# Comhairle Contae Chorcaí Cork County Council

Dympna Leahy, 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 • Faics: (021) 4276321 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



12th September 2023

REF:

D/265/23

LOCATION:

Ballynona North, Dungourney, Co. Cork

RE:

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

Dear Madam,

On the basis of the information submitted by you on 20<sup>th</sup> July and 23<sup>rd</sup> August 2023 the Planning Authority, having considered the question whether or not the restoration of a farmhouse, including the replacement of roof, external windows and doors, external plastering and internal works at **Ballynona North**, **Dungourney**, **Co. Cork** is or is not development and is or is not exempted development has declared that the Planning Authority are not satisfied that the structure was residential and cannot therefore determine the Section 5 Application.

#### **Reason for Decision**

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

- Sections 2(1), 3(1) and 4 of the Planning and Development Act 2000 (as amended),
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended) and
- The particulars received by the Planning Authority on 20<sup>th</sup> July and 23<sup>rd</sup> August 2023

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

On the basis of the evidence submitted, it appears that the structure was previously in agricultural use and was not previously used as a dwelling.

Therefore, and in relation to the question posed, I would consider the wording (i.e. restoration of a farmhouse) to be erroneous as the structure in question appears to be agricultural in nature and not previously in use as a dwelling. Accordingly, the Planning Authority cannot make a determination on the basis of the question posed.

If the correct wording was applied (i.e. conversion of agricultural building to a dwelling), then same would constitute "development" as per the meaning ascribed to it under the Act but would not constitute "exempted development" for the purposes of the Act.



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>

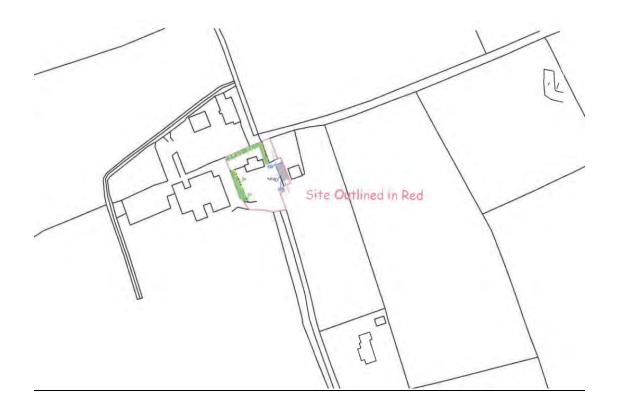
Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

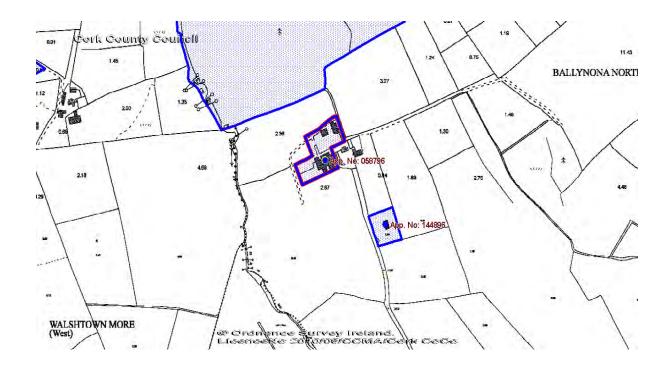
D265-23-Restoration of house, Dympna Leahy, Ballynona North

#### The Question

The applicant is querying whether the restoration of a farmhouse, including the replacement of roof, external windows and doors, external plastering and internal works is/ is not exempted development for the purposes of the Act

## **Planning History**





On wider landholding 05/8796- Permission granted to James O Callaghan for Slurry storage tank and ancillary concrete works

#### **Statutory Provisions**

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

#### 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.

#### **Application detail**

The propsoal involves the following.

- -replacement of roof,
- -external windows and doors,
- external plastering
- internal works

#### Assessment

The proposed revisions clearly represent "development" insofar as "works" will be taking place. Accordingly the question then moves to whether or not the works proposed can be considered "exempted development" for the purposes of the Act.

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 term 'structure' is defined in the Act as follows:

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined.

