# Comhairle Contae Chorcaí Cork County Council 

Maureen O' Sullivan, 115 Henley Road, Ilford, England. Planning \& Development, County Hall,

Web: www.corkcoco.ie

## 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 $10^{\text {th }}$ July and $18^{\text {th }}$ 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 $10^{\text {th }}$ July and $18^{\text {th }}$ 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 Timber 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,


| From: | $\frac{\text { Lohn Tierney }}{}$ |
| :--- | :--- |
| To: | $\frac{\text { Tracy OCallaghan }}{\text { Helen OSullivan }}$ |
| Cc: | $\frac{\text { D/266/23 }}{}$ |
| Subject: | Wednesday 6 September 2023 12:47:56 |
| Date: | image003.pnq <br> Attachments: |
|  | S5 planne001.png Report - D-266-23 - Works at "Cutting Edqe" - Main Street, Charleville.docx |
|  |  |

Tracy

See attached Area Planner report endorsed

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

Regards

Seán O'Tiarnaigh Plenálaí Feidhmiúcháin Sinsearach (Gníomhach) | Pleanáil agus Forbairt
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From: Helen OSullivan [Helen.OSullivan2@CorkCoCo.ie](mailto:Helen.OSullivan2@CorkCoCo.ie)
Sent: Wednesday 6 September 2023 12:18
To: John Tierney [John.Tierney@CorkCoCo.ie](mailto: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 |
helen.osullivan2@corkcoco.ie |
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Helen O’ Sullivan | Oifigeach Cléireachais | Aonad Polasai Pleanála, Pleanáil agus Fobairt
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r: helen.osullivan2@corkcoco.ie
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:<br>‘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 Hairdressers 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: I mage 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 Requlations, 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.
-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.

To ensure satisfactory architectural standards in the interests of visual amenity.

## 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 not 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'Sultivan

Helen O' Sullivan
Area Planner
6/ 09/ 2023

| From: | Marian O"regan |
| :--- | :--- |
| To: | Tracy OCallaghan |
| Subject: | Fw: Section 5 D/266/23 |
| Date: | Friday 18 August 2023 12:40:10 |
| Attachments: | external.png |
|  | c621639 180820233599 001.pdf <br> image002.pna |

## © 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



| From: | $\frac{\text { Tracy OCallaghan }}{\text { To: }}$Subject: $\frac{\text { Marian 0"regan }}{\text { Section 5 D/266/23 }}$ <br> Date: Thursday 17 August 2023 13:16:00 <br> Attachments: $\frac{\text { external.pna }}{50347739 \text { 2525549 471002 PP.zip }}$ <br>  limage002.pnq |
| :--- | :--- |

## 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
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tracy.ocallaghan@corkcoco.ie | www.corkcoco.ie

## Tairseach na gcustaiméirí: www.yourcouncil.ie

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## Customer Portal: www.yourcouncil.ie

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# CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION 

APPLICANT CHECKLIST
4 No. Copies of Application Form:
1 No. Copy of Contact Details:
4 No. Copies 6" O.S. Maps:
4 No. Copies 25" O.S. Maps:
4 No. Copies of Site Lavout Plan:
4 No. Copies Scaled Drawings of Development: E80 Application Fee:
(Please tick $\sqrt{ }$ )


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 $3^{\text {rd }}$ 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
http://www.corkcoco.ie/Privacv-Policy 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 dpo@corkcoco.ie or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

1. NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A - CONTACT DETAILS)
MAUREEN
O'SuLlivan'
2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION OF EXEMPTION IS SOUGHT:

CUTTING EDGE
MAIN ST

Charle vile P56 $\times 242$

## 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

4. 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 metres ( $\mathrm{m}^{2}$ )
(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 $1^{\text {st }}$ October, 1964 (including those for which planning permission has been obtained):
(c) If a change of use of land and/or building(s) is proposed, please state the following:

Existing/previous use

| NONE |  |
| :---: | :--- |
| (d) Are you aware of any enforcement <br> proceedings connected to this site? | Yes $\square$ <br> If yes, please state relevant reference number(s): |

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

| Please tick appropriate box to show applicant's <br> legal interest in the land or structure: | A. Owner | B. | B. Other |
| :--- | :--- | :--- | :--- |
| Where legal interest is "Other", please state <br> your interest in the land/structure: |  |  |  |
| If you are not the legal owner, please state the <br> name of the owner/s (address to be supplied at <br> Question C in Contact Details): |  |  |  |

## 6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

 have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes $\square$


## 8. DATA PROTECTION DECLARATION:

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

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

| Signed <br> (By Applicant Only) | M/0' \& e |
| :--- | :---: |
| 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

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


You have the right to withdraw your consent by contacting the Planning Departnhent, Ground Floos, County Hall,
Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planninginfo@corkcoco,ie orthy contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcorfol lanninginfo@ @orkcoco.ie However if consent to the use of personal data is withdrawn during the declaration ofexemptwh decision-making process this information cannot be considered as part of the decision making process. Once a decision hasteen made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation whefe 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 subniffed 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.
9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the Planning and Development Acts 2000, as amended and the Regulations made thereunder:

| Signed <br> (Applicant or Agent <br> as appropriate) | ny 0 |
| :--- | :--- |
| Date | $15 / 6 / 23$ |







| WILLIAM REA |
| :--- |
| CONSULTING ENGINEER |
| Avondale House, |
| The Square Ballincollig, |
| Co. Cork. |
| Phone 021-4876211/086 2366800 |
| Fax 021-487E212 |
| ISSUED FOR DISCUSSION |
| DATE: APRIL 2004 SCALE:1:100 |
| DRAWN BY: D.RYAN, ARCH.TECH. |
| REVISIONS TO PROPOSED RETAIL UNIT |
| \& OFFICES AT MAIN ST., CHARLEVILLE, |
| CO.CORK FOR TIM 0' SULLIVAN. |
| DWG NO.1 - EXISTING PLANS WITH |
| PROPOSED INCREASED STORE |



|  | SECTION A-A | PROPOSED REAR ELEVATION |
| :---: | :---: | :---: |

