

Comhairle Cathrach Chorcaí Cork City Council

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

Mary Harrington, Mary Harrington Architects, The Pines, Ballyduff East, Kilmeaden, Co. Waterford X91N6D8

21/04/2022

RE:

Section 5 Declaration R708/22 St. Killian's School, Old Youghal Road, Mayfield, cork T23 NV96

A Chara,

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

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, and 9 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2018,

it is considered that proposed erection of a two-storey prefabricated modular building with ancillary site works on School Grounds at St. Killian's School, Old Youghal Road, Mayfield, Cork for a temporary period of 5 years is development and is exempted development.

Is mise le meas,

Kate Magner

Development Management Section Community, Culture and Placemaking Directorate

Cork City Council

Lagre



PLANNER'S REPORT Ref. R708/22		Cork City Council			
		Culture, Community and Placemaking			
Application type	Section 5 Declaration				
Description	Is the erection of a two-storey prefabricated modular building with ancillary site works located on School Grounds at St Killian's School, Old Youghal Road, Mayfield, Cork, Development and if so is it exempted development under Class 20d or any other exempted development class.				
Location	St. Killian's School, Old Youghal Road, Mayfield, Cork T23 NV96				
Applicant	The Board of Management of St. Killian's School				
Date	21/04/2022	The state of the s			
Recommendation	ecommendation Is Development and Is Exempted Development				

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:

Is the erection of a two-storey prefabricated modular building with ancillary site woks located on School Grounds at St Killian's School, Old Youghal Road, Mayfield, Cork, Development and if so is it exempted development under Class 20d or any other exempted development class?

Additional Details Regarding Question/ Works/ Development

The applicant states:

- 1) The development is for a temporary prefabricated modular building that will not be erected on the site of the school grounds for a period of more than 5 years.
- 2) The gross floor area of the existing school is 2,104m². The gross floor area of the temporary prefabricated modular building is 476m². Therefore, the gross floor area of the temporary prefabricated modular building does not exceed 30% of the gross floor area of the existing school.
- 3) The temporary prefabricated modular building will not exceed two storeys.
- The proposed development is for a standalone two-storey temporary prefabricated modular building and not an extension to an existing building.

- 5) The two-storey temporary prefabricated modular building facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling.
- 6) The two-storey temporary prefabricated modular building shall not be closer than 12.5m to a party boundary or facing and closer than 22 metres to a dwelling and therefore class 20D Part 4 requirements regarding windows overlooking or obscure glass to windows do not apply.
- 7) The development/ structure shall comply with the Department of Education primary and post primary technical guidance documents for the time being in force.
- 8) I have been advised by the Department of Education that planning permission is not required for this development.

3. SITE DESCRIPTION

The school site is located within Mayfield off the Old Youghal Road. The site contains a school and associated parking and recreational facilities including a sports pitch and hard surface tennis court.

4. PLANNING HISTORY

Subject Site

Planning Ref. 00/23989 – Permission granted to construct new pitched roofing on top of the existing flat roofing of the three storey & single storey school.

Applications in the vicinity

Planning Ref. 18/37781 – Permission granted for the construction of a single storey extension to the rear of the existing building and all ancillary site works at Mayfield East Community Centre, Tinkers Cross, Cork.

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 <u>or</u> '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 2001-2013.

Section 5(1),

(See section 1 of this report)

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.

5.2 The Regulations

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 20D

Schedule 2, Part 1, Class 20D

Exempted Development — General

Column 1	Column 2
Description of Development	Conditions and Limitations
Temporary Structures and Uses CLASS 20 The erection on land on which a school is situated of a structure to facilitate the continued delivery of education.	 No such structure shall be erected for a period exceeding 5 years. The gross floor area of such structure shall not exceed 30% of the gross floor area of the existing school. No such structure shall exceed two storeys. Distance to party boundary — a) any single storey structure shall be a distance of not less than 2 metres from any party boundary, b) any two-storey extension facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling, or c) any two-storey extension closer than 12.5m to a party boundary, or facing and closer than 22 metres to the dwelling shall

6. ASSESSMENT

The purpose of this report is to assess whether or not the matter in question constitutes development and whether its fall within the scope of exempted development. Matters pertaining to the acceptability of the proposal in respect of the proper planning and sustainable development of the area is not a consideration under section 5.

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, and secondly to whether any material change in the use of any structures or other land have or will take place.

'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.'

The erection of a temporary two-storey prefabricated modular building is an act of construction and falls within the definition of 'works'. Therefore, the proposal constitutes development within the meaning of the Act.

CONCLUSION: Is development

6.2 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 both subsection (2) of section 4.

Section 4(2)

It is therefore necessary to consider whether the proposed two-storey prefabricated modular structure 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 20D applies, as the proposal relates to a temporary structure situated on a school site to provide the continued delivery of education.

