



# Comhairle Cathrach Chorcaí Cork City Council

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

The PassivHaus Architecture Co. Ltd.,  
23 The Rise,  
Bishopstown,  
Cork T12 H6D2

13/04/21

**RE: R642/21 – Section 5 Declaration**  
**Property: Mill House, 3 Millfield, College Road**

Dear Sir/Madam,

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

- the particulars received by the Planning Authority on 08/12/2020 and 01/04/2021,
- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- the provision of Schedule 2, Part 1, Class 1 and Class 3 of the Planning and Development Regulations, 2001(as amended)

---

the planning authority considers that —

the construction of a garden room to the rear of Mill House, 3 Millfield, Cork **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

Yours faithfully,

Kerry Bergin  
Assistant Staff Officer  
Community, Culture and Placemaking  
Cork City Council



**We are Cork.**



# Comhairle Cathrach Chorcaí Cork City Council

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

The PassivHaus Architecture Co. Ltd.,  
23 The Rise,  
Bishopstown,  
Cork T12 H6D2

13/04/21

**RE: R642/21 – Section 5 Declaration**  
**Property: Mill House, 3 Millfield, College Road**

Dear Sir/Madam,

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

- the particulars received by the Planning Authority on 08/12/2020 and 01/04/2021,
- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- the provision of Schedule 2, Part 1, Class 1 and Class 3 of the Planning and Development Regulations, 2001(as amended)

---

the planning authority considers that —

the construction of a garden room to the rear of Mill House, 3 Millfield, Cork **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

Yours faithfully,

Kerry Bergin  
Assistant Staff Officer  
Community, Culture and Placemaking  
Cork City Council



**We are Cork.**

**SECTION 5 DECLARATION – PLANNER’S REPORT**

**File Reference:** R642/21  
**Description:** Construction of a Garden Room/Home Office  
**Applicant:** Mark and Ruth McLauchlan  
**Location:** Mill House, 3 Millfield, College Road  
**Date:** 13/04/2021

**SUMMARY OF RECOMMENDATION****Constitutes development; is exempted development**

This report is to be read in conjunction with previous planning report, dated 23.03.2021, which requested further information.

The applicant was requested to submit the following item of further information:

- (a) Further information is required in relation to the dimensions and roof of the proposed structure. A scaled elevation of the structure will be required to fully assess the application for an exemption certificate under Section 5.

A response to same was received on 01.04.2021. The applicant has submitted a scaled plan which allows the development to be fully assessed.

<b>Conditions and Limitations</b>	<b>Assessment</b>
1. No such structure shall be constructed, erected, or placed forward of the front wall of a house.	Proposed drawings have been provided by the applicant which clearly show that the structure is located to the rear of the property. This condition is satisfied.
2. 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 metres.	According to the figures provided on the application form, the structure would have an area of 18.4 square metres. A plan reflecting this has been provided and so this condition has been satisfied.
3. 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 metres.	According to the information provided on the application form, the garden would not be reduced to less than 25 square metres. A plan reflecting this has been provided and so this condition has been satisfied.
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.	According to the information provided on the covering letter the structure would not have a tiled or slate roof and can be seen from the submitted plan, is not placed to the side of the house. This condition is satisfied.

<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 metres or, in any other case, 3 metres.</p>	<p>A scaled drawing has been proved by the applicant which shows that the height of the shed would not exceed 3 metres, and as such this condition is satisfied.</p>
<p>6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.</p>	<p>According to the information provided on the application form, the garden room/home office is for uses incidental to the main dwelling house and so this condition is satisfied.</p>

**Recommendation**

Having regard to:

- the particulars received by the Planning Authority on 08/12/2020 and 01/04/2021,
- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- the provision of Schedule 2, Part 1, Class 1 and Class 3 of the Planning and Development Regulations, 2001(as amended)

the planning authority considers that —

the construction of a garden room to the rear of Mill House, 3 Millfield, Cork **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

29<sup>th</sup> March 2021

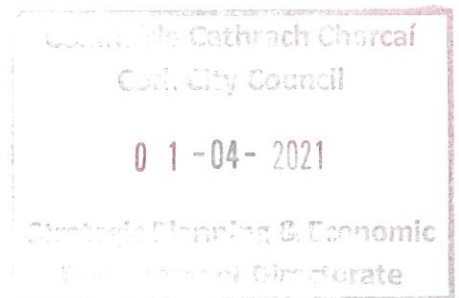
1918

Community, Culture & Placemaking Directorate,  
Cork City Council,  
City Hall,  
Anglesea Street,  
Cork.  
SECTION 5 DECLARATION APPLICATION

R642/21

RE Mark and Ruth McLauchlan

RE No3 Millfield, College Road Cork



Please see enclosed further information as requested showing the elevation and roof with dimensions at 1:50

Yours Sincerely,

Paul McNally MRIAI.

