Council on the 9<sup>th</sup> of February, 2023,

And whereas Cork County Council, in considering this referral, had regard particularly to:

- (a) Sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (b) Article 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) the documentation relating to the referral, and,
- (d) the planning history of the site,

And whereas, Cork County Council has concluded that: the extension in question comes within the scope of the definition of development contained in section 3, Planning and Development Act, 2000 (as amended). The gross floor area of the extension does not exceed 40 square metres or reduce the area of the garden remaining to less than 25

square metres, or exceed the height of the rear eaves or parapet to the house. The extension therefore comes within the scope of Class 1 of Part 1 of the Second Schedule of the Planning and Development Regulations, 2001, as amended, and all conditions and limitations attached to this class. The alterations to the elevations of the house are limited to internal works being the opening up of the living quarters to accommodate access to the extension which comes within the scope of section 1(h) of the Planning and Development Act, 2000, as amended.

Now therefore, Cork County Council, in exercise of the powers conferred on it by section 5 of the 2000 Act, hereby decides that the extension to which is the subject of this referral at 17 Bridget Street, Fermoy, Co. Cork is development and is exempted development.

Mary Molloy Assistant Planner 10/03/2023

Thomas Watt Senior Planner 10/03/23



# 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:

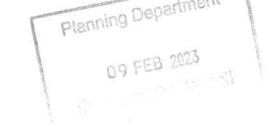
€80 Application Fee:

### FOR OFFICE USE ONLY

Receipt No.	PLZOOZZZZ		
Cash/Cheque/ Credit Card	Cheque		
Date	10/2/23		
Declaration Ref. No.	2/209/23		

(Please tick √)





#### 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 <a href="mailto:dpo@corkcoco.ie">dpo@corkcoco.ie</a> or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

A.

1.	NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A - CONTACT DETAILS)
ANALYSIS AND COMMENT OF THE CONTRACT OF THE CO	CHARLEY MC CARTHY

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

17 BRIDGET STREET
FERMOY
CO. CORK
PG1 XT82

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

Single storey	extension at Reas of
house, Floor	area is 20.03 sq. Weter
This was built	in 2001. The final
4 71 7	dimensions are 4.85m
by 4-13 m.	The ridge height is 306 un
V	
	Planning Department
	09 FEB 2023
	Control
	,

(a) Floor area of existing/proposed structure(s):	20.03 W
(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 No V  If yes, please provide floor areas (m²) 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 No I If yes, please state relevant reference number(
Please tick appropriate how to show applicant's	A Owner D Other
Please tick appropriate box to show applicant's egal interest in the land or structure: Where legal interest is "Other", please state your interest in the land/structure: If you are not the legal owner, please state the same of the owner/s (address to be supplied at	A. Owner B. Other Planning Department O9 FEB 2023
egal interest in the land or structure: Where legal interest is "Other", please state your interest in the land/structure: If you are not the legal owner, please state the name of the owner/s (address to be supplied at Question C in Contact Details):	Planning Department  O9 FEB 2023  Cost Costs of February  Contract February
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	Control Conservation are
egal interest in the land or structure: 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):  PROTECTED STRUCTURE DETAILS / All s this a Protected Structure/Proposed Protected Structure/Proposed Protected Structure/Proposed	CONSERVATION ARE  Icture or within the curtilage of a Protected  Inning & Development Act 2000 been requested

#### 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 <a href="http://www.corkcoco.ie/privacy-statement-cork-county-council">http://www.corkcoco.ie/privacy-statement-cork-county-council</a> 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

Signed (By Applicant Only)	Charley We (	arth	1		
Date			2/	9	11073

#### 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 <a href="https://www.corkcoco.ie/privacy-statement-cork-county-council">https://www.corkcoco.ie/privacy-statement-cork-county-council</a> 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 permissi for the purpose stat		submitted to the Planning Authority to be process	ed
Signed	Charles McC	artes.	
Date	V	2/2/1023	

You have the right to withdraw your consent by contacting the Planning Department. Ground Floor, County Hall, Carrigrohane Road, Cork, Tel: (021) 4276891 Email: <a href="mailto:planninginfo@corkcoco.ie">planninginfo@corkcoco.ie</a> or by contacting the Planning Department. Norton House, Cork Road, Skibbereen, Co. Cork, Tel: (028) 40340 Email: <a href="mailto:westcorkplanninginfo@corkcoco.ie">westcorkplanninginfo@corkcoco.ie</a> 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.

