

Cork

Comhairle Contae Chorcaí Cork County Council

Artur Stashevskyy & Anna Kovzik,
Loughatalia,
Ballinacurra,
Midleton,
Co. Cork.
P25 CK76

4th June, 2024

REF: D/228/24
LOCATION: Loughatalia, Ballinacurra, Midleton, Co. Cork.

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

Dear Sir/Madam,

On the basis of the information and plans submitted by you on 2nd May, 2024 the Planning Authority, having considered whether the construction of a 32m² pre-fabricated shed at front of property and construction of a 8m² single storey extension on North Eastern elevation with 2 No. velux windows at, **Loughatalia, Ballinacurra, Midleton, Co. Cork** is development and is or is not exempted development

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

- Sections 2(1), 3(1) and 4(4) of the Planning and Development Acts 2000 (as amended) and
- Articles 3, 6 and Class 1 and Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended)

AND WHEREAS Cork County Council has concluded that -

- The pre-fabricated shed structure does not constitute "exempted development" having regard to the provisions of Class 3, Schedule 2, Part 1, (Exempted Development) Regulations 2001 as it is located forward of the front wall of the dwelling and exceeds the size parameter as set out under Class 3

And

- The rear extension does constitute "exempted development" having regard to the provisions of Class 1, Schedule 2, Part 1, (Exempted Development) Regulations 2001


Pleanáil agus Forbairt,
Halla an Chontae,
Bóthar Charraig Ruacháin,
Corcaigh T12 R2NC.
Fón: (021) 4276891 • Faics: (021) 4276321
R-phost: planninginfo@corkcoco.ie
Suíomh Gréasáin: www.corkcoco.ie
Planning & Development,
County Hall,
Carrigrohane Road, Cork T12 R2NC.
Tel (021) 4276891 • Fax (021) 4276321
Email: planninginfo@corkcoco.ie
Web: www.corkcoco.ie



And now therefore the Planning Authority hereby decides that a **SPLIT DECISION** arises in the assessment of the subject Section 5 request.

