



Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Maria Horgan,
c/o Pat O'Halloran. B.E, Consulting Engineer,
Corbally Cross,
Ballinora,
Waterfall,
Cork T12 RD74.

10/11/2022

RE: Section 5 Declaration R749/22 Pinewood, Shanakiel, Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 02nd November 2022, I wish to advise as follows:

The Planning Authority, in view of the above and having regard to:

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

It is considered that the *“modification to first floor, rear elevation and attic storage area to facilitate new stairs to attic of dwellinghouse at Pinewood, Shanakiel”*

IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT as the proposed development does not accord with the exempted development provisions set out in either the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended).

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 10th November 2022.

Is mise le meas,

Kate Magner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

| | | |
|--|---|--|
| PLANNER'S REPORT Ref. R749/22 | | Cork City Council Development Management Strategic Planning and Economic Development |
| Application type | Section 5 Declaration | |
| Description | <i>Modification to first floor, rear elevation and attic storage area to facilitate new stairs to attic of dwellinghouse at Pinewood, Shanakiel</i> | |
| Location | Pinewood Shanakiel | |
| Applicant | Maria Horgan | |
| Date | 09/11/2022 | |
| Recommendation | <i>Is development and is not exempted development</i> | |

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a section 5 declaration are set out in the Act.

2. The Question before the Planning Authority

In response to Q2 on the application for the applicant frames the following question:

Modification to first floor, rear elevation and attic storage area to facilitate new stairs to attic of dwellinghouse at Pinewood, Shanakiel

3. Site Description

The property in question is a large detached dwelling on the northern side of the Skanakiel Road. It is located in a mature suburb of Cork, to the west of Cork City.

4. Planning History

There are no recent planning applications associated with the site.

5. Legislative Provisions

5.1 The Act – Planning and Development Act 2000 (as amended)

Section 2(1),

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1),

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

Section 4(1)(h),

The following shall be exempted developments for the purposes of this Act-development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which 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;

Section 4(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

Section 5(1),

(See section 1 of this report)

Section 177U (9) (screening for appropriate assessment)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

5.2 The Regulations – 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 –

- (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area ... and the development would materially affect the character of the area,*

Article 10 (1)

Development which consists of a change of use within any one of the classes of use as specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –

- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned*

6. ASSESSMENT

It should be stated at the outset that the purpose of this report is not to determine the acceptability or the proposal in respect to the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development.

6.1 Development

The first issue for consideration is whether or not the matter at hand is 'development'.

'Development' as defined in the Act (3)(1) comprises two possible chief components: *'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'*. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

'Works' is defined in section 2(1) of the Act as *'the carrying out of any works on, in, over, or under land' including '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.'*

I consider that the proposed works constitute development.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. There are two elements to consider – the internal changes proposed and the construction of a box dormer window to the rear of the property.

The subject site is not within an Architectural Conservation Area and the property is not on the Register of Protected Structures. Section 4(1)(h) of the Act sets out exemptions for internal changes to structures. The internal changes proposed accord with this exemption. I therefore conclude that the modifications to the attic storage area and construction of a new stairs, as internal works, are exempted development. These however rely upon external changes to provide the internal space to complete the changes. They can not occur in the absence of the proposed box dormer.

Regarding the proposed box dormer to the rear of the building, Section 4(1)(h) of the Act also sets out a limited exemption for development to the exterior of buildings which can potentially include external changes to structures. The measure used is whether the development / works *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.*

The dormer window will not be visible from the public realm. However it will change the character of the roofscape, the building and additionally has the potential to impact upon the amenity of adjoining residents. I consider that further assessment is required through a full planning application.

Accordingly, I conclude that the proposal is development and is not exempted development.

7. ENVIRONMENTAL ASSESSMENT

7.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations

2001 (as amended) it is considered that the development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly, it is considered that an environmental impact statement is not required to be submitted.

7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the development site relative to these European sites and related watercourses and to the nature and scale of the development it is considered that the development would not affect the integrity of the European sites referred to above. Accordingly, it is considered that appropriate assessment is not required.

8. RECOMMENDATION

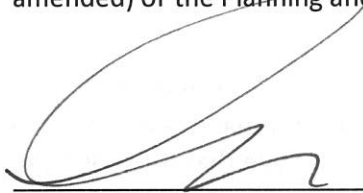
In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended).

