



An
Bord
Pleanála

Inspector's Report ABP-309500-21

Question	Whether the roof repair works comprising re-slating the side (east) aisle of the Church of the Assumption (a protected structure) is or is not development and is or is not exempted development.
Location	The Church of the Assumption Booterstown Avenue, Blackrock, Co. Dublin
Declaration	
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	125/20
Applicant for Declaration	Reverend Gerry Kane
Planning Authority Decision	Is development and is not exempted development
Referral	
Referred by	Reverend Gerry Kane
Observer(s)	None
Date of Site Inspection	11 th January 2022
Inspector	Phillippa Joyce

1.0 Site Location and Description

- 1.1. The referral site is located at the Church of the Assumption, Booterstown Avenue in Blackrock. The Church is part of a complex of religious buildings including the adjacent Parish Centre, Parochial House, and St. Anne's Convent. Access to the Church grounds is through a vehicular/ pedestrian entrance from the public road.
- 1.2. The Church structure is set back from the public road, to the west (rear) of the adjacent Parochial House, which directly addresses the street. The southern elevation (the front entrance) and eastern side elevation of the Church are visible from the public road entrance. Abutting the northern end of the eastern elevation of the Church is the Parish Centre, connected via a modern glazed extension.
- 1.3. The site comprises the eastern aisle of the Church structure, specifically the roof plane of the aisle. The aisle is a single storey element projecting from the main two storey Church structure, with a monopitch roof plane. The roof of the eastern aisle has been re-slatted, and these works are the subject of the referral case.

2.0 The Question

- 2.1. A question has arisen pursuant of section 5 of the Planning and Development Act 2000, as amended, as to whether the roof repair works comprising re-slating the side (east) aisle of the Church of the Assumption (a protected structure) is or is not development and is or is not exempted development.

3.0 Planning Authority Declaration

3.1. Declaration

- 3.1.1. Dún Laoghaire Rathdown County Council, in accordance with section 5 of the Planning and Development Act 2000 as amended, decided to issue a notification of declaration on 26th January 2021 stating that the development as described would constitute development and would not be exempted development.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The planner's report serves as the basis for the declaration decision, the main points of which include:

- Refers to enforcement case PA Ref. ENF 339/20 (opened September 2020) which relates to the re-slating works undertaken to the roof of the eastern aisle;
- Acknowledges while re-slating may have been required, the replacement slates are significantly different from the original slates in origin (Spanish), colour (strongly dark/ black), and size (larger);
- Works are considered to be of a significant nature and are not of a limited repair/ alteration only type of work; and
- Works have resulted in a material change to the character and appearance of the protected structure, and an alteration to the architectural interests of the structure, area or neighbouring structures.

3.2.2. Other Technical Reports

Conservation Officer report finds:

- Roof of the side aisle has not been repaired using traditional Welsh slate, but a much darker coloured slate indicated as being from Spain;
- Use of such slate is considered to be contrary to guidance in the Architectural Heritage Protection Guidelines for Planning Authorities and the Advice Series publication on a guide to the repair of historic roofs; and
- Works are considered to materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure.

4.0 Planning History

4.1. Referral Site History

PA Ref. D17A/0896: permission granted in December 2017 for development comprising external and internal alterations to the Parish Centre (principally), the Church and the Parochial House to provide for a new entrance, lobby area, rooms (meeting, multi-purpose, storage and lecture), facilities, and reopening previously

blocked up door on the east elevation of the Church. This permission has been implemented.

PA Ref. 105/16: exemption certificate issued in December 2016 in respect of the replacement of external wall render, repointing of lime mortar on walls, maintenance and repair of the main slated roof and rainwater goods, and replacement of glazing of the Church. These works have been implemented.

4.2. Previous Board References/ Referrals

No previous referrals were found to be of direct relevance to this referral case on the Board's database.

5.0 Policy Context

5.1. National Policy

- 5.1.1. The national policy context is determined by the section 28 ministerial guidelines, Architectural Heritage Protection Guidelines for Planning Authorities, 2004/ 2011, and supplemented by the Advice Series on Roofs: A Guide to the Repair of Historic Roofs, 2010 both published by the Department of Arts, Heritage, Regional, Rural, and Gaeltacht Affairs.

