



Comhairle Cathrach Chorcaí Cork City Council

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

George Finn
4 Cherrygarth
Donnybrook
Cork

25/06/2019

**RE Section 5 Declaration 4 Cherrygarth,
Donnybrook, Douglas**

Dear Sir/Madam,

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

Having regard to:

- the particulars received by the Planning Authority on 31/05/2019
- Section 2 of the Planning and Development Act 2000
- Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended)

it is considered that,

- The erection of a perspex roof over the side entrance

the proposal IS DEVELOPMENT and that the development **IS EXEMPTED DEVELOPMENT**.

Yours Faithfully,

Paul Hartnett

Assistant Staff Officer

Development Management Section

Community, Culture and Placemaking Directorate



We are Cork.

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: R 516/19
Description: Is the erection of a perspex roof over a side entrance exempted development?
Applicant: George Finn
Location: 4 Cherrygarth, Donnybrook, Douglas, Cork
Date: 24/06/2019

SUMMARY OF RECOMMENDATION

Constitutes development; is 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.

Site Location

The property is located in the Cherrygarth residential estate in the Donnybrook area of Douglas. The property is a two storey semi-detached dwelling. There is a side access door and archway to the side of the property and a minor single storey extension to the rear and side of the property.

Subject Development

The existing development subject to this Section 5 declaration request asks the following question of the Planning Authority: whether or not the proposed erection of a perspex roof over a side entrance is development and is exempted development, having regard to Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended).

It is proposed to fix a perspex roof over the existing side entrance and laneway of the dwelling, which is currently an external part of the curtilage of the dwelling. The proposed roof will be fixed to the side gable wall with steel frames. This roof will be postponed in line with the front elevation and will extent to the existing side entrance. It will be approx 8.4 m in length. A white pvc trellis will be fixed inside the side boundary wall to the supporting steel frames.

Land use zoning

Ballincollig Carrigaline Municipal District Local Area Plan

The site is situated on lands as "Existing Built Up area" in the Cork City South Environs 2 Map, in Section 3 of the LAP. These areas are described in Paragraph 3.2.4 as follows:

3.2.4 In the preparation of new 'zoning' maps for the main towns in this plan, the following issues have been addressed:

- Zoned areas in the 2011 Local Area Plan that have now been developed are now shown as part of the 'existing built up area'. This approach has been taken in order to allow a more positive and flexible response to proposals for the re-use or re-development of underused or derelict land or buildings particularly in the older parts of the main towns.*

Planning History:

185085 – Permitted removal of front boundary wall and provision of an additional car parking space to front of dwelling.

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 4 of the Act refers to ‘*Exempted Development*’ and Subsection (1) sets out categories of development that shall be exempted development for the purposes of this Act. Subsection (1) (h) states the following:

‘Development consisting of the carrying out of the 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 of the structure or of neighboring structures’.

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 to the rear of the house, by the construction or erection of an extension (including a conservatory) or by the conversion for use as part of the house any garage, store, shed or other similar structure attached to the rear or to the side of the house,

Class 3 refers to 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.

Definitions

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)”

Assessment

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 approx. 1.8km south 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.

As per definition of "Structure" in Section 2 of the Planning and Development Act, 2000, the proposed roof is considered to be 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 roof 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 3 relates to the construction, erection or placing within the curtilage of a house a tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure. I would consider that the proposed perplex roof is within this description of development, similar to an "awning" or "shade" type structure.

This Section 5 requests is therefore assessed under Class 3 of Schedule 2, part 1 of the regulations.

Class 3 has conditions and limitations set out for exempted development within the curtilage of a dwelling as set out below: From the details on the application, I note the following:

- 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.*

I note that the proposed roof collies with all 6 conditions as outlined above. In relation to no. 4 above (in bold), as the structure would be defined as an "awning" or a "shade" such structures normally do not have tiled or slated roof finish. In this case, compliance with No. 4 is not required.

