



An
Bord
Pleanála

Inspector's Report ABP 304774-19.

Question

Whether the decorative works to the front elevation of the Royal Irish Yacht Club, Harbour Road, Dún Laoghaire is or is not development and is or is not exempted development.

Location

Royal Irish Yacht Club, Harbour Road, Dún Laoghaire, Co. Dublin.

Declaration

Planning Authority

Dún Laoghaire-Rathdown County Council

Planning Authority Reg. Ref.

4019

Applicant for Declaration

Royal Irish Yacht Club Board of Trustees.

Planning Authority Decision

Is not exempted development

Referral

Referred by

Royal Irish Yacht Club Board of Trustees

Owner/ Occupier

Royal Irish Yacht Club

Observers

None

Date of Site Inspection

8/10/19

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The Royal Irish Yacht Club is located in Dún Laoghaire Harbour. The yacht club property has a frontage onto Harbour Road. The building lies to the north of Dún Laoghaire railway station. Dún Laoghaire marina is situated to the north of the yacht club.
- 1.2. The club was founded in 1831. The clubhouse was designed by the Architect John Skipton Mulvany and the building was constructed in 1850. The building is single storey and features a flat roof. The main entrance addresses Harbour Road. The exterior of the building has a cement finish which is painted off-white. The front façade design features a colonnade comprising eight Ionic columns which forms the entrance portico. The subject painting of the exterior walls within the portico a blue-grey colour has been carried out.
- 1.3. The rear of the property addresses the marina and it is served by a terrace, supported by a substantial retaining wall, composed of hammer-dressed black stone, with cornice supported on cantilever blocks, surmounted by a parapet of granite.

2.0 The Question

- 2.1. Whether the decorative works to the front elevation of the Royal Irish Yacht Club, Harbour Road, Dún Laoghaire, specifically the painting of all walls within the entrance portico a blue-grey colour is or is not development and is or is not exempted development.

3.0 Planning Authority Declaration

3.1. Declaration

Dún Laoghaire-Rathdown Co. Council issued a declaration under Section 5 of the Planning and Development Act 2000, (as amended) on the 4th of June 2019 which concluded that the decorative works to the front elevation of the Royal Irish Yacht Club, specifically the painting of all walls within the entrance portico a blue-grey colour entailed “works” to a Protected Structure and so it constitutes “development”. It was concluded that under the provisions of Section 57(1) of the Planning and

Development Act, 2000 (as amended) that the painting of the walls within the entrance portico blue-grey colour is not exempted development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The subject works the application of paint to a Protected Structure was considered to be development. It was concluded that the works materially affected the character of the Protected Structure and therefore would not comply with the provision of Section 57(1) of the Planning and Development Act, 2000 (as amended).

3.2.2. Other Technical Reports

Conservation Division – It was considered that “the application of blue-grey paint within the entrance portico renders this section of the building inconsistent with the character of the remainder of the protected structure (which is otherwise painted white). It was concluded that “the painting of the walls blue-grey materially affects the architectural interest of the Protected Structure and therefore would not be considered exempted development.”

4.0 Planning History

PA Ref: 2209 – Repairs to roof stair enclosure, repairs to chimney, renewal of 4 no. rooflights and introduction of solar collectors at The Royal Irish Yacht Club, Harbour Road, Dun Laoghaire, Co. Dublin - A Protected Structure. The Planning Authority determined that the works were exempted.

PA Ref: 8506 – Renewal of the coverings of the original flat roof over central seven bays of seaward half of building, repair damage to the stair housing at roof level, to repair the chimneys and to carry out minor internal alterations at Royal Irish Yacht Club, Dun Laoghaire - A Protected Structure. The Planning Authority determined that the works were exempted.

5.0 Policy Context

5.1. Development Plan

The operative development plan for the site is the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022. This Plan shows the site as lying within an area that is the subject of Zoning Objective W, “To provide for waterfront development and harbour related uses.”

- RPS No: 458 – Royal Irish Yacht Club – Harbour Road, Dún Laoghaire, Co. Dublin –Yacht Club House.

