Comhairle Contae Chorcaí Cork County Council

Rannóg Pleanála, Teach Norron, Bóthar Chorcaí, An Sciobairín, Co. Chorcaí P81 AT28. Fón: (028) 40340 • Faics (028) 21660 Suíomh Greasain: www.corkcoco.ie Planning Section, Norton House, Cork Road, Skibbereen, Co. Cork P81 AT28. Tel: (028) 40340 • Fax: (028) 21660 Web: www.corkcoco.ie



Julie Parkinson and Derek Mooney, c/o John J. O'Sullivan & Associates 'Lindhu', Reemeen East, Glengarriff, Co. Cork.

11th October, 2023.

Our Ref: D/35/23.

RE/ Declaration request on exempted development under Section 5 of the Planning & Development Act, 2000 (as amended).

Dear Sir,

On the basis of the information and plans submitted by you on 22nd September, 2023, on behalf of your clients Julie Parkinson and Derek Mooney, the Planning Authority declares the proposed construction of a front porch, a rear extension and a detached domestic garage to an existing dwelling at Footsteps, Drom South, Castletownbere, Co. Cork is development and is *not exempted development*, having regard to Article 9(1) (a) (i) and to Article 9 (1)(a)(iii) of the Planning and Development Regulations 2001-2023 given that Condition 13, 15 and 16 of planning permission reference 07/02624 required the provision of 40.00 metres sightlines in both directions onto the L-4915-0 road which are not available with vegetation exceeding 1.00 metre in height, and in addition there are no wing walls or sod banks and the existing access constitutes a serious threat to road safety and a traffic hazard.

Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Receipt No. WCP12132, in respect of €80.00, is issued herewith.

Yours faithfully,

KEVIN O'REGAN. SENIOR EXECUTIVE OFFICER.





TO: Danielle Arundell Planning Department Ref D/35/23

Planning and Development Regulations 2001- 2023 Exempted Development under Schedule 2 Part 1 Class 1, Class 7 and Class 3

Rear extension, front porch and freestanding garage at Footsteps, Drom South, Castletownbere for Julie Parkinson and Derek Mooney

Site

This property is a relatively modest end gabled single storey dwellinghouse (85.31square metres) with a rear projection set in a generous plot which lies at Drom South to the west of Castletownbere. Access to the site is from the L-4915-0 road and via a very steep straight driveway. At the rear, there are views over the water.

Site History

Planning permission was granted to Daren Harrington for a single storey dwellinghouse under planning reference 07/2624 on the 12th June 2008 subject to 25 conditions. Conditions of note include the following:

Condition 2 – Five year occupancy agreement. There is a letter on file dated 3^{rd} September 2008 indicating that the agreement was executed.

Condition 13 - Recessed entrance a minimum of 4.5 metres from front boundary fence and side walls shall be splayed at an angle of 45 degrees and walls and piers shall not exceed a height of 1.0 metre.

Condition 14 - Gradient of the access driveway shall not exceed 1 in 30 for a minimum of 10 metres back from public road edge.

Condition 15 - Side walls and piers of entrance and any new road boundary shall be of (a) natural stone,

(b) sod and stone or

(c) earth berm with hedge of indigenous species planted on top at 60cm intervals.

Condition 16 - Requirement for 40 metres sightlines in both directions from a 3.0 metre setback.

Condition 25 - Development Contributions of \notin 3,191.16. Administration have confirmed that these were paid in full on 13th June 2008 under receipt number 208601.

Details of the development.

This application was received on the 22^{nd} September 2023 and has been submitted with detailed plans as well as a detailed letter also dated 22^{nd} September 2023 from the agent which stresses

that "the applicants are anxious to improve it and primary upgrade comfort levels and also reduce ongoing heating and maintenance." The submitted letter details the entire background.