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Planning Department	The state of the s	
Og FEB 2023 Cort-County Council		
have provided, your consent processing the personal data cy available at by from any Council office;		
Exemption Application		
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Floor, County Hall, ting the Planning Department, nfo@corkcoco.ie ton decision-making process this is been made, an applicant is not using is required for compliance the available publicly to		

#### 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.

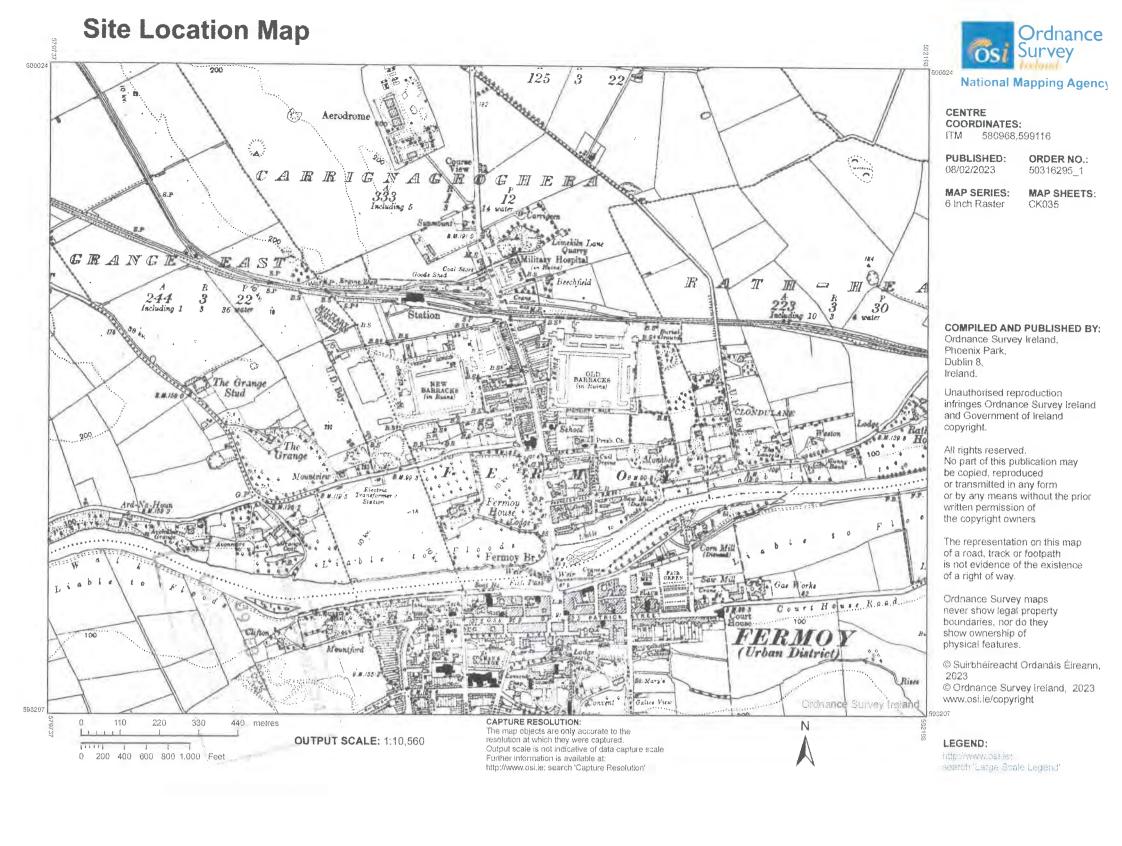
- . The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- The Planning Authority may request other person(s), other than the applicant: to submit information on the question which has arisen and on which the Declaration of Exemption is sought.
- · Any person issued with a Declaration of Exemption may on payment to An Bord Pleanala 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.

