

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: MR. WILLIAM BARRY
2. Address of applicant: [REDACTED]
3. Name and address for correspondence: PETER BREEN,
DRUMDERRY, BUNCLODY, CO. WEXFORD, Y21 H6 C5
Tel. No: 087-3841022 Fax No: _____ E-mail: breen909@gmail.com
4. Location of Development: Townland: MOLLAISE HOUSE, OLD LEIGHLIN
Postal Address: (if different from Townland): _____
5. Name and Address of Agent: PETER BREEN, DRUMDERRY,
BUNCLODY, CO. WEXFORD Y21 H6 C5
6. Outline clearly the description of the development / proposal: Proposed alterations and extension to 1980's style bungalow, works to include upgrade of existing uPVC windows to triple glazed construction of a rear dining/lounge room to rear of dwelling and associated works

7. Is this a Protected Structure or within the curtilage of a Protected Structure: NO
8. List any previous applications relating to the site: Not shown on council E-plan
9. Are you aware of any enforcement proceedings relating to this site: NO
10. Please state applicant's interest in this site: Recent owner 2023
11. List of plans, drawings etc. submitted with this application: _____

single copyright licence.	OSI maps (single usage)
site location	OSI Map Scale 1:1000
Historic 6"	OSI Map Scale 1:10560
site layout	OSI Map Scale 1:500
dwellings + extension layout	Drawing Scale 1:50
dwellg sections + roof plan	

Signed: _____

(Signature of Applicant)

Date: 28-11-2023

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.



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To Whom It May Concern:

Peter Breen

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Dated this day: 29th November 2023

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Daniel O'Connell
Copyright Dept.



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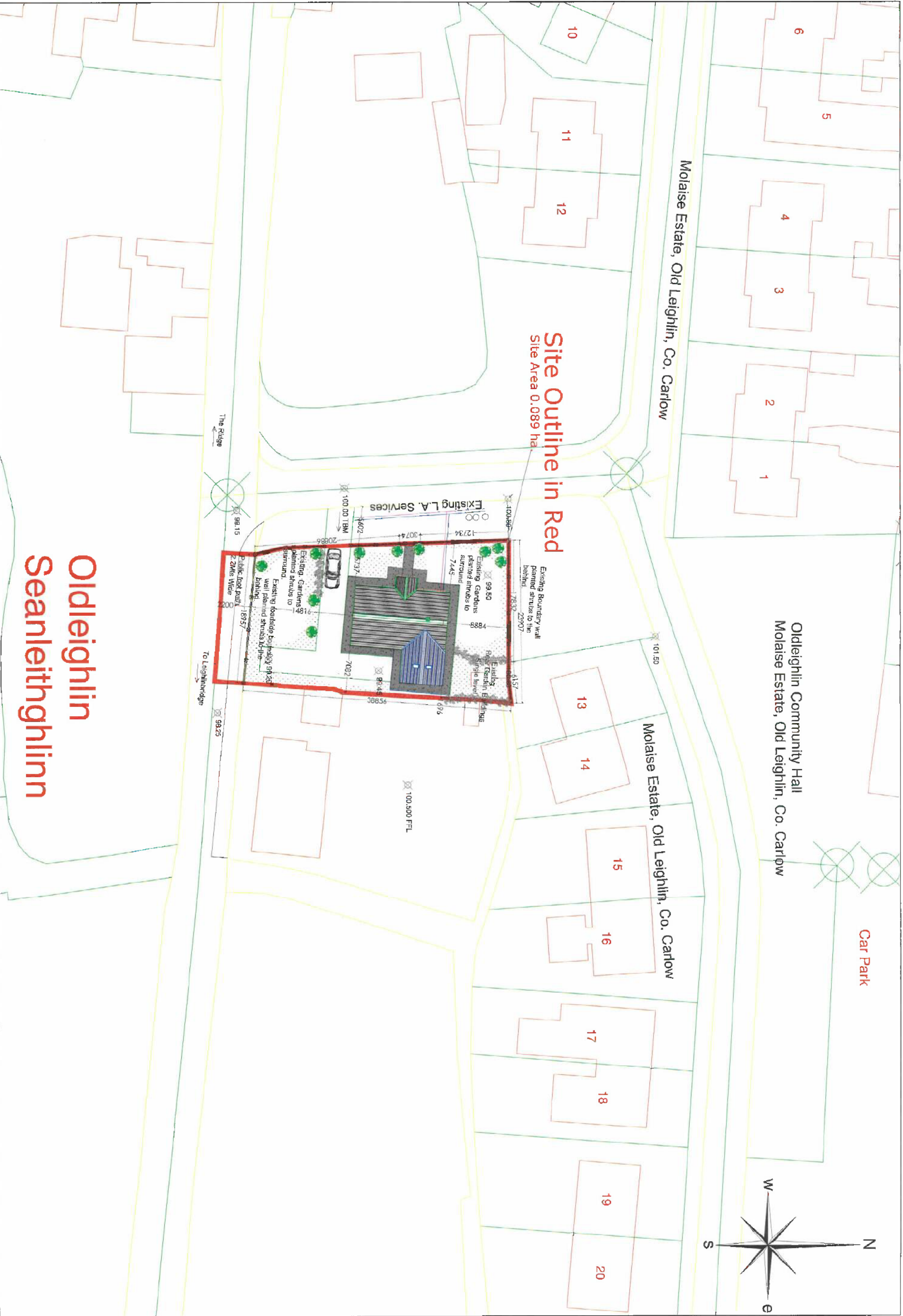
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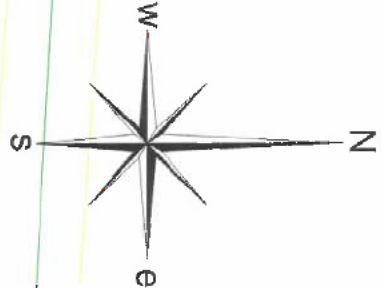
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Site Outline in Red
Site Area 0.089 ha

