

Comhairle Cathrach Chorcaí Cork City Council

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

Meitheal Architects

1 South mall

Cork

T12CCN3

30/06/2021

RE: R655/21 – Section 5 Declaration
Property: Custom Quay House, Cork

Dear Sir/Madam,

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

- Class 37 of the Planning and Development Regulations, 2001 (as amended).
- The particulars received by the Planning Authority on 22/04/2021, 17/06/2021 and 28/06/2021

The Planning Authority has concluded that –

- The proposal comes within the scope of the definition of 'development' as defined in Section 3 of the Planning and Development Act, 2000 as amended
- The proposal complies with the provisions for exempted development set out in Article 10(6) of the Planning and Development Act, 2000, as amended.

And therefore, the Planning Authority considers that –

- The proposed outdoor event **is development** and **is exempted development**

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: R 655/21

Question/Declaration

Details:

Is an outdoor event in this area exempted development?

Is the event held at the location indicated on the attached drawings exempt from planning permission where;

The number of people in attendance will be less than 5000

The event will not take place for longer than 15 consecutive days in a calendar year

The event will not consist of more than 30 aggregate days in a calendar year

The works are deemed exempt, being works described by Class 37 of the exempted development Regulations

Applicant: Paul Montgomery

Location: Custom House Quay, Cork

Date: 29/06/2021

SUMMARY OF RECOMMENDATION

Is development, is exempted development

The applicant was asked to submit further information for the following in order to progress the planning assessment of this Section 5 application:

While the applicant has described the proposed use of the subject site as within the limitations and conditions of Class 37 of the Planning and Development Regulations, 2001 (as amended), the submitted site layout map does not show the proposed location of these structures, nature of the structures and location of any ancillary structures. ~~Further details are required for details for the Planning Authority to assess the works which would set out “the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use”. Please submit a revised site layout map indicating the quantity, locations and nature of all temporary or removable structures or objects associated with the proposed use.~~

The applicant submitted a response on 17/06/2021 which included a map showing the locations of the seating area, food vendors, bar and bar service area, toilets, new boundary fence and cultural heritage display.

In a follow up email dated 28/06/2021 (see attached) the applicant also conformed the details of the surface area for the dining locations, nature of anchoring the barriers and railings.

Having regard to:

Having regard to: In view of the above, and having regard to-

- Class 37 of the Planning and Development Regulations, 2001 (as amended).

- The particulars received by the Planning Authority on 22/04/2021, 17/06/2021 and 28/06/2021

The Planning Authority has concluded that –

- The proposal comes within the scope of the definition of ‘development’ as defined in Section 3 of the Planning and Development Act, 2000 as amended
- The proposal complies with the provisions for exempted development set out in Article 10(6) of the Planning and Development Act, 2000, as amended.

And therefore, the Planning Authority considers that –

- The proposed outdoor event **is development** and **is exempted development**

Gwen Jordan McGee
Senior Executive Planner

29/06/2021

Gwen Jordan

From: Brendan Dwyer <brendan.dwyer@mtthi.ie>
Sent: Monday 28 June 2021 13:02
To: Gwen Jordan
Cc: Patrick O Toole
Subject: RE: 21237 Custom House

Gwen, thank you for contact me. Regarding the queries you raised, after speaking with the clients I can confirm the following;

1. There is a concrete parking strip of circa 5m in width between the limestone quay edge and the cobblestones around the perimeter of the quay. It is proposed to anchor the barriers / railings to the concrete strip to avoid both the stone boundary edge and cobbled area. This should maintain a minimum distance of circa. 2 meters from the limestone boundary at waters edge and the cobblestone area.
2. It is envisioned that the majority of seating would be on this concrete area also, however the temporary seating proposed is made of timber, and in the design style of picnic benches. We would not anticipate any damage to the stone curtilage from these temporary timber benches due to the softer nature of the tables, and no movement from the seating. We would expect minimal movement from the units themselves once placed, however we can fit rubber footings to the bench supports if desired.

