



An
Coimisiún
Pleanála

Inspector's Report ABP-322779-25

Question

Whether the proposed painting of the external window frames, doors, and part of the cladding on all elevations from the existing blue colour to the proposed grey colour. is or is not development or is or is not exempted development

Location

Unit 3 and 4, Richview Office Park, Clonskeagh Road, Clonskeagh, Dublin 14

Declaration

Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	REF7925
Applicant for Declaration	Cantrouk Ltd
Planning Authority Decision	Is not exempted development

Referral

First Party

Referred by

Cantrouk Ltd

Owner/ Occupier

Cantrouk Ltd

Observer(s)

None on file

Date of Site Inspection

1 December 2025

Inspector

Natalie de Róiste

Contents

1.0 Site Location and Description	4
2.0 The Question	4
3.0 Planning Authority Declaration.....	4
3.1. Declaration.....	4
3.2. Planning Authority Reports	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Dun Laoghaire Rathdown Development Plan 2022-28	6
5.2. Natural Heritage Designations	6
5.3. EIA Screening	6
6.0 The Referral.....	6
6.1. Referrer's Case.....	6
6.2. Planning Authority Response.....	8
7.0 Statutory Provisions.....	8
7.1. Planning and Development Act, 2000 (as amended).....	8
7.2. Planning and Development Regulations, 2001 (as amended)	9
8.0 Assessment.....	10
8.2. Is or is not development.....	10
8.3. Is or is not exempted development	10
8.4. Restrictions on exempted development	11
9.0 AA Screening.....	13
10.0 Recommendation	13
11.0	15

1.0 Site Location and Description

- 1.1. The site comprises two buildings (known as Unit 3 and Unit 4) at Richview Office Park, Clonskeagh, in Dublin 14. These are two of 9 buildings in the office park which have dutch gabled red tiled roofs, gabled oriel windows, and a shared palette of materials featuring red brick, channelled render, and blue cladding and trim. They are two-storey, with gabled oriel windows, and corner verandahs with screen porches. A group of 5 smaller buildings at the far end of the office park have a greater variety of expression and a more domestic scale. A black flat-roofed timber-clad three-storey building located at the north end of the park is a later addition.
- 1.2. Unit 4 has had its entrance porch painted grey.

2.0 The Question

- 2.1. Whether the proposed painting of the external window frames, doors, and part of the cladding on all elevations from the existing blue colour to the proposed grey colour is or is not development or is or is not exempted development.
- 2.2. The drawings submitted (to the Local Authority and the Commission) show the areas intended to be painted, and show the proposed colour RAL 7021. The cover letter to the Local Authority refers to dark grey paint, reiterated in the cover letter to the Commission.

3.0 Planning Authority Declaration

3.1. Declaration

On 19 May 2025, the Planning Authority declared as follows:

Having regard to Sections 3(1) and 4(1)(h) of the Regulations 2001 (as amended)

The proposed painting of the external window frames, doors, and part of the cladding on all elevations from the existing blue colour to the proposed grey colour is considered DEVELOPMENT and is NOT EXEMPTED DEVELOPMENT.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- One undated report, noting the contents of the application, the site context, the planning history, the legislative context including Section 4(1)(h) of the Act, and Class 12, Schedule 2, Part 1 of the Regulations (which refers specifically to painting). They noted the restrictions imposed by Article 9(1)(a)(i) on works that would contravene a condition attached to a permission, and noted Condition no 22 of permission 89a-2308 (a pre-commencement condition requiring submission of details on materials). They found that the proposed works would contravene this condition and impact the visual amenity of the office park, and were not exempt.

3.2.2. Other Technical Reports

None on file.

4.0 Planning History

- **89A/2308 (parent permission)**

Permission was granted for 11,538 sqm of office development, including 4 2-storey blocks, 5 3-storey blocks, and the conversion and extension of three houses, with demolition of one house, at Richview, Clonskeagh Road. The planner's report notes two earlier applications granted on the site: (86A/1658) for office floor space of 16,000 was not implemented. A permission (88A-480) for 58 houses was commenced, with the roads laid out and a small number of houses in situ (subsumed into the above development).

