



Comhairle Cathrach Chorcaí Cork City Council

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

Clara O'Neill
Butler O'Neill Total Planning Solutions
Old Thompsons Bakery
Thompson House
MacCurtain Street
Cork City

18th October 2021

RE: R690/21 – Section 5 Declaration

Property: The Savoy Centre (no. 108-109 St. Patrick's Street) including 105-107 St. Patrick's Street (former Quill's Store) and upper floors of 112-112 St. Patrick St.

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:

- Planning and Development Act, 2000 (as amended)
- The particulars received by the Planning Authority on 23rd September 2021

The Planning Authority has concluded that –

- The proposal comes within the scope of the definition of 'development' as defined in Section 3 of the Planning and Development Act, 2000 as amended
- The proposal complies with the provisions for exempted development set out in Section 4 (1), (h), of the Planning and Development Act, 2000, as amended.

And therefore, the Planning Authority considers that –

- The retention of the existing first floor area (128.8 sqm) currently (and proposed to be) used for ancillary storage **is development** and **is exempted development**

Yours faithfully,

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



We are Cork.

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: R 690/21

Description: Is the retention of an existing area (128.8 sqm) currently (and proposed to be) used for ancillary storage purposed is development, and if so exempted development?

Applicant: Powerscourt Shopping Centre

Location: The Savoy Centre (no. 108-109 St. Patrick’s Street) including 105-107 St. Patrick’s Street (former Quill’s Store) and upper floors of 112-112 St. Patrick St.

Date: 15/10/2021

SUMMARY OF RECOMMENDATION

Constitutes development; is exempted development

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.

Site Location

The subject site is the Savoy Centre which is located on St. Parrick’s Street, Cork. The site is part of an urban block which faces onto Patrick Street to the east, William Street to the west and Drawbridge Street to the north. It is located in the prime retail location of the city centre which consists of a variety of retail, commercial, leisure and residential uses. The Savoy Centre is a visually prominent landmark building on Patrick Street. The buildings fronting on St. Patrick’s Street are early 19th Century in construction and would have provided retail and leisure uses at this location for the past century. It has historical and social significance in the city centre.

The section of the Savoy Centre which is subject of this Section 5 declaration is located on the south east corner of the overall site.

Subject Development

The proposed development subject to this Section 5 declaration request relates to a proposed change to development permitted under TP21/40292. The change involves an element of the proposed first floor. Under the permitted development of TP21/40292, permitted retail unit 2 had a ground floor plan. The rear area of this unit had a double height area as the existing floor was to ne removed on the 1st floor to provide this double height space. It is now proposed not to remove this portion of the first floor and to use it as part of the space to be used as storage space to Unit 2, adding a floor area of 128.8sqm. The applicant states in the application form that this additional floor area of 128.8 sqm already existing and is intended to be used for storage. Not net increase in the retail floor space is proposed.

The applicant seeks a declaration on whether the above works and use is development and is exempted development.

DEVELOPMENT PLAN POLICY CONTEXT

Draft Cork City Development Plan 2022-2028

The above document is currently on public display until the 04/10/2021. The site is located in an area zoned as ZO 06 City Centre.

Cork City Development Plan 2015-2021

Land-Use Zoning & Development Objectives

The site is zoned as **City Centre Retail Area** (Ref: Map 1 Volume 2 of the Plan). The objective for this area is as follows:

'to provide for the protection, upgrading and expansion of retailing, in particular higher order comparison retailing, as well as a range of other supporting uses in the City Centre retail area.'

St. Patrick's Street is designated as a **Primary Retail Frontage** (Ref: Map 2, Volume 2 of the Plan). Objective 13.4 of the Plan 'Protection of Prime and Key Secondary Retail Frontage' in relation to such streets states as follows:

'To restrict retail offices, general offices, hot food takeaways, general convenience stores, public houses, night clubs, mobile phone shops, bookmakers/betting shops and restaurant uses from locating at ground floor level on prime retail frontages.'

City Centre Policy

Policy in relation to the amalgamation of shop units is outlined as follows: *'Objective 13.6 Amalgamation of small retail units will be open for consideration in order to meet demand for medium size units to suit modern retailing needs, subject to the need to have regard to the protection streetscape and building character'*.

