

# Comhairle Cathrach Chorcaí Cork City Council

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

Darragh Wilkins,  
153 Blarney Street,  
Cork T23 K5R3.

29/01/2024

RE: Section 5 Declaration R818/24 153 Blarney Street, Cork  
T23 K5R3.

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 02<sup>nd</sup> January 2024, I wish to advise as follows:

In view of the above and having regard to:

- Section 2(1), 3(1) and 4(1)(h) of the Planning and Development Act 2000 (as amended),  
The Planning Authority considers that –

*The proposed elevational alterations to the front façade including the re-positioning of the front door, and provision of additional window at first floor level at 153 Blarney Street, Cork*

**City 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, 29<sup>th</sup> January 2024.

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>		Cork City Council
<b>Ref. R818/24</b>		Culture, Community and Placemaking
<b>Application type</b>	Section 5 Declaration	
<b>Description</b>	<i>Is the change of door position on façade as described and pictured in attached documents exempted development.</i>	
<b>Location</b>	153 Blarney Street, Cork City T23 K5R3	
<b>Applicant</b>	Darragh Wilkins	
<b>Date</b>	29/01/2024	
<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 framing the question to the planning authority, the applicant states in Q2 of the application form:

*Is the change of door position on façade as described and pictured in attached documents exempted development.*

#### Additional Details Regarding Question/ Works/ Development

*Works proposed:*

- *Alteration to front façade.*
- *Front door to move from centre to right side.*
- *Additional window in centre on first floor.*
- *See drawings and current façade picture and pictures of neighbour's houses.*
- *No change to floor area sought.*

### 3. SITE DESCRIPTION

The subject site is located on Blarney Street comprises a two-storey terrace dwelling.

### 4. PLANNING HISTORY

Subject Site

None.

## 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

Exemptions for alterations to domestic dwellings are set out in Class 1 of Part 1 of Schedule 2 as well as Classes 2, 5, 6, 7, 9, 10, 11, and 12.

There are no specific exemptions contained within these Classes that would apply to the elevational alterations subject of this section 5.

#### Article 9

Article 9 sets out restrictions on exemptions specified under article 6.

## 6. ASSESSMENT

The purpose of this report is to assess whether or not the matter in question constitutes development and whether its fall within the scope of exempted development. Matters pertaining to the acceptability of the proposal in respect of the proper planning and sustainable development of the area is not a consideration under section 5.

Overall, it is considered that the proposed alterations would materially affect the effect the external appearance of the structure to render its appearance inconsistent with the character of the structure and of neighbouring structures and is therefore not exempted development.

**CONCLUSION: Is 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 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.

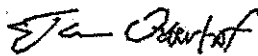
## 8. RECOMMENDATION

It In view of the above and having regard to –

- Section 2(1), 3(1) and 4(1)(h) of the Planning and Development Act 2000 (as amended),

The Planning Authority considers that –

The proposed elevational alterations to the front façade including the re-positioning of the front door, and provision of additional window at first floor level at 153 Blarney Street, Cork City **IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.**



Jan Oosterhof  
A/ Executive Planner  
23/01/2024

Melissa Walsh  
Senior Executive Planner  
23/01/2024

### **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.'*

The proposal for elevational alterations including the re-positioning of the front door and the provision of an additional window at first floor level is an act of alteration and falls within the definition of 'works'. Therefore, the proposal constitutes development within the meaning of the Act.

**CONCLUSION: Is development**

### **6.2 Exempted development**

The next issue for consideration is whether or not the matter at hand is exempted development. Section 2(1) of the Act defines 'exempted development' as having 'the meaning specified in section 4' of the Act (which relates to exempted development).

Section 4(3) of the Act states that exempted development either means development specified in section 4(1) or development which is exempted development having regard to any regulations under section 4(2).

There are no specific exemptions for elevational alterations contained in the Regulations. Some external works are however exempted by the Act.

