

### Comhairle Cathrach Chorcaí Cork City Council

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

Greg Foley, c/o Dennis Hennigan, Green Banks, Ballyvolane, Cork

2<sup>nd</sup> November 2021

RE: R681/21 - Section 5 Declaration

Property: 15 Glashaboy Woods, Glanmire

Dear Sir/Madam,

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

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

And therefore, the Planning Authority considers that –

• 1 no.1 velux to the front & 2 no. velux to the rear of 15 Glashaboy Woods, Glanmire, Cork Is Development and Is Exempted Development

Yours faithfully,

Áine O'Leary

Assistant Staff Officer

Community, Culture and Placemaking

Cork City Council



PLANNER'S REPORT		Cork City Council	
Ref. R681/21		Culture, Community and Placemaking	
Application type	Section 5 Declaration		
Description	1 no. velux to the front & 2 no. velux to the rear		
Location	15 Glashaboy Woods, Glanmire		
Applicant	Greg Foley	the state of the s	
Date	28/10/2021		
Recommendation	Is development and is exempted development		

This report should be read in conjunction with the previous report on the file dated 30/08/2021. The applicant was asked to submit the following further information:

The proposed rooflight would normally be considered development and exempted development under as it would accord with section 4(1)(h) of the Planning and Development Act 2000 (as amended). If however the proposed development will be undertaken in tandem with implementation of Permission 16/6641 then it will not meet the requirements of Condition No. 1 of that grant and cannot be deemed to be exempted development.

In your response you shall confirm whether the proposed rooflights were placed in tandem with the development permitted under 16/6641? If not then please confirm when the insertion occurred.

Please also note that the elevational as shown on the plans provided, which show different window and door types from those permitted under 16/6641, will not be assessed as part of this application.

In response the applicant has provided a letter setting out that the windows were fitted in 2019, two years after the purchase of the dwelling.

I am satisfied that the development in question, specifically 1 no. velux to the front & 2 no. velux to the rear at 15 Glashaboy Woods, Glanmire, accords with the exemption set out in section 4(1)(h) of the Planning and Development Act 2000 (as amended).

#### RECOMMENDATION

In view of the above and having regard to —

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

It is considered that 1 no. velux to the front & 2 no. velux to the rear of 15 Glashaboy Woods, Glanmire, Cork is Development and is Exempted Development.

Martina Foley

A/Senior Executive Planner



## Comhairle Cathrach Chorcaí Cork City Council

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

Dennis Hennigan

Green Banks

Ballyvolane

Cork

02<sup>nd</sup> September 2021

RE: R681/21 - Section 5 Declaration

Property: 15 Glashaboy Woods, Glanmire

Dear Sir/Madam,

With reference to your request for a section 5 Declaration at the above named property, I am advised to request further information:

The proposed rooflight would normally be considered development and exempted development under as it would accord with section 4(1)(h) of the Planning and Development Act 2000 (as amended). If however the proposed development will be undertaken in tandem with implementation of Permission 16/6641 then it will not meet the requirements of Condition No. 1 of that grant and cannot be deemed to be exempted development.

In your response you shall confirm whether the proposed rooflights were placed in tandem with the development permitted under 16/6641? If not then please confirm when the insertion occurred.

Please also note that the elevational as shown on the plans provided, which show different window and door types from those permitted under 16/6641, will not be assessed as part of this application.

Yours faithfully,

Kerry Bergin

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



PLANNER'S REPORT		Cork City Council	
ROT REXIII		Culture, Community and Placemaking	
Application type	Section 5 Declaration		
Description	1 no. velux to the front & 2 no. velux to the rear		
Location	15 Glashaboy Woods, Glanmire		
Applicant	Greg Foley		
Date	30/08/2021		
Recommendation	Request FI		

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:

1 no. velux to the front & 2 no. velux to the rear

Under Additional Details the application for further states:

Attic floored out for storage and access with Stira

For the purposes of this assessment it is considered to reword the details provided into the following question:

Is the installation of 1 no. velux to the front & 2 no. velux to the rear and the flooring out of attic for storage development, and if so is it exempted development?

#### 3. Site Description

The subject site is located in the Glashaboy Woods estate in the Sallybrook area of Glanmire. This is a new estate and the dwellings have not yet been significantly altered.

