



# Comhairle Cathrach Chorcaí Cork City Council

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

Anthony Armstrong  
16 Dunvale Drive  
Frankfield  
Cork

12/01/2021

**RE: R625/20– Section 5 Declaration**  
**Property: 16 Dunvale Drive, Frankfield**

Dear Sir/Madam,

With reference to your request for a section 5 Declaration at the above named property, and having regard to:

- the particulars received by the Planning Authority on 08/12/2020
- the provision of Schedule 2, Part 1, Class 1 and Class 3 of the Planning and Development Regulations, 2001 (as amended)

it is concluded that, the applicant has not provided to the planning authority the required information necessary to enable the authority to make its decision on the matter.

- (a) Further information is required in relation to the dimensions of the proposed structure. A scaled plan of the rear garden area showing the height, width and depth of the structure, and the remaining garden area will be required to fully assess the application for an exemption certificate under Section 5.

Yours faithfully,

Kerry Bergin  
Assistant Staff Officer  
Community, Culture and Placemaking  
Cork City Council



We are Cork.

## SECTION 5 DECLARATION – PLANNER’S REPORT

**File Reference:** R625/20  
**Description:** Construction of a shed to the rear of a semi-detached dwelling house  
**Applicant:** Anthony Armstrong  
**Location:** 16 Dunvale Drive, Frankfield  
**Date:** 08.12.2020

### SUMMARY OF RECOMMENDATION

**Constitutes development; further information requested**

#### 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 property is in the Dunvale Drive residential development located in the Frankfield area of Cork city. The property is a two-storey semi-detached dwelling.

#### Subject Development

The development subject to this Section 5 declaration request asks the following question of the Planning Authority: whether or not the proposed construction of a shed/playroom to the rear of a semi-detached dwelling house is development and is exempted development, having regard to Class 3 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended).

#### Land use zoning

According to the Cork County Development Plan 2014, the site is zoned ZU 3-1 Existing Built Up Areas with an objective:

*“Normally encourage through the Local Area Plan’s development that supports in general the primary land use of the surrounding existing built up area. Development that does not support or threatens the vitality or integrity of the primary use of these existing built up areas will be resisted.”*

#### Planning History:

There is no planning history on the subject site.

#### Relevant Legislation

**Planning and Development Act, 2000**

Section 3 (1) of the Act defines "Development" as, '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 of the Act refers to 'Exempted Development' and Subsection (1) sets out categories of development that shall be exempted development for the purposes of this Act. Subsection (2) (a) states the following:

*The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—*

*(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development*

### **Planning and Development Regulations 2001 (as amended)**

Schedule 2, Part 1 of the above regulations relates to general exempted development.

Classes 1- 8 refer to development within the curtilage of a house.

Specifically, Class 3 refers to the construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

### **Definitions**

The definition of "Structure" in Section 2 of the 2000 Act is as follows:

*"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 (ii)"*

### **Assessment**

#### **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.

It is noted that the property is not a Protected Structure as per RPS of the current Cork City Development Plan 2009 – 2015 and is not located within a designated Architectural Conservation Area of the City Plan.

### Assessment

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.

As per definition of "Structure" in Section 2 of the Planning and Development Act, 2000, the proposed shed is considered to be a structure.

As per definition of "development" in Section 3 (1) of the Planning and Development Act 2000 (as amended), it is considered that the erection of this shed constitutes works, and as such, is *'development'* and that the remaining question therefore is whether it is *'exempted development'*.

Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) relates to exempted development. As noted above, Class 3 relates to the construction, erection or placing within the curtilage of a house a tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

Class 3 goes on to set out distinctive categories for exempted development within the curtilage of a dwelling'. The proposal before the Council under this Section 5 application have been assessed against each in turn in the table below.

