



Comhairle Cathrach Chorcaí Cork City Council

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

Mr Leonard Barrett
c/o Barrett & Associates
Santa Maria
Springfort
Montenotte
Cork

13th May 2021

RE: R653/21 – Section 5 Declaration
Property: No 21 The Beeches, Woodville, Dunkettle, Glouthaune, Cork

Dear Sir/Madam,

In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended)

It is considered that the –

construction of a single storey extension to the rear of dwelling house of less than 40m², and 2 no. windows at existing south facing side elevation at No. 21 The Beeches, Woodville, Dunkettle, Glounthaune

Is development and is exempted development

Yours faithfully,

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



We are Cork.

PLANNER'S REPORT		Cork City Council Community, Culture and Placemaking
Ref. R653/21		
Application type	Section 5 Declaration	
Description	<i>Is the construction of a single storey extension to the rear of dwelling house of less than 40m², and 2 no. windows at existing south facing side elevation, development and if so is it exempted development?</i>	
Location	21 The Beeches, Woodville, Dunkettle, Glounthaune	
Applicant	Mr. & Mrs. Damien & Joanne Martin	
Date	13/05/2021	
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 response to Q2 on the application for the applicant frames the following question:

~~*Is the construction of a single storey extension to the rear of dwelling house of less than 40m², and 2 no. windows at existing south facing side elevation, development and if so is it exempted development?*~~

3. Site Description

The property in question is a two storey two storey end of terrace house. The terrace consists of 4 no. dwellings all with rear west facing gardens. A review of aerial photography indicates that none of the other houses in the terrace have been extended to the rear.

4. Planning History

There are no recent planning applications associated with the subject site. Permission for the estate was granted on 13/09/2010 by Cork County Council under application no. 05/2333.

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(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

Section 5(1),

(See section 1 of this report)

Section 177U (9) (screening for appropriate assessment)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

5.2 The Regulations

Article 6 (1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

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

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>Development within the curtilage of a house</i> CLASS 1 The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.</p>	<p>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</p> <p>2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.</p> <p>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p>

	4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.
	(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.
	(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.
	5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.
	6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.
	(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.
	(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.
	7. The roof of any extension shall not be used as a balcony or roof garden.

6. ASSESSMENT

6.1 Development

The first issue for consideration is whether or not the matter at hand is ‘development’.

‘Development’ as defined in the Act (3)(1) comprises two possible chief components: ‘the carrying out of any works on, in, over or under land’, or ‘the making of any material change in the use of any structures or other land’. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

‘Works’ is defined in section 2(1) of the Act as ‘the carrying out of any works on, in, over, or under land’ including ‘any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal, and in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.’

I consider that the erection of the rear extension, and insertion of new windows on the southern façade, constitutes the carrying out of works and as such it constitutes development.

6.2 Exempted development

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

The rear extension as constructed may be exempt if it accords with the exemption set out in Class 1 in Schedule 2 of the *Planning and Development Regulations 2001* (as amended). The following is a review of the proposal, as shown on the plans provided with the application on 19 April 2021, against the conditions / limitations set out in Class 1.

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.	(a) The ground floor extension is less than 40m ²
(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.	(b) n/a
	(c) n/a

(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.	
2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.	House does not appear to have been previously extended
3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.	n/a
4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house. (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house. (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.	(a) The height of the wall does not exceed the existing height of the rear wall of the dwelling. (b) n/a (c) The height does not exceed the height of the eaves / parapet
5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.	The remaining garden area is greater than 25m ² . This takes into account a ‘New Charcoal Grey Steel Tech Shed shown on the site layout plan even though it is not mentioned in the question posed or shown on any elevations.
6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces. (b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces. (c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.	(a) The new windows to be inserted in the existing structure are over 1m from the boundary it faces. The windows on in the extension are also over 1m from the boundary. (b) n/a (c) n/a
7. The roof of any extension shall not be used as a balcony or roof garden.	The flat roof of the ground floor does not appear to be accessible.

The proposed rear extension and addition of new ground floor windows accords with the conditions / limitations as set out in Class 1.

Article 9 of the *Planning and Development Regulations 2001* (as amended) set out further restrictions on the exemptions provided for under article 6. I am satisfied that the limitations therein do not apply to the proposed development.