Architectural Heritage

No.'s 106, 107, 1087-109, 111 St. Patricks' St and the Savoy Centre and O' Donoghues Bar (subsequently the Camán Inn) on Drawbridge Street are all listed on the National Inventory of Architectural Heritage as being of regional interest. (Refs: 20512847, 20512848, 20512849 20512851 and 20512857 respectively). Planning policy in relation to N.I.A.H. buildings is outlined in Chapter 9 of the Development Plan. The City Council has a responsibility under planning legislation to formerly consider the recommendations of the Minister that buildings listed on the N.I.A.H. be added to the Record of Protected Structures. Objective 9.28 while acknowledging the scale of the task given the large numbers of buildings on the list states that *'the City Council as planning authority aims to protect structures of built heritage interest'* and that *'The 'Ministerial Recommendations' made under Section 53 of the Planning Acts, asking the City Council to protect structures will be taken into account when the City Council as planning authority is considering proposals for development that would affect the historic interest of these structures of significance.'*

PLANNING HISTORY

Subject Site:

T21/40292 – Application granted for the demolition (123.874 sqm) and reconstruction /construction of internal elements of the existing block at all levels within the curtilage of the existing pattern to form an expanded retail unit (No. 2) (Formally Quills) at ground level, involving the amalgamation of smaller retail units which were formally part of the now vacant Savoy Shopping Centre at ground floor level (Falcon Travel,

Barber Shop, Phone Shop, Jump Juice) into retail unit 2. The proposed works involve the change of use of the former ground floor mall to retail use 181.252 sqm to allow for the expansion of Retail Unit 2. The proposed works include reconfiguration of the existing Savoy Shopping entrance onto Saint Patrick's Street to facilitate access to the existing upper floors. Access to retail Unit 2 will be provided at the current Quills entrance at 106-107 Saint Patrick Street. Access to the upper floors is provided at the current entrance to the Savoy 108 - 109 Saint Patrick's Street. These works include but are not limited to, the removal/relocation of partitions, counters, accommodation stairs, fire escape stairs. Permission is sought for the above and all associated site development works.

TP20/39026 – Application granted on the site for the redevelopment of the Savoy Centre (No. 108-109 Saint Patrick's Street) and a number of surrounding units including 106-107 Saint Patrick's Street (formerly Quills), and the upper floors of Nos. 111-112 Saint Patrick's Street (formerly A-Wear). Located at Saint Patrick's Street and William Street, Cork City. The proposed works involve the demolition, and reconstruction, of internal and external elements of the existing block at all levels within the curtilage of the existing pattern to form retail shops at ground floor level, with some retail units extending to first floor level (Units 2 and 3). The proposed works include the decommissioning of the existing Savoy Centre and its constituent small internal retail units (currently vacant) and the reconfiguration of the space to form three no. individual retail units all fronting onto and accessed from Saint Patrick's Street. The development also consists of the change of use of a portion of the Savoy Theatre and former upper retail areas to residential use to accommodate 11 no. apartments. Access to the retail units will be provided off Saint Patrick's Street. Access to the apartments will be from William Street. These works include, but are not limited to, the removal/relocation of partitions, counters, accommodation stairs, roof terraces and landscaping, reconfiguration of internal units, drainage, bin storage, improvements to the external fabric and lighting along William Street; plant space etc. The proposal constitutes the second phase of the Savoy Redevelopment with phase 1 being permitted under 18/38168. Permission is sought for the above and all associated site development works.

TP19/38450 – Permitted alterations to the shop fronts of 111-112 Saint Patrick Street.

TP18/38168: Application permitted for the amalgamation of two no. retail units the current J.D. sports unit and the former A wear unit (which will take up some of the space currently occupied by the current Gloria Jeans Café unit) on the ground floor; the consequent relocation of the café unit within the centre to the Drawbridge St. site including a new shop front onto Drawbridge St; the change of use of the former Hickeys space at first floor from retail to storage/ancillary office use. The removal of the upper floor access from St. Patrick's Street to the upper floors of 111-112 St. Patrick's St; the creation of a service route access to the café unit which will be accessed via William St.

TP 16/37037: Permission granted on the direction of the Director of Services (the recommendation was for Further Information to be sought) for:

- changes to the external shop front at ground and first floor levels at No. 111-112 St. Patrick's St. to provide a new shop front;
- internal alterations to existing retail shops at ground floor level for both retail units and
- ground and upper floor alterations for No. 111-112 St. Patrick's Street.

