

Comhairle Cathrach Chorcaí Cork City Council

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

Fan C Investment Holdings Ltd 3 Janeville Blackrock Road Cork

12th July 2021

RE: R661/21 - Section 5 Declaration Property: No 1. The Terrace, Crab Lane, Blackrock Road, Cork

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 —

- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- Articles 6, 9 and 10 and Part 4 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

the planning authority considers that —

the construction of an extension to the rear of the existing dwelling house at 1 The Terrace, Crab Lane, Blackrock Road, Cork IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.

Yours faithfully,

Kerry Bergin

Assistant Staff Officer

Community, Culture and Placemaking

Cork City Council

PLANNER'S REPORT

Ref. R 661/21

Cork City Council

Development Management Community, Culture and Placemaking Directorate

Application type

SECTION 5 DECLARATION

Question

Whether the construction of an extension to the rear of the existing

dwelling house is exempted development.

Location

1 The Terrace, Crab Lane, Blackrock Road, Cork

Applicant

FAN C Investment Holdings Ltd. (owner)

Date

12/05/2021

Recommendation

Is development and is exempted development

INTERPRETATION

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 APPLICATION

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

The question to the planning authority is not framed using the phrasing of section 5. The applicant states in the request, "we wish to confirm that the single storey extension (20m²) proposed to be constructed to the rear of the existing dwelling is classified as exempted development?".

In my opinion the intention of the request is clear, and that it is entirely reasonable to consider the question before the planning authority as being:

Whether the construction of an extension to the rear of the existing dwelling house is exempted development.

3. SITE DESCRIPTION

The subject property is a two storey semi-detached dwelling in the Residential, Local Services and Institutional Uses zoning area. The area is predominantly residential in nature.

4. DESCRIPTION OF THE DEVELOPMENT

The proposed development is for the construction of a single storey extension of 20m² to the rear of the existing property.

5. RELEVANT PLANNING HISTORY

None.

6. LEGISLATIVE PROVISIONS

6.1 Planning and Development Act, 2000 as amended

Section 2(1)

"exempted development" has the meaning specified in section 4.

"structure" means 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 (iii).

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1)

In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4(1)(h)

4.(1) The following shall be exempted developments for the purposes of this Act—

(h) 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, 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.

Section 5(1)

See section 1 of this report.

6.2 Planning and Development Regulations 2001 to 2018 as amended

Article 5(2)

In Schedule 2, unless the context otherwise requires, 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(1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted 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

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

(Article 6) Schedule 2, Part 1, Class 1

Classes 1-8 relate to development within the curtilage of a house and Class 1 relates to "the extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house".

Schedule 2, Part 1, Class 1

Exempted Development — General

Calumn 1 Description of Development	Column 2 Conditions and Limitations		
Development within the curtilage of a house CLASS 1 The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.	 (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) 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. (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres. 		

Column 1 Description of Development	Column 2 Conditions and Limitations				
	2. (a) 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.				
	(b) 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.				
	(c) 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.				
	3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.				
	4. (a) 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.				
	(b) 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.				
	(c) 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.				
were set to deragraph (a), where the line line inclied, the floor area of any extension	5. 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				

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Column 1 Description of Development	Column 2 Conditions and Limitations		
	the occupants of the house, to the rear of the house to less than 25 square metres.		
	6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.		
	(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.		
	(c) 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.		
	7. The roof of any extension shall not be used as a balcony or roof garden.		

7. ASSESSMENT

7.1 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'.

'Works' is defined in section 3(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'. In relation to proposed extension to the rear of the existing dwelling, it is clear that an extension to a dwelling house comprises 'works'. As the proposal comprises 'works', it is clearly therefore 'development' within the meaning of the Act.

CONCLUSION Is development

7.2 Exempted development

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

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

I consider that the proposal comes within **subsection (2) of section 4**, i.e. the Regulations, and not subsection (1).

Section 4(1)

I do not consider that the proposal comes within the scope of section 4(1) of the Act.

Section 4(2)

It is therefore necessary to consider whether the proposed rear extension comes under the scope of section 4(2) (i.e. exemptions specified in the Regulations), having regard to the use of the word 'or' in section 4(3).

I consider that article 6 and **Class 1** applies, as it is an extension of a house by the construction of an extension to the rear of the house.

Having assessed the proposed extension against Class 1 and its conditions and limitations I find as follows:

Condition / Limitation 1

The house has not been previously extended. The proposed extension is indicated as being 20m² in area and is a single storey extension. Therefore part (a) of this condition/limitation is satisfied (parts (b) and (c) do not apply).

