



Comhairle Cathrach Chorcaí Cork City Council

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

John & Sharon Collins
9 Riverview Gardens
Ballyvolane
Cork

13/06/2020

Re: Section 5 Declaration R580/20 -9 Riverview Gardens,
Ballyvolane, Cork

A Chara,

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

having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that proposed development – *putting a velux window in the front roof of my house, which is facing onto the road* – is development and is exempted development

Is misa le meas,

Kerry Bergin
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

PLANNER'S REPORT		Cork City Council Culture, Community and Placemaking
Ref. R580 /20		
Application type	Section 5 Declaration	
Description	<i>Whether an extension to the rear of property, that is not visible from the front, and below 40m², exempted development</i>	
Location	9 Riverview Gardens, Ballyvolane	
Applicant	John Colins	
Date	09/06/2020	
Recommendation	<i>Is Development and 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 framing the question to the planning authority, the applicant states in Q2 of the application form:

Is an extension to the rear of the property, that is not visible from the front, and below 40m², exempted development?

Under Additional Details the applicant states: *The extension is a single storey, pitched roof extension measuring 26.25m² floor area.*

3. Site Description

The subject site is located in Ballyvolane on high ground to the north of the Glen River.

It is the last house in the south eastern corner of the estate. The house is a semi-detached three bay dormer.

4. Planning History

There is one planning application associated with the subject site as follows

05/30182 Attic Conversion
Outcome Granted 12/12/2005



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
<p><i>Development within the curtilage of a house</i></p> <p>CLASS 1</p> <p>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.</p>	<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>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</p>

	<p>after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.</p> <p>(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.</p> <p>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p> <p>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.</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>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.</p> <p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>
<p>CLASS 3 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.</p>	<p>1. No such structure shall be constructed, erected or placed forward of the front wall of a house.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>

Article 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

6. ASSESSMENT

It should be stated at the outset that the purpose of this report is not to determine the acceptability or otherwise of the ~~water park~~ ^{development} at this location in respect to the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development.

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 proposed element constitutes development as it comprises the construction of an extension.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. Class 1, in Schedule 2 of the *Planning and Development Regulations 2001* (as amended), sets out an exemption for certain extensions to dwellings. There are a number of limitations set out in Column 2.

Having reviewed the planning history on site and the plans provided showing the development I am satisfied that the proposal due to its scale, location etc. accords with the limitations set out in Column 2. I conclude that the proposed development accords with the exemption set out in Class 1 of Schedule 2 of the *Planning and Development Regulations 2001* (as amended).

7. ENVIRONMENTAL ASSESSMENT**7.1 Screening for Environmental Impact Assessment**

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the *Planning and Development Regulations 2001* (as amended) it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that an environmental impact statement is not required to be submitted.

7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration or appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of the European sites referred to above. Accordingly it is considered that appropriate assessment is not required.

8. CONCLUSION

The question has been asked whether *an extension to the rear of the property, that is not visible from the front, and below 40m², exempted development?*

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed altered layout is development and is exempted development

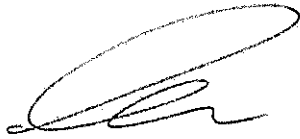
9. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and

- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that proposed development – *putting a velux window in the front roof of my house, which is facing onto the road* – **is development and is exempted development**



Martina Foley
Executive Planner

**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

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Cork City Council, City Hall, Anglesea Street, Cork.

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

Fón/Tel: 021-4924762

Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

9 RIVERVIEW GARDENS, BALLYVOLANE, 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 AN EXTENSION TO THE REAR OF THE PROPERTY, THAT IS NOT
VISIBLE FROM THE FRONT, AND BELOW 40m², EXEMPTED DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

THE EXTENSION IS A SINGLE STOREY, PITCHED ROOF EXTENSION MEASURING
26.25m² FLOOR AREA. (SEE INCLUDED DRAWINGS).

Comhairle Cathrach Chorcaí
Cork City Council

29 MAY 2020

Strategic Planning & Economic
Development Directorate

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

If so please supply details: No

4. Is this a Protected Structure or within the curtilage of a Protected Structure?

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:

0530182 - CONVERT UPSTAIRS TO BEDROOMS AND ADD DORMER WINDOWS.

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 - 140m ² / PROPOSED TOTAL - 166m 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 checked="" type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) 48m ² - SEE PLANNING APP. 0530182
(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)
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8. LEGAL INTEREST

