

Comhairle Chontae Atha Cliath Theas

Record of Executive Business and Chief Executive's Order

PR/1398/21

Register Reference: ED21/0034
Correspondence Name & Address: Amir Mustafakamal & Farzana Bellow
135, Woodview Heights, Lucan, Co.
Dublin
Development: New boundary wall at rear.
Location: 135, Woodview Heights, Lucan, Co.
Dublin
Applicant: Amir Mustafakamal & Farzana Bellow

(SW)

Description of Site and Surroundings:

Site Area: Not stated.

Site Description:

The site contains a two-storey semi-detached house with pitched roof in a mature residential area. The area is characterised by dwellings of the similar form and scale. A large open green area is located to the northeast rear of the site.

Proposal

This is an application requesting a Section 5 Declaration on whether works to a dwelling at 135, Woodview Heights, Lucan, Dublin, comprising the following is or is not exempted development:

- New boundary wall at rear.

Drawings submitted:

- Drawing titled '*Lands adjacent to 136 Woodview Heights*' under drawing ref: *LA/10/10 from South Dublin County Council.*
- Ordinance survey drawing ref: *LR/29/14 from South Dublin County Council.*
- Site plan map with Folio Number: *DN109493F*

It is noted the applicant does not state any dimensions in the description of works in section 4 of the application.

Relevant Planning History

None for subject site.

Relevant Enforcement History

None recorded.

Zoning and Council Policies

The subject site is subject to zoning objective '*RES*' - 'To protect and/or improve residential amenity'.

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Assessment

In this case, consideration as to whether a development constitutes exempted development or not is governed by Sections 4 and 5 of the Planning and Development Act 2000 (as amended) and Articles 5,6,7,8,9,10 and 11 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?

Section 3(1) defines 'development' as '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'. The term 'works' is defined in Section 2(1) of the 2000 Act as 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

- It is considered that the proposed development constitutes 'works' and 'development'.

Is the proposal exempted development?

The proposal consists of a new extended boundary wall to the rear of the garden of the property. The drawings submitted indicate that the fence would be located to the rear of the site, adjacent to the open space. However, no exact location or dimensions are indicated.

With regards to the proposed development, Class 5 of Schedule 2 of the Planning and Development Regulations 2001 prescribes the following descriptions of development which are exempted development:

'The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.'

The Planning Authority would require details of height, materials and finishes of the proposed wall and have regard to the following for a full assessment:

1. *The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.*
2. *Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.*
3. *No such structure shall be a metal palisade or other security fence.*

Given that the exact location, height, materials and finishes of the proposed rear wall of the subject site have not been submitted it is considered that the applicant shall be afforded the opportunity to submit the required details by additional information. The proposal can then be fully assessed if the development does or does not comply with the limitations and conditions of Class 5 of Schedule 2 of the Planning and

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Development Regulations 2001 and as such if the proposal is or is not considered exempted development.

Conclusion:

It is considered that the applicant shall be afforded the opportunity to submit the required above details by additional information to fully assess if the proposed development is development or not development to be considered exempted development having regard to the Planning and Development Regulations 2001 (as amended).

Recommendation

Having regard to the provisions of Article 6 and Article 9 of the Planning and Development Regulations and the lack of information submitted in order to assess this ED application, the applicant is requested to clarify via additional information:

- The exact location of the fence in relation to the property boundary
- The proposed height, materials and finishes.

Further Information

Further information was requested on 25.05.2021.

Further information was received on 17.06.2021.

Consultations: none

Item 1:

Class 5 of Schedule 2 of the Planning and Development Regulations 2001 states: 'The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.

The applicant is required to clarify the exact location, height, materials and finishes of the proposed rear wall.

The applicant has submitted an excel sheet indicating dimensions of a wall. Some areas are coloured green (dimensions given for these area), some are coloured white. An entrance is shown on the northwest.

Cover email states:

- *Exact Location- The plot of ground to rear, 135 Woodview Heights, Lucan Co Dublin. Folio Number - DN109493F. Please note that the boundary wall will be constructed on the northeast and southeast side of the land as other 2 sides wall already exist. (See the attached)*
- *Proposed Boundary wall details:*
 - *Land Area- 0.004 Hector/ 40 Square Meter/ 430.5564 Square Foot*
 - *Southeast Wall- Length- 6.5532 Meter/ 21.5 Foot & Height-2 Meter/6.56168 Foot with 2 wall attached pillar after every 2 meter to strengthen the wall.*
 - *Northeast Wall- Length- 6.096 Meter/ 20 Foot & Height-2 Meter/6.56168 Foot with 2 wall attached pillar after every 2 meter to strengthen the wall.*

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- *Materials- 260pcs Cavity Blocks (215mm/9 Inch) & Wall cap 14 Pcs (900mm).*
- *Foundation - Solid Concrete Mixture base- half meter/1.64 Foot below the existing earth level*
- *Finishing- Cement plaster outside wall.*
- *An entrance/ small gate will be set up in the northwest wall to enter the plot from 135 Woodview Heights.*

Assessment:

The applicant has indicated in their submission that they wish to enclose folio *DN109493F*. A plan submitted with the original submission indicates this land as highlighted. The applicant has stated that there are two walls existing and only the northeast and southeast side would be enclosed. It is not apparent that the area which they want to enclose is within their ownership. In addition to this, Class 5 of Schedule 2 states the wall should be within or bounding the curtilage of a house. It is not apparent that the proposal would bound existing curtilage and may result in an area of open space (regardless of ownership) being included within the curtilage.

The height is given as 2 metres, which is acceptable within the Class, as would the proposed concrete and plastered finish.

It is apparent that an entrance/small gate would be set up in the northwest wall, which would be acceptable under Class 5.

Conclusion:

It is considered that the applicant shall be afforded the opportunity to submit the required above details by clarification of additional information to fully assess if the proposed development is development or not development to be considered exempted development having regard to the Planning and Development Regulations 2001 (as amended).

Recommendation

Having regard to the provisions of Article 6 and Article 9 of the Planning and Development Regulations and the lack of information submitted in order to assess this ED application, the applicant is requested to provide:

- Location of the proposed structure on an Ordnance Survey (OS) based map at a scale of no less than 1:500. This should also include details of the land in applicant's ownership.
- Evidence that the land to be enclosed is residential curtilage of the existing dwelling.

Clarification of Further Information

Clarification of Further information was requested on 14.07.2021.

Clarification of Further information was received on 07.10.2021.

Item 1:

The applicant is requested to provide the following details:

- A map indicating the extent of land in applicants' ownership.

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- Evidence that the land is residential curtilage as part of the existing dwelling.
The applicant has submitted numerous land registry documents, none of which provide a clear plan of the land in question.

It is noted that the applicant is stating that they own the land in question, however, none of the submitted documents clearly identify this. The applicant has failed to demonstrate the proposal is in accordance with Class 5.

Conclusion:

The proposal the subject of this Section 5 Declaration is **'New boundary wall at rear'**.

It is considered that:

- (A) It **constitutes development**,
- and
- (B) It is **not** exempted development.

having regard to the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

Recommendation

The applicant should be informed that the proposed development would not be considered as Exempted Development and would require planning permission.


Tracy McGibbon,
A/Senior Executive Planner

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Reg. Ref. ED21/0034

ORDER: That the applicant be informed that the proposed development of New boundary wall at rear. at 135, Woodview Heights, Lucan, Co. Dublin is development and is not considered to be exempted development under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended) and therefore **does require** planning permission.

Date: 27/10/2021



Jim Johnston,
Senior Executive Planner