In terms of the proposed porch, this would be located at the front of the single storey dwellinghouse, the dimensions of the porch have been stated to be exactly 2.0 square metres whilst at rear an offset extension with an irregular shaped footprint to provide an enhanced dining room and living area would be provided. The extension being single storey provide 33.0 square metres of new floorspace. In addition, towards the rear of the generous site the submitted plans show a freestanding workshop/ garage building to be constructed with a stated floor area of exactly 25.0 square metres (4.0×6.25) .

The question has been raised whether the rear extension and the "*development*" constitute "*exempt development*."

ASSESMENT

This Section 5 "*exempt development*" application in terms of the front porch and rear extension should be considered against Class 1 and Class 7 of Schedule 2, Part 1 of Article 6 of the Planning and Development Regulations 2001-2023. In terms of the freestanding workshop /garage this should be set against Class 3. In addition, all the development should be set against Article 9 (1) of the Planning and Development Regulations 2001- 2023.

Both the proposed front porch and indeed the freestanding workshop/garage building in terms of their size at 2.00 metres and 25.00 metres respectively are at the exact maximum that is permissible Under Class 7 and Class 3. All of the conditions of those two Classes are also met, and the exact same can be said for the proposed rear extension which has a regular footprint and at 33.00 square metres this is below the maximum permissible of 40.00 square metres. The dwellinghouse has <u>not</u> previously been extended since it was granted planning permission on the 12th June 2008 under planning reference 07/02624 and that permission is highly relevant since it was subject to 25 conditions and critically Condition 16 stated as follow:

16. Sight distance of 40m to the East and 40m to the West shall be provided from centre point of entrance 3m back from public road edge. No vegetation or structure shall exceed I m in height within the sight distance triangle. Any utility poles currently within the sight triangle, which as a result of compliance with this condition will be in front of the new road boundary, shall be repositioned behind it, and any surface chambers or manholes in front of it shall be repositioned in a location or at a level to be agreed with the Council's area engineer. The applicant shall be responsible for the costs of relocating these facilities, for notifying the relevant statutory undertakers, for obtaining any necessary licenses, and for notifying the planning authority of the revised locations of such utilities, prior to commencement of development.

Reason: To provide proper sight distance for emerging traffic in the interests of road safety.

The proposed development can be "*de- exempted*" under Article 9 (1) (a) (i) if it breaches a planning condition and indeed it can be also be "*de-exempted*" if it raises a road safety matter under Article 9 (1) (a) (iii) as follows:

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,

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

Article 9 can also "*de- exempt*" the development by reference to a number of other criteria including landscape value, archaeological, ecological interest etc. In this case it is confirmed that there are no relevant issues in relation to vi) landscape vii) archaeology and (vii) ecological interest and (viiB) European Site, <u>simply that of road safety</u>.

The photographs contained in the appendix show the access to the site and where there is a turning space available in front of the dwellinghouse. The severity of the gradient increases after the first 10 metres from the setback from the L-4915-0 road and Condition 14 (cited above) requiring that in excess of a 1:30 gradient for the first 10 metres may not necessarily have been breached. However, it is the emerging visibility at the junction with the L-4915-0 road which is simply <u>unacceptable</u>. To the west the emerging visibility is poor restricted by vegetation and significantly less than the 40.00 metre sightline required by Condition 16 (Ref 07/02624) cited above. However, it is far worse to the nearside and easterly direction where the sightline is perhaps in the region of 4.0 metres at best when it should be 40.00 metres. The enclosed photograph vividly portrays how poor this emerging and nearside sightline is not only in breach of Condition 16 of planning reference 07/02624 but an obvious threat to road safety.

In addition, there is so very much vegetation exceeds 1.0 metres in height in breach of Condition 13, there are no wingwalls or sod back in breach of Condition 15.

A copy of this application (D/35/24) and this report was forwarded to the Area Engineer and t matters are that clear cut. The Area Engineer (9th October 2023) has advised as follows:

"Given the non-compliance with the previous planning permission and the issue of sightlines I also agree that this should not be exempted development."

(Area Engineer : E-mail darted 9th October 2023)

There are other issues, other than road safety, that could potentially "*de-exempt*" the "*development*" under Article 9 (1) (a) but none of these are applicable.