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

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

D228-24 – Shed and rear extension, Ballinacurra

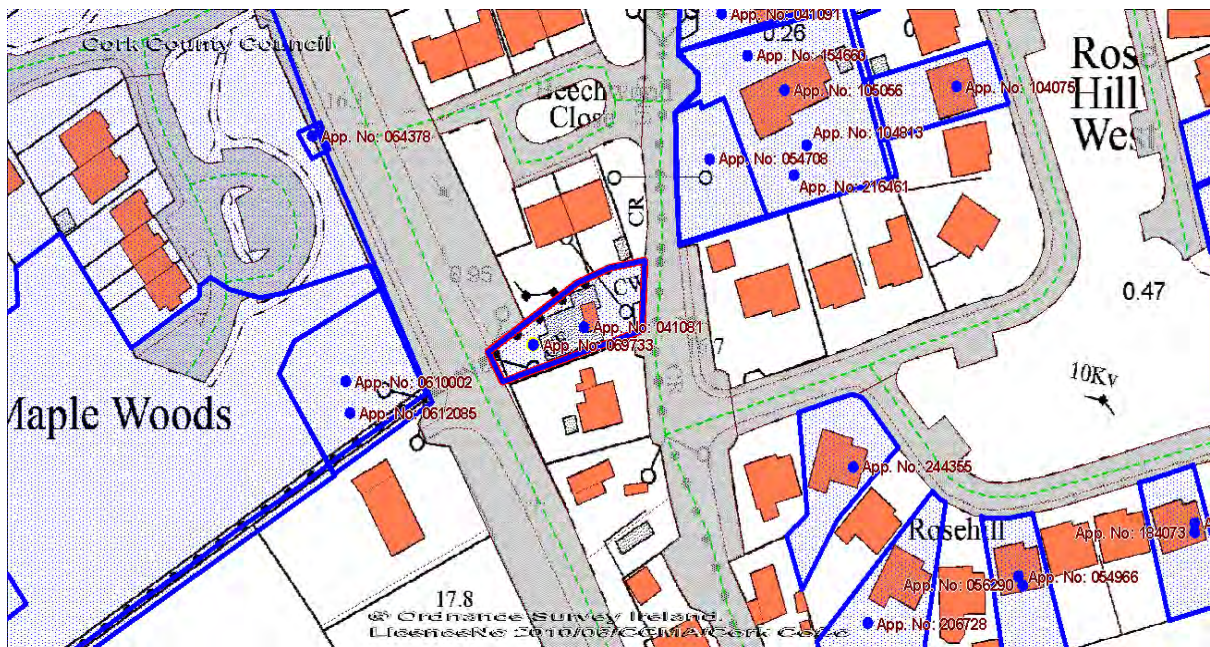
The Question

The applicant is querying whether

- a) Construction of a 32sqm pre-fabricated shed to the front of the property
- b) Construction of an 8sqm single storey extension on the NE elevation

Is/ is not exempted development for the purposes of the Act.

Planning History



04/1081 & 06/ 9733- OPP and Permission consequent granted to current applicants for a 2 storey dwelling house

Statutory Provisions

I consider the following statutory provisions relevant to this referral case:

Planning and Development Act, 2000

Section 3 (1) states:-

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

Works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal”.

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

Planning and Development Regulations, 2001

Article 6(1) of the Regulations states as follows:- *“(a) Subject to article 9, development consisting of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1*

Article 9 (1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development.

Assessment

Having regard to the questions posed, the proposal constitutes “development” as set out under S3 of the Planning and Development Act 2000 in that “works” are proposed to be carried out on the site. The question therefore is whether or not these “works” constitute “exempted development” for the purposes of the Act.

Shed

In relation to the pre-fabricated shed, Class 3, Schedule 2, Part 1, (Exempted Development) Regulations 2001) allows the construction of a shed structure subject to certain caveats.

CLASS 3

The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

1. No such structure shall be constructed, erected or placed forward of the front wall of a house.
2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.

As the proposed structure is located forward of the front wall of the dwelling and also exceeds the permissible size limit (>25sqm), the structure does not conform with the requirements of class 3 and is therefore not exempted development.

The existing timber shed to the front of the site may require retention permission.

Extension

In relation to the rear extension Class 1, Schedule 2, Part 1, (Exempted Development) Regulations 2001) allows the construction of up to 40sqm new build to be constructed to the rear of an existing dwelling subject to certain caveats. The extension is single storey and measures 8 sqm. It is located to the rear of the main dwelling. The applicant has provided basic drawings in respect of the subject extension, but it does nonetheless adhere to the requirements of class 1. The structure has no windows/ doors at ground floor level, is >1m from side boundary and will be served by two velux rooflights. The finish of the extended area has not been specified but same is not requirement of class 1. Accordingly I am satisfied that the proposal meets this requirements of the exemption class

Note: The submitted application form also refers to the "changing of a long window" on side elevation however there is no further reference to same on drawings submitted. As such I have not commented any further on same

Article 9 Restrictions

Restrictions on exemptions are listed under Article 9 of the Regulations. Having reviewed same none would apply to the subject proposal.

AA/ EIA

Section 4(4) of the Act essentially de-exempts any development which attracts a requirement for Environmental Impact Assessment (EIA) or Appropriate Assessment (AA).

In relation to EIA, part 2 of schedule 5 lists development which may require EIA for the purposes of part 10 of Part 10 of the Planning and Development Act.

