

# Comhairle Contae Chorcaí Cork County Council

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Corcaigh T12 R2NC.  
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Web: [www.corkcoco.ie](http://www.corkcoco.ie)

17<sup>th</sup> June 2024

REF: D/233/24  
LOCATION: 3 Seaview Terrace, Cobh, Co. Cork, P24 FN27.

**RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000**

Dear Sir,

On the basis of the information and plans submitted by you on the 21<sup>st</sup> May 2024 the Planning Authority having considered whether the installation of a window to the front elevation of the first floor of the existing dwelling at **3 Seaview Terrace, Cobh, Co. Cork** is or is not development and is or is not exempted development has declared that it is **exempted development**.

**Reason for Decision**

The Planning Authority in considering this referral had particular regard to:

- The details submitted to the Planning Authority on the 21<sup>st</sup> May 2024,
- Section 4(1)(h) of the Planning and Development Act (2000, as amended),
- Sections 2(1), 3(1), 4, and 5 of the Planning and Development Act (2000, as amended), and,
- Articles 6 and 9 of the Planning and Development Regulations (2001, as amended).

**And Whereas Cork County Council has concluded that –**

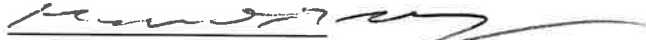
The installation of a window to the front elevation of the first floor of the existing dwelling at **3 Seaview Terrace, Cobh, Co. Cork** is development and is exempted development.

*This exemption does NOT itself empower a person to carry out a development unless that person is legally entitled to do so.*

**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.**



Yours faithfully,



KEVIN O' REGAN  
SENIOR EXECUTIVE OFFICER  
PLANNING DEPARTMENT

*In order to process your query, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view at <https://www.corkcoco.ie/privacy-statement-cork-county-council>*

<i>Reference Number</i>	D 233/24
<i>Applicant's Name</i>	Michael Damien Haberlin
<i>Development Description</i>	Whether the installation of a window to front elevation of the first floor of the existing dwelling is exempted development.
<i>Location</i>	3 Seaview Terrace, Cobh, Co. Cork, P24 FN27.

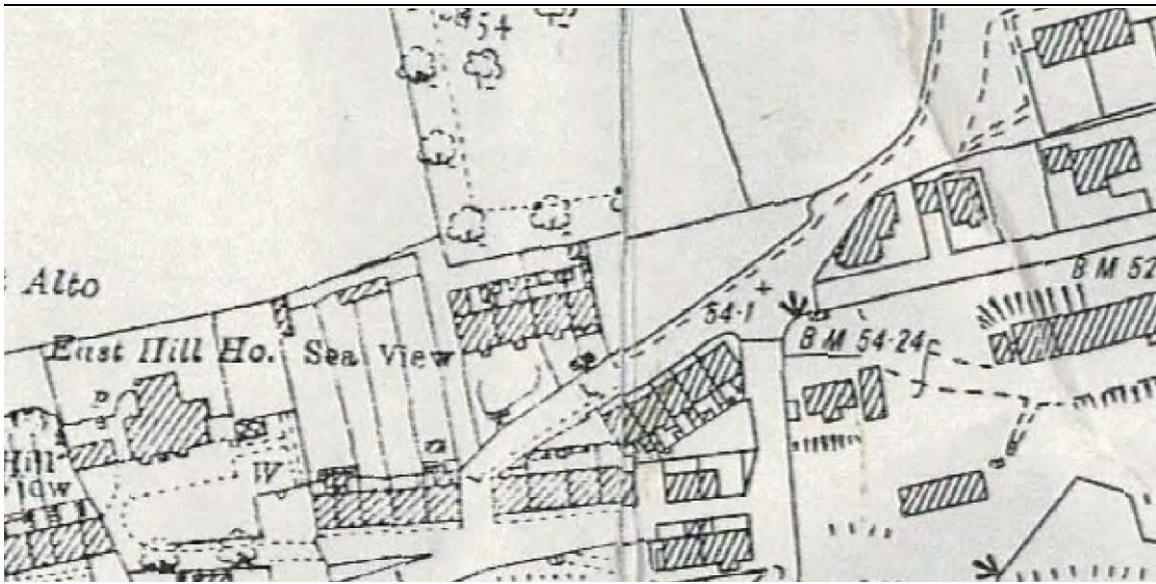
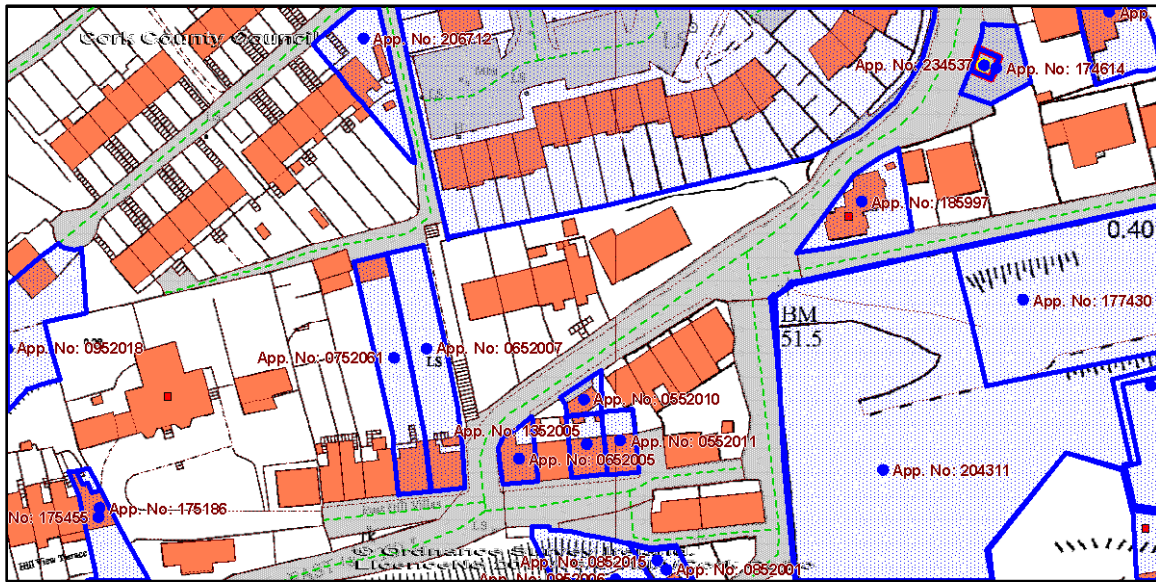
### **Development Proposal**

