

## Comhairle Cathrach Chorcaí Cork City Council

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

Margaret & David Moloney, c/o Shane Fenton MRIAI, Wain Morehead Architects Ltd., Pembroke House, Pembroke Street, Cork T12 WY7P.

16/02/2023

RE:

Section 5 Declaration R757/23 42 Foxwood, Garryduff, Rochestown, Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 20<sup>th</sup> January 2023, I wish to advise as follows:

The Planning Authority, having regard to:

- The particulars received by the Plannign Authority on 20/01/2023,
- Sections 2, 3 and 4 of the Planning and Development Act 2000 as amended, and
- The provision of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001(as amended),

The Planning Authority considers that the *construction of a single storey extension to the rear* of 42 Foxwood, Garryduff, Rochestown, Cork is **DEVELOPMENT** and is **EXEMPTED DEVELOPMENT**.

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, 16<sup>th</sup> February 2023.

Is mise le meas,

Kate Magner

**Development Management Section** 

Community, Culture and Placemaking Directorate

**Cork City Council** 



9		Cork City Council
PLANNER'S REPORT		Development
Ref. R758/23		Management
		Strategic Planning and
		Economic Development
Application type	Section 5 Declaration	
2		
Description	Is the construction of a 34 sq.m rear extension to the	he east of 42 Foxwood,
	Garryduff, Rochestown, Cork T12 A0ET development, development?	and if so, is it exempted
Location	42 Foxwood, Garryduff, Rochestown, Cork T12 A0ET	
Applicant	Margaret and David Moloney	
Date	16/02/2023	
Recommendation	IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.	

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 form, the applicant frames the following question:

"Is the construction of a 34 sq.m rear extension to the east of 42 Foxwood, Garryduff, Rochestown, Cork T12 A0ET development, and if so, is it exempted development?"

In my opinion, and having reviewed the proposed drawings, it is considered that the question before the planning authority is clear.

#### 3. Site Description

The property in question is a two-storey semidetached house located within an estate of similar houses in Garryduff. The house benefits from an existing addition at rear ground floor level which appears to have formed part of the original construction and was not a later addition. There is also a shed present in the rear garden which would be removed as part of the proposed works.

#### 4. Planning History

None

## 5. Legislative Provisions

## 5.1 The Act

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(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

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.

SCHEDULE 2, ARTICLE 6, PART 1, Exempted Development — General

SCHEDULE 2, ARTICLE 6, PART 1, Exe	empted Development — General
Column 1	Column 2
Description of Development	Conditions and Limitations
Development within the curtilage	1. (a) Where the house has not been extended previously, the
of a house	floor area of any such extension shall not exceed 40
CLASS 1	square metres.
The extension of a house, by the	(b) Subject to paragraph (a), where the house is terraced or
construction or erection of an	semi-detached, the floor area of any extension above
extension (including a	ground level shall not exceed 12 square metres.
conservatory) to the rear of the	(c) Subject to paragraph (a), where the house is detached, the
house or by the conversion for use	floor area of any extension above ground level shall not
as part of the house of any garage,	exceed 20 square metres.
store, shed or other similar	2. (a) Where the house has been extended previously, the floor
structure attached to the rear or	area of any such extension, taken together with the floor
to the side of the house.	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
2 - 4	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
8 5 1	after 1 October 1964, including those for which planning
* ·	permission has been obtained, shall not exceed 12 square
	metres.
1 ,-8 1.	(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
24	ground level constructed or erected after 1 October 1964,
1	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.
- (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.

#### 6. ASSESSMENT

#### 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. '.

It is considered that the erection of a rear extension constitutes the carrying out of works and as such it constitutes development.

## 6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

The rear extension as constructed may be exempt if it accords with the exemption set out in Class 1 in Schedule 2 of the Planning and Development Regulations 2001 (as amended). The following is a review of the proposal against the conditions / limitations set out in Class 1.

- 1. (a) Where the house has not been extended (a) The house has not already been extended at previously, the floor area of any such ground floor. It is noted that 2.64 sqm of the extension shall not exceed 40 square metres. existing original rear protruding element will (b) Subject to paragraph (a), where the house is be incorporated into the proposed terraced or semi-detached, the floor area of extension and so should be deducted from any extension above ground level shall not the area of the proposed extended element. exceed 12 square metres. This results in net new floorspace of less (c) Subject to paragraph (a), where the house is than 40 sq.m. detached, the floor area of any extension (b) n/a above ground level shall not exceed 20 (c) n/a square metres. 2. (a) Where the house has been extended (a) House does not appear to have been previously, the floor area of any such previously extended at ground floor level. The extension, taken together with the floor area existing rear protrusion appears to have of any previous extension or extensions formed part of the original construction. constructed or erected after 1 October 1964, (b) n/a including those for which planning (c) n/a 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.
- n/a
- (a) The height of the wall does not exceed the existing height of the rear wall of the dwelling.
- (b) n/a

(b) Where the rear wall of the house includes a (c) The height does not exceed the height of the gable, the height of the walls of any such eaves / parapet 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 A proposed site layout plan has been provided extension to the rear of the house shall not and from this it can be seen that no less that 25 reduce the area of private open space, sq.m. private open space would remain to the reserved exclusively for the use of the rear of the house. 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 The windows shown to the extension are in such extension shall not be less than 1 metre excess of 1m from the boundary they face. 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 7. The roof of any extension shall not be used as a The roof of the proposed extension does not balcony or roof garden.