Thirty-two conditions were attached, including the following:

Condition 22. That details of the proposed materials to be used on the external elevations of the office blocks shall be agreed with the Planning Authority prior to the recommencement of development.

Reason: In the interest of visual amenity.

- **D02A/0033**

Permission was granted for a satellite dish to Unit 4 with a single standard condition.

- D24A/0310/WEB

Permission was granted for change of use of part of the ground floor of Unit 4, Richview Office Park from Offices to Medical Treatment/Consulting, with internal works only. Six conditions, none of relevance to the current query.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown Development Plan 2022-28

- 5.1.1. The site has no protected structures, or archaeological monuments included in the RMP, nor is it in an Architectural Conservation Area or an area to which a Special Amenity Area Order applies. There are no objectives for preservation of views or prospects on the site. There are no objectives for the preservation of any sites or features of archaeological, geological, historical, scientific or ecological interest on the site.

5.2. Natural Heritage Designations

None of relevance.

5.3. EIA Screening

The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report.

6.0 The Referral

6.1. Referrer's Case

The agents for Cantrouk Ltd have made a case that the painting of part of the exterior of Units 3 and 4 is exempted development. The case is summarised below:

- The cited condition 22 of reg ref 89A/2308 was a "prior-to-commencement" condition and imposes no ongoing restrictions on painting.

- Article 9(1)(a)(i) of the Planning and Development Regulations 2001 (as amended) only disallows exempted development where a live, operative condition would be breached.
- The DLRCC assessment refers to the possibility of an exemption under Section 4(1)h of the Planning and Development Act 2000 (as amended) – to which Article 9(1)(a)(i) does not apply. As that article does not apply, the exemption should be granted under this Section.
- The Planner's Report failed to consider Class 12 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), which provides a specific exemption for painting. The proposed works fall squarely within this class, and the omission of this from consideration is a material oversight in the council's assessment.
- The referrer cites a number of precedent cases, including Case Law, Board referrals, and DLR referrals as follows:

Case Law

- McCoy v Shillelagh Quarries Ltd [2015] IEHC 867
- Briargate Developments Ltd v An Bord Pleanála [2021] IEHC 706
- Killross Properties Ltd v ESB [2021] IEHC 408

ABP cases

- ABP-301518-18 Longford County Council, the Board found painting to be exempt under Section 4(1)h.
- ABP-304774-19 Royal Irish Yacht Club (a protected structure), the Board found painting not to be exempt under Section 4(1)h due to impacts on the protected structure – which is not at issue here.

DLRCC Cases

In none of the following referral cases did the Council rely on conditions relating to materials or finishes to de-exempt proposed works. The current case is a departure from precedent.

- DLRCC REF: 7521 1 Dalkey Court, Barnhill Road, Dalkey, Co Dublin

- DLRCC REF: 7921 5 Saval Park Road, Dalkey, Co. Dublin
- DLRCC REF: 7420 20 Arkendale Road, Glenageary, Co. Dublin
- DLRCC REF: 7018 53-54, George's Street Lower, Dun Laoghaire, Co. Dublin.
- The development is exempt under both Section 4(1)h of the Act and Class 12 of Schedule 2 Part 1 of the Regulations.

6.2. Planning Authority Response

The Commission is referred to the previous planner's report.

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:

- "development" has the meaning assigned to it by Section 3;
- "exempted development" has the meaning specified in Section 4;
- "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) states that:

'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'.

7.1.3. Section 4(1) specifies a list of developments that are exempt including the following:

S4(1)(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.

7.1.4. Section 4(2) of the Act provides that the Minister, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations, 2001.

7.1.5. Section 4(4) of the Act sets out that if a development requires an Environmental Impact Assessment or Appropriate Assessment, it is not exempt.

Section 4(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

7.2. Planning and Development Regulations, 2001 (as amended)

7.2.1. Article 6(1) of the Planning & Development Regulations, 2001 as amended states as follows:

“Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.”

7.2.2. Article 9(1) of the Planning & Development Regulations, 2001 as amended, provides a number of scenarios whereby development to which article 6 relates shall not be exempted development for the purposes of the Act, including if it would: .

7.2.3. 9(1)(a)i *contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act*

7.2.4. Class 12 of Part 1 of Schedule 2 – Exempted Development – General (subject to the conditions and limitations imposed under Column 2):

‘The painting of any external part of any building or structure’.

Conditions and Limitations:

‘Such painting may not, except in the case of a hoarding or other temporary structure bounding land on which development consisting of works is being or will be carried

out in pursuance of a permission granted under Part III of the Act or as exempted development, be for the purposes of creating a mural.'

8.0 Assessment

- 8.1.1. The purpose of this referral is not to determine the acceptability or otherwise of the above proposal in terms 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. I note the planner's report referred to impacts on the visual amenity of the office park; this assessment is limited to the question of whether or not planning permission is required, rather than an assessment of the merits of the proposal.

8.2. Is or is not development

- 8.2.1. The proposal involves the painting of part of the exterior of two buildings. Development includes both works and material change of use. No change of use is proposed here. The meaning of works is broad, and includes acts of alteration, repair, or renewal. Notwithstanding that the application of paint is specifically mentioned in relation to protected structures – which these buildings are not – I am satisfied that the change of colour from blue to grey is an alteration, and also that the application of fresh paint is an act of renewal. The proposal constitutes works, and therefore development.

8.3. Is or is not exempted development

- 8.3.1. I consider the relevant parts of the legislation to be Section 4(1)h of the Act, and Class 12 of Part 1 of Schedule 2 of the Regulations.
- 8.3.2. Section 4(1)h is a general catch-all provision to allow for maintenance and repairs to structures, with the built-in limitation that any such works shall 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. As noted above, these structures were permitted and built as part of a larger office park, and share a consistent palette of materials and architectural features with their neighbours (apart from the distinctive black box building to the north, which is a later development). In

my view, the colour scheme with red brick, a creamish grey channelled render, and blue trim is a significant element in this consistency. I observed on the site visit that the porch to Unit 4 has been painted in a pale to mid grey colour. It is a similar colour to the channelled render which forms a backdrop to the porch, and which dominates at ground floor level. It is not eye-catching in long views or at close quarters.

However, the proposed grey colour is RAL 7021 (also known as Black Grey), a darker colour which does not feature in the original palette. The introduction of this new, darker, colour, particularly to the upper levels where the blue trim wraps around the whole building, would, in my view, single out these structures, and render their appearance inconsistent with the character of the neighbouring structures.

I do not consider the works to be exempt under 4(1)(h).

- 8.3.3. Regarding Class 12 of Part 1 of Schedule 2, there is no requirement for consistency with the character of the structures themselves, or of neighbouring structures. This is a wide-ranging exemption for the *painting of any external part of any building or structure*. The only limitation to this class is that a mural not be created. No mural is proposed here. I consider the development may be exempt under this class, and I consider restrictions on this exemption in Section 8.4 of this report below.

8.4. Restrictions on exempted development

- 8.4.1. As noted above, I find the relevant exemption to be Class 12 of Part 1 of Schedule 2 of the Regulations.
- 8.4.2. Section 4(4) of the Act sets out that if a development requires an Environmental Impact Assessment or Appropriate Assessment, it is not exempt. This is a very minor development, in a built-up area, and requires neither.
- 8.4.3. Article 9 of the Regulations sets out restrictions on exemptions under Article 6 (ie, exemptions available under the Regulations, rather than exemptions available under the Act). One of these restrictions is on development that would contravene a condition attached to a permission under the Act. I have consulted the conditions attached to the parent permission, and considered condition 22, which required the submission of details regarding the materials to be used on the external elevations of the office blocks. I have also read the planner's report on that file (which makes no reference or comment on materials or colour schemes). I requested details from the

Local Authority regarding any compliance submissions on file under that condition. No such compliance submissions have been provided.

8.4.4. I note that Condition 22 is a very typical standard pre-commencement condition, and is not a specific condition regarding the painting of the building. Given the absence of any evidence on file of particular concern regarding the colour scheme or finishes, I would hesitate to infer an intention to exert exceptional controls over the appearance of the building, and I am not inclined to give this condition any significant weight in this consideration.

