



Comhairle Cathrach Chorcaí Cork City Council

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

Stephen Kelleher,
13 Dundanion Court,
Blackrock Road,
Cork.

15/06/2023

RE: Section 5 Declaration R779/23 13 Dundanion Court, Blackrock Road, Cork.

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 21st April 2023, and further information received 25th May 2023, I wish to advise as follows:

In view of the above and having regard to:

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended),
- Section 57 of the Planning and Development Act 2000 as amended, and
- Articles 6, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

The Planning Authority considers that –

the installation of an air source heat pump adjacent to the gable wall of a house at 13 Dundanion Court, Blackrock Road, Cork **IS DEVELOPMENT and IS NOT EXEMPTED 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, 15th June 2023.



We are Cork.



Is mise le meas,

Kate Magner

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

Development Management
Community, Culture and Placemaking Directorate
Cork City Council
City Hall
Cork

Development Management Section
City Hall
Cork

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Application type	SECTION 5 DECLARATION
Question	<i>Is the installation of an air source heat pump adjacent to the gable wall of a house development and, if so, is it exempted development?</i>
Location	13 Dundanion Court, Blackrock Road, Cork
Applicant	Stephen Kelleher (owner)
Date	15/06/2023
Recommendation	Is development and is not exempted development

This report is to be read in conjunction with previous planning report, dated 17/05/2023, which requested further information.

1. FURTHER INFORMATION RESPONSE

Further Information was requested on 17/05/2023. A response to same was received from the applicant on 22/05/2023. There were 2 (two) No. items of further information requested:

- 1) The applicant is requested to submit (fully dimensioned) scaled drawings which clearly show the extents of the works. Drawings should be provided to show the plan and elevations of the heat pump and wall upon which it is mounted and should include full dimensions of the heat pump and distances of the heat pump from the edges of the wall upon which it is mounted.**

The applicant has submitted a response including fully dimensioned site layout, plans and elevations of the heat pump on site.

This response is assessed in Section 2 of this report below.

- 2) The applicant is requested to submit full details regarding the noise levels of the heat pump during normal operation to allow an adequate assessment take place.**

The applicant has submitted a response including a noise survey measuring the heat pump at a number of locations.

This response is assessed in Section 2 of this report below.

2. FURTHER INFORMATION ASSESSMENT

Having assessed the proposed extension against Class 2(d) and its conditions and limitations I find as follows:

Condition / Limitation 1

The works do not alter the level of the ground by more than 1m, either below or above the level of the adjoining ground.

Condition / Limitation 2

Scaled and dimensioned plans and elevations have been submitted which clearly indicates that the heat pump is below 2.5m² in area. This is considered acceptable.

Condition / Limitation 3

Scaled and dimensioned plans and elevations have been submitted which clearly indicates that the heat pump is not 50cm from the edge of the wall. Drawings indicate a distance of 470mm (47cm) from the edge of this wall. In this regard the heat pump does not meet the conditions/limitations specified and is not exempt.

Condition / Limitation 4

The heat pump is located to the side of the house, behind the front wall of the house.

Condition / Limitation 5

A noise assessment has been submitted which indicates that the heat pump meets the condition/limitation with regards to noise levels.

From the documentation submitted it would appear that the heat pump is located closer to the edge of the wall than the specified 50cm, therefore, part (3) of this condition and limitation is not considered to be satisfied.

It is further noted that the heat pump is located within the curtilage of a protected structure PS 552 (13 Dundanion Court). Under Section 57 of the Planning and Development Act (as amended) *“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”.*

In this regard, following consultation with the Conservation Officer, it is considered that the heat pump as proposed would materially affect the character of the structure and is therefore not considered exempt.

CONCLUSION

Is not exempted development

3. ADDITIONAL ENVIRONMENTAL ASSESSMENT

I note the provisions of sections 4(4), 4(4A) and 177U(9) of the Act which state,

Section 4(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 4(4A)

Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and*

*(b) as respects which an environmental impact assessment or an appropriate assessment is required,
to be exempted development.*

Section 177U(9)

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.

Screening for Environmental Impact Assessment

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 response to the further information relating to 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.**

Screening for Appropriate Assessment

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 response to the further information relating to the proposed development would not affect the integrity of these European sites. Accordingly it is considered that **appropriate assessment is not required.**


4. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended,
- Section 57 of the Planning and Development Act 2000 as amended, and
- Articles 6, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2018

the planning authority considers that —

the installation of an air source heat pump adjacent to the gable wall of a house at 13 Dundanion Court, Blackrock Road, Cork **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT.**



Eoin Cullinane
Assistant Planner
13/06/2023

13 Dundanion Court
Blackrock Road
Cork
T12 H2 C6

25/05/2023

REF; Section 5 Declaration R779/23 13 Dundanion Court, Blackrock Road, Cork

FAO. Kate Magner
Development Management Section
Cork City Council.

As per your received request on the 18/05/2023, we engaged the services of Admac Consulting Engineers to address the requirement for further information.

Please find enclosed scaled drawings, heat pump dimensions and results of sound level reports which were carried out by Mr. MacSharry.

If you require any further information please do not hesitate to contact me.

Regards

Mr. Stephen Kelleher. [REDACTED]





AdMAC Consulting. Consulting Engineers.

58 Dosel Drive, Grange Heights, Douglas. Co. Cork. T12 P2W8.
Telephone; ++ 353 (0) 21 4899062 Mobile: +353(0) 87 2493976

Engineers Report.

To: Stephen Kelleher,
13 Dundanion Court,
Blackrock Road,
Cork.
T12 H2 C6.

Date: 25th May 2023.

Dear Stephen,

Ref; Section 5 Declaration R 779/ 23.

On the 23rd of May 2023 I visited the site at 13 Dundanion Court, Blackrock Road, Cork City, T12 H2 C6. Following your request as a result of a letter from Cork City Council relation a Section 5 Declaration R779/23, requesting a Scaled Drawing indicating the location of an Inverter / Heat Pump.

A request for details of the noise levels of the Heat Pump during normal operation.

Attached please find copies of Drawing Number SK-HP-01, SK-HP-02. Marked up copy of OSi Place Map Sheet 6383-14 indicating the location of your Toshiba Inverter / Heat Pump Model RAS-18J2KVG-E.

Also, five in number Sound Level Reports taken by way of a Cirrus Sound Level Meter Models CR:811C Serial Number: D22012FD, Calibration Certificate Number 187900. These Sound Level Measurement Reports indicating sound level samples take as per WHO Standards. Sound Level samples were taken at a point some 1.4 M over ground level and at 1 M and 2 M West from the Heat Pump and 1 M South of the outside wall of No.12.

The installed unit is a Toshiba RAS-18J2KVG-E Sekiya High-Wall Inverter/ Heat Pump. This unit has an Air Flow of some 840/480 M³/Hr., Heat output 3.34kW and sensible Cooling of 4.88 kW. Sound pressure in a Sealed Quite Test Room is 32 dB(A) on normal duty. The Outdoor Unit is rectangular in shape, some 780mm Long by 550mm High by 260mm Deep.

The Unit is mounted on "Anti-Vibration Pads" secured to the Ground, the Unit is mounted some 290mm from the outside West Wall of No.13 and some 470mm from the South Outside Wall of No.12.