Conditions and Limitations	Assessment
1. No such structure shall be constructed, erected or placed forward of the front wall of a house.	Photos have been provided by the applicant which clearly show that the shed is located to the rear of the property. This condition is satisfied.
2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.	According to the figures provided on the application form, the structure would have an area of 22.58 square metres. However, a plan reflecting this has not been provided and so the Council is unable to carry out its own assessment to satisfy this condition.
3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved	According to the information provided on the application form, the garden would not be reduced to less than 25 square metres. However, a plan

exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.	reflecting this has not been provided and so the Council is unable to carry out its own assessment to satisfy this condition.
4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.	According to the information provided on the application form, the structure is to be finished using materials to match the main house and so this condition would be satisfied.
5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.	No information has been provided regarding the height of the shed and so the Council is unable to assess whether this condition is satisfied.
6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.	According to the information provided on the application form, the shed is for uses incidental to the main dwelling house and so this condition is satisfied.

#### Recommendation

Having regard to:

- the particulars received by the Planning Authority on 08/12/2020
- the provision of Schedule 2, Part 1, Class 1 and Class 3 of the Planning and Development Regulations, 2001(as amended)

it is concluded that, the applicant has not provided to the planning authority the required information necessary to enable the authority to make its decision on the matter.

- (a) Further information is required in relation to the dimensions of the proposed structure. A scaled plan of the rear garden area showing the height, width and depth of the structure, and the remaining garden area will be required to fully assess the application for an exemption certificate under Section 5.

# PLANNING DEPARTMENT

## CASHDESK RECEIPT CHECKLIST

Name: Anthony Armstrong

Amount: €80.00 TP No.: \_\_\_\_\_

Description/ Address: 16 Duwale

Business Unit	Description
I4110	Copies of Planning Permission <ul style="list-style-type: none"><li>• Copies of Planning Decisions</li><li>• Copies of Final Grant</li><li>• General copying</li><li>• Archive Retrieval</li><li>• Microfiche</li></ul>
TI4110 ( <i>Transitions Area</i> )	

I4114	• Application Fees
TI4114( <i>Transitions Area</i> )	

I4116	• Section 5 applications (Exemption Certs) • Extension of Duration Applications • Planning Searches
TI4116 ( <i>Transitions Area</i> )	

I4117	• Submissions/Objections on Planning Applications
TI4117( <i>Transitions Area</i> )	

I4118	• Recouped Enforcement Expenses
TI4118( <i>Transitions Area</i> )	
I4121	• Section 254 Licence fees (Fingerpost signs)
TI4121( <i>Transitions Area</i> )	
I4122	• SHD Fees (Strategic Housing Developments)
TI4122( <i>Transitions Area</i> )	
I4124	• Planning Bond Letters
TI4124( <i>Transitions Area</i> )	
I4100	• Outdoor Event Licences
TI4100( <i>Transitions Area</i> )	

### Planning Contributions

TP NO. : \_\_\_\_\_ JDE Account NO.: \_\_\_\_\_

Amount: \_\_\_\_\_

Signed: Lo Shea Date: 8/12/20





3. Are you aware of any enforcement proceedings connected to this site?  NO  
If so please supply details:

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?  NO

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	22.65 sqm
(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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### 8. 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	CAN I Build shed in REAR BACK Garden	
If you are not the legal owner, please state the name and address of the owner if available	CORK city council	

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

Signature: Anthony Armstrong

Date: 8-12-2020



## CONTACT DETAILS

### 10. Applicant:

<b>Name(s)</b>	Anthony Armstrong
<b>Address</b>	16 Dunwale Drive ----- Frankfield ----- Cork -----

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

<b>Name(s):</b>	Anthony Armstrong	
<b>Address:</b>	16 Dunwale Drive ----- Frankfield ----- Cork -----	
<b>Telephone:</b>	[REDACTED]	
<b>E-mail address:</b>	[REDACTED]	
<b>Should all correspondence be sent to the above address?</b> <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:

<p>The application must be accompanied by the required fee of €80</p> <p>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.</p> <p>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.</p> <p><i>The application should be sent to the following address:</i></p> <p style="text-align: center;"><b>The Development Management Section, Community, Culture &amp; Placemaking Directorate, Cork City Council, City Hall, Anglesea Street, Cork.</b></p>
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- 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:** The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution.