Condition / Limitation 2

The house has not been previously extended therefore this condition/limitation does not apply.

Condition / Limitation 3

The proposed works are ground floor only therefore this condition/limitation does not apply.

Condition / Limitation 4

The heights of the walls of the proposed extension do not exceed the height of the rear wall of the house, therefore part (a) of this condition/limitation is satisfied. The highest part of the roof of the proposed extension does not exceed the height of the highest part of the roof of the dwelling. Therefore part (c) of this condition/limitation is satisfied (part (b) does not apply).

Condition / Limitation 5

More than 25m² of open space will remain to the rear of the dwelling. Proposed drawings indicate that more than 100m² of open space will remain to the rear of the dwelling and proposed extension.

Condition / Limitation 6

Ground floor windows proposed are more than 1 metre from the boundaries they face.

Condition / Limitation 7

It does not appear that the roof is proposed to be used as a balcony or roof terrace.

Restrictions on exemption

I do not consider that any apply in this instance.

CONCLUSION

Is exempted development

8. ENVIRONMENTAL ASSESSMENT

I note the provisions of sections 4(4), 4(4A) and 177U(9) of the Act which state,

Section 4(4),

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Section 4(4A)

Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and
- (b) as respects which an environmental impact assessment or an appropriate assessment is required,

to be exempted development.

Section 177U(9)

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.

8.1 Screening for Environmental Impact Assessment

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**.

8.2 Screening for Appropriate Assessment

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.

9. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- Articles 6, 9 and 10 and Part 4 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

the planning authority considers that —

the construction of an extension to the rear of the existing dwelling house at 1 The Terrace, Crab Lane, Blackrock Road, Cork IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.

Eoin Cullinane Assistant Planner

12/05/2021

106 Clonlara, Kerry Pike, Cork City.

The Development Management Section,
Community, Culture & Placemaking Directorate,
Cork City Coucil,
City Hall,
Anglesea Street,
Cork City.

4th May 2021

Re: Application For Section 5 Declaration for No. 1 The Terrace, Crab Lane, Blackrock Road, Cork City.

Dear Sir/Madam,

On behalf of the applicants, FAN C Investment Holdings Ltd, please find the following information in relation to the above mentioned application:

- 1. 6 no. copies of Application Form
- 2. 2 no. copies of Site Location Map 1:1000
- 2 no. copies of Planning Drawings :-

Drg.01 - Existing Site Plan

Drg.02 - Existing Ground Floor Plan

Drg.03 - Proposed Site Plan

Drg.04 - Proposed Ground Floor Plan

Drg.05 - Proposed North & South Elevations

Drg.06 - Existing & Proposed West Elevations

4. Fee – €80

I trust that this is to your satisfaction and if you have any queries, please do not hesitate to contact me

Yours sincerely,

Martin English Dip. Arch. Tech.

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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 STRUCTU	RE FOR WHICH DEC	LARATION IS SOU	SHT
NO. I THE TERRACE, BLACKROCK ROAD, CORK	CRAB LAN	JE	F4 - 1
BLACKROCK ROAD, CORK	CITY		
TIZY6DD			

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE	SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:
<u>Sample Question:</u>	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.
WE WISH TO	CONFIRM THAT THE SWIGLE STOREY
EXTENSION (20m2) PROPOSED TO BE CONSTRUCTED
TO THE R	EAR OF THE EXISTING DIVELLING
	FIED AS EXEMPTED DEVELOPMENT.
	DECEL ACTION OF THE CELLAR TO

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets if required).
THE EXISTING DIVELLING IS TWO STOREY AND
MOASURES APPROX 83 M2. THE OVERALL SITE
MEASURES 0. 07 ACRES AND THIS INCLUDES
A GARAGE COCATED IN THE NONTH WEST
CORNER OF THE SITE. THE EXISTING BARNA
SHED AND GLASS HOUSE MEASURE APPROX.
5m2 comBINED.
THE PROPOSED EXTENSION MEASURES 20m2
INTERNALLY WHICH WILL CENE 114 MZ
OF PRIVATE REAL OPEN SPACE WHICH
IS NECL ABOUT THE MINIMUM NORUMED.

