



Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

John Lynch,
6 Oakwood Square,
Blackrock
Cork.

30/09/2022

RE: Section 5 Declaration R738/22 6 Oakwood Square, Blackrock,

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 06th September 2022, I wish to advise as follows:

The Planning Authority, in view of the above and having regard to:

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that the “*proposal to build over a current annex less than 40 sqm. New build room less than 12 sqm*” **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT**.

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 30th September 2022.

Is mise le meas,

Kate Magner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

PLANNER'S REPORT Ref. R738/22		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Proposal to build first floor extension less than 12 sqm in area</i>	
Location	6 Oakwood Square, Blackrock Cork	
Applicant	John Lynch	
Date	26/09/2022	
Recommendation	<i>Is development and is not exempted development</i>	

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states,

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.

The requirements for making a section 5 declaration are set out in the Act.

2. The Question before the Planning Authority

In response to Q2 on the application for the applicant frames the following question:

"Proposal to build over a current annex less than 40 sqm. New build room less than 12 sqm"

In my opinion the intention of the request is clear, and that it is entirely reasonable to consider the question before the planning authority as being:

Is the construction of a first-floor rear extension of less than 12 sqm development and, if so, is it exempted development?



3. Site Description

The property in question is a two-storey house located on a north facing terrace of an estate of houses off Rope Walk in Blackrock.

4. Planning History

There are no recent planning applications associated with this site.

5. Legislative Provisions

5.1 The Act

Section 2(1),

"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),

In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or 'the making of any material change in the use of any structures or other land'

Section 4(2),

Section 4(2) 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 2001-2013.

Section 5(1),

(See section 1 of this report)

Section 177U (9) (screening for appropriate assessment)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

5.2 The Regulations

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.

SCHEDULE 2, ARTICLE 6, PART 1, Exempted Development — General

Column 1 Description of Development	Column 2 Conditions and Limitations
<i>Development within the curtilage of a house</i> CLASS 1 The extension of a house, by the construction or erection of an extension (including a	1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.

conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.

2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.

(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.

(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres,

	any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.
	7. The roof of any extension shall not be used as a balcony or roof garden.

6. ASSESSMENT

6.1 Development

The first issue for consideration is whether or not the matter at hand is 'development'.

'Development' as defined in the Act (3)(1) comprises two possible chief components: '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'. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

'Works' is defined in section 2(1) of the Act as 'the carrying out of any works on, in, over, or under land' including '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.'

I consider that the erection of the rear extension constitutes the carrying out of works and as such it constitutes development.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

The rear extension as constructed may be exempt if it accords with the exemption set out in Class 1 in Schedule 2 of the *Planning and Development Regulations 2001* (as amended). The following is a review of the proposal against the conditions / limitations set out in Class 1.

<p>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</p> <p>(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.</p> <p>(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</p>	<p>(a) The house has been extended at ground floor. This ground floor extension measures 14.4 sqm.</p> <p>(b) The first-floor extension area will not exceed 12sq.m</p> <p>(c) n/a</p>
<p>2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.</p>	<p>(a) House appears to have been previously extended at ground floor level. This extension has an area of 14.4 sqm. Combined with the proposed first floor addition of 11.6sqm, the extended area does not exceed 40 sqm.</p>

<p>(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.</p> <p>(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.</p>	<p>(b) Proposed first floor extension would not exceed 12 sqm. This condition/limitation is met.</p> <p>(c) n/a</p>
<p>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p>	<p>The proposed first floor extension would be constructed within 2 metres of the property boundary with number 5 Oakwood Square. This condition/limitation is not met.</p>
<p>4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.</p> <p>(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.</p> <p>(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.</p>	<p>(a) The height of the wall does not exceed the existing height of the rear wall of the dwelling.</p> <p>(b) n/a</p> <p>(c) The height does not exceed the height of the eaves / parapet</p>
<p>5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.</p>	<p>The proposed extension would be above ground floor level and as such this condition/limitation does not apply.</p>
<p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p> <p>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</p>	<p>As an accurate proposed site layout plan has not been provided, this information is not shown on the plans. Further information would be required to confirm the distance to this boundary.</p>

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.	
7. The roof of any extension shall not be used as a balcony or roof garden.	The roof of the proposed extension does not appear to be used as a balcony or garden.