Oldleighlin Community Hall
Molaise Estate, Old Leighlin, Co. Carlow

Car Park



Oldleighlin
Seanleithghlinn

Section 5 Drawing

SHEET
3 OF 5

DISABILITY ACCESS (TGD M):
Level access to front door of dwelling, with flush threshold.
Main front door shall have a clear width of 900mm.
Internal doors shall be minimum 800mm clear width unless otherwise stated.
Saddle boards shall be bevelled and have a maximum 10mm upstand.
Door handles shall be between 800-1200mm above FFL.
Provide 1200x750mm clear space adjacent to WC in bathroom for wheelchair access.

Proposed Extension in Blue

Site Layout

CYSL50371140



DATE	7/11/2015	CLIENT	William Barry
NO	003	PROJECT	Dwelling Extension & Alterations
			MOLAISE ESTATE, OLD LEIGHLIN
			CO. CARLOW, R99 2095
		TITLE	Site Layout

Historic 6" Latest Edition
Data Source / Reference:
File Format Tagged Image File Format (TIFF)
Clip Extent / Area of Interest (AOI):
Projection / Spatial Reference:
Centre Point Coordinates: X,Y = 666082.203 665505.5808
Product Version: 1.3
Ordnance Survey Ireland, 2023

Ordnance Survey Ireland (OSI)
KK011 KK015 KK016 CW011 CW012 CW015 CW016
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ULX,ULY = 663621.203 667322.5808 URY,URY = 668543.203 667322.5808
IRENET95 Irish Transverse Mercator
Data Extraction Date: 29-Nov-2023
License / Copyright: Ordnance Survey Ireland

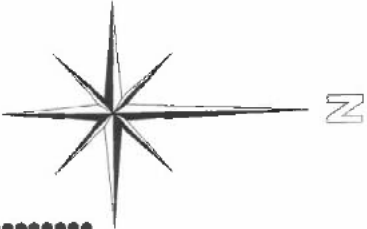
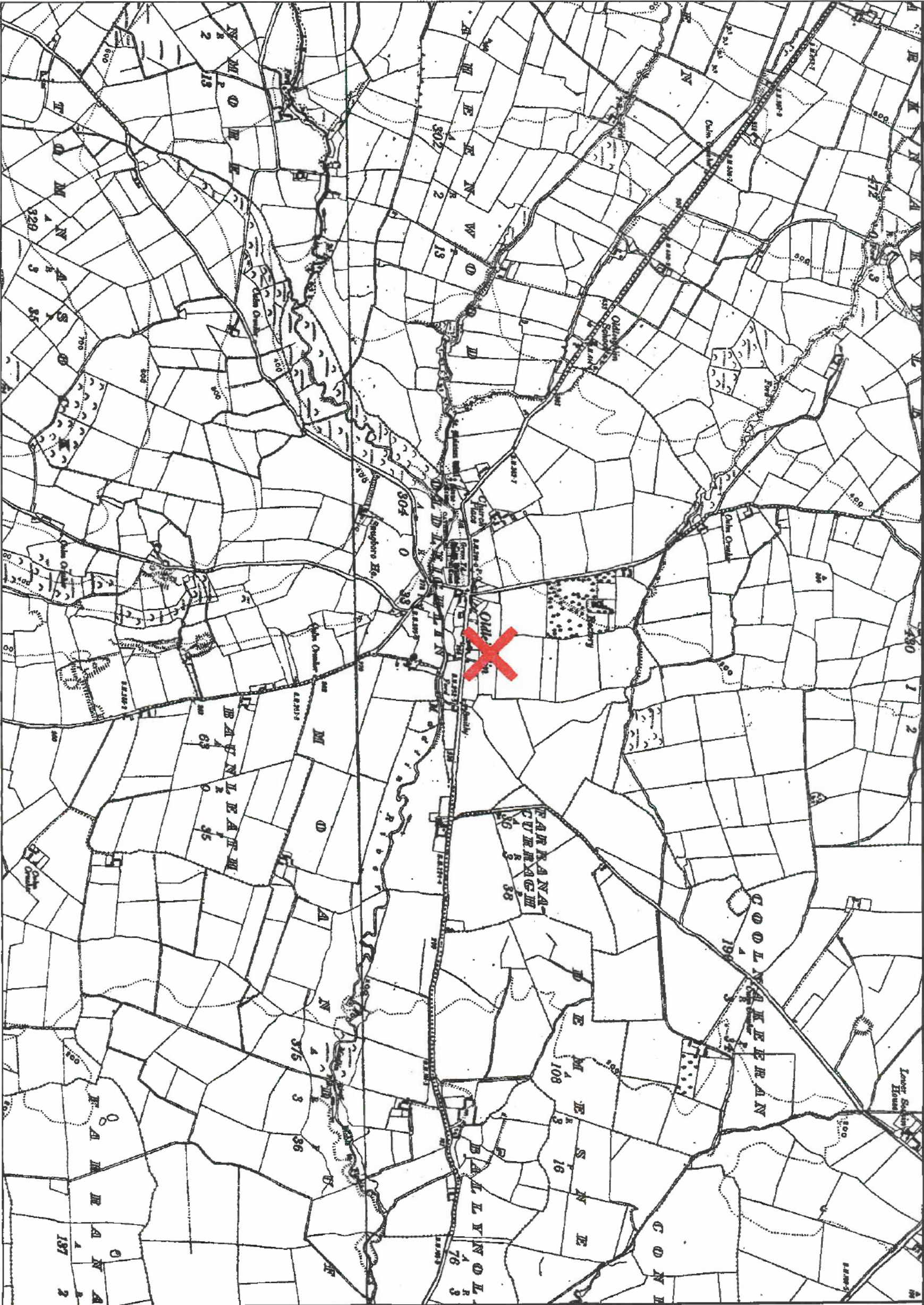


