Comhairle Contae Chorcaí Cork County Council

Maureen O' Sullivan,
115 Henley Road,
llford,
England.
IG1 2TS.

Pleanáil agus Forbairt, Halla an Chontae, Bóthar Charraig Ruacháin, Corcaigh T12 R2NC. Fón: (021) 4276891 • Faics: (021) 4276321 R-phost: planninginfo@corkcoco.ie Suíomh Gréasáin: www.corkcoco.ie Planning & Development, County Hall, Carrigrohane Road, Cork T12 R2NC. Tel (021) 4276891 • Fax (021) 4276321 Email: planninginfo@corkcoco.ie Web: www.corkcoco.ie



6th September 2023

REF:D/266/23LOCATION:"Cutting Edge", Main Street, Charleville, Co. Cork, P56 X242.

RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 - 2010.

Dear Madam,

On the basis of the information submitted by you on 10th July and 18th August 2023 the Planning Authority, having considered the question whether or not the replacement of shopfront windows with triple glazed UPVC window at **"Cutting Edge", Main Street, Charleville, Co. Cork** is or is not development and is or is not exempted development has declared that it **is development and is not exempted development**.

Reason for Decision

The Planning Authority in considering this referral had particular regard to:

- Sections 2(1), 3(1) and 4(1) of the Planning and Development Act, 2000 (as amended),
- Articles 6 and 9 of the Planning and Development Regulations, 2001 (as amended)
- The planning history of the site, and
- The particulars received by the Planning Authority on 10th July and 18th August 2023

And Whereas Cork County Council has concluded that -

The replacement of shopfront windows with treble glazed UPVC window at **"Cutting Edge", Main Street, Charleville, Co. Cork** constitutes **development that is not exempted development**. It is considered that the subject referral **is development and is not exempted development**, as it would contravene a condition attached to a permission under the Act (Ref: Planning Application 07/07662 – Condition 19) – i.e. the replacement of timber windows with UPVC windows. Please be advised that the replacement of the shopfront windows with <u>Timber</u> triple glazed windows may be exempted development





Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Yours faithfully,

zzu 7

KEVIN O' REGAN, SENIOR EXECUTIVE OFFICER, PLANNING DEPARTMENT.

In order to process your query, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view at https://www.corkcoco.ie/privacy-statement-cork-county-council

From:	John Tierney
То:	Tracy OCallaghan
Cc:	Helen OSullivan
Subject:	D/266/23
Date:	Wednesday 6 September 2023 12:47:56
Attachments:	image003.png image001.png
	S5 planners Report - D-266-23 - Works at "Cutting Edge" - Main Street, Charleville.docx

Tracy

See attached Area Planner report endorsed.

It is considered that the subject is development and is <u>not</u> exempted development. However, in the interest of providing clarity to the applicant the replacement of the shopfront windows with <u>Timber</u> triple glazed windows may be exempted development.

Regards

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Seán O'Tiarnaigh | Plenálaí Feidhmiúcháin Sinsearach (Gníomhach) | Pleanáil agus Forbairt
Comhairle Contae Chorcaí | Halla an Chontae | Corcaigh | T12 R2NC | Éire
T +353-(0)21 – 428 5969 | M + 353 (0)85 871 2664
john.tierney@corkcoco.ie | www.corkcoco.ie
Tairseach na gcustaiméirí: www.yourcouncil.ie
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John Tierney | A/Senior Executive Planner | Planning and Development Cork County Council | County Hall | Cork | T12 R2NC | Ireland T +353-(0)21 – 428 5969 | M + 353 (0)85 871 2664 john.tierney@corkcoco.ie | www.corkcoco.ie Customer Portal: www.yourcouncil.ie

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From: Helen OSullivan <Helen.OSullivan2@CorkCoCo.ie>
Sent: Wednesday 6 September 2023 12:18
To: John Tierney <John.Tierney@CorkCoCo.ie>
Subject: Section 5 - re-dated



Helen O' Sullivan | Area Planner | Development Management | Planning and Development Directorate | Cork County Council | County Hall | Cork | T12 R2NC | <u>helen.osullivan2@corkcoco.ie</u> | Customer Portal: www.yourcouncil.ie

