



# Comhairle Cathrach Chorcaí Cork City Council

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

Lucy Buckley,  
25 Mount Vernon Terrace,  
Alexandra Road,  
St. Lukes,  
Cork T23 F9C1

17/08/2022

**RE: Section 5 Declaration R732/22 25 Mount Vernon Terrace,  
Alexandra Road, St. Lukes, Cork**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 15<sup>th</sup> August 2022, I wish to advise as follows:

Having regard to:

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),

it is considered that *"the replacement of the existing external finish with reclaimed red brick cladding at No. 25 Mount Vernon Terrace, Alexandra Road, St. Lukes"*

**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, 17<sup>th</sup> August 2022.

Is mise le meas,

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



**We are Cork.**

<b>PLANNER'S REPORT</b> <b>Ref. R732/22</b>		<b>Cork City Council</b> Development Management Strategic Planning and Economic Development
<b>Application type</b>	Section 5 Declaration	
<b>Description</b>	<i>External cladding – see description in text of report</i>	
<b>Location</b>	25 Mount Vernon Terrace, Alexandra Road, St. Luke's	
<b>Applicant</b>	Lucy Buckley	
<b>Date</b>	16/08/2022	
<b>Recommendation</b>	<i>Is development and is not 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 does not frame a question. Rather it sets out a detailed description as follows:

*I have a mid-terraced house and want to remove the pebble dash to the exterior of the house and put XVIII century reclaimed red brick cladding on instead. The red brick cladding looks very well + I feel it is more in keeping with the history + character of the area. Please find photos of my house + samples of red brick cladding work. The cutting is supplied by deco stones in Ballincollig.*

*I am also enclosing pictures of the surrounding area near my home where red brick is used as well as this red brick I've used in my kitchen splash back (see photos).*

*I love the old character of Saint Luke's + want to bring back some of that character to my own home.*

*The houses on my terrace all vary with what is done to the exterior of the houses but there is definitely one other house with cladding on the exterior of the house. (Photo enclosed).*

I consider that the question to be assessed should be summarised as follows:

Does the replacement of the existing external finish with reclaimed red brick cladding at no. 25 Mount Vernon Terrace constitute development and if so does it constitute exempted development.



### 3. Site Description

The property in question is a two storey mid-terraced dwelling located in the St. Luke's area to the north west of Cork city centre. I note that the applicant has stated that the current external treatment is pebble dash. The photograph provided however shows that the existing finish is actually roughcast.

For pebbledash, clean material is thrown at the freshly plastered surface then pressed in, so the colour of the material is visible. For roughcast, on the other hand, this material is mixed with mortar and then thrown at the surface, so all the material is coated with the mortar. This is a traditional external finish in Ireland and is the original surface treatment of the entire terrace.

### 4. Planning History

There are no recent planning applications associated with the site.

### 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 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.

Following a review of the schedule I am satisfied that none of the classes set out therein relate to the proposed external changes to no. 25 Mount Vernon Terrace.



## 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 replacement of the existing external finish with reclaimed red brick cladding constitutes 'works' and accordingly constitutes 'development'.

### 6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. The only provision of the Act or Regulations wherein the proposed external works may be considered exempted development is the general provision set out in section 4(1)(h) of the Planning and Development Act 2000 (as amended).

The test for the applicability of this exemption is limited only to works that *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.*

I consider that, in this instance, the replacement of the original roughcast finish with a reclaimed red brick cladding, is inappropriate. The image below, from Google Streetview, shows the subject residence (red door) in context. Most of the homes in the terrace retain the original roughcast finish.





I conclude that the proposed replacement of the original rough cast external finish, with a red brick cladding, would 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.

**Accordingly I conclude that the replacement of the existing external finish with reclaimed red brick cladding at no. 25 Mount Vernon Terrace not exempted 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**

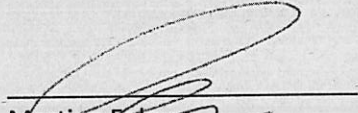
In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)

It is considered that —

The replacement of the existing external finish with reclaimed red brick cladding at no. 25 Mount Vernon Terrace, Alexandra Road, St. Lukes,

**constitutes development and is not exempted development.**



Martina Foley

A/Senior Executive Planner

COMHAIRLE CATHRACH CHORCAÍ  
CORK CITY COUNCIL

Strategic Planning & Economic Development 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: [www.corkcity.ie](http://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**

25 Mount Vernon Terrace, Alexandra Rd.,  
St. Lukes, Cork City T23 F9C1

**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.

I have a mid-terraced house and want to remove the pebble dash to the exterior of the house and put XVIII century Reclaimed red brick cladding on instead. The red brick cladding looks very well & I feel it is more in keeping with the history & character of the area. Please find photos of my house & samples of red brick cladding work. The cladding is supplied by Decco Stones in Ballincollig.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

I am also enclosing pictures of the surrounding area near my home where red brick is used as well as this red brick I've used in my kitchen splash back (see photos). I love the old character of St. Lukes & want to bring back some of that character to my own home.

The houses on my terrace all vary with what is done to the exterior of the houses but there is definitely one other house with cladding on the exterior of the house. (photo enclosed).

Cork City Council

15 AUG 2022

Community, Culture  
and Placemaking

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?  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	
(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 type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas. (sq m)
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle)	Proposed/existing use (please circle)
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### 7. 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		
If you are not the legal owner, please state the name and address of the owner if available		

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

Signature: Paul Buckley

Date: 15<sup>th</sup> August, '22



**CONTACT DETAILS**

**9. Applicant:**


<b>Name(s)</b>	Lucy Buckley
<b>Address</b>	25 Mount Vernon Terrace, Alexandra Road, St. Lukes, Cook City.


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


<b>Name(s):</b>	
<b>Address:</b>	 <hr/> <hr/> <hr/>
<b>Telephone:</b>	
<b>E-mail address:</b>	
<b>Should all correspondence be sent to the above address?</b> (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"/>

**11. 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.

Tel. No. 

Mobile No. (( )) 

Email Address: 

For Office Use Only: File Ref. No. <u>R732/22</u>
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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, Community, Culture & Placemaking  
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.**

- 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 protection 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.*

# Land Registry

County Cork

Folio 161432F

## Register of Ownership of Freehold Land

### Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

No.	For parts transferred see Part 1(B) Description	Official Notes
1	<p>The property shown coloured Red as plan(s) C9NA3 on the Registry Map, situate in the Parish of St. Anne's-Shandon, known as 25 MOUNT VERNON TERRACE, SAINT LUKES, CORK, in the Electoral Division of St. PATRICK'S C.</p> <p>The Registration does not extend to the mines and minerals</p>	<p>Instrument D2014LR015859K Ground Rents Acts</p>



# Land Registry

County Cork

Folio 161432F

## Part 1(B) - Property Parts Transferred

No.	Prop No:	Instrument:	Date:	Area (Hectares):	Plan:	Folio No:

Land Registry

County Cork

Folio 161432F

Part 2 - Ownership

Title ABSOLUTE

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	13-FEB-2015 LUCY BUCKLEY of 25 Mount Vernon Terrace, Saint Luke's, Cork is owner. D2014LR015859K



Land Registry

County Cork

Folio 161432F

Part 3 - Burdens and Notices of Burdens

No.	Particulars

