Director The PassivHaus Architecture Company  
c/c to client, to file





# Comhairle Cathrach Chorcaí Cork City Council

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

Paul McNally  
The PassivHaus Architecture Co. Ltd  
23 The Rise  
Bishopstown,  
Cork  
T12 H6D2

25<sup>th</sup> March 2021

**RE: R642/21 – Section 5 Declaration**  
**Property: Mill House, 3 Millfield, College Road**

Dear Sir/Madam,

With reference to your request for a section 5 Declaration at the above named property, I am advised to request further information

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 3 of the Planning and Development Regulations, 2001(as amended)

it is concluded that, the applicant has not provided to the planning authority the required information necessary to enable the authority to make its decision on the matter.

- (a) Further information is required in relation to the dimensions and roof of the proposed structure. A scaled elevation of the structure will be required to fully assess the application for an exemption certificate under Section 5.

Yours faithfully,

Kerry Bergin  
Assistant Staff Officer  
Community, Culture and Placemaking  
Cork City Council



We are Cork.

## SECTION 5 DECLARATION – PLANNER’S REPORT

**File Reference:** R642/21  
**Description:** Construction of a Garden Room/Home Office  
**Applicant:** Mark and Ruth McLauchlan  
**Location:** Mill House, 3 Millfield, College Road  
**Date:** 23/03/2021

### SUMMARY OF RECOMMENDATION

**Constitutes development; further information requested**

#### 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

#### Subject Development

The development subject to this Section 5 declaration request asks the following question of the Planning Authority: whether or not the proposed construction of a garden room/home office to the rear of the dwelling house is development and is exempted development, having regard to Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended).

#### Land use zoning

The site is predominantly zoned Z05 '*Residential, Local Services and Institutional Uses*'. The provision and protection of residential uses and residential amenity is a central objective of this zoning.

#### Planning History:

In March 2020, An Bord Pleanála granted on appeal planning permission for the demolition of existing dwelling house and construction of 1 no. two storey detached dwelling house, including modifications to road entrance, off-road car parking, and all external and associated site works.

#### 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 3 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.

### **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 shed 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 shed 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 3 relates to the construction, erection or placing within the curtilage of a house a tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

Class 3 goes on to set out distinctive categories for exempted development within the curtilage of a dwelling’. 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. No such structure shall be constructed, erected or placed forward of the front wall of a house.	Proposed drawings have been provided by the applicant which clearly show that the structure is located to the rear of the property. This condition is satisfied.
2. 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 metres.	According to the figures provided on the application form, the structure would have an area of 18.4 square metres. A plan reflecting this has been provided and so this condition has been satisfied.
3. 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 metres.	According to the information provided on the application form, the garden would not be reduced to less than 25 square metres. A plan reflecting this has been provided and so this condition has been satisfied.

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.	According to the information provided on the covering letter the structure would not have a tiled or slate roof and can be seen from the submitted plan, is not placed to the side of the house. This condition is satisfied.
5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.	Noted in the applicant's covering letter that the height of the structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres. However, no elevations have been provided. This condition therefore cannot be satisfied.
6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.	According to the information provided on the application form, the garden room/home office is for uses incidental to the main dwelling house and so this condition is satisfied.

### 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 3 of the Planning and Development Regulations, 2001(as amended)

it is concluded that, the applicant has not provided to the planning authority the required information necessary to enable the authority to make its decision on the matter.

