



Comhairle Cathrach Chorcaí Cork City Council

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

Dan & Anne McCarthy
12 Knockrea Lawn,
Ballinlough Road,
Cork

24th May 2021

RE: R646/21 – Section 5 Declaration
Property: 11 Knockrea Lawn, Ballinlough Road, Cork

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

- Section 2, 3, and 4 (specifically 4(b)) of the Planning and Development Act 2000, as amended,
- Article 6 of the Planning and Development Regulations, 2001, as amended

The Planning Authority has concluded that –

- The construction of a single storey extension at the rear of dwelling house, of 26 sqm internal floor area at 11 Knockrea Lawn, Ballinlough road, Cork **is development** and **is NOT exempted development**.

Yours faithfully,

Kerry Bergin
Assistant Staff Officer
Community, Culture and Placemaking
Cork City Council



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Comhairle Cathrach Chorcaí Cork City Council

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

John & Marie Licane
11 Knockrea Lawn,
Ballinlough Road,
Cork

24th May 2021

RE: R646/21 – Section 5 Declaration
Property: 11 Knockrea Lawn, Ballinlough Road, Cork

Dear Mr & Mrs Licane,

Please see below the decision for a section 5 Declaration at the above named property. I wish to advise, and having regard to

- Section 2, 3, and 4 (specifically 4(b)) of the Planning and Development Act 2000, as amended,
- Article 6 of the Planning and Development Regulations, 2001, as amended

The Planning Authority has concluded that –

- The construction of a single storey extension at the rear of dwelling house, of 26 sqm internal floor area at 11 Knockrea Lawn, Ballinlough road, Cork **is development** and **is NOT exempted development.**

Please find enclosed the planners report in relation to same

If you have any question, please do not hesitate to contact me.

Yours faithfully,

Kerry Bergin
Assistant Staff Officer
Community, Culture and Placemaking
Cork City Council



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Comhairle Cathrach Chorcaí Cork City Council

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

Dan McCarthy
12 Knockrea Lawn
Ballinlough
Cork
T12 DW4F

15th April 2021

RE: R646/21 – Section 5 Declaration
Property: 11 Knockrea Lawn, Ballinlough Road, Cork

Dear Mr. McCarthy,

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

(1) Requirement for further information under s. 5(2)(b) of the Act

1. *Your attention is brought to Condition / Limitation 4(a)(b)(c) of the Regulations:*

Part 4(b) states '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'.

~~It is noted that the rear wall of the house does appear to include a gable and that the height of the walls of the proposed extension appear to exceed the height of the side walls of the house.~~

Having regard to the provisions of section 5(2)(b) of the Planning and Development Act 2000, as amended, you are requested to submit any further information you consider may be relevant in order to enable the planning authority to issue the declaration on the question.

*Please ensure that any information you may wish to submit is received by the planning authority **within 4 weeks.***

Yours faithfully,

Kerry Bergin
Assistant Staff Officer
Community, Culture and Placemaking
Cork City Council



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Comhairle Cathrach Chorcaí Cork City Council

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

John and Marie Licane
11 Knockrea Lawn
Ballinlough Road
Cork

15/04/2021

RE: R646/21 – Section 5 Declaration
Property: No. 11 Knockrea Lawn, Ballinlough Road, Cork

Dear Mr & Mrs Licane,

With to the above section 5 Declaration, I am advised to request further information

(1) Request for information under s. 5(2)(c) of the Act

Please note that a request for a declaration under section 5 of the Planning and Development Act 2000, as amended, in relation to land(s) and/or structure(s) within your ownership has been received by Cork City Council. Section 5 provides that 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 request in writing from the relevant planning authority a declaration on that question.

The planning register reference number is R 646/21 and the request is available for inspection at the Planning public counter on the ground floor of City Hall, Cork.

The matter relates to whether the construction of a 26 sq m single storey extension to the rear of the existing dwelling at 11 Knockrea Lawn, Ballinlough, is 'development' and is or is not 'exempted development' within the meaning of the Planning and Development Acts 2000-2012, and the Planning and Development Regulations 2001-2021.

In this regard your attention is brought to Condition / Limitation 4(a)(b)(c) of the Regulations:

Part 4(b) states '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.'

It is noted that the rear wall of the house does appear to include a gable and that the



We are Cork.

height of the walls of the proposed extension appear to exceed the height of the side walls of the house, therefore part (b) of this condition and limitation is considered **not to be satisfied**.

