

Comhairle Chontae Atha Cliath Theas

PR/1511/21

Record of Executive Business and Chief Executive's Order

Register Reference: ED21/0069
Correspondence Name & Address: Tony Mullen Architects 10/11, Marine Terrace,
Dun Laoghaire, Co. Dublin
Development: Construction of a single storey extension and
associated site works to the rear of No.11 Sundale
Parade, Tallaght, Dublin 24.
Location: 11, Sundale Parade, Dublin 24
Applicant: Joy Joseph

(CS)

Description of Site and Surroundings:

The site is located in an established residential estate in Jobstown, Tallaght. The subject site contains a two storey dwelling with pitched roof and part demolished two storey rear extension (unauthorised). The area is characterised by two storey semi-detached dwellings of similar form and appearance set back from the street with a mainly uniform building line.

Zoning:

The subject site is subject to zoning objective RES - 'To protect and / or improve Residential Amenity'.

Proposal:

This is an application requesting a Section 5 Declaration on whether the following works are or are not exempted development;

- Single Storey rear extension with flat parapet roof to domestic dwelling.

It is noted the application drawings submitted include for the demolition of the existing unauthorised two storey rear extension part of which has already been demolished as can be seen from photographs submitted. Whilst the extension to be demolished is built to the boundary with the immediate neighbour to the east, it does not abut on another building in separate ownership.

It is noted the 'L' shaped single storey rear extension will be built to the boundary with the immediate neighbour to the east. It will project outwards from the main rear building line by c.6.5m and will span a maximum width of c.4.5m. It will have a parapet height of c.2.9m.

This Section 5 Declaration application includes:

- Application form
- Site layout plan/floorplan
- Elevations
- Sections

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Relevant Planning History:

SD20B/0463: Retention of alterations to, completion of structure to rear of existing house and all associated site works.

Decision: **REFUSE PERMISSION FOR RETENTION.**

Reasons for Refusal :

The proposed development is located in an area zoned 'RES' in the South Dublin County Development Plan 2016 - 2022, with an objective 'to protect and/or improve residential amenity.

Having regard to:

(a) the South Dublin County Council House Extension Design Guide (2010);

(b) the constrained nature of the site;

(c) the overbearing visual impact of the development, impacting on Nos. 9 and 13 Sundale Parade;

(d) the direct and unacceptable overshadowing of the rear gardens of Nos. 9 and 13 Sundale Parade;

(e) the inappropriate form of the development, in particular the height, roof profile and the siting of the build of the extension to the rear of the property;

(f) the inadequate separation distance from the eastern boundary and, to a lesser extent, the western boundary; and

(g) the unacceptable reduction in private amenity space (c.16sq.m), detracting from the residential amenity of the subject site for current and future occupants;

the proposed development would result in a cramped form of development and overdevelopment of a site of modest size, and would provide substandard residential accommodation, and unacceptably impact on the enjoyment of residential amenities on neighbouring properties. Thus, the proposed development would materially contravene the 'RES' land-use zoning objective for the area laid down in the County Development Plan, and would seriously injure the amenities of property in the vicinity, and would be contrary to the proper planning and sustainable development of the area.

Having regard to the lack of information submitted in relation to Surface Water Drainage requirements, the Planning Authority is not satisfied, on the basis of the information submitted, that the proposed development would not be prejudicial to public health and is not in the interests of the proper planning and sustainable development of the area.

It is noted the application was appealed to ABP where the decision to REFUSE PERMISSION FOR RETENTION was upheld under PL06S.309540.

SD20B/0218: Single storey extension with non-habitable attic space to rear of existing dwelling.

Decision: **REFUSE PERMISSION FOR RETENTION.**

Pre Planning

None recorded.

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Relevant Enforcement History

ENF S8361: Live case remains open regarding unauthorised two storey rear extension.

Assessment:

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 2(1) in this Act, except where otherwise requires –

'works' includes any act or operation of **construction**, excavation, demolition, **extension**, alteration, repair or renewal.

'structure' as any building, structure, excavation, or other thing constructed or made on, in or under any land, or part of a structure so defined, and –

- (a) Where the context so admits, includes the land on, in or under which the structure is situated.

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 proposed development on site relates to construction and extension and therefore constitutes '*works*' and '*development*'.

Is the proposal exempted development?

In order to assess whether or not the works to be carried out constitute exempted development, regard must be had to the following:

Article 6(1) 'Exempted Development' of the Regulations 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 the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1*'.

Class 1 of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended) relates to development within the curtilage of a house. The development is within the curtilage of a house.

Class 1 sets out relevant development which is exempted development subject to conditions:

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side

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of the house is considered 'Exempted Development', subject to the following Conditions and Limitations:-

1. *(a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres*

The house has been extended previously however it is noted that the existing two storey rear extension will be fully demolished. The internal floor area of the proposed single storey rear extension is 19.5sq.m which does not exceed 40sq.m. Therefore, the extension would comply with this condition.

- (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.*

The house is semi-detached and there is no development proposed above ground floor. The proposal complies with this condition.

2. *(a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.*

The house has been extended previously however this two storey rear extension appears unauthorised and does not have the benefit of planning permission and will be fully demolished.

3. *Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.*
Not Applicable.

4. *(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.*

The rear wall does not include a gable. The proposal seeks to provide a single storey rear extension with a flat parapet roof. The proposal does not exceed the height of the rear wall of the house.

- (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of*

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the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

The highest part of the roof of the single storey extension proposed does not exceed the height of the highest part of the roof of the dwelling.

5. *The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.*

The proposal does not reduce the rear garden of the house to less than 25 metres. It is indicated that there would be 48sq.m remaining. The proposal complies with this condition.

6. (a) *Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.*

There are no windows proposed less than 1 metre from the boundary it faces.

(b) *Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.*

There is no window proposed above ground floor level.

7. *The roof of any extension shall not be used as a balcony or roof garden.*

Not applicable to this proposal.

Article 9 restrictions

The proposed development is not restricted by any of the restrictions in Article 9 of the Planning and Development Regulations 2001 (as amended).

Conclusion:

It is considered that the proposed development would be 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 be considered as Exempted Development and would not require planning permission.

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Jim Johnston
Senior Executive Planner

ORDER: That the applicant be informed that the proposed development of:
Construction of a single storey extension and associated site works to the rear of No.11 Sundale Parade, Tallaght, Dublin 24. at 11, Sundale Parade, Dublin 24
is 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 not** require planning permission.

Date: 18/11/21



Eoin Burke, Senior Planner

