



COMHAIRLE CHONTAE CEATHARLOCHA
CARLOW COUNTY COUNCIL

C A R L O W
COUNTY COUNCIL
COMHAIRLE CHONTAE CEATHARLOCHA



COUNTY BUILDINGS, ATHY ROAD, CARLOW.

Tel: Phone: 059-9170300/ Fax: 059-9170836

Website: www.carlow.ie

Application Form for Section 5 Declaration on Development & Exempted Development

1. Name of applicant: JOHN & VERONICA TOBIN

2. Address of applicant: [REDACTED]

3. Name and address for correspondence: AS ABOVE.

Tel. No: [REDACTED] Fax No: N/A E-mail: [REDACTED]

4. Location of Development: Townland: BALLYSHANCARRAGH

Postal Address: (if different from Townland): N/A

5. Name and Address of Agent: NONE

6. Outline clearly the description of the development / proposal: MINOR ALTERATION TO GLAZING AND SLIDING DOOR AT FRONT AND SIDE ELEVATION ONLY.

7. Is this a Protected Structure or within the curtilage of a Protected Structure: N/A
8. List any previous applications relating to the site: 03 338
9. Are you aware of any enforcement proceedings relating to this site: NONE
10. Please state applicant's interest in this site: OWNER
11. List of plans, drawings etc. submitted with this application: _____

1:10560 LOCATION MAP
1:2500 LOCATION MAP
1:500 SITE LAYOUT MAP
1:100 APPROVED DRAWINGS
1:100 AS BUILT DRAWINGS - SHOWING MINOR ALTERATIONS

Signed: [Signature]
(Signature of Applicant)

Date: 07/08/2023

Note: This application must be accompanied by:

Payment of Fee: This application must be accompanied by the statutory fee of €80

Lodgement: The application should be forwarded to:
Planning Department
Carlow County Council
Athy Road
Carlow

OFFICE USE ONLY

Date Received: _____

Date Decision Due: _____

Date of Decision: _____

Recommendation: _____

Advice Note:

This is a non-statutory advice note prepared by Carlow County Council for the purposes of advising applicants what information is required for a decision to be made under Section 5 by the Planning Authority.

Under Section 5 of the Planning and Development Act 2000 as amended any person may request in writing from the Planning Authority as declaration as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of the Planning and Development Act 2000 as amended.

The Planning Authority is required to make a decision within 4 weeks of receipt of a Declaration Request under Section 5, along with the prescribed fee, however the Planning Authority can also request Additional Information if it is considered that insufficient information has been submitted.

Therefore, it is advised that the following information should be submitted to enable the Planning Authority to make a qualified decision within the prescribed period:

- A site location map (Scale 1:2500 in rural area and 1:1000 in an urban area), with the site clearly outlined in red.
- Site Layout Map (Scale 1:500) in compliance with Article 23 of the Planning and Development Regs 2001 as amended.
- Drawings (Scale 1:50) Where development involves any construction of a new structure, increase in size of existing structure or alterations to an existing structure, scaled floor plans and elevations. Drawings should differentiate between the original building, all extension and proposed development.



**Tailte
Éireann**

Order Confirmation

Tailte Éireann
National Mapping Division
Phoenix Park, Dublin 8
D08 F6E4
VAT No. IE 4102063GH
custserv@osi.ie
+353-1-802-5300

Order #: 50350295

Order Date: 7 Aug 2023, 13:20:51

Sold to:

Robert Johnston
Clayblock Limited
Old Dublin Road
Enniscorthy
Enniscorthy, Wexford, Y21VP99
Ireland
T: 0874513278

Payment Method

Pay by Credit or Debit Card

SKU	Product	Price	Qty	Subtotal
471002	Planning Pack	€48.50	1	€59.66
687422,660084, A4, 1:2,500, Landscape, PDF X/1-A, ITM				

Subtotal: €48.50

Tax: €11.16

Grand Total: €59.66

Site Location Map

J. + V. TOBIN



Tailte
Éireann

**CENTRE
COORDINATES:**
ITM 687422,660084

PUBLISHED: 07/08/2023
ORDER NO.: 50350295_1

MAP SERIES: 6 Inch Raster
MAP SHEETS: CW017
6 Inch Raster CW018
6 Inch Raster WW046
6 Inch Raster VX004

COMPILED AND PUBLISHED BY:
National Mapping Division of
Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4

www.tailte.ie

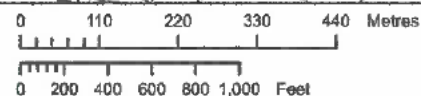
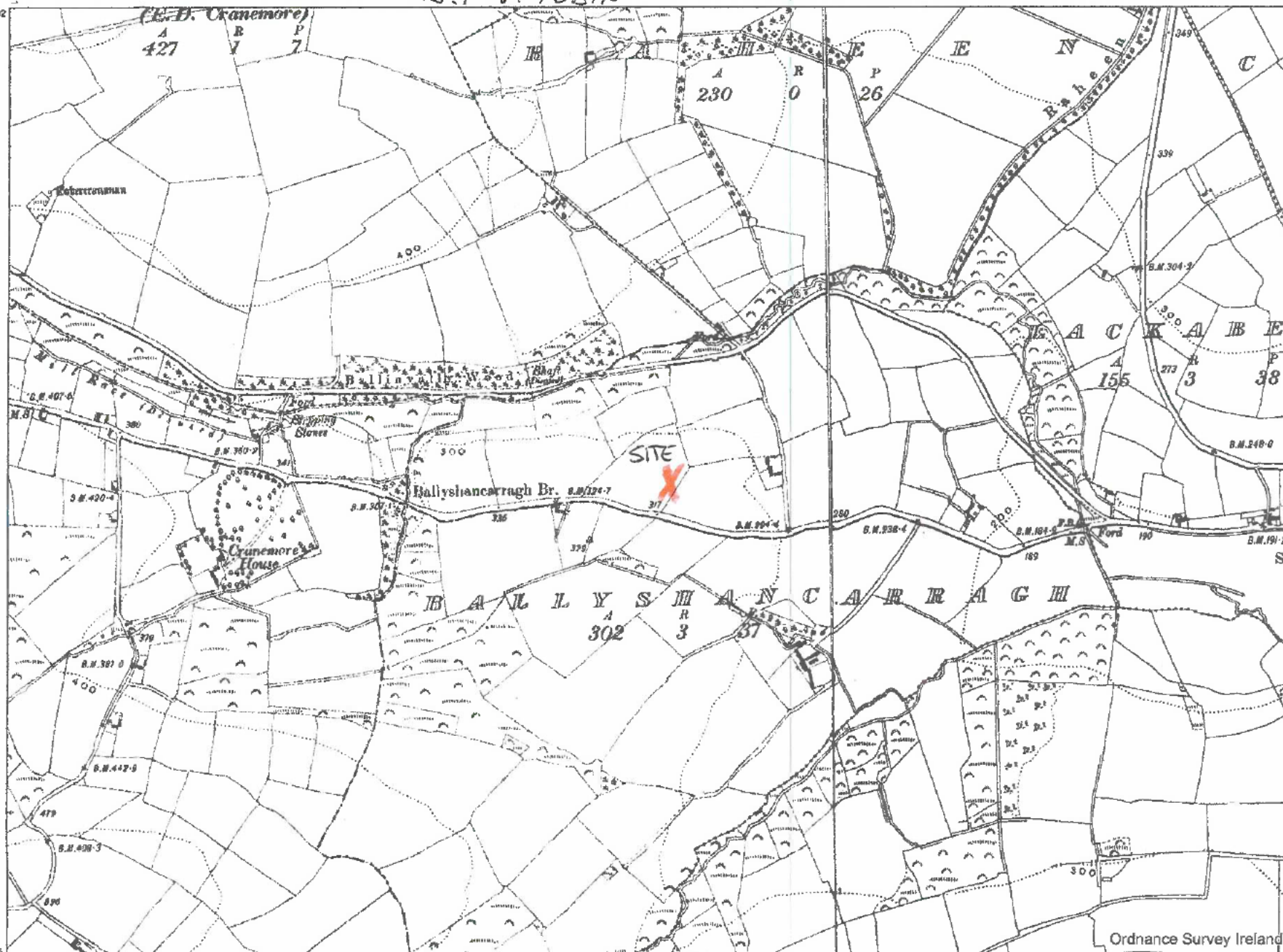
Any unauthorised reproduction
infringes Tailte Éireann copyright.

