

AN BORD PLEANÁLA
Planning & Environmental Consultants

LDG- _____
ABP- _____

15 OCT 2018

Fee: € 2000 Type: _____

Time: _____ By: roy post

Attn: The Secretary

An Bord Pleanála
64 Marlborough Street
Dublin 1

AN BORD PLEANÁLA

15 OCT 2018

LTR DATED _____ FROM _____

LDG- 009057-18

ABP- _____



10th October 2018

Our Ref: 180927
Your Ref:

Re: An Bord Pleanála Section 5(3) Referral, on question of Exempted Development status of conversion of ground floor offices to a 2-bedroom apartment at Ti Choinn, Gleann na Rí, Murrough, Galway

Dear Sir/Madam,

On behalf of our client, **Tom King (c/o O'Neill O'Malley, 1st Floor, Technology House, Galway Technology Park, Parkmore, Galway)**, please find enclosed a complete copy of the Section 5 Declaration Application submitted by our client to Galway City Council on the 20th August 2018 (Ref: P/DC/3/14/18) under the provisions of Section 5 of the Planning and Development Act 2000, (as amended).

The Section 5 Declaration application relates to a proposal for the conversion of ground floor offices to a 2-bedroom apartment at Ti Choinn, Gleann na Rí, Murrough, Galway. The application sets out our clients position that the proposed development was exempted development under the change of use exemptions set out in S.I. no. 30 of 2018 – Planning and Development (Amendment)(No.2) Regulations 2018.

The Council determined that the proposed works were not considered to be exempted development for the following reason:

'The offices in question were granted as ancillary offices to the student accommodation originally granted under Pl. Ref. 99/918, as amended by Pl. Ref. 02/346. In this regard the proposed change of use would contravene the conditions attached to Pl. Ref. 99/918 and Pl. Ref. 02/346 and therefore requires the benefit of planning permission. The proposed change of use is therefore not considered to be exempt from planning permission.'

As a result of the Planning Authority's decision (dated the 17th of September 2018), this correspondence forms the basis of a referral under Section 5(3)(a) of the Planning and Development Act 2000, as amended, to An Bord Pleanála. We are therefore, on behalf of our client, referring this matter to An Bord Pleanála for consideration. Accordingly, as set out in the Section 5 application lodged with the Planning Authority, we are requesting the Board to determine whether the proposed conversion of ground floor offices to a 2-bedroom apartment at Ti Choinn, Gleann na Rí, Murrough, Galway is or is not exempted development under the change of use exemptions set out in the provisions of S.I. no. 30 of 2018 – Planning and Development (Amendment) (No. 2) Regulations 2018.

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Outline of Proposed Works

It is proposed to convert ground floor offices to a 2-bedroom apartment and connect to the existing services at Ti Choinn, Gleann na Rí, Murrrough, Galway. It is intended to provide private open space for the new apartment via the existing communal open space serving Ti Choinn, Gleann na Rí. There is a similar arrangement in place for the other ground floor apartments in the building as accepted by the Planning Authority under PL Ref. 15/359.

Compliance with S.I. no. 30 of 2018– Planning and Development (Amendment) (No. 2) regulations 2018.

As previously set out the applicant sought a declaration on the basis of the change of use exemptions set out in S.I. no. 30 of 2018 – Planning and Development (Amendment)(No.2) Regulations 2018 which amend article 10 of the Planning and Development Regulations 2001 by inserting a new sub-article (6), which makes provision for the change of use of specified classes of use to residential use, without the requirement to obtain planning permission during the relevant period, which commences on the date of the making of the Regulations and concludes on 31 December 2021. Sub-article 10(6)(b) states:

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3 or 6 of Part 4 to Schedule 1.

Further, in sub-article 10(6)(c), the criteria for compliance with the regulations are set out as follows:

Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3 or 6, and

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development, then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

Thus, sub-article 10(6)(c) sets out the circumstances in which a change of use to residential use shall be exempted development. Significantly, however, sub-article (d) enumerates the relevant conditions and limitations or provides “de-exempting” criteria, including, at paragraph (d)(ix):

No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

The proposed development accords with the provisions of S.I. no. 30 of 2018 – Planning and Development (Amendment)(No.2) Regulations 2018 and is not de-exempted by any of the aforementioned criteria, as evident in Table 1, attached.

AN BORD PLEANÁLA

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Galway City Council Decision

The decision which issued from Galway City Council under GCC Ref. P/DC/3/14/18 (dated 17th September 2018) stated that: **LTR DATED**

LDG-
APP-
'the offices in question were granted as ancillary offices to the student accommodation originally granted under Pl. Ref. 99/918, as amended by Pl. Ref. 02/346. In this regard the proposed change of use would contravene the conditions attached to Pl. Ref. 99/918 and Pl. Ref. 02/346 and therefore requires the benefit of planning permission.'

The decision or Planner's Report did not specifically state which conditions of Pl. Ref. 99/918 and Pl. Ref. 02/346 are being contravened by the proposed development. We have undertaken a detailed review of the conditions attached to the relevant planning permissions and are of the opinion that, on the basis of the wording of the refusal reason, the Planning Authority are referring to Condition No.1 of Pl. Ref. 99/918 as being allegedly contravened. Condition No.1 states the following:

'The development shall be carried out and completed in accordance with the application made on 22/12/1999, as revised and amended by documentation submitted on 28/1/2000 and 10/03/2000 but subject, however, to the requirements of the further conditions hereafter incorporated.'

Reason: To ensure that the development is carried out in accordance with the permission and that effective control is maintained.'