Recommendation

Having regard to:

- the particulars received by the Planning Authority on 31/05/2019
- Section 2 of the Planning and Development Act 2000
- Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended)

it is considered that,

- The erection of a perspex roof over the side entrance

is development and is exempted Development.

Therefore, it is considered that the proposed roof structure is development and is exempted development.

Gwen Jordan McGee
Senior Executive Planner
24/06/2019

**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

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



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

No.4 CHERRYGARTH, DONNYBROOK, DOUGLAS. Co.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.

ERECTION OF PERSPEX ROOF OVER SIDE ENTRANCE

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

REFER ATTACHED DRAWINGS

GF-SE-001 - 1/2500 SITE LOCATION PLAN

GF-SE-002 - EXISTING & PROPOSED SITE LAYOUT PLANS

GF-SE-003 - PLAN & SECTION DETAILS OF PROPOSAL

GF-SE-004 - SIDE ELEVATION

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	SIDE ENTRANCE 11.4 sq.m
(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) _____ _____ _____

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		GEORGE FINN	
Applicants Address		No.4 CHERRYGARTH, DONNYBROOK, DOUGLAS, Co.CORK	
Person/Agent acting on behalf of the Applicant (if any):	Name:	GEORGE FINN	
	Address:	No.4 CHERRYGARTH, DONNYBROOK, DOUGLAS, Co.CORK	
	Telephone:	[REDACTED]	
	Fax:	[REDACTED]	
	E-mail address:	[REDACTED]	
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 checked="" type="checkbox"/>	No <input 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	n/a	
If you are not the legal owner, please state the name and address of the owner if available	n/a	

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

Signature: _____

Date: _____

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:

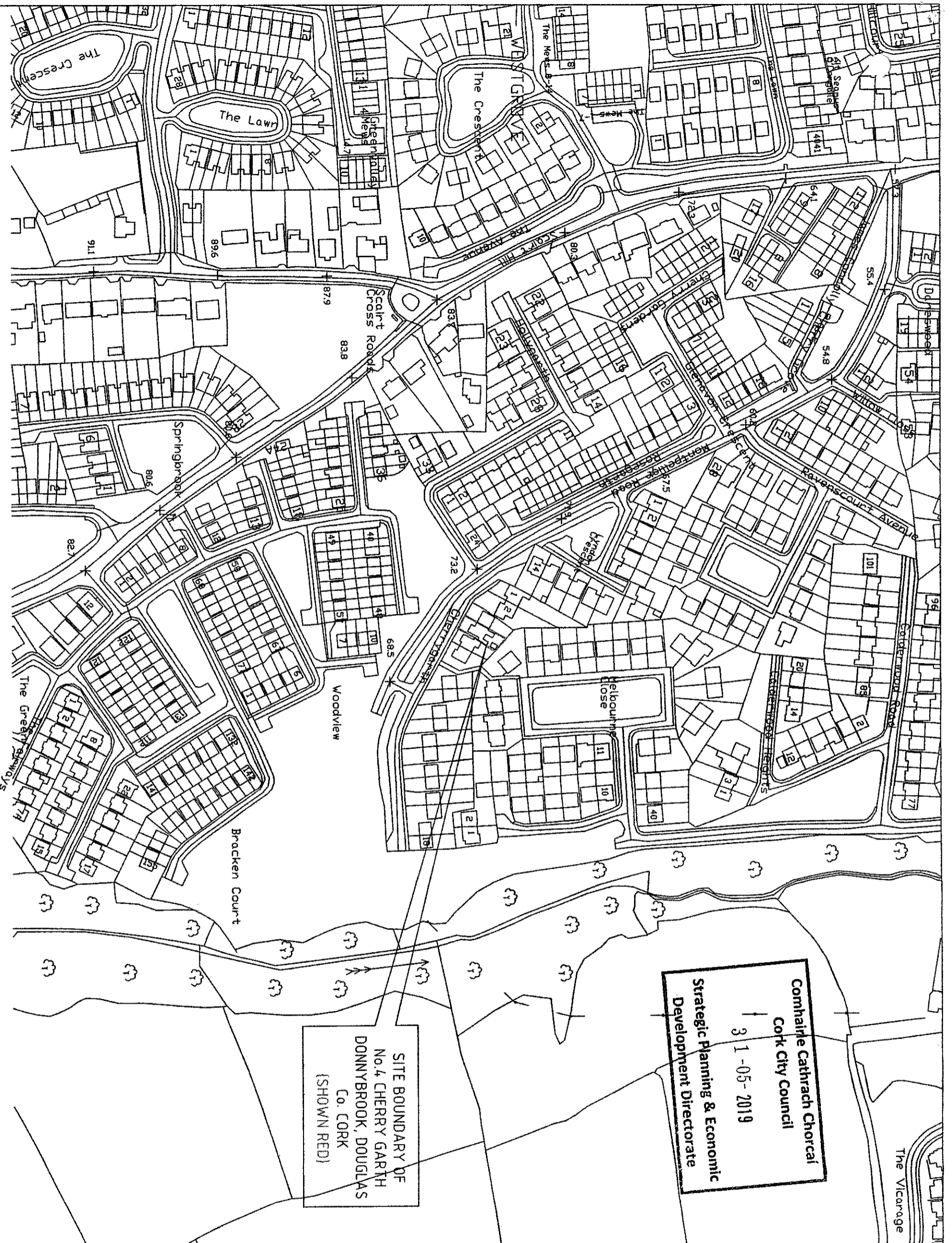
The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- 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