No part of this publication may
be copied, reproduced or transmitted
in any form or by any means without
the prior written permission of the
copyright owner.

The representation on this map
of a road, track or footpath
is not evidence of the existence
of a right of way.

Topographic maps produced by the
National Mapping Division of Tailte
Éireann never show legal property
boundaries, nor do they show
ownership of physical features.

© National Mapping Division of Tailte
Éireann, 2023. All rights reserved.



OUTPUT SCALE: 1:10,560

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'



This map was produced by
the National Mapping Division
of Tailte Éireann, formerly
Ordnance Survey Ireland (OSI)

Planning Pack Map



Tailte
Éireann

JOHN + VERONICA TOBIN

Baile an Bhealaigh
Ballinvally

Baile Sheáin Charragh
Ballyshancarragh

**CENTRE
COORDINATES:**
ITM 687422,660084

PUBLISHED: 07/08/2023
ORDER NO.: 50350295_1

MAP SERIES: 1:5,000
MAP SHEETS: 4654
1:5,000 4714

COMPILED AND PUBLISHED BY:
National Mapping Division of
Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland.
D08F6E4

www.tailte.ie

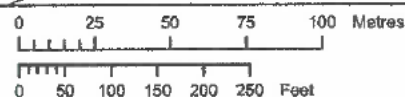
Any unauthorised reproduction
infringes Tailte Éireann copyright.

No part of this publication may
be copied, reproduced or transmitted
in any form or by any means without
the prior written permission of the
copyright owner.

The representation on this map
of a road, track or footpath
is not evidence of the existence
of a right of way.

Topographic maps produced by the
National Mapping Division of Tailte
Éireann never show legal property
boundaries, nor do they show
ownership of physical features.

© National Mapping Division of Tailte
Éireann, 2023. All rights reserved.



OUTPUT SCALE: 1:2,500

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'

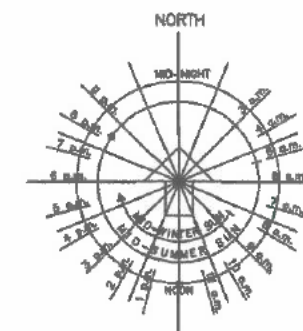
LEGEND:
To view the legend visit
www.osi.ie and search for
'Large Scale Legend'

