ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

Mr. Aaron Fullard,

Reference Number:

DED 559

Application Received:

5th May, 2023.

Location:

Abbey Street, Roscommon, Co. Roscommon.

WHEREAS a question has arisen as to whether the change of use of existing derelict shop unit to residential, refurbish existing derelict residential part of dwelling and to construct rear extension of under 40sq. metres at Abbey Street, Roscommon, Co. 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, and 4 of the Planning and Development Act 2000 (as amended)
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended)
- (c) Article 10(6) of the Planning and Development Regulations 2001 (as amended)
- (d) Part 1, Schedule 2 of the of the Planning and Development Regulations 2001 (as amended)
- (e) 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)
- (f) Planning history on site.

AND WHEREAS Roscommon County Council has concluded that:

- i) The change of use of existing derelict shop unit to residential and to refurbish existing derelict residential part of the dwelling is development and is exempted development.
- ii) To construct rear extension of under 40 sq. m. is development and is not exempted development.

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 in respect of the said works at Abbey Street, Roscommon, County Roscommon, having regard to the definitions and exempted development provisions contained within the Planning and Development Act 2000 (as amended) and associated Regulations that the said works as detailed in i) above constitute development that is exempted development and that the said works as detailed in ii) above constitute development that is not exempted development

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.

Signed on behalf of the said Council

Administrative Officer,

Planning.

Date: 2nd June. 2023

Mary Dolan

From:

Planning Department

Sent:

Wednesday 7 June 2023 15:50

To:

gaynorarchitects@gmail.com

Subject:

DED 559 Notification of Decision on Section 5 Declaration.

Attachments:

DED 559 Declaration on Development & Exempted Development - Notification of

Decision.pdf

A Chara,

Please find attached decision documentation in respect of RCC Planning Ref. No. DED 559 Section 5 Declaration .

Given that an e-mail address has not been provided by the applicant we would be obliged if you could ensure that a copy of this Notification of Decision is provided to the applicant.

Mise le meas.

Mary Dolan, Administrative Officer, Planning,

Áras an Chontae, Roscommon, Co. Roscommon, F42 VR98.

(090) 6637176 Marydolan@roscommoncoco.ie

Please address all e-mail correspondence to planning@roscommoncoco.ie

www.roscommoncoco.ie



Comhairle Contae Ros Comáin Roscommór County Council



Correspondence issuing from the Planning Section in Roscommon County Council will generally be in electronic form only, except in instances where an e-mail address has not been provided.

<u>Planner's Report on application under Section 5 of the</u> Planning and Development Act, 2000, as amended

Reference Number:

DED 559

Name and Address of Applicant:

Aaron Fullard



AGENT:

Ignatious Gaynor Fallon Avenue, Roscommon.

WHEREAS a question has arisen as to whether 'change of use of existing derelict shop unit to residential and refurbish existing derelict residential part of the dwelling and rear extension' is or is not development and is or is not exempted development:

1.0 Site Location and Description

The site is located to on Abbey Street in Roscommon Town and is zoned 'outer town centre' in Roscommon LAP 2014-202. The structure itself is two storey building and forms part of a terrace of other two storey properties. On inspection of the site it would appear to be derelict and vacant.

2.0 Planning History

 04/472: Application withdrawn to demolish existing shop, garage, and apartment and to erect an office block on lands.

3.0 Relevant Legislation

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

- (a) Sections 2, 3, and 4 of the Planning and Development Acts 2000 (as amended);
- (b) Article 6 & 9 of the Planning and Development Regulations 2001 (as amended).
- (c) Article 10 (6) of the Planning and Development Regulations 2001 (as amended)
- (d) Part 1, Schedule 2 of the of the Planning and Development Regulations 2001 (as amended)
- (e) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 (as amended);

Planning and Development Act, 2000 (as amended)

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) of the Planning and Development Act provides that the Minister, 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.

Planning and Development Regulations, 2001 (as amended)

Article 10 (6)

(a) In this sub-article—

"habitable room" means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

"relevant period" means the period from the making of these Regulations until 31 December 2021.

