# Comhairle Contae Chorcaí Cork County Council

Fiona Doyle, c/o Paul Clune, GARLAND, Riverfront, Howley's Quay, Limerick. Pleanáil agus Forbairt, Halla an Chontae, Bóthar Charraig Ruacháin, Corcaigh T12 R2NC. Fón: (021) 4276891 R-phost: planninginfo@corkcoco.ie Suíomh Gréasáin: www.corkcoco.ie Planning & Development, County Hall, Carrigrohane Road, Cork T12 R2NC. Tel (021) 4276891 Email: planninginfo@corkcoco.ie Web: www.corkcoco.ie



1<sup>st</sup> November 2023

REF:D/284/23LOCATION:IDA Business & Technology Park, Carritwohill, Co. Cork

# 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 22<sup>nd</sup> September 2023 the Planning Authority, having considered the question whether or not the upgrade of 2no. pedestrian crossings at **IDA Business &** 

Technology Park, Carrigtwohill, 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) and 3(1) of the Planning and Development Act, 2000 (as amended),
- Article 6 and Article 9(1)(a)(iii) of the Planning and Development Regulations 2001 (as amended), and
- The particulars received by the Planning Authority on 22<sup>nd</sup> September 2023

# And Whereas Cork County Council has concluded that -

it is considered that, the proposal to upgrade existing pedestrian crossings to raised table crossings with traffic beacon poles and signage at the IDA Business Park, Carrigtwohill **Is Development and Is Not 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,

CATHAL DE BARÓID, ADMINISTRATIVE 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 <a href="https://www.corkcoco.ie/privacy-statement-cork-county-council">https://www.corkcoco.ie/privacy-statement-cork-county-council</a>

# **SECTION 5 DECLARATION – PLANNER'S REPORT**

File Reference:	D/284/2023
Description:	UPGRADE OF TWO PEDESTRIAN CROSSINGS
Applicant:	FIONA DOYLE (IDA)
Location:	IDA BUSINESS PARK, CARRIGTWOHILL
Date:	01/11/2023

## SUMMARY OF RECOMMENDATION

IS DEVELOPMENT AND IS NOT 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.

# SITE LOCATION

IDA Business Park, Carrigtwohill

# SUBJECT DEVELOPMENT

Upgrade of two no. pedestrian crossings within the IDA Business Park at Carrigtwohill. The works include installing line marking, tactile paving, traffic poles and signage.

PLANNING	HISTORY

Planning Ref.	Development Description	Decision
20/6166	Revisions to a previously permitted development (planning ref.	GRANT
	19/5836) comprising the revised routing of approx. 78m of a	
	permitted dedicated shared use cycleway and footpath. The	
	revised routing incorporates a revised crossing point by the	
	shared cycleway / footpath of an internal Business Park road.	
	The development also incorporates ancillary revisions to	
	existing safety barrier provision. All on site area of 1,271sqm.	
19/5836	Internal road upgrades. The proposed development will involve	GRANT
	the upgrade of existing internal access roads to provide a	
	dedicated shared use cycleway and footpath, pedestrian and	
	cycle crossing point, bus lane, bus shelter and traffic safety	
	barrier. The proposed development will also include for the	
	provision of a cycleway and footpath adjacent to the L-3616	
	public road to connect into the L-3615 at the north eastern	
	corner of the IDA Business Park.	

# LEGISLATIVE CONTEXT

Planning & Development Act 2000 (as amended)

S.2(1) In this Act, except where the context otherwise requires—

"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.

S.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 structure or other land.

# Planning & Development Regulations 2001 (as amended)

- Article 6 Subject to article 9, development consisting 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 (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act— (a) if the carrying out of such development would—
  - (i) .....
  - (ii) ....
  - (iii) Endanger public safety by reason of traffic hazard or obstruction of road users.

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Column 1	Column 2
Description of Development	Conditions and Limitations
Sundry Works	
CLASS 13	
The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving.	The width of any such private footpath or paving shall not exceed 3 meters.

# SUB-THRESHOLD EIAR

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 relevant European sites are the Cork Harbour SPA (Site Code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to its nature, scale and location it is considered that the proposed development would not affect the integrity of the sites referred to. Accordingly it is considered that a Natura impact statement for the purposes of Article 6 of the Habitats Directive is not required to be submitted.

### ASSESSMENT

## SECTION 5 QUESTION

The question before the Planning Authority can be reasonably construed as 'whether upgrading of two pedestrian crossings within the IDA Business Park at Carrigtwohill is or is not development and is or is not exempted development'. The works include installing raised table crossings with line markings, traffic beacon poles, pedestrian crossing signs and tactile paving. The applicant (IDA) has confirmed the Business Park is not taken in charge by Cork County Council.

