Comhairle Contae Chorcaí Cork County Council

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.

County Hall, Carrigrohane Road, Cork T12 R2NC.

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

Micheál & Carol Dillon, 8 Westway, Grange Manor, Ovens, Co. Cork P31 HY76

5th December, 2024

REF:

D/282/24

LOCATION:

1 Páirc Brouen, Cloughduv, Crookstown, Co. Cork P12 W229

RE:

DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE

PLANNING & DEVELOPMENT ACT 2000

Dear Sir/Madam,

On the basis of the information and plans submitted by you on 26th November, 2024 the Planning Authority, having considered whether the replacement of an existing ground floor window on western elevation with patio doors and relocating said window at same level to the north of the new doors at, **1 Páirc Brouen, Cloughduv, Crookstown, Co. Cork** is development and is or is not exempted development

AND WHEREAS Cork County Council, in considering this referral had regard particularly to:-

Section 4(1)(h) of the Planning and Development Acts 2000 (as amended) and

AND WHEREAS Cork County Council has concluded that -

The replacement of the existing ground floor window on the western elevation with patio doors is exempted development because the works involved come within the scope of Section 4(1)(h) of that Act, being works for the maintenance, improvement or other alteration of the subject structure and they 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 properties.

And,

It is considered that the proposal to relocate the said window at the same level to the north of the new doors does not come within the scope of Section 4(1)(h) and in fact **constitutes development.**





And now therefore the Planning Authority hereby decides that a **SPLIT DECISION** arises in the assessment of the subject Section 5 request.

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,

PIO TREAC

ADMINISTRATIVE OFFICER, PLANNING DEPARTMENT

Comhairle Contae Chorcaí Cork County Council

Classes Land Unlimited, 21, Lavitts Quay, Cork City, T12 HYT9 Pleanáil agus Forbairt, Halla an Chontae, Bóthar Charraig Ruacháin, Corcaigh T12 R2NC. Fón: (021) 4276891

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



5th December 2024

Our Ref.: D/282/24

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

Development Act 2000 – 2010.

Whether the replacement of an existing ground floor window on western elevation with patio doors and relocate said window at the same level to the north of the new doors at 1, Páirc Brouen, Cloughduv, Crookstown, Co. Cork P12 W229 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,

Tre cy d. Colleghe

STAFF OFFICER.

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

Ref No.	D/282/24	
Applicant	Micheál & Carol Dillon	
Description	Whether the replacement of an existing ground floor window on western elevation with patio doors and relocate said window at the same level to the north of the new doors at 1, Páirc Brouen, Cloughduv, P12 W229 is exempted development	
Location	1, Páirc Brouen, Cloughduv	

This application is querying whether the replacement of an existing ground floor window on the western elevation of a recently constructed detached 2storey dwelling with patio doors and relocation of said window at the same level to the north of the new doors at 1, Páirc Brouen, Cloughduv is exempted development.

Site location and background to the referral

The site is located at no. 1, Páirc Brouen, Cloughduv. The property is a detached dwelling at the front and western end of a larger housing estate.

The property is located within 'Urban Area' of Cloughduv Village.

The property has a side garden which is screened from the public road by a new 6.5m high boundary wall. The property is located 9.1m from the boundary wall and there is an existing private dwellinghouse at the wester side of that wall. There is a projecting gable on the gable end of the property which currently has a window at first floor level and larger, taller window at ground floor level.



The question posed in this application is whether the replacement of an existing ground floor window on the western elevation with patio doors and relocation of said window at the same level to the north of the new doors at 1, Páirc Brouen, Cloughduv, Crookstown P12 W229 is exempted development.

Statutory Provisions

Planning and Development Act, 2000 (as amended)

In order to assess this proposal, regard has to be had to the Planning and Development Act 2000, as amended.

S.3.(I) 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.

'Works' are defined in Section 2 of the Planning and Development Act 2000, as amended 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.

Exempted Development

4. -(1) The following shall be exempted developments 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 & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 3 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 3 opposite the mention of that class in the said column 1.

No such classes refer specifically to the replacement of a window with a door in the existing part of a building.

Under Article 9 (1) of the same 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 -
- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act

- (ii) consist of or compromise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan.
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.

(Only the potentially relevant subsections of Article 9 are listed)

<u>Assessment</u>

Particulars of the case

The existing window is 2.26m wide and 1.45m high. The window is positioned 1.2m above ground level.

It is proposed to replace this window with 2.0m wide double doors which will have a height of 2.1m meaning that the top height of the double doors will remain at the same height as the existing window. Given the location of existing boundary walls and the location of the window in question, from the public road the amendments would not be visible and likewise from the neighbouring property to the west.

