



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

AN BORD PLEANÁLA	
LDG-	<u>026046-20</u>
ABP-	
13 MAY 2020	
Fee: €	<u>110</u> , Type: <u>Case</u>
Time:	<u>11:09</u> P. <u>Case</u>

12th May 2020

Ref: FS5/013/20

**Re: Replacement of timber posts at entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin with concrete posts. Gateway is Exempted Development. An Bord Pleanála Section 5 Declaration (RL.3131) May 19th 2016.
Heather Cottage, Upper Cliff Road, Howth, Co. Dublin.**

Dear Sir/Madam

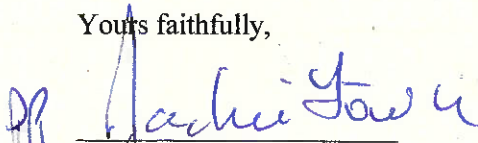
The following is an application to An Bord Pleanála under Section 5(4) of the Planning and Development Act 2000, as amended, seeking a referral on whether development is or is not exempted development.

The Section 5 declaration (Fingal County Council Register Reference FS5/013/20) relates to lands located at Heather Cottage, Upper Cliff Road, Howth, Co. Dublin. The applicants for this Section 5 declaration is Patrick O'Reilly.

The description of the proposed development as contained in the Application Form and to which this declaration relates, reads as follows:

"Replacement of timber posts at entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin with concrete posts. Gateway is Exempted Development. An Bord Pleanála Section 5 Declaration (RL.3131) May 19th 2016."

Yours faithfully,


Senior Planner

ENCL



Patrick O'Reilly
Heather Cottage,
Upper Cliff Road,
Howth,
Co. Dublin.

NOTIFICATION OF DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACTS 2000, AS AMENDED

Decision Order No. PF/0542/20	Decision Date: 05-May-2020
Ref: FS5/013/20	Registered: 01-Apr-2020

Area: Howth Malahide

Applicant: Patrick O'Reilly

Development: Replacement of timber posts at entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin with concrete posts. Gateway is Exempted Development. An Bord Pleanála Section 5 Declaration (RL.3131) May 19th 2016.

Location: Heather Cottage, Upper Cliff Road, Howth, Co. Dublin.

Application Type: Request for Declaration Under Section 5

AN BORD PLEANÁLA

LDG- _____

ABP- _____

13 MAY 2020

Fee: € _____ Type: _____

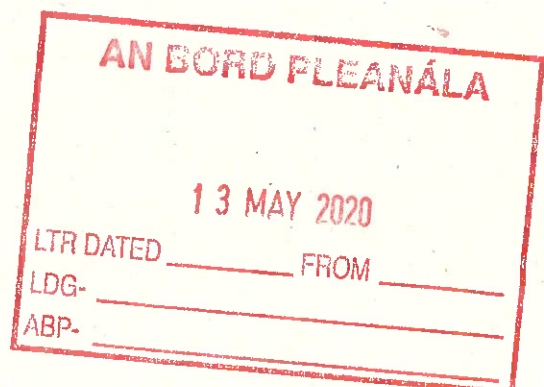
Time: _____ By: _____

Dear Sir/ Madam

With reference to your request for a DECLARATION under Section 5 (1) received on 01-Apr-2020 in connection with the above, I wish to inform you that in accordance with Section 5(4) of the Planning and Development Act 2000, as amended, it is considered appropriate that this matter be referred to An Bord Pleanála.

Signed on behalf of Fingal County Council.


06-May-2020
for Senior Executive Officer



NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications relate to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of eight weeks beginning on the date of Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

(B) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála by the applicant or ANY OTHER PERSON who made submissions or observations in writing to the Planning Authority in relation to this planning application within four weeks beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received). A person who has an interest in land adjoining land in respect of which permission has been granted may within the appropriate period and on payment of the appropriate fee apply to the Board for Leave to Appeal against that decision.
1. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. Appeals should be sent to:
The Secretary, An Bord Pleanála, 64 Malborough Street, Dublin 1.
2. An appeal lodged by an applicant or his agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below. In the case of third party appeals, a copy of the acknowledgement of valid submission issued by F.C.C. must be enclosed with the appeal.
3. A party to an appeal making a request to An Bord Pleanála for an oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (f) below).
4. Where an appeal has already been made, another person can become an "observer" and make submissions or observations on the appeal. A copy of the appeal can be seen at the Planning Authority's office.
5. If the Council makes a decision to *grant permission/ retention/ outline/ permission consequent on the grant of outline* and there is no appeal to An Bord Pleanála against this decision, a final grant will be made by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If every appeal made in accordance with the Acts has been withdrawn, the Council will issue the final grant as soon as may be after the withdrawal.
6. Fees payable to An Bord Pleanála from 5th September 2011 are as follows:

Case Type

Planning Acts

(a) Appeals against decisions of Planning Authorities

Appeal

(i) 1st party appeal relating to commercial development where the application included the retention of development

€4,500 or €9,000 if
an EIS or NIS
involved

(ii) 1st party appeal relating to commercial development (no retention element in application)

€1,500 or €3,000 in
EIS or NIS involved

(iii) 1st party appeal non-commercial development where the application included the retention of development.

€660

(iv) 1st party appeal solely against contribution condition(s) – 2000 Act Section 48 or 49

€220

(v) Appeal following grant of leave to appeal (An application for leave to appeal is also €110)

€110

(vi) An appeal other than referred to in (i) to (v) above.

€220

(b) Referral

€220

(c) Reduced fee for appeal or referral (applies to certain specified bodies)

€110

(d) Application for leave to appeal (section 37(6)(a) of 2000 Act

€110

(e) Making submission or observation (specified bodies exempt).

€50

(f) Request for oral hearing under Section 134 of 2000 Act

€50

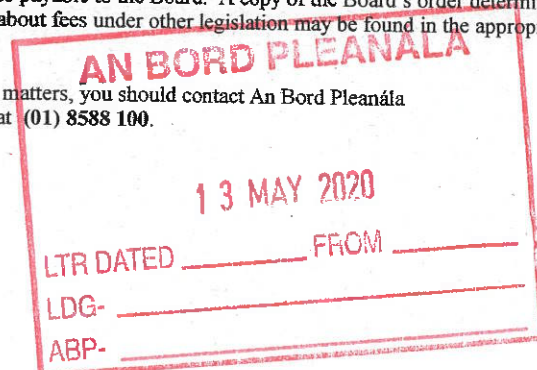
NOTE: the above fee levels for planning appeals and referrals remain unchanged from those already in force since 2007 (but note the addition of NIS in (i) and (ii) above).

Fees apply to: All third party appeals at 7(a)(iv) above except where the appeal follows a grant of leave to appeal; First party (section 37 appeals) planning appeals not involving commercial or retention development, an EIS or NIS. All other (non section 37) first party appeals.

These bodies at 7(c) above are specified in the Board's order which determined fees. They include planning authorities and certain other public bodies e.g. National Roads Authority, Irish Aviation Authority.

NB. This guide does not purport to be a legal interpretation of the fees payable to the Board. A copy of the Board's order determining fee under the Planning Act is obtainable from the Board. Further information about fees under other legislation may be found in the appropriate legislation and is also available from the Board.

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at (01) 8588 100.



COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

PF/0542/20

Section 5 Reference: FS5/013/20

Area: Howth Malahide

Date of Registration: 1 April, 2020

Correspondence: Patrick O'Reilly Heather Cottage, Upper Cliff Road, Howth, Co. Dublin.

Development: Replacement of timber posts at entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin with concrete posts. Gateway is Exempted Development. An Bord Pleanála Section 5 Declaration (RL.3131) May 19th 2016.

Location: Heather Cottage, Upper Cliff Road, Howth, Co. Dublin.

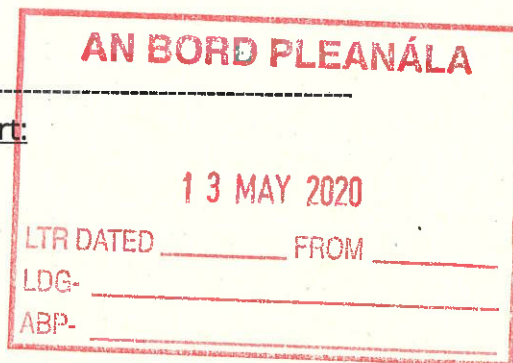
Applicant: Patrick O'Reilly

Application Type: Dec Under Section 5

Planning Officers Report:

SW/MB

Report of the Planning Officer Typed 1st May 2020



This is an application made to Fingal County Council under Section 5 of the Planning and Development Act 2000, as amended, seeking a **DECLARATION** on whether development is or is not exempted development at Heather Cottage, Upper Cliff Road, Howth, Co. Dublin.

