



Comhairle Cathrach Chorcaí Cork City Council

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

Patrick O Sullivan
1 Ashdown Grange
Douglas
Cork
T12 HOX7

06/10/2020

RE: Section 5 Declaration R605/20 1 Ashdown, Grange, Douglas, Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above named property

The question has been asked whether the conversion of an attic including the insertion of 1 no. velux window (measuring 1m x 1m) to the rear is exempted development.

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed works constitute development and is exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended) insofar as the works are for the improvement or other alteration of the house being works 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.

In view of the above and having regard to —

- Section 4(1)(h) of the Planning and Development Act 2000 (as amended)

It is considered that the conversion of attic conversion of an attic including the insertion of 1 no. velux window (measuring 1m x 1m) to the rear is exempted development at 1 Ashdown, Grange, Douglas, Cork **Is Development** and is **Exempted Development**.

Is misa le meas,

Kerry Bergin
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

PLANNER'S REPORT Ref. R605/20		Cork City Council Culture, Community and Placemaking
Application type	Section 5 Declaration	
Description	<i>Whether conversion of attic including the insertion of 1 no. velux window (measuring 1m x 1m) to the rear is exempted development.</i>	
Location	1 Ashdown, Grange, Douglas, Cork.	
Applicant	Patrick O Sullivan	
Date	02/10/2020	
Recommendation	<i>Is Development and Is Exempted Development</i>	

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a section 5 declaration are set out in the Act.

2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

Is the conversion of an attic, a stairs leading to the 2nd floor (attic area), a velux window (1m x 1m) facing the rear of the property and a toilet and sink exempted development?

3. Site Description

The property in question is a two storey end-of-terrace house located at 1 Ashdown, Grange, Douglas, Cork.

4. Planning History

None

5. Legislative Provisions

5.1 The Act

Section 2(1),

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

Section 3(1),

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

Section 4(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 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.

6. ASSESSMENT

6.1 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.

‘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 proposed element constitutes development as it comprises of works which includes the conversion of the attic space and the insertion of 1 no. velux window.

6.2 Exempted development

Internal works to convert the attic space would not constitute a material change of use and internal works are specifically exempt under Section 4(1)(h) of the Planning and Development Act 2000 as amended insofar as it would be an improvement or other alteration to the house which affects only the interior of the structure.

As a consequence of the attic conversion, the applicant is seeking to install a 1m x 1m velux rooflight on the rear roofslope of the house. This would externalise the attic conversion by causing works to the exterior of the building. The relevant consideration in this instance, for the purpose of Section 4(1)h of the Planning and Development Act 2000 as amended, is whether the rear rooflight would affect the external appearance of the house so as to render it inconsistent with the character of the house or of neighbouring structures.

I note that the subject dwelling is not a Protected Structure and does not form part of an Architectural Conservation Area. It is also noted that there is a rooflight on the rear roofslope of the house located immediately adjacent to the subject site at no.2 Ashdown. Overall having regard to the location and size of the rooflight, and the character and design of the terrace, it is considered that the rooflight would 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.

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 Assessment Report 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 question has been asked whether the conversion of an attic including the insertion of 1 no. velux window (measuring 1m x 1m) to the rear is exempted development.

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed works constitute development and is exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended) insofar as the works are for the improvement or other alteration of the house being works 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.

9. RECOMMENDATION

In view of the above and having regard to —

- Section 4(1)(h) of the Planning and Development Act 2000 (as amended)

It is considered that the conversion of attic conversion of an attic including the insertion of 1 no. velux window (measuring 1m x 1m) to the rear is exempted development at 1 Ashdown, Grange, Douglas, Cork Is Development and is Exempted Development.



Claire Owens
Assistant Planner
2/10/2020

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?

If so please supply details: NO

6. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	<u>14 m²</u>
(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:	
Existing/ previous use (please circle) _____ _____ _____	Proposed/existing use (please circle) _____ _____ _____

8. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
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 / We confirm that the information contained in the application is true and accurate:

Signature: P. O' Sullivan

Date: 28/09/20

This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.prl.ie.

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- Subleasehold

Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit

A full list of burdens and their symbology can be found at www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.



1:1000 Scale

