

Comhairle Chontae Atha Cliath Theas

PR/0922/22

Record of Executive Business and Chief Executive's Order

Reg. Reference: ED22/0022 **Application Date:** 23-Jun-2022
Application Type: Declaration of **Registration Date:** 23-Jun-2022
Exemption Section 5

Correspondence Name and Address: David Ryan & Leann Murphy 21, Elderheath Crescent,
Tallaght, Dublin 24

Proposed Development: Proposal of two small Velux windows at front of house
due to Solar panels located at rear of house.

Location: 21, Elderheath Crescent, Tallaght, Dublin 24

Applicant Name: David Ryan & Leann Murphy

(COS)

Description of Site and Surroundings

The subject site is located on Elderheath Crescent in Tallaght. The site consists of a two storey, semi-detached dwelling. The streetscape consists of housing of a similar form and character.

Proposal

This is an application requesting a Section 5 Declaration on whether 'two small velux windows at front of house' at No. 21 Elderheath Crescent is or is not development and is or is it not exempted development.

The Section 5 Declaration application includes an application form. No drawings have been submitted.

Relevant Planning History

SD12A/0168 & SD12A/0168/EP

A residential development comprised of 328 no. dwellings and a crèche on a site of 12.23 hectares. Access to the development is via 2 no. vehicular access points from Killinarden Heights and 1 no. realigned vehicular access point from Deerpark Place, off Kiltipper Road, including modifications to existing car parking and incidental open space at the entrance. The proposed development is comprised of: 5 no. 3 & 4 bed 2 storey detached houses, 15 no. 3 bed detached bungalows, 12 no. 4 bed 2 storey semi-detached houses, 121 no. 3 bed 2 storey semi-detached houses, 8 no. 3 bed semi-detached dormer houses, 163 no. 2 & 3 bed 2 storey terraced townhouses, 4 no. 2 bed apartments in 1 no. 2 storey block and a crèche (445sq.m.) in a two storey building, all located south of Killinarden Heights, northwest of Kiltipper Road and west of Deerpark Estate. The lands are subject to an existing permission (Reg. Ref. SD07A/0013) with Phase 1 currently being developed, known as Elder Park. The development includes all associated site development and infrastructural works, car parking, open spaces, landscaping and makes provision for Dublin City Council watermains to the north and ESB reservation to the south. **Permission granted.** Extension of duration for this permission granted.

Comhairle Chontae Atha Cliath Theas

PR/0922/22

Record of Executive Business and Chief Executive's Order

SD07A/0013 & ABP Ref. PL06S.226195

A residential development having a total of 519 dwellings plus a creche, retail unit and neighbourhood units. The dwelling units consist of 188 no. 3 bed semi-detached and terraced houses, 72 no. 3 bed dormer bungalows, 17 no. 4 bed houses, 70 no. 3 bed duplex units with 70 no. 2 bed apartments over, 84 no. 2 bed and 6 no. 1 bed apartments in 2 no. 3 storey blocks and 8 no. 2 bed and 4 no. 1 bed apartments in 2 no. 2 storey blocks and 1 no. 2 storey creche of 780 sq. m. and retail unit with neighbourhood use units over of 260 sq. m. all on a site circa 14.61 hectares (36.1 acres) at Killinarden, Tallaght, Dublin 24, located south of Killinarden Heights, north of Kiltipper Road and west of Deerpark Estate with two no. vehicular access points from Killinarden Heights opposite Donomore Crescent and one access point from Kiltipper Road via a proposed east/west Distributor Road and secondary access points from Deerpark Place and Deerpark Square. The development includes for all associated site development and infrastructural works, car & bicycle parking, bin storage, open spaces and landscaping with outfall drainage connections and services to and along Killinarden Heights with a foul sewer outfall extending north through Killinarden Park connecting into the existing foul sewer opposite Donomore Park Road. An Environmental Impact Statement has been submitted to the Planning Authority as part of this Planning Application. **Permission granted.** First party appeal against decision. Appeal withdrawn.

Relevant Enforcement History

None identified in APAS.

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'* 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.

It is considered that the installation of velux windows 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).

Comhairle Chontae Atha Cliath Theas

PR/0922/22

Record of Executive Business and Chief Executive's Order

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):

*'(h) 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 house so as to render the appearance inconsistent with the character of the house or of neighbouring structures/houses.

No drawings of the proposed development have been submitted, rendering it challenging to fully assess the proposal. It is considered that drawings of the proposed windows are required to assist in determining whether or not the change is material and/or consistent 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.**

The installation of velux windows on the house is 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.

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:

Comhairle Chontae Atha Cliath Theas

PR/0922/22

Record of Executive Business and Chief Executive's Order

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 the following:
 - a. A scaled site location map with the site clearly outlined in red.
 - b. A scaled site layout plan including all existing structures on site.
 - c. Scaled and dimensioned drawings of the proposed development, including floor/roof plans, elevations and sections.

I recommend that **Additional Information Requested** be requested from the applicant with regard to the following:


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 the following:
 - a. A scaled site location map with the site clearly outlined in red.
 - b. A scaled site layout plan including all existing structures on site.
 - c. Scaled and dimensioned drawings of the proposed development, including floor/roof plans, elevations and sections.



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: 20/7/22



Eoin Burke, Senior Planner