The Section 5 declaration (Fingal County Register Reference FS5/013/20) relates to lands located at Heather Cottage, Upper Cliff Road, Howth, Co. Dublin.

The applicant for this Section 5 declaration is Patrick O'Reilly.

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference: FS5/013/20

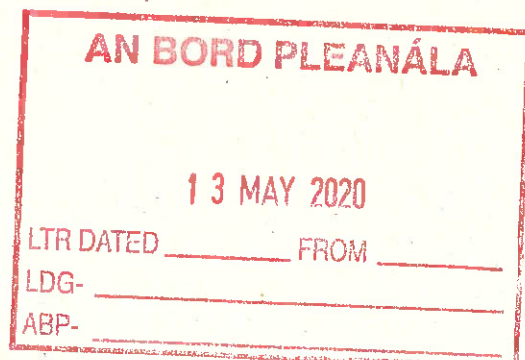
The description of the proposed development as contained in the Application Form and to which this Declaration relates, reads as follows:

"Replacement of timber posts at entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin with concrete posts. Gateway is Exempted Development, An Bord Pleanála Section 5 Declaration [RL 3131] May 19th 2016.

In accordance with Section 5(4) of the Planning and Development Act 2000, as amended, it is considered appropriate that this matter be referred to An Bord Pleanála.

RECOMMENDATION

I recommend that in accordance with Section 5(4) of the Planning and Development Act 2000, as amended, it is considered appropriate that this matter be referred to An Bord Pleanála.



COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reference: FS5/013/20

Se: Wdk
Δ) Senior Executive Planner
5/5/20

Endorsed: Maiche Gouls
for Administrative Officer

Order: In accordance with Section 5(4) of the Planning and Development Act 2000, as amended, it is considered appropriate that this matter be referred to An Bord Pleanála.

Dated 05 May, 2020

Cam McCay
Senior Planner

Thereunto empowered by order of the Chief Executive, Fingal County Council C.E. No. 750 delegating to me all powers, functions & duties in relation to the council of the County of Fingal in respect of this matter.

AN BORD PLEANÁLA

13 MAY 2020

LTR DATED _____ FROM _____

LDG- _____

ABP- _____



Patrick O'Reilly
Heather Cottage
Upper Cliff Road
Howth
Co. Dublin.

Date: 7 April, 2020

PLANNING & DEVELOPMENT ACTS 2000, AS AMENDED

Register Reference: FS5/013/20

Area: Howth Malahide

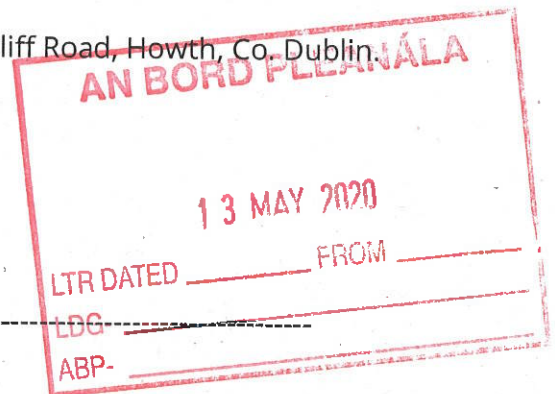
Development: Replacement of timber posts at entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin with concrete posts. Gateway is Exempted Development. An Bord Pleanála Section 5 Declaration (RL.3131) May 19th 2016.

Location: Heather Cottage, Upper Cliff Road, Howth, Co. Dublin.

Applicant: Patrick O'Reilly

Application Type: Dec Under Section 5

Date Received: 01-Apr-2020



Dear Sir/Madam,

I wish to acknowledge receipt of your application for a Declaration under Section 5(1) of the Planning and Development Act 2000, which was received by this department on 1st April, 2020.