DRN Peter Breen
DATE 29/11/2023
SCALE 1/10560
Dwg NO: 004

CLIENT: William Barry
PROJECT: Dwelling Extension & Alterations
MOLISE HOUSE, OLD LEIGHLIN
CARLOW, R93 XC98
TITLE: Site Layout

Historic 6" Latest Edition Ordnance Survey Ireland (OSI)

Location of Site indicated in Red X



Scale 1:10560

PRINT ON A3 SHEET / Scale 1:10560

CYSL50371140

SHEET
4 OF 4

File Format: Autodesk AutoCAD (DWG_R2013)
Clip Extent / Area of Interest (AOI):
Projection / Spatial Reference:
Centre Point Coordinates: X,Y = 666082.203,665505.5808
Data Extraction Date: 29-Nov-2023
Product Version: Version = 1.4

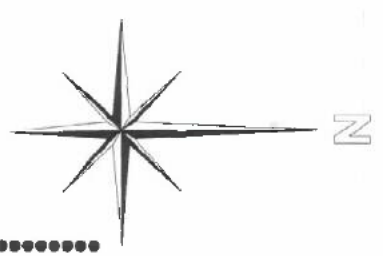
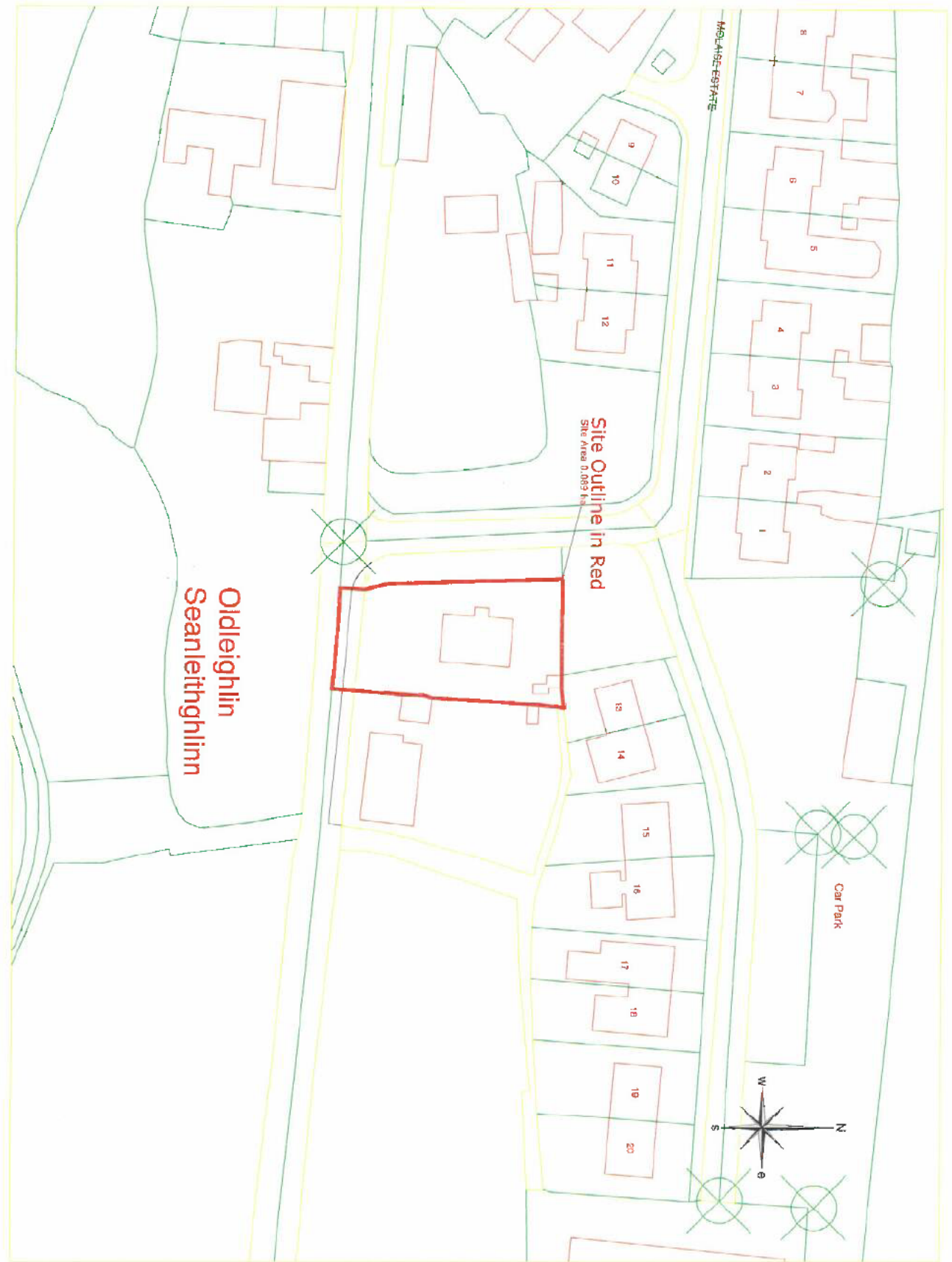
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Projection = IRENET95 Irish Transverse Mercator
Reference Index: ap Series | Map Sheets 1:2,500 | 4590-B
Source Data Release: DCMLS Release V1.170.116
License / Copyright Ordnance Survey Ireland, 2023



