dlr
Comhairle Contae County Council

Comhairle Contae Dhún Laoghaire-Ráth an Dúin, Halla an Chontae, Dún Laoghaire, Co. Átha Cliath, Éire. A96 K6C9
Dún Laoghaire-Rathdown County Council, County Hall, Dún Laoghaire, Co. Dublin, Ireland. A96 K6C9
T: 01 205 4700 F: 01 280 6969 www.dlrcoco.ie

AN BORD PLEANÁLA
TIME 16·40 BY hand
29 AUG 2018
LTR DATER _____ FROM LC
PL LDG-007993-18

Planning and Human Resources Department
An Rannóg Pleanála
Eugene Condon
Decisions/ Registry
Direct Tel: 012047940

Email planning@dlrcoco.ie

Our Ref: Ref 8118

Date: 29th August, 2018

AN BORD PLEANÁLA
Received: 29-08-18
Fee: €110 card.
Receipt No: _____

An Bord Pleanala
64 Marlborough Street
Dublin 1

RE: Declaration pursuant to Section 5(4) of the Planning and Development Act 2000, as amended.

Matter for Determination: Whether works consisting of the erection of a telecommunications mast on Monkstown Road is or is not development and is or is not exempt development.

Location: Monkstown Road at the junction of Alma Road & Montpelier Parade.

Dear Sirs,

I refer to the above matter and request An Bord Pleanala to determine whether works consisting of the erection of a telecommunications mast on Monkstown Road is or is not development and is or is not exempted development.

The Local Authority have to date considered this structure to be a lamp post with telecommunications antennae attached to it.

I enclose the application on the matter.

Yours sincerely,

Eugene Condon

Eugene Condon,
Decisions/Registry Section,
Planning and Human Resources Department.

Encls. – as stated above ( ).

H:\DevelopmentControl\Data\DECISION & REGISTRY STAFF\DECISIONS Eugene Condon\Section 5\8118 Letter to An BP 280818.doc

Ref 8118

dlr
Comhairle Contae County Council

AN BORD PLEANÁLA
TIME _____ BY _____
29 AUG 2018
LTR DATER _____ FROM _____
PL _____

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

Dún Laoghaire Rathdown County Council
COUNTER
- 3 AUG 2018
RECEIVED

****

1. Applicant Details:

NAME OF APPLICANT: [redacted]

ADDRESS OF APPLICANT: [redacted]

EMAIL ADDRESS: [redacted]

TELEPHONE NO: [redacted]

2. Agent Details: As Section 1

NAME OF AGENT: John Ryan Architect MRIAI

AGENT'S ADDRESS: CPR Architects 93 Upper Georges St, Dun Laoghaire, Co. Dublin

TELEPHONE NO. Day: 01-9012630 Mobile: 087 2845988

3. Correspondence Details:

ADDRESS FOR CORRESPONDENCE (if different from above)

AN BORD PLEANÁLA
TIME _____ BY _____
29 AUG 2018
LTR DATER _____ FROM _____
PL _____

4. Site Details:

LOCATION OF SUBJECT SITE:
Monkstown Road at the junction of Alma Road & Montpelier Parade

(a) area of site: N/A sq.m.

(b) floor area of existing extension(s) (if any): N/A sq.m.

(c) floor area of proposed development: N/A sq.m.

(d) area of rear garden remaining: N/A sq.m.

Please state applicant's interest in this site: **local resident**

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

The Site is telecommunications mast set in public land along the Monkstown Road

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 **The Site is immediately outside an Architectural Conservation Area and within the curtilage of the Protected Structures on Montpelier Parade**

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 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.)

The works involved are the erection of a telecommunications mast on the Monkstown Road. We are seeking the Council to formally confirm their opinion on the status of this structure with regard to planning permission. In our view this structure does require planning permission and is not exempt development.

