

Comhairle Contae Chorcaí Cork County Council

Caraden Developments Ltd.,
C/O Paul Matson,
The Chapel,
Blackrock House,
Blackrock Road,
Cork
T12 KRK7

Pleanáil agus Forbairt,
Halla an Chontae,
Bóthar Charraig Ruacháin,
Corcaigh T12 R2NC.
Fón: (021) 4276891
R-phost: planninginfo@corkcoco.ie
Suíomh Gréasáin: www.corkcoco.ie
Planning & Development,
County Hall,
Carrigrohane Road, Cork T12 R2NC.
Tel (021) 4276891
Email: planninginfo@corkcoco.ie
Web: www.corkcoco.ie



5th March, 2025

REF: D/211/25
LOCATION: Broomfield West, Midleton, Co. Cork

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

Dear Sir,

On the basis of the information submitted by you on 5th February, 2025 the Planning Authority, having considered whether the proposed alterations to as permitted rear elevation and first floor plans for house types A1 at **Broomfield West, Midleton, 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(1), 3(1) and 4 of the Planning and Development Act 2000 (as amended)
- The proposed modifications to permitted house types (A1) granted under Planning Registration No. 23/5461

And Whereas the Planning Authority hereby concludes that

The proposed modifications is development and is not exempted development as per Section 4(1)(h) of the Planning and Development Act as the amendments would materially affect the character of the structure relative to neighbouring structures (new overlooking impact introduced).

NOW THEREFORE, Cork County Council, in exercise of the powers conferred on it by Section 5 of the 2000 Act, hereby decides that the proposed alterations to as permitted rear elevation and first floor plans for house types A1 at **Broomfield West, Midleton, 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.**

In order to process your query, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view at <https://www.corkcoco.ie/privacy-statement-cork-county-council>

Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

D211-25- Modifications to Permitted House Types (A1)

The Question

The applicant is querying whether proposed modifications to Permitted House Types (A1) granted as part of a 16 house scheme under **PI Ref No. 23/5461** is/ is not exempted development for the purposes of the Act

Planning History



PI Ref No. 23/5461- The applicant was granted permission for the construction of 16no. dwelling units and all ancillary site works and services. This permission was an extension to an existing scheme on the adjacent site currently under construction (see PI Ref No. 18/7236 & 24/5342)

Statutory Provisions

I consider the following statutory provisions relevant to this referral case:

Planning and Development Act, 2000

Section 3 (1) states:-

“In this Act, “development” means, except where the context otherwise requires, the carrying out of works on, in over or under land, or the making of any material change of use of any structures or other land.”

Works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal”.

S4(1)(h) “for the maintenance, improvement or alteration of any structure being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures”

Section 4 (2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations, 2001.

Planning and Development Regulations, 2001

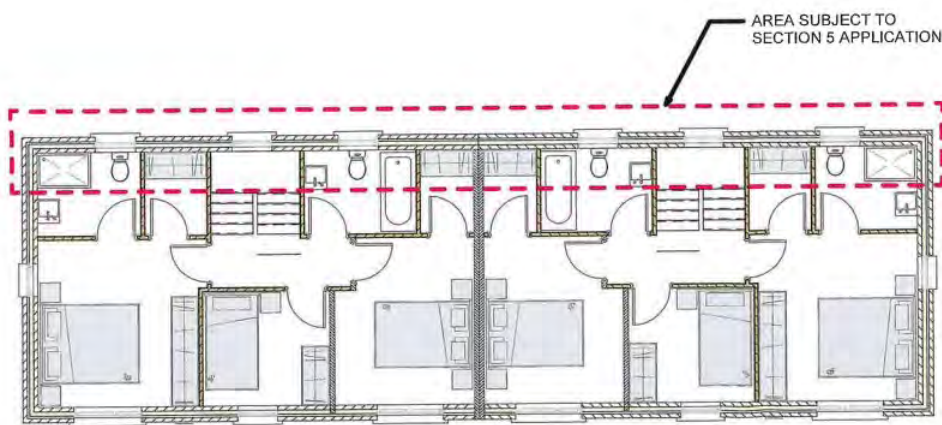
Article 6(1) of the Regulations states as follows:- *“(a) Subject to article 9, development consisting of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1*