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

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

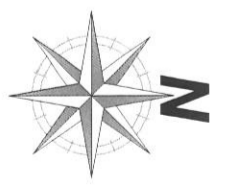
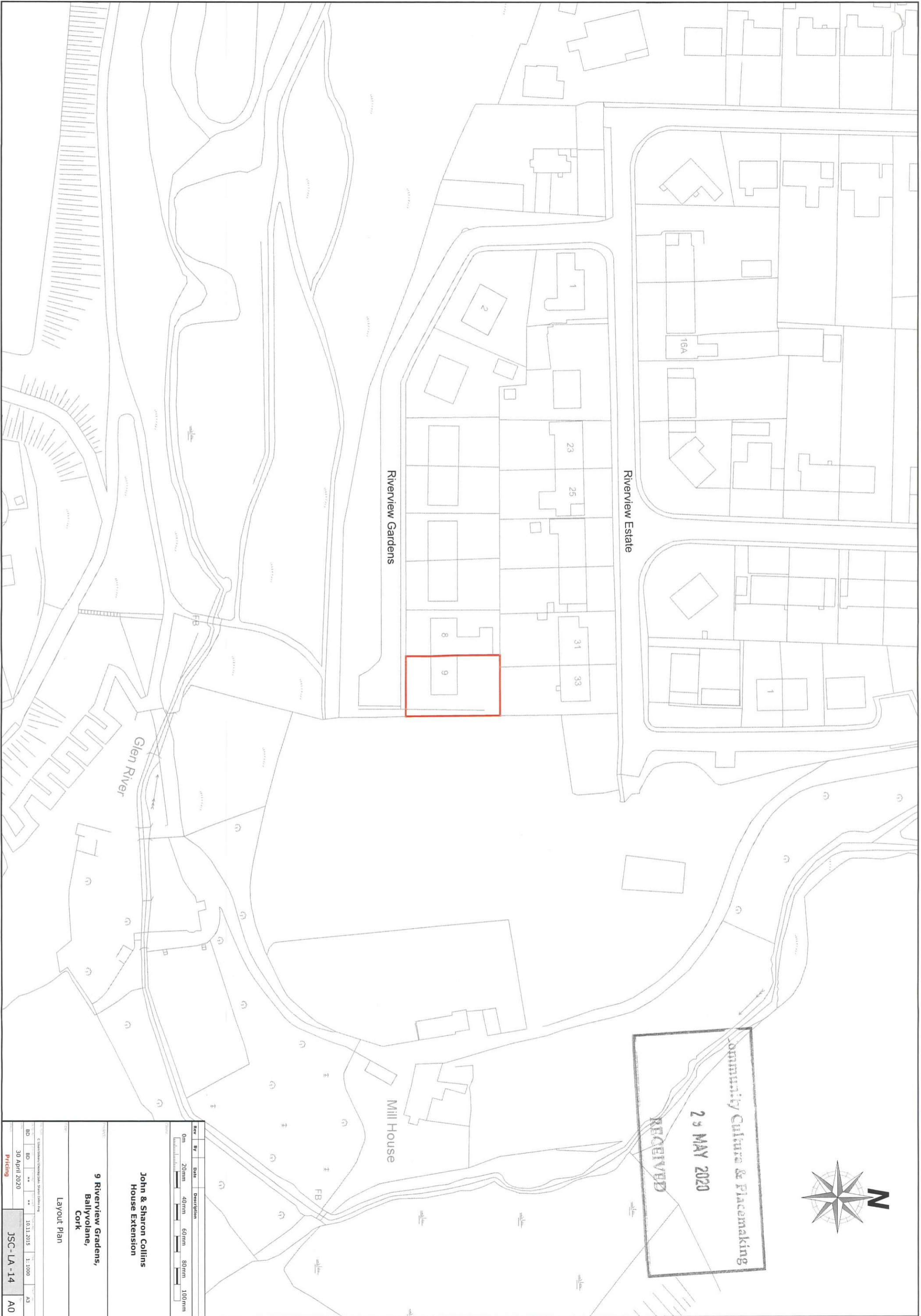
Signature: John Collins Sharon Collins

Date: 22 May 2020

- 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.



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 29 MAY 2020
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Riverview Gardens