## 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.

appear to be used as a balcony or garden.

## 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

Having regard to:

- the particulars received by the Planning Authority on 20/01/2023
- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- the provision of Schedule 2, Part 1, Class 1 the Planning and Development Regulations, 2001(as amended)

the planning authority considers that -

the construction of a single storey extension to the rear of 42 Foxwood, Garryduff, Cork IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.

Gillian Tyrrell Assistant Planner

16.02.2023

# DEVELOPMENT MANAGEMENT CCP

2 0 JAN 2023

COMHAIRLE CATHRACH CHORCAÍ CORKGO TO UNGIL

Community, Culture & Placemaking Directorate, Cork City Council, City Hall, Anglesea Street, Cork. R-Phost/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924762

Líonra/Web: www.corkcity.ie

## SECTION 5 DECLARATION APPLICATION FORM

under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

42 FOXWOOD, GAVYYDUFF,

Rochestown, Cork, TIZADET.

Is the construction of a shed at No 1 Wall St, Cork development and if so, is it

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Note: only works listed and described under this section will be assessed under the section 5 declaration.

exempted development?

## 2. QUESTION/ DECLARATION DETAILS

Sample Question:

and if so is it exempted development!	
ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT: (Use additional sheets if required).	
The proposed extension to this semi-detached dwelling:	
The proposed extension to this semi-detached dwelling: - has not been previously extended and the proposed floor area for the extension is \$34 sq mc less than 40)	
- the proposed extension does not have any floor above ground level.	
- the rear wall of the existing house does not have a gable and the proposed extensions walls do not exceed the height of the rear wall of the house.	
- the highest part of the extension's roof (monopitch) does not exceed the highest part of the dwelling's roof.	
- the area of private open space to the rear of the house is not reduced to less than 25 sqm (reargarden-55 sqm retained	A)
- No proposed ground floor windows are within Im of the boundary if faces.	
- the extensions roof shall not be used as a balcony or roof garden.	

	If yes, has a Declaration under Section 57 of requested or issued for the property by the	f the Plai	nning & Deve	1 10
5.	Was there previous relevant planning appliance of the so please supply details:	ication/s	on this site?	□ No
6.	APPLICATION DETAILS			
nswer nould b	the following if applicable. Note: Floor areas are be indicated in square meters (sq. M)	measured	from the insid	
	a) Floor area of existing/proposed structure/s	5	10759	m /3459m pv
	b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including for which planning permission has been obtained)?	those	NA	No provide floor areas. (sq m)
(c	extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including for which planning permission has been obtained)?  c) If concerning a change of use of land and /	those or buildi	If yes, please  NA  ng(s), please s	provide floor areas. (sq m)
(c	extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including for which planning permission has been obtained)?  c) If concerning a change of use of land and /	those or buildi	If yes, please  NA  ng(s), please s	provide floor areas. (sq m)
(c	extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including for which planning permission has been obtained)?  c) If concerning a change of use of land and /	those or buildi	If yes, please  NA  ng(s), please s	provide floor areas. (sq m)
(c Existir	extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including for which planning permission has been obtained)?  c) If concerning a change of use of land and /	those or buildi	If yes, please  NA  ng(s), please s	provide floor areas. (sq m)
(c Existin	extensions/structures been erected at this location after 1st October, 1964, (including for which planning permission has been obtained)?  If concerning a change of use of land and / mg/ previous use (please circle)	those or buildi	NA ng(s), please s existing use (	provide floor areas. (sq m)
(c Existin	extensions/structures been erected at this location after 1st October, 1964, (including for which planning permission has been obtained)?  If concerning a change of use of land and / ng/ previous use (please circle)  Production of the properties	or buildi roposed/	If yes, please  NA  ng(s), please s existing use (	state the following: NA

## **CONTACT DETAILS**

## 10. Applicant:

Name(s)	Margaret + David Moloney
Address	42 Foxwood, Garryduff Rochestown, Cork, TIZADET

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

Name(s):	Shane Fenton MRIAI
Address:	Wain Morehead Architects Ltd.
	Pembroke House, Pembroke Street.
	TIZWYTP, Cork.
Telephone:	021 2455700
E-mail address:	restanding marc
	Idence be sent to the above address?  r is 'No', all correspondence will be sent to the Applicant's  No

## 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.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the
  question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may
  on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board
  within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

**DATA PROTECTION:** The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution.



ARCHITECTURE, INTERIOR DESIGN & PROJECT MANAGEMENT



Pembroke House, Pembroke Street, Cork, T12 W7YP, Ireland T: +353 - (0)21 - 2455 700 E: wma@wma.ie W: www.wma.ie

20 January 2023

11089/PI01

## RE: 42 Foxwood, Garryduff, Rochestown

The Development Management Section,

Cork City Council, City Hall, Anglesea Street, Cork,

Community, Culture & Placemaking Directorate,

Dear Sir / Madam,

T12 T997

On behalf of our clients Mr. & Mrs. Margaret & David Moloney, please find enclosed a Section 5 Application for a residential extension for the above project, at 42 Foxwood, Garryduff, Rochestown, T12A0ET. Below is a complete schedule of documents submitted as part of this application.