On the face of it, the replacement of a roof, replacement of windows and doors and external plastering could be deemed to be "exempted development" if they were, in effect, deemed a "like for like" replacement or indeed very similar replacement of existing materials. In that context the works would not fail the test as outlined under S4 as such works would not <u>materially affect</u> the external appearance of the structure so as to render the appearance <u>inconstant with the character of the structure</u> or of neighboring structures. Determining same however requires detail of the finishes of the existing structure and detail on the replacement materials, neither of which has been furnished in this instance. The planning authority would need this detail to allow assessment. It would also be a requirement to submit detail of the status of the existing structure to clarify if it is indeed used (or recently used) as a dwelling. If the structure is ruinous for example, the works proposed would be construed as contributing to a material change in the use of the structure as would warrant planning permission

In respect of the internal works, the wording of S4 (1)(h) provides for the *carrying out* of works for the maintenance, improvement or other alteration of any structure, being works which affect only the <u>interior of the structure</u>. Subject to further detail as outlined above, internal works are likely to be deemed exempt development (though it is noted that no internal floor plan provided). The only instance where this would not apply would in cases where the structure is "protected". This does not apply in this instance

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

Please note the questions posed would not give rise to EIA or AA issues

#### Conclusion

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

(a) Section 2(1), 3(1), 4, of the Planning and Development Act, 2000, as amended,

The Planning Authority has concluded that there is insufficient detail provided to allow Planning Authority to determine if the development meets the provisions of S4(1)(h) of the Act.

To address same please submit the following

(a) Photographic image of existing dwelling/structure

- (b) Details of materials used in existing roof, windows, doors and clarification of external finishes
- (c) Details of materials to be used in proposed replacement roof, windows and doors and clarification of proposed external finish
- (d) Floor plan in respect of internal works
- (e) Clarification of status of structure (i.e. when last used as dwelling)

Enda Quinn Executive Planner 16/8/2023 Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

D265-23-Restoration of house, Dympna Leahy, Ballynona North

#### **Additional Report**

I have reviewed the response submitted by the applicant to the questions raised. A photo of the structure has been submitted as well as clarification of the materials used. It is stated in the response that the dwelling was last occupied in the 1970's and for 100 years prior to that point. The photo of the structure submitted as well as the associated floor plan and associated external openings do not support this assertion and are instead suggestive of a previous <u>agricultural</u> use. Large openings on the front elevation would not be typical in a dwelling from that era. There is also no chimney breast visible on the structure- again suggestive of an agricultural use. There is also an existing farm house already on the site



#### Conclusion

On the basis of the evidence submitted, it appears that the structure was previously in agricultural use and was not previously used as a dwelling.

Therefore, and in relation to the question posed, I would consider the wording (i.e restoration of a farmhouse) to be erroneous as the structure in question appears to be agricultural in nature and not previously in use as a dwelling. Accordingly, the Planning Authority cannot make a determination on the basis of the question posed. If the correct wording was applied (i.e conversion of agricultural building to a dwelling), then same would constitute "development" as per the meaning ascribed to it under the Act but would not constitute "exempted development" for the purposes of the Act

Enda Quinn Executive Planner 12/9/2023



Tracy O'Callaghan, SO Planning Department, Cork County Council, County Hall, Cork,

22 / 08 / 2023

# Re: Declaration of Exempted Development under Section 5 of The Planning and Development Act 2000 – 2010. Reference D/265/23

Dear Tracy,

Further to your letter of the 17<sup>th</sup> of August 2023 in relation to the above application, please note the following: -

- a. Enclosed is a photograph of the property in question.
- b. The materials used in the existing structure are plastered external walls, timber windows and doors (note: the timber doors were replaced with steel sliding doors approx. 10 years ago) and a cladded roof.
- c. The proposed materials to be used in the development is a plastered wall finish, triple glazed timber windows and external doors and a cladded roof.
- d. Enclosed is a floor plan of the proposed development.
- e. The structure was last used as a dwelling in the mid 1970's. The structure was used as a dwelling in the region of 100 years prior to this time when it was last occupied.

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

Planning Department

23 AUG 2023

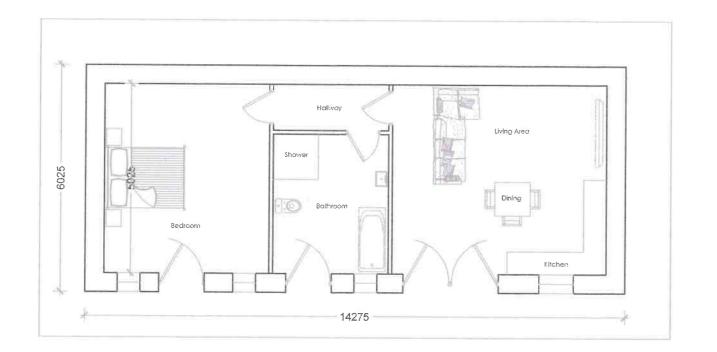
Cork County Council County Hall Cork.

