

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@wicklowco Suíomh / Website. www.wicklow ie

S January 2025

Siobhan Moloney

RE: Declaration in accordance with Section 5 of the Planning & Development Acts 2000 (As Amended) – EX110/2024

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 Pleanala 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,









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

Applicant: Siobhan Moloney

Location: Killballyowen, Aughrim, Co. Wicklow

Reference Number: EX110/2024

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/35

Section 5 Declaration as to whether "development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition" at Killballyowen, Aughrim, Co. Wicklow constitutes exempted development within the meaning of the Planning and Development Act, 2000(as amended).

Having regard to:

- a) The details submitted with this Section 5 Application
- b) Planning Permission Register Reference PRR 24/60542
- c) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- d) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended)

Main Reasons with respect to Section 5 Declaration:

- 1) The proposal is for works of maintenance / improvement and is therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- 2) The works do not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighbouring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

The Planning Authority considers that "development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition" at Killballyowen, Aughrim, Co. Wicklow is development and is exempted development within the meaning of the Planning & Development Act 2000 (as amended).

Signed:

ADMINISTRATIVE OFFICER

PLANNING ECONOMIC & HURAL DEVELOPMENT

Dated January 2025





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

CHIEF EXECUTIVE ORDER NO. CE/PERD/2025/35

Reference Number:

EX110/2024

Name of Applicant:

Siobhan Moloney

Nature of Application:

Section 5 Declaration request as to whether or not: -

"development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition" is or is not development and is or

is not exempted development.

Location of Subject Site:

Killballyowen, Aughrim, Co. Wicklow

Report from Dara Keane, AP and Edel Bermingha SEP

With respect to the query under section 5 of the Planning & Development Act 2000 as to whether "development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition" at Killballyowen, Aughrim, 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 this Section 5 Application
- (b) Planning Permission Register Reference PRR 24/60542
- (c) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- (d) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended)

Main Reason with respect to Section 5 Declaration:

- 1. The proposal is for works of maintenance / improvement and is therefore development having regard to Section 3 of the Planning and Development Act 2000 (as amended).
- 2. The works do not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighbouring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

Recommendation:

The Planning Authority considers that "development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition" at Killballyowen, Aughrim, Co. Wicklow is development and is exempted development as recommended in the report by the SER

Signed M

Dated S day of January 2025

ORDER:

I HEREBY DECLARE THAT "development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition" at Killballyowen, Aughrim, Co. Wicklow 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/5 day of January 2025



WICKLOW COUNTY COUNCIL Planning Department Section 5 – Application for Declaration of Exemption Certificate

To:

Fergal Keogh S.E / Edel Bermingham S.E.P / Suzanne White S.E.P

From:

Dara Keane A.P.

Type:

Section 5 Application

REF: Applicant: EX 110/2024 Siobhan Moloney

Date of Application: Decision Due Date:

13/12/2024

Address:

19/01/2025 Killyballyowen, Aughrim Y14 PW92

Exemption Query:

Structural & Repair works to Farmhouse

Application Site: The application site is an old farmhouse dwelling located in the townland of Kilballyowen, Aughrim. The existing dwelling onsite is a traditional two storey dwelling accessed via a private cul de sac laneway which serves other agricultural fields and farm yards.

Aerial Image



Section 5 Referral

From examining the submitted particulars, it is noted that the section 5 query should be re worded as follows:

"Development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition"

at Killyballyowen, Aughrim Y14 PW92.

Relevant Planning History:

PRR24/60542 (Moloney) - Permission GRANTED for the construction of a dormer to the lean-to roof at the rear of the existing house, the construction of a new extension, including a conservatory type structure to the West of the existing house, the installation of a new wastewater treatment plant, landscaping and site works associated with the proposed development.

Question:

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

"Development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition"

at Killyballyowen, Aughrim Y14 PW92 is or is not development and is or is not exempted development:

Legislative Context:

Planning and Development Act 2000 (as amended)

Section 3(1) of the Act states the following in respect of '<u>Development</u>':

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

'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 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): "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."

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):

- (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 the Act or be inconsistent with any use specified in a permission under the Act.
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

And so on.

Assessment:

The Section 5 declaration application seeks an answer with respect to the following question i.e. whether or not:

"Development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition"

at Killyballyowen, Aughrim Y14 PW92.

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

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:

<u>"development"</u> 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.

<u>"alteration"</u> includes the removal of plaster or stucco or the replacement of a door, window or roof that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.

I note that the terms 'maintenance' or 'improvement' are not defined in the statute and have therefore to be given their normal meaning.

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

<u>"works"</u> 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.

<u>I am satisfied that the proposal would involve works and therefore the proposal does constitute</u> development.

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

Having regard to the definition of 'structure' under Section 2 of the Act, I consider that the existing house on the site constitutes a structure.

It has been noted that no photos of the existing structure have been included in the information submitted as part of this section 5 Query. However, on review of PRR24/60542 which was recently granted in relation to the existing structure onsite and the photos submitted as part of that application. It has been noted that that the existing structure is derelict however, still retains most of its external walls, roof covering, chimney, window panes doors and overall features. It is also accepted that the structure was previously in use as a dwelling, though it is not known when it was last used as such or how long it has been in a derelict condition. The existing structure onsite does not appear to be habitable.

A full set of drawings and details of the works proposed have been submitted with this section 5 query for which it has been stated that structural and repair works of the existing farmhouse will be carried out to make it habitable which will include:

- The reconstruction like for like of the roof structure;
- The replacement of the windows with sliding sash double glazed units to match the existing;
- The installation of new electrical and mechanical services;
- The installation of appropriate rainwater goods:
- The reinstatement of internal and external finishes.

It has been noted that other works have been included on the drawings submitted as part of this Section 5 query. However, it has been stated that any extra works included for the existing dwelling on site have been proposed and permitted as part of a previous application onsite under PRR24/60542.

Having regard to Section 4(1) (h) of the Act, as the proposal is to return the structure to its original appearance, and given the extent to which the original structure is intact, it can be accepted that the proposed works of "maintenance, improvement or other alteration" would 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 also noted that the exemption under Section 4(1) (h) does not require the structure to be habitable.

Recommendation:

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

"Development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition" at Killyballyowen, Aughrim Y14 PW92 is or is not development and is or is not exempted development...

The Planning Authority considers that:

"Development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition" as described in the documents and details submitted as part of this Section 5 is Development and is Exempted Development.

Main Considerations with respect to Section 5 Declaration:

- (a) The details submitted with this Section 5 Application
- (b) Planning Permission Register Reference PRR 24/60542
- (c) Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- (d) Articles 6 and 9 of the Planning and Development Regulations 2001 (as amended)

Main Reasons with respect to Section 5 Declaration:

1. The proposal for "Development consisting of the carrying out of works for the maintenance, improvement or other alteration of an existing dwelling in poor condition at Killyballyowen, Aughrim Y14 PW92" as described in the documents and details submitted as part of this Section 5 would be development having regard to Section 3 of the Planning and Development Act 2000 (as amended).

