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, Carrigrohane Road, Cork T12 R2NC. Tel (021) 4276891 Email: planninginfo@corkcoco.ie Web: www.corkcoco.ie



Mary Moynihan & Cornelius Healy, Sunnyside, Lower Road, Crosshaven, Co. Cork P43 EP29

14th May, 2025

REF:D/250/25LOCATION:Sunnyside, Lower Road, Crosshaven, Co. Cork P43 EP29

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 25th April, 2025 the Planning Authority, having considered whether the erection of a timber fence and gate on boundary to parking area/fire access point at **Sunnyside**, **Lower Road**, **Crosshaven P43 EP29** is or is not development or is or is not exempted development, has declared that it 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 25th April, 2025
- Sections 2, 3, 4 and 5 of the Planning and Development Act (2000, as amended)
- Class 5, Part 1, Schedule 2 of the Planning and Development Regulations (2001, as amended)
- Article 9 (1) (a) of the Planning and Development Regulations (2001, as amended)

And Whereas the Planning Authority hereby concludes that the proposed development triggers Article 9(1)(a)(ii) and (iii) whereby it would comprise the formation of a means of access to public road, the surfaced carriageway of which exceeds 4m in width and whereby it would endanger public safety by reason of a traffic hazard or obstruction of road users and as such the development shall not be exempted development.

The Planning Authority concludes that the erection of a timber fence and gate on boundary to parking area/fire access point at **Sunnyside, Lower Road, Crosshaven P43 EP29** 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,

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PIO TREACY, A/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

D250/25

Declaration on Exempted Development Under Section 5 of the Planning and Development Act 2000 as amended.

1.0 Introduction

- 1.1 Mary Moynihan and Cornelius Healy have submitted a Section 5 declaration asking whether the erection of a timber fence and gate on boundary to parking area/fire access point at Sunnyside, Lower Road, Crosshaven P43EP29, is or is not development and is or is not exempted development?
- 2.0 Planning History and Policy



2.1 The planning history on the site is as follows:

13/4514

Mary Olive Moynihan was granted planning permission for renovation of existing dwellinghouse consisting of (a) elevational alterations to existing eastern elevation and (b) installation of French doors to access rear stairwell.

- 2.2 The site is located within the development boundary of Crosshaven as identified in the Cork County Development Plan 2022-2028 and is zoned 'Existing Residential/Mixed Residential and Other Uses'. Policy objective ZU 18-9 of the County Development Plan applies. The site is located in a High Value Landscape where policy objectives GI 14-9 and GI 14-10 apply.
- 2.3 It should be noted that the existing property is not a Protected Structure, not on the NIAH, not within an ACA and not within a flood extent zone as identified in the CDP 2022.

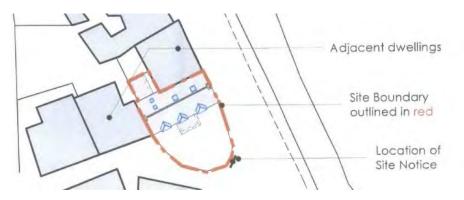
3.0 Relevant Legislation

3.1 According to Section 2(1) of the Planning and Development Act 2000 (as amended), the definition of "Works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

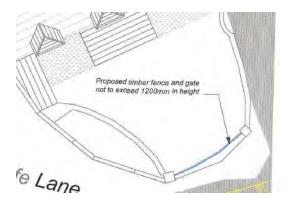
- 3.2 According to Section 3(1) of the Planning and Development Act 2000 (as amended), "Development" means, save where the context otherwise requires, the carrying out of works on, in or under land or the making of any material change in the use of any structures or other land.
- 3.3 Section 4(1)(h) of the Act is "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."
- 3.4 Class 5 of Part 1, Schedule 2 of the Planning and Development Regulations 2001-2024 as amended is particularly relevant.

