



Comhairle Cathrach Chorcaí Cork City Council

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

Utz Roedig
77 Rossbrook
Model Farm Road
Cork
T12 DH0K

02nd July, 2020

RE: R579/20 – Section 5 Declaration
Property: 77 Rossbrook, Model Farm Road

Dear Sir/Madam,

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

Having regard to Sections 3(1), 4(1)(h) Planning and Development Act 2000, articles 6 and 9 of the Planning and Development Regulations, 2001 and Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001: -

1. the conversion of the existing single storey side elevation garage for use as part of the house is development and is exempted development, and
2. the replacing of the garage door with a window and brick wall beneath is development and is exempted development

all at 77 Rossbrook, Model Farm Road, Cork

Yours faithfully,

Assistant Staff Officer
Community, Culture and Placemaking
Cork City Council



We are Cork.

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: R 579.20

Description: Whether the

- A) conversion of built-in garage to a living room and
- B) removal of garage door and replacement with window and brick wall beneath the window

are or are not exempted development

Applicant: Utz Roedig

Location: 77 Rossbrook, Model Farm Road

Site inspection: 16.06.2020

SUMMARY OF RECOMMENDATION

Is development and is exempted development

1. 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.

2. Site Inspection and Location

The site is located at 77 Rossbrook, Model Farm Road an established residential estate of mostly detached two storey dwellings. The site is a corner site, with an estate road to the east and north. The front elevation faces east.

3. Subject Development

Whether the conversion of garage attached to the side of a dwelling to a living room and removal of garage door and its replacement with window and brick wall beneath are or are not exempted development.

4. Sub-threshold EIAR

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No3) 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 EIAR is not required to be submitted.

5. Appropriate Assessment

The relevant European sites are the Cork Harbour SPA (Site Code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to its nature, scale and location it is considered that the proposed development would not affect the integrity of the sites referred to. Accordingly, it is considered that a Natura impact statement for the purposes of Article 6 of the Habitats Directive is not required to be submitted.

6. Planning history

On subject site:

None recent

7. Planning policy

Cork City Development Plan 2015

The site is zoned residential, ZO4.

8. Planning legislation

- Planning and Development Act 2000 as amended
Section 3(1) and Section 4(1)(h)
- Planning and Development Regulations 2001
Article 6
Article 9
Class 1 of Part 1 of Schedule 2

9. Assessment

The question before the Planning Authority is –

‘Whether the conversion of an existing garage into a living room, replacing existing garage door with new window and a brick wall beneath are or are not development or are or are not exempted development’

Is or is not development?

The conversion of the garage to use as part of the house would involve the alteration of the garage and the extension of the house which would constitute development under the above provisions of the Act.

Is or is not exempted development?

Conversion of garage to living room

Class 1 of the Planning Development Regulations relates to extensions to dwellings, and as part of that Class it includes the following (emphasis added):

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

The garage is attached to the southern side of the dwelling, and is a single storey annex to the dwelling. It is not considered to be an integral garage. It is proposed to convert the garage to a living room, and as such will be used as part of the house.

The following table will examine whether the proposal complies with the conditions and limitations associated with this class of development:

1a	Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.	There have been no previous extensions. Floor area of extension stated to be 11.52m ² . This is satisfactory.
1b	Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.	n/a
1c	Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.	n/a
2a	Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.	House has not been extended previously. This is satisfactory.
2b	Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.	n/a
2c	Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.	n/a
3	Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.	n/a
4a	Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.	n/a
4b	Where the rear wall of the house includes a gable, the height of the walls of any such extension shall	n/a

	not exceed the height of the side walls of the house	
4c	The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.	n/a
5	The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.	There is no reduction in private open space.
6a	Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.	It is proposed to convert the garage rather than building an extension. The garage door is to be replaced by a window. This is more than 1 metre from the boundary it faces.
6b	Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.	n/a
6c	Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.	n/a
7	The roof of any extension shall not be used as a balcony or roof garden.	There are no changes proposed to the roof.

Restrictions on exemption

A number of restrictions on exemption are set out in Article 9.

One such restriction is if the carrying out of such development would— (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

The governing permission for the estate is 87/13908. No conditions de-exempting the proposal were attached to the grant of planning permission.

No other restrictions set out in Article 9 apply.

The conversion of the garage attached to the southern side of the dwelling is development and exempted development. It comes within the scope of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, satisfies all the conditions and limitations attached thereto and none of the restrictions in Article 9 of the Planning and Development Regulations 2001 apply.

Replacing garage door with a window and brick wall beneath

The Class 1 exemption does not specifically include provision for replacing a garage door with a window. The garage door is on the front elevation and visible from the public realm and is to be replaced with a window similar to that on the existing façade and a brick wall beneath. It is considered that this part of the proposed works comes within the scope of Section 4(1)(h) of the Planning Act. The replacing of the garage door with a window will alter the front façade of the house, though it is viewed that it will not materially affect the external appearance so as to render the appearance inconsistent with the character of neighbouring structures. The house is located in an established residential area and some other houses of a similar design to the subject site have undertaken such works.

The replacing of the existing garage door with a window and brick wall is development and are exempted development because the proposed works would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the house and neighbouring properties as defined under section 4 (1)(h) of the Planning and Development Act, 2000.

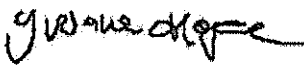
10. Recommendation

It is recommended that the applicant is advised as follows:

Having regard to Sections 3(1), 4(1)(h) Planning and Development Act 2000, articles 6 and 9 of the Planning and Development Regulations, 2001 and Class 1 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001: -

1. the conversion of the existing single storey side elevation garage for use as part of the house is development and is exempted development, and
2. the replacing of the garage door with a window and brick wall beneath is development and is exempted development

all at 77 Rossbrook, Model Farm Road, Cork.



Yvonne Hogan
Assistant Planner
26.06.2020

Agreed – E. Mitchell (Senior Executive Planner), 29.06.2020.



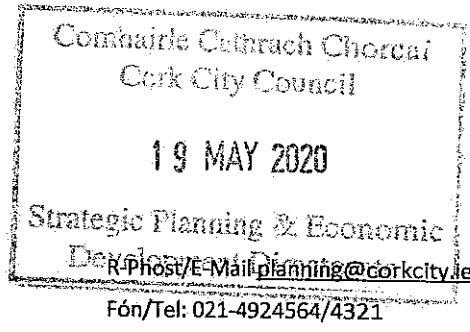
Front elevation of dwelling at 77 Rossbrook



Houses on opposite side of road

**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

Community, Culture & Placemaking Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.



Fón/Tel: 021-4924564/4321

Líonra/Web:

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

77 Rossbrook, Model Farm Road, Cork, T12 DH0K

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 the built-in garage into a living room at 77 Rossbrook, Cork an exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets if required).

The existing garage door (see Figure1) will be replaced with a window (see Figure2). Most houses of the same design in the estate/road have already carried out this modification. -----

3. Are you aware of any enforcement proceedings connected to this site?
If so please supply details:
-

4. Is this a Protected Structure or within the curtilage of a Protected Structure?

If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?

5. Was there previous relevant planning application/s on this site?
If so please supply details:
-

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	11.52m ² (480cmx240cm)
(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)	Proposed/existing use (please circle)
_____	_____
_____	_____
_____	_____

7. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Utz Roedig
Applicants Address	77 Rossbrook , Model Farm Road, Cork, T12 DH0K	
Person/Agent acting on behalf of the Applicant (if any):	Name:	Utz Roedig
	Address:	77 Rossbrook , Model Farm Road, Cork, T12 DH0K
	Telephone:	XXXXXXXXXX
	Fax:	
	E-mail address:	XXXXXXXXXX
Should all correspondence be sent to the above address? <small>(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)</small>		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 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: Uth Neady

Date: 14.5.2020

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 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.



Figure 1 – Current view of 77 Rossbrook




Figure 2 – Planned changes to 77 Rossbrook

Folio Number: CK53307F

Application Number: P2019LR016397E

563120 mE, 570910 mN


**The Property
 Registration Authority**
**An tÚdarás
 Clárúcháin Maoiné**
 Folio: CK53307F

This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see www.land.ie

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

(centre-line of parcel(s) edged)

Freehold

Leasehold

SubLeasehold

Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit



A full list of burdens and their symbology can be found at: www.landirect.ie


The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deeds and Title Act 2006.



562800 mE, 570650 mN
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1:1000 Scale
Paper Print