

# Comhairle Chontae Atha Cliath Theas

PR/0869/22

## Record of Executive Business and Chief Executive's Order

<b>Register Reference:</b>	ED22/0018
<b>Correspondence Name &amp; Address:</b>	GWA 145, Benmadigan Road, Drimangh, Dublin 12
<b>Development:</b>	Recycling bin enclosure utilising one designated car parking space to creche; Provision for Louvre feature panel wall for visitor buggy temporary storage; Provision for signage creche logo; Provision for zinc fascia and soffit to entrance to match existing finishes; Provision for safety Louvre enclosure to air to water unit.
<b>Location:</b>	35 Dodderbrook Rise, Dodderbrook, Oldcourt, Co. Dublin
<b>Applicant:</b>	Tigers Childacre

(AOCM)

### Description of Site and Surroundings

The subject site comprises a recently constructed two-storey creche, forming part of the larger Dodderbrook estate, originally granted under SD17A/0121. The unit is located on a corner site, at the confluence of Dodderbrook Rise and Dodderbrook Avenue.

### Proposal

This is an application requesting a Section 5 Declaration on whether the proposed development is or is not exempted development. The development consists of provision of a recycling bin enclosure, buggy temporary storage with louvre feature panel wall, signage, zinc fascia and soffit to entrance and provision of a louvre enclosure for an air to water unit.

The Section 5 Declaration application includes:

- Cover Letter
- Application form
- Site location map
- Proposed floor plans
- Proposed elevations

### Recent Relevant Planning History

**SD17A/0121:** Residential development consisting of 133 dwellings and a crèche on a site area of 4.64 hectares (11.4ac) located south of Oldcourt Cottages and north of the ESB wires in the townland of Bohernabreena, Oldcourt, Ballycullen. Access to the development will be via an adjoining residential development known as Dodderbrook (permitted under Reg. Ref. SD14A/0180) which is accessed from Oldcourt road. The development is in accordance with the Ballycullen Oldcourt Local Area Plan 2014 (being amended). The proposed development is comprised of: 3 x 4 bed, 2 storey detached houses, 90 x 3 & 4 bed, 2 storey semi-detached houses, 27 x 3 bed, 2 storey terraced houses and 6 x 3 bed duplexes with 3 x 2/3 bed duplex apartments in a 3 storey building and 4 x 2 bed apartments over 2 floors and a 2 storey crèche (423sq.m). The proposed development

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also includes all associated site development and infrastructural works, surface water with attenuation, piped and wired services, car parking, open spaces and landscaping etc.  
**Permission granted by SDCC and upheld by ABP.**

### Recent Relevant Enforcement History

There is no record of enforcement history for the site.

### Zoning and Council Policies

The subject site is subject to zoning objective 'RES-N' - *'To provide for new residential communities in accordance with approved area plans.'*

### 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 Schedule 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) in this Act, except where otherwise requires –

*'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.

*'use'* in relation to land, does not include the use of the land by the carrying out of any works thereon.

It is considered that the bin storage, additional 4.7sqm buggy storage area, signage and other works changes do constitute development as they represent the carrying out of work.

#### Is the proposal exempted development?

The Declaration seeks exemption for a number of different items. For ease, these items have been grouped under relevant headings.

#### *Bin Storage*

Neither the Act nor the Regulations provide any exemption for the removal of car parking/change of use to bin storage. Car parking has been provided for the entire development under SD17A/0121 and it is not clear from the information provided what unit the bin storage is required for, what unit the car parking space is assigned to and what impact there could be on the general parking quantum for the whole site. It is also noted that the red line of the site does not extend over the car parking space where bin storage is proposed.

The applicant states that the car parking space is allocated to the creche however, the documentation submitted under SD17A/0121 states the creche has only 2 parking spaces and a set down area provided.



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There is no provision in the Regulations to allow for the change of use of an allocated car parking space to bin storage. This is considered to be a material change of use. Car parking in the development was designed and permitted based on SDCC standards and any change would require an assessment of the potential impact on the wider scheme.

These works are therefore not considered to be exempt and would require assessment via planning application. In considering any future application for these works, the applicant would need to make clear the ownership of the car parking space and ensure this area is covered by the relevant red or blue line boundaries, and a letter of consent provided if not in the ownership of the applicant.

### *Buggy Storage and Entrance Alterations*

It is not clear from the application under which class of development exemption for the buggy store and entrance alterations are sought under. The applicant states that a louvre feature wall panel is proposed for visitor buggy temporary storage, in addition to a zinc fascia and soffit over the entrance. These two items would enclose an area previously open at the entrance to the building, creating a permanent storage area, with separate door, in front of the main entrance to the creche. The applicant has not sought an exemption for the resulting 4.7m<sup>2</sup> storage area, rather the external finishes that would combine to create it.

