



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

John
April 2025

Stephen Earls
Dunganstown West
Kilbride
Co. Wicklow
A67 YY52

RE: Declaration in accordance with Section 5 of the Planning & Development Acts
2000 (As Amended) – EX40/2025 for Graham Carton & Aoibheann Clarke

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,

Nicola Denny
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: Graham Carton & Aoibheann Clarke

Location: 32 Church Gate, Wicklow Town

Reference Number: EX40/2025

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/411

Section 5 Declaration as to whether “a) demolition of an existing sunroom and b) the conversion of attic space to non-habitable storage space including a roof light on the roof of rear elevation” at 32 Church Gate, Wicklow Town constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

Having regard to:

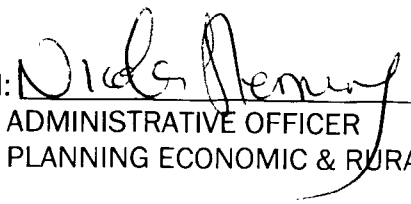
- i. The details submitted on 01/04/2025;
- ii. Sections 2 (1), 3 (1), 4 (1) of the Planning and Development Act 2000 (as amended);
- iii. Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended);

Main Reasons with respect to Section 5 Declaration:

1. The conversion of attic space to non-habitable storage space including roof light to the roof at the rear elevation and the demolition of existing rear sunroom extension are works and therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
2. The conversion of attic space to non-habitable storage space including roof light to the roof at the rear elevation and demolition of the existing sunroom to the rear of the dwelling would be consistent with Section 4 (1) (h) of the Planning and Development Act 2000 (as amended) and is therefore exempted development.

The Planning Authority considers that “a) demolition of an existing sunroom and b) the conversion of attic space to non-habitable storage space including a roof light on the roof of rear elevation” at 32 Church Gate, Wicklow Town is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:


ADMINISTRATIVE OFFICER
PLANNING ECONOMIC & RURAL DEVELOPMENT

Dated  April 2025



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

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/411

Reference Number: EX40/2025

Name of Applicant: Graham Carton & Aoibheann Clarke

Nature of Application: Section 5 Declaration request as to whether or not: -
"a) demolition of an existing sunroom and b) the conversion of attic space to non-habitable storage space including a roof light on the roof of rear elevation" is or is not development and is or is not exempted development.

Location of Subject Site: 32 Church Gate, Wicklow Town

Report from Neal Murphy, EP & Suzanne White, SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "a) demolition of an existing sunroom and b) the conversion of attic space to non-habitable storage space including a roof light on the roof of rear elevation" at 32 Church Gate, Wicklow Town is or is not exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Having regard to:

- i. The details submitted on 01/04/2025;
- ii. Sections 2 (1), 3 (1), 4 (1) of the Planning and Development Act 2000 (as amended);
- iii. Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended);

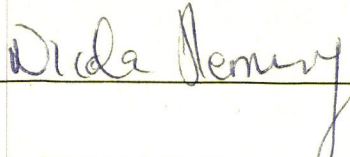
Main Reason with respect to Section 5 Declaration:

1. The conversion of attic space to non-habitable storage space including roof light to the roof at the rear elevation and the demolition of existing rear sunroom extension are works and therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
2. The conversion of attic space to non-habitable storage space including roof light to the roof at the rear elevation and demolition of the existing sunroom to the rear of the dwelling would be consistent with Section 4 (1) (h) of the Planning and Development Act 2000 (as amended) and is therefore exempted development.

Recommendation:

The Planning Authority considers that "a) demolition of an existing sunroom and b) the conversion of attic space to non-habitable storage space including a roof light on the roof of rear elevation" at 32 Church Gate, Wicklow Town is development and is exempted development as recommended in the report by the SEP.

