

WICKLOW COUNTY COUNCIL

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

CHIEF EXECUTIVE ORDER NO. CE/PDE/1057/2023

Reference Number: EX 31/2023

Name of Applicant: Blackberry Academy Preschool

Nature of Application: Section 5 Referral as to whether "Rearrangement of 1 no. WC and the installation of 1 no additional WC, the construction and installation of a kitchenette within the existing building" is or is not exempted development

Location of Subject Site: 11 St Marys Road, Arklow, Co Wicklow

Report from Edel Bermingham, SEP

With respect to the query under Section 5 of the Planning & Development Act 2000 as to whether "Rearrangement of 1 no. WC and the installation of 1 no additional WC, the construction and installation of a kitchenette within the existing building 11 St Mary's Road, Arklow, Co Wicklow" is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended)

Having regard to:

- (a) The details submitted with the Section 5 Declaration
- (b) Sections 2, 3 and 4 (h) of the Planning and Development Act 2000 (as amended)
- (c) ATC PRR 12/13

Main Reasons with respect to Section 5 Declaration:

The proposed works are development and are exempted development, having regard to the provisions of Section 4 (1)(h) of the Planning and Development Act 2000 (as amended), as the rearrangement and installation of two toilets and a kitchenette within the existing permitted building would be works for the improvement of the existing structure, which affect only the interior of the structure and 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;

"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:

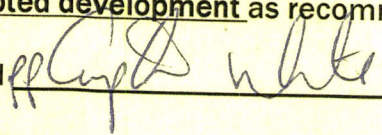
3.—(1) In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4:

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;

Recommendation

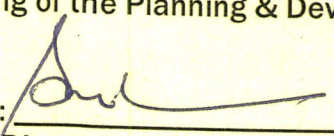
The Planning Authority considers that “Rearrangement of 1 no. WC and the installation of 1 no additional WC, the construction and installation of a kitchenette within the existing building 11 St Mary’s Road, Arklow, Co Wicklow” is development and is exempted development as recommended in the planning report.

Signed  Dated 16 day of June 2023

ORDER:

I HEREBY APPROVE that a declaration to issue stating:

That “Rearrangement of 1 no. WC and the installation of 1 no additional WC, the construction and installation of a kitchenette within the existing building 11 St Mary’s Road, Arklow, Co Wicklow” **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 16 day of June 2023



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@wicklowcoc
Suíomh / Website: www.wicklow.ie

Esme McDowell
C/O Blackberry Academy Preschool
11 St. Mary's Road
Arklow
Co Wicklow

16 June 2023

RE: Declaration in accordance with Section 5 of the Planning & Development Acts
2000 (As Amended) – EX31/2023

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

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,

ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT.





Comhairle Contae Chill Mhantáin Wicklow County Council

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

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Suíomh / Website: www.wicklow.ie

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

Applicant: Blackberry Academy Preschool

Location: 11 St Marys Road, Arklow, Co Wicklow

CHIEF EXECUTIVE ORDER NO. CE/PDE/1051/2023

A question has arisen as to whether "Rearrangement of 1 no. WC and the installation of 1 no additional WC, the construction and installation of a kitchenette within the existing building" is or is not exempted development.

Having regard to:

- (a) The details submitted with the Section 5 Declaration
- (b) Sections 2, 3 and 4 (h) of the Planning and Development Act 2000 (as amended)
- (c) ATC PRR 12/13

Main Reasons with respect to Section 5 Declaration:

The proposed works are development and are exempted development, having regard to the provisions of Section 4 (1)(h) of the Planning and Development Act 2000 (as amended), as the rearrangement and installation of two toilets and a kitchenette within the existing permitted building would be works for the improvement of the existing structure, which affect only the interior of the structure and 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;

"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.

Section 4:

*Tá an doiciméad seo ar fáil i bhformáidí eile ar iarratas
This document is available in alternative formats on request.*

Ba chóir gach comhfhreagras a sheoladh chuig an Stiúrthóir Seirbhísí, Forbairt Pleanála agus Comhshaol.
All correspondence should be addressed to the Director of Services, Planning Development & Environment.





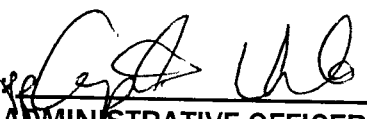
Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol Planning Development and Environment

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Cill Mhantáin / Wicklow
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- 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;

The Planning Authority considers that Rearrangement of 1 no. WC and the installation of 1 no additional WC, the construction and installation of a kitchenette within the existing building 11 St Mary's Road, Arklow, Co Wicklow is development and is exempted development.

