Comhairle Contae Chorcaí Cork County Council

Odyssey Social Care Ltd., c/o Niall Hegarty, SM Building Consultancy, Unit 4, 84 Strand Street, Skerries, Co. Dublin. K34 VW94. Pleanáil agus Forbairt, Halla an Chontae, Bóthar Charraig Ruacháin, Corcaigh T12 R2NC. Fón: (021) 4276891 R-phost: planninginfo@corkcoco.ie Suíomh Gréasáin: www.corkcoco.ie Planning & Development, County Hall, Carrigrohane Road, Cork T12 R2NC. Tel (021) 4276891 Email: planninginfo@corkcoco.ie Web: www.corkcoco.ie



31st July 2023

REF:D/282/23LOCATION:Ballybrack, Glenville, Co. Cork, T56 E062.

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

Dear Sirs,

On the basis of the information submitted by you on 22nd September 2023 the Planning Authority, having considered the question whether or not the change of use of a residential property to a residential care facility for children at risk, including those with learning difficulties, where the number of residents will not exceed 6 and the number of carers will not exceed 2 at **Ballybrack, Glenville, Co. Cork** is or is not development and is or is not exempted development has declared that it **is development and is exempted development**.

Reason for Decision

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

- Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended), and
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended), and
- Schedule 2: Part 1: Exempted Development: Class 14 (F) of the Planning and Development Regulations 2001 (as amended), and
- The particulars received by the Planning Authority on 22nd September 2023

And Whereas Cork County Council has concluded that -

The change of use of a residential property to a residential care facility for children at risk, including those with learning difficulties, where the number of residents will not exceed 6 and the number of carers will not exceed 2 at **Ballybrack, Glenville, Co. Cork is development** and **is exempted development**.

We are centitled to do so.

Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Yours faithfully,

KEVIN O' REGAN,

SENIOR EXECUTIVE OFFICER, PLANNING DEPARTMENT.

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

D/282/23 – Section 5 Declaration

1. Introduction

A Section 5 declaration is sought by SM Building Consultancy on behalf of Odyssey Social Care Ltd in respect of change of use of a residential property to a residential care facility for children at risk, including those with learning difficulties at Ballybrack, Glenville, Co. Cork, T56 E062.

2. Site and Project Description

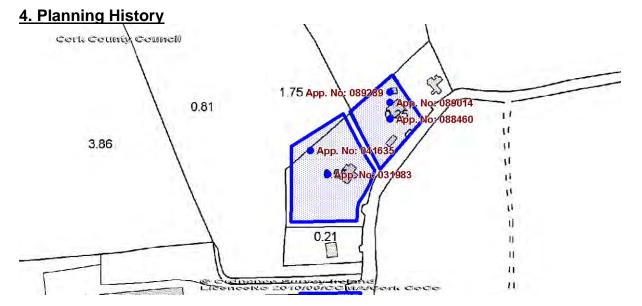
The site is located in the townland of Ballybrack, c. 2km to the southwest of Glenville. The site comprises a detached dwelling and garage with large residential curtilage. The site is accessed off the L6142. The dwelling is mostly screened from view from the public road by a mature roadside boundary hedge.

The proposal relates to the change of use of a residential property to a residential care facility for children at risk including those with learning difficulties. The applicant indicates that the number of residents will not exceed 6 and the number of carers will not exceed 2.

3. Question subject of the Section 5

On the basis of the information submitted the question to be addressed under this request is as follows:

"Whether or not the change of use of a residential property to a residential care facility for children at risk, including those with learning difficulties is or is not development and is or is not exempted development".



The following planning history pertains to the subject site:

Planning Ref.	Development Description	Decision
03/1983	Dwellinghouse and bio filtration unit (Kay O'Toole)	Refused
04/1635	Dwellinghouse and biofiltration unit (Kay O'Toole)	Conditional

5. Relevant Planning Legislation

<u>Planning and Development Act 2000 (as amended)</u> Section 2 (1) of the Planning and Development Act 2000 (as amended) states:

In this Act, except where the context otherwise requires -

"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 Planning and Development Act 2000 (as amended) states:

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 (4) of the Planning and Development Act 2000 (as amended) states:

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

<u>Planning and Development Regulations 2001 (as amended)</u> Article 6 (1) of the Planning and Development Regulations 2001 (as amended) states:

Subject to article 9, development 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) (a) of the Planning and Development Regulations 2001 (as amended) states:

Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would-

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

Class 14, Part 1, Schedule 2:

Development constisting of a change of use -

(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.