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

See Covering Letter

AN BORD PLEANÁLA
TIME _____ BY _____
29 AUG 2018
LTR DATER _____ FROM _____
PL _____

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

But DLRCC wrote in January 2018 to Cignal Infrastructure warning them that the development may be unauthorised. DLRCC subsequently wrote in March 2018 that the work did not require planning permission. But this was not formally confirmed as part of a Section 5 Declaration.

8. **Were there previous planning application/s on this site?** If so please supply details: No

Signed: _____ Date: 2nd August 2018

pp John Ryan

CPR Architects

93 Upper George's Street, Dun Laoghaire, Co. Dublin
Tel: 01-2711840 Email: mail@cprarchitects.ie web:www.cprarchitects.ie

Planning Department
Dun Laoghaire Rathdown County Council
Town Hall
Marine Road
Dun Laoghaire
Co. Dublin

2nd August 2018

RE: APPLICATION FOR A SECTION 5 DECLARATION ON THE ERECTION OF A TELECOMMUNICATIONS MAST ON MONKSTOWN ROAD AT THE JUNCTION OF ALMA ROAD AND MONTPELIER PARADE

Dear Sir/Madam:

On behalf of myself as a nearby resident (at No.29 Eaton Square) and Angela O'Floinn (39 Montpelier Parade) and a representative selection of local residents we are applying for a formal Section 5 Declaration to confirm that above development is not exempt from the requirement for planning permission. In summary the recent history of this structure and correspondence with the Council is as follows:

Nov/Dec 2017 - The original lamp post is removed and replaced with the new telecommunications mast with a new street lamp fixed to this mast. This immediately sparked concern amongst the residents and contact was made with DLRCC to explain why this structure had been erected.

22nd Jan 2018 - DLRCC write to Cignal Infrastructure issuing a warning letter that the unauthorised development may have been carried out.

12th Feb 2018 - Cignal Infrastructure write to DLRCC stating there reasons for the work being exempt development. They state that the works are exempt development under various sections of Class 31 of the Planning and Development Regulations and that the visual impact of the mast on the ACA does not apply in this instance. (this document was obtained under a FOI request)

7th Mar 2018 - DLRCC Planning & HR Department write to Angela O'Floinn (resident of No.38 Montpelier Parade) confirming that the project was undertaken with the consent and approval of the Council and is development that is exempt from the requirement to seek or obtain planning permission and that further queries on the issue should be directed to Tom Mc Hugh, Director of Municipal Services.

John Ryan B.Arch MRIAI
Francesca Ryan BSc.Arch DipArch ARB

CPR Architects Ltd
Registered in Ireland 547612
VAT No. 3279734LH

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29th March 2018 -	Correspondence from DLRCC to Angela O'Floinn states that this installation is a trial installation and that no contracts or licences are in place
1st May 2018 -	Correspondence from DLRCC to Angela O'Floinn states the work is exempt from the requirement for planning permission under Section 4(1)(f) where: *"development is carried out on or behalf, or jointly, or in partnership with, a local authority, pursuant to a contract entered into by the local authority concerned, whether in its capacity as a planning authority or in any other capacity"*

We are now writing to the Council seeking a formal Section 5 Declaration regarding this structure and also ask that The Council would consider the option of issuing this directly to An Bord Pleanala as they can do under Section 5(4) of the Planning & Development Act 2000. We believe this is appropriate given the conflicting correspondence from the Council and that they have a potential financial conflict of interest in the development.

