

# Comhairle Cathrach Chorcaí Cork City Council

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

Amaya Shelter Providers Ltd



23/01/2025

RE: Section 5 Declaration R905/24 4-5 Great William O' Brien Street, Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 19th December 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, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2023.

It is considered that *the specific question for which a declaration is sought* **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT** at 4-5 Great William O' Brien Street, Cork

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 23<sup>rd</sup> January, 2025.

Is mise le meas,

  
David Foley

Development Management Section  
Planning & Development  
Cork City Council



We are Cork.

|  |   |   |
|--|---|---|
| <b>PLANNER'S REPORT</b><br><b>Ref. R905/24</b> |   | <b>Cork City Council</b><br>Culture, Community and<br>Placemaking |
| <b>Application type</b>                        | Section 5 Declaration   |   |
| <b>Description</b>                             | <i>Is the temporary change of use of the former credit union to residential accommodation for international protection applicants (Class 20F exemption) exempted development?</i> |   |
| <b>Location</b>                                | 4-5 Great William O'Brien Street, Cork  |   |
| <b>Applicant</b>                               | Amaya Shelter Providers Ltd (owners)  |   |
| <b>Agent</b>                                   | Pat Carey (agent), PMCG Consulting Engineers  |   |
| <b>Date</b>                                    | 21/01/2025  |   |
| <b>Recommendation</b>                          | <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:

*The building was a credit union with offices now we want to use it for accommodation for International Protection Applicants (Class 20F exemption).*

In setting out additional details regarding the development, the applicant states that Fire Safety Certificate and Disability Access Certificate has been obtained.

The intention of the request is clear, and it is reasonable to consider the question before the planning authority as being:

*Is the temporary change of use of the former credit union to residential accommodation for international protection applicants (Class 20F exemption) exempted development?*

## 3. SITE DESCRIPTION

The subject site relates to 4-5 Great William O'Brien Street, Cork. The building is currently vacant and was previously in use as a Credit Union with associated offices. The building fronts onto Great William O'Brien Street and Watercourse Road.

The subject site is located with Shandon Architectural Conservation Area.

## 4. PLANNING HISTORY

### Planning Applications

01/25755 – Permission granted for erection of signage.

00/24180 – Permission granted for alteration to frontage, namely omission of 1<sup>st</sup> floor window and relocation of existing doorways and ground floor window.

## 5. LEGISLATIVE PROVISIONS

### 5.1 The Act

Section 2(1),

*“exempted development” has the meaning specified in section 4.*

*“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—*

- a) Where the context so admits, includes the land on, in or under which the structure is situate, and*
- b) relation to a protected structure or proposed protected structure, includes—*
  - i. The interior of the structure,*
  - ii. the land lying within the curtilage of the structure,*
  - iii. any other structures lying within that curtilage and their interiors, and*
  - iv. all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii).*

*“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)(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)(a),

*The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—*

- i) By reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or*
- ii) The development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation*

*(howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).*

**Section 4(2)(b)**

*Regulations under paragraph (a) may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.*

**Section 4(2)(c)**

*Regulations under this subsection may, in particular and without prejudice to the generality of paragraph (a), provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.*

**Section 4(4)**

*Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.*

**Section 4(4A)**

*Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—*

- a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and*
- b) as respects which an environmental impact assessment or an appropriate assessment is required, to be exempted development.*

**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 5(2)**

*In Schedule 2, unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose "ground level" means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.*

**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.*

**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,

**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:

| <b>(Article 6) Schedule 2, Part 1, Class 20F</b>  |   |
|---|---|
| <b>Column 1</b><br><b>Description of Development</b>  | <b>Column 2</b><br><b>Conditions and Limitations</b>  |
| 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. | <ol style="list-style-type: none"> <li>1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.</li> <li>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 2022<sup>1</sup> comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001<sup>2</sup>.</li> <li>3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.</li> <li>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.</li> <li>5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.</li> <li>6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.</li> </ol> |

**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 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: '(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.'*

The proposal is for a change of use of a former credit union to residential accommodation for International Protection Applicants. It is clear that the proposal comprises a '*material change in the use of any land or structure*' and therefore the proposed change of use constitutes development within the meaning of the Act.

**CONCLUSION:**  
**Is development.**

### **6.2 Exempted development**

The next issue for consideration is whether or not the matter at hand is exempted development. Section 2(1) of the Act defines 'exempted development' as having 'the meaning specified in section 4' of the Act (which relates to exempted development).

