



# Comhairle Cathrach Chorcaí Cork City Council

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

Clodagh O'Donovan,  
5 The Terrace,  
Crab Lane,  
Ballintemple,  
Cork.

01/11/2022

**RE: Section 5 Declaration R726/22 5 The Terrace, Crab Lane,  
Ballintemple, Cork**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 08<sup>th</sup> July 2022, I wish to advise as follows:

In view of the above and having regard to —

- Section 4(1)(h) of the Planning and Development Act 2000 (as amended), and;
- The particulars received by the Planning Authority on 17/10/2022,

the planning authority considers that

*the alteration of an existing bow window on the existing front façade to a bay window at 5 The Terrace, Crab Lane, Ballintemple, Cork IS DEVELOPMENT and IS 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, 01<sup>st</sup> November 2022.

Is mise le meas,

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



**We are Cork.**

Application type	<b>SECTION 5 DECLARATION</b>
Question	<i>Is the alteration of an existing bow window on the existing front façade to a bay window exempt development under the planning development Act 2000, as amended?</i>
Location	5 The Terrace, Crab Lane, Ballintemple, Cork
Applicant	Clodagh O'Donovan (owner)
Date	01/11/2022
Recommendation	<b>IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.</b>

This report is to be read in conjunction with previous planning report, dated 08/08/2022, which requested further information.

#### **1. FURTHER INFORMATION ASSESSMENT**

Further Information was requested on 08/08/2022. A response to same was received on 17/10/2022. There was one item of further information requested.

- 1. The applicant is requested to submit scaled existing and proposed ground floor plans and existing and proposed sections of the window in order for an assessment to be made.*

The applicant has not submitted the required scaled sections. However, they have provided a proposed side elevation which adequately illustrated the proposed works.

#### **2. ADDITIONAL ENVIRONMENTAL ASSESSMENT**

I note the provisions of sections 4(4), 4(4A) and 177U(9) of the Act which state,

*Section 4(4),*

*Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.*

*Section 4(4A)*

*Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—*

- (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and*
- (b) as respects which an environmental impact assessment or an appropriate assessment is required,*

*to be exempted development.*

Section 177U(9)

*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.*

**Screening for Environmental Impact Assessment**

Having regard to the contents of Article 103 and Schedule 7 of the Planning and Development Regulations 2001, as amended it is considered that the response to the further information relating to 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 **environmental impact assessment is not required.**

**Screening for Appropriate Assessment**

The applicant has not submitted an appropriate assessment screening report. 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 response to the further information relating to the proposed development would not affect the integrity of these European sites. Accordingly, it is considered that **appropriate assessment is not required.**

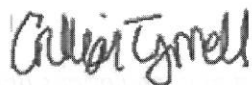
**3. RECOMMENDATION**

It is recommended that the applicant is advised as follows: -

Having regard to:

- Section 4 (1)(h) of the Planning and Development Act 2000 (as amended), and;
- the particulars received by the Planning Authority on 17/10/2022.

The Planning Authority considers that the *Is the alteration of an existing bow window on the existing front façade to a bay window at 5 The Terrace, Crab Lane, Ballintemple, Cork* **IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.**



Gillian Tyrrell  
Assistant Planner  
01/11/2022

5 The Terrace  
Crablane  
Ballintemple  
Cork

Cork City Council

17 OCT 2022

Community, Culture  
and Placemaking

**Re: Section 5 Declaration R726/22 – Request for Further Information**

**17<sup>th</sup> October 2022**

Ms Magner

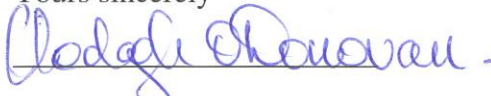
Your letter, dated 8<sup>th</sup> August, last refers. In respect of our Section 5 Declaration, you requested that we submit proposed sections and plans, so as to allow you to assess the impact of the proposed development against the provisions of Section 4(1)(h) of the Planning and Development Act, 2000, as amended.

Please now find enclosed, scaled existing and proposed ground floor plans and existing and proposed sections of the window, to allow the assessment to be made.

I have enclosed 2 no. copies of same.

Should you have any further queries, please contact the undersigned.

