



Comhairle Contae Chill Mhantáin Wicklow County Council

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development**

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

19th May 2025

Stephen Kavanagh

**RE: Declaration in accordance with Section 5 of the Planning & Development Acts
2000 (As Amended) – EX36/2025 –**

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 ECONOMIC & RURAL DEVELOPMENT**





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

Applicant: Stephen Kavanagh

Location: Moran's, Tinnahinch, Avoca, Co. Wicklow

Reference Number: EX36/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/490

Section 5 Declaration as to whether "the change of use of existing premises from sale/ leasing/ display of motor vehicles to use as a shop with ancillary storage and manufacturing process" at Moran's, Tinnahinch, Avoca, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

Having regard to:

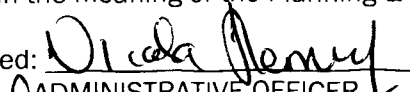
- The details submitted with the Section 5 Declaration application, and the further information submitted on the 2nd May 2025
- PRR 04/655
- An Bord Pleanála Declarations ABP -304204-19, RL 02.31202530. RL.2561, and RL.3470
- Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)
- Article 10 and Schedule 2, Part 4 of the Planning and Development Regulations 2001 (as amended)

Main Reasons with respect to Section 5 Declaration:

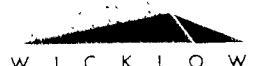
- The use of the existing structure is a for motor sales and car servicing
- The change of use to use for the production of Heath food supplements would be materially different having regard to the change in character of the use, increased traffic movements, increased employee numbers, differing patterns of usage , hours of operation, and differing emissions, which would give rise to a number of planning considerations .
- The change of use is therefore development having regard to the definition set out in Section 3 of the Planning and Development Act 2000 (as amended)
- The use of the existing structure as a motor sales and service use facility, is sui generis under Article 10(2)(b)(iii) of the Planning and Development Regulations, 2001(as amended)
- The proposed change of use from motorsales and service use to use for the manufacturing/ production of marine based products and associated shop area would not come within the provisions of Part 4 having regard to Article 10 (2) (b)(iii) which provides that nothing in any class in Part 4 of the Schedule 2 shall include any use for the sale or leasing, or display for sale or leasing, of motor vehicles. Therefore, the change of use would not be exempted development.

The Planning Authority considers that "the change of use of existing premises from sale/ leasing/ display of motor vehicles to use as a shop with ancillary storage and manufacturing process" at Moran's, Tinnahinch, Avoca, Co. Wicklow **is development and is NOT exempted development** within the meaning of the Planning & Development Act 2000 (as amended).

Signed:


ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated  May 2025



WICKLOW COUNTY COUNCIL
PLANNING & DEVELOPMENT ACTS 2000 (As Amended)
SECTION 5

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/490

Reference Number: EX36/2025

Name of Applicant: Stephen Kavanagh

Nature of Application: Section 5 Declaration request as to whether or not:-
"the change of use of existing premises from sale/
leasing/ display of motor vehicles to use as a shop
with ancillary storage and manufacturing process" is
or is not development and is or is not exempted
development.

Location of Subject Site: Moran's, Tinnahinch, Avoca, Co. Wicklow

Report from Edel Bermingham, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "the change of use of existing premises from sale/ leasing/ display of motor vehicles to use as a shop with ancillary storage and manufacturing process" at Moran's, Tinnahinch, Avoca, 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 application, and the further information submitted on the 2nd May 2025
- b) PRR 04/655
- c) An Bord Pleanála Declarations ABP -304204-19, RL 02.31202530. RL.2561, and RL.3470
- d) Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)
- e) Article 10 and Schedule 2, Part 4 of the Planning and Development Regulations 2001 (as amended)

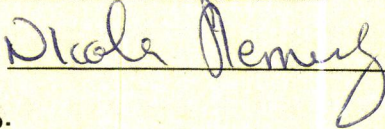
Main Reason with respect to Section 5 Declaration:

- i. The use of the existing structure is a for motor sales and car servicing
- ii. The change of use to use for the production of Heath food supplements would be materially different having regard to the change in character of the use, increased traffic movements, increased employee numbers, differing patterns of usage , hours of operation, and differing emissions, which would give rise to a number of planning considerations .
- iii. The change of use is therefore development having regard to the definition set out in Section 3 of the Planning and Development Act 2000 (as amended)
- iv. The use of the existing structure as a motor sales and service use facility, is sui generis under Article 10(2)(b)(iii) of the Planning and Development Regulations, 2001(as amended)
- v. The proposed change of use from motorsales and service use to use for the manufacturing/ production of marine based products and associated shop area would not come within the provisions of Part 4 having regard to Article 10 (2) (b)(iii)

which provides that nothing in any class in Part 4 of the Schedule 2 shall include any use for the sale or leasing, or display for sale or leasing, of motor vehicles. Therefore, the change of use would not be exempted development.

Recommendation:

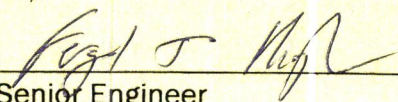
The Planning Authority considers that "the change of use of existing premises from sale/ leasing/ display of motor vehicles to use as a shop with ancillary storage and manufacturing process" at Moran's, Tinnahinch, Avoca, Co. Wicklow is development and is NOT exempted development as recommended in the report by the SEP.

Signed 

Dated 19th day of May 2025

ORDER:

I HEREBY DECLARE THAT "the change of use of existing premises from sale/ leasing/ display of motor vehicles to use as a shop with ancillary storage and manufacturing process" at Moran's, Tinnahinch, Avoca, Co. Wicklow is development and is NOT exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed: 
Senior Engineer
Planning, Economic & Rural Development

Dated 19th day of May 2025

Section 5 Application : EX 36/2025

Date : 19th May 2025.

Applicant : Stephen Kavanagh

Address : Moran's, Tinnahinch, Avoca, Co.Wicklow

Whether or not :

The change of use of existing premises from sale/ leasing/ display of motor vehicles to uses as a shop with ancillary storage and manufacturing process is or is not exempted development.

See previous report dated the 4th April 2025, further information was sought in respect to the Section 5 Declaration. A response was received on the 2nd May 2025.

Assessment :

Further Information Requested i.e.

1. Having regard to Section 5 (2)(b) of the Planning and Development Act 2000(as amended) you are requested to submit the following further information.

(a) From site inspection it is noted that a Drive Thru Coffee Shop is operating within the front element of the structure. You are requested to confirm if this use will form part of the indicated 'shop' in your Section 5 query, and therefore part of the Section 5 query. Any submission should include revised floor plan delineating the area of this use.

(b) Exact details of the type and nature of the 'manufacturing process' to be undertaken within the structure

(d) Please clarify the proposed use of the Administration offices, is this office space to operate separately from the other uses delineated

(c) A revised ground floor plan which clearly delineates all individual uses as the area for Administration office and store are not clearly legible, as the colours used do not clearly differentiate between these areas In addition any revised ground floor plan should have regard to the query under Part (a)

(e) You should identify the area of parking, as currently the area to the front of the structure is used as a one-way system

Applicants Response -

a) The proposed use of the subject building and site does not include the "Drive Thru Coffee Shop". The existing use would be closed and the building exclusively used for the proposed business, so the coffee drive thru forms no part of the Section 5 query.

b) Marine Health Foods Ltd. is a highly specialised producer and seller of marine products located in Co. Wicklow, Ireland. It manufactures dietary supplements and functional ingredients/foods of marine origin before selling as either food or dietary supplements. It is a family run, small scale operation and employs 12 people locally and supports small scale aquaculture and fishing coastal communities. The company sells its online B2C and through large wholesalers, B2B. The company will commence retail sales at this location should it move there due to the extra space and parking available.

Shucking/processing of live oysters, drying/lyophilisation, powder making/ micronisation, encapsulating, bottling, labelling and dispatch. Spent oyster shell from the process is a valuable commodity and is currently

sent to oyster restoration projects (one in Wicklow soon), Bord na Mona for air filtration and the Netherlands for poultry grit. Please see attached process flow diagram and proposed factory layout.

The process is regulated by US Food and Drug Administration (FDA), Food Safety Authority of Ireland, Health Services Executive and Sea Fisheries Protection Authority. As such it has several inspections annually and is required to maintain extremely high standards in relation to hygiene, safety, biosecurity and quality.