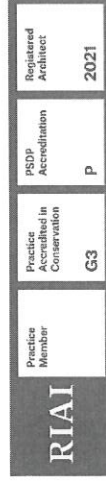
I trust the above is in order, but please don't hesitate to contact us should you require anything further.

Kind regards,

Brendan Dwyer, MRIAI
B.Arch (Hons), Dip. Arch. Tech (Hons)

meitheal
architects

P: 021 422 6090
A: One South Mall, Cork, T12 CCN3
W: [Website](#) | [Instagram](#) | [LinkedIn](#)



Communication during COVID 19 - Please note that for the duration of the current health crisis we will be communicating via email only, in all circumstances where feasible. This is to reduce interpersonal contact and to avoid any business disruption issues that might arise. We ask that you please adopt the same approach in your communication with this office.

We are committed to protecting your personal details and to giving you access to them. You can find out more from our **Privacy Policy** or by emailing studio@mthl.ie. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error, please notify the originator immediately. Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the company. Finally, the recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email.

From: Gwen Jordan <gwen_jordan@corkcity.ie>
Sent: Wednesday 23 June 2021 10:57
To: Brendan Dwyer <brendan.dwyer@mthl.ie>
Subject: RE: 21237 Custom House

Thanks Brendan.

I have reviewed the attached document and email below.

We would seek just the following in terms of additional information, given the built heritage of the site:

The location of seats and tables close to the quayside on the cobbled area might require fencing and possibly a temporary floor over the cobbles to ensure an even surface. If so, can the details of same be sent in.
It's important that no permanent alterations to the stonework is carried out.

Regards, Gwen

From: Brendan Dwyer <brendan.dwyer@mthl.ie>
Sent: Monday 21 June 2021 14:08
To: Gwen Jordan <gwen_jordan@corkcity.ie>
Cc: Luke Hickson <luke.hickson@mthl.ie>; Aaron Gladney <Aaron.Gladney@mthl.ie>
Subject: 21237 Custom House

Gwen, thank you for contacting me.

With regard to the clarification, please find attached a revised drawing set with the legend revised as suggested.

With regard to your question regarding the highlighted Bar area at (3);
It is proposed to utilise a small portion of the building for the indoor storage of dry goods and consumables to service the Bar area, and will not be accessible to the public. Entry / exit is proposed by the existing southern double doors in the south-east corner of the custom house. No alterations or interventions are proposed for the temporary storage of consumables, and the area will be clear of these consumables at the end of the event.

Should you require anything further on this, please don't hesitate to contact me.
Kind regards,

Brendan Dwyer, MRIAI
B.Arch (Hons), Dip. Arch. Tech (Hons)

meitheal
architects

P: 021 422 6090
A: One South Mall, Cork, T12 CCN3
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We are committed to protecting your personal details and to giving you access to them. You can find out more from our **Privacy Policy** or by emailing studio@mtl.ie. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error, please notify the originator immediately. Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the company. Finally, the recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email.

**Community, Culture & Placemaking Directorate,
Cork City Council,
City Hall,
Anglesea Street,
Cork.**

14th June, 2021

Our ref. 21237/21237-let-001/BD

Dear Sir /Madam,

**Re: Custom House Quay, Cork
Your ref.: R655/21 – Section 5 Declaration**

This is a response to a request for further information.

I refer to the above named Section 5 Declaration application ref. R655/21 and Cork City Council's request for further information.

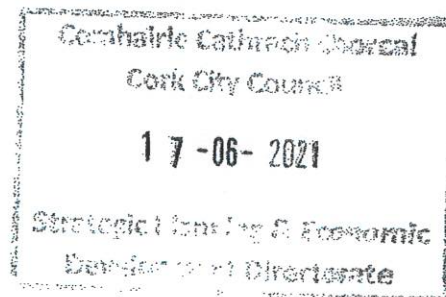
Enclosed, for your attention, please find drawing detailing the locations of vendors, public toilets, seating arrangements, stage, bar / bar service area [subject to separate licencing agreement], and cultural heritage installation display.