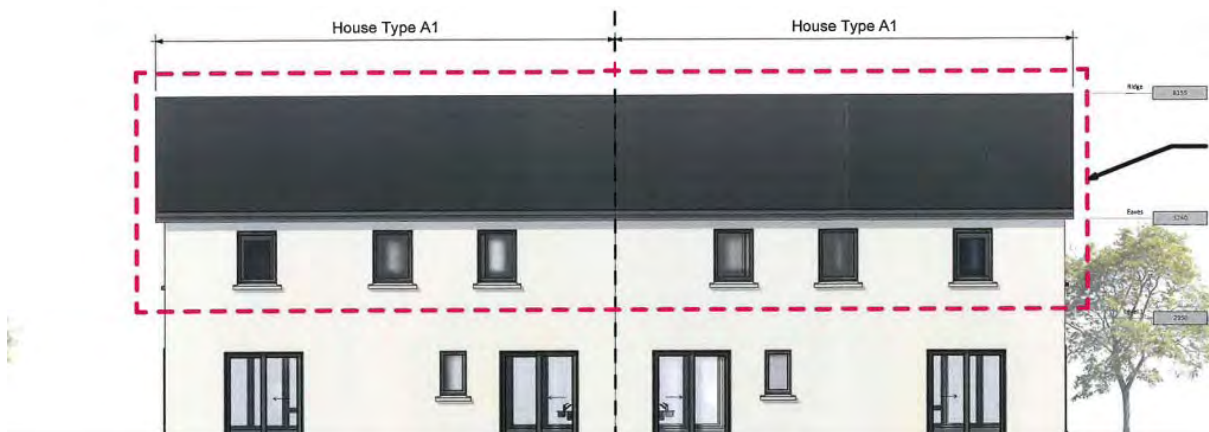
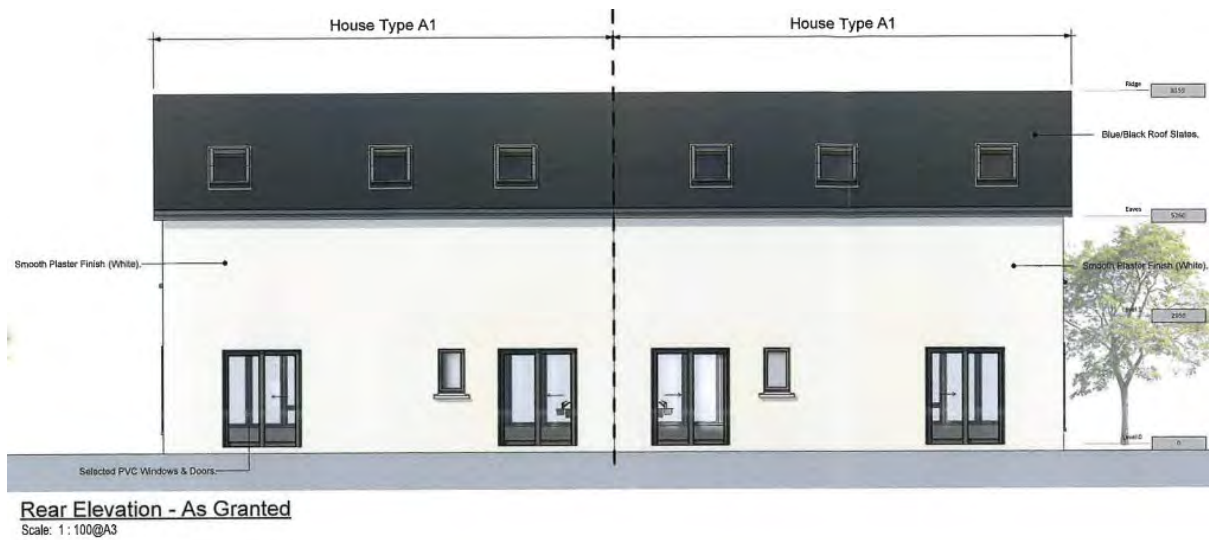
Article 9 (1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development.

Assessment

At the outset I would state that questions such as this (i.e modifications to developments under construction) are usually posed as part of “compliance” with the key consideration being the “*material*” impact of the modification being posed relative to the permitted development. In this instance the question has been posed under the S5 process but in any event the *materiality* or otherwise of the modifications will form the mainstay of the assessment

The applicant is seeking to modify permitted house type A1 (2 dwellings) by altering the rear ridge line/roof structure to allow for the addition of 6no. rear elevation windows. The permitted house type does not have first floor rear elevation windows but instead has rooflight windows positioned on the roof plane. The proposed modifications will generate a more conventional rear elevation (see illustrative images elow)





Having regard to the questions posed, the proposal constitutes “development” as set out under S3 of the Planning and Development Act 2000 in that “works” are proposed to be carried out on the site to a permitted house type. The question therefore is whether or not these “works” constitute “exempted development” for the purposes of the Act

The works could be considered to fall under the scope of S4(1)(h). This section deems works “for the maintenance, improvement or alteration of any structure being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures”.

It is clear in this instance that the rear elevation/ rooflight arrangement was inserted to limit the impact of overlooking on the rear garden space of neighboring dwelling (type A2-see layout map below). In this regard, the additional of 6no. rear first floor windows will certainly generate a new *material* impact on this permitted dwelling. On this basis I would contend that the modifications will affect the *character of the dwellings relative to neighboring*

structures and therefore fail the test set out under S4(1)(h). In reaching this conclusion I am aware of the recently published government guidelines “Sustainable residential development and compact settlements” (2024) which advocate a reduction in rear garden sizes and distance between opposing rear windows (16m). It may be that the proposed development would adhere to these new requirements however a planning application would be appropriate mechanism to test this issue as 3rd party rights would also be taken into consideration in such an appraisal



Article 9 Restrictions

Restrictions on exemptions are listed under Article 9 of the Regulations. These would not apply in the case of a consideration under S4

AA/ EIA

Section 4(4) of the Act essentially de-exempts any development which attracts a requirement for Environmental Impact Assessment (EIA) or Appropriate Assessment (AA).

In relation to EIA, part 2 of schedule 5 lists development which may require EIA for the purposes of part 10 of Part 10 of the Planning and Development Act.

Having considered that detail I am satisfied the proposal does not trigger any requirement for mandatory or sub-threshold EIA. The permitted scheme was already considered in light of these requirements. The same conclusion also holds in respect of AA

Conclusion

In considering this referral, and having had regard particularly to -

(a) Section 2(1), 3(1), 4, of the Planning and Development Act, 2000, as amended,

The Planning Authority has concluded that:

(a) the proposed modifications to Permitted House Types (A1) granted under 23/5461

Is development and is not exempted development as per S4(1)(h) of the Act as the amendments proposed would materially affect the character of the structure relative to neighbouring structures (new overlooking impact introduced)

Enda Quinn
Executive Planner
4/3/2025

23082-MMS-XX-XX-LT-X-0012

Planning Department,
County Hall,
Carrigrohane Road,
Cork
T12 R2NC

RE: Section 5 Application for House Types A1 at Broomfield West, Midleton, Cork

04th February 2025

Dear Sir/Madam,

We write in relation to the enclosed application and include the following for your attention.