We trust that this is in order.

Should you have any queries, please do not hesitate to contact the undersigned. Yours sincerely,

Shane Fenton MRIAI WAIN MOREHEAD ARCHITECTS LTD.

Enc.

DEVELOPMENT MANAGEMENT CCP

20 JAN 2023

## Schedule of Documents:

D. N. D. D.			CITY COUNC		
Doc No.	Rev	Document Name	Scale	No of	
	-		1	Copies	
		Cover Letter	-	2	
-		Section 5 declaration application form	-	2	
The following	report	s and drawings prepared by Wain Morel	head Architects Ltd.		
11089-002	1	OSI Site location Map	1:1000 @A4	2	
11089-010	7	Existing Site Plan	1:100 @ A3	2	
11089-011	7	Demo. Ground Floor/First Floor Plans	1:100 @ A3	2	
11089-020	7	Existing Elevation	1:100 @ A3	2	
11089-100	7	Proposed Site Plan	1:100 @A3	2	
11089-101	9	Proposed Ground Floor Plan	1:50 @A3	2	
11089-102	7	Proposed FF Plan & Section 4	1:100 @A3	2	
11089-201	7	Proposed Elevation	1:100 @A3	2	
11089-301	6	Proposed Sections 1	1:100 @ A3	2	

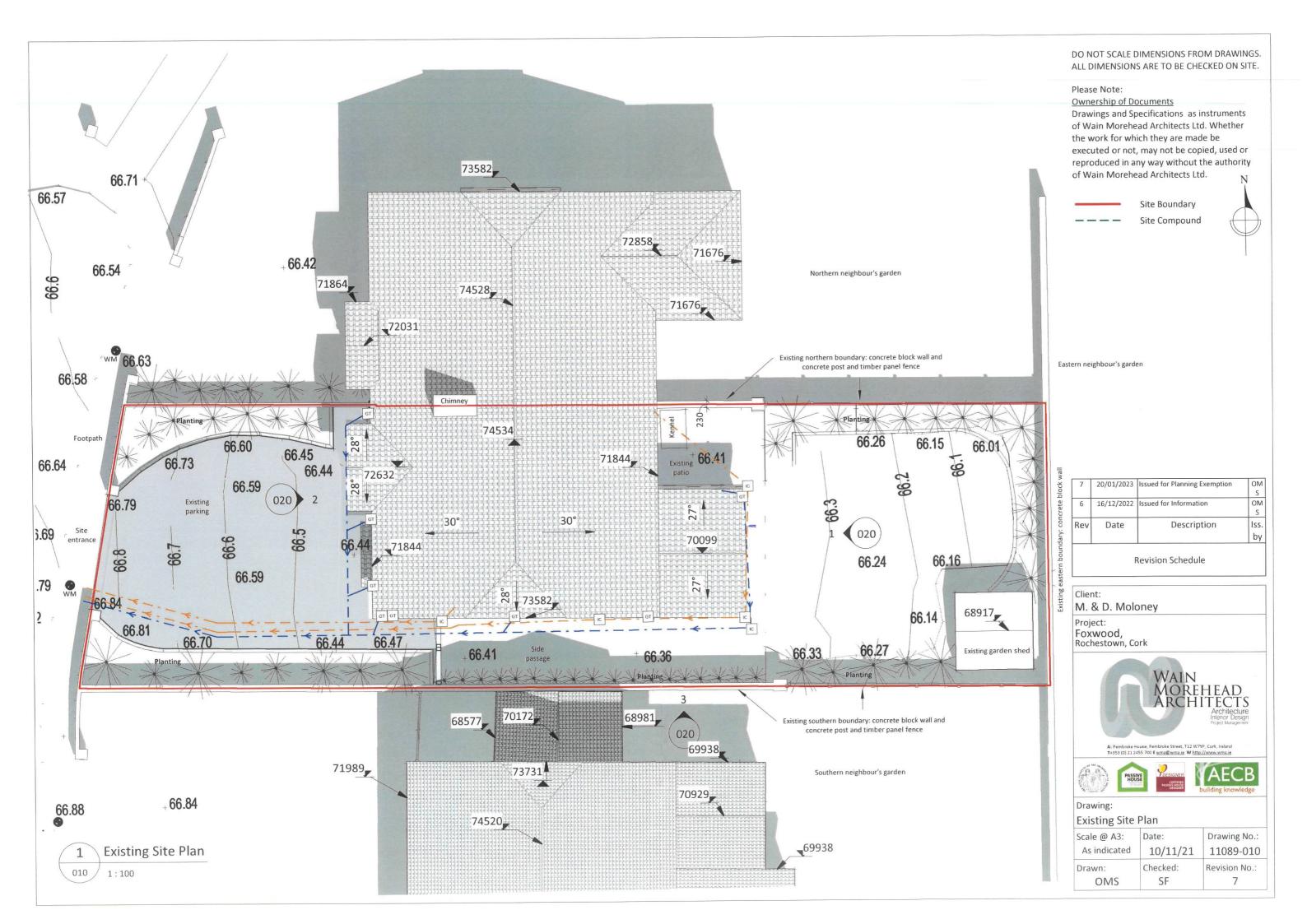


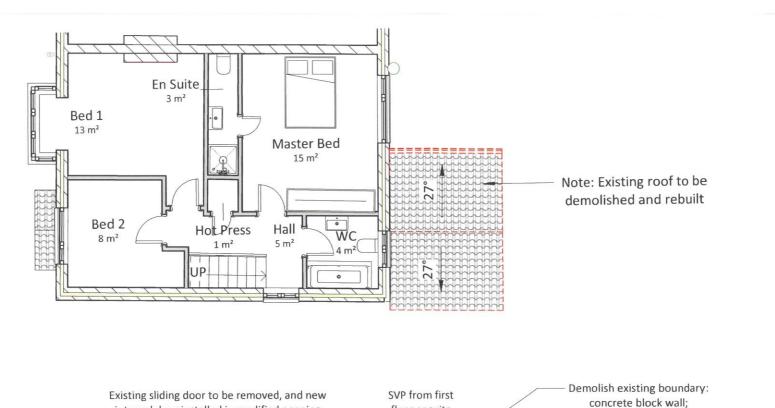


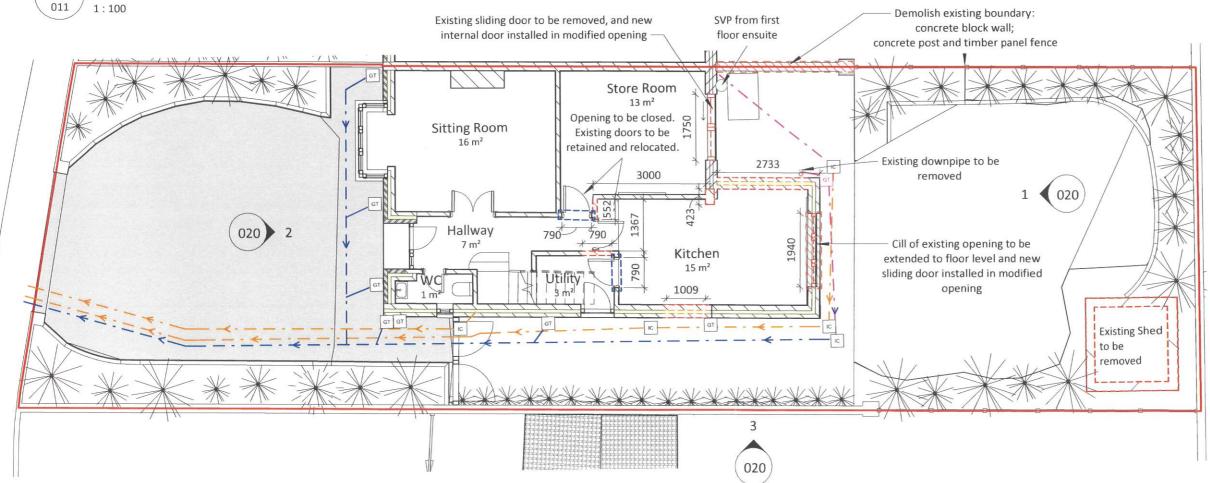












011-Demolition Ground Floor Plan

**Existing First Floor Plan** 

011

011 1:100 DO NOT SCALE DIMENSIONS FROM DRAWINGS. ALL DIMENSIONS ARE TO BE CHECKED ON SITE.

Please Note:

Ownership of Documents

Drawings and Specifications as instruments of Wain Morehead Architects Ltd. Whether the work for which they are made be executed or not, may not be copied, used or reproduced in any way without the authority of Wain Morehead Architects Ltd.

Site Boundary Site Compound Existing Foul Drainage Existing Surface Water Drainage Drainage to be Demolised To be Demolished To be Filled In/Blocked Up

7	20/01/2023	Issued for Planning Exemption	OM S
6	16/12/2022	Issued for Information	OM S
Rev	Date	Description	lss.

