



# Comhairle Cathrach Chorcaí Cork City Council

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

Michael Logan,  
Jesmond,  
Blakrock Road,  
T12 N8K5

09/08/2020

**RE: Section 5 Declaration R671/21 Jesmond, Blackrock Road**

A Chara,

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

- the particulars received by the Planning Authority on 01.07.2021
- 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 proposed replacement of the garage at Jesmond, Blackrock Road, Cork **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

Is mise le meas,

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**Aine O'Leary**  
Community, Culture and Placemaking Directorate  
Cork City Council



**We are Cork.**

## SECTION 5 DECLARATION – PLANNER’S REPORT

**File Reference:** R671/20  
**Description:** Renovation of garage structure  
**Applicant:** Michael Logan  
**Location:** Jesmond, Blackrock Road T12 N8K5  
**Date:** 04.08.2021

### SUMMARY OF RECOMMENDATION

**Constitutes development; is 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 property is detached property located on the southern side of Blackrock Road. It benefits from vehicular access from Blackrock Road.

#### Subject Development

The development subject to this Section 5 declaration request asks the following question of the Planning Authority: whether the change of flat roof to monopitch by the removal and replacement of the membrane with clay tiles to match existing dwelling, raising the height of the walls from 2.7m to 2.8m and 3.8m, changing of a window to door and replace existing double door with a window, with external finish being rendered blockwork to blend with the existing, 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 ZO5 '*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:

TP 04/28506 Planning permission granted for the removal of the existing roof and dormer, demolition of front extension and building of new habitable roof structure incorporating dormer and velux rooflights with a higher ridge level, ground and first floor extensions to the rear, widening of vehicular entrance and alterations to dwelling house.

#### 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 situated, 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 2015-2021 but it is located within the Blackrock Road 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 works to replacement elements of the existing garage building 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.	Drawings have been provided by the applicant which show that the renovated shed 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 renovated structure would have an area of 17.5 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	According to the information shown on the plan provided, the garden would not be reduced to less than 25 square metres. And so, this condition has been satisfied.

house to the rear or to the side of the house to less than 25 square metres.	
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 in the applicants cover letter the structure would have a clay tiled roof, wooden window and doors and rendered finish to match the existing dwelling, and as 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. Drawings reflecting this have been provided. This condition is 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 renovated garage 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 01.07.2021
- 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 proposed replacement of the garage at Jesmond, Blackrock Road, Cork **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.



**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](mailto:planning@corkcity.ie)

Fón/Tel: 021-4924564/4321

Líonra/Web: [www.corkcity.ie](http://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**

JESMOND  
BLACKROCK RD. CORK. T12 N8K5

**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 RENOVATION OF A DETACHED GARAGE  
AS DESCRIBED AN EXEMPTED DEVELOPMENT?

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**

(Use additional sheets if required).

CHANGE FLAT ROOF TO MONOPITCH. REMOVE  
EXISTING MEMBRANE + RAISE WALLS FROM  
2.7 M TO 3.8 → 2.8. NO CHANGE IN  
LOCATION OR BOUNDARY. NO OPENING TO  
NEIGHBOURING HOUSE. CHANGE WINDOW  
TO DOOR. NEW WINDOW WHERE  
DOUBLE DOOR. FINISHES TO MATCH  
EXISTING. WALLS, ROOF, RAINTWASH  
CARPENTRY.

Comhairle Cathrach Chorcaí  
Cork City Council

01-07-2021

Strategic Planning & Economic  
Development Directorate

### 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		1750 M
(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) _____
(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)
-----		-----
-----		-----
-----		-----

### 4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		MICHAEL LOGAN	
Applicants Address		JESMOWD BLACKROCK RD COBK T12 W8K5	
Person/Agent acting on behalf of the Applicant (if any):	Name:	/	
	Address:		
	Telephone:		
	Fax:		
	E-mail address:		
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 type="checkbox"/>	No <input checked="" 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 <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		



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

Signature: Michael Scully

Date: 30/06/2021

.....

**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, Strategic Planning & Economic Development  
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.

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*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



Jesmond  
Blackrock Rd.  
T12N8K5

Kerry Bergin,  
Planning Department Cork City council  
Ground Floor,  
New Civic Offices City Hall,  
Anglesea Street.  
Cork.

