

Comhairle Cathrach Chorcaí Cork City Council

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

Mu Hao,
c/o D. McCann,
Briar Hill,
Waterfall,
Co. Cork T12 HV1N.

14/06/2022

**RE: Section 5 Declaration R721/22 44 Mount Sion Road,
Greenmount, Cork.**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, 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 08/06/2022
- Sections 2 and 3 of the Planning and Development Act, 2000 (as amended)
- Classes 1 & 7 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended)

it is considered that,

- rear extension to the existing dwelling

IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT

And it is considered that,

- front porch to the existing dwelling

IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.



We are Cork.

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Comhairle Cathrach Chorcaí Cork City Council

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

Is mise le meas,

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



- Classes 1 & 7 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended)

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- rear extension to the existing dwelling

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And it is considered that,

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Gwen Jordan McGee
Senior Executive Planner
14/06/2022

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: R 721/22

Description: Is the single storey extension to the rear of an existing two-storey dwelling and porch to the front of the dwelling exempted development?

Applicant: Mu Hao

Location: 44 Mount Sion Road, Greenmount, Cork City

Date: 14/06/2022

SUMMARY OF RECOMMENDATION

Constitutes development; is not exempted development

Purpose of Report

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the 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.

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Site Location & Description

The property is located on Mount Sion Road which is a residential road in the Greenmount area of the city. The dwelling subject to this Section 5 application is an end of terrace 2-storey dwelling. The plot on which the dwelling is located is a corner plot with frontage on Mount Sion Road (to the south) and Bonaventure Place (to the west). Within the site there is a large front and side garden with a yard area to the rear of the property.

Subject Development

The existing development subject to this Section 5 declaration request asks the following question of the Planning Authority: *Is the single storey extension to the rear of an existing two-storey dwelling and porch to the front of the dwelling exempted development?*

It is noted from the submitted details of the application that the existing dwelling has a floor area of 65 sqm. The floor area of the proposed single storey rear extension is 33.9 sqm. The proposed porch to be located at the front elevation of the dwelling has a stated floor area of 1.7 sqm.

Land use zoning

The site is predominantly zoned Z05 '*Residential, Local Services and Institutional Uses*'. The provision and protection of residential uses and residential amenity is a central objective of this zoning.

Planning History:

22/41168 – pre-validated current planning application for removal of a chimney from the property.

Relevant Legislation:

Planning and Development Act, 2000

Section 3 (1) of the Act defines “Development” as, ‘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 2(1),

“exempted development” has the meaning specified in section 4.

“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.

The definition of “Structure” in Section 2 of the 2000 Act is as follows:

“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 (ii)”

Planning and Development Regulations 2001 (as amended)

Schedule 2, Part 1 of the above regulations relates to general exempted development.

Classes 1- 8 refer to development within the curtilage of a house.

Specifically, *Class 1* refers to an *extension* of a house as is as follows:

<p>CLASS 1</p> <p><i>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.</i></p>	<p><i>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>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.</i></p> <p><i>(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</i></p>
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	<p><i>permission has been obtained, shall not exceed 12 square metres.</i></p> <p><i>(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.</i></p> <p><i>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</i></p> <p><i>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.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>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.</i></p> <p><i>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</i></p> <p><i>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</i></p> <p><i>(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.</i></p> <p><i>7. The roof of any extension shall not be used as a balcony or roof garden.</i></p>
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Class 7 refers to the construction of a porch to a dwelling and is as follows:

<p>CLASS 7</p> <p><i>The construction or erection of a porch outside any external door of a house.</i></p>	<p><i>1. Any such structure shall be situated not less than 2 metres from any road.</i></p> <p><i>2. The floor area of any such structure shall not exceed 2 square metres.</i></p> <p><i>3. The height of any such structure shall not exceed, in the case of a structure with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.</i></p>
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Environmental Assessments

Sub-threshold EIS

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No3) 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 EIS is not required to be submitted.

Appropriate Assessment

The subject site is located south west of an existing Special Protection area, namely Cork Harbour SPA (Site Code: 004030) and proposed NHA, namely Douglas River Estuary (Site Code: 001046).

The potential for this development to have significant impacts on any Natura 2000 site has been ruled out because it is of a type and scale of development which will not result in any impact on the habitats or species for which the Nature 2000 site is designated.

