

# Comhairle Cathrach Chorcaí Cork City Council

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

Eileen McSweeney



16/04/2025

**RE: Section 5 Request.**

**R934/25: 19A Glen Ryan Road, BallymacThomas, Cork City.**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on the 26<sup>th</sup> of March 2025, I wish to advise as follows.

The Planning Authority has been tasked with determining whether the construction of metal fabricated and galvanised railing and access gate (1.0m high from ground level) to front of existing dwelling at 19A Glen Ryan Road be treated as an exempted development and be allowed on this Section 5 Declaration Application.

In view of the above and having regard to:

Section 2(1), 3(1) and 4 of the Planning and Development Act 2000 (as amended), and Article 6, Schedule 2, Part 1, Class 5 of the Planning and Development Regulations 2001 (as amended).

The Planning Authority considers that – the construction of a metal fabricated and galvanized railing and access gate (1.0 m high from ground level) to front of the existing dwelling at 19A Glen Ryan Road **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.

Is mise le meas,

**Anthony Angelini**  
Assistant Staff Officer  
Planning & Integrated Development  
Cork City Council



**We are Cork.**

<b>PLANNER'S REPORT</b> <b>Ref. R934/25</b>		Cork City Council Planning and Integrated Development
<b>Application type</b>	Section 5 Declaration	
<b>Description</b>	<i>Metal railing to front of dwelling .</i>	
<b>Location</b>	19A Glen Ryan Road, Ballymacthomas	
<b>Applicant</b>	Eileen McSweeney	
<b>Date</b>	15/04/2025	
<b>Recommendation</b>	Is Development and is exempt development	

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

As per Q2 of the application form:

*Can the construction of metal fabricated and galvanized railing and access gate (1.0 m high from ground level) to front of the existing dwelling at 19A Glen Ryan Road be treated as an exempted development?*

## 3. SITE DESCRIPTION

The subject site is located at 19A Glen Ryan Road. On site is an end of terrace two storey dwelling.

There is a metal railing along the front boundary with a pedestrian access.

## 4. PLANNING HISTORY

01/25448 ALTERATIONS & EXTENSIONS TO REAR & REFURBISHING EXISTING 2 STOREY DWELLINGS  
WITH 1 NO TWO STOREY DWELLING ATTACHED & ANCILLARY SITE WORKS

11/35008 Retention for alterations and single storey rear extension.

## 5. STATUTORY 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, except where the context otherwise requires, “development” means, -*

- a) The carrying out of any works in, on, over or under land or the making of any material change in the use of any land or structures situated on land, or*
- b) Development within the meaning of Part XXI.*

Section 4(1)(a) –

*The following shall be exempted developments for the purposes of this Act – development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used.*

### 5.2 The Regulations

Article 9 (1)(a)

*Development to which article 6 relates shall not be exempted development for the purposes of the Act –*

- (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,*
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,*
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area*

*in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,*

*(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,*

*(xi) obstruct any public right of way,*

*(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,*

## **SCHEDULE 2 Article 6 PART 1 Exempted Development - General**

<b>CLASS 5</b>	
The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.	1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.
	2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.
	3. No such structure shall be a metal palisade or other security fence

## **6. ASSESSMENT**

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

### 6.1 Development

The proposal includes an act of construction and therefore falls within the definition of 'works'. Therefore, the proposal constitutes development within the meaning of the Act.

- **CONCLUSION: IS DEVELOPMENT**

### 6.2 Exempted development

Is it exempted development?

The proposal is assessed below against the conditions/ limitations of Class 6.

<b>CLASS 5</b>	
The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.	1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.
	2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.
	3. No such structure shall be a metal palisade or other security fence

#### Exemption:

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

#### Assessment:

*The construction is a railing bounding the curtilage of a house.*

*Conditions/limitations*

1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres

*Assessment:*

The railing does not appear to exceed 1.2 metres in height.

*Conditions/limitations*

2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.

