

Knockaburra,  
199B Strand Rd,  
Merrion,  
Dublin 4,  
DO4 F2H4

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1

30.04.2019

<b>AN BORD PLEANÁLA</b>	
LDG-	<u>015678-19</u>
ASP-	
30 APR 2019 <span style="float: right;">Dott</span>	
Fee: €	<u>220</u> Type: <u>CHQ</u>
Time: <u>16:43</u>	By: <u>head</u>

**Re: - Referral of a Section 5 Declaration on Exempted Development  
in relation to a Proposed Development  
at Florence House, 199 Strand Road, Dublin 4  
from Richard Crowe, Knockaburra, 199B Strand Road, Dublin 4**

Dear Sirs,

This is a referral, under Section 5 (3) (a) of the Planning and Development Act 2000, as amended, of a declaration by Dublin City Council that a proposed extension to the rear of Florence House, 199 Strand Road, Dublin 4, is development and is not exempted development.

The appropriate fee of €220.00 is enclosed herewith.

The requirement in the legislation is for a referral to be made 'within four weeks of the date of the issuing of the declaration'. The declaration was issued by letter dated 5<sup>th</sup> April 2019. The four week period will expire therefore on 2<sup>nd</sup> May 2019.

The completed Section 5 application form which I submitted to Dublin City Council is enclosed (Tab A) herewith together with a drawing showing the nature and extent of the proposed development (Tab B) and a site location map with the site outlined in red (Tab C), together with my original letter to Dublin City Council (dated 14.03.2019) requesting a declaration (Tab D).

My interest in this matter is that I live in and own the adjoining property to the north of Florence House -- Knockaburra, 199B Strand Road, and my residential amenity and right to light are likely to be seriously adversely affected if the development as proposed is permitted to proceed.

Florence House consists of a substantial two storey over semi basement Victorian Period House. Knockaburra which immediately adjoins it is by contrast a small two storey mews type dwelling, in which the rooms depend entirely on the prospect to the south and south west across the enclosed



courtyard. The north gable of Florence House which is a very substantial building in this setting already presents a massive obstruction to the southward prospect, leaving a gap that would be closed off to a significant degree by the development. Therefore, this development by reason of its location mass, scale, bulk and design will have a seriously adverse impact on the residential amenity which we currently enjoy. The adverse impact arises in relation to the visual impact, overshadowing, and loss of light and blue sky.

The attached report (Tab E) by Professor Dermot O'Connell, Specialist in Daylight and Sunlight Access, Rights of Light etc., concludes that the number of hours of potential sunlight that my house receives is already below the 900 hours annually which should be a minimum provision. The proposed development would decrease the existing number of hours of sunlight by a further 150 hours which Professor O'Connell determines to be a 'regrettable diminution in the circumstances especially in a much-used living room'.

The proposed development had already been the subject of a previous Section 5 application to the Council (Reference 0523/18) by Mr McGettigan, the owner and occupier of Florence House, and the Council, in that case, determined that the proposal is exempted development. Please find attached relevant drawing showing the extent of the proposed development (Tab F), the planners report on the request (Tab G) together with the declaration made by DCC in the matter (Tab H).

Insofar as the proposal relates to my property it presents itself as a solid wall 6.5 metres over ground level. It extends 4 metres out from the rear façade of the existing house (Florence House). This wall would seriously adversely affect the residential amenity of my dwelling due to its overbearing nature and the reduction of my access to daylight and my view of open sky.

The lower part of the solid wall (games room) is 3 metres in height and is located 0.85 metres from our common boundary wall. This part of the development is not of concern.

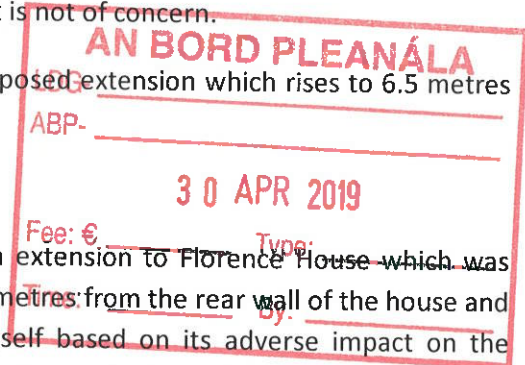
Of serious concern, however, is the upper part of the proposed extension which rises to 6.5 metres and is located 2 metres from the boundary wall.

The planning history of the site is of relevance.

Planning Register No. 1091/08 was an application for an extension to Florence House which was located 4.5 metres from the boundary wall, extended 6.5 metres from the rear wall of the house and was 7 metres in height. Following objections from myself based on its adverse impact on the residential amenity of my home, the decision of the planning authority reduced the extent of the proposal from 6.5 metres to 4 metres from the rear façade of Florence House.

Both I and another neighbour appealed that decision to An Bord Pleanála, (Ref. 29S.232521) with the result that the first floor element was omitted by way of condition (copy attached Tab I), as follows: -

*'1. The first floor element of the proposed rear extension shall be omitted and replaced with a flat roof over single-storey extension. Prior to the commencement of development the applicant shall submit amended plans. Sections and elevations, together with external finishes, for the written agreement of the planning authority.'*





*Reason: To clarify the extent of the development permitted and in the interest of residential amenity.'*

A further condition read as follows

*'4. No access shall be permitted onto the proposed flat roof except for maintenance and repair work.*

*Reason: In the interest of clarity and residential amenity'*

The decision which omitted the upper level of development and prohibited regular access to the roof of the ground floor element fully protects the residential amenity of my dwelling house. The declaration by the planning authority that the proposed development, which is in excess of two storeys in height and 2.5 meters closer to my property, is exempted development flies in the face of this condition and seriously compromises the residential amenity of my dwelling.

I would contend that this decision of An Bord Pleanála constitutes a permission under the Act. The proposed development would be in contravention of the above condition no. 1 of the permission which omitted the element of first floor development. The proposal therefore falls within the terms of Article 9 of the Planning and Development Regulations, as amended, which set out various restrictions on exemption as follows (in relevant part): -

**'9 Restrictions on exemption**

- (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 .....

AN BORD PLEANALA  
LDG  
ABP- \_\_\_\_\_  
30 APR 2019  
Fee: € \_\_\_\_\_ Type: \_\_\_\_\_  
Time: \_\_\_\_\_ By: \_\_\_\_\_

It is submitted that the proposed development falls foul of Article 9 of the Planning and Development Regulations 2001, as amended, and that it is not therefore exempted development and should be the subject of a planning application.

A further application (Ref. 3460/16) shows the consistency of approach by An Bord Pleanála to development to the rear of Florence House. This application was for a small bathroom extension and a decked area at the rear of Florence House. The small centrally located bathroom extension was innocuous and unobjectionable. The decked area, however, at upper ground floor level and adjacent to my boundary wall would have, if permitted, directly and adversely impacted on my residential amenity.

Following an appeal by Mr McGettigan against the decision of the planning authority to refuse permission, the Board also refused permission for the decking for the following reason (ABP Ref. PL 29S.247424)

*'Having regard to the location, use and design of the proposed first floor deck including the stairs, it is considered that the proposed development would seriously detract from the visual amenity of the existing dwelling and would seriously injure the amenities of the property in the vicinity by reason of a seriously overbearing impact and overshadowing of the property*



*to the north, would result in overlooking of property to the south, and would be contrary to the proper planning and sustainable development of the area.'*

I attach a copy of the decision of the Board (Tab J) together with a layout of the proposed development. (Tab K).

I was happy that in each of the above cases the planning decisions by the Board fully protected my right not to have the residential amenity of my dwelling compromised by a two storey development near to my boundary wall. It was clear to me that any development at upper ground floor level adjacent to my boundary wall would not be considered to be exempted development by virtue of Article 9 of the Regulations but would have to go through the planning process. It was a surprise to me that Mr McGettigan subsequently obtained a declaration that his proposal was exempted development. I was not in a position to refer that declaration to the Board as I was unaware of it. Hence my own request for a declaration which I am now referring to the Board.

As an illustration of the adverse effect on my property which is being caused by the extension to Florence House, currently under construction, I attach a photograph at Tab L which shows the overbearing and domineering effect of the development on my small garden and house and its impact on access to daylight and blue sky.

It seems to me that in the interests of fairness and openness, once a proposed development has been removed from the exempted category by virtue of a condition on a planning permission, by reason of Article 9 of the Regulations, the passage of time should not set that de-exemption at naught. If this is not the case, I am exposed to a situation wherein I find that a proposal which has been found, in effect, to not be exempt becomes exempt when the relevant permission expires thus exposing me to the very serious diminution of my rights to residential amenity which had been protected and vindicated by the previous decision of the Board.

I would ask An Bord Pleanála to have regard to the above submission and overturn the determination of Dublin City Council in this matter.

I look forward to hearing from you in due course

Yours sincerely

  
Richard Crowe

<b>AN BORD PLEANÁLA</b>	
LDG- _____	
ABP- _____	
<b>30 APR 2019</b>	
Fee: € _____	Type: _____
Time: _____	By: _____

AN BORD PLEANÁLA

LOG \_\_\_\_\_

ASP \_\_\_\_\_

3 11 APR 2019

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lapp \_\_\_\_\_

Time \_\_\_\_\_

Ry \_\_\_\_\_

*[Faint, illegible text]*



For List of attachments see overleaf

List of Attachments

- Tab A - Section 5 Application Form Submitted by Richard Crowe
- Tab B – Drawing showing the extent of development claimed as exempt
- Tab C – Site Location Map
- Tab D – Section 5 request letter from Richard Crowe dated 14.03.2019
- Tab E – Report by Professor Dermot O’Connell
- Tab F – Drawing showing extent of development in Section 5 request by Mr McGettigan
- Tab G - Planner’s report on Section 5 request by Mr McGettigan
- Tab H – Declaration on Section 5 request by Mr McGettigan
- Tab I – Appeal decision on Planning Application Reg. Ref. 1091/08
- Tab J – Appeal Decision on Planning Application Reg. Ref. Ref. 3460/16
- Tab K – Drawing showing layout of planning application Reg. Ref. 3460/16
- Tab L – Photograph of development at Florence House under construction
- Tab M – Photograph of site at Florence House before development commenced.

<b>AN BORD PLEANÁLA</b>	
LDG-	_____
ABP-	_____
<b>30 APR 2019</b>	
Fee: €	_____ Type: _____
Time: _____	By: _____



DECLARATION ON DEVELOPMENT & EXEMPTED DEVELOPMENT



**SECTION 5 APPLICATION FORM**

NAME OF APPLICANT: RICHARD CROWE  
ADDRESS OF APPLICANT: KNOCKABURRA, 199B STRAND RD, MERRION, DUBLIN 4.  
EMAIL ADDRESS: RCROWEDSL@GMAIL.COM  
TELEPHONE NO. Day: 01-2696785 Mobile: 087-2414285

NAME OF AGENT AND AGENT'S ADDRESS: \_\_\_\_\_  
N/A  
TELEPHONE NO. Day: \_\_\_\_\_ Mobile: \_\_\_\_\_  
ADDRESS FOR CORRESPONDENCE (if different from above):  
AS ABOVE

**AN BORD PLEANÁLA**  
LDG: \_\_\_\_\_  
ABP: \_\_\_\_\_  
**30 APR 2019**  
Fee: € \_\_\_\_\_ Type: \_\_\_\_\_  
Time: \_\_\_\_\_ By: \_\_\_\_\_

LOCATION OF SUBJECT SITE: FLORENCE HOUSE, 199 STRAND RD, MERRION, DUBLIN 4.

Is this a Protected Structure or within the curtilage of a Protected Structure?  **NO**  
If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?

Please provide details of works (where applicable) or proposed development. (Note: only works listed and described under this section will be assessed under this section 5 application. Use additional sheets if required.)

CONSTRUCTION OF A PART TWO STOREY, PART SINGLE STOREY EXTENSION TO REAR (WEST FACING) ELEVATION (THE SINGLE STOREY ELEMENT IS RAISED ABOVE LOWER GROUND LEVEL (ii) ALTERATIONS TO REAR AND SIDE (SOUTH, NORTH AND WEST (FACING) ELEVATIONS.



List of plans, drawings etc. submitted with this application

2 X DRAWING NO. 2008-33-EX-100

2 X SITE LOCATION MAPS

Please state Applicant's interest in this site: \_\_\_\_\_

If applicant is not owner of site, please provide name & address of owner:

BRIAN McGETTIGAN, FLORENCE HOUSE

199 STRAND RD, MERRION, DUBLIN 4.

Are you aware of any enforcement proceedings connected to this site?

If so please supply details:

NO.

**AN BORD PLEANÁLA**  
LDG- \_\_\_\_\_  
ABP- \_\_\_\_\_  
30 APR 2019  
Fee: € \_\_\_\_\_ Type: \_\_\_\_\_  
Time: \_\_\_\_\_ By: \_\_\_\_\_

Where there previous planning application/s on this site?  YES

If so please supply details:

29S.232521 (WEB 1091/08, 29S 247424 (3460/16), 0123/17, 0468/18

Signed \_\_\_\_\_

Date 14.03.2019

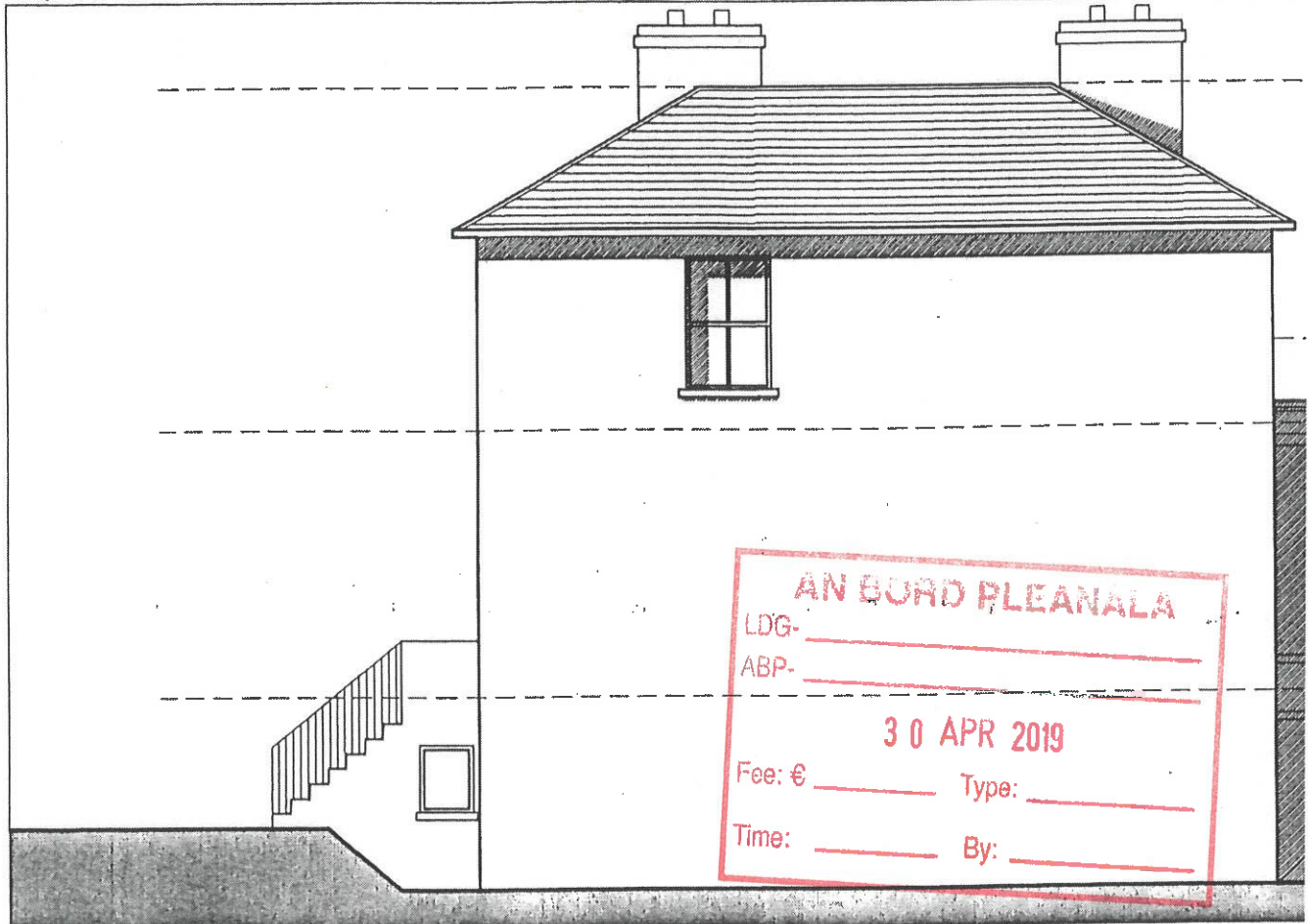
**NOTES**

Application shall be accompanied by 2 copies of site location map with site clearly outlined in red and a fee of €80.00. Please submit 2 copies of any additional plans/reports etc. you may wish to include as part of the application.

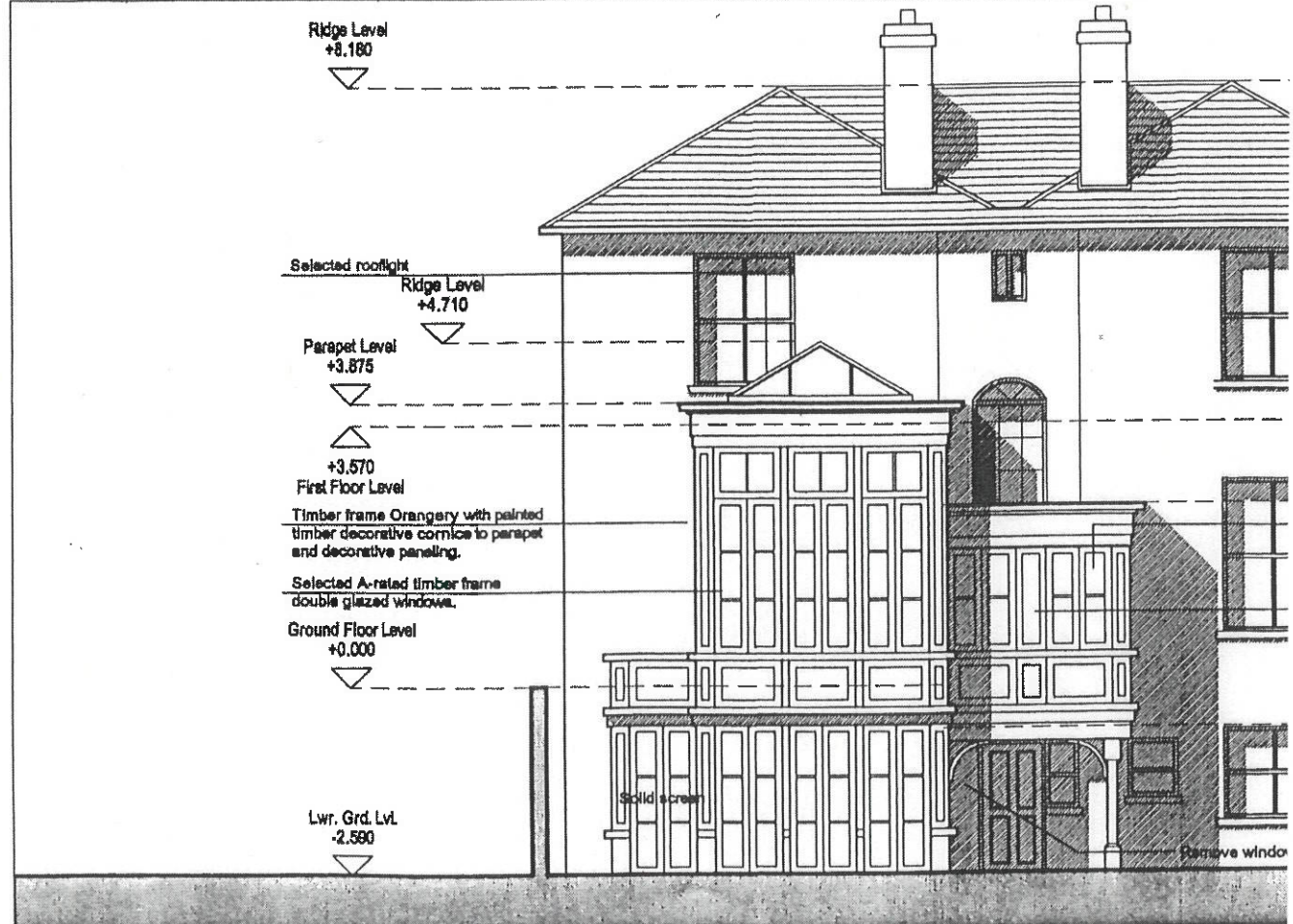
Application shall be forwarded to: Dublin City Council, Planning Registry  
Section, Block 4, Floor 0, Civic Offices, Wood Quay, Dublin 8.  
Contact Details: Phone: 01 222 2149 Fax: 01 222 2675



Proposed Contextual Back Elevation (West) - Scale 1:200



Proposed North Elevation - Scale 1:100







Surveyed 1968  
 Revised 2015  
 Levelled 1983

# Urban PLACE Map

719658  
 731269

**ITM CENTRE PT COORDS**  
 719542,731183

**DESCRIPTION**  
 Florence House, 199  
 Strand Road, Dublin 4.  
 D04 F8C2

**MAP SHEETS**  
 1:1000  
 3329-10

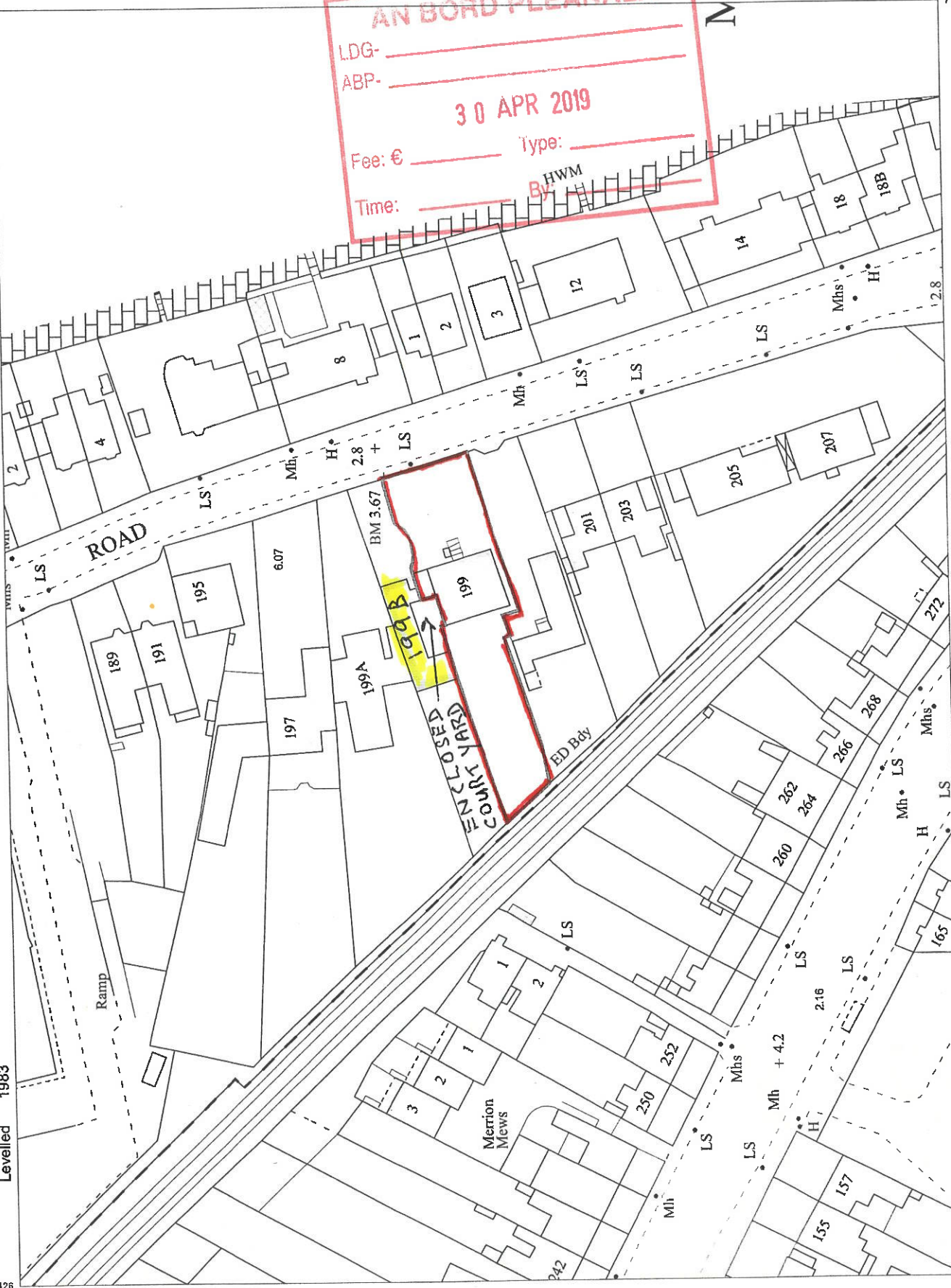
**Tyler Owens Architects,  
 The Mash House, Distillery  
 Road, Dublin 3.**



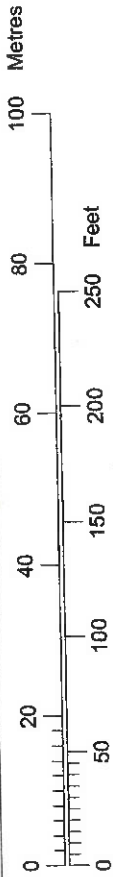
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 © Ordnance Survey Ireland, 2016

731097



Plot Ref. No. 19721327\_1\_1  
 Plot Date 27-JUL-2016



Scale:- 1:1,000  
 Scála:- 1:1,000

719426

719428

S.C. UNIVERSITY

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30 APR 1970

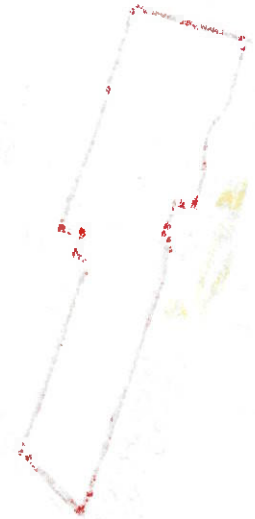
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THE

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BY

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One Copy

Knockaburra,  
199B Strand Rd,  
Merrion,  
Dublin 4,  
D04 F2H4

Dublin City Council,  
Planning Registry Section  
Block 4, Floor 0,  
Civic Offices,  
Wood Quay,  
Dublin 8.

14.03.2019

<b>AN BORD PLEANÁLA</b>	
LDG- _____	_____
ABP- _____	_____
<b>30 APR 2019</b>	
Fee: € _____	Type: _____
Time: _____	By: _____

**Re: - Request for a Section 5 Declaration on Exempted Development  
in relation to a Proposed Development  
at Florence House, 199 Strand Road, Dublin 4  
from Richard Crowe, Knockaburra, 199B Strand Road, Dublin 4**

Dear Sirs,

This is a request, under Section 5 of the Planning and Development Act 2000, as amended, for a declaration that a proposed extension to the rear of Florence House, 199 Strand Road, Dublin 4, is development and is not exempted development.

The appropriate fee of €80.00 is enclosed herewith.

A completed Section 5 application form is enclosed herewith together with a drawing showing the nature and extent of the proposed development and two copies of a site location map with the site outlined in red..

My interest in this matter is that I live in and own the adjoining property to the north of Florence House — Knockaburra, 199B Strand Road, and my residential amenity and right to light are likely to be seriously adversely affected if the development as proposed is permitted to proceed.

The proposed development has already been the subject of a Section 5 application to the Council (Reference 0523/18) and the Council has determined that the proposal is exempted development. The purpose of this request for a declaration is to draw the attention of the planning authority to an aspect of the case which does not appear to have been considered in the determination of the original request. The submission of this request for a declaration also allows me the opportunity to refer the matter to An Bord Pleanala if I am not satisfied with the decision of the planning authority,



an opportunity which was not open to me in the original request for a determination as I was not a party to it.

Insofar as the proposal relates to my property it presents itself as a solid wall 6.5 metres over ground level. It extends 4 metres out from the rear façade of the existing house (Florence House). This wall would seriously adversely affect the residential amenity of my dwelling due to its overbearing nature and the reduction of my access to daylight and my view of open sky.

The lower part of the solid wall (games room) is 3 metres in height and is located 0.85 metres from our common boundary wall. This part of the development is not of concern.

Of serious concern, however is the upper part of the proposed extension which rises to 6.5 metres and is located 2 metres from the boundary wall.

Planning Register No. 1091/08 was an application for an extension to Florence House which was located 4.5 metres from the boundary wall, extended 6.5 metres from the rear wall of the house and was 7 metres in height. Following objections from myself based on its adverse impact on the residential amenity of my home, the decision of the planning authority reduced the extent of the proposal from 6.5 metres to 4 metres from the rear façade of Florence House.

Both I and another neighbour appealed that decision to An Bord Pleanála (Ref. 29S.232521) with the result that the first floor element was omitted by way of condition as follows: -

*'1. The first floor element of the proposed rear extension shall be omitted and replaced with a flat roof over single-storey extension. Prior to the commencement of development the applicant shall submit amended plans. Sections and elevations, together with external finishes, for the written agreement of the planning authority.*

*Reason: To clarify the extent of the development permitted and in the interest of residential amenity.'*

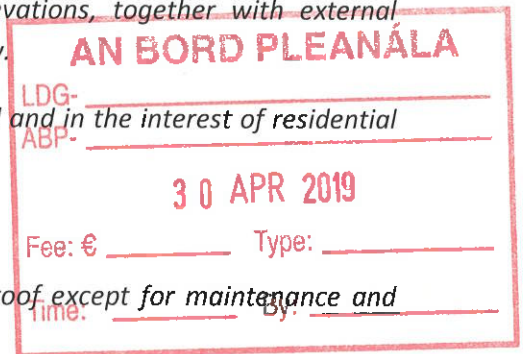
A further condition read as follows

*'4. No access shall be permitted onto the proposed flat roof except for maintenance and repair work.*

*Reason: In the interest of clarity and residential amenity'*

The decision which omitted the upper level of development and prohibited regular access to the roof of the ground floor element fully protects the residential amenity of my dwelling house. The declaration by the planning authority that the proposed development, which is in excess of two storeys in height and 2.5 meters closer to my property, is exempted development flies in the face of this condition and seriously compromises the residential amenity of my dwelling.

The decision of An Bord Pleanála constitutes a permission under the Act. The proposed development would be in contravention of the above condition no. 1 of the permission which omitted any element of first floor development.. The proposal therefore falls within the terms of Article 9 of the Planning and Development Regulations, as amended, which set out various restrictions on exemption as follows (in relevant part): -





**'9 Restrictions on exemption**

*(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 .....*

It is submitted that the proposed development falls foul of Article 9 of the Planning and Development Regulations 2001, as amended, and that it is not therefore exempted development and should be the subject of a planning application.

I would request the planning authority to issue a revised declaration to the effect that the proposed development is not exempted development.

Pending a final determination of this issue I would recommend that the development not be permitted to proceed on the site.

Yours sincerely,



Richard Crowe

<b>AN BORD PLEANÁLA</b>	
LDG- _____	
ABP- _____	
<b>30 APR 2019</b>	
Fee: € _____	Type: _____
Time: _____	By: _____





**Professor Dermot O'Connell**

MSc, B Arch, FRIAI, RIBA  
Specialist in Daylight and Sunlight Access, Rights of Light etc

LDG- \_\_\_\_\_

ABP- \_\_\_\_\_

30 APR 2019

Fee: € \_\_\_\_\_ Type: \_\_\_\_\_

Time: \_\_\_\_\_ By: \_\_\_\_\_

33 Whitebeam Rd,  
Clonskeagh,  
Dublin 14

Telephone(01) 269211  
26 April 2019

**Re Florence House, 199 Strand Road, Sandymount, Dublin 4**

Dublin City Council

Re: Application No. 0111/19

Decision Order P3085

**Referral by Mr Richard Crowe of 199B, Strand Road, adjoining the subject site.**

We act for Mr Crowe and this submission considers the loss of amenity that we believe would ensue from the proposed development as amended by the proposer, Mr McGettigan

Mr Crowe's house is immediately north of Florence House, a large three-storey building with a pitched roof. The proposal is to build in the garden directly behind (that is, to the west of Florence House and attached to it) and directly to the south of Mr Crowe's house. Mr Crowe's house is built on a narrow site and depends crucially on a narrow courtyard running east to west alongside the boundary wall. The south face of Mr Crowe's house is approximately 3.8 metres from the boundary.

We are particularly concerned with the loss of (potential) sunlight to Mr Crowe's south-facing façade where he has a living room. [Note that for descriptive purposes above we consider Mr Crowe's façade to be facing south though it is slightly east of south (17.5 degrees). The calculations below are based on the actual exact orientation].

The standard commonly applied by local authorities to assess obstruction of sunlight (to be caused by prospective developments) to existing residential buildings is *Site Layout Planning for Daylight and Sunlight*. —*A guide to good practice*, by Paul Littlefair, published by BRE Trust (UK, 2011 edition). The 'Guidelines' are purely advisory.

The Guidelines do not closely cover the situation in this case since the access to (potential) sunlight at present by Mr Crowe's façade is at best about three hours a day, by virtue of obstruction by the existing bulk of Florence House to the south-east, (which restricts early morning sun) and to a lesser degree by the projection of Mr Crowe's house itself to the south-west (which restricts afternoon sun). This is to say, that sunlight availability is effectively restricted between an angle of 27° (measured anti clockwise from due south) before noon,



and an angle of 20° (measured clockwise from due south) after noon. That is, potential sunlight can be only within an azimuthal range of 47° (27° +20°), which represents a small part of the day. The corollary, however, is that any reduction in sunlight hours will be more noticeable and injurious than it would be where a façade enjoys substantial exposure to sun at present. The proposed development is centred across this existing gap.

The number of hours of potential sunlight that an existing building (facing between east and west through south, as Mr Crowe's house does), should receive as a minimum after development, is about 900 hours annually (after discounting sunlight where the sun is below 10° elevation). Mr Crowe's house is already below this standard and the proposed development would reduce this by about 150 hours a year. We consider this would be a regrettable diminution in the circumstances especially in a much-used living room. We stress that at Dublin's latitude actual sunshine averages only about one third of possible sunshine year on year.

Dermot O'Connell  
26 April 2019

<b>AN BORD PLEANÁLA</b>	
LDG-	_____
ABP-	_____
<b>30 APR 2019</b>	
Fee: €	_____ Type: _____
Time: _____	By: _____



DEPUTY PLANNING OFFICER

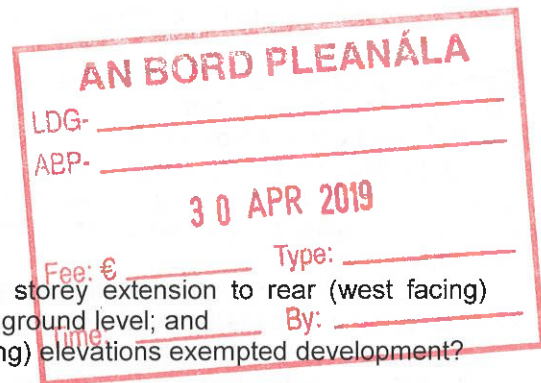
APPLICATION NO. 0111/19  
PROPOSAL EXPP: (i) Construction of a part two storey, part single storey extension to rear (west facing) elevation (the single storey element is raised above lower ground level  
(ii) Alterations to rear and side (south, north and west facing) elevations.  
LOCATION Florence House, 199, Strand Road, Merrion, Dublin 4  
APPLICANT Richard Crowe  
DATE LODGED 15-Mar-2019  
ZONING  
APPLICATION TYPE Section 5

**Application Number**  
EXPP0111/19

**Address**  
Florence House, 199 Strand Road, Dublin 4

**Proposed Declaration**

Is the (i) Construction of a part two storey, part single storey extension to rear (west facing) elevation (the single storey element is raised above lower ground level; and (ii) Alterations to rear and side (south, north and west facing) elevations exempted development?



**Site Description**

The subject site is located on the western side of strand road and contains a substantial two storey over basement period dwelling with off-street parking and large front and rear gardens.

The site is bounded to the rear by the railway dart line, to the south by a single storey dwelling and to the north by a two storey dormer dwelling.

**Zoning**

The site is zoned Z2 in the Dublin City Development Plan 2016-2022 which seeks to "Protect and improve the amenities of residential conservation areas".

**Planning History**

0523/18 – Section 5 declaration GRANTED for (i) the construction of a part two storey, part single storey extension to rear (west facing) elevation, including rooflight (the single storey element is raised above Lower Ground Level); (ii) alterations to rear and side (south, north and west facing) elevations; (iii) landscaping; and (iv) all associated works to facilitate the development as exempted development.

0468/18 – Section 5 application withdrawn on 30th November 2018.

0123/17- Section 5 certificate GRANTED for a two storey extension to the rear of the existing three storey dwelling.

PL29S.247424 (3460/16) – SPLIT DECISION issued to GRANT permission for the construction of an extension to the rear at the upper ground floor level and REFUSE permission for the raised deck at upper ground floor level to the rear of existing dwelling.

29S.232521 (WEB1091/08) - Permission GRANTED for a rear extension at Florence House. Condition No 1 required the removal of the first-floor proposal, to prevent overlooking on adjoining properties.

**Statutory Provisions**

The following statutory provisions are relevant in this instance.

Planning and Development Acts, 2000 (as amended)

Section 2 (1) defines "works" as follows:

*"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) defines "Development" as follows:

*"Development means except where the context otherwise requires, the carrying out of any works on, over or under land or the making of any material change in the use of any structures or other land".*

Section 4 (1) (h) – sets out exempted development for the purposes of the Act as follows:

*"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".*

Planning and Development Regulations 2001 (as amended)

**Class 1** of Schedule 2 states:

Column 1 Development Description:

*The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.*

Column 2 Conditions:

1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres

....

(c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.

....

3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.

(b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.

(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.

6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.

(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.

(c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.

7. The roof of any extension shall not be used as a balcony or roof garden".

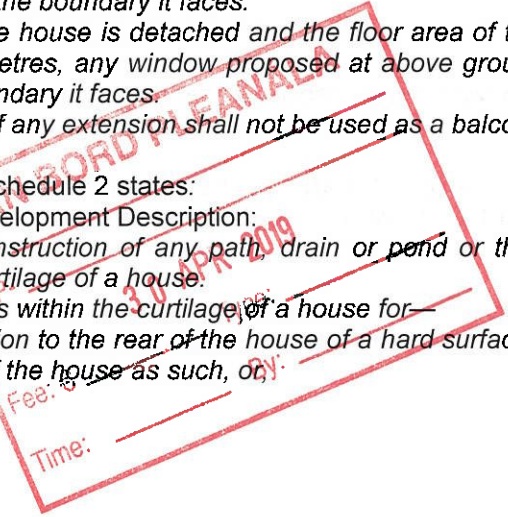
**Class 6** of Schedule 2 states:

Column 1 Development Description:

*"(a) The construction of any path, drain or pond or the carrying out of any landscaping works within the curtilage of a house.*

*(b) Any works within the curtilage of a house for—*

*(i) the provision to the rear of the house of a hard surface for use for any purpose incidental to the enjoyment of the house as such, or;*



(ii) the provision of a hard surface in the area of the garden forward of the front building line of the house, or in the area of the garden to the side of the side building line of the house, for purposes incidental to the enjoyment of the house as such.

Column 2 Conditions:

The level of the ground shall not be altered by more than 1 metre above or below the level of the adjoining ground.

Provided that the area of the hard surface is less than 25 square metres or less than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, whichever is the smaller,

Or

if the area of the hard surface is 25 square metres or greater or comprises more than 50% of the area of the garden forward of the front building line of the house, or 50% of the area of the garden to the side of the side building line of the house, as the case may be, it shall be constructed using permeable materials or otherwise allow for rainwater to soak into the ground".

**Article 6(1)** states that 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.

Article 9(1) states the following:

"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....."

#### Assessment

The applicant has requested this section 5 application as a neighbour, following a recent declaration issued under 0523/18 that the development at Florence House shown on Drawing no.2008-33-EX-100 dated 4th February 2019 is exempt from the requirement to obtain planning permission under Section 32 of the Planning and Development Act 2000 as amended.

The proposed rear extension is considered to be development and is assessed against Class 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). The submitted plans indicate that the detached house has not been previously extended (despite the grant of planning permissions for rear extensions on the site).

The proposed two storey rear extension measures approximately 16.1sq.m at ground floor level and approximately 19.1sq.m above ground floor level which complies with the floor area limitations set out in Criteria 1(a) and 1(c) in Column 2 of Class 1. The height of the proposed extension also complies with Criteria 4 (a) (b) and (c). The size of the remaining garden exceeds 25sq.m and complies with Criteria 5.

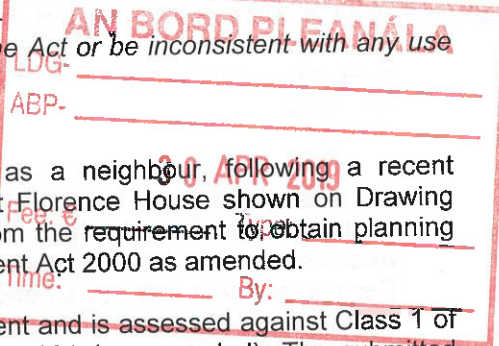
There are no side windows proposed in the extension, including the first floor orangery extension, which has solid decorative panels to the side as shown on the southern elevation plan (notwithstanding that the floor plan has not been updated). Opaque glazing is proposed to the first floor bathroom window facing west. The extension complies with Criteria 6(a) (b) and (c).

The roof has a pop-up style rooflight and the flat roof is not proposed to be used as a roof garden consistent with Criteria 7.

The submitted layout plan indicates that the above ground floor rear extension is sited not less than 2m from any party boundary consistent with Criteria 3 in Column 2 of Class 1.

Overall, the construction of a two storey extension to rear (west facing) elevation is development and is exempted development under Class 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) insofar as the proposed rear extension complies with the conditions and limitations set out in Column 2 of Class 1.

The applicant has concerns that the proposed development is de-exempt under Article 9(1)(a)(i). The cover letter submitted by the applicant states that "The decision of An Bord Pleanála [29S.232521 (WEB1091/08)] constitutes a permission under the Act. The proposed development would be in contravention of the above condition no. 1 of the permission which omitted any element of first floor development. The proposal therefore falls within the terms of Article 9 of the Planning



and Development Regulations, as amended....It is submitted that the proposed development falls foul of Article 9 of the Planning and Development Regulations 2001, as amended, and that it is not therefore exempted development and should be the subject of a planning application".

The rear extension permitted under 29S.232521 (WEB1091/08) was not undertaken or enacted by the developer and therefore the permission expired on 18th June 2014. In this regard, the planning permission is no longer effective and the obligation of any person to comply with any condition attached to the relevant permission has also ceased to have effect. There is also an extant permission on the site under PL29S.247424 (3460/16). Overall, the proposed development subject to this section 5 application is not considered to be de-exempt under Article 9 of the Planning and Development Regulations 2001 as amended.

The alterations to the elevations of the house are limited to the internal works being the opening up of the games room, kitchen and hallway window to connect into the proposed rear extension. These works are considered to be exempted development under 4(1)(h) of the Planning and Development Act 2000 as amended.

### Recommendation

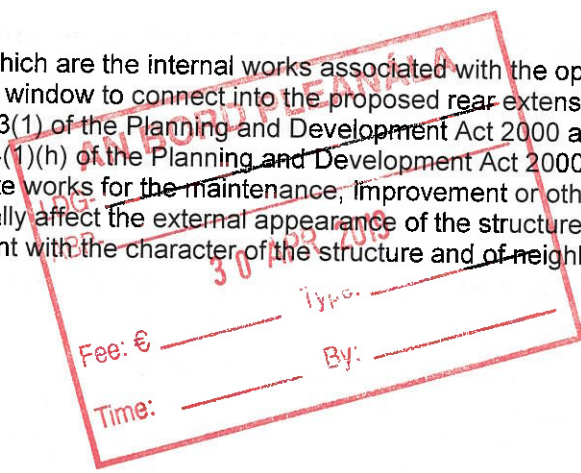
1. The construction of a rear extension as shown on Drawing no.2008-33-EX-100 constitutes **development** by virtue of Section 3(1) of the Planning and Development Act 2000 as amended and is **exempted development** under Class 1 of Schedule 2 of the Planning and Development Regulations 2001 as amended insofar as the conditions and limitations of the relevant Column 2 are satisfied. The proposed development is not considered to be de-exempt under Article 9 of the Planning and Development Regulations 2001 as amended.

1. The alterations to elevations which are the internal works associated with the opening up of the games room, kitchen and hallway window to connect into the proposed rear extension constitutes **development** by virtue of Section 3(1) of the Planning and Development Act 2000 as amended and is **exempted development** under 4(1)(h) of the Planning and Development Act 2000 as amended insofar as the said works constitute works for the maintenance, improvement or other alteration of the structure which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure and of neighbouring structures.

The applicant should be advised accordingly.

1. The construction of a rear extension as shown on Drawing no.2008-33-EX-100 constitutes development by virtue of Section 3(1) of the Planning and Development Act 2000 as amended and is exempted development under Class 1 of Schedule 2 of the Planning and Development Regulations 2001 as amended insofar as the conditions and limitations of the relevant Column 2 are satisfied. The proposed development is not considered to be de-exempt under Article 9 of the Planning and Development Regulations 2001 as amended.

2. The alterations to elevations which are the internal works associated with the opening up of the games room, kitchen and hallway window to connect into the proposed rear extension constitutes development by virtue of Section 3(1) of the Planning and Development Act 2000 as amended and is exempted development under 4(1)(h) of the Planning and Development Act 2000 as amended insofar as the said works constitute works for the maintenance, improvement or other alteration of the structure which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure and of neighbouring structures.







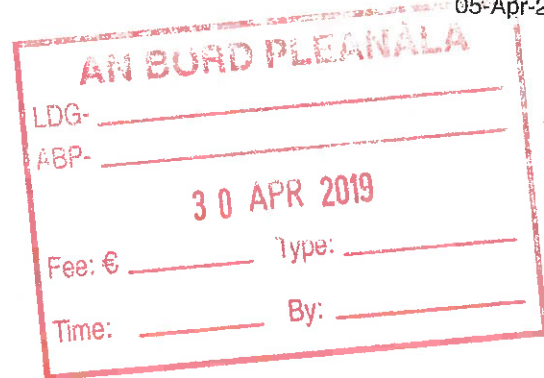
Planning & Property Development Department,  
Dublin City Council, Block 4, Floor 3, Civic Offices, Wood Quay, Dublin 8.

An Roinn Pleanála & Forbairt Maoin  
Bloc 4, Urlár 3, Oifigi na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

t. (01) 222 2288  
e. [planning@dublincity.ie](mailto:planning@dublincity.ie)

05-Apr-2019

Richard Crowe  
Knockaburra  
199B, Strand Road  
Dublin 4



Application Number	0111/19
Application Type	Section 5
Registration Date	15-Mar-2019
Decision Date	03-Apr-2019
Decision Order No.	P3085
Location	Florence House, 199, Strand Road, Merrion, Dublin 4
Proposal	EXPP: (i) Construction of a part two storey, part single storey extension to rear (west facing) elevation (the single storey element is raised above lower ground level (ii) Alterations to rear and side (south, north and west facing) elevations.
Applicant	Richard Crowe

### NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Acts 2000(As Amended), Dublin City Council has by order dated 03-Apr-2019 decided to issue a Declaration that the above proposed development is EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Acts 2000(As Amended).


#### Reasons & Considerations:

1. The construction of a rear extension as shown on Drawing no.2008-33-EX-100 constitutes development by virtue of Section 3(1) of the Planning and Development Act 2000 as amended and is exempted development under Class 1 of Schedule 2 of the Planning and Development Regulations 2001 as amended insofar as the conditions and limitations of the relevant Column 2 are satisfied. The proposed development is not considered to be de-exempt under Article 9 of the Planning and Development Regulations 2001 as amended.
2. The alterations to elevations which are the internal works associated with the opening up of the games room, kitchen and hallway window to connect into the proposed rear extension constitutes development by virtue of Section 3(1) of the Planning and Development Act 2000 as amended and is exempted development under 4(1)(h) of the Planning and Development Act 2000 as amended insofar as the said works constitute works for the maintenance, improvement or other alteration of the structure which do not materially affect the



external appearance of the structure so as to render the appearance inconsistent with the character of the structure and of neighbouring structures.

Signed on behalf of Dublin City Council

  
for Assistant Chief Executive

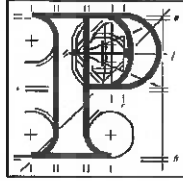
**Note:**

Any person issued with a declaration on development and exempted development, may, on payment of the prescribed fee, refer a declaration for review by an Bord Pleanála within four weeks of the date of the issuing of the declaration.

<b>AN BORD PLEANÁLA</b>	
LDG- _____	
ABP- _____	
<b>30 APR 2019</b>	
Fee: € _____	Type: _____
Time: _____	By: _____



# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2007

Dublin City

Planning Register Reference Number: **WEB1091/08**

An Bord Pleanála Reference Number: **PL 29S.23252T**

<b>AN BORD PLEANÁLA</b>	
LDG- _____	
ABP- _____	
<b>30 APR 2019</b>	
Fee: € _____	Type: _____
Time: _____	By: _____

**APPEAL** by Richard and Una Crowe care of William Murray and Associates of 63 Lower Leeson Street, Dublin and by Colm and Jeanne Whelan of Florence Lodge, 199 Strand Road, Sandymount, Dublin against the decision made on the 16<sup>th</sup> day of December, 2008 by Dublin City Council to grant subject to conditions a permission to Brian McGettigan care of Laughton Tyler Architects of The Mash House, Distillery Road, Dublin in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Construction of a two-storey extension (57 square metres approximately) to the rear of existing dwelling, to accommodate new living area at ground floor and two number additional bedroom with shared bathroom at first floor level, and all associated site works, at Florence House, 199 Strand Road, Sandymount, Dublin.

## DECISION

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## REASONS AND CONSIDERATIONS

Having regard to the nature and scale of the proposed extension, the established pattern of development in the area and to the provisions of the current Dublin City Development Plan, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The first floor element of the proposed rear extension shall be omitted and replaced with a flat roof over single-storey extension. Prior to commencement of development the applicant shall submit amended plans, sections and elevations, together with external finishes, for the written agreement of the planning authority.

**Reason:** To clarify the extent of the development permitted and in the interest of residential amenity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

3. All construction activities on site shall be conducted in a manner such that there will be no generation of noise, dust, fumes, vibrations, electrical interference or debris onto public roads, such as would give rise to reasonable cause for annoyance to any person in any residence or public place in the vicinity. Construction activities shall take place only between 0700 hours and 1800 hours Monday to Friday, and between 0800 hours and 1400 hours on Saturday. No work shall take place on Sundays or Bank/Public Holidays.

**Reason:** In the interest of residential amenity and orderly development.

- 4. No access shall be permitted onto the proposed flat roof except for maintenance and repair work.

**Reason:** In the interest of clarity and residential amenity.

*Sean F. Anif*

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

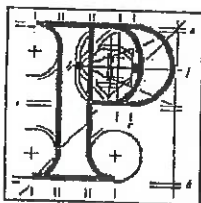
Dated this *19<sup>th</sup>* day of *June* 2009.

<b>AN BORD PLEANÁLA</b>	
LDG-	_____
ABP-	_____
<b>30 APR 2019</b>	
Fee: €	_____ Type: _____
Time: _____	By: _____





# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Dublin City

Planning Register Reference Number: 3460/16

An Bord Pleanála Reference Number: PL 29S.247424

**AN BORD PLEANÁLA**  
LDG- \_\_\_\_\_  
ABP- \_\_\_\_\_  
**30 APR 2019**  
Fee: € \_\_\_\_\_ Type: \_\_\_\_\_  
Time: \_\_\_\_\_ By: \_\_\_\_\_

**APPEAL** by Brian McGettigan care of Tyler Owens Architects of the Mash House, Distillery Road, Dublin against the decision made on the 22<sup>nd</sup> day of September, 2016 by Dublin City Council in relation to an application by the said Brian McGettigan for permission for the construction of an extension and raised deck at upper ground floor level to the rear of existing dwelling and all associated site works necessary to facilitate the development, all at Florence House, 199 Strand Road, Sandymount, Dublin in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions permission for the construction of an extension to the rear at the upper ground floor level and to refuse permission for raised deck at upper ground level to the rear of existing dwelling):

## DECISION

**GRANT** permission for the construction of an extension to the rear at the upper ground floor level in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. **REFUSE** permission for the raised deck at upper ground floor level to the rear of existing dwelling based on the reasons and considerations marked (2) under.



## MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## REASONS AND CONSIDERATIONS (1)

Having regard to the zoning objective for the area, the design and layout of the first floor bathroom extension and the pattern of development in the area, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the visual amenities of the area or of residential amenity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed out in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.

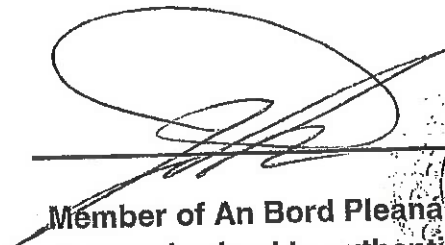
**Reason:** In the interest of visual amenity.

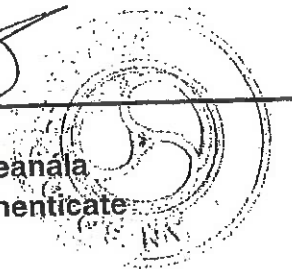
AN BORD PLEANÁLA  
ABP- \_\_\_\_\_  
30 APR 2019  
Fee: € \_\_\_\_\_ Type: \_\_\_\_\_  
Time: \_\_\_\_\_ By: \_\_\_\_\_



## REASONS AND CONSIDERATIONS (2)

Having regard to the location, use and design of the proposed first floor deck including the stairs, it is considered that the proposed development would seriously detract from the visual amenity of the existing dwelling and would seriously injure the amenities of the property in the vicinity by reason of a seriously overbearing impact and overshadowing of the property to the north, would result in overlooking of property to the south, and would be contrary to the proper planning and sustainable development of the area.

  
Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.



Dated this 2<sup>nd</sup> day of *March* 2017.

<b>AN BORD PLEANÁLA</b>	
LDG- _____	
ABP- _____	
<b>30 APR 2019</b>	
Fee: € _____	Type: _____
Time: _____	By: _____



**AN BORD PLEANÁLA**

LDG- \_\_\_\_\_  
 ABP- \_\_\_\_\_

**30 APR 2019**

Fee: € \_\_\_\_\_ Type: \_\_\_\_\_  
 Time: \_\_\_\_\_ By: \_\_\_\_\_

The architectural drawings include:

- Proposed Lower Ground Floor (Scale 1:100)**: Shows a basement level with various rooms and a staircase.
- Proposed First Floor (Scale 1:100)**: Shows the ground floor layout with rooms, a kitchen, and a staircase.
- Proposed Second Floor (Scale 1:100)**: Shows the upper floor layout with rooms and a staircase.
- Elevations**: Multiple elevations showing the building's facade from different angles, including front, side, and rear views. Some show existing walls and others show proposed extensions.
- Site Plan**: A plan view of the property at 189A, showing its location relative to Strand Road and neighboring properties (189 and 201). It includes a north arrow and a 'LOCATION OF SITE NOTICE'.
- Sectional Drawings**: Vertical sections showing the internal structure and roof profile of the building.
- Legend**: A key indicating that solid lines represent existing walls and dashed lines represent proposed extensions.
- Notes**: Various annotations and labels throughout the drawings, such as 'EXISTING WALLS SHOWN THIS', 'PROPOSED EXTENSION SHOWN THIS', and 'PROPOSED EXTENSION'. Some notes also refer to 'NO. 189A' and 'PROPOSED EXTENSION'.

REV	DESCRIPTION	DATE	BY
1	ISSUED FOR PERMIT	2019-04-30	BM

**TYLER OWENS**  
 ARCHITECTS  
 100 Green Road, Sandymount, Dublin 4  
 Tel: 01 491 1111  
 Fax: 01 491 1112  
 Email: info@tylerowens.com  
 Website: www.tylerowens.com

User: Brian McGeigan  
 Project: Florence House 189 Green Road, Sandymount, Dublin 4  
 Drawing: All planning drawings  
 Scale: 1:100  
 Date: 30-APR-2019  
 Drawing: 33-P-100  
 Author: BM  
 Checker: DC

