



Comhairle Cathrach Chorcaí Cork City Council

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

Maria Murray,
Villa Roma,
Turners Cross,
Cork T12 K6NN.

30/03/2023

RE: Section 5 Declaration R766/23 Villa Roma, 98 Doyle Road,
Turners Cross, Cork T12 K6NN.

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 02nd March 2023, I wish to advise as follows:

The Planning Authority, 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 *extending the existing dish on my kerb* at 98 Doyle Road, Turners Cross, Cork, **IS DEVELOPMENT** and is **NOT EXEMPTED DEVELOPMENT** in accordance with Article 6 of the Planning and Development Act 2000 (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, 30th March 2023.

Is mise le meas,

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



We are Cork.

PLANNER'S REPORT**Ref. R 766/23**Cork City Council
Culture, Community and
Placemaking

Application type	Section 5 Declaration
Description	<i>Whether extending the existing dish on my kerb at 98 Doyle Road exempted from planning permission? I am not knocking any walls or pillars. I am extending the existing dish so that two cars can get comfortably in and out of my existing driveway.</i>
Location	Villa Roma, 98 Doyle Road, Turners Cross, Cork, T12 K6NN
Applicant	Maria Murray
Date	30/03/2023
Recommendation	<i>Is Development and Is Not 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:
Whether extending the existing dish on my kerb at 98 Doyle Road exempted from planning permission? I am not knocking any walls or pillars. I am extending the existing dish so that two cars can get comfortably in and out of my existing driveway.

3. Site Description

The property in question is a two-storey semi-detached dwelling with single storey attached garage to the side and side rear extension. The dwelling is located in an established residential area of detached and semi-detached dwellings.

4. Planning History

No planning history on 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 (13)

The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving. The width of any such private footpath or paving shall not exceed 3 metres.

Article 9 (1)

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

- (a) (iii) endanger public safety by reason of traffic hazard or obstruction of road users-
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies-

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 proposal 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 of works which includes both demolition & construction.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. Extending the existing dish on my kerb at 98 Doyle Road are considered to be works that come under Article 9 (1) and as such are not classified as exempted development.

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 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 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 *extending the existing dish on my kerb at 98 Doyle Road exempted from planning permission?*

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that extending the existing dish on my kerb at 98 Doyle Road is not exempted development as the works are classified as works that would come under Article 9 (1) and as such are not exempted development.

Article 9 (1)

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


- (a) (iii) endanger public safety by reason of traffic hazard or obstruction of road users-*
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies-*

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 extending the existing dish on my kerb at 98 Doyle Road **Is Development** and is **Not Exempted Development**.

A handwritten signature in black ink, appearing to read 'Alan Swanwick', is written over a horizontal line. The signature is cursive and extends to the right of the line.

Alan Swanwick
Assistant Planner
30/03/2023

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? NO

If so please supply details:

6. APPLICATION DETAILS

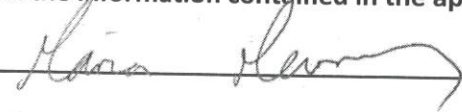
Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	
(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 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)
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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 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: 

Date: 09.12.22

CONTACT DETAILS

9. Applicant:

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.