B. Are you aware of any e If so please supply deta		~ O	ected to this si		127
1. Is this a Protected Stru	cture or within the	curtilage o	f a Protected S	tructure? 🗌 \wedge	00
If yes, has a Declaratio requested or issued fo	n under Section 57 r the property by th	of the Plan ne Planning	ning & Develop Authority?	oment Act 2000 be	een
6. Was there previous re If so please supply det		olication/s			-
6. APPLICATION DETAIL ver the following if applicable ld be indicated in square met	. Note: Floor areas a			of the external walls	
(a) Floor area of existin		re/s	83m²	- EXISTIN - PROPS	350
(b) If a domestic extens extensions/structur location after 1 st Oc for which planning pobtained)?	es been erected at t tober, 1964, (includ	this ling those	Yes If yes, please p	No 🗹 provide floor areas.	(sq m)
(c) If concerning a char	nge of use of land ar				
kisting/ previous use (plea	se circle)	Proposed	existing use (olease circle)	1.
NA			ایم	A	())
	OT DETAILS				
7. APPLICANT/ CONTA lame of applicant (princi	pal, not agent):	Hoc	DINGS	ESTMENT LTD.	
Applicants Address	AND				
Person/Agent acting on behalf of the Applicant (if any):	Name:	MAR	TIN EN	IGUISH	
	Address:	106	COMPAN CAMP AND		
	Telephone:	98	6) 352	6592	*** 1
	Fax:	** / / / / / / / / / / / / / / / / / /	14 12 2 2 2 4 4 4 4 4 4 4 4 4 4 4 4 4 4	a podestore	
	E-mail address:		secrety!	1 0 14	1.16
Should all corresponden	ce he sent to the a	bove addr	ess? Yes		No

5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure.	A. Owner	B. Other	***************************************
Where legal interest is 'Other', please state			
your interest in the land/structure in question			
If you are not the legal owner, please state the name and address of the owner if available			

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

Signature: A

04/05/2021

MANTIN ENGLISH

ADVISORY NOTES:

The application must be accompanied by the required fee of $\ensuremath{\epsilon} 80$

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 Pleanala 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.





CORK CITY COUNCIL CITY HALL CORK

07/05/2021 11:39:07

Receipt No. : PLAN3/0/7822346
***** REPRINT *****

R 661 21

Fan C Investment

EXEMPTION CERTS - FEES 58800 GOODS 80.00 VAT Exempt/Non-vatable

Fan C Investment

Total:

80.00 EUR

80.00

Tendered:

Cheque

102628

80.00

Change:

0.00

Issued By : Eoghan Fahy From : Planning Dept. 3 Vat reg No.0005426M



CORK CITY COUNCIL CITY HALL CORK

07/05/2021 11:39:07

Receipt No. : PLAN3/0/7822346 ***** REPRINT *****

R 661 21 Fan C Investment

EXEMPTION CERTS - FEES 58800 00.08 GOODS 80.00 VAT Exempt/Non-vatable Fan C investment

Total:

80.00 EUR

Tendered : Cheque

102628

80.00

Change:

0.00

Issued By : Eoghan Fahy From : Planning Dept. 3 Vat reg No.0005426M

PLANNING DEPARTMENT

CASHDESK RECEIPT CHECKLIST Name: Fan C Investment Holding Ltd. Amount: <u>680.00</u> TP No.: <u>R661/21</u> Description/Address: No I The Terrace, Crab Lane, Blackrock Road **Business Unit** Description 14110 Copies of Planning Permission Copies of Planning Decisions Copies of Final Grant TI4110 (Transitions Area) General copying Archive Retrieval Microfiche 14114 Application Fees TI4114(Transitions Area) 14116 Section 5 applications (Exemption Certs) **Extension of Duration Applications** TI4116 (Transitions Area) Planning Searches 14117 Submissions/Objections on Planning TI4117 (Transitions Area) **Applications** 14118 Recouped Enforcement Expenses TI4118(Transitions Area) 14121 Section 254 Licence fees (Fingerpost TI4121(Transitions Area) signs) 14122 SHD Fees (Strategic Housing TI4122(Transitions Area) Developments) 14124 Planning Bond Letters TI4124(Transitions Area) 14100 **Outdoor Event Licences** TI4100(Transitions Area) **Planning Contributions** TP NO.: (66) JDE Account NO.: Amount:

1973 2000 - 2000 1968 - 1973 Surveyed Revised Levelled **Urban PLACE** 71181 APPLICANTS OUTLINED IN RED +18.6 18.0 LS LS 70935 Scale:- 1:1000 50 40 30 20 10

100

50

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Scála:- 1:1000











