

Comhairle Contae Chorcaí Cork County Council

Brenda O'Connor,
22 Hillside Mews,
Aherla,
Co. Cork.
P31 XR66

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



10th January, 2024

REF: D/314/23
LOCATION: 22 Hillside Mews, Aherla, Co. Cork P31 XR66

**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 5th December 2023 the Planning Authority, having considered the question whether or not the construction of a single storey extension is or is not exempted development at **22 Hillside Mews, Aherla, Co. Cork** 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 1, 2, 3, 4 and 6 of the Planning and Development Act 2000, as amended
- Class 1 of Schedule 2, Part 1, Exempted Development – General of the Planning and Development Regulations 2001, as amended
- Section 5.28 of the Planning System and Flood Risk Management Guidelines
- Articles 6 and 9 of the Planning and Development Regulations 2001, as amended and
- The particulars received by the Planning Authority on 5th December 2023

And Whereas Cork County Council has concluded that –

The proposed extension falls within the parameters of the conditions and limitations of Class 1 of Schedule 2, Part 1 Exempted Development of the Planning and Development Regulations 2001, as amended as the

- Extension is to the rear of the house.
- It is single storey only.
- From review of the planning history, it has not been extended previously.
- The proposal is single storey so does not exceed the wall of the two storey dwelling.
- The private amenity space to the rear comprises 50.47sqm.
- No windows proposed in the gables of the extension. Only velux roof lights.

- The proposal is considered **development and 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 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,



**CATHAL DE BARÓID
ADMINISTRATIVE 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/314/23 – Section 5 Declaration

A Section 5 declaration is sought by Brenda O Connor of 22 Hillside Mews, Aherla, Co. Cork for the construction of an extension to dwellinghouse.



Figure 1 Subject site location

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 the construction of a single storey extension is development and is or is not exempted development.

Recent Planning History

On site

None

Within the estate

21/5320 Permission granted to Michael Hickey for (a) new two storey extension to existing two storey dwelling with material alterations to the internal layouts of the ground and first floor plans to incorporate same and (b) conversion of existing attic space to new study/office space and associated site works.

09/4536 Permission granted to Kieran and Jacqueline O Donovan for a First floor extension to side of existing dwelling & retention of ground floor extension to rear of existing dwelling & alterations to elevations

1. STATUTORY PROVISIONS

The following statutory provisions are relevant to this referral case;

Planning and Development Act 2000, as amended

Section 2(1) states as follows:-

“In this Act, except where the context otherwise requires – ‘development’ has the meaning assigned to it by Section 3 ...”

Section 3 (1) states as follows:-

“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 in the use of any structures or other land.”

Section 4(1) identifies what may be considered as exempted development for the purposes of the Act, and Section 4(2) of the Act provides that the Minister, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations, 2001.

Planning and Development Regulations, 2001 as amended

Article 6(1) of the Planning & Development Regulations, 2001 as amended states as follows:-

“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) of the Planning & Development Regulations, 2001 as amended, provides a number of scenarios whereby development to which article 6 relates shall not be exempted development for the purposes of the Act.

Development within the curtilage of a house

CLASS 1 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.

(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.

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 387 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.

Section 5.28 identifies certain types of development as being 'minor works' and therefore exempt from the Justification Test. Such development relates to works associated with existing developments, such as extensions, renovations and rebuilding of the existing development, small scale infill and changes of use. The SFRA has clearly identified zoning objectives which are at flood risk but where the land has remained zoned to reflect the existing use, but where new development is limited to Section 5.28 only.

While the 'Sequential Approach' and 'Justification Test' does not apply in these areas, an assessment of the risks of flooding should accompany such applications. This must demonstrate that the development would not increase flood risks, by introducing significant numbers of additional people into the flood plain and/or put additional pressure on emergency services or existing flood management infrastructure. The development must not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities. The design of built elements in these applications should demonstrate principles of flood resilient design

Assessment

I note the details and drawings submitted as part of the application.

The site is occupied by a terraced two storey dwelling. The dwelling subject of the application is the central unit within a terrace of three no. units.

