

Comhairle Contae Chorcaí Cork County Council

John Roche,
c/o William Rea,
47 Bridgewater,
Carrigrohane,
Co. Cork.

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



4th December 2023

REF: D/299/23
LOCATION: West End, Milford, Charleville, Co. Cork, P56 X061.

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

Dear Sir,

On the basis of the information submitted by you on 6th November 2023 the Planning Authority, having considered the question whether or not the conversion of 2no. apartments to a single dwelling at **West End, Milford, Charleville, 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:

- Section 2(1) and Section 3(1) the Planning and Development Act 2000 (as amended),
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended),
- Schedule 2, Part 1, Class 14 of the Planning & Development Regulations 2001 (as amended) and
- The particulars received by the Planning Authority on 6th November 2023

And Whereas Cork County Council has concluded that –

The conversion of 2no. apartments to a single dwelling at **West End, Milford, Charleville, Co. Cork** constitutes **development which 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.

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>

PLANNER'S REPORT – Ref. D/299/23

Application Type: Section 5

Description: Conversion of 2 no. apartments to a single dwelling

Location: West End, Milford, Charleville

Applicant: John Roche

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 is whether the following is or is not development and is or is not exempted development, can reasonably considered to be as follows:

'Is the conversion of 2 no. apartments to a single dwelling exempted development?'

3. Site Location and Description

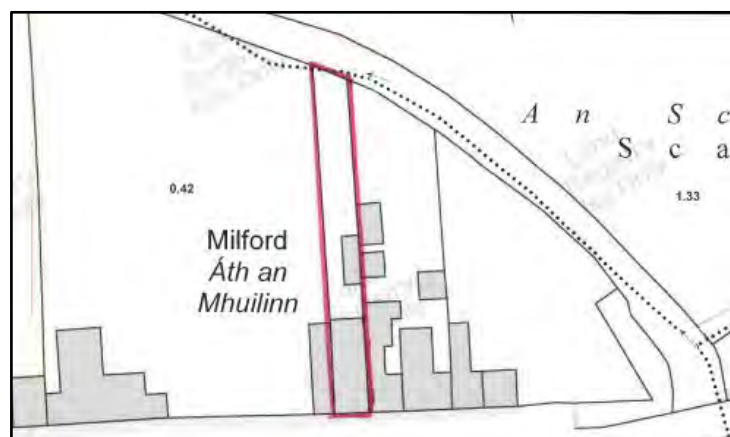
The subject dwelling is a two-storey, end-of-terrace dwelling, at West End, Milford, Charleville, served by a public footpath, and adjacent to a vacant site.

3.1 Planning History

No known history

The Applicant states in Q4 (c) of the application form that *'it was a private dwelling until 1920, partial use as a post office /shop until 1991. Used as two apartments (vacant).'*

Figure 1: Submitted OS Map with subject site outlined.



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.”

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”.

This is not the case, as there is no known planning history.

Schedule 2, Part 1 - Exempted Development — General sets out the following:

“Class 14

(e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling’

An assessment under this Class, follows in this Report.

5. Relevant Planning History

No known history.

The structure is of an age that would precede the Planning Act 1963.

6. Planning Assessment

Is or is not development?

The first issue for consideration is whether or not the conversion of two residential units to a single dwelling is ‘development’ which is defined in Section 3(1) and ‘works’ is defined in Section 2(1) of the Act. ***It is considered that the development as described by the Referrer clearly falls within the definition of ‘development’.***

Is or is not exempted development?

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

Article 6, Schedule 2, Part 1 - Exempted Development — General sets out the following:

“Class 14

- (e) *from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling*'.

Given the structure was previously used as a single dwelling at one stage it's return to that state can be considered exempt.

7. Recommendation and Conclusion

In view of the above, and having regard to Section 2, Section 3 and Article 9(1) of the Planning and Development Act; as well as Schedule 2, Part 1, *Exempted Development – General*, and specifically Class 14 (e) of Column 1 of the Planning and Development Regulations, 2001, (as amended), it is considered that the subject referral is **development** and is **exempted development**.

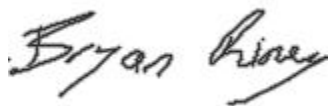
Note:

The Cover Letter issuing to the Applicant should state that the above Conclusion i.e. 'is **development** and is **exempted development**'.



