



Comhairle Cathrach Chorcaí Cork City Council

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

Dubray Books Limited,
c/o David Lambe,
Wherity Chartered Surveyors,
Unit 4, Block 4
City North Business Campus,
Stamullen,
Co.Meath,
K32 KC65

2nd November 2021

RE: R693/21 – Section 5 Declaration
Property: 83-85 Patrick St and Carey's Lane, Cork, T12 XA66

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
- Article 9 of the Planning and Development Regulations 2001 (as amended),

The Planning Authority has concluded that –

- The question has been asked whether *“The replacement of existing external signage (TP15/36661) with new signage on submitted drawings.”*

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed 3no. external “Dubray” Signs (2 no. brushed stainless steel letters, 80mm deep with internal LED lighting to create halo effect and 1 no. vinyl on glass) as submitted is development and is exempted development

And therefore, the Planning Authority considers that –

- The proposed 3no. external “Dubray” Signs (2 no. brushed stainless steel letters, 80mm deep with internal LED lighting to create halo effect and 1 no. vinyl on glass) (as replacement signs under TP15/36661) **Is Development** and is **Exempted Development.**



We are Cork.



Comhairle Cathrach Chorcaí Cork City Council

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

Yours faithfully,

Aine O'Leary

Assistant Staff Officer

Community, Culture and Placemaking

Cork City Council



We are Cork.

PLANNER'S REPORT Ref. R693/21		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>The replacement of existing external signage (TP15/36661) with new signage on submitted drawings.</i>	
Location	83-85 Patrick Street & Carey's Lane.	
Applicant	David Lambe (Wherity Chartered Surveyors)	
Date	02/11/2021	
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:

The replacement of existing external signage (TP15/36661) with new signage on submitted drawings.

3. Site Description

The site is located at the corner of St. Patrick's Street and Carey's Lane. Number 83 is currently vacant but the ground floor was previously in retail use. Number 84 is in use as a café on the ground and first floor with storage/office use associated with the café located on the upper floors. Number 85 was in use as a retail unit.

4. Planning History

The relevant planning permission for this site is summarised as follows:

CCC# Ref	CCC# Conditions
15/36661	Condition 3: Relates to façade and signage

#Cork City Council Planning

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 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 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act –

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

Article 10 (1)

Development which consists of a change of use within any one of the classes of use as specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –

- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned*

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, 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.’

I consider that the proposed element constitutes development as it comprises of works which includes construction of new signage.

5.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

Article 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act –

(b) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

Condition 3 of the existing permission TP15/36661 states the following:

***Condition 3:** External finishes shall be in accordance with details on drawings received on 17/12/2015. Prior to the commencement of development full details as follows shall be submitted for the written agreement of the Planning Authority:*

- *Full details including specifications for the external finishes of the buildings, which shall be appropriate for the age and character of the buildings. In this regard windows shall be timber-framed and detailed to match the age and character of the building façade for which they are proposed, roofs shall be of natural stone slate and cast-iron or cast-aluminum gutters and downpipes shall be used.*
- *Full details including specifications for the cut-stone cladding proposed for the shop fronts*
- ***Full details of fascia signage, taking account of the following: lettering on the fascia sign shall consist of either solid or painted lettering. The use of internal illumination of the fascia sign or lettering is not permitted. The use of lighting shall be restricted to either back-lighting, up-lighting or spot-lighting***
- *No external roller shutters, awnings, canopies, projecting signs or other signs shall be erected on the premises except with a prior grant of planning permission.*

***Reason:** In order to protect the architectural character and visual appearance of the buildings which are of architectural merit.*

Therefore, the attached condition supersedes any exemptions permissible under Article 6. The Section 5 refers to 3 no. signage areas for which permission was granted under TP15/36661. It is noted that the proposal under this Section 5 alters the exact area size of the 3 areas permitted i.e. the tow side elements are larger; while the middle element is smaller than the area for signage. Notwithstanding this, the proposed signage is substantially in the area which is covered by the planning permission and it is considered that there is small flexibility to allow some minor variation to accommodate individual branding subject to the terms of Condition 3 being met. It is noted that none of the buildings are protected structures. The condition stipulates that the use of internal illumination of the fascia or lettering is not permitted. The Section 5 drawings state that

the two side signs are to be “brushed stainless steel letters, 80mm deep with internal LED lighting to create halo effect.” while the middle element is vinyl on glass. Compliance relating to signage was received by the City Council relating to aforementioned Condition 3. The compliance stated “Selected Homme Sign – **LED light from the back** of the logo 6500 Kelvin”, and this was for the unit at No. 83. This compliance detail was deemed acceptable by the City Council. Therefore, I consider that the proposed 3 external signs at 83, 84 and 85 St. Patrick’s Street meets with the plans, particulars and conditions set by TP15/36661 and in this case is therefore exempt.

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 replacement of existing external signage (TP15/36661) with new signage on submitted drawings.”

