

Comhairle Cathrach Chorcaí Cork City Council

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

Representatives of the late Mrs. Maria Dorgan, c/o M/s Crona Hughes, JP O'Meara Solicitors, 89-90 South Mall, Cork c/o Martin O'Callaghan, Skevanish, Innishannon Co. Cork.

11/11/2022

RE: Section 5 Declaration R748/22 No. 4 Branrach, Springmount,
Glanmire Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 02nd November 2022, I wish to advise as follows:

The Planning Authority, 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 and 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that "the existing single storey extension" as shown in the plans provided, to the rear of the property at No. 4 Branrach, Springmount, Glanmire,

IS DEVELOPMENT and **IS EXEMPTED DEVELOPMENT** in accordance with Article 6 of the Planning and Development Act 2000 (as amended).

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, 11th November 2022.

Is mise le meas,

Kate Magner

Development Management Section

Community, Culture and Placemaking Directorate

Cork City Council

Late lagger



PLANNER'S REPORT Ref. R748/22		Cork City Council Development Management Strategic Planning and Economic Development
Application type Section 5 Declaration		
Description	Is the existing single storey extension to the rear of the property classified as exempted development	
Location	No. 4 Branrach, Springmount, Glanmire	
Applicant	nt Representatives of the Late Mrs. Maria Dorgan c/o M/s Crona Hughes, JP O Meara Solicitors 89-90 South Mall	
Date	10/11/2022	
Recommendation	mmendation Is development and is exempted development	

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 response to Q2 on the application for the applicant frames the following question:

Is the existing single storey extension to the rear of the property classified as exempted development

3. Site Description

The property in question is a semi-detached two storey home in Glanmire.

4. Planning History

There are no recent planning applications associated with the site.

5. Legislative Provisions

5.1 The Act – Planning and Development Act 2000 (as amended)

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(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 – Planning and Development Regulations 2001 (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.

SCHEDULE 2, ARTICLE 6, PART 1, Exempted Development — General

Column 1	Column 2
Description of Development	Conditions and Limitations
Development within the curtilage of a house CLASS 1	1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.
The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the	(b) 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.
house or by the conversion for use as part of	(c) Subject to paragraph (a), where the house is detached, the floor area of any
the house of any garage, store, shed or other	extension above ground level shall not exceed 20 square metres.
similar structure attached to the rear or to the side of the house.	2. (a) 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
fait of the state	metres. (b) 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. (c) Subject to paragraph (a), where the house is detached and has been extended.
n e e e e e e e e e e e e e e e e e e e	previously, the floor area of any extension above ground level, taker 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 20 square metres.
	3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.
0001	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.
	(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.

	(c) The height of the highest part of the roof of any such extension shall not
İ	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.
	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.
	6. (a) Any window proposed at ground level in any such extension shall not be less
	than 1 metre from the boundary it faces.
	(b) Any window proposed above ground level in any such extension shall not be
	less than 11 metres from the boundary it faces.
	(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 than 11 metres from the boundary it faces.
	7. The roof of any extension shall not be used as a balcony or roof garden.

6. ASSESSMENT

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.'

I consider that the construction of a rear extension constitutes development.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. The question to be answered is as follows:

Is the existing single storey extension to the rear of the property classified as exempted development?

The rear extension as constructed may be exempt if it accords with the exemption set out in Class 1 in Schedule 2 of the *Planning and Development Regulations 2001* (as amended). The following is a review of the proposal against the conditions / limitations set out in Class 1.

The following is a review of the development against the conditions / limitations set out in Class 1.

1. (a) Where the house has not been extended previously, the	(a) Total extension will is less than 40sq.m
floor area of any such extension shall not exceed 40 square	(b) n/a
metres.	(c) n/a
(b) Subject to paragraph (a), where the house is terraced or	This condition / limitation is met
semi-detached, the floor area of any extension above	
ground level shall not exceed 12 square metres.	
(c) Subject to paragraph (a), where the house is detached, the	
floor area of any extension above ground level shall not	

exceed 20 square metres.	
 2. (a) 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. (b) 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. (c) 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 above ground level constructed or erected after 1 October 1964, including those for which planning permission has been 	n/a – Dwelling has not previously been extended.
obtained, shall not exceed 20 square metres.	
Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.	N/a – There is no First Floor element to the extension.
 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. (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. (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. 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. 	 (a) The single storey extension will not exceed the height of the rear wall of the house (b) n/a (c) The height does not exceed the hight of the eaves or parapet This condition / limitation is met. A site plan has been provided. It is not dimensioned. A review of the site plan against land registry mapping indicates that the plan provided may not correctly show the boundaries of the site. Recent aerial photography, in which the extension is visible, shows that there is more than 25m² remaining open space to the rear of the dwelling. On balance it is considered that this condition / limitation is met.
 6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces. (b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces. (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 than 11 metres from the boundary it faces. 	(a) All windows are over 1m from boundaries (b) n/a (c) n/a This condition / limitation is met.
7. The roof of any extension shall not be used as a balcony or roof garden.	The flat roof does not appear to be accessible. This condition / limitation is met.

I consider that the existing extension, as shown in the plans provided, accords with the exempted development provisions set out in the Regulations.

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 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 development site relative to these European sites and related watercourses and to the nature and scale of the development it is considered that the development would not affect the integrity of the European sites referred to above. 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 6, and 9 of the Planning and Development Regulations 2001 (as amended)

It is considered that the -

existing single storey extension, as show in the plans provided, to the rear of the property at no. 4 Branrach, Springmount, Glanmire,

<u>Is development and is exempted development</u> in accordance with Article 6 of the *Planning and Development Act 2000* (as amended).

Executive Planner

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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: 021-4924709

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

NO 4 BRANRACH, SPRINGMOUNT, GLANMIRE, CO CORK. T45YY39

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SP Sample Question:	PECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it
	exempted development?
	ed and described under this section will be assessed under the section 5
IS THE EXISTING SIN	NGLE STOREY EXTENSION TO THE REAR OF THE PROPERTY
CLASSIFIED AS EXE	MPTED DEVELOPMENT
(41212	second) are summer descript in the control of the c
ADDITIONAL DETAILS	S REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets	
THIS EXTENSION W	AS CONSTRUCTED TO ACCOMMODATE AN EN SUITE BEDROOM FOR
	NER(NOW DECEASED) AS SHE HAD MOBILITY AND ACCESS
	THE LATER STAGES OF HER LIFE.
	interest or the landy tracture in question. The state
ARGAM PORS TTAIL	3401.70.2000074472200149
Adags / of paricu	

	Are you aware of any enforcement proceedings connected to this site? If so please supply details:			
	NO			
74	Fon/Fel: 021-4924 Fry	areto Li Corke	as il saraini	ork City Coursell City Hall A
4.	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 appl If so please supply details:			1. POSTAL ADORESS OF
6.	APPLICATION DETAILS	VMIRE, C	ICUNT, GLAI	O & BRANRACH, SPRINGN
	r the following if applicable. Note: Floor area	s are med		ne inside of the external
	a) Floor area of existing/proposed structure/		25.5M2	5%9
	b) If a domestic extension, have any previous extensions/structures been erected at thi location after 1 st October, 1964, (including for which planning permission has been obtained)?	s g those	(sq m)	No very see provide floor areas.
(c) If concerning a change of use of land and /			
Exist	ing/ previous use (please circle)	Proposed	/existing use	please circle)
. LEG	DRKS/ DEVELOPMENT: TRANSPORT			.UOTTONAL DETAILS REGA Use additional silents of requ
	se tick appropriate box to show applicant's interest in the land or structure	A. Ow	ner	B. Other
legal	re legal interest is 'Other', please state your	n 10 s		Jahr Wernamanda
Whe	rest in the land/structure in question			OF THE LATE MRS MARIA

CONTACT DETAILS

4 -	
Name(s)	REPRESENTITIVES OF THE LATE MRS MARIA DORGAN
Address	C/O M/s CRONA HUGHES, JP O MEARA SOLICITORS 89-90 SOUTH MALL CORK
the Application of the Control	
and the same of th	i di kanggarang kanggarang dan kanggarang kanggarang kanggarang kanggarang kanggarang kanggarang kanggarang ka
10. Person/Agent act	ing on behalf of the Applicant (if any):
Name(s):	MARTIN O CALLAGHAN
Address:	SKEVANISH
Something the second	INNISHANNON
	CO CORK
e a fill a legal e a la calabata de	
Telephone:	
E-mail address:	en de la companya de La companya de la co
-	dence be sent to the above address? No ne answer is 'No', all correspondence will be 's address)
Section 2 and 1 an	
11. ADDITIONAL CON	
voluntary and will o	Iditional contact information such as email addresses or phone numbers is only be used by the Planning Authority to contact you should it be deemed rposes of administering the application.
Tal Na	
Tel. No.	,
Mobile No.	

File Ref. No.

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 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 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/adar/.

contact you should it be deame	be used by the Planning Authority to ses of administering the application.	
		Mobile No.
		Email Address:
For Office Use Only:		
	7.77	

No 6 Branrach,
Springmount,
Glanmire,
Co Cork.

The Development Management Section,

Community,

Culture & Placemaking Directorate,

Cork City Council,

City Hall, Anglesea Street,

Cork.

20 10 2022

Existing Single Storey Extension to Rear of No 4 Branrach, Springmount, Glanmire, Co Cork

Application for Section 5 Declaration

Dear Sir/Madam,

We, the Representatives of the late Mrs Maria Dorgan wish to wish an application of a Declaration of Exemption under Section 5 of The Planning and Development Act 200 (as amended).

In support of our application we wish to submit the following as required namely

- (a) Statutory fee €80.00
- (b) Copy of Ground, First Floor Plans, Elevations and Section of existing property (1/100)
- (c) Copy of site layout (1/200)
- (d) Copy of site location map (1/1000)

We trust the foregoing si to your satisfaction and lock forward to a favourable response in due course.

Yours sincerely,

Elaine Mc Carthy (Mrs)

DEVELOPMENT MANAGEMENT

CCP

0 2 NOV 2022

CORK CITY COUNCIL

OSi PLACE Map 575304 National Mapping Agency CENTRE COORDINATES: ITM 572715,575218 6 PUBLISHED: ORDER NO .: 15 20/09/2022 50292374_1 13 MAP SERIES: MAP SHEETS: SPRINGMOUNT DRIVE 1:2,500 6339-A 0.23 Glanmire Gleann 12 COMPILED AND PUBLISHED BY: Maghair Ordnance Survey Ireland, Phoenix Park, Dublin 8. Ireland. Unauthorised reproduction infringes Ordnance Survey Ireland and Government of Ireland copyright. 11 SPRINGMOUNT CLOSE All rights reserved. No part of this publication may be copied, reproduced 0.29 or transmitted in any form or by any means without the prior written permission of the copyright owners. The representation on this map of a road, track or footpath is not evidence of the existence of a right of way. 12 Ordnance Survey maps never show legal property boundaries, nor do they show ownership of physical features. Heathervue © Suirbhéireacht Ordanáis Éireann, HEATHERLUE © Ordnance Survey Ireland, 2022 www.osi.ie/copyright 575132 575132 CAPTURE RESOLUTION: N 30 20 40 metres The map objects are only accurate to the resolution at which they were captured. **OUTPUT SCALE: 1:1,000** LEGEND: Output scale is not indicative of data capture scale. http://www.osi.ie; Further information is available at 40 60 80 100 Feet 20 search 'Large Scale Legend' http://www.osi.ie; search 'Capture Resolution'





