

Comhairle Cathrach Chorcaí Cork City Council



Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

JP & Sabrina Finnegan
40 Southridge
Silversprings
Tivoli
Cork

10/05/2018

RE: Section 5 Declaration, 40 Southridge, Silversprings, Tivoli, Cork

Dear Sir/Madam,

I am asked by Mr. Patrick Ledwidge, Director of Services, Strategic Planning & Economic Development to refer to your request for a section 5 Declaration at the above address.

Having regard to:

- The plans and particulars received by the Planning Authority on 18/04/2018;
- The conditions and limitations of the Exempted Development Regulations – *Development within the curtilage of a house*, set out in Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended);

It is considered that the construction of the cavity block shed to the rear of No. 40 Southridge, Silversprings, Tivoli, Cork **Is Development** and is **Not Exempted Development**.

Yours Faithfully,

Paul Hartnett
Assistant Staff Officer
Strategic Planning & Economic
Development
Cork City Council

CORK CITY COUNCIL – Planner’s Report – Section 5 Declaration

File R471/18
Reference:
Development Description: Construction of cavity block shed
Applicant: JP & Sabrina Finnegan
Location: 40 Southridge, Silversprings, Tivoli, Cork
Date: 03/05/2018

SUMMARY OF RECOMMENDATION The proposed development is **Development** and is **NOT Exempted Development**

SECTION 5(1) OF THE PLANNING AND DEVELOPMENT ACT 2000

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.

DEVELOPMENT DESCRIPTION

Construction of a cavity block shed. The shed is constructed within the curtilage of the rear garden. The applicant claims the structure meets Class 3 conditions and limitations.

- The structure has been erected to the rear of the existing house.
- The total floor area of the new structure is 23.25sqm - under the 25sqm threshold;
- The remaining private open space to the rear and side of the house is greater than 25sqm;
- The external finish and roof of the new structure matches the existing house (tile and dry dash).
- The height of the structure is 3.648m which is under the 4m limit (tiled roof).
- The structure is solely used for the enjoyment of the house. It does not house animals and is not for human habitation.

SITE DESCRIPTION

The site comprises a two-storey semi-detached dwelling within a residential estate at the end of a cul-de-sac. There is an existing ‘garage’ at the end of the rear garden and there are two no. sheds located to the side of the dwelling behind the front building line.

RECENT PLANNING HISTORY

- TP 00/24806 Permission **REFUSED** for construction of new entrance roadway to serve TP 99/23405 & TP 99/23842.
- TP 01/25675 Permission **REFUSED** for change in house type and increase in density on site no. 101-112 reducing overall site density, change cul-de-sac etc as granted under TP 99/23842.
- TP 01/25319 Permission **REFUSED** for change in house type and increase in density on sites no. 101-112 together with change in cul-de-sac outside no. 100 & 111 as granted under TP 99/23842.
- TP 02/25892 Permission **GRANTED** by ABP for change of access and cul-de-sac as granted under TP 99/23842 to exit through southridge (as granted under TP 99/23405) & through Silversprings Court.
- TP 99/23842 Permission **GRANTED** for residential development consisting of 106 semi-detached houses & 6 no. semi-detached bungalows.
- TP 97/21259 Permission **REFUSED** by ABP for 113 no. houses. Permission refused on the grounds that the additional traffic movements generated on the existing road network would endanger public safety by reason of a traffic hazard and obstruction of road users.

STATUTORY PROVISIONS

The following statutory provisions are relevant:

Planning and Development Act 2000 (as amended) (section)

- Section 2 (1) *"In this Act, except where the context otherwise requires... 'development' has the meaning assigned to it by section 3..."*
- Section 3 (1) *"In this Act, 'development' means, except where the context otherwise requires, 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."*
- 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, as amended.

Planning and Development Regulations 2001 (as amended) (article)

- Article 6 (1) *“Subject to article 7, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.”*
- Article 9 (1) *“Development to which article 6 relates shall not be exempted development for the purposes of the Act—*
 - (a) *if the carrying out of such development would—*
 - (i) *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
 - ...
- Schedule 2, Part 1, Class 3

Exempted Development — General

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>Development within the curtilage of a house</i></p> <p>CLASS 3</p> <p>The construction, erection or placing within the cartilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure</p>	<ol style="list-style-type: none"> 1. No such structure shall be constructed, erected or placed forward of the front wall of a house. 2. The total area of such structures constructed, erected or placed within the cartilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 sqaure meters. 3. The construction, erection or placing

	<p>within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square meters.</p> <p>4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.</p> <p>5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 meters or, in any other case, 3 meters.</p> <p>6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses for any other purpose other than a purpose incidental to the enjoyment of the house as such.</p>
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ASSESSMENT

The question being asked by the applicant is whether the construction of a cavity block shed to the rear of the property is development and if so is it exempted development?

The development comprises a structure built on land to the rear of no. 40 Southridge and is therefore development.

Class 3 of Part 1 of Schedule 2 refers to *“the construction erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.”* There are a number of stipulations as follows:

- *No such structure shall be constructed, erected or placed forward of the front wall of a house.*

The structure is located to the rear of the property behind the rear building line of the house.