Helen O' Sullivan | Oifigeach Cléireachais | Aonad Polasai Pleanála, Pleanáil agus Fobairt

Comhairle Chontae Chorcaí, Úrlar 13, Halla an Chontae, Corcaigh, T12 R2NC, Éire r: <u>helen.osullivan2@corkcoco.ie</u>

Tairseach na gcustaiméirí: www.yourcouncil.ie

PLANNER'S REPORT – Ref. D/266/23

Application Type:	Section 5	
Description:	'Replace shopfront windows with UPVC treble glazed to increase insulation and reduce condensation'.	
Location:	'Cutting Edge', Main Street, Charleville, Co. Cork	
Applicant:	Maureen O' Sullivan	

1. Requirements for a Section 5 Declaration Application

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.

2. The question before the planning authority

The question is whether the following is or is not development and is nor is not exempted development, can reasonably considered to be as follows:

'Is the replacement of Shop-front windows with treble glazed UPVC windows exempted development?'

3. Site Location and Description

The subject building pertains to a two-storey terraced building (with a vehicular entryway arch) on Main Street, in the Town-Centre of Charleville. '*Cutting-Edge*' is a Hair-

dressers that takes up the Ground Floor of same.

It is not a RPS, on the NIAH or in an ACA. However, it is noted its Shop-front and timber painted fascia and timber window fenestration, does form part of a dominant Architectural and historic theme in the Town Centre area that lends itself of a traditional Irish Main street – and is located close to the ACA edge/s.

Figure 1: Submitted Site location map.

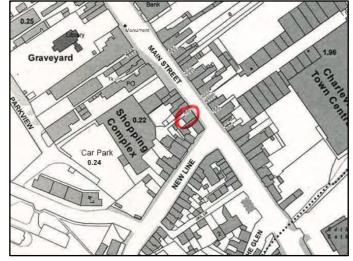


Figure 2: Image of 'Cutting Edge'.



4. Relevant Planning Legislation and Regulations

Planning and Development Act, 2000 (as amended):

Section 2(1) of the Act defines "works" as follows:

"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.

"alteration" includes-

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof, that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

Section 3 (1) of the Act defines "development" as follows:

"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) states that the following shall be exempted development for the purposes of this Act:

(h) 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;

Planning and Development Regulations, 2001, as amended

Article 6(1) defines the scope of exempted development for the purposes of the Act as referred in Section 4(2) of the Act. The article refers to Schedule 2 forming part of the Regulations. Article 6(1) is subject to provisions of Article 9.

Article 9(1) sets out circumstances in which exempted development defined by Article 6 Second Schedule shall not be exempted development, including if the carrying out of development would:

"(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act".

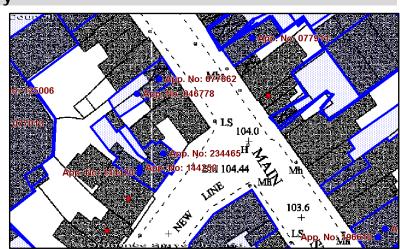
5. Relevant Planning History

Figure 3: Extract from the Planning Enquiry System.

Ref. 07/07662

Tim O'Sullivan

Permission Granted for the construction of two storey premises with retail unit at ground floor level and 1 no. apartment at first floor level



The Conditions of the Permission have been examined, and the following Condition 19 is pertinent:

Ref. 07/07662 [emphasis added]

19	The following shall apply to the proposed building.	To ensure satisfactory architectural standards in the interests of visual amenity.
	-All windows on the front elevation shall be constructed with timber frames.	
	-All roof tiles shall be constructed from natural slate and shall be dark blue/black in colour.	
	-All fascia, soffit and rainwater goods shall be constructed from metal and painted/coloured black.	

6. Planning Assessment

Is or is not development?

The first issue for consideration is whether or not the replacement of windows of a building is 'development' which is defined in Section 3(1) and 'works' is defined in Section 2(1) of the Act. It is considered that the development as described by the referrer clearly falls within the definition of 'development'.

Is or is not exempted development?

