

WICKLOW COUNTY COUNCIL

**PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5**

Director of Services Order No: 573/2023

Reference Number: EX 18/2023

Name of Applicant: Stuart William & Simon Fennell C/O Eleanor Sheehan Architect

Nature of Application: Section 5 Referral as to whether "a) Change of use of the first floor of commercial unit to 4 no apartment units and internal and external alterations b) Demolition of existing shed at Redcross Stores, Main Street, Redcross, Co Wicklow" is or is not exempted development.

Location of Subject Site: Redcross Stores, Main Street, Redcross, Co Wicklow

Report from Solomon Aroboto EP & Edel Bermingham SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "a) Change of use of the first floor of commercial unit to 4 no apartment units and internal and external alterations b) Demolition of existing shed at Redcross Stores, Main Street, Redcross, Co Wicklow" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- The details submitted under Section 5 Declaration on 02/03/2023
- PRR 99/954
- Sections 2(1) 3(1), 4(1)h of the Planning and Development Act 2000 (as amended)
- Articles 6,9 & 10 of the Planning and Development Regulations 2001 as amended
- Schedule 2, Pt.4 Classes 2, 3, and 6 of the Planning and Development Regulations 2001(as amended)
- Schedule 2, Pt.1 Class 50 of the Planning and Development Regulations 2001(as amended)
- "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities – Dec. 2020
- Wicklow County Development Plan 2022-2028
- Site inspection carried out on 24/03/2023

Main Reasons with respect to Section 5 Declaration:

a)

- i. The change of use from commercial storage to residential use is considered a material change of use, and the internal works to facilitate the residential use would also constitute works and is therefore "development" as defined in section 3 of the Planning and Development Act 2000, as amended,
- ii. The construction of balconies would materially affect the external appearance of structure and render it inconsistent with the character of the structure.
- iii. It has not been demonstrated that the unit has sufficient storage space to accord with the provisions of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities – 2020", as required by Article 10(6)(d)(iii) of the Planning & Development Regulations 2001 (as amended).
- iv. The development is located within Flood Zone A, Objectives CPO 14.09 and CPO14:10 of the County Development Plan, prohibit development/significant alterations in area at risk of flooding. Residential use would be a significant alteration and would not accord with the justification test outlined in Planning System & Flood Risk Management – Guidelines for Planning Authorities 2009, and would therefore not accord with the objectives which would require a non-habitable use at ground floor, and would therefore be contrary to Article 10 (b)(d)(iv) of the Planning & Development Regulations 2001 (as amended)

b)

The existing shed that is subject to the current Section 5 referral measures c. 96sqm in floor area and is attached to the rear of the commercial unit. After assessing the proposal using the provisions of Schedule 2, Part 1, Class 50 (see appendix), it is considered that this development is exempted development and comes within the description of development described in Schedule 2, Part 1, Class 50 (see appendix), it is considered that this development is exempted development and comes within the description of development described in Schedule 2, Part 1, Class 50 of the Planning and Development Regulations 2001 (as amended)

Article 9 (1) (Restrictions on Exemption) of the Planning and Development Regulations 2001 (as amended) has been examined, it is considered that the development would not come within this provision.

Recommendation

The Planning Authority considers that;

- a) Change of use of the first floor of a commercial unit to 4 no apartment units including internal & external alterations is development and is not exempted development as recommended in the planning reports.
- b) Demolition of existing shed is development and is exempted development as recommended in the planning reports.

Signed  Dated 28th day of March 2023

ORDER:

That a declaration to issue stating:

That;

- a) Change of use of the first floor of a commercial unit to 4 no apartment units including internal & external alterations is development and is not exempted development within the meaning of the Planning & Development Acts 2000 (as amended).
- b) Demolition of existing shed is development and is exempted development within the meaning of the Planning & Development Acts 2000 (as amended).

Signed: 
Director of Services
Planning Development & Environment

Dated 28th day of March 2023



Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol Planning Development and Environment

Áras An Chontae / County Buildings
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Stuart William & Simon Fennell
C/O Eleanor Sheehan Architect
Slieveroe
Rathdrum
Co Wicklow

28 March 2023

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended)

I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000 in respect of the following:

Exemption Ref No: EX 18/2023

Applicant: Stuart William & Simon Fennell C/O Eleanor Sheehan Architect

Nature of Application: a) Change of use of the first floor of commercial unit to 4 no apartment units and internal and external alterations b) Demolition of existing shed at Redcross Stores, Main Street, Redcross, Co Wicklow

Location: Redcross Stores, Main Street, Redcross, Co Wicklow

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

Is mise, le meas,

[Signature]

ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT.



Comhairle Contae Chill Mhantáin Wicklow County Council

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DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT ACT 2000 AS AMENDED

Applicant: Stuart William & Simon Fennell C/O Eleanor Sheehan Architect

Location: Redcross Stores, Main Street, Redcross, Co Wicklow

DIRECTOR OF SERVICES ORDER NO 573/2023

A question has arisen as to whether “a) Change of use of the first floor of commercial unit to 4 no apartment units and internal and external alterations b) Demolition of existing shed at Redcross Stores, Main Street, Redcross, Co Wicklow” is or is not exempted development.

Having regard to:

- The details submitted under Section 5 Declaration on 02/03/2023
- PRR 99/954
- Sections 2(1) 3(1), 4(1)h of the Planning and Development Act 2000 (as amended)
- Articles 6,9 & 10 of the Planning and Development Regulations 2001 as amended
- Schedule 2, Pt.4 Classes 2, 3, and 6 of the Planning and Development Regulations 2001(as amended)
- Schedule 2, Pt.1 Class 50 of the Planning and Development Regulations 2001(as amended)
- “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities – Dec. 2020
- Wicklow County Development Plan 2022-2028
- Site inspection carried out on 24/03/2023

Main Reasons with respect to Section 5 Declaration:

- i. The change of use from commercial storage to residential use is considered a material change of use, and the internal works to facilitate the residential use would also constitute works and is therefore “development” as defined in section 3 of the Planning and Development Act 2000, as amended,
- ii. The construction of balconies would materially affect the external appearance of structure and render it inconsistent with the character of the structure.
- iii. It has not been demonstrated that the unit has sufficient storage space to accord with the provisions of the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities – 2020”, as required by Article 10(6)(d)(iii) of the Planning & Development Regulations 2001 (as amended).



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iv. The development is located within Flood Zone A, Objectives CPO 14.09 and CP014:10 of the County Development Plan prohibit development/significant alterations in area at risk of flooding. Residential use would be a significant alteration and would not accord with the justification test outlined in Planning System & Flood Risk Management – Guidelines for Planning Authorities 2009, and would therefore not accord with the objectives which would require a non-habitable use at ground floor, and would therefore be contrary to Article 10 (b)(d)(iv) of the Planning & Development Regulations 2001 (as amended)

b)

The existing shed that is subject to the current Section 5 referral measures c. 96sqm in floor area and is attached to the rear of the commercial unit. After assessing the proposal using the provisions of Schedule 2, Part 1, Class 50 (see appendix), it is considered that this development is exempted development and comes within the description of development described in Schedule 2, Part 1, Class 50 (see appendix), it is considered that this development is exempted development and comes within the description of development described in Schedule 2, Part 1, Class 50 of the Planning and Development Regulations 2001 (as amended)

Article 9 (1) (Restrictions on Exemption) of the Planning and Development Regulations 2001 (as amended) has been examined, it is considered that the development would not come within this provision.

The Planning Authority considers that:

- a) Change of use of the first floor of a commercial unit to 4 no apartment units including internal & external alterations is development and is not exempted development as recommended in the planning reports.
- b) Demolition of existing shed is development and is exempted development as recommended in the planning reports.

Signed: 

ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated ^{28th} March 2023

Report for – Section 5 declaration

File Reference: Ex 18/2023
Applicant's Name: Stuart and Simon Fennell
Address: Redcross Store, Main street, Co, Wicklow.
Description: a) Change of use of the first floor of commercial unit to 4 no apartment units and internal and external alterations
b) Demolition of existing shed

Date of site visit 27/03/23

Section 5 Referral

With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether, the

- a) Change of use of the first floor of a commercial unit to 4 no apartment units and internal and external alterations
- b) Demolition of existing shed

at Main Street, Redcross, Co. Wicklow is or is not development and is or is not exempted development within the meaning of the Planning and Development Act, 2000 as amended.

Planning History

99/954 – Permission was granted for hardware/grocery shop & agricultural shed

Relevant Legislations

Wicklow County Development Plan 2022-2028

Under the current County Development Plan, Redcross is designated as a level 7 settlement Villages (Type 1).

Role and Function

These are rural villages that have a moderate level of existing infrastructural services, both physical and social, and that are of such a size as to accommodate a moderate amount of new housing. These settlements generally have a population of less than 500, with many considerably smaller.

These settlements provide a range of local community services and facilities including for example a church, primary school, shop, community hall, sports ground, pub and post office. These villages are an important focal point for rural communities. In order to safeguard their continued existence into the future, it is important that growth is managed in a sustainable manner.

Objective CPO 6.37

To implement the following housing occupancy controls for Type 1 Villages (Level 7), as set out in the Settlement Strategy:

Multi-House Development

50% no restriction

50% Applicant / purchaser of any new home must be either:

- ♣ resident for at least 3 years duration in County Wicklow or*
- ♣ in permanent employment for at least 3 years duration in County Wicklow, of within 30km of the Type 1 village in question prior to making of application / purchase of new house.*

Single House 100% Applicant / purchaser of any new home must be either:

- ♣ a resident for at least 3 years duration in County Wicklow or*
- ♣ in permanent employment for at least 3 years duration in County Wicklow, of within 30km of the Type 1 village in question prior to making of application / purchase of new house.*

Planning and Development Act 2000 (as amended)

Section 2: (1) In this Act, except where the context otherwise requires—

"habitable house" means a house which—

- (a) is used as a dwelling,*
- (b) is not in use but when last used was used, disregarding any unauthorised use, as a dwelling and is not derelict, or*
- (c) was provided for use as a dwelling but has not been occupied;*

"house" means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

- (a) where the context so admits, includes the land on, in or under which the structure is situate,*
- "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:

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.

(3) For the avoidance of doubt, it is hereby declared that, for the purposes of this section, the use as two or more dwellings of any house previously used as a single dwelling involves a material change in the use of the structure and of each part thereof which is so used.

