


Marion O'Brien,



28/08/2024

RE: **Section 5 Declaration R859/24 16 Father Mathew Road,**
Turners Cross, Cork.

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 15/07/2024 and Further Information received on 07/08/2024, 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), and
- Articles 6, and 9 of the Planning and Development Regulations 2001 (as amended),

it is considered that the proposed altered front elevation **Is Development and Is Exempted Development** provided the distinctive horizontal banding is retained/reinstated.
at Property Address.

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.

Is mise le meas,

David O'Regan

**David O'Regan,
Assistant Staff Officer,
Community, Culture &
Placemaking Directorate**

PLANNER'S REPORT Ref. R859/24		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>"Is it possible to change the finish on the front of house from dash to smooth render."</i>	
Location	16 Father Mathew Road, Turners Cross	
Applicant	Marion O'Brien	
Date	12/08/2024	
Recommendation	<i>Is Development and Is Exempted Development</i>	

To be read in conjunction with previous report dated 22/07/2024 which requested the following further information:

1. The following Further Information was requested:

- No comparative elevations have been submitted for assessment to enable a determination as to whether the proposed smooth render finish will render the appearance inconsistent with the character of the structure or of neighbouring structures" as specified in Section 4(1)(h) of the Development Plan Regulations 2001 (as amended).

This section 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;"

You are therefore requested to submit both existing and proposed contiguous elevations (include the neighbouring properties of the terrace) of the front façade.

3. Response from Applicant:

The applicant submitted details on the 07/08/2024.

A contiguous elevation showing the smooth plaster but with the distinctive horizontal band retained has been submitted.

4. The Question before the Planning Authority

In framing the question to the planning authority, the applicant states in Q2 of the application form:

Is it possible to change the finish on the front of house from dash to smooth render."

5. Previous Assessment

The proposal was previously deemed to constitute works.

6. Legislative Provisions

6.1 The Act

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;

7. ASSESSMENT

Having assessed the submitted contiguous elevation which shows the proposed finish in context with the neighbouring properties, the drawing confirms that the distinctive horizontal banding is to be retained. While the smooth plaster deviates from the predominant existing rough plaster finish, the retention of/re-instatement of the horizontal banding will render the front façade consistent with the character of the structures in the immediate vicinity. It is therefore considered exempt under Section 4(1)(h) of the planning and development act 2000 (as amended).

8. Conclusion

The question has been asked whether

"Is it possible to change the finish on the front of house from dash to smooth render."

Having considered the particulars submitted with the application and the relevant legislation as set out above, it is considered that the proposed altered front elevation is development and is exempted development provided the distinctive horizontal banding is retained/reinstated.

9. 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 proposed altered front elevation is development and is exempted development provided the distinctive horizontal banding is retained/reinstated.



Mary Doyle
Executive Planner
12/08/2024

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

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

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

1. NAME OF PERSON MAKING THE REQUEST

Marion Ó Brien

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

16 FATHER MATHEW RD
TURNERS CROSS
CORK

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.

Is it possible to change the finish on the front of house from dash to smooth render

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

15 JUL 2024

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

If so please supply details:

No

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

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

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

If so please supply details:

No

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	120 m ²
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas. (sq m)
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle)	Proposed/existing use (please circle)

7. 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: 13.6.24

PLANNER'S REPORT Ref. R859/24		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>"Is it possible to change the finish on the front of house from dash to smooth render."</i>	
Location	16 Father Mathew Road, Turners Cross	
Applicant	Marion O'Brien	
Date	22/07/2024	
Recommendation	<i>Further Information</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:

"Is it possible to change the finish on the front of house from dash to smooth render (?) (sic)."

3. Site Description

The property in question is a two storey mid terrace attached dwelling in an established residential area. The entire front façade finishes of this street of houses is rough dash with distinctive banding across all properties just underneath the first-floor windows. All properties (bar one quite a distance away up towards the top of the street) along this street are finished in the rough dash render with a smooth banding underneath the first-floor windows.

4. Planning History

TP24/43091: Withdrawn.

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.

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,*

Article 10 (1)

Development which consists of a change of use within any one of the classes of use as specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not –

- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be development where the existing use is an unauthorised, save where the change of use consists of resumption of a use which is not unauthorised and which has not been abandoned*

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 proposed alteration of the façade by the introduction of a new smooth render finish onto the existing front façade is considered as works as it involves the alteration of the façade.

5.2 Exempted development

The next issue for consideration is whether or not the matter at hand is exempted development. The proposed works are not listed within Schedule 2 Part 1 of the Planning and Development regulations 2001 (as amended) which lists Exempted Development.

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;

The applicant has not submitted any proposed finished front façade with the application. It is noted that there is distinctive and unique banding across all front facades of the properties in question on the street which themselves form blocks of terraces. A loss of this characteristic could render the appearance inconsistent with the character of the neighbouring properties. This is evident further up the street where a mid-terrace property has revised the front façade finish and it now sits at variance with the other properties in the terrace and in the existing setting. The applicant would need to submit details of the proposed final finish to front façade as part of a contiguous elevation, to allow an assessment be made as to whether it will be inconsistent with the character of the neighbouring structures.



(No. 16 is the brown painted house on the right-hand side)

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. Conclusion

The question has been asked whether

"Is it possible to change the finish on the front of house from dash to smooth render".

No comparative elevations have been submitted for assessment to enable a determination as to whether the proposed smooth render finish will render the appearance inconsistent with the character of the structure or of neighbouring structures" as specified in Section 4(1)(h) of the Development Plan Regulations 2001 (as amended).

This section 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;

You are therefore requested to submit both existing and proposed contiguous elevations (include the neighbouring properties of the terrace) of the front façade.

9. Recommendation

It is recommended that the following further information be sought:

- 1) No comparative elevations have been submitted for assessment to enable a determination as to whether the proposed smooth render finish will render the appearance inconsistent with the character of the structure or of neighbouring structures" as specified in Section 4(1)(h) of the Development Plan Regulations 2001 (as amended).

This section 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;"

You are therefore requested to submit both existing and proposed contiguous elevations (include the neighbouring properties of the terrace) of the front façade.



Mary Doyle

Executive Planner

Marion O'Brien,



31/07/2024

**RE: Section 5 Declaration R859/24 16 Father Mathew Road,
 Turners Cross, Cork.**

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:

"It is recommended that the following further information be sought:

- 1) No comparative elevations have been submitted for assessment to enable a determination as to whether the proposed smooth render finish will render the appearance inconsistent with the character of the structure or of neighbouring structures" as specified in Section 4(1)(h) of the Development Plan Regulations 2001 (as amended).*

This section states:

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You are therefore requested to submit both existing and proposed contiguous elevations (include the neighbouring properties of the terrace) of the front façade."

Is mise le meas,

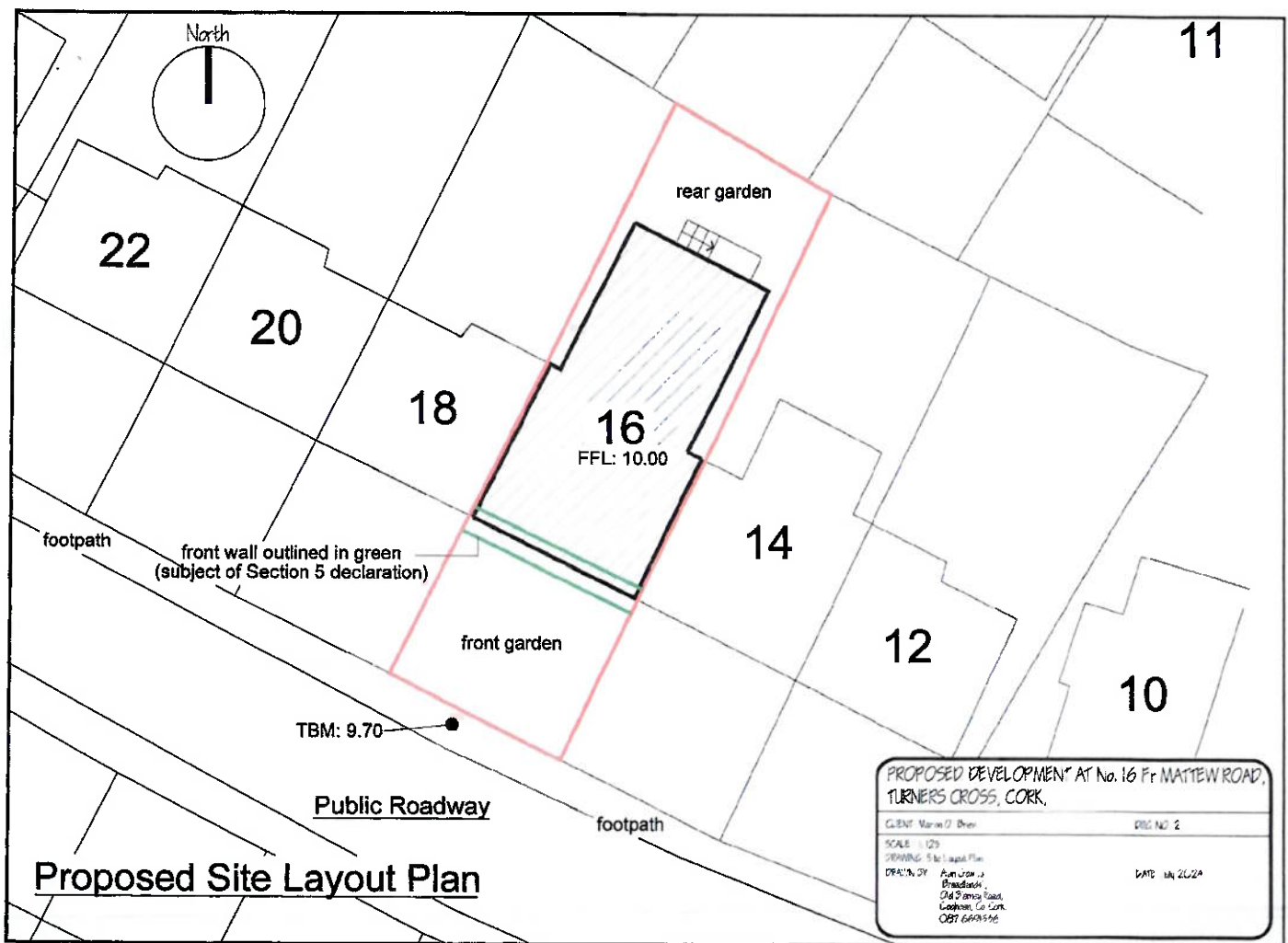
David O'Regan

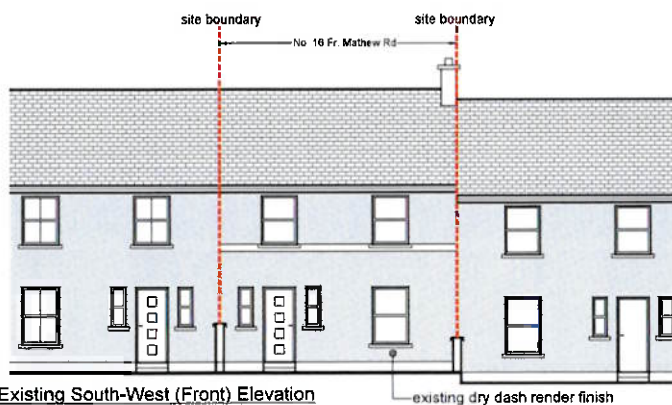
**David O'Regan,
Assistant Staff Officer,
Community, Culture &
Placemaking Directorate**



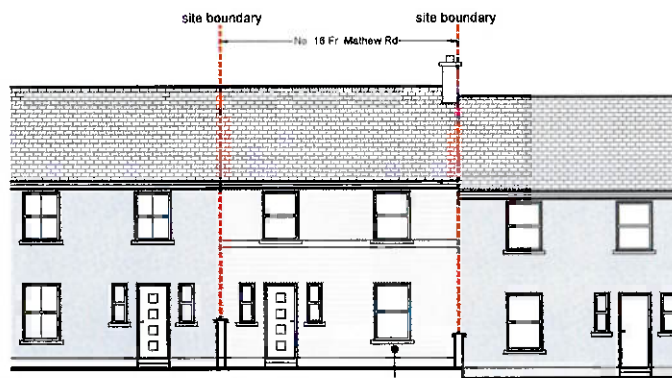
She outlined in red

 denotes location of site notices





Existing South-West (Front) Elevation
Scale: 1: 100



Proposed South-West (Front) Elevation
Scale: 1: 100

PROPOSED DEVELOPMENT AT No. 16 Fr. MATTHEW ROAD, TURLERS CROSS, COBK.	
CLIENT: J.P. & S. Co.	DATE: 10/10/2024
DESIGN: J.P. & S. Co.	DATE: 10/10/2024
NO. 16 Fr. Mathew Road, Turlers Cross, Co. Cork. C08T 408T500	DATE: 10/10/2024