# Comhairle Contae Chorcaí Cork County Council

Rannóg Pleanála, Teach Norton, Bóthar Chorcaí, An Sciobairín, Co. Chorcaí P81 AT28. Fón: (028) 40340 o Faics (028) 21660 Suíomh Greasain: www.corkcoco.ie Planning Section, Norton House, Cork Road, Skibbereen, Co. Cork P81 AT28. Tel: (028) 40340 • Fax: (028) 21660

Web: www.corkcoco.ie



John & Tracey O'Sullivan, Cleandra. Ardgroom, Beara,

18th May, 2023.

Our Ref: D/19/23.

Co. Cork.

RE/ Declaration request on exempted development under Section 5 of the Planning & Development Act, 2000 (as amended).

Dear Sir/Madam,

On the basis of the information and plans submitted on 11th May, 2023 for proposal to build an extension to existing house at Cleandra, Ardgroom, Beara, Co. Cork, the Planning Authority declares that the ground and first floor rear extension and associated works constitutes exempt development under Schedule 2, Part 1, Class 1 of the Planning and Development Regulations, 2001-2023.

Please note that any material departure from the proposals as submitted may remove the development from the Exempted category and require the submission of an application for Permission under the Act.

This exemption does NOT itself empower a person to carry out a development unless that person is legally entitled to do so.

Receipt No. WCP11582, in respect of €80.00, is issued herewith.

Yours faithfully,

KEVIN O'REGAN.

SENIOR EXECUTIVE OFFICER.



### **Danielle Arundel**

From:

Tim Twomey

Sent:

Monday 15 May 2023 16:51

To:

Danielle Arundel

Cc: Subject: Anne Lordan RE: D.19.23 - - Section 5 Request

Danielle,

I agree with the Area Planner's recommendation.

Regards, Tim

From: Danielle Arundel < Danielle. Arundel @CorkCoCo.ie>

Sent: Monday 15 May 2023 16:23

To: Tim Twomey <Tim.Twomey@CorkCoCo.ie>
Cc: Anne Lordan <Anne.Lordan@CorkCoCo.ie>
Subject: FW: D.19.23 - - Section 5 Request

Good Afternoon Tim,

In Anne's absence, I attach report from Mr. Phillip O'Sullivan, Area Planner for your recommendation which is due for decision on 08/06/2023.

I would be grateful if would respond to Anne Lordon with your recommendation as she is due back tomorrow.

Kind regards,

Danielle.

Danielle Arundel | Oifigeach Foirne Cúnta | Pleanáil agus Foirbairt

Comhairle Contae Chorcaí | Teach Norton | Bóthar Chorcaí | An Sciobairín | Co. Chorcaí |

P81 AT28 | Éire

T +353-(0)28 - 40340 | Ext. 7129

Danielle.Arundel@corkcoco.ie www.corkcoco.ie

Tairseach na gcustaiméirí: www.yourcouncil.ie

Danielle Arundel | Assistant Staff Officer | Planning and Development

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NORTON HOUSE SKIBBEREEN, COUNCIL

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TO: Anne Lordan
Planning Department
Ref D/19/23

Planning and Development Regulations 2001- 2023 Exempted Development under Schedule 2 Part 1 Class 1

Rear extension and front porch at Kilcatherine, Ardgroom for John and Tracey O'Sullivan

#### Site

The site lies in a highly elevated coastal position at Kilcatherine with spectacular coastal views and within the High Value Landscape and moreover within the Cleanderry Wood SAC Special Area of Conservation (Code 001043). The site entrance has very poor emerging sightlines due to the alignment of the narrow twisting road (L-4910-74) which is also a dedicated Scenic Route. Close to the site to the south west stands a one and a half storey and still unoccupied dwellinghouse permitted under planning reference 04/7228 in 2004 to the stated applicant Sean O'Sullivan.

