



Comhairle Cathrach Chorcaí Cork City Council

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

Mr Leonard Barrett
Barrett and Associates
Santa-Maria
Springfort
Montenotte
Cork

12/04/21

RE: R643/21 – Section 5 Declaration
Property: 1 The Close, Coolroe Meadows, Ballincollig

Dear Mr. Barrett,

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

- (a) section 2, 3 and 4 of the Planning and Development Act, 2000,
- (b) articles 6, and 9 of the Planning and Development Regulations, 2001, as amended, and
- (c) Class 1 and Class 6 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) the plans and particulars received by the Planning Authority on the 9 March 2021.

The Planning Authority concluded that –

- (a) the works to the ground floor level of the west and north elevations of the house and interior of the ground floor of the house come within the provisions of section (4)(1)(h) of the Planning and Development Act, 2000
- (b) the single storey extension to the rear of the existing house comes within the scope of the exempted development provisions of class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 and complies with the conditions and limitations attaching thereto,
- (c) the patio area to the rear of the house comes within the scope of exempted development provisions of class 6 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 and complies with the conditions and limitations attaching thereto.

The Planning Authority decides that the alterations to the house, rear extension and patio area as set out in the referral and plans received on the 9 March 2021 are development and are 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:	R643.21
Description:	Whether the construction of an extension to the rear of a dwelling is or is not exempted development?
Applicant:	Gerry Nunan and Mairead Nunan
Location:	1 The Close, Coolroe Meadows, Ballincollig, Cork P31 F761
Site inspection:	22.03.2021

1. 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.

2. Site Location

The site is located at 1 The Close, Coolroe Meadows, Ballincollig. On the site there is a semi-detached dwelling with the other semi-detached dwelling to the east side of the house. The front elevation faces south. To the north and west there is a green area.

3. The Question before the Planning Authority

Whether the construction of an extension to the rear of a dwelling is or is not exempted development?

It is also noted that some alterations to the house (interior and exterior), a patio area to the rear of the house and part demolition of a boundary wall are included in the plans submitted to the Planning Authority.

4. Planning history

None recent

5. Planning legislation

5.1 Planning and Development Act, 2000 as amended

Section 2(1),

“exempted development” has the meaning specified in section 4.

“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(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, as amended.

Section 4(3),

A reference in this Act to exempted development shall be construed as a reference to development which is—

(a) any of the developments specified in subsection (1), or

(b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.

5.2 Planning and Development Regulations, 2001 as amended

Article 6(1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempt development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9(1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act – sets out a number of restrictions.

Schedule 2, Part 1 – Exempted Development

General Classes 1–8 describes classes of development situated within the curtilage of a house which are exempted development, provided that such development complies with the conditions and limitations expressed at Column 2 for each class.

Class 1 Extension to rear of house

Class 6 Landscaping works / work for the provision of a hard surface area

6. Assessment

6.1 Development

The first issue for consideration is whether or not the matter at hand is 'development', which is defined in the Act as comprising two chief components: 'works' and / or 'any material change in the use of any structures or other land'.

As noted above Section 3 (1) of the Planning and Development Act states that: 'development' means, *except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land.*

The extension, the works to the house and patio area clearly constitutes 'works', which is defined in section 2(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

As the proposal comprises 'works', it is clearly therefore 'development' within the meaning of the Act.

CONCLUSION — is development

6.2 Exempted Development

The next issue for consideration is whether or not the proposal is exempted development.

The main proposal is a single storey extension to the rear of a semi-detached dwelling at 1 The Close, Coolroe Meadows, Ballincollig. The extension is annexed off the dining area and is 11m². It extends beyond the rear building line of the two storey element to the rear of the house and there is glazing to the north and a sliding door to the west side.

The relevant class in the Regulations is Class 1 as the description of the development is 'The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house....'

Attached to Class 1 are a number of conditions and limitations and the proposal is assessed against each of these:

Condition and Limitation		Assessment
1a	Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.	There have been no previous extensions. The floor area is 11m ² . This is satisfactory.
1b	Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.	N/A – extension is ground floor only
1c	Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.	N/A – house is not detached
2a	Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.	N/A – house has not been extended previously.
2b	Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.	N/A – house has not been extended previously.
2c	Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.	N/A – house has not been extended previously.