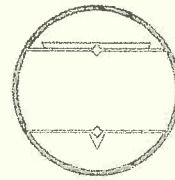
Helen O' Sullivan
Area Planner
30/11/2023

I endorse the above recommendation.



Bryan Riney
Senior Planner
30/11/2023

WILLIAM REA CONSULTING ENGINEER



47 Bridgewater,
Carrigrohane,
Co. Cork.

PHONE 021- 4876211
MOBILE 086 - 2366800
EMAIL williamreabe@hotmail.com

Cork County Council,
Planning and Development Section,
County Hall,
Cork.

6th November 2023

For the attention of Tracy O'Callaghan

Re: Application for a Section 5 Declaration.
Applicant: John Roche.
Property at West End, Milford, Charleville, Co. Cork.

Dear Tracy,

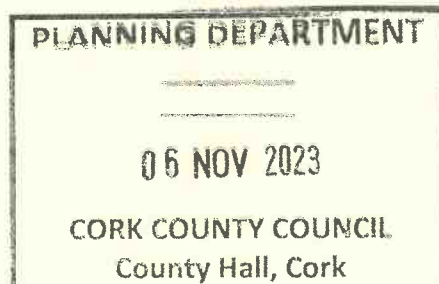
I refer to your email dated 28th September on the above matter.

I now enclose, as requested, floor plans, elevations and a site layout plan.
I have marked on the ground floor plan how it is proposed to connect internally the ground floor and first floor.

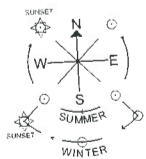
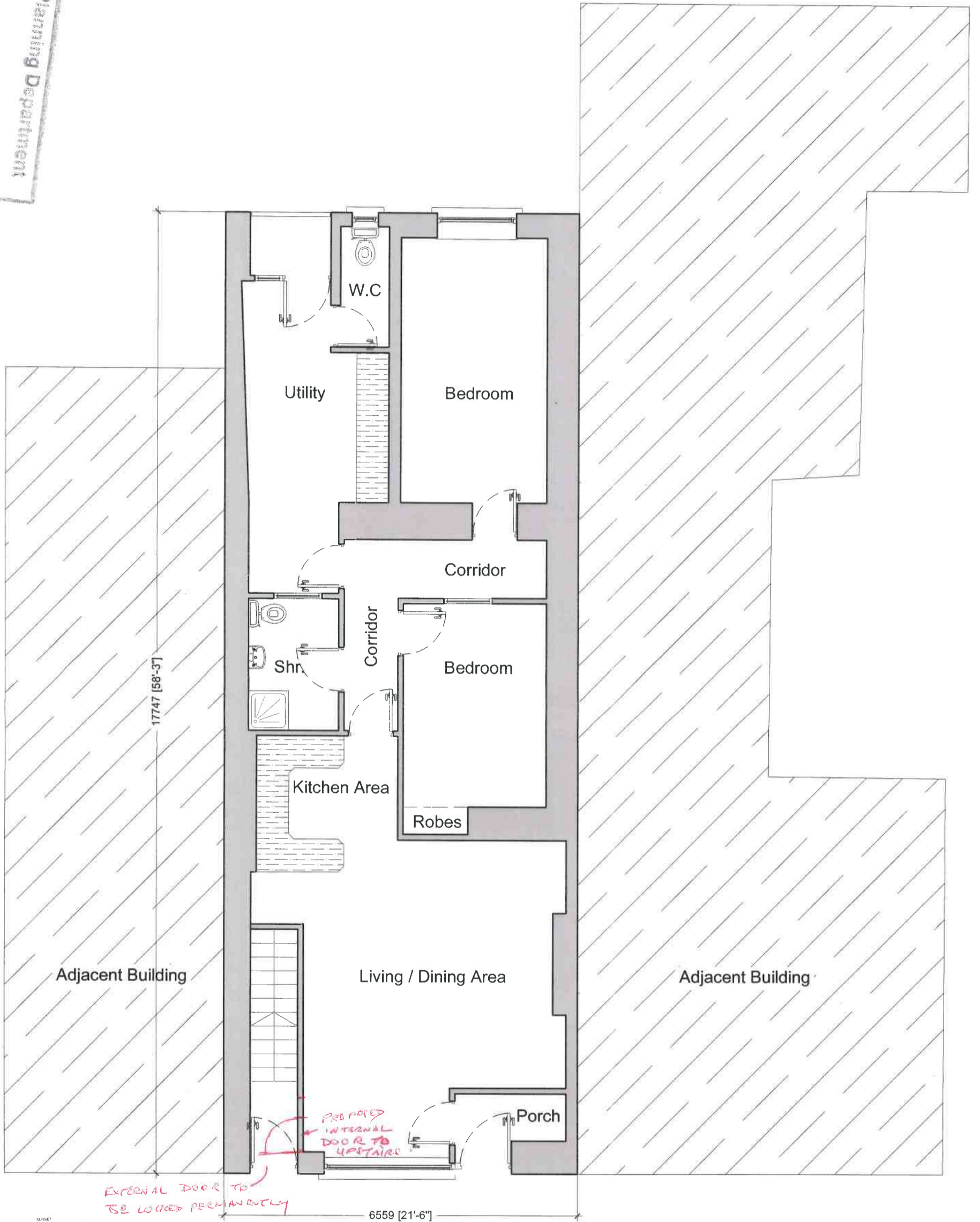
Yours sincerely,

