

Comhairle Chontae Atha Cliath Theas

PR/0700/22

Record of Executive Business and Chief Executive's Order

Register Reference: ED22/0011
Correspondence Name & Address: Peter Kavanagh 77, Lower Camden Street, St. Kevin's, Dublin 2
Development: Single Storey Extension to rear
Location: 18, Hallwell Road, Adamstown, K78A9R9
Applicant: Sab John & Pinky Aprem

Description of Site and Surroundings

The subject site is located within the Adamstown Strategic Development Zone in a residential development known as 'Hallwell'. The site is comprised of a 2 No. storey semi-detached dwelling. The surrounding streetscape is generally characterised by semi-detached dwellings of similar form and appearance.

Zoning

The subject site is subject to zoning objective SDZ - 'To provide for strategic development in accordance with approved planning schemes. The subject site is located within the Adamstown Strategic Development Zone.

Proposal

This Section 5 Declaration application includes:

- Application Form.
- Site Location, Plans and Elevations Drawing.

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

- The provision of a ground floor single storey extension to rear, providing a sunroom and bedroom/study with a Gross Floor Area of 31 sq m.
- It is noted the single storey rear extension will be built to the boundary with the adjoining properties of No. 16 Hallwell Road, Adamstown. The proposed extension will project outwards from the main rear building line by approximately 10.82m and will span a maximum width of c.3.06m. It will have a parapet height of c.2.46m with the pitched roof portion rising to a maximum height of c.3.73m.

This Section 5 Declaration did not include:

- A complete set of existing floor plans (first floor level and attic level)

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Relevant Planning History

SDZ17A/0006 - 176 residential units including 329 car parking spaces and all site development works including the development of new internal roads and footpaths, site access, pedestrian and cyclists facilities, public open space with a total area of 0.31 hectares, landscaping, foul and surface water drainage and boundary walls and fences. Private and semi-private open space to serve the proposed units will be provided in the form of balconies, patios and gardens. The development will also comprise of a new section of Adamstown Drive Road (approximately 180 metres in length) which will provide access to serve the residential development. The new proposed road section will extend from a section of Adamstown Drive permitted under Reg Ref No: SDZ16A/0003 which connects to Dodsboro Road/Tandy's Lane in the east. The new section of Adamstown Drive will make provision for vehicular traffic, bus services, on street parking and separated cycle track and footpaths. The site will be accessed via an access point in the south of the application site off Adamstown Drive. The development consists of 122 houses (semi-detached, terraced and town) and 54 apartments (Block E and F), to be provide as follows: (i) 20 4-bed, semi-detached houses, 133sq.m GFA (Type A); (ii) 23 4-bed, 3 storey town houses, 154sq.m GFA (Type B); (iii) 39 3-bed terraced houses, 116sq.m GFA (Type C); (iv) 40 3-bed terraced houses, 114sq.m GFA (Type D); (v) Apartment Block E containing 18 apartments including 4 1-bed apartments, 10 2-bed apartments and 4 3-bed apartments (123-140); (vi) Apartment Block F containing 36 apartments including 9 1-bed apartments, 26 2-bed apartments and 1 3-bed apartments (141-176) all on a site located to the southeast of Tubber Lane Road and in the northeast of the Adamstown SDZ lands. This application relates to development within the Adamstown Strategic Development Zone (SDZ) and is subject to the Adamstown Planning Scheme 2014. This development has a total site area of 4.72 hectares and is located entirely within the boundary of Adamstown Strategic Development Zone. **SDCC Decision:** Grant Permission, subject to conditions.

Condition No. 23 attached to SDZ17A/0006 is of particular relevance:

'Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development described in Classes 1 or 3 of Part 1 of Schedule 2 to those Regulations shall take place within the curtilage of the houses without a prior grant of permission.'

SDZ18A/0005 - Amendments to residential development permitted under Reg. Ref. SDZ17A/0006 consisting of amendments to the permitted boundary treatment proposals and all ancillary works. **SDCC Decision:** Grant Permission, subject to conditions.

Pre-Planning Consultation

None recorded.

Relevant Enforcement History

None recorded.

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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, comprising **construction** of a rear extension, constitutes 'works' and is therefore deemed to be 'development'.

Is the proposal exempted development?

Under Part 1 Schedule 2 of the *Planning and Development Regulations, 2001* as amended, certain categories of development are identified as exempted development, including 'Development within the curtilage of a house'. The proposed development is within the curtilage of a house and a domestic extension would be considered for exemption under Class 1.

Condition No. 23 of SDZ17A/0006 states that:

'Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development described in Classes 1 or 3 of Part 1 of Schedule 2 to those Regulations shall take place within the curtilage of the houses without a prior grant of permission'.

Exempted development provisions were therefore removed by Condition 23 of SDZ17A/0006 (as amended by SDZ18A/0005). Article 9 outlines that development shall not be exempted development if the development contravenes a condition and as such, the proposed development is not considered as exempted development and does require planning permission.

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Conclusion

Having regard to Condition 23 of Planning Permission granted under Ref. SDZ17A/0006 (as amended by SDZ18A/0005) and Article 9 of the Planning and Development Regulations 2001 (as amended), which removed exempted development provisions, the proposed development requires planning permission and is not exempt.

Recommendation

The applicant should be written to and informed that the proposed development of an extension/structure in the form of a single storey rear extension constitutes (i) **development** and (ii) would **not constitute Exempted Development** and would therefore require planning permission under the Planning and Development Act 2000 (as amended).

Colm Harte

Colm Harte,
Senior Executive Planner

ORDER: That the applicant be informed that the proposed development of Single Storey Extension to rear at 18, Hallwell Road, Adamstown, K78A9R9 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: 9/06/22

Eoin Burke

Eoin Burke, Senior Planner