

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

Neil Stewart,



Reference Number: DED 527

Application Received: 30th August, 2022.

Location: Drishoge Townland, Cortober, Co. Roscommon.

WHEREAS a question has arisen as to whether works consisting of: 1. Change of interior layout from that permitted under Planning Reference Number PD/21/581; 2. Minor alteration to location of window and door to front of building at Drishoge Townland, Cortober, County Roscommon is or is not development or is or is not exempted development.

AND WHEREAS Roscommon County Council, in considering this application, had regard particularly to:

- a) Sections 2, 3, 4 and 5 of the Planning and Development Act 2000 (as amended);
- b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended).
- c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Act 2000 (as amended);
- d) The planning history of the site.

AND WHEREAS Roscommon County Council has concluded that:

- a) The proposed development constitutes development as defined in the Planning & Development Act 2000, (as amended) and associated Regulations.
- b) Change of interior layout from that permitted under Planning Reference Number PD/21/581 is not exempted development as defined in the Planning & Development Act 2000 (as amended) and associated Regulations.
- c) Minor alteration to location of window and door to front of building is exempted development as defined in the Planning & Development Act 2000 (as amended) and associated Regulations.
- d) The proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and the requirement for AA or EIAR does not apply with respect to the current case.

NOW THEREFORE:

By virtue of the powers vested in me by the Local Government Acts 1925 – 2019 and Section 5(2)(a) of the Planning and Development Act 2000 (as amended) and, having considered the various submissions and reports in connection with the application described above, it is hereby declared that the said works consisting of: **1. Change of interior layout from that permitted under Planning Reference Number PD/21/581 constitutes development that is not exempted development as defined in the Planning & Development Act 2000 (as amended) and associated Regulations and 2. Minor alteration to location of window and door to front of building constitutes development that is exempted development as defined in the Planning & Development Act 2000 (as amended) and associated Regulations at Drishoge Townland, Cortober, County Roscommon.**

Any person issued with a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended) may, on payment to An Bord Pleanála of the prescribed fee, refer a Declaration for review within 4 weeks of the date of the issuing of the Declaration.

ADVICE NOTE

This Declaration is based on the relevant Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended) at the date of issue. In the event that the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended) change prior to the works being carried out this Declaration may no longer apply.

Signed on behalf of the Council:


Administrative Officer, Planning.

Date: 26th September, 2022

**c.c. Jennings O'Donovan,
Finisklin Business Park,
Sligo.**

**Planner's Report on application under
Section 5 of the Planning and Development Act 2000-2015**

Reference Number:	DED 527
Re:	Application for a Declaration under Section 5 of the Planning and Development Act 2000, regarding Exempted Development consisting of 1. Change of interior layout from that permitted under Planning Reference Number PD 21 581. 2. Minor alteration to location of window and door to front of building at Drishoge Townland, Cortober, County Roscommon
Name of Applicant:	Neil Stewart
Name of Agent:	Jennings O'Donovan
Date:	20 th September 2022

WHEREAS a question has arisen as to whether the following works; 1. Change of interior layout from that permitted under Planning Reference Number PD 21 581. 2. Minor alteration to location of window and door to front of building at Drishoge Townland, Cortober, County Roscommon, is or is not development and is or is not exempted development:

I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 – 2011
- (d) The planning history of the site

Site Location & Development Description

The subject existing commercial property is located Drishoge Townland, Cortober, County Roscommon and is accessed off the N4 National Route.

The subject site is not situated within any designated sites. The nearest designated site is the Lough Arrow SAC (Site Code: 001 673), which is approximately 15.6km north west of the subject site. Having regard to the separation distances between the site and the Natura 2000 network, it is considered that the conservation objectives of the network will not be impacted.

The nature of the proposed works includes 1. Change of interior layout from that permitted under Planning Reference Number PD 21 581 and 2. Minor alteration to location of window and door to front of building.

Planning History

PD 21 581 – Permission *granted* for the change of use from a garage / store to a delicatessen / restaurant with seating area and coffee dock and to create a connection to existing shop, together with alterations to frontage of building and all associated site works and services.

