



Comhairle Cathrach Chorcaí Cork City Council

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

Eileen Leahy
C/O Dennis Hennigan
Green Banks
Ballyvolane
Cork

07/01/2020

**RE: Section 5 Declaration R556/19 – No 19 Hollyhill Lane,
Blarney Street, Cork**

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 4(1)(h) of the Planning and Development Act 2000 (as amended)

It is considered that the conversion of attic including 1 no. velux window to front and 2 no. velux windows to rear of No. 19 Hollyhill Lane, Blarney Street **Is Development** and is **Exempted Development**.

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.

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

19 HOLLYHILL LANE
BLARNEY STREET, CORK. T23T3P2

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.

CONVERSION OF ATTIC INCLUDING 1 NO.
VELUX WINDOW TO FRONT & 2 NO VELUX
WINDOWS TO REAR.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

ATTIC CONVERSION AREA OF 27.85sq.m.

3. APPLICATION DETAILS

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

(a) Floor area of existing/proposed structure/s	EXISTING FLOOR AREA = 94.44 ATTIC FL. AREA = 27.85
(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) _____
(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)
_____	_____
_____	_____
_____	_____

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):	EILEEN LEAHY	
Applicants Address	19 HOLLYHILL LANE BLARNEY STREET, CORK. T23T3P2	
Person/Agent acting on behalf of the Applicant (if any):	Name:	DENNIS HENNIGAN
	Address:	GREEN BANKS BALLYUOLANE, CORK.
	Telephone:	
	Fax:	
	E-mail address:	dennishennigan@eircom.net
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"/>

5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
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: Eileen Leahy

Date: 4/12/2019

.....

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

PLANNER'S REPORT		Cork City Council Culture, Community and Placemaking
Ref. R556/19		
Application type	Section 5 Declaration	
Description	<i>Whether conversion of attic including 1 no. velux window to front and 2 no. velux windows to rear requires planning permissions</i>	
Location	19 Hollyhill Lane, Blarney Street	
Applicant	Eileen Leahy	
Date	19/12/2019	
Recommendation	<i>Is Development and Is Exempted Development</i>	

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

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

In framing the question to the planning authority, the applicant states in Q2 of the application form:

Conversion of attic including 1 no. velux window to front and 2 no. velux windows to rear.

3. Site Description

The property in question is a two storey terrace residence with a projecting gable fronted entrance.

4. Planning History

The Hollyhill Lane terrace was built as per Cork City Council Planning Permission 01/25272 which was granted on 07/09/2001. No other applications are associated with the site. There were no conditions attached to the grant that would limit exemptions.

5. Legislative Provisions

5.1 *The Act*

Section 2(1),

"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),

The following shall be exempted developments for the purposes of this Act-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 177U (9) (screening for appropriate assessment)

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.

6. ASSESSMENT**6.1 Development**

The first issue for consideration is whether or not the matter at hand is ‘development’.

‘Development’ as defined in the Act (3)(1) comprises two possible chief components: ‘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’. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out.

‘Works’ is defined in section 2(1) of the Act as ‘the carrying out of any works on, in, over, or under land’ including ‘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.’.

I consider that the proposed element constitutes development as it comprises of works which includes the conversion of the attic space and the insertion of 3 no. velux windows.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. I note that the subject dwelling is not a Protected Structure and does not form part of an Architectural Conservation Area.

There are no conditions set out in the parent permission (Cork City Council Ref. No. 01/25272) that would limit this type of alteration to the structure.

Following a review of the plans provided it is my opinion that the internal works, to convert the attic space and the addition of 3 no. velux windows, are exempted development in accordance with section 4(1)(h) of the *Planning and Development Act 2000* (as amended).

This conclusion is based on the fact that the works to the interior of structures are expressly exempted by section 4(1)(h). Further I consider that the exterior works, specifically the insertion of 3 no. velux windows, will 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.

7. ENVIRONMENTAL ASSESSMENT

7.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) 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 environmental impact statement is not required to be submitted.

7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. 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 the European sites referred to above. Accordingly it is considered that appropriate assessment is not required.

8. CONCLUSION

The question has been asked whether the conversion of attic including 1 no. velux window to front and 2 no. velux windows to rear of No. 19 Hollyhill Lane, Blarney Street, requires planning permission.

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the conversion of attic including 1 no. velux window to front and 2 no. velux windows to rear of No. 19 Hollyhill Lane is development and is exempted development.

9. RECOMMENDATION

In view of the above and having regard to —

- Section 4(1)(h) of the Planning and Development Act 2000 (as amended)

It is considered that the conversion of attic including 1 no. velux window to front and 2 no. velux windows to rear of No. 19 Hollyhill Lane, Blarney Street **Is Development** and is **Exempted Development**.



Martina Foley
Executive Planner

Agreed
M.F.
6/10/19

Planning Pack Map

CENTRE
COORDINATES:
ITM 565349,572358

PUBLISHED:
22/11/2019

ORDER NO.:
50095443_1

MAP SERIES:
1:1,000

MAP SHEETS:
6382-07



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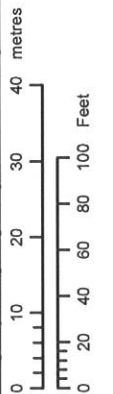
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Output scale is not indicative of data capture scale.
Further information is available at:
<http://www.osi.ie>; search 'Capture Resolution'

OUTPUT SCALE: 1:1,000



572444 565465 572272 565232

Site Location Map

CENTRE COORDINATES:
ITM 565349,572358

PUBLISHED: 22/11/2019
ORDER NO.: 50095443_

MAP SERIES: 6 Inch Raster
MAP SHEETS: CK074



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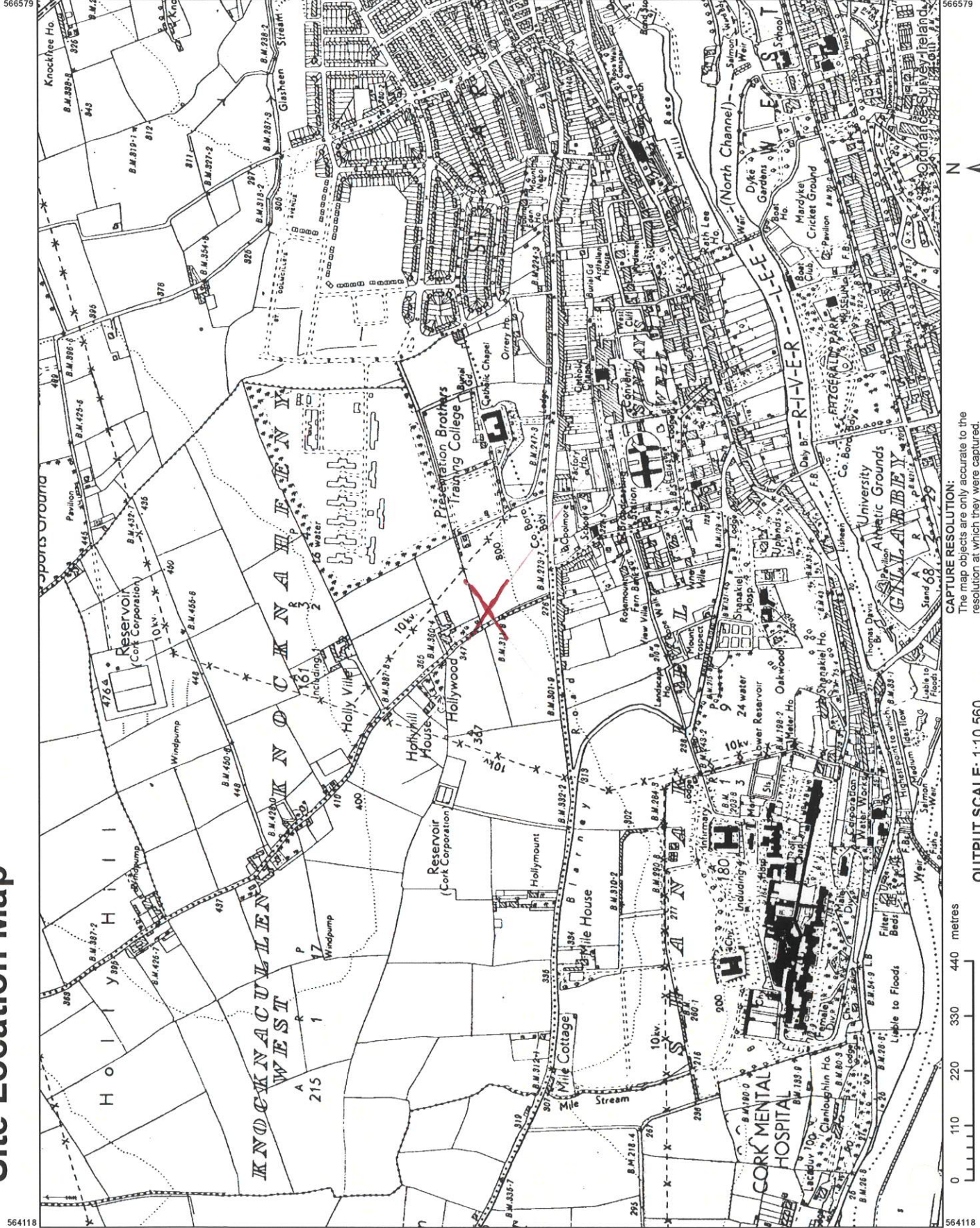
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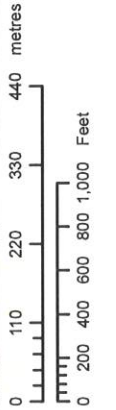
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