

Ref. 21064

21st September 2021

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1

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| AN BORD PLEANÁLA | |
| LDG- <u>043851 -21</u> | |
| ASP- _____ | |
| 22 SEP 2021 | |
| Fee: € <u>220</u> | Type: <u>cheque</u> |
| Time: _____ | By: <u>Hand</u> |



**Re: REFERRAL OF SECTION 5 DECLARATION
ON DEVELOPMENT AND EXEMPTED DEVELOPMENT**

Planning Authority: Dun Laoghaire Rathdown County Council
Application Number: 11021
Application Type: Section 5
Registration Date: 19-August 2021
Decision Date: 10-September 2021
Location: Apt. Q, Coliemore Apts., Coliemore Road, Dalkey.
Applicant Details: Ms. Bridget Regina Walsh
Proposal: Misc. alterations to the exterior as listed below.

Dear Sir / Madam,

1.0 Introduction

On behalf of our client, Ms. Bridget Regina Walsh, we hereby request a referral of the above Section 5 Declaration. This submission is made within four weeks of the decision date and the prescribed fee of €220 is enclosed. In support of the above the following documents are enclosed :

- Copy of DLRCoCo Section 5 Declaration
- Copy of DLRCoCo Record of Executive Business / Chief Executive Orders
- Copy of original Section 5 application to DLRCoCo:
- Cover Letter / Report. completed Section 5 application form.
- 1 copy of the following drawings:

| | | |
|------------------------|--|--------|
| O.S. Site Location Map | | 1.1000 |
| 21064-100 | Existing Site Layout Plan | 1.500 |
| 21064-101 | Existing Site Layout Plan | 1.200 |
| 21064-102 | Existing Second Floor Plan | 1.100 |
| 21064-103 | Existing Third Floor Plan | 1.100 |
| 21064-110 | Existing Side and Rear Elevations | 1.100 |
| 21064-200 | Proposed Site Layout Plan | 1.500 |
| 21064-201 | Proposed Site Layout Plan | 1.200 |
| 21064-202 | Proposed Second Floor Plan | 1.100 |
| 21064-203 | Proposed Third Floor Plan | 1.100 |
| 21064-210 | Proposed Side Elevation A / Rear Elevation A | 1.100 |
| 21064-211 | Proposed Side Elevation B / Rear Elevation B | 1.100 |
| 21064-212 | Proposed Side Elevation C / Rear Elevation C | 1.100 |
| Photomontage 1 : | Existing and Proposed Rear Elevations | n.t.s. |
| Photomontage 2 : | Existing and Proposed Rear Elevations | n.t.s. |
| Photomontage 3 : | Existing and Proposed Side Elevations | n.t.s. |



2.0 List of Works Proposed

The works proposed are as follows :

Works Item No. 1 – Infill of Floor Void

Internal alterations to consist of infill of the circular floor void at upper (3rd floor level) and removal of internal staircase to provide an additional 16 sq.m of internal floor area.

Works Item No. 2 – Internal Layout Alterations

Internal layout alterations to consist of removal / addition of walls / partitions and doors (on 2nd and 3rd floor level); relocation of Bedroom No. 3 from 2nd to 3rd floor to create open plan living / dining / kitchen area at 2nd floor.

Works Item No. 3 – Lowering of Rotunda Sill

Alterations to the external elevation of the rotunda at 3rd floor to consist of lowering of the curved window sill by 0.5m. This faces north to south-west on the rear (seaward) and side elevations.

Works Item No. 4 – Fenestration Changes

Alterations to the external elevation of the rotunda at 3rd floor to consist of changing of 7 no. groups of 3no. windows to 7no. curved fixed windows and replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey). This faces north to south-west on the rear (seaward) and side elevations.

Works Item No. 5 – Rotunda Fenestration Changes + Lowering of Sill

A combination of Works Item Nos. 3 and 4 above to consist of lowering of rotunda sills and changing of 7 no. groups of 3no. windows to 7no. curved fixed windows.

Works Item No. 6 - Lowering of Sill with Fenestration Colour Change

Lowering of Rotunda sill per Works Item Nos. 3 but retaining the same fenestration division with replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey).

Works Item No. 7

Changing of Window on North-east elevation at 2nd floor to double doors to access existing rear facing roof terrace.

Works Item No. 8

Changing of fenestration division of 4no. windows on North-east elevation at 2nd floor.

2.0 Summary of DLRCoCo Decision

In its decision, DLRCoCo concluded that all works constituted development with works items 1 + 2 being declared exempt and works items 3 – 8 being declared non-exempt. The basis for works items 3 – 8 is the reason for seeking this referral. The reason cited for all is as follows:

These works consist of external works to the apartment building. The proposed works are considered to come within the scope of 'alteration', as cited in Section 2 of the Planning and Development Act 2000 (as amended). It is considered

that the proposed works, would materially alter the appearance of the structure so as to render the appearance inconsistent with the character of the structure, and in accordance with Article 5(1) of the Planning and Development Regulations are considered constitute development and do not constitute exempted development.

It is our professional opinion based on design expertise, that these works should be considered exempt under Section 4(1)(h) of the Planning and Development Act :

*'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**'.*

All of the proposed changes are complimentary to the overall style and finishes of the apartment block. By its original concept the rotunda and penthouse is atypical and presents a design counterpoint to the rest of the block both in its geometry and fenestration type. Notwithstanding that the proposed changes are slight and would not materially affect the external appearance to an extent that would leave it inconsistent with the character of the rest of the building. Furthermore, it is submitted that the proposed lowering of the rotunda sill levels will actually bring these in line with adjacent sills. It is therefore submitted that the proposed works will make no material difference to the overall appearance of the building.

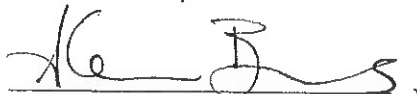
The supporting photomontages and existing / proposed elevations clearly demonstrate that the changes are subtle. Items Nos. 7 and 8 are only visible from the sea and the dropped sill of the former is obscured by the terrace parapet wall.

3.0 Conclusion

Based on the foregoing we would be of the opinion that all of the works listed should be considered development and exempted development under Section 4(1)(h). We trust that the Bord will take all of the foregoing and enclosed into consideration and deem that the proposed works items nos. 3 – 8 also constitute exempt development.

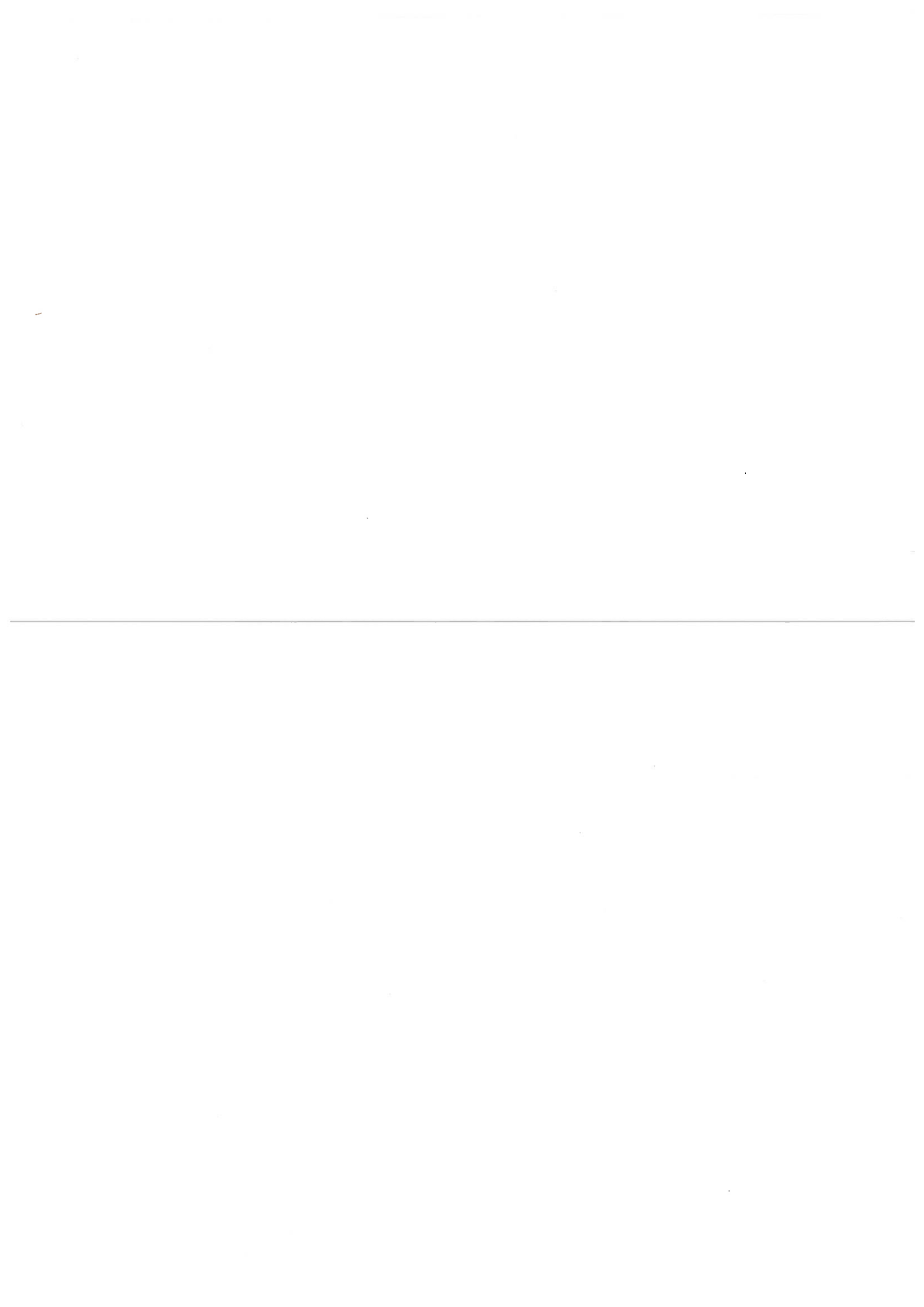
Please contact us should you have any questions or require any further information.

Yours sincerely,



Alan Burns B Arch, B Arch Sc, MRIAI
For and on behalf of **Bright Design Architects**

Encl.



Planning Department
Rannóg Pleanála
Registry Section
Ciarán Carolan
Asst. Staff Officer
Direct Tel: 01 2054863

Bright Design Architects
4, Seafield Park
Booterstown
Co. Dublin

Reference No: Ref11021

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

Registration Date: 19-Aug-2021

Decision Date: 10-Sep-2021

Location: Apartment Q, Colliemore Apartments, Dalkey, Co. Dublin

Development Works:

1. *Infill of floor void - internal alterations to consist of infill of the circular floor void at upper (3rd floor level) and removal of internal staircase to provide an additional 16 sq.m of internal floor area.*
2. *Internal layout alterations - internal layout alterations to consist of removal / addition of walls / partitions and doors (on 2nd and 3rd floor level); relocation of bedroom no. 3 from 2nd to 3rd floor to create open plan living / dining / kitchen area at 2nd floor.*
3. *Lowering of rotunda sill - alterations to the external elevation of the rotunda at 3rd floor to consist of lowering of the curved window sill by 0.5 m. This faces north to south-west on the rear (seaward) and side elevations.*
4. *Fenestration changes - alterations to the external elevation of the rotunda at 3rd floor to consist of changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows and replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey). This faces north to south-west on the rear (seaward) and side elevations.*
5. *Rotunda fenestration changes + lowering of sill - a combination of works items nos. 3 and 4 above to consist of lowering of rotunda sills and changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows.*
6. *Lowering of sill with fenestration colour change - lowering of rotunda sill per works item nos. 3 but retaining the same fenestration division with replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey).*
7. *Changing of window on north-east elevation at 2nd floor to double doors to access existing rear facing roof terrace.*
8. *Changing of fenestration division of 4 no. windows on north-east elevation at 2nd floor.*

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. REF132/21 Dated 10-Sep-2021 decided to issue a Declaration pursuant to Section 5 of the Planning & Development Act 2000 (as amended), to, Bright Design Architects 4, Seafield Park, Booterstown, Co. Dublin that:

Item 1 & 2(inclusive) : Conclusion

Having regard to the documentation submitted in support of the application and to the above assessment it is considered that

1. Infill of floor void - internal alterations to consist of infill of the circular floor void at upper (3rd floor level) and removal of internal staircase to provide an additional 16 sq.m of internal floor area.
2. Internal layout alterations - internal layout alterations to consist of removal / addition of walls / partitions and doors (on 2nd and 3rd floor level); relocation of bedroom no. 3 from 2nd to 3rd floor to create open plan living / dining / kitchen area at 2nd floor.

Having regard to:

- a. Sections 2, 3 and 4(1) (h) of the Planning and Development Act 2000, as amended
- b. Articles 6 (1) and 9 (1) of the Planning and Development Regulations, as amended
- c. The documentation and particulars submitted in support of Ref 110 21

It is considered that Items 1 & 2 as detailed on the submitted referral application constitutes development and constitutes considered exempt development .

Items 3- 8 (inclusive): Conclusion

Having regard to the documentation submitted in support of the application and to the above assessment it is considered that the following items:

3. Lowering of rotunda sill - alterations to the external elevation of the rotunda at 3rd floor to consist of lowering of the curved window sill by 0.5 m. This faces north to south-west on the rear (seaward) and side elevations.
4. Fenestration changes - alterations to the external elevation of the rotunda at 3rd floor to consist of changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows and replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey). This faces north to south-west on the rear (seaward) and side elevations.

5. Rotunda fenestration changes + lowering of sill - a combination of works items nos. 3 and 4 above to consist of lowering of rotunda sills and changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows.

6. Lowering of sill with fenestration colour change - lowering of rotunda sill per works item nos. 3 but retaining the same fenestration division with replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey).

7. Changing of window on north-east elevation at 2nd floor to double doors to access existing rear facing roof terrace.

8. Changing of fenestration division of 4 no. windows on north-east elevation at 2nd floor.

constitutes development and does not constitute exempted development in accordance with Article 5 (1) of the Planning and Development Regulations 2001 (as amended).

Dated: 10-Sep-2021

Signed: Ciarán 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.

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PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

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

Reference No.: Ref11021

Date Received: 19-Aug-2021

Name & Address: Bright Design Architects 4, Seafield Park,
Booterstown, Co. Dublin

Applicant: Ms. Bridget Regina Walsh Apartment Q, Colliemore
Apartments, Dalkey, Co. Dublin

App. Type: Section 5

Location: Apartment Q, Colliemore Apartments, Dalkey, Co.
Dublin

Development Works:

1. Infill of floor void - Internal alterations to consist of infill of the circular floor void at upper (3rd floor level) and removal of internal staircase to provide an additional 16 sq.m of internal floor area.
2. Internal layout alterations - internal layout alterations to consist of removal / addition of walls / partitions and doors (on 2nd and 3rd floor level); relocation of bedroom no. 3 from 2nd to 3rd floor to create open plan living / dining / kitchen area at 2nd floor.
3. Lowering of rotunda sill - alterations to the external elevation of the rotunda at 3rd floor to consist of lowering of the curved window sill by 0.5 m. This faces north to south-west on the rear (seaward) and side elevations.
4. Fenestration changes - alterations to the external elevation of the rotunda at 3rd floor to consist of changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows and replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey). This faces north to south-west on the rear (seaward) and side elevations.
5. Rotunda fenestration changes + lowering of sill - a combination of works items nos. 3 and 4 above to consist of lowering of rotunda sills and changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows.
6. Lowering of sill with fenestration colour change - lowering of rotunda sill per works item nos. 3 but retaining the same fenestration division with replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey).

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7. Changing of window on north-east elevation at 2nd floor to double doors to access existing rear facing roof terrace.

8. Changing of fenestration division of 4 no. windows on north-east elevation at 2nd floor.

Report

(Frances Horkan)

REF 110 210 Apt Q, Coliemore Apartments, Dalkey.

Query

A section 5 referral has been submitted in relation to the works to Apartment Q, Collemore Apartments, Dalkey, Co. Dublin.

Mater for determination

The submitted declaration, seeks a determination as to whether or not the proposed works are development and if so, are they exempted development. The following works are proposed:

1. Infill of floor void - internal alterations to consist of infill of the circular floor void at upper (3rd floor level) and removal of internal staircase to provide an additional 16 sq.m of internal floor area.
2. Internal layout alterations - internal layout alterations to consist of removal / addition of walls / partitions and doors (on 2nd and 3rd floor level); relocation of bedroom no. 3 from 2nd to 3rd floor to create open plan living / dining / kitchen area at 2nd floor.
3. Lowering of rotunda sill - alterations to the external elevation of the rotunda at 3rd floor to consist of lowering of the curved window sill by 0.5 m. This faces north to south-west on the rear (seaward) and side elevations.
4. Fenestration changes - alterations to the external elevation of the rotunda at 3rd floor to consist of changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows and replacement of 3rd floor aluciad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey). This faces north to south-west on the rear (seaward) and side elevations.
5. Rotunda fenestration changes + lowering of sill - a combination of works items nos. 3 and 4 above to consist of lowering of rotunda sills and changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows.

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6. Lowering of sill with fenestration colour change - lowering of rotunda sill per works item nos. 3 but retaining the same fenestration division with replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey).
7. Changing of window on north-east elevation at 2nd floor to double doors to access existing rear facing roof terrace.
8. Changing of fenestration division of 4 no. windows on north-east elevation at 2nd floor.

Matter for Determination

The matter for determination is whether the proposed works (as set out as 1-8 above) at Apartment Q, Colliemore Apartments, Dalkey Co. Dublin would or would not constitute development, and whether the proposal would or would not constitute exempted development.

Site Description

The subject site is located to the general northeast of Colliemore Road, between the road and the sea. The Apartment building consists of a substantial 4 storey apartment block, which looks onto Dalkey Island and Dublin Bay. Parking for the apartment block is provided overground and underground.

In the interest of clarity, it should be noted that subject dwelling is not listed on the Record of Protected Structures or National Inventory of Architectural Heritage nor is it within an Architectural Conservation Area or Natura 2000 site.

Zoning of Site

Under the Dún Laoghaire-Rathdown County Development Plan 2016-2022, the site is subject to zoning objective 'A' - "To protect and /or improve residential amenity".

Previous Declarations

Ref 67 12 : The erection of metal railings along the south western edge of the concrete roof to the partially underground car park at Colliemore Apartments, Colliemore Road, Dalkey, Co. Dublin. This was deemed to constitute development and did not constitute exempted development.

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Ref. 3712: A Section 5 Declaration was submitted for the proposed works. This was deemed to be development and it requires planning permission in accordance with Section 4 (1) (h) of the Planning and Development Act 2000, as amended.

Enforcement History

No current enforcement files found.

Departmental Reports

Conservation Dept: Response received, dated the 07/09/2021, which states 'As this site is not a protected structures, nor is it located in an ACA or cACAs, no report will be issued by the Conservation Division

Planning Comment

The Council is requested to determine, in accordance with Section 5 of the Planning and Development Act 2000, as amended whether or not the proposed works constitute development or not, and if so, whether said works are exempted development.

Assessment

It should be noted that the purpose of this referral is not to determine the acceptability or legality of the proposed alterations but whether the matter for determination constitutes development and if so, if it falls within the scope of exempted development.

Consideration as to whether a development constitutes exempted development or not is governed by Sections 2, 3, and 4 of the Planning and Development Act 2000 (as amended).

Is the proposal development?

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

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Section 2(1), contains the following interpretations:

"alteration"
includes—

- (a) plastering or painting or the removal of plaster or stucco, or
- (b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

'works' includes

"...includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

"house" means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

Section 3 (1) states 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."

Having regard to the above, it is considered that the proposed development as detailed in the Section 5 Declaration submission would constitute the carrying out of works and can therefore be considered to comprise 'works' and 'development' as defined in Sections 2 and 3(1) of the Act.

Is the proposal Exempted Development?

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

Section 4(1) of the Act states that the following shall be exempted developments for the purposes of this Act:

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"(h) development consisting of the use 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;

Section 4 (2)(a) of the Act enables certain classes of development to be deemed exempted development by way of regulation.

Planning and Development Regulations 2001 (as amended)

Article 5(1) of Part of the Planning and Development Regulations 2001(as amended) states:

' "house" does not, as regards development of classes 1, 2, 3, 4, 6(b)(ii), 7 or 8 specified in column 1 of Part 1 of Schedule 2, or development to which articles 10(4) or 10(5) refer, include a building designed for use or used as 2 or more dwellings or a flat, an apartment or other dwelling within such a building'

Having regard to same, it is considered that the subject Apartment block known as Collemore Apartments, does not comply with the definition of house as set out in Article 5 (1) of the Planning and Development Regulations 2001 (As amended) , and accordingly, the exemptions as set out in Classes 1, 2, 3, 4, 6(b)(ii), 7 or 8 specified in column 1 of Part 1 of Schedule 2, or development to which articles 10(4) or 10(5) refer, are not applicable in this instance.

Article 9 'Restriction to Exempted Development' of the Planning and Development Regulations 2001 (as amended) states: '9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act' – and sets out a number of criteria thereafter that would restrict a development from being exempt development.

Article 9 (1) (a) (viiB) of the Planning and Development Regulations, 2001 (as amended) states that the following would restrict exempted development: *'(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site'*.

ASSESSMENT

In the interest of clarity, each of the 8 no. matters for determination shall be addressed individually:

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1. *Infill of floor void - internal alterations to consist of infill of the circular floor void at upper (3rd floor level) and removal of internal staircase to provide an additional 16 sq.m of internal floor area.*

These works are noted to be internal alterations only which would not be visible from the public realm. The proposed works are considered to comply with Section 4(1) of the Act.

Accordingly, Item 1 constitutes development and constitutes exempted development.

2. *Internal layout alterations - internal layout alterations to consist of removal / addition of walls / partitions and doors (on 2nd and 3rd floor level); relocation of bedroom no. 3 from 2nd to 3rd floor to create open plan living / dining / kitchen area at 2nd floor.*

These works are noted to be internal alterations only which would not be visible from the public realm. The proposed works are considered to comply with Section 4(1) of the Act.

Accordingly, Item 2 constitutes development and constitutes exempted development.

3. *Lowering of rotunda sill - alterations to the external elevation of the rotunda at 3rd floor to consist of lowering of the curved window sill by 0.5 m. This faces north to south-west on the rear (seaward) and side elevations.*

These works consist of external works to the apartment building. The proposed works are considered to come within the scope of 'alteration', as cited in Section 2 of the Planning and Development Act 2000 (as amended). It is considered that the proposed works, would materially alter the appearance of the structure so as to render the appearance inconsistent with the character of the structure, and in accordance with Article 5(1) of the Planning and Development Regulations are considered constitute development and do not constitute exempted development.

4. *Fenestration changes - alterations to the external elevation of the rotunda at 3rd floor to consist of changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows and replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey). This faces north to south-west on the rear (seaward) and side elevations.*

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These works consist of external works to the apartment building. The proposed works are considered to come within the scope of 'alteration', as cited in Section 2 of the Planning and Development Act 2000 (as amended). It is considered that the proposed works, would materially alter the appearance of the structure so as to render the appearance inconsistent with the character of the structure, and in accordance with Article 5(1) of the Planning and Development Regulations are considered constitute development and do not constitute exempted development.

5. *Rotunda fenestration changes + lowering of sill - a combination of works items nos. 3 and 4 above to consist of lowering of rotunda sills and changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows.*

These works consist of external works to the apartment building. The proposed works are considered to come within the scope of 'alteration', as cited in Section 2 of the Planning and Development Act 2000 (as amended). It is considered that the proposed works, would materially alter the appearance of the structure so as to render the appearance inconsistent with the character of the structure, and in accordance with Article 5(1) of the Planning and Development Regulations are considered constitute development and do not constitute exempted development.

6. *Lowering of sill with fenestration colour change - lowering of rotunda sill per works item nos. 3 but retaining the same fenestration division with replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey).*

These works consist of external works to the apartment building. The proposed works are considered to come within the scope of 'alteration', as cited in Section 2 of the Planning and Development Act 2000 (as amended). It is considered that the proposed works, would materially alter the appearance of the structure so as to render the appearance inconsistent with the character of the structure, and in accordance with Article 5(1) of the Planning and Development Regulations are considered constitute development and do not constitute exempted development.

7. *Changing of window on north-east elevation at 2nd floor to double doors to access existing rear facing roof terrace.*

These works consist of external works to the apartment building. The proposed works are considered to come within the scope of 'alteration', as cited in Section 2 of the Planning and Development Act 2000 (as amended). It is considered that the proposed works, would materially alter the appearance of the structure so as

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to render the appearance inconsistent with the character of the structure, and in accordance with Article 5(1) of the Planning and Development Regulations are considered constitute development and do not constitute exempted development.

8. *Changing of fenestration division of 4 no. windows on north-east elevation at 2nd floor.*

These works consist of external works to the apartment building. The proposed works are considered to come within the scope of 'alteration', as cited in Section 2 of the Planning and Development Act 2000 (as amended). It is considered that the proposed works, would materially alter the appearance of the structure so as to render the appearance inconsistent with the character of the structure, and in accordance with Article 5(1) of the Planning and Development Regulations are considered constitute development and do not constitute exempted development.

Restrictions to Exempted Development

Article 9 'Restriction to Exempted Development' of the Planning and Development Regulations 2001 (as amended) states: '9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act' – and sets out a number of criteria thereafter that would restrict a development from being exempt development.

Having regard to the above, it is considered that the following restriction to exempted development as set out within Article 9 is relevant in this instance – Article 9 (1) (a) (viiB).

Article 9 (1) (a) (viiB) of the Planning and Development Regulations, 2001 (as amended) states that the following would restrict exempted development: '(viiB) *comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site*'.

The proposed development has been screened for Appropriate Assessment (report on file) and it has been determined that the proposed development will not significantly impact upon a European Site. The proposed development has been assessed against all the restrictions to exempted development as set out within Article 9 (1) and that there are no restrictions that would prevent the works subject of this Section 5 application from being exempt development, under that Article of the regulations.

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RECOMMENDATION:

I recommend that Dún Laoghaire-Rathdown County Council advise the Applicant, Ms. Bridget Regina Walsh Apartment Q, Coliemore Apartments, Dalkey, Co. Dublin

Item 1 & 2(inclusive) : Conclusion

Having regard to the documentation submitted in support of the application and to the above assessment it is considered that

1. Infill of floor void - internal alterations to consist of infill of the circular floor void at upper (3rd floor level) and removal of internal staircase to provide an additional 16 sq.m of internal floor area.

2. Internal layout alterations - internal layout alterations to consist of removal / addition of walls / partitions and doors (on 2nd and 3rd floor level); relocation of bedroom no. 3 from 2nd to 3rd floor to create open plan living / dining / kitchen area at 2nd floor.

Having regard to:

- a. Sections 2, 3 and 4(1) (h) of the Planning and Development Act 2000, as amended
- b. Articles 6 (1) and 9 (1) of the Planning and Development Regulations, as amended
- c. The documentation and particulars submitted in support of Ref 110 21

It is considered that Items 1 & 2 as detailed on the submitted referral application **constitutes development and constitutes considered exempt development**.

Items 3- 8 (inclusive): Conclusion

Having regard to the documentation submitted in support of the application and to the above assessment It is considered that the following items:

3. Lowering of rotunda sill - alterations to the external elevation of the rotunda at 3rd floor to consist of lowering of the curved window sill by 0.5 m. This faces north to south-west on the rear (seaward) and side elevations.

4. Fenestration changes - alterations to the external elevation of the rotunda at 3rd floor to consist of changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows and replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey). This faces north to south-west on the rear (seaward) and side elevations.

5. Rotunda fenestration changes + lowering of sill - a combination of works items

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

nos. 3 and 4 above to consist of lowering of rotunda sills and changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows.

6. Lowering of sill with fenestration colour change - lowering of rotunda sill per works item nos. 3 but retaining the same fenestration division with replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey).

7. Changing of window on north-east elevation at 2nd floor to double doors to access existing rear facing roof terrace.

8. Changing of fenestration division of 4 no. windows on north-east elevation at 2nd floor.

constitutes development and does not constitute exempted development in accordance with Article 5 (1) of the Planning and Development Regulations 2001 (as amended).



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 Bright Design Architects 4, Seafield Park, Booterstown, Co. Dublin, that:

Item 1 & 2(inclusive) : Conclusion

Having regard to the documentation submitted in support of the application and to the above assessment it is considered that

1. Infill of floor void - Internal alterations to consist of infill of the circular floor void at upper (3rd floor level) and removal of internal staircase to provide an additional 16 sq.m of internal floor area.
2. Internal layout alterations - internal layout alterations to consist of removal / addition of walls / partitions and doors (on 2nd and 3rd floor level); relocation of bedroom no. 3 from 2nd to 3rd floor to create open plan living / dining / kitchen area at 2nd floor.

Having regard to:

- a. Sections 2, 3 and 4(1) (h) of the Planning and Development Act 2000, as amended
- b. Articles 6 (1) and 9 (1) of the Planning and Development Regulations, as amended
- c. The documentation and particulars submitted in support of Ref 110 21

it is considered that Items 1 & 2 as detailed on the submitted referral application **constitutes development and constitutes considered exempt development .**

Items 3- 8 (inclusive): Conclusion

Having regard to the documentation submitted in support of the application and to the above assessment it is considered that the following items:

3. Lowering of rotunda sill - alterations to the external elevation of the rotunda at

Dún Laoghaire-Rathdown County Council

LOCAL GOVERNMENT ACTS 1925 - 2014

RECORD OF EXECUTIVE BUSINESS CHIEF EXECUTIVE'S ORDERS

3rd floor to consist of lowering of the curved window sill by 0.5 m. This faces north to south-west on the rear (seaward) and side elevations.

4. Fenestration changes - alterations to the external elevation of the rotunda at 3rd floor to consist of changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows and replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey). This faces north to south-west on the rear (seaward) and side elevations.

5. Rotunda fenestration changes + lowering of sill - a combination of works items nos. 3 and 4 above to consist of lowering of rotunda sills and changing of 7 no. groups of 3 no. windows to 7 no. curved fixed windows.

6. Lowering of sill with fenestration colour change - lowering of rotunda sill per works item nos. 3 but retaining the same fenestration division with replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey).

7. Changing of window on north-east elevation at 2nd floor to double doors to access existing rear facing roof terrace.

8. Changing of fenestration division of 4 no. windows on north-east elevation at 2nd floor.


constitutes development and does not constitute exempted development in accordance with Article 5 (1) of the Planning and Development Regulations 2001 (as amended).

Is hereby approved.

Signed:


Approved Officer

Date:



Thereunto empowered by order of Príomhcheildhmeannach, Comhairle Contae Dhún Laoghaire-Ráth An Dúin, Order No. 2215, dated 2/4/21, delegating to me all her powers, functions and duties in relation to the County Council of Dún Laoghaire-Rathdown in respect of this matter.

21064 : Apt. Q, Colliemore Apartments, Colliemore Road, Dalkey, Co. Dublin.

Q.6 : LIST OF PLANS / DRAWINGS ETC.

SUBMITTED WITH THIS APPLICATION

- 1 copy of Cover Letter / Report.
- 1 copy of completed Section 5 application form.
- Section 5 application fee cheque - €80.00
- 2 no. copies of the following drawings:

| | | |
|------------------------|--|--------|
| O.S. Site Location Map | | 1.1000 |
| 21064-100 | Existing Site Layout Plan | 1.500 |
| 21064-101 | Existing Site Layout Plan | 1.200 |
| 21064-102 | Existing Second Floor Plan | 1.100 |
| 21064-103 | Existing Third Floor Plan | 1.100 |
| 21064-110 | Existing Side and Rear Elevations | 1.100 |
| 21064-200 | Proposed Site Layout Plan | 1.500 |
| 21064-201 | Proposed Site Layout Plan | 1.200 |
| 21064-202 | Proposed Second Floor Plan | 1.100 |
| 21064-203 | Proposed Third Floor Plan | 1.100 |
| 21064-210 | Proposed Side Elevation A / Rear Elevation A | 1.100 |
| 21064-211 | Proposed Side Elevation B / Rear Elevation B | 1.100 |
| 21064-212 | Proposed Side Elevation C / Rear Elevation C | 1.100 |
| Photomontage 1 : | Existing and Proposed Rear Elevations | n.t.s. |
| Photomontage 2 : | Existing and Proposed Rear Elevations | n.t.s. |
| Photomontage 3 : | Existing and Proposed Side Elevations | n.t.s. |



Comhairle Contae County Council

**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: Ms. Bridget Regina Walsh

ADDRESS OF APPLICANT: Apartment Q, Coliemore Apartments, Dalkey,
Co. Dublin

EMAIL ADDRESS: info@bda.ie

TELEPHONE NO. Day: 01 2696860 Mobile: n/a

Yes / No n/a

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

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

n/a

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

Please state applicant's interest in this site: owner

| | | |
|---|----------|-------|
| (a) area of site: | 2,942 | sq.m. |
| (b) floor area of existing extension(s) (if any): | 0 | sq.m. |
| (c) floor area of proposed development: | 226 + 16 | sq.m. |
| (d) area of rear garden remaining: | n/a | sq.m. |

4. Site Details: LOCATION OF SUBJECT SITE:

Apartment Q, Colliemore Apartments, Dalkey, Co. Dublin

3. Correspondence Details:

ADDRESS FOR CORRESPONDENCE (if different from above)

2. Agent Details:

NAME OF AGENT: Bright Design Architects

AGENT'S ADDRESS: 4 Seafield Park, Booterstown, Co. Dublin

TELEPHONE NO. Day: 01 2696860 Mobile: n/a

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.)

Refer to detailed description appended

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

Refer to Schedule of Enclosures appended.

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

No

8. **Were there previous planning application/s on this site?**

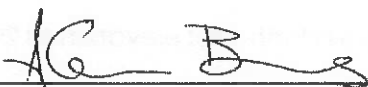
If so please supply details:

No recent planning applications for this apartment

General applications on building : D97A/0243 / D98A/0254 / D99A/0721 /

D03A/0349 / D03A/0508 / D04A/1405 / D04A/1543 / D12B/0401

Signed:



Date: 18th August 2021

*For and on behalf
of Bright Design
Architects*

21064 : Apt. Q, Coliemore Apartments, Coliemore Road, Dalkey, Co. Dublin.

Q.5 : DETAILS OF WORKS OR PROPOSED DEVELOPMENT

Works Item No. 1 – Infill of Floor Void

Internal alterations to consist of infill of the circular floor void at upper (3rd floor level) and removal of internal staircase to provide an additional 16 sq.m of internal floor area.

Works Item No. 2 – Internal Layout Alterations

Internal layout alterations to consist of removal / addition of walls / partitions and doors (on 2nd and 3rd floor level); relocation of Bedroom No. 3 from 2nd to 3rd floor to create open plan living / dining / kitchen area at 2nd floor.

Works Item No. 3 – Lowering of Rotunda Sill

Alterations to the external elevation of the rotunda at 3rd floor to consist of lowering of the curved window sill by 0.5m. This faces north to south-west on the rear (seaward) and side elevations.

Works Item No. 4 – Fenestration Changes

Alterations to the external elevation of the rotunda at 3rd floor to consist of changing of 7 no. groups of 3no. windows to 7no. curved fixed windows and replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey). This faces north to south-west on the rear (seaward) and side elevations.

Works Item No. 5 – Rotunda Fenestration Changes + Lowering of Sill

A combination of Works Item Nos. 3 and 4 above to consist of lowering of rotunda sills and changing of 7 no. groups of 3no. windows to 7no. curved fixed windows.

Works Item No. 6 - Lowering of Sill with Fenestration Colour Change

Lowering of Rotunda sill per Works Item Nos. 3 but retaining the same fenestration division with replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey).

Works Item No. 7

Changing of Window on North-east elevation at 2nd floor to double doors to access existing rear facing roof terrace.

Works Item No. 8

Changing of fenestration division of 4no. windows on North-east elevation at 2nd floor.

Our Ref: AB/21064

18th August, 2021



Planning Department,
Dún Laoghaire-Rathdown County Council,
County Hall,
Marine Road,
Dún Laoghaire,
Co. Dublin

Re: SECTION 5 EXEMPTION REFERRAL – APT. Q, COLIEMORE APARTMENTS, DALKEY.

Dear Sir / Madam,

On behalf of our client, Ms. Bridget Regina Walsh, we submit the enclosed in support of a Section 5 Exemption application.

1.0 Introduction + Background

Our client has recently purchased this top floor 3 bedroom duplex apartment and is seeking to carry out general alterations and upgrade works prior to occupation. A number of these works will include minor alterations to the fenestration to the side and rear of the unit and as such we would appreciate clarity on whether some or all of these works will be exempt from planning which is a requirement of the Building's Management Company.

2.0 Proposed Works

The works have been itemised with multiple options included to give flexibility on which combination(s) are executed depending on the outcome of this referral. For clarity these are described below and annotated accordingly on the enclosed drawings. We would appreciate confirmation on whether the following constitutes development and if so whether that development can be considered exempt development under the Planning and Development Act(s).

Works Item No. 1 – Infill of Floor Void

Internal alterations to consist of infill of the circular floor void at upper (3rd floor level) and removal of internal staircase to provide an additional 16 sq.m of internal floor area.

These works are proposed in order to maximise the area of the apartment which enjoys the best panoramic views but which is only served by a narrow gallery. It is our opinion that these works should be considered exempt being works that do not materially affect the external appearance of the building under Section 4(1)(h) of the Planning and Development Act.

Works Item No. 2 – Internal Layout Alterations

Internal layout alterations to consist of removal / addition of walls / partitions and doors (on 2nd and 3rd floor level); relocation of Bedroom No. 3 from 2nd to 3rd floor to create open plan living / dining / kitchen area at 2nd floor.

These works are proposed in order to improve the internal layout and maximise the orientation of the apartment. It is our opinion that these works should be considered exempt being works that do not materially affect the external

appearance of the building under Section 4(1)(h) of the Planning and Development Act.

Works Item No. 3 – Lowering of Rotunda Sill

Alterations to the external elevation of the rotunda at 3rd floor to consist of lowering of the curved window sill by 0.5m. This faces north to south-west on the rear (seaward) and side elevations.

These works are proposed in order to maximise the area of the apartment which enjoys the best panoramic views but which is only served by a sill level that blocks views when seated. It is our opinion that these works should be considered exempt under Section 4(1)(h) of the Planning and Development Act :

'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'.

In support of this we have included existing and proposed photomontages. These clearly demonstrate that the proposed works will have an immaterial impact on the character or appearance of the building. Being a distinct feature of the overall building this rotunda element, by its very nature, has a different appearance to the rest of the building. Furthermore, the proposed lowering of the rotunda sill levels will actually bring these in line with adjacent sills. It is therefore submitted that the proposed works will make no material difference to the overall appearance of the building.

Works Item No. 4 – Fenestration Changes

Alterations to the external elevation of the rotunda at 3rd floor to consist of changing of 7 no. groups of 3no. windows to 7no. curved fixed windows and replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey). This faces north to south-west on the rear (seaward) and side elevations.

These works are proposed in order to improve the visual appearance of the top floor and to tie in with the colour used elsewhere in the building for larger / continuous areas of glazing. It is our opinion that these works should be considered exempt under Section 4(1)(h) of the Planning and Development Act :

'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'.

In support of this we have included existing and proposed photomontages. These clearly demonstrate that the proposed works are benign and will tie in with other areas of the building where the same colour finish is used and is very similar to the existing grey colour of the subject windows. Furthermore, as the windows are currently aluminium there will be no perceptible change to the frame thickness or style.

Works Item No. 5 – Rotunda Fenestration Changes + Lowering of Sill

A combination of Works Item Nos. 3 and 4 above to consist of lowering of rotunda sills and changing of 7 no. groups of 3no. windows to 7no. curved fixed windows.

The rationale and argument in support of this is as outlined above.

Works Item No. 6 - Lowering of Sill with Fenestration Colour Change

Lowering of Rotunda sill per Works Item Nos. 3 but retaining the same fenestration division with replacement of 3rd floor aluclad windows to rotunda / north east (rear) elevation to aluminium windows with a dark grey powder coated finish (RAL 7043 / Traffic Grey).

The rationale and argument in support of this is as outlined above.

Works Item No. 7

Changing of Window on North-east elevation at 2nd floor to double doors to access existing rear facing roof terrace.

These works are proposed in order to allow the new layout to function as well as possible. It is our opinion that these works should be considered exempt under Section 4(1)(h) of the Planning and Development Act :

'works...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'.

These works are concealed behind a parapet wall and only visible from the sea.

Works Item No. 8

Changing of fenestration division of 4no. windows on North-east elevation at 2nd floor.

These works are proposed in order to maximise the proposed internal layouts. It is our opinion that these works should be considered exempt under Section 4(1)(h) of the Planning and Development Act :

'works...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'.

These works are only visible from the sea and will not materially impact on the character of the building.

3.0 Conclusion

With this carefully considered but subtle alterations, the applicant is seeking to make minor changes that will greatly improve the quality of the apartment and maximise the orientation and views it enjoys without rendering it inconsistent with the rest of the apartment building.

We trust that the enclosed is in order and that favourable decision can issue at the earliest possible convenience. Should you require any further information or clarification please do not hesitate to contact our office.

Yours Sincerely,



Alan Burns B Arch B ArchSc MRIAI

For and on behalf of **Bright Design Architects**

Encl.

Planning Pack Map

CENTRE COORDINATES:
ITM 727118, 726718

PUBLISHED: 18/08/2021
ORDER NO.: 50214156_1

MAP SERIES: 1:1,000
3394-19
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3394-20

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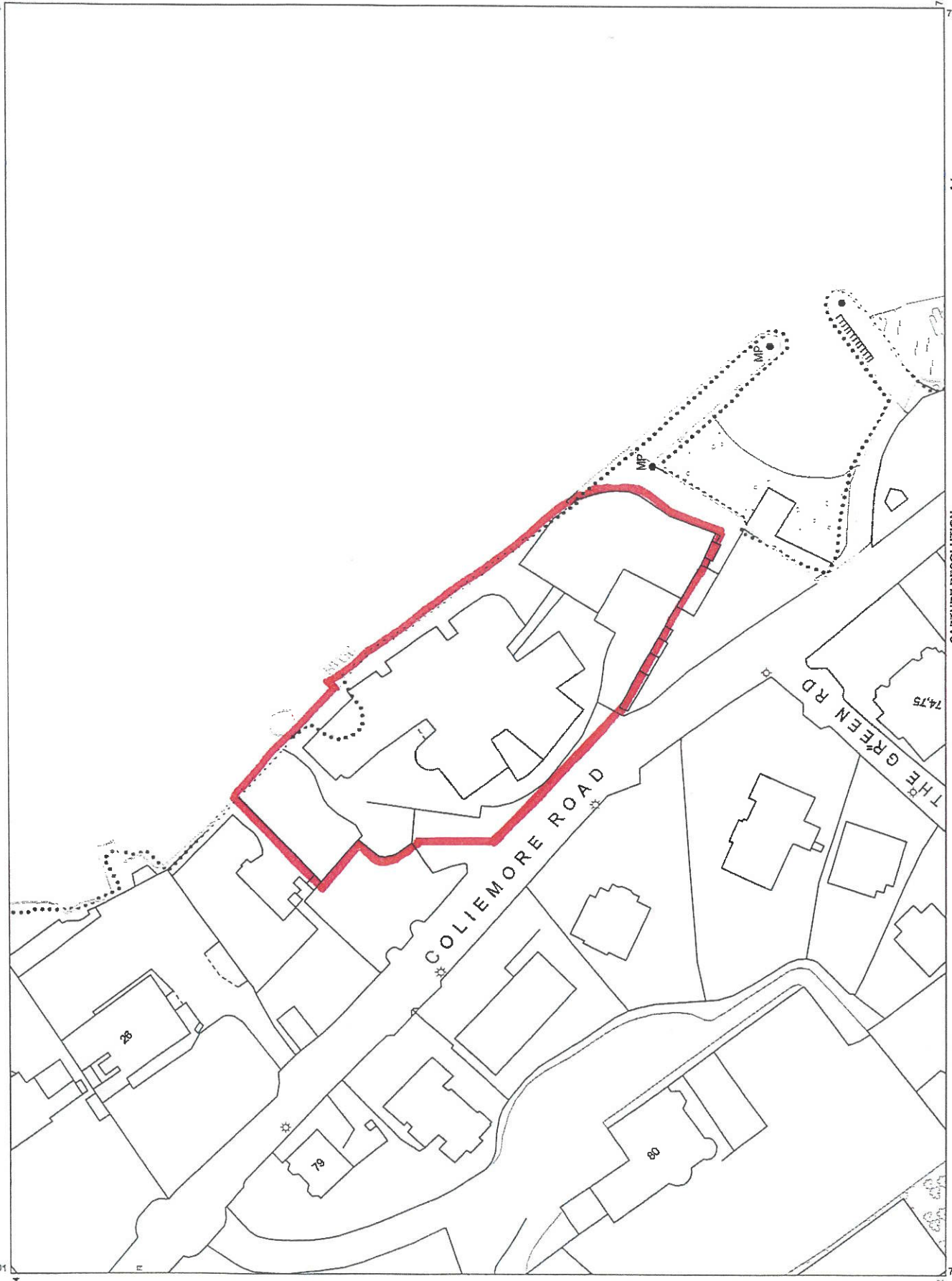
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search 'Large Scale Legend'



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OUTPUT SCALE: 1:1,000

