

Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Kate Gaffney,
c/o Harry Walsh,
HW Planning,
5 Joyce House,
Barrack Square,
Ballincollig,
Cork P31 KP84

08/06/2022

**RE: Section 5 Declaration R714/22 Múin Pre-School, The Green
Rooms, Brocklesby Street, Blackpool, Cork T23 ER27**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, I wish to advise as follows:

The Planning Authority, in view of the above and having regard to —

- Sections 2, 3, 4 and 177U of the Planning and Development Act 2000 (as amended), and
- Articles 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended),

it is considered that proposed change of use of land **Is Development** and is **Not Exempted Development** for which retention permission is required.

Is mise le meas,

Kate Magner
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

Planner's Report Ref. R714 / 22	Cork City Council - Culture, Community and Placemaking
Application type	Section 5 Declaration
Description	Whether the use of an existing building permitted as a training centre as a Pre-School at Brocklesby Street, Blackpool, Cork constitutes a material change of use and is or is not development?
Location	Muin Pre-School, The Green Rooms, Brocklesby Street, Blackpool, Cork
Applicant	Kate Gaffney
Agent on behalf of applicant	HW Planning
Decision date	08/06/2022
Recommendation	Is Development and is not Exempted Development

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. Requirements for a Section 5 Declaration

Section 5(1) of the Act states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a Section 5 'Declaration and referral on development and exempted development' are set out in the Act.

2. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

Whether the use of an existing building permitted as a training centre as a Pre-School at Brocklesby Street, Blackpool, Cork constitutes a material change of use and is or is not development?

Application details states:

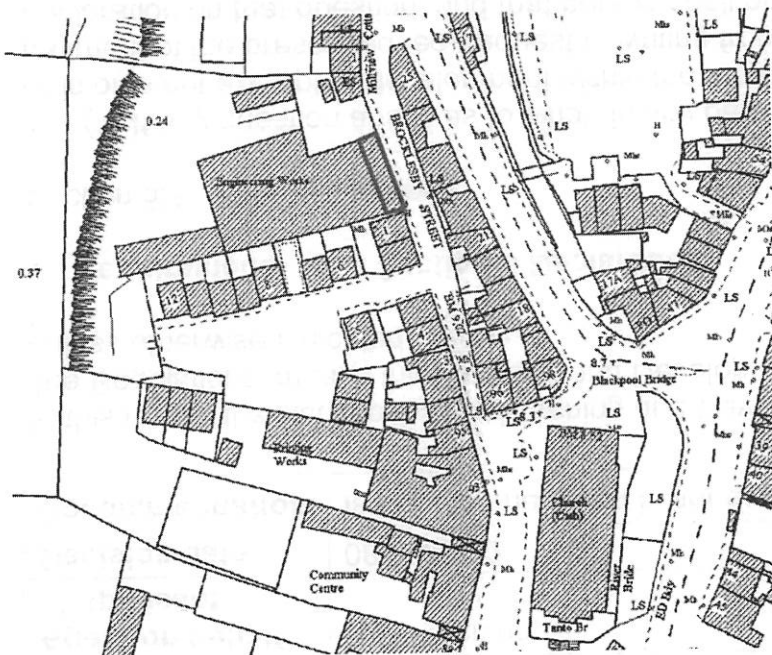
- previous use was 'Training centre (St. Finbarrs Centre for Training and Education), and
- existing use as 'Pre-School (Offering Early Childhood Care and Education)

3. Site Description

The site in question is located on the western side of Brocklesby Street and adjoining the Blackpool Neighbourhood Centre. The land is relatively flat and contains flat roof building currently used for Pre-School. The building immediately adjoins the footpath with remaining site boundary treatment a metal fence. There River Bride (running north to south into River Lee) is located approximately 25m due east of Muin Pre-School. The site falls outside of Zone A and B Flooding. Structures to the rear of the school are associated with scaffolding contracting business.

Muin Pre-School is on land zoned within Cork City Development Plan 2015-2021 as Zoning Objective 4 Residential, Local Services and Institutional Uses. The Cork City Development Plan 2022-2028 (Amendments Stage) zones the land as Sustainable Residential Neighbourhoods. An Area of High Landscape Value is situated adjacent due west of Pre-School.

The red line boundary of the site is a narrow rectangular shape adjoining Brockley Street. However, the Pre-School is thought to be more extensive than this narrow strip. Clarification on this matter shall be requested under further information.



4. Planning History

There are two planning applications associated with the subject site:

On and adjacent to Pre-School

2039048 Permission for the demolition of existing structures and the construction of 42 no. apartments comprising 23 no. one bedroom apartments, 18 no. two bedroom apartments, and 1 no. three bedroom apartment within four blocks, ranging in height from 2-4 storeys including access, landscaping, bin storage, bicycle parking and all associated site development and infrastructure works.

Granted 17/11/20 via ABP-307665-20

9217609 Outline Permission to convert part of industrial buildings into a training centre and to construct four light industrial units
Granted 15/12/92

Note Condition 2(a) states: 'Permission is granted for the use of the existing premises as a Training Centre for trades and skills only. Planning Permission will be required for any other use of the premises.'

Adjoining Pre-School (due west)

0933704 To convert one existing industrial unit into two plus construct 3 no. light industrial units and 2 no. single storey office blocks
Granted 30/09/09

5. Legislative Provisions

5.1 The Act

Section 1 Preliminary and General

F1 Legal acts of the European Union given effect to by this Act.

Section 2(1),

"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.

Section 3(1),

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

Section 4(1),

The following shall be exempted developments for the purposes of this Act—
(l) development consisting of the carrying out of any of the works referred to in the Land Reclamation Act, 1949, not being works comprised in the fencing or enclosure of land which has been open to or used by the public within the ten years preceding the date on which the works are commenced F42 [or works consisting of land reclamation or reclamation of estuarine marsh land and of callows, referred to in section 2 of that Act.]

(Preamble to Land Reclamation Act 1949 – An act to authorise the Minister for Agriculture to carry out land reclamation, field drainage and other works for the improvement of agricultural holdings and to provide for the payment by the occupiers of a contribution towards the cost of those works and for other matters relating to the matters aforesaid.)

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

F40 (4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and 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.

Section 177U (9) (screening for Appropriate Assessment)

In deciding upon a declaration or a referral under Section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a Screening for Appropriate Assessment in accordance with the provisions of this section.

Schedule 2, Part 4 Exempted Development – Classes of Use

“Class 8

Use —

- (a) as a health centre or clinic or for the provision of any medical or health services (but not the use of the house of a consultant or practitioner, or any building attached to the house or within the curtilage thereof, for that purpose),
- (b) as a crèche,
- (c) as a day nursery,
- (d) as a day centre.”

5.2 Planning and Development Regulations

Part 2, Article 5, Exempted Development

‘school’ has the meaning assigned to it by the Education Act 1998.

Education Act 1998, Section 2(1) Interpretation

“school” means an establishment which—

(a) provides primary education to its students and which may also provide early childhood education, or

(b) provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training,

but does not include a school or institution established in accordance with the Children Acts, 1908 to 1989, or a school or institution established or maintained by a health board in accordance with the Health Acts, 1947 to 1996, or the Child Care Act, 1991 ;

Article 6 Exempted Development

Subject to article 9, development 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 8. Works specified in a drainage scheme

Works specified in a drainage scheme confirmed by the Minister for Finance under Part II of the Arterial Drainage Act 1945 (No. 3 of 1945) or the Arterial Drainage (Amendment) Act 1995 (No. 14 of 1995), carried out by, on behalf of, or in partnership

with, the Commissioners, with such additions, omissions, variations and deviations or other works incidental thereto, as may be found necessary by the Commissioners or their agent or partner in the course of the works, shall be exempted development.

(B) Works consisting of field drainage for agriculture, other than drainage and/or reclamation of wetlands, shall be exempted development.

(C) Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.

Article 9. Restrictions on exemption

(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act

(a) if the development would –

(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,

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,

Article 10. Change of use

Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not —

(a) involve the carrying out of any works other than works which are exempted development,

(b) contravene a condition attached to a permission under the Act,

(c) be inconsistent with any use specified or included in such a permission, or

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

132 G. Screening determination of whether request or referral with certain accompanying information relates to development requiring environmental impact assessment.

Schedule 2, Part 1 Exempted Development – General – Class 6

Schedule 5 Part 2 ‘Development for the Purposes of Part 10’

6. Assessment

It should be stated at the outset that the purpose of this report is not to determine the acceptability or otherwise of the proposed development of change of use from training centre to Pre-School education use at this location in respect to the proper planning and sustainable development of the area, but rather whether or not the proposed development falls within the scope of exempted development.

6.1 Development

The first issue for consideration is whether or not the matter at hand is ‘development’.

‘Development’ as defined in the Act (3)(1) comprises two possible chief components: ‘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’. In order to ascertain whether or not the subject use is considered to be development as so defined, consideration must first be given to whether any works on, in, over or under land have or will be carried out, and secondly to whether any material change in the use of any structures or other land have or will take place.

The proposed change of use from training centre for trades and skills only as per permission 92/17609, constitutes development.

6.2 Exempted development

The issue for consideration is whether or not the matter at hand is exempted development.

There are no articles within the Regulations which confirm the proposed development to be exempted development.

The proposed change of use is **not** exempted development as it contravenes condition 2(a) of permission 92/17609, as per, Planning and Development Regulations, Article 10. Change of Use (b) contravene a condition attached to a permission under the Act.

In addition, the red line boundary of the site is a narrow rectangular shape adjoining Brockley Street. It is considered that the red boundary line shown on the block plan appears to be significantly smaller than the land currently used as a creche. The entire area, including outdoor play area, used as a creche is not exempted development and would require retention permission for the change of use from limited training centre use / light industry use to a creche.

7. ENVIRONMENTAL ASSESSMENT

7.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) and Schedule 7 of the Planning and Development Regulations 2001 (as amended) it is considered that the proposed development by reason of its nature, scale and location would not have significant effects on the environment, given the above considerations.

7.2 Screening for Appropriate Assessment

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the Habitats Directive, the Appropriate Assessment Guidelines for Planning Authorities 2009 (revised 2010) and the Act are noted. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058).

The proposed development would not have a significant effect on European sites.

8. Conclusion

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed change of use is development and is **not exempted development** as per Article 10 of the Planning and Development Regulations (as amended).

9. Recommendation

In view of the above and having regard to —

- Sections 2, 3, 4 and 177U of the Planning and Development Act 2000 (as amended), and
- Articles 6, 9 and 10 of the Planning and Development Regulations 2001 (as amended),

it is considered that proposed change of use of land **Is Development** and is **Not Exempted Development** for which retention permission is required.

Kind regards,

Hugh Killen
Executive Planner, Development Management,
Community, Culture and Place-Making, Cork City Council

Bardas Choreai Cork Corporation



CITY HALL
CORK

Tel: 021-966222/966017

Fax: 021-314238

Ref

SCHEDULE OF CONDITIONS ATTACHED
TO PLANNING PERMISSION ISSUED BY CORK
CORPORATION -- REF.: T.P. 17609/92

Column 1. CONDITION

Column 2. REASON FOR CONDITION

- | | |
|---|---|
| <p>1. Permission is recommended in accordance with the further information received on 16th October, 1992, and subject to the conditions attached to this permission.</p> | <p>1. To clarify the documentation on which this permission is granted.</p> |
| <p>2. (a) Permission is granted for the use of the existing premises as a Training Centre for trades and skills only. Planning Permission will be required for any other use of the premises.</p> <p>(b) The use of the proposed three industrial units and the converted industrial units shall be restricted to a Light Industrial Use as defined in Article 9 Part III of the Local Government (Planning & Development) Regulations. The proposed office in the three units shall be ancillary to the proposed development and shall not be used as independent offices.</p> | <p>2. In the interests of proper planning and development of the area.</p> |

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BARDAS CHORCAÍ - CORK CORPORATION
LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS 1963 to 1990
XXXX 1992

NOTIFICATION OF DECISION TO GRANT

OUTLINE PERMISSION / PERMISSION / APPROVAL

SUBJECT TO / WITHOUT CONDITIONS UNDER SECTION 26 OF THE ACT OF 1963

To: Owen Cafferkey Ltd.,
... o/o P.A. Cashman & Associates.,
... Kilteskin, Aghada,
... Middleton, Co. Cork.

Reference No. in
Planning Register T.P ... 17,609/92
03.07.1992
Application Further Info. reqd. 01.09.92
Received: Further Info. recd. 16.10.92

In pursuance of the powers conferred upon them by the above-mentioned Act, the Cork Corporation have
by order dated 15/12/92 decided to grant

OUTLINE PERMISSION / PERMISSION / APPROVAL

for the development of land, namely:- Convert part of industrial buildings into a training centre and to construct four light industrial units at Brocklesby Street, Commons Road, Cork.

In accordance with plans and particulars submitted on 03.07.1992, further information requested 01.09.1992, further information received 16.10.1992.

Subject to the conditions set out in Column 1 of attached Schedule, the reasons for the imposition of such conditions are set out in Column 2 of said Schedule.

If there is no appeal against the said decision, a grant of

OUTLINE PERMISSION / PERMISSION / APPROVAL

in accordance with the decision will be issued after the expiration of the period within which an appeal may be made to An Bórd Pleanála (see footnote).

It should be noted that until a grant of

OUTLINE PERMISSION / PERMISSION / APPROVAL

has been issued the development in question is NOT AUTHORISED.

N.B.-This permission is subject to

11 No. condition(s)

Signed on behalf of the Corporation of Cork

Date: 15/12/92

Staff Officer, Planning Department

NOTE 1: An appeal against a decision of a planning authority under Section 26 of the Act of 1963 may be made to An Bórd Pleanála. An appeal shall be made in writing and shall state the subject matter of the appeal and the grounds of the appeal. An appeal by the applicant for permission should be accompanied by this form. In the case of an appeal by any other person, the name of the applicant, particulars of the proposed development and the date of the decision of the planning authority should be stated.

A fee of must accompany each appeal to An Bórd Pleanála. Submission Fee £

The applicant for permission may appeal within one month beginning on the day of receipt by him of the decision. Any other person may appeal within three weeks beginning on the date of the decision.

Appeals should be addressed to: An Bórd Pleanála, Floor 3, Block VI and VII, Irish Life Centre, Lr. Abbey Street, Dublin 1.

NOTE 2: Grant of permission under the Local Government (Planning & Development) Act, 1963, is not to be taken as a waiver of the provisions of any Building Bye-Laws, Local Act, Order, Regulation or any other Statutory Provision in force in the Cork County Borough. Approval under the Corporation's Bye-Laws should also be obtained in addition to the Planning Permission.

NOTE 3: N.B. PLEASE SEE OVERLEAF

PTO/.....

Bardas Chereaf Cork Corporation



CITY HALL
CORK

Tel: 021-966222/966017

Fax: 021-314238

Ref TP 17609/92

(2)

Column 1. CONDITION

Column 2. REASON FOR CONDITION

- | | |
|---|---|
| 3. Prior to the commencement of use of the proposed three units, full details of any sub-division and specific intended industrial process (to include details of all emissions, noise levels and effluent to be carried on in each/entire industrial unit(s) shall be submitted to and agreed with the Planning Authority. | 3. To ensure control of atmospheric emissions, noise and effluent associated with the proposed process(es) in the interests of the amenities of the area. |
| 4. Full details of all external colours and textures shall be submitted to and agreed with the Planning Authority prior to the commencement of development. | 4. In the interests of the visual amenities of the area. |
| 5. Full details of all signs shall be submitted to and agreed with the Planning Authority prior to the commencement of development. | 5. In the interests of the visual amenities of the area. |
| 6. Prior to the commencement of development, the following roads details shall be submitted:-

(a) A vehicle turning area to comply with An Foras Forbartha standards. | 6. In the interests of safety of pedestrians and road users. |

Bardas Choreaí Cork Corporation



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Ref TP 17609/92

(3)

Column 1. CONDITION

Column 2. REASON FOR CONDITION

6. Cont/d.

- (b) Details of a service area/
bay shall be submitted.
- (c) Full details of all
existing boundaries, to
include the making good
of existing boundaries
shall be submitted.
This work shall be
carried out to the
satisfaction of the
Planning Authority.
- (d) A longitudinal section to
facilitate surface water
drainage shall be
submitted. The minimum
longitudinal gradient
shall be 0.5%. Full
cross sectional details
shall be submitted.
- (e) A revised gulley layout
shall be submitted.
- (f) Full details of a public
lighting layout, for site
entrance area in particular
shall be submitted. This
layout shall include a
specification to comply with
the E.S.B. standards.
- (g) All works shall be carried
out to the Planning Authority's
~~schedule of minimum~~
requirements.
- (h) All works required to the
public road or footpath
fronting the development
at the entrance site, shall
be carried out by Cork
Corporation at the
applicant's expense.

Bardas Chereaf Cork Corporation



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Ref TP 17609/92

(4)

Column 1. CONDITION

Column 2. REASON FOR CONDITION

6. Cont/d.

Full details to comply with (a), (b), (c), (d), (e) and (f) above shall be submitted to and agreed with the Planning Authority prior to the commencement of development.

7. (a) A waste storage area shall be provided within the curtilage of the site to service each unit. A waste bin of 1.1 cubic metres minimum capacity shall be provided to service each outlet.

7. In the interests of residential amenity.

(b) Full details of all industrial processes and wastes arising and any changes thereof shall be submitted.

(c) Full details of all materials to be stored on the outline premises shall be submitted.

(d) Toxic or hazardous wastes shall not be presented for Cork Corporation refuse collection service. Full details of disposal of such wastes shall be submitted.

Full details to comply with (a), (b), (c) and (d) shall be submitted to and agreed with the Planning Authority prior to the commencement of development.

Bardas Chereai Cork Corporation



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Ref TP 17609/92

(5)

Column 1. CONDITION

Column 2. REASON FOR CONDITION

Prior to commencement of development the developer shall pay a contribution to Cork Corporation towards the cost of drainage works which facilitate the proposed development. The present value of the contribution is £3103.42. The amount payable will be determined by the Consumer Price Index prevailing at the date of payment subject to:-

8. The Cork Drainage Works will facilitate the proposed development.

- (a) Where the proposed works are not commenced within seven years of completion of the development, the Planning Authority shall return the contribution.
- (b) Where the proposed works are within the said period, carried out in part only or in such manner as to facilitate the development to a lesser extent, the Planning Authority shall return a proportionate part of the contribution.
- (c) The Planning Authority shall pay interest on the contribution as long as and in so far as it is retained unexpended by the Local Authority.

(d) A varied 100mm cement mortar lined ductile iron main shall be branched from the 6" diameter Cork Corporation watermain on Brocklesby Street and installed as shown on Drawing No. D03-91.40 received by the Planning Authority on 3rd July, 1992.

9. In the interests of providing a proper water supply and of public

Bardas Chereai Cork Corporation



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CORK

Tel: 021-966222/966017

Fax: 021-314238

Ref TP 17609/92

(6)

Column 1. CONDITION

Column 2. REASON FOR CONDITION

9. Cont/d.

- (b) Hydrants shall be installed at the entrance to the proposed development, at Unit No. 5 and Unit No. 3
- (c) All redundant services shall be traced back to the stub on the public main and blanked off at the developers expense.

10. A landscaping plan and schedule shall be submitted to and agreed with the Planning Authority prior to commencement of development. The specified planting shall be carried out in the planting season coinciding with or following development. The following aims and strategy shall underlie the required plan:-

- (a) To clothe the precipitous east facing slope along the western boundary in ground cover plants and trees of pioneering and/or nitrogen fixing characteristics capable of stabilising the sloping ground.
- (b) To underplant boundary walls, rock outcrops and, where conditions permit, external walls of buildings with climbing plants of species requiring minimum maintenance.

10. In the interests of amenities and slope stabilisation, and to co-ordinate development with enhancement of greenery.

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Fax: 021 - 314238

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CORK

TP 17609/92

Ref

(7)

Column 1. CONDITION

Column 2. REASON FOR CONDITION

10. Cont/d,

(c) To divest existing trees on the western boundary (on the summit of the slope) of massive envelopes of ivy.

(d) To absorb any space not required for circulation or car parking in greenery using species of easy establishment and low maintenance.

11. Units 1-5 inclusive as indicated on the drawings received on 16th October, 1992, shall be open for business solely between the hours of 7.30 a.m. to 8.00 p.m., Mondays to Saturdays inclusive. There shall be no on-site vehicular activity associated with the units referred to in this condition outside of the hours stated.

