

R36/21

**COMHAIRLE CATHRACH CHORCAÍ  
CORK CITY COUNCIL**

Community, Culture & Placemaking Directorate,  
Cork City Council, City Hall, Anglesea Street, Cork.



**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**

Rear of "Annerville", 121 Pouladuff Road, 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 block wall, no more than 2 metres high, at the rear of the above property, to be built along the dashed red line as indicated on the attached site location map considered to be development, and if so is it exempted development as it would seem to fall under schedule 2, Part 1, Class 5 of SI no. 600/2001 - Planning and Development Regulations, 2001 ?

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**  
*(Use additional sheets if required).*

The property is due to be divided into plots 'A' and 'B' as indicated on the site location map, on foot of planning ref: 1837960. The purchaser of plot 'B' intends to build the block wall to divide the property prior to commencing development and seeks confirmation that the erection of the dividing wall along the dashed red line is considered exempt development.

The wall is proposed to be no more than 2m in height. It is to be block on flat where it is retaining and hollow block above this. It will be rendered on the plot 'A' side and fairfaced on plot 'B' side. It will include supporting pillars within the wall as required and capped.

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?  **n/a**

5. Was there previous relevant planning application/s on this site?  **Yes, planning ref 18/37960**  
If so please supply details:

### 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 existing/proposed structure/s	<b>Wall, 25.9m long</b>
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) <b>n/a</b>
(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) ----- ----- -----

### 8. LEGAL INTEREST

please tick appropriate box to show applicant's legal interest in the land or structure	<b>A. Owner</b>	<b>B. Other</b>
Where legal interest is 'Other', please state your interest in the land/structure in question	<b>Other</b>	
If you are not the legal owner, please state the name and address of the owner if available	<b>Contracted to Purchase</b> <b>Mr. Brendan Walsh,</b> <b>Annerville, 121 Pouladuff Road, Cork.</b>	

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

Signature: 

Date: 18th February 2021

## CONTACT DETAILS

### 10. Applicant:

<b>Name(s)</b>	Mr. Tim McCarthy
<b>Address</b>	Dunrovan, Farranlea Park, Model Farm Road, Cork. ----- ----- -----

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

<b>Name(s):</b>	Boyd Barrett Murphy O'Connor Architects	
<b>Address:</b>	Glenbeg, Waterfall, Cork, T12 KWP7 ----- ----- -----	
<b>Telephone:</b>	[REDACTED]	
<b>E-mail address:</b>	[REDACTED]	
<b>Should all correspondence be sent to the above address?</b> <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"/>

### .. 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.



# Comhairle Cathrach Chorcaí Cork City Council

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

Boyd Barrett Murphy O' Connor Architects  
Glenbeg  
Waterfall  
Cork  
T12 KWP7

02<sup>nd</sup> March, 2021

**RE: R636/21 – Section 5 Declaration**  
**Property: “Annerville”, 121 Pouladuff Road, Cork**

Dear Sir/Madam,


With reference to your request for a section 5 Declaration at the above named property, I wish to advise and having regard to:

- the particulars received by the Planning Authority on 08/12/2020
- the provision of Schedule 2, Part 1, Class 1 and Class 5 of the Planning and Development Regulations, 2001(as amended)

the planning authority considers that —

the construction of a block wall, no more than 2 metres high, at the rear of Annerville, Pouladuff Road, Cork **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT**

Yours faithfully,



---

Assistant Staff Officer  
Community, Culture and Placemaking  
Cork City Council



**We are Cork.**

## SECTION 5 DECLARATION – PLANNER’S REPORT

**File Reference:** R636/21  
**Description:** Construction of a block wall  
**Applicant:** Tim McCarthy  
**Location:** Pouladuff Road  
**Date:** 01.03.2021

### SUMMARY OF RECOMMENDATION

**Constitutes development; is not exempted development**

#### Purpose of Report

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the 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.

#### Site Location

The site currently forms the rear garden of a bungalow ‘Annerville’ which is sited on the corner of Pouladuff Road and the entrance road into Woodhall.

#### Subject Development

The development subject to this Section 5 declaration request asks the following question of the Planning Authority: is the construction of a block wall, no more than 2 metres high, at the rear of the above property, to be built along the dashed red line as indicated on the site location map (attached) considered to be development, and if so, is it exempted development as it would seem to fall under schedule 2, Part 1, Class 5, of the Planning and Development Regulations, 2001.