For the avoidance of doubt, we do not intend to sell or serve any hot food. The staff canteen is ancillary to the main business. We believe that the change from garage showroom to retail in one section of the building is exempted development. We also believe that the change from light industrial garage service centre and vehicle repairs to light industrial manufacturing as proposed in the other section is also exempted development.

c) Please note the administration office is ancillary to the main business and supports the daily running of the business and the on-line sales part of the business

d) Please see the revised floor plan with the individual uses more clearly delineated. As noted above the business will be taking vacant possession of the building so the coffee drive thru will be closed down.

e) Please see the revised site layout plan showing the old outdoor car display area for parking for staff and customers.

Assessment

The submission and associated documents are noted. The submitted details identify that the operations will consist of a shop element for the sale of goods associated with the manufacturing of Health food supplements/ ingredients. The health foods are made by way of the Shucking/processing of live oysters, which are then dried/ freeze dried and made into powders or capsules and then bottled/ labelled and dispatched or potentially sold on site.

The change of use from use for motor sales , and car servicing to use for the manufacturing of Health Food Supplements/ ingredients by the shucking/processing of live oysters, and sale of such finished articles would it is considered be materially different in character to the original use as a car showroom and garage. The uses would give rise to increased traffic movements at the facility associated the delivery of raw materials and distribution of end product, increase in public traffic movements to the facility, increase in employee numbers, different patterns of usage , hours of operation, likely to give rise to noise, smells and impacts on the amenity of the area, and therefore would give rise to material different planning considerations than its current use. It is therefore considered that the change of use would be material, and therefore development having regard to the definition set out in Section 3(1)(a) of the Planning and Development Act 2000(as amended)

In order to assess the change of use a number of Section 5 Declarations issued by An Bord Pleanála would be pertinent to this question i.e..

ABP -304204-19

An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the change of use from car dealership to retail sale of convenience goods at Pollamore Near, Dublin Road, Cavan is development and is exempted development.

(a) the proposed change of use pertaining to the former car sales premises would generally come within the scope of the exemption provided in Class 14 (a) of Part 1 of Schedule 2 of the Planning and Development Regulations, as amended, and

(b) the change of use to a shop is not subject to any of the restrictions on exemption set out in Article 9 of the Planning and Development Regulations, 2001, as amended:

ABP-312025-21

An Bord Pleanála has concluded that the change of use of Unit 17, Kilmore Business Park, Dublin Road, Cavan, from "office ancillary" to motor sales facilities to "office use" to be occupied by HSE administrative services is development and is not exempted development as

(a) the authorised use of the site is a motor sales and service facility and as such sui generis under Article 10(2)(b)(iii) of the Planning and Development Regulations, 2001, as amended.

(b) the proposed use lies within Class 3 of Part 4 of Schedule 2 to those Regulations, and

(c) the proposed change of use of the upper floors of the building on the site from a motor sales and service facility to a Class 4 office would entail a material change of use

RL.2561

An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the said use of the building for car/vehicle repair and maintenance at Windmill Motors, Crossgalla Industrial Estate, Ballysimon Road, Limerick is not development as

(a) the development granted permission under planning register reference number 98/132 is for industrial uses,

(b) having regard to the absence of a forecourt and associated forecourt services and facilities, the development does not constitute a motor service station, and

(c) the use of the premises for motor repair and maintenance falls within the definition of an industrial process and thus falls within the permitted uses and therefore, does not constitute a material change of use and is not development.

RL.3470

An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the said operation of a car repair workshop is not development at Unit 11, Airport East Business and Technology Park, Farmer's Cross, County Cork as -

(a) The use of Unit 11, Airport East Business and Technology Park, Farmer's Cross, County Cork, falls under the definition of an industrial process within a light industrial premises under Article 5 of the Planning and Development Regulations 2001, as amended,

(b) The development permitted, under planning register reference number 99/3065 as subsequently determined on appeal under An Bord Pleanála reference number PL 04.112834, and planning register reference number 00/3635, under the terms and conditions of the permissions granted includes use of the premises for light industrial purposes, and

(c) The use of the premises as a car repair workshop falls within the above permitted uses and, therefore, is not a material change of use and is not development.

The existing Motor Sales/ Garage on site, appears from review of the historic planning register to have been operating as a service station prior to 1st October 1964. Over the years various permission have been granted which have altered it from a petrol station to showrooms/ garage (PRR 64/130, PRR65/591, PRR 84/1051 note not all planning files available). The most recent permission i.e. PRR 04/656 identified the structures as a Showroom with garage servicing, as is evident from google street view and the floor plans.



It is noted that the querist seeks to segregate the uses on site into separate entities to demonstrate that the change of use is exempt. However, it is clear that the structure was operating as one planning unit, for sale and display for sale of motor vehicles and associated servicing / garage.

The inspector in the report under RL02.312025 identified in that case that -

the authorised use of the developed site is that of a motor sales and service use facility, which is sui generis under Article 10(2)(b)(iii) of the Planning and Development Regulations, 2001 – 2021.

This conclusion is applicable in this instance. Therefore, the proposal to change the motorsales and service use to use for the manufacturing/ production of marine based products and associated shop area would not come within the provisions of Part 4 having regard to Article 10 (2) (b) (iii) which provides that

(b) Nothing in any class in Part 4 of the Schedule 2 shall include any use—

(iii) for the sale or leasing, or display for sale or leasing, of motor vehicles,

Therefore, the change of use would not be exempted development.

Recommendation

With respect to the query under Section 5 of the Planning and Development Act 2000(as amended), as to whether or not :

The change of use of existing premises from sale/ leasing/ display of motor vehicles to uses as a shop with ancillary storage and manufacturing process at Moran's, Tinnahinch, Avoca, Co.Wicklow

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

The Planning Authority consider that the change of use of existing premises from sale/ leasing/ display of motor vehicles to uses as a shop with ancillary storage and manufacturing process at Moran's, Tinnahinch, Avoca, is Development and is **Not** Exempted Development.

Main Considerations with respect to Section 5 Declaration :

- a) The details submitted with the Section 5 Declaration application, and the further information submitted on the 2nd May 2025
- b) PRR 04/655
- c) An Bord Pleanala Declarations ABP -304204-19, RL 02.31202530, RL.2561, and RL.3470
- d) Sections 2 , 3 and 4 of the Planning and Development Act 2000 (as amended)
- e) Article 10 and Schedule 2, Part 4 of the Planning and Development Regulations 2001 (as amended)

Main Reasons with respect to Section 5 Declaration :

- i. The use of the existing structure is a for motor sales and car servicing
- ii. The change of use to use for the production of Heath food supplements would be materially different having regard to the change in character of the use, increased traffic movements, increased employee numbers, differing patterns of usage , hours of operation, and differing emissions, which would give rise to a number of planning considerations .
- ii. The change of use is therefore development having regard to the definition set out in Section 3 of the Planning and Development Act 2000 (as amended)
- iii. the use of the existing structure as a motor sales and service use facility, is sui generis under Article 10(2)(b)(iii) of the Planning and Development Regulations, 2001(as amended)
- iv. The proposed change of use from motorsales and service use to use for the manufacturing/ production of marine based products and associated shop area would not come within the provisions of Part 4 having regard to Article 10 (2) (b)(iii) which provides that nothing in any class in Part 4 of the

Schedule 2 shall include any use for the sale or leasing, or display for sale or leasing, of motor vehicles.
Therefore, the change of use would not be exempted development.

26/05/2025

19/5/2025

Issue declaration as recommended
19/05/25



Comhairle Contae Chill Mhantáin Wicklow County Council

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MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Edel Bermingham
Senior Executive Planner

FROM: Nicola Fleming
Staff Officer

**RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX36/2025**

I enclose herewith application for Section 5 Declaration received completed on 14/03/2025 along with further information received on 02/05/2025.

The due date on this declaration is 22nd May 2025.

Staff Officer
Planning, Economic & Rural Development





Comhairle Contae Chill Mhantáin Wicklow County Council

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Stephen Kavanagh


20th March 2025

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX36/2025 at Morans Avoca, Tinnahinch, Avoca, Co. Wicklow

A Chara

I wish to acknowledge receipt details supplied by you on 2nd May 2025 in response to a further information request in respect of the above Section 5 application. A decision is due in respect of this application by 22/05/2025.

Mise, le meas



Nicola Fleming
Staff Officer
Planning, Economic & Rural Development



*To an dóic m'eads ar fáil i bhformáid leictreacha
This document is available in alternative formats on request*

Ba chóir gach comhfhreagras a sheoladh chuig an Stiúrthoir Seirbhísí, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development



MARINE HEALTHFOODS LTD.

tel: +353 (0) 402 94604 email: info@marinehealthfoods.com web: www.marinehealthfoods.com

Stephen Kavanagh
Ballymorris Lower
Aughrim
Co. Wicklow

25th April 2025

Re: Application for Certificate of Exemption under Section 5 of the Planning & Development Acts 2—
(as amended). – EX36/2025

A Chairde,

RECEIVED 02 MAY 2025

Please see below replies to your letter of the 8th April.

