Richard & Pasqueline Doyle, C/O Samuel V. Holt, Architectural & Planning Consultants, Clybwee, Charleville, Co. Cork

7th January, 2025

REF:

D/286/24

LOCATION:

Cappard Lodge, Limerick Road, Charleville, Co. Cork

RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 - 2010.

Dear Sir/Madam,

On the basis of the information submitted by you on 3rd November, 2024 the Planning Authority, having considered whether the retention change of use of restaurant to dwelling at **Cappard Lodge**, **Limerick Road**, **Charleville**, **Co. Cork** is or is not development or is or is not exempted development, has declared that it is **not exempted development**.

Reason for Decision

The Planning Authority in considering this referral, had particular regard to

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- Articles 6(1), 9(1) and 10 of the Planning and Development Regulations 2001-2024, (as amended)
- The planning application history relating to the site
- The nature, extent and scope of the development outlined in the documentation submitted on 3rd November, 2024

And Whereas the Planning Authority hereby decides that

The retention of change of use of restaurant to dwelling at Cappard Lodge, Limerick Road, Charleville is not exempted development. The provisions of sub article 10(6) of the Planning and Development Regulations 2001 (as amended) (introduced by way of S.I. No. 75/2022 Planning and Development Act (Exempted Development) Regulations 2022) are noted. This sub-article only relates to a proposed development that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2. Restaurant use is not listed under any of these classes. Also, this sub-article only relates to a proposed development during the period from 8th February

2018 to 31st December 2025. The subject property changed use well in advance of this period.

Accordingly, it is considered that the change of use from restaurant to residential dwelling is not exempted development.

NOW THEREFORE, Cork County Council, in exercise of the powers conferred on it by Section 5 of the 2000 Act, hereby decides that the retention of the change of use of restaurant to residential dwelling at Cappard Lodge, Limerick Road, Charleville, Co. Cork **IS NOT exempted development.**

Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Yours faithfully,

PIO TREACY,

ADMINISTRATIVE OFFICER, PLANNING DEPARTMENT.

Planning and Development Directorate Section 5 – Application for Declaration of Exemption Certificate



Ref: D/286/24 – Section 5 Declaration

Name: Richard Doyle & Pasqueline Doyle

Development: Querying if the retention of change of use of restaurant to dwelling at Capard Lodge,

Limerick Road, Charleville is exempted development

Site Location/Address: Capard Lodge, Limerick Road, Charleville, Co. Cork.

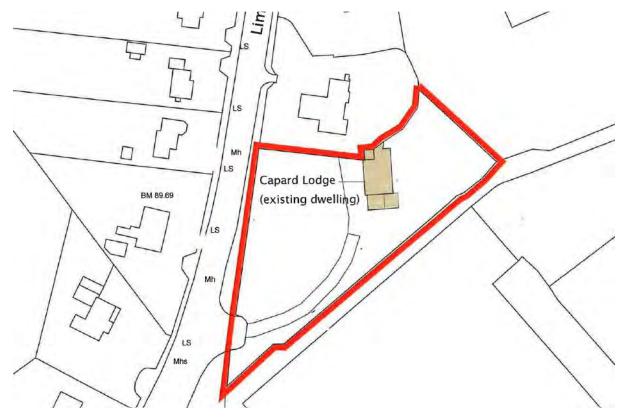


Fig.1: Submitted Site Location Map

Relevant Planning History:

Subject site:

24/6247: Richard Doyle & Pasqueline Doyle - Permission for retention for the change of use of existing premises from restaurant to dwelling house. All works are to a protected structure – **Pending Decision.**

23/6473: Richard Doyle & Pasqueline Doyle - Permission to construct a single storey dwelling using existing entrance & passageway, garage/store & ancillary works, which is within the curtilage of a Protected Structure – **Granted Permission.**

97/2132: Dermot Tansey – Hotel development to include restaurant, function room, 10 no. bedrooms, private living quarters, new entrance and car parking – **Refused.**

95/2649: Kevin O'Farrell - Construction of extensions and change of use of existing restaurant to hotel and car parking – **Granted (not implemented).**

94/44: Kevin O'Farrell - Construction of kitchen extension to restaurant - Granted.

93/2930: Kevin O'Farrell - Change of use of residence to restaurant and erection of roadside sign — **Granted.**

Question subject of the Section 5:

On the basis of the information submitted the question to be addressed under this request is as follows:

Whether the retention of the change of use from restaurant to dwelling at Capard Lodge, Limerick Road, Charleville is exempted development?