Riverview Estate

Mill House

Glen River

John & Sharon Collins
 House Extension

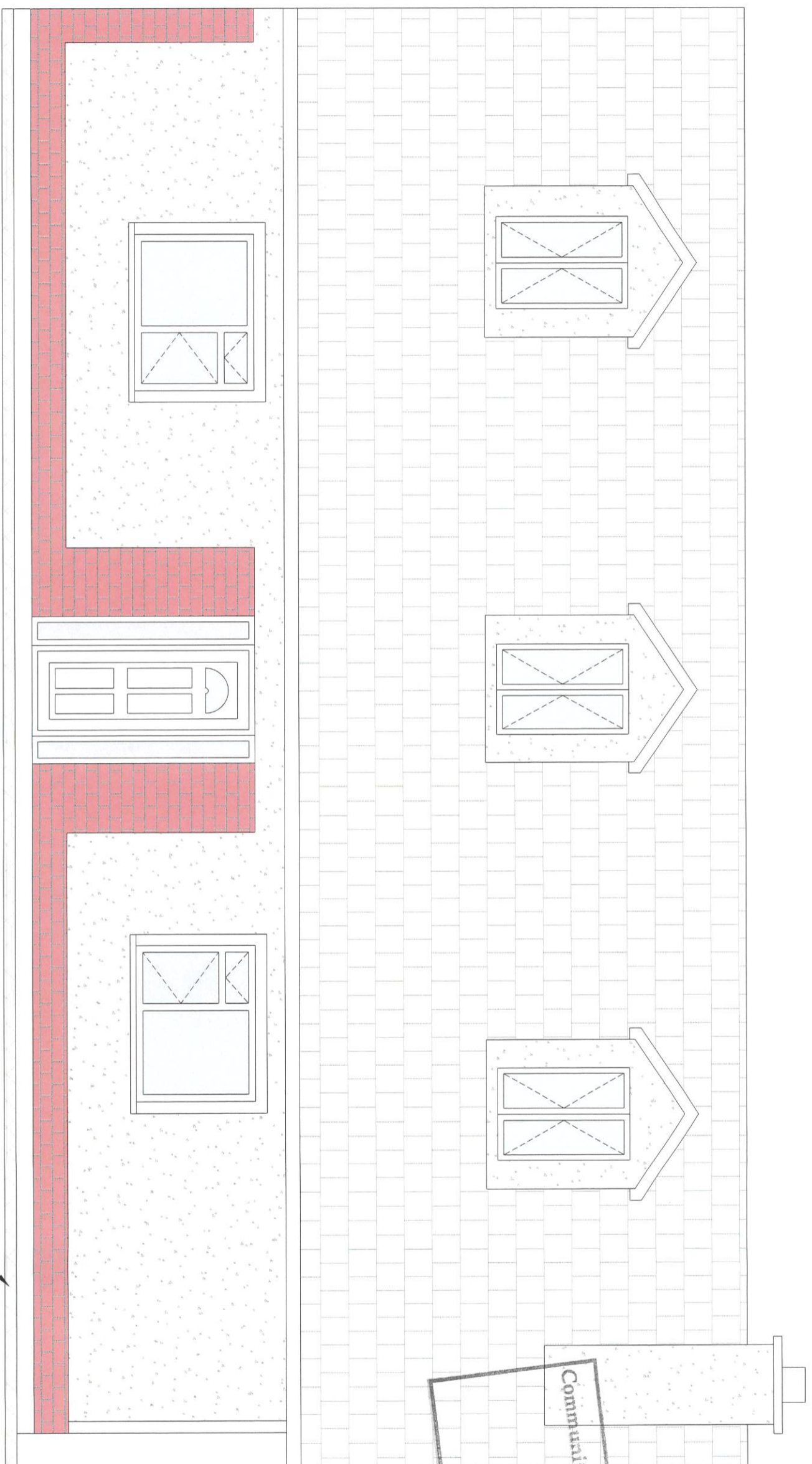
9 Riverview Gardens,
 Ballyvolane,
 Cork

Layout Plan

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30 April 2020	JSC-LA-14			A0

Adjoining Property



Existing Front Elevation

Existing footpath

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 29 MAY 2020
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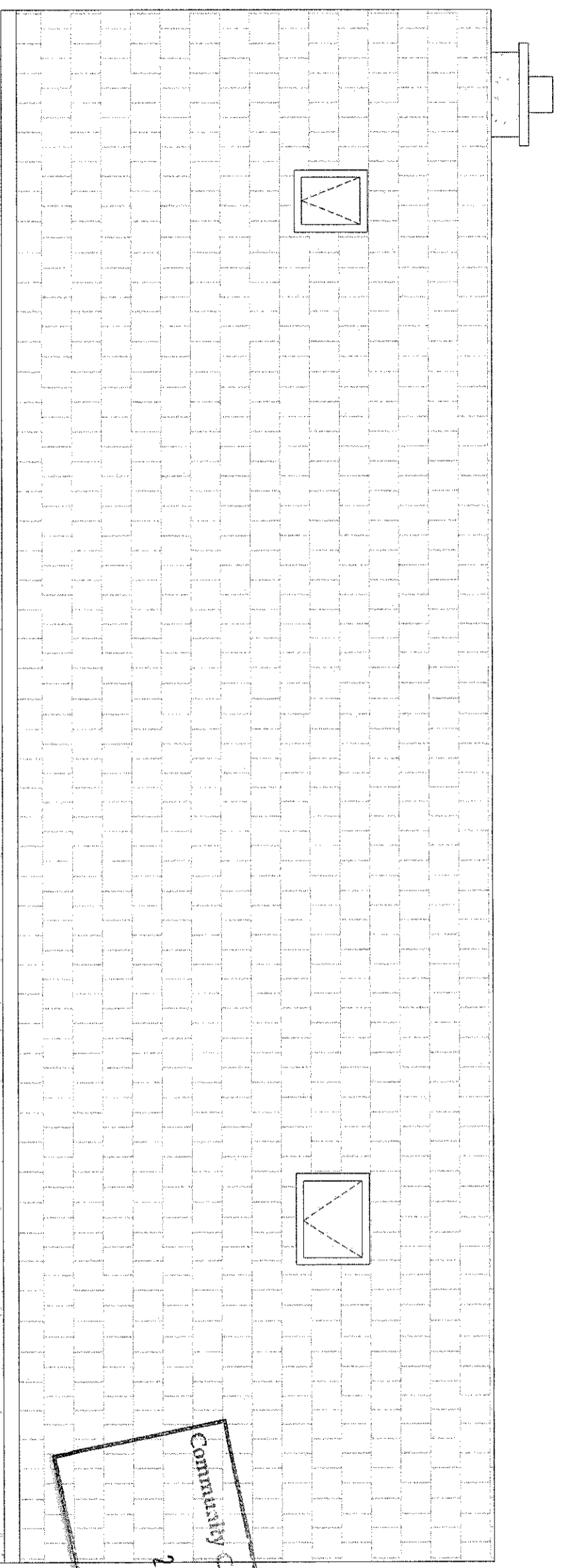
Rev	By	Date	Description
01			Initial drawing
02			Revised drawing
03			Final drawing

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John & Sharon Collins House Extension	
9 Riverview Gardens, Ballyvolane, Cork	
Layout Plan	

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Adjoining Property



COMMUNITY CULTURE & PLACE-MAKING
29 MAY 2020
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Existing footpath

Existing Rear Elevation

John & Sharon Collins
House Extension
9 Riverview Gardens,
Ballyvolane,
Cork

Layout Plan

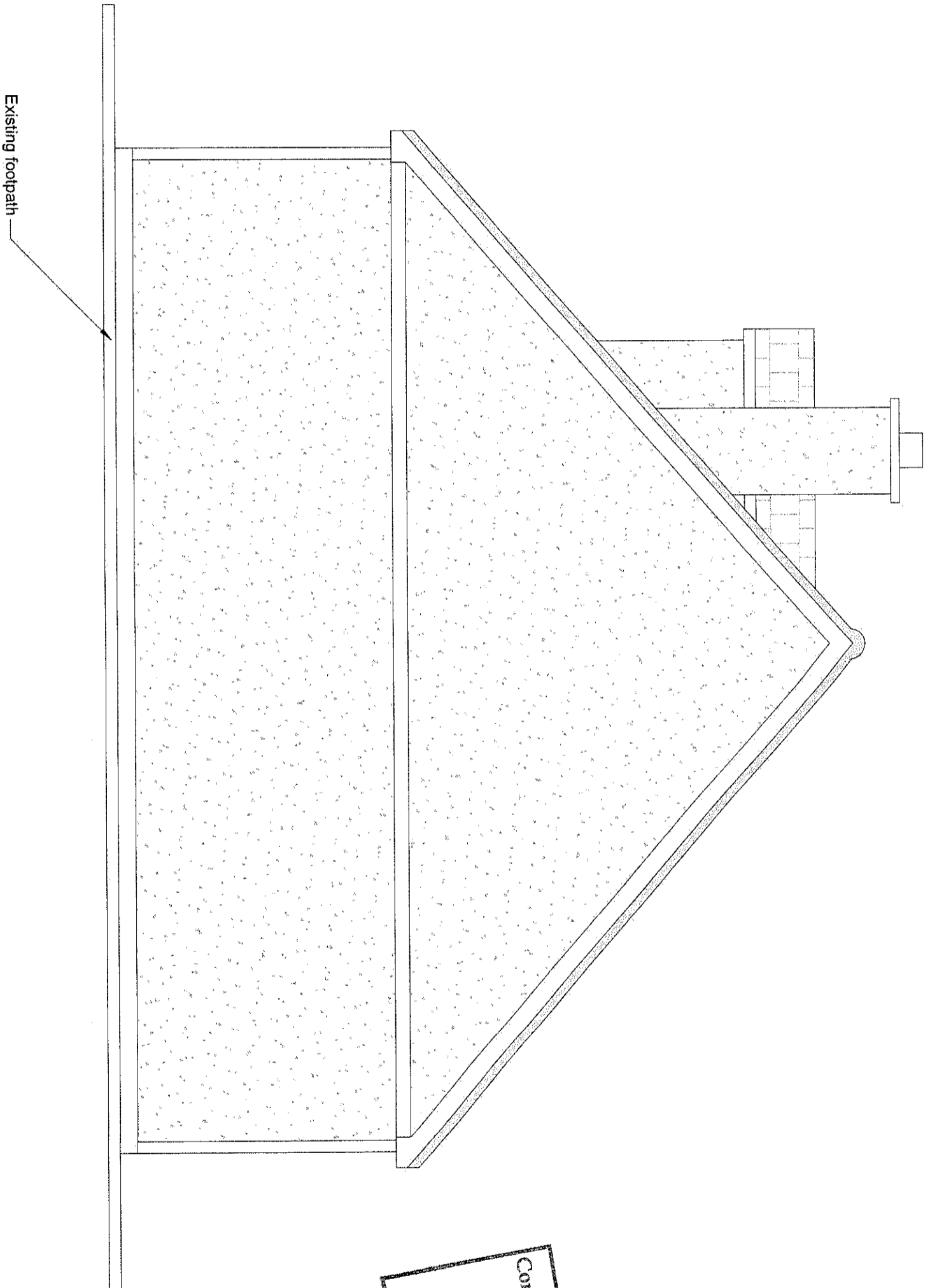
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30 April 2020

JSC-LA-02

AD



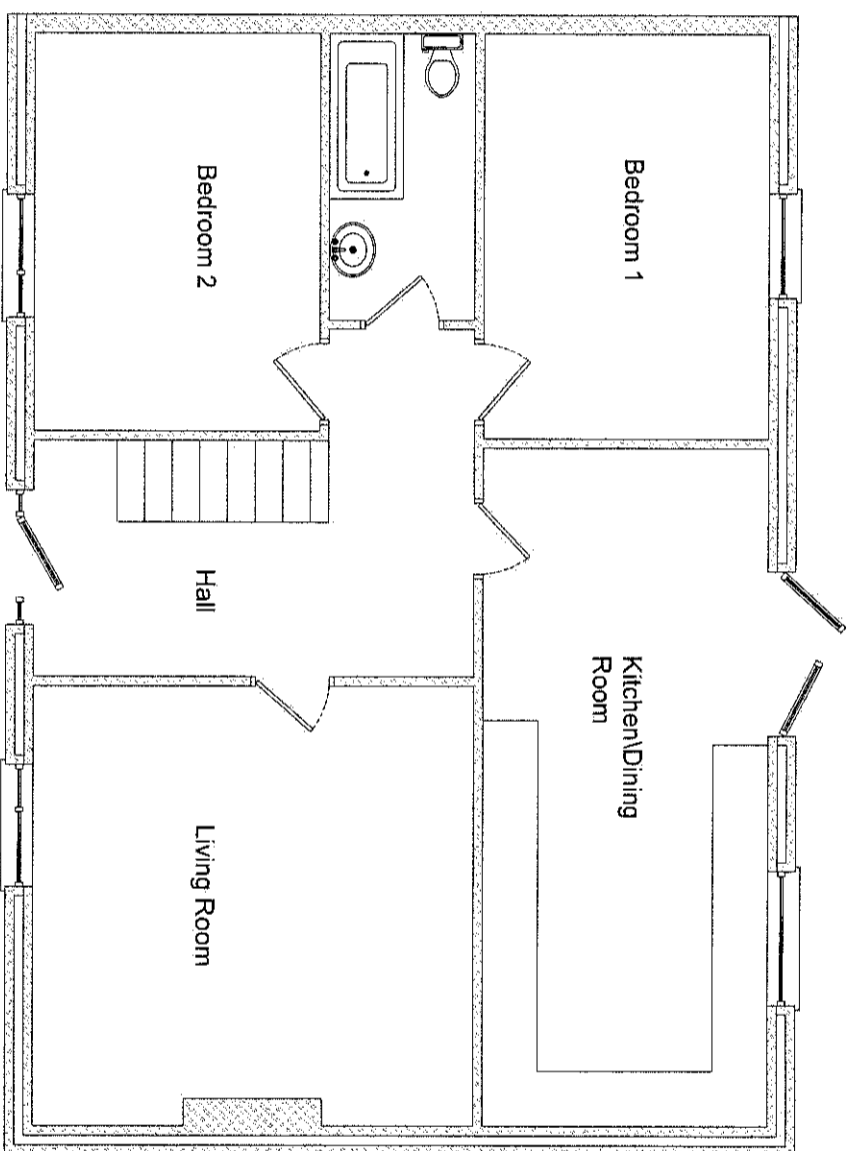
Existing Eastern Elevation

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 29 MAY 2020
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Rev	By	Date	Description
001		20/04/20	40mm, 60mm, 80mm, 100mm
002		10.11.2015	1:20
003		30 April 2020	Pricing

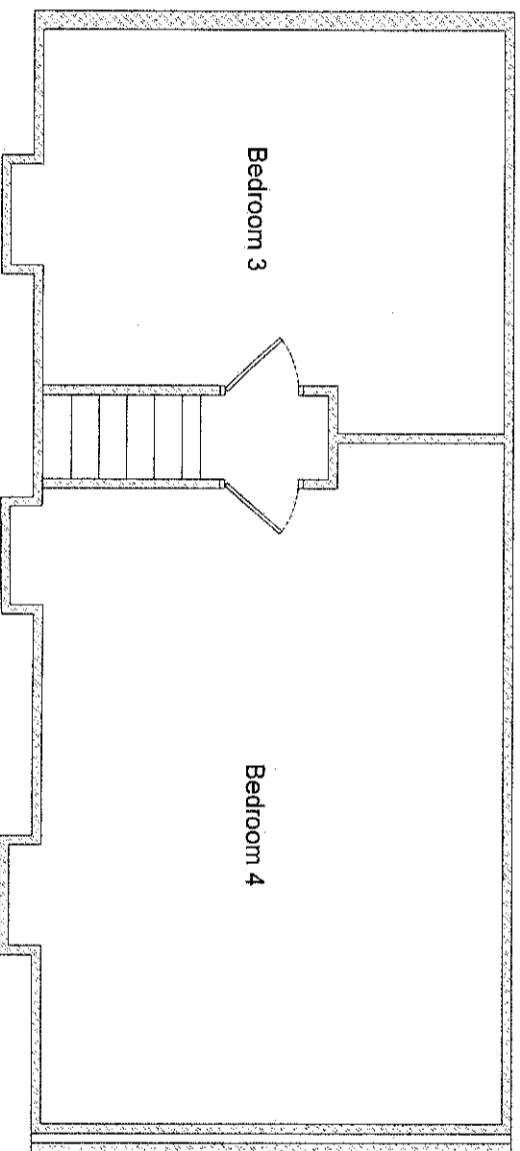
John & Sharon Collins
 House Extension
 9 Riverview Gardens,
 Ballyvolane,
 Cork
 Layout Plan
 JSC-LA-03
 A0

Adjoining Property



Existing Ground Floor Plan

Adjoining Property



Existing First Floor Plan

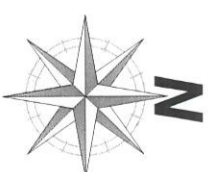


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 29 MAY 2020
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REV	BY	DATE	DESCRIPTION
01		01/11/2015	Initial Issue
02		30 April 2020	Revised

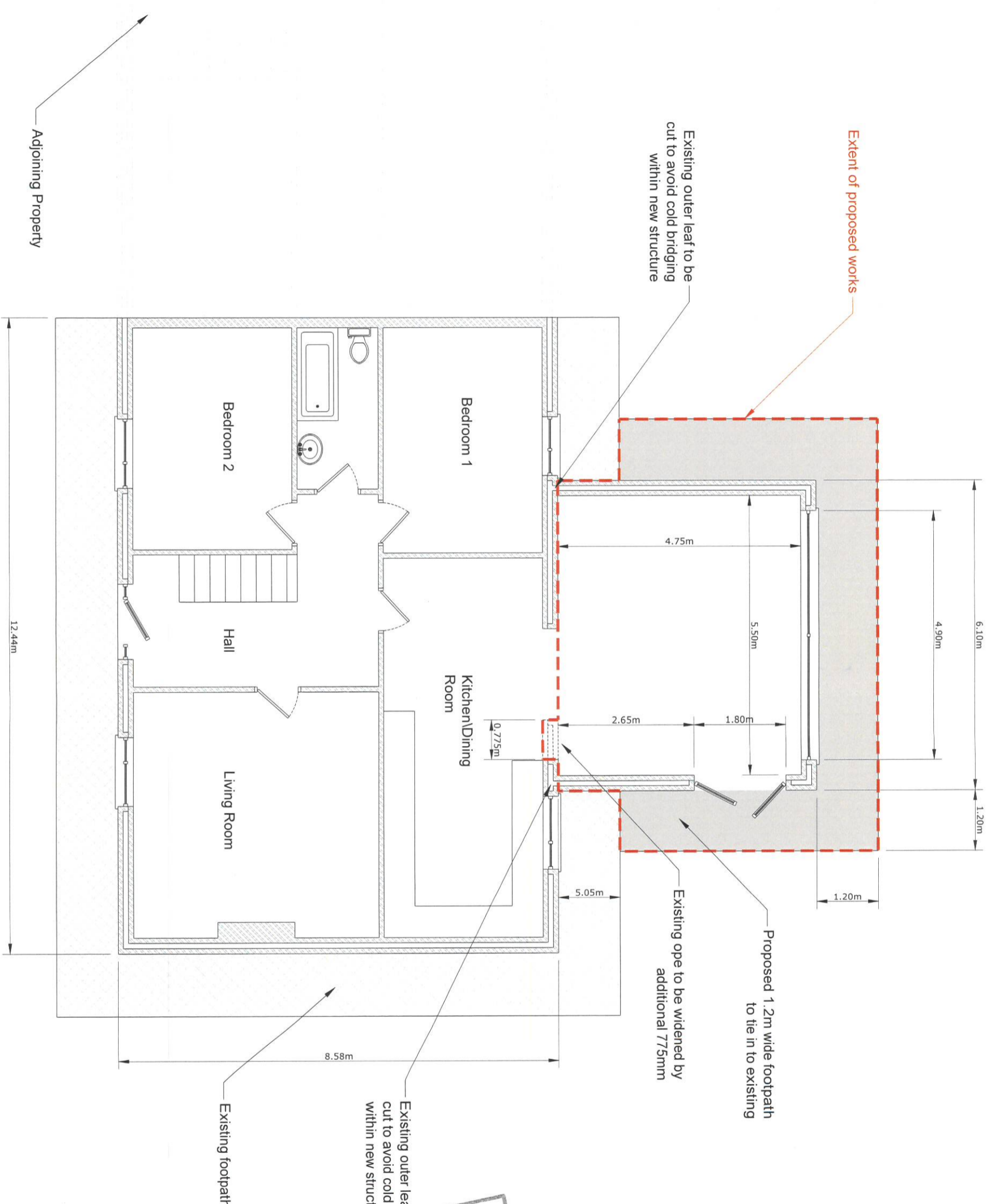
John & Sharon Collins
 House Extension
 9 Riverview Gardens,
 Ballyvolane,
 Cork

Project Name	Layout Plan
Project No.	JSC-LA-04
Scale	A0
Date	30 April 2020
Drawn by	BD
Checked by	BD
Project Manager	BD



No structural design has been carried out on any of the details shown on this drawing.
 It is the responsibility of the Contractor to ensure the integrity of the structure.
 Insulation levels throughout should comply with current Building Regulations.
 U-Values of windows and doors should comply with current Building Regulations.

Community Culture & Placemaking
 29 MAY 2020
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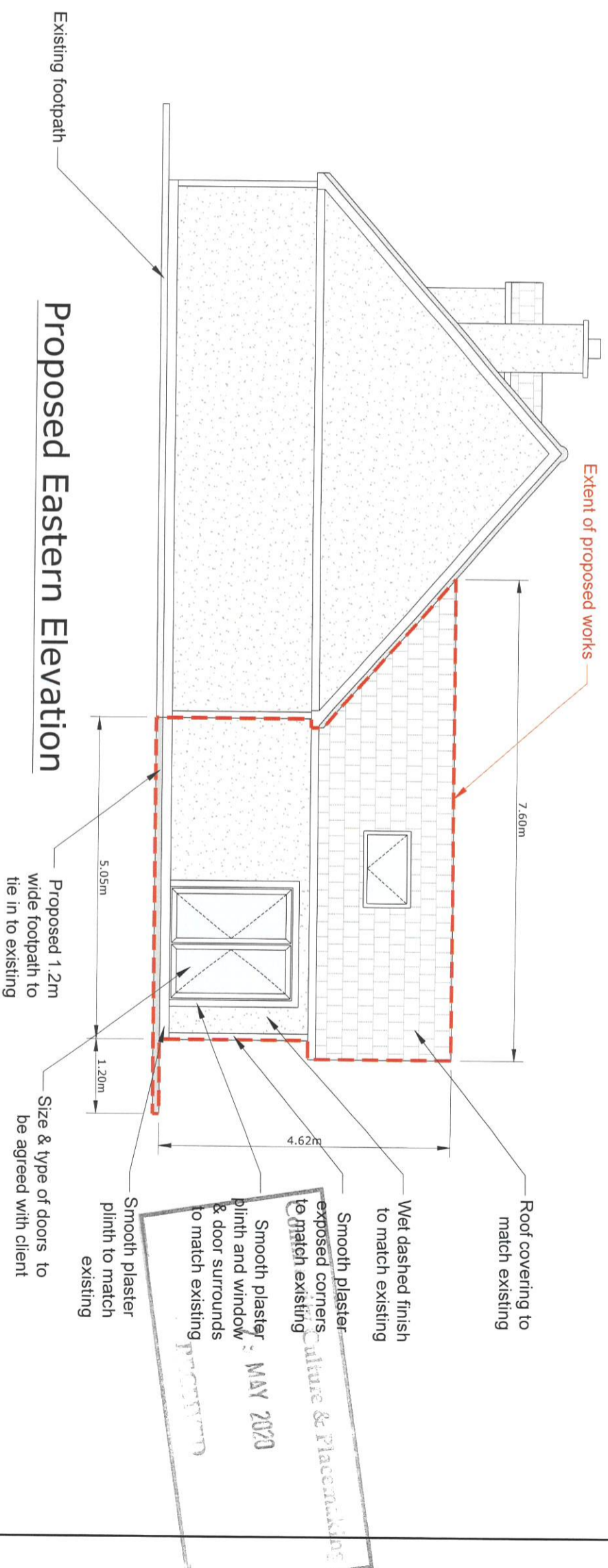


Adjoining Property

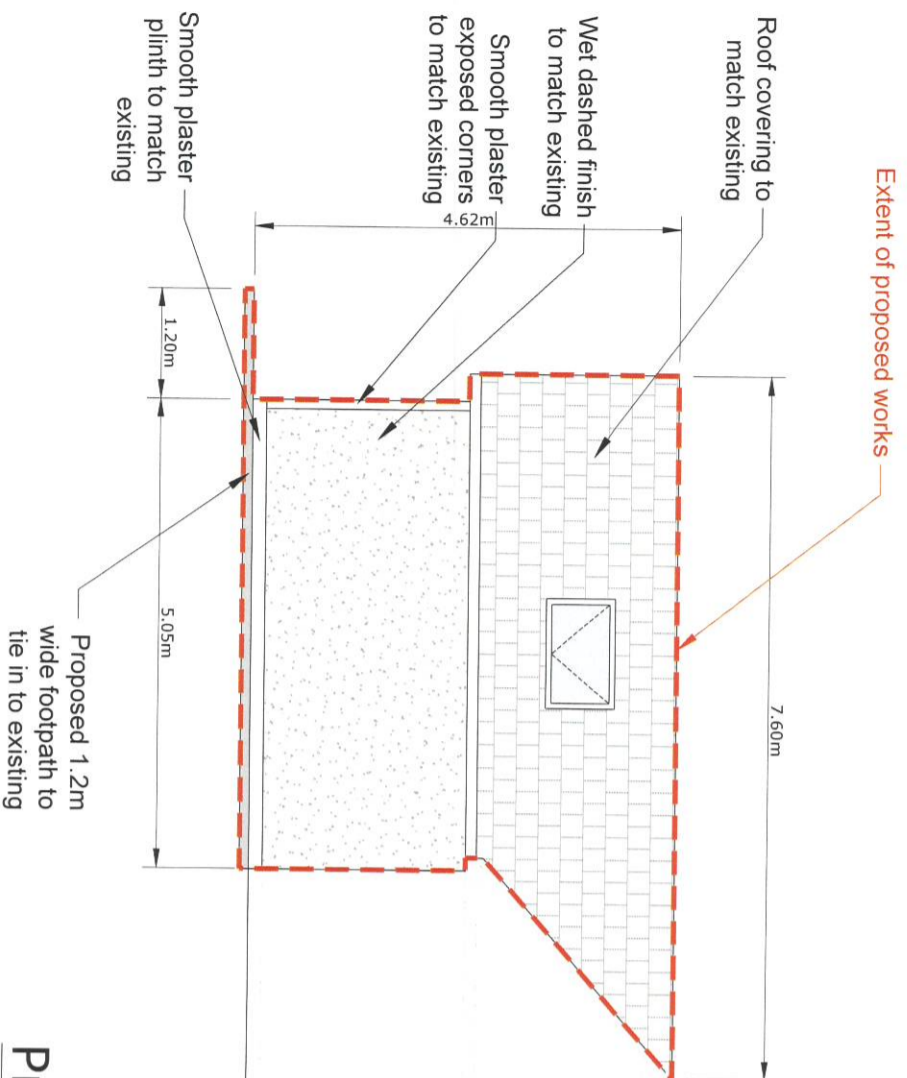
Proposed Ground Floor Plan

Rev	By	Date	Description
0m		20mm	40mm
60mm		80mm	100mm

John & Sharon Collins		House Extension	
9 Riverview Gardens, Ballyvolane, Cork			
Layout Plan			
BD	BD	1:0.11.2015	1:40
30 April 2020	JSC-LA-05	AO	



Proposed Eastern Elevation



Proposed Western Elevation

No structural design has been carried out on any of the details shown on this drawing.
 It is the responsibility of the Contractor to ensure the integrity of the structure.
 Insulation levels throughout should comply with current Building Regulations.
 U-Values of windows and doors should comply with current Building Regulations.

