



Comhairle Cathrach Chorcaí Cork City Council

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

June Crowley,
8 Cois Coillte,
Carrigaline Road,
Douglas,
Cork T12 WV97.

06/10/2023

**RE: Section 5 Declaration R802/23 8 Cois Coillte, Carrigaline Road,
Douglas, Cork.**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 21st September 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), and
- Articles 6, 9 and 10 and Part 4 of Schedule 2 of the Planning and Development Regulations 2001 to 2018,

The Planning Authority considers that –

the replacement of the existing white patio door with a white uPVC window (either option 1 or option 2) at 8 Cois Coillte, Carrigaline Road, Douglas, Cork **IS DEVELOPMENT and IS 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, 06th October 2023.



We are Cork.



Is mise le meas,

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

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PLANNER'S REPORT

Ref. R 802/23

Cork City Council
Development Management
Community, Culture &
Placemaking Directorate

Application type	SECTION 5 DECLARATION
Question	<i>Whether the replacement of the existing white patio door with a white uPVC window, is development or is exempted development</i>
Location	8 Cois Coillte, Carrigaline Road, Douglas, Cork
Applicant	June Crowley (owner)
Date	06/10/2023
Recommendation	Is development and is exempted development

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 replacement of the existing white Patio Door with a white uPVC Window exempted development?"*. Two options for the proposed window have been provided.

It is considered that the intention of the request is clear, and that it is entirely reasonable to consider the question before the planning authority as being:

Whether the replacement of the existing white patio door with a white uPVC window, is development or is exempted development.

3. SITE DESCRIPTION

The subject property is a ground floor apartment in an three-storey building consisting of single storey ground floor apartments with duplex units overhead. The area is predominantly residential in nature.

4. DESCRIPTION OF THE DEVELOPMENT

The proposed development proposes the replacement of the existing white Patio Door with a white uPVC Window on the front elevation.

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.

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.

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’. It is considered that the proposed development constitutes ‘works’ as it comprises the alteration to the front elevation of the dwelling unit. 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).

It is considered that the proposal comes within **subsection (1) of section 4**.

Section 4(1)

Section 4(1)(h) of the Act states the following:

(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;

In my opinion a minor component of this proposal comes within the scope of section 4(1), being the minor works proposed to the existing front garage door to replace it with a window of similar style and finish to that of the existing ground floor windows, altering the finish of the front elevation of the garage to pebble dash and the replacement of a rear window with sliding doors. I consider that this would come under the scope of section 4(1)(h) when carried out in conjunction with a proposed change of use, however this is a minor component of the proposal.

In this case the relevant wording is “...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/such appearance inconsistent with the character of the structures or of neighbouring structures”.

It is considered that the proposed replacement of the patio door with a window of identical opening size 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 therefore can be considered exempt.

Restrictions on exemption

I do not consider that any apply in this instance.

CONCLUSION

Is exempted development

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

In view of the above and having regard to —

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

the planning authority considers that —

the replacement of the existing white patio door with a white uPVC window (either option 1 or option 2) at 8 Cois Coillte, Carrigaline Road, Douglas, Cork **IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.**



Eoin Cullinane
A/Executive Planner
06/10/2023

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/Tei: 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

8, Cois Coilwite,
CARRIGALINE ROAD/
DOUGHLAS, CORK.
T12 WV97

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 the existing white patio door with a white uPVC window Exempted Development?

DEVELOPMENT MANAGEMENT
CCP

21 SEP 2023

CORK CITY COUNCIL

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

The overall size and position of the window will be the same as the existing patio door.

Currently, the only means of venting the room is by opening the patio door. This is not practical in the winter.

Visually, the only difference between the existing patio door & the proposed window will be the presence of:
1 horizontal transom in option 2 OR
2 horizontal transoms in option 1.

I attach location maps, photo of existing patio door and images of options 1 & 2 for the proposed replacement window for your assistance.

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	60M ²
(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 checked="" 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) ----- N/A	Proposed/existing use (please circle) ----- N/A

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):	JUNE CROWLEY
A/	
Pe	
be	
(if	
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
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: June Crowley
Date: 20/9/23

.....

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:

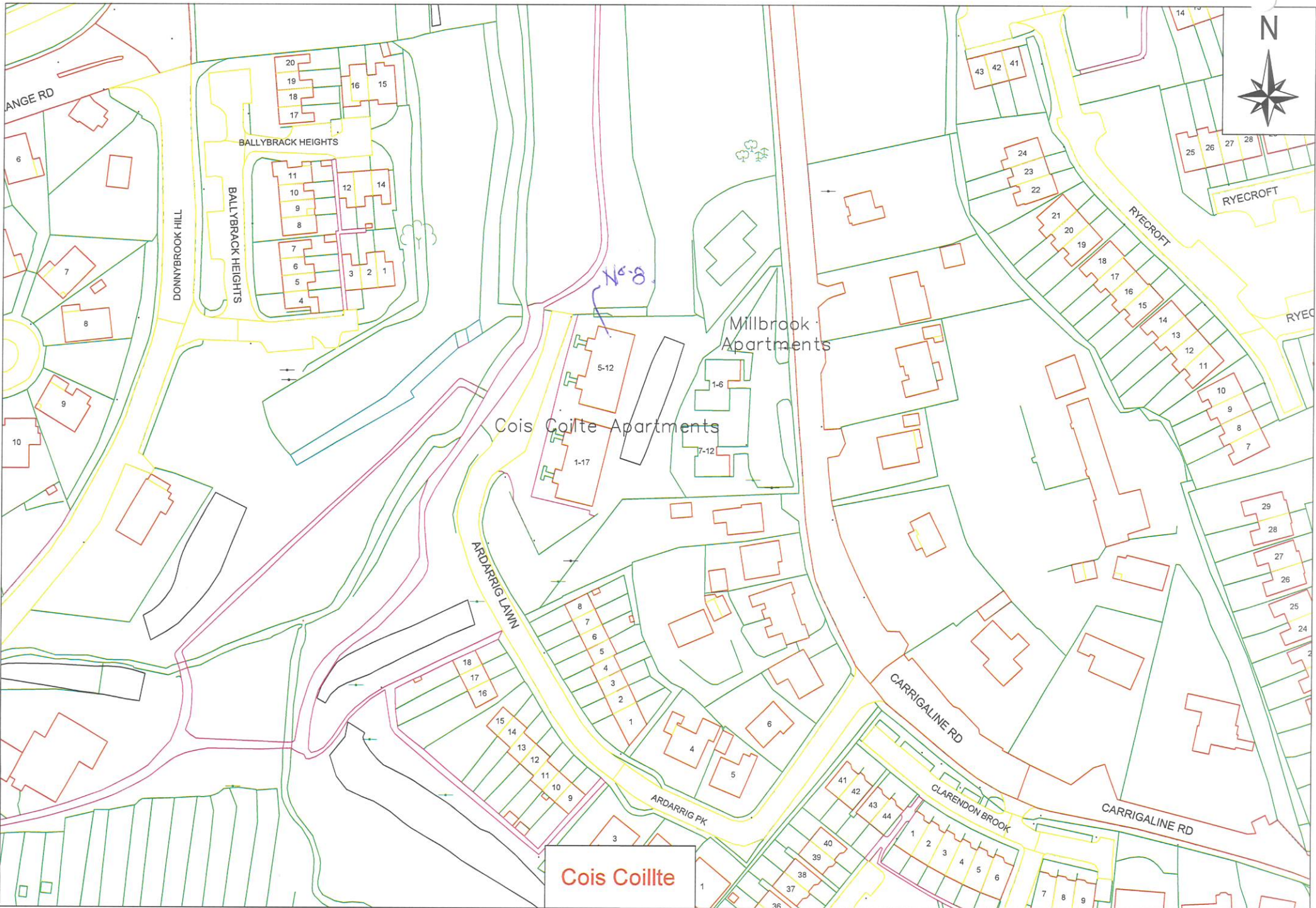
The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- 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



Cois Coillte

Cois Coillte Apartments

Millbrook Apartments

BALLYBRACK HEIGHTS

BALLYBRACK HEIGHTS

RYECROFT

RYECROFT

RYECROFT

ANGE RD

DONNYBROOK HILL

ARDARRIG LINN

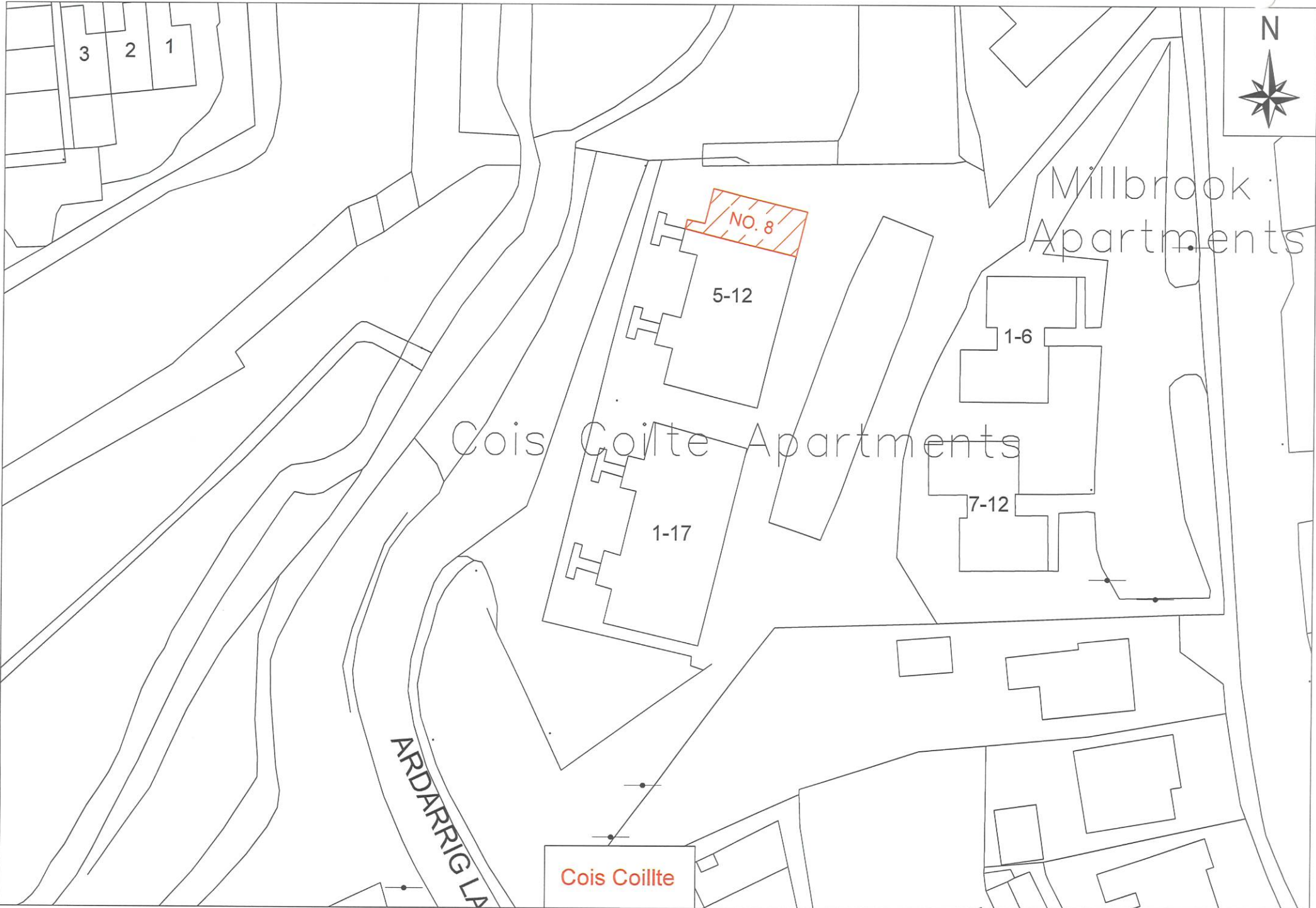
ARDARRIG PK

CARRIGALINE RD

CLARENDON BROOK

CARRIGALINE RD

16-8



3 2 1



Millbrook
Apartments

Cois Coillte Apartments

NO. 8

5-12

1-6

1-17

7-12

ARDARRIG LA

Cois Coillte

EXISTING PATIO DOOR



REPLACEMENT WINDOW - OPTION 2 - lap openings.



REPLACEMENT WINDOW - OPTION 1. - Middle Openings.

