

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: Jim & Mary Healy

2. Address of applicant:



3. Name and address for correspondence:

Paul Osborne Architect, Munny Studio, Tullow, Co. Carlow, R93R683

Tel. No: 087 9727614

Fax No: N/A

E-mail: paulosbornearchitects@gmail.com

4. Location of Development: Townland:

Market Square, Tullow, Co. Carlow, R93 P993

Postal Address: (if different from Townland): Same

5. Name and Address of Agent:

Paul Osborne Architect, Munny Studio, Tullow, Co. Carlow, R93R683

Tel. No: 0879727614

Fax No: N/A

E-mail: paulosbornearchitects@gmail.com



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

- The building was previously used as the Bank of Ireland in Tullow.
- It has been vacant for over two years since the banks closure.
- The ground floor in its entirety was commercial use.

- The first floor was used as two residential apartments serving the bank manager and another employee and their families, please refer to the existing plans.
- It is proposed to retain a large section of the ground floor addressing market square as a commercial unit, please refer to attached drawings.
- It is proposed to convert the rear of the ground floor to a residential unit, please refer to the attached drawings. It is proposed to carry out the conversion under Planning and Development Act (Exempted Development) Regulations 2022 (the 2022 Planning Regulations)- Change of use from commercial to residential under the above exempted development regulations. It is our view that the change of use is exempt planning.
- A proposed bedroom window to the main street would require planning, but the actual change of use is considered exempt. There are no other external changes proposed to the building.
- The first floor was used as a residential accommodation associated with employees of the bank and easily adaptable to modern apartment living in the centre of the town. We are of the opinion that this meets the requirements of the Planning and Development Act (Exempted Development) Regulations 2022 (the 2022 Planning Regulations).
- The 3 No. apartments will meet the requirements of Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued under Section 28 of the Planning and Development Act, 2000 (as amended) December 2020.
- The proposed end design for the building is one commercial unit at ground level, one two-bedroom apartment at ground level and two No. two bedroom apartments at first floor level.
- Environmental Impact assessment- The proposed works are internal in nature and would not on its own or cumulatively with other projects result in significant effects on the environment.
- Appropriate assessment: We are not aware of any source pathway receptor routes between the site and those sites and so consider that the current proposals to internal layout would not have a significant effect on natural sites.

7. Is this a Protected Structure or within the curtilage of a Protected Structure:

The subject building is not a protected structure. Market Square has protected buildings, but this Section 5 Declaration also seeks the council to determine if they are within the subject sites' curtilage.

8. List any previous applications relating to the site:

PL93159

PL97337

PL 2242

There may be previous planning applications that we are not aware of

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:

2320 Site Location Map 1:1000

2320 Site Layout Plan 1:500

2320 Existing Plans, sections and Elevations

2320 Proposed Ground Floor Sketch Plan

2320 Proposed First Floor Sketch Plan

Signed: _____

Jim Healy

Date: 20.10.2023

(Signature of Applicant) **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

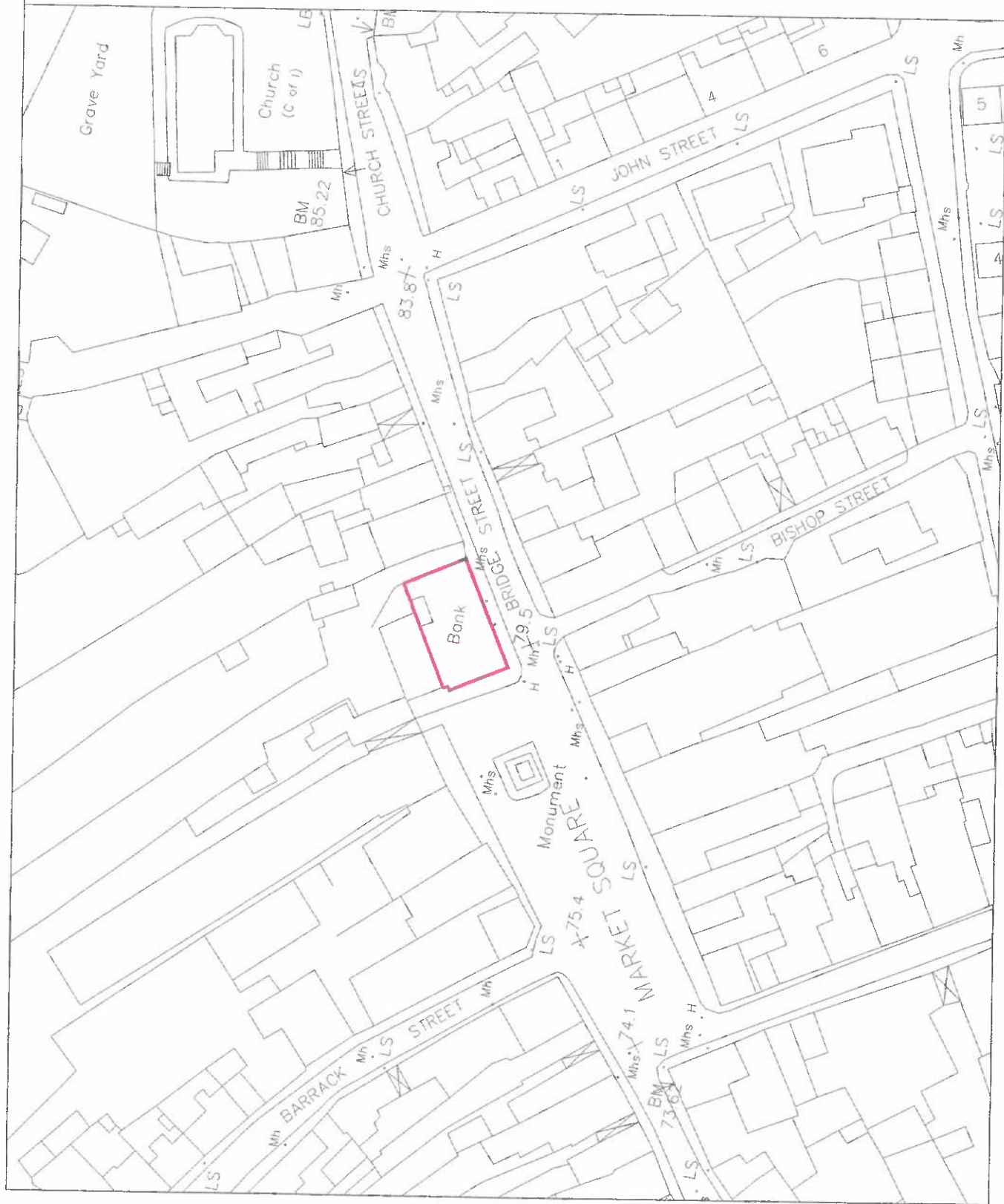
OFFICE USE ONLY

Date Received: _____

Date Decision Due: _____

Date of Decision: _____

Recommendation: _____



SITE LOCATION MAP SCALE 1:1000 @ A4

Description:

Digital Cartographic Model (DCM)

Publisher / Source:

Ordnance Survey Ireland (OSI)

Data Source / Reference:

PRIME2

File Format:

AutoCAD 2013 (DWG)

File Name:

v_30204120_1.dwg

Clip Extent / Area of Interest (AOI):

11X11LY=

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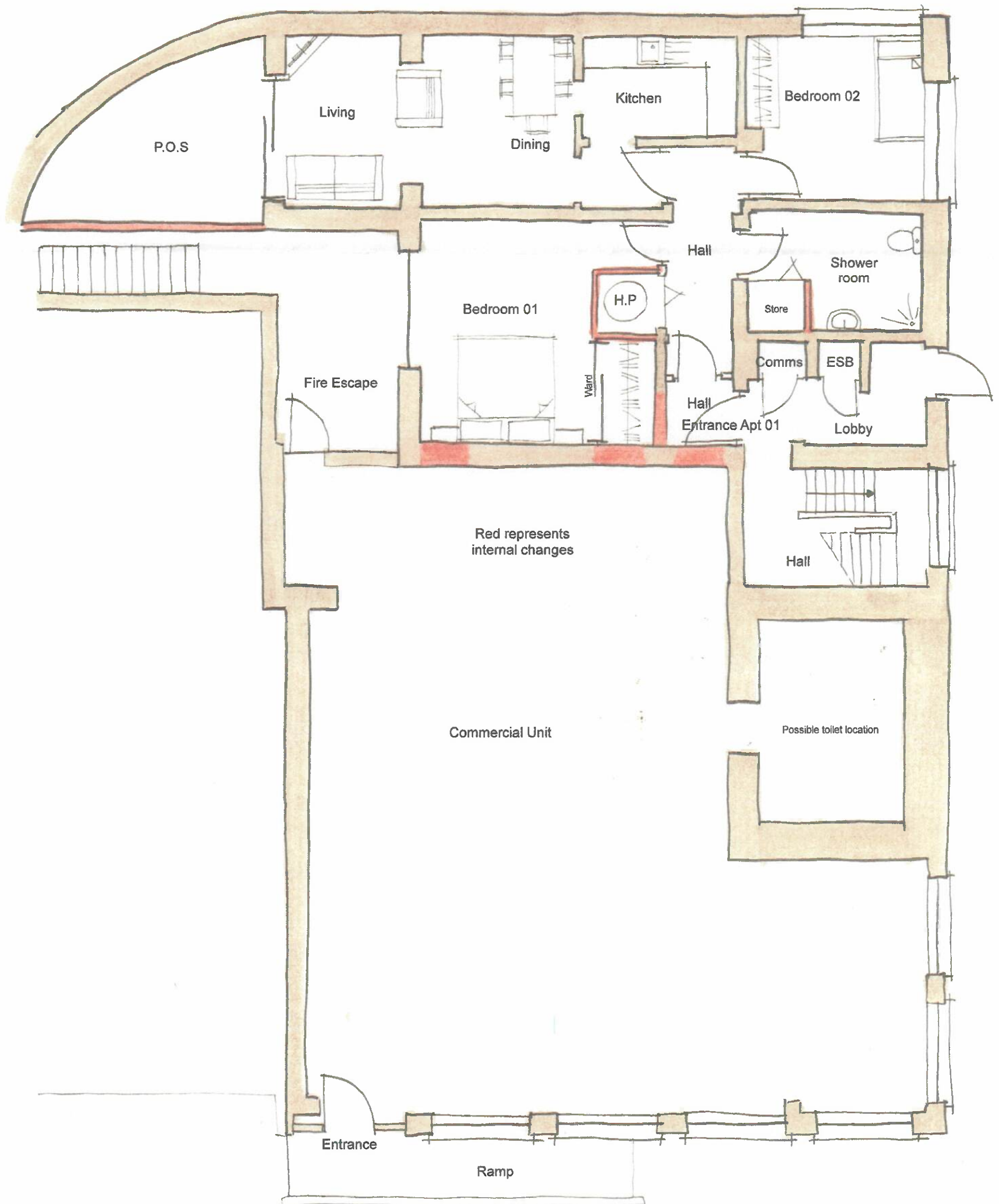
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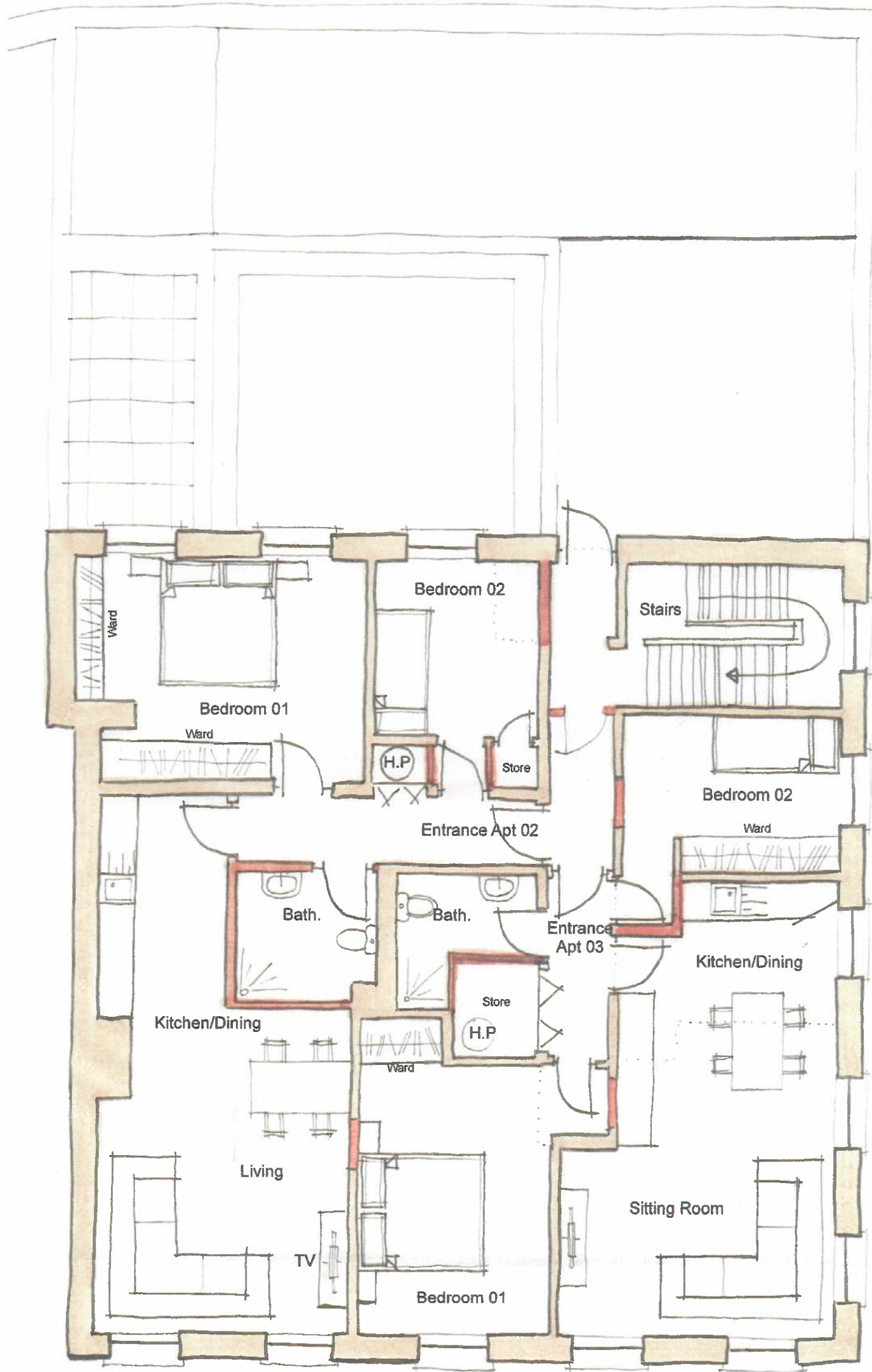
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1:75 @ A3

