

File With _____

SECTION 131 FORM

Appeal NO: ~~ABP~~ RL3569

Defer Re O/H

TO: SEO

Having considered the contents of the submission ~~dated~~ received 2/03/2020

from sc Decaux Ireland Limited I recommend that section 131 of the Planning and Development Act, 2000

~~not~~ be invoked at this stage for the following reason(s): as per Board direction dated 28/01/2020

E.O.: Karen Byrne

Date: 5/03/2020

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 s Ledwith

Please prepare BP RL70 - Section 131 notice enclosing a copy of the attached submission

to: P.A. and Jimmy Martin

Allow 2/3/4 weeks – BP RL70

EO: Karen Byrne

Date: 5/03/2020

AA: _____

Date: _____

File With _____

CORRESPONDENCE FORM

Appeal No: ~~ABP~~ RL3569

M s Ledwith

Please treat correspondence received on 21/03/2020 as follows:

1. Update database with new agent for Applicant/Appellant _____	
2. Acknowledge with BP <u>RL23</u>	1. RETURN TO SENDER with BP _____
3. Keep copy of Board's Letter <input type="checkbox"/>	2. Keep Envelope: <input type="checkbox"/>
	3. Keep Copy of Board's letter <input type="checkbox"/>

Amendments/Comments

Occupier JC Deaux Ireland limited response to S.131 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 checked="" type="checkbox"/>
---	---

	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <u>Karen Byrne</u>	AA: <u>M Ledwith</u>
Date: <u>5/03/2020</u>	Date: <u>6.3.20</u>

Mary Tucker

From: Bord
Sent: Monday 2 March 2020 17:41
To: procbordemail
Subject: FW: SKM_36720030217270.pdf
Attachments: SKM_36720030217270.pdf

From: John Branigan <johnbranigan@bfllegal.ie>
Sent: Monday 2 March 2020 17:08
To: Bord <bord@pleanala.ie>
Subject: SKM_36720030217270.pdf

See attached letter.

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

Our Ref: JB/JH/JCD001-005
Your Ref: RL91.RL3569

28th February 2020

Re: Our Client: JC Decaux Ireland Limited.
Matter: Advertising Display at 23 Sarsfield Street, Limerick.
Third Party: Reference by Limerick City and County Council to An Bord Pleanala
("ABP") - 6th April 2017

Dear Sirs,

We note that ABP in the circumstances of this section 5 reference, consider that it is appropriate in the interests of justice, that a submission or observation be made in respect of the referral of the 6th of April 2017, from Limerick City and County Council.

In this regard we set out our submissions and observations in respect of the above entitled matter hereunder now, on behalf of our client.

By letter dated 6th April 2017 and addressed to ABP, 64 Marlborough Street, Limerick (which we assume is a typographical error), Limerick City and County Council requested a determination on

A question has arisen as to whether the erection of an internally illuminated billboard sign in place of a static tri-vision advertising panel at the gable wall of Timmy Martin's licenced premises at 23 Sarsfield Street Limerick is development or is exempted development.

As a preliminary matter we confirm that we do not consider that this is a referral that complies with the necessary requirements for a valid reference to you, pursuant to the Planning and Development Acts and to the regulations made thereunder. It is submitted that it is a condition precedent to the making of a proper referral, that the full grounds for the referral are set out, together with the arguments and considerations relating thereto. There are no such grounds in the reference and there is no detail as to the basis upon which the Council assert, that the aforesaid development amounts to development, or is not exempted development, for the purposes of the Planning and Development Acts.

The submission refers to Sections 2,3 and 4 of the Planning and Development Act 2000 to 2015, Article 6 of part 2 of Schedule 2 of the Planning and Development regulations 2001 as amended and

refers to the history of the site and the advertising structure thereon as described. The reference refers to a "six metres by three metres static trivision billboard sign erected at the site in 1992 following the granting of planning permission 92/770088 of 10th april 1992 and that the sign remained in place in 2015 and was it noted by the Council, in December 2015, *that the sign was replaced by an internally illuminated six metres by three metres static billboard sign.*

The submission of the Council therefore proceeds on the basis that the 6 metre by 3 metre static trivision billboard sign erected in 1992 was lawfully constructed and remained lawfully in place until 2015. The sign, it is indicated, was replaced in 2015 but only to the extent that it was apparently only then that it was noticed by the County Council and therefore cannot say when the sign complained of was constructed.