5.2. Architectural Heritage Protection, Guidelines for Planning Authorities, DoEHLG, 2011

- 5.2.1. Section 4.1.2 states – In relation to protected structures and proposed protected structures, the definition of ‘works’ in the 2000 Act is expanded from ‘construction, excavation, demolition, extension, alteration, repair or renewal’ to include ‘any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure’. Any or all of these works have the potential to materially affect the character of a protected structure.
- 5.2.2. Section 4.12.3 refers to Changes to the exterior appearance of walls, roofs or openings.
- 5.2.3. Section 8.4.18 refers to Painted facades - decorative or other painted façades, which contribute to the character of a protected structure or of an ACA, should be identified and protected.

5.3. Natural Heritage Designations

- 5.3.1. South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) is located circa 300m to the west.
- 5.3.2. South Dublin Bay SAC (Site Code 000210) is located circa 598m to the west.

6.0 The Referral

6.1. Referrer's Case

- The referrers submit that the subject decorative works are limited and are totally in keeping with the character of the structure.
- They submit that subject decorative works would not constitute a material alteration.
- The referrers submission includes a copy of the documentation which was provided with the Section 5 Referral to the Planning Authority. This includes an OS Map, elevations and floor plans.
- As detailed in the submission to the Planning Authority the subject painting has been carried out. They state that the painting has been carried out on a minor area which is recessed.

6.2. Planning Authority Response

- The Board is referred to the letter dates 1st of July 2019, enclosing correspondence regarding the appeal.
- The Planning Authority have no further comments.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000 (as amended)

7.1.1. Section 2(1) of the Act states the following:-

“In this Act, except where the context otherwise requires –

- ‘development’ has the meaning assigned to it by Section 3
- ‘works’ includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

7.1.2. Section 3(1) of the Act states the following:-

- “In this Act, ‘development’ means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or over land.”

Section 4 (1) sets out various forms and circumstances in which development is exempted development for the purposes of the Act, including Section 4(1)(h) relates to the carrying out of works for the maintenance, improvement or alteration of any structure which only affect the interior of the structure or which do not materially affect the external appearance so as to render it inconsistent with the character of neighbouring structures.

7.1.3. Legislation relating to works affecting the character of protected structures, including the right to request a Declaration from the Planning as to the type of works which it considers would or would not materially affect the character of a Protected Structure is provided within Section 57 of the Act.

7.1.4. Despite certain exemptions provided for under Section 4 of the Act, as discussed above, subsection 57(1) of the Act states that works to a Protected Structure would only be exempt if it would not materially affect the character of:

(a) the structure, or

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

8.0 **Assessment**

8.1. **Is or is not development**

8.1.1. Development is defined under Section 3(1) of the Planning and Development Act, 2000 (as amended) ‘means, except where the context otherwise requires, 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.’. Works is defined under Section 2(1) of the Act “...includes any or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application

or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.”

- 8.1.2. Therefore, having regard to Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended) it is considered that the painting of all walls within the entrance portico a blue-grey colour would constitute development under the above provisions of the Act.

8.2. Is or is not exempted development

- 8.2.1. “Section 57(1) provides for an exemption from the requirement to obtain planning permission for works which normally qualify for a planning exemption under section 4(1)(h) of the Act where; “...those works would not materially affect the character of;

(a) The structure, or

(b) Any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest”.

- 8.2.2. Such ‘work of alteration’ therefore constitute ‘development’ as defined under Section 3(1) of the Planning and Development Act 2000 as amended. The Referral Question is therefore whether such ‘development’ is or is not ‘exempted development’? Section 4(1)(h) of the Planning and Development Act 2000 as amended provides for ‘exempted development’ as follows:

“4(1) The following shall be exempted development for the purposes of this Act – ...

- (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.”

- 8.2.3. The Referrer’s submit that the subject decorative works to the front elevation of the Royal Irish Yacht Club, comprising the painting of all walls within the entrance portico a blue-grey colour is limited and that it is completely in keeping with the character of the structure.