Section 4(2) provides that the Minister may by regulations provide any class of development to be exempted development. The Regulations which are applicable in this case are the Planning and Development Regulations 2001 (as amended).

Section 4

(1): The following shall be exempted developments for the purposes of this Act—

(h) development consisting of the carrying out of works for the maintenance, improvement or other 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;

(3); A reference in this Act to exempted development shall be construed as a reference to development which is—

(a) any of the developments specified in subsection (1), or

(b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.

Planning and Development Regulations 2001(as amended)

Article 5

“house” does not, as regards development of classes 1, 2, 3, 4, 6(b) (ii), 7 or 8 specified in column 1 of Part 1 of Schedule 2, or development to which articles 10(4) or 10(5) refer, include a building designed for use or used as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

Article 9 (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) If the carrying out of such development would - see Regulations for all restrictions.

Article 10 (1) – Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

(a) involve the carrying out of any works other than works which are exempted development,

(b) Contravene a condition attached to a permission under the Act,

(c) be inconsistent with any use specified or included in such a permission, or

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

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 8 February 2018 until 31 December 2025.

(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, 6 or 12 of Part 4 to Schedule 2

(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, 6 or 12, 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 –

(I) primarily affect the interior of the structure,

(II) retain 50 per cent or more of the existing external fabric of the building, and

(III) 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 paragraph (b) relates, then he or she shall in the case of development relating to Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2, notify in writing the planning authority in whose functional area that the change of use will occur not less than 14 days prior to the commencement of the works related to 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, (II) the number of residential units involved, including the unit sizes and number of bedrooms in each unit, and (III) the Eircode for the relevant property,

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, 2022, 2023, 2024, 2025 and 2026 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).

Planning and Development Regulations 2001 as amended: Schedule 2, Pt.1 Class 50, states that the following constitutes exempted development:

Description of Development

CLASS 50

(a) The demolition of a building, or buildings, within the curtilage of—

(i) a house,

(ii) an industrial building,

(iii) a business premises, or

(iv) a farmyard complex.

(b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.

Conditions and Limitations

1. No such building or buildings shall abut on another building in separate ownership.

2. *The cumulative floor area of any such building, or buildings, shall not exceed:*

(a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and

(b) in all other cases, 100 square metres.

3. *No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.*

Planning and Development Regulations 2001 as amended: Schedule 2, Pt.4 Class 2, states that the following constitutes exempted development:

CLASS 2 Use for the provision of—

(a) Financial services,

(b) Professional services (other than health or medical services),

(c) Any other services (including use as a betting office), where the services are provided principally to visiting members of the public.

CLASS 3

Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

CLASS 6

Use as a residential club, a guest house or a hostel (other than a hostel where care is provided).

Design Standards for New Apartments Guidelines for Planning Authorities (2020)

Assessment:

The issue is to determine whether the,

- a) Change of use of the first floor of a commercial unit to 4 no apartment units and internal and external alterations
- b) Demolition of existing shed

is or is not exempted development within the meaning of the Planning and Development Acts, 2000 (as amended).

The subject site is located within the village centre envelope of Redcross and within the development boundary of same. Existing on site is a 2 storey vacant commercial unit and 2 no sheds. The site is located within Flood Zone A under the Wicklow County Development Plan.

The applicant stated on the application from that they are depending on the exemption provision of the Planning and Development Regulations with respect to the proposed change of use on site.

The first question to be asked is whether the,

- a) Change of use of the first floor of a commercial unit to 4 no apartment units and internal and external alterations
- b) Demolition of existing shed

comes within the meaning of development as set out in Section 3 of the Planning and Development Act 2000(as amended).

It is stated that the building is vacant.

- a) Change of use of the first floor of a commercial unit to 4 no apartment units and internal and external alterations**

The change of use of the first floor of a commercial unit to apartment would be a material change of use, and therefore the use would be development having regard to the provisions of Section 3 of the Planning and Development Act 2000(as amended).

It is indicated on the submitted plans that the first floor would be converted into 4 no. 1 bedroom apartments unit each including bedroom, bathroom, living/dining/kitchen and storage.

The next question therefore to ask is whether the change of use of first floor commercial to residential is or is not exempted development.

The structure that is subject of the section 5 query is 2 storey and measures 200sqm on the first floor. It is proposed to carry out internal and external alterations to provide for 4 no 1 bedroom apartment units on the first floor.

The relevant section under which the change of use of the first floor is assessed is Section 254 (4) of the Planning and Development (Amendment) (No.2) Regulations 2018: S.I. No.30 of 2018. S.I No.30 amended Article 10 of the Planning and Development Regulations by the insertion of Article 10 (6) , which provides for a change of use to residential in certain circumstances, the change of use will therefore be assessed having regard to the provisions of Article 10(6) .

After assessing the proposal using the provisions of Article 10(6), it is considered that the proposed the change of use of the first floor of commercial unit to 4 no apartment units including internal and external alterations does not come within the meaning of development described in Article 10(6) of the Planning and Development Regulations 2001 (as amended). (See appendix for checklist for Article 10(6) of the Planning and Development Regulations 2001 (as amended) and the Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities: 2020), because

- The change of use would materially affect the external appearance of the structure and render it inconsistent with the character of the structure.
- The proposed storage in unit 2 is slightly below the required standard and would not accord with the provisions of the "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities –2020".
- In addition it is not clear, if the unit is vacant or currently in use. In the event that it vacant, it is not clear for how long prior to making the section 5 referral it has been vacant.

It is therefore considered that this development is not exempted development and does not come within the description of development described in Article 10(6) in the Planning and Development Regulations 2001 (as amended).

b) Demolition of existing shed

The existing shed that is subject of the current section 5 referral measures c. 96sqm in floor area and is attached to the rear of the commercial unit. After assessing the proposal using the provisions of Schedule 2, Part 1, Class 50 (see appendix), It is considered that this development is exempted development and comes within the description of development described in Schedule 2, Part 1, Class 50 of the Planning and Development Regulations 2001 (as amended).

I have examined Article 9 (1) (Restrictions on Exemption) of the Planning and Development Regulations 2001 (as amended), it is considered that the development would not come within this provision.

*Agreed
DOS
28/3/23*

Conclusion

On basis on the above assessment, it is considered that,

- a) Change of use of the first floor of a commercial unit to 4 no apartment units including internal and external alterations

is development but is not exempted development.

- b) Demolition of existing shed

is development and exempted development.

Recommendation

With respect to the query under Section 5 of the Planning and Development Act 2000, as to whether,

- a) Change of use of the first floor of a commercial unit to 4 no apartment units including internal and external alterations
- b) Demolition of existing shed

at Main Street, Redcross, Co. Wicklow is or is not development and is or is not exempted development within the meaning of the Planning and Development Act, 2000 as amended.

The Planning Authority considers that:

- a) Change of use of the first floor of a commercial unit to 4 no apartment units including internal and external alterations

is development but is not exempted development.

- a) Demolition of existing shed

is development and exempted development.

Main Considerations with respect to Section 5 Declaration:

- The details submitted under Section 5 Declaration on 02/03.23
- PRR 99/954
- Sections 2(1) 3(1), 4(1)h of the Planning and Development Act 2000 (as amended)
- Articles 6, 9 and 10 of the Planning and Development Regulations 2001 as amended
- Schedule 2, Pt.4 Classes 2, 3, and 6 of the Planning and Development Regulations 2001(as amended)
- Schedule 2, Pt.1 Class 50 of the Planning and Development Regulations 2001(as amended)
- "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities – Dec. 2020.

- Wicklow County Development Plan 2022-2028
- Site inspection carried out on 24/03/23

Main Reasons with respect to Section 5 Declaration:

i. The change of use from commercial storage to residential use is considered a material change of use, and the internal works to facilitate the residential use would also constitute works and is therefore “development” as defined in section 3 of the Planning and Development Act 2000, as amended,

ii. The construction of balconies would materially affect the external appearance of the structure and render it inconsistent with the character of the structure.

iii. It has not been demonstrated that the unit has sufficient storage space to accord with the provisions of the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities –2020”, as required by Article 10(6)(d)(iii) of the Planning and Development Regulations 2001 (as amended).

iv. The development is located within Flood Zone A, and Objectives CPO 14.09 and CPO14:10 of the County Development Plan, prohibit development/significant alterations in area at risk of flooding. Residential use would be a significant alteration and would not accord with the justification test outlined in Planning System & Flood Risk Management – Guidelines for Planning Authorities 2009, and would therefore not accord with the Objectives

which would require a non-habitable use at ground floor, and would therefore be contrary to Article 10(6)(d)(iii) of the Planning and Development Regulations 2001 (as amended).

v. The works of demolition come within the description and limitations of works specified under Schedule 2, Pt.1 Class 50 of the Planning and Development Regulations 2001 (as amended)

Solomon Aroboto E/P
27/03/23

[Handwritten signature]

*Agreed
on
Amended
By
DOS.
28/3/23*

Appendix

Article 10(6) checklist

Does the proposed development consist of a change of use to residential use from Class 1, 2, 3 or 6 of Part 4 to Schedule 1.?	Yes - From hardware/grocery shop to residential
Was the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,?	Yes
The structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3 or 6,?	Yes
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,?	Not clear, it is stated on the application form that the structure is vacant but the applicant's agent stated in her cover letter that it is currently in use for storage. This is confusing
Would the development be commenced and completed during the relevant period.?i.e. 2018 until 2025	Yes
Would the works affect only the interior of the structure and 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	The change of use would affect both the external and internal aspect of the structure. In addition the works would materially affect the external appearance of the structure and render it inconsistent with the character of the structure.
Would the 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.	Not applicable
Would the development 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	Site is located in Flood Zone A and Objectives CPO 14.09 and CPO14:10 of the County Development Plan, prohibit development/significant alterations in area at risk of flooding. Residential use would be a significant alteration contrary to justification test. The ground

street access to the upper floors of the structure concerned.	<i>floor use would not accord with the justification test outlined in Planning System & Flood Risk Management – Guidelines for Planning Authorities 2009.</i>
Would the development consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure	<i>No. The development related to only 4 residential unit.</i>
Would the dwelling floor areas and storage spaces 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.	<i>Substantially compliant with the exception of inadequate provision made for storage in unit 2.</i>
Are the rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting	<i>Yes</i>
Would the development 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.	<i>No. The structure is not a protected structure.</i>
Would the development contravene a condition attached to permission under the Act or be inconsistent with any use specified or included in such a permission.	<i>No</i>
Would the development relate to any structure in any of the following areas: (I) an area to which a special amenity area order relate; (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.	<i>No</i>
Would the development 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.	<i>No</i>
Would the development 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.	<i>No</i>

