



Comhairle Cathrach Chorcaí Cork City Council

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

Graham & Caroline Nudds,
Faggott Hill,
Clogheen,
Blarney Road,
Cork, T23 VW13.

12/07/2023

RE: Section 5 Declaration R789/23, Faggott Hill, Clogheen, Blarney Road, Cork T23 VW13.

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 23rd June 2023, I wish to advise as follows:

In view of the above and having regard to:

- The particulars received by the Planning authority on 23/06/2023,
- Class 1 and Class 50, Schedule 2 Part 1, Exempted Development – General as contained within the Planning and Development Regulations.

The Planning Authority considers that –

the proposed demolition of an existing rear domestic extension, demolition of front porch entrance and the construction of an extension to a dwellinghouse **IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.**

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 12th July 2023.



We are Cork.

Is mise le meas,



Kate Magner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference:	R789/23
Description:	Whether the demolition of an existing rear domestic extension, front porch entrance and the construction of an extension to a dwellinghouse is or is not exempted development?
Applicant:	Graham and Caroline Nudds
Location:	Faggott Hill, Clogheen, Blarney Road.
Site inspection:	-

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 is located at Faggott Hill, Clogheen, Blarney Road, Cork. The site is located in a rural setting and consists of an existing single story cottage with associated grounds, vehicle entrance, garage and private open space. There is an existing adjacent third party dwelling located to the north, the east and the south east. The public road runs along the western boundary of the site and this is where the existing vehicle entrance to the site is located.

The Question before the Planning Authority

Whether the demolition of an existing rear domestic extension, front porch entrance and the construction of an extension to a dwellinghouse is or is not exempted development

Land Use Zoning

Cork City Development Plan 2022-2028

Land-Use Zoning

The site is situated in an area zoned as **ZO 20, City Hinterland** with the objective *to protect and improve rural amenity and provide for the development of agriculture.*

Planning History

22/40977:

Permission GRANTED for the demolition of an existing single storey flat roof extension and lean-to porch to existing dwelling and for the construction of a new 1 and a half storey and single storey extensions to existing dwelling and all associated site works.

15/5813:

EOD Permission GRANTED for the installation of a new waste water treatment unit (serving the existing cottage dwelling) and associated site works – Extension of duration of permission granted under Planning Reg. No. 10/4527

10/4527:

Permission GRANTED for the installation of a new waste water treatment unit (serving the existing cottage dwelling) and associated site works

Planning legislation

Planning and Development Act, 2000 as amended

Section 2(1),

“exempted development” has the meaning specified in section 4.

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1),

In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001, as amended.

Section 4(3),

A reference in this Act to exempted development shall be construed as a reference to development which is—

- (a) any of the developments specified in subsection (1), or*
- (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.*

Planning and Development Regulations, 2001 as amended

Article 6(1),

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9 sets out restrictions on exemptions specified under article 6.

Article 9(1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development, including (a) if the carrying out of such development would:-

*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—*

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,

Development

The first issue for consideration is whether or not the matter at hand is 'development', which is defined in the Act as comprising two chief components: 'works' and / or 'any material change in the use of any structures or other land'.

As noted above Section 3 (1) of the Planning and Development Act states that: '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.*

The proposed demolition of the front porch entrance and flat roof extension along with the construction of an extension to the dwelling clearly constitutes 'works', which is defined in section 2(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

As the proposal comprises 'works', it is clearly therefore 'development' within the meaning of the Act.

CONCLUSION — is development

Assessment of Exempted Development

The next issue for consideration is whether or not the proposal is exempted development.

The applicant has submitted plans and drawings setting out the existing and proposed layout on site for the proposed demolition of the flat roof extension, the porch entrance and the proposed extension.

With regard to the construction of the proposed 40sqms extension to the dwelling it is noted that the proposed angled extension if it were to be considered exempt should fall under the definition and the conditions as set out in Class 1 Schedule 2 Part 1 Exempted Development – General as contained within the Planning and Development Regulations. However, it is considered that the proposed extension does not fall under the definition of the rear of the dwelling and therefore cannot be considered to be stated to be the rear of the dwelling. The proposed extension is angled and also extends beyond the current side wall of the dwelling meaning that the extension is located to the side of the dwelling, is visible from the front of the dwelling and therefore the proposed extension cannot be considered to be located to the rear of the dwelling. Therefore, the proposed extension as is set out in the submitted plans cannot come under this Class and as a result cannot be considered to be exempt.

CLASS 1 is set out as follows:

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

With regard to the demolition of the front porch entrance and the flat roof extension the only Class that the development might fall under would be Class 50 Schedule 2 Part 1 Exempted Development – General as contained within the Planning and Development Regulations. However, this Class is tied to Class 1 or 7 being complied with and as the proposed extension and porch to be demolished are not located to the rear of the dwelling but the side and the front then neither of these Classes can be met/complied with.

Environmental Assessment & Restrictions on Exemption

A number of restrictions on exemption are set out in Section 4(4) of the Act and Article 9 of the Regulations.

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.

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

From the details submitted it is considered that the proposed works do not fall under any Class of exemption as set out in the Planning and Development Regulations. Therefore, the works carried out are not considered to be exempt development.

