



Comhairle Cathrach Chorcaí Cork City Council

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

Meave Dooley & Declan Dunne
10 West Avenue
Parkgate
Frankfield
Cork

02nd February 2022

**RE: Section 5 Declaration R700/21 10 Westpark Avenue,
Parkgate, Frankfield, Cork**

A Chara,

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

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

It is considered the proposed 19.8m² flat roof extension to the rear **Is Development** and is **Exempted Development**.

Is misa le meas,

Kerry Bergin
Development Management Section



PLANNER'S REPORT Ref. R /19		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Whether requires planning permissions</i>	
Location		
Applicant		
Date	24/01/2022	
Recommendation	<i>Is Development and Is Not Exempted Development</i>	

To be read in conjunction with previous report dated 14/12/2021 which requested the following further information.

• **The following Further Information was requested:**

The initial details submitted contained a number of unknowns which required clarification:

Proposal	Single storey flat roof extension
Area	19.8sq.m
Remaining Open Space	Greater than 25sq.m
Height	3.582m
Windows	On rear elevation only circa 5m from boundary
Proposed pitch style	unknown
Distance from rear boundary	unknown
Distance from neighbouring side boundaries	unknown

The following further information was therefore issued:

- Please submitted a site layout plan of not less than 1:500 detailing the existing layout and also the proposed.
- Please clarify the existing floor areas of any existing extensions (particularly to the rear) and any garage/shed on the property.
- Please submit elevations of the proposed development to include overall heights and lengths of the scheme proposed.
- Please clarify the proposed pitch/roof style of the proposed extension.
- Please submit a proposed floor plan of the proposed extension integrated into the existing ground floor plan.

• **Response from Applicant:**

The applicant submitted details on the 04/01/2022 and provided details which are summarised below:

Proposal	Single storey flat roof extension
Area	19.8sq.m
Remaining Open Space	42.5sq.m

Height	3.582m
Windows	On rear elevation only circa 5m from boundary
Proposed pitch style	Flat roof
Distance from rear boundary	Over 7m
Use of Roof	Will not be used as a balcony
Distance from neighbouring side boundaries	No windows proposed in elevations facing side boundaries and unit wholly contained within site of applicant

- **The Question before the Planning Authority**

In framing the question to the planning authority, the applicant states in Q2 of the application form:

- **Assessment**

The applicant has now provided site layout, elevations and floor plans from which the above details have been drawn. The proposal meets with the limits and conditions set out in Schedule 2, Part 1, Class 1 for a residential extension. From the drawings submitted, the proposal is being built entirely within the applicants own boundary and on their side of the party boundary wall. There is no existing permission with conditions which this proposal would contradict. Based on same, I am satisfied that the drawings and particulars submitted are for an exempted residential extension to the rear.

- **Conclusion**

The question has been asked: *Whether the construction of a 19.8m² rear single storey extension is development; and if so, is it exempted development?*

- **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
- Article 9 of the Planning and Development Regulations 2001 (as amended),

It is considered the proposed 19.8m² flat roof extension to the rear **Is Development** and is **Exempted Development**.



Mary Doyle
Executive Planner

24/01/2021

R700/21

10 West Avenue,
Parkgate,
Frankfield,
Cork
T12 PEY9

22nd December 2021

Dear Ms Bergin,

Further to your letter dated 16th December 2021, please find attached the requested documentation.

Please note:

- There have been no previous extensions to the property. This is the first. You should note that there was a previous application for a S5 Declaration for a larger extension but we did not proceed with that and subsequently scaled it back to that shown now;
- The shed has a floor area of 6.48sqm and the remainder of the garden space is 42.5sqm excluding the shed. The shed has a pitched roof at 2.8m in height and is used for storage only;
- The extension has a flat roof and a flat rooflight. The height of the parapet is 3.5m;
- The internal floor plan should not be needed for this assessment but we are submitting same regardless. This extension is 19.8sqm and is consistent in size to others in the same estate, including the adjoining property.