Provided

The number of persons with an intellecutal or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.

6. Consultees

None requested.

7. Assessment

Is the proposal development?

It is considered that the proposal comes within the meaning of 'development' in accordance with Section 3 of the Planning and Development Act 2000 (as amended). The question at issue, therefore, is whether the development is or is not exempted development.

Is the proposal exempted development?

Class 14 (f), Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended) allows for the change of use of a house to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons provided the number of persons living in any such residence shall not exceed 6 and the number of carers shall not exceed 2.

The applicant indicates that the house will be used to provide a residential care facility for children at risk including those with learning difficulties. It is noted that this is a 4-bedroom dwelling. The applicant confirms that the number of residents will not exceed 6 and the number of carers will not exceed 2.

An Appropriate Assessment would not be required for this development.

On this basis it is considered that the proposal comprises development and is exempted development.

Having regard to the drawings associated with 04/1635 and the drawings submitted with this Declaration and having carried out a site visit it is noted that the dwelling has been extended at ground floor to the rear. The extensions appear to be less than 40 sq. m and as such are likely to be exempt development having regard to Class 1, Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended). It is also noted that the dormer design differs from the permitted development, but this is considered to be a minor non-material change to the overall permitted development.

9. Recommendation

A question has arisen as to whether:

"the change of use of a residential property to a residential care facility for children at risk, including those with learning difficulties where the number of residents will not exceed 6 and the number of carers will not exceed 2"

at Ballybrack, Glenville, Co. Cork, T56 E062, is or is not development and is or is not exempted development".

The Planning Authority, in considering this Section 5, had regard to:

- a) The particulars received by the Planning Authority on 22nd September 2023;
- b) Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended); and
- c) Article 6 and 9 of the Planning and Development Regulations 2001 (as amended); and
- d) Class14 (f) of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended); and

The Planning Authority has concluded that the change of use of a residential property to a residential care facility for children at risk, including those with learning difficulties where the number of residents will not exceed 6 and the number of carers will not exceed 2 is development and is exempted development.

Morella

Marie Down Executive Planner 11/10/2023



20th September 2023 County Hall Office, Planning Department, County Hall, Carrigrolane Road, Cork, T12 R2NC

Dear Sir/Madam

RE: CHANGE OF USE - SECTION 5 APPLICATION FOR A DECLARATION OF EXEMPTED DEVELOPMENT UNDER SCHEDULE 2, PART 1, CLASS 14 (f) OF THE PLANNING AND DEVELOPMENT REGULATION 2001.

On behalf of Odyssey Social Care Ltd., we hereby formally apply for a declaration of Exempt Development under Schedule 2, Part 1, Class 14 (f) of the Planning and Development Regulation 2001 at Ballybrack, Glenville, Co. Cork T56 E062, regarding the Change of Use from residential to provide a residential care facility for children at risk, including those with learning difficulties.

In support of our application, we enclose the following documents:

- 1. Completed application form (4 copies).
- 2. A cheque for €80.00 being the appropriate application fee.
- 3. A drawing register, enclosing 4 no. copies of the following:

Drawing No. 2023-S52-001 – Site Location Map (A4 & A3) Drawing No. 2023-S52-002 – Site Layout Plan Drawing No. 2023-S52-003 – Existing Ground Floor Plan Drawing No. 2023-S52-004 – Existing First-floor Plan Drawing No. 2023-S52-005 – Existing Front & Rear Elevation Drawing No. 2023-S52-006 – Existing Side Elevations Drawing No. 2023-S52-007 – Existing Sections A-A / B-B

We Trust that the above and enclosed are satisfactory, however, should you have any queries or require any further information, please do not hesitate to contact me.