Ballynona North, Dungourney, Co.Cork

Directors: D.O'Callaghan, A.Hynes O'Callaghan Engineering & Deisgn Ltd. T/A O'Callaghan Engineering & Deisgn Company Registration Number: 426966

Tel: 021-4668365 | 086-8531270 Email: declarocallaghan@gmail.com VAT No: IE 9579223 G









All dimensions in millimetres.

Do not scale.

Drawing to be used for Planning Application only.

Planning Application.

DOC 22/08/23 1
revisions int. date rev



Client
Dympna Leahy,
Ballynona North, Dungourney,
Co. Cork

Title

Floor Plan

23 AUG 2023

Drawn By Date all Date 22 - 08 - 2023

Scale 1:100

Drg. No. DL - 01



# Comhairle Contae Chorcaí Cork County Council

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

17<sup>th</sup> August 2023

Our Ref.:

D/265/23

b) 203/

RE: Declaration of Exempted Development under Section 5 of The Planning and Development Act 2000 – 2010.

Pleanáil agus Forbairt, Halla an Chontae,

Bóthar Charraig Ruacháin, Corcaigh T12 R2NC.

Fón: (021) 4276891 • Faics: (021) 4276321 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

Whether the restoration of a farmhouse, including the replacement of roof, external windows and doors, external plastering and internal works at Ballynona North, Dungourney, Co. Cork is development and is or is not exempt development.

Dear Madam,

I refer to your application for a Declaration of Exemption in relation to the above. The Planning Authority has concluded that there is insufficient detail provided to allow us to determine if the development meets to provisions of S4(1)(h) of the Planning and Development Act 2000 (as amended). To address same please submit the following:

- (a) Photographic image of existing dwelling/structure.
- (b) Details of materials used in existing roof, windows, doors, and clarification of external finishes.
- (c) Details of materials to be used in proposed replacement roof, windows and doors and clarification of proposed external finish.
- (d) Floor plan in respect of internal works.
- (e) Clarification of status of structure (i.e. when last used as dwelling)

Yours faithfully,

Tracy O' Callaghan,

SO 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>





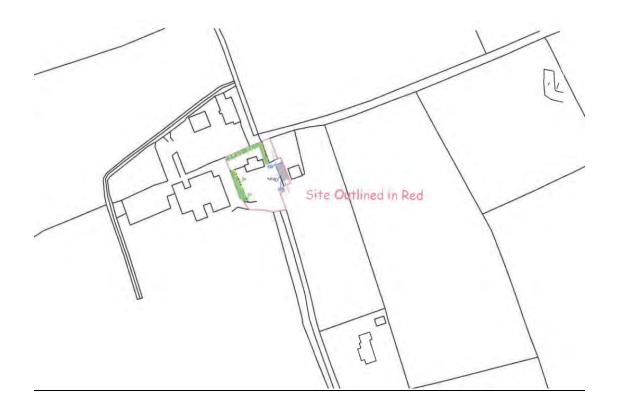
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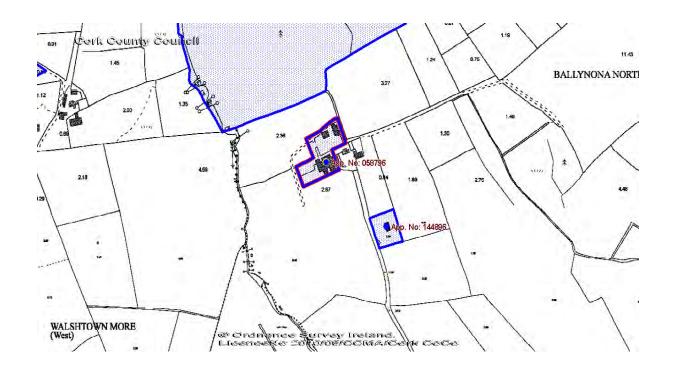
D265-23-Restoration of house, Dympna Leahy, Ballynona North

#### The Question

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#### **Application detail**

The propsoal involves the following.

