



Comhairle Cathrach Chorcaí Cork City Council

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

Brendan O' Gorman
Dripsey Cross
Dripsey
Co. Cork

19/11/2019

**RE: Section 5 Declaration R548/19 29 Halldene Drive,
Bishopstown**

A Chara,

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

having regard to —

- Section 2(1), 3(1) and 4 (1)(h) of the Planning and Development Act 2000 (as amended)
- the particulars received by the Planning Authority on 30.10.2019
- the planning history of the site
- the pattern of development in the area

The Planning Authority considers that the replacement of a garage door with a window on the front elevation of the dwelling at 29 Halldene Drive, Bishopstown, Cork is development and is exempted development.

Advisory note:

- The applicant and the purchaser(s) are advised that the conversion and incorporation of the garage into additional habitable accommodation as part of the main dwelling may require planning permission.
- The purchaser(s) are advised to contact Planning Department, Cork City Council prior to commencing any such works.
- The applicant shall ensure that this advisory note is passed onto the purchaser(s) of the property.

Is misa le meas,

Kerry Bergin
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

Strategic Planning & Economic Development Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

Comhairle Cathrach Chorcaí
Cork City Council
30 OCT 2019
Strategic Planning & Economic
Development
E-Post/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

29 Halldene Drive, BISHOPSTOWN, 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.

Do I require retention planning permission for the replacement of a garage door with a window which was completed ten years ago when my mother occupied the house?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

The garage door was insecure and caused a draft in the house. My mother decided at the time to put a window in as many other similar properties on the same road had done. The internal use of the room is still a garage.

3. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	N/A
(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 checked="" type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) <u>34 sq m</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):	Brendan O'Gorman		
Applicants Address	Dripsey Cross, Pripsey, Co Cork.		
Person/Agent acting on behalf of the Applicant (if any):	Name:		
	Address:		
	Telephone:		
	Fax:		
	E-mail address:		
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	Yes	<input checked="" type="checkbox"/>	No <input type="checkbox"/>

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	Executor of will. Property in probate	
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: Brian O'Connell

Date: 29/10/19

.....

ADVISORY NOTES:

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

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

DATA PROTECTION

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

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: R 548.19

Description: Whether the replacement of a garage door with a window on the front elevation of a dwelling is or is not exempted development

Applicant: Brendan O’Gorman, Executor of Will / Property in Probate

Location: 29 Halldene Drive, Bishopstown

Site inspection: 01.11.2019

SUMMARY OF RECOMMENDATION

Constitutes development; is exempted development

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 Inspection and Location

The site is located at 29 Halldene Drive, an established residential area. The house is for sale. The public road is to the south of the site. There are houses to the east and west of the site.



Screenshot from Google Streetview – June 2009



Front elevation of dwelling

Subject Development

Whether the replacement of a garage door with a window is or is not exempted development.

Sub-threshold EIAR

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 EIAR 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.

Planning history

On subject site:

TP76/5892 – Kelleher – extensions and alterations – grant – constructed

Nearby sites:

1637086 – 43 Halldene Drive

Retention of extension to side of dwelling and rooflights to front and side of roof – grant conditional

1536554 – 46 Halldene Drive

1 no. 2 storey side and back extension and bay window to front elevation of existing dwelling including all associated site works – grant conditional

1536390 – 33 Halldene Drive

Single storey extension to front, side and rear of the existing dwelling and all associated site development works – grant conditional

Planning policy

Cork City Development Plan 2015

ZO4 – Residential, Local Services and Institutional Uses

Planning legislation

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'.

Assessment

On the front/south elevation of the dwelling a garage door has been replaced by a white PVC window.

The site is located within an established residential area. The original house type was semi-detached dwelling with a single storey flat roof garage to the side. For this dwelling permission was granted for a first floor extension over the garage and this was constructed (planning permission reference TP5892), and the approximate increase in floor area is c.40m².

The referral has outlined that the internal use of the room is still a garage. On site inspection it was noted that the room is used for that purpose (e.g. storage of lawnmower) and it has not been converted into habitable space/living accommodation. It remains as ancillary use incidental to the residential use. Accordingly as no change of use or garage conversion has occurred Class 1 of Part 1 in the Planning and Development Regulations do not apply.

The issue here is whether this alteration to part of the front of the dwelling materially affects the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures?

The houses in the street and estate have been modified over the years through conversions of garages, front porches and extensions.

Having regard to the location and size of the window, the existing character of the house and street, I would not consider that the replacement of the garage door with a window materially affects the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

In this regard I would consider the replacement of a garage door to a window is to be exempted development for the purposes of Section 4(1)(h) of the Planning and Development Act 2000.

It is considered that the applicant and the purchaser(s) of the property are advised that the conversion and incorporation of the garage to a habitable space of the main dwelling may require planning permission and contact should be made with the Planning Authority prior to commencing any such works.

Recommendation

It is recommended that the applicant is advised as follows: -

Having regard to:

- Section 2(1), 3(1) and 4 (1)(h) of the Planning and Development Act 2000 (as amended)
- the particulars received by the Planning Authority on 30.10.2019
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Advisory note:

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- The applicant shall ensure that this advisory note is passed onto the purchaser(s) of the property.



Yvonne Hogan
Assistant Planner
13.11.2019

Agreed S. Minkul (SEP)

18.11.2019.

Planning Pack Map



National Mapping Agency

CENTRE COORDINATES:
ITM 563267,569341

PUBLISHED: 18/10/2019

ORDER NO.: 50089965_1

MAP SERIES: 6426-09
1:1,000
1:1,000



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