A handwritten signature in black ink that reads 'William Rea'.

William Rea B.E.



Planning Department
 - 6 NOV 2023
 Cork County Council
 County Hall
 CORK



Plan

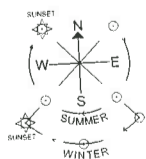
Ground Floor Plan

93.1 Sq.Mts

Scale : 1/75

		THESE DRAWINGS AND THE INFORMATION CONTAINED HEREIN, ARE FOR GENERAL PRESENTATION AND PLANNING PURPOSES ONLY.			Client: John Roche	
					Address: Doony, Milford, Co. Cork.	
				Title: Existing Ground Floor Plan		
001	Issued for Discussion	02/11/23		Drawn By: PR	Date: 02/11/23	Scale: 1/75
Rev.	Description	Date	Drawing Status: DISCUSSION	Dwg. Ref.: JR/2023/031		Rev.: 001

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 - 6 NOV 2023
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 Cork

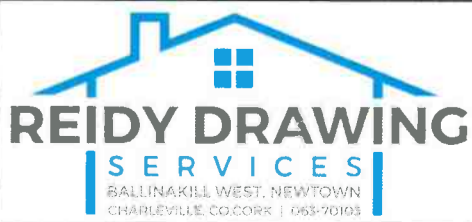