- Application form
- Drawings which include the proposed changes
- Cheque in the sum of €80.

We would be obliged if you could provide us with a receipt for this application at your convenience.

Should you require any further information please do not hesitate to contact me

Yours Sincerely,



Paul Matson
Director

Murphy Matson O'Sullivan
Consulting Engineers Limited



Directors:

Martin Murphy BSc Eng FIEI C Eng • Paul Matson BSc Eng MIEI C Eng • Denis O' Sullivan BE CEng MStructE
Peter Martin BEng MEngSc CEng MIEI

Associate Directors:

Tommy O' Callaghan Dip Eng Building & Civil Eng • Michael Matson B Eng MEng CEng, MIEI
Graham Doyle BEng MEng CEng MIEI • William O' Sullivan BEng MEng CEng MIEI MStructE • Damien Behan BSc(Hons) BIM & Mgmt

Dublin Address:

51 Bracken Road, Sandyford, Dublin 18, D18 CV48 • Tel 01 - 401 6695



CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

(Please tick ✓)

- 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:**

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>

FOR OFFICE USE ONLY

Receipt No.	PC20002475
Cash/Cheque/ Credit Card	CHEQUE
Date	5/2/25
Declaration Ref. No.	D/211/25



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 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 purposes)
- 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)

Caraden Developments Ltd.

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

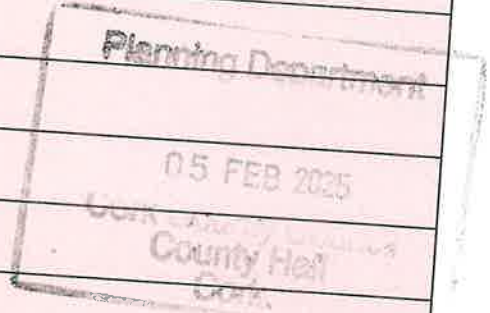
Broomfield West, Midleton, Co. Cork

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

Caraden Developments Ltd. are applying for alterations to as permitted rear elevation and first floor plans for House Types A1.



4. APPLICATION DETAILS:
 Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square metres (m²)

(a) Floor area of existing/proposed structure(s):	128.75m ²
(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 <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas (m ²) and previous 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 _____ _____ _____
(d) Are you aware of any enforcement proceedings connected to this site?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please state relevant reference number(s):

5. LEGAL INTEREST OF APPLICANT IN THE LAND/STRUCTURE:

Please tick appropriate box to show applicant's legal interest in the land or structure:	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is "Other", please state your interest in the land/structure:	Planning Department	
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):	05 FEB 2025 Wick County Council County Hall Wick Cork	

6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

Is this a Protected Structure/Proposed Protected Structure or within the curtilage of a Protected Structure:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority:	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If yes, please state relevant reference No. _____		
Is this site located within an Architectural Conservation Area (ACA), as designated in the County Development Plan?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

7. APPROPRIATE ASSESSMENT:


Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes No

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

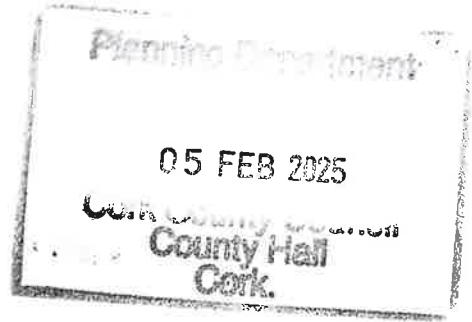
Signed (By Applicant Only)	
Date	04-Feb-2025

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

I give permission for my sensitive personal data submitted to the Planning Authority to be processed for the purpose stated above.

Signed	
Date	04-Feb-2025

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 Planning and Development Acts 2000, as amended and the Regulations made thereunder:**

Signed (Applicant or Agent as appropriate)	
Date	04-Feb-2025





NORTH

Description: Historic 6" Latest Edition

Publisher / Source: Ordnance Survey Ireland (OSi)

Data Source / Reference: CK065
Revision Date = 31-Dec-1931
Survey Date = 31-Dec-1931
Levelled Date = 31-Dec-1936

CK076
Revision Date =
Survey Date =
Levelled Date = 31-Dec-1933

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Centre Point Coordinates: X,Y = 588005.0,575218.0