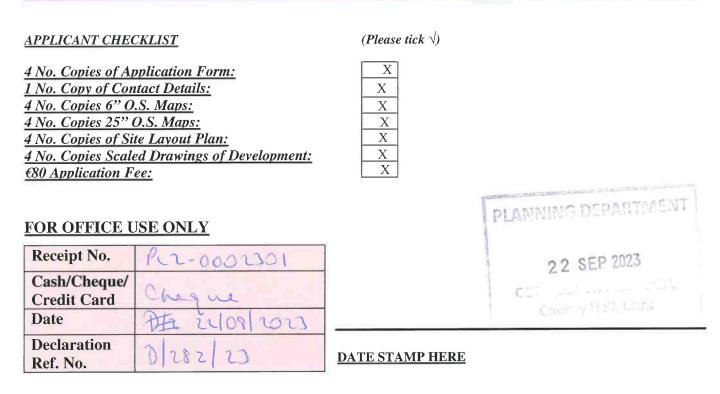
Yours Sincerely,

Niall Hegarty Building Surveyor SM Building Consultancy





<u>CORK COUNTY COUNCIL APPLICATION</u> FOR SECTION 5 DECLARATION OF EXEMPTION



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 3rd 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

<u>http://www.corkcoco.ie/Privacy-Policy</u> 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 <u>dpo@corkcoco.ie</u> 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)

ODYSSEY SOCIAL CARE ltd.

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

BALLYBRACK, GLENVILLE, CO. CORK T56 E062

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

APPLCIATION FOR A DECLARATION OF EXEMPTED DEVELOPMENT UNDER SCHEDULE 2, PART 1, CLASS

14 (f) OF THE PLANNING AND DEVELOPMENT REGULATION 2001, REGARDING THE CHANGE OF USE

FROM RESIDENTIAL TO PROVIDE A RESIDENTIAL CARE FACILITY FOR CHILDREN AT RISK, INCLUDING

THOSE WITH LEARNING DIFFICULTIES.

IN LINE WITH SCHEDULE 2, PART 1, SCHEDULE 14 (f) OF THE PLANNING AND DEVELOPMENT

REGULATION 2001, THE NUMBER OF RESIDENTS WILL NOT EXCEED 6 AND THE NUMBER OF CAREERS

WILL NOT EXCEED 2.

PLANNING DEPARTMENT	
PLANMING DEL SIT	
2.2 SEP 2023	
 COBIC 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^2)

(a) Floor area of existing/proposed structure(s):	238.9m2
 (b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1st October, 1964 (including those for which planning permission has been obtained): 	Yes No X If yes, please provide floor areas (m ²) 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 RESIDENTIAL	Proposed use RESIDENTIAL CARE FACILITY
(d) Are you aware of any enforcement proceedings connected to this site?	Yes No X If yes, please state relevant reference number(s):
2.2 SEP 2023	

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	X	B. Other
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 No X
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 N/A No
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 No X

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 X

8. DATA PROTECTION DECLARATION:

In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at http://www.corkcoco.ie/privacy-statement-cork-county-council or in hardcopy from any Council office; and to having your information processed for the following purposes:

Processing of your Declaration of Exemption application by the Planning Authority

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

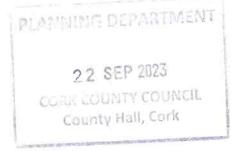
Signed (By Applicant Only)	
Date	15/09/2023

GDPR Special Categories of data / Sensitive Personal data - Explicit Consent

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, **explicit consent** to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:

- Race
- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Concerning a natural person's sex life
- Sexual orientation



In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at https://www.corkcoco.ie/privacy-statement-cork-county-council or in hardcopy from any Council office; and to having your information processed for the following purposes:

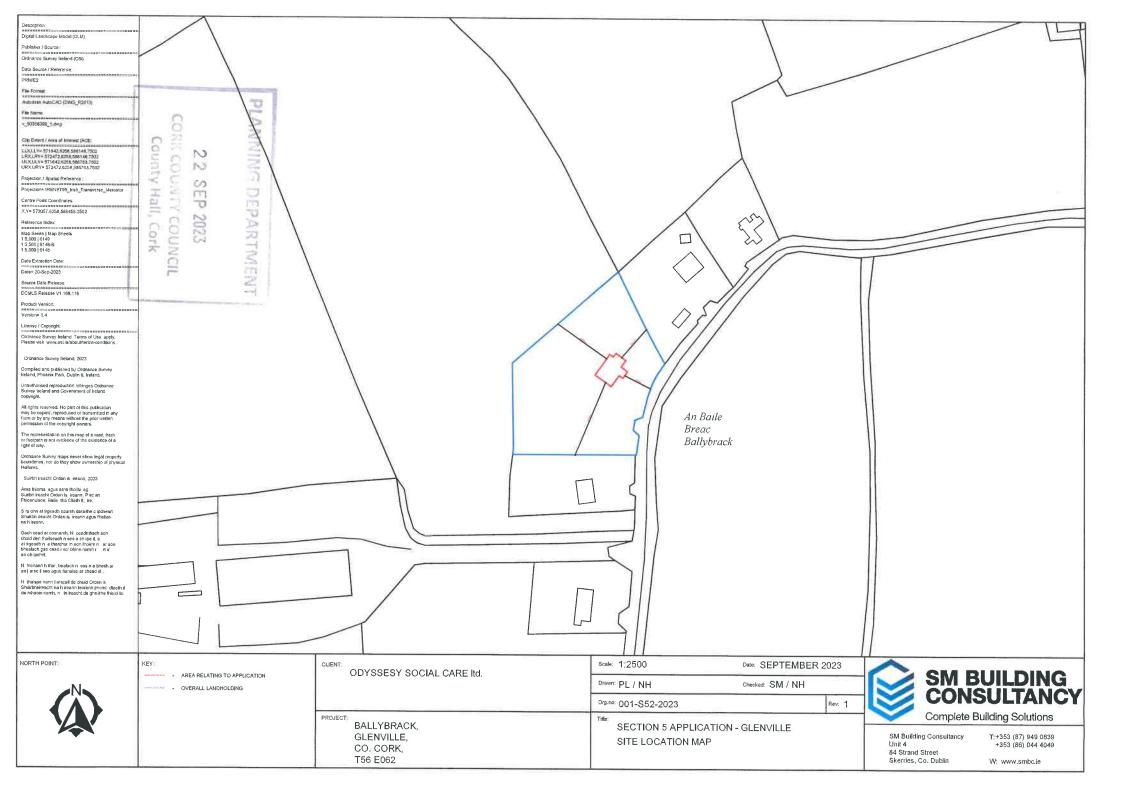
Sensitive personal data being submitted in support of Declaration of Exemption Application

