



# Comhairle Cathrach Chorcaí Cork City Council

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

Oppermann Associates  
D1, The Steelworks  
Foley Street  
Dublin 1

31/03/21

**RE: R638/21 – Section 5 Declaration**  
**Property: AIB, 26 St. Patricks Street – 19 Winthrop Street, Cork**

Dear Mr. Ottermann,

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

Notwithstanding exemptions outlined in Class 2 of Part 2, Schedule 2 (Exempted Development – Advertisements) of the Planning and Development Regulations 2001 (as amended), having regard to:

- The Planning and Development Act 2000 (as amended);
- The Planning and Development Regulations 2001 (as amended);
- the particulars received by the Planning Authority on 18/02/2021;
- The restriction on exemption outlined in Article 9(1) (a) (i) of Part 2 of the Planning and Development Regulations 2001 (as amended).

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~~The proposed works are development and are exempted development.~~

Yours faithfully,

Kerry Bergin  
Assistant Staff Officer  
Community, Culture and Placemaking  
Cork City Council



**We are Cork.**

## SECTION 5 DECLARATION – PLANNER’S REPORT

**File Reference:** R 638/21  
**Description:** Whether the removal of external signage elements on all elevations and removal of ATMs on the St Patrick Street frontage is or is not development and is or is not exempted development.  
**Applicant:** AIB  
**Location:** 19 Winthrop Street/26 St. Patrick Street

### 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.

### SITE LOCATION

The site is located at 19 Winthrop Street and 26 St. Patrick Street. It also has a boundary with Robert Street. The unit has entrances on both Winthrop Street and St. Patrick Street. 26 St. Patrick Street is a protected structure (NIAH Reg No 20513076).

### SUBJECT DEVELOPMENT

The removal of various external signage elements and paraphernalia, removal of ATMs from the St. Patrick Street elevation, and subsequent making good with clear glass panels.

### PLANNING HISTORY

**TP/12/35433** - 19 Winthrop Street - Material change of use from retail to financial services including the replacement of signage. (Granted 12/2/2013)

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**TP/04/28026** – 26 St. Patrick Street- Demolish the existing banking hall, and part of the existing first and second floors and construct 1) new banking hall at ground floor level and an extension of two floors of offices and ancillary areas at first and second floor level and plant room at third floor level 2) glazed shopfront incorporating ATM and canopy to ground floor elevation on St. Patrick Street, 3) glazed shopfront and recladding of the wall on Robert Street to include display windows 4) recladding of existing wall and return wall over entrance from Winthrop street and all associated site works. (Granted 24/04/2004)

### RELEVANT LEGISLATION

#### Planning and Development Act 2000 (as amended)

Emphasis added where relevant.

*Section 2(1),*

*“alteration” includes –*

*(a) plastering or painting or the removal of plaster or stucco, or*

*(b) the replacement of a door, window or roof,*

*That materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;*

*“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)*

*4.(1) The following shall be exempted developments for the purposes of this Act—*

*...*

*(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;*

*Section 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.*

As the structure of 26 St. Patrick Street is a Protected Structure, normal planning exemptions do not apply. I refer to the following in the Planning and Development Act (as amended):

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*Section 57,*

*(1) Notwithstanding section 4 (1)(h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—*

*(a) the structure, or*

*(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.*

**Sub-threshold EIS**

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No3) 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 EIS is not required to be submitted.

### **Appropriate Assessment**

The relevant European sites are the Cork Harbour SPA (Site Code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to its nature, scale and location it is considered that the proposed development would not affect the integrity of the sites referred to. Accordingly, it is considered that a Natura impact statement for the purposes of Article 6 of the Habitats Directive is not required to be submitted.

### **Assessment & Recommendation**

The applicant has included detailed drawings indicating the changes. The changes involve the removal of various elements of signage from both the internal and external parts of the building. It is also proposed to remove the two ATMs from the St. Patrick Street elevation and to replace with clear panes of glass.

The proposals constitute works under the definition in the Act as it involves *“the 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.”*

The provisions of Section 4(1)(h) apply to the works to Winthrop Street elevation. As the works constitute only the removal of signage it is considered that they would 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, and as such are considered exempted development.

The provisions of Section 4(1)(h) do not apply to 26 St. Patrick Street as these works are in relation to a protected structure. Instead the requirements of Section 57 must be applied.

The proposed works involve the removal of modern signage and ATMs (with replacement of same with clear glass panes to match existing shopfront), and by their nature would not *“not materially affect the character of (a) the structure, or (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest”* and would therefore fall under the definition of exempted works as set out in Section 57.

Having regard to the nature of the works and to Section 2(1), 3(1), Section 4(1)(h) and Section 57 of the Planning and Development Act 2000 (as amended) as outlined above I consider that the work ‘is development’ and ‘is exempted development’.