*Assessment:*

*No wall is proposed.*

*Conditions/limitations*

3. No such structure shall be a metal palisade or other security fence

*Assessment:*

*Not applicable.*

Article 9 (1)(a) – no issues of non-compliance arise.

**CONCLUSION:**

- **Is exempted.**

## **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 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.

## **8. RECOMMENDATION**

In view of the above and having regard to –

- Section 2(1), 3(1) and 4 of the Planning and Development Act 2000 (as amended), and
- Article 6, Schedule 2, Part 1, Class 5 of the Planning and Development Regulations 2001 (as amended)

The Planning Authority considers that – the construction of a metal fabricated and galvanized railing and access gate (1.0 m high from ground level) to front of the existing dwelling at 19A Glen Ryan Road

**IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT.**

---

*Michelle Delaney*

*Executive Planner*

---

*Melissa Walsh*

*S.Executive Planner.*

**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](mailto:planning@corkcity.ie)  
Fón/Tel: 021-4924029  
Líonra/Web: [www.corkcity.ie](http://www.corkcity.ie)

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

**1. NAME OF PERSON MAKING THE REQUEST**

EILEEN Mc SWEENEY

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

19A GLEN RYAN ROAD, BALLYMATHOMAS,  
(OFF SHANDON STREET) CORK CITY  
T23 WF9N

**3. 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.

CAN THE CONSTRUCTION OF METAL FABRICATED & GALVANISED RAILING & ACCESS GATE (1-0M HIGH FROM GROUND LEVEL) TO FRONT OF EXISTING DWELLING AT 19A GLEN RYAN ROAD, BE TREATED AS AN EXEMPTED DEVELOPMENT & BE ALLOWED ON THIS SECTION 5 DECLARATION APPLICATION.

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

(Use additional sheets if required). THE EXISTING BLOCK BOUNDARY WALL BECAME UNSTABLE DURING STORM OPHELIA IN 2017 & WAS REMOVED FOR SAFETY REASONS TO THE PUBLIC. MY BUILDER NOTED THAT THERE WAS NOT ADEQUATE FOUNDATIONS TO CONSTRUCT A NEW BLOCK WALL & TO DIG AND POUR A NEW FOUNDATION WOULD OBSTRUCT & FORM A SAFETY ISSUE TO PEDESTRIANS ON THE EXISTING PUBLIC FOOTPATH. THUS A 1-0M HIGH METAL FABRICATED RAILING WITH AN ACCESS GATE WAS FITTED.

I QUERIED IF THIS COULD BE CLASSED AS EXEMPTED WORK (EMAIL DATED 15<sup>th</sup> JAN 2025 ATTACHED) & THE AREA PLANNER CONFIRMED IT WOULD BE EXEMPTED IF UNDER 1-2m IN HEIGHT (EMAIL DATED 04 JAN 2025) & TO GET OFFICIAL CONFIRMATION I WAS TO APPLY FOR A SECTION 5 EXEMPTION.



4. Are you aware of any enforcement proceedings connected to this site?

If so please supply details:

N/A (NONE)

5. 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

6. Was there previous relevant planning application/s on this site? ☒

If so please supply details:

01/2544B ALTERATIONS TO EXISTING DWELLINGS

II/3500B RETENTION FOR ALTERATIONS & SINGLE STOREY REAR EXTENSION.

7. 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	N/A
(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 type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) N/A
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle) N/A	Proposed/existing use (please circle) N/A

7. 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 <input type="checkbox"/>
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 of the owner if available	_____	

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

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

26-3-2025



Anthony McSweeney &lt;[REDACTED]&gt;

**Fwd: 19A Glen Ryan Road boundary wall query.**

5 messages

Eileen Cremin &lt;[REDACTED]&gt;

Wed, Mar 19, 2025 at 10:21 PM

To: [REDACTED]

----- Forwarded message -----

From: Tony Mc Sweeney &lt;[REDACTED]&gt;

Date: Wed 1 Jan 2025 at 19:26

Subject: 19A Glen Ryan Road boundary wall query.