The applicants are requesting a declaration of exemption in accordance with Section 5 of the Planning and Development Act (2000-2010) querying whether the installation of a window to front elevation of the first floor of the existing dwelling is or is not exempted development and is or is not exempted development.

### **Site Description**

I inspected the site on the 04/06/2024 (see Appendix A below). The subject property is located within a terrace of similar two storey dwellings at Seaview Terrace of East Hill in Cobh. The dwelling in question are set above the adjacent public road. There is an existing central ope (currently covered over) which is the subject to the proposed new window installation. It was noted on inspection that white PVC windows were in place on the existing dwelling. Construction/renovation works were underway on site at the time of inspection.

## Planning History



## Site History

No planning history evident on maps available.

## Enforcement History

No enforcement history.

## Legislation Context

### Planning and Development Act (2000, as amended)

**Section 2** defines “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.

“**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);

**Section 3 (1)** of the Act states:

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** of the Act sets out developments which shall be exempted development for the Act.

Section 4(1)(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(4) Notwithstanding..... 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.

## Planning and Development Regulations (2001, as amended)

**Article 6** stipulates subject to Article 9, development consisting 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** sets out restrictions on exemption to which article 6 relates. It states that development to which article 6 relates shall not be exempted development for the purposes of the Act in a number of specific instances.

### EIA

Having reviewed the documentation submitted I am satisfied that an EIA is not required having regard to the nature/scale of development proposed and relevant provisions set out under Schedules 5 and 7 of the Planning and Development Regulations (2001, as amended).

### Appropriate Assessment

The site is located with the screening zone of an existing SPA, namely Cork Harbour SPA (Site Code: 004030) of approximately 2.7km northwest of same.

The site is located in a fully serviced area. The requirement for Appropriate Assessment has been screened out for the proposed development having regard to the scale and nature of the proposal and lack of any physical or hydrological connection between the development site and any European Site.

### Assessment

This section 5 declaration queries whether the installation of a window to front elevation of the first floor of the existing dwelling is exempted development or is not development and is or is not exempted development.

### Description of Proposed Works

In the application form and associated drawings the applicants have set out that the proposal to add a first floor window to the front elevation where a window impression/blank already exists to enhance natural lighting in the upper floor living space. Floor plan, elevation drawings and photographs of the existing structure have been provided with the application documentation.