Development can be exempted from the requirement for planning permission by either Section 4 of the Act, or Article 6 of the Regulations. However, in view of the subject building's Planning History, and having regard to Section 2, 3 and Article 9(1) of the Planning and Development Act; it is considered that the subject referral is **development** and is <u>not</u> exempted development, as it would contravene a condition attached to a permission under the Act (Ref. 07/07662 – Condition 19) – i.e. the replacement of timber windows with UPVC windows.

Helen O'Gallivan

Helen O' Sullivan Area Planner 6/09/2023 External email >

CAUTION FROM CORK COUNTY COUNCIL IT SECURITY: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Tracy

I hope you are well. Marked copies attached.

Thanks very much

Marian

Sent from the all-new AOL app for iOS

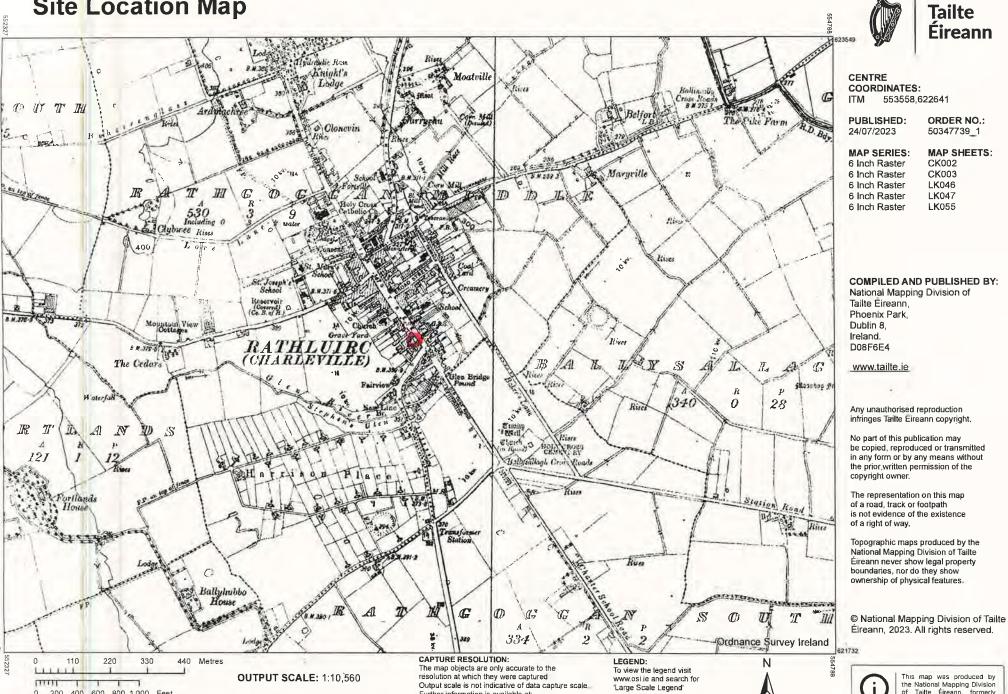
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Site Location Map

62354

621733

0 200 400 600 800 1,000 Feet



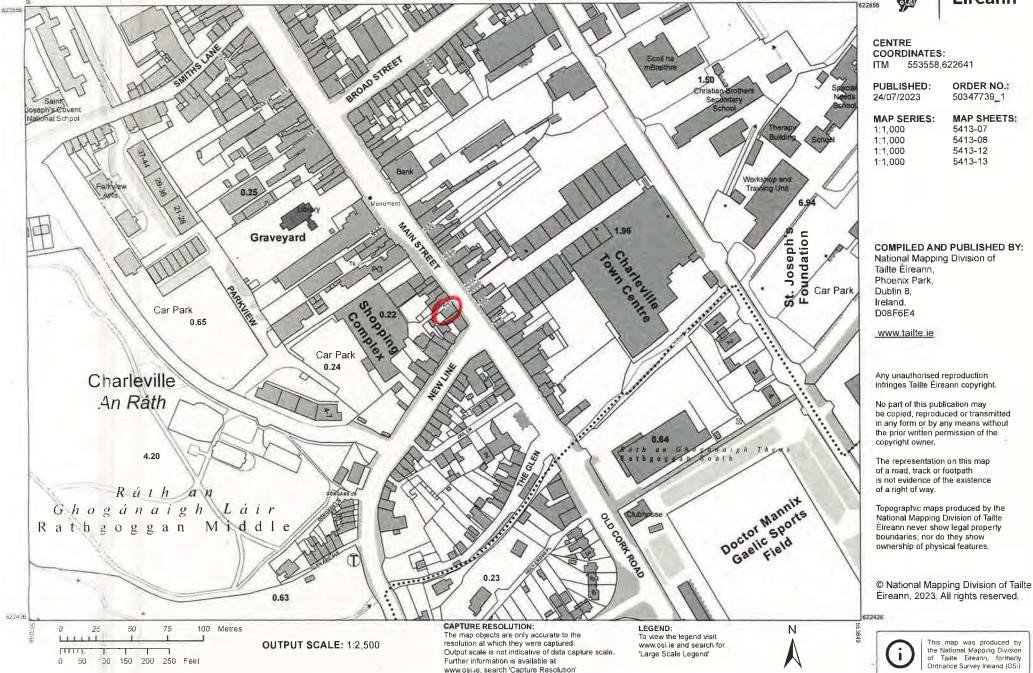
Further information is available at:

www.osi ie; search 'Capture Resolution'

the National Mapping Division of Tailte Éireann, formerly Ordnance Survey Ireland (OSI)

Planning Pack Map





From:	Tracy OCallaghan	
To:	Marian O"regan	
Subject:	Section 5 D/266/23	
Date:	Thursday 17 August 2023 13:16:00	
Attachments:	external.png	
	50347739 2525549 471002 PP.zip	
	image002.png	

Good Afternoon Marian,

I refer to the attached maps supplied as part of your Section 5 application for works at "Cutting Edge", Main Street, Charleville. Please be advised that the subject site needs to be clearly delineated per our Advisory Notes below.

Can you please either circle/highlight the site referenced in the application & email the updated maps back to me?

ADVISORY NOTES:

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

The application must 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 Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

The Area Planner has advised that the application will be dealt with as a priority once all information is to hand. Kind Regards,

Tracy Ní Cheallacháin | Oifigeach Fóirne | Pleanáil agus Fobairt

Comhairle Contae Chorcaí | Halla **an Chontae** | Corcaigh | T12 R2NC | Éire T +353-(0)21 – 428 5633 <u>tracy.ocallaghan@corkcoco.ie</u> | www.corkcoco.ie **Tairseach na gcustaiméirí:** www.yourcouncil.ie

Tracy O' Callaghan | Staff Officer | Planning & Development

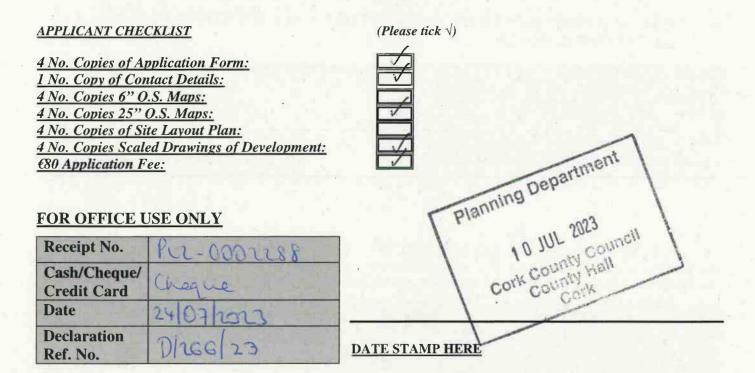
Cork County Council | County Hall | Cork | T12 R2NC | Ireland T +353-(0)21 – 428 5633 tracy.ocallaghan@corkcoco.ie | www.corkcoco.ie Customer Portal: www.yourcouncil.ie



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<u>CORK COUNTY COUNCIL APPLICATION</u> FOR SECTION 5 DECLARATION OF EXEMPTION



You should make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed by the public. Please do not submit any information that you do not want 3rd parties to view.

In the case of a Declaration of Exemption for Land Reclamation, the following additional information is required:

- A copy of the details submitted to the Council's Environment Department (Inniscarra) for a Waste Licence Permit
- Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural purposes)
- Details of existing and proposed levels
- Details of fill material and duration of fill.