Having considered that detail I am satisfied the proposal does not trigger any requirement for mandatory or sub-threshold EIA. Similarly and having regard to the nature of the proposal and the distance to Natura 2000 site, I am satisfied that requirement for AA is not warranted

Conclusion

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

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

(b) Articles 3, 6 and Class 1 and Class 3 of Schedule 2, part 1 of the Planning and Development Regulations, 2001, as amended,

The Planning Authority has concluded that:

(a) the proposal constitutes “development” within the meaning of S3 of the Act

(b) The pre-fabricated shed structure does not constitute “exempted development” having regard to the provisions of Class 3, Schedule 2, Part 1, (Exempted Development) Regulations 2001 as it is located forward of the front wall of the dwelling and exceeds the size parameter as set out under Class 3

(c) The rear extension does constitute “exempted development” having regard to the provisions of Class 1, Schedule 2, Part 1, (Exempted Development) Regulations 2001

Enda Quinn

Executive Planner

4/6/2024



Dwelling house



Side elevation view

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

Artur Stashevsky & Anna Kovzik

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

Loughatalia, Ballinacurra, Midleton Co CORK p25ck76

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

We are seeking a letter of exemption for 32m2 prefabricated shed to be placed in front of the existing residence dwelling

The purpose of the shed is to house surf boards, kayaks, and bicycles.

In addition, we intend to build an 8m2 extension to the north-west side of the dwelling with 2 No veluxes. Change of current long window to the smaller size on the same elevation. The extension will accommodate electric sauna and a two seater bath that are now located in the first-floor bathroom. The first floor bathroom will be transformed into the third child's bedroom.

Planning Department

- 2 MAY 2024

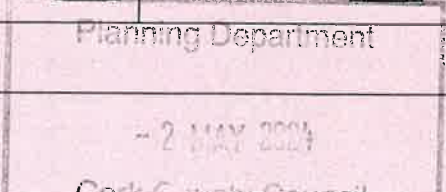
Cork County Council
County Hall
Cork.

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):	PREFAB SHED 33 M2 / EXTENSION 8 M2
(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 _____ _____ _____	
(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):		

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

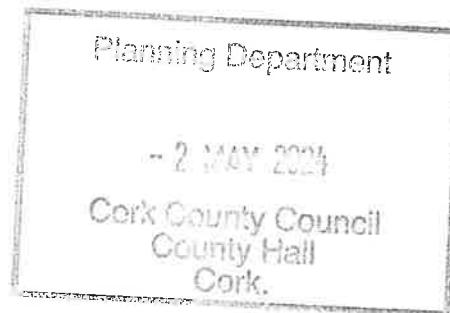
Signed (By Applicant Only)	Artur Stashevskyy & Anna Kovzik
Date	30-Apr-2024

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	Artur Stashevskyy & Anna Kovzik
Date	30-Apr-2024

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:**

<i>Signed (Applicant or Agent as appropriate)</i>	Artur Stashevskyy & Anna Kovzik
Date	30-Apr-2024



Land Registry Compliant Map



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**CENTRE
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ITM 588522.571477

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01/05/2024

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1:2,500

MAP SHEETS:
6388-A
6388-C

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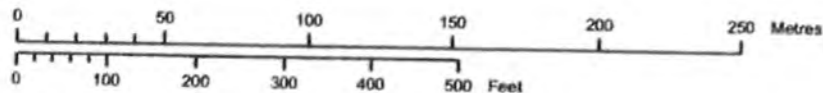
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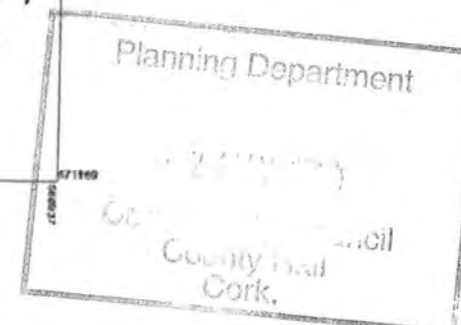
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Land Registry Compliant Map