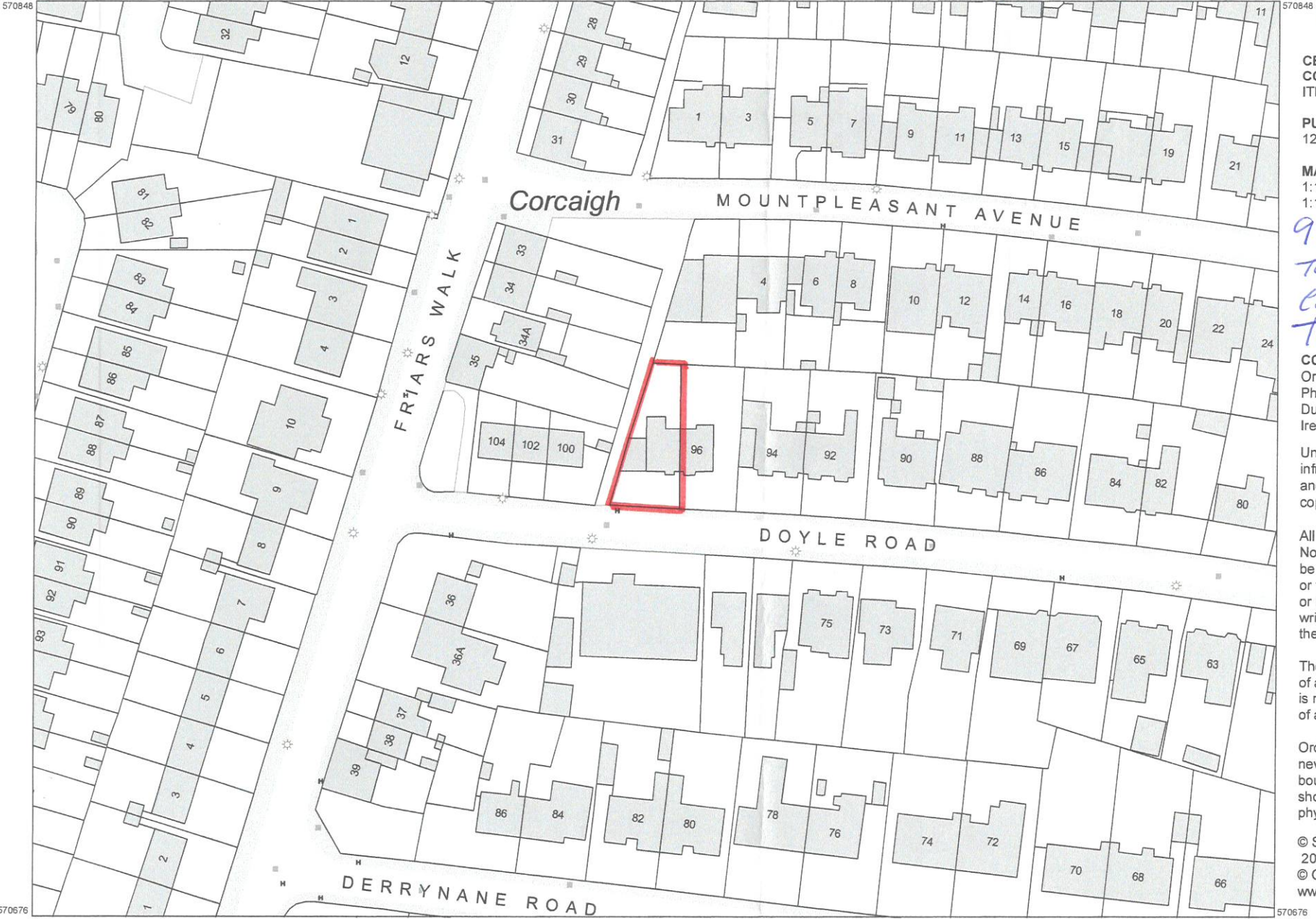
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We request that you read these as they contain important information about how we process personal data.