#### Background

This site was recently visited on the 26<sup>th</sup> July 2022 in connection with a proposed dwellinghouse under PPW 22/506. During this pre planning inquiry two unauthorised agricultural buildings, that were not even plotted on the plans, came to the attention of the Council's ecologist who has raised concern since they are sited around 30 metres to the north east of the dwellinghouse and within the Cleanderry Wood Special Area of Conservation with tree felling most apparent (see aerial photographs) and consequently a "warning letter" dated 6<sup>th</sup> October 2022 was issued under enforcement reference SKB220076. That is a separate and ongoing enforcement matter suffice to register it is not possible to grant retrospective planning permission which raises "Appropriate Assessment" issues as set out under Section 34 (12) of the Planning and Development Act 2000. The department has recently confirmed that the developer has now appointed an ecologist who is on leave for all of June but "therefore matters will be held in abeyance and reviewed in September 2023" (SKB220076).

#### First Section 5 application: D/3/23

The same applicants recently submitted Section 5 application for a rear extension on the front porch under planning reference D/3/23. Following two report(s) dated 23<sup>rd</sup> February 2023 25<sup>th</sup> March 2023 it was determined on the 30<sup>th</sup> March 2023 that was the front porch constituted "exempt development" having regard Schedule 2, Part 1, Class 7 of the Planning and Development Regulations 2001-2022 subject to strict compliance with the three conditions attached to Class 7. However, it was also determined in the same decision letter dated 30<sup>th</sup> March 2023 that the proposed rear extension did <u>not</u> constitute "exempt development" since it exceeded 40.00 square metres the maximum permissible as follows:

The ground and first floor rear extension and associated works, as detailed in the plans and particulars received on the 2<sup>nd</sup> February 2023 and the further plans and particulars received on the 8<sup>th</sup> March 2023 does <u>NOT</u> constitute "exempt development" under Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001-2022 since having regard to the meaning of Gross Floor Space, the total new floorspace

created, including the area of the rear wall, is in the order of 45.12 square metres which exceeds the maximum tolerances of 40.00 square metres under Condition 1(a) of Class 1.

Indeed the Planning Authority was satisfied that at 45.12 square metres of new floor space allowing for the rear walls of the dwelling to be demolished and removed that this constituted new floor space and this was not in doubt. No appeal against this decision was made rather the developer has submitted this revised application under planning reference D/19/23 that was received on the 11<sup>th</sup> May 2023. This now indicates the size of the proposed rear extension has now been reduced to 36.90 square metres.

# Second Section 5 application D/19/23

This second Section 5 application should be considered against Class 1 of Schedule 2, Part 1 of Article 6 of the Planning and Development Regulations 2001-2023. In addition, it should be set against Article 9 (1) of the Planning and Development Regulations 2001-2023.

Clearly the rear extension reduced to <u>36.90 square metres</u> is now below the maximum permissible at 40.00 square metres and given that it had previously been adjudicated that the side lean-to was part of the original house it concluded that this revised application constitutes "exempt development." Although the site lies within Cleanderry Wood SAC Special Area of Conservation (Code 001043) it is <u>not</u> "de-exempted" on that basis and the Councils Ecologist previously raised no concerns as set out in the report dated 20<sup>th</sup> February 2023 (copy attached) that had contained the following conclusion:

"Having regard to the proposal as presented, I am satisfied that the proposal is not likely to have a significant effect on the integrity of a European Site and therefore a Stage 2 Appropriate Assessment is not required and it will not have a significant effect on any features or other objects of ecological interest."

Given the longstanding curtilage of the dwellinghouse that response is concurred that in this case this smaller extension is <u>not</u> "de-exempted" on the grounds of (vi) ecology interest and the European Site (viiB) of Cleanderry Wood Special Area of Conservation.

Equally whilst the emerging visibility is limited, this is an existing entrance and there would be no good reason to "de exempted" the application on that basis the Area Engineer under the previous report and e-mail dated 13<sup>th</sup> February 2023 (copy attached) have not raised a specific objection.

Finally, the original report dated 23<sup>rd</sup> February 2023 (D/3/23) highlighted the tree felling and unauthorised agricultural buildings within the Cleanderry Wood Special Area of Conservation (Code 001043) and consequently the *warning letter*" dated 6<sup>th</sup> October 2022 issued under enforcement reference SKB220076. That remains to be the subject of a separate and ongoing enforcement matter as outlined above but does not affect this Section 5 decision (D/19/23).

