

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 PLANNING & DEVELOPMENT ACT 2000 (as amended)

Reference No: REF10426

Applicant: Eaglewood Management Company (1) CLG Wyse
Property Management, Unit 1, Aspen Court, Old Bray
Road, Dublin 18, D18 X6P9

Agent: RH Building Consultants First Floor, Saint Alberts
House, Navan Road, Dunboyne, Meath, A86 K856

Registration Date: 14-Jul-2026

Location: 4, Eaglewood House, Rochestown Avenue, Dun
Laoghaire, DUBLIN, A96VW30 (A Protected
Structure)

Agent: RH Building Consultants First Floor, Saint Alberts
House, Navan Road, Dunboyne, Meath, A86 K856

Description of Works: Installation of new stair lift to existing timber staircase
from ground to first floor level only to facilitate access
to resident, residing on the first floor.

Report:
Aisling Cleary

PLANNING AND DEVELOPMENT ACT 2000, AS AMENDED SECTION 5

REF: 10426

Query

A Section 5 referral has been submitted in relation to the works at 4 Eaglewood House, Rochestown Avenue, Dún Laoghaire, Co. Dublin, A96 VW30.

Proposal

The submitted declaration as stated in the submitted documentation, seeks a determination as to whether or not the proposed works are development and, if so, are they exempted development. The following works are proposed:

'Installation of new stair lift to existing timber staircase from ground to first floor level only to facilitate access to resident, residing on the first floor.'

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The extent of works as detailed in the submitted report prepared by RH Building Consultants of Saint Alberts House, Navan Road, Dunboyne, Co. Meath, A86 K856 is noted.

Submission

This Section 5 Declaration application includes:

- Completed application form,
- Section 5 Application Report,
- Site Location Map.

Matter for Determination

The matter for determination is whether the proposed works at 4 Eaglewood House, Dún Laoghaire, Co. Dublin, would or would not constitute development, and whether the proposal would or would not constitute exempted development.

Site Description

The subject site is located on the northeastern side of Rochestown Avenue, within an established residential area. It comprises a three-storey detached Protected Structure ('Building' RPS No. 1615) with a combination of pitched and hipped roofs, dating from the 18th century. The existing property fronts the public roadway and benefits designated parking spaces along the road. The primary amenity space is situated to the rear of the property. Additionally, the subject property is a designated Protected Structure listed in Appendix 4: Table 4.1: Record of Protected Structures of the Dún Laoghaire-Rathdown County Development Plan 2022-2028.

The site is bounded by the residential properties of Eaglewood Mews to the general west, Nos. 16-39 Eaglewood to the general east, and open space to the rear (general north). The surrounding streetscape along Rochestown Avenue is characterised by dwellings of varying architectural styles and appearances.

There is no stated site area. However, the Planning Authority has calculated the site area as 0.0291 hectares.

Zoning of Site

Under the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the site is subject to zoning objective A, which seeks *'to provide residential development and improve residential amenity while protecting the existing residential amenities.'*

The lands to the rear of the subject site are zoned objective 'F', which seeks *'to preserve and provide for open space with ancillary active recreational amenities.'*

The proposed works are within a designated Protected Structure 'Eaglewood House', listed in Appendix 4: Table 4.1: Record of Protected Structures of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, as 'Building' RPS No. 1615.

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Planning History

Subject Site

D99A/0428: Permission was GRANTED by the Planning Authority for the conversion of Flowergrove House, a List 2 building involving demolitions, new build and refurbishment to provide 6 no. two bedroom apartments. Construction of 5 no. two bedroom mews houses, involving the demolition of existing outbuildings. Construction of 78 no. new two-bedroom apartments in 5 no. new build blocks of 3 & 4 storeys; the construction of 9 apartments as sheltered housing, together with a common room and ancillary rooms. Refurbishment of existing gate lodge; the construction of new entrance gates and boundary wall; the construction of new access road and turning circle to perimeter of site, together with provision for 124 car parking spaces throughout the site and 2 no. bicycle stores; the construction of new ESB substation and 2 no. refuse collection stores. Wayleave through adjoining lands for site service to be connected to existing services adjacent to Pearse Villas and Pearse Park.