Section 28 Ministerial Guidelines

- 5.1.2. Chapter 4 Declarations and Chapter 9 Roofs contain applicable guidance for the referral case. The main points of which include:

- Changes to a roof that may affect the exterior appearance include works that would result in:
 - damage to, or removal of, original or early surviving chimneys;
 - damage or removal of natural slate roof covering;
 - replacement of existing structural elements, rainwater goods, coping stones, gable or eaves parapets;
 - addition of fascia boards or boxing in of eaves;
 - removal or reconstruction of features such as bell-cotes, crenellations, finials or any other feature of the roofscape; and

- the fitting or removal of rooflights.
- Special features of slate roofs that are worthy of protection include:
 - age, in particular slate roofs dating from the 18th century;
 - containing a design and/ or pattern; and
 - if slates are laid in graduated courses or are of unusual sizes; and
- Items to be considered in proposals affecting slate roofs include:
 - a justification for replacement;
 - the reuse of as many original slates as possible on prominent slopes;
 - that new materials should be compatible with existing ones in terms of colour, size, texture, thickness and durability; and
 - the use of concrete tiles and artificial slates (fibre-cement tiles) should not be permitted as weathering is very different to that of natural slates.

Advice Series

5.1.3. Supplementing the Architectural Heritage Guidelines is the Advice Series on Roofs. Chapter 5 Repairing a Historic Roof contains relevant advice for the referral case including the following:

- Acknowledges the rapid damage that can be caused to a building by loss of slates in the roof, and challenges sourcing exact matches for slates in the repairs work;
- Where 25-30% of slates have slipped and there is widespread failure of fixings, the more practical solution is a full re-slating of the roof;
- Materials should be used that match the original as closely as possible in terms of quality, appearance, and performance;
- Acknowledges that the use of the same quarry to source slate as originally used is not often achievable for practical reasons such as costs, and availability of material;
- Determination necessary of the most important roof characteristic to be maintained;

- Consideration to be given to the size, colour, or texture of the proposed slate in relation to the original slate; and
- Context of the building is relevant, whether it is within a terrace or a freestanding structure, and the rarity of the existing roofing material.

5.2. Local Policy

- 5.2.1. Under the Dún Laoghaire-Rathdown County Development Plan 2016–2022, the subject site is zoned ‘A – Residential’ with the objective ‘To protect and/ or improve residential amenity’.
- 5.2.2. The Development Plan’s Record of Protected Structures includes RPS No. 59, which cites the Church’s name and address, and under ‘description’ states ‘Church and Parochial House’.
- 5.2.3. The site is located within the Booterstown candidate Architectural Conservation Area (cACA) and is adjacent to the Pembroke Cottages Architectural Conservation Area (ACA).

5.3. Natural Heritage Designations

- 5.3.1. The referral site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA. There are no watercourses at or near the site.
- 5.3.2. The European Site designations in proximity to the referral site include (measured at closest proximity):
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is c. 412m to the north; and
 - South Dublin Bay SAC (site code 000210) is c.513m to the northeast.

6.0 The Referral

6.1. Referrer’s Case

- 6.1.1. The applicant’s referral of the planning authority’s declaration decision is accompanied by a conservation report prepared by a Grade 3 Conservation Architect. The main points raised in the referrer’s case include:

- Re-slating of the eastern aisle roof was a necessary repair to prevent damage to the Church from weather and water ingress, and to protect passers-by from falling slates;
- Original slates varied considerably in size, were in poor condition and only 15% were able to be salvaged (stored on site and could not be reused);
- Planning authority's declaration decision arises from concerns of the colour of the replacement slates (Conservation Officer) and the size of the slates (Planning Officer);
- Planning authority appears to have misunderstood references in the declaration documentation about the size and thickness of the replacement slates;
- These references were about the size and thickness of slates available within the range of replacement slates, and not a comparison with the original slates;
- The replacement slates are similar to the original slates in terms of average size, natural material, texture and grain;
- Not reasonable or realistic to expect that replacement slates necessary for urgent repair works would be an exact match for original building materials;
- Acknowledges that the replacement slates are of Spanish origin and are darker in colour than the original slates;
- Even if applicant had been able to source and afford Blue Bangor or Irish slates, these would have been different in appearance, colour and tone due to their being new;
- Replacement slates do vary in colour as slate is a natural material, are used only on a small area of the overall roof, and match with the majority of slates on the main roof;
- Disputes that the difference in colour of the replacement slates is sufficiently significant to materially change the character and appearance of the Church;
- In time, the colour of the slates will alter and fade through the weathering process;

- Reference made to guidance in the advice series publication (A Guide to the Repair of Historic Roofs, 2010) which acknowledges that roof coverings eventually require replacement, and that consideration can be given to sources such as those from Spain;
- Planning authority's decision is inconsistent with other similar cases; and
- Two declaration decisions (PA Ref. 7213 (St. Philip and St. James Church, Blackrock) and PA Ref. 11811 (Dalkey Dart Station)) are highlighted in which the planning authority declared that the replacement of roof materials of these protected structures was exempted development.