Signed: 
ADMINISTRATIVE OFFICER
PLANNING DEVELOPMENT & ENVIRONMENT

Dated 16 June 2023

*Ta an doiciméad seo ar fáil i bhformaidí eile ar iarratas.
This document is available in alternative formats on request.*

Ba chóir gach comhfhreagras a sheoladh chuig an Stiúrthóir Seirbhísí, Forbairt Pleanála agus Comhshaol.
All correspondence should be addressed to the Director of Services, Planning Development & Environment.



Section 5 Application EX 31/2023

Date : 12th June 2023.

Applicant : Blackberry Academy Preschool

Address : 11 St Mary's Road, Arklow.

Exemption Whether or not :

Rearrangement of 1 no.WC and the installation of 1 no additional WC, the construction and installation of a kitchenette within the existing building.

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

Planning History :

PRR 21/824 the removal of condition 15 (b) of the previously approved planning permission (reg. ref. 12/13) with the proposal to increase the total number of children to be catered for in the existing pre-school facility by 5-9 children; not to exceed 42 children maximum at any one time

PRR 20/64 Permission granted for extension of opening hours to include afternoon sessions from 1.30-4.30pm.

ATC PRR 12/13 Permission granted for the change of use of existing building from residential to educational for use as a Montessori Pre-School and permission for a covered walkway to connect both buildings and associated works.

Relevant legislation :

Planning and Development Act 2000 (as amended)

"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, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in *subparagraph (i) or (iii)*;

"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.

Section 4 :

- 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;

Assessment :

The query raised in this Section 5 application is whether the Installation of rearrangement of an existing toilet and provision of a new toilet and construction of a kitchenette all within the existing building would be exempted development.

The first question which must be asked, is whether or not the installation and rearrangement of the space within the rear building that forms part of the pre-school at 11 St Mary's Road, Arklow. The definition of development under Section 3 of the Planning & Development Act 2000(as amended) provides that development means 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. The elements proposed in this referral are considered to come within the definition of 'works', and are therefore development.

In examining whether or not the works identified come within the meaning of exempted development, regard must be had to Section 4(1)(h) which provides that :

(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;

It is indicated that the works are all within the existing building, and are considered to be works of maintenance/ improvement. As the works do not materially affect the external appearance it is

considered the works would be exempted development having regard to the provisions of Section 4(1)(h).

Recommendation :

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

Rearrangement of 1 no.WC and the installation of 1 no additional WC, the construction and installation of a kitchenette within the existing building at 11 St Mary's Road, Arklow, Co. Wicklow

constitutes exempted development within the meaning of the Planning and Development Acts, 2000(as amended).

The Planning Authority consider that :


Rearrangement of 1 no.WC and the installation of 1 no additional WC, the construction and installation of a kitchenette within the existing building, **is development and is exempted development**

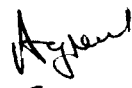
Main Considerations with respect to Section 5 Declaration :

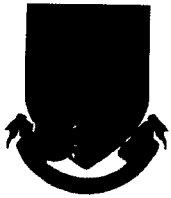
- (a) The details submitted with the Section 5 Declaration
- (b) Sections 2 , 3 and 4 (h) of the Planning and Development Act 2000 (as amended)
- (c) ATC PRR 12/13

Main Reasons with respect to Section 5 Declaration :

The proposed works are development and are exempted development, having regard to the provisions of Section 4 (1)(h) of the Planning and Development Act 2000 (as amended), as the rearrangement and installation of two toilets and a kitchenette within the existing permitted building would be works for the improvement of the existing structure, which affect only the interior of the structure and 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;


12/6/23


Bx
D.S.
16/6/23



Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

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MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Edel Bermingham **FROM: Nicola Fleming**
Senior Executive Planner **Staff Officer**

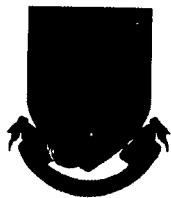
**RE:- EX 31/2023 - Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (as amended)
Rearrangement of 1 no. W.C. and the installation of 1 no. additional W.C. plus the construction and installation of a kitchenette within the existing building**

I enclose herewith for your attention application for Section 5 Declaration received 26th May 2023.

The due date on this declaration is 22nd June 2023.

Staff Officer
Planning Development & Environment





Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol
Planning Development and Environment

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Suíomh / Website: www.wicklow.ie

31st May 2023

Esme McDowell
C/O Blackberry Academy Preschool
11 St. Mary's Road
Arklow
Co. Wicklow

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). Ex 31/2023

A Chara

I wish to acknowledge receipt on 26th May 2023 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 22nd June 2023.

