Comhairle Contae Chorcaí Cork County Council

Peter Harris & Katie Harris, 3 Whitepoint Estate, Cobh, Co. Cork. P24 WY60. 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



27th March 2024

REF:D/211/24LOCATION:3 Whitepoint Estate, Cobh, Co. Cork, P24 WY60.

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

Dear Sir & Madam,

On the basis of the information submitted by you on 29th February 2024 the Planning Authority, having considered the question whether or not the the construction of a single storey structure comprising of an office, bathroom and utility with connecting hallway to rear of dwelling **at 3 Whitepoint Estate, Cobh, Co. Cork, P24WY60** 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:

- the details submitted to the Planning Authority on the 29/02/2024
- Sections 2 (1) 3(1), 4 and 5 of the Planning and Development Act (2000, as amended)
- Articles 6, 9 and Schedule 2, Part 1, Classes 1 and 3 of the Planning and Development Regulations (2001, as amended)

And Whereas Cork County Council has concluded that -

The construction of a single storey structure comprising of an office, bathroom and utility with connecting hallway to rear of dwelling at 3 Whitepoint Estate, Cobh, Co. Cork, P24WY60 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,

Cole Barard

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 https://www.corkcoco.ie/privacy-statement-cork-county-council

Reference Number	D 211/24
Applicant's Name	Peter & Katie Harris
Development Description	Whether the construction of a single storey structure comprised of an office, bathroom and utility with connecting hallway to rear of an existing dwelling is exempted development.
Location	3 Whitepoint Estate, Cobh, Co. Cork, P24WY60.

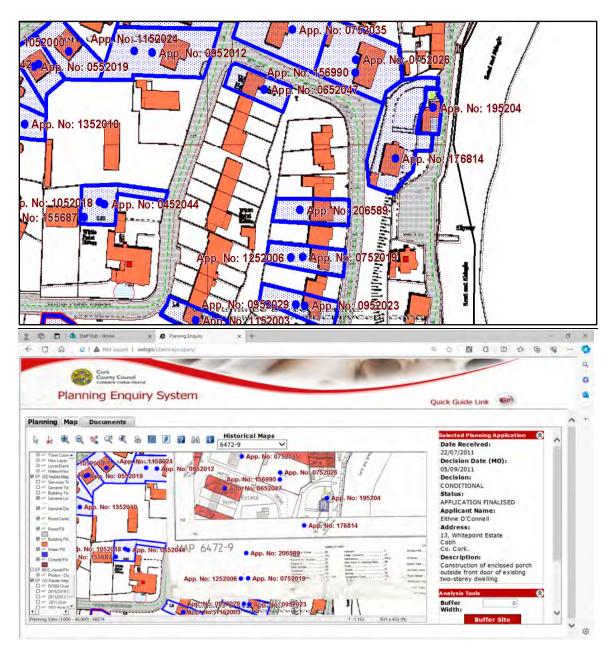
Development Proposal

The applicants are requesting a declaration of exemption in accordance with Section 5 of the Planning and Development Act (2000-2010) querying whether the construction of a single storey structure comprised of an office, bathroom and utility with connecting hallway to rear of an existing dwelling is or is not development and is or is not exempted development.

Site Description

I inspected the site on the 25/03/2024 (see Appendix A below). The subject property is located within the established Whitepoint estate in Cobh. It is host to a mid-terrace two storey dwelling, the subject single storey timber structure and 2 no. existing sheds towards the rear of the site. There is a block wall running along the rear section of the lateral southern boundary and part of the rear boundary which has a pedestrian access gate and timber fencing. A mixture of low block wall and timber panel fencing forms the rear section of the lateral norther site boundary. Ground levels are relatively flat with the rear of the site predominantly covered in hardcore.

Planning History



Site History

No planning history evident on maps available.

Enforcement History

EF 23/041 – current live enforcement file in relation to the alleged unauthorised erection of a cabin type structure to the rear of existing dwelling without the benefit of planning permission located at 3 Whitepoint Estate, Cobh, Co. Cork.

Legislation Context

Planning and Development Act (2000, as amended)

Section 2 defines "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.