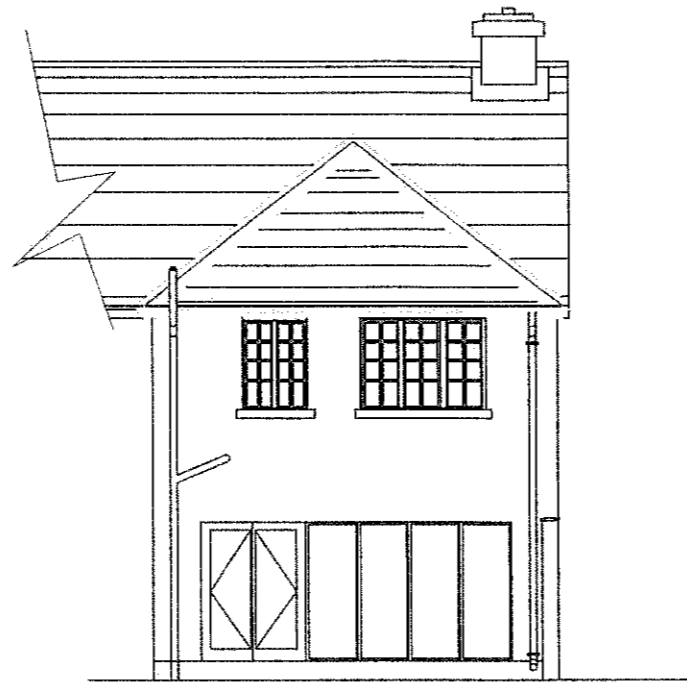
Yours sincerely



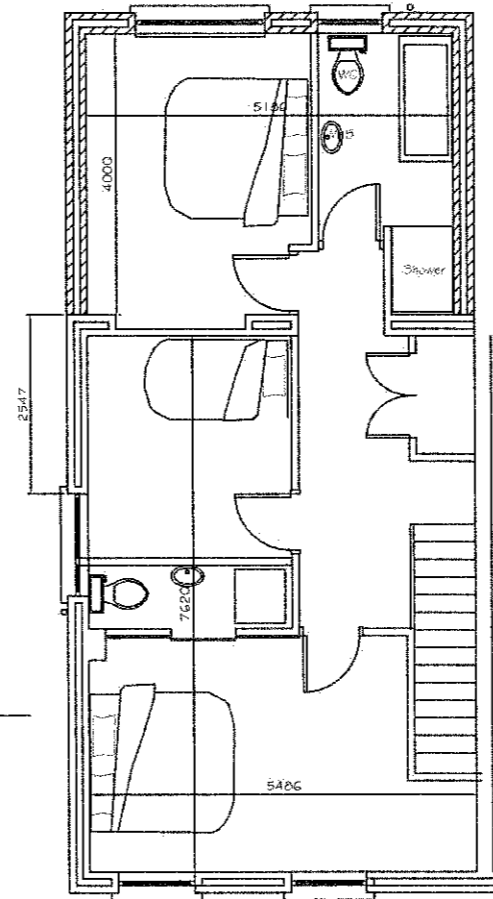
Clodagh O'Donovan



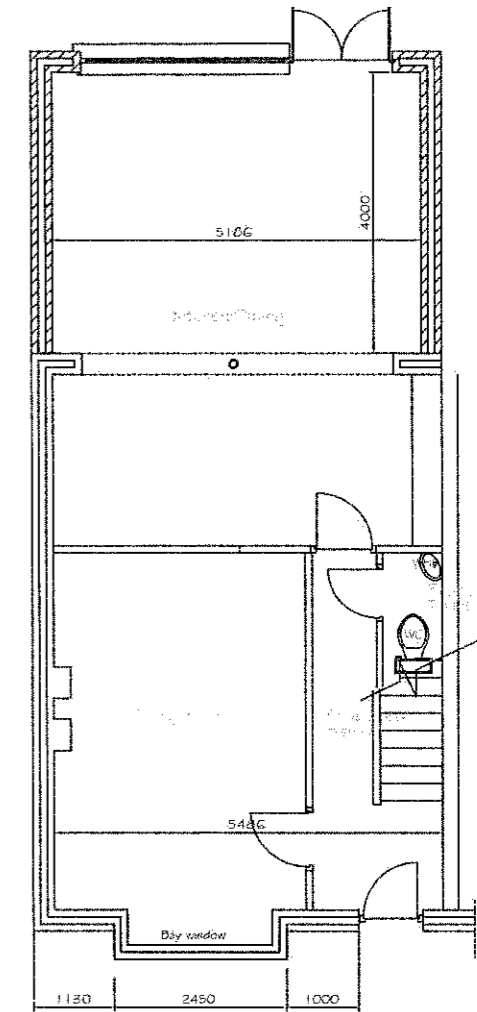
Front Elevation



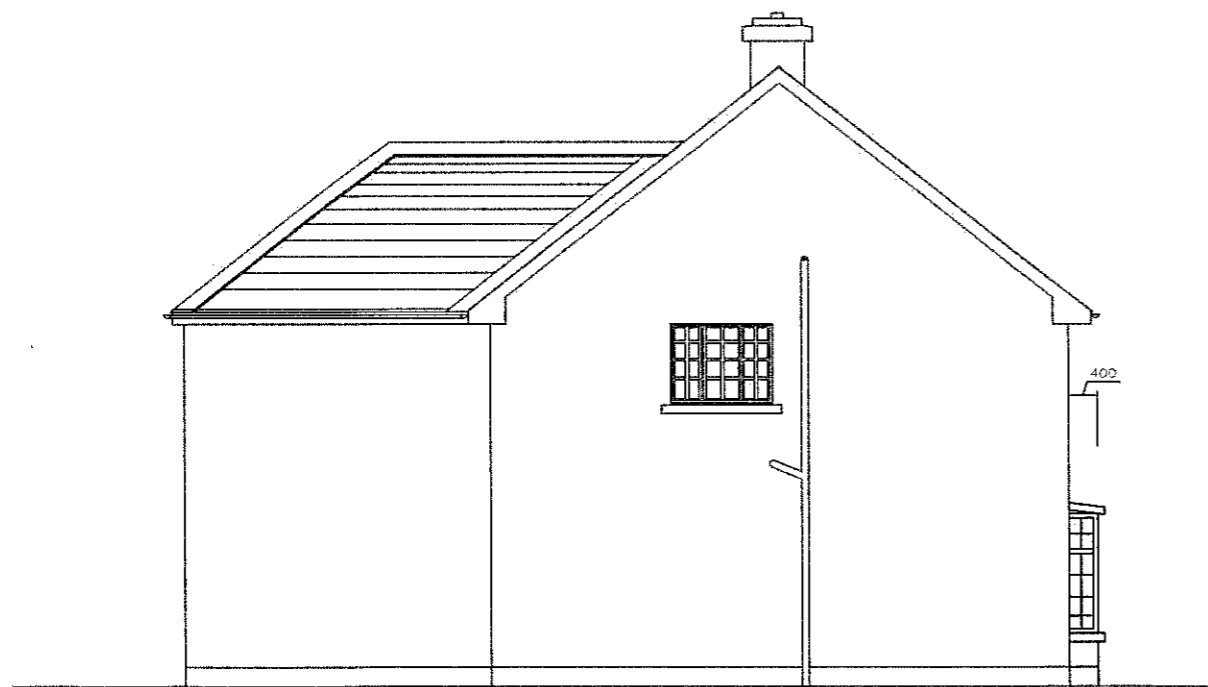
Rear Elevation



First Floor Plan



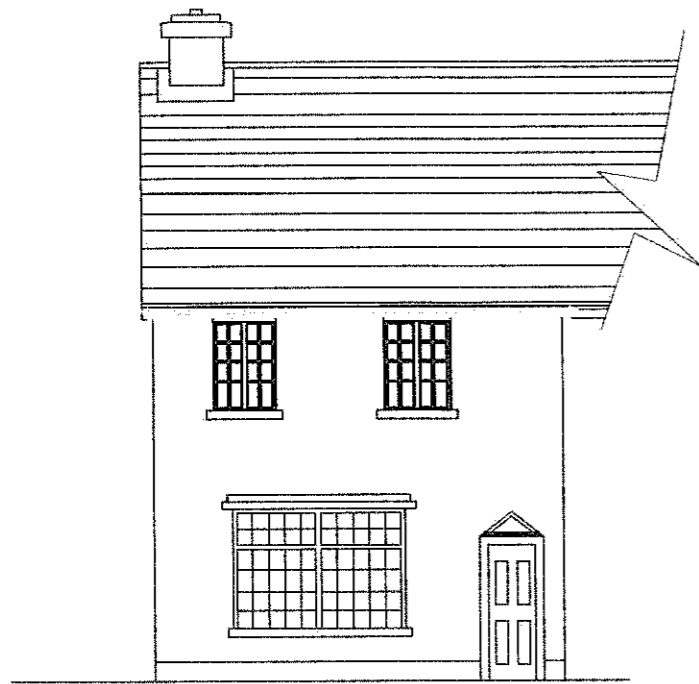
