



Comhairle Cathrach Chorcaí Cork City Council

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

Board of Management of Gaelscoil Pheig Sayers,
c/o Frank O'Mahony,
Matt O'Mahony & Associates,
8 Sidney Place,
Wellington Road,
Cork T23 E7EY.

13/06/2023

**RE: Section 5 Declaration R776/23 Gaelscoil Pheig Sayers,
Redemption Road, Cork T23 FKA0.**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 18th April 2023, and further information received 24th May 2023, I wish to advise as follows:

In view of the above and having regard to:

- Sections 2, 3, 4 and 57(1) of the Planning and Development Act 2000 (as amended),
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),
- Schedule 2 of the Planning and Development Regulations 2001 (as amended), specifically Class 20D as inserted by SI114 of 2021;

The Planning Authority considers that –

the installation of a temporary structure, for use as a classroom, at Gaelscoil Pheig Sayers, for a period of less than 5 years – IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.

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, 13th June 2023.



We are Cork.

It is noted that there doesn't appear to be a justification for the structure's location or an explanation for its need; this should be provided in any future planning application. The Planning Authority would also advise that the structure should ideally be relocated to a less sensitive part of the site, as this is one of the main elevations.

Limited information has been submitted with the Section 5 and the following should be clearly illustrated/ explained in any forthcoming planning application:

- what the structure will look like, its height, materials etc. and how it would visually impact the protected structure;
- how it will be serviced, and if there will be any physical and/ or visual alterations to the protected structure to support this; and
- how it will be installed and if there would be any associated impact (including temporary) on the surrounding areas, such as gardens walls etc.

Is mise le meas,



Kate Magner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council

PLANNER'S REPORT Ref. R776/23		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Whether a temporary structure for use as a classroom for a period not exceeding 5 years is exempt or is not exempted development.</i>	
Location	S. Joseph's National School, Mardyke.	
Applicant	Board of Management, St. Joseph's School.	
Date	13/06/2023	
Recommendation	the installation of a temporary structure, for use as a classroom, at Gaelscoil Pheig Sayers, for a period of less than 5 years – IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.	

Further Information Response

This report should be read in conjunction with the previous report dated 12/05/23. The applicant/owner of the site as part of the FI request was requested to submit the following further information:

Point No. 1

The applicant is requested to submit details to demonstrate that the proposed temporary structure would comply with Condition No. 2 of Class 20D as set out in the Planning and Development Regulations 2001 (as amended).

Point No. 2

The applicant is requested to submit details to demonstrate that the proposed temporary structure would comply with Condition No. 4 of Class 20D as set out in the Planning and Development Regulations 2001 (as amended).

Point No. 3

The applicant is requested to submit a request in writing to the Planning Authority under Section 57(1) and (2) of the Planning and Development Act 2000 (as amended) seeking a declaration to state that the proposed temporary structure would not materially affect the character of the protected structure on site.

Assessment

The applicant has submitted further information in response to the 3 points raised above. The applicant states that the proposed floor area given its size and given the size of the existing main building on site will comply with Condition No. 2 of Class 20D. The applicant has submitted further detail as well as a revised site layout map to show the location of the site boundary. In relation to Condition No. 4 of Class 20D the applicant states that the proposed structure will be situated approx. 45m from the site boundary. The applicant has also submitted details with regard to a Section 57 declaration.

The City Conservation Officer has examined the details submitted to date and states the following:

“Gaelscoil Pheig Sayers is located in a protected structure (Ref: PS623). The applicant has requested a Section 5 which relates to the temporary erection of a classroom adjacent to the main building, in front of its southwestern elevation.

Works shall only be considered exempted development if they do not materially affect the character of a protected structure - see Section 57(1) of the Planning and Development Act 2000 (as amended). We would advise that the proposed works would affect the character of the building and that an application for planning permission should, therefore, be submitted.

We note that there doesn't appear to be a justification for the structure's location or an explanation for its need; this should be provided in any future planning application. We would also advise that the structure should ideally be relocated to a less sensitive part of the site, as this is one of the main elevations.

Limited information has been submitted with the Section 5 and the following should be clearly illustrated/explained in any forthcoming planning application: what the structure will look like, its height, materials etc. and how it would visually impact the protected structure; how it will be serviced, and if there will be any physical and/or visual alterations to the protected structure to support this; and how it will be installed and if there would be any associated impact (including temporary) on the surrounding areas, such as gardens walls etc.

Regarding the request for a Section 57, please note that we do not intend to produce this document as it is not appropriate in this instance. A Section 57 considers all potential works to a protected site and its curtilage and does not focus specific works. Furthermore, a Section 57 would determine that a structure like this would require planning permission.”

Conclusion

The question has been asked whether the installation of a temporary structure, for use as a classroom, at Gaelscoil Pheig Sayers, for a period of less than 5 years, is exempted development.

Having considered the particulars submitted with the application, the further information submitted and the relevant legislation as set out above, it is considered that the proposed temporary accommodation is development. From the details submitted the proposed structure would comply with all of the conditions attached to Class 20D as set out in the Planning and Development Regulations 2001 (as amended). However, despite this as the proposed structure is to be located within the curtilage of a protected structure and as the City Conservation Officer considers that the proposed works would affect the character of the building the proposed structure cannot be considered to be exempt.

RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3, 4 and 57(1) of the Planning and Development Act 2000 (as amended),
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),
- Schedule 2 of the Planning and Development Regulations 2001 (as amended), specifically Class 20D as inserted by SI114 of 2021;

the Planning Authority considers that —

the installation of a temporary structure, for use as a classroom, at Gaelscoil Pheig Sayers, for a period of less than 5 years – **IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.**

Note to be sent to applicant:

It is noted that there doesn't appear to be a justification for the structure's location or an explanation for its need; this should be provided in any future planning application. The Planning Authority would also advise that the structure should ideally be relocated to a less sensitive part of the site, as this is one of the main elevations.

Limited information has been submitted with the Section 5 and the following should be clearly illustrated/ explained in any forthcoming planning application:

- what the structure will look like, its height, materials etc. and how it would visually impact the protected structure;
- how it will be serviced, and if there will be any physical and/ or visual alterations to the protected structure to support this; and
- how it will be installed and if there would be any associated impact (including temporary) on the surrounding areas, such as gardens walls etc.



Tadhg Hartnett
Executive Planner
12/06/23

PLANNER'S REPORT Ref. R776/23		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Whether a temporary structure for use as a classroom for a period not exceeding 5 years is exempt or is not exempted development.</i>	
Location	S. Joseph's National School, Mardyke.	
Applicant	Board of Management, St. Joseph's School.	
Date	13/06/2023	
Recommendation	<i>Further Information is required</i>	

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

1. Requirements for a Section 5 Declaration

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

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

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

2. The Question before the Planning Authority

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

"Is the installation of a temporary structure, for use as a classroom, at Gaelscoil Pheig Sayers, for a period of less than 5 years, exempted development"

3. Site Description

The property in question is an existing school structure with some single storey buildings to the side and rear.

4. Planning History

One planning application is attached to this site:

11/34953: Permission granted for a mixed use development with a particular focus on education and training on the lands of the former St. Finbarr's Seminary and grounds (protected structure) at Farranferris, Farranree, Cork City.

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 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.

Section 57 (1) Notwithstanding section 4(1)(h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—

(a) the structure, or

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

(2) An owner or occupier of a protected structure may make a written request to the planning authority, within whose functional area that structure is situated, to issue a declaration as to the type of works which it considers would or would not materially affect the character of the structure or of any element, referred to in subsection (1)(b), of that structure.

5.2 The Regulations

Article 5(1)

“school” has the meaning assigned to it by the Education Act 1998.

The Education Act 1998

"school" means an establishment which-

- (a) provides primary education to its students and which may also provide early childhood education, or
 - (b) provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training,
- but does not include a school or institution established in accordance with the Children Acts, 1908 to 1989, or a school or institution established or maintained by a health board in accordance with the Health Acts, 1947 to 1996, or the Child Care Act, 1991 ;

Article 9 (1)

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

–

- (a) (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,*
- (a) (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,*

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*

SI 114 of 2021

2. Schedule 2 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended, in Part 1, by –

(a) the substitution of the following text for the text in column (1) under the heading CLASS 20C: “Temporary use as a school of any structure formerly used as a school, hall, club, art gallery, museum, library, reading room, gymnasium, or other public building, or any structure normally used for religious instruction.”

(b) the insertion of the following after CLASS 20C:

<p>CLASS 20D Development consisting of – The erection on land on which a school is situated of a structure to facilitate the continued delivery of education</p>	<ol style="list-style-type: none"> 1. No such structure shall be erected for a period exceeding 5 years. 2. The gross floor area of such structure shall not exceed 30% of the gross floor area of the existing school. 3. No such structure shall exceed two storeys. 4. Distance to party boundary - (a) any single storey structure shall be a distance of not less than 2 metres from any party boundary, (b) any two-storey extension facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling, or (c) any two-storey extension closer than 12.5m to a party boundary, or facing and closer than 22 metres to the dwelling shall - (i) have no windows overlooking, or (ii) have obscure glass. 5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force
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(c) the substitution of the following text for the text in column (1) under the heading CLASS 57: “The extension of a school, where the school has not been previously extended under a CLASS 57 exemption, by the construction or erection of an extension to the side or rear of the school.

(d) the substitution of the following text for the text in column (2) in so far as it relates to CLASS 57: “ 1. The floor area of any such extension shall not exceed 210 square metres. 2. No such structure shall be above the ground floor. 3. Any extension shall be a distance of not less than 2 metres from any party boundary. 4. An exemption under this class shall only be availed of once. 5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force

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 proposed erection of temporary classroom does constitute works and therefore is development.

5.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

It is considered that an assessment as to whether the proposed temporary classroom is or is not exempted development cannot be carried out at present. It is noted that as part of the details submitted to the planning authority to date the floor area of the proposed structure has not been submitted in conjunction with the floor area of the main school building(s) on site. Therefore, it is difficult to determine if the proposed floor area is in excess or under 30% of the gross floor area of the existing school. The applicant is required to submit this information to demonstrate that the proposed temporary structure would comply with Condition No. 2 of Class 20 D as set out in the Planning Regulations.

It is also noted that the red line boundary of the site has not been submitted and so the Planning Authority is unable to determine the distance that the proposed structure is from the sites party boundary. The applicant is required to submit this information to demonstrate that the proposed temporary structure would comply with Condition No. 4 of Class 20 D as set out in the Planning Regulations.