Having regard to:

- The particulars received by the Planning Authority on 23/06/23
- Class 1 and Class 50, Schedule 2, Part 1, Exempted Development – General as contained within the Planning and Development Regulations.

the Planning Authority considers that –

the proposed demolition of an existing rear domestic extension, demolition of front porch entrance and the construction of an extension to a dwellinghouse – **IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.**

Tadhg Hartnett
Executive Planner
Planning Department
Community Culture & Placemaking Directorate
12th July 2023

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

Faggott Hill, Clogheen, Blarney Road, Cork, T23VW13

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 demolition of an existing 25.1sq m extension and the construction
of a new 40sq m extension to the rear of the original cottage at Faggott Hill,
Clogheen, Blarney Road, Cork T23VW13 an exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

We are proposing the demolition of an existing flat roof extension to the front/west
of the cottage as per drawing 2023-GCN-01, 02 and 03 and to construct a new
A frame extension to the rear/ East as per drawing 2023-GCN-04, 05 and 06.
Existing waste water treatment is in place as per planning application
10/4527 and 15/5813.

A current planning application 22/40977 was granted for the construction of a
81sq m extension on the rear/east of the cottage but due to financial reasons
we are not in a position to complete this proposed granted planning application.

We wish to pursue the proposed exempted development instead.

Please see attached proposed extension site location map and proposed Site
layout plans.

DEVELOPMENT MANAGEMENT
CCP

23 JUN 2023

CORK CITY COUNCIL

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	58.2sq m existing/ 73.6sq m proposed
(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) _____ _____ _____

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):	Graham & Caroline Nudds
Applicants Address	
Person/Age of applicant (if any):	
Should all correspondence be sent to the Applicant's address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	

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: John & Caroline Nulds

Date: 23 JUN 2023

.....

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.

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

Planning Pack Map



CENTRE COORDINATES:
ITM 563318,573539

PUBLISHED: 02/12/2021
ORDER NO.: 50237239_1

MAP SERIES: 1:2,500
MAP SHEETS: 6336-D

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Phoenix Park,
Dublin 8,
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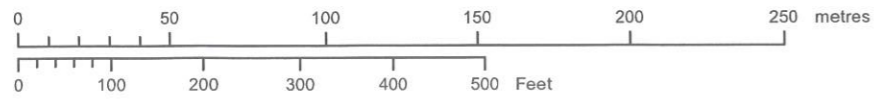
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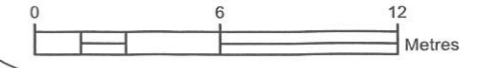
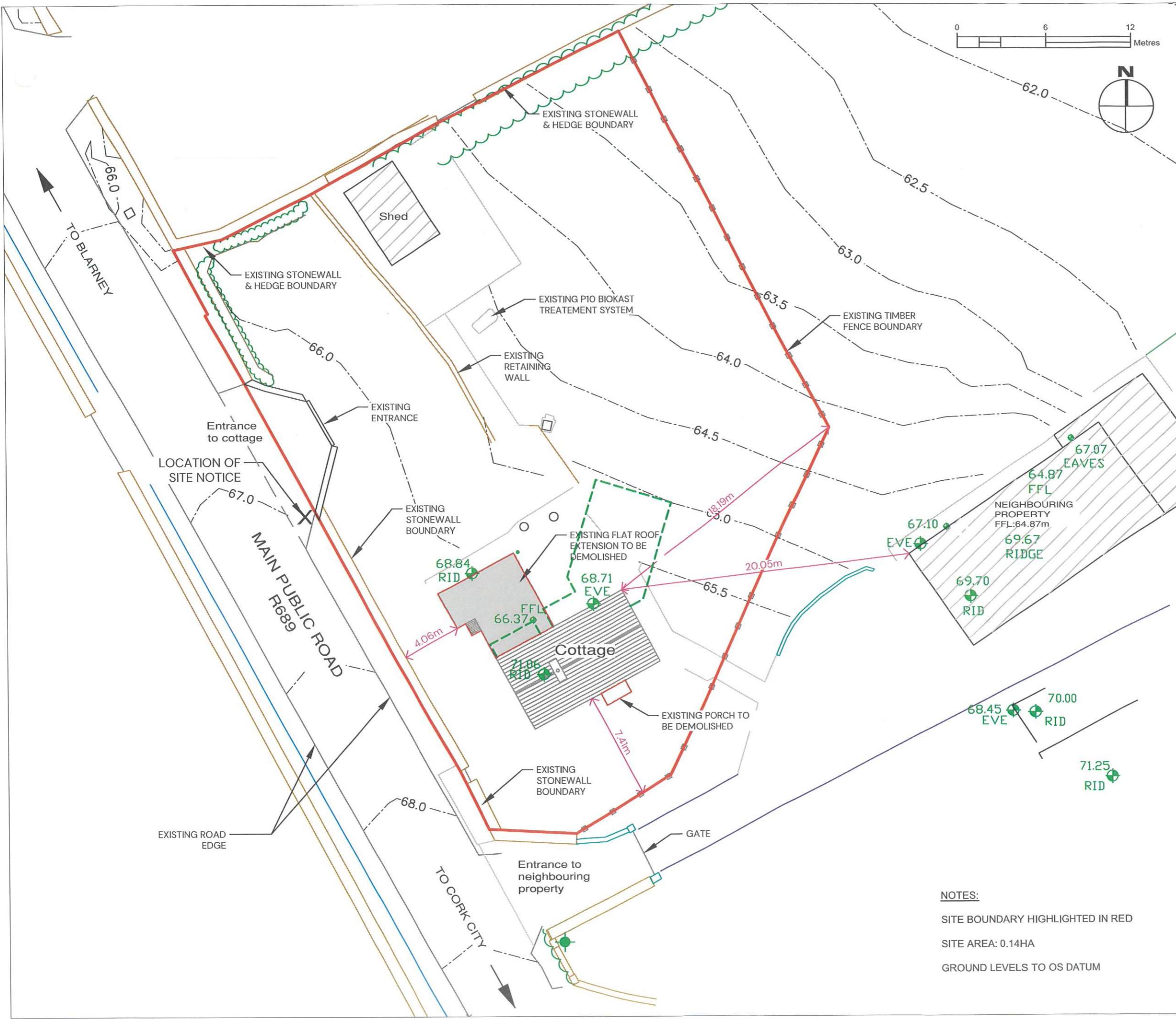
LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'