- (b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3 or 6 of Part 4 to Schedule 1.
- (c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—
- (i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,
- (ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3 or 6, and

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

- (d) (i) The development is commenced and completed during the relevant period.
- (ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with subparagraph (vii), shall affect only the interior of the structure and shall not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.
- (iii)Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.
- (iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.
- (v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.
- (vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.
- (vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.
- (viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.
- (ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.
- (x) No development shall relate to any structure in any of the following areas:

- (I) an area to which a special amenity area order relates;
- (II) an area of special planning control;
- (III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.
- (xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply. (xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite
- wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.
- (e) (i) Where a person proposes to undertake development to which sub-paragraph (b) relates, then he or she shall accordingly notify the planning authority in whose functional area that the change of use concerned will occur in writing at least 2 weeks prior to the commencement of the proposed change of use and any related works.
- (ii) Details of each notification under subparagraph (i), which shall include information on—
- (I) the location of the structure, and
- (II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, shall be entered in a record by the planning authority maintained for this purpose and the record shall be available for inspection at the offices of the planning authority during office hours and on the planning authority's website.
- (iii) During the years 2019, 2020, 2021 and 2022, each planning authority shall provide information to the Minister on the number of notifications received by it under this paragraph during the preceding calendar year, including details of the information so received for the purposes of subparagraph (ii).

Schedule 2, Part 1

Column 1	Column 2
Description of Development	Conditions and Limitations
Development within the curtilage of a house CLASS 1 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.	 (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (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. (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. (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. (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 permission has been obtained, shall not exceed 12 square metres. (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.

- 3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.
- 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.
- 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.
- 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.
- 7. The roof of any extension shall not be used as a balcony or roof garden.

4.0 Planning Assessment

The questions to be determined in this Section 5 declaration is whether:

- The change of use of existing derelict shop unit to residential and to refurbish existing derelict residential part of the dwelling is or is not development, constitutes a material change of use and is or is not exempted development.
- To construct a rear extension less than 40 sqm is or is not development and is or is not exempted development.

These two items will be assessed separately:

Item 1: The change of use of existing derelict shop unit to residential and to refurbish existing derelict residential part of the dwelling is or is not development, constitutes a material change of use and is or is not exempted development.

Having considered the definition of both "works" and "development" outlined above, I would deem that the aforementioned forms of development constitute works and is therefore development. It was evident from a site inspection on the 1st June 2023 that the building has been vacant for some time and having regard to the planning history on site I am satisfied that the building was once used for commercial purposes. To facilitate the proposed change of use the applicant is proposing to change a door on the front facade to a window and carry out internal refurbishment the exact nature of which is not specified, as existing floor plans have not been submitted. The proposed building however is not a protected structure and while the proposed changes do not process architectural merit they will not render the building any more than it already is out of character with the existing terrace buildings along this streetscape. Having considered the various parts of Article 10 (6), I am satisfied that the proposed change of use falls within the parameters as set out in this Article.

Item 2: To construct a rear extension less than 40 sqm is or is not development, and is or is not exempted development.

Having considered the definition of both "works" and "development" outlined above, I would deem that the aforementioned form of development constitute works and is therefore development. To assess whether these works are exempt development consideration was given to Class 1 Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended). While RCC acknowledges that there may have been some residential use at some stage in the building, the primary use was for a shop on the ground floor, therefore the exemptions set out in Class 1 cannot be availed off. In the event the proposed residential use is undertaken on site then a section 5 application can be made for the proposed extension.

Environmental Considerations:

The development is not of a nature set out in Part 2 Schedule 5 of the Planning and Development Regulations 2001 as amended.

The site is located c4km away from Lough Ree SAC. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to and distance from any sensitive location, there is no real likelihood of significant effects on European sites arising from the proposed development and not of a nature set out in Article 9 (1)(a) of the Planning and Development Regulations 2001 as amended.

Having regard to the above, I am satisfied that the general question raised in this referral can be determined as follows:

- 1. The change of use of existing derelict shop unit to residential and to refurbish existing derelict residential part of the dwelling is development and is exempted development.
- 2. To construct a rear extension less than 40 sqm is development, and is NOT exempted development.

