

COMHAIRLE CHONTAE CEATHARLOCHA
CARLOW COUNTY COUNCIL

CARLOW
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: _____ Niall Sheehan _____

2. Address of applicant: _____

3. Name and address for correspondence: Eric Osborne Architect
Rathanna, Borris, Co. Carlow

Tel. No: 0858627891 Fax No: _____ E-mail: osborne.rathanna@gmail.com

4. Location of Development: Townland: _____ Kilcoltrim _____

Postal Address: (if different from Townland): _____

5. Name and Address of Agent: _____ Eric Osborne Architect, Rathanna, Borris Co Carlow _____

6. Outline clearly the description of the development / proposal:

Seeking clarification of Exempted Development status for a 35sqm extension to the rear of an existing dwelling for the purposes of a Vacant Property Refurbishment Grant Application

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: ___ N/A ___
9. Are you aware of aware of any enforcement proceedings relating to this site: ___ N/A ___
10. Please state applicant's interest in this site: ___ Owner ___
11. List of plans, drawings etc. submitted with this application: _____

Site Identification Map 1/10000

Site Location Plan 1/2500

Site Plan 1/500

Existing Plans & Elevations 1/100

Proposed Plans 1/100

Proposed Elevations 1/100

Signed



Date: 26/09/2023

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.

Description:
Digital Landscape Model (DLM)

Publisher / Source:

Ordnance Survey Ireland (OSi)

Data Source / Reference:

PRIME2

File Format:

Autodesk AutoCAD (DWG_R2013)

File Name:

v_30036146_1.dwg

Clip Extent / Area of Interest (AOI):

LLX,LLY= 674438,1338,850487,5672
LRX,LRY= 675021,1338,850487,5672
ULX,ULY= 674438,1338,850487,5672
URX,URY= 675021,1338,850487,5672

Projection / Spatial Reference:

Projection: IRENET95_Irish_Transverse_Mercator

Centre Point Coordinates:

X,Y= 674728,8538,850702,5672

Reference Index:

Map Series / Map Sheets

1:5,000 | 4886

Data Extraction Date:

Date= 01-Jun-2023

Source Data Release:

DCML5 Release V1.164.115

Product Version:

Version 1.4

License / Copyright:

Ordnance Survey Ireland 'Terms of Use' apply.
Please visit www.osi.ie/about/terms-conditions.

© Ordnance Survey Ireland, 2023

Compiled and published by Ordnance Survey
Ireland, Phoenix Park, Dublin 8, Ireland.

Unauthorised reproduction infringes Ordnance
Survey Ireland and Government of Ireland
copyright.

All rights reserved. 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 owners.

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

Ordnance Survey maps never show legal property
boundaries, nor do they show ownership of physical
features.

© Suirbhíreacht Ordánáil Éireann, 2023

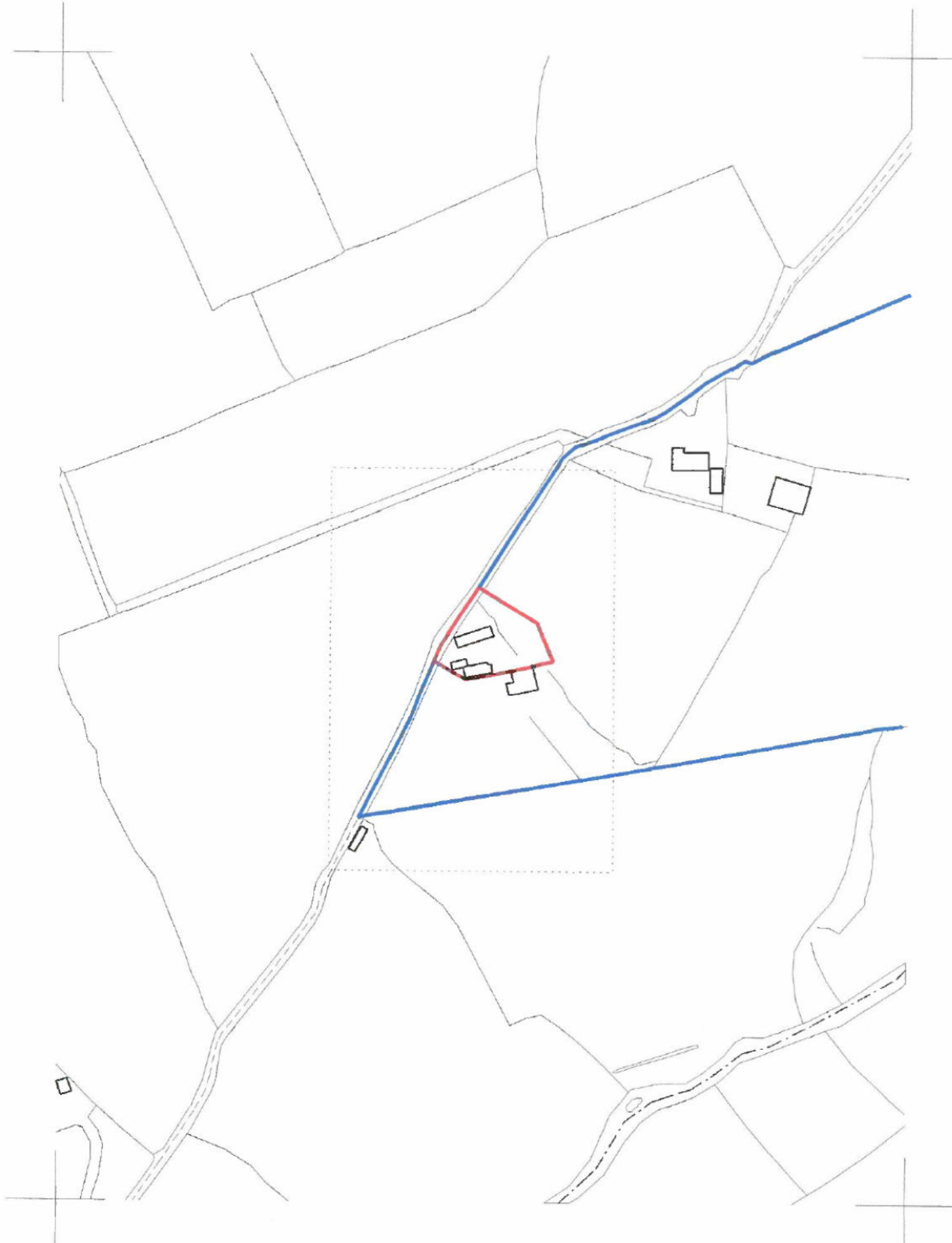
Arna thionsaí agus arna fhóclú ag
Suirbhíreacht Ordánáil Éireann, Páirc an
Fhionnulaice, Baile Átha Cliath 8, Éire.

