

Comhairle Chontae Atha Cliath Theas

PR/0701/22

Record of Executive Business and Chief Executive's Order

Reg. Reference: ED22/0010 Application Date: 05-May-2022
Application Type: Declaration of Registration Date: 05-May-2022
Exemption Section 5

Correspondence Name and Address: Tony Manahan, Manahan Planners 38, Dawson Street, Dublin 2

Proposed Development: The Installation of aluminium frame door & glazing above in keeping with what is there, to move presently recessed door to be flush with front of the building, similar to adjoining doors in the vicinity.

Location: Rosse Court Square, Balgaddy, Lucan, Co. Dublin

Applicant Name: Rosse Court Management Company, C/o Anderson Property Managers

(COS)

Description of Site and Surroundings

The subject site is located at Rosse Court Square in Balbaddy in Lucan. The site consists of a recessed entrance doorway on the western elevation of the building at this site. The building is three storeys in height with retail use at ground floor and residential apartments on the upper floors. The doorway provides access to the internal stair and lift cores for the residential apartments on the upper floors and to the courtyard in the centre of the building.

Proposal

This is an application requesting a Section 5 Declaration on whether *'the installation of aluminium frame door & glazing above in keeping with what is there, to move presently recessed door to be flush with front of the building, similar to adjoining doors in the vicinity'* at Rosse Court Square is or is not development and is or is it not exempted development.

The Section 5 Declaration application includes:

- Application form
- Cover letter (including photos)
- Site location map

Relevant Planning History

SD03A/0648

Phase I of a mixed use development scheme on a 4.4 hectare (10.9 acre) site, approximately, as part of an overall master plan (copy submitted herewith) for Stewarts Foundation Ltd. lands, at Balgaddy, North Clondalkin, Co. Dublin. The site is bounded principally by Balgaddy Road (to the north, Griffeen Avenue (to the east, and Lynch's Lane (to the south). The site is also bounded by the Stewarts Hospital lands to the south and west. A 1.9777 hectare portion of the site falls within a designated tax relief area.

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The development, with a gross floor area of 26,167sq.m., will consist of the following uses: residential (24,373sq.m.), (partially over a basement of 4,540sq.m. for residents parking of 130 no. cars and including cycle parking, plant, waste storage areas and ancillary uses); retail (1,324sq.m.); childcare facilities 471sq.m.); surface car parking for 272 cars.

The proposed development will necessitate: a new vehicular access point off Balgaddy Road; modifications to Balgaddy Road to provide a right turn lane and a declaration lane into the vehicular access; the provision of pedestrian and bicycle access off Balgaddy Road; provision of a pedestrian/cycleway through the site, hard and soft landscaping, including changes in level, public square, private enclosed courtyard areas and new boundary treatments, private children's play areas; plant areas (at basement and roof levels); and all other site development works above and below ground.

The residential element will consist of 268 dwelling units, consisting of: 14 no. one-bed apartments; 179 no. two-bed apartments; 73 no. three-bed duplex apartments and 2 no. four-bed duplex apartments. The proposal will consist of 5 contiguous buildings, from 3 to 4 storeys: Dwelling type A1-A9 (three storeys); Dwelling Type B1-B6 (three storeys); Apartment Block 1B-1G (four storeys), Apartment Block 1A and 1H (three storeys); Apartment Block 2A-2B (three storeys); Apartment Block 3(three storeys). **Permission granted.**

Relevant Enforcement History

None identified in APAS.

Zoning and Council Policies

The subject site is subject to zoning objective 'LC': *'To protect, improve and provide for the future development of Local Centres'* under the South Dublin County Council Development Plan 2016-2022.

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?

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) defines in this Act, except where the context 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 situate.

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It is considered that the alterations to the existing doorway would constitute 'works' and therefore 'development' having regard to the content of Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended).

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:

Section 4(1)(h) Exempted Development of the Planning and Development Act (as amended) states that the following is exempted development (emphasis added):

'development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures'.

The key question in this instance is whether the development would materially affect the external appearance of the building so as to render the appearance inconsistent with the character of the building or of neighbouring structures.

No drawings of the proposed development have been submitted, rendering it challenging to fully assess the proposal. The applicant states that they wish to pull the door forward to be flush with the front of the building. The current external area would become part of the existing internal hallway that the door leads to. They state that the new doorway would consist of a black aluminium framing on a glazed doorway, similar in appearance to the dark aluminium frames which frame the adjoining shopfronts.

It is considered that drawings of the proposed doorway are required to assist in determining whether the change is material and inconsistent in character. The applicant should be requested to submit adequate additional information to allow for a full assessment to be carried out. **This should be requested via additional information.**

There are no exemptions under Part 1 of Schedule 2 for the proposed works and development.

Article 9 Restriction on exemption

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

Environmental Impact Assessment and Screening for Appropriate Assessment

Section 4(4) of the Planning and Development Act 2000 (as amended), de-exempts development that would require an Environmental Impact Assessment or Appropriate Assessment. Having regard to the nature and scale of the development, and distance from sensitive receptors and Natura 2000 sites, it is not considered that there is a requirement for an Environmental Impact Assessment nor a Stage 2 Appropriate Assessment.

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Conclusion

Insufficient information has been submitted with the application, which has resulted in the Planning Authority being unable to fully assess and make a determination on whether or not the development is exempted development. Additional information should be sought in this regard.

Recommendation

I recommend that **Additional Information Requested** be requested from the applicant as follows:

1. Insufficient information has been submitted for the Planning Authority to fully assess the proposed development against Section 4(1)(h) Exempted Development of the Planning and Development Act (as amended). The applicant is therefore requested to submit scaled and dimensioned drawings of the proposed development, including floor plans, elevations and sections.

Colm Harte

Colm Harte,
Senior Executive Planner

ORDER: That **ADDITIONAL INFORMATION** be requested from the applicant as set out above and that notice thereof be served on the Agent/Applicant.

Dated: 09/06/2022

Eoin Burke

Eoin Burke, Senior Planner