This matter is presently being examined and the Planning Authority will be in touch with you within the prescribed period.

Áras an Chontae, Sord, Fine Gall, Co. Bhaile Átha Cliath / County Hall, Swords, Fingal, Co. Dublin \K67 X8Y2
Swords Office t: Registry (01) 890 5541 Decisions (01) 890 5670 Appeals (01) 890 5724
e: planning@fingal.ie www.fingal.ie

Bóthar an Gharráin, Baile Bhlainséir, Átha Cliath 15 / Grove Road, Blanchardstown, Dublin 15 D15 W638
Blanchardstown Office t: (01) 870 8434 e: blanch.planning@fingal.ie

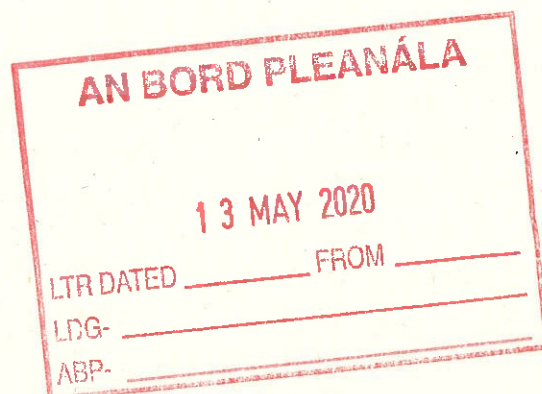
Comhairle Contae Fhine Gall
Fingal County Council

**An Roinn um Pleanáil agus
Infrastruchtúr Straitéiseach**
Planning and Strategic
Infrastructure Department



Yours faithfully,

for Senior Executive Officer



Áras an Chontae, Sord, Fine Gall, Co. Bhaile Átha Cliath / County Hall, Swords, Fingal, Co. Dublin \K67 X8Y2
Swords Office t: Registry (01) 890 5541 Decisions (01) 890 5670 Appeals (01) 890 5724
e: planning@fingal.ie www.fingal.ie

Bóthar an Gharráin, Baile Bhlainséir, Átha Cliath 15 / Grove Road, Blanchardstown, Dublin 15 D15 W638
Blanchardstown Office t: (01) 870 8434 e: blanch.planning@fingal.ie

01 APR 2020

RECEIVED

Application Form for Declaration Under
Section 5 of the Planning & Development Act 2000

Declaration on Development and Exempted Development

1. Applicants' Name: Patrick O'Reilly
2. Location of Proposed Development: Heather Cottage, Upper Cliff Road, Howth, Co. Dublin
3. Agents' Name: N/A
4. Correspondence Address: Heather Cottage, Upper Cliff Road, Howth, Co. Dublin.
5. Description of Proposed Development: Replacement of timber posts at entrance gateway to Heather Cottage, Upper Cliff Road, Howth, Co. Dublin with concrete posts. Gateway is Exempted Development
An Bord Pleanála Section 5 Declaration [RL 3131] May 19th 2016
6. Is the Proposed Development Situated in a Special Amenity Area? Yes
7. Is this a Protected Structure, Proposed Protected Structure or within the Curtilage of a Protected Structure? N/A

AN BORD PLEANÁLA

13 MAY 2020

LTR DATED _____ FROM _____

LDG- _____

APP- _____

The details contained on page 3 will not appear on the Councils' Website

8. If yes to 6 above, has a Declaration Under Section 57 (works affecting character of a Protected Structure(s) or Proposed Protected Structure(s)) of the Planning & Development Act 2000 (as amended) been Requested or issued for the property by the Planning Authority?