Conclusion

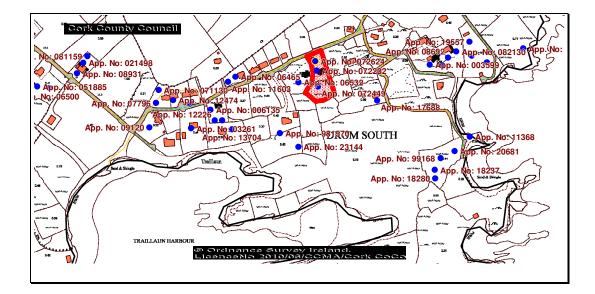
There are two reasons to "*de-exempt*" this proposed development both in relation to road safety and on that basis the proposed "*development*" does <u>not</u> constitute "*exempt development*." Simply the application is "*de-exempted*" due to the issue of road safety under Article 9 (1) (a) (i) and Article 9 (1) (a) (iii) set out below.

#Recommendation

The proposed development as detailed in the plans received on the 22^{nd} September 2023 does <u>**NOT**</u> constitute "*exempt development*" having regard to Article 9 (1) (a) (i) and to Article 9 (1)(a) (iii) of the Planning and Development Regulations 2001- 2023 given that Condition 13, 15 and 16 of planning permission reference 07/02624 required the provision of 40.00 metres sightlines in both directions onto the L-4915-0 road which are not available with vegetation exceeding 1.00 metre in height, and in addition there are no wing walls or sod banks and the existing access constitutes a serious threat to road safety and a traffic hazard.

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P. O'Sullivan: Executive Planner 9th October 2023

















JOHN J. O'SULLIVAN & ASSOCIATES

·Planning & Architectural Consultants · Consulting Engineers & Surveyors· 'Lindhu', Reenmeen East, Glengarriff, Co. Cork, P75 YX92 Ireland · Tel: 027 63126 · Fax: 027 63557 · Office email: info@jjos.ie · Website: www.jjos.ie ·

Our Reference: JOS /P-0025/23 Your Reference:

GLEN DESIGN PARTNERSHIP T/A

Date: 22nd September 2023

DISS

Cork County Council, West Cork Planning Office, Norton House, Cork Road, Skibbereen. Co. Cork, P81 AT28

PLANNING INVE

Section 5 application seeking Declaration of Exemption for the following (Å) RE: Construction of front porch to existing dwelling, (B) Construction of a Rear extension to existing dwelling, (C) Construction of detached domestic garage to rear of dwelling and all Associated site Works,

At: Footsteps, Drom South, Castletownbere, Co. Cork For: Julie Parkinson & Derek Mooney

Dear Sir/Madame,

I hereby submit for your consideration the application for the Section 5 declaration of Exemption for the permission for the above works. All the necessary site location maps, site

layout, drawings, application forms, etc. are enclosed herewith and we hope that the enclosed is of assistance to you in reaching a decision in due

course. We have also included below some site-specific information for your assistance.

Property Description

This existing single story residential property lies in the townland Drom South in Castletownbere. It is a modest single storey residential property that was constructed approx. 15 years ago.

Planning History

- Planning Ref. No. 07/02202 Deemed Invalidated on the 16th day of August 2007 related to permission for the Following Dwelling house Gat, Drom South, Castletownbere LANA
- Planning Ref. No. 07/02449 Deemed Invalidated on the 19th day of September 2007 related to permission for the Following Dwelling house at Drom South, Castletownbere 1 SED
- Planning Ref. No. 07/02624 Granted on the 12th day of June 2008 related to permission for the Following Dwelling house at Drom South, Castletownbere

Zoning of site The site is located within zone Greenbelt2 (CR-GB1-2) which is an area of countryside with particular planning controls aimed at maintaining the distinction in character between a town or city and its hinterland and preventing unrestricted sprawl of urban areas into the countryside. A green belt also helps to prevent individual settlements merging into one another, focuses attention on suitable development land within settlements, provides a source of recreation and amenity within easy reach of most built up areas and helps to retain land in agriculture, forestry and other uses that could be susceptible to pressure for inappropriate

Continued...

development. The works proposed in this Section 5 application are modest in nature and will not in our opinion conflict with the planning policy for the area.

