

Comhairle Cathrach Chorcaí Cork City Council

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

Kieran Cremin,
33 East Avenue,
Parkgate,
Frankfield,
Cork T12 A8D8.

08/12/2023

**RE: Section 5 Declaration R814/23 33 East Avenue, Parkgate,
Frankfield, Cork T12 A8D8.**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 13th November 2023, I wish to advise as follows:

In view of the above and having regard to:

- the particulars received by the Planning Authority on 13/11/2023.
- Sections 2 and 3 of the Planning and Development Act, 2000 (as amended).
- Classes 1 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended).

The Planning Authority considers that –

The construction of single storey extension (to be retained) at the rear of the property at 33 East Avenue, Parkgate, Frankfield, Cork IS DEVELOPMENT AND IS EXEMPTED DEVELOPMENT.

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 08th December 2023.



We are Cork.

Is mise le meas,



Kate Wagner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: R 814/23

Description: Is the construction of single storey extension at rear of property (hatched on drawing) development and if so, is it exempted development.

Applicant: Kieran Cremin

Location: 33 East Avenue, Parkgate, Frankfield, Cork. T12 A8D8.

Date received: 13/11/2023.

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.

2

Site Location & Description

The property is located at 33 East Avenue, Parkgate Estate, Frankfield. The dwelling subject to this Section 5 declaration is a 2-storey detached dwelling. Within the site there is a front garden, vehicular entrance and garden to the rear of the property.

Subject Development

The existing development subject to this Section 5 declaration request asks the following question of the Planning Authority: *'Is the construction of single storey extension at rear of property (hatched on drawing) development and if so, is it exempted development'*.

This Section 5 declaration request is subject to an existing structure that is constructed.

Land use zoning

The site is zoned ZO 1 Sustainable Residential Neighbourhoods with the zoning objective to protect and provide for residential uses and amenities, local services and community, institutional, educational, and civic uses.

Planning History:

None.

Relevant Legislation:

Planning and Development Act, 2000

Section 3 (1) of the Act defines "Development" as, '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 2(1),

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

"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.

The definition of "Structure" in Section 2 of the 2000 Act is as follows:

"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 (ii)"

Planning and Development Regulations 2001 (as amended)

Schedule 2, Part 1 of the above regulations relates to general exempted development.

Classes 1- 8 refer to development within the curtilage of a house.

Specifically, *Class 1* refers to an *extension* of a house as is as follows:

<p>CLASS 1</p> <p><i>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.</i></p>	<p><i>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>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.</i></p> <p><i>(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.</i></p> <p><i>(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</i></p>
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	<p><i>those for which planning permission has been obtained, shall not exceed 20 square metres.</i></p> <p><i>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</i></p> <p><i>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.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p> <p><i>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 the occupants of the house, to the rear of the house to less than 25 square metres.</i></p>
	<p><i>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</i></p> <p><i>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</i></p> <p><i>(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.</i></p> <p><i>7. The roof of any extension shall not be used as a balcony or roof garden.</i></p>

Environmental Assessments

Sub-threshold EIS

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 EIS is not required to be submitted.

Appropriate Assessment

The subject site is located southwest of an existing Special Protection area, namely Cork Harbour SPA (Site Code: 004030) and proposed NHA, namely Douglas River Estuary (Site Code: 001046).

The potential for this development to have significant impacts on any Natura 2000 site has been ruled out because it is of a type and scale of development which will not result in any impact on the habitats or species for which the Nature 2000 site is designated.

Planning Assessment

As per definition of "Structure" in Section 2 of the Planning and Development Act, 2000, the existing extension is a structure.

As per definition of "development" in Section 3 (1) of the Planning and Development Act 2000 (as amended), it is considered that the erection of this extension constitutes works, and as such, is 'development' and that the remaining question therefore is whether it is 'exempted development'.

Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) relates exempted development.

As noted above, Class 1 refers to the extension of a house. Class 1 sets out 7 conditions and limitations for such extensions as set out above.

It is noted that the dwelling has not been extended beyond what has been declared in this Section 5 declaration, which is a rear single storey extension of approximately 22.5sqm with a ridge height of approximately 3.5m.