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

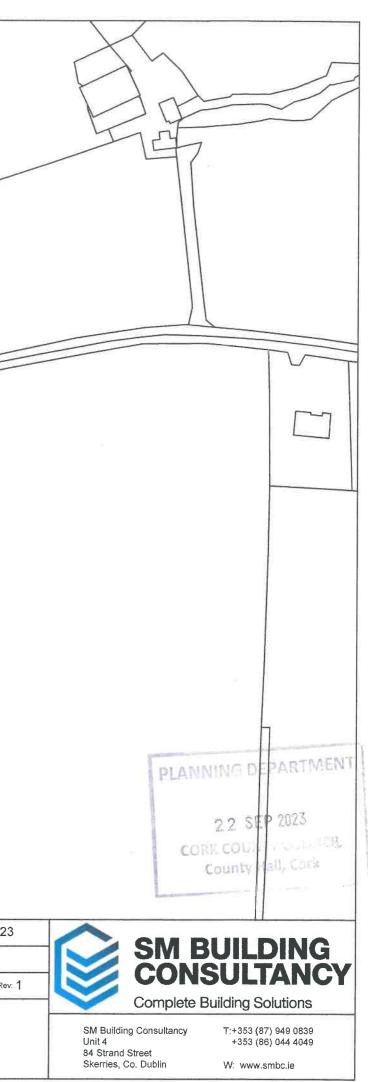
Signed		
Date	15/09/2023	

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

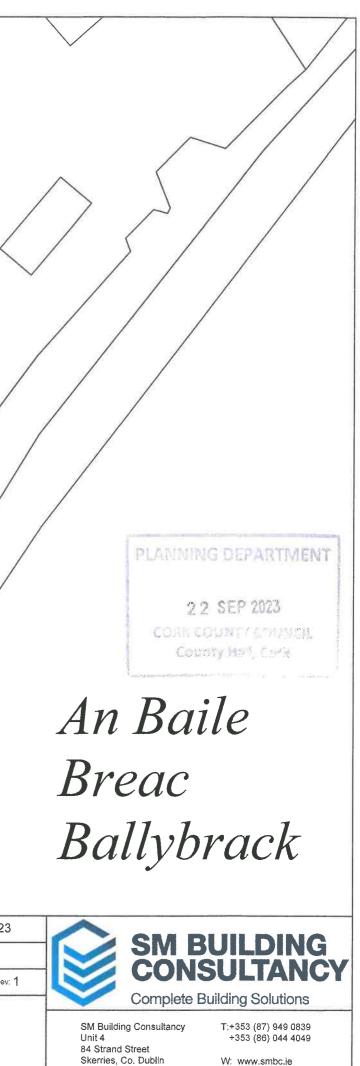
Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.

