

# Comhairle Cathrach Chorcaí Cork City Council

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

Boris De Swart Studio D Architects 'An Peidhleacan' Model Farm Road Cork

20th June 2021

RE: R650/21 - Section 5 Declaration

Property: 24 Oakfield Avenue, Glanmire, Cork

Dear Sir/Madam,

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

In view of the above, the matters raised in the previous report on file dated 04/05/2021, and having regard to Section 4(1)(h) of the *Planning and Development Act 2000* (as amended), it is considered that the proposed installation of a velux type roof window at 24 Oakfield Avenue, Glanmire Is Development and Is Exempted Development.

Yours faithfully,

Kerry Bergin

Assistant Staff Officer

Community, Culture and Placemaking

Cork City Council





### Studio D Architects

Distillery Court 537 North Circular Road Dublin 1 Ireland T +353 1 894 2522 F +353 1 894 2523 E: design@studiod.ie W: www.studiod.ie

# **FAO Kerry Bergin**

Development Management Section Community, Culture & Placemaking Directorate Cork City Council City Hall Anglesea Street Cork

12 May 2021

RE: R650/21 - Section 5 Declaration @ 24 Oakfield Avenue, Glanmire

Dear Kerry,

Thank you for your letter dated 05th May 2021.

I can confirm the proposed rooflight is to be installed after completion of the development permitted under 20/39143 and not in tandem with same.

We hope you find everything in order and we look forward to your favourable decision. If you have any queries we may be contacted by telephone on 021-242 84 91 or email at boris@studiod.ie.

Sincerely

Boris de Swart B Arch MRIAI

Studio D Architects

1 4 - 05 - 7021

PLANNER'S REPORT  Ref. R650/21		Cork City Council Culture, Community and Placemaking
Application type	Section 5 Declaration	
Description	Is the installation of a velux type roof window size 1180mm high x 1140 mm wide to front of slope of semi-detached, two storey house @ 24 Oakfield Avenue, Glanmire, Co. Cork development, and if so is it exempted development	
Location	24 Oakfield Avenue, Glanmire	
Applicant	Martina & Richard Collins	
Date	19/05/2021	
Recommendation	Is Development and Is Exempted Development	

This report should be read in conjunction with the previous report on the file dated 04/05/2021.

The proposed rooflight would normally be considered development and exempted development under as it would accord with section 4(1)(h) of the Planning and Development Act 2000 (as amended). If however the proposed development will be undertaken in tandem with implementation of Permission 20/39143 then it will not meet the requirements of Condition No. 1 of that grant and cannot be deemed to be exempted development.

Please confirm whether the proposed rooflight will be placed in tandem with the development permitted under 20/39143? If not then please confirm that the insertion of the rooflight will be undertaken either before commencement or after completion of the development permitted under 20/39143?

The applicant has provided written confirmation that the rooflight will be installed after the completion of the development permitted under 20/39143. I am now satisfied that the proposed works are separate from the development permitted under grant 20/39153.

I consider that the proposed roof light would not affect the external appearance of 24 Oakfield Avenue so as to render the appearance inconsistent with the character of the structure or of neighbouring structures and the insertion a roof light is development and is exempted development.

#### Recommendation

In view of the above, the matters raised in the previous report on file dated 04/05/2021, and having regard to Section 4(1)(h) of the *Planning and Development Act 2000* (as amended), it is considered that the proposed installation of a velux type roof window at 24 Oakfield Avenue, Glanmire Is Development and Is Exempted Development.

Martina Foley Executive Planner



# Comhairle Cathrach Chorcaí Cork City Council

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

Boris De Swort Studio A Architects An Peidhleacan Model Farm Road, Cork

05<sup>th</sup> May 2021

RE:

R650/21- Section 5 Declaration

Property: 24 Oakfield Avenue, Glanmire

Dear Sir/Madam,

With reference to your request for a section 5 Declaration at the above named property, I am advised to request further information:

The proposed rooflight would normally be considered development and exempted development under as it would accord with section 4(1)(h) of the Planning and Development Act 2000 (as amended). If however the proposed development will be undertaken in tandem with implementation of Permission 20/39143 then it will not meet the requirements of Condition No. 1 of that grant and cannot be deemed to be exempted development.

Please confirm whether the proposed rooflight will be placed in tandem with the development permitted under 20/39143? If not then please confirm that the insertion of the rooflight will be undertaken either before commencement or after completion of the development permitted under 20/39143?

Yours faithfully,

Kerry Bergin

**Assistant Staff Officer** 

Community, Culture and Placemaking

Cork City Council



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Ref. R650/21		Culture, Community and Placemaking
Application type	Section 5 Declaration	
Description	Is the installation of a velux type roof window size 1180mm high x 1140 mm wide to front of slope of semi-detached, two storey house @ 24 Oakfield Avenue, Glanmire, Co. Cork development, and if so is it exempted development	
Location	24 Oakfield Avenue, Glanmire	
Applicant	Martina & Richard Collins	
Date	04/05/2021	
Recommendation	Request FI	1

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:

Is the installation of a velux type roof window size 1180mm high x 1140 mm wide to front of slope of semidetached, two storey house @ 24 Oakfield Avenue, Glanmire, Co. Cork development, and if so is it exempted development

## 3. Site Description

The subject site is located in the Oakfield estate in the Brooklodge area of Glanmire. Dwellings in this estate have been adapted over time with a variety of windows etc. This is not an architectural conservation area.



Google Image

The dwelling is a semidetached residence, south eastern facing on a sloping slope which rises from the roadside. The property is not on the register of protected structures.

# 4. Planning History

20/39143

Construction of first floor extension over existing single storey extension to side, construction of single storey extension to rear, associated site development works, all to existing two storey semi-detached house.

Outcome

Granted 20/07/2020

# 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 <u>or</u> 'the making of any material change in the use of any structures or other land'

# Section 4(1)(h),

The following shall be exempted developments for the purposes of this Act-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 2001-2013.

# 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

Article 9 (1)

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

(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,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural

conservation area or an area specified as an architectural conservation area in a development plan for the area ... and the development would materially affect the character of the area,

# 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

### 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 wake park 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. '.

Lonsider that the proposed roof light constitutes development as it comprises of alteration to an existing building.

# 6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. There are no specific exemptions for the placement of rooflights. Some are however exempted by the Act.

Section 4(1)(h) of the Act sets out a limited exemption for development to the exterior of buildings. The measure used is whether the development / works 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.

The subject site is not within an Architectural Conservation Area and the property is not on the Register of Protected Structures.

Permission was granted to an extensive side extension in 2020 under 20/39143. Condition no. 1 on that grant of permission states:

The development shall be carried out in accordance with the plans and particulars submitted the planning authority on 05/03/2020, except where otherwise altered or amended by conditions contained in this schedule.

**Reason:** To define the scope of the permission, and to enable the planning authority to check the proposed development when completed, in the interests of proper planning and sustainable development.

The plans provided to show the proposed roof light are based upon the plans submitted on 05/03/2020 as part of the Application 20/39143. I note that any deviation from or alteration to the development from that as applied for under 20/39143 would contravene condition no. 1 on this grant of permission.

The subject Section 5 application has not set out when the rooflight will be inserted. If it is to be inserted as part of the development permitted under 20/39143 then it would contravene this permission.

However, if the proposed insertion of a roof light were to be undertaken independently of the permitted development, either before or after the development permitted under 20/39143 is implemented, then I consider that it would be exempt under section 4(1)(h). Specifically, I consider that the proposed roof light would not affect the external appearance of 24 Oakfield Avenue so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

As it is not possible to issue a conditional Section 5 determination I consider it appropriate to request further information to confirm the time frame in which the works are proposed.

# 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 question has been asked:

Is the installation of a velux type roof window size 1180mm high x 1140 mm wide to front of slope of semidetached, two storey house @ 24 Oakfield Avenue, Glanmire, Co. Cork development, and if so is it exempted development

Having considered the particulars submitted with the application and the relevant legislation as set out above, I consider that the further information should be sought

# 9. Recommendation

The following further information is required to assess the subject application:

ne proposed rooflight would normally be considered development and exempted development under as it would accord with section 4(1)(h) of the Planning and Development Act 2000 (as amended). If however the proposed development will be undertaken in tandem with implementation of Permission 20/39143 then it will not meet the requirements of Condition No. 1 of that grant and cannot be deemed to be exempted development.

Please confirm whether the proposed rooflight will be placed in tandem with the development permitted under 20/39143? If not then please confirm that the insertion of the rooflight will be undertaken either before commencement or after completion of the development permitted under 20/39143?

Martina Foley

A/Senior Executive Planner



CORK CITY COUNCIL CITY HALL CORK

09/04/2021 10:27:25

Receipt No. : PLAN3/0/7822179
\*\*\*\*\* REPRINT \*\*\*\*\*

R650 21 Studio D Ltd

EBA EXEMPT CERTS - FEES 58800 80.00
GOODS 80.00
VAT Exempt/Non-vatable
Studio D Ltd

Total:

80.00 EUR

Tendered:

Cheque 000635 80.00

Change:

0.00

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



CORK CITY COUNCIL CITY HALL CORK

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# **PLANNING DEPARTMENT**

# CASHDESK RECEIPT CHECKLIST

Name: Studio DL+	
Amount: <u>686.60</u>	TP No.: R650 21.
Description/ Address: 24	Oakheld Averue, Glamee, Cork
Business Unit	Description
TI4110 (Transitions Area)	<ul> <li>Copies of Planning Permission</li> <li>Copies of Planning Decisions</li> <li>Copies of Final Grant</li> <li>General copying</li> <li>Archive Retrieval</li> <li>Microfiche</li> </ul>
14114	<ul> <li>Application Fees</li> </ul>
TI4114(Transitions Area)	
TI4116 (Transitions Area)	<ul> <li>Section 5 applications (Exemption Certs)</li> <li>Extension of Duration Applications</li> <li>Planning Searches</li> </ul>
I4117 TI4117( <i>Transitions Area</i> )	<ul> <li>Submissions/Objections on Planning Applications</li> </ul>
14118	Recouped Enforcement Expenses
TI4118(Transitions Area) 14121 TI4121(Transitions Area)	<ul> <li>Section 254 Licence fees (Fingerpost signs)</li> </ul>
I4122 TI4122( <i>Transitions Area</i> ) I4124	<ul> <li>SHD Fees (Strategic Housing Developments)</li> <li>Planning Bond Letters</li> </ul>
TI4124( <i>Transitions Area</i> ) I4100 TI4100( <i>Transitions Area</i> )	Outdoor Event Licences
Planning Contributions  TP NO.: 1656 21  Amount: 80.00	JDE Account NO.:
Signed: Locain	Date: 3   03   2   .  Rev. 002_11.9.20



# Studio D Architects

Distillery Court 537 North Circular Road Dublin 1 Ireland T +353 1 894 2522 F +353 1 894 2523 E: design@studiod.ie W: www.studiod.ie

Development Management Section Community, Culture & Placemaking Directorate Cork City Council City Hall Anglesea Street Cork

25 March 2021

Dear Sir/Madam,

Please find enclosed Section 5 Declaration application for installation of Velux type roof window to the front roof slope of semi-detached, two storey house at 24 Oakfield Avenue, Glanmire, Cork.

Enclosed (2 copies of each):-

- Application form + FEE
- Record Place Map, scale 1:10,560
- Site Location Map, scale 1:1,000
- Site Plan, scale 1:250
- Elevations/Sections, scale 1:100



24 Oakfield Avenue, Glanmire, Cork, front of existing house

We hope you find everything in order and we look forward to your favourable decision. If you have any queries we may be contacted by telephone on 021-242 84 91 or email at boris@studiod.ie.

Sincerely

Boris de Swart B Arch MRIAI

**Studio D Architects** 

Cora City Council

2 6 -03 - 2021

average Planning & Economic

# 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: 021-4924762

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

Is the construction of a shed at No 1 Wall St, Cork development and if so, is it

24 OAKFIELD AVENUE, GLANMIRE, CORK

exempted development?

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Note: only works listed and described under this section will be assessed under the section 5 declaration.

15 THE INSTAULTION OF A VELUX TYPE ROOF WINDOW SIZE

# 2. QUESTION/ DECLARATION DETAILS

Sample Question:

SEMI-DETACHED, TWO STORET HOUSE @ GLANMINE, GO. GRE DEVELOPMENT, EXEMPTED DEVELOPMENT.	AND IF SO IS IT
ADDITIONAL DETAILS DECARDING QUESTION / WORKS / DEVE	ODMENT
ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVEL (Use additional sheets if required).	×
DEMONDS AND PHOD ENGLISED (	2001ES.)
	TO THE RESIDENCE OF THE PROPERTY OF THE PROPER
	Comhaire Caile Mhabhail
	Cork City Countil

2 6 -03- 2021

3.	Are you aware of any enforcement proceed if so please supply details:		nected to this	site?
4.	Is this a Protected Structure or within the c	urtilage	of a Protected S	Structure? No.
	If yes, has a Declaration under Section 57 o requested or issued for the property by the			pment Act 2000 been
5.	Was there previous relevant planning appliate of the previous relevant planning rele			
6.	APPLICATION DETAILS			
	the following if applicable. Note: Floor areas are	measure	d from the inside	of the external walls and
	be indicated in square meters (sq. M)  ) Floor area of existing/proposed structure/s	5	137 squ tta	USE POR PLANNING
(b	o) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including for which planning permission has been obtained)?		Yes	No rovide floor areas. (sq m)
(c	) If concerning a change of use of land and /	or build	ng(s), please sta	ate the following: NA
	AL INTEREST	roposed,	existing use (pl	ease circle)
Please	e tick appropriate box to show applicant's	A. Ow	ner	B. Other
Where	legal interest in the land or structure  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				
9. I / W Signatu Date: _	25/22/02	in the a	pplication is tr	ue and accurate:

R650/21

# CONTACT DETAILS

# 10. Applicant:

Name(s)	MARTINA AND RIGHARD COLLINS
Address	

# 11. Person/Agent acting on behalf of the Applicant (if any):

Name(s):	BORIS DE SWART
Address:	STUDIO D'ARCHITECTS 'AN PEIDHLEACÁN'
	MODEL FARM ROAD, GORK
Telephone:	(2) 21(2) X(1) (6) (8) (8)
E-mail address:	Boels Co Stoblich . Its
	ndence be sent to the above address?  er is 'No', all correspondence will be sent to the Applicant's  Yes  No  No

# 12. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

#### **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.

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- 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 Pleanala 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.