30/06/2021

Dear Kerry,

We plan to replace the Roof on our detached garage at the above address.

I am writing to seek a Section5 declaration that the job does not need planning permission.

The existing flat roof of membrane and gravel is leaking so we will replace it with a monopitch roof, clad in clay tiles to match our house. I was advised by David Foley that apart from a site plan, drawings were not mandatory. For the sake of clarity however, I have prepared the attached myself to better show what we plan to do.

In summary we will raise the existing walls sufficiently to change from the existing flat roof to a sloped roof. The walls are 2.7m high at present and will be raised to 3.8m facing our neighbours, falling to 2.8m facing our garden. The heightening will be on top of the present walls, with no change in their location. No opening in the wall facing our neighbours. (Majella and Mark Tarbatt, Ennismore, T12H2R8)

The garage is free standing, constructed of blocks, standing 0.15m from the boundary wall. Our garage is much older than the boundary wall. We plan to fit a matching wooden window where the garage double door is now and put in a single wooden door where the window now is. All new blockwork will be rendered to blend with the existing. Fit rainwear to match that on the house.

Please find enclosed two copies of.

- 1) Urban place map 1/1000 with site marked in red
- 2) Site layout plan 1:250 site marked in red, garage outlined blue, neighbours house highlighted pink.

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- 3) Drawings 1:100 of existing garage and proposed alterations.

I hope the drawings enclosed are adequate for your purposes. Cheque for €80 and application form enclosed. I'd be happy to supply anything else you need.

Yours Sincerely



Michael Logan

Michael and Miriam Logan  
T12N8K5  
[mloganhere@gmail.com](mailto:mloganhere@gmail.com)