N/A

9. Documents Submitted with this Application are as Follows: Location Map,
Photo of existing gateway, Sketch of proposed gateway

An Bord Pleanála Decision Order RL 3131

(See confidential Details, Page 3)

Please Note:

Documents to submit include:

- Completed application form
- 4 copies of site location map with site clearly outlined in red
- 4 copies of site plan/block plan/site layout plan, drawn to a scale of not less than 1:500
- 4 copies of drawing of proposed development, preferably drawn to a scale of not less than 1: 200 and any other particulars required to describe the works to which the development relates.
- Fee of €80

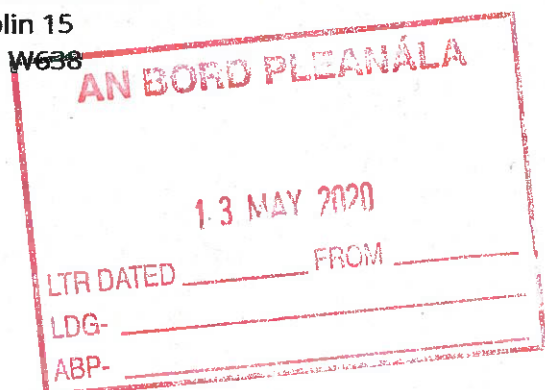
Applications shall be assessed on the basis of the drawings and plans submitted. Drawings/ Plans which are not clearly legible shall result in the referral of the application back to the applicant and may result in the delay of the processing of the application.

Send Application to:

Development Management Section
Planning & Strategic
Infrastructure Department
Fingal County Council
County Hall
Swords
Co. Dublin
K67 X8Y2

For Dublin 15 Area Send to:

Development Management Section
Planning & Strategic
Infrastructure Department
Fingal County Council
Grove Road
Blanchardstown
Dublin 15
D15 W638





CONFIDENTIAL DETAILS

- Not for Publication -

10. Is the Applicant the owner and occupier of these lands at above location?

Yes No

If 'No' to 10 above, please supply Name and Address of Owner.

Applicants' Address:

(if different from no. 2 above, page 1)

Applicants' Details:

Tel: _____ Fax: _____ E-mail: _____

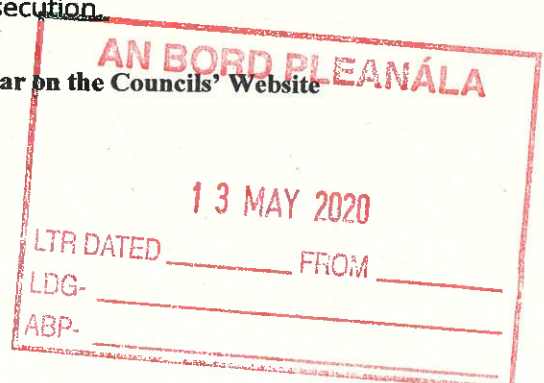
Agents' Details:

Tel: _____ Fax: _____ E-mail: _____

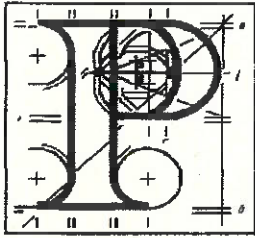
Signed: _____ Date: _____

The use of personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Acts 1988 – 2003 and may result in action from the Data Protection commissioner against the Sender, including prosecution.

* The details contained on this page will not appear on the Councils' Website



An Bord Pleanála



Board Direction

Ref: 06F.RL3131

The submissions on this file and the Senior Planning Inspector's report, and memorandum, were considered at a Board meeting held on May 12th 2016.

The Board decided, as set out in the following Order, in the light of the material alterations that have taken place to the site since the lodgement of this case, as noted in the inspection carried out by the Senior Planning Inspector, to reformulate the question. The Board decided that the erection of gateposts at Heather Cottage, Upper Cliff Road, Howth, Co. Dublin is development and is exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the erection of a gate, at Heather Cottage, Cliff Road, Howth, Co. Dublin, is or is not development or is or is not exempted development;

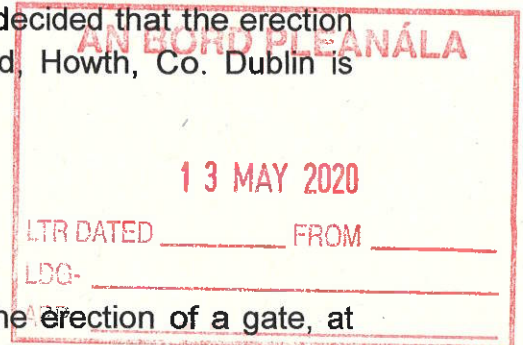
AND WHEREAS Fingal County Council referred this question to An Bord Pleanála on the 16th day of August 2013;

AND WHEREAS An Bord Pleanála has decided, in the light of the material alterations that have taken place to the site since the lodgement of this case, as noted in the inspection carried out by the Inspector on the 15th day of December 2015, to reformulate the question as follows:-

Whether the erection of gateposts at Heather Cottage, Upper Cliff Road, Howth, Co. Dublin is or is not development and is or is not exempted development.