- a) The proposed use of the subject building and site does not include the "Drive Thru Coffee Shop". The existing use would be closed and the building exclusively used for the proposed business, so the coffee drive thru forms no part of the Section 5 query.
- b) Marine Health Foods Ltd. is a highly specialised producer and seller of marine products located in Co. Wicklow, Ireland. It manufactures dietary supplements and functional ingredients/foods of marine origin before selling as either food or dietary supplements. It is a family run, small scale operation and employs 12 people locally and supports small scale aquaculture and fishing coastal communities. The company sells its online B2C and through large wholesalers, B2B. The company will commence retail sales at this location should it move there due to the extra space and parking available.

We do the following type of process on site. Shucking/processing of live oysters, drying/lyophilisation, powder making/ micronisation, encapsulating, bottling, labelling and dispatch. Spent oyster shell from the process is a valuable commodity and is currently sent to oyster restoration projects (one in Wicklow soon), Bord na Mona for air filtration and the Netherlands for poultry grit. Please see attached process flow diagram and proposed factory layout.

The process is regulated by US Food and Drug Administration (FDA), Food Safety Authority of Ireland, Health Services Executive and Sea Fisheries Protection Authority. As such it has several inspections annually and is required to maintain extremely high standards in relation to hygiene, safety, biosecurity and quality.

Facilities must be maintained to the highest standards as part of this. The company's products can be viewed on the company website at www.marinehealthfoods.com We would welcome

Directors S Kavanagh, M Roche Registered in Ireland No 329478

VAT No IE 6349478G Address: Ferrybank, Arklow, Co Wicklow, Ireland

MARINE HEALTHFOODS LTD.

tel. +353 (0) 402 94604 email: info@marinehealthfoods.com web: www.marinehealthfoods.com

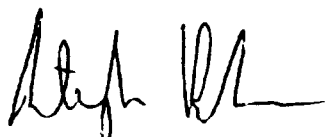
a visit from the planning authority at our existing plant to help you understand our process and business.

For the avoidance of doubt, we do not intend to sell or serve any hot food. The staff canteen is ancillary to the main business. We believe that the change from garage showroom to retail in one section of the building is exempted development. We also believe that the change from light industrial garage service centre and vehicle repairs to light industrial manufacturing as proposed in the other section is also exempted development.

- c) Please note the administration office is ancillary to the main business and supports the daily running of the business and the on-line sales part of the business
- d) Please see the revised floor plan with the individual uses more clearly delineated. As noted above the business will be taking vacant possession of the building so the coffee drive thru will be closed down.
- e) Please see the revised site layout plan showing the old outdoor car display area for parking for staff and customers.

We look forward to your consideration of the above information and should you require anything further please do not hesitate.

Sincerely yours,



Stephen Kavanagh

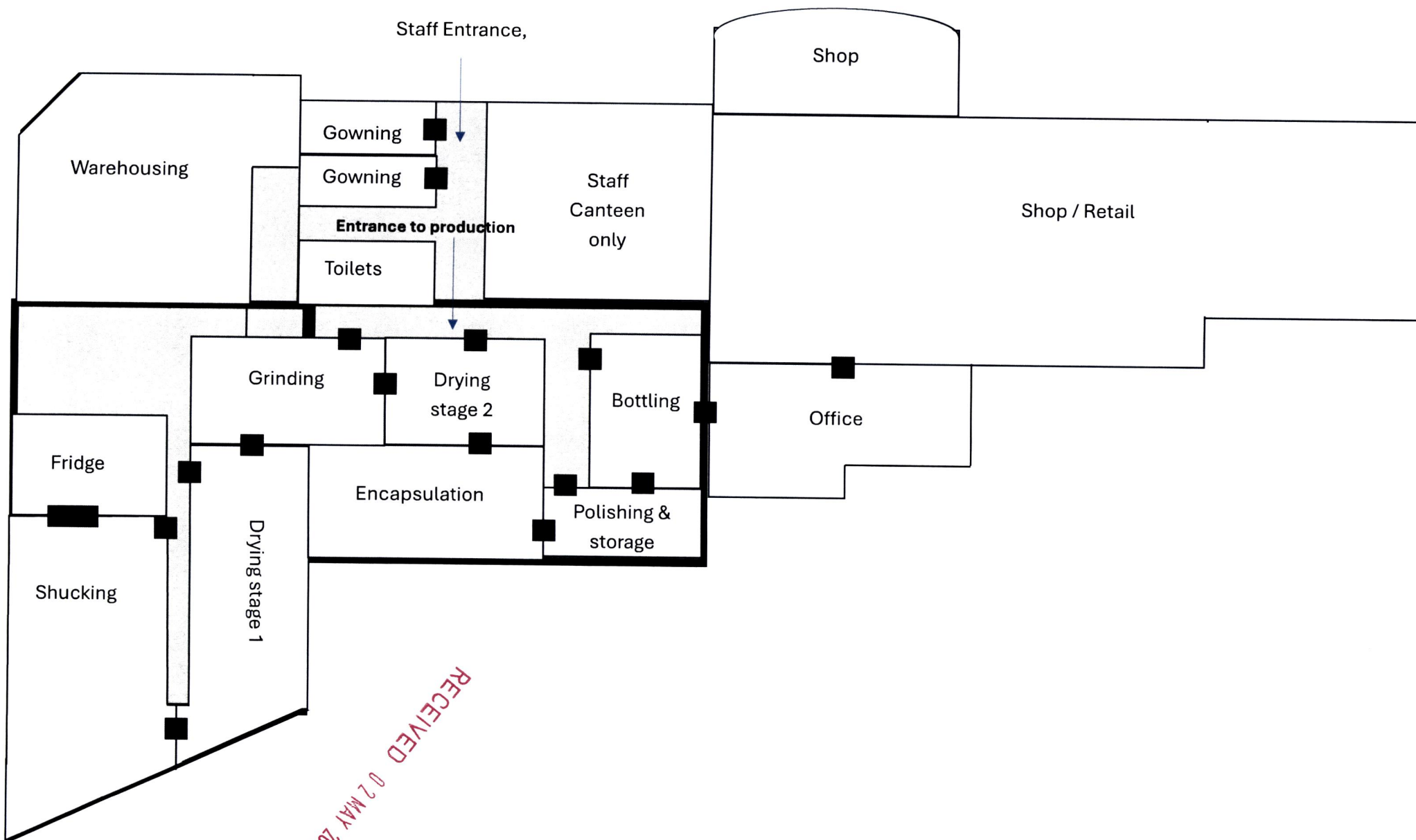
RECEIVED 02 MAY 2025

Attachments:

1. Revised site layout
2. Process flow diagram
3. Proposed internal factory layout

Directors: S. Kavanagh, M. Roche. Registered in Ireland No. 329478.

VAI No. IE 6349478G Address: Ferrybank, Arklow, Co. Wicklow, Ireland.



RECEIVED 02 MAY 2025



Comhairle Contae Chill Mhantáin Wicklow County Council

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Suíomh / Website: www.wicklow.ie

Stephen Kavanagh

8th April 2025

RE: Application for Certificate of Exemption under Section 5 of the Planning & Development Acts 2000 (as amended). – EX36/2025

A Chara

In respect of your query under Section 5 of the Planning and Development Act 2000 (as amended), received on 18th March 2025 having regard to Section 5 (2)(b) of the Planning and Development Act 2000 (as amended) you are requested to submit the following further information: -

- (a) From site inspection it is noted that a Drive Thru Coffee Shop is operating within the front element of the structure. You are requested to confirm if this use will form part of the indicated 'shop' in your Section 5 query, and therefore part of the Section 5 query. Any submission should include revised floor plan delineating the area of this use.
- (b) Exact details of the type and nature of the 'manufacturing process' to be undertaken within the structure.
- (d) Please clarify the proposed use of the Administration offices, is this office space to operate separately from the other uses delineated.
- (c) A revised ground floor plan which clearly delineates all individual uses as the area for Administration office and store are not clearly legible, as the colours used do not clearly differentiate between these areas. In addition any revised ground floor plan should have regard to the query under Part (a)
- (e) You should identify the area of parking, as currently the area to the front of the structure is used as a one-way system.

