

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

Padraic Tansey,

Reference Number: DED 585

Application Received: 28th June, 2023

Location: Elphin Townland, Co. Roscommon.

AND WHEREAS Roscommon County Council, in considering this application, 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) Class 1, 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); and
- (f) The planning history on the site.

AND WHEREAS Roscommon County Council has concluded that:

- 1. The change of use of ground floor from derelict commercial to domestic to be utilised as single dwelling unit is development and is exempted development.
- 2. To construct a rear extension less than 40sqm is development and is not exempted development.

NOW THEREFORE:

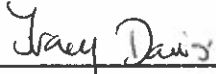
By virtue of the powers vested in me by the Local Government Acts 1925 – 2019 and Section 5(2)(a) of the Planning and Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the application described above, it is hereby declared that the said works consisting of **the change of use of ground floor from derelict commercial to domestic to be utilised as single dwelling unit at Elphin Townland, Co. Roscommon, is development and is exempted development** as defined in the Planning and Development Act 2000 (as amended) and associated Regulations and that the said works **to construct a rear extension less than 40sqm is development and is not exempted development** as defined in the Planning and Development Act 2000 (as amended) and associated Regulations.

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:



Senior Executive Planner, Planning.

Date: 25th July, 2023

CC: James Lohan Consulting Engineers Ltd.,
Unit 5,
Ballypheason House,
Circular Road,
Roscommon.

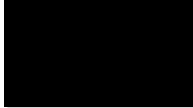
**Planner's Report on application under Section 5 of the
Planning and Development Act, 2000, as amended**

Reference Number:

DED 585

Name & Address of Applicant:

Padraic Tansey



WHEREAS a question has arisen as to whether 'the change of use of ground floor from derelict commercial to domestic to be utilised as single dwelling unit in conjunction with building exempt extension to rear' is or is not development and is or is not exempted development.

1.0 Site Location and Description

The subject site is located along the R369 Regional Road in Elphin Townland, County Roscommon. It forms part of lands zoned 'Town Core' in the Elphin Settlement Plan in the Roscommon County Development Plan 2022-2028. The structure itself is a two storey building and forms part of a terrace of predominantly two storey properties within the Elphin Architectural Conservation Area (ACA), as set out in the Roscommon County Development Plan 2022-2028. On inspection of the site it would appear to be derelict and vacant. Demolition works have occurred to the rear of the property.

2.0 Planning History

As per the Roscommon County Council GIS, there is no recent planning history on the subject site.

3.0 Relevant Legislation

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

- Class 1*
- (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);
 - (f) The planning history on the site.

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 sub-paragraph (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 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>	<ol style="list-style-type: none"> 1. (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 2. Any extension above ground level shall not exceed 20 square metres. 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. (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

	<p><i>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.</i></p> <p><i>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.</i></p> <p><i>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</i> <i>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</i> <i>(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.</i></p> <p><i>7. The roof of any extension shall not be used as a balcony or roof garden.</i></p>
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4.0 Planning Assessment

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

- 1) The change of use of ground floor from derelict commercial to domestic to be utilised as single dwelling unit is or is not development, constitutes a material change of use and is or is not exempted development.
- 2) To construct a rear extension less than 40sqm 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 ground floor from derelict commercial to domestic to be utilised as single dwelling unit 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, it is considered that the aforementioned forms of development constitute works and is therefore development. It was evident from a site inspection that the building has been vacant for some time and I am satisfied that the building was once used for commercial purposes. It is proposed to externally insulate and render the existing building. The building is not a protected structure and it is not considered that the proposed external works will render the building 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 is within the parameters as set out in this Article.

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

Having considered the definition of both “works” and “development” outlined above, it is considered that the aforementioned form of development constitute~~s~~ 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 it is acknowledged that there may have been some residential use at some stage in the building, the primary use was commercial 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

Annaghmore Lough (Roscommon) SAC (Site Code: 001 626) is located approximately 5.1km south east of the subject site. With Regard to Article 9 (1)(a) of the Planning and Development Regulations it is reasonable to conclude, on the basis of the information available, 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.

Conclusion

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

1. The change of use of ground floor from derelict commercial to domestic to be utilised as single dwelling unit is development and is exempted development.
2. To construct a rear extension less than 40sqm is development and is not exempted development.

5.0 Recommendation

WHEREAS a question has arisen as to whether ‘the change of use of ground floor from derelict commercial to domestic to be utilised as single dwelling unit in conjunction with building^s exempt extension to rear’ at Elphin Townland, County 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 –

- (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); and
- (f) The planning history on the site.

Class 1

AND WHEREAS I have concluded that

1. The change of use of ground floor from derelict commercial to domestic to be utilised as single dwelling unit is development and is exempted development.
2. To construct a rear extension less than 40sqm is development and is not exempted development.

