



Comhairle Cathrach Chorcaí Cork City Council

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

Patrick Maher
English Gardens
Kilnmartyra
Macroon
Co. Cork

23/01/2021

RE: R630/20 – Section 5 Declaration
Property: 3 Beaumont Lane, Ballintemple, Cork

Dear Sir/Madam,

With reference to your request for a section 5 Declaration at the above named property, I wish to advise 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 –

- *Building of upstairs bathroom on top of original bathroom*
- *Addition of 1000mm to original wall to allow for headspace. The ridge of the roof will not change.*
- *Allow for overhang of 150mm to eliminate water on front wall to stop dampness.*
- *Addition of 300mm to high of front wall to repair and prevent rot*
- *Addition of 1000mm to allow space for utilities*

Is development and is not exempted development

Further it is considered that the proposed development –

- *Relocation of windows on back wall*
- *Addition of velux window at the front and rear to allow for solar gain.*

Is development and is exempted development

Yours faithfully,

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



We are Cork.

PLANNER'S REPORT		Cork City Council Development Management Strategic Planning and Economic Development
Ref. R630/20		
Application type	Section 5 Declaration	
Description	<p>A:- Building of upstairs bathroom on top of original bathroom</p> <p>B:- Addition of 1000mm to original wall to allow for headspace. The ridge of the roof will not change.</p> <p>C:- Allow for overhang of 150mm to eliminate water on front wall to stop dampness.</p> <p>D:- Addition of 300 mm to high of front wall to repair and prevent rot</p> <p>E:- Addition of 1000mm to allow space for utilities</p> <p>F:- Relocation of windows on back wall</p> <p>G:- Addition of velux window at the front and rear to allow for solar gain.</p>	
Location	3 Beaumont Lane, Ballintemple	
Applicant	Patrick Maher	
Date	20/01/2021	
Recommendation	Further Information be Requested	

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 response to Q2 on the application for the applicant does not frame a question. Rather they have provided a list of works for which it is presumed here that they wish to confirm to be exempt from the requirement for planning permission. The works are described as:

A:- Building of upstairs bathroom on top of original bathroom

B:- Addition of 1000mm to original wall to allow for headspace. The ridge of the roof will not change.

C:- Allow for overhang of 150mm to eliminate water on front wall to stop dampness.

D:- Addition of 300 mm to high of front wall to repair and prevent rot

E:- Addition of 1000mm to allow space for utilities

F:- Relocation of windows on back wall

G:- Addition of velux window at the front and rear to allow for solar gain.

3. Site Description

The property in question is a two storey terraced cottage. The terrace was constructed to be single storey but many of the homes have been extended over time, including the subject residence. The houses either side of the subject residence have not been extended vertically. There are small yards to the rear of the homes.

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.	(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.
	(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.	

Article 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 –

(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line 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,

<p>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.</p> <p>(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.</p>	
<p>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p>	<p>The proposed ground floor extension is either on the party boundary or proximate to it. This condition is not met</p>
<p>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.</p> <p>(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.</p> <p>(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.</p>	<p>(a) The height of the wall will exceed the existing height of the rear wall of the dwelling. This condition is not met</p> <p>(b) n/a</p> <p>(c) No overall height has been given for the existing or proposed ridge height. It does however appear that the ridge height will increase. Accordingly this condition is not met.</p>
<p>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.</p>	<p>This is a above ground extension and will not therefore reduce the open space</p>
<p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p> <p>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</p> <p>(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.</p>	<p>(a) n/a</p> <p>(b) The proposed utility room window is less than 11m from the boundary it faces. This condition is not met.</p> <p>(c) n/a</p>
<p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>	<p>n/a</p>

The proposed extension therefore does not comply with Condition 3, 4(a), 4(c) and 6(b). The works therefore do not constitute exempted development.

B:- Addition of 1000mm to original wall to allow for headspace. The ridge of the roof will not change.
The plans provided show an increase in the height of the rear wall. I consider that this query is mute as the increase is required to provide for headroom in the extension which requires planning permission,.

C:- Allow for overhang of 150mm to eliminate water on front wall to stop dampness and
D:- Addition of 300 mm to high of front wall to repair and prevent rot

These works are similar. Both are occurring to the front of the dwelling, are visible to the public, and have the potential to impact on the visual amenity of the area. I note that the subject site is located in the *Blackrock Road Architectural Conservation Area (ACA)*. If the works comply with any of the exemptions set out in Schedule 2 of the *Planning and Development Regulations 2001* (as amended) they are limited by Article 9(1)(a)(iv) & (xii), as detailed above, and can not be relied upon here.

I note that the adjoining property to the north has two rooflights to its front. While the site is located in an ACA I consider that the addition of one roof light to the front of this residence accords with the exemption set out in Section 4(1)(h) and would constitute exempted development.

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. 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 —

- *Building of upstairs bathroom on top of original bathroom*
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Is development and is not exempted development

Further it is considered that the proposed development —

- *Relocation of windows on back wall*
- *Addition of velux window at the front and rear to allow for solar gain.*

Is development and is exempted development



Martina Foley
Executive Planner

**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 STRUCTURE FOR WHICH DECLARATION IS SOUGHT

3 BEAUMONT LANE
BALLIN TEMPLE , CORK . T12 XN C3

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.
A:- BUILDING OF UPSTAIR BATHROOM ON TOP OF ORIGINAL BATHROOM
B:- ADDITION OF 1000mm TO ORIGINAL WALL TO ALLOW FOR HEADSPACE. THE RIDGE OF THE ROOF WILL NOT CHANGE.
C:- ALLOW FOR OVERHANG OF 150mm TO ELIMINATE WATER ON FRONT WALL TO STOP DAMPNESS.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets if required).
D:- ADDITION OF 300mm TO HEIGHT OF FRONT OF WALL TO REPAIR AND PREVENT ROT.
E:- ADDITION OF 1000mm TO ALLOW SPACE FOR UTILITIES
F:- RELOCATION OF WINDOWS ON BACK WALL
G:- ADDITION OF A VELUX WINDOW AT THE FRONT AND REAR TO ALLOW FOR SOLAR GAIN.

3 0 DEC 2020

Comhairle Cathrach, Council
Cork City Council

Strategic Planning & Economic
Development Directorate

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

If so please supply details:

NO

4. Is this a Protected Structure or within the curtilage of a Protected Structure? NO

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?

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

If so please supply details:

NO

6. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	EXISTING GROUND:- 24.4m ² FIRST:- 19.8m ² PROPOSED GROUND:- 25.7m ² FIRST:- 24.3m ²
(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)
_____	_____
_____	_____
_____	_____

8. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	_____	
If you are not the legal owner, please state the name and address of the owner if available	_____	

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

Signature: Patrick Waters

Date: Dec 17th 2020

CONTACT DETAILS

10. Applicant:

Name(s)	[REDACTED]
Address	[REDACTED] ----- [REDACTED] ----- [REDACTED] [REDACTED] -----

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

Name(s):	
Address:	----- ----- -----
Telephone:	
E-mail address:	
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	Yes <input type="checkbox"/> No <input type="checkbox"/>

12. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

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

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

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

OSi PLACE Map



National Mapping Agency

CENTRE COORDINATES:
ITM 570307,571618

PUBLISHED: 17/12/2020
ORDER NO.: 50162496_1

MAP SERIES: 1:1,000
MAP SHEETS: 6383-13
6383-14

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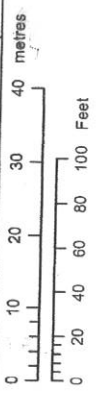
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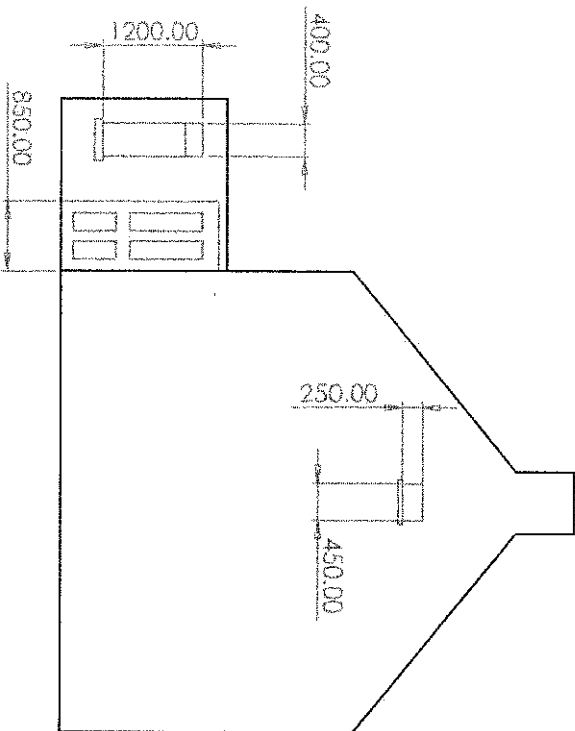
LEGEND:
<http://www.osi.ie>
search 'Large Scale Legend'



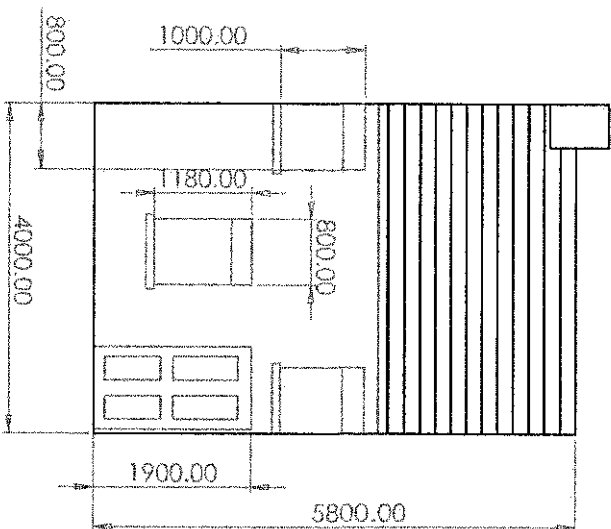
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The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
<http://www.osi.ie>, search 'Capture Resolution'

OUTPUT SCALE: 1:1,000

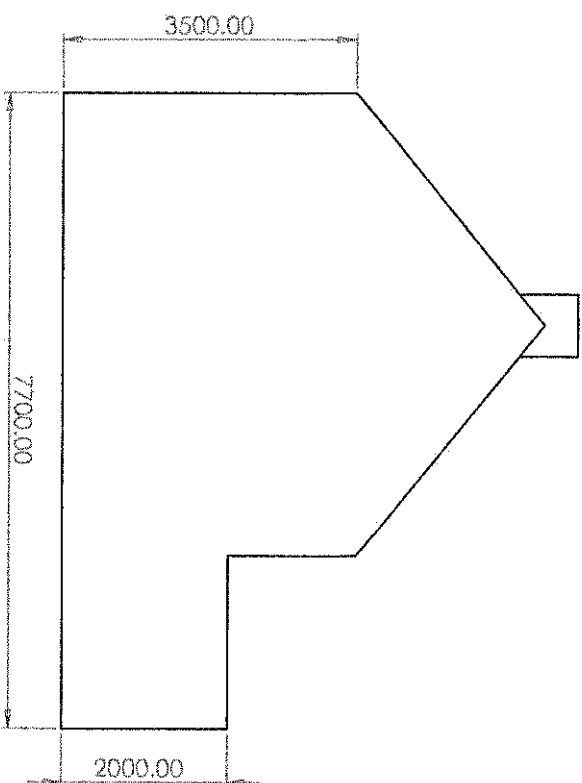




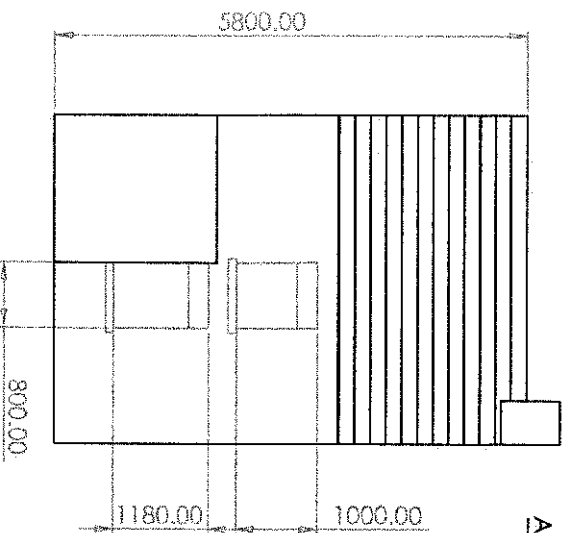
LEFT ELEVATION



FRONT ELEVATION

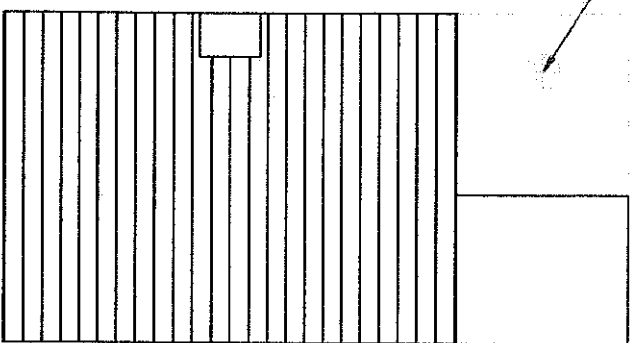


RIGHT ELEVATION



BACK ELEVATION

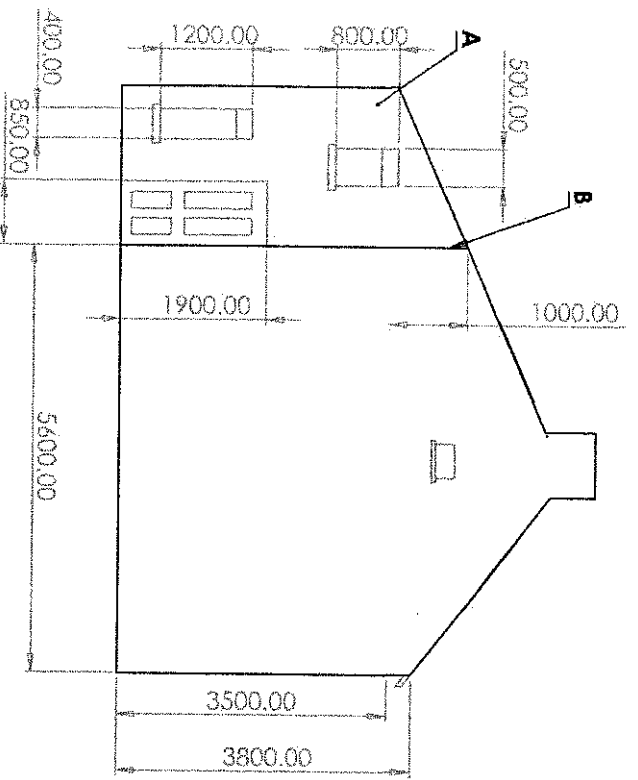
ACCESS TO DRAINAGE



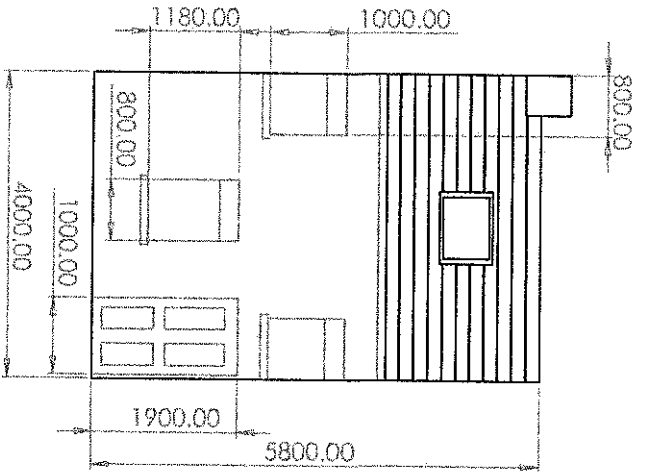
PLAN

3 Beaumont Lane
ORIGINAL ELEVATIONS AND PLAN

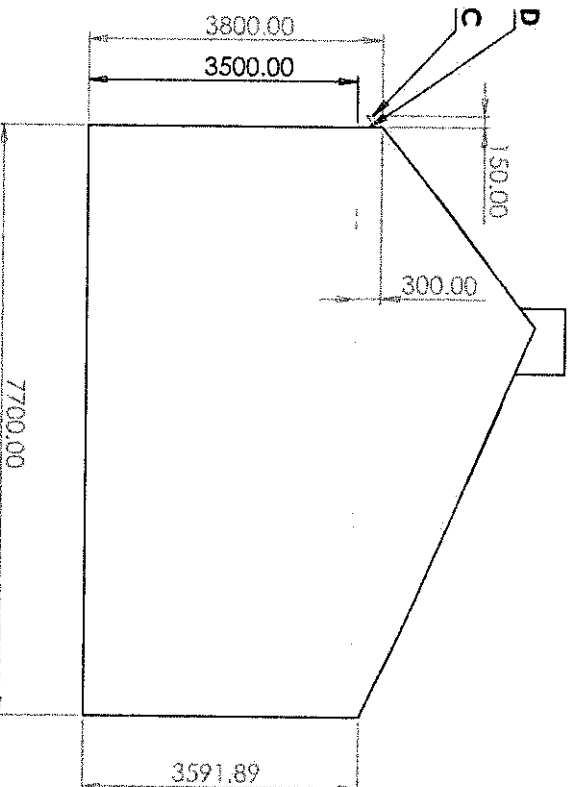
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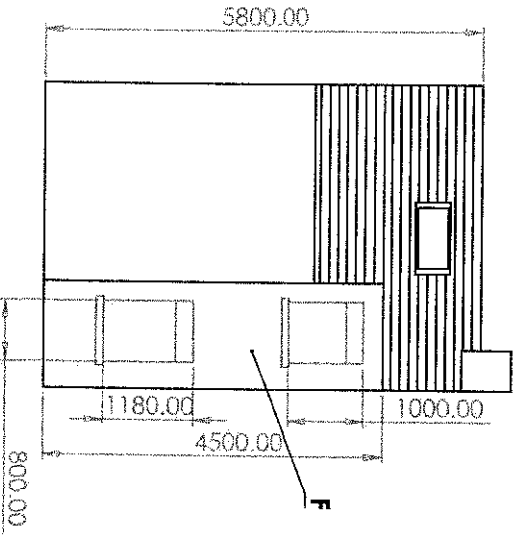
LEFT ELEVATION



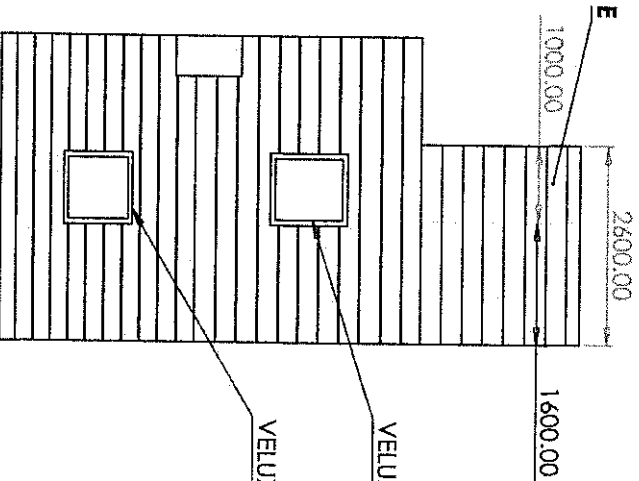
FRONT ELEVATION



LEFT ELEVATION



BACK ELEVATION



PLAN

- A:** Building of an upstairs bathroom on top of original bathroom
- B:** Addition of 1000mm to original wall to allow for headspace. The ridge height of the roof will not change
- C:** Allow for overhang of 150mm to eliminate water on front wall to stop dampness.

- D:** Addition of 300mm to height of front wall to repair and prevent roof.
- E:** Addition of 1000mm to allow for space for utilities.
- F:** Relocation of original windows on the back wall.
- G:** Addition of a velux window at the front and rear to allow for solar gain.

3 Beaumont Lane

**NEW PROPOSED VIEWS AFTER
MODIFICATION**

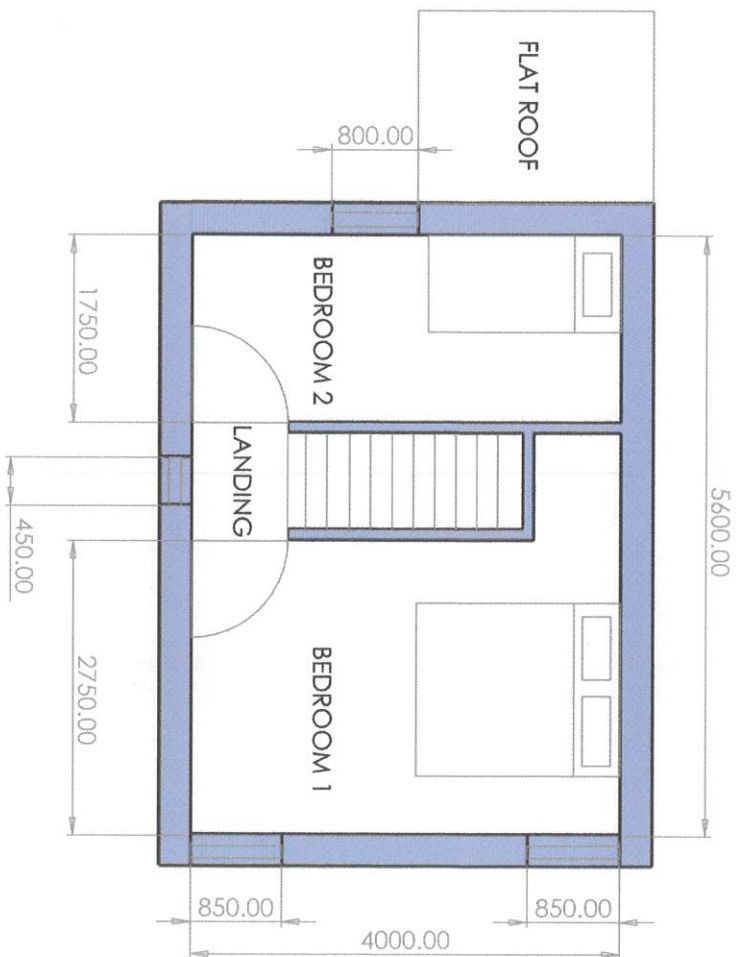
SCALE 1:70

3 Beaumont Lane
ORIGINAL LAYOUTS

SCALE 1:50



GROUND FLOOR



FIRST FLOOR

3 Beaumont Lane

NEW PROPOSED LAYOUT

SCALE 1:50



GROUND FLOOR



FIRST FLOOR

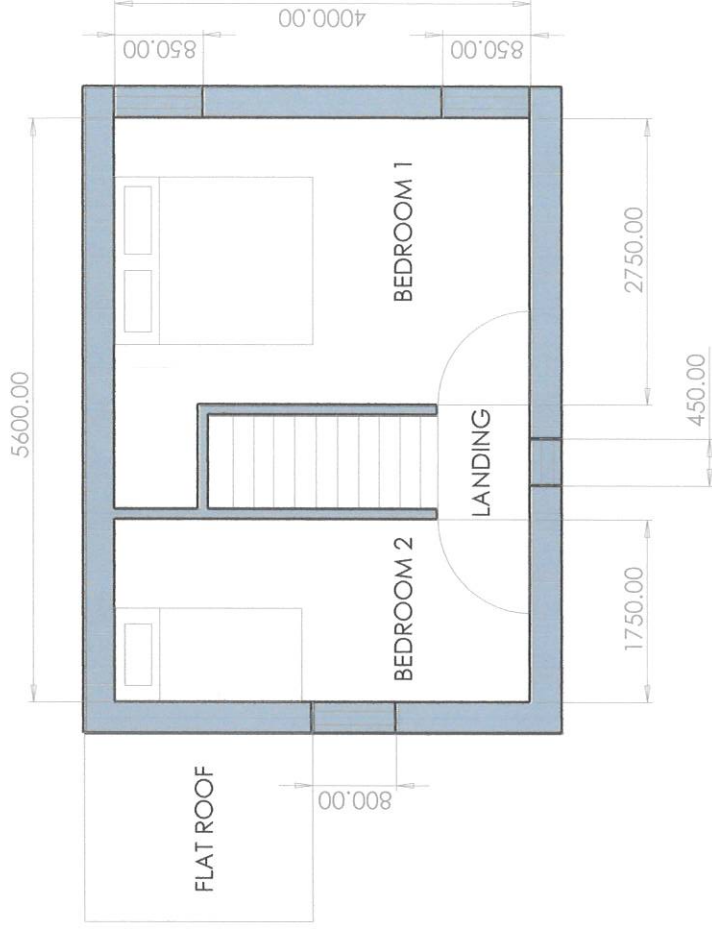
**3 Beaumont Lane
ORIGINAL LAYOUTS**

SCALE 1:50



GROUND FLOOR

GROSS FLOOR AREA: 24.4m² / 262.9ft²



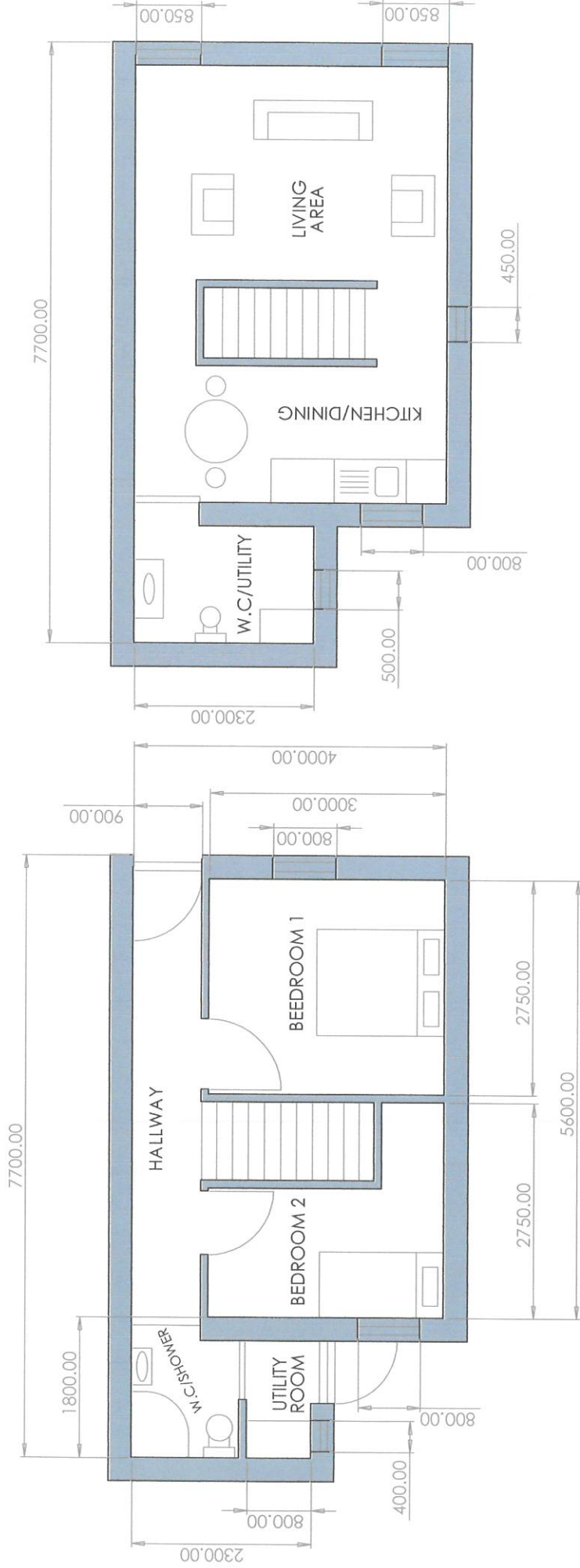
FIRST FLOOR

GROSS FLOOR AREA: 19.8m² / 213.1ft²

3 Beaumont Lane

NEW PROPOSED LAYOUT

SCALE 1:50



GROUND FLOOR

GROSS FLOOR AREA: 25.7m² / 276.4ft²

FIRST FLOOR

GROSS FLOOR AREA: 24.3m² / 262ft²