Comhairle Contae Chorcaí Cork County Council

Tinga Tinga Childcare, c/o Manuela Tortora, 7 Lauriston Park, Midleton, Co. Cork. 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



19th December 2023

REF:

D/316/23

LOCATION:

Midleton Rugby Football Club, Townspark, Midleton, 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 7th December 2023 the Planning Authority, having considered the question whether or not the temporary use of an existing rugby clubhouse as a pre-school (3 hours daily until the end of the academic year in June 2024) at **Midleton Rugby Football Club**, **Townspark**, **Midleton**, **Co. Cork** is or is not development and is or is not exempted development has declared that it **is development and is exempted development**.

Reason for Decision

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

- Section 2(1), 3(1) and Section 4(4) the Planning and Development Act 2000 (as amended),
- Articles 3, 5, 6 and 10 of the Planning and Development Regulations 2001 (as amended),
- Schedule 2, Part 1, Class 20C of the Planning & Development Regulations 2001 (as amended) and
- The particulars received by the Planning Authority on 7th December 2023

And Whereas Cork County Council has concluded that -

The temporary use of the existing rugby clubhouse as a pre-school (3 hours daily until the end of the academic year in June 2024) at **Midleton Rugby Football Club, Townspark, Midleton, Co. Cork** constitutes **development which is <u>exempted development</u>.** Please note that the period covered by the exemption Class has a limit of 2 years, and you are also advised that you will need to ensure compliance with the *Department of Education and Science Primary and Post Primary Technical Guidance Documents*.

This exemption does NOT itself empower a person to carry out a development unless that person is legally entitled to do so.

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,

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

Comhairle Contae Chorcaí Cork County Council

Midleton Rugby Football Club, Towns Park, Midleton, Co. Cork. Pleanáil agus Forbairt, Halla an Chontae, Bóthar Charraig Ruacháin, Corcaigh T12 R2NC.

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Carrigrohane Road, Cork T12 R2NC.

Tel (021) 4276891 Email: planninginfo@corkcoco.ie Web: www.corkcoco.ie



19th December 2023

Our Ref.: D/316/23

Re: Declaration of Exempted Development under Section 5 of The Planning and

Development Act 2000 – 2010.

Whether the temporary use of a rugby club house main hall as a 3-hour daily preschool for the remainder of the current academic year at Midleton Rugby Football Club, Towns Park, Midleton, Co. Cork is or is not development or is or is not exempted development.

Dear Sirs,

Further to recent correspondence notifying you of a third-party Declaration with regard to the above development I enclose for your information copy of the Planning Authority's decision.

Yours faithfully,

Tracy O' Callaghan

SO PLANNING DEPARTMENT

Encl.

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





Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

D/316/23- Temporary use of an existing rugby clubhouse as a pre-school

The Question

The applicant is querying whether the temporary use of an existing rugby clubhouse as a pre-school (3 hours daily until end of academic calendar year- June next year) is/ is not exempted development for the purposes of the Act

Planning History



17/4179- Permission granted to Bramble Cottage Montessori for construction of Montessori School Building comprising; two classrooms with associated sanitary accommodation, reception area, staff kitchen and dining area as well as dedicated secure outdoor play area with all associated site development works including a free standing sign at site/club entrance

13/5874- Permission granted to Midleton Rugby Club Erect 3 no. 18 metre high floodlights, backlighting to 3 no. floodlights granted under previous planning permission Ref. No. 11/5280 and associated site works

Pl Ref No. 11/5280- Permission granted Midleton RFC for the erection of 6 no. 18 metre high floodlights and associated site works

Pl Ref No. 09/5480- Permission granted to the Bord of Management (Educate Together) for Construction of new pre-fabricated flat-roofed first floor extension consisting of 2 no. classrooms complete with toilets and resource room to be built on top of existing ground floor school together with access stairs and associated site works, ramps and drainage

Pl Ref No. 08-7609 – The Board of Management Midleton Educate Together National School - Prefabricated single storey building to consist of two classrooms & a staffroom with store & toilets together with associated site works – permission granted – temporary permission granted for a five year period.

Pl Ref No. 05 – 517 – Midleton Rugby Football Club – Permission granted for the Construction of new dressing rooms and training facilities and alterations to entrance.

Pl Ref No. 96-4696 - Midleton Rugby and Football Club - permission granted for the construction of a clubhouse

Statutory Provisions

I consider the following statutory provisions relevant to this referral case:

Planning and Development Act, 2000

Section 3 (1) states:-

"In this Act, "development" means, except where the context otherwise requires, the carrying out of works on, in over or under land, or the making of any material change of use of any structures or other land."