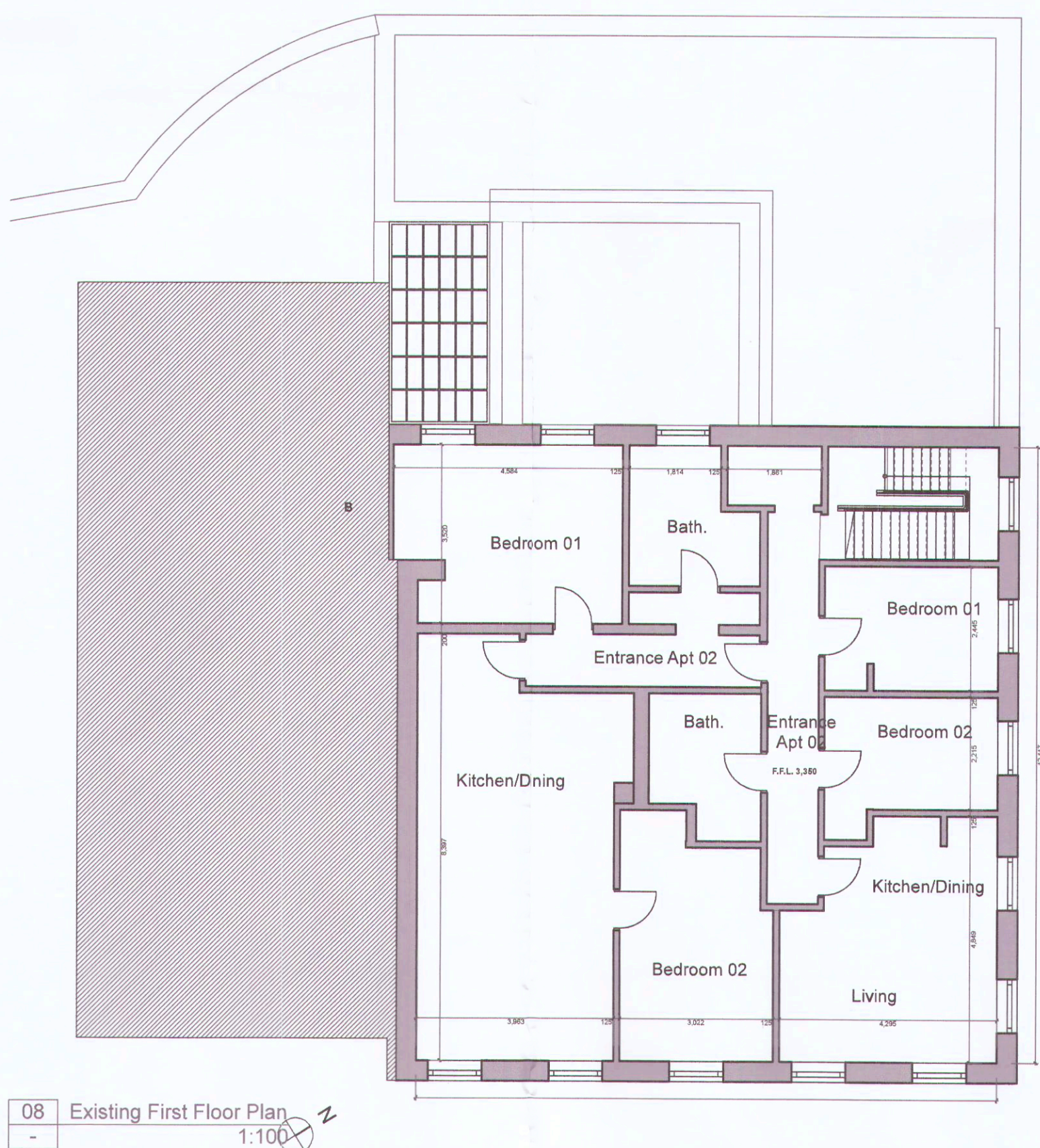
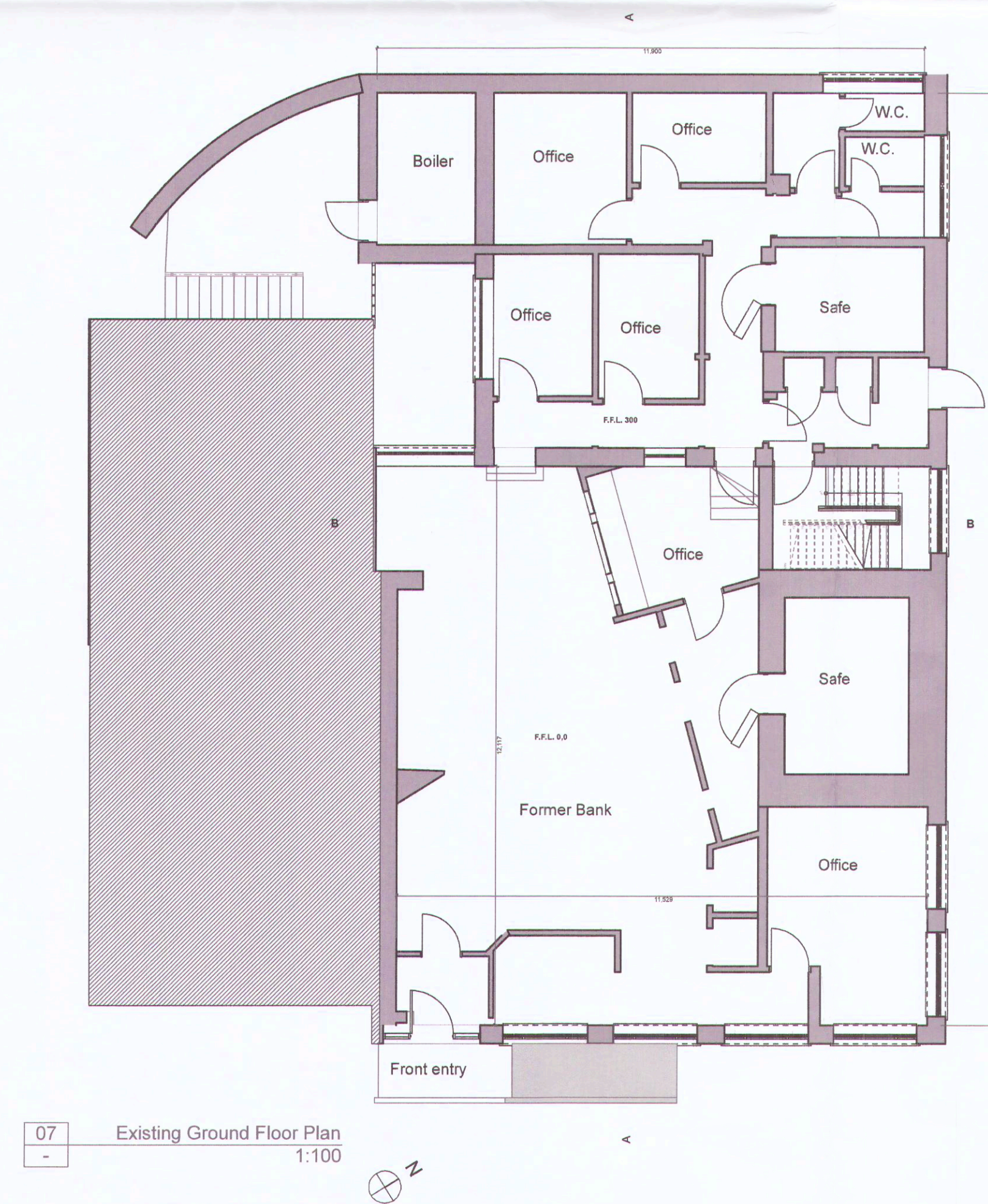
