

Comhairle Cathrach Chorcaí Cork City Council

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

Urban Green Private Ltd,
BCE Consulting Engineers
Unit P5
Marina Commercial Park
Centre Park Road
Cork
T12 PN7F

03/03/2020

RE: Section 5 Declaration R565/20 88/89 North Main Street Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above named property, I wish to advise as follows:

In view of the above and having regard to —

- Sections 3 of the Planning and Development Act 2000 (as amended), and
- Articles 9 and 10 of the Planning and Development Regulations 2001 (as amended),
- Schedule 2 Parts 2 and 4 of the Planning and Development Regulations 2001 (as amended),

It is considered that proposed change of use from bank to retail **is Development** and is **Exempted Development** provided that the proposed shop comes under the definition of "shop" as stated in Article 5, Part 2 "*Exempted Development*" of the Planning and Development Regulations 2001 (as amended). Advisory note: any proposed advertising must comply with existing conditions and/or comply with Schedule 2, Part 2 "*Exempted Development – Advertising*" or otherwise seek the appropriate planning permission for same.

Is misa le meas,

Kerry Bergin
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

PLANNER'S REPORT Ref. R565/20		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Whether change of use from bank to retail requires planning permission?</i>	
Location	88/89 North Main Street	
Applicant	Urban Green Private Limited	
Date	27/02/2020	
Recommendation	<i>Is Development and Is 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

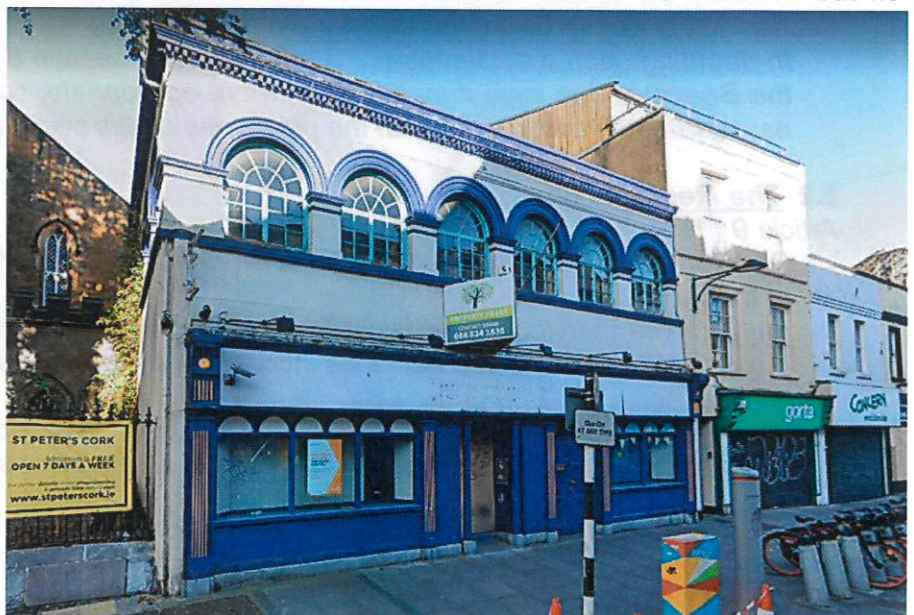
In framing the question to the planning authority, the applicant states in Q2 of the application form:

"A change of use of the above property from use as a bank to return to use as a retail/shop".

Note: Applicant further adds the statement: "The change of external signage to be in keeping with the occupant and the current facades of the street neighbours". This is not framed as the question or referred to in the additional details which solely relate to the change of use. Agent was telephoned on 26/02/2020 to seek clarification if this element was to be included but no response has been received. Hence, it is the change of use only which will be dealt with under this Section 5.

3. Site Description

The property in question is a large two storey structure which previously was in use as a bank but has been vacant for some time. It is located in along a commercial street.



4. Planning History

Article 10 (1)

Development which consists of a **change of use** within any one of the classes of use as 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 –

- (c) be inconsistent with any use specified or included in such a permission, or
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned

Schedule 2, Part 1 “Exempted Development – General” Class 14 “Change of Use:
Development consisting of a change of use –

- (e) from use to which Class 2 of Part 4 of this Schedule applies, to use as a shop.

Part 4 “Exempted Development – Classes of Use”, Class 2:

Use for the provision of –

- (a) financial services
- (b) professional services (other than health or medical services),
- (c) any other services (including use as a betting shop),
where the services are provided principally to visiting members of the public.

6. ASSESSMENT

5.1 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 proposed element constitutes development as it comprises of a material change in the use of the structure from a bank to a retail unit.

5.2 Exempted development

The next issue for consideration is whether or not the matter at hand is to determine whether the development constitutes exempted development. (See assessment below).

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 proposed 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.

**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: 021-4924564/4321
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

88189
North Main Street
Cork City T12D273

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.

A change of use of the above property from use as a Bank to return to use as a retail/shop unit.
The change of external signage to be in keeping with the occupant and the current facades of the street neighbours

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

The above mentioned property was originally purposed as a retail/shop and now is sought to return to same.

Comhairle Cathrach Chorcaí
Cork City Council
21-02-2020
Strategic Planning & Economic
Development Directorate

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

If so please supply details:

None

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

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?

5. Was there previous relevant planning application/s on this site?

If so please supply details:

Change from shop retail to Bank

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	3912 m ²
(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 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) <u>Current use is disused bank</u>	Proposed/existing use (please circle) <u>Return the property to Retail/shop</u>

7. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):	Urban Green Private Limited	
Applicants Address	Urban Green Private Limited Facilities Office Athins Hall Lee Road Cork	
Person/Agent acting on behalf of the Applicant (if any):	Name:	BCE Consulting Engineers
	Address:	Unit P5 Marina Commercial Park. Centre Park road Cork T12 DN2F
	Telephone:	[Redacted]
	Fax:	[Redacted]
	E-mail address:	[Redacted]
Should all correspondence be sent to the above? <input type="checkbox"/>		

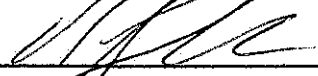
(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's

address)	
----------	--

5. 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
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		

6.1 / We confirm that the information contained in the application is true and accurate:

Signature:  B Eng MIEI

Date: 17-2-2020

ADVISORY NOTES:

<p>The application must be accompanied by the required fee of €80</p> <p>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.</p> <p>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.</p> <p><i>The application should be sent to the following address:</i></p> <p style="text-align: center;">The Development Management Section, Community, Culture & Placemaking Directorate, Cork City Council, City Hall, Anglesea Street, Cork.</p>
--

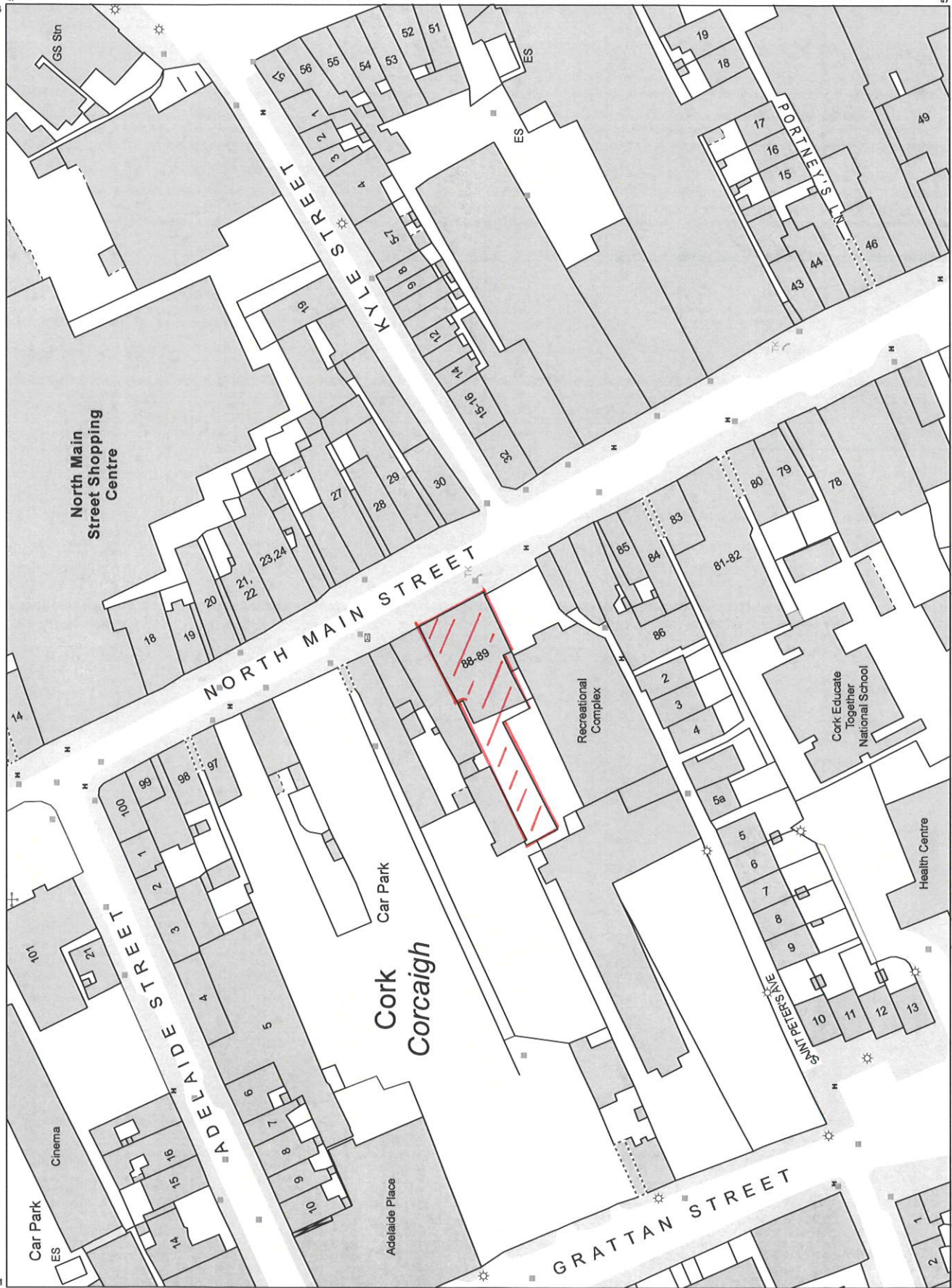
- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any 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.

Planning Pack Map

566941 572148 567174 571976



CENTRE COORDINATES:
ITM 567058,572062

PUBLISHED: 17/02/2020
ORDER NO.: 50108535_1

MAP SERIES: 1:1,000
MAP SHEETS: 6382-09, 6382-10

Handwritten signatures and notes:
B. Eng meet

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.

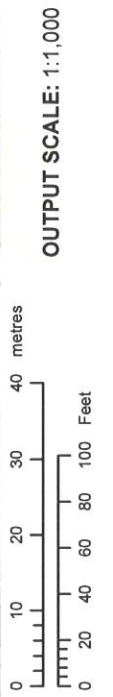
The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

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

© Suirbhéireacht Ordnáinis Éireann, 2020
© Ordnance Survey Ireland, 2020
www.osi.ie/copyright



CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: <http://www.osi.ie>, search 'Capture Resolution'



OUTPUT SCALE: 1:1,000

LEGEND:
<http://www.osi.ie>,
search 'Large Scale Legend'