### **Conclusion**

Notwithstanding exemptions outlined in Class 2 of Part 2, Schedule 2 (Exempted Development – Advertisements) of the Planning and Development Regulations 2001 (as amended), having regard to:

- The Planning and Development Act 2000 (as amended);
- The Planning and Development Regulations 2001 (as amended);
- the particulars received by the Planning Authority on 18/02/2021;
- The restriction on exemption outlined in Article 9(1) (a) (i) of Part 2 of the Planning and Development Regulations 2001 (as amended).



The proposed works are development and are exempted development.



**COMHAIRLE CATHRACH CHORCAÍ  
CORK CITY COUNCIL**

Community, Culture & Placemaking Directorate,  
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail [planning@corkcity.ie](mailto:planning@corkcity.ie)

Fón/Tel: 021-4924762

Líonra/Web: [www.corkcity.ie](http://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**

AIB BANK, 26<sup>TH</sup> PATRICKS STREET, CORK, T12 FY76  
(INCLUDING 19 WINTHROP STREET)

**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 REMOVAL OF (A) EXTERNAL SIGNAGE CONSISTING OF INDIVIDUAL PIN MOUNTED LETTERS, PROJECTING SIGN, PIN MOUNTED LOGO AND (B) 2 NO ATM'S (ON PATRICK STREET) INCLUDING THE REINSTATEMENT OF THE EXISTING SUBSTRATE DEVELOPMENT AND IF SO, IS IT EXEMPTED DEVELOPMENT?

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**

*(Use additional sheets if required).*

WITH REGARD TO (B) ABOVE THE GLASS IN WHICH THE ATM'S CURRENTLY SIT WOULD BE REPLACED WITH CLEAR GLASS POST REMOVAL.

3. Are you aware of any enforcement proceedings connected to this site?

If so please supply details: NONE

4. Is this a Protected Structure or within the curtilage of a Protected Structure?  NO

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?  —

5. Was there previous relevant planning application/s on this site?  YES.

If so please supply details: 1536529

### 6. 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	<u>NOT APPLICABLE</u>
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> 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) <u>NOT APPLICABLE</u>
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle) <u>/</u>	Proposed/existing use (please circle) <u>/</u>

### 8. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	<del>A. Owner</del>	B. Other <input checked="" type="checkbox"/>
Where legal interest is 'Other', please state your interest in the land/structure in question	<u>LEASEHOLD</u>	
If you are not the legal owner, please state the name and address of the owner if available	<u>INDEPENDENT TRUSTEE CO. LTD HARMONY COURT, HARMONY ROW, DUBLIN 2</u>	

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

Signature: Stephen Opperman

Date: 17 Feb. 2024

## CONTACT DETAILS

### 10. Applicant:

<b>Name(s)</b>	AIB GROUP
<b>Address</b>	<div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <hr style="border-top: 1px dashed black;"/> <div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <hr style="border-top: 1px dashed black;"/> <div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <hr style="border-top: 1px dashed black;"/>

### 11. Person/Agent acting on behalf of the Applicant (if any):

<b>Name(s):</b>	OPPERMANN ASSOCIATES
<b>Address:</b>	<div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <hr style="border-top: 1px dashed black;"/> <div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <hr style="border-top: 1px dashed black;"/> <div style="background-color: black; width: 100%; height: 15px; margin-bottom: 5px;"></div> <hr style="border-top: 1px dashed black;"/>
<b>Telephone:</b>	<div style="background-color: black; width: 100%; height: 15px;"></div>
<b>E-mail address:</b>	<div style="background-color: black; width: 100%; height: 15px;"></div>
<b>Should all correspondence be sent to the above address?</b> <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"/>

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### 12. 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.

#### ADVISORY NOTES:

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

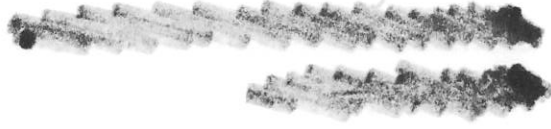
The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

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, Community, Culture & Placemaking 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.

Our Ref: 21505.20210218.SO.1

Planning Department  
Cork City Council  
City Hall,  
Anglesea Street,  
Cork,  
T12 T997

18<sup>th</sup> February 2021

Dear Sir/Madam

**RE: AIB, 26 St. Patricks Street / 19 Winthrop Street, cork  
Section 5 Application**

On behalf of AIB Group Plc, we submit herewith a Section 5 application form asking Cork City Council to declare that:

- a) The removal of external signage elements, and
- b) The removal of the ATMs on St. Patricks Street is exempted development.

It is our view that the above works are not development and as such are exempted development.

Please note that following removal of the signage elements and ATM, it is intended to make good the substate to match existing. When the ATMs are removed on St. Patricks Street, it is intended to install clear plate glass.

Attached please find:

- 1) Application form duly completed.
- 2) 2 No. copies of the OS Map with the location highlighted. *(on the main drawing)*
- 3) A cheque in the sum of €80.
- 4) Elevation drawings indicating the signage and ATM removal.

If you have any questions, please contact the undersigned.

Yours sincerely



Stephen Oppermann  
**OPPERMANN ASSOCIATES**