DATA PROTECTION

The planning process is an open and public one. In that context, all applications for Declarations of Exemption are made available for public inspection.

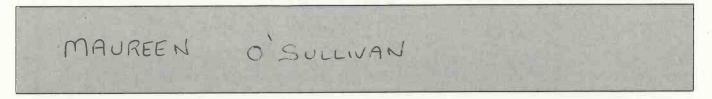
Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data is a key priority for the Council and your data will be processed in line with our Privacy policy which is available at

<u>http://www.corkcoco.ie/Privacy-Policy</u> or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to <u>dpo@corkcoco.ie</u> or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

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1. NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A – CONTACT DETAILS)



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

CUTTING EDGE	
MAIN ST	051 × 21.0
CHARLEJILLE	P56 ×242.

3. QUESTION/DECLARATION DETAILS:

Please state the specific question for which a Declaration of Exemption is sought Note: Only works listed and described under this section will be assessed under the Section 5 Declaration of Exemption

REPLACE SHOPFRONT WINDOWS WITH UPVC
TREBLE GLAZED TO INCREASE INSULATION
+ REDUCE CONDENSATION
Legal Contraction of the second
Contra Contra
12 - 30

APPLICATION DETAILS:

4.

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square metres (m²)

(a) Floor area of existing/proposed structure(s):	
 (b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1st October, 1964 (including those for which planning permission has been obtained): 	Yes No No If yes, please provide floor areas (m ²) and previous planning reference(s) where applicable:
(c) If a change of use of land and/or building(s) is proposed, please state the following:	
Existing/previous use	Proposed use
NONE	NONÉ
(d) Are you aware of any enforcement proceedings connected to this site?	Yes No No Since the second sec

LEGAL INTEREST OF APPLICANT IN THE LAND/STRUCTURE: 5.

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:	
If you are not the legal owner , please state the name of the owner/s (address to be supplied at Question C in Contact Details):	

PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA: 6.

Is this a Protected Struct Structure: Yes	ture/Proposed Protected Structure or No	within the curtilage of a Protected
If yes, has a Declaration or issued for the proper	n under Section 57 of the Planning & ty by the Planning Authority: Yes	Development Act 2000 been requested
If yes, please state relev		(ACA) as designated in the County
Is this site located with Development Plan?	in an Architectural Conservation Area Yes No	10 Journey Han

APPROPRIATE ASSESSMENT: 7.

Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes No

3

DATA PROTECTION DECLARATION: 8.

In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at http://www.corkcoco.ie/privacy-statement-cork-county-council or in hardcopy from any Council office; and to having your information processed for the following purposes:

Processing of your Declaration of Exemption application by the Planning Authority

X I give permission for my personal information to be processed for the purpose stated above

Signed (By Applicant Only)	Mjö Sel	
Date	15/6/23 -	

GDPR Special Categories of data / Sensitive Personal data - Explicit Consent

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, explicit consent to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:

- Race .
- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership •
- Genetic data •
- Biometric data
- Health data •
- Concerning a natural person's sex life .
- Sexual orientation •

In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at https://www.corkcoco.ie/privacy-statement-cork-county-council or in hardcopy from any Council office; and to having your information processed for the following purposes:

Sensitive personal data being submitted in support of Declaration of Exemption Application

I give permission for my sensitive personal data submitted to the Planning Authority to be processed VI for the purpose stated above.

Signed	ay 6 Su	
Date	15623	The second se

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planninginfo@corkcoco.ie or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcore lanninginfo@corkcoco.ie However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.

ADVISORY NOTES:

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

The application must 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 Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

