

Comhairle Contae Chorcaí Cork County Council

Rannóg Pleanála, Teach Norton,
Bóthar Chorcaí, An Sciobairín,
Co. Chorcaí P81 AT28.
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Planning Section, Norton House,
Cork Road, Skibbereen,
Co. Cork P81 AT28.
Tel: (028) 40340 • Fax: (028) 21660
Web: www.corkcoco.ie



Mr. Sean McCarthy,
c/o John Dineen & Associates,
Consulting Engineers,
3, Inis Cuain,
Old Timoleague Road,
Clonakilty,
Co. Cork.

2nd November, 2023.

Our Ref: D/38/23.

RE/ **Declaration request on exempted development under Section 5
of the Planning & Development Act, 2000 (as amended).**

Dear Sir,

On the basis of the information and plans submitted by you on 5th October, 2023, on behalf of Mr. Sean McCarthy regarding the proposal to refurbish and re-roof existing vacant dwelling at Aghamilla, Clonakilty, Co. Cork, the Planning Authority declares that:

(a) The external modifications to the dwelling involving the refurbishment of the derelict property and to include the provision of a new roof, replacement of windows and doors would render the external appearance of the structure inconsistent with the character of the existing derelict structure and would be ***development and would not be exempted development.***

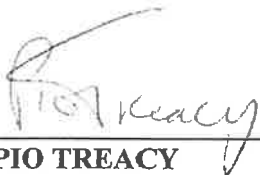
And

(b) The period of non-use of the structure has extended to well in excess of seven years and such a period represents an abandonment of use and the resumption of use of the existing derelict structure as a dwelling constitutes a material change of use and ***is development and is not exempted development.***

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.

Receipt No. WCP12150, in respect of €80.00, is issued herewith.

Yours faithfully,



PIO TREACY
ADMINISTRATIVE OFFICER

NAME OF APPLICANT: Sean Mc Carthy
ADDRESS OF DEVELOPMENT: Aghamilla Co Cork
DEVELOPMENT: Section 5 declaration for the refurbishment of existing vacant dwelling
APPLICATION TYPE:- Section 5 request
REFERENCE NUMBER: D38/23

I have read the report of the Area Planner and I concur with her determination. Whereas a question has been raised regarding refurbishments works to an existing property at Aghamilla, Clonakilty involving:

- a) Refurbish the property, including the provision of a new roof, windows and doors.
- b) Resumption of use of the subject site for residential use.

and having had regard to:

- Sections 2, 3(1) and 4(1)(h) of the Planning and Development Acts, 2000,
- to the submissions made in connection with the referral,
- to the history and use of the site,
- to the physical condition of the property and to the period of non-use of the subject site,

it is concluded by the Planning Authority that:

(a) The external modifications to the dwelling involving the refurbishment of the derelict property and to include the provision of a new roof, replacement of windows and doors would render the external appearance of the structure inconsistent with the character of the existing derelict structure and would be development and would not be exempted development.

And

(b) The period of non-use of the structure has extended to well in excess of seven years and such a period represents an abandonment of use and the resumption of the use of the existing derelict structure as a dwelling constitutes a material change of use and is development and is not exempted development.

Ronnie Barry,
Senior Executive Planner,
01/11/23.

NAME OF APPLICANT

Sean Mc Carthy

ADDRESS OF DEVELOPMENT:

Aghamilla Co Cork

DEVELOPMENT:

Section 5 declaration for the refurbishment of existing vacant dwelling

APPLICATION TYPE:-

Exempted Development

Assessment

Consideration as to whether a development constitutes exempted development or not is governed by Sections 4 and 5 of the Planning and Development Act 2000 and Articles 5,6,7,8,9,10 and 11 of the Planning and Development Regulations 2001.

Is the proposal development?

The proposal comes within the definition of development in S.3 of the Planning and Development Act 2000 for the following reason: -

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

Policy Context

In terms of planning designations, the subject site lies within a designated area indicated in the County Development Plan 2022 to be that of Green Belt Lands outside Clonakilty



Planning History

05-6816 application by Sean Mc Carthy for Demolition of 12 demolition of dwelling and the construction of new dwelling house incorporating the remaining front wall of demolished structure into scene this application was granted A conditional permission in 2005

10-710 An application for extension of duration of permission previously granted 4 as Sean McCarthy for the demolition of dwelling and construction of new dwelling house incorporating remaining front wall of demolished structure into same this application was granted an additional five years this permission expired in 2015.

Assessment

Applicants are applying for Section 5 certificate of exempted development and asking the question whether or not the existing vacant dwelling can be refurbished and re-roofed without planning permission.