Section 4(1)(h) of the Act sets out a limited exemption for development to the exterior of buildings. The measure used is whether the development / works *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.*

The majority dwellings in the vicinity of the site have the front door/ entrance located centrally. This is a strong feature/ characteristic of the area, and it is considered that the repositioning of the front door would render its appearance inconsistent with the character of the structure and of neighbouring structures and is therefore not exempted development.

There are a variety of fenestration arrangements/ patterns and window types in the immediate vicinity of the site including several properties that have 3 windows at first floor level. In this regard, the provision of an additional first floor window would not be inconsistent with the character of neighbouring structures. However, insufficient detail has been provided in relation to the proposed additional window in terms of materials/ finishes. It is also unclear from the submitted information if the existing windows are to be replaced or if any changes are proposed to the external finish on the front façade.

## Kate Wagner

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**From:** Melissa Walsh  
**Sent:** Monday 29 January 2024 09:14  
**To:** Kate Wagner  
**Subject:** RE: R818/24 - 153 Blarney Street

Yes agreed thanks

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**From:** Kate Wagner <[REDACTED]>  
**Sent:** Friday, January 26, 2024 3:40 PM  
**To:** Melissa Walsh <[REDACTED]>  
**Cc:** Jan Oosterhof <[REDACTED]>  
**Subject:** FW: R818/24 - 153 Blarney Street

Hi Melissa,

Have you had a chance to look over Jan's report for approval?

Kind regards,  
Kate

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**From:** Jan Oosterhof <[REDACTED]>  
**Sent:** Tuesday, January 23, 2024 10:48 AM  
**To:** Melissa Walsh <[REDACTED]>  
**Cc:** Kate Wagner <[REDACTED]>  
**Subject:** R818/24 - 153 Blarney Street

Hi Melissa,

See attached a copy of my section 5 report for the above file for sign off.

Kind regards,

**[Jan Oosterhof]**  
A/ Executive Planner | Planning Development Management



Community, Culture and Placemaking Directorate, Cork City Council, City Hall, Anglesea Street, Cork City T12 T997



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**

153 Blarney St, Cork, T23 K5 R3

**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 door position on facade as described and pictured in attached documents exempted development?

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

(Use additional sheets if required).

Works proposed:  
Alteration to front facade  
Front door to move from center to right  
Side. Additional window in center on  
~~second~~ floor.  
first  
See drawings and current facade picture  
+ pictures of neighbours houses.  
No change to floor area sought.

### 3. 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	90 sq. M (N/A)
(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"/> N/A 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: No	
Existing/ previous use (please circle)	Proposed/existing use (please circle)
_____	_____
_____	_____
_____	_____

### 5. 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		



6.1 / We confirm that the information contained in the application is true and accurate:

Signature: Daragh L Wilkins

Date: 27/12/2023

.....

**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, Strategic Planning & Economic Development  
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- 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