The reference states that photography, showing the sign in daylight hours and showing the sign at night time, is included. The reference states that it is the opinion of the Council that this change to the sign and the resulting increase in intensity of light which emits from the sign is not appropriate in this location and maybe a traffic hazard and refers to a warning letter issued on 22nd January 2016.

That is the extent of the submission by the Council on the reference. No argument or no submission is made in that document in respect of the two issues raised, namely whether the subject matter of the referral is development and or, whether the subject matter of the referral if development, is an exempted development.

As submitted herein, in those circumstances, ABP are asking for a submission by JCDecaux, in respect of a referral which fails to comply with the minimum requirements for the making of a valid reference, under the Planning and Development Acts. Exactly the same provisions in respect of a referral apply to the making of an appeal under the equivalent provisions, it is submitted. Both the referral and an appeal must set out the full grounds, or the full basis upon which ABP is being asked to determine the matter, namely, the arguments and considerations relating to why the Council assert that the sign is development. No such submission has been made. There is no analysis or no basis upon which a response can be made to a non existent submission in a reference, in respect of either of the two appropriate matters, namely whether the matter is development and/or whether it is exempted development. There is no planning argument. There is no planning submission. There is nothing upon which one can engage, in respect of the referral made and the submission is entirely silent in respect of the kind of considerations that must be considered and taken into account in respect of this type of refence, to enable engagement with same.

As you aare aware, the Courts have, in recent years been extremely vigilant in respect of the nature and content of referrals, in the light of the consequences that can arise from a determination made under Section 5. In this regard, we refer you to **Heatons Limited -v- An Bord Pleanala** where Hogan J. found that a referral made, which did not set out the full grounds for the referral, could not be considered to be a valid referral and as a consequence quashed the decision on that referral in those circumstances.

This approach has been followed in a number of subsequent cases and the current legal position is that there is no difference, in substance, between a requirement in respect of an appeal which is

required to state the full grounds of appeal and that of a reference, which is required to state the entire basis upon which the referral is made. There is no such basis included within the documentation and the Bord have no basis upon which to consider the reference made.

Clearly the reference is extremely prejudicial to our client. It is both unfair and improper to require our client to try to create potential arguments in reply, that the Council may seek to rely upon and deal with these. The onus is on the person/body making the referral to set out the basis upon which the referral is made, set out the full grounds upon which it is asserted that the matter complained of amounts to "development", as defined in Section 2 of the Planning and Development Act and if it is so asserted, to further set out the full grounds upon which it is asserted that the development is not exempted development for the purpose of Section 4 of the Planning and Development Act 2000.

The letter of 6th April 2017 could never amount to a basis upon which a respondent/person should or could be required to address a response, other than to raise these type of issues. There is no response appropriate in respect of such submission/referral, as that made by the Council on the 6th April 2017, as it defines no grounds, upon which it is asserted that the development may in contravention of the Planning and Development Acts, either because it is development or because it is exempted development.

Further, the Council do not even indicate whether their concern relates to the question of development or the question of exempted development and as of the document of 6th April 2017, our client does not know whether the complaint is in respect of development or whether it is in respect of exempted development. This in an intolerable position for any respondent and to require our client herein to engage in a quasi-judicial process, which affects it's property rights under Article 40.3 of the Constitution and Article 43 thereof.