Planning Assessment

As per definition of "Structure" in Section 2 of the Planning and Development Act, 2000, the existing extension is a structure.

As per definition of "development" in Section 3 (1) of the Planning and Development Act 2000 (as amended), it is considered that the erection of this extension and porch constitutes works, and as such, is 'development' and that the remaining question therefore is whether it is 'exempted development'.

Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) relates exempted development.

As noted above, Class 1 refers to the extension of a house. Class 1 sets out 7 conditions and limitations for such extensions as set out above.

As noted above, the plot of No. 44 Mount Sion Road is located on a corner plot. It has a limited rear yard area. It is noted from the proposed site layout that the proposed rear extension would occupy most of the area to the rear of the dwelling. Condition No. 5 for extension clearly states that "*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*". It is noted from the proposed site layout that the footprint of the proposed extension would not result in an area of 25 sqm being left over for private amenity space to serve the dwelling.

While it is noted that this residential plot has an extensive garden area to the front and side of the dwelling which could be regarded and used as amenity space, private amenity space is normally provided to the rear of the property, where it is screened from view from the public road.

Having regard to the wording of Condition no. 5 of Class 1, the proposed extension would not meet the condition of providing a minimum of 25sqm. of amenity space to the rear of the dwelling. It is therefore considered that the proposed extension is not exempted development.

As noted above, Class 1 refers to the porch of a house. Class 7 sets out 3 conditions and limitations for such developments as set out above. Having regard to the location, scale and height of the proposed porch extension, it is considered that the proposed porch structure is exempted development.

Conclusion

Having regard to:

- the particulars received by the Planning Authority on 08/06/2022
- Sections 2 and 3 of the Planning and Development Act, 2000 (as amended)

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

c/o D. Mc Cann,
Briar Hill,
Waterfall,
Near Cork,
7 June 2022.

**Re: Section 5 Declaration Application
at
44 Mount Sion Road, Greenmount, Cork.**

Dear Sir/Madam,

With reference to the above please find enclosed the following;

1. Drawing.
2. Site Location Map (Scale 1: 1000)
3. Site Location Map (Scale 1: 10560)
4. Site Layout Plan (Scale 1: 125)
5. Application Form.



Yours Sincerely
Damian McCann
pp Mu Hao

**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

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

Comhairle Cathrach Chorcaí
Cork City Council

08 JUN 2022

Strategic Planning & Economic
Development Directorate

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

Fón/Tel: 021-4924709

Lionra/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

44 MOUNT SION ROAD, GREENMOUNT, 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.

SINGLE STOREY EXTENSION TO REAR OF
EXISTING TWO STOREY DWELLING AND PORCH
TO THE FRONT OF THE DWELLING.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

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 DWELLING 65m ² PROPOSED EXTENSIONS 33.9m ² (1.7+32.2)
(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)
<u>N/A</u>	

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: Muhoo

Date: 31 MAY 2022

CONTACT DETAILS

9. Applicant:

Name(s)	MU HAO
Address	44 MOUNT SION ROAD GREENMOUNT CORK

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

Name(s):	D. M ^c CANN	
Address:	BRIAR HILL, WATERFALL, NEAR CORK, TIR HVIN	
Telephone:	[REDACTED]	
E-mail address:	[REDACTED]	
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>R721/22.</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.