The subject house is detached and has a separate gated driveway. It is currently for sale and is described on daft ie as a 4/5 bedroom dwelling. The photographs and video indicate that the velux window to the front of the residence is already in place. It is not possible to see the rear velux windows. The website also indicates that there is a shed in the north western corner of the site, though this does not appear on the site layout plan provided.

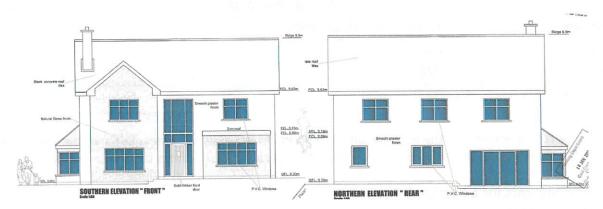
#### 4. Planning History

16/6641

To construct a two storey dwelling and all associated ancillary site development works..

Outcome

Granted by Cork County Council on 13/03/2017



#### 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 <u>or</u> '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

(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,

(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 ... and the development would materially affect the character of the area,

#### 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

#### 6. ASSESSMENT

It should be stated at the outset that the purpose of this report is not to determine the acceptability or otherwise of the wake park at this location in respect to the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development.

#### 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 roof light and attic alterations constitutes development as it comprises of alteration to an existing building.

#### 6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. There are no specific exemptions for the placement of rooflights while internal alterations are specifically exempted.

Section 4(1)(h) of the Act sets out exemptions for internal alterations along with a limited exemption for development to the exterior of buildings which can potentially include rooflights. The measure used is

whether the development / works materially affect the external appearance of the structure so as render the appearance inconsistent with the character of the structure or of neighbouring structures.

The subject site is not within an Architectural Conservation Area and the property is not on the Register of Protected Structures.

Condition no. 1 on that grant of permission 16/6641 for this residence states:

The development shall be carried out in accordance with the plans and particulars lodged with the application on the 21<sup>st</sup> of October 2016, as amended by the documents and drawings received by the Planning Authority on the 10<sup>th</sup> of January 2017 except as may otherwise be required in order to comply with the conditions herein.

Reason: In the interest of clarity

The plans provided to show the proposed roof lights do not otherwise fully accord with those provided on 10 January 2017. Specifically the windows and door to the front and the double door to the rear do not accord with the plans provided under the 2017 permission. I note that any deviation from or alteration to the development from that as applied for under 16/6641 may contravene condition no. 1 on this grant of permission. Accordingly it should be made clear that this application is assessing the rooflights only and separate confirmation as to the status of the as constructed / erected windows may be required.

The subject Section 5 application has not set out when the rooflights were or will be inserted. At least one is already in place. If it is was inserted as part of the development permitted under 16/6641 then it would contravene condition no. 1.

However, if the proposed insertion of a roof lights was, or is to be, undertaken independently of the permitted development, after the development permitted under 16/6641 is implemented, then I consider that it would be exempt under section 4(1)(h). Specifically, I consider that the proposed roof light would not affect the external appearance of 15 Glashaboy Woods, Glanmire so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

As it is not possible to issue a conditional Section 5 determination I consider it appropriate to request further information to confirm the time frame in which the works are proposed.

This FI request should make it clear that the other elevational changes which deviate from plans submitted for application 16/6641 will not be assessed as part of this Section 5 application.

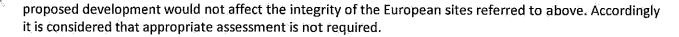
#### 7. ENVIRONMENTAL ASSESSMENT

#### 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



#### 8. Conclusion

The following question has been asked:

Is the installation of 1 no. velux to the front & 2 no. velux to the rear and the flooring out of attic for storage development, and if so is it exempted development?

Having considered the particulars submitted with the application and the relevant legislation as set out above, I consider that the further information should be sought

#### 9. Recommendation

The following further information is required to assess the subject application:

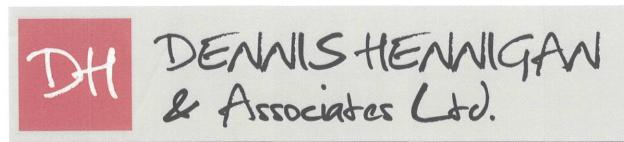
The proposed rooflight would normally be considered development and exempted development under as it would accord with section 4(1)(h) of the Planning and Development Act 2000 (as amended). If however the proposed development will be undertaken in tandem with implementation of Permission 16/6641 then it will not meet the requirements of Condition No. 1 of that grant and cannot be deemed to be exempted development.