The Council refer to a warning letter under it's reference DC412-15 issued on 22nd January 2016 and subsequent to the issue of that letter the Council issued an enforcement notice and on foot on that enforcement notice issued a summons in the District Court. None of these matters were referred to in the submission vis a vis the rationale for same or the basis for such action, notwithstanding that proceedings had been issued by then. ABP, therefore, are being asked to make a determination in respect of a development (so called) in the context of criminal proceedings and are requested to determine a matter which it the Council will seek to be relied upon in the District Court. They do so without providing any basis upon which ABP could ever make such a determination and are requesting ABP, in effect, to step into the shoes of the planning authority and to make the case for the planning authority in respect of their prosecution. It is submitted that ABP as a quasi- judicial body, so could never do .

Further. ABP cannot adopt one side of the argument or the other but must only deal with the evidence that is submitted to it in respect the matter by all parties. The scheme of the Planning Acts requires that the referror make a submission and in the words of the legislation, sets out their full grounds, which are relied on in that referral and the respondent is then entitled to make a submission in respect of those grounds. ABP are limited to those submissions in the determination of the referral and cannot, of it's own motion engage in and make additional submissions on the part of the person making the referral. It is submitted that ABP certainly could never do so, in a case where thematters is currently before the District Court on a prosecution.

In those circumstances in our submission we would invite the Bord to conclude that, in the absence of any grounds which could be the subject matter of a response, that this referral does not comply with the Planning and Development Acts and the regulations made thereunder and dismiss the referral as being in contravention and contrary to the Planning and Development Acts and the regulations made thereunder and follow the determination of Hogan J. in the Heatons case referred to above, in respect of which ABP will have full knowledge. It is suggested that this case presents an even clearer example of non compliance with the requisite statutory requirements.

Without prejudice to the above, it is clear that the Council have no basis for their contention that the sign, the subject matter of the submission of 6th April 2017, is development. Development can either amount to the carrying out of works in, on or under land or in the alternative, the making of any material change to the use of any structure or other land.

It is clear that in respect of this submission, there is no question of works and no works have been carried out in respect of this sign and the Council do not suggest at any stage that any works are being carried out, in respect of the development the subject matter of the referral. The replacement of a sign with another sign could never amount to works and could never be such as to fall within the definition of "works" contained either in Section 2 of the Planning and Development Act, which defines "works". As you are aware "works" are any act of construction, excavation, alteration, demolition, alteration repair or renewal and therefore no works have been carried out and there is no assertion that any such works are relied on by the Council, in this reference.

It would appear therefore that the only element which the Council could ever rely on in respect of development is the second category namely a material change in the use of any structure or other land.

In so far as one could seek to impute an argument, or a ground, within the submissions of the Council of the 6th April 2017, it is acknowledged in that submission that the sign was lawfully erected and it is acknowledged that the sign remained in place without complaint for a period of almost twenty five years. It is also acknowledged that the sign itself was a billboard sign, was of precisely the same dimensions and had precisely the same use that the previous sign, namely an advertising sign. The previous sign had contained within it multiple capacities to exhibit different images and in so far as that is relevant, there is no change even in that regard, in respect of the current sign. Adapting the most benign approach to the submission of the Council it could never be concluded that the sign amounts to a change of use because the use is already established and the use has not changed and this is confirmed precisely and definitively in the Council's own submission. They make no assertion that there is any change of use indeed the opposite is the case. They confirm that the use is the same.

However the test is not whether the use is a change of use but rather whether the use now carried out is a material change of use and this imposes a far higher standard on the Council to show not only that it is not the same use but that it is a materially different use and material change in that context can only be applied once there is a change of use. The Council therefore have no basis whatsoever to assert that this referral falls within the definition of development for the purpose of the Planning and Development Act.

A billboard sign by its nature will as an inherent part of its use require alterations in terms of the advertising content on that billboard. There is no limitation as to the frequency which the image may be changed and one can have signs with regular changes of image over days, or indeed that on a busy sign and this sign in particular, would reflect a number of different images over any one day. The use of the sign therefore as it currently operates and as it has always operated is identical in planning terms given that this is a sign which will reflect different images over the course of any day, over the course of any week, month or year.

If as in this case, there is no material change in use, then no question of development arises and therefore the issue of exempted development has no application to this referral.

As there is no basis upon which it is asserted that the sign is development, there is no change of use much less a material change of use in planning terms and the very nature of the sign as reflected in the submission of the Council remains precisely as it was since it was constructed in 1992.

A billboard sign, of necessity, is used to display different messages and in a way that attracts the attention of the public. That is the nature of what is permitted when a sign is permitted. The Council assert that any alteration to a sign amounts to a material change of use. If that is the case then any change to any sign anywhere within this jurisdiction amounts to development and is not exempted development, on the approach of the Council and therefore every billboard in this jurisdiction must be, once the image is changed, an unauthorised development. This would be the most profound and erroneous approach to the very nature and essence of such signs. The submission of the Council is fundamentally misconceived.

The submission that is made herein is a response to the submission of the County Council. In responding to the submission of the County Council we would summarise our position as follows:-

1. The County Council have made a submission which requests the ABP to determine whether an alteration to a billboard sign, which has been in place for almost twenty five years, without complaint or objection, is development and/or exempted development. We submit that there is no basis contained within that referral to ground such a referral and there are no grounds contained within that submission for the assertion, that either the issue or referral and the subject of it, is development or is exempted development and as such ABP must dismiss the referral as having been lodged other than in compliance with the mandatory requirements of the Planning and Development Act and the Planning and Development regulations.
2. Without prejudice to that submission, it follows that there is no basis contained in the reference for an assertion that the alterations to a billboard sign is development, when the only basis upon which that assertion could be made, is that there is a material change in use and no such argument could ever be made given the acknowledgement that this continues to be used as a billboard sign.
3. In circumstances where there is no development the question of exempted development does not arise.

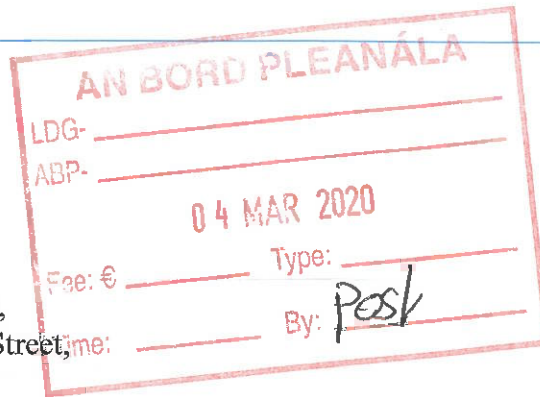
We would request that the referral be summarily dismissed and accordingly we commend this submission by way of response to the board for it's determination.

Yours faithfully,



BRANIGAN FEDDIS

Direct email: johnbranigan@blllegal.ie



Tel: 01 672 5982

Fax: 01 672 5981

DX No. 1006 Four Courts

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

Our Ref: JB/JH/JCD001-005

Your Ref: RL91.RL3569

28th February 2020

Re: Our Client: JC Decaux Ireland Limited.
Matter: Advertising Display at 23 Sarsfield Street, Limerick.
Third Party: Reference by Limerick City and County Council to An Bord Pleanála ("ABP") - 6th April 2017

Dear Sirs,

We note that ABP in the circumstances of this section 5 reference, consider that it is appropriate in the interests of justice, that a submission or observation be made in respect of the referral of the 6th of April 2017, from Limerick City and County Council.

In this regard we set out our submissions and observations in respect of the above entitled matter hereunder now, on behalf of our client.

By letter dated 6th April 2017 and addressed to ABP, 64 Marlborough Street, Limerick (which we assume is a typographical error), Limerick City and County Council requested a determination on

A question has arisen as to whether the erection of an internally illuminated billboard sign in place of a static tri-vision advertising panel at the gable wall of Timmy Martin's licenced premises at 23 Sarsfield Street Limerick is development or is exempted development.

As a preliminary matter we confirm that we do not consider that this is a referral that complies with the necessary requirements for a valid reference to you, pursuant to the Planning and Development Acts and to the regulations made thereunder. It is submitted that it is a condition precedent to the making of a proper referral, that the full grounds for the referral are set out, together with the arguments and considerations relating thereto. There are no such grounds in the reference and there is no detail as to the basis upon which the Council assert, that the aforesaid development amounts to development, or is not exempted development, for the purposes of the Planning and Development Acts.

The submission refers to Sections 2,3 and 4 of the Planning and Development Act 2000 to 2015, Article 6 of part 2 of Schedule 2 of the Planning and Development regulations 2001 as amended and

refers to the history of the site and the advertising structure thereon as described. The reference refers to a “six metres by three metres static trivision billboard sign erected at the site in 1992 following the granting of planning permission 92/770088 of 10th april 1992 and that the sign remained in place in 2015 and was it noted by the Council, in December 2015, *that the sign was replaced by an internally illuminated six metres by three metres static billboard sign.*

The submission of the Council therefore proceeds on the basis that the 6 metre by 3 metre static tri- vision billboard sign erected in 1992 was lawfully constructed and remained lawfully in place until 2015. The sign, it is indicated, was replaced in 2015 but only to the extent that it was apparently only then that it was noticed by the County Council and therefore cannot say when the sign complained of was constructed.

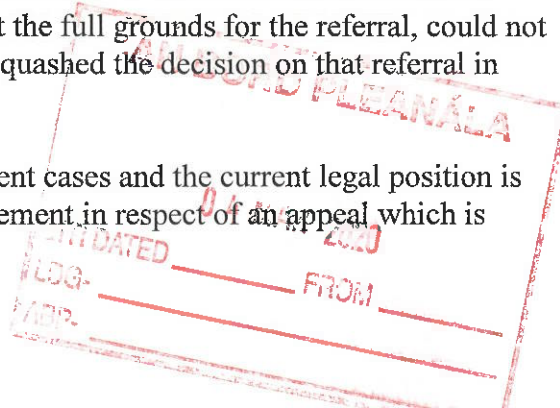
The reference states that photography, showing the sign in daylight hours and showing the sign at night time, is included. The reference states that it is the opinion of the Council that this change to the sign and the resulting increase in intensity of light which emits from the sign is not appropriate in this location and maybe a traffic hazard and refers to a warning letter issued on 22nd January 2016.

That is the extent of the submission by the Council on the reference. No argument or no submission is made in that document in respect of the two issues raised, namely whether the subject matter of the referral is development and or, whether the subject matter of the referral if development, is an exempted development.

As submitted herein, in those circumstances, ABP are asking for a submission by JCDecaux, in respect of a referral which fails to comply with the minimum requirements for the making of a valid reference, under the Planning and Development Acts. Exactly the same provisions in respect of a referral apply to the making of an appeal under the equivalent provisions, it is submitted. Both the referral and an appeal must set out the full grounds, or the full basis upon which ABP is being asked to determine the matter, namely, the arguments and considerations relating to why the Council assert that the sign is development. No such submission has been made. There is no analysis or no basis upon which a response can be made to a non existent submission in a reference, in respect of either of the two appropriate matters, namely whether the matter is development and/or whether it is exempted development. There is no planning argument. There is no planning submission. There is nothing upon which one can engage, in respect of the referral made and the submission is entirely silent in respect of the kind of considerations that must be considered and taken into account in respect of this type of refence, to enable engagement with same.

As you aare aware, the Courts have, in recent years been extremely vigilant in respect of the nature and content of referrals, in the light of the consequences that can arise from a determination made under Section 5. In this regard, we refer you to **Heatons Limited –v- An Bord Pleanála** where Hogan J. found that a referral made, which did not set out the full grounds for the referral, could not be considered to be a valid referral and as a consequence quashed the decision on that referral in those circumstances.

This approach has been followed in a number of subsequent cases and the current legal position is that there is no difference, in substance, between a requirement in respect of an appeal which is



required to state the full grounds of appeal and that of a reference, which is required to state the entire basis upon which the referral is made. There is no such basis included within the documentation and the Bord have no basis upon which to consider the reference made.

Clearly the reference is extremely prejudicial to our client. It is both unfair and improper to require our client to try to create potential arguments in reply, that the Council may seek to rely upon and deal with these. The onus is on the person/body making the referral to set out the basis upon which the referral is made, set out the full grounds upon which it is asserted that the matter complained of amounts to "development", as defined in Section 2 of the Planning and Development Act and if it is so asserted, to further set out the full grounds upon which it is asserted that the development is not exempted development for the purpose of Section 4 of the Planning and Development Act 2000.

The letter of 6th April 2017 could never amount to a basis upon which a respondent/person should or could be required to address a response, other than to raise these type of issues. There is no response appropriate in respect of such submission/referral, as that made by the Council on the 6th April 2017, as it defines no grounds, upon which it is asserted that the development may in contravention of the Planning and Development Acts, either because it is development or because it is exempted development.

Further, the Council do not even indicate whether their concern relates to the question of development or the question of exempted development and as of the document of 6th April 2017, our client does not know whether the complaint is in respect of development or whether it is in respect of exempted development. This in an intolerable position for any respondent and to require our client herein to engage in a quasi-judicial process, which affects it's property rights under Article 40.3 of the Constitution and Article 43 thereof.

The Council refer to a warning letter under it's reference DC412-15 issued on 22nd January 2016 and subsequent to the issue of that letter the Council issued an enforcement notice and on foot on that enforcement notice issued a summons in the District Court. None of these matters were referred to in the submission vis a vis the rationale for same or the basis for such action, notwithstanding that proceedings had been issued by then. ABP, therefore, are being asked to make a determination in respect of a development (so called) in the context of criminal proceedings and are requested to determine a matter which it the Council will seek to be relied upon in the District Court. They do so without providing any basis upon which ABP could ever make such a determination and are requesting ABP, in effect, to step into the shoes of the planning authority and to make the case for the planning authority in respect of their prosecution. It is submitted that ABP as a quasi-judicial body, so could never do .

Further. ABP cannot adopt one side of the argument or the other but must only deal with the evidence that is submitted to it in respect the matter by all parties. The scheme of the Planning Acts requires that the referror make a submission and in the words of the legislation, sets out their full grounds, which are relied on in that referral and the respondent is then entitled to make a submission in respect of those grounds. ABP are limited to those submissions in the determination of the referral and cannot, of it's own motion engage in and make additional submissions on the part of the person making the referral. It is submitted that ABP certainly could never do so, in a case where thematters is currently before the District Court on a prosecution.

AN BORD PLEANING

04 MAR 2020

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

In those circumstances in our submission we would invite the Bord to conclude that, in the absence of any grounds which could be the subject matter of a response, that this referral does not comply with the Planning and Development Acts and the regulations made thereunder and dismiss the referral as being in contravention and contrary to the Planning and Development Acts and the regulations made thereunder and follow the determination of Hogan J. in the Heatons case referred to above, in respect of which ABP will have full knowledge. It is suggested that this case presents an even clearer example of non compliance with the requisite statutory requirements.

Without prejudice to the above, it is clear that the Council have no basis for their contention that the sign, the subject matter of the submission of 6th April 2017, is development. Development can either amount to the carrying out of works in, on or under land or in the alternative, the making of any material change to the use of any structure or other land.

It is clear that in respect of this submission, there is no question of works and no works have been carried out in respect of this sign and the Council do not suggest at any stage that any works are being carried out, in respect of the development the subject matter of the referral. The replacement of a sign with another sign could never amount to works and could never be such as to fall within the definition of "works" contained either in Section 2 of the Planning and Development Act, which defines "works". As you are aware "works" are any act of construction, excavation, alteration, demolition, alteration repair or renewal and therefore no works have been carried out and there is no assertion that any such works are relied on by the Council, in this reference.

It would appear therefore that the only element which the Council could ever rely on in respect of development is the second category namely a material change in the use of any structure or other land.

In so far as one could seek to impute an argument, or a ground, within the submissions of the Council of the 6th April 2017, it is acknowledged in that submission that the sign was lawfully erected and it is acknowledged that the sign remained in place without complaint for a period of almost twenty five years. It is also acknowledged that the sign itself was a billboard sign, was of precisely the same dimensions and had precisely the same use that the previous sign, namely an advertising sign. The previous sign had contained within it multiple capacities to exhibit different images and in so far as that is relevant, there is no change even in that regard, in respect of the current sign. Adapting the most benign approach to the submission of the Council it could never be concluded that the sign amounts to a change of use because the use is already established and the use has not changed and this is confirmed precisely and definitively in the Council's own submission. They make no assertion that there is any change of use indeed the opposite is the case. They confirm that the use is the same.

However the test is not whether the use is a change of use but rather whether the use now carried out is a material change of use and this imposes a far higher standard on the Council to show not only that it is not the same use but that it is a materially different use and material change in that context can only be applied once there is a change of use. The Council therefore have no basis whatsoever to assert that this referral falls within the definition of development for the purpose of the Planning and Development Act.

04 MAR 2020

LTR DATED _____ FROM _____

LEG- _____

APP- _____

A billboard sign by its nature will as an inherent part of its use require alterations in terms of the advertising content on that billboard. There is no limitation as to the frequency which the image may be changed and one can have signs with regular changes of image over days, or indeed that on a busy sign and this sign in particular, would reflect a number of different images over any one day. The use of the sign therefore as it currently operates and as it has always operated is identical in planning terms given that this is a sign which will reflect different images over the course of any day, over the course of any week, month or year.

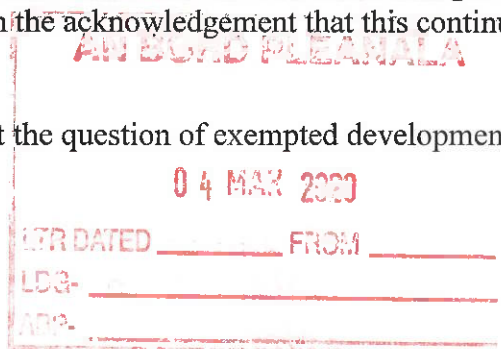
If as in this case, there is no material change in use, then no question of development arises and therefore the issue of exempted development has no application to this referral.

As there is no basis upon which it is asserted that the sign is development, there is no change of use much less a material change of use in planning terms and the very nature of the sign as reflected in the submission of the Council remains precisely as it was since it was constructed in 1992.

A billboard sign, of necessity, is used to display different messages and in a way that attracts the attention of the public. That is the nature of what is permitted when a sign is permitted. The Council assert that any alteration to a sign amounts to a material change of use. If that is the case then any change to any sign anywhere within this jurisdiction amounts to development and is not exempted development, on the approach of the Council and therefore every billboard in this jurisdiction must be, once the image is changed, an unauthorised development. This would be the most profound and erroneous approach to the very nature and essence of such signs. The submission of the Council is fundamentally misconceived.

The submission that is made herein is a response to the submission of the County Council. In responding to the submission of the County Council we would summarise our position as follows:-

1. The County Council have made a submission which requests the ABP to determine whether an alteration to a billboard sign, which has been in place for almost twenty five years, without complaint or objection, is development and/or exempted development. We submit that there is no basis contained within that referral to ground such a referral and there are no grounds contained within that submission for the assertion, that either the issue or referral and the subject of it, is development or is exempted development and as such ABP must dismiss the referral as having been lodged other than in compliance with the mandatory requirements of the Planning and Development Act and the Planning and Development regulations.
2. Without prejudice to that submission, it follows that there is no basis contained in the reference for an assertion that the alterations to a billboard sign is development, when the only basis upon which that assertion could be made, is that there is a material change in use and no such argument could ever be made given the acknowledgement that this continues to be used as a billboard sign.
3. In circumstances where there is no development the question of exempted development does not arise.



We would request that the referral be summarily dismissed and accordingly we commend this submission by way of response to the board for it's determination.

Yours faithfully,



BRANIGAN FEDDIS

Direct email: johnbranigan@biflegal.ie