Signed

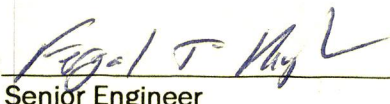


Dated 24th day of April 2025

ORDER:

I HEREBY DECLARE THAT "a) demolition of an existing sunroom and b) the conversion of attic space to non-habitable storage space including a roof light on the roof of rear elevation" at 32 Church Gate, Wicklow Town is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:



Senior Engineer
Planning, Economic & Rural Development

Dated 24th day of April 2025



**WICKLOW COUNTY COUNCIL
PLANNING DEPARTMENT**

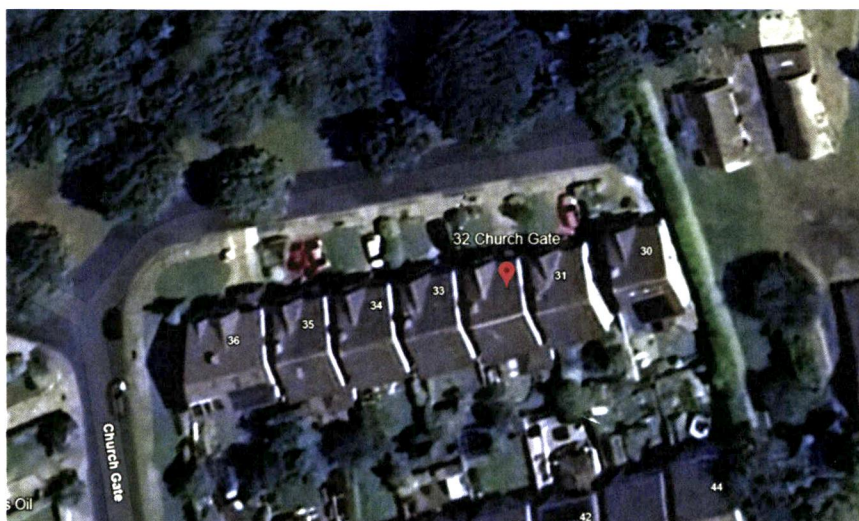
Section 5 – Application for declaration of Exemption Certificate

TO: Fergal Keogh S.E / Suzanne White S.E.P. / Edel Bermingham S.E.P.
FROM: Neal Murphy E.P
REF: EX40/2025
DECISION DUE: 28/04/2025
NAME: GRAHAM CARTON AND AOIBHEANN CLARKE
DEVELOPMENT: 1. REMOVAL OF SUNROOM 2. ATTIC (AS CONVERTED) FOR STORAGE USE ONLY (NOT FOR HABITATION)
LOCATION: 32 CHURCH GATE, WICKLOW TOWN



Site Location and Description

The subject site is located in Church Gate, a residential estate in Wicklow Town consisting of units of similar architectural design with a relatively uniform building line. The site contains a detached, two storey dwelling with off street parking to the front and garden to the rear.



Question:

The applicants have applied to see whether or not the following is or is not development and is or is not exempted development:

- Removal of existing sunroom
- Attic (as converted) for storage use only (not for habitation)

Relevant Planning History

None.

Legislative Context**Planning and Development Act 2000 (as amended)**

Section 2(1) of the Act states the following in respect of the following:

"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

"works" includes Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

Section 3(1) of the Act states the following in respect of 'development':

"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 sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act.

Section 4 (1) (h) is relevant for the purposes of this declaration:

"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."

Section 4(2) makes provision for ministerial regulations to set out further exemptions. The 2001 Planning Regulations as amended derive from this section and designate further works as being exempted development for the purposes of the act.

Planning and Development Regulations 2001(as amended)**Article 6 (1):**

Subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9 (1):

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 —

- (i) Contravene a condition attached to a permission under Act or be inconsistent with any use specified in a permission under the Act,*
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- (iii) Endanger public safety by reason of traffic hazard or obstruction of road users,*

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

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

The conditions and limitations include:

- 1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.*
- 2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*
- 4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.*
- (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.*
- 5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.*
- 6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.*
- 7. The roof of any extension shall not be used as a balcony or roof garden.*

Other Conditions and Limitations include:

- 1. No such structure shall be constructed, erected or placed forward of the front wall of a house.*
- 2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*
- 3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.*

4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.

5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.

6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

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

(a) The demolition of a building or other structure, other than—
(i) a habitable house,
(ii) a building which forms part of a terrace of buildings, or
(iii) a building which abuts on another building in separate ownership.

(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.

Details Submitted in support of Application:

The applicants are applying for a Section 5 Declaration in relation to the following;

- a) Demolition of an existing rear sunroom and
- b) Conversion of attic space to non-habitable storage space.

Proposed area for demolition is stated as 10sqm.

Existing attic space conversion (non-habitable) noted as 18.765sqm.

