

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

06-Jul-2022

Declan Gaffney
80, Saint Mobhi Road
Glasnevin
Dublin 9
D09 R2D0

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| AN BORD PLEANÁLA | |
| LDG- | <u>055786 - 22</u> |
| ABP- | |
| 02 AUG 2022 o.k | |
| Fee: € | <u>220</u> Type: <u>cancel</u> |
| Time: <u>14.49</u> | By: <u>hand</u> |

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| Application Number | 0176/22 |
| Application Type | Section 5 |
| Registration Date | 10-Jun-2022 |
| Decision Date | 04-Jul-2022 |
| Decision Order Number | P3804 |
| Location | 80, Saint Mobhi Road, Glasnevin, Dublin 9 |
| Proposal | EXPP: Demolition of existing rear kitchen extension. Construction of new rear kitchen extension. |
| Applicant Details | Declan Gaffney |

- **If you have any queries regarding this Decision, please contact the email 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 An 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 Act 2000 (as amended), Dublin City Council has by order dated 04-Jul-2022 decided to issue a Declaration that the proposed development is NOT EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Act 2000 (as amended) for the following reason:

The proposed works which include the demolition of an existing extension and the construction of a new single storey rear extension Do Not Constitute Exempted Development under the meaning of the Planning and Development Act 2000 (as amended) when assessed in accordance with the Planning and Development Regulations, 2001 (as amended) Schedule 2, Article 6, (Part 1), Class 1 and Class 50 as the proposal involves the demolition of an existing structure (i.e. an existing rear extension at no. 80 Mobhi Road) which abuts on another building in separate ownership (i.e. the existing rear extension at 78 Saint Mobhi Road) and therefore does not meet the exempted development conditions of Class 50 of the Planning and Development Regulations 2001 (as amended).

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.

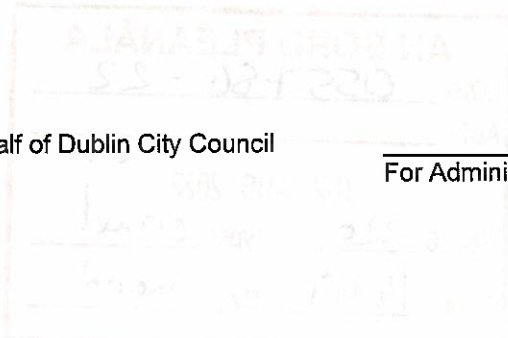
T: (01) 222 2288

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06-Jul-2022

Signed on behalf of Dublin City Council

For Administrative Officer



Declan Gaffney, 80 Saint Mobhi Road, Glasnevin, Dublin 9, D09 R2D0.

An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902.

2nd August 2022

RE: First Party Appeal by the applicant Declan Gaffney of 80 Saint Mobhi Road, Glasnevin, Dublin 9 against the decision of Dublin City Council made on the 4th of July to refuse exemption certificate for file number 0176/22.

Dear Sir/Madam,

I would like to refer the above referenced application for an exemption certificate which was refused by Dublin City Council to An Bord Pleanála.

The reason for refusal is stated as;

The proposed works which include the demolition of an existing extension and the construction of a new single storey rear extension Do Not Constitute Exempted Development under the meaning of the Planning and Development Act 2000 (as amended) when assessed in accordance with the Planning and Development Regulations, 2001 (as amended) Schedule 2, Article 6, (Part 1), Class 1 and Class 50 as the proposal involves the demolition of an existing structure (i.e. an existing rear extension at no. 80 Mobhi Road) which abuts on another building in separate ownership (i.e. the existing rear extension at 78 Saint Mobhi Road) and therefore does not meet the exempted development conditions of Class 50 of the Planning and Development Regulations 2001 (as amended).

The planner's report states that the extension meets the conditions and limitations numbered 1-7 of Class 1 of the Planning and Development Regulations. However, the construction 'depends on the near-total demolition of the existing extension. Notwithstanding the precedent of the Board Inspector's (and the Board's) interpretation of Class 50 in referral RL29S.305802, I would consider that the extension abuts a neighbouring extension in separate ownership, and the conditions and limitations imposed in Class 50(b) apply in this instance, including that 'no such building or buildings shall abut on another building in separate ownership'. Nonetheless, the Council may wish to refer the question to the Board under Section 5(4)'.

The grounds of this appeal is that the construction depends on the part-demolition of the habitable house (the roof and southern and western walls of the kitchen as shown on the drawings). The wall to the north remains and will form part of the rebuilt extension. This is in accordance with Class 50(b) 'The demolition of part of a habitable house in connection with the provision of an extension or porch in accordance with Class 1'.

Declan Gaffney, 80 Saint Mobhi Road, Glasnevin, Dublin 9, D09 R2D0.

It is noted in the planners report that the reasoning for the refusal is that *'the interpretation of the restriction as not being applicable to the part-demolition of habitable houses could create an unhappy precedent for more sensitive sites, such as terraced houses with shared returns'*. However as also clear from the planners report the extensions to 78 Saint Mobhi Road and 80 Saint Mobhi Road were built separately, it is not a terrace, there is no shared return. Furthermore, the wall on the north elevation which is stated to 'abut' no. 78 remains meaning there is no impact at all on the adjoining property.

Furthermore as outlined in RL29S.305802 *'The description of development for Class 50(b) refers to the demolition of part of a habitable house, in contrast to Class 50(a) which refers to the demolition of a building or buildings. As Condition and Limitation number 1 on Class 50 refers only to "such building or buildings" and does not refer to "part of a habitable house", it therefore restricts the scope of the exemption under Class 50(a) but not that under Class 50(b). Therefore, the abutment or otherwise or the previous rear return to the house with a building in separate ownership does not affect the exempted status of its demolition'*.

I look forward to receiving An Bord Pleanála's decision in due course.

Yours Sincerely



Declan Gaffney

Encl. Decision of Dublin City Council and Drawings.