Ground Floor Plan



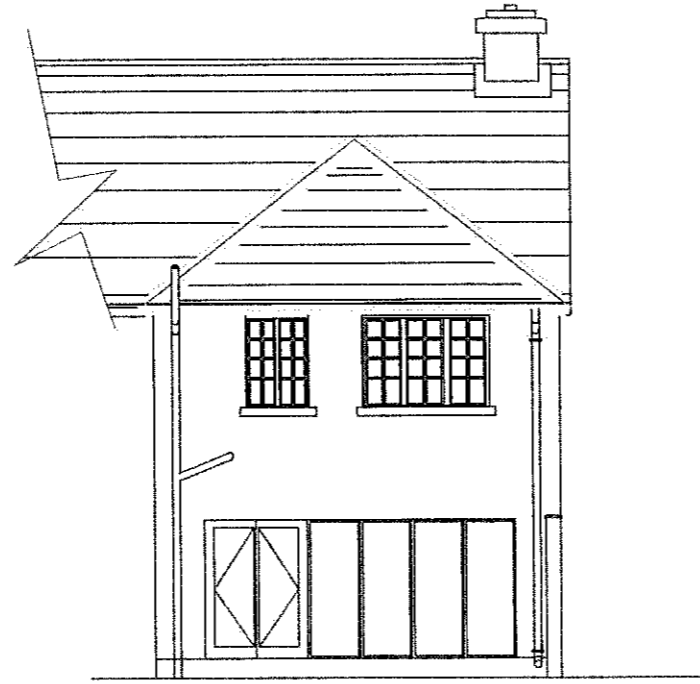
Side Elevation

**Cork City Council**  
 17 OCT 2022  
 Community, Culture  
 and Placemaking

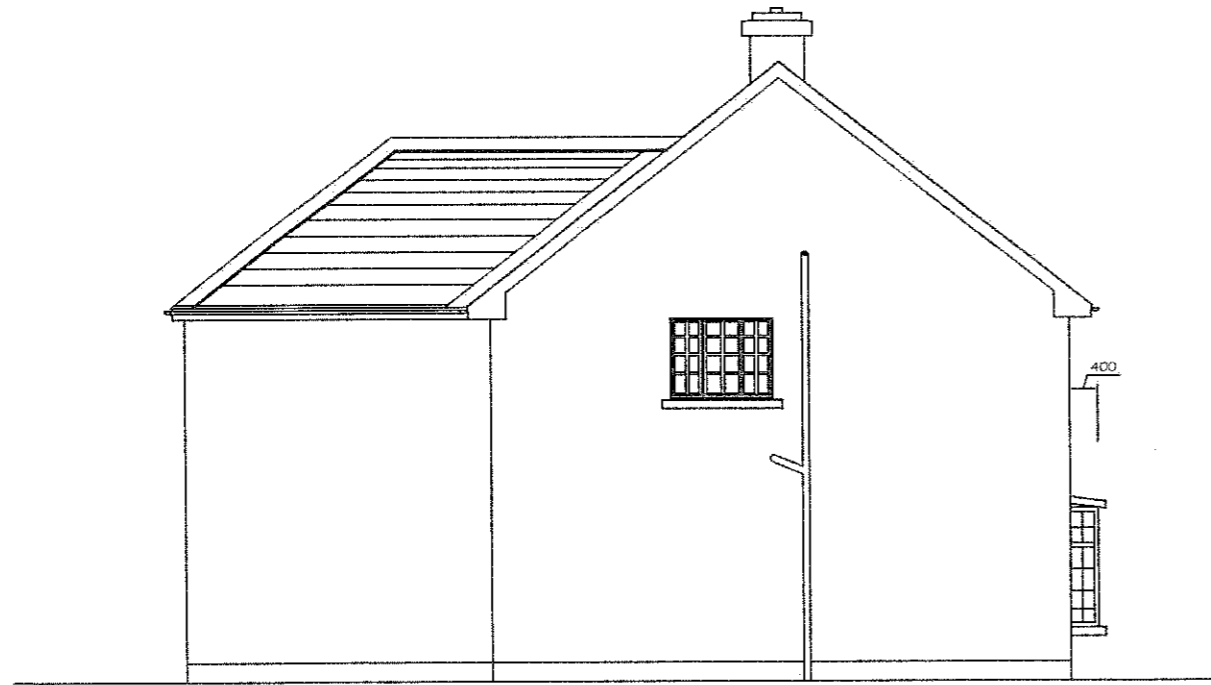
NO	DATE	REVISION	BY	CHKD	TY
VIP RENOVATION LTD 4/5, Saint Patrick's Terrace, W Douglas St, 4/5, Douglas, Cork, T12 TH63 Tel: +353 (0) 21 4992184 email: info@viprenovations.ie web: www.viprenovations.ie					
Clodagh & Morgan O'Donovan 5 Crablane, Ballintemple, Cork					
Section 5 Referral Proposed alteration to front facade Bow window to bay window					
Proposed layout					
<b>REVIEW</b>					
18/08/22	10%				
A103		103/1			01



