



LIMERICK CITY & COUNTY COUNCIL

PLANNING AND ENVIRONMENTAL SERVICES

SECTION 5 APPLICATION

DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

Gen R Limited.

Applicant's Name: _____

Applicant's Address: 38 Palmerstown Road, Rathmines, Dublin D06 YW68 _____

Telephone No. _____

[REDACTED]

Name of Agent (if any): Rory Hanrahan - Coakley O'Neill Town Planning _____

Address: NSC Centre, Mahon, Cork _____

Telephone No. 021 2307026 _____

Address for Correspondence:

Coakley O'Neill Town Planning Ltd NSC Centre, Mahon, Cork _____

Location of Proposed development:

Nos. 1-8 & 12-18 Abbey Grove, Munret, Co. Limerick

Description of Proposed development:

Qhether the use of Nos. 1-8 and 12-18 Abbey Grove, Munret, self-contained
residential units where care is not provided for use as accommodation for International

Protection Applicants is or is not development or is or is not exempted development.

Is this a Protected Structure or within the curtilage of a Protected Structure.

YES/NO

Applicant's interest in site: Owner

List of plans, drawings, etc. submitted with this application:

Site Location Map

Site Plan

Have any previous extensions/structures been erected at this location YES/NO

If Yes please provide floor areas of all existing structures:

N/A

Signature of Applicant (or Agent)

Rosie Harrahan

NOTES: Application must be accompanied by:

- (a) Fee of €80
- (b) Site location map
- (c) Site layout plan
- (d) Dimensioned plans and elevations of the structure and any existing structures.
- (e) Where the declaration is in respect of a farm building, a layout identifying the use of each existing building together with floor area of each building.

Application to be forwarded to:

Limerick City & County Council,
Planning and Environmental Services,
City & County Council Offices,
Dooradoyle Road,
Limerick.

OFFICE USE ONLY

Ref. No. _____ Date Received _____

Fee Received _____ Date Due _____



Senior Administrative Officer
Planning and Environmental Services
Limerick City and County Council
City and County Council Offices
Dooradoyle Road
Limerick

15th October 2025

Our Ref: CON25192

RE: SECTION 5 DECLARATION APPLICATION NOS. 1–8 AND 12–18 ABBEY GROVE, MUNGRET, COUNTY LIMERICK.

Dear Sir/Madam,

We, Coakley O'Neill Town Planning Ltd., NSC Campus, Mahon, Cork, have been instructed by Gen R Ltd., to prepare this report with respect to an application seeking a Section 5 declaration as to whether the use of Nos. 1–8 and 12–18 Abbey Grove, Mungrange, self-contained residential units where care is not provided for use as accommodation for International Protection Applicants is or is not development or is or is not exempted development.

The following items are enclosed as part of this application:

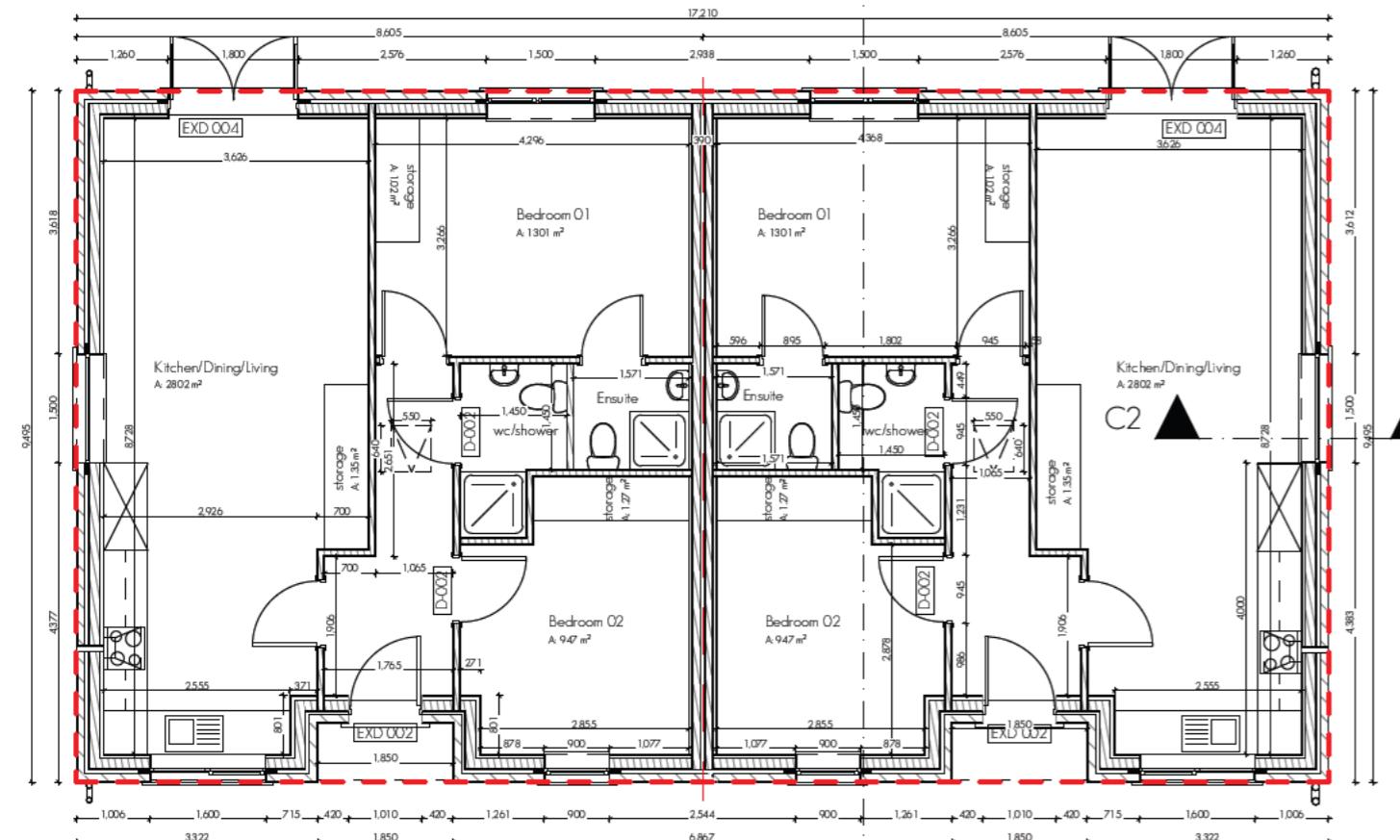
- Section 5 application form
- Site layout plans
- Floor Plans
- OSI site location maps
- Planning Statement.

We trust that this information is satisfactory and look forward to a favourable decision from the Planning Authority in due course. Please direct all correspondence in this matter to this office and do not hesitate to contact us if you require any further information.

Please note that the application fee of €80 was paid by EFT on the 15th October 2025.

Yours sincerely,

Rory Hanrahan MPlan MIPI
Coakley O'Neill Town Planning Ltd.

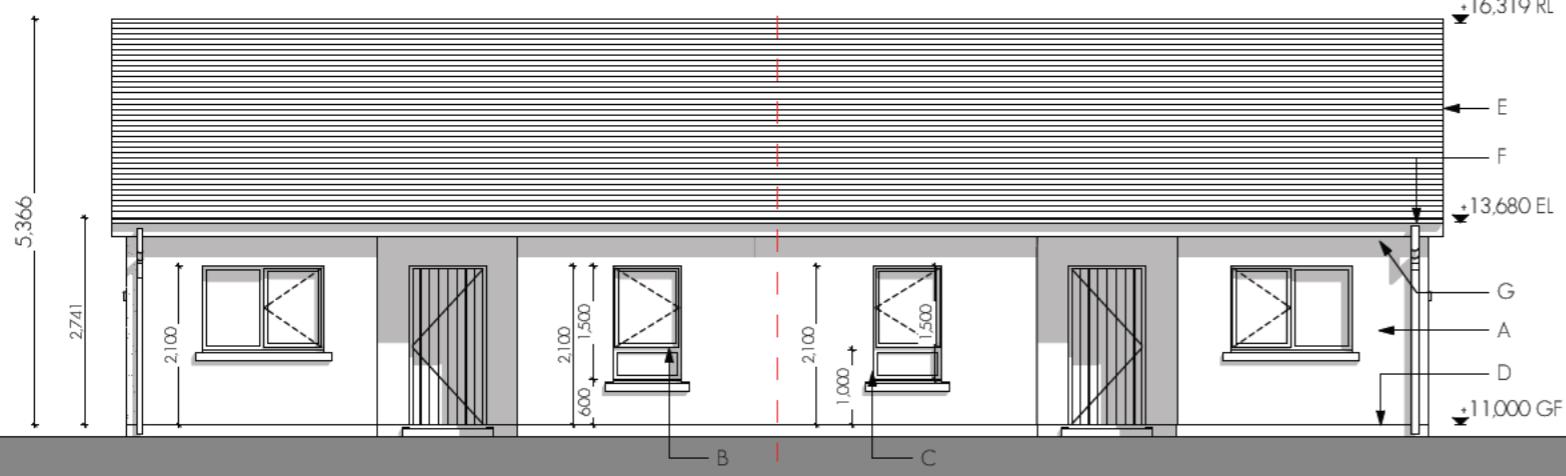


Floor Plans - A1/A1

1:100

House type A1

House type A1

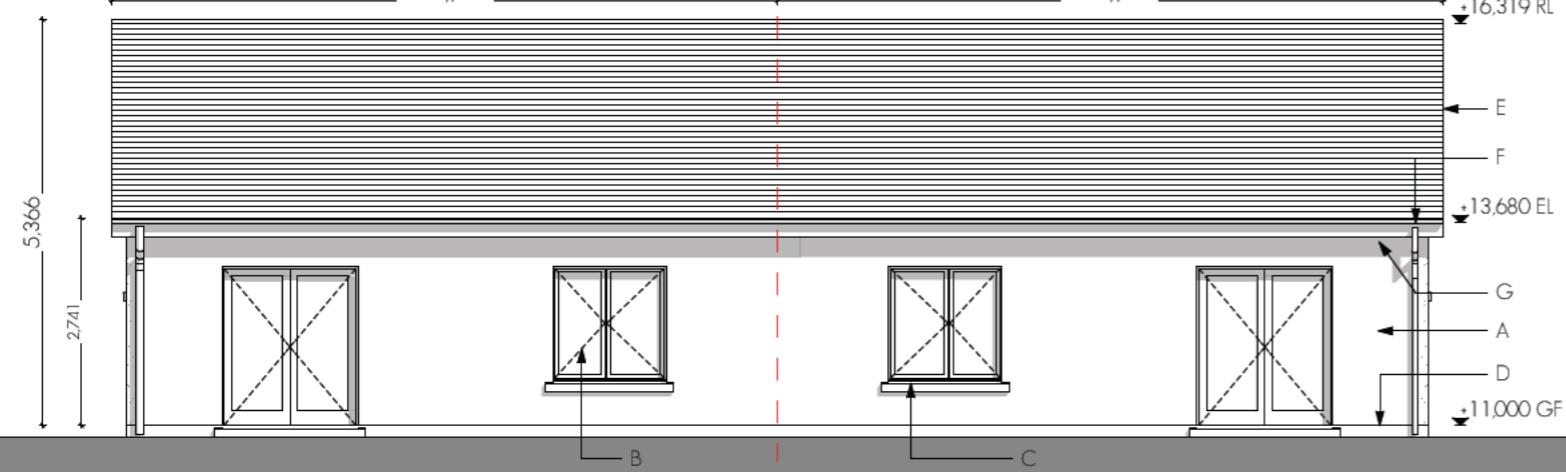


Front Elevation - A1/A1

1:100

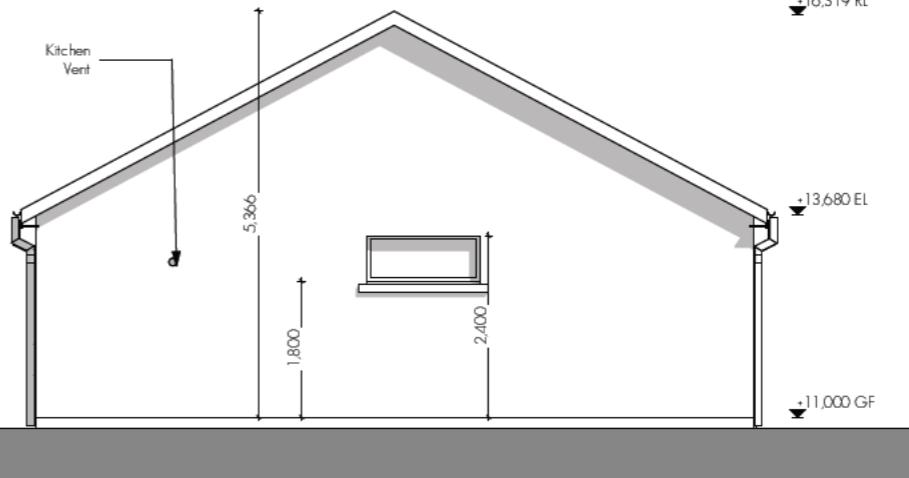
House type A1

House type A1



Rear Elevation - A1/A1

1:100



Side Elevation - A1

1:100

House Type A1/A1

A - K Rend Mineral Kl- K-Rend Silicone fine texture

B - uPVC windows & doors white to both sides

- Prestige Ultratech front doors in selected Heritage colours
- Plaster bands - K Rend Mineral TC - Granite to front and side elevations

C - Concrete cills to all windows

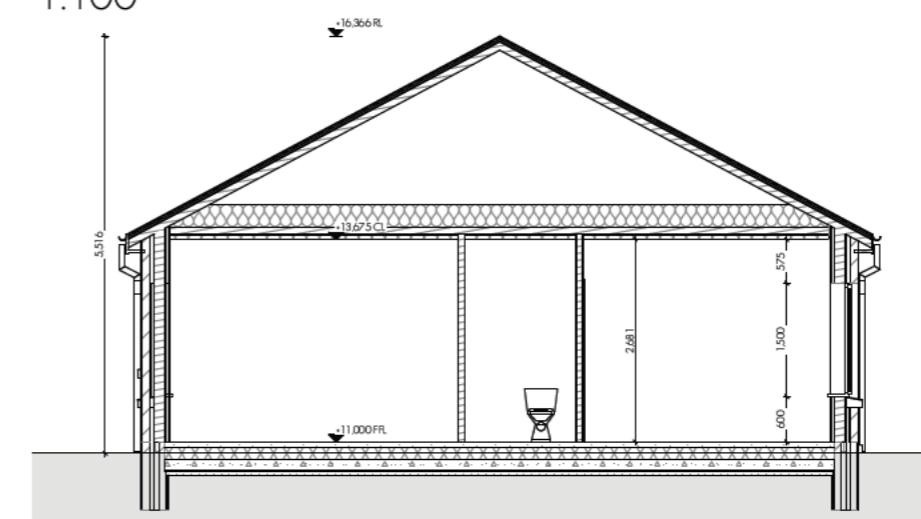
D - bell end/plinth

E - Concrete roof tiles to roof

F - Black round uPVC gutters, downpipes & watergoods.