The applicant submitted the following in support of their application:

- Site Location Map
- Site Layout Plan
- Existing Floor Plans
- Elevations

Assessment:

a) Demolition of an Existing Rear Sunroom

The first assessment must be whether or not the proposal outlined above constitutes development within the remit of Section 3 of the Planning and Development Act 2001. In this regard, Section 3 of the Planning and Development Act provides that:

“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.

It should be noted that Section 2 of the Act defines works as:

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

The Planning Authority is satisfied that the proposal **would involve works to the existing structure** and therefore the proposal does constitute development.

The second stage of the assessment is to determine whether or not the proposed works would be exempted development under the Planning and Development Act 2000 (as amended) or its associated Regulations.

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

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.

It is considered that given the size and location of the existing sunroom, the initial development of the sunroom would be considered exempt development as per Schedule 2, Pt.1 Class 1 of the Planning and Development Regulations 2001 (as amended). Therefore, the proposed demolition of the rear sunroom would be considered **exempt development** as per Schedule 2, Pt.1 Class 50(b) of the Planning and Development Regulations 2001 (as amended).

b) Conversion of Attic Space to Non-Habitable Storage Space

Again, the first assessment must be whether or not the proposal outlined above constitutes development within the remit of Section 3 of the Planning and Development Act 2001. In this regard, Section 3 of the Planning and Development Act provides that:

"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.

It should be noted that Section 2 of the Act defines works as:

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

The Planning Authority is satisfied that the proposal **would involve works to the existing structure** and therefore the proposal does constitute development.

The second stage of the assessment is to determine whether or not the proposed works would be exempted development under the Planning and Development Act 2000 (as amended) or its associated Regulations.

Section 4 (1) (h) of the Planning and Development Act 2000 (as amended) states:

Noted, however as an extension is not proposed in place of the sunroom, it is not considered that Class 50(b) applies. I do however consider that the demolition of the sunroom would fall under Section 4(1)(h) of the PDA being made which do not materially affect the external appearance of the structure as is to render it consistent with the structure itself or neighbouring structures.

“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 applicant has confirmed that the roof structure has not been altered as a result of the provision of the non-habitable attic space and therefore, the conversion of the attic space for non-habitable use would be considered **exempt development** as per Section 4 (1) (h) of the Planning and Development Act 2000 (as amended).

It is noted on the drawings as provided that there is a roof light on the roof of the rear elevation which does not alter the appearance of the roof, nor would it be injurious to the residential amenities of surrounding properties and is considered **exempt development** as per Section 4 (1) (h) of the Planning and Development Act 2000 (as amended).

Recommendation:

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

- a) the demolition of an existing rear sunroom and
- b) the conversion of attic space to non-habitable storage space including a roof light on the roof of the rear elevation

at 32 Church Gate, Wicklow Town is or is not exempted development,

The Planning Authority considers that:

- a) The proposal for the demolition of an existing 10sqm rear sunroom extension to the dwelling is **development and is exempted development.**
- b) The proposal for the conversion of an attic to non-habitable storage space including the provision of a roof light to the roof of the rear elevation of the dwelling is **development and is exempted development.**

Main Considerations with respect to Section 5 Declaration:

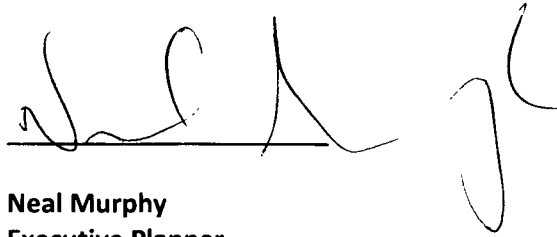
- i. The details submitted on 01/04/2025;
- ii. Sections 2 (1), 3 (1), 4 (1) of the Planning and Development Act 2000 (as amended);
- iii. Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended);
- iv. ~~Schedule 2, Pt.1 Class 50 of the Planning and Development Regulations 2001 (as amended).~~

Main Reasons with respect to Section 5 Declaration: *rear sunroom*

• The conversion of attic space to non-habitable storage space including roof light to the roof at the rear elevation and the demolition of existing ~~extensions~~ *is the sunroom* are works and therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).

• The proposed demolitions ~~would be consistent with the description and limitations as set out under Schedule 2, Part 1, Class 50 of the Planning and Development Regulations 2001 (as amended) and is therefore exempted development.~~

- and demolition of the existing sunroom to the rear of the dwelling
- The conversion of attic space to non-habitable storage space including roof light to the roof at the rear elevation would be consistent with Section 4 (1) (h) of the Planning and Development Act 2000 (as amended) and is therefore exempted development.



Neal Murphy
Executive Planner
16/04/2025

Agreed as amended
D. White SEP
23/4/25

While it is somewhat ~~odd~~ strange to have a specific exemption listed in the Regs. where such an exemption would also come under an exemption in the Act, I consider there is sufficient difference between the exemptions to allow for this. In this regard, s4(1)(l) has a specific caveat re materially affecting the external appearance, that is not a relevant consideration for Class 50. Similarly, Class 50 has a requirement that the facilitation of an extension, whereas such a requirement is not relevant to s4(1)(l).

I also recollect a Court Judgment where the judge analysed s4(1)(l) and inserted the definition of "works" into the text of s4(1)(l), in justifying an extension being included in s4(1)(l) while this judgement was unique and maybe questionable, I note the definition of "works" also includes demolition.

This declaration is recommended
Fergal T. Phyllis
24/4/25



Comhairle Contae Chill Mhantáin Wicklow County Council

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

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Suíomh / Website www.wicklow.ie

MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Neal Murphy
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).
EX40/2025**

I enclose herewith application for Section 5 Declaration received completed on 01/04/2025.

The due date on this declaration is 28th 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**

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Suíomh / Website: www.wicklow.ie

**Stephen Earls
Dunganstown West
Kilbride
Co. Wicklow
A67 YY52**

3rd April 2025

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX40/2025

A Chara

I wish to acknowledge receipt on 01/04/2025 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 28/04/2025.

Mise, le meas

**Nicola Fleming
Staff Officer**

Planning, Economic & Rural Development



Wicklow County Council
Council Buildings
Wicklow
0404-20100

01/04/2025 15:29:08

Receipt No: L1/0/343183
***** REPRINT *****

GRAHAM CARTON & AOIBHEAN CLARKE
32 CHURCH GATE
WICKLOW TOWN
CO WICKLOW
A67 FP80

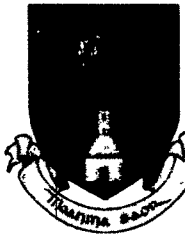
PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	

Total	80.00 EUR
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Tendered	
Credit Card	80.00
SECTION 5	

Change	0.00
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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

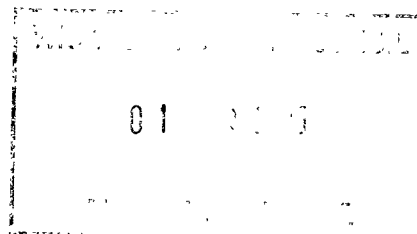
- (a) Name of applicant: GRAHAM CARTON & AOIBHEANN CLARKE
Address of applicant: 32 CHURCH GATE, WICKLOW TOWN,
Co. Wicklow, A67FP80

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

2. Agents Details (Where Applicable)

- (b) Name of Agent (where applicable) STEPHEN EARLS [M.R.I.A.I.] (REGISTERED ARCHITECT)
Address of Agent: DUNGANSTOWN WEST, KILBRIDE, Co. WICKLOW
EIRCODE: A67YY52

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



3. Declaration Details

- i. Location of Development subject of Declaration _____
32 CHURCH GATE, WICKLOW TOWN, CO. WICKLOW, A67FP80
- 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 ____
① REMOVAL OF SUNROOM
② ATTIC (AS CONVERTED) FOR STORAGE USE ONLY (NOT FOR HABITATION)

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 1.

Additional details may be submitted by way of separate submission.

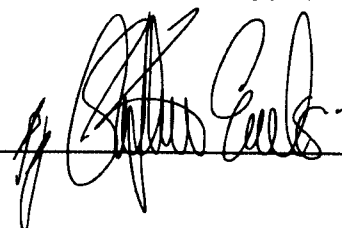
vi. Does the Declaration relate to a Protected Structure or is it within the curtilage of a Protected Structure (or proposed protected structure) ? _____

No

vii. List of Plans, Drawings submitted with this Declaration Application _____

- SITE LOCATION	- PP/01
- SITE LAYOUT PLAN	- PP/02
- FLOOR PLANS.	- PP/03
- ELEVATIONS	- PP/04
- ELEVATIONS	- PP/05

viii. Fee of € 80 Attached ? (X) - (SEE RECEIPT.)
~~CHARGE TO PHONE IN PAYMENT~~

Signed :  Dated : 27/03/25

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

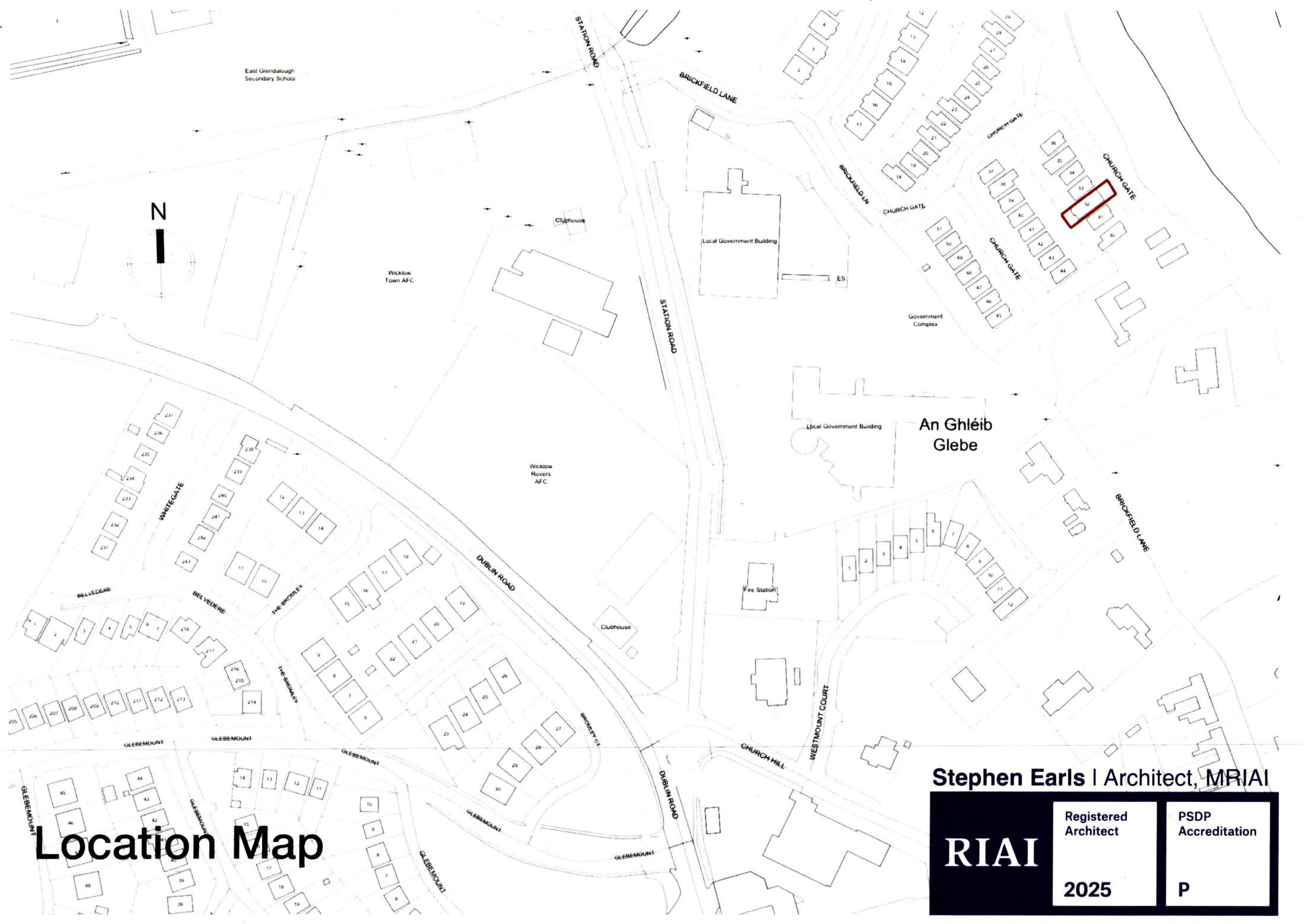
Alterations to existing dwelling at 32 Church Gate, Wicklow Town

Section 5 - Application

March 2025

Stephen Earls | Architect, MRIAI

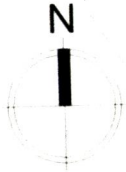




Location Map

Stephen Earls | Architect, MRAI

RIAI	Registered Architect	PSDP Accreditation
	2025	P



SUN-ROOM TO
BE DEMOLISHED (C-10M²)