Flooding

To the best of our knowledge the property has not been flooded in the past and lies outside flood zones A and B.

Roads

The site adjoins a public road L-4915-0 road, Sight distance available is quite good at this location and we do not expect any traffic hazard to arise as result of these proposals.

Parking

Parking for a modest number of vehicles has been provided around the area to be occupied by the house.

Provision of potable water

The property is connected to the public water mains.

Disposal of foul sewage

The property is connected to an existing septic tank on site built in accordance with planning ref. no. 07/02624.

Proximity to designated sites.

The property does not adjoin any designated sites and lies outside any SAC or SPA.

The nearest designated site is the Beara Peninsula SPA (site code 004155) and this lies 2.02km to the South. The proposed development will not give rise to any impacts on these sites.

Application Fees

We have calculated the application fee to be €80 based on this being the required amount for the Section 5 Declaration of Exemption. We hope that our calculations are correct but please do not hesitate to contact us if you require any further fees to be paid in this case.

Conclusion

The applicants are most anxious to proceed with the refurbishment and extension of the house in order to enhance their enjoyment of it. This property is of a fairly recent vintage but the applicants are anxious to improve it and primarily upgrade comfort levels and also reduce ongoing heating and maintenance costs. This is becoming more important as the impact of climate change is being felt everywhere on a regular basis. The refurbishment and enhancement of existing housing stock is a very worthy exercise in our opinion. We hope that this Section 5 application will find favour with the Planning department and we very much look forward to your decision. If there are any queries in the meantime, please do not hesitate to contact us.

Yours sincerely,

JOHN J. CSULLIVAN, B.E. C.Eng. M.I.E.I. Writer's e-mail: johnj@jjos.ie

REG. No.____ PLANTINE (WLST) DEPT

2 2 SEP 2023

CORK COUNTY TO INCIL NORTON HOUSE, Skiedenster & Jo. CORK



<u>CORK COUNTY COUNCIL APPLICATION</u> FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

4 No. Copies of Application Form: 1 No. Copy of Contact Details: 4 No. Copies 6" O.S. Maps: 4 No. Copies 25" O.S. Maps: 4 No. Copies of Site Layout Plan: 4 No. Copies Scaled Drawings of Development: €80 Application Fee:



FOR OFFICE USE ONLY

Receipt No.	
Cash/Cheque/	
Credit Card	
Date	Constanting of
Declaration	and second a
Ref. No.	

(Please tick $\sqrt{}$)

REG. NO._____ PLANNING (WEST) DEPT

2 2 SEP 2023

CORK COUNTY COUNCIL NORTON HOUSE, SKIBBEREEN, Co. CORK

DATE STAMP HERE

You should make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed by the public. Please do not submit any information that you do not want 3rd parties to view.

In the case of a Declaration of Exemption for Land Reclamation, the following additional information is required:

- A copy of the details submitted to the Council's Environment Department (Inniscarra) for a Waste Licence Permit
 Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural
- purposes)
- Details of existing and proposed levels
- Details of fill material and duration of fill.

DATA PROTECTION

The planning process is an open and public one. In that context, all applications for Declarations of Exemption are made available for public inspection.

Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data is a key priority for the Council and your data will be processed in line with our Privacy policy which is available at

<u>http://www.corkcoco.ie/Privacy-Policy</u> or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to <u>dpo@corkcoco.ie</u> or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

1. NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A - CONTACT DETAILS)

Julie Parkinson & Derek Mooney

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

Footsteps, Drom South, Castletownbere, Co. Cork

3. QUESTION/DECLARATION DETAILS:

Please state the specific question for which a Declaration of Exemption is sought Note: Only works listed and described under this section will be assessed under the Section 5 Declaration of Exemption