The proposal comprises a floor area of 32.33sqm.

The works proposed are considered 'development' in accordance with Section 3 (1) of the Planning and Development Act, 2000.

I have reviewed the development proposal in relation to exemptions as provided in the Planning and Development Regulations 2001, as amended and would contend that the proposed extension complies with the conditions and limitations of Class 1, Schedule 2, Part 1 Exempted Development of the Planning and Development Regulations 2001, as amended given the following:

- The extension is to the rear of the house.
- It is single storey only.
- From review of the planning history, it has not been extended previously.
- The proposal is single storey so does not exceed the wall of the two storey dwelling.
- The private amenity space to the rear comprises 50.47sqm.
- No windows proposed in the gables of the extension. Only velux roof lights.

It is noted that the subject site is located with Flood Zone A. Given the development proposed is an extension to an existing dwelling the proposal is considered to fall under minor development in accordance with Section 5.28 of the Planning System and Flood Risk Management. The proposal is to cater for the applicants daughter with special needs proposing a playroom and new living/kitchen/dining area to facilitate a new bedroom in the existing living space to the front of the house. The proposal is a small extension to an existing dwelling in a housing estate within the development boundary of Aherla village. No additional persons are proposed to occupy the extension. The proposal is located c715m up stream from the nearest stream. Given the sites location within an existing built up area and the floor areas of the proposal, the extension proposed is considered to fall within the parameters of section 5.28 of the Planning Guidelines on Flood Risk Management identifies certain types of development as being 'minor works'.

Conclusion

WHEREAS a question has arisen as to *Whether the construction of a single storey extension is exempt and is or is not exempted development:*

AND WHEREAS Cork County Council, in considering this referral, had regard particularly to –

Sections 1,2, 3, 4 and 6 of the Planning and Development Act, 2000, as amended

Class 1 of Schedule 2, Part 1, Exempted Development – General of the Planning and Development Regulations 2001, as amended

Section 5.28 of the Planning System and Flood Risk Management Guidelines

The Planning Authority has concluded that:

- The proposed extension falls within the parameters of the conditions and limitations of Class 1 of Schedule 2, Part 1 Exempted Development of the Planning and Development Regulations 2001, as amended as the
 - The extension is to the rear of the house.
 - It is single storey only.
 - From review of the planning history, it has not been extended previously.
 - The proposal is single storey so does not exceed the wall of the two storey dwelling.
 - The private amenity space to the rear comprises 50.47sqm.
 - No windows proposed in the gables of the extension. Only velux roof lights.

- The proposal is considered development and exempted development.



Carol Dunne
Executive Planner

08.01.2024

22 Hillside Mews
Aherla,
Co. Cork

To: Planning Department,
Cork Co. Co.,
County Hall,
Cork.

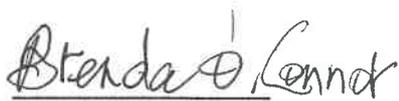
Date: 27th November 2023

Re: Exemption Certificate for Proposed Extension at above address.

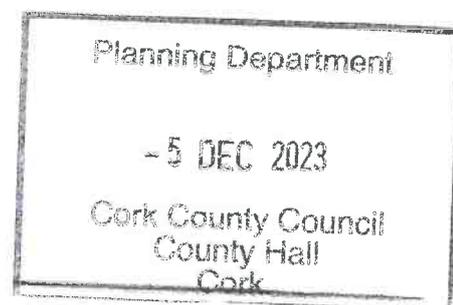
Dear Sir/madam,

I, Brenda O' Connor, am applying for a Planning Exemption Certificate to construct an Extension to the back of my dwelling house at 22 Hillside Mews, Aherla, Co. Cork as per the drawings attached, to be able to provide for my Special Needs daughter, who will require space and suitable access for a wheelchair.