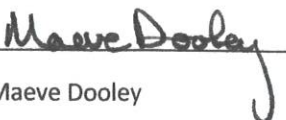
To conclude and as per the 2001 Planning & Development Regulations (as amended):

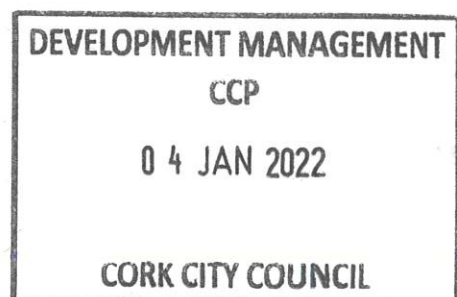
- The house was not previously extended and the floor area of the extension is less than 40sqm (19.8sqm);
- This is a ground floor extension only;
- The rear wall is 3.582m in height and is significantly lower than the height of the rear wall of the remainder of the dwelling. Similarly, it is significantly lower than the height of the eaves of the dwelling;
- The garden space that remains is 49sqm;
- Windows are located on the rear elevation only, over 7m from the boundary wall that it faces;
- The roof space is not in use as a balcony or roof garden.

Documents included are:

- Site Layout Plan showing original layout and the extension (including internal floor plan);
- Rear elevation;
- Side elevation; and
- Roof plan.

Sincerely,


Maeve Dooley





Comhairle Cathrach Chorcaí Cork City Council

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

Meave Dooley & Declan Dunne
10 West Avenue
Parkgate
Frankfield
Cork

16/12/2021

**RE: Section 5 Declaration R700/21 10 West Avenue,
Parkgate, Frankfield, Cork T12PEY9**

A Chara,

With reference to your request for a Section 5 Declaration at the above named property, I wish to advise that further information is requested:

1. Please submitted a site layout plan of not less than 1:500 detailing the existing layout and also the proposed.
2. Please clarify the existing floor areas of any existing extensions (particularly to the rear) and any garage/shed on the property.
3. Please submit elevations of the proposed development to include overall heights and lengths of the scheme proposed.
4. Please clarify the proposed pitch/roof style of the proposed extension.
5. Please submit a proposed floor plan of the proposed extension integrated into the existing ground floor plan.

Is misa le meas,

Kerry Bergin
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

PLANNER'S REPORT Ref. R700/21		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Whether the construction of a 19.8m2 rear single storey extension is development; and if so, is it exempted development?</i>	
Location	10 West Avenue, Parkgate, T12 PEY9	
Applicant		
Date	16/12/2021	
Recommendation		

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.

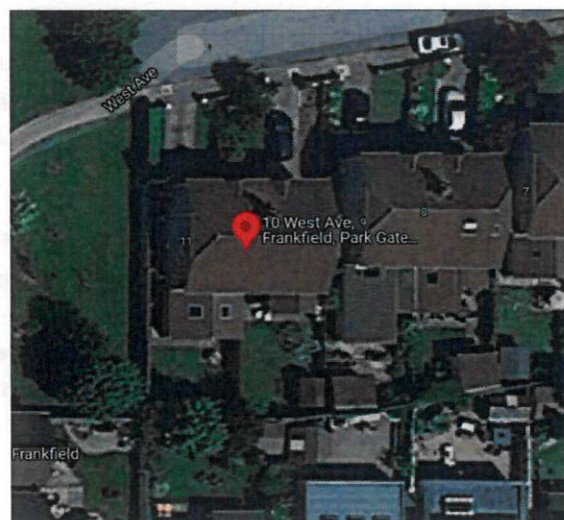
2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

Whether the construction of a 19.8m2 rear single storey extension is development; and if so, is it exempted development?

3. Site Description

The property in question is a 2-storey semi-detached residential unit in an established residential area. There appears to be a minor rear extension and shed/garage on the site.



4. Planning History

No known applications.

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 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 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

Article 10 (1)

Development which consists of a change of use within any one of the classes of use as specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –

- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned*

Schedule 2, Part 1, Class 1

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house...

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 proposed rear extension constitutes works as it involves the construction of a new structure.

6.2 Exempted development

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

Development within the curtilage of a house

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.

Provided:

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.*
3. *Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.*
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.*

The applicant has supplied the following written details:

Proposal	Single storey flat roof extension
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Area	19.8sq.m
Remaining Open Space	Greater than 25sq.m
Height	3.582m
Windows	On rear elevation only circa 5m from boundary
Proposed pitch style	unknown
Distance from rear boundary	unknown
Distance from neighbouring side boundaries	unknown

No site layout and no elevations and dimensioned drawings have been submitted in support of same. It is unknown what the exact distances to the neighbouring boundaries will be and whether sufficient open space will remain. There are a number of unknowns which need to be clarified before a determination can be made. These details are required to enable an accurate assessment to be made. There also appears to be an existing small extension to the rear and also a garage/shed. The size of these elements should also be submitted.

Further Information to be requested.

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 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 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 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 the European sites referred to above. Accordingly, it is considered that appropriate assessment is not required.

8. Conclusion

The question has been asked:

Whether the construction of a 19.8m² rear single storey extension is development; and if so, is it exempted development?

A site layout and drawings of the proposed elevations and floor plan are required in order for the Planning Authority to make a determination.

9. RECOMMENDATION

The following further information is requested:

1. Please submitted a site layout plan of not less than 1:500 detailing the existing layout and also the proposed.

2. Please clarify the existing floor areas of any existing extensions (particularly to the rear) and any garage/shed on the property.
3. Please submit elevations of the proposed development to include overall heights and lengths of the scheme proposed.
4. Please clarify the proposed pitch/roof style of the proposed extension.
5. Please submit a proposed floor plan of the proposed extension integrated into the existing ground floor plan.



Mary Doyle
Executive Planner

14/12/2021

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

Fón/Tel: 021-4924762

Líonra/Web: 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

10 WEST AVENUE, PARKGATE, FRANKFIELD, CORK
T12 PEY9

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.

WHETHER CONSTRUCTION OF 19.8m² REAR SINGLE
STOREY EXTENSION IS DEVELOPMENT, AND IF SO,
IS IT EXEMPTED DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets if required).

SINGLE STOREY EXTENSION
- FLOOR AREA: 19.8m²
- HEIGHT: 3.582m
- WINDOWS ON REAR ONLY - c. 5m from boundary
- GARDEN GREATER THAN 25m²

DEVELOPMENT MANAGEMENT
CCP
02 DEC 2021
CORK CITY COUNCIL

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

If so please supply details: NONE

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: SECTION 5 DECLARATION R551/19

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 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) _____	
(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 <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. We confirm that the information contained in the application is true and accurate:

Signature: Maive Doherty Debra Dunne
Date: 25-11-21

CONTACT DETAILS

10. Applicant:

Name(s)	MAEVE DOOLEY & DECLAN DUNNE
Address	<div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <hr style="border-top: 1px dashed black;"/> FRANKFIELD, <hr style="border-top: 1px dashed black;"/> CORK <div style="background-color: black; width: 100%; height: 15px; display: inline-block;"></div> <hr style="border-top: 1px dashed black;"/>

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

Name(s):	N/A - As Above
Address:	<div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <hr style="border-top: 1px dashed black;"/> N/A - As above <hr style="border-top: 1px dashed black;"/>
Telephone:	<div style="background-color: black; width: 100%; height: 15px;"></div>
E-mail address:	<div style="background-color: black; width: 100%; height: 15px; display: inline-block;"></div> @hotmail.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 type="checkbox"/>
No	<input checked="" type="checkbox"/>

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.**

Planning Pack Map



CENTRE COORDINATES:
ITM 568316.568459

PUBLISHED: 05/11/2019 **ORDER NO.:** 50092531_1

MAP SERIES: 1:2,500 **MAP SHEETS:** 6428-C

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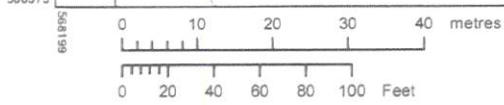
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<http://www.osi.ie/search/LargeScaleLegend>



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/CaptureResolution>

