Comhairle Contae Chorcaí Cork County Council

Rannóg Pleanála, Teach Norton, Bóthar Chorcaí, An Sciobairín, Co. Chorcaí P81 AT28. Fón: (028) 40340 o 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



LANNING (WEST DEPT

13 APP 2023

John & Tracey O'Sullivan, Cleandra, Ardgroom, Beara. Co. Cork.

30th March, 2023.

Our Ref: D/3/23.

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

Dear Sir/Madam,

On the basis of the information and plans submitted by you on 2nd February, 2023 and further information received on 8th March, 2023, the Planning Authority declares that the ground and first floor rear extension and associated works at Cleandra House, Ardgroom, Beara, Co. Cork does not constitute "exempt development" under Schedule 2, Part 1, Class 1 of the Planning & Development Regulations, 2001-2022.

The total new floorspace created, including the area of the rear wall, is in the order of 45.12sq.m. which exceeds the maximum tolerances of 40sq.m. under Condition 1(a) of Class 1.

The Planning Authority also declares that the front porch constitutes "exempt development" under Schedule 2, Part 1, Class 7 of the Planning and Development Regulations, 2001-2022 subject to strict compliance with the 3 No. conditions attached to Class 7.

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. WCP11271, in respect of $\in 80.00$, is issued herewith.

Yours faithfully,

KEVIN O'REGAN SENIOR EXECUTIVE OFFICER





Ref D/3/23

Planning and Development Regulations 2001- 2022 Exempted Development under Schedule 2 Part 1 Class 1 and Class 7

Rear extension and front porch at Kilcatherine, Ardgroom for John and Tracey O'Sullivan

REPORT 2

This Section 5 application was deferred for further information on the 1st March 2023 since there was an uncertainty whether the single storey lean-to far gable (toilet and utility) was part of the original dwellinghouse or not and there was also significant concerns regarding the stated floor area of the proposed extension. The applicants John and Tracey O'Sullivan have now indicated in the letter dated 6th March 2023 that they are no longer no longer availing of the services of John J O'Sullivan and Associates and have now submitted handwritten notes on the original plans as well as their letter dated 6th March 2023.

In terms of the single storey lean-to the applicants have confirmed that this component, with a floor area of 13.07 square metres, was part of the original dwellinghouse and <u>not</u> an extension to it. Consequently, on that basis it is not too relevant how large the floor area was since it is part of the original dwellinghouse and thus it would be permissible to extend the existing dwellinghouse by up to 40 square metres maximum.

On this second issue of the rear extension the applicants letter dated 6th March 2023 have stated that the proposed area of the ground floor is 27.685 square metres and first floor extension (11.90 square metres) with a total of 39.585 square metres which is perilously close to 40.00 square metres and buildings during construction if anything tend to grow on site. Moreover, it is **not** accepted that the floor area of the ground and first floor combined constitutes 39.585 square metres for the reasons set out below.

Firstly, in terms of the ground floor, the applicants have taken the shorter measurement of the depth of the extension as 3.50 metres whereas it should be 4.09 metres since it relates to the new floor space being created. They have sought to suggest that the existing back wall following its removal should be treated as a "*bonus*" but the Planning and Development Regulations 2001-2022 make no reference to any "*bonus*" rather Class 1 refers to "*the floor area*" created whilst Article 3 (Interpretation) of the Planning and Development Regulations 2001-2022 states as follows:

"Gross Floor Space" means the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions), disregarding any floor space provided for the parking of vehicles by persons occupying or using the building or buildings where such floor space is incidental to the primary purpose of the building"

The fact of the matter is that a solid back wall is <u>not</u> usable floor space <u>it is a wall</u> and therefore it is the 4.09 metres depth that should be used in any calculations. This would mean that the ground floor area of the proposed extension is $4.09 \times 7.91 (3.00 + 4.91) = 32.35$ square metres and not 27.685 square metres as so stated by the applicants.

In terms of the first floor the applicants have now indicated this to be 11.90 square metres revised from 12.00 square metres. This 11.90 square metres figure the applicants has derived at using the calculation of 3.50 metres in depth x 3.40 metres in width to give a figure of 11.90 square metres. However, as the plans suggest the first floor extension is **not** a rectangle there is an area behind the door and therefore an additional 1.35 metres x 0.65 metres should be added = 0.8775 square metres. This would suggest that the first floor area is **12.77 square metres** rather than 11.90 square metres.

When the first floor (12.77 square metres) is added with the ground floor extension (32.35 square metres) this would suggest that the extension of both floors combined = 45.12 square metres in size and <u>not</u> 39.585 square metres and curiously this 45.12 square metres figure is not dissimilar from the 45.38 square metres actually stated on the original Drawing Number P00092202-05. This **45.12 square metres** exceeds the maximum tolerances of 40.00 square metres and on that basis in <u>not</u> "exempt development."

In terms of the porch dimensions have now been annotated internally to be 2.0 metres x 1.00 metres = 2.00 square metres which is the maximum permissible and that component would be "*exempt development*."