# Urban PLACE Map

Surveyed 1973  
Revised 2003  
Levelled 1973

DESCRIPTION

NORTH  
^

MAP SCALES

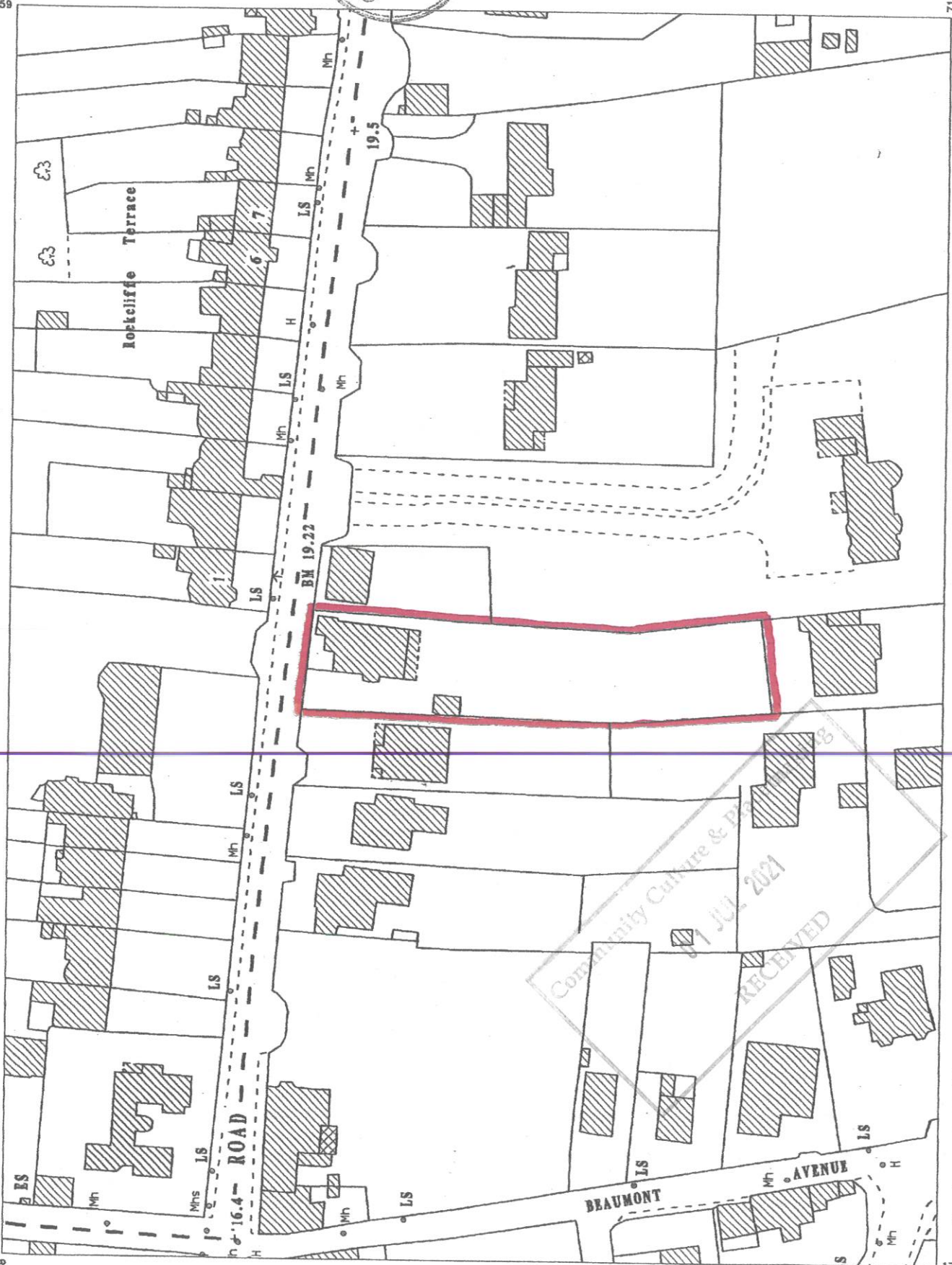
1:1000  
6383-14



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170529 71648 170759 71478

Plot Ref. No. 34061\_1\_1  
Plot Date 15-JUN-2004

50 Metres  
100 Feet

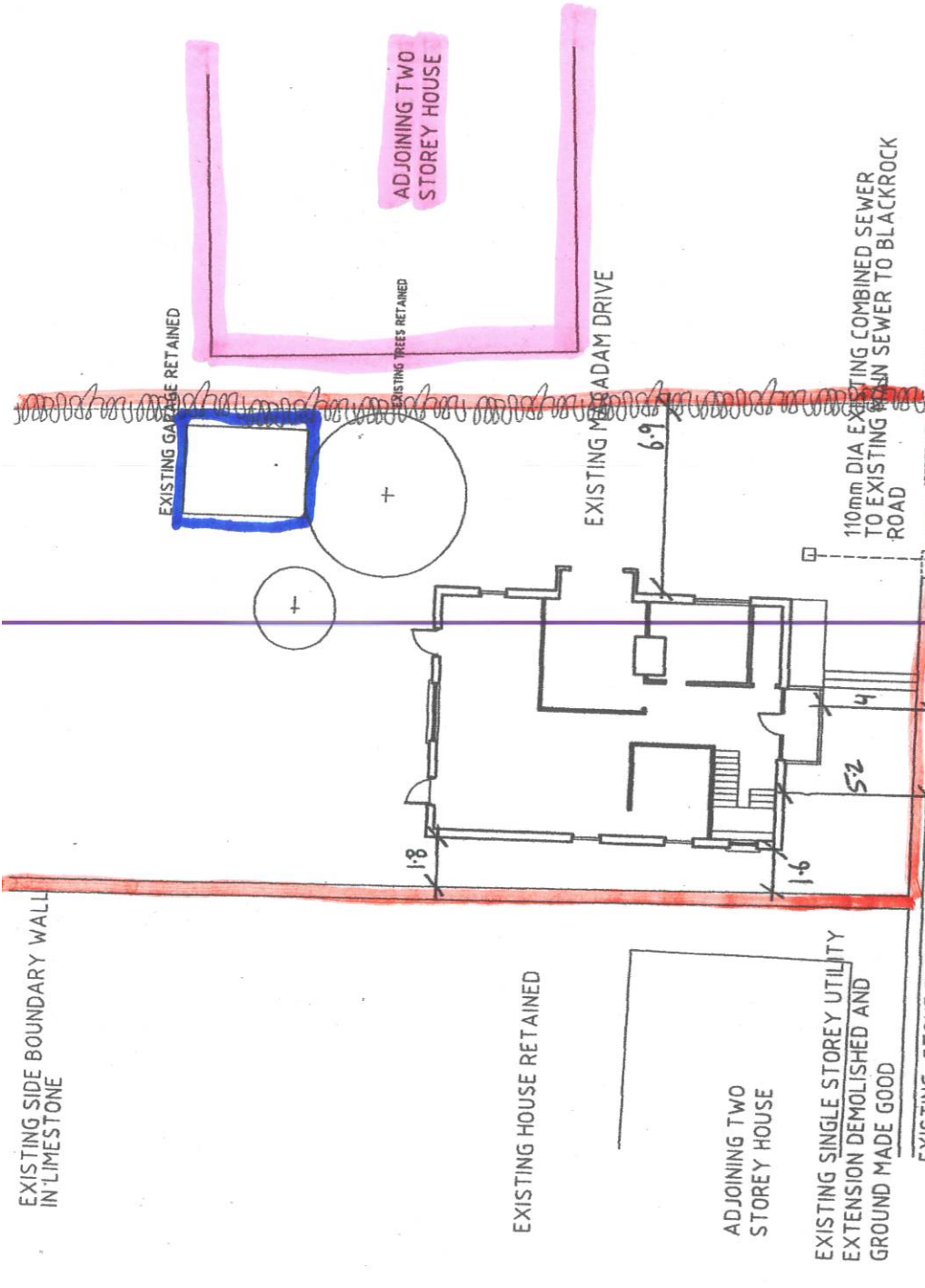
Scale: - 1:1000  
Scale: - 1:1000

Community Culture & Planning  
17 JUL 2021  
RECEIVED



1

EXISTING SIDE BOUNDARY WALL  
IN LIMESTONE



EXISTING HOUSE RETAINED

ADJOINING TWO  
STOREY HOUSE

EXISTING SINGLE STOREY UTILITY  
EXTENSION DEMOLISHED AND  
GROUND MADE GOOD

EXISTING GARAGE RETAINED

ADJOINING TWO  
STOREY HOUSE

EXISTING TREES RETAINED

EXISTING NEW ADAM DRIVE

110mm DIA EXISTING COMBINED SEWER  
TO EXISTING MAIN SEWER TO BLACKROCK  
