



Comhairle Cathrach Chorcaí Cork City Council

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

Mr. Ian McCullagh,
50 Fort Hill,
Moneygurney,
Douglas,
Cork.

30/11/2022

RE: Section 5 Declaration R751/22 50 Fort Hill, Moneygurney,
Douglas, Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 08th November 2022, I wish to advise as follows:

The Planning Authority, in view of the above and having regard to:

- The particulars received by the Planning Authority on 08/11/2022,
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- The provision of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001 (as amended),

It is considered that “*the construction of a single storey extension to the rear of 50 Fort Hill, Moneygurney, Douglas, Cork*” **IS DEVELOPMENT and IS 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, 30th November 2022.

Is mise le meas,

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



We are Cork.

PLANNER'S REPORT Ref. R751/22		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Is the construction of a single storey rear extension located at No. 50 Fort Hill, Moneygourney, Douglas with a floor area of 13.91 sq.m. an exempted development?</i>	
Location	50 Fort Hill, Moneygourney, Cork	
Applicant	Ian McCullagh	
Date	30/11/2022	
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 response to Q2 on the application for the applicant frames the following question:

"Is the construction of a single storey rear extension located at No. 50 Fort Hill, Moneygourney, Douglas with a floor area of 13.91 sq.m. an exempted development?"

In my opinion, and having reviewed the proposed drawings, it is considered that the question before the planning authority is clear.

3. Site Description

The property in question is a two-storey mid terrace house located within an estate of houses in Moneygourney. The house benefits for an existing rear addition at rear ground floor level. There is also a shed present in the rear garden.

4. Planning History

TP 03/3965 (PL 04.206776) Governing Permission for the development of Housing at Fort Hill. Residential development to incl. 48 no. dwellinghouses, 26 no. apartments, 20 no. duplex apartments and crèche.

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 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 2001-2013.

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

Column 1 Description of Development	Column 2 Conditions and Limitations
<i>Development within the curtilage of a house</i> CLASS 1 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.	1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (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.

6. ASSESSMENT

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.'*

It is considered that the erection of the rear extension constitutes the carrying out of works and as such it constitutes development.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

The rear extension as constructed may be exempt if it accords with the exemption set out in Class 1 in Schedule 2 of the *Planning and Development Regulations 2001* (as amended). The following is a review of the proposal against the conditions / limitations set out in Class 1.

<p>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</p> <p>(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.</p> <p>(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.</p>	<p>(a) The house has not already been extended at ground floor. The existing rear ground floor protrusion appears to have formed part of the original design and construction.</p> <p>(b) n/a</p> <p>(c) n/a</p>
<p>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.</p> <p>(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.</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>(a) House does not appear to have been previously extended at ground floor level. The existing rear ground floor protrusion appears to have formed part of the original design and construction.</p> <p>(b) n/a</p> <p>(c) n/a</p>
<p>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p>	<p>n/a</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 does not exceed the existing height of the rear wall of the dwelling.</p> <p>(b) n/a</p> <p>(c) The height does not exceed the height of the eaves / parapet</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>A proposed site layout plan has been provided and no less than 25 sq.m. private open space would remain to the rear of the house.</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>The sliding door opening shown to the rear elevation extension is in excess of 1m from the boundary it faces.</p>
<p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>	<p>The roof of the proposed extension does not appear to be used as a balcony or garden.</p>

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 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 development site relative to these European sites and related watercourses and to the nature and scale of the development it is

considered that the 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

Recommendation

Having regard to:

- the particulars received by the Planning Authority on 08/11/2022
- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- the provision of Schedule 2, Part 1, Class 1 the Planning and Development Regulations, 2001(as amended)

the planning authority considers that —

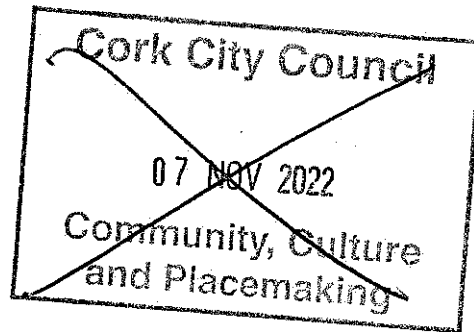
the construction of a single storey extension to the rear of 50 Fort Hill, Moneygourney, Cork **IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.**



Gillian Tyrrell
Assistant Planner

29.11.2022

City Planning Department
Cork City Council
City Hall
Anglesea Street
Cork.