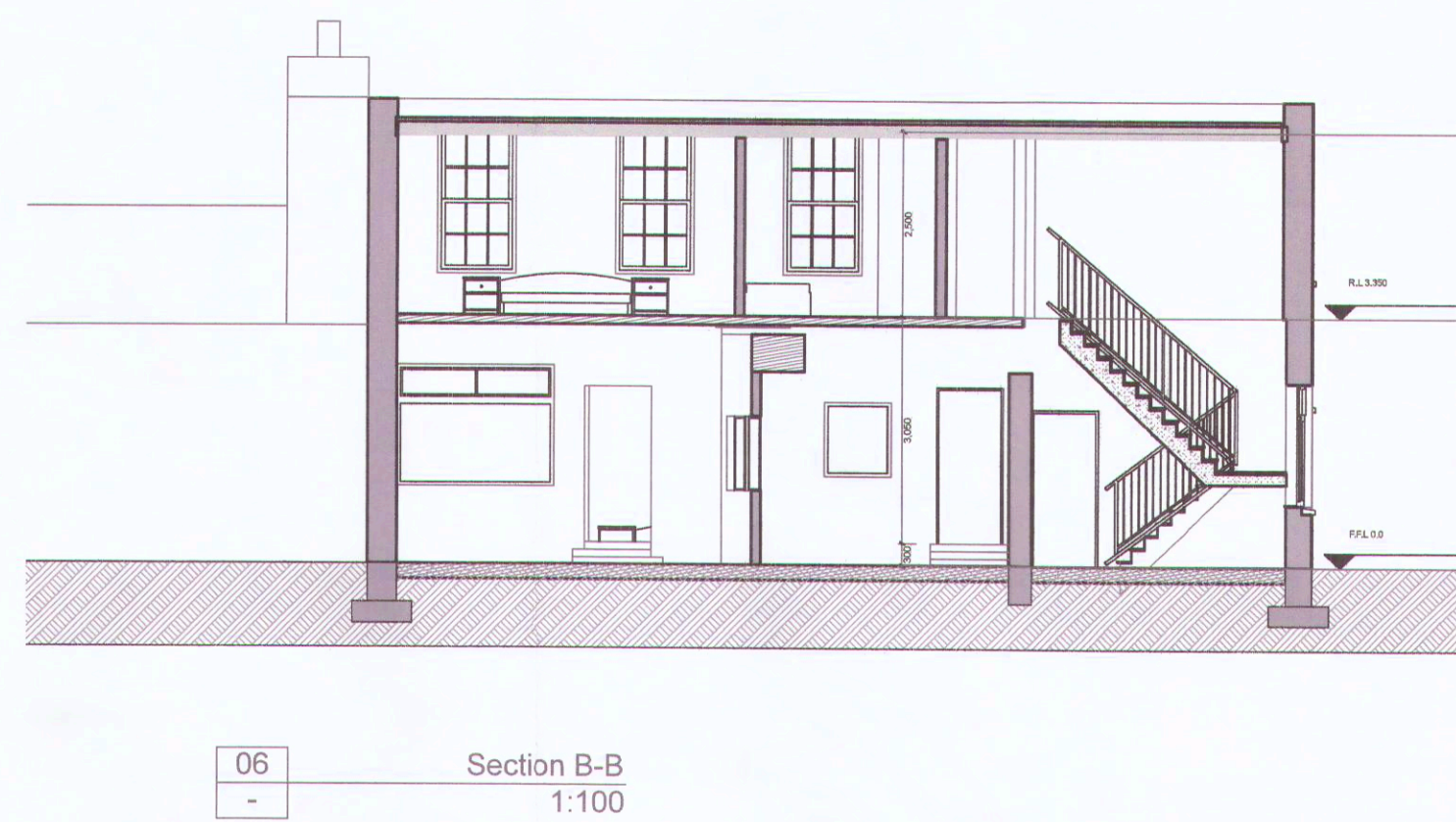
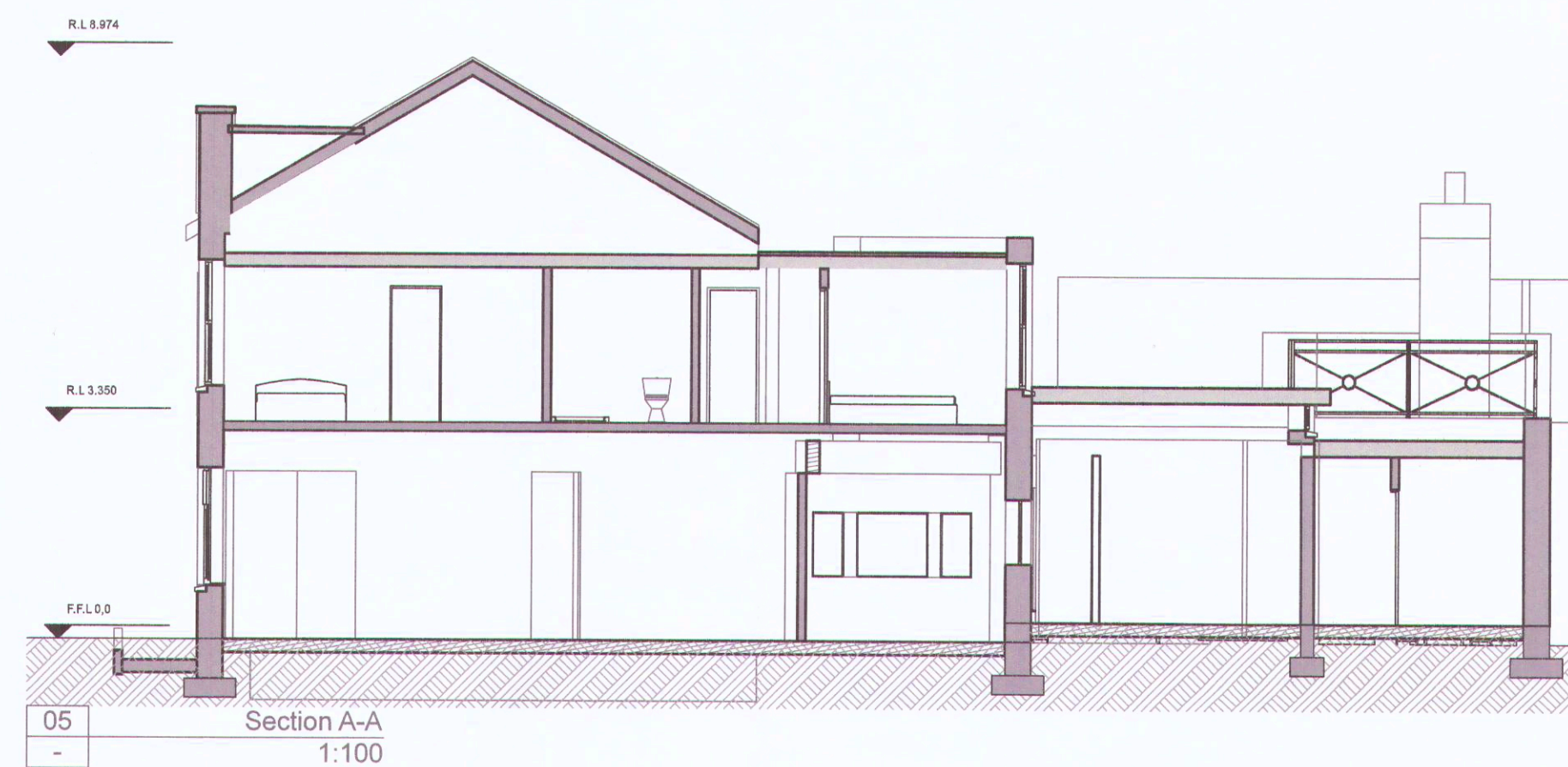