ROAD

EXISTING STONE BOUNDARY WALL

EXISTING ENTRANCE WIDENED TO 4M AND STONE  
WALLING MADE GOOD. NEW GATES FITTED FOR LARGER  
OPEN TO OPEN INWARDS

BLACKROCK ROAD

TO BLACKROCK VILLAGE

PUBLIC FOOTPATH

TO BALLINTEMPLE

SITE LAYOUT PLAN

SITE NOTICE TO WALL  
MARKED X

V  
NORTH

REV: 02 REV PL 1/05  
REV: 01 PD-6-04

**DONAL ANDERSON ARCH. TECH.**  
BALLINREESIG, BALLYGARVAN, CO. CORK, IRELAND, PH & FX 021 4888346

SITE LAYOUT PLAN

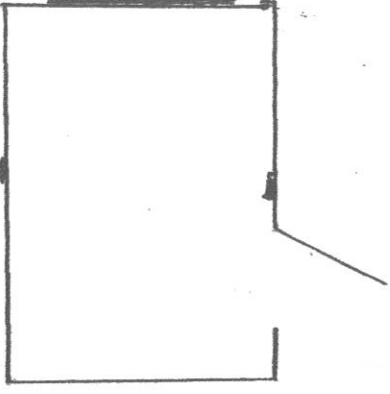
PROPOSED EXTENSION TO HOUSE AT "JESMOND", BLACKROCK ROAD  
FOR MICHAEL & MIRIAM LOGAN

SCALE: 1:250 DATE: 6/2004 DRG. NO.

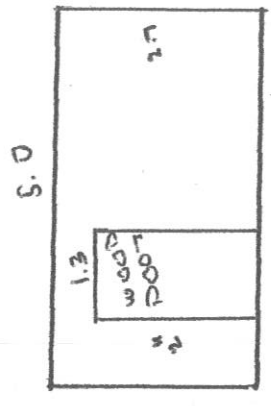


1:100

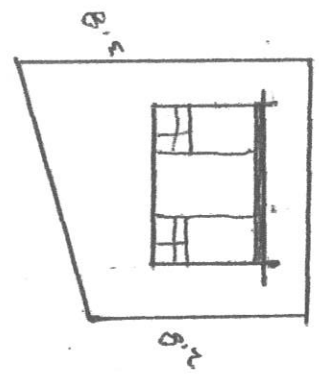
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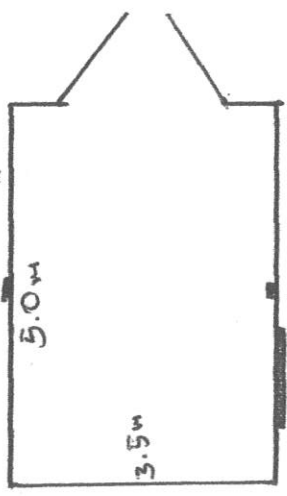
PROPOSED PLAN