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



Signed:

Assistant Planner

Date: 25th July 2023

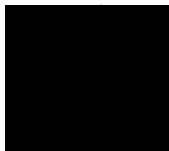




Comhairle Contae
Ros Comáin
Roscommon
County Council



Padraic Tansey,



Date: 5th July, 2023.

Planning Reference: DED 585

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.

Development: The change of use of ground floor from derelict commercial to domestic to be utilised as single dwelling unit in conjunction with building exempt extension to rear at Elphin Td., Co. Roscommon.

A Chara,

I wish to acknowledge receipt of your application received on the 28th June, 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. L01/0/223502 dated 29th June, 2023 refers, receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 585**.

This should be quoted in all correspondence and telephone queries.

Mise le meas,

Caroline Mockler, Senior Staff Officer,
Planning Department.

cc. James Lohan Consulting Engineers Ltd,
Unit 5,
Ballypheason House,
Circular Road,
Roscommon.



Caroline Mockler

From: Planning Department
Sent: Thursday 6 July 2023 10:20
To: James Lohan
Subject: RCC Planning Ref. No. DED 585 - Acknowledgement of Request for Declaration under Section 5 of the Planning & Development Act.
Attachments: DED 585 Acknowledgement Letter.pdf; DED 585 Receipt.pdf

A Chara,

Please find attached, letter of acknowledgement in respect of your request for a declaration under Section 5 of the Planning & Development Act 2000 (as amended), reference no. DED 585.

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 acknowledgement is provided to the applicant.

Mise le meas,

Caroline Mockler | Senior Staff Officer | Roscommon County Council

☎: (090) 6637100 | ✉: planning@roscommoncoco.ie | www.roscommoncoco.ie

Aras an Chontae, Roscommon, Co. Roscommon. F42 VR98 [MAP LOCATION](#)



Comhairle Contae
Ros Comáin
Roscommon
County Council



Please note that I may be sending this email outside your working hours and I do not expect a response or action outside your own working hours

Roscommon County Council
Aras an Chontae
Roscommon
09066 37100

29/06/2023 12.25 07

Receipt No. : L01/0/223502

PADRAIC TANSEY
C/O JAMES LOHAN CONSULTING ENGINEERS LTD
UNIT 5 BALLYPHEASON HOUSE
CIRCULAR RD, ROSCOMMON

EXEMPTED DEVELOPMENT

PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED.585	

Total : 80.00 EUR

Tendered :
Cheque 80.00
500317

Change : 0.00

Issued By : Louis Carroll
From : Central Cash Office



Comhairle Contae
Ros Comáin
Roscommon
County Council



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 Exempted Development

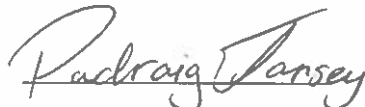
Name:	Padraic Tansey
Address:	[REDACTED]
Name & Address of Agent:	James Lohan Unit 5, Ballypheason house, Circular road, Roscommon
Nature of Proposed Works	Change of Use of ground floor from derelict commercial to domestic to be utilized as single dwelling unit in conjunction with building exempt extension to Rear
Location (Townland & O.S No.)	ELPHIN TOWNLAND RN-2041-B
Floor Area	93.0 SQ.M.
Height above ground level	0.15
Total area of private open space remaining after completion of this development	771SQ.M.
Roofing Material (Slates, Tiles, other) (Specify)	SLATES
Proposed external walling (plaster, stonework, brick or other finish, giving colour)	HOUSE IS TO BE EXTERNALLY INSULATED AND RENDERED
Is proposed works located at front/rear/side of existing house.	Extension Under 40sq.m. to rear

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	NO
If yes give ref. number (include full details of existing extension, if any)	N/A
Existing use of land or structure	EXISTING HOUSE TO FIRST FLOOR AND DERELICT COMMERCAIL ON GROUND FLOOR
Proposed use of land or structure	HOUSE
Distance of proposed building line from edge of roadway	
Does the proposed development involve the provision of a piped water supply	EXISTING
Does the proposed development involve the provision of sanitary facilities	EXISTING SEWER CONNECTION

Signature:

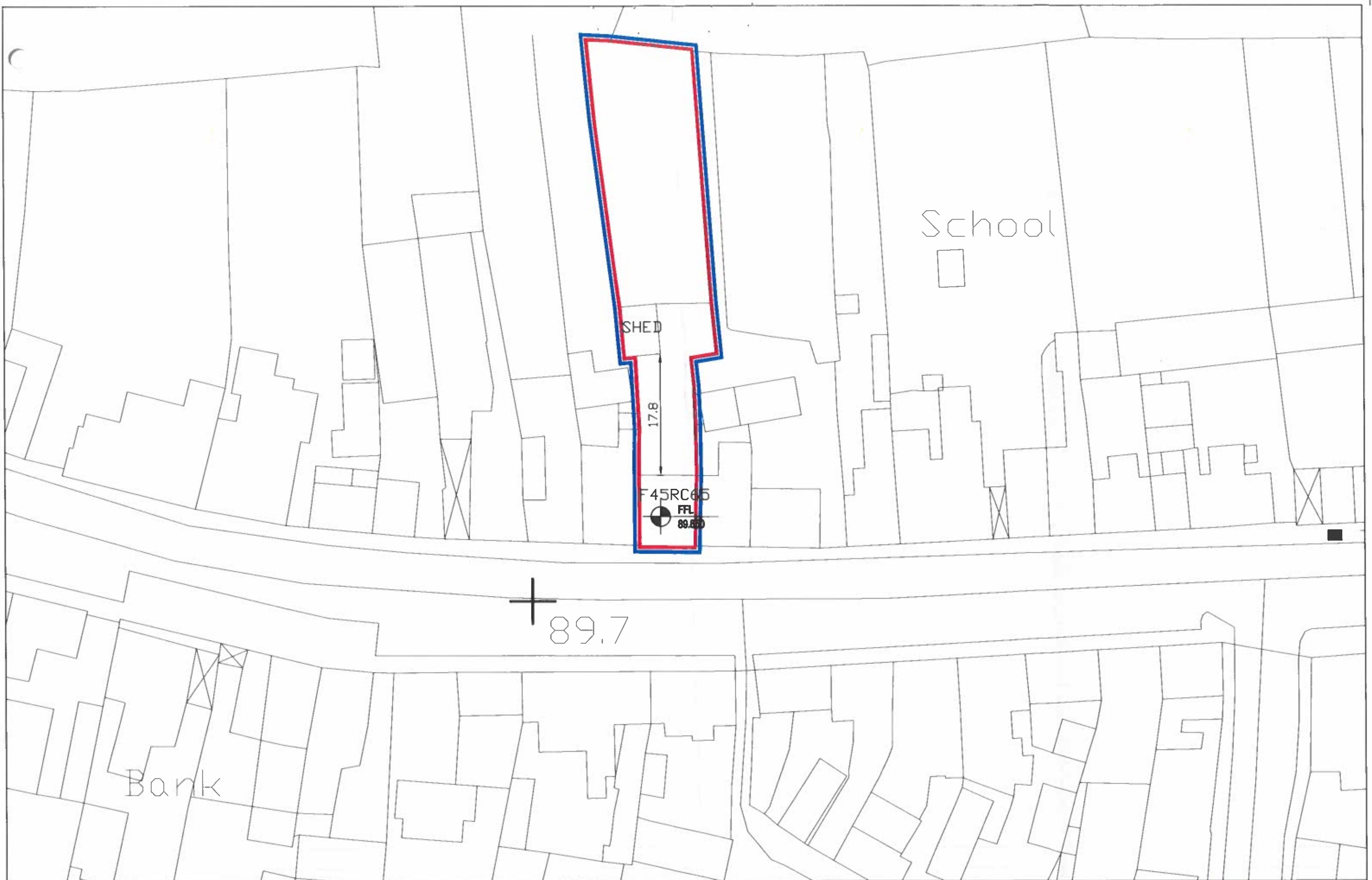


Date:

26/06/2023

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



DO NOT SCALE FROM THIS DRAWING. WORK ONLY FROM FIGURED DIMENSIONS.
ALL ERRORS AND OMISSIONS TO BE REPORTED TO THE ARCHITECT.
THIS DRAWING TO BE READ IN CONJUNCTION WITH RELEVANT CONSULTANT'S DRAWINGS.

STA	DATE	REV

Unit 5 Ballypheason House
Circular Road,
Roscommon F42 C982.