#### Land use zoning

##### ***Cork City Development Plan 2015-2021 (‘Development Plan’)***

The site is situated on land zoned for Residential, Local Services and Institutional Uses, where it is the policy of the Council:

*To protect and provide for residential uses, local services, institutional uses and civic uses, having regard to employment policies outlined in Chapter 3.*

#### Planning History:

Planning permission was granted in 2018 for the construction of a terrace of 3 No. two storey houses with off-street car parking (Ref: TP/18/37960).

## Relevant Legislation

### Planning and Development Act, 2000

Section 3 (1) of the Act defines “Development” as, ‘*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 of the Act refers to ‘*Exempted Development*’ and Subsection (1) sets out categories of development that shall be exempted development for the purposes of this Act. Subsection (2) (a) states the following:

*The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—*

*(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development*

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

Schedule 2, Part 1 of the above regulations relates to general exempted development.

*Classes 1- 8* refer to development within the curtilage of a house.

Specifically, *Class 5* refers to the construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

### Definitions

---

The definition of “Structure” in Section 2 of the 2000 Act is as follows:

*“any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and*

*(a) Where the context so admits, includes the land on, in or under which the structure is situate, and;*

*(b) In relation to a protected structure or proposed protected structure, includes*

*i. the interior of the structure*

*ii. the land lying within the curtilage of the structure*

*iii. any other structures lying within that curtilage and their interiors, and*

*iv. all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (ii)”*

### Assessment

#### Sub-threshold EIS



Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No3) Regulations 2011) 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 an EIS is not required to be submitted.

**Appropriate Assessment**

The relevant European sites are the Cork Harbour SPA (Site Code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to its nature, scale and location it is considered that the proposed development would not affect the integrity of the sites referred to. Accordingly, it is considered that a Natura impact statement for the purposes of Article 6 of the Habitats Directive is not required to be submitted.

It is noted that the property is not a Protected Structure as per RPS of the current Cork City Development Plan 2009 – 2015 and is not located within a designated Architectural Conservation Area of the City Plan.

**Assessment**

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.

As per definition of “Structure” in Section 2 of the Planning and Development Act, 2000, the proposed wall is considered to be a structure.

As per definition of “development” in Section 3 (1) of the Planning and Development Act 2000 (as amended), it is considered that the erection of this wall constitutes works, and as such, is ‘development’ and that the remaining question therefore is whether it is ‘exempted development’.

Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) relates to exempted development. As noted above, Class 5 relates to the construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

Class 5 goes on to set out distinctive categories for exempted development. The proposal before the Council under this Section 5 application have been assessed against each in turn in the table below.

Conditions and Limitations	Assessment
1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.	The submitted plans show a wall that would be within the bounding of the garden and be 2 metres high. This condition is satisfied.
2. Every wall other than a dry or natural stone wall	The submitted plans and information on the



<p>bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.</p>	<p>application form state that the wall will be block on flat where it is retaining and hollow block above this, it will include supporting pillars within the wall as required and be capped. It will be rendered on one side (facing Plot A) and not rendered or plastered on the other (facing Plot B). Part of the wall facing Plot B would be parallel to Woodhall, and as this side of the wall is visible from the public road and would not be rendered or plastered; as such this condition is not considered to be satisfied.</p>
<p>3. No such structure shall be a metal palisade or other security fence.</p>	<p>From the information submitted, this condition is satisfied.</p>

**Recommendation**

Having regard to:

- the particulars received by the Planning Authority on 08/12/2020
- the provision of Schedule 2, Part 1, Class 1 and Class 5 of the Planning and Development Regulations, 2001(as amended)

the planning authority considers that —

the construction of a block wall, no more than 2 metres high, at the rear of Annerville, Pouladuff Road, Cork **IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.**

# BC / D BARRETT MURPHY O'CONNOR ARCHITECTS

GLENBEG, WATERFALL, CORK,  
IRELAND, T12 KWP7

TEL: +353 21 4502 555  
EMAIL: architects@bbmoc.com



Cork City Council,  
Community, Culture & Placemaking Directorate,  
City Hall,  
Anglesea St,  
Cork.

