



Comhairle Cathrach Chorcaí Cork City Council

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

Tom Hegarty Architects

6 North Mall

Cork

T23 ERD6

17th Nov 2020

**RE: Section 5 Declaration R591/20 Douglas Community
Pre-School & Playgroup, Douglas Community Centre,
Church Road, Douglas, Cork**

A Chara,

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

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, 9 and 10 and Part 4 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

the planning authority considers that —

the use of a section of the Douglas Community Centre as a pre-school at Douglas Community Centre, Church Road, Douglas, Cork **IS NOT DEVELOPMENT** and, therefore, **IS CONSIDERED EXEMPT**.

Is misa le meas,

Kerry Bergin

Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

PLANNER'S REPORT
Ref. R 591/20

Cork City Council
Development Management
Community, Culture & Placemaking
Directorate

Application type	SECTION 5 DECLARATION
Question	<i>Whether the Douglas Community Pre-School is exempted development.</i>
Location	Douglas Community Preschool and Playgroup, Douglas Community Centre, Church Road, Douglas, Cork.
Applicant	Catherine Twomey, Douglas Community Centre Pre-School
Date	17/11/2020
Recommendation	Is not development and, therefore, is considered exempt

INTERPRETATION

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 APPLICATION

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

The question to the planning authority is framed using the phrasing of section 5. The applicant states in the request, "Douglas Community Pre-School which operates from Douglas Community Centre is applying for registration from Tusla. Tusla have asked for proof of planning permission exemption. Is the Douglas Community Pre-School exempted Development?"

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:

Whether the Douglas Community Pre-School is exempted development.

3. SITE DESCRIPTION

The subject property is a part single-storey and part two-storey building situated within Douglas Community Park with vehicle access from Church Road.

4. DESCRIPTION OF THE DEVELOPMENT

The development is for continuance of use as a pre-school/playgroup use.

5. RELEVANT PLANNING HISTORY

- TP 17/5437 Permission GRANTED for construction of new windows and alterations to existing windows on the existing community centre building at Douglas Community Centre, Church Road, Douglas, Co. Cork
- TP 12/4374 Permission GRANTED for Construction of a new two storey extension to existing single storey community centre building and alterations to existing community centre building in phases: construction of two storey extension and refurbishment of existing building in phase one and installation of new external windows and changes to elevations of existing building in phase 2 at Douglas Community Centre, Church Road, Douglas, Co. Cork

6. LEGISLATIVE PROVISIONS

6.1 Planning and Development Act, 2000 as amended

Section 2(1)

“exempted development” has the meaning specified in section 4.

“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, and*
- (b) in relation to a protected structure or proposed protected structure, includes—*
 - (i) the interior of the structure,*
 - (ii) the land lying within the curtilage of the structure,*
 - (iii) any other structures lying within that curtilage and their interiors, and*
 - (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii).*

“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(1)(h)

4.(1) The following shall be exempted developments for the purposes of this Act—

...

*(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;***

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, as amended.

Section 4(3)

A reference in this Act to exempted development shall be construed as a reference to development which is—

- (a) any of the developments specified in subsection (1), or*
- (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.*

Section 5(1)

See section 1 of this report.

6.2 Planning and Development Regulations 2001 to 2018 as amended

Article 6(1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9

Article 9 sets out restrictions on exemptions specified under article 6.

Article 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act –

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (a) (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,*

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*

Part 4 Exempted Development – 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.

CLASS 10

Use as —

- (a) an art gallery (but not for the sale or hire of works of art),
- (b) a museum,
- (c) a public library or public reading room,
- (d) a public hall,
- (e) an exhibition hall,
- (f) a social centre, community centre or non-residential club,

but not as a dance hall or concert hall.

7. ASSESSMENT

7.1 Development

The first issue for consideration is whether or not the matter at hand is ‘development’, which is defined in the Act as comprising two chief components: ‘works’ and / or ‘any material change in the use of any structures or other land’.

From a brief history search it appears that the overall site (Park and Community Centre grounds) were compulsory purchased by Cork County Council in 1977. The original Community Centre building (single storey element) is indicated as being constructed and completed in 1986 by Douglas Community Association and the 2 (two) no. classrooms were a part of this original construction in 1986. Douglas Community Preschool are stated as being one of the reasons that this Community Centre was constructed and have used these classrooms since construction. It is not considered that there has been any change of use to these classrooms since the initial application for the overall building.