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ITM 588522,571477

PUBLISHED: 01/05/2024
ORDER NO.: 50397741_2

MAP SERIES: 1:2,500
MAP SHEETS: 6388-A, 6388-C

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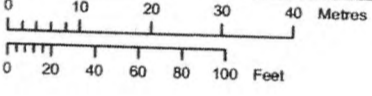
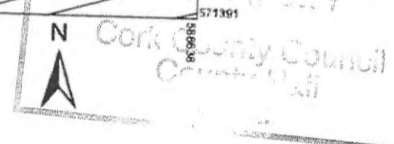
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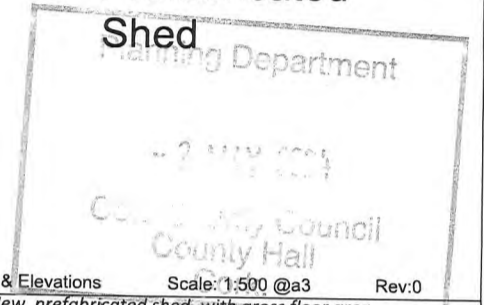
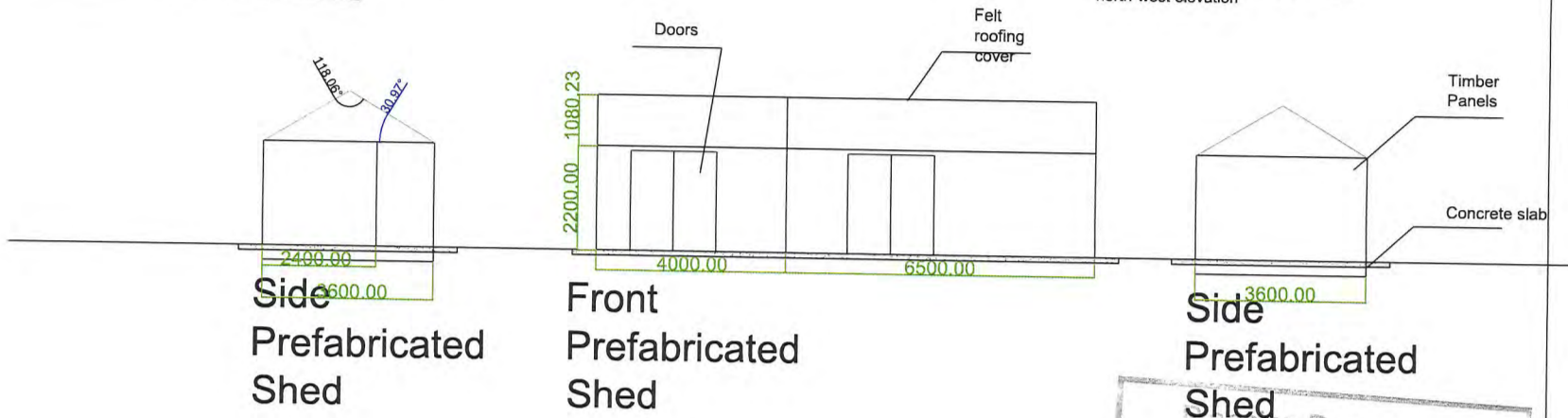