The proposed first floor rear extension not exempted development as it is less than 2m from a party boundary.

Were the proposal to satisfy all other elements of Class 1 then further information could be sought on the elements for which the information is absent from the plans. However, as this would not alter the conclusion it is not considered necessary in this instance.

7. ENVIRONMENTAL ASSESSMENT

7.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly, it is considered that an environmental impact statement is not required to be submitted.

7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the development site relative to these European sites and related watercourses and to the nature and scale of the development it is considered that the development would not affect the integrity of the European sites referred to above. Accordingly, it is considered that appropriate assessment is not required.

8. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended)

It is considered that the —

“Proposal to build over a current annex less than 40 sqm. New build room less than 12 sqm”

Is development and is not exempted development



Gillian Tyrrell

Assistant Planner

06 SEP 2022

Community, Culture and Placemaking

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

Community, Culture & Placemaking Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924709

Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM

under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

6 O'Hood square, Blackrock, Cork.

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

Proposal to build over a current Annex less than 40m². new build Room less than 12m²

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

3. Are you aware of any enforcement proceedings connected to this site?

If so please supply details: NO.

4. Is this a Protected Structure or within the curtilage of a Protected Structure? NO

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority? NO

5. Was there previous relevant planning application/s on this site? NO.

If so please supply details:

6. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) <u>50m²</u> <u>Building of Annex less than</u>
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle)	Proposed/existing use (please circle)
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-----	-----
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7. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question		
If you are not the legal owner, please state the name and address of the owner if available		

8. I / We confirm that the information contained in the application is true and accurate:

Signature: [Signature]

Date: 1/9/22

CONTACT DETAILS

9. Applicant:

Name(s)	JOHN LYNCH
Address	6 OAKWOOD SQUARE BIRKENHEAD COX

10. Person/Agent acting on behalf of the Applicant (if any):

Name(s):	
Address:	
Telephone:	
E-mail address:	
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	Yes <input type="checkbox"/> No <input type="checkbox"/>

11. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Tel. No. JOHN LYNCH

Mobile No. [REDACTED]

Email Address: _____

For Office Use Only: File Ref. No. _____

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

**The Development Management Section, Community, Culture & Placemaking
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.**

- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

DATA PROTECTION

"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protections policy is available at <https://www.corkcity.ie/en/council-services/public-info/gdpr/>.

We request that you read these as they contain important information about how we process personal data.



The Property Registration Authority An tÚdarás Clárúcháin Maoine

Land Registry Sealed and Certified Copy Folio (& Filed Plan)

john
lynch
6 oakwood square
blackrock
cork
t12xwv5

This page forms part of the official document. Do not detach.

Folio Number: CK145340F
Application Number: P2022LR102179K
Your Reference: ck145340f

This document comprises an office copy of the Land Registry record for the above mentioned folio/filed plan as of the date appearing.

Details of **dealings pending** (if any) on the enclosed folio/filed plan are listed in the **Schedule** below.


An officer duly authorised by the Property Registration Authority.

Schedule



Notes:

1. Filed plans should be read in conjunction with the Register. The description of the land in the Register or on the filed plan is not conclusive as to the boundaries or extent of the land (see Section 85 of the Registration of Title Act 1964, as substituted by Section 62 of the Registration of Deeds and Title Act, 2006).
2. Filed plans greater than A3 in size may be provided as separate A3 tiles with an overlap and print gutter. When aligning the tiled sheets, customers are advised to use the underlying topographical detail.
3. On receipt of this record, please check to verify that all the details contained therein are correct. If this is not the case, please return the document to the Property Registration Authority immediately.