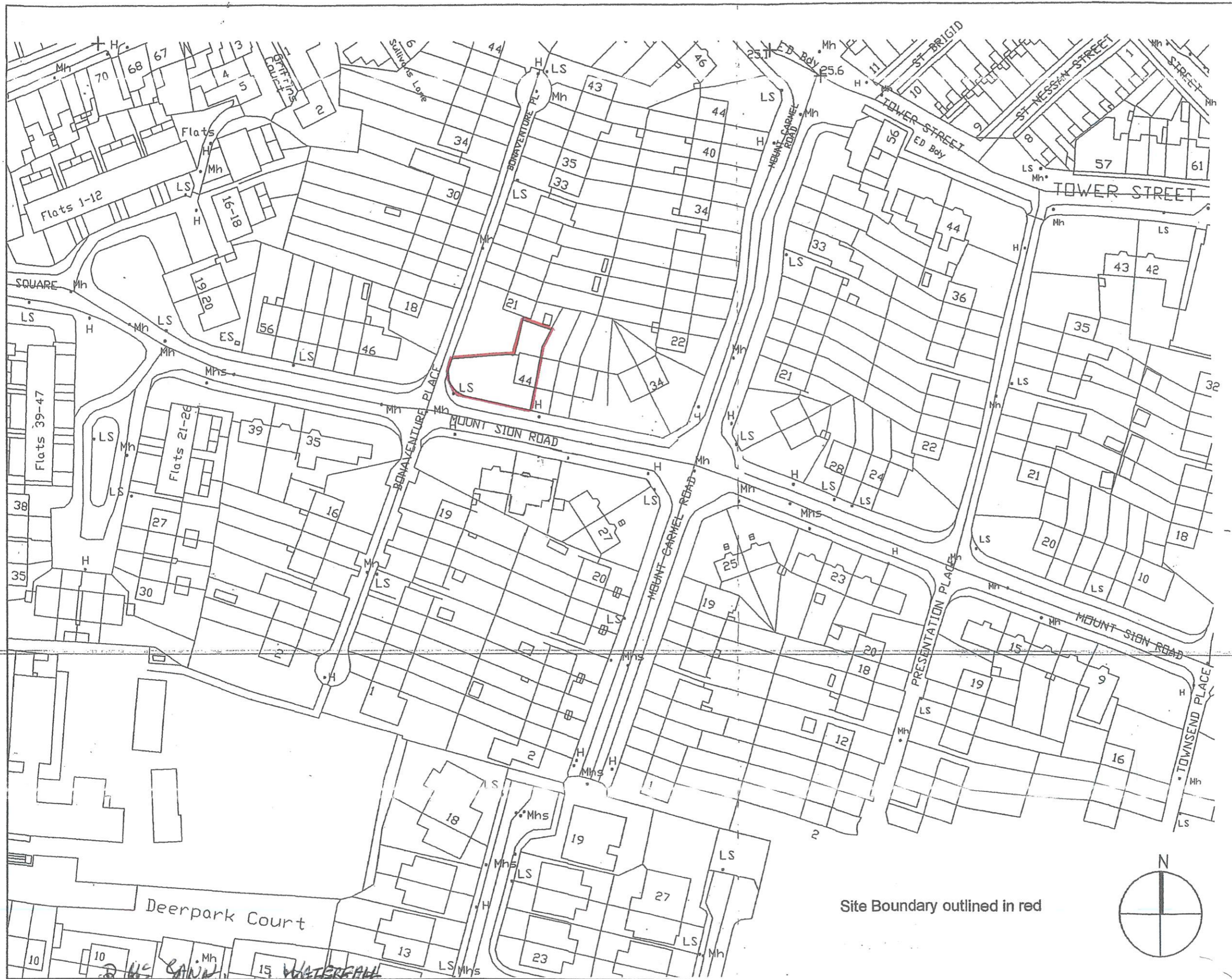
The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation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