Compliance with the 'Design Standards for New Apartments' 2020 is examined as follows,

A breakdown of the floor space for each apartment is as follows:

Unit 1

Apartment/room	Minimum floor space requirement (m ²) for 1 bed	Apartment
Overall floor area of apartment	45m ²	45.1m ²
Living/Dining/Kitchen/ rooms	23m ²	23.7m ²
Width of Living/Dining/kitchen.	3.3m ²	5.3m ²
Floor area of bedroom	11.4 m ²	11.4 m ²
Width of Bedroom	2.1	3.1m
Storage	3m ²	3m ² including the wardrobe
Floor to ceiling height	2.4m	2.5m
Private amenity	5 m ²	5 m ² balcony

Unit 2

Apartment/room	Minimum floor space requirement (m ²) for 1 bed	Apartment
Overall floor area of apartment	45m ²	46.1m ²
Living/Dining/Kitchen/ rooms	23m ²	23m ²
Width of Living/Dining/kitchen.	3.3m ²	6.59m
Floor area of bedroom	11.4 m ²	11.4 m ²
Width of Bedroom	2.1	3.4m
Storage	3m ²	2.84 m ² including the wardrobe
Floor to ceiling height	2.4m	2.5
Private amenity	5 m ²	5 m ² balcony

Unit 3

Apartment/room	Minimum floor space requirement (m ²) for 1 bed	Apartment
Overall floor area of apartment	45m ²	47.8m ²
Living/Dining/Kitchen/ rooms	23m ²	23m ²
Width of Living/Dining/kitchen.	3.3m ²	4m
Floor area of bedroom	11.4 m ²	11.5 m ²
Width of Bedroom	2.1	2.96m
Storage	3m ²	3.2 m ² including the wardrobe
Floor to ceiling height	2.4m	2.5m
Private amenity	5 m ²	5 m ² balcony

Unit 4

Apartment/room	Minimum floor space requirement (m ²) for 1 bed	Apartment
Overall floor area of apartment	45m ²	45m ²
Living/Dining/Kitchen/ rooms	23m ²	24.5m ²

Width of Living/Dining/kitchen.	3.3m ²	4.3m
Floor area of bedroom	11.4 m ²	11.5 m ²
Width of Bedroom	2.1	3.1m
Storage	3m ²	3.4 m ² including the wardrobe
Floor to ceiling height	2.4m	2.5m
Private amenity	5 m ²	5 m ² balcony

Schedule 2 Part 1 Class 50 Checklist

Does the proposed development consist of demolition of a building, or buildings, within the curtilage of— (i) a house, (ii) an industrial building, (iii) a business premises, or (iv) a farmyard complex.	<i>Yes , the proposed development consists of demolition of a building within the curtilage of a business premises.</i>
<i>Does the building abut on another building in separate ownership.</i>	<i>No</i>
Would the cumulative floor area of any such building, or buildings, exceed: (a) in the case of a building, or buildings within the curtilage of a house, 40 square metres, and (b) in all other cases, 100 square metres.	<i>No, the overall floor area of the building for demolition is c.96sqm</i>
Would the demolition be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.	<i>No.</i>

EX 18/2023
Stuart William & Simon Fennell
C/O Eleanor Sheehan Architect
Change of use from vacant
commercial to residential 4 no. 1 bedroom apartments
along with elevation changes and addition of balconies
to front & rear and demolition of the existing shed
at Redcross Stores, Main Street, Redcross, Co. Wicklow





MEMORANDUM

WICKLOW COUNTY COUNCIL

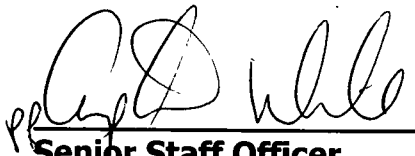
TO: Solomon Aroboto
Executive Planner

FROM: Crystal White
Assistant Staff Officer

**RE:- EX 18/2023 - Declaration in accordance with Section 5 of the
Planning & Development Acts 2000 (as amended)**
**Change of use from vacant commercial to residential 4 no.1 bedroom
apartments along with elevation changes and addition of balconies to
front & rear and demolition of the existing shed at Redcross Stores, Main
Street, Redcross, Co Wicklow**

I enclose herewith for your attention application for Section 5 Declaration
received 2nd of March 2023.

The due date on this declaration is the 29th of March 2023.



Senior Staff Officer
Planning Development & Environment



Comhairle Contae Chill Mhantáin Wicklow County Council

**Forbairt Pleanála agus Comhshaol
Planning Development and Environment**

Áras An Chontae / County Buildings
Cill Mhantáin / Wicklow
Guthán / Tel: (0404) 20148
Faics / Fax: (0404) 69462
Rphost / Email: plandev@wicklowcoco.ie
Suíomh / Website: www.wicklow.ie

02/03/2023

**Stuart William & Simon Fennell
C/O Eleanor Sheehan Architect
Slieveroe
Rathdrum
Co Wicklow**

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 18/2023

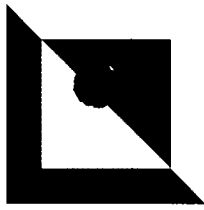
Change of use from vacant commercial to residential 4 no.1 bedroom apartments along with elevation changes and addition of balconies to front & rear and demolition of the existing shed at Redcross Stores, Main Street, Redcross, Co Wicklow

A Chara

I wish to acknowledge receipt on the 2nd of March 2023 details supplied by you in respect of the above section 5 application. A decision is due in respect of this application by 29/03/2023.

Mise, le meas

**SENIOR EXECUTIVE OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT**



ELEANOR SHEEHAN ARCHITECTS



Slieveroe
Rathdrum
Co. Wicklow
t: 087 411 7821
e: eleanor@esarc.ie
www.esarc.ie

28th February 2023

**Change of use from commercial to residential on first floor of existing Commercial Building at Redcross,
Co. Wicklow**

To whom it concerns,

I enclose a n application form for a declaration in accordance with section 5 of the planning act along with a fee of €80.00.

The existing first floor of the building is currently used for storage and the applicants are seeking to change the use to 4 no one bedroomed apartments.

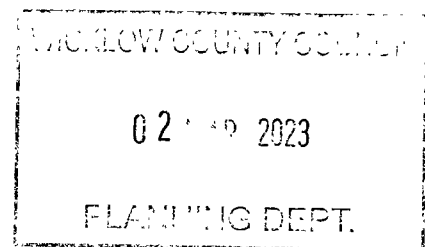
Some changes will be needed to all elevations in order to comply with building regulations such as the addition of balconies to the front and rear and the demolition of the existing shed.

The applicants want to know would these changes be considered development.

I look forward to hearing from you.

Yours sincerely,

Eleanor Sheehan
B.Arch, Dip Arch, MRIAI



Wicklow County Council
County Buildings
Wicklow
0404-20100

02/03/2023 15:43:07

Receipt No: L11/0/300644

ELEANOR SHEEHAN
SLIEVEROE
RATHDRUM
CO WICKLOW

EXEMPTION CERTIFICATES	80.00
GOODS	80.00
VAT Exempt/Non-valable	

Total	80.00 EUR
-------	-----------

Tendered Cheque	80.00
--------------------	-------

Change	0.00
--------	------

Issued By: Katie Finn
From: Customer Service Hub
Vat reg No: 0015233H



Wicklow County Council
County Buildings
Wicklow
Co Wicklow
Telephone 0404 20148
Fax 0404 69462

Office Use Only

Date Received _____

Fee Received _____

**APPLICATION FORM FOR A
DECLARATION IN ACCORDANCE WITH SECTION 5 OF THE PLANNING &
DEVELOPMENT ACTS 2000 (AS AMENDED) AS TO WHAT IS OR IS NOT
DEVELOPMENT OR IS OR IS NOT EXEMPTED DEVELOPMENT**

1. Applicant Details

- (a) Name of applicant: STUART WILLIAMS & SIMON FENNEL
Address of applicant: OGHILL, REDCROSS,
CO. WICKLOW

Note Phone number and email to be filled in on separate page.

2. Agents Details (Where Applicable)

- (b) Name of Agent (where applicable) ELEANOR SHEEHAN
Address of Agent : SLIEVEROE, RATHFRUM,
CO. WICKLOW

Note Phone number and email to be filled in on separate page.

3. Declaration Details

- i. Location of Development subject of Declaration REDCROSS STORES
MAIN STREET, REDCROSS,
G. WICKLOW
WORKS TO FIRST FLOOR ONLY & ELEVATIONAL
CHANGES

- ii. Are you the owner and/or occupier of these lands at the location under i. above ?
☒ Yes ☐ No.

- iii. If 'No' to ii above, please supply the Name and Address of the Owner, and or occupier _____

- iv. Section 5 of the Planning and Development Act provides that : If any question arises as to what, in any particular case, is or is not development and is or is not exempted development, within the meaning of this act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question. You should therefore set out the query for which you seek the Section 5 Declaration

ADDITIONS OF BALCONIES TO FRONT & REAR
DEMOLITION OF EXISTING BRICK
CHANGES TO ALL ELEVATIONS

Additional details may be submitted by way of separate submission.