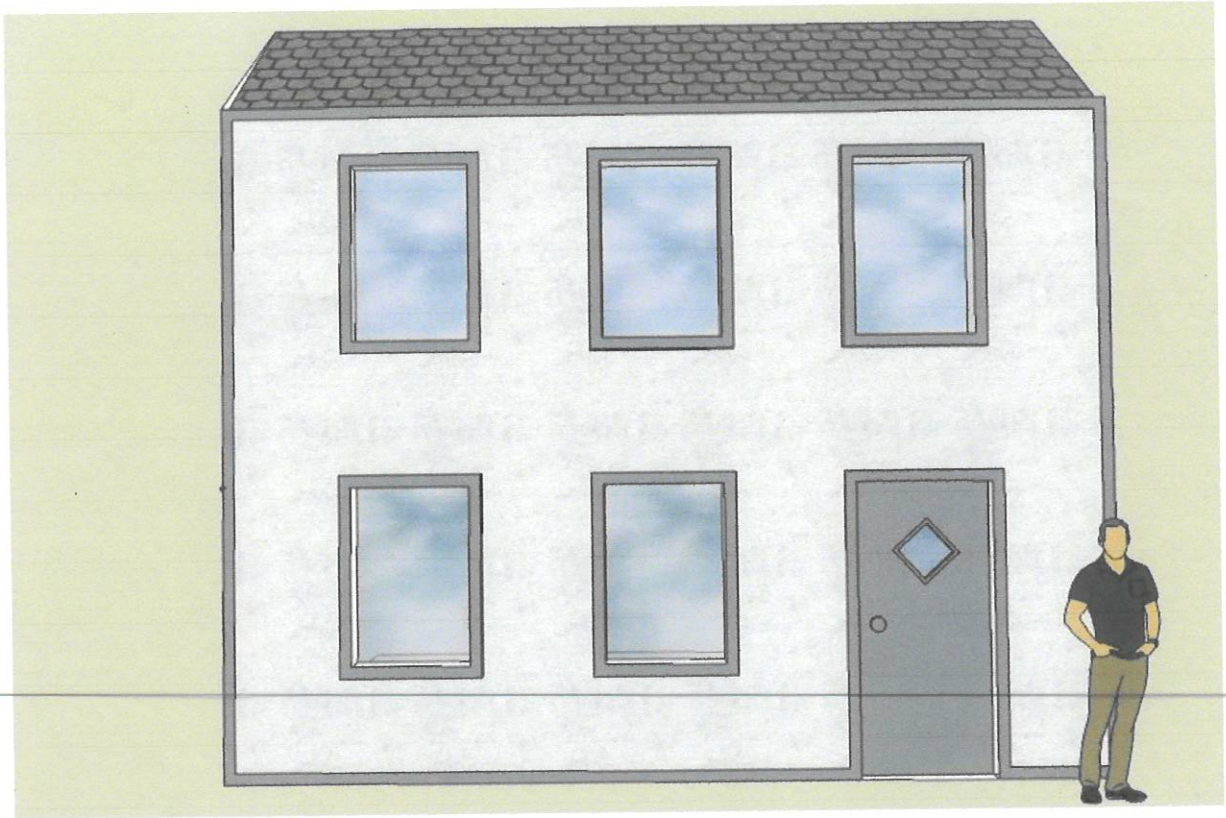
## 153 Blarney st , Cork City

10/12/2023

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Current facade arrangement

- Thermally inefficient window & door
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## 153 Blarney st , Cork City

10/12/2023

*Proposed facade*

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Upgraded facade arrangement

- Triple glazed window & door
- 
-



## Example of typical window & door arrangement

### Blarney st , Cork City

10/12/2023

Many Houses on Blarney st have situated the door to the right or left



## Example of typical window & door arrangement

### Blarney st , Cork City

10/12/2023

Many Houses on Blarney st have situated the door to the right or left

# Land Registry Compliant Map

Tailte Éireann

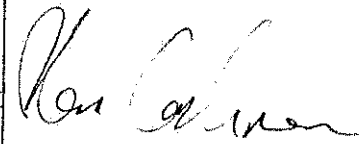
**CENTRE COORDINATES:**  
ITM 565989,572230

