

c/o Maurice Spillane  
College Road  
Carrignavar  
Co. Cork

25/04/2020

RE: Section 5 Declaration R570/20 17 Bendermeer Park,  
Magazine Road, Cork

A Chara,

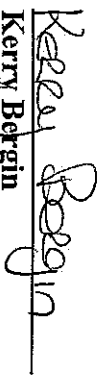
With reference to your request for a Section 5 Declaration at the above named property, I wish to advise as follows:

In view of the above and having regard to —

- 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 development is development and is exempted development.

Is misa le meas,



Kerry Bergin  
Community, Culture and Placemaking Directorate  
Cork City Council

<b>Description</b>	<i>Is the conversion of a domestic garage to domestic accommodation i.e a ground floor bedroom and ensuite shower room with access from the front hall of the house, development and if so, it is exempt development?</i>
<b>Location</b>	17 Bendermeer Park, Magazine Raod, Cork
<b>Applicant</b>	Veronica Long
<b>Date</b>	21/04/2020
<b>Recommendation</b>	<i>Is Development and Is Exempted Development</i>

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 conversion of a domestic garage to domestic accommodation i.e a ground floor bedroom and ensuite shower room with access from the front hall of the house, development and if so, it is exempt development?*'

### **3. Site Description**

The property in question is a two storey detached dwelling with single storey garage with a pitched roof to the side in an established residential area of detached dwellings. Most of the dwellings along this residential street are semi detached dwellings with an attached side garage. Some of these single storey side garages along this street have been converted into habitable internal spaces.

### **4. Planning History**

There are no known planning applications on this site.

### **5. Legislative Provisions**

#### **5.1 The Act**

Section 2(1),

*"works" includes any act or operation of construction, excavation, demolition, extension, alteration,*

**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.*

**5.2 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

...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 construction.

## **6.2 Exempted development**

Under this Act, Section 4 (1) (h) states:

*“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 such appearance inconsistent with the character of the structure or of neighbouring structures;*

Based on the above, the conversion of the garage to habitable space would appear to be covered under Section 4 (1) (h).

Although not part of the question in the Section 5, it should also be clarified whether the redevelopment of a pitched roof to a flat roof is exempted development or not. In order to be considered exempted development, such redevelopment would have to be those which do not materially affect the external appearance of the structure so as to render such appearance inconsistent with the character of the structure or of neighbouring structures. The majority of dwellings on Central Avenue have attached flat roof garages/ garage conversions. The new roof would therefore be considered as consistent with the character of the structure and of neighbouring structures and would be exempt under Section 4 (1) (h) of the Act.

## **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

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

It is considered that the proposed development is development and is exempted development.

*Gwen Jordan McGee*

Gwen Jordan McGee  
Senior Executive Planner

**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**

17 Windemere Park, Magazine Road, Cork, T12E7W2

BE N D E M E R E

**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 conversion of a domestic garage at 17 Windemere Park, Magazine Road, Cork, to domestic accommodation i.e. a ground floor bedroom and ensuite shower room with access from the front hall of the house, development and if so, is it exempted development?

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

*(Use additional sheets if required).*

The conversion would necessitate the raising of the floor level by 300mm approx. to coincide with the floor level of the existing dwelling and to provide adequate protection from the ingress of dampness and to provide adequate insulation. The existing corrugated roof sheeting would be removed and replaced with a membrane covered flat roof with adequate headroom, ceilings and insulation. The front and rear walls of the existing garage would be demolished and reconstructed to housing standards and the party wall would be upgraded to housing standard. The party wall would be upgraded to provide appropriate fire resistance. The drains would be renewed under the existing garage and as far as the final access chamber at the site entrance.



4. Is this a Protected Structure or within the curtilage of a Protected Structure?  NO  
 If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?  NOT APPLICABLE

5. Was there previous relevant planning application/s on this site?   
*If so please supply details:*  
 No planning applications in recent years.

**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	Existing dwelling (incl. garage) : 116.0 sq.m Proposed conversion: 11.00 sq.m
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964, (including those for which planning permission has been obtained)?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) 9.00 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)
NOT APPLICABLE	NOT APPLICABLE

**8. 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	NOT APPLICABLE		
If you are not the legal owner, please state the name and address of the owner if available	NOT APPLICABLE		

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

Signature: *Delavica Louf*

Date: *12/03/2020*

<b>Name(s)</b>	Mrs. Veronica Long
<b>Address</b>	17 Windermere Park, Magazine Road, Cork. T12E7W2

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

<b>Name(s):</b>	NOT APPLICABLE	
<b>Address:</b>	..... ..... .....	
<b>Telephone:</b>	..... .....	
<b>E-mail address:</b>		
<b>Should all correspondence be sent to the above address?</b> <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>	Yes <input type="checkbox"/>	No <input type="checkbox"/>

**12. ADDITIONAL CONTACT DETAILS**

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

**ADVISORY NOTES:**

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

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

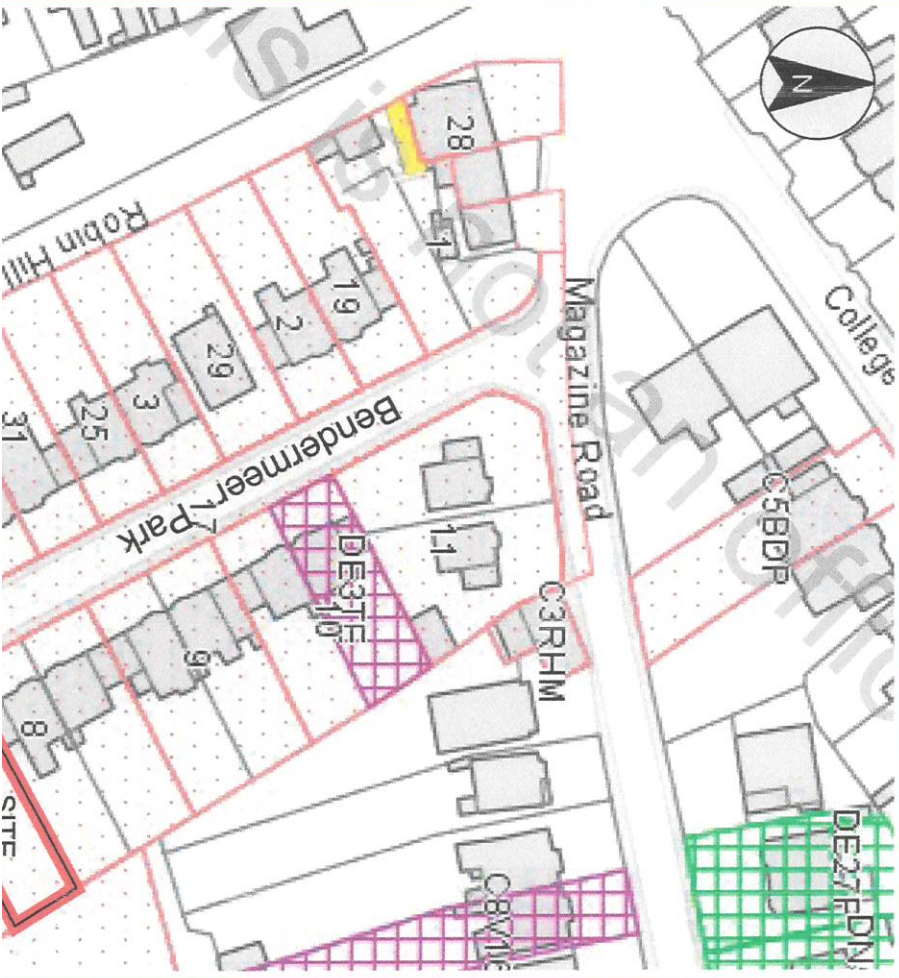
Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.



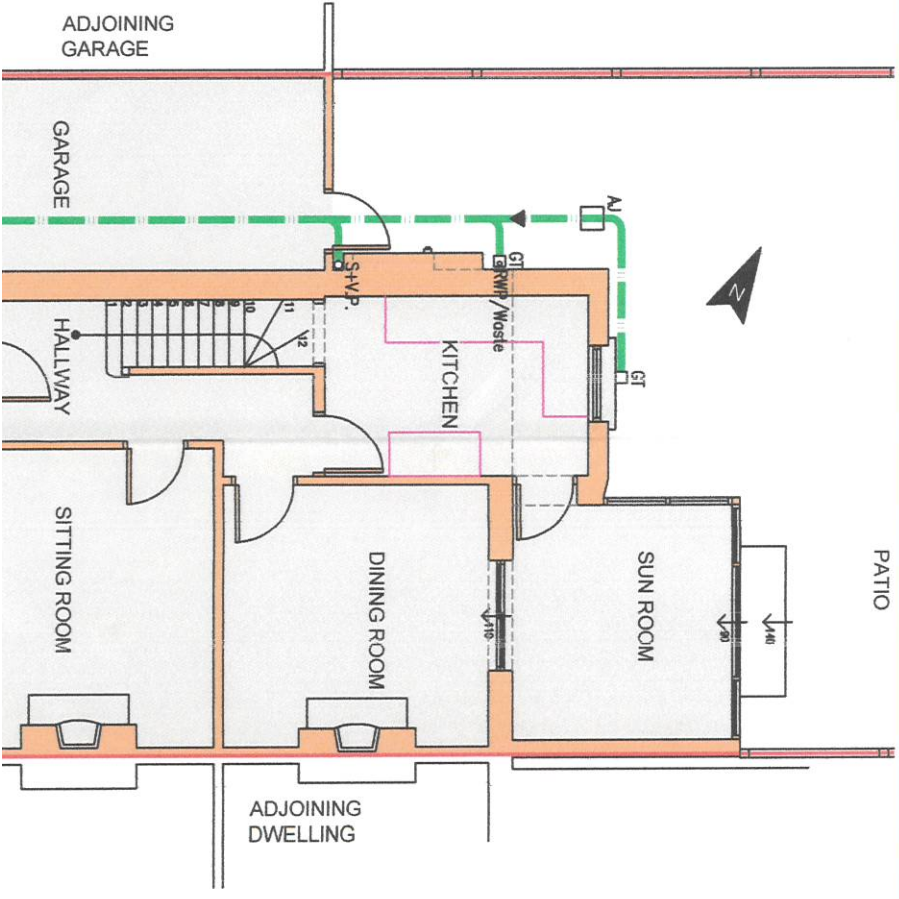
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks 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.



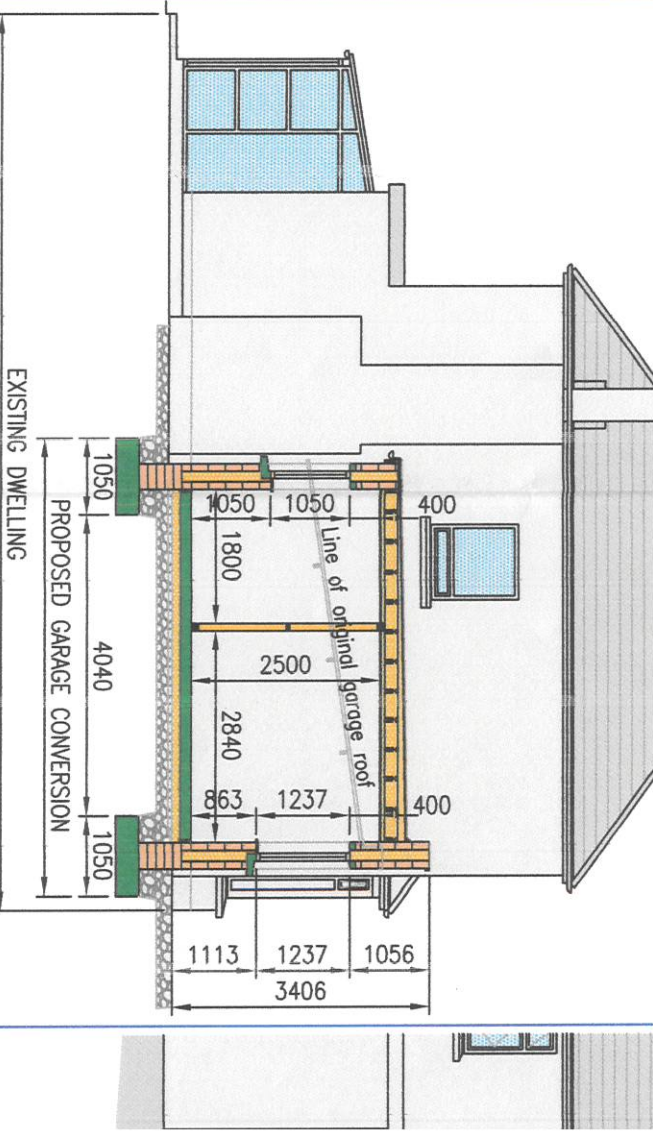
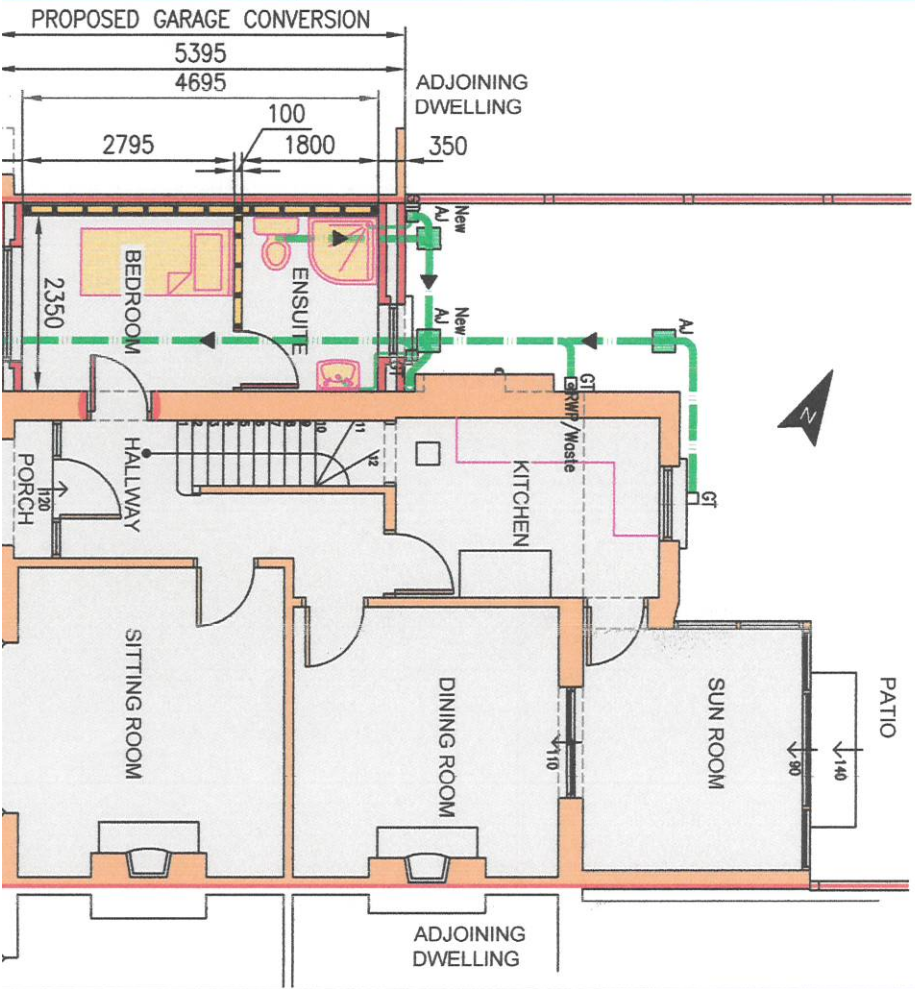
FRONT ELEVATION TO SOUTH WEST.  
Scale 1:100