4.0 Assessment

- 4.1 The application form outlines that the following is proposed:
 - Erection of a timber fence and gate on boundary to parking area/fire access point.
- 4.2 It should be noted that the previous permission relating to this property (ref. no. 13/4514) did not involve any works to the boundary wall. See permitted layout plan below:



- 4.3 This section 5 application proposes development involving the erection of timber fencing and the creation of vehicular access into front garden of the property.
- 4.4 The erection of timber fencing and the installation of a vehicular access is proposed on the southern side of the property. The fence and gate would not exceed 1.2m in height. See proposed drawings and image from Google Streetview below:







Google image view from 2022

- 4.5 The erection of a fence and gate does constitute works and is considered to constitute development, being works on land. The next question is whether it represents exempted development?
- 4.6 Class 5 of Part 1, Schedule 2 of the Planning and Development Regulations 2001-2024 as amended is an exemption for gates/walls/fences etc. It is as follows:

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.	 The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres. Every wall other than a dry or natural stone wall bounding any garden or oth space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered. No such structure shall be a metal
	palisade or other security fence.

- 4.7 Class 5 requires a fence which is forward of the front line of the dwelling to be restricted to 1.2m in height. The proposed fence is stated to be not more than 1.2m. Therefore, meets this requirement. Generally, the proposed fence meets with the conditions/limitations of Class 5, of Part 1, Schedule 2 of the Planning and Development Regulations 2001-2024 as amended. However, it is necessary to examine whether the proposed development would trigger any of the items in article 9(1)(a) of the Planning and Development.
- 4.8 Article 9(1)(a) of the Planning and Development Regulations 2001-2024 as amended, outlines that development to which article 6 relates shall not be exempted development for the purposes of the Act if the carrying out of such development would...(a number of items are listed). I have reviewed same and consider that the proposed development would trigger article 9(1)(a) (ii) and (iii) which are as follows:

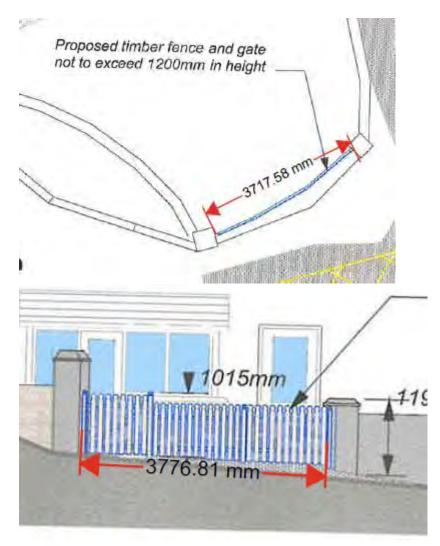
 (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

- 4.9 The proposed gate would comprise the formation of a means of access to public road the surfaced carriageway of which exceeds 4m in width. The width of the road in this area would be over 6m. The proposed development would therefore trigger article 9(1)(a)(ii) of the Planning and Development Regulations 2001-2024 as amended.
- 4.10 It is important to note that this property only ever had a pedestrian gate. The rest of the perimeter consisted of a wall. Part of this wall was demolished circa 2022 and an enforcement file EF22201 refers to the unauthorised creation of an entrance. This file was closed when the opening was blocked up with planters and partial rebuilding. There is a hatched no parking zone immediately adjoining the proposed

entrance and there is bus stop. This property has never had a vehicular access or onsite parking.

- 4.11 This section 5 application was referred to the Area Engineer via email, for comment. He considers it would compromise parking/turning movements outside the property. He would not be in favour of a vehicular access. See report in Appendix 1. The proposed vehicular access would therefore trigger article 9(1)(a) (iii) as it would endanger public safety by reason of a traffic hazard or obstruction of road users.
- 4.12 It should be noted that the drawings submitted do not sufficiently distinguish or differentiate between the 'fence' element and the 'gate' element. Instead, the entire structure is labelled as a fence and gate measuring roughly 3.7m in width. See drawings below. I therefore interpret this as a dual structure (such as a roller gate or similar) which acts as both a fence and a gate. It is just not clear if there is a fence element which is non-moveable and a gate which does move. It has only two identifiable pillars on either side of the proposed structure. Again, I therefore interpret this as the whole structure between the pillars being a gate and fence type structure.



4.13 I therefore conclude that the erection of a timber fence and gate on boundary to parking area/fire access point is development is not exempted development.

Appropriate Assessment

4.14 The subject site is within the screening zone of the Cork Harbour SPA and having regard to the scale of the proposed development, its siting relative to the SPA, coupled with the lack of a hydrological connection between the site and the SPA, it is considered that the subject matters of this application would not be likely to give rise to significant impacts on the Natura 2000 site.

Recommendation

Whereas a question has arisen as to whether the erection of a timber fence and gate on boundary to parking area/fire access point at Sunnyside, Lower Road, Crosshaven P43EP29 is or is not development and is or is not exempted development,

And whereas the Planning Authority has had regard to:

- (a) Sections 2,3,4 and 5 of the Planning and Development Act 2000 as amended,
- (b) Class 5, Part 1, Schedule 2 of the Planning and Development Regulations 2001-2024 as amended,
- (c) Article 9, (1)(a) of the Planning and Development Regulations 2001-2024 as amended,

And whereas the Planning Authority has concluded that:

(a) The proposed development triggers article 9(1)(a)(ii) and (iii) whereby it would comprise the formation of a means of access to public road the surfaced carriageway of which exceeds 4m in width and whereby it would endanger public safety by reason of a traffic hazard or obstruction of road users and as such the development shall not be exempted development,

The Planning Authority concludes that the erection of a timber fence and gate on boundary to parking area/fire access point at Sunnyside, Lower Road, Crosshaven P43EP29 is development and is not exempted development.

Susan Hurley Executive Planner 13/05/2025

Susan Hanley

Appendix 1

RE: sunnyside lower road crosshaven



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					<u>a</u> 1

Susan

I wouldn't be in favour of provision of parking within the site here- it would compromise parking/ turning movements outside the property.

I've no problem with a boundary wall being erected but would be against provision of vehicular access through it.



Alan Cogan A/ Innealfôir Feidhmiùchiain Sinsearach | Oibriochtai Boithre agus Iompair Comhairle Contae Chorcai | Bothar na hEaglaise | Carrig Ui Leighin | P43 YW71 | Èire T +353-(0)21 - 4371800 | alan cogan@corkcoco.ie | www.corkcoco.ie Tairseach na gcustaiméiri: www.yourcouncil.ie

 Alan Cogan
 A/ Senior Executive Engineer | Roads Operations

 Cork County Council | Waterpark House Church Road | Carrigaline | P43 YW71 | Ireland

 T +353-(0)21 - 4371800 |

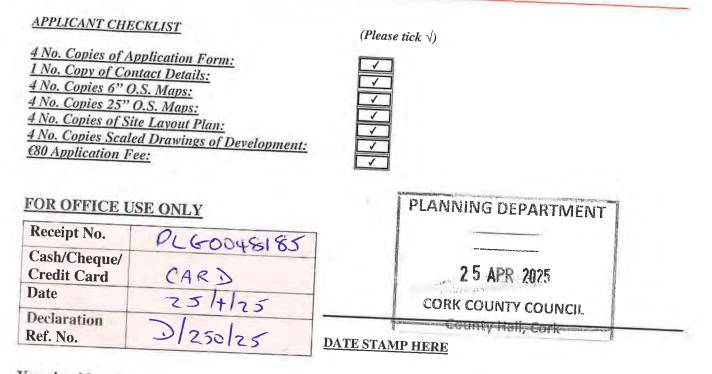
 alan cogan@corkcoco.ie | www.corkcoco.ie

 Customer Portal: www.yourcouncilLie





CORK COUNTY COUNCIL APPLICATION 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 Teagase (detailing how the land reclamation would benefit the land in question for agricultural
 - 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

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.

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

Mary Moynihan and Cornelius Healy

POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION OF 2.

Sunnyside, Lower Road, Crosshaven, Co.Cork P43 EP29

QUESTION/DECLARATION DETAILS: 3.

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

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Frection of a timber fence and gate on boundary to parking area / fir	'e access point.
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	Planning Department
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	COrk.