8th November 2022

Re: Application to Cork City Council for a Section 5 Declaration – Certificate of Exemption from Planning.

Dear Sir / Madam,

We attach documents as an Application for a Section 5 of the Planning & Development Regulations 2000 / Certificate of Exemption from Planning for a single – storey rear extension to a mid-terraced dwelling house located at 50 Fort Hill, Moneygourney, Douglas, Cork.

In support of the Planning Application, the following documents are attached.

1. Completed application form.
2. 4 copies of scaled site location maps and general arrangement layout drawings
3. Appropriate fee at €80.00.

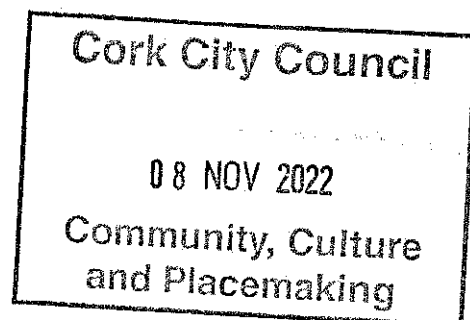
Should you require any further information, please do not hesitate to contact the undersigned.

Yours faithfully,

A handwritten signature in black ink, appearing to be "IMC", written over a horizontal line.

G&M Architecture. MRIA. For & on behalf of Mr. Ian McCullagh.
Alderbrook, Lehenaghmore, Co. Cork. Tel. 086 1724205.

Encl.



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

50 FORT HILL, MONEYGOURNEY, DOUGLAS, CORK

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 CONSTRUCTION OF A SINGLE STOREY
REAR EXTENSION LOCATED AT;
NO. 50 FORT HILL, MONEYGOURNEY, DOUGLAS,
WITH A FLOOR AREA OF 13.91 M² -
AN EXEMPTED DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

N/A

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	13.91 m 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)
N/A	N/A
_____	_____
_____	_____

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		MR JAN W CULLAGH
Applicants Address	50 FORT HILL, MONEYGOURNEY, DOUGLAS, CORK.	
Person/Agent acting on behalf of the Applicant (if any):	Name:	NIL.
	Address:	APPLICANT IS ACTING FOR HIMSELF.
	Telephone:	-
	Fax:	-
	E-mail address:	-
Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

5. LEGAL INTEREST

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

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

Signature: _____

for & on behalf of:
MR IAN McCullagh.

Date: _____

8.11.2022.

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:

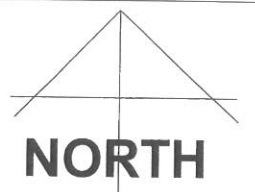
The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- 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



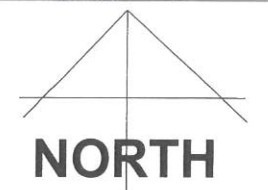
Map ref. 6428-D / 6429 / C
scale 1:2500.

Client: Mr Ian McCullagh..

Job Title:
**Application for Certificate of Exemption
from Planning for Rear Single Storey Extension
at 50 Fort Hill, Moneygourney, Douglas, Cork.**

Drawing Title: **Site Location Map no. 1**

Job No. C/22/6	Date: Nov' 22	01
	Scale: 1: 2500	
Planning Issue		



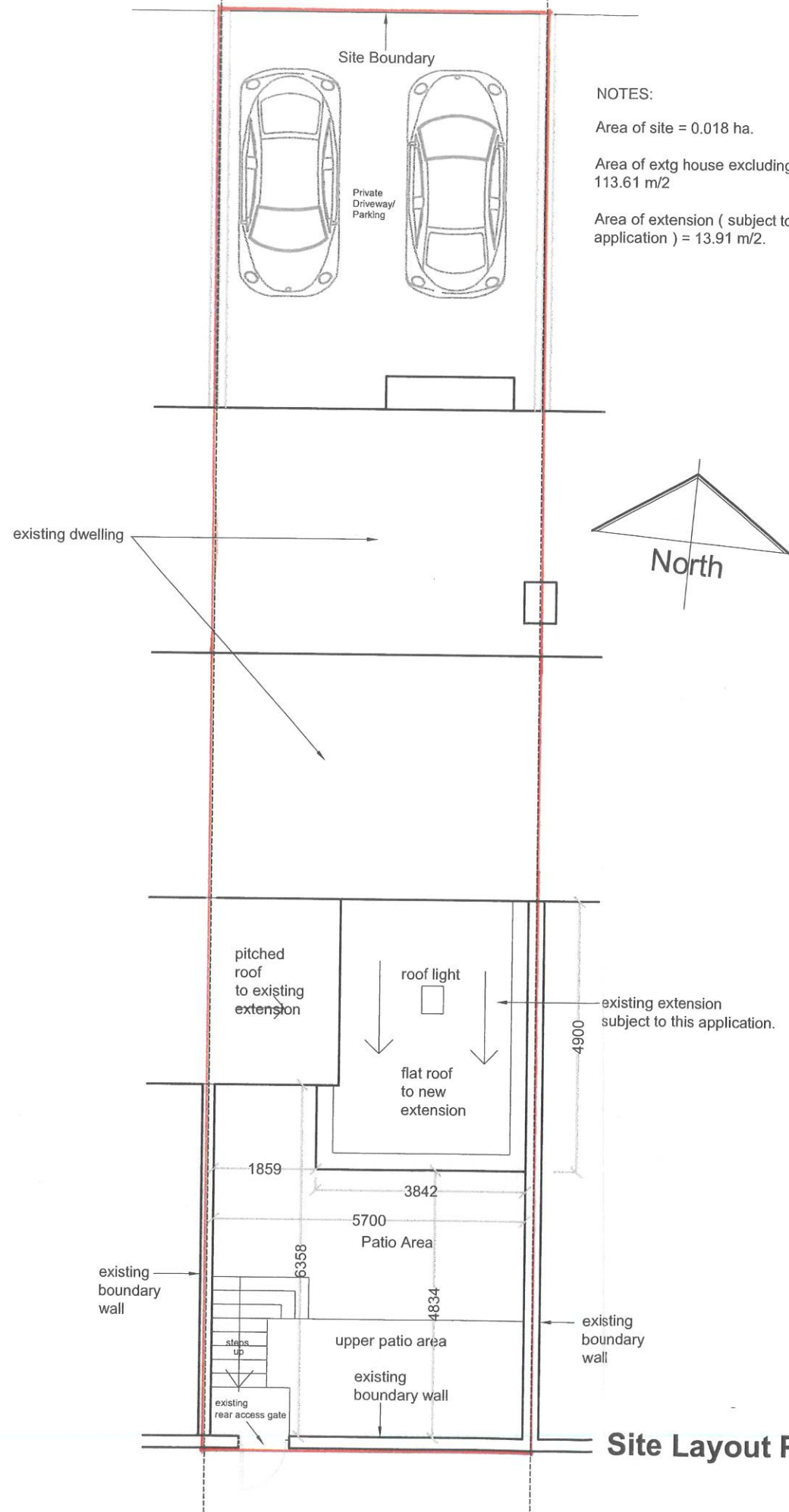
Map ref: 6429 / C
scale 1: 500.

Client: Mr Ian McCullagh.

Job Title:
**Application for Certificate of Exemption
from Planning for Rear Single Storey Extension
at 50 Fort Hill, Moneygourney, Douglas, Cork.**

Drawing Title: **Site Location Map no. 2**

Job No. C/22/6	Date: Nov '22	02
	Scale: 1: 1000	
Planning Issue		

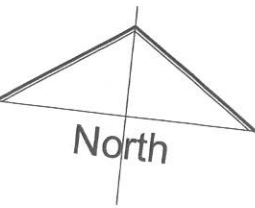


NOTES:

Area of site = 0.018 ha.

Area of extg house excluding extension = 113.61 m²

Area of extension (subject to this application) = 13.91 m².



Site Layout Plan scale 1:100

Client: Mr Ian McCullagh.

Job Title:

Application for Certificate of Exemption from Planning for Rear Single Storey Extension at 50 Fort Hill, Moneygourney, Douglas, Cork.

Drawing Title: Site Layout Plan

Job No. C/22/6

Date: Nov '22

Scale: 1: 100

03

Planning Issue

NOTES:

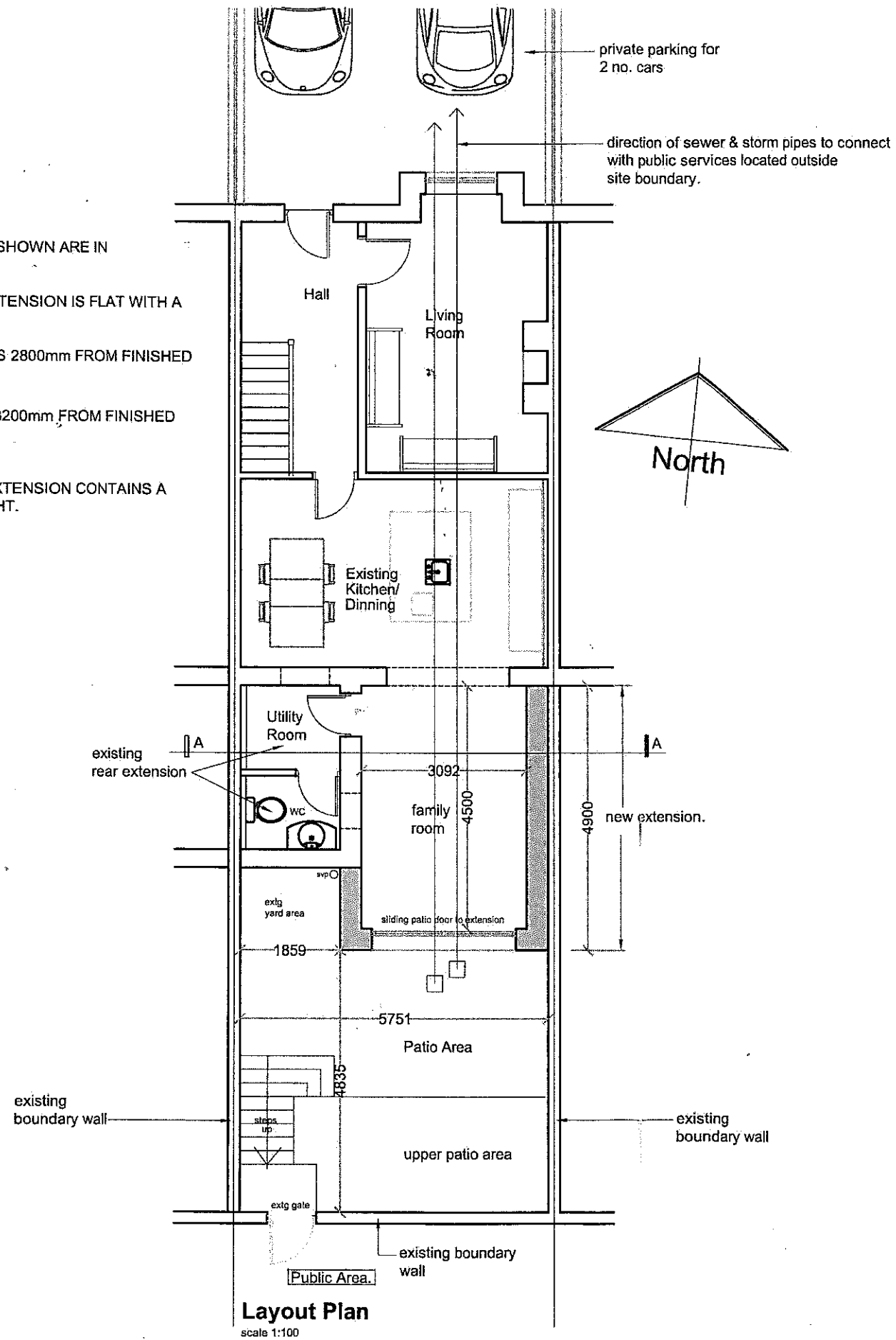
ALL DIMENSIONS SHOWN ARE IN MILLIMETERS

ROOF OF NEW EXTENSION IS FLAT WITH A 1:80 SLOPE.

CEILING HEIGHT IS 2800mm FROM FINISHED FLOOR LEVEL.

ROOF HEIGHT IS 3200mm FROM FINISHED FLOOR LEVEL.

ROOF OF NEW EXTENSION CONTAINS A 500x400 SKY LIGHT.



Layout Plan

scale 1:100

Client: Mr Ian McCullagh.

Job Title:

Application for Certificate of Exemption from Planning for Rear Single Storey Extension at 50 Fort Hill, Moneygourney, Douglas, Cork.

Drawing Title: Floor Plan

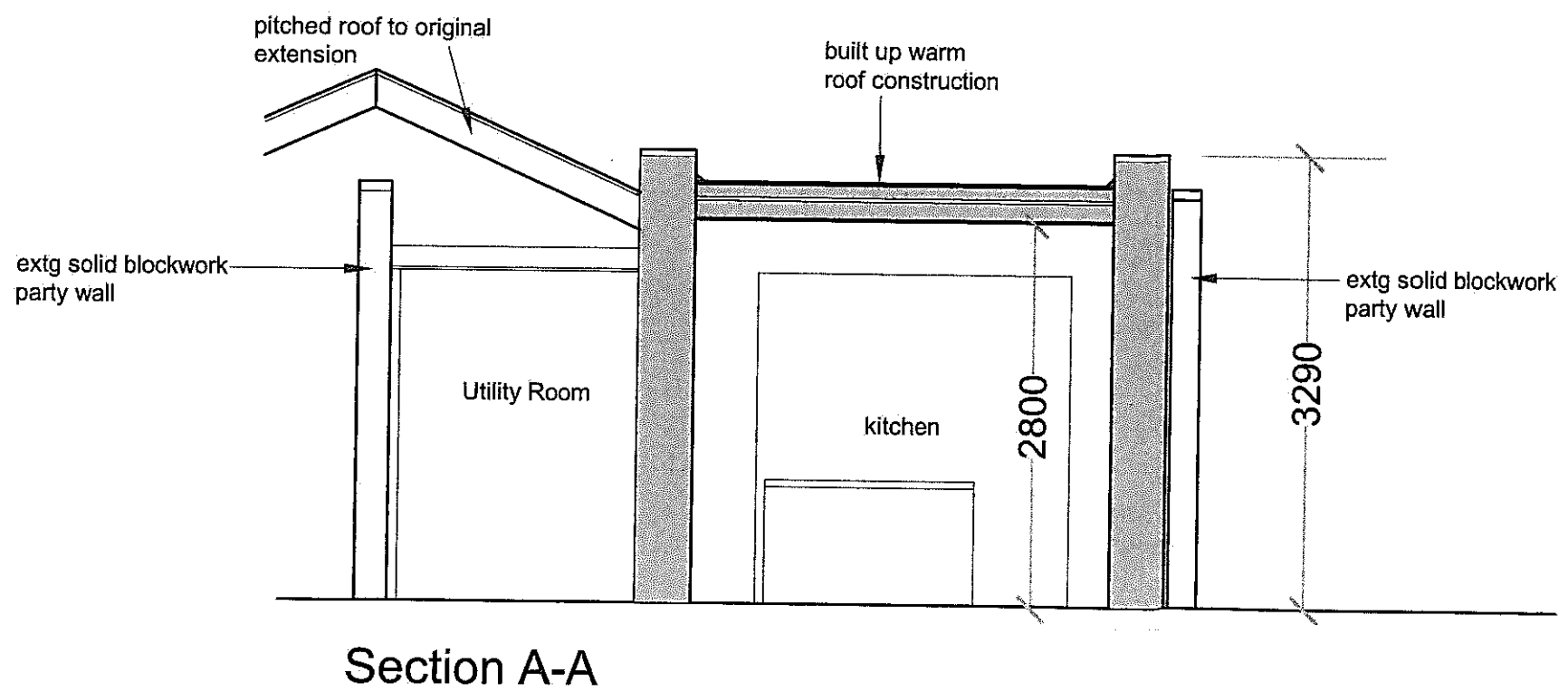
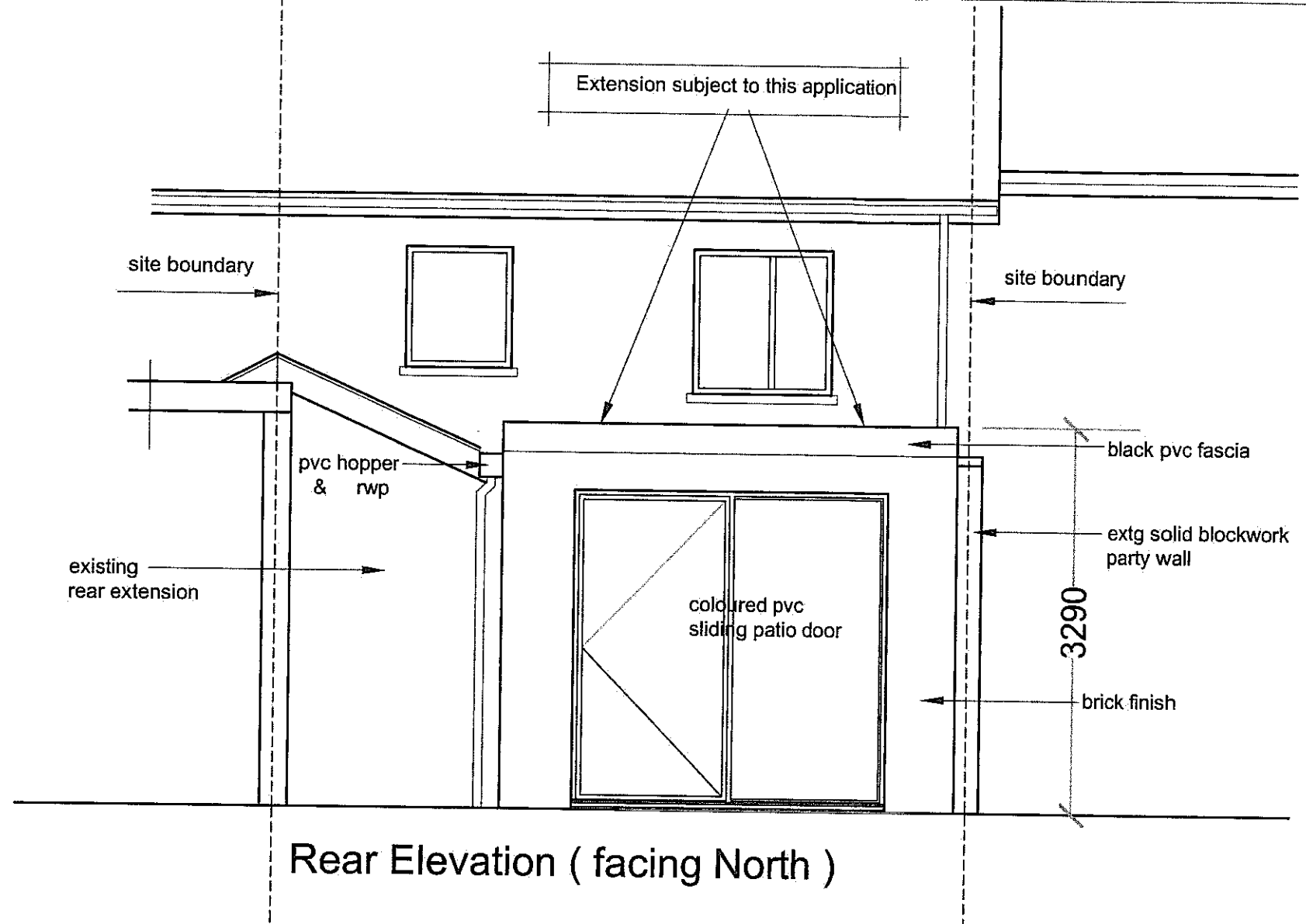
Job No. C/22/6

Date: Nov '22

Scale: 1:100

04

Planning Issue

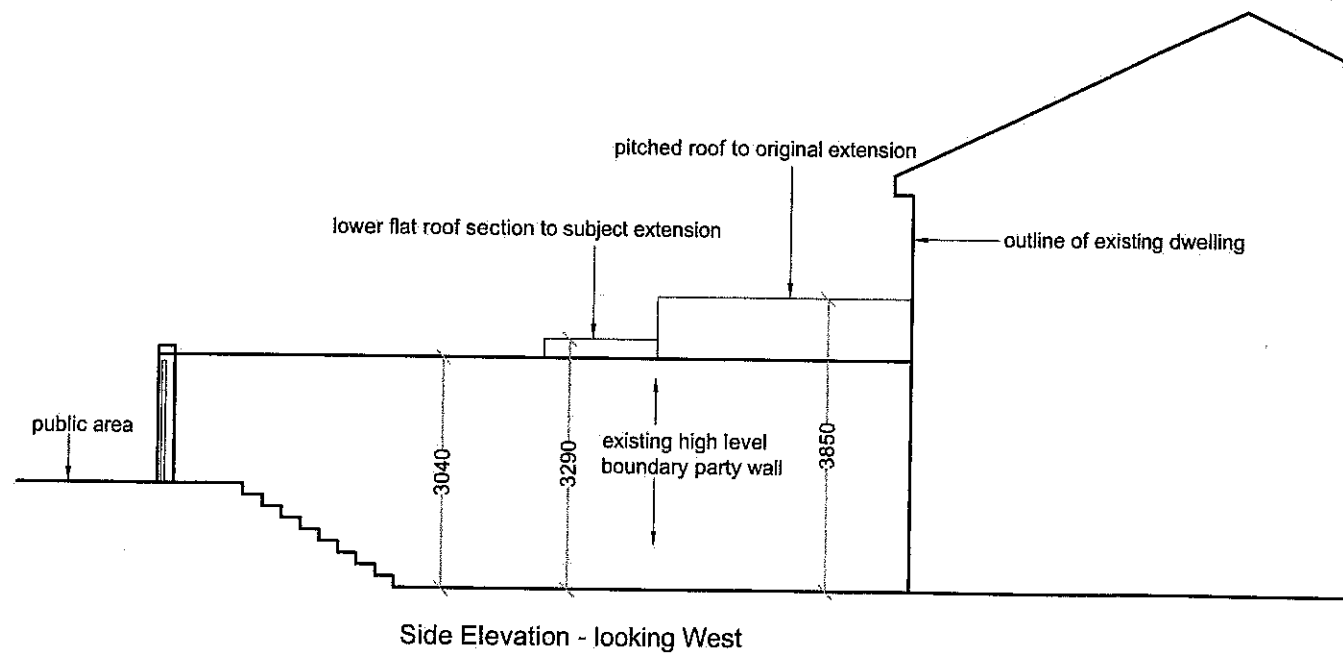
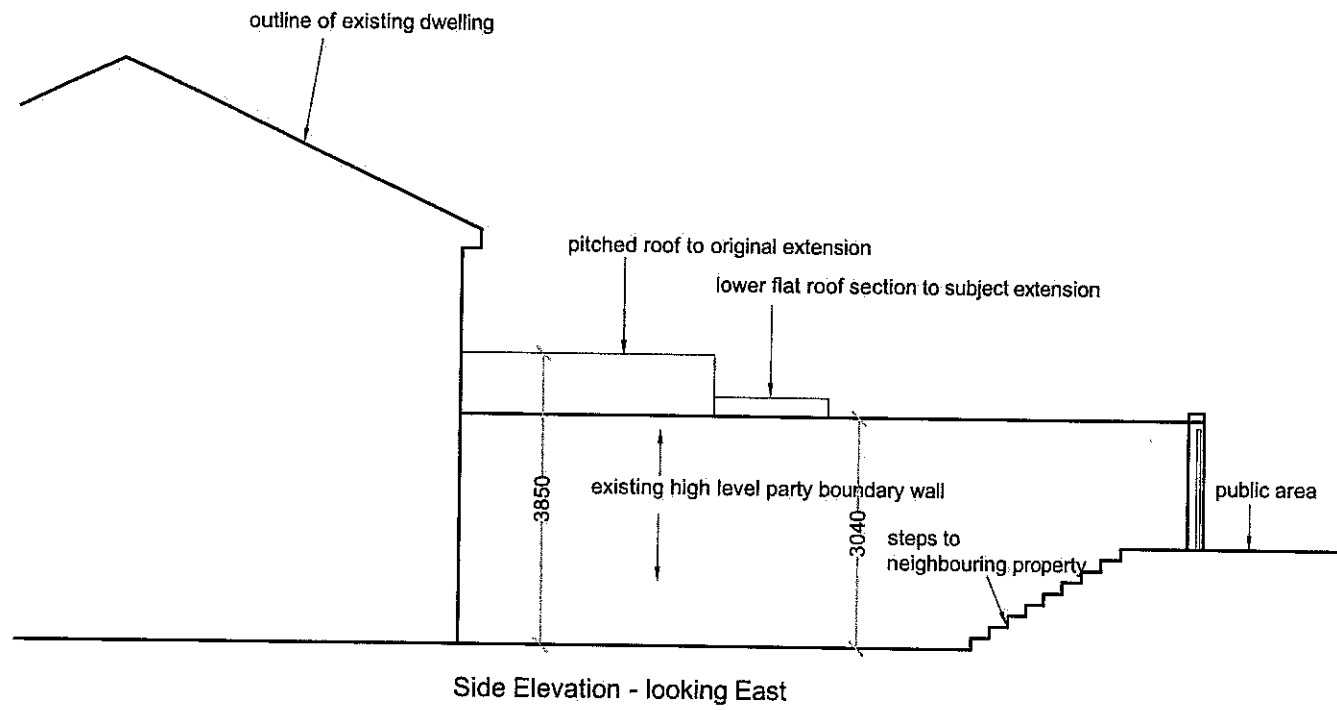


Client: Mr Ian McCullagh.

Job Title:
 Application for Certificate of Exemption from Planning for Rear Single Storey Extension at 50 Fort Hill, Moneygourney, Douglas, Cork.

Drawing Title: Elevation and Section A-A

Job No. C/22/6	Date: Nov '22	05
	Scale: 1: 50	
Planning Issue		



Client: Mr Ian McCullagh.

Job Title:
**Application for Certificate of Exemption
 from Planning for Rear Single Storey Extension
 at 50 Fort Hill, Moneygourney, Douglas, Cork.**

Drawing Title: **Side Elevations.**

Job No. C/22/6	Date: Nov '22	06
	Scale: 1: 100	
Planning Issue		