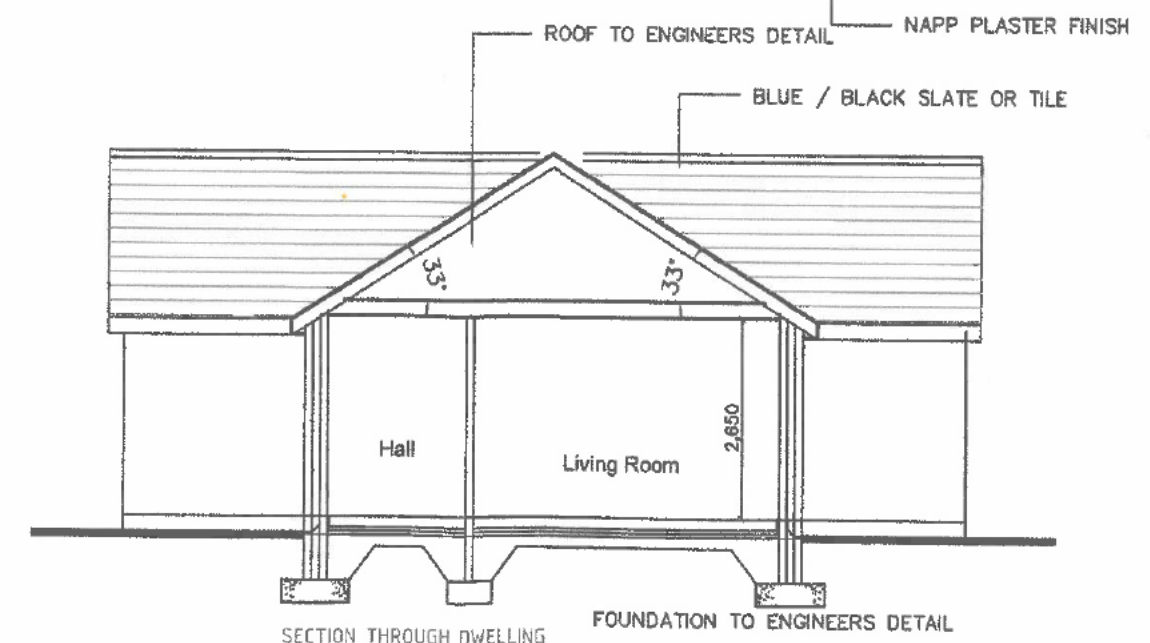
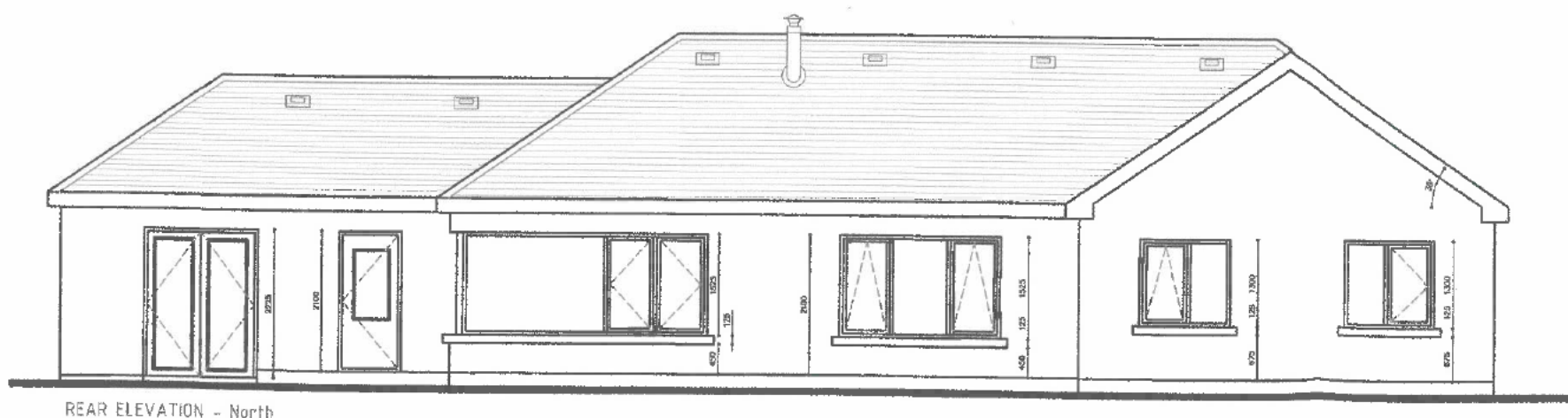
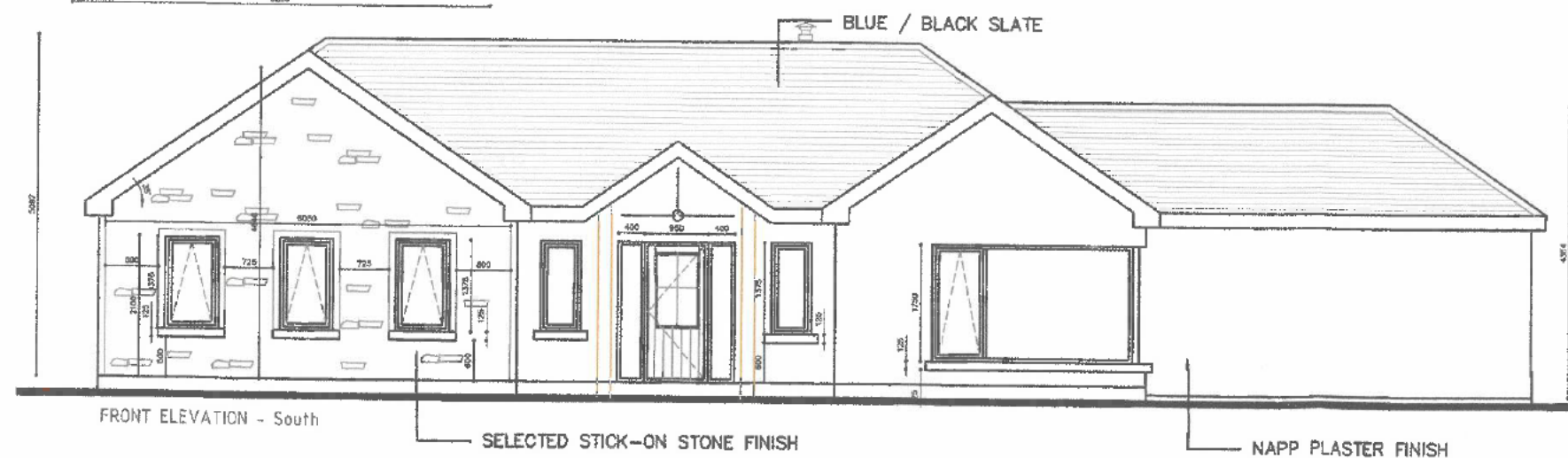