PD 15 198 - Permission for the installation of 1 no. underground petrol storage tank with holding capacity of approximately 20,000 litres and the installation of 1 no. dispensing pump island together with all ancillary site works and services. Status: *Withdrawn*.

PD 07 664 - Permission *granted* for retention of existing retail unit and existing changing rooms associated with restaurant together with all ancillary associated site works.

PD 06 718 - Retention Permission *granted* for the following buildings (1) the existing shed in the south west corner of the site, (2) the prefabricated shed to the rear of the shop. (3) the prefabricated store/office to the east side of the garage. (4) the centre point ESB shed housing the meters of the entire development as erected on lands.

PD 06 623 - *Incomplete Application.*

PD 06 533 - *Incomplete Application.*

PD 05 1386 - Retention Permission *granted* to retain the following developments: 1) the buildings erected as restaurant, kitchen, stores, toilets and staff room 2) the bulk gas tank as installed 3) the 3 advertising signs as erected to front of site 4) the new entrance layout.

PD 05 1246 - *Incomplete Application.*

Assessment

The question to be determined in this Section 5 referral is whether 1. Change of interior layout from that permitted under Planning Reference Number PD 21 581 and 2. Minor alteration to location of window and door to front of building at Drishoge Townland, Cortober, County Roscommon, is or is not development and is or is not exempted development.

In accordance with the Planning and Development Act, 2000 Section 3. (1) development is defined as the following: "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". The proposed development is considered to be the carrying out of works. Works are defined in the Act as; "works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure...." In this Act, "land" includes any structure and any land covered with water (whether inland or coastal)". Having considered the definition of both "works" and "development" the proposal constitutes works and is therefore development.

The proposed change of interior layout from that permitted under Planning Reference Number PD 21 581 (1). As per the submitted details, the proposed change of interior layout from that permitted under Planning Reference Number PD 21 581 includes an off-licence, which is a material change and therefore not exempt development.

Minor alteration to the location of window and door to front of building (2) comes within the provisions of Section 4 (1)(h) of the Act, being 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. The minor alteration to the location of window and door to the front of building is considered in this case to be exempted development.

With Regard to Article 9 (1)(a) of the Planning and Development Regulations, it is reasonable to conclude that on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the need for AA does not apply with respect to the current case.

I am satisfied that an Environmental Impact Statement or Appropriate Assessment are not required. It should be noted that any development for which Environmental Impact Assessment or Appropriate

Assessment is required shall not be exempted development unless specifically exempted in regulations where there is provision in other legislation for the carrying out of EIA or AA. In addition, the restrictions on exemption Art 9 (1)(a) (viiB) exclude development which would otherwise be exempted development under these regulations where an AA is required.

Recommendation

WHEREAS a question has arisen as to whether the following works; 1. Change of interior layout from that permitted under Planning Reference Number PD 21 581 and 2. Minor alteration to location of window and door to front of building at Drishoge Townland, Cortober, County Roscommon, is or is not development and is or is not exempted development:

I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 – 2011
- (d) The planning history of the site

AND WHEREAS I have concluded that

- a) The works are development.
- b) Change of interior layout from that permitted under Planning Reference Number PD 21 581 is not exempted development.
- c) Minor alteration to location of window and door to front of building is exempted development.
- d) The proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the requirement for AA or EIAR does not apply with respect to the current case.

and I recommend that a declaration to that effect should be issued to the applicant.



Signed:

Assistant Planner

Date: 20th September 2022

Roscommon County Council
Aras an Chontae
Roscommon
09088 37100

08/09/2022 14:13:27

Receipt No.: L01/0/218733

NEIL STEWART

PLANNING APPLICATION FEES 80 00
GOODS 80 00
VAT Exempt/Non-vatable
DED527

Total : 80.00 EUR

Tendered :
Credit/Debit Card 80 00
8278

Change : 0.00

Issued By : Bernadine Duignan
From : Central Cash Office



Comhairle Contae
Ros Comáin
Roscommon
County Council

Áras an Chontae,
Roscommon,
Co. Roscommon
Phone: (090) 66 37100
Email: planning@roscommoncoco.ie