### Is the Proposal Development?

On the basis of the information submitted it is considered that the proposal amounts to 'works' as defined by Section 2 (1) of the Planning and Development Act (2000, as amended) and therefore the comes within the meaning of 'development' in accordance with Section 3 of the Planning and Development Act (2000, as amended). The question at hand, therefore, is whether the development is exempted development.

### Is the Proposal Exempted Development

It is considered that the key legislative provision for determining the query raised is set out under section 4(1)(h) of the Planning and Development Act (2000, as amended). Under section 4(1)(h) the carrying out of maintenance/improvement 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*" can be deemed to constitute exempted development.

In this case an existing opening exists at the point of the proposed window. I am satisfied that the installation of a window would not materially affect the character of the existing/neighbouring structures and can be classed as exempted development as per section 4(1)(h) of the Act.

The site is located outside the Cobh Architectural Conservation Area and the existing dwelling does not have any historic protection designation. As such it is considered there is no restriction on exemption having regard to Article 9 (v)(ii) of the Planning and Development Regulations (2001, as amended).

It is therefore considered that the proposed installation of a window to front elevation of first floor of the existing dwelling can be classed as exempted development.

### Recommendation

Accordingly, whereas a question has been raised regarding whether the installation of a window to front elevation of the first floor of the existing dwelling is or is not exempted development and is or is not exempted development at 3 Seaview Terrace, East Hill, Cobh, Co. Cork, involving and having had regard to:

- the details submitted to the Planning Authority on the 21/05/2024
- Section 4(1)(h) of the Planning and Development Act (2000, as amended)
- Sections 2 (1) 3(1), 4 and 5 of the Planning and Development Act (2000, as amended)
- Articles 6 and 9 of the Planning and Development Regulations (2001, as amended)

it is concluded by the Planning Authority that:

whether the installation of a window to front elevation of the first floor of the existing dwelling at 3 Seaview Terrace, East Hill, Cobh, Co. Cork is **development** and is **exempted development**. The Planning Authority had regard to the following:

- the details submitted to the Planning Authority on the 21/05/2024
- Section 4(1)(h) of the Planning and Development Act (2000, as amended)
- Sections 2 (1) 3(1), 4 and 5 of the Planning and Development Act (2000, as amended)
- Articles 6 and 9 of the Planning and Development Regulations (2001, as amended)



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John Lalor  
Executive Planner  
13/06/2024



Appendix A: Site Photographs







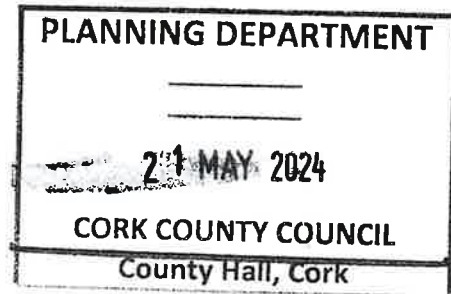
## **CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION**

### **APPLICANT CHECKLIST**

(Please tick ✓)

- 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:**

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
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### **FOR OFFICE USE ONLY**

Receipt No.	PLG 0044367
Cash/Cheque/ Credit Card	CARD
Date	21/5/24
Declaration Ref. No.	D/233/24

**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 3<sup>rd</sup> 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 <http://www.corkcoco.ie/Privacy-Policy> 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 [dpo@corkcoco.ie](mailto:dpo@corkcoco.ie) or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.*



**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<sup>2</sup>)

(a) Floor area of existing/proposed structure(s):	60 M2/60 M2
(b) If a domestic extension is proposed, 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 type="checkbox"/> If yes, please provide floor areas (m <sup>2</sup> ) 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:  Existing/previous use _____ _____  Proposed use _____ _____	
(d) Are you aware of any enforcement proceedings connected to this site?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please state relevant reference number(s):

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

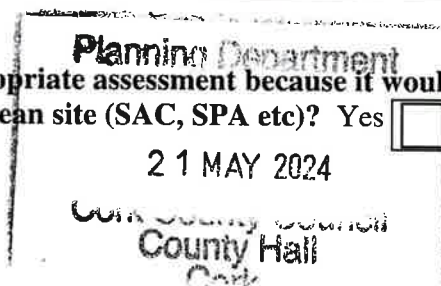
Please tick appropriate box to show applicant's legal interest in the land or structure:	A. Owner <input checked="" type="checkbox"/>	B. Other <input type="checkbox"/>
Where legal interest is "Other", please state your interest in the land/structure:		
If you are not the legal owner, please state the 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 <input type="checkbox"/> No <input checked="" type="checkbox"/>
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 <input type="checkbox"/> No <input type="checkbox"/> 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 <input type="checkbox"/> No <input checked="" type="checkbox"/>

