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The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

December 4, 2022

AN BORD PLEANÁLA	
LDG-	<u>059811-22</u>
ABP-	_____
06 DEC 2022	
Fee: € <u>220.00</u>	Type: <u>cheque</u>
Time: <u>17.28</u>	By: <u>hansel</u>

Re: Section 5 Application Appeal (0335/22)– Confirmation sought that Development at the Following Premises is Exempted:-

The Bernard Shaw, Cross Guns Bridge, Drumcondra, Dublin 9, D09 XW44. [Your Ref.: E1111/19].

Dear Sir/Madam,

On behalf of our client Liacondar, we would like to appeal the decision of Dublin City Council to issue a Section 5 declaration in respect of the following:-

1. The erection of signage on the façade of the property facing Whitworth Road.
This signage is shown in Photo 1 in Appendix A to this letter. It is submitted that the provision of this signage does 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 accordance with Section 4 (1) (h) of the Planning & Development Act, and is therefore considered exempted development.
2. The alteration to the façade of the property facing Prospect Road and provision of a point of sale for takeaway items.
Our client has given an undertaking not to use this as a point of sale for takeaway items. However, it is submitted that the associated alteration to the façade (which is shown in Photo 2) does 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 accordance with Section 4 (1) (h) of the Planning & Development Act, and is therefore considered exempted development.
3. The installation of a trailer and structure on the area facing Prospect Road.
Photo No. 3 in Appendix A of this letter is a picture of this. This was provided during Covid-19 period, and was intended as a temporary take-away service to the front of the property, and was exempted development under S.I. No. 92/2020 – Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2020, published on 31st March, 2020. These regulations amended the existing Planning and Development Regulations 2001 (the Principal Regulations), to provide exemptions for restaurants to operate a service to enable the temporary sale of food for consumption off premises (i.e. takeaway) that previously did not provide this service, during a period specified in the regulations. It is submitted that this trailer/structure is of a temporary nature and also consists of the use of land for the purposes of a casual trading area (within the meaning of the Casual Trading Act, 1995), and is therefore considered exempted development in accordance with Section 4(1)(k) of the Planning & Development Act.

4. The 3 no. Covered picnic benches, 8 no. picnic bench style seating, and street furniture consisting of planters and sandwich board signs on the area facing Prospect Road.
Photo No. 4 in Appendix A of this letter is a picture of this provision. This provision is temporary in nature, the seating is not fixed and is movable. It is also submitted that this does 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 accordance with Section 4 (1) (h) of the Planning & Development Act, and is therefore considered exempted development.
5. The erection of 15 No. Windbreaker screens with signage placed along the boundary facing Prospect Road and Whitworth Road.
Photo No. 5 in Appendix A of this letter is a picture of this provision, which was erected as a means of separating our client's premises from the area which is taken in charge by Dublin City Council. This provision is temporary in nature, the seating is not fixed and is movable. It is also submitted that this does 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 accordance with Section 4 (1) (h) of the Planning & Development Act, and is therefore considered exempted development.

Please find enclosed: -

- The application fee of €220

If you require further information to process this application, please do not hesitate to contact the undersigned at the above numbers.

Yours sincerely



David O'Connor
Knapton Consulting Engineers

Appendix A

Photo 1: Erection of signage on the façade of the property facing Whitworth Road



Photo 2: Alteration of Façade facing Prospect Road



Photo 3: Provision of Temporary Trailer during COVID-19



Photo 4: Provision of Loose Seating



Photo 5: Provision of Temporary Loose Windbreakers.





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Application Number	0335/22
Application Type	Section 5
Registration Date	12-Oct-2022
Decision Date	08-Nov-2022
Decision Order Number	P5090
Location	The Bernard Shaw, Whitworth Road, D09 XW44
Proposal	EXPP: 1 - The erection of signage on the façade of the property facing Whitworth Road. 2 - The alteration to the façade of the property facing Prospect Road and provision of a point of sale for takeaway items. 3 - The installation of a trailer and structure on the area facing Prospect Road. 4 - The provision of 3 no. Covered picnic benches, 8 no. picnic bench style seating, and street furniture consisting of planters and sandwich board signs on the area facing Prospect Road. 5 - The erection of 15 No. Windbreaker screens with signage placed along the boundary facing Prospect Road and Whitworth Road.

Applicant Details Liacondar Limited

- **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 08-Nov-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:

1. On the basis of the submitted information, and for the above reasons and considerations, having regard to Section 3(1) of the Planning and Development Act 2000 (as amended) and the provisions of Schedule 2, Parts 1, 2, and 4 of Planning and Development Regulations S.I. No. 600 of 2001 (as amended), the proposal as described is development, and is not exempt development, comprising a material change of use which does not have the benefit of any exemption, and including works which do not have the benefit of any exemption, within the meaning of the Planning and Development Act 2000, as amended.



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

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

09-Nov-2022

Signed on behalf of Dublin City Council


For Administrative Officer

DECLARATION ON DEVELOPMENT & EXEMPTED DEVELOPMENT

SECTION 5 APPLICATION FORM



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

NAME OF APPLICANT: Liacondar Limited

ADDRESS OF APPLICANT: The Bernard Shaw, Whitworth Road, D09 XW44.

EMAIL ADDRESS: david@knapton.ie

TELEPHONE NO. Day: 01 280 0083 Mobile: 087 235 5947

NAME OF AGENT AND AGENT'S ADDRESS: Knapton Consulting Engineers
76A Upper George's Street, Dún Laoghaire, Co. Dublin.

TELEPHONE NO. Day: 01 280 0083 Mobile: 087 235 5947

ADDRESS FOR CORRESPONDENCE (if different from above)

N/A

LOCATION OF SUBJECT SITE: The Bernard Shaw, Whitworth Road, D09 XW44.

Is this a Protected Structure or within the curtilage of a Protected Structure?

Yes ☐

No ☒

**Please provide 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.**

See cover letter enclosed.

Section 5 Declaration for Protected Structures

Required Documents

1. *Application form* (The application form should be used to provide a numbered list of all the proposed works. Two copies of all supporting information should be submitted).
2. *Application fee* (€80)
3. 2 copies of the *site location map* (location clearly outlined in red).
4. A photographic record of the historic fabric to be affected/impacted upon by the proposed works and a general photo of the building. (notes can be added to these photos to explain the proposed works)
5. An outline explaining justification for and assessment of the impact of the proposed works on the protected structure.
6. A method statement outlining the proposed works to include a specification of the materials to be used.
7. Elevation, plan and detail drawings where appropriate.

The Department of Housing Local Government and Heritage Advice Series documents are recommended reading before submitting a Section 5 application for proposed works to a protected structure. These publications contain the best practice advice for conservation work and knowledge of best conservation practice must be clearly demonstrated in all applications. (See links below):

[A GUIDE TO THE REPAIR OF HISTORIC WINDOWS](#)

[A GUIDE TO THE REPAIR OF THATCHED ROOFS](#)

[A GUIDE TO THE CONSERVATION AND REPAIR OF MASONRY RUINS](#)

[A GUIDE TO THE REPAIR OF HISTORIC ROOFS](#)

[A GUIDE TO THE CONSERVATION OF PLACES OF WORSHIP](#)

[A GUIDE TO PAVING, THE CONSERVATION OF HISTORIC GROUND SURFACES](#)

[A GUIDE TO MAINTANCE, THE CARE OF OLDER BUILDINGS](#)

[A GUIDE TO THE REPAIR OF WROUGHT AND CAST IRONWORK](#)

[A GUIDE TO ENERGY EFFICIENCY IN TRADITIONAL BUILDINGS](#)

[A GUIDE TO DISASTER, PREVENTION AND PREPAREDNESS IN THE HISTORIC BUILT ENVIRONMENT](#)

[A GUIDE TO THE REPAIR OF HISTORIC BRICKWORK](#)

[A GUIDE TO ACCESS, IMPROVING THE ACCESSIBILITY OF HISTORIC BUILDINGS AND PLACES](#)

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