Rev	By	Date	Description
0m		20mm	40mm
			60mm
			80mm
			100mm

**John & Sharon Collins
 House Extension**
 9 Riverview Gardens,
 Ballyvolane,
 Cork

Layout Plan

BD	BD	10.11.2015	1:40	A3
30 April 2020				
JSC-LA-07			A0	

Community Culture & Placemaking

29 MAY 2020

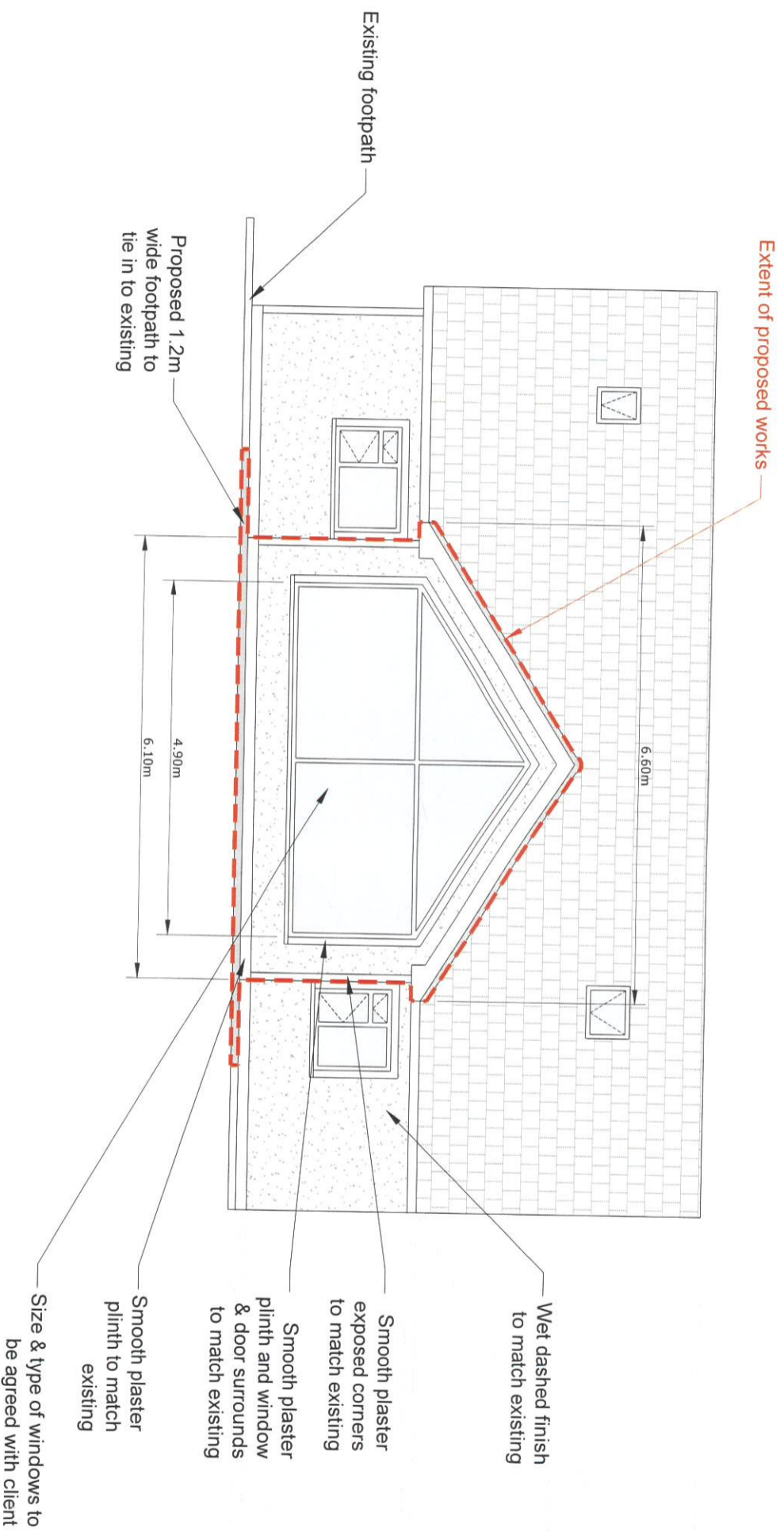
RECEIVED

No structural design has been carried out on any of the details shown on this drawing.

It is the responsibility of the Contractor to ensure the integrity of the structure.

Insulation levels throughout should comply with current Building Regulations.

U-Values of windows and doors should comply with current Building Regulations.



Proposed Northern Elevation

Rev	By	Date	Description
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BD	BD	**	**
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PROJECT			
9 Riverview Gradens, Ballyvolane, Cork			
CLIENT			
John & Sharon Collins House Extension			
DRAWING			
Layout Plan			
Pricing			
JSC-LA-08 A0			