The area is "U" Shaped Car Parking Area with access to a number Garages set to South-West of No 13. Garage No.01 & 02 are in ownership of Mr. Kelleher.

Both No.12 & No.13 have outside walls of Brick Finish Laid Stretcher Bond pattern, extending from Ground Level to Roof line. No.13 Outside West Wall is some 7,000 mm Long by some 5,600mm High.

No.12 South Outside wall is like No.13, with an extend lower wall some 2,500mm high passing some 8,000mm to the West Access Roadway, which is some 15,390mm from the West wall of No.13. The Main Blackrock Road is some 76,000mm to the South of No.13, "as the Crow Flies."

A simple vibration test using a filled glass of water was carried out with the Inverter / Heat Pump running. The filled glass was placed on the Toshiba Unit and when running on full load no spillage occurred, just a slight shimmer on the surface of the water in the glass was observed.

Five Sound Level Tests were taken at the site results as per attached Measurement Reports. All tests were taken as per WHO Standards with Meter mounted at 1,400mm over Ground Level.

Report No.01: Location 1 M South of No.12 Wall, 1M West of Heat Pump on No.13 Wall. 1.4M over Ground. Heat Pump on full load. Sample Time 5 minutes.

Comment: Background noise from Blackrock Road, Cars, Buses, and Vans passing. Peaks indicate Motor traffic on Blackrock Road Area. Limn. 45.7 dBA. Average LAE-L50.0 = 47.5 dBA.

Report No.02: Location 1M South of No.12 Wall, 2M West of Heat Pump on No.13 Wall. Heat Pump on full load. Sample Time 5 minutes.

Comment: Background noise from Blackrock Road as above. Limn. 44.5 dBA. Average LAE-L50.0 = 46.2 dBA.

Report No.03: Location 1 M South of No.12 Wall, 1M West of Heat Pump on No.13 Wall. 1.4M over Ground. Heat Pump off. Sample Time 5 minutes.

Comment: Background noise only. Limn. 44.0 dBA. Average LAE-L50.0 – 51.6 dBA.

Report No.04: Location 1 M South of No.12 Wall, 1M West of Heat Pump on No.13 Wall. 1.4M over Ground. Heat Pump running at 22°C setting normal operating setting. Sample Time 5 minutes.

Comment: Background from Blackrock Road as above. Limn. 39.3 dBA. Average LAE-L50.0 – 43.4 dBA.

Report No.05: Location 1M South of No.12 Wall, 2M West of Heat Pump on No.13 Wall. Heat Pump running at 22°C setting. Normal setting. Sample Time 5 minutes.

Comment: Background from Blackrock Road as above. Limn. 42.3 dBA. Average LAE-L50.0 – 45.6 dBA.

As can be seen from the above the reports, the Toshiba Seiya High-Wall Inverter / Heat Pump at Full Load is only adding 1.7 dBA to the Background Sound Level.

Report No.01 Limn = 45.7 dBA Report No.03 Limn = 44.0 dBA = 1.7 dBA.

Please contact me if you require more information.

Yours sincerely


Andy Mac Sharry,

Measurement Report

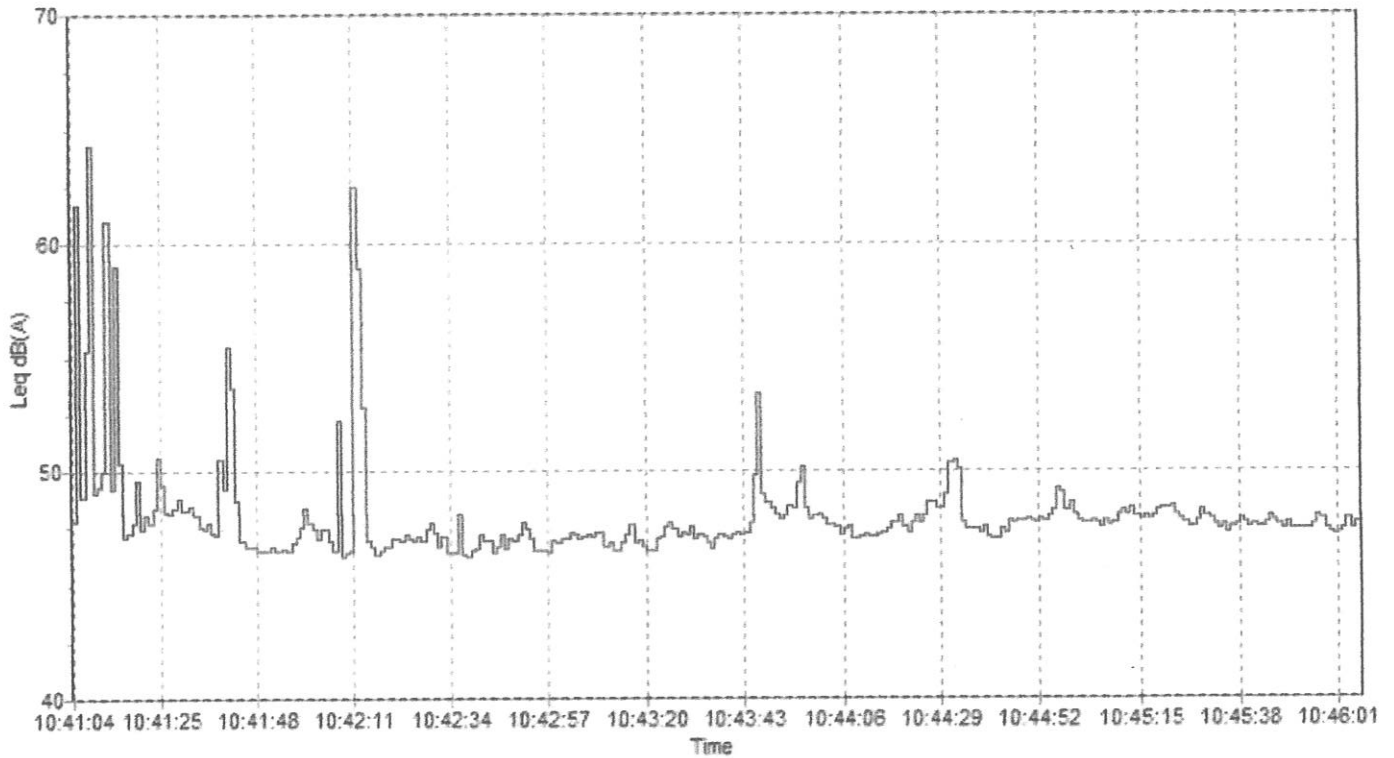
Measurement Details

Date and Time: 23/05/2023 10:41
Sound Level Meter: Cirrus Research plc
Recalibration Due: 31/01/2024
Run Duration: 00:05:01 [hh:mm:ss]
Range: 30-100 [dB]
Overload: no
Location: 13 Dundanion Court, Blackrock Road.

Notes:
South IM *West* of No.12 Wall. I.M *West* of Heat Pump on No.13 Wall. 1.4M Over Ground Level Heat Pump Max Load Running.