Yours Sincerely,



Brenda O' Connor





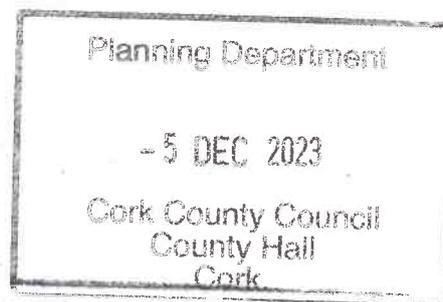
CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

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

(Please tick ✓)

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



FOR OFFICE USE ONLY

Receipt No.	P120002320
Cash/Cheque/ Credit Card	Cheque
Date	5/12/23
Declaration Ref. No.	D/314/23



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.

1. NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A – CONTACT DETAILS)

BRENDA O'CONNOR

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

22 HILLSIDE MEWS, AHERLA
CO. CORK. P31XR66

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

TO CONSTRUCT AN EXTENSION TO
MY DWELLING HOUSE, TO BE
ABLE TO PROVIDE SPACE FOR
MY SPECIAL NEEDS DAUGHTER,
WHO WILL REQUIRE ACCESS/RAMPS
TO USE A WHEEL-CHAIR.
ALSO WILL REQUIRE A WHEEL CHAIR
ACCESSIBLE BATHROOM, PLAY ROOM
AND LIVING AREA

Planning Department
- 5 DEC 2023
Cork County Council
County Hall
Cork

Planning Department
28 NOV 2023
Cork 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 (m²)

(a) Floor area of existing/proposed structure(s):	Existing = GF = 34.35m ² , F.F. = 34.35m ² Proposed = 32.33m 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 _____ _____ Proposed use _____ _____	N/A
(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:	Planning Department
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):	28 NOV 2023 Cork County Council County Hall

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 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

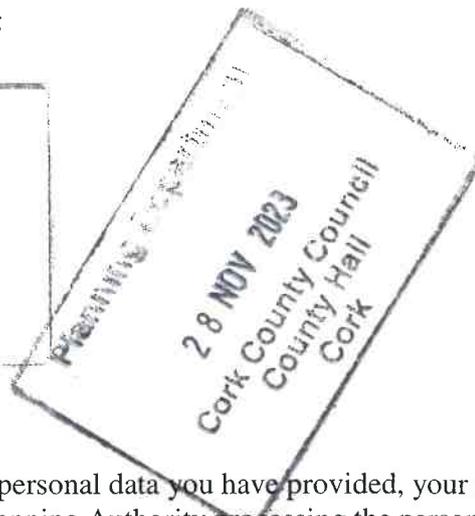
Signed (By Applicant Only)	Bkenda O' Connor
Date	27 th November 2023

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	Brenda O' Connor
Date	27 th November 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: 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.

ADVISORY NOTES:

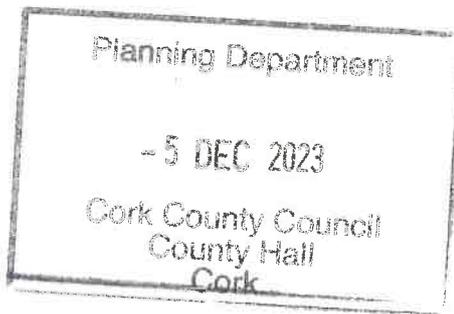
The application must be accompanied by the required fee of €80
 The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.
 Sufficient information should be submitted 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:

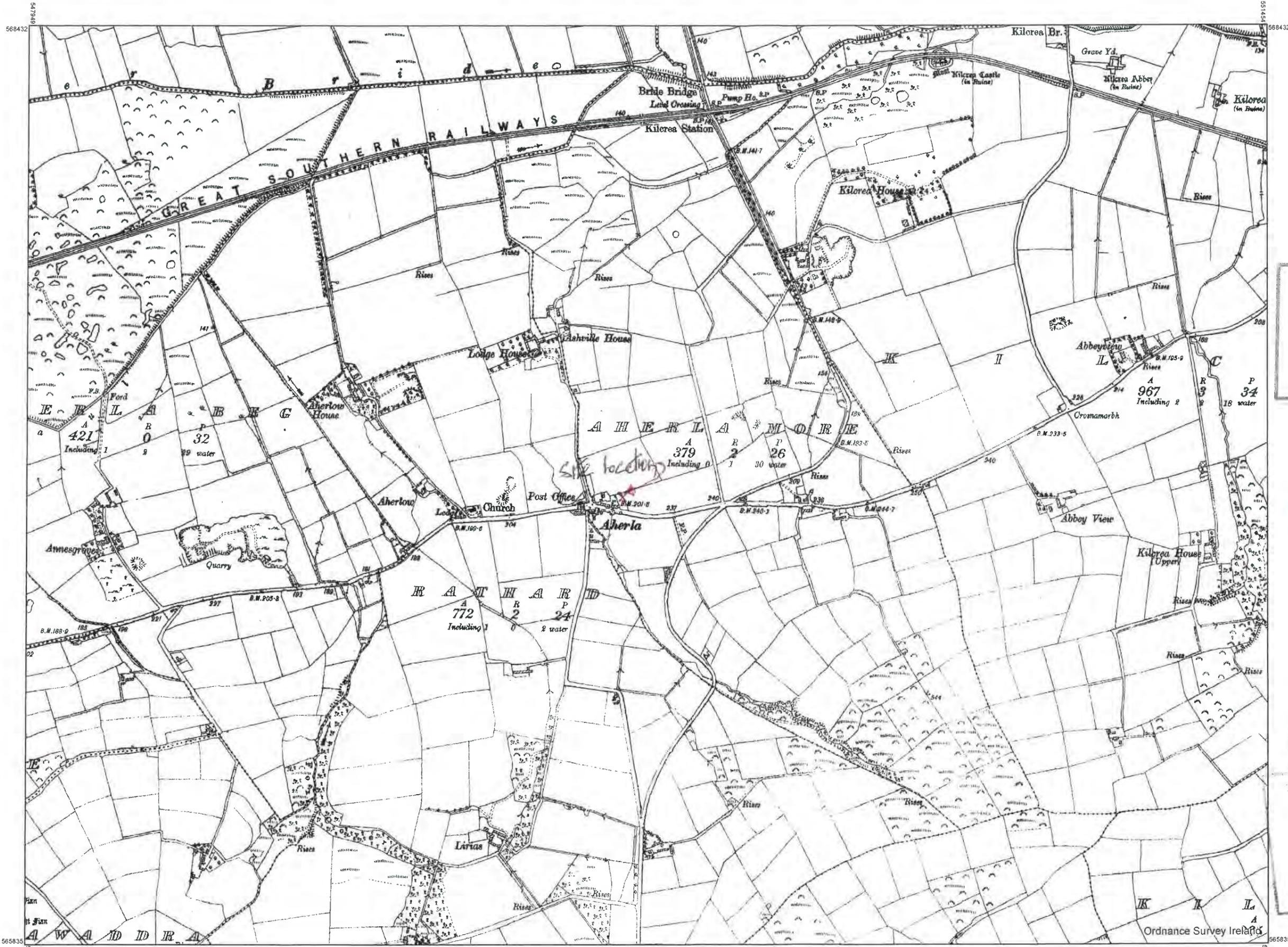
Signed (Applicant or Agent as appropriate)	<i>Brenda O'Connell</i>
Date	<i>27th November 2023</i>



Site Location Map



Tailte Éireann



CENTRE COORDINATES:
ITM 549702,567134

PUBLISHED:
28/11/2023

ORDER NO.:
50370755_1

MAP SERIES:
6 Inch Raster

MAP SHEETS:
CK084

Planning Department

- 5 DEC 2023

Cork County Council
County Hall
Cork

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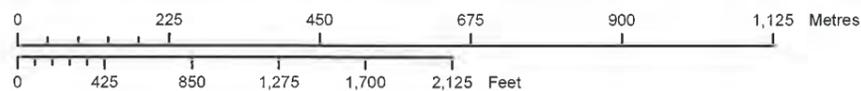
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Cork County Council
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Planning Pack Map