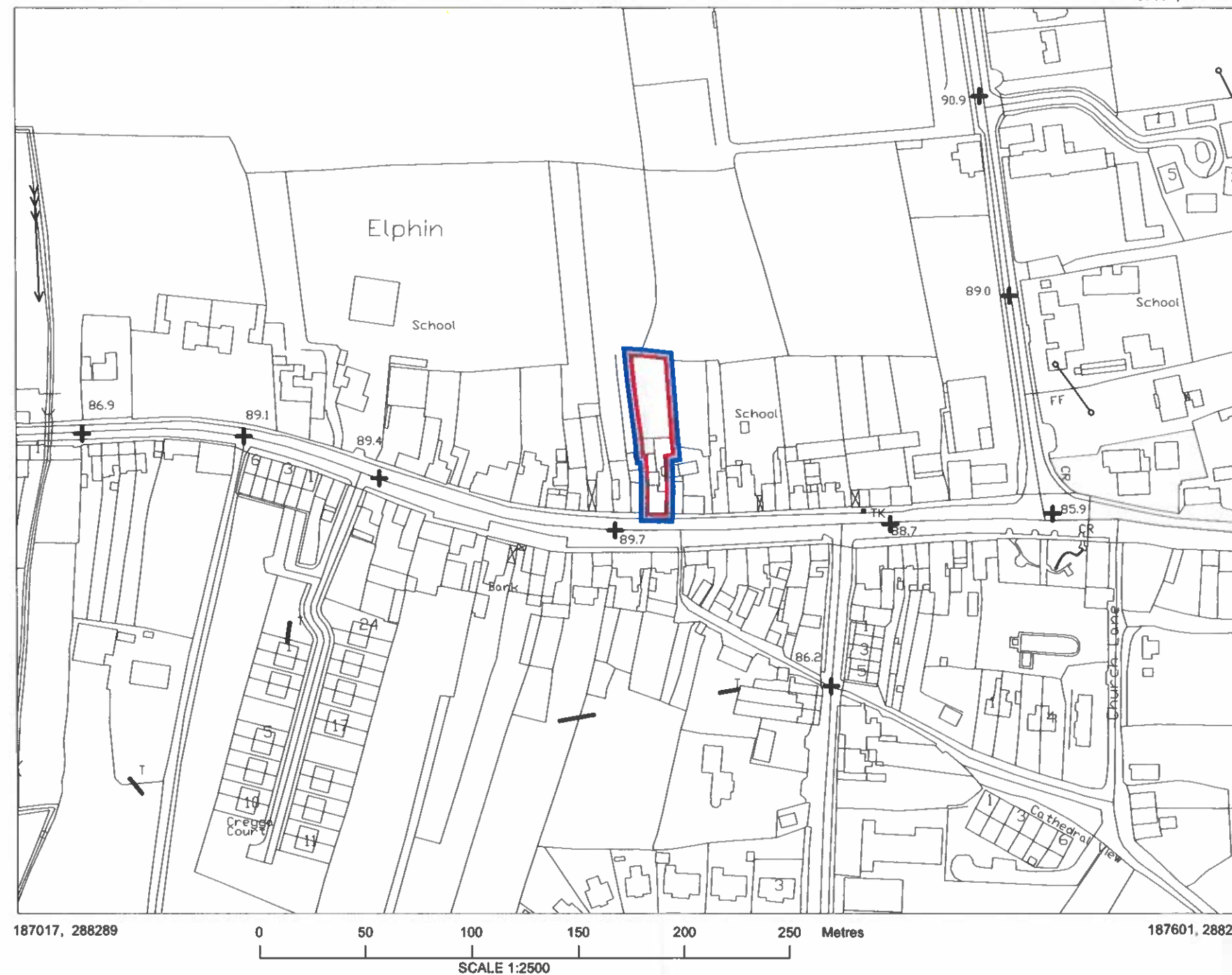
JAMES LOHAN CONSULTING ENGINEER

Ph: 090 6634365 / 0878228529
email: james@jce.ie / aaron@jce.ie
web: www.jce.ie

CLIENT	JOB	JOB No	DATE
PADRAC TANSEY	DWELLING HOUSE	23-184	15/04/2023
SITE	DRAWING	DRG No	REV
MAIN STREET ELPHIN, CO. ROSCOMMON, F45RC65	SITE LAYOUT	001	
SCALE 1:500			