I enclose a detailed legal submission from Angela O'Floinn on the reasons why we believe this structure is not exempted development. This document needs to considered in detail but I summarise below the key reasons why we consider that this development is not exempt development as established in the Planning Acts & Regulations:

1. The Work does not come under Section 4(1)(f) of the Planning Acts: There is no contract in place between Cignal Infrastructure & DLRCC for the provision of this telecommunication mast nor is this mast development carried out for the benefit of the Council.
2. The mast does not constitute exempt development as described under Class 31 of the Planning & Development Regulations. Specifically it does not meet the following criteria of this part of the regulations:
    - Class 31(b) – This states that for this type of development to exempt it needs to be less than 10 metres in height. What has been installed is 12.5 metres in height and clearly does not comply
    - Class 31 (k) Cignal in their correspondence with the Council state the mast meets the exemption requirement under this category for mobile telecommunication antennae fixed to existing lamp posts. In this case this does not apply. The equipment was not fixed to an existing lamp post. Instead the existing slender and lower lamp post was removed and replaced by a new taller and wider telecommunication mast to which a new street lamp was applied.
3. The mast directly adjoins an Architectural Conservation Area and several Protected Structures and has a direct negative visual impact on what is the most historic terrace in Monkstown. What is most cynical about this mast is that a similar Development was refused Planning Permission under application D15A/0373 for the next lamp standard along for reasons of visual impact. In this case the mast is just outside the exact ACA boundary but in our view the development has just as severe a negative impact, directly impacts the curtilage of nearby

ctd.

Protected Structures and is clearly contrary to Council policy. How can the Council willfully be involved in this situation?

4. Notwithstanding the ACA designation and the proximity of nearby Protected Structures Section 8.2.9.9 of the Council Development Plan states with regard to telecommunications antennae in any area:

".In circumstances where telecommunications antennae and structure(s) have the potential to adversely impact on the visual amenities of an area or on the existing building/structure, the Planning Authority would not normally grant permission. In cases where there is likely to be a visual impact, the applicant shall be required to submit a visual impact assessment."

Clearly in this case the Council has not followed their own policies in allowing this structure to be erected or for it to be submitted to the due process of a planning application as set out in the Planning Acts & Regulations.

Taking into account all of the above points and the detailed points confirmed in the submission from Angela O'Floinn we are requesting that the Council issue a Section 5 Declaration confirming that this mast is not exempted development and that we as residents have a role in a proper planning application for this structure should one ensue.

We would also ask as noted earlier that the Council consider the option of referring this issue as is their right directly to An Bord Pleanála for them to adjudicate.

Aside from the request in this application for a Section 5 Declaration there is a wider issue of the Council being party to a random and unfettered replacement of lamp posts with Telecommunications antennae. This raises wider concerns of an uncontrolled and negative lack of planning and proper management of our environment.

We confirm the following enclosures with this application:

1. 3No. Copies of the following:
   - Supporting submission from Angela O'Floinn
   - Letter from Adjoining residents supporting this application
   - Drawing SEC5-001: Location Map
   - Drawing SEC5-002: Site Plan
   - Drawing SEC5-003: Elevation
   - Drawing SEC5-004: Mast Detail
   - Photographs of the Mast and the site prior to its installation.
2. Completed Section 5 Application Form
3. A cheque to the sum of €80 for the fee.

We trust the above and the accompanying documents that we have provided with this submission provide all the information required to process the application.

ctd...

Please do not hesitate to contact the undersigned if you require any further information.

Yours faithfully.

JOHN RYAN Architect MRIAI

AN BORD PLEANÁLA
TIME _____ BY _____
29 AUG 2018
LTR DATER _____ FROM _____
PL _____

Planning Department
Dun Laoghaire Rathdown Co Council
Town Hall
Marine Rd
Dun Laoghaire
Co Dublin