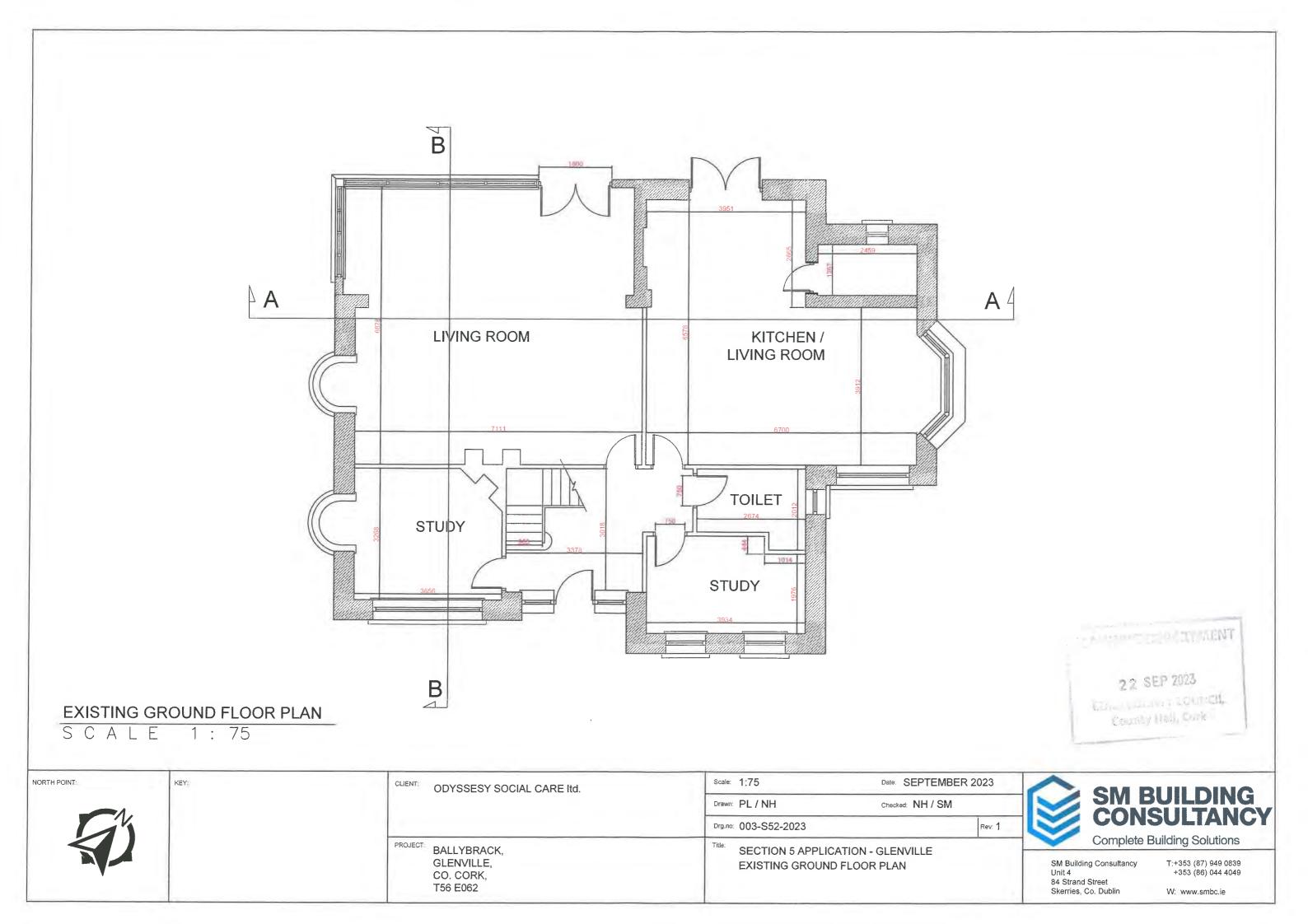


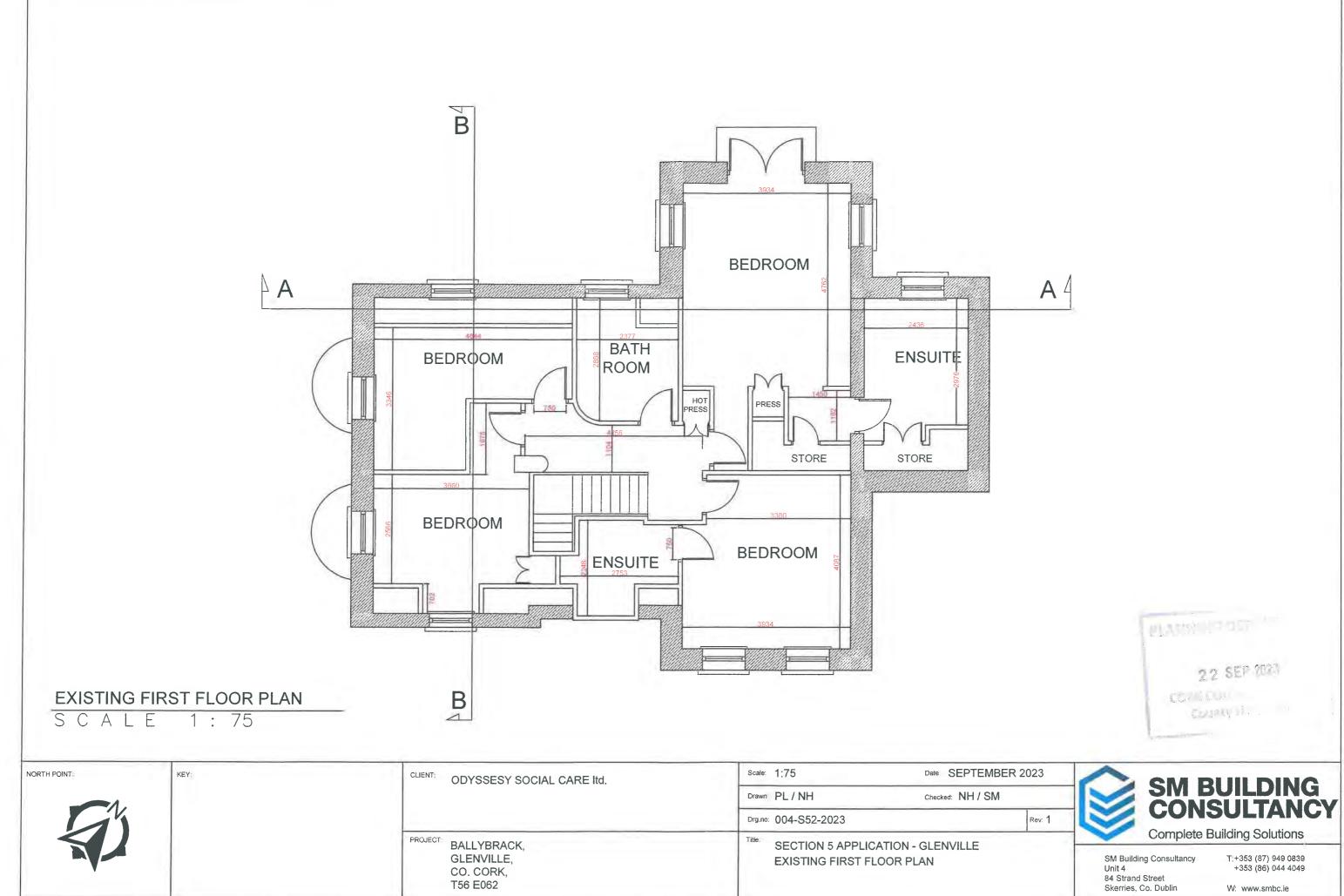
				-
Description:				
Digital Landscape Model (DLM) Publisher / Source:				
Ordnance Survey Ireland (OSi)				
Data Source / Reference:				
File Format:			\	
Autodesk AutoCAD (DWG_R2013)				_
File Name: v_50358399_1.dwg				
Clip Extent / Area of Interest (AOI):				
LLX,LLY= 571642.6258,586148.7502 LRX,LRY= 572472.6258,586148.7502				
ULX,ULY= 571642.6258,586763.7502 URX,URY= 572472.6258,586763.7502				
Projection / Spatial Reference: Projection= IRENET95_Irish_Transverse_Mercator	= 7		\backslash	
Centre Point Coordinates:				
X,Y= 572057.6258,586456.2502 Reference Index:				
Map Series Map Sheets 1:5,000 6149				-
1:2,500 6148-B 1:5,000 6148		\backslash		~
Data Extraction Date:			\wedge \vee \vee	
Date= 20-Sep-2023 Source Data Release:		\backslash	\[\] \[
DCMLS Release V1.168.116	1/		$\langle \lambda' \rangle$	
Product Version:	-			
License / Copyright:			52///	
Ordnance Survey Ireland Terms of Use apply. Please visit www.osi.ie/about/terms-conditions .				
Ordnance Survey Ireland, 2023			An Baile Breac	
Compiled and published by Ordnance Survey ireland, Phoenix Park, Dublin 8, Ireland.			Ballybrack	
Unauthorised reproduction infringes Ordnance Survey Ireland and Government of Ireland				
copyright. All rights reserved. No part of this publication				