Roscommon County Council

**Application for a Declaration under Section 5 of the Planning & Development Act 2000,
regarding Exempted Development**

Name:	NEIL STEWART
Address:	[REDACTED]
Name & Address of Agent:	JENNINGS O'DONOVAN, FINISKLIN BUSINESS PARK, SLIGO.
Nature of Proposed Works	CHANGE OF INTERIOR LAYOUT, FROM THAT FOR WHICH PLANNING PERMISSION WAS ORIGINALLY GRANTED. MINOR ALTERATION TO LOCATION OF WINDOW AND DOOR TO FRONT
Location (Townland & O.S No.)	DRISHOGE TD., CORTOBER, CO. ROSCOMMON.
Floor Area	N/A - NO CHANGE TO FLOOR AREA - ALL EXISTING BUILDING
Height above ground level	N/A - NO CHANGE TO HEIGHT - EXISTING STRUCTURE
Total area of private open space remaining after completion of this development	N/A - NO CHANGE OPEN SPACE
Roofing Material (Slates, Tiles, other) (Specify)	EXISTING METAL CLADDING TO ROOFS.
Proposed external walling (plaster, stonework, brick or other finish, giving colour)	EXISTING DRY DASH AND NAPPED PLASTER. SOME VERTICAL METAL CLADDING.
Is proposed works located at front/rear/side of existing house.	NO. - INTERIOR OF EXISTING BUILDING WITH MINOR ALTERATIONS TO FRONT DOOR / WINDOW LOCATIONS.

Roscommon County Council

Application for a Declaration under Section 5 of the Planning & Development Act 2000, regarding Exempted Development

Has an application been made previously for this site	YES
If yes give ref. number (include full details of existing extension, if any)	21581
Existing use of land or structure	EXISTING SHOP AND FORECOURT.
Proposed use of land or structure	Permission GRANTED for the change of use from a garage / store to a delicatessen / restaurant with seating area and coffee dock and to create a connection to existing shop, together with alterations to frontage of building and all associated site works and services - Granted Under Planning Ref 21581
Distance of proposed building line from edge of roadway	EXISTING - 40M APPROX.
Does the proposed development involve the provision of a piped water supply	N/A - EXISTING
Does the proposed development involve the provision of sanitary facilities	N/A EXISTING

Signature:

Brendan Maloney

Date:

26TH AUGUST 2022

Note: This application must be accompanied by:-

- (a) €80 fee PLEASE CONTACT APPLICANT DIRECTLY FOR PAYMENT - [REDACTED]
- (b) Site Location map to a scale of 1:2500 clearly identifying the location
- (c) Site Layout plan to the scale of 1:500 indicating exact location of proposed development
- (d) Details specification of development proposed



[illegible]

SITE Location MAP
Scale 1:1000
Site Outlined in RED. All lands in ownership outlined in BLUE.
Taken from part digital map 1804