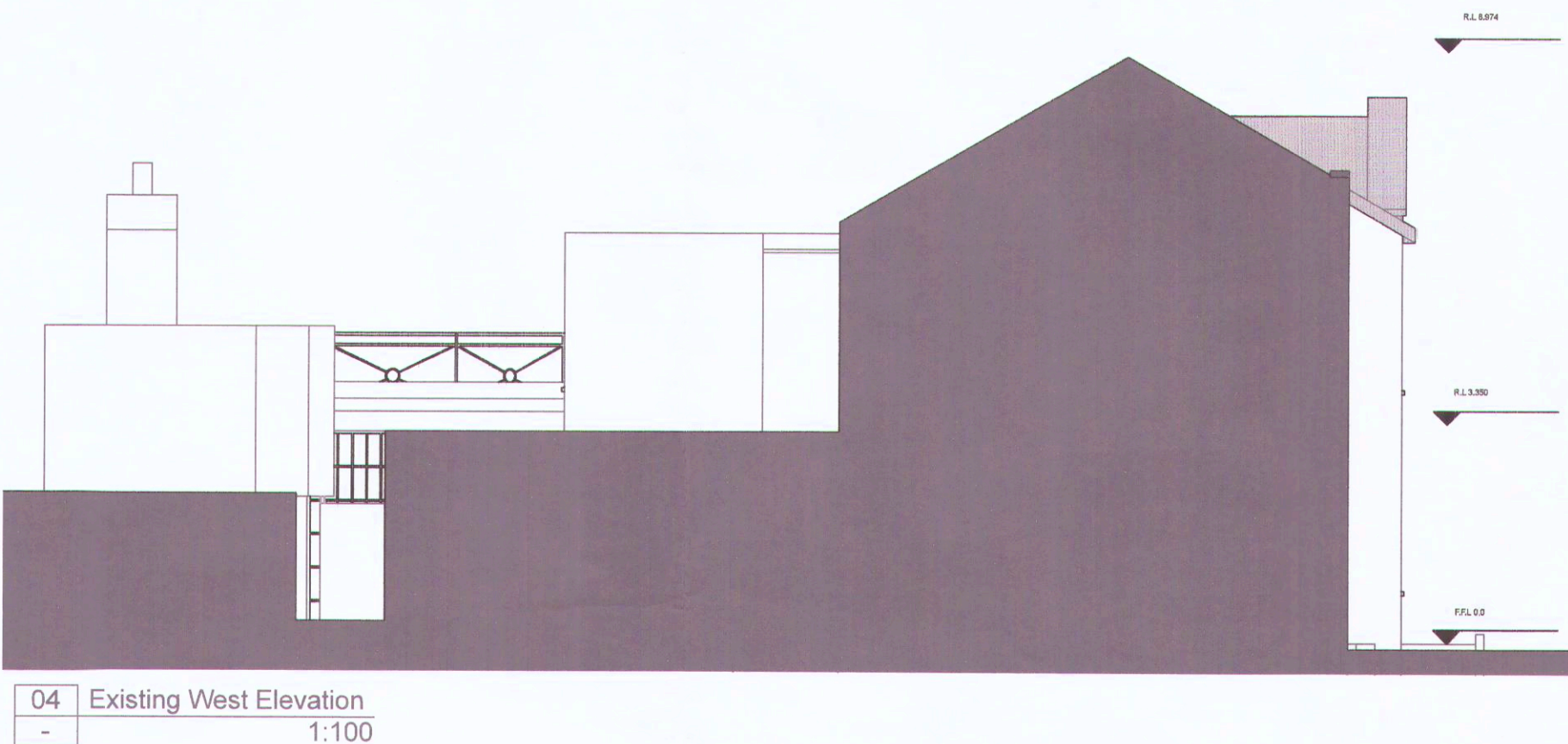
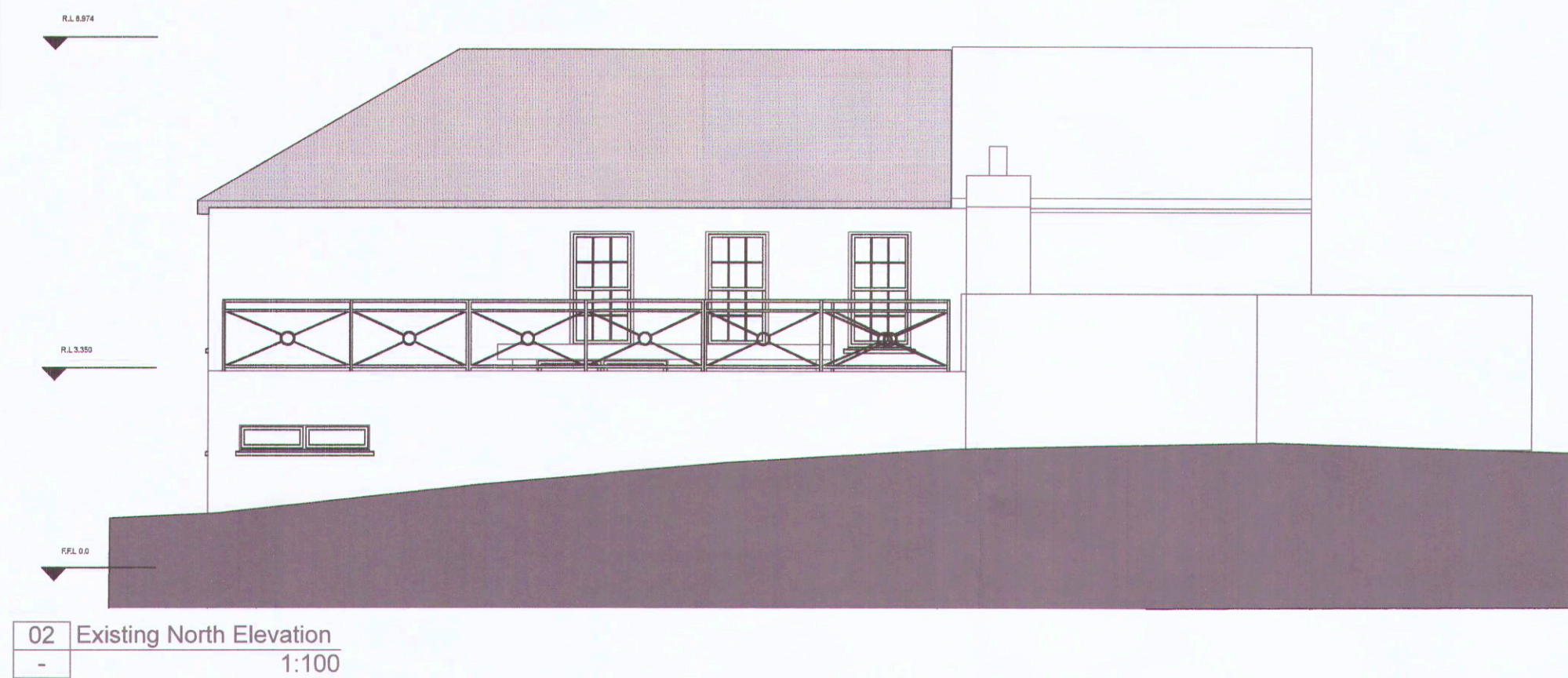