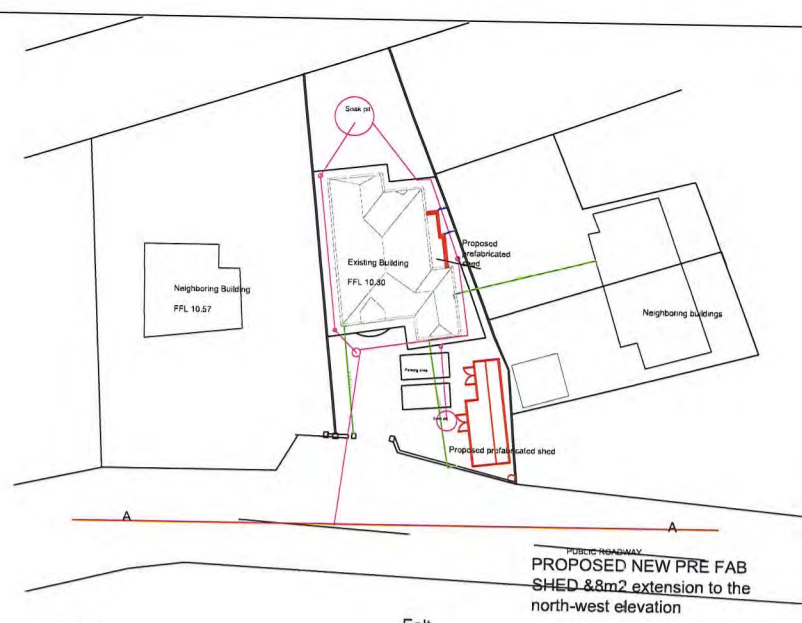
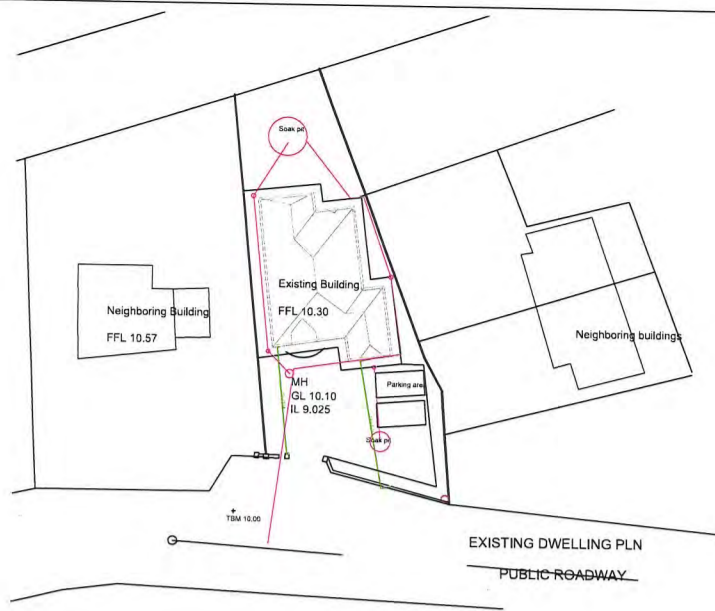
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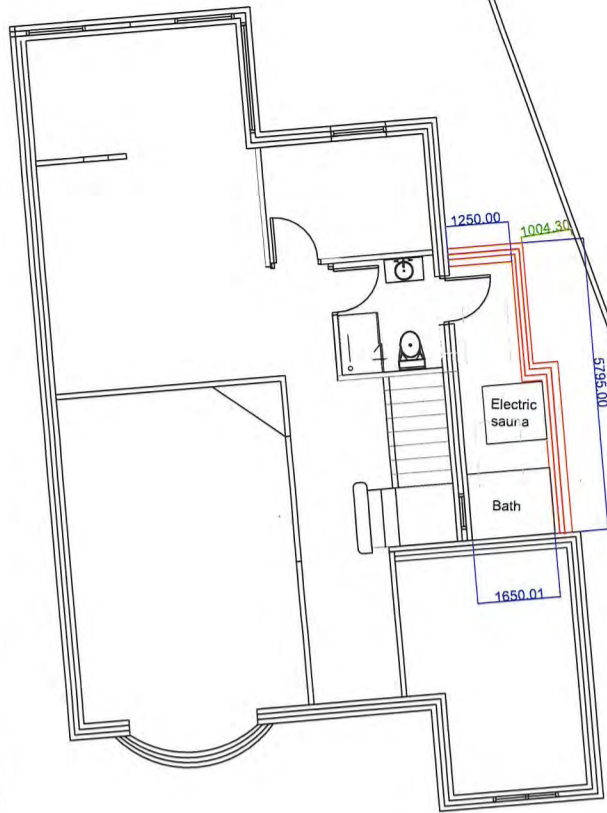
Title: Plans & Elevations Scale: 1:500 @a3 Rev:0

Proposed New prefabricated shed, with gross floor area of 33m² & 8m² extension to the north-west elevation of the dwelling at Loughatalia, Ballinacurra Midleton, Co Cork.