It is considered that the —

Modification to first floor, rear elevation and attic storage area to facilitate new stairs to attic of dwellinghouse at Pinewood, Shanakiel

Is development and is not exempted development as the proposed development does not accord with the exempted development provisions set out in either the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended).



Martina Foley
Executive Planner

Pat O' Halloran, B.E,
Consulting Engineer,

Corbally, Ballinora, Waterfall Nr. Cork.

Mobile: [REDACTED] email: [REDACTED]

Our Ref: POH/MH

Your Ref:

28th October '22

TO: Secretary,
The Development Management Section,
Community, Culture and Place Making Directorate
Cork City Council,
City Hall,
Anglesea Street
Cork

Subject: Application for Planning Exemption for modification to first floor, rear elevation, and attic storage area to facilitate new stairs to attic of dwellinghouse at Pinewood, Shanakiel, Cork for Maria Horgan

A Chara,

I hereby attach Application for Planning Exemption for modification to first floor, rear elevation and attic storage area to facilitate new stairs to attic of dwellinghouse at Pinewood, Shanakiel, Cork for Maria Horgan

The reason for the development is to provide for safer and more practical access to the existing storage area within the attic space. This involves the removal of the existing spiral stairs, replacing it with a conventional stairs as well as providing a new dormer window at the rear elevation to provide for adequate head room for the stairs and natural lighting to the new stairwell

I attach:

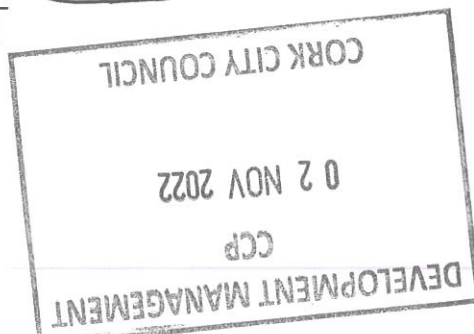
Fee amount of €80 (cheque

Application form, site location map (scale 1:1000 and house plans)

I advise, all correspondence in relation to this application should be forwarded to the undersigned.

Regards


Pat O'Halloran. B.E



PAT O'HALLORAN B.E. CIVIL
CONSULTING ENGINEER
[REDACTED]
[REDACTED]

CONTACT DETAILS

10. Applicant:

| | |
|----------------|----------------------------------|
| Name(s) | Maria Horgan |
| Address | Pinewood, Shanakiel, Cork |
| | ----- |
| | ----- |
| | ----- |

11. Person/Agent acting on behalf of the Applicant (if any):

| | | |
|---|--|-----------------------------|
| Name(s): | Pat O'Halloran. B.E, Consulting Engineer. | |
| Address: | Corbally Cross, | |
| | ----- | |
| | Ballinora, | |
| | ----- | |
| | Waterfall, | |
| | ----- | |
| | Cork | |
| | ----- | |
| | Eircode: T12 RD74 | |
| Telephone: | [REDACTED] | |
| E-mail address: | [REDACTED] | |
| Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

12. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

**The Development Management Section, Community, Culture & Placemaking Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.**

3. Are you aware of any enforcement proceedings connected to this site?

If so please supply details:

No

4. Is this a Protected Structure or within the curtilage of a Protected Structure? *NO*

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?

5. Was there previous relevant planning application/s on this site?

If so please supply details:

NO

6. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

| | |
|--|--|
| (a) Floor area of <u>existing</u> /proposed structure/s | <i>173 sqm.</i> |
| (b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)? | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas. (sq m) _____ |
| (c) If concerning a change of use of land and / or building(s), please state the following: <i>N/A</i> | |
| Existing/ previous use (please circle) | Proposed/existing use (please circle) |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

8. LEGAL INTEREST

| | | |
|---|--|-----------------------------------|
| Please tick appropriate box to show applicant's legal interest in the land or structure | A. Owner <input checked="" type="checkbox"/> | B. Other <input type="checkbox"/> |
| Where legal interest is 'Other', please state your interest in the land/structure in question | _____ | |
| If you are not the legal owner, please state the name and address of the owner if available | _____ | |

9.1 / We confirm that the information contained in the application is true and accurate:

Signature: *Pat O'Mahon*
Date: *28.10.2022*

565121

571935

571935

**Planning Exemption for Maria Horgan
Site Location Map – Site Outlined in red.**
Scale: 1:1000
Map Prepared by: Pat O'Halloran, B.E
Date: 28th October 2022

CENTRE COORDINATES:
ITM 565238,571849

PUBLISHED: 27/10/2022
ORDER NO.: 50299461_1

MAP SERIES: 1:1,000
MAP SHEETS: 6382-07
1:1,000 6382-12

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2022

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571763

LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'



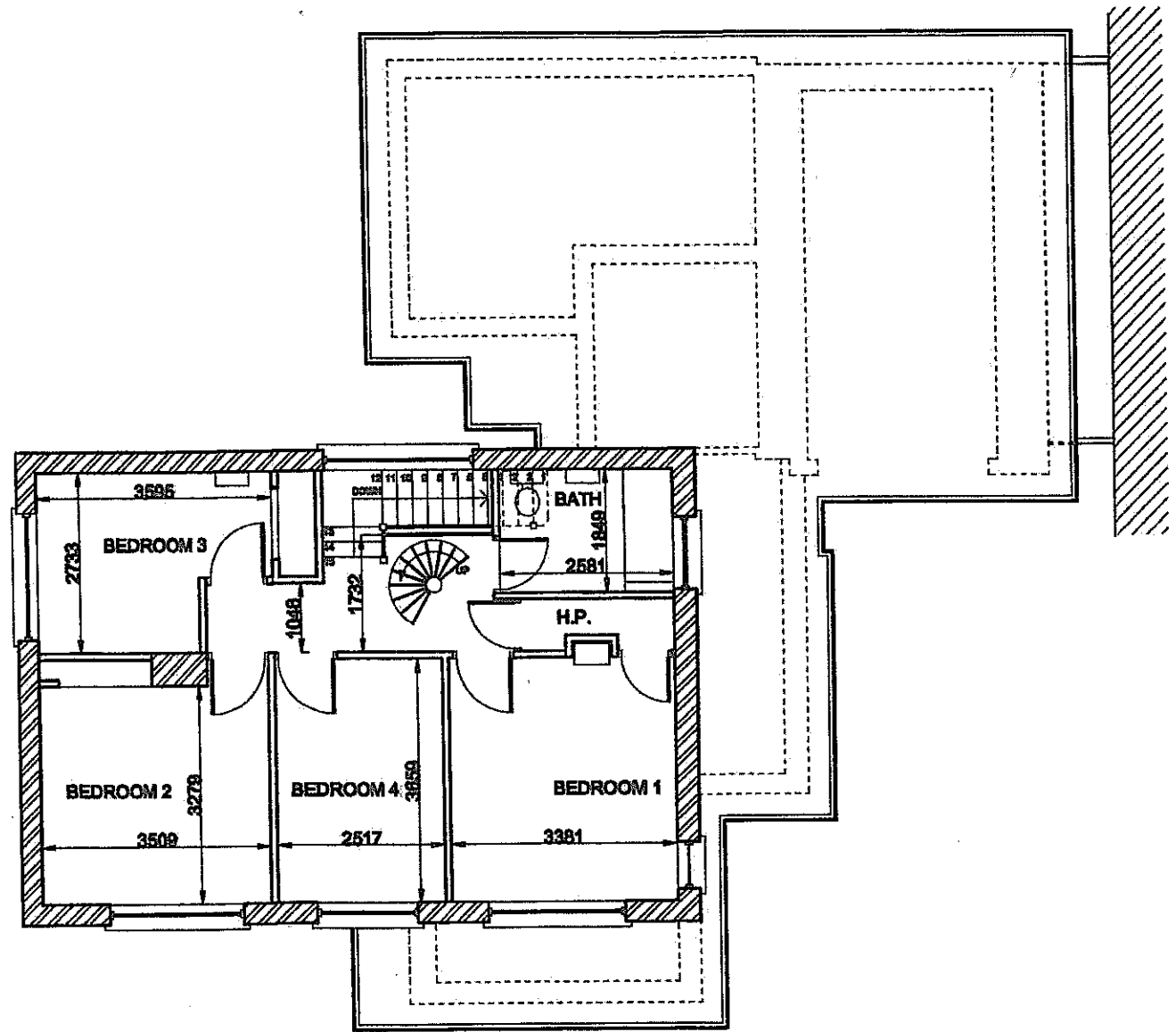
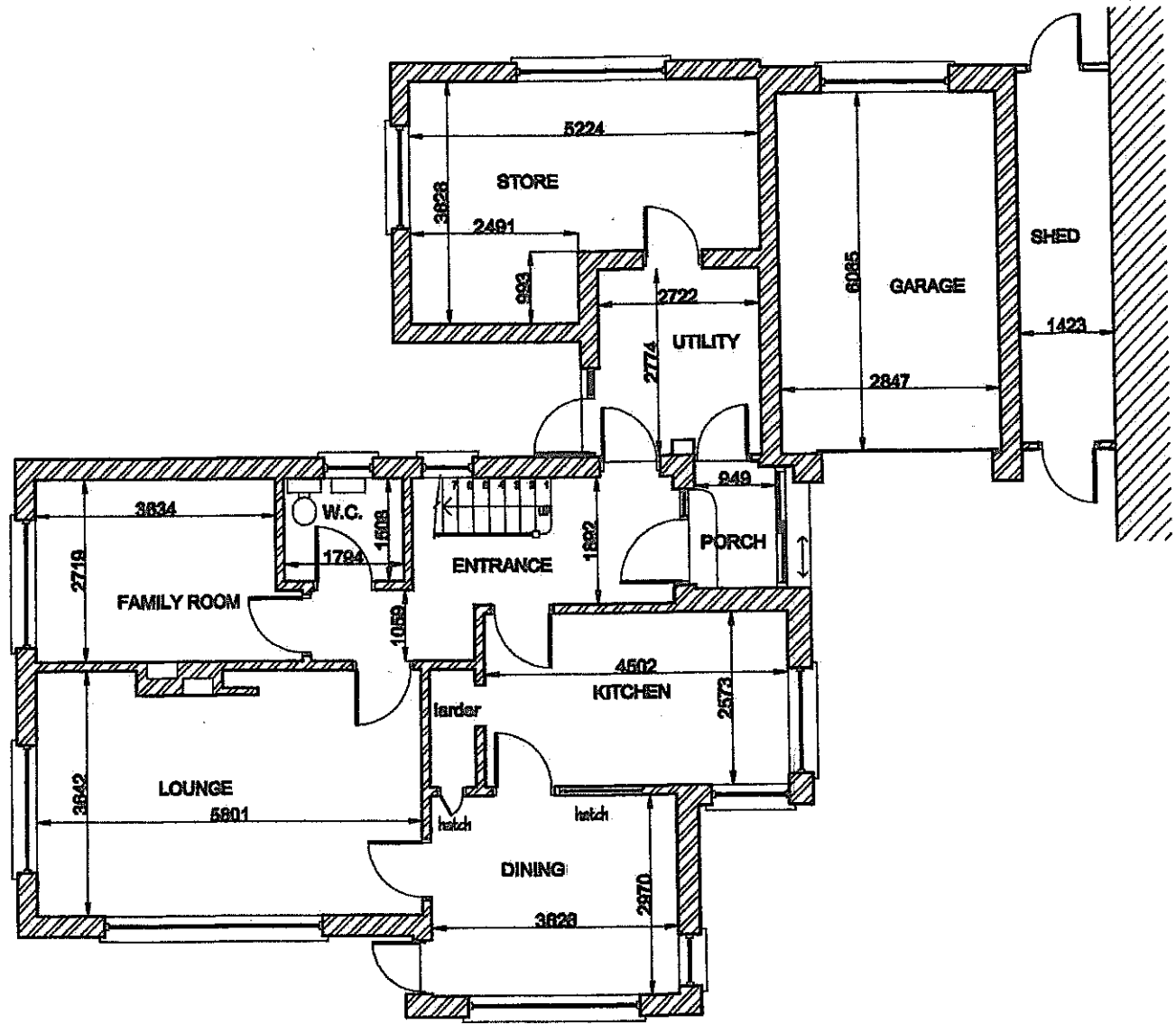
CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
<http://www.osi.ie>; search 'Capture Resolution'

OUTPUT SCALE: 1:1,000

571763

565121

565354



Pat O' Halloran B.E.
 CONSULTING ENGINEER
 CORBALLY, BALLINORA, WATERFALL, CO. CORK
 MOBILE: 088-8402284
 EMAIL: patohconsulting@gmail.com

| REV. | DATE | BY | COMMENTS |
|------|----------|----|-----------------------|
| A | OCT. '22 | PW | EXISTING HOUSE SURVEY |