Red represents
internal changes

01 Proposed First Floor Plan
- 1:75 @ A3





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RIAI
Practice Member 2023
Registered Architect 2023
Architect Accredited in Conservation G3

Paul Osborne Architect
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m. +353 87 9727614 e. paulosbornearchitects@gmail.com

Rev	CD	Change	Date

#Project Name
Client: Jim and Mary Haly
Orientation to an existing Bank of Ireland at Tullow, Co. Carlow

IF THE ABOVE DIMENSION DOES NOT MEASURE EXACTLY, THIS DRAWING WILL HAVE BEEN ENLARGED OR REDUCED, AFFECTING ALL LABELED SCALES.

BY	REVISIONS	DATE

Date:	AS NOTED
Scale:	P.O.
Job:	2028
Sheet	

Planning

**CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

SECTION 5 DECLARATION



**COMHAIRLE CONTAE
CHEATHARLACH**
CARLOW COUNTY COUNCIL

Reg. Ref.	SEC5/23/39
Name of Applicant	Jim & Mary Healy
Address of Development	Market Square, Tullow, Co. Carlow R93 P993
Development Description	Change of use from bank to residential use (exemption sought under SI75 of 2022);

1) Site Location/Context

The Section 5 declaration site relates to a property at Market Square, Tullow, Co. Carlow and comprises a two-storey structure. The premises was previously occupied by Bank of Ireland which has since closed.



SITE LOCATION



AERIAL IMAGE

2) Relevant Planning History

PL93/159 - Permission for *'provision of new signage.'*
Granted 27/09/1993

PL07/1081 - Permission for *'construction of a disabled access ramp and hand rail to the existing front entrance.'*
Granted 24/01/2008

3) Description of the Referral/Proposal

An exempted development declaration is being sought for the partial change of use of the ground floor commercial unit to residential use comprising 1 no. apartment. 2 no. additional apartments are proposed at first floor level with the applicant stating that this had been in residential use by the bank manager. The proposal also includes the provision of a window along the adjoining street.

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) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect 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 10 of the Planning and Development Regulations 2001 (as amended) relates to change of use. SI 75 of 2022 amends article 10 of the Planning and Development Regulations 2001 (as amended) by the inclusion of the following:

(6) (a) In this sub-article—

'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

'relevant period' means the period from 8 February 2018 until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall -

(I) primarily affect the interior of the structure,

(II) retain 50 per cent or more of the existing external fabric of the building, and

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the

exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

(e) (i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure,

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode for the relevant property,

shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2026 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii).".

5) Further Information

The following **Further Information** was requested on the **04/12/2023**

1. The Applicants are advised that Statutory Instrument 75 of 2022 of the Planning and Development Act (Exempted Development) Regulations 2022 may be an applicable exemption for the proposed change of use. It is noted that S.I. 75 requires a notification form to be submitted to the Planning Authority no later than 14 days prior to a change of use. In this regard, the Applicants are requested to submit the following:
 - (a) An exemption notification form in order for the Planning Authority to assess the proposal under S.I. 75 of 2022.
 - (b) Satisfactory evidence demonstrating the structure has been vacant for a minimum of two years.
 - (c) A schedule of floor areas demonstrating compliance with the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2022).
 - (d) Elevational drawings demonstrating the proposed additional window.
 - (e) Confirmation of intended commencement and completion dates of the proposed change of use.

Response received 16/02/2024 as follows;

- (a) An exemption notification form in order for the Planning Authority to assess the proposal under S.I. 75 of 2022.
 - ❖ **The Applicants have submitted a Notification Form, S175.24.03**
- (b) Satisfactory evidence demonstrating the structure has been vacant for a minimum of two years.
 - ❖ **The Applicants have submitted a sworn affidavit which states the premises has been vacant since October 2021.**
- (c) A schedule of floor areas demonstrating compliance with the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2022).
 - ❖ **The Applicants have submitted detailed proposed floor plans which includes a schedule of accommodation. Floor areas appear to achieve the minimum floor areas.**
- (d) Elevational drawings demonstrating the proposed additional window.
 - ❖ **The Applicants have submitted proposed elevations. At rear elevation, a door is proposed. Along the side (street) elevation, an existing narrow window is to be extended**

downwards. This proposed window appears consistent with the existing structure's character and the character of adjoining structures.

(e) Confirmation of intended commencement and completion dates of the proposed change of use.

❖ **The Applicants have stated the commencement date of 01/04/2024. It is stated that works will occur within the appropriate period.**

6) Assessment

This report should be read in conjunction with the previous report prepared. The applicants have submitted the required Notification Form to avail of the exemption afforded under Statutory Instrument 75 of 2022.

Does the proposal constitute development?

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 proposal, which involves the material change of use to residential use is deemed to constitute development within the meaning of this definition.

Does the proposal constitute exempted development?

The exemption is sought under SI 75 of 2022, thus the below assessment criteria is applicable:

(c) *Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—*

(i) *the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,*

➤ *The structure has been in situ in excess of the above years. Thus, the proposal is compliant with the above.*

(ii) *the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12,*

➤ *The use as a bank would fall within Class 2(a) financial services. Thus, the proposal is compliant with the above.*

(iii) *the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,*

➤ *The applicant has stated the structure has been vacant in excess of two years. A sworn affidavit declaring same has also been furnished with the further information response received by the Planning Authority on 16th February 2024. Thus, the proposal has demonstrated compliance with the above.*

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) *The development is commenced and completed during the relevant period.*

➤ *The applicant has provided an indicative timeline for commencement and completion of the works which are within the relevant period. Thus, compliance with the above has been demonstrated.*

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall -

(I) primarily affect the interior of the structure,

➤ ***This condition appears to be complied with.***

(II) retain 50 per cent or more of the existing external fabric of the building, and

➤ ***This condition appears to be complied with.***

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

➤ ***This condition appears to be complied with.***

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

➤ ***Details of the proposed fenestration have been submitted with the further information response received by the Planning Authority on 16th February 2024. Details of a proposed door to the rear of the structure have also been provided. Therefore, compliance with the above appears to have been demonstrated.***

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

➤ ***This condition appears to be complied with.***

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

➤ ***This proposal relates to 3 no. units. Thus, this condition appears complied with.***

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

➤ ***The proposed floor plans indicate areas of storage which would appear to comply with the requirements of the aforementioned guidelines. A schedule of floor areas has been submitted with the Further Information response received by the Planning Authority on 16th February 2024. Accordingly, this appears to have been complied with.***

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

➤ ***This condition appears to be complied with.***

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

➤ ***The structure is not a protected structure.***

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

➤ ***The proposal does not appear to contravene a condition.***

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

➤ ***This condition is not applicable.***

(II) an area of special planning control;

➤ ***This condition is not applicable.***

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

➤ ***This condition is not applicable.***

(xi) No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

➤ ***This development is not de-exempted by the above sub-paragraphs of the Planning and Development Regulations 2001 (as amended).***

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

➤ ***This proposal is served by public mains. Thus, the above condition has been complied with.***

(e) (i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;

- *The above has been complied with as a Notification Form has been submitted with the further information response received by the Planning Authority on 16th February 2024.*

7) Recommendation

It is recommended that a declaration is issued to the applicant as per wording set out overleaf.

Signed: Bryan Joyce
A/Executive Planner

Date: 29/02/2024

Signed: [Signature]
Senior Executive Planner

Date: 29/02/24

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether the change of use from bank to residential use (exemption sought under SI75 of 2022) at Market Square, Tullow, Co. Carlow R93 P993 **is or is not development and is or is not exempted development.**

AS INDICATED on the particulars received by the Planning Authority on the 21/11/2023 and the further information response received on the 16/02/2024;

AND WHEREAS, Paul Osborne, Paul Osborne Architects, Munny Studio, Tullow, Co. Carlow R93 R683, on behalf of Jim and Mary Healy, 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) The planning history relating to the site;
- (b) The location of the referral site;
- (c) Section 2, 3 and 4 of the Planning and Development Act, 2000 as amended; and
- (d) Statutory Instrument 75 of 2022 of the Planning and Development Act (Exempted Development) Regulations 2022;
- (e) Articles 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended); and
- (f) Notification SI75/24.03 received by the Planning Authority on 16/02/2024.

AND WHEREAS Carlow County Council has concluded that:

- (a) the works constitute development, being works which come within the scope of section 3(1) of the Planning and Development Act 2000 (as amended).
- (b) the proposal would come within the scope of Statutory Instrument 75 of 2022 of the Planning and Development Act (Exempted Development) Regulations 2022 and Article 10(6) 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 the change of use from bank to residential use (exemption sought under SI75 of 2022 at Market Square, Tullow, Co. Carlow, R93 P993 **is development and is exempted development.**

CARLOW COUNTY COUNCIL
PLANNING DEPARTMENT

SECTION 5 DECLARATION



COMHAIRLE CONTAE
CHEATHARLACH
CARLOW COUNTY COUNCIL

Reg. Ref.	SEC5/23/39
Name of Applicant	Jim & Mary Healy
Address of Development	Market Square, Tullow, Co. Carlow R93 P993
Development Description	Change of use from bank to residential use (exemption sought under SI75 of 2022);

1) Site Location/Context

The Section 5 declaration site relates to a property at Market Square, Tullow, Co. Carlow and comprises a two-storey structure. The premises was previously occupied by Bank of Ireland which has since closed.