Works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal".

Section 4 (2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations, 2001.

Planning and Development Regulations, 2001

Article 6(1) of the Regulations states as follows:- "(a) 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) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development.

Class 20 C, Schedule 2, Part 1, P&DR 2001

Temporary use as a school of any structure formerly used as a school, hall, club, art gallery, museum, library, reading room, gymnasium, or other public building, or any structure normally used for religious instruction

- 1. The use shall be discontinued after a period not exceeding 2 years.
- 2. Such structure shall comply with the Department of Education and Science Primary and Post Primary Technical Guidance Documents for the time being in force.

Assessment

Having regard to the questions posed, the proposal constitutes "development" as set out under S3 of the Planning and Development Act 2000 in that "works" are proposed to be carried out on the site. The question therefore is whether or not these "works" constitute "exempted development" for the purposes of the Act

The applicant is proposing to install a pre-school development within the existing clubhouse building. This building has a floor area of 781sqm. The exact dimensions of the pre-school have not been shown within same but in any event the existing floor space is likely to greatly exceed the area required by the creche

Class 20C of the P&DR 2001 provides for the temporary use as a school of any structure formerly used as a school, hall, <u>club...</u>,

In this instance, the subject pre-school is proposed to be located in the clubhouse of the existing Rugby Football Club. As such, I am satisfied that this meets the requirements of "Club" as set out under Class 20 C. The question therefore is whether the "pre-school" can be classed as a "school" for the purposes of this section. To answer this question, I refer to Article 5 of the Planning and Development Regulations 2001. This section states that "School" has the meaning assigned to it under the Education Act 1998. The Education Act 1998 defines "school" as follows-

school" means an establishment which—

- (a) provides primary education to its students and which may also provide <u>early childhood education</u>, or
- (b) provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training

Item (a) above specifically refers to "early childhood education" thus it can be stated that the pre-school is a form of early childhood education and as such is considered to meet the definition of "school". The proposal seeks to carry out this use up until the end of the academic year (June 23 is referenced in the document submitted however it is assumed that this is a typo and should read June 2024). In an event, Class 20C allows for a temporary period of up to 2 years. It would be up to the applicant to ensure compliance with the Department of Education and Science Primary and Post Primary Technical Guidance Documents

Article 9 Restrictions

Restrictions on exemptions are listed under Article 9 of the Regulations. Having reviewed same against the subject development, none would appear to apply. In considering same I am cognisant of the Planning History on the site whereby a free- standing Montessori unit

was permitted under 17/4179 (same was never implemented). In addition, Midleton "Educate together" previously set up a temporary unit on this site for a brief period before moving to an alternative site on the Mill Road. Both these developments were considered acceptable on traffic/ parking and other such engineering reasons

AA/EIA

Section 4(4) of the Act essentially de-exempts any development which attracts a requirement for Environmental Impact Assessment (EIA) or Appropriate Assessment (AA).

In relation to EIA, part 2 of schedule 5 lists development which may require EIA for the purposes of part 10 of Part 10 of the Planning and Development Act.

Having considered that detail I am satisfied the propsoal does not trigger any requirement for mandatory or sub-threshold EIA.

In relation to AA, the proposal will use an existing built structure which is connected to public services. On this basis significant impacts on Natura 2000 sites can be screened out

Conclusion

In considering this referral, and having had regard particularly to -

- (a) Section 2(1), 3(1), 4(4), of the Planning and Development Act, 2000, as amended,
- (b) Articles 3, 5, 6 and 10 and Class 20C of Schedule 2, part 1 of the Planning and Development Regulations, 2001, as amended,

The Planning Authority has concluded that:

- (a)the proposal constitutes "development" within the meaning of S3 of the Act
- (b) The proposal constitutes "exempted development" as per Class 20C of Schedule 2, part 1 of the Planning and Development Regulations, 2001, as amended

Applicant to note that the period covered by the exemption Class has a limit of 2 years and applicant will also need to ensure compliance with the *Department of Education and Science Primary and Post Primary Technical Guidance Documents*

Enda Quinn Executive Planner 19/12/2023

Comhairle Contae Chorcaí Cork County Council

Midleton Rugby Football Club, Towns Park, Midleton, Co. Cork.

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



7th December 2023

Our Ref.: D/316/23

Declaration of Exempted Development under Section 5 of The Planning and

Development Act 2000 - 2010.

