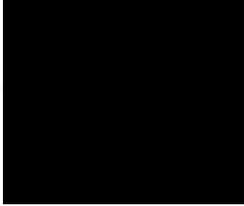




Comhairle Cathrach Chorcaí Cork City Council

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



17/12/2025

RE: Section 5 Declaration: R996-25 16 Eden Court, Mahon. T12 H5XD

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 03rd of November 2025:

The Question before the Planning Authority was whether the installation of a front door in place of a front window in an existing dwelling house is development and, if so, is it exempted development?

Development

- The first issue for consideration is whether or not the matter at hand is 'development', which is defined in the Act as comprising two chief components: 'works' and / or 'any material change in the use of any structures or other land'.
- 'Works' is defined in section 3(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'. In relation to proposed installation of a front door in place of a window to the front elevation of a dwelling, it is clear that alterations to the elevations of a dwelling comprises 'works'. As the proposal comprises 'works', it is clearly therefore 'development' within the meaning of the Act.



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Cork City Council

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

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 development which is exempted development having regard to any regulations under section 4(2).
- The proposed works are not listed within Schedule 2 Part 1 of the Planning and Development regulations 2001 (as amended) which lists Exempted Development. Article 6 therefore does not provide for this type of development.
- Section 4(1)(h) of the Act provides that 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 proposed new front door is considered to come under improvement or other alteration, and it will be an improvement to the accessibility of the house for users of wheelchairs. The installation of a front door in place of a front window to this dwelling will alter the external appearance of the house. The test is whether it would materially affect the external appearance of the structure so as to render the appearance consistent with the character of the structure or of neighbouring structures.
- In terms of whether the works would render the appearance inconsistent with the character of the structure, I would refer to case law (Cairnduff v. O'Connell, 1986), in which the matter of the character of the structure was discussed. The key elements of character to which the Supreme Court had regard included shape, colour, design, ornamental features and layout.
- In terms of the character of the house and the neighbouring houses, it is a detached house, in the middle of a row of detached dwellings, in an established urban residential area. The external finish is a brick finish on the front elevation with a smooth render finish on the set-back element of the front elevation.



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- It is considered that all the houses in the row have the same finishes, albeit with slightly different paint colours, which leads to a sense of uniformity and consistency. Very little alterations have taken place to the front elevations of the dwellings in this row of houses which has ensured that this uniformity and consistency have not reduced over time.
- It is noted that Section 4(1)(h) of the Act provides that development consisting of the carrying out of works 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 would be exempted development. The works proposed will alter the external appearance of the dwelling. It is considered, in this case, that the works will render the appearance inconsistent with the character of the structure or of neighbouring structures in this urban location.

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 of the Planning and Development Regulations 2001 to 2024

the planning authority considers that —

the installation of a front door in place of a front window in an existing dwelling house at 16 Eden Court, Mahon, Cork **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT**.

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 Coimisiún Pleanála within 4 weeks of the date it is issued., 17th of December 2025.

Is mise le meas,

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



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Application type	SECTION 5 DECLARATION
Question	<i>Is the installation of a front door in place of a front window in an existing dwelling house development and, if so, is it exempted development?</i>
Location	16 Eden Court, Mahon, Cork, T12 H5XD
Applicant	Marie Shortt (owner)
Date	24/02/2026
Recommendation	Is development and is not exempted development

INTERPRETATION

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 APPLICATION

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

The question to the planning authority is framed using the phrasing of section 5. The applicant states in the request, "Is the installation of a front door in place of a front window at 16 Eden Court, Mahon, Cork development and, if so, is it exempted development?"

It is considered that the intention of the request is clear, and that it is entirely reasonable to consider the question before the planning authority as being:

Is the installation of a front door in place of a front window in an existing dwelling house development and, if so, is it exempted development?

3. SITE DESCRIPTION

The subject property is a single storey, semi-detached dwelling in the Sustainable Residential Neighbourhoods zoning area. The area is predominantly residential in nature.

4. DESCRIPTION OF THE DEVELOPMENT

The proposed development proposes the installation of a front door in place of a window in the front elevation of a detached dwelling house.

5. RELEVANT PLANNING HISTORY

None

6. LEGISLATIVE PROVISIONS

6.1 Planning and Development Act, 2000 as amended

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) in 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, “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)

4.(1) The following shall be exempted developments for the purposes of this Act—

...

(h) 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, as amended.

Section 4(3)

A reference in this Act to exempted development shall be construed as a reference to development which is—

- (a) any of the developments specified in subsection (1), or*

(b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.

Section 5(1)

See section 1 of this report.

6.2 Planning and Development Regulations 2001 to 2018 as amended

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

Article 9 sets out restrictions on exemptions specified under article 6.

Article 9(1)

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

(a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

...

(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,

7. 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.

7.1 Development

The first issue for consideration is whether or not the matter at hand is ‘development’, which is defined in the Act as comprising two chief components: ‘works’ and / or ‘any material change in the use of any structures or other land’.