Revision Schedule

Client: M. & D. Moloney

Project: Foxwood, Rochestown, Cork



A: Pembroke House, Pembroke Street, T12 W7YP, Cork, Ireland T+353 (0) 21 2455 700 E wma@wma.ie W http://www.wma.ie







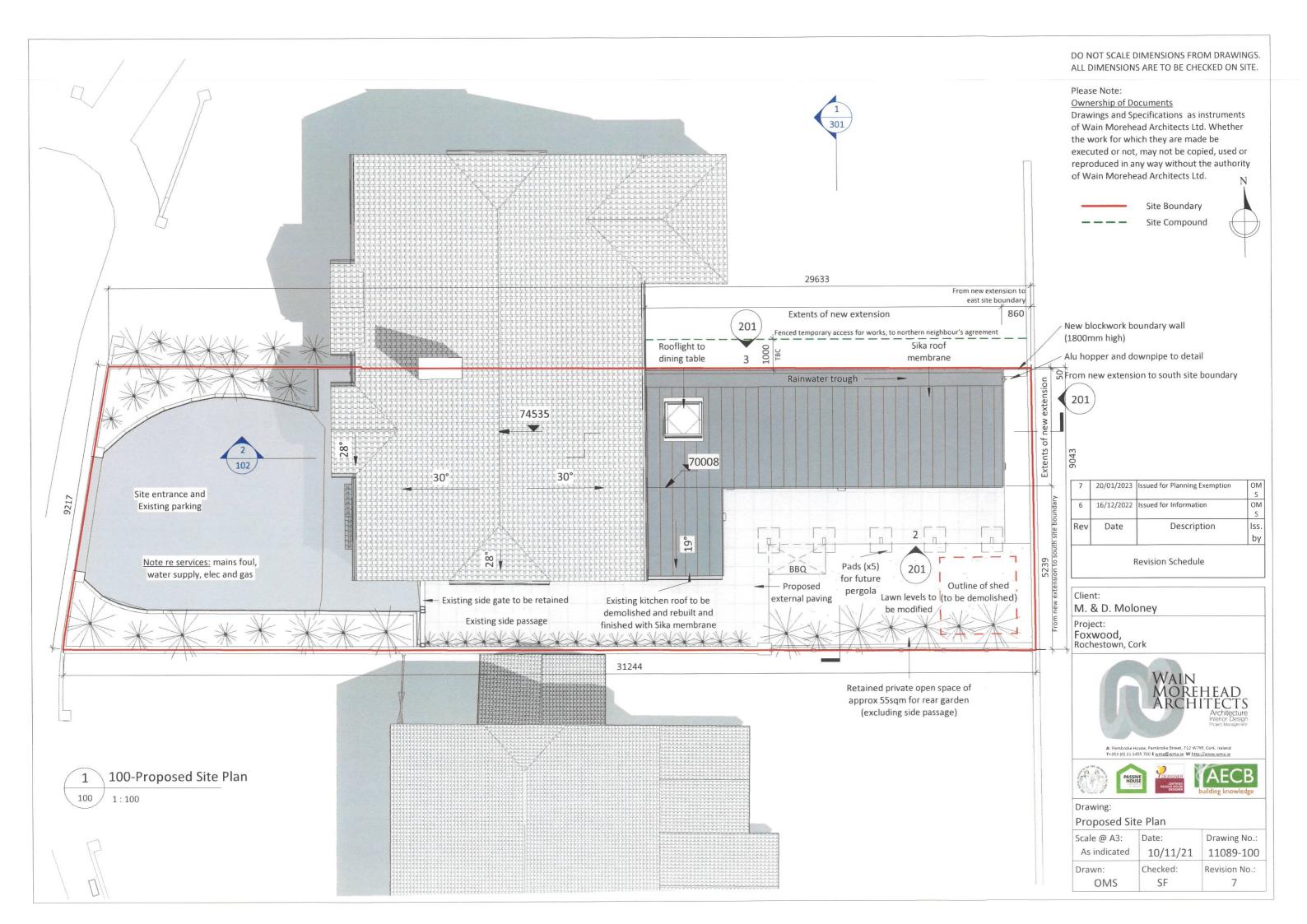


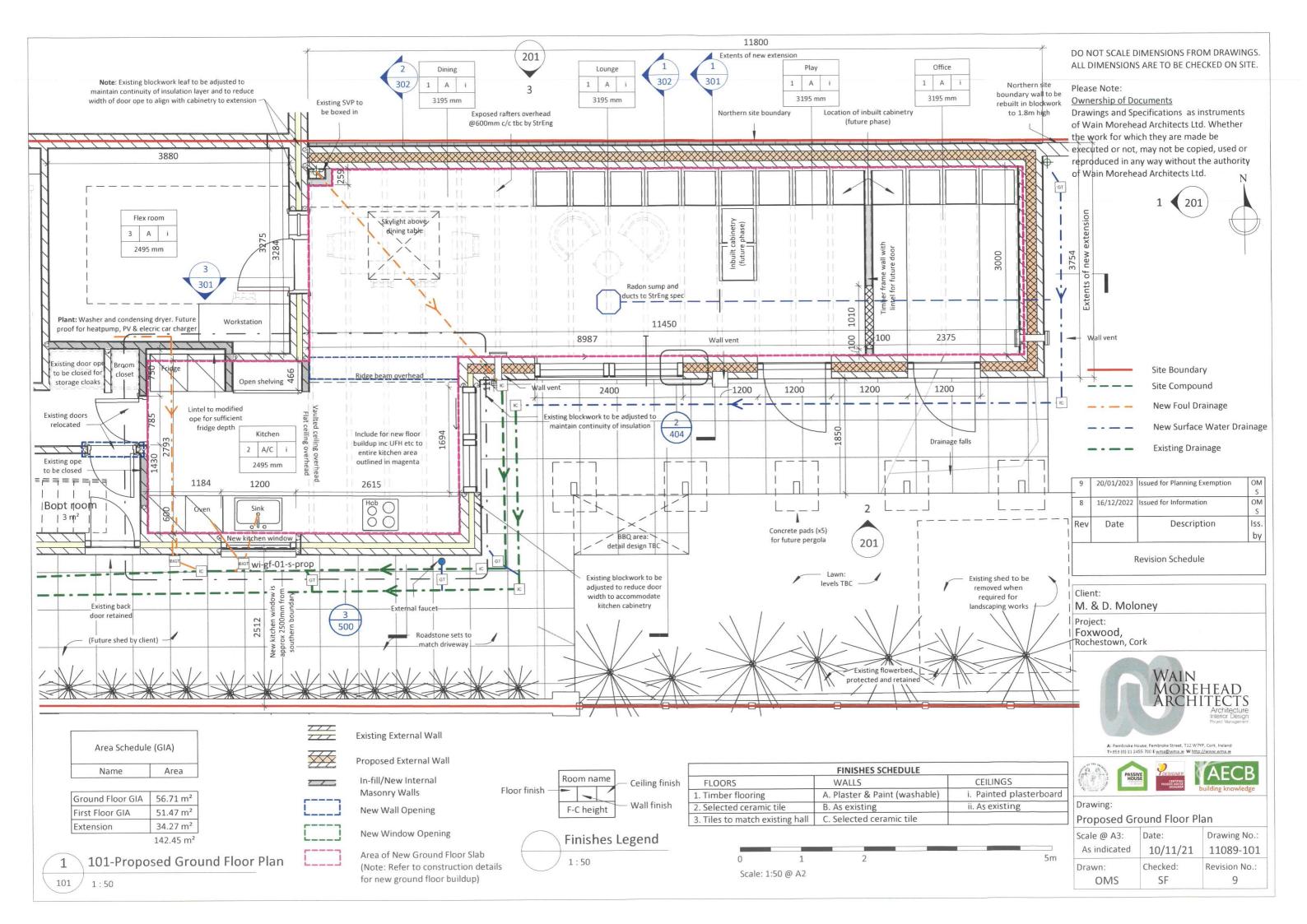
Drawing:

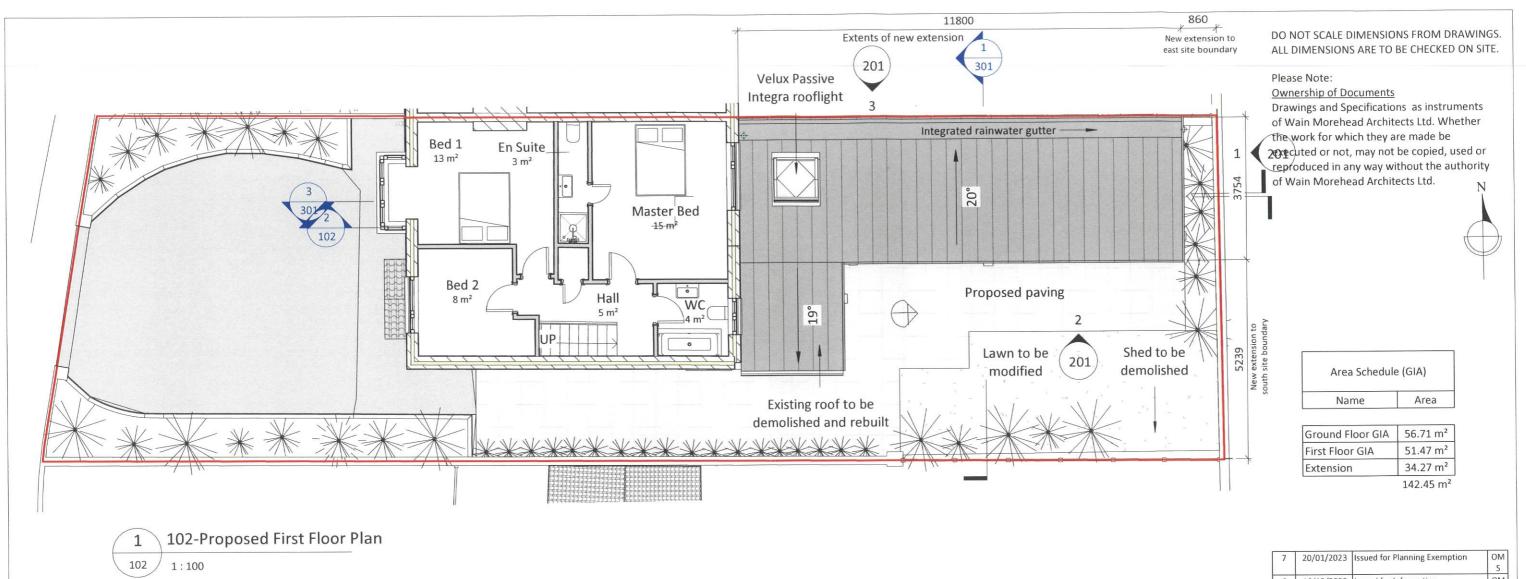
Demo. Ground Floor/First Floor Plans

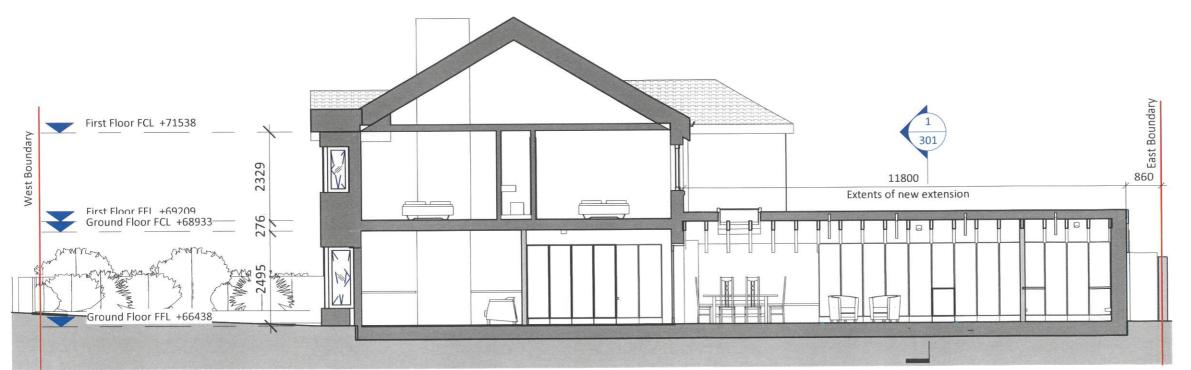
Scale @ A3:	Date:	Drawing No.:
As indicated	10/11/21	11089-011
Drawn:	Checked:	Revision No.:
OMS	SF	7











302-Proposed Section 4

1:100



7	20/01/2023	Issued for Planning Exemption	S
6	16/12/2022	Issued for Information	OM S
Rev	Date	Description	lss.

Revision Schedule

M. & D. Moloney

Project: Foxwood, Rochestown, Cork



A: Pembroke House, Pembroke Street, T12 W7YP, Cork, Ireland T+353 (0) 21 2455 700 E wma@wma.ie W http://www.wma.ie





