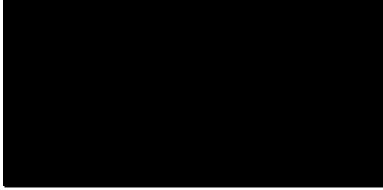




Comhairle Cathrach Chorcaí Cork City Council

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

Citidwell Developments Ltd.



25/10/2024

**RE: Section 5 Declaration R879/24 Block D2 Nos. 223-234 Meadow
Brome, Cooney's Lane, Cork**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 30th September 2024, I wish to advise as follows:

The Planning Authority, in view of the above and having regard to —

- Sections 4 (1) (h) of the Planning and Development Act 2000 (as amended)
- *Article 9 (1) (a) of the Planning and Development Regulations 2001 as amended*

It is considered that the *the specific question for which a declaration is sought* **IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT** at Block D2 Nos. 223-234 Meadow Brome, Cooney's Lane, 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, 25th October 2024.

Is mise le meas,


David Foley
Development Management Section



We are Cork.

**Community, Culture and Placemaking Directorate
Cork City Council**

PLANNER'S REPORT Ref. R879/24		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>Alterations to as permitted elevations as shown on accompanying elevation comparison drawings.</i>	
Location	Block D2 Nos. 223-234 Meadow Brome, Cooney's Lane, Cork.	
Applicant	Citidwell Developments Ltd (Agent – Paul Matson)	
Date of receipt	30/09/2024	
Recommendation	<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:

'Alterations to as permitted elevations as shown on accompanying elevation comparison drawings'.

3. Site Description

The development in question is located Meadow Brome, Cooney's Lane, Cork, and relates to Block D1 Nos. 180-189 of the permitted development, ABP 303098-18. Works have commenced on site with a number of dwelling units under construction. Significant ground works have taken place on site in preparation for further construction works. The road realignment for Conney's Lane is ongoing and predominantly complete.

4. Planning History

ABP-303098-18 Grant of permission for demolition of existing dwellings, construction of 251 no. residential units, re-alignment of Cooney's Lane, traffic calming measures on Cooney's Lane and Bellevue Road and associated site works.

TP 23/42246 – Grant of permission for the following Large Scale Residential Development (LRD) comprising modifications to part of the residential development permitted under An Bord Pleanála Ref. ABP-303098-18. The proposed modifications consist of the construction of 37 no. dwelling units (consisting of 16 no. 3 bed townhouses, 1 no. 3 bed detached unit, 10 no. 1 and 3 bed duplex units and 10 no. 2 bed apartments), modifications to the site layout to include the relocation of duplex Block D2 and its associated parking, the realignment of Road E and the provision of 2 additional parking spaces adjacent to the permitted apartment Block E4a and all ancillary site works at Cooney's Lane, Graigue (townland), Grange, Cork. Access to the 37 no. dwellings will be provided via a vehicle access from Cooney's Lane permitted under An Bord Pleanála Ref. ABP-303098-18. The 37 no. dwellings will replace 37 no. dwellings (consisting of 1 no. 2 bed detached, 2 no. 2 bed semi-detached units, 4 no. 2 bed townhouses, 20 no. 1, 2 and 3 bed apartments and 10 no. 2 bed duplex units) permitted under An Bord Pleanála Ref. ABP-303098-18.

TP 22/41540 – Grant of permission for modifications to part of the residential development permitted under An Bord Pleanála ref. ABP-303098-18 and ABP-307184-20 which will increase the number of units on this part of the site from 68 to 69 no. units. The proposed modifications consist of the construction of 41 no. dwelling units (consisting of 4 no. 4 bed detached units, 1 no. 3 bed detached unit, 10. no. optional 3/4 bed semi-detached units, 20 no. 3 bed semi-detached units and 6 no. 3 bed townhouse units) and all ancillary site development works at Cooney's Lane, Graigue (townland), Grange, Cork. Access to the 41 no. dwellings will be provided via a vehicle access from Cooney's Lane permitted under An Bord Pleanála Ref. ABP-303098-18. The 41 no. dwellings will replace 40 no. dwellings (of 3 no. 4 bed detached units, 4 no. 3 bed detached units, 18 no. 4 bed semi-detached units, 11 no. 3 bed semi-detached units and 4 no. 3 bed townhouse units) permitted under An Bord Pleanála Ref. ABP-303098-18 and ABP-307184-20. The alterations proposed will increase the total number of residential units permitted on the overall site from 253 to 254 no. units.

