



Comhairle Cathrach Chorcaí Cork City Council

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

Killian O'Donoghue,
69 Rossbrook,
Model Farm Road,
Cork.

14/03/2023

RE: Section 5 Declaration R761/23 69 Rossbrook, Model Farm Road, Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 15th February 2023, I wish to advise as follows:

The Planning Authority, having regard to:

- The particulars received by the Planning Authority on 15/02/23
- The details set out as part of the parent permission on site Planning Ref. 14/36226
- A site inspection carried out on 13/03/23

It is considered that *the change of location of the front door and reduction in size of the front door porch area* is not a material change to the plans and particulars attached to the parent permission at 69 Rossbrook, Model Farm Road, 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, 14th March 2023.

Is mise le meas,

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



We are Cork.

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference:	R761/23
Description:	Whether the change of location of a front door and reduction in size of a front door porch area is or is not exempted development?
Applicant:	Killian O’Donoghue
Location:	69 Rossbrook, Model Farm Rd., Cork
Site inspection:	13/03/2023

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 site is located at 69 Rossbrook, Model Farm Rd Cork. The site is located in a long established residential estate located to the very west of the built up area of Cork City with a mixture in styles of mainly residential buildings in place.

The Question before the Planning Authority

Whether the change of location of a front door and reduction in size of a front door porch area is or is not exempted development.

Land Use Zoning

Cork City Development Plan 2022-2028

Land-Use Zoning

The site is situated in an area zoned as **ZO 01 Sustainable Residential Neighbourhoods** with the objective to *protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.*

Planning History

07/32482:

Permission GRANTED for the construction of a two storey extension to the rear of the dwelling, and the provision of a new dormer window to the front of the dwelling

14/36226:

Permission GRANTED for the construction of a front porch and a first floor extension to the front and side of existing house, install 2 no. roof lights, extend and raise existing rooflines along with carrying out associated site works

Planning 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(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.*

Planning and Development Regulations, 2001 as amended

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 sets out restrictions on exemptions specified under article 6.

Article 9(1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development, including (a) if the carrying out of such development would:-

*9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—
(a) if the carrying out of such development would—*

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,

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'.

As noted above Section 3 (1) of the Planning and Development Act states that: 'development' means, *except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land.*

The construction of the front porch entrance to the dwelling and the relocated front door entrance to the dwelling clearly constitutes 'works', which is defined in section 2(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

As the proposal comprises 'works', it is clearly therefore 'development' within the meaning of the Act.

CONCLUSION — is development

Assessment of Exempted Development

The next issue for consideration is whether or not the proposal is exempted development.

The applicant has submitted details including photographs of the front door porch entrance to their dwelling. No detailed drawings of the current structure in place on site have been submitted it is noted.

The front door and front porch entrance to the dwelling were both constructed on foot of the grant of permission in line with Planning Ref. 14/36226 which allowed for the construction of a front porch entrance to the dwelling with the proposed front door entrance to be located to the side/south of the porch. The porch entrance that was constructed is stated by the owner to be smaller than that which was permitted in terms of internal floor area and length and width. Also, it is stated that the front door entrance to the dwelling was built on the front/western facing side of the porch instead of the side/southern facing side of the porch. From google streetview images and an inspection of the site it is clear that these details submitted by the dwelling owner are correct.

The site is located in a residential area and the changes made to the permission do not amount to a change of use. The main issue to consider therefore is whether or not the works carried out on site amount to a material change from the details set out as part of the parent planning permission granted on site. A material change to the plans of a parent permission would require a significant design change that would alter the overall design, scale and layout of what was permitted and would also have a negative impact in terms of residential amenity and other negative impacts on adjacent third parties.

Given its size and reduction in area from what was granted planning permission it is considered that the front porch entrance would not have a significant impact on its surroundings, on neighbouring/adjacent third party properties and would not visually alter or significantly amend the overall development as was set out in the parent permission. I would therefore consider that the porch entrance that has been constructed in terms of its reduced internal floor area and length and width is not a material change to the plans and elevations set out as part of the parent permission.

The relocated front door to the dwelling that has been built on the front/western facing elevation of the porch entrance instead of the side/southern facing elevation of the porch entrance is also a minor change to the plans and details set out as part of the parent permission on site. The relocation of the front door entrance from the side to the front elevation of the porch entrance will not have a negative impact on the residential

amenity of adjacent third party properties and will not significantly amend/alter the overall design, scale and layout of the development that was granted as part of the parent permission. The relocate door entrance is considered to be a minor design change and I would therefore consider that on these grounds the altered location of the front door entrance to the dwelling is not a material change to the plans and elevations set out as part of the parent permission.

Environmental Assessment & Restrictions on Exemption

A number of restrictions on exemption are set out in Section 4(4) of the Act and Article 9 of the Regulations.