Condition No. 5 for extensions clearly states that "*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 the occupants of the house, to the rear of the house to less than 25 square metres*". The submitted site layout plan indicates that the remaining rear amenity exceeds 25 square meters.

The proposed development as declared in this Section 5 Declaration satisfies all relevant conditions outlined in Classes 1 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended).

Conclusion

Having regard to:

- the particulars received by the Planning Authority on 13/11/2023.
- Sections 2 and 3 of the Planning and Development Act, 2000 (as amended).
- Classes 1 of Schedule 2, Part 1 of the Planning and Development Regulations, 2001 (as amended).

it is considered that,

- the construction of single storey extension (to be retained) at the rear of the property at 33 East Avenue, Parkgate, Frankfield, Cork is development and is exempted development.

Alan Swanwick
Assistant Planner
08/12/2023

Kate Magner

From: Gwen Jordan
Sent: Friday 8 December 2023 15:59
To: Kate Magner
Cc: Valerie Kavanagh
Subject: FW:
Attachments: R814-23 11th 12th 23 rear extension.pdf

Hi Kate,

Please see attached the approved planner's report for this Section 5 application.

Regards and have a good weekend, Gwen

Gwen Jordan McGee
Senior Executive Planner, Development Management Section,
Community, Culture & Placemaking,
Cork City Council, City Hall, Cork, T12 T997

From: Alan Swanwick [redacted]
Sent: Friday, December 8, 2023 3:54 PM
To: Gwen Jordan [redacted]
Subject:

Hi Gwen,

See attached S5. Small extension to rear, no concerns. Thanks, alan

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: 021-4924709

Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. NAME OF PERSON MAKING THE REQUEST

KIERAN CREMIN

2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

33 EAST AVENUE
PARKGATE
FRANKFIELD, CORK. T12 A8D8

3. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

IS THE CONSTRUCTION OF SINGLE STOREY EXTENSION AT REAR OF PROPERTY (HATCHED ON DRAWING) DEVELOPMENT AND IF SO, IS IT EXEMPTED DEVELOPMENT

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Height at top of ridge is max 3.5mtrs

Remaining area of back garden 139sq/mtrs

4. Are you aware of any enforcement proceedings connected to this site?
If so please supply details: NO

5. Is this a Protected Structure or within the curtilage of a Protected Structure? NO

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?

6. Was there previous relevant planning application/s on this site? NO
If so please supply details:

7. 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	30 sq/mtrs
(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)
Back Garden	