18<sup>th</sup> February 2021

## Re: Section 5 Declaration Application

Dear Sir / Madam,

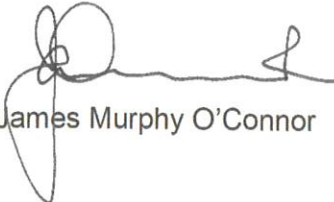
Our client is contracted to purchase a plot of ground benefitting from a recent planning permission, planning reg. ref. 18/37960. Prior to the sale concluding, the vendor has requested that a Section 5 Declaration be sought for the construction of the dividing wall, as outlined in detail in the application form, as they wish to ensure that it is not seen as commencement of the planning permission.

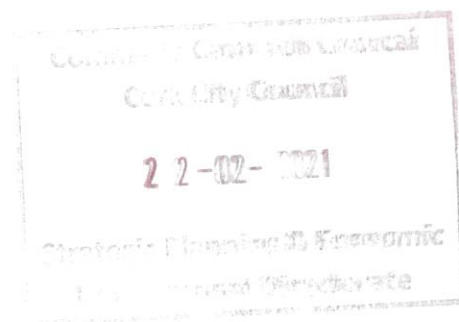
We envisage the proposed wall to be exempted development as it would seem to fall under schedule 2, Part 1, Class 5 of SI no. 600/2001 - Planning and Development Regulations, 2001.

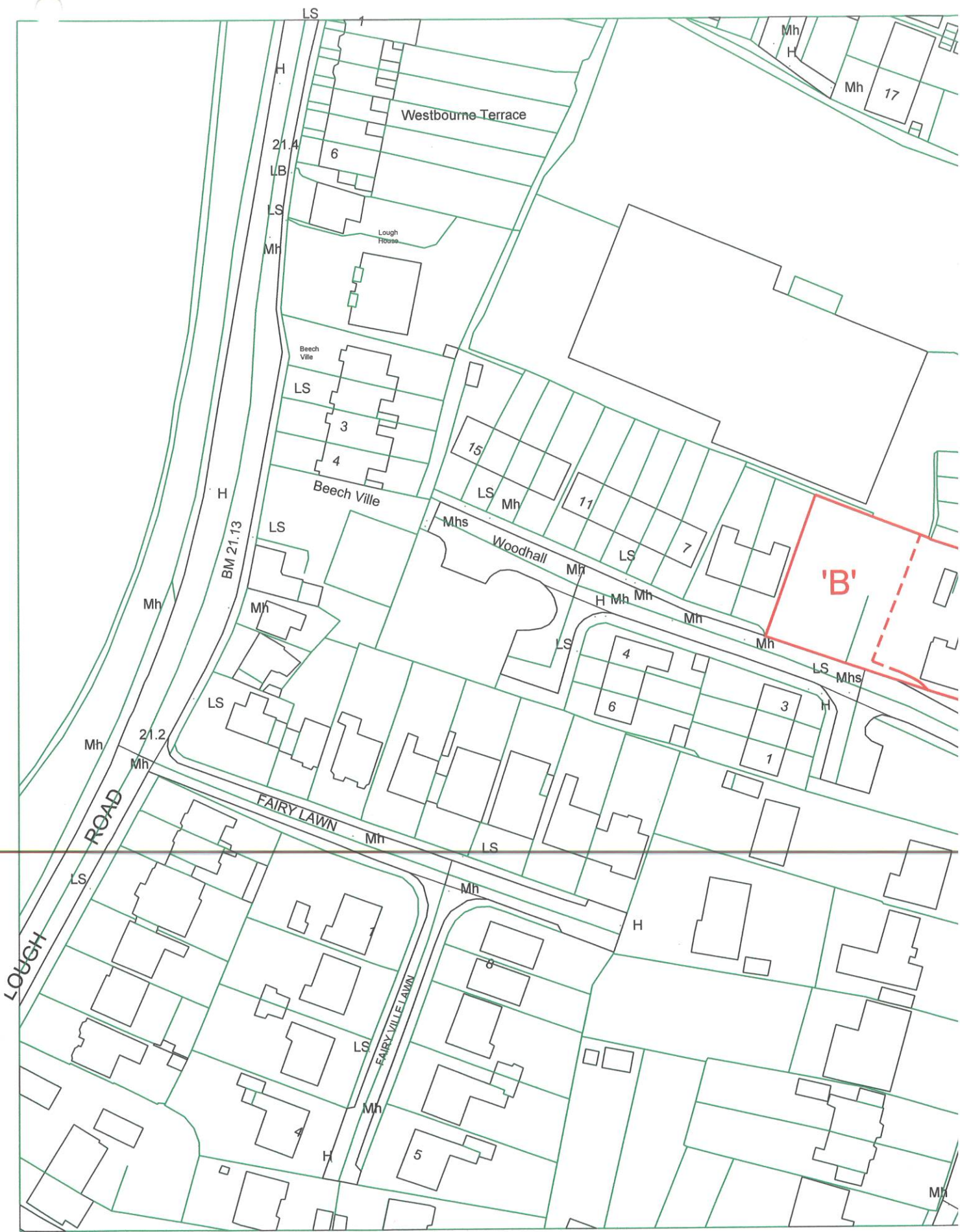
Please find enclosed a Section 5 Declaration Application Form, 2 no. copies of the site location map with the location of the proposed wall marked in a dashed red line. We also enclose the fee of €80.