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 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.

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 proposed development would not affect the integrity of these European sites. Accordingly it is considered that appropriate assessment is not required.

Recommendation

From the details submitted it is considered that the works carried out on site do not amount to material changes to the parent planning permission that was granted on site. Therefore, the works carried out are considered to be exempt development.

Having regard to:

- The particulars received by the Planning Authority on 15/02/23
- The details set out as part of the parent permission on site Planning Ref. 14/36226
- A site inspection carried out on 13/03/23

the Planning Authority considers that –

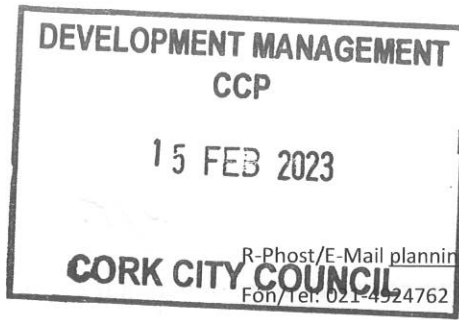
the change of location of the front door and reduction in size of the front door porch area is not a material change to the plans and particulars attached to the parent permission – **IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.**

 13/03/23

Tadhg Hartnett
Executive Planner
Planning Department
Community Culture & Placemaking Directorate
13th March 2023

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

Community, Culture & Placemaking Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.



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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

69 Rossbrook, Model Farm Road,
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?

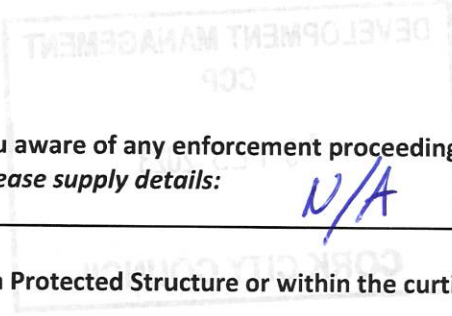
Note: only works listed and described under this section will be assessed under the section 5 declaration.

The construction of a
porch / front door at 69
Rossbrook, Model Farm Road,
Cork

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Planning permission ref: 1436226
was granted to extend the
1st floor and porch in 2015.
The drawings / planning provided
for the front door to be
placed to the side of the
porch, however it was constructed
to the front.



3. Are you aware of any enforcement proceedings connected to this site?
 If so please supply details: N/A

4. Is this a Protected Structure or within the curtilage of a Protected Structure?

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: Ref: 1436226

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>1.33 m² (Porch)</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 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) <u>No change</u>	Proposed/existing use (please circle) <u>No change</u>

8. LEGAL INTEREST

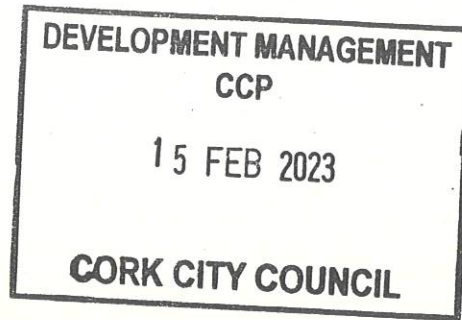
Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	_____	
If you are not the legal owner, please state the name and address of the owner if available	_____	

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

Signature: Killian O'Donoghue
 Date: 15/2/2023

15th February 2023

Planning Department,
Cork City Council.



69 Rossbrook,
Model Farm Road,
Cork.
T12 FFX3

Re: Planning Reference 1436226, Section 5 Application

To whom it may concern,

Planning for the construction of a front porch and first floor extension to the side and front of the above referenced property was granted on the 17th of February 2015. Construction of the first floor elevations to the side and front of the property were constructed in accordance with planning permission.

Permission obtained for the porch provided that it could be extended to measure 1850mm (depth) by 2500mm (width). However, I subsequently decided that extending the porch by this amount was unnecessary and would add more cost than value to the property. Hence, the porch was constructed to measure 900mm by 2500mm. In essence, the porch was constructed to half the size as provided for under the planning permission. Other than the smaller dimensions, the porch that was constructed is consistent with the design of the drawings submitted to your offices and upon which planning was approved - apart from one feature, the positioning of the front entrance door.

Planning was granted for the positioning of the door on the side elevation. However it was positioned on the front elevation. Because the porch was only extended outwards/away from the front elevation of the property by 900mm (as opposed to 1850mm) the only feasible option was to position the entrance door to the front. The design of the porch as constructed is consistent with other similar/recent porch extensions in Rossbrook where the main entrance door is positioned on the front elevation. The original front door entrance was also positioned on the front elevation.

Taken 14/2/2023





Taken 14/2/2023

Taken 14/2/2023