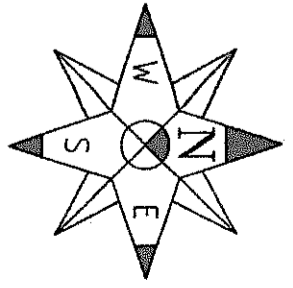


1:2500 LOCATION PLAN

Comhairle Cathrach Chorcaí
Cork City Council
31-05-2019
Strategic Planning & Economic
Development Directorate

SITE BOUNDARY OF
No. 4, CHERRY GARTH
DONNYBROOK, DOUGLAS
Co. CORK
(SHOWN RED)

NOTES
1:2500 O.S. No. 6428-C
1:2500 O.S. No. 6428-D
CENTRE POINT CP-ORDINATES
X, Y = 570022, 567936
EXTRACTION DATE: 20-FEB-2018



REV	DATE	ISSUE
A	MAY '19	SECTION 5 DECLARATION

SECTION 5 DECLARATION

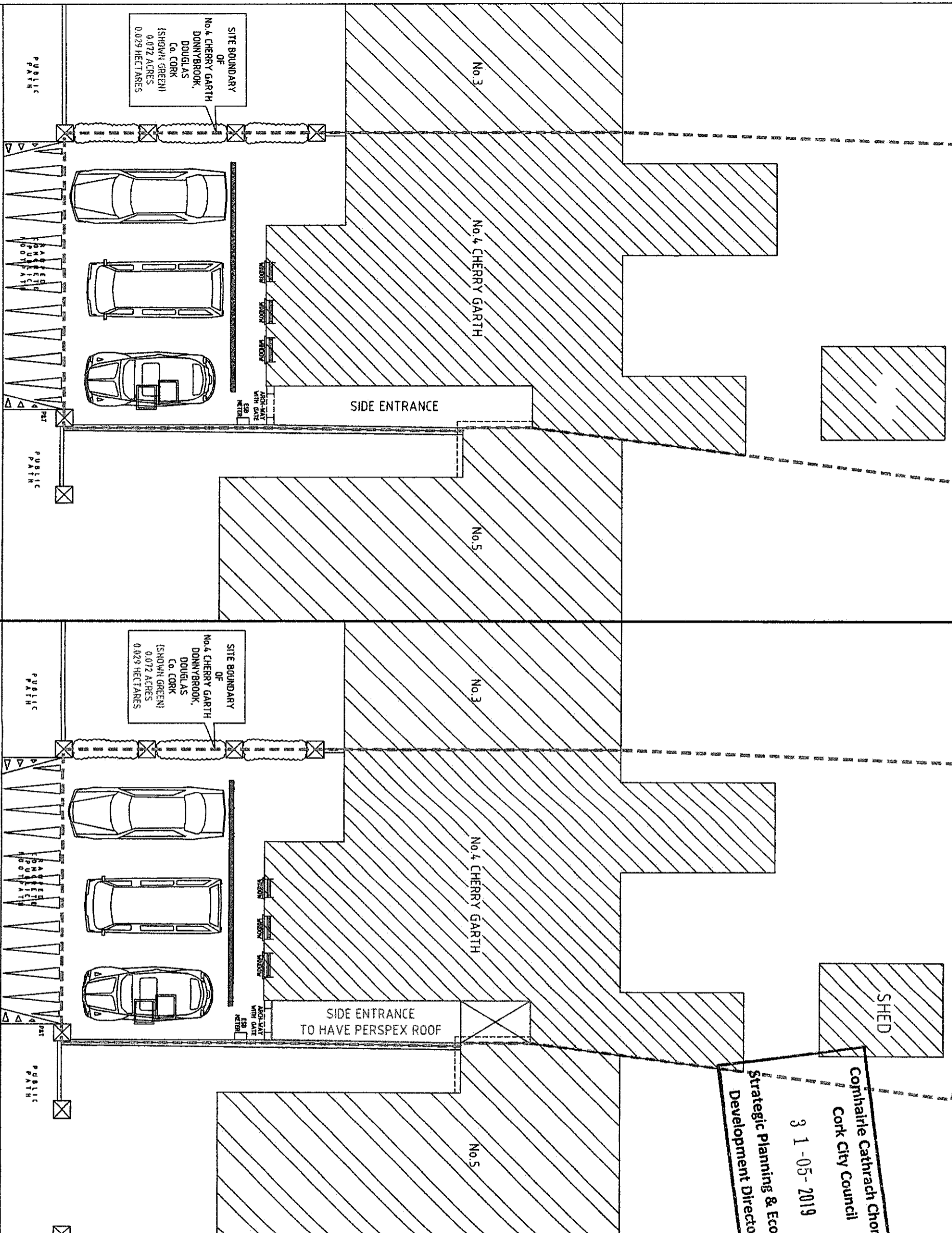
DRAWN BY
GEORGE FINN
No. 4, CHERRY GARTH
DONNYBROOK, DOUGLAS
Co. CORK
021 436 4746
087 243 6834
E/MAIL:-gfinnsurances@gmail.com

PROJECT
ERECTION OF PERSPEX ROOF
OVER SIDE ENTRANCE
AT
No. 4, CHERRY GARTH
DONNYBROOK, DOUGLAS
Co. CORK
for
Mr/Mrs GEORGE FINN
021 436 4746
087 243 6834
E/MAIL:-gfinnsurances@gmail.com

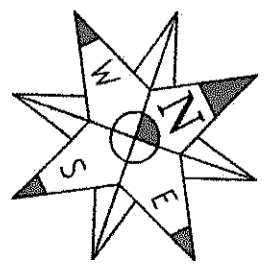
DATE MAY 2019 SCALE 1:2500 (A3)
DRAWING NUMBER **GF-SE-001** REV. **A**

EXISTING SITE LAYOUT PLAN

PROPOSED SITE LAYOUT PLAN



Coinhairle Cathracha Chorcaí
 Cork City Council
 31-05-2019
 Strategic Planning & Economic
 Development Directorate