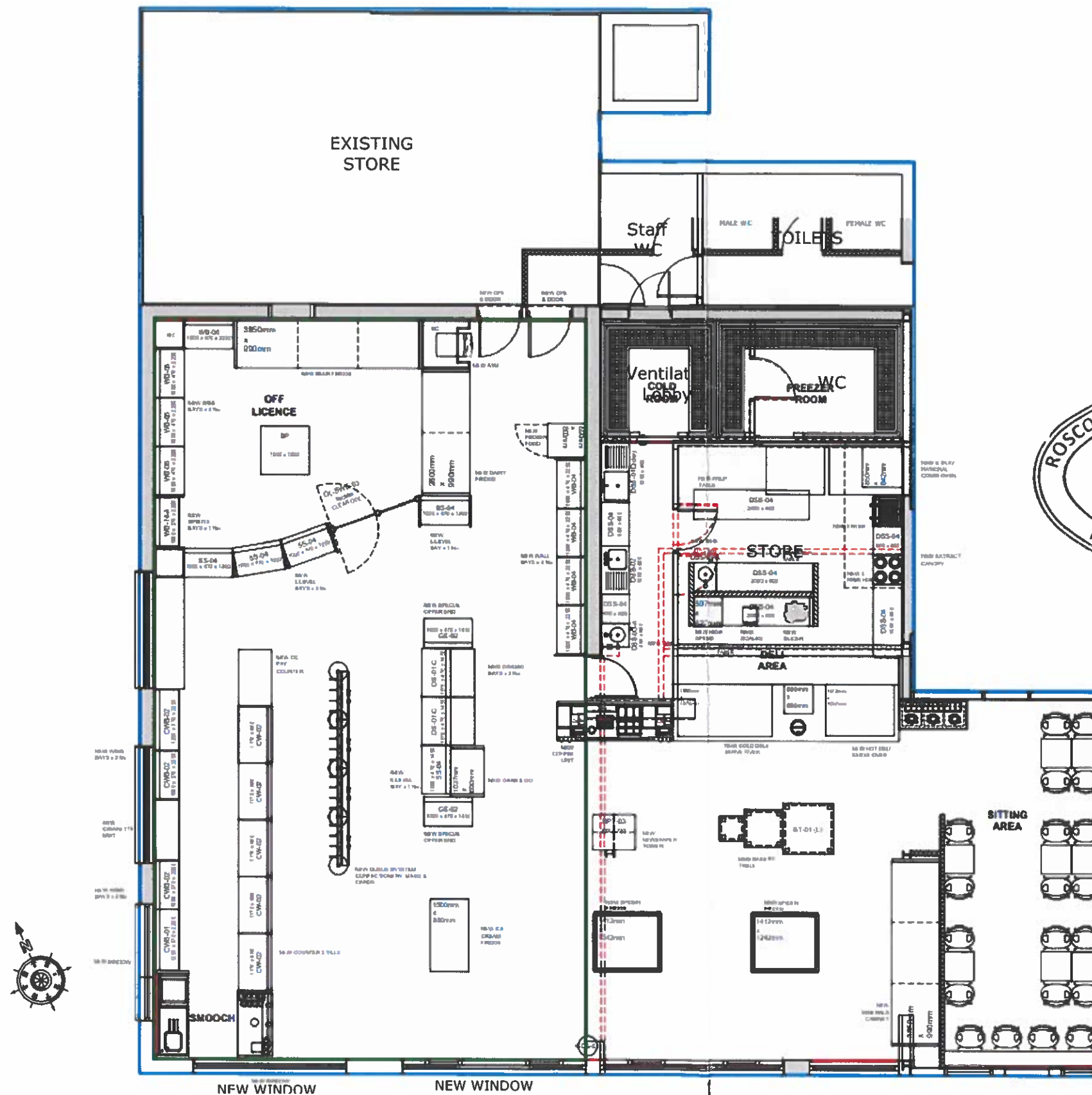
SITE NOTICE

rev.	modifications	by	date

Scales			
As indicated			
Surveyed	Prepared By BM	Checked AMcC	Date OCT 2021



Job No. 6627	Drawing no. PL. 01	Revision 00
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PROPOSED PLAN
scale 1:100



- NOTES:**
- 1 FIGURED DIMENSIONS ONLY TO BE TAKEN FROM THIS DRAWING.
 - 2 ALL DRAWINGS TO BE CHECKED BY THE CONTRACTOR ON SITE.
 - 3 ENGINEER TO BE INFORMED OF ANY DISCREPANCIES BEFORE ANY WORK COMMENCES.
 - 4 THIS DRAWING TO BE READ IN CONJUNCTION WITH ALL OTHER RELEVANT DRAWINGS AND SPECIFICATIONS.

REV.	MODIFICATIONS	BY	DATE

Client	STEWARTS OIL		
Project	PROPOSED CHANGE TO INTERIOR LAYOUT OF COMMERCIAL PREMISES		
Stage	PLANNING		
Title	PROPOSED PLAN		
Scales	1:100 - A3		
Surveyed	Prepared By	Checked	Date
BA	AMC		AUG 2022

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CONSULTING ENGINEERS,
FINISKLIN,
SLIGO,
IRELAND.
TEL: (0283371) 916416.
FAX: (0283371) 9161080.
Email: info@jodireland.com
Web: www.jodireland.com