5.0 Recommendation

WHEREAS a question has arisen as to whether 'change of use of existing derelict shop unit to residential and refurbish existing derelict residential part of the dwelling and rear extension' at **Abbey Street**, **Roscommon is or is not development**, **constitutes a material change of use**, and **is or is not exempted development**:

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

- Sections 2, 3, and 4 of the Planning and Development Acts 2000 (as amended)
- b) Article 6 and 9 of the Planning and Development Regulations 2001 (as amended)
- c) Article 10(6) of the Planning and Development Regulations 2001 (as amended)
- d) Part 1, Schedule 2 of the of the Planning and Development Regulations 2001 (as amended)
- e) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 (as amended)
- f) Planning history on site.

AND WHEREAS I have concluded that

- 1. The change of use of existing derelict shop unit to residential and to refurbish existing derelict residential part of the dwelling is development and is exempted development.
- 2. To construct a rear extension less than 40 sqm is development, and is NOT exempted development.

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

Signed:	shall you		Date:	1 st June 2023
Paula Connaughton		_		

P / A-

South Roscommon Area Planner.

Mr. Aaron Fullard,

Planning Reference:

Date: 9th May, 2023.

DED 559

Re: Application for a Declaration under Section 5 of the Planning &

Development Act 2000 (as amended), regarding Exempted Development.

Development: Proposed change of use of existing derelict shop unit to residential,

refurbish existing derelict residential part of dwelling and rear extension at

Abbey St., Roscommon.

A Chara,

I wish to acknowledge receipt of your application received on the 5th May, 2023, for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development along with the appropriate fee in the sum of €80.00 Receipt No. L01/0/222585 dated 8th May, 2023 refers, receipt enclosed herewith for your attention.

Note: Please note your Planning Reference No. is DED 559.

This should be quoted in all correspondence and telephone queries.

Mise le meas,

Administrative Officer,

Planning.

Gaynor Architectural & Design Services, Fallon Avenue, Roscommon, CO. ROSCOMMON.

Roscommon County Council Aras an Chontae Roscommon 09086 37100

08/05/2023 15 29 38

Receipt No : L01/0/222585

AARON FULLARD

PLANNING APPLICATION FEES GOODS 80.00 VAT Exempt/Non-vatable DED 559

80,00

Total .

80 00 EUR

Tendered

Cheque

80 00

004240

Change

0.00

Issued By Bernadine Duignan From Central Cash Office

GAYNOR ARCHITECTURAL + DESIGN SERVICES LTD

ARCHITECTS

CEO Roscommon Co Council Planning Section Aras an Chontae Roscommon

2nd April 2023





Fallon Avenue Roscommon Co. Roscommon F42 W327 090 6626974

Fax: 090 6627353 Mobile: 086 8115449

Email: gaynorarchitects@gmail.com

Dear Sir

Proposed change of use of existing derelict shop unit to residential, refurbish existing derelict residential part of dwelling and rear extension (Exempted Development under 40 sq mets., associated site development works and services at Abbey Street Roscommon for Aaron Fullard

Application for Grant under Vacant Property Refurbishment Grant

Following application to Roscommon Co. Council for Vacant Property Refurbishment Grant for our client in connection with the above we were requested to make application for a Declaration under Section 5 of the Planning and Development Act 2000: Exempted Development

Attached is completed application together with photographs of existing front elevation and rear elevations, it is not proposed to alter existing elevation apart from new tilber window and form new window instead of existing front door to old shop area

Also attached is copy of site location, site layout and general working drawings for refurbishing works internally and extension

If further information or information is required please do not hesitate to contact us

Yours Sincerely

Ignatius Gaynor

copy to : Aaron Fullard

-5 MAY 2023

PLANNING SECTION





Áras an Chontae, Roscommon, Co. Roscommon.