**The Property Registration Authority**  
**An tÚdarás Clárúcháin Maoine**

**Land Registry Sealed and Certified Copy Folio (& Filed Plan)**

Anthony  
Armstrong  
16  
Dunvale Drive  
Frankfield  
Cork

**This page forms part of the official document. Do not detach.**

**Folio Number:** CK81878F  
**Application Number:** P2020LR099456Y  
**Your Reference:** card

This document comprises an office copy of the Land Registry record for the above mentioned folio/filed plan as of the date appearing.

Details of **dealings pending** (if any) on the enclosed folio/filed plan are listed in the **Schedule** below.

An officer duly authorised by the Property Registration Authority.



**Schedule**

**Notes:**

1. Filed plans should be read in conjunction with the Register. The description of the land in the Register or on the filed plan is not conclusive as to the boundaries or extent of the land (see Section 85 of the Registration of Title Act 1964, as substituted by Section 62 of the Registration of Deeds and Title Act, 2006).
2. Filed plans greater than A3 in size may be provided as separate A3 tiles with an overlap and print gutter. When aligning the tiled sheets, customers are advised to use the underlying topographical detail.
3. On receipt of this record, please check to verify that all the details contained therein are correct. If this is not the case, please return the document to the Property Registration Authority immediately.

Folio Number:CK81878F  
Date Printed: 04/12/2020

Application Number: P2020LR099456Y  
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# Land Registry

**County Cork**

**Folio 81878F**

## 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	A plot of ground being part of the Townland of CURRAGHCONWAY and Barony of Cork shown as Plan(s) 586 edged RED on the Registry Map (OS MAP Ref(s) 6427/D).	From Folio CK75876F

Land Cert Issued: No

Page 1 of 4

Collection No.:

**Date Printed: 04/12/2020**

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# Land Registry

County Cork

Folio 81878F

## Part 1(B) - Property Parts Transferred

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

Land Registry

County Cork

Folio 81878F

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	<del>19-JUL-1999 D99CK07700Y</del>	<del>MICHAEL TWOMEY of 16 Dunvale Drive, Grange, Douglas, Cork is full owner.</del>	Cancelled D2003CK004960U 06-MAR-2003
2	<del>06-MAR-2003 D2003CK004960U</del>	<del>MICHAEL RYAN of Knocknass, Ballinacorthy, Clonakilty, County Cork is full owner.</del>	Cancelled D2016LR047847G 14-APR-2016
3	14-APR-2016 D2016LR047847G	CORK CITY COUNCIL of City Hall, Cork is full owner.	



## Land Registry

County Cork

Folio 81878F

## Part 3 - Burdens and Notices of Burdens

No.	Particulars		
1	<del>The property is subject to the provisions prohibiting letting, subletting or subdivision specified in Section 12 of the Land Act, 1965, and to the provisions restricting the vesting of interests specified in Section 45 of the said Act in so far as the said provisions affect same.</del>		
	Cancelled	D2007CK011594C	05-APR-2007
2	19-JUL-1999 D99CK07700Y	The rights, covenants and conditions specified in Instrument No.D99CK07700Y relating to the use and enjoyment of the property.	
3	<del>19-JUL-1999 D99CK07700Y</del>	<del>Charge for present and future advances stamped to cover £90,000 repayable with interest. EBS Building Society is owner of this charge. Certificate of Charge issued. Rule 156</del>	
	Cancelled	D2003CK004960U	06-MAR-2003
4	06-MAR-2003 D2003CK004960U	<del>Charge for present and future advances repayable with interest. ALLIED-IRISH BANKS plc is owner of this charge. Certificate of Charge issued. Rule 156</del>	
	Cancelled	E2016LR008670U	11-APR-2016
5	05-APR-2007 D2007CK011594C	<del>Charge for present and future advances stamped to cover €300,000.00 repayable with interest. ALLIED-IRISH BANKS plc is owner of this charge.</del>	
	Cancelled	E2016LR008670U	11-APR-2016