Comhairle Contae Chorcaí Cork County Council

Tiny Feet Fairy Garden, C/O Joseph Cronin, 23 Coolyhane, Macroom, Co. Cork P12 FK50 Pleanáil agus Forbairt, Halla an Chontae, Bóthar Charraig Ruacháin, Corcaigh T12 R2NC. Fón: (021) 4276891

Fón: (021) 4276891 R-phost: planninginfo@corkcoco.ie Suíomh Gréasáin: www.corkcoco.ie Planning & Development,

County Hall, Carrigrohane Road, Cork T12 R2NC. Tel (021) 4276891

Email: planninginfo@corkcoco.ie Web: www.corkcoco.ie



2nd April, 2025

REF:

D/228/25

LOCATION:

Tiny Feet Fairy Garden, Kilnagurteen, Macroom, Co. Cork P12 C447

RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 - 2010.

Dear Sir/Madam,

On the basis of the information submitted by you on 7th March, 2025 the Planning Authority, having considered whether the proposed construction of 2 meter wide x 68 meter long tarmac pathway over an existing informal path at **Tiny Feet Fairy Garden**, **Kilnagurteen**, **Macroom**, **Co. Cork P12 C447** is or is not development or 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 7th March, 2025
- Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended
- Class 33, of Schedule 2, Part 1, Exempted Development of the Planning and Development Regulations 2001, as amended.
- Article 9 (1) Restrictions on exemption of the Planning and Development Regulations 2001, as amended.

And Whereas the Planning Authority hereby concludes that the laying out of a tarmac surfaced cycle/walkway 2 meter wide x 68 meter long within an existing park at Tiny Feet Fairy Garden, Kilnagurteen, Macroom, Co. Cork P12 C447 **is development and is exempted development** in accordance with Class 33, of Schedule 2, Part 1, Exempted Development of the Planning and Development Regulations 2001, as amended.

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,

PIO TREACY,

A/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

Declaration of Exempted Development under Section 5 of the Planning and Development Act 2000

Ref No.	D/228/25
Applicant	Tiny Feet Fairy Garden
Description	Proposed 2mtr wide x 68m long tarmac pathway
Location	Kilnagurteen, Macroom

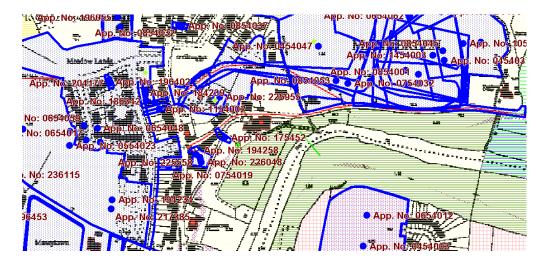
This application seeks a declaration of exempted development relating to the proposed construction of a 2mtr wide pathway over an existing informal path within Tiny Feet Garden at Kilnagurteen, Macroom. The proposed development is required to connect to existing 3m wide cycle pathways or greenways.

Site location

The site is located at Kilnagurteen townland. The site is within an existing town park – Tiny Feet Fairy Garden which is located at the western side of Macroom town in the Masseytown area. The land is owned by Cork County Council.

Planning History

There is no relevant planning history on the site.



<u>Assessment</u>

The question posed in this application is whether the proposed 68m long and 2m wide tarmac surfaced cycle/walkway within an existing park is exempted development.

The site is located within the Settlement Boundary for Macroom as set out in the Cork County Development Plan, 2022.

The site is within an area designated as 'Green Infrastructure' in the Cork County Development Plan, 2022 – MM-GR-02;

Green Recreation: Maintain and protect the amenities of Masseytown Park and provide for informal public recreation. These lands form part of the Sullane River Corridor which is an area identified to be of local biodiversity value. The riparian margins of the river corridor should be protected. Opportunities for enhancement of

The site is entirely within a flood zone A.

Planning Legislation

Planning and Development Act 2000, as amended

Section 2 of the Planning and Development 2000 defines the terms used within the Act and the following terms are relevant for the purposes of this referral.

"Works" - include any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.

Section 3 (1) defines 'development' as;

(i) 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 sets out development which is deemed to be exempted development.