Data

Leq	49.7	dB(A)	L1.0	57.6	dB(A)
Lepd	29.9	dB(A)	L10.0	48.8	dB(A)
LAE	74.3	dB(A)	L50.0	47.5	dB(A)
LAFmax	68.4	dB(A)	L90.0	46.6	dB(A)
Peak	94.5	dB(C)	L95.0	46.4	dB(A)
			Lmin	45.7	dB(A)



Measurement Report

Measurement Details

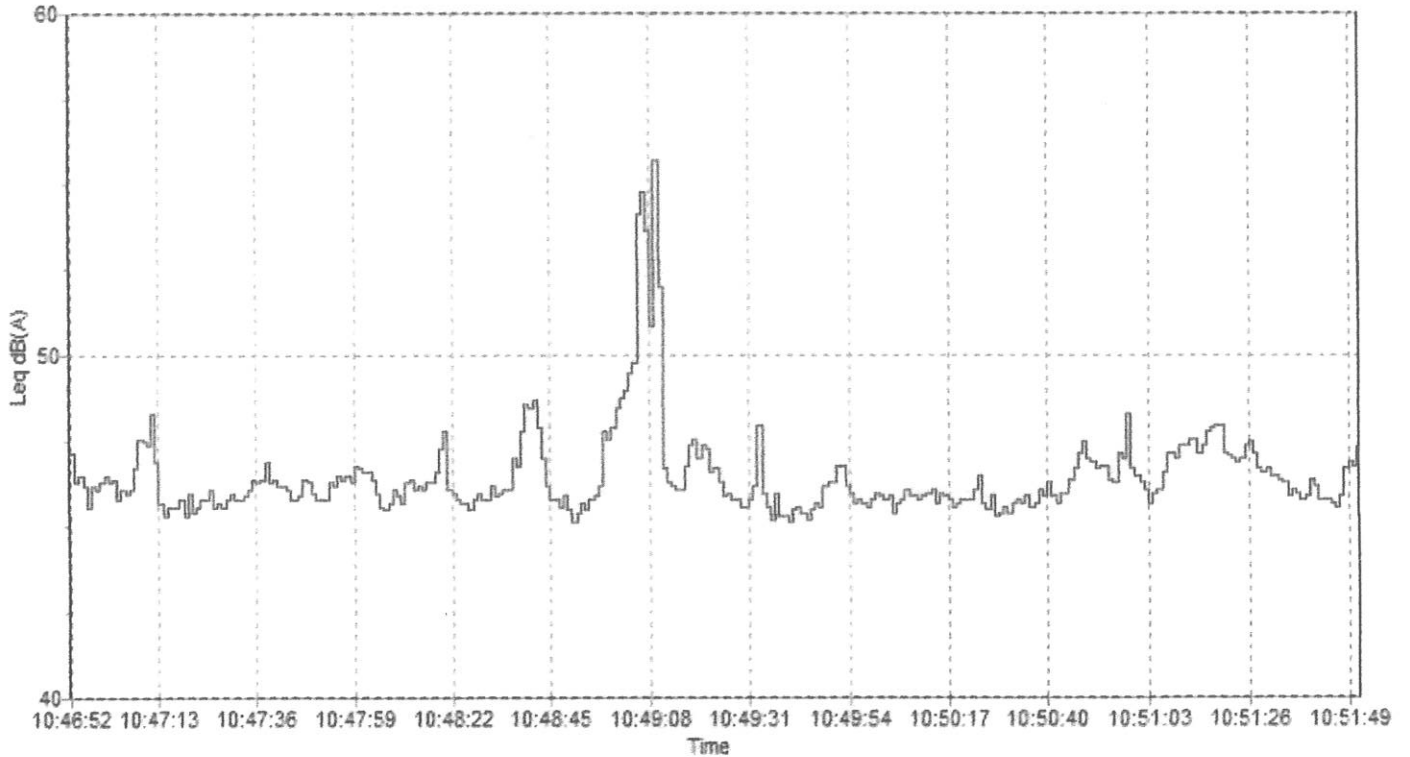
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Sound Level Meter: Cirrus Research plc
Recalibration Due: 31/01/2024
Run Duration: 00:05:00 hh:mm:ss
Range: 30-100 dB
Overload: no
Location: 13 Dundanion Court, Blaxkrock Road.

Notes

1M South on No.12 Wall, 2 M West of Heat Pump on No.13 Wall, 1.4m Over Ground Level, Heat Pump Max Load Running.

Data

Leq	46.9 dBA	L1.0	52.3 dBA
Lepd	27.1 dBA	L10.0	47.7 dBA
LAE	71.4 dBA	L50.0	46.2 dBA
LAFmax	59.7 dBA	L90.0	45.5 dBA
Peak	86.2 dBC	L95.0	45.4 dBA
		Lmin	44.5 dBA



Measurement Report

Measurement Details

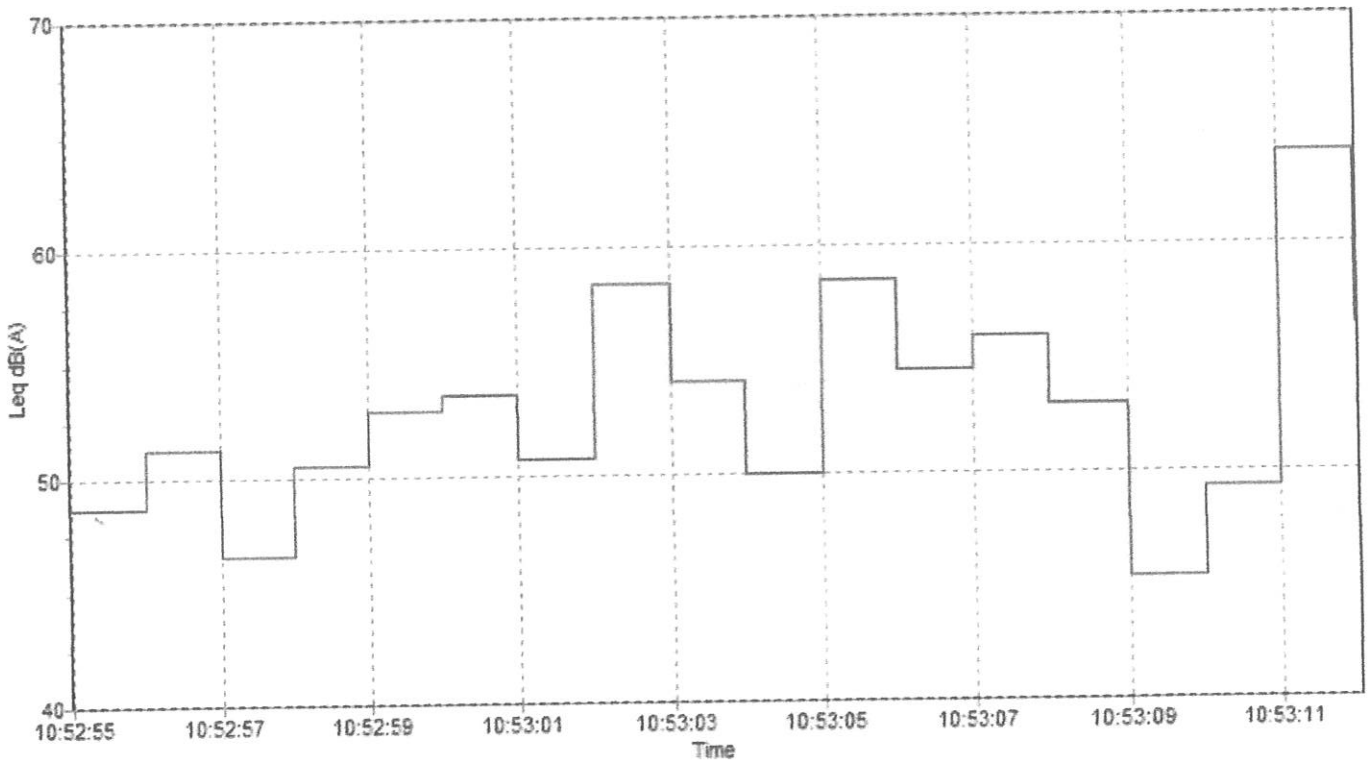
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Sound Level Meter: Cirrus Research plc
Recalibration Due: 31/01/2024
Run Duration: 00:00:18 hh:mm:ss
Range: 30-100 dB
Overload: no
Location: 13 Dundanion Court, Blackrock Road.