Legislative Context:

Planning and Development Act 2000 (as amended)

Section 3(1) of the Act states 'development' means:

"In this Act, except where the context otherwise requires, "development" means— (a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or (b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021)"

Section 2 of the Act defines 'works' as:

"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

<u>Section 4 of the Act, as amended, sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act.</u>

Section 4 (4) of the Act, as amended, states as follows:-

4 (4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Planning and Development Regulations 2001 (as amended)

Article 6 states:- (1) Subject to Article 9, development of a class specified in column 1 part 1 of schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said part 1 opposite the mention of that class in the said column 1.

Article 9 sets out that development to which article 6 relates shall not be exempted development if the carrying out of such development would conflict with certain criteria.

Article 10 Changes of Use of the Planning and Development Regulations 2001 (as amended) outlines that the classes of use specified in Schedule 2, shall be exempted development for the purposes of the Act, if the works carried out are exempted development.

Internal Consultees:

Conservation Officer - Given that the original use of the building was a dwelling I think there is no issue from a conservation perspective with the change of use.

County Archaeologist – I consider that the retention of change of use will have no archaeological implications/impacts to the nearby Recorded Monument RMP CO002-060 Enclosure.

Assessment:

"Is or is not development?"

The change of use from restaurant to residential dwelling is a material change of use and therefore it considered to be development.

• "Is or is not exempted development?"

Class 14 of Part 1 of Schedule 2 of the Regulations make provision for development consisting of a change of use of a restaurant to use as a shop. There is no exempted development provision for a change of use from restaurant to dwelling under this class or in the Act/Regulations.

The provisions of sub article 10(6) of the Planning and Development Regulations 2001 (as amended) (introduced by way of S.I. No. 75/2022 Planning and Development Act (Exempted Development) Regulations 2022) are noted.

This sub-article only relates to a proposed development that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2. Restaurant use is not listed under any of these classes.

Also, this sub-article only relates to a proposed development during the period from 8th February 2018 to 31st December 2025. The subject property changed use well in advance of this period.

Accordingly, it is considered that the change of use from restaurant to residential dwelling is not exempted development.

Environmental Impact Assessment (EIA) and Appropriate Assessment (AA)

Notwithstanding any exemptions within the regulations, Section 4(4) of the Act states that:

"development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required".

In terms of EIA and Appropriate Assessment, the nature and scale of works are unlikely to have had a significant effect on the environment or on designated sites. On this basis it is considered that the development does not fall within the scope of Section 4(4) of the Act.

Conclusion

Is development and is not exempted development.

Recommendation:

WHEREAS a question has arisen as to:

Whether the retention of the change of use from restaurant to dwelling at Capard Lodge, Limerick Road, Charleville, Co. Cork is exempted development?

AND WHEREAS Cork County Council, in considering this referral, had regard particularly to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Article 6(1), 9(1) and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) The planning application history relating to the site,
- (d) The nature, extent and scope of the development outlined in the documentation submitted,

AND WHEREAS Cork County Council has concluded that retention of change of use of restaurant to dwelling at Capard Lodge, Limerick Road, Charleville is not exempted development.

NOW THEREFORE, Cork County Council, in exercise of the powers conferred on it by Section 5 of the 2000 Act, hereby decides that the retention of the change of use of restaurant to residential dwelling at Capard Lodge, Limerick Road, Charleville, Co. Cork **IS NOT exempted development.**

J. Tierney

Executive Planner

06/01/202

L Anern

A/Senior Executive Planner

06/01/2025

SAMUEL V. HOLT & CO.,

Architectural & Planning Consultants,

Clybwee, Charleville. Co. Cork.

Phone: (063)89620 Mobile : (086)1948281 : Email: samholtv@gmail.com

Planning Department, Cork Co. Council, County Hall Cork.

13-12-2024

Exemption Certificate Application (Unsolicited Information).

Ref. No. D286/24

Re: Exemption Certificate Application for Retention of Change Of use from Restaurant To Dwelling House At, Capard Lodge, Limerick Road, Charleville. For Richard & Pasqueline Doyle

A Chara,

Further to the Exemption Certificate Application regarding the above, we wish to include additional unsolicited information.

The applicants bought the house from Golden Vale Ltd (now Kerry Gold) in January 2003 and lived in the building as a dwelling only, since that time.

The only alteration carried out, was the replacement of the commercial kitchen equipment with a domestic fitted kitchen.

Evidence that the building is used as a dwelling, can be seen from documents already submitted, in particular the following:

- **AIB Insurance Services** dated 11th November 2005. This indicates the building was insured as Home Insurance.
- Revenue Statement payments for property tax, which commences on 14th December 2014.