Mise, le meas

**NICOLA FLEMING
STAFF OFFICER,
PLANNING DEVELOPMENT AND ENVIRONMENT.**



*To an doicimead seo ar fáil i bhformáid eile ar iarratas
This document is available in alternative formats on request*

Ba chóir gach comhfhreagras a sheoladh chuig an Stúirthóir Seirbhísi, Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
All correspondence should be addressed to the Director of Services, Planning, Economic and Rural Development



Section 5 Application : EX 36/2025

Date : 4th April 2025.

Site Visit : 4th April 2025

Applicant : Stephen Kavanagh

Address : Moran's, Tinnahinch, Avoca, Co.Wicklow

Whether or not :

The change of use of existing premises from sale/ leasing/ display of motor vehicles to uses as a shop with ancillary storage and manufacturing process is or is not exempted development.

Planning History

PRR 04/656 Permission granted for

Retention of

- existing lean to ext at service bay area.
- existing illuminated Toyota monument sign adjoining external car parking enclosure.

Permission granted for

- demolition of canopy to forecourt & removal of forecourt pumps, cease operation of filling station, decommission of underground tanks
- proposed extension to existing showroom & illuminated signage to facade of extension
- Permission for proposed extension of service bay referred to in (i) above & illuminated signage to facade of extension
- Permission for new illuminated signage to existing front facade of building
- Permission for proposed office extension to the rear of existing building
- Permission for proposed new low level masonry wall & signage along front boundary
- Permission to upgrade foul drainage system

Bord Pleanala Referrals

ABP-305242-19 An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that change of use from a car sales premises for the sale or leasing, or display for the sale or leasing of motor vehicles, to use for the sale of furniture at Unit 10, North Park, North Road, J5 M50, Finglas, Dublin is development and is not exempted development.

Relevant Legislation :

(a) the permitted use of the site is for the sale or leasing, or display for sale or leasing, of motor vehicles,
(b) the proposed change of use from the permitted use to use as a shop is a factual change of use and this change of use would raise material planning considerations, including planning policy, in relation to the location of retail development (as outlined in the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Community and Local Government in 2012) and in relation to the potential for impact on neighbouring property and traffic safety and accordingly is a material

change of use within the meaning of Section 3(1) of the Planning and Development Act 2000, as amended, which, therefore, constitutes development, and

(c) the proposed change of use comes within the scope of the exemption provided in Class 14(a) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, but, in this instance, it is considered that the exemption is restricted by the provisions of Article 9(1)(a)(iii) as, having regard to the inadequacy of car parking within the control of the applicant, the development would endanger public safety by reason of traffic hazard or obstruction of road users, and the development would, therefore, not be exempted development:

Planning and Development Act 2000 (as amended)

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

"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,

(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or

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 Interpretation

'shop' means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public –

- (a) for the retail sale of goods,
 - (b) as a post office,
 - (c) for the sale of tickets or as a travel agency,
 - (d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and "wine" is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act, 1910), 10 Edw. 7. & 1 Geo. 5, c.8,
 - (e) for hairdressing,
 - (f) for the display of goods for sale,
 - (g) for the hiring out of domestic or personal goods or articles,
 - (h) as a launderette or dry cleaners,
 - (i) for the reception of goods to be washed, cleaned or repaired,
- but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;

Article 10

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.

(2)

(a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.

(b) Nothing in any class in Part 4 of the Schedule 2 shall include any use—

- (i) as an amusement arcade,
- (ii) as a motor service station,
- (iii) for the sale or leasing, or display for sale or leasing, of motor vehicles,
- (iv) for a taxi or hackney business or for the hire of motor vehicles,

- (v) as a scrap yard, or a yard for the breaking of motor vehicles,
- (vi) for the storage or distribution of minerals,
- (vii) as a supermarket, the total net retail sales space of which exceeds 3,500 square metres in the greater Dublin Area and 3,000 square metres in the remainder of the State,
- (viii) as a retail warehouse, the total gross retail sales space of which exceeds 6,000 square metres (including any ancillary garden centre), or
- (ix) as a shop, associated with a petrol station, the total net retail sales space of which exceeds 100 square metres.

Schedule 2 – Part 1

Development consisting of a change of use—

- (a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,
- (d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,

Schedule 2 : Part 4

CLASS 1-Use as a shop

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 4

Use as a light industrial building.

Assessment :

The querist seeks confirmation that the change of use of existing premises from sale/ leasing/ display of motor vehicles to uses as a shop with ancillary storage and manufacturing process is or is not exempted development.

There is no description of the exact uses, but the floor plan submitted identifies areas delineated as Shop, administration offices, store, and process area. There is no indication of what the manufacturing process relates to within the documents. The exact areas related to administration and for storage, given the similarity of colour, are not clearly identifiable on the floor plan.

The permitted uses of the structure are as set out in PRR 04/656 i.e. Motor Sales showroom, offices, and Car Servicing Area / Parts Store. From the site inspection it is evident that the entrance area is now in

use as a Drive Thru Coffee Shop which has not been identified in the submission. In addition the parking that was in place at the front of the structure has been omitted and a one way system has replaced it.

The first question to be asked is whether a change of use would occur where the proposed uses commenced, and would this change of use be material.

The change of use from use for motor sales, and car servicing to use a shop, coffee shop, related storage and manufacturing would it is considered be materially different in character to the original use as a car showroom and garage. The uses would give rise to increased traffic movements at the facility, different patterns of usage, hours of operation, likely to give rise to noise and potentially dust, and impacts on the amenity of the area, and therefore would give rise to material planning considerations. It is therefore considered that the change of use would be material, and therefore development having regard to the definition set out in Section 3(1)(a) of the Planning and Development Act 2000(as amended).

In order to clarify whether or not the changes of use come within the exemptions set out in the Planning and Development Regulations 2001 (as amended), clarity is required with respect to the actual details of the uses to be undertaken, clarity on the layout identifying uses as the floor plan submitted is not clear, and information on parking given current layout.

Therefore, further information should be sought.

Recommendation :

Further Information :

1. Having regard to Section 5 (2)(b) of the Planning and Development Act 2000(as amended) you are requested to submit the following further information:

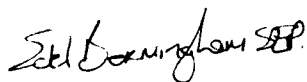
(a) From site inspection it is noted that a Drive Thru Coffee Shop is operating within the front element of the structure. You are requested to confirm if this use will form part of the indicated 'shop' in your Section 5 query, and therefore part of the Section 5 query. Any submission should include revised floor plan delineating the area of this use.

(b) Exact details of the type and nature of the 'manufacturing process' to be undertaken within the structure.

(d) Please clarify the proposed use of the Administration offices, is this office space to operate separately from the other uses delineated.

(c) A revised ground floor plan which clearly delineates all individual uses as the area for Administration office and store are not clearly legible, as the colours used do not clearly differentiate between these areas. In addition any revised ground floor plan should have regard to the query under Part (a)

(e) You should identify the area of parking, as currently the area to the front of the structure is used as a one-way system.



4/4/2025



Comhairle Contae Chill Mhantáin
Wicklow County Council

Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development

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

MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Edel Bermingham
Senior Executive Planner

FROM: Nicola Fleming
Staff Officer

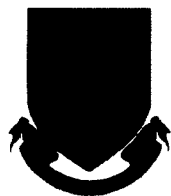
RE:- Application for Certificate of Exemption under Section 5 of the
Planning and Development Acts 2000 (as amended).
EX36/2025

I enclose herewith application for Section 5 Declaration received completed on 18/03/2025.

The due date on this declaration is 14th April 2025.

Staff Officer
Planning, Economic & Rural Development





Comhairle Contae Chill Mhantáin Wicklow County Council

**Pleanáil, Forbairt Eacnamaíochta agus Tuaithe
Planning, Economic and Rural Development**

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

Stephen Kavanagh

20th March 2025

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX36/2025 at Morans Avoca, Tinnahinch, Avoca, Co. Wicklow

A Chara

I wish to acknowledge receipt on 14/03/2025 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 10/04/2025.

Mise, le meas

Nicola Fleming
Staff Officer
Planning, Economic & Rural Development



Wicklow County Council
County Buildings
Wicklow
0404-20100

19/03/2025 11 35 04

Receipt No L1/0/342486

STEPHEN KAVANAGH
BALLYMORRIS LOWER
AUGHRIM
CO WICKLOW

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

Total	80 00 EUR
-------	-----------

Tendered	
Cheque	80 00
MORAN'S AVOCA	

Change	0 00
--------	------

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Co Wicklow
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**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**

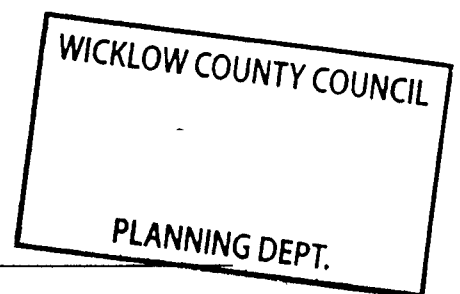
1. Applicant Details

- (a) Name of applicant: Stephen Kennedy
Address of applicant: Ballymorris Lower, Agincourt
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) N/A
Address of Agent : N/A



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

3. Declaration Details

i. Location of Development subject of Declaration Moran's AURA
Tungurah, AURA, Co Wicklow

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

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

Unit Moran Moran's AURA, Tungurah
AURA, Co Wicklow

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

whether the change of use of the premises from
sale/leasing/display of motor vehicles to use
as a shop with ancillary storage & manufacturing
process is or is not exempted development?