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

- (b) in relation to a protected structure or proposed protected structure, includes-
 - (i) the interior of the structure,
 - (ii) the land lying within the curtilage of the structure,
 - (iii) any other structures lying within that curtilage and their interiors, and
 - (iv) all fixtures and features which form part of the interior or exterior of
 - any structure or structures referred to in subparagraph (i) or (iii);

Section 3 (1) of the Act states:

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 of the Act sets out developments which shall be exempted development for the Act.

Section 4(4) Notwithstanding..... any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Planning and Development Regulations (2001, as amended)

Schedule 2, Part 1, Class 3 sets out exemptions for the construction of sheds and other structures within the curtilage of a dwelling.

Class 3	
The construction, erection or placing within the curtilage of a house of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.	or placed forward of hte front wall of the house. 2. The total area of such structures constructed, erected or placed within the curtilage of a

Article 6 stipulates 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 sets out restrictions on exemption to which article 6 relates. It states that development to which article 6 relates shall not be exempted development for the purposes of the Act in a number of specific instances.

<u>EIA</u>

Having reviewed the documentation submitted I am satisfied that an EIA is not required having regard to the nature/scale of development proposed and relevant provisions set out under Schedules 5 and 7 of the Planning and Development Regulations (2001, as amended).

Appropriate Assessment

The site is located with the screening zone of an existing SPA, namely Cork Harbour SPA (Site Code: 004030) of approximately 1.4km northeast of same.

The site is located in a fully serviced area. The requirement for Appropriate Assessment has been screened out for the proposed development having regard to the scale and nature of the proposal and lack of any physical or hydrological connection between the development site and any European Site.

Assessment

This section 5 declaration queries whether the construction of single storey structure comprised of an office, bathroom and utility with connecting hallway to rear of dwelling is or is not development and is or is not exempted development.

As set out above there is a current live enforcement file on site (ref: EF 23/041) pertaining to the subject structure. The applicants have lodged the subject Section 5 Declaration on foot of same.

Description of Proposed Works

In the application form and associated drawings the applicants have set out that the structure in question covers 27.9m² in floor area and have indicated a proposed connecting lean-to hallway to the existing dwelling. On the basis of the details submitted the indicated use of the existing timber structure is as an office, bathroom and utility.

Is the Proposal Development?

On the basis of the information submitted it is considered that the proposal amounts to 'works' and also relates to a "structure" as defined by Section 2 (1) of the Planning and Development Act (2000, as amended) and therefore the comes within the meaning of 'development' in accordance with Section 3 of the Planning and Development Act (2000, as amended). The question at hand, therefore, is whether the development is exempted development.

Is the Proposal Exempted Development

It is considered that the key legislative provision for determining the query raised is set out under Schedule 2, Part 1, Class 3 of the Planning and Development Regulations (2001, as amended).

The single storey structure and proposed connecting hallway annexe is assessed against the conditions/limitations of Schedule 2, Part 1, Classes 1 and 3 of the Planning and Development Regulations (2001, as amended). During my inspection of the site I took approximate measurements in relation to the site layout drawing submitted.

Having reviewed these measurements against the conditions/limitations of the aforementioned Class 3 it is considered that the structure falls well outside the allowable exempted development parameters as per the attached table below. In particular condition/limitation nos. 2 and 5 (a) of Class 3.

Class 3 Condition/Limitation:	Comment in relation to subject structure:
1. No such structure shall be constructed, erected or	Structure situated to the rear of the site.
placed forward of the front wall of a house.	
2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.	The floor area of the subject structure $(c.27.9m^2)$ exceeds the $25m^2$ limitation. There are also two other existing shed type structures sited towards the rear of the site with a combined approximate floor area of c.17m ² .
3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.	The remaining private open space is well in excess of the 25m ² limitation.
4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.	The structure is placed to the rear of the house.
5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.	The indicated height of the structure is 3.12m is which exceeds the 3m limitation (plastic ridge tile roof finish).
6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.	There was no evidence of the precluded uses at the time of inspection.

It is therefore considered that the subject structure constructed to the rear of the existing dwellings falls outside the relevant exempted development parameters of Schedule 2, Part 1, Class 3 of the Planning and Development Regulations (2001, as amended).