Section 4(3) of the Act states that exempted development either means development specified in section 4(1) or 4(1)(a) or development which is exempted development having regard to any regulations under section 4(2).

I consider that the proposal comes within **subsection (2) of section 4**.

#### **Section 4(2)**

It is therefore necessary to consider whether the proposed change of use comes under the scope of section 4(2) (i.e. exemptions specified in the Regulations), having regard to the use of the word 'or' in section 4(3).

The applicant is requesting an exemption for a temporary change of use in accordance with the exemption Class 20F of the Planning and Development Regulations. The proposal is assessed below against Class 20F and its conditions and limitations.

Class 20F contains a specific list of uses for which any structure, or part of a structure, may be changed to a temporary use to accommodate or support displaced persons or persons seeking international protection by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth.

It is not clear if the proposed temporary change of use is by or on behalf of the *Minister for Children, Equality, Disability, Integration and Youth*. No information/ documentation has been furnished with the section 5 application in this regard. This is something that could be clarified under a request for further information.

The list of uses listed under Class 20F are as follows:

- 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,
- any structure or part of structure normally used for public worship or religious instruction

This list of uses does not include the use of a Credit Union. A Credit Union provides financial services and falls under Use Class 2(a) (Part 4 of Schedule 2, Exempted Development - Classes of Use).

It is noted that office is on the list of uses under Class 20F. An office use falls under Use Class 3 (Part 4 of Schedule 2, Exempted Development - Classes of Use) and is defined as *'use as an office, other a use to which class 2 of this Part of this Schedule applies.'* It is clear that an 'office' does not include uses under Class 2 (even where uses under that Class include an office element such as a Credit Union).

The permitted use of the structure subject to this section 5 application is as a Credit Union. The proposed change of use is not considered to satisfy the requirements of Class 20F. It is considered that the change of use of the former Credit Union to residential accommodation for International Protection Applications does not come within the scope of Class 20F.

In this regard, the proposed change of use is not considered to be exempt.

#### **Restrictions on exemption**

I do not consider that any apply in this instance.

#### **CONCLUSION:**

- **Is not exempted development.**

## **7. ENVIRONMENTAL ASSESSMENT**

### **7.1 Screening for Environmental Impact Assessment**

Having regard to the contents of Article 103 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.

## 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 —

- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- Articles 6, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2023

the planning authority considers that —

the temporary change of use of the former credit union to residential accommodation for International Protection Applicants at 4-5 Great William O'Brien Street, Cork **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT**.

|   |  |
|---|--|
|  |  |
| Jan Oosterhof<br>A/ Executive Planner<br>Development Management<br>21/01/2025       | Melissa Walsh<br>Senior Executive Planner<br>Development Management<br>21/01/2025    |



**COMHAIRLE CATHRACH CHORCAÍ**  
**CORK CITY COUNCIL**

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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**

Pat Carey (Agent) PMCG Consulting Engineers

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

4-5 Great William O'Brien Street  
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.*

The building was a credit Union with offices  
now we want to use it for  
accommodation for International  
Protection Applicants (Class 20F exemption).

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

*(Use additional sheets if required).*

We have obtained Fire Safety Certificate  
We have obtained Disability Access Certificate

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? ☒ 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? ☐

6. Was there previous relevant planning application/s on this site? ☒ NO

If so please supply details:

Not aware of any

#### 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  | 617m <sup>2</sup> .   |
| (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 checked="" type="checkbox"/><br>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/ <u>previous use</u> (please circle)  | <u>Proposed</u> /existing use (please circle)   |
| Credit Union/<br>office  | IPA centre.   |

#### 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 | NA   |                                   |
| If you are not the legal owner, please state the name of the owner if available               | N/A.   |                                   |