Planning and Development Regulations 2001 (as amended)

Article 6(1) states that 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 conditions and limitations specified in Column 2 of said Part 1 opposite the mention of that class in said Column 1.

Class 33 of Schedule 2, Part 1, Exempted Development of the P& D Regs 2001;

Development for amenity or recreational purposes	Conditions and Limitations
Development consisting of the laying out and use of land—	
(a) as a park, private open space or ornamental garden,	
(b) as a roadside shrine, or	The area of any such shrine shall not exceed 2 square metres, the height shall not exceed 2 metres above the centre of the road opposite the structure and it shall not be illuminated.
(c) for athletics or sports (other than golf or pitch and putt or sports involving the	

use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.

Assessment

I note the details and layouts submitted as part of the application. It is detailed that there is an earthen path in place at present which is used by pedestrian traffic but is unsuitable for wheelchairs, buggies or bikes. This application proposes the construction of a new cycleway/pathway 'choke point' connection between two existing paths.

Details have been submitted as to material finishes etc.



Google maps image showing existing pathway



Google maps image showing existing pathway and area over which it will extend formally

Having reviewed the works proposed in respect of Class 33 of Schedule 2, Part 1, Exempted Development of the P& D Regs 2001, which refers to

Development consisting of the laying out and use of land—

- (a) as a park, private open space or ornamental garden,
- (b) as a roadside shrine, or

(c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.

I would consider that the works proposed are development and as the works involve formally laying out of a pathway over an existing informal pathway this is deemed to fall under Class 33, as the works relate to the laying out and use of land as a park.

Having reviewed Article 9, Restrictions on exemptions of the Planning and Development Regulations, 2001 as amended, the proposal is not considered to be de-exempted by same.

The Area Engineer has no objection to the proposed development. (confirmed via email).

Conclusion

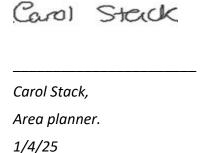
WHEREAS a question has arisen as to whether the proposed 68m long and 2m wide tarmac surfaced cycle/walkway within an existing park *is development and is or is not exempted development:*

AND WHEREAS Cork County Council, in considering this referral, had regard particularly to –

- Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended
- Class 33, of Schedule 2, Part 1, Exempted Development of the Planning and Development Regulations 2001, as amended.
- Article 9 (1) Restrictions on exemption of the Planning and Development Regulations 2001, as amended.

The Planning Authority has concluded that:

 The laying out of a tarmac surfaced cycle/walkway within an existing park is development and is exempted development in accordance with Class 33, of Schedule 2, Part 1, Exempted Development of the Planning and Development Regulations 2001, as amended.



From: <u>Tracy OCallaghan</u>

To: <u>Marie O"Leary</u>; <u>MacroomMD</u>

Subject: Section 5 Application - Tiny Feet Fairy Garden

Date: Monday 10 March 2025 12:05:38

Attachments: <u>image001.png</u>

Our Ref.: D/228/25

Re: Declaration of Exempted Development under Section 5 of The Planning and

Development Act 2000 – 2010.

Whether the proposed construction of a 3mtr wide cycle/pathway at Kilngurteen, Macroom is development or is or is not exempted development.

Good Afternoon,

Please be advised that a declaration has been sought with respect to Section 5 of the Planning and Development Act 2000 (as amended) from the Planning Authority by Tiny Feet Fairy Garden with respect to whether the above constitutes development.

You are being notified as the applicant has indicated that you are the legal owner of the land.

Yours faithfully,

Tracy Ní Cheallacháin | Oifigeach Fóirne | Pleanáil agus Fobairt

Comhairle Contae Chorcaí | Halla **an Chontae** | Corcaigh | T12 R2NC | Éire T +353-(0)21 – 428 5633

tracy.ocallaghan@corkcoco.ie | www.corkcoco.ie Tairseach na gcustaiméirí: www.yourcouncil.ie

Tracy O' Callaghan | Staff Officer | Planning & Development

Cork County Council | County Hall | Cork | T12 R2NC | Ireland T +353-(0)21-428-5633

tracy.ocallaghan@corkcoco.ie | www.corkcoco.ie

Customer Portal: www.yourcouncil.ie



Smaoinigh ar an timpeallacht sula ndéanann tú an ríomhphost seo a phriontáil. Please consider the Environment before printing this mail.