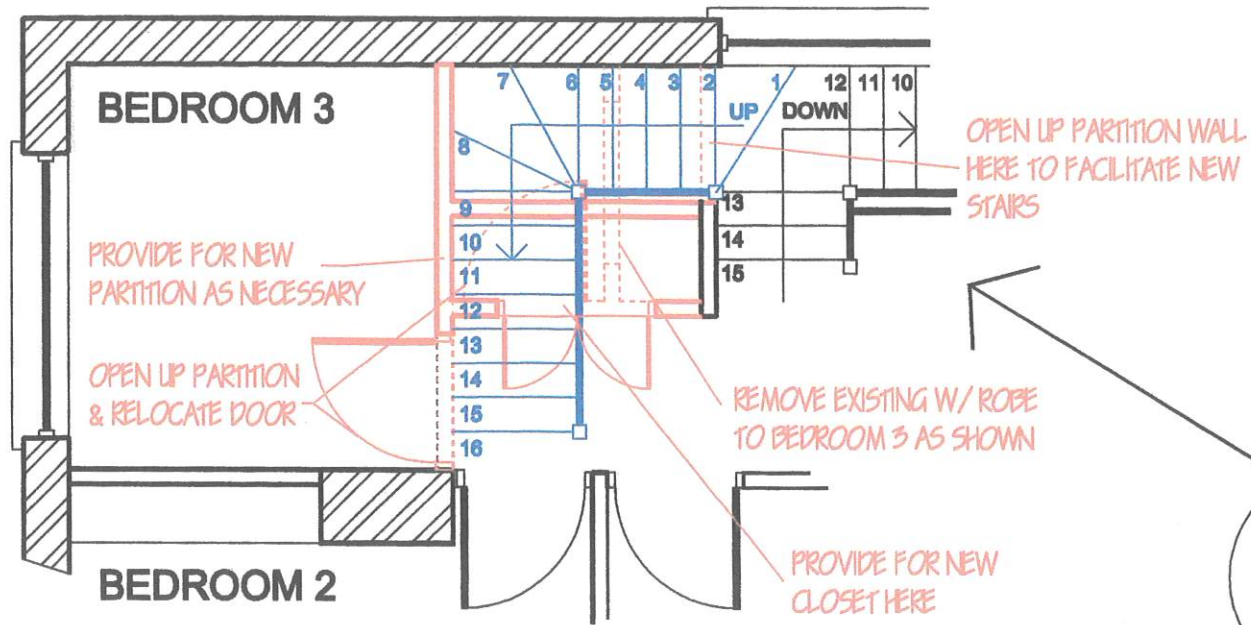
| | | | |
|----|-------|----------------|---------|
| By | PW | Rev | OCT.'22 |
| By | PO'H | Rev | 1/100 |
| By | PLANS | Drawing Number | 16/22 |
| | | Revision | A |

SURVEY OF EXISTING DWELLING HOUSE FOR DR. MARIE HORGAN AT 'PINWOOD', SHANAKIEL ROAD, SUNDAY'S WELL, CORK (EIRCODE T23WV82)