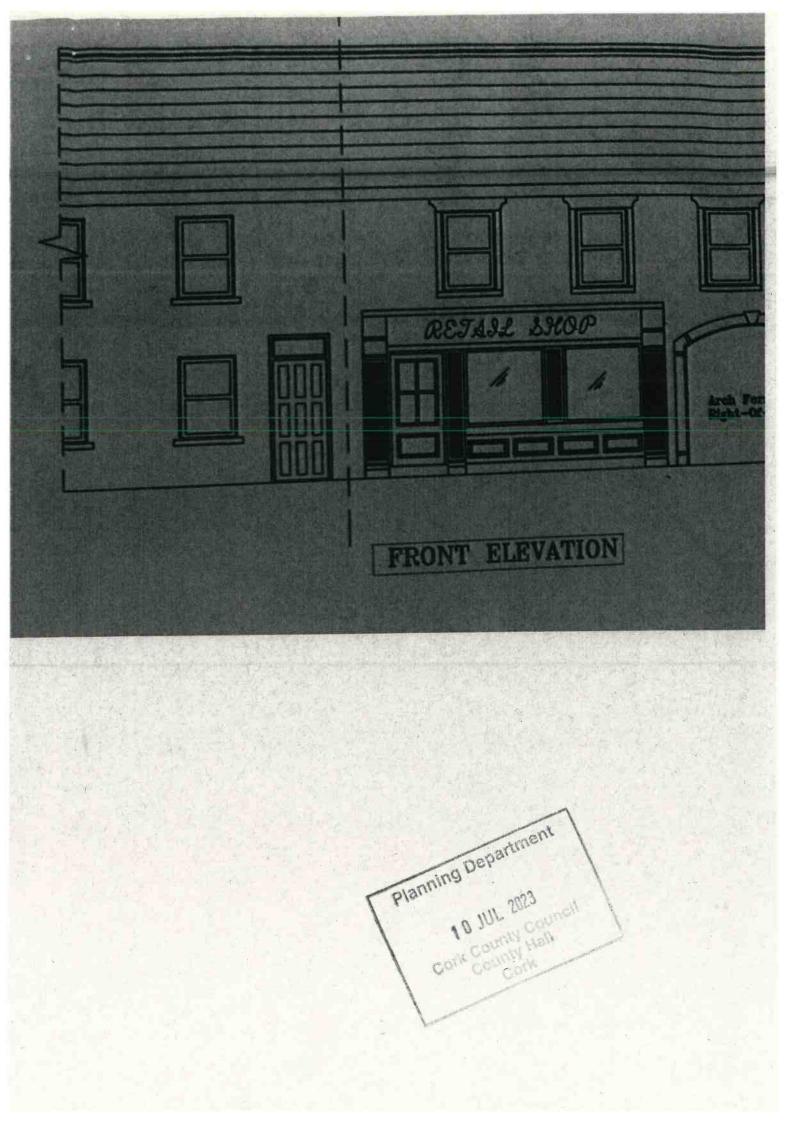
- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- The Planning Authority may request other person(s), other than the applicant; to submit information on the question which has arisen and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

The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption 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.

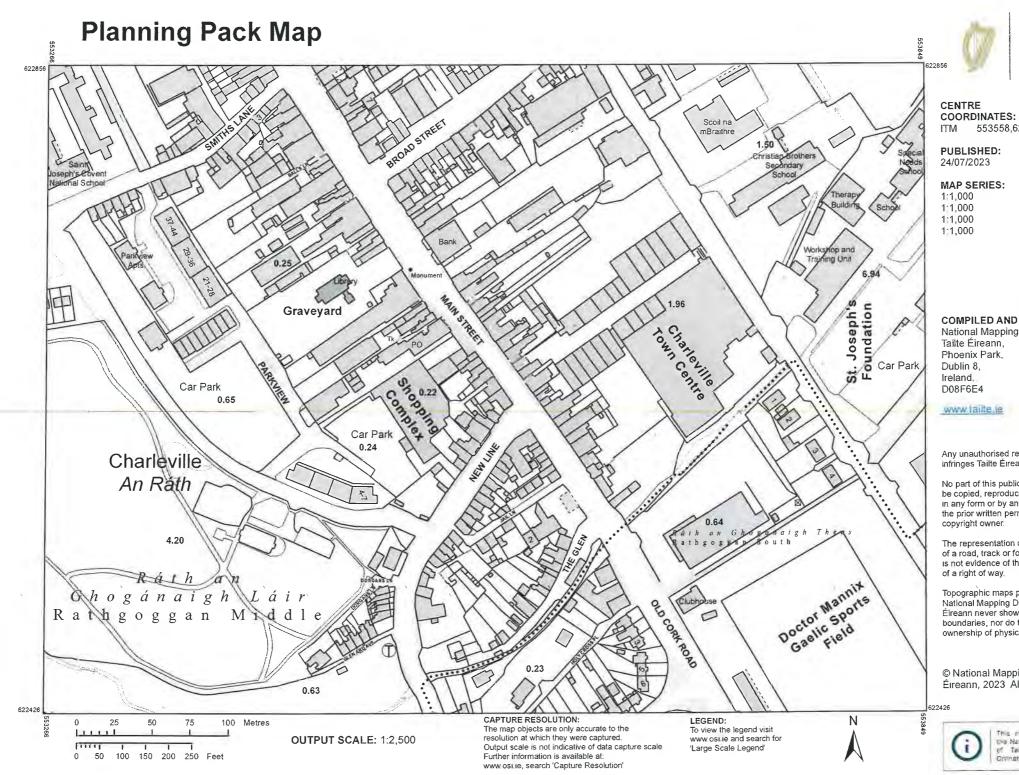
I hereby declare that, to the best of my knowledge and belief, the information given in this 9. form is correct, accurate and fully compliant with the Planning and Development Acts 2000, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	nyó S.d.
Date	15/6/23.

