

Comhairle Cathrach Chorcaí Cork City Council

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

Micheal D Murphy 2 The Acre Boreenamanna road Cork

27/01/2021

RE: R629/20-Section 5 Declaration

Property: 2 The Acre Boreenamanna 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 & having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that proposed development – is development and is exempted development

Yours faithfully,

erry Bergin

Assistant Staff Officer

Community, Culture and Placemaking

Cork City Council



PLANNER'S REPORT Cork City Co		Cork City Council	
Ref. R629 /20			
Application type	Section 5 Declaration		
Description	Whether an extension to the rear and a porch at the front of property, is exempted development		
Location	2 The Acre Boreenamanna road		
Applicant	Michael D. Murphy		
Date	28/04/2021		
Recommendation	Is Development and Is Exempted Development		

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a section 5 declaration are set out in the Act.

2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

Is the construction of an extension to the rear of 2, The Acre, exempted development?

Is the construction of a porch to the front of 2, The Acre, of 2 sqm exempted development?

Under Additional Details the applicant states: The extension is to the rear, at ground level measuring 40 sq.m

The extension and any window or door in the extension will be at least 4metres from the property boundary

The height of the walls of the extension will not exceed the height of the rear of the existing house. The height of the roof of the extension will be lower (0.55m) than the height of the roof of the existing house.

The remaining open space at the rear of the house will be 198 sq.m

The porch is to the front and measures a max of 2 sqm. The porch will be located 7.7m from the nearest road The maximum height of the porch will be 3.85m

3. Site Description

The subject site is located off a cul de sac off the Boreenmanna road, and consists of a detached dwelling.

4. Planning History

There is no recent planning application associated with the subject site .

5. Legislative Provisions

5.1 The Act

Section 2(1),

"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 <u>or</u> '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 2001-2013.

Section 5(1),

(See section 1 of this report)

Section 177U (9) (screening for appropriate assessment)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

5.2 The Regulations

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.

SCHEDULE 2, ARTICLE 6, PART 1, Exempted Development — General

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Column 1	Column 2
Description of Development	Conditions and Limitations
Development within the curtilage of a house	1. (a) Where the house has not been extended previously, the
CLASS 1	floor area of any such extension shall not exceed 40
The extension of a house, by the construction or erection of an	square metres.
extension (including a conservatory) to the rear of the house or	(b) Subject to paragraph (a), where the house is terraced or
by the conversion for use as part of the house of any garage,	semi-detached, the floor area of any extension above
store, shed or other similar structure attached to the rear or to	ground level shall not exceed 12 square metres.

the side of the house. (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres. 2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres. 3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary. 4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house. (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house. (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling. 5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres. 6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces. (b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces. (c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces. 7. The roof of any extension shall not be used as a balcony or roof garden. CLASS 3 1. No such structure shall be constructed, erected or placed The construction, erection or placing forward of the front wall of a house. within the curtilage of a house of any tent, awning, shade or 2. The total area of such structures constructed, erected or other object, greenhouse, garage, store, shed or other similar placed within the curtilage of a house shall not, taken structure. together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres. 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. 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. 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. 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. 		
Class 7 The construction or erection of a porch outside any external door of a house	 Any such structure shall be situated not less than 2 metres from any road The floor area of any such structure shall not exceed 2 square metres The height of any such structure shall not exceed, in the case of a structure with a tiled or slated pitched roof, 4 meters or, in any other case 3 metres 		

Article 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

6. ASSESSMENT

whether or not the matter in question constitutes development, and if so falls within the scope of exempted development.

6.1 Development

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.

'Works' is defined in section 2(1) of the Act as 'the carrying out of any works on, in, over, or under land' including '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. '.

I consider that the proposed element constitutes development as it comprises the construction of an extensions.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. Class 1, in Schedule 2 of the *Planning and Development Regulations 2001* (as amended), sets out an exemption for certain extensions to dwellings. There are a number of limitations set out in Column 2. Theextension complies with them

There is also exemption for a porch under Class 7.