CORK COUNTY COUNCIL APPLICATION 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:

(Please tick $\sqrt{}$)



Planning Department

0 7 MAR 2025

Cork County Council

County Hall

Cork

FOR OFFICE USE ONLY

Receipt No.	P12-0	29495
Cash/Cheque/ Credit Card	CAND	
Date	10/03/2	025
Declaration Ref. No.	0/228	25

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^{rd} 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 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)
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Tiny Feet Fairy Garden , Macroom	TO THE PARTY OF TH

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

Tiny Feet Fairy Garden, Kilnagurteen.Macroom . Co. Cork P12 C447	And Control Control Control The Control T
OZ MAR 1915	

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

Digging out to a depth of 300mm an area of 68m x 2m and constructing am width cycle/pathways or greenways.	
his cycleway/pathway ,to a connection width of 2m will be on an existing raffic but the area in question is at the moment ,bare earth, and is unsuite	g "path" or access route which is already traversed by pedestrian able for wheelchairs ,buggies or cycles .
. Construction will be to B1 specification of Transport Infrastructure Irela 200-240mm minimum depth of hardcore/blinding and at least 50mm w	nd . hen compressed of tarmacadam surface dressing.
Construction to be Completed under contract and with finance from Co DECC , This in conjunction with the CCC CAP 2024-2029 in which Ma riverbank 3m width cycle/pathway under the Masseytown development	Croom is named as a "nilet town" and proposed the bear
Emphasis being on the travel aspect of CCAP and interconnection of vi	
The proposed development is on CCC or public owned land in the MD Garden organisation would be obliged to have a decision on this exen in accordance with Schedule2. Part 1. classes of exempt regulations.	iption asap in relation to funding under CCAP Strand 1.
The proposed development is on CCC or public owned land in the MD Garden organisation would be obliged to have a decision on this exen In accordance with Schedule2, Part 1, classes of exempt regulations, a existing pathways/rights of way. The proposed development will not expround level. No new pillars or other structures above ground level are	nption asap in relation to funding under CCAP Strand 1. 001 amended and other relevant sections, in relation to ceed 2m in width. The cycleway will not be raised above existing proposed. No direct connections to public roadways are proposed.
The proposed development is on CCC or public owned land in the MD Garden organisation would be obliged to have a decision on this exen In accordance with Schedule2, Part 1, classes of exempt regulations, 2 existing pathways/rights of way. The proposed development will not expense.	nption asap in relation to funding under CCAP Strand 1. 001 amended and other relevant sections, in relation to ceed 2m in width. The cycleway will not be raised above existing proposed. No direct connections to public roadways are proposed ffic is expected both for access to the park amenity and in terms.
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4	APPL	.II A	TION	13H. 17	4 II	· .

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):	
(b) If a domestic extension is proposed, 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 No No If yes, please provide floor areas (m²) 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 Pedestrian pathway on grass via existing access gate .	Proposed use A 2m width tarmac surfaced cycle/walkway connection approx connecting to an existing and CCC plan, proposed cycleway
(d) Are you aware of any enforcement proceedings connected to this site? Planning Department	Yes No No If yes, please state relevant reference number(s):
5. LEGAL INTEREST OF APPLICANT IN	THE LAND/STRUCTURE:
your interest in the land/structure:	A. Owner B. Other We "Tiny Feet Fairy Garden" maintain and operate the site. Cork County Council.
	ARCHITECTURAL CONSERVATION AREA:
Is this a Protected Structure/Proposed Protected Structure: Yes No	tructure or within the curtilage of a Protected
If yes, has a Declaration under Section 57 of the Por issued for the property by the Planning Authori If yes, please state relevant reference No. Is this site located within an Architectural Conserved Development Plan? Yes	ty: Yes No
7. APPROPRIATE ASSESSMENT: Would the proposed development require an applaye a significant effect on the integrity of a Euro	

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

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

Signed (By Applicant Only)	Joseph Cronin
Date	21-Feb-2025

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 Department

07 MAR 2025

Cork County Council County Hall 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 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

