

**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: 021-4924762

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

1 Frankfield View, Old Youghal Road, Cork T23 P8C5

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 existing rear single-storey extension (internal area 6.04sq.m, comprising bathroom) development and if so, is it exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

N/A

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

No

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? N/A

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

If so please supply details:

N/A

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 | 6.04sq.m |
| (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) |
| <u>N/A</u> | <u>N/A</u> |

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 | N/A | |
| If you are not the legal owner, please state the name and address of the owner if available | N/A | |

9. I ~~we~~ confirm that the information contained in the application is true and accurate:

Signature: _____

Date: 18/02/21

CONTACT DETAILS

10. Applicant:

| | |
|----------------|------------------------------------------------------------------------------------------|
| Name(s) | Colin Lane |
| Address | Dillons Cross Medical Centre, Old Youghal Road, Dillons Cross, Cork T23 YXV4 |

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

| | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|-------------------------------------|--------------------------|
| Name(s): | PABIA Consulting Ltd. | | |
| Address: | Unit 1G, North Valley Business Centre, Mallow Road, Cork T23 KH74 | | |
| Telephone: | [REDACTED] | | |
| E-mail address: | [REDACTED] | | |
| 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"/> | <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 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.

[REDACTED]

[REDACTED]



Comhairle Cathrach Chorcaí Cork City Council

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

PABIA Consulting Ltd.
Unit 1G
North Valley Business Centre
Mallow Road
Cork
T23 KH74

02nd March 2021

RE: R637/21 – Section 5 Declaration
Property: 1 Frankfield View, Old Youghal Road

Dear Sir/Madam,

With reference to your request for a section 5 Declaration at the above named property, I wish to advise 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 –

the existing rear single-storey extension (internal area 6.04sq.m, comprising bathroom)

Is development and is not exempted development

Yours faithfully,



Kerry Bergin
Assistant Staff Officer
Community, Culture and Placemaking
Cork City Council



We are Cork.

| | | |
|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| PLANNER'S REPORT Ref. R637/21 | | Cork City Council Development Management Strategic Planning and Economic Development |
| Application type | Section 5 Declaration | |
| Description | <i>Is the existing rear single-storey extension (internal area 6.04sq.m, comprising bathroom) development and if so is it exempted development?</i> | |
| Location | 1 Frankfield View, Old Youghal Road | |
| Applicant | Colin Lane | |
| Date | 03/03/2021 | |
| Recommendation | <i>Is development and is not 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 response to Q2 on the application for the applicant frames the following question:

Is the existing rear single-storey extension (internal area 6.04sq.m, comprising bathroom) development and if so is it exempted development?



3. Site Description

The property in question is a modest two storey end of terrace house located on a south facing terrace to the south of the Old Youghal Road close to Dillon’s Cross. The house is located beside the access road to the terrace and the rear yard is an irregular shape, tapered by the edge of the adjoining road.

4. Planning History

There are no recent planning applications associated with the site. Permission was granted under 15/36415 and amended under 18/38054 for a new dwelling to the south of the subject site.

5. Legislative Provisions

5.1 *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(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 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.

SCHEDULE 2, ARTICLE 6, PART 1, *Exempted Development – General*

| Column 1 Description of Development | Column 2 Conditions and Limitations |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><i>Development within the curtilage of a house</i> CLASS 1</p> <p>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.</p> | <p>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</p> <p>(b) 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.</p> <p>(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</p> <p>2. (a) 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</p> |

| | |
|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>which planning permission has been obtained, shall not exceed 40 square metres.</p> <p>(b) 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.</p> <p>(c) 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.</p> |
| | 3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary. |
| | <p>4. (a) 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.</p> <p>(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.</p> <p>(c) 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.</p> |
| | 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. |
| | <p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p> <p>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</p> <p>(c) 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.</p> |
| | 7. The roof of any extension shall not be used as a balcony or roof garden. |

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 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 erection of the rear extension constitutes the carrying out of works and as such it constitutes development.

6.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development.

The rear extension as constructed may be exempt if it accords with the exemption set out in Class 1 in Schedule 2 of the *Planning and Development Regulations 2001* (as amended). The following is a review of the proposal against the conditions / limitations set out in Class 1.