To: Cremin Eileen &lt;[REDACTED]&gt;

Dear Sir/MAdam,

I am contact regarding my existing dwelling at 19A Glen Ryan Road, BallymacThomas, ( off Shannon street ) Cork city. Eircode T23 WF9N. The previous planning referenced for this property are 01/25448 & 11/35008.

I am the owner of this property and want to check please on a query regarding the front boundary line of the property. Originally there was a concrete block boundary wall but in 2017 during storm Ophelia and in conjunction with the column of passing road traffic this wall became unstable and had to be removed for the safety of passing public personnel on the adjacent pavement.

I contacted my builder to rebuild it but on viewing same he stated that there was no adequate foundation in place for the wall and as is directly adjacent to the public footpath he stated that digging for a new foundation would create an obstruction/closure and a possible safety issue for the passing public walking on the footpath.

To provide enclosure of the area in front of the house to the residents from passing traffic & the public, I had to provide and fit a fabricated galvanised metal railing, all under 1.2m in height, with an access gate, ( similar to the gate previously in the block wall ) I have attached photos of the original block wall and the metal railing as currently in place for your information.

Can I query please if this can be classed as an exempted change to the dwelling as the requirement for this was out of my control and was not initiated or planned by me and it was not physically possible for me to replace the front boundary with an identical finish in a safe structural manner, due to the foundation issue.

I would appreciate it if you could review this issue for me please and revert with your comments in the hope that same can be classed as exempted works on this existing property.

Kind regards,

Eileen McSweeney. [REDACTED]

Eileen Cremin &lt;[REDACTED]&gt;

Wed, Mar 19, 2025 at 10:21 PM

To: [REDACTED]

----- Forwarded message -----

From: Eileen Cremin &lt;[REDACTED]&gt;

Date: Sun 5 Jan 2025 at 23:43

Subject: Re: 19A Glen Ryan Road boundary wall query.

To: &lt;planning@corkcity.ie&gt;

Dear Sir/Madam,

To: [REDACTED]

----- Forwarded message -----

From: **planning** <planning@corkcity.ie>

Date: Wed 8 Jan 2025 at 11:15

Subject: RE: 19A Glen Ryan Road boundary wall query.

To: Eileen Cremin <[REDACTED]>

Eileen,

The area planner has advised that This would be exempted provided the railing/ gate is under 1.2m in height.

From: Eileen Cremin <[REDACTED]>

Sent: 05 January 2025 23:44

To: planning <planning@corkcity.ie>

Subject: Re: 19A Glen Ryan Road boundary wall query.

You don't often get email from [REDACTED]. [Learn why this is important](#)

**[EXTERNAL EMAIL]** This email originated from outside Cork City Council. Do not follow guidance, click links or attachments unless you recognise the sender and know the content is safe.

Dear Sir/Madam,

I am contact regarding my existing dwelling at 19A Glen Ryan Road, Ballymachthomas,( off Shannon street ) Cork city. Eircode T23 WF9N. The previous planning referenced for this property are 01/25448 & 11/35008.

I am the owner of this property and want to check please on a query regarding the front boundary line of the property. Originally there was a concrete block boundary wall but in 2017 during storm Ophelia and in conjunction with the volume of passing road traffic this wall became unstable and had to be removed for the safety of passing cars & public personnel on the adjacent pavement.

I contacted my builder to rebuild it but on viewing same he stated that there was no adequate foundation in place for the wall and as is directly adjacent to the public footpath he stated that digging for a new foundation would create an obstruction/closure and a possible safety issue for the passing public walking on the footpath.

To provide enclosure of the area in front of the house to the residents from passing traffic & the public, I had to provide and fit a fabricated galvanised metal railing, all under 1.2m in height, with an access gate, ( similar to the gate previously

20/03/2025, 15:30

Gmail - Fwd: 19A Glen Ryan Road boundary wall query.