R 421/16 A Section 5 reference was received in 2016 in relation to the current site in which the following questions were asked:

'Whether the proposed amalgamation of the existing retail premises A and existing retail premises B which incorporate a pure retail use is or is not exempted development.

Whether internal works to the structure A and B which would include associated works comprising removal of staircase and insertion of new staircase, internal shop layout reconfiguration and works to regularise and

comply with building and fire regulations is development or is not development and is or is not exempted development’.

A decision was made that in both instances the proposal constituted ‘development’ and was not ‘exempted development’.

Savoy Centre 108-109 St. Patrick’s St

T.P. 73/4334 Outline permission granted for a change of use of the Savoy Cinema to a Department Store. A condition was imposed to the effect that a 250 seater cinema be retained on site however this was successfully appealed to the Minister.

T.P. 76/5964 Permission granted for the conversion of the ground and mezzanine floor of the ‘Savoy’ (a cinema) into a shopping arcade. The site layout shows a development of 20 shop units within the ground and mezzanine levels – although subsequent drawings on file show 21 units on the ground floor.

T.P. 83/11488 Permission granted for the erection of a sign at Macy’s retail unit.

T.P. 91/17134 Permission granted on appeal for a change of use from theatre to an adventure play land with video gaming facilities. This permission was not enacted.

T.P. 96/20706 Permission granted for a new shop front to Drawbridge St –this permission was not enacted.

T.P. 99/23461 Permission granted for a change of use from retail to bar/restaurant and new shopfront to Drawbridge Street –this permission was not enacted.

T.P. 03/27931 Temporary five year permission granted (on appeal) for the use of the upper floors of the Savoy Centre as a licensed premises with bar and related entertainment uses such as night club and other music and dance events.

T.P. 09/34031 Permission granted for the continued use of the upper floors of the Savoy Centre as a licensed premises with bar and related entertainment uses such as night club and other music and dance events.

T.P. 10/34268 Permission granted for a new smoking room at roof level.

Nos. 111-112 St. Patrick’s Street

T.P. 68/1493 File not available – the copy of the decision states that the development related to permission granted for ‘alterations’.

T.P. 91/16647 Permission granted for the retention of shop front and signage.

T.P. 01/25092 Permission granted for a change of shop front and new signage.

Relevant Legislation

Planning and Development Act 2000 (as amended)

Section 2(1),

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

“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),

4.(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 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.

Definitions

The definition of "Structure" in the 2000 Act is as follows:

"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 (ii)"

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 cSAC (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 the proposal “Development”?

As per definition of “*development*” in Section 3 (1) of the Planning and Development Act 2000 (as amended), the issues of works and material change of use proposed by this development will be assessed to determine the planning status of the proposed development.

Works

The applicant states in the submitted details that rather than removing this element of the 1st floor, the preference is to raise the floor level by 0.5m. The proposed works to the first floor of this portion of the Savoy Centre would be the carrying out of internal works. These works will be carried out within the interior of the structure (the building itself) and would therefore be considered as internal works. Having regard to the definition of “*development*” in Section 3 (1) of the Act, as cited above, these works constitute development.

Having regard to the provisions set out in Section 4 (1) (h) of the Act, these internal works would not materially affect the external appearance of the structure. In addition, it can be stated that these internal works would not render the appearance as inconsistent with the character of the structure or of neighboring structures and would therefore be considered exempted development under this section of the Act.

Material Change of use

In the submitted details of 21/40292, this element of the first floor was labeled as “shop floor” and would have been part of the established open plan retail floor area on the first floor of the former retail unit (former Quill’s store). In the permitted development of TP21/40292, the former quills shop was being reconfigured as part of the overall redevelopment of the Savoy Centre.

Having regard to the nature of these internal works and the proposed use of the proposed retention of this element of the first floor of this structure, the works are considered to be development and exempted development,

Recommendation

Having regard to: In view of the above, and having regard to-

- Planning and Development Act, 2000 (as amended)
- The particulars received by the Planning Authority on 23rd September 2021

The Planning Authority has concluded that –

- The proposal comes within the scope of the definition of ‘development’ as defined in Section 3 of the Planning and Development Act, 2000 as amended
- The proposal complies with the provisions for exempted development set out in Section 4 (1), (h), of the Planning and Development Act, 2000, as amended.