In your response you shall confirm whether the proposed rooflights were placed in tandem with the development permitted under 16/6641? If not then please confirm when the insertion occurred.

Please also note that the elevational as shown on the plans provided, which show different window and door types from those permitted under 16/6641, will not be assessed as part of this application.

Martina Foley

A/Senior Executive Planner



Green Banks, Ballyvolane, Cork. - Tel. - Mob. 087 6166291 -

E-mail: dennisthennigan@gmail.com

## <u>SECTION 5 DECLARATION APPLICATION FORM - GREG FOLEY 15 GLASHABOY WOODS, GLANMIRE, CORK.</u>

Date 16th August, 2021

Dear Sir or Madam,

Please find attached herewith a list of the drawings and documentation accompanying this application is detailed below.

Architectural Documents				
TITLE:	SCALE:	DRG. NO.:	Copies	
Section 5 Declaration Application Form	n/a	n/a	2 no.	
Cheque / Cash	n/a	n/a	€80.00	

Archi	tectural Drawings	S	
TITLE:	SCALE:	DRG. NO.:	Copies
Site Location Map	1:1000	21020-02-PA01	2 no.
Site layout	1:250	21020-02-PA02	2 no.
Floor layouts	1:100	21020-02-PA03	2 no.
Elevations	1:100	21020-02-PA04	2 no.
Section	1: 50	21020-02-PA05	2 no.

Yours Sincerely,

Dennis Hennigan & Assoc. Ltd.

Green Banks, Ballyvolane, Cork, T23 AV6W,

Ireland.

Tel: +353 876166291

Comhairle Cathrach Chorcaí Cork City Council

2 3 AUG 2021

Strategic Planning & Economic Development Directorate

### 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

Fón/Tel: 021-4924564/4321 Líonra/Web: <u>www.corkcity.ie</u>

#### **SECTION 5 DECLARATION APPLICATION FORM**

under Section 5 of the Planning & Development Acts 2000 (as amended)

1	POSTAL	<b>ADDRESS</b>	OF LAND	OR STRUCTURE	FOR WHICH [	DECLARATIO	N IS SOUGHT
---	--------	----------------	---------	--------------	-------------	------------	-------------

15 GLASHABOY WOODS GLANMIRE, CORK.

#### 2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SP	ECIFIC 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 ar	nd described under this section will be assessed under the section 5 declaration.
100 VELUX	TO THE FRONT & 2NO OELUX
TO THE RE	A.S
(Use additional sheets if	REGARDING QUESTION/ WORKS/ DEVELOPMENT: required).
ATTIC FLOOR	ED OUT FOR STORAGE
	WITH STIRA

#### 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	ng/proposed structui	re/s		
location after 1 <sup>st</sup> Oc for which planning obtained)?	res been erected at t stober, 1964, (includ permission has been	his ing those		No vrovide floor areas. (sq m)
(c) If concerning a char	nge of use of land an	d / or build	ing(s), please st	tate the following:
Existing/ previous use (plea	se circle)	Proposed	/existing use (p	lease circle)
	******			
		W 40 48 M 47 49 40 40 40 40 40 40 40		
4. APPLICANT/ CONTA	ACT DETAILS			
Name of applicant (princi	pal, not agent):	GRE	6 FOLEY	
Applicants Address	15 GLANMIN		7 10	DDS
Person/Agent acting on	Name:	DE	NNIS HE	MANICAN
behalf of the Applicant (if any):	Address:	GREE	N BANKS	
	Telephone:	CORK		
	Fax:			
	E-mail address:			
Should all correspondence (Please note that if the answer is 'No address)				No 🗌
5. LEGAL INTEREST				
Please tick appropriate be	ox to show applican	it's A. Ov	vner /	B. Other
legal interest in the land			V	
Where legal interest is 'O your interest in the land/		on		
If you are not the legal on name and address of the	wner, please state			

Name of applicant (principal not eyent):
E contractions
T2363TM 14.331 3
S. LEGAL INTEREST  Please tick appropriate box to show applicant's A. Owner Begal interest in the land of structure  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 page and address of the owner if available