‘Works’ is defined in section 3(1) of the Act as including ‘any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal’. In relation to proposed installation of a front door in place of a window to the front elevation of a dwelling, it is clear

that alterations to the elevations of a dwelling comprises ‘works’. As the proposal comprises ‘works’, it is clearly therefore ‘development’ within the meaning of the Act.

CONCLUSION

Is development

7.2 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 development which is exempted development having regard to any regulations under section 4(2).

The proposed works are not listed within Schedule 2 Part 1 of the Planning and Development regulations 2001 (as amended) which lists Exempted Development. Article 6 therefore does not provide for this type of development.

Section 4(1)(h) of the Act provides that 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 proposed new front door is considered to come under improvement or other alteration, and it will be an improvement to the accessibility of the house for users of wheelchairs. The installation of a front door in place of a front window to this dwelling will alter the external appearance of the house. The test is whether it would materially affect the external appearance of the structure so as to render the appearance consistent with the character of the structure or of neighbouring structures.

In terms of whether the works would render the appearance inconsistent with the character of the structure, I would refer to case law (Cairnduff v. O’Connell, 1986), in which the matter of the character of the structure was discussed. The key elements of character to which the Supreme Court had regard included shape, colour, design, ornamental features and layout.

In terms of the character of the house and the neighbouring houses, it is a detached house, in the middle of a row of detached dwellings, in an established urban residential area. The external finish is a brick finish on the front elevation with a smooth render finish on the set-back element of the front elevation.

It is considered that all the houses in the row have the same finishes, albeit with slightly different paint colours, which leads to a sense of uniformity and consistency. Very little alterations have taken place to the front elevations of the dwellings in this row of houses which has ensured that this uniformity and consistency have not reduced over time.

It is noted that Section 4(1)(h) of the Act provides that development consisting of the carrying out of works 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 would be exempted development. The works proposed will alter the external appearance of the dwelling. It is considered, in this case, that the works will render the

appearance inconsistent with the character of the structure or of neighbouring structures in this urban location.

Restrictions on exemption

I do not consider that any apply in this instance.

CONCLUSION

Is not exempted development

8. ENVIRONMENTAL ASSESSMENT

I note the provisions of sections 4(4), 4(4A) and 177U(9) of the Act which state,

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)

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.

8.1 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 **environmental impact assessment is not required.**

8.2 Screening for Appropriate Assessment

The applicant has not submitted an appropriate assessment screening report. 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 these European sites. Accordingly it is considered that **appropriate assessment is not required.**

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, 9 and 10 of the Planning and Development Regulations 2001 to 2024

the planning authority considers that —

the installation of a front door in place of a front window in an existing dwelling house at 16 Eden Court, Mahon, Cork **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT**.



Eoin Cullinane
Executive Planner
17/12/2025

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

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Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924029

Líonra/Web: www.corkcity.ie

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

1. NAME OF PERSON MAKING THE REQUEST

Marie Shortt

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

16 Eden Court,
Mahon,
Cork.
T12 H5XD

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 the installation of a front door in place of a front window at 16 Eden Court, Mahon, Cork development and if so, is it exempted development?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

The property is a bungalow. At present it has one entrance door situated at the side of the house accessible only by a narrow pathway. A person must turn 90 degrees within that pathway to enter the door. This is not suitable for a wheelchair user as there is no room to turn and enter the door. I have family members who are wheelchair users and cannot access the house as it stands. The pathway cannot be widened as it lies between the neighbour's boundary wall and the house itself. I propose to install a door at the front of the house in place of the right hand side window as one looks at the house (the white wall). This would make the house completely wheelchair accessible.

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?

If so please supply details:

No _____

7. APPLICATION DETAILS

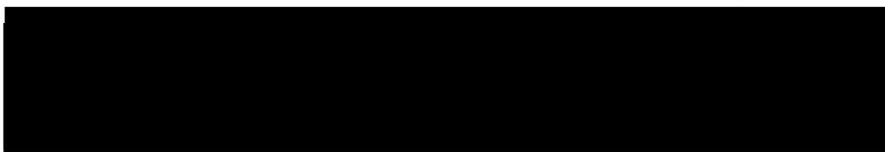
Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	46m squared
(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	B. Other
Where legal interest is 'Other', please state your interest in the land/structure in question	I am sale agreed on this property with deposit paid. I expect to have full ownership within 3 months.	
If you are not the legal owner, please state the name of the owner if available		

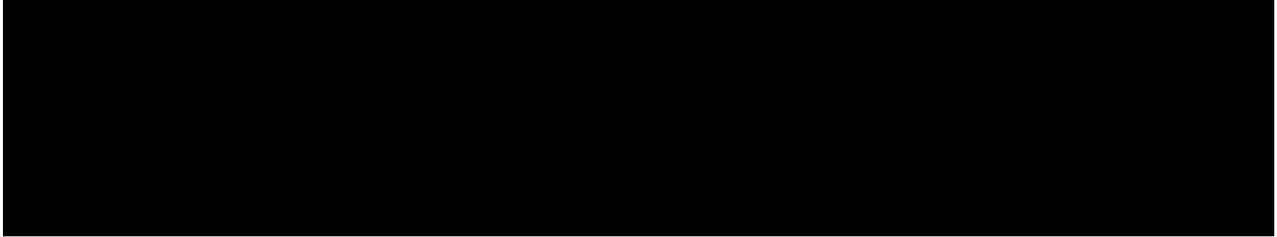
8. I / We confirm that the information contained in the application is true and accurate:



CONFIDENTIAL CONTACT DETAILS

These details will not be made available to the public.