NOTES

REV	DATE	ISSUE
A	MAY '19	SECTION 5 DECLARATION

SECTION 5 DECLARATION

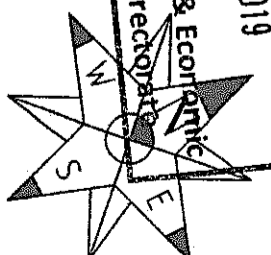
DRAWN BY
 GEORGE FINN
 No. 4 CHERRY GARTH
 DONNYBROOK, DOUGLAS
 Co. CORK
 021 436 4746
 087 243 6834
 E/MAIL: -gfinnsurances@gmail.com

PROJECT
 ERECTION OF PERSPEX ROOF
 OVER SIDE ENTRANCE
 AT
 No. 4 CHERRY GARTH
 DONNYBROOK, DOUGLAS
 Co. CORK
 for
 Mr. Mrs. GEORGE FINN
 021 436 4746
 087 243 6834
 E/MAIL: -gfinnsurances@gmail.com

DATE MAY 2019 SCALE 1:125 (A3)
 DRAWING NUMBER **GF-SE-002** REV. **A**

NOTES

Comhairle Cathrach Chorcal
Dorik City Council
3 1 -05- 2019
Strategic Planning & Economic
Development Directorate



REV	DATE	ISSUE
A	MAY '19	SECTION 5 DECLARATION

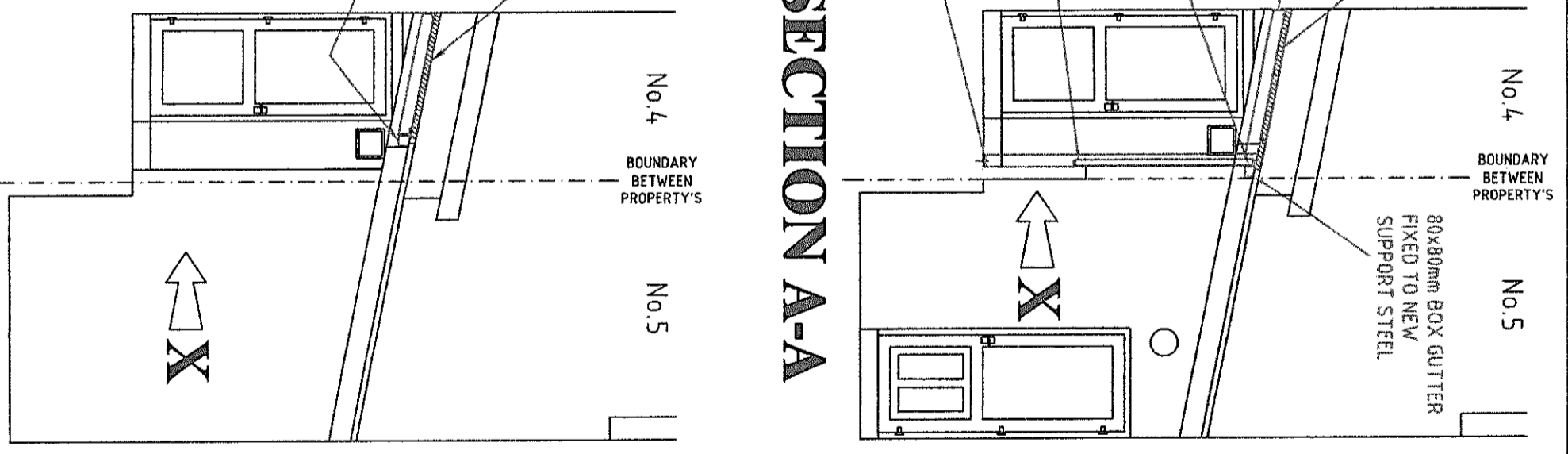
SECTION 5 DECLARATION

DRAWN BY
GEORGE FINN
No.4, CHERRY GARTH
DONNYBROOK, DOUGLAS
Co. CORK
021 436 4746
087 243 6834
E/MAIL:- gfinnsurances@gmail.com