may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owners.				
The representation on this map of a road, track or footpath is not evidence of the existence of a				
right of way. Ordnance Survey maps never show legal property				
boundaries, nor do they show ownership of physical features,				
Suirbh ireacht Ordan is ireann, 2023 Arna thioms agus ama fhoilsi ag				
Suirbh ireacht Ordan is Ireann, Pirc an Fhionnuisce, Baile tha Cliath 8, ire.				
S ra onn at irgeadh neamh daraithe c ipcheart Shuirbh ireacht Ordan is ireann agus Rialtas na h ireann.				
Gach cead ar cosnamh. N ceadmhach aon chuid den fhoilseach n seo a ch ipe il, a				
at irgeadh n a tharchur in aon fhoirm n ar aon bhealach gan cead i scr bhinn roimh r in ir an ch ipchirt.				
N hionann b thar, bealach n cos n a bheith ar an I arsc il seo agus fianaise ar chead sl.				
N thaispe nann I arscail de chuid Ordan is Shuirbheireacht na h ireann teorann phoint dleath il				
de mhaoin riamh, n in ireacht de ghn ithe fhisici la.				
NORTH POINT:	KEY:	CLIENT: ODYSSESY SOCIAL CARE Itd.	Scale: 1:2500 Date: SEPTEMBER 2	202
	- AREA RELATING TO APPLICATION		Drawn: PL / NH Checked: NH / SM	
	- OVERALL LANDHOLDING		Drg.no: 001-S52-2023	Re
		PROJECT: BALLYBRACK,	Title: SECTION 5 APPLICATION - GLENVILLE	1
		GLENVILLE,	SITE LOCATION MAP	
		CO. CORK, T56 E062		



	E					
Description:						
Digital Landscape Model (DLM)						
Publisher / Source					$\mathbf{\lambda}$	
Ordnance Survey Ireland (OSi)					1	
Data Source / Reference:						
PRIME2						
File Format:	-					
Autodesk AutoCAD (DWG_R2013)						
File Name: v_50358399_1.dwg	-					\backslash
Clip Extent / Area of Interest (AOI); LLX,LLY= 571642.6258,586148,7502 LRX,LRY= 571642.258,586148,7502 ULX,LLY= 571642.258,586763,7502 URX,URY= 572472.6258,586763,7502	57					
Projection / Spatial Reference: Projection= IRENET95_Irish_Transverse_Mercator	5 5					λ
Centre Point Coordinates: ====================================	-					
Reference Index:				Bea	13	
Map Series Map Sheets 1:5,000 6149 1:2,500 6148-B 1:5,000 6148	~	/		×	23	
Data Extraction Date:	-			\sim	~~/	
Source Data Release: DCMLS Release VI 168.116	-	/			$\gamma \sim \gamma$	
Product Version:	5			/		Y
License / Copyright:						
Ordnance Survey Ireland Terms of Use apply. Please visit www.osi.ie/about/terms-conditions .				<	\sim	
Ordnance Survey Ireland, 2023					1	362
Compiled and published by Ordnance Survey Ireland, Phoenix Park, Dublin 8, Ireland.					\sim	
Unauthorised reproduction infringes Ordnance Survey Ireland and Government of Ireland copyright.				/		7 / /
All rights reserved. No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owners.						
The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.						
Ordnance Survey maps never show legal property boundaries, nor do they show ownership of physical features.				/		
Suirbh ireacht Ordan is ireann, 2023				9		
Arna thioms agus ama fhoilsi ag Suirbh ireacht Ordan is ireann, P irc an Fhionnuisce, Baile tha Cliath 8, ire.				A	Г	
S ra onn at irgeadh neamh daraithe c ipcheart Shuirbh ireacht Ordan is Ireann agus Rialtas na h ireann,				/		
Gach cead ar cosnanth, N ceadmhach aon chuid den fhoilseach n seo a ch ipe il, a at irgeadh n a tharchur in aon fhoirm n ar aon bhealach gan cead i scr bhinn roimh r in ir an ch ipchirt.				/		γ
N blonann b thar, bealach n cos n a bheith ar an I arsc il seo agus fianaise ar chead sI ,				/		
N thaispe nann I arscail de chuid Ordan is Shuirbheireacht na h ireann teorann phoint dleath il de mhaoin riamh, n in ireacht de ghn ithe fhisici Ia.						
NORTH POINT:	KEY:	CLIE	NT: ODYSSESY SOCIAL CARE	ltd.	Scale: 1:500	Date: SEPTEMBER 202
.NE	- AREA RELATING TO APPLICATI	ON			Drawn: PL / NH	Checked: NH / SM
	- OVERALL LANDHOLDING				Drg.no: 002-S52-2023	R
		PRO	BALLYBRACK, GLENVILLE, CO. CORK, T56 E062		Title: SECTION 5 APPLICA SITE LAYOUT PLAN	









EXISTING FRONT ELEVATION

SCALE 1:75



EXISTING REAR ELEVATION

SCALE 1:75

NORTH POINT:	KEY:	CLIENT: ODYSSESY SOCIAL CARE Itd.	Scale: 1:75 Date: SEPT	EMBER 202
			Drawn: PL / NH Checked: NH	/ SM
			Drg.no: 005-\$52-2023	Re
		PROJECT: BALLYBRACK, GLENVILLE, CO. CORK, T56 E062	Title: SECTION 5 APPLICATION - GLENVILLE EXISTING FRONT & REAR ELEVATION	





SCALE 1:75



EXISTING SIDE ELEVATION

SCALE 1:75

NORTH POINT: KEY:		Scale: 1:75 Date: SEPTEMBER 2023		
	ODYSSESY SOCIAL CARE Itd.		ked: NH / SM	
			Drg.no: 006-S52-2023	Rev: 1
		PROJECT: BALLYBRACK, GLENVILLE, CO. CORK, T56 E062	Title: SECTION 5 APPLICATION - GLE EXISTING SIDE ELEVATIONS	NVILLE