- -replacement of roof,
- -external windows and doors,
- external plastering
- internal works

#### Assessment

The proposed revisions clearly represent "development" insofar as "works" will be taking place. Accordingly the question then moves to whether or not the works proposed can be considered "exempted development" for the purposes of the Act.

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

Please note the questions posed would not give rise to EIA or AA issues

#### Conclusion

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

(a) Section 2(1), 3(1), 4, of the Planning and Development Act, 2000, as amended,

The Planning Authority has concluded that there is insufficient detail provided to allow Planning Authority to determine if the development meets the provisions of S4(1)(h) of the Act.

To address same please submit the following

(a) Photographic image of existing dwelling/structure

- (b) Details of materials used in existing roof, windows, doors and clarification of external finishes
- (c) Details of materials to be used in proposed replacement roof, windows and doors and clarification of proposed external finish
- (d) Floor plan in respect of internal works
- (e) Clarification of status of structure (i.e. when last used as dwelling)

Enda Quinn Executive Planner 16/8/2024



Planning Department, Cork County Council, County Hall, Cork. 18 / 07 / 2023

Re: Planning Exemption for Dympna Leahy, at Ballynona North, Dungourney, 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



# 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.	Per-0001186
Cash/Cheque/ Credit Card	Chaque
Date	20/07/2023
Declaration Ref. No.	0/265/23







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.de/Privacy-Policy or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to dpo@corkcoco.ie or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

ympn	ona Leahy	
	POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH EXEMPTION IS SOUGHT:	DECLARATION OF
ync	nona North, Dungourney, Co. Cork.	
	QUESTION/DECLARATION DETAILS:	
se s	e state the specific question for which a Declaration of Exemption is sought	
	Only works listed and described under this section will be assessed under the Section 5	
ora	ration of farmhouse including replacement of roof, external windows and doors, external plastering	and internal works.
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## 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  $(m^2)$ 

(a) Floor area of existing/proposed structure(s):	66 metres squared
(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 IIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIII
(c) If a change of use of land and/or building(s) is proposed, please state the following:	
Existing/previous use	Proposed use N/A
(d) Are you aware of any enforcement proceedings connected to this site?	Yes No V  If yes, please state relevant reference number(s):
Please tick appropriate box to show applicant's legal interest in the land or structure:  Where legal interest is "Other", please state	THE LAND/STRUCTURE:  A. Owner B. Other
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 / A	ARCHITECTURAL CONSERVATION AREA:
Is this a Protected Structure/Proposed Protected Str Structure: Yes No	ructure or within the curtilage of a Protected
If yes, has a Declaration under Section 57 of the Planting or issued for the property by the Planning Authority	
If yes, please state relevant reference No	Planning Departme
Is this site located within an Architectural Conserva Development Plan? Yes	ation Area (ACA), as designated in the County No
7. APPROPRIATE ASSESSMENT:	County Hall Cork
Would the proposed development require an appr have a significant effect on the integrity of a Europ	pean 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 <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

I give permission for my personal information to be processed for the purpose stated above

Signed (By Applicant Only)	Durine Coals	
Date	18/04/23	

### 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

 $oxedsymbol{V}$  I give permission for my sensitive personal data submitted to the Planning Authority to be processed for the purpose stated above.

Signed	Dogra Cook
Date	0 18 107 125

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planninginfo@corkcoco.ie or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcorkplanninginfo@corkcoco.ie However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.