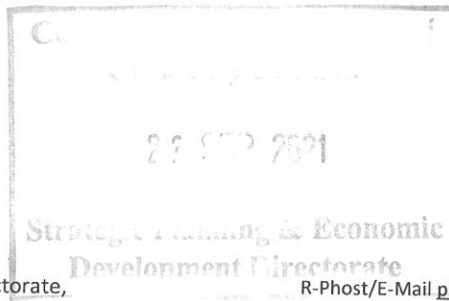
And therefore, the Planning Authority considers that –

- The retention of the existing first floor area (128.8 sqm) currently (and proposed to be) used for ancillary storage is development and is exempted development

Gwen Jordan McGee
Senior Executive Planner

**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

The Savoy Centre [No. 108-109 Saint Patrick's Street] including 106-107 Saint Patrick's Street [formerly Quills], encompassing the upper floors of Nos. 111-112 Saint Patrick's Street. Located at Saint Patrick's Street and William Street Cork City. S5 Declaration relates to an existing mezzanine within the Former Quills Store.

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 retention of an existing area [128.8m²] currently [and proposed to be] used for ancillary storage purposes development? and if so is it exempted development? Planning was granted and development has commenced under extant permission ref 21/40292 - in this permission the first floor area marked 'void' is now proposed to be infilled - which is what exists currently. The area of infill is 128.8sqm. It should be noted that the 128.8sqm currently exists and was to be removed as part of the 21/40292 application. The preference is not to remove it now, but to raise it in height by 0.5m to suit existing levels within the building.
The original proposal: Ground Floor Unit 2 - 403.6sqm, First Floor 300sqm, First Floor Unit 2 - 0sqm.
The new proposal: Ground Floor Unit 2 - 403.6sqm First Floor 300sqm First Floor Unit 2 - 128.8sqm.
There is an additional 128.8m² of floorspace being created as a result of the void not being constructed. This 128.8m² already exists and is to be used for storage. No net increase in retail area is being proposed.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

As no additional retail area is being created and although there is an increase in floor area of the entire development this area is for ancillary storage to facilitate the proposed end user.

The inclusion of the area [rather than the void] is integral to securing the end user as they have ancillary storage requirements. It is argued had the development permitted by 21/40292 with the void included and later been altered internally to create a modest amount of extra storage space that this indeed would be considered exempted development and as such in consideration of the need for retail on this part of Saint Patrick's Street, the local authority is appealed upon to consider this development [the fact that it is development is not questioned] exempted. It is simply the retention of a modest element of an existing floorspace of a retail unit for ancillary storage which would not normally require permission.

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? NO

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

If so please supply details: 21/40292

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	328m2
(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) _____ _____ _____

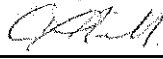
7. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Powerscourt Shopping Centre	
Applicants Address		6 Suffolk Street Dublin 2	
Person/Agent acting on behalf of the Applicant (if any):	Name:	Clara O'Neill	
	Address:	Butler O'Neill Total Planning Solutions Old Thompsons Bakery Thompson House MacCurtain Street Cork City	
	Telephone:	[REDACTED]	
	Fax:		
	E-mail address:	[REDACTED]	
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)		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 <input 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		

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

Signature: 

Date: 20/09/2021

ADVISORY NOTES:

<p>The application must be accompanied by the required fee of €80</p> <p>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.</p> <p>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.</p> <p><i>The application should be sent to the following address:</i></p> <p style="text-align: center;">The Development Management Section, Community, Culture & Placemaking Directorate, Cork City Council, City Hall, Anglesea Street, Cork.</p>
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- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord 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.