# Recommendation

The ground and first floor rear extension and associated works, as detailed in the plans and particulars received on the 11<sup>th</sup> May 2023 constitutes "exempt development" under Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001-2023 since the total new floorspace created, including the area of the rear wall, at 36.16 square metres which is below

maximum tolerances of 40.00 square metres under Condition 1(a) of Class 1. Compliance is also required to all of the seven conditions attached to Class 1.

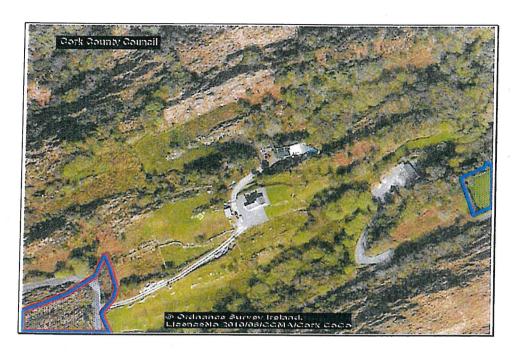
P. O'Sullivan: Executive Planner 15<sup>th</sup> May 2023

# **ENC**

c.c Aidan Prendergast, Area Engineer c.c Ian McDermott, Ecological Unit

# **APPENDIX**





2011-2012



<u>2005</u>





















Ref. D/3/23 Proposal to build an extension to the rear of existing house at Cleandra, Ardgroom, Beara, Co. Cork.

The subject Section 5 Declaration application has been referred to this department to confirm whether any ecological related restrictions on exemptions are relevant in this case. This report should be read in conjunction with the application material received.

This section 5 declaration application queries whether the proposed extension of an existing dwelling at Cleandra, Ardgroom, Beara, Co. Cork is exempt from planning permission.

#### **Article 9 Restrictions Assessment**

Should the proposal be considered under Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) which is for the '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.' development to which Article 6 of the Planning and Development Regulations 2001 (as amended) relates shall not be exempted development for the purposes of the Act should any Article 9 restrictions apply.

I have reviewed the proposal having regard to the Article 9(1)(a)(vii), (viiB) and (viiC) which include ecological related restrictions on Article 6 exemptions as detailed in columns 1 and 2 of Table 1 below. I include my conclusion in relation to this assessment in column 3 of Table 1 below.

Table 1: Article 9 Restrictions Assessment (Ecological Related)

Relevant Provisions	Detailed Provisions	Conclusion of Assessment
Article 9 (1)(a)(vii)	consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,	The proposed development is located within the curtilage of an existing dwelling and will impact habitats of low ecological value.  Therefore, I am satisfied that the proposal as presented will not have a significant effect on any features or other objects of ecological interest in respect of this Article 9 restriction on exemption.
Article 9 (1)(a)(viiB)	comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,	While the proposed development footprint is located within the Cleanderry Wood SAC Special Area of Conservation (Site Code 001043), the proposed development will not impact or contravene the conservation objectives of the qualifying interests of same. The proposed works will take place within the curtilage of the existing dwelling and impact habitats of low ecological value that do not correspond to qualifying interests of the SAC i.e. Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] or have the potential to support qualifying species i.e. Trichomanes speciosum.  Therefore, I am satisfied that the proposed development is not likely to have a significant effect on the integrity of a European Site and therefore a Stage 2 Appropriate Assessment is not required in relation to the development.

Article 9	consist of or comprise development which would	I am satisfied that the proposal will
(1)(a)(viiC)	be likely to have an adverse impact on an area	not have an adverse impact on a
	designated as a natural heritage area by order	natural heritage area.
	made under section 18 of the Wildlife	
	(Amendment) Act 2000.	Λ.

#### Conclusion

Having regard to the proposal as presented, I am satisfied that the proposal is not likely to have a significant effect on the integrity of a European Site and therefore a Stage 2 Appropriate Assessment is not required and it will not have a significant effect on any features or other objects of ecological interest.