OSi PLACE Map

PROPERTY OUTLINED
IN RED



CENTRE COORDINATES:
ITM 567273,570762

PUBLISHED: 12/12/2022

ORDER NO.: 50307565_1

MAP SERIES: 1:1,000
1:1,000

MAP SHEETS: 6382-19
6382-20

98 DOYLE ROAD
TURNERS CROSS
CORK
T12 K6N1

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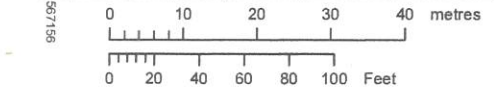
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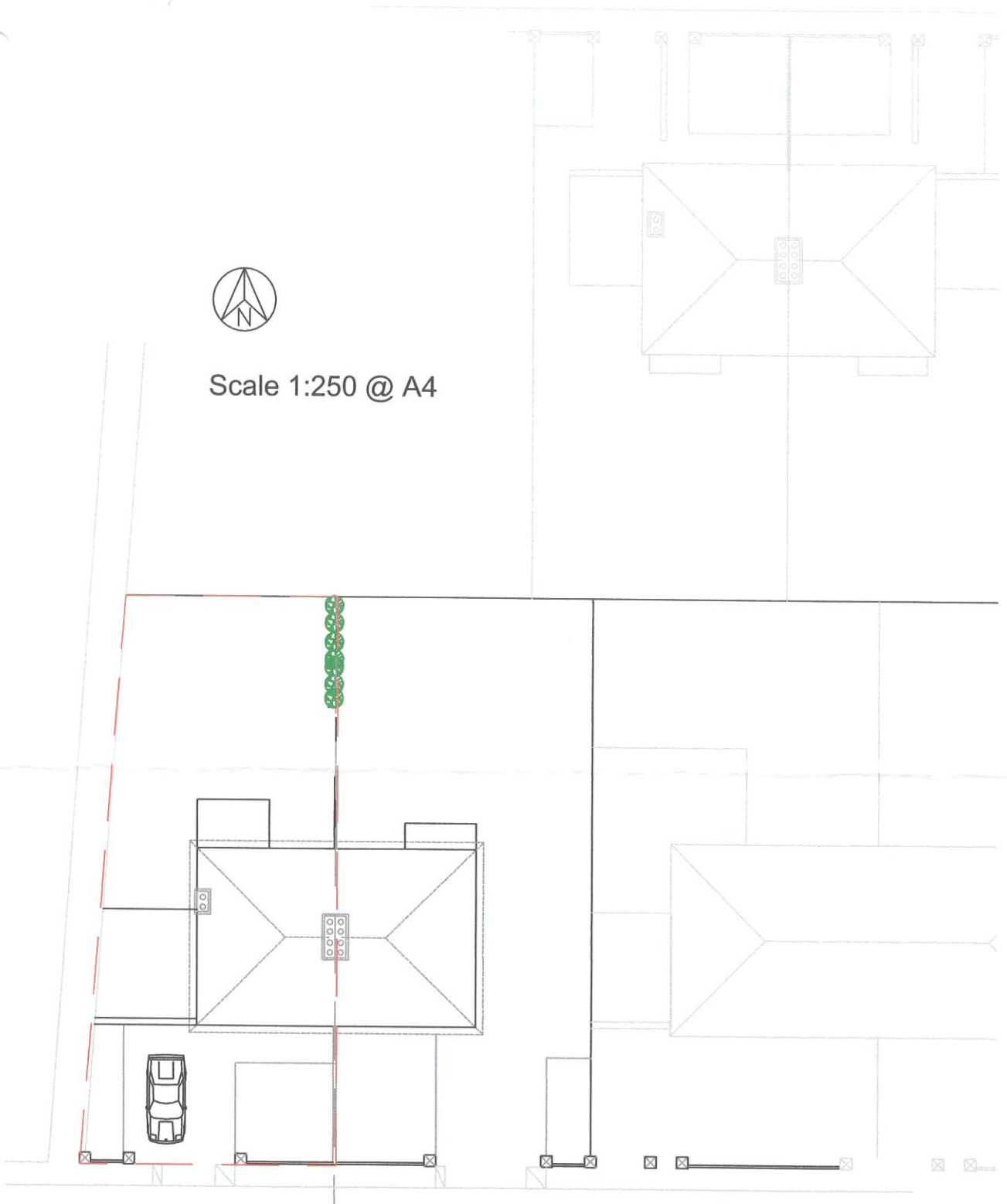
OUTPUT SCALE: 1:1,000

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Scale 1:250 @ A4



Doyle Road