It is noted that the only changes made to this Northern element of the building has been window changes (permitted under planning ref.: 17/5437) and the closing of the internal door within the building for fire safety purposes. It is considered that the use permitted upon original construction in 1986 was for a community playgroup/pre-school. This use would be within Class 8 of the classes of use as defined in Part 4 of Schedule 2 of the Planning & Development Regulations. The current community pre-school use would be categorised as being within the same category, therefore no change of use would be considered to have taken place.

The Planning and Development Act 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”. Works are defined as “any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal”. Given that the proposed structure is still in use as the same use for which the structure was initially constructed, it is not considered that any works have taken place.

Therefore, it is not considered that the use as a pre-school is considered development.

CONCLUSION

Is not development**8. ENVIRONMENTAL ASSESSMENT**

I note the provisions of sections 4(4), 4(4A) and 177U(9) of the Act which state,

Section 4(4),

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Section 4(4A)

Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and*
 - (b) as respects which an environmental impact assessment or an appropriate assessment is required,*
- to be exempted development.*

Section 177U(9)

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.

8.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 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 **environmental impact assessment is not required.**

8.2 Screening for Appropriate Assessment

The applicant has not submitted an appropriate assessment screening report. 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 proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of these European sites. Accordingly it is considered that **appropriate assessment is not required.**

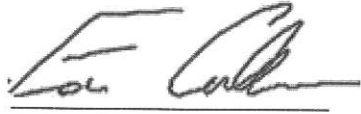
9. RECOMMENDATION

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, 9 and 10 and Part 4 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

the planning authority considers that —

the use of a section of the Douglas Community Centre as a pre-school at Douglas Community Centre, Church Road, Douglas, Cork **IS NOT DEVELOPMENT** and, therefore, **IS CONSIDERED EXEMPT**.

A handwritten signature in black ink, appearing to read 'Eoin Cullinane', written over a horizontal line.

Eoin Cullinane
Assistant Planner
12/11/2020

Tom Hegarty Architects

Architecture
Urban Design
Project Management

6 North Mall
Cork

t: + 353 (0)21 4932845
e: info@hega.ie
w: www.hega.ie

22nd July 2020

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



**Re: Section 5 Declaration Application by Douglas Community Pre School and
Playgroup CLG**

Dear Sir/Madam,

We are writing on behalf of Douglas Community Centre Pre School and Playgroup CLG to make an application for a Section 5 declaration in relation to the existing Preschool which is required by Tusla for 2020 registration of the Pre School.

Attached is the following Documentation.

Signed Application form with two Supporting Information pages attached.

Three no. drawings as listed on the Supporting Information pages.

Letter by William Coleman mentioned in the Supporting Information pages.

Cheque for €80.00

Should you have any queries please contact the undersigned.

Yours faithfully

Tom Hegarty

Tom Hegarty Architects Ltd.
Registered in Ireland

Registered Address:
6 North Mall
Cork

Company Registration No:
592477

Vat No:
IE3441596EH

**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

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

Comhairle Cathrach Chorcaí
Cork City Council
23-07-2020
Strategic Planning & Economic
Development Directorate

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

Fón/Tel: 021-4924762

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

Douglas Community Preschool and Playgroup, Douglas Community Centre,
Church Road, Douglas, 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.

Douglas Community Pre School which operates from Douglas Community Centre is applying for registration from Tusla. Tusla have asked for proof of planning permission exemption.

Is the Douglas Community Preschool exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

See attached 2 pages of Supporting Information and 3 number drawings listed on the Supporting Information Document.

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?

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

If so please supply details:

Not sure if there are previous relevant applications. See 2 no. attached Supporting Information Sheets.

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	Pre School is 101 square meters
(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)	Proposed/existing use (please circle)
_____	_____
_____	_____
_____	_____

8. 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	Renting Space from Douglas Community Centre who lease from Cork County Council.	
If you are not the legal owner, please state the name and address of the owner if available	Cork County Council, County Hall , Cork.	

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

Signature: Tom Healy. Tom Healy - On BEHALF OF DOUGLAS COMMUNITY PRESCHOOL & PLAYGROUP CLG.

Date: 22-07-2020

- 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.

**Section 5 Declaration Supporting Information. Tom Hegarty Architects. 22-07-2020
2 pages.**

Compiled with the aid of Douglas Community Association CLG and Douglas Community Preschool & Playgroup CLG [Also referred to as The Pre School and the Community Pre School]

Drawings included with the Application.- 2 Copies of each.

- OSI Place MAP. Reference 50129638_1 showing boundaries and preschool coloured yellow.
- Site Plan No 20 Revision B [the original Site Plan for Planning Application 12/04374 updated to Revision B with Preschool coloured yellow.]
- Ground Floor Plan No 10 Revision C [the original Pre School Plan for Fire Certificate ; Ref/12/FSC/S/1255 updated to Revision C with Preschool coloured yellow]

Douglas Community Centre is run by Douglas Community Association CLG [DCA]Church Road, Douglas , Cork. Company Limited by Guarantee, number 538751 (Certificate of Incorporation January 2014)

Land Boundary

The land is leased from Cork County Council. See Land marked "A" on the attached map. Some of the parking places in the carpark are outside the original leased land boundary. The application boundary for this application includes "A" and " B " on the attached map. This is the same application boundary as 12/04374 a planning application for an extension to the Community Centre.

Rented Space

Douglas Community Preschool & Playgroup CLG [The applicant] rents space in the building from DCA on an annual basis. See preschool location on attached OS Map marked in yellow. Douglas Community Preschool & Playgroup CLG occupies the northern part of the building.

Service Provided and Uses

The full service provided at the Pre School is: Sessional preschool and playgroup.

The previous use was a pre-school and playgroup. The pre-school was part of a number of groups committed to using the centre before it was built in 1986, referred to as playgroup in previous decades [1980's and 1990's]

The Current use is a Pre School and Playgroup within a Community Centre.

User Numbers

The current numbers in attendance are 37 children [maximum capacity] and about 7 teachers [the staff figure fluctuates slightly]

Previous known history of building planning and building regulations

It is understood that the Community Centre Building was Built in the 1980's and had had two classrooms in it since it was built. [Refer to attached letter from William Coleman, former Chairperson of DCC]. The original makeup of the group that founded the Community Centre consisted of members of the County Council and other local people.

Initially the two classrooms and toilets which today form the preschool were part of the whole Community Centre Building which previously had common and linked circulation and toilet areas. Originally the two classrooms were used as a Preschool and Playgroup.

On 21 -8 2012 a fire certificate application was made which was granted [Ref/12/FSC/S/1255] and the work completed. The work was to separate the classrooms, circulation and toilets [which form the pre-school] from the remainder of the building uses. A one hour fire wall was installed and services were separated out with the Preschool having its own electric and mechanical systems.

The alterations above to the northern part of the building, where the Pre School is, were facilitated by a planning application to extend the Community Centre at its southern end which was granted. The Planning Application Number is 12/04374. The extension included a kitchen for meals on wheels, extra hall space, toilets and ancillary spaces. This application was made in conjunction with other granted Fire and Disability access certificate applications which allowed the extension to be built and fitted out in phases.

In 2017 a planning application was made [and granted] to alter the windows of the Community Centre including the pre-school part. The windows were enlarged and the sills reduced in height to allow more daylight and sunlight into the building. That work was completed and the Application Number is 17/05437.

Tom Hegarty Architects

On behalf of Douglas Community Preschool & Playgroup CLG

End.



DOUGLAS COMMUNITY ASSOCIATION LTD

The Community Centre, Douglas, Cork.

Office 021-4894955 e-mail: douglasca@eircom.net

Website: www.douglascommunity.ie Facebook: Facebook.com/douglascommunity

26th July 2017

To Whom It May Concern,

Douglas Community Pre-school are an integral part of Douglas Community Association CLG and have been an active and vibrant and continuing part of the Association since 1986.

Douglas Community Preschool was one of the reasons our original Community Centre was built back in 1986. The other group at that time was Douglas Meals on Wheels. Since then we have Douglas Tidy Towns 2001 and Douglas Park Events 2011.

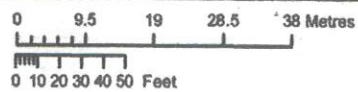
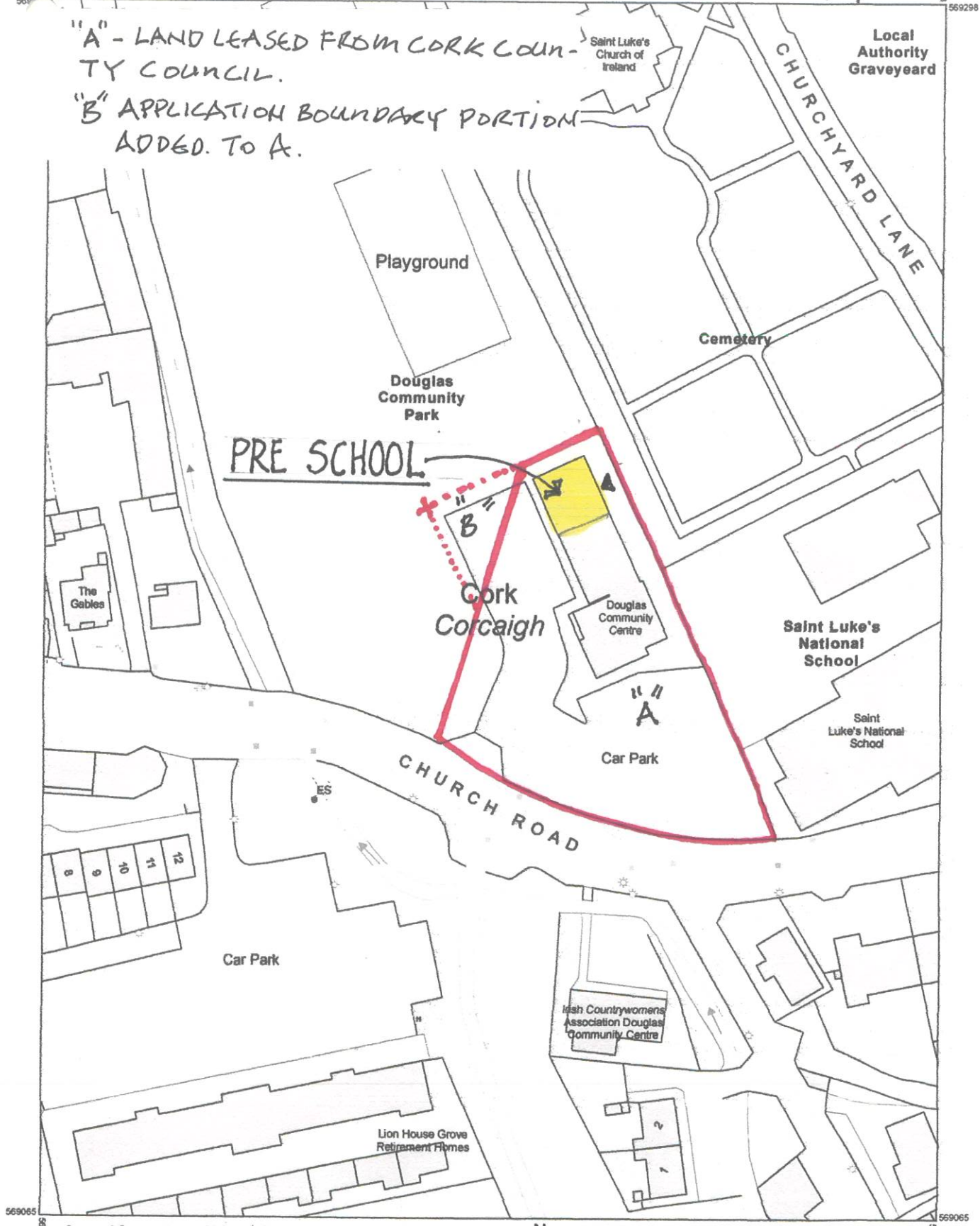
Hope this information meets with your requirements.

Should you require any further information we will be happy to oblige.

Yours Sincerely,


William Coleman Chairman

"A" - LAND LEASED FROM CORK COUNTY COUNCIL.
 "B" APPLICATION BOUNDARY PORTION ADDED TO A.



OUTPUT SCALE: 1:1,000



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CENTRE COORDINATES:
 ITM 569862,569182
 PUBLISHED: 14/07/2020
 MAP SERIES: 1:1,000

ORDER NO.: 50129838_1
 MAP SHEETS: 8428-08

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<http://www.osi.ie>; search 'Capture Resolution'
 LEGEND:
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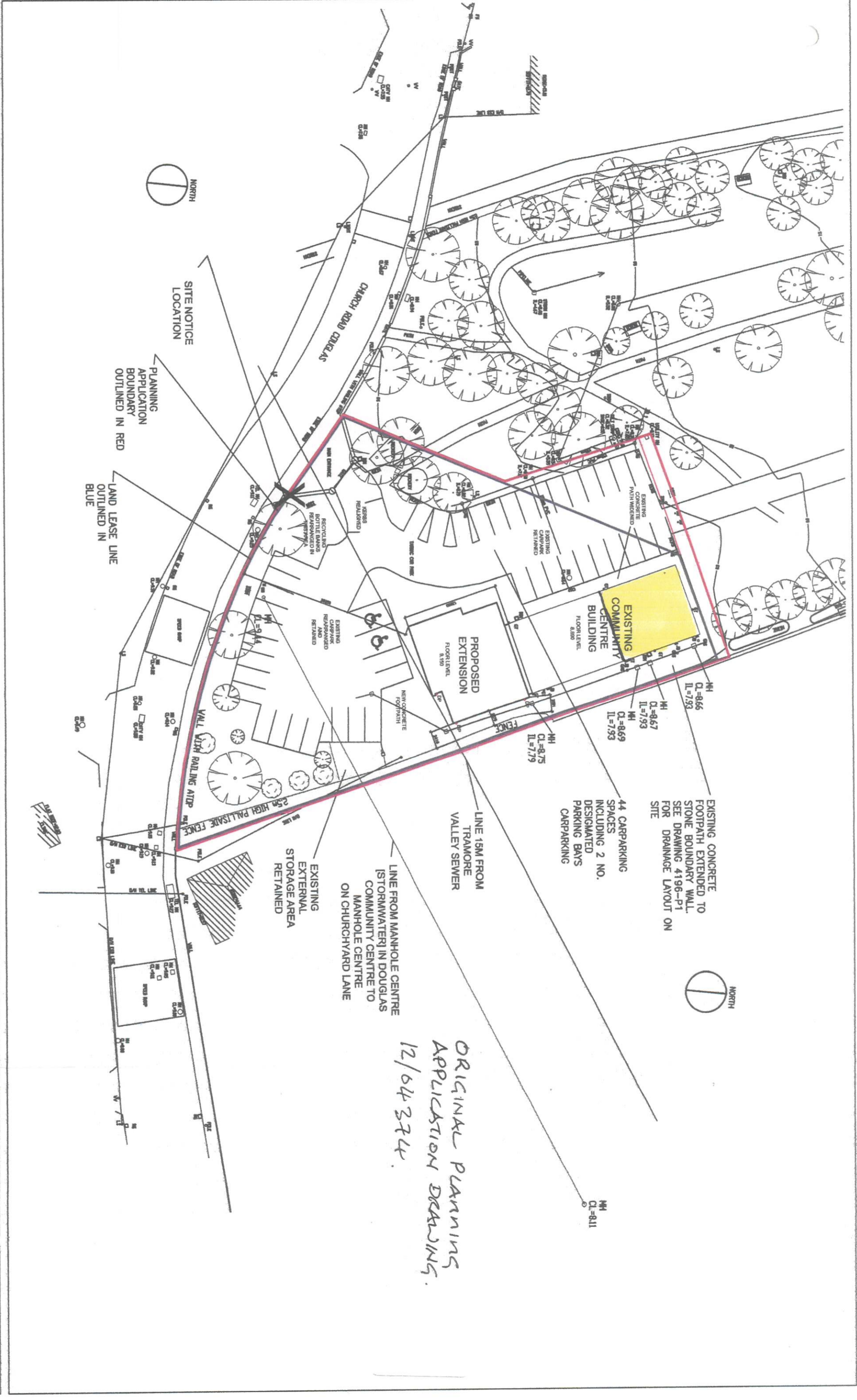


NO.	DATE	BY	REVISION
1	27-02-12	FH	PLANNING APPLICATION
Section 5 Declaration. I, the undersigned, being duly sworn, depose and say that the above is a true and correct copy of the original drawing as submitted to the Planning Authority.			

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NOTES

SEE DRAWING 4196-P1 "DRAINAGE DRAWING" FOR DRAINAGE LAYOUT



ORIGINAL PLANNING APPLICATION DRAWING.
12/04374.

JOB	DOUGLAS COMMUNITY CENTRE
CLIENT	

DRAWING	SITE PLAN
DATE	27/02/2011
SCALE	1:800
JOB NUMBER	002
DWG NUMBER	20
REVISION	B.

TOM HEGARTY ARCHITECTS
 6 North Mall
 Cork
 T: + 353 (0)21 4932845
 E: info@hegale
 W: www.hegale