**7. APPROPRIATE ASSESSMENT:**

Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes  No



**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 <http://www.corkcoco.ie/privacy-statement-cork-county-council> 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***

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

Signed (By Applicant Only)	Michael Damien Haberlin
Date	17-May-2024

**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

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 <https://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

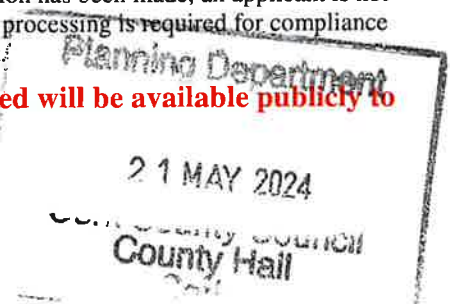
**Sensitive personal data being submitted in support of Declaration of Exemption Application**

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

Signed	Michael Damien Haberlin
Date	17-May-2024

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: [planninginfo@corkcoco.ie](mailto:planninginfo@corkcoco.ie) or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: [westcorkplanninginfo@corkcoco.ie](mailto:westcorkplanninginfo@corkcoco.ie) 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.

**Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.**



## ADVISORY NOTES:

The application must be accompanied by the required fee of €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:

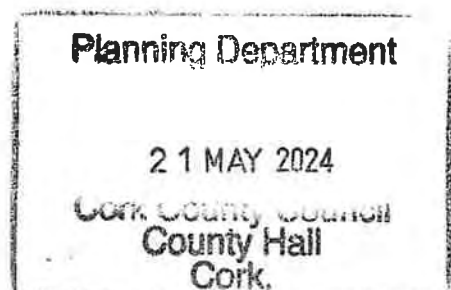
The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- 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 Planning and Development Acts 2000, as amended and the Regulations made thereunder:**

<i>Signed (Applicant or Agent as appropriate)</i>	Michael Damien Haberlin
Date	17-May-2024



# Site Location Map



Tailte Éireann



**CENTRE COORDINATES:**  
ITM 580739,566801

**PUBLISHED:** 30/04/2024  
**ORDER NO.:** 50397675\_1

**MAP SERIES:** 6 Inch Raster  
**MAP SHEETS:** CK087

**COMPILED AND PUBLISHED BY:**  
Tailte Éireann  
Phoenix Park,  
Dublin 8,  
Ireland.  
D08F6E4

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This topographic map does not show legal property boundaries, nor does it show ownership of physical features.

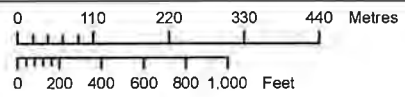
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OUTPUT SCALE: 1:10,560

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[www.tailte.ie](http://www.tailte.ie); search 'Capture Resolution'