Having reviewed the planning history on site and the plans provided showing the development I am satisfied that the proposal due to is scale, location etc. accords with the limitations set out in Column 2. I conclude that the proposed development accords with the exemption set out in Class 1 of Schedule 2 of the *Planning and Development Regulations 2001* (as amended).

7. ENVIRONMENTAL ASSESSMENT

7.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) 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 environmental impact statement is not required to be submitted.

7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. 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 the European sites referred to above. Accordingly it is considered that appropriate assessment is not required.

8. CONCLUSION

The question has been asked whether an extension to the rear of the property, that is not visible from the front, and with a floor area of $40m^2$, and a front porch of 2 m sq. is exempted development?

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed altered layout is development and is exempted development

9. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that proposed development — is development and is exempted development
Melissa Walsh Senior Executive Planner



CORK CITY COUNCIL CITY HALL CORK

08/01/2021 11:21:35

Receipt No. : PLAN3/0/7821558 ***** REPRINT ****

R629 20 Michael Murphy

EXEMPTION CERTS - FEES 58800

GOODS 80.00 VAT Exempt/Non-vatable

R629 20 Michael Murphy

Total:

80.00 EUR

80.00

Tendered:

Cheque 127459 80.00

Change:

0.00

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



CORK CITY COUNCIL CITY HALL CORK

08/01/2021 11:21:35

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PLANNING DEPARTMENT

CASHDESK RECEIPT CHECKLIST

Name: Medad Marph	щ.
Amount: <u>680.00</u>	TP No.: R629 20.
Description/ Address: 2	The Acre Boreenmana Rd, Co
Business Unit	Description
TI4110 (Transitions Area)	 Copies of Planning Permission Copies of Planning Decisions Copies of Final Grant General copying Archive Retrieval Microfiche
TI4114 (Transitions Area)	Application Fees
TI4116 (Transitions Area)	 Section 5 applications (Exemption Certs) Extension of Duration Applications Planning Searches
I4117 TI4117(<i>Transitions Area</i>)	 Submissions/Objections on Planning Applications
I4118 TI4118(Transitions Area)	Recouped Enforcement Expenses
I4121 TI4121(Transitions Area) I4122 TI4122(Transitions Area) I4124 TI4124(Transitions Area)	 Section 254 Licence fees (Fingerpost signs) SHD Fees (Strategic Housing Developments) Planning Bond Letters
I4100 TI4100(<i>Transitions Area</i>)	Outdoor Event Licences
Planning Contributions TP NO.: R629 26 Amount: 680.00	JDE Account NO.:
Signed: LBCC O	Date: 30/12/20

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

12/12/2020

Dear Officer of Cork City Council,

Please find enclosed my application for a Section 5 exempt development.

I hope to build an extension at the rear and a porch at the front of my house. My architect believes the development meets all the criteria to be planning exempt.

Enclosed you will find:

- Section 5 declaration application form
- Bank draft for €80
- OS map
- Site layout plan
- Elevations
- Wall construction detail

Michael D. Murphy

- Extension concept design
- Supplementary materials details

Comhairle Cathrach Chorcai Cork City Council

3 0 DEC 2020

Strategic Planning & Feonomic Development L. receptant

If you require any further information, please feel free to contact me using the email and mobile number provided in Section 5 declaration application form.

Kind Regards,

Michael D. Murphy

2, The Acre,

Boreenmanna Road,

Cork City.

COMHAIRLE CATHRACH CHORCAÍ CORK CITY COUNCIL

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

R-Phost/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924762

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 STRUCT	TURE FOR	WHICH	DECLARATION	IS SOUGHT
				011011100	OIL I OIL	VVIIICII	DECEMBATION	13 3000

Is the construction of a shed at No 1 Wall St, Cork development and if so, is it

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

exempted development?

