



Comhairle Cathrach Chorcaí Cork City Council

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

Sinead Brooks,
Step One Preschool,
Scoil Barra Naofa Cailíní,
Beaumont,
Blackrock,
Cork T12EK77.

01/02/2023

**RE: Section 5 Declaration R756/22 Scoil Barra Naofa Cailíní,
Beaumont, Blackrock, Cork**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 30th December 2022, I wish to advise as follows:

The Planning Authority, in considering this referral, had regard particularly to:

- a) Section 3(1) of the Planning and Development Act 2000 (as amended), and
- b) Articles 5(i) of the Planning and Development Regulations 2001 (as amended), in relation to the definition of a school

The Planning Authority has concluded that –

- a) the established use of site is educational and a primary school
- b) the use of a school classroom as a pre-school is a change of use
- c) having regard to the nature and scale of the pre-school which operates from 1 no classroom in the Girls School and the nature and scale of the primary schools within the site, it is considered that there are no material impacts arising and there is no material change of use
- d) having regard to the nature and scale of the pre-school which operates from 1 no classroom in the Girls School and the nature and scale of the primary schools within the site, the increase in the operating hours of the pre-school from sessional to part time use would not result in an intensification of use resulting in material impacts and there is still no material change of use.
- e) the change of use, not being material, is not development



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The Planning Authority therefore concludes that *the increase in hours of an existing pre-school operation from sessional to part time* at Scoil Barra Naofa Cailíní is **NOT DEVELOPMENT**.

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 01st February 2023.

Is mise le meas,

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



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SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference:	R756.22
Description:	Whether the increase in operating hours of an existing pre-school service within a school from 3 hours a day to 5 hours a day constitute development, and if so, does it constitute exempted development?
Applicant:	Sinead Brooks
Location:	Scoil Barra Naofa Cailini, Beaumont
Site inspection:	23.01.2023

1. Purpose of Report

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the 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 applicant has submitted this referral in order to satisfy Tusla’s requirements for registering preschools.

2. Site Location

The site is within the grounds of Beaumont School – it comprises Beaumont Boys School and Beaumont Girls School each contained within two separate buildings. The site is accessed off Woodvale Road.

The pre-school is operating from a classroom within the Girls School which is located on the northern part of the site.

3. The Question before the Planning Authority

The question to the planning authority is not framed using the phrasing of section 5. The applicant states in the request, *“We are a preschool service located within Scoil Barra Naofa Cailini, Beaumont, Blackrock, Cork, T12EK77, and which to extend our care to the children from sessional (3 hours) to part time (5 hours). Tusla require a letter stating we are not subject to planning. The building was built in 1968.”*

It is reasonable to consider the question before the planning authority as being:

Does the increase in operating hours of an existing pre-school service within a school from 3 hours a day to 5 hours a day constitute development, and if so, does it constitute exempted development?

4. Planning history

The building in which the pre-school operates from is a school and was constructed in 1968. It can be seen from the historic records held by the Council that a number of applications were granted on the site between 1967 and 1973. More recently planning permission granted for the installation of a disabled access platform lift under ref: TP 12/35315.

5. Planning legislation

5.1 Planning and Development Act 2000 (as amended)

Section 2(1)

In this Act, except where the context otherwise requires—

“exempted development” has the meaning specified in section 4

“use”, in relation to land, does not include the use of the land by the carrying out of works thereon.

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

(a) Where the context so admits, includes the land on, in or under which the structure is situated....

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

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(2)

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, as amended.

Section 4(3)

A reference in this Act to exempted development shall be construed as a reference to development which is—

- (a) any of the developments specified in subsection (1), or
- (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.

5.2 Planning and Development Regulations 2001 (as amended)

Article 5

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

Article (10)

(1) 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.

(2)(a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use.

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.

5.3 Education Act, 1998

Under Section 2 of Part 1 in this Act, except where the context otherwise requires, “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.

6. Assessment.

6.1 Development

The established use of the site is educational, with a specific main purpose for the provision of primary school education. The school opened in 1968. The school buildings are large in scale and approximately 290 pupils attend the girls primary school building.

The applicant has outlined that she operates a pre-school from one of the classrooms within the Girls School building. It currently operates a sessional (3 hours) service and wishes to extend to part time (5 hours).