- (a) Further information is required in relation to the dimensions and roof of the proposed structure. A ~~scaled elevation of the structure will be required to fully assess the application for an exemption certificate under Section 5.~~





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: Planning application reference  
1938974 / planning permission ABP

307327-20

#### 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	18.4 square metres
(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"/> n/a 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)
_____	_____
_____	_____
_____	_____

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

Signature: Maure

Date: 2/3/21



## CONTACT DETAILS

### 10. Applicant:

<b>Name(s)</b>	Mark and Ruth McLauchlan
<b>Address</b>	<u>Tarragona</u> ----- <u>18 Wilton Ave</u> ----- <u>Bishopstown</u> ----- -----

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

<b>Name(s):</b>	Paul McNally, The PassivHaus Architecture Co. Ltd.	
<b>Address:</b>	[REDACTED] ----- [REDACTED] ----- [REDACTED] ----- -----	
<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"/>

### 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.*

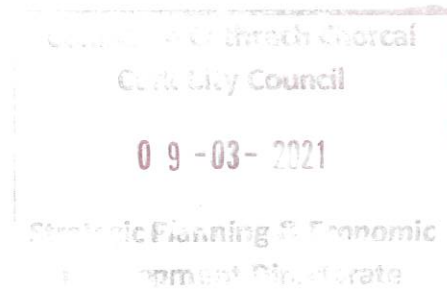
**DATA PROTECTION:** The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution.

1<sup>st</sup> March 2021

1918

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

SECTION 5 DECLARATION APPLICATION



RE Mark and Ruth McLauchlan

RE No3 Millfield, College Road Cork

We wish to confirm that the proposed construction of a garden room/home office space is exempt development under SI no 600/2001 Class 3 noting the requirements of the act and how the works comply with each.

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

**The structure will be to the rear of the house as per site layout plan 8007B enclosed.**

2. 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 metres.

**The Floor area is 18.4 square metres measured from the inside of the external walls. There are no other structures previously constructed, erected or placed within the said curtilage.**

3. 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 metres.

**Residual private open space to side and rear of house in excess of 350 square metres shown in grey as per site layout plan 8007B enclosed.**

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.

**The structure does not have a tiled or slated roof, and is not placed to the side of a house.**

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

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

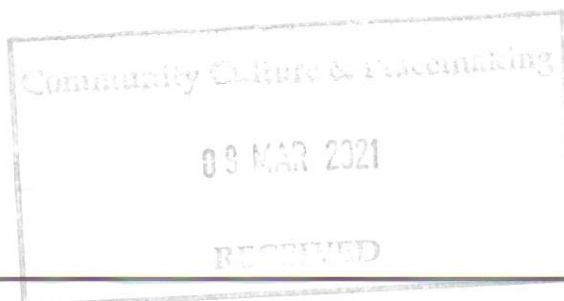
6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

**The structure will be used as a home office and garden room incidental to the enjoyment of the house.**

Yours Sincerely,

Paul McNally MRIAI.

Director The PassivHaus Architecture Company





# OSi PLACE Map



National Mapping Agency

**CENTRE COORDINATES:**  
ITM 565398, 570920

**PUBLISHED:** 01/03/2021  
**ORDER NO.:** 50175118\_1

**MAP SERIES:** 1:1,000  
**MAP SHEETS:** 6382-17

**COMPILED AND PUBLISHED BY:**  
Ordnance Survey Ireland,  
Phoenix Park,  
Dublin 8,  
Ireland.

Unauthorised reproduction  
infringes Ordnance Survey Ireland  
and Government of Ireland  
copyright.