2, The Acre, Boreenmanna Road, Cork City, T12Y6VX

2. QUESTION/ DECLARATION DETAILS

Sample Question:

Note: only works listed and described under this section will be assessed under the section 5 declaration.
Is the construction of an extension at the rear of 2, The Acre, Boreenmanna Road, Cork City an exempted development?
Is the construction of a porch at the front of 2, The Acre, Boreenmanna Road, Cork City an exempted development?
ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT: (Use additional sheets if required).
The extension is to the rear of the property is at ground level with a maximum floor area of 40 square metres. The extension and any window or door in the extension will be at least 4 metres from the property boundary. The height of the walls of the extension will not exceed the height of the wall at the rear of the existing house. The height of the roof of the extension will be lower (0.55m) than the height of the roof of the existing house. The remaining open space a the rear of the house will be 198 square metres.
The porch is to the front of the property with a maximum floor area of 2 square metres. The porch will be located 7.7 metres from the nearest road. The maximum height of the porch will be 3.85 metres.
Please see enclosed plans and elevations of the proposed extension and porch with details.

3.	Are you aware of any enforcement proceedings connected to this site? No If so please supply details:						
4.	Is this a Protected Structure or within the curtilage of a Protected Structure?						
	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:						
6.	APPLICATION DETAILS						
Answer i	the following if applicable. Note: Floor areas ar e indicated in square meters (sq. M)	re measure	d from the inside	of the external walls and			
(a)	Floor area of existing/proposed structure	/s	Existing = 75.5 Porch = 2 (sq. N	(sq. M), Extension = 40 (sq. M) M)			
	If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including for which planning permission has been obtained)?	is g those	Yes No V If yes, please provide floor areas. (sq m)				
	If concerning a change of use of land and						
	g/ previous use (please circle)		existing use (p				
Please legal ir	tick appropriate box to show applicant's atterest in the land or structure	A. Owr	ner ✓	B. Other			
Where your in	legal interest is 'Other', please state attention the land/structure in question						
	are not the legal owner, please state the and address of the owner if available						
	e confirm that the information contained	d in the a	oplication is tr	ue and accurate:			
Signatu	re: Michaelt Murphy						
Date: _1	0/12/2020	_					

CONTACT DETAILS

10. Applicant:

Name(s)	Michael D. Murphy
Address	2, The Acre, Boreenmanna Road, Cork City, T12Y6VX

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

Name(s):				
Address:				
Telephone:	0877907972			
E-mail address:	murphydmichael@gmail.com			
Should all corresponde	ence be sent to the above address?	Yes	V	No 🗍
	'No', all correspondence will be sent to the Applicant's			

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.

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- 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.

Supplementary material

Please find enclosed the following drawings:

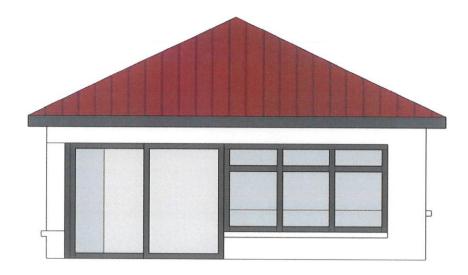
- OS map (Scale 1:1000) with site boundary marked in red.
- Site layout plan (Scale 1:100). The boundary is marked in red. The existing dwelling is coloured blue while the extension to the rear and porch to the front are coloured yellow. A green dashed line demarcates the extension and porch from the existing structure. There are no wayleaves on this site.
- South elevation (Scale 1:50). All heights and main dimensions displayed.
- North elevation (Scale 1:50). All heights and main dimensions displayed.
- East elevation (Scale 1:50). All heights and main dimensions displayed.
- West elevation (Scale 1:50). All heights and main dimensions displayed.
- Wall construction detail (Scale 1:10).
- · Extension concept design.

Window and door details for the extension were not included in the elevations as their exact locations are yet to be finalised. However, a concept design has been included which displays the current proposed layout.

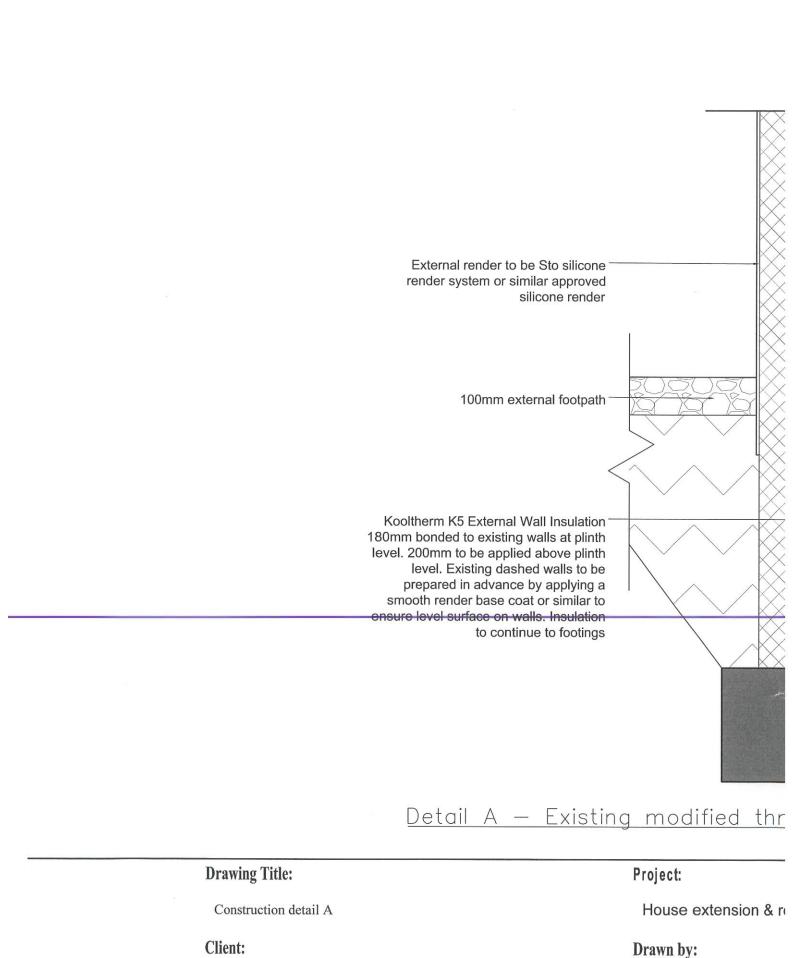
Dwelling refurbishment

The existing dwell will also undergo a complete refurbishment including energy upgrades (insulation, controls, ventilation and heating) which will bring the building from the current BER E2 rating to an estimated A3 rating.