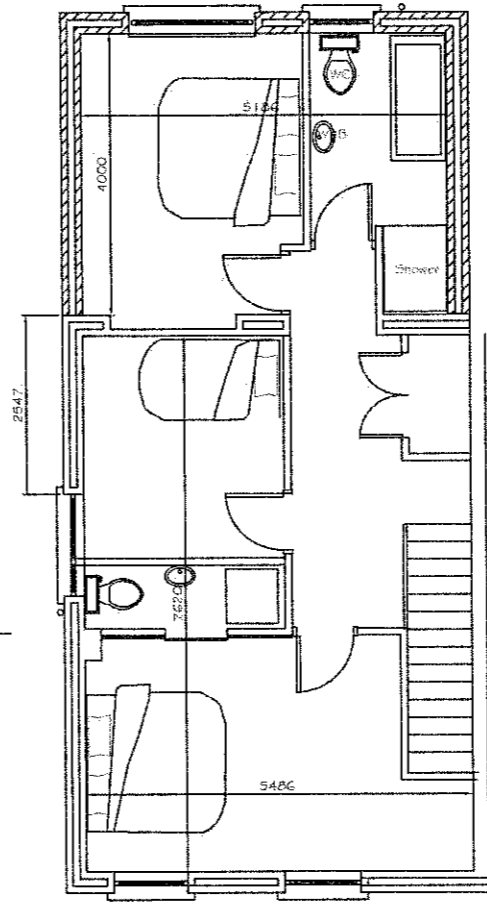
Front Elevation



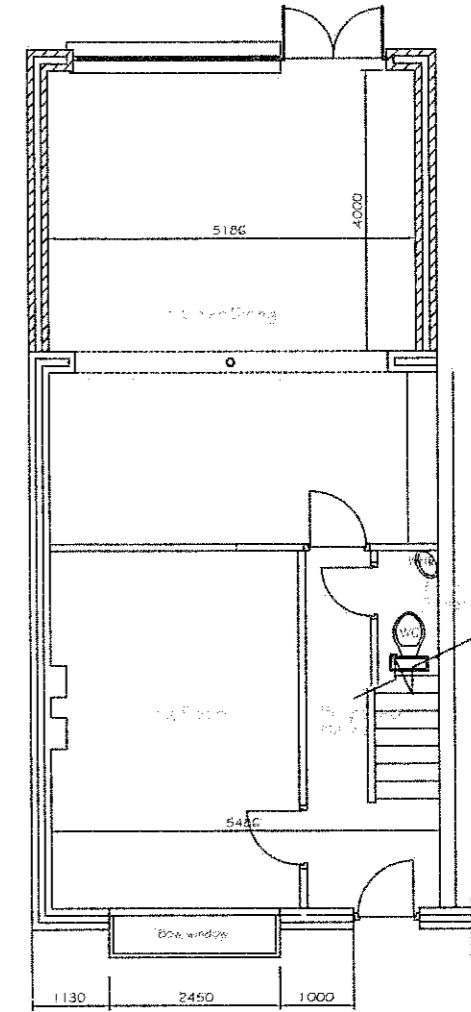
Rear Elevation



Side Elevation



First floor Plan



Ground Floor Plan

18/12/22	REVIEW		IV	IV	IV
VIP RENOVATION LTD 4/5, Saint Patrick's Terrace, W Douglas St, 4/5, Douglas, Cork, T12 TN63 tel: +353 (0)21 4592181 email: info@viprenovations.ie web: www.viprenovations.ie					
Clodagh & Morgan O'Donovan 5 Crablane, Ballintemple, Cork					
Section 5 Referral Proposed alteration to front facade Bay window to bay window					
Existing layout					
REVIEW					
18/12/22	103	IV	IV	IV	IV
A103		103/1			01



# Comhairle Cathrach Chorcaí Cork City Council

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

Clodagh O'Donovan,  
5 The Terrace,  
Crab Lane  
Ballintemple,  
Cork

08/08/2022

**RE: Section 5 Declaration R726/22 5 The Terrace, Crab Lane,  
Ballintemple, Cork**

A Chara,

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

Proposed sections and plans have not been provided and as such it has not been possible to assess the impact of the proposed development against the provisions of Section 4 (1) (h). The applicant is requested to submit scaled existing and proposed ground floor plans and existing and proposed sections of the window in order for an assessment to be made.

Is mise le meas,

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



We are Cork.

Application type	<b>SECTION 5 DECLARATION</b>
Question	<i>Is the alteration of an existing bow window on the existing front façade to a bay window exempt development under the planning development Act 2000, as amended?</i>
Location	5 The Terrace, Crab Lane, Ballintemple, Cork
Applicant	Clodagh O'Donovan (owner)
Date	08/08/2022
Recommendation	<b>Request Further Information</b>

## INTERPRETATION

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 APPLICATION

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

The intention of the request is clear, and that it is entirely reasonable to consider the question before the planning authority as being:

*Is the alteration of an existing bow window on the existing front façade to a bay window exempt development under the planning development Act 2000, as amended?*