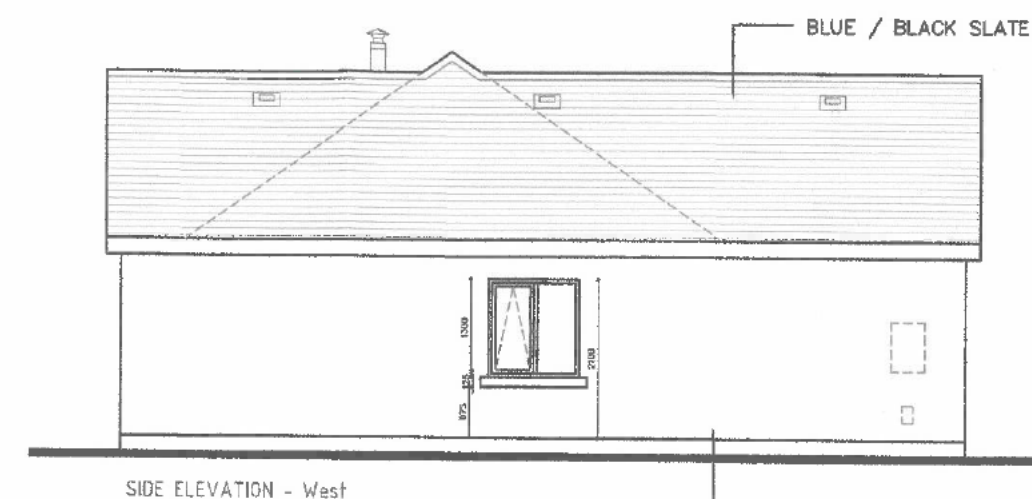
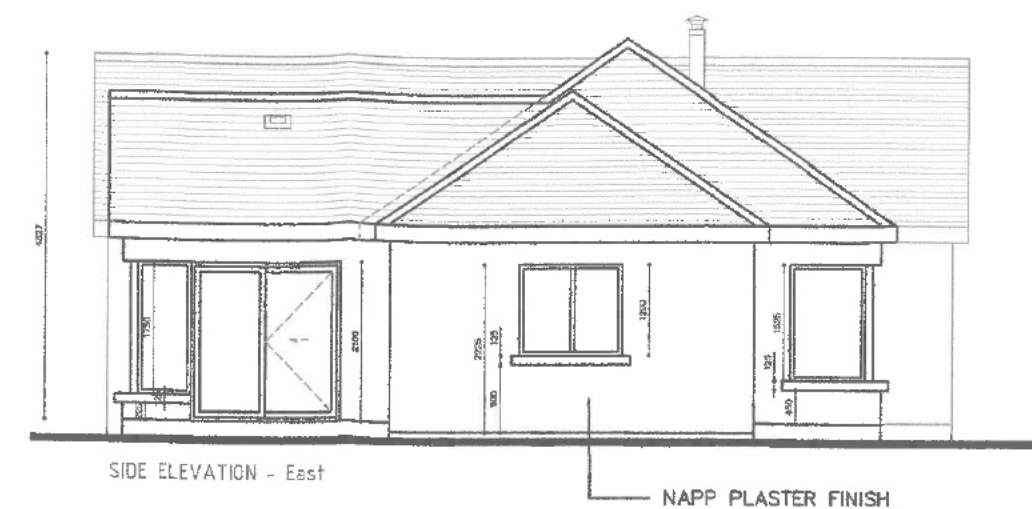
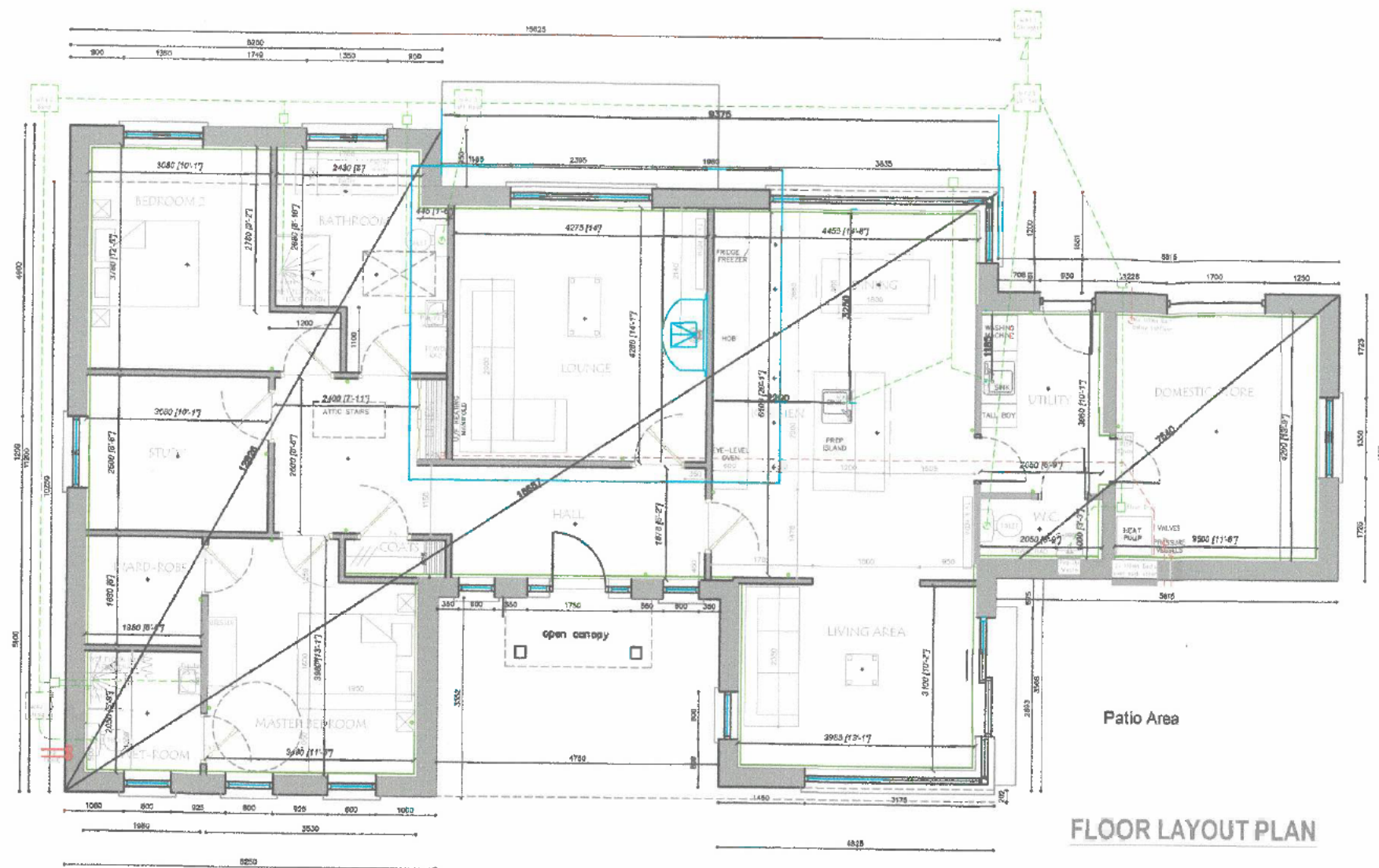