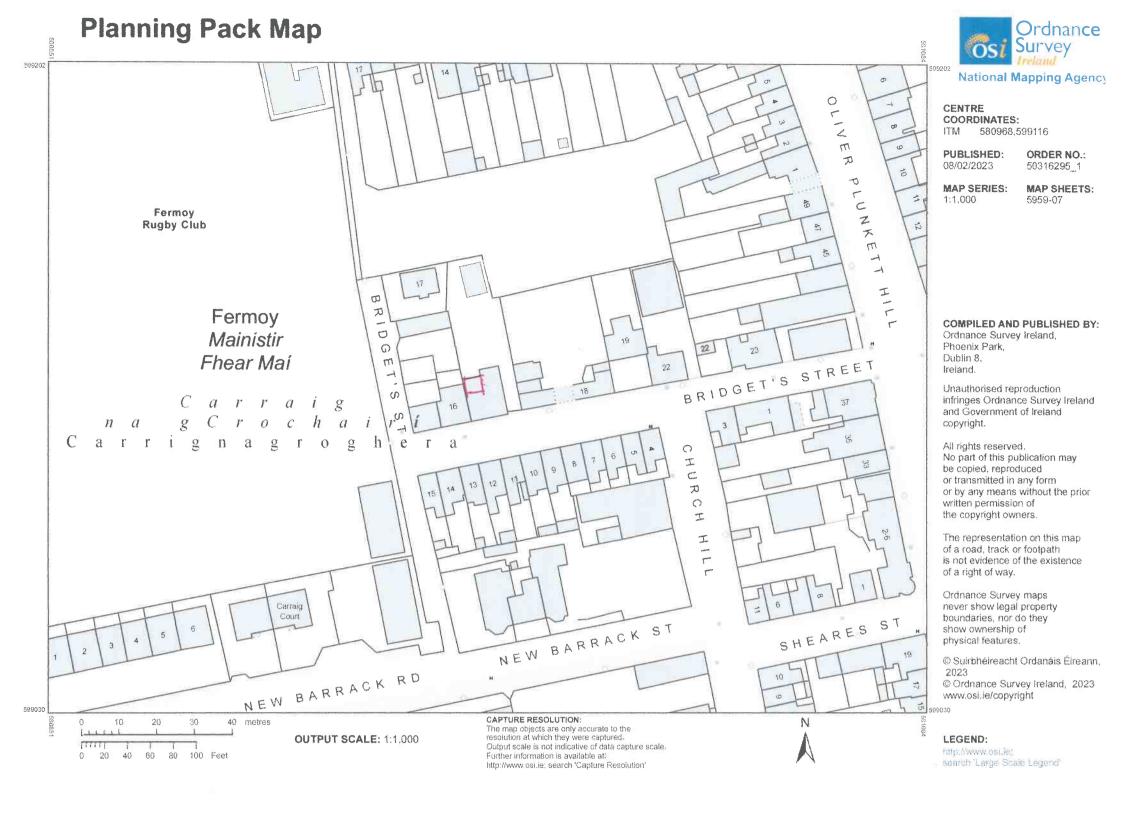
The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be 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.

