



Comhairle Cathrach Chorcaí Cork City Council

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

Ruth Buckley,
c/o Ryan Chai
Caragh,
South Douglas Road,
Cork, T12VK6E

20/06/2024

**RE: Section 5 Declaration R852/24 Caragh, South Douglas Road,
Cork.**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 24/05/2024, I wish to advise as follows:

The Planning Authority, 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, and 9 of the Planning and Development Regulations 2001 (as amended).

It is considered that the *specific question for which a declaration is sought* **IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT** at Caragh, South Douglas Road, Cork.

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.



We are Cork.

Is mise le meas,

David O'Regan

**David O'Regan,
Assistant Staff Officer,
Community, Culture &
Placemaking Directorate**

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: R 852/24
Description: Is planning permission required for 3 Velux windows in the attic at rear of house? The size of each window is 1140mm * 1180mm.
Applicant: Ruth Buckley
Location: Caragh, South Douglas Road, Cork, Ireland, T12VK6E
Date received: 24/05/2024

SUMMARY OF RECOMMENDATION

Is Development Is Exempted Development

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 & Description

The property is located Caragh, South Douglas Road, Cork. The subject site is a detached single storey dwelling that is accessed via South Douglas Road. The dwelling could be described as being located in an area considered backland development and is set back from the road in excess of 30m and is located behind a relatively newly built dwelling. There are a number of rear garden areas in proximity of the site.

Subject Development

Is planning permission required for 3 Velux windows in the attic at rear of house? The size of each window is 1140mm * 1180mm.

Land use zoning

The site is zoned ZO 1 Sustainable Residential Neighbourhoods with the zoning objective to protect and provide for residential uses and amenities, local services and community, institutional, educational, and civic uses.

Planning History:

TP 23/41986 – Permission granted for (1) Partial demolition of the existing dwelling, (2) Construction of a new roof and single-storey extensions to the sides and rear of the existing dwelling, (3) Alterations to the existing elevations, and all associated site works.

1. 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 – (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.

2. ASSESSMENT

The purpose of this report is to assess whether or not the matter in question constitutes development and whether its fall within the scope of exempted development. Matters pertaining to the acceptability of the proposal in respect of the proper planning and sustainable development of the area is not a consideration under section 5.

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 installation of 3 no. rooflights 1140mm by 1180mm constitutes development as it comprises of alteration to an existing building.

Permission was granted in 2023 for the for (1) Partial demolition of the existing dwelling, (2) Construction of a new roof and single-storey extensions to the sides and rear of the existing dwelling, (3) Alterations to

3.2 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.

4. Conclusion

The question has been asked Is planning permission required for 3 Velux windows in the attic at rear of house? The size of each window is 1140mm * 1180mm.

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed altered layout is development and is exempted development.

5. 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, and 9 of the Planning and Development Regulations 2001 (as amended).

It is considered that the proposed,

is Development and is Exempted Development.

Alan Swanwick
Assistant Planner
20/06/2024

**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

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

R-Phost/E-Mail planning@corkcity.ie
Fón/Tel: 021-4924564/4321
Líonra/Web: www.corkcity.ie

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

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

Caragh, South Douglas Road, Cork, Ireland, T12VK6E

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?*

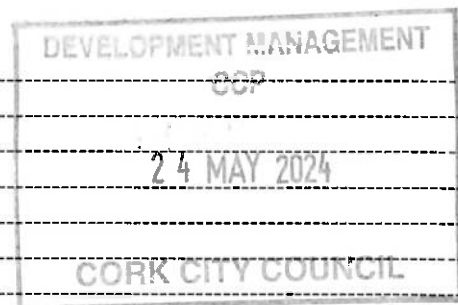
Note: only works listed and described under this section will be assessed under the section 5 declaration.

Is planning permission required for 3 velux roof windows in attic at rear of house?

The size of each window is 1140mm * 1180mm.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).



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	
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) _____
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle) ----- ----- -----	Proposed/existing use (please circle) ----- ----- -----

4. APPLICANT/

Name of applicant
Applicants Address
Person/Agent acting behalf of the Applicant (if any):
Should all correspondence (Please note that if the answer is address)

5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner X	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: Ruth Buckley

Date: May 24 2024

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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





Tramore B

Rathmore Lawn

Ballincurigh Park

Ballincurigh Park

Rosebank

Rosebank

South Douglas Road

South Douglas Road

Berkeley Court

Rathmore Lawn

South Douglas Road

Ashdale Park