This map was produced by
the National Mapping Division
of Tailte Éireann, formerly
Ordnance Survey Ireland (OSI)

SCALE 1:500 @ A3

PRINTED 07-08-2023



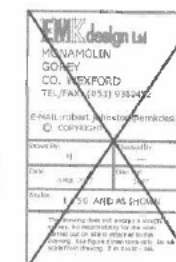


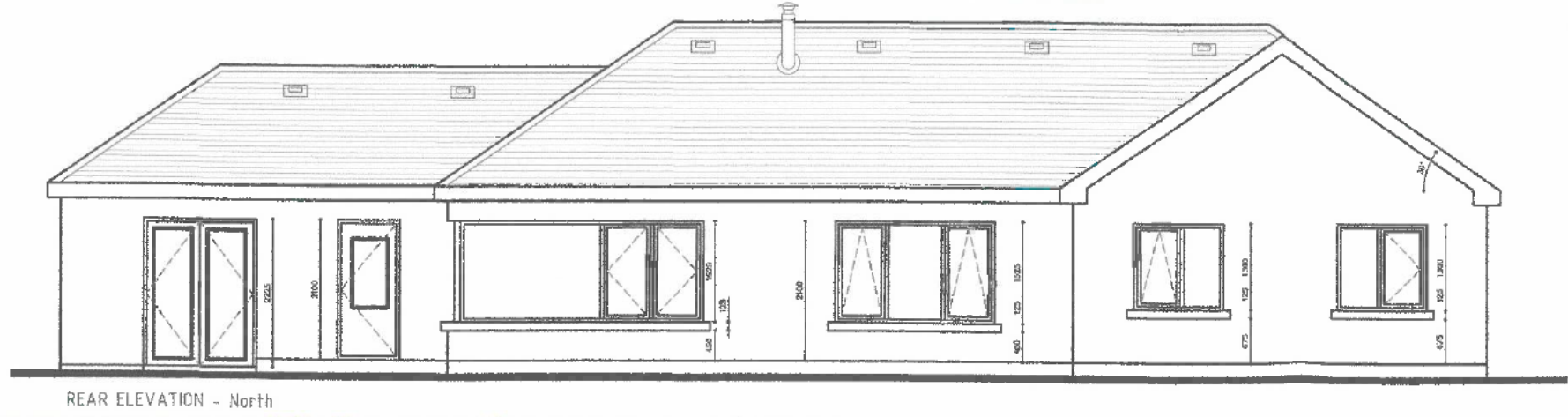