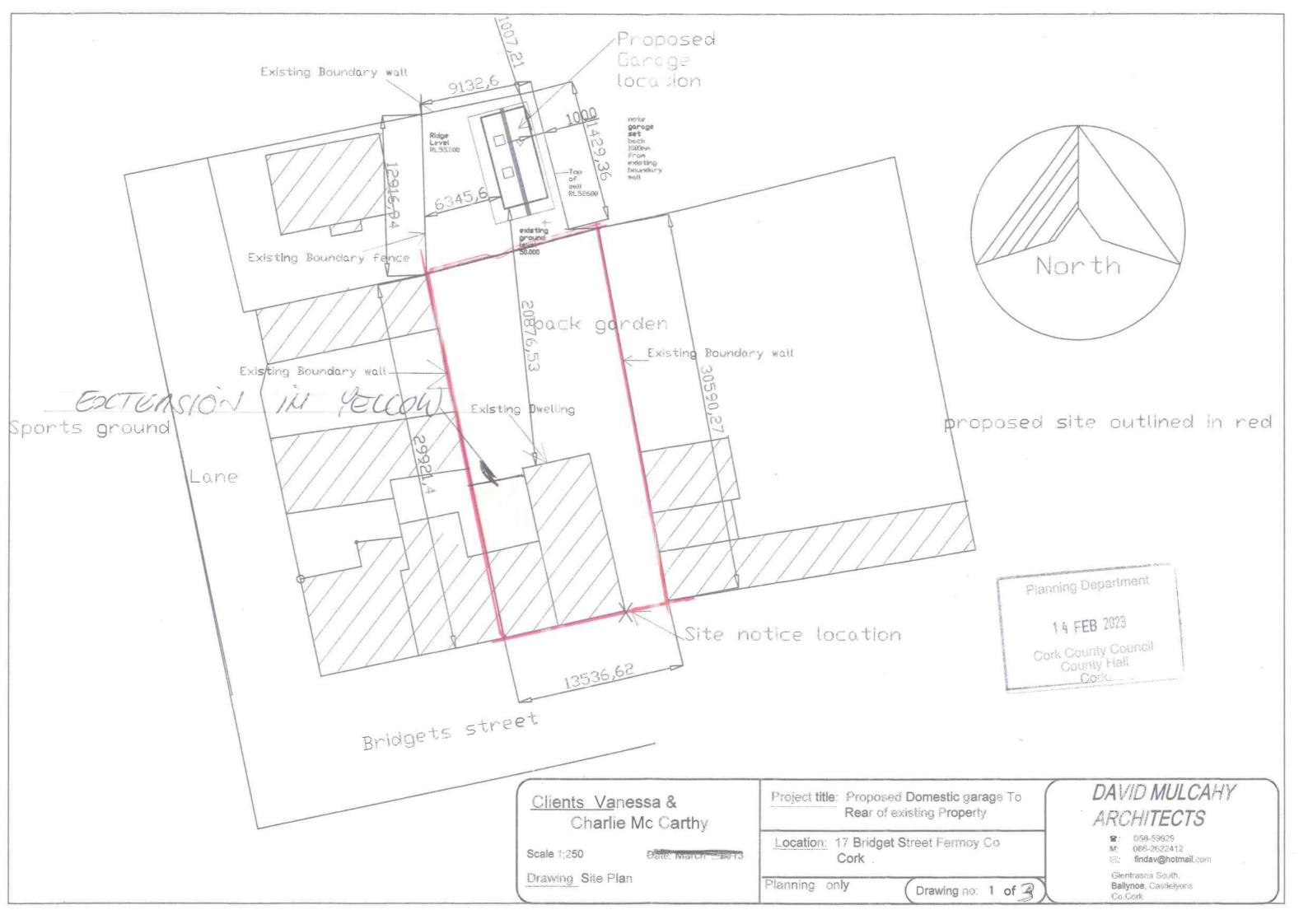
I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the Planning and Development Acts 2000, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	Charley Mc Cattey
Date	8/2/2023