Sádaíonn aithreasach na bhfeidhmeannaíocht eolacha
Shuirbhíreacht Ordánáil Éireann agus Rialtas
na hÉireann.

Gach cead ar eorann, ní ceadmhach aon
chuid den fhóclú seo a chlopaill, a
aithreasach nó a thaircú in aon fhoirm nó, ar aon
bhealach gan cead i seirbhísh roimh ré ó úinéir
an chlopaill.

Ní hionann bóthar, béalach nó cosán a bheith ar
an léarscáil seo agus fianaise ar aisead sli.

Ní thaispeánann léarscáil de chuid Ordánáil
Shuirbhíreacht na hÉireann teorainn phointe dea-huill
de mhachl riamh, ná úinéiríocht de ghnéithe thaiscáil.



SITE LOCATION PLAN



SITE BOUNDARY



Eric Osborne Architect

WATSON BRUNNENBAARS
KATYUNAN
CO. CARLOW

RESTORATION & EXTENSION TO EXISTING COTTAGE

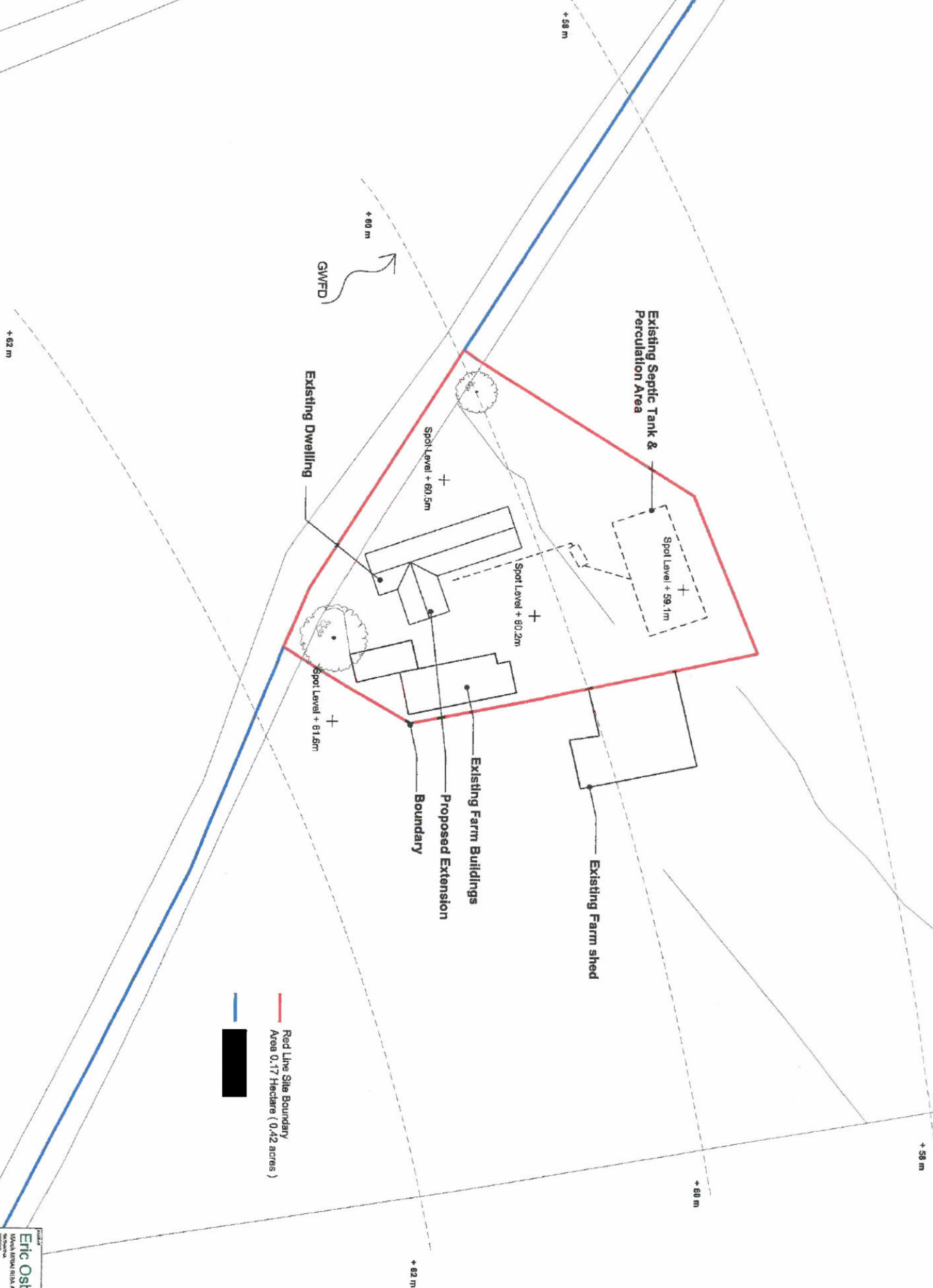
SITE LOCATION PLAN

N. SHEEHAN

01/03/2023

1:2500 @ A3

29012 PL 002



Eric Osborne Architect
March 2001 to 2002

SA THAVANNA
SOPHIE
CO. CAILLOU

RESTORATION & EXTENSION TO EXISTING COTTAGE

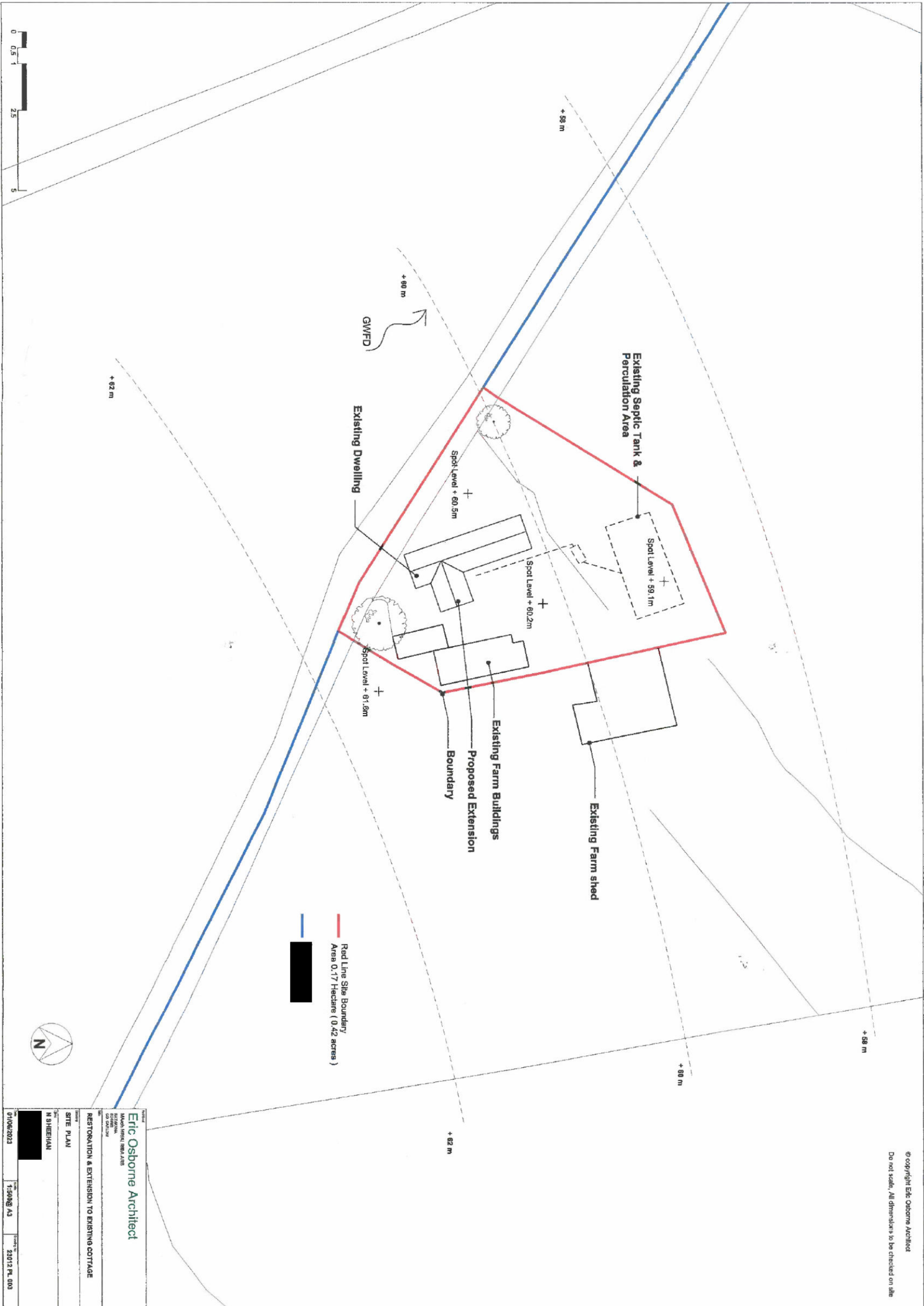
Overriding
SITE PLAN

NAME
N SHEENA

1

Date	01/06/2023	Grade	1-5000 A3	Drinking to	23012 B1 00N
------	------------	-------	-----------	-------------	--------------

Date	01/06/2023	Grade	1-5000 A3	Drinking to	23012 B1 00N
------	------------	-------	-----------	-------------	--------------



Eric Osborne Architect

MAJOR WORK AREA A18

DATE

01/06/2023

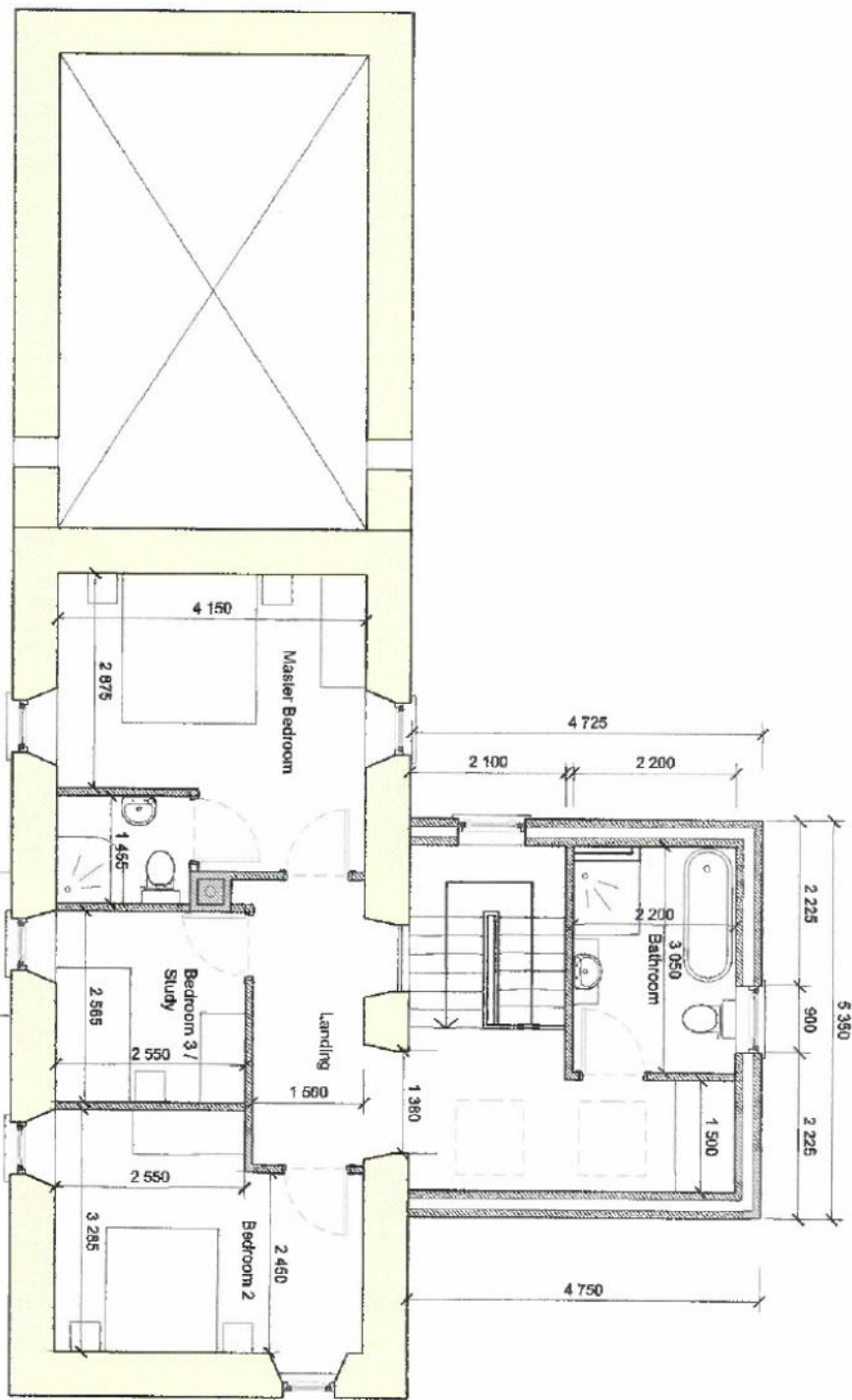
RESTORATION & EXTENSION TO EXISTING COTTAGE