A review of the Planner's Report which accompanied Galway City Council's declaration (Ref. P/DC/3/15/18) indicates that the basis for their decision relates to the vacant offices being granted permission as an ancillary use to the primary use of the building as student accommodation. Therefore, it is alleged that these ancillary uses are integral to the operation of the building as student accommodation. The Planning Officer's report states:

'As referenced in the planning history section above, planning permission was originally granted under Pl. Ref. 99/918 for a private residential or student accommodation comprising a total of 140 no. apartments, along with ancillary facilities consisting of a 3 storey local shops including launderette, bank, restaurant, caretaker's apartment and a conference room. In this context it is highlighted that the change of use of any of the ancillary facilities, such as a retail unit, seminar room or offices, to a residential unit, is not considered to be exempt under the abovementioned legislation as these facilities were granted as an integral part of the original student accommodation.'

It is considered that the rationale being adopted by the Planning Authority is that the extant permitted ground floor uses at Ti Choinn are ancillary to the student accommodation overhead and to permit their change of use would be contrary to Condition No.1 of Pl. Ref. 99/918 and Pl. Ref. 02/346 thereby de-exempting the change of use in the context of S.I. no. 30 of 2018 - Planning and Development (Amendment)(No.2) Regulations 2018.

However, it should be noted by An Bord Pleanála that the overhead accommodation at Ti Choinn was permitted as both student accommodation and/or private residential accommodation. The requirement to provide the 'ancillary' uses i.e. office space was originally a requirement of the Section 50 Student Accommodation provisions. It should also be noted that the use of the accommodation overhead the ground floor at Ti Choinn as student accommodation ceased in 2012

and is now predominantly made up of private residential accommodation. Therefore, it is our opinion that the ground floor uses i.e. office space are no longer *ancillary* to any other use. Given that these uses are no longer ancillary to any use it is not considered reasonable to conclude that the proposed change of use would contravene Condition No.1 of Pl. Ref. 99/918 and Pl. Ref. 02/346. On the basis that the proposed development would not contravene Condition No.1 of Pl. Ref. 99/918 and Pl. Ref. 02/346 the refusal reason cited by the Planning Authority is considered to be invalid. For this reason, we respectfully request that An Bord Pleanála take the above into consideration and declare that the proposed change of use is exempted development under the provisions of S.I. no. 30 of 2018 – Planning and Development (Amendment)(No.2) Regulations 2018.

Conclusion

From examination of the Planner's Report on the Section 5 application, it is our understanding that Galway City Council are of the opinion that the existing permitted ground floor uses at Ti Choinn are ancillary to the student accommodation as part of the overall Gleann na Rí development and to permit their change of use would be detrimental to the permitted student accommodation use and be contrary to Condition No.1 of Pl. Ref. 99/918 and Pl. Ref. 02/346.

It must be considered that the development was permitted as both private residential and student accommodation. The development was completed under 'The student accommodation scheme' introduced in section 50 of the Finance Act 1999, as part of this scheme communal facilities such as office space were required. In this regard, the primary use of the accommodation over the ground floor at Ti Choinn, for the purposes of student accommodation, ceased in 2012 and is now predominantly made up of private residential accommodation. Therefore, it is our opinion that the ground floor uses are no longer 'ancillary' to any other use in the development.

In this regard it is considered that the office space, which have been vacant for over two years is in accordance with the change of use exemptions set out in S.I. no. 30 of 2018 – Planning and Development (Amendment)(No.2) Regulations 2018 which amend article 10 of the Planning and Development Regulations 2001 and is therefore exempted development.

The proposed conversion of the existing office space will provide a 2-bedroom apartment and considering that there is a pressing requirement to provide additional housing units country wide it is our opinion that it is contrary to the provisions of the planning legislation for Galway City Council to determine that the proposals are not exempted development.

On the basis of the above, and the previously submitted Section 5 application documentation also enclosed, we wish to refer this matter to the Board for its consideration and enclose the appropriate fee of €220.

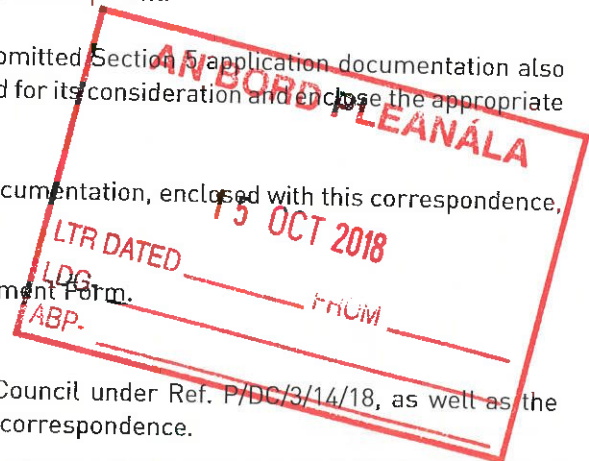
The previously submitted Section 5 application documentation, enclosed with this correspondence, is listed as follows:

- Copy of Declaration of Exempted Development Form.
- Copy of requisite application drawings.

Copies of the decision issued from Galway City Council under Ref. P/DC/3/14/18, as well as the Planner's Report on file, are also enclosed in this correspondence.

We trust the attached is in order; however, should you require further clarification on any matter of the attached referral, please do not hesitate to contact this office.

Yours sincerely,



Alan Bannon

Alan Bannon
Planner
McCarthy Keville O'Sullivan Ltd.

Encl.