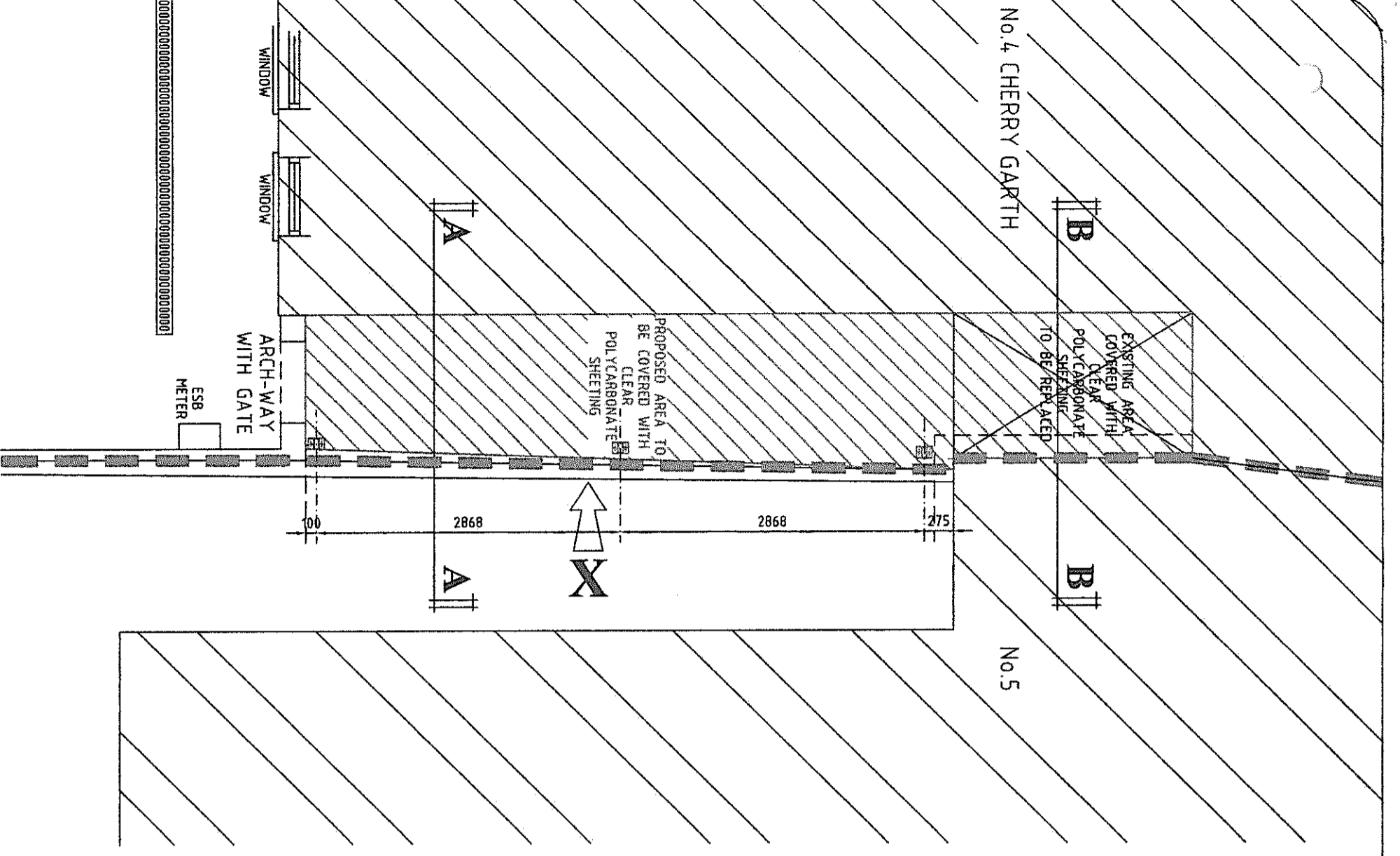
PROJECT
ERECTION OF PERSPEX ROOF
OVER SIDE ENTRANCE
AT
No.4, CHERRY GARTH
DONNYBROOK, DOUGLAS
Co. CORK
for
Mr. Mrs GEORGE FINN
021 436 4746
087 243 6834
E/MAIL:- gfinnsurances@gmail.com

