

Comhairle Cathrach Chorcaí Cork City Council

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

Patricia & Maria Flanagan,
4 Glenvile Moy,
Lahinch,
Co. Clare

08/05/2024

**RE: Section 5 Declaration R839/24 St. Valentines, Well Road,
Douglas, Cork.**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 10/04/2024, I wish to advise as follows:

The Planning Authority 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, 9 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

the planning authority considers that —

the works carried out to the existing dwelling house, consisting of the following:

1 No. Velux window located to the front elevation of the dwelling.

at St. Valentines, Well Road, Douglas, Cork **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.



We are Cork.

Is mise le meas,

David O'Regan

**Assistant Staff Officer,
Community, Culture &
Placemaking Directorate**

PLANNER'S REPORT
Ref. R 839/24

Cork City
Council
Development Management
Strategic Planning and
Economic Development

Application type	SECTION 5 DECLARATION
Question	<i>Whether the following is development and, if so, is it exempted development:</i> <i>Velux window located to the front elevation of the dwelling.</i>
Location	St. Valentines, Well Road, Douglas, Cork
Applicant	Patricia Flanagan and Maria Flanagan
Date	08/05/2024
Recommendation	Is development and is not exempted development

INTERPRETATION

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.

REQUIREMENTS FOR A SECTION 5 DECLARATION APPLICATION

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.

THE QUESTION BEFORE THE PLANNING AUTHORITY

The question to the planning authority is framed using the phrasing of section 5. The applicant states in the request, "is the velux window located to the front elevation of the dwelling at St. Valentines, Well Road, Douglas, Cork exempt or not exempt from planning?"

In my opinion the intention of the request is clear, and that it is entirely reasonable to consider the question before the planning authority as being:

Whether the following are development and, if so, are they exempted development:

1. *1 No. Velux window located to the front elevation of the dwelling*

SITE DESCRIPTION

The subject property is a two-storey semi-detached dwelling in the Sustainable Residential Neighbourhoods zoning area. The area is predominantly residential in nature.

DESCRIPTION OF THE DEVELOPMENT

The structure in question has been constructed and is fully in place on site it is noted.

RELEVANT PLANNING HISTORY

None.

LEGISLATIVE PROVISIONS

Planning and Development Act, 2000 as amended

Section 2(1)

"exempted development" has the meaning specified in section 4.

"structure" means 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 (iii).*

"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(1)(h)

4.(1) The following shall be exempted developments for the purposes of this Act—

...

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

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.

Section 5(1)

See section 1 of this report.

Planning and Development Regulations 2001 to 2018 as amended

Article 5(2)

In Schedule 2, unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose "ground level" means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.

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

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

(Article 6) Schedule 2, Part 1

Classes 1-8 relate to development within the curtilage of a house. Having examined the Classes it is considered that no specific Class relates to the works that have been carried out on site to date.

ASSESSMENT

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'.

'Works' is defined in section 3(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

With regard to the proposed development, the main issue to consider is as follows:

1 No. Velux window located to the front elevation of the dwelling

- I consider that the specific details set out above constitutes 'works' as they comprise the alteration to a building on the site. As the proposal comprises 'works', it is clearly therefore 'development' within the meaning of the Act.

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

CONCLUSION

Is development

Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. Section 2(1) of the Act defines 'exempted development' as having 'the meaning specified in section 4' of the Act (which relates to exempted development).

Section 4(3) of the Act states that exempted development either means development specified in section 4(1) or development which is exempted development having regard to any regulations under section 4(2).

With regard to the proposed development, the main issues to consider is as follows:

1 No. Velux window located to the front elevation of the dwelling

- I consider that there is no Class of works as set out in (Article 6) Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) that covers the specific works carried out to date on site.
- I further consider that the works carried out to date cannot be considered exempt under Section 4(1)(h) of the Planning and Development Act 2000 (as amended) as they a) are not works that affect only the interior of the structure and b) do materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

Restrictions on exemption

I do not consider that any apply in this instance.

CONCLUSION

Is not exempted development

ENVIRONMENTAL ASSESSMENT

I note the provisions of sections 4(4), 4(4A) and 177U(9) of the Act which state,

Section 4(4),

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Section 4(4A)

Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

(a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and

(b) as respects which an environmental impact assessment or an appropriate assessment is required,

to be exempted development.

Section 177U(9)

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.

8.1 Screening for Environmental Impact Assessment

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**.

8.2 Screening for Appropriate Assessment

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

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, 9 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

the planning authority considers that —

the works carried out to the existing dwelling house, consisting of the following:

1 No. Velux window located to the front elevation of the dwelling

at St. Valentines, Well Road, Douglas, Cork **IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.**



Tadhg Hartnett
Executive Planner
07/05/2024

4 Glenville,
Moy,
Lahinch
Co.Clare

The Development Management Section,
Community, Culture and Placemaking Directorate
Cork City Council,
City Hall,
Anglesea Street,
Cork

RE: Section 5 Declaration Application
Property: St. Valentine's, Well Road, Douglas, Cork
Applicants: Maria and Patricia Flanagan

Dear Sir/Madam,

I enclose the following:

1. Section 5 Declaration application form
2. Copy Grant probate Sheila Flanagan, otherwise Julia Flanagan, dated 25th March 2019.
3. Photos in support of application
4. Site Map
5. Planning Pack map
6. Surveys and elevations of property
7. Cheque in the sum of €80

I look forward to receipt of declaration.

Many thanks,

Best wishes,


Patricia Flanagan



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: 021-4924029

Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. NAME OF PERSON MAKING THE REQUEST

PATRICIA FLANAGAN + MARIA FLANAGAN

2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

"ST. VALENTINE'S", WELL ROAD, DOUGLAS,
CORK

3. 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 VELUX WINDOW LOCATED TO THE FRONT ELEVATION OF THE DWELLING AT "ST. VALENTINE'S", WELL ROAD, DOUGLAS, CORK, EXEMPT OR NOT EXEMPT FROM PLANNING?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

WINDOW MEASURES 1100 X 1180MM AND WAS INSTALLED 40 YEARS AGO BY OUR LATE FATHER, PATRICK FLANAGAN.
WINDOW IS HIGH UP IN THE ROOF AND OTHER HOUSES IN THE AREA HAVE SIMILAR VELUX WINDOWS IN THE FRONT SO IT DOES NOT LOOK OUT OF PLACE OR MATERIALLY IMPACT THE STREETSCAPE. SEE PHOTOS ATTACHED.

4. Are you aware of any enforcement proceedings connected to this site?

If so please supply details:

NO

5. 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?

6. Was there previous relevant planning application/s on this site?

If so please supply details:

7. 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	N/A. NO CHANGE TO FLOOR AREA. SEE DRAWINGS ATTACHED
(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: N/A	
Existing/ previous use (please circle)	Proposed/existing use (please circle)

7. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner	B. Other <input checked="" type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	EXECUTORS OF SHEILA FLANAGAN (OTHERWISE JULIA FLANAGAN) *	
If you are not the legal owner, please state the name of the owner if available	SHEILA FLANAGAN (OTHERWISE JULIA FLANAGAN) DECEASED	

* COPY GRANT OF PROBATE ATTACHED

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

Signature:

Meria Flanagan Patricia Flanagan

Date:

8-4-2024

THE HIGH COURT

PROBATE

BE IT KNOWN that on the 25th day of March 2019 the last Will a copy of which signed by me is hereunto annexed of SHEILA FLANAGAN (OTHERWISE JULIA FLANAGAN) late of St Valentines Well Road Douglas (otherwise St Valentines 17 Ardmahon Estate Well Road) Cork in the County of Cork

Nurse (Retired)

deceased who died on or about the 20th day of July 2018 at St Patricks University Hospital/Marymount University Hospice Cork in said County and who at the time of death had a fixed place of abode at St Valentines Well Road Douglas (otherwise St Valentines 17 Ardmahon Estate Well Road) Cork in the County of Cork within the District of this Probate Registry was proved and registered in the District Probate Registry at Cork and that the Administration of all the estate which devolves on and vests in the personal representative of the said deceased was granted by the Court to PATRICIA FLANAGAN of St Valentines Well Road Douglas Cork in said County Homemaker daughter of the deceased and MARIA FLANAGAN of 8 Kilmore Bailey View Dalkey in the County of Dublin Homemaker daughter of the deceased the Executrices named in the said Will

they having been first sworn faithfully to administer the same

And it is hereby certified that an Affidavit for Inland Revenue has been delivered wherein it is shown that the gross value of all the Estate of the said deceased within this jurisdiction (exclusive of what the deceased may have been possessed of or entitled to as a Trustee and not beneficially) amounts to Eur 568,812.00 and that the net value thereof amounts to Eur 559,405.00



Deirdre O'Mahony

The person authorised by law to perform the duties of District Probate Registrar for the District of the County and County Borough of Cork

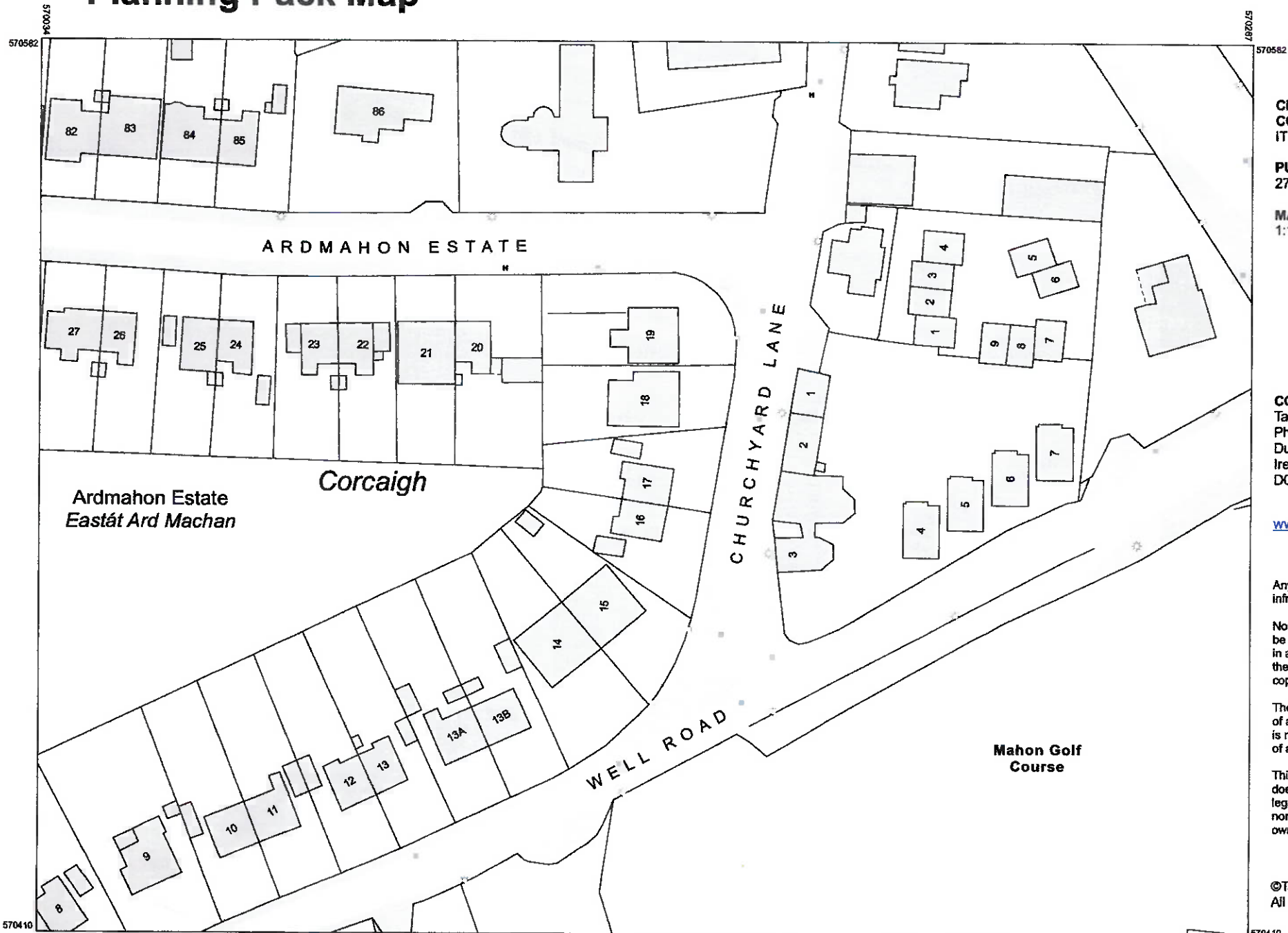
Extracted by **Applicant in person**
Eur 822.00



Planning Pack Map



Taitte
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CENTRE COORDINATES:
ITM 570151,570496

PUBLISHED: 27/03/2024 **ORDER NO.:** 50391300_1

MAP SERIES: 1:1,000 **MAP SHEETS:** 6383-23

COMPILED AND PUBLISHED BY:
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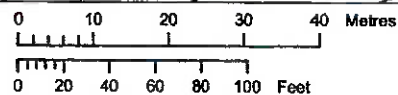
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OUTPUT SCALE: 1:1,000

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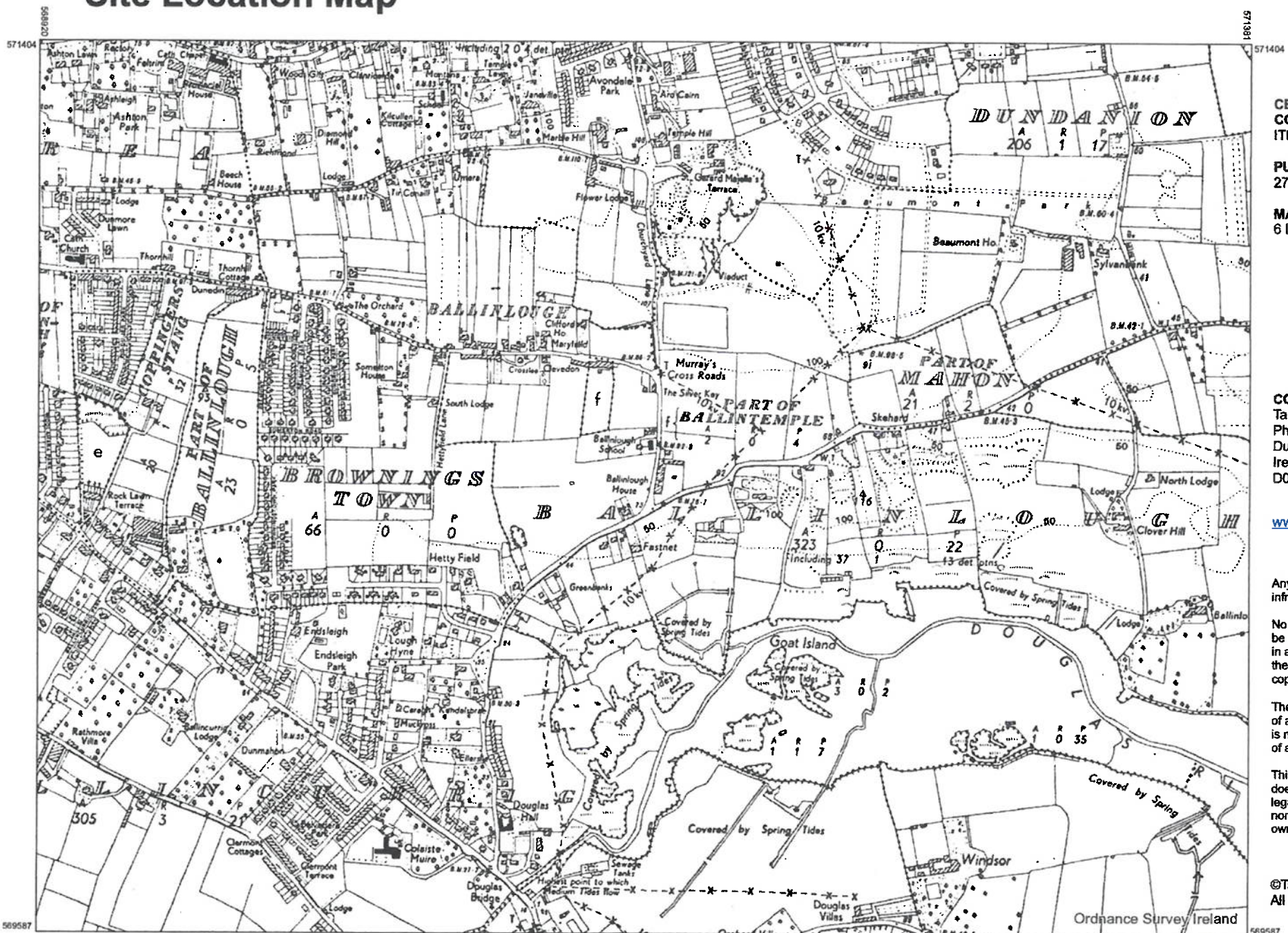
LEGEND:
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Site Location Map



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ORDER NO.: 50391300_1

MAP SERIES: 6 Inch Raster
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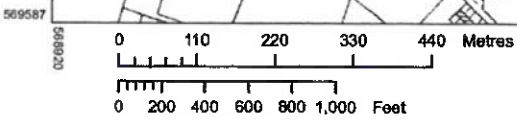
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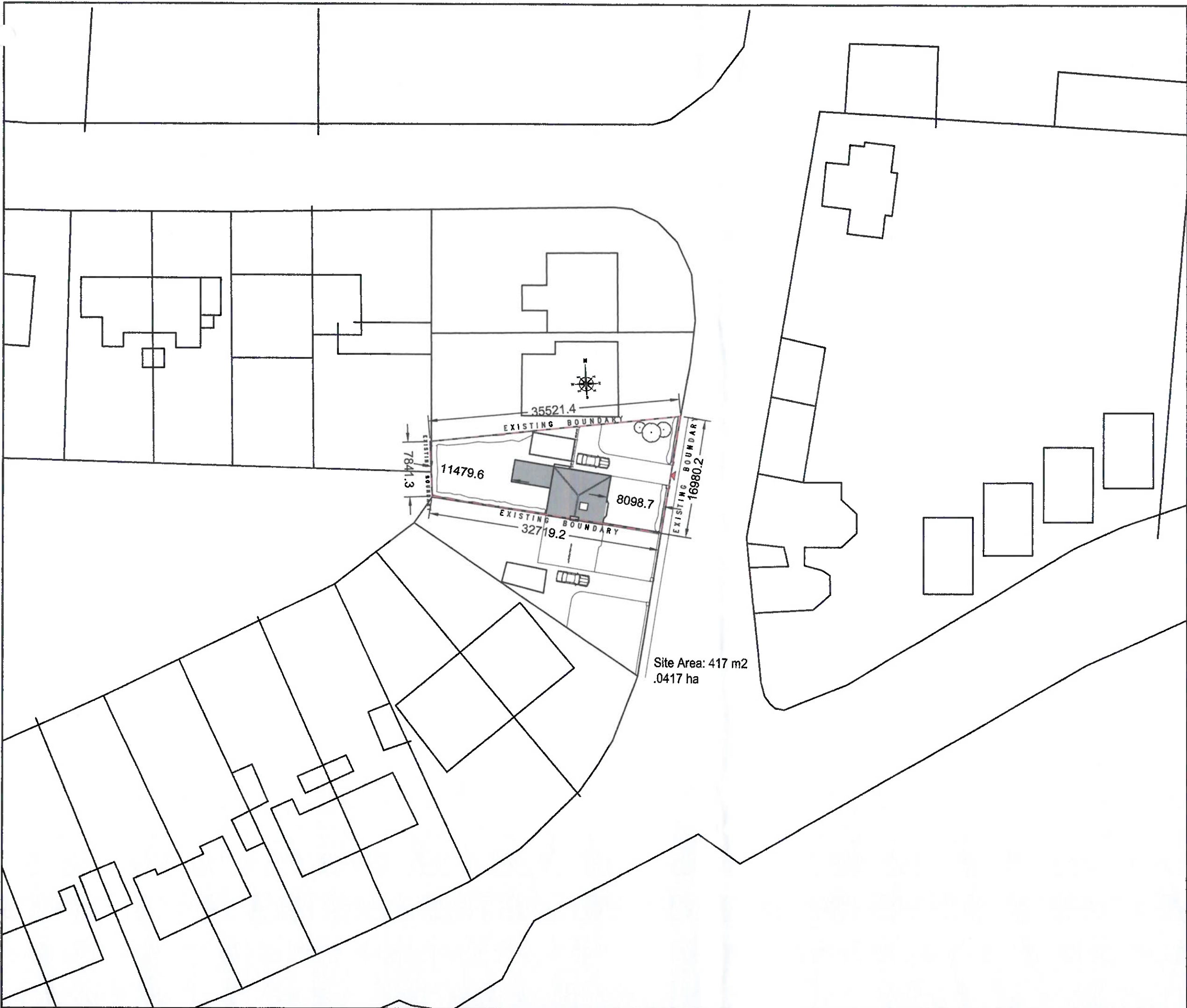
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Revision	Date	Description	Initial

O' Dea Architects,
12 Tramway Terrace,
Douglas,
Cork.

Mob: 087 7914975
e mail : odearch@gmail.com

ARCHITECTURE
PLANNING
URBAN DESIGN
INTERIORS



Client: Trish and Maria Flanagan

Address: Saint Valentines,
17 Ardmahon Estate,
Well Road,
Cork T12 HT F6

Job: Survey of Existing Dwellinghouse and Garage

Drawing: Existing Site layout

Drn.	Scale.	Date
FOD	1/500	02/04/2024

Job No.	Drawing No.	Rev:
2411 - 01.	planning application 2316.	A

23.00

Site Entrance
16980 [55'-8"]

22.00

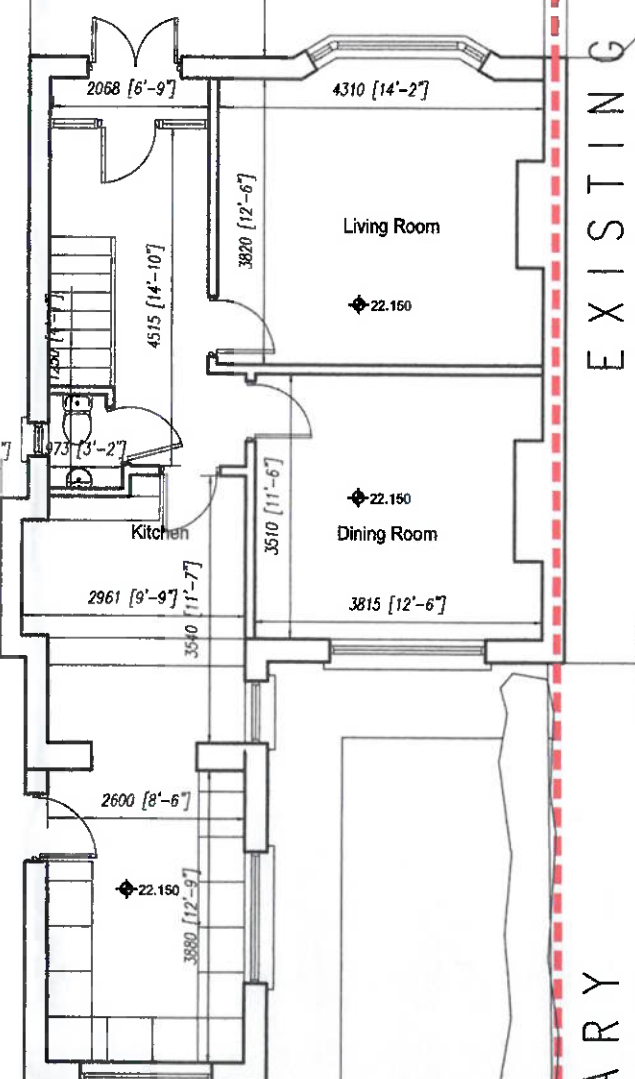
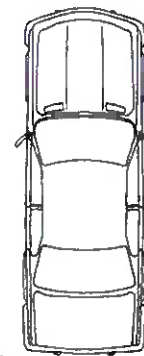
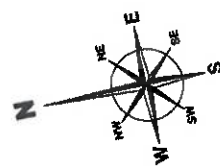
EXISTING BOUNDARY

EXISTING BOUNDARY

EXISTING BOUNDARY

ADJOINING PROPERTY

ADJOINING PROPERTY



Overall Ground floor plan 64 m2
Existing kitchen extension 10 m2
Site Area: 417 m2
.0417 ha

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Client: Trish and Maria Flanagan

Address: Saint Valentines,
17 Ardmore Estate,
Well Road,
Cork T12 HT F6

Job: Survey of Existing Dwellinghouse and Garage

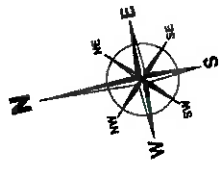
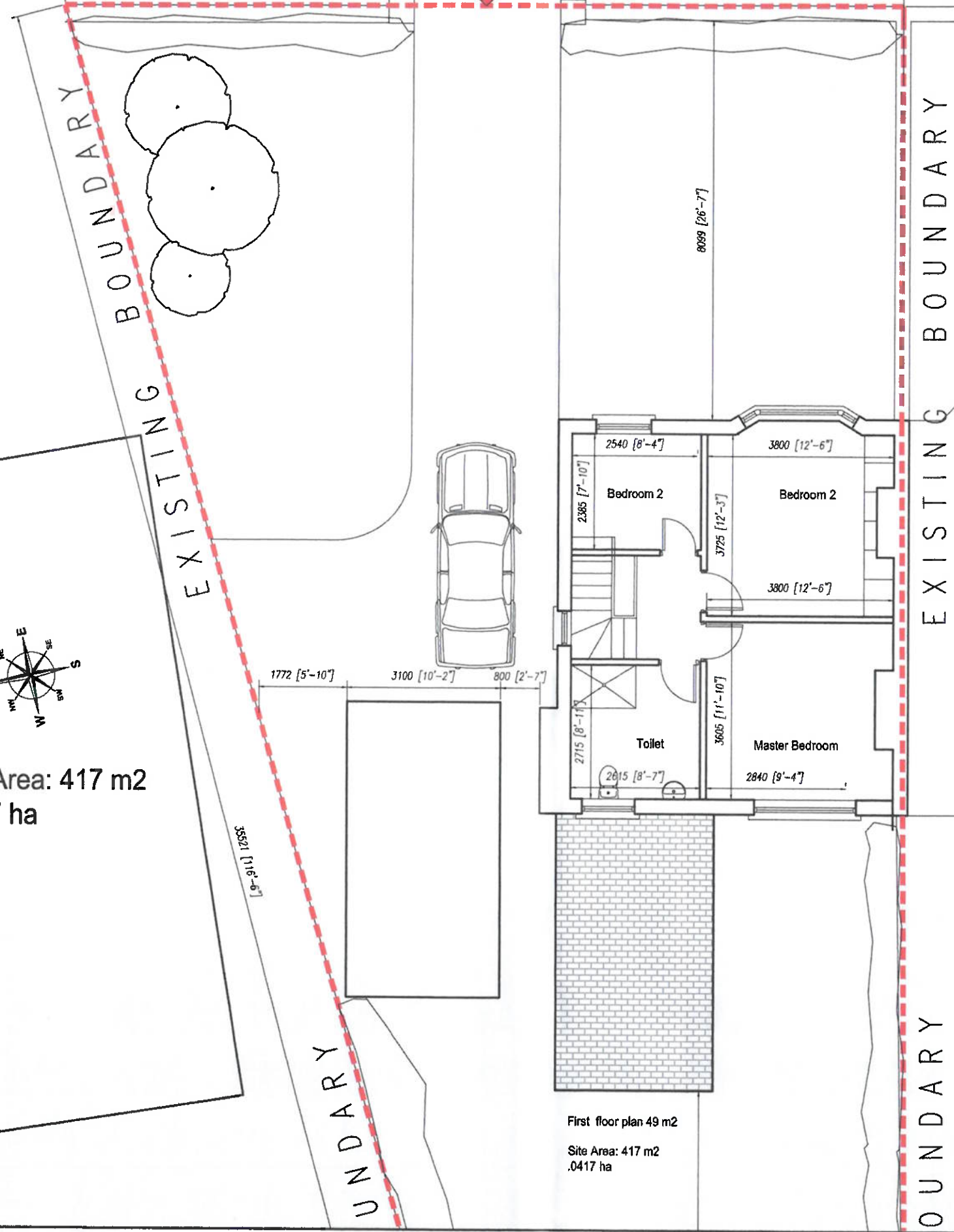
Drawing: Ground Floor plan

Dim.	Scale	Date
FOD	1/100	02/04/2024

Job No.	Drawing No.	Rev:
2411 - 02.	planning application 2316.	A

Site Entrance
16980 [55'-8"]

EXISTING BOUNDARY



Site Area: 417 m2
.0417 ha

First floor plan 49 m2
Site Area: 417 m2
.0417 ha

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e mail : odeearch@gmail.com

ARCHITECTURE
PLANNING
URBAN DESIGN
INTERIORS



Client: Trish and Maria Flanagan

Address: Saint Valentines,
17 Ardmahon Estate,
Well Road,
Cork T12 HT F6

Job: Survey of Existing Dwellinghouse and Garage

Drawing: First Floor plan

Dim.	Scale.	Date
FOD	1/100	02/04/2024

Job No.	Drawing No.	Rev:
2411 - 03.	planning application 2316	A

Site Entrance
16980 [55'-8"]

EXISTING BOUNDARY

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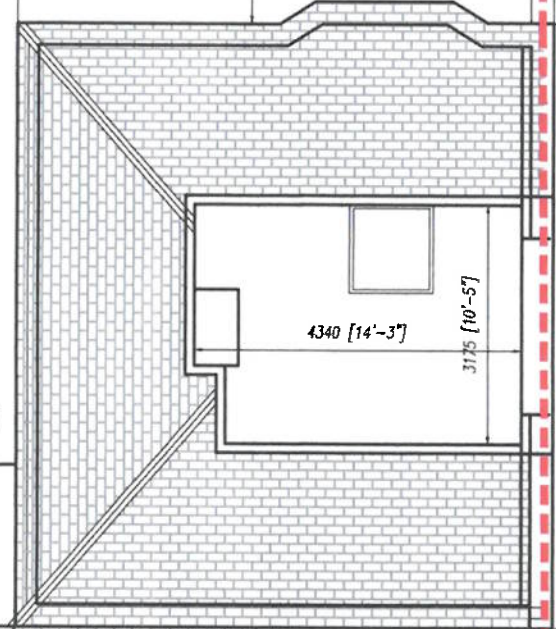
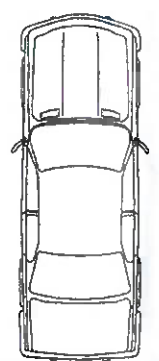
EXISTING BOUNDARY

BOUNDARY

ADJOINING PROPERTY



Site Area: 417 m2
.0417 ha



Attic Plan 13 m2
Site Area: 417 m2
.0417 ha

1772 [5'-10"] 3100 [10'-2"] 800 [2'-7"]

35521 [116'-6"]

8099 [26'-7"]

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INTERIORS



Client: Trish and Maria Flanagan

Address: Saint Valentines,
17 Ardmahon Estate,
Well Road,
Cork T12 HT F6

Job: Survey of Existing Dwellinghouse and Garage

Drawing: Attic plan

Dim.	Scale	Date
FOD	1/100	02/04/2024

Job No.	Drawing No.	Rev:
2411 - 04	planning application 2316	A

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 INTERIORS



Client: **Trish and Maria Flanagan**

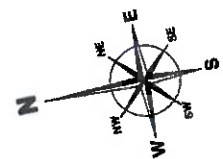
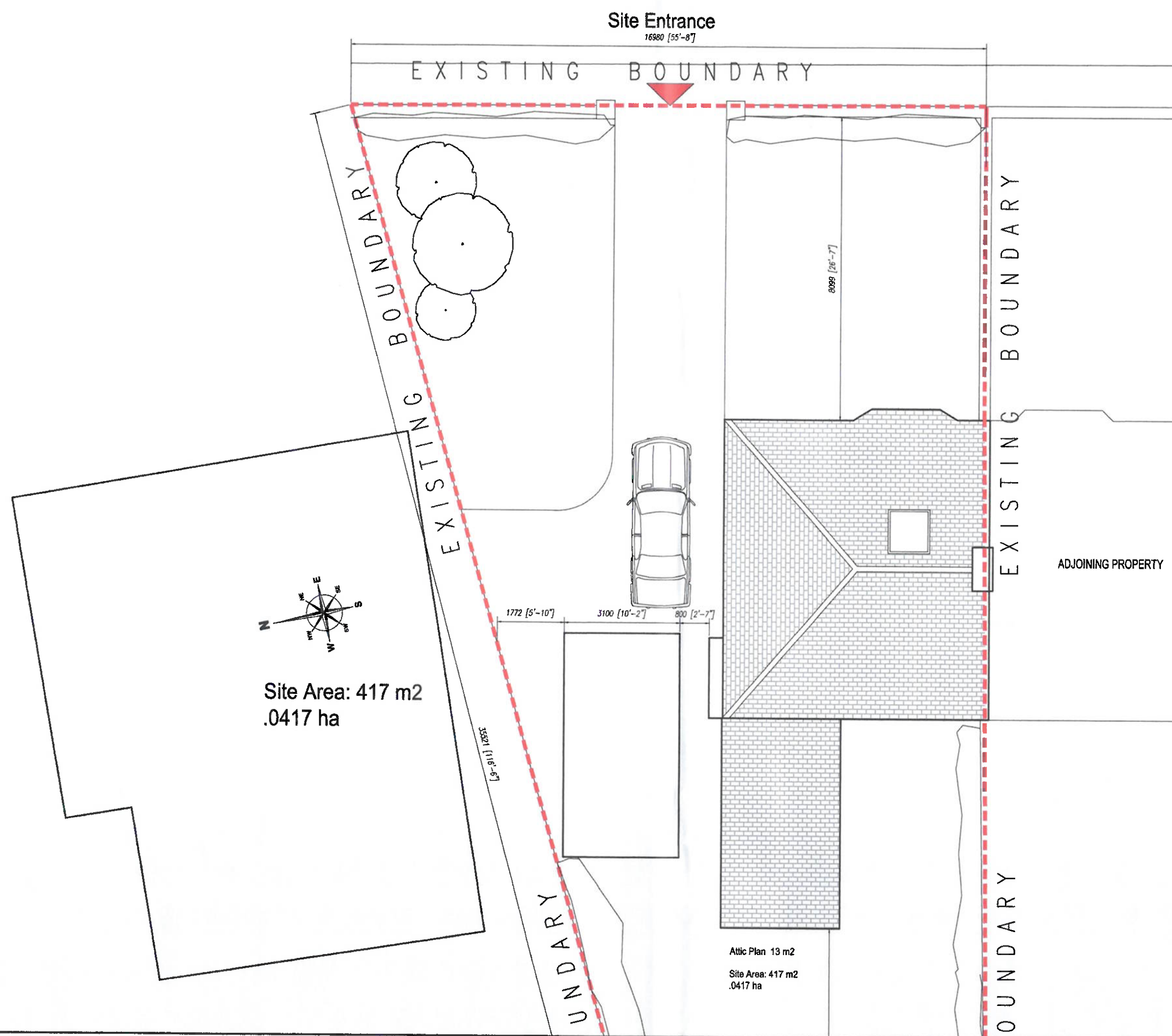
Address: **Saint Valentines,
 17 ArdMahon Estate,
 Well Road,
 Cork T12 HT F6**

Job: **Survey of Existing Dwellinghouse and Garage**

Drawing: **Roof plan**

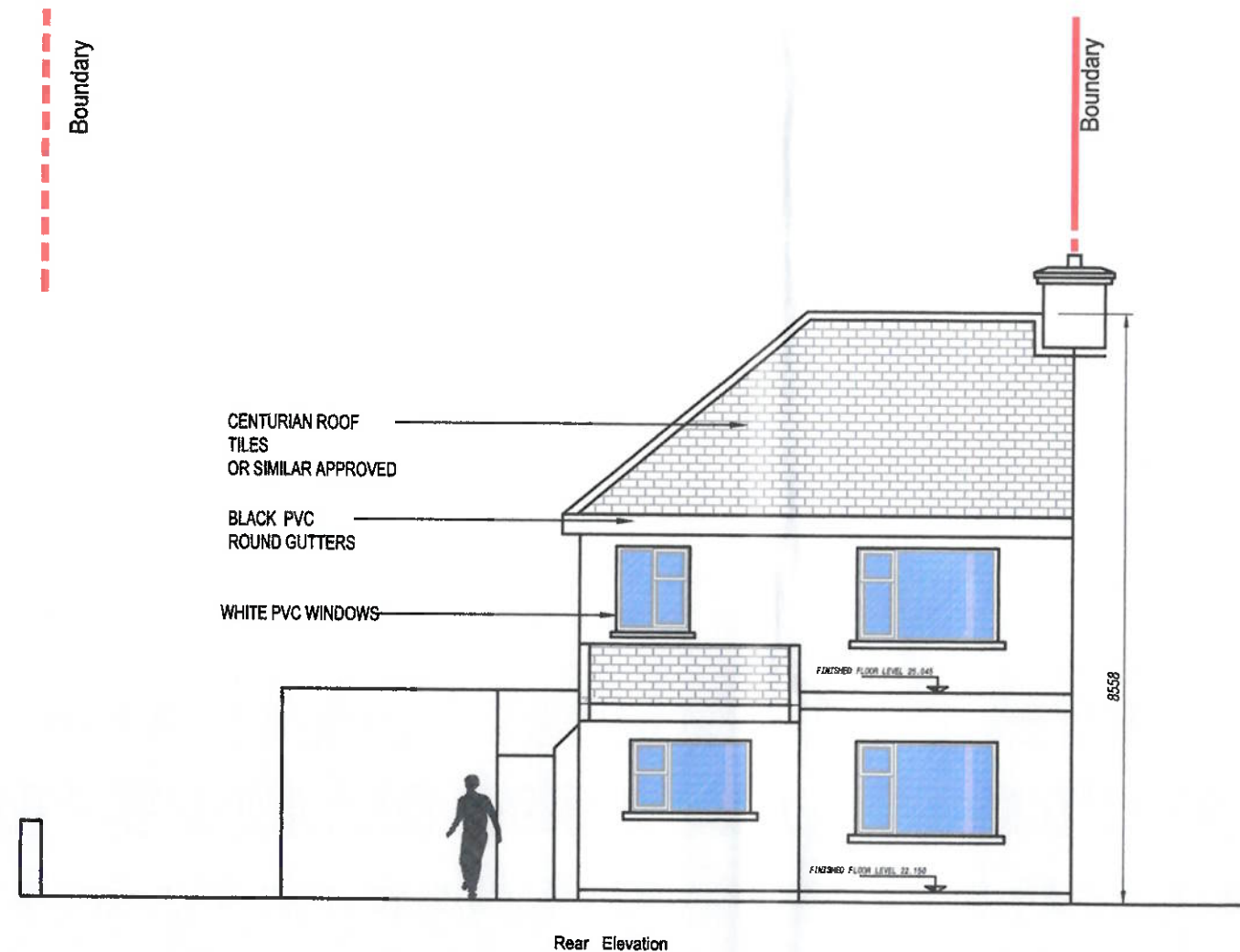
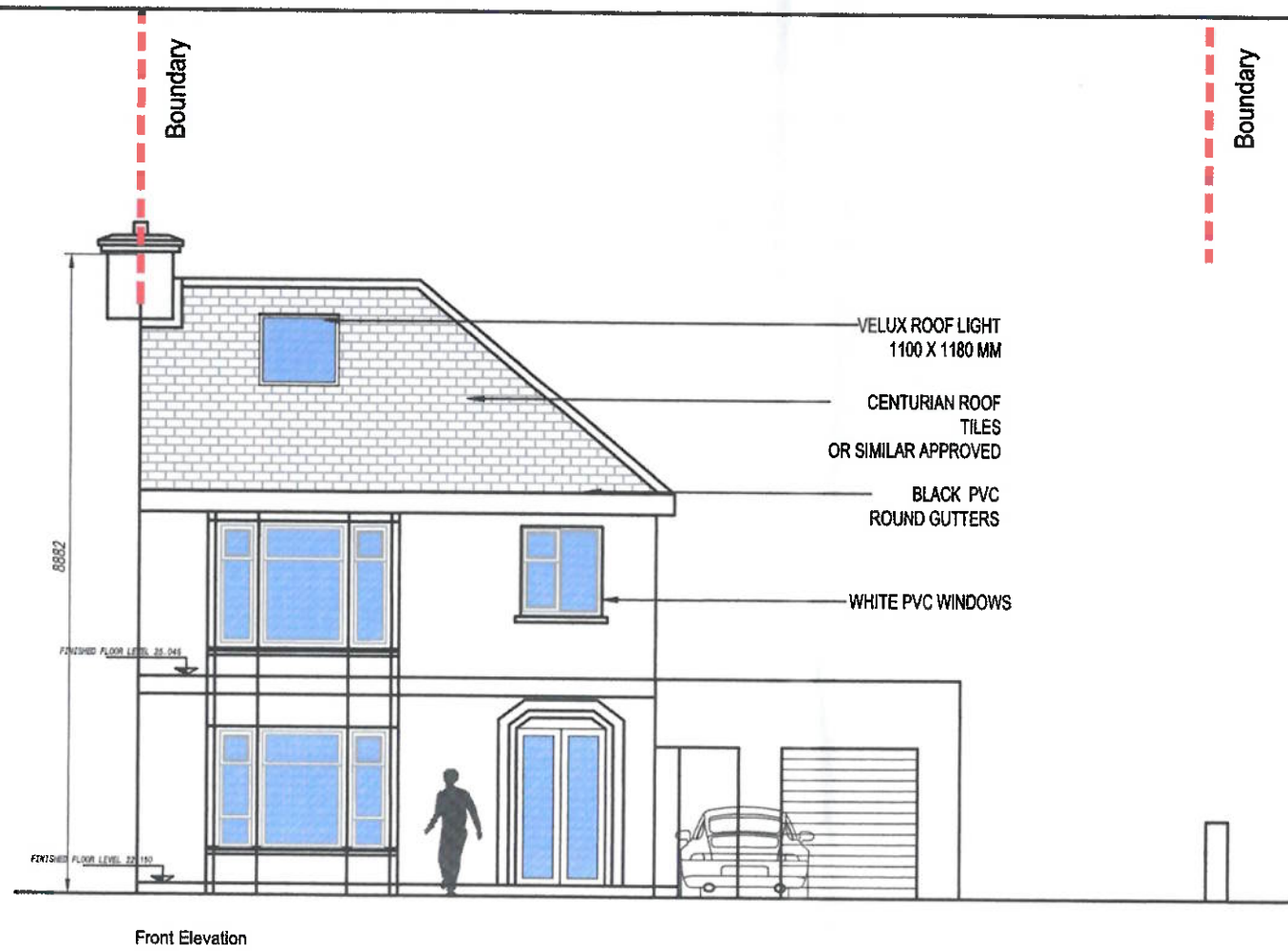
Drn.	Scale.	Date
FOD	1/100	02/04/2024

Job No.	Drawing No.	Rev:
2411 - 05	planning application 2316.	A



Site Area: 417 m2
 .0417 ha

Attic Plan 13 m2
 Site Area: 417 m2
 .0417 ha



Figured dimensions only are to be used. All dimensions to be checked on site. Differences between drawings and between drawings and specifications or bills of quantities to be reported to Fergal O' Dea - Architects. c

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Revision	Date	Description	Initial

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e mail : odeearch@gmail.com

ARCHITECTURE
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Client: Trish and Maria Flanagan

Address: Saint Valentines,
17 Ardmahon Estate,
Well Road,
Cork T12 HT F6

Job: Survey of Existing Dwellinghouse and Garage

Drawing: Front and Rear Elevation

Dim.	Scale	Date
FOD	1/100	02/04/2024

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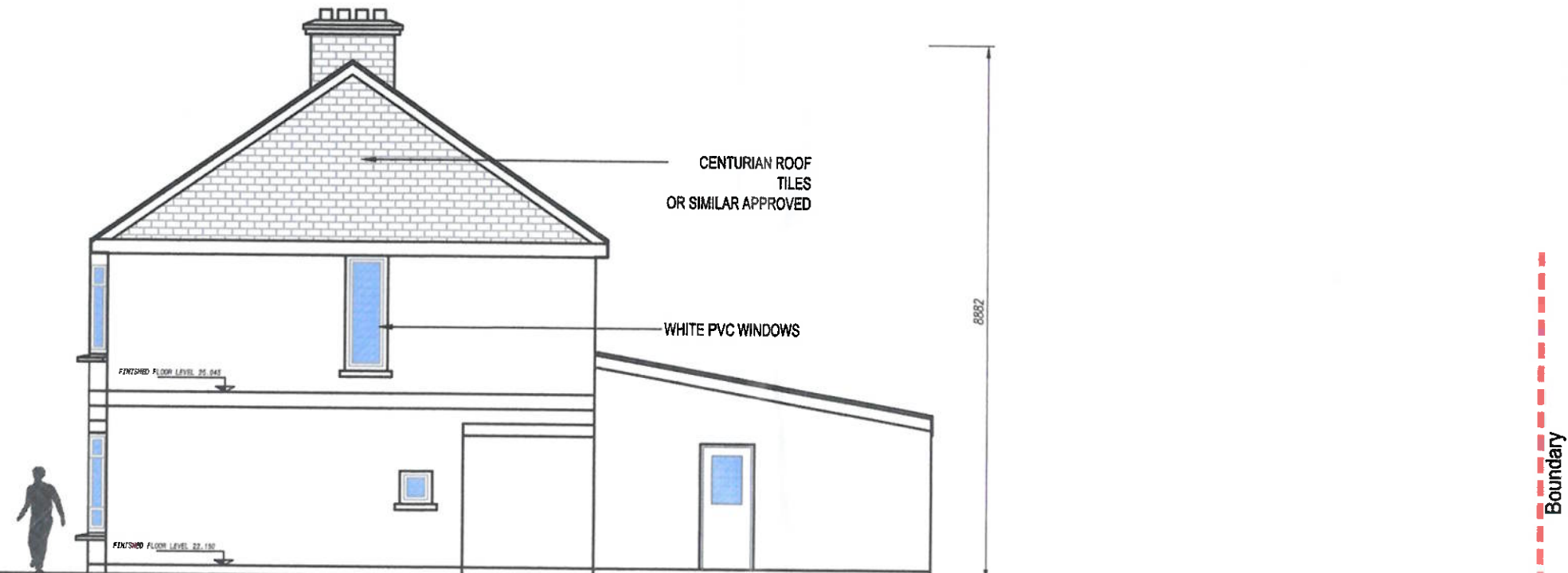
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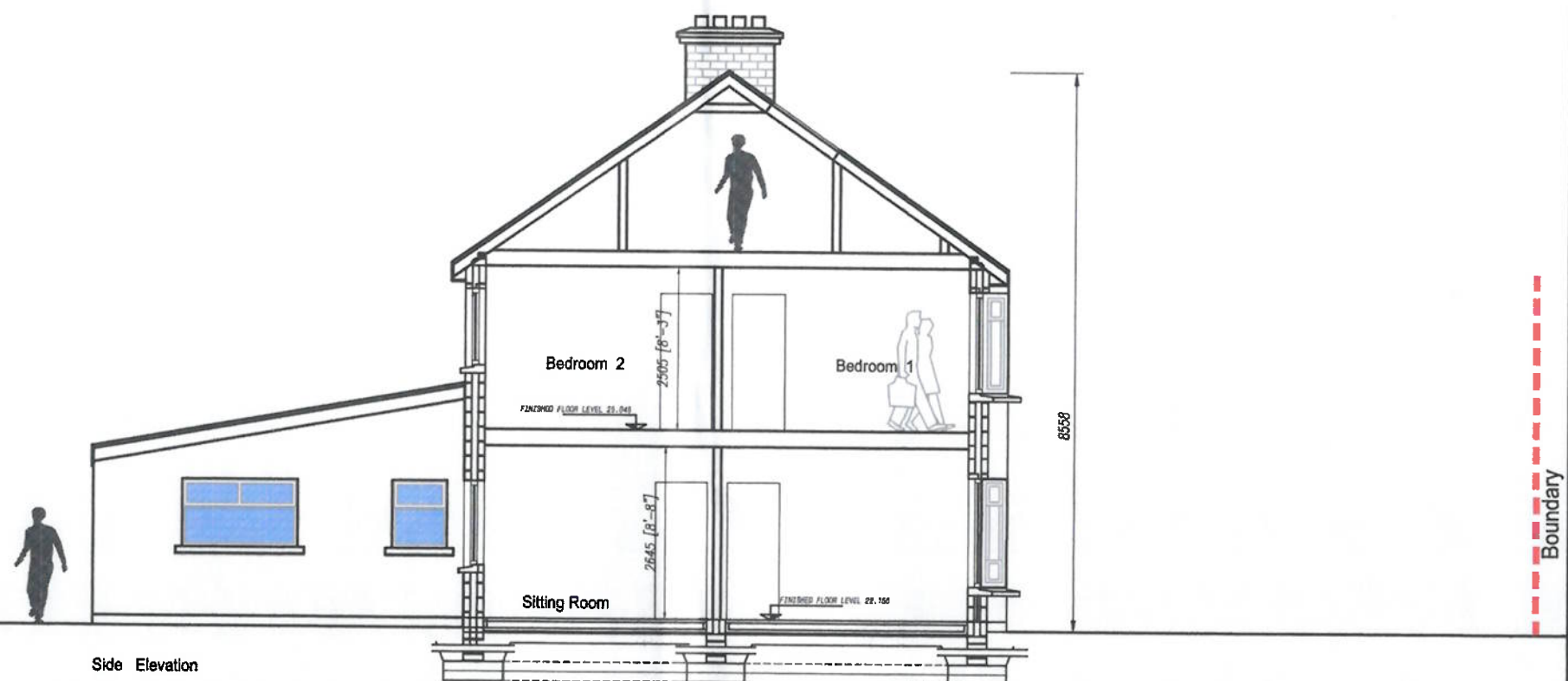
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Side Elevation



Side Elevation

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PLANNING
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Client: Trish and Maria Flanagan

Address: Saint Valentines,
17 Ardmahon Estate,
Well Road,
Cork T12 HT F6

Job: Survey of Existing Dwellinghouse and Garage

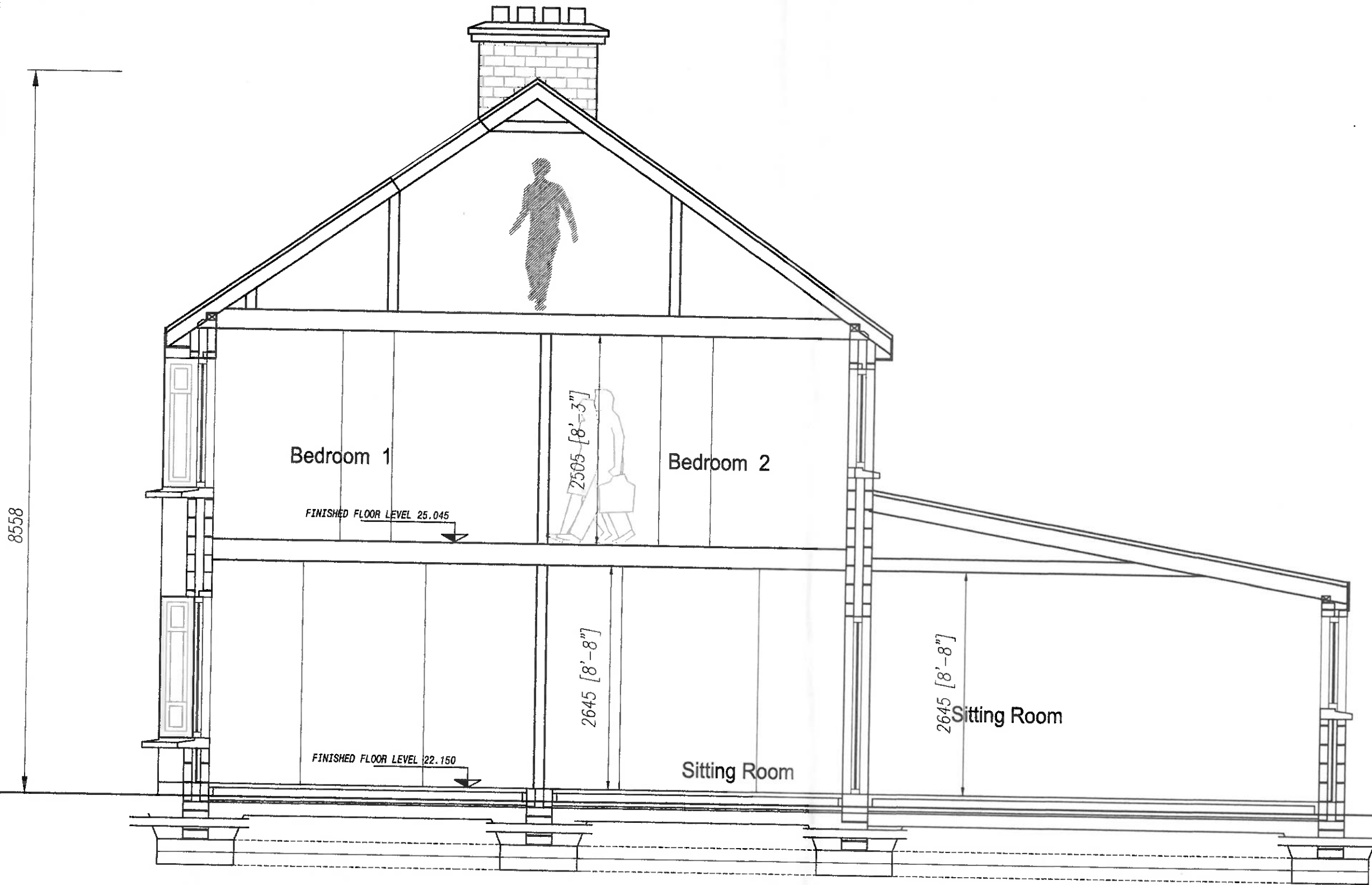
Drawing: Side Elevations

Dim.	Scale	Date
FOD	1/100	02/04/2024

Job No.	Drawing No.	Rev:
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Section A/A

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ARCHITECTURE
 PLANNING
 URBAN DESIGN
 INTERIORS



Client: Trish and Maria Flanagan

Address: Saint Valentines,
 17 Ardmahon Estate,
 Well Road,
 Cork T12 HT F6

Job: Survey of Existing Dwellinghouse and Garage

Drawing: Section A/A

Dim.	Scale.	Date
FOD	1/50	02/04/2024

Job No.	Drawing No.	Rev:
2411 - 08	planning application 2316	A