OUTPUT SCALE: 1:2,500

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'





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- LEGEND:**
- Indicates outline of site subject of this Planning Application (0.14ha)
 - Indicates Location of Site Notice
 - Existing Contours @ 0.5m intervals
 - Extents of Demolition Works
 - Line of Proposed Extension

NOTES:

SITE BOUNDARY HIGHLIGHTED IN RED

SITE AREA: 0.14HA

GROUND LEVELS TO OS DATUM

PLANNING ISSUE	MS	GN	19.06.23	A
Revision Details	Drawn By	Check'd By	Date	Rev

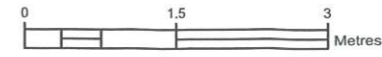
Contract

DEMOLITION AND PROPOSED NEW EXTENSION AND ASSOCIATED SITE WORKS TO EXISTING DWELLING AT FAGGOTHILL, CLOGHEEN, CORK

For

GRAHAM & CAROLINE NUDDS

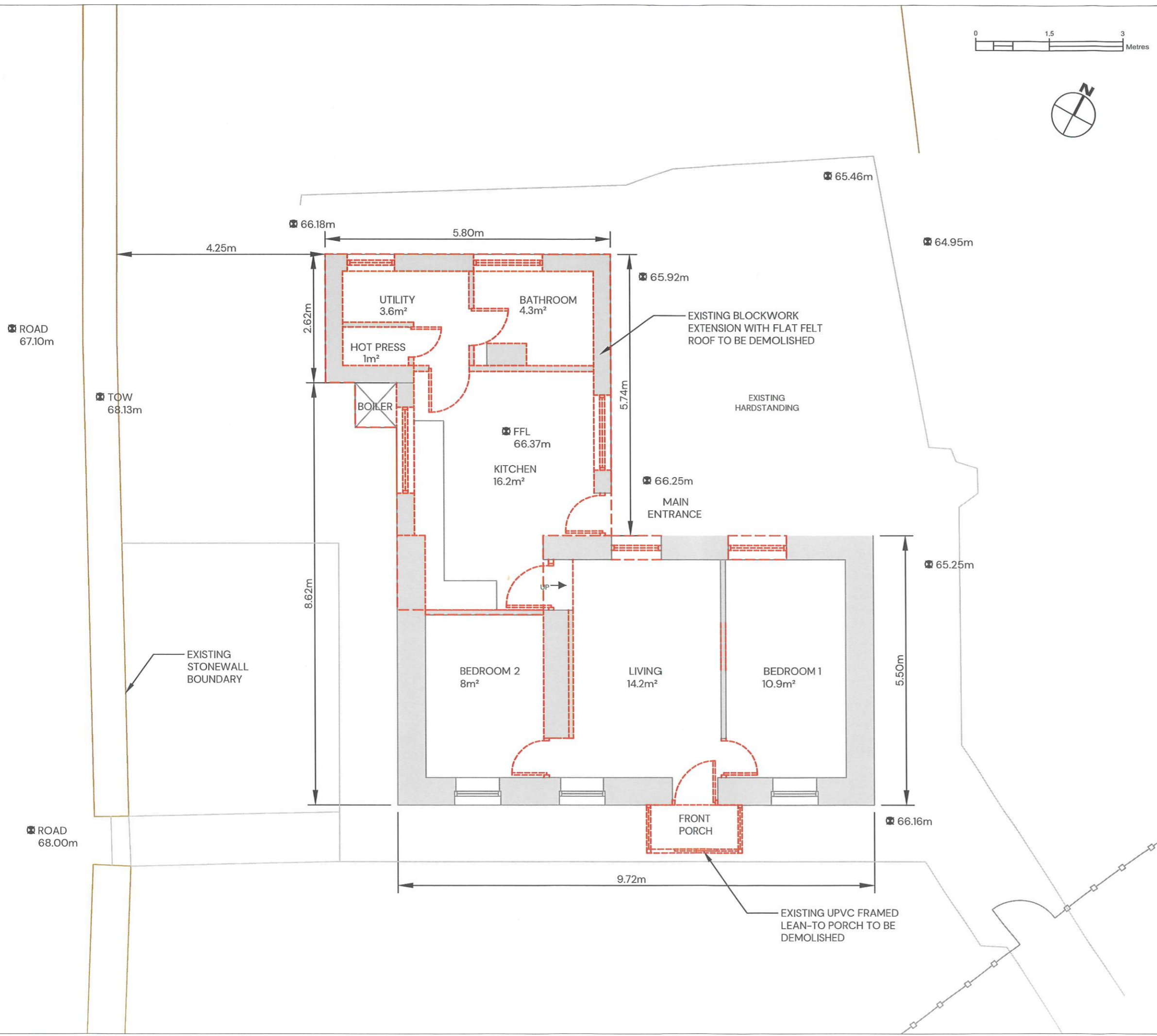
Drawing Title			
EXISTING SITE LAYOUT			
Drawing No.	Revision	Scale @ A3	
2023-GCN-01	A	1:250	
Drawn	Date	File No.	Reviewed By
MS	JUN 2023	2023-GCN	GN



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SCHEDULE OF ACCOMMODATION	
FRONT PORCH	1.6 sq.m
KITCHEN	16.2 sq.m
UTILITY	3.6 sq.m
BATHROOM	4.3 sq.m
HOT PRESS	1 sq.m
LIVING ROOM	14.2 sq.m
BEDROOM 1	10.9 sq.m
BEDROOM 2	8 sq.m
TOTAL FLOOR AREA	59.8 sq.m

- LEGEND:**
- Extent of Demolition
 - Existing Walls



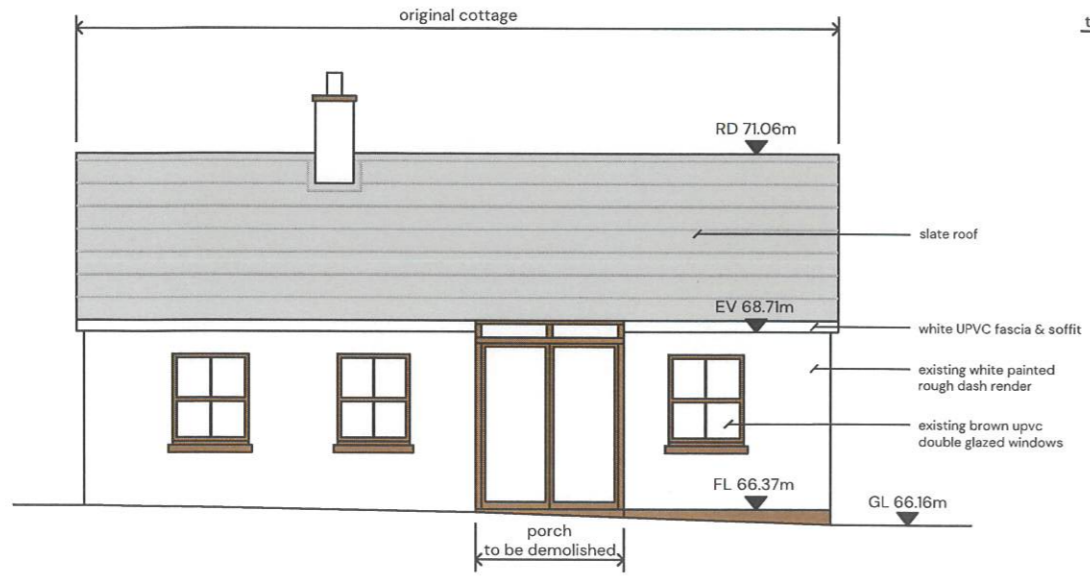
PLANNING ISSUE	MS	GN	20.06.23	A
Revision Details	Drawn By	Check'd By	Date	Rev

Contract
DEMOLITION AND PROPOSED NEW EXTENSION AND ASSOCIATED SITE WORKS TO EXISTING DWELLING AT FAGGOTHILL, CLOGHEEN, CORK
 For
GRAHAM & CAROLINE NUDDS

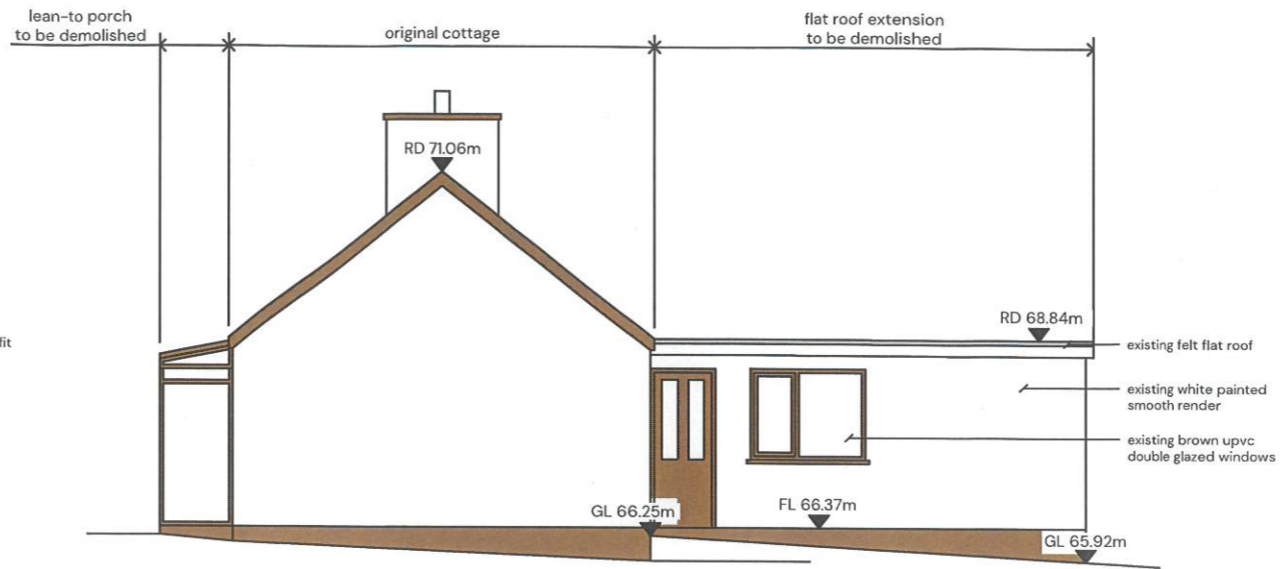
Drawing Title	
EXISTING GROUND FLOOR PLAN	
Drawing No. 2023-GCN-02	Revision A
Scale @ A3 1:75	
Drawn MS	Date JUN 2022
File No. 2023-GCN	Reviewed By GN



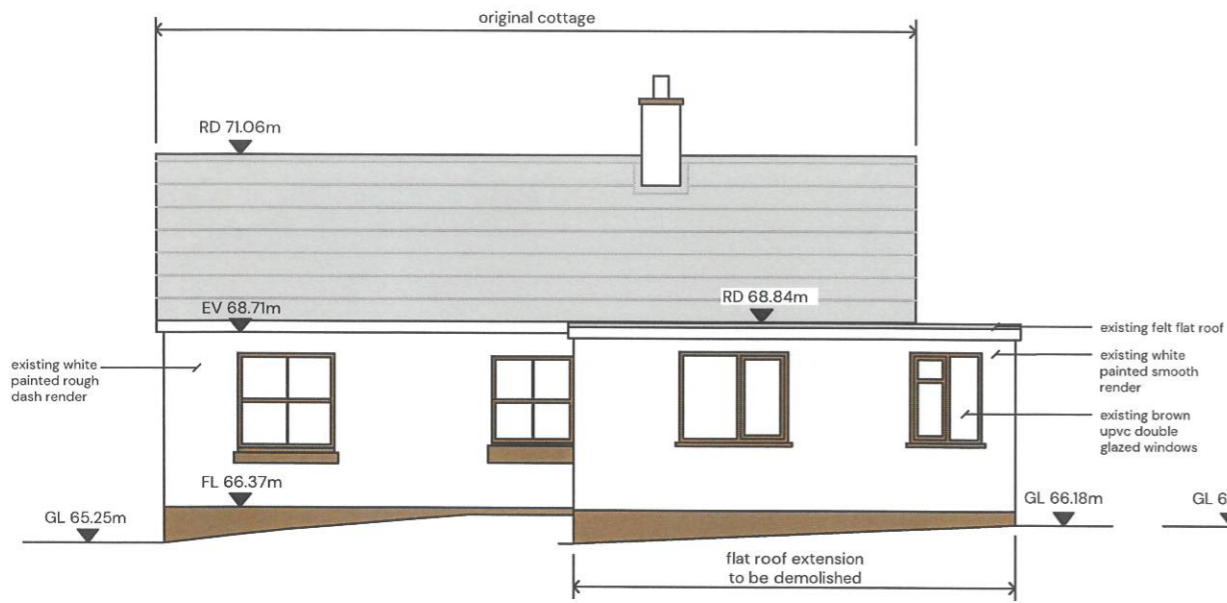
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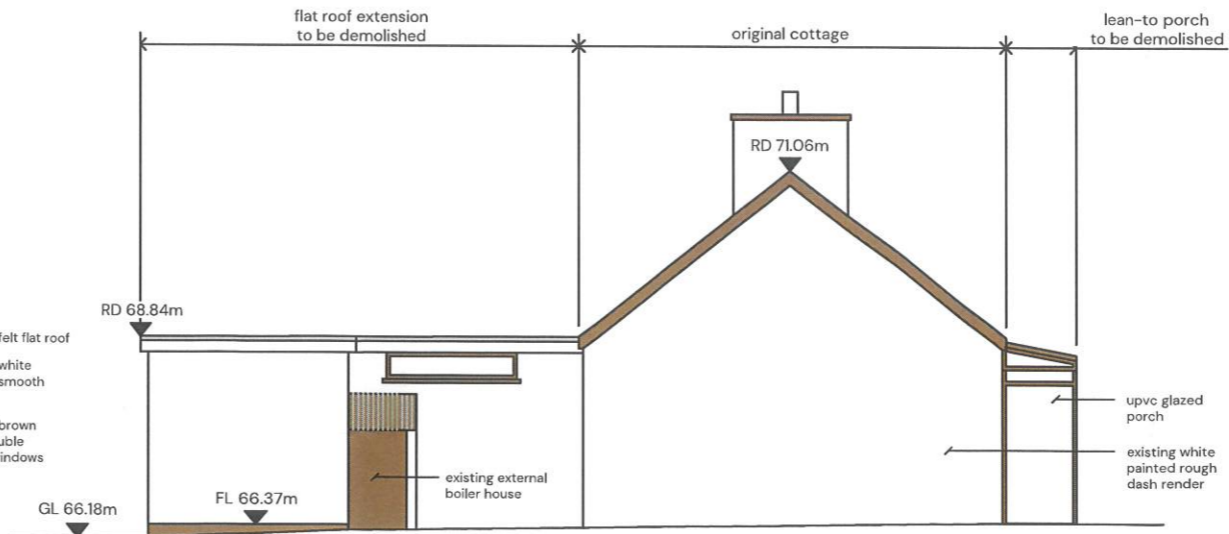
SOUTHEAST



NORTHEAST



NORTHWEST



SOUTHWEST

PLANNING ISSUE	MS	GN	20.06.23	A
Revision Details	Drawn By	Check'd By	Date	Rev

Contract
DEMOLITION AND PROPOSED NEW EXTENSION AND ASSOCIATED SITE WORKS TO EXISTING DWELLING AT FAGGOTHILL, CLOGHEEN, CORK

For
GRAHAM & CAROLINE NUDDS

Drawing Title
EXISTING ELEVATIONS

Drawing No. 2023-GCN-03	Revision A	Scale @ A3 1:100
Drawn MS	Date JUN 2023	Reviewed By GN



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LEGEND:

- Demolition
- Existing Walls
- Proposed Blockwork Walls

SCHEDULE OF ACCOMMODATION

ENTRANCE/HALL	10.4 sq.m
CPD	1.5 sq.m
BEDROOM 1	10.2 sq.m
WALK-IN	7.8 sq.m
EN-SUITE	2.9 sq.m
BEDROOM 2	7.7 sq.m
SHOWER ROOM	3.5 sq.m
KITCHEN/LIVING	31.4 sq.m
Total floor area	75.4 sq.m

NOTES:

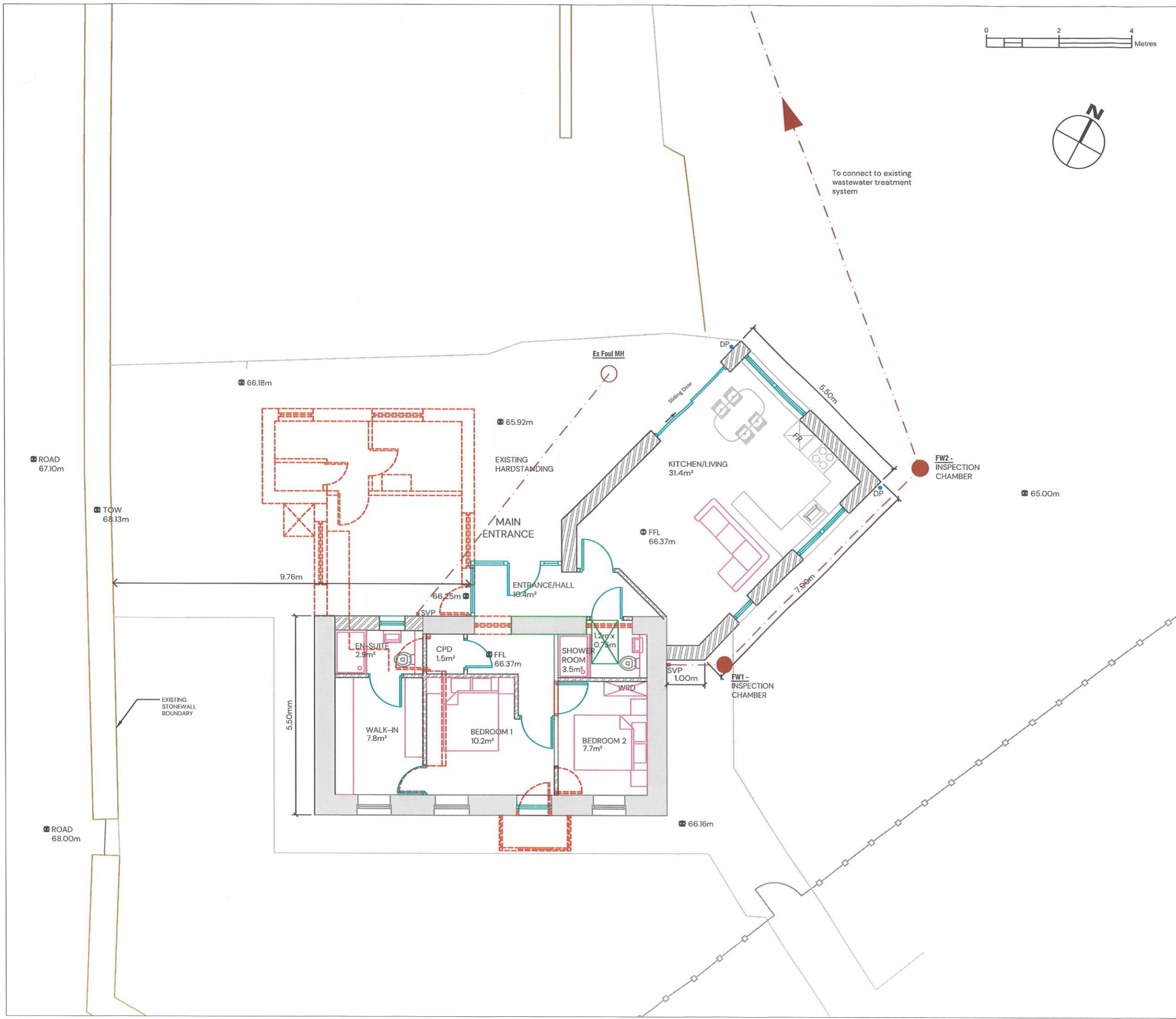
- Gross floor area existing: 63.8m²
- Gross floor area proposed: 37.8m²
- Gross floor area retained: 35.8m²
- Gross floor area demolished: 28m²

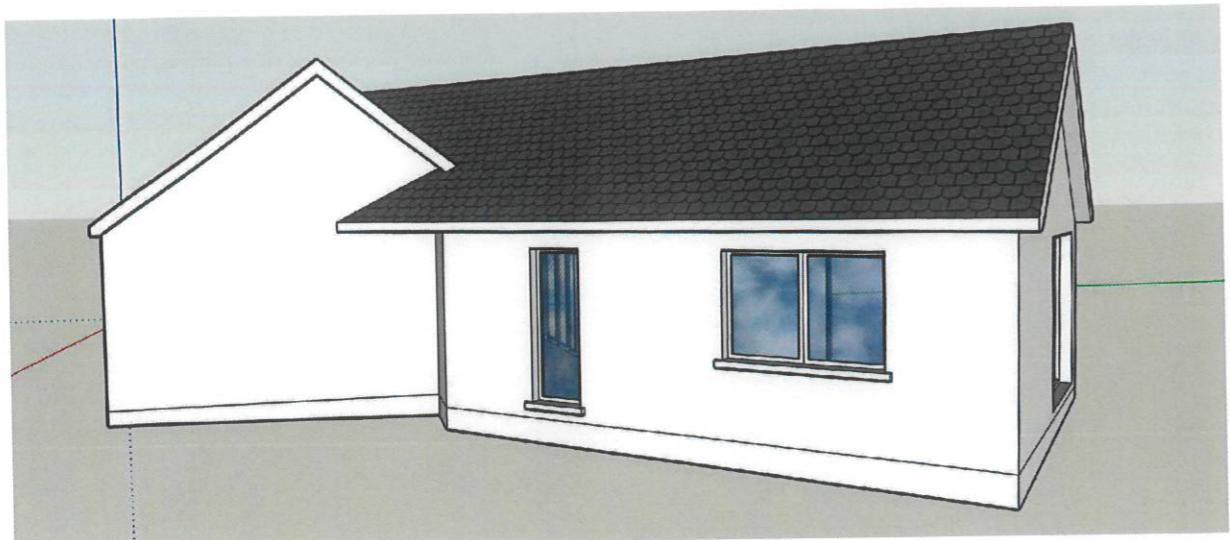
PLANNING ISSUE	MS	GN	20.06.23	A
Revision Details	Drawn By	Checked By	Date	Rev

Contract
DEMOLITION AND PROPOSED NEW EXTENSION AND ASSOCIATED SITE WORKS TO EXISTING DWELLING AT FAGGOTHILL, CLOGHEEN, CORK
 For
GRAHAM & CAROLINE NUDDS

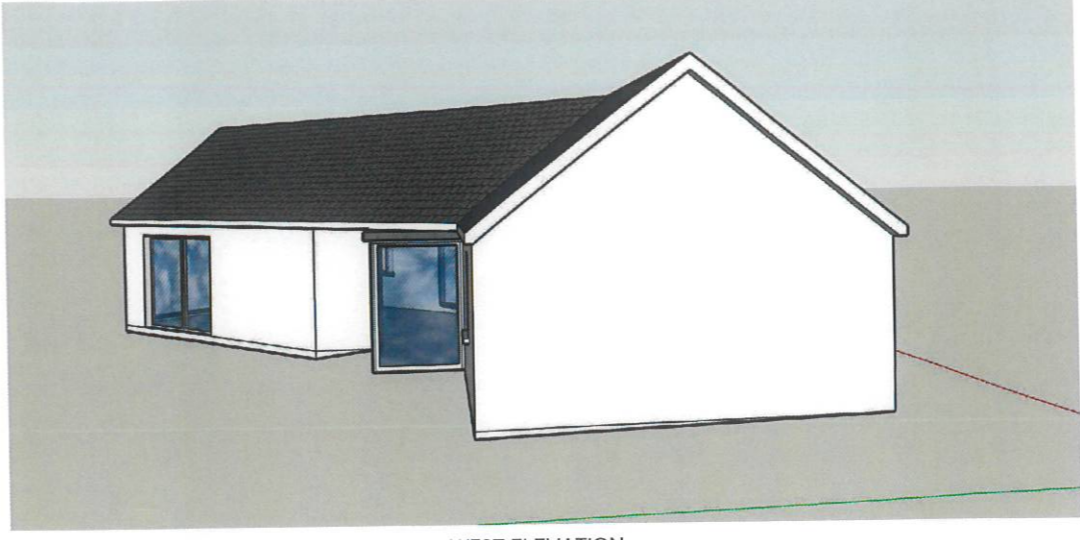
Drawing Title
PROPOSED GROUND FLOOR PLAN

Drawing No. 2023-GCN-04	Revision A	Scale @ A3 1:100
Drawn MS	Date JUN 2023	Reviewed By GN





EAST ELEVATION



WEST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION

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LEGEND:

PLANNING ISSUE	MS	GN	20.06.23	A
Revision Details	Drawn By	Check'd By	Date	Rev

Contract

DEMOLITION AND PROPOSED NEW EXTENSION AND ASSOCIATED SITE WORKS TO EXISTING DWELLING AT FAGGOTHILL, CLOGHEEN, CORK

For

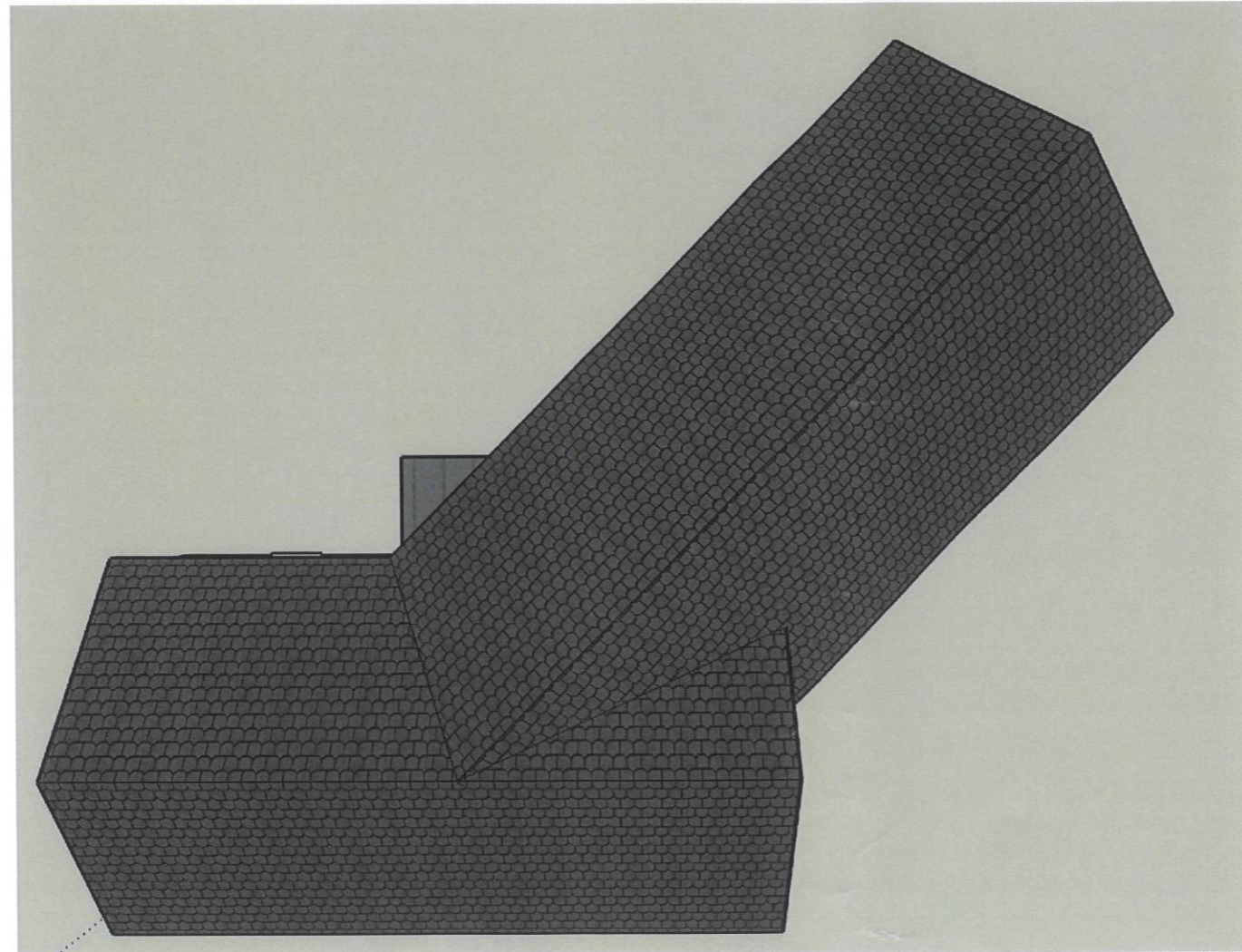
GRAHAM & CAROLINE NUDDS

Drawing Title

PROPOSED ELEVATIONS - SKETCHUP

Drawing No.	Revision	Scale @ A3
2023-GCN-05	A	NTS
Drawn	Date	File No.
MS	JUN 2023	2023-GCN
		Reviewed By
		GN

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PLANNING ISSUE	MS	GN	20.06.23	A
Revision Details	Drawn By	Check'd By	Date	Rev

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DEMOLITION AND PROPOSED NEW EXTENSION AND ASSOCIATED SITE WORKS TO EXISTING DWELLING AT FAGGOTHILL, CLOGHEEN, CORK

For

GRAHAM & CAROLINE NUDDS

Drawing Title

PROPOSED ROOF PLAN - SKETCHUP

Drawing No.	Revision	Scale @ A3	
2023-GCN-06	A	NTS	
Drawn	Date	File No.	Reviewed By
MS	JUN 2023	2023-GCN	GN