SITE PLAN

N SHEEHAN

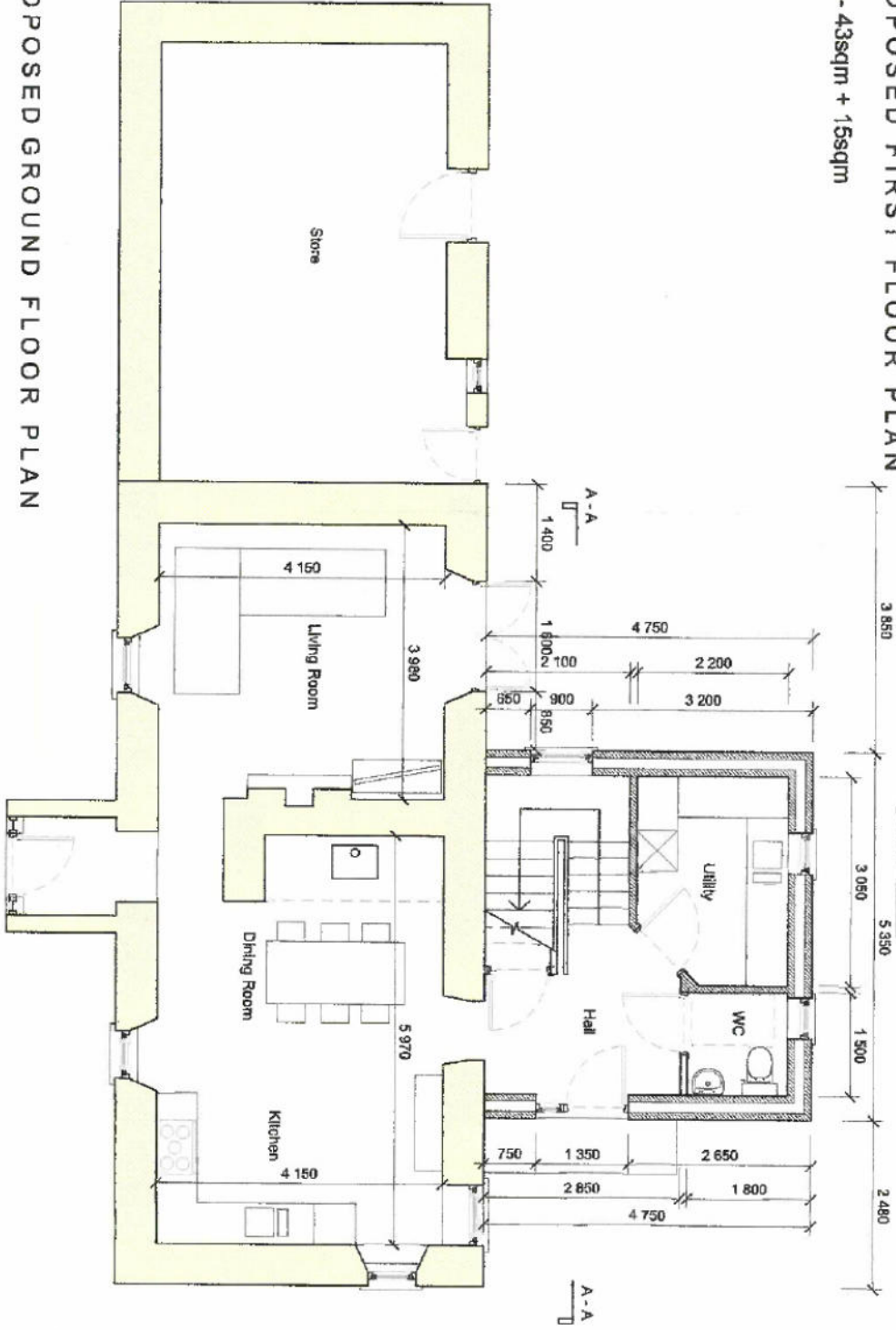
1:500 @ A3

23012 PL 003



PROPOSED FIRST FLOOR PLAN

Area - 43sqm + 15sqm



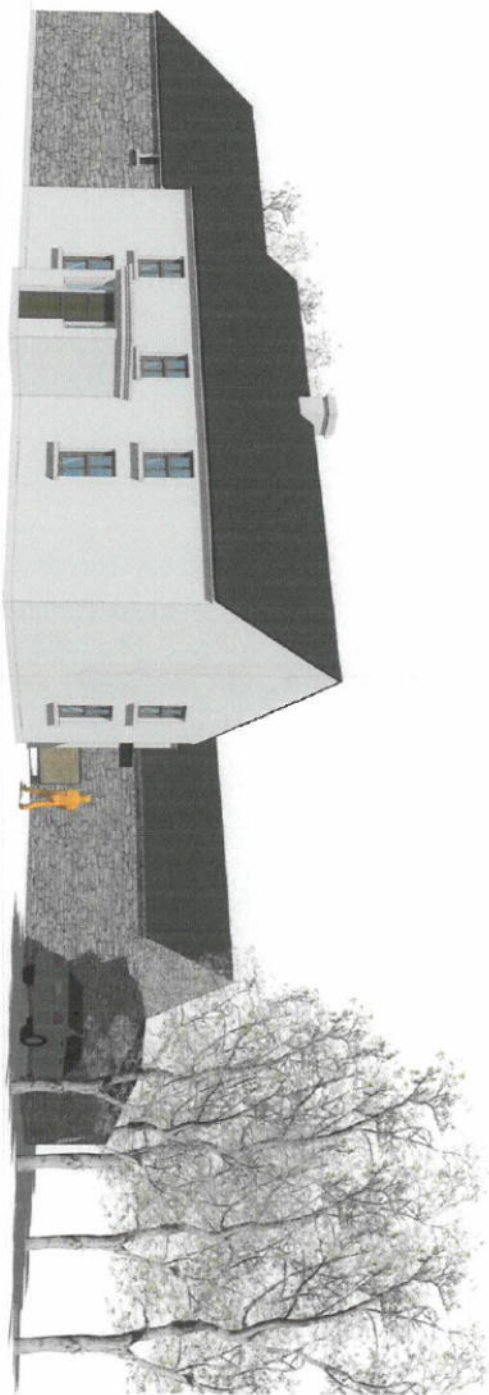
PROPOSED GROUND FLOOR PLAN

Area - 46sqm + 20 sqm

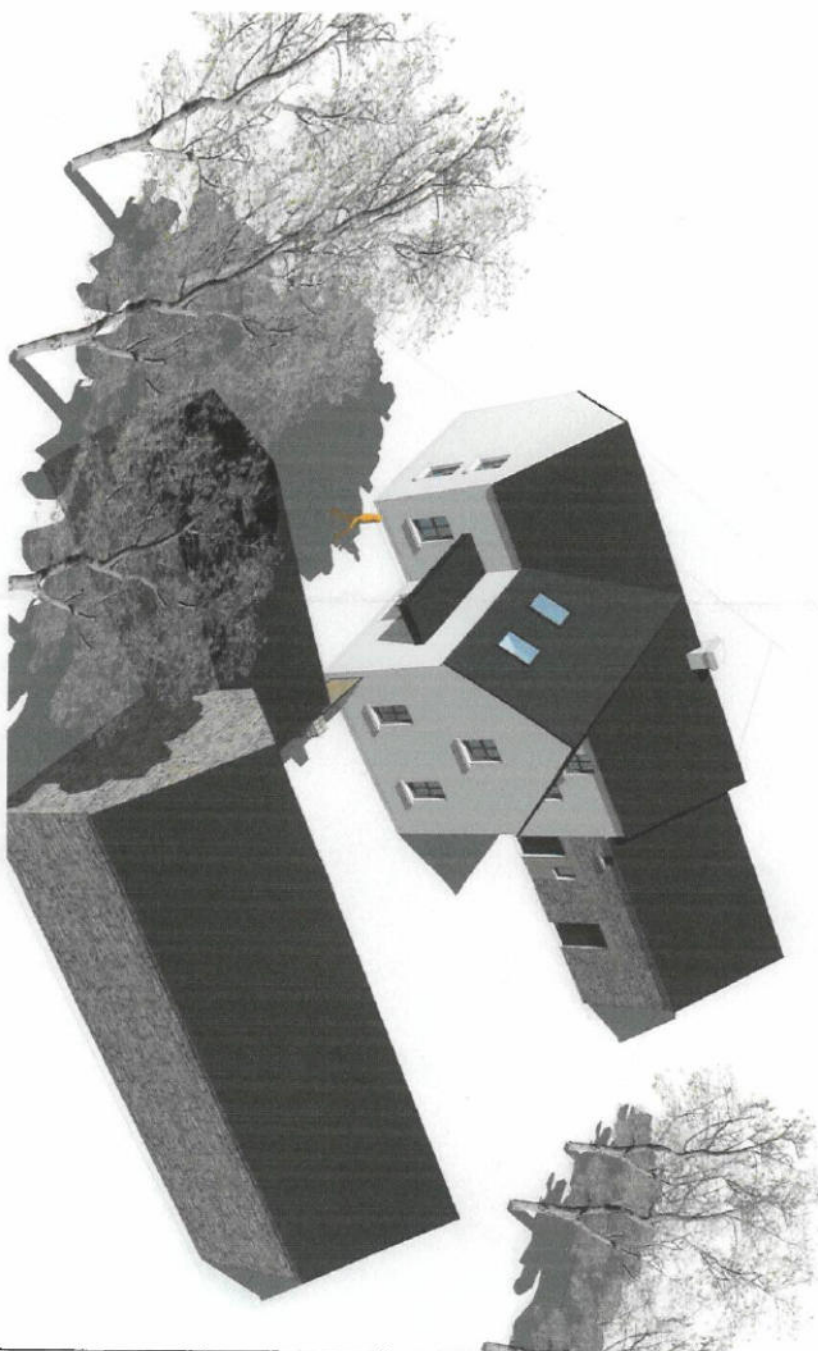
Total Area 124sqm 1335sqft



PROPOSED FRONT VIEW



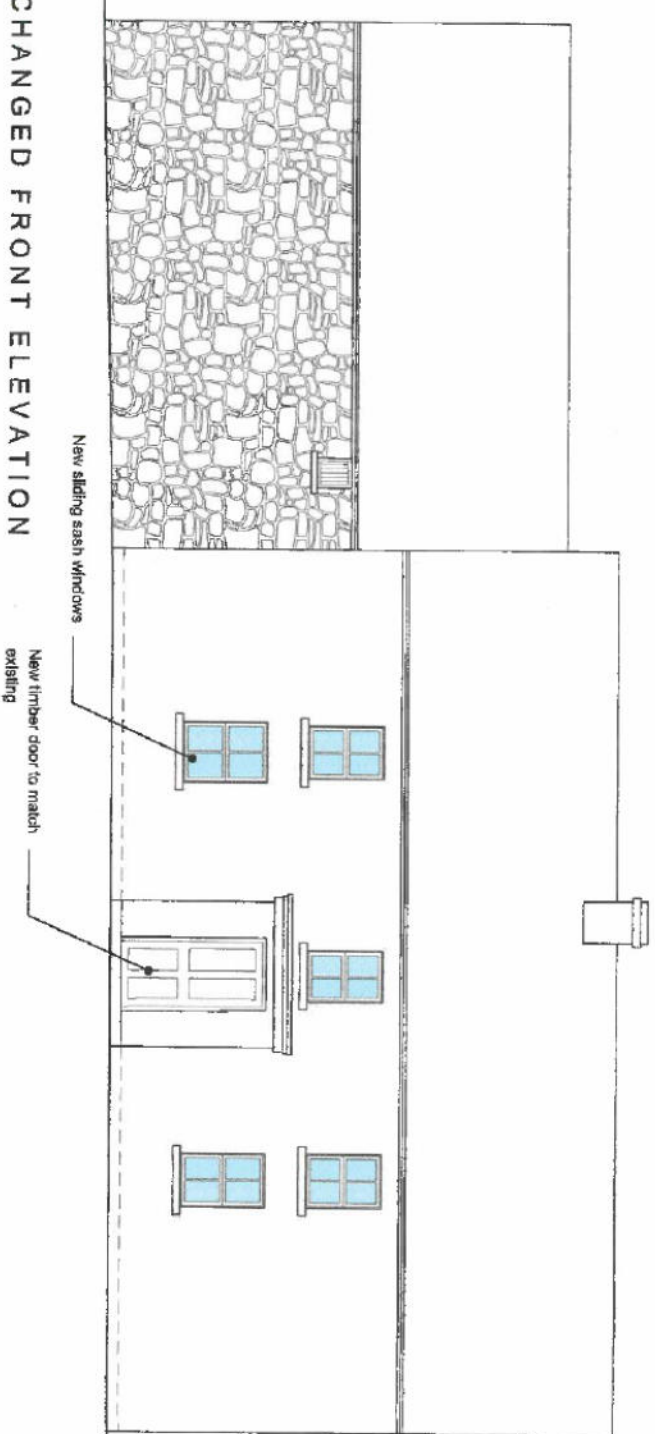
PROPOSED REAR VIEW



Existing Dwelling
Proposed Extension



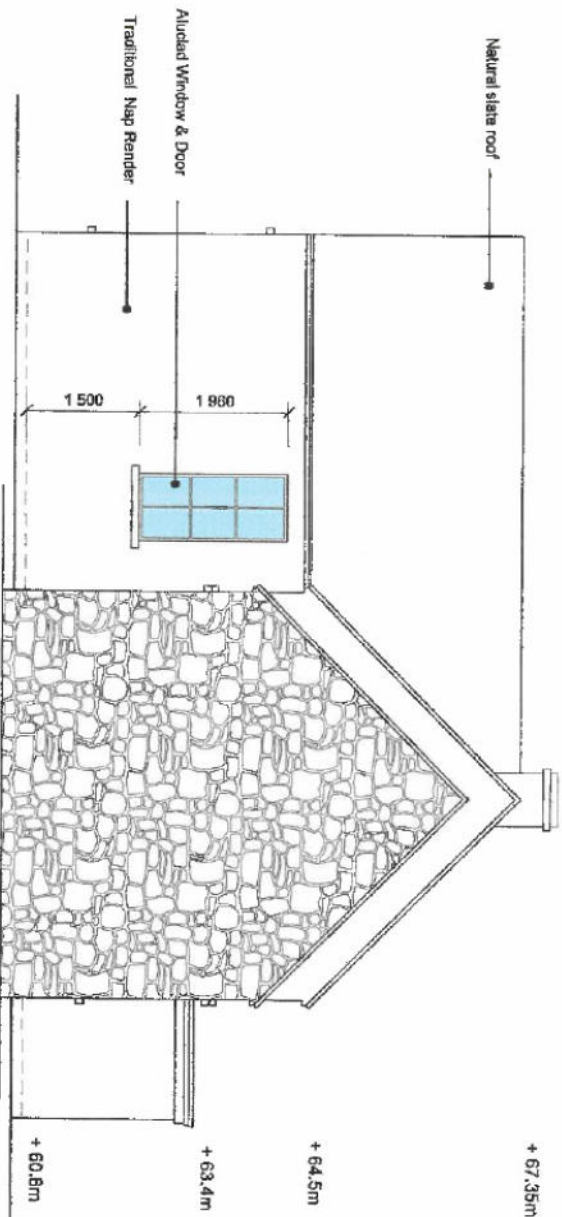
UNCHANGED FRONT ELEVATION



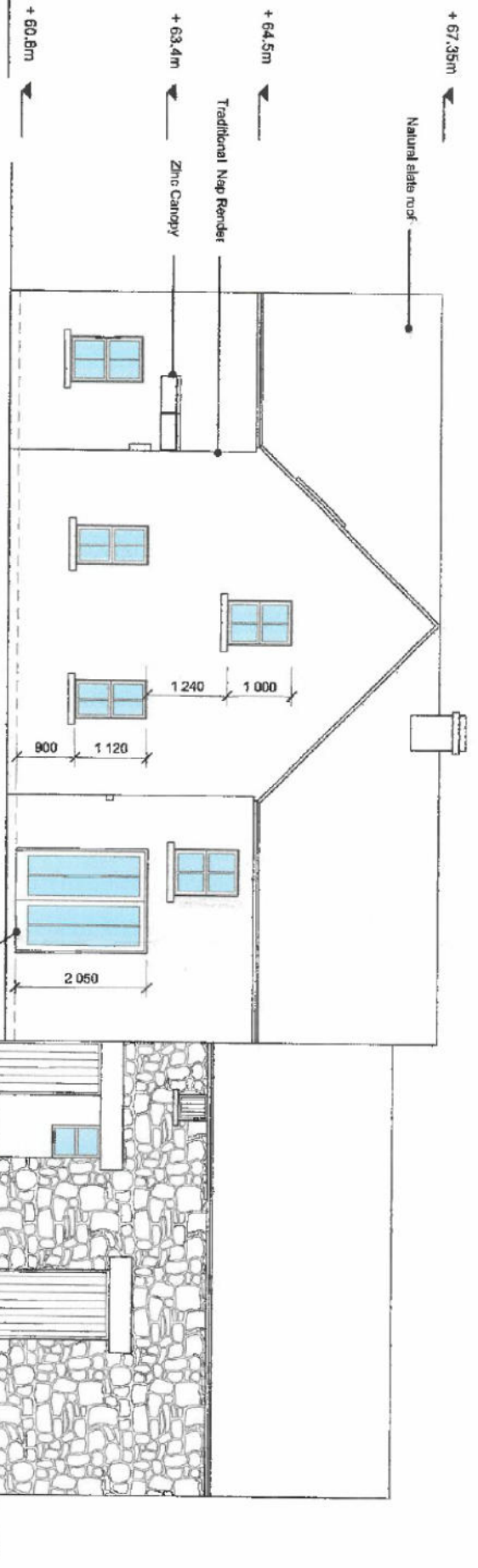
PROPOSED SIDE ELEVATION



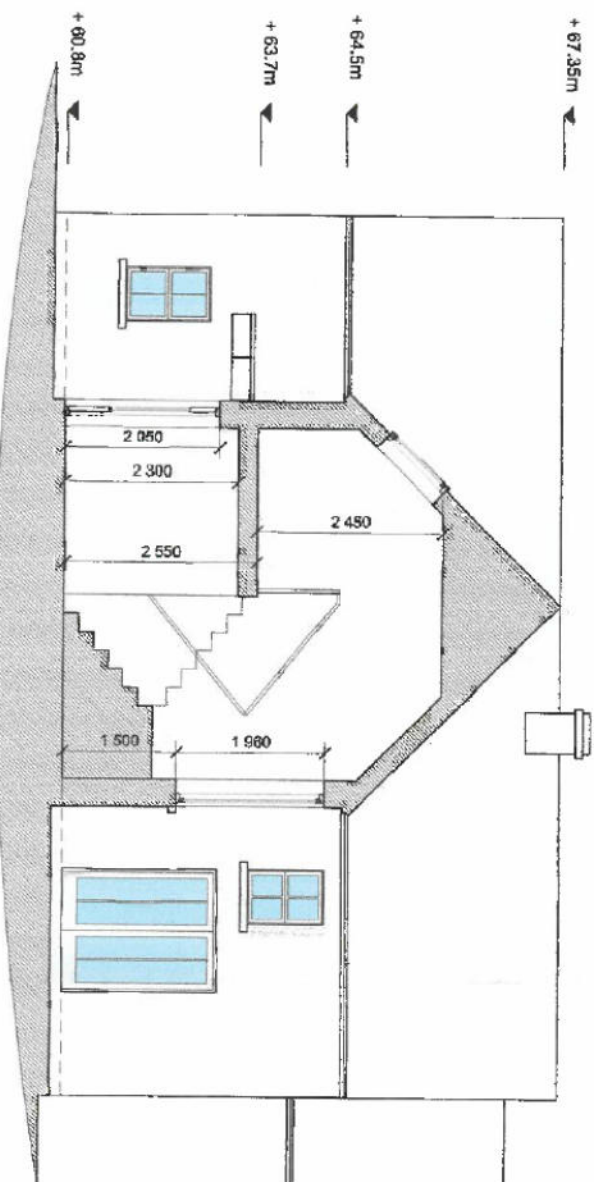
PROPOSED SIDE ELEVATION



PROPOSED REAR ELEVATION



SECTION A-A

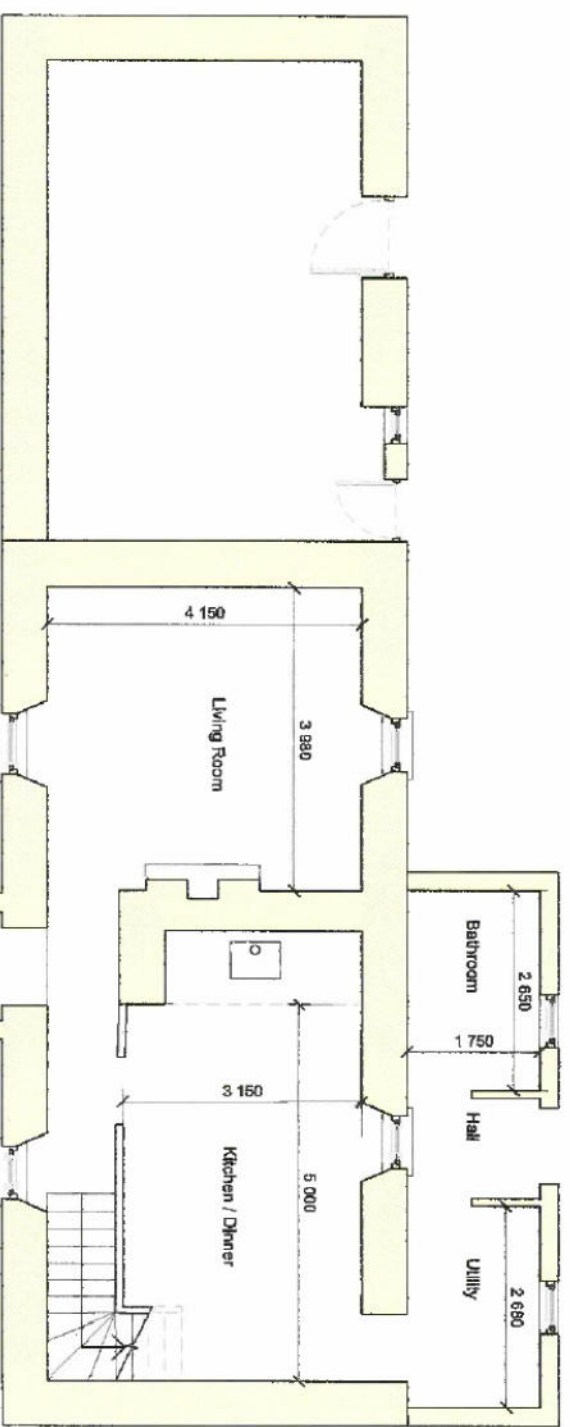