DATE MAY 2019 SCALE 1:50 (A3)

DRAWING NUMBER **GF-SE-003** REV. **A**



SECTION A-A



1/50 PROPOSED LAYOUT PLAN

SECTION B-B

NOTES

Cornhairle Cathrach Chorcaí
Cork City Council
31-05-2019
Strategic Planning & Economic
Development Directorate

No. 4

RIDGE LINE

CLEAR DOUBLE SKINNED POLYCARBONATE
SHEETING FIXED TO GALVANISED STEEL
FRAMEWORK
STEELWORK PAINTED WHITE

WHITE P.V.C TRELLIS
FIXED TO INSIDE FACE OF COLUMNS,
SCREW FIXED FOR EASE OF MAINTENANCE

TOP OF EXISTING SIDE ENTRANCE SCREEN
ARCHWAY AND GATE

TOP OF EXISTING BLOCK BOUNDARY WALL

GALVANISED STEEL ANGLE FIXED TO R.H.S.
COLUMNS TO TAKE TRELLIS

LEVEL OF FOOTPATH ON No. 4, CHERRYGARTh

LEVEL OF FOOTPATH ON No. 5, CHERRYGARTh

STEEL
BRACING

No. 5

ELEVATION X

A	MAY '19	SECTION 5 DECLARATION
REV	DATE	ISSUE

SECTION 5 DECLARATION

STATUS

DRAWN BY
GEORGE FINN
No. 4, CHERRY GARTh
DONNYBROOK, DOUGLAS
Co. CORK
021 436 4746
087 243 6834
E/MAIL:-gfinsurances@gmail.com

PROJECT
ERECTION OF PERSPEX ROOF
OVER SIDE ENTRANCE
AT
No. 4, CHERRY GARTh
DONNYBROOK, DOUGLAS
Co. CORK

for
Mr. Mrs. GEORGE FINN
021 436 4746
087 243 6834
E/MAIL:-gfinsurances@gmail.com

DATE	MAY 2019	SCALE	1:50 (A3)
DRAWING NUMBER	GF-SE-004		REV.
			A

GEORGE FINN
No.4 CHERRY GARTH
DONNYBROOK
DOUGLAS
Co.CORK
Ph. 087 243 6834

THE DEVELOPMENT MANAGEMENT SECTION
STRATEGIC PLANNING & ECONOMIC
DEVELOPMENT DIRECTORATE
CORK CITY COUNCIL
CITY HALL
ANGLESEA STREET
CORK

15/MAY/2019

RE- SECTION 5 DECLARATION APPLICATION

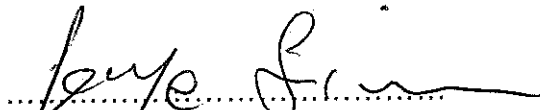
DEAR SIR/MADAM,

PLEASE FIND ATTACHED OUR SECTION 5 DECLARATION APPLICATION
DOCUMENTATION – PLEASE REFER ATTACHED SCHEDULE.