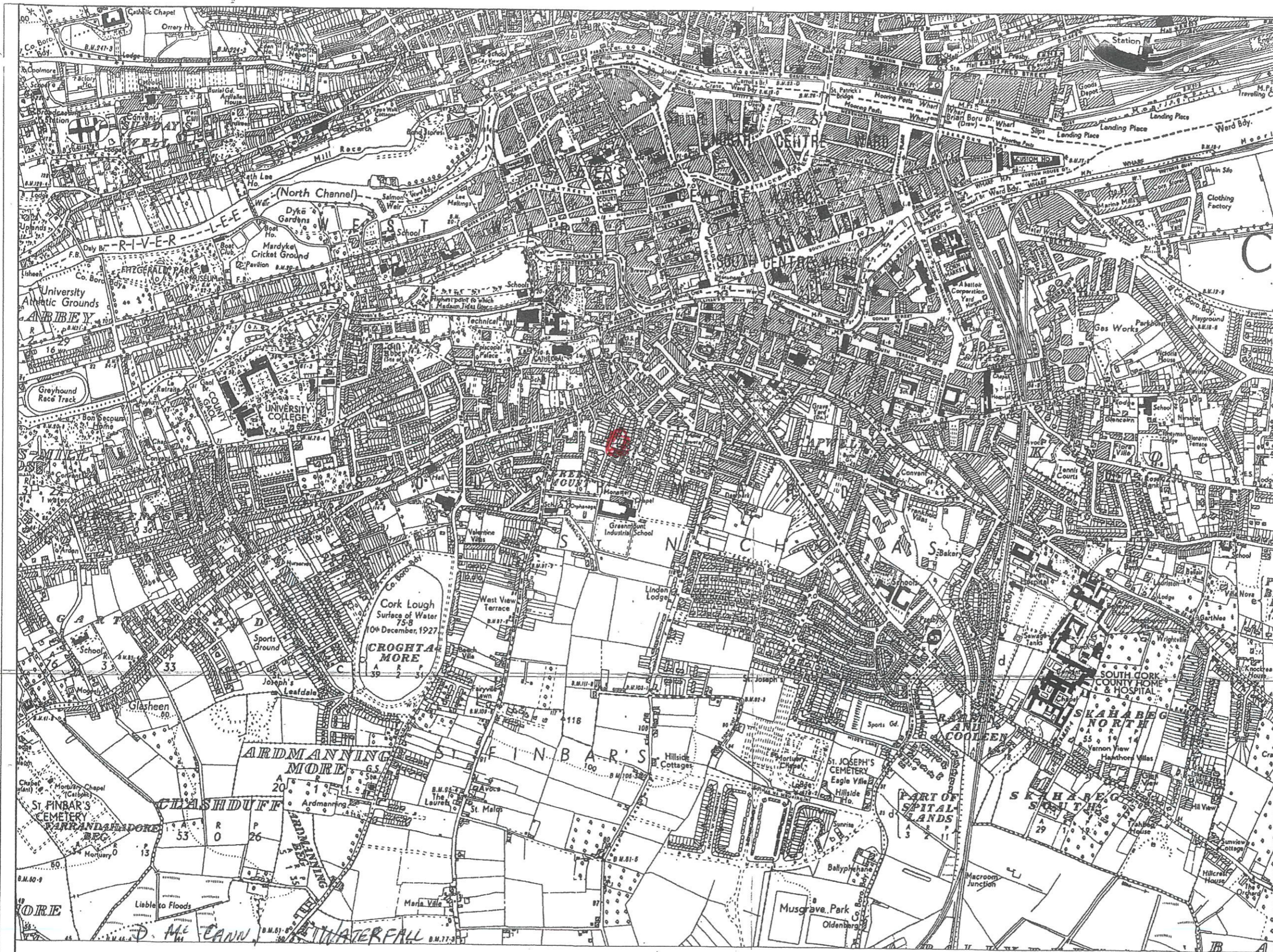
We request that you read these as they contain important information about how we process personal data.