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed 3no. external “Dubray” Signs (2 no. brushed stainless steel letters, 80mm deep with internal LED lighting to create halo effect and 1 no. vinyl on glass) as submitted is development and is exempted development

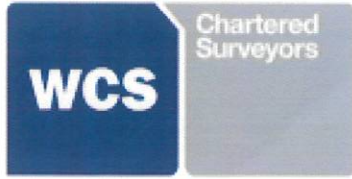
9. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Article 9 of the Planning and Development Regulations 2001 (as amended),

It is considered that that the proposed 3no. external “Dubray” Signs (2 no. brushed stainless steel letters, 80mm deep with internal LED lighting to create halo effect and 1 no. vinyl on glass) (as replacement signs under TP15/36661) **Is Development** and is **Exempted Development**.

Mary Doyle
A/Senior Executive Planner



Wherity Chartered Surveyors Ltd.
Unit 4, Block 4,
City North Business Campus,
Stamullen, Co. Meath,
Ireland.
K32 KC65

Tel: 01 8413045 | Mob: 0871216081 | Email: david@wherity.ie | Web: www.wherity.ie

REF: 21144

Date: 04.10.2021

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

**Re: Dubray Books Limited - 83-85 Patrick's Street & Carey's Lane, Cork,
T12 XA66. Application for Section 5.**

Dear Sirs,

On behalf of the above applicant, we submit the required documentation in order to apply for a Section 5 application for the above development at 83-85 Patrick's Street & Carey's Lane, Cork, T12 XA66.

The following documents are enclosed:

1. Completed Application Form
2. Cheque for fee total €80.00
3. Drawings Issue Sheet – 2 no. copies (Drawing no. 21144);
 - A. 21144-S5-001 Site Location (1:1000), Site Layout Plan (1:250), Plans Elevations & Signage detail (1:50).
4. Ordnance Survey; Copyright confirmation (invoice)

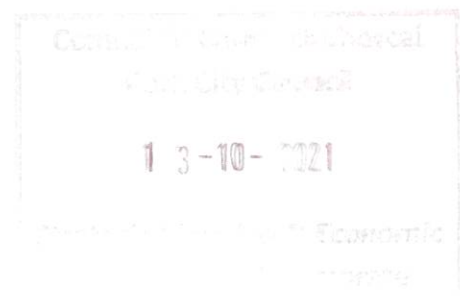
We expect you will find this application is in order however should you have any queries in relation to the matters please do not hesitate to contact us.

Yours faithfully,

David Lambe

Surveyor B.Sc (Hons)

Wherity Chartered Surveyors



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

If so please supply details:

N/A

4. Is this a Protected 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?

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

If so please supply details:

Granted planning reference no. 1536661.

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	N/A - External Signage only
(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)
N/A - Shop	N/A - Shop
_____	_____
_____	_____

8. 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	Leasehold	
If you are not the legal owner, please state the name and address of the owner if available	Percy Nominees Limited - Davy House, 49, Dawson Street, Dublin 2	

9. ~~1~~ We confirm that the information contained in the application is true and accurate:

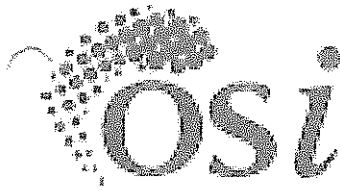
Signature: David Egan

Date: 02.10.2021

- 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.



Invoice / Receipt

Ordnance Survey Ireland
Phoenix Park, Dublin 8
D08F634
VAT No. IE 4748790P
custserv@osi.ie
+353-1-802-5300

Invoice #: 50223679
Invoice Date: 1 Oct 2021 12:34:14
Order Date: 1 Oct 2021 12:31:14

Sold to:
WHERITY CHARTERED SURVEYORS LTD
WHERITY CHARTERED SURVEYORS LTD
Unit 4 Block 4
City North Business Campus
Stamullen, Meath, K32 KC65
Ireland
T: 018413045

Payment Method

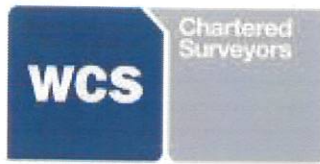
Pay by Card Terminal

Product	SKU	Price	Qty	VAT %	Tax	Subtotal
Planning Pack 567405,571912, A4, 1:1,000, Landscape, AutoCAD DWG 2013, ITM	471016	€85.00	1	23.0 %	€19.55	€104.55
Single Use Copyright Licence A4	121010	€12.90	1	23.0 %	€2.97	€15.87

Subtotal: €97.90

Tax: €22.52

Grand Total: €120.42



Wherity Chartered Surveyors Ltd
 Unit 4 Block 4
 City North Business Campus
 Stamullen, Co. Meath.
 Tel: 01 8413045
 Mob 871216081

Project:	Section 5 Application for Dubray Books Limited to		
	83-85 Patrick's Street & Carey's Lane, Cork, T12 XA66.		
Date:	04.10.2021		
Drawings Issued To:	Role:	Date	
	Client:		
	Structural Engineer:		
	Quantity Surveyor:		
	Building Contractor:		
	Sub Contractor:		
	County Council:	Y	04.10.2021
Dwg. No.	Size	Description	Scale
21144-S5-001	A1	Site Location Map / Site Plan, Section of Floor Plan, Elevations and Signage detail	1:50, 1:250,1:1000