

Comhairle Cathrach Chorcaí Cork City Council

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

Leah Cronin,
8 Parklawn,
Parklands,
Commons Road,
Cork,
T23 D2N3.

06/03/2024

RE: Section 5 Declaration R827/24 North Mon Primary School, North
Monastery Road, Cork.

A Chara,

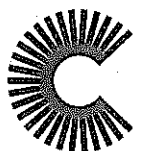
With reference to your request for a Section 5 Declaration at the above-named property, I wish to advise as follows:

The Planning Authority, in review 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 of the Planning and Development Regulations 2001 (as amended),

It is considered that the proposed use of an existing classroom within the North Mon Primary School for a preschool and an afterschool service **IS NOT DEVELOPMENT** and therefore is **NOT EXEMPTED DEVELOPMENT**. No planning permission is required prior to the commencement of this use.

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, 06th of March 2024.



We are Cork.

Is mise le meas,

David O'Regan

**Assistant Staff Officer,
Community, Culture &
Placemaking Directorate**

PLANNER'S REPORT		Cork City Council
Ref. R 827/24		Culture, Community and Placemaking
Application type	Section 5 Declaration	
Description	<i>If an existing classroom (classroom number 14) in the North Monastery Primary School is to be used for educational purposes, as a preschool and afterschool service, can it be confirmed that the building is exempt from planning permission as it was built prior to the 1960 planning regulations?</i>	
Location	North Mon Primary School, North Monastery Road	
Applicant	Leah Cronin	
Date	05/03/2024	
Recommendation	<i>Is Not Development and Is Not Exempted Development (No planning permission is required)</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:

If an existing classroom (classroom number 14) in the North Monastery Primary School is to be used for educational purposes, as a preschool and afterschool service, can it be confirmed that the building is exempt from planning permission as it was built prior to the 1960 planning regulations?

The following additional details were provided:

The classroom will be used as a sessional preschool between the hours of 9.00-12.00. The preschool can accommodate Max 20 children at any one time. The preschool will operate under the ECCE scheme and will cater to children aged 2years 8 months to 5 years 6 months.

An after school will operate from 13.30-16.30 for the children of the north mon primary school.

I note that the question as posed to the planning authority is slightly confusing, it appears to ask whether a building is exempt from planning permission, rather than clearly requesting confirmation that a proposed change of use is exempt. I propose for the purposes of this assessment that the question is revised to read as follows:

Is the change of use of a classroom, within an existing school built prior to 1960, for a preschool and an afterschool service, development, and if so if it is exempted development.

3. Site Description

The subject site is located in the North Monastery education campus located on the western side of Blackpool village between Fair Hill and the North Monastery Road. It is contained within an existing school building, stated to form part of the primary school on this site.

4. Planning History

There is no recent planning history associated with this part of the North Monastery campus. There is however a Section 5 declaration associated with the building, but relating to different classrooms. Issued, under ref. no. R692.21, it concluded that:

*It is considered that proposed use of an existing classroom within a primary school (North Mon Primary) as a pre-school classroom **Is Not Development** and therefore is **Not Exempted Development**. No planning permission is required prior to the commencement of this use.*

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

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.

6. ASSESSMENT

It should be stated at the outset that the purpose of this report is not to determine the acceptability or otherwise of the proposal at this location in respect to the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development.

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. '.

There are no works proposed. The key question is therefore whether or not a material change of use is proposed, which would constitute development. The following details have been provided regarding the nature of the use:

The classroom will be used as a sessional preschool between the hours of 9.00-12.00. The preschool can accommodate Max 20 children at any one time. The preschool will operate under the ECCE scheme and will cater to children aged 2years 8 months to 5 years 6 months.

An after school will operate from 13.30-16.30 for the children of the north mon primary school.

I consider that there will be no material change of use from the established primary school use of the building. Accordingly this report concludes that no development will occur and no planning permission is required.

6.2 Exempted development

As the proposed use of the school as a preschool and an afterschool service is not considered to be development it is therefore not exempted development.