Planning History:

Planning Reg. No. 93/2930 (Granted) Change of use from Residence to restaurant and erection of road sign

Planning Reg. No. 94/0044 (Granted) Construction of kitchen extension to restaurant

Planning Reg. No. 95/2649 (Granted) Construction of extensions and change of use from restaurant to hotel and car park. (did not proceed)

SAMUEL V. HOLT & CO.,

Architectural & Planning Consultants,

Clybwee, Charleville. Co. Cork.

Phone: (063)89620 Mobile : (086)1948281 : Email: samholtv@gmail.com

Planning Reg. No. 97/2132 (Refused) Hotel Development include restaurant, function room, 10no. bedrooms, private living quarters, new entrance and car parking.

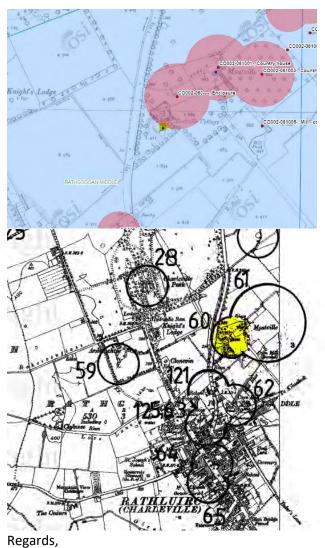
Your faithfully.

Samuel V. Holt

Hi Angela / John

I consider that the retention of change of use will have no archaeological implications/impacts to the nearby Recorded Monument RMP CO002-060 Enclosure. The Zone of Archaeological Potential (ZAP) is marked in pink below and the statutory zone of notification from the Record of Monuments and Places is highlighted in yellow.

Architecturally, Objective HE16-6 (post-medieval archaeology) applies but I note that Elena has commented on the Architectural aspect of the Section 5 and therefore in my opinion the proposed development is **Exempt**.



Annette Quinn | Oifigeach Seandálaíochta | Pleanáil agus Fobairt



CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST (Please tick $\sqrt{}$) 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: PLANNING DEPARTMENT FOR OFFICE USE ONLY Receipt No. -3 DEC 2024 Pc 2000 2445 Cash/Cheque/ CORK COUNTY COUNCIL CHEONE **Credit Card** County Hall, Cork Date Declaration 286/24 Ref. No. <u>DATÉ STAMP HERE</u>

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 3rd 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 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

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

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| (a) Floor area of existing/proposed structure | e(s): 283.35 Sq.M |
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| (b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 st October, 1964 (including those for which planning permission has been obtained): | Yes No V |
| (c) If a change of use of land and/or building is proposed, please state the following: | g(s) |
| Existing/previous use | Proposed use Existing |
| (d) Are you aware of any enforcement proceedings connected to this site? | Yes No V |
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APPLICATION DETAILS:

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

| Signed (By Applicant Only) | 255 | e processed for the purpose stated above |
|----------------------------|---------------|--|
| Date | 207 205 17024 | Parguena M'Ermud |

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

| | personal data submitted to the Planning Authority to be pro |
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| Signed | Planning Department |
| Date | |
| | 03 DEC 2024 |
| ou have the right to withdraw your consent by | contacting the Planning Department CONS QUITLY COUNCIL |

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Half, 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) | Lanuel MHoIN | |
|--|--------------|--|
| Date | 2-12-2024 | |

Planning Department

03 DEC 2024

Cerk County Council
County Hall
Cork.









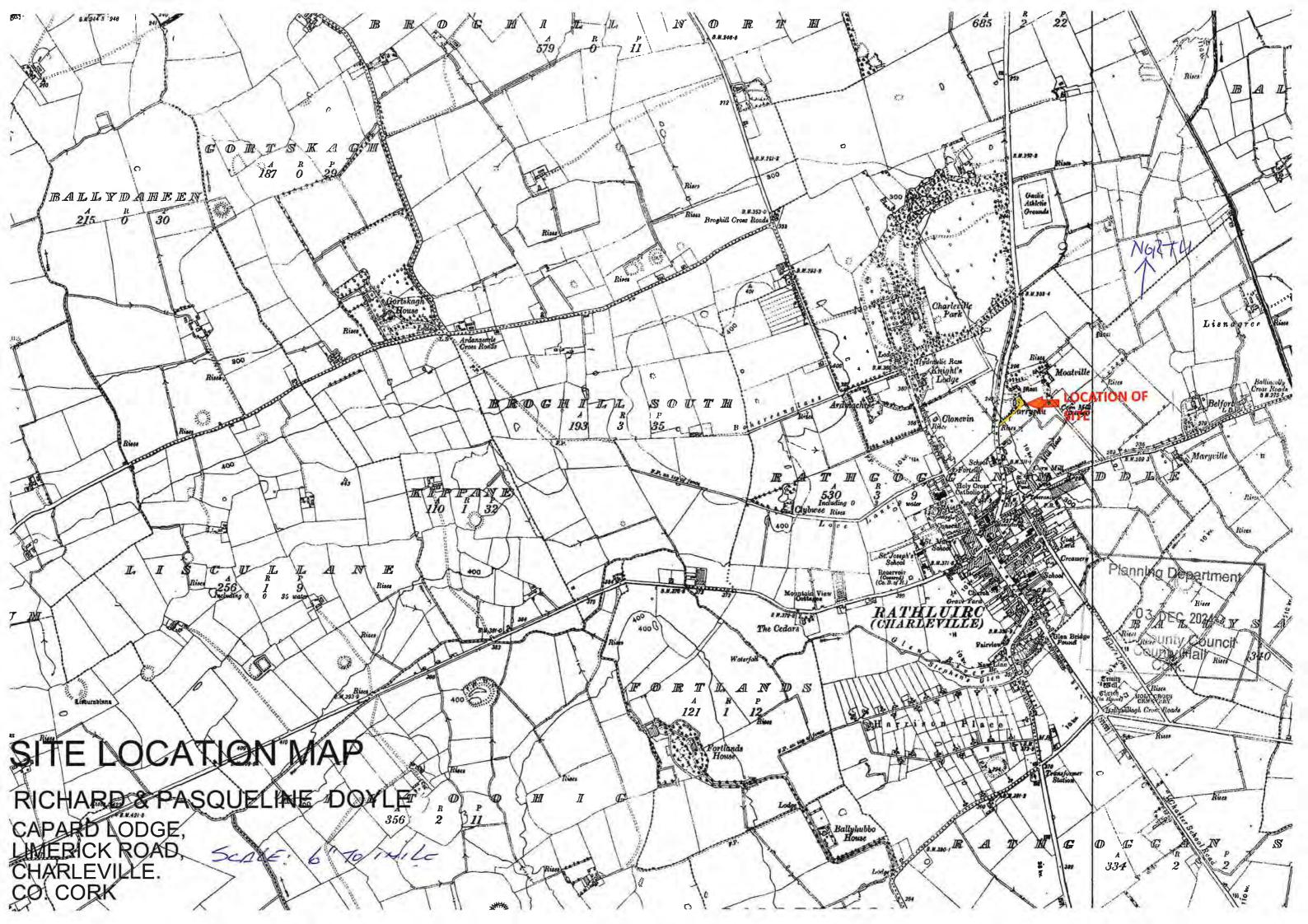
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