Subject: RE: 19A Glen Ryan Road boundary wall query.

To: Eileen Cremin <[REDACTED]>

Eileen,

To get official confirmation you need to apply for a Section 5 Exemption. Application attached. There is an €80 fee for this.

[Quoted text hidden]



**section-5-declaration-application-form-jan-2024-.pdf**  
280K

20/03/2025, 15:30

Gmail - Fwd: 19A Glen Ryan Road boundary wall query.

Subject: RE: 19A Glen Ryan Road boundary wall query.

To: Eileen Cremin <

Eileen,

To get official confirmation you need to apply for a Section 5 Exemption. Application attached. There is an €80 fee for this.

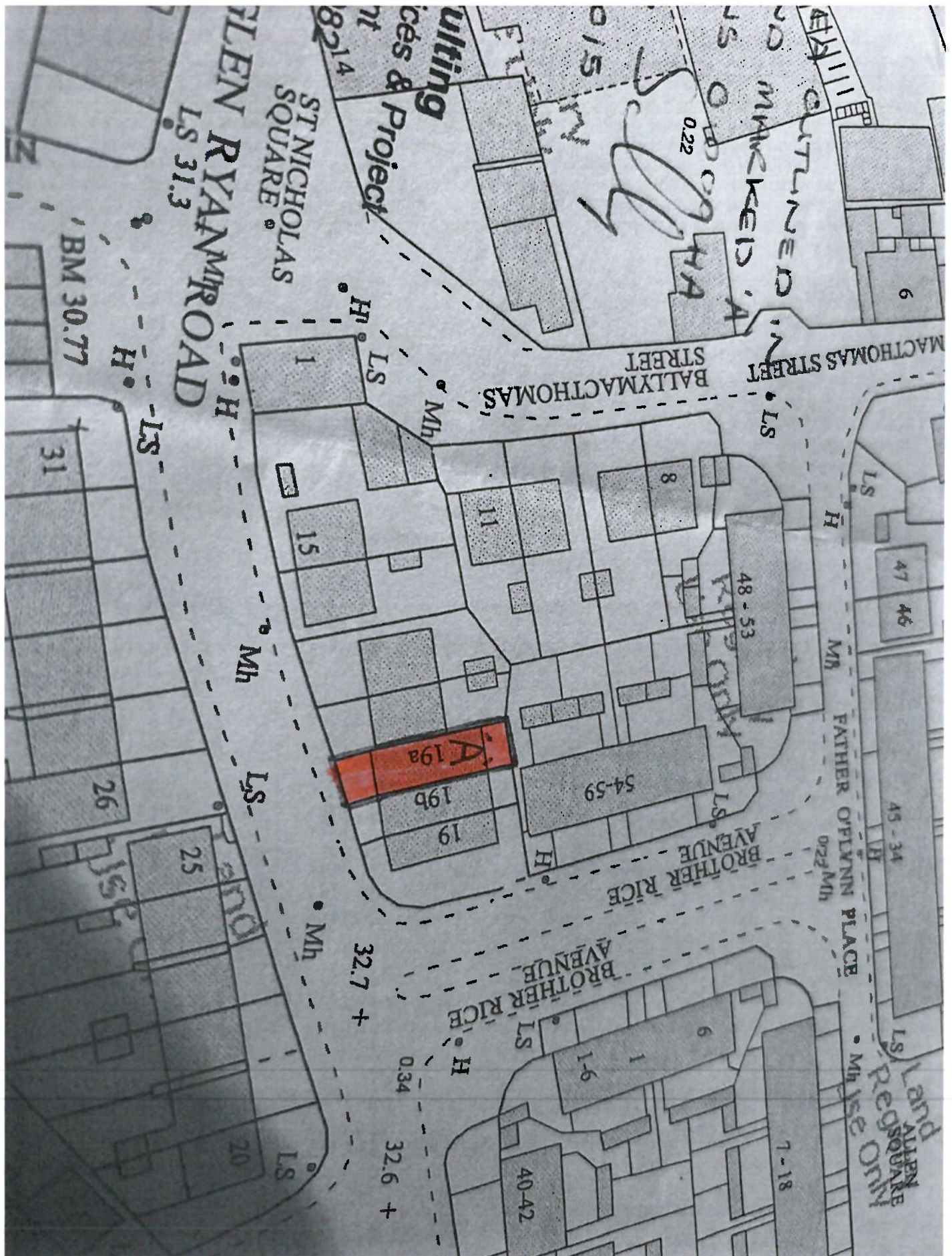
[Quoted text hidden]