It is also proposed to relocate the existing window further north on the gable end wall at the same height as it was previously. It is considered that this element of the development would materially alter the character of the structure and is not considered to constitute exempted development.

Planning and Development Act 2000 (as amended) Section 4

- 4.-(1) The following shall be exempted developments 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 <u>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;</u>

Having regard to the nature of the proposed work, it is considered that the change from the window to double doors would not materially affect the external appearance of the structure. The doors would not be inconsistent with the character of the structure / neighbouring structures.

None of the criteria set out in the subsections of Article 9 of the Planning and Development Regulations 2001, as amended, are applicable to this case.

In terms of the relocation of the window, this element of the proposal would materially affect the external appearance of the structure and it is considered that the window would be inconsistent with the character of the structure.

None of the criteria set out in the subsections of Article 9 of the Planning and Development Regulations 2001, as amended, are applicable to this case.

Conclusion

On the basis of the planning history of the site, the pattern of development in the area and the Planning and Development Act and Regulations it is considered that;

The replacement of the existing ground floor window on the western elevation with patio doors is exempted development because the works involved come within the scope of Section 4(1)(h) of that Act, being works for the maintenance, improvement or other alteration of the subject structure and they 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 properties.

And.

It is considered that the proposal to relocate the said window at the same level to the north of the new doors does not come within the scope of Section 4(1)(h) and in fact constitutes development.

Carol Stack,

Area planner.

4/12/24

\$/2/24

Comhairle Contae Chorcaí Cork County Council

Classes Land Unlimited, 21, Lavitts Quay, Cork City, T12 HYT9 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 November 2024

Our Ref.: D/282/24

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

Development Act 2000 – 2010.

Whether the replacement of an existing ground floor window on western elevation with patio doors and relocation of said window at the same level to the north of the new doors at 1, Páirc Brouen, Cloughduv, Crookstown, Co. Cork P12 W229 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 Micheál & Carol Dillon with respect to whether the above description at 1, Páirc Brouen, Cloughduv, Crookstown Co. Cork P12 W229 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





8, Westway, Grange Manor, Ovens, Co. Cork P31 HY76

22 November 2024

To whom it concerns,

[Re: PPS24/890 Exempted Development Application]

Please find our application documentation enclosed with respect to planning exemption sought for our proposed amend to the newly constructed property at 1, Páirc Brouen, Cloughduv, Crookstown, Co. Cork P12 W229. We are seeking to replace an existing ground floor window on the Western side elevation with a double door and to relocate said window at the same level to the north of the new doors.

Please find a Site Location Plan, a Site Plan and a proposed Western Elevation Plan enclosed for reference with this application. The new western side elevation will face onto an existing boundary wall, in the same fashion as the window did previously. As the top of the new door and relocated window would be lower than the boundary wall, it will have no impact in terms of overlooking or loss of privacy in relation to the adjacent property. The distance to the perimeter wall on the West is over 9 meters. The house owners to the West have been met, shown details of the proposals and have indicated no objection/concern on the basis that the proposals will not affect them or their property. They have documented this in writing as per the email included in our application.

Section 4 of the Planning and Development Act. 2000, as amended, refers to exempted development. Subsection (1) sets out categories of development that shall be exempted development for the purposes of the Act. Subsection (1) (h) states the following to be exempt development: "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 it inconsistent with the character of the structure or of neighbouring structures". The associated elevation of change to the side of the dwelling, as shown, with the provision of a door in lieu of a window and the relocation of the said window does not, in our opinion, materially affect the external appearance of the structure to such an extent that it would render its appearance inconsistent with the character of the structure or indeed neighbouring structures. The colour of both the doors and window frames will match those of the existing structure. The height of the new door and window will not exceed those currently in situ.

In conclusion and having regard to the nature and extent of the works proposed, we are seeking confirmation that the proposed works to the Western side gable of the property falls within the scope of section 4 (1) (h) of the Planning and Development Act. 2000, as amended, and is therefore to be considered exempted development.

We thank you in advance for consideration of this application and look forward to hearing back with the formal decision on this,

With kind regards,

Carol and Micheal Dillon

Planning Department

26 NOV 2024

Cork County Council County Hall



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:

(Please tick V)



Planning Department

26 NOV 2024

Cork County Council
County Hall

FOR OFFICE USE ONLY

Receipt No.	PLG0046691
Cash/Cheque/ Credit Card	CARD
Date	26/11/24
Declaration Ref. No.	D/282/24

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
- · 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 Hall, Carrigrohane Road, Cork, Ireland.

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

MICHEAL & CAROL DILLON

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

1, PÁIRC BROUEN, CLOUGHDUV, CROOKSTOWN, CO. CORK P12 W229

Planning Department 2 6 NOV 2024

Cork County Council
County Hall
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

We are serving clarification that our plan to replace an existing ground no north of the nawdoon 2000 whereby this would be considered IN LEATERN PREMITION INCOMEMENTURE make the unjuict in teamed of education lossed have been injourned of their propera they have he effection on concern relating to then want is much to Tribuveter veller), states the following to be exempted development, development ansate of the candiday the of works for the maintenance, improvement of citical alicaction god structure being when which affect only me interior of the shurting on whichdo not Materially affect the external appearance of the smuchine so as to render it inconsistent with the incurrence of the smuchne only neighbouring smichines In concurrion, having considered the nature & extend of the works proposed, We are of the understanding that the proposed works to the Western gable of the proposed faus within the scope of Secret 4(1)(h) of the Planening & Development Act 2000, as usuand and is therefore an exempted development.

(a) Floor area of existing/proposed structure(s):	239 m²/239 m² : There will be no chair to the floor area of property with the proper	
(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 If yes, please provide floor areas (m²) 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 Planning Department If yes, please state relevant reference number s)	
	A. Owner B. Other gned contridcts in place - Awaiting	
If you are not the legal owner please state the	instruction completions transferd deed s	
	RCHITECTURAL CONSERVATION AREA	
PROTECTED STRUCTURE DETAILS / A	acture or within the curtilage of a Protected	
PROTECTED STRUCTURE DETAILS / A Is this a Protected Structure/Proposed Protected Prot	anning & Development Act 2000 been requested	
PROTECTED STRUCTURE DETAILS / A Is this a Protected Structure/Proposed Protected Structure: Yes No If yes, has a Declaration under Section 57 of the Plan	anning & Development Act 2000 been requested	

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

Signed
(By Applicant Only)

Date

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

Signed
(By Applicant Only)

22 NOVENIXA 2024.

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

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

Special Categories of data / Sensitive Personal data include:

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

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

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

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

Signed	Ata Carolialion.
Date	22 navember 2024.

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.

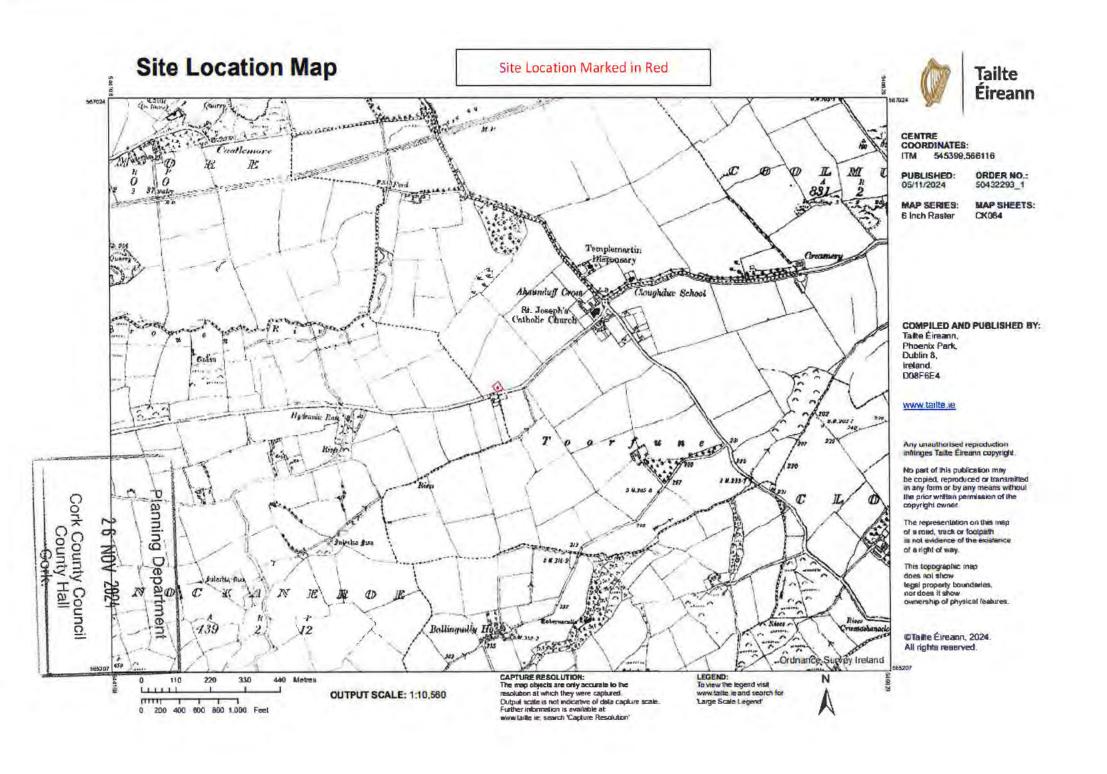
9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the <u>Planning and Development Acts 2000</u>, as amended and the Regulations made thereunder:

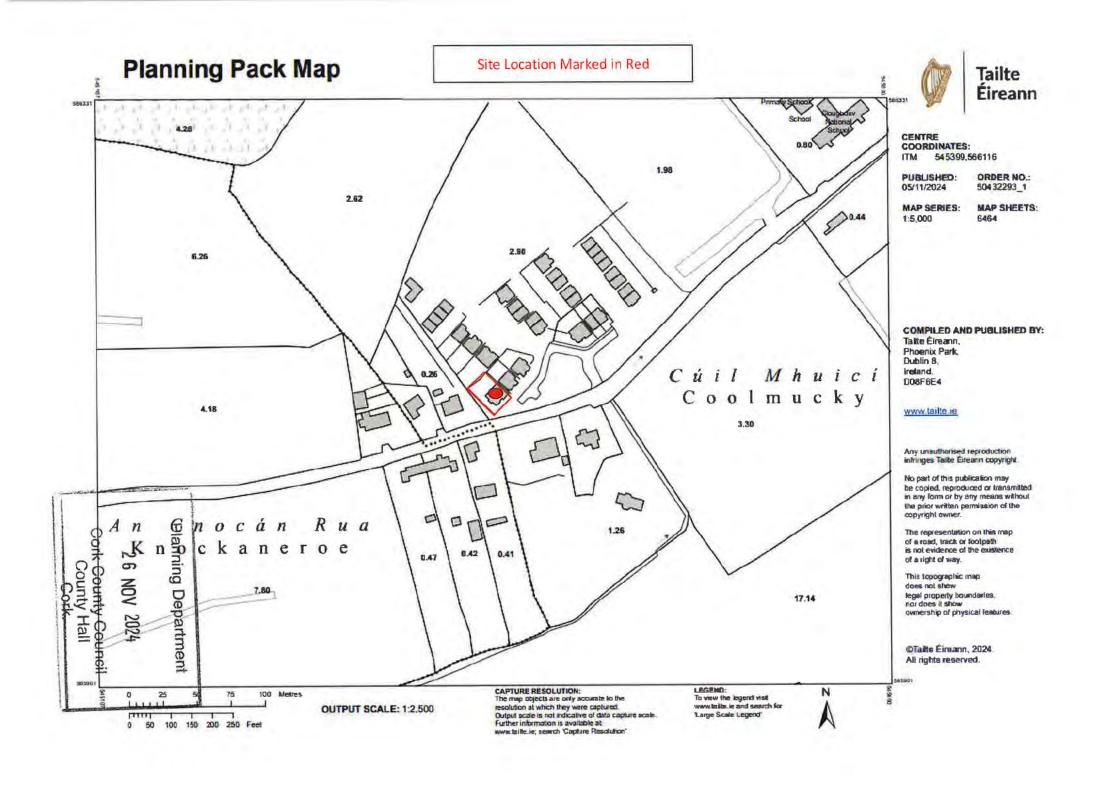
Signed (Applicant or Agent as appropriate)	flow Carp Un.
Date	22 November 2024.

