



Comhairle Cathrach Chorcaí Cork City Council

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

Barry Lynch & Blathnaid Lynch
c/o Leonard Barrett
Santa Maria
Springfort
Montonotte,
Cork

19/09/19

**RE: Section 5 Declaration R531/19 27 Chestnut Grove, Classes
Lake, Ovens**

A Chara,

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

The Planning Authority in considering this referral, had regard particularly to –

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000,
- (b) articles 5, 6 and 9 of the Planning and Development Regulations, 2001, and
- (c) classes 1, 3, 5 and 6 and 7 of Part 1 of Schedule 2 of the said Regulations (including the relevant conditions and limitations)
- (d) the plans and particulars as submitted on the 02.08.2019 re dwelling at 27 Chestnut Grove, Classes, Cork

The Planning Authority has concluded that:

- a) single storey extension to the rear is development and is not exempted development
- b) the open air canopy with wall and doorway at the eastern side of the dwelling is development and is not exempted development



We are Cork.

Section 5 Declaration – Planner’s Report

File Reference: R 531.19
Description: Whether a single storey extension to the rear and an open air canopy at the eastern side is or is not exempted development
Applicant: Barry Lynch & Blathnaid Lynch
Location: 27 Chestnut Grove, Classes Lake, Ovens
Site inspection: 05.09.2019

Purpose of Report

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

Site Location

The site is located within the Classes Lake residential development west of Ballincollig. On the site there is a detached two storey dwelling, with other detached houses to the east, west and south. The estate road is to the north. There is a change in levels in the rear garden, with the ground levels sloping to the south.

Subject Development

Whether a single storey extension to the rear and an open air canopy at the eastern side is or is not exempted development?

In addition to the above, the plans also show:

- Side wall with hardwood door and frame from east elevation of dwelling to eastern side boundary
- Internal alterations to the dwelling at ground floor
- Installation of windows at ground level on western elevation and eastern elevation
- Patio area with 9 no steps down to existing lower garden level, retaining wall and 8 length of glazed railings at 1.1m high
- Steeltech shed 3m x 2.4m

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.

Planning history

On subject site:

It appears that the housing scheme was permitted under planning permission reference numbers 97/2800 and 99/6245. Planning file (drawings and conditions) are not available.

Planning policy

The site is within the development boundary of Ballincollig and is zoned existing built up area.

Planning legislation

Planning and Development Act 2000 as amended

Section 2 (1) In this Act, except where the context otherwise requires "alteration" includes

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

"Structure" means any building, structure, excavation or other thing constructed or made on, in or under any land or any part of any structure so defined and where the context so admits, includes the land on, in or under which the structure is situated.

"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) "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) of the Planning and Development Act 2000 states that the following shall be exempted development for the purposes of the Act

Sub-Section (h) states that '*development consisting of the carrying out of works for the maintenance, improvements or other alterations of any structure, being works which effect only the interior of the structure or which do not materially effect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures*'.

Planning and Development Regulations 2001 as amended

Article 5 (2) of the Regulations refers to the Classes of development in Schedule 2 and states that 'any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose "ground level" means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.'

Article 6

Article 9 Restrictions on exemption

Class 1 of Part 1 of Schedule 2

Class 3 of Part 1 of Schedule 2
Class 5 of Part 1 of Schedule 2
Class 6 of Part 1 of Schedule 2
Class 7 of Part 1 of Schedule 2

Assessment

In the Act, "works" are defined as *any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal*. All the items set out in the plans constitute "works" under the Act, and as development involves the carrying out of works on, in over or under land, the items are considered to be development.

The next question that requires to be determined as whether or not the development in question constitutes exempted development under any of the provisions set out in either the Planning and Development Act 2000 as amended or the Planning and Development Regulations and in particular the exemption under Article 6 of the Planning and Development Regulations as amended.

- *Extension to rear*

The extension is 27m² in area. The description of development as set out in Class 1 is *extension of a house, by the construction of an extension (including a conservatory) to the rear of the house.....*

Part of the west elevation (sitting room) extends westwards from the south west corner of the dwelling by 0.7m and for a length 3.5m southwards. As such the extension is not solely entirely to the rear and is partly to the side as well. The extension therefore does not come within the scope of Class 1.

Since the Class 1 exemption cannot be availed of, the various conditions and limitations set out for that class are not relevant.