Data Extraction Date: 14-Mar-2023

Product Version: 1.3

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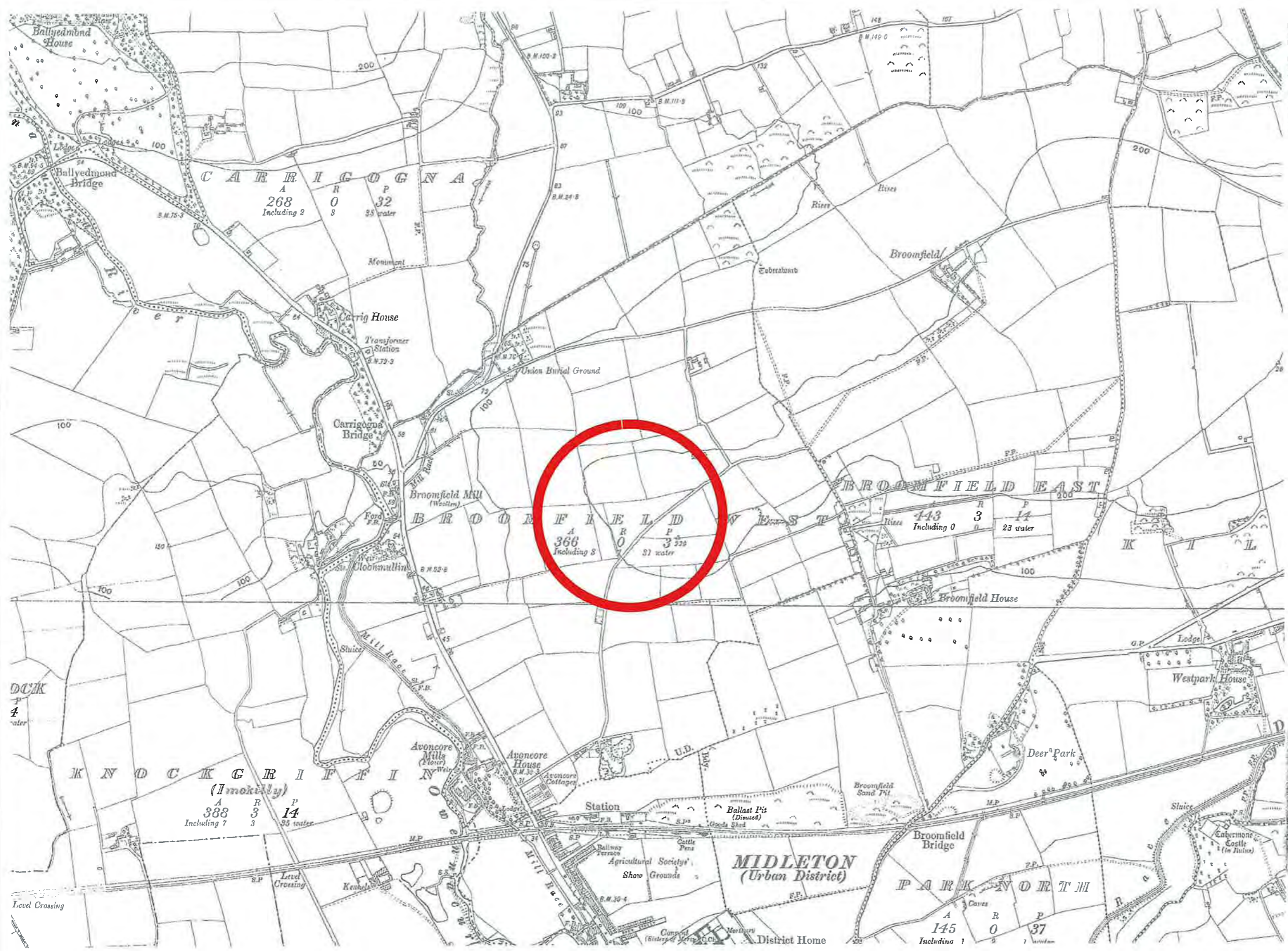
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Planning Department

05 FEB 2025

County Hall
Cork.

Housing Development At Broomfield West, Midleton
Site Location Map - Scale - 6 Inch

MMOS
MURPHY · MATSON · O'SULLIVAN
CONSULTING CIVIL & STRUCTURAL ENGINEERS

The Chapel,
Blackrock House,
Blackrock Road
Cork, T12 KRK7
Tel : 353 21 4317608

05 FEB 2025

County Council
County Hall



Description:
Digital Landscape Model (DLM)

Publisher / Source:
Ordnance Survey Ireland (OSi)

Data Source / Reference:
PRIME2

File Format:
Autodesk AutoCAD (DWG_R2013)

File Name:
v_50323091_1.dwg

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Projection / Spatial Reference:
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Centre Point Coordinates:
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Reference Index:
Map Series | Map Sheets
1:2,500 | 6342-B
1:2,500 | 6343-A

Data Extraction Date:
Date= 14-Mar-2023

Source Data Release:
DCMLS Release V1.161.114

Product Version:
Version= 1.4

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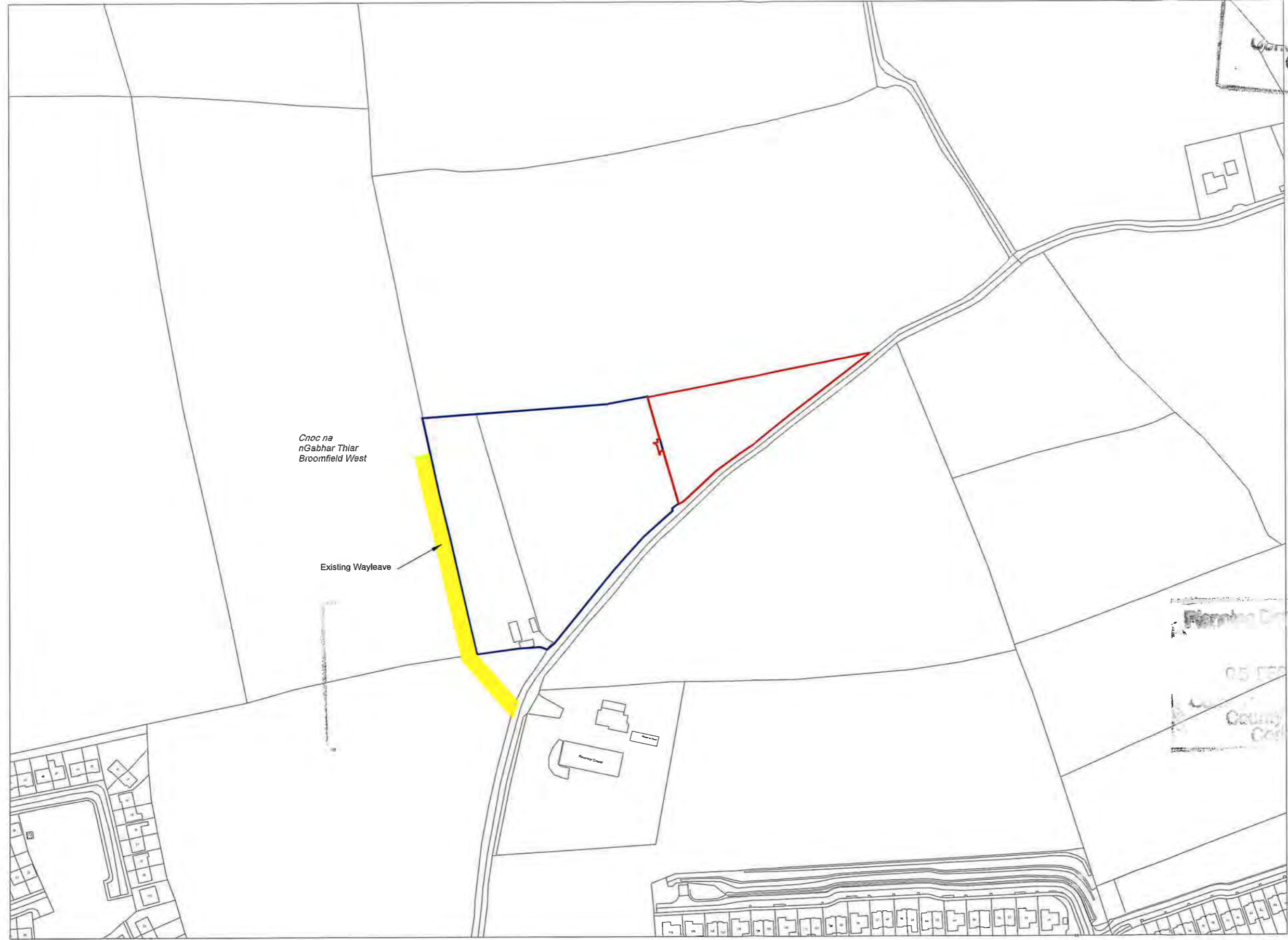
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Denotes Phase 1,
The Steeples, Broomfield, Midleton.
Planning Ref: 187236