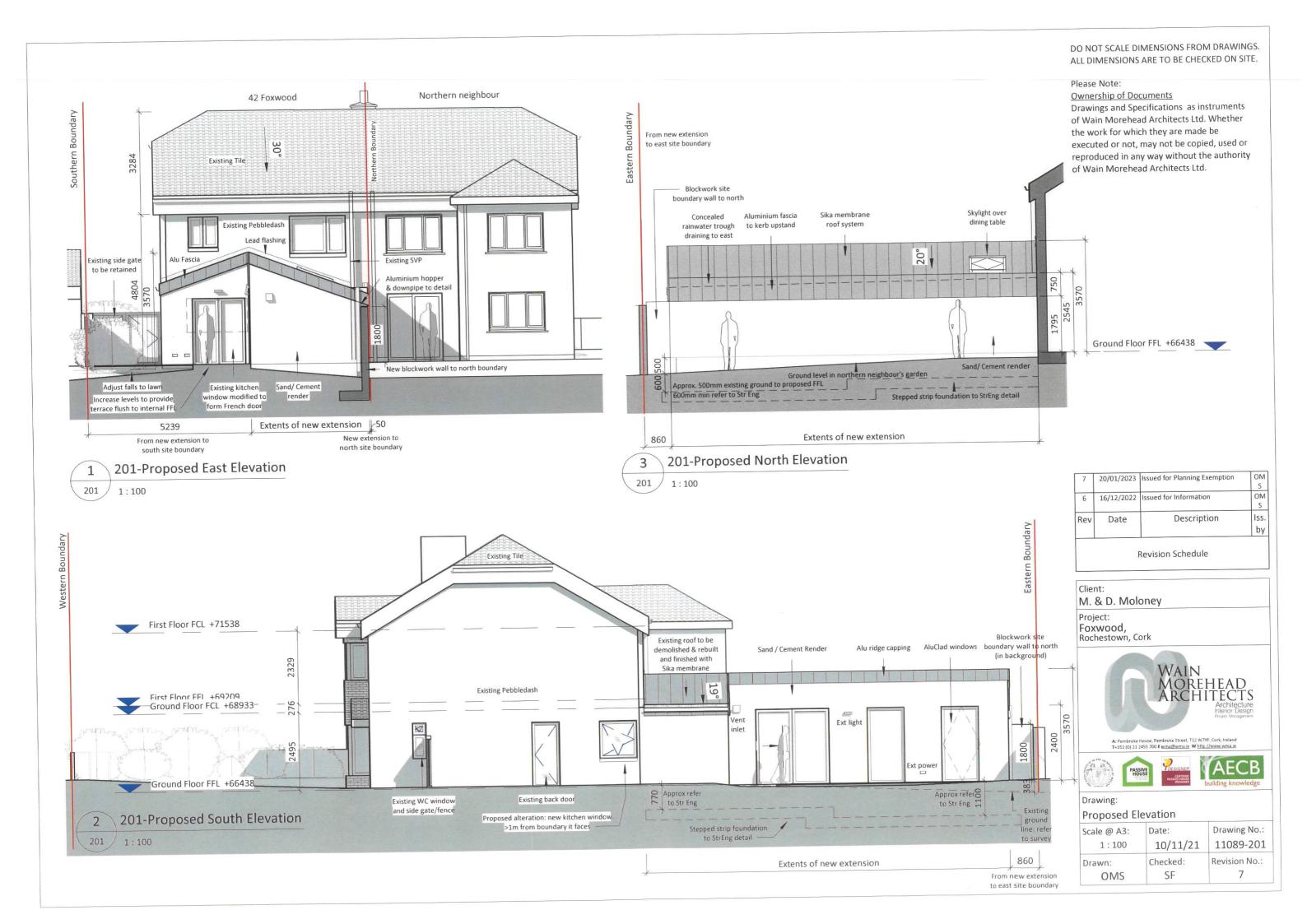


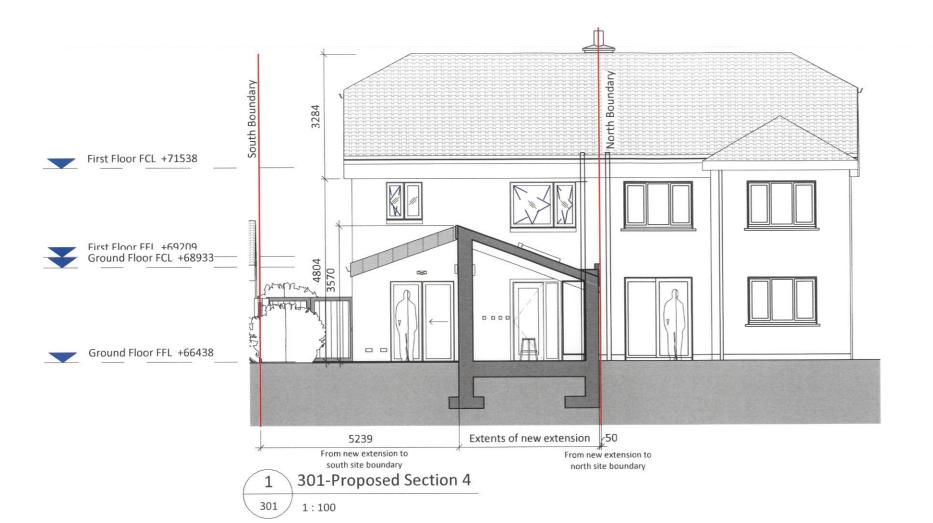


Drawing:

Proposed FF Plan & Section 4

Scale @ A3:	Date:	Drawing No.:
1:100	10/11/21	11089-102
Drawn:	Checked:	Revision No.:
OMS	SF	7

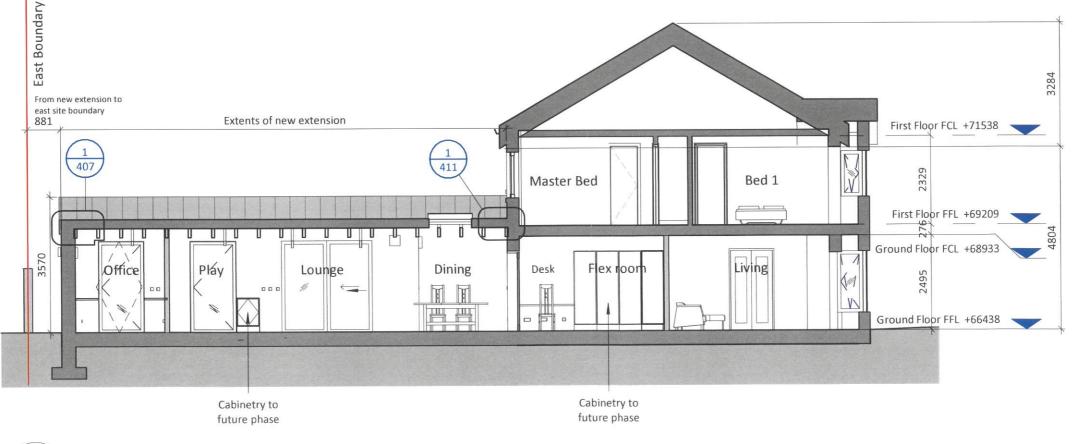




301-Proposed Section 3

301

1:100



DO NOT SCALE DIMENSIONS FROM DRAWINGS. ALL DIMENSIONS ARE TO BE CHECKED ON SITE.

#### Please Note:

## Ownership of Documents

Drawings and Specifications as instruments of Wain Morehead Architects Ltd. Whether the work for which they are made be executed or not, may not be copied, used or reproduced in any way without the authority of Wain Morehead Architects Ltd.

20/01/2023	Issued for Planning Exemption	OM S
16/12/2022	Issued for Information	OM S
Date	Description	lss.
	16/12/2022	20/01/2023 Issued for Planning Exemption  16/12/2022 Issued for Information  Date Description

