

An
Bord
Pleanála

Planning Appeal Check List

(Please read notes overleaf before completing)

1. The appeal must be in writing (e.g. not made by electronic means).

2. State the

name of the appellant
(not care of agent)

Better Value Unlimited Company

address of the
appellant
(not care of agent)

46-50 South Great Georges Street

3. If an agent is involved, state the

name of the agent

address of the agent

AN BORD PLEANÁLA
LDG- 014215-19.
ABP-
15 MAR 2019
Fee: € 220 Type: HAND BILLED.
Time: 12.47 By: HANA

4. State the Subject Matter of the Appeal*

Brief description of the development

A declaration has been issued by Dun Laoghaire Rathdown County Council (Ref: 519) stating that the erection of an external boiler flue pipe along the property's Dungar Terrace Elevation, located at 22-25 Georges Street, Dun Laoghaire, Co. Dublin is not exempted development under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

We respectfully request that the Board reviews this declaration.

Location of the development

22-25 Georges Street Upper, Dun Laoghaire, Co. Dublin, A96 A365

Name of planning authority

Dun Laoghaire Rathdown County Council

Planning authority register reference number

Ref: 519 (COPY OF DECISION ENCLOSED)

* Alternatively, enclose a copy of the decision of the planning authority as the statement of the Subject Matter of the Appeal.

5. Attach, in full, the grounds of appeal and the reasons, considerations and arguments on which they are based. (PLEASE SEE ATTACHED LETTER)
6. Attach the acknowledgement by the planning authority of receipt of your submission or observations to that authority in respect of the planning application, the subject of this appeal. (Not applicable where the appellant is the applicant). (N/A)
7. Enclose / Pay the correct fee for the appeal and, if requesting an oral hearing of same, the fee for that request see "[Guide to Fees Payable](#)" under heading of Making an Appeal on Home Page of this website for current fees. (CORRECT FEE ENCLOSED)
8. Ensure that the appeal is received by the Board in the **correct manner and in time.** ✓

BETTER VALUE UNLIMITED COMPANY

15/03/2019

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01V902

Dear Secretary

RE: SECTION 5 REFERRAL RELATING TO LANDS AT DUNNES STORES, 22-25 GEORGES STREET UPPER, DUN LAOGHAIRE, CO. DUBLIN, A96 A365

In accordance with Section 5 (3)(a) of the Planning and Development Act 2000 (as amended) we wish to refer the enclosed Section 5 Declaration (Dun Laoghaire Planning Authority Ref: 519) dated 21 February 2019 to the Board for review.

The purpose of this referral is to seek the Boards determination as to:-

"Whether the erection of an external boiler flue pipe linked to the stores internal heating system at Dunnes stores, 22-25 Georges Street Upper, Dun Laoghaire, Co. Dublin is or is not exempted development"

It is our position that the erection of an external flue pipe (connected to the property's internal boiler/heating system) along the buildings Dungar Terrace elevation satisfies the exemption criteria as set out in the Planning and Development Act 2000 (as amended).

Enclosed Documents

- Site Location Map (1:1000) x 1;
- Site Layout/Elevation Plan (1:500 & 1:100) x 1;
- A copy of the Planning Authority's Declaration; and
- A Cheque to the value of €220.00.

AN BORD PLEANÁLA

15 MAR 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

¹ Better Value Unlimited Company, 46-50 South Great Georges Street, Dublin 2

Site Context

The site comprises of an existing Dunnes Stores drapery unit which borders Georges Street, Northumberland Road and Dungar Terrace. The buildings Dungar Terrace elevation is two storeys in height. The building is not a protected structure and the site is not located in an architectural conservation area.

Fig 1.0 – Site Locations Map



Directly opposite the buildings Dungar Terrace elevation is a terrace of two storey red brick dwellings. These residential units are not located in an architectural conservation area and the units are not recorded as protected structures.

Internal Maintenance Works

In 2015 internal maintenance works were carried out in respect to the property's internal heating system. The property's internal boiler was malfunctioning and therefore needed to be replaced. A new boiler was installed and the boiler's flue pipe was erected along the buildings Dungar Terrace elevation. The property's internal boiler cannot function without the external flue pipe.

Fig 1.0 – Photograph before Flue Pipe Installed



(Source: Google Street view Photograph August 2014)

Fig 2.0 – Photograph after Flue pipe was installed



(Source: Google Street view Photograph June 2018)

AN BORD PLEANÁLA
15 MAR 2019 pg. 3
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

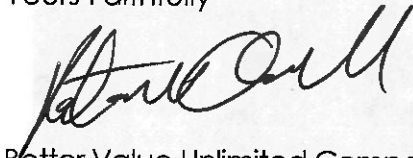
Exempt Development

Given the scale and commercial nature of the existing development it is considered that the replacement of an internal boiler and the erection of an external flue is exempt under the provisions of Section 4(1)(h) of the Planning and Development Act 2000 (as amended), being works carried out for the maintenance and improvement of the structure (i.e. the shop), and 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 neighbouring structures.

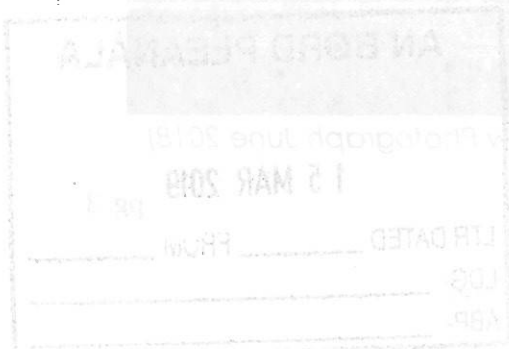
We submit that the maintenance and improvement works carried out, as outlined above, are exempt and do not require planning permission.

If further information is required to assist in the Declaration, we will be happy to respond accordingly.

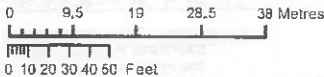
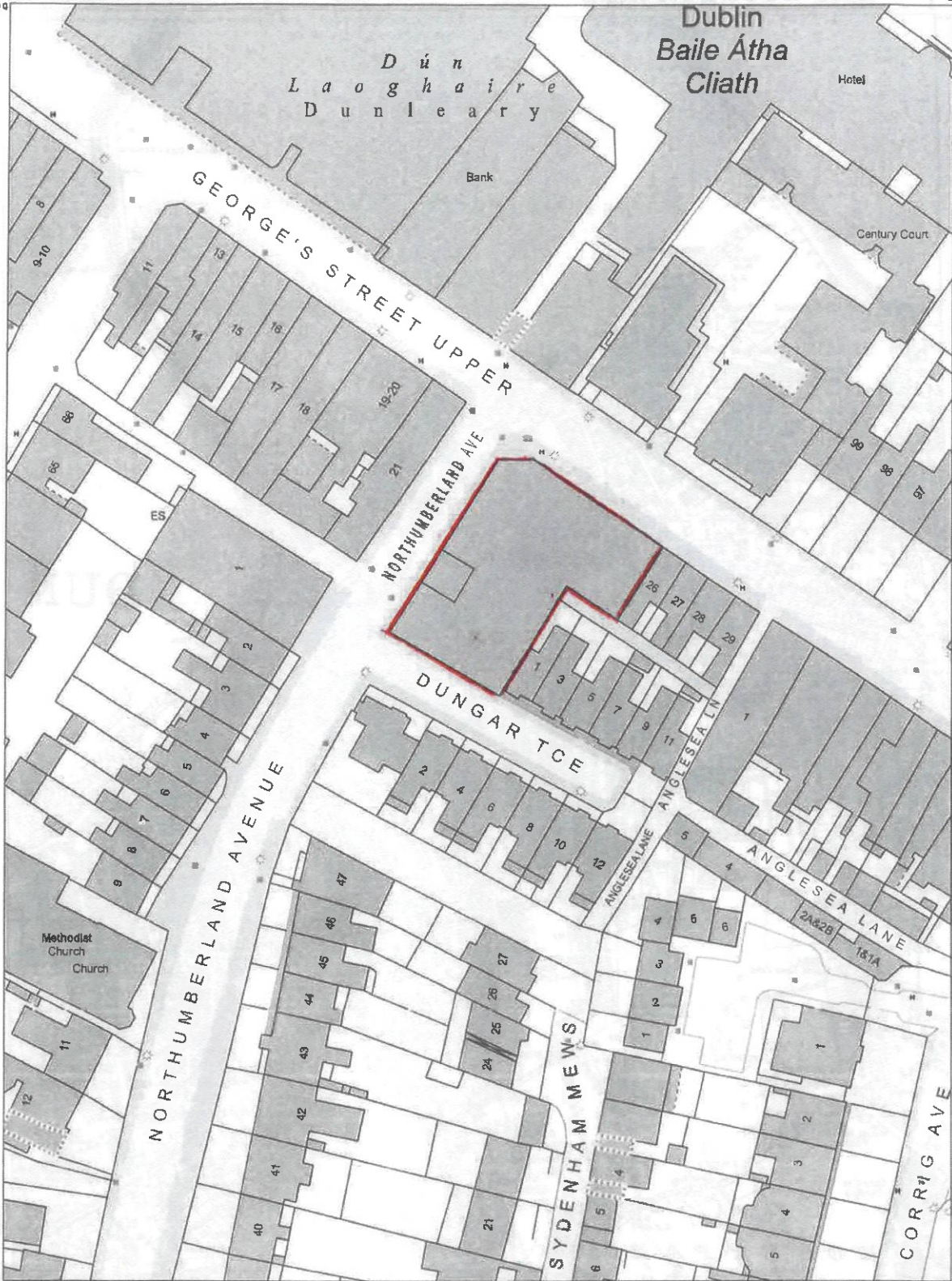
Yours Faithfully



Better Value Unlimited Company
46-50 South Great George's Street
Dublin 2



Planning Pack Map



OUTPUT SCALE: 1:1,000



COMPILED AND PUBLISHED BY: All rights reserved.
 Ordnance Survey Ireland,
 Phoenix Park,
 Dublin 8,
 Ireland.

No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owners.

Ordnance Survey maps never show legal property boundaries, nor do they show ownership of physical features.

© Suirbhéireacht Ordnáis Éireann, 2019
 © Ordnance Survey Ireland, 2019
www.osi.ie/copyright

Unauthorised reproduction infringes Ordnance Survey Ireland and Government of Ireland copyright.

The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

CENTRE COORDINATES:
 ITM 724357,728394
PUBLISHED: 23/01/2019
MAP SERIES: 1:1,000
MAP SHEETS: 3394-06

ORDER NO.: 50042980 1

CAPTURE RESOLUTION:
 The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale.
 Further information is available at:
<http://www.osi.ie/search/CaptureResolution>
LEGEND:
<http://www.osi.ie/search/LargeScaleLegend>

ANFORC/ANALA



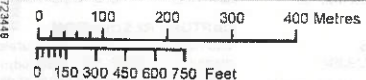
15 MAR 2019

LTR DATED _____ FROM _____
 LDG- _____
 ABP- _____

Site Location Map

728624

728624



OUTPUT SCALE: 1:10,560



CENTRE COORDINATES:
ITM 724357.728394

PUBLISHED: 23/01/2019

MAP SERIES: 5 Inch Raster
5 Inch Raster

ORDER NO.: 50042980_1

MAP SHEETS: 9900-26
DN023

CAPTURE RESOLUTION:
The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale.
Further information is available at: <http://www.osi.ie>, search 'Capture Resolution' LEGEND: <http://www.osi.ie>; search 'Large Scale Legend'

COMPILED AND PUBLISHED BY: Ordnance Survey Ireland, Phoenix Park, Dublin 8, Ireland.

All rights reserved. No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owners.

Ordnance Survey maps never show legal property boundaries, nor do they show ownership of physical features.
© Suirbhéireacht Ordnáis Éireann, 2018
© Ordnance Survey Ireland, 2019
www.osi.ie/copyright

Unauthorised reproduction infringes Ordnance Survey Ireland and Government of Ireland copyright.

The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.



Planning Department

An Rannóg Pleanála
Registry Section

Sharon O'Neill

Asst. Staff Officer

Direct Tel: 01 2054700

Fax: 01 2803122

Better Value Unlimited Company
46 - 50
South Great Georges Street
Dublin 2

Reference No: Ref519

Application Type: Declaration on Development and Exempted Development Act
– Section 5, Planning & Development Act (as amended)

Registration Date: 28-Jan-2019

Decision Date: 21-Feb-2019

Location: 22-25, George's Street Upper, Dún Laoghaire, Co. Dublin, A96 A365

Development Works: Erection of an external boiler flue along the property's
Dungar Terrace elevation

**NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED
DEVELOPMENT**

In pursuance of its functions under the planning & Development Act, 2000 (as amended), Dún Laoghaire-Rathdown County Council has, by Order No. Ref.REF09/19 dated 21-Feb-2019 decided to issue a Declaration that:

From the information submitted it is considered that proposed development comprising of the erection of an external boiler flue along the property's Dungar Terrace elevation, located at 22 – 25 George's Street Upper, Dun Laoghaire, Co. Dublin is **NOT Exempt development** under Section 4(1)(h) of the Planning and Development Act 2000, as amended.

Date of issue: 21-Feb-2019

Signed: *Sharon O'Neill*

For Senior Executive Officer

NOTE: Where a Declaration is issued under Section 5, any Person issued with such a Declaration, may, on payment to An Bord Pleanála, 64 Marlborough Street, Dublin 1, of a fee of €220, refer the Declaration for review, **within 4 weeks** of the date of issue of the Declaration.

AN BORD PLEANÁLA

15 MAR 2019

LTR DATED _____ FROM _____

LDG- _____

APP

749-Section 5 Notice is Not Exempt Developme

No. Ref 9/19

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

PLANNING & DEVELOPMENT ACT, 2000 (as amended)

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

SECTION 5 PLANNING & DEVELOPMENT ACT 2000 (as amended)

Reference No: Ref519

Applicant: Better Value Unlimited Company 46 - 50, South Great Georges Street, Dublin 2

Agent: Better Value Unlimited Company 46 - 50, South Great Georges Street, Dublin 2

Registration Date: 28-Jan-2019

Location: 22-25, George's Street Upper, Dún Laoghaire, Co. Dublin, A96 A365

Agent: Better Value Unlimited Company 46 - 50, South Great Georges Street, Dublin 2

Description of Works: Erection of an external boiler flue along the property's Dungar Terrace elevation

Report:
Louise Bell

Declaration:

The declaration requested relates to whether the following works constitute exempt development, namely, the erection of an external boiler flue pipe along the property's Dungar Terrace elevation.

Planning History:

D09A/0019: Permission was granted, by an Bord Pleanála, (Ref. PL06D.235805) for re-development of the existing retail stores involving retention of the existing first and second floor red brick facade and parapet on George's Street and Northumberland Avenue; Demolition of the remaining structures and construction of a new 5,440 sq.m. 3-storey over basement retail development, comprising 750sq.m convenience retail at basement level, 2,395sq.m comparison shopping at ground, first and second floor levels, complete with a 380sq.m fourth floor top restaurant.

Enforcement History:

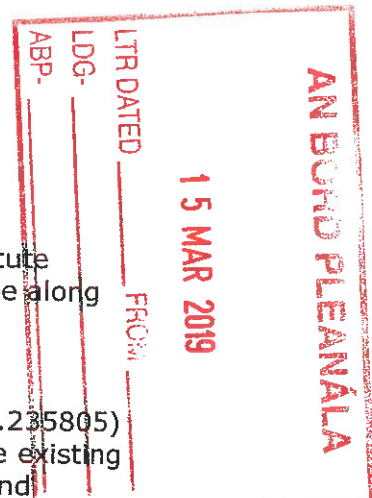
ENF 25018: The erection of a chimney stack to the rear of the store, which may not constitute exempt development, and without the benefit of a valid planning permission.

Statutory Provisions:

Planning and Development Act 2000 (as amended)

Section 2 (1) of the Act states as follows: -

"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



Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

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) of the Act states as follows: -

" '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."

Section 4 (1) of the Act states:-

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"

ASSESSMENT

The letter submitted with this section 5 states 'in 2015 internal maintenance works were carried out in respect to the property's internal heating system. The property's internal boiler was malfunctioning and therefore needed to be replaced. A new boiler was installed and the boilers flue pipe was erected along the building's Dungar Terrace elevation. The property's internal boiler cannot function without the external flue pipe.'

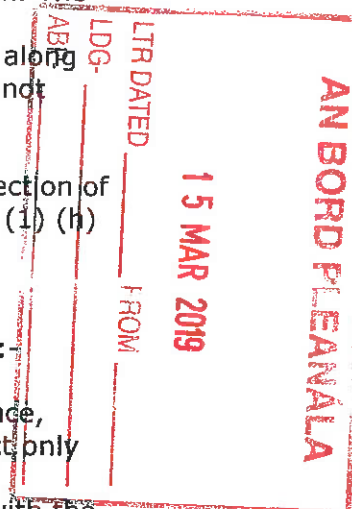
The Applicant states that the replacement of an internal boiler and the erection of an external flue is exempt development under the provisions of Section 4 (1) (h) of the Planning and Development Act 2000, as amended.

Section 4 (1) of the Act states:-

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"

The proposal involve alterations to the exterior of the structure, and hence would involve "works" within the meaning of Section 3 of the Act. Such works constitute "development" within the meaning of the Act. It is considered that the external flue materially affects the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures.



No. *Ref 9/19*

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

RECOMMENDATION

I recommend that the applicants agent, Better Value Unlimited Company 46 - 50, South Great Georges Street, Dublin 2, be informed that:

From the information submitted it is considered that the proposed development is not exempt development under Section 4(1)(h) of the Planning and Development Act 2000, as amended.

Kings Leads
Administrative Officer

Louise Bell 19/02/19
Executive Planner

ORDER

The issuing of a Declaration pursuant to Section 5 of the Planning & Development Act 2000, (as amended) to Better Value Unlimited Company 46 - 50, South Great Georges Street, Dublin 2, that

From the information submitted it is considered that the proposed development is not exempt development under Section 4(1)(h) of the Planning and Development Act 2000, as amended, is hereby approved.

comprising the erection of an external boiler flue along the property's dungor Terrace elevation, located at 22-25 George's Street Upper, Dun Laoghaire,

JB

Signed: *J.J.B.*
~~Approved Officer~~

Dated: *21/02/2019*

Thereunto empowered by order of Príomhfheidhmeannach, Comhairle Contae Dhún Laoghaire-Ráth An Dúin, Order No. *2182*, dated *23/10/18*, delegating to me all her powers, functions and duties in relation to the County Council of Dún Laoghaire-Rathdown in respect of this matter.