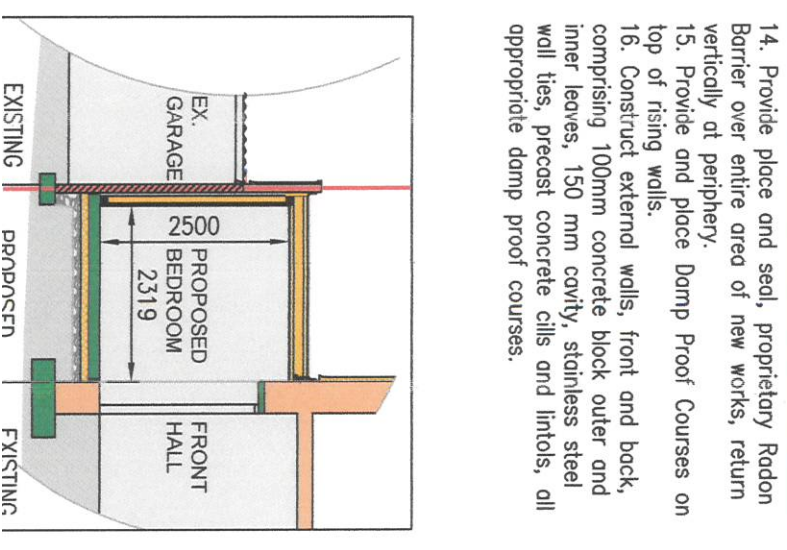
REAR ELEVATION TO NORTH EAST.  
Scale 1:100







- SCOPE OF WORK / BRIEF SPECIFICATION**
1. Disconnect existing electrical services in garage.
  2. Take down existing roller shutter door.
  3. Carefully remove existing corrugated iron roof covering, ensuring that neighbouring roof is retained intact.
  4. Carefully saw cut front wall of existing garage and take down front masonry wall.
  5. Take down existing rear wall of garage ensuring that neighbouring walls are intact.
  6. Break out and remove existing garage floor.
  7. Excavate soil under floor slab to level of underside of new hardcore filling.
  8. Break out concrete where necessary, excavate and remove existing combined drain from access chamber at rear of dwelling to existing final access chamber at entrance to site. Supply, lay, joint, test and backfill 100Ø uPVC combined drain at the gradient of the existing drain, include all fittings required for the proposed works.
  9. Excavate to required depths for foundations to new external walls.
  10. Dispose of debris and excavated materials to authorised dump facility.
  11. Pour 30 newton concrete in foundations to external walls (1050 x 300 deep). Reinforce foundations with welded fabric mesh A393 placed with 50mm concrete cover from bottom and sides

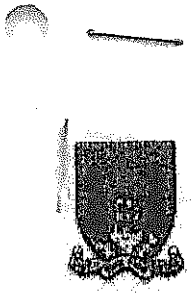


14. Provide place and seal, proprietary Radon Barrier over entire area of new works, return vertically at periphery.
15. Provide and place Damp Proof Courses on top of rising walls.
16. Construct external walls, front and back, comprising 100mm concrete block outer and inner leaves, 150 mm cavity, stainless steel wall ties, precast concrete cills and lintols, all appropriate damp proof courses.

**HDESK RECEIPT CHECKLIST**

Long

TP No.: N/A



Cork City Council  
City Hall  
Cork

12/03/2020 15:18:22

Receipt No.: LODGE2/0/2243603  
\*\*\*\*\* REPRINT \*\*\*\*\*

VERONICA LONG

EXEMPTION CERTS - FEES 58800 80.00  
GOODS 80.00  
VAT Exempt/Non-vatable  
VERONICA LONG

Total: 80.00 EUR

Tendered: Electronic 80.00

Change: 0.00

Issued By: Ciara Sheehan  
From: Cash Desk Till 2  
Vat reg No.0005426M

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Application Fees	
Exemption Certs	✓
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Planning Contributions TP No. \_\_\_\_\_

JDE Account No.: \_\_\_\_\_

Amount: \_\_\_\_\_

Signed: John Conroy

Date: 12/3/20