Whether the temporary use of a rugby club house main hall as a 3-hour daily preschool for the remainder of the current academic year at Midleton Rugby Football Club, Towns Park, Midleton, Co. Cork is or is not development or is or is not exempted development

Dear Sirs,

Please be advised that a declaration has been sought with respect to Section 5 of the Planning and Development Act 2000 (as amended) from the Planning Authority by Tinga Tinga Childcare Ltd. with respect to whether the above description at Midleton Rugby Football Club, Towns Park, Midleton, Co. Cork constitutes development.

You are being notified as the applicant has indicated that you are the legal owner of the land in question.

Yours faithfully,

Eveleen Crowley Clerical 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







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:

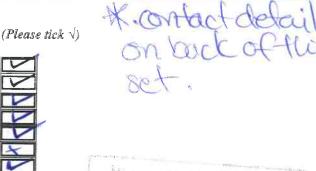
4 No. Copies of Site Layout Plan:

4 No. Copies Scaled Drawings of Development:

€80 Application Fee:

FOR OFFICE USE ONLY

Receipt No.	CAC0165 944
Cash/Cheque/	
Credit Card	CARD.
Date	7/12/23
Declaration Ref. No.	D 316 23





DATE STAMP HERE

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

Hall, Carrigrohane Road, Cork, Ireland.

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/Privacy-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

1

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

TINGA TINGA CHILDCHRE
(MANUELA TORTORA)

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

MIDLETON LUGBY FOOTBALL CLUB
TOWNSPARK
MIDLETON
P25 DW67

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

Childrane Ltol be allowed to ron

a 3 hour daily (Pam-12m) preschoul

session (3-6 years) Monday to friday

during the remainder of the current:

academic calcuder, up to the end

of Line 2023, in the rugby Club

house main hall.

We mada letter to accompany original

planning certificate for fusion, saying Hall

is suitable for an early years service.

(a) Floor area of existing/proposed structure(s):	MAINHALL 780 m2
(b) If a domestic extension is proposed, 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 No No III If yes, please provide floor areas (m²) and previous planning reference(s) where applicable Planning Department
(c) If a change of use of land and/or building(s) is proposed, please state the following:Existing/previous use	Proposed use 0 7 DEC 2023 Cork County Council County Hall Cork.
clubhouse use	Preschool daily session 9am to 12pm daily x 22chib
(d) Are you aware of any enforcement proceedings connected to this site?	Yes No III yes, please state relevant reference number(s):
LEGAL INTEREST OF APPLICANT IN T	HE LAND/STRUCTURE: A. Owner B. Other
Please tick appropriate box to show applicant's legal interest in the land or structure: Where legal interest is "Other", please state your interest in the land/structure:	
Please tick appropriate box to show applicant's legal interest in the land or structure: Where legal interest is "Other", please state your interest in the land/structure:	A. Owner B. Other
Please tick appropriate box to show applicant's legal interest in the land or structure: 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):	A. Owner B. Other Dent space temporarily
Please tick appropriate box to show applicant's legal interest in the land or structure: 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 / All is this a Protected Structure/Proposed Protected Structu	A. Owner B. Other De Rent space temporarily walebon hugby football Club RCHITECTURAL CONSERVATION AREA:
Please tick appropriate box to show applicant's legal interest in the land or structure: 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 / All st this a Protected Structure/Proposed Protected Structure: Yes No If yes, has a Declaration under Section 57 of the Plant	A. Owner B. Other War Space temporarily walcher fugly football Club RCHITECTURAL CONSERVATION AREA: cture or within the curtilage of a Protected mining & Development Act 2000 been requested
Please tick appropriate box to show applicant's legal interest in the land or structure: 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 / All is this a Protected Structure/Proposed Protected Structu	A. Owner B. Other War Space temporarily walcher fugly football Club RCHITECTURAL CONSERVATION AREA: cture or within the curtilage of a Protected mining & Development Act 2000 been requested

4.

APPLICATION DETAILS:

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 (By Applicant Only)	Bulan Tortera
Date	4/12/23

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 j	for my sensitive personal data submitted to the Planning Authority to be processed
for the purpose stated o	above.
Signed	Carla 1 artin
Date	4/12/23

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: westcorkplanninginfo@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.

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>, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	Coule Toka
Date	4/12/23

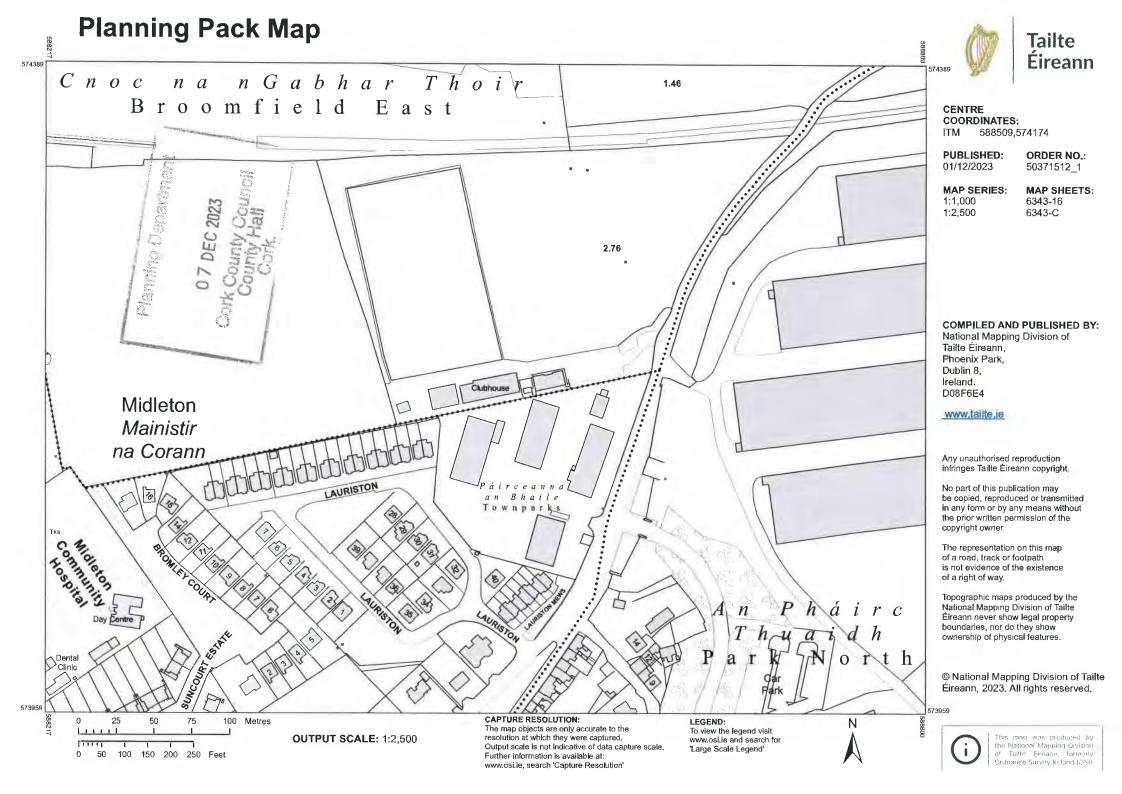
Planning Department

0 7 DEC 2023

Cork County Council

County Hall

Cork.



Site Location Map Tailte Éireann 575082 Truttin # M.52-8 575082 Eroomfield House CENTRE COORDINATES: 588509,574174 PUBLISHED: ORDER NO .: 01/12/2023 50371512_1 Westpark House MAP SERIES: MAP SHEETS: 6 Inch Raster CK065 6 Inch Raster CK076 House Sand J'A Ballast 1'st State . COMPILED AND PUBLISHED BY: Broomfield Bridge National Mapping Division of Cahermone Tailte Éireann, t Castle MIDLETON (Urban District) Phoenix Park, Agricultural Societys Dublin 8, Show Grounds Ireland. ARK D08F6E4 www.tailte.ie 145 District Home Including Any unauthorised reproduction infringes Tailte Éireann copyright No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owner. The representation on this map of a road, track or footpath is not evidence of the existence of a right of way. A IR 0 Topographic maps produced by the National Mapping Division of Tailte 14. Éireann never show legal property Spirit Marian Manian Marian Marian Marian Marian Marian Marian Marian Marian Ma boundaries, nor do they show ownership of physical features. IK MOGEESHA © National Mapping Division of Tailte Éireann, 2023. All rights reserved. Ordnance Survey Ireland CAPTURE RESOLUTION: 440 Metres LEGEND: The map objects are only accurate to the To view the legend visit **OUTPUT SCALE: 1:10,560** resolution at which they were captured. www.osi.ie and search for the National Mapoing Division Output scale is not indicative of data capture scale. 'Large Scale Legend' 0 200 400 600 800 1,000 Feet of Tailte Eirmen, formuly Further information is available at Ordnance Survey Iroland (OSI) www.osi.ie, search 'Capture Resolution'