Yours faithfully,



Brendan Dwyer, MRIA

encl.

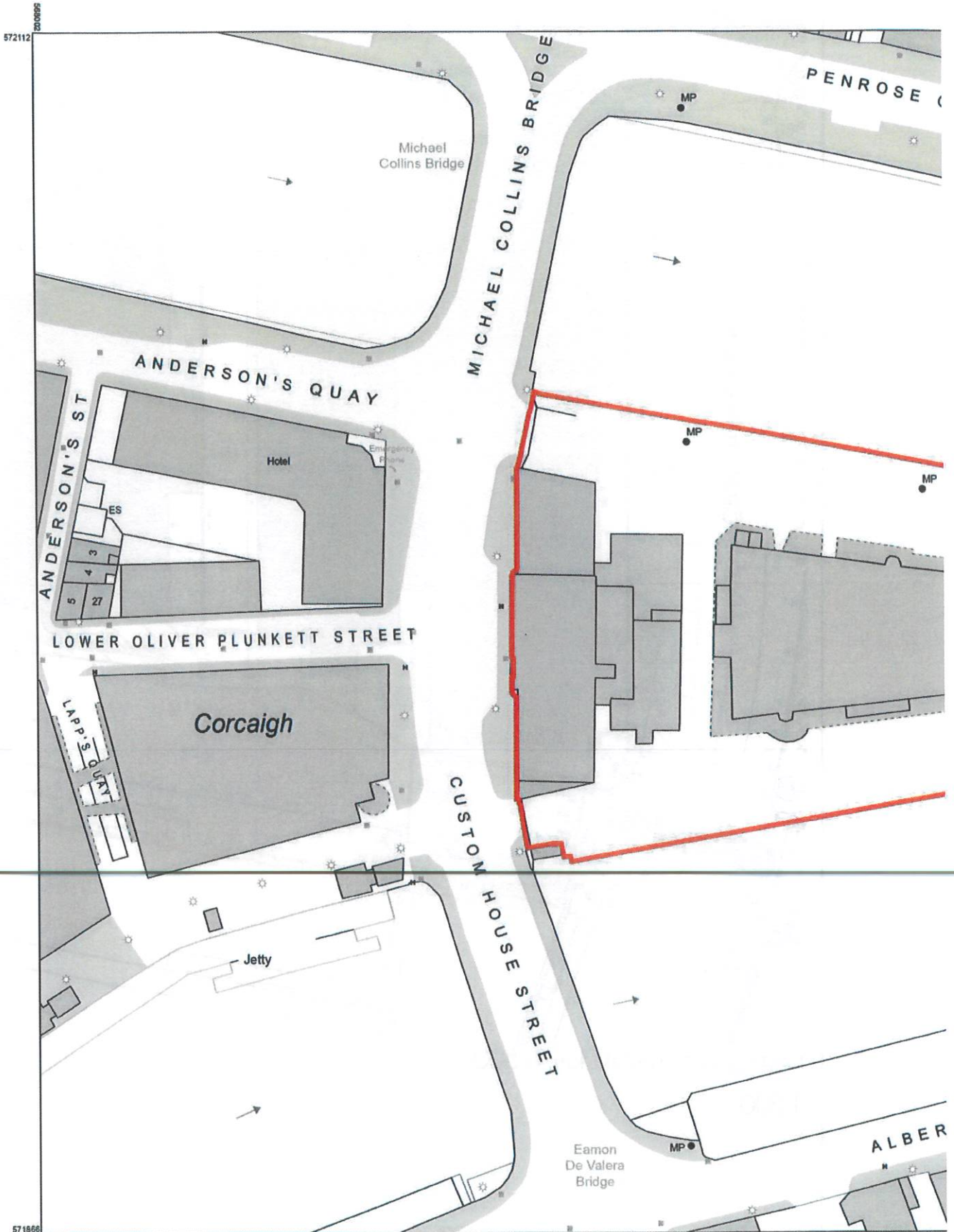


Site Location Map

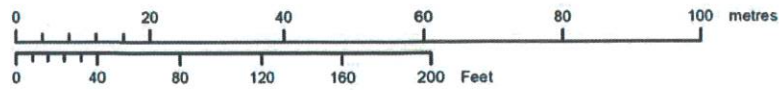


OUTPUT SCALE: 1:10,560

Planning Pack Map



571866
2008066

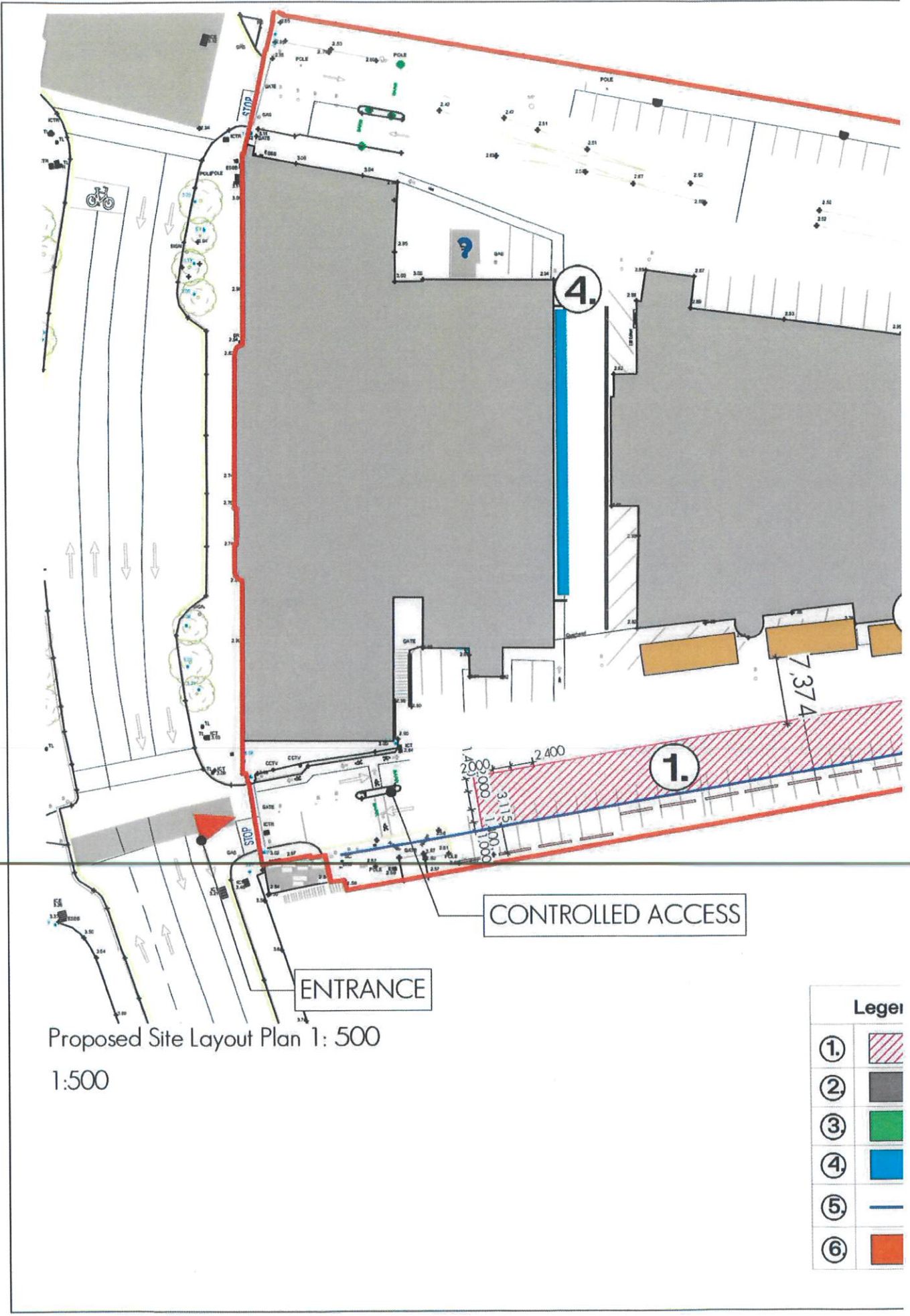


OUTPUT SCALE: 1:1,000



Existing Site Layout Plan 1: 500

1:500



Proposed Site Layout Plan 1: 500

1:500

CONTROLLED ACCESS

ENTRANCE

Legend	
①	
②	
③	
④	
⑤	
⑥	

**Community, Culture & Placemaking Directorate,
Cork City Council,
City Hall,
Anglesea Street,
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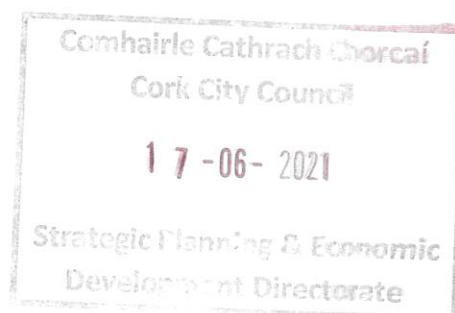
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SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: R 655/21

Question/Declaration

Details:

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Is the event held at the location indicated on the attached drawings exempt from planning permission where;

The number of people in attendance will be less than 5000

The event will not take place for longer than 15 consecutive days in a calendar year

The event will not consist of more than 30 aggregate days in a calendar year

The works are deemed exempt, being works described by Class 37 of the exempted development Regulations

