

Comhairle Cathrach Chorcaí Cork City Council

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

Rachel Barry
6 Holbar House
East Douglas Village
Cork T12E093

28/11/2024

RE: Section 5 Declaration R894/24 Curragh Beag, Ballycurreen,
Frankfield, Cork T12WP2K

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 13th November 2024, I wish to advise as follows:

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

- Article 10 of the Planning and Development Regulations 2001 (as amended), and
- Class 14 of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended), and
- Part 4, Schedule 2 of the Planning and Development Regulations 2001 (as amended),

It is considered that *the specific question for which a declaration is sought* **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT** at Curragh Beag, Ballycurreen, Frankfield, Cork T12W2PK.

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, 28TH November, 2024.

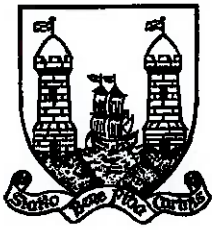
Is mise le meas,

Dáid Foley



We are Cork.

**Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council**



Comhairle Cathrach Chorcaí Cork City Council

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

John Greg Swanton
c/o Nicola Swanton

03/12/2024

Re: R894/24-Section 5 Declaration

Property: Curragh Beag, Ballycurreen, Frankfield, Cork, T12W2PK

Question/Declaration Details: Would it be possible to convert this building from 'residential status' to 'office/commercial' status?

Dear Sir,

Please see below response in relation to a Section 5 application which was submitted on a land/structure in which you are the legal owner:

With reference to your request for a Section 5 Declaration at the above named property, I wish to advise and having regard to:

- Article 10 of the Planning and Development Regulations 2001 (as amended), and
- Class 14 of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended), and
- Part 4, Schedule 2 of the Planning and Development Regulations 2001 (as amended)

Therefore it is considered that the specific question for which a declaration is sought **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT**.

David Foley

David Foley
Development Management Section
Community, Culture and Placemaking Directorate
Cork City Council



We are Cork.

PLANNER'S REPORT Ref. R894/24		Cork City Council Development Management Strategic Planning and Economic Development
Application type	Section 5 Declaration	
Description	<i>"Would it be possible to convert this building from residential status to office/commercial status?"</i>	
Location	Curragh Beag, Ballycurreen, Frankfield.	
Applicant	Rachel O'Donnell Barry	
Date	27/11/2024	
Recommendation	<i>Is Development and Is Not Exempted Development</i>	

In this report 'the Act' means the Planning and Development Act 2000 (as amended) and 'the Regulations' means the Planning and Development Regulations 2001 (as amended), unless otherwise indicated.

1. Requirements for a Section 5 Declaration

Section 5(1) of the Planning and Development Act 2000 as amended states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a section 5 declaration are set out in the Act.

2. The Question before the Planning Authority

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

"Would it be possible to convert this building from residential status to office/commercial status?"

3. Site Description

The property in question is a single storey detached bungalow at the corner of a junction.





4. Planning History

TP09/4723: Permission granted for 2 no. dwelling houses.

TP05/7900: Invalid application.

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*

Schedule 2, Part 4 (Article 10) Exempted development – Classes of Use

CLASS 1: Use as a shop.

CLASS 2: Use for the provision of—

- (a) financial services,*
 - (b) professional services (other than health or medical services),*
 - (c) any other services (including use as a betting office),*
- where the services are provided principally to visiting members of the public.*

CLASS 3: Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

CLASS 4: Use as a light industrial building.

CLASS 5: Use as a wholesale warehouse or as a repository.

CLASS 6: Use as a residential club, a guest house or a hostel (other than a hostel where care is provided).

CLASS 7: Use—

- (a) for public worship or religious instruction,*
- (b) for the social or recreational activities of a religious body,*
- (c) as a monastery or convent.*

CLASS 8: Use—

- a) as a health centre or clinic or for the provision of any medical or health services (but not the use of the house of a consultant or practitioner, or any building attached to the house or within the curtilage thereof, for that purpose),*
- b) as a crèche,*
- c) as a day nursery,*
- d) as a day centre.*

CLASS 9: Use—

- (a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose),*
- (b) a museum,*
- (c) a public library or public reading room,*
- (d) a public hall,*
- (e) an exhibition hall,*
- (f) a social centre, community centre or non-residential club, but not as a dance hall or concert hall.*

CLASS 10: Use as—

- (a) an art gallery (but not for the sale or hire of works of art),*
- (b) a museum,*
- (c) a public library or public reading room,*
- (d) a public hall,*
- (e) an exhibition hall,*
- (f) a social centre, community centre or non-residential club, but not as a dance hall or concert hall.*

CLASS 11: Use as—

- (a) a theatre,*
- (b) a cinema,*
- (c) a concert hall,*
- (d) a bingo hall,*
- (e) a skating rink or gymnasium or for other indoor sports or recreation not involving the use of motor vehicles or firearms.*

CLASS 12: Use as—

Use as a Public House, meaning a premises which has been licensed for the sale and consumption of intoxicating liquor on the premises under the Licensing Acts 1833 to 2018.

Schedule 2, Part 1, CLASS 14: Change of use

Development consisting of a change of use—

- (f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons.*

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.'*

The application form states:

"No structural changes required to the physical building" and "We would not be making any changes to the existing structure". Therefore, the proposal does not constitute works. Whether the proposal is development or not relates solely to whether the proposal to change the use from residential to commercial/office use is making a material change of use of the structure and or land.

5.2 Exempted development

The Planning and Development Regulations 2001 (as amended) deals with change of use and states:

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*

The proposed use is health related with two different health related services (psychologist services and acupuncturist services) being solely provided within the structure and associated parking. and not merely commercial/office. Notwithstanding same, as per Article 10, Schedule 2 Part 1 Class 14, and Schedule 2 Part 4, of the Planning and Development Regulations 2001 (as amended) there are no exemptions applicable to proposals to change the use from residential use to any other use including to office/commercial use.

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:

"Would it be possible to convert this building from residential status to office/commercial status?"

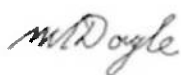
Based on the above, it is therefore considered that the proposed change of use from residential to office/commercial is development and is not exempted development.

9. RECOMMENDATION

In view of the above and having regard to —

- Article 10 of the Planning and Development Regulations 2001 (as amended), and
- Class 14 of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended), and
- Part 4, Schedule 2 of the Planning and Development Regulations 2001 (as amended),

It is considered that the *possible conversion of this building from residential status to office/commercial status* **Is Development and Is Not Exempted Development.**



Mary Doyle
Executive Planner

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

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

R-Post/E-Mail planning@corkcity.ie
Fón/Tel: 021-4924564/4321
Lionra/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

Cullagh Beag, Ballycullen, Frankfield
Co. Cork T12 WP2K.

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,

Would it be possible to convert this building from 'Residential Status' to 'Office/Commercial' Status

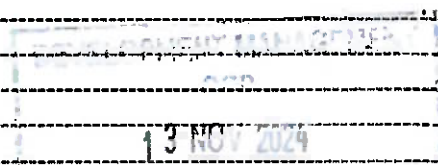
No structural changes required to the physical building

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

I am an tempurchaist & my husband is a Psychologist. We require a new premises to work from. We would not be making any changes to the existing structure.

We have currently been heading from the East Village in Douglas but our Rents are sky rocketing.



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		57 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 ☐ No ☐ 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)	
Residential	Commercial / Office	

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Rachel Bailey
Applicants Address	Harmony Clinic 6 Holbar House East Douglas Village Cork T12 E093.	
Person/Agent acting on behalf of the Applicant (if any):	Name:	Rachel Bailey
	Address:	As above.
	Telephone:	01274 301111
	Fax:	
	E-mail address:	bailey.rachel@harmonyclinic.co.uk
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 ☒ No ☐

5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner	B. <u>Other</u>
Where legal interest is 'Other', please state your interest in the land/structure in question	Would like to purchase	
If you are not the legal owner, please state the name and address of the owner if available	Have written permission from owner to enquire about change of use → Sherry Hill selling property	

6.1 / We confirm that the information contained in the application is true and accurate:

Signature: Rachel O'Donnell Barry

Date: 4th Nov 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

Curragh Beag, Ballycureen, Frankfield, Co. Cork, T12WP2K

€290,000

3 Bed • 1 Bath • 72 m² • Bungalow

Description

Sale Type: For Sale by Private Treaty

Overall Floor Area: 72 m²

Curragh Beag is a quaint three-bedroom 1940s cottage. Located on a large corner site in Ballycureen, Frankfield. While in need of modernisation, this property presents an excellent opportunity for renovation and extension subject to planning allowing the new owners to put their own stamp on it.

The property consists of an open-plan kitchen/dining room, a spacious living room, two double bedrooms, a single bedroom/office and a bathroom.

Externally, there is a large garden which covers approx. 1/3 acres to the rear of the property. The gate to the side of the property provides access to the garden from the road.

Located just off the Frankfield Road this property is well-serviced by local road networks like the South Ring Road and nearby shopping amenities like Douglas Village Shopping Centre.

Viewings of this property are highly recommended.

Kitchen/Dining Room 3.00m x 5.29m. The kitchen is well-equipped with both floor and eye-level units and incorporates a hob, oven, sink and dishwasher. It features a tiled floors and wooden countertops. It is dual aspect and benefits from a window looking out to both the rear and the side of the home.

Living Room 3.21m x 4.79m. This bright and open living room is dual aspect to the front and the rear and benefits from a skylight and south-facing sliding windows that fills the area with natural light. The floor consists of a solid wood flooring.



CURRAGH BEAG, BALLYGREEN FLEAFIELD T12 WD2K.

13:41



finder.eircode.ie



EIRCODE



Satellite



Bally Green Road

Hampstead

R851

Curragh Beg

Get Eircode



14

Search for location

Frankfield Rd

Ballycurreen Rd
R631

Hampstead
Ballycurreen Rd

Cunraghwoods

Grange Rd
Dunvale Drive

Dunvale Rise
Dunvale Grove

Dunvale Heights

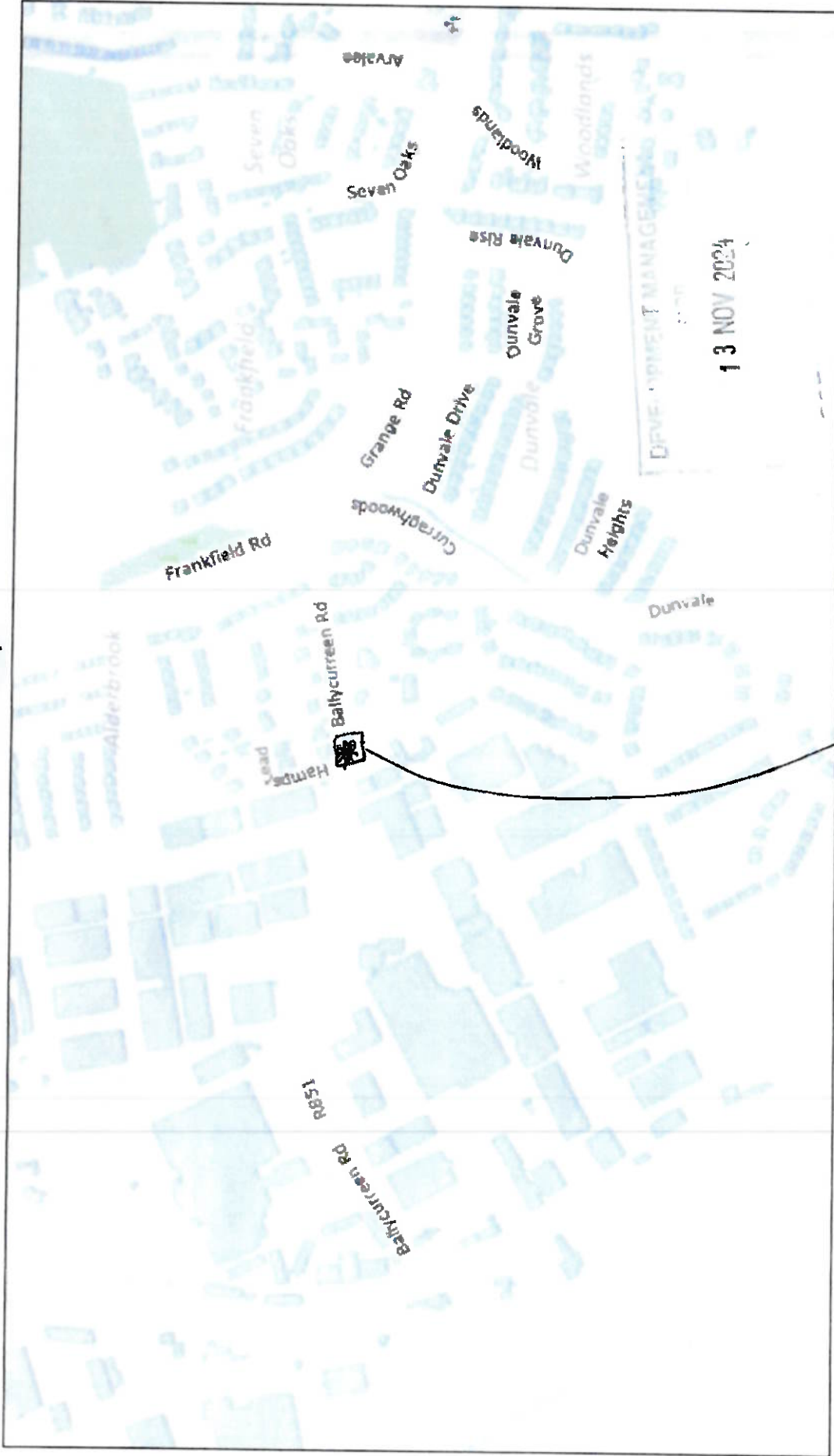
Dunvale

Cureagh Beg
Ballycurreen
Frankfield
T12 W2K.

100m

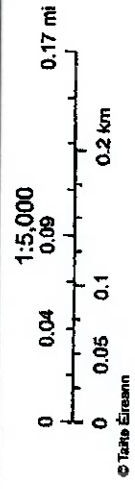
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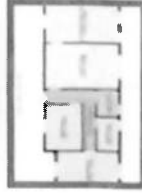
GeoHive Map



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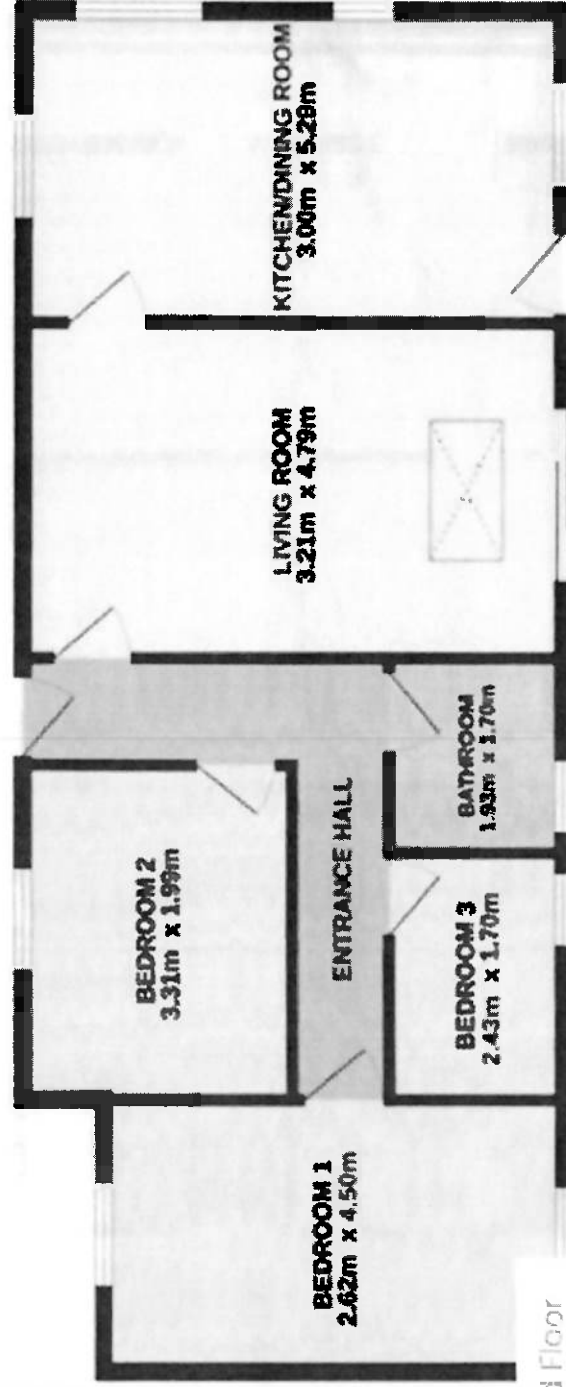
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Ballycurreen
Frankfield
T12 WPAK.





13 NOV 2024

GROUND FLOOR



Ground Floor

CLIENT MANAGEMENT

13 NOV 2024