It is noted that the applicants have indicated a proposed lean-to connecting hallway element to the rear of the existing dwellinghouse (not in place on inspection) with indicated door access to the subject timber structure. It is not clear from the drawing submitted but this appears that it is proposed to enclose this annexe. There appears to be an inaccuracy in the drawings submitted in that the subject structure is set close to the existing boundary wall and would therefore not facilitate the angled link access as indicated on the drawings. Further detail on the layout and form (elevation drawings of external walls) of the proposed connecting hallway element would be required to enable a full assessment of the proposal against the parameters of Schedule 2, Part 1, Class 1 of the Planning and Development Regulations (2001, as amended).

Recommendation

Accordingly, whereas a question has been raised regarding whether the construction of a single storey structure comprised of an office, bathroom and utility with connecting hallway to rear of dwelling is or is not development and is or is not exempted development at 3 Whitepoint Estate, Cobh, Co. Cork, P24WY60, involving and having had regard to:

- the details submitted to the Planning Authority on the 29/02/2024
- Sections 2 (1) 3(1), 4 and 5 of the Planning and Development Act (2000, as amended)
- Articles 6, 9 and Schedule 2, Part 1, Classes 1 and 3 of the Planning and Development Regulations (2001, as amended)

it is concluded by the Planning Authority that:

the construction of a single storey structure comprised of an office, bathroom and utility with connecting hallway to rear of dwelling at 3 Whitepoint Estate, Cobh, Co. Cork, P24WY60 is **development** and is **not exempted development**. The Planning Authority had regard to the following:

- Sections 2 (1) 3(1), 4 and 5 of the Planning and Development Act (2000, as amended)
- Articles 6, 9 and Schedule 2, Part 1, Classes 1 and 3 of the Planning and Development Regulations (2001, as amended)

Som Ledor

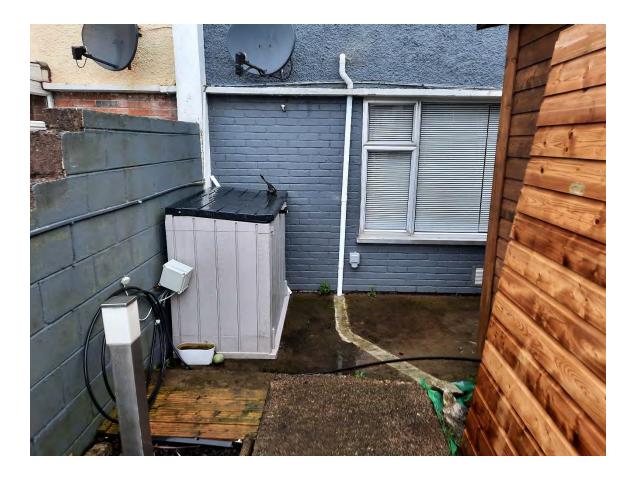
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John Lalor Executive Planner 26/03/2023











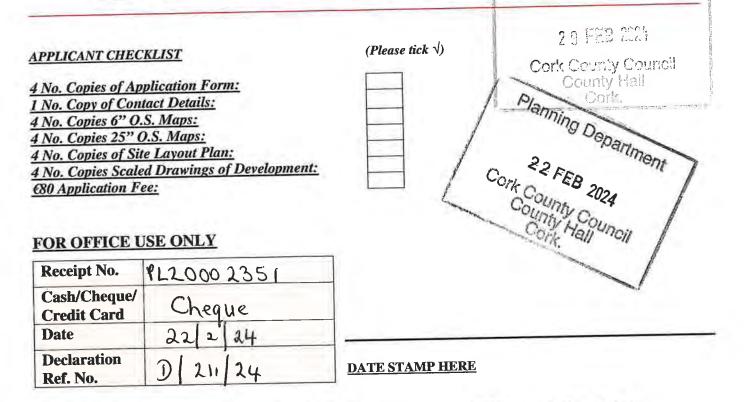








<u>CORK COUNTY COUNCIL APPLICATION</u> FOR SECTION 5 DECLARATION OF EXEMPTION



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

ana your and will be processed in line will our trivitely pointy from our offices at County Hall, Carrigrohane Road, Cork, <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)

Peter Harris Katie Harris

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

3 Whitepoint Estate, Cobh, Co. Cork 24WY60

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

Single story office, bathroom and utility
Single story office, bathroom and utility with connecting hallway at rear of house
Planning Department
Planning Depart 22 FEB 2024 22 FEB 2024 Cork County Hall Cork County Hall
Cork County Hall
CON