We look forward to receipt of this application in due course.

Yours sincerely,

  
James Murphy O'Connor





DO NOT SCALE FROM THIS DRAWING. CONTRACTOR SHALL CHECK ALL DIMENSIONS ON-SITE.  
 ALL ERRORS AND OMISSIONS TO BE REPORTED TO THE ARCHITECT.  
 REPRODUCTION IN WHOLE OR PART IS PROHIBITED WITHOUT THE PRIOR PERMISSION OF BBMOC ARCHITECTS  
 © BBMOC ARCHITECTS

STATUS KEY: SKE SKETCH DESIGN PLA PLANNING FSC FIRE SAFETY CERT TEN TENDER CON CONSTRUCTION SUR SURVEY

REV	DATE





Description: .....  
 Digital Orthophoto Mosaic (DOM)  
 Publisher / Source: .....  
 Ordnance Survey Ireland (OSI)  
 Data Source / Reference: .....  
 File Name: .....  
 File Format: .....  
 Autodesk AutoCAD (DWG\_R2013)  
 v\_201119469\_1.dwg  
 Clip Extent / Area of Interest (AOI): .....  
 UTM Zone: 29Q UTM  
 UTM Easting: 560171.666565307965  
 UTM Northing: 559341.6665671457965  
 UTM Projection: 560171.6665671457965  
 Projection / Spatial Reference: .....  
 Centre Point Coordinates: .....  
 XY: 559756.6665668382895  
 Reference Index: .....  
 Map Series | Map Sheets  
 1:2,500 | 6488-A  
 1:2,500 | 6422-B  
 1:5,000 | 6422-C  
 1:5,000 | 6467  
 Data Extraction Date: .....  
 Date: 11-May-2020  
 Source Data Release: .....  
 DCU/MS Release: V1.127.109  
 Product Version: .....  
 Version: 1.3  
 License / Copyright: .....  
 Ordnance Survey Ireland 'Terms of Use' apply.  
 Please visit 'www.osi.ie/about/terms-conditions'.  
 © Ordnance Survey Ireland, 2020  
 Compiled and published by Ordnance Survey Ireland, Phoenix Park, Dublin 8, Ireland.  
 Unauthorised reproduction infringes Ordnance Survey Ireland and Government of Ireland copyright.  
 All rights reserved. No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owner.  
 The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.  
 Ordnance Survey maps never show legal property boundaries, nor do they show ownership of physical features.

DO NOT SCALE FROM THIS DRAWING. CONTRACTOR SHALL CHECK ALL DIMENSIONS ON-SITE.  
 ALL ERRORS AND OMISSIONS TO BE REPORTED TO THE ARCHITECT.  
 REPRODUCTION IN WHOLE OR PART IS PROHIBITED WITHOUT THE PRIOR PERMISSION OF BEMOC ARCHITECTS  
 © BEMOC ARCHITECTS  
 STATUS KEY: SBC SITE DESIGN R/A PLANNING F/SI FIRE SAFETY CERT IEN TENDER COM CONSTRUCTION S/SI SURVEY

REV	DATE

REV	DATE

CLIENT	DATE
Mr Tim McCarty	Site Location Map
Project: Roor of Annerville	
Site: Woodhall, Pouladuff Rd, Cork	SCALE 1:1000
	DATE 17.02.2021
	DWG. NO. 2026-SL SBC
	REV. NO.

**BOYD BARRETT MURPHY - O'CONNOR ARCHITECTS**  
 THE STUDIO, WELLINGTON BRIDGE,  
 LEE ROAD, CORK, IRELAND  
 Tel: 353-21-492255 Fax: 353-21-234217  
 E-mail: info@bbmoo.com