**section-5-declaration-application-form-jan-2024-.pdf**

280K





This e-mail message is CONFIDENTIAL. It is intended only for the use of the person(s) or entity to whom it is addressed. This email, including any attachments, may contain information which is privileged, confidential, or protected from disclosure within the meaning of applicable law. You are hereby notified that any unauthorised dissemination, use, disclosure, publication, distribution, or copying is strictly prohibited. If you are not the intended recipient, please contact the sender, immediately delete the e-mail, and do not read, copy, distribute, share, disclose or otherwise use the information in this e-mail. The views expressed in this communication may not necessarily be the views held by Cork City Council. It is the policy of Cork City Council to have any attachments checked by a virus scanner. Please ensure that you also scan all messages. E-mail may be susceptible to data corruption, interception, and unauthorized amendment. Cork City Council does not accept any liability for contamination or damage to your systems or for any loss or damage arising from the use of this e-mail or attachments. It is the addressee's responsibility to ensure this email and any attachments are virus free.

Eileen Cremin <[REDACTED]>  
To: [REDACTED]

Wed, Mar 19, 2025 at 10:22 PM

----- Forwarded message -----

From: Eileen Cremin <[REDACTED]>  
Date: Thu 9 Jan 2025 at 16:00  
Subject: Re: 19A Glen Ryan Road boundary wall query.  
To: planning <planning@corkcity.ie>

Dear Sir/Madam,

Thanking you for your reply on this wall query.

I can confirm that the railing/gate is under 1.2m in height.

Is it possible please to obtain official confirmation that this would be classed as exempted work, in case I require same in the future.

Hoping same is acceptable,

Thanking you,

Regards,

Eileen McSweeney. [REDACTED]

[Quoted text hidden]



image001.jpg  
3556K

Eileen Cremin <[REDACTED]>  
To: [REDACTED]