Applicant: Paul Montgomery

Location: Custom House Quay, Cork

Date: 20/05/2021

SUMMARY OF RECOMMENDATION

Further Information sought

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 at Custom House Quay and is the eastern tip of the city centre island in Cork City. The site has a quayside location and is the current HQ of the Port of Cork. There are 3 protected structures of the site – the /Custom house which faces Custom House Street to the west, the Revenue Building and the Bonded Warehouses located on the east portion of the site. There are wide quaysides around the south, east and north quayside of this site. Much of the surface area and maritime built heritage items with the site are cited on the National Inventory of Architectural Heritage.

Subject Development

The proposed development subject to this Section 5 declaration request asks for a declaration from the Planning Authority in respect of the use of the site for an event for the provision of a temporary outdoor food and beverage facilities. The applicant considered that the outdoor event would be exempted development, having regard to the provisions of Class 37 in the Planning and Development Regulations, 2001 (as amended).

Land Use Zoning

Cork City Development Plan 2015-2021

The site is zoned *City Centre Commercial Core Area (ZO2)* where the strategic objective of this zoning is to support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the commercial core area (apart from comparison retail uses).

Paragraph 15.8 of the City Development Plan further advises that *“The Commercial Core Area reflects the commercial and employment zone of the City Centre extending from the City Centre Retail Area. All uses are permitted throughout the CCA, except comparison retail uses, which are restricted to the City Centre Retail Area. Retail uses serving local needs only are open for consideration in this zone (Chapter 13)”*.

The north, east & south quays of the site are designated as a *Waterfront Amenity Area* and the south quay is designated as a *Strategic Pedestrian Link* as illustrated in Maps 1 & 2 of Volume 2 of the *Cork City Development Plan 2015- 2021*. These designations have the following objectives as outlined in the City Plan:

ZO 17 Quayside Amenity Area

To protect and preserve quayside, natural heritage and river amenities through the provision of a public quayside area including walkway.