G -White soffits, black fascia.

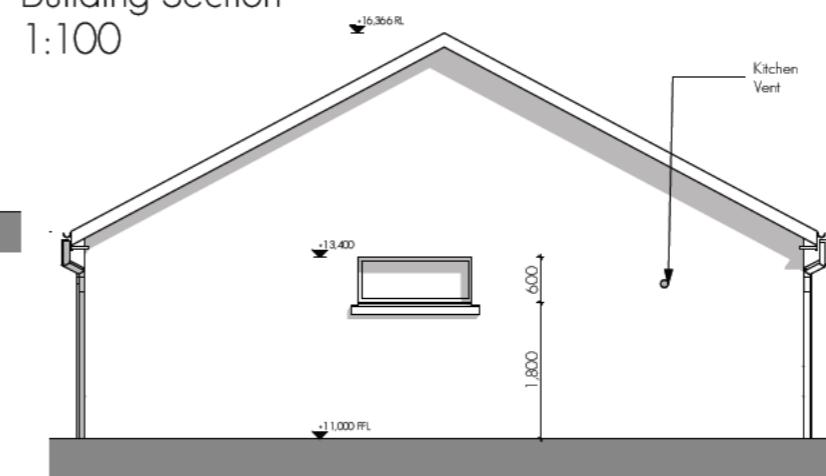
H - K Rend Smooth render finish



Building Section

1:100

HOUSE TYPE A1/A1
2 BED - (3 PERSON)
BUNGALOW
AREA: 67.6m²



Side Elevation - A1

1:100



KEY PLAN A1A1
1:2500

Issued for Construction
Revised for Construction
Revision Description

MOK PB 05/04/2022 B
25/03/2022 A
dim. ckd. date. rev.

Client: Homeland NSC Ltd.
Project: Residential Development
Site: Mungret, Raheen, Co. Limerick
Title: House Type A1/A1

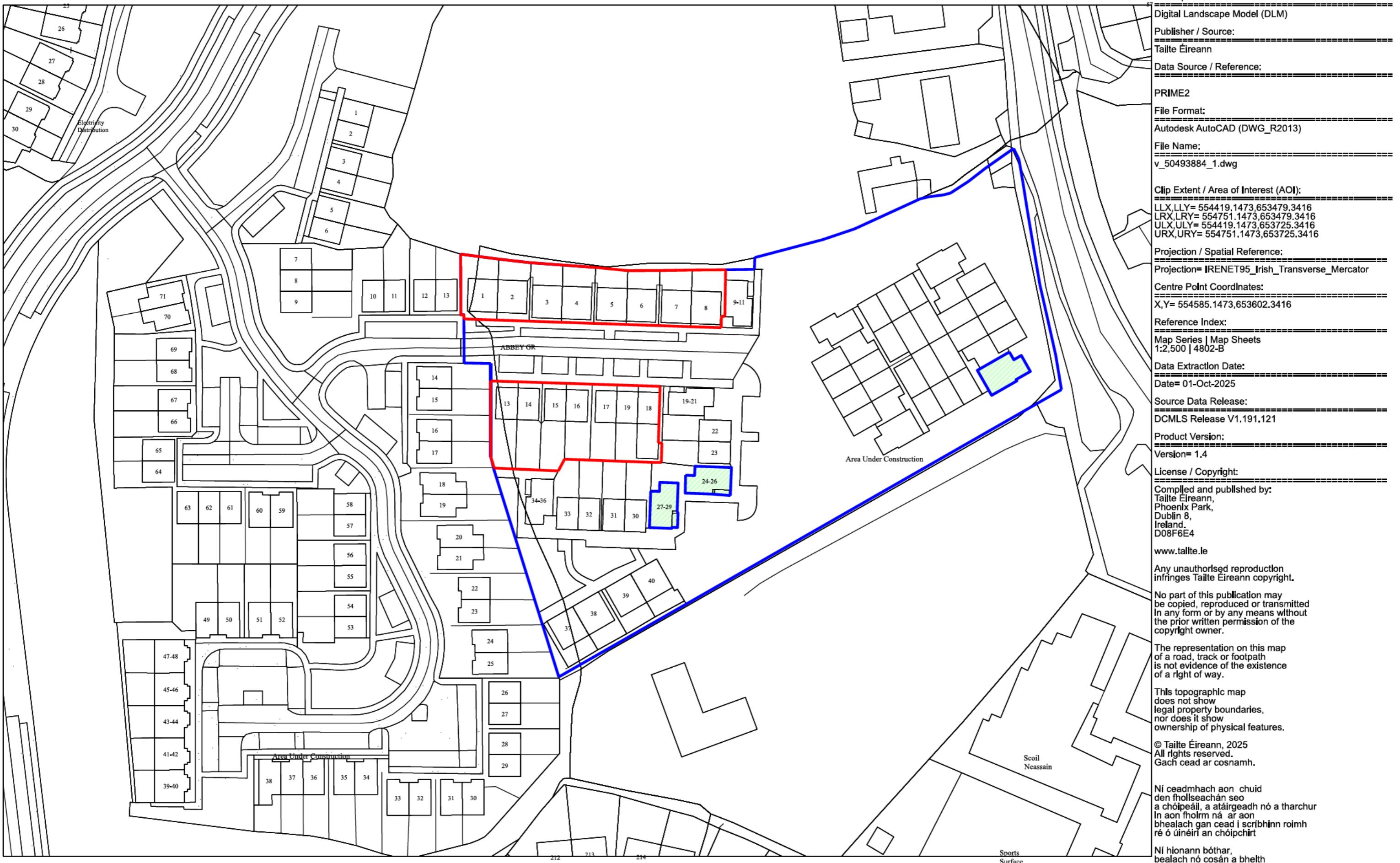
meitheal
architects

Project No: 18246-CON-111 Rev: B
RIAI Member 2019 G3 P

Project Architect: Mark Dignam
A3 Sheet Scale: 1:1

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Project No: 18246-CON-101-A-Issue-Sheet-Dwg-Sheets.pln Tuesday 5 April 2022



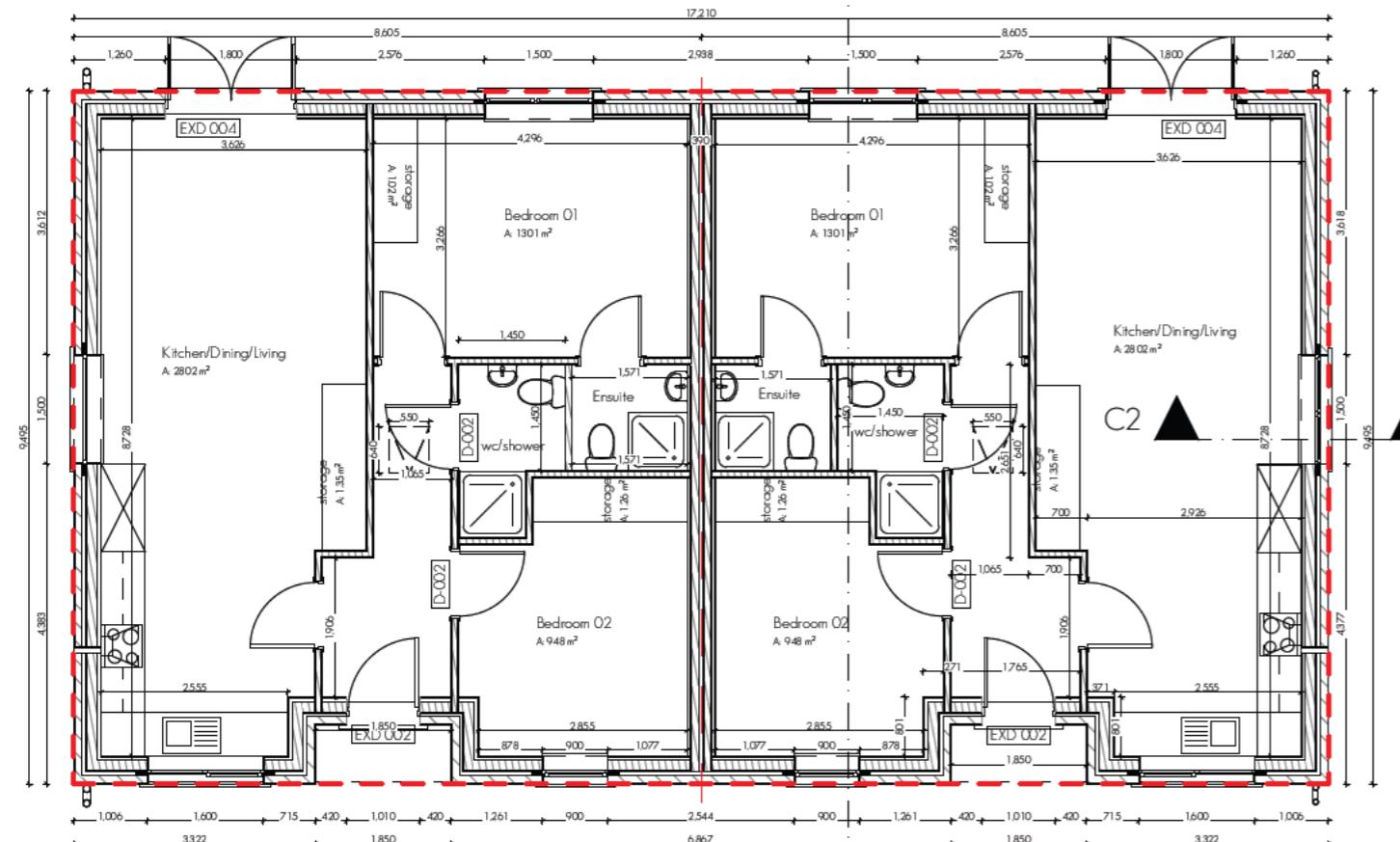
— RED LINE INDICATES EXTENT OF UNITS WHICH ARE THE SUBJECT OF THE SECTION 5 DECLARATION APPLICATION

— BLUE LINE INDICATES EXTENT OF LAND OWNERSHIP

 HATCHED AREA INDICATES EXTENT OF PART V UNITS OWNED BY LIMERICK CITY & COUNTY COUNCIL



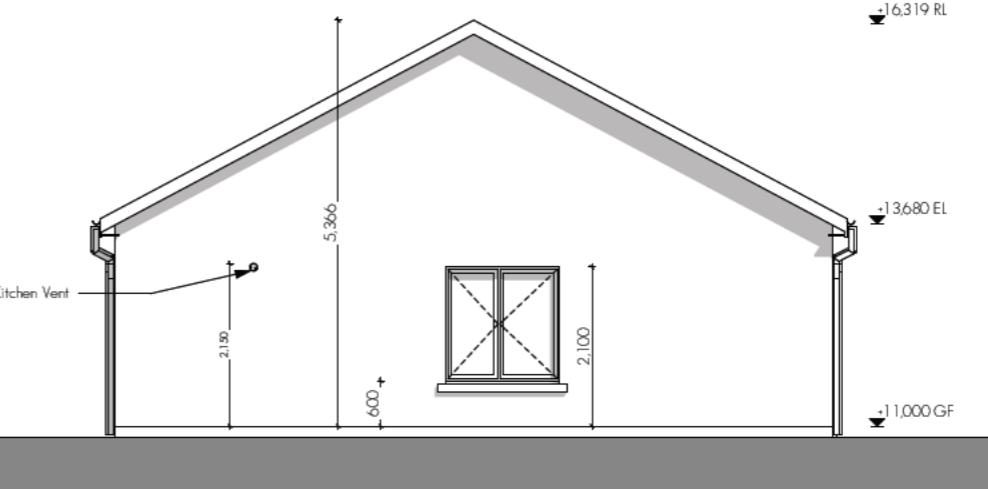
SITE MAP 1:500



Floor Plans - A1/A

1:100

House type A

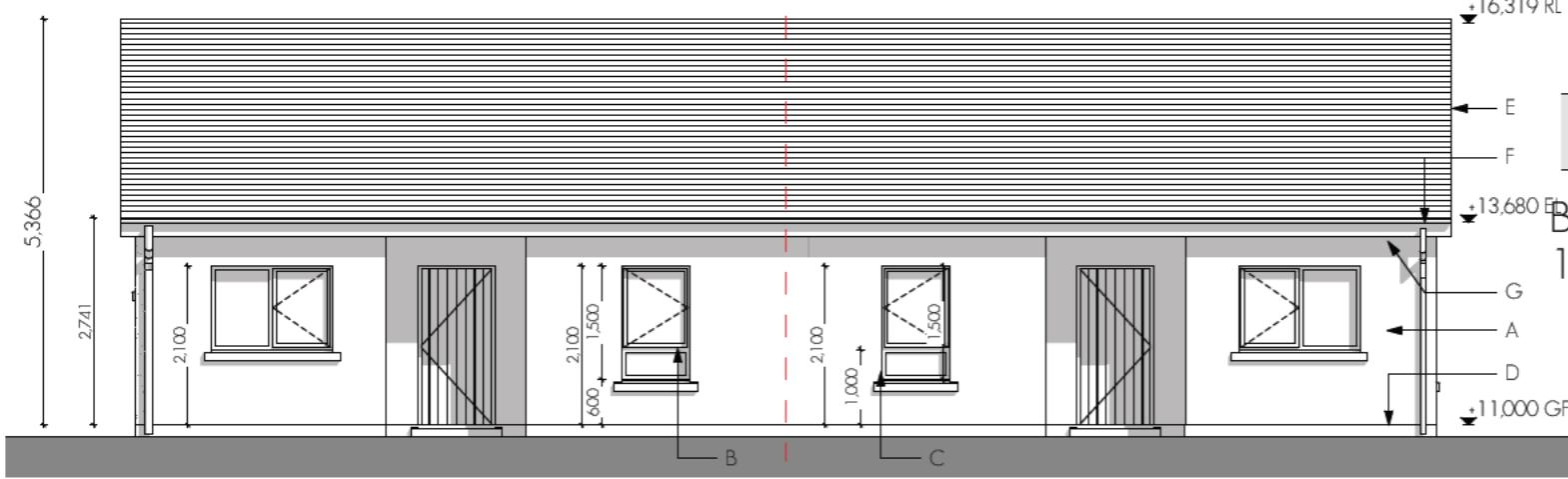


House Type A1/A

NOTES:

- DO NOT SCALE USE FIGURED DIMENSIONS ONLY.
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- ALL MATERIAL & WORKMANSHIP TO BE CARRIED OUT IN ACCORDANCE WITH CURRENT BUILDING REGULATIONS AND RELEVANT STANDARDS.
- IT IS THE CONTRACTORS RESPONSIBILITY TO VERIFY OR DETERMINE ALL DIMENSIONS AND LEVELS REQUIRED PRIOR TO COMMENCEMENT OF CONSTRUCTION OR PRODUCTION OF FABRICATION DRAWINGS.
- ALL PRECAST CONCRETE ELEMENTS, LINTELS & TIMBER ROOF TRUSSES TO BE CONSTRUCTED IN ACCORDANCE WITH SPECIALIST SUBCONTRACTORS DETAILS AND SPECIFICATIONS.

A - K Rend Mineral Kl- K-Rend Silicone fine texture
 B - uPVC windows & doors white to both sides
 - Prestige Ultratech front doors in selected Heritage colours
 - Plaster bands - K Rend Mineral TC - Granite to front and side elevations
 C - Concrete cills to all windows
 D - bell end/plinth
 E - Concrete roof tiles to roof
 F - Black round uPVC gutters, downpipes & watergoods,
 G -White soffits, black fascia.
 H - K Rend Smooth render finish

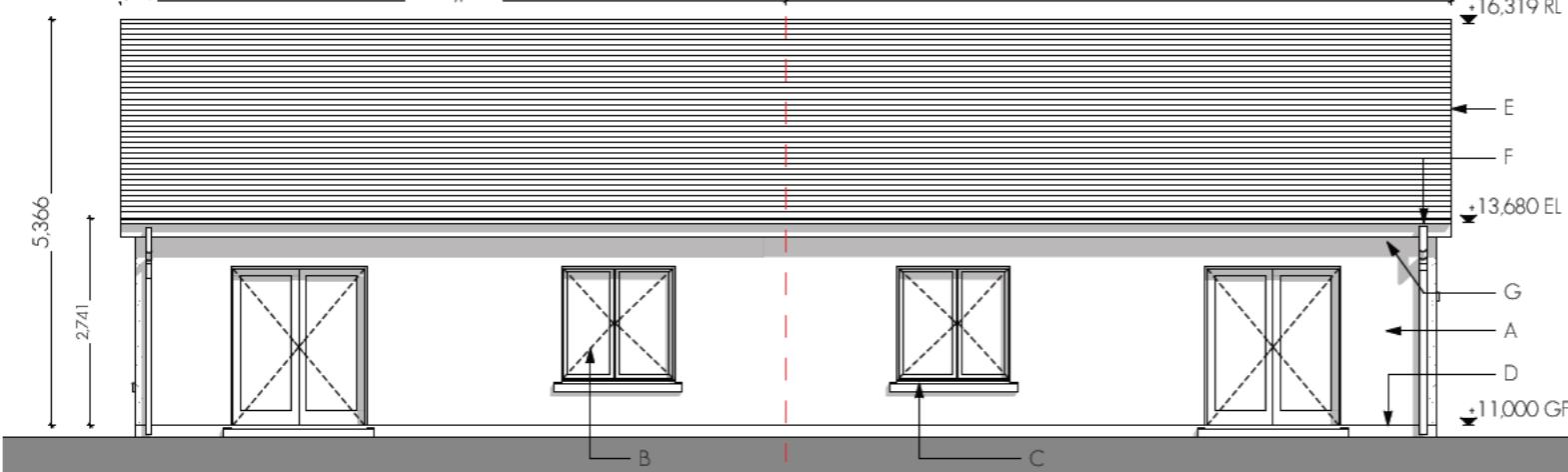
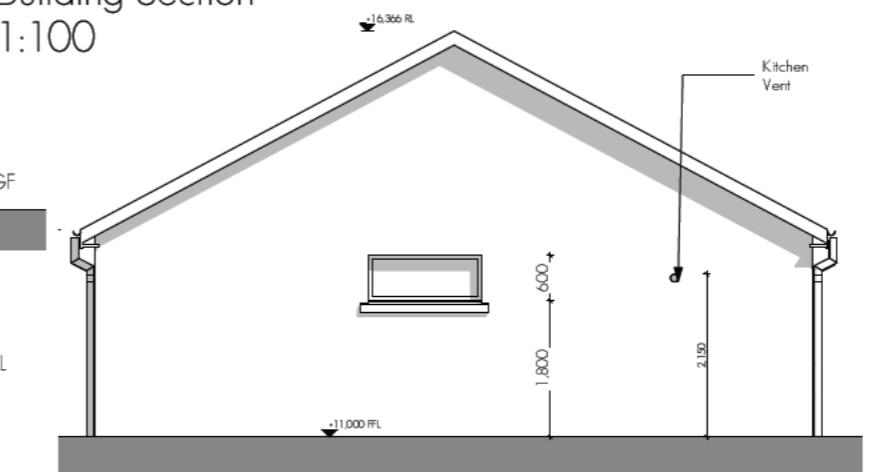


Front Elevation - A1/A

1:100

House type A1

Building Section
1:100



Rear Elevation - A/A1

1:100

Side Elevation - A1
1:100



KEY PLAN A1-A
1:2500

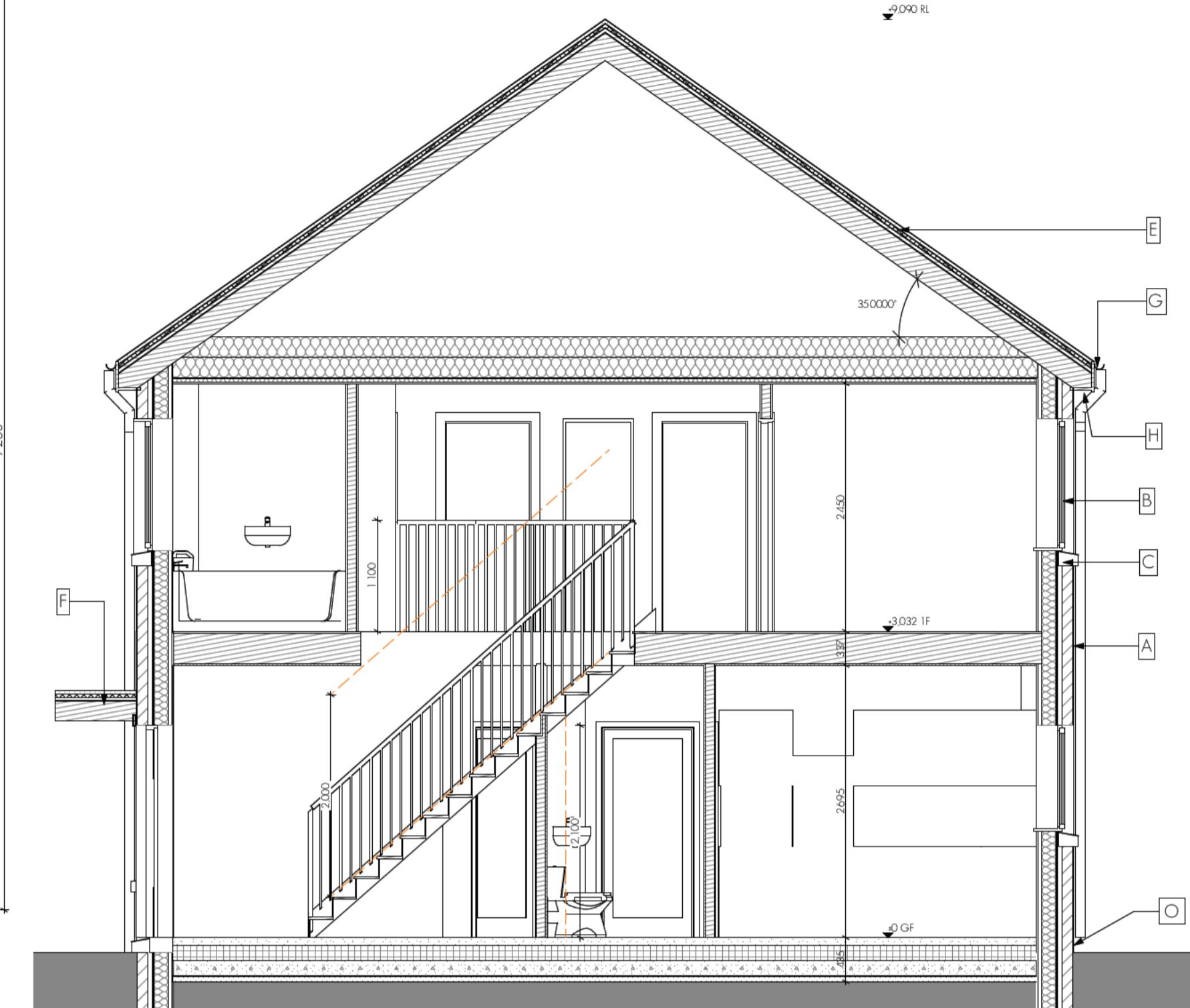
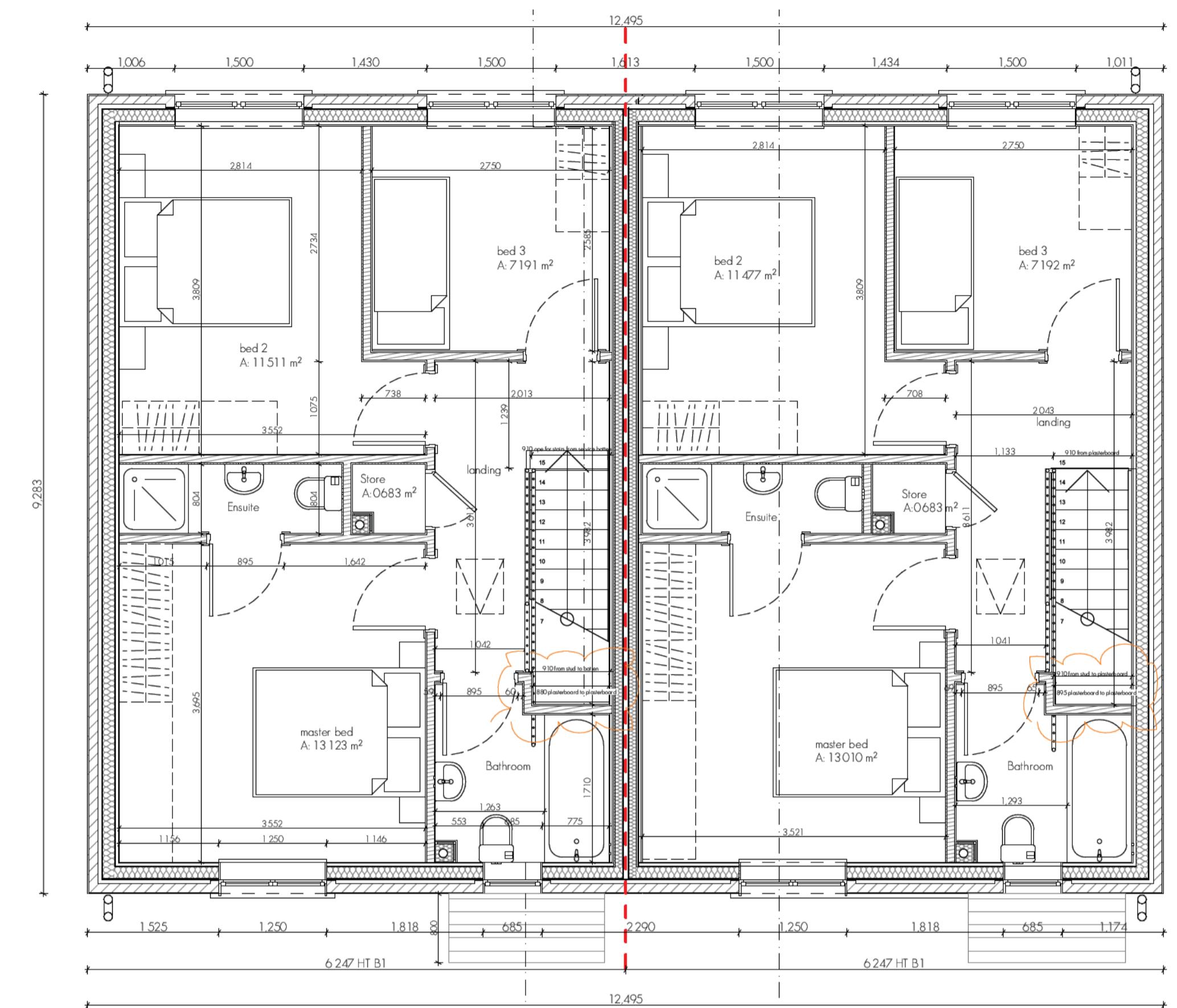
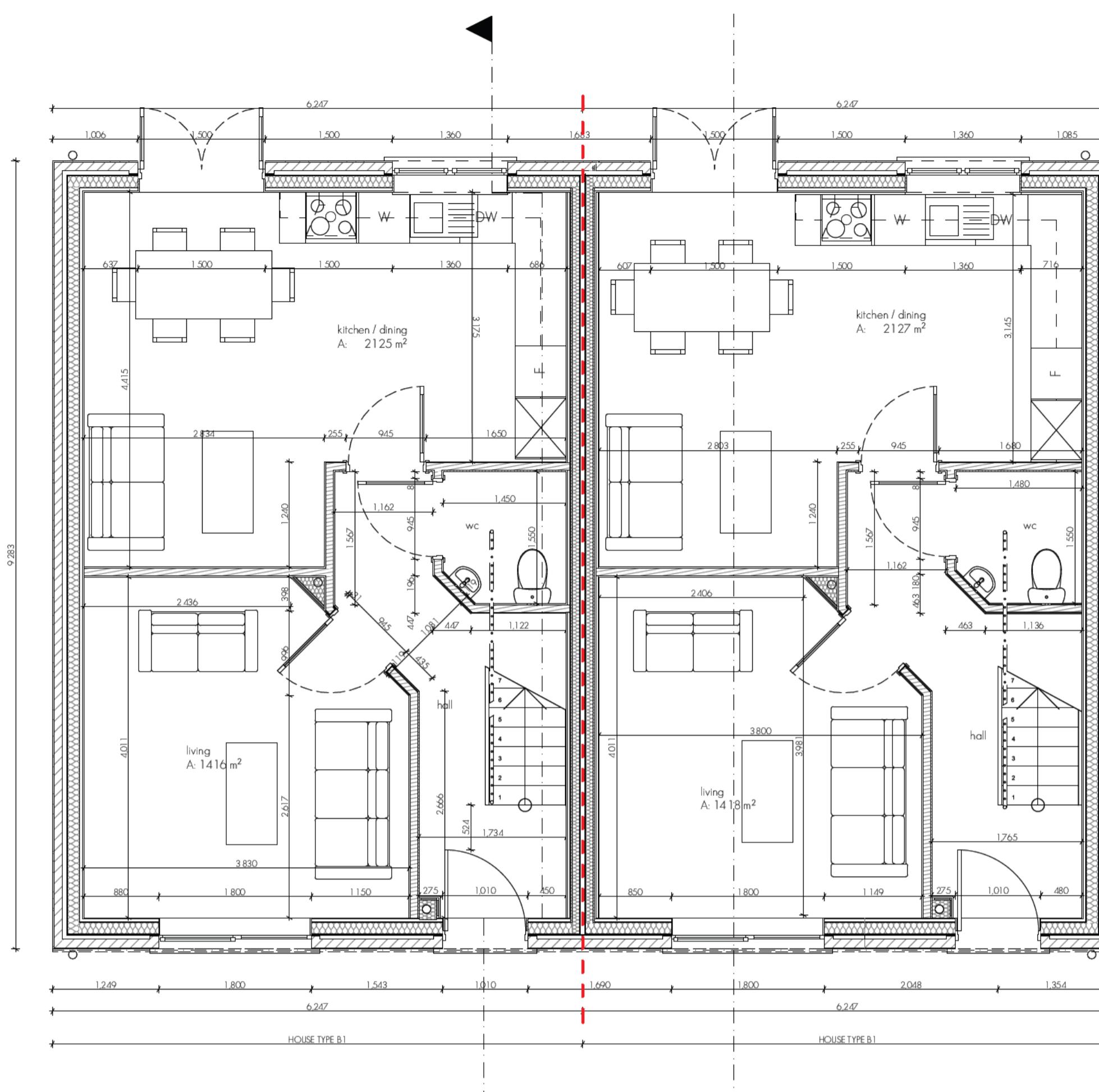
HOUSE TYPE A1/A
2 BED - (3 PERSON)
BUNGALOW
AREA: 67.6m²