Phone: (090) 6637100

Email: planning@roscommoncoco.ie

Roscommon County Council

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

Name:	AAROH FULLARD
Address:	
Name & Address of Agent:	LAMATIUS AMYMOR ARCHITECT. FACCOM AVENUE ROSCOMMON FAZ 4327
Nature of Proposed Works	
Location (Townland & O.S No.)	ABBEY St. ROSCOMMON,
Floor Area	OS SIGITAL MAS 2550-09/10
Height above ground level	7.500 METS
Total area of private open space remaining after completion of this development	45-00
Roofing Material (Slates, Tiles, other) (Specify)	SLATES
Proposed external walling (plaster, stonework, brick or other finish, giving colour)	SEE PHOTOGRAPHS. HAP PLASTER (CXOUR GREY (3 EE PHOTOGRAPHS)
Is proposed works located at front/rear/side of existing house.	FROHT & REAR



Roscommon County Council

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

Has an application been made previously for this site	No.
If yes give ref. number (include full details of existing extension, if any)	4/4
Existing use of land or structure	DERECIOF 8HOP & RESIDENTIAL
Proposed use of land or structure	RESIDENTIAL
Distance of proposed building line from edge of roadway	FROYTHA PUBLIC FOOTPATH 4 ABBEY ST
Does the proposed development involve the provision of a piped water supply	CXISTIMA WHER SUMY CONHECTED FRIM MAINS
Does the proposed development involve the provision of sanitary facilities	4E3 EXISTING SEVIER COMPLECTION ON SITE TO REAR OF BINEWING

agros pp AAROH FULLDRD

Signature:

Date:

Note: This application must be accompanied by:-

(a) €80 fee

√(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) Detailed specification of development proposed

2023
Registered Architect

Ignatius Gaynor

Member No. 07078



NOTIFICATION FORM

Name of Relevant Planning Authority: Name of Notifier/Property Owner: Name of Person/Agent Acting on behalf of Notifier/Property Owner (if any): [Note: Contact Details to be supplied at the end of this form] Notification of intention to avail of exempted development provisions under Article 10(6) of the Planning and Development Regulations 2001, as inserted by Article 2 of the Planning and Development (Amendment) (No. 2) Regulations 2018, at least two weeks prior to the commencement of the proposed change of use and any related works. Location of structure Eircode Total number of Residential Unit(s) number - e.g. 5 4-5 Total Residential Floorspace (m²) number - e.g. 642 Figorspace of unit (m²) **Number of bedrooms** Residential Unit 1 number - e.g. 2 number - e.g. 84 Residential Unit 2 Residential Unit 3 Residential Unit 4 Residential Unit 5 Residential Unit 6 Residential Unit 7 Residential Unit 8 Residential Unit 9 Date works will commence (Minimum of two weeks subsequent to date of notification) dd/mm/yyyy

Signed (Notifier/ Agent as appropriate)

-5 MAY 2023

CONTACT DETAILS - NOT TO BE PUBLISHED

TRING SECTION
Notifier/Property Owner
Address: AAROH FULLARD 96.
Eircode: <u>F47 V370</u> .
Telephone number:
Mobile number:
E-mail address: gaynor archetects @ gmall.com
Person/agent (if any) acting on behalf of the Notifier/Property Owner
Address: UNAMUS GAYHOR ARCHHEST
Eircode: PAUDH AVEHUE, ROSCOMMOH
Telephone number: 050/6626974
Mobile number: 086/8/15449
E-mail address: gaynor architects @ gmail-com

2023
Registered Architect

RIAI

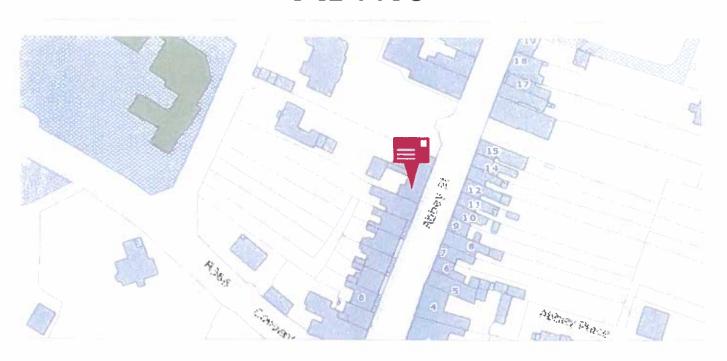
Ignatius Gaynor Member No. 07078 English | Gaeilge

ABBEY STREET

ROSCOMMON



F42 V970











Front elevation
Diversities & SHOP ULLIH (DERELIET)
ABBEY St.
ROSCOMMON
AARON FULLARD.
29th April 2023.