- *The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square meters.*

The structure in question has a stated floor area of 23.25m². I note from the google maps image attached and confirmed by my site inspection on Wednesday 9th May, there are two no. other structures located to the side of the house. It would appear from the google maps images that these structures were already in place before the structure in question was constructed. Therefore, the total area of the structure in question constructed to the rear of the property taken together with other structures previously erected or placed within the said cartilage exceeds 25m².

- *The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square meters.*

The applicant has not submitted a full site layout plan illustrating the extent of private amenity space remaining. It would appear from the maps there is more than 25m² private amenity space remaining.

- *The external finishes of any garage or other structure constructed, erected or placed to the side of a house and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*

The structure has a tiled roof and dash finish which conforms with that of the existing house.

- *The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 meters or, in any other case, 3 meters.*

The structure has a tiled pitched roof. The stated height is 3.648m which is under the 4m limit.

- *The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses for any other purpose other than a purpose incidental to the enjoyment of the house as such.*

The applicant states that the structure is solely used for the enjoyment of the house and does not house animals and is not for human habitation. I did not carry out an internal site inspection to confirm the structure is not used for human habitation. The structure could potentially be used for human habitation given that it is fitted with a large window, a door and velux roof lights.

ENVIRONMENTAL ASSESSMENT

Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 and Schedule 7 of the Planning and Development Regulations, 2001 as amended it is considered that the proposed 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 **environmental impact assessment is not required**.

Screening for Appropriate Assessment

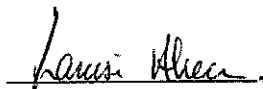
The applicant has not submitted an appropriate assessment screening report. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of these European sites. Accordingly it is considered that **appropriate assessment is not required**.

RECOMMENDATION

Having regard to:

- The plans and particulars received by the Planning Authority on 18/04/2018;
- The conditions and limitations of the Exempted Development Regulations – *Development within the curtilage of a house*, set out in Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended);

It is considered that the construction of the cavity block shed to the rear of No. 40 Southridge, Silversprings, Tivoli, Cork **is Development** and is **Not Exempted Development**.



Louise Ahern

Assistant Planner

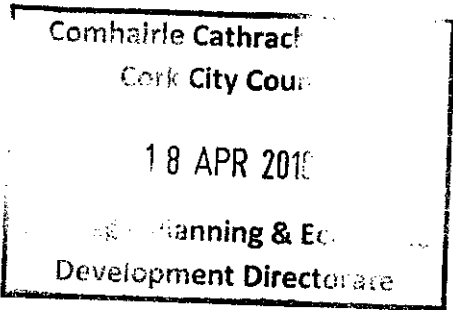
10/05/18



Google Maps



Site Inspection 09/05/2018



**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

Strategic Planning & Economic Development Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie
Fón/Tel: 021-4924564/4321
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

40 Southridge, Silversprings, Tivoli, Cork

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:
Sample Question: *Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?*

Note: only works listed and described under this section will be assessed under the section 5 declaration.
Is the construction of a Cavity Block shed at 40 Southridge, Silversprings, Tivoli, Cork development and if so, is it exempt development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets if required).
The shed as shown in attached drawing no. 101 has been constructed by us within the curtilage of our rear garden. It has been designed and built to ensure it meets CLASS 3 Conditions and Limitations.
1. The structure has been sited to the rear of the existing house.
2. The total floor area of the new structure is 23.25m² and hence under the 25m² thresholds.
3. The remaining private open space to the rear and side of the house is greater than 25m².
4. The external finish and Roof of the new structure matches the existing house. (Tile and Dry Dashing)
5. The height of the new structure is 3.648m and as such is under the 4m limit. (Tiled Roof)
6. The structure is solely used for the enjoyment of the house, It does not house Animals and is not for human habitation.

3. 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 existing/proposed structure/s		23.35m ²
(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:		
Existing/ previous use (please circle)	Proposed/existing use (please circle)	
N/A	N/A	
_____	_____	
_____	_____	

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		JP & Sabrina Finnegan	
Applicants Address	40 Southridge, Silversprings, Tivoli, Cork		
Person/Agent acting on behalf of the Applicant (if any):	Name:	JP Finnegan	
	Address:	40 Southridge, Silversprings, Tivoli, Cork	
	Telephone:	_____	
	Fax:	N/A	
	E-mail address:	i _____	
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"/>

5. 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
Where legal interest is 'Other', please state your interest in the land/structure in question	N/A	
If you are not the legal owner, please state the name and address of the owner if available	N/A	

