

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

BURKES LANE RESERVOIR
WHITE'S CROSS
CORK

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.

IS THE REPLACEMENT OF EXISTING RESERVOIR AT BURKES
LANE, WHITES CROSS AN EXEMPTED DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

PROPOSAL TO REPLACE EXISTING RESERVOIR WITH
SIMILAR STRUCTURE, REPLACE LIKE FOR LIKE.

EXISTING RESERVOIR = 10m diameter, 5m high
PROPOSED RESERVOIR = 10m diameter, 5m high

Comhairle Cathrach Chorcaí
Cork City Council

10 MAR 2020

Strategic Planning & Economic
Development Directorate

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	EXISTING = 10M diameter PROPOSED = 10M diameter
(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)
_____	_____
_____	_____
_____	_____

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):	IRISH WATER		
Applicants Address	[REDACTED]		
Person/Agent acting on behalf of the Applicant (if any):	[REDACTED]		
Telephone:	[REDACTED]		
Fax:	[REDACTED]		
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 <input checked="" type="checkbox"/>	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		

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

Signature: Donal Collins

Date: 9/3/20

.....

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

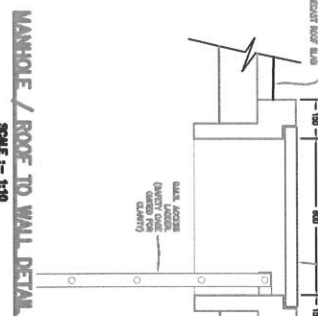
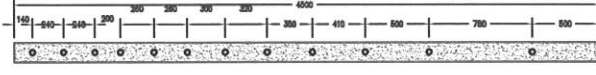
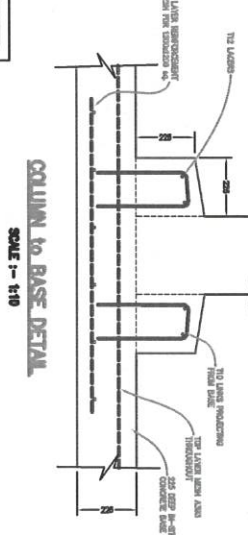
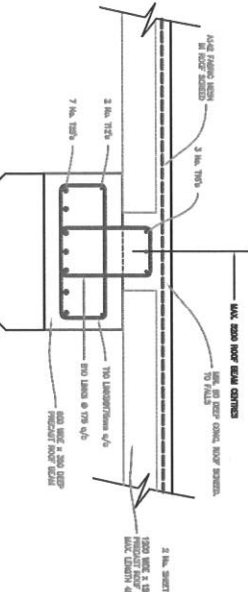
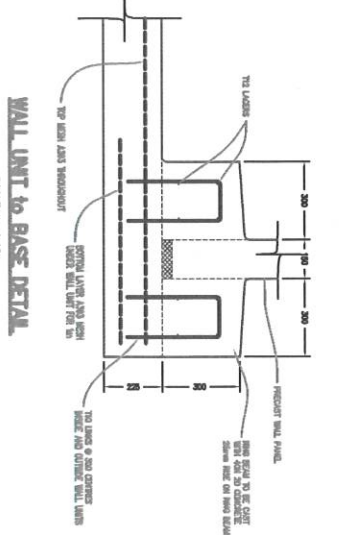
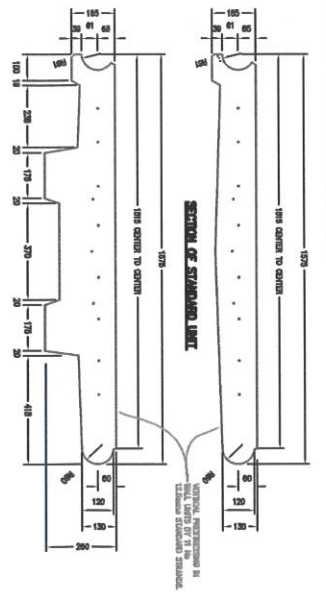
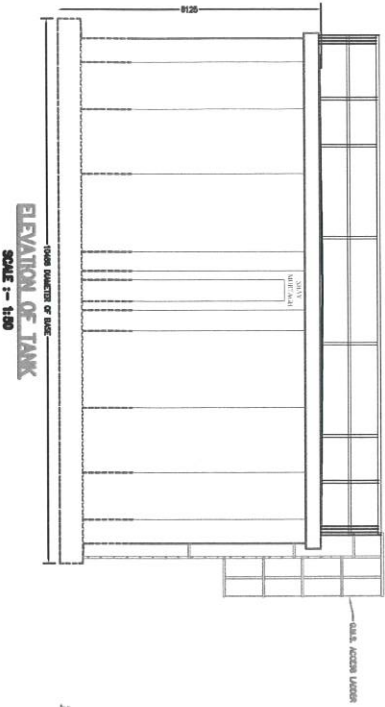
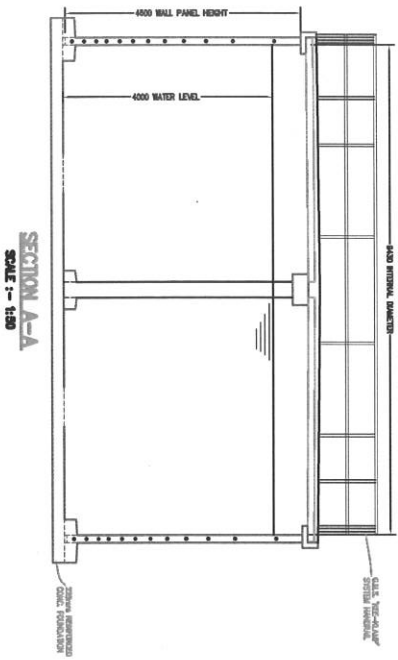
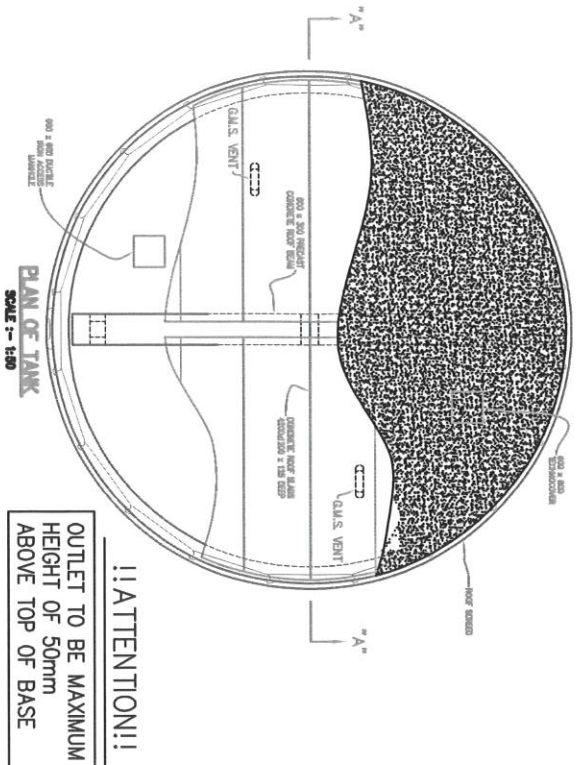
The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution



Imagery ©2020 CNES / Airbus, Infoterra Ltd & Bluesky, Maxar Technologies, Map data ©2020 100 m







SECTION OF STAINLESS LINER
SCALE 1:100

SECTION OF WALL UNITS
SCALE 1:100

WALL LINT TO BASE DETAIL
SCALE 1:100

COLUMN TO ROOF BEAM DETAIL
SCALE 1:100

COLUMN TO BASE DETAIL
SCALE 1:100

LONG SECTION OF WALL PANEL
SCALE 1:100

MANHOLE / ROOF TO WALL DETAIL
SCALE 1:100

NOTES:

1. THE DRAWING MUST NOT BE SCALED.
2. CHECK OF ROLES IN WALL AND ROOF PANELS TO BE CHECKED OUT BY CIVIL ENGINEER FOR PROVISIONAL CHECK.
3. RISE OF FOOTING OF TANK TO BE IN THE RANGE OF 600mm TO 800mm PER 20mm.
4. CONCRETE GRADES -
WALL & ROOF PANELS - C30 / 20
CAST IN-SITU ELEMENTS - C40 / 20
5. POST-TENSIONING CARRIED OUT USING 15.7mm PRECAST AND PRESTRESSING CABLES SUPPORTED BY STRESSING JACKS - 1000mm BENCH, 1000mm "S" - 100mm COMPASS.
6. JOINTS BETWEEN WALL PANELS ARE TREATED WITH "S" - 100mm COMPASS.
7. STANDARDS -
REINFORCING BARS TO BS 4449 - 1986,
PRESTRESSING STRAND TO BS 5896 - 1986,
POST-TENSIONING STRAND TO BS 5896 - 1986,
UNDERLAY OF BASE.
8. SPECIAL WATER LEVEL ASSIGNED TO OCCUR BELOW UNDERLAY OF BASE.