2. The works do not materially affect the external appearance of the house so as to render the appearance inconsistent with the character of the house or of neighbouring houses, and therefore the development constitutes exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

Dara Keane Assistant Planner

13/01/2025

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Page 5 of 5



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MEMORANDUM

WICKLOW COUNTY COUNCIL

TO: Dara Kenae Assistant Planner FROM:

Nicola Fleming Staff Officer

RE:- Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). EX110/2024

I enclose herewith application for Section 5 Declaration received completed on 13/12/2024.

The due date on this declaration is 19th January 2025.

Staff Officer

Planning, Economic & Rural Development







Comhairle Contae Chill Mhantáin Ulicklow County Council

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

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17 th December 2024		
Siobhan Moloney		

RE: Application for Certificate of Exemption under Section 5 of the Planning and Development Acts 2000 (as amended). – EX110/2024

A Chara

I wish to acknowledge receipt on 13/12/2024 details supplied by you in respect of the above Section 5 application. A decision is due in respect of this application by 19/01/2025.

Mise, le meas

Nicola Fleming
Staff Officer

Planning, Economic & Rural Development





Wicklow County Council County Buildings Wic / 040-, _0100

12/12/2024 15 05 39

Receipt No = L1/0/338510

SIOBHAN MOLONEY THE COTTAGE

GROVEDALE HOUSE KITERNAN DUBLIN 18

EXEMPTION CERTIFICATES
GOODS 80.00

GOODS 80 00 VAT Exempt/Non-vatable

Total 80 00 EUR

Tendered Credit Card ASTER HALLOW

ASTER HALLOW

Change

Issued By Ruth Graham

From Customer Service Hub Vat reg No 0015233H

80.00

0.00

80.00



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

Office Use Only

Date Received	
Fee Received ECE/VED	
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APPLICATION 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: Siobhan Moloney

Address of applicant: The Cottage, Grovedale House,

Ballychorus Road, Kiltiernan, Co. Dublin - D18 N2Y6

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: Kilballyowen, Aughrim
 Co. Wicklow Y14 PW92
- 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: N/A
- 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, upon 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:

Structural and repair works of the existing farmhouse in order to make it habitable, including: the reconstruction like for like of the roof structure; the replacement of the windows with sliding sash double glazed units to match the existing; the installation of new electrical and mechanical services; the installation of historically appropriate rainwater goods; the reinstatement of internal and external finishes. These works do not materially affect the external appearance of the structure, nor do they make it inconsistent with the character of the structure itself or that of neighbouring structures.

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:

Planning and Development Act, 2000; Part I, Preliminary and General; Section 4, Exempted Development; Art. 1 (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

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:

MAPS		
SF-001	Site Location Map	1:2500
EXISTING		
SF-100	Existing - Site Plan	1:100
SF-101	Existing - Ground and First Floor Plan	1:50
SF-102	Existing - Elevations	1:50
SF-103	Existing - Sections	1:50
DEMOLITIC	NO.	
DEMOLITIO CE 450		1,100
SF-150	Demolitions - Site Plan	1:100
SF-151	Demolitions - Ground and First Floor Plan	1:50
SF-152	Demolitions - Elevations	1:50
SF-153	Demolitions - Sections	1:50
PROPOSAL		
SF-200	Proposed - Site Plan	1:100
SF-201	Proposed - Ground Floor Plan	1:50
SF-202	Proposed - First Floor Plan	1:50
SF-203	Proposed - Roof Plan	1:50
SF-204	Proposed - Elevations 1; 2	1:50
SF-205	Proposed - Elevations 3; 4	1:50
SF-206	Proposed - Sections XX; YY	1:50
DOCUMENT	<u>[S</u>	
Cover Letter		A4
Section 5 Application Form		A4
Description of the proposed development		A4

viii. Fee of € 80 Attached? Yes.

Signed:

Dated: 13 December 2024

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.

•

Aster Hollow Farm, Kilballyowen, Aughrim

SECTION 5 APPLICATION DESCRIPTION OF THE PROPOSED DEVELOPMENT

Aster Hollow Farm is sited in a rural location in the townland of Kilballyowen, circa 4.50 km South-West of Aughrim and 2 km South-West of Annacurra. It was formerly part of the Coolattin Estate, historically the largest single landholding in County Wicklow owned by the Earl Fitzwilliam.

The original site comprised of a farmhouse and several outbuildings connected with farming activities surrounded by pastures. From historic maps of the area, it is evident that throughout the decades many of the ancillary buildings have been altered, extended or demolished, while the main house has been left almost untouched. It is assumed that the rear annex was added after 1913, when the property was sold by public auction to the Cullen family, as also demonstrated by the larger icon used to illustrate the house on the latest 25 Inch Ordnance Survey map. The site was acquired circa 1927 by the Sweeney family who only carried out minimal repairs and alterations to the dwelling and installed the electrical system; it was then sold to the current owner in 2021 after years of abandon and neglect.

The property, named "Aster Hollow" by the current owner, now consists of a 12.90 acres site with pastures and pockets of mature woodland surrounding the historic farm house. This consists of a traditional "two up, two down" dwelling built by a family of workers of Coolattin Estate between 1865-1870 which has been maintained almost completely intact until now. The special significance of this building resides in the preservation of its original character, with the proportioned and elegant design of the main façade, a testimony to the wealth of the Estate, and in the simple, yet efficient design of the interiors. The surrounding site too has remained almost uncontaminated preserving its identity and rural amenity.

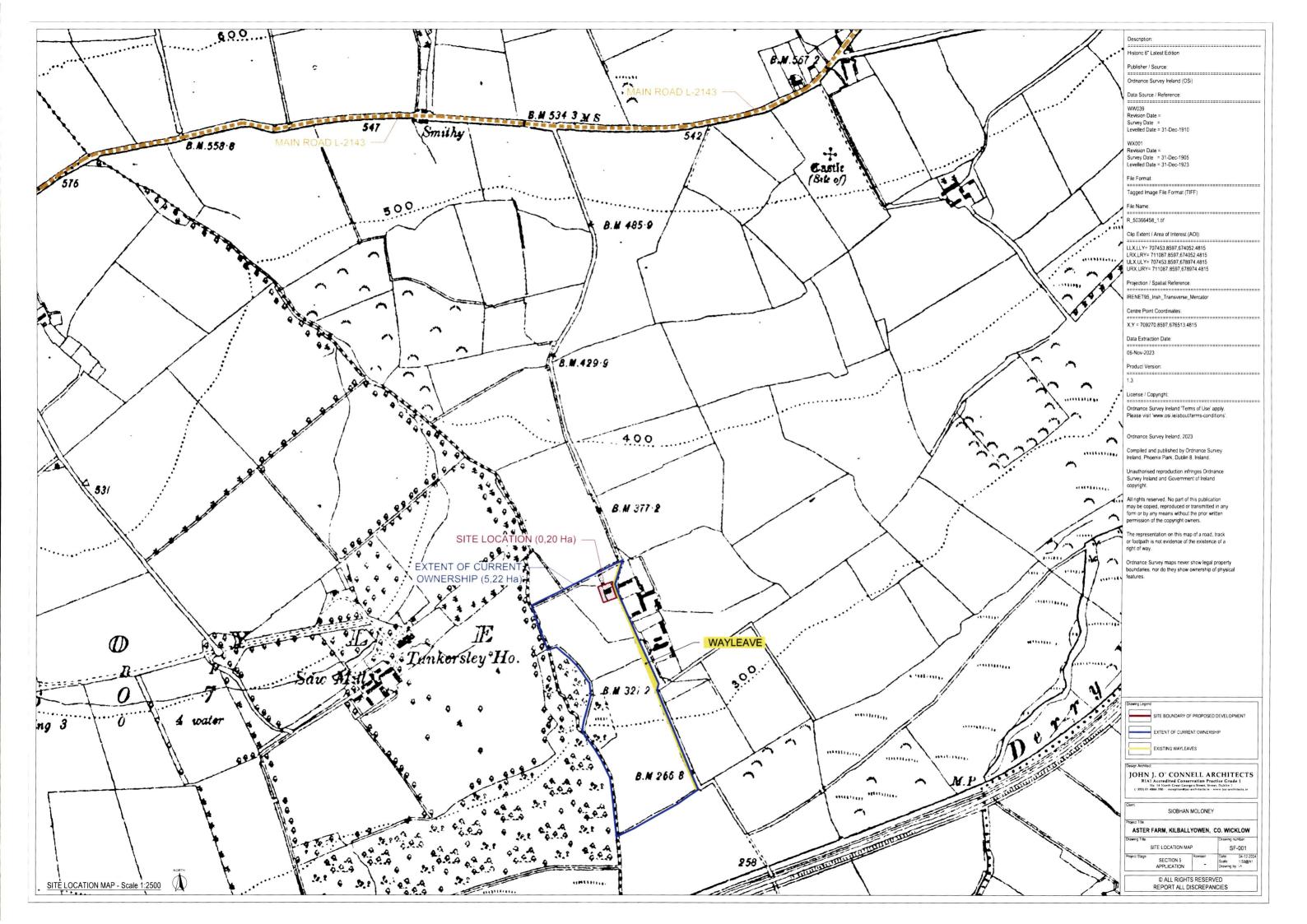
The building is, however, extensively damaged due to weathering and neglect. Overall, while the masonry is deemed to be in reasonable structural condition, the derelict condition of the roofs, wall heads and window heads require immediate intervention to ensure the preservation of the architectural integrity and vernacular identity of the farm house, as well as to prevent the potential loss of original fabric.

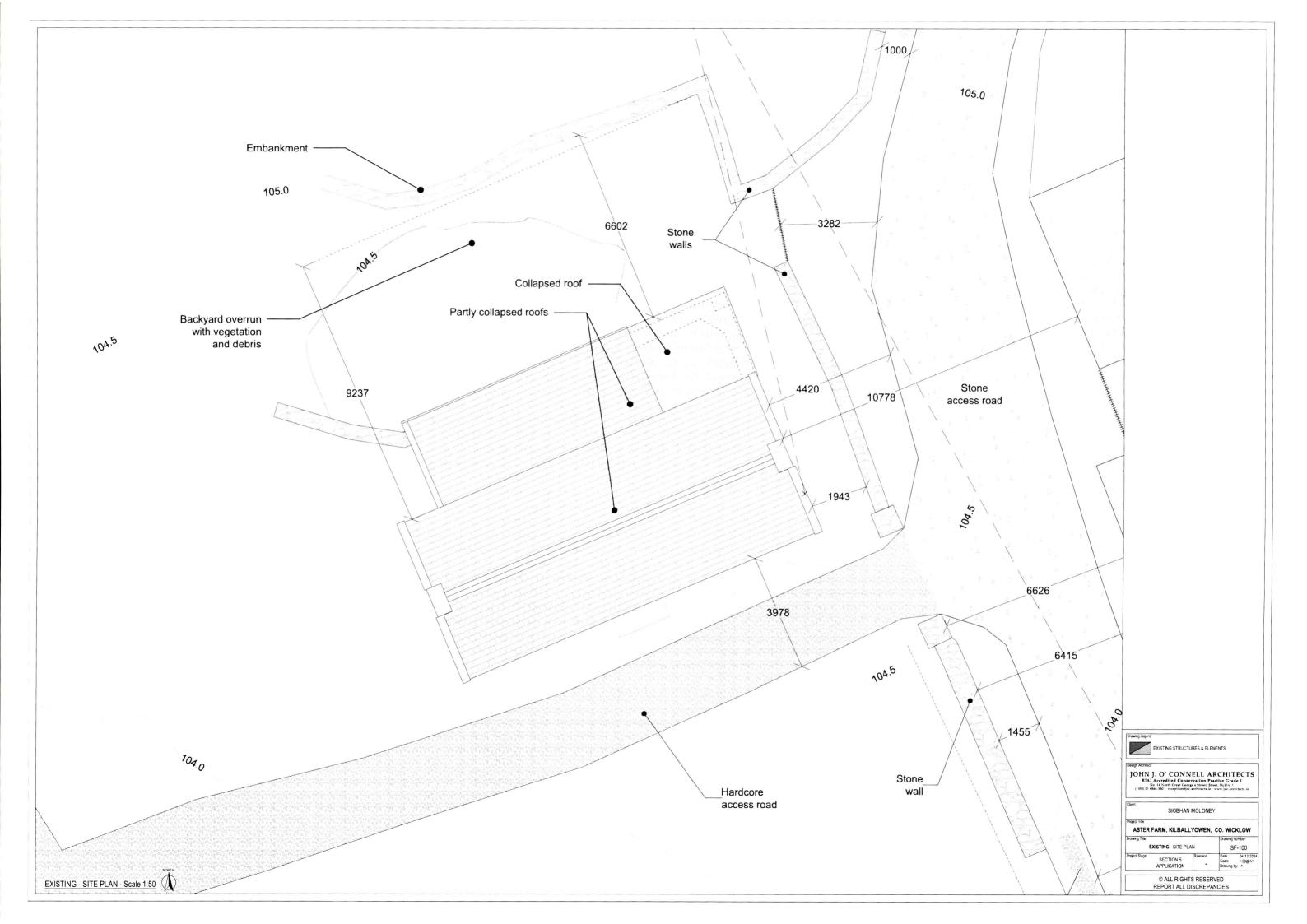
The interventions for which a Section 5 Declaration is sought are as follows:

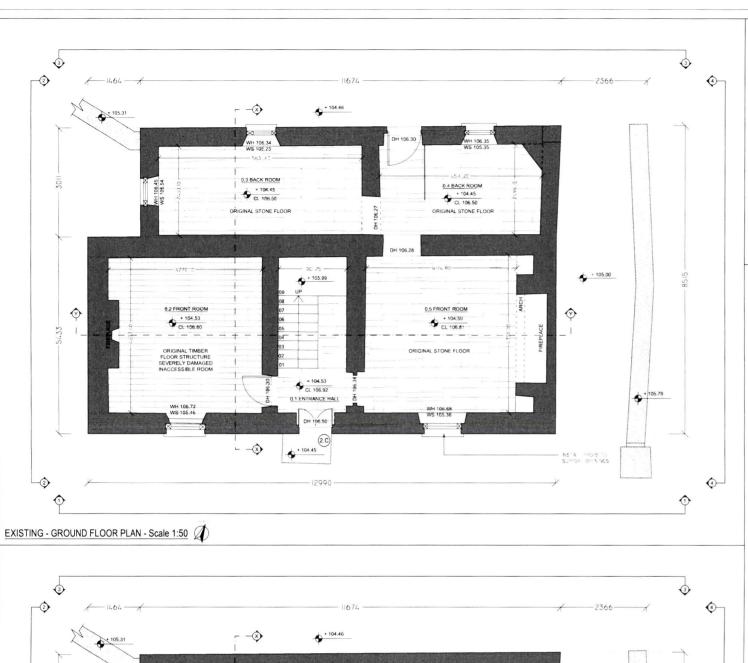
- = the reconstruction, like for like, of the derelict roof structures using traditional materials and methods;
- = the replacement of all decayed windows with sliding sash double glazed units to match the existing;
- = the installation of new electrical and mechanical services of which the existing building is devoid;
- the installation of historically appropriate cast iron rainwater goods, as the original components are
 missing or have been replaced with modern uPVC units with different profiles;
- the reinstatement of internal and external finishes using traditional materials and methods.

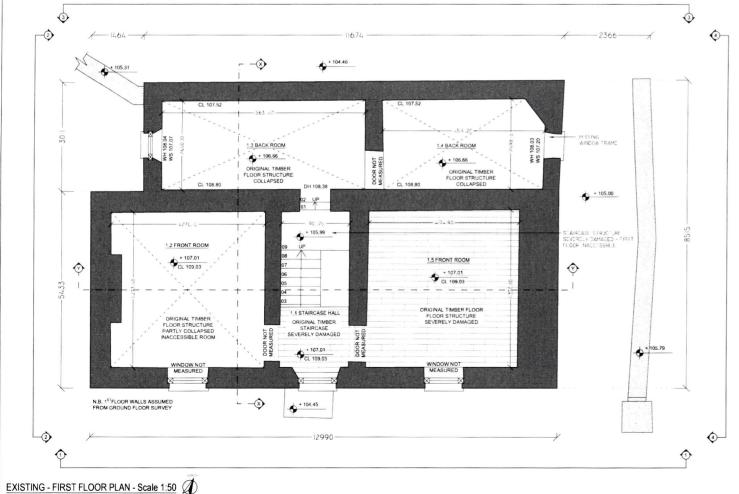
The proposed works do not materially affect the external appearance of the structure, nor do they make it inconsistent with the character of the structure itself or that of neighbouring structures.

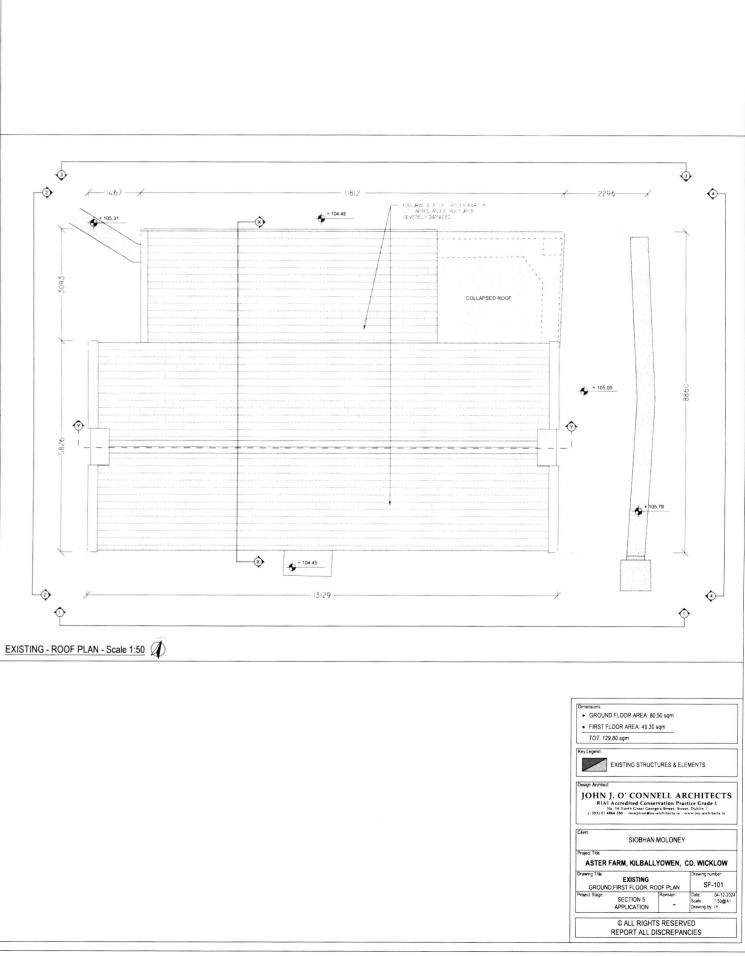
They will be carried out by a competent and experienced Conservation Contractor and under the supervision of John J. O'Connell Architects, RIAI Accredited Grade 1 Conservation Practice. All works will be carried out to best Conservation Principles and retaining as much historic material as possible.



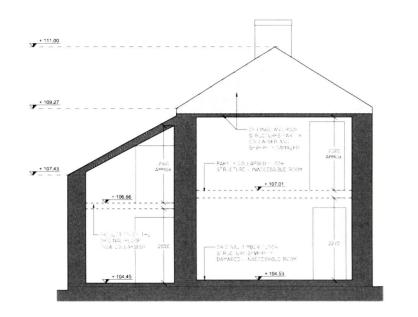




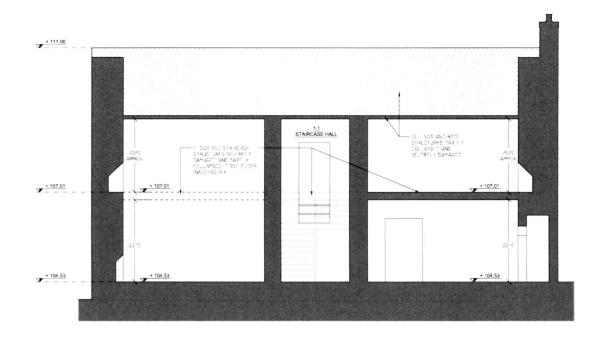




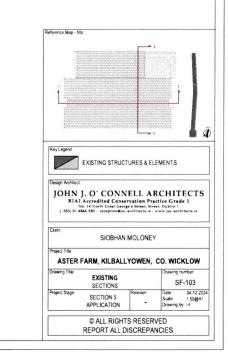


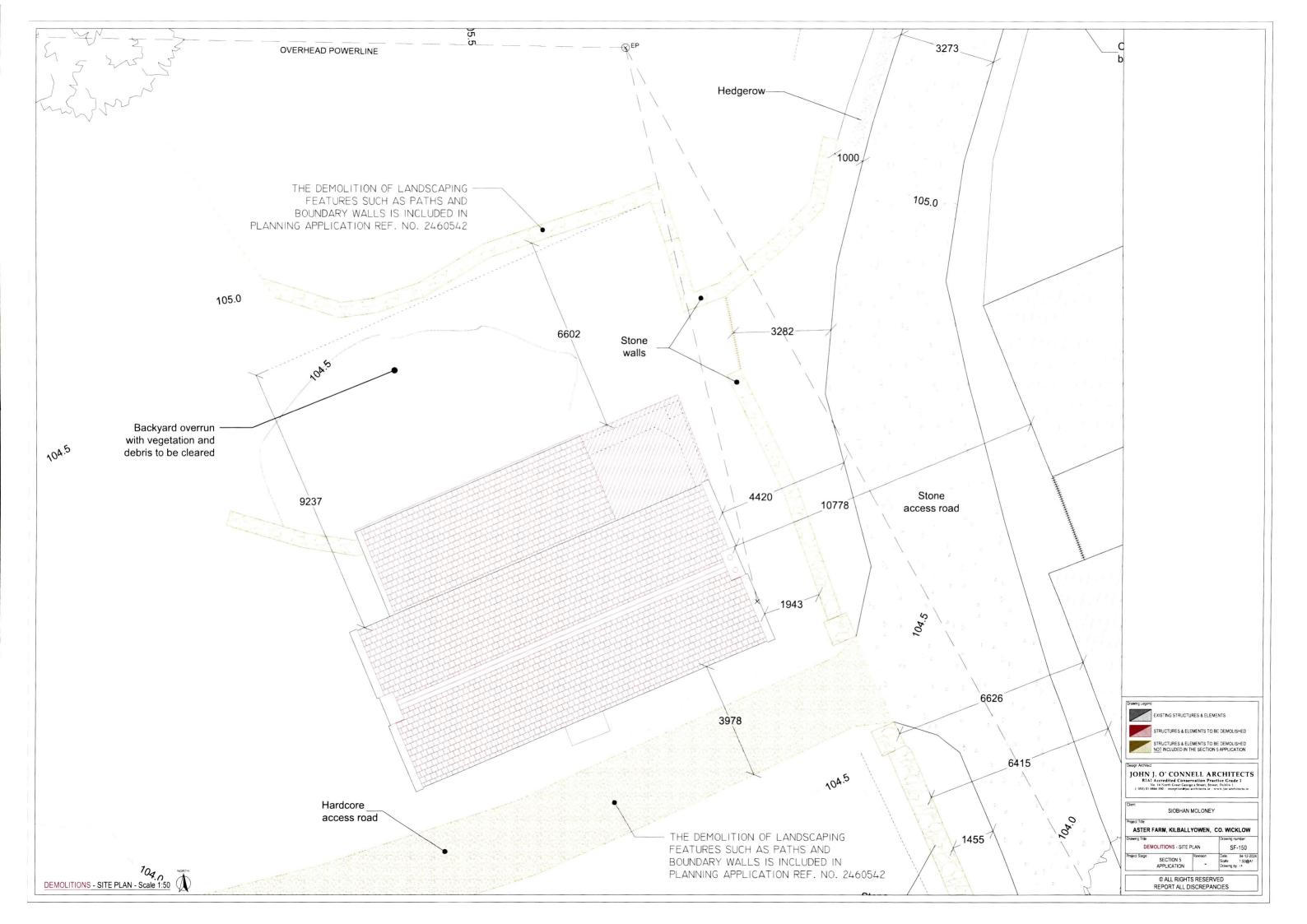


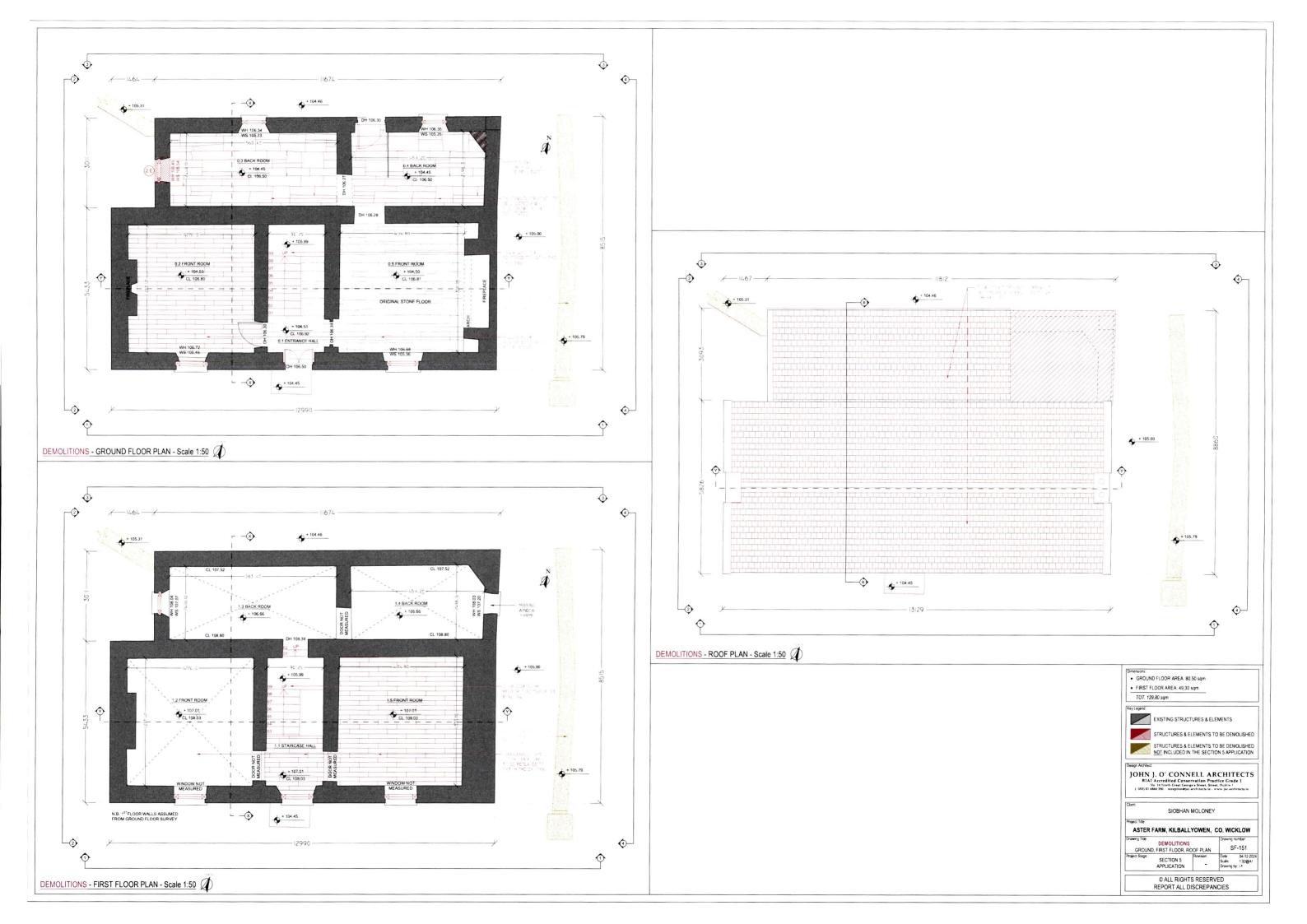
EXISTING - SECTION XX - Scale 1:50



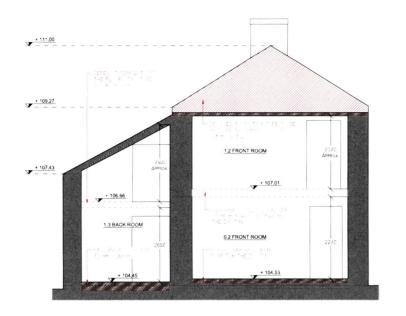
EXISTING - SECTION YY - Scale 1:50

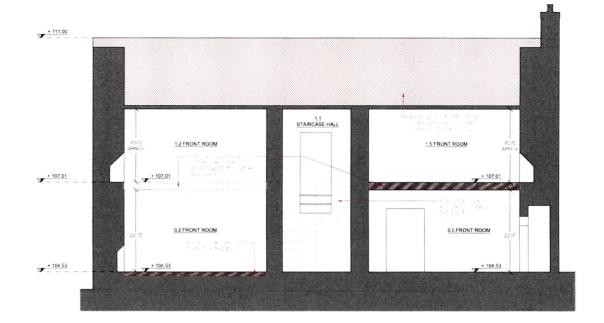






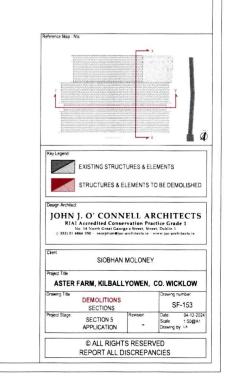


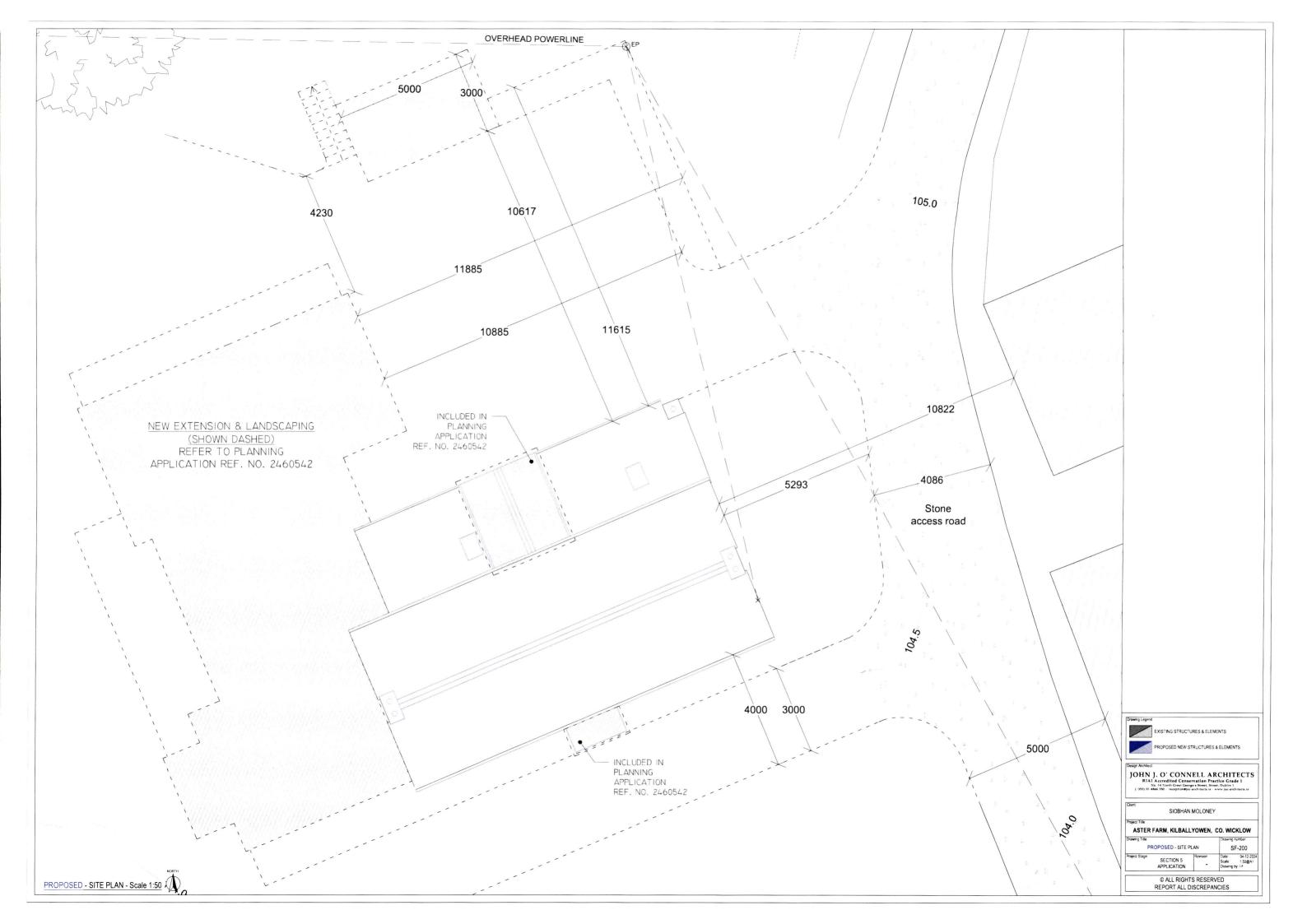


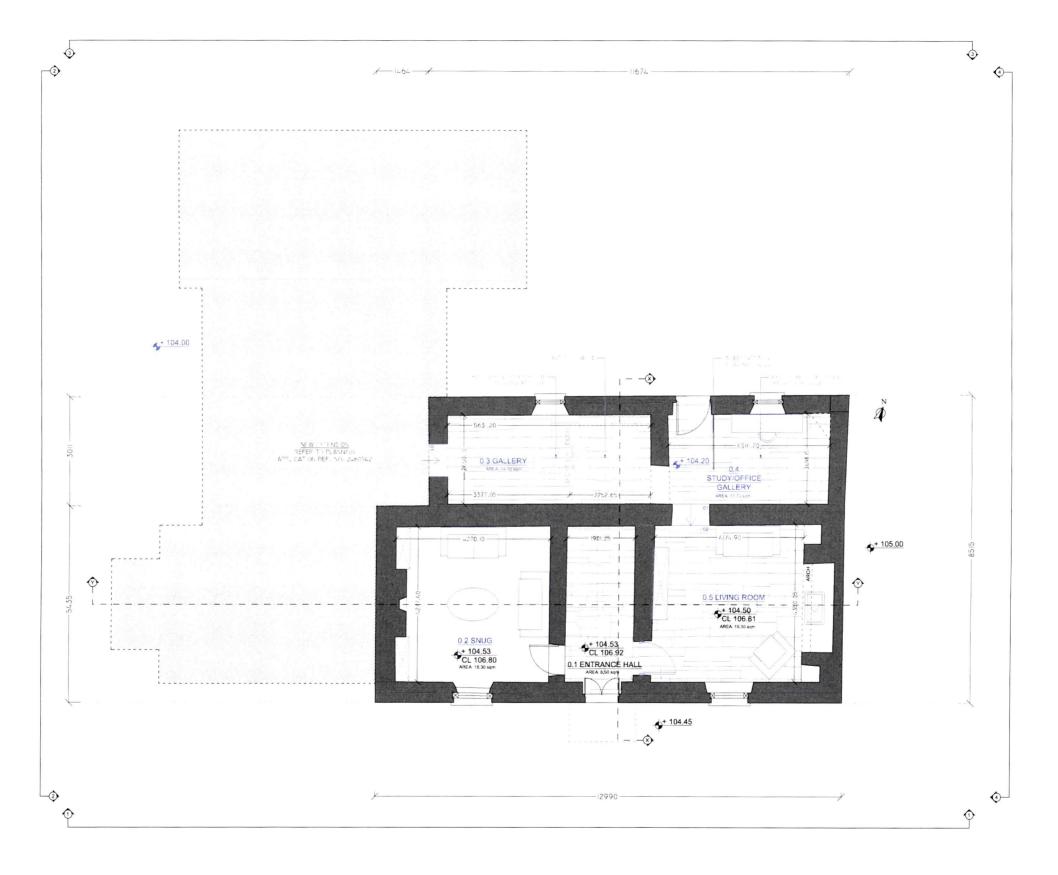


DEMOLITIONS - SECTION XX - Scale 1:50

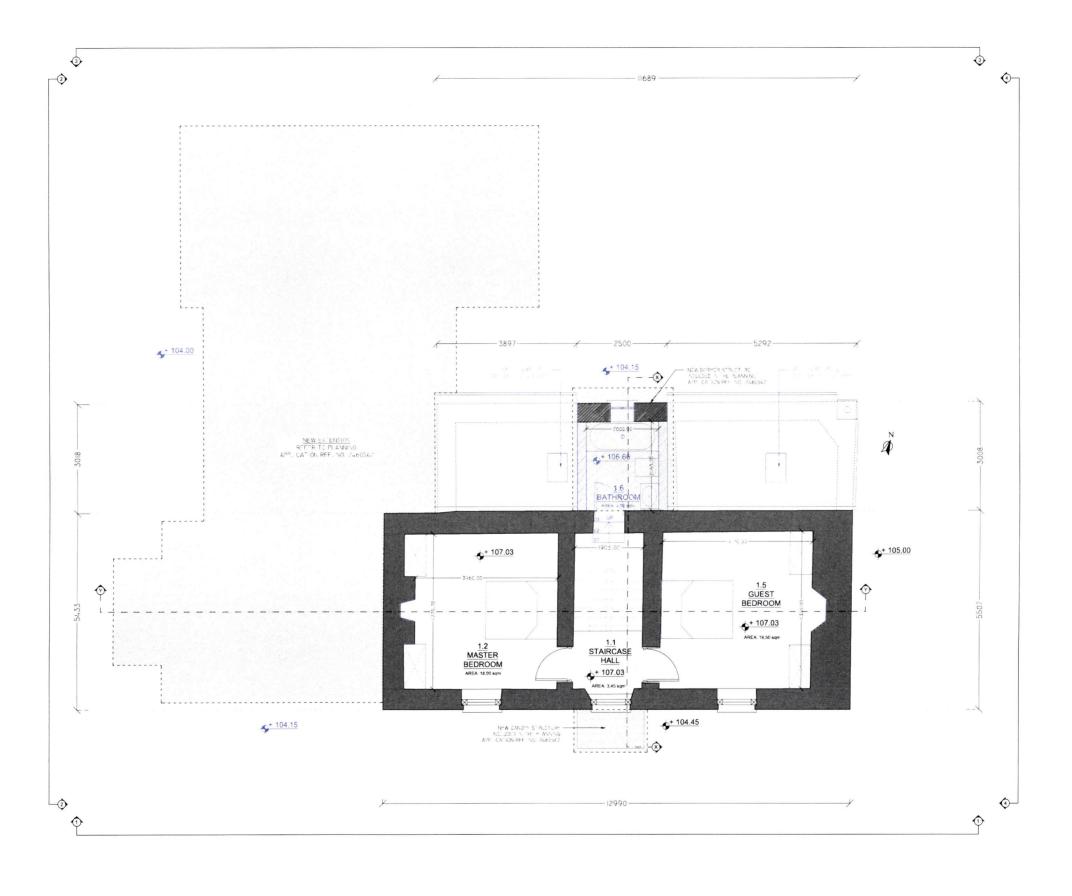
DEMOLITIONS - SECTION YY - Scale 1:50













| Disagn Architect | JOHN J. O' CONNELL ARCHITECTS | RIA1 Accredited Conservation Practice Grade 1 | No. 14 North Great George Steves, Street, Doblin 1 (28310) 8648-50. receptomly carbitation known for earthirets. In www.for-earthirets.in.

SIOBHAN MOLONEY

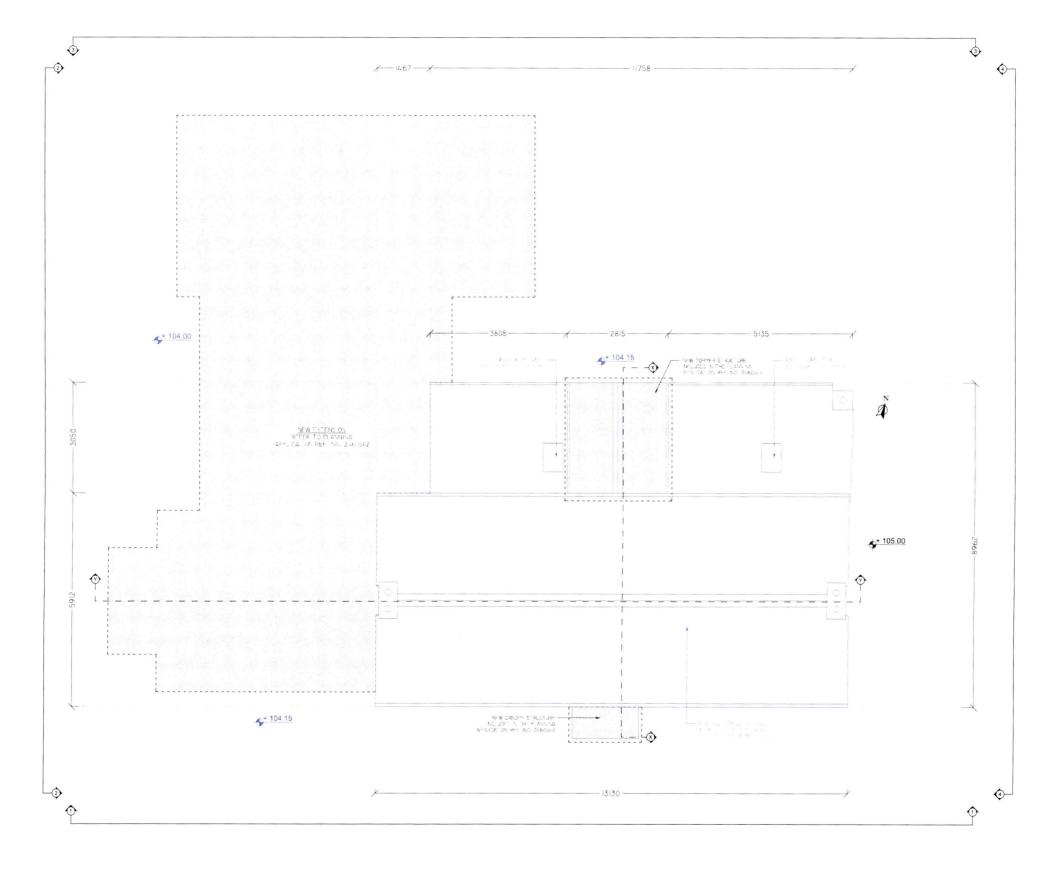
Project Tide

ASTER FARM, KILBALLYOWEN, CO. WICKLOW

Drawing Tide
PROPOSED
FIRST FLOOR PLAN
Project Stage
SECTION 5
APPLICATION

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REPORT ALL DISCREPANCIES

PROPOSED - FIRST FLOOR PLAN - Scale 1:50

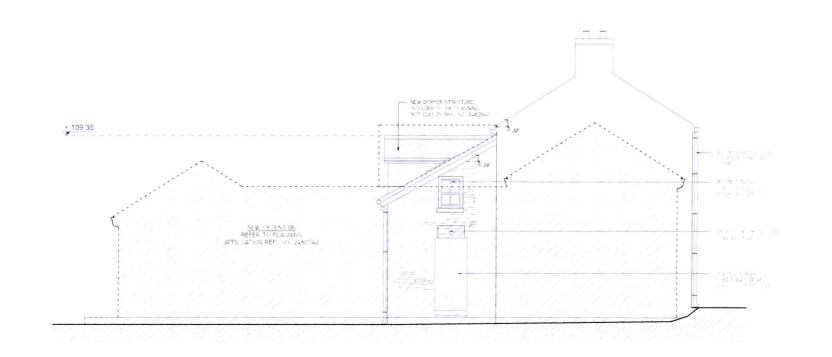




PROPOSED - ROOF PLAN - Scale 1:50

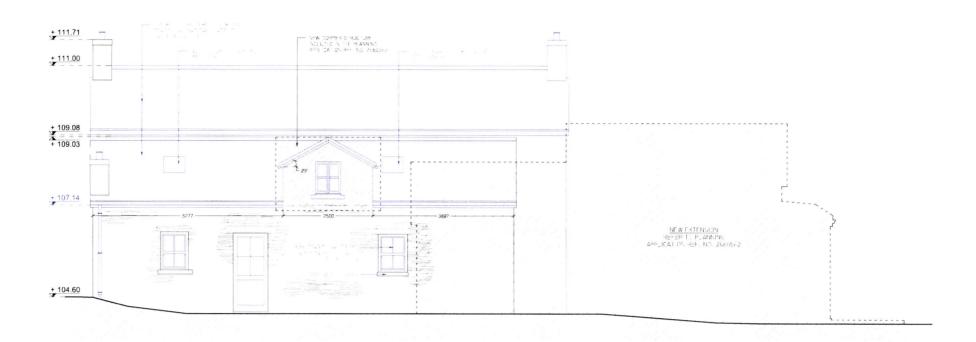


PROPOSED - 1_FRONT ELEVATION - SOUTH - Scale 1:50

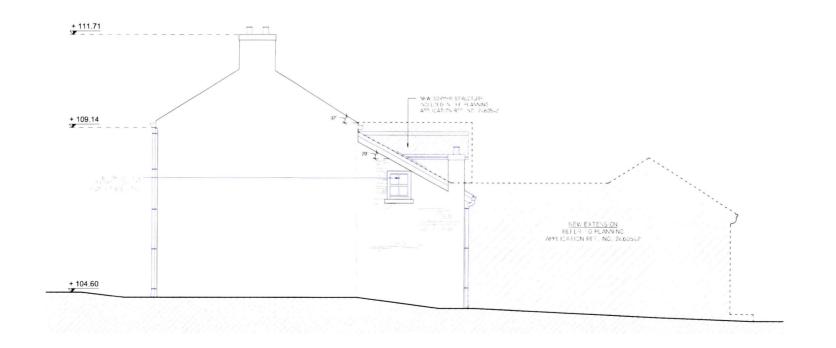


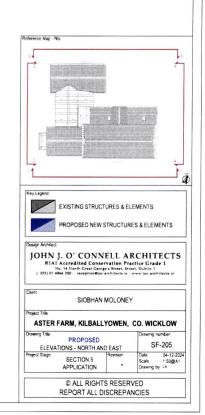


PROPOSED - 2_SIDE ELEVATION - WEST - Scale 1:50

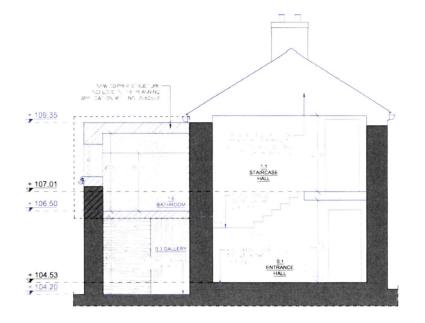


PROPOSED - 3_BACK ELEVATION - NORTH - Scale 1:50

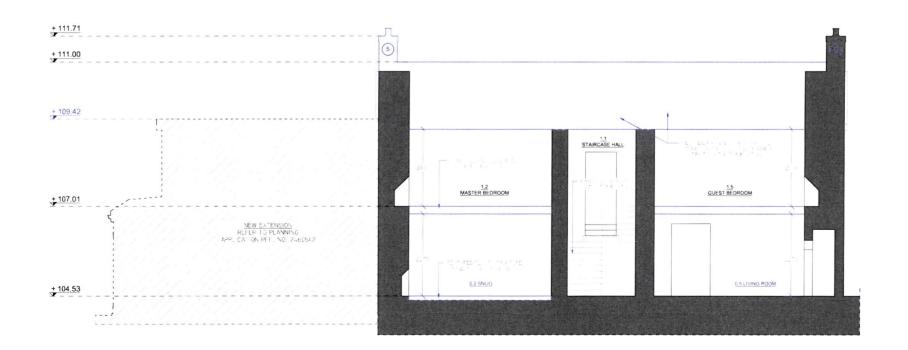


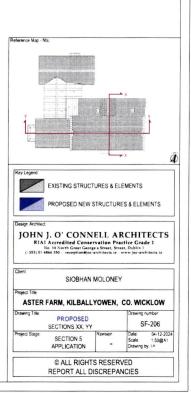


PROPOSED - 4_SIDE ELEVATION - EAST - Scale 1:50



PROPOSED - SECTION XX - Scale 1:50





PROPOSED - SECTION YY - Scale 1:50