Ian McDermott

Assistant Ecologist - Ecology Office

20/02/2023

From: Aidan Prendergast < Aidan. Prendergast @CorkCoCo.ie>

Sent: Monday 13 February 2023 15:57

To: Phillip O'Sullivan < Phillip.OSullivan@CorkCoCo.ie>

Subject: RE: D/3/23 - John O'Sullivan-

#### Hi Philip,

Given that it is an extension to an existing dwelling with pre-existing traffic generation, the question of traffic safety would not arise. It would not of course exclude the owner from improving the situation for his and his family's benefit.

Regards, Aidan



# CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

#### APPLICANT CHECKLIST

4 No. Copies of Application Form:

1 No. Copy of Contact Details:

4 No. Copies 6" O.S. Maps: 4 No. Copies 25" O.S. Maps:

4 No. Copies of Site Layout Plan:

4 No. Copies Scaled Drawings of Development:

€80 Application Fee:

# (Please tick $\sqrt{\ }$ )



# FOR OFFICE USE ONLY

Receipt No.	
Cash/Cheque/	
Credit Card	
Date	
Declaration	
Ref. No.	

DATE STAMP HERE

You should make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed by the public. Please do not submit any information that you do not want 3<sup>rd</sup> parties to view.

In the case of a Declaration of Exemption for Land Reclamation, the following additional information is required:

- A copy of the details submitted to the Council's Environment Department (Inniscarra) for a Waste Licence Permit
- Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural purposes)
- Details of existing and proposed levels
- Details of fill material and duration of fill.

#### DATA PROTECTION

The planning process is an open and public one. In that context, all applications for Declarations of Exemption are made available for public inspection.

Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data is a key priority for the Council and your data will be processed in line with our Privacy policy which is available at http://www.corkcoco.ie/Privacy-Policy or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to dpo@corkcoco.ie or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

1. NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A - CONTACT DETAILS)

JOHN + TRACEY & SULLIVAN

2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION OF EXEMPTION IS SOUGHT:

CLEANDRA, ARD GROOM, BEARA, Co. CORK.

NORTON HOUSE, SKIDDENLEN, CO. CORK P81 AT 28

3. QUESTION/DECLARATION DETAILS:

Please state the specific question for which a Declaration of Exemption is sought Note: Only works listed and described under this section will be assessed under the Section 5 Declaration of Exemption

It is proposed to shild an extension to the rear of the existing house. We believe that at a proposed sige of 36.9 m², the proposed extension will be exampt from planning permission. The extension will be built onto the existing house, within the circular of the existing house. The house is located in an S.A.C., but we believe that the proposed extension will have no negative affect on the S.A.C. as it is being shuilt in what is essentially the back garden.

4. APPLICATION DETAILS: Answer the following if applicable. Note: Floorwalls and should be indicated in square metres	or areas are measured from the inside of the externa
(a) Floor area of existing/proposed structure(s):	EXISTING : 46.85m2
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964 (including those for which planning permission has been obtained):	Yes No No No revious planning reference(s) where applicable:
(c) If a change of use of land and/or building(s) is proposed, please state the following:	,
Existing/previous use	Proposed use W/A
(d) Are you aware of any enforcement proceedings connected to this site?	Yes 🔀 No
	If yes, please state relevant reference number(s):  REF. No.: SKB 22 076
5. LEGAL INTEREST OF APPLICANT IN T	
Please tick appropriate box to show applicant's legal interest in the land or structure:	A. Owner B. Other
Where legal interest is "Other", please state	110
your interest in the land/structure:	N/A
If you are not the legal owner, please state the name of the owner/s (address to be supplied at Question C in Contact Details):	N/A MARCHA 17 MINGAL
6. PROTECTED STRUCTURE DETAILS / A	RCHITECTURAL CONSERVATION AREA:
Is this a Protected Structure/Proposed Protected Structure:  Yes No	ecture or within the curtilage of a Protected
If yes, has a Declaration under Section 57 of the Plan or issued for the property by the Planning Authority:	Yes No No NA
If yes, please state relevant reference No	N/A
Is this site located within an Architectural Conservat	ion Area (ACA), as designated in the County
Development Plan? Yes No	o 🔀
7. APPROPRIATE ASSESSMENT: Would the proposed development require an appropage a significant effect on the integrity of a Europe	

the proposed extension will have 3 no significant effect on the S.A.C. It is a simple extension to the rear of the house.