20 JUL 2023

Cork County Council County Hali Cork

#### **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.

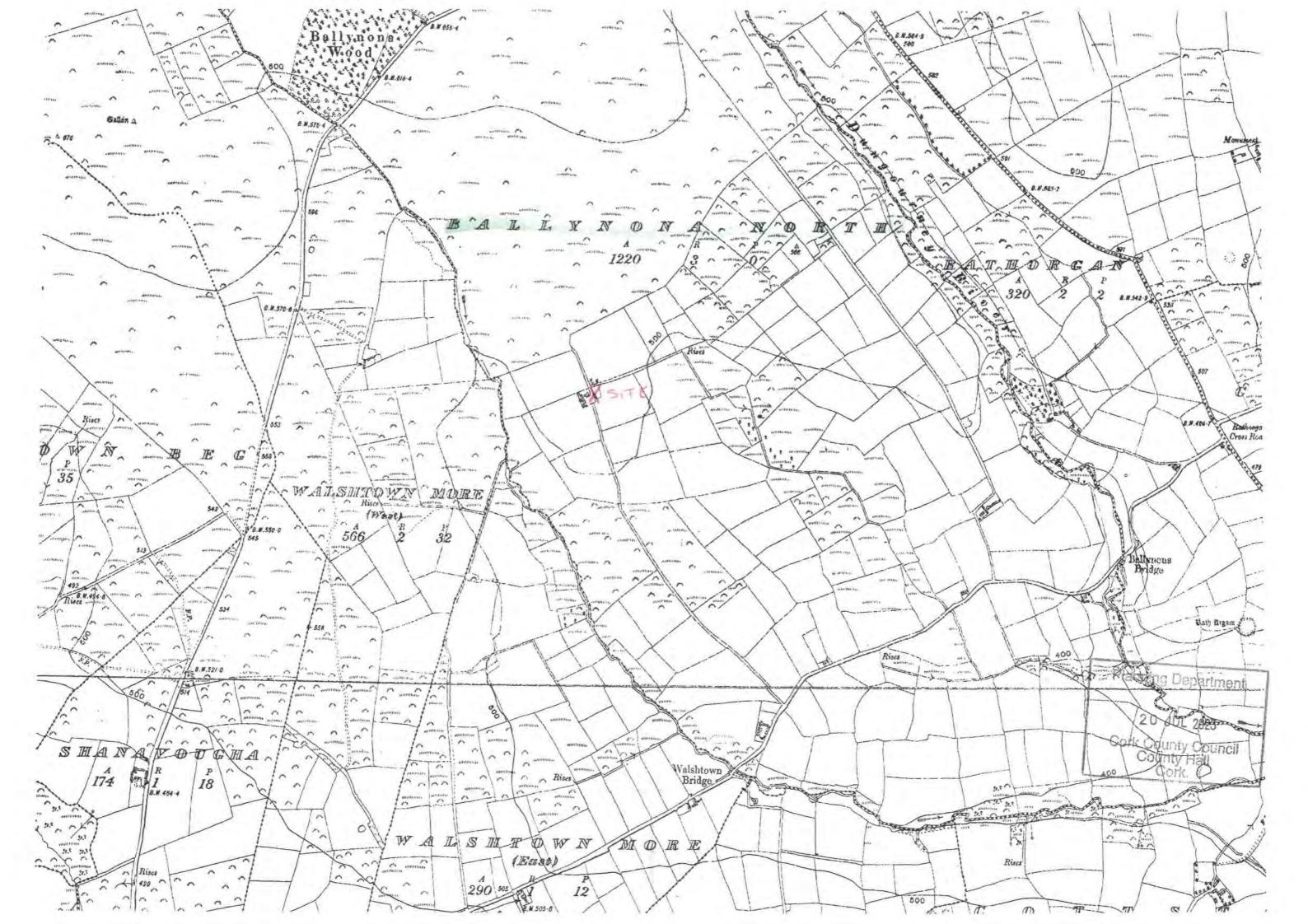
9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the <u>Planning and Development Acts 2000</u>, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	Dunpar Cealy
Date	18/07/23

Planning Department

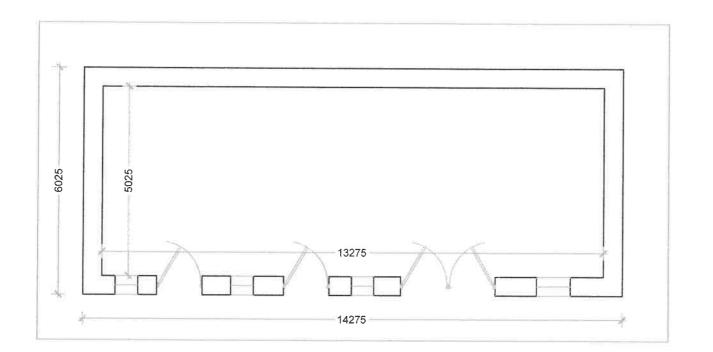
20 JUL 2023

Cork County Council
County Hall
Cork.













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

Planning Department

20 JUL 2023

Cork County Council County Hall Cork.

Planning Application.