Furthermore, the temporary structure is located within the curtilage of a protected structure Ref PS623 Farranferris Seminary. In order to ascertain if the proposed structure would have any negative impact on the proposed structure the owner would be required to apply to the Planning Authority for a Section 57 declaration which would demonstrate that the proposed structure would not materially affect the character of the structure on site.

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 question has been asked whether

“the installation of a temporary structure, for use as a classroom, at Gaelscoil Pheig Sayers, for a period of less than 5 years, 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 temporary accommodation is development however further information is required to be submitted to determine if the proposed structure can be deemed to be exempted development.

9. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),
- Schedule 2 of the Planning and Development Regulations 2001 (as amended), specifically Class 20D as inserted by SI114 of 2021;

It is considered that temporary classroom accommodation is Development however the Planning Authority is unable to determine at this time if the temporary structure is or is not exempted Development. Therefore, the applicant/owner of the site is requested to submit the following further information:

1. The applicant is requested to submit details to demonstrate that the proposed temporary structure would comply with Condition No. 2 of Class 20D as set out in the Planning and Development Regulations 2001 (as amended).
2. The applicant is requested to submit details to demonstrate that the proposed temporary structure would comply with Condition No. 4 of Class 20D as set out in the Planning and Development Regulations 2001 (as amended).
3. The applicant is requested to submit a request in writing to the Planning Authority under Section 57(1) and (2) of the Planning and Development Act 2000 (as amended) seeking a declaration to state that the proposed temporary structure would not materially affect the character of the protected structure on site.



Tadhg Hartnett
Executive Planner
12/05/23

24 May 2023

Ms. Kate Magner
Development Management Section
Community, Cultural and Placemaking Directorate
Cork City Council
City Hall
Cork
T12 T997



Re: Section 5 Declaration R776/236 Gaelscoil Pheig Sayers, Redemption Road, Cork T23 FK40
Our Ref: FOM/MOS/E22.2548

Dear Kate,

Your letter of 12 May on the above matter refers (copy of letter enclosed).

Our responses to your queries are as follows:

1. The temporary structure will comply with Condition No. 2 of Class 20D, as its floor area will be 60 sq.m. This is less than 262 sq.m which is 30% of the floor area of the existing school (872 sq.m).
2. The proposed temporary structure will comply with Condition No. 4 of Class 20D as it will be a single storey structure and the closest boundary will be 45m away.
 - Please see enclosed copy of Site Location Map on which the boundaries have been marked in Blue and the above dimension has been noted.
3. Please find enclosed a letter under Section 57 (1) and (2) seeking a declaration to state that the proposed temporary structure will not materially affect the character of the protected structure on site.

If you have any queries please do not hesitate to contact this office.

Yours sincerely,



Frank O'Mahony, B.E. M.Eng.Sc., C.Eng, M.I.E.I.
Matt O'Mahony & Associates



Encl.



Comhairle Cathrach Chorcaí Cork City Council

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

Board of Management of
Gaelscoil Pheig Sayers,
c/o Frank O'Mahony,
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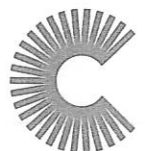
12/05/2023

**RE: Section 5 Declaration R776/23 Gaelscoil Pheig Sayers,
Redemption Road, Cork T23 FKA0**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 18th April 2023, I wish to advise under the provisions of section 5(2)(b) of the Planning and Development Act 2000, as amended, that further information is required in order to properly assess this application.

1. The applicant is requested to submit details to demonstrate that the proposed temporary structure would comply with Condition No. 2 of Class 20D as set out in the Planning and Development Regulations 2001 (as amended).
2. The applicant is requested to submit details to demonstrate that the proposed temporary structure would comply with Condition No. 4 of Class 20D as set out in the Planning and Development Regulations 2001 (as amended).
3. The applicant is requested to submit in writing to the Planning Authority under Section 57(1) and (2) of the Planning and Development Act 2000 (as amended) seeking a declaration to state that the proposed temporary structure would not materially affect the character of the protected structure on site.



We are Cork.

Is mise le meas,



Kate Magner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council

Land Registry Compliant Map



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**CENTRE
COORDINATES:**
ITM 567124,573421