Land Registry

County Cork

Folio 145340F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

For parts transferred see Part 1(B)

No.	Description	Official Notes
1	<p>The property shown coloured Red as plan(s) CT8N4 on the Registry Map, situate in the Parish of St. FINBAR'S, known as 6 OAKWOOD SQUARE, BLACKROCK, CORK, in the Electoral Division of MAHON A.</p> <p>The Registration does not extend to the mines and minerals</p>	<p>From Folio CK123830F</p>

Land Registry

County Cork

Folio 145340F

Part 1(B) - Property
Parts Transferred

No.	Prop No:	Instrument:	Date:	Area (Hectares) :	Plan:	Folio No:

Land Registry

County Cork

Folio 145340F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	26-MAR-2010 JOHN LYNCH of 6 Oakwood Square (aka 6 Broad Oak Sq), Rope Walk, Blackrock, Cork and AUDREY LYNCH of 6 Oakwood Square (aka 6 Broad Oak Sq), Rope Walk, Blackrock, Cork are full owners. D2010LR040856E

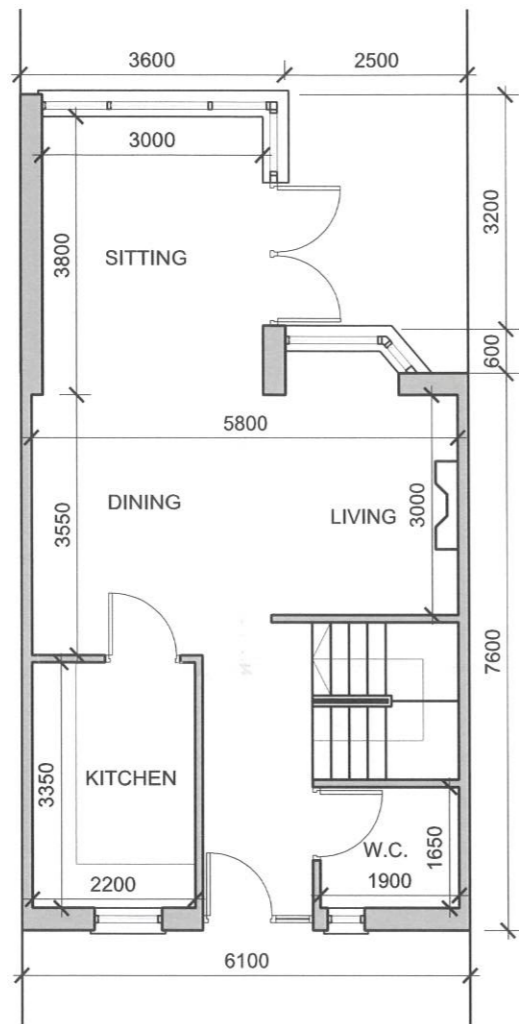
Land Registry

County Cork

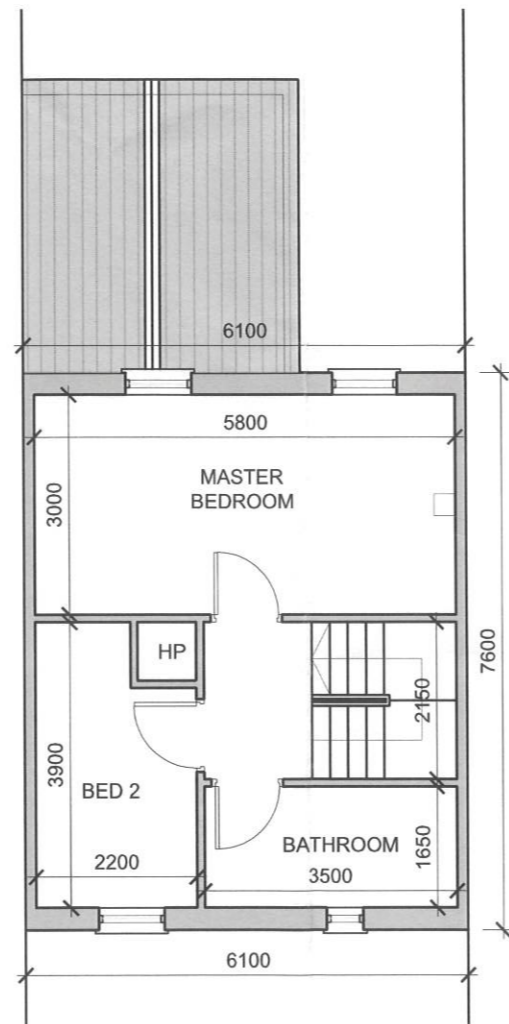
Folio 145340F

Part 3 - Burdens and Notices of Burdens

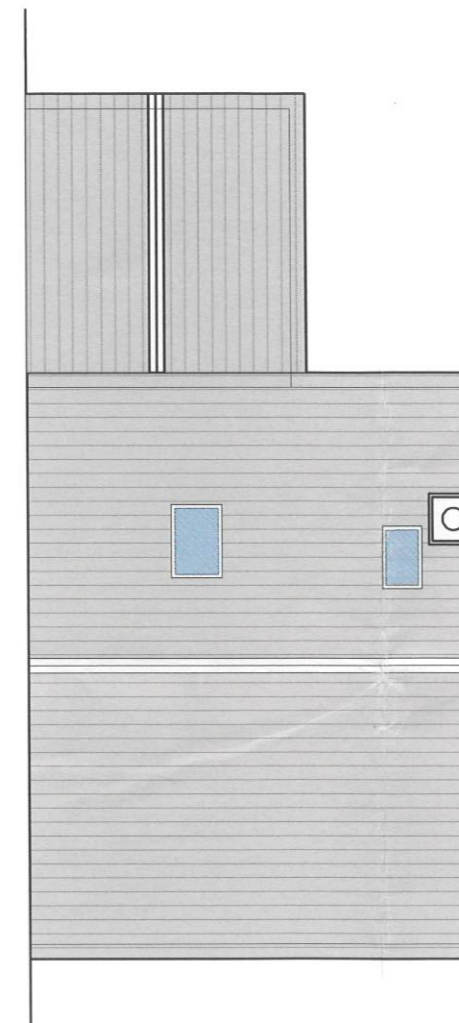
No.	Particulars	
1	26-MAR-2010 D2010LR040856E	The property is subject to the provisions specified in Section 90(6) of the Housing Act, 1966, as amended against alienation, mortgaging and charging without the consent of Cork City Council and to the conditions (if any) specified in Instrument No. D2010LR040856E.
2	31-MAR-2010 D2010LR040856E	Charge for €142,801 and such other sums as may become payable under the terms of Instrument No. D2010LR040856E repayable with interest. CORK CITY COUNCIL is owner of this charge.
3	26-MAR-2010 D2010LR040856E	A contingent charge for such amounts as may become payable under the terms of instrument number D2010LR040856E. Cork City Council is owner of this charge.



EXISTING GROUND FLOOR PLAN
SCALE 1:100

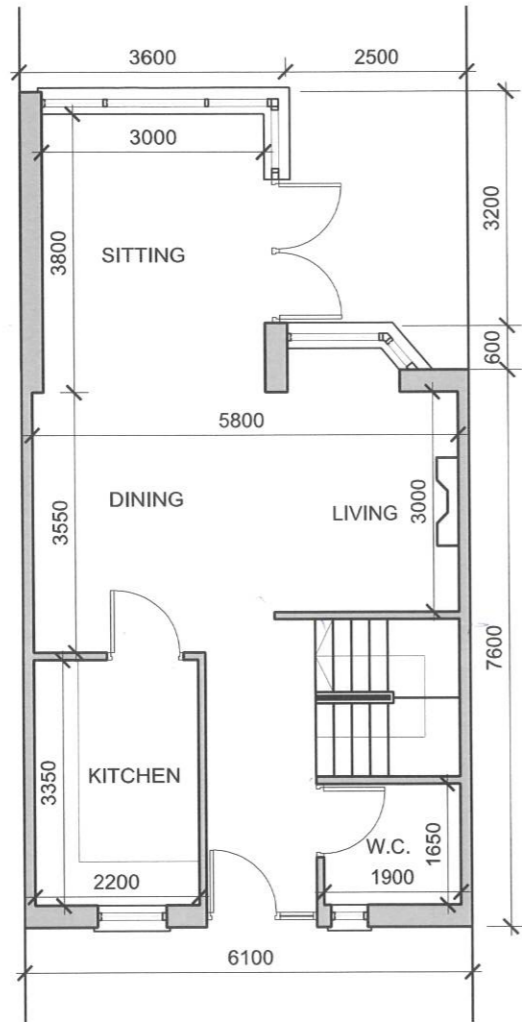


EXISTING FIRST FLOOR PLAN
SCALE 1:100



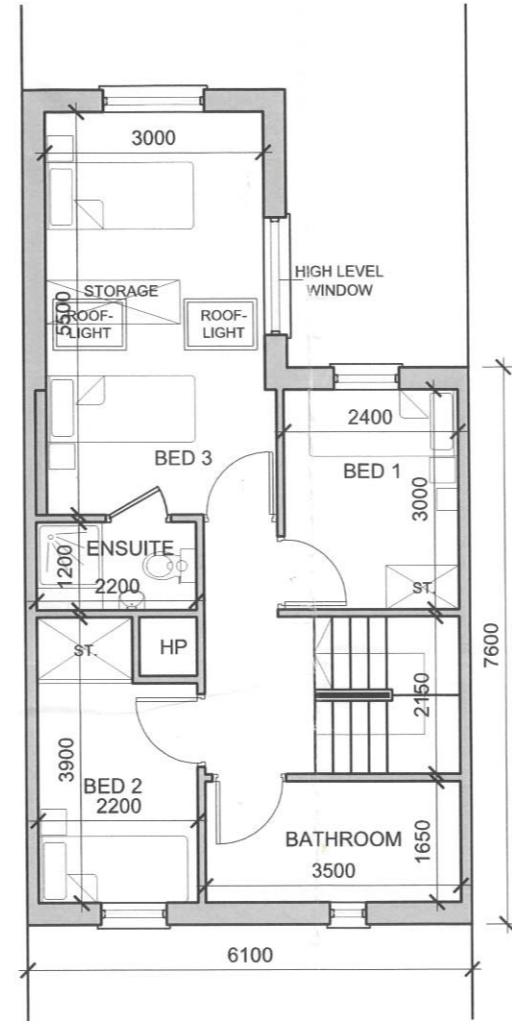
EXISTING ROOF PLAN
SCALE 1:100

Darkwood Sq.



PROPOSED GROUND FLOOR PLAN

SCALE 1:100



PROPOSED FIRST FLOOR PLAN

SCALE 1:100



PROPOSED ROOF PLAN

SCALE 1:100

572150 mE, 571880 mN



The Property
 Registration Authority
 An tÚdarás
 Clárúcháin Maoine



Folio: CK145340F

This map should be read in conjunction with the folio.

Registry maps are based on OSi topographic mapping. Where registry maps are printed at a scale that is larger than the OSi published scale, accuracy is limited to that of the original OSi map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.prai.ie.

This map incorporates Ordnance Survey Ireland (OSi) mapping data under a licence from OSi. Copyright © OSi and Government of Ireland.

- (centre-line of parcel(s) edged)
- Freehold
- Leasehold
- SubLeasehold
- Burdens** (may not all be represented on map)
- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- ▽ Soak Pit

A full list of burdens and their symbology can be found at: www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.





Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

John Lynch
6 Oakwood Square,
Blackrock,
T12 XWV5

31/08/2022

Re: Section 5 request for 6 Oakwood Square

A Chara,

I am writing to you in relation to your letter dated 29/08/2022. I am returning the letter herewith as no Section 5 application or fee was submitted. Please complete the form attached and resubmit along with the €80 fee.

Mise, le meas,

Aine O'Leary
Assistant Staff Officer
Community, Culture and Placemaking



We are Cork.

DATE : 29th August 2022

Planning Department

Cork City Council, City Hall, Anglesea Street Cork

Reference 6 Oakwood Square

Dear Planner

I have recently been approved for a grant under the Adaption scheme (ref HD/2021/2199).

In order to comply with the conditions of the grant a standard size bedroom is to be constructed.

I propose to build this room over the current annex as per the attached drawings (existing plans and proposed plans). < 12m²

I would request that this development is exempt from planning permission as the previous extension on GF is less that 40m² and this proposal is < 12m²

I would be grateful if you could confirm same

Yours sincerely

John Lynch

6 Oakwood Sq, Blackrock , T12XWV5

