



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

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

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

t. (01) 222 2288
e. planning@dublincity.ie

9th January 2020

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

AN BORD PLEANÁLA	
LDG-	_____
ABP-	_____
13 JAN 2020 <i>LC</i>	
Fee: €	_____ Type: _____
Time: <i>14.45</i>	By: <i>hand</i>

Re: **68 Brighton Road, Rathgar, Dublin 6.**
Your Ref: **ABP-306105-19**
Plan Ref: **0488/19**

Dear Sir/Madam,

Please find attached our response in relation to your request for submission or observation dated 11th December 2019 regarding the above application.

Kind regards,



Oliver O'Leary
for Executive Manager

Archaeology, Conservation & Heritage Section
Planning & Property Development Department
Block 4, Floor 3, Civic Offices, Wood Quay, Dublin 8

Seandálaíocht, Caomhantas & Oidhreacht
An Roinn Pleanála agus Forbartha Eachnamaíochta
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Decisions Section
Planning & Property Development Department
Dublin City Council
Block 3, Floor 3

19/12/2019

APPEAL COMMENTS

EXPP: 0488/19 (Section 5 Declaration Application)

BORD PLEANALA REF: ABP-306105-19

LOCATION: 68 Brighton Road, Rathgar, Dublin 6

PROPOSAL: EXPP: Protected Structure:
Replacement of rooflight.

Appeal Comments

I refer to the report 'Submission to An Bord Pleanála for a Review of the Section 5 Declaration' for 68 Brighton Road, Rathgar, Dublin 6, dated the 3rd December 2019, by Michael J. Reynolds for Fitzsimmons Doyle & Associates. The appeal relates specifically to the original application for a Section 5 Declaration Reg. Ref: 0488/19 and in this regard the Planning Authority refer to the Report on that Section 5 Declaration application (attached).

The Conservation Unit within the Archaeology, Conservation and Heritage Section of Dublin City Council's Planning & Property Development is an integrated, multi-disciplinary team comprising architectural conservation officers and planners. It is long established practice in the Planning and Property Development Department that Section 5 applications relating to Protected Structures are dealt with by this unit. In accordance with established practice, the subject Section 5 Declaration application was considered by both an Architectural Conservation Officer and Senior Planner, who concurred in their decision as per the report on Reg. Ref: 0488/19.

No. 68 Brighton Road, Rathgar, Dublin 6 is a Protected Structure, Ref. No. 977 on the Record of Protected Structures (RPS), Volume 4 of the Dublin City Development Plan 2016-2022, with the description 'House'. The description and address combined mean that the entire building is protected. It is noted that the appeal submission by Michael J. Reynolds for Fitzsimmons Doyle & Associates, fails to acknowledge the full extent of statutory protection conferred on a structure that is a protected structure by definition of the Act.

Section 2(1): Interpretation of Part 1 of the Planning and Development Act 2000 (as amended) states that: "*structure*" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

- (i) the interior of the structure,
- (ii) the land lying within the curtilage of the structure,
- (iii) any other structures lying within that curtilage and their interiors, and
- (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);

Section 57(2) of the Act provides that:

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

The Architectural Heritage Protection Guidelines states that 'details of the nature and extent of protection for each individual structure can be ascertained by issuing a declaration under Section 57 of the Act' (2011, p. 21). No request for a declaration under Section 57 of the Act has been submitted by the owner/applicant at any time since the introduction of the Planning and Development Act, 2000. This is of note given that the building is a protected structure since that Act came into operation.

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

'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 neighbouring structures;'

Section 57(1) of the Act states:

'Notwithstanding section 4(1)(h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of –

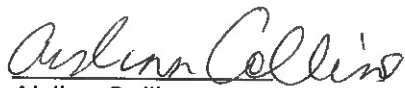
- (a) the structure, or
- (b) any element of the structure which contributes to its special, architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.'

Dublin City Council Planning & Property Development Department provides for the making of an application for a Section 5 Declaration for specified works to a protected structure, in the absence of a Section 57 Declaration or in addition to such a Declaration. The Section 5 declaration process is principally aimed at modest works, maintenance and repairs, in order to assist owners and occupiers undertake the repair, maintenance and non-material modification of these structures, having regard to the provisions of the Act and the statutory

Architectural Heritage Protection Guidelines for Planning Authorities (2011). In this instance, the subject Section 5 Declaration application, the installation of a rooflight in the front slope of the roof, was considered and assessed and the works were not considered exempted development having regard to those statutory Guidelines and Sections 4(1)(h) and 57 of the Act. Insufficient evidence, in the form of old photographs or drawings, has been provided to indicate that the historic rooflight stored on site came from the front slope of the roof.

Accordingly, the Architectural Heritage Protection Guidelines for Planning Authorities (2011), along with best conservation practice, supports the opinion of the Planning Authority that the insertion of a rooflight into the principal, front slope would comprise a material alteration to the protected structure.

The Planning Authority is of the opinion that the rooflight to 68 Brighton Road, which is the subject to this appeal, would materially affect the character of the protected structure and therefore, would comprise works/development which would not be exempted development under Sections 4(1)(h) and 57 of the Act.

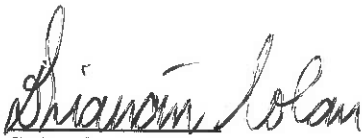


Aislinn Collins

Assistant Architectural Conservation Officer

19/12/2019

Date



Brianán Nolan

Senior Executive Planner

Archaeology, Conservation & Heritage Section

19/12/2019

Date