### 3. SITE DESCRIPTION

The subject property is a two-storey, semi-detached dwelling in. The area is predominantly residential in nature.

### 4. DESCRIPTION OF THE DEVELOPMENT

The proposed development proposes the alteration of an existing front bow window to a bay window and the construction of a wall under the window, finished as per the rest of the façade. A site visit took place on 03.08.2022.



## 5. RELEVANT PLANNING HISTORY

TP 08/33549 Planning permission granted for a two storey extension to the rear of the dwelling house.

## 6. LEGISLATIVE PROVISIONS

### 6.1 Planning and Development Act, 2000 as amended

#### **Section 2(1)**

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

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

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

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

#### **Section 3(1)**

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

#### **Section 4(1)(h)**

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 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, as amended.

**Section 4(3)**

A reference in this Act to exempted development shall be construed as a reference to development which is—

- (a) any of the developments specified in subsection (1), or
- (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.

**Section 5(1)**

See section 1 of this report.

**6.2 Planning and Development Regulations 2001 to 2018 as amended**

**Article 5(2)**

*In Schedule 2, unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose “ground level” means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.*

**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.*

**Article 9**

Article 9 sets out restrictions on exemptions specified under article 6.

**(Article 6) Schedule 2, Part 1, Class 1**

Classes 1-8 relate to development within the curtilage of a house and Class 1 relates to *“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”*. Class 7 relates to *“The construction or erection of a porch outside any external door of a house.”*

**7. ASSESSMENT**

**7.1 Development**

The first issue for consideration is whether or not the matter at hand is ‘development’, which is defined in the Act as comprising two chief components: ‘works’ and / or ‘any material change in the use of any structures or other land’.