8.2.4. As detailed in Section 4.12.3 of the Architectural Heritage Protection, Guidelines for Planning Authorities,

“Works which would materially alter the character of the exterior of a building may include the following:

a) *walls: comprehensive (as opposed to localised) repointing; repointing in a style or material other than the existing; removal of render; re-facing in an applied layer of masonry, brick, wood, plaster or paint; mortar repairs of brick or stone; damp-proofing of walls; cleaning of masonry; removal or relocation of decorative plaques; painting of any previously unpainted surface; addition of new masonry to a ruinous structure or removal of existing material;”*

8.2.5. Section 4.4.3 of the Guidelines refers to necessity to identify the composition, construction materials and the features that constitute the character and special interest of a Protected Structure. In the case of the subject Protected Structure the Royal Irish Yacht Club the main architectural interest is provided in the façade of the building. The entrance portico design features a colonnade comprising eight Ionic columns. There are eight windows located within the recessed exterior wall of the portico. Each window is visibly framed between two columns. The main entrance is situated in the centre between column no. 4 and no. 5. The eastern and western ends of the building are set forward 2.4m to enclose the sides of the portico. These ‘bookends’ of the building each contain a long window which is framed within two pairs of decorative ‘mock’ columns. These design features provide bilateral symmetry to the façade of the building.

8.2.6. I would be of the opinion that the uniform colour of the exterior of the building allows the architectural features as detailed above to be viewed cohesively as opposed to the emphasis being placed on features which have been painted a contrasting colour such as the subject blue-grey colour to the walls of the entrance portico. The simple neo-classical design aesthetic of the Victorian building is characterised by the uniformity of the exterior paint finish in an off-white colour pallet. This has been a historical and consistent characteristic of the exterior of the Royal Irish Yacht Club. Furthermore, this is also characteristic of other Victorian seafront properties within Dún Laoghaire many of which are Protected Structures. Accordingly, the painting of

the subject walls within the portico of the building in the contrasting blue-grey colour would materially alter the character of the exterior of the building.

- 8.2.7. In my opinion the works undertaken to the Protected Structure the subject of this Referral, further to Section 57(1) of the Planning and Development Act 2000 as amended, do not constitute 'exempted development' as these works to the Protected Structure, the Royal Irish Yacht Club 'materially affect the character of the structure', because the uniform off-white paint finish to the exterior of the building and specifically the front façade of the building is an element of the structure which contributes to its special architectural interest.

9.0 Recommendation

- 9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the decorative works to the front elevation of the Royal Irish Yacht Club, Harbour Road, Dún Laoghaire is or is not development or is or is not exempted development:

AND WHEREAS Royal Irish Yacht Club Board of Trustees requested a declaration on this question from Dún Laoghaire-Rathdown County Council and the Council issued a declaration on the 4th day of June, 2019 stating that the matter was development and was not exempted development:

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 26th day of June, 2019:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2, 3, 4 and 57 of the Planning and Development Act, 2000,

as amended,

- (b) Architectural Heritage Protection, Guidelines for Planning Authorities, Department of Environment Heritage and Local Government, 2011.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the works of painting of all walls within the entrance portico of the building a blue-grey colour constitute development which comes within the meaning of section 2(1) and section 3(1) of the Planning and Development Act, 2000, as amended,
- (b) these works might have come within the scope of Section 4(1)(h) of the Planning and Development Act, 2000,
- (c) such development would materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure, and would materially affect the character of the Royal Irish Yacht Club protected structure, the uniform off-white paint finish to the exterior is an element of the structure which contributes to its special architectural interest,
- (d) works have therefore been undertaken to a protected structure that materially affect the character of an element of the structure which contributes to its special architectural interest, and the subject works cannot therefore avail of any exemption provided for under the relevant legislation:
- (e) the said development does not, accordingly, come within the scope of section 4(1)(h) and section 57(1) of the Planning and Development Act, 2000, as amended.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred

on it by section 5 (3) (a) of the 2000 Act, hereby decides that the said works to the front elevation of the Royal Irish Yacht Club, Harbour Road, Dún Laoghaire, specifically the painting of all walls within the entrance portico a blue-grey colour is development and is not exempted development.

Siobhan Carroll
Planning Inspector

24th of October 2019