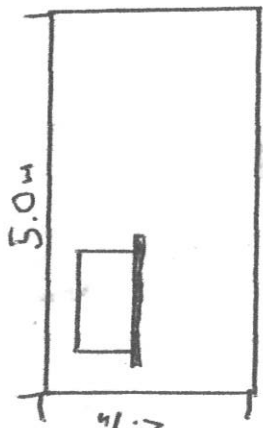
PROPOSED EAST ELEVATION



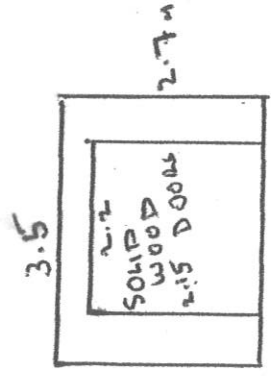
NORTH ELEVATION PROPOSED



EXISTING GARAGE PLAN



EXISTING GARAGE EAST ELEVATION



NORTH ELEVATION EXISTING

PROPOSED ROOF ALTERNATIVES AND LAYOUT CHANGES TO GARAGE AT TESHOWD TIZNEX; MICHAEL LOGAN OCT 20175970



CORK CITY COUNCIL  
CITY HALL  
CORK

05/07/2021 14:44:47

Receipt No. : PLAN3/0/7822760  
\*\*\*\*\* REPRINT \*\*\*\*\*

R671 21  
Michael Logan

EXEMPTION CERTS - FEES 58800	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
Michael Logan	

---

Total : 80.00 EUR

Tendered :

---

Cheque	80.00
000303	

Change : 0.00

Issued By : Eoghan Fahy  
From : Planning Dept. 3  
Vat reg No.0005426M



CORK CITY COUNCIL  
CITY HALL  
CORK

05/07/2021 14:44:47

Receipt No. : PLAN3/0/7822760  
\*\*\*\*\* REPRINT \*\*\*\*\*

R671 21  
Michael Logan

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Total : 80.00 EUR

Tendered :

Cheque	80.00
000303	

Change : 0.00

Issued By : Eoghan Fahy  
From : Planning Dept. 3  
Vat reg No.0005426M



# PLANNING DEPARTMENT

## CASHDESK RECEIPT CHECKLIST

Name: Michael Logan

Amount: €80.00 TP No.: R671/21

Description/ Address: Jesmond, Blackrock Rd, Co. LC

Business Unit	Description
I4110	Copies of Planning Permission <ul style="list-style-type: none"><li>• Copies of Planning Decisions</li><li>• Copies of Final Grant</li><li>• General copying</li><li>• Archive Retrieval</li><li>• Microfiche</li></ul>
TI4110 ( <i>Transitions Area</i> )	

I4114	• Application Fees
TI4114 ( <i>Transitions Area</i> )	

I4116	• Section 5 applications (Exemption Certs) • Extension of Duration Applications • Planning Searches
TI4116 ( <i>Transitions Area</i> )	

I4117	• Submissions/Objections on Planning Applications
TI4117 ( <i>Transitions Area</i> )	

I4118	• Recouped Enforcement Expenses
TI4118 ( <i>Transitions Area</i> )	

I4121	• Section 254 Licence fees (Fingerpost signs)
TI4121 ( <i>Transitions Area</i> )	

I4122	• SHD Fees (Strategic Housing Developments)
TI4122 ( <i>Transitions Area</i> )	

I4124	• Planning Bond Letters
TI4124 ( <i>Transitions Area</i> )	

I4100	• Outdoor Event Licences
TI4100 ( <i>Transitions Area</i> )	

### Planning Contributions

TP NO.: R671/21 JDE Account NO.: \_\_\_\_\_

Amount: €80.00

Signed: K. Bergin Date: 01/07/21