Enforcement History

No current enforcement files found.

Departmental Reports

Conservation Division Report

Dated 22/07/26:

Report as per the following:

'Site Description:

Eaglewood House is a designated Protected Structure included in the Record of Protected Structures contained within the County Development Plan 2022-2028.

Statutory Provisions: Planning and Development Act, 2000 (as amended)

Section 4 (1)(h) states that the following shall be exempted development for the purposes of the Act:

"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): F479[Notwithstanding section 4(1)(a), (h), (i), F480[(ia)] (j),(k), or (l) and any regulations made under section 4(2),] the carrying out of works to a protected structure, or 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,

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historical, archaeological, artistic, cultural, scientific, social or technical interest.

Having regard to the definition of 'works' and 'development' under the Planning and Development Act, 2000 (as amended), the proposed works are considered to constitute development. The next question is can the proposed works be covered by the exemptions offered under Section 57(1) or 4 (1) (h) of the Act as outlined above.

Report:

While understanding the rationale and functionality requirements of the installation of a stair lift, this cannot be separated from the aesthetical impact on the Protected Structure. The staircase is an original feature of the building and the introduction of a chair lift will visually detract from its special character and appearance.

Of relevance is guidance on access "improving the accessibility of historic buildings and places" issued by Department of Arts, Heritage and the Gaeltacht. Page 106 "in some historic buildings the main staircase is a prominent architectural feature and any alteration is rarely appropriate. P108 "inclined platform lifts, fixed to existing balustrade, all or freestanding rail are sometime installed to existing stairs where it is not feasible to provide a passenger lift. While these can be visually obtrusive and are not suitable for all wheelchair users they are generally relatively easily reversed and may be an acceptable interim solution." P109 continues A stair lift is often visually intrusive in a historic interior and users are more likely to require assistance.

Recommendation:

Having regard to the exemptions afforded under the Planning & Development Act (as amended); Section 57(1) the proposed works are considered to materially affect the character of the Protected Structure and therefore would not be considered exempted development.'

Planning Comment

The Council is requested to determine, in accordance with Section 5 of the Planning and Development Act 2000 (as amended) whether or not the proposed works constitute development or not, and if so, whether said works are exempted development.

Legislative Context

Planning and Development Act 2000 (as amended)

Consideration as to whether a development constitutes exempted development or not is governed by Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended).

Under Section 2(1), the following is the interpretation of 'works':

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'...includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...'

Section 3(1) states as follows:

'In this 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) of the Act states that the following shall be exempted developments for the purposes of this Act:

'(h) development consisting of the use 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 4(2)(a) of the Act enables certain classes of development to be deemed exempted development by way of regulation.

Section 57 of the Act relates to development works carried out to a Protected Structure. Section 57 states as follows:

'(1) Notwithstanding section 4 (1)(h), 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.

(2) An owner or occupier of a protected structure may make a written request to the planning authority, within whose functional area that structure is situated, to issue a declaration as to the type of works which it considers would or would not materially affect the character of the structure or of any element, referred to in subsection (1)(b), of that structure.

(3) Within 12 weeks after receiving a request under subsection (2), or within such other period as may be prescribed, a planning authority shall issue a declaration under this section to the person who made the request.

(4) Before issuing a declaration under this section, a planning authority shall have regard to—

(a) any guidelines issued under section 52, and

(b) any recommendations made to the authority under section 53.