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

Condition / Limitation 1

No such structure shall be erected for a period exceeding 5 years.

Assessment

It is stated that the structure will not be erected on the site for a period of more than 5 years.

Condition / Limitation 2

The gross floor area of such structure shall not exceed 30% of the gross floor area of the existing school.

Assessment

The area of the existing school building is stated at being 2,104m². The area of the proposed prefabricated structure is stated as being 476m². This area of the proposed temporary structure is less than 30% of the gross floor area of the existing school.

Condition / Limitation 3

No such structure shall exceed two storeys.

Assessment

The proposed structure does not exceed two storeys.

Condition / Limitation 4

Distance to party boundary -

- a) any single storey structure shall be a distance of not less than 2 metres from any party boundary,
- b) any two-storey extension facing an existing dwelling shall be a distance no less than 22 metres from the main part of the dwelling, or
- c) any two-storey extension closer than 12.5m to a party boundary, or facing and closer than 22 metres to the dwelling shall
 - i. have no windows overlooking, or
 - ii. have obscure glass

Assessment

- a) The proposed temporary structure is two-storeys and this limitation does not apply.
- b) The proposed temporary structure is a standalone building and not an extension to the existing building. The building faces an existing dwelling to the south and is located 22m from the main part of the dwelling.
- c) The proposed temporary structure is a standalone building and not an extension to the existing building. The proposed building is located 12.5m away from the party boundary to the south and is not closer than 22m to the dwelling to the south.

Condition / Limitation 5

Such structure shall comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.

Assessment

It is stated than the proposed temporary structure will comply with the Department of Education Primary and Post Primary Technical Guidance Documents for the time being in force.

Restrictions on exemption

I do not consider that any apply in this instance.

CONCLUSION: Is exempted development.

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. RECOMMENDATION

It In view of the above and having regard to -

- Section 2, 3 and 4 of the Planning and Development Act 2000 as amended, and
- Articles 6, and 9 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

The Planning Authority considers that – the erection of a two-storey prefabricated modular building with ancillary site works located on School Grounds at St Killian's School, Old Youghal Road, Mayfield, Cork, for a temporary period of 5 years **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

Jan Oosterhof Assistant Planner

20/04/2022

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Mary Harrington Architects.

The Pines, Ballyduff East, Kilmeaden, Co. Waterford, X91N6D8.





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

Our Ref: 21/125/MH/MH. 23rd March 2022.

DEVELOPMENT MANAGEMENT CCP 2 4 MAR 2022

CORK CITY COUNCIL

Re: Section 5 Declaration Application Form - for new Two Storey Prefabricated Modular Building with Ancillary siteworks located on the school grounds at St. Killian's School, Old Youghal Road, Mayfield, Cork.

Dear Sir / Madam,

I attach a copy of the Section 5 Declaration Application Form for the above project. I enclose within the application the following list and schedule of enclosures.

- 1 copy of the Section 5 Declaration application form fully completed.
- 2. 1 copy of a letter from the St. Killian's School authorising me to act as their agent.
- 3. 1 copy of the site plan indicating the location of the proposed two storey prefabricated modular building with ancillary siteworks, drawing no. 21-125-PP-S5D-01, scale 1:500.
- 4. 1 copy of the ground floor plan, elevations and section A-A of the proposed two storey prefabricated modular building with ancillary siteworks, drawing no. 21-125-PP-S5D-02, scale 1:100.
- 5. 1 copy of the site layout map, drawing no. 21-125-PP-S5D-03, scale 1:1000.
- 6. 1 copy of the site location map, drawing no. 21-125-PP-S5D-04, scale 6" to 1 mile.

I trust the above is to your satisfaction and if you have any queries please do not hesitate to contact the undersigned.

Yours Sincerely,

Mary Harrington



St. Killian's School, Old Youghal Road, Mayfield, Cork. T23 NV96 Tel: (021) 4505168 E-mail: office@stkillianscork.com E-mail:

Sue Lenthan (Principal) Mary O'Connor (Deputy Principal)

21st December, 2021

To whom it may concern,

The Board of Management of the above school authorizes Mary Harrington, Architect, to act as our agent in all matters pertaining to the developments at our school. The schools Charity Number is: 20139544 and we are therefore exempt from fees.

If you require any further information, please contact me at the above address.

Many thanks.

Stem

Sue Lenihan (On behalf of BOM St Killians School)

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

ST. KILLIANS SCHOOL, OLD YOUGHAL ROAD, MAYFIELD, LORK, T23 NV96.

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.

