

File With _____

SECTION 131 FORM

Appeal NO: PL 305880-19

Defer Re O/H

TO: SEO

Having considered the contents of the submission dated/received 24/01/2020

from PA

I recommend that section 131 of the Planning and Development Act, 2000

be not be invoked at this stage for the following reason(s): no new material planning issues

E.O.: Sineha Skelly

Date: 28/01/2020

To EO: _____

Section 131 not to be invoked at this stage.

Section 131 to be invoked – allow 2/4 weeks for reply.

S.E.O.: _____

Date: _____

S.A.O.: _____

Date: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached submission

to: _____

Allow 2/3/4 weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: PL 305880-19

Ms. Mary

Please treat correspondence received on 24/01/2020 as follows:

1. Update database with new agent for Applicant/Appellant _____ 2. Acknowledge with BP <u>BP23</u> BP BP23 3. Keep copy of Board's Letter <input type="checkbox"/>	1. RETURN TO SENDER with BP _____ 2. Keep Envelope: <input type="checkbox"/> 3. Keep Copy of Board's letter <input type="checkbox"/>
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Amendments/Comments

PA's Response to 5131 Notice

4. Attach to file (a) R/S <input type="checkbox"/> (d) Screening <input type="checkbox"/> (b) GIS Processing <input type="checkbox"/> (e) Inspectorate <input type="checkbox"/> (c) Processing <input type="checkbox"/>	RETURN TO EO <input type="checkbox"/>
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	Plans Date Stamped <input type="checkbox"/> Date Stamped Filled in <input type="checkbox"/>
EO: <u>Soncha O'Kelly</u>	AA: <u>Avanda Mary</u>
Date: <u>28/01/2020</u>	Date: <u>28/1/2020</u>

An Bord Pleanála
64 Marlborough Street
Dublin 1

AN BORD PLEANÁLA	
LDG-	_____
ABP-	_____
24 JAN 2020	
Fee: €	_____ Type: _____
Time: <u>9.13</u>	By: <u>Post</u>

23-Jan-2020

Reg. Ref: Ref9319
App. Type: Section 5
Development:

Whether the erection of a fence across a planned roadway within the planning authority's area is or is not development and is or is not exempted development.

Location: Elmfield,, Ballyogan/Castle Court Lands(Clay Farm Loop Road)
Applicant: Dun Laoghaire Rathdown County Council

Date Appeal Lodged:

Bord Pleanála Ref:

Dear Sir/Madam

With reference to the appeal on the above mentioned application I enclose herewith: -

Dun Laoghaire Rathdown County Council take this opportunity to comment under Section 131 of the Act in respect of a submission made by John Spain and Associates (JSA) on behalf of Killiney Estates Limited, which is a company within the Park Developments Group.

Response

The majority of the submission from JSA relates to matters outside of the question that is before the board for consideration, although the relevance to the wider context is noted.

The applicant does not appear to contest the fact that the fence is 'development' under the terms of the act.

Section 4.0 of the submission addresses itself to the question of whether the fence, which is the subject of the referral to the board, is exempted development. The submission contends - or at the very least infers - that by virtue of the fact that the parent permissions have been implemented, Article 9(1)(a)(i) of the Planning Regulations 2001 (as amended) does not apply.

This does not align with the planning authority's interpretation of this restriction on exemption which 'de exempts' development, where development would

contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

It is our understanding that such a restriction applies into perpetuity. Say for example a condition had been attached that a restaurant not serve hot food for consumption off the premises, that requirement would not fall after the expiry of the 5 years during which the applicant was permitted to implement the permission, nor would it fall after the expiry of 7 years, after which time the planning authority would be statute barred from taking enforcement action.

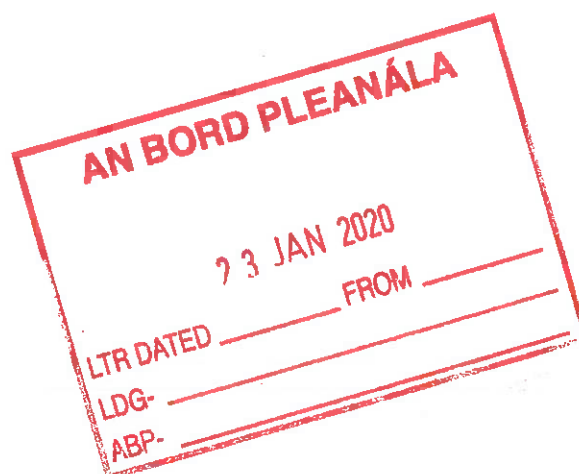
It remains the planning authority's contention that by virtue of the fact that the erection of the fence contravenes Condition 1 of D03A/0411, which clearly envisaged an unimpeded road at

this location, that the applicant can not avail of the exemption otherwise available under Class 11 of Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended)

Yours faithfully

Sharon O'Neill

for SENIOR EXECUTIVE OFFICER



From: Ger Ryan, Senior Planner
To: Bernie Gilligan, SEO, Planning Department
Date: 22nd January 2020
Re: Fence at Elmfield, Ballyogan – Section 5 reference to ABP recommended

Overview

This memo relates to the Section 5 referral made by DLR CoCo under An Bord Pleanála reference ABP-305880-19 (DLR Ref 93/19).

An Bord Pleanála have offered DLR the opportunity to comment under Section 131 of the Act in respect of a submission made by John Spain and Associates (JSA) on behalf of Killiney Estates Limited, which is a company within the Park Developments Group.

Response

The majority of the submission from JSA relates to matters outside of the question that is before the board for consideration, although the relevance to the wider context is noted.

The applicant does not appear to contest the fact that the fence is 'development' under the terms of the act.

Section 4.0 of the submission addresses itself to the question of whether the fence, which is the subject of the referral to the board, is exempted development. The submission contends - or at the very least infers - that by virtue of the fact that the parent permissions have been implemented, Article 9(1)(a)(i) of the Planning Regulations 2001 (as amended) does not apply.

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Ger Ryan
Senior Planner
Development Management West
Dundrum, Stillorgan, Glencullen-Sandyford LEAs

