



# Comhairle Cathrach Chorcaí Cork City Council

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

Sylvia Canty  
10 Owenabue Close  
Carrigaline  
Co Cork  
P43 K72

24<sup>th</sup> May 2021

**RE: R657/21 – Section 5 Declaration**  
**Property: 2 Woodvillas, Ceann Cora Lawn, Boreenmanna Road**

Dear Sir/Madam,

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

- Sections 2, 3, and 4 of the Planning and Development Act 2000, as amended, and
- Articles 5(2) and 6(1) and Class 1 and Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended,

the Planning Authority has concluded that —

- the 12.9 sq m garage to the side of the property does satisfy the conditions and limitations of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended.
- the 5.3 sq m conservatory erected to the side of the property does not satisfy the conditions and limitations of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended.

therefore the Planning Authority considers that —

- the retention of a 12.9 sq m garage to the side of the property at 2 Woodvillas, Ceann Cora Lawn, Boreenmanna Road, Cork **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.
- the retention of a 5.3 sq m conservatory to the side of the property at 2 Woodvillas, Ceann Cora Lawn, Boreenmanna Road, Cork **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT**.

Yours faithfully,

Assistant Staff Officer  
Community, Culture and Placemaking  
Cork City Council



**We are Cork.**

<b>Application type</b>	SECTION 5 DECLARATION
<b>Question</b>	<i>Whether the retention of a garage and conservatory is exempt development.</i>
<b>Location</b>	2 Woodvillas, Ceann Cora Lawn, Boreenmanna Road, Cork
<b>Applicant</b>	Sylvia Canty
<b>Date</b>	17/06/2021
<b>Recommendation</b>	<b><u>Split Decision</u></b> <i>Garage - Is development and is exempted development</i> <i>Conservatory Is development and is <b>NOT</b> exempted development</i>

## 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.*

## 2. THE QUESTION BEFORE THE PLANNING AUTHORITY

The question to the planning authority is not framed using the phrasing of section 5. The applicant states in the request,

*"Garage and Conservatory. Is retention required"*

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

*"Whether the retention of a garage and conservatory is development or is exempted development."*

## 3. SITE DESCRIPTION

The subject property is a two-storey semi-detached dwelling house located at 2 Woodvillas, Ceann Cora Lawn, Boreenmanna Road.

## 4. DESCRIPTION OF THE DEVELOPMENT

The proposed development comprises a garage which was constructed to the side of the dwelling c. 1988 and has a stated floor area of 12.9 sq m and a conservatory which was constructed to the side of the dwelling c. mid 1990's and has a stated floor area of 5.3 sq m.

## RELEVANT PLANNING HISTORY

N/A.

## 5. LEGISLATIVE PROVISIONS

### 5.1 THE ACT

Section 2(1),

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

*“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, 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),

*Quoted above under section 1 of this report.*

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### 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.*

*(Article 6) Schedule 2, Part 1, Class 1*

Classes 1-8 relate to development within the curtilage of a house and Class 1 relates to *“the extension of a house, by the construction or erection of an extension (including a 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”.*

*Schedule 2, Part 1, Class 1*

Exempted Development — General

<p>Column 1 Description of Development</p>	<p>Column 2 Conditions and Limitations</p>
<p><i>Development within the curtilage of a house</i></p> <p><b>CLASS 1</b>  <i>The extension of a house, by the construction or erection of an extension (including a 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.</i></p>	<p>1. (a) <i>Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</i></p> <p>(b) <i>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.</i></p> <p>(c) <i>Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</i></p> <p>2. (a) <i>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.</i></p> <p>(b) <i>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.</i></p> <p>(c) <i>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</i></p>

<p style="text-align: center;">Column 1 Description of Development</p>	<p style="text-align: center;">Column 2 Conditions and Limitations</p>
	<p>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>(a) Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</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>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>less than 11 metres from the boundary</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>(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</p>

Column 1 Description of Development	Column 2 Conditions and Limitations
	<p>than 11 metres from the boundary it faces.</p> <p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>Development within the curtilage of a house</i></p> <p><b>CLASS 3</b> The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</p>	<ol style="list-style-type: none"> <li>1. No such structure shall be constructed, erected or placed forward of the front wall of a house.</li> <li>2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.</li> <li>3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.</li> </ol>
	<ol style="list-style-type: none"> <li>4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.</li> <li>5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.</li> <li>6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.</li> </ol>

## 6. ASSESSMENT

### ***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'. It is clear that the construction of both a garage and a conservatory to the side of the property comprises 'works' which is defined in section 3(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'. As the proposal comprises 'works' it is clearly therefore 'development' within the meaning of the Act.

**Conclusion:**     *is development*

### ***Exempted Development***

The next issue for consideration is whether or not the matter at hand is exempted development. Section 2(1) of the Act defines 'exempted development' as having 'the meaning specified in section 4' of the Act (which relates to exempted development).

Section 4(3) of the Act states that exempted development either means development specified in section 4(1) or development which is exempted development having regard to any regulations under section 4(2). In my opinion the proposed development to which this request relates does not come within the scope of section 4(1).

It is therefore necessary to consider whether it comes under the scope of section 4(2) (i.e. exemptions specified in the Regulations), having regard to the use of the word 'or' in section 4(3).

- It is considered that a 12.9 sq m garage to the side of the property does satisfy the conditions and limitations of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended.
- It is considered that a 5.3 sq m conservatory erected to the side of the property does not satisfy the conditions and limitations of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended.

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**Conclusion:**                     ***(a) The garage to the side of the dwelling is exempted development***

***(b) The conservatory to the side of the dwelling is NOT exempted development.***

## 7. 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.*

### **7.1 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**.

## 7.2 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**.

## 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 5(2) and 6(1) and Class 1 and Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended,

the Planning Authority has concluded that —

- the 12.9 sq m garage to the side of the property does satisfy the conditions and limitations of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended.
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therefore the Planning Authority considers that —

- the retention of a 12.9 sq m garage to the side of the property at 2 Woodvillas, Ceann Cora Lawn, Boreenmanna Road, Cork **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.
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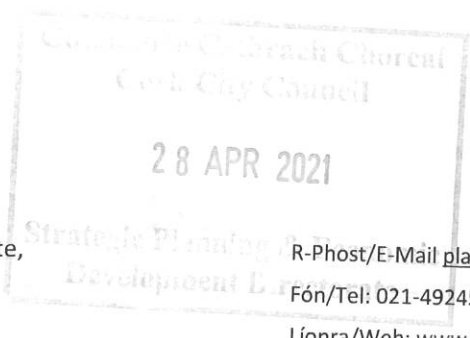
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LUCY TEEHAN  
SENIOR EXECUTIVE PLANNER



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](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**

2 WOODVILLAS CEANNCORA LAWN  
BOREENMANNA ROAD 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.

GARAGE AND CONSERVATORY  
IS RETENTION REQUIRED.

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

(Use additional sheets if required).

GARAGE CONSTRUCTED 28<sup>th</sup> July 1988  
See letter attached 14<sup>th</sup> NOVEMBER 1988  
Size 12.9m sq. Drawings attached.

Conservatory erected mid 1990's. Size 5.3m sq.  
Drawings attached

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?

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:

13,521/87      17,389/88

**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 <sup>st</sup> October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input checked="" 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)
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-----	-----
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**7. APPLICANT/ CONTACT DETAILS**

Name of applicant (principal, not agent):		<u>SYLVIA CANTY (EXECUTOR of Estate)</u>	
Applicants Address		<u>[REDACTED ADDRESS]</u>	
Person/Agent acting on behalf of the Applicant (if any):	Name:		
	Address:		
	Telephone:		
	Fax:		
	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 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	EXECUTOR OF ESTATE	
If you are not the legal owner, please state the name and address of the owner if available		

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

Signature: Sylvia Canty

Date: 27<sup>th</sup> APRIL 2021

### 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 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**

**"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.**

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# Bardas Chorcaí Cork Corporation



Abbeycourt House, Georges Quay,  
~~CITY HALL~~  
CORK

Tel. 021-966222/966017  
Telex Cork EI 75500

Ref PJC/AO'S

Mr. Timothy O'Shaughnessy,  
2 Woodvillas,  
Ceanncora Lawn,  
Boreenamanna Road,  
Cork.

14<sup>th</sup> November, 1988

Re: Garage extension at 2 Woodvillas, Ceanncora Lawn,  
Boreenamanna Road, Cork. BBL 17,389/88.

Dear Sir,

Since work on the above proposal had already commenced before inspection was made under the relevant Building Bye-Laws, no formal Approval will be issued, but you may take it that no further objection will be raised, provided the following condition is complied with:

1. Adequate ventilation be provided to the garage.

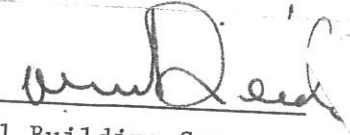
This letter is issued without prejudice to the rights of light, air or otherwise of adjoining owners.

Community Culture & Placemaking

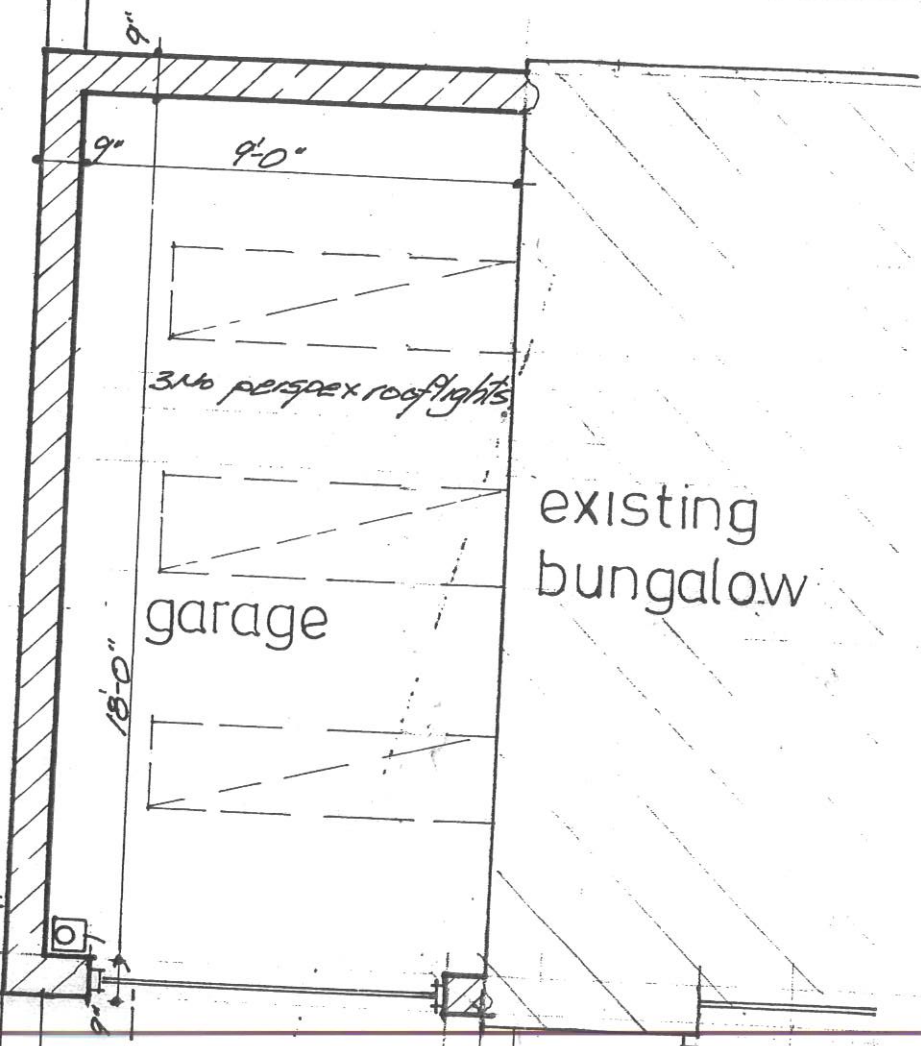
29 APR 2021

RECEIVED

Yours faithfully,

  
Principal Building Surveyor.

existing boundary



3 No perspex rooflights

garage

existing bungalow

new 4" dia pvc  
r.v.d. with  
Culberg 100P  
outlet.

form 2 No conc. steps.

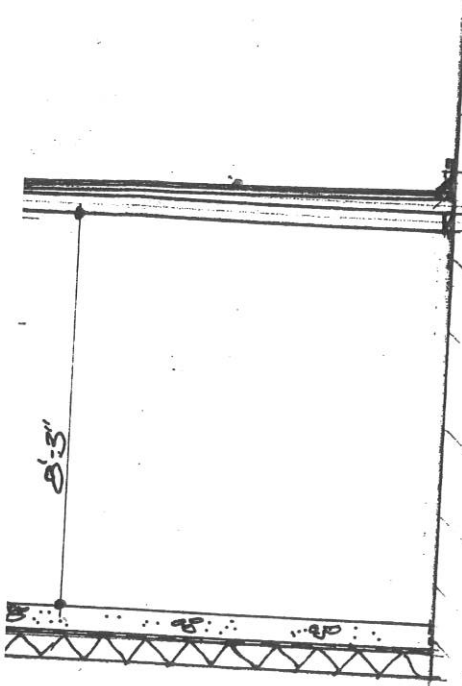
4" dia p.v.c. drain  
connect to existing  
stormwater.

Boundary Cracking

29 APR 2021

RECEIVED

PLAN

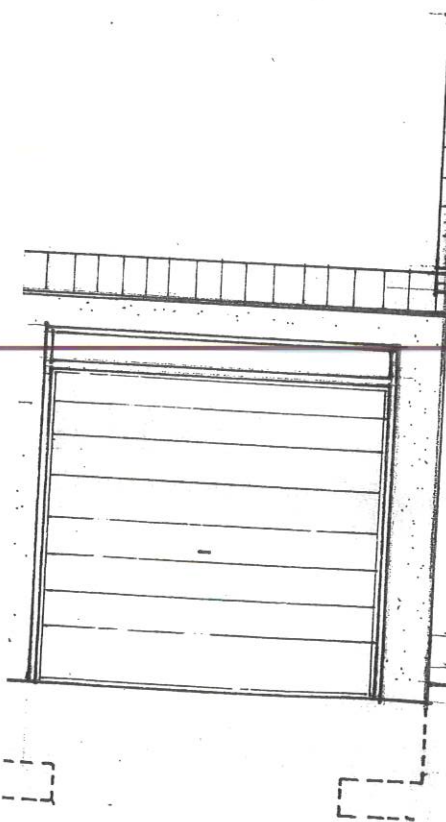


- 4mm high performance roofing membrane on vapour barrier on 3/4" w.p.b. plywood on framing
- on 4"x12" joists @ 16" cts
- 4"x12" wall plate and wall trimmer
- plywood fascia.
- 4" angle fillets.
- dry lining slab to ceiling, tape joints.
- build up 9" conc. hollow blocks on existing wall. render to match existing.

6" conc. floor slab on suspended 1000dpm on hardcore.

CROSS SECTION

Approved by Design & Planning  
 25/03/2021  
 RECEIVED



conc. tile fascia.  
 new standard up over door in timber frame with fanlight over.

ELEVATION

GARAGE EXTENSION TO  
 2 WOODVILLAS  
 CEANNCORA LAWN  
 BORFFNIMANNIA RD CORK





GARAGE EXTENSION TO 2 WOODVILLAS  
 CEANNCORA LAWN BOREENMANNA Rd.  
 SITE LOCATION OS CORK SHEET 74:11  
 scale 1/2500

I HEREBY GIVE YOU NOTICE THAT it is my intention to erect certain buildings in this City and that the following particulars relate thereto, namely:-

Erect garage

1. Address at which proposal is located: 2, Woodvillas, Ceanncora lan Boreenmanna Rd.

2. Nature of proposed work: Garage extension

3. Building Owner: Timothy O'Shaughnessy

4. Architect: John O'Shea

5. Description of: (a) Floors: conc (b) Roof: timber  
(c) Walls: block (d) DPC: visqueen

6. Intended level of ground floor with reference to: (a) Street: 3" over  
(b) Adjoining ground: 3" over

7. Width of street on which buildings abut, i.e. front boundary of site to front boundary of site opposite: 24'-0"

8. Indicate dimensions and total area of (a) Entire site: 800 sq. yds  
(b) Existing open Area at rear and/or side of entrance: 130 sq. yds  
(c) Proposed open area at rear and/or side of structure: 712 sq. yds

9. Please state (a) present use of building: Private dwelling  
(b) Proposed use of building: " "  
(c) In the case of an extension to a private dwelling, if same is to be used as a separate dwelling: No

10. How supplied with water: Mains

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11. Indicate the capacity and location of any: (a) Existing water storage tank(s): not applicable  
(b) Proposed water storage tank(s): not applicable

12. State type and colour of roof covering materials: Gray felt.

13. State dimensions and type of materials in external and boundary walls or fences: all existing

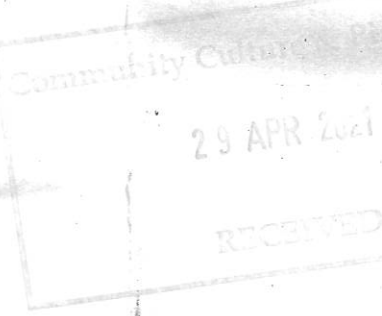
14. Is it intended to apply for a repair or improvement grant? No

Signature of applicant: John O'Shea for client

Address: as per 1.

Address to which notification is to be sent: as per 1.

Dated this 28th day of July 1980



N.B. (a) This form must be accompanied by a complete set of coloured drawings and an adequately detailed specification. See back of form for details.  
(b) Attention is called to the Local Government (Planning and Development) Act, 1963, which requires that Town Planning Permission be obtained in most cases of building or development. This must be a separate application.



CORK CITY COUNCIL  
CITY HALL  
CORK

30/04/2021 09:18:40

Receipt No. : PLAN3/0/7822308  
\*\*\*\*\* REPRINT \*\*\*\*\*

R657 21  
Sylvia Canty

EXEMPTION CERTS - FEES 58800	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
Sylvia Canty	

Total : 80.00 EUR

Tendered :

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Cheque	80.00
035276	

Change : 0.00

Issued By : Eoghan Fahy  
From : Planning Dept. 3  
Vat reg No.0005426M