#### 8. DATA PROTECTION DECLARATION:

In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at http://www.corkcoco.ie/privacy-statement-cork-county-council or in hardcopy from any Council office; and to having your information processed for the following purposes:

Processing of your Declaration of Exemption application by the Planning Authority

I give permission for my personal information to be processed for the purpose stated above		
Signed (By Applicant Only)	John . Inllemin.	ON BEHALF OF JOHN + TRACEY O' SULLIVAN.
Date	10/05/2023	

# GDPR Special Categories of data / Sensitive Personal data - Explicit Consent

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, explicit consent to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:

- Race
- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data

[ ] .

- Concerning a natural person's sex life
- Sexual orientation

In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at https://www.corkcoco.ie/privacy-statement-cork-county-council or in hardcopy from any Council office; and to having your information processed for the following purposes:

### Sensitive personal data being submitted in support of Declaration of Exemption Application

X I give perm	ssion for my sensitive personal data submitted to the Planning Authority to be processe
for the purpose.	ated above.
Signed	Jahr · Salum
Date	10/05/2023

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planninginfo@corkcoco.ie or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcorkplanninginfo@corkcoco.ie However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.

#### **ADVISORY NOTES:**

The application must be accompanied by the required fee of €80

The application must 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 Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- 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 of Exemption is sought.
- Any person issued with a Declaration of Exemption may on payment to An Bord Pleanála refer a Declaration of Exemption for review by the Board within 4 weeks of the date of the issuing of the Declaration of Exemption decision.
- In the event that no Declaration of Exemption 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 of Exemption was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption 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.

9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the <u>Planning and Development Acts 2000</u>, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	gen - Sullin
Date	10/05/2023

Mountain Mountain Ardgroom, Dhá Dhrorn

Figure 1 Site Location Scale 1/50,000

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1 1 MAY 2023

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NORTON HOUSE, SHUBERIETH, CO. COMPRESS P.

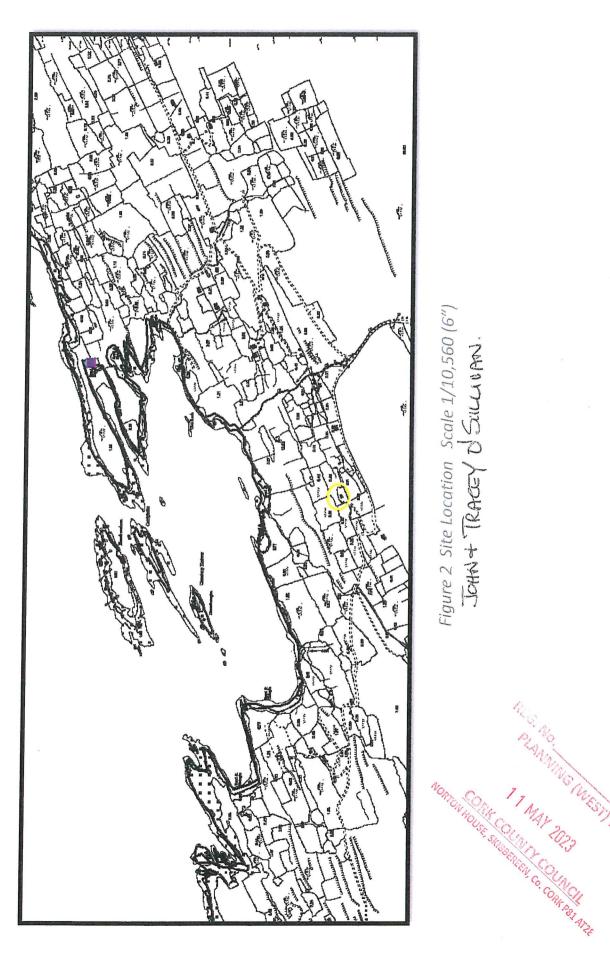


Figure 2 Site Location Scale 1/10,560 (6")
JOHN + TRACEY & SULLIBRY.