Objective 13.14 Waterfront Amenity Areas

To create Waterfront Amenity Areas to provide accessible public space along the river for pedestrians and cyclists. There is a general presumption against development encroaching within 10 metres of the existing quayside apart from:

- Small-scale development within the space, which relates to the use of the river or quayside space and can ensure an adequate amenity space to facilitate passive recreation, walking and cycling; or*
- In confined sites provision of a reduced setback supplemented by a boardwalk may be an acceptable alternative.*

Objective 13.17 Strategic Pedestrian Linkages

To upgrade and provide new strategic pedestrian linkages where required in the City Centre to increase permeability through key development sites, reflect pedestrian desire lines between key areas and to strengthen connections between the City Centre and the Docklands. This will be achieved through the implementation of the City Centre Movement Strategy, public realm upgrades, the upgrading of key pedestrian junctions and the provision of new pedestrian linkages as part of the redevelopment of strategic sites.

Planning History

On this site:

TP19/38589 (ABP-308596-20) – Permitted mixed use development on the site, for hotel, office, retail, maritime museum, bars and restaurants and distillery. The permitted development involves the conversion of existing protected structures on site, provision of a new public realm areas along the quaysides and the provision of a 34-storey tower (hotel).

TP15/36431 – Retention application permitted for the use of a floating pontoon and berthing facility for recreational craft originally permitted under TP10/34264. The facility is attached to and accessed from the Custom House Quay. The pontoon is approximately 100m long and 2.8m wide and facilitates berthing along both the inner and outer faces.

TP11/34878 – Application granted for replacement of structurally unsound sections of the quay walls within the curtilage of the site and the demolition of warehousing due to the structural failure of the existing quay wall. The development consisted of the demolition of the warehouse structures comprising a floor area of 874m², the removal of a 200m section of the existing quay wall along the eastern shoreline; the recovery of existing stonework and paving materials; the construction of a new quay wall faced with recovered stone on the foreshore along a line parallel to and 1.5m to the east of the existing quay wall along the eastern shoreline and along a line parallel to and 2m to the south of the existing quay wall along the southern shoreline; the formation of an additional quayside paved area; the taking up and relaying of existing stone setts and re-siting of mooring posts; the relocation of existing car-parking spaces and the taking down, setting aside and reconstruction of the existing Berthing Man's Hunt building and all associated ancillary development, site works and services including the temporary removal and reinstallation of the existing pontoon and access gangways for which permission was granted under TP10/34264.

TP10/34264 – Application granted for a floating Pontoon Landing and Berthing Facility for Recreational Craft at South Custom House Quay. The facility is attached to and accessed from the quay.

TP99/23460 (ABP ref. 28.120088) – Application refused on the site to alter and extend the former Custom House Building including the construction on a third floor in mansard form. The refusal by Cork City Council was appealed by the applicant (Port of Cork Company) and was upheld by An Bord Pleanála for the following reason:

It is considered that the proposed mansard roof feature would be seriously out of character with the established pattern of development at this location and would detract from the visual appearance of a complex of protected structures which are of architectural and historic importance located on a significant site and elements of which are listed for preservation in the Cork City Development Plan Review 1998. The proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and development of the area.

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 (1) (h) states the following:

‘Development consisting of the carrying out of the 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 neighboring structures’.

Definitions

The definition of “Structure” in 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)”

Class 37 of the Planning and Development Regulations, 2001 (as amended)

The following is the provision of the planning regulations which provides exemptions for outdoor events and is stated as follows:

<p>CLASS 37 Development consisting of the use of land for any fair, funfair, bazaar or circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use.</p>	<ol style="list-style-type: none"> 1. The land shall not be used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year. 2. On the discontinuance of such use the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.
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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.