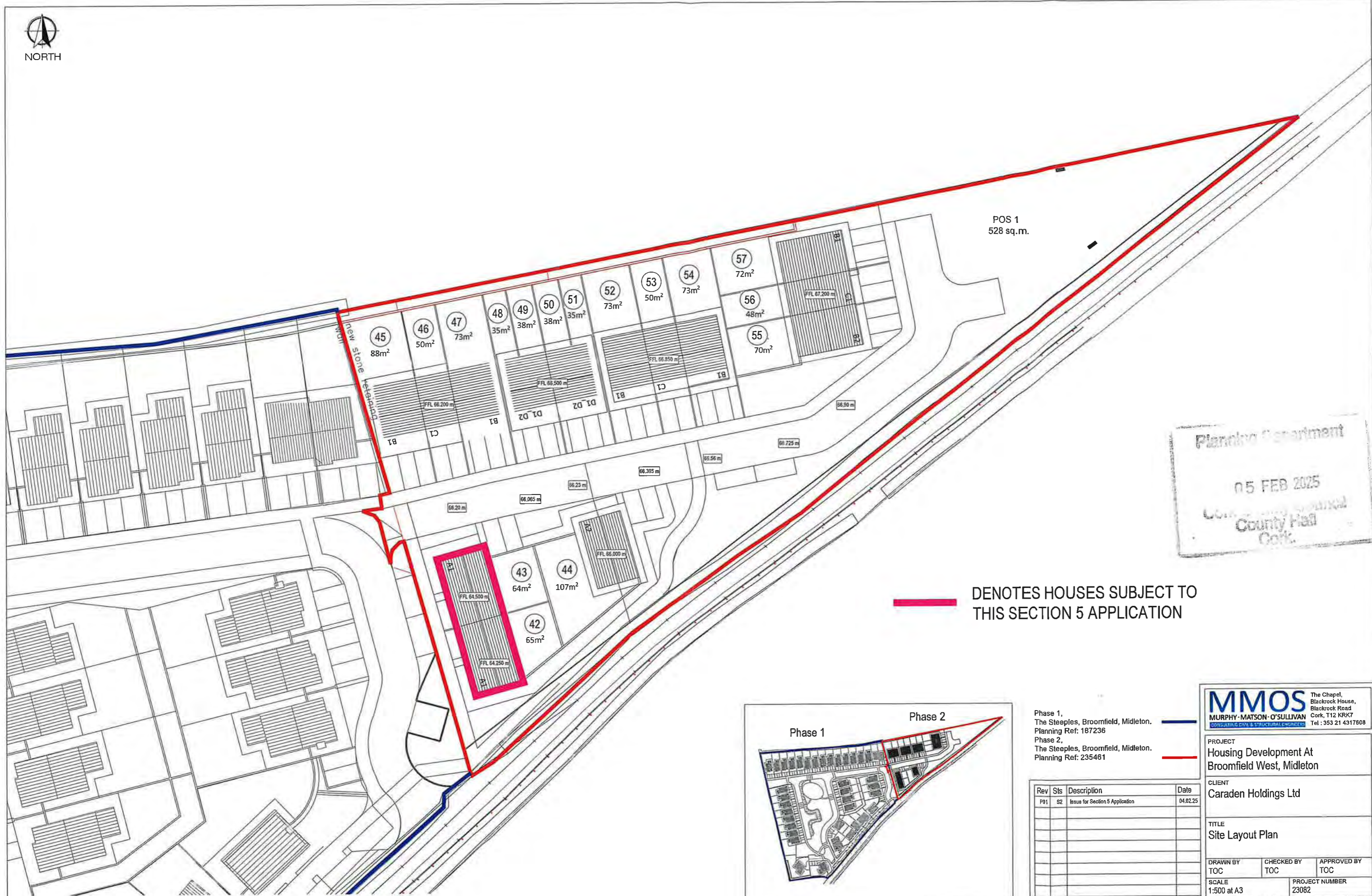
Denotes Phase 2,
The Steeples, Broomfield, Midleton.
Planning Ref: 235481