- v. Indication of the Sections of the Planning and Development Act or Planning Regulations you consider relevant to the Declaration _____

CHANGE OF USE FROM VACANT COMMERCIAL 77
UNIT TO RESIDENTIAL APARTMENTS

Additional details may be submitted by way of separate submission.

vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure) ? No

vii. List of Plans, Drawings submitted with this Declaration Application
01/23/02, 01/23/03, 01/23/04, 01/23/05
01/23/06, 01/23/07, 01/23/08, 01/23/09
01/23/10, 01/23/11, 01/23/12

viii. Fee of € 80 Attached ? yes

Signed : [Signature] Dated : 28/02/23

Additional Notes :

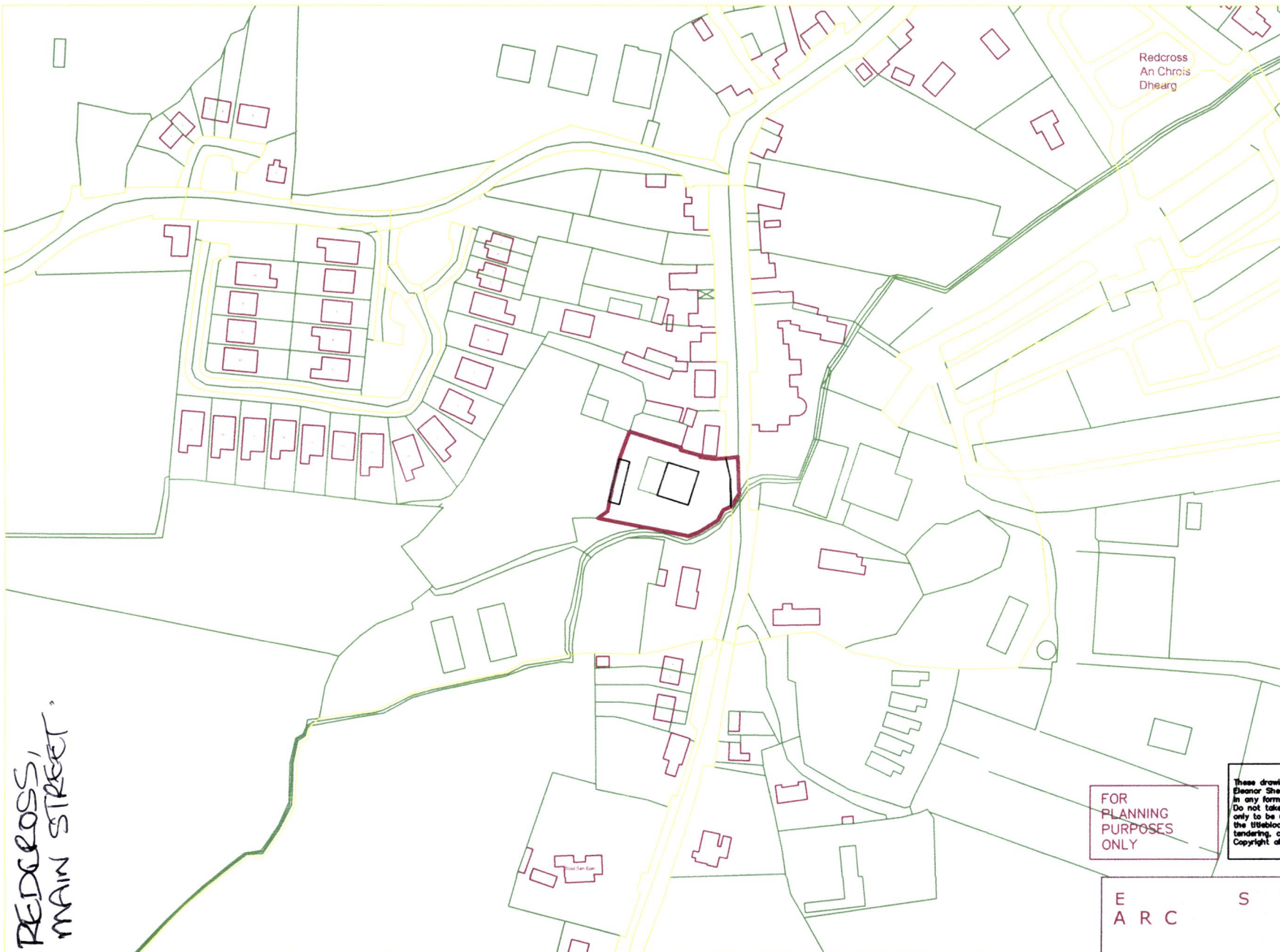
As a guide the minimum information requirements for the most common types of referrals under Section 5 are listed below :

A. Extension to dwelling - Class 1 Part 1 of Schedule 2

- Site Location Map
- Floor area of structure in question - whether proposed or existing.
- Floor area of all relevant structures e.g. previous extensions.
- Floor plans and elevations of relevant structures.
- Site Layout Plan showing distance to boundaries, rear garden area, adjoining dwellings/structures etc.

B. Land Reclamation -

The provisions of Article 8 of the Planning and Development Regulations 2001 (as amended) now applies to land reclamation, other than works to wetlands which are still



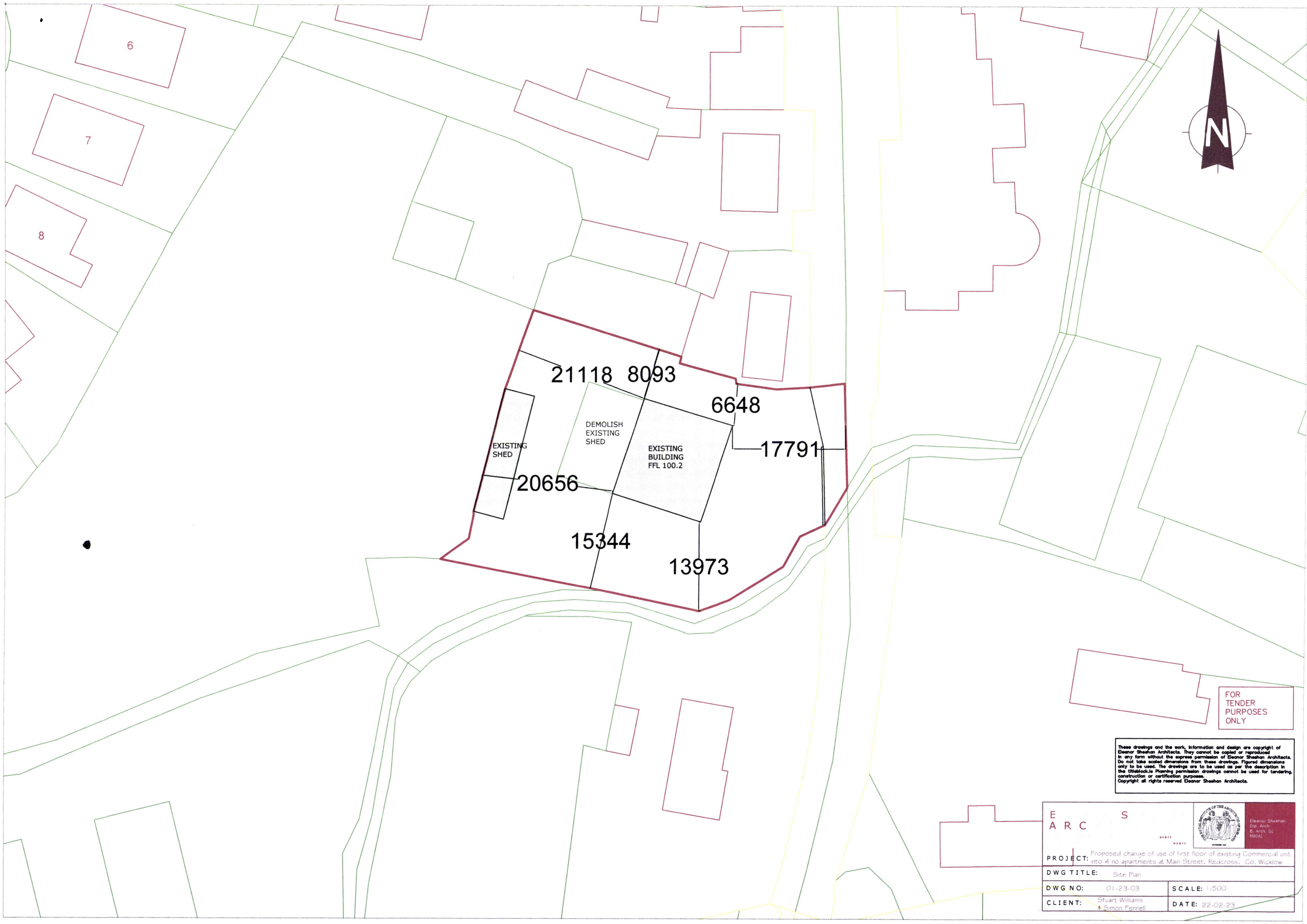
REDCROSS,
MAIN STREET



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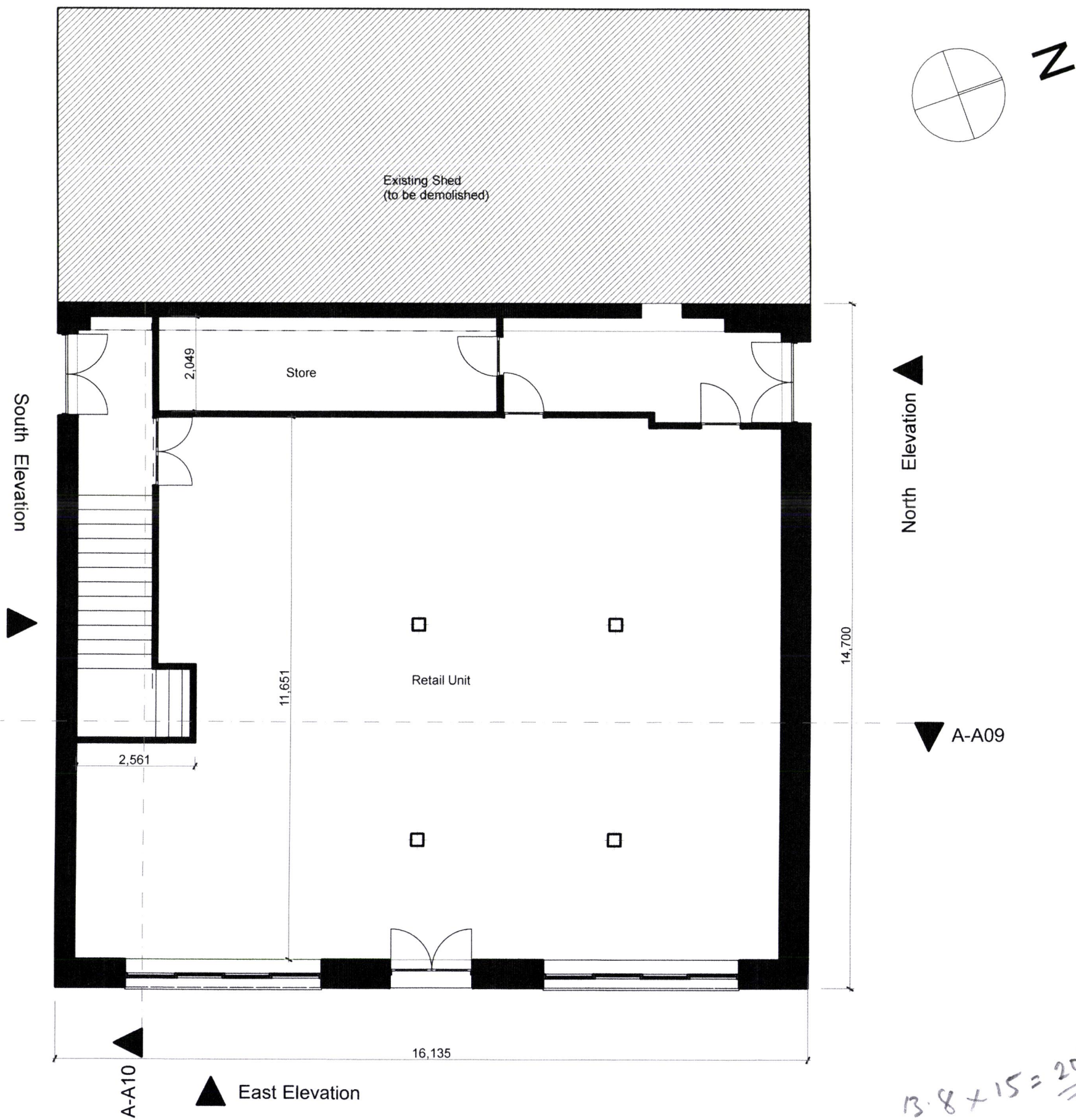
<p>E A R C S</p> <p>03/01/2016 03/01/2016</p>			<p>Eleanor Sheehan Orig. Arch. B. Arch. Sc MRIAI</p>
<p>PROJECT: Proposed change of use of first floor of existing Commercial unit into 4 no apartments at Main Street, Redcross, Co. Wicklow</p>			
<p>DWG TITLE: Site Layout Plan</p>			
<p>DWG NO: 01-23-02</p>		<p>SCALE: 1:2,500</p>	
<p>CLIENT: Stuart Williams # Simon Fennell</p>		<p>DATE: 22-02-23</p>	