This is not exempted development.

- *Open air canopy to side*

This is to be placed on the east side passageway of the dwelling. It is a fibre glass layer on board, with PVC fascia and soffits to match, external plaster board screw fixed to underside and placed over a side door to the dwelling. It is open on three sides, to the north there is a wall and hardwood door. The internal height of open air canopy is 2.3m. The area of the canopy has not been set out; it is measured to be 4.5m x 1.9m = 8.55m². The northern elevation which faces the estate road, is a wall plastered and capped with a doorway. There are different heights of the wall in the drawings, in all instances it exceed 2m in height. The wall extends to the width of the passageway. As this wall and doorway is attached to the open air canopy, it is deemed to be one entire structure.

It is considered that the development does not come within the scope of section 4(1)(h) not being works for the maintenance or improvement or other alteration of a structure, but consists of the provision of a new structure onto the existing house.

There are no descriptions of development under the Classes contained within Schedule 2 of Part 1 of the Planning and Development Regulations, 2001 (as amended) that specifically refer to 'open air canopy'.

Class 7 is for the *construction or erection of a porch outside any external door of a house*. This structure would not comply with condition no 2 attached to Class 7 as the area exceeds that set out in the conditions and limitations.

Class 3 is for *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*, and a number of conditions and limitations apply.

An awning or shade is generally made out of fabric stretched over a frame and are not supported by columns and/or walls with no rain water goods. With the addition of columns an awning becomes a canopy.

The open air canopy is not considered to be a greenhouse, garage, store, shed or other similar structure. Garages, stores, shed or other similar structures are enclosed on all sides.

Overall having regard to the design, finishes and location of this open air canopy and attached wall and doorway on the northern elevation it is not considered to come within the scope of Class 3.

In the event that the open air canopy and wall with doorway are deemed to be individual structures, it should be noted that the wall would not come within the scope of Class 5 as the height exceeds the 2m height limit set out.

There are no exemptions provided for in the Planning and Development Act, 2000, as amended, or in the Planning and Development Regulations 2001, as amended, by which such works would be exempted development.

This is not exempted development.

- *Internal alterations to the dwelling at ground floor*

These are considered to come within the scope of Section 4(1)(h) of the Planning and Development Act 2000 as amended. These works are for improvement or other alteration and only affect the interior of the structure.

This is exempted development.

- *Installation of windows at ground level on western elevation and eastern elevation*

On the western elevation 2 no windows are to be installed – for utility and kitchen area, and the window on the east is also for the kitchen.

These are considered to come within the scope of Section 4(1)(h). It involves the carrying out of works for other alteration of any structure, and 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.

This is exempted development.

- *Patio area with 9 no steps down to existing lower garden level, retaining wall and 8m length of glazed railings at 1.1m high*

There is a noticeable change in ground levels towards the rear boundary of the site.

The retaining wall is required to support the patio area. The 8m length of glazed railings at 1.1m high are require for safety purposes, and the steps are required to provide a means of access to the lower garden area.

The patio area, walls and steps involve ground works, and the altering of ground levels by more than 1m. It fails to satisfy a condition attached to Class 6.

Having regard the definition of 'ground level' in the Regulations, the retaining wall and railings would exceed 2m in height above the ground level, and would not come within the scope of Class 5.

This is not exempted development.

- *Steeltech shed 3m x 2.4m (7.2m²)*

The shed is stated to be 3m x 2.4m though measures to be 1.8m x 2.25m.

To the east side of the dwelling there was a wooden shed.

There is no detail as to the height of the shed.

It is unclear from the details in the application as to whether or not this comes within the scope of Class 3.

Restrictions on exemption

Article 9(1)(a)(i)

The governing planning file is not available.

None of the other restrictions set out in Article 9 apply.

Conclusion

The Planning Authority in considering this referral, had regard particularly to –

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000,
- (b) articles 5, 6 and 9 of the Planning and Development Regulations, 2001, and
- (c) classes 1, 3, 5 and 6 and 7 of Part 1 of Schedule 2 of the said Regulations (including the relevant conditions and limitations)
- (d) the plans and particulars as submitted on the 02.08.2019 re dwelling at 27 Chestnut Grove, Classes, Cork

The Planning Authority has concluded that:

- a) single storey extension to the rear is development and is not exempted development
- b) the open air canopy with wall and doorway at the eastern side of the dwelling is development and is not exempted development
- c) the internal alterations to the dwelling at ground floor level is development and is exempted development
- d) the installation of windows at ground level on western elevation and eastern elevation is development and is exempted development
- e) the patio area with associated steps to lower garden level, retaining wall and 8m length of glazed railings at 1.1m high is development and is not exempted development

- f) there is insufficient information to determine if the steeltech shed is or is not exempted development



Yvonne Hogan
Development Management Section
Community, Culture and Placemaking
11.09.2019

Agreed - each minute (SEP) 11.11.2019.

