



# Comhairle Cathrach Chorcaí Cork City Council

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

Blarney Preschool  
C/O Scoil Chrío Íosa  
St Annes Road  
Blarney  
Co. Cork

15<sup>th</sup> January 2020

**RE: Section 5 Declaration R557/19 Blarney Community  
Preschool, c/o Scoil Chrío Íosa, St. Annes Road,  
Blarney, Co. Cork**

A Chara,

With reference to your request for a Section 5 Declaration at the above named property, I wish to advise that further information is sought on the application as follows:

1. Details of the full service provided at this location—for example: Montessori, crèche, after school etc
2. Previous use of the area currently used as a preschool.
3. The opening hours?
4. The number of children in attendance?
5. The number of staff?
6. Details of any structural works carried out to facilitate this pre-school use?
7. A floor plan to show how many classrooms are in use.

Is mísa le meas,

**Kerry Bergin**  
Development Management Section  
Community, Culture and Placemaking Directorate  
Cork City Council



**We are Cork.**

**COMHAIRLE CATHRACH CHORCAÍ**  
**CORK CITY COUNCIL**

Strategic Planning & Economic Development Directorate,  
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail [planning@corkcity.ie](mailto:planning@corkcity.ie)  
Fón/Tel: 021-4924564/4321  
Líonra/Web: [www.corkcity.ie](http://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**

BLARNEY COMMUNITY PRESCHOOL,  
c/o SIOIL CHRÍO ÍOSA, ST. ANNE'S ROAD, BLARNEY, CO. CORK  
T23 E722

**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.

PRESCHOOL IS OPERATING IN THIS NATIONAL SCHOOL,  
TUSLA REQUIRE APPLICATION PLANNING INFORMATION  
BUILDING PRE-DATES PLANNING LAW. PRESCHOOL  
IS IN MAIN NATIONAL SCHOOLS BUILDING &  
HAS NOT REQUIRED PLANNING PERMISSION

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**

(Use additional sheets if required).

LOOKING FOR EXEMPTION  
BUILDING PRE-DATES PLANNING. BUILDING ERECTED  
IN 19<sup>TH</sup> CENTURY

Community Culture & Placemaking

11 DEC 2019

RECEIVED

### 3. 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		<i>No Increase Required</i>
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including those for which planning permission has been obtained)?		Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) _____
(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)	
_____	_____	
_____	_____	
_____	_____	

### 4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		
Applicants Address	<i>BLARNEY PRESCHOOL c/o SCOIL CHRIO IOSA, ST. ANNE'S ROAD, BLARNEY, CO. CORK.</i>	
Person/Agent acting on behalf of the Applicant (if any):	Name:	<i>NICOLE O'DONOVAN</i>
	Address:	
	Telephone:	<i>086 1929789</i>
	Fax:	
	E-mail address:	<i>blarneypreschool@gmail.com</i>
Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

### 5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner	B. Other <input checked="" type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	<i>SEEKING EXEMPTION AS PRESCHOOL IS BASED IN A NATIONAL SCHOOL.</i>	
If you are not the legal owner, please state the name and address of the owner if available	<i>THIS IS REQUIRED BY TUELA.</i>	

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

Signature: Maile O'Donovan

Date: 3/12/19

**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:

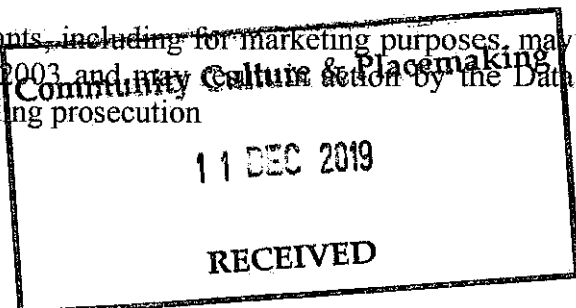
The Development Management Section, Strategic Planning & Economic Development  
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- 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**

The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003, and may result in action by the Data Protection Commissioner against the sender, including prosecution



PLANNER'S REPORT		Cork City Council: Development Management
Ref. R557/19		Community, Culture and Place-making
Application type	Section 5 Declaration	
Description	<i>Preschool operating in a national school</i>	
Location	Blarney Community Pre-school c/o Scoil Chrio Iosa, St. Anne's Road, Blarney, Co. Cork	
Applicant	Not given	
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,

*S5.—(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

*Preschool operating in a national school*

For clarity, the question shall be framed as follows:

"Whether the use of an established primary school to pre-school constitutes development, and if so, whether it is exempted development?"

*Other information given in application form:*

The preschool is operating in this national school. Tusla require application/planning information. The building pre-dates planning law. The pre-school is in the main building. There has been no increase in floor area.