Section 4(h) of the Planning and Development Act 2000, as amended, exempts:

*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]*

On review of the permitted and proposed floor plans and elevations, it appears that other alterations have been made, or are proposed to be made, including the alteration of the location of main entrance door and window at the part of the building where the store is proposed, and alterations to fenestration on the northern elevation. It is considered that the works proposed *would 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*, separately and in combination with the other elevational changes for which exemption has not been sought under this application.

These works are therefore not considered to be exempt.

### *Air to Water Heat Pump*

Schedule 2, Part 1, Class 56(h) of the Planning Regulations states '*The installation on or within the curtilage of a business premises or light industrial building, or any ancillary buildings within the curtilage of such a premises or building, of a ground source heat pump system (horizontal and vertical) or air source heat pumps.*' The applicant has not sought to clarify if the air to water heat pump is exempt however, the Planning Authority would be satisfied that the installation of the air to water heat pump is exempt development if the conditions and limitations stated in Column 2 of Class 56(h) are complied with.

This application is seeking to provide an enclosure around the air to water heat pump. There is no specific exemption in the Act or the Regulations for these works and the enclosure is therefore not considered to be exempt and would require assessment via planning application.



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### *Signage*

Signage is proposed on the south and west elevation. Signage comprises writing stating 'TIGERS Childcare' and a circular logo. Part 2 of Schedule 2 of the Regulations provides criteria for exempt development relating to advertisements. The sign on the south elevation would come under the provisions of Class 1 of Part 2, while the sign on the west elevation would come under the provisions of Class 5 of Part 2, as this sign is above an entrance.

Class 1 of Part 2, of the Regulations states that '*Advertisements (other than those specified in classes 2, 3 or 5 of this Part of this Schedule) exhibited on business premises, wholly with reference to the business or other activity carried on or the goods or services provided on those premises*' are exempt. The relevant conditions and limitations relating to Class 1 are as follows:

2. *The total area of such advertisements exhibited on or attached or affixed to any face of a building on the premises other than the front thereof shall not exceed 1.2 square metres and the total area of any such advertisements on such face which are illuminated shall not exceed 0.3 square metres*
4. *(b) No part of any such advertisement which is exhibited on or attached or affixed to a building on the premises shall be more than 4 metres in height above ground level.*
8. *No such advertisement shall contain or consist of any symbol, emblem, model, logo or device exceeding 0.6 metres in height or any letter exceeding 0.3 metres in height*

The signage on the south elevation comprises 3 elements that are read as one and therefore are assessed as being one sign. The south elevation is considered to be the side of the building, as the address of the creche is Dodderbrook Rise, and the southern elevation is located on Dodderbrook Avenue. The overall signage has an area of 3.033sqm. The sign is also located on the first floor of the building, in excess of 4m above ground level. The tiger circular logo is in excess of 0.6m in height. No details of illumination or materials have been provided. The signage therefore does not adhere to the relevant conditions and limitations of the Class 1 exemption.

Based on the above, the signage on the south elevation is not considered to be exempt.

Class 5 of Part 2 of the Regulations exempts '*Advertisements, exhibited at the entrance to any premises, relating to any person, partnership or company carrying on a public service or a profession, business or trade at the premises.*' The relevant conditions and limitations of Class 5 are as follows:

1. *No such advertisement shall exceed 0.3 square metres in area.*
2. *Not more than one such advertisement, or, in the case of premises with entrances on different road frontages, one such advertisement for each such frontage, shall be exhibited in respect of each such person, partnership or company on the premises.*

The sign on the west elevation would be located directly above the entrance, the only sign proposed on this elevation. This sign is 1.33 sq.m, 1 sq.m in excess of the maximum exemption under Part 2 Class 5. This sign is therefore not considered to be exempt.

### **Conclusion**

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The works proposed are considered to constitute development. It is not considered that the works proposed would be exempted development having regard to the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

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### Recommendation

The applicant should be written to and informed that the proposed development 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).

  
Mm Johnston,  
Senior Executive Planner

**ORDER:** That the applicant be informed that the proposed development of Recycling bin enclosure utilising one designated car parking space to creche; Provision for Louvre feature panel wall for visitor buggy temporary storage; Provision for signage creche logo; Provision for zinc fascia and soffit to entrance to match existing finishes; Provision for safety Louvre enclosure to air to water unit. at 35 Dodderbrook Rise, Dodderbrook, Oldcourt, 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 **does require** planning permission.

Date: 11/2/22

  
Eoin Burke, Senior Planner