English | Gaeilge

ABBEY STREET

ROSCOMMON

F42 V970





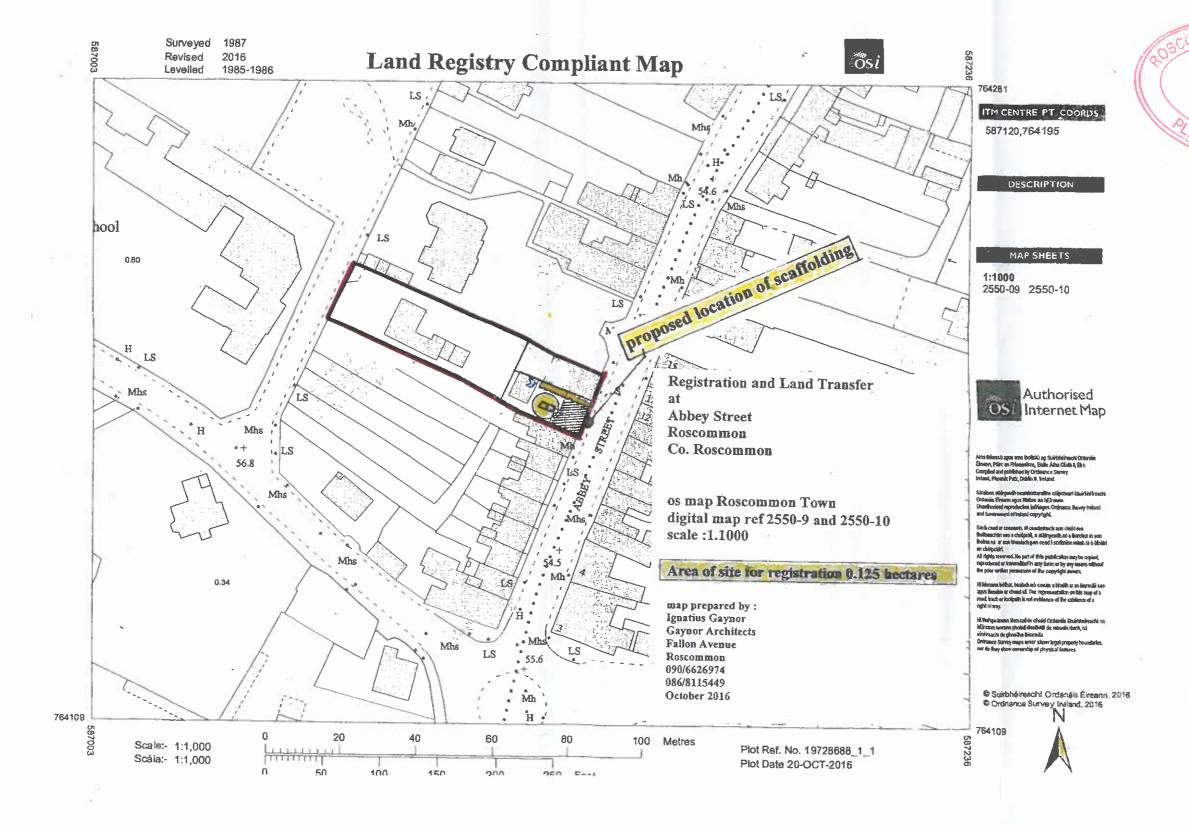


GAYNOR ARCHITECTURAL, + DESIGN SERVICES -Fallon Avenue Roscommon -090/6626974