The description of the proposed development implies that the dwelling house which is existing is merely vacant and not derelict, it is considered that the existing structure on site has no roof as per the drawings submitted as part of this application, this is considered by the planning authority to describe a derelict dwelling and not merely vacant dwelling. It is also noted that the description used in the planners report in 2005 (file ref 05-6816) is that of a dwelling which is derelict, this is 18 years ago.

It is considered that there is no specific classification of exempted development which allows for the reinstatement of a derelict dwelling house to its previous livable or habitable space. The planning authority therefore assessed this proposal under section 4(1) (H) of the planning and development act.

- Section 4(1)(h) of the Act states:

“The following shall be exempted development for the purposes of this act: Development consisting of the carrying out of works for the maintenance improvement or other alterations of any structure, being works which effect 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.”

It is considered by the planning authority that the level of works proposed by the applicant to bring this dwelling back to a habitable state is outside of the remit of Section 5 exempted development certificate. The works are outside of the definition of maintenance improvement or other alterations which would only affect the interior of the structure and which do not materially affect the external appearance of the structure as to render the appearance inconsistent with the character of the structure or of neighboring structures. The works proposed would materially affect the appearance of the dwelling and therefore a Section 5 certificate of exempted development cannot be granted in this instance

Further to the above it is questionable as to whether or not the existing structure and its use as previous habitable dwelling house could even be considered to be existing on the site it may be the case where abandonment of use in this instance would need to be considered and therefore a new application for planning permission is required.

Conclusion:

Given the proposed works do not fall under any specific classification of exempted development and the applicants has not indicated what classification they are applying for the exemption certificate under the PA has assessed the proposal section 4(1)(H)of the Planning and Development Act 2000 as amended. It is considered that the proposed works would materially affect the appearance of the structure and twould not be exempt development and therefore and a section 5 exempted development certificate cannot be issued for the works.

Kate Killian
Executive Planner
31/10/2023

Picture taken in 2010 as part of the EOD application for the applicant 10/710





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:**
- 4 No. Copies of Site Layout Plan:**
- 4 No. Copies Scaled Drawings of Development:**
- €80 Application Fee:**

FOR OFFICE USE ONLY

Receipt No.	
Cash/Cheque/ Credit Card	
Date	
Declaration Ref. No.	

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.

REG. NO. 10000000000000000000
PLAN NO. 10000000000000000000
05 OCT 2023
CORK COUNTY COUNCIL
NORTON HOUSE, SKIBBEREEN, CO. CO.

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)

Sean McEathy

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

Vacant Dwelling at
Aghmulla, Clonakilly, Co. Cork

REG. No. _____
PLANNING (WEST) DEPT

05 OCT 2023

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CARTON HOUSE, SKIBBEREEN, CO. CORK

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

- Existing Vacant / Part Developed Dwelling - the Dwelling be refurbished / roofed with out Planning Permission.

The Dwelling was previously subject to planning application 05/6816 and outland under planning application 10/710.

The dwelling has an ESB Connection and is connected to its own Septic tank and purification area.

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 Dwelling - 110m 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: Dwelling Constructed prior to 1963.
(c) If a change of use of land and/or building(s) is proposed, please state the following: Existing/previous use Proposed use	 Vacant Dwelling Dwelling House
(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): REG. NO. PLANNING (RES.) DEPT 05 OCT 2023 CORK COUNTY COUNCIL NORTON HOUSE, ST. PATRICK'S, Co. CORK

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:	N/A	
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):	N/A	

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:

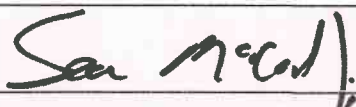
Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes No

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	4.10.2023

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

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PLANNING (WEST) DEPT
05 OCT 2023
CORK COUNTY COUNCIL
NORTON HOUSE, SKIBBEREEN, Co. CORK