PUBLISHED: 27/03/2023
ORDER NO.: 50325583_1

MAP SERIES: 1:1,000
MAP SHEETS: 6337-24
1:1,000 6337-25

COMPILED AND PUBLISHED BY:
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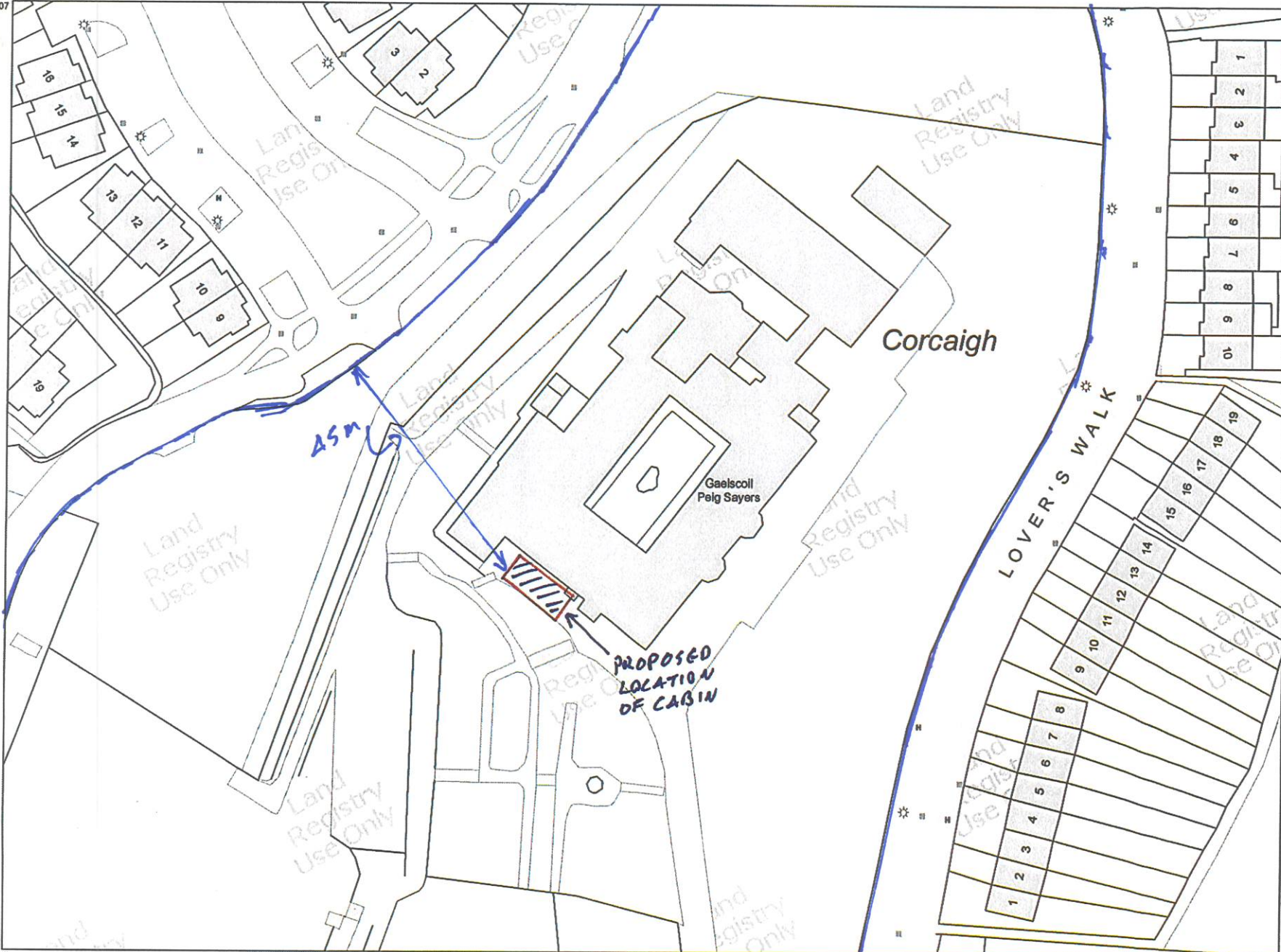
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24 May 2023

Planning Department
Cork City Council
City Hall
Cork
T12 T997

**Re: *Proposed Installation of Temporary Structure at Gaelscoil Pheig Sayers,
Redemption Road, Cork T23 FK40
Section 5 Declaration R776/236
Our Ref: FOM/MOS/E22.2548***

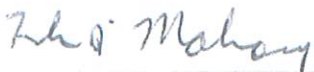
Dear Sir / Madam,

We are writing to you under Section 57 (1) and (2) of the Planning and Development Act 2000 (as amended) to seek a declaration to state that the proposed temporary structure that is the subject of Section 5 Declaration R776/23 would not materially affect the character of the protected structure on site.

Please find enclosed a copy of the site location plan which we have shown the proposed location of the single storey temporary structure.

If you have any queries please do not hesitate to contact this office.

Yours sincerely,



Frank O'Mahony, B.E. M.Eng.Sc., C.Eng, M.I.E.I.
Matt O'Mahony & Associates

Encl.