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E A R C S ELEANOR SHEEHAN ARCHITECTS			Eleanor Sheehan Reg. Arch. B. Arch. Sc. MRIAI
PROJECT: Proposed change of use of first floor of existing Commercial unit into 4 no apartments at Man Street, Redcross, Co. Wicklow			
DWG TITLE: Site Plan			
DWG NO: 01-23-03	SCALE: 1:500		
CLIENT: Stuart Williams + Simon Fennell	DATE: 22-02-23		



13.8 x 15 = 207

GF-Ground Floor (20)

1:100

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ELEANOR SHEEHAN
ARCHITECTS

Slieve Donard, Rathfriland, Co. Wick. Tel: 0401 41832 Mob: 087 4117821 Email: eleanor@esarc.ie



Eleanor Sheehan
Dip. Arch
B. Arch Sc
MRBAI

Drawing Name GF-Ground Floor (20)

Client Stuart Williams & Simon Fennell

Job Title Proposed first floor change of use to apartments,
Redcross, Co. Wicklow

Dwg no

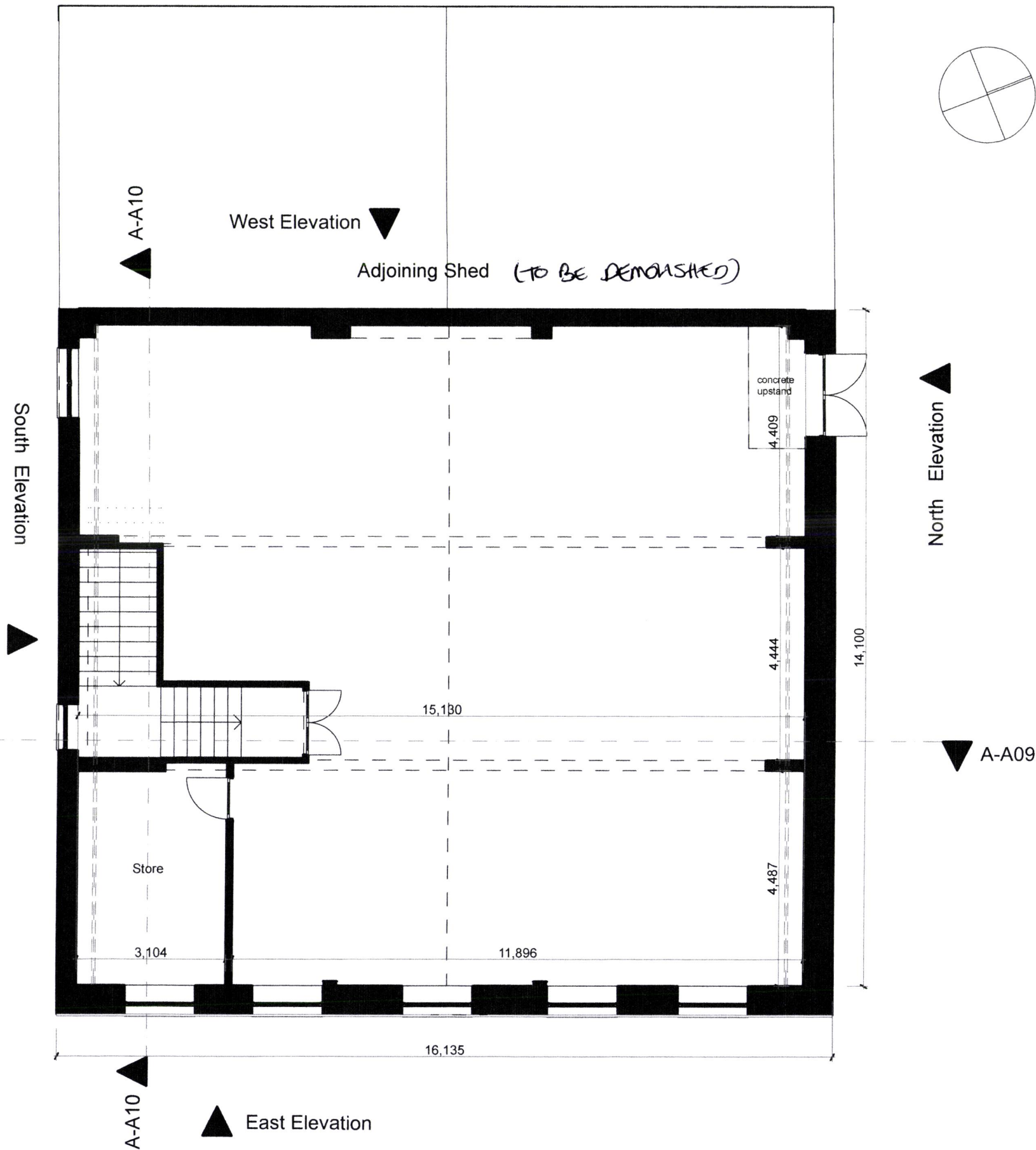
01/23/04

Date

18/01/23

Drawing Scale

1:100



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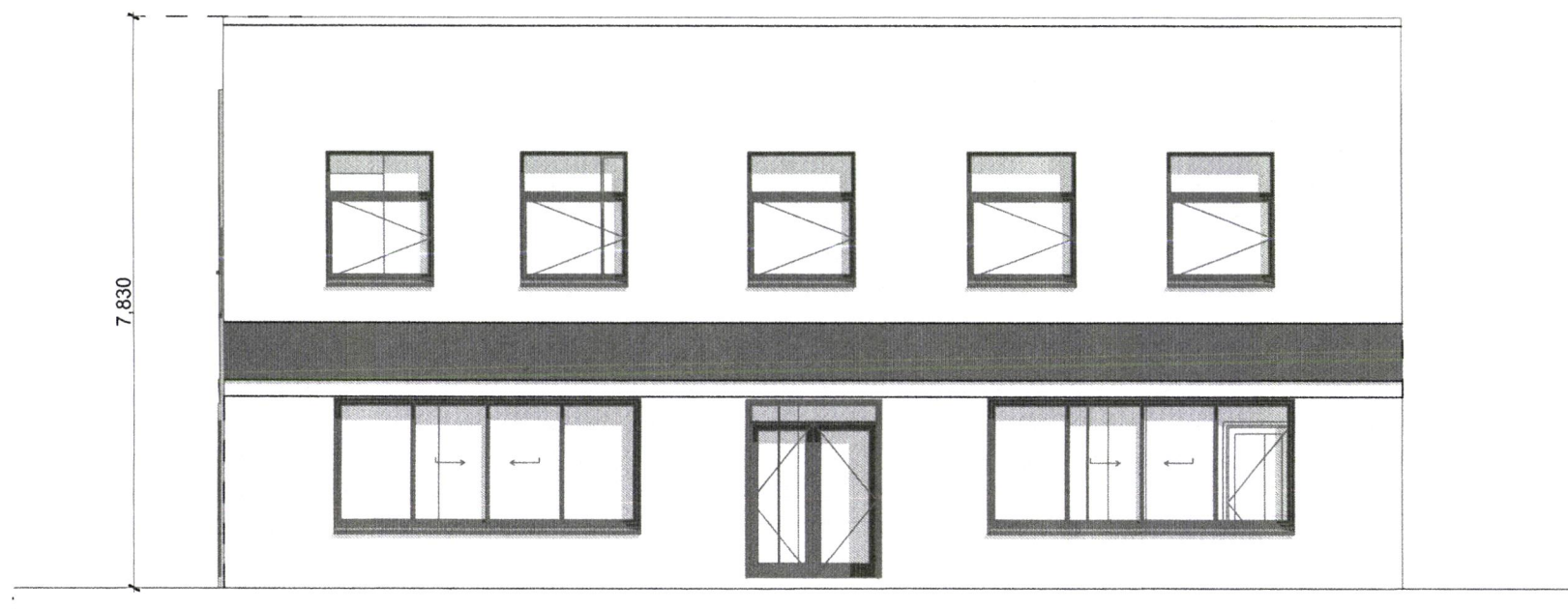
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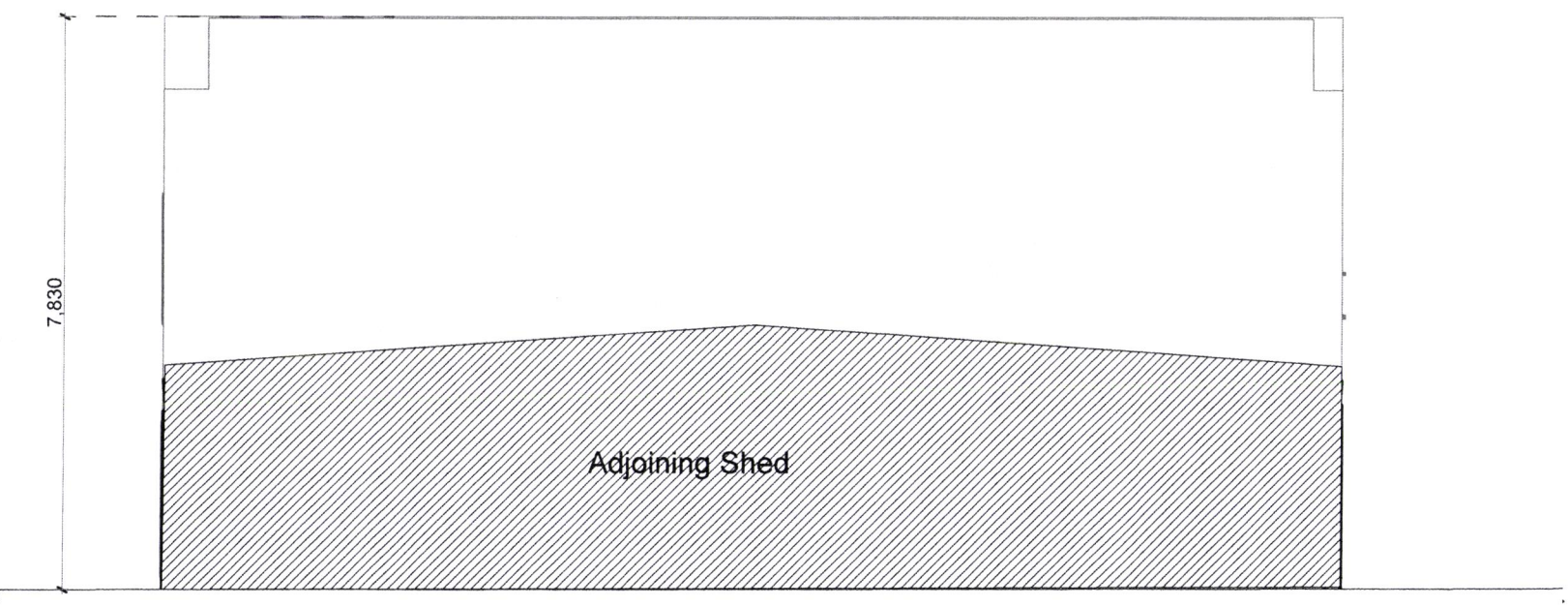