4. **APPLICATION DETAILS:**

Answer the following if applicable. Note: Floor areas are measured fr walls and should be indicated in square metres (m^2)

(a) Floor area of existing/proposed structure(s)	res (m^2)
): 0
 (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 View No
 (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 V If yes, please state elevalerence function of the state of th
LEGAL INTEREST OF APPLICANT IN TH lease tick appropriate box to show applicant's gal interest in the land or structure:	25 APR 2025 Cork County Council HE LAND/STRUCTURE: County Hall Cork.
our interest in the land/structure, please state	B. Other
you are not the legal owner, please state the me of the owner/s (address to be supplied at destion C in Contact Details):	
PROTECTED STRUCTURE DETAILS / ARC this a Protected Structure/Proposed Protected Structure ucture: Yes No	ure or within the curtilage of a Protected
ves, has a Declaration under Section 57 of the Planni ssued for the property by the Planning Authority es, please state relevant reference No	
his site located within an Architectural Conservation elopment Plan? Yes No	Area (ACA), as designated in the County

7. APPROPRIATE ASSESSMENT:

6.

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

No V

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

	of Exemption application by the plant
\mathbf{J}	of Exemption application by the Planning Authority

I give permission for my personal i. c.	
Signed Signed	rmation to be processed for the purpose stated above
(By Applicant Only)	1 Pose statea above
Date	

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:

- 0
- Ethnic origin
- Political opinions
- 0 Religion
- 0 Philosophical beliefs •
- Trade union membership •
- Genetic data
- 0 Biometric data
- ø Health data
- Concerning a natural person's sex life . ø
- Sexual orientation

Planning Department 25 APR 2025 Cork Courty Council County Hall

Cork.

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.

Signea	$\bigcap a$	F + 5 663366
Date	Olul Mayniher	
Date		
V	24.4.2025	

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.

9.

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 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

- The Planning Authority may require further information to be submitted to enable the authority to issue a decision
- The Planning Authority may request other person(s), other than the applicant; to submit information on the question 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 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.

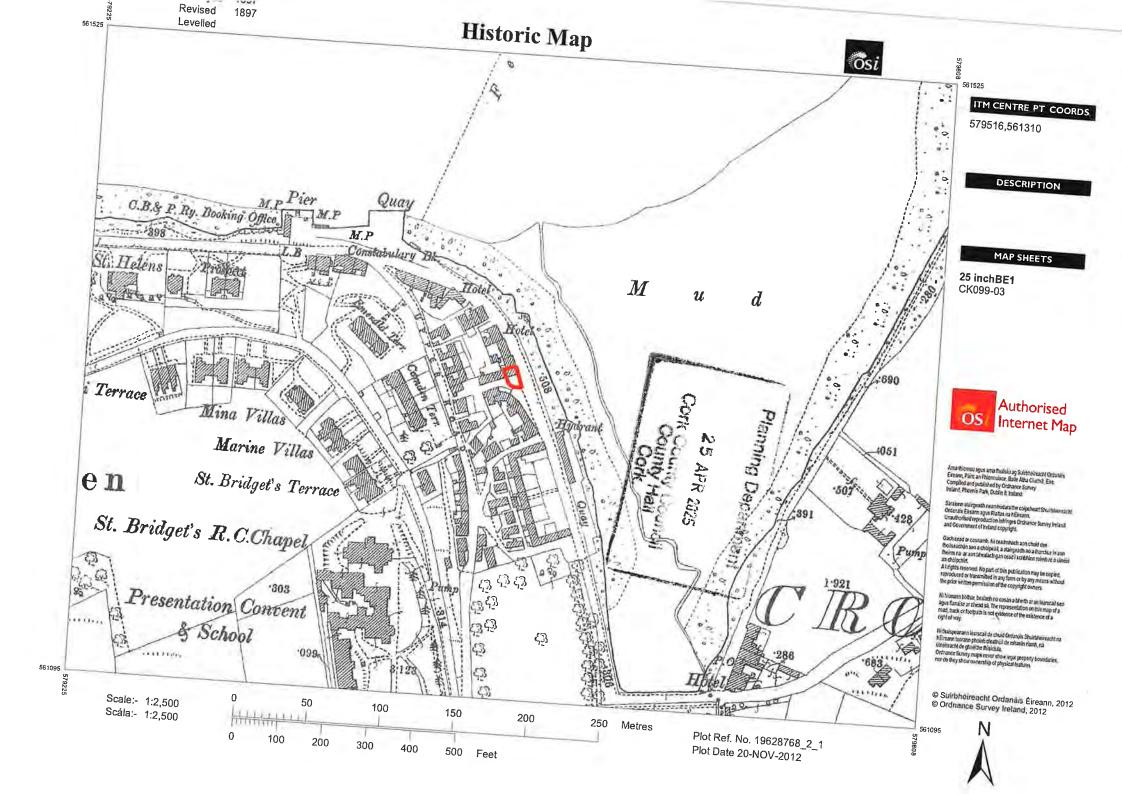
The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be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