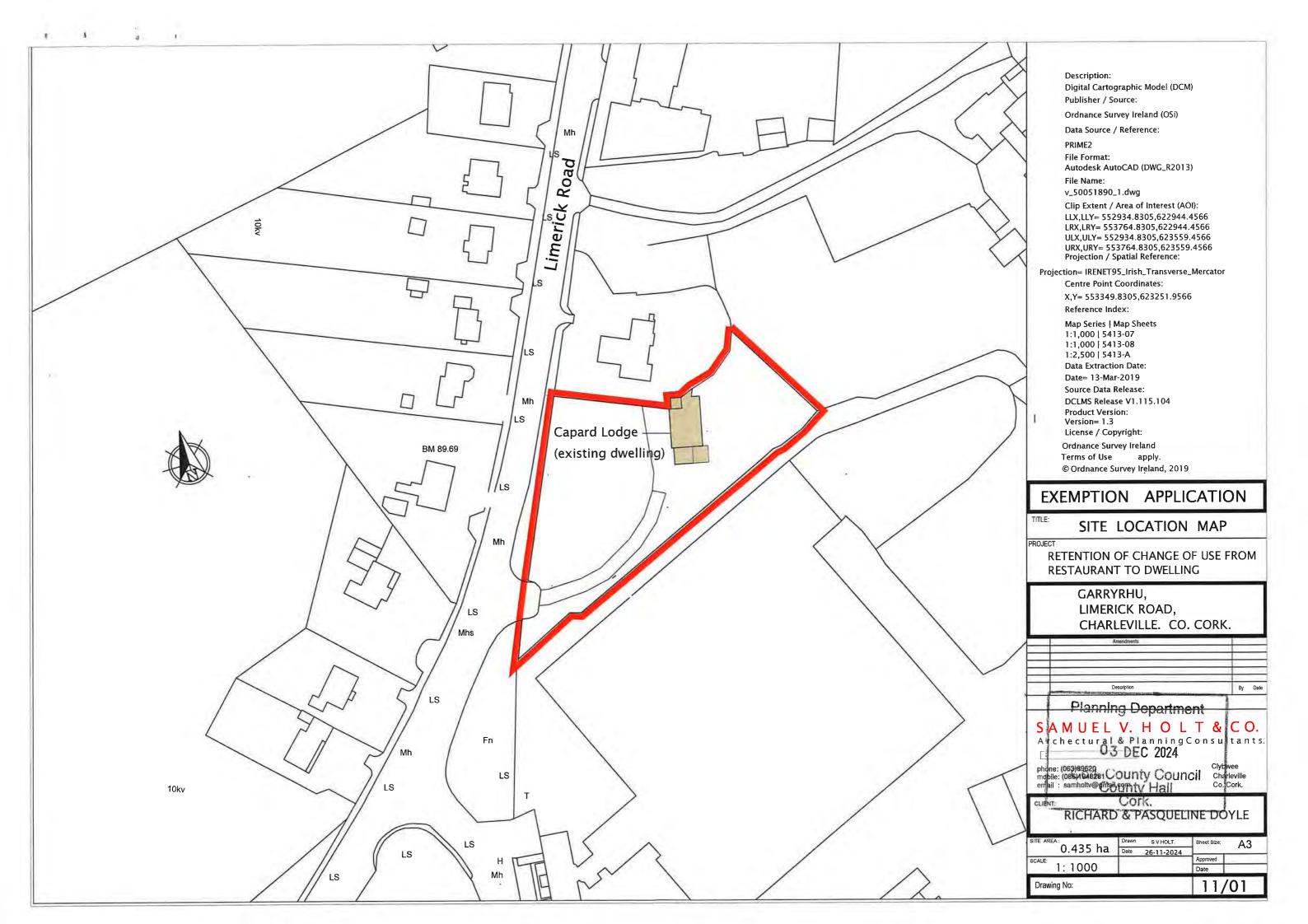