Extension Concept Design

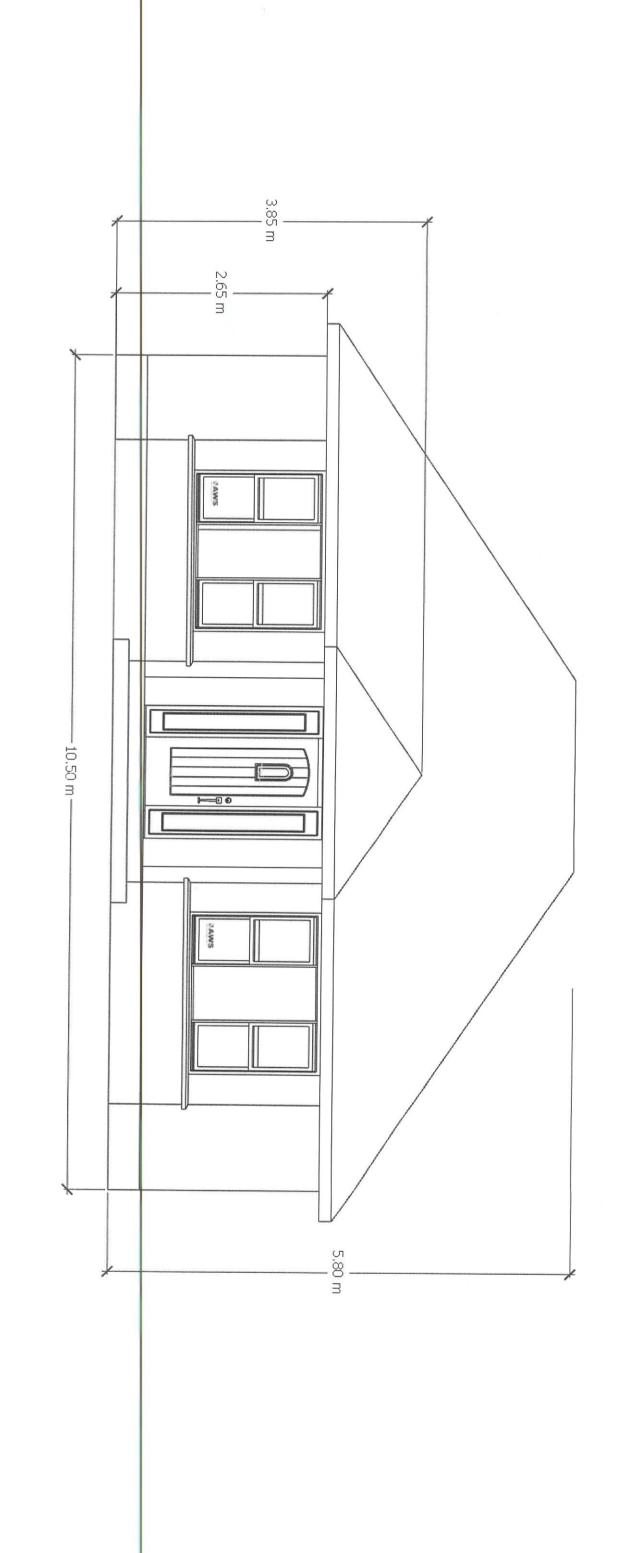






James Pittam

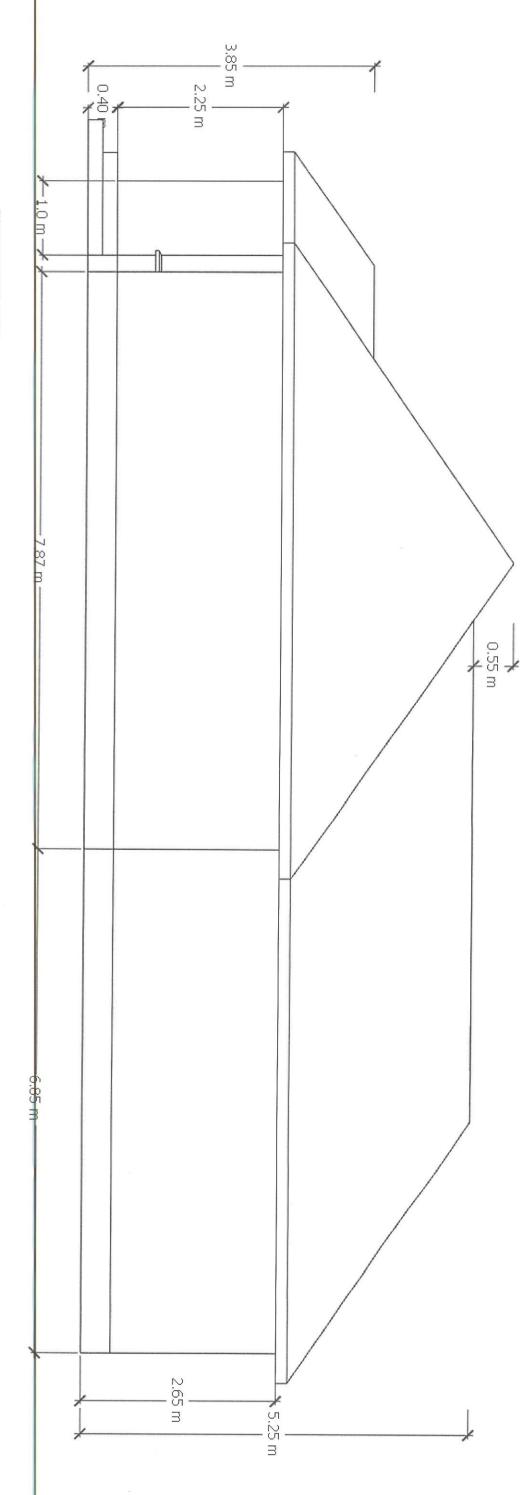
Michael Murphy



EAST ELEVATION

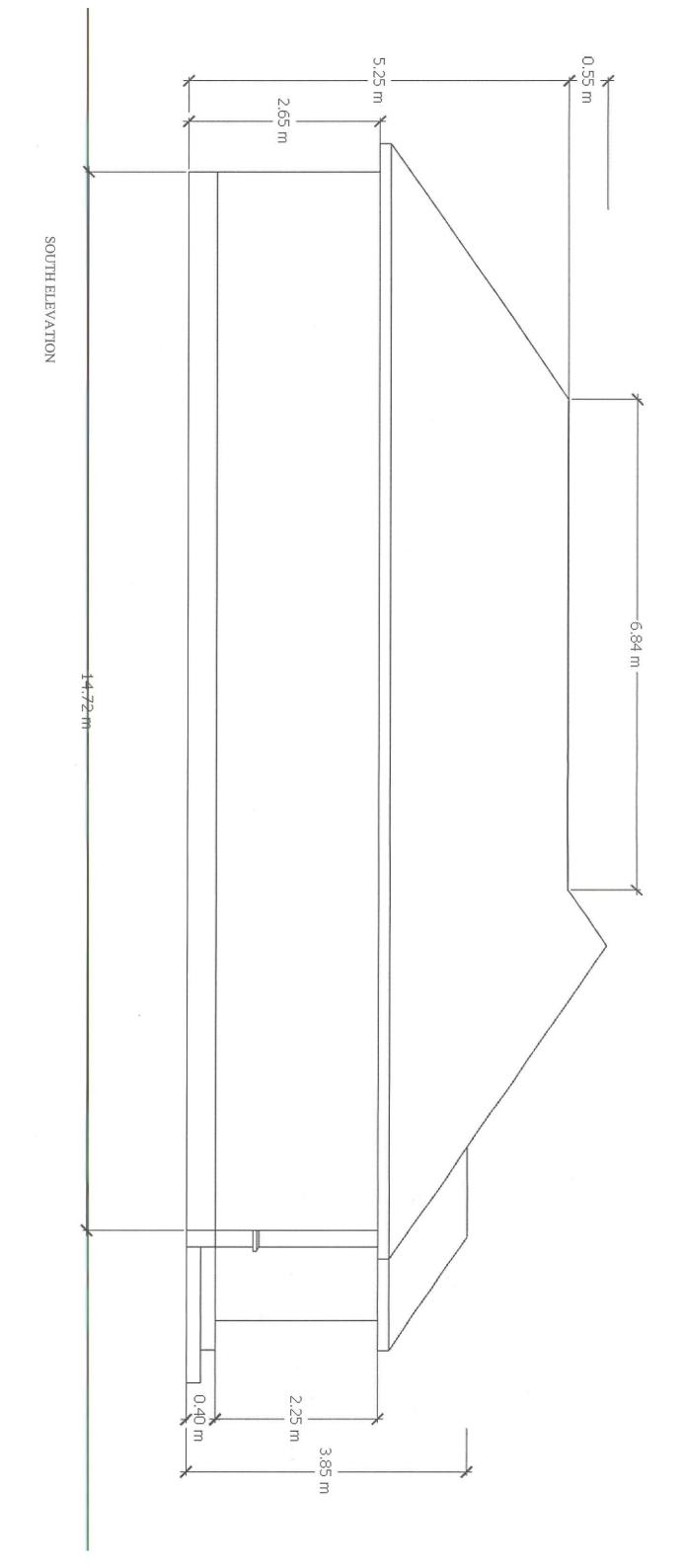
Client: **Drawing Title:** Michael Murphy EAST ELEVATION Drawn by: Project: James Pittam House extension & refurbishment Scale @ A3: 1:50 Date: 03.12.20 Architectural design consultant
Certified European Passive House Designer
Low energy retrofit advisor James Pittam, PhD, BSc, CEPHD, Dr.JamesPittam@gmail.com Tel: 086 4033569

DESIGN



SOUTH ELEVATION

Michael Murphy	Client:	SOUTH ELEVATION	Drawing Title:
James Pittam	Drawn by:	House extension & refurbishment	Project:
1:50	Scale @ A3:	03.12.20	Date:
Dr.JamesPittam@gmail.com Tel: 086 4033569	Low energy retrofit advisor	Architectural design consultant	James Pittam, PhD, BSc, CEPHD,
	(9/20/24/1/20/24	



Drawing Title:

SOUTH ELEVATION

Client: Michael Murphy

House extension & refurbishment

Project:

Drawn by:

James Pittam

Scale @ A3: 1:50

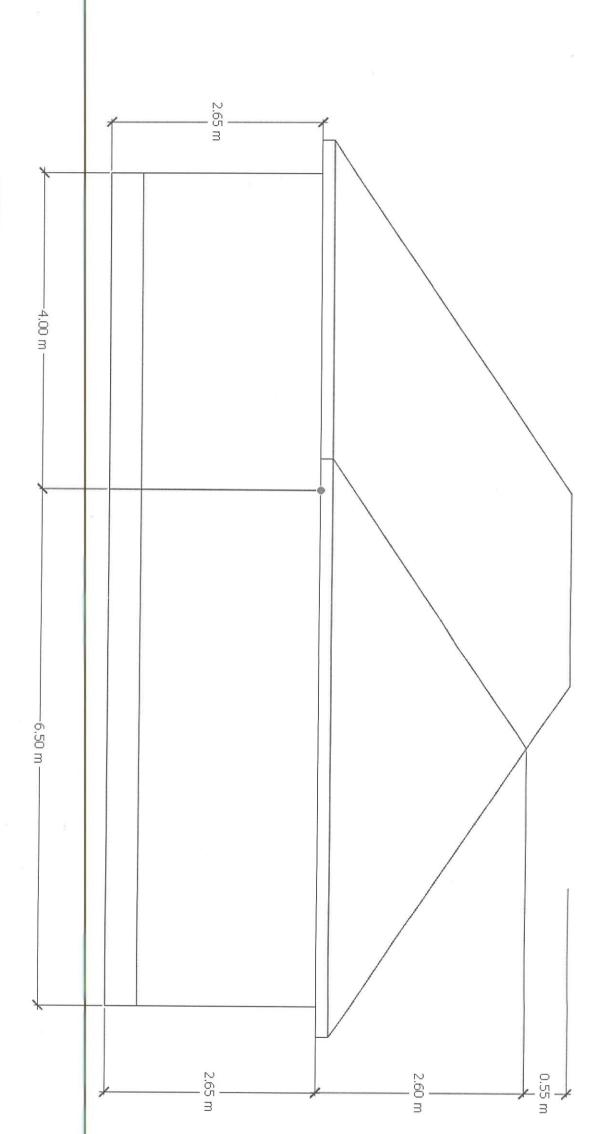
03.12.20

Date:

James Pittam, PhD, BSc, CEPHD,

Dr.JamesPittam@gmail.com Tel: 086 4033569 Architectural design consultant Certified European Passive House Designer Low energy retrofit advisor





WEST ELEVATION

Drawing Title:

WEST ELEVATION

Client:

Michael Murphy

House extension & refurbishment

Project:

Drawn by:

James Pittam

Scale @ A3: 1:50

Date:

James Pittam, PhD, BSc, CEPHD,

03.12.20

Architectural design consultant
Certified European Passive House Designer
Low energy retrofit advisor

Dr.JamesPittam@gmail.com Tel: 086 4033569

