



# Comhairle Cathrach Chorcaí Cork City Council

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

Tamzyn Kotze,  
Apartment 1,  
32 South Main Street,  
Bandon,  
Co. Cork P72 YK59

02/06/2022

RE: Section 5 Declaration R717/22 23C Congress Road, Turners  
Cross, Cork T12 TK80.

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, I wish to advise as follows:

The Planning Authority, in view of the above and having regard to —

- Sections 2, and 3 of the Planning and Development Act 2000 (as amended), and
- Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended),

It is considered that (i) the change of use from a hairdresser to a retail/shop unit, selling retail items, take away coffee and treats, where no food will be prepared on site and the unit would act only as a takeaway facility, as per plans and particulars submitted under this Section 5 **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

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

<b>File Reference</b>	<b>R717/22</b>
<b>Description</b>	Is the change of use of the above property from a hairdresser to a retail/shop unit, selling retail items, take away coffee and treats, exempted development. No food will be prepared on site and the unit would operate as a takeaway facility and related retail items.
<b>Applicant</b>	Tamzyn Kotze
<b>Location</b>	23C Congress Road, Turners Cross, Cork (T12TK80)

### 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 23C Congress Road, Turners Cross, at the crossroads junction of Upper Friars Rd and Congress Rd. The area is zoned ZO-4 Residential, Local Services and Institutional Uses. The predominant dwelling type in the area is a mix of one and two storey dwellings. Directly across from the subject site is a post office.

### REVELANT 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.*

**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.

**Flood Risk Assessment**

The proposed development site is not located within Flood Zones A or B as defined in the *Flood Risk Management Guidelines for planning Authorities 2009*.

**Assessment**

The applicant is enquiring if a change of use from a hairdresser to a shop is exempted development. The shop will sell general items and takeaway coffee, treats and sandwiches.

The change of use as described in this Section 5 application is considered to be exempted development. The Planning and Development Act 2000 (as amended) identifies use as a shop as exempted development. "shop" means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public—

- (a) for the retail sale of goods,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other food for consumption off the premises, where the sale of such food is subsidiary to the main retail use,
- (e) for hairdressing,
- (f) for the display of goods for sale,
- (g) for the hiring out of domestic or personal goods or articles,
- (h) as a launderette or dry cleaners,
- (i) for the reception of goods to be washed, cleaned or repaired,

but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food for consumption off the

premises, except under paragraph (d) above, or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;

Please note the preparation and consumption of food on premises would require planning permission.

#### **RECOMMENDATION**

In view of the above and having regard to —

- Sections 2, and 3 of the Planning and Development Act 2000 (as amended), and
- Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended),

It is considered that (i) the change of use from a hairdresser to a retail/shop unit, selling retail items, take away coffee and treats, where no food will be prepared on site and the unit would act only as a takeaway facility, as per plans and particulars submitted under this Section 5, is development and is **Exempted Development**.

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Alan Swanwick,

Assistant Planner

02/06/2022

**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: 021-4924709

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**

23C Congress Road,  
Turners Cross  
Cork  
T12TK80

**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 change of use of the above property from a hairdresser to a retail/shop unit, selling retail items, take away coffee and treats, exempted development.

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

*(Use additional sheets if required).*

No food will be prepared on site and the unit would operate as a take away facility of coffee, treats, sandwich items and related retail items ie. retail coffee, milk, crockery

**DEVELOPMENT MANAGEMENT**  
CCP

18 MAY 2022

**CORK CITY COUNCIL**

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?