Section 5 application seeking Declaration of Exemption for the following (A) Construction of front porch to existing dwelling, (B) Construction of a Rear extension to existing dwelling, (C) Construction of detached domestic garage to rear of dwelling and all Associated site Works,

REG. NO. PLANNING (WEST) DEPT 22 SEP 2023 CORK COUNTY COUNCIL NORTON HOUSE, SKIBBERELV, Co. OU

4. 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 metres (m^2)

(a) Floor area of existing/proposed structure(s):	Existing Dwelling – 85.3 lm ² Proposed – 33 m ² rear extension, 2m ² Porch, 25m ² Detached Garage
 (b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1st October, 1964 (including those for which planning permission has been obtained): 	Yes No $$ If yes, please provide floor areas (m ²) and previous planning reference(s) where applicable:
(c) If a change of use of land and/or building(s) is proposed, please state the following:	REG. No PLANNING (WEST) DEPT
Existing/previous use	2 2 SEP 2023 CORK COUNTY COUNCIL
(d) Are you aware of any enforcement proceedings connected to this site?	Yes WORTON HONSE, TREEN, Co. CORK If yes, please state relevant reference number(s):

5. LEGAL INTEREST OF APPLICANT IN THE LAND/STRUCTURE:

Please tick appropriate box to show applicant's legal interest in the land or structure:	A. Owner N B. Other
Where legal interest is " Other ", please state your interest in the land/structure:	
If you are not the legal owner, please state the name of the owner/s (address to be supplied at Question C in Contact Details):	

6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

Is this a Protected Structure/Proposed Protected Structure or within the curtilage of a Protected Structure: Yes No \checkmark
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: Yes No
If yes, please state relevant reference No
Is this site located within an Architectural Conservation Area (ACA), as designated in the County Development Plan? Yes No

7. APPROPRIATE ASSESSMENT:

Would the proposed development require an appropriate assessment because	se it v	vould	l be lik	ely to)
have a significant effect on the integrity of a European site (SAC, SPA etc)?	Yes		No	\checkmark	

8. DATA PROTECTION DECLARATION:

In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <u>http://www.corkcocy.ie/privacy-statement-cork-county-council</u> or in hardcopy from any Council office: and to having your information processed for the following purposes:

Processing of your Declaration of Exemption application by the Planning Authority

L give permission for my personal information to be processed for the purpose stated above

Signed (By Applicant Only)	Descerc Moor the	437	
Date	17/9/2023	· C·	

GDPR Special Categories of data / Sensitive Personal data - Explicit Consent

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, explicit consent to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:

- Race
- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Concerning a natural person's sex life
- Sexual orientation

PLANNING (WEST) DEPT

2 2 SEP 2023

CORK COUNTY COUNCIL NORTON HOUSE, SMOULPEEN, CO. CORK

In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <u>https://www.corkcoeo.ie/privacy-statement-cork-county-council</u> or in hardcopy from any Council office; and to having your information processed for the following purposes:

Sensitive personal data being submitted in support of Declaration of Exemption Application

 \square I give permission for my sensitive personal data submitted to the Planning Authority to be processed for the purpose stated above.

Signed	DEREK MOONING
Date	17/9/2023

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork, Tel: (021) 4276891 Email: <u>planninginfo@corkcoco.ie</u> or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork, Tel: (028) 40340 Email: <u>westcorkplanninginfo@corkcoco.ie</u> However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

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ADVISORY NOTES:

The application must be accompanied by the required fee of $\in 80$ The application must 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 Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- 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 of Exemption is sought.
- Any person issued with a Declaration of Exemption may on payment to An Bord Pleanála refer a Declaration of Exemption for review by the Board within 4 weeks of the date of the issuing of the Declaration of Exemption decision.
- In the event that no Declaration of Exemption 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 of Exemption was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption 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.

9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the <u>Planning and Development Acts 2000</u>, <u>as amended</u> and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	500 Seamus alacan
Date	08/09/2023

RCS, No. PLANNING (WEST) DEPT

2 2 SEP 2023

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