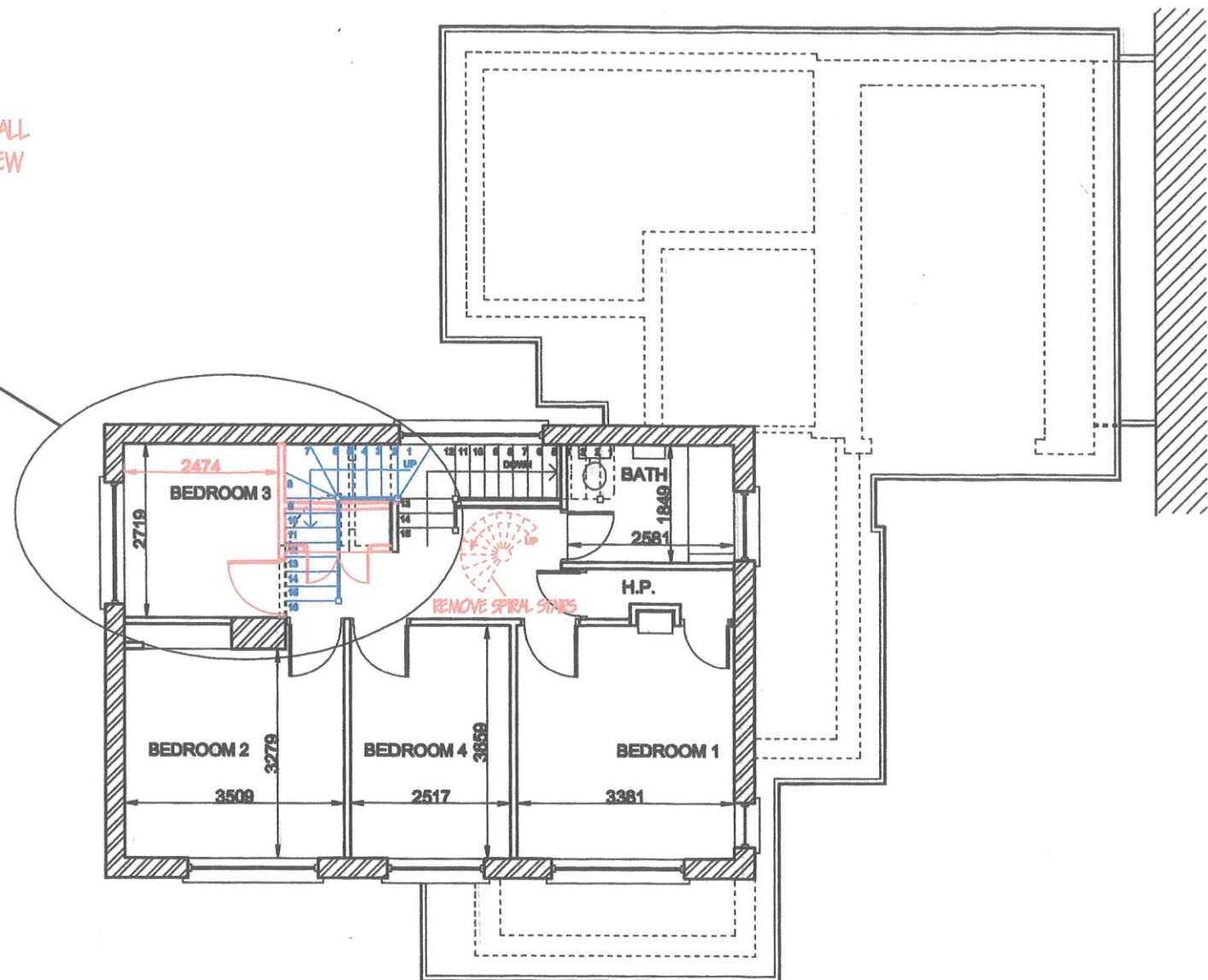
NEW STAIRS LAYOUT SHOWN IN BLUE

NEW / RENOVATED WORKS SHOWN IN RED

EXISTING HOUSE LAYOUT SHOWN IN BLACK



ENLARGED DETAIL SCALE 1:50



FIRST FLOOR PLAN SCALE :1:100

Engineer
Pat O' Halloran B.E.
 CONSULTING ENGINEER
 CORBALLY, BALLINORA, WATERFALL, CO. CORK
 MOBILE: 086-8402284
 EMAIL: patohconsulting@gmail.com

| REV. | DATE | BY | COMMENTS |
|------|----------|----|----------------------------|
| A | OCT. '22 | PW | PROPOSED NEW STAIRS LAYOUT |

| | | | |
|----------|-------|----------------|----------|
| Drawn By | PW | Date | OCT.'22 |
| Checked | PO'H | Scale | AS NOTED |
| Drawing | PLANS | Drawing Number | 16/22 |
| | | Revision | A |

Project
MODIFICATIONS TO EXISTING FIRST FLOOR PLAN TO FACILITATE NEW STAIRS TO ATTIC FOR DR. MARIE HORGAN AT 'PINWOOD', SHANAKIEL ROAD, SUNDAY'S WELL, CORK (EIRCODE T23WV82)