9. Applicant:



10. Person/Agent acting on behalf of the Applicant (if any):

Name(s):	
Address:	
Telephone:	
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"/>

11. Owner Details (if the applicant above is not the legal owner):



12. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.



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Cohalan Downing



NEW DOOR

Approximate total area

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177 cm (width)



123cm (height)

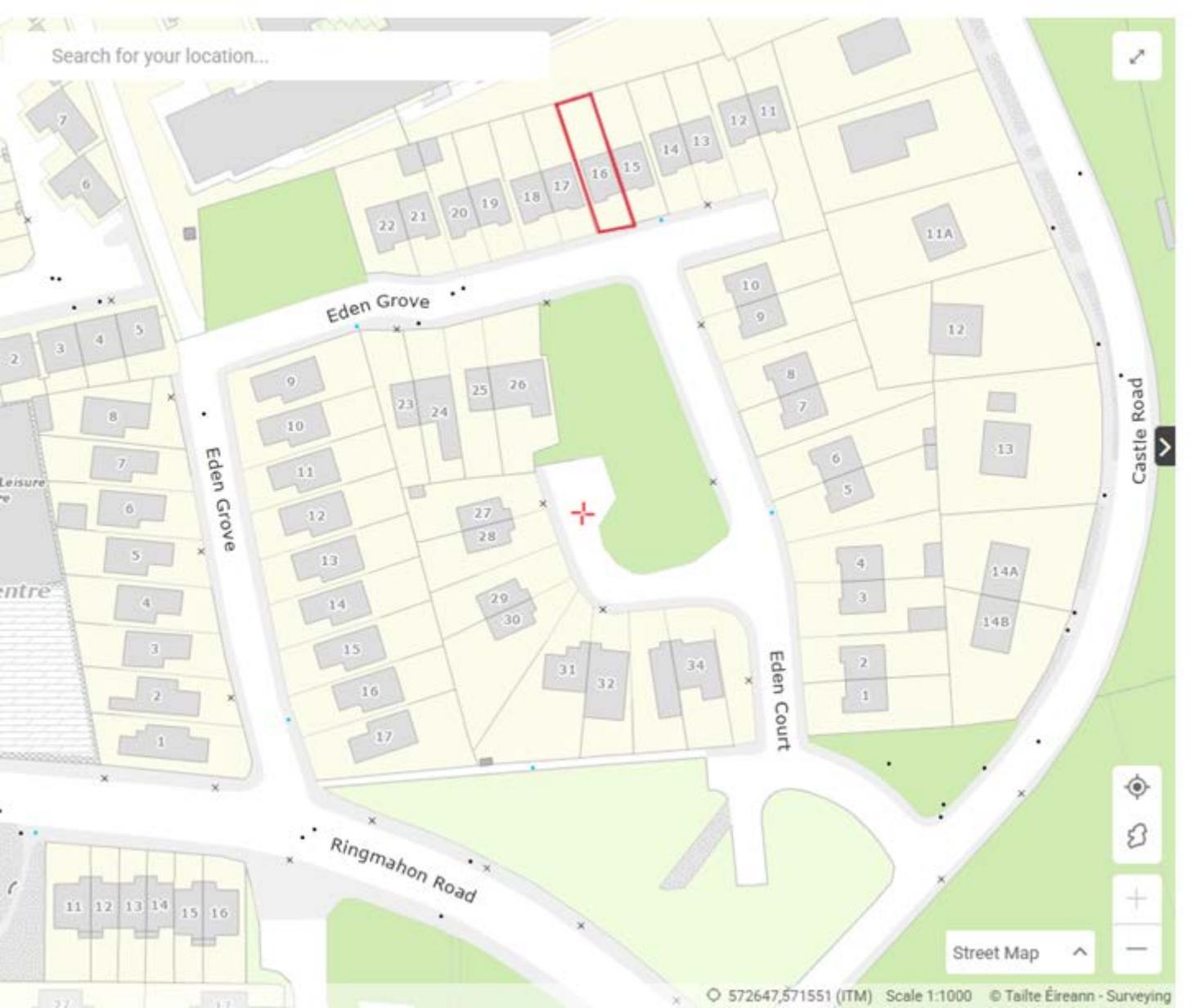


125cm (width)



125cm (height)

Search for your location...



Eden Grove

Eden Grove

Eden Court

Ringmahon Road

Castle Road

Street Map