The first issue for consideration is whether or not the matter at hand is ‘development’, which is defined in the Act as comprising two chief components: ‘works’ and / or ‘any material change in the use of any structures or other land’. No works have taken place, so the referral is solely confined to the ‘use’.

The pre-school use caters for pre-school children and provides children with early learning prior to entering the primary school environment. The definition of school in the Education Act is an establishment which provides primary education to its students, and which may also provide early childhood education (emphasis added). It is noted that there is no planning permission on record for the existing pre-school operation. It is considered that a change of use has occurred in that a different cohort is being catered for within the classroom with its own specific curriculum. It remains as an education use and the character of the existing land use has not been substantially altered. The footprint of the buildings remains the same and the operation of the pre-school has not resulted in extensions for an additional classroom. Having regard to the scale of the pre-school in the context of the primary schools on the site, it is not considered that there is an intensification of use in this instance.

Having regard to the long-established primary school use, the definition of a school set out in the legislation, and the scale and use of the pre-school which operates from one number classroom within the school premises, it is considered that the extension of the hours of operation from sessional to part time is not material and is it not development. The question as to whether a material change of use is exempted development does not therefore arise.

CONCLUSION — is not development

6.3 Environmental Assessment & Restrictions on Exemption

A number of restrictions on exemption are set out in Section 4(4) of the Act.

Having regard to the contents of Article 103 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 be likely to have significant effects on the environment. Accordingly, it is considered that environmental impact assessment is not required.

The applicant has not submitted an appropriate assessment screening report. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of these European sites. Accordingly, it is considered that appropriate assessment is not required.

7. Conclusion & Recommendation

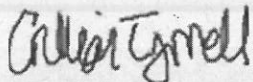
The Planning Authority, in considering this referral, had regard particularly to –

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- (e) the change of use, not being material, is not development

The Planning Authority therefore concludes that the increase in hours of an existing pre-school operation from sessional to part time at Scoil Barra Naofa Cailini is not development.



G Tyrrell

01.02.2023

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

DEVELOPMENT MANAGEMENT

CCP

30 DEC 2022

CORK CITY COUNCIL

Community, Culture & Placemaking Directorate,

R-Post/E-Mail planning@corkcity.ie

Cork City Council, City Hall, Anglesea Street, Cork.

Fón/Tel: 021-4924709

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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

Scoil Barra Naofa Cailini, Beaumont, Blackrock, Cork, T12EK77.

3. 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.

We are a preschool service located within Scoil Barra Naofa Cailini, Beaumont, Blackrock, Cork, T12EK77 and which to extend our care to the children from Sessional (3 hours) to part time (5 hours). Tusla require a letter stating we are not subject to planning. The building was built in 1968

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Our room is fully TUSLA compliant and registrations are up to date.

4. Are you aware of any enforcement proceedings connected to this site?
If so please supply details:

No

5. Is this a Protected Structure or within the curtilage of a Protected Structure?

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?

It is a primary school

Address	Step One Preschool, Scoil Barra Naofa Cailini, Beaumont, Blackrock, Cork, T12EK77.
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10. Person/Agent acting on behalf of the Applicant (if any):

Name(s):	
Address:	<hr style="border-top: 1px dashed black;"/> <hr style="border-top: 1px dashed black;"/> <hr style="border-top: 1px dashed black;"/>
Telephone:	[REDACTED]
E-mail address:	[REDACTED]
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	
Yes <input type="checkbox"/> No <input type="checkbox"/>	

11. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Tel. No. _____

Mobile No. _____

Email Address: _____

For Office Use Only: File Ref. No. _____
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1945-1946

6. Was there previous relevant planning application/s on this site?
 If so please supply details:

N/A It is a national primary school

7. 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	
(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)
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle)	Proposed/existing use (please circle)
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Please note the preschool operates within a classroom from the primary school

7. 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		
If you are not the legal owner, please state the name and address of the owner if available		

8.1 / We confirm that the information contained in the application is true and accurate:

Signature: Sinead Brooks

Date: 20-12-22

CONTACT DETAILS

9. Applicant:

Name(s)	Sinead Brooks
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To whom it may concern,

I run a preschool service located within a classroom of the primary school Scoil Barra Naofa Cailini, Beaumont, Blackrock, Cork, T12EK77.

As part of the TUSLA re-registration they require planning permission however the school is exempt from planning permission as it was build in 1968.

Could you please put this in writing so I can pass it onto TUSA>

Kind regards,

Sinead Brooks
Manager