REV	DATE	DESCRIPTION
A	01.02.10	FIRST ISSUE

SHAY MORTGAGH

BARRETT, MULLINS & CO. VENTURES
 Phone: (044) 74100 / 74146 Fax: (044) 74685
 email: info@shaymortgagh.ie

CLIENT: **QUINCY GREN 2ND EDITION**

PROJECT: **REDEVELOPMENT OF THE 4.5km² WALK BEHIND CROMBIE, ABERDEEN AND DISTRICTS**

SCALE: **AS SHOWN** DATE: **01.02.10**

DRAWN BY: **Shay Mortgagh** CHECKED BY: **Shay Mortgagh** PROJECT NO.: **060.078.101.A**

PLANNER'S REPORT Ref. R569/20		Cork City Council Culture, Community and Placemaking
Application type	Section 5 Declaration	
Description	<i>Is the replacement of existing reservoir at Burkes Lane, Whites Cross an exempted development?</i>	
Location	Burkes Lane Reservoir, Whites Cross	
Applicant	Irish Water c/o Donal Collins	
Date	11/03/2020	
Recommendation	<i>Is Development and Is Exempted Development</i>	

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 Planning and Development Act 2000 as amended 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 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:

Is the replacement of existing reservoir at Burkes Lane, Whites Cross an exempted development?

In addition the applicant states the following in response to Q3:

Proposal to replace existing reservoir with similar structure, replace like for like.

Existing Reservoir = 10m diameter, 5m high

Proposed Reservoir = 10m diameter, 5m high

Plans showing the proposed circular tank were submitted with the application.

3. Site Description

The property in question is located in the townland of Ballinvriskig, located on the northern edge of the Cork City Council administrative area. The site is located in a rural area, to the south of the Whites Cross GAA grounds and to the west of a number of single site houses.

The existing reservoir on site is circular and is stated to have the same dimensions as the replacement reservoir.

4. Planning History – None

5. Legislative Provisions

5.1 The 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)(h)

The following shall be exempted developments for the purposes of this Act-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;

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.

5.2 The Regulations

Article 4 (2)(a)

The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

- (i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development

Article 6 (1)

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 9 (1)

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

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

Part 1 of Schedule 2

Column 1 Description of Development	Column 2 Conditions and Limitations
Class 58 Development by Irish Water, for the purpose of the	The upgrading of any such structure shall not increase the existing floor area by more than 10%

<p><i>provision of water services, consisting of one or more of the following:</i></p> <p><i>(g) the upgrade of existing water or waste water structures, or both, within existing site boundaries or the alteration or repair of any structure or its replacement with a similar structure</i></p>	<p><i>and the height of the upgraded structure shall not exceed the current height of existing structures.</i></p>
---	--

6. ASSESSMENT

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.

‘Works’ is defined in section 2(1) of the Act as ‘the carrying out of any works on, in, over, or under land’ including ‘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.’.

I consider that the proposed replacement of the existing reservoir constitutes development.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. I note that the subject reservoir is not a Protected Structure and does not form part of an Architectural Conservation Area.

There are no conditions set out in any parent permission that would limit alteration to the reservoir.

Following a review of the plans provided it is my opinion that the works exempted development in accordance with article 6 (1) of the *Planning and Development Regulations 2001* (as amended) as the proposed development accords with the exemption as set out in Part 1, Schedule 2 of the same regulations.

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 be likely to have significant effects on the environment. Accordingly it is considered that an environmental impact statement is not required to be submitted.

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). 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 the European sites referred to above. Accordingly it is considered that appropriate assessment is not required.

8. CONCLUSION

The question has been asked whether the replacement of existing reservoir at Burkes Lane, Whites Cross is an exempted development. Based on the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed works constitute development and that said works are exempted development.

9. RECOMMENDATION

In view of the above and having regard to Article 6(1), Class 58 as set out in Part 1 of Schedule 2 and having regard to Article 9 of the *Planning and Development Regulations 2001* (as amended) it is considered that the replacement of existing reservoir at Burkes Lane, Whites Cross **Is Development** and is **Exempted Development**.



Martina Foley
Executive Planner

Melissa Walsh
Senior Executive Planner