Assessment

While the applicant has described the proposed use of the site as within the limitations and conditions of Class 37, the submitted site layout map does not show the proposed location of these structures, nature of the structures and location of any ancillary structures. Further details are required for details of “the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use”.

Recommendation

I recommend that Further Information is required for the following:

While the applicant has described the proposed use of the subject site as within the limitations and conditions of Class 37 of the *Planning and Development Regulations, 2001 (as amended)*, the submitted site layout map does not show the proposed location of these structures, nature of the structures and location of any ancillary structures. Further details are required for details for the Planning Authority to assess the works which would set out "*the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use*". Please submit a revised site layout map indicating the quantity, locations and nature of all temporary or removable structures or objects associated with the proposed use.

Gwen Jordan McGee
Senior Executive Planner

20/05/2021

**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: 021-4924564/4321
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

Custom House Quay, Cork
Refer to OS Location Map attached

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 an outdoor event in this area exempted development?

Is an event held at the location indicated on the attached drawings, exempt from planning permission where;

• the number of people in attendance will be less than 5000

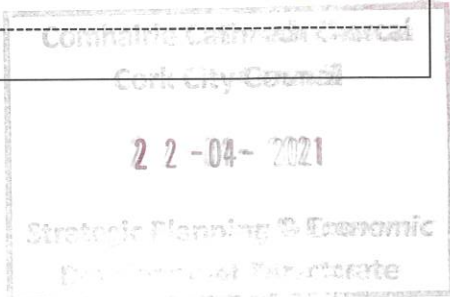
• the event will not take place for longer than 15 consecutive days in a calendar year

• the event will not consist of more than 30 aggregate days in a calendar year

• the works are deemed exempt, being works described by Clause 37 of the Exempted Development Regulations

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

The applicant has engaged with the City Council's Ms. Erin O'Brien in relation to a series of events on site celebrating the site's maritime heritage - this is supported by the building owners and is seen as an initiative to allow public access to the architectural and civic heritage prior to the site's planned development early 2022.



3. Are you aware of any enforcement proceedings connected to this site? No

If so please supply details:
n/a

4. Is this a Protected Structure or within the curtilage of a Protected Structure? n/a

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, not applicable

5. Was there previous relevant planning application/s on this site? Yes

If so please supply details:
9923460, 1034264, 1536431, 1938589 - These are not applicable to our question however

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	n/a, the application relates to a series of outdoor events on the ground.
(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 type="checkbox"/> If yes, please provide floor areas. (sq m) n/a
(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)
Existing Commercial & Car-parking	n/a

7. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Paul Montgomery	
Applicants Address		c/o Clancy's Bar (Cork) Ltd. 15/16 Princes Street, Cork	
Person/Agent acting on behalf of the Applicant (if any):	Name:	Meitheal Architects	
	Address:	1 South Mall Cork T12CCN3	
	Telephone:	0214226090	
	Fax:		
	E-mail address:	studio@mtl.ie	
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"/>



Handwritten scribbles in blue ink, appearing as several horizontal strokes of varying lengths and thicknesses, possibly representing a signature or initials.

Faint, illegible text or markings at the bottom of the page, possibly bleed-through from the reverse side.

5. 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	Licence, consent letter enclosed	
If you are not the legal owner , please state the name and address of the owner if available	Tower Development Properties Ltd.	

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

Signature: 

Date: 20.04.2021

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.**

- 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

"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protections policy is available at <https://www.corkcity.ie/en/council-services/public-info/adpr/>.

We request that you read these as they contain important information about how we process personal data.

16 April 2021


To whom it may concern,

Re: Letter of Consent

We, Tower Development Properties Ltd., have no objection and consent that Paul Montgomery of Clancy's Bar (Cork) Ltd, applies for permission to host an outdoor food and beverage facility within the Custom House Quay site on a temporary basis. This offering is in line with our policy of providing future public access to the public realm when our permanent development is completed.

Yours faithfully,

For and on behalf of Tower Development Properties Ltd,



Conor Lee