

John Shaw,
MHP Solicitors
9/11, Bindon Street
Ennis
Co. Clare

Reference No: Ref12320
Application Type: Declaration on Development and Exempted Development Act
- Section 5, Planning & Development Act (as amended)
Registration Date: 16-Dec-2020
Decision Date: 15-Jan-2021
Location: 16 Beechpark Avenue,, Foxrock,, Dublin 18.
Development Works: Cladding applied to the front of the house
materially altering the appearance and leaving
it jutting out of the adjoining semi-detached
premises.

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Act, 2000 (as amended), Dún Laoghaire-Rathdown County Council has, by Order No. REF04/21 Dated 15-Jan-2021 decided to issue a Declaration pursuant to Section 5 of the Planning & Development Act 2000 (as amended), to, John Shaw, MHP Solicitors 9/11, Bindon Street, Ennis, Co. Clare that:

Having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended), it is considered that the following development works at No. 16 Beech Park Avenue, Foxrock, Dublin 18 constitutes exempted development:
- The application of cladding/insulation to the exterior of an existing dwelling.

Please disregard previous letter.

Dated: 22-Jan-2021 Signed: Clarán Carolan
For Senior Executive Officer.

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

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

Section 5 – Planning and Development Act 2000 (as amended)

Reference No.: Ref12320
Date Received: 16-Dec-2020
Name & Address: John Shaw, MHP Solicitors 9/11, Bindon Street, Ennis, Co. Clare
Applicant: [REDACTED]
Avenue, Foxrock, Dublin 18, D18 K2F9
App. Type: Section 5
Location: 16 Beech Park Avenue, Foxrock, Dublin 18, D18 K2F9
Development Works: Cladding applied to the front of the house materially altering the appearance and leaving it jutting out of the adjoining semi-detached premises.

Report
(Enda Dulgnan)

PLANNING AND DEVELOPMENT ACT 2000, AS AMENDED SECTION 5

Ref: 123/20

Matter for Determination:
Declaration pursuant to Section 5 of the Planning & Development Act, 2000 (as amended), in respect of:

- Cladding applied to the front of the house materially altering the appearance and leaving it jutting out of the adjoining semi-detached premises.

The subject site is located at No. 16 Beech Park Avenue, Foxrock, Dublin 18.

Site/Premises:

No. 16 Beech Park Avenue comprises a double storey, semi-detached dwelling which is located on the northern side of Beech Park Avenue. Beech Park Avenue is a cul-de-sac which connects to Clonkeen Drive to the east. The existing dwelling has a single car garage located on its western side and car parking is also

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provided within the front setback. The dwelling is served by an area of amenity space to its rear.

ZONING

In the 2016 - 2022 Dún Laoghaire-Rathdown County Development Plan, the site is zoned, 'A', with a stated objective, 'to protect and/or improve residential amenity'.

The subject site is located within the boundary of the Deansgrange Local Area Plan, 2010-2020. It is noted that the LAP has expired in June 2020.

PLANNING HISTORY

No recent history of planning applications on site.

ENFORCEMENT HISTORY

ENF 46920: Enforcement file opened on 7th December 2020 in relation to the application of external insulation to the property, that materially affects the appearance and leaving it jutting out of the adjoining semi-detached premises. The enforcement file is currently open.

ENF GC 32220: Enforcement file opened on 7th December 2020 in relation to a Brick/Wall finish to front of property. The enforcement file is currently open.

PREVIOUS DECLARATIONS UNDER SECTION 5

No record of previous declarations under Section 5.

PROPOSED DEVELOPMENT

The Section 5 relates to the application of external insulation/cladding to the exterior of the existing house. It is noted that the Applicant is not the owner of the property and resides in the adjoining semi-detached property. It is purported by the Applicant that the works materially alter the appearance of the dwelling and that it now projects past the adjoining semi-detached dwelling.

ASSESSMENT

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

With regard to the proposal, the Planning Authority refers to Section 3 (1) of the Planning and Development Act, 2000 (as amended), which defines 'development' as follows:

'In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land'.

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With regard to Section 3 (1) above, Section 2 (1) of the Planning and Development Act, 2000 (as amended) is also relevant which defines 'works' as follows:

'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.'