Notes:

1M South of No.12 Wall, 1M West of Heat Pump on No.13 Wall. 1.4M Over Ground Level. Heat Pump Off not running. Background noise only.

Data

Leq	55.8 dBA	L1.0	61.9 dBA
Lepd	23.7 dBA	L10.0	57.4 dBA
LAE	68.2 dBA	L50.0	51.6 dBA
LAFmax	66.4 dBA	L90.0	46.4 dBA
Peak	88.3 dBC	L95.0	44.8 dBA
		Lmin	44.0 dBA



Measurement Report

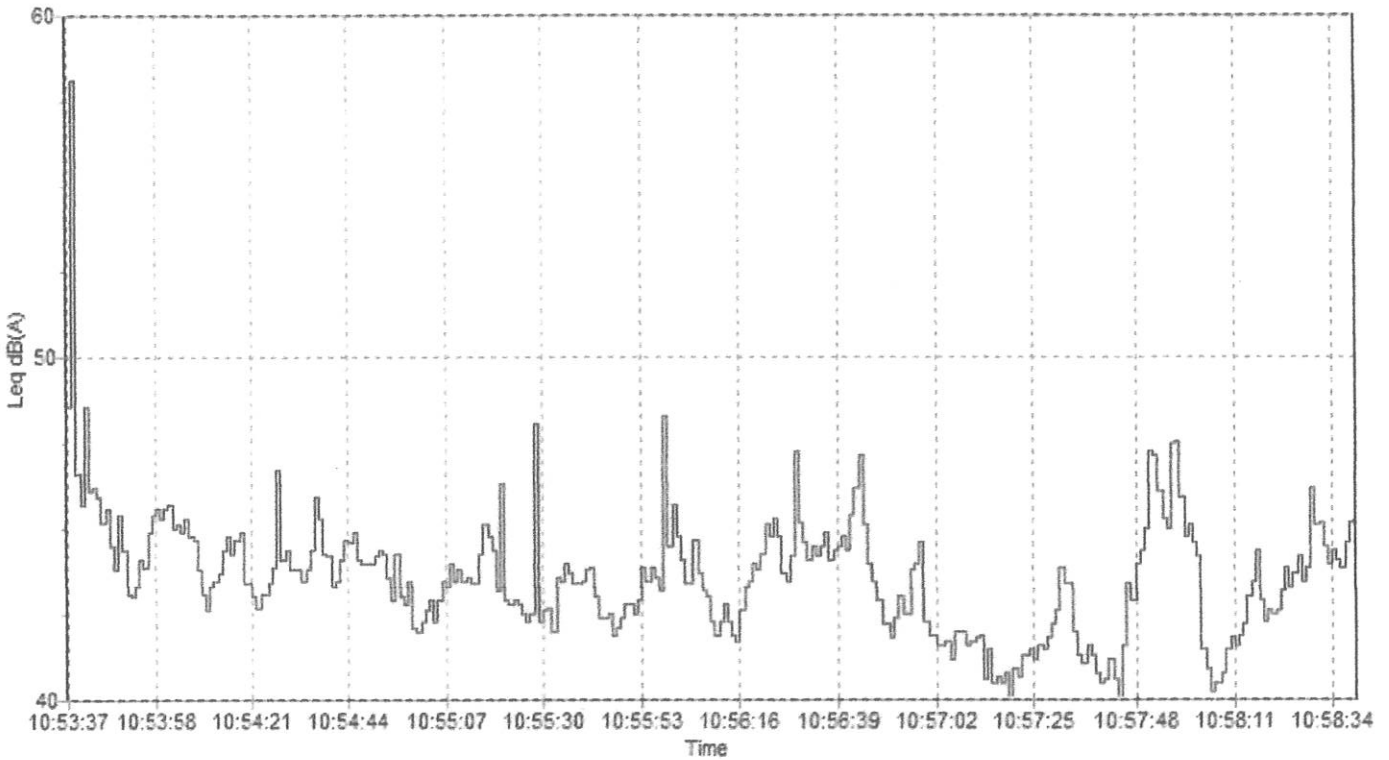
Measurement Details

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 Sound Level Meter: Cirrus Research plc
 Recalibration Due: 31/01/2024
 Run Duration: 00:05:01 [hh:mm:ss]
 Range: 30-100 dB
 Overload: no

1m SOUTH NORTH ROAD - 1m WEST NORTH ROAD - 1-6m OVER GRASS

Data

Leq	44.3 dBA	L1.0	48.1 dBA
Lepd	24.5 dBA	L10.0	45.5 dBA
LAE	68.8 dBA	L50.0	43.4 dBA
LAFmax	63.3 dBA	L90.0	41.3 dBA
Peak	89.0 dBC	L95.0	40.6 dBA
		Lmin	39.3 dBA



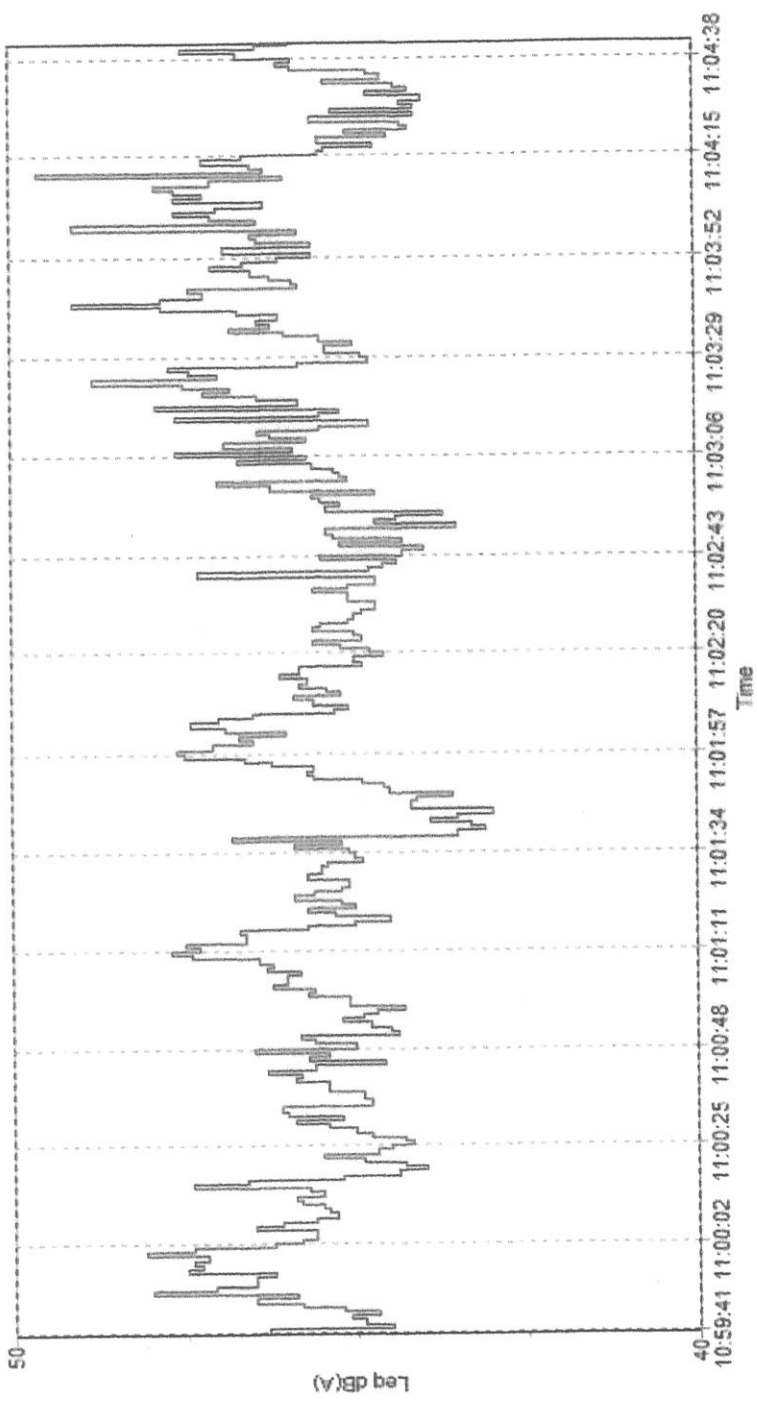
Measurement Report

Measurement Details

Date and Time: 23/05/2023 10:59
 Sound Level Meter: Cirrus Research plc
 Recalibration Due: 31/01/2024
 Run Duration: 00:05:01
 Range: 30-100 dB
 Overload: no
 Location: 13 Dundanion Court, Blackrock Road
 Notes:

1M South of No.12 Wall. 2M West of Heat Pump on No.13 Wall. 1.4M Over Ground Level. Heat Pump at Normal 22 Deg C Setting.

Data		
Leq	46.0 dB(A)	49.1 dB(A)
Lepd	26.2 dB(A)	47.3 dB(A)
LAE	70.5 dB(A)	45.6 dB(A)
LAFmax	55.2 dB(A)	44.3 dB(A)
Peak	99.0 dB(C)	44.0 dB(A)
	Lmin	42.3 dB(A)
	L1.0	
	L10.0	
	L50.0	
	L90.0	



OSi PLACE Map



Tailte
Éireann

CENTRE COORDINATES:
ITM 570956,571733

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MAP SHEETS: 6383-14

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Dublin 8,
Ireland.
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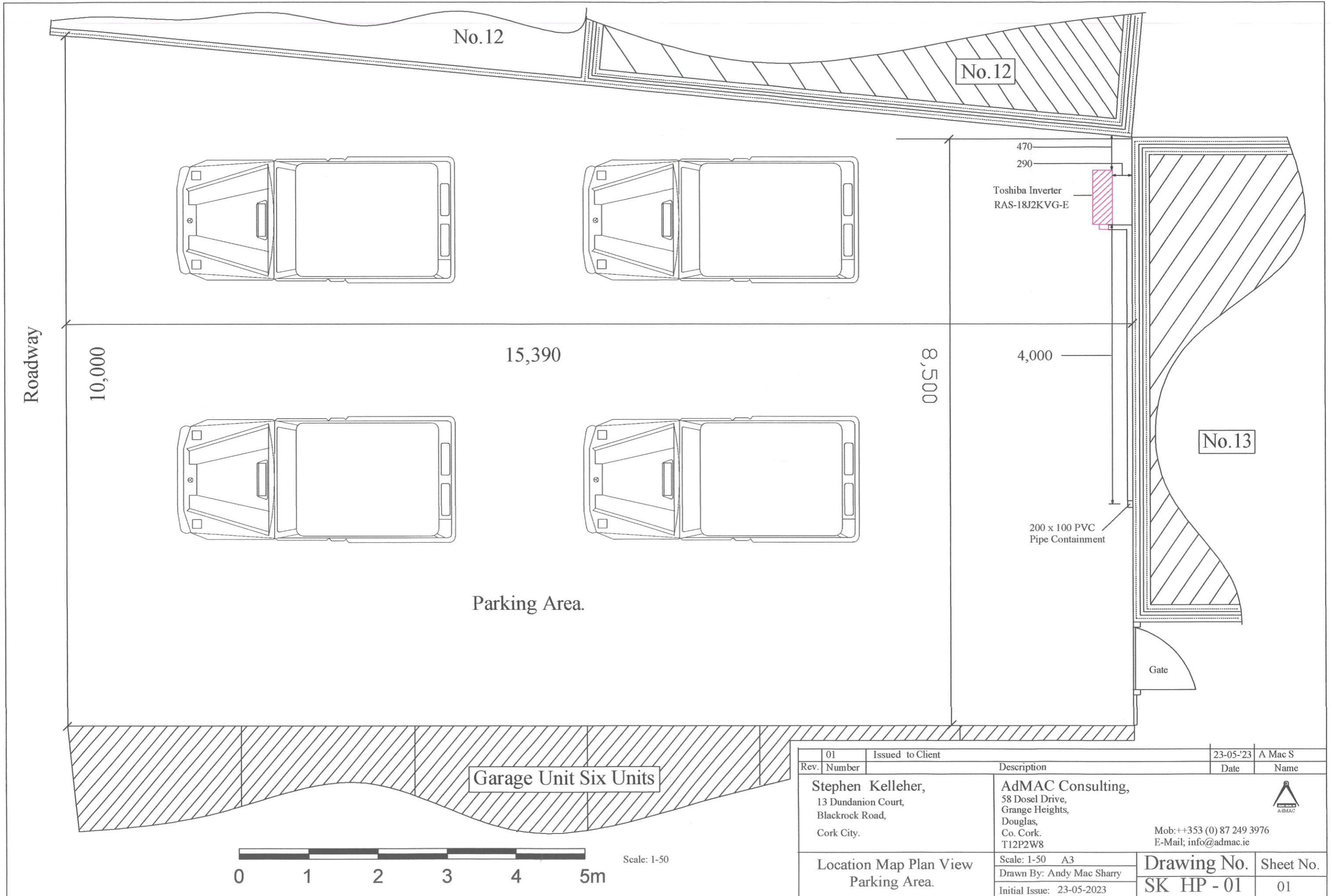
OUTPUT SCALE: 1:1,000


CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at:
www.osi.ie; search 'Capture Resolution'

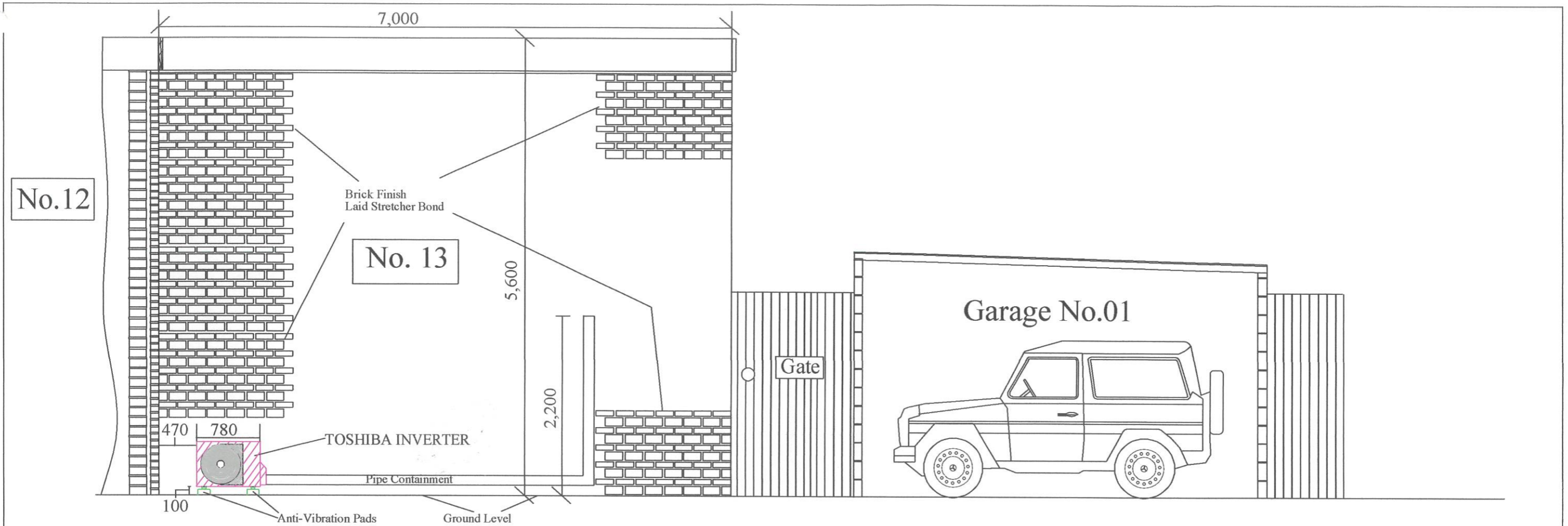
LEGEND:
To view the legend visit
www.osi.ie and search for
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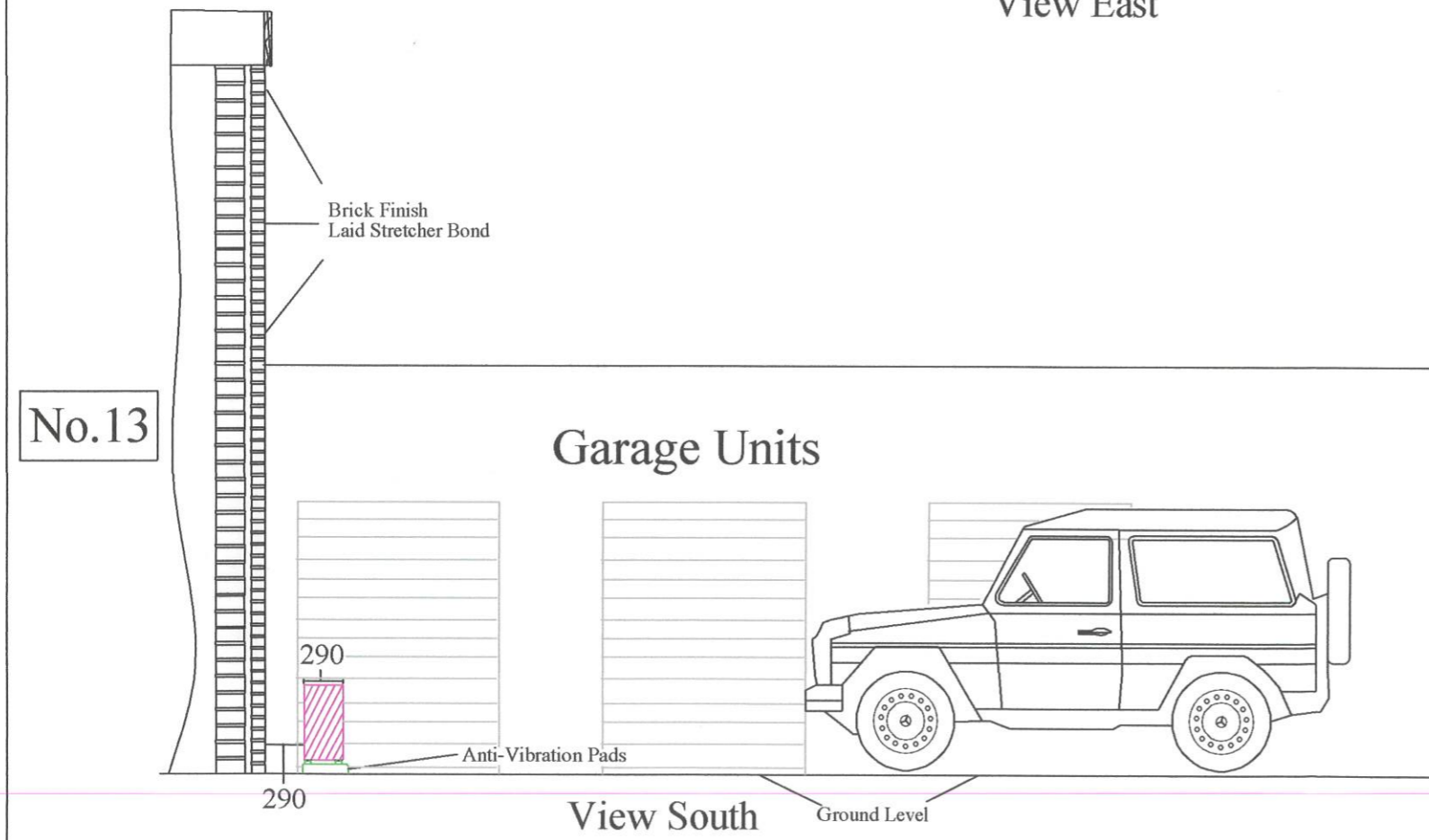
6689025 571819 571072 571819 571647 570956 571733 571647 570956



Rev.	Number	Issued to Client	Description	Date	Name
01		Issued to Client		23-05-23	A Mac S
		Stephen Kelleher, 13 Dundanion Court, Blackrock Road, Cork City.	AdMAC Consulting, 58 Doseil Drive, Grange Heights, Douglas, Co. Cork. T12P2W8	 Mob: ++353 (0) 87 249 3976 E-Mail: info@admac.ie	
Location Map Plan View Parking Area.			Scale: 1-50 A3 Drawn By: Andy Mac Sharry Initial Issue: 23-05-2023	Drawing No. SK HP - 01	Sheet No. 01




View East



View South



Scale: 1-50

Rev. Number	Description	Date	Name
01	Issued to Client	24-05-'23	A Mac S
Stephen Kelleher, 13 Dundanion Court, Blackrock Road, Cork City.		AdMAC Consulting, 58 Dosel Drive, Grange Heights, Douglas, Co. Cork. T12P2W8	
Elevation View & Details Parking Area.		Scale: 1-50 A3 Drawn By: Andy Mac Sharry Initial Issue: 24-05-2023	 Mob: ++353 (0) 87 249 3976 E-Mail: info@admac.ie Drawing No. SK HP - 02 Sheet No. 01



Comhairle Cathrach Chorcaí Cork City Council

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

Stephen Kelleher,
13 Dundanion Court,
Blackrock Road,
Cork.