Land Registry Compliant Map



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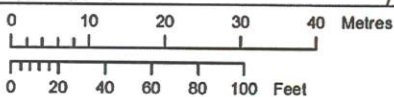
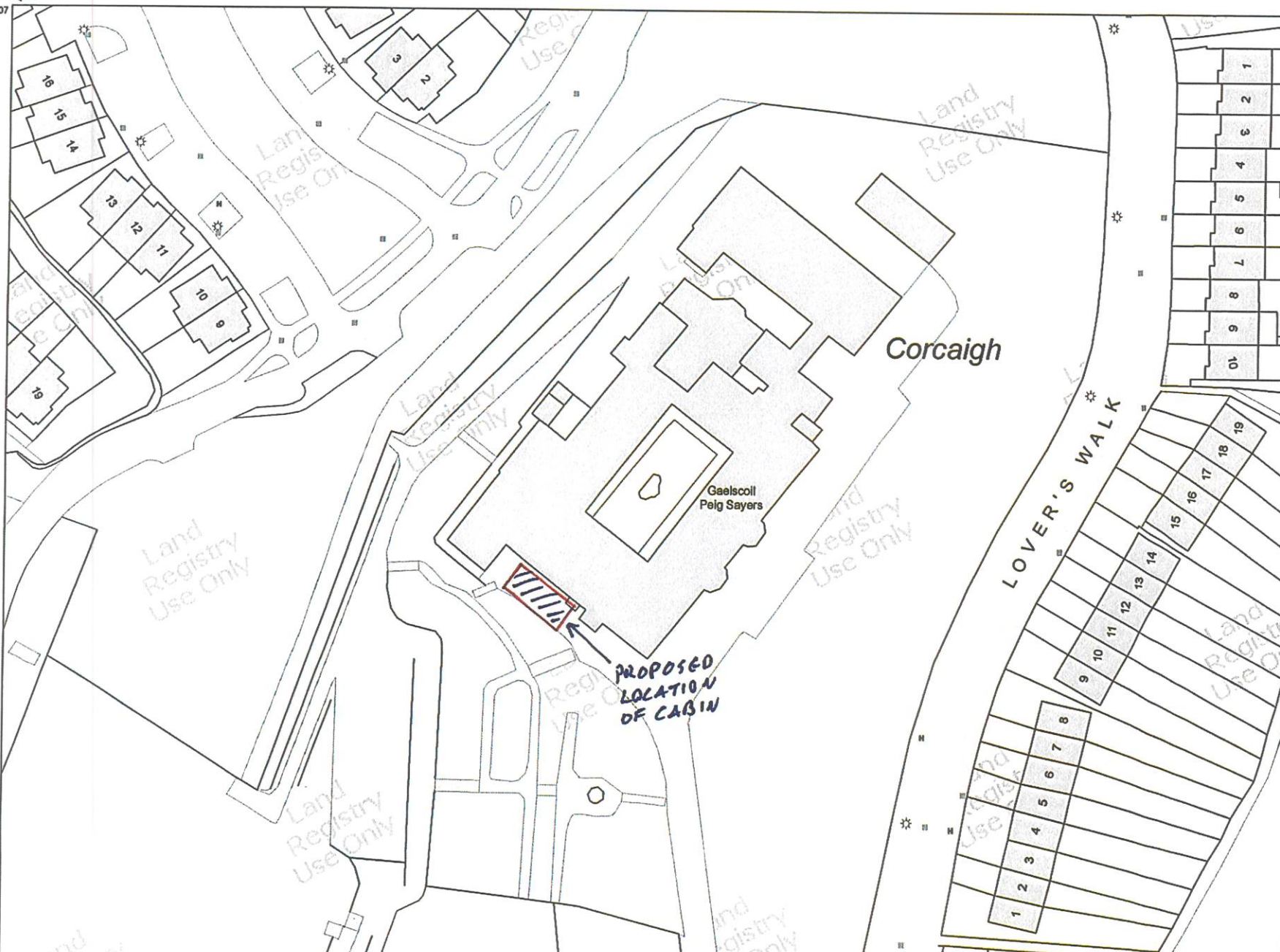
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Comhairle Cathrach Chorcaí Cork City Council

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

Board of Management of
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12/05/2023

**RE: Section 5 Declaration R776/23 Gaelscoil Pheig Sayers,
Redemption Road, Cork T23 FKA0**

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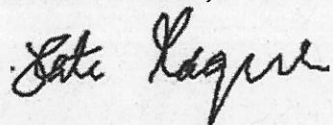
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Cork City Council

PLANNER'S REPORT Ref. R776/23		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Whether a temporary structure for use as a classroom for a period not exceeding 5 years is exempt or is not exempted development.</i>	
Location	S. Joseph's National School, Mardyke.	
Applicant	Board of Management, St. Joseph's School.	
Date	12/05/2023	
Recommendation	<i>Further Information is required</i>	

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

1. Requirements for a Section 5 Declaration

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

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

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

2. The Question before the Planning Authority

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

"Is the installation of a temporary structure, for use as a classroom, at Gaelscoil Pheig Sayers, for a period of less than 5 years, exempted development"

3. Site Description

The property in question is an existing school structure with some single storey buildings to the side and rear.

4. Planning History

One planning application is attached to this site:

11/34953: Permission granted for a mixed use development with a particular focus on education and training on the lands of the former St. Finbarr's Seminary and grounds (protected structure) at Farranferris, Farranree, Cork City.

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 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.

Section 57 (1) Notwithstanding section 4(1)(h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—

- (a) the structure, or*
- (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.*

(2) An owner or occupier of a protected structure may make a written request to the planning authority, within whose functional area that structure is situated, to issue a declaration as to the type of works which it considers would or would not materially affect the character of the structure or of any element, referred to in subsection (1)(b), of that structure.

5.2 The Regulations

Article 5(1)

“school” has the meaning assigned to it by the Education Act 1998.

The Education Act 1998

"school" means an establishment which-

(a) provides primary education to its students and which may also provide early childhood education, or

(b) provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training,

but does not include a school or institution established in accordance with the Children Acts, 1908 to 1989, or a school or institution established or maintained by a health board in accordance with the Health Acts, 1947 to 1996, or the Child Care Act, 1991 ;

Article 9 (1)

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

- (a) (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,
- (a) (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,

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

SI 114 of 2021

2. Schedule 2 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended, in Part 1, by –

(a) the substitution of the following text for the text in column (1) under the heading CLASS 20C: “Temporary use as a school of any structure formerly used as a school, hall, club, art gallery, museum, library, reading room, gymnasium, or other public building, or any structure normally used for religious instruction.”