For Office Use Only
File Ref. No. 12/12





O.S. 6382-14
O.S. 6382-15

SITE LOCATION MAP
for
MR. MU HAO
at
44 MOUNT SION ROAD
GREEN MOUNT, CORK.
Scale 1:1000



SITE LOCATION MAP
 for
 Mr. Mu HAO
 at
 44 MOUNT SION ROAD
 GREENMOUNT, CORK
 Scale 1:10560

Site Boundary outlined in red

PROPOSED EXTENSION 
PROPOSED PORCH 



32.2 m²

44

1.7 m²

LS

H

MH

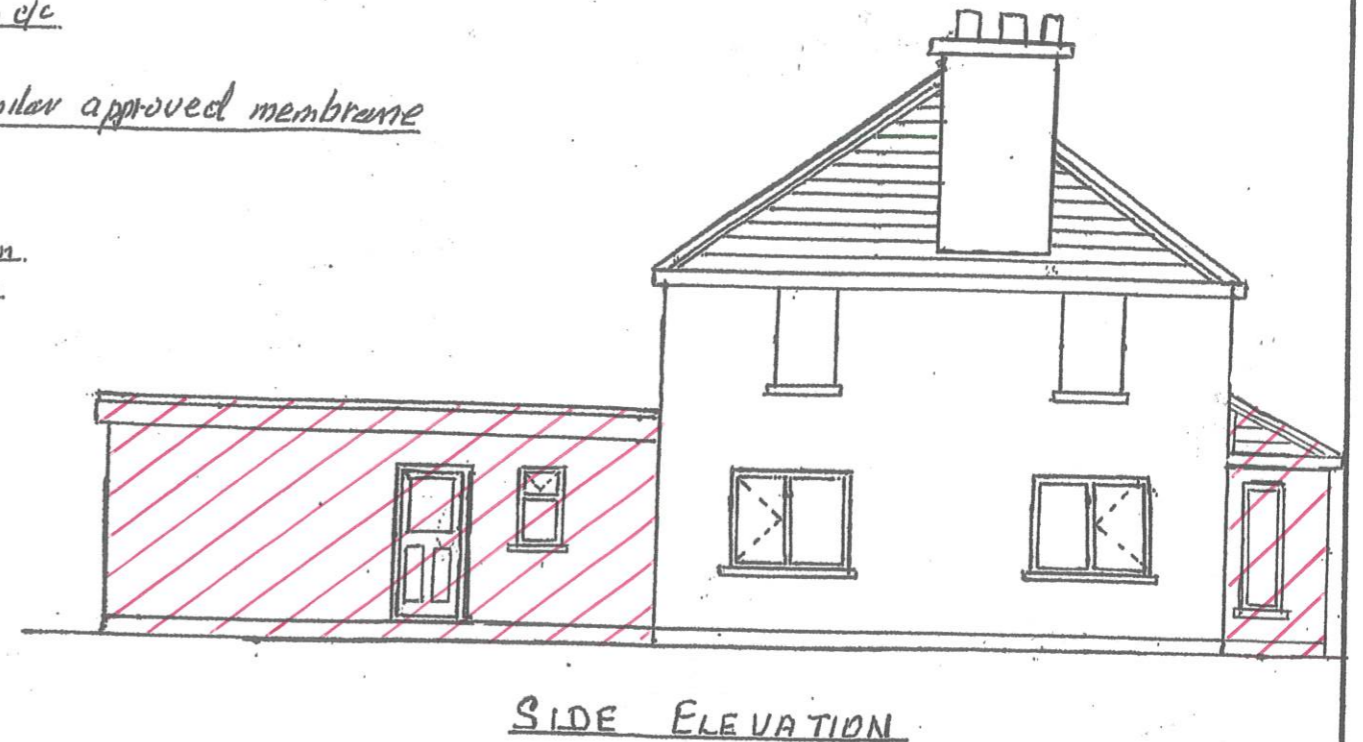
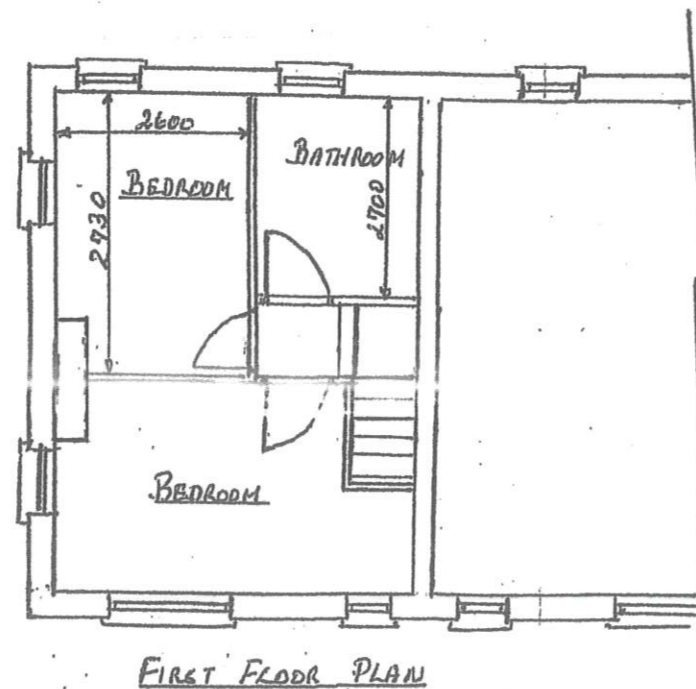
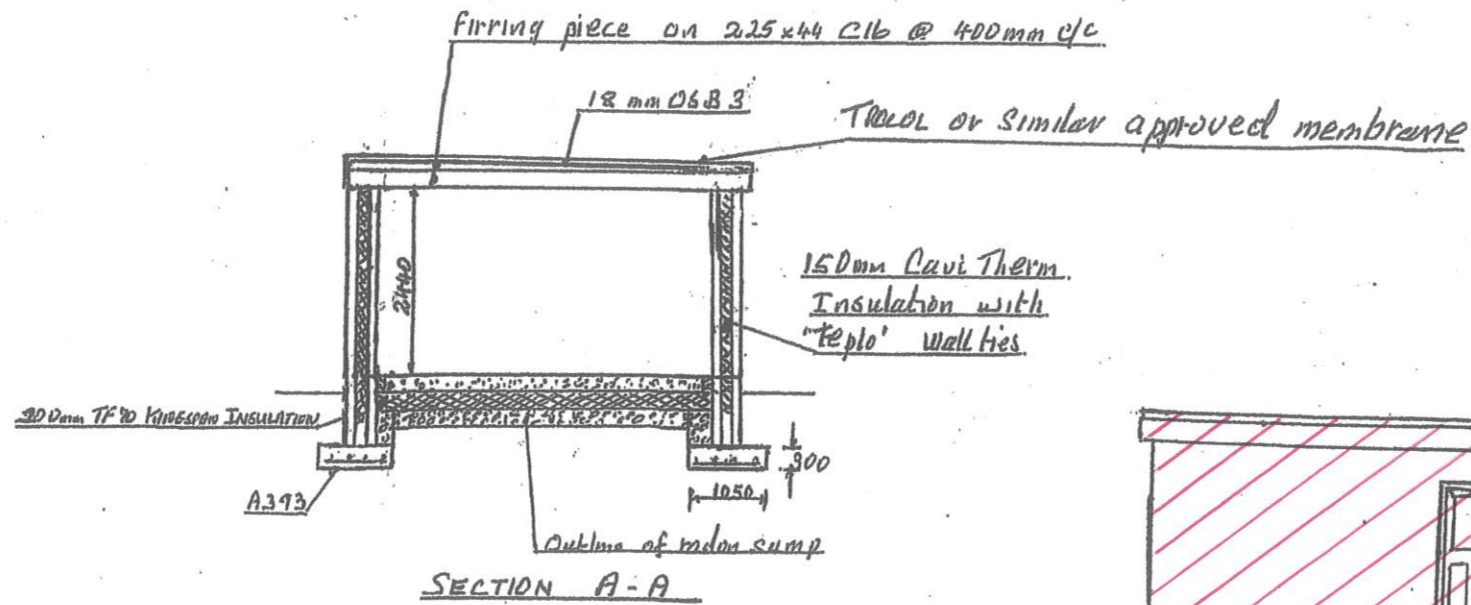
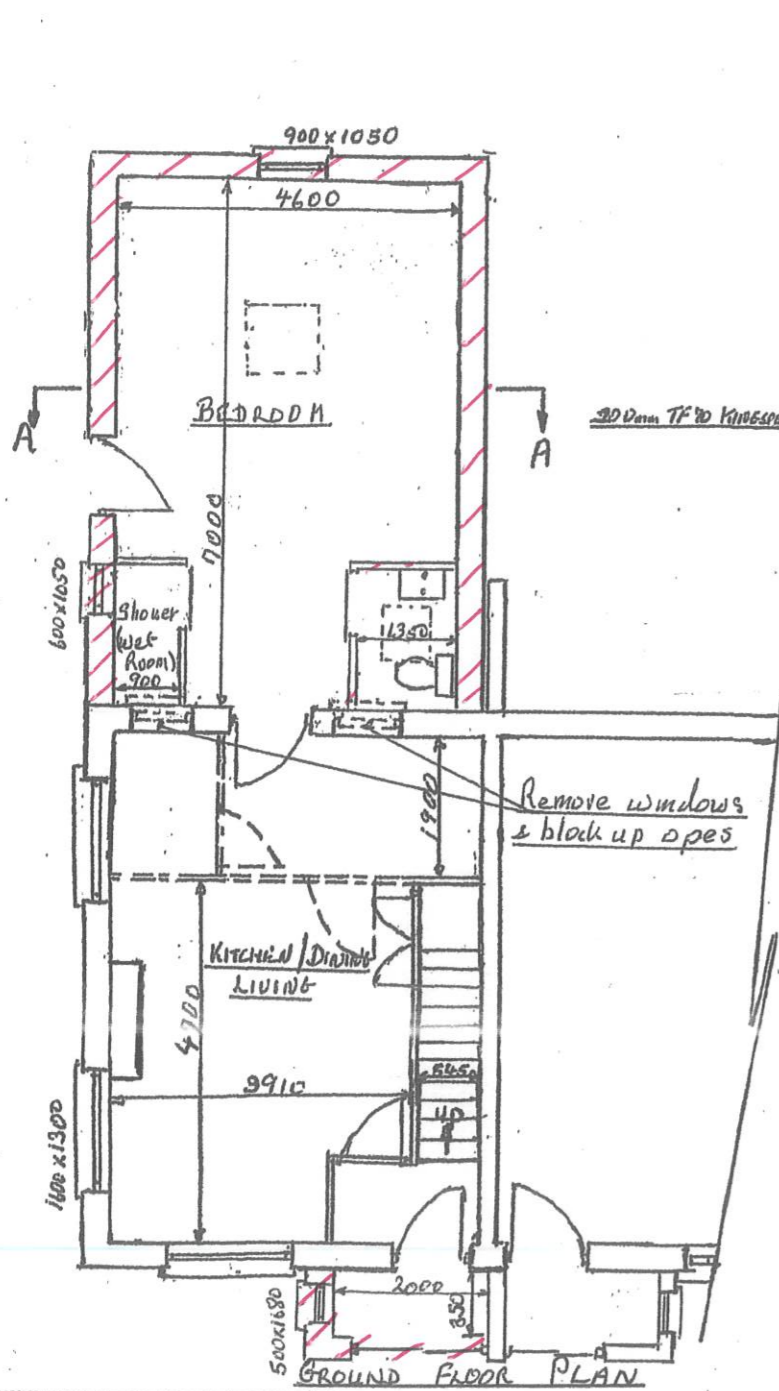
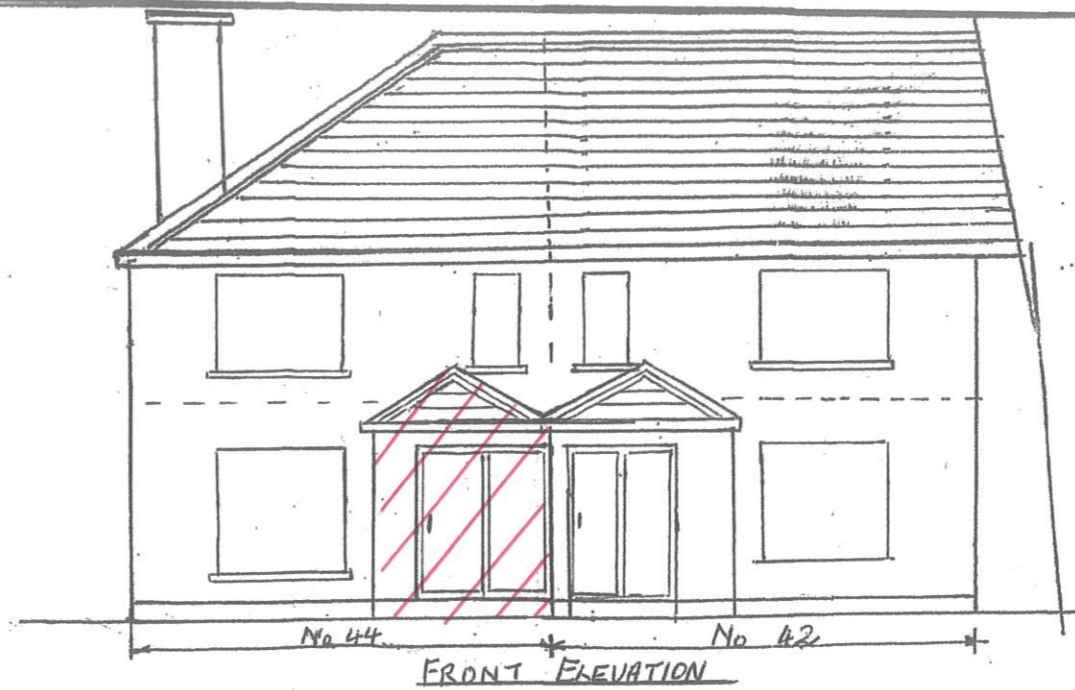
MOUNT SION ROAD

SITE LAYOUT PLAN

for
Mr. MU MAO
at
44 MOUNT SION ROAD
GREENMOUNT, CORK

Scale 1:125

D. Mc CAW, WATERFALL



PROPOSED EXTENSION
 for
 MR MU HAO
 at
 44 MOUNT SION ROAD,
 GREENMOUNT, CORK

DRAWN BY: D. Mc CANN, WATERFALL
 Scale 1:100 | FEBRUARY 2022