**LEGEND:**  
To view the legend visit [www.tailte.ie](http://www.tailte.ie) and search for 'Large Scale Legend'



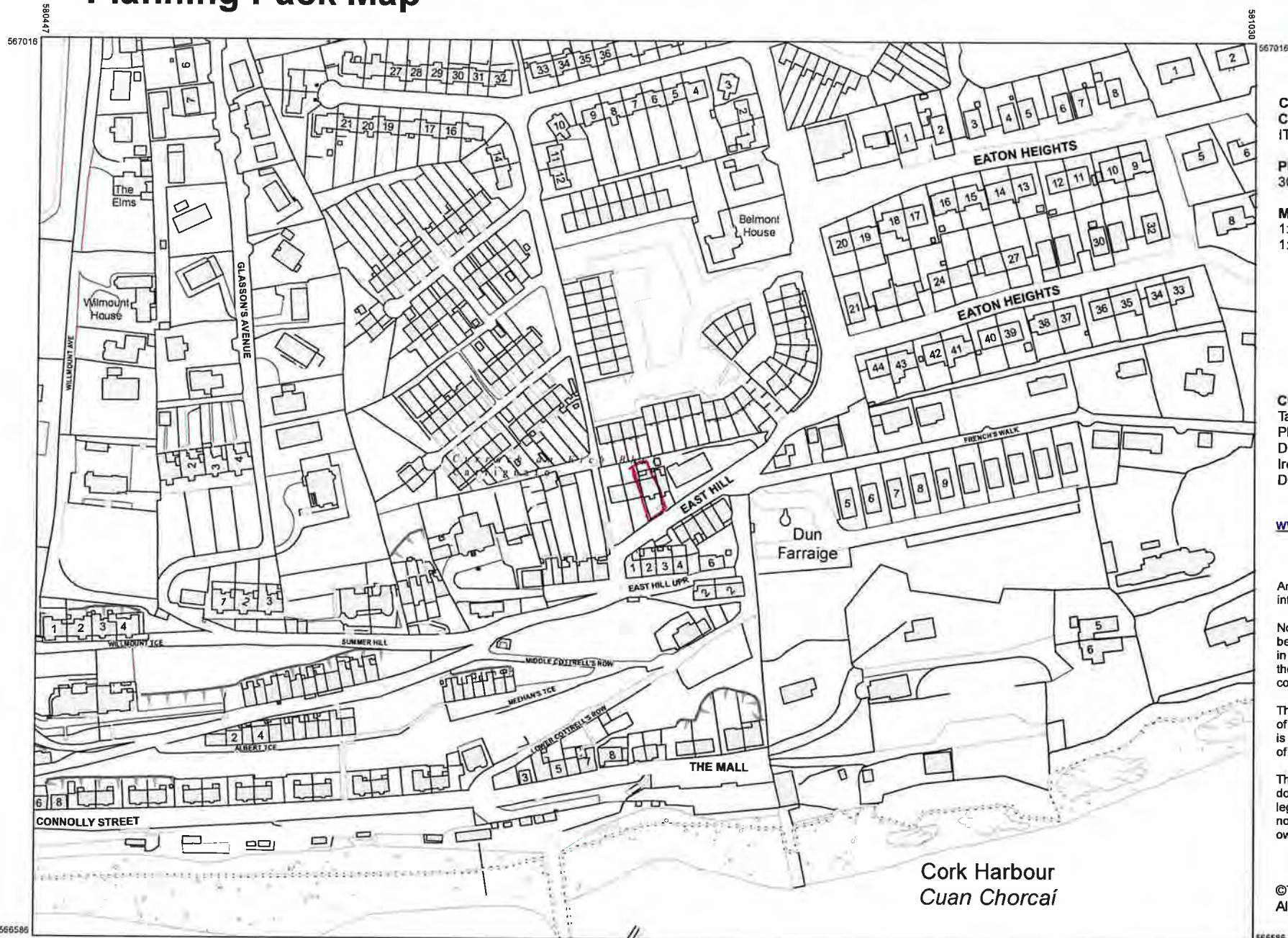
Ordnance Survey Ireland



# Planning Pack Map



**Tailte Éireann**



**CENTRE COORDINATES:**  
ITM 580739,566801

**PUBLISHED:** 30/04/2024  
**ORDER NO:** 50397675\_1

**MAP SERIES:** 1:1,000  
1:2,500  
**MAP SHEETS:** 6473-B  
6473-A

**Planning Department**  
21 MAY 2024  
Cork County Council  
County Hall  
Cork.

**COMPILED AND PUBLISHED BY:**  
Tailte Éireann,  
Phoenix Park,  
Dublin 8,  
Ireland.  
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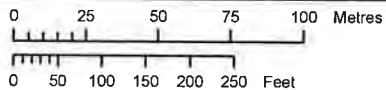
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**LEGEND:**  
To view the legend visit [www.tailte.ie](http://www.tailte.ie) and search for 'Large Scale Legend'