7. LEGAL INTEREST

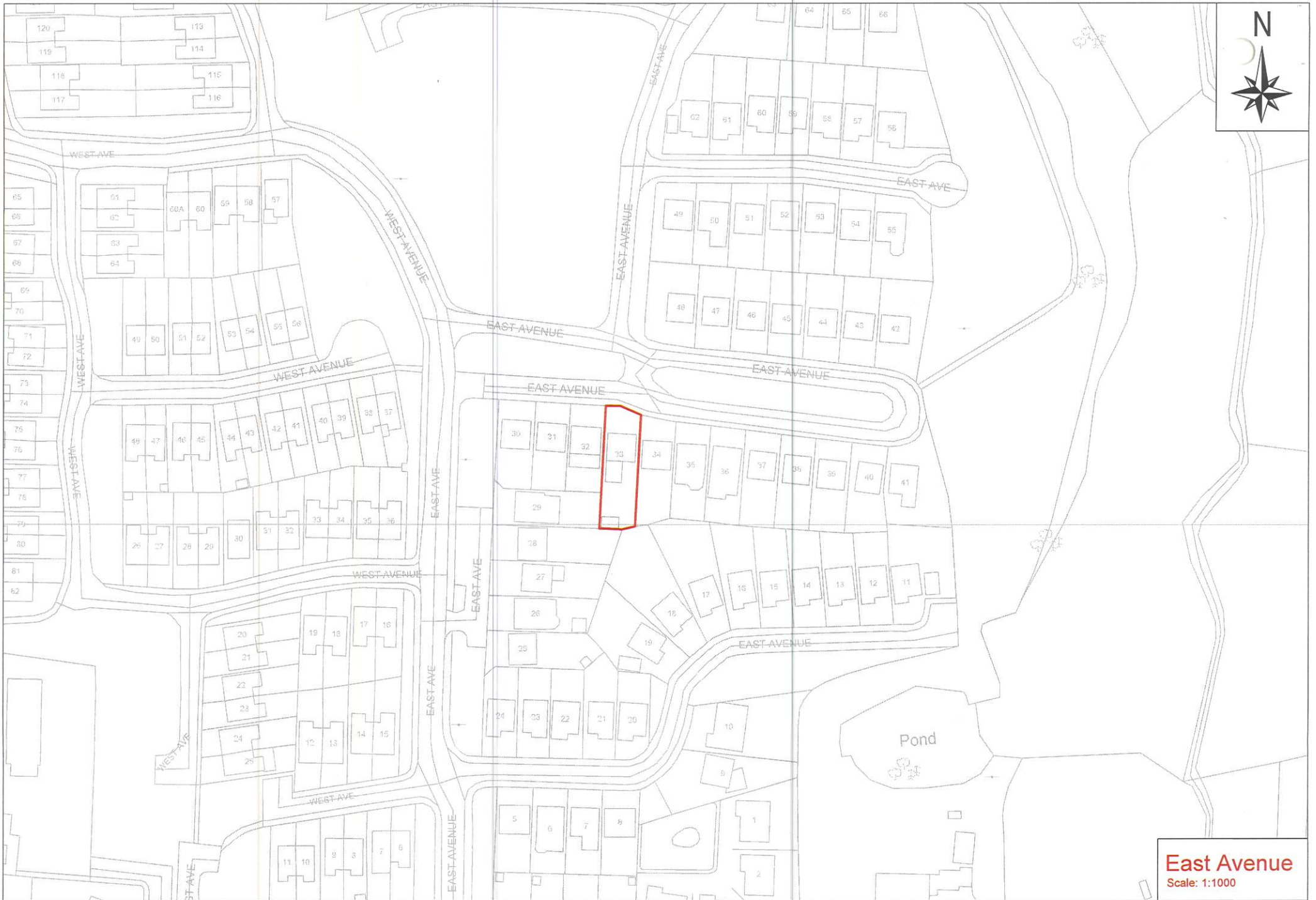
Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question		
If you are not the legal owner, please state the name of the owner if available		

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

Signature: Kevin Quinn

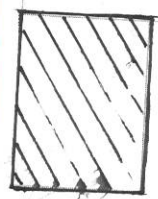
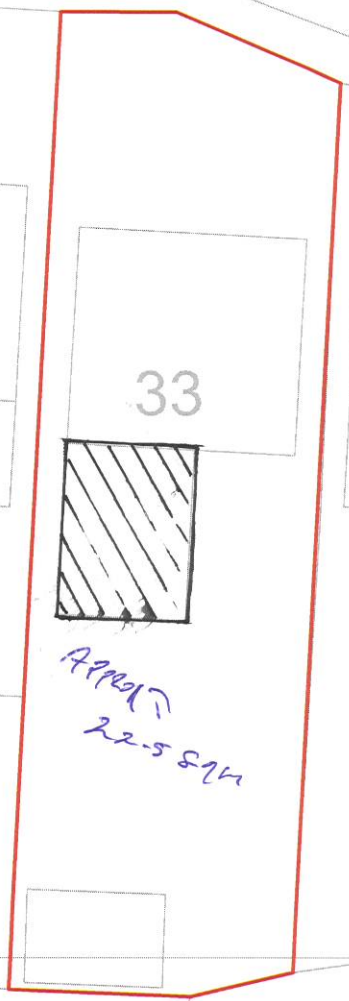
Date: 13/11/23.

CONFIDENTIAL CONTACT DETAILS



East Avenue
Scale: 1:1000

EAST AVENUE



Area
22.5 sqm

30

31

32

33

34

35

36

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