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(5) *If the declaration relates to a protected structure that is regularly used as a place of public worship, the planning authority*

(a) in addition to having regard to the guidelines and recommendations referred to in subsection (4), shall respect liturgical requirements, and

(b) for the purpose of ascertaining those requirements shall—

(i) comply with any guidelines concerning consultation which may be issued by the Minister for Arts, Heritage, Gaeltacht and the Islands, or

(ii) if no such guidelines are issued, consult with such person or body as the planning authority considers appropriate.

(6) *When considering an application for permission for the development of land under section 34 which—*

(a) relates to the interior of a protected structure, and

(b) is regularly used as a place of public worship, the planning authority, and the Board on appeal, shall, in addition to any other requirements of the Act, respect liturgical requirements.

(7) *A planning authority may at any time review a declaration issued under this section but the review shall not affect any works carried out in reliance on the declaration prior to the review.*

(8) *A planning authority shall cause—*

(a) the details of any declaration issued by that authority under this section to be entered on the register kept by the authority under section 7, and

(b) a copy of the declaration to be made available for inspection by members of the public during office hours, at the office of the authority, following the issue of the declaration.

(9) *A declaration under this section shall not prejudice the application of section 5 to any question that arises as to what, in a particular case, is or is not exempted development.*

(10) (a) *For the avoidance of doubt, it is hereby declared that a planning authority or the Board on appeal—*

(i) in considering any application for permission in relation to a protected structure, shall have regard to the protected status of the structure, or

(ii) in considering any application for permission in relation to a proposed protected structure, shall have regard to the fact that it is proposed to add the structure to a record of protected structures.

(b) A planning authority, or the Board on appeal, shall not grant permission for the demolition of a protected structure or proposed protected structure, save in exceptional circumstances.'

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Planning and Development Regulations, 2001 (as amended)

Articles 9(1)(a)(i) of the *Planning and Development Regulations, 2001* (as amended) states:

'(1) Development to which article 6 relates shall not be exempted development for the purposes of the Act

(a) if the carrying out of such development would

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,'

Is the proposal development?

The first matter for determination is whether the proposal would or would not constitute development. Regard is had to Section 2(1) of the *Planning and Development Act, 2000* (as amended), where 'works' is defined as 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.'

In addition, Section 3(1) of the Act 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 other land'.

Having regard to the above, it is considered that the proposed development detailed in the documentation submitted constitutes 'works' and constitutes 'development' as defined in the *Planning and Development Act, 2000* (as amended).

Is the proposal exempted development?

The second matter for determination is whether the proposal would or would not constitute exempted development.

The following legislation is considered to be relevant in this regard.

Planning and Development Act 2000 (as amended)

- Section 2(1) of the *Planning and Development Act, 2000* (as amended);
- Section 3(1) of the *Planning and Development Act, 2000* (as amended);
- Section 4(1)(h) of the *Planning and Development Act, 2000* (as amended);
- Section 57(1) of the *Planning and Development Act, 2000* (as amended).

Planning and Development Regulations, 2001 (as amended)

- Articles 9(1)(a)(i) of the *Planning and Development Regulations, 2001* (as amended).

Assessment

Based on the particulars submitted, the applicant has proposed the installation of a stairlift on a timber staircase from the ground floor to the first floor within a Protected Structure. The staircase between the ground and first floors are split by a half-landing.

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Given that the subject site is classified as a Protected Structure under Appendix 4: Table 4.1 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, the proposal was referred to the DLR Conservation Division for assessment. The observations of the Conservation Division are set out in full above.

In the context of the current Section 5 Declaration, the Conservation Division noted that the proposed installation of a stairlift *'cannot be separated from the aesthetical impact on the Protected Structure'*. The report further notes that the proposed stairlift would create significant visual impacts as the staircase as is *'an original feature of the building'* and the proposal would harm its *'special character and appearance'*. The Conservation Division additionally referenced the guidance on access "improving the accessibility of historic buildings and places" issued by the Department of Arts, Heritage and the Gaeltacht.