17/05/2023

RE: Section 5 Declaration R779/23 13 Dundanion Court, Blackrock Road, Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 21st April 2023, I wish to advise under the provisions of section 5(2)(b) of the Planning and Development Act 2000, as amended, that further information is required in order to properly assess this application.

1. The applicant is requested to submit (fully dimensioned) scaled drawings which clearly show the extents of the works. Drawings should be provided to show the plan and elevations of the heat pump and wall upon which it is mounted and should include full dimensions of the heat pump and distances of the heat pump from the edges of the wall upon which it is mounted.
2. The applicant is requested to submit full details regarding the noise levels of the heat pump during normal operation to allow an adequate assessment take place.

Is mise le meas,

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



We are Cork.

PLANNER'S REPORT

Ref. R 779/23

Cork City Council

Development Management
Strategic Planning and
Economic Development

Application type	SECTION 5 DECLARATION
Question	<i>Is the installation of an air source heat pump adjacent to the gable wall of a house development and, if so, is it exempted development?</i>
Location	13 Dundanion Court, Blackrock Road, Cork
Applicant	Stephen Kelleher (owner)
Date	17/05/2023
Recommendation	Further Information Required

INTERPRETATION

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 APPLICATION

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

The question to the planning authority is framed using the phrasing of section 5. The applicant states in the request, "*Is the installation of an air source heat pump adjacent to the gable wall of a house at 13 Dundanion Court, Blackrock Road, Cork, development and, if so, is it considered exempted development?*".

In my opinion the intention of the request is clear, and that it is entirely reasonable to consider the question before the planning authority as being

Is the installation of an air source heat pump adjacent to the gable wall of a house development and, if so, is it exempted development?

3. SITE DESCRIPTION

The site comprises a semi-detached two-storey dwelling. The subject site is part of the Dundanion Court residential development which is accessed from the Blackrock Road. The area is predominantly residential in nature.

4. DESCRIPTION OF THE DEVELOPMENT

The proposed development comprises of the installation of an air source heat pump to the side of the existing property.

5. RELEVANT PLANNING HISTORY

None.

6. LEGISLATIVE PROVISIONS

6.1 Planning and Development Act, 2000 as amended

Section 2(1)

“exempted development” has the meaning specified in section 4.

“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 situate, and*
- (b) in relation to a protected structure or proposed protected structure, includes—*
 - (i) the interior of the structure,*
 - (ii) the land lying within the curtilage of the structure,*
 - (iii) any other structures lying within that curtilage and their interiors, and*
 - (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii).*

“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 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.

Section 5(1)

See section 1 of this report.

Section 57(1)

Notwithstanding section 4(1)(a), (h), (i), (ia), (j), (k), or (l) and any regulations made under section 4(2), 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.

6.2 Planning and Development Regulations 2001 to 2018 as amended

Article 5(2)

In Schedule 2, unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose “ground level” means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.

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

Article 9 sets out restrictions on exemptions specified under article 6.

(Article 6) Schedule 2, Part 1, Class 1

Classes 1-8 relate to development within the curtilage of a house and Class 1 relates to “the extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house”.

Schedule 2, Part 1, Class 2 (d)

Exempted Development — General

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>The installation on or within the curtilage of a house of a ground heat pump system (horizontal and vertical) or an air source heat pump.</i></p>	<ol style="list-style-type: none"> 1. <i>The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground.</i> 2. <i>The total area of such a heat pump, taken together with any other such pump previously erected, shall not exceed 2.5 square metres.</i>

Column 1 <i>Description of Development</i>	Column 2 <i>Conditions and Limitations</i>
	<p>3. <i>The heat pump shall be a minimum of 50cm from any edge of the wall or roof on which it is mounted.</i></p> <p>4. <i>No such structure shall be erected on, or forward of, the front wall or roof of the house.</i></p> <p>5. <i>Noise levels must not exceed 43db(A) during normal operation, or in excess of 5db(A) above the background noise, whichever is greater, as measured from the nearest neighbouring inhabited dwelling.</i></p>

7. ASSESSMENT

7.1 Development

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’.

‘Works’ is defined in section 3(1) of the Act as including ‘any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal’. In relation to the installation of an air source heat pump to the side of the existing dwelling, it is clear that that the installation of this external component to a dwelling comprises ‘works’. As the proposal comprises ‘works’, it is clearly therefore ‘development’ within the meaning of the Act.

CONCLUSION

Is development

7.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. Section 2(1) of the Act defines ‘exempted development’ as having ‘the meaning specified in section 4’ of the Act (which relates to exempted development).

Section 4(3) of the Act states that exempted development either means development specified in section 4(1) or development which is exempted development having regard to any regulations under section 4(2).

I consider that the proposal comes within **subsection (2) of section 4**, i.e. the Regulations, and not subsection (1).

Section 4(1)

I do not consider that the proposal comes within the scope of section 4(1) of the Act.

Section 4(2)

It is therefore necessary to consider whether the proposed rear extension comes under the scope of section 4(2) (i.e. exemptions specified in the Regulations), having regard to the use of the word ‘or’ in section 4(3).

I consider that article 6 and **Class 2 (d)** applies, as it is for the installation on or within the curtilage of a house of a ground heat pump system (horizontal and vertical) or an air source heat pump.

Having assessed the proposed extension against Class 1 and its conditions and limitations I find as follows:

Condition / Limitation 1

The works do not alter the level of the ground by more than 1m, either below or above the level of the adjoining ground.

Condition / Limitation 2

There are no details/drawings of the heat pump submitted as part of the application and therefore it is not possible to assess this condition/limitation. Further information should be requested to ensure plans and elevations (fully dimensioned – including dimensions of the heat pump itself) are submitted to allow an adequate assessment take place.

Condition / Limitation 3

There are no details/drawings of the heat pump submitted as part of the application and therefore it is not possible to assess this condition/limitation. Further information should be requested to ensure plans and elevations (fully dimensioned – including dimensions of the heat pump itself) are submitted to allow an adequate assessment take place.

Condition / Limitation 4

The heat pump is located to the side of the house, behind the front wall of the house.

Condition / Limitation 5

There are no details/drawings of the heat pump submitted as part of the application and therefore it is not possible to assess this condition/limitation. Further information should be requested indicating the noise levels of the heat pump during normal operation to allow an adequate assessment take place.

Restrictions on exemption

I do not consider that any apply in this instance.

CONCLUSION

Further Information Required

8. ENVIRONMENTAL ASSESSMENT

I note the provisions of sections 4(4), 4(4A) and 177U(9) of the Act which state,

Section 4(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 4(4A)

Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and*
 - (b) as respects which an environmental impact assessment or an appropriate assessment is required,*
- to be exempted development.*

Section 177U(9)

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.

8.1 Screening for Environmental Impact Assessment

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**.

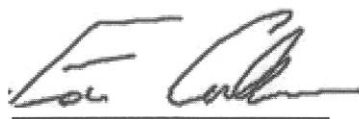
8.2 Screening for Appropriate Assessment

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**.

9. RECOMMENDATION

It is recommended that the following further information be sought:

1. The applicant is requested to submit (fully dimensioned) scaled drawings which clearly show the extents of the works. Drawings should be provided to show the plan and elevations of the heat pump and wall upon which it is mounted and should include full dimensions of the heat pump and distances of the heat pump from the edges of the wall upon which it is mounted.
2. The applicant is requested to submit full details regarding the noise levels of the heat pump during normal operation to allow an adequate assessment take place.



Eoin Cullinane
Assistant Planner
17/05/2023

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: 021-4924709

Líonra/Web: www.corkcity.ie

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

1. NAME OF PERSON MAKING THE REQUEST

Stephen Kelleher

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

13 Dundanion Court, Blackrock Road, Cork

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.

Is the installation of an air source heat pump adjacent to the gable wall of a house at 13 Dundanion Court, Blackrock Road, Cork, development and if so, is it considered exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

Please see attached sheet.

DEVELOPMENT MANAGEMENT
CCP

21 APR 2023

CORK CITY COUNCIL

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

If so please supply details:

_____ No No.

5. 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?

6. Was there previous relevant planning application/s on this site? No

If so please supply details:

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	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)
(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)

7. 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 of the owner if available

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

Signature: Stephen Kelleher

Date: 21/04/2023

CONFIDENTIAL CONTACT DETAILS

These details will not be made available to the public.

Subject

The installation of an Air Source Heat Pump on the gable wall of a House at 13 Dundanion Court, Blackrock Road, Cork.

Planning Legislation

As per **Class 2 (d) of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 to 2023**, the installation of an air source heat pump within the curtilage of a house is classed as exempted development subject to five conditions and limitations, as set out below:

(d) The installation on or within the curtilage of a house of a ground heat pump system (horizontal and vertical) or an air source heat pump.

Conditions and Limitations:

1. *The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground.*
2. *The total area of such a heat pump, taken together with any other such pump previously erected, shall not exceed 2.5 square metres.*
3. *The heat pump shall be a minimum of 50cm from any edge of the wall or roof on which it is mounted.*
4. *No such structure shall be erected on, or forward of, the front wall or roof of the house.*
5. *Noise levels must not exceed 43db(A) during normal operation, or in excess of 5db(A) above the background noise, whichever is greater, as measured from the nearest neighbouring inhabited dwelling.*

We note that restrictions on planning exemptions are set out as per **SI 600 of 2001 Article 9.(1)** which outlines conditions for which the exemptions set out in SI 83 of 2007 and SI 235 of 2008 do not apply. The restrictions as per SI 600 of 2001 Article 9.(1) include if the development would:

- 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;
- Consist of or comprise the excavation, alteration or demolition of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation of which is an objective of a development plan for the area in which the development is proposed;
- Be in an area to which a special amenity area order relates.

Section 5 Declaration

We respectfully seek clarification from the Planning Authority as to whether the subject installation of an air source heat pump on the gable wall of house at 13 Dundanion Court, Blackrock Road, Cork, is development and if so, is it considered exempted development as per the **Planning & Development Regulations 2001 to 2023**.

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 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.

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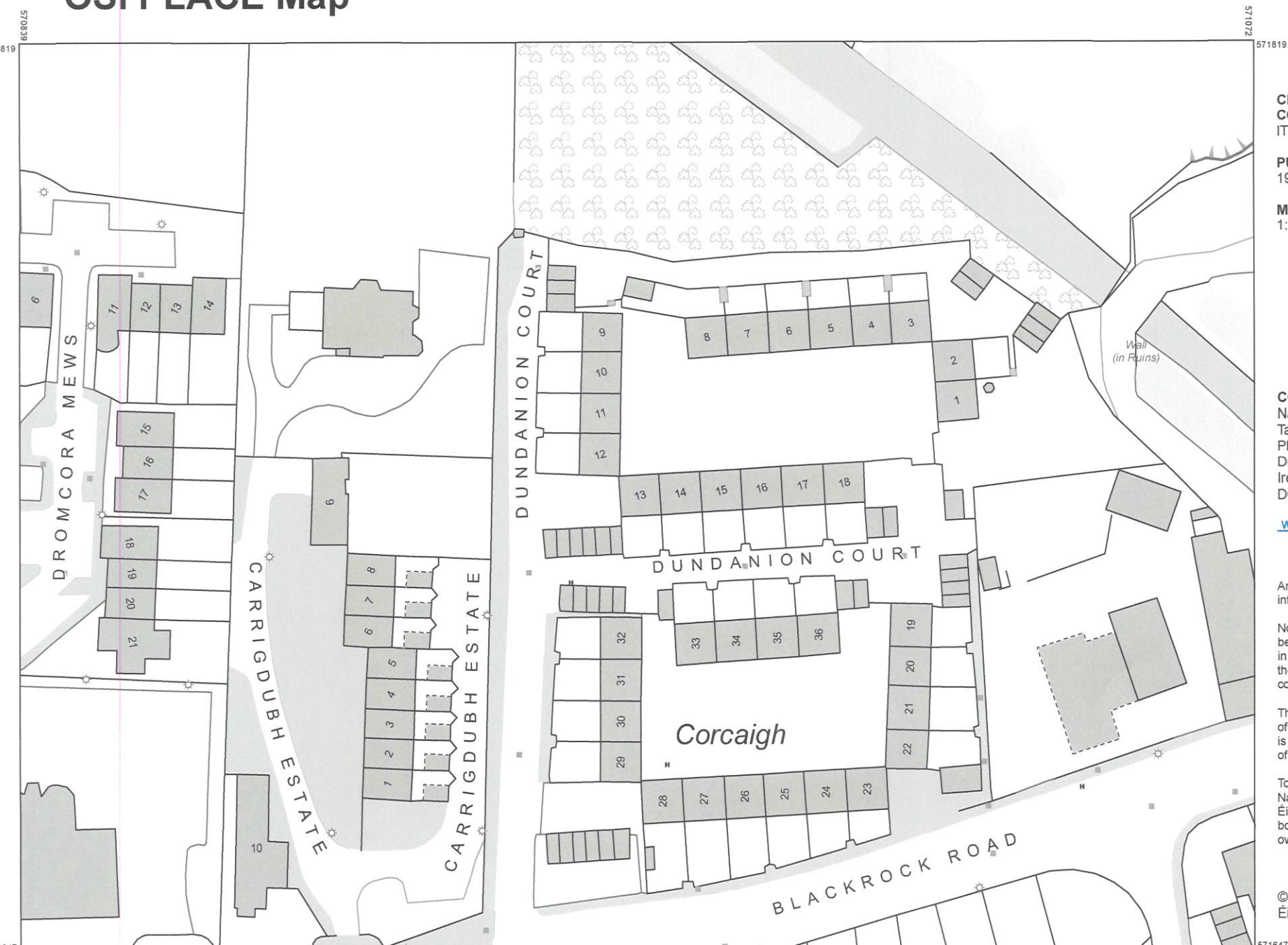
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