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

class 14(a) Planning & Development Regs 2001

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 _____

- Elevations

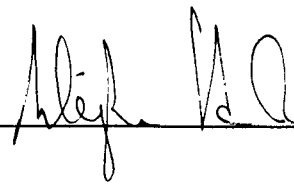
- Plans

- Site Layout Plan

- CSI Map 1 10 500

- CSI Map 1 2500

viii. Fee of € 80 Attached ? Yes

Signed :  Dated : 06/03/25

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

governed by Schedule 2, Part 3, Class 11. Note in addition to confirmation of exemption status under the Planning and Development Act 2000(as amended) there is a certification process with respect to land reclamation works as set out under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 S.I. 456 of 2011. You should therefore seek advice from the Department of Agriculture, Fisheries and Food.

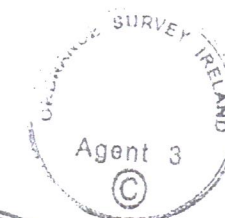
Any Section 5 Declaration should include a location map delineating the location of and exact area of lands to be reclaimed, and an indication of the character of the land.

C. Farm Structures - Class 6 -Class 10 Part 3 of Schedule 2.

- Site layout plan showing location of structure and any adjoining farm structures and any dwellings within 100m of the farm structure.
- Gross floor area of the farm structure
- Floor plan and elevational details of Farm Structure and Full details of the gross floor area of the proposed structure.
- Details of gross floor area of structures of similar type within the same farmyard complex or within 100metres of that complex.

▲

6inch
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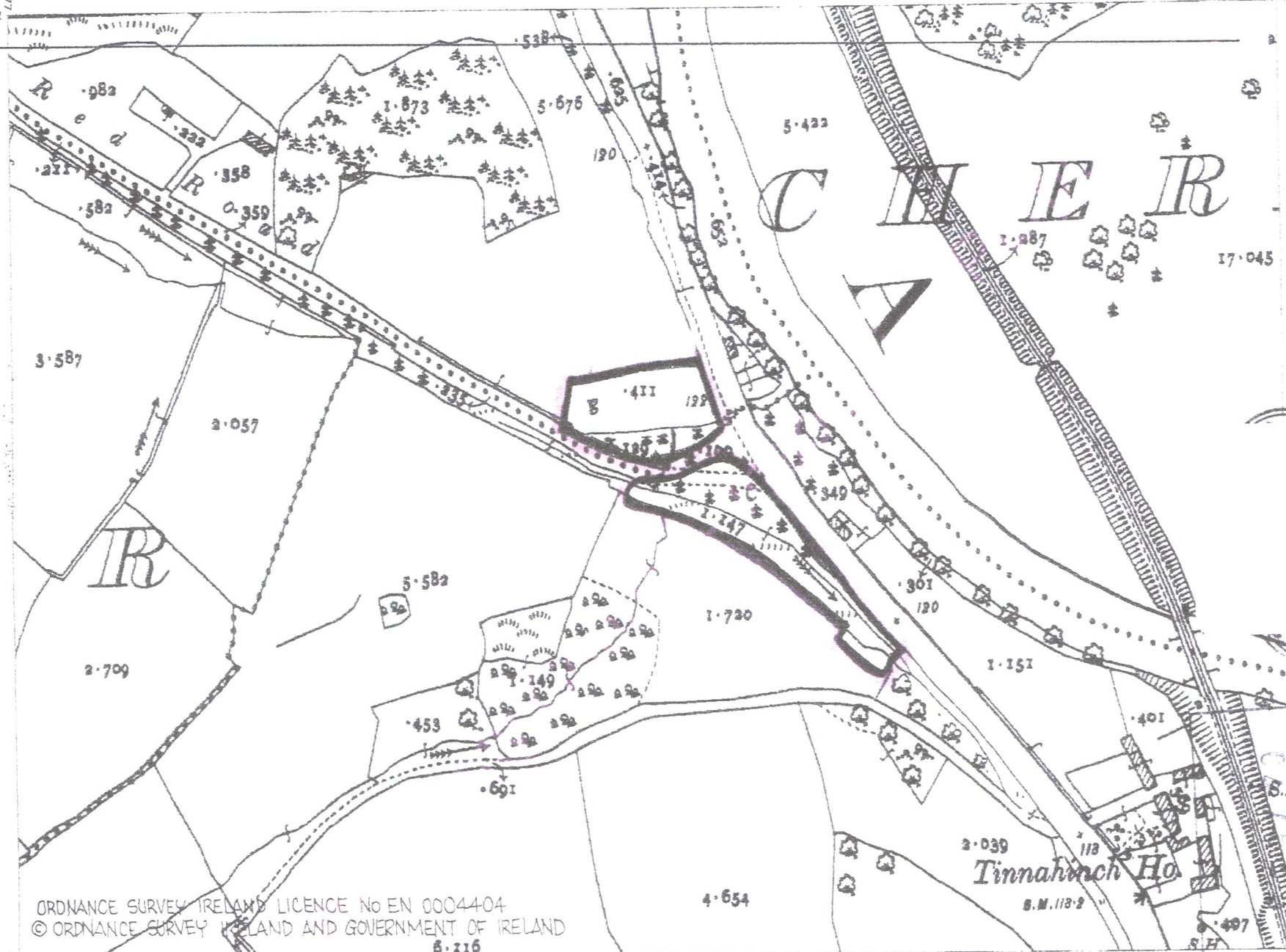
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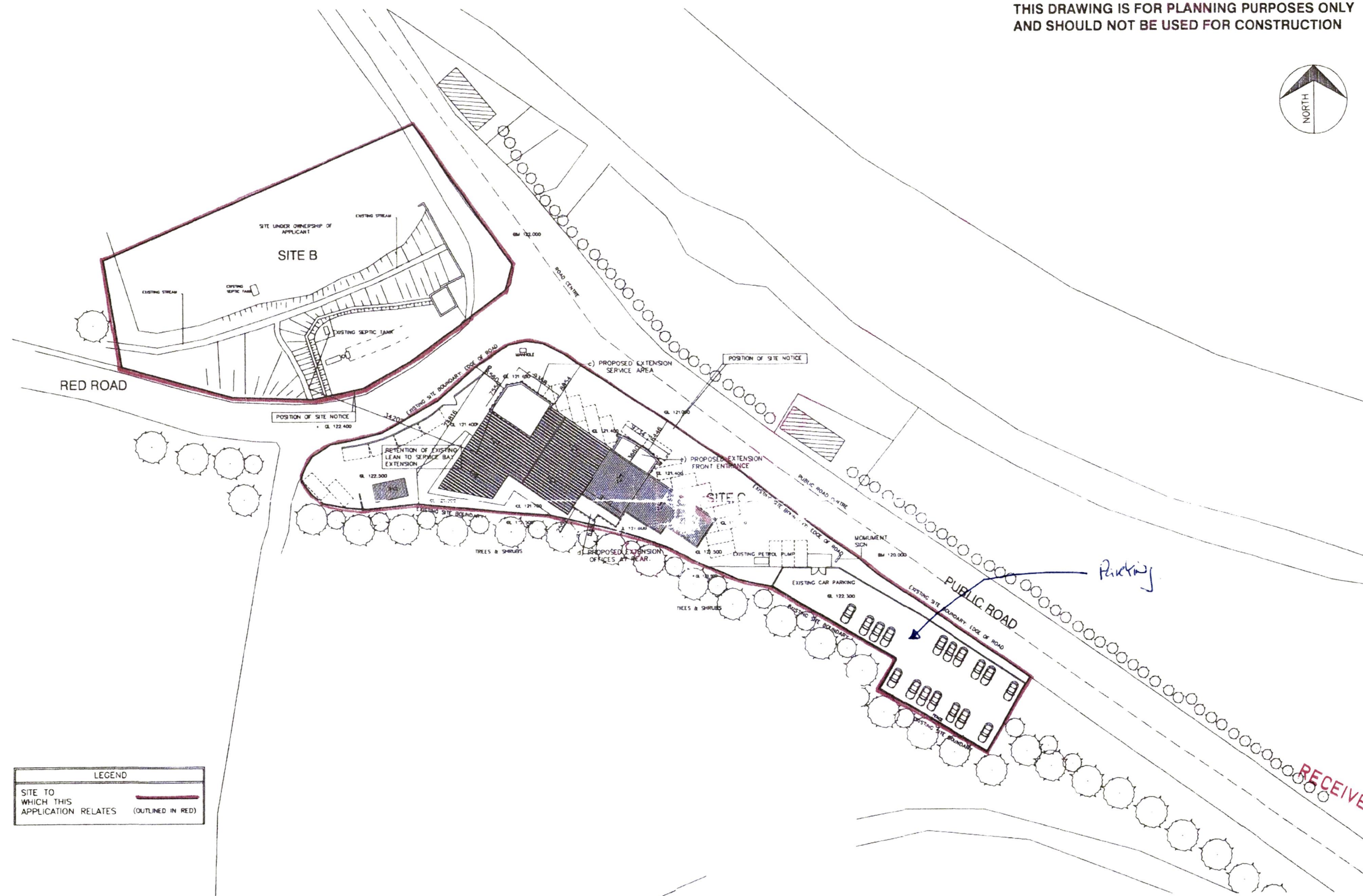
Plot Date 11-NOV-2003