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

Signed	Joseph Cronin	- ne Tell (will Eq.)
Date	21-Feb-2025	

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 or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: 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 <u>Planning and Development Acts 2000</u>, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	Joseph Cronin
Date	21-Feb-2025

Planning Department

07 MAR 2025 Cork County Council County Hall Cork

Comhairle Contae Chorcaí Cork County Council

Halla an Bhaile,
Maigh Chromtha,
Co. Chorcaí P12 YX48.
Fón: (026) 41545 Faics: (026) 42178
R-phost: macroommd@corkcoco.ie
Suíomh Gréasáin: www.corkcoco.ie
Town Hall,
Macroom,

Co. Cork P12 YX48.
Tel: (026) 41545 Fax: (026) 42178
E-mail: macroommd@corkcoco.ie
Web: www.corkcoco.ie



Mr Joseph Cronin, The Tiny Feet Fairy Garden, Masseytown Park, Kilnagurteen, Macroom, Co. Cork. P12 C447

28th January 2025

Re: CCAP Strand 1 Application - Lands at Kilnagurteen Masseytown Macroom

Dear Joseph,

I confirm that the lands which are the subject of the above CCAP Strand 1 Application (Applic Ref No LCC680874705) at Kilnagurteen Masseytown Macroom are owned by Cork County Council.

Yours sincerely,

Marie O'Leary
Municipal District Officer
Macroom Municipal District

Planning Department

0 7 MAR 2025 Cork County Council County Hall Cork





Comhairle Contae Chorcaí Cork County Council

Halla an Bhaile,
Maigh Chromtha,
Co. Chorcaí P12 YX48.
Fón: (026) 41545 Faics: (026) 42178
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Suíomh Gréasáin: www.corkcoco.ie
Town Hall,



Macroom,
Co. Cork P12 YX48.
Tel: (026) 41545 Fax: (026) 42178
E-mail: macroommd@corkcoco.ie
Web: www.corkcoco.ie

28th January 2025

To Whom It May Concern

Macroom Municipal District is working with The Tiny Feet Fairy Garden Macroom on their CCAP Strand 1 application and is fully supportive of this application.

Application Ref No LCC680874705.

We feel that this project, if approved, would greatly enhance this beautiful location and will significantly enhance the overall amenity value of the area.

Should you require any further information, please do not hesitate to contact me.

Yours sincerely,

Marie O'Leary

Municipal District Officer

Macroom Municipal District

Planning Department

0.7 MAR 2025 Cork County Council County Hall Cork





Site Location Map Tail Éire Mount Moss CENTRE **COORDINATES:** 533853,573278 W B **PUBLISHED: ORDEF** 400 17/02/2025 504494 MAP SERIES: MAP SI CK070 6 Inch Raster B.M.298-3 Planning Department 300 286 Including 3 13 mater 07 MAR 2025 Cork County Council County Hall SPMAGHIEREE. Cork R 38 Coolyhane Cottage COMPILED AND PUBLIS Tailte Éireann, Phoenix Park, Dublin 8, Mecroom Cottage Hospital Ireland. D08F6E4 SMills to Pre 28 www.tailte.ie Grilcearus Criss Hoads B. B. 919-3 (Urban District) Any unauthorised reproduction infringes Tailte Éireann copyrig FAIR Terminus No part of this publication may be copied, reproduced or trans Gizabo in any form or by any means w the prior written permission of Section Creamery The Bowl Road copyright owner. Stepping Stones The representation on this maj of a road, track or footpath is not evidence of the existenc of a right of way. Burial Gd. This topographic map does not show Stopping Stone Heservoir legal property boundaries, nor does it show 4.3 ownership of physical features ©Tailte Éireann, 2025. Macroom All rights reserved. Ordnance Survey Ireland Including 13 2 572369 CAPTURE RESOLUTION: LEGEND: 330 440 Metres The map objects are only accurate to the To view the legend visit resolution at which they were captured. www.tailte.ie and search for **OUTPUT SCALE: 1:10,560** 'Large Scale Legend' Output scale is not indicative of data capture scale. 0 200 400 600 800 1,000 Feet Further information is available at:

