



Comhairle Cathrach Chorcaí Cork City Council

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

Anne Barry Murphy,
c/o Dennis Hennigan,
Greenbanks,
Ballyvolane,
Cork.

20/10/2022

RE: Section 5 Declaration R742/22 St. Anthony's, Ballyhooley Road, Cork.

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 13th October 2022, 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, and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that -

In accordance with the previous Declaration under R723/22, *the front velux window*

IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT in accordance with section 4(i)(h) of the Planning and Development Act 2000 (as amended).

Further, based on the revised plans submitted, *the conversion of ground floor garage to bedroom, utility & bathroom and rear kitchen extension*

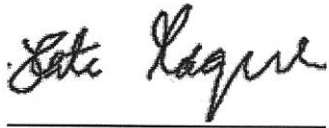
ARE EXEMPTED DEVELOPMENT as the plans provided meet the conditions and limitations as set out under Class 1 and in Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended).

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, 20th October 2022.



We are Cork.

Is mise le meas,



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

PLANNER'S REPORT		Cork City Council Development Management Strategic Planning and Economic Development
Ref. R742/22		
Application type	Section 5 Declaration	
Description	<i>Front velux window Conversion of ground floor garage to bedroom, utility & bathroom (22.88m²) Rear kitchen extension – (16.62m²)</i>	
Location	St. Anthonys, Ballyhooly Road	
Applicant	Anne Barry Murphy	
Date	17/10/2022	
Recommendation	<i>Is exempted development</i>	

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 it lists development as follows:

*Front velux window
Conversion of ground floor garage to bedroom, utility & bathroom (23.0m²)
Rear kitchen extension – (17.0m²)*

The following additional details are provided:

*Garage was dry lined & conversion finished recently
Rear extension was constructed years ago but dry-lined
Front velux window was fitted years ago*

3. Site Description

The property in question is a two storey semi-detached house located on the north eastern side of the Ballyhooley Road close to the Glen Park.

4. Planning History

R723.22 Similar question was posed in previous Section 5 Declaration Application.

Outcome: Split decision. Velux window deemed exempt. Based on plans provided extensions not considered exempt.

There are no recent planning applications associated with the 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 or ‘the making of any material change in the use of any structures or other land’

Section 4(1)(h),

The following shall be exempted developments for the purposes of this Act-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 2001-2013.

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

	<p>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>
	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 <i>The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</i>	1. No such structure shall be constructed, erected or placed forward of the front wall of a house.
	2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken 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.

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.'

I consider that the change of use and works in question constitute development.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. Following a review of the information provided I consider that the question to be answered includes two main elements, firstly the insertion of a velux window in the roof to the front of the property and, secondly, the change of use of the garage to a habitable room and construction of a rear extension.

I note that the matter of the Velux window was determined under R723.22 to be exempt. No new information has been provided regarding the window. Accordingly it is considered inappropriate to revisit the status of the window **accordingly I conclude that the front velux window is exempted development.**

The rear extension and the conversion of the garage were deemed not to be exempt under the previous application R723.22. Under the previous assessment the garage conversion and rear extension did not accord with the 40m² limitation set out for this type of development (Class 1).

Revised plans have been provided and the development description revised to state that the extensions have been dry lined. The internal floor areas have been revised on the plans provided such that they now indicate that the internal floor area is less than 40m² (converted garage – 9.08m x 2.52m = 22.88m² and rear extension 5.56m x 2.99m = 16.62. Total = 39.5m²).

Cumulatively the change of use of garage and rear extension is less than 40m² and therefore this aspect of the Section 5 application **is exempted development.**

I note that no site visit was undertaken as part of this assessment. However recent a recent Google Maps Street View image shows that there have been significant changes to the front elevation. The changes did not form part of the Section 5 Declaration and therefore have not been assessed as part of this report.

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.

2.2 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

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 the —

In accordance with the previous Declaration under R723/22 the *front velux window*

Is development and is exempted development in accordance with section 4(i)(h) of the *Planning and Development Act 2000* (as amended)

Further, based on the revised plans submitted, the *Conversion of ground floor garage to bedroom, utility & bathroom and rear kitchen extension*

Are exempted development as the plans provided meet the conditions and limitations as set out under Class 1 and in Schedule 2, Part 1 of the *Planning and Development Regulations 2001* (as amended).



Martina Foley
Executive Planner



DENNIS HENNIGAN
& Associates Ltd.

Green Banks, Ballyvolane, Cork. - Tel. - Mob. 087 6166291 –
E-mail – dennisthennigan@gmail.com

**SECTION 5 DECLARATION APPLICATION FORM – ANNE BARRY MURPHY -
ST. ANTHONY'S, BALLYHOOLY ROAD, CORK.**

Date 11th October, 2022

Dear Sir or Madam,

Please find attached herewith a list of the drawings and documentation accompanying this application is detailed below.

Architectural Documents			
TITLE:	SCALE:	DRG. NO.:	Copies
Section 5 Declaration Application Form	n/a	n/a	4 no.
Cheque / Cash	n/a	n/a	€80.00

Architectural Drawings			
TITLE:	SCALE:	DRG. NO.:	Copies
Site Location Map	1:1000	20032-PA-01	4 no.
Site layout	1:200	20032-PA-02	4 no.
Ground & First Floor layouts	1:100	20032-PA-03	4 no.
Attic layout & Section	1:100	20032-PA-04	4 no.
Elevations	1: 100	20032-PA-05	4 no.

Yours Sincerely,

Dennis Hennigan
Dennis Hennigan & Assoc. Ltd.
Green Banks,
Ballyvolane,
Cork, T23 AV6W,
Ireland.
Tel: +353 876166291

Cork City Council

13 OCT 2022

Community, Culture
and Placemaking

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: 021-4924709

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

ST. ANTHONY'S
BALLYHOOLY ROAD, 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.

FRONT VELUX WINDOW
CONVERSION OF GROUND FLOOR GARAGE TO
BEDROOM, UTILITY & BATHROOM (22.88m²)
REAR KITCHEN EXTENSION - (16.62m²)

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets if required).

GARAGE WAS DRY LINED & CONVERSION FINISHED RECENTLY

REAR EXTENSION WAS CONSTRUCTED YEARS AGO BUT DRY-LINED

FRONT VELUX WAS FITTED YEARS AGO

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: SECTION 5 R723-22

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	<u>G.F. - 84.92m²</u> <u>F.F. - 43.6m²</u>
(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 checked="" type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) <u>GARAGE CONVERSION = 22.8m²</u> <u>REAR KITCHEN EXTENSION = 16.62m²</u>
(c) If concerning a change of use of land and / or building(s), please state the following:	<u>N/A</u>
Existing/ previous use (please circle)	Proposed/existing use (please circle)
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-----	-----
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7. 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		

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

Signature: Ann Bruce Murphy



Date: 11/10/2022

CONTACT DETAILS

9. Applicant:

Name(s)	ANNE BARRY MURPHY
Address	ROCKVIEW ----- FARNAHOE, ----- INNISHANNON, CO. CORK. ----- T12Y51C

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

Name(s):	DENNIS HENNIGAN
Address:	GREEN BANKS ----- BALYVOLANE, ----- CORK. -----
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 checked="" type="checkbox"/> No <input type="checkbox"/>

11. 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.

Tel. No. _____

Mobile No. _____

Email Address: _____

For Office Use Only: File Ref. No. <u>R742/22</u>
--

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 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.

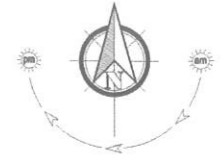
The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation 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

"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protection policy is available at <https://www.corkcity.ie/en/council-services/public-info/gdor/>.

We request that you read these as they contain important information about how we process personal data.

A3



NORTH POINT
IMPORTANT TO BE READ

- Copyright of this drawing is reserved by Dennis Hennigan & Assoc. Ltd.
- All construction methods, materials, installations to be in accordance with all building regulations and codes of practice at the time of construction.
- All sub-contractors are ultimately responsible for ensuring compliance with regulations within their own trade.
- The user of this drawing shall cross-check dimensions shown on this drawing with relevant dimensions shown on other drawings issued by Dennis Hennigan & Assoc. Ltd. and by other design consultants relevant to the project prior to any fabrication or construction on site. All errors, omissions and discovered inconsistencies to be reported to the Dennis Hennigan & Assoc. Ltd. immediately.
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- This drawing is specific to the job outlined in the title box below.

STAGE ABBREVIATIONS:

CD- Concept Design, PP-Preplanning, PA-Planning Application, FI-Further Information, AP-Appeal, RC-Response To Conditions, TE-Tender, FC-Fire Cert/, LE-Contract / Legal, CO-Construction, AB-As Built.

Extract from O.S. Map
1 : 1000 6338 - 22

1	ISSUED FOR SECTION 5 APPLICATION	05/22	DH
Rev	DETAIL	DATE	BY

DH DENNIS HENNIGAN & Associates Ltd.

Green Banks, Ballyvolane, Cork.
T-087 6166291 E: dennis.hennigan@gmail.com

CLIENT: Anne Barry Murphy

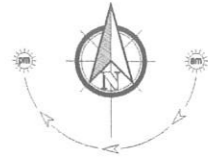
PROJECT: Section 5 Application
St. Anthony's,
Ballyhooly Road,
Cork

DRG: Site Location

Drawn By	Checked By	Job No	Drawing Number	Revisions	Scale
DH	DH	20032	PA-01	1	PA
1:1000 on A3					



A3



NORTH POINT

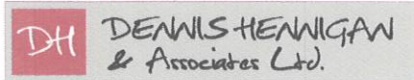
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Rev	DETAIL	DATE	BY
1	ISSUED FOR SECTION 5 APPLICATION	10/22	DH



Green Banks, Ballyvolane, Cork.
T-087 6166291 E: dennis Hennigan@gmail.com

CLIENT: Anne Barry Murphy

PROJECT: Section 5 Application
St. Anthony's,
Ballyhooly Road,
Cork

DRG: Site Layout

Drawn By	Checked By	Job No	Drawing Number	Revision	Stage
DH	DH	20032	PA-02	1	PA

1:200 on A3

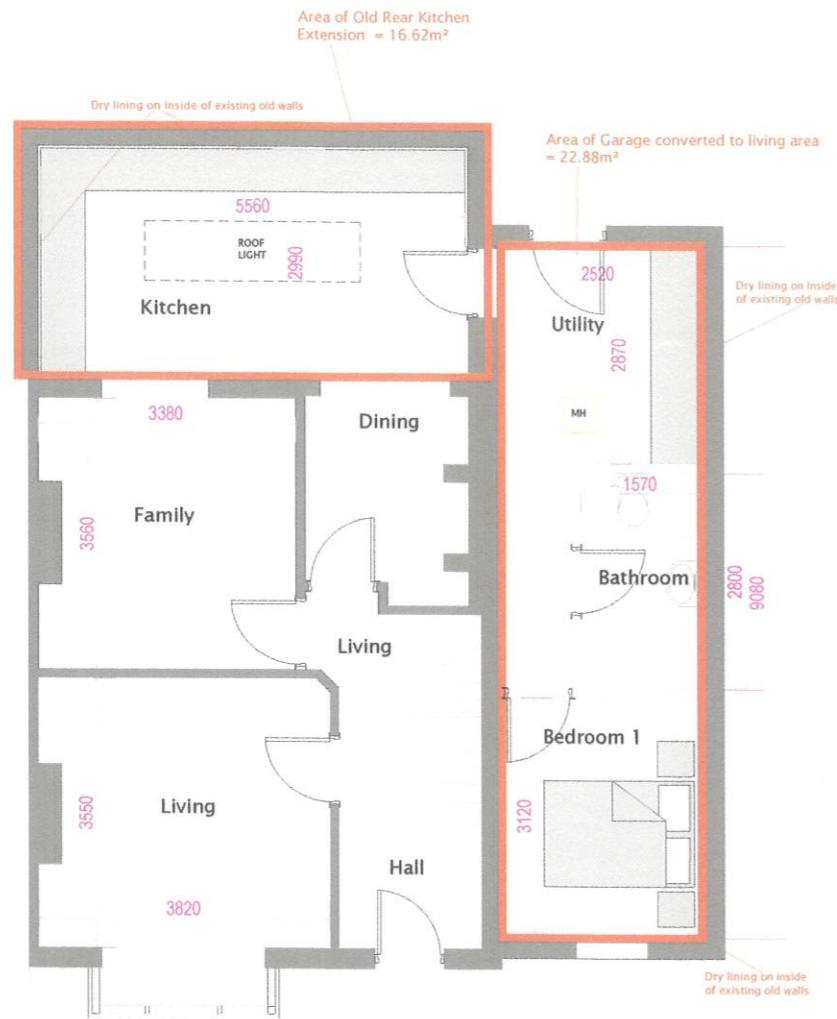


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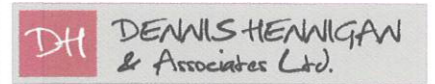


Ground Floor Layout
Floor Area = 84.92m² - 914sq.ft



First Floor Layout
Floor Area = 43.60m² - 469sq.ft

2	EXACT FINISHED DIMENSIONS	09/22	DH
1	ISSUED FOR SECTION 5 APPLICATION	05/22	DH
Rev	DETAIL	DATE	BY



Green Banks, Ballyvolane, Cork.
T-087 6166291 E: dennishennigan@gmail.com

CLIENT: Anne Barry Murphy

PROJECT: Section 5 Application
St. Anthony's,
Ballyhooly Road,
Cork

DRG: Ground & 1st Floor layouts

Drawn By	Checked By	Job No	Drawing Number	Revision	Stage
DH	DH	20032	PA-01	2	PA
SCALE: 1:100 on A3					



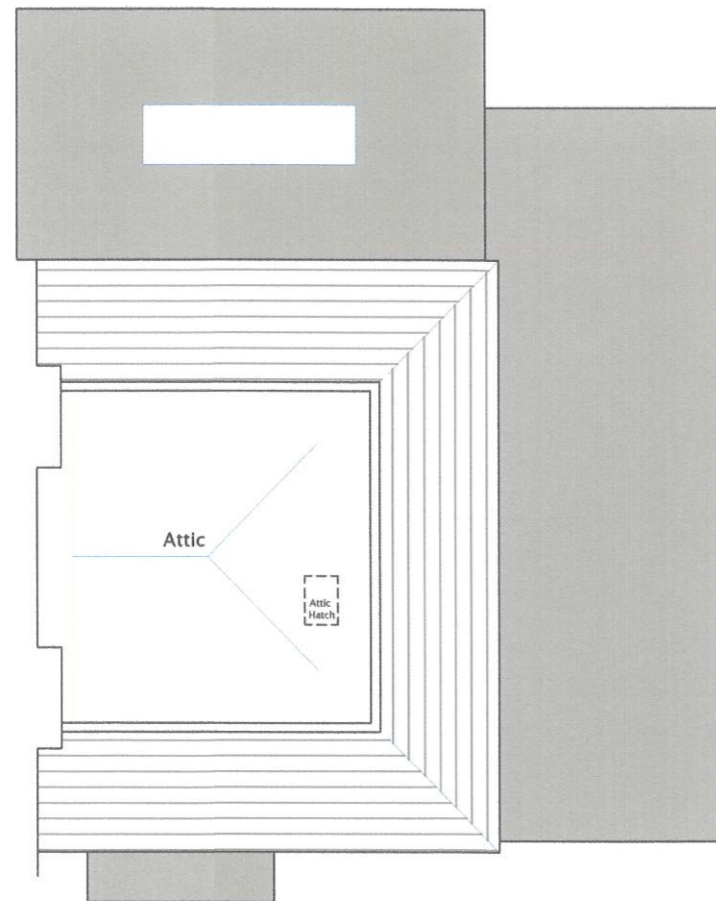
NORTH POINT

IMPORTANT TO BE READ

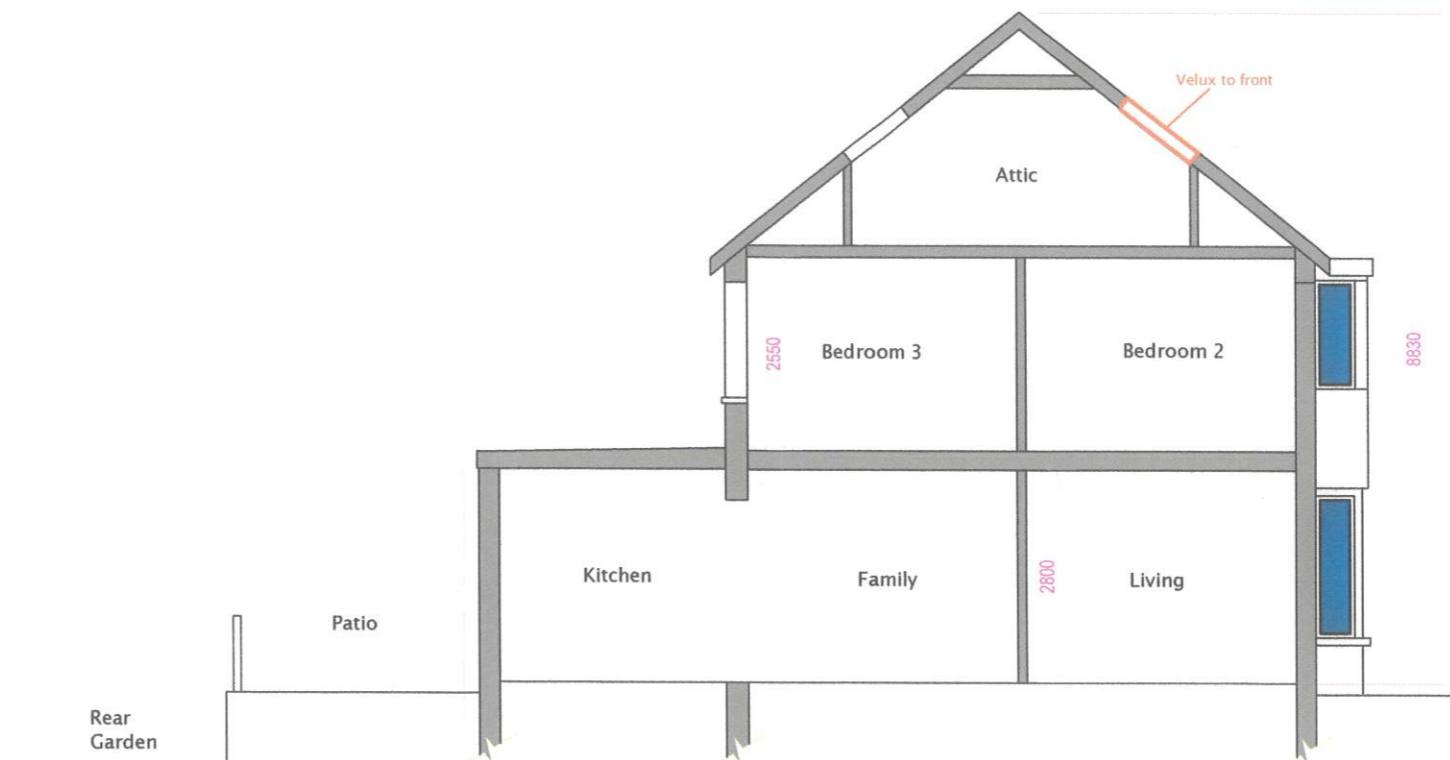
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STAGE ABBREVIATIONS:

CD- Concept Design, PP-Preplanning, PA-Planning Application, FI-Further Information, AP-Appeal, RC-Response To Conditions, TE-Tender, FC-Fire Cert/, LE-Contract / Legal, CO-Construction, AB-As Built.

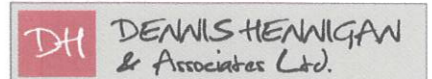


Attic Layout



Section A - A

1	ISSUED FOR SECTION 5 APPLICATION	09/22	DH
Rev	DETAIL	DATE	BY



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PROJECT: Section 5 Application
St. Anthony's,
Ballyhooly Road,
Cork

DRG: Attic layout & Section

Drawn By	Checked By	Job No	Drawing Number	Revision	Scale
DH	DH	20032	PA-04	1	PA
1:100 on A3					



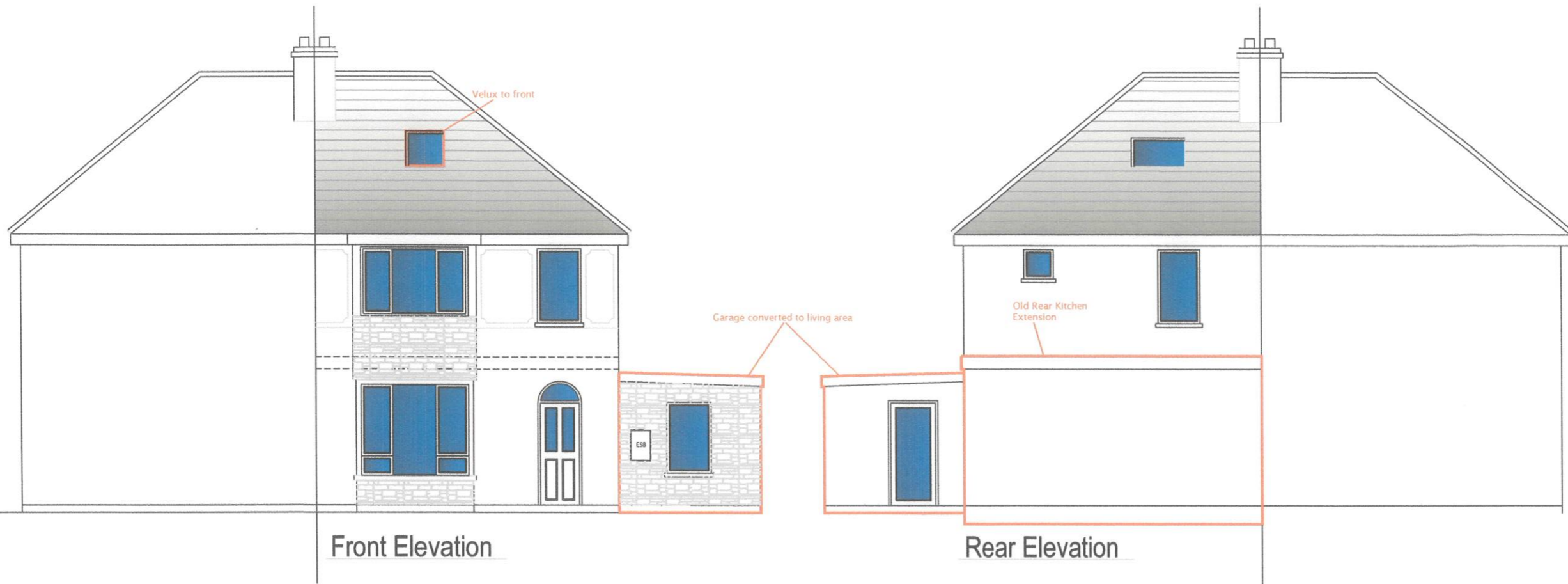
NORTH POINT

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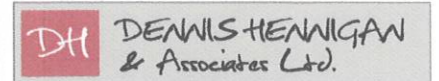


Front Elevation

Rear Elevation

Side Elevation

1	ISSUED FOR SECTION 5	30/05/22	DH
Rev	DETAIL	DATE	BY



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DRG: Elevations

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