FLAT ROOF CONSTRUCTION

BUILD UP FIREGLASS ROOF INCLUDING TRIMS, UPSTANDS ETC. BY SPECIALIST'S SUB-CONTRACTOR ON 18MM OSB BOARDING ON 50MM TO 12MM FIRRINGS NAILED TO ROOF JOISTS 150 X 50 @400MM CRS LAY 150MM INSULATION BETWEEN JOISTS, ENSURE AIR GAP FOR CROSS VENTILATION

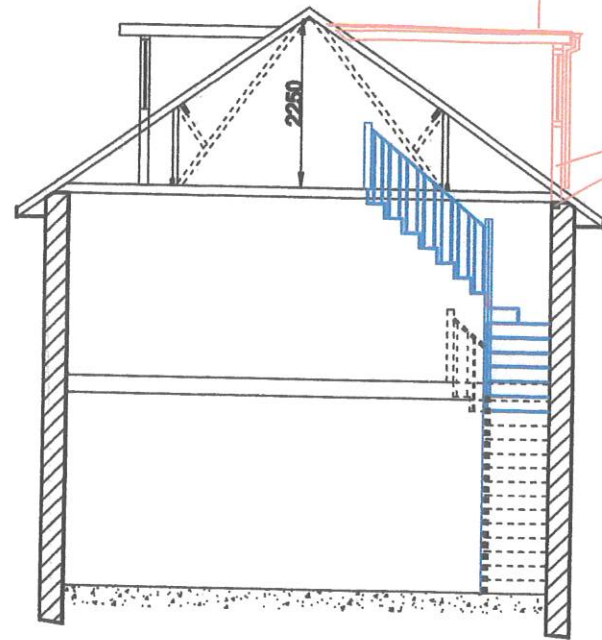
STUD PARTITION UPRIGHT WALL

SKIMMED INS. PLASTER SLAB ON TO VAPOUR CONTROL BARRIER ON TO 100 X 50 STUDS @400 CRS. WITH INS. BETWEEN STUDS. LAY 18MM OSB BOARD TO OUTSIDE OF STUDS WITH BREATHABLE MEMBRANE. NAIL VERT. BATTENS TO SAME AND HORZ. COUNTERBATTEN SAME. APPLY EXTERNAL LAPPED SHEETING TO SAME ON COMPLETION

