

Comhairle Cathrach Chorcaí Cork City Council

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

Educate Together Primary School

Carrs Hill

Cork

14/04/2022

RE: Section 5 Declaration R706/22 Educate Together Primary
School, Carrs Hill, Cork

A Chara,

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

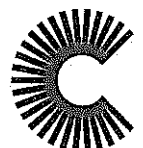
In view of the above and having regard to —

- Schedule 2, Part 1 - Class 40 of the of the Planning and Development Regulations 2001 (as amended),
- Section 4(1)(h) of the Planning and Development Act 2000 (as amended),

it is considered that proposed *construction of an LPG Bottle Gas Enclosure*, is **development and is exempted development**.

Is mise le meas,

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



We are Cork.

PLANNER'S REPORT Ref. R706/22		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Is the construction of an LPG Bottle Gas Enclosure exempted development</i>	
Location	Educate Together Primary School, Carrs Hill, Cork.	
Applicant	Educate Together Primary School, Carrs Hill	
Date	14/04/2022	

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 construction of an LPG Bottle Gas Enclosure exempted development?'*

3. Site Description

The property in question is the Educate Together Primary School, Carrs Hill.

4. Planning History

ABP - 302924-18 (PI Ref 18-5639) Permission granted on appeal for an Educate Together National School (RN20413N) consisting of part 2-storey, part 3-storey, 24-classroom primary school building with total floor area of 4,635sq.m at Carrs Hill / Carrigaline Road,

TP 21/40429 – Permission granted to install 40m² of solar PV panels over the permitted 50m² in accordance with the conditions /limitations of Class 56 of Schedule 2, Part 1 of the Planning and Development Regulations (as amended) on the south facing pitched roof of the part 2 storey, part 3 storey Educate Together National School (RN20413N).

5. Legislative Provisions

1.1 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 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 2001-2013.

Section 5(1),

(See section 1 of this report)

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.

1.2 The Regulations

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,*

Article 10 (1)

Development which consists of a change of use within any one of the classes of use as 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 –

- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned*

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, and secondly to whether any material change in the use of any structures or other land have or will take place.

'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 element constitutes development as it comprises of works which includes alteration of the existing facade. The issue of whether the said works constitute development insofar as whether they are material or not shall be considered further below.

6.2 Exempted development

The next issue for consideration is whether the matter at hand is exempted development.

The proposed works are for the construction of an LPG Bottled Gas Enclosure at the school.

Two (2) no. LPG bottled gas tanks are proposed. The location is on the northern boundary. The tanks are surrounded by a 1.8 m palisade fence enclosure.

I consider that Class 40 of the Exempted Development Regulations 2001 (as amended) applies:

Class 40

Works incidental to the use or maintenance of any burial ground, churchyard, monument, fairgreen, market, schoolgrounds or showground except— (a) the erection or construction of any wall, fence or gate bounding or abutting on a public road, (b) the erection or construction of any building, other than a stall or store which is wholly enclosed within a market building, or (c) the reconstruction or alteration of any building, other than a stall or store which is wholly enclosed within a market building.

I would also consider that the proposed development comes under Section 4(1)(h) of the Regulations. 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

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 & RECOMMENDATION

In view of the above and having regard to:

- Schedule 2, Part 1 - Class 40 of the of the Planning and Development Regulations 2001 (as amended),
- Section 4(1)(h) of the Planning and Development Act 2000 (as amended),

it is considered that proposed *construction of an LPG Bottle Gas Enclosure*, is **development and is exempted development**.

Lucy Teehan
Senior Executive Planner

**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

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

Site at Carrs Hill, Douglas, To The South West Side of Carrigaline Road, Maryborough,
Co. 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 construction of a LPG Bottled Gas Enclosure at the above named school site and as illustrated on the attached drawings development and if so, is it exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

We submit this application in response to email confirmation from Cork City Council dated 9/12/21 that the Section 5 Application route is the appropriate method of regularising the requirement for a LPG Gas enclosure on the application site.

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

If so please supply details:

No

4. 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?

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

If so please supply details:

ABP-302924-18 (24-04-2019) / 18/05369 (15-10-2018) / 21/40429 (16/08/2021)

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	4.635m2 (area of new school development granted permission) 23.8m2 (area of LPG Gas enclosure for which this Section 5 is submitted)
(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)
N/A	N/A

7. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Coady Architects
Applicants Address	Mount Pleasant Business Centre, Mount Pleasant Ave, Ranelagh, Dublin 6.	
Person/Agent acting on behalf of the Applicant (if any):	Name:	Ruth McParland
	Address:	As above
	Telephone:	[REDACTED]
	Fax:	
	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 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 <input type="checkbox"/>
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: Roith McFarland

Date: 10 January 2022

ADVISORY NOTES:

<p>The application must be accompanied by the required fee of €80</p> <p>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.</p> <p>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.</p> <p><i>The application should be sent to the following address:</i></p> <p style="text-align: center;">The Development Management Section, Community, Culture & Placemaking Directorate, Cork City Council, City Hall, Anglesea Street, Cork.</p>
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- 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.

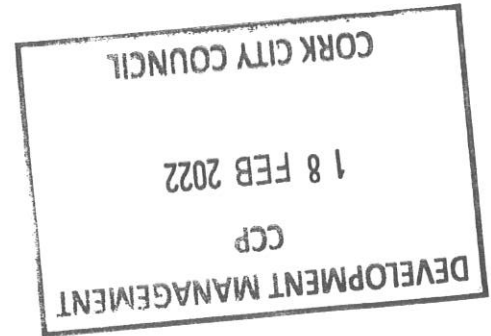
DATA PROTECTION

"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protection policy is available at <https://www.corkcity.ie/en/council-services/public-info/gdpr/>.

We request that you read these as they contain important information about how we process personal data.

16th February 2022

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



Project: Educate Together Primary School, Carr's Hill
Planning Ref: 18/05369
Our Ref: 2697
Re: Section 5 Application

Dear Sir/Madam,

Please see enclosed two copies of the following documentation as well as a cheque for €80 made out to Cork City Council in relation to a **Section 5 Application** regarding the above-named site:

- Drawing COADY 0510 Site Location Map
- Drawing COADY 0511 Site Plan
- Drawing COADY 0512 LPG Enclosure
- Drawing HLM 0001 Landscape GA
- Drawing HLM 4500 Soft Landscape Plan Sheet 1
- Application form

We request receipt of the attached and enclosed payment and look forward to your decision in due course.

Yours Sincerely,

insert name
for

Coady Architects

Cc Conor Nolan

Bam

Directors
Mark McCann Managing Director Dip Arch BArchSc FRIAI
Tomás Sexton Director Dip Arch BArchSc MRIAI
Donal O'Donohue BArch BSArch MRIAI

Associate Directors
William Gleeson BArch BSc Arch MRIAI
Paul Lennon BArch BSc Arch MRIAI
Ruth McParland BArch MRIAI
Luise Volschenk BArch BArch (Stud) MRIAI

Consultant
Jim Coady BArch MA (Urb Des) FRIAI

Associates
Sarah Brophy BArch MRIAI
Stephan Carter Dip Arch BArch RIBA
John Hennigan BSc Arch BArch MRIAI
Garrett Keane BArch FRIAI
Neal Keaney Dip Arch Tech P Grad Dip Project Management MRIAI
Conor Morrissey BArch BSc Arch MRIAI
Arkadiusz Szumlas MSc Arch MRIAI

Coady Partnership Architects Ltd
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European Partners
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Milen, Paris, Poznan, Stockholm
www.perspective-architecturalgroup.com



CORK CITY COUNCIL
CITY HALL
CORK

02/03/2022 12:40:20

Receipt No. : PLAN3/0/7823895
***** REPRINT *****

R706 22
Coady Architects

EXEMPTION CERTS - FEES 58800	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
R706 22	

Total : 80.00 EUR

Tendered :
Cheque 80.00
003763

Change : 0.00

Issued By : Eoghan Fahy
From : Planning Dept. 3
Vat reg No.0005426M

PLANNING DEVELOPMENT MANAGEMENT

CASHDESK RECEIPT CHECKLIST

Name: Coady Architects.

Amount: €80.00 TP No.: R706/22.

Description/ Address: Educate Together Primary School.

Business Unit	Description
I4110	Copies of Planning Permission <ul style="list-style-type: none">• Copies of Planning Decisions• Copies of Final Grant• General copying• Archive Retrieval• Microfiche
I4114	<ul style="list-style-type: none">• Application Fees
I4116	<ul style="list-style-type: none">• Section 5 applications (Exemption Certs)• Extension of Duration Applications• Planning Searches
I4117	<ul style="list-style-type: none">• Submissions/Objections on Planning Applications
I4118	<ul style="list-style-type: none">• Recouped Enforcement Expenses
I4121	<ul style="list-style-type: none">• Section 254 Licence fees (Fingerpost signs)
I4122	<ul style="list-style-type: none">• SHD Fees (Strategic Housing Developments)
I4124	<ul style="list-style-type: none">• Planning Bond Letters
I4100	<ul style="list-style-type: none">• Outdoor Event Licences

Planning Contributions

TP No. : R706/22 JDE Account No.: _____

Amount: €80.00

Signed: K Bergin Date: 22/02/22