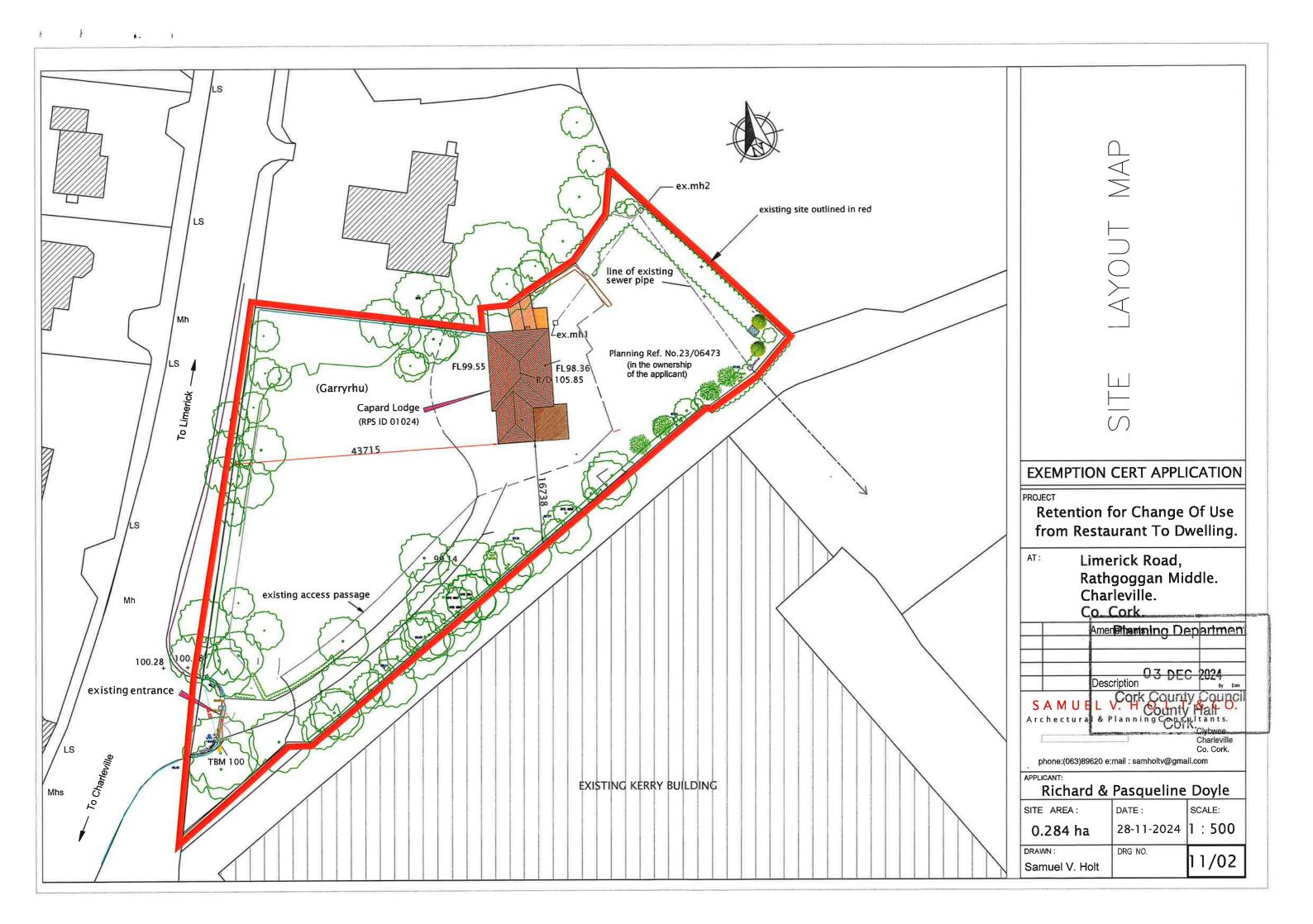


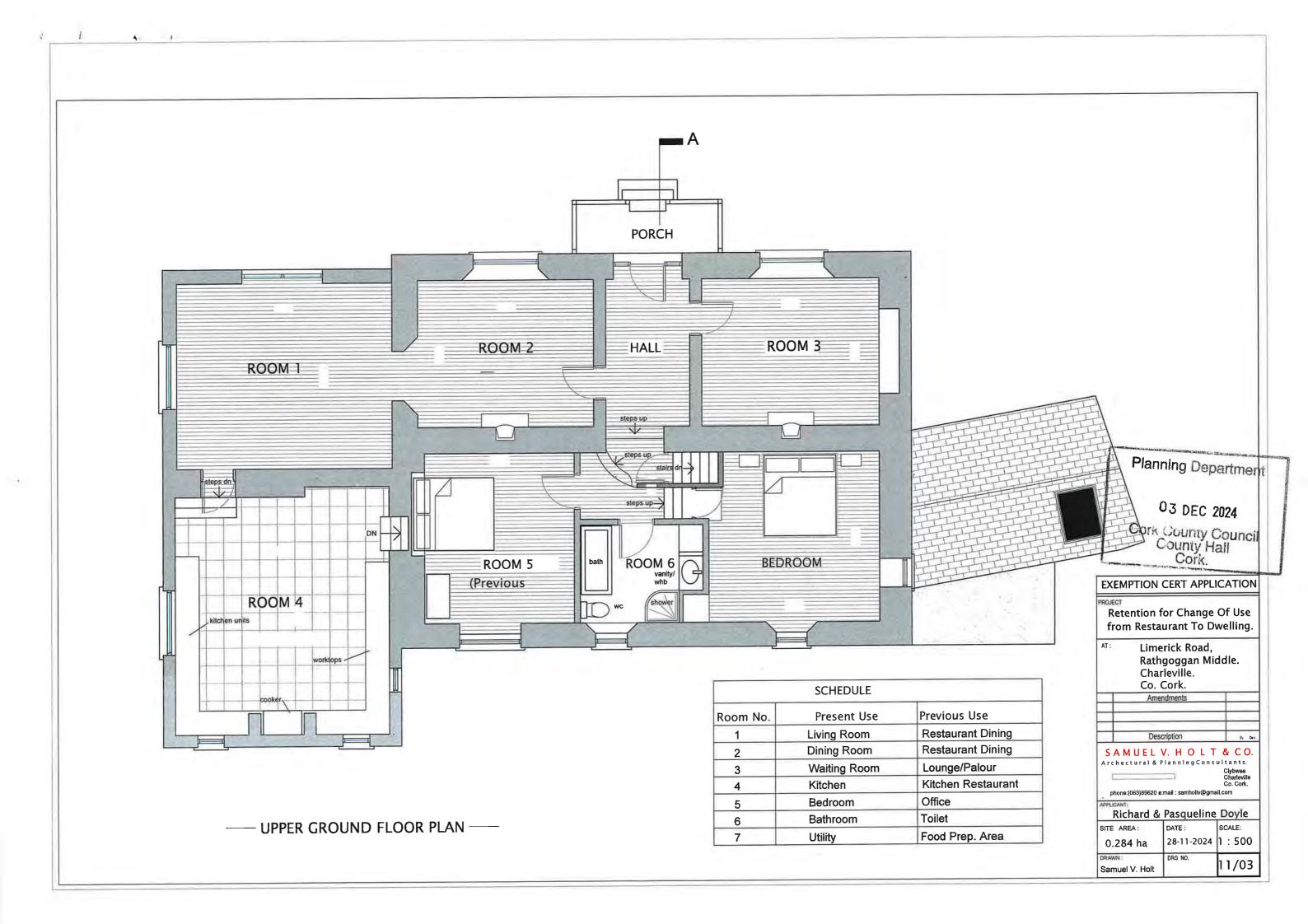


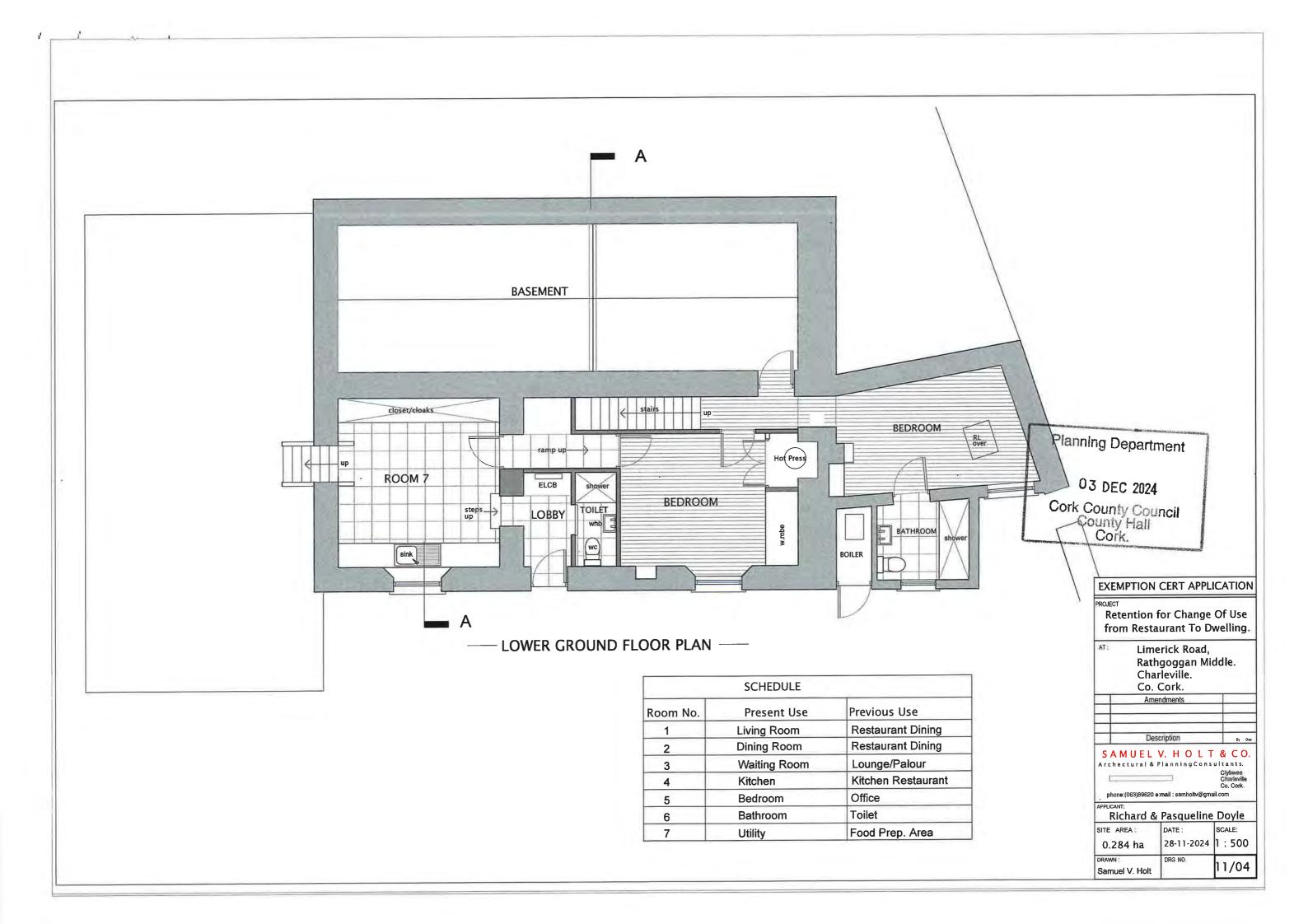