**Tailte
Éireann**



**CENTRE
COORDINATES:**
ITM 549702,567134

PUBLISHED:
28/11/2023

ORDER NO.:
50370755_1

MAP SERIES:
1:5,000
1:5,000

MAP SHEETS:
6423
6465

Planning Department
- 5 DEC 2023
Cork County Council
County Hall
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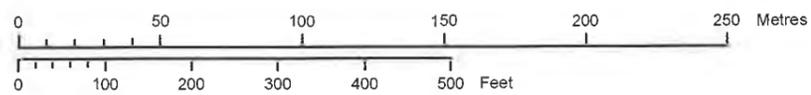
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Planning Department
28 NOV 2023
Cork County Council
County Hall
Cork

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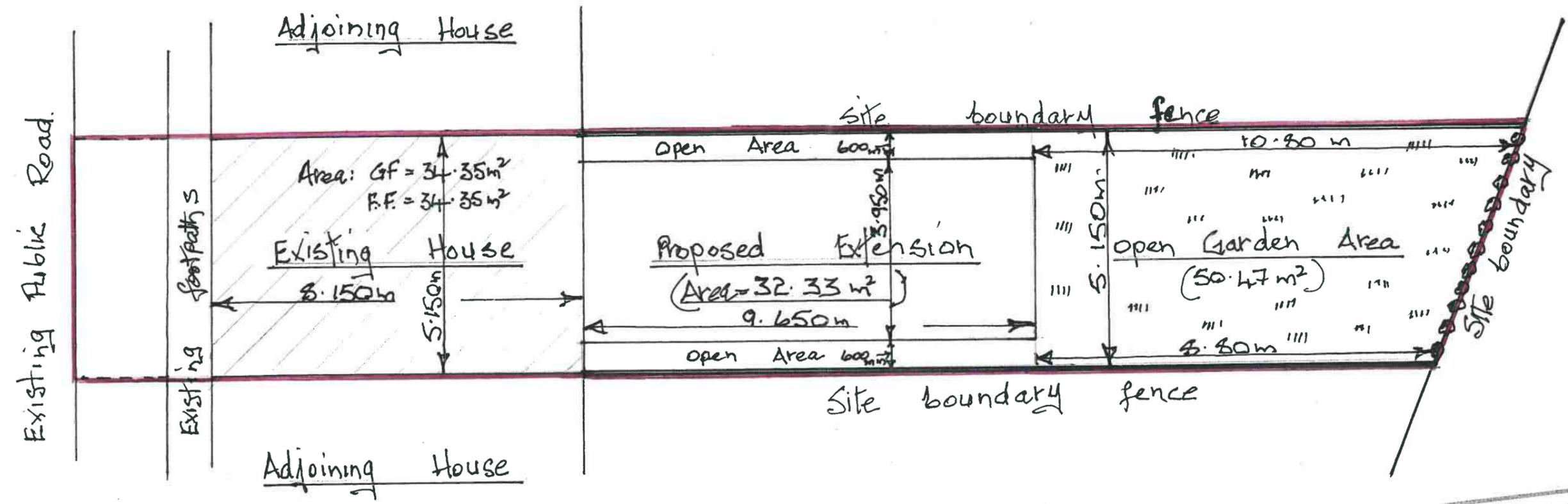


OUTPUT SCALE: 1:2,500

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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'