3	<i>Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</i>	N/A – extension is ground floor only.
4a	<i>Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.</i>	The height of the walls of the extension does not exceed the height of the rear wall of the house. This is satisfactory.
4b	<i>Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house</i>	N/A – house does not include a gable.
4c	<i>The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.</i>	The height of the highest part of the roof does not exceed the height of the highest part of the dwelling. This is satisfactory.
5	<i>The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.</i>	The open space remaining is in excess of 25m ² . This is satisfactory.
6a	<i>Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</i>	There is a window on the north elevation and a glazed patio door on the west elevation. Both are in excess of 1 metre from the boundaries they face. This is satisfactory. A roof light is proposed. I consider that the roof light serves ground floor accommodation and should be considered as being at ground level for the purposes of the Regulations. The roof light is such that it faces skyward rather than the boundaries. It is reasonable to conclude, therefore, that the roof lights in question do not face any boundary for the purposes of the regulations and do not, therefore, contravene the limitation set out in 6(a).
6b	<i>Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</i>	N/A – extension is ground floor only.
6c	<i>Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.</i>	N/A – house is not detached.

7	<i>The roof of any extension shall not be used as a balcony or roof garden.</i>	The roof is flat. There is no indication that it will be used as a balcony or roof garden.
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It is my view that the extension is exempt from planning permission under Schedule 2, Part 1, Class 1, (Exempted Development) of the Regulations.

Other matters

The plans submitted with the Section 5 referral outline other works to the house and grounds. These are not set out in the form.

- *Works to the house*

These include interior alterations and changes to the elevations. On the north elevation, an existing window at ground floor level is to be removed and replaced with double glazed doors. On the west side elevation, a new window is to be formed at ground level for the kitchen area.

Section 4(1)(h) of the Act exempts 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.

The works set out above are considered to come within the scope of Section 4(1)(h) of the Planning and Development Act

- *Patio area*

To the rear and adjoining the house and proposed extension a 32m² patio area is proposed.

Class 6 is the relevant class for these works. Attached to Class 6 are a number of conditions and limitations and the proposal is assessed against each of these:

Description of Development		Conditions and Limitations	Assessment
(a)	<i>The construction of any path, drain or pond or the carrying out of any landscaping works within the curtilage of a house.</i>	<i>The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground.</i>	The patio area would not result in the level of the ground being altered by more than 1 metre above or below the level of the adjoining ground.
(b)	<p><i>Any works within the curtilage of a house for—</i></p> <p style="margin-left: 20px;"><i>(i) the provision to the rear of the house of a hard surface for use for any purpose incidental to the enjoyment of the house as such, or,</i></p> <p style="margin-left: 20px;"><i>(ii) the provision of a hard surface in the area of the garden forward of the front building line of the house, or</i></p>	<p><i>Provided that the area of the hard surface is less than 25 square metres or less than 50% of the area of the garden</i></p>	<p>The patio area would come within the scope of (b)(i). There are no conditions and limitations.</p> <p>N/A</p>

	<p><i>in the area of the garden to the side of the side building line of the house, for purposes incidental to the enjoyment of the house as such.</i></p>	<p><i>forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, whichever is the smaller, or if the area of the hard surface is 25 square metres or greater or comprises more than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, it shall be constructed using permeable materials or otherwise</i></p>	
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It is my view that the patio is exempt from planning permission under Schedule 2, Part 1, Class 6, (Exempted Development) of the Regulations.

- *Demolish boundary wall*

The plans show that the boundary wall between the site and the house to the east is to be partly demolished. On site inspection there was no boundary wall as indicated on the plans and this is not being assessed.

6.3 Environmental Assessment & Restrictions on Exemption

A number of restrictions on exemption are set out in Section 4(4) of the Act and Article 9 of the Regulations.

Having regard to the contents of Article 103 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 environmental impact assessment is not required.

The applicant has not submitted an appropriate assessment screening report. 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 these European sites. Accordingly, it is considered that appropriate assessment is not required.

There is no information on the Planning Enquiry System as to the planning permission reference number for this part of the estate and it is uncertain if a condition limiting the construction of rear extensions was not placed on the governing estate planning permission file de-exempting the construction of rear extensions. It is highly unlikely that any condition de-exempting the construction of rear extensions was placed on these houses given the size of their rear gardens.

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

7. Conclusion & Recommendation

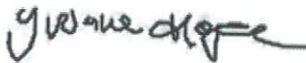
The Planning Authority in considering this referral, had regard particularly to –

- (a) section 2, 3 and 4 of the Planning and Development Act, 2000,
- (b) articles 6, and 9 of the Planning and Development Regulations, 2001, as amended, and
- (c) Class 1 and Class 6 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended.
- (d) the plans and particulars received by the Planning Authority on the 9 March 2021.

The Planning Authority concluded that –

- (a) the works to the ground floor level of the west and north elevations of the house and interior of the ground floor of the house come within the provisions of section (4)(1)(h) of the Planning and Development Act, 2000
- (b) the single storey extension to the rear of the existing house comes within the scope of the exempted development provisions of class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 and complies with the conditions and limitations attaching thereto,
- (c) the patio area to the rear of the house comes within the scope of exempted development provisions of class 6 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 and complies with the conditions and limitations attaching thereto.

The Planning Authority decides that the alterations to the house, rear extension and patio area as set out in the referral and plans received on the 9 March 2021 are development and are exempted development.

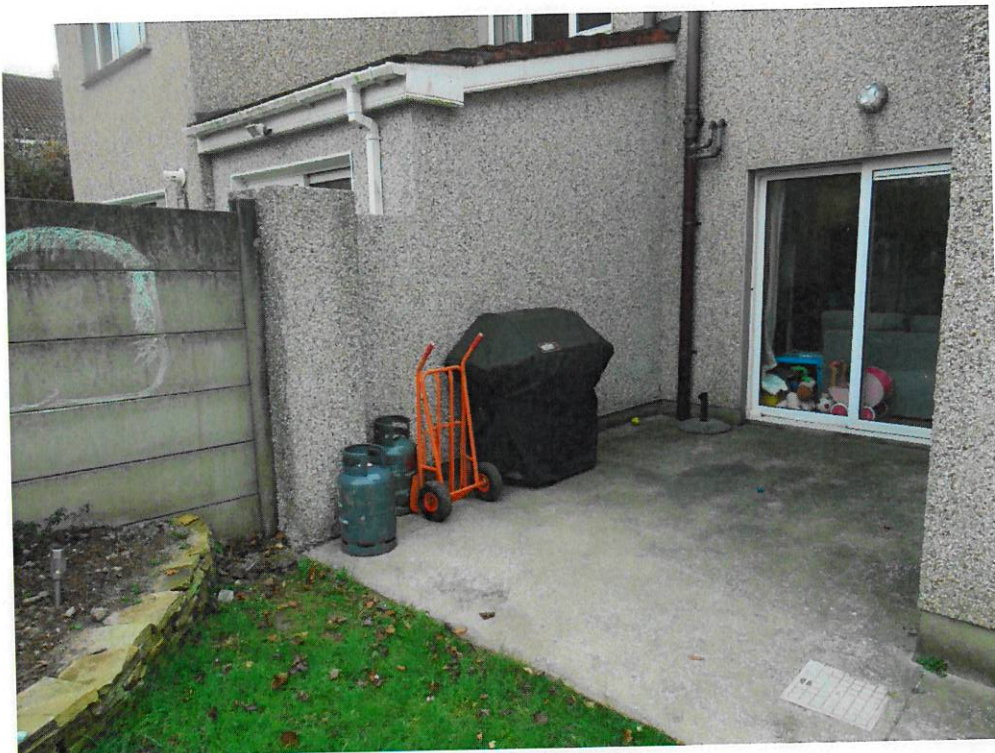


Yvonne Hogan, A/SEP
01.04.2021

Photographs:



View of north elevation of house. Proposed extension is between single storey extension on adjoining property to left and two storey annex of house



View to west of site and area of proposed extension

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: 021-4924762
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. 1 THE CLOSE, COOLROE MEADOWS,
BALLINCOLLIG, CORK. (P31 F761)

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 CONSTRUCTION OF A SINGLE STOREY
EXTENSION TO THE REAR OF DWELLING
HOUSE OF LESS THAN 40M², AND NEW
WINDOW AT EXISTING SIDE ELEVATION SOUTH
WEST FACING, DEVELOPMENT, AND IF SO
IS IT EXEMPTED DEVELOPMENT.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

WE ENCLOSE TWO COPIES OF DETAILED
PLANS REF: 998/501.

PROPOSED REAR EXTENSION INDICATED
"YELLOW"

3. Are you aware of any enforcement proceedings connected to this site?

If so please supply details:

NO.

4. Is this a Protected Structure or within the curtilage of a Protected Structure? NO.

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority? N/A.

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

If so please supply details:

NO.