Issued for Construction	MOK	PB	05/04/2022	B
Revised for Construction			25/03/2022	A
Revision Description				
Client:	Homeland NSC Ltd.			
Project:	Residential Development			
Site:	Mungret, Raheen, Co. Limerick			
Title:	House Type A1/A			
Project Architect:	Mark Dignam			
A3 Sheet Scale:	1:1			
Project No:	18246-CON-112	Rev:	B	
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meitheal
architects

RIAI
2019
G3
P

Project No:
18246-CON-112 Rev:
B



Notes:

A: K Rend Silicone Roughcast white on K Rend silicone dash receiver to manufacturers nominal thickness

B: uPVC windows U value minimum 12 W/m²K Munster Joinery Light grey to both sides

C: Concrete cells

D: Bell end plinth between roughcast and smooth render

E: Concrete Roof tiles, dry ridge system

F: Standing seam metal finish to Canopy roof

G: Black round uPVC gutters, downpipes & water goods

H: Black fascia and soffits

J: Thomond Natural paving to driveways

K: Thomond Charcoal paving to footpaths

L: tile vent to extract from bathroom

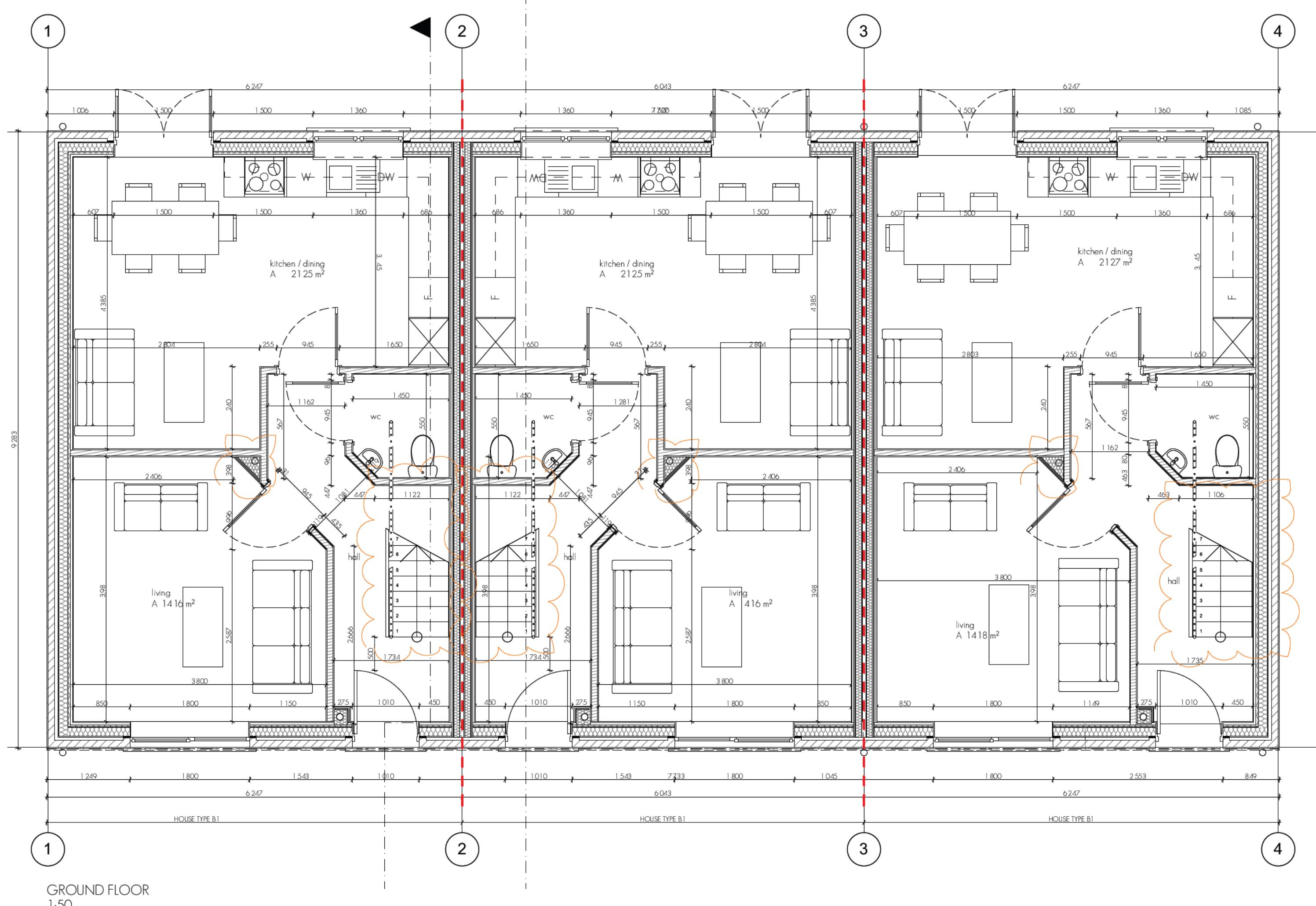
M: Prestige ultrachic front doors (U value min 14 W/m²K) in selected heritage colours

O: K Rend smooth render white

P: Smooth render panel every second unit in 3 block unit it will be on the middle unit