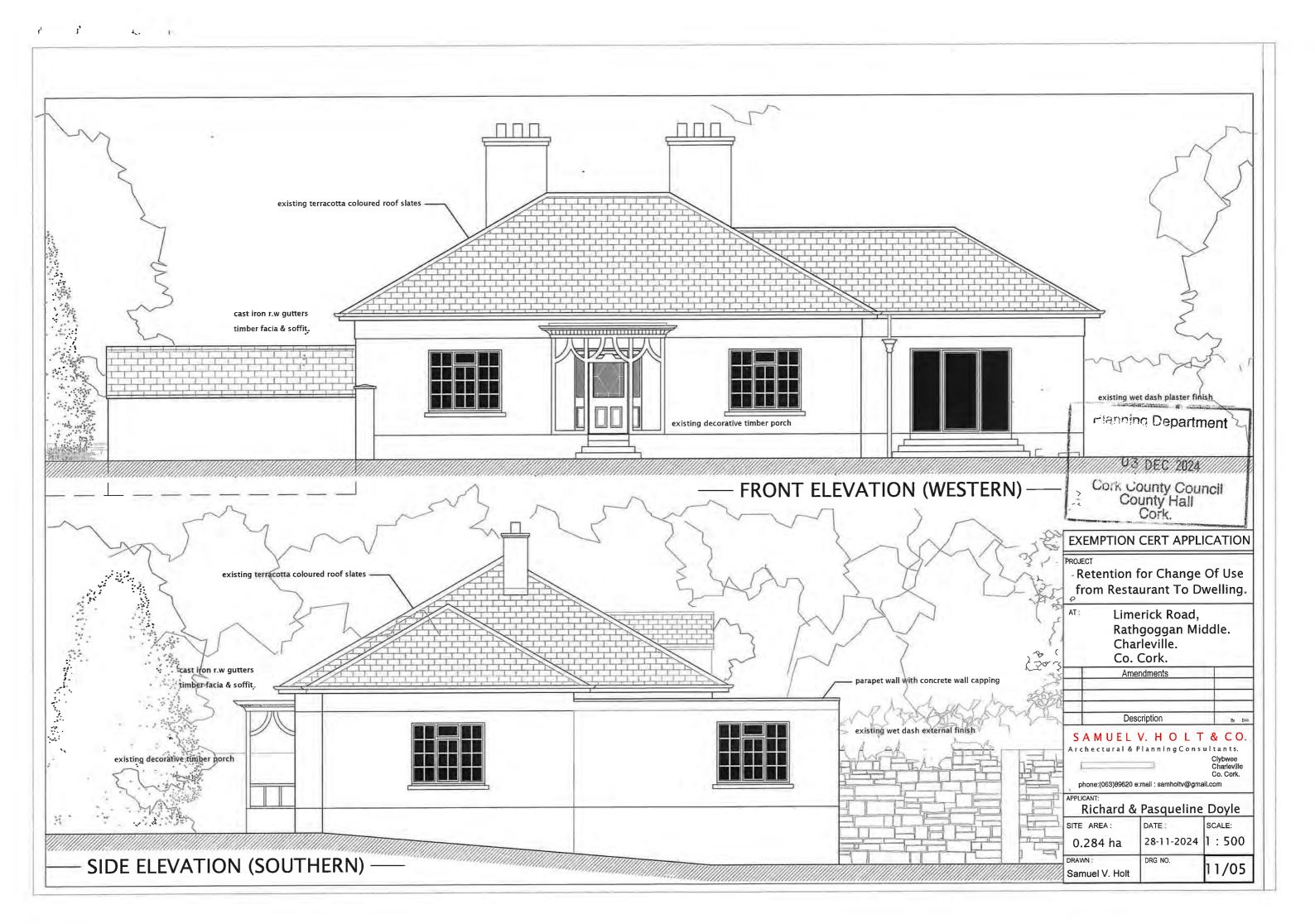














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| - | phone:(063)89620 e:mail : samholtv@gmail.com APPLICANT: | | | | | |
| - | Richard & Pasqueline Doyle | | | | | |
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