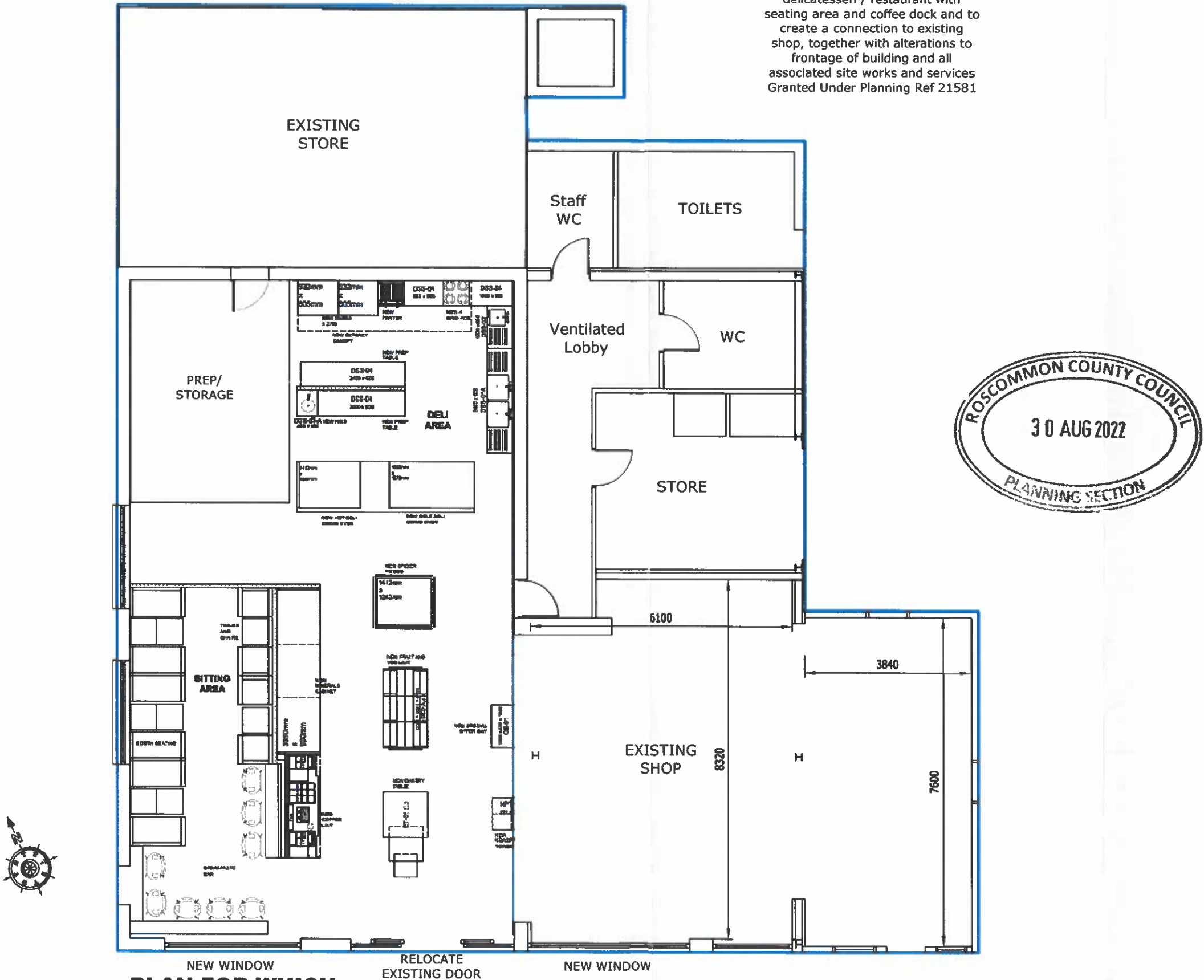


THIS DRAWING IS FOR REFERENCE PURPOSES ONLY.
IT IS NOT TO BE USED AS A CONSTRUCTION DRAWING.

Job No.	Drawing no.	Revision
6627	PL. 03	0

Permission for the change of use from a garage / store to a delicatessen / restaurant with seating area and coffee dock and to create a connection to existing shop, together with alterations to frontage of building and all associated site works and services
Granted Under Planning Ref 21581

- NOTES:
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**PLAN FOR WHICH
PLANNING PERMISSION
HAS BEEN GRANTED**
scale 1:100

EXISTING BUILDING OUTLINED IN BLUE
PROPOSED CHANGE OF USE INLINED IN GREEN

THIS DRAWING IS FOR REFERENCE PURPOSES ONLY.
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REV.	MODIFICATIONS	BY	DATE

Client STEWARTS OIL			
Project CHANGE OF USE FROM GARAGE TO DELI AND SEATING AREA - INCORPORATING REVISED ENTRANCE TO RETAIL AREA			
Stage PLANNING			
Title EXISTING PLAN			
Scales 1:100 - A3			
Surveyed MM	Prepared By AMC	Checked AMC	Date OCT 2021

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6627	PL. 02	0



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rev.	modifications	by	date

Client STEWARTS OIL			
Project CHANGE OF USE FROM GARAGE TO DELI AND SEATING AREA - INCORPORATING REVISED ENTRANCE TO RETAIL AREA			
Stage PLANNING			
Title EXISTING & PROPOSED FRONT ELEVATIONS & SECTION			
Scales 1:100 - A3			
Surveyed	Prepared By	Checked	Date
	BAI	AMcC	OCT 2021

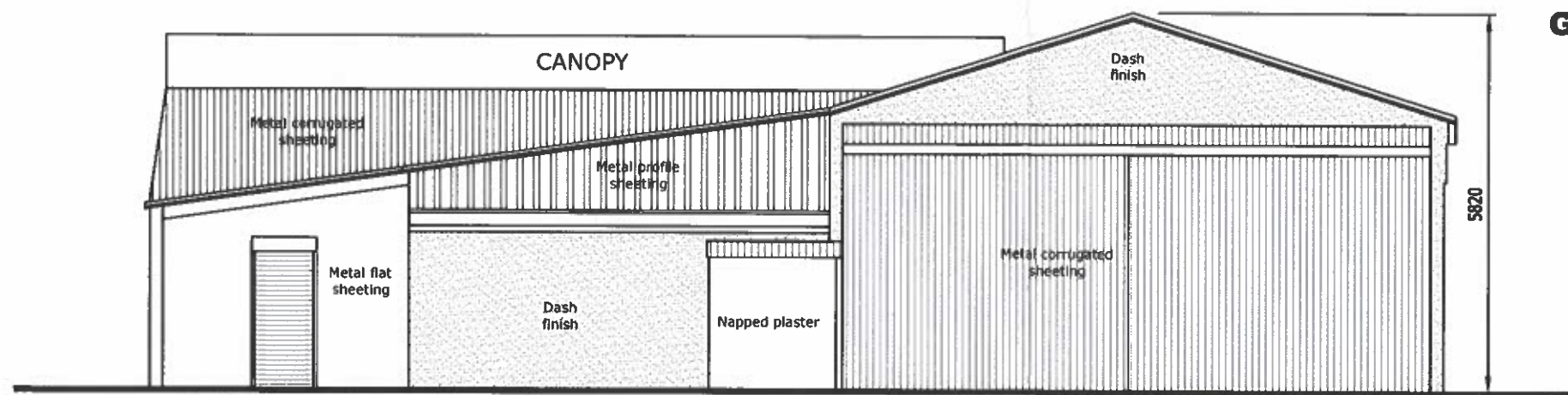
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Web: www.jodireland.com