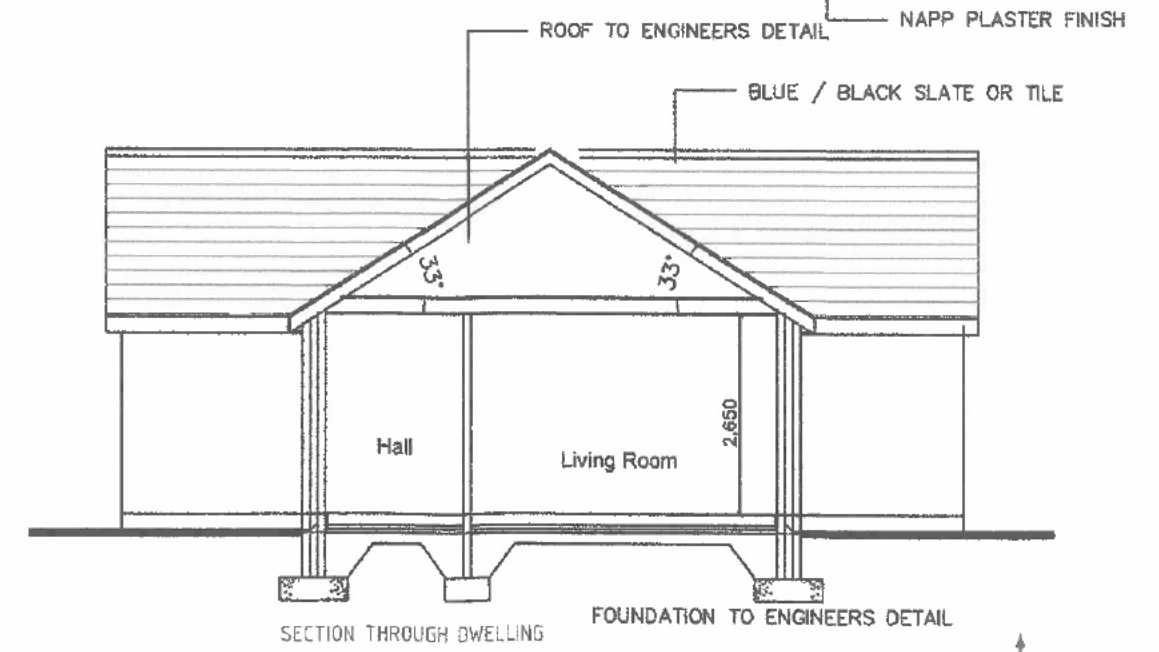
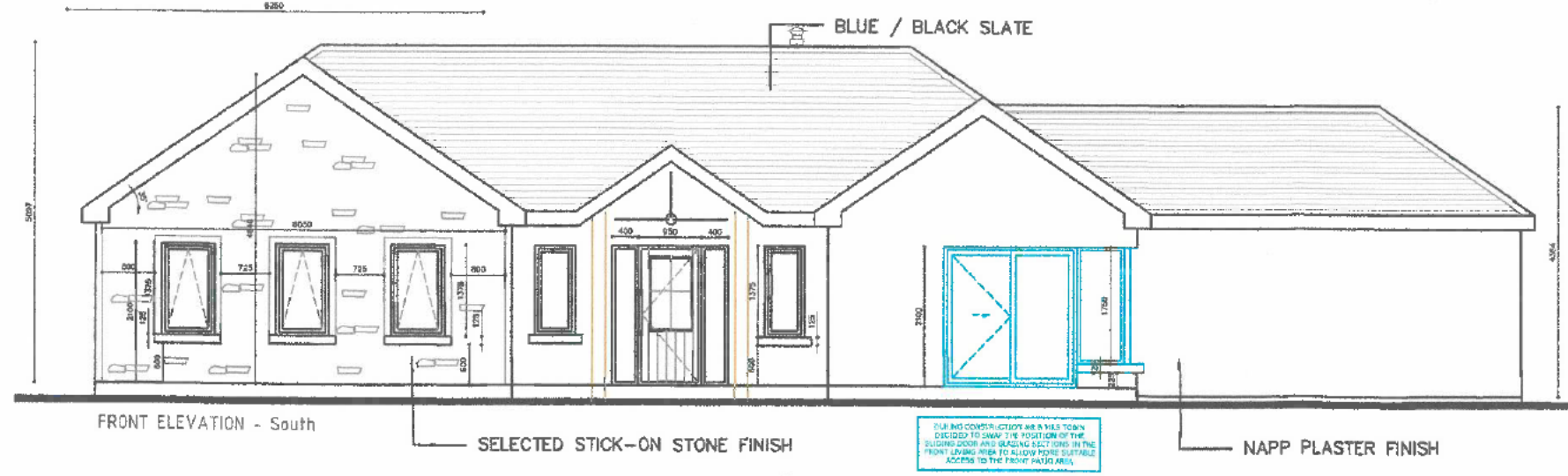
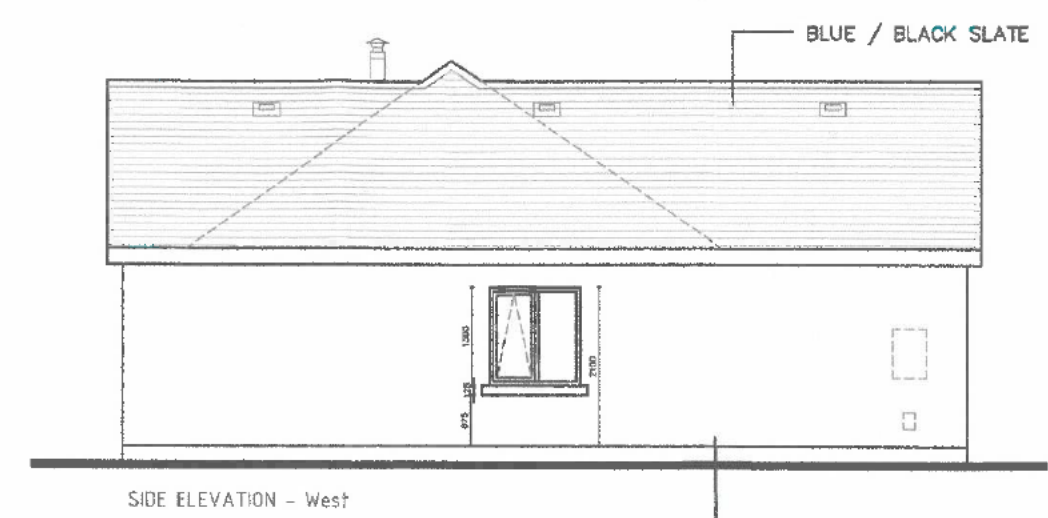
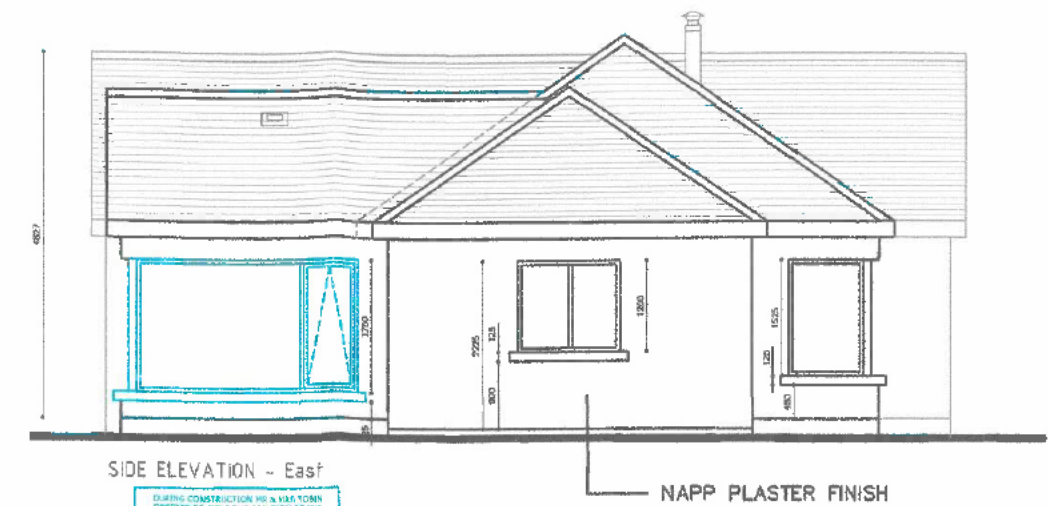
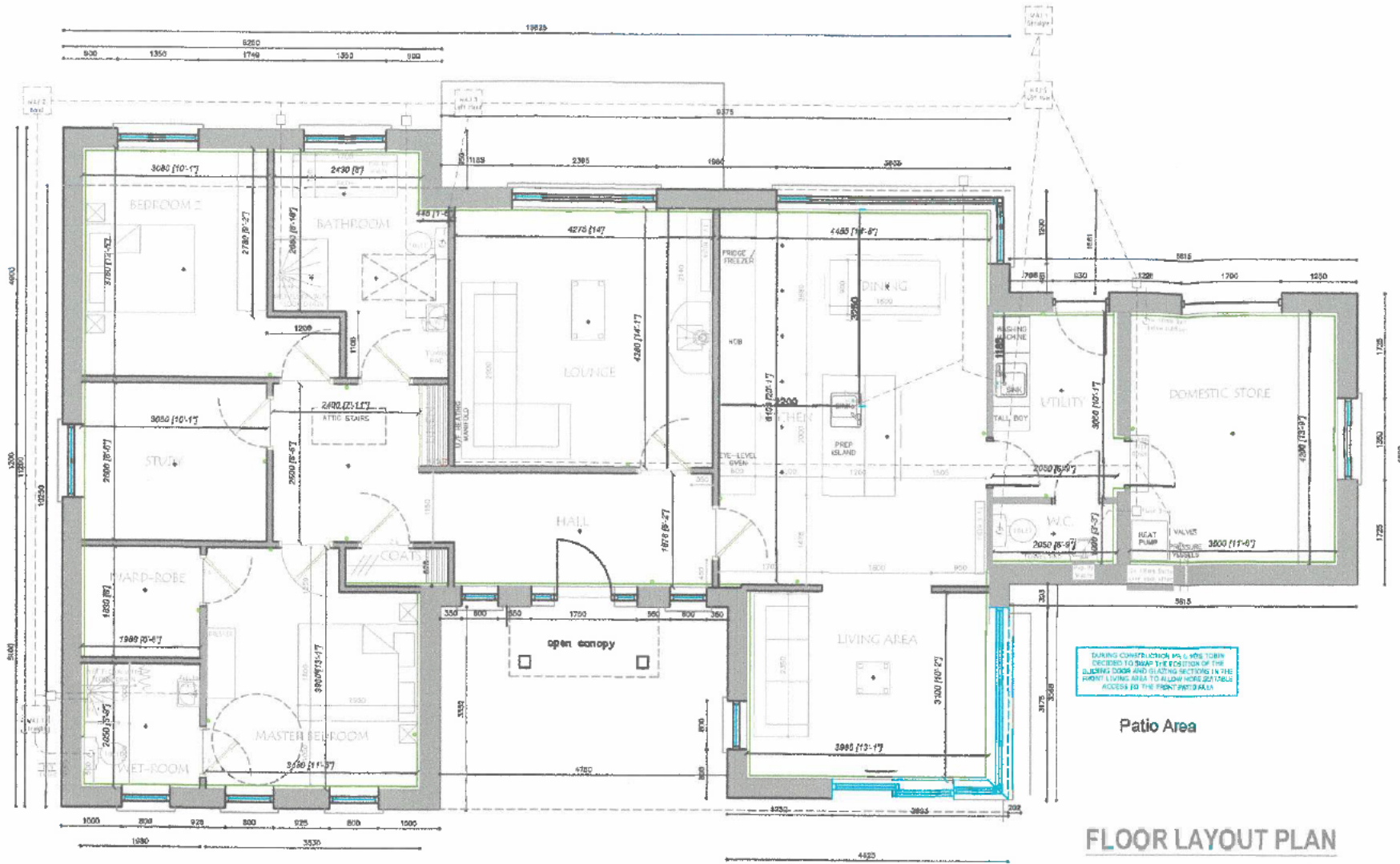
SCALE 1:50 @ A1