‘Works’ is defined in section 3(1) of the Act as including ‘any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal’. In relation to proposed alteration of the bow window to a bay window and the construction of a wall beneath it, to the front façade of the dwelling, it is clear that the proposed alterations comprise ‘works’. As the proposal comprises ‘works’, it is clearly therefore ‘development’ within the meaning of the Act.

**CONCLUSION**

## Is development

### 7.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. Section 2(1) of the Act defines 'exempted development' as having 'the meaning specified in section 4' of the Act (which relates to exempted development).

Section 4(3) of the Act states that exempted development either means development specified in section 4(1) or development which is exempted development having regard to any regulations under section 4(2).

#### Section 4(2)

I have considered whether the proposed window alteration and associated wall comes under the scope of section 4(2) (i.e. exemptions specified in the Regulations), having regard to the use of the word 'or' in section 4(3).

Having considered Article 6 and the provisions for exempted development set out in both Class 1 and Class 7, neither are applicable in this instance. Class 1 relates to extensions to the side and rear of a dwelling house and does not apply here. Class 7 relates to the construction of a porch outside any external door of a house, and therefore also does not apply here. There are no other provisions for development such as that proposed within the scope of section 4(2) of the regulations. The proposed alteration of the existing bow window to a bay window with associated supporting wall would give rise to additional volume projecting beyond the front wall of the dwelling house. There are no exempted development provisions for the proposed development within this section of the Regulations.

I have also considered the proposal under **subsection (1)(h) of section 4**, i.e. the Regulations.

#### 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;*

Proposed sections and plans have not been provided and as such it has not been possible to assess the impact of the proposed development against the provisions of Section 4 (1) (h). The applicant is requested to submit existing and proposed ground floor plans and existing and proposed sections of the window in order for an assessment to be made.

### CONCLUSION

Proposed sections and plans have not been provided and as such it has not been possible to assess the impact of the proposed development against the provisions of Section 4 (1) (h). The applicant is requested to submit scaled existing and proposed ground floor plans and existing and proposed sections of the window in order for an assessment to be made.

**Request Further Information.**



Gillian Tyrrell  
Assistant Planner  
08.08.2022

5 The Terrace

Crablane

Ballintemple

Cork

06<sup>th</sup> July 2022

To whom it may concern

Please find attached a Section 5 application for a proposed alteration to the external façade of our property at the address above.

We are embarking in the coming year on an energy retrofit of the house, to future proof it and make it as energy efficient as possible. In doing this work, we will need to insulate, upgrade windows, etc.

To the front façade of the house (see attached photographs and scale drawing) there is a bow window at ground level which is cantilevered from the façade.

We were hoping that it might be possible to make this a bay window (see attached scale drawing), by removing the cantilever and building a shallow wall under the window (finished as per the rest of the façade).

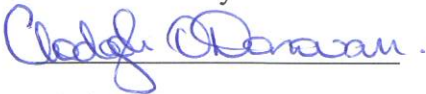
The depth of the existing bow window is c. 400mm.

I have attached a site location map (with the property outlined in red), along with a drawing showing the front façade as is now, as well as the proposed alteration.

I have also enclosed some photographs showing the front façade of the house.

I look forward to a response in respect of the application in due course.

Yours sincerely



Clodagh O'Donovan

**Cork City Council**

**08 JUL 2022**

**Community, Culture  
and Placemaking**

**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](mailto:planning@corkcity.ie)

Fón/Tel: 021-4924564/4321

Líonra/Web:

**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**

5 THE TERRACE, CRABLANE, BALLINTEMPLE, CORK  
T12 YFF6.

**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 ALTERATION OF AN EXISTING BOW WINDOW  
(SEE ATTACHED PHOTOS + DRAWING) ON THE EXISTING  
FRONT FACADE TO A BAY WINDOW (SEE ATTACHED  
DRAWING) EXEMPT DEVELOPMENT UNDER THE  
PLANNING + DEVELOPMENT ACT, 2000 AS AMENDED.

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**

(Use additional sheets if required).

SEE ATTACHED DRAWING, PHOTOGRAPHS +  
DOCUMENT/COVER LETTER.

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

If so please supply details:

NO

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

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

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

If so please supply details:

Previous 2-storey extension - Ref 08/33549.