Planning Department

26 NOV 2024

Cork County Council
County Hall
Cork



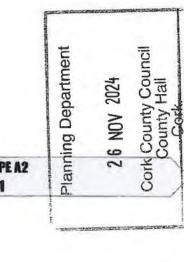




Current Structure

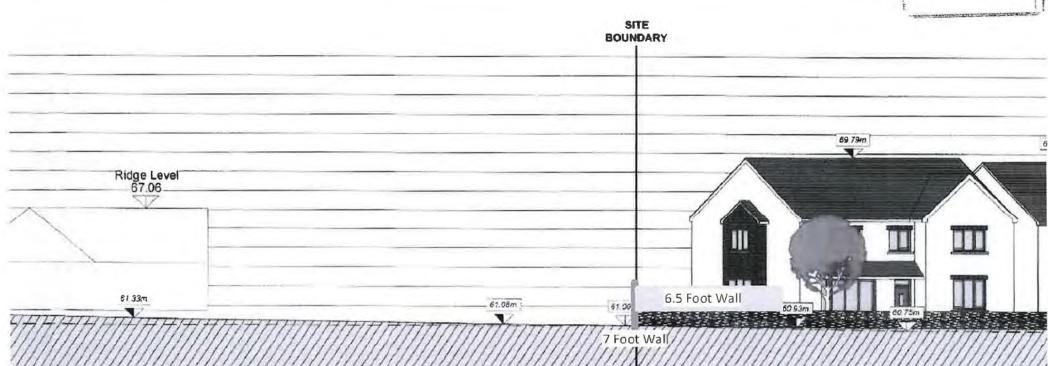


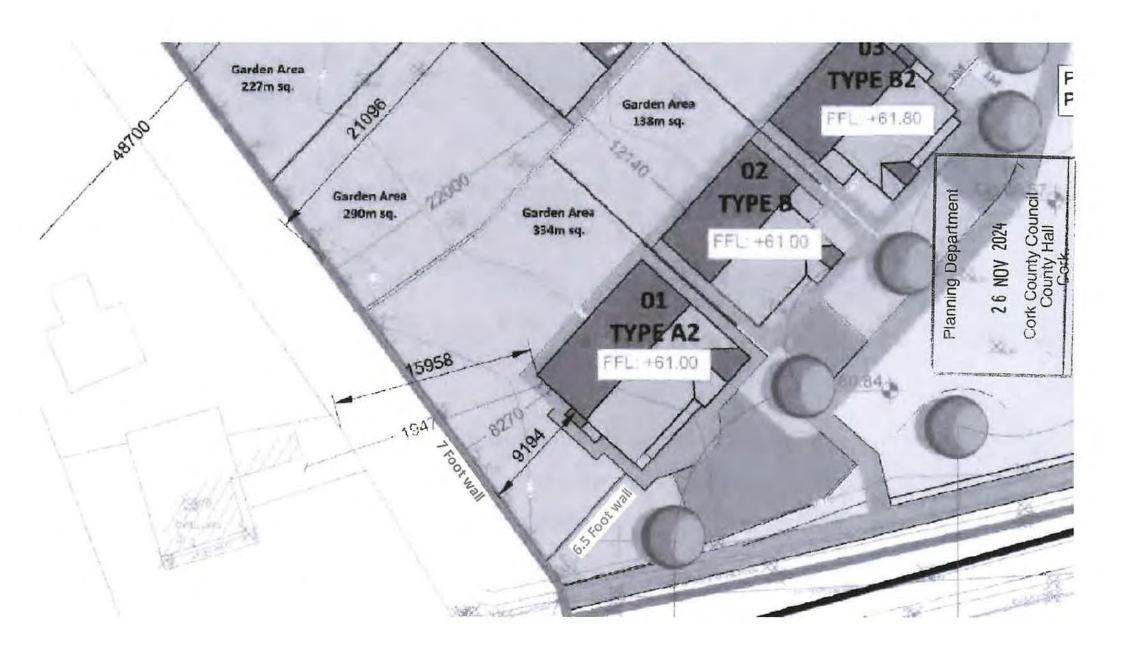
Proposed installation



HEIGHBORING DWELLING

HOUSE TYPE A2 No. 01







Micheal Dillon

1 Pairc Brouen section 5 exemption

Aidan Lucey To: Thu, Nov 21, 2024 at 12:48 PM

Michael

We refer to your Email for section 5 approval and confirm we give you permission to use Classes Land ULC on the form where stated.

Regards,

Aidan Lucey

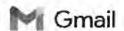
O'Callaghan Properties | 21 Lavitt's Quay | Cork



Planning Department

26 NOV 2024

Cork County Council County Hall



Micheal Dillon

Fwd: Proposed window and door to west side of house

Carol Fitzgerald
To: Micheal Dillon

Fri, Nov 22, 2024 at 11:25 AM

Sent from my iPhone

Begin forwarded message:

From: Rebecca OHalloran

Date: 15 November 2024 at 16:27:45 GMT

To: fitzgerald.caroli

Subject: Proposed window and door to west side of house

Reply-To: Rebecca OHalloran

Hi Carol and Mitch,

Thank you for sending on maps and drawings of your plans to change the west side of your home. I can confirm that we have no objection to the proposal of replacing your window with a door and inserting an additional window on the same wall. Both the door and window would be directly facing our site (Eircode P14 ED85) but we feel this change would be of very little impact because there is a 7 foot wall between both properties obscuring most of window and door. Please let me know if you need anything else.

Warm regards, Denis and Rebecca O'Flaherty

Yahoo Mail: Search, organise, conquer

Planning Department

26 NOV 2024

Cork County Council County Hall