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:

#### 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	320 sq feet
(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 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)
Hairdresser	Retail/Shop unit operating as a coffee take-away unit with retail section

#### 7. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner	B. Other <input checked="" type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	Lessee	
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: 

Date: 13 May 2022

**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.*

# Planning Pack Map



**CENTRE COORDINATES:**  
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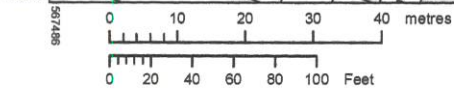
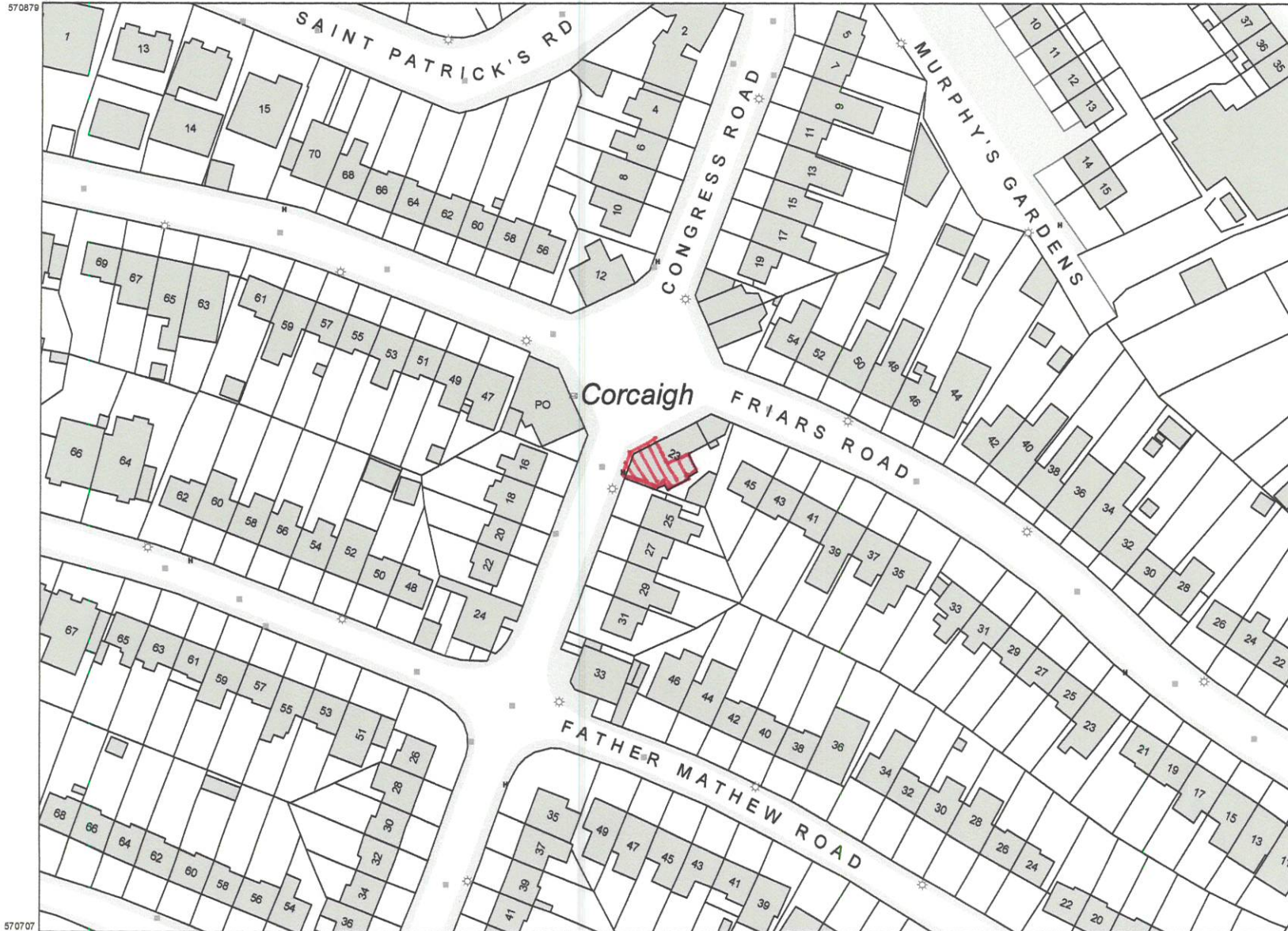
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**OUTPUT SCALE: 1:1,000**

**CAPTURE RESOLUTION:**  
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