7. ENVIRONMENTAL ASSESSMENT

7.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly, it is considered that an environmental impact statement is not required to be submitted.

7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the development site relative to these European sites and related watercourses and to the nature and scale of the development it is considered that the development would not affect the integrity of the European sites referred to above. Accordingly, it is considered that appropriate assessment is not required.

8. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended)

It is considered that the —

construction of a single storey extension to the rear of dwelling house of less than 40m², and 2 no. windows at existing south facing side elevation at No. 21 The Beeches, Woodville, Dunkettle, Glounthaune

Is development and is exempted development



Martina Foley
Executive Planner
12/05/2021

PLANNING - DESIGN - SUPERVISION - CERTIFICATION - FIRE SAFETY

Re; Proposed single storey extension to rear of dwelling house, and alterations including two new windows at existing side elevation, south facing side.

At; No. 21 The Beeches, Woodville, Dunkettle, Glounthaune, Cork.

For ; Mr. and Mrs. Damien and Yvonne Martin .

19 / 04 / 2021

EXEMPTION CERTIFICATE APPLICATION .

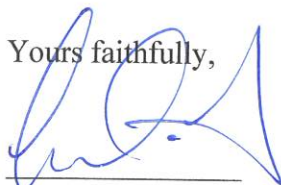
Dear Sir / Madam ,

We wish to make a formal application for an Exemption Certificate in respect of the above development and duly enclose the following;

1. Completed Section 5 Declaration application form in duplicate.
2. Two copies of detail drawing ref. 938/ 101 and 102
3. Two copies of OS map @ 1/2500 scale.
4. Appropriate fee of e80.00

Please confirm receipt of this application and do not hesitate to contact this office for any further information.

Yours faithfully,



Leonard Barrett
Barrett&Associates



**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

Community, Culture & Placemaking 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

No. 21 THE BEECHES, WOODVILLE,
DUNKETTLE, GLOONTHAUNE, CORK.

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

IS THE CONSTRUCTION OF A SINGLE STOREY
EXTENSION TO THE REAR OF DWELLING
HOUSE OF LESS THAN 40 M², AND 2 NO.
NEW WINDOWS AT EXISTING SOUTH FACING
SIDE ELEVATION DEVELOPMENT, AND
IF SO IS IT EXEMPTED DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

WE ENCLOSE TWO COPIES OF DETAILED
PLANS REF. 938/101 AND 102

PROPOSED REAR EXTENSION INDICATED
'YELLOW'.

CONTACT DETAILS

10. Applicant:

Name(s)	Mr. + Mrs DAMIEN AND JONNE MARTIN
Address	<div style="border-top: 1px dashed black; border-bottom: 1px dashed black; height: 20px; background-color: #cccccc;"></div> <div style="border-top: 1px dashed black; border-bottom: 1px dashed black; height: 20px; background-color: #cccccc;"></div>

11. Person/Agent acting on behalf of the Applicant (if any):

Name(s):	Mr LEONARD BARRETT	
Address:	<div style="border-top: 1px dashed black; border-bottom: 1px dashed black; height: 20px; background-color: #cccccc;"></div> <div style="border-top: 1px dashed black; border-bottom: 1px dashed black; height: 20px; background-color: #cccccc;"></div>	
Telephone:	[REDACTED]	
E-mail address:	barrettandassociates@gmail.com	
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"/>
	yes.	

12. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

**The Development Management Section, Community, Culture & Placemaking Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.**

[Redacted text]

[Redacted text]

The Board of Directors of the following entity:
The Development Management Studio Community Center & Theater
One City Square, City Hall, Angeles Street, City

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? N/A.

5. Was there previous relevant planning application/s on this site? NO.
If so please supply details:

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>EXISTING = 140.0 Sq.m.</u> <u>PROPOSED = 30.0 Sq.m.</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) <u>N/A.</u>
(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)
<u>N/A</u>	<u>N/A</u>

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
Where legal interest is 'Other', please state your interest in the land/structure in question	<u>N/A</u>	
If you are not the legal owner, please state the name and address of the owner if available	<u>N/A</u>	

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

Signature: Helena D. [Signature] (AGENT)

Date: 16 / 04 / 2021.

