

Comhairle Chontae Atha Cliath Theas

PR/1521/21

Record of Executive Business and Chief Executive's Order

Register Reference:	ED21/0053
Correspondence Name & Address:	Richard McGrath Architectural Services 15, Cremore Road, Glasnevin, Dublin 11
Development:	Proposed single storey extension to rear (25.98sqm) also garden room to rear garden.
Location:	28, Larkfield Avenue, Lucan, Co. Dublin
Applicant:	Mr Niall Gibbs

(DF)

Description of Site and Surroundings:

The site contains a 2-storey detached dwelling with a pitched roof and rear garden located within an existing residential area. The house does not appear to have been previously extended. The streetscape is characterised by dwellings of a similar form and character. An existing wooden shed has been constructed and is located in the rear garden.

Proposal

This is an application requesting a Section 5 Declaration on whether the proposed development is or is not exempted development. The development is described in the submitted documentation as follows:

- Proposed single storey extension to rear (25.98sqm) also garden room to rear garden.

This Section 5 Declaration application includes:

- Application form
- Site location map
- Floor plans, elevations, and site layout (existing and proposed) drawings

An assessment of the submitted drawings indicate that the following is sought exemption for:

1. A single storey rear extension measuring 25.98sqm, attached to the rear of the existing dwelling. The extension will be provided with a flat roof and have an overall height of 3.43m. The extension will project 3.05m from the existing rear building line.
2. A garden room in the rear garden measuring **19.4sqm** gross (15.75sqm internally) and 3m in height with a stated use for storage and shed/gym.
 - The proposed site layout plan submitted states the remaining rear amenity space to be 70sqm.

Recent Relevant Planning History:

S99A/0108: *Planning Permission granted subject to conditions*

Comhairle Chontae Atha Cliath Theas

PR/1521/21

Record of Executive Business and Chief Executive's Order

Proposal: For 39 detached and semi-detached houses in two stories being phase 2 of an overall development (phase 1 is under construction). No relevant conditions attached.

Recent Relevant Enforcement History:

None traced to subject property

Zoning and Council Policies:

The subject site is subject to zoning objective RES - *'To protect and / or improve Residential Amenity'* in the South Dublin County Development plan 2016-2022.

Assessment

Consideration as to whether a development constitutes exempted development or not is governed by Sections 2, 3, 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) of the Planning and Development Act 2000 (as amended) states that 'development' means *'... 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, comprising **construction** and **extension** constitutes '*works*' and therefore constitutes '*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'*.

Ground Floor Extension

Under **Part 1 Schedule 2** of the *Planning and Development Regulations, 2001* as amended, certain categories of domestic extensions are identified as exempted development. This is headed *'Development within the curtilage of a house'*. The proposed development is within the curtilage of a house.

The type of domestic extension that is exempted development is specified as **Class 1** as follows:

Comhairle Chontae Atha Cliath Theas

PR/1521/21

Record of Executive Business and Chief Executive's Order

“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 of the house.”

This class is subject to conditions and limitations. The proposal is assessed against these conditions/limitations below.

1. (a) **Where the house has not been extended previously**, the floor area of any such extension shall not exceed 40 square metres. **The ground floor extension is 25.98m².**

(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. **N/A**

(c) Subject to paragraph (a), **where the house is detached**, the floor area of any extension above ground level shall not exceed 20 square metres. **N/A**

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 ground floor extension is 25.98m², with no previous extension.**

(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres. **N/A**

(c) Subject to paragraph (a), **where the house is detached** and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres. **N/A**

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

- **Not applicable as single storey proposal only.**

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

(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 side walls 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 the eaves or parapet, as may be

Comhairle Chontae Atha Cliath Theas

PR/1521/21

Record of Executive Business and Chief Executive's Order

appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

- **The rear wall of the house does not include a gable and the proposed walls of the proposed single storey extension does not exceed the height of the rear wall of the house. The flat roofed extension does not exceed the height of the eaves or parapet.**

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 remaining rear amenity space will be in excess of 25sqm.**

6. (a) *Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces. **Rear facing glazing only in excess of 1m from rear boundary. No side gable windows proposed.***

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

(c) *Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces. N/A*

7. *The roof of any extension shall not be used as a balcony or roof garden. **The drawings submitted show that a roof terrace or balcony is not proposed.***

Rear Shed Structure

Under **Part 1 Schedule 2** of the *Planning and Development Regulations, 2001* as amended, certain categories of shed structures are identified as exempted development. This is headed '*The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure*'. The proposed development is within the curtilage of a house.