ORDNANCE SURVEY IRELAND LICENCE No EN 0004-404
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Plot Ref. No. 27869_1_3
Plot Date 11-NOV-2003



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LEGEND	
SITE TO WHICH THIS APPLICATION RELATES	(OUTLINED IN RED)

RECEIVED
02 MAY 2025

CLIENT MORAN'S AVOCA LIMITED, MAIN TOYOTA DEALERS,
TINNAHINCH, AVOCA, CO. WICKLOW

PROJECT TOYOTA SHOWROOM REFURBISHMENT
MORAN'S AVOCA LIMITED

REVISIONS	DESCRIPTION	DATE
A	EFFLUENT TREATMENT SYSTEM ADDED	13.4.04

REVISIONS	DESCRIPTION	DATE

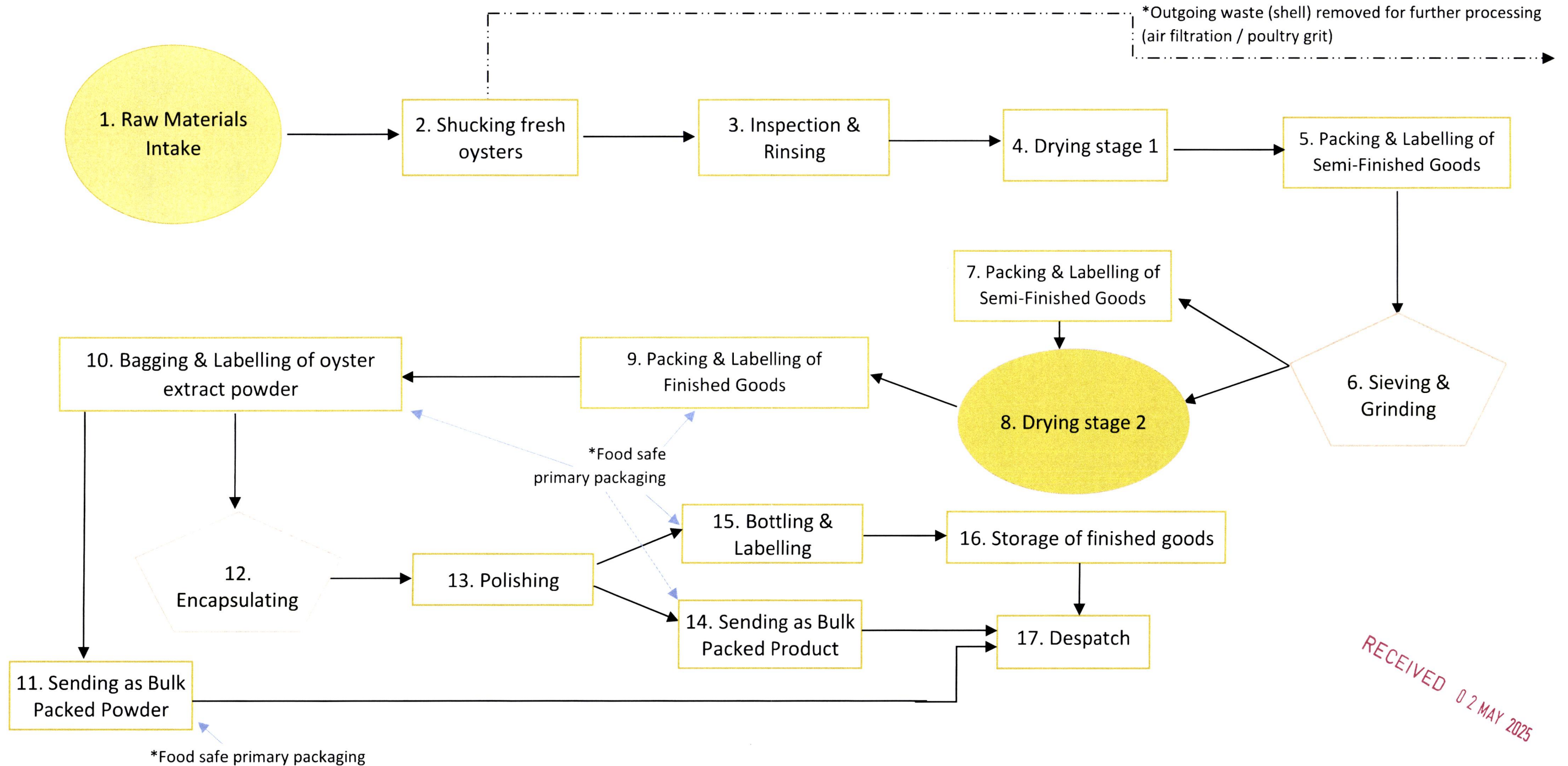
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DATE	NOV 2003
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PROPOSED SITE LAYOUT PLAN

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DRAWING NUMBER
0324/P01A

Marine Healthfoods HACCP Manual
Process Flowchart for Manufacturing of Oyster Extract Powder



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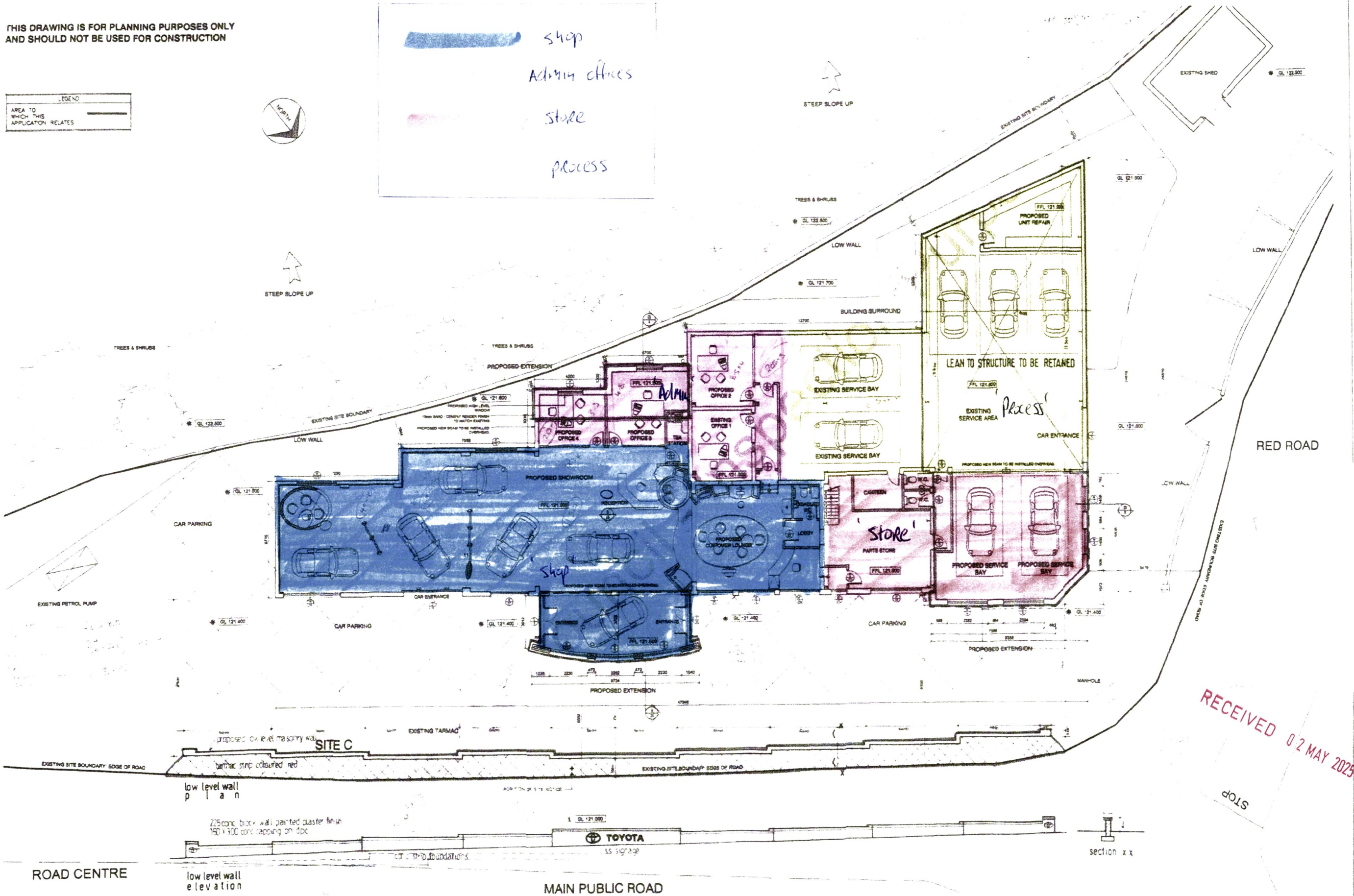
Created by:	Date:	Doc. Ref:	Revision:	Page:
Rebecca Kelly	04.10.2023	01.07.02-MHF-F	002/10.2023	1 of 1