MAN GOUNT

- 5 MAY 2023

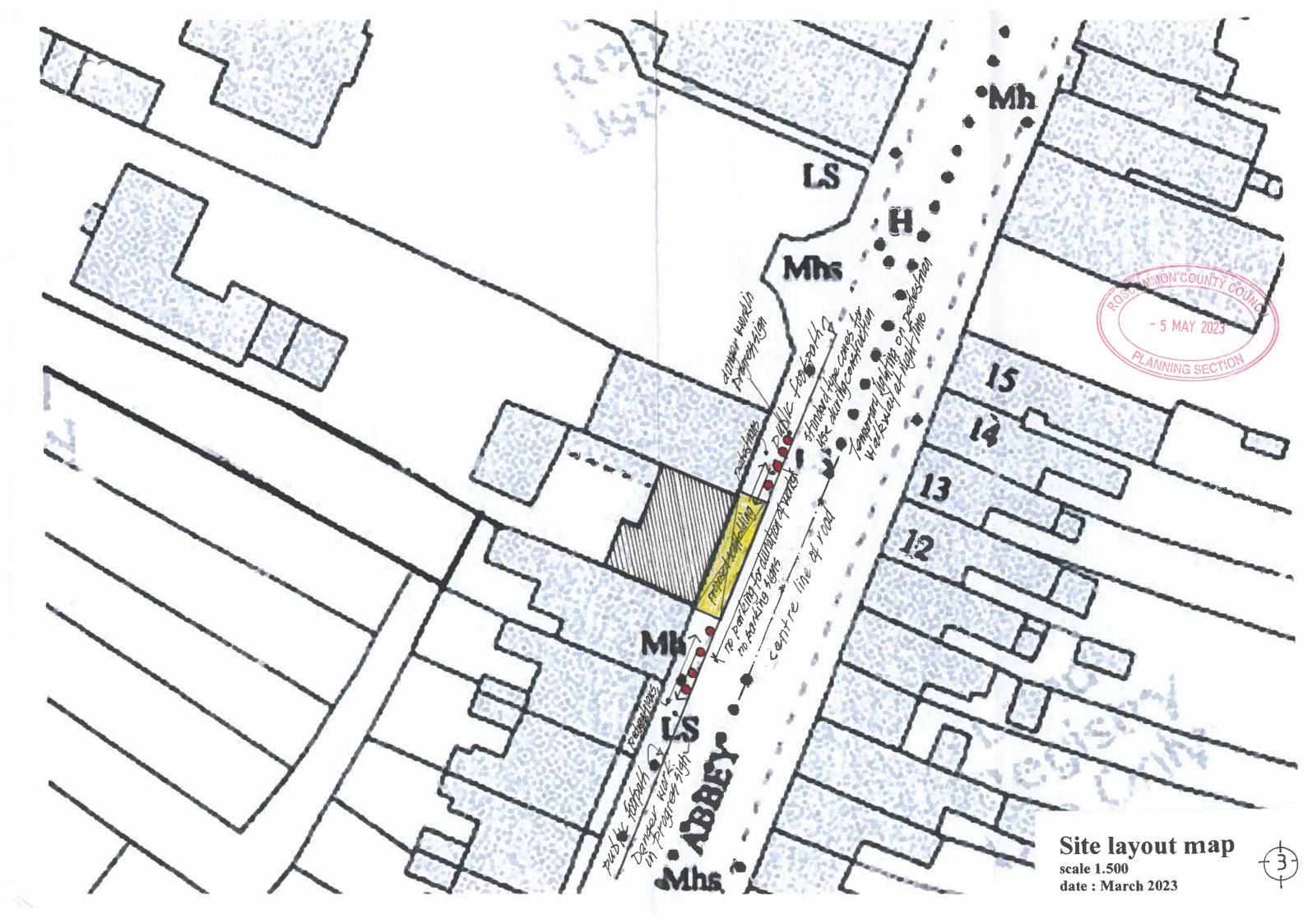
Fax: 090/6627353 Mobile: 086 8115449 Email: gaynorarchitects@eircom.net