(b) the insertion of the following after CLASS 20C:

<p>CLASS 20D Development consisting of – The erection on land on which a school is situated of a structure to facilitate the continued delivery of education</p>	<ol style="list-style-type: none"> 1. No such structure shall be erected for a period exceeding 5 years. 2. The gross floor area of such structure shall not exceed 30% of the gross floor area of the existing school. 3. No such structure shall exceed two storeys. 4. Distance to party boundary - (a) any single storey structure shall be a distance of not less than 2 metres from any party boundary, (b) any two-storey extension facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling, or (c) any two-storey extension closer than 12.5m to a party boundary, or facing and closer than 22 metres to the dwelling shall - (i) have no windows overlooking, or (ii) have obscure glass. 5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force
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(c) the substitution of the following text for the text in column (1) under the heading CLASS 57: “The extension of a school, where the school has not been previously extended under a CLASS 57 exemption, by the construction or erection of an extension to the side or rear of the school.

(d) the substitution of the following text for the text in column (2) in so far as it relates to CLASS 57: “ 1. The floor area of any such extension shall not exceed 210 square metres. 2. No such structure shall be above the ground floor. 3. Any extension shall be a distance of not less than 2 metres from any party boundary. 4. An exemption under this class shall only be availed of once. 5. Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force

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 proposed erection of temporary classroom does constitute works and therefore is development.

5.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

It is considered that an assessment as to whether the proposed temporary classroom is or is not exempted development cannot be carried out at present. It is noted that as part of the details submitted to the planning authority to date the floor area of the proposed structure has not been submitted in conjunction with the floor area of the main school building(s) on site. Therefore, it is difficult to determine if the proposed floor area is in excess or under 30% of the gross floor area of the existing school. The applicant is required to submit this information to demonstrate that the proposed temporary structure would comply with Condition No. 2 of Class 20 D as set out in the Planning Regulations.

It is also noted that the red line boundary of the site has not been submitted and so the Planning Authority is unable to determine the distance that the proposed structure is from the sites party boundary. The applicant is required to submit this information to demonstrate that the proposed temporary structure would comply with Condition No. 4 of Class 20 D as set out in the Planning Regulations.

Furthermore, the temporary structure is located within the curtilage of a protected structure Ref PS623 Farranferris Seminary. In order to ascertain if the proposed structure would have any negative impact on the proposed structure the owner would be required to apply to the Planning Authority for a Section 57 declaration which would demonstrate that the proposed structure would not materially affect the character of the structure on site.

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 question has been asked whether

“the installation of a temporary structure, for use as a classroom, at Gaelscoil Pheig Sayers, for a period of less than 5 years, 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 temporary accommodation is development however further information is required to be submitted to determine if the proposed structure can be deemed to be exempted development.

9. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),
- Schedule 2 of the Planning and Development Regulations 2001 (as amended), specifically Class 20D as inserted by SI114 of 2021;

It is considered that temporary classroom accommodation is Development however the Planning Authority is unable to determine at this time if the temporary structure is or is not exempted Development. Therefore, the applicant/owner of the site is requested to submit the following further information:

1. The applicant is requested to submit details to demonstrate that the proposed temporary structure would comply with Condition No. 2 of Class 20D as set out in the Planning and Development Regulations 2001 (as amended).
2. The applicant is requested to submit details to demonstrate that the proposed temporary structure would comply with Condition No. 4 of Class 20D as set out in the Planning and Development Regulations 2001 (as amended).
3. The applicant is requested to submit a request in writing to the Planning Authority under Section 57(1) and (2) of the Planning and Development Act 2000 (as amended) seeking a declaration to state that the proposed temporary structure would not materially affect the character of the protected structure on site.



Tadhg Hartnett
Executive Planner
12/05/23

18 APR 2023

CORK CITY COUNCIL
R.Dist/E.Mal/Planning@corkcity.ie

Fón/Tel: 021-4924564/4321

Líonra/Web: www.corkcity.ie

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

Strategic Planning & Economic Development Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

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

GAELSCOIL PHEIG SAYERS, REDEMPTION ROAD, CORK, T23 FK40

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 INSTALLATION OF A TEMPORARY STRUCTURE, FOR USE AS A CLASSROOM, AT GAELSCOIL PHEIG SAYERS, FOR A PERIOD OF LESS THAN FIVE YEARS EXEMPTED DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

PLEASE SEE ATTACHED SITE LOCATION MAP AND SITE LAYOUT DRAWING ON WHICH THE PROPOSED LOCATION OF THE TEMPORARY STRUCTURE IS SHOWN.
THE PROPOSED UNIT WILL BE A SINGLE-STOREY CLASSROOM.
THE EXISTING SCHOOL BUILDING IS ON THE CORK CITY COUNCIL RECORD OF PROTECTED STRUCTURES.