6.2. Planning Authority Response

- 6.2.1. No further comments have been made. A copy of the Conservation Officer report for the declaration is submitted.

7.0 Statutory Provisions

7.1. Planning and Development Act 2000, as amended

Section 2(1) – Interpretation

The following are relevant to the subject question:

protected structure means –

'(a) a structure, or

(b) a specified part of a structure,

which is included in the record of protected structures, and where that record so indicates, includes any specified feature which is within the attendant grounds of the structure and which would not otherwise be included in this definition'.

structure means –

'any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of any structure so defined and –

(a) where the context so admits, includes the land on, in or under which the structure is situate and

(b) in relation to a protected structure or proposed protected structure, includes

- (i) the interior of the structure,
- (ii) the land lying within the curtilage of the structure,
- (iii) any other structures lying within that curtilage and their interiors, and
- (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii)'

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'.

Section 3(1) - Development

In the Act, 'development' 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'.

Section 4(1) sets out development that is exempt from requiring planning permission.

4(1)(h) is relevant:

'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'.

Section 57(1) –

'Notwithstanding section 4(1)(a), (h), (i), (ia), (j), (k), or (l) and any regulations made under section 4(2), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if 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'.

7.2. Planning and Development Regulations 2001, as amended

There are no articles relevant for the referral case in the Planning and Development Regulations 2001, as amended.

8.0 Assessment

8.1. It should be stated at the outset of this assessment, that the purpose of the referral is not to determine the acceptability or otherwise of the re-roofing works in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development. Likewise, planning enforcement is a matter for the Planning Authority and does not fall within the jurisdiction of the Board.

8.2. Is or is not development

8.2.1. The proposal is described as roof repair works comprising the re-slating of the roof of the eastern side aisle of the Church. The works involve the removal of original Welsh Bangor slates and their replacement with Spanish slates mounted on new battens. The works are external to the Church structure, not visible from within the interior of the Church, and have been undertaken.

8.2.2. Having regard to section 2(1) and section 3(1) of the Planning and Development Act 2000, as amended, I consider that the removal of the original slates of the eastern aisle roof of the Church, a protected structure, and their replacement with new slates mounted on new battens, is development within the meaning of the Act.

8.3. Is or is not exempted development

8.3.1. The development, indicated by the applicant as urgent repair works necessary for the safety of passers-by and to prevent water ingress into the Church building, is consistent with the carrying out of works for the maintenance and/ or improvement of the Church structure. In this regard, I consider the works to the eastern aisle roof to be exempted development under section 4(1)(h) of the Act.

8.4. Restrictions on exempted development

8.4.1. Restrictions on the exemption arise from within section 4(1)(h) and from the additional provision of section 57(1) of the Act as the Church is a protected structure. The former states that maintenance/ improvement works are not exempt if these 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 latter states that maintenance/ improvement works to a protected structure are exempted only if these would not materially affect the character of the structure or any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest. As such, the key consideration for the referral case is whether the change of roof slates on the eastern aisle roof materially affects the external appearance and/ or the character of the Church.

Character of the Protected Structure

- 8.4.2. To determine the character of the Church and establish the materiality of the change associated with the re-roofing works, I have reviewed the available information from the planning authority. The RPS entry in the Development Plan (RPS Ref. 59, Appendix 4, pg. 5) cites only the Church's name and address, and under 'description' states 'Church and Parochial House'. There is no indication in the referral case documentation that a declaration for the protected structure has been prepared in accordance with section 57(3) of the Act. In the planning authority decision, the character of the protected structure or the elements of the Church that are considered to be of particular heritage value are not expressly specified or referred to.
- 8.4.3. I note that development has been undertaken at the Church and adjacent buildings in the recent past (see section 4.0 Planning History above). These include development (on foot of PA Ref. D17A/0896) of a new entrance and lobby area for the Parish Centre which abuts the northern end of the Church's eastern aisle. The monopitch roof of this lobby area is covered with the same slates as used in the re-roofing works on the Church's eastern aisle (the entrance has glazed roofing). Other development (on foot of PA Ref. 105/16) includes maintenance/ improvement works to the slated roof and rainwater goods of the Church's main roof. From the information provided with the referral and a review of the planning history available on the planning authority's website, it is my understanding that the main roof of the Church was re-slatted in 2017 using slates that are dark grey in colour, cooler and darker in colour than the original slates removed from the eastern aisle roof (which are warmer and dark grey/ purple in colour), and similar in colour and tone with the replacement slates. Available aerial photography (dating from April 2020, therefore

prior to the subject works being undertaken) indicates the difference in colour and tone between the main roof covering (with the installation of newer slates undertaken in 2017) and those of the aisles and adjacent buildings (with the original Welsh Bangor slates).