TP 22/41226 – Grant of permission for the construction of 38 no. dwelling units (consisting of 35 no. 3 bed semidetached units and 3 no. 4 bed semidetached units and all ancillary site development works. Access to the 38 no. dwellings will be provided via a vehicle access from Cooney's Lane permitted under An Bord Pleanála Ref. ABP - 303098-1. The 38 no. dwellings will replace 37 no dwellings (consisting of 12 no. 3 bed semi-detached units, 16 no. 3 bed townhouses, 7 no. 3 bed detached units and 2 no. 4 bed semi-detached units) permitted under An Bord Pleanála Ref. ABP 303098-18 and ABP 307184-20. The alterations proposed will increase the total number of residential units permitted on the overall site from 252 to 253 no. units.

Additional Planning History

Extension of Duration (EOD) was requested by the applicant, ABP-303098-18 and permitted by the Planning Authority for a 5-year extension up until 29/06/2029.

LRD S.247 Request – No consultation required for the following Large Scale Residential Development (LRD) comprising modifications to part of the residential development permitted under An Bord Pleanála Ref. ABP-303098-18. The proposed modifications consist of the construction of 42 no. dwelling units (consisting of 3 no. 3 bed townhouses, 32 no. 3 bed semi-detached units, and 7 no. 3 and 4 bed detached units), modifications to the site layout to include the realignment of Road M and all ancillary site works at Cooney's Lane, Graigue (townland), Grange, Cork. Access to the 42 no. dwellings will be provided via a

vehicle access from Cooney's Lane permitted under An Bord Pleanála Ref. ABP-303098-18. The 42 no. dwellings will replace 39 no. dwellings (consisting of 16 no. 3 bed townhouses, 18 no. 3 bed semi-detached units and 5 no. 3 bed detached units) permitted under An Bord Pleanála Ref. ABP-303098-18.

Legislative Provisions

4.1 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.

4.2 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.

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,*

5. 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.

The details of this Section 5 application consist of alteration to the elevations of duplex Block D2 Nos. 223-234 as permitted under parent permission ABP-303098-18. The proposed alterations consist of the replacement of an external brick finished to the upper levels of the duplex units with proposed dry dash finish.

This would constitute 'Development' as defined in *Section 3(1) of the Act*.

6.2 Exempted development

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

The building subject to this Section 5 declaration serves 12 no. duplex unit located in the northern section of site.

The following is given consideration in the assessment of the exempted nature of the proposal.

Section 4(1)(h) states:

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;

It is noted that materials and finishes within the development site are similar to the proposed materials and finishes outlined in this Section 5 declaration and consist of an external brick finish to the ground floor level and render finish to the upper floor level, in this regard the proposal 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'*.

Article 9 (1) states:

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.

Parent permission ABP-303098-18 condition No. 4 states:

*'The materials, colours and finishes of the authorised buildings, the treatment of boundaries within the development and the landscaping of the site shall be in accordance with the details submitted with the application, unless variations are required to comply with the conditions of this permission, or the **prior written agreement of the planning authority has been obtained for minor departures from the submitted details.** Details of the treatment of surfaces shall be submitted and agreed in writing with the planning authority prior to the commencement of development'.*

Having consideration for the above it needs to be determined if the proposed alteration represent a '*minor departure from the submitted details*'. It is relevant to note that a concurrent Section 5 application has been submitted that proposes the same question for Duplex Block D1 Nos. 180-189 of the subject site. In total this represents alteration to the permitted materials for 22 no. units in close proximity.

It is considered that having a variety and range of materials and finishes throughout the development site is paramount to the quality and design of the scheme and that a quantitative alteration to the permitted materials would negatively impact the quality of the overall development. Notwithstanding this, it is considered that alternations to 12 (22 concurrent) units in a scheme of 251 plus residential units over a development site area of 9.9 hectares is a minor departure from the permitted details and would represent a reasonable interpretation of Condition No. 4, ABP-303098-18.

6. ENVIRONMENTAL ASSESSMENT

6.1 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.

6.2 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.

7. Conclusion

The question has been asked:

'Alterations to as permitted elevations as shown on accompanying elevation comparison drawings'.

8. RECOMMENDATION

In view of the above and having regard to —

- The planning history of the site,

- Sections 4 (1) (h) of the Planning and Development Act 2000 (as amended),
- Article 9 (1) (a) of the Planning and Development Regulations 2001 as amended,

It is considered that the proposed '*alterations to as permitted elevations as shown on accompanying elevation comparison drawings*' IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.



Alan Swanwick

Assistant Planner

23/10/2024

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

Block D2 Nos 223-234 Meadow Brome, Cooney's Lane,
Cork

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

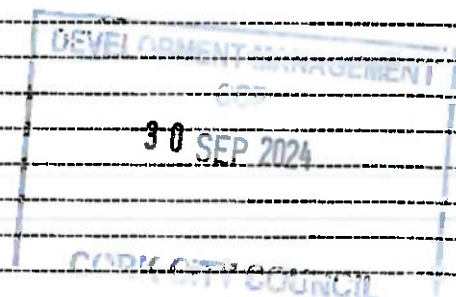
Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

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

Alterations to as permitted elevations as shown on accompanying
elevation comparison drawings

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	1173
(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) _____ _____ _____

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Citidwell Developments Ltd	
Applicants Address	<div style="background-color: black; width: 100%; height: 40px;"></div>		
Person/Agent acting on behalf of the Applicant (if any):	Name:	<div style="background-color: black; width: 100%; height: 20px;"></div>	
	Address:	<div style="background-color: black; width: 100%; height: 40px;"></div>	
	Telephone:	<div style="background-color: black; width: 100%; height: 20px;"></div>	
	Fax:		
	E-mail address:	<div style="background-color: black; width: 100%; height: 20px;"></div>	
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 type="checkbox"/>	No <input checked="" 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: 

Date: 25th September 2024

.....

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

23153-MMS-XX-XX-LT-X-0014

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

25th September 2024

RE: Section 5 Application for Block D2 Duplex Units at Cooney's Lane, Cork

Dear Sir/Madam,

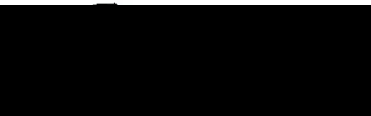
We write in relation to the enclosed application and include the following for your attention.

- Application form
- Drawings which include the proposed changes
- Cheque in the sum of €80.

We would be obliged if you could provide us with a receipt for this application at your convenience.

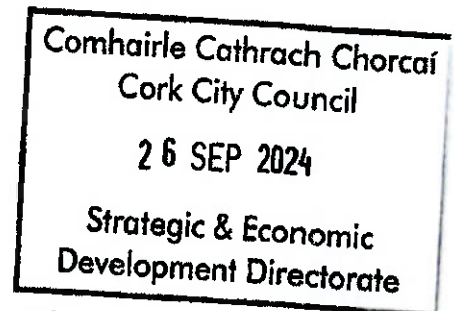
Should you require any further information please do not hesitate to contact me

Yours Sincerely,

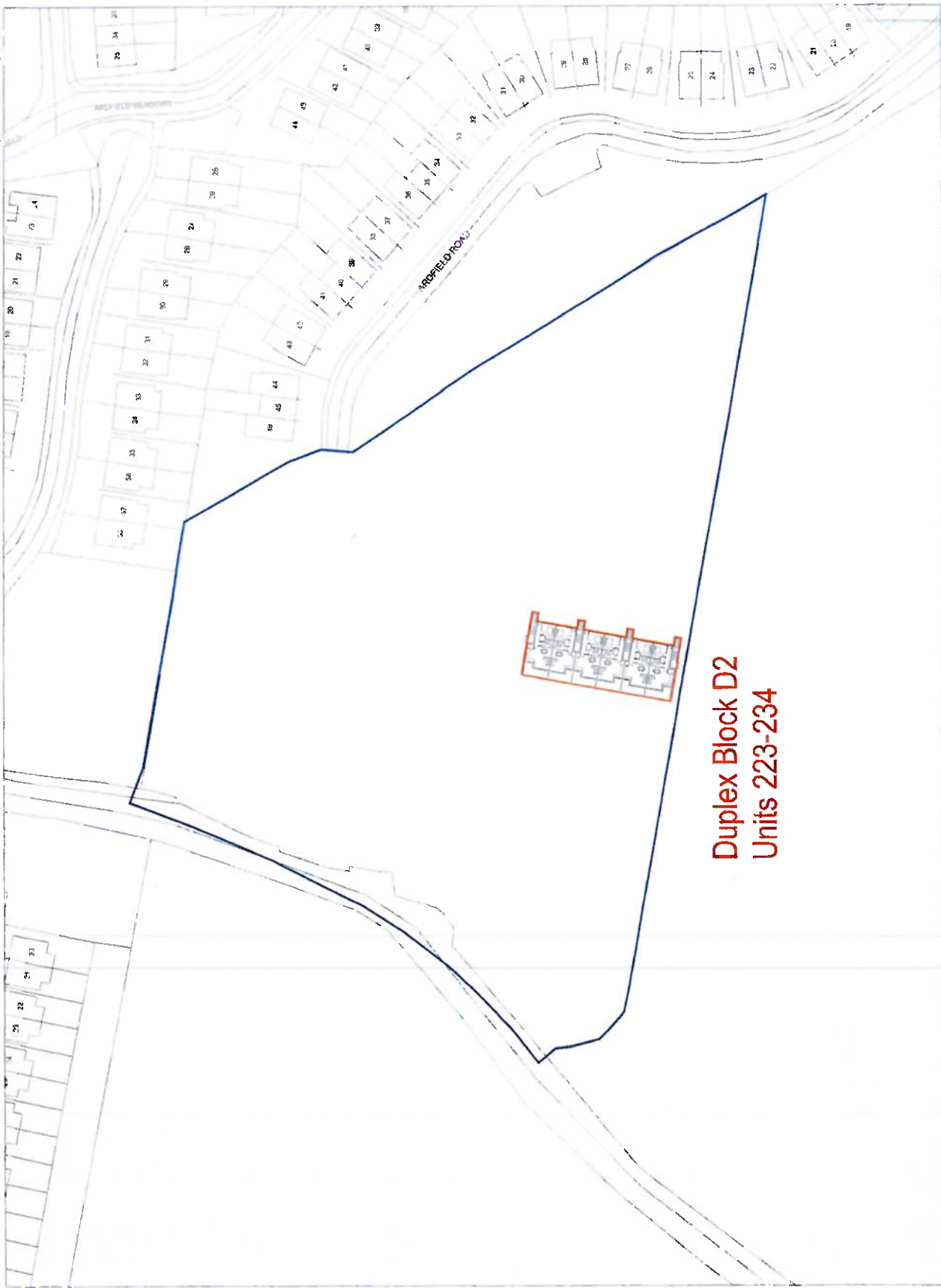


Paul Matson
Director

Murphy Matson O'Sullivan
Consulting Engineers Limited



URX_URY= 568882.0,568030.0



LLX,LLY= 568550.0,567784.0

Site Location Map, Duplex Block D2

Scale 1:1000 at A3

- Lands Under Applicants Control
- Area Subject to Section 5 Application



30 SEP 2024

Description:
Digital Cartographic Model (DCM)
Publisher / Source:
Ordnance Survey Ireland (OSi)
Data Source / Reference:
PRIME2
File Format:
Autodesk AutoCAD (DWG_R2013)
File Name:
V_50369733_1.dwg
Clip Extent / Area of Interest (AOI):
LLX,LLY= 568550.0,567784.0
LRX,URY= 568882.0,567784.0
ULX,ULY= 568550.0,568030.0
URX,URY= 568882.0,568030.0
Projection / Spatial Reference:
Projection= IRENET95_Irish
Transverse_Mercator
Centre Point Coordinates:
X,Y= 568716.0,567907.0
Reference Index:
Map Series / Map Sheets
1:2,500 | 6428-C
Data Extraction Date:
Date= 22-Nov-2023
License / Copyright:
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apply. Please visit
'www.osi.ie/about/terms-conditions'.
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SCALE	1:1000 at A3
PROJECT NUMBER	23153
DOCUMENT REFERENCE	23153-MMS-ZZ-ST-MP-C-1000
PROJECT ORIGINATOR	P01

MMOS
The Chapel
Blackrock House,
Blackrock Road,
Cork, T12 KRK7
MURPHY/MATSON/O'SULLIVAN Tel : 353 21 4317608

[illegible]

Scale 1:150

30 SEP 2024

community council

[illegible]

Architectural floor plan of the 2nd floor. The plan shows a symmetrical layout with a central corridor and multiple rooms on either side. Rooms are labeled with their respective floor levels (FFL) and dimensions. The plan includes a central staircase and several large windows. The overall layout is rectangular with a central vertical axis of symmetry.

Rooms and their dimensions (from left to right):

- Room 201: FFL +91.850, 10.0 x 10.0
- Room 202: FFL +91.850, 10.0 x 10.0
- Room 203: FFL +91.850, 10.0 x 10.0
- Room 204: FFL +91.850, 10.0 x 10.0
- Room 205: FFL +91.850, 10.0 x 10.0
- Room 206: FFL +91.850, 10.0 x 10.0
- Room 207: FFL +91.850, 10.0 x 10.0
- Room 208: FFL +91.850, 10.0 x 10.0
- Room 209: FFL +91.850, 10.0 x 10.0
- Room 210: FFL +91.850, 10.0 x 10.0
- Room 211: FFL +91.850, 10.0 x 10.0
- Room 212: FFL +91.850, 10.0 x 10.0
- Room 213: FFL +91.850, 10.0 x 10.0
- Room 214: FFL +91.850, 10.0 x 10.0
- Room 215: FFL +91.850, 10.0 x 10.0
- Room 216: FFL +91.850, 10.0 x 10.0
- Room 217: FFL +91.850, 10.0 x 10.0
- Room 218: FFL +91.850, 10.0 x 10.0
- Room 219: FFL +91.850, 10.0 x 10.0
- Room 220: FFL +91.850, 10.0 x 10.0

Central Corridor: FFL +91.850, 10.0 x 10.0

Staircase: FFL +91.850, 10.0 x 10.0

Overall dimensions: 10.0 x 10.0

Scale 1:150