# PLANNING HISTORY

It should be noted, under Planning ref. 19/5836 the applicant obtained permission for internal road upgrades at the IDA Business & Technology Park to include dedicated shared use cycleway and footpath, pedestrian and cycle crossing point, bus lane, bus shelter and traffic safety barrier. The application did not include raised table crossing points, beacon lighting or signage as presented in the Section 5 application drawings.

### WORKS AND DEVELOPMENT

As set out in Section 2(1) of the Act *"Works"* includes "any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal....." As set out in Section 3(1) *"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 structure or other land. The proposal therefore constitutes development.

# EXEMPTION(S) AND RESTRICTIONS

SCHEDULE 2, Part 1 Exempted Development, Class 13 of the P&D Regulations provides for "The repair or improvement of any private street, road or way, being works carried out on land within the boundary of the street, road or way, and the construction of any private footpath or paving" subject to "The width of any such private footpath or paving shall not exceed 3 meters."

Proposed road markings, tactile paving and widening of footpath to 2.4m are on private lands and are intended to improve pedestrian safety. I consider these works would therefore come within the scope of Class 13 of Part 1, Schedule 2.

The proposed development also includes provision of new beacon pole with street light to replace existing beacon and installation of new pedestrian crossing signage at each side of each crossing. No design details of the signage or beacon poles are provided.

As outlined above, under planning ref. 19/5836 the applicant obtained permission for internal road upgrades including provision of dedicated shared use cycleway and footpath, pedestrian and cycle crossing point, bus lane, bus shelter and traffic safety barrier. The application drawings did not include raised pedestrian crossings, beacons or signage at the proposed location and therefore there was no assessment of pedestrian crossings under that application.

Having consulted with Traffic & Transportation (T&T) it would appear that the applicant has installed pedestrian crossings and beacons which are deemed substandard and this Section 5 application for upgrade of existing crossings to raised crossings with TII standard beacon light and signage etc has been made on foot of discussions with T&T. Therefore any existing beacons or signage are unauthorised and the replacement of an unauthorised development is not exempted development.

As per Article 9(1) of the Planning & Development Regulations, Development to which article 6 relates shall not be exempted development for the purposes of the Act— (a) if the carrying out of such development would— (iii) endanger public safety by reason of traffic hazard or obstruction of road users.

Having discussed this application with T&T, the view is that without the beacon warning light and associated signage, the raised table crossing on its own would constitute a traffic safety hazard. I am therefore of the view that the upgrade of pedestrian crossings to raised table crossings with associated beacon warning light and signage is development and is not exempted development.

# RECOMMENDATION

Having regard to:

- the particulars received by the Planning Authority on 22/09/2023
- Section 2(1) and Section 3(1) of the *Planning and Development Act 2000 (as amended)*
- Article 6 and Article 9(1)(a)(iii) of the Planning and Development Regulations 2001 (as amended)

it is considered that, the proposal to upgrade existing pedestrian crossings to raised table crossings with traffic beacon poles and signage at the IDA Business Park, Carrigtwohill **Is Development and Is Not Exempted Development**.

Louise Ahern Executive Planner 01/11/2023

# CONSULTING ENGINEERS | ASSIGNED CERTIFIERS SAFETY MANAGEMENT | ECONOMIC DEVELOPMENT WWW.GARLANDCONSULTANCY.COM



Our Ref: 10472-Misc-007

Date: 21/09/2023

The Planning Department, Cork County Council Floor 2, County Hall, Carrigrohane Road, Cork T12 R2NC

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Re: Application for Section 5 Declaration of Exemption for The Upgrade of Two Pedestrian Crossings at The IDA Business Park, Carrigtwohill, Co. Cork

#### Dear Sir/Madam,

Please find enclosed the following documents as part of the application for Section 5 declaration of exemption for the upgrade of two pedestrian crossings at the IDA Business Park, Carrigtwohill, Co. Cork.

- 4 No. Copies of application Form
- 1 No. Copy of Contact Details
- 4 No. Copies of I0472-001 Site Location Plan and OS Map
- 4 No. Copies of I0472-004 Pedestrian Crossing 1
- 4 No. Copies of I0472-005 Pedestrian Crossing 1

Please contact us at 061 319708 for payment of the €80 application fee.

We hope you find the above in order. Should you have any queries or require any further clarification please do not hesitate to contact us.