- 8.4.4. Having regard to the above, I consider the original roof covering of the eastern aisle to be only one aspect contributing to the character of the Church. Additionally, I consider the recent modifications made to the Church structure to be a relevant matter in determining the character of the Church and, by association, the materiality of the changes associated with the works subject of the referral case.

Materiality of the Changes associated with the Works

- 8.4.5. The planning authority reports focus on the differences between the original and replacement slates used on the eastern aisle roof in terms of origin (indicated as Spanish), colour (described as closer to black), and size (described as larger and thicker). There is no reference to or consideration of the Church's other roof planes, or those of adjacent structures. In any event, on the basis of a direct comparison between the original and replacement slates of the eastern aisle alone, the planning authority determines there to be a 'material change to the character and appearance of the protected structure, and an alteration to the architectural interests of the structure, area or neighbouring structures'.
- 8.4.6. The applicant disputes the reasons on which the decision is based, stating that the chosen replacement slates continue to be a natural slate material that will gradually change in tone through the weathering process, that the difference in colour is not sufficiently material to alter the character and appearance of the Church, and that there is not a significant difference in the size and thickness of the replacement slates to those of the original slates which were not of themselves uniform.
- 8.4.7. In my opinion, whether the works materially affect the character of the Church is dependent on a number of considerations. These include the scale of the change (what is the area of the altered roof as a proportion of the overall roof area); the nature of the change (have previous alterations been made to the overall roof, has the eastern aisle roof's form or profile been altered); the visual impact of the change (how evident and marked is the change); and the visual interpretation of the change (does the altered roof cause a change in the perception of use or function).

8.4.8. I propose to address each consideration in turn, and in so doing, I have had regard to the guidance in the Architectural Heritage Guidelines as supplemented by the Advice Series (see section 5.0 Policy Context above).

Scale of the Change

8.4.9. Regarding the scale of the change, from the available information I estimate the eastern aisle roof measures an area of c. 165 sqm. The remaining roof area comprises the western aisle roof of c. 137 sqm and the main roof of c. 348 sqm, yielding a total area of some 650 sqm. The eastern aisle roof constitutes approximately 25% of the Church's total roof area.

8.4.10. The Architectural Heritage Guidelines and the Advice Series identify items to be considered in proposals affecting slate roofs (see sections 5.1.2 and 5.1.3 above). The applicant justifies the development as emergency repair works required due to slipping slates and water ingress. The removed slates were found to be in poor condition and those salvaged were not fit for reuse (at my site inspection, I examined the available slates retained on-site and found these to be weathered and in poor condition). The applicant indicates the decision to fully re-cover the roof was made due to the extent of slippage/ fixtures failing (in excess of 25-30%) and chose a natural slate material, which I note accords with guidance on the matter in the Guidelines and the Advice Series. On balance, I consider the works are justified for maintenance/ improvement purposes and of a scale affecting a minority proportion of the Church's overall roof area.

Nature of the Change

8.4.11. Regarding the nature of the change, while the re-covering of the eastern aisle roof is evident, the alteration is not unique in nature. The main roof area of the Church has been previously altered by maintenance/ improvement works and the monopitch roof of the new entrance/ lobby area at the northern end of the eastern aisle has been covered with the same replacement slate as the eastern aisle. In this regard, the original roof of the Church has undergone previous alterations and the eastern aisle roof covering matches that installed over the Parish Centre entrance/ lobby.

8.4.12. From a review of the information provided, and confirmed at my site inspection, the change associated with the works is limited to the replacement of the slates and mounting battens on the eastern aisle roof. Importantly, no change has been made

to the Church's wall plates, or to the profile, pitch, or height of the eastern aisle roof. The Architectural Heritage Guidelines identify several types of works which have the potential to change the exterior appearance of roofs. The development corresponds with one, the removal of the natural slate roof covering. The more consequential interventions, in my opinion, such as the removal of chimneys, replacement of eaves parapets, or the insertion of rooflights have not occurred in this referral case.

8.4.13. The Architectural Heritage Guidelines also identify the special features of slate roofs that are worthy of protection. From the available information, I confirm that the original slates did not have or include any such features being from c. mid-19th century, with no designs or patterns, laid in a conventional manner, and ranging in size and thickness. As such, I consider the nature of the change associated with the aisle re-roofing works to be restricted and limited in overall effect.