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;



- (b) Articles 6 and 9 of Planning and Development Regulations, 2001, as amended
- (c) Classes 5 and 9 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) The location of the site, within a designated Special Amenity Area, and the provisions of the Special Amenity Area Order in respect of this area,
- (e) The provisions of the Fingal County Development Plan 2011 – 2017, as they apply to this site,
- (f) The submissions made by the referrer and the owner/occupier of the land around Heather Cottage.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The erection of the gateposts consists of the carrying out of works and therefore constitutes development as defined in Section 3 of the Planning and Development Act, 2000, as amended,
- (b) The gateposts come within the scope of Class 9 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, which exemption is not prevented or limited by the provisions of the Special Amenity Area Order,
- (c) The gateposts do not, of themselves, involve the fencing or enclosure of land that was habitually open to and used by the public during the 10 years preceding such enclosure for recreational purposes and as a means of access to a place of natural beauty and recreational utility, and accordingly the restrictions on exempted development status provided for in Article 9 (1)(a)(x) of the Planning and Development Regulations, 2001, as amended, do not apply in this instance,
- (d) By reason of the limited scale of the gateposts, they do not interfere with the character of the landscape whose preservation is an objective of the Fingal County Development Plan, and accordingly the restrictions on exempted development status provided for in Article 9 (1)(a)(vi) of the Planning and Development Regulations, 2001, as amended, do not apply in this instance.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (4) of the Planning and Development Act, 2000, as amended, hereby decides that the erection of gateposts at Heather Cottage, Upper Cliff Road, Howth, Co Dublin, is development and is exempted development.

13 MAY 2020

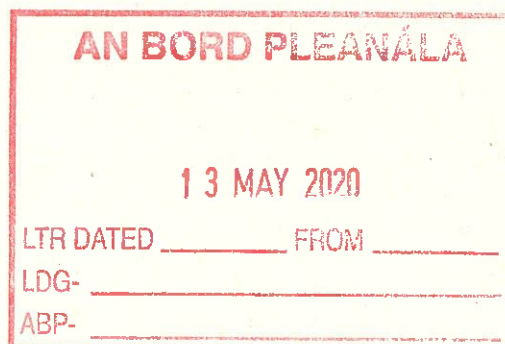
LTR DATED _____ FROM _____

LDG- _____

ABP- _____

In deciding not to accept the recommendation of the Inspector, the Board considered that the situation had materially changed since the making of the request by the Planning Authority to the Board in August 2013, by reason in particular of the removal of the former gate and also of the reduction in height of the gateposts formerly with this gate, and considered that this changed situation distinguished the case from that decided by the Board under file reference 06F.RL3078. In reformulating the question, the Board made such a distinction, and concluded, on the evidence submitted (including the inspection (and measurements) carried out by the Inspector), that the development now on site is development and is exempted development. The Board also considered that it was not precluded from determining a question that has been referred to it, pursuant to Section 5 (4) of the Act, by a Planning Authority, irrespective of whether or not the Planning Authority had issued a declaration under Section 5 (2)(a).