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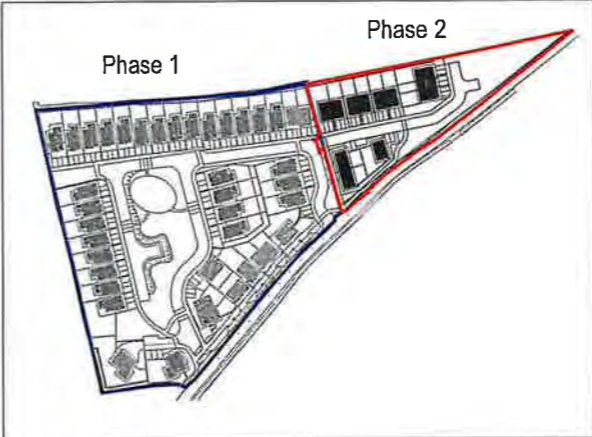
Housing Development At Broomfield West, Midleton
Site Location Map - Scale - 1:2500 at A3

MMOS The Chapel,
Blackrock House,
Blackrock Road
Cork, T12 KRK7
MURPHY · MATSON · O'SULLIVAN Tel: 353 21 4317608
CONSULTING CIVIL & STRUCTURAL ENGINEERS



Planning Department
05 FEB 2025
County Council
County Hall
Cork.

— DENOTES HOUSES SUBJECT TO THIS SECTION 5 APPLICATION



Proposed Key Plan

Phase 1,
The Steeples, Broomfield, Midleton.
Planning Ref: 187236
Phase 2,
The Steeples, Broomfield, Midleton.
Planning Ref: 235461

Rev	Sts	Description	Date
P01	S2	Issue for Section 5 Application	04.02.25

MMOS
MURPHY · MATSON · O'SULLIVAN
CONSULTING CIVIL & STRUCTURAL ENGINEERS

The Chapel,
Blackrock House,
Blackrock Road
Cork, T12 KRK7
Tel : 353 21 4317608

PROJECT
Housing Development At
Broomfield West, Midleton

CLIENT
Caraden Holdings Ltd

TITLE
Site Layout Plan

DRAWN BY TOC CHECKED BY TOC APPROVED BY TOC

SCALE 1:500 at A3 PROJECT NUMBER 23082

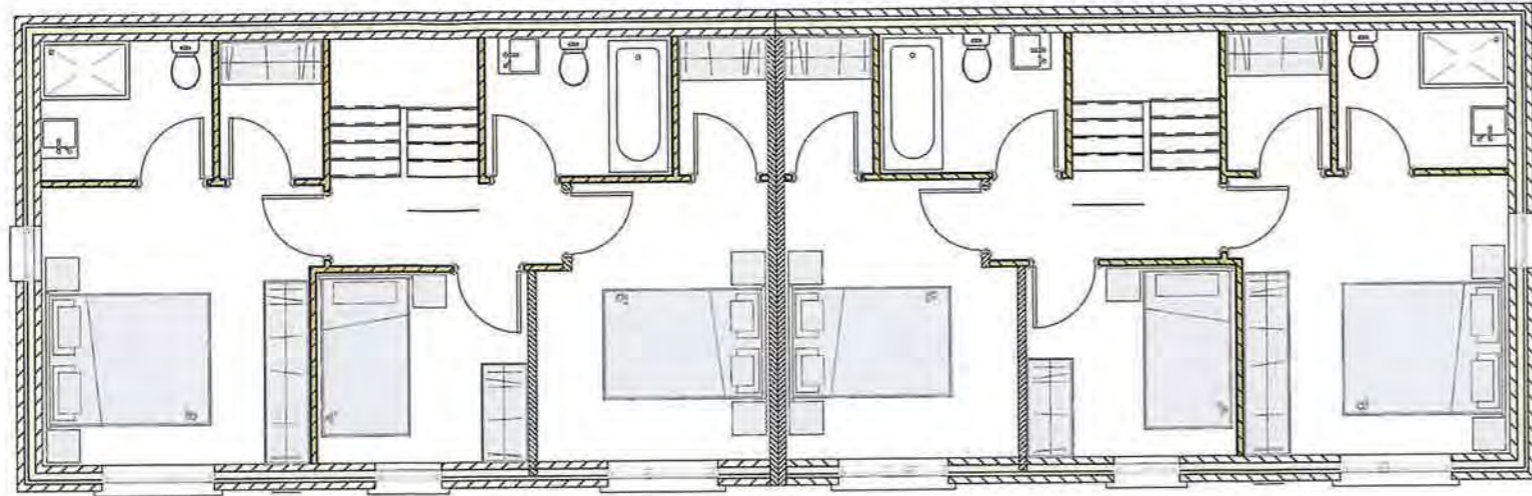
DOCUMENT REFERENCE 23082-MMS-ZZ-ST-DR-C-10000

PROJECT-ORIGINATOR-ZONE-LEVEL-TYPE-DISCIPLINE-NUMBER

STATUS: S2
REV: P01

Site Layout Plan

Scale 1:500 (A3)