Visual Impact of the Change

8.4.14. Regarding the visual impact of the change, from a review of available information and confirmed at my site inspection, the re-covering of the eastern aisle roof is evident and identifiable. The Architectural Heritage Guidelines and the Advice Series state respectively that new materials 'should be compatible with existing ones' and 'match the original as closely as possible' in aspects such as colour, size, appearance, and performance. Both documents also acknowledge the challenges in sourcing exact matches for replacement slates for a variety of reasons.

8.4.15. In comparing the slates, I find the original slates to be of a dark grey/ purple colour and dull in tone due to their age and the extent of weathering, and the replacement slates to be darker in colour and brighter in tone due to their being relatively new. From my observations, I find the size of the replacement slates and the manner in which the slates have been laid on the aisle's roof to be consistent with those of the original roof. As such, I consider the visual impact arising from the works to be related to the difference in the colour and tone of the replacement slates.

8.4.16. In determining the materiality of the visual impact, as advised in the Advice Series, I consider the structure's context to be an important factor. The Church does not form part of the streetscape, has been sited a distance back from the public road, and configured so the front of the Church does not formally address the public road. From the street level, only the southern and eastern elevations of the Church are

visible through the entrance, and these views are intermittent for passers-by, are at an angle due to the Church being at a higher ground level, and are at a distance of c. 25m away. From within the site, the eastern aisle roof is not visible from the Church's main front entrance or from the car park area located to the west, and there are limited views of the eastern aisle roof from a westerly direction or in close proximity due to the configuration of the structures, the change in ground level, and height of the Church structure.

- 8.4.17. Having regard to the above contextual factors, it is my opinion that while the replacement slates are different in colour and tone from the original slates, the difference is not marked, excessive, or jarring. I consider the replacement slates to be compatible in terms of colour, tone, size, and the manner in which the slates have been laid to those of the original eastern aisle roof, those of the main Church roof, and to be consistent with those of adjacent structures. I concur with the applicant's position that all types of new slates will initially appear darker and will in time go through a weathering process as these are a natural material. I consider the visual impact of the change to be minimal and while the re-slating works have altered the external appearance of the eastern elevation of the Church structure, I do not consider these to have materially affected the character of the Church or by association any neighbouring structures.

Visual Interpretation of the Change

- 8.4.18. Regarding the visual interpretation of the change, as the works are restricted to the re-slating of the eastern aisle roof, I do not consider the re-roofing works to have altered how the Church is perceived to function. That being, the aisle and the Church continue to be visually interpreted as such, and there is no effect on the character of the Church in respect of use.

Summary

- 8.4.19. In summary, while I highlight to the Board that the re-slatted roof of the eastern aisle of the Church is an alteration of the external appearance of the structure, I consider that these works do not materially affect the external appearance of the Church so as to render its appearance inconsistent with the character of the structure or of neighbouring structures, and that these works do not materially affect the character of the Church, a protected structure, or to materially affect any element of the

protected structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

8.5. Appropriate Assessment Screening

- 8.5.1. Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to European Sites, and the absence of ecological and/ or hydrological connections, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

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 roof repair works comprising re-slating the side (east) aisle of the Church of the Assumption, Booterstown Avenue, Blackrock, County Dublin (a protected structure) is or is not development and is or is not exempted development:

AND WHEREAS Reverend Gerry Kane requested a declaration on this question from Dún Laoghaire-Rathdown County Council and the Council decided to issue a declaration on the 26th day of January 2021 stating that the matter was development and was not exempted development:

AND WHEREAS Reverend Gerry Kane referred this declaration for review to An Bord Pleanála on the 22nd day of February 2021:

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

- (a) sections 2(1), 3(1), 4(1)(h), and 57(1) of the Planning and Development Act, 2000, as amended,

- (b) the status of the Church of the Assumption as a protected structure in the Record of Protected Structures in the Dún Laoghaire-Rathdown County Development Plan 2016–2022,
- (c) the planning history of the site, and
- (d) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that the roof repair works comprising the re-slating of the side (east) aisle of the Church of the Assumption is development and is exempted development as the works undertaken would not materially affect the external appearance of the Church so as to render its appearance inconsistent with the character of the structure or of neighbouring structures, and would not materially affect the character of the Church, a protected structure, or any element of the protected structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 of the Planning and Development Act 2000, as amended, hereby decides that the works as described is development and is exempted development.

Phillippa Joyce
Senior Planning Inspector

14th January 2022