Yours sincerely,

aul Ciune

Project Engineer

28-30 Rathmines Park, Rathmines,

E dublin@earlandconsultancy.com

Dublin 6, Do6 F8Y1, Ireland

#### DUBLIN

Garland House.

7+35314964322

#### WATERFORD

Sulte 11B, The Atrium, Maritana Gate. Canada Street. Waterford, Xgr WR40, Ireland T +353 S1 876S11 E waterford@garlandconsultancy.com

# LIMERICK

Riverfront, Howley's Quay, Limerick, V94 W3F1 Ireland T +353 61 319708 E limerick@garlandconsultancy.com

#### INTERNATIONAL

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Einternational@garlandconsultancy.com

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Associate Directors: Simon Dunne, Tommy Morey, Michael Fleming Associates: lavor Bogoev, Alan Tunnah, Shane Duignan, Jonathan Morris, Arran Ankers, Igor Kik Garland Project Management and Garland Safety Management are business names of TGP Project Management Ltd (Registered No: 366555 in Dublin, Ireland) Directors: Kevin Rudden, Brian Kavanagh, Jim Holmes, Brian Lahiff

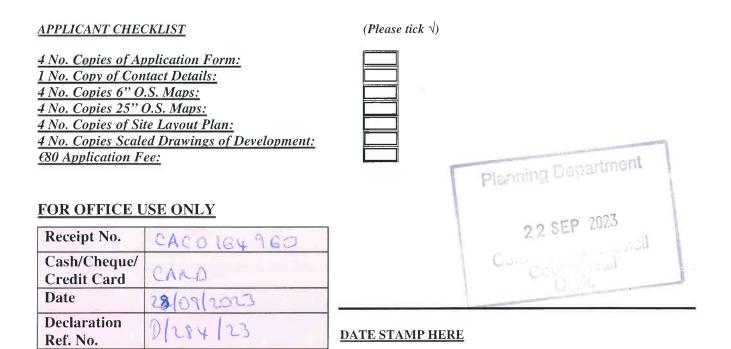
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Directors: Kevin Rudden, Brian Kavanagh, Jim Holmes, Brian Lahiff, Calmin Jones





# <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 3<sup>rd</sup> 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.

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

Fiona Doyle		
		and the second second

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

IDA Business & Technology Park Carrigtwohill Co. Cork		

# 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

oles and tactile paving. The Business Park is not taken in cl prks?	eir Business Park in Carrigtohill. The works include installing line marking, traffic harge by the Council. Do we need planning permission to undertake these
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# 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  $(m^2)$ 

(a) Floor area of existing/proposed structure(s):	250m2
<ul> <li>(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1<sup>st</sup> October, 1964 (including those for which planning permission has been obtained):</li> </ul>	Yes No V If yes, please provide floor areas (m <sup>2</sup> ) and previous planning reference(s) where applicable:
<ul><li>(c) If a change of use of land and/or building(s) is proposed, please state the following:</li></ul>	
Existing/previous use	Proposed use
(d) Are you aware of any enforcement proceedings connected to this site?	Yes No V 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 legal interest in the land or structure:	A. Owner <b>B.</b> Other
Where legal interest is <b>"Other"</b> , please state your interest in the land/structure:	Planning Department
<b>If you are not the legal owner</b> , please state the name of the owner/s (address to be supplied at Question C in Contact Details):	2 2 SEP 2023

# 6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

Is this a Protected Structure/Proposed Protected Structure or within the curtilage of a Protected				
Structure: Yes 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: Yes No				
If yes, please state relevant reference No				
Is this site located within an Architectural Conservation Area (ACA), as designated in the County				
Development Plan? Yes No				

# 7. APPROPRIATE ASSESSMENT:

Would the proposed development require an appropriate assessment becaus	se it would	be likely to
have a significant effect on the integrity of a European site (SAC, SPA etc)?	Yes	No 🚺
2		

# 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 <a href="http://www.corkcoco.ie/privacy-statement-cork-county-council">http://www.corkcoco.ie/privacy-statement-cork-county-council</a> 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

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

Signed (By Applicant Only)	Ret	
Date	/ /	23/08/2023

# **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;

Planning Department

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.

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Signed	- Al
Date	/ / 23/08/2023

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: <a href="mailto:planninginfo@corkcoco.ie">planninginfo@corkcoco.ie</a> or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: <a href="mailto:westcorkplanninginfo@corkcoco.ie">westcorkplanninginfo@corkcoco.ie</a> 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.

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 <u>Planning and Development Acts 2000</u>, <u>as amended</u> and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	Paul Clure
Date	19/09/23

	Planning Department	
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