ALL DIMENSIONS SHOWN ARE STRUCTURAL

PRINTED 29-04-2017

CONSTRUCTION STAGE DRAWING ISSUED 29-04-17





SCALE 1:100 @ A3

ALL DIMENSIONS SHOWN ARE STRUCTURAL

PRINTED ON 08/10/23

Drawn by	Checked by
Date	Scale
1:50 AND 25 SHOWN	

CARLOW COUNTY COUNCIL PLANNING DEPARTMENT



COMHAIRLE CONTAE
CHEATHARLACH
CARLOW COUNTY COUNCIL

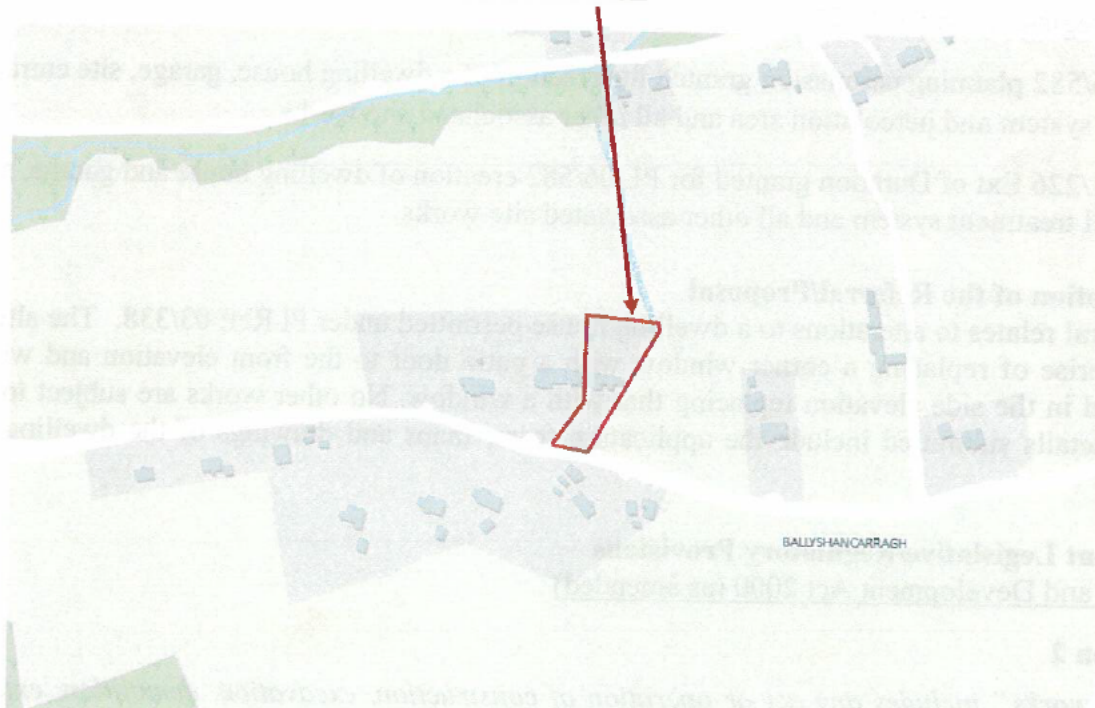
SECTION 5 DECLARATION

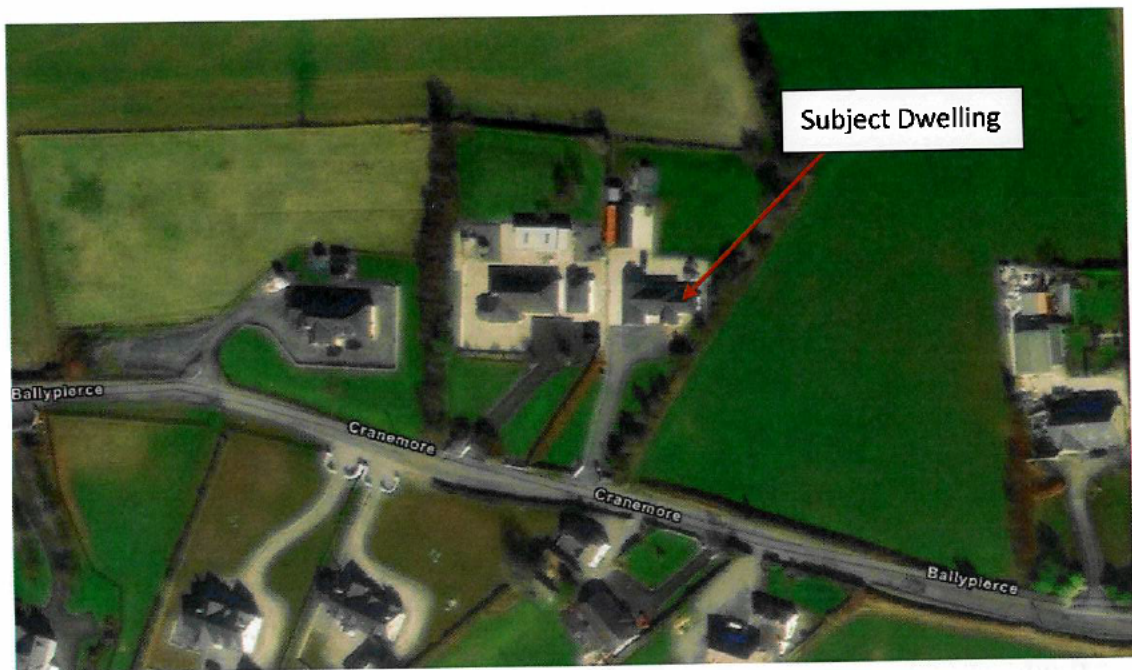
Reg. Ref.	SEC5/23/29
Name of Applicant	John and Veronica Tobin
Address of Development	Ballyshancarragh, Kildavin Co. Carlow.
Development Description	Minor alteration to glazing and sliding door at front and side elevation only.

1) Site Location/Context

The Section 5 declaration relates to an existing single storey dwelling located at Ballyshancarragh, circa 1.4km to the west of the N80 at Kildavin. The dwelling is accessed from a gated entrance off the local road leading west towards Myshall Village. The site comprises of a one-off dwelling positioned centrally with a front and rear garden. OSI mapping identifies a stream/field drain flowing along the rear (north) end of the site. The referral relates only to the dwelling house and not to any other structures.