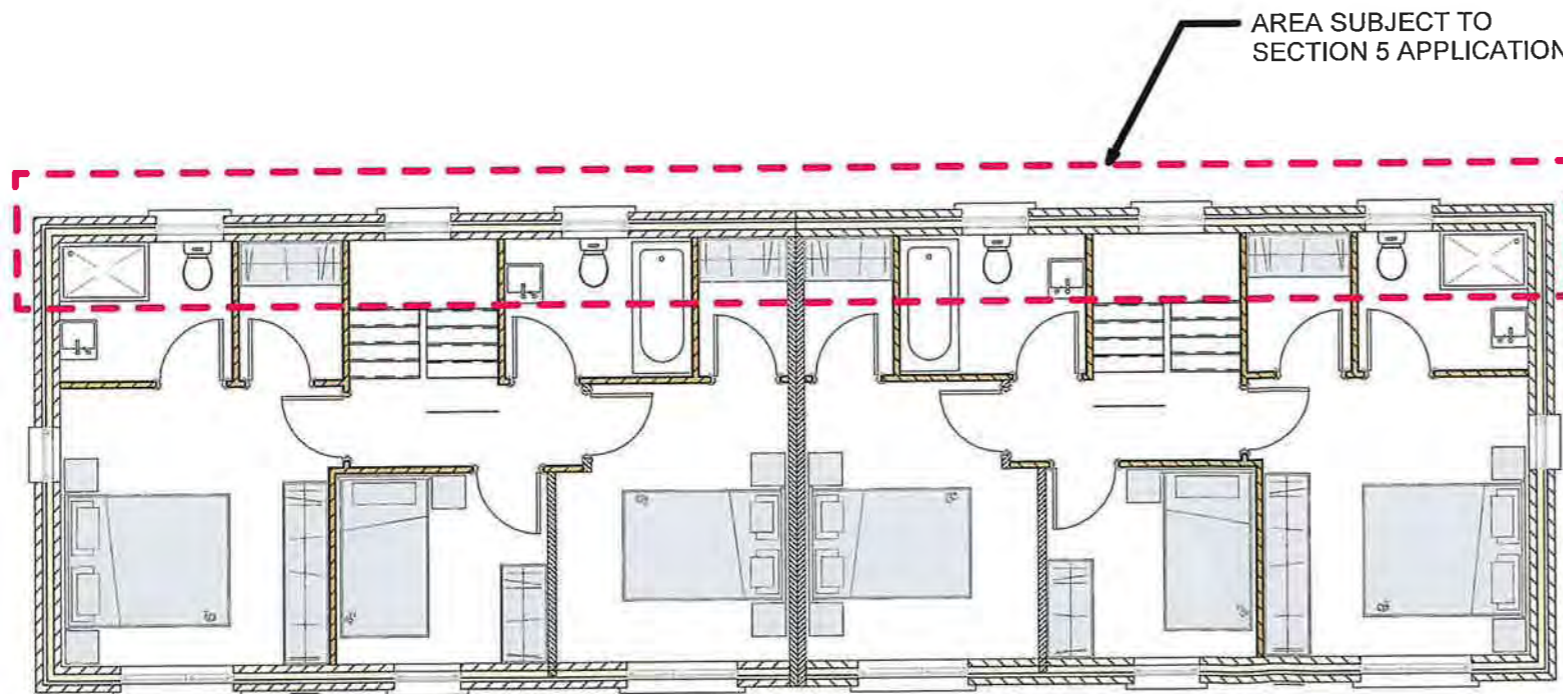


First Floor Plan - As Granted

Scale: 1:100@A3



AREA SUBJECT TO SECTION 5 APPLICATION



First Floor Plan - As Proposed

Scale: 1:100@A3

Rev	Status	Description	Date
P01	S2	Issue For Section 5 Application	04.02.25

MMOS The Chapel,
Blackrock House,
Blackrock Road,
Cork.
Tel: 353 21 4317608

MURPHY-MATSON-O'SULLIVAN
Cork

PROJECT
Residential Development at
Broomfield West, Midleton

CLIENT
Caraden Holdings Ltd.

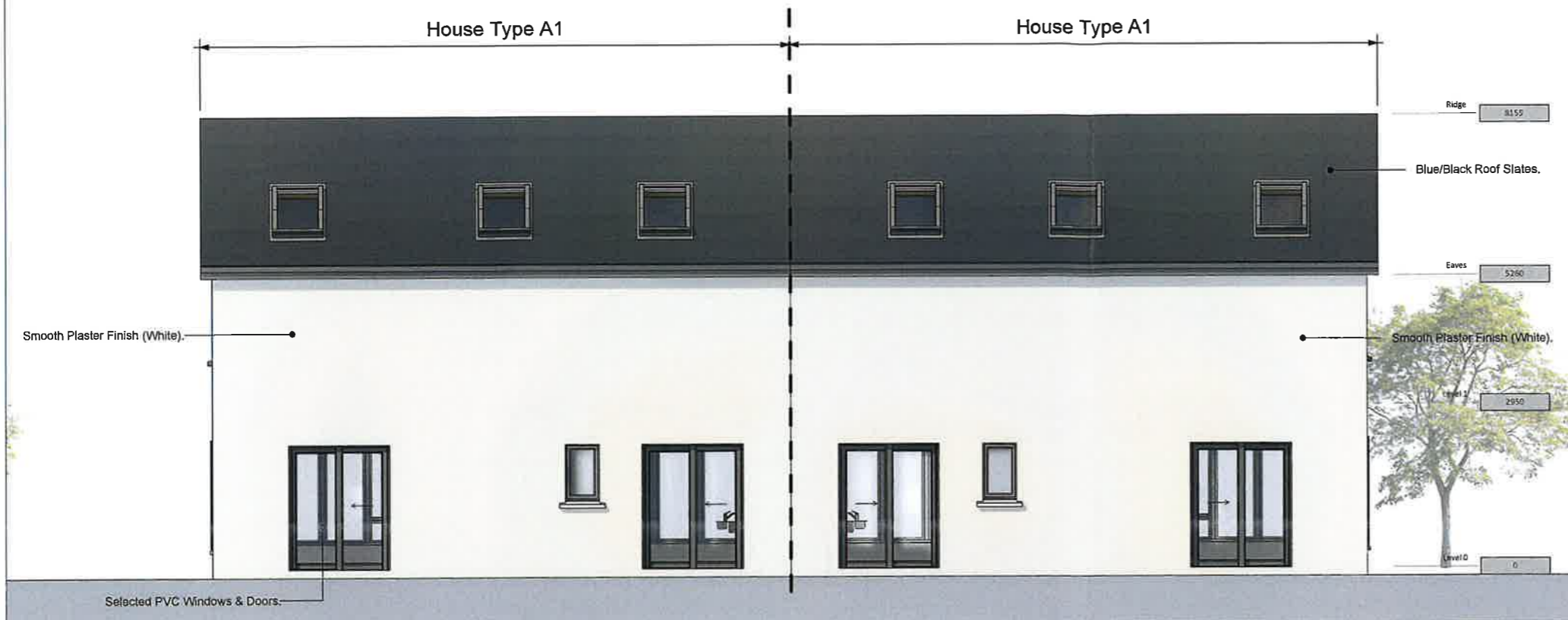
TITLE
As Granted vs' As Proposed
First Floor Plan