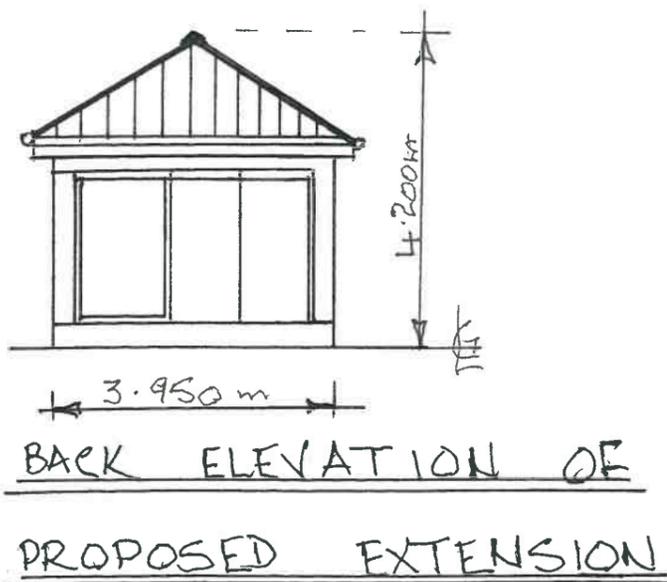
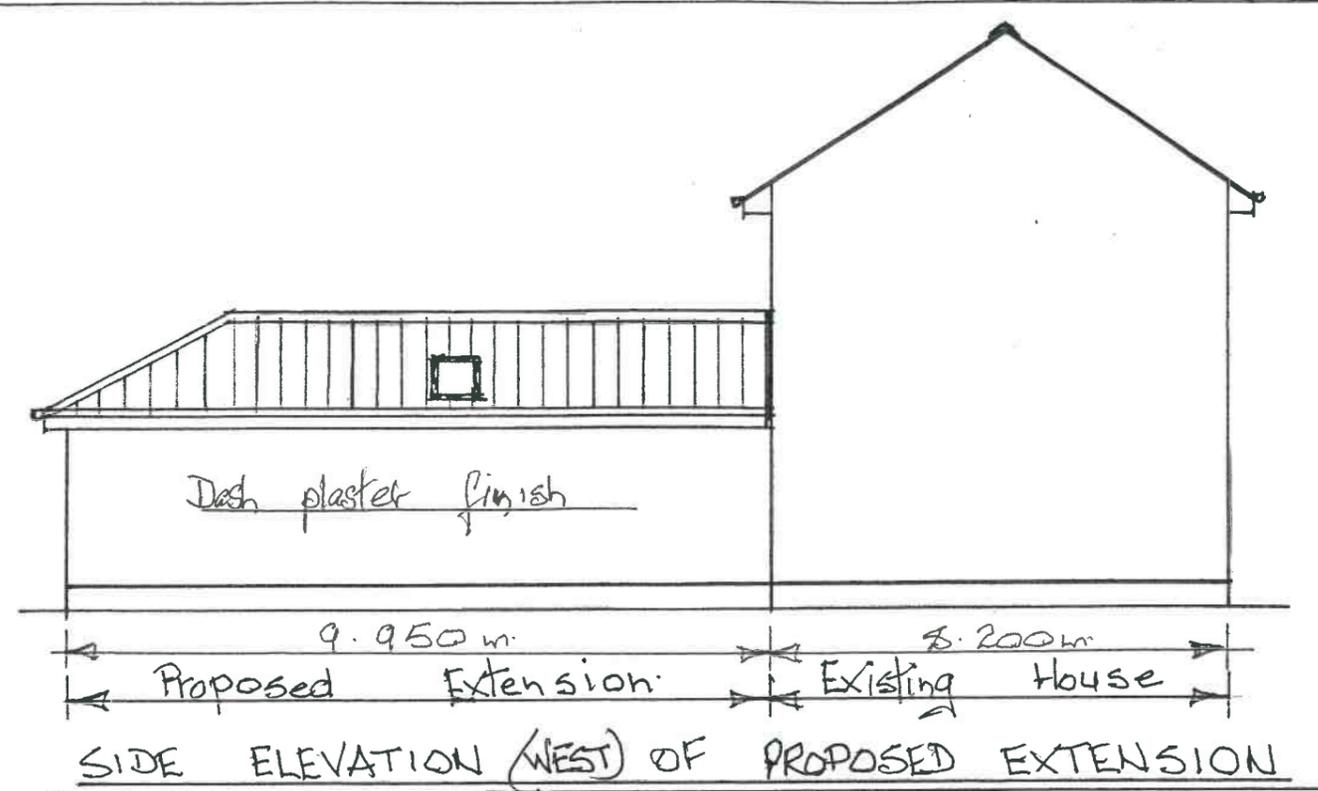