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LEGEND
AREA TO WHICH THIS APPLICATION RELATES



shop
Admin offices
store
process



RECEIVED 02 MAY 2025

STOP

section x x

MAIN PUBLIC ROAD

ROAD CENTRE

low level wall elevation

low level wall plan

225 concrete block wall painted plaster finish
150 x 300 concrete capping on dpc

barrier strip coloured red

proposed low level masonry wall

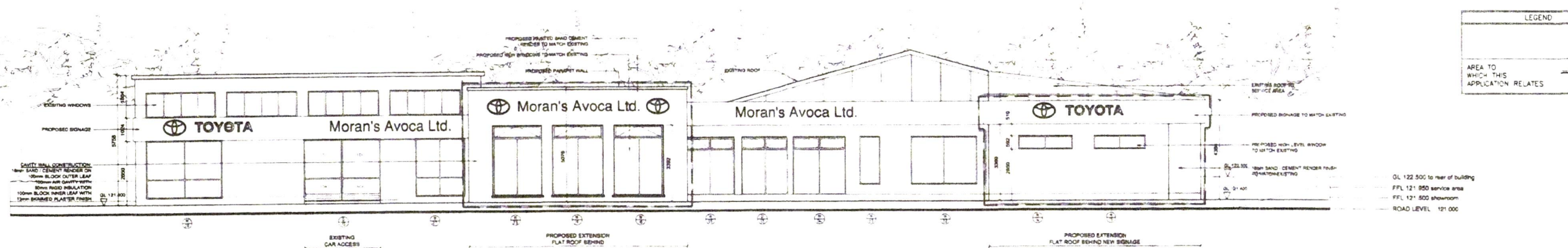
SITE C

EXISTING TARMAC

TOYOTA
SS signage

CLIENT	MORAN'S AVOCA LIMITED, MAIN TOYOTA DEALERS, TINNAHINCH, AVOCA, CO. WICKLOW
PROJECT	TOYOTA SHOWROOM REFURBISHMENT MORAN'S AVOCA LIMITED
REVISIONS	NO. DESCRIPTION DATE 1. 225 CONCRETE WALL CAR PARKING & MEASUREMENTS 2. ADDED MAY 2004
REVISIONS	NO. DESCRIPTION DATE 1. 225 CONCRETE WALL CAR PARKING & MEASUREMENTS 2. ADDED MAY 2004
SCALE	1 : 100
DATE	NOV 2003
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DRAWING TITLE	PROPOSED GROUND FLOOR PLAN LOW LEVEL WALL DETAILS
DRAWING NUMBER	0324 / P03a

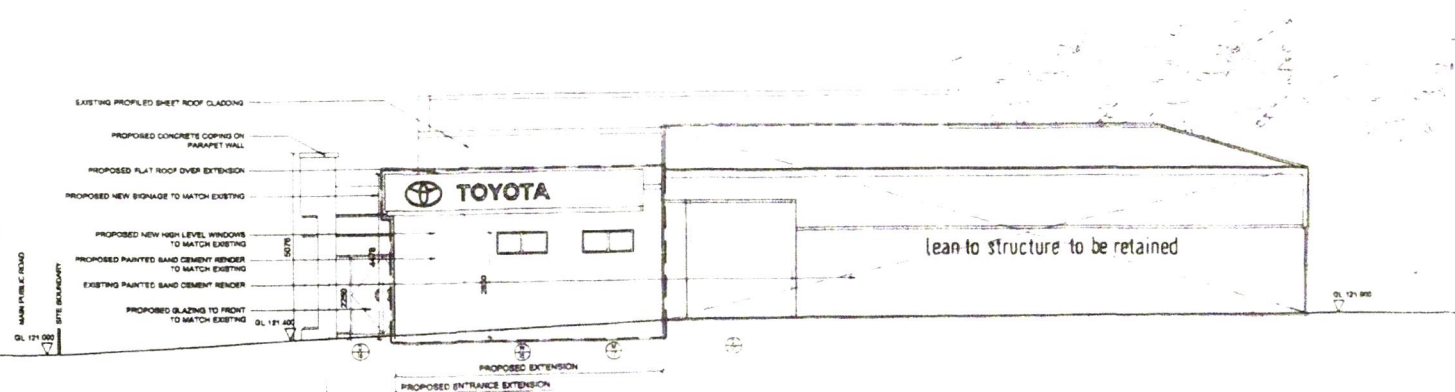
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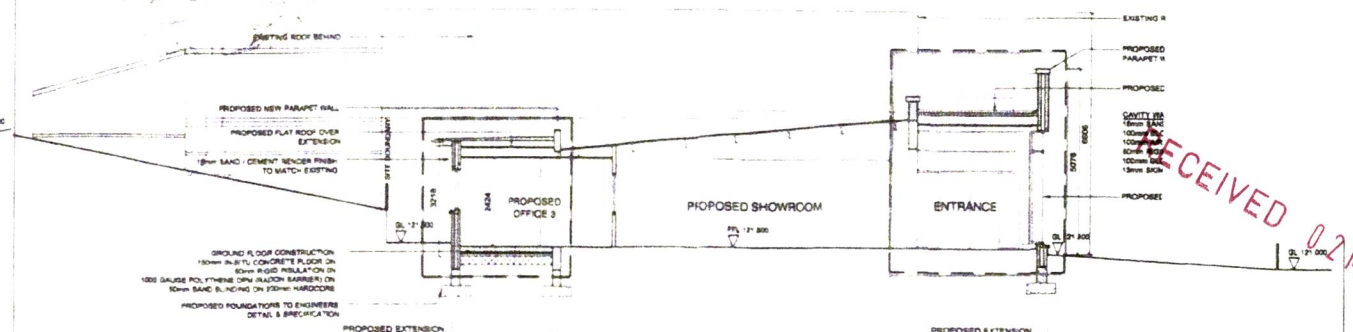
PROPOSED FRONT ELEVATION (north east) SCALE 1:100



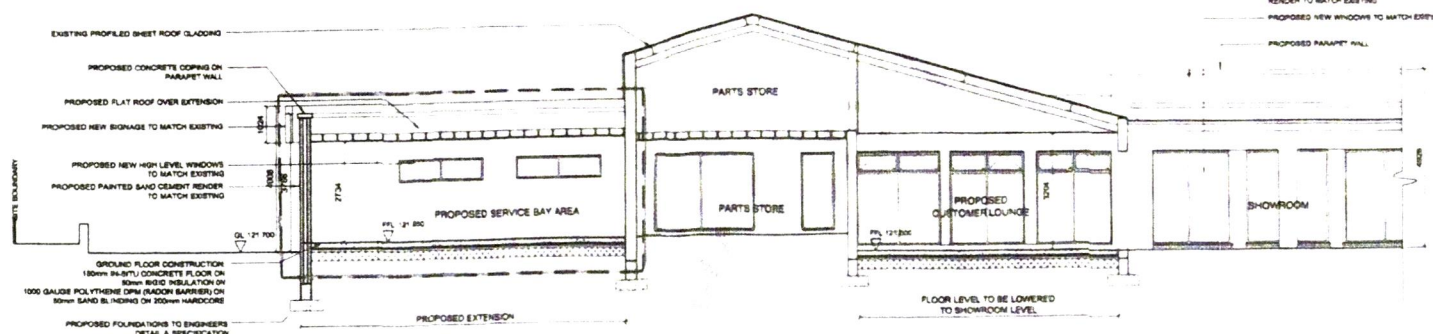
PROPOSED REAR ELEVATION (south west) IN FRONT OF BOUNDARY LINE SCALE 1:100



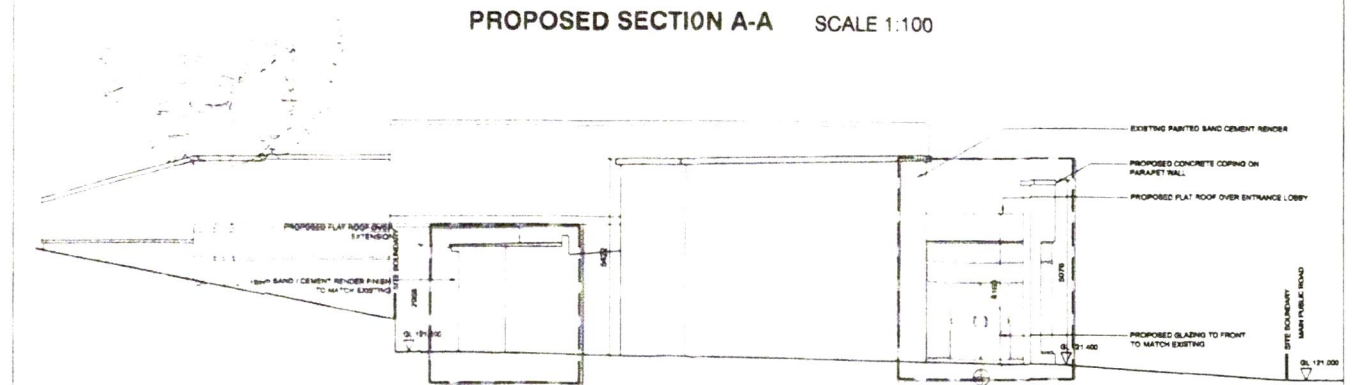
PROPOSED SIDE ELEVATION (north west) SCALE 1:100



PROPOSED SECTION A-A SCALE 1:100



PROPOSED PART SECTION B-B SCALE 1:100



PROPOSED SIDE ELEVATION (south east) SCALE 1:100

CLIENT MORAN'S AVOCA LIMITED, MAIN TOYOTA DEALERS,
TINNAHCH, AVOCA, CO. WICKLOW
PROJECT TOYOTA SHOWROOM REFURBISHMENT
MORAN'S AVOCA LIMITED

REVISIONS
NO DESCRIPTION DATE
1 NOTES RE LEAN TO STRUCTURE ADDED MAR 04

REVISIONS
NO DESCRIPTION DATE

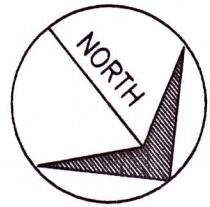
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PROPOSED SECTIONS A-A & B-B
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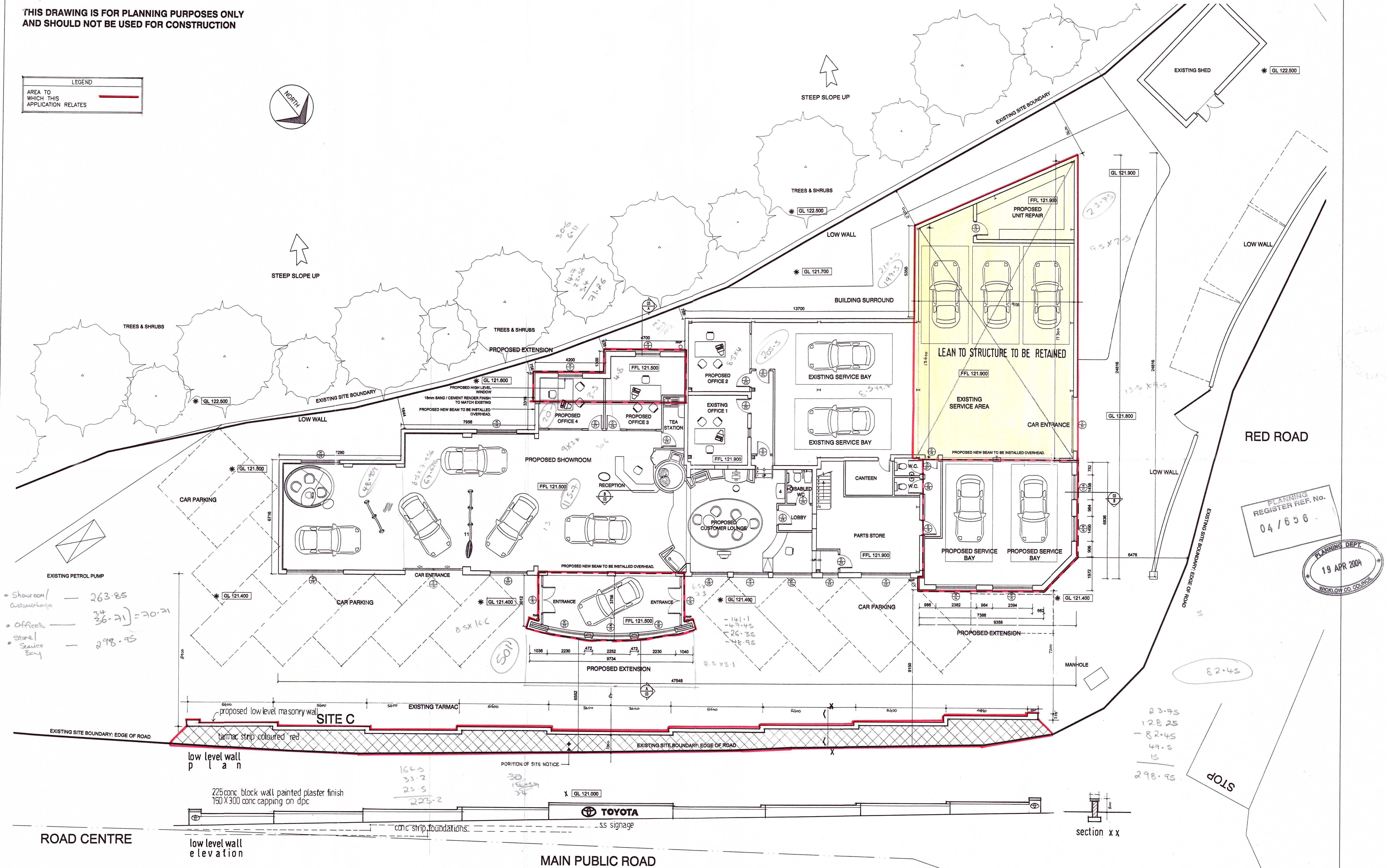
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LEGEND
AREA TO WHICH THIS APPLICATION RELATES



STEEP SLOPE UP

STEEP SLOPE UP



PLANNING REGISTER REF. NO.
04/656

PLANNING DEPT.
19 APR 2004
WICKLOW CO. COUNCIL

• Show room / Customer Lounge — 263.85
• Offices — 34.71 = 70.71
• Store / Service Bay — 298.95

23.75
128.25
- 82.45
49.5
15
298.95

Ciaran og Mac Mathuna
B.Arch M.A.I.
ARCHITECTS
19 NASSAU STREET, DUBLIN 2
TEL : (01) 677 9081 FAX : (01) 677 6945
MOBILE : 087 2528530 E MAIL : cmacma@indigo.ie

CLIENT MORAN'S AVOCA LIMITED, MAIN TOYOTA DEALERS,
TINNAHINCH, AVOCA, CO. WICKLOW
PROJECT TOYOTA SHOWROOM REFURBISHMENT
MORAN'S AVOCA LIMITED

REVISIONS
NO. DESCRIPTION DATE
1. LOW LEVEL WALL, CAR PARKING & MEASUREMENTS MAR 2004.
2. ADDED

REVISIONS
NO. DESCRIPTION DATE

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DATE NOV 2003
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PROPOSED GROUND FLOOR PLAN
LOW LEVEL WALL DETAILS
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