02 August 2018

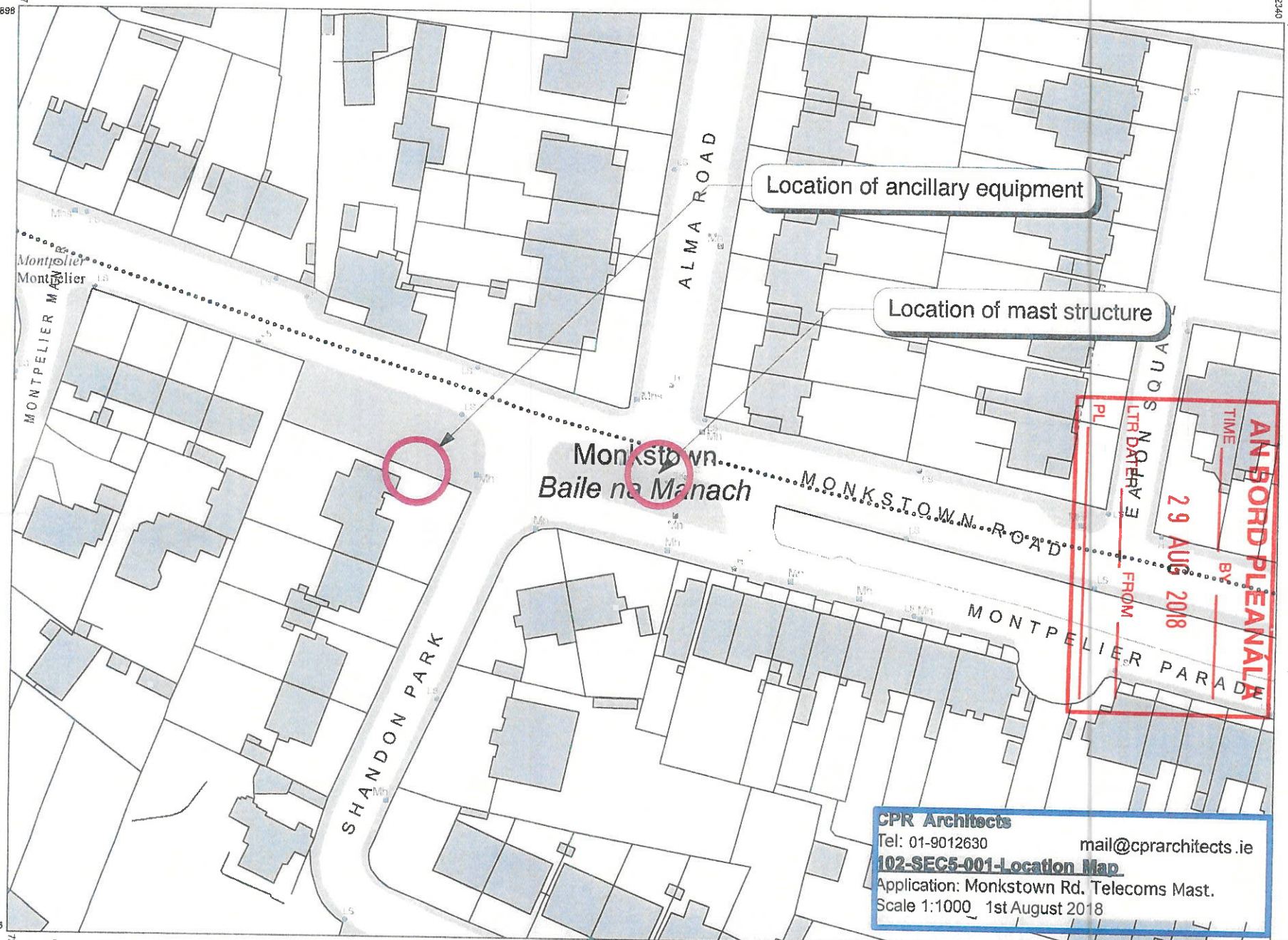
Re Application for a s 5 Declaration on the erection of a telecommunications mast on Monkstown Rd at the junction of Alma Rd and Monkstown Rd

Dear Sir/Madam,

[redacted]

in

Planning Pack Map



0 10 20 30 40 Metres

0 20 40 60 80 100 Feet

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PUBLISHED: 01/08/2018
ORDER NO.: 50018389_1

MAP SERIES: 1:1,000 / 1:1,000
MAP SHEETS: 3393-03 / 3393-04

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Dublin 8,
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