DRN Peter Breen	CLIENT : William Barry
DATE 29/11/2023	PROJECT :
SCALE 1/1000	Dwelling Extension & Alterations
DWG. NO: 005	MOLAISE HOUSE, OLD LEIGHLIN
	CARLOW, R98 XC98
	TITLE : Site Layout

Digital Cartographic Model (DCM) Ordnance Survey Ireland (OSi)

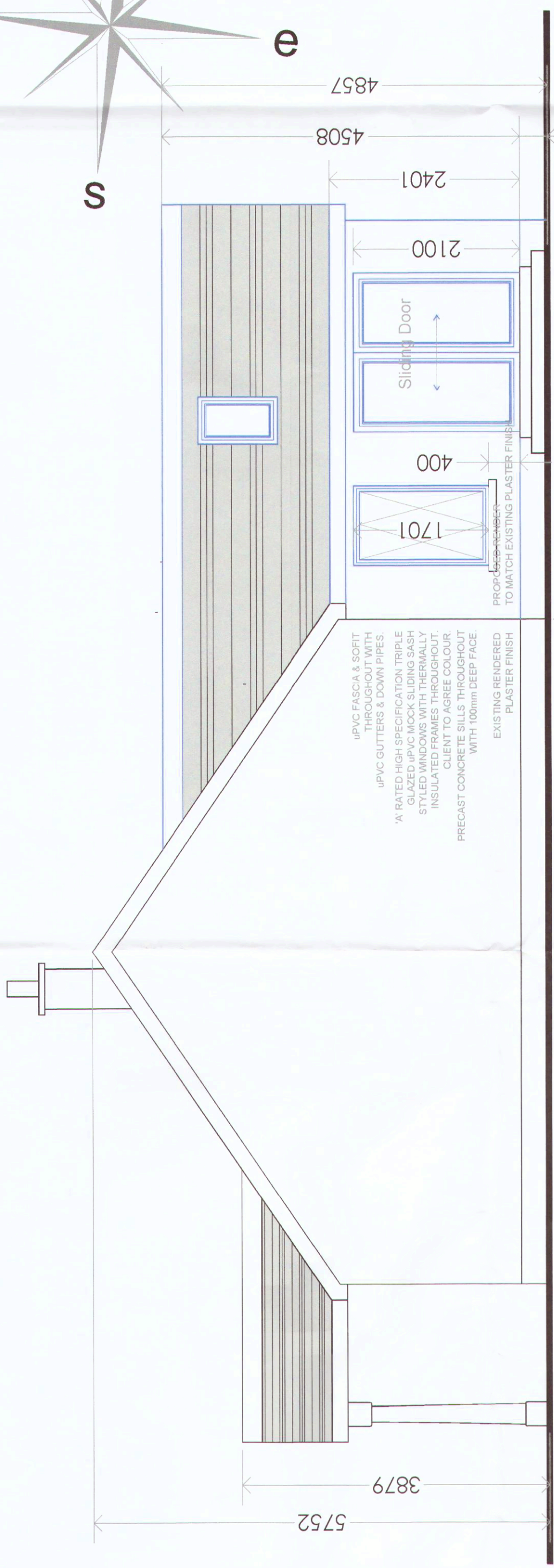
Site Outlined in RED



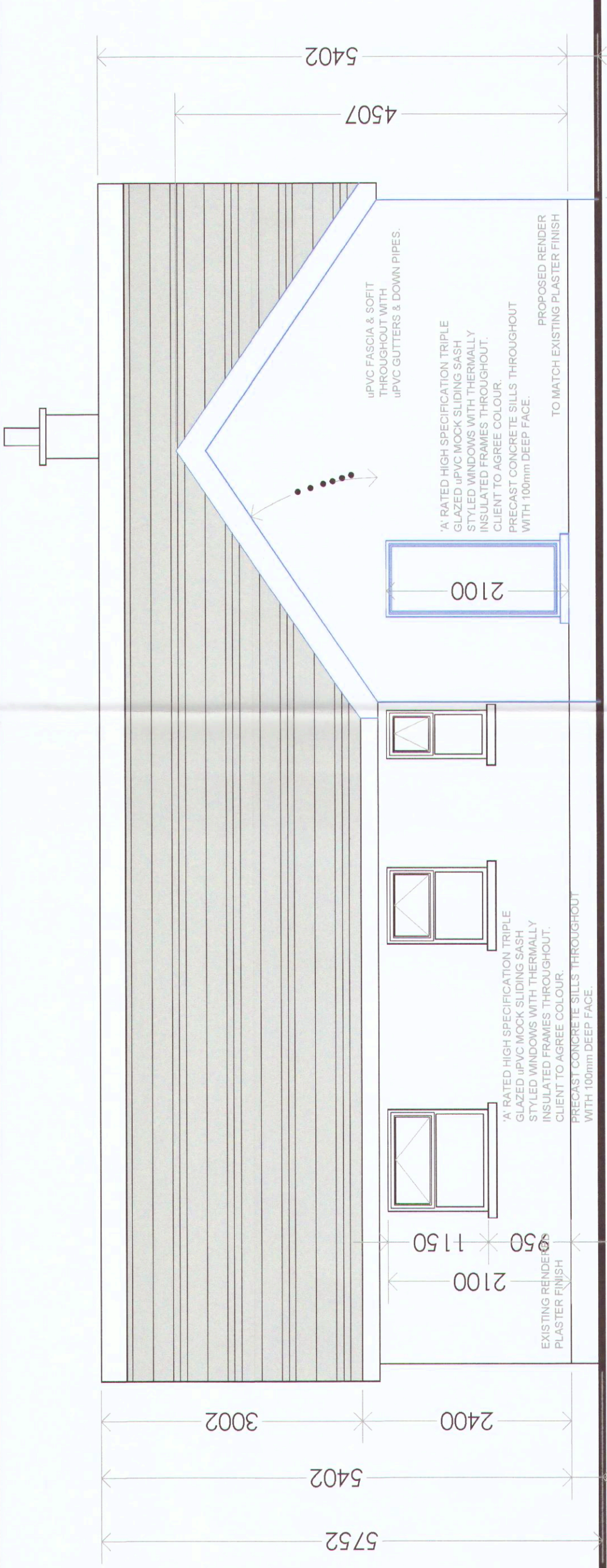
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PRINT ON A3 SHEET / Scale 1:1000
CYSL50371140