Mise, le meas

NICOLA FLEMING
STAFF OFFICER
PLANNING DEVELOPMENT AND ENVIRONMENT



Wicklow County Council
County Buildings
Wicklow
0404-20100

26/05/2023 16 22 05

Receipt No L1/0/313809
***** REPRINT *****

BLACKBERRY ACADEMY PRESCHOOL
11 ST MARYS ROAD
ARKLOW
co wicklow

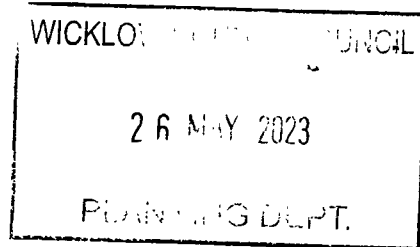
PLANNING APPLICATION FEES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	

Total	80 00 EUR
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Tendered	
Credit Card	80 00
SECTION 5	

Change	0 00
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Wicklow County Council
County Buildings
Wicklow
Co Wicklow
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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: BLACKBERRY ACADEMY PRESCHOOL (ESME MCDOWELL)
Address of applicant: 11 ST. MARY'S ROAD, ARKLOW
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) _____
Address of Agent : _____

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

3. Declaration Details

i. Location of Development subject of Declaration 11 ST. MARY'S RD.
ARKLOW, CO. WICKLOW

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 REARRANGEMENT OF
1 NO. WC AND THE INSTALLATION OF 1 NO. ADDITIONAL W.C. PLUS
THE CONSTRUCTION + INSTALLATION OF A KITCHENETTE
WITHIN THE EXISTING BUILDING. NO ADDITIONAL
FLOORSPACE WILL BE CREATED/CONSTRUCTED.

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 _____

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 _____

AS PER ATTACHED DRAWING SCHEDULE

viii. Fee of € 80 Attached ? €80

Signed : Ernie McDowell . Dated : 22/05/2023

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

Blackberry Academy Pre-School

11 St. Mary's Road, Arklow, Co. Wicklow

[illegible]

Site Location Map

CENTRE COORDINATES:
ITM 724170,673298

PUBLISHED: 03/12/2019
ORDER NO.: 50097250_1

MAP SERIES: 6 Inch Raster
MAP SHEETS: WW040
6 Inch Raster WW045

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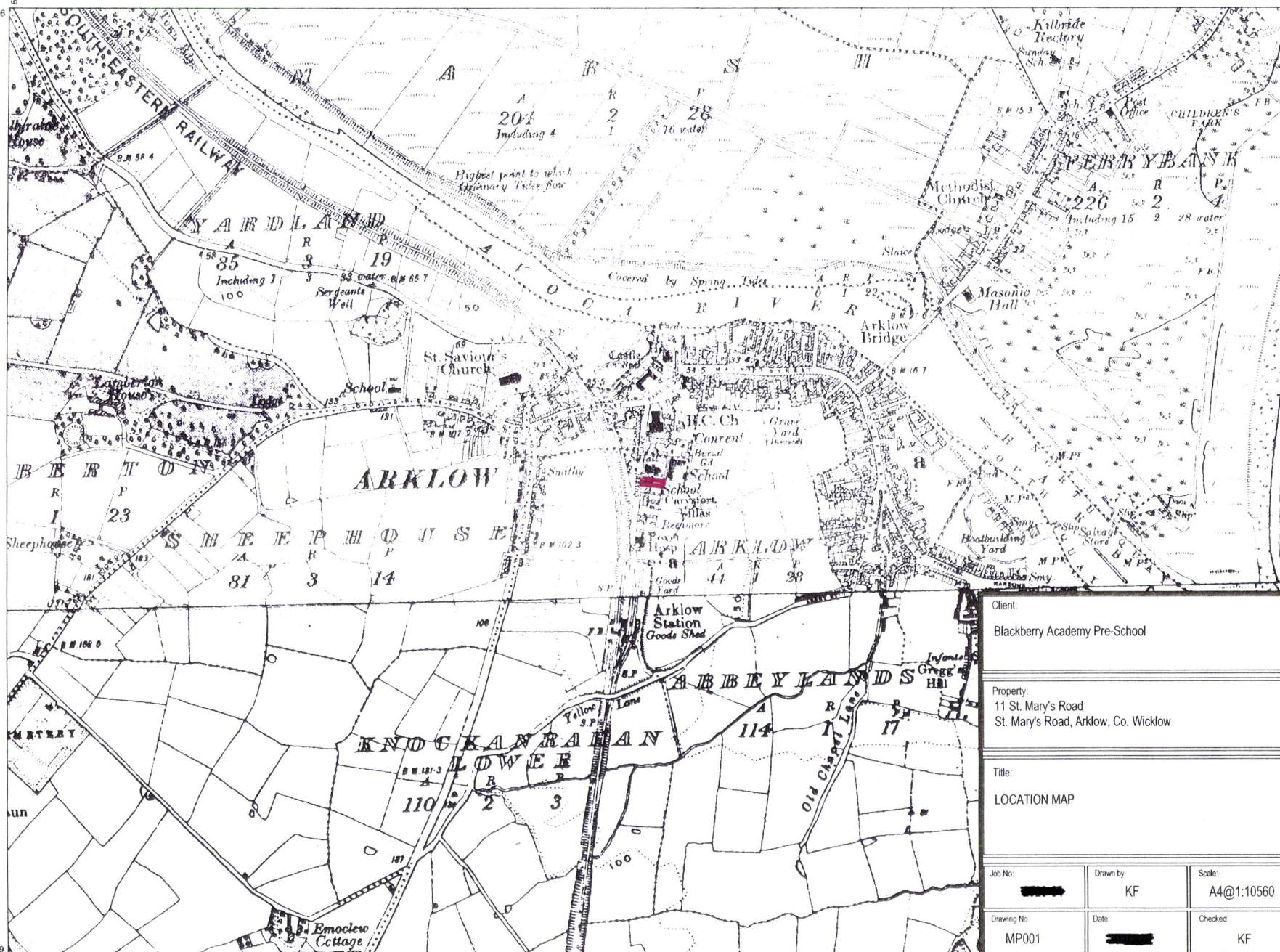
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LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'