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):	27.9 m2
 (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
(d) Are you aware of any enforcement proceedings connected to this site?	Yes No
proceedings connected to this site?	If yes, please state relevant reference number(s):
	EF/23/041

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. Other
Where legal interest is "Other", please state your interest in the land/structure:	_	planning Depart
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):		22 FEB 2024 22 FEB 2024

6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

Is this a Protected Stru Structure: Yes	Cture/Proposed Protected Structure or within the curtilage of a Protected
If yes, has a Declaration or issued for the properties of the prop	on under Section 57 of the Planning & Development Act 2000 been requested rty by the Planning Authority: Yes No
If yes, please state rele	vant reference No
Is this site located with Development Plan?	A Architectural Conservation Area (ACA), as designated in the County Yes No

7. APPROPRIATE ASSESSMENT:

Would the proposed development require an appropriate assessment because	e it would	be likely	to
have a significant effect on the integrity of a European site (SAC, SPA etc)?	Yes	No	
2	100 million (100 million)		_

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

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

Signed (By Applicant Only)	Eler Marins	
Date	16/02/24	

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

Planning Department 22 FEB 2024 Cork County Council County Hall 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 for the purpose stated above.

Signed	Peter Murin
Date	16/02/24

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.

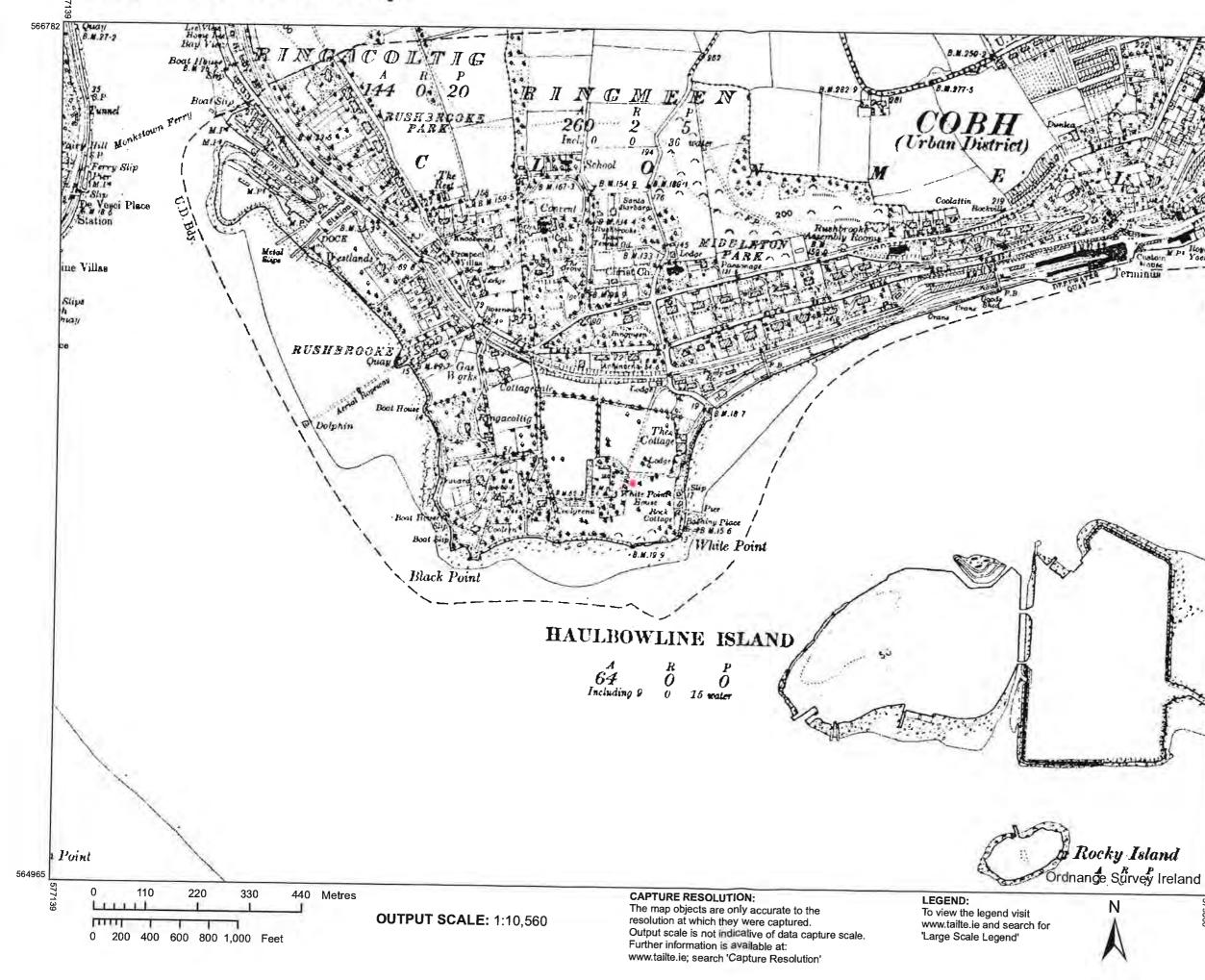
The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be 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>, <u>as amended</u> and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	Peter Marins
Date	16/02/24