This architectural drawing consists of two parts. The upper part is a facade elevation of a building. It features a long, narrow structure with a series of windows and a door. From left to right, there is a small square window, a larger rectangular window with horizontal slats, another small square window, a tall narrow vertical window, and a door with a small transom. The lower part is a cross-section of the building, showing a stone foundation, a wooden floor, and a roof structure with rafters and a chimney on the right side.

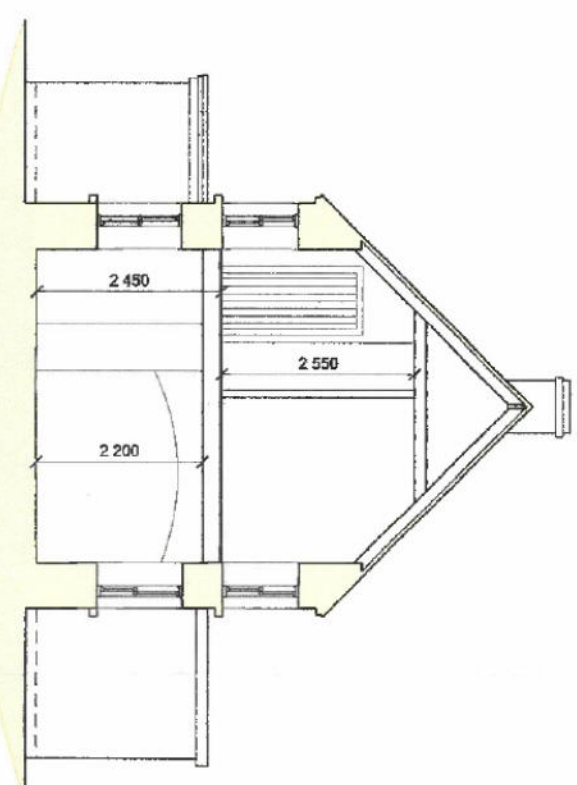
This architectural drawing consists of two parts. The upper part is a facade elevation of a building, showing a long, low structure with a series of windows and a central entrance. The lower part is a cross-section of the building, showing the internal structure, including the roof, walls, and floor. The drawing is oriented horizontally on the page.

EXISTING REAR ELEVATION

AL



Area - 46sqm



CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT
SECTION 5 DECLARATION



COMHAIRLE CONTAE
CHEATHARLACH
CARLOW COUNTY COUNCIL

Reg. Ref.	SEC5/23/35
Name of Applicant	Niall Sheehan
Address of Development	Kilcoltrim, Carlow
Site Visit	13/10/2023
Development Description	The development consists of a 35 sq.m extension to the rear of an existing dwelling for the purposes of a Vacant Property Refurbishment Grant Application

1) Site Location/Context

The Section 5 declaration relates to the provision of a 35 sq.m extension to the rear of an existing dwelling for the purposes of a Vacant Property Refurbishment Grant Application. The site is accessed by a local road (L-30062) and consists of a two-storey vacant cottage. The site is located on unzoned rural land located within the Central Lowlands Landscape Character Area and consists of Framed Ridges Landscape Type.

Aerial View of Site Location



2)Relevant Planning History

No recent planning history traced on iPlan.

3)Description of the Referral/Proposal

This proposal is a request for a declaration under Section 5 of the Planning and Development Act, 2000 (as amended) to determine whether or not the construction of a 35 sq.m extension to the rear of an existing dwelling for the purposes of a Vacant Property Refurbishment Grant Application constitutes exempted development.

The existing two-storey cottage has a total floor area of 89sq.m. The proposed extension has a stated ground floor area of 20sq.m and a stated first floor area of 15sq.m giving a total floor area of 35sq.m. The external finishes of the proposed extension include traditional nap render to the walls and natural slate roof. There are no changes proposed for the front elevation of the cottage.

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.

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.*

- **Class 1 in Part 1 of Schedule 2 (Exempted Development- General)**

“ 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. ”

- **Class 50(b) in Part 1 of Schedule 2 (Exempted Development -General)**

“ (b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act. ”

5) Assessment

Class 1, in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended) applies to the proposal. Obtaining an exempted development status under Class 1 requires compliance with the 7 No. conditions/limitations outlined below.

1.	<i>(a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</i> Assessment: A single storey extension appears to have been constructed at some stage in the past. The proposed works include demolition of same. The provisions of Class 50 (b) are therefore applicable and addressed on page 5. <i>(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.</i> Assessment: N/A. <i>(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.</i> Assessment: The proposed first floor level is 15 sq.m.
2.	<i>(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.</i> Assessment: See 1(a) above and Class 50 (b). The date of construction of the extension is unknown. <i>(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.</i> Assessment: N/A. <i>(c) 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 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.</i> Assessment: N/A.

3.	<i>Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</i> Assessment: As evident on GIS mapping, the distance between the ground floor extension and nearest party boundary exceeds 11m.
4.	<i>(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.</i> Assessment: As evident on Drawing No: 23012PL004, the height of the proposed extension does not exceed the max height of the rear wall of the house. <i>(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.</i> Assessment: N/A. <i>(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.</i> Assessment: As evident on Drawing No: 23012PL004, the max height of the proposed extension does not exceed the max height of the rear wall of the house.
5.	<i>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.</i> Assessment: As evident on GIS mapping, the area of private open space available after the proposed extension is constructed exceeds the minimum requirement of 25sq.m.
6.	<i>(a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</i> Assessment: As evident on GIS mapping, the distance between the ground floor extension and nearest party boundary exceeds 11m. <i>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</i> Assessment: As evident on GIS mapping, the distance between the first-floor extension and nearest party boundary exceeds 11m. <i>(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.</i> Assessment: As evident on GIS mapping, the distance between the first-floor extension and nearest party boundary exceeds 11m.
7.	<i>The roof of any extension shall not be used as a balcony or roof garden.</i> Assessment: As evident on Drawing No: 23012PL004, the proposed extension could not facilitate a balcony or roof garden.

Class 50(b) in Part 1, of Schedule 2 of the Planning and Development Regulations 2001 (as amended) also applies to the proposal.

- ***Class 50(b) in Part 1 of Schedule 2 (Exempted Development -General)***

“(b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.”

6) Recommendation

Based on the information submitted the Planning Authority are satisfied that the proposed extension falls under Class 1 exempted general development as the proposed extension does not exceed 40 sq.m; is c. 11m away from the closest boundary; and exceeds the minimum private open space available after construction.

The Planning Authority are satisfied that the proposed demolition works falls under Class 50(b) exempted general development.

It is not considered that the proposed development would be restricted by virtue of the requirements of Article 9.

Overall having regard to the details and drawings submitted with the referral it is considered that the development as outlined meets the conditions and limitations set out in column 2 of Schedule 2, Part 1, Class 1 and Class 50 (b) of the Planning and Development Regulations 2001.

It is therefore considered that the proposed 35 sq.m extension to the rear of an existing dwelling for the purposes of a Vacant Property Refurbishment Grant Application **is development and is exempted development.**

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: SEC5/23/35

WHEREAS a question has arisen as to whether a 35 sq.m extension to the rear of an existing dwelling for the purposes of a Vacant Property Refurbishment Grant Application at Kilcoltrim, Co. Carlow is development and whether it is or is not exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 29th of September 2023.

AND WHEREAS Niall Sheehan, C/o Eric Osborne Architect, Rathanna, Borris, Co. Carlow, 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;

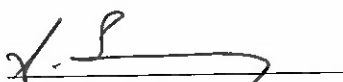
- a) Sections 2 and 3 of the Planning and Development Act 2000 (as amended);
- b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended) and
- c) Schedule 2, Part 1 Class 1 of the Planning and Development Regulations 2001 (as amended).
- (d) Schedule 2, Part 1 Class 50(b) of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Carlow County Council has concluded that the proposal does come within the scope of Class 1 in Part 1 of Schedule 2 (General) of the Planning and Development Regulations 2001 (as amended) and Class 50 (b) in Part 1 of Schedule 2 (General) of the Planning and Development Regulations 2001 (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 the extension as detailed on the submitted declaration drawings is development and is exempted development.


Siobhan Power
A/Assistant Planner

Date: 17/10/2023


Anita Sweeney
Senior Planner

Date: 12/11/23

Appendix 1

APPROPRIATE ASSESSMENT SCREENING REPORT

Planning Application Reg. Ref: SEC5/23/35

A. DESCRIPTION OF PROJECT AND LOCAL SITE

Site Location:	Kilcoltrim, Carlow
Total Site Area:	Unknown.
Floor Area of Proposed Development:	35m ² .
Identification of Natura 2000 site(s):	River Barrow and River Nore cSAC
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 River Barrow and River Nore cSAC is circa 208.1m north-east of the site. Having regard to the distance between the proposed development and the SAC and the scale of the proposed development, there is no connecting pathway (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: Sadhana Power

Position: A/Assistant Planner

Date: 17/10/2023

Appendix 2
Site Inspection 13/10/2023







Declaration on Development & Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)
Reg. Ref: SEC5/23/35

WHEREAS a question has arisen as to whether a 35 sq.m extension to the rear of an existing dwelling for the purposes of a Vacant Property Refurbishment Grant Application at Kilcoltrim, Co. Carlow is development and whether it is or is not exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 29th of September 2023.

AND WHEREAS Niall Sheehan, C/o Eric Osborne Architect, Rathanna, Borris, Co. Carlow, 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;

- a) Sections 2 and 3 of the Planning and Development Act 2000 (as amended);
- b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended) and
- c) Schedule 2, Part 1 Class 1 of the Planning and Development Regulations 2001 (as amended).
- (a) Schedule 2, Part 1 Class 50(b) of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Carlow County Council has concluded that the proposal does come within the scope of Class 1 in Part 1 of Schedule 2 (General) of the Planning and Development Regulations 2001 (as amended) and Class 50 (b) in Part 1 of Schedule 2 (General) of the Planning and Development Regulations 2001 (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 the extension as detailed on the submitted declaration drawings **is development and is exempted development.**

Signed:

Nicola Lawler

Date: 24/10/2023