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</p> <p>(b) 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.</p> <p>(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</p> | <p>(a) The ground floor extension is less than 40m²</p> <p>(b) n/a</p> <p>(c) n/a</p> |
| <p>2. (a) 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.</p> <p>(b) 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.</p> <p>(c) 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.</p> | <p>House does not appear to have been previously extended</p> |
| <p>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p> | <p>n/a</p> |
| <p>4. (a) 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.</p> <p>(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.</p> <p>(c) 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.</p> | <p>(a) The height of the wall does not exceed the existing height of the rear wall of the dwelling.</p> <p>(b) n/a</p> <p>(c) The height does not exceed the height of the eaves / parapet</p> |
| <p>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.</p> | <p>The rear garden is less than 25m² in size. The extension therefore does not accord with this condition / limitation.</p> |
| <p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p> <p>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</p> <p>(c) Where the house is detached and the floor area of the</p> | <p>(a) It is unclear whether the ground floor window is within 1 metre of the western boundary of the site as the boundary wall is at an angle. Further information would be required to confirm the distance to this boundary.</p> <p>(b) n/a</p> <p>(c) n/a</p> |

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
| 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. | |
| 7. The roof of any extension shall not be used as a balcony or roof garden. | The flat roof of the ground floor does not appear to be accessible. |

The rear extension therefore does not comply with Condition 5. The extension is not exempt from the requirement for planning permission as it does not comply with conditions / limitations set out for Class 1 type development.

Further information is required to ascertain whether or not the extension complies with condition / limitation 6(a). Given the substantive non-compliance with Condition 5 however it is not considered appropriate to request this information.

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 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 development site relative to these European sites and related watercourses and to the nature and scale of the development it is considered that the development would not affect the integrity of the European sites referred to above. Accordingly, it is considered that appropriate assessment is not required.

8. 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 —

the existing rear single-storey extension (internal area 6.04sq.m, comprising bathroom)

Is development and is not exempted development



Martina Foley
Executive Planner

PABIA CONSULTING LTD
 Tel: 021 242 4444
 Email: info@pabiale.com
 Web Site: www.pabiale.com

Unit 16, North Valley Business Centre,
 Mallow Road, Cork, T23 KH74

Engineering Consultancy, Planning & Design
 Environmental Impact Assessment
 Project Management - Surveys
 Dangerous Substances Act Consultancy

Description:

Digital Cartographic Model (DCM)

Clip Extent / Area of Interest (AOI):

LLX,LLY= 568384,5297,572855,7297

LRX,LRY= 568617,5297,572855,7297

ULX,ULY= 568384,5297,573027,7297

URX,URY= 568617,5297,573027,7297

Projection / Spatial Reference:

Projection=

IRENET95_Irish_Transverse_Mercator

Centre Point Coordinates:

X, Y= 568501,0297,572941,7297

Reference Index:

Map Series | Map Sheets

1:1,000 | 6383-01

Data Extraction Date:

Date= 26-Jan-2021

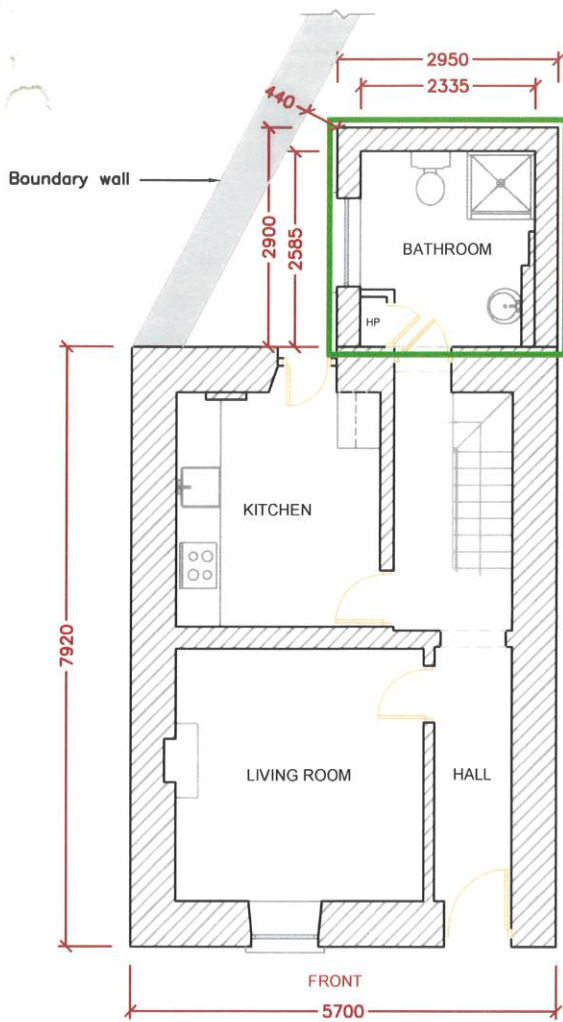
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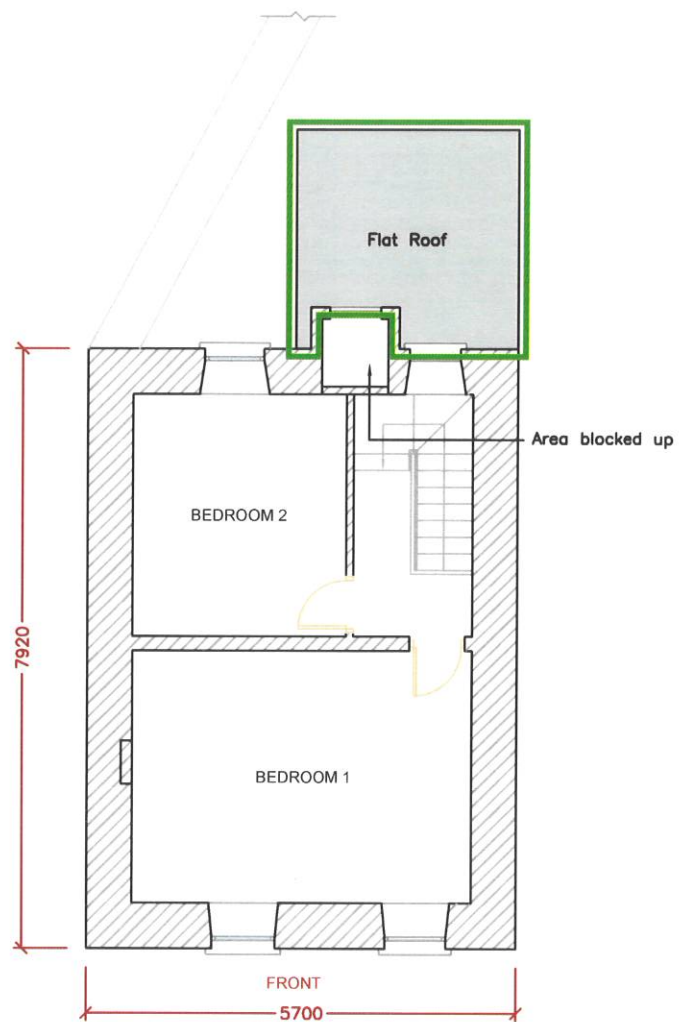
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| | |
|------------------|---------------------------------------------------------------|
| Client : | Colin Lane |
| Scale : | 1:1000 @ A4 |
| Date : | 26.01.2021 |
| Project : | 1, Frankfield View, Old Youghal Road, Cork, T23 P8C5 |
| Description : | OS Map |
| Drawing Number : | EC-08-40-01 |

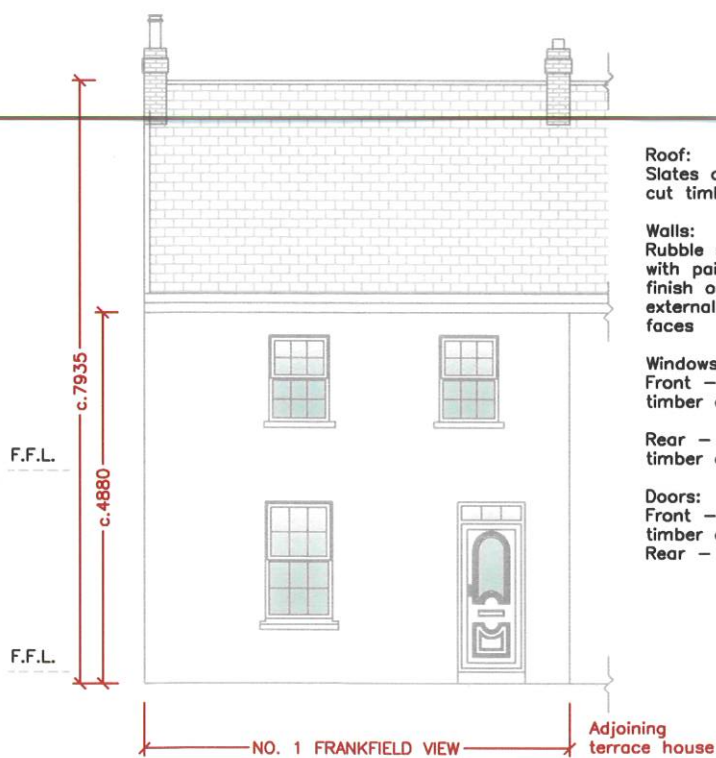
LAND TO WHICH THE SECTION 5 DECLARATION OF EXEMPTION APPLICATION RELATES



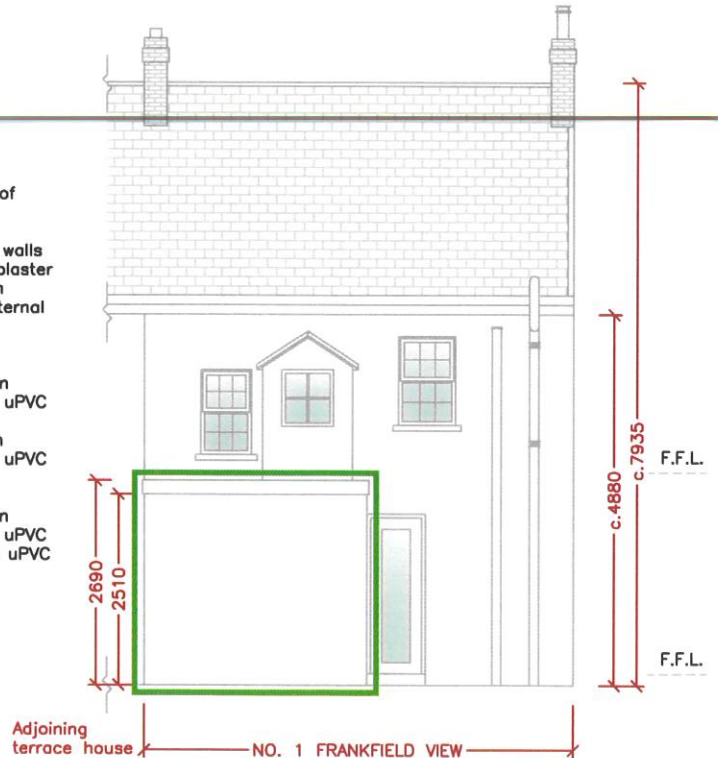
EXISTING GROUND FLOOR PLAN - 36.84sq.m
Scale 1:100



EXISTING FIRST FLOOR PLAN - 30.34sq.m
Scale 1:100



EXISTING FRONT ELEVATION - SOUTHEAST
Scale 1:100



EXISTING REAR ELEVATION - NORTHWEST
Scale 1:100

- Roof:
Slates on cut timber roof
- Walls:
Rubble stone walls with painted plaster finish on both external & internal faces
- Windows:
Front - Brown timber effect uPVC
Rear - Brown timber effect uPVC
- Doors:
Front - Brown timber effect uPVC
Rear - White uPVC

The Development Management Section,
Community, Culture & Placemaking Directorate,
Cork City Council,
City Hall,
Anglesea Street,
Cork.

Attn: The Senior Staff Officer

Date: 09.02.2021

**Ref: Section 5 Declaration of Exemption Application
for 1 Frankfield View, Old Youghal Road, Cork, T23 P8C5**

Dear Sir or Madam,

On behalf of our client Colin Lane, we wish to apply for a Section 5 Declaration of Exemption Certificate for an existing rear single-storey extension (internal area 6.04sq.m, comprising bathroom) at 1 Frankfield View, Old Youghal Road, Cork, T23 P8C5.

Enclosed please find the following:

- 2no. copies of Application form
- 2no. copies EC-08-40-01 OS Map, scale 1:1000 @ A4
- 2no. copies EC-08-40-02 Existing Site Layout, scale 1:200 @ A3
- 2no. copies EC-08-40-03 Existing Dwelling - Plans & Elevations, scale 1:100 @ A3

We trust that the enclosed application is in order and look forward to receiving the certificate in due course.

Yours Faithfully,


Bernard FitzPatrick, BE, MIEI

*£80 paid by card to Colin in Planning Dept
per phonecall on 19.02.21 at 15.03pm.*



Comhairle Cathrach Chorcaí
Cork City Council

22 FEB 2021

Community Culture &
Placemaking Directorate

PABIA Consulting Ltd

Tel 021 242 8890 Email info@pabia.ie Web www.pabia.ie

Company No: 581992
VAT No: 3424140KH