Planning Department









Tailte Éireann

ITM 553558,622641

HED:	ORDER NO.:
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5413-07 5413-08 5413-12 5413-13

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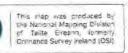
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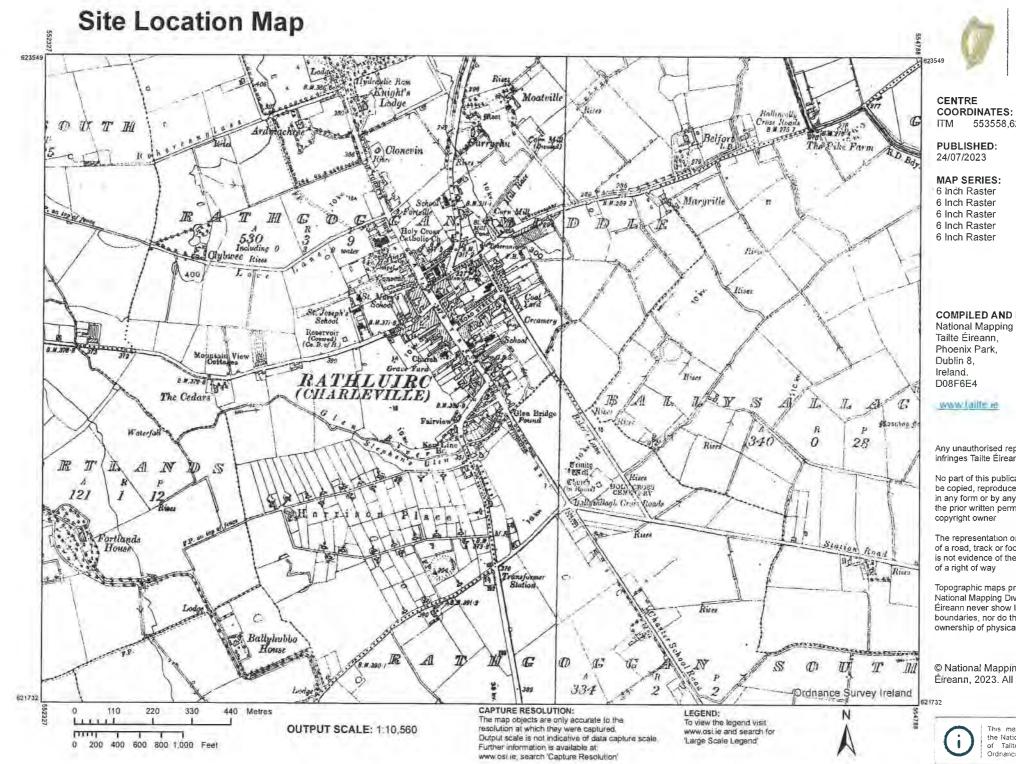
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Planning Department

24 JUL 2023

Cork County Council County Hali Cork.



Tailte Éireann

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Flanning Department

2月.肌匙 2023

Cork County Council County Hall Cork.