11. In the interests of the amenities of existing and prospective residents in the adjoining area which may be adversely affected by on-site activity at unsocial hours.

**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

Strategic Planning & Economic Development Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie
Fón/Tel: 021-4924564/4321
Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

Múin Pre-School, The Green Rooms, Brocklesby Street, Blackpool, Cork. T23 ER27.

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question: *Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?*

Note: only works listed and described under this section will be assessed under the section 5 declaration.

Whether the use of an existing building permitted as a training centre as a Pre-School at Brocklesby Street, Blackpool, Cork constitutes a material change of use and is or is not development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

See enclosed Section 5 request statement and associated plans and particulars.

DEVELOPMENT MANAGEMENT
CCP
13 MAY 2022
CORK CITY COUNCIL

3. 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 meters (sq. M)

(a) Floor area of existing/proposed structure/s	N/A
(b) If a domestic extension, 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 <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) N/A _____
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing <u>previous use</u> (please circle) ----- Training centre (St. Finbarrs Centre for ----- Training and Education).-----	Proposed <u>existing use</u> (please circle) ----- Pre-School (Offering Early Childhood Care ----- and Education).-----

4. APPLICANT/ CONTACT DETAILS


Name of applicant (principal, not agent):		Kate Gaffney	
Applicants Address	Múin Pre-School, The Green Rooms, Brocklesby Street, Blackpool, Cork. T23 ER27		
Person/Agent acting on behalf of the Applicant (if any):	Name:	Harry Walsh	
	Address:	HW Planning 5 Joyce House, Barrack Square, Ballincollig, Cork P31 KP84	
	Telephone:	[REDACTED]	
	Fax:	-	
	E-mail address:	[REDACTED]	
Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

5. LEGAL INTEREST

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 in question	N/A
If you are not the legal owner, please state the name and address of the owner if available	N/A

6. I / We confirm that the information contained in the application is true and accurate:

Signature: 

Date: 12/05/2022

.....
ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should 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 Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- 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 is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration 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 was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration 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.

DATA PROTECTION

The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution

12 May 2022

The Development Management Section
Strategic Planning & Economic
Development Directorate
Cork City Council
City Hall
Anglesea Street
Cork.

HW Planning
5 Joyce House,
Barrack Square,
Ballincollig,
Cork
P31 KP84

www.hwplanning.ie
info@hwplanning.ie
+353 (0)21 487 3250

Directors:
Harold Walsh
Conor Frehill

Company Reg. No.
486211

Re: Request for Declaration under Section 5 of the Planning and Development Act 2000 on whether the use of an existing building permitted as a training centre as a Pre-School at Brocklesby Street, Blackpool, Cork constitutes a material change of use and is or is not development.

Dear Sir/Madam,

We act on behalf of Kate Gaffney of Múin Pre-School, The Green Rooms, Brocklesby Street, Blackpool, Cork who requests a declaration from Cork City Council on whether the use of an existing building permitted as a training centre as a Pre-School at Brocklesby Street, Blackpool, Cork constitutes a material change of use and is or is not development. The following plans and particulars accompany this request:

- 4 no. copies of completed Application Form
- 4 no. copies of this Covering Letter
- 4 no. copies of site location map prepared by HW Planning
- Statutory fee of €80

Legislative Context

Planning and Development Act 2000 (as amended)

Section 3 of the Planning and Development Act 2000 defines development as:

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.

Planning and Development Regulations, 2001 (as amended)

Schedule 2, Part 2 Article 5 (1) of the Planning and Development Regulations 2001 establishes interpretations for this Part. School is defined as follows:



“school’ has the meaning assigned to it by the Education Act 1998”

Education Act 1998

Under Section 2 (1), ‘school’ is defined as:

“... an establishment which -

(a) provides primary education to its students and which may also provide early childhood education, or

(b) provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training ...”

Definition of Permitted Use

The use of the subject site as a training centre was permitted under planning reference T.P. 17609/92 when permission was granted for the conversion of an existing industrial building site into a training centre at Brocklesby Street, Commons Road, Cork. The training centre operated as St. Finbarrs Centre for Training and Education providing post-primary education to its students for several years, and was a Designated Centre for Education under the Education Act 1998¹.

In 2016, Múin Pre-School occupied the subject site and began operating as a Pre-School which offers Early Childhood Care and Education (ECCE). Múin Pre-School is registered by Tusla, a dedicated State Agency responsible for improving well-being and outcomes for children (Tusla I.D. TU2016CC502).

Assessment

We consider that the change of use from a training centre to a pre-school is not a material change of use and is not development. Both the permitted and established use, and the current use of the subject site meet the definition of a “school” as defined under the Education Act 1998.

- St. Finbarrs Centre for Training and Education offered post primary education to its students, satisfying Section 2 (1)(b) of the Education Act 1998.
- The current use of the subject site as a Pre-School provides primary education to its students which are in early childhood, satisfying Section 2 (1)(a) of the Education Act 1998.

As the Pre-School use is consistent with the established and permitted use of the existing structure as a school, we do not consider that a material change of use has occurred and that it is not development.

¹ In a Circular Letter dated 20th September 2004, the then Minister for Education and Science distributed a list of designated Centres for Education. St. Finbarr’s Training Centre at Brocklesby Street, the previous occupiers of the Múin Pre-School site, is one of the 128 centres listed, confirming the use of the subject site as a school. A copy of this Circular has been included under Appendix A.

Conclusion

Having regard to:

- The established and permitted use of the existing structure as a school
- The definition of a school by Article 5 of the Planning and Development Regulations 2001, and under the Education Act 1998

We consider that the current use of the existing building at the subject site as a Pre-School does not constitute development as a material change of use has not occurred and planning permission is not required.

Please do not hesitate to contact us if you have any queries.

Yours Sincerely



Harry Walsh
HW Planning



**Appendix A - Designation of Centres for Education under Education Act, 1998
(Circular Letter No. F49/04)**

Brainse an Iarbhunoideachais
An Rionn Oideachais agus Eolaíochta,
Bóthar Phort Iaoise,
An Tulach Mhór,
Co. Uíbh Fhailí
Fón: 0506-21363



Post Primary Administration
Department of Education and Science
Portlaoise Road,
Tullamore,
Co. Offaly
Phone: 0506-21363

Chief Executive Officer
of the Vocational Education Committee
named in the address.

20th September, 2004.

Circular Letter No. F49/04

Designation of Centres for Education under Education Act, 1998

Dear Chief Executive Officer,

The Minister for Education and Science, in exercise of the power conferred on him under section 10(4) of the Education Act 1998 (No. 51 of 1998), has designated the places specified in the Schedule to this Circular Letter to be Centres for Education. This Circular Letter has been published on the Web and may be accessed at www.education.ie.

This Circular Letter should be circulated in the normal way.

Any queries regarding the implementation of this Circular Letter should be addressed to the undersigned or Jerome Kelly in Tullamore. (Tel: 0506-24336, Fax: 0506-25347).

Matt Ryan
Principal Officer

**SCHEDULE
CENTRES FOR EDUCATION**

St.Catherine's Training Centre, Cox's Lane, Co. Carlow.	St. Joseph's Training Centre, Gort Road Industrial Estate, Ennis, Co. Clare.
St. Finbarr's Training Centre, Archville Industrial Estate, Brocklesby Street, Blackpool, Co. Cork.	St. Fiachra's Training Centre, Kilmacrennan Road, Letterkenny, Co. Donegal.
St. Joseph's Training Centre, Barry Road, Finglas, Dublin 11.	Cara Park Training Centre, Belcamp Lane, Coolock, Dublin 17.
St. Oliver's Training Centre, Cloverhill Road, Clondalkin, Dublin 22.	St. Basil's Training Centre, Greenhill's Road, Tallaght, Dublin 24.
Sandy Road Training Centre, Sandy Road, Galway.	Madonna House Training Centre, Harbour Road, Ballinasloe, Co. Galway.
Ballygar Adult Training Centre, Town Hall, Ballygar, Co. Galway.	St. Brendan's Training Centre, Abbey Street, Loughrea, Co. Galway.
St. Benin's Training Centre, Weir Road, Tuam, Co. Galway.	St. Anne's Senior Education Centre, Unit 3, IDA Industrial Estate, Ballyspillane, Killarney, Co. Kerry.

North Kerry Programme, An Tochar Adult Education Centre, Causeway, Co. Kerry.	St. Canice's Training Centre, Knockmay Industrial Estate, Portlaoise, Co. Laois.
St. Joseph's Training Centre, Dublin Road, Carrick-on-Shannon, Co. Leitrim.	Fealeside Training Centre, 3 Mountmahon Industrial Estate, Abbeyfeale, Co. Limerick.
Riverside Workshop, Industrial Estate, Rathkeale, Co. Limerick.	St. Mel's Training Centre, Battery Road, Co. Longford.
Tara Workshop, Old Boy's Technical School, Chapel Street, Dundalk, Co. Louth.	St. Catherine's Training Centre, Convent of Mercy, Ballina, Co. Mayo.
St Catherine's Training Centre Parish Centre Ballinrobe Co Mayo	St Catherine's Training Centre Tooraree Ballyhaunis Co Mayo
Navan Travellers Training Centre Adult Education Centre, Abbey Road, Navan, Co. Meath.	Birr Traveller Training Centre, Syngesfield Industrial Estate, Syngesfield, Kinnity Road, Birr, Co. Offaly.
St. Colmcille's Travellers Training Centre, Riverside, Tullamore, Co. Offaly.	Roscommon Education and Development Centre, Lisnamult, Co. Roscommon.
Youth Development Project, Frank Dwan Training Centre, Stradavoher, Thurles, Co. Tipperary.	Shannon Bank Training Centre, Weirside, The Docks, Athlone, Co. Westmeath.
Mullingar Senior Traveller Training Centre, Social Services Centre, Bishopsgate Street, Mullingar, Co. Westmeath.	Ross Youth Training Centre, Education and Training Centre, Irishtown, New Ross, Co. Wexford.

<p>Our Lady's Traveller Training & Education Centre IDA Industrial Estate Quartern town Lower Mallow Cork</p>	<p>Youth Support & Training Centre Unit 5, Oakfield, Clondalkin, Dublin 22.</p>
<p>St. Kieran's Education Centre, Old Connaught Avenue, Bray, Co. Wicklow.</p>	<p>Centre of Education and Resourcing Travellers, Crininon Park, Wicklow Town, Co. Wicklow.</p>
<p><i>Youthreach Centre, Moynehall, Ballinagh Road, Cavan.</i></p>	<p><i>Youthreach Centre, Community Centre, Kingscourt, Cavan.</i></p>
<p><i>Youthreach Centre, Market Street Cootehill, Cavan.</i></p>	<p><i>St Anthony's Traveller Training Centre Northgate St Athlone Co Westmeath.</i></p>
<p><i>Youthreach Centre, Unit D.6, Smithstown Industrial Estate, Shannon, Co. Clare.</i></p>	<p><i>Youthreach Centre, Old Vocational School, Miltown Malbay, Co. Clare.</i></p>
<p><i>Youthreach Adult Learning Centre, Cooraclare Road, Kilrush, Co. Clare.</i></p>	<p><i>Youthreach Ballyminogue, Scariff, Co. Clare.</i></p>
<p><i>Youthreach, Teach Barra, Dean Street, Cork City.</i></p>	<p><i>Youthreach Adult Education Centre, Clonroad Business Park, Clonroad, Ennis, Co Clare.</i></p>

<p>Youthreach, 19 Comeragh Park, The Glen, Cork City.</p>	<p>Youthreach, C/o Terence Mc Swiney C.C., Knocknaheeny, Cork City.</p>
<p>Youthreach, St. Francis Training Centre, 16 Fr. Matthew Street, Cork City.</p>	<p>Youthreach, Synergy Training Centre, Ballyellis, Mallow, Co. Cork.</p>
<p>Youthreach, Youthreach Centre, College Road, Fermoy, Co. Cork.</p>	<p>Youthreach, Unit 4-5 Great Island Business Park, Inishmore, Ballincollig, Co. Cork</p>
<p>Youthreach, Seafield Business Park, Youghal, Co.Cork.</p>	<p>Youthreach, YMCA STEPS programme, Unit 2b, Rosewood, Ballincollig, Co. Cork.</p>
<p>Bandon Youthreach, Station Road, Bandon, Co. Cork.</p>	<p>Bantry Youthreach, Lahadane, Bantry, Co. Cork.</p>
<p>Macroom Youthreach, Mill Street Road, Macroom, Co. Cork.</p>	<p>Youthreach, Adult Education Centre, Gort a Choirce, Letterkenny, Co. Donegal.</p>

<p>Youthreach <i>St. Fiachra's Training Centre, Kilmacrennan Road, Letterkenny, Co. Donegal.</i></p>	<p>Youthreach <i>Adult Education Centre College St. Ballyshannon Co. Donegal.</i></p>
<p>Youthreach, <i>Adult Education & Training Centre, Shore Road, Buncrana, Co. Donegal.</i></p>	<p>Youthreach, <i>Bethany House, Coneyburrow Road, Lifford, Co. Donegal.</i></p>
<p><i>Bonnybrook Youthreach, Bunratty Drive, Coolock, Dublin 17.</i></p>	<p>Youthreach, <i>CDVEC Training Centre, 16 Pleasants Street, Dublin 8.</i></p>
<p>Youthreach, <i>20 North Great Georges Street, Dublin 1.</i></p>	<p>Youthreach, <i>Old Secondary School, Basin Lane Upper, Dublin 8.</i></p>
<p>Youthreach <i>Sherrard Street Dublin 1.</i></p>	<p>Youthreach <i>North Street, Swords, Co. Dublin.</i></p>
<p>Youthreach <i>Brace Centre, Main Street, Blanchardstown, Dublin 15.</i></p>	<p>Youthreach <i>Erin House Airglorney, Ballygaddy Road, Tuam, Co. Galway.</i></p>
<p>Youthreach <i>142 Harmonstown Road, Artane, Dublin 5.</i></p>	<p>Youthreach <i>49 Rossmore Avenue, Ballyfermot , Dublin 10.</i></p>

<p><i>Youthreach Transition Centre, 34 Dominick Place, Dublin 1.</i></p>	<p><i>Ballymun Youthreach, Shangan Road, Dublin 9.</i></p>
<p><i>Youthreach Centre, Old Vocational School Monastery Road, Clondalkin, Dublin 22.</i></p>	<p><i>Youthreach Youth Support & Training Unit, Unit 5, Oakfield, Clondalkin, Dublin 22.</i></p>
<p><i>Youthreach Sacred Heart National School, Killinarden, Tallaght, Dublin 24.</i></p>	<p><i>Youthreach Convent Lane, Rush, Co. Dublin.</i></p>
	<p><i>Youthreach c/o L.I.F.E Centre Esker Hill, Lucan, Co. Dublin.</i></p>
<p><i>Youthreach Mountain View House, Meadow Park Avenue, Rathfarnham, Dublin 14.</i></p>	<p><i>Youthreach St. Joseph's, Pearse Park, Sallynoggin, Co. Dublin.</i></p>
<p><i>Youthreach Piscatory School, Claddagh Quay, Galway.</i></p>	<p><i>Youthreach, c/o Connemara West, Letterfrack Education Centre, Letterfrack, Co. Galway.</i></p>

<p>Youthreach Centre, Cullen's Yard , Main Street, Ballinasloe, Co. Galway.</p>	<p>Youthreach Youthreach Centre, Leitir Móir, Conamara Co.na Gaillimhe.</p>
<p>Youthreach KDYS, Denny Street, Tralee, Co. Kerry.</p>	<p>Youthreach LCA, Tralee Youth Centre, Denny Street, Tralee, Co. Kerry.</p>
<p>Youthreach The Youth Centre Office, Upper Church Street, Listowel, Co. Kerry.</p>	<p>Youthreach KDYS, Fair Hill, Killarney, Co. Kerry.</p>
<p>Youthreach The Lodge , Killorglin Adult Learning Centre, Market Street, Killorglin, Co. Kerry.</p>	<p>Youthreach Centre, Mill Lane, Leixlip, Co. Kildare.</p>
<p>Youthreach Old Model School, 2 Model Court, Athy, Co. Kildare.</p>	<p>Youthreach Centre, Desart Hall, New Street, Co. Kilkenny.</p>
<p>Laois Youthreach, Harbour Street, Mountmellick, Co. Laois.</p>	<p>Youthreach Centre, MTI, O'Connell Avenue, Co. Limerick.</p>

<p>Youthreach Shanagolden Education Resource Centre, Shanagolden, Co.Limerick.</p>	<p>Youthreach Centre, Main Street Hospital, Co. Limerick.</p>
<p>Youthreach Centre, Upper Main Street, Ballymahon, Co. Longford.</p>	<p>Youthreach Centre, Granard, Co. Longford.</p>
<p>Youthreach Centre, Former Boys Technical School, Chapel Street, Dundalk, Co. Louth.</p>	<p>Youthreach Centre, Further Education Centre, Enterprise Centre, The Murrough, Co. Wicklow.</p>
<p>Youthreach Centre, King Street, Drogheda, Co. Louth.</p>	<p>Youthreach Centre, Old Vocational School, Neale Road, Ballinrobe, Co. Mayo.</p>
<p>Youthreach Further Education Centre, Cathedral Road, Ballina, Co.Mayo.</p>	<p>Youthreach Centre, Ball Road, Kiltimagh, Co. Mayo.</p>
<p>Youthreach Co. Meath VEC, Abbey Road, Navan, Co. Meath.</p>	<p>Youthreach Progression Centre, Hi-W@y Café, 2-3 Brews Hill, Navan, Co. Meath.</p>

<p>Youthreach Progression Centre, 29 Trimgate Street, Navan , Co. Meath.</p>	<p>Youthreach Unit 140, Ashbourne Industrial Estate, Ashbourne, Co. Meath.</p>
<p>Youthreach Programme, Bective Street, Kells, Co. Meath.</p>	<p>Youthreach Old Vocational School New Haggard Road Trim.</p>
<p>Youthreach VEC Training Centre, IDA Industrial Estate, Knocknacorry, Co. Monaghan.</p>	<p>Youthreach Mahon Training Centre, Moraghy, Castleblaney Co. Monaghan.</p>
<p>Youthreach Centre, St. Mary's Road, Edenderry, Co. Offaly.</p>	<p>Youthreach Centre, Church Street, Clara, Co. Offaly.</p>
<p>Youthreach Centre, Old Vocational School, Ballaghaderreen, Co. Roscommon.</p>	<p>Youthreach Centre, St. Anne's, Co. Sligo.</p>
<p>Youthreach Centre, St. Cronan's Temperance Hall, Glebe Road, Roscrea, Co. Tipperary.</p>	<p>Youthreach Progression Project, Ceim Eile, St. Sheelan's College, Templemore, Co. Tipperary.</p>

<p><i>Youthreach Centre, Station Road, Tipperary Town, Co. Tipperary.</i></p>	<p><i>Youthreach Centre, 66 O'Connell Street, Waterford City, Co. Waterford.</i></p>
<p><i>Youthreach Centre, Mitchell Street, Dungarven, Co. Waterford.</i></p>	<p><i>Youthreach Centre, The Court House, Main Street, Delvin, Co. Westmeath.</i></p>
<p><i>Youthreach Centre, Keelogue Institute, Barn Town, Co. Wexford.</i></p>	<p><i>Youthreach Centre, Co. Wexford VEC, 8 Castle Street, Enniscorthy, Co. Wexford.</i></p>
<p><i>Youthreach Centre, Education and Training Centre, Irishtown, New Ross, Co. Wexford.</i></p>	<p><i>Youthreach Centre, Sunbeam House, Vevay Road, Bray, Co. Wicklow.</i></p>
<p><i>Youthreach Centre, 1 A Wexford Road, Arklow, Co. Wicklow.</i></p>	



DEVELOPMENT MANAGEMENT
CCP
13 MAY 2022
CORK CITY COUNCIL



Legend
 Subject Site

Figure Title
 Site Location Map
 1:1,000 @ A3

Map Series & Sheet No.
 1:2,500 | 6337-D

Map Projection & Centroid
 ITM 167395, 073366

Project
 Section 5 Request:
 Múin Pre-School, The Green Rooms,
 Brockelsby Street, Blackpool, Cork.

Scale
 A3: 1:1,000

Date
 12/05/2022

HWP Connecting people. Connecting places.
 hw planning