3. 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		60 m ²
(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 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)	
_____	_____	
_____	_____	
_____	_____	

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		BOARD OF MANAGEMENT OF GAELSCOIL PHEIG SAYERS	
Applicants Address		REDEMPTION ROAD, LORK, T23 FK40	
Person/Agent acting on behalf of the Applicant (if any):	Name:	FRANK O'MAHONY	
	Address:	MATT O'MAHONY & ASSOCIATES, 8 SIDNEY PLACE, WELLINGTON ROAD, LORK T23 E7EY	
	Telephone:	021-4506364	
	Fax:	021-4509796	
	E-mail address:	INFO@MATTO'MAHONY.IG	
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"/>

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	TENANT	
If you are not the legal owner, please state the name and address of the owner if available	FARRANFERRIS FOUNDATION C/O DIOCESEAN OFFICE, REDEMPTION ROAD, LORK	

6.1 / We confirm that the information contained in the application is true and accurate:

Signature: Frank O' Mahony

Date: 18 - APRIL - 2023

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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, Strategic Planning & Economic Development
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

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

Land Registry Compliant Map



Tailte
Éireann

**CENTRE
COORDINATES:**
ITM 567124,573421

PUBLISHED: 27/03/2023
ORDER NO.: 50325583_1

MAP SERIES: 1:1,000
MAP SHEETS: 6337-24
1:1,000 6337-25

COMPILED AND PUBLISHED BY:
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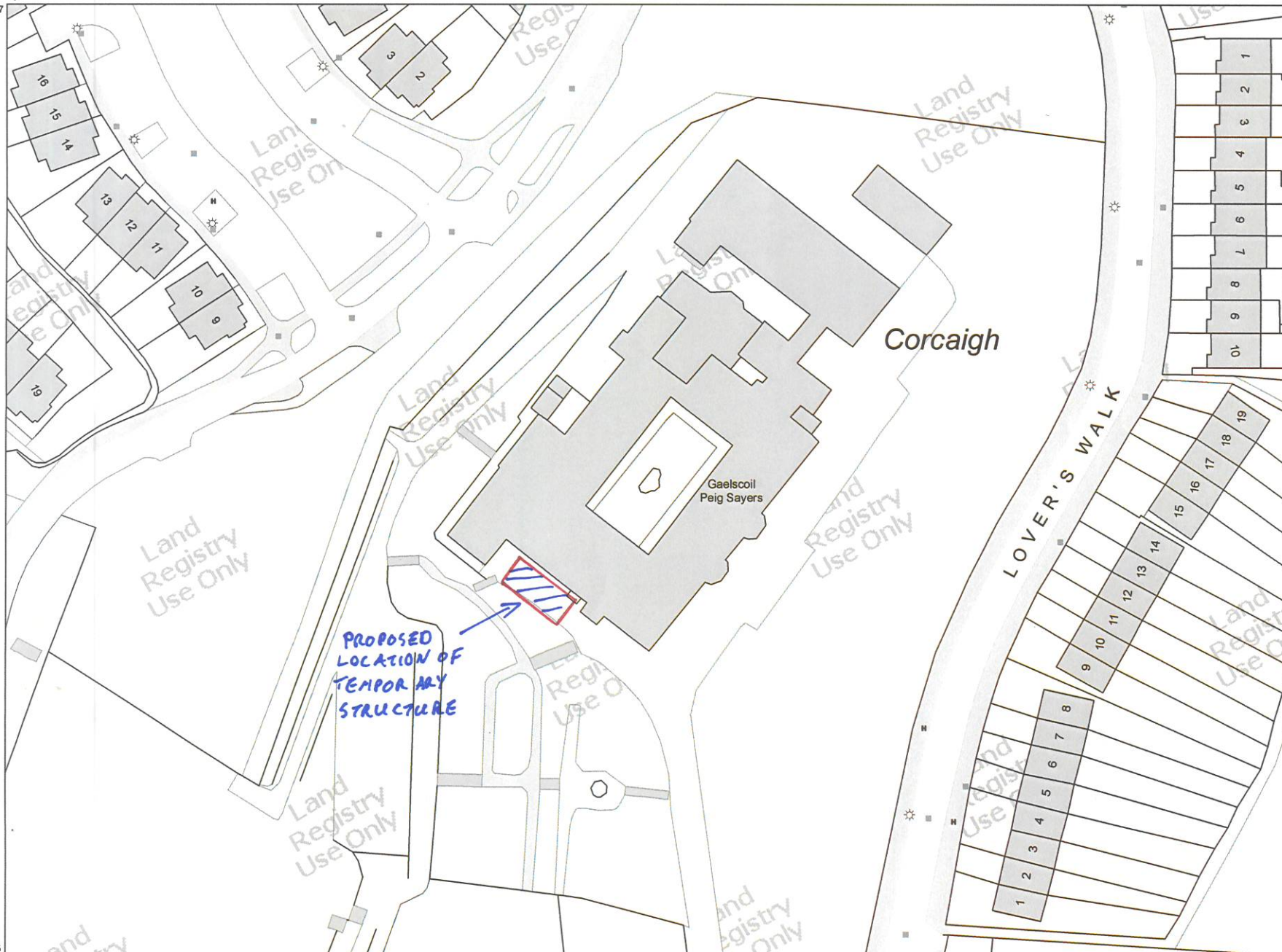
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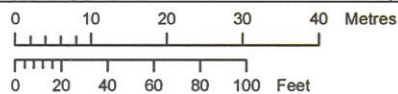