Plan

First Floor Plan

63.1 Sq.Mts

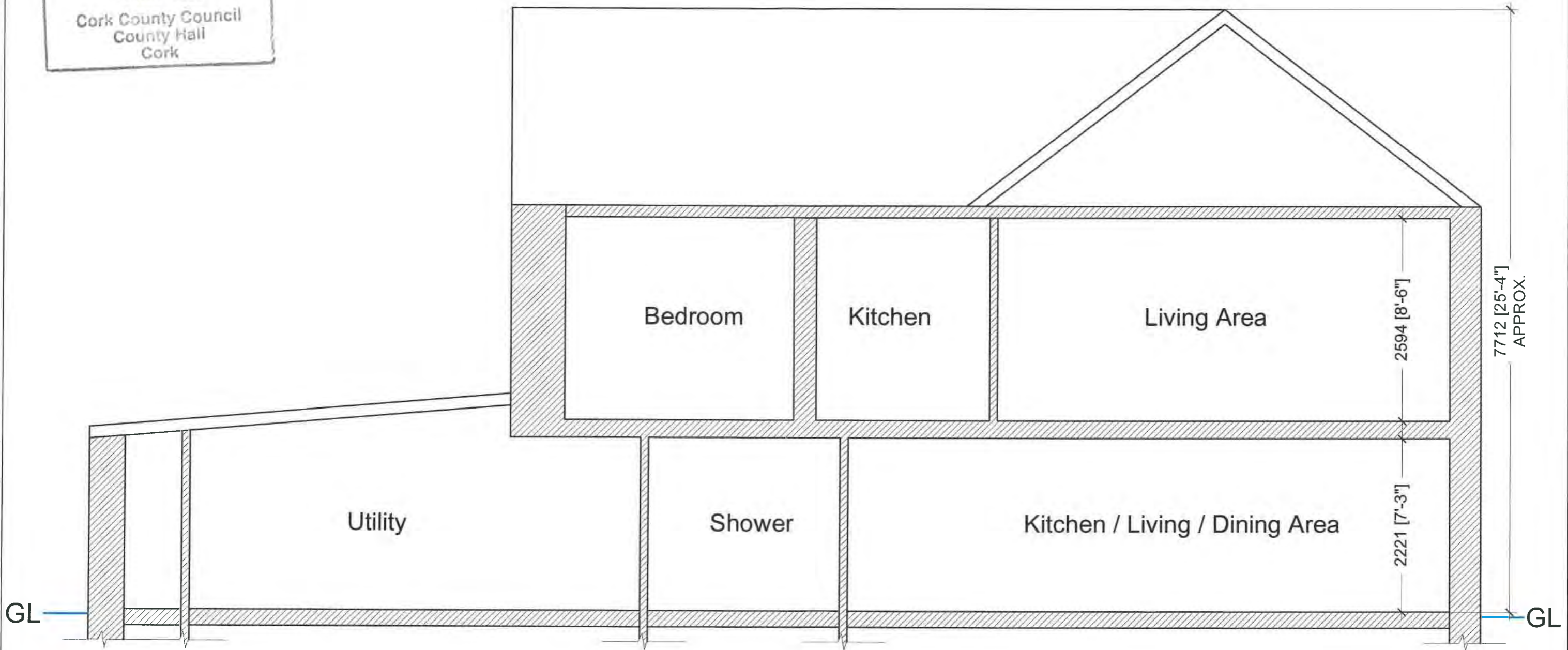
Scale : 1/75

		THESE DRAWINGS AND THE INFORMATION CONTAINED HEREIN, ARE FOR GENERAL PRESENTATION AND PLANNING PURPOSES ONLY.			Client: John Roche	
					Address: Doony, Milford, Co. Cork.	
				Title: Existing First Floor Plan		
001	Issued for Discussion	02/11/23		Drawn By: PR	Date: 02/11/23	Scale: 1/75
Rev.	Description	Date	Drawing Status: DISCUSSION	Dwg. Ref.: JR/2023/031		Rev.: 001

Planning Department

- 6 NOV 2023

Cork County Council
County Hall
Cork



VIEW
A-A

Cross Section A-A Planning

Scale : 1/50

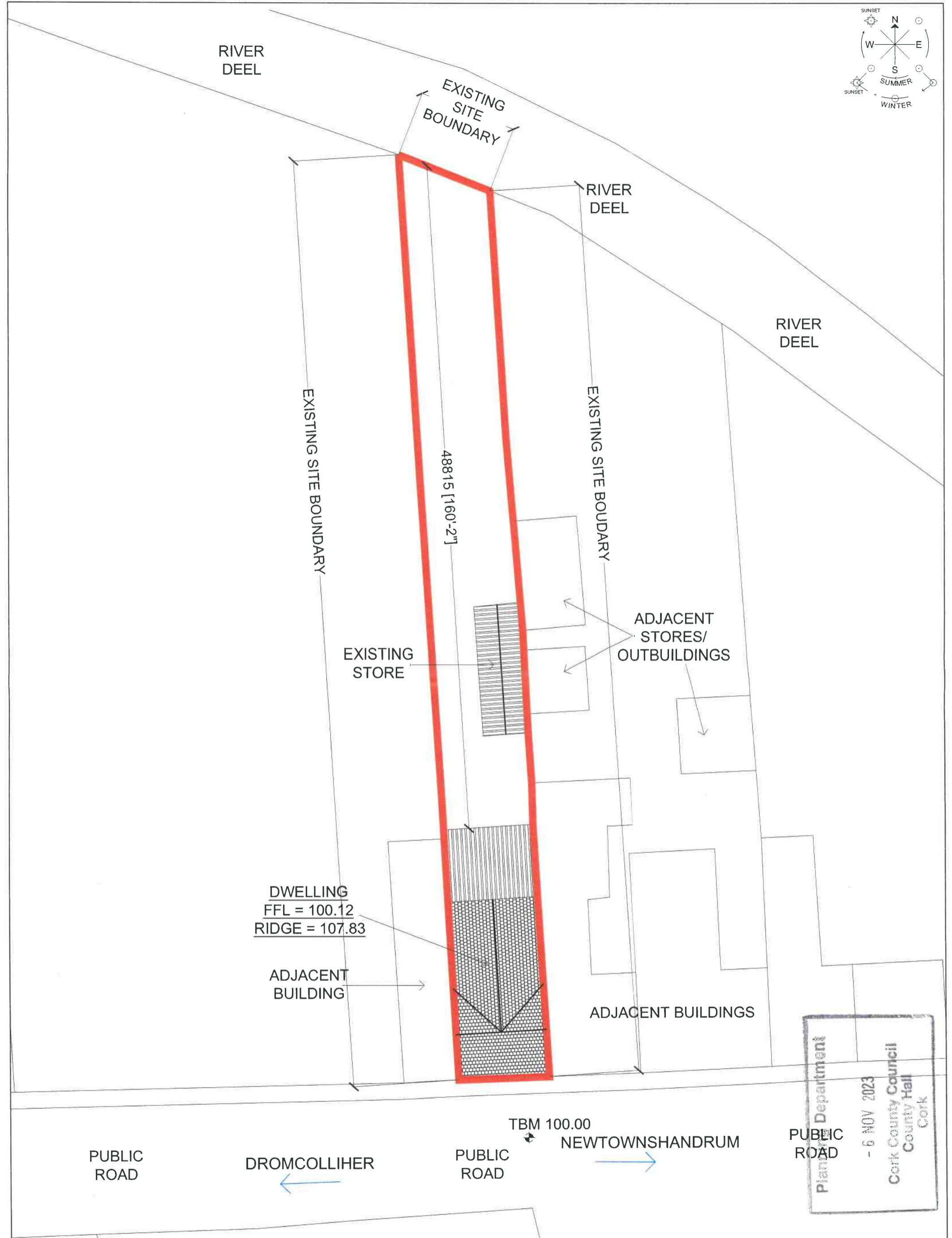
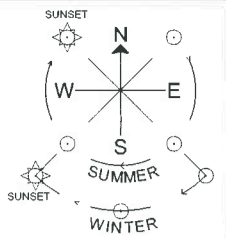
THESE DRAWINGS AND THE INFORMATION CONTAINED HEREIN, ARE FOR GENERAL PRESENTATION AND PLANNING PURPOSES ONLY.