Board Member: _____ Date: 18th May 2016
Philip Jones



Howth Cliff
Walk Car Park



Howth Head Peak



Howth Village
K

UPPER CLIFF
ROAD
K

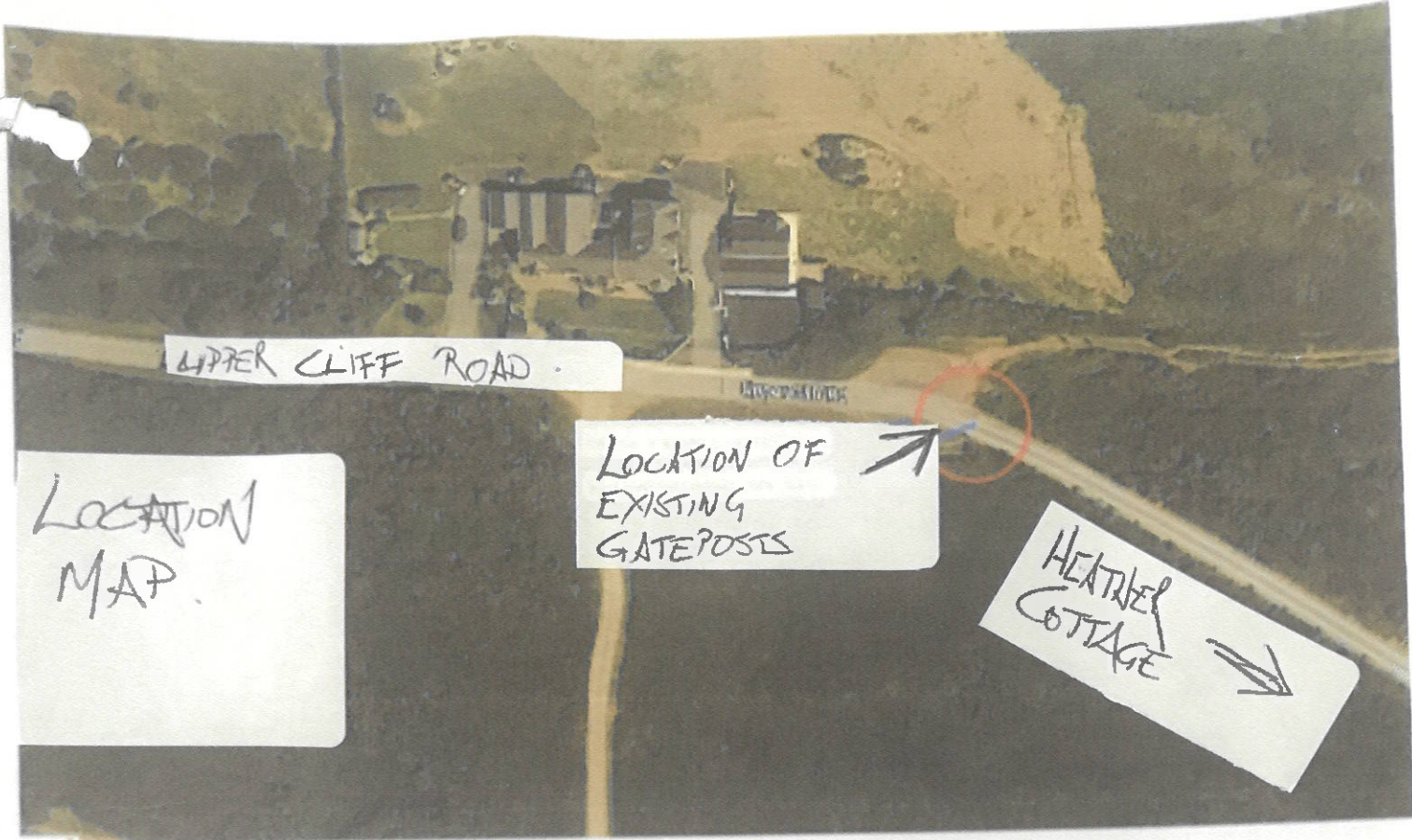
PUBLIC RIGHT OF
WAY
K

LOCATION
OF
PILLARS
K

AN BORD BÉANÁLA
13 MAY 2020
LTD DATED _____ FROM _____
LDG _____
SPR _____



HEATHER GOTTALD
K



UPPER CLIFF ROAD

LOCATION MAP

LOCATION OF EXISTING GATEPOSTS

HEATHER COTTAGE

AN BORD PLEANÁLA
13 MAY 2020
LTR DATED _____ FROM _____
LDG- _____
ABP- _____



EXISTING GATEPOSTS TO HEATHER COTTAGE

UPPER CLIFF ROAD

Existing Gateway on access road to Heather Cottage [Exempted Development under RL 3131]

PROPOSED NEW
TRADITIONAL STONE
ROUND POSTS
(USING HOWTH STONE)
120 CM. HIGH.

HEATHER COTTAGE →

AN BORD PLEANÁLA
13 MAY 2020
LTR DATED _____ FROM _____
LDG- _____
ABP- _____