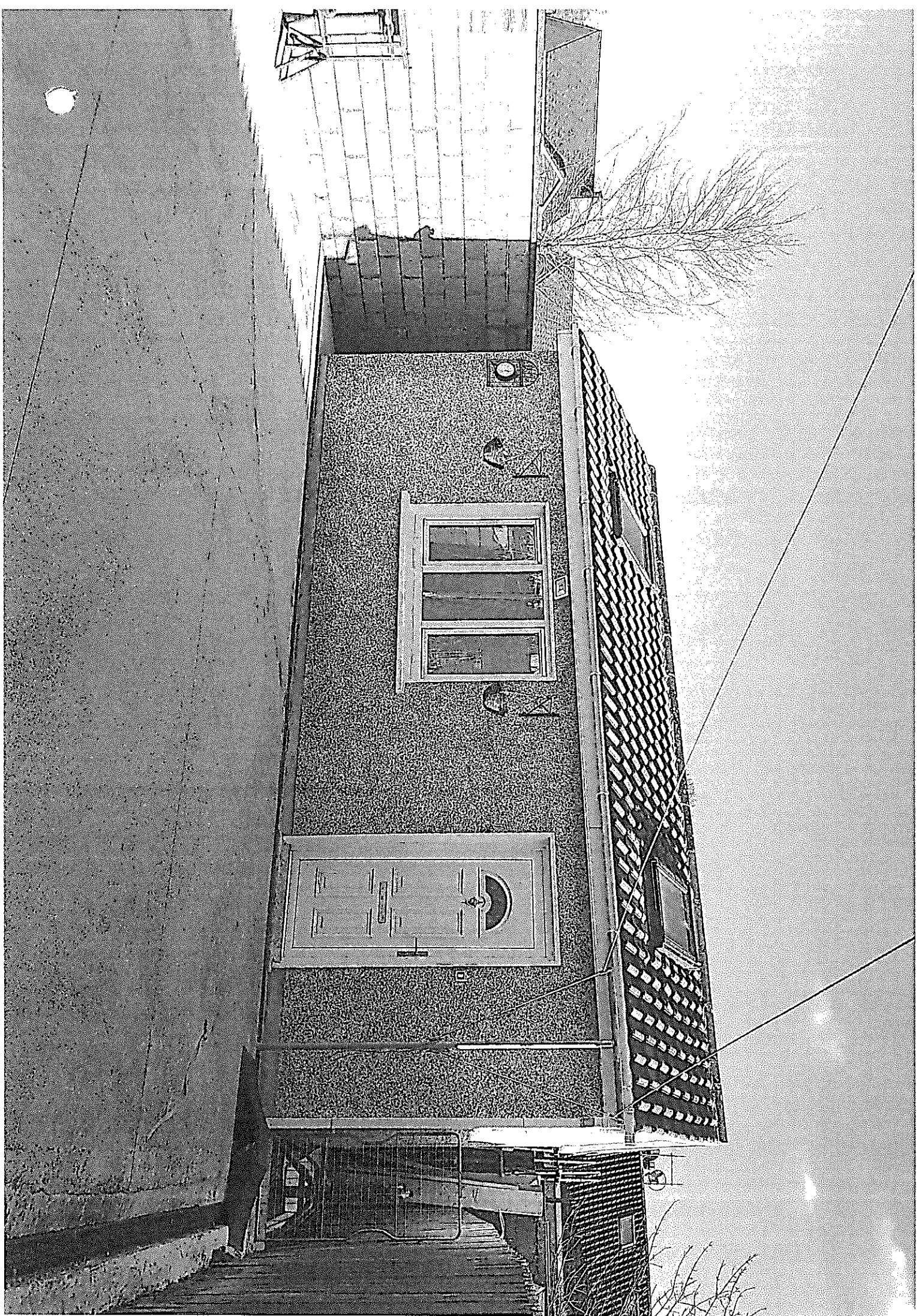
6. I / We confirm that the information contained in the application is true and accurate:

Signature:

John Paul Fiverson

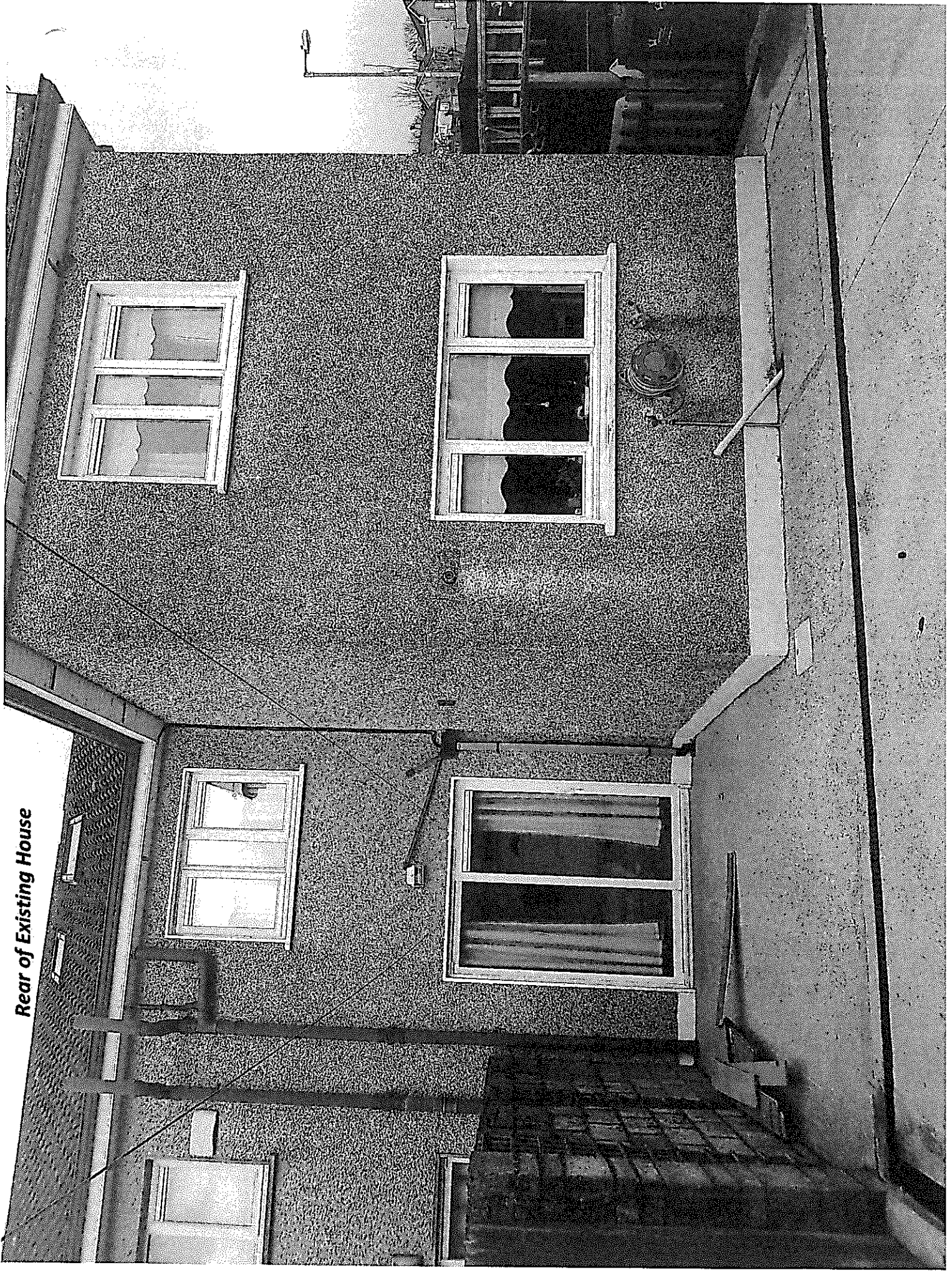
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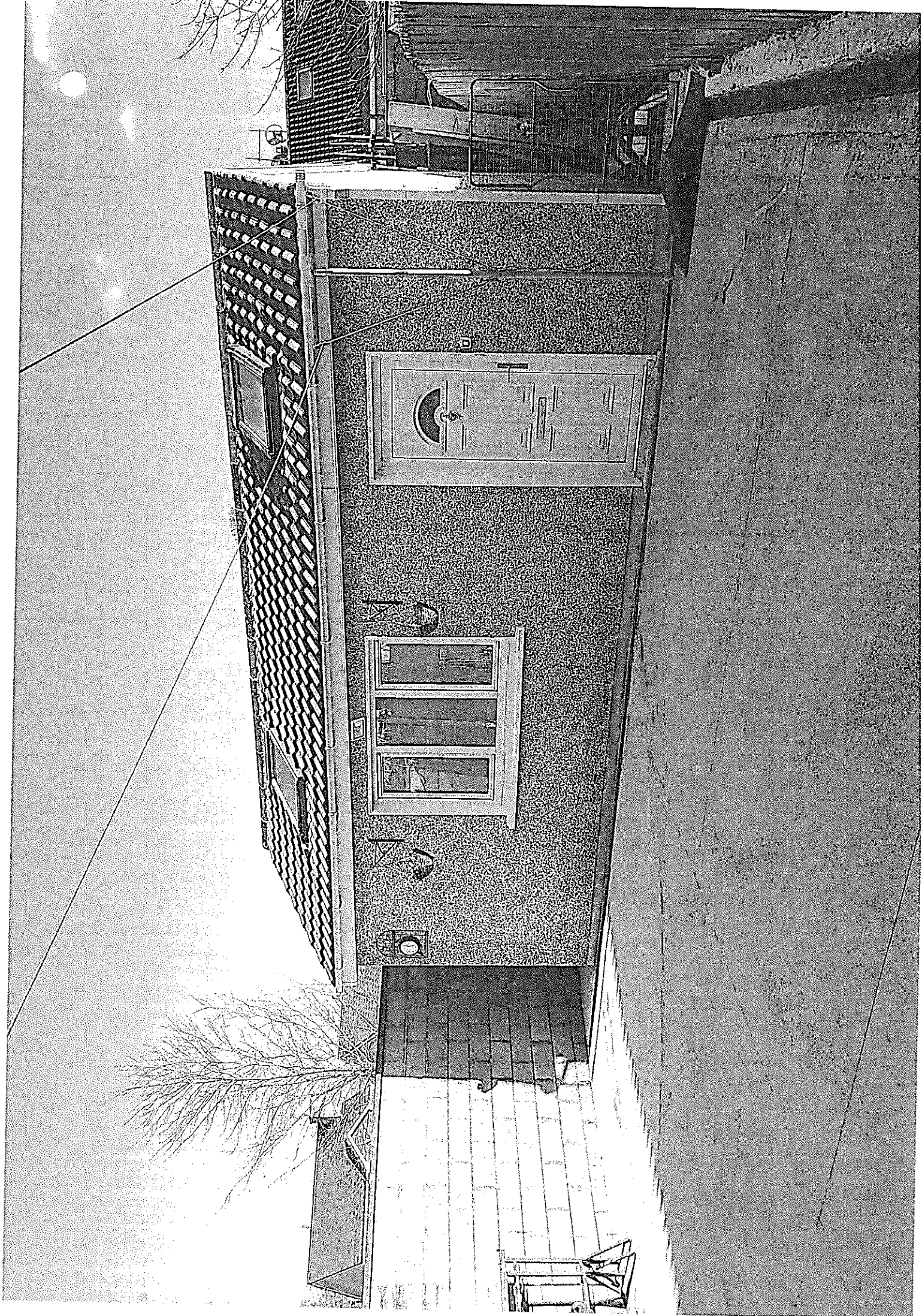
16/04/2018





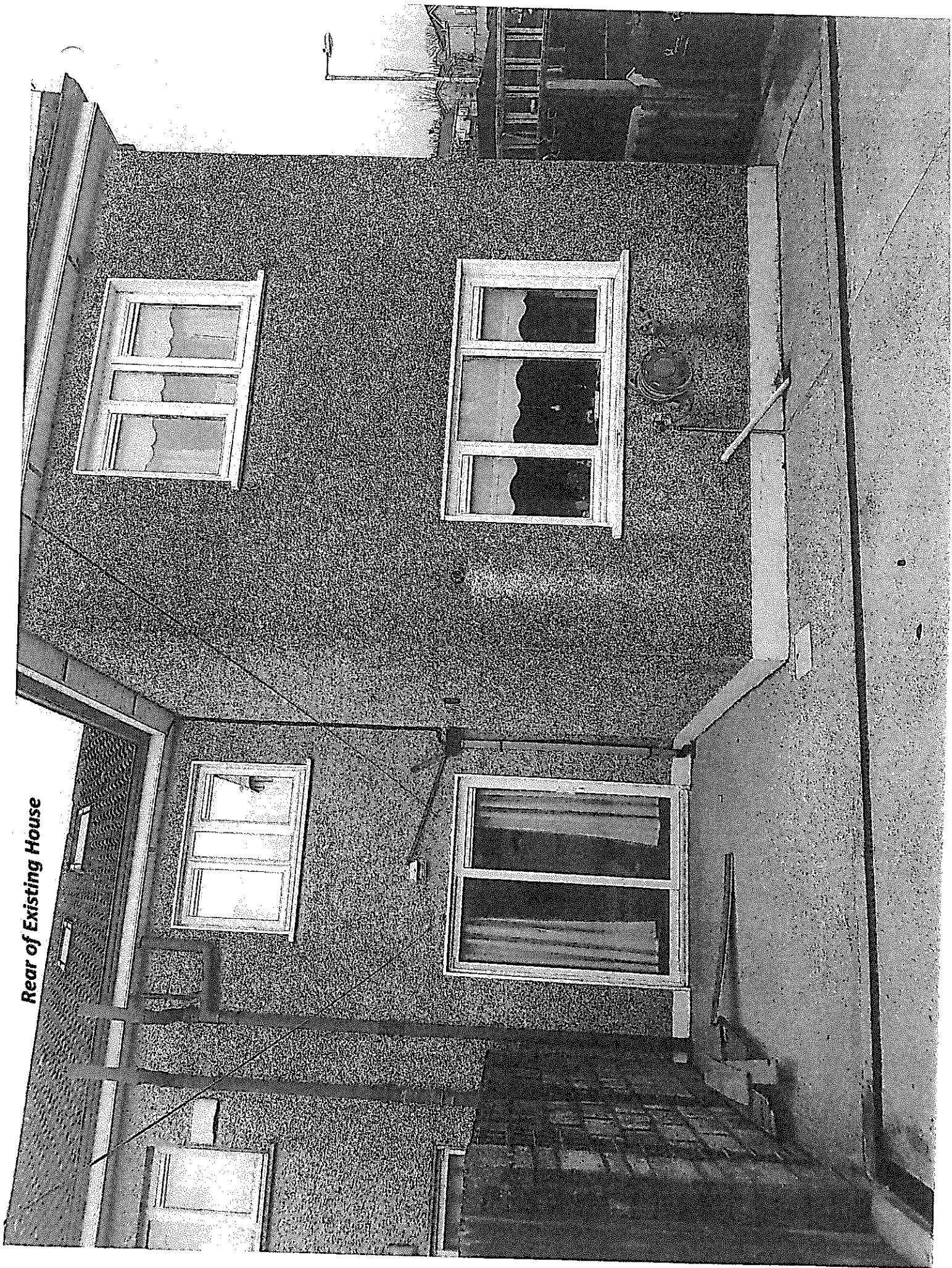
Rear of Existing House







Rear of Existing House



Planning Pack Map



National Mapping Agency

CENTRE COORDINATES:
ITM 571094, 572918

PUBLISHED: 04/04/2018
ORDER NO.: 50002609_1

MAP SERIES: 1:1,000
MAP SHEETS: 6383-04, 6383-05

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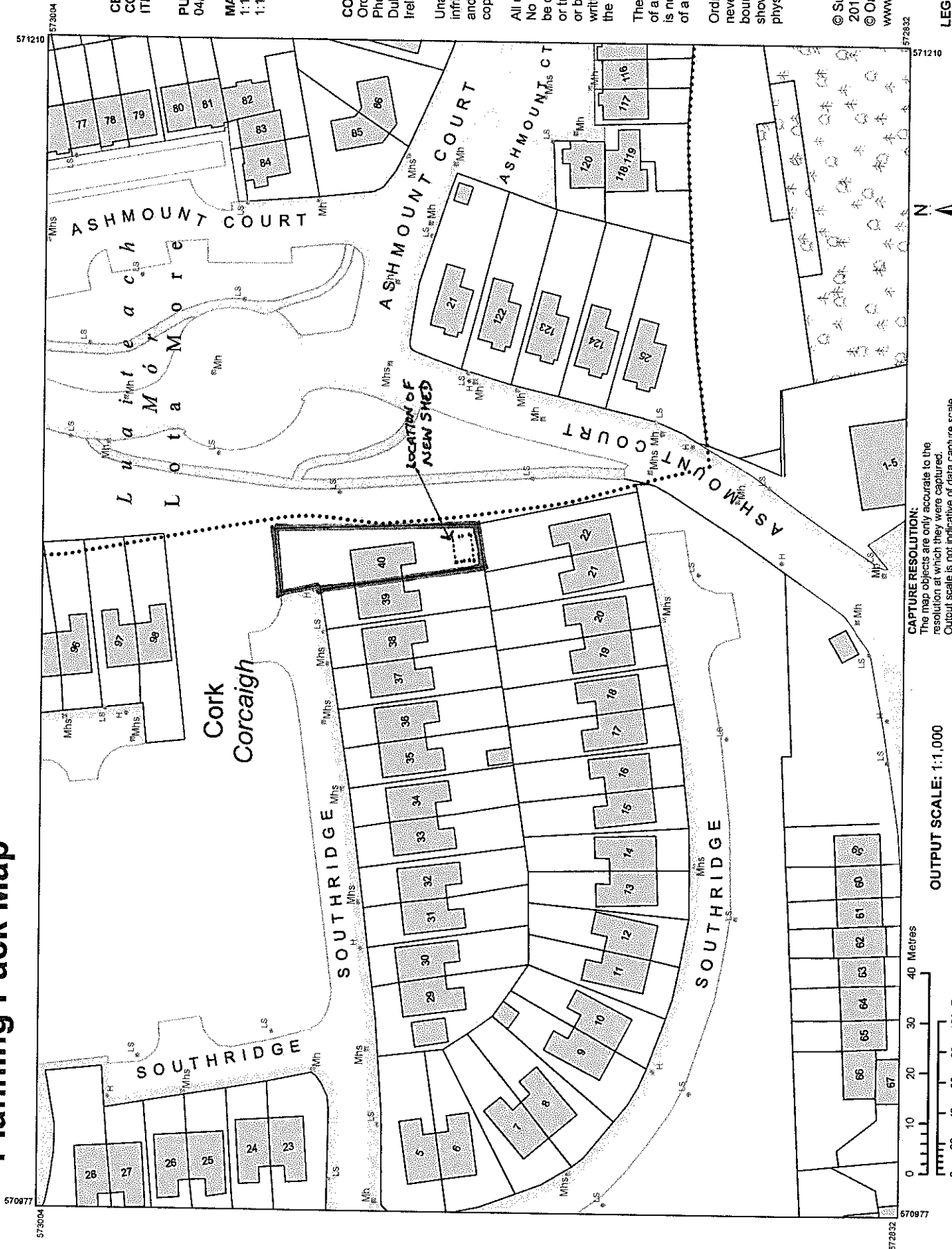
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OUTPUT SCALE: 1:1,000

Site Location Map



National Mapping Agency

CENTRE COORDINATES:
ITM 571094,572918

PUBLISHED: 04/04/2018
ORDER NO.: 50002609_1

MAP SERIES: 9900-01
6 Inch Raster
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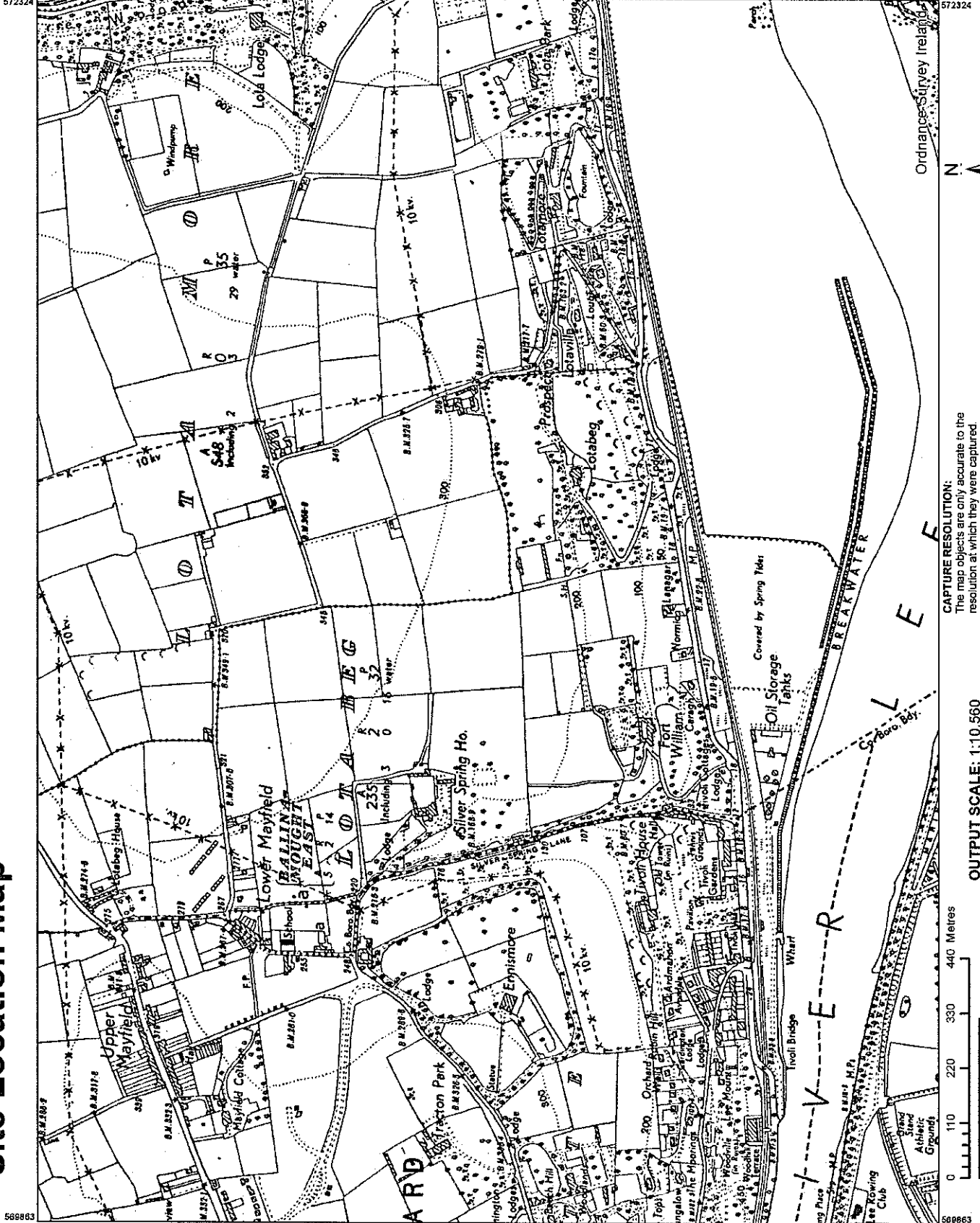
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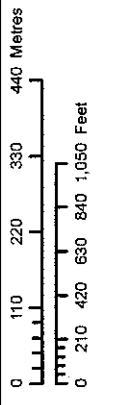
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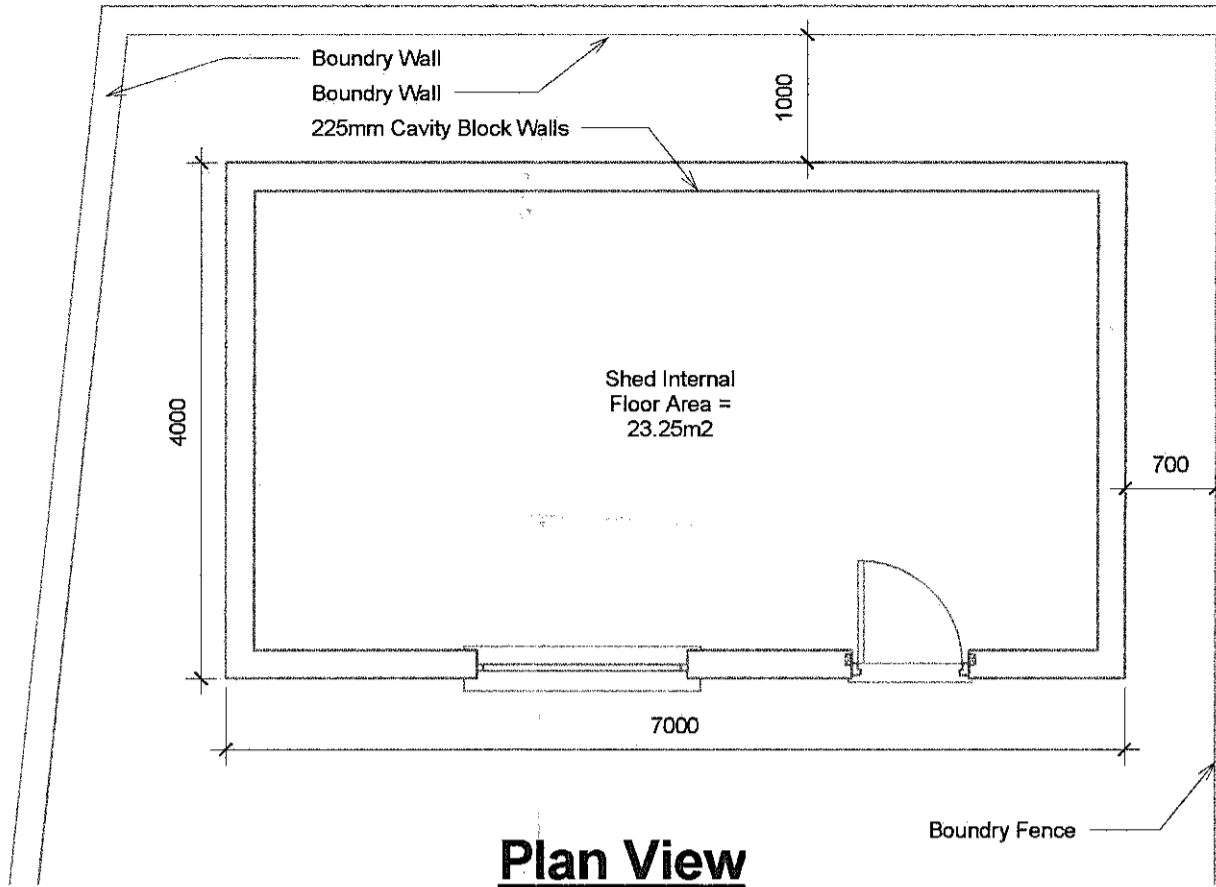