Having regard to the above, it is considered that the proposal, namely the application of cladding/insulation to the exterior of the existing dwelling would constitute works and is development.

Exempted Development or not Exempted Development

The second matter to determine is whether the proposal would constitute exempted development or not.

Given this application relates to the application of cladding/insulation to the exterior of an existing dwelling, the following legislation is considered to be relevant in this regard.

Section 4 (1) (h) of Part I of the Planning and Development Act, 2000 (as amended), is also considered to be relevant to this application. It reads -

*'Section 4 (1) (h)
Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures shall be exempted developments for the purposes of this Act.'*

Beech Park Avenue is typically characterised by double storey semi-detached dwellings of a similar architectural style. The palette of materials and finishes of dwellings to the south and east of the site are generally consistent and comprise a combination of dash render and brick for the principal facades. However, there are a number of dwellings to the west and south-west of the site which display a variety of finishes to their exterior. It is noted that application includes photographs of the No. 16 Beech Park Avenue with the works in question completed. Upon review of the submitted material and the pattern of development in the area, the Planning Authority is satisfied that the works as constructed in this specific instance 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. Although the insulation has been applied to the exterior of the building, it is understood the floor area of the dwelling has not been extended. In this regard, the proposed works, namely

Dún Laoghaire-Rathdown County Council

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the application of cladding/insulation to the exterior of an existing dwelling are therefore considered exempted development pursuant to Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

RECOMMENDATION

It is recommended that Dún Laoghaire-Rathdown County Council advise the Applicant as follows:

Having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended), it is considered that the following development works at No. 16 Beech Park Avenue, Foxrock, Dublin 18 constitutes exempted development:

- The application of cladding/insulation to the exterior of an existing dwelling.

Enda Duignan
Executive Planner
12th January 2021

RECOMMENDATION:

I recommend that Dún Laoghaire-Rathdown County Council advise the Applicant, John Shaw, MHP Solicitors 9/11, Bindon Street, Ennis, Co. Clare

Having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended), it is considered that the following development works at No. 16 Beech Park Avenue, Foxrock, Dublin 18 constitutes exempted development:

- The application of cladding/insulation to the exterior of an existing dwelling.



Administrative Officer.

Executive Planner.

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

ORDER

The issuing of a Declaration pursuant to Section 5 of the Planning & Development Act 2000 (as amended), to John Shaw, MHP Solicitors 9/11, Bindon Street, Ennis, Co. Clare, that:

Having regard to Section 4(1)(h) of the Planning and Development Act 2000 (as amended), it is considered that the following development works at No. 16 Beech Park Avenue, Foxrock, Dublin 18 constitutes exempted development:

- The application of cladding/insulation to the exterior of an existing dwelling.

Is hereby approved.

Signed:


Approved Officer

Date: 15/1/21

Thereunto empowered by order of Bríonníeldhneannach, Comhairle Contae Dhún Laoghaire-Ráth An Dúin, Order No. 223, dated 5/4/18, delegating to me all her powers, functions and duties in relation to the County Council of Dún Laoghaire-Rathdown in respect of this matter.

Mr. Ciarán Carolan
Dun Laoghaire Rathdown County Council
Planning Department
Marine Road
Dun Laoghaire
Co. Dublin
A96 K6C9

aoneill@dlrcoco.ie

Our Reference
JS/JB/S172/28

Your Reference

Date
18 December 2020

Re:

**Declaration pursuant to Section 5 of the
Planning Development Act 2000 as amended**
Our client: Mr. Thomas Clarke, 16 Beech Park Ave, Foxrock, D18

Dear Mr. Carroll

I acknowledge receipt of yours of 16th inst. in connection with the above matter however the subject matter of the Section 5 application is No. 16 Beech Park Avenue, whereas my client's address is 17 Beech Park Avenue, Foxrock.

My client has apparently been in contact directly with Aenghus O'Neill of your planning department and I am instructed to advise that the development at No. 16 is now complete and request that an inspection take place. I hope I have not caused any duplication but I have copied this letter to Mr. O'Neill for his attention also.

Attached are photographs of the finished premises together with photographs of a similar pair of semi-detached houses in the same estate. I would be obliged if you could arrange for an inspection to take place and I look forward to hearing from you in relation thereto at your earliest convenience.

Yours sincerely

John P. Shaw
County Solicitor
jshaw@mhp.ie

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Michael Houlihan & Partners LLP

Mr. Kieran Carroll
Dun Laoghaire Rathdown County Council
Planning Department
Marine Road
Dun Laoghaire
Co. Dublin
A96 K6C9

DUN LAOGHAIRE RATHDOWN CO. CO.
SECRETARIAT SECT.
16 DEC 2020

RECEIVED
PLANNING DEPT

Our Reference
JS/MM/S172/28

Your Reference

Date
15 December 2020

Re:

Declaration pursuant to Section 5 of the
Planning Development Act 2000 as amended
Our client: Mr. Thomas Clarke, ~~XXXXXXXXXXXXXXXXXXXX~~

Dear Mr. Carroll

I refer to our telephone conversation on Friday last in connection with the above matter and now enclose herewith duly completed Section 5 Declaration together with the photographs showing the front of the house as described in the Section 5 Form and copy map with the house in question outlined in red showing its location.

However, given the address of the property and the fact that it is in a well-established residential area and is a semi-detached residence attached to my client's premises, the site plans and location plan are, to a certain extent, irrelevant.

The issue in question relates to the installation of insulation cladding at the front of the premises, which materially alters the appearance of the façade, rendering the appearance inconsistent with the adjacent residence and entire surrounding residences.

I trust that the enclosed completes the formal requirements of Dun Laoghaire Rathdown County Council in respect of the Section 5 Application and if you have any further requirements, please do not hesitate to contact me.

Yours sincerely


John P. Shaw
Michael Houlihan & Partners
ishaw@mhp.ie



John P Shaw County Solicitor Helen Rackard Gerard Flynn Sinéad Nunan
Marina Keane Kate McInerney Emma Colleran Sinéad Glynn
Miriam Rowe Róisín Moloney-Weekes Sarah Jane Whyte Brian Kelly



Registered No.
IE-19-3996

www.mhp.ie

development is readily identifiable and the photographs attached show the nature of the development clearly. We therefore trust that you will have sufficient information to determine whether the development is exempted or not.

Should you require any further information, please do not hesitate to contact us.

Yours faithfully

Michael Houlihan & Partners
Michael Houlihan and Partners











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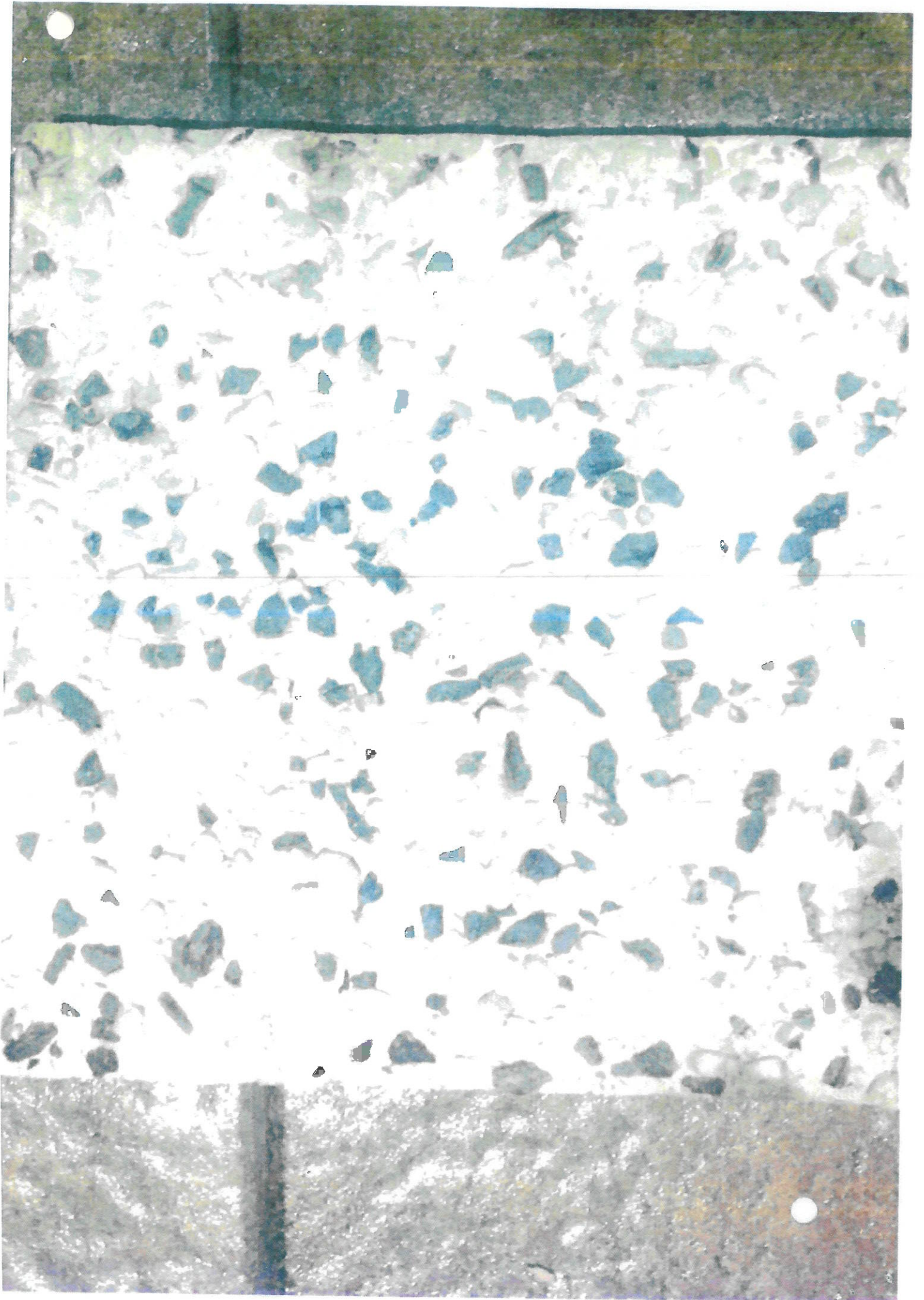
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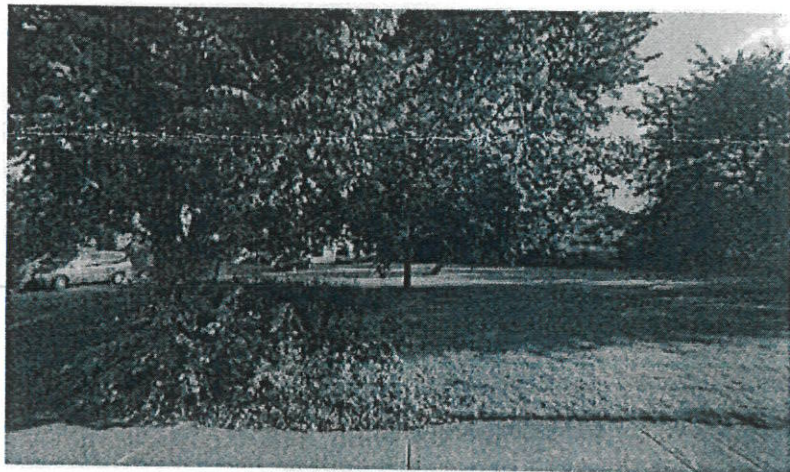




Google Maps Beech Park Ave



Map data ©2020 20 m



Beech Park Ave

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Dublin



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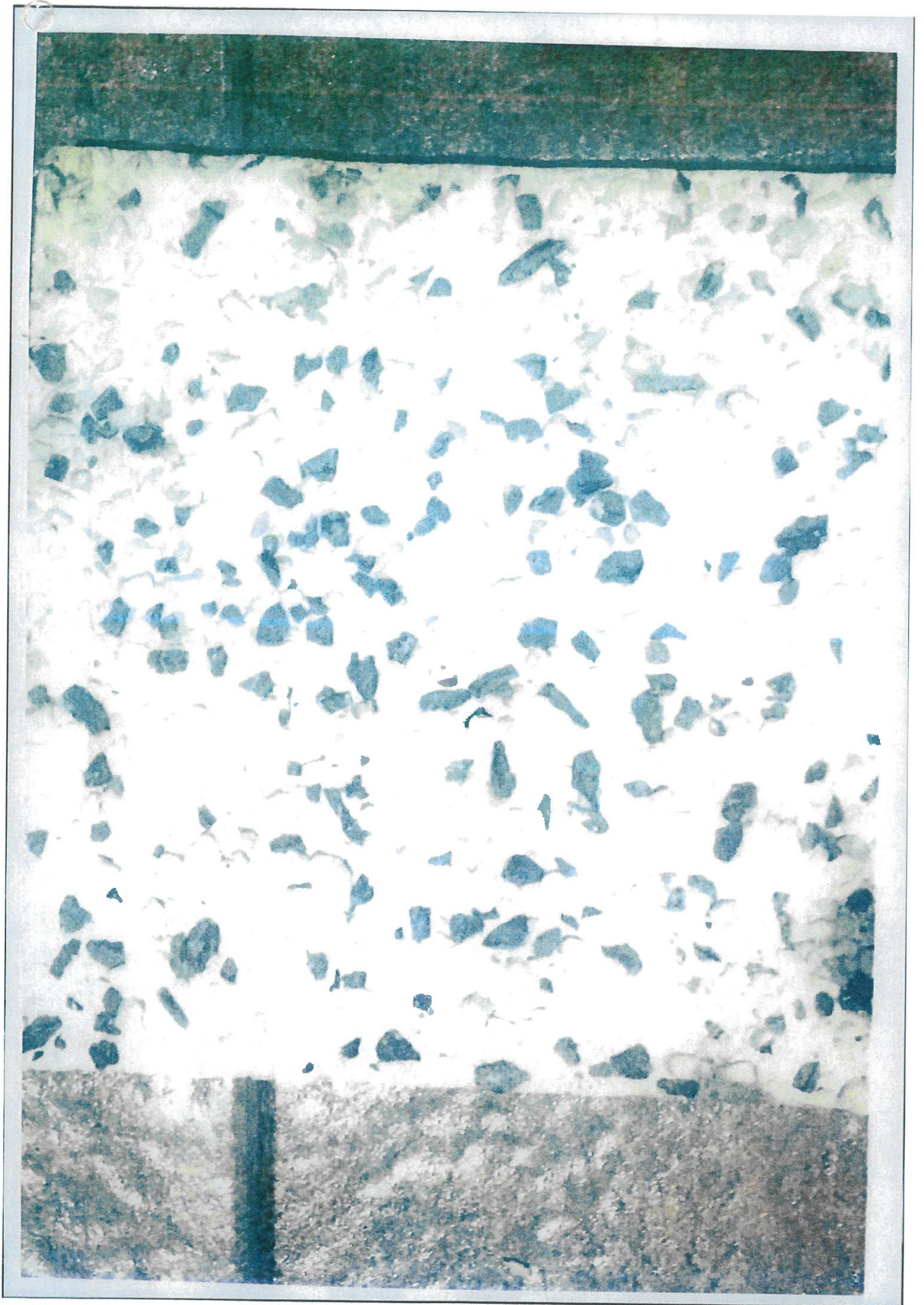
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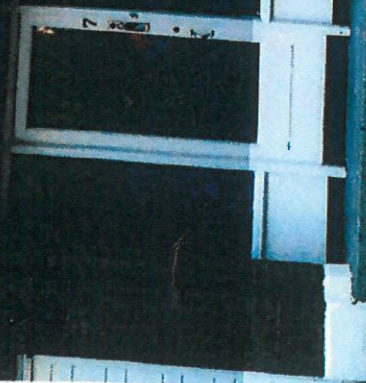












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Planning Department
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A96 K6C9

DUN LAOGHAIRE RATHDOWN CO. CO.
SECRETARIAT SECT.

11 DEC 2020

RECEIVED
PLANNING DEPT

12320

Our Reference
JS/MM/S172/28

Your Reference

Date
10 December 2020

Re: Declaration pursuant to Section 5 of the
Planning Development Act 2000 as amended

Our client: Mr. Thomas Clarke, [REDACTED]

Dear Sirs

We act on behalf the above named client, who is the owner of 17 Beech Park Avenue, Foxrock, Co. Dublin.

Our client's house is one of several in a development which we understand was constructed in or around 1964. The house is semi-detached and we enclose photographs showing the house and works which have already commenced on the adjoining property, one of which depicts the external cladding. The work on the adjacent house consists of the addition of cladding and a finish which will significantly alter the appearance of the front of the house.

We understand from our client that the main purpose of the cladding is to better insulate the house. However, it appears that the proposed development is not exempted development and on examination of the Planning & Development Regulations 2001-2020, we can find no provision which would exempt this development. As the development and the intended finish would materially alter the appearance of the property to an extent that is inconsistent with our client's premises and all of the neighbouring premises, our client objects to the said works.

Our client seeks a declaration pursuant to S50 of the Planning and Development Act 2000, from Rathdown Dun Laoghaire County Council, as the competent Planning Authority, as to whether this development is exempted development or not .

We enclose herewith our cheque in the sum of €80 in discharge of the appropriate fee. We note that your department normally requires a location map, etc. However, the location of the



John P Shaw County Solicitor Helen Rackard Gerard Flynn Sinéad Nunan
Marina Keane Kate McInerney Emma Colleran Sinéad Glynn
Miriam Rowe Róisín Moloney-Weekes Sarah Jane Whyte Brian Kelly



Registered No.
IE-19,3996



Dún Laoghaire-Rathdown County Council
APPLICATION FOR SECTION 5
Planning and Development Act 2000, (as amended)

The purpose of a Section 5 of the Planning and Development Act 2000, (as amended), is to establish if a particular development is or is not an exempted development within the meaning of the Act.
If detailed information / drawings are not provided, we may not be in a position to make a decision.

NOTES:

- (a) Application **must** be accompanied by fee of €80.00
- (b) Application **must** be accompanied by 3 Copies of:
 - (1) site location map with site clearly outlined in red,
 - (2) site layout plan including **all** existing structures on site (this is required as conditions and limitations of exempted development include location of development and distances from site boundaries),
 - (3) scale floor plans and elevations (this is required as conditions and limitations of exempted development include height of structure and distances of windows from boundaries).
 - (4) Any other additional information so as to inform the decision.

Forward your application to: Dún Laoghaire-Rathdown County Council,
Planning and Organisational Innovation, Registry and Decisions Section,
Marine Road, Dún Laoghaire, County Dublin.
Telephone: 01-2047240

1. Applicant Details:

NAME OF APPLICANT: Thomas Clarke

ADDRESS OF APPLICANT: [REDACTED]

EMAIL ADDRESS: [REDACTED]

TELEPHONE NO. Day: Not applicable Mobile: Not applicable

2. Agent Details:

NAME OF AGENT: John Shaw

AGENT'S ADDRESS: MHP Solicitors, 9/11 Bindon Street, Ennis, Co. Clare

TELEPHONE NO. Day: 065 684600 Mobile: 086 2589253

3. Correspondence Details:

ADDRESS FOR CORRESPONDENCE *(if different from above)*

As per the above

4. Site Details:

LOCATION OF SUBJECT SITE:

Site at 16 Beech Park Avenue, Foxrock, Dublin

(a) area of site:	<u>Not applicable</u>	sq.m.
(b) floor area of existing extension(s) (if any):	<u>Not applicable</u>	sq.m.
(c) floor area of proposed development:	<u>Not applicable</u>	sq.m.
(d) area of rear garden remaining:	<u>Not applicable</u>	sq.m.

Please state applicant's interest in this site: Owner of adjoining premises

If applicant is not the owner of site, please provide name & address of owner: Please see warning letter issued by the planning authority to the owner.

Is the above site located within the curtilage of a Protected Structure or within a Candidate Architectural Conservation Area or Architectural Conservation Area?

Yes / No No

If yes, has a Declaration under Section 57 of the Planning and Development Act 2000, (as amended) been requested or issued for the property by the Planning Authority?

Yes / No No

5. 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.)

Cladding applied to the front of the house materially altering the appearance and leaving it jutting out of the adjoining semi-detached premises.

6. List of plans, drawings, etc. submitted with this application.

Aerial location map showing both houses as semi-detached in a mature housing developments. The works in question are depicted in the attached photographs.

7. Are you aware of any enforcement proceedings connected to this site? If so please supply details:

Warning letter apparently issued by the planning authority to the site owner.

8. Were there previous planning application/s on this site? If so please supply details:

No, houses were built circa. 1964.

Signed: _____



Date: 15 December 2020