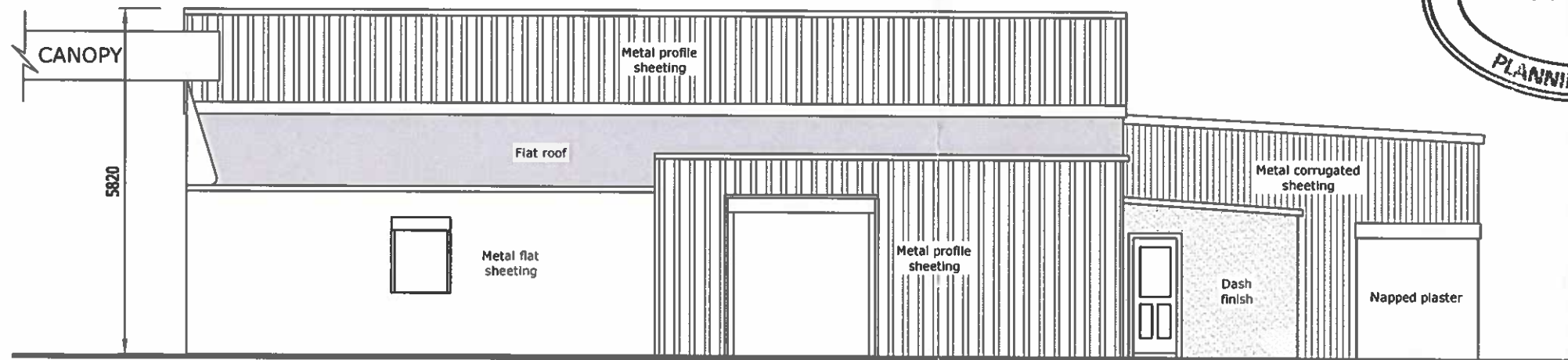


Job No. 6627	Drawing no. PL. 04	Revision 0
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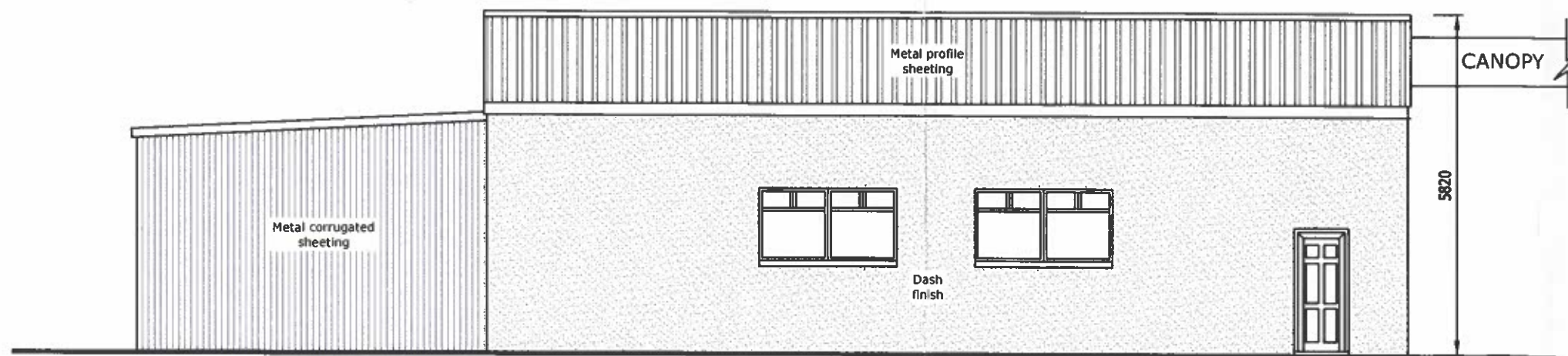
**NOTE:- NO PROPOSED
CHANGE FORM THAT FOR
WHICH PLANNING WAS
GRANTED**



**Existing Rear Elevation
No Proposed Change
scale 1:100**



**Existing Side Elevation
No Proposed Change
scale 1:100**



**Existing Side Elevation
No Proposed Change
scale 1:100**

- NOTES:**
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rev.	modifications	by	date

Client STEWARTS OIL			
Project CHANGE OF USE FROM GARAGE TO DELI AND SEATING AREA - INCORPORATING REVISED ENTRANCE TO RETAIL AREA			
Stage PLANNING			
Title ELEVATIONS			
Scales 1:100 - A3			
Surveyed By	Prepared By Bm	Checked AMC	Date OCT 2021

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CONSULTING ENGINEERS,
FINISKLIN,
SLIGO,
IRELAND.
TEL: (00353) 91 914414
FAX: (00353) 91 914400
Email: info@jodireland.com
Web: www.jodireland.com



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