DRAWN BY LS	CHECKED BY TOC	APPROVED BY TOC
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SCALE (@ A3) 1:100	PROJECT NUMBER 23082
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DOCUMENT REFERENCE 23082-MMS-ZZ-ZZ-DR-A-2500	STATUS S2 REV. P01
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PROJECT-ORIGINATOR-ZONE-LEVEL-TYPE-DISCIPLINE-NUMBER



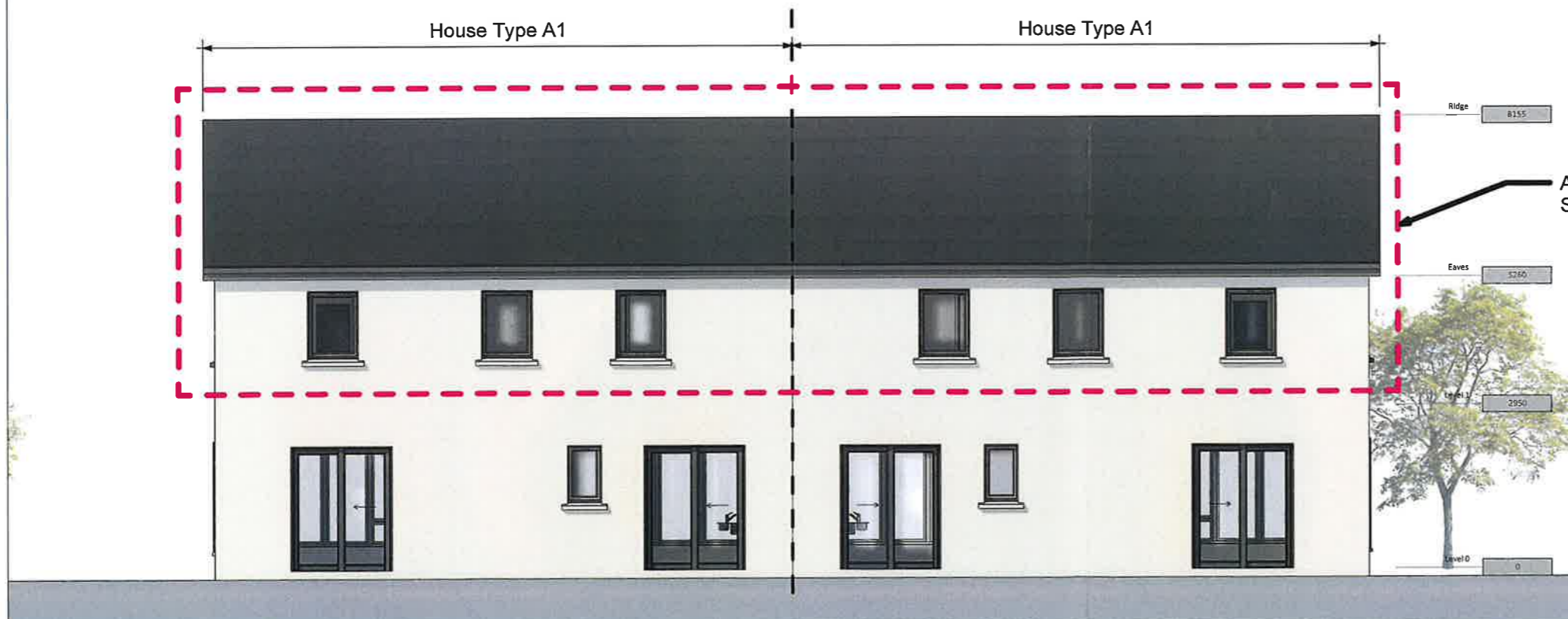
Rear Elevation - As Granted

Scale: 1:100@A3

Planning Department

05 FEB 2025

County Council
County Hall
Cork.



Rear Elevation - As Proposed

Scale: 1:100@A3

Rev	Status	Description	Date
P01	S2	Issue For Section 5 Application	04.02.25

MMOS
MURPHY-MATSON-O'SULLIVAN
CONSULTING CIVIL & STRUCTURAL ENGINEERS
The Chapel,
Blackrock House,
Blackrock Road,
Cork.
Tel : 353 21 4317608

PROJECT
Residential Development at
Broomfield West, Midleton

CLIENT
Caraden Holdings Ltd.

TITLE
As Granted vs' As Proposed
Rear Elevation

DRAWN BY: LS
CHECKED BY: TOC
APPROVED BY: TOC

SCALE (@ A3): 1:100
PROJECT NUMBER: 23082

DOCUMENT REFERENCE: 23082-MMS-ZZ-ZZ-DR-A-5500
STATUS: S2

PROJECT-ORIGINATOR-ZONE-LEVEL-TYPE-DISCIPLINE-NUMBER: P01