Client: Blackberry Academy Pre-School		
Property: 11 St. Mary's Road St. Mary's Road, Arklow, Co. Wicklow		
Title: LOCATION MAP		
Job No: [REDACTED]	Drawn by: KF	Scale: A4@1:10560
Drawing No: MP001	Date: [REDACTED]	Checked: KF

CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at
<http://www.osi.ie>, search 'Capture Resolution'

OUTPUT SCALE: 1:10,560



Planning Pack Map

CENTRE COORDINATES:
ITM 724170,673298

PUBLISHED: 03/12/2019
ORDER NO.: 50097250_1
MAP SERIES: 1:1,000
1:1,000
MAP SHEETS: 4428-11
4428-16

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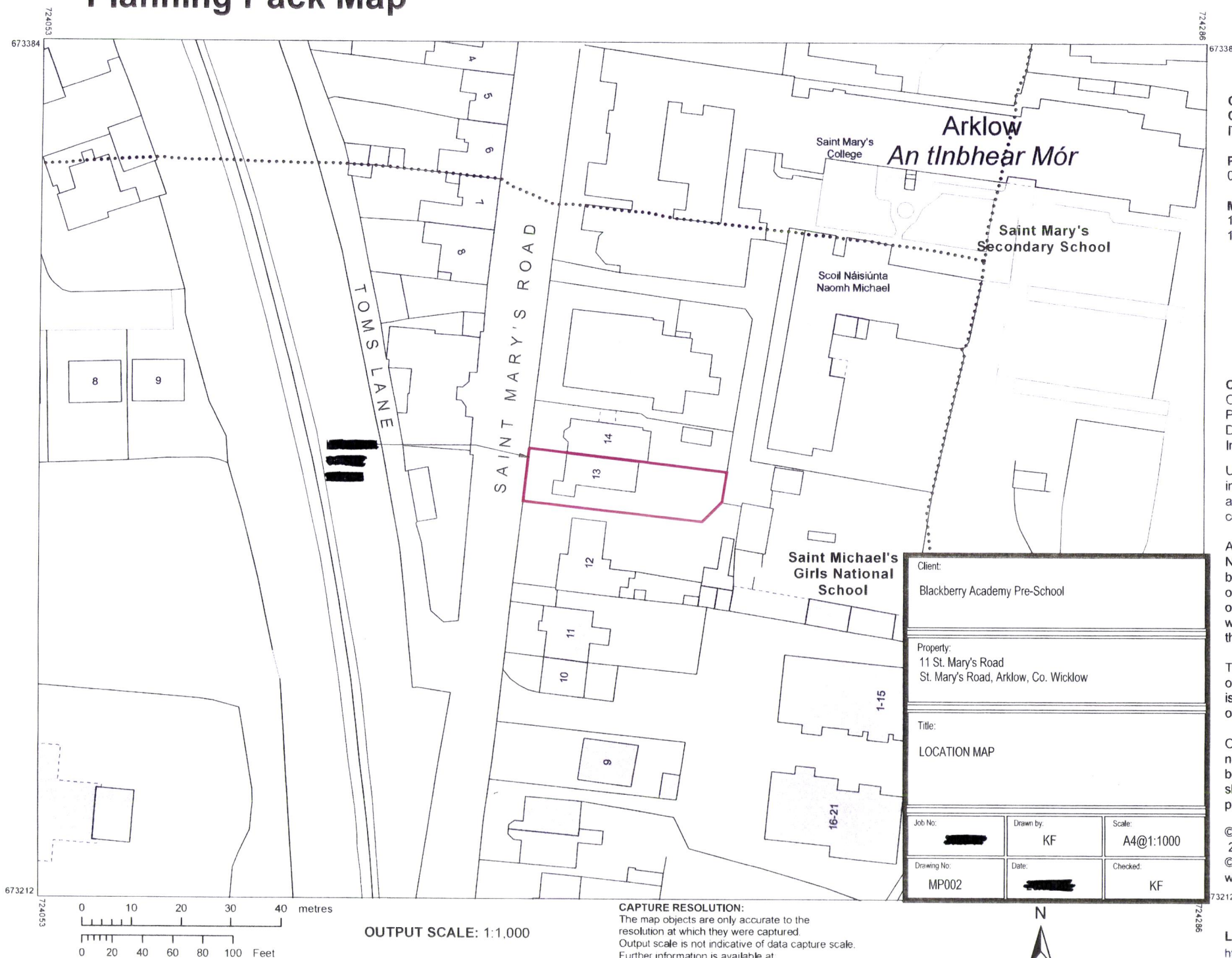
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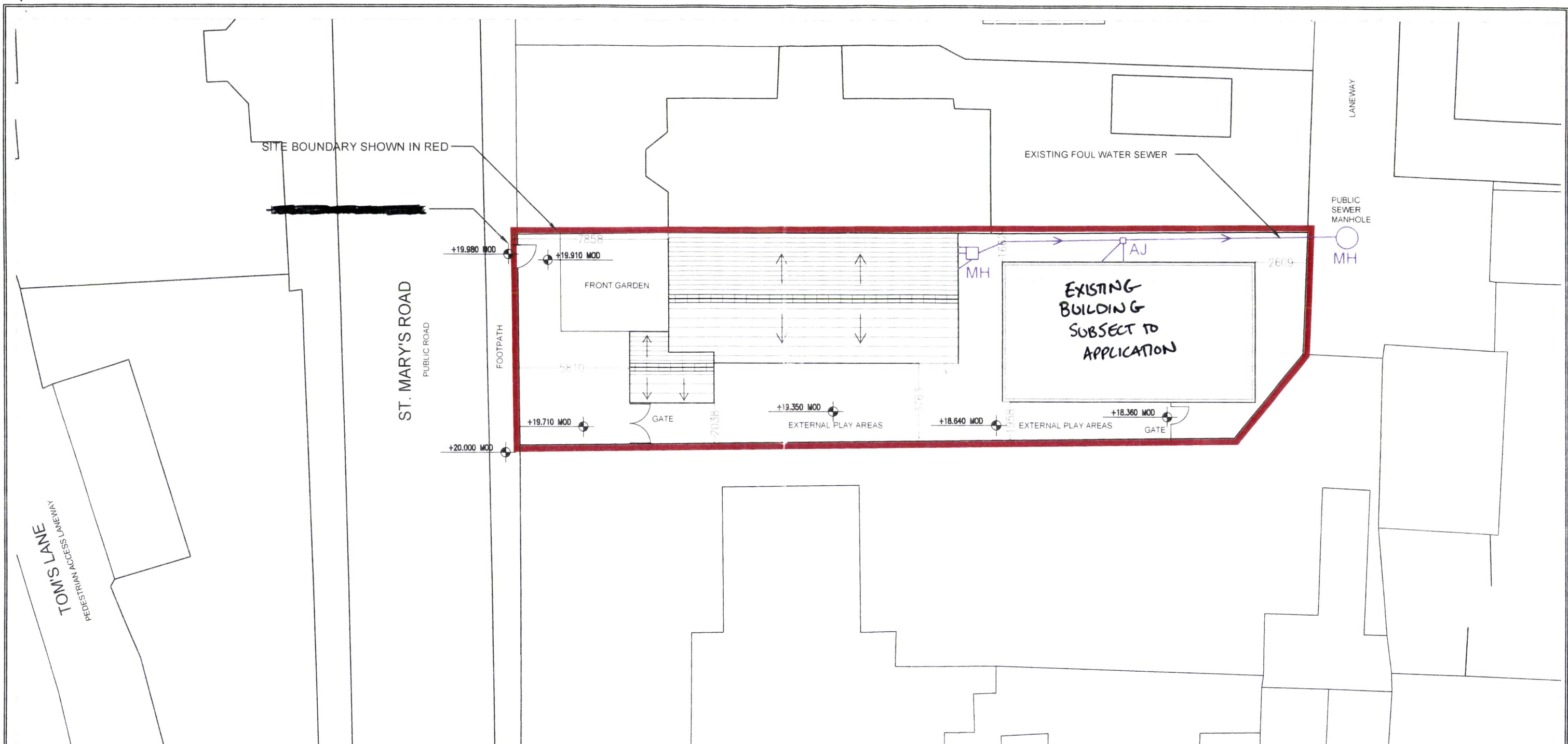
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EXISTING SITE LAYOUT PLAN – No Change
1:200