Eleanor Sheehan
Dip. Arch
B. Arch Sc
MRIAI

Drawing Name	01-First Floor (4)	Dwg no	01/23/05
Client	Stuart Williams & Simon Fennell	Date	18/01/23
Job Title	Proposed first floor change of use to apartments, Redcross, Co. Wicklow	Drawing Scale	1:100



1 East Elevation Elevation (5) 1:100



2 West Elevation Elevation (5) 1:100

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B. Arch Sc
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East Elevation Elevation (5), West
Elevation Elevation (5)

Drawing Name

Client

Stuart Williams & Simon Fennell

Job Title Proposed first floor change of use to apartments,
Redcross, Co. Wicklow

Dwg no

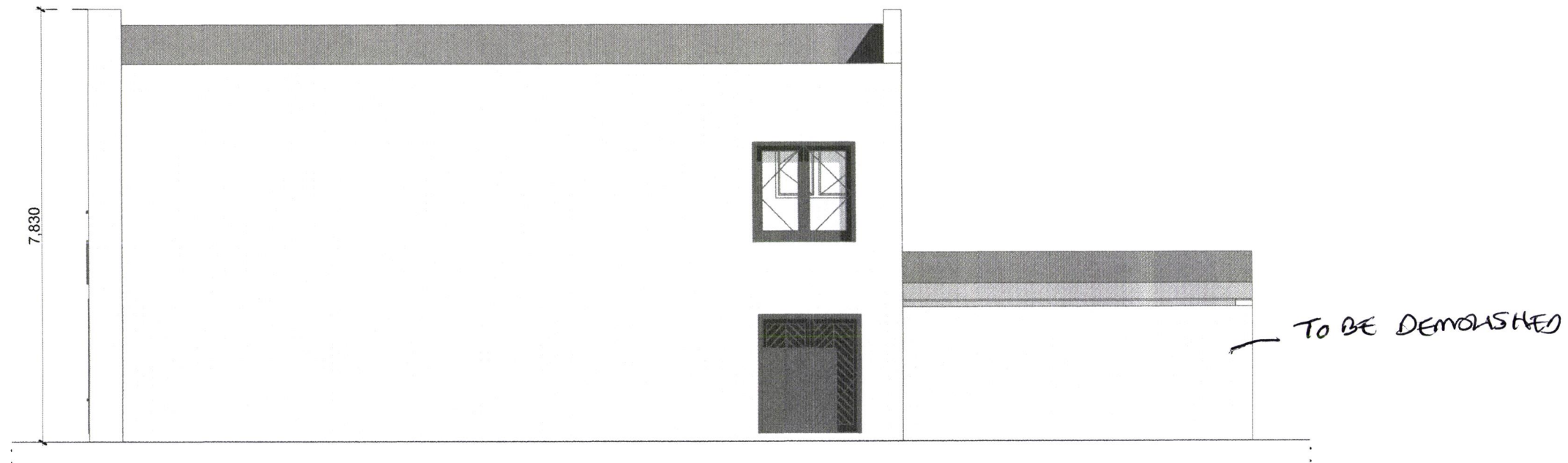
01/23/06

Date

18/01/23

Drawing Scale

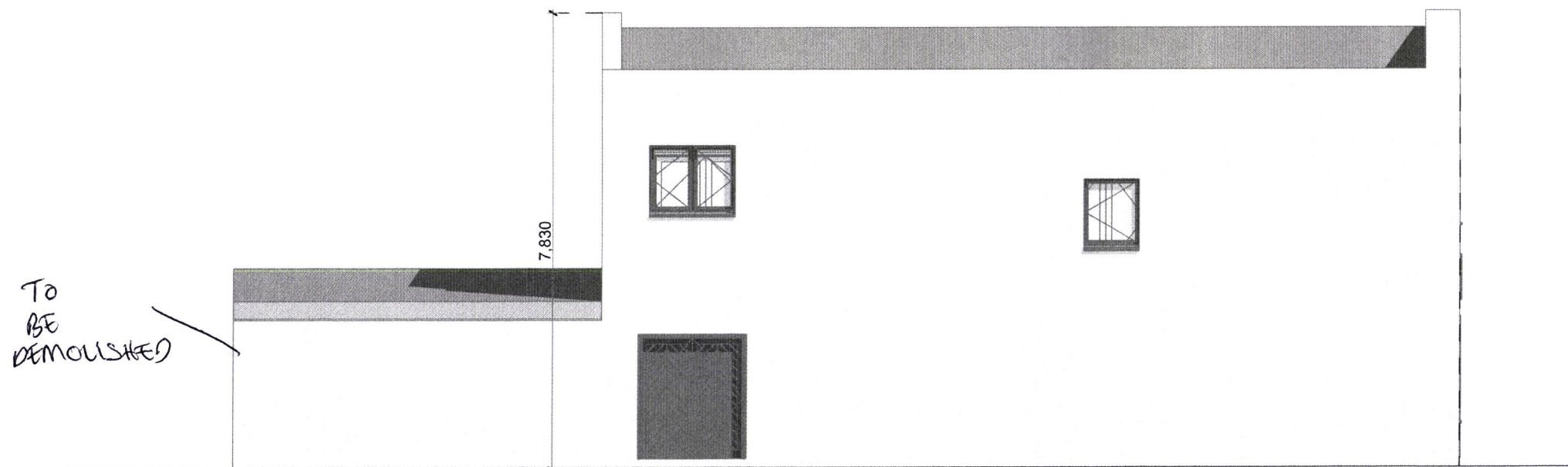
1:100



1

North Elevation Elevation (4)

1:100



2

South Elevation Elevation (4)

1:100

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Ph: 0404 43832 Mob: 087-4117821 Email: eleanor@esarc.ie



**North Elevation Elevation (4), South
Elevation Elevation (4)**

Drawing Name

Client **Stuart Williams & Simon Fennell**

Job Title **Proposed first floor change of use to apartments,
Redcross, Co. Wicklow**