DOC 18/07/23 1

revisions

int. date rev



Ballynona North, Dungourney, Co. Cork. Tel: 021 - 4668365 Mob.: 086 - 8531270

Client

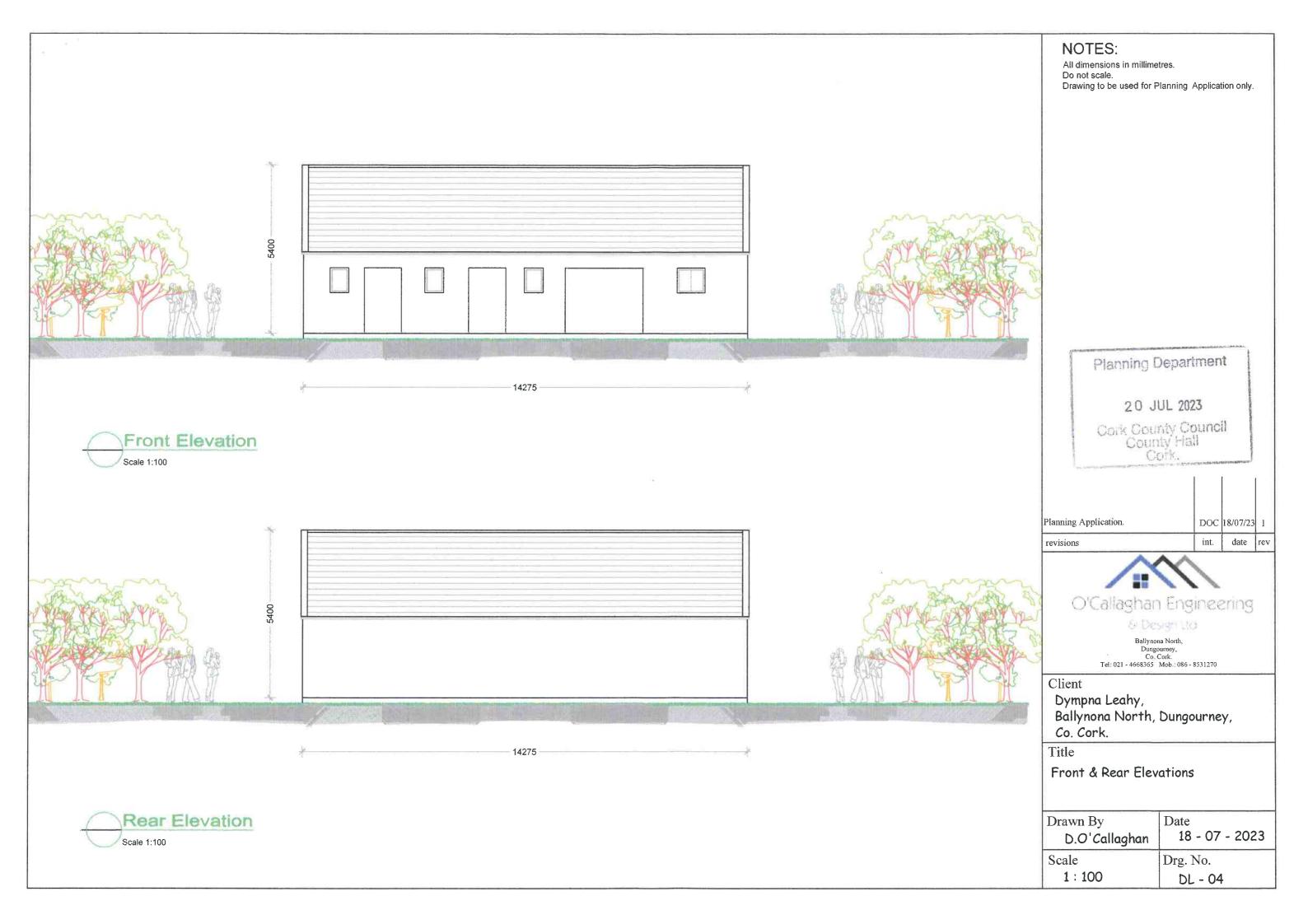
Mike Leahy, Ballynona North, Dungourney, Co. Cork.

Title

Floor Plan

Drawn By D.O'Callaghan	Date 18 - 07 - 2023
Scale	Drg. No.
1:100	DL - 03







# NOTES:

All dimensions in millimetres.

Do not scale.

Drawing to be used for Planning Application only.

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revisions



& Design Ltd

Client

Dympna Leahy, Ballynona North, Dungourney, Co. Cork.

Title

Side Elevations.

Drawn By D.O'Callaghan	Date 18 - 07 - 2023
Scale	Drg. No.
1:100	DL - 05