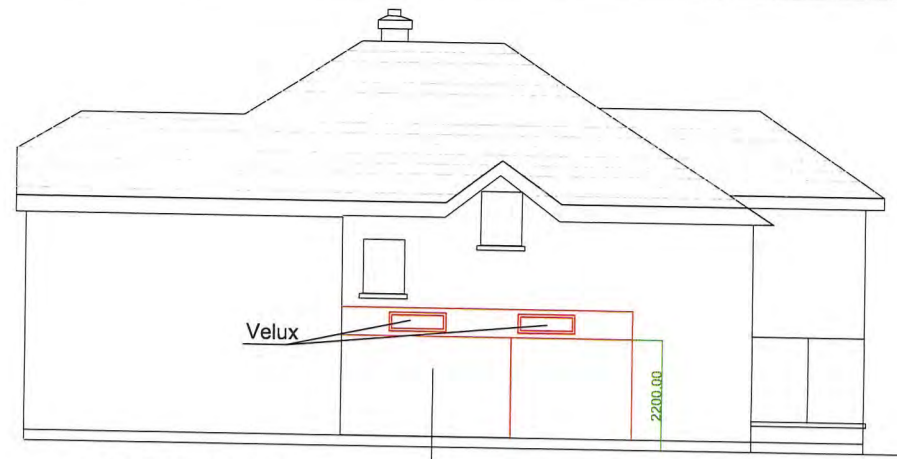
For Artur Stashevskyy and Anna Kovzik

Drw: Anna Kovzik, Loughatalia, Ballinacurra, Midleton Co Cork 0877442297

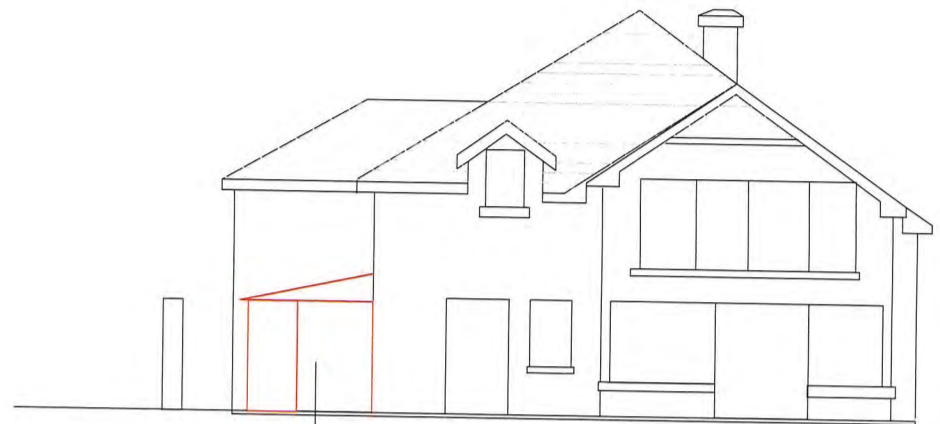
Date: 23/04/2024



**PROPOSED PLAN
OF EXTENSION TO
NORTH-WEST
SIDE OF THE DWELLING**



**North Elevation
of proposed Extension**



**West Elevation
of proposed Extension**

Title: Extension Plans & Elevations Scale: 1:100 @a3 Rev:0
 Proposed New prefabricated shed, with gross floor area
 of 33m² & 8m² extension to the north-west elevation of the dwelling
 at Loughatalia, Ballinacurra Midleton, Co Cork.
 For Artur Stashevskyy and Anna Kovzik
 Drw: Anna Kovzik, Loughatalia, Ballinacurra,
 Midleton Co Cork 0877442297 Date:23/04/2024