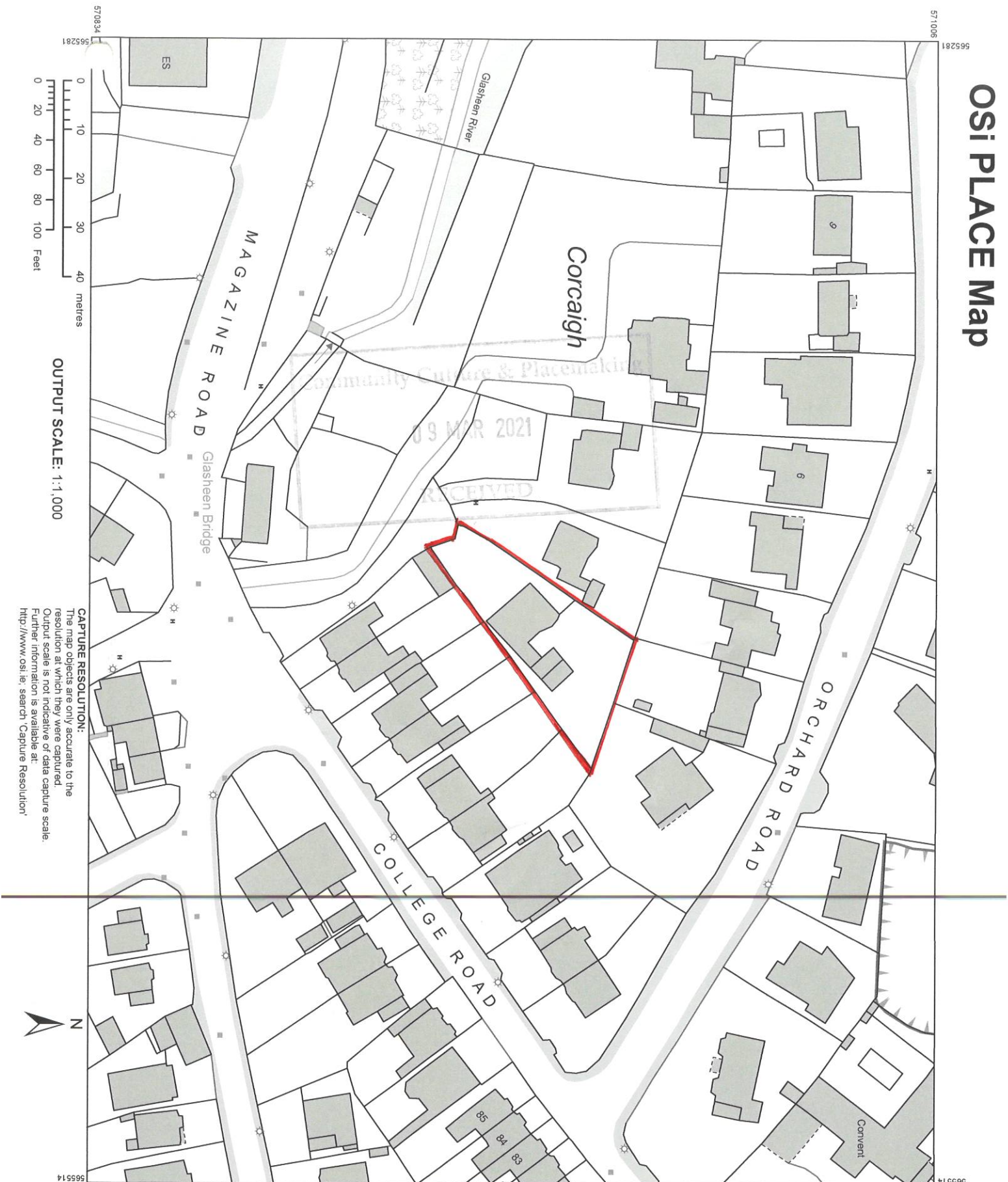
All rights reserved.  
No part of this publication may  
be copied, reproduced  
or transmitted in any form  
or by any means without the prior  
written permission of  
the copyright owners.

The representation on this map  
of a road, track or path  
is not evidence of the existence  
of a right of way.

Ordnance Survey maps  
never show legal property  
boundaries, nor do they  
show ownership or  
physical features ©

© Suirbheireacht Ordánais Éireann,  
2021  
© Ordnance Survey Ireland, 2021  
[www.osi.ie/copyright](http://www.osi.ie/copyright)

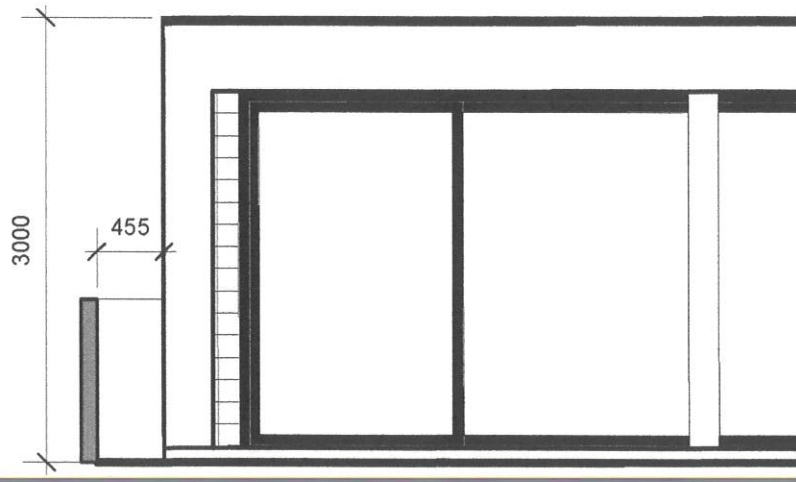
**LEGEND:**  
<http://www.osi.ie/>  
search 'Large Scale Legend'



**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'



**Elevation  
1:50**



Revision      Date