187017, 288716

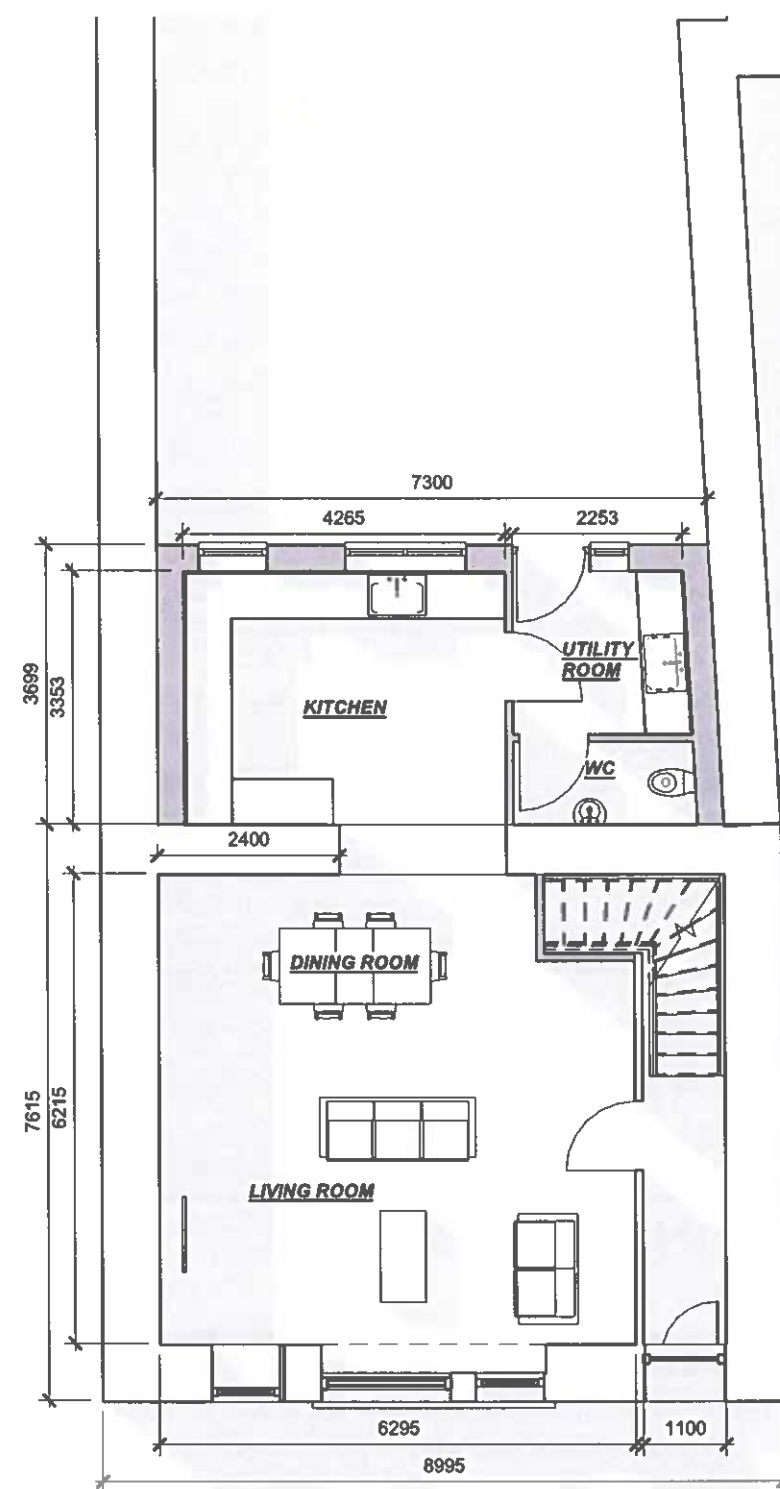
187601, 288716



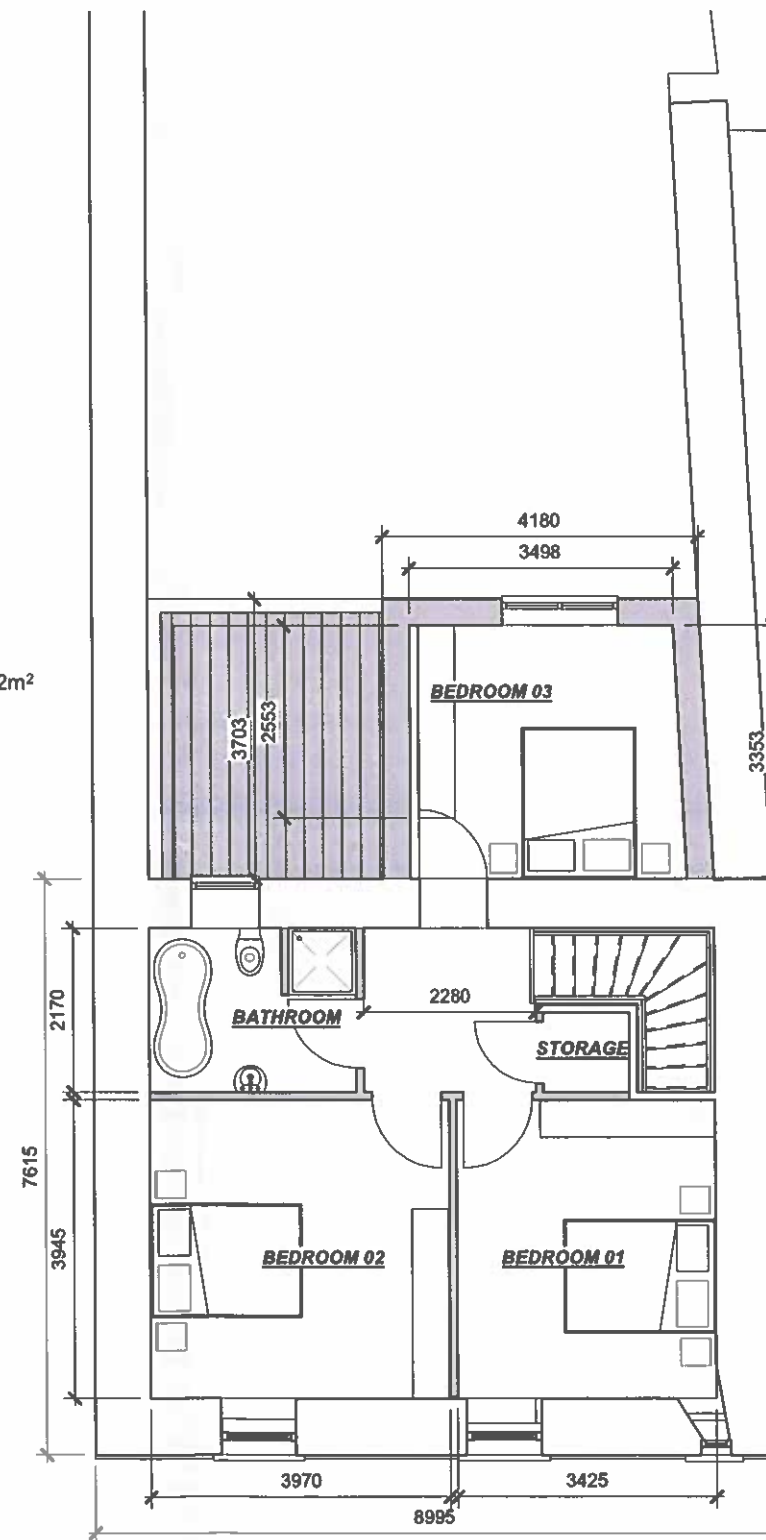
OS NO.
RN 2041-B

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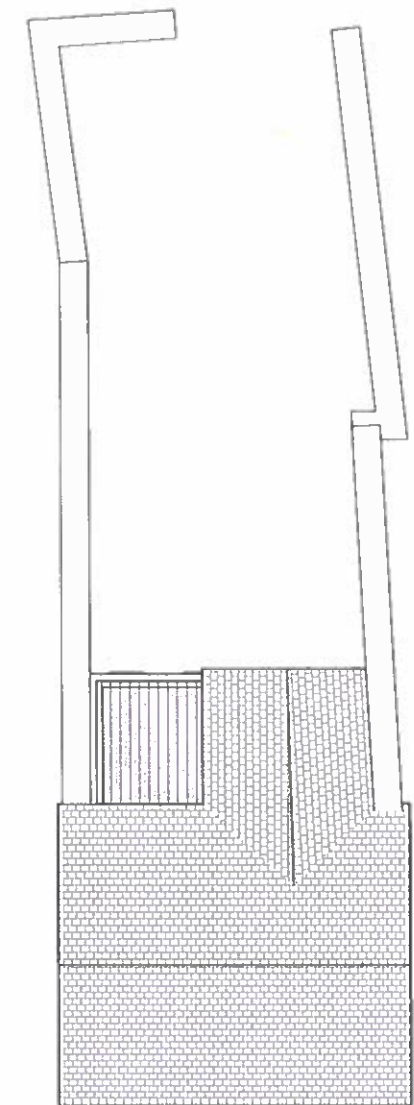
Unit 5 Ballypheasant House Circular Road, Roscommon F42 C982.		JAMES LOHAN CONSULTING ENGINEER		Ph: 090 6634365 / 0678228529 email: james@jlce.ie / aaron@jlce.ie web: www.jlce.ie	
CLIENT PADRAC TANEY		JOB DWELLING HOUSE		JOB No 23-184 DATE 15/06/2023	
SITE MAIN STREET ELPHIN, CO. ROSCOMMON, F45RD65		DRAWING SITE LOCATION		DRC No 002 REV	
				SCALE 1:500	

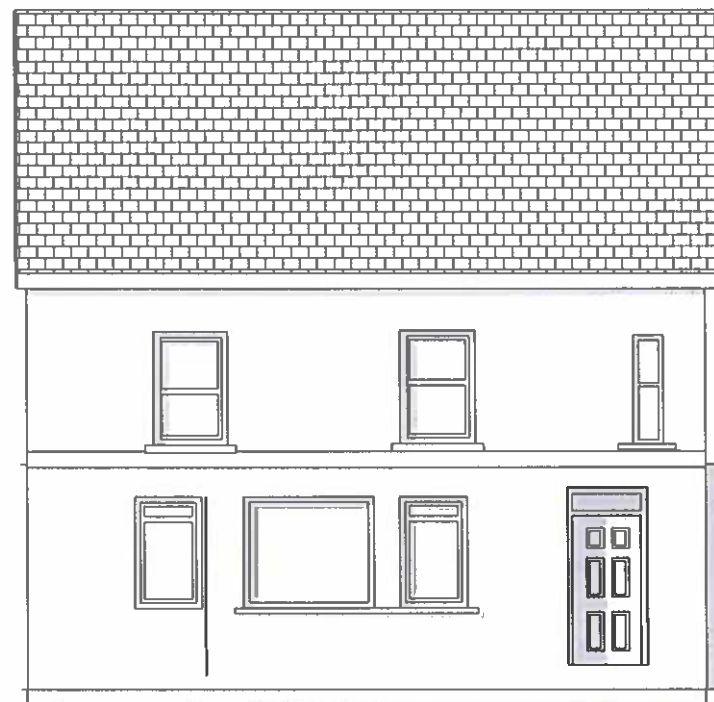


EXTENSION AREA
GROUND FLOOR PLAN: 22m²

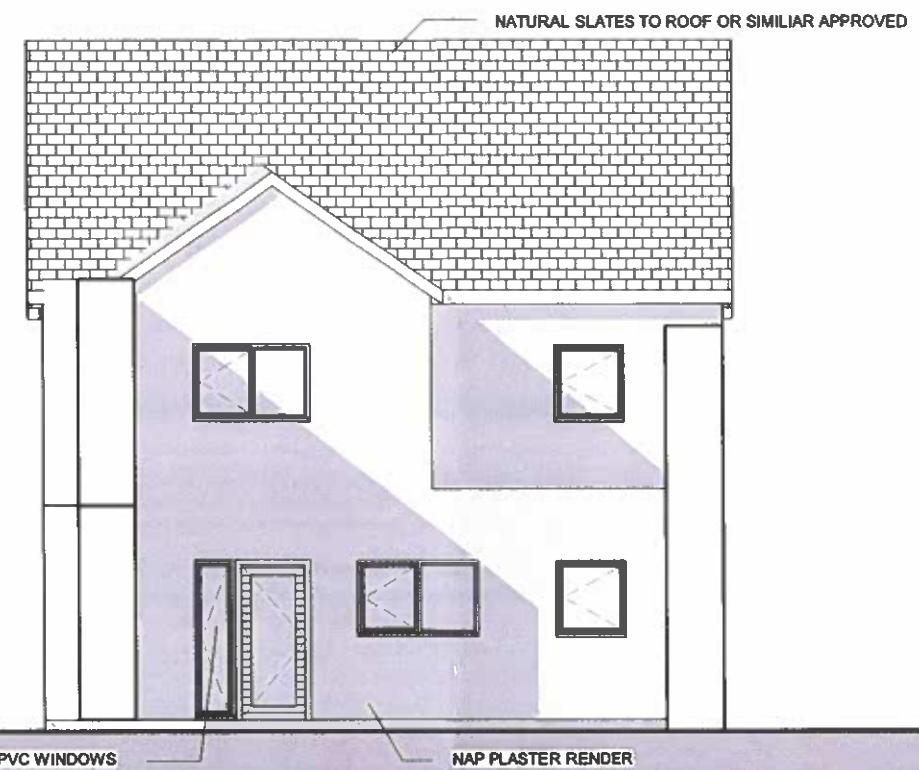


EXTENSION AREA
FIRST FLOOR: 12 m²

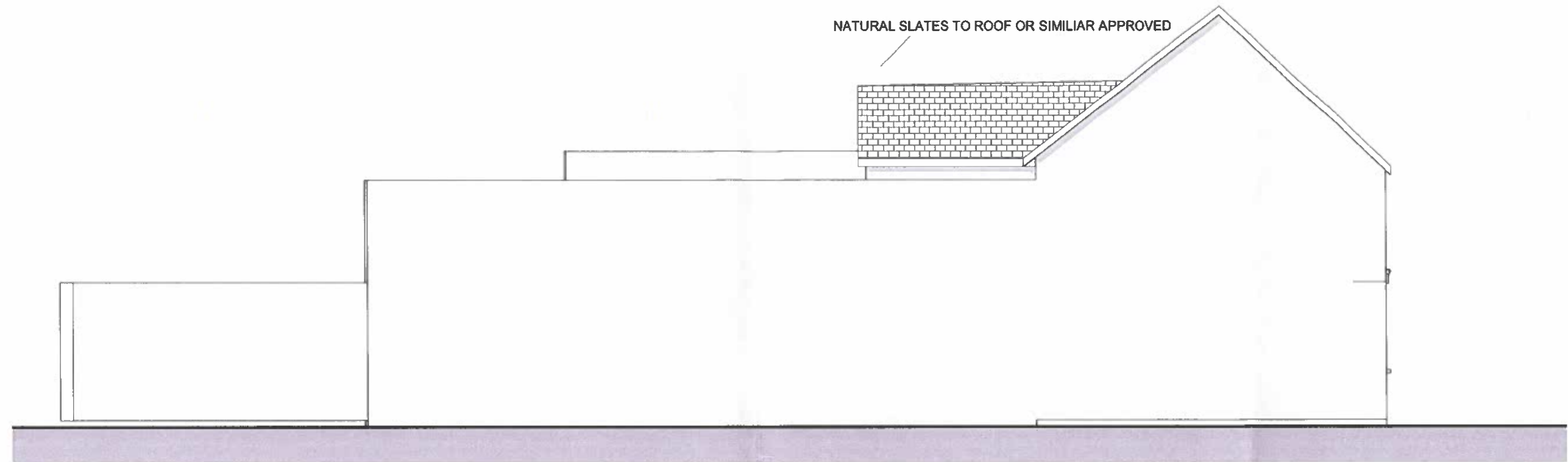




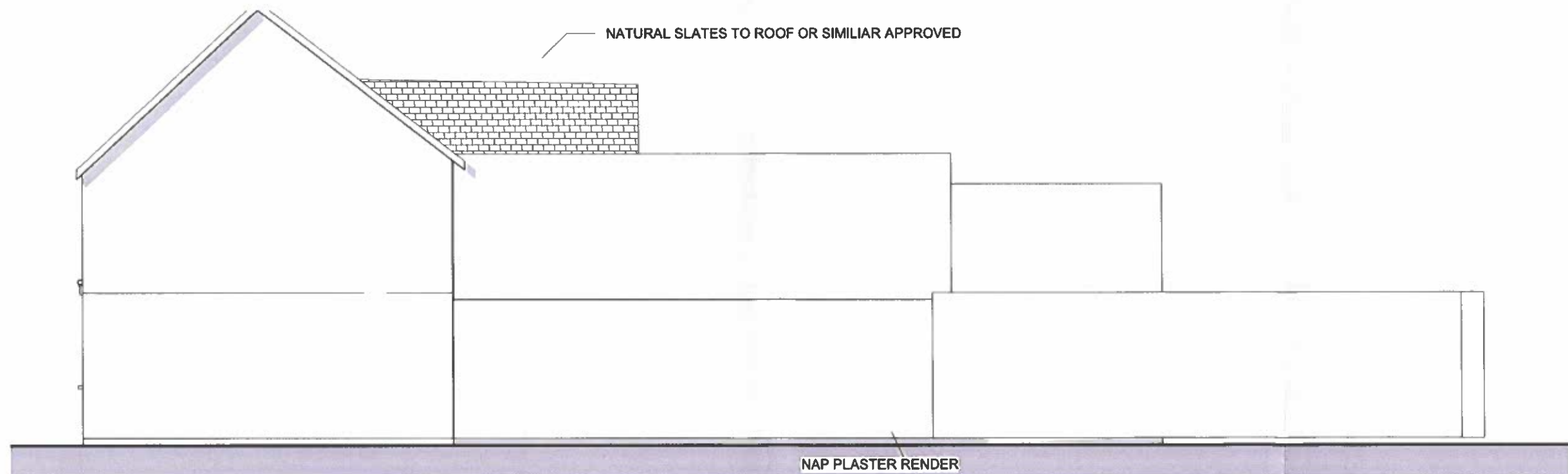
1 Front Elevation (SOUTH)
1 : 100



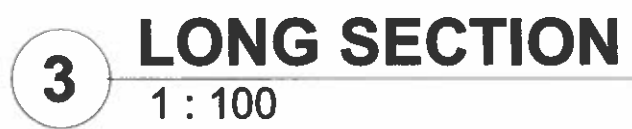
2 Rear Elevation (NORTH)
1 : 100



1 Side Elevation (EAST)
1 : 100



2 Side Elevation (WEST)
1 : 100



Roscommon County Council
Aras an Chontae
Roscommon
09066 37100

29/06/2023 12.25 07

Receipt No. : L01/0/223502

PADRAIC TANSEY
C/O JAMES LOHAN CONSULTING ENGINEERS LTD
UNIT 5 BALLYPHEASON HOUSE
CIRCULAR RD, ROSCOMMON

EXEMPTED DEVELOPMENT

PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED.585	

Total : 80.00 EUR

Tendered :
Cheque 80.00
500317

Change : 0.00

Issued By : Louis Carroll
From : Central Cash Office