

Comhairle Chontae Atha Cliath Theas

PR/0880/22

Record of Executive Business and Chief Executive's Order

Register Reference: ED22/0020
Correspondence Name & Address: Stephen Mason 2, Clonkeefy, Castlerahan, Ballyjamesduff, Co. Cavan
Development: Demolition of external walls to dwelling in addition to external walls being demolished as granted Planning Permission (SD21B/0504)
Location: 23, Newlands Park, Clondalkin, Dublin 22.
Applicant: David & Jessica Doherty

Description of Site and Surroundings

The subject site is located in Newlands Park in Clondalkin. The subject dwelling is a two-storey, semi-detached dwelling with a hipped roof profile, single storey rear extension (flat roof), attached side garage and first floor side extension over. The street is characterised by other similar residential dwellings with a mainly uniform building line.

Zoning

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.

Proposal

This Section 5 Declaration application includes:

- Cover Letter prepared by Stephen Mason Architectural and Planning Services dated 13th June 2022.
- Application Form dated 13th June 2022.
- Site Location Map.
- Site Location Plan.
- Contiguous Front Elevation (as existing)
- Contiguous Rear Elevation (as existing).
- Side Elevation (as Existing).
- Shed/Home Gym Floor Plans, Elevations and Sections (as existing).
- Elevations and Sections (as granted).
- Floor Plans (as granted).

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- Photomontage (indicating walls to be removed).

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

- The demolition of existing external walls to the front and rear of the existing dwelling.
- The re-construction of the external walls to the front and rear of the existing dwelling, with the same window openings and an insulated cavity (no external insulation required).

Relevant Planning History

SD21B/0504 - Demolition of previous flat roof rear extension; single storey mono pitched roof front extension (full width of existing house); single storey flat roof rear extension; conversion of existing garage to habitable use and internal alterations at ground and first floor levels; Attic conversion to include the reconfiguration of the side roof profile from hipped to half hipped and including dormer window structure within the rear roof slope ; rooflights within the front and rear slopes; detached single storey flat roofed shed/home gym building within the rear garden; all necessary ancillary site development works to facilitate this development. **SDCC Decision:** Grant Permission, subject to conditions.

Relevant Enforcement History

None recorded.

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.

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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 **demolition** of the first floor external walls to the front and rear of the dwelling and the re-**construction** of the walls with the same window openings, constitutes 'works' and is therefore deemed to be 'development'.

Is the proposal exempted development?

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

'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'. (Emphasis added).

In the case of the proposed development, which is comprised of demolition of the first floor external walls to the front and rear of the dwelling and the re-construction of the walls with the same window openings, the key question is whether the development would materially affect the external appearance of the structures so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

Having regard to the drawings provided by the Applicant and the proposed re-construction of the external walls at first floor level with the same window openings, it is considered that the proposed development would not constitute a material change to the external appearance of the building which would render the appearance inconsistent with the character of the structure and neighbouring structures and would therefore be considered exempted development.

The proposed works are not listed within any of the classes within Part 1 of Schedule 2 – Exempted Development – General of the Planning and Development Regulations (as amended). As such the restrictions on exemption set out in Article 9 of the Regulations (as amended) do not apply in this case.

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

The proposed development is considered to constitute development by virtue of the nature of the works proposed. The proposed development is considered to be exempted development as it complies with the conditions and limitations set out within Section 4(1)(h) of the Planning and Development Regulations, 2001 (as amended).

Recommendation

The applicant should be written to and informed that the proposed development is considered to be development and exempted development and therefore would not require planning permission.




Caitlin O'Shea,
Executive Planner

ORDER: That the applicant be informed that the proposed development of:

Demolition of external walls to dwelling in addition to external walls being demolished as granted Planning Permission (SD21B/0504) at 23, Newlands Park, Clondalkin, Dublin 22.

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: 13/7/22



Eoin Burke, Senior Planner