MODULAR BUILDING WITH ANCILLARY SITE WORKS, LOCATED ON SCHOOL GROUNDS AT ST. KILLIANS SCHOOL

OLD YOUGHAL ROAD, MAYFIELD, CORK, DEVELOPMENT AND IF SO IS IT EXEMPTED DEVELOPMENT UNDER CLASS 20 D OR ANY OTHER EXEMPTED DEVELOPMENT CLASS?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT: (Use additional sheets if required). 1.) THE DEVELOPMENT IS FOR A TEMPORARY PREFABRICATED MODILIAR BUILDING, THAT WILL NOT BE ERECTED ON THE SITE OF THE SCHOOL GROUNDS FOR A PERIOD OF MORE THAN 5 YEARS. 2.) THE GROSS FLOOR AREA OF THE EXISTING SCHOOL IS 2694 m²— THE GROSS FLOOR ALEA OF THE TEMPORARY PREFABRICATED MODILIAR BUILDING IS 476 m²— THEREFORE THE GROSS FLOOR AREA OF THE TEMPORARY PREFABRICATED MODILIAR BUILDING DOES NOT EXCEED 30%— OF THE GROSS FLOOR AREA OF THE EXISTING SCHOOL. 3.) THE TEMPORARY PREFABRICATED MODILIAR BUILDING WILL NOT EXCEED TWO STOREYS.

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

H.) THE PROPOSED DARDOPMENT IS FOR A STANDALOWE TWO STOREY TEMPORARY PREFABRICATED MODIMAR BUILDING.

AND NOT AN EXTENSION TO AN EXISTING BUILDING.

5.) THE TWO STOREY TEMPORARY PREFABRICATED MODIMAR BUILDING FACING AN EXISTING DWELLING SHALL BE A DISTANCE NO LESS THAN 22 METERS FROM THE MAIN PART OF THE DWELLING.

6) THE TWO STOREY TEMPORARY PREFABRICATED MODIMAR BUILDING SHALL NOT BE CLOSER THAN 12:5 M TO A PARTY BOUNDARY, OR PACING AND CLOSER THAN 22 METERS TO A DWELLING AND THEREFORE CLASS 20D-PART 4-REQUIREMENTS REGARDING WINDOWS OVERLOOKING OR OBSCURE GLASS TO WINDOWS DO NOT APPLY.

- 7). THE DEVELOPMENT ISTRUCTURE SHALL COMPLY WITH THE DEPARTMENT OF FDUCATION PRIMARY AND POST PRIMARY TECHNICAL GUIDANCE DOCUMENTS FOR THE TIME BEING IN FORCE.
- 8) I HAVE BEEN ADVISED BY THE DEPARTMENT OF EDUCATION THAT PLANNING PERMISSION IS NOT REQUIRED FOR THIS DEVELOPMENT.

	Are you aware of any enforcement proceedings connected to this site? If so please supply details:					
4. Is this a Protected St	stected Structure or within the curtilage of a Protected Structure?					
	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?					
If so please supply de	etails:	Poplication/s on this site? \(\text{VES}.\) NEW PITCHED ROOF ON TOP OF EXISTING				
	FLAT ROOF	NEW PITCHED ROOF ON TOP OF EXISTING.				
6. APPLICATION DETAIL						
nswer the following if applicab hould be indicated in square me	le. Note: Floor areas (are measured from the inside of the external walls and				
(a) Floor area of existi		ire/s EXISTING SCHOOL BULDING = 2104 W				
		PROPOSED TEMPORARY BUILDING = 476 m				
(b) If a domestic exter						
	res been erected at ctober, 1964, (includ					
for which planning						
obtained)?	permission nas see					
(c) If concerning a cha	nge of use of land ar	nd / or building(s), please state the following:				
Existing/ previous use (plea	ase circle)	Proposed/existing use (please circle)				
Λ f /Δ						
		N/-F3 :				
7. APPLICANT/ CONTA	CT DETAILS					
Name of applicant (princi	ipal, not agent):	THE BOARD OF MANAGEMENTOF				
		ST. KILLIANS SCHOOL ,				
Applicants Address	ST. KILLIA	NS SCHOOL,				
	and young	HAL ROAD				
	MAY FIELD					
Dayson /Agout active av	CORK,	T23 NV96				
Person/Agent acting on behalf of the Applicant	Name:	MARY HARRINGTON				
(if any):	Address:	MARY HARRINGTON ARCHITECTS				
		THE PINES, BALLYDUFF RAST,				
		KILMEADEN, CO.WATERFORD X91 N6D8				
	Telephone:	ATT NODE				
	Fax:	NIA				
	E-mail address:					
	L man address.	MANAGER LIGHTS WIN HOLDER TO				
Should all correspondenc (Please note that if the answer is 'No' address)						

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	NA	'
If you are not the legal owner, please state the name and address of the owner if available	NA	

5. I /	We confirm	that the	information	contained	in the a	pplication	is true and	accurate:
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Signature: May M

Date: 22 Markey 2022.

Mary Harrington Architects
The Pines, Ballyduff East, Kilmeaden,
Co. Waterford, X91 N6D8.

Tela Mobile:

E Mail.

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/qdor/.

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

RECORD PLACE MAP