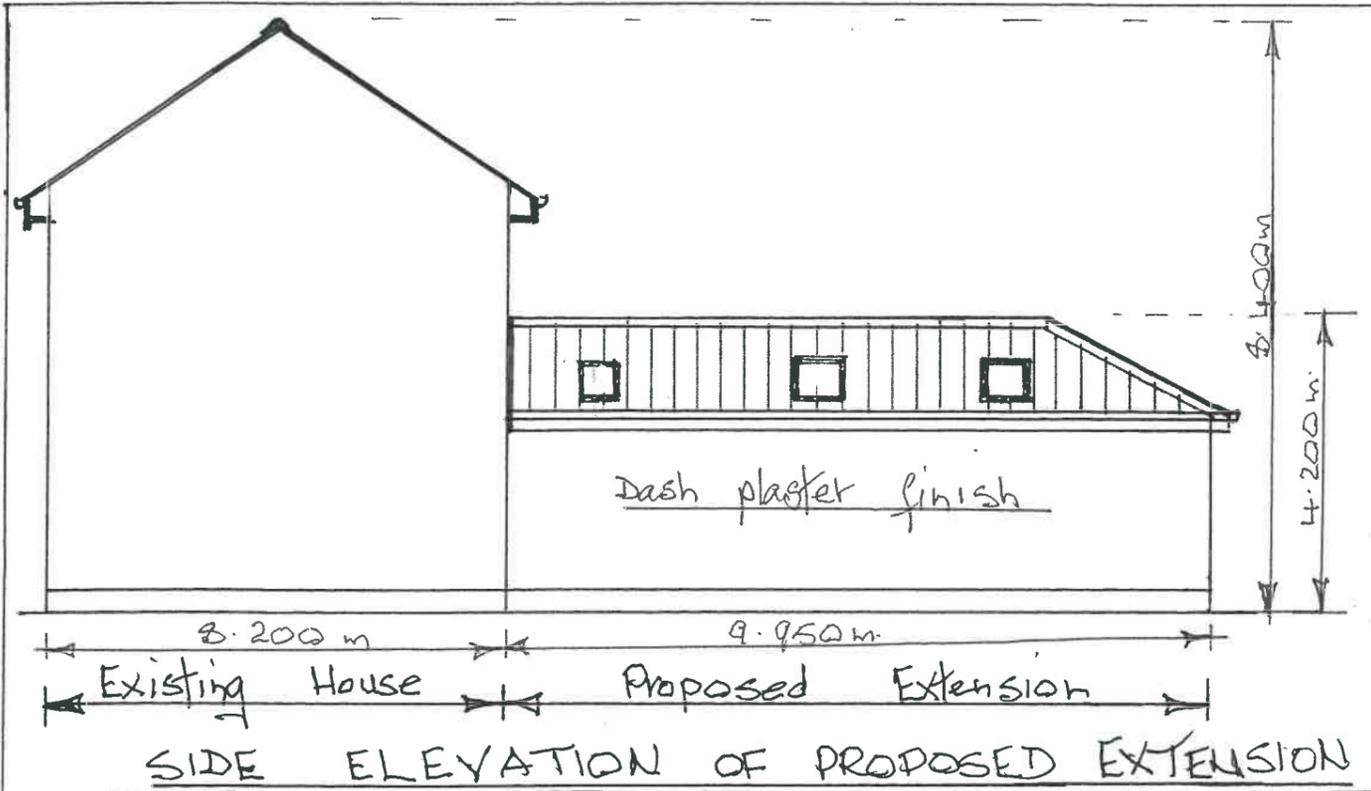