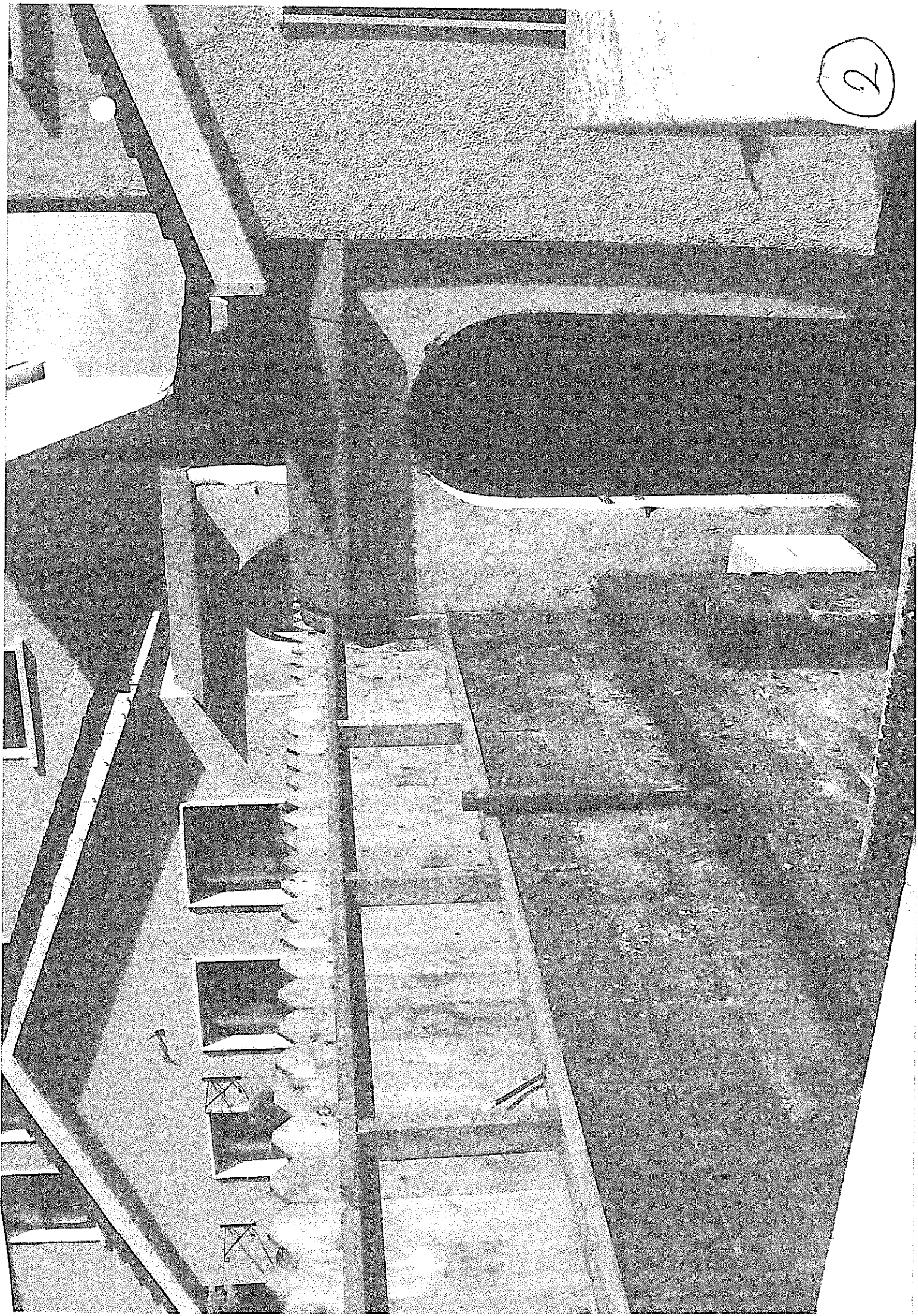
I TRUST THAT CONSIDERATION OF THIS APPLICATION MAY NOW
COMMENCE.

SHOULD YOU REQUIRE ANYTHING FURTHER PLEASE CONTACT THE
UNDERSIGNED.

BEST REGARDS


.....
GEORGE FINN

2



37



4