2 AUG 2019

Ref. No.....

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: 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

No. 27 CHESTNUT GROVE, CLASSES LAKE,
OVENS, CORK.

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 PROPOSED SINGLE STOREY EXTENSION
TO THE REAR OF DWELLING HOUSE AS
INDICATED 'YELLOW' ON ATTACHED DRG.S
No.s 975 - 303 + 304 EXEMPTED DEVELOPMENT,
AND IS THE PROPOSED OPEN AIR CANOPY
AT THE EASTERN SIDE EXEMPTED
DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

THE PROPOSED INTERNAL FLOOR AREA
OF THE PROPOSED REAR EXTENSION IS 27sqm
THE PROPOSED CANOPY ON THE EASTERN
SIDE IS OF A SIMPLE STRUCTURE, OPEN
AS INDICATED TO PROVIDE SHELTERED
YARD AREA AT SIDE FOR DOMESTIC
USE.

IF UNDEL. P.R.T.
Santa-Maria
Springfort
Montenotte, Cork.

PROPOSED = 27.0 sq m
EXISTING = 117.0 sq m

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)

PROPOSED = 27.0 sq m
EXISTING = 117.0 sq m

(a) Floor area of existing/proposed structure/s		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
(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)?		If yes, please provide floor areas. (sq m) <u>n/a.</u>
(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>	

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		<u>Mr. + Mrs Barry + BLATHNAID LYNCH</u>	
Applicants Address		<u>NO. 27 CHESTNUT GROVE, CLASSES LAKE, OVERTS, CORK.</u>	
Person/Agent acting on behalf of the Applicant (if any):	Name:	<u>of. MR. LEONARD BARKETT</u>	
	Address:	<u>BARKETT + ASSOCIATES, SANTA - MARIA, SPRINGERT, MONTENOTTE.</u>	
	Telephone:		
	Fax:		
E-mail address:			
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 checked="" type="checkbox"/>	No <input type="checkbox"/>
		<u>YES.</u>	

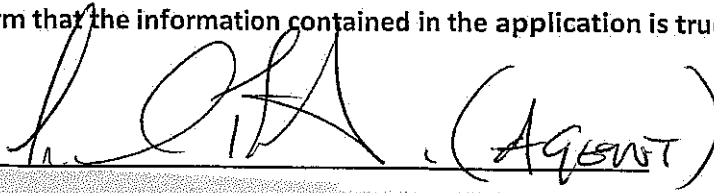
5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other
Where legal interest is 'Other', please state your interest in the land/structure in question	<u>n/a</u>	
If you are not the legal owner, please state the name and address of the owner if available	<u>n/a.</u>	

IF UNDEVELOPED P.R.T
Santa-Maria
Springert
Montenotte, Cork.

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

Signature:

 (AGENT)

.....
The application should be accompanied by a 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.