Dwg no

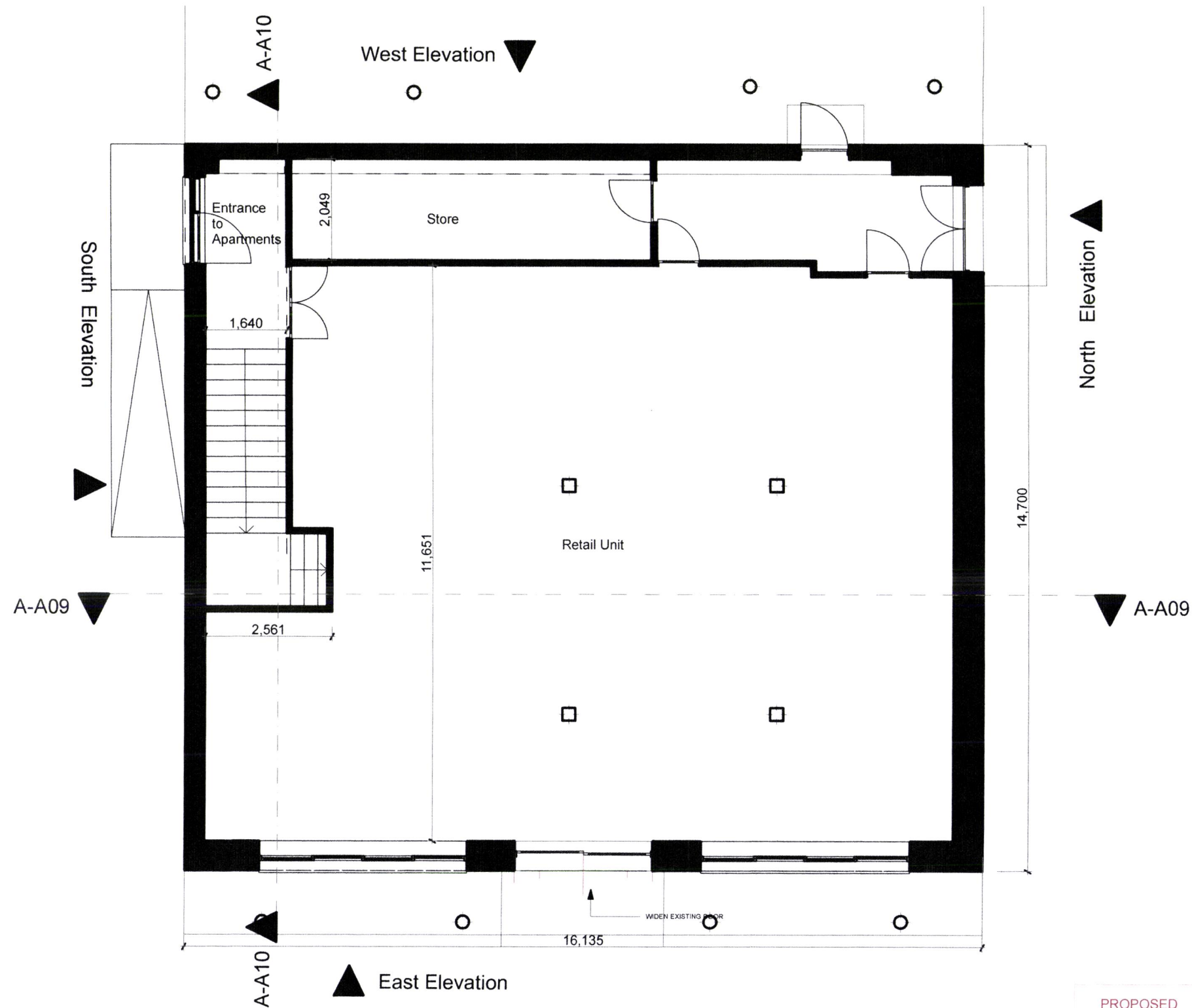
01/23/07

Date

18/01/23

Drawing Scale

1:100



GF-Ground Floor (20)

1:100

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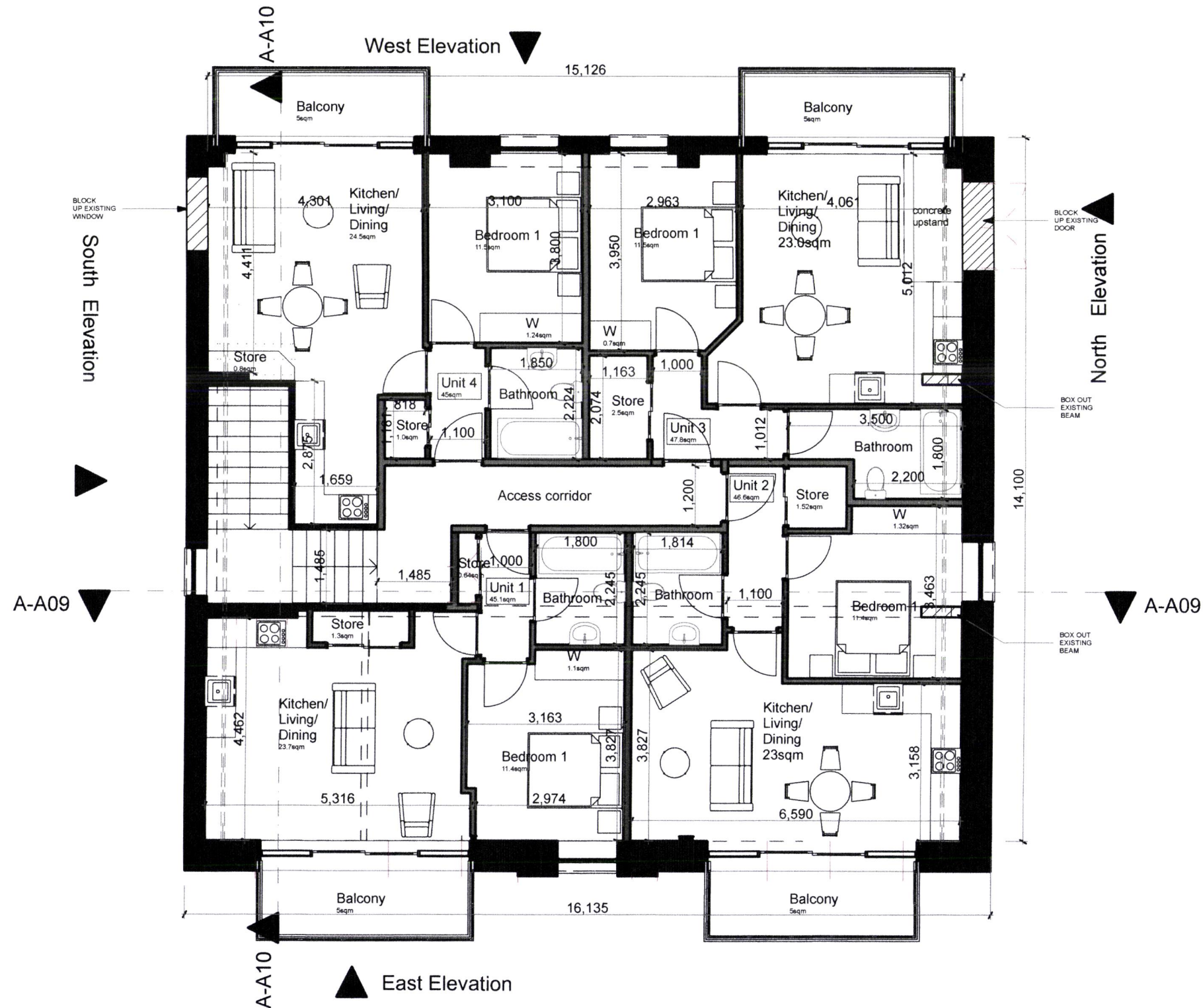
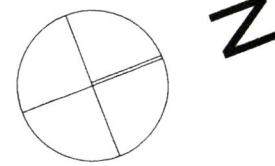
Slieve Donard, Rathfriland, Co. Wicklow Web: www.esarc.ie
Ph: 0404 43832 Mob: 087-4117871 Email: eleanor@esarc.ie



Eleanor Sheehan
Dip. Arch
B. Arch Sc
MRIAI

Drawing Name **GF-Ground Floor (20)**
Client **Stuart Williams & Simon Fennell**
Job Title **Proposed first floor change of use to apartments, Redcross, Co. Wicklow**

Dwg no **01/23/08**
Date **02/02/23**
Drawing Scale **1:100**



01-First Floor (4)

1:100

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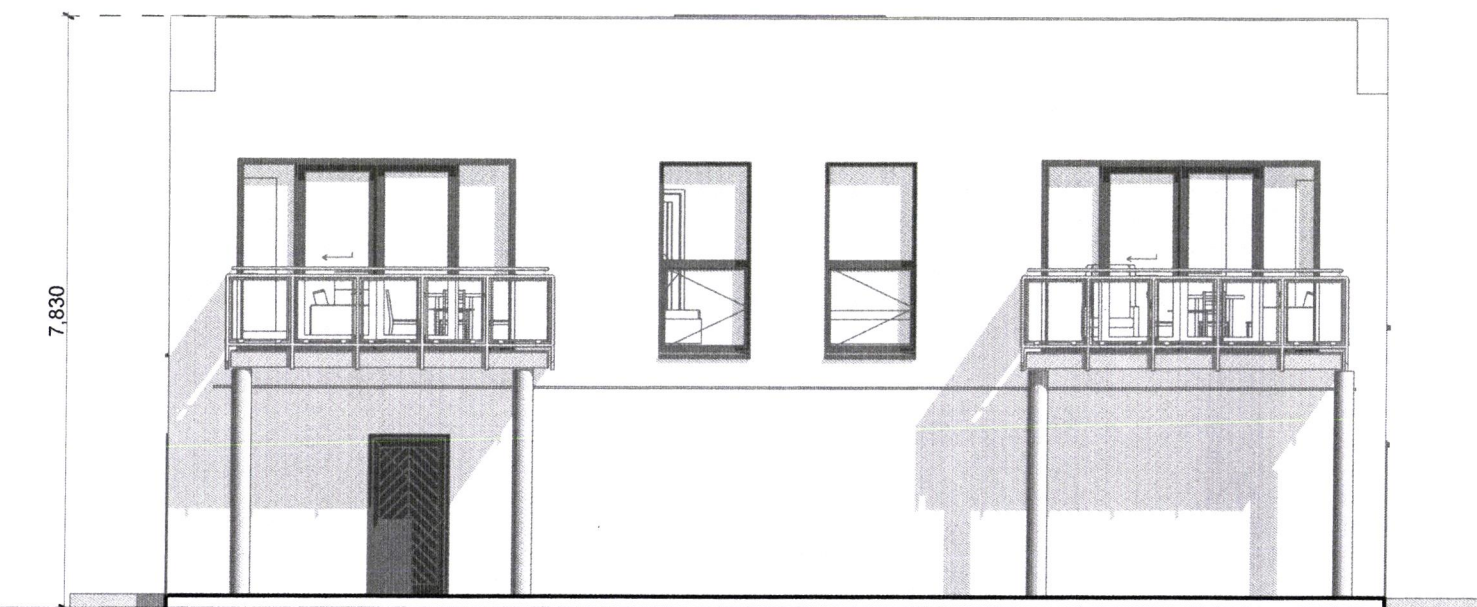
Eleanor Sheehan
Dip. Arch.
B. Arch. Sc.
MRIAI

Drawing Name	01-First Floor (4)	Dwg no	01/23/09
Client	Stuart Williams & Simon Fennell	Date	02/02/23
Job Title	Proposed first floor change of use to apartments, Redcross, Co. Wicklow	Drawing Scale	1:100



1 East Elevation Elevation (5)

1:100



2

West Elevation Elevation (5)

1:100

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B. Arch Sc
MRIAI

East Elevation Elevation (5), West
Elevation Elevation (5)

Drawing Name

Client

Stuart Williams & Simon Fennell

Job Title **Proposed first floor change of use to apartments,**
Redcross, Co. Wicklow

Dwg no

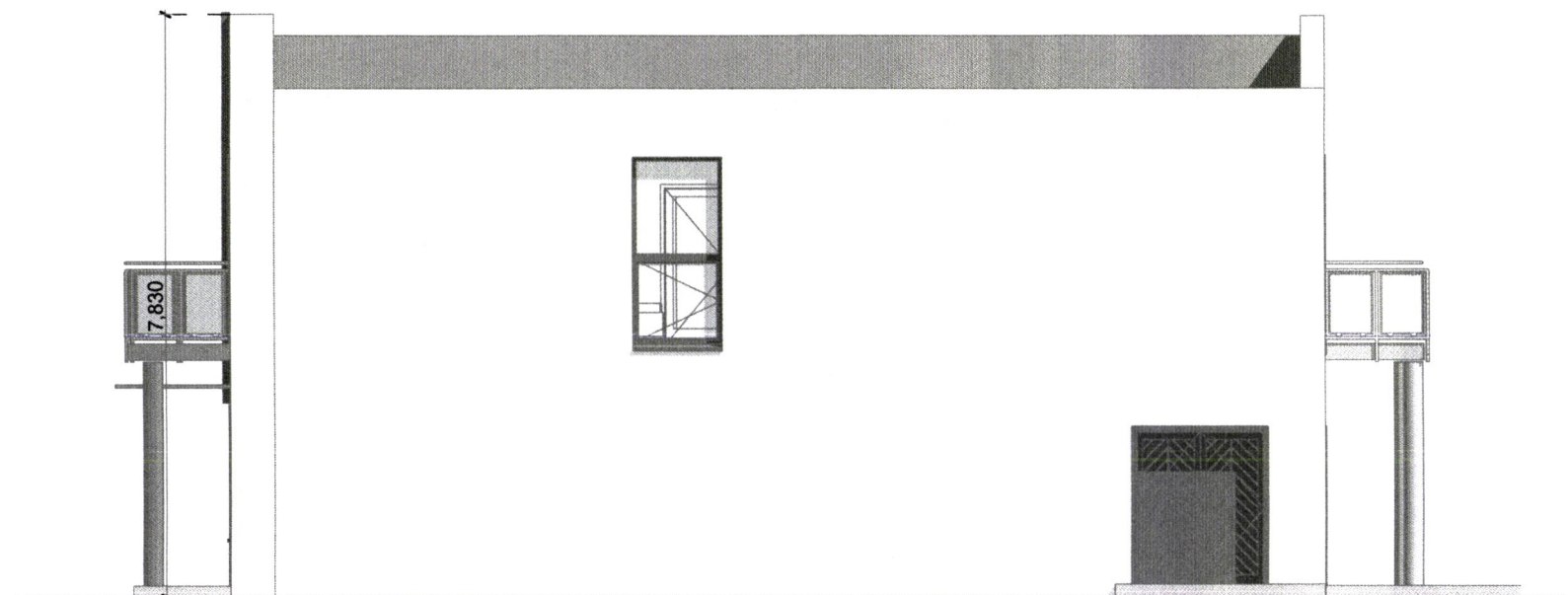
01/23/10

Date

02/02/23

Drawing Scale

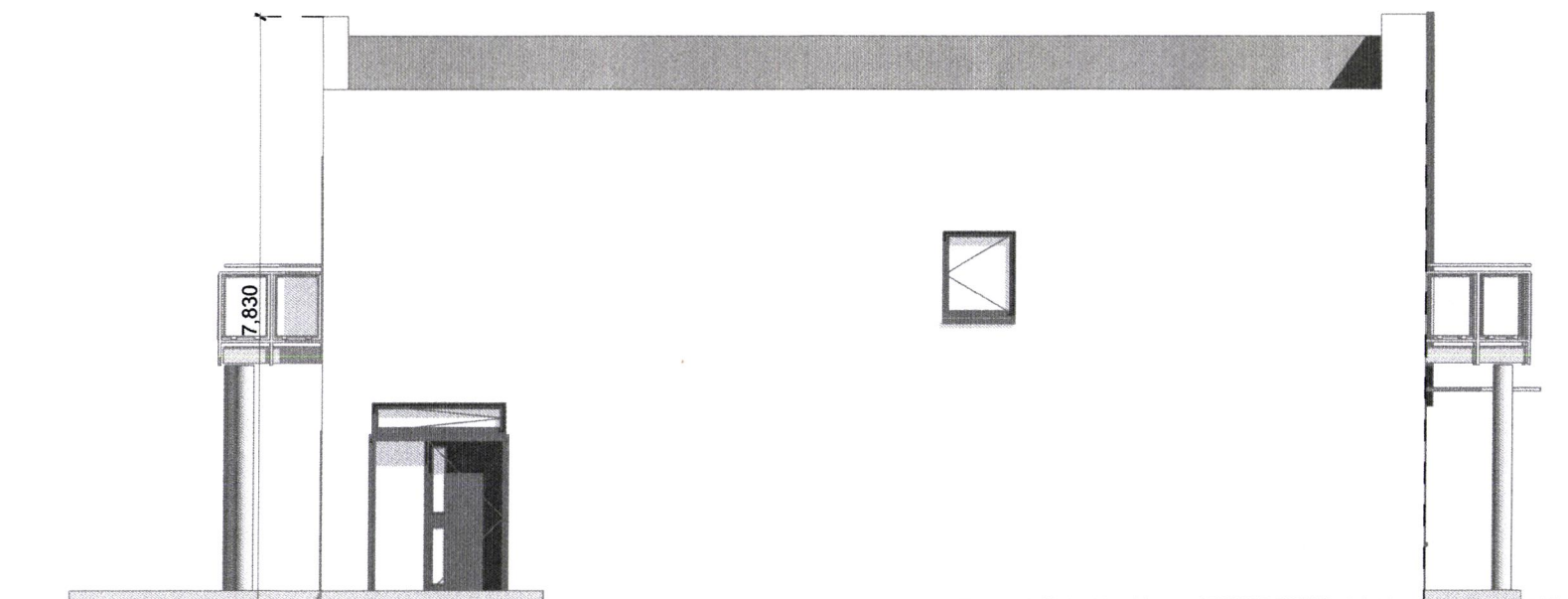
1:100



1

North Elevation Elevation (4)

1:100



2

South Elevation Elevation (4)

1:100

~~EXISTING~~
PROPOSED
BUILDING

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Eleanor Sheehan
Dip. Arch
B. Arch Sc
MRIAI

North Elevation Elevation (4), South
Elevation Elevation (4)

Drawing Name

Client Stuart Williams & Simon Fennell

Job Title Proposed first floor change of use to apartments,
Redcross, Co. Wicklow

Dwg no

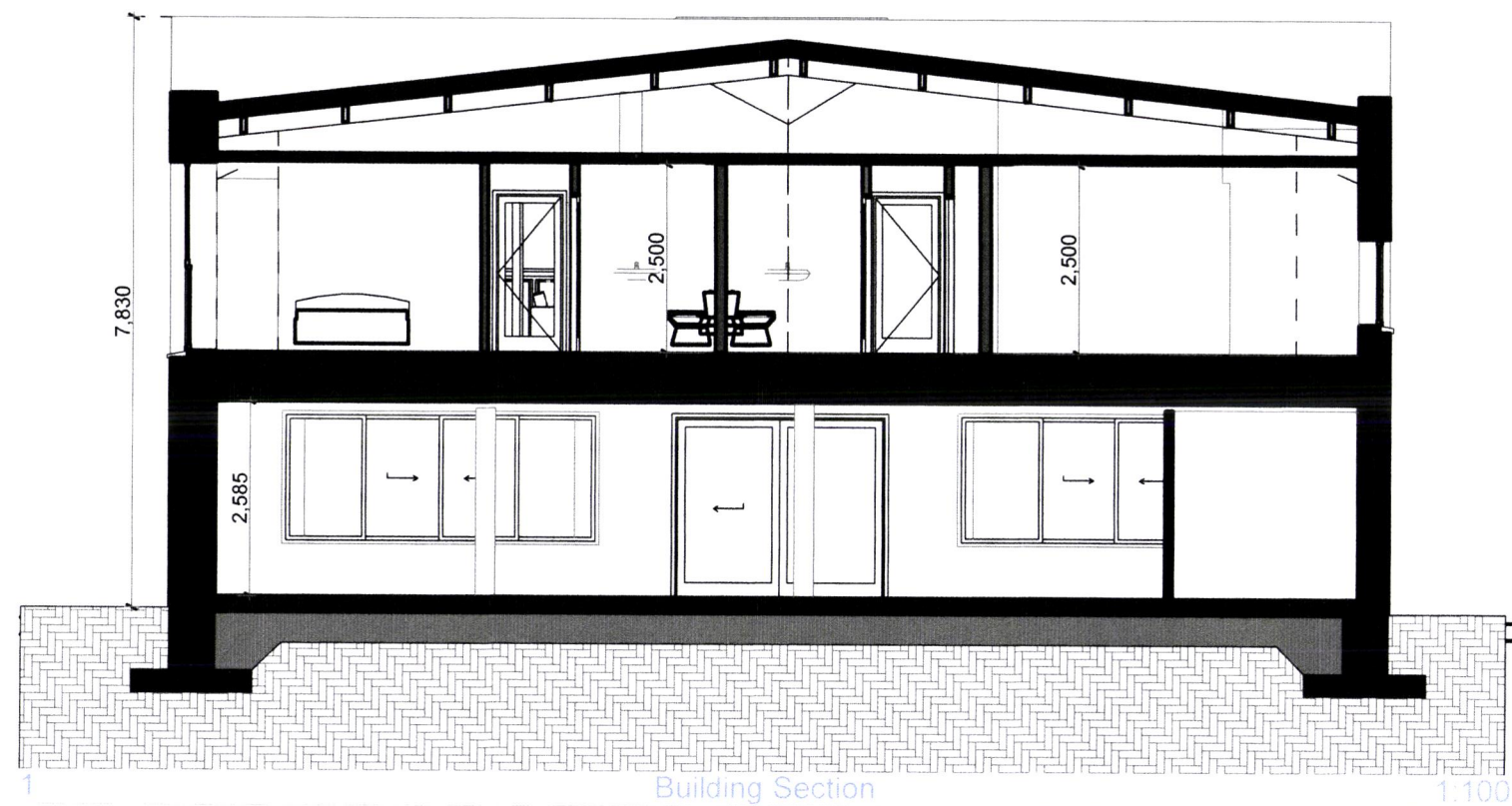
01/23/11

Date

02/02/23

Drawing Scale

1:100



PROPOSED

~~EXISTING~~
BUILDING

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Drawing Name	Building Section	Dwg no	01/23/12
Client	Stuart Williams & Simon Fennell	Date	02/02/12
Job Title	Proposed first floor change of use to apartments, Redcross, Co. Wicklow	Drawing Scale	