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	

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)	
Date	04.10.2023

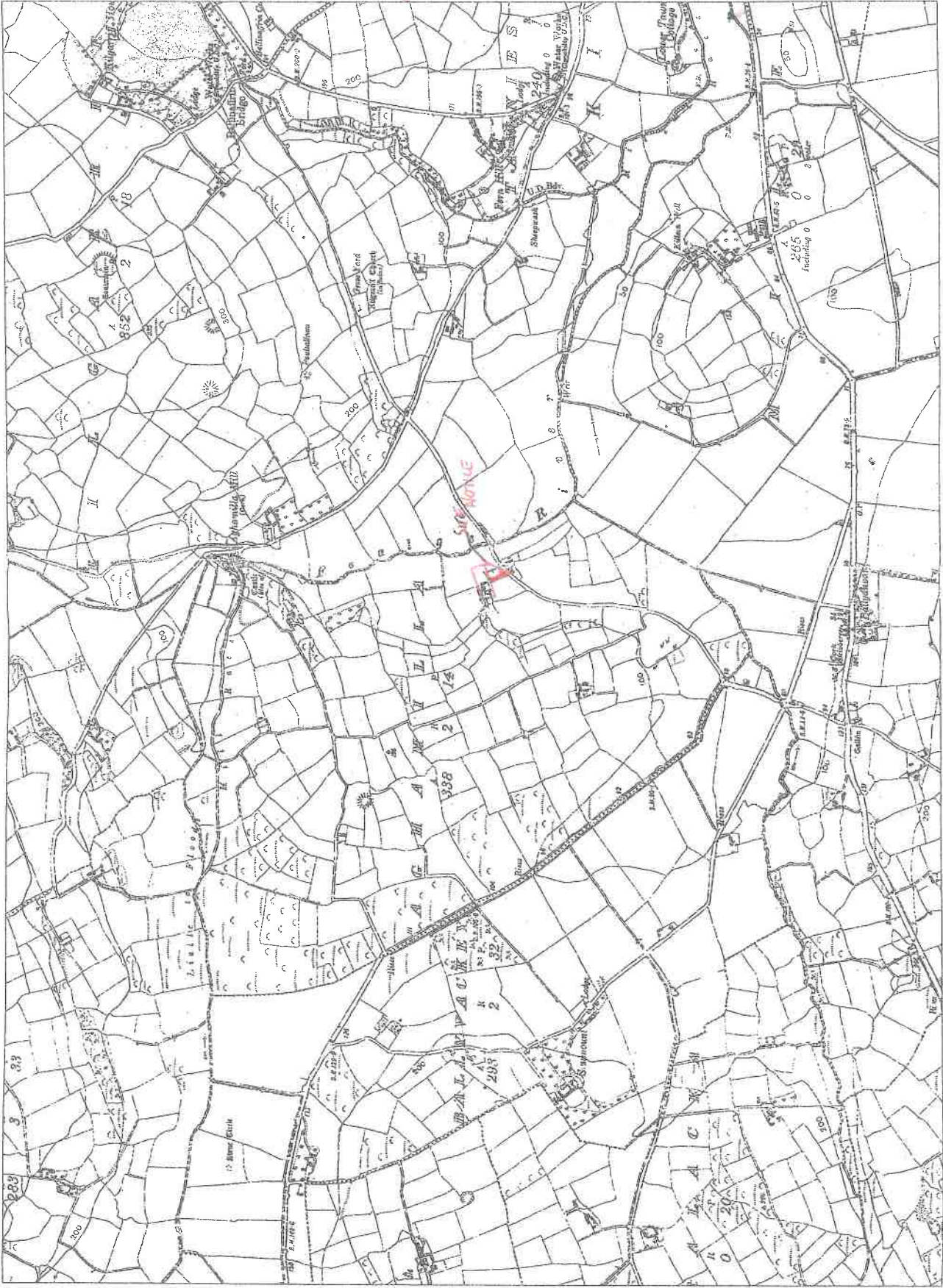
PLANNING (WEST) DEPT
 05 OCT 2023
 CORK COUNTY COUNCIL
 NORTON HOUSE, SKIBBEREEN, CO. CORK

Record PLACE Map

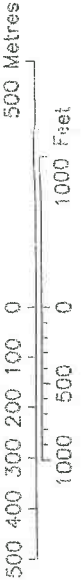
Surveyed 1842
 Revised 1935
 Levelled 1935



137556
 43279



40702
 137556



Scale:— 1:10560
 Scale:— 1:10560

40702
 134071

DESCRIPTION

North

MAP SCALES

6 inch
 CK135

REG. NO. PLANNING (WEST) DEPT
 05 OCT 2003
 COCK COUNTY COUNCIL
 NORTH RIDGE, BARRINGTON CO. CO.



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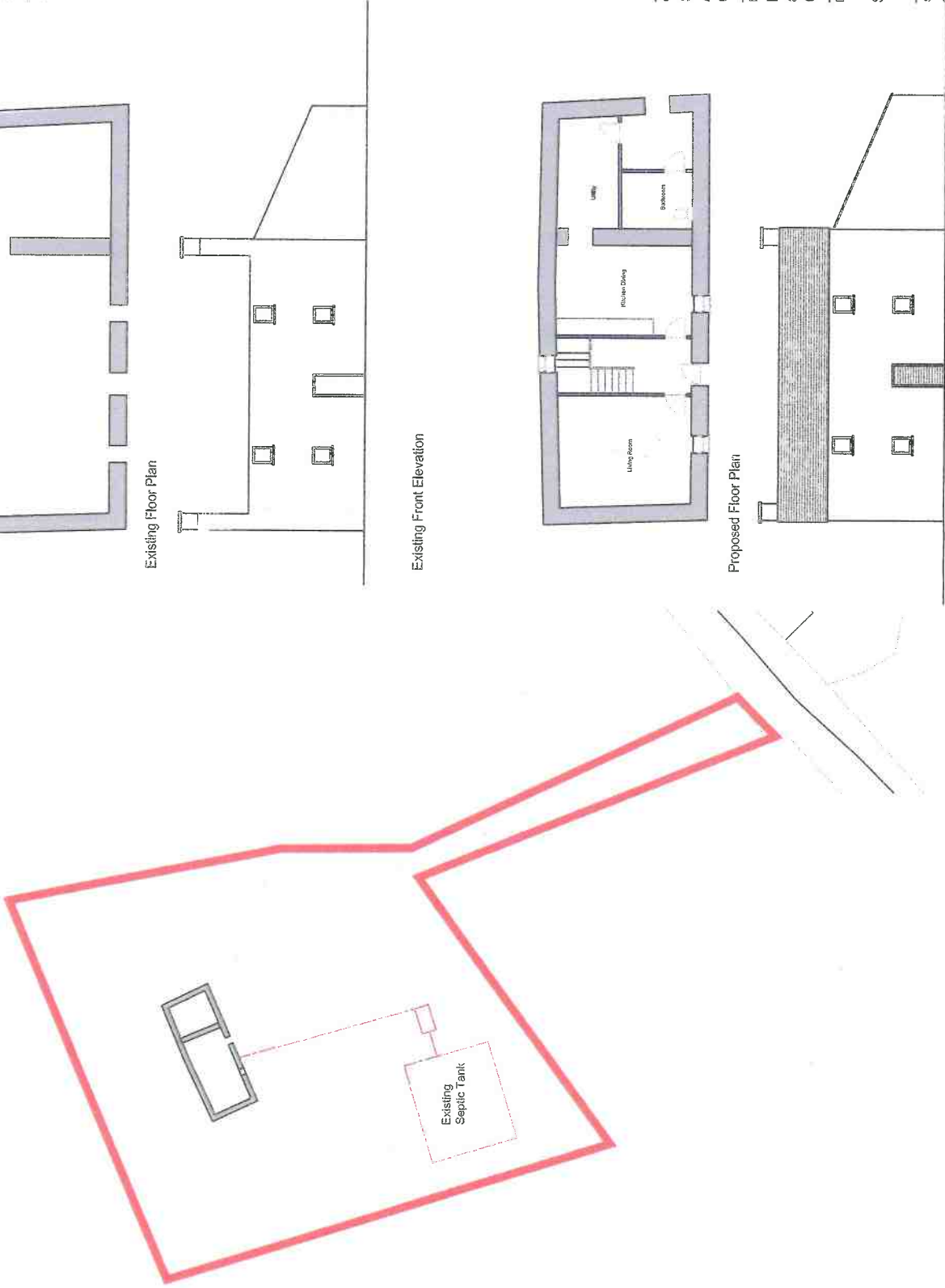
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Plot Ref. No. 23465_1_12
 Plot Date 25-APR-2003

Figured dimensions only are to be used. All dimensions to be checked on site. Differences between drawings and between drawings and specifications or bills of quantities to be reported to Engineer/Architect

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Revisions:	By	Chkd	Date:
A	Issued for Planning	JD	04.10.2024



REG. NO. PLANNING (P/VE/T) DEPT.
05 OCT 2023
CONSULTING ENGINEER

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Client:
Sean McCarthy
Aghamilla, Clonakilty,
Co. Cork.

Project:
Refurbishment of Vacant of Dwelling
at Aghamilla, Clonakilty,
Co. Cork.

Drawing Title:
Site Plan and Layout

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Engineering
Planning
Surveying
Certification
Landscape
Architectural

Scale: A3
Project Co-Ordinator: JD
Date: Oct 23

Job No: 105
Steps: P 02
Rev: A

Issue Status:

Construction Preliminary
Information Approval
Tender Planning