The original report dated 23rd February 2023 highlighted the tree felling and unauthorised agricultural buildings within the Cleanderry Wood Special Area of Conservation (Code 001043) and consequently the *warning letter*" dated 6th October 2022 issued under enforcement reference SKB220076. That remains to be the subject of a separate and ongoing enforcement matter suffice to register it is not possible to grant retrospective planning permission which raises "*Appropriate Assessment*" issues as set out under Section 34 (12) of the Planning and Development Act 2000.

Recommendation(s)

The ground and first floor rear extension and associated works, as detailed in the plans and particulars received on the 2nd February 2023 and the further plans and particulars received on the 8th March 2023 does <u>NOT</u> constitute "*exempt development*" under Schedule 2, Part 1, Class 1 of the Planning and Development Regulations 2001-2022 since having regard to the meaning of Gross Floor Space, the total new floorspace created, including the area of the rear wall, is in the order of 45.12 square metres which exceeds the maximum tolerances of 40.00 square metres under Condition 1(a) of Class 1.

The front porch, as detailed in the plans and particulars received on the 2nd February 2023 and the further plans and particulars received on the 8th March 2023 constitute "*exempt development*" under Schedule 2, Part 1, Class 7 of the Planning and Development Regulations 2001-2022 subject to strict compliance with the three conditions attached to Class 7.

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P. O'Sullivan: Executive Planner 28th March 2023

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CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

<u>4 No. Copies of Application Form:</u> <u>1 No. Copy of Contact Details:</u> <u>4 No. Copies 6" O.S. Maps:</u> <u>4 No. Copies 25" O.S. Maps:</u> <u>4 No. Copies of Site Layout Plan:</u> <u>4 No. Copies Scaled Drawings of Development:</u> <u>680 Application Fee:</u>

FOR OFFICE USE ONLY

Receipt No.	
Cash/Cheque/	
Credit Card	
Date	
Declaration	
Ref. No.	

(Please tick $\sqrt{}$)



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)

JOHN D' SULLIVAN

TRACEY & SULLIVAN.

2. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION OF **EXEMPTION IS SOUGHT:** CLEANDRA, ARDGROOM, BEARA, PLANNING MAR 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 build to que extension. pro posed 6 Kert belive that at IND. will Exemps to from proposed extansion EX Cusio onto cris The of the loss The ()red loca the oroposed rre Tous con 1170 NO

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 (m²)

(a) Floor area of existing/proposed structure(s):	EXISTINGAREA = 46.85 m ² PROPOSEDEXSENSION = 40m ² (EXEMPT. Yes NO X	\
 (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 K 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:	N/A	
Existing/previous use	Proposed use	
(d) Are you aware of any enforcement proceedings connected to this site?	Yes No No If yes, please state relevant reference number(s):	
	REF. No. = 5KB 22076	

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 B. Other
Where legal interest is " Other ", please state your interest in the land/structure:	NA
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):	NA PLANNING DAUSTI DEPARTMENT
PROTECTED STRUCTURE DETAILS /	ARCHITECTURAL CONSERVATION AREA:
Is this a Protected Structure/Proposed Protected S Structure: Yes	tructure or within the curtilage of a Protected 4
If yes, has a Declaration under Section 57 of the P or issued for the property by the Planning Authori	Planning & Development Act 2000 been requested ty: Yes No N/A
If yes, please state relevant reference No	x/[A
Is this site located within an Architectural Conserv Development Plan? Yes	vation Area (ACA), as designated in the County No

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 X Ropesed extension will have No significant effect on the 5.A.C. It is a simple extansion to the rear of the house.

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

 \mathbf{X} I give permission for my personal information to be processed for the purpose stated above

Signed (By Applicant Only)	× John - Salum
Date	01/02/23

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

<u>https://www.corkcoco.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

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

Signed	× John i Sallimi	
Date	01/02/23	

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.

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 <u>Planning and Development Acts 2000</u>, <u>as amended</u> and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	y gahr i Sellimi.
Date	01/02/23.

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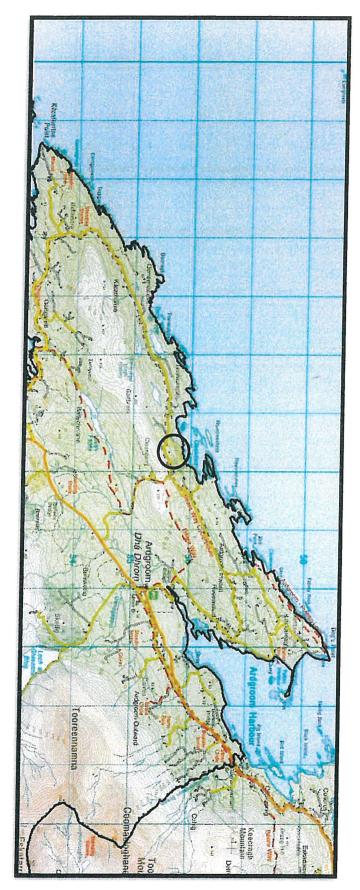


Figure 1 Site Location Scale 1/50,000