Site Location





Aerial View of Site Location

2) Relevant Planning History

PI Ref; 03/338 planning permission granted to erect a fully serviced dwelling house and garage.

PI Ref; 06/519 planning permission granted for a change of boundary location with reference to previous planning register number 03/338.

PI Ref; 06/582 planning permission granted for erection of a dwelling house, garage, site entrance, bored well, treatment system and percolation area and all other associated site works

PI Ref; 11/226 Ext of Duration granted for PL 06/582 erection of dwelling house and garage, site entrance, bored well treatment system and all other associated site works.

3) Description of the Referral/Proposal

The referral relates to alterations to a dwelling house permitted under PI Ref; 03/338. The alterations are minor and comprise of replacing a corner window with a patio door to the front elevation and where the door was positioned in the side elevation replacing that with a window. No other works are subject to this referral. The referral details submitted include the application form, maps and drawings of the dwelling permitted and as existing.

4) Relevant Legislative/Regulatory Provisions

Planning and Development Act 2000 (as amended)

- Section 2

"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)

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

-Section 4(1)(h)

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 alteration 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”

Planning and Development Regulations 2001 (as amended)

- Article 6(1)

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)

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

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

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 meters in width,*
- (iii) endanger public safety by reason of a traffic hazard or obstruction of road users.*

5) Assessment

The submitted Section 5 referral relates only to a patio door and corner window in the south and east elevation of the existing single storey dwelling house. The permitted ope under the grant of permission comprised of glazing to the front south elevation and a patio door to the east. The existing or ‘as constructed’ development has swapped the location of the patio door and window so that the patio doors are in the southern elevation and the window in the west.

Section 3 of the Planning and Development Act 2000 (as amended) defines development as “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”. The works subject to this referral, which involve minor alterations to glazing and sliding door at front and side elevation only. are deemed to constitute development within the meaning of this definition.

As set out above Section 4(1)(h) 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 alteration 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”

Having regard to the details and particulars submitted with the referral it is considered that that the minor alterations to glazing and sliding door at front and side elevation only 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’. Therefore, the provisions of Section 4(1)(h) are applicable.

6) Conclusion

It is considered that the minor alterations to the window and door at the front and side elevation of the existing house comprises 'works' and, therefore, 'development' and is exempted development as set out in Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

7) Recommendation:

Having regard to the foregoing, it is recommended that it be decided that the alterations to glazing and sliding door from that permitted at the front and side elevation of an existing dwelling at Ballyshancarragh, Kildavin Co. Carlow is development and is exempted development in accordance with Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

A draft order is set out below.

**Declaration on Development & Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)**

Reg. Ref: SEC5/23/29

WHEREAS a question has arisen as to whether alterations to glazing and sliding door from that permitted at the front and side elevation of an existing dwelling at Ballyshancarragh, Kildavin Co. Carlow is development or is exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 10th of August 2023.

AND WHEREAS John and Veronica Tobin [REDACTED] requested a declaration on the said question from Carlow County Council;

AND WHEREAS Carlow County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);

AND WHEREAS Carlow County Council has concluded that the proposal is development and is exempted development in accordance with Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

NOW THEREFORE Carlow County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that alterations to glazing and sliding door from that permitted at the front and side elevation of an existing dwelling at Ballyshancarragh, Kildavin Co. Carlow as detailed on the submitted declaration drawings **is development and is exempted development.**


Executive Planner

Date: 31/08/23


Senior Planner

Date: 8/9/23

Appendix 1

APPROPRIATE ASSESSMENT SCREENING REPORT

Planning Application Reg. Ref: SEC5/23/29

A. DESCRIPTION OF PROJECT AND LOCAL SITE

Site Location:	Ballyshancarragh, Kildavin, Co. Carlow,
Total Site Area :	0.87
Floor Area of Proposed Development:	N/a
Identification of Natura 2000 site(s):	Slaney River Valley SAC (Site code: 000781)
Is the application accompanied by an EIS?	No.

B. IDENTIFICATION OF RELVANT NATURA 2000 SITE(S):

The reasons for the designation of the Natura 2000 site:(A site synopsis can be obtained from www.npws.ie)The conservation objectives/qualifying interests of the site and the factors that contributes to the conservation value of the site:

C. NPWS ADVICE:

Summary of advice received in written form:	None Received.
Advice received over the over phone:	None Received.

D. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

(Purpose of this is to identify if the effect(s) identified could be significant – if uncertain assume the effect(s) are significant).If answer yes to any of the questions, below then the effect is significant.

1.1	Would there be any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance)	No.
1.2	Would there be a reduction in habitat area on a Natura 2000 site?	No.
1.3	Would there be direct/indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site?	No.
1.4	Would there be serious/ongoing disturbance to species/habitats for which the Natura 2000 site is selected (e.g. because of increased noise, illumination and human activity)?	No.
1.5	Would there be direct/indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site?	No.
1.6	Would the project interfere with mitigation measures put in place for other plans/projects? (Look at in-combination effects with completed, approved but not completed, and proposed plans/projects. Look at projects/plans within and adjacent to Natura 2000 sites and identify/)	No.

E. SCREENING CONCLUSION

At its closest point, the Slaney River Valley SAC is 1.2km east of the site. The development subject to this referral is minor in nature and will not impact on the SAC. There are no connecting pathways (direct or indirect) between this site and the European site.

The development as proposed has been assessed having regard to the requirements of the EU Habitats Directive. Given the proximity of the nearest European Site and the nature and extent of the development on the site and intervening land uses located in the area, it is considered reasonable to conclude on the basis of the information available, that the development on its own or in combination with other plans or projects, would not be likely to result in any potential significant effects on the European Site. Therefore, a Stage 2 Appropriate Assessment is not required.

Signed:

Position: Executive Planner

Date:



**Declaration on Development & Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)
Reg. Ref: SEC5/23/29**

WHEREAS a question has arisen as to whether alterations to glazing and sliding door from that permitted at the front and side elevation of an existing dwelling at Ballyshancarragh, Kildavin Co. Carlow, is development or is exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 10th of August 2023.

AND WHEREAS John and Veronica Tobin [REDACTED] requested a declaration on the said question from Carlow County Council;

AND WHEREAS Carlow County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended);

AND WHEREAS Carlow County Council has concluded that the proposal is development and is exempted development in accordance with Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

NOW THEREFORE Carlow County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that alterations to glazing and sliding door from that permitted at the front and side elevation of an existing dwelling at Ballyshancarragh, Kildavin, Co. Carlow, as detailed on the submitted declaration drawings **is development and is exempted development.**

Signed:

Nicola Cantler

Date: 04/09/2023