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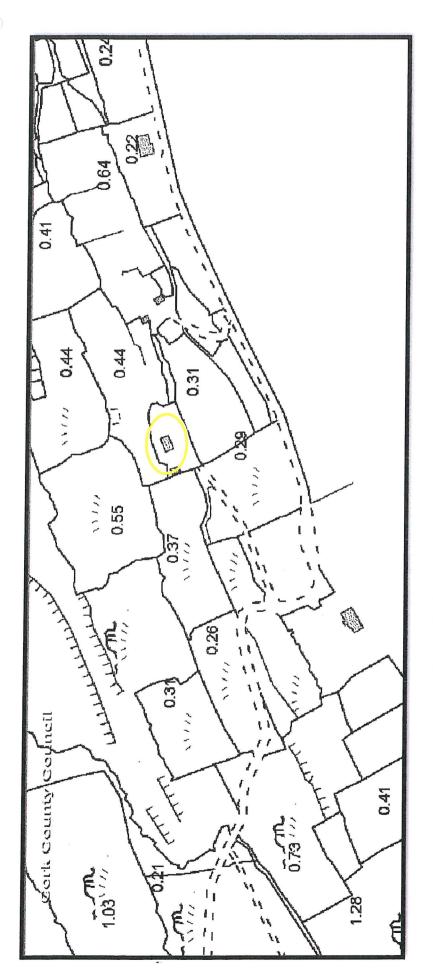
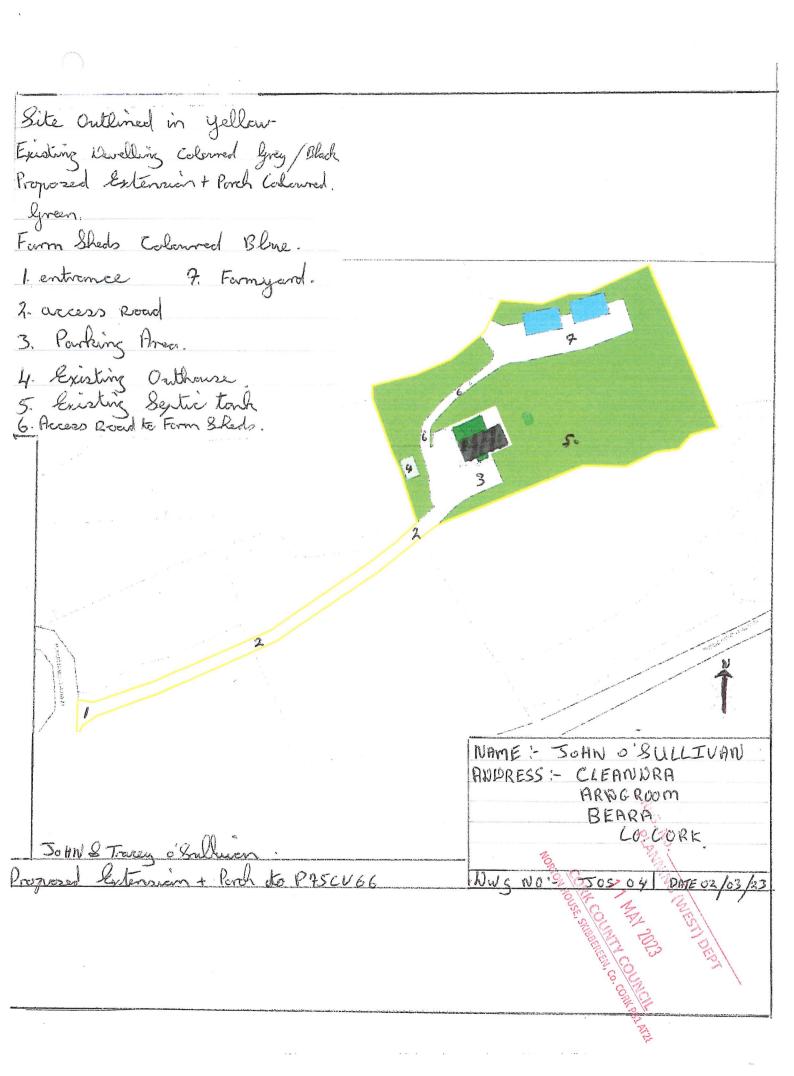


Figure 3 Site Location Scale 1/2500 (2,500")

(EHN & TRACE OF SULLIDAN)



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