

AN BORD PLEANÁLA
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ABP- _____
29 OCT 2019 Doh
Fee: € 220 Type: card
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The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 2.

Re: 6 Florence Terrace, Leeson Park Avenue, Dublin 6
Referral for review by An Bord Pleanála of declaration by Dublin City Council made pursuant to Section 5 of Planning and Development Act 2000 (as amended)

Dear Sir,

A. Introduction:

Please treat this letter as a referral for review by An Bord Pleanála (“the Board”) of a declaration which issued from Dublin City Council on 30 September 2019 in respect of works which have occurred at the above-named property. The relevant Dublin City Council Planning Register Reference No. is 0315/19 and a copy of the decision of the Council is attached (**Appendix C**).

The referral for review is in the names of the persons listed at the top of this letter (“the referrers”). It is made pursuant to Section 5(3)(a) of the Planning and Development Act 2000 (as amended).

A fee of €220 payable on the making of this appeal is enclosed.

On 1 July 2019, we submitted an application to Dublin City Council for a declaration on whether works which have been and are being carried out at 6 Florence Terrace are or are not development which are or are not exempted development.

No. 6 Florence Terrace is the first house on the right as one enters a cul-de-sac known as Leeson Park Avenue from Appian Way in Dublin 6. No. 6 is one of six houses which form Florence Terrace. It is an end-of-terrace house. The houses are understood to date from the Edwardian period and form an attractive symmetrical streetscape from the front comprising redbricked houses set back from modest gardens fronted by wrought-iron railings. In addition, until the commencement of recent building works by the owners of No. 6 Florence Terrace, the rear aspects of the Terrace also provided a pleasant symmetry and conformity when viewed from the rear garden of No. 11 Appian Way, which is a protected structure.

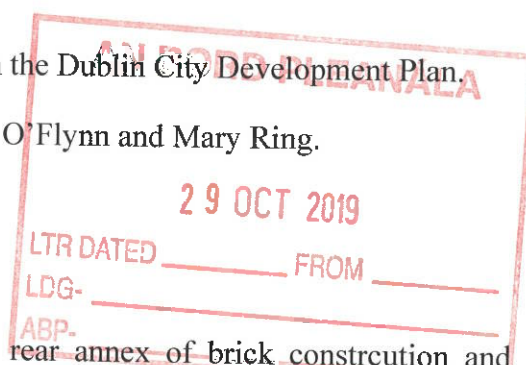
We are the owners of four of the remaining five houses which collectively comprise Florence Terrace and the owners of No. 11 Appian Way looking on to the side and rear of No. 6 Florence Terrace.

The site is located within a Z2 conservation area in the Dublin City Development Plan.

The owners of No. 6 Florence Terrace are Colman O'Flynn and Mary Ring.

B. Brief Description of Works:

1. Demolition of an existing two storey rear annex of brick construction and single storey lean-to attached to same. This involved demolition of the part of the original structure, dating back to approximately 1905.
2. Construction of two storey rear extension on a significantly increased footprint to the previous two storey rear annex.
3. Construction of a new rear extension with flat roof attached to the new two-storey rear annex, extending up to the full height of the side walls of the house. This is constructed behind the newly constructed two storey extension. A window opening has been inserted at first floor level facing Appian Way. This extension is constructed less than two metres from the boundary with No. 5 Florence Terrace and No. 11 Appian Way.
4. Construction of four new windows in the main gable wall of the house, facing Appian Way.
5. Separately, in recent years, the owners of No. 6 Florence Terrace have constructed a standalone structure within the curtilage of their property of rendered blockwork with a tiled roof.



29 OCT 2019

The scale of the works indicative above cannot be overstated. In particular, the works identified at item 3 above completely overshadow the neighbouring property at No. 5 Florence Terrace and have resulted in a fundamentally altered view from the rear of the other houses on the Terrace, as well as when viewed from No. 11 Appian Way. The extension which has been erected to the rear of No. 6 Florence Terrace, as illustrated in **Photographs 8, 12 and 13 in Appendix A** is now approximately 45mm from the boundary wall with No. 5. Furthermore, the structure is clearly visible from Appian Way.

C. Dublin City Council's consideration of the Section 5 Referral (0315/19)

On 30 September 2019, Dublin City Council issued the following declaration:

"In pursuance of its functions under the Planning & Development Acts 2000 (as amended), Dublin City Council has by order dated 30-Sep-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)."

The said declaration is stated to be based on the following reasons and considerations:

"The works as described are development, and are exempted development, within the meaning of the Planning and Development Act 2000 (as amended). The construction of the subject extensions to the rear of No. 6 Florence Terrace, meet the conditions and limitations of Class 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended). However, it is noted insufficient information has been provided to conclude if the construction of said development has violated Class 50(B) of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended). It is recommended therefore that a declaration be issued to the applicant informing them that the works undertaken constitute exempted development."

We disagree with this conclusion for reasons set out in Section E of this document and would point out that in reaching its determination, the City Council failed to even deal with aspects of the referral, namely those at B4 and B5 above.

In brief, our grounds of appeal are as follows:

1. Dublin City Council incorrectly refused to deal with whether the demolition works which have occurred are exempted development. For reasons set out in Section E of this document, the demolition works were not exempted development, having regard to the conditions and limitations in Class 50, Schedule 2, Part 1 of the PDR.
2. Dublin City Council should have concluded that the development to the rear of the house is not exempted development, because of the fact that demolition works occurred which are not exempted development and which did not have planning permission.
3. Dublin City Council incorrectly determined that the new return to the rear of the property "wraps around" the pre-existing return and, as such, is within the threshold limits for extensions in Class 1, Schedule 2, Part 1 of the PDR.

(presumably excluding the footprint of the original return). In fact, a new return on a significantly larger footprint compared to the previous demolished rear return has been constructed.

4. The entire footprint of the new return and extension should have been taken into account in calculating floor area at ground and first floor. If Dublin City Council had approached the matter on that basis, it should also have concluded that the scale of the new extension exceeds the threshold limits for extensions in Class 1, Schedule 2, Part 1 of the PDR, both in respect of ground floor and at first floor level.
5. In addition, Dublin City Council should have concluded that the newly constructed rear return and extension are not exempted development, having regard to Condition and Limitation 3 in Class 1 (*Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary*), Condition and Limitation 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. Dublin City Council incorrectly failed to deal with the referrers' complaint concerning the insertion of four windows in the redbricked gable wall of the front of the house.
7. Dublin City Council incorrectly failed to deal with the referrers' complaint that the shed constructed on the site of No. 6 Florence Terrace is not exempted development, having regard to the limitation in Class 3, Schedule 2, Part 1 of the PDR, especially limitations 1 and/or 4.

D. Previous Planning History:

The owners of 6 Florence Terrace appear to have made three applications to Dublin City Council pursuant to section 5 of the Planning and Development Act 2000 (as amended), prior to the commencement of any works to their property. These referrals were as follows:

1. First Section 5 Application: Reference 0002/18:

EXPP: Demolition of existing 2 storey rear annex and single storey lean to and replacement with extended 2 storey rear annex and single storey with monopitch roof.

A decision was made on **30 January 2018**, as follows:

Accordingly, it is considered that: • The demolition of the existing 2 storey rear annex and single storey lean to is development and is not exempted development. • The proposed 2 storey rear annex and single storey with monopitch roof is development as is not exempted development. The applicant shall be advised accordingly. [emphasis added]

2. **Second Section 5 Application: Reference 0059/18:**

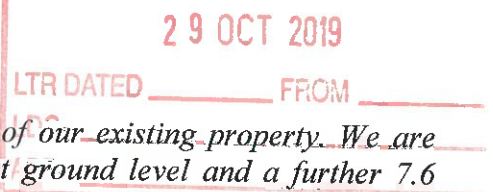
EXPP: We are seeking permission to add an extension to the rear of our existing property. We are proposing to extend this by 22.16 sq.m at ground level and a further 7.6 sq.m at first floor level - 29.76 sq.m in total.

A decision was made on **22 March 2018**, as follows:

1. In response to the query on whether the following element is or is not exempt development; • extend of 22.16 sq.m at ground level and a further 7.6 sq.m at first floor level - 29.76 sq.m in total I am satisfied, having examined the proposal that the following conclusions apply; The proposal to extend of 22.16 sq.m at ground level and a further 7.6 sq.m at first floor level - 29.76 sq.m in total is exempt under Class 1 of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended). However, the proposal to demolish the existing 2 storey rear annex and lean to would not be exempt development under Class 50(b) of Part 1, Schedule 2. The applicant shall be notified that the proposal is not exempt development under Class 50(b) of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended) as the drawings clearly indicate demolition works will take place in order to construct the proposed new two storey development. [emphasis added]

3. **Third Section 5 Application: 0103/18:**

EXPP: To add an extension to the rear of our existing property. We are proposing to extend this by 22.16sq.m at ground level and a further 7.6 sq.m at first floor level 29.76 sq.m in total



Decision: **17 April 2018**, as follows:

1. In response to the query on whether the following element is or is not exempt development; • extend of 22.16 sq.m at ground level and a further 7.6 sq.m at first floor level 29.76 sq.m in total I am satisfied, having examined the proposal that the following conclusions apply; The proposal to extend of 22.16 sq.m at ground level and a further 7.6 sq.m at first floor level 29.76 sq.m in total is exempt under Class 1 of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended).

E. Reasons and Considerations on which this Referral is based: Submission as to the Planning Status of the Works:

It is submitted that all of the works identified at 1-5 at Section B above are works which are development which is not exempted development. As no planning permission exists for the works, it is submitted that the works constituted unauthorised works, which are unauthorised development, as defined in section 2 of the Planning and Development Act 2000 (PDA).

In section 2 of the PDA, the following definition of “works” is provided:

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Each one of the activities the subject matter of the within referral referred to above clearly constitute “works” within the meaning of this definition and it would appear that this was accepted by Dublin City Council.

It is further submitted that all of the works which have been carried out at No. 6 Florence Terrace, as outlined above, are “development” within the meaning of section 3(1) of the PDA:

3.—(1) 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.

It is further submitted that none of those works are exempted development and that Dublin City Council was incorrect in determining that the works which have been recently undertaken at No. 6 Florence Terrace are exempted development, for the following reasons:

Demolition Works – Item B1

Despite being informed on two occasions by Dublin City Council that demolition works would not be exempted development (see decisions on referrals 0002/18 and 0059/18); the owners of No. 6 Florence Terrace demolished not only a single storey rear lean-to to the rear of the property, but also what they described as the “two storey rear annex”, being the original two storey return. These demolition works are not exempted development under Class 50(2)(b), Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended) (PDR), on two grounds. First, the exemption can only apply where the demolition works occur in connection with the provision of an extension under Class 1. The demolition of part of the original house and the rebuilding of a new return on a significantly increased footprint is not covered by the Class 1 exemption.

Secondly, having regard to the conditions and limitations in Class 50, in particular limitation 1, which precludes demolition of a building or part of a building which abuts another building in private ownership, the works are not exempted.

<i>Column 1</i> <i>Description of Development</i>	<i>Column 2</i> <i>Conditions and Limitations</i>
CLASS 50	
1. (a) The demolition of a building, or buildings, within the curtilage of— (i) a house, (ii) an industrial building, (iii) a business premises, or	1. No such building or buildings shall abut on another building in separate ownership. 2. The cumulative floor area of any such building, or buildings, shall not exceed: (a) in the case of a building, or buildings

(iv) a farmyard complex.	within the curtilage of a house, 40 square metres, and
2. (b) The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1 or 7, respectively, of this Part of this Schedule or in accordance with a permission for an extension or porch under the Act.	(b) in all other cases, 100 square metres.
	3. No such demolition shall be carried out to facilitate development of any class prescribed for the purposes of section 176 of the Act.

The house is one of a terrace and the house directly abuts No. 5 Florence Terrace, which is in the separate ownership of one of the referrers, namely Eileen Prendergast.

In a submission to the planning authority dated 17 July 2019, the owners of No. 6 Florence Terrace stated with regard to demolition there had been no demolition of *"the abutting boundary wall with the property at 5 Florence Terrace"*.

An accompanying letter from the McKenna Pearce Practice, dated 12 July 2019, was submitted by the owners of No. 6 Florence Terrace. It stated that No. 6 *"is not a protected structure and the rear extension is an enlargement of the original annex and lean to within the limit of exempted development and has maintained the original shared party wall of the annex with the neighbour"* [emphasis added].

In the first report by Dublin City Council's Planner on the referral (resulting in a recommendation to seek additional information from us), the following is noted in respect of demolition:

"The applicant has stated in their submission that the two storey rear annex, abutted the adjoining property No. 5, and the demolition has taken place. The owners have stated that there was absolutely no demolition of any wall abutting another building in private ownership. Having regard to the above, it is considered that the applicant should be requested to clarify the precise nature of the demolition works including drawings annotating the demolition works."

Consequently the Council wrote to the referrers seeking additional information in the following terms:

1. It is considered that there is insufficient information in the application to allow for a full assessment of what is or is not exempted development. The applicant is therefore requested to submit precise measurements, indicated on drawings, of the development.

On 11 September 2019, the referrers submitted a response, drawing attention to the fact that we had no right of access to No. 6 Florence Terrace for the purposes of providing measurements and noting that the planning authority had powers of access under the Planning and Development Acts and/or that it could invite the owners of the property to submit such information.

In the second report by Dublin City Council's Planner on the referral, the following is stated:

"No scaled drawings with precise measurements have been provided as requested. I note the applicants have stated they cannot provide drawings as they do not live in the address in question. I note that Dublin City Council Planning Enforcement Section have been to site and have recently closed an enforcement case against No. 6 Florence Terrace. Enforcement Reference E0275/19 assessed whether there was a breach of a Section 5 Declaration, reference 0103/18. This Section 5 (reference 0103/18) had determined a rear extension that was 22.16sqm in floor area at ground level and 7.6 sqm in floor area at first floor level (29.76sqm in total) at No. 6 Florence Terrace was exempted development. Enforcement Reference E0275/19 was closed by the Enforcement Section on the 10th September 2019 as it was determined works that have been undertaken at No. 6 Florence Terrace are exempted development."

In considering whether the development was exempted development, the second Planner's Report stated:

"Insufficient information has been provided to determine whether the demolition of the two storey rear annex, an area abutting the adjoining property No. 5 Florence Terrace, (which is not in the ownership of No. 6 Florence Terrace) is or is not exempted development. Therefore a Section 5 declaration cannot be issued for this element. However, I also note that the Enforcement Section have already determined that this element was exempt development under Enforcement Reference E0275/19, and closed the enforcement file on the 10th September 2019."

With respect, the approach of the City Council's Planner is entirely erroneous. The owners of No. 6 and the McKenna Pearce Partnership effectively confirmed in their submission to Dublin City Council that the original annex or return and the lean to had been demolished, with the exception of the shared wall with No. 5. There seems to have been a misunderstanding on their part (and on the part of the City Council's Planner) that once the shared wall with No. 5 was not demolished, the demolition that did occur fell within the exemption provision in Class 50(2)(b). However, this completely overlooks the first limitation in Column 2 in respect of Class 50, to the effect of demolition of a building or part of a building is not exempted development if abuts another building in separate ownership, which is the case here. The fact that a party wall is not demolished is irrelevant. The house and rear return clearly abutted No. 5 Florence Terrace. We submitted photographs to Dublin City Council with the referral clearly showing the demolition works had taken place at the rear of No. 6. The original rear return shown in **photographs 2, 3 and 4 in Appendix A** was demolished. **Photographs 5, 6, 7 and 8** clearly show the exposure of the party wall with No. 5 as a result of demolition of the two storey return or annex.

There is no threshold in Class 50 in respect of the demolition of a building or part of a building abutting another building in private ownership. Demolition in such circumstances always requires planning permission. Accordingly, the City Council's Planner was wrong in deciding that there was insufficient information in order to determine whether the demolition of the two storey return or annex is or is not exempted development or that the issue could only be determined by reference to measurements and

drawings showing the extent of demolition. With regard to the demolition which occurred, we submit that the photographs speak for themselves.

The Board is requested to confirm that because the works involved demolition of part of No. 6 abutting a house in separate ownership (No. 5), such demolition works were not exempted development under Class 50, regardless of whether or not any part of the party wall between Nos. 5 and 6 was demolished.

AN BORD PLEANAL

23 OCT 2019

LTR DATED FROM

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Works comprising construction of new return/extension – Items B2 and B3

As the demolition works are not exempted development, it is submitted that all of the construction works carried out subsequent to such demolition is development which is not exempted development and which, accordingly, requires planning permission.

Strictly without prejudice to the position at paragraph 2, we submit that the construction of the new two-storey blockwork extension to the rear of the property in place of the demolished original two-storey brickwork return is not exempted development. None of the exemptions in Schedule 2, Part 1 of the PDR applies. The City Council's Planner dealt with the issue as follows:

"Enforcement have determined the extension in question which wraps around the original two storey rear return measured at approximately 34sqm in area. The ground floor area measured at approximately 25sqm with a 7sqm extension at first floor level.

I also note enforcement confirmed from their site visit the first floor level of the subject extension is located more than 2 metres from the nearest party wall. Enforcement note there is also a window placed in the first floor level of this extension, but as it is more than 11 metres from the party wall which bounds the public footpath it is exempt development. The subject extensions and alterations to the dwellinghouse are therefore exempt development as they comply with the relevant parts of Schedule 2 Part 1 Exempted Development - General - Development within the Curtilage of a House - Class 1 of the Planning and Development Regulations 2001 (as amended)."

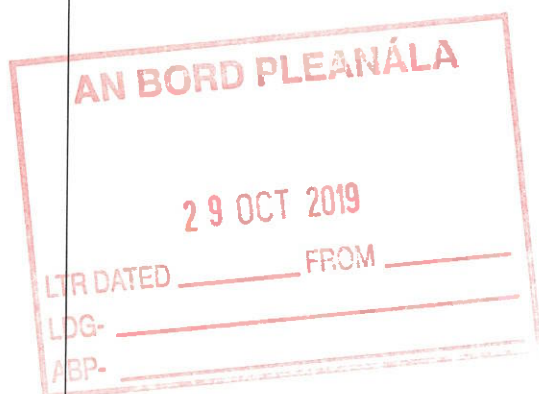
The fact that the Council's enforcement section may have formed a view as to the status of the works undertaken does not relieve the planning authority or the Board of the obligation to consider the status of the works and whether they are exempted development in the context of the Section 5 referral. The enforcement section's opinion is in no way binding or indicative in this respect on either the Council's Planner considering the Section 5 referral or on the Board pursuant to this appeal.

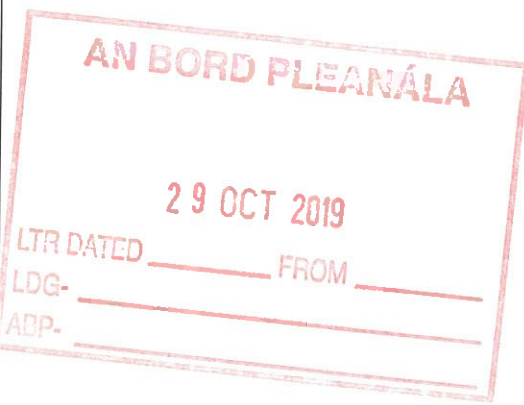
We submit that the photographs attached in Appendix A show the statement in the first paragraph of the extract above to be incorrect. If it were the case that the new extension "wraps around" what was already there, no demolition of the existing annex would have occurred. The pre-existing brickwork should be visible and this could be easily verified by an inspection to be undertaken by the inspector which the Board appoints to assist it in respect of the referral. The photographs make clear that the existing return/rear annex was removed as part of the demolition works which occurred, with the possible exception of

the party wall between No. 6 and No. 5. This being the case, it cannot be correct to say that the new extension wraps around what was original two storey extension.

The planning authority determined that the works to the rear of the house were exempted development under Class, Schedule 2, Part 1 of the PDR. This provides as follows:

<i>Column 1 Description of Development</i>	<i>Column 2 Conditions and Limitations</i>
<p><i>Development within the curtilage of a house</i></p> <p>CLASS 1 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.</p>	<p>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.</p> <p>(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.</p> <p>(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.</p> <p>2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.</p> <p>(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964.</p> <p>(c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has</p>



	<p>been obtained, shall not exceed 20 square metres.</p> <p>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p> <p>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</p> <p>(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.</p> <p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>
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Once demolition of the previous return occurred, it could no longer be considered to be part of an existing structure. Therefore, the footprint of the previous return (said by the Council's planning enforcement section to be 34 square metres) cannot be ignored or

discounted for floor area purposes in determining whether the construction works to the rear of the house are exempted development for the purposes of Class 1 of Schedule 2, Part 1 of the PDR. The newly constructed rear return and the extension beyond that, which the owners say is a double height single storey extension, clearly have a floor area in excess of 40 square metres at ground floor level and 12 square metres at first floor level. Using the Council's planning enforcement officer's dimensions, the floor areas of the new construction at 59 square metres at ground floor level and 41 square metres at first floor level. Consequently, these works are outside the Class 1 maximum thresholds and thus required planning permission.

In support of our contention that the footprint of the demolished return must be included in calculating the floor area of the new build when considering the entitlement to the exemption in Class 1, we place reliance on a decision of Cork City Council on a Section 5 referral on behalf of Sean and Tracy Goggin – Planning authority reference number 469/18 (attached at Appendix B). The comments of Cork City Council's Planner at pages 5 and 6 of her report are particularly relevant:

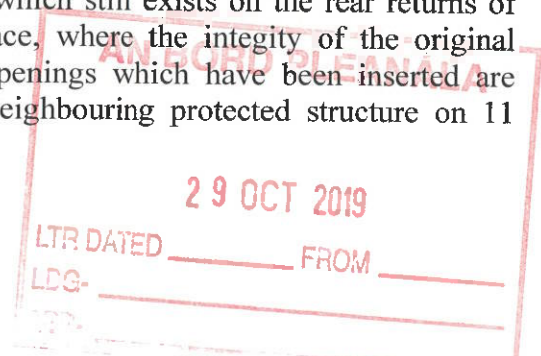
"The applicant maintains that the proposed 44 sqm extension is exempted development under Class 1 as the 4 sqm of the existing single storey extension is excluded from the calculation of the 40 sqm limit, as per Condition and Limitation 2(a) of Class 1.

However, I note that while the proposed new rear extension is to include all of the floor space currently occupied by the rear extension. It will in fact need to be demolished to accommodate the proposed new extension.

Therefore, Class 50(b) will need to be availed of. Once a structure or part thereof is demolished, it is no longer a structure, and cannot be replaced, rebuilt or otherwise considered to be exempt from development or has planning permission.

I therefore do not accept that the existing floor space of the extension can be considered to be 'existing' floor space when the extension is to be removed and considered to be exempt from the 40 sqm limitation of Class 1. Once the extension is removed or demolished, any replacement development must come within the parameters of Class 1 in order for it to be considered exempted development under Class 1. At 44 sqm, the proposed rear extension does not satisfy Condition and Limitation 1(a) and 2(a) of Class 1, and is therefore not exempted development."

It should also be noted that the new two storey annex bears no resemblance to what it replaced (see photographs taken on 17 February 2019, taken prior to demolition – see **photographs 2, 3 and 4 in Appendix A**). The footprint to the new structure now extends almost as far as the line of the gable wall of the main house, where previously the annex still left room for a rear window in the main house, which is now gone. Its roof profile does not match that of the neighbouring property or of the other houses on Florence Terrace, which are uniform in nature. The altered roof profile now results in a distortion and loss of symmetry previously evidenced and which still exists on the rear returns of Nos. 3 and 4 and Nos. 1 and 2 Florence Terrace, where the integrity of the original construction has been retained. The window openings which have been inserted are clearly visible from the Appian Way and the neighbouring protected structure on 11 Appian Way.



In addition and without prejudice to the foregoing, we submit that the newly constructed extension is not exempted development under Class 1, Part 1, Schedule 2 of the PDR, having regard to the conditions and limitations on the extent of the exemption set out in Column 2 of Class 1. The relevant limitations are as follows:

2(b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.

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

The newly built area is less than two metres from the boundary with No. 5 Florence Terrace and No. 11 Appian Way (a protected structure). Indeed, as already pointed out, it is 45mm from the party boundary with No. 5.

We also submit that the new development falls foul of Condition and Limitation No. 5 in Class 1. This provides as follows:

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).

The extension which has been constructed rear of the house reduces the private open space for the use of the occupants of the house to the rear of the house to less than 25 square metres.

In all the circumstances, we request the Board to confirm that the building works to the rear of the house comprising the erection of a new rear return and extension are not exempted development under Class 1, Schedule 2, Part 1 of the PDR.

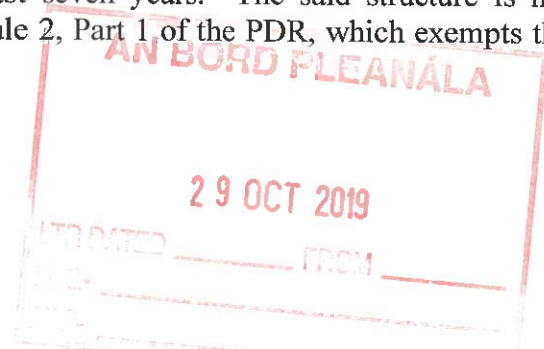
New window openings in redbrick gable wall of the front of the house – Item B4

The creation of new window openings in the main gable wall of the house is development which is not exempted development. These new windows are clearly visible from Appian Way. No planning permission exists for these window openings. Dublin City Council failed to consider this complaint at all as part of its determination of the Section 5 reference.

Structure constructed within the curtilage of the house – Item B5

In addition to the current development works to the house, the owners of No. 6 Florence Terrace have constructed a structure to the rear of the plot, along the boundary with No. 11 Appian Way. Dublin City Council did not deal with this aspect of the referral at all.

This structure was constructed within the last seven years. The said structure is not exempted development under Class 3, Schedule 2, Part 1 of the PDR, which exempts the following:



The construction, erection or placing 1. within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

The structure in question offends against the conditions and limitations attached to this exemption contained in Column 2 of Class 3, namely:

- 1. No such structure shall be constructed, erected or placed forward of the front wall of a house.*

The structure is being constructed within 1m of the pavement of Appian Way and is forward of the walls to Number 6 Florence terrace which face Appian Way and the front walls of all the front facades of the houses on Appian Way.

- 4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.*

The original house at 6 Florence Terrace is a late Edwardian brick structure while the finish of this building is of rendered block. Accordingly, it does not comply with condition No. 4 and thus cannot be regarded as exempted development.

Conclusion:

We respectfully submit that the decision of Dublin City Council on the referral was erroneous in all respects and we request the Board to determine that all of the works identified in Section B of this document are development which is not exempted development. We also respectfully urge the Board's inspector to visit the property and to inspect all of the development both internally and externally as part of his/her consideration of this review and for the proper assistance of the Board in determining the matter.

Yours faithfully,

Patrick Maher

Patrick Maher,
Anne Maher,
Damien Keaney,

John Kinnerk,
Kate Kinnerk,
Stephen Hanley,
Sarah Hanley,
Eileen Prendergast.

Please address the



APPENDIX A

Photographs:



Photograph 1 – view of “two-storey annex to rear” before demolition. Photograph taken from google maps. Photograph also shows the structure erected within the curtilage of No. 6 Florence Terrace, when viewed from Appian Way.



29 OCT 2019

LTD DATED _____ FROM _____
1/06/2019

Photograph 2 – taken 17 February 2019 – lean to has been demolished. The entire two-storey brick “annex” was demolished subsequently without planning permission.

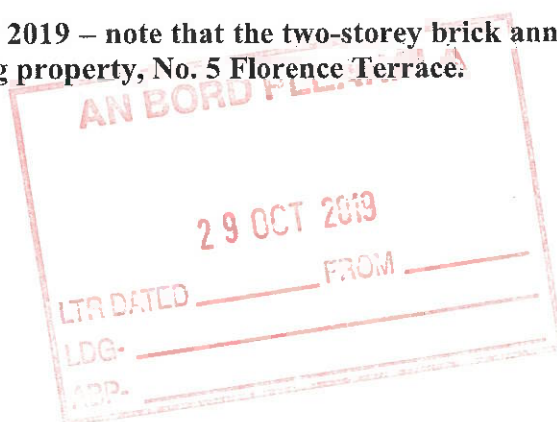
29 OCT 2019



Photograph 3 – taken 17 February 2019 – note the dimensions of the two-storey brick “annex” prior to demolition. It left room for a rear window to its left at the rear of the main house. Note the downpipe at the left hand side of the photograph. The new two storey extension extends out beyond this downpipe, almost flush with the gable wall of the main house.



Photograph 3 – taken on 19 February 2019 – note that the two-storey brick annex, now demolished, abutted the adjoining property, No. 5 Florence Terrace.





Photograph No. 4 – note the symmetry of the returns of both houses, replicated in Nos. 3 and 4 Florence Terrace and Nos. 1 and 2 Florence Terrace.

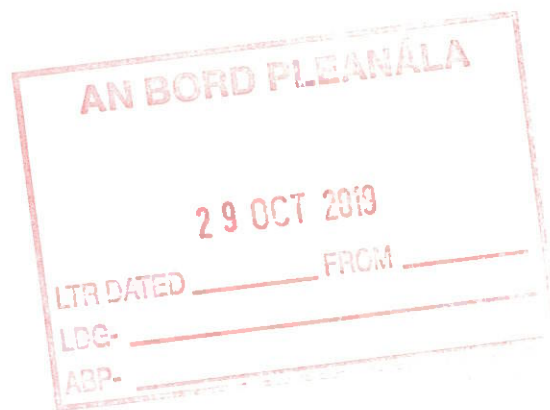


Photograph 5 – taken 4 April 2019, showing the start of joisting out the single-storey roof. These subsequently removed prior to building double-storey height.





Photograph 6 – taken 4 April 2019.





Photograph 7 – taken 4 April 2019. Note that the new extension has been increased to incorporate the rear window of main house and is thus significantly bigger than the demolished brickwork annex. Comparison should be made with photographs 2, 3 and 4 above.

29 OCT 2019

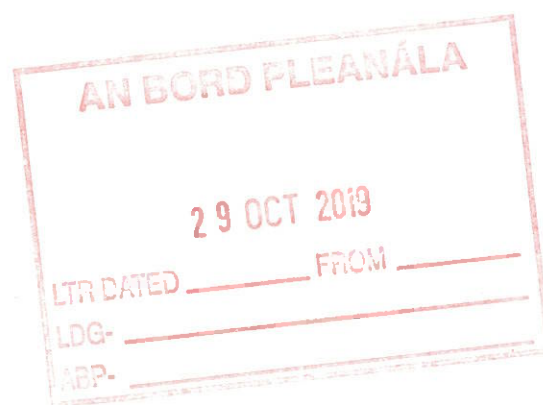
LTR DATED FROM



Photograph 8 – taken 4 April 2019. Note the symmetry of the returns of the houses on Florence Terrace (Nos. 3 and 4 and Nos. 5 and 6). A similar symmetry existed at Nos. 5 and 6 prior to the works.



Photograph 9, showing proximity of extension to gable wall of No. 11 Appian Way (protected structure) on right of photograph. No the window ope at first floor level of the extension.





Photograph 9 – taken 6 June 2019 from rear of No. 5 Florence Terrace, following the building up of the wall of the rear extension to No. 6.

AN BORD PLEANÁLA	
29 OCT 2019	
LTR DATED _____	FROM _____
LDG- _____	
ASP- _____	



Photograph 10 – taken 6 June 2019 from rear of No. 5 Florence Terrace, following the building up of the wall of the rear extension to No. 6.



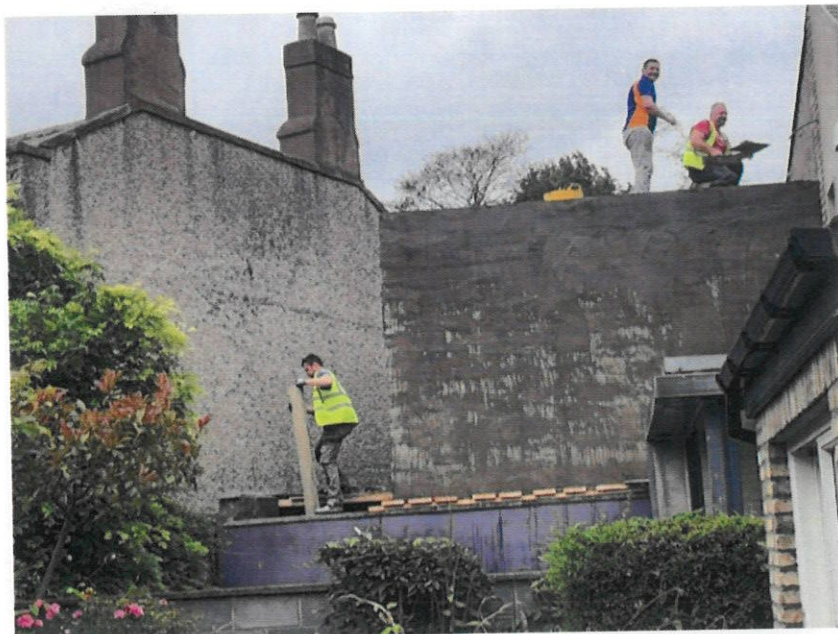
Photograph 11 – taken 2 March 2018 showing No. 11 Appian Way, with No. 6 Florence Terrace visible in the left of the photograph. Please compare same to the current position, as illustrated on Photograph 10 to see the impact of the works on this protected structure.

29 OCT 2019

LTR DATED FROM



Photograph 12 – taken 24 June 2019 from the garden of No. 11 Appian Way. Note the size and scale of the extension.



Photograph 13 – taken on 26 June 2019, following the plastering of the exterior of the extension and the impact of same on all of the other houses forming Florence Terrace.

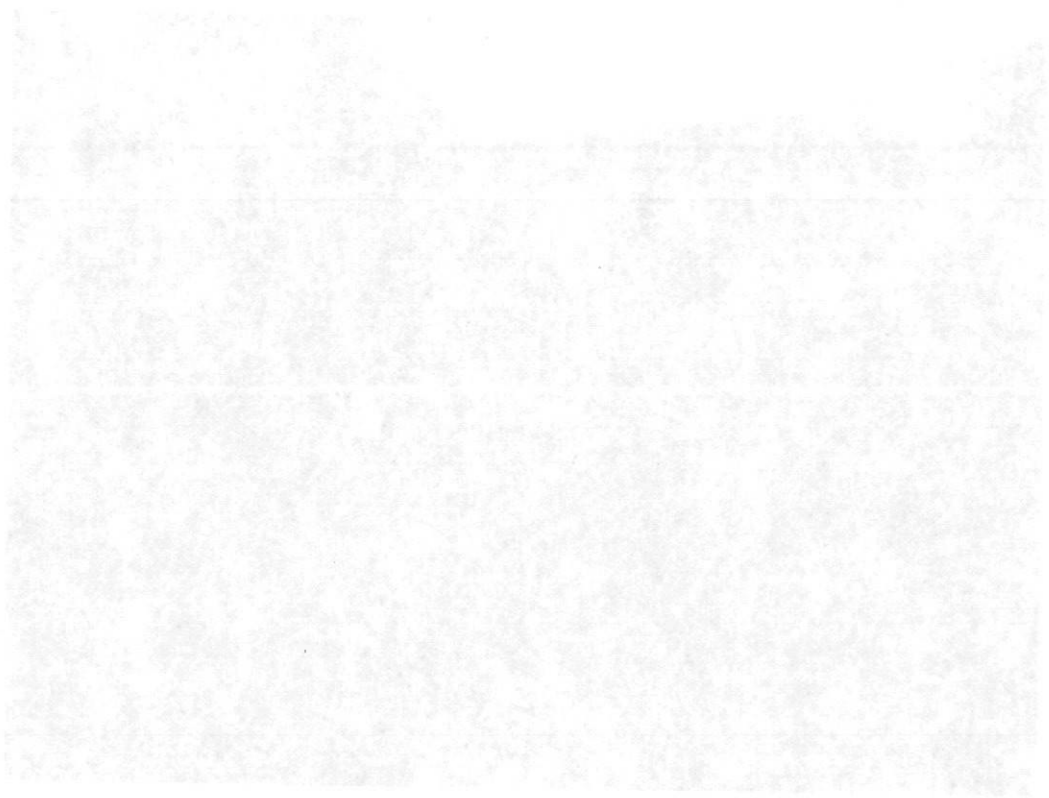


Figure 1. A photograph of the plant (left) and the photograph of the same plant after being treated with the solution (right).

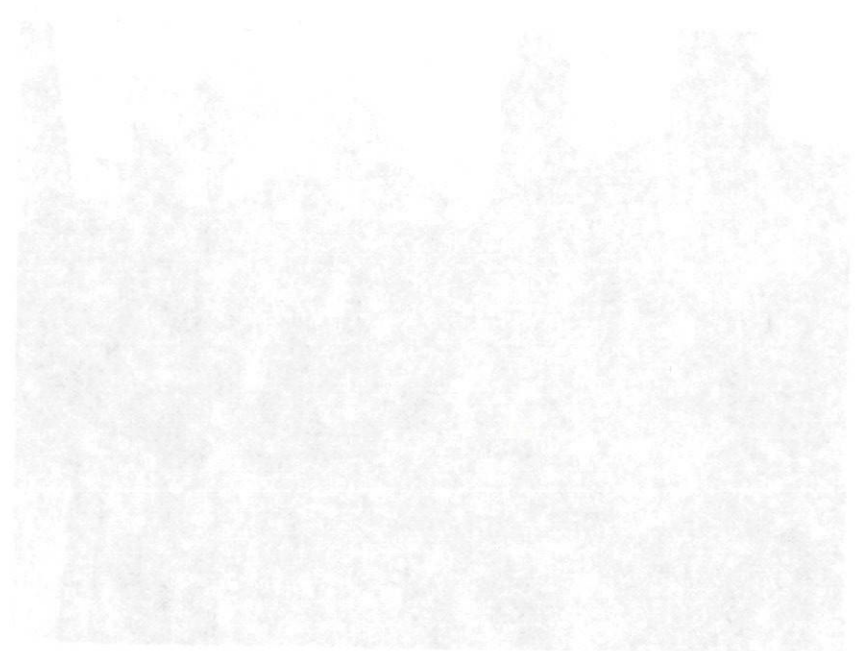


Figure 2. A photograph of the plant (left) and the photograph of the same plant after being treated with the solution (right).

Re: 6 Florence Terrace, Leeson Park Avenue, Dublin 6
Referral for review by An Bord Pleanála of declaration by Dublin City Council made pursuant to Section 5 of Planning and Development Act 2000 (as amended)

Dublin City Council Ref: 0315/19

AN BORD PLEANÁLA

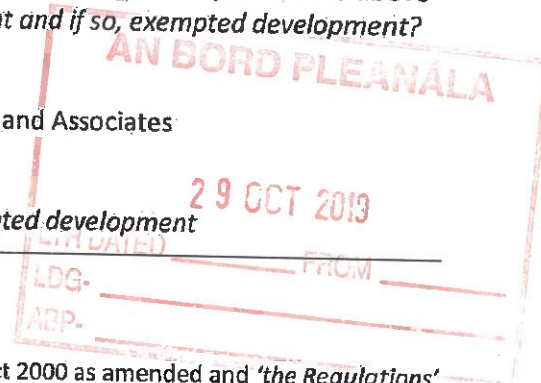
APPENDIX B

AN BORD PLEANÁLA	
29 OCT 2019	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

PLANNER'S REPORT
Ref. R 469/18

Cork City Council
Development Management
Strategic Planning and
Economic Development

Application type	SECTION 5 DECLARATION
Question	<i>Is the proposed single storey extension at rear of dwelling house as indicated "yellow" on the attached drawing no.884/403 at the above mentioned property development and if so, exempted development?</i>
Location	12A Meadow Grove Estate
Applicant	Sean & Tracy Goggin c/o Barratt and Associates
Date	01/06/2018
Recommendation	<i>Is development and is not exempted development</i>



INTERPRETATION

In this report 'the Act' means the Planning and Development Act 2000 as amended and 'the Regulations' means the Planning and Development Regulations 2001 as amended unless otherwise indicated.

1. REQUIREMENTS FOR A SECTION 5 DECLARATION APPLICATION

Section 5(1) of the Planning and Development Act 2000 as amended states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a section 5 declaration are set out in the Act.

2. THE QUESTION BEFORE THE PLANNING AUTHORITY

Is the proposed single storey extension at rear of dwelling house as indicated "yellow" on the attached drawing no.884/403 at the above mentioned property development and if so, exempted development?

3. SITE DESCRIPTION

The subject property is a two-storey semi-detached dwelling located within the Meadow Grove Estate, on the western side of Convent Road.

4. DESCRIPTION OF THE DEVELOPMENT

The proposed development comprises a new single-storey rear extension measuring 44 sqm in total. The existing single storey extension to the rear of the property (measuring 4m2) is to be demolished. This proposed extension will include the full areas of both aforementioned existing extensions. The proposal also includes the alteration to the roof of the existing side extension to change it from a pitched roof to a flat roof.

5. RELEVANT PLANNING HISTORY

None

AN BORD PLEANALA

29 OCT 2019

6. LEGISLATIVE PROVISIONS

Section 2(1),

"exempted development" has the meaning specified in section 4.

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1),

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(2),

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

Section 4(3),

A reference in this Act to exempted development shall be construed as a reference to development which is—

- (a) any of the developments specified in subsection (1), or*
- (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.*

Section 5(1),

Quoted above under section 1 of this report.

6.1 Planning and Development Regulations, 2001 as amended

Article 6(1),

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

Article 9,


Article 9 sets out restrictions on exemptions specified under article 6.

(Article 6) Schedule 2, Part 1, Class 1

Classes 1-8 relate to development within the curtilage of a house and Class 1 relates to "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".

Schedule 2, Part 1, Class 1

Column 1 Description of Development	Column 2 Conditions and Limitations
<p>Development within the curtilage of a house</p> <p>CLASS 1</p> <p>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.</p>	<p style="text-align: right;">29 OCT 2013</p> <p>LTR DATED FROM</p> <ol style="list-style-type: none"> 1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 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. 2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions

Column 1 Description of Development	Column 2 Conditions and Limitations
	<p>above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.</p> <p>(a) Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p> <p>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.</p> <p>(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.</p> <p>(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.</p> <p>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.</p> <p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p> <p>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.</p> <p>(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</p>

Column 1 Description of Development	Column 2 Conditions and Limitations
	<p>than 11 metres from the boundary it faces.</p> <p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>

7. ASSESSMENT

Development

The first issue for consideration is whether or not the matter at hand is 'development', which is defined in the Act as comprising two chief components: 'works' and/or 'any material change in the use of any structures or other land'. It is clear that an extension to a dwelling house comprises 'works' which is defined in section 3(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'. As the proposal comprises 'works' it is clearly therefore 'development' within the meaning of the Act.

Conclusion: *is development*

Exempted Development

The next issue for consideration is whether or not the matter at hand is exempted development. Section 2(1) of the Act defines 'exempted development' as having 'the meaning specified in section 4' of the Act (which relates to exempted development).

Section 4(3) of the Act states that exempted development either means development specified in section 4(1) or development which is exempted development having regard to any regulations under section 4(2). In my opinion the proposed development to which this request relates does not come within the scope of section 4(1).

It is therefore necessary to consider whether it comes under the scope of section 4(2) (i.e. exemptions specified in the Regulations), having regard to the use of the word 'or' in section 4(3).

The applicant maintains that the proposed 44 sqm extension is exempted development under Class 1 as the 4 sqm of the existing single storey extension is excluded from the calculation of the 40 sqm limit, as per *Condition and Limitation 2(a)* of Class 1.

However, I note that while the proposed new rear extension is to include all of the floor space currently occupied by the rear extension. It will in fact need to be demolished in order to accommodate the proposed new extension.

Therefore, Class 50 (b) will need to be availed of. Once a structure or part thereof is demolished, it is no longer a structure, and cannot be replaced, rebuilt or otherwise considered as 'existing' floor space unless such replacement development is exempted development or has planning permission.

I therefore do not accept that the existing floor space of the extension can be considered to be 'existing' floor space when the extension is to be removed and considered to be exempt from

the 40 sqm limitation of Class 1. Once the extension is removed or demolished, any replacement development must come within the parameters of Class 1 in order for it to be considered exempted development under Class 1. At 44 sqm, the proposed rear extension does not satisfy *Condition and Limitation 1(a) and 2(a)* of Class 1, and is therefore not exempted development.

In addition, I note that the existing side extension of the building, is stated on the application form as being part of the original house. This appears now to be used as part of the habitable accommodation of the house. From looking at other houses in the estate of the same design it appears that this extension was originally a garage and has subsequently been converted to habitable living space for the house. The applicant has not submitted information as to when this conversion took place but from the appearance of the house it is unlikely that this occurred pre-1964. Therefore the floorspace of this extension would have to be added to the overall floorspace calculation for the proposed extension and therefore again does not satisfy *Condition and Limitation 1(a) and 2(a)* of Class 1,

Restrictions on exemption

Notwithstanding the above, I note the restrictions on exemption set out in section 82(1) of the Act and article 9(1)(a)(xii) of the Regulations. I note too the following extract from paragraph 15.3 of An Bord Pleanála Inspector's report for PL 28.246769 in relation to a larger, two-storey rear extension on this site:

"I consider that the proposed development will not seriously injure the visual amenities or character of this Architectural Conservation Area."

Having regard to the nature and scale of the proposed extension to which this declaration request relates, I do not consider that it would materially affect the character of the area.

I do not consider that any other restrictions apply in this instance.

Conclusion: *is not exempted development*

8. ENVIRONMENTAL ASSESSMENT

I note the provisions of sections 4(4), 4(4A) and 177U(9) of the Act which state,

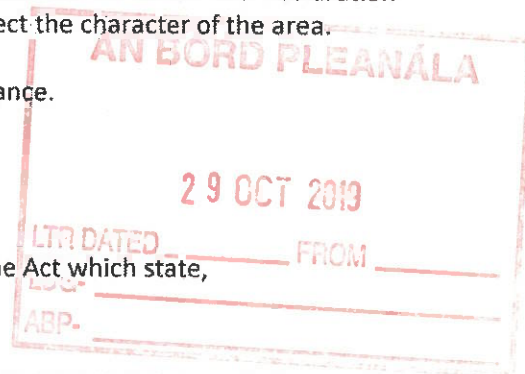
Section 4(4),

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

Section 4(4A)

Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and*
 - (b) as respects which an environmental impact assessment or an appropriate assessment is required,*
- to be exempted development.*



Section 177U(9)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

8.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 and Schedule 7 of the Planning and Development Regulations, 2001 as amended it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that **environmental impact assessment is not required.**

8.2 Screening for Appropriate Assessment

The applicant has not submitted an appropriate assessment screening report. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of these European sites. Accordingly it is considered that **appropriate assessment is not required.**

9. RECOMMENDATION

In view of the above and having regard to —

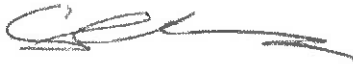
- Sections 2, 3, and 4 of the Planning and Development Act 2000, as amended, and — FROM —
- Articles 5(2) and 6(1) and Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended,

the planning authority has concluded that —

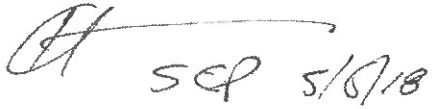
- the existing extension is considered to be part of the original house in the context of Class 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended, as it is not included as part of the 40 square metres stipulated under condition and limitation 1(a) and 2(a) of Class 1;
- the existing extension is to be removed / demolished in order to accommodate the proposed new rear extension;
- any replacement development must either be exempted development or have planning permission;
- condition and limitation 1(a) and 2(a) of Class 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended stipulates that any extension shall not exceed 40 square metres; and therefore
- a 44 square metre rear extension would not satisfy condition and limitation 1(a) and 2(a) of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended, as it exceeds 40 square metre stipulation (there is no provision for allowances to be made for removed / demolished existing floor space),

and therefore the planning authority considers that —

the construction of a 44 sqm rear extension at 12A Meadow Grove Estate, Cork **IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.**



SHARON O'CONNELL
ASSISTANT PLANNER



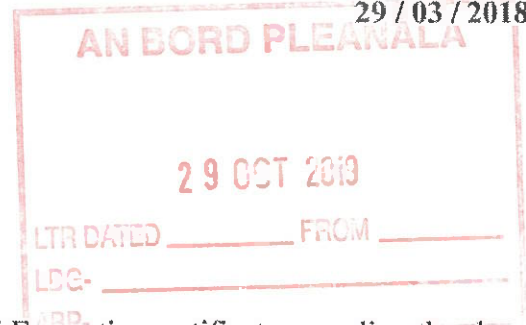
Re; Proposed rear extension and alterations to dwelling house,
At; No. 12A Meadow Grove Estate, Blackrock, Cork.

For ; Mr. and Mrs. Sean and Tracy Goggin .

29 / 03 / 2018

SECTION 5 DECLARATION APPLICATION

Dear Sir / Madam ,



We wish to make a formal application for a Section 5 Exemption certificate regarding the above proposed development.

The proposed development will comprise of a 40 sq.m single storey extension to the rear of existing dwelling house.

We enclose the following as part of our application;

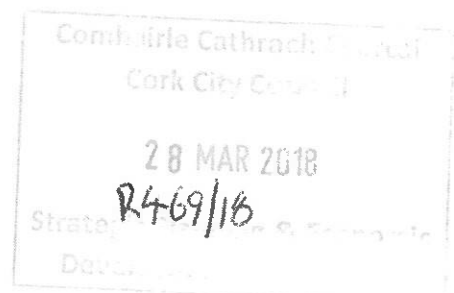
1. Completed application form.
2. 2 copies of detail drawings ref. 884 / 401, 402 and 403
3. 2 copies of OS map @ 1/1000 scale and six inch
4. Appropriate fee of €80.00

Please confirm receipt of this application and do not hesitate to contact this office for any further information.

Yours faithfully,

Leonard Barrett
Barrett and Associates

Kevin.
Section 5 For report
Due 28/04/18
For



AN BORD PLEANÁLA

29 OCT 2019

LTR DATED _____ FROM _____

LDC- _____

REP- _____

COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

Strategic Planning & Economic Development Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924564/4321

Líonra/Web: www.corkcity.ie

AN BORD PLEANÁLA

29 OCT 2019

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

NO. 12 A MEADOW GROVE ESTATE, BLACKROCK

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question:

Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

IS THE PROPOSED SINGLE STOREY EXTENSION
AT REAR OF DWELLING HOUSE AS
INDICATED 'YELLOW' ON ATTACHED DRG.
NO. 884/403 AT THE ABOVE MENTIONED
PROPERTY DEVELOPMENT, AND IF SO,
EXEMPTED DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:

(Use additional sheets if required).

THE PROPOSED EXTENSION INDICATED
"YELLOW" IS NOT GREATER THAN 40.0 SQ.M
INTERNAL FLOOR AREA.

ALTERATIONS INCLUDE NEW EXTERNAL
CLAD INSULATION WITH SMOOTH PLASTER
RENDER, NEW CHARCOAL WINDOWS + DOORS
AND NEW ZINC CLAD CANOPY AT FRONT.

AN BORD PLEANALA

29 OCT 2019

3. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	PROPOSED = 40.0 SQ.M EXISTING = 117.0 SQ.M
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964. (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas. (sq m) /
(c) If concerning a change of use of land and / or building, please state the following	
Existing/ previous use (please circle)	Proposed/ new use (please circle)
n/a	n/a

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent)		[REDACTED]
Applicants Address		[REDACTED]
Person/Agent acting on behalf of the Applicant (if any):	Name:	to MR. LEONARD BARRETT,
	Address:	BARRETT + ASSOCIATES SANTA-MARIA, SPRINGFORT, MONTENAPPE, CORK
	Telephone:	087-741876
	Fax:	—
	E-mail address:	barrettandassociates1@gmail.com
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <i>com</i> YES.

5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other
Where legal interest is 'Other', please state your interest in the land/structure in question	n/a	
If you are not the legal owner, please state the name and address of the owner if available	n/a	

1. PERSONAL INFORMATION

Name: [illegible]
 Address: [illegible]
 City: [illegible] State: [illegible] Zip: [illegible]
 Telephone: [illegible]
 Date of Birth: [illegible]
 Sex: [illegible]
 Marital Status: [illegible]
 Education: [illegible]
 Occupation: [illegible]
 Date of Application: [illegible]

2. EMPLOYMENT / CONTACT DETAILS

Name of Employer: [illegible]
 Address: [illegible]
 City: [illegible] State: [illegible] Zip: [illegible]
 Telephone: [illegible]
 Date of Application: [illegible]
 Position: [illegible]
 Salary: [illegible]
 Date of Birth: [illegible]
 Sex: [illegible]
 Marital Status: [illegible]
 Education: [illegible]
 Occupation: [illegible]
 Date of Application: [illegible]

3. REAL INTEREST

Do you have a real interest in the project? ☒ Yes ☐ No

Do you have a real interest in the project? ☒ Yes ☐ No

Do you have a real interest in the project? ☒ Yes ☐ No

6. I / We confirm that the information contained in the application is true and accurate:

Signature: _____

Date: _____

29/03/2018

AN BORD PLEANÁLA

29 OCT 2019

LTR DATED

FROM

7. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Contact number	MR. LEONARD BARRETT 087/7418761
Email address	barrettandassociates1@gmail.com

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

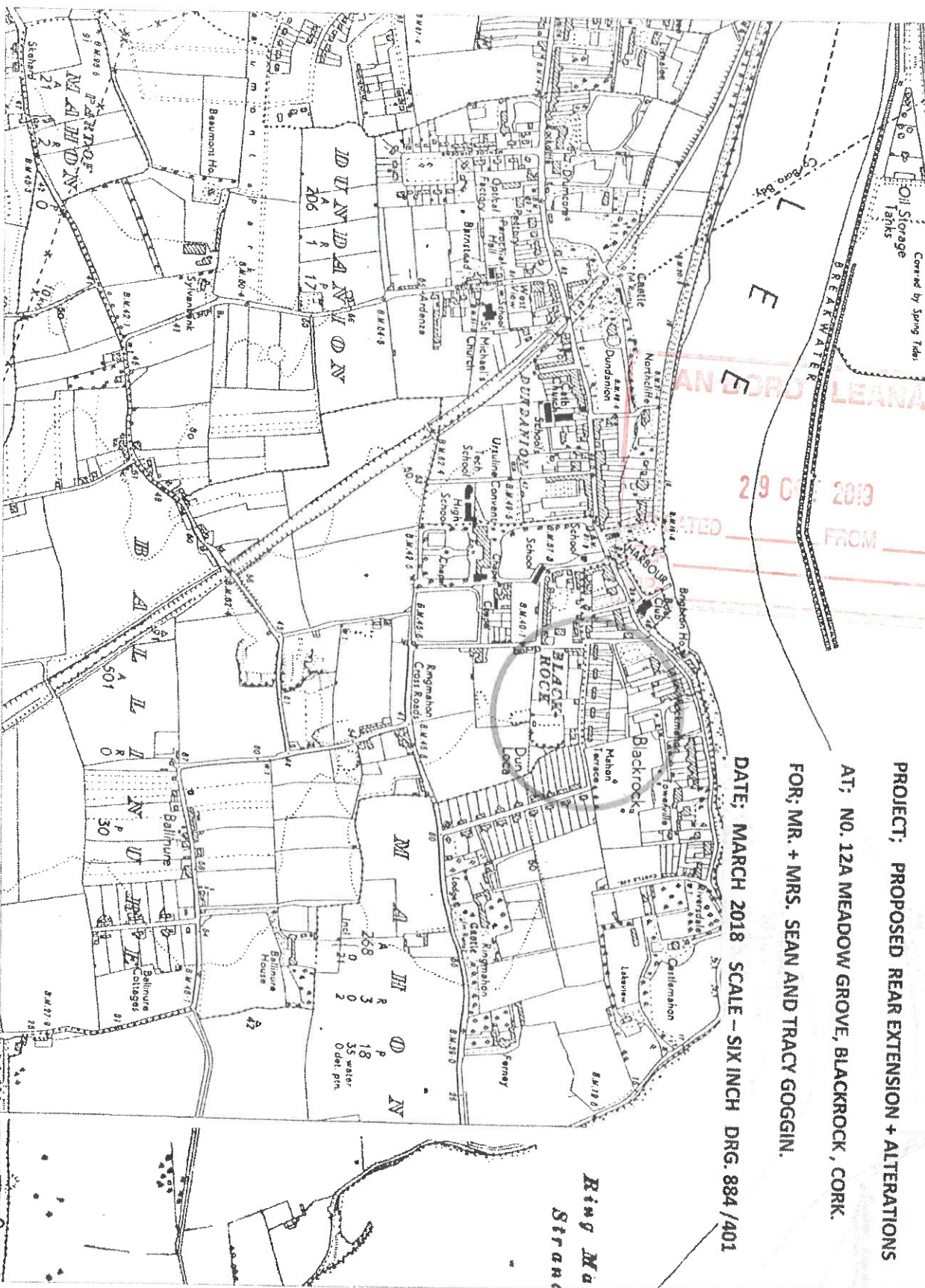
The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

Oil Storage Tanks Covered by Spring Tide

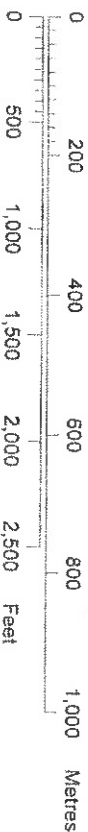
PROJECT; PROPOSED REAR EXTENSION + ALTERATIONS
AT; NO. 12A MEADOW GROVE, BLACKROCK, CORK.

FOR: MR. + MRS. SEAN AND TRACY GOGGIN

DATE: MARCH 2018 SCALE - SIX INCH DRG. 884 / 401



Scale:- 1:10,560
Scale:- 1:10,560



Plot Ref. No. 25324228_1
Plot Date 28-MAR-2018

Ring M
Strand

MAP SHEETS

DESCRIPTION

ITM CENTRE PT. COORDS.
571783,571495

Produced by National Map Services,
Unit 7, South Ring Business Park,
Kinsale Road,
Co. Cork
On behalf of Ordnance Survey Ireland,
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Surveyed 1973
Revised 2016
Levelled 1968

Urban PLACE Map



Convent

29 OCT 2019

PROJECT: PROPOSED REAR EXTENSION + ALTERATIONS

AT: NO. 12A MEADOW GROVE, BLACKROCK, CORK.

FOR: MR. + MRS. SEAN AND TRACY GOGGIN.

DATE: MARCH 2018 SCALE - 1/1000 DRG. 884 / 402

ITM CENTRE PT. COORDS

571783.571495

DESCRIPTION

MAP SHEETS

1:1000
6383-15



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Each road crossing, if connected and closed
then indicated by two arrows, a red arrow and
a blue arrow, and a red arrow and a blue arrow
closed (indicated by two arrows, a red arrow and
a blue arrow, and a red arrow and a blue arrow).
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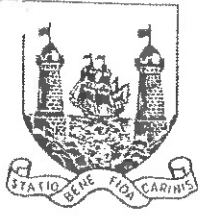
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Plot Ref. No. 25324228.1-1
Plot Date 28-MAR-2018



Comhairle Cathrach Chorcaí Cork City Council



Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

Leonard Barrett
Barrett & Associates
Santa Maria, Springfort
Montonotte
Cork



08/06/18

RE: Section 5 Declaration 12A Meadow Grove Estate Blackrock

Dear Sir/Madam,

I am asked by Mr. Patrick Ledwidge, Director of Services, Strategic Planning & Economic Development to refer to your request for a section 5 Declaration at the above address.

Having regard to —

- Sections 2, 3, and 4 of the Planning and Development Act 2000, as amended, and
- Articles 5(2) and 6(1) and Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended,

the planning authority has concluded that —

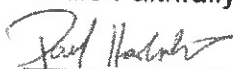
- the existing extension is considered to be part of the original house in the context of Class 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended, as it is not included as part of the 40 square metres stipulated under condition and limitation 1(a) and 2(a) of Class 1;
- the existing extension is to be removed / demolished in order to accommodate the proposed new rear extension;
- any replacement development must either be exempted development or have planning permission;
- condition and limitation 1(a) and 2(a) of Class 1 of Schedule 2 of the Planning and Development Regulations, 2001 as amended stipulates that any extension shall not exceed 40 square metres; and therefore
- a 44 square metre rear extension would not satisfy condition and limitation 1(a) and 2(a) of Class 1 of Part 1 of Schedule 2 of the Planning and Development

Regulations, 2001 as amended, as it exceeds 40 square metre stipulation (there is no provision for allowances to be made for removed / demolished existing floor space),

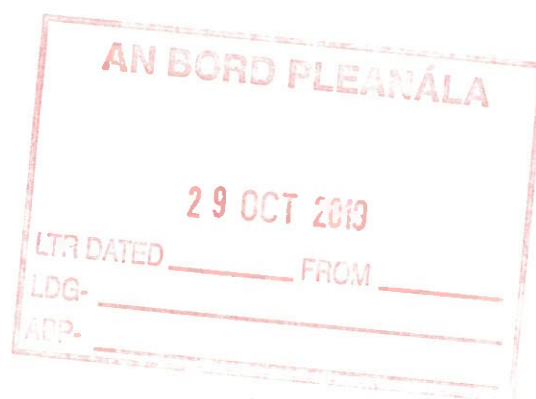
and therefore the planning authority considers that —

the construction of a 44 sqm rear extension at 12A Meadow Grove Estate, Cork **IS DEVELOPMENT** and **IS NOT EXEMPTED DEVELOPMENT**.

Yours Faithfully,



Paul Hartnett
Assistant Staff Officer
Strategic Planning & Economic
Development
Cork City Council



COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL

Strategic Planning & Economic Development Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

AN BORD PLEANÁLA

29 OCT 2019

LETTER DATED _____ FROM _____

LDG- _____

APP- _____

R-Post/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924564/4321

Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

NO. 12A MEADOW GROVE ESTATE, BLACKROCK

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question:

Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

IS THE PROPOSED SINGLE STOREY EXTENSION AT REAR OF DWELLING HOUSE AS INDICATED "YELLOW" ON ATTACHED DRG. NO. 884/403 AT THE ABOVE MENTIONED PROPERTY DEVELOPMENT, AND IF SO, EXEMPTED DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets if required).

THE PROPOSED EXTENSION INDICATED "YELLOW" IS NOT GREATER THAN 40.0 SQ.M INTERNAL FLOOR AREA. ALTERATIONS INCLUDE NEW EXTERNAL CLAD INSULATION WITH SMOOTH PLASTER RENDER, NEW CHARCOAL WINDOWS + DOORS AND NEW ZINC CLAD CANOPY AT FRONT.

AN BORD PLEANALA

29 OCT 2013

LTR DATED

3. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

PROPOSED = 40.0 SQ.M

(a) Floor area of existing/proposed structure/s	EXISTING = 117.0 SQ.M
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please provide floor areas. (sq m)
(c) If concerning a change of use of land and / or building, please state the following: Existing/ previous use (please circle)	

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, partner, etc.)		[REDACTED]	
Applicants Address		[REDACTED]	
Person/Agent acting on behalf of the Applicant (if any):	Name:	to MR. LEONARD BARRETT,	
	Address:	BARRETT + ASSOCIATES SANTA-MARIA, SPRINGFORT, MONTENAPPE,	
	Telephone:	CORK 087-741876	
	Fax:	—	
	E-mail address:	barrettandassociates1@gmail.com	
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/> = COM

5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner <input checked="" type="checkbox"/>	B. Other
Where legal interest is 'Other', please state your interest in the land/structure in question	N/A	
If you are not the legal owner, please state the name and address of the owner if available	N/A	

6. I/we confirm that the information contained in the application is true and accurate:

Signature: _____

Date: _____

29/03/2018

AN BORD PLEANÁLA

29 OCT 2019

LTR DATED

FROM

7. ADDITIONAL CONTACT DETAILS

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Contact number	MR LEONARD BARRETT 087/7418761
Email address	barrettandassociates1@gmail.com

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

Surveyed 1841-1842
Revised 1929-1950
Levelled 1928-1929

Record PLACE Map



PROJECT: PROPOSED REAR EXTENSION + ALTERATIONS
AT: NO. 12A MEADOW GROVE, BLACKROCK, CORK.
FOR: MR. + MRS. SEAN AND TRACY GOGGIN.

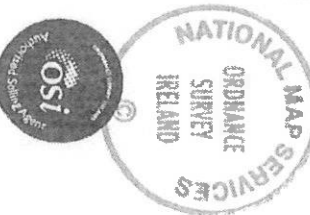
DATE: MARCH 2018 SCALE - SIX INCH DRG. 884 /401

ITM CENTRE PT. COORDS
571783.571495

DESCRIPTION

MAP SHEETS

6 inch
CK074 CK075



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Scale: 1:10,560
S=1/2"=1:10,560
0 500 1,000 1,500 2,000 2,500 Feet
0 200 400 600 800 1,000 Metres

Plot Ref. No. 25324228_1
Plot Date 28-MAR-2018

Surveyed	1973
Revised	2016
Levelled	1968

Urban PLACE Map



PROJECT; PROPOSED REAR EXTENSION + ALTERATIONS

AT; NO. 12A MEADOW GROVE, BLACKROCK, CORK.

FOR; MR. + MRS. SEAN AND TRACY GOGGIN.

DATE; MARCH 2018 SCALE - 1/1000 DRG. 884 / 402

MAP SHEETS

1:1000
6383-1

1:1000
6383-1



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Grain could eventually be distributed more widely than it is today, but it would be a long time before it could be distributed to all. In the meantime, it is important to ensure that the grain is not used for anything other than food. The grain should be used for food, and not for anything else. The grain should be used for food, and not for anything else. The grain should be used for food, and not for anything else.

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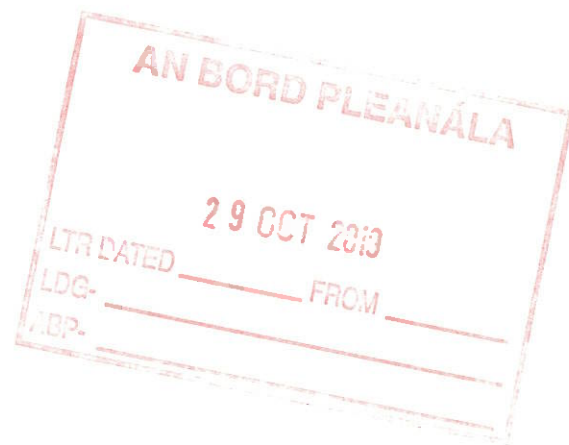


Plot Ref. No. 25324228_1_1
Plot Date 28-MAR-2018

Google Maps Leeson Park Ave



Map data ©2019 Google 20 m



Leeson Park Ave

Ranelagh
Dublin



Directions



Save



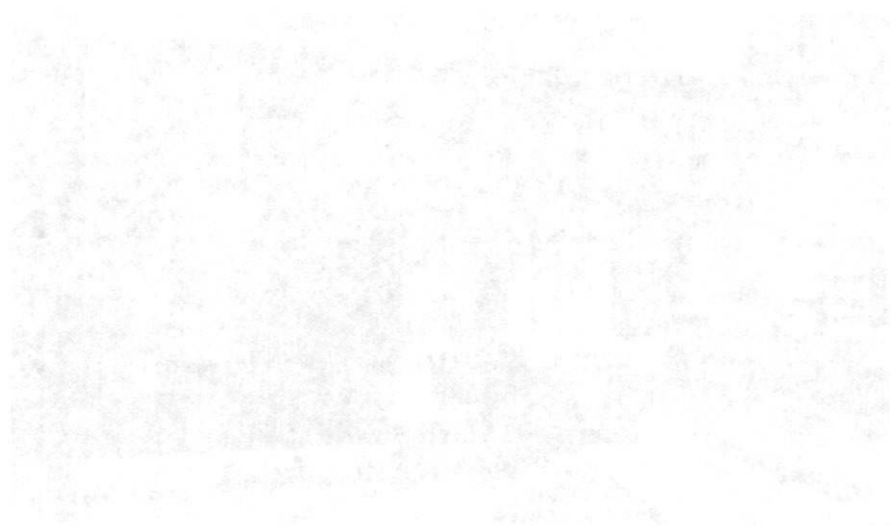
Nearby



Send to your
phone



Share



100

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Re: 6 Florence Terrace, Leeson Park Avenue, Dublin 6
Referral for review by An Bord Pleanála of declaration by Dublin City Council made pursuant to Section 5 of Planning and Development Act 2000 (as amended)

Dublin City Council Ref: 0315/19

APPENDIX C





Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

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

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

T: (01) 222 2288

E. planning@dublincity.ie

30-Sep-2019

Damien Keaney
2, Florence Terrace
Leeson Park Avenue
Dublin 6

Application Number	0315/19
Application Type	Section 5
Registration Date	10-Sep-2019
Decision Date	30-Sep-2019
Decision Order No.	P5162
Location	6, Florence Terrace, Leeson Park Avenue, Dublin 6
Proposal	EXPP: Whether works consisting of demolition and construction constitute development which is or is not exempted development.
Applicant	Damien Keaney



- **If you have any queries regarding this Decision, please contact the number shown above**

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 A Bord Pleanála within four weeks of the date of the issuing of the declaration.

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 30-Sep-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:


I recommend that the applicant be notified that having regard to

- Having regard to the provisions of Section 5 of the Planning and Development Act 2000 (as amended),
- The details submitted with this application; and
- The submission of the owner of the subject property

Ceannofig, Oifigi na Cathrach, An Ché Adhmaid, Bhaile Átha Cliath 8, Éire
Head Office, Civic Offices, Wood Quay, Dublin 8, Ireland

it is considered that there is insufficient information in the application to allow for a full assessment of what is or is not exempted development. The applicant is therefore requested to submit precise measurements, indicated on drawings, of the development.

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.