SITE LAYOUT MAP

(Scale: 1/500)

Planning Department
- 5 DEC 2023
Cork County Council
County Hall
Cork.

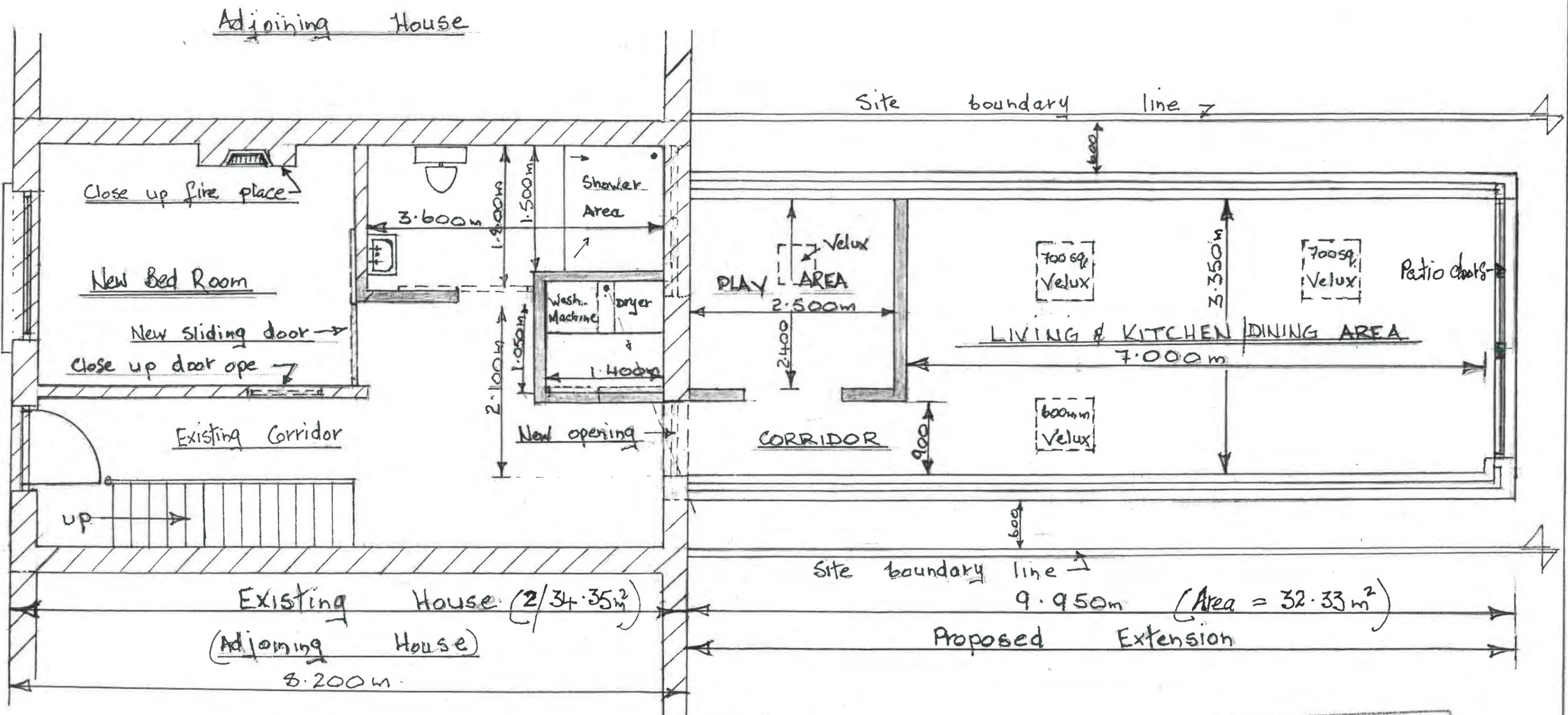
<u>SITE LAYOUT MAP</u>	
Drawn: <i>Kevin O'Leary</i>	Checked: <i>KCC</i>
Scale: 1/100	Date: 27.11.2023



Planning Department
- 5 DEC 2023
Cork County Council
County Hall
Cork

Planning Department
28 NOV 2023
Cork County Council
County Hall
Cork

<u>ELEVATIONS OF</u> <u>PROPOSED EXTENSION</u>	
Drawn by: <i>K. Conroy</i>	Checked: <i>K.C.</i>
Scale: 1:100	Date: 19.11.2023



PROPOSED GROUND FLOOR PLAN

Planning Department
- 5 DEC 2023
Cork County Council
County Hall
Cork

Planning Department
28 NOV 2023
Cork County Council
County Hall
Cork

PLAN OF EXISTING & PROPOSED EXTENSION

Drawn by: <i>K. Lennart</i>	Checked: <i>K.C.</i>
Scale: 1/500	Date: 19:11:2023