PROPOSED
LOCATION OF
TEMPORARY
STRUCTURE

Corcaigh

Gaelscoil
Peig Sayers

LOVER'S WALK



OUTPUT SCALE: 1:1,000

CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
www.osi.ie; search 'Capture Resolution'

LEGEND:
To view the legend visit
www.osi.ie and search for
'Large Scale Legend'



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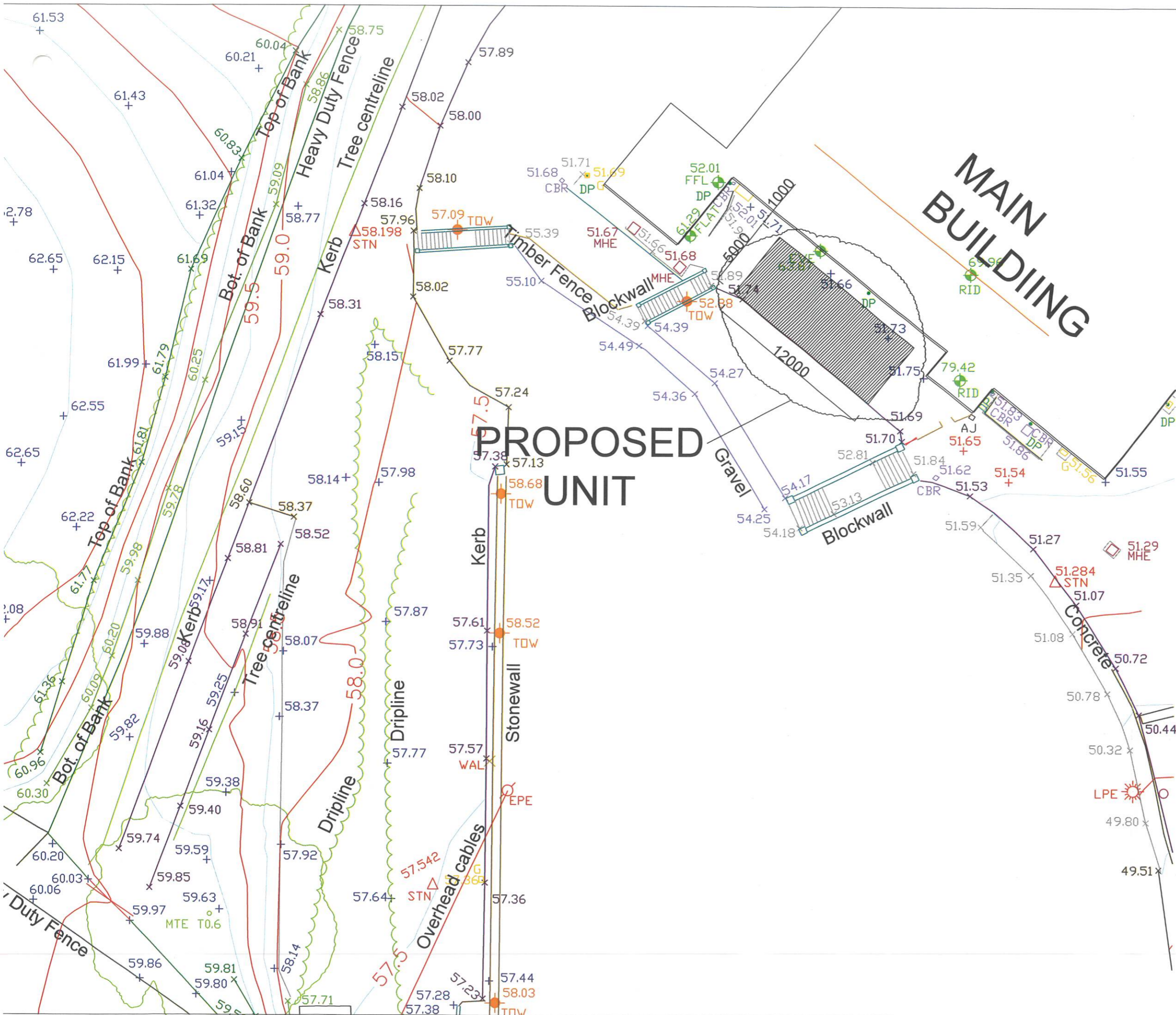
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NOTES: -

- DO NOT SCALE. USE FIGURED DIMENSIONS ONLY





Issue	REVISION	DATE	BY	CKD.
A	ISSUED FOR INFORMATION	27.03.23	SJ	FOM

Figured dimensions only should be taken from this drawing. All contractors must visit the site and be responsible for taking and checking all dimensions that relate to this work

Matt O'Mahony & Associates
 Engineering and Project Consultants.
 8 Sidney Place, Wellington Rd., Cork
 TEL: (021) 4506364 FAX: (021) 4509796
 EMAIL: email@mattmahony.ie

Job: **GAELSCOIL PHEIG SAYERS**
 Client: **BOARD OF MANAGEMENT**
 Drawing: **PROPOSED LOCATION OF TEMPORARY UNIT**

Job No. E22.2548	Scale 1:500 @ A3	Cod ref. 2548 .dwg
Dr. No. S-001		Date March 2023
Drawn S JAWORSKI		
Checked Frank O'Mahony		