The type of domestic extension that is exempted development is specified as **Class 3** as follows:

1. *No such structure shall be constructed, erected or placed forward of the front wall of a house. **The shed/gym is located in the rear garden.***

2. *The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.*

The area of the shed/gym is stated to be 15.75m², the gross floor area is 19.4sqm (3.93mx4.93m). The existing wooden shed, present in the rear garden, has not

Comhairle Chontae Atha Cliath Theas

PR/1521/21

Record of Executive Business and Chief Executive's Order

been indicated on the drawings and therefore the gross floor area cannot be measured. Additional Information is required. The applicant should note that all structures constructed in the rear garden of a property should have a maximum gross floor area of 25sqm.

3. *The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres. The rear amenity space is in excess of 25sqm.*

4. *The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house. The drawing submitted outlines external render to match existing.*

5. *The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres. The flat roof structure is 3m in height.*

6. *The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such. The use is intended for storage and a gym.*

Conclusion:

Having regard to the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended), it is considered that the proposed development may constitute exempted development, however, further information is required.

Recommendation:

The applicant should be requested to submit the following additional information:

The area of the shed/gym is stated to be 15.75m², the gross floor area is 19.4sqm (3.93mx4.93m). For structures in the rear garden, gross floor area is the means for calculation. The existing wooden shed, present in the rear garden, has not been indicated on any of the submitted drawings and therefore the gross floor area cannot be measured. The applicant is requested to submit details of all existing and proposed structures in the rear garden and clearly state gross floor areas of each structure.

The applicant should note that all structures constructed in the rear garden of a property should comply with Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.

Further Information

- Further Information was requested on 24-August 2021.
- Further Information was received on 2-November 2021.

Comhairle Chontae Atha Cliath Theas

PR/1521/21

Record of Executive Business and Chief Executive's Order

Further information requested is as follows:

The area of the shed/gym is stated to be 15.75sq.m, the gross floor area is 19.4sq.m (3.93m x 4.93m). For structures in the rear garden, gross floor area is the means for calculation. The existing wooden shed, present in the rear garden, has not been indicated on any of the submitted drawings and therefore the gross floor area cannot be measured. The applicant is requested to submit details of all existing and proposed structures in the rear garden and clearly state gross floor areas of each structure. The applicant should note that all structures constructed in the rear garden of a property should comply with Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.

Further Consultations:

- *None*

Assessment

In response to the AI request the applicant has stated the following

'The revised drawings show the location of existing timber garden shed to the rear garden measuring 3.05m x 1.8m. Drawing 1/02 shows the elevations and floor plan of the existing gardens shed (5.49sq.m).

It is proposed to permanently remove the existing timber garden shed from the site should this application prove successful. The existing garden shed is not fit for purpose as a storage shed going forward and it is intended to replace its use with the storage compartment within the proposed new detached structure within the rear garden as shown in the original drawing (gymnasium and storage).'

Notwithstanding the applicant's statement that the existing shed will be removed 'should this application prove successful', the Planning Authority, within an exempted development application assessment, can only consider what is currently on site and what is proposed in their deliberation and the making of the decision. The floor area of the proposed garden room measuring **19.4sq.m** and the existing garden shed measuring **5.49sq.m** combined would be **24.89sq.m** structures. This floor area would not exceed the maximum square metres and therefore both the proposed garden shed and the existing shed would be deemed to be exempt under Class 3 of Part 1 of Schedule 2.

Conclusion

Having regard to the drawings and details submitted with this application, which have been assessed against the Planning and Development Act 2000 (as amended), and the Planning and Development Regulations 2001 (as amended), the proposed:

- Single storey extension to rear (25.98sq.m) and
- Garden shed and existing shed (as detailed in the documentation submitted), are deemed to be development and are deemed to be exempted development.


Comhairle Chontae Atha Cliath Theas

PR/1521/21

Record of Executive Business and Chief Executive's Order

Recommendation

I recommend that the applicant be informed that the proposed development is deemed to be development and is deemed to be exempted development and therefore would not require planning permission.


Tracy McGibbon,
A/Senior Executive Planner

Comhairle Chontae Atha Cliath Theas

PR/1521/21

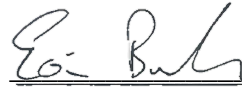
Record of Executive Business and Chief Executive's Order

Register Reference: ED21/0053

Location: 28, Larkfield Avenue, Lucan, Co. Dublin

ORDER: That the applicant be informed that the proposed development of: **single storey extension to rear (25.98sq.m) also garden room to rear garden at 28, Larkfield Avenue, Lucan, Co. Dublin** 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: 22/11/2021



Eoin Burke, Senior Planner