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	EXISTING = 117.0 SQ.M. PROPOSED = 11.0 SQ.M.
(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 checked="" type="checkbox"/> 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>

8. 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	<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>	

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

Signature: [Signature] (AGENT)

Date: 09/03/2021

CONTACT DETAILS

10. Applicant:

Name(s)	Mr. + Mrs Gerry AND MAUREAS NUNAN
Address	<div style="border-bottom: 1px dashed black; height: 15px; margin-bottom: 5px;"> [REDACTED] </div> <div style="border-bottom: 1px dashed black; height: 15px; margin-bottom: 5px;"> [REDACTED] </div> <div style="border-bottom: 1px dashed black; height: 15px; margin-bottom: 5px;"> [REDACTED] </div> <div style="border-bottom: 1px dashed black; height: 15px; margin-bottom: 5px;"> [REDACTED] </div> <div style="border-bottom: 1px dashed black; height: 15px; margin-bottom: 5px;"> [REDACTED] </div>

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

Name(s):	Mr. LEONARD BARNETT	
Address:	c/o BARNETT AND ASSOCIATES <div style="border-bottom: 1px dashed black; height: 15px; margin-bottom: 5px;"> [REDACTED] </div> <div style="border-bottom: 1px dashed black; height: 15px; margin-bottom: 5px;"> [REDACTED] </div>	
Telephone:	<div style="border-bottom: 1px dashed black; height: 15px; margin-bottom: 5px;"> [REDACTED] </div>	
E-mail address:	<div style="border-bottom: 1px dashed black; height: 15px; margin-bottom: 5px;"> [REDACTED] </div>	
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"/>

12. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

ADVISORY NOTES:

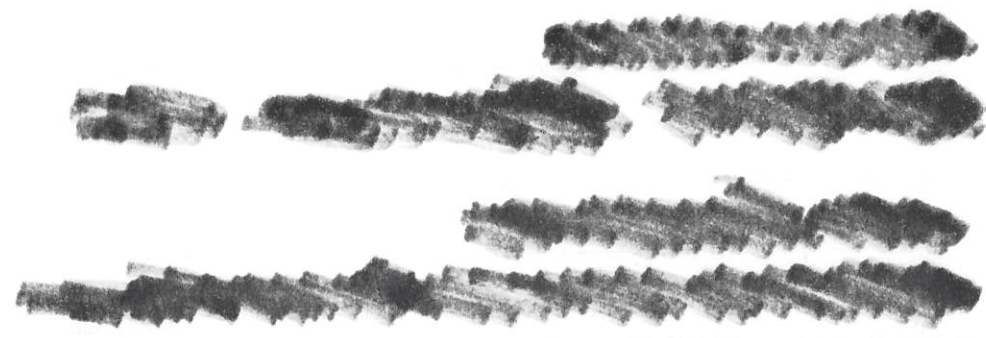
The application must be accompanied by the required fee of €80

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 following information was obtained from the records of the
 Department of the Interior, Bureau of Land Management, on
 the subject of the above-captioned matter.
 The Department of the Interior, Bureau of Land Management,
 has advised that the above-captioned matter is being
 handled as a matter of internal security.
 The Department of the Interior, Bureau of Land Management,
 has advised that the above-captioned matter is being
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 has advised that the above-captioned matter is being
 handled as a matter of internal security.

PLANNING - DESIGN - SUPERVISION - CERTIFICATION - FIRE SAFETY

Re; Proposed single storey extension to rear of dwelling house, and alterations including new window at existing side elevation, south west facing at ground floor.

At; No. 1 The Close, Coolroe Meadows, Ballincollig, Cork. (P31 F761)

For ; Mr. and Mrs. Gerry and Mairead Nunan .

09 / 03 / 2021

EXEMPTION CERTIFICATE APPLICATION.

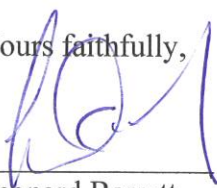
Dear Sir / Madam ,

We wish to make a formal application for an Exemption Certificate in respect of the above development and duly enclose the following;

1. Completed Section 5 Declaration application form.
2. Two copies of detail drawing ref. 998/501
3. Two copies of OS map @ 1/1000 scale.
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



Surveyed 1990-1996
Revised 2016
Levelled 1971-1986

Urban/Rural PLACE M

7021



69966

Scale:- 1:1,000
Scála:- 1:1,000