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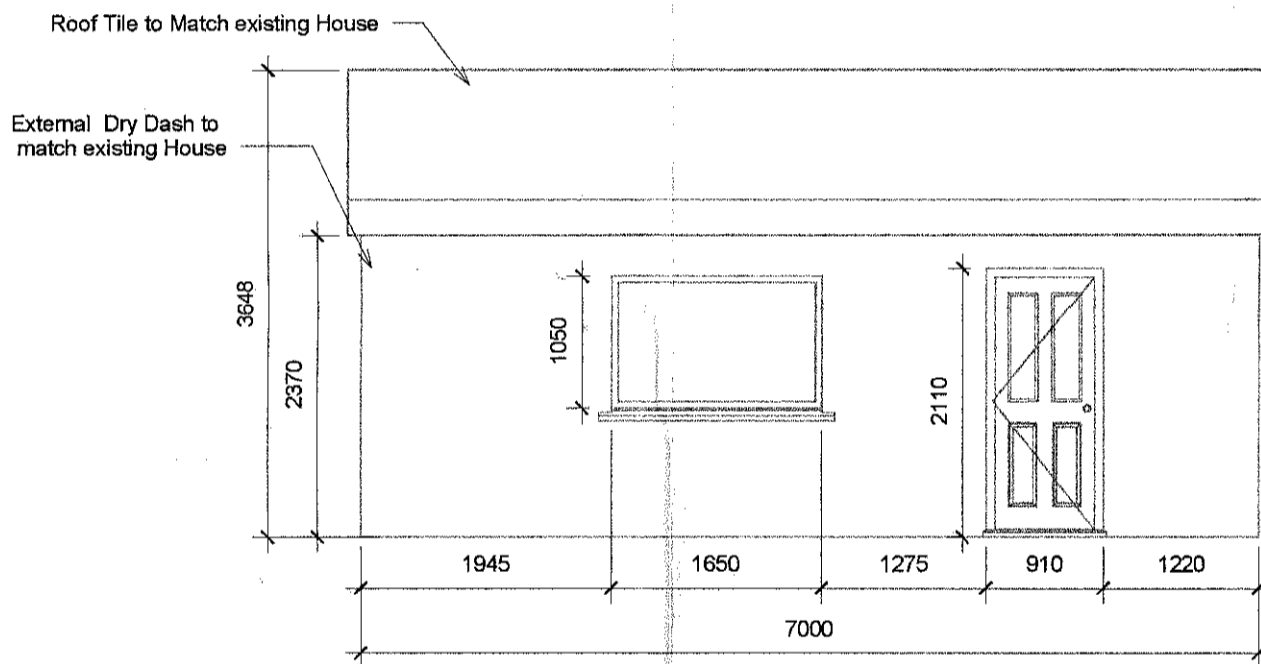
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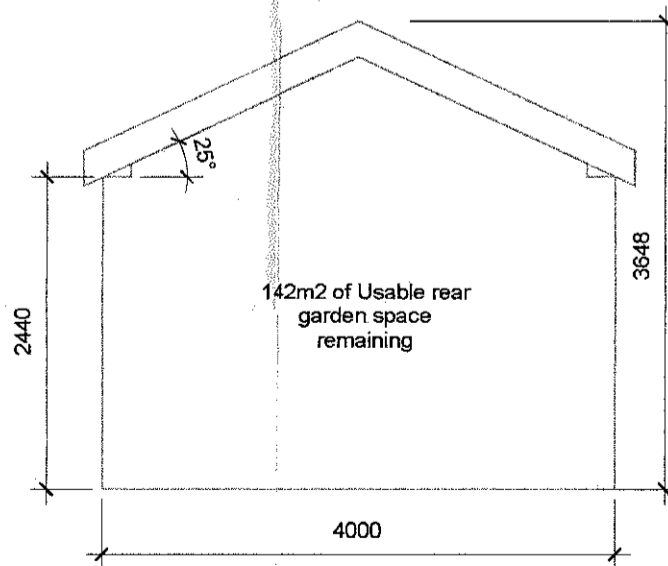
572009



Plan View



Front Elevation



Right Elevation