Wed, Mar 19, 2025 at 10:23 PM

----- Forwarded message -----

From: planning <planning@corkcity.ie>  
Date: Fri 10 Jan 2025 at 08:42



Plot Ref. No. 25247176\_1\_1  
Plot Date 25-NOV-2015



18  
LEH  
BYAN  
ROAD

IQA  
GREEN  
BYAN  
ROAD

IQA  
GREEN  
BYAN  
ROAD

IQA  
GREEN  
BYAN  
ROAD

ENCLOSED  
FRONT  
YARD

NEW RAILING

EXISTING

FOOTPATH

EXISTING ROADWAY  
GREEN BYAN ROAD

SITE LAYOUT PLAN FOR SECTION 5 DECEMBER

FOR NEW METAL RAILING AT IQA GREEN BYAN ROAD

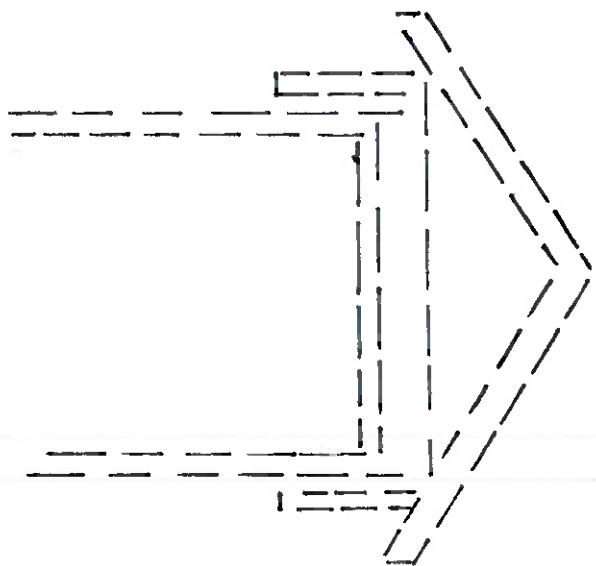
(123 WEA) FOR EILEEN Mc SWEENEY

SCALE 1:500  
DRAWN BY Mc SWEENEY



IGA GLEN RYAN RD.

EXISTING  
RAILING  
ON  
ADJACENT  
PROPERTIES

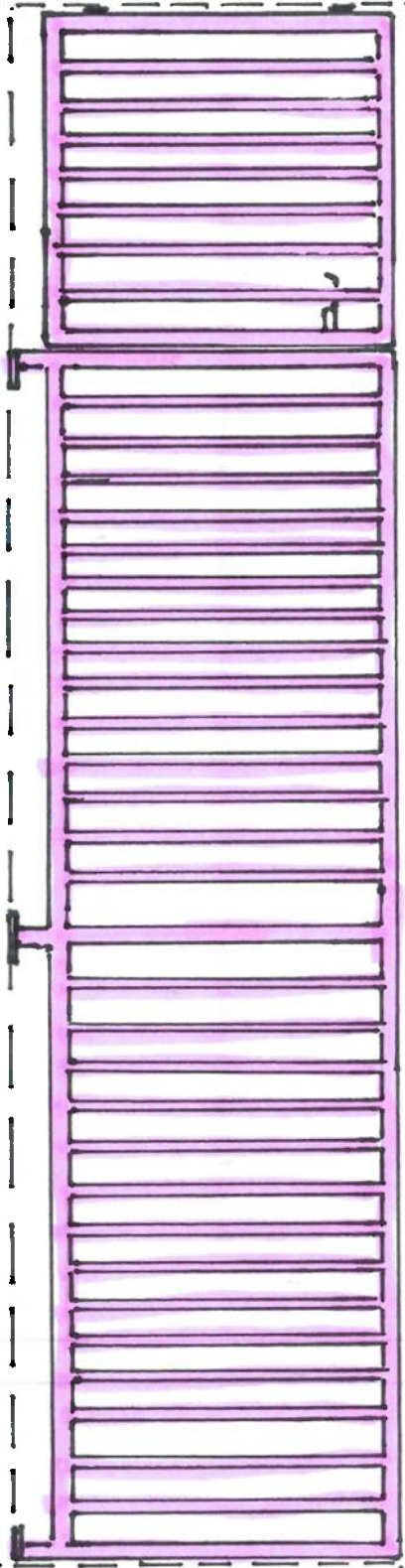


EXISTING  
RAILING  
ON  
ADJACENT  
PROPERTIES

2000mm  
GROUND LEVEL  
TO TOP OF RAILING

EXISTING  
WORK

4150mm  
EXTENT OF NEW RAILING.  
FRONT ELEVATION.



EXISTING  
WORK

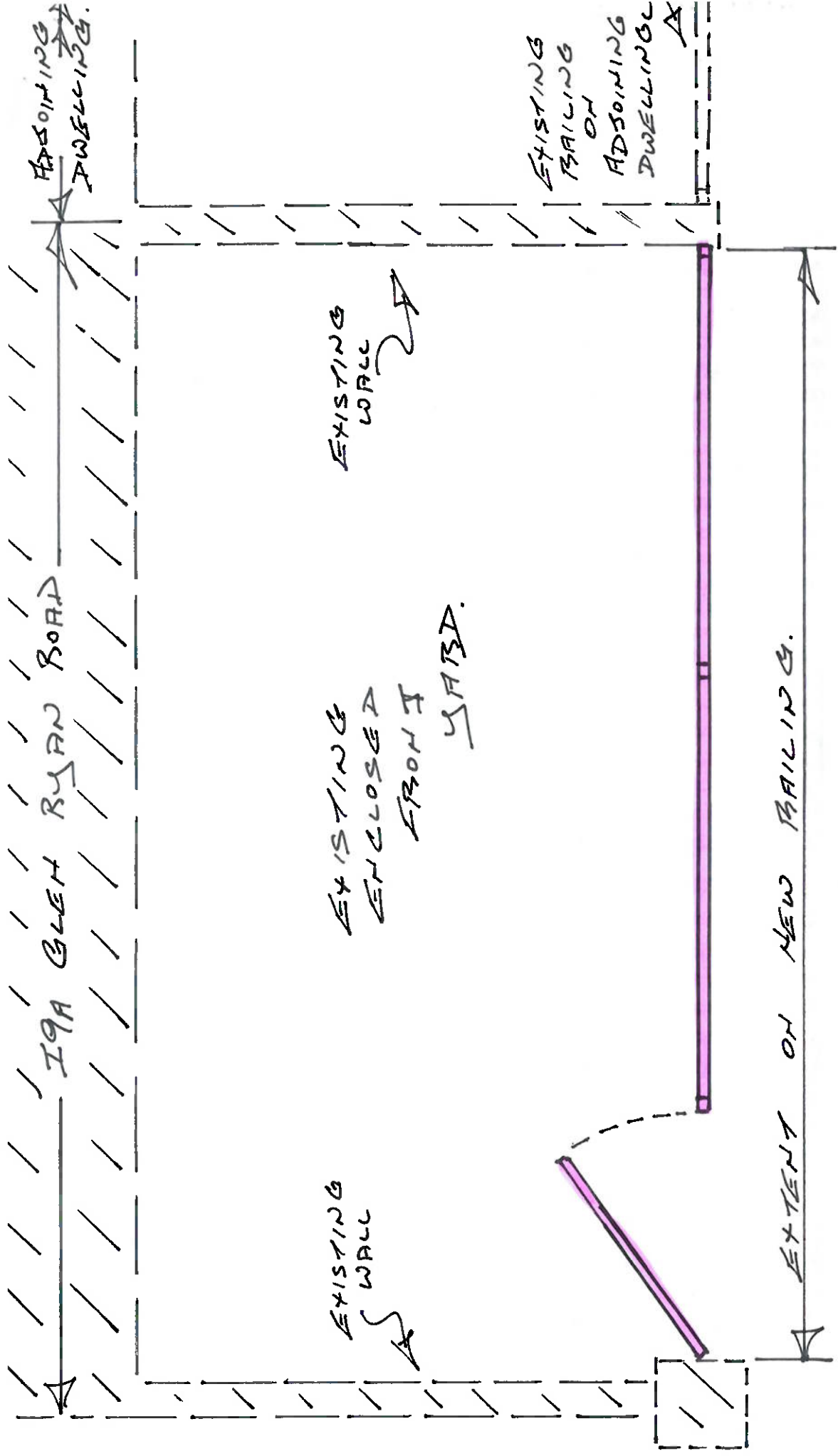
SECTION 5 DECLARATION FOR NEW METAL  
RAILINGS AT IGA GLEN RYAN ROAD (723 WEGAN)

FOR FIFTEEN NO SUBSTANTIALLY

SCALE 1:200

GO. CONN

DRAWN BY  
H. MC SWEENEY  
APPROVED BY  
HILLMOUNT  
OWNERS



PLAN VIEW

SECTION 5 DECLARATION FOR NEW METAL  
RAILINGS AT 19A GLEN RYAN ROAD (T23WF9N)  
FOR EILEEN MC SWEENEY.

SCALE 1:200  
DRAWN BY  
A MC SWEENEY  
APPROVED BY  
KILCOMNEY  
OWNERS