### 3. Site Description

The property in question concerns primary school Scoil Chrio Iosa, St. Annes Road, Blarney, Co. Cork.



Signage at the school shows that the preschool is in existence. On external appearance, it appears that the pre-school is operating within the existing single storey eastern building. Image below is from google date June 2018.



The building is not a protected structure.

#### **4. PLANNING HISTORY**

##### **T.P 05/3263**

Permission granted for a new pitched roofing to the rear of existing single storey eastern wing of main school building, and a new pitched roof to existing single storey toilet block east of main school building

#### **5. Legislative Provisions**

##### **5.1 The Act**

*Section 2(1),*

*“use”, in relation to land, does not include the use of the land by the carrying out of works thereon.*

*“structure” means any building, structure, excavation or other thing constructed or made on, in, or under any land or any part of a structure so defined and- (a) where the context so admits, includes the land on, in or under which the structure is situate*

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

*“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...*

*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 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 Planning and Development Regulations 2001 (as amended)**

**Definitions - PART 2 - Exempted Development**

With respect to 'interpretation' under Article 5(1) 'school' has the meaning assigned to it by the Education Act 1998.

The following are Classes of Use set out in Part 4 of Schedule 2 that relate to child-care but which is not exhaustive.

**Part 4 of Schedule 2 – Classes of use**

**Class 8**

Use –

- (a) as a health centre or clinic or for the provision of any medical or health services (but not the use of the house of a consultant or practitioner, or any building attached to the house or within the curtilage thereof, for that purpose),
- (b) as a crèche,
- (c) as a day nursery,
- (d) as a day centre.

**Article (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 a change of use consists of the resumption of a use which is not unauthorised and which is not abandoned.

(2)(a) A use which is ordinarily incidental to any use specified in Part 4 of the Schedule 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.

**Precedent cases:**

**RL 3443: An Bord Pleanála.**

Differing opinions between the inspector and the Board. The Board concluded that the use of a previous school building as an after school and Montessori facility at this property is not development.

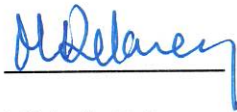
**6. Assessment:**

Is the new use of pre-school "development" and is it a "material change of use"?

Article 5 of Part 2 of the Planning and Development Regulations, 2001 (as amended) where the interpretation of 'school' has the meaning assigned to it by the Education Act 1988. Under Section 2 of Part 1 of this Act, except where the context otherwise requires, 'school' means an establishment which provides early childhood education, or provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training...'

Insufficient information has been given to make a full planning assessment.

Further information to be requested as set out below.



Michelle Delaney

Executive Planner

Agreed MD - 15/01/19 .

**FURTHER INFORMATION REQUEST:**

You are requested to submit the following information to enable the Planning Authority to make a full assessment:

1. Details of the full service provided at this location—for example: Montessori, crèche, after school etc
2. Previous use of the area currently used as a preschool.
3. The opening hours?
4. The number of children in attendance?
5. The number of staff?
6. Details of any structural works carried out to facilitate this pre-school use?
7. A floor plan to show how many classrooms are in use.



# Site Location Map



National Mapping Agency

**CENTRE COORDINATES:**  
 ITM 50690.575988

**ORDER NO.:**  
 03/12/2019

**MAP SERIES:**  
 6 Inch Register CK062  
 6 Inch Register CK073

**COMPILED AND PUBLISHED BY:**  
 Ordnance Survey Ireland,  
 Phoenix Park,  
 Dublin 8,  
 Ireland.

Unauthorised reproduction  
 infringes Ordnance Survey Ireland  
 and Government of Ireland  
 copyright