SITE LOCATION



AERIAL IMAGE

2) Relevant Planning History

PL93/159 - Permission for *'provision of new signage.'*
Granted 27/09/1993

PL07/1081 - Permission for *'construction of a disabled access ramp and hand rail to the existing front entrance.'*
Granted 24/01/2008

3) Description of the Referral/Proposal

An exempted development declaration is being sought for the partial change of use of the ground floor commercial unit to residential use comprising 2 no. apartments. A third apartment is proposed at first floor level with the applicant stating that this had been in residential use by the bank manager. The proposal also includes the provision of a window along the adjoining street.

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) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect 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 10 of the Planning and Development Regulations 2001 (as amended) relates to change of use. SI 75 of 2022 amends article 10 of the Planning and Development Regulations 2001 (as amended) by the inclusion of the following:

(6) (a) *In this sub-article—*

'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

'relevant period' means the period from 8 February 2018 until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall -

(I) primarily affect the interior of the structure,

(II) retain 50 per cent or more of the existing external fabric of the building, and

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the

exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

(e) (i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;

(ii) Details of each notification under subparagraph (i), which shall include information on—

(I) the location of the structure,

(II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and

(III) the Eircode for the relevant property,

shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.

(iii) During the years 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2026 each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii). ”.

5) Assessment

The section 5 declaration application relates to a change of use of a commercial property into residential use.

Does the proposal constitute development?

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 proposal, which involves the material change of use to residential use is deemed to constitute development within the meaning of this definition.

Does the proposal constitute exempted development?

The exemption is sought under SI 75 of 2022, thus the below assessment criteria is applicable:

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

- *The structure has been in situ in excess of the above years. Thus, the proposal is compliant with the above.*

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12,

- *The use as a bank would fall within Class 2(a) financial services. Thus, the proposal is compliant with the above.*

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

- *The applicant has stated the structure has been vacant in excess of two years. Documentation confirming same has not been furnished. Thus, the proposal has not demonstrated compliance with the above.*

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d) (i) The development is commenced and completed during the relevant period.

- *The applicant has not provided an indicative timeline for completion of the works. Thus, compliance with the above has not been demonstrated.*

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall -

(I) primarily affect the interior of the structure,

➤ ***This condition appears to be complied with.***

(II) retain 50 per cent or more of the existing external fabric of the building, and

➤ ***This condition appears to be complied with.***

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

➤ ***This condition appears to be complied with.***

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

➤ ***Details of the proposed fenestration has not been submitted. Thus, it is not possible to confirm compliance with the above.***

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

➤ ***This condition appears to be complied with.***

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

➤ ***This proposal relates to 3 no. units. Thus, this condition appears complied with.***

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.

➤ ***The proposed floor plans indicate areas of storage which would appear to comply with the requirements of the aforementioned guidelines. However, it is appropriate to request a schedule of floor areas illustrating same.***

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

➤ ***This condition appears to be complied with.***

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

➤ ***The structure is not a protected structure.***

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

➤ ***The proposal does not appear to contravene a condition.***

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

➤ ***This condition is not applicable.***

(II) an area of special planning control;

➤ ***This condition is not applicable.***

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

➤ ***This condition is not applicable.***

(xi) No development shall relate to matters in respect of which any of the restrictions set out in sub-paragraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

➤ ***This development is not de-exempted by the above sub-paragraphs of the Planning and Development Regulations 2001 (as amended).***

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

➤ ***This proposal is served by public mains, thus the above condition has been complied with.***

(e) (i) Where a person proposes to undertake development to which paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to the proposed change of use and any related works;

➤ ***The above has not been met as no notification form has been submitted. Further information is required in this regard.***

6) Recommendation

It is recommended that the following **further information** be requested in relation to this declaration request;

1. The Applicants are advised that Statutory Instrument 75 of 2022 of the Planning and Development Act (Exempted Development) Regulations 2022 may be an applicable exemption for the proposed change of use. It is noted that S.I. 75 requires a notification form to be submitted to the Planning Authority no later than 14 days prior to a change of use. In this regard, the Applicants are requested to submit the following:
 - (a) An exemption notification form in order for the Planning Authority to assess the proposal under S.I. 75 of 2022.
 - (b) Satisfactory evidence demonstrating the structure has been vacant for a minimum of two years.
 - (c) A schedule of floor areas demonstrating compliance with the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2022).
 - (d) Elevational drawings demonstrating the proposed additional window.
 - (e) Confirmation of intended commencement and completion dates of the proposed change of use.

Signed: Bryan Joyce
A/Executive Planner

Date: 29/11/23

Signed: A. L.
Senior Planner

Date: 31.11.23.

Appendix 1

APPROPRIATE ASSESSMENT SCREENING REPORT			
Planning Application Reg. Ref: SEC5/23/39			
A. DESCRIPTION OF PROJECT AND LOCAL SITE			
Site Location:	Market Square, Tullow, Co. Carlow R93 P663		
Total Site Area:	Not stated.		
Floor Area of Proposed Development:	Not stated.		
Identification of Natura 2000 site(s):	Slaney River Valley SAC (Site Code 000781)		
Is the application accompanied by an EIAR?	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			
The development comprises a change of use of an existing premises from vacant commercial use to residential use. Works are largely internal with minor exterior alterations being proposed. 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:	<i>Bryan Joyce</i>		
Position:	A/Executive Planner	Date:	29 th November 2023



Declaration on Development and Exempted Development
Section 5 of the Planning and Development Act 2000 (as amended)
Reg Ref SEC5/23/39

WHEREAS a question has arisen as to whether the change of use from bank to residential use (exemption sought under SI75 of 2022) at Market Square, Tullow, Co. Carlow R93 P993 **is or is not development and is or is not exempted development.**

AS INDICATED on the particulars received by the Planning Authority on the 21/11/2023 and the further information response received on the 16/02/2024;

AND WHEREAS, Paul Osborne, Paul Osborne Architects, Munny Studio, Tullow, Co. Carlow R93 R683, on behalf of Jim and Mary Healy, 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) The planning history relating to the site;
- (b) The location of the referral site;
- (c) Section 2, 3 and 4 of the Planning and Development Act, 2000 as amended; and
- (d) Statutory Instrument 75 of 2022 of the Planning and Development Act (Exempted Development) Regulations 2022;
- (e) Articles 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended); and
- (f) Notification SI75/24.03 received by the Planning Authority on 16/02/2024.

AND WHEREAS Carlow County Council has concluded that:

- (a) the works constitute development, being works which come within the scope of section 3(1) of the Planning and Development Act 2000 (as amended).
- (b) the proposal would come within the scope of Statutory Instrument 75 of 2022 of the Planning and Development Act (Exempted Development) Regulations 2022 and Article 10(6) 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 the change of use from bank to residential use (exemption sought under SI75 of 2022 at Market Square, Tullow, Co. Carlow, R93 P993 is development and is exempted development.

Signed:

Shirley O'Neill

Date: 15th March 2024