4.5m
4.0m

Site Layout Plan

Stephen Earls | Architect, MRIA

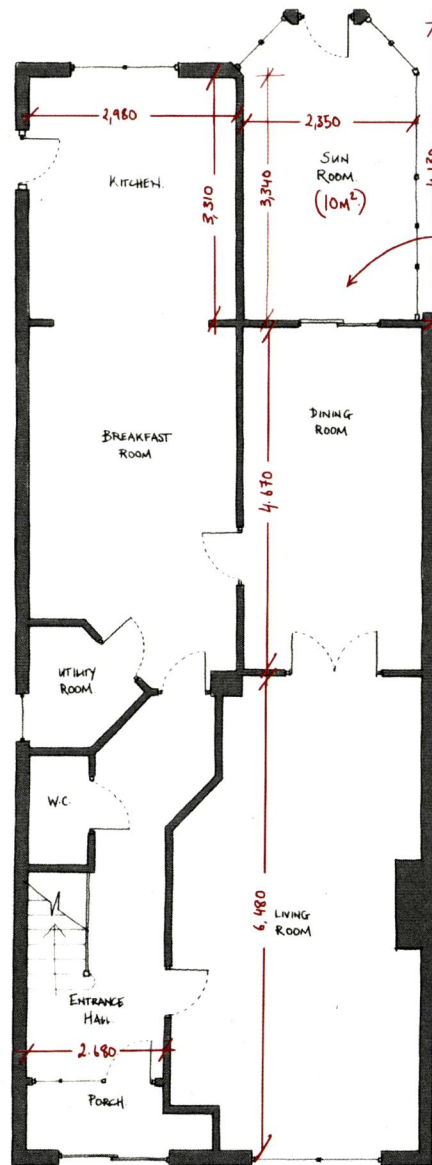
R**I****A****I**

Registered
Architect

2025

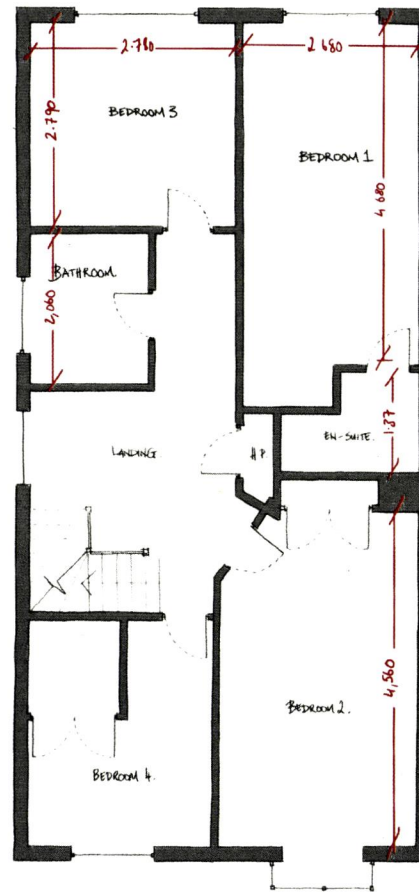
PSDP
Accreditation

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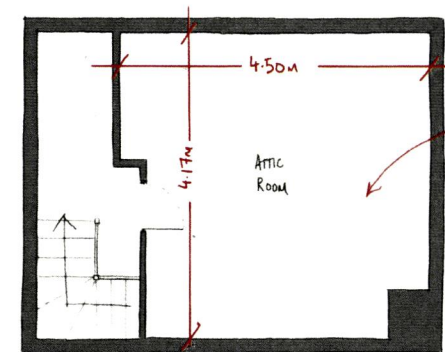


GROUND FLOOR PLAN

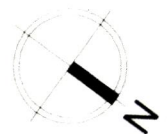
①
EXISTING SUNROOM
TO BE DEMOLISHED.



