

# Comhairle Chontae Atha Cliath Theas

PR/1496/21

## Record of Executive Business and Chief Executive's Order

**Register Reference:** ED21/0070  
**Correspondence Name & Address:** John Ryan Aishcloc, Cruagh Road, Rathfarnham, Dublin 16  
**Development:** Conversion from vacant Estate Agents Showroom and Offices to Interior Design Showroom and Offices  
**Location:** 51 Village Court, Butterfield Avenue, Dublin 14  
**Applicant:** John Ryan

(AOCM)

### Description of Site and Surroundings

The subject site is an existing three-storey estate agents unit located at Village Court, Rathfarnham. The unit is a single commercial unit within a residential development close to Main Street, Rathfarnham.

### Proposal

This is an application requesting a Section 5 Declaration on whether the proposed development is or is not exempted development. The development consists of:

- a change of use from a vacant estate agents' showroom and offices to an interior design showroom and offices.

The Section 5 Declaration application includes:

- Application form
- Site location map
- Floor plans
- Photomontages

### Recent Relevant Planning History

There is no recent relevant planning history for the site. Historic applications of relevance are listed below.

**S93A/0103:** permission sought for revisions including a new façade and traditional shop front treatment in a bay window externally and additional basement floor internally. **Permission granted.**

**91A/2087:** 40 no. 2 bedroom apartments and 10 no. 1 bedroom apartments in 3 no. 3 storey terrace blocks with 1 estate agents premises/office. Public car parking for 60 cars and private parking for 56 cars, at the Village Court site. **Permission granted.**

### Recent Relevant Enforcement History

There is no record of recent relevant enforcement history for the site.



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### Zoning and Council Policies

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

### 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?

Planning and Development Act 2000 as amended (emphasis added):

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'*.

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

*'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.

*'use'* in relation to land, does not include the use of the land by the carrying out of any works thereon.

It is considered that the change of use from estate agents' showroom and offices to interior design showroom and offices is a change of *'use'* and is also a material change of use and is therefore development.

### Is the proposal exempted development?

Article 10 of the Planning and Development Regulations 2001 (as amended) relates to change of use and sets out what changes are exempted development by reference to Part 4 of Schedule 2 of Planning and Development Regulations 2001 (as amended). Article 10 (1) states (emphasis added):

*"Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not -*

- (a) *involve the carrying out of any works other than works which are exempted development, **No works are stated as being proposed as part of the change of use.***
- (b) *contravene a condition attached to a permission under the Act, **The development would not contravene a condition attached to a previous permission.***



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- (c) *be inconsistent with any use specified or included in such a permission, or The development would not be inconsistent with a use specified or included in previous permissions.*
- (d) *be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned." The existing use is authorised as per Reg. Ref. 91A/2087.*

Class 2 of Part 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) includes:

- (a) *professional services (other than health or medical services),*
- (b) *any other services (including use as a betting office),*

*where the services are provided principally to visiting members of the public.*

The existing and proposed uses are both considered to fall under Class 2 and therefore are both within the same class of use. Given this and that the development meets the requirements of Article 10 (1), it is considered to be exempted development. It should be noted by the applicant that works to facilitate the change of use, including external works (e.g. signage) may still be subject to planning permission.

### 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.

*jjohnston*

Jim Johnston

Senior Executive Planner



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**ORDER:** That the applicant be informed that the proposed development of:  
**-Conversion from vacant estate agents showroom and offices to interior design showroom and offices at 51 Village Court, Butterfield Avenue, Dublin 14**  
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:**

22/4/21

  
**Eoin Burke, Senior Planner**