AN BORD PLEANÁLA

15 OCT 2018

LTR DATED _____ FROM _____

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ABP- _____

Table 1: Compliance with the limitations and conditions set out in the provisions of S.I. no. 30 of 2018 – Planning and Development (Amendment) (No. 2) Regulations 2018.

Limitations and conditions	Compliance
The development is commenced and completed during the relevant period.	✓
Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall affect only the interior of the structure and shall not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures	✓
Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.	✓
No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.	✓
No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure	✓
Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines	✓
Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting	✓
No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.	✓
No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.	✓
No development shall relate to any structure in any of the following areas: (i) an area to which a special amenity area order relates; (ii) an area of special planning control; (iii) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply	✓
No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.	✓

AN BORD PLEANÁLA
 15 OCT 2018
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No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

✓

✓

AN BORD PLEANÁLA

15 OCT 2018

LTR DATED _____ FROM _____

LDG- _____

ABP- _____



Comhairle Cathrach na Gaillimhe
Galway City Council

Declaration of Exempted Development
Form (S.5 of Planning and
Development Act 2000)

IMPORTANT: ALL QUESTIONS MUST BE ANSWERED.

1. Postal Address of Site or Building:
T.F. CHOINN, GLEANN NA RI, MURROUGH, GALWAY

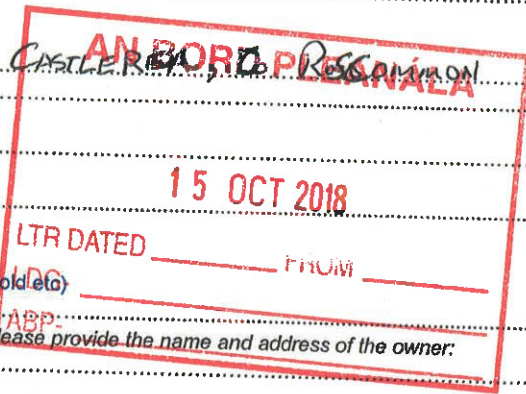
Plan Ref. No. Previous Application 15/354
(If none, give description sufficient to identify)

2. Name of Applicant in full: TOM KING

Address if different from No. 1 above) KNOCKROE, CASTLE RIVER, GALWAY

Tel No. /

Email address /



3. (a) State applicants interest in site if any (freehold, leasehold etc)
FREEHOLD OWNER

N.B. If applicant is not the Freehold owner of the land in question, please provide the name and address of the owner:

4. (a) Brief description of proposed development:
CONVERT EXISTING OFFICE SPACES TO A 2 BEDROOM APARTMENT WITH CONNECTIONS TO EXISTING SERVICES WITHIN THE EXISTING BUILDING. OFFICE SPACES HAVE BEEN VAUNT FOR OVER 2 YEARS

(b) Additional Information if the development involves an extension to a house:

Floor Area of (i) Proposed extension (N/A) Sq. M.
(ii) Any existing extensions to the property (N/A) Sq. M.
(iii) Amount of private open space remaining to the rear of the house .i.e excluding garages/stores (N/A) Sq. M.

NB. ALL DRAWINGS SHOULD BE SUBMITTED IN A METRIC SCALE

(c) Additional Information if the development involves the Erection of garages / stores etc within the garden of a house

Floor Area of (i) Proposed store / garage / shed etc (N/A) Sq. M.
(ii) Any existing store / garage / shed in the garden (N/A) Sq. M.
(iii) Amount of private open space remaining to the rear or side of the house .i.e. excluding garages/stores (N/A) Sq. M.

N.B. (i), (ii) and (iii) must be individually and clearly defined on submitted drawings for each of the above categories

5 In the case of any building or buildings to be retained on site, or for a change of use of the property, please state:

(a) Present use of each floor or use when last used: OFFICE SPACES - 96.5 sqm

(b) Proposed use of each floor: 2 BEDROOM APARTMENT - 96.5 sqm

I HEREBY DECLARE that the information given in this form is correct

Signature of Applicant (or his Agent): [Signature] (AGENT - O'NEILL O'MALLEY LTD.)

Date: 17/08/2018

List of drawings in metric required with application – tick box: Site Location plan (1:1000)		
<input checked="" type="checkbox"/> Layout Plan (1:200 or 1:500)	<input checked="" type="checkbox"/> Plans and Elevations (1:50 or 1:100)	<input checked="" type="checkbox"/> Appropriate Fee €80.00

Fees can be paid by cash, cheque, debit card or credit card at the cash office in City Hall. Payment can also be made by phoning Customer Service on (091) 536960.

The Law Governing the Planning System is set out in the Planning and Development Act 2000 and the Planning and Development Regulations 2001 and 2002. These may be accessed by way of a link with the Department of the Environment http://www.environ.ie/dev/index.html	The Acts and the Regulations can also be purchased from the Government Publications Sale Office, Sun Alliance House, Molesworth Street, Dublin 2. Telephone 01 647 6834/35/36/37
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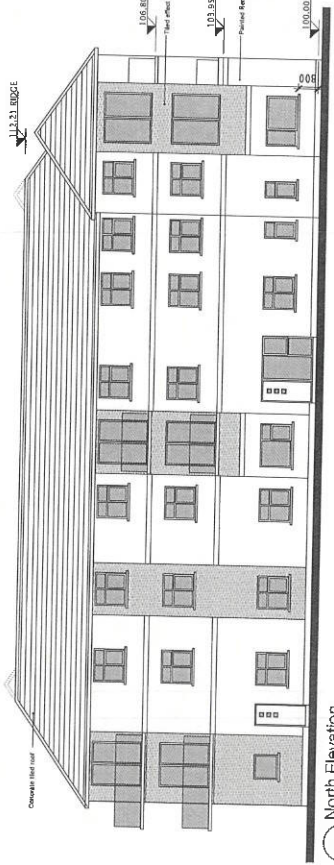
AN BORD PLEANÁLA

15 OCT 2018

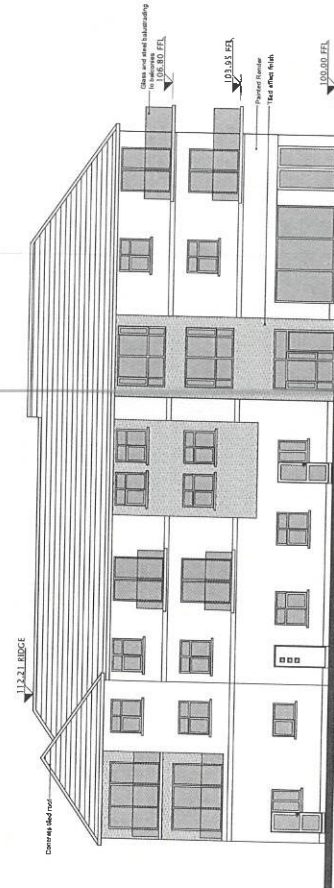
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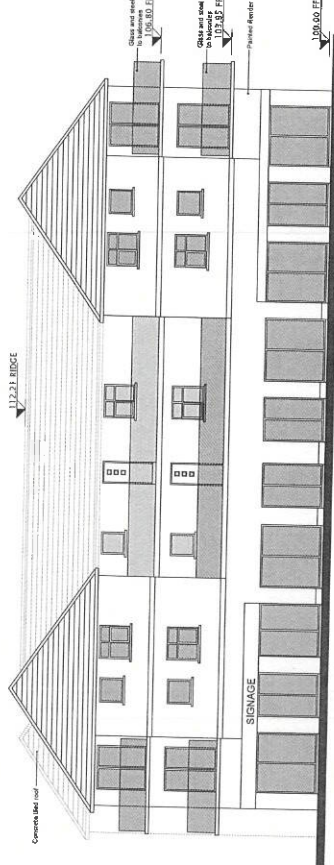
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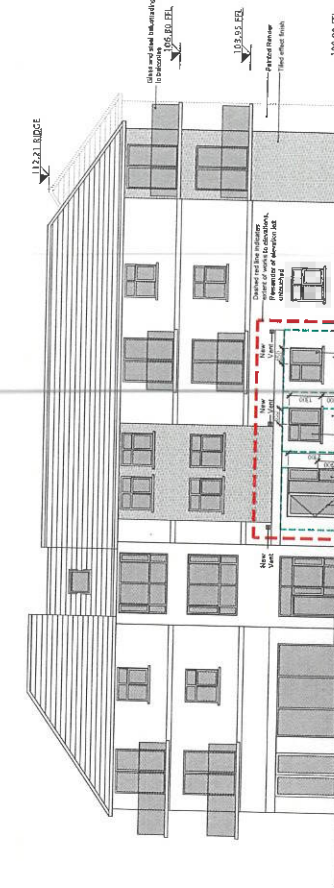
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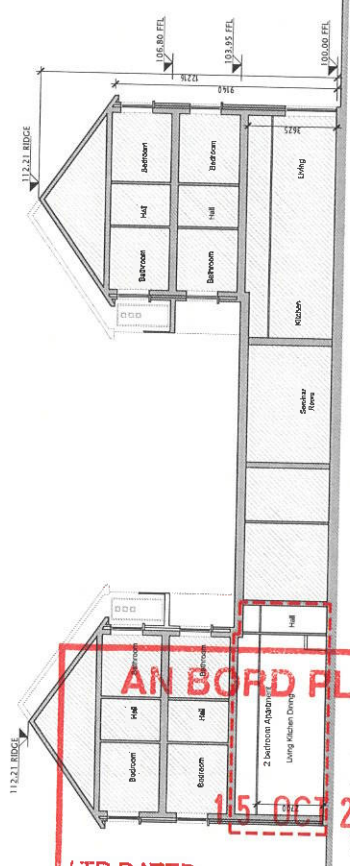
02 West Elevation
Scale: 1:100



03 South Elevation
Scale: 1:100



04 East Elevation
Scale: 1:100



05 Section A-A
Scale: 1:100

LEGEND
 - Hatched area not relevant to this planning application. No Works.
 - - - - - Existing External Door Window

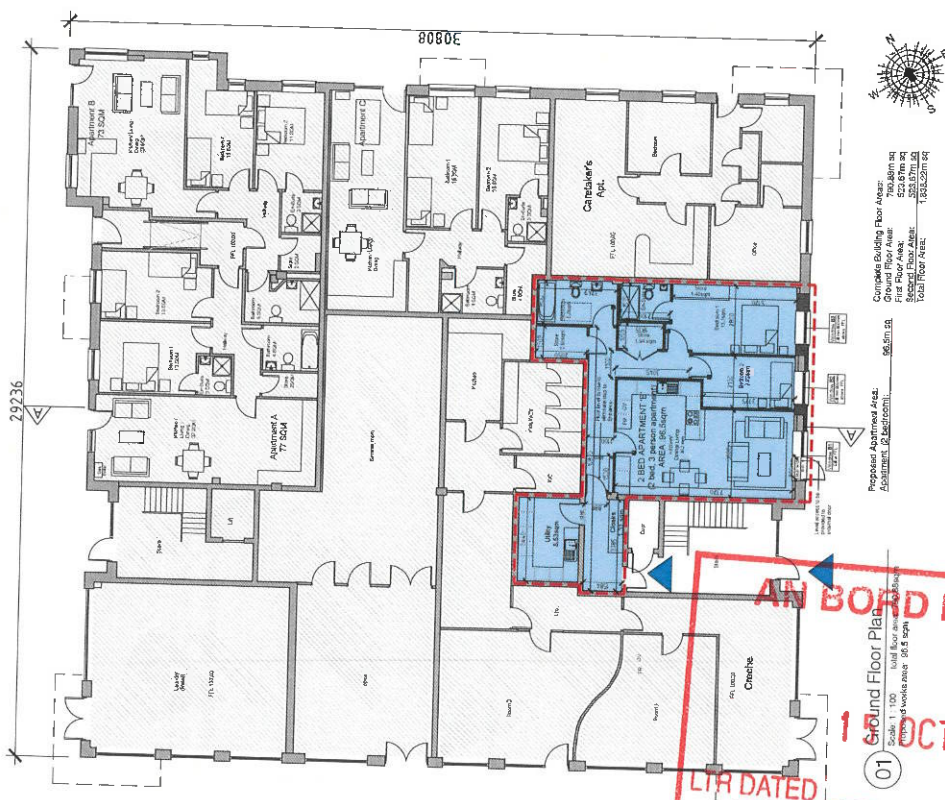
CONSULTANT'S DECLARATION (Text block regarding professional responsibility and accuracy of drawings)

REVISIONS (Table with columns for No, Date, Comments, and By)

Project Information (Table with fields for Ref No, Project Name, Drawing No, Scale, Date, and Checked by)

Client Information (Text block with project name: Proposed 2 bedroom Apartment, and contact details for TI Chinn, Chinn in RL, Murrigh)

Architect Information (Text block for O'Neill O'Malley Ltd., Architect, 3 Parkside Park Drive, Dublin 6)



Proposed Apartment Area:
 Apartment (2 Bedrooms): 66.6m² GA
 Complete Building Floor Area:
 Ground Floor Area: 774.0m² GA
 1st Floor Area: 533.0m² GA
 Special Floor Area: 1,833.27m² GA
 Total Floor Area: 1,833.27m² GA

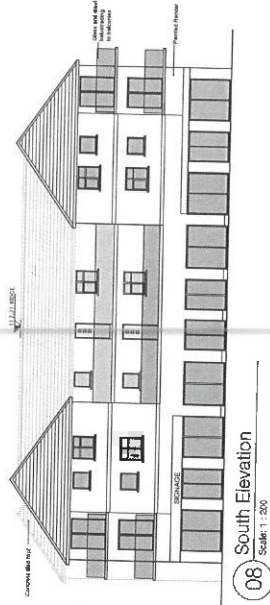
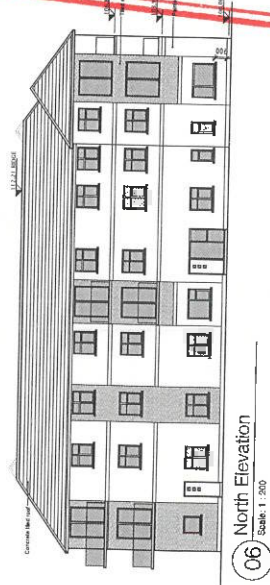
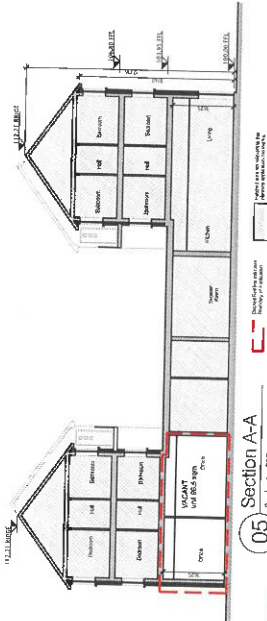
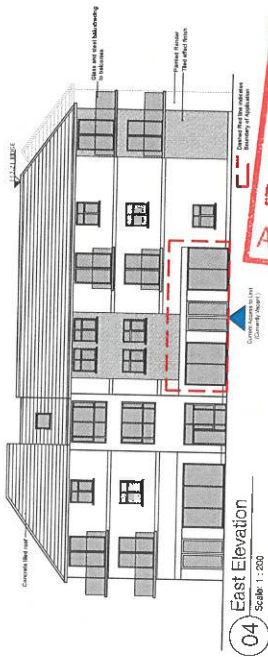
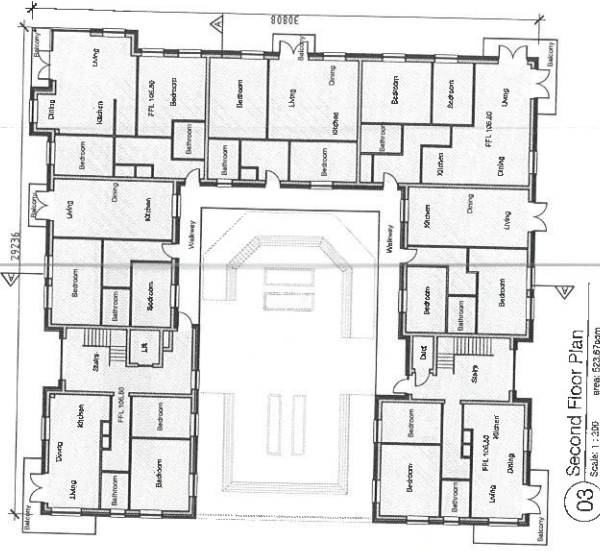
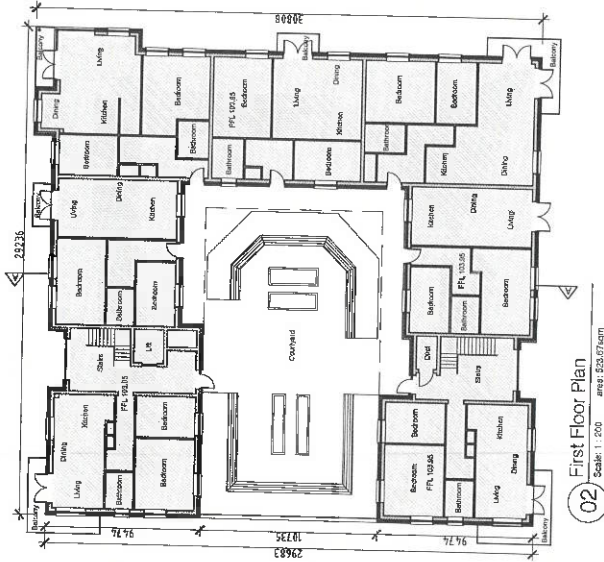
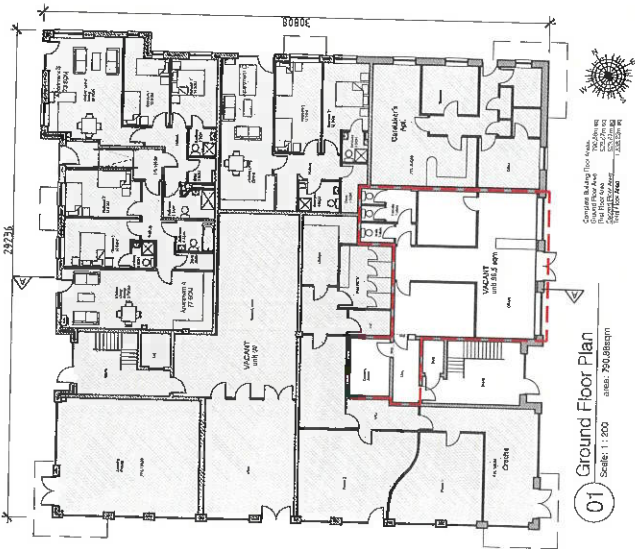
AN BOLD PLEANÁLA
 1 OCT 2018
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 LTR DATED _____ FROM _____
 LDG- _____
 ABP- _____

Title: 1:100
 Drawing Number: 3103
 Project Name: 21 Chalmers, Clontarf
 Client: Tom King
 Date: Aug 2018
 Drawn by: EOP
 Checked by: EOP

No.	Date	Comments

No.	Date	Comments

DISCLAIMER: STATE OF THE DRAWING - This drawing is prepared by the Architect for the purpose of providing information to the client. It is not intended to be used for any other purpose. The Architect does not accept any liability for the accuracy or completeness of the information provided in this drawing. The client is advised to seek independent professional advice before relying on this drawing. The Architect's liability is limited to the professional services provided by the Architect. The Architect is not responsible for any errors or omissions in this drawing. The Architect is not responsible for any consequences arising from the use of this drawing. The Architect is not responsible for any damages or losses resulting from the use of this drawing. The Architect is not responsible for any actions or inactions taken by the client or any third party based on this drawing. The Architect is not responsible for any legal proceedings or claims arising from the use of this drawing. The Architect is not responsible for any costs or expenses incurred by the client or any third party in connection with the use of this drawing. The Architect is not responsible for any delays or interruptions in the completion of the project caused by the client or any third party. The Architect is not responsible for any changes or modifications to the drawing made by the client or any third party. The Architect is not responsible for any alterations or deletions to the drawing made by the client or any third party. The Architect is not responsible for any additions or insertions to the drawing made by the client or any third party. The Architect is not responsible for any rework or correction of the drawing made by the client or any third party. The Architect is not responsible for any re-submission of the drawing to the client or any third party. The Architect is not responsible for any re-approval of the drawing by the client or any third party. The Architect is not responsible for any re-issuance of the drawing by the client or any third party. The Architect is not responsible for any re-use of the drawing by the client or any third party. The Architect is not responsible for any re-printing of the drawing by the client or any third party. The Architect is not responsible for any re-distribution of the drawing by the client or any third party. The Architect is not responsible for any re-marketing of the drawing by the client or any third party. The Architect is not responsible for any re-sale of the drawing by the client or any third party. The Architect is not responsible for any re-licensing of the drawing by the client or any third party. The Architect is not responsible for any re-assignment of the drawing by the client or any third party. The Architect is not responsible for any re-termination of the drawing by the client or any third party. The Architect is not responsible for any re-negotiation of the drawing by the client or any third party. The Architect is not responsible for any re-termination of the drawing by the client or any third party. The Architect is not responsible for any re-termination of the drawing by the client or any third party.



AN BORD PLEANÁLA

LTD. DATED 15.08.2018

LDG. ABP.