Site Location Map





66782

Tailte Éireann

CENTRE COORDINATES: ITM 578370,565874

PUBLISHED: 27/02/2024

ORDER NO.: 50385664_1

MAP SERIES: 6 Inch Raster MAP SHEETS: CK087

Planning Department

29 FEB 2024

County Hall County Hall COMPILED AND PUBLISHED BY: Tailte Éireann, Phoenix Park, Dublin 8, Ireland. D08F6E4

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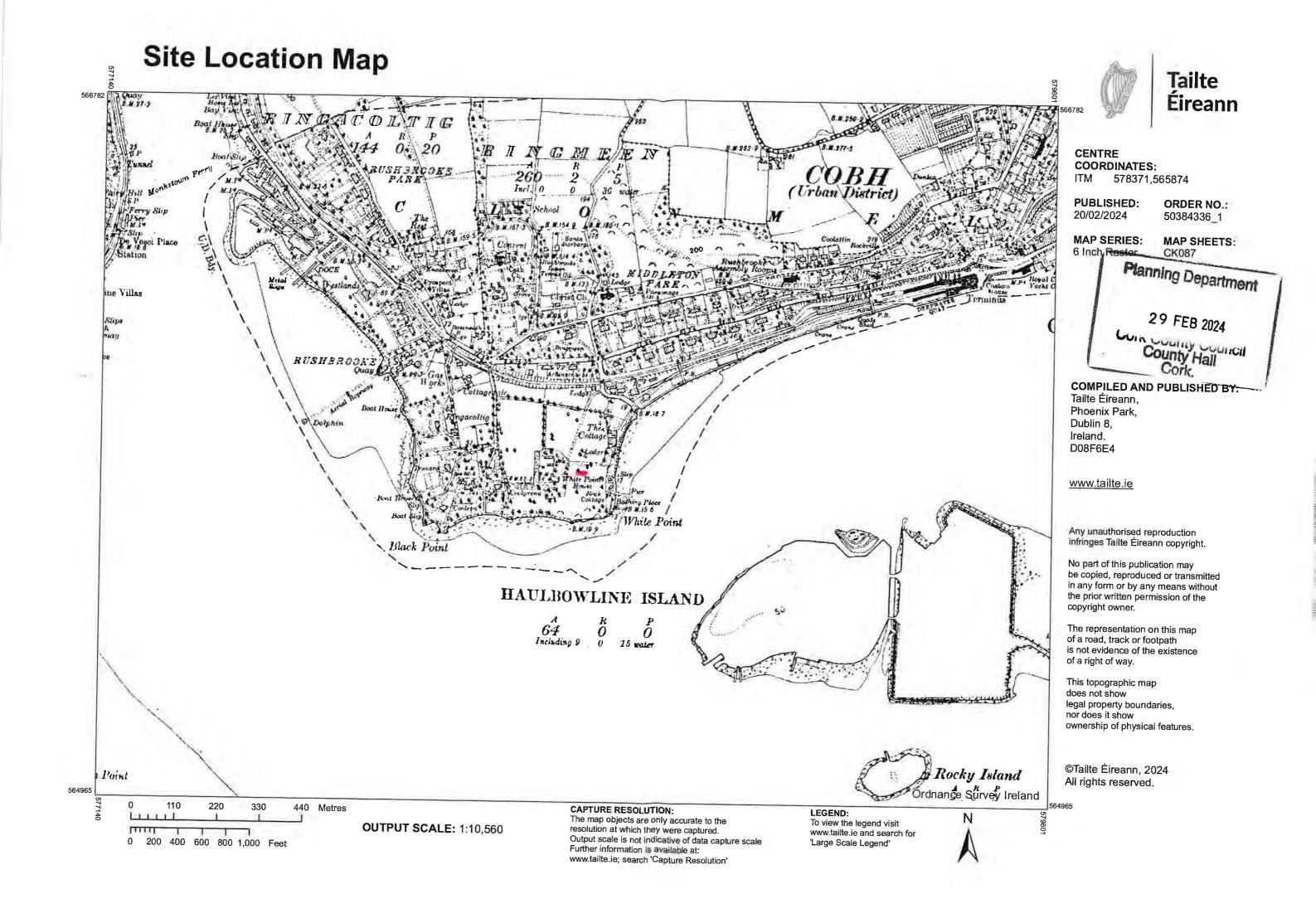
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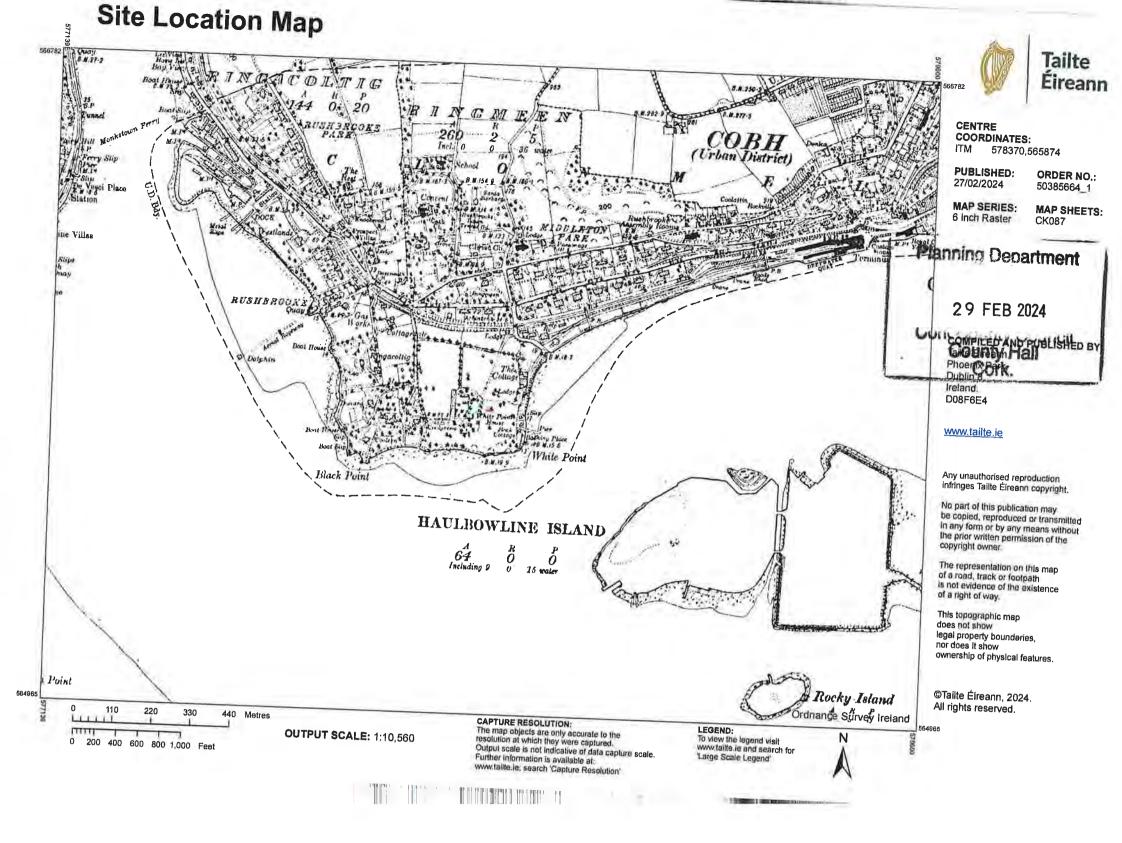
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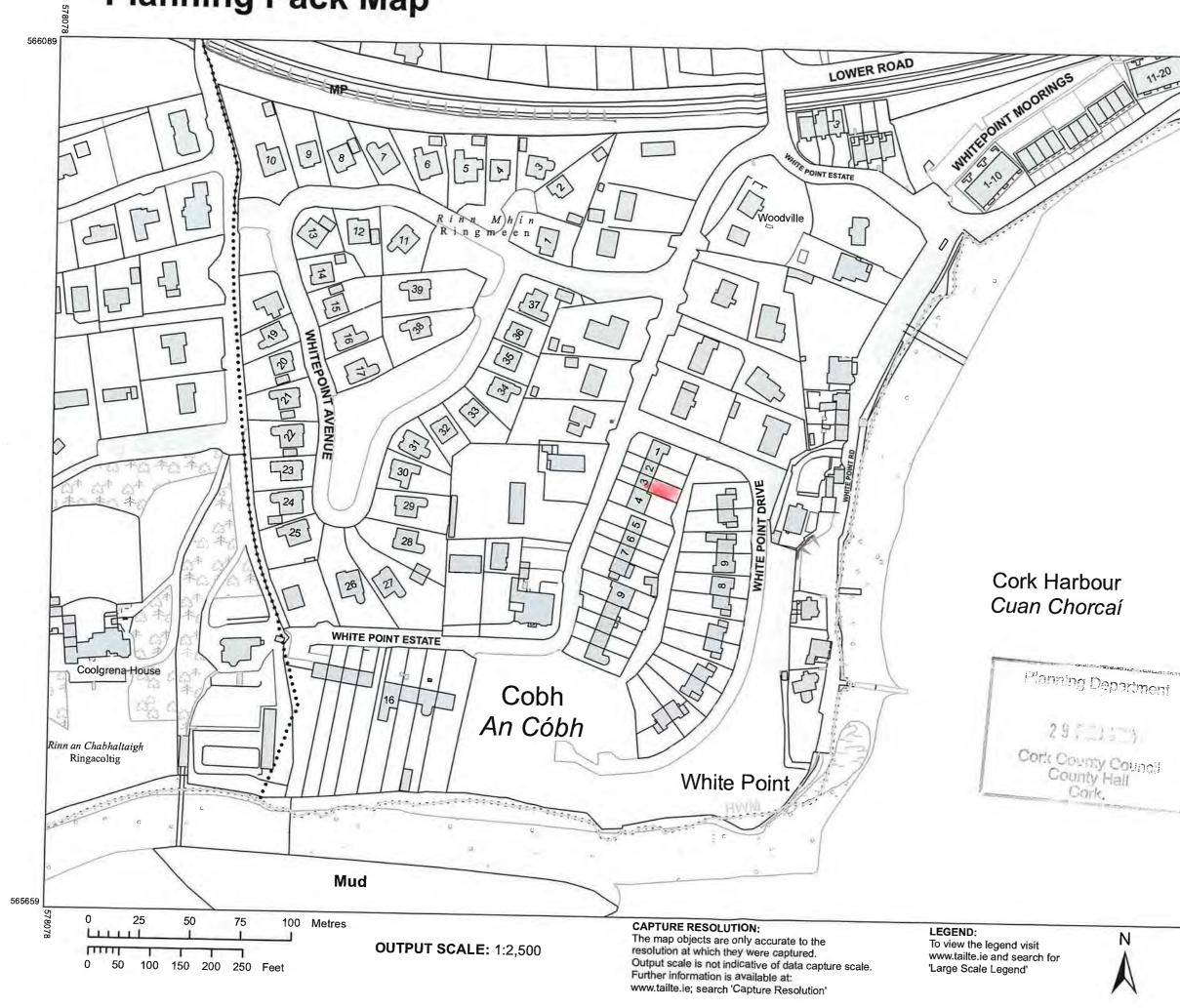
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Planning Pack Map





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Tailte Éireann

CENTRE COORDINATES: ITM 578370,565874

PUBLISHED: 27/02/2024

ORDER NO.: 50385664 1

MAP SERIES:

1:1,000 1:1,000 1:1,000 1:1,000 **MAP SHEETS:** 6472-08 6472-09 6472-13 6472-14

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