8.4.5. I draw the Commission's attention to the difference between the wording of Condition 21 and Condition 22. Condition 21 – *that no advertising signs shall be erected on the site save with the prior approval of the Planning Authority* – is worded to permanently preclude unapproved advertising signs. No such condition has been attached to permanently preclude painting, or changes of colour, or alterations to the façade. The regulations in force at the time of the grant of permission (the Exempted Development Regulations 1964) had a wide ranging exemption for the plastering or painting of building exteriors (Class 7 of Part 1 of the Schedule). The planning authority did not attach any condition to exert control over the painting of the buildings in perpetuity. It is my view that a condition to limit or preclude painting of the structures would make reference to this exemption, or state that such works required the prior approval of the planning authority.

8.4.6. Article 9 of the Regulations sets out a large number of other restrictions on exemptions under Article 6, including works that would endanger public safety, works to unauthorised structures, works to National Monuments, or works that would compromise or contravene objectives of a Development Plan. None of these restrictions apply to the current proposal.

8.4.7. I consider the proposal to be exempted development.

8.5. Other issues

8.5.1. The case law cited is inaccurate, with a garbled mix of parties, dates, and reference numbers. No such cases cited exist.

- McCoy v Shillelagh Quarries Ltd [2015] IEHC 867

This citation is not accurate. Neutral citation [2015] IEHC 867 refers to O'Brien -v- Red Flag Consulting Limited & ors, a case with no bearing on the issue at hand.

- Briargate Developments Ltd v An Bord Pleanála [2021] IEHC 706

This citation is not accurate. Neutral citation [2021] IEHC 706 refers to Airscape LTD & Anor v Instant Upright LTD, a case about liability for costs. I found no case at all with Briargate Developments Ltd as a plaintiff or defendant.

- Killross Properties Ltd v ESB [2021] IEHC 408

This citation is not accurate. Neutral citation [2021] IEHC 408 refers to Diamrem Limited v Clare County Council, a case about delays in proceedings.

- 8.5.2. In searches of the usual legal databases, including courts.ie, Westlaw International, and that of the British and Irish Legal Information Institute, I found some cases with some of the quoted litigants from a variety of years. However, none of these cases contained the details set out on pages 7 to 8 of the agent's letter, and I have disregarded the purported planning precedent.

9.0 AA Screening

- 9.1.1. Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on any European site.

10.0 Recommendation

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

WHEREAS a question has arisen as to whether the proposed painting of the external window frames, doors, and part of the cladding on all

elevations from the existing blue colour to the proposed grey colour is or is not development or is or is not exempted development:

AND WHEREAS Cantrouk Ltd requested a declaration on this question from Dun Laoghaire Rathdown County Council and the Council issued a declaration on the 20th day of May, 2025 stating that the matter was development and was not exempted development:

AND WHEREAS Cantrouk Ltd referred this declaration for review to An Coimisiún Pleanála on the 16th day of June, 2025:

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

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Class 12, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site, including Condition 22 of Reg Ref 89A/2308
- (g) the nature, scale, and extent of the proposed works as set out in the documentation submitted with the referral
- (h) the pattern of development in the area:

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) The painting of the external window frames, doors, and part of the cladding on all elevations from the existing blue colour to the proposed dark grey colour RAL 7021 comprises an act of alteration and renewal, and constitutes works;
- (b) The works are exempted development under Class 12 of Part 1 of Schedule 2.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 of the 2000 Act (as amended), hereby decides that the painting of the external window frames, doors, and part of the cladding on all elevations from the existing blue colour to the proposed grey colour of Unit 3 and 4 is development and is exempted development.

.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Natalie de Róiste
Planning Inspector

12 January 2026

Form 1 - EIA Pre-Screening

Case Reference	ABP-322779-25
Proposed Development Summary	Painting exterior walls
Development Address	Units 3 and 4 Richview Office Park, Clonskeagh, D14.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input checked="" type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	

<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	State the Class and state the relevant threshold
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	State the Class and state the relevant threshold

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3) <i>[Delete if not relevant]</i>
No <input type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3) <i>[Delete if not relevant]</i>

Inspector: _____ Date: _____