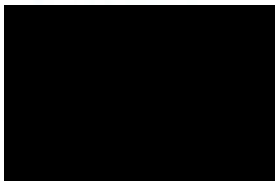




Comhairle Cathrach Chorcaí Cork City Council

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

John Murphy



13/01/2025

RE: Section 5 Declaration R898/24 23-25 South Terrace, Cork City

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 15th November 2024, I wish to advise as follows:

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

- Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended),
- Articles 6 and 9 and Class 20F as set out in Schedule 2, Part 1, 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 23-25 South Terrace, Cork City.

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, 13th January, 2025.

Is mise le meas,

David Foley



We are Cork.

David Foley
Development Management Section
Planning & Integrated Development
Cork City Council

PLANNER'S REPORT Ref. R 898/24		Cork City Council Culture, Community and Placemaking
Application type	Section 5 Declaration	
Description	<i>"The application seeks a Section 5 Declaration to confirm that the temporary use of the building as overnight accommodation for displaced persons or persons seeking international protection is exempted development. Section of Exempted Development Regulations under which exemption is claimed: Class 20F of Schedule 2 Part 1 of the Planning and Development Regulations 2001 to 2023."</i>	
Location	23- 25 South Terrace	
Applicant	Gary Quigley	
Date of Report	09/01/2025	
Recommendation	Is Development, Is Exempted Development	

This report should be read in conjunction with the previous planner's report on the file dated 05/12/2024.

1. FURTHER INFORMATION REQUESTED

1. The question submitted for assessment refers to International Protection Applicants. Please clarify if the proposed occupation of the apartments is for Displaced persons from Ukraine or for Accommodation for International Protection Applicants. Please submit, in the form of written confirmation, of approval, or approval in principle, for the use of the property for accommodation for persons seeking international protection, from either the relevant Government Department, or the relevant section of Cork City Council.

2. FURTHER INFORMATION PROVIDED AND ASSESSMENT

A response to the further information request was received on 17/12/2024.

A letter from the Department of Children, Equality, Disability, Integration and Youth has been provided and confirms that the Department is currently seeking offers of accommodation which have a full grant of planning permission for use as International Protection accommodation or properties which may avail of the Class 14H or 20F exemptions as per the Planning and Development Regulations. The Department has confirmed that it is interested in utilising the property in question for the accommodation of International Protection applicants. The question before the planning authority has specified Class 20F as the mechanism under which the exemption is being sought.

The applicant has already submitted the necessary existing and proposed floor plans and elevational drawings. It should be stated that the purpose of this report is not to determine the acceptability or otherwise of the proposal at this location in respect to the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development.

In view of the above and the previous report on file dated 05/12/2024 and having regard to –

- Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended),
- Articles 6 and 9 and Class 20F as set out in Schedule 2, Part 1, of the *Planning and Development Regulations 2001* (as amended),

It is considered that the question before the Planning Authority and additional details submitted thereafter, **Is Development and Is Exempted Development.**



Gwen Jordan McGee
Senior Executive Planner

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

23-25 South Terrace,
Cork City,
Co 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.

The application seeks a Section 5 Declaration to confirm that the temporary use of the building as overnight accommodation for displaced persons or persons seeking international protection, is exempted development.

Section of Exempted Development Regulations under which exemption is claimed;
Class 20F of Schedule 2 Part 1 of the Planning and Development Regulations 2001 to 2023.

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	794 sqM (GF = 378, FF = 415)
(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:	
Previous/ previous use (please circle) Offices (Vacant in excess of 3 years)	Proposed/ use (please circle) Temporary Emergency Accommodation.

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		John Murphy
Applicants Address		
Person/Agent acting on behalf of the Applicant (if any):	Name:	Gary Quigley
	Address:	
	Telephone:	
	Fax:	
	E-mail address:	
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 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 <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: 13 November 2024

Gary Quigley

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

PLANNER'S REPORT Ref. R 898/24		Cork City Council Culture, Community and Placemaking
Application type	Section 5 Declaration	
Description	<i>"The application seeks a Section 5 Declaration to confirm that the temporary use of the building as overnight accommodation for displaced persons or persons seeking international protection is exempted development. Section of Exempted Development Regulations under which exemption is claimed: Class 20F of Schedule 2 Part 1 of the Planning and Development Regulations 2001 to 2023."</i>	
Location	23-25 South Terrace	
Applicant	Gary Quigley	
Date	28/11/2024	
Recommendation	Request Further Information	

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 Q3 of the application form:

"The application seeks a Section 5 Declaration to confirm that the temporary use of the building as overnight accommodation for displaced persons or persons seeking international protection is exempted development. Section of Exempted Development Regulations under which exemption is claimed: Class 20F of Schedule 2 Part 1 of the Planning and Development Regulations 2001 to 2023."

3. Site Description

The application site is the ground floor and first floors of No.s 23-25 South Terrace which itself is a 5 storey with basement Georgian terraced structure. The ground and 1st floor were previously offices. (The upper floors are residential apartments).



4. Recent Relevant Planning History

No known planning history.

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(1)(h),

The following shall be exempted developments for the purposes of this Act-development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section 4(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001-2013.

Section 5(1),

(See section 1 of this report)

Section 177U (9) (screening for appropriate assessment)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

5.2 The Regulations**Article 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.

S.I. No. 605 of 2022 Amendment of Part 1 of Schedule 2 to Planning and Development Regulations 2001

2. Part 1 of Schedule 2 to the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended by inserting the following class after Class 20E:

Column 1 Description of Development	Column 2 Conditions and Limitations
CLASS 20F <i>Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.</i>	<p><i>1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.</i></p> <p><i>2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001².</i></p> <p><i>3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.</i></p> <p><i>4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.</i></p> <p><i>5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.</i></p> <p><i>6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2</i></p>

	of Council Implementing Decision (EU) 2022/382 of 4 March 2022.
	7. ‘international protection’, for the purpose of this class, has the meaning given to it in <u>section 2(1) of the International Protection Act 2015 (No. 66 of 2015)</u> .
	8. ‘temporary protection’, for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.”

Article 9 (1)

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

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

6. ASSESSMENT

6.1 It should be stated at the outset that the purpose of this report is not to determine the acceptability or otherwise of the proposal at this location in respect to the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development.

6.2 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.’.

The floor plans submitted shows that the previous office layout will be altered, and some dividing partitions taken down with new partitions erected to form bedrooms, living and kitchen areas. The proposal will also constitute a material change of use from office to residential. There are no external amendments/alterations proposed.

6.3 Exempted development

- i) The internal alterations can be considered exempt under Section 4(1)(h).
- ii) The previous use of the ground and first floor was office. CLASS 20F of the Planning and Development Regulations 2001 (as amended) and specifically "S.I. No. 605 of 2022 Amendment of Part 1 of Schedule 2 to Planning and Development Regulations 2001" includes office as a use as a use to be considered for which a "*temporary change use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure*"

The cover letter submitted by the agent states that "The temporary use of the building is on behalf of the Minister for Children, Equality, Disability, Integration and Youth to assist in meeting Ireland's obligation to provide accommodation to displaced persons or international protection applicants".

- iii) There is no known planning history and thus no existing conditions that would limit the application of any exemptions.
- iv) The structure is not a protected structure.

There is no supporting evidence confirming that this building is to be used on behalf of the Minister for Children, Equality, Disability, Integration and Youth. Therefore, clarification should be sought in the form of written confirmation, of approval, or approval in principle for the use of the property for accommodation for persons seeking international protection, from either the relevant Government Department, or the relevant section of Cork City Council.

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

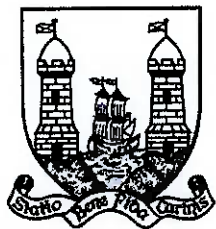
Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. The relevant 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

This report recommends that the following further information be requested:

1. The question submitted for assessment refers to International Protection Applicants. Please clarify if the proposed occupation of the apartments is for Displaced persons from Ukraine or for Accommodation for International Protection Applicants. Please submit, in the form of written confirmation, of approval, or approval in principle, for the use of the property for

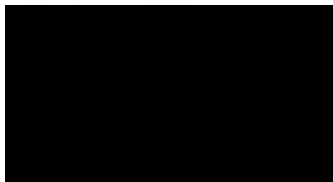
accommodation for persons seeking international protection, from either the relevant Government Department, or the relevant section of Cork City Council.



Comhairle Cathrach Chorcaí Cork City Council

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

John Murphy



05/12/2024

RE: Section 5 Declaration R898-24 23-25 South Terrace, Cork City

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, I wish to advise under the provisions of section 5(2)(b) of the Planning and Development Act 2000, as amended, that the following further information is required in order to properly assess this application:

1. The question submitted for assessment refers to International Protection Applicants. Please clarify if the proposed occupation of the apartments is for Displaced persons from Ukraine or for Accommodation for International Protection Applicants. Please submit, in the form of written confirmation, of approval, or approval in principle, for the use of the property for Section 5 Declaration – Planner's Report continued Page 6 of 6 accommodation for persons seeking international protection, from either the relevant Government Department, or the relevant section of Cork City Council.

Is mise le meas,

David Foley
Planning & Integrated Development
Cork City Council



We are Cork.



QDM Architecture,
19 South Mall,
Cork.

T: (087) 284 3889
E: info@qdmarchitecture.com
W: www.qdmarchitecture.com

Attention: The Secretary
Company: Cork City Council
Client Name: Flintvale Ltd
Project Name: South Terrace
Description / Reference:
Emergency Accommodation

Issue Date: 16 Dec 2024

Project Number: 22-55

Page 1 of 1.

PLANNING - FIRE CERTS - CONSULTATION - PROJECT MANAGEMENT

Change of use and material alterations for use as temporary accommodation for persons seeking international protection (under S. 1. 605 of 2022). The internal fit out will comprise bedrooms, common circulation and social areas, recreational areas, domestic scale kitchens, canteen, laundry room, meeting room and ancillary WC and storage accommodation

Formal Submission - Response to RFI Section 5 Declaration R898/24

Dear Secretary,

We thank you for your letter dated the 5th December 2024, we now wish to respond to the queries raised.

Please post all correspondence to QDM Architecture, 19 South Mall, Cork City.

We enclose copies of the following drawings and documentation;

Dept of Children, Equality, Disability, Integration & Youth:
- Formal Letter of Offer

We would like to respond numerically to the queries;

Query 1

The question submitted for assessment refers to International Protection Applicants. Please clarify if the proposed occupation of the apartments is for Displaced persons from Ukraine or for Accommodation for International Protection Applicants. Please submit, in the form of written confirmation, of approval, or approval in principle, for the use of the property for Section 5 Declaration - Planner's Report continued Page 6 of 6 accommodation for persons seeking international protection, from either the relevant Government Department, or the relevant section of Cork City Council.....

Please find enclosed Letter of Offer from the Dept of Children, Equality, Disability, Integration & Youth, demonstrating the intended use of the building.

We trust all is in order, however should any further information be necessary, we shall gladly submit the required information upon request.

Regards,

Gary Quigley.

**An Roinn Leanaí, Comhionannais,
Míchumais, Lánpháirtíochta agus Óige**
Department of Children, Equality,
Disability, Integration and Youth



**Mr Richard Pratt,
Knockpool Ltd,
Askill Bunnacurry,
Achill Island,
Co. Mayo,
F28 V8X8**

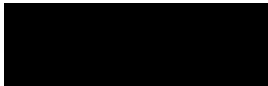
16th December 2024

**RE: Application for Planning Exemption - Provision of Accommodation for
International Protection Applicants at 23 – 25 South Terrace, South Channel Court,
Co. Cork, T12 X3TW**

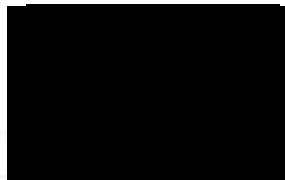
To whom it may concern,

The Department is currently seeking offers of accommodation for properties which have a full grant of planning permission for use as International Protection accommodation or properties which may avail of the Class 14H or 20F exemptions as per the Planning and Development Regulations. The above property has been offered to the Department as temporary emergency accommodation for International Protection applicants subject to grant of a planning exemption. We would therefore request that this correspondence be taken as evidence of engagement with the Department regarding the proposed change of use of the property named above.

I can confirm that the Department is interested utilising the above property for the accommodation of International Protection applicants subject to all planning, change of use, building control, Certificate of Compliance on Completion (CCC), fire and insurance certifications being in place and subject to contract/contract denied.

If you have any queries regarding the above, please contact me at 

Yours sincerely,

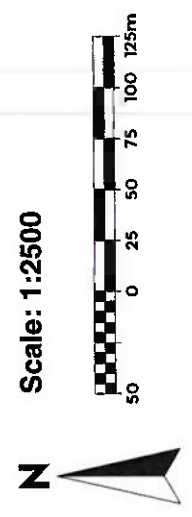


Seán Woods
Higher Executive Officer
International Protection Procurement Services

An Roinn Leanaí Comhionannais, Míchumais Lánpháirtíochta agus Óige
Department of Children Equality, Disability, Integration and Youth **Bloc 1, Plaza Miesach, 50-58 Sráid Bhagóid**
Íochtarach, Baile Átha Cliath 2. D02 XW14
Block 1, Miesian Plaza, 50-58 Baggot Street Lower, Dublin 2. D02 XW14
T +353 1 647 3000 | contact@equality.gov.ie
www.equality.gov.ie



Reference: Planning Department, Cork City Council



Proposed Accommodation

Total 50 Persons Accommodated;
11 Bed spaces on Ground Floor
39 Bed spaces on First Floor

Amenities:

Recreation Room
Cooking / Dining Area
Laundry facilities
Onsite storage

Local Amenities:

City Centre 5 minute walk