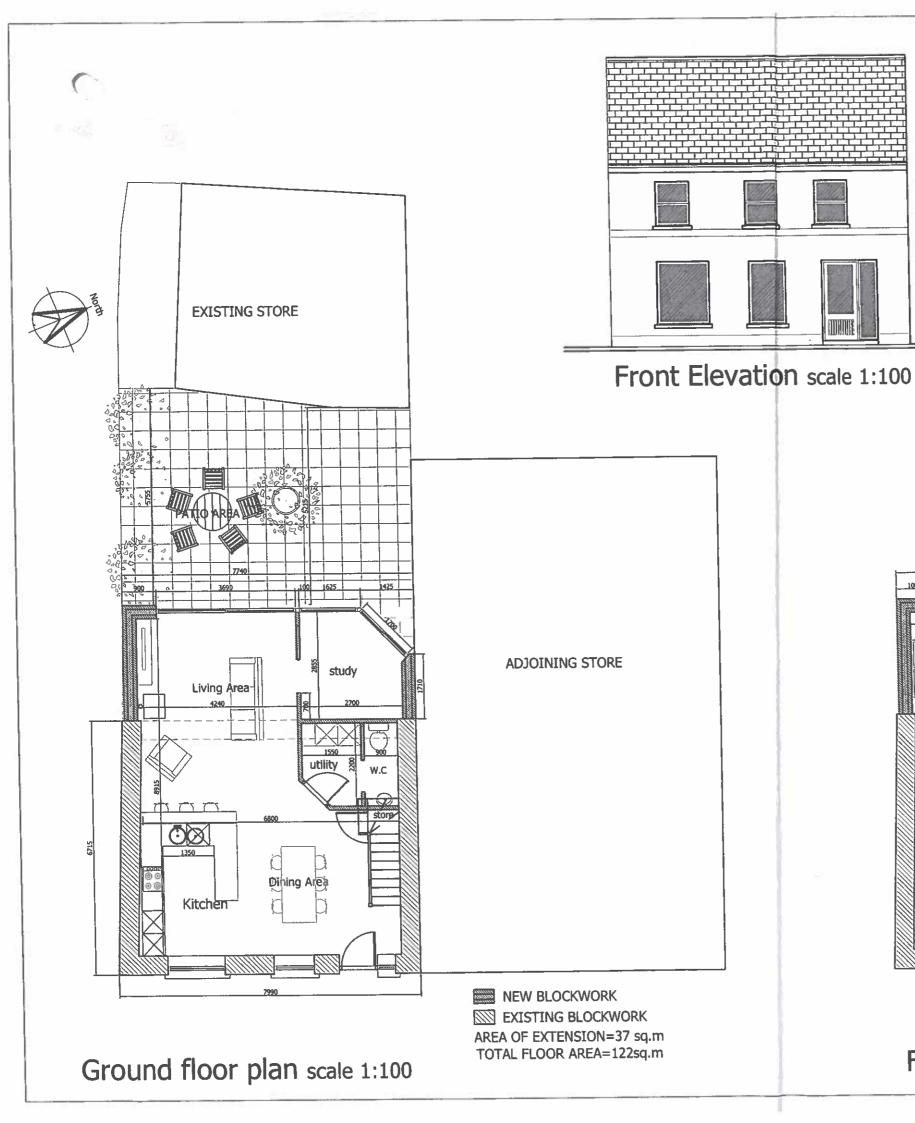


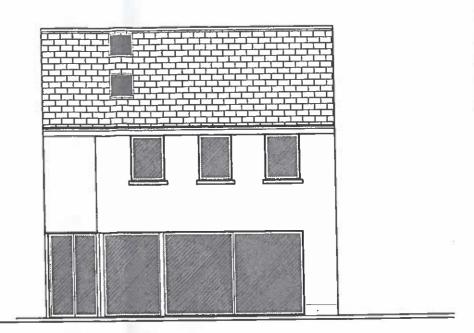
General location map

scale 1.1000 date: March 2023



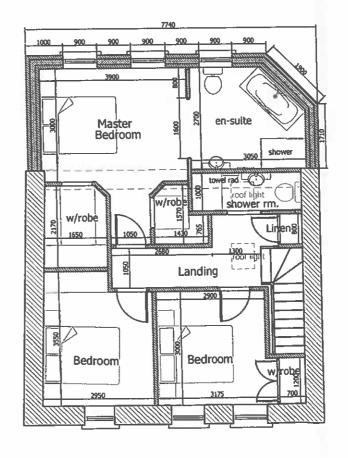






Rear Elevation scale 1:100





First floor plan scale 1:100