EXISTING LAYOUT



Notes:

The contractor is to verify all buildings and site dimensions prior to commencement of works or preparation of shop drawings.

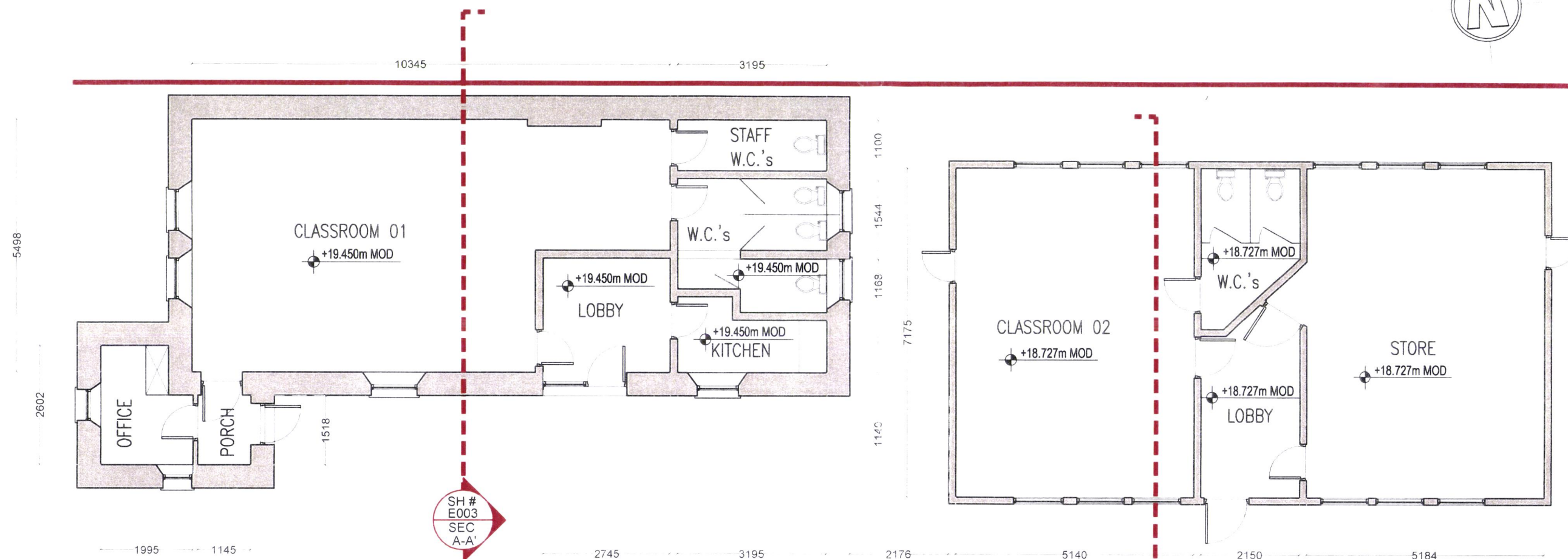
Use only figured dimensions Do not scale

Revision	Date	Description	Checked
Client			
Blackberry Academy Pre-School			
Property			
11 St. Mary's Road St. Mary's Road, Arklow, Co. Wicklow			
Title			
Existing Layouts SITE LAYOUT (No Design Change)			
Job No	Drawn by	Scale	
	KF	A3@1:200	
Drawing No	Date	Checked	
E001		KF	

Notes:

The contractor is to verify all buildings and site dimensions prior to commencement of works or preparation of shop drawings.

Use only figured dimensions Do not scale

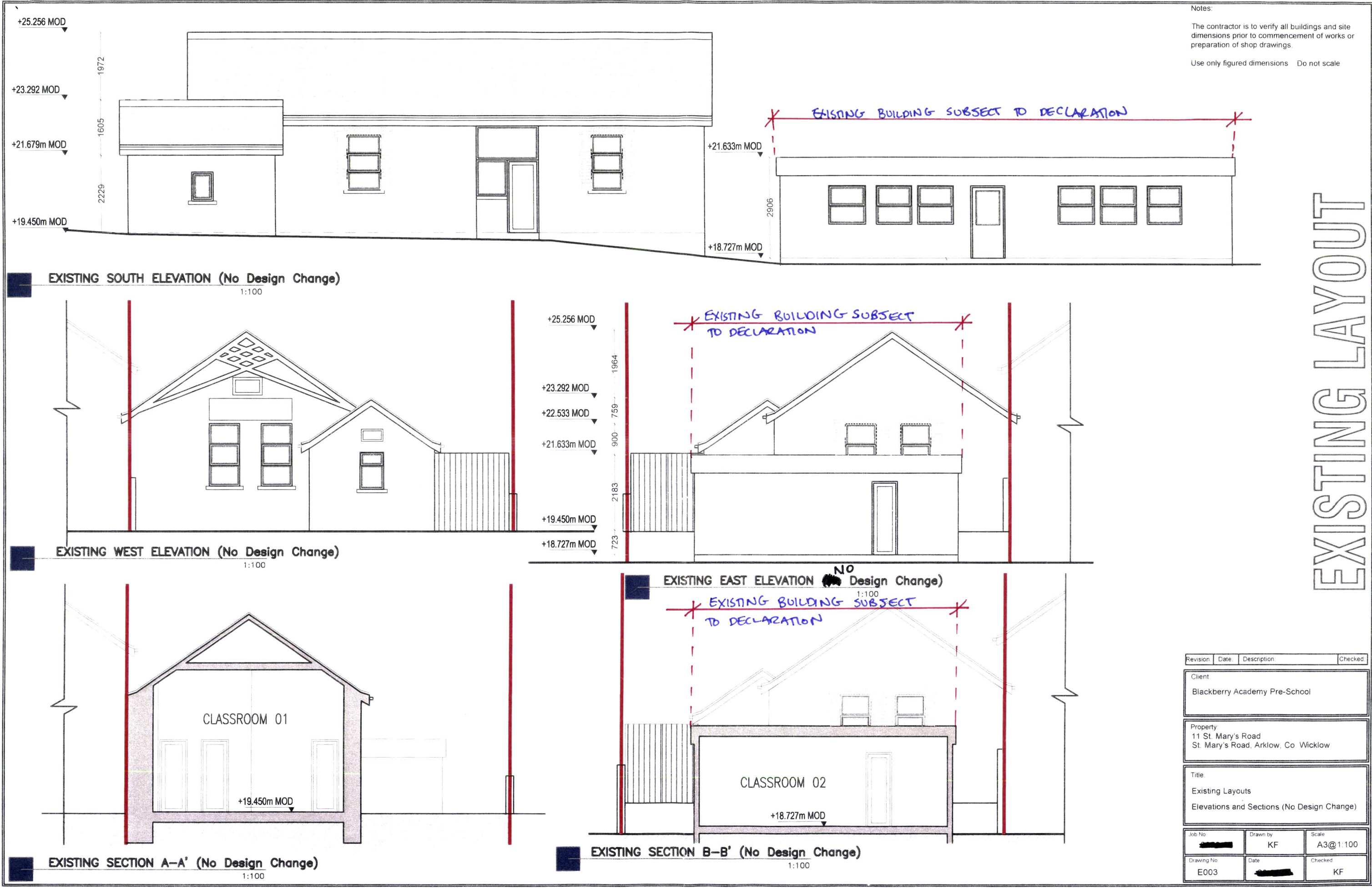


EXISTING LAYOUT

EXISTING GROUND FLOOR PLAN — No Change
NOT SUBJECT TO
THIS APPLICATION

EXISTING GROUND FLOOR PLAN
OF BUILDING SUBJECT TO
DECLARATION
SCALE - 1:100

Revision	Date	Description	Checked
Client			
Blackberry Academy Pre-School			
Property			
11 St. Mary's Road St. Mary's Road, Arklow, Co. Wicklow			
Title			
Existing Layouts Floor Plans ()			
Job No	Drawn by	Scale	
	KF	A3@1:100	
Drawing No	Date	Checked	
E002		KF	



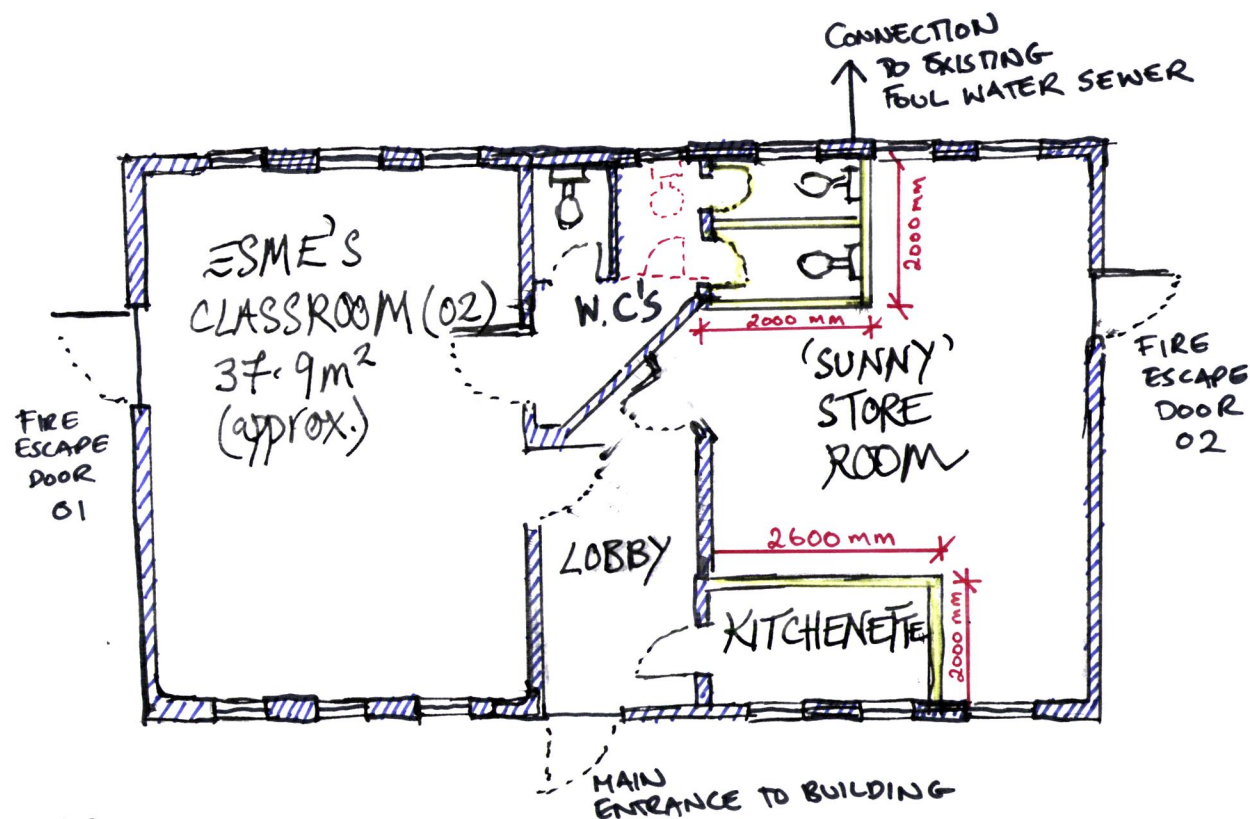
Notes:

The contractor is to verify all buildings and site dimensions prior to commencement of works or preparation of shop drawings.

Use only figured dimensions Do not scale

EXISTING LAYOUT

Revision	Date	Description	Checked
Client			
Blackberry Academy Pre-School			
Property			
11 St. Mary's Road St. Mary's Road, Arklow, Co. Wicklow			
Title			
Existing Layouts Elevations and Sections (No Design Change)			
Job No.	Drawn by	Scale	
	KF	A3@1:100	
Drawing No.	Date	Checked	
E003		KF	



BUILDING SUBJECT TO DECLARATION
PROPOSED GROUND FLOOR PLAN
SCALE - NOT TO SCALE

20 PRESCHOOL CHILDREN
AGE GROUP: 2:6 YRS - 5:6 YRS

NEW PROPOSED WALLS + DOORS.

EXISTING WALLS

EXISTING W.C. TO BE REMOVED
AND RELOCATED IN NEW PROPOSED
LOCATION AS SHOWN.

DWG NO. P004