### 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	EXISTING PROPERTY - C. 1500 sq. ft. (no change).
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including those for which planning permission has been obtained)?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) As above - Ref 08/33549.
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle) N/A	Proposed/existing use (please circle) N/A

### 7. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		CLODAGH O'DONOVAN
Applicants Address	5 THE TERRACE CRABLANE BALLINTEMPLE CORK.	
Person/Agent acting on behalf of the Applicant (if any):	Name:	AS ABOVE
	Address:	AS ABOVE
	Telephone:	[REDACTED]
	Fax:	N/A
	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 checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	N/A	
If you are not the legal owner, please state the name and address of the owner if available	N/A	

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

Signature: Clodagh O'Donovan

Date: 06/07/22.

### **ADVISORY NOTES:**

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

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

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

*The application should be sent to the following address:*

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

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.



The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

**DATA PROTECTION**

"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protections policy is available at [www.corkcity.ie/privacy](#)

We request that you read these as they contain important information about how we process personal data.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**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 of 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 land 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, An Gleeson 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 persons (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 enter 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 €500 be provided with the question for decision for the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

# OSi PLACE Map

PROPERTY SHOWN RED.

**CENTRE COORDINATES:**  
ITM 569737,571239

**PUBLISHED:** 06/07/2022  
**ORDER NO.:** 50278482\_1

**MAP SERIES:** 1:1,000  
**MAP SHEETS:** 6383-13  
1:1,000 6383-18

**COMPILED AND PUBLISHED BY:**  
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Phoenix Park,  
Dublin 8,  
Ireland.

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the copyright owners.

The representation on this map  
of a road, track or footpath  
is not evidence of the existence  
of a right of way.

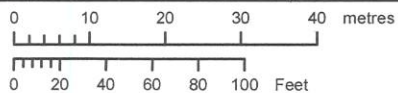
Ordnance Survey maps  
never show legal property  
boundaries, nor do they  
show ownership of  
physical features.

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**LEGEND:**  
<http://www.osi.ie>;  
search 'Large Scale Legend'

569630  
571325  
571153  
569630

569633  
571325  
571153  
569633



OUTPUT SCALE: 1:1,000

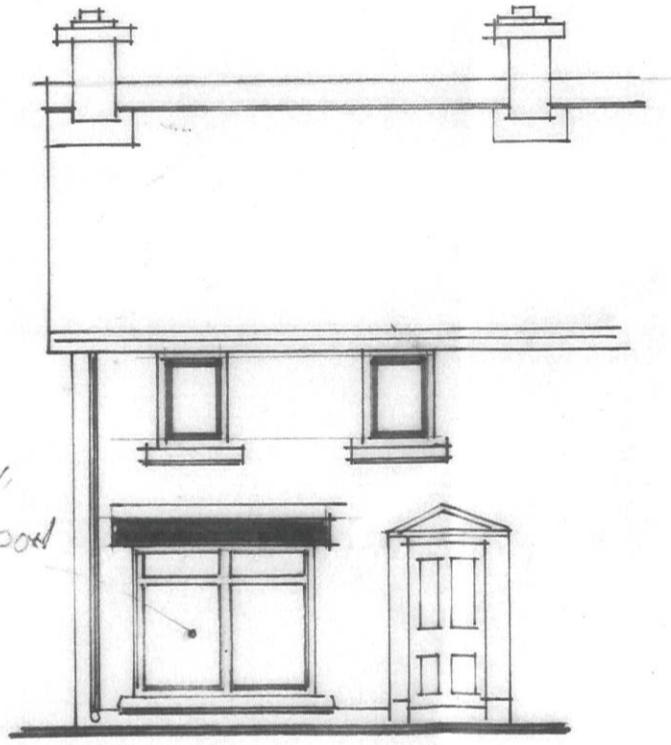
**CAPTURE RESOLUTION:**  
The map objects are only accurate to the  
resolution at which they were captured.  
Output scale is not indicative of data capture scale.  
Further information is available at:  
<http://www.osi.ie>; search 'Capture Resolution'







EXISTING ELEVATION



OPTION 1  
PROPOSED BAY  
WINDOW.

SCALE 1:100