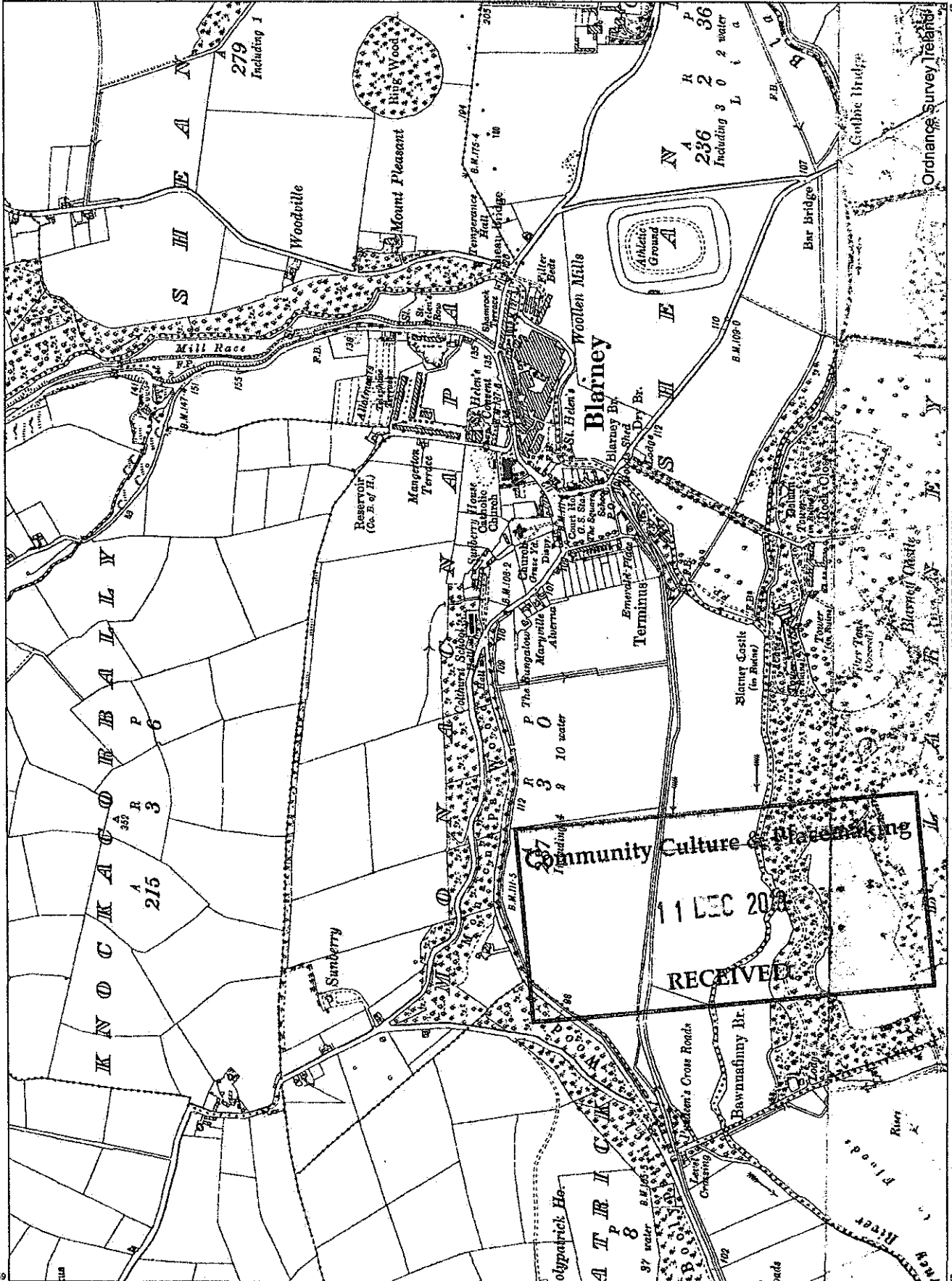
All rights reserved.  
 No part of this publication may  
 be copied, reproduced  
 or transmitted in any form  
 or by any means without the prior  
 written permission of  
 the copyright owners.

The representation on this map  
 of a road, track or footpath  
 is not evidence of the existence  
 of a right of way.

Ordnance Survey maps  
 never show legal property  
 boundaries, nor do they  
 show ownership of  
 physical features.

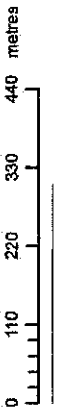
© Suirbhreacht Ordnáis Éireann,  
 2019  
 © Ordnance Survey Ireland, 2019  
 www.osi.ie/copyright

LEGEND



**CAPTURE RESOLUTION:**  
 The map objects are only accurate to the  
 resolution at which they were captured.

OUTPUT SCALE: 1:10,560



575059

559459

561920

576876

# Planning Pack Map



National Mapping Agency

**CENTRE COORDINATES:**  
ITM 500690,575968

**PUBLISHED:**  
03/12/2019

**ORDER NO.:**  
50097355\_1

**MAP SERIES:**  
1:2,500  
1:2,500

**MAP SHEETS:**  
6289-C  
6336-A

**COMPILED AND PUBLISHED BY:**  
Ordnance Survey Ireland,  
Phoenix Park,  
Dublin 8,  
Ireland.

Unauthorised reproduction  
infringes Ordnance Survey Ireland  
and Government of Ireland  
copyright.

All rights reserved.  
No part of this publication may  
be copied, reproduced  
or transmitted in any form  
or by any means without the prior  
written permission of  
the copyright owners.

The representation on this map  
of a road, track or footpath  
is not evidence of the existence  
of a right of way.

Ordnance Survey maps  
never show legal property  
boundaries: nor do they  
show ownership of  
physical features.

© Suirbhéirí aacht Ordanáis Éireann,  
2019  
© Ordnance Survey Ireland, 2019  
www.osi.ie/copyright

LEGEND