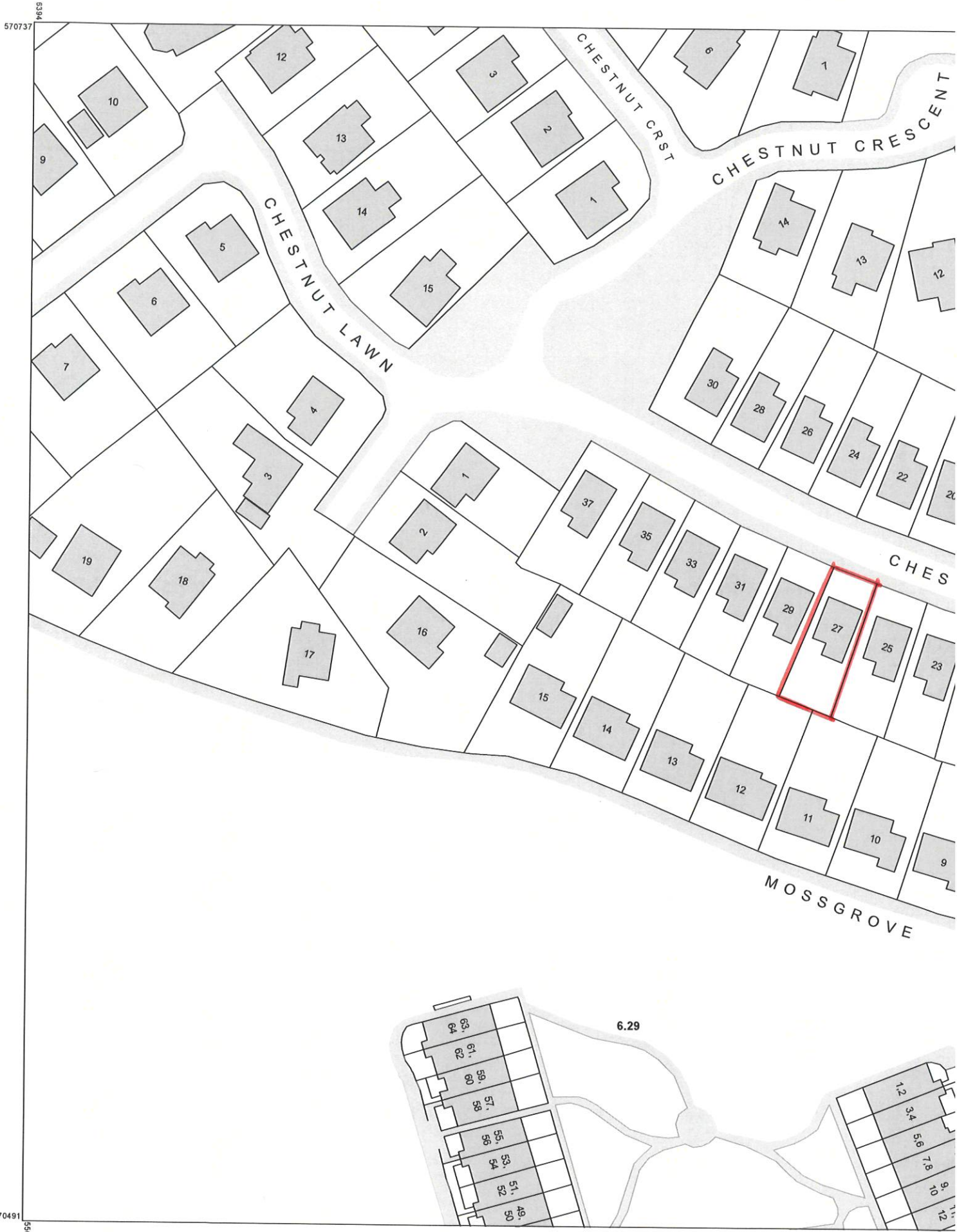
- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any 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

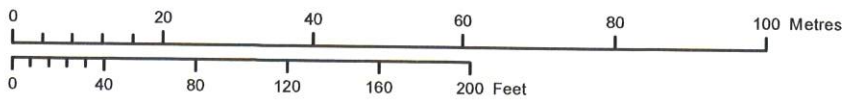
The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution

Planning Pack Map



5394
570737

570491
556394



OUTPUT SCALE: 1:1,000

PLANNING - DESIGN - SUPERVISION - CERTIFICATION - FIRE SAFETY

**Re; Proposed rear extension and alterations to dwelling house,
At; No. 27 Chestnut Grove, Classes Lake, Ovens, Cork.**

For ; Mr. and Mrs. Barry and Blathnaid Lynch .

01 / 08 / 2019

SECTION 5 DECLARATION APPLICATION

Dear Sir / Madam ,


We wish to make a formal application for a Section 5 Exemption Certificate regarding the above proposed development.

The proposed development will comprise of a 27.0 sq.m single storey extension to the rear of existing dwelling house.

We enclose the following as part of our application;

1. Completed application form.
2. 2 copies of detail drawings ref. 975 / 301, 302 , 303 and 304
3. 2 copies of OS map @ 1/1000 scale and six inch
4. Appropriate fee of e80.00

Please confirm receipt of this application and do not hesitate to contact this office for any further information.

Yours faithfully,

Leonard Barrett
Barrett & Associates