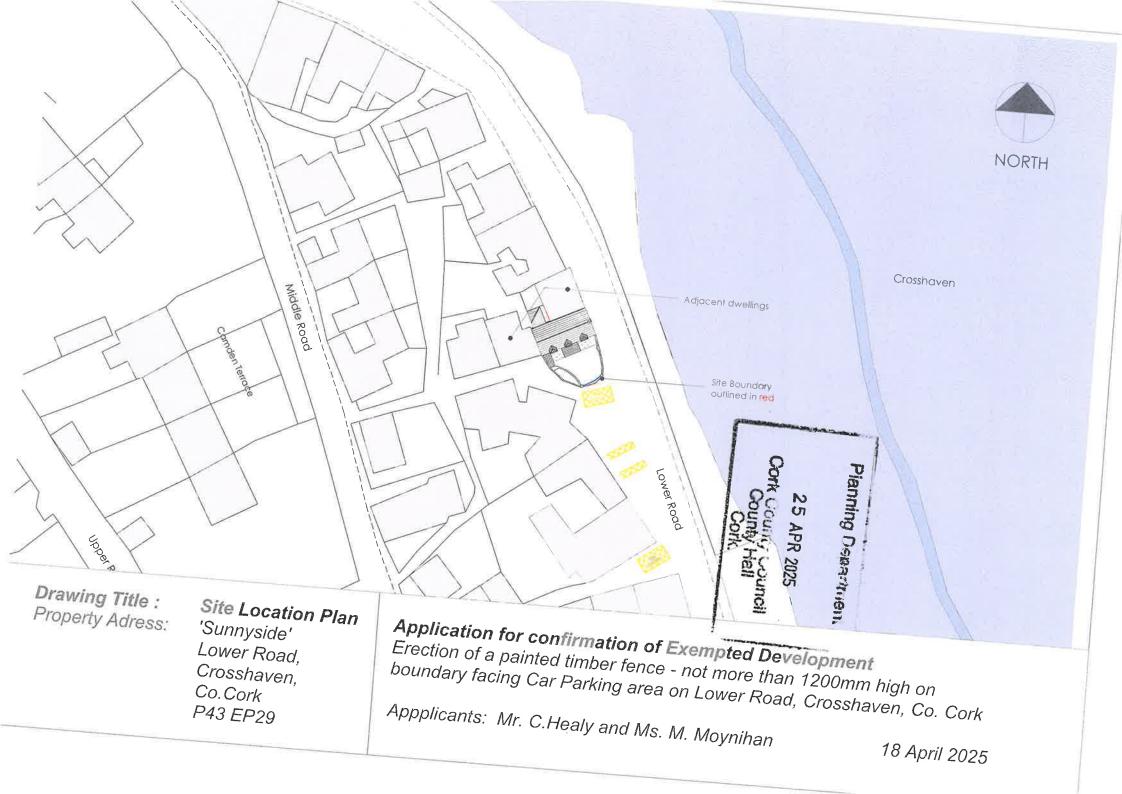
County Hall Cork.

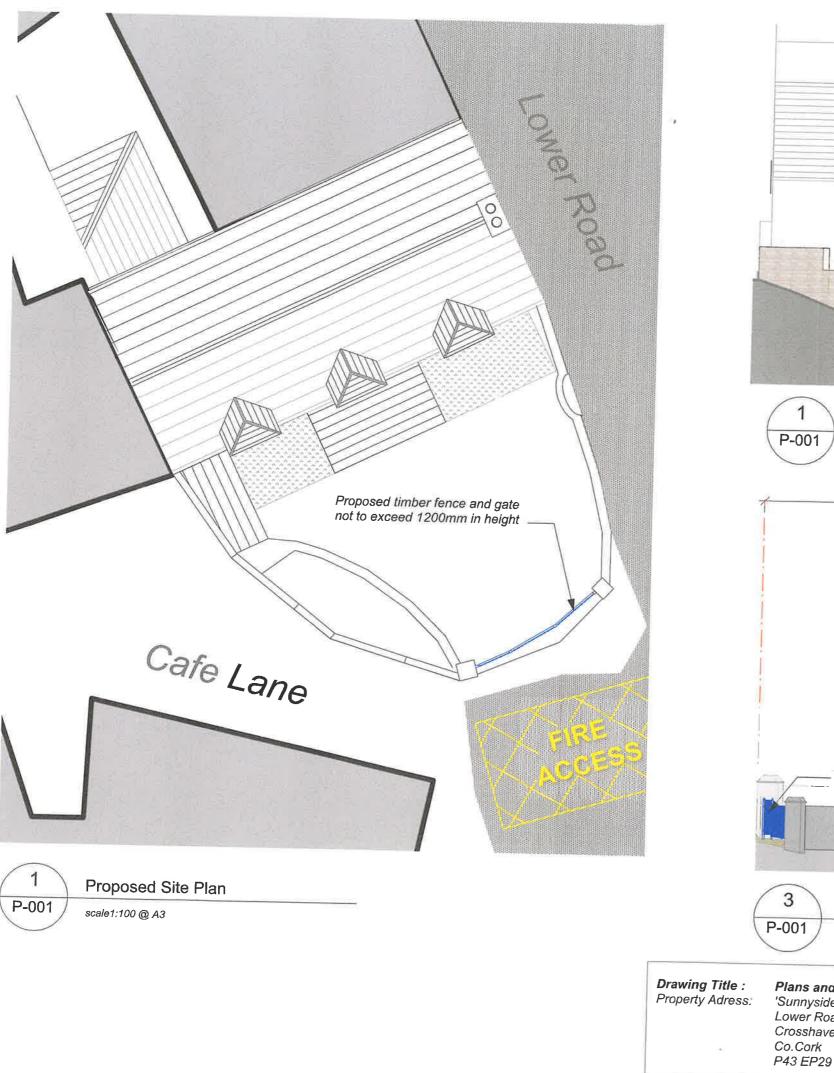
I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the Planning and Development Acts 2000. as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	Olme maynul	
Date	24.4.2025-	Planning Department
		25 APR 2025

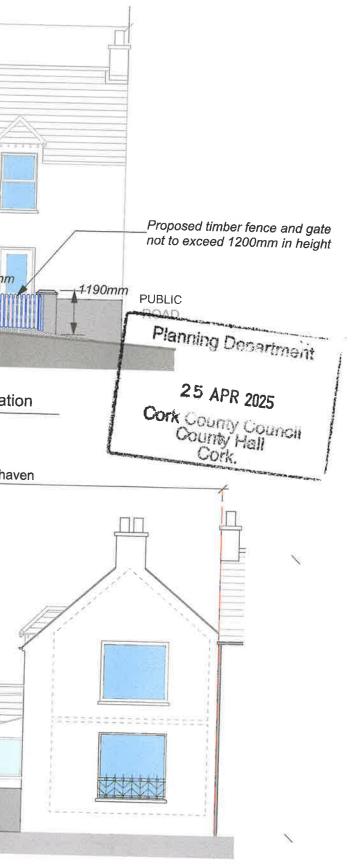








'Sunnyside', Crosshaven ¥1015mm 1190mm PUBLIC Proposed Front (South) Elevation scale1:100 @ A3 'Sunnyside', Crosshaven Proposed timber fence and gate not to exceed 1200mm in height tatatat Proposed Side (East) Elevation scale1:100 @ A3 **Plans and Elevations** Application for confirmation of Exempted Development 'Sunnyside' Lower Road, Erection of a painted timber fence - not more than 1200mm high on boundary facing Car Parking area on Lower Road, Crosshaven, Co. Cork Crosshaven, Appplicants: Mr. C.Healy and Ms. M. Moynihan



18 April 2025