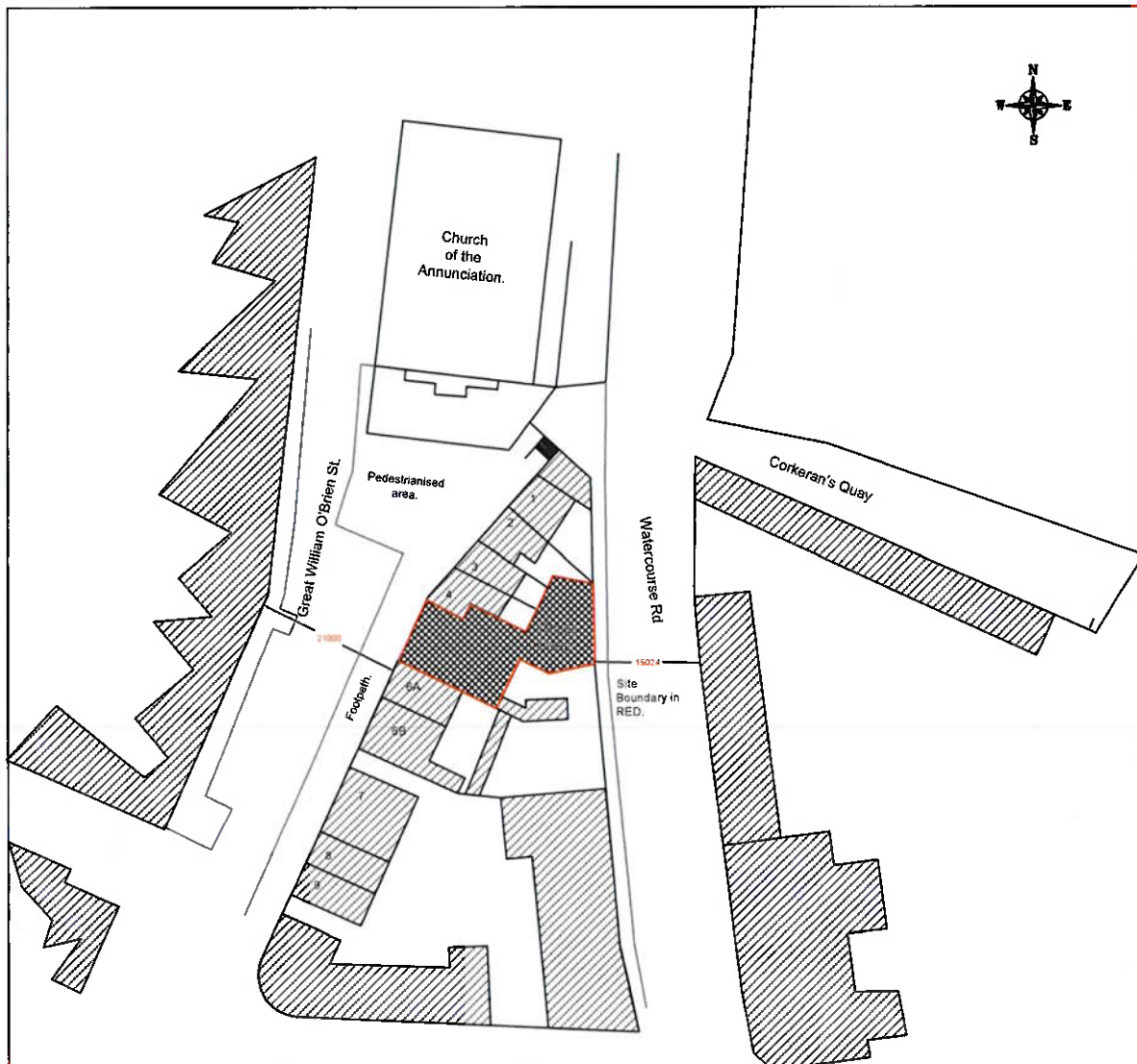
8. I/We confirm that the information contained in the application is true and accurate:

Signature: [Redacted]

Date: 17/12/2024.


# NOTES

E- 567487821  
N- 573356965



E- 567324846  
N- 573204833

SITE BOUNDED RED AT  
4-5 GREAT WILLIAM OBRIEN STREET, BLACKPOOL, CORK.  
Scale 1:1000

|   |             |                  |
|---|-------------|------------------|
| A For Information   |             | SP 18/12/24      |
| Rev   | Description | By Date          |
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| Macroom, Co. Cork   |             | pat@fxgincork.ie |
| Client  |             |                  |
| Mr HAMID BUTT   |             |                  |
| Project   |             |                  |
| HOSTEL ACCOMMODATION  |             |                  |
| Drawing   |             |                  |
| Site Location Map   |             |                  |
| Scale   | Drawn By    | Checked By       |
| SHOWN @ A3  | SP          | PC               |
| Job No.   | Drawing No. | Issue            |
| 2454  | L01         | A                |