**Cork Harbour**  
**Cuan Chorcaí**

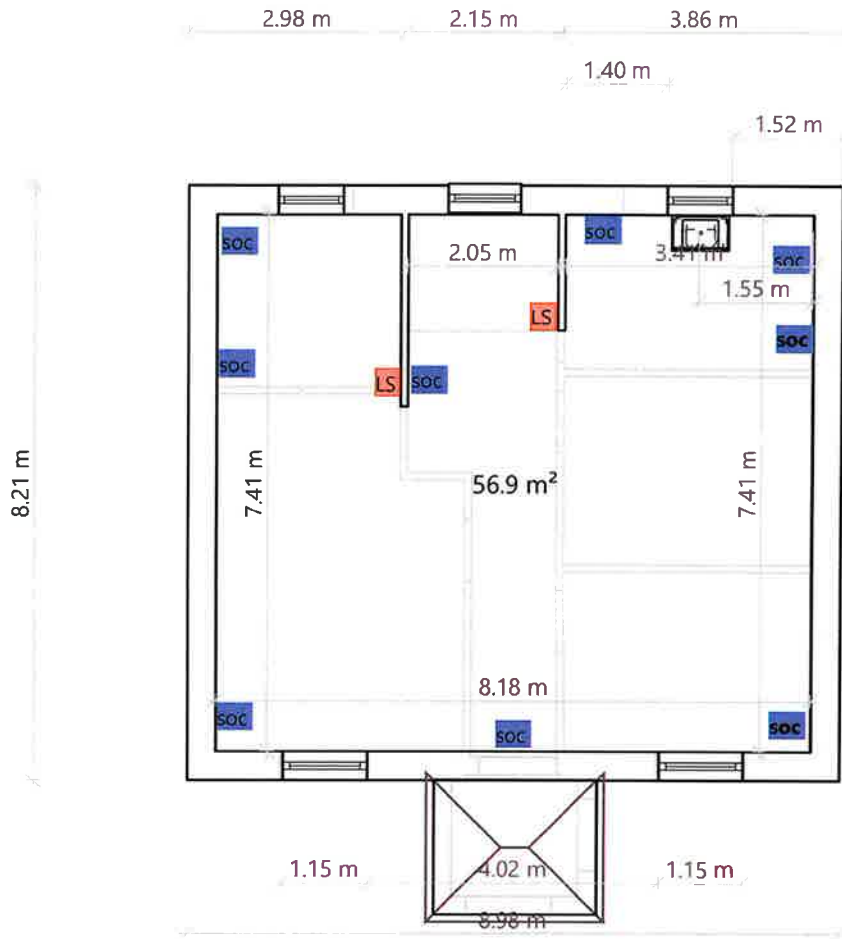


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Planning Department

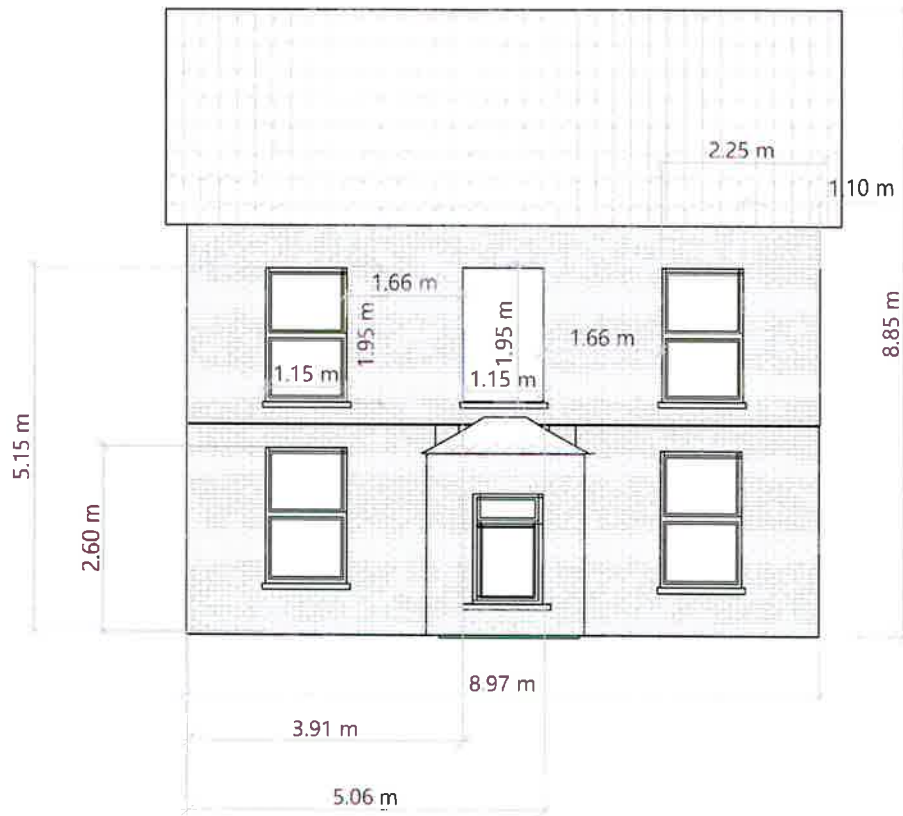
21 MAY 2024

County Council  
County Hall  
Cork.



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Planning Department  
21 MAY 2024  
Wick County Council  
County Hall  
Cork.



**Planning Department**

21 MAY 2024

Cork County Council  
County Hall  
Cork.



Planning Department  
21 MAY 2024  
Cork County Council  
County Hall  
Cork