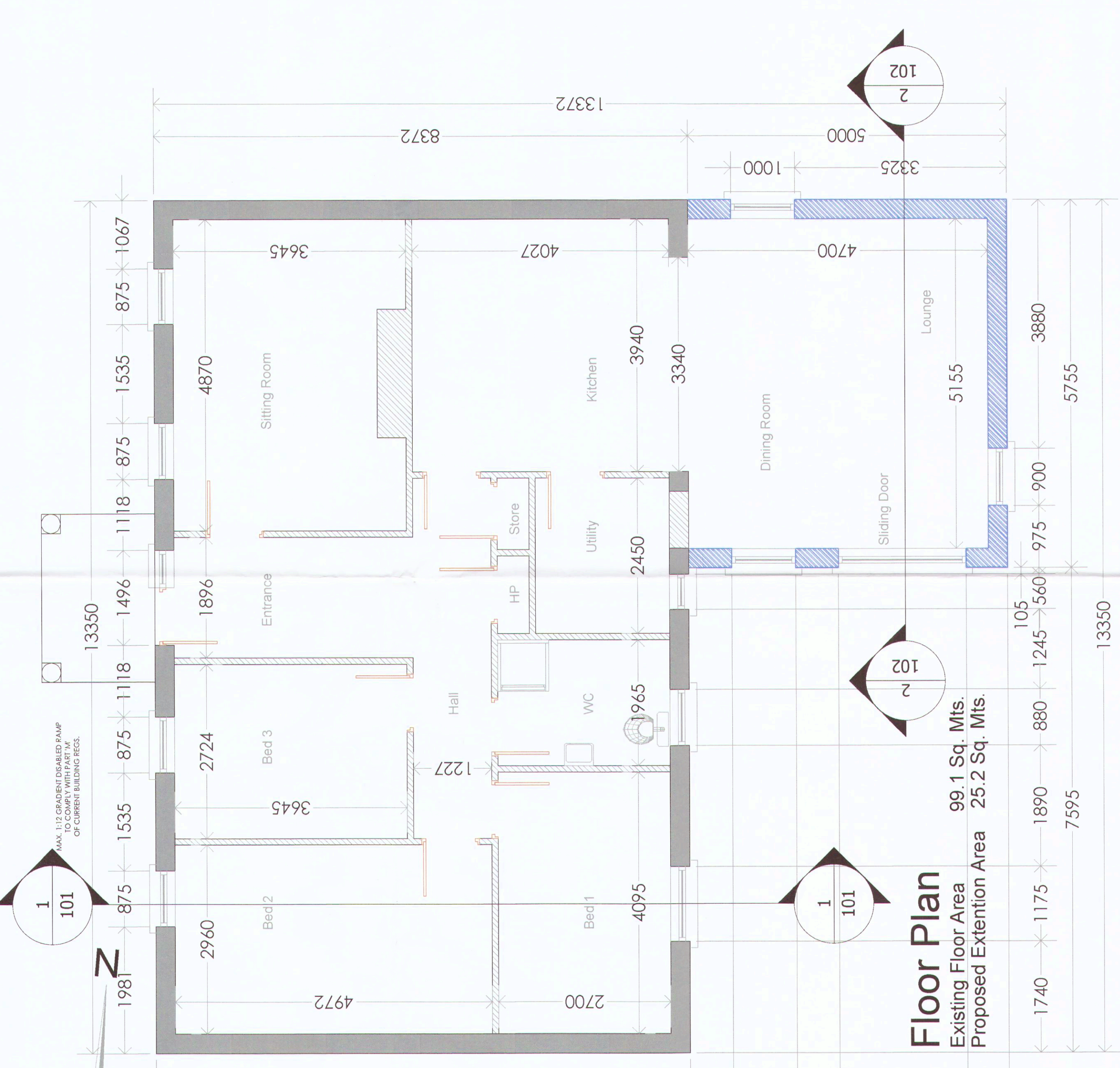
West Elevation



South Elevation



East Elevation



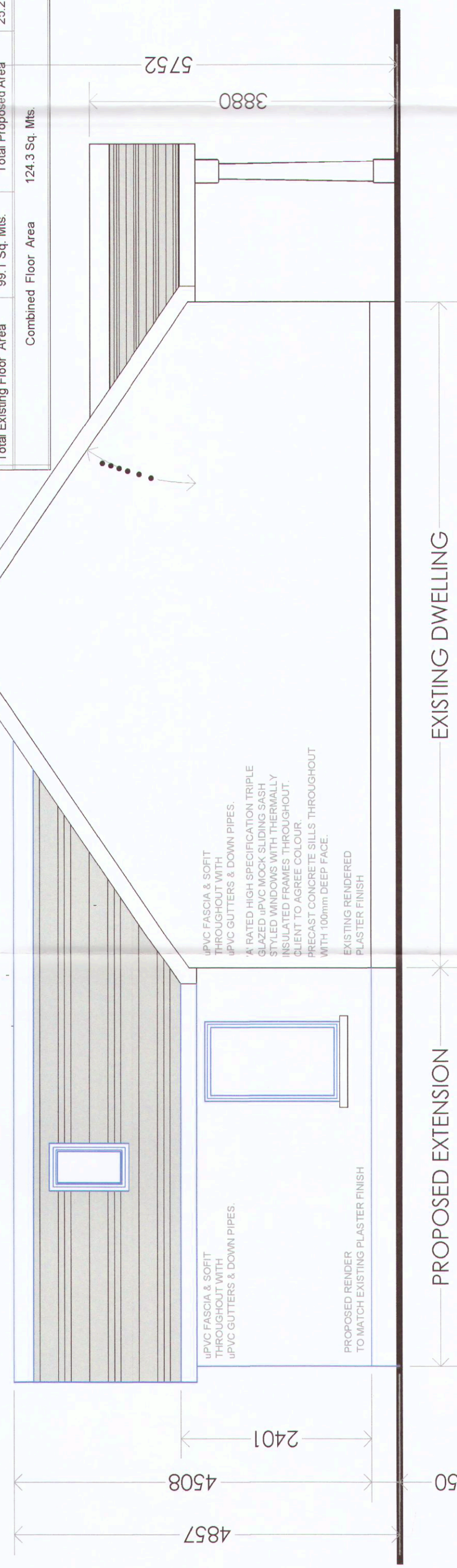
Floor Plan

Existing Floor Area 99.1 Sq. Mts.
Proposed Extension Area 25.2 Sq. Mts.

PROPOSED EXTENSION
Symbol Key

Existing Ex. Wall
Proposed Int. Wall
Proposed Extension

Ground Floor Plan	99.1 Sq. Mts.	Proposed Extension Area	25.2 Sq. Mts.
Total Existing Floor Area	99.1 Sq. Mts.	Total Proposed Area	25.2 Sq. Mts.
Combined Floor Area	124.3 Sq. Mts.		



North Elevation

Section 5 Drawing

SHEET
1 OF 5

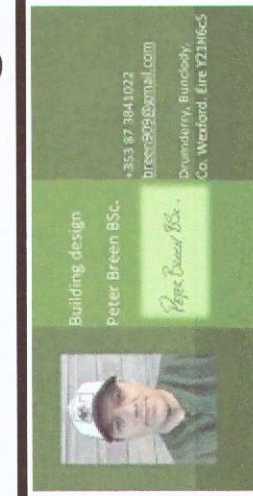
PRINT ON A1 SHEET / Scale 1:50

Proposed Extension in Blue

DISABILITY ACCESS (TGD M):
level access to front door of dwelling, with flush threshold.
Main front door shall have a clear width of 900mm.
Internal doors shall be minimum 800mm clear width unless otherwise stated.
Saddle boards shall be bevelled and have a maximum 10mm upstand.
Door handles shall be between 800-1200mm above FFL.
Provide 1200x750mm clear space adjacent to WC in bathroom for wheelchair access.

Dwelling Layout & Sections

DRN Plan Sheet	CLIENT	William Barry
DATE	PROJECT	Dwelling Extension & Alterations
28/11/2023	As Shown	105 ROSS ROAD, CARRIGROVE, CO. DUBLIN 15
SCALE	Dwg NO	001
As Shown		Dwelling Layout & Elevations



CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT
SECTION 5 DECLARATION



COMHAIRLE CONTAE
CHEATHARLACH
CARLOW COUNTY COUNCIL

Reg. Ref.	SEC5/23/42
Name of Applicant	William Barry
Address of Development	Molaise House, Old Leighlin, Carlow, R93XC98.
Development Description	Proposed alterations and extension to 1980's style bungalow, works to include upgrade of existing uPVC windows to triple glazed, construction of a rear dining/lounge room to the rear of the dwelling and associated works.

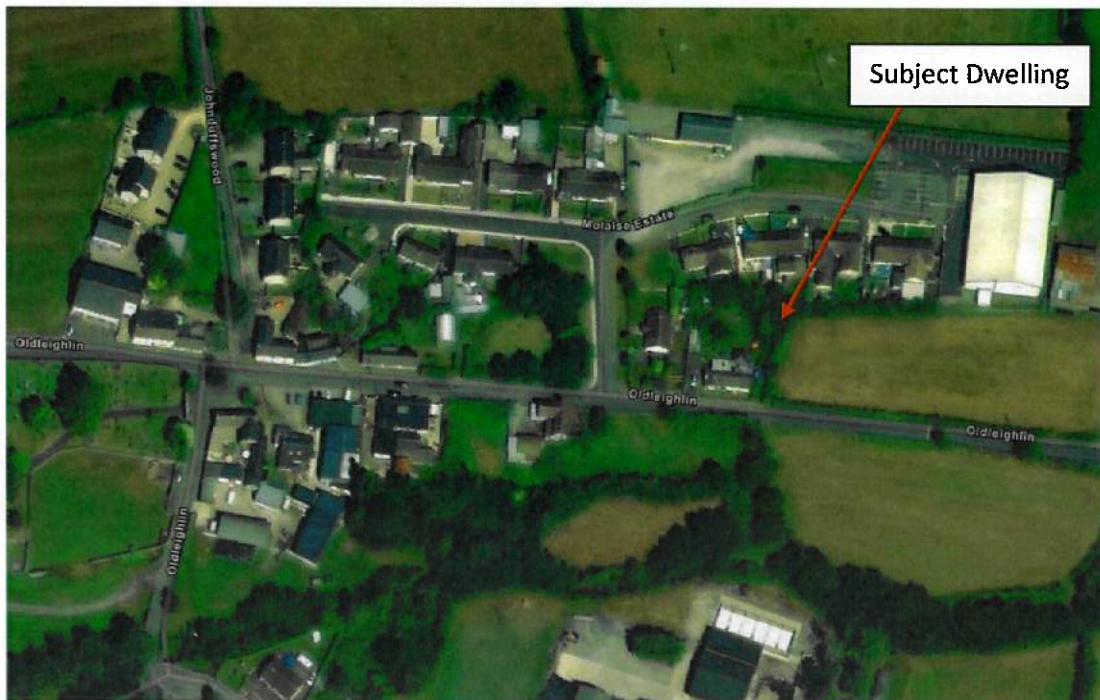
1) Site Location/Context

The Section 5 declaration relates to a proposal to extend an existing detached single storey dwelling to the rear and to replace the existing windows. The dwelling is located on a corner plot at the entrance to Molaise Estate in Old Leighlin village. The side elevation of the dwelling faces the public road to the south whilst the front of the dwelling faces the estate access. The majority of the open garden space is located to either side of the dwelling. There is a small garden shed located in the northeast corner of the site.

Dwelling Location



Aerial View of Site Location



2) Relevant Planning History

Nothing noted on IPLAN for subject site.

3) Description of the Referral/Proposal

The referral relates to a proposed single storey extension to the rear of the existing bungalow and minor alteration to the existing house to include installing new windows. A full set of drawings and maps have been included with the referral which include the existing dwelling and the proposed works.

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)

4(1) The following shall be exempted development for the purposes of this Act –

(h) 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.*

- Schedule 2, Part 1, Class 1 (Development within the curtilage of a house)

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.

Conditions & Limitations

- 1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.*
- (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.*
- (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.*
- 2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*

(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.

(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.

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

7. The roof of any extension shall not be used as a balcony or roof garden.

5) Assessment

The proposed extension has a stated floor area of 25.2m. sq and is to be constructed on the rear (eastern) elevation of the existing house. From the site layout plan submitted it appears that the rear wall of the proposed extension will be 1.69m from the boundary it faces (east). The house does not appear to have been previously extended.

Does the proposal constitute development?

‘Works’ are defined under Section 2 of the Planning and Development Act 2000 (as amended) as including ‘any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...’.

Section 3(1) 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 subject extension, which involves the erection of an extension to the rear of a dwelling house is deemed to constitute development within the meaning of this definition.

It is considered having regard to the above definitions that whilst the proposal to replace the existing windows would not materially affect the external appearance of the existing dwelling relevant to the provision of Section 4(1)(h) of the Act the proposed extension constitutes ‘works’ and ‘development’ within the meaning of the Act.

Does the proposal constitute exempted development?

Article 6 (1) of the Regulations state that subject to Article 9, development of a class specified in Part 1 of Schedule 2 of the Regulations shall be exempted development provided that such development complies with the conditions and limitations specified.

Schedule 2, Part 1, Class 1 (Development within the curtilage of a house) as set above is relevant in this instance and relates to the following development:

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.

Having reviewed the plans submitted with the referral the Planning Authority consider that the proposed extension subject to this referral does not meet Condition 4 (a) of the provisions of Class 1 which sets out that 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. At its highest point the rear wall of the proposed extension has a height of 4.507m whilst the rear wall of the house has a height of 2.49m high.

6) Conclusion

Having had regard to:

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),
- Articles 5, 6 and 9 of the Planning and Development Regulations 2001 (as amended),
- Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended),

The following is concluded:

The proposal to replace the existing windows with triple glazed windows is considered exempted development for the purposes of the Act whilst the proposed development of a single storey rear extension with a stated floor area of 25.2m. sq as submitted on the **4th of December, 2023** is considered not exempted development as the proposed extension does not meet condition and limitation 4(a) of Class 1 of Part 1 of Schedule 2 of the Planning and Development Exempted Development Regulations 2001 (as amended).

NOW THEREFORE Carlow County Council, in exercise of the powers conferred on it by Section 5(2)(a) of Planning and Development Act 2000 (as amended), hereby decides that the

proposed replacement of the existing windows with triple glazed windows **is development and is exempted development** in accordance with 4(1)(h) of the Act and the proposed development of 25.2m. sq rear single storey rear extension as detailed herein **is development and is not exempted development** in accordance with Condition and Limitation 4 (a) of Class 1 of Part 1 of Schedule 2 of the Planning and Development Exempted Development Regulations 2001 (as amended).

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

Reg. Ref: SEC5/23/42

WHEREAS a question has arisen as to whether a single storey rear extension to an existing bungalow dwelling, and the replacement of existing uPVC windows with triple glazed windows is development or is exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 4th of December 2023.

AND WHEREAS William Barry, Molaise House, Old Leighlin, Carlow, R93XC98, 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, 3 and 4 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) Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

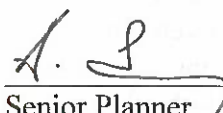
AND WHEREAS Carlow County Council has concluded that:

- (a) the proposal to replace the existing windows comes within the scope of Section 4 (1)(h) of the Planning and Development Act 2000 (as amended) and
- (b) the proposed extension does not comply with the conditions and limitations of 4(a) of Class 1 in Part 1 of Schedule 2 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 proposal to replace the existing windows **is exempted development** for the purposes of the Act and the proposed single storey rear extension as detailed on the submitted declaration drawings **is development and is not exempted development.**


Executive Planner

Date: 19/12/23


Senior Planner

Date: 19/12/23

APPROPRIATE ASSESSMENT SCREENING REPORT		
Planning Application Reg. Ref: SEC5/23/42		
A. DESCRIPTION OF PROJECT AND LOCAL SITE		
Site Location:	Molaise House, Old Leighlin, Carlow, R93XC98.	
Total Site Area :	n/a	
Floor Area of Proposed Development:	Circa 25.2 sq.m	
Identification of Natura 2000 site(s):	River Barrow and River Nore SAC	
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 Madhir River is circa 53m to the south of the site. The river is a tributary of the River Barrow and is itself designated as part of the River Barrow and River Nore SAC. However the existing extension is a minor development within a built-up residential area. There is no connecting pathway (direct or indirect) between the referral 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: *Susan Lahon*

Position: Executive Planner

Date: *19/12/23*



Declaration on Development & Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)
Reg. Ref: SEC5/23/42

WHEREAS a question has arisen as to whether a single storey rear extension to an existing bungalow dwelling, and the replacement of existing uPVC windows with triple glazed windows is development or is exempted development.

AS INDICATED on the plans and particulars received by the Planning Authority on 4th of December 2023.

AND WHEREAS William Barry, [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;

- (a) Sections 2, 3 and 4 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) Class 1 in Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

AND WHEREAS Carlow County Council has concluded that:

- (a) the proposal to replace the existing windows comes within the scope of Section 4 (1)(h) of the Planning and Development Act 2000 (as amended) and
- (b) the proposed extension does not comply with the conditions and limitations of 4(a) of Class 1 in Part 1 of Schedule 2 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 proposal to replace the existing windows **is exempted development** for the purposes of the Act and the proposed single storey rear extension as detailed on the submitted declaration drawings **is development and is not exempted development.**

Signed: Nicola Candler

Date: 20/12/2023.