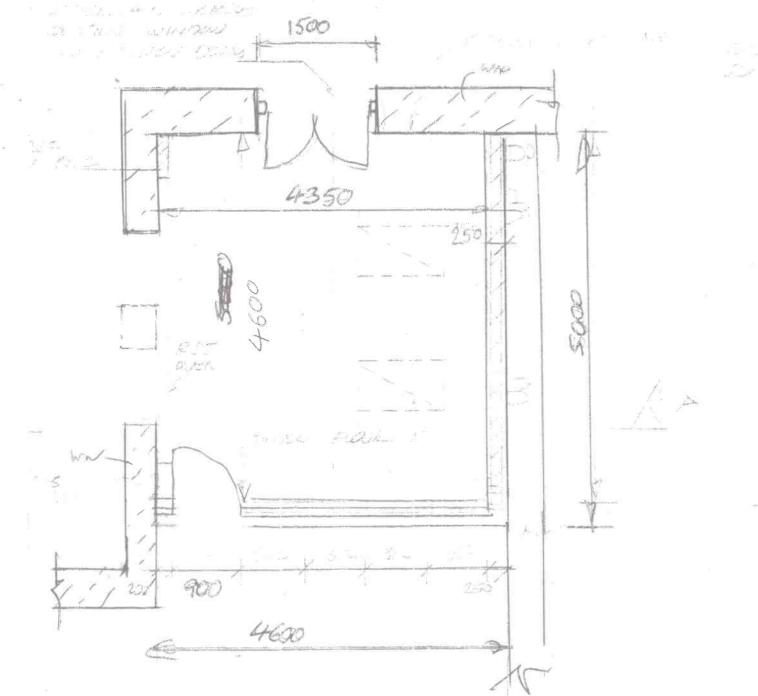




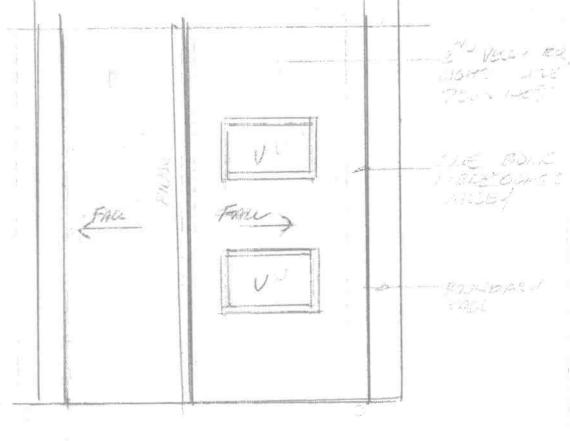
Planning Department

1.4 FEB 2023

Cork County Council
County Hall
Cork



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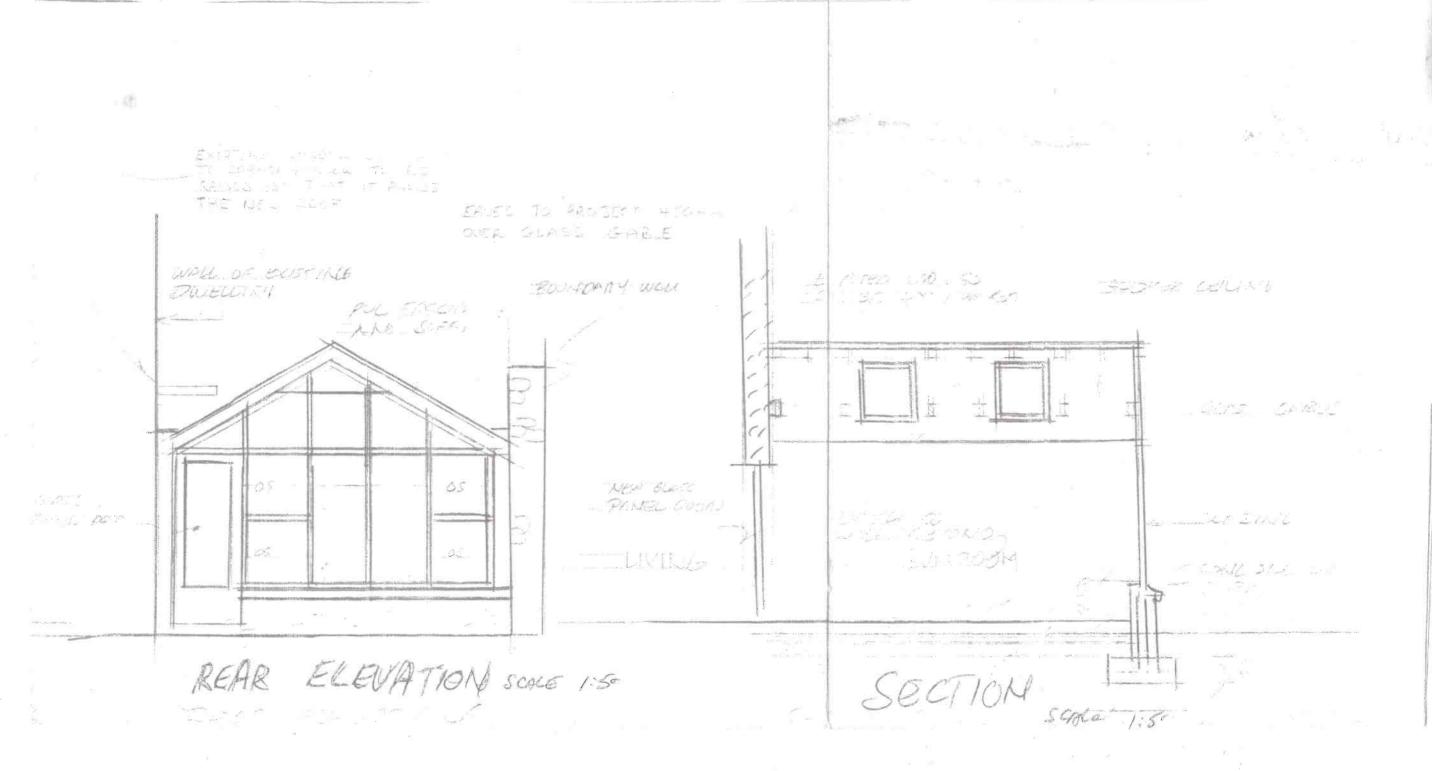
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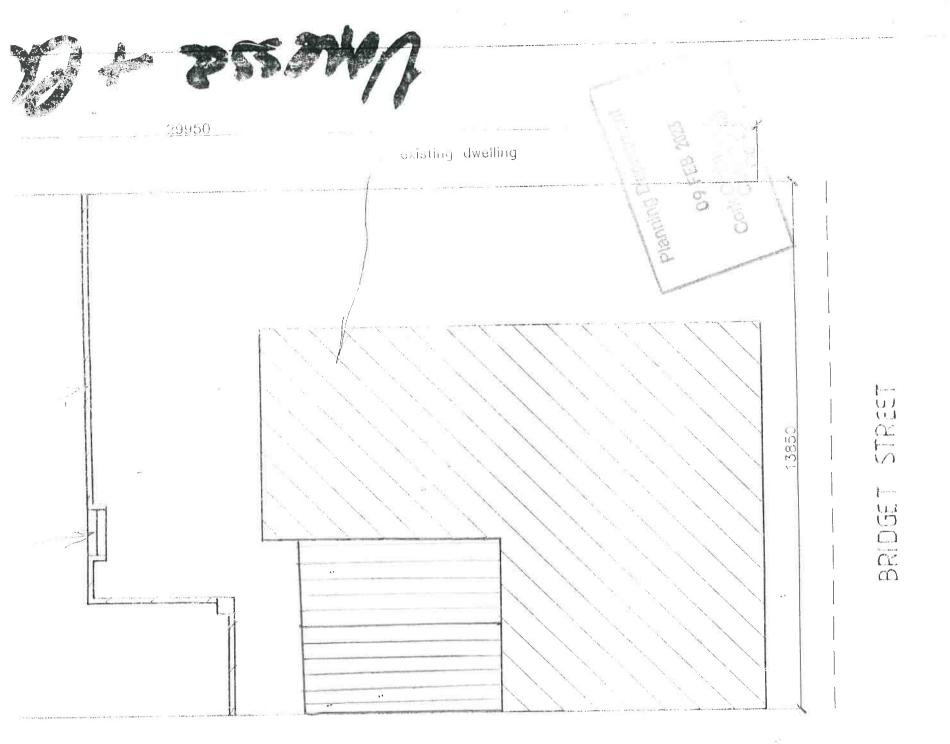
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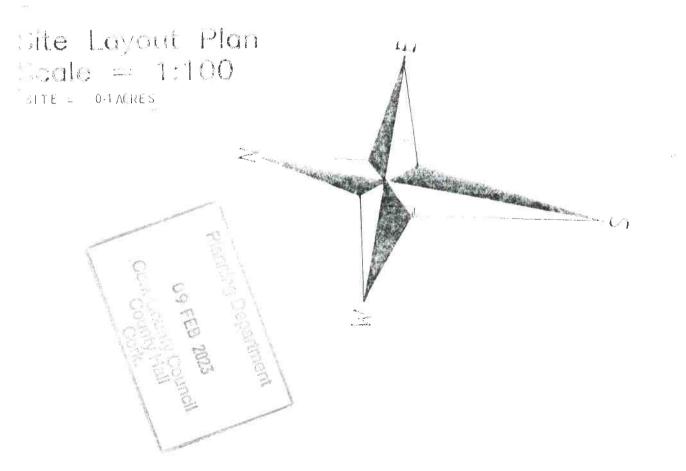
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Cork County Council
County Hall
Cork



ETRAMIAS 3/2





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Site Layout Man
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Date 06/10/99 Soula as shown