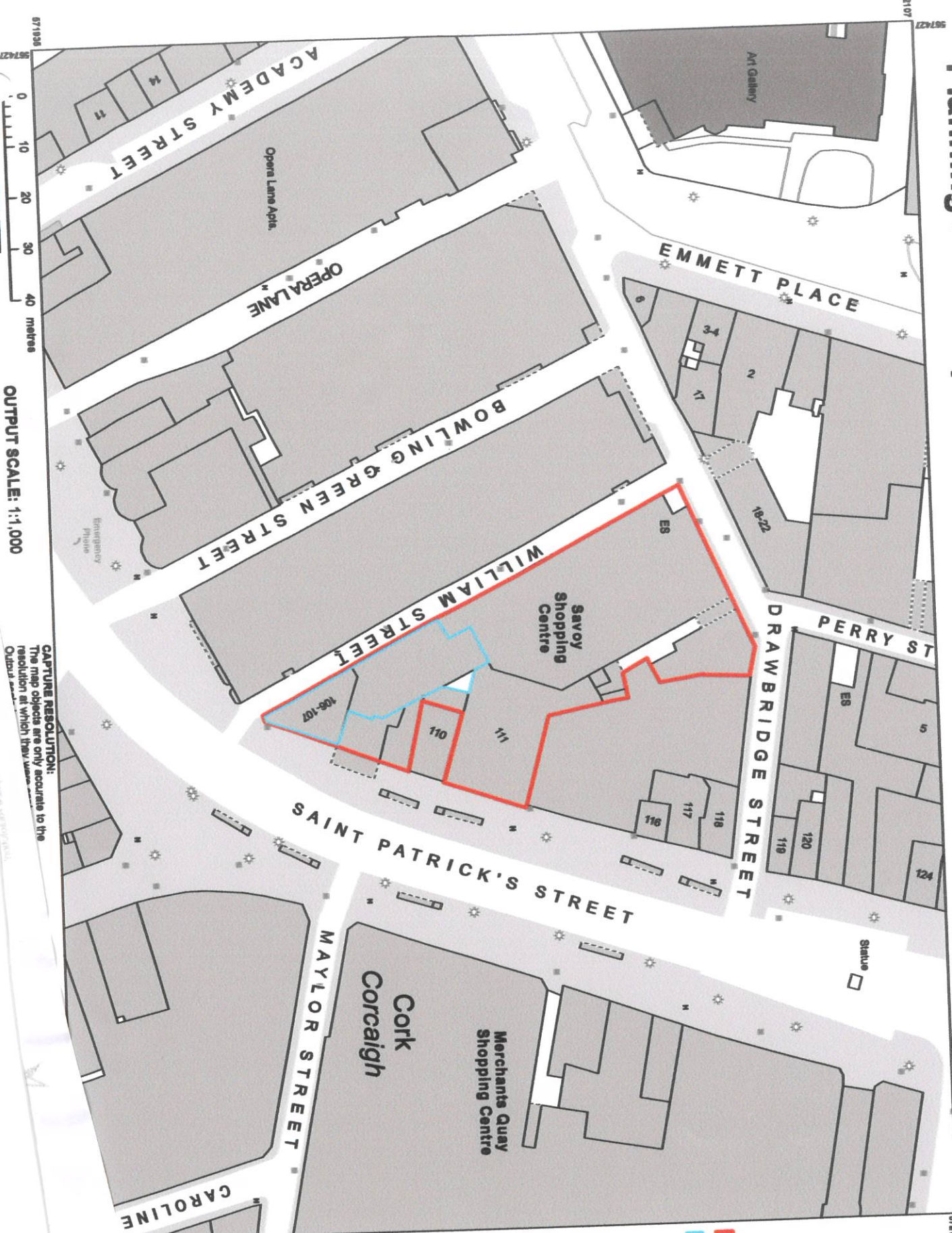
The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation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

CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured.
Output scale: 1:1,000



CENTRE COORDINATES:
ITM 667544,572021

PUBLISHED: 19/12/2019

ORDER NO.: 60099317_1

MAP SERIES: 1:1,000

MAP SHEETS: 6382-10

-  Site boundary
-  Area within Scope of Application

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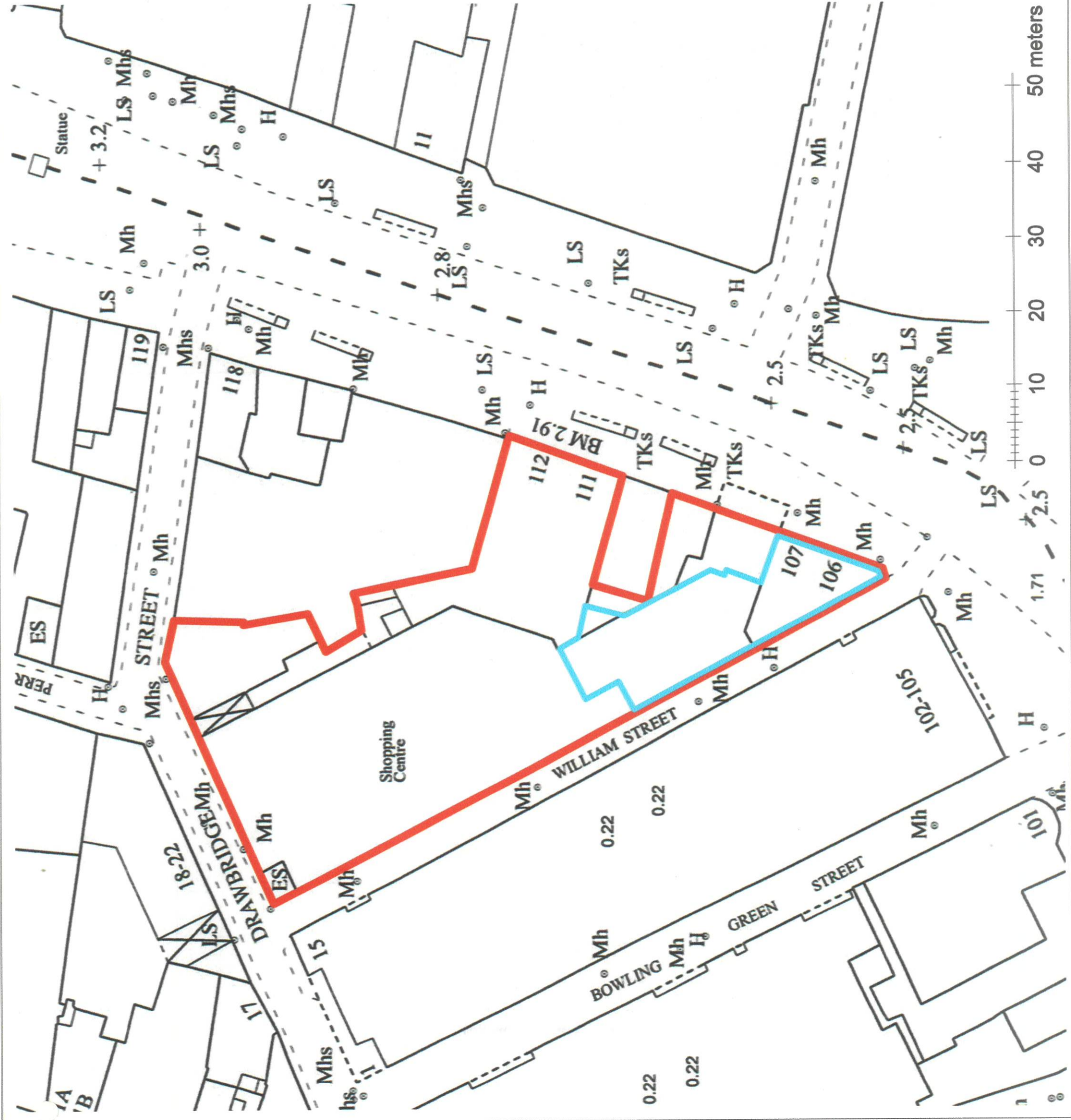
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National Mapping Agency
100, Canal Street, Dublin 1
Tel: 01 708 1234
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LEGEND:

- Outline of site boundary
- Area within Scope of Application

Disability Access Certificate Application	
Drawing number	18-26/301
Project	Proposed Development at St. Patrick's Street, Cork
Client	Clarendon Properties Ltd., 6 Suffolk Street, Dublin 2
Drawing	SITE LOCATION PLAN
Scale	1:500 @ A3
Date	04/08/2021
Drawn by	AW
Carew Kelly Architects	
21/22 Grafton Street, Dublin 2	
Tel. 01 - 6333 000 Fax. 01 - 6333 001	
E-mail : design@carewkelly.ie	
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PROPOSED DEVELOPMENT AT ST. PATRICK'S STREET, CORK



GROUND FLOOR PLAN, SCALE 1:125 @ A3

1:150
 10-301'S
 1310015051

БЕЛГІЛІНІС - БІРІТ БҒОӨР БҒАИ

БІРІТ БҒОӨР БҒАИ, САҒА 1:150 @ 2А

