

Comhairle Chontae Atha Cliath Theas

PR/0450/22

Record of Executive Business and Chief Executive's Order

Register Reference: ED22/0002
Correspondence Name & Address: Matt Ward 49, Beech Grove, Lucan, Co. Dublin, K78 YE93
Development: Demolition of existing Brick coal shed & Kitchen annex to rear of property
Location: 49, Beech Grove, Lucan, Co. Dublin
Applicant: Matt Ward & Wendy Bourke Ward

(EW)

Description of Site and Surroundings:

The subject site is located at No 49 Beech Grove, Lucan, Co. Dublin and contains an existing two storey, detached dwelling with front and rear garden. The streetscape is characterised by two storey, semi-detached dwellings with front and rear gardens.

Zoning:

The site is zoned 'RES' as per the South Dublin County Council Development Plan 2016-2022, the objective for which is '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;

- Demolition of existing Brick coal shed & Kitchen annex to rear of property

Development details as per application form :

- (a) area of site: 279.1sq.m
- (b) floor area of existing extension: 3.5sq.m
- (c) floor area of proposed development: remove 3.5sq.m
- (d) area of rear garden remaining stated as 107.5sq.m

This Section 5 Declaration application includes:

- Application form
- Site location map
- Site layout plan
- Floor Plans
- Sections
- Elevations

Relevant Planning History:

None recorded.

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PR/0450/22

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Pre-Planning

None recorded.

Relevant Enforcement History

None.

Assessment:

Consideration as to whether a development constitutes exempted development or not is governed by Sections 3, 4 and 5 of the Planning and Development Act 2000 (as amended) and Part 2 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?

Section 2(1) of the Planning and Development Act 2000 (as amended), states, '**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 situate

'**use**' in relation to land, does include the use of the land by the carrying out of works thereon

Section 3(1) defines '**development**', except where the context otherwise requires, 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*'.

It is considered that the proposal, which would involve the **demolition** of a rear coal shed and kitchen annex building, constituting '**works**' and is therefore deemed to be '**development**'.

Is the proposal exempted development?

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.

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CLASS 50

- (a) The demolition of a building or other structure, other than—
- (i) a habitable house,
 - (ii) a building which forms part of a terrace of buildings, or
 - (iii) a building which abuts on another building in separate ownership.
- (b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.

The plans submitted indicate that the part of the building “*rear coal shed and kitchen annex building*” are proposed to be **demolished** and would be 3.5sq.m. As the amount proposed is not over 40 sqm the intended demolition is considered to comply with Class 50.

- *Class 50- The demolition of a building, or buildings within the curtilage of a house - Exempted Development-General, Part 1 of Schedule 2, Planning & Development Regulations, 2001 (as amended)*

1. *No such building or buildings shall abut on another building in separate ownership.*

Having regard to the drawings submitted the dwelling does abut on another building in separate ownership. From an aerial view of the subject property; there appears to be a shared roof with No. 48 Beech Grove, which would have to be made good to facilitate the demolition. The proposal does not comply with this condition.

2. *The cumulative floor area of any such building, or buildings, shall not exceed:*
 - (a) *in the case of a building, or buildings within the curtilage of a house, 40 square metres, and*
 - (b) *in all other cases, 100 square metres.*

The plans submitted indicate that the part of the building “*rear coal shed and kitchen annex building*” are proposed to be demolished and would be 3.5sq.m. As the amount proposed is not over 40 sqm the intended demolition is considered to comply with Class 50.

With regard to Class 50 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) the dwelling does abut on another building in separate ownership (No. 48 Beech Grove) and this would not be considered exempted development.

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PR/0450/22

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Article 9 Restrictions

It is noted that the proposed development would be constrained by the restrictions on exempted development detailed in Article 9 of the Planning and Development Regulations 2001(as amended).

Conclusion:

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

Colm Harte
Colm Harte
Senior Executive Planner

ORDER: That the applicant be informed that the proposed development of Demolition of existing Brick coal shed & Kitchen annex to rear of property at 49, Beech Grove, 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 docs require planning permission.

Date

6/4/22

Eoin Burke
Eoin Burke, Senior Planner