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.

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 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 the European sites referred to above. Accordingly it is considered that appropriate assessment is not required.

8. Conclusion

The following, modified, question has been asked

Is the change of use of a classroom, within an existing school built prior to 1960, for a preschool and an afterschool service, development, and if so if it is exempted development.

This report concludes that the proposed use of part of the North Monastery Primary School for a preschool and an afterschool service is not development and therefore is no exempted development. To be clear no planning permission is required to facilitate the use of part of the building for a preschool and an afterschool service.

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 of the Planning and Development Regulations 2001 (as amended),

It is considered that proposed *use of an existing classroom within the North Mon Primary School for a preschool and an afterschool service* **Is Not Development** and therefore is **Not Exempted Development**. No planning permission is required prior to the commencement of this use.



Martina Foley
Executive Planner

Kate Magner

From: Melissa Walsh
Sent: Tuesday 5 March 2024 14:16
To: Martina Foley; Kate Magner
Subject: RE: Section 5 application

Thanks

Agreed

From: Martina Foley <[REDACTED]>
Sent: Tuesday, March 5, 2024 2:10 PM
To: Melissa Walsh <[REDACTED]>
Cc: Kate Magner <[REDACTED]>
Subject: RE: Section 5 application

Hi Melissa

Sorry if I missed it but did you sign off on this report?

M

From: Martina Foley
Sent: Thursday, February 29, 2024 1:10 PM
To: Melissa Walsh <[REDACTED]>
Cc: Kate Magner <[REDACTED]>
Subject: RE: Section 5 application

Hi Melissa

Please see my Section 5 report attached.

Regards,

Martina

From: Melissa Walsh <[REDACTED]>
Sent: Tuesday, February 27, 2024 1:56 PM
To: Martina Foley <[REDACTED]>
Subject: FW: Section 5 application

Hi there

Given your familiarity- I think! with this complex – could you have a look at this please ?

Thanks

Melissa

From: Kate Magner <[REDACTED]>
Sent: Tuesday, February 27, 2024 1:49 PM

To: Melissa Walsh <melissa_walsh@corkcity.ie>
Subject: Section 5 application

Hi Melissa,

This Section 5 was received today, R827/24 North Mon Primary School, North Monastery Road, Cork. The decision due date is 25/03/2024.

\\fileserv01\CCP_Section\Development_Management\Apps\Section 5\Section 5 Applications\R827-24
North Mon Primary School, North Monastery Road, Cork

Kind regards,
[Kate Magner]
Assistant Staff Officer | Development Management

353 21 492 4029
kate_magner@corkcity.ie

Community, Culture & Placemaking Directorate, Cork City Council, City Hall, Anglesea Street, Cork City T12 T997



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: 021-4924029

Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM

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

1. NAME OF PERSON MAKING THE REQUEST

Leah Cronin

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

North Mon Primary School, North Monastery Road, Cork.

3. 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.

If an existing classroom (classroom number 14) in the North Monastery Primary School is to be used for educational purposes, as a preschool and afterschool service, can it be confirmed that the building is exempt from planning permission as it was built prior to the 1960 planning regulations?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

The classroom will be used as a sessional preschool between the hours of 9.00-12.00. The preschool can accommodate max 20 children at any one time. The preschool will operate under the ECCE scheme and will cater to children aged 2years 8 months to 5 years 6 months.

An afterschool will operate from 13.30-16.30 for the children of the north mon primary school.

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

If so please supply details:

No

5. 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?

6. Was there previous relevant planning application/s on this site? No

If so please supply details:

7. 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	47.6sqm
(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 checked="" type="checkbox"/> If yes, please n ^{rov}
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle) Preschool classroom	Proposed/existing use (please circle) Preschool& afterschool

7. 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	Tenant – Preschool provider	
If you are not the legal owner, please state the name of the owner if available	North Mon Primary School	

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

Signature: Leah Cronin

Date: 26-02-24