Q: Bellcast detail to top of canopy flashing

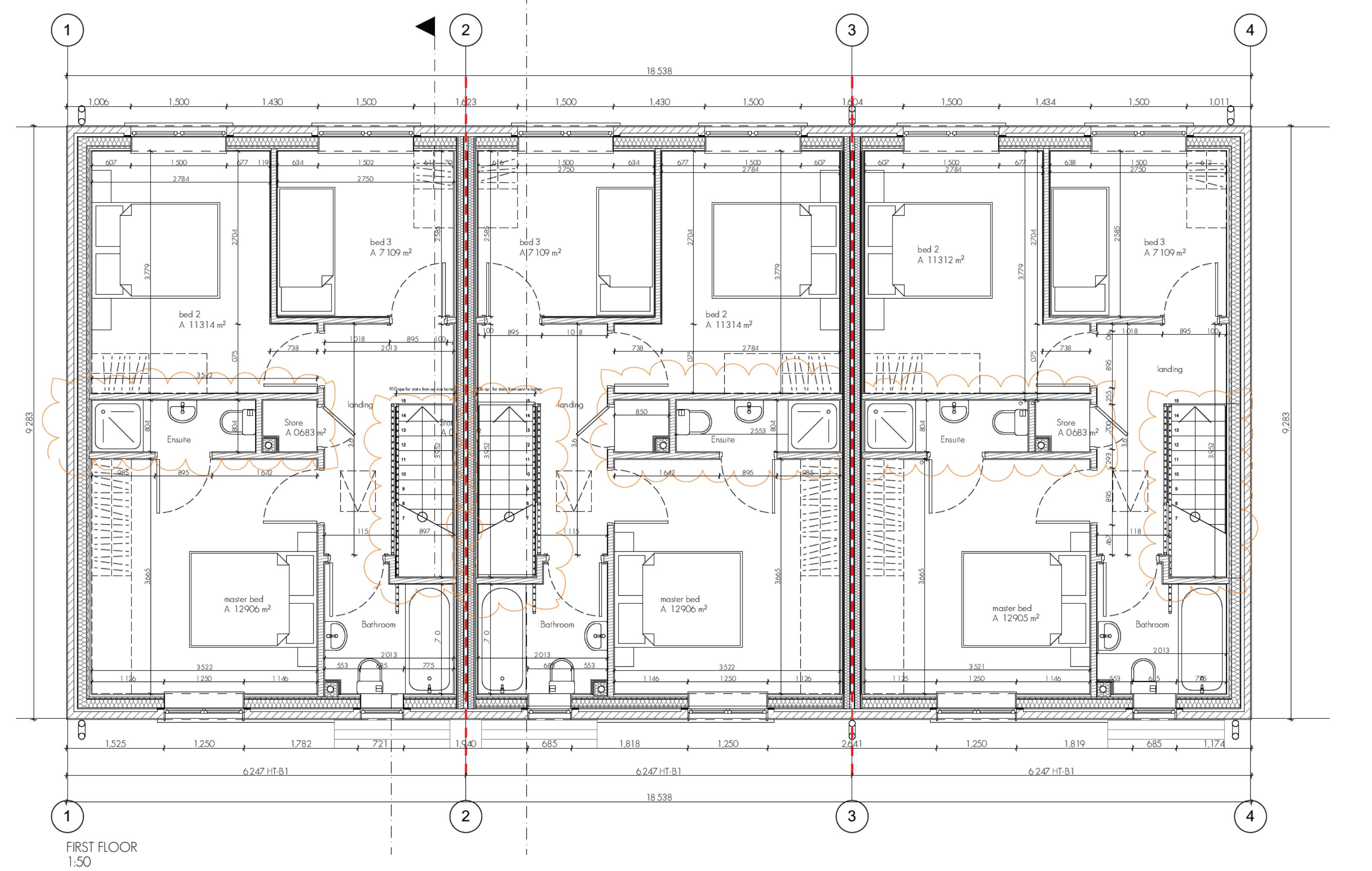
R: Grey vent grills



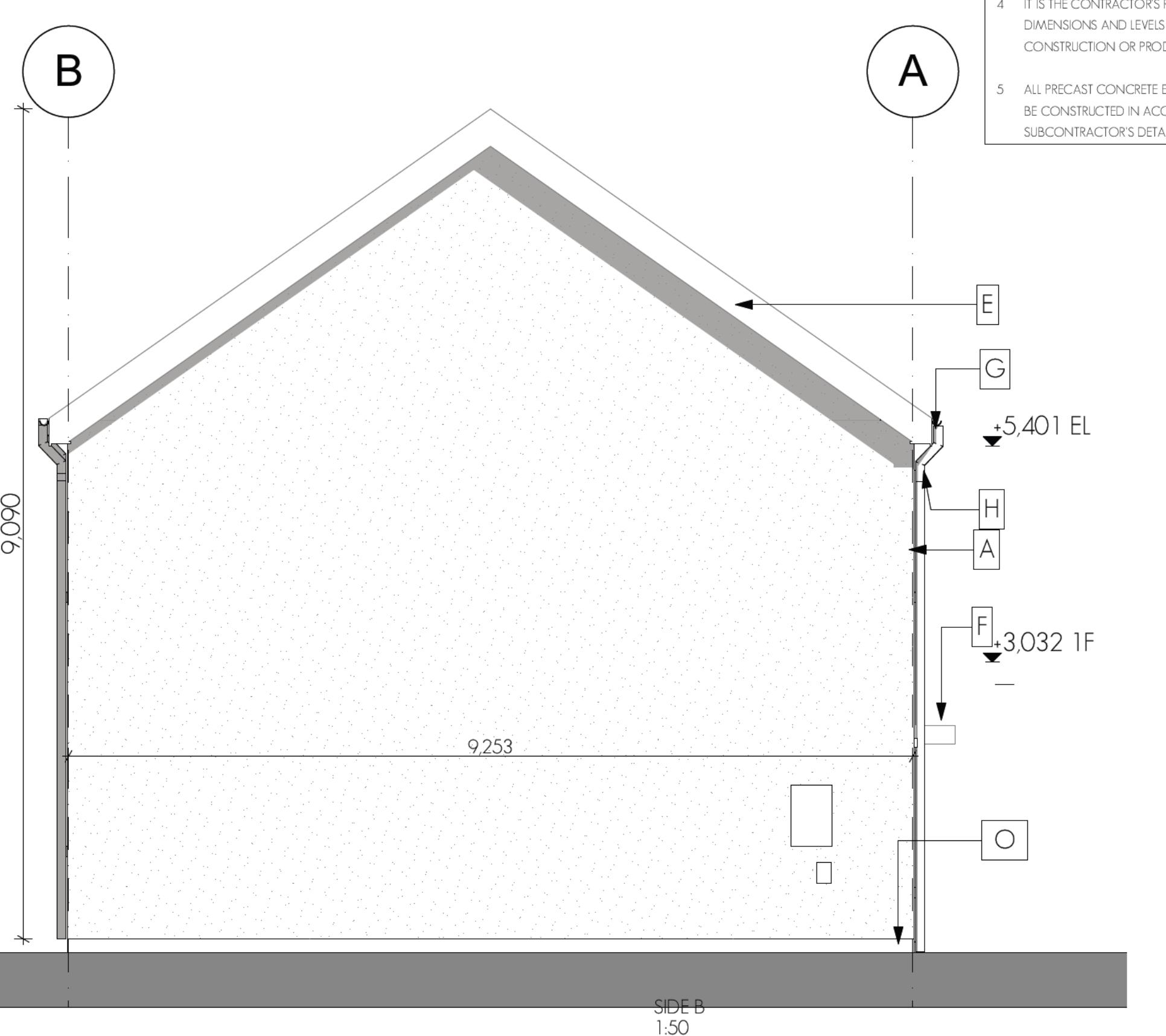
GROUND FLOOR



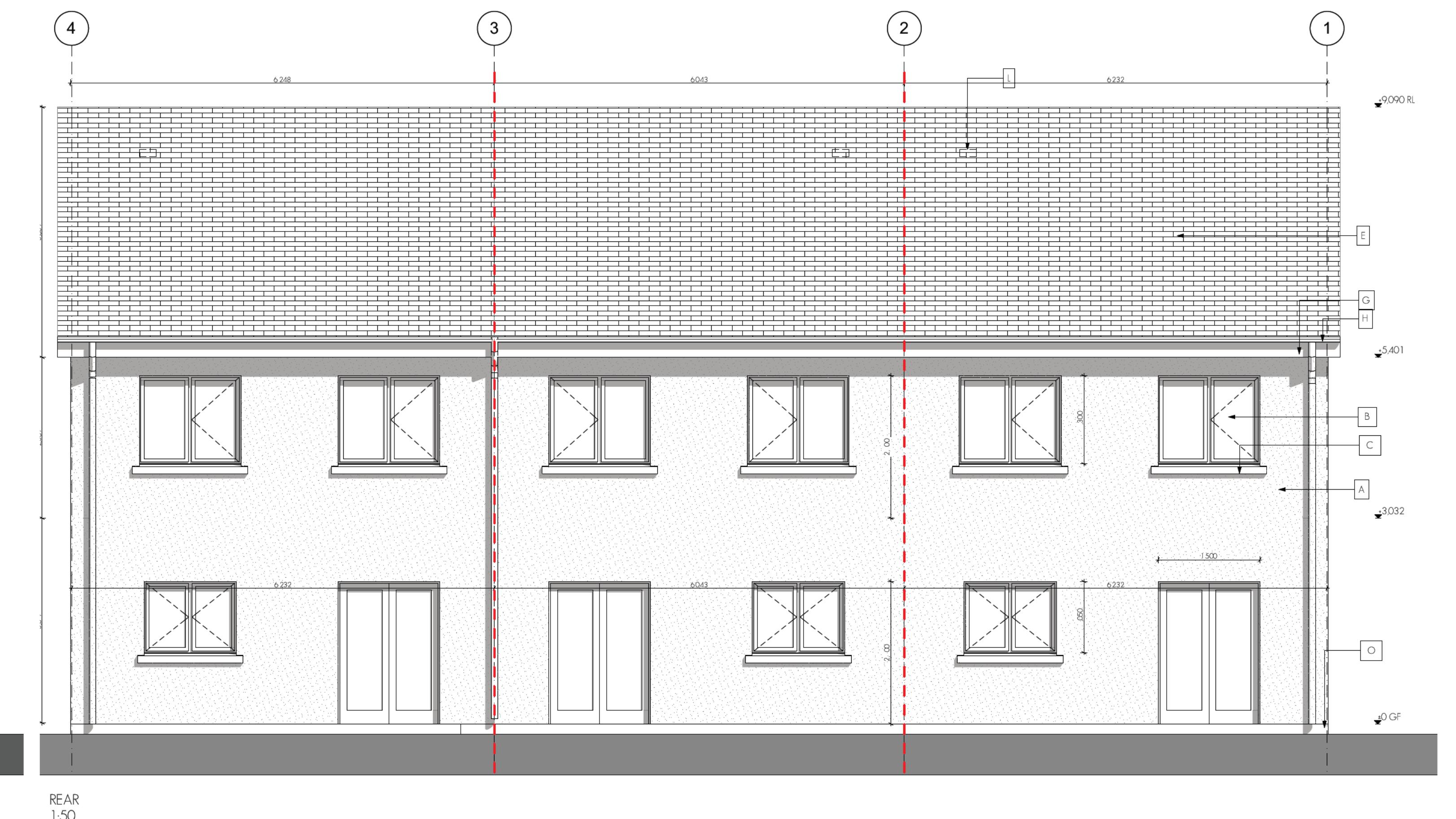
FRONT



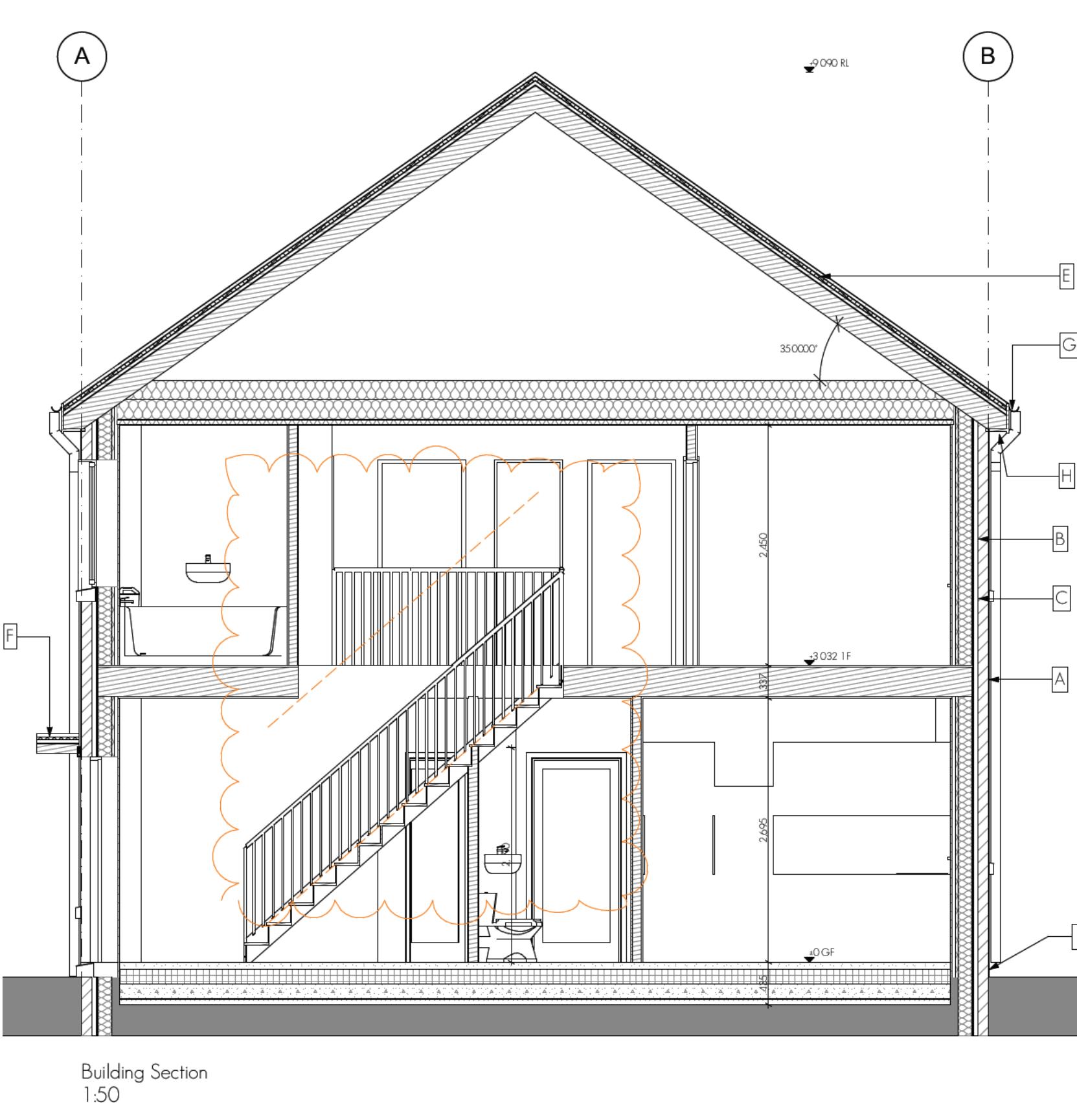
FIRST FLOOR



SIDE B



REAR



Building Section

House Type
B1/B1/B1

KEY PLAN

Notes:

- A - K-Rend Silicone Roughcast - white on K-Rend silicone dash receiver to manufacturers nominal thickness
- B - uPVC windows - U-value minimum 12 W/m²K (Munters)
- C - Concrete cells
- D - Bell end plinth between roughcast and smooth render
- E - Concrete Roof tiles, dry ridge system
- F - Standing seam metal finish to Canopy roof
- G - Black round uPVC gullies, downpipes & water goods
- H - White soffit, black fascia
- I - Therrald Natural paving to driveways
- J - Therrald Charcoal paving to footpaths
- L - Recessed extract from bathroom
- M - Pre-hung ultralite front doors - U-value min 14 W/m²K in selected heritage colours
- O - Plinth K-Rend Mineral TC - Granite

House Type B1,
2 Storey,
3 Bedroom,
Semi Detached,
96.5m² / 1039ft²

NOTES:

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- ALL PRECAST CONCRETE ELEMENTS UNITS & TRABE ROOF TRUSSES TO BE CONSTRUCTED IN ACCORDANCE WITH SPECIALIST SUBCONTRACTOR'S DETAILS AND SPECIFICATIONS



COAKLEY O'NEILL
town planning

Section 5

Planning Statement

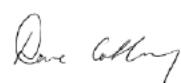
Abbey Grove, Munget,
Co. Limerick

Prepared in October 2025 on behalf of
Gen R Ltd.

Coakley O'Neill Town Planning Ltd.

Document Control Sheet

Client	Gen R Ltd.
Project Title	Section 5 Abbey Grove
Job No.	CON25192
Document Title	Section 5 Statement
Number of Pages	22

Revision	Status	Date of Issue	Authored	Checked	Signed
1	Draft	1 st October 2025	RH	DC	
1	Final	7 th October 2025	RH	RH	

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1.0 Introduction

- 1.1 We, Coakley O'Neill Town Planning Ltd., NSC Campus, Mahon, Cork, have been instructed by Gen R Ltd., to prepare this report with respect to an application seeking a Section 5 declaration as to whether the use of Nos. 1-8 and 12-18 Abbey Grove, Mungret, self-contained residential units where care is not provided for use as accommodation for International Protection Applicants is or is not development or is or is not exempted development.
- 1.2 The report has had regard to the relevant planning policy documents regulating the development of the site, including the *Planning and Development Act 2000*, as amended, the *Planning and Development Regulations 2001*, as amended, the *Limerick City and County Development Plan, 2022* and various Ministerial Guidelines and Circulars, the decisions of An Bord Pleanála on similar proposals, the site's planning history and other planning precedence, where relevant.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The subject units form part of the Abbey Grove housing development which was constructed in 2022. Abbey Grove comprises of 66no. residential dwellings including semi-detached and terraced dwellings as well as apartments.
- 2.2 Abbey Grove forms part of a larger housing development known Mungret Gate which comprises of 269no. residential dwellings.
- 2.3 The units which are the subject of this Section 5 application comprise of 8no. 2-bed bungalow units (No. 1-8) and 7no. two-storey 3-bed units (No.12-18).



Figure 1: Subject site generally outlined in red.

3.0 PLANNING POLICY AND PROVISIONS

3.1 The *Limerick City and County Development Plan 2022-2028* is the relevant statutory local plan under which the regulation and development of the lands is to be considered.

3.2 The sites are zoned as 'New Residential'. Under the Plan, the objective of this land use zoning is to 'to provide for new residential development in tandem with the provision of social and physical infrastructure'.

3.3 The Plan outlines that this land use zoning 'is intended primarily for new high quality housing development, including the provision of high-quality, professionally managed and purpose built third level student accommodation. The quality and mix of residential areas and the servicing of lands will be a priority to support balanced communities. New housing and infill developments should include a mix of housing types, sizes and tenures, to cater for all members of society. Design should be complimentary to the surroundings and should not adversely impact on the amenity of adjoining residents. These areas require high levels of accessibility, including pedestrian, cyclists and public transport where feasible.'

3.4 The Plan indicates that the development of residential developments is permissible in this land use zoning. It is also identified that uses such as B&Bs, Nursing Homes / Residential Care and Student Accommodation are generally permissible.

3.5 Mungret is identified within the Development Plan as a location for significant residential development over the Plan period. The spatial strategy outlines that Mungret should grow by 50% by 2040 for Limerick to become a city of scale.

3.6 With regard to this the Plan sets out the following policies and objectives:

Policy CGR P3 - Level 1 Growing Limerick City and Suburbs (in Limerick) Mungret and Annacotty: *It is a policy of the Council to strengthen and consolidate Limerick City and Suburbs (in Limerick), Mungret and Annacotty as a key driver of social and economic growth in Limerick and become a vibrant living, retailing and working City. In accordance with national and regional policy it is a requirement that at least 50% of all new homes will be located within the existing built-up footprint of the settlement, in order to deliver compact growth and reduce unsustainable urban sprawl.*

Objective CGR O8 Limerick City and Suburbs (in Limerick), Mungret and Annacotty: *It is an objective of the Council to: a) Promote development which incorporates a high quality, sustainable and inclusive approach to proposals in the City and Suburbs (in Limerick), Mungret and Annacotty, which is supported by sustainable means of travel and which creates locally distinctive neighbourhoods and positively contributes to the existing built and natural heritage. b) Promote residential development in the historic areas of Limerick City, provided development is consistent with the architectural integrity and character of the area.*

3.7 In regards to residential development, the Plan sets out the following policy in relation to social inclusion in housing developments;

Objective HO 01 Social Inclusion: *It is an objective of the Council to ensure that new developments are socially inclusive and provide for a wide variety of housing types, sizes and tenure, in suitable locations, throughout Limerick, to cater for the demands established in the Housing Strategy and the Housing Need Demand Assessment.*

3.8 The Plan also identifies the following objective in relation to the provision of accommodation for asylum seekers.

Objective HO 018 Accommodation for Refugees and Asylum Seekers: *It is an objective of the Council to:*

- a) *Implement government policy in relation to the provision of accommodation for refugees and asylum seekers.*
- b) *Work with Central Government, relevant State Agencies, AHBs and other bodies to support the provision of appropriate housing for asylum seekers and refugees in Limerick in accordance with identified requirements, and to support the phasing out and replacement of the Direct Provision system in accordance with national policy and requirements.*

3.9 The Plan identifies that the Council will continue to liaise and work with the relevant agencies and stakeholders in securing appropriate accommodation for refugees and asylum seekers in appropriate locations throughout Limerick.

4.0 PLANNING HISTORY

4.1 The following planning application relates to the subject site:

- **Application Register Reference 20/1195:** In May 2021 planning permission was granted for the construction of 66no. residential units comprising 12no. 2-bed semi-detached bungalows, 27 no. 3-bed 2 storey semi-detached/terraced dwelling houses, 18no. 1-bed apartments and 9no. 2-bed apartments, with associated secure bicycle parking and bin storage.

4.2 The following planning applications relate to the wider Mungret Gate housing development:

- **Application Register Reference 16/1196 (ABP 91.249186):** In January 2018 planning permission was granted for the construction of 201 no. residential units consist of 150 no. semi-detached dwellings, 8 no. terraced dwellings, 20 no. duplex dwellings and 23 no. apartments, crèche, associated access roads, new connections to public water main foul & surface water drainage, footpaths parking refuse areas, proposed landscaping and all ancillary site works.
- **Application Register Reference 21/1216 (ABP-314356-22):** In July 2023 permission was granted for the construction of 99no. residential units comprising 4no. 4-bed semi-detached dwellings, 4no.

3-bed terraced dwellings, 38no. 3-bed semi-detached dwellings, 2no. 3-bed detached dwellings, 12no. duplex apartments comprising 24no. 2-bed units, 9no. triplex apartments comprising 19no. 1-bed units and 8 no. 2-bed units, all with associated secure bicycle parking and bin storage.

- **Application Register Reference 21/1217 (ABP-314355-22):** In July 2023 permission was granted for the 99no. residential units comprising 10no. 4-bed semi-detached dwellings, 2no. 4-bed detached dwellings, 1no. 4-bed semi-detached dwelling, 30no. 3-bed semi-detached dwellings, 3no. 3-bed terraced dwellings, 2no. 3-bed detached dwellings, 4no. 2-bed terraced dwellings, a four storey apartment building comprising 16no. 2-bed units, 8no. duplex apartments comprising 16no. 2-bed units, 5no. triplex apartments comprising 11no. 1-bed units and 4no. 2-bed units, all with associated secure bicycle parking and bin storage.
- **Application Register Reference 24/60578:** In October 2024 planning permission was granted for the construction of a two storey crèche (587 sqm) to accommodate 102 no. children and to replace the crèche (320 sqm) permitted under Planning Ref: 16/1196, Appeal Ref: PL91.249186, which was to accommodate 38 no. children, the construction 7 no. dwellings, which were omitted under Condition No. 3 of Planning Ref: 21/1217 and Appeal Ref: ABP-314355-22, and which will result in the removal of said condition, the development of associated car parking and all ancillary drainage, landscape, boundary and site development works.
- **Application Register Reference 24/60704:** In February 2025 planning permission was granted for the modification to the permitted development under Planning Ref: 21/1217 and Appeal Ref: ABP-314355-22 to provide for an addition of 18 No. residential units, which is to consist of: the construction of an additional 2 No. storeys on the permitted 4-storey [16 No. 2-bed units] apartment block permitted, to provide for a 5-Storey [20 No. 2-bed units] apartment block providing an additional 4 No. units; the construction of 10 No. additional two-storey, 2-bed dwellings; alteration to the locations of permitted units No. 47-50; Provision of 4 No. foul water connections to the site boundary to facilitate the future connection of the 4 No. existing dwellings to the west of the public foul drainage system; modifications to permitted road layout; the development of associated car parking and all ancillary drainage, landscape, boundary and site development works.
- **Application Register Reference 25/60055:** In August 2025 planning permission was granted for the modification to the permitted development under application reference 21/1216 (ABP-314356-22) to provide an additional 4no. 2-storey 3-bed semi-detached dwellings and 1 no. 2 storey 3-bed detached dwelling house and all associated services and site development works.

5.0 PLANNING AND DEVELOPMENT LEGISLATIVE CONTEXT

5.1 The control of development is regulated by the Planning and Development Acts. While the Planning and Development Act, 2024, has been enacted, it has not yet been commenced. The process of bringing the legislation into force is by commencement orders and is expected to take at least 18 – 24 months. New planning regulations are required for some of the implementation and public consultation is now underway in relation to these regulations. An implementation plan for the commencement of the Act has recently been published by the Government.

5.2 The relevant aspects of the current Planning and Development Act 2000, as amended, and the 2001 Planning and Development Regulations, as amended, remain in place until the relevant provisions of the Act are commenced.

5.3 These set out whether, and in which instances, certain types of development require planning permission. They also set out the circumstances under which certain types of development are considered exempt from the obligation to require planning permission.

5.4 The following extracts from the Act are considered relevant:

Section 2 of the Act *"structure" means any building, structure, excavation, or other thing constructed or made on, in or under 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...*

Section 2 defines *"use"*, *in relation to land, does not include the use of land by the carrying out of any works thereon;*

Section 2(1) of the Act states that *"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(1) of the Act states the following: *"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 of the Act identifies development which shall constitute exempted development, not requiring planning permission under Section 32.

5.5 More specifically, **Section 4(1)** sets out the following exemptions:

(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.

5.6 **Section 4 (2)** of the 2000 Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001.

5.7 **Sections 4(4)** clarifies that development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

5.8 **Section 5(1)** addresses declarations and referrals on development and exempted development.

5.—(1) If any question arises as to what, in any particular case, is or is not development or 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, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

5.9 In addition to the specified exemptions in the Act, **Section 4(4A)(a)** of the Act provides that the Minister may make Regulations to provide for any class of development being exempted development.

5.10 **Article 6 (1)** of the Planning and Development Regulations, 2001, as amended, states that "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.

5.11 **Article 9** of the Regulations sets out restrictions on exemptions set out on Article 6. Article 9 (1) states:

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— (relevant sections only included)*
 - (i) *Contravene a condition attached to a permission under the 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,*
 - (iiiia) *endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,*
 - (iv) *Except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on*

either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

- (v) *Consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31(a) specified in column 1 of Part 1 of Schedule 2 applies,*
- (vi) *Interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (vii) *Consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan, save any excavation, pursuant to and in accordance with a licence granted under section 26 of the National Monuments Act, 1930 (No. 2 of 1930),*
- (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,*
- (ix) *Consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*
- (x) *Consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,*
- (xi) *Obstruct any public right of way,*
- (xii) *Further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,*

- (b) *In an area to which a special amenity area order relates, if such development would be development:*
 - (i) *Of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or*
 - (ii) *Consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or*
 - (ii) *Of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or*
 - (iv) *Of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made under section 202 of the Act that such development shall be prevented or limited,*
- (c) *If it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive,*
- (d) *If it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.*

5.12 **Article 10**, relates to change of use exemptions and states:

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

- (a) *involve the carrying out of any works other than works which are exempted development,*
- (b) *contravene a condition attached to a permission under the Act,*
- (c) *be inconsistent with any use specified or included in such a permission, or*
- (d) *be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.*

5.13 **Article 10(2)(a)** of the Regulations states that *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.*

5.14 Developments to accommodate or support displaced persons or persons seeking international protection that are noted as Exempted Development in Part 1 of Schedule the Regulations are marked under Class 20 are shown in the table below:

Description of Development	Conditions and Limitations
<p>Class 14</p> <p><i>Development consisting of a change of use—</i></p> <p>(h) <i>from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,</i></p> <p>(i) <i>from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons</i></p>	
<p>Class 20F</p> <p><i>Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.</i></p>	<ol style="list-style-type: none"> 1. <i>The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.</i> 2. <i>Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001.</i> 3. <i>The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.</i> 4. <i>Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.</i> 5. <i>The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.</i> 6. <i>'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2</i>

of Council Implementing Decision (EU) 2022/382 of 4 March 2022.

7. 'international protection', for the purpose of this class, has the meaning given to it in section 2(1) of the International Protection Act 2015 (No. 66 of 2015).
8. 'temporary protection', for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.

6.0 PLANNING LAW

6.1 With regard to the nature of a planning permission, the following is of note. Judge Charleton's judgement in the case **Weston Ltd -v- An Bord Pleanála** was as follows:

A planning permission is, of its nature, relatively precise. Planning permissions should never be departed from as a matter of law; the development is required to take place as the grant of permission allows. In this, as in other areas of law, the courts will not injunct very small development deviations; the de minimis rule. That toleration is not an exception to planning controls; it is an acceptance of minor errors that do not have a real planning impact and so do not require to be corrected. Planning controls operate within the community on the basis that the developer will make an honest application for planning permission, stating precisely what is proposed; the public will, on reading that application, realise what affect the grant of permission may have on them and make observations accordingly; and the planning authority will, after independent inspection and verification, adjudicate on the application objectively to ensure that there is proper and sustainable development within an area in accordance with the environmental contract as to planning that the development plan for the area represents. In consequence, planning permissions are construed not simply on the basis of the decision, but by reference to an active consideration as to what has been sought.

6.2 It is well established at common law that where only one part of a planning permission is constructed (or 'implemented') before the expiration of the duration of the planning permission then that completed part will not be unauthorised development simply by reason that another part of the permitted is not completed. That position is, however, subject to compliance with any conditions attached to the planning permission at issue.

6.3 Discussion on what constitutes a 'planning unit' can be found in **Planning and Environmental Law** by John Gore-Grimes.

[2.21] *In determining whether a material change in use may or may not occur the planning unit must be considered. In setting a previous use against a current use, it is important to consider the appropriate physical site of the relevant use or, in other words, the planning unit. Planning statutes do not offer any definition or guidance on the subject. Case law does, however, provide a clearer understanding of the meaning of 'planning unit'.*

[2.22] Where part only of a structure or portion only of a site of land is subject to a change in use, it may be difficult to decide what is the appropriate planning unit in determining whether a material change in use has occurred. One must consider the whole of the premises and not merely part of it and the question to be asked is whether the character of the whole existing use will be substantially affected by a change which is proposed in part only of the building. Clearly, for example, the use of part of a dwelling house as a shop would be a material change in use because it involves a change in the kind of use.

6.4 David Browne in **Simons on Planning Law** sets out a similar discussion.

Primary and Ancillary Uses, and Multiple Uses

2-66 A planning unit may be used for several activities: a single primary use and any number of ancillary uses. Generally, it is necessary to compare any proposed change of use against the primary use in order to determine whether or not a material change in use is involved. An ancillary use is regarded as part of the primary use so that cesser of the ancillary use does not give rise to a material change in use: For example, the use of the facade of premises to advertise the business of the company which owns the premises is a use ancillary to the primary (commercial) use of the premises. If an ancillary use becomes a separate use, this may constitute a material change in use.

2-67 In *Burdle v Secretary of State for the Environment*,⁸² Bridge J. said that, as a working rule, the unit of occupation could generally be viewed as the appropriate planning unit, unless and until some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally.

2-68 This concept is best illustrated by way of example. In *Rehabilitation Institute v Dublin Corporation*,⁸⁴ the developer had used certain premises for the assessment, training and placement of the disabled. In the main, the premises were used for administration, although some training was carried out there. It was proposed to discontinue all training and to use the premises for the sole purpose of an office. The High Court considered that where a use is ancillary to a main use, it is regarded as part of the use so that the cesser of the ancillary use does not give rise to any question of change of use. The judgment analysed the use of the lands as follows. In law, there was only one use of the premises: use as an office for any purpose. The training use was to be regarded as ancillary to the general administrative use. Thus, a change to a pure office use did not involve a material change in use.

2-69 Alternatively, the facts could be analysed as involving multiple uses. Where there are two or more separate, as opposed to primary/ancillary, uses, then cesser of one such use may ultimately lead to a material change in use: this is a question of fact. The Rehabilitation Institute case could be analysed as a case involving substitution of an office use for the (separate) training use, in which event it would then be a question of fact as to whether or not a material change in use had occurred.

6.5 In discussing the matter of material change of use, David Browne in Simons on Planning Law sets out the following:

2-43 *Not every change or increase or intensification in the use will necessarily amount to a material change of use. For example, in Dublin Airport Authority pie v JD. Motorline Ltd,⁴³ Birmingham J. (as he then was) held that, while not every act of intensification amounts to a material change of use, a commercial public car park is a use of significantly different character to the parking or storage of cars as part of the operation of a car rental business and was bound to generate a considerable level of activity with implications for traffic, noise and so on.*

2-44 *Arguably it is the second of the two tests identified above which generally prevails. This second test was summarised as follows by Budd J. in Westmeath County Council v Quirke & Sons.*

"Many alterations in the activities carried out on land constitute a change of use; however, not all alterations will be material. Whether such changes amount to a material change in use is a question of fact as is explained in Monaghan County Council v Brogan [1987] I.R. 339. Consideration of the materiality of a change in use means assessing not only the use itself but also its effects."

2-45 *As stated above, this test requires a wider ranging examination than the first. More specifically, it is necessary to consider the impact of the proposed change on the adjoining area...*

6.6 In **Galway County Council v Lackragh**, a case relating to intensification of use, there was a determination that the Planning Authority had to prove that an intensification of activity amounted to a material change of use.

7.0 REFERRALS AND DECLARATIONS

7.1 The following decisions have relevance and provide a context to the assessment of the question under consideration here.

An Bord Pleanála Referral Ref. ABP-307077-20: Whether use of incomplete apartments as apartments or as apartments for protected persons and works to the apartments is or is not development or is or is not exempted development.

In the assessment of this referral, the Inspector concludes that the completion of the apartment units fell under the governing permission for the units and that their consequent recorded completion, including subsequent fitout necessary and ancillary or incidental to the use of the permitted building, would have come under section 40 of the Act and, therefore, do not come within the scope of section 5 of the Act, and as such is not a matter for the section 5 referral.

The Inspector identifies that the substantive question under this referral is if a change of use of the apartment units has arisen if it has, is this a material change of use.

The High Court judgement (IEHC 74 – 2004) 'Molloy & Others - v - The Minister for Justice, Equality and Law Reform & Others' is referenced noting that this judgement concluded that where the use in the original permission can still apply and is capable of being implemented, it could therefore be resumed, since there had been no material structural alteration to the property, and as it did not involve an intensification of use. The original valid planning permission cannot be lost or abandoned if such a case arises. The Inspector identifies that this judgement is relevant in the subject referral as:

- The permitted residential aspect of the development being used for non-residential purposes was not sought;
- Substantive evidence to show that the owner/occupiers intended to abandon the use of the apartments has not been provided;
- Having inspected the premises internally and externally, there are no material structural alterations that restricted the permitted use of the premises as apartments;
- The use as apartments would be of similar character and intensity to that which was permitted.

The Inspector identifies that the next question to consider is if the current use of the apartment units conforms to a change of use that would be material. The Inspector notes that it should be considered if the residential units are being used as reception centres which 'serve as temporary accommodation facilities for persons arriving into the country through relocation and resettlement, providing medical services, language training, education, cultural orientation and social protection services'.

It is identified that in this instance the units are operated as 'own door independent living units', with no communal care facilities. This is confirmed by the Inspector on site visit with the units providing no additional reception, orientation or care services.

The Inspector concludes:

'The facility is not operating as an emergency reception for the care of protected persons, it is being operated as residential accommodation, as per the permitted use and the status or personal circumstances of the apartment residents is not a material planning issue. I am satisfied that the current use of the apartments is not as a facility for the reception and care of protected persons and does not constitute a change of use from the permitted use and, therefore, does not constitute development.'

[...] I consider that the use of the apartments for the reception and care of protected persons or as accommodation for protected persons comes within the scope of the exempted development provided for under Classes 14(h) and (i) of Part 1 of Schedule 2 to the Regulations.'

Similarly, **An Bord Pleanála Referral Ref. ABP-322208-25** is of relevance where ABP concluded that the use of residential apartments where care is not provided as a long-term residential accommodation for protected persons is not development.

In assessing this referral, the Inspector identifies that the residential units which are the subject of the referral comprise of 16no. self-contained apartments which are in permitted self-contained residential use. There is no institutional care or communal services associated with the units outside of the usual facilities associated with an apartment development.

The Inspector concludes that:

'given the absence of institutional care or communal services, other than what would normally be provided in a residential apartment scheme, I am satisfied that a material change of use in terms of the provision of "care" has not occurred, as per Article 5 (1) of the Planning and Development Regulations, 2001 (as amended) which defines care as "personal care, including help with physical, intellectual, or social needs

[...] The status or personal circumstances of the residents is not a material planning issue. I am therefore satisfied that the current use of the self-contained apartments, does not constitute a change of use from the permitted residential use and, therefore, does not constitute development'.

7.2 Similarly, it is established in the following further referral to An Coimisiún Pleanála are also of relevance:

- **Referral Ref. ABP-322210-25:** Whether the use of a residential dwelling where care is not provided as a long-term residential accommodation for protected persons, is or is not development or is or is not exempted development – is not development.

8.0 ASSESSMENT

8.1 The question has arisen as to whether the use of Nos. 1–8 and 12–18 Abbey Grove, Mungret, self-contained residential units where care is not provided for use as accommodation for International Protection Applicants is or is not development or is or is not exempted development.

8.2 The subject residential units comprise of 8no. 2-bed bungalow units (No. 1-8) and 7no. two-storey 3-bed units (No.12-18) which were granted Application Ref. 20/1195 for the development of 66no. residential units.

8.3 The subject residential units were completed in accordance with the permission granted and have since been rented out on the private rental market and subsequently used for the provision of Accommodation Services for International Protection Applicants in conjunction with the Department of Justice, Home Affairs and Migration.

8.4 When the units are used for the provision of Accommodation Services for International Protection Applicants the units operate as independent own-door accommodation and do not have any communal, care or other services associated with the care of International Protection Applicants. Each dwelling unit is self-contained and the maintenance of these dwellings and the other dwellings within Abbey Grove is managed by a management company.

8.5 No works have been carried out on the subject dwellings units to accommodate International Protection Applicants, all dwellings remain as granted as individual dwelling units. The typical furnishing and fit out of these units are illustrated in Appendix 1 and 2 of this report.

8.6 The following conclusions are drawn in light of the context set out in the preceding pages of this report.

8.7 Proposals require planning permission if they are considered to be development and are not exempted under the legislation.

8.8 Development, as defined in the Act, has two strands, development by way of material change of use and by way of works. The inference in Section 32(2) of the Planning Acts is that only development which is exempt, or which is in accordance with a permission should be carried out. Other development would be considered unauthorised development.

8.9 The relevant legislation pertaining to the matter is set out in the Planning and Development Act, 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended). Section 3(1) of the Act defines development as being:

In this Act, 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.

8.10 The following planning issues arise:

1. **Will development occur?**
2. **If so, does this development require planning permission?**

8.11 Firstly, it is appropriate to consider whether development will occur.

8.12 Section 3 (1) of the Planning Act defines "Development" 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.

8.13 "Works" are defined in Section 2 as: Any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

8.14 Under Section 3 of the Planning and Development Act 2000, the proposal would not constitute development since no "works" as defined by Section 2 as no structural or external changes have occurred or are proposed.

8.15 Therefore, the question in this case is whether or not a change of use occurs and if any such change of use is material and as such would constitute development.

8.16 To conclude that a material change in use has occurred, two conditions must be satisfied – that an actual change in use has happened and that this change is material for planning purposes.

8.17 In assessing the materiality of a change of use, 'Simons on Planning Law' outlines there are generally two considerations : a) whether the character of the existing land use will be substantially altered by the change, and b) whether the materiality of the change of use impacts on the proper planning and sustainable development of the adjoining area.

8.18 As such, consideration must be given to the character of the existing land use will be substantially altered by the change. As detailed previously, planning permission was granted for the subject units under Application Ref. 20/1195 as residential dwellings.

8.19 As detailed, the residential units accommodate International Protection Applicants within the granted self-contained residential units where care or another service is not provided. As such, the use of the units is in keeping with the granted residential use.

8.20 The only matter which would potentially suggest that a change of use has occurred is that the residents of these units are International Protection Applicants. However, the socio-economic background of a resident is not a planning matter in any manner.

8.21 The Supreme Court proceedings of *Dublin Corporation v Moore [1984] ILRM 339* are also of relevance in this, in which the Judge states that the consideration of who can occupy a building based on their socio-economic background was not appropriate to planning law and may offend against the rights of equality.

8.22 As such it is considered that if this were a planning application for a residential building, the planning authority would not include conditions prohibiting certain members of a socio-economic background from occupying these units.

8.23 Further to the above, the nature of the residents does not give rise to any other material planning issue such as an increase in traffic; noise or waste generation. As detailed no changes have been made or are proposed to be made to the parking arrangements of the site. Additionally, the subject units are located in the Limerick Metropolitan Area which benefits from significant public transport and active travel facilities. As such, no traffic issues arise as a result.

8.24 The occupants of the dwelling will not give rise to any significant noise generation that would impact on the amenity of adjacent residents. In regard to waste generation, no change is proposed to the waste arrangements as originally granted, with each dwelling unit provided with its own bins.

8.25 The use of the residential units to accommodate International Protection Applicants does not give rise to an intensification of the permitted use or a change of use as the socio-economic background of a resident is not, and should not be, a planning matter. The subject housing units remain as self-contained units where International Protection Applicants are accommodated.

8.26 The above assessment and considerations are in keeping with the precedence established by An Coimisiún Pleanála Referral Refs. ABP-322208-25 and ABP-307077-20 where in both instances it was established the use of residential units to accommodate International Protection Applicants within the self-contained residential units where care or another service is not provided does not constitute development.

8.27 Owing to the above, it is considered that no works or change of use have occurred, as such the use of the Nos. 1–8 and 12–18 Abbey Grove, Mungrange, self-contained residential units where care is not provided for use as accommodation for International Protection Applicants is not development.

9.0 CONCLUSIONS

9.1 The question has arisen as to whether the use of Nos. 1–8 and 12–18 Abbey Grove, Munret, self-contained residential units where care is not provided for use as accommodation for International Protection Applicants is or is not development or is or is not exempted development.

9.2 The following conclusions are drawn having regard to:

- Sections 2, 3, and 4 of the Planning and Development Act, 2000, as amended;
- Articles 6, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;
- Relevant planning precedence;
- The location and planning history of the subject site; and
- The nature and extent of permitted development on the subject site.

9.3 We conclude that:

- a. No alterations have been made to the residential units which would constitute works;
- b. The use of the units to provide accommodation for those seeking International Protection is in keeping with the granted residential use of the units as no additional care or services are provided;
- c. The accommodation of those seeking International Protection does not result in any material planning impacts and not involving any intensification of use;
- d. The proposal does not require AA or EIA.

9.4 In conclusion therefore, we submit to Limerick City and County Council that the use of Nos. 1–8 and 12–18 Abbey Grove, Munret, self-contained residential units where care is not provided for use as accommodation for International Protection Applicants is not development.

9.5 We trust the above information is satisfactory and look forward to a favourable decision pertaining to same in due course.

Appendix 1 – Typical Internal Furnishing of Nos. 12-18 Abbey Grove.

Appendix 2 – Typical Internal Furnishing of Nos. 1-8 Abbey Grove.



Figure 2 Typical Furnishing of Nos. 1-8 Abbey Grove.

Report on application under Section 5 of the Planning and Development Act 2000 (as amended)

Reference no. EC/212/25

Name and Address of Applicant:
Gen R Limited
38 Palmerstown Road
Rathmines
Dublin
D06 YW68

Agent:
Rory Hanrahan
Coakley O'Neill Town Planning
NSC Centre
Mahon
Cork

Location: Nos. 1-8 and 12-18 Abbey Grove, Mungret, Co. Limerick

Description of Site and Surroundings:

The site is located in Limerick City within the residential area of Mungret Gate in the townland of Baunaclacka.

Zoning:
New Residential

Proposal:

This is an application requesting a Section 5 Declaration on whether the following works are or are not development or are or not exempted development:

- The change of use from residential to accommodation for international protection applicants of units 1-8 (2 bed bungalows) and 12-18 Abbey Grove (two storey 3 bed units).

This Section 5 declaration includes the following:

- Planning Statement
- Application form
- Site location map
- Site Layout Plan
- Floor plans

Planning History:

20/1195: Homeland NSC granted conditional permission for the construction of 66no. residential units comprising 12no. 2-bed semi-detached bungalows, 27 no. 3-bed 2 storey semi-detached/terraced dwelling houses, 18no. 1-bed apartments and 9no. 2-bed apartments, with associated secure bicycle parking and bin storage. Vehicular access to the proposed development will be via Baunacloka Heights, which is part of the Mungret Gate development currently under construction. The development will also include two pedestrian accesses onto the R510 and all associated site works including 97no. car parking spaces, foul and storm drainage with attenuation, public lighting, landscaping and amenity areas

Enforcement History
None

An Bord Pleanála Case files

307077-20: Whether use of incomplete apartments as apartments or as apartments for protected persons and works to the apartments is or is not development or is or is not exempted development. It was considered that same was not development and was exempted development as the change of use was not considered a material change of use.

Assessment

Consideration as to whether a development constitutes exempted development or not is governed by Sections 4 and 5 of the Planning and Development Act 2000 (as amended) and Articles 5, 6, 7, 8, 9, 10 and 11 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?

Section 2(1) in this Act, except where otherwise requires –

‘works’ includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

‘structure’ as any building, structure, excavation, or other thing constructed or made on, in or under any land, or part of a structure so defined, and –

(a) Where the context so admits, includes the land on, in or under which the structure is situated.

Section 3(1) defines ‘development’ as ‘the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land’.

The applicant has stated that no ‘works’ are proposed. The question posed by the applicant centres on whether the use of the existing houses as residences for International Protection Applicants constitutes development. As no works are proposed the key consideration is therefore whether the proposal would result in a material change of use or not.

Class 20F also allows a temporary change of use for displaced persons or persons seeking international protection for a number of buildings. A residential use is not specifically stated as being a use under which this exemption would apply. Therefore, in this case the proposal is not considered to fall under Class 20F of the Regs.

Class 14(h) of the Regs provides an exemption for a change of use from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises (emphasis added by Planner) or residential institution providing overnight accommodation, or part thereof to use as accommodation for protected persons. Based on the ABP referral discussed above the apartment would fall under the definition of ‘other premises’. The key question then is whether the residents would fall under the definition of ‘protected persons’.

Article 5 (1) of the Regs provides a definition of ‘protected persons’ which is as follows:

(a) *a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013),*

(b) *a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or*

(c) *a programme refugee within the meaning of section 24 of the Refugee Act of 1996;*

The applicant has confirmed that their wish is to provide residential accommodation for international protection applicants which does appear to fall under Class 14(h) and the requirement of the use to provide accommodation to ‘protected persons’. There are no conditions/limitations attached to Class 14(h).

It is noted that there are no conditions restricting the use in the original permission for dwellings and the nature of the proposal would be similar to that of the existing houses in that individuals would be residing there. The houses remain as self-contained units and will not give rise to an intensification of the permitted use. I would agree with the applicant that the change of use as the socio-economic background of a resident is not and should not be a planning matter.

The documentation submitted notes that there is no works proposed to the dwellings, there is no change to the layout or capacity of the units as they currently exist and the residential units under the proposed use would continue to operate as independent residential units for displaced persons. There are no support services or communal care services proposed and the dwellings are managed by a management company along with the other dwellings within Abbey Grove. It is therefore considered that the use of the dwellings by ‘protected persons’ does not constitute a material change of use and therefore does not constitute development.

Article 9 Restrictions

The proposed development is not restricted by any of the restrictions in Article 9 of the Planning and Development Regulations 2001 (as amended).

Appropriate Assessment

An AA Screening examination was carried out by Limerick City & County Council (see appendix 1). Overall, it is considered that the development as proposed should not exercise a significant effect on the conservation status of any SAC or SPA as there are no source-pathway-receptors and the site does not directly encroach on any Natura 2000 European Sites. Therefore, an Appropriate Assessment is not required in this instance.

Environmental Impact Assessment

An EIA Screening examination was carried out by Limerick City & County Council (see appendix 2). Overall, it is considered that there is no real likelihood of significant effects on the environment. Therefore, an Environmental Impact Assessment is not required.

Conclusion/Recommendation

Regard has been had to –

- (a) Section 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- (b) Class 14(h) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended)
- (c) ABP-307077-20
- (d) The plans & particulars submitted with the application received on the 15th October 2025.

It is therefore considered that the said works are not a material change of use and therefore do not constitute development under Section 3(1) of the Planning and Development Act 2000 (as amended)



Aine Leland

Date: 20/10/2025



Gráinne O'Keeffe SEP

Date: 23/10/2025

Appendix 1: AA PN01 Screening Form

STEP 1: Description of the project/proposal and local site characteristics:	
(a) File Reference No:	EC/212-25
(b) Brief description of the project or plan:	The change of use from houses 1-8 and 12/18 Abbey Grove to accommodate or support displaced persons or persons seeking international protection
(c) Brief description of site characteristics:	The subject site is located within Abbey Grove housing Estate in Baunaclocka, Mungret
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	N/A
(e) Response to consultation:	N/A

STEP 2: Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.

European Site (code)	List of Qualifying Interest/Special Conservation Interest ¹	Distance from proposed development ² (km)	Connections (Source-Pathway-Receptors)	Considered further in screening Y/N
002165 - Lower River Shannon SAC	https://www.npws.ie/protected-sites/sac/002165	1.8km	None	N
004077 - River Shannon and River Fergus Estuaries SPA	https://www.npws.ie/protected-sites/sac/004077	1.8km	None	N

STEP 3: Assessment of Likely Significant Effects

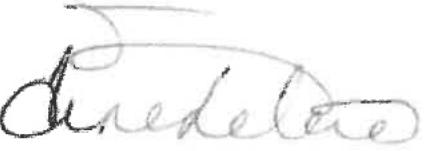
(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:	
Impacts:	Possible Significance of Impacts: (duration/Magnitude etc)
Construction phase e.g - Vegetation clearance - Demolition - Surface water runoff from soil excavation/infill/landscaping (including borrow pits) - Dust, noise, vibration - Lighting disturbance - Impact on groundwater/dewatering - Storage of excavated/construction materials - Access to site - Pests	None. The houses are already in place. No works are proposed.
Operation phase e.g. - Direct emission to air and water - Surface water runoff containing contaminant or sediment - Lighting disturbance - Noise/vibration	None. The houses are already in place. No works are proposed

<ul style="list-style-type: none"> - Changes to water/groundwater due to drainage or abstraction - Presence of people, vehicles and activities - Physical presence of structures (e.g collision risk) - Potential for accidents or incidents 	
In-combination/Other	N/A given the development proposed and the distance from European sites.

(b) Describe any likely changes to the European site:	
Examples of the type of changes to give consideration to include: <ul style="list-style-type: none"> - Reduction or fragmentation of habitat area - Disturbance to QI species - Habitat or species fragmentation - Reduction or fragmentation in species density - Changes in key indicators of conservation status value (water or air quality etc) - Changes to areas of sensitivity or threats to QI - Interference with the key relationships that define the structure or ecological function of the site 	None. The houses are already in place. No works are proposed

(c) (Are 'mitigation' measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

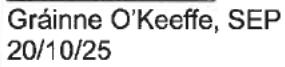
STEP 4: Screening Determination Statement		
The assessment of significance of effects:		
Describe how the proposed development (alone or in-combination is/is not likely to have significant effects on European site (s) in view of its conservation objectives		
On the basis of the information submitted, which is considered adequate to undertake a screening determination and having regard to the proposed change of use whereby no works are proposed, it is considered that same will not impact on the conservation status of the Natura 2000 sites.		
Conclusion: An appropriate assessment is not required.		
	Tick as appropriate:	Recommendation:
(i) It is clear that there is no likelihood of significant effects on a European Site	<input checked="" type="checkbox"/>	The proposal can be screened out: Appropriate Assessment not required.
(ii) It is uncertain whether the proposal will have a significant effect on a European Site	<input type="checkbox"/>	<input type="checkbox"/> Request further information to complete screening <input type="checkbox"/> Request NIS <input type="checkbox"/> Refuse planning permission
(iii) Significant effects are likely	<input type="checkbox"/>	<input type="checkbox"/> Request NIS

		<input type="checkbox"/> Refuse planning permission
Signature and Date of Recommending Officer:	 Aine Leland, Executive Planner 20/10/25	
Signature and Date of the Decision Maker:	Gráinne O'Keeffe, SEP 20/10/25	

Appendix 2 – EIA Screening

Establishing if the proposal is a 'sub-threshold development':		
Planning Register Reference:	EC-212-25	
Development Summary:	Whether the change of use of residential dwellings to accommodation for international protection applicants is or is not development or is or is not exempted development	
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes. no further action required <input checked="" type="checkbox"/> No. Proceed to Part A	
A. Schedule 5 Part 1 - Does the development comprise a project listed in Schedule 5, Part 1, of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)		
<input type="checkbox"/> Yes. specify class: [insert here] _____		
		EIA is mandatory
		No Screening required
<input checked="" type="checkbox"/> No		Proceed to Part B
B. Schedule 5 Part 2 - Does the development comprise a project listed in Schedule 5, Part 2, of the Planning and Development Regulations 2001 (as amended) and does it meet/exceed the thresholds? (Tick as appropriate)		
<input checked="" type="checkbox"/> No. the development is not a project listed in Schedule 5, Part 2		No Screening required
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 and meets/exceeds the threshold, specify class (including threshold): [specify class & threshold here] _____		EIA is mandatory No Screening required
Yes the project is of a type listed but is <i>sub-threshold</i> : [insert here] _____		Proceed to Part C
c. If Yes, has Schedule 7A information/screening report been submitted?		
Yes, Schedule 7A information/screening report has been submitted by the applicant		Screening Determination required
No, Schedule 7A information/screening report has not been submitted by the applicant		Preliminary Examination required

Signature and Date of Recommending Officer:

	 Aine Leland, Executive Planner 20/10/25
Signature and Date of the Decision Maker:	 Gráinne O'Keeffe, SEP 20/10/25

Appendix 3 - Site Visit Photos





PLANNING & PLACE-MAKING

REG POST:

**Gen R Limited,
c/o Rory Hanrahan,
Coakley O'Neill Town Planning,
NSC Centre,
Mahon,
Cork.**

EC/212/25

29 October 2025

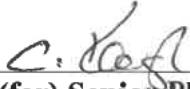
Re: Declaration under Section 5

Dear Sir/Madam,

I refer to the above application for Section 5 Declaration on Development and Exempted Development.

Please find herewith a copy of Council's decision on same.

Yours faithfully,



**(for) Senior Planner,
Development Management**

Tuar an Daill, Luimneach
Dooradoyle, Limerick

LIMERICK CITY & COUNTY COUNCIL

APPROVED OFFICER'S ORDER

SECTION 5 – DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

No. AOO/DC/2025/1197

File Ref No. EC/212/25

SUBJECT: Declaration under Section 5.
Planning and Development Act 2000 as amended
Planning and Development Regulations 2001 as amended

RE: **A change of use at 1-8 & 12-18 Abbey Grove, Mungret, Co. Limerick**

ORDER: Whereas by Director General's Order No. DG/2024/141 dated 07th October 2025, Dr. Pat Daly, Director General, Limerick City & County Council did, pursuant to the powers conferred on him by Section 154 of the Local Government Act, 2001, (as amended by the Local Government Reform Act, 2014 and the Local Government (Mayor of Limerick) and Miscellaneous Provisions Act, 2024), delegate unto Grainne O'Keeffe, Senior Executive Planner the functions as defined in the Local Government Acts, 1925 to 2024.

Now therefore pursuant to the delegation of the functions aforesaid, I, Grainne O'Keeffe, Senior Executive Planner, having considered the report and recommendation of Áine Leland, Executive Planner dated 20/10/2025, hereby order that a Declaration under Section 5 of the Planning and Development Act 2000 (as amended) be issued to Gen R Limited, c/o Rory Hanrahan, Coakley O'Neill Town Planning, NSC Centre, Mahon, Cork to state that the works as described above is

NOT Development.

Signed



SENIOR EXECUTIVE PLANNER, PLANNING & PLACE-MAKING

Date



29/10/25

Certified to be a true copy of Approved Officer's Order, Planning & Development Order No. AOO/DC/2025/1197 dated 29/10/25, pursuant to Section 151(7) of the Local Government Act 2001

Signed:



SENIOR EXECUTIVE PLANNER, PLANNING & PLACE-MAKING



SECTION 5 – DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

DECLARATION NO.

EC/212/25

Name and Address of Applicant: Gen R Limited, 38 Palmerstown Road, Rathmines, Dublin

Agent: Rory Hanrahan, Coakley O'Neill Town Planning, NSC Centre, Mahon, Cork

Whether the change of use at 1-8 & 12-18 Abbey Grove, Munget, Co. Limerick is or is not Development or is or is not Exempted Development. The works as described on the plans submitted with the application on the 15th of October 2025.

AND WHEREAS the Planning Authority has concluded that the change of use at 1-8 & 12-18 Abbey Grove, Munget, Co. Limerick **DOES NOT** come within the scope of exempted development under Section 3(1) of the Planning and Development Act 2000 (as amended). See Report attached.

NOW THEREFORE the Planning Authority in exercise of the powers conferred on it by Section 5(2) (a) of the Planning and Development Act 2000 (as amended) hereby decides that the said development as described above is **NOT Development**.

Signed on behalf of the said Council

Date: 29.10.2025

NOTE: A Declaration on Development or Exemption issued by Limerick City & County Council may be referred to An Coimisiún Pleanála on payment of €220 for review within 4 weeks after the issuing of the declaration.