Signature:	Jones	fales		
Date:	8/21/	4	_	

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

#### **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





# NORTH POINT

Description:

Publisher / Source:

File Format:

Data Source / Reference:

File Name:

Cip Extent / Areo of interest (ADI):

Projection / Spatial Reference:

Map Series | Map Sheets Centre Point Coordinates:

Data Extraction Date:

Source Data Release

DCLMS Release V1.142.112

Product Version:

License / Copyright:

Ollromance Survey Ireland, 2021

Compiled and published by Ordnance Survey Ireland, Phoenix Park, Dublin 8, Ireland.



PROJECT: Se	CLIENT: Greg Foley	T-087 616	五
PROJECT: Section 5 Application @ 15 Glashaboy Woods,	ireg Foley	Green Banks, Ballyvolane, Cork T-087 6166291 E: dennisthennigan@gmail.com	DENVILS HENVIGAN  & Associates Ctd.

Glanmire, Cork Site Location Map

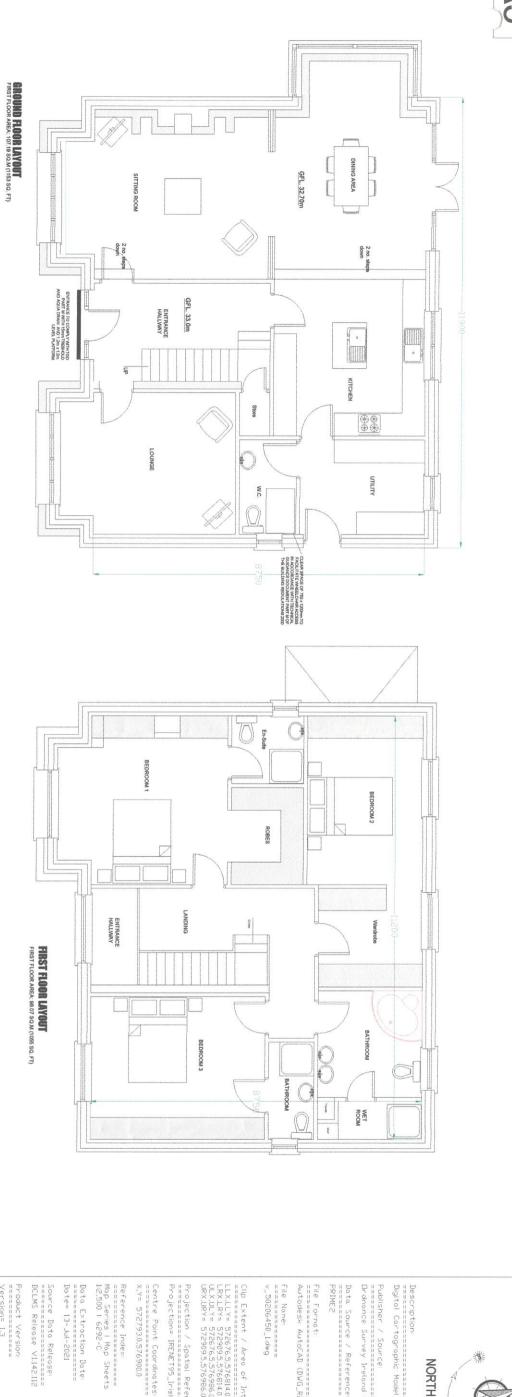
SCALE BAR 1:1000

20

80

PA







## NORTH POINT

Description:

Publisher / Source:

Data Source / Reference

File Name:

Autodesk AutoCAD (DWG\_R2013)

Cip Extent / Areo of Interest (ADI):

LLX.LLY= 572676.5,576814.0

LRX.LRY= 5726975.576818.0

ULX.ULY= 572676.5,576986.0

URX.URY= 572909.5,576986.0

Projection / Spatial Reference:

Data Extraction Date:

Source Data Release:

Product Version

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11200 00000





CLIENT: Greg Foley

SCALE ZIVZV	DH DH 21020	DRG: Site Layout	ECT:
7000	Drawing Number		ation @ /oods,
-	Revision		
7	Stage		

1:250 on A3

ATTIC FLOOR PLAN