FIRST FLOOR PLAN



ATTIC/SECOND FLOOR PLAN



②
ATTIC SPACE
CONVERTED FOR
STORAGE USE,
ONLY

Existing Floor Plans [DWG No. PP/03]

Stephen Earls | Architect, MRAl

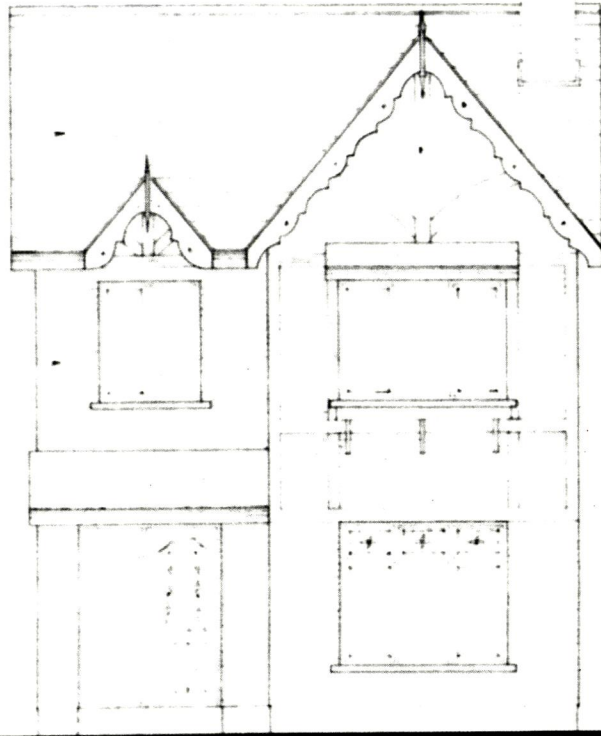
RIAI

Registered
Architect

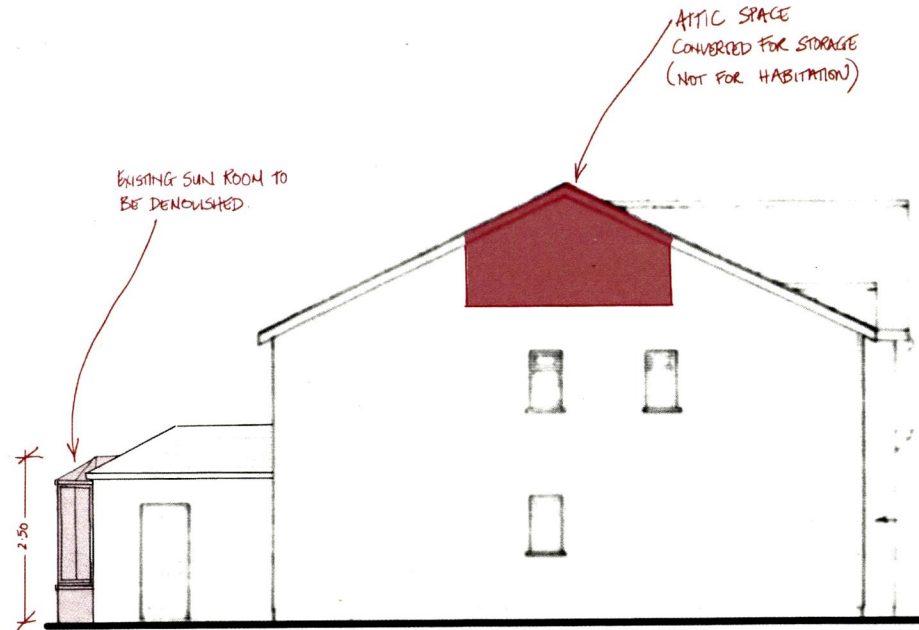
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FRONT (NORTH EAST) ELEVATION. (1:100)



SIDE (SOUTH EAST) ELEVATION. (1:150)

Elevations - PP/04

Stephen Earls | Architect, MRIAI

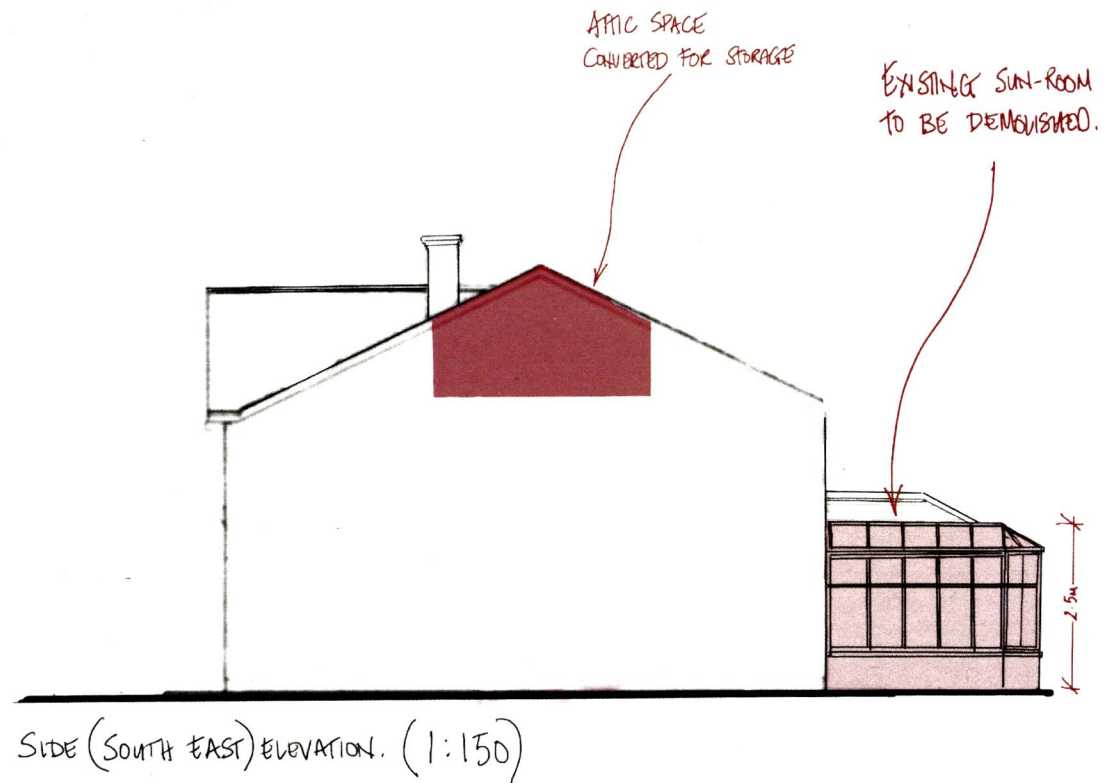
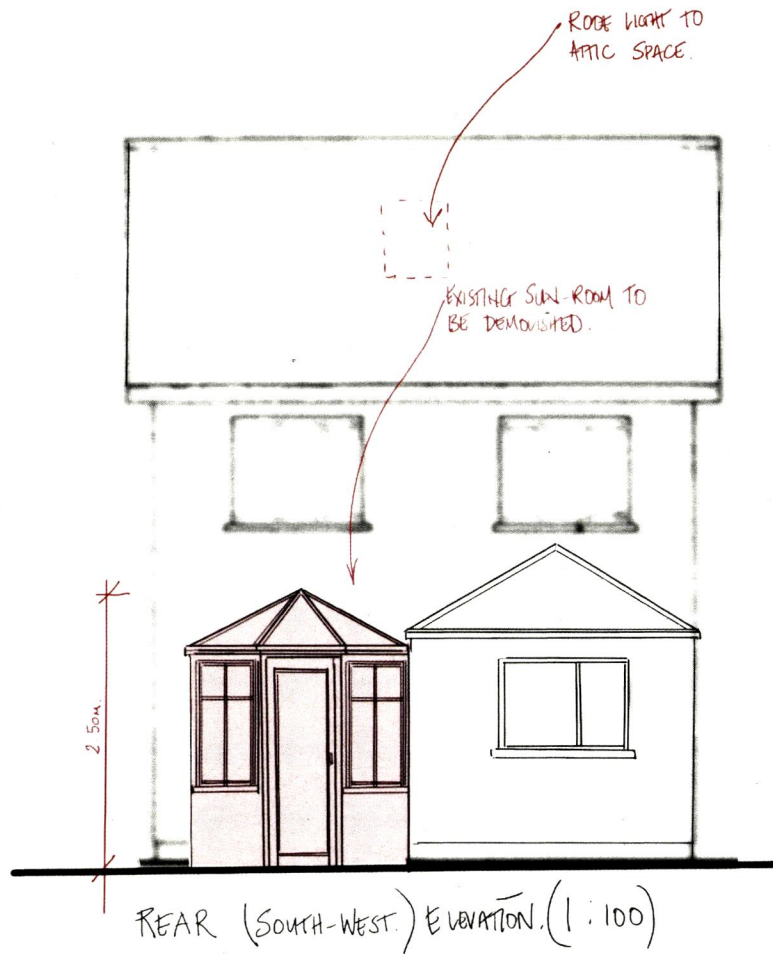
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Elevations - PP/04

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