Having regard to the exemptions provided for under Section 57 of the Planning and Development Act, as amended, it is considered that the installation of the stairlift, by reason of its visual impact on the staircase, materially affects the appearance of the staircase which has been classified as an original feature of the Protected Structure. Therefore, the stairlift is considered to be visually obtrusive. Accordingly, the development materially affects the character of the staircase feature within the Protected Structure and does not fall within the scope of exempted development. As such, the proposed stairlift is considered NOT **EXEMPT**.

Accordingly, it is considered that the works come within the scope of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and, having regard to Section 57(1), do not constitute exempted development.

(Other) Restrictions to Exempted Development

Article 9 (1) (a) (viiB) of the Planning and Development Regulations, 2001 (as amended) states that the following would restrict exempted development: '(viiB) comprise development in relation to which a planning authority or An Commisiuin Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site'.

The proposed development has been screened for Appropriate Assessment (report on file) and it has been determined that the proposed development will not significantly impact upon a European Site. The proposed development has been assessed against all the restrictions to exempted development as set out within Article 9 (1) and that there are no restrictions that would prevent the works subject of this Section 5 application from being exempt development, under that Article of the regulations.

Appropriate Assessment (AA) Screening

The development subject to this assessment has been screened for AA (report on file) and it has been determined that the development would not significantly impact upon a Natura 2000 Site.

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Environmental Impact Assessment (EIA) Screening

Having regard to the nature of the development subject to this assessment, which comprises the installation of a stairlift to an existing timber staircase from the ground to first floor levels, it is considered that there is no real likelihood of significant effects on the environment arising from the development. The need for environmental assessment can, therefore, be excluded at the preliminary examination stage, and a screening determination is not required.

Conclusion

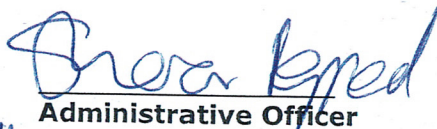
Having regard to the documentation submitted in support of the application, and to the above assessment, it is considered that the proposed works at 4 Eaglewood House, Rochestown Avenue, Dún Laoghaire, Co. Dublin, A96 VW30, comprising the installation of a stairlift to an existing timber staircase from the ground to first floor levels, do not constitute exempted development. The applicant shall be advised accordingly.

RECOMMENDATION

I recommend that Dún Laoghaire-Rathdown County Council advise the applicant that, having regard to:

- Sections 2, 3 and 4(1)(h) of the Planning and Development Act 2000 (as amended), the proposed works constitute development and constitute exempted development;
- Section 57(1) of the Planning and Development Act, 2000 (as amended); and
- Article 9(1)(a) of the Planning and Development Regulations (as amended),

It is considered that the proposed works constitute **DEVELOPMENT** and do **NOT** constitute **EXEMPTED DEVELOPMENT**.


Administrative Officer

Executive Planner

Dún Laoghaire-Rathdown County Council

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ORDER

The issuing of a Declaration pursuant to Section 5 of the Planning & Development Act 2000, (as amended) to RH Building Consultants First Floor, Saint Alberts House, Navan Road, Dunboyne, Meath, A86 K856, that, having regard to:

- Sections 2, 3 and 4(1)(h) of the Planning and Development Act 2000 (as amended), the proposed works constitute development and constitute exempted development;
- Section 57(1) of the Planning and Development Act, 2000 (as amended); and
- Article 9(1)(a) of the Planning and Development Regulations (as amended),

It is considered that the proposed works constitute **DEVELOPMENT** and do **NOT** constitute **EXEMPTED DEVELOPMENT**.

Signed:

M Hickey
Approved Officer

Dated:

04/08/26

Thereunto empowered by order of Príomhfheidhmeannach, Comhairle Contae Dhún Laoghaire-Ráth An Dúin, Order No. 2739, dated 04/08/26, delegating to me all his powers, functions and duties in relation to the County Council of Dún Laoghaire-Rathdown in respect of this matter.