Rev.	Description	Date	Rev.	Description	Date
001	Issued for Discussion	02/11/23			



Client:	John Roche
Address:	Doony, Milford, Co. Cork.
Title:	Existing Cross Section
Drawn By: PR	Date: 02/11/23
Dwg. Ref.: JR/2023/031	Scale: 1/50
Rev.: 001	

Drawing Status: DISCUSSION



SITE OUTLINED IN RED

THESE DRAWINGS AND THE INFORMATION CONTAINED HEREIN, ARE FOR GENERAL PRESENTATION AND PLANNING PURPOSES ONLY.



Client: John Roche	
Address: Doony, Milford, Co. Cork.	
Title: Existing Site Layout Plan	
Drawn By: PR	Date: 02/11/23
Dwg. Ref.: JR/2023/031	Scale: 1/250
Rev.: 001	

Rev.	Description	Date	Drawing Status
001	Issued for Discussion	02/11/23	DISCUSSION

Tracy OCallaghan

From: Tracy OCallaghan
Sent: Thursday 28 September 2023 12:34
To: williamreabe@hotmail.com
Subject: Sectio 5 - West End, Milford, Charleville

Good Afternoon,

I refer to your recent Section 5 application for the above address. Please be advised that insufficient information has been submitted to allow us to process this application. You will be required to submit a site layout and floor plans to allow us to determine the application.

I will hold your application and cheque here and process same once all the required documentation has been received.

Kind Regards,

Tracy Ní Cheallacháin | Oifigeach Fóirne | Pleanáil agus Fobairt
Comhairle Contae Chorcaí | Halla an Chontae | Corcaigh | T12 R2NC | Éire
T +353-(0)21 – 428 5633

tracy.ocallaghan@corkcoco.ie | www.corkcoco.ie

Tairseach na gcustaiméirí: www.yourcouncil.ie

Tracy O' Callaghan | Staff Officer | Planning & Development
Cork County Council | County Hall | Cork | T12 R2NC | Ireland
T +353-(0)21 – 428 5633

tracy.ocallaghan@corkcoco.ie | www.corkcoco.ie

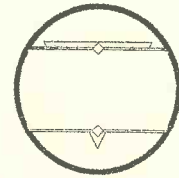
Customer Portal: www.yourcouncil.ie



Smaoinigh ar an timpeallacht sula ndéanann tú an ríomhphost seo a phriontáil. Please consider the Environment before printing this mail.

WILLIAM REA

CONSULTING ENGINEER



47 Bridgewater,
Carrigrohane,
Co. Cork.

PHONE 021- 4876211
MOBILE 086 - 2366800
EMAIL williamreabe@hotmail.com

Our Ref.

Your Ref.

Date.

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

25th September 2023,

Re: Application for a Section 5 Declaration.
Applicant: John Roche.
Property at West End, Milford, Charleville, Co. Cork.

Dear Sirs / Madams,


I attach the following documentation in making this application:-

- (a) Four copies of the application form.
- (b) Four copies of an original Ordnance Survey Map Scale 1:1000
- (c) Photographs of the façade and streetscape.
- (d) Cheque in the sum of €80.00

I had a telephone conversation recently with the area planner, Helen O'Sullivan, and she suggested a photograph would be helpful. I did not form the impression from our conversation that copies of house plan drawings, site layout plans would be required in making a decision on this matter, and I trust that this is so.

It is noted that none of these are required by Cork City Council in making a Section 5 application.

Yours sincerely,


William Rea B.E.





CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

(Please tick ✓)

- 4 No. Copies of Application Form:
- 1 No. Copy of Contact Details:
- 4 No. Copies 6" O.S. Maps:
- 4 No. Copies 25" O.S. Maps: } 1:1000
- 4 No. Copies of Site Layout Plan:
- 4 No. Copies Scaled Drawings of Development:
- €80 Application Fee:

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>



FOR OFFICE USE ONLY

Receipt No.	P12-0002311
Cash/Cheque/ Credit Card	Cheque
Date	08/11/2023
Declaration Ref. No.	D/299/23

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 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 <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 or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

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 (m²)

(a) Floor area of existing/proposed structure(s):	CIRCA 125 m ²
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 st October, 1964 (including those for which planning permission has been obtained):	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 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 PRIVATE DWELLING UNTIL 1920 PARTIAL USE AS A POST OFFICE & SHOP UNTIL 1991 USE AS TWO APARTMENTS (NOW VACANT)	Proposed use SINGLE PRIVATE DWELLING
(d) Are you aware of any enforcement proceedings connected to this site?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please state relevant reference number(s):

5. LEGAL INTEREST OF APPLICANT IN THE LAND/STRUCTURE:

Please tick appropriate box to show applicant's legal interest in the land or structure:	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is "Other", please state your interest in the land/structure:		
If you are not the legal owner, please state the name of the owner/s (address to be supplied at Question C in Contact Details):	<div style="border: 1px solid black; padding: 5px; text-align: center;"> Planning Department 25 SEP 2023 County Hall </div>	

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"/>

7. APPROPRIATE ASSESSMENT:


Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes No

8. DATA PROTECTION DECLARATION:

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

Processing of your Declaration of Exemption application by the Planning Authority

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

Signed (By Applicant Only)	
Date	23 9 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 <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	23 9 23

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: www.corkplanninginfo@corkcoco.ie However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

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


ADVISORY NOTES:

The application must be accompanied by the required fee of €80
The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.
Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.
The application should be sent to the following address:
The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- The Planning Authority may request other person(s), other than the applicant; to submit information on the question which has arisen and on which the Declaration of Exemption is sought.
- Any person issued with a Declaration of Exemption may on payment to An Bord Pleanála refer a Declaration of Exemption for review by the Board within 4 weeks of the date of the issuing of the Declaration of Exemption decision.
- In the event that no Declaration of Exemption is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a Declaration of Exemption was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations, 2001, as amended.

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

Signed (Applicant or Agent as appropriate)	
Date	21 / 9 / 2023

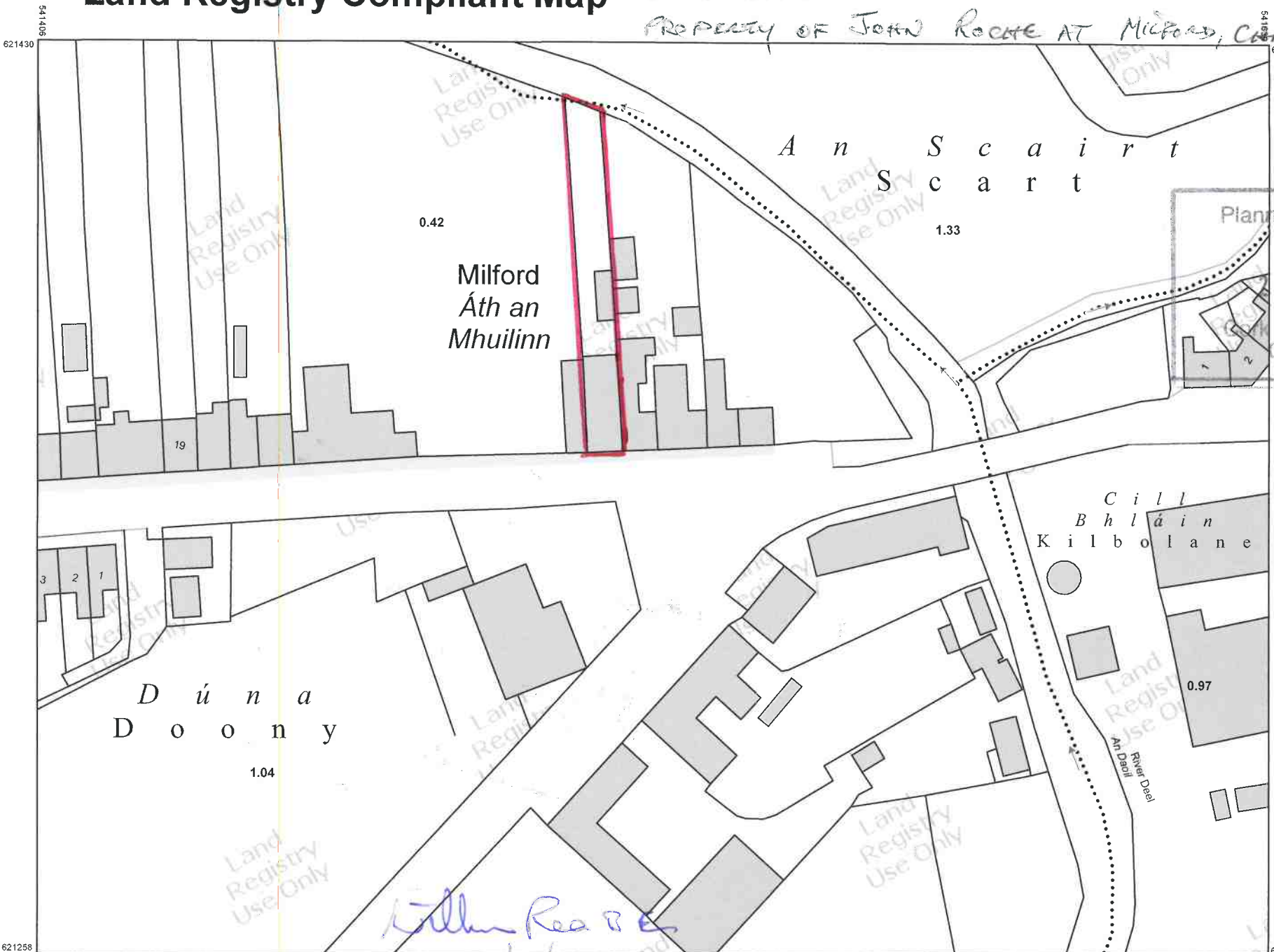


Land Registry Compliant Map

ORIGINAL
PROPERTY OF JOHN ROCHE AT MILFORD, CHARLEVILLE



Tailte Éireann



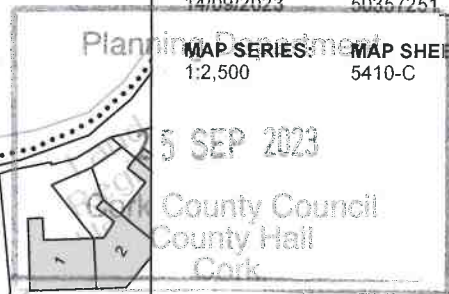
CENTRE COORDINATES:
ITM 541523,621344

PUBLISHED: 14/09/2023

ORDER NO.: 50357251_1

MAP SERIES: 1:2,500

MAP SHEETS: 5410-C



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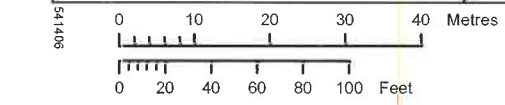
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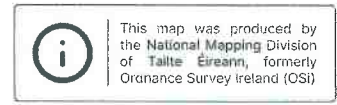
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OUTPUT SCALE: 1:1,000

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.osi.ie, search 'Capture Resolution'

LEGEND:
To view the legend visit www.osi.ie and search for 'Large Scale Legend'



2



1



3