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No.	Date	Comments	By

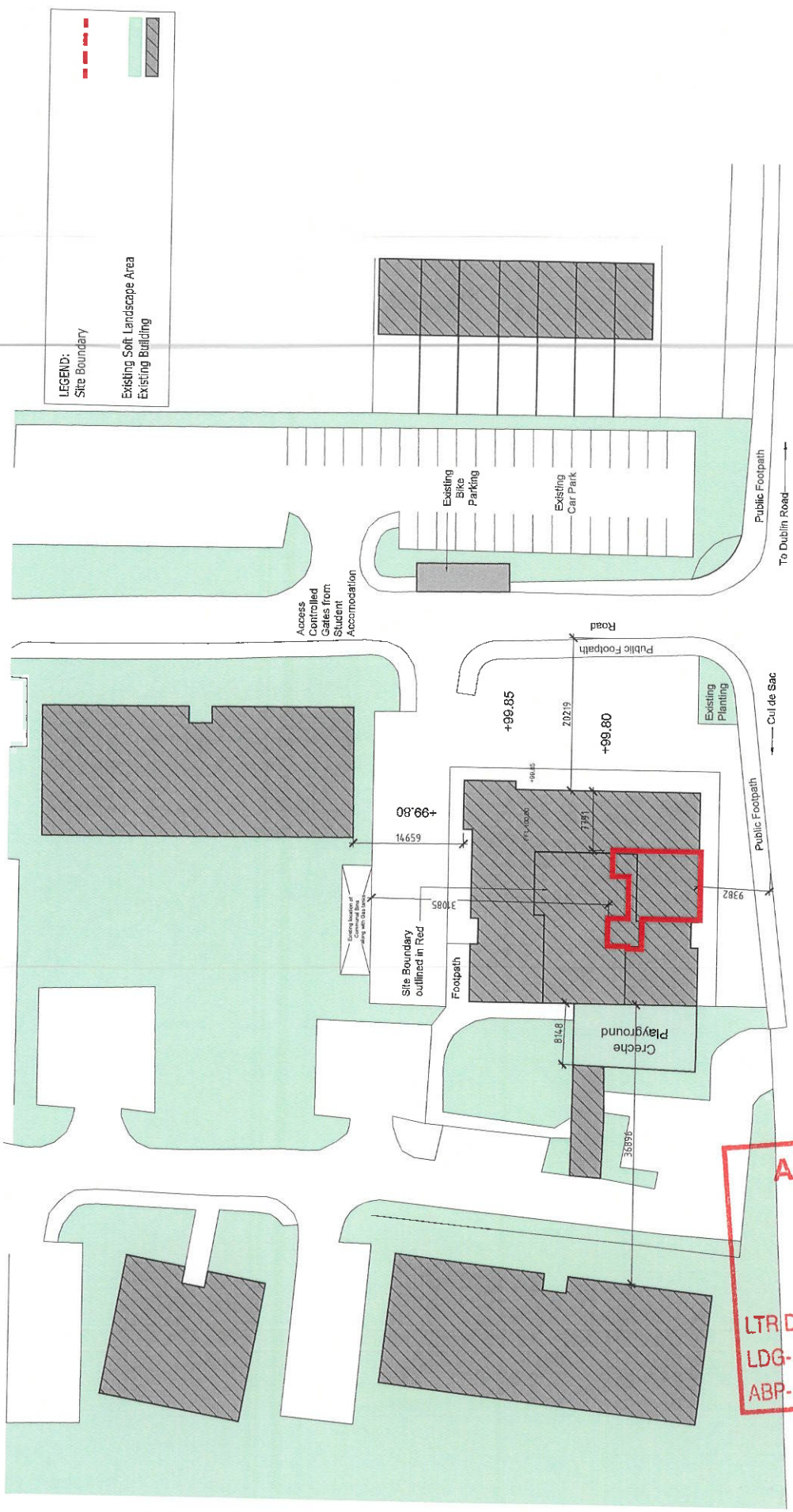
Scale: 1:200
 Drawing Purpose: Exemption Application
 Project: Proposed Studio Apartment
 Client: T. Cronin, Glenties na Ri, Mirrough
 Date: August 2018
 Drawn by: SOF
 Checked by: LITK
 Project No. 18161

File Ref: Subject: 3.09 Existing building - Plans, Elevations & Section
 Project No: 18161
 Drawing No: 3102
 Rev. 1
 O'Neill | O'Malley Ltd.
 Architecture + Project Management



EXISTING BUILDING

Galvanic Metal
 Galvanic Metal
 London E14 2DB
 T: +44 (0)20 8208087
 E: info@om.ie
 W: om.ie



01 Site Layout Plan
 Scale: 1:500

AN BORD PLEANÁLA

LTR DATE: 15 OCT 2018
 LDG- THUM
 ABP- _____

No.	Date	Comments	By
REVISIONS			

Scale: 1:500
 Project: Proposed 2 bed Apartment
 Location: Ti Chloinn, Gleann na Ri, Murrrough
 Drawn by: Tom King
 Date: Aug 2018
 Checked by: SOI
 LTR scale: _____

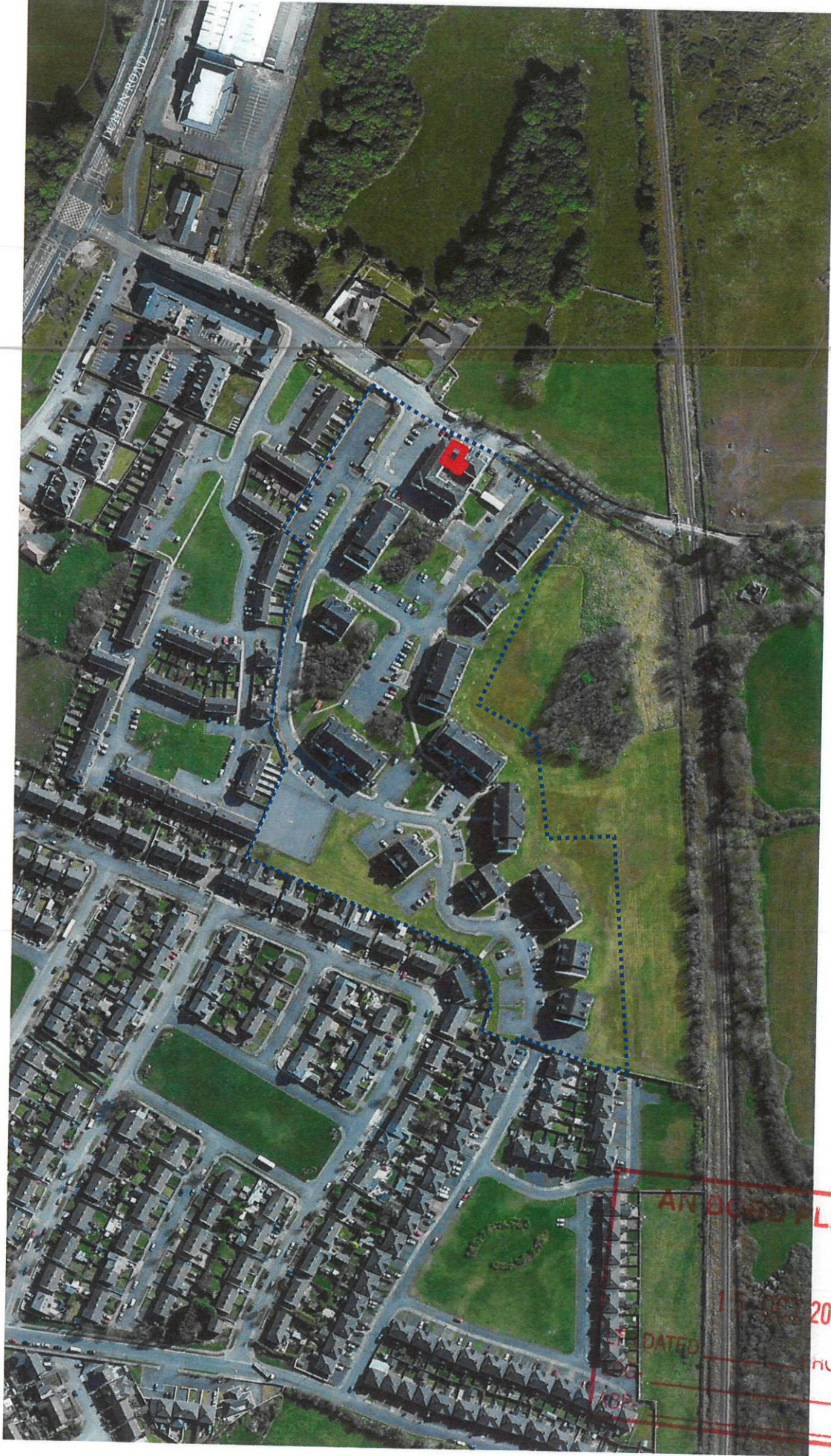
Drawing Purpose: Exemption Application
 File Ref: 3.09 Site Layout Plan

Project No. 18161
 Drawing No. 3101
 Rev. -

O'Neill | O'Malley Ltd.
 Architecture & Project Management

Second Floor,
 Technology House,
 Galway Technology Park,
 Parkmore, Galway.
 T: +353 (0)91 771033
 F: +353 (0)91 771597
 E: info@onm.ie

Appendix 02 - Aerial of Site Location and overall development



AN BORD PLEANALA
 15 OCT 2018
 DATED
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Exempted Development Application - Ti Choinn, Gleann na Ri Galway
 August 2018

RIAI	RIAI	RIAI	RIAI
PRACTICE MEMBER 2018	P FSP ACCREDITATION	PRACTICE ACCREDITED IN CONSERVATION G3	RIAI



Comhairle Cathrach na Gaillimhe
Galway City Council

Halla na Cathrach
Bóthar an Choláiste
Gaillimh
H91 X4K8

City Hall
College Road
Galway
H91 X4K8

Our Ref: P/DC/3/14/18

17 September 2018

Tom King,
c/o O'Neill O'Malley,
Technology House,
Galway Technology Park,
Parkmore,
Galway.

Planning Declaration under Section 5 of the Planning
& Development Act, 2000 (as amended), & Planning and Development Regulations 2001
(as amended).

Re: Conversion of ground floor office space for use as a 2 bed apartment.

At: Ti Choinn, Gleann na Rí, Murrough, Galway.

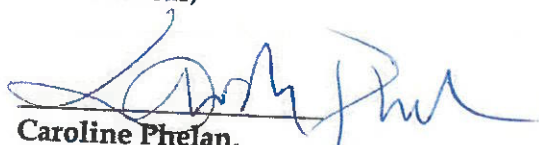
A Chara,

I refer to your recent application for a declaration of exempted development in relation to the above and I wish to inform you that a declaration of exempted development is refused for the following reasons:

1. The offices in question were granted as ancillary offices to the student accommodation originally granted under Pl. Ref. 99/918, as amended by Pl. Ref. 02/346. In this regard the proposed change of use would contravene the conditions attached to Pl. Ref. 99/918 and Pl. Ref. 02/346 and therefore requires the benefit of planning permission. The proposed change of