**PUBLISHED:** 23/05/2023

**ORDER NO.:** 50336467\_1

**MAP SERIES:** 1:1,000

**MAP SHEETS:** 6382-08



**COMPILED AND PUBLISHED BY:**  
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Phoenix Park, Dublin 8.

**ALAN CUSHMAN**  
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022 50734 - phone

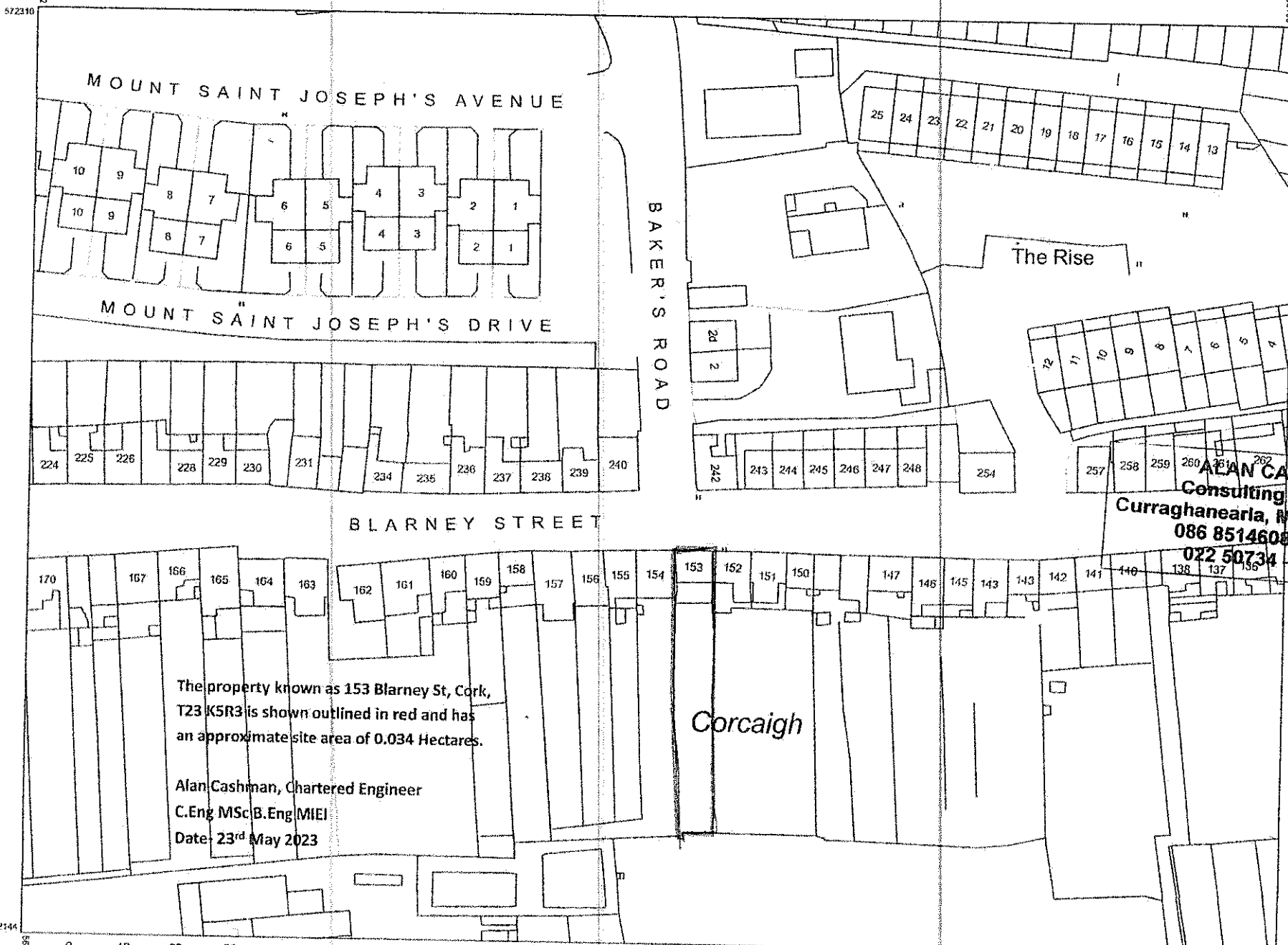
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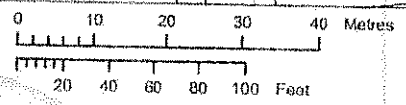
The property known as 153 Blarney St, Cork, T23 K5R3 is shown outlined in red and has an approximate site area of 0.034 Hectares.

Alan Cushman, Chartered Engineer  
C.Eng MSc B.Eng (MIEI)  
Date: 23<sup>rd</sup> May 2023

Corcaigh

**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: [www.osi.ie](http://www.osi.ie); search 'Capture Resolution'

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