NEW STAIRS LAYOUT SHOWN IN BLUE

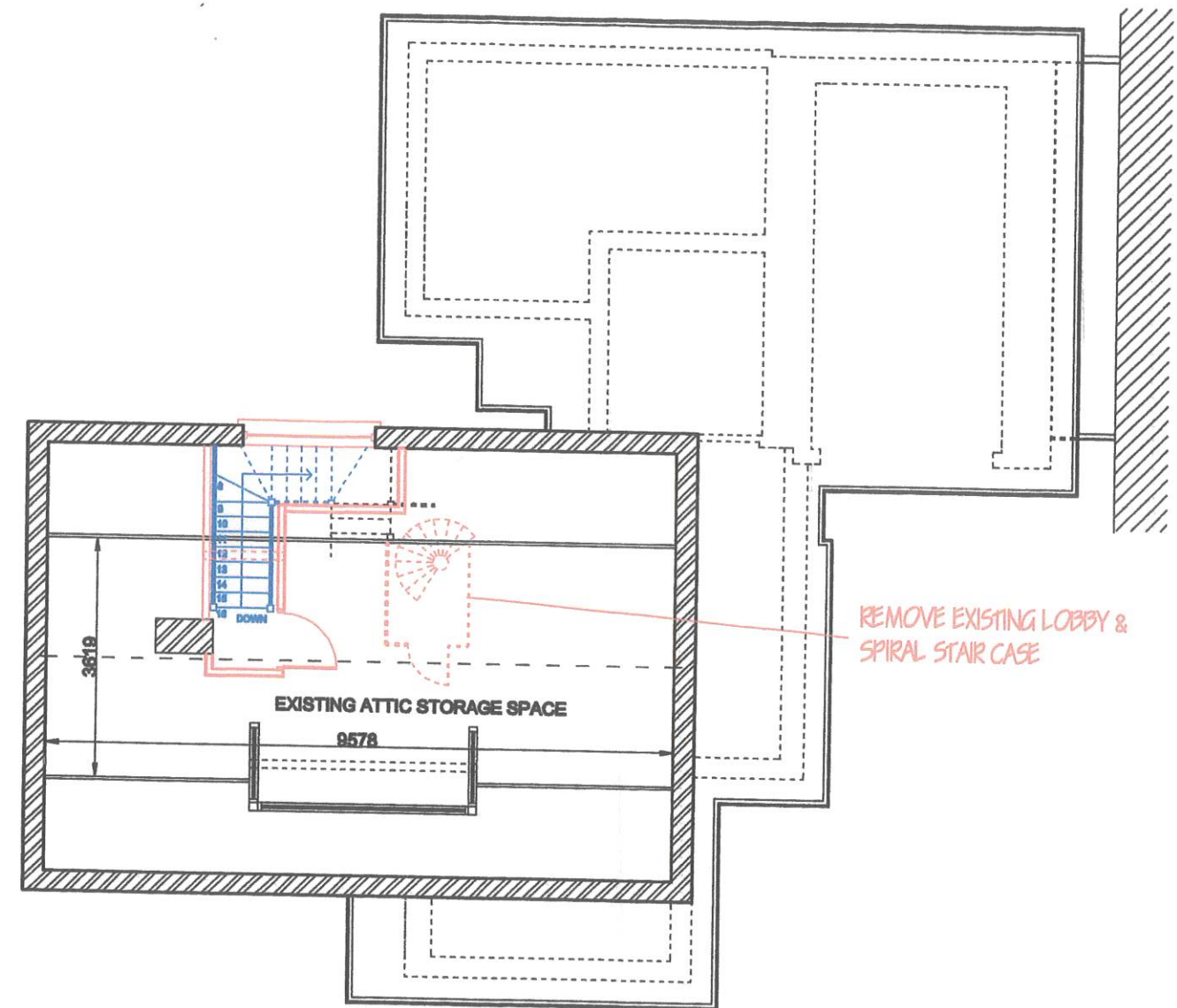
NEW / RENOVATED WORKS SHOWN IN RED

EXISTING HOUSE LAYOUT SHOWN IN BLACK



TYPICAL SECTION

SPIKE-NAIL STUD UPRIGHTS ON TO EXISTING ROOF WALL PLATE



ATTIC FLOOR PLAN

REMOVE EXISTING LOBBY & SPIRAL STAIR CASE

Engineer
Pat O' Halloran B.E.
 CONSULTING ENGINEER
 CORBALLY, BALLINORA, WATERFALL, CO. CORK
 MOBILE: 086-8402284
 EMAIL: patchconsulting@gmail.com

| REV. | DATE | BY | COMMENTS |
|------|----------|----|-----------------------|
| A | OCT. '22 | PW | EXISTING HOUSE SURVEY |

| | | | |
|----------|----------------------|---------------|---------|
| Drawn by | PW | Date | OCT.'22 |
| Checked | PO'H | Scale | 1/100 |
| Design | ATTIC PLAN & SECTION | Design Number | 16/22 |
| | | Revisions | A |

Project
MODIFICATIONS TO EXISTING ATTIC & REVISED SECTION FOR DR. MARIE HORGAN AT 'PINWOOD', SHANAKIEL ROAD, SUNDAY'S WELL, CORK (EIRCODE T23WV82)

NEW / RENOVATED WORKS SHOWN IN RED



SIDE ELEVATION



SIDE ELEVATION



FRONT ELEVATION (no change)



REAR ELEVATION

Engineer
Pat O' Halloran B.E.
 CONSULTING ENGINEER
 CORBALLY, BALLINORA, WATERFALL, CO. CORK
 MOBILE: 086-8402284
 EMAIL: patohconsulting@gmail.com

| REV. | DATE | BY | COMMENTS |
|------|----------|----|-----------------------|
| A | OCT. '22 | PW | EXISTING HOUSE SURVEY |

| | | | |
|------------|------------|----------------|---------|
| Drawn by | PW | Date | OCT.'22 |
| Checked by | PO'H | Scale | 1/100 |
| Drawn by | ELEVATIONS | Drawing Number | 16/22 |
| | | Revision | A |

Project
MODIFICATIONS TO EXISTING HOUSE ELEVATIONS TO FACILITATE NEW REAR DORMER WINDOW FOR DR. MARIE HORGAN AT 'PINWOOD', SHANAKIEL ROAD, SUNDAY'S WELL, CORK (EIRCODE T23WV82)