Note – While the previous Planning Decision on this file **R631/20** stated that (Limitation 4(b) did not apply). Following the re-inspection of the previous application and the inspection of the subject application, the Planning Authority is of the opinion that 4(b) is applicable in this instance.

Limitation 4(b) states '*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*'.

The rear wall of the house does in fact appear include a gable and as such any proposed extension proposed under the Exempted Development Regulations would require the extension not to exceed the height of the side walls of the house.

Having regard to the provisions of section 5(2)(c) of the Planning and Development Act 2000, as amended, you are requested to submit any information you consider may be relevant in order to enable the planning authority to issue the declaration on the question.

*Please ensure that any information you may wish to submit is received by the planning authority **within 4 weeks**.*

In accordance with section 5(2)(a) of the abovementioned Act, you will be issued with the declaration on the question that has arisen and the main reasons and considerations on which the decision of the planning authority is based

Yours faithfully,



Kerry Bergin

Assistant Staff Officer

Community, Culture and Placemaking

Cork City Council



Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Córcaigh = City Hall, Cork = T12 T997

Dan Mc Carthy
12 Knockrea Lawn
Ballinlough
Cork
T12 DW4F

24/03/2021

RE: R646/21 – Section 5 Declaration
Property: 11 Knockrea Lawn, Ballinlough, Cork

Dear Mr. McCarthy,

With reference to your request for a section 5 Declaration at the above named property, I wish to advise that your application was received on 18/03/2021 and is being considered by the relevant planner.

I will notify you as soon as a decision has been made.

Please find attached receipt of your application fee.

Yours faithfully,

Kerry Bergin
Assistant Staff Officer
Community, Culture and Placemaking
Cork City Council





CORK CITY COUNCIL
CITY HALL
CORK

22/03/2021 13:56:06

Receipt No. : PLAN3/0/7822102
***** REPRINT *****

R646 21
Daniel & Anne McCarthy

EXEMPTION CERTS - FEES 58800 80.00
GOODS 80.00
VAT Exempt/Non-vatable
Daniel & Anne McCarthy

Total : 80.00 EUR

~~Tendered :~~
Cheque 80.00
500515

Change : 0.00

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

PLANNING DEPARTMENT

CASHDESK RECEIPT CHECKLIST

Name: Denise & Anne McGeelhy.

Amount: €80.00 TP No.: R646/21.

Description/ Address: 11 Knockree Lawn, Ballynagh Rd.

Business Unit	Description
I4110	Copies of Planning Permission <ul style="list-style-type: none">• Copies of Planning Decisions• Copies of Final Grant
TI4110 (<i>Transitions Area</i>)	

I4114	• Application Fees
TI4114 (<i>Transitions Area</i>)	

I4116	• Section 5 applications (Exemption Certs) <ul style="list-style-type: none">• Extension of Duration Applications• Planning Searches
TI4116 (<i>Transitions Area</i>)	

I4117	• Submissions/Objections on Planning Applications
TI4117 (<i>Transitions Area</i>)	

I4118	• Recouped Enforcement Expenses
TI4118 (<i>Transitions Area</i>)	

I4121	• Section 254 Licence fees (Fingerpost signs)
TI4121 (<i>Transitions Area</i>)	

I4122	• SHD Fees (Strategic Housing Developments)
TI4122 (<i>Transitions Area</i>)	

I4124	• Planning Bond Letters
TI4124 (<i>Transitions Area</i>)	

I4100	• Outdoor Event Licences
TI4100 (<i>Transitions Area</i>)	

Planning Contributions

TP NO. : R646/21 JDE Account NO.: _____

Amount: €80.00

Signed: K. Bergin Date: 20/03/21

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: R 646/21

Description: Is the construction of a 26 sq m single storey extension to the rear of the existing dwelling at 11 Knockrea Lawn, Ballinlough, Exempted Development.

Applicant(s): Dan & Anne McCarthy, John & Meg Storey, Carmel McCarthy

Location: 11 Knockrea Lawn, Ballinlough Road, Cork

Date: 13/04/21

SUMMARY OF RECOMMENDATION

Recommend that FURTHER INFORMATION be requested.

Interpretation

In this report the ‘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.

Purpose of Report

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the 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 Questions before the Planning Authority

The Question to the Planning Authority is,

‘Whether the construction of a single storey 26sqm extension at the rear of dwelling house is exempted development.’

In my opinion the intention of the request is clear.

Site Description

The subject site comprises a two storey, detached dwelling, located at Knockrea Lawn, accessed off the Ballinlough Road, Cork. The site is bound by a low wall to the front of the property, with car parking for 2 no. cars.

Description of Development

The proposed development comprises the construction of a single storey extension to the rear of the existing dwelling measuring at 26sqm internal floor area.

Planning History

R631/20 Whether the construction of a single storey 26sqm extension to the rear of the existing dwelling at 11 Knockrea Lawn, Ballinlough, is Exempted Development

The decision made by the Planning Authority was that the proposed rear extension satisfied the limitations set out in Article 6 of the Planning and Development Regulations, and therefore it was concluded that the proposed development is Development and is Exempted Development.

Relevant Legislation

Planning and Development Act, 2000, as amended

Section 2(1)

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

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

- a) where the context so admits, includes the land on, in or under which the structure is situate, and
- b) in relation to a protected structure or proposed protected structure, includes—
 - i. the interior of the structure,
 - ii. the land lying within the curtilage of the structure,
 - iii. any other structures lying within that curtilage and their interiors, and
 - iv. all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1)

In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land

Section 4(1) (h)

~~(1) The following shall be exempted developments for the purposes of this Act~~

...

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section (4) (2)

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempt 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)

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.

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 Description of Development	Column 2 Conditions and Limitations
<p><i>Development within the curtilage of a house</i> CLASS 1 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.\</p>	<p>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (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. (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.</p> <p>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 obtained, shall not exceed 20 square metres.</p>
	<p>3. 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. (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed</p>

	<p>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>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 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>

Article 9 (1)

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

a) if the carrying out of such development would—

- i. Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- ii. Consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width
- iii. Endanger public safety by reason of traffic hazard or obstruction of road users,
- iv. Except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which 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, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- v. Consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies
- vi. Interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

- vii. Consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,
 - A consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended.
 - B comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,
 - C consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.
- viii. Consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
- ix. Consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan in the draft variation of the development plan or the draft development plan,
- ~~x. Consist of the fencing or enclosure of any land habitually open to or used by the public during the 10~~
years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,
- xi. Obstruct any public right of way.
- 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 or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,

Sub-threshold EIS

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No3) 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 EIS is not required to be submitted.

Appropriate Assessment

The relevant European sites are the Cork Harbour SPA (Site Code 004030) and the Great Island Channel SAC (site code 001058). Having regard to its nature, scale and location it is considered that the proposed development would not affect the integrity of the sites referred to. Accordingly it is considered that a Natura impact statement for the purposes of Article 6 of the Habitats Directive is not required to be submitted.

Assessment

Is it 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 the extension would constitute the carrying out of works and as such constitutes development.

CONCLUSION

Is development

Is it Exempted Development?

The next issue for consideration is whether or not the matter at hand is exempted development. Class 1 developments, as set out in Schedule 2 of the *Planning and Development Regulations 2001* (as amended), include extensions to dwellings. The query here is whether the subject development meets the conditions and limitations as set out in Column 2.

Having assessed the proposed extension against Class 1 and its conditions and limitations I find as follows:

Condition / Limitation 1

The house has not been previously extended. The proposed extension is indicated as being 26m² in area and is a single storey extension. Therefore part (a) of this condition and limitation are satisfied (parts (b) and (c) do not apply).

Condition / Limitation 2

The house has not been previously extended therefore this condition/limitation does not apply.

Condition / Limitation 3

The proposed works are ground floor only therefore this condition/limitation does not apply.

Condition / Limitation 4(a)(b)(c)

The highest part of the roof of the proposed extension does not exceed the height of the highest part of the roof of the dwelling. Therefore part (c) of this condition and limitation is satisfied.

Part 4(b) states '*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*'.

I note that the rear wall of the house does include a gable and that the height of the walls of the proposed extension exceed the height of the side walls of the house, therefore part (b) of this condition and limitation is not satisfied.

Note - The previous Planning Decision on this file **R631/20** stated that (Limitation 4(b) did not apply). Following the re-inspection of the application, I find this assessment to be incorrect.

Limitation 4(b) states '*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*'.

The rear wall of the house does in fact appear to include a gable and as such any proposed extension proposed under the Exempted Development Regulations would require the extension not to exceed the height of the side walls of the house.

Condition / Limitation 5

More than 25m² of open space will remain to the rear of the dwelling. Proposed drawings indicate approximately 210m² of open space will remain to the rear of the proposed extension.

Condition / Limitation 6

Windows are located at least 1m from the boundary wall.

Condition / Limitation 7

It does not appear that the roof is proposed to be used as a balcony or roof terrace.

Having regard to the above, it is considered that the proposed development would appear not to satisfy the conditions and limitations set out for Class 1 developments, as set out specifically under Condition 1, Limitation 4(b).

CONCLUSION

Recommend that Further Information be requested

It is recommended that (1) the 'applicant', being the person who made the request (c/o Dan McCarthy) be advised of (1) below and (2) the owner / occupier of the premises in question being John and Marie Licane, be requested to submit any information that may be relevant in order for the planning authority to issue the declaration. The recommended wording for (1) and (2) is set out below:

(1) Requirement for further information under s. 5(2)(b) of the Act

(For attention, the 'applicant')

1. Your attention is brought to Condition / Limitation 4(a)(b)(c) of the Regulations:

Part 4(b) states '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'.

It is noted that the rear wall of the house does appear to include a gable and that the height of the walls of the proposed extension appear to exceed the height of the side walls of the house.

Having regard to the provisions of section 5(2)(b) of the Planning and Development Act 2000, as amended, you are requested to submit any further information you consider may be relevant in order to enable the planning authority to issue the declaration on the question.

Please ensure that any information you may wish to submit is received by the planning authority **within 4 weeks.**

(2) Request for information under s. 5(2)(c) of the Act

(For attention, the owner of the subject premises, listed below)

**John and Marie Licane
11 Knockrea Lawn
Ballinlough Road
Cork**

Please note that a request for a declaration under section 5 of the Planning and Development Act 2000, as amended, in relation to land(s) and/or structure(s) within your ownership has been received by Cork City Council. Section 5 provides that 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 request in writing from the relevant planning authority a declaration on that question.

The planning register reference number is R 646/21 and the request is available for inspection at the Planning public counter on the ground floor of City Hall, Cork.

The matter relates to whether the construction of a 26 sq m single storey extension to the rear of the existing dwelling at 11 Knockrea Lawn, Ballinlough, is 'development' and is or is not 'exempted development' within the meaning of the Planning and Development Acts 2000-2012, and the Planning and Development Regulations 2001-2021.

In this regard your attention is brought to Condition / Limitation 4(a)(b)(c) of the Regulations:

Part 4(b) states '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'.

It is noted that the rear wall of the house does appear to include a gable and that the height of the walls of the proposed extension appear to exceed the height of the side walls of the house, therefore part (b) of this condition and limitation is considered **not to be satisfied.**

Note - The previous Planning Decision on this file **R631/20** stated that (Limitation 4(b) did not apply). Following the re-inspection of the previous application and the inspection of the subject application, the Planning Authority is of the opinion that 4(b) is applicable in this instance.

Limitation 4(b) states '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'.

The rear wall of the house does in fact appear include a gable and as such any proposed extension proposed under the Exempted Development Regulations would require the extension not to exceed the height of the side walls of the house.

Having regard to the provisions of section 5(2)(c) of the Planning and Development Act 2000, as amended, you are requested to submit any information you consider may be relevant in order to enable the planning authority to issue the declaration on the question.

Please ensure that any information you may wish to submit is received by the planning authority within 4 weeks.

In accordance with section 5(2)(a) of the abovementioned Act, you will be issued with the declaration on the question that has arisen and the main reasons and considerations on which the decision of the planning authority is based.

Lucy Teehan
Senior Executive Planner

Dan McCarthy,
12 Knockrea Lawn,
Ballinlough,
Cork,
T12 DW4F.
March 17th 2021
dmcc19@gmail.com
087 0509704

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

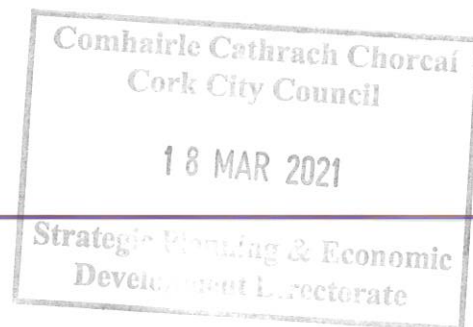
Regarding: Section 5 declaration application form iro 11 Knockrea Lawn, Ballinlough, Cork.

Dear Sir / Madam

As per my telephone conversation with Lucy Teehan on Monday, 15th of March 2021, I now attach Section 5 declaration application form and await hearing from you.

Regards


Dan McCarthy



**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: 021-4924564/4321
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 11 KNOCKREA LAWN, BALLINLOUGH ROAD,
CORK. T12 TW9K.

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.

IS THE CONSTRUCTION OF A 26sq.m. SINGLE STOREY
EXTENSION TO THE REAR OF THE EXISTING
DWELLING AT 11 KNOCKREA LAWN, BALLINLOUGH
EXEMPTED DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

PLEASE NOTE IN PARTICULAR - PLANNING & DEVELOPMENT REGS 2001 - AS AMENDED
PART 1 EXEMPTED DEVELOPMENT - GENERAL - ARTICLE 6(1) 4 (b) -
'WHERE THE REAR WALL OF A 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',
THE HEIGHT OF THE SIDE WALLS OF THE HOUSE ARE 2.4M,
WHILST IT IS PROPOSED THAT THE SIDE WALLS OF THE
EXTENSION WILL REACH 3.80M.

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

If so please supply details:

No

4. Is this a Protected Structure or within the curtilage of a Protected Structure? No

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?

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

If so please supply details:

APPLICATION FOR SECTION 5 EXEMPTION STATUS PREVIOUSLY
REF. E8261 & R631/20.

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 <u>existing</u> /proposed structure/s	26 sq. m.
(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 provide floor areas. (sq m)
(c) If concerning a change of use of land and / or building(s), please state the following: N/A	
Existing/ previous use (please circle)	Proposed/existing use (please circle)
-----	-----
-----	-----
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7. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):	(a) DAN & ANNE Mc CARTNEY. (b) JOHN & PEG STOREY. (c) CARMEL Mc CARTNEY.	
Applicants Address	(a) 12 KNOCKREA LANE, BALLINLOUGH. (b) 12 KNOCKREA LANE, BALLINLOUGH. (c) 12 KNOCKREA LANE, BALLINLOUGH.	
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? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

To (c):
12 KNOCKREA LANE
BALLINLOUGH RD.
CORK T12 DW4F.

2. What other projects or programs are currently underway in the area?

1. Is this a project that is a part of the State's or Federal Government's program? If Yes, has a Declaration of Intent been issued? If the Planning & Development Act 1990 does not apply, please provide the project's location and a brief description.

Yes, it is a part of the State's program. The project is located at [location] and is a part of the [program].

3. APPLICANT CONTACT DETAILS

Name of applicant (individual, not agent): [Name]

Address: [Address]

Person/Agent acting on behalf of the Applicant (if any): [Name]

Address: [Address]

Telephone: [Number]

Fax: [Number]

E-mail address: [Email]

Should all correspondence be sent to the above address? Yes No

Is a copy of this form to be sent to the applicant? Yes No

7.11.2003
 CORR. THIS IS DWHF.
 BARRMARCH RD.

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	N/A - NEIGHBOURING PROPERTY	
If you are not the legal owner, please state the name and address of the owner if available	JOHN & MARIE LECANE 11 KNOCKREA LAWN BALLINLOUGH RD, CORK.	

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

Signature: *Donna McCarthy*

Marie Lecane

Barney McCarthy

Date: 17.03.2021

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.

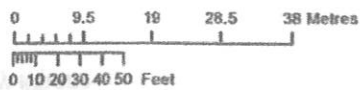
The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation 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.

Planning Pack map



OUTPUT SCALE: 1:1,000



CENTRE COORDINATES:
ITM 568757,570867

PUBLISHED: 07/01/2021
MAP SERIES: 1:1,000
ORDER NO.: 50164250_1
MAP SHEETS: 6383-16, 6383-17

CAPTURE RESOLUTION:
The map objects are only accurate to resolution at which they were capture. Output scale is not indicative of data scale. Further information is available at: <http://www.osi.ie>; search 'Capture Res'.
LEGEND:
<http://www.osi.ie>; search 'Large Scale'

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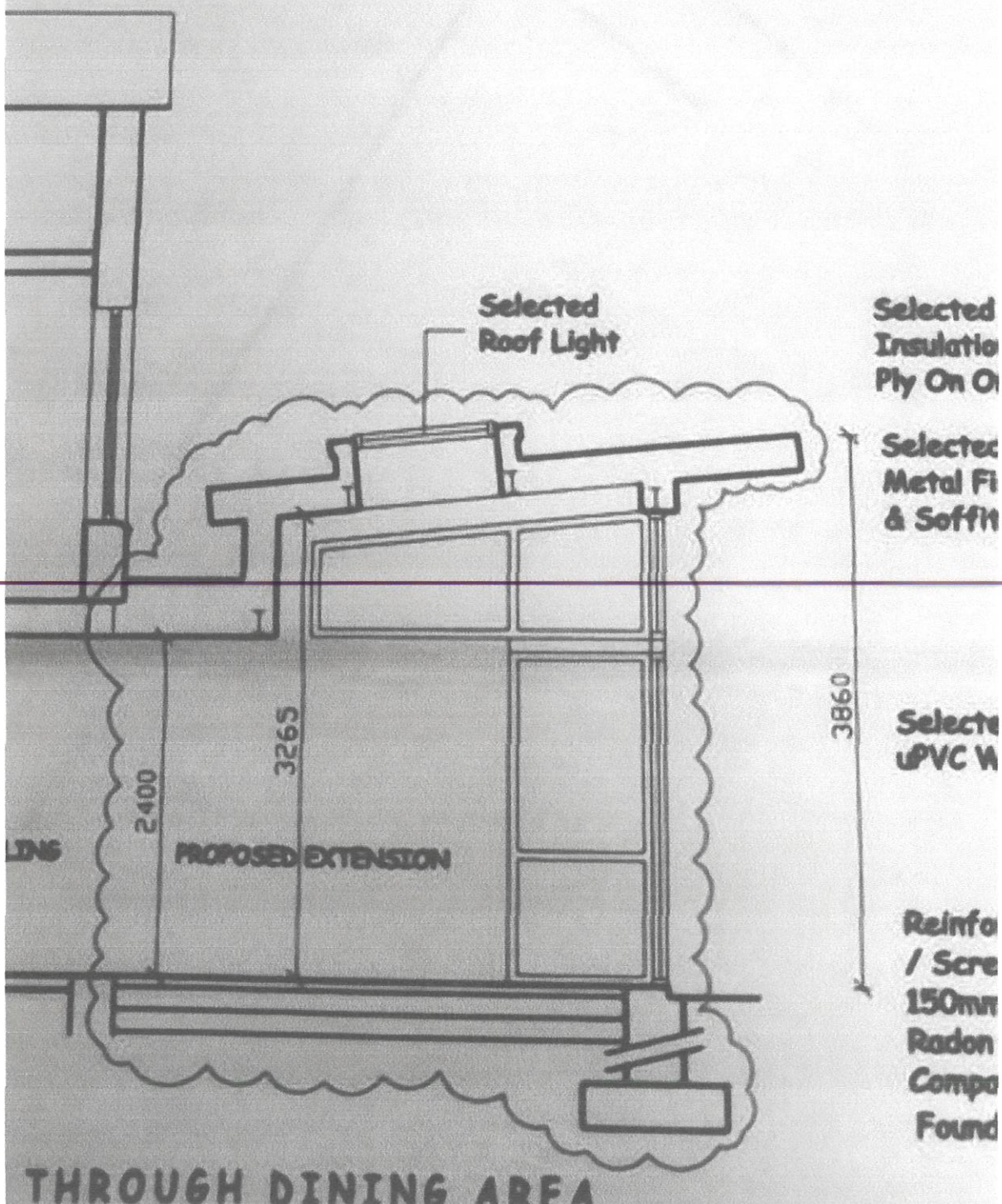
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Ordnance

EXISTING DWELLING

PROPOSED EXTENSION

ELEVATION - NORTH WEST



Selected
Roof Light

Selected
Insulation
Ply On Outside

Selected
Metal Finish
& Soffit

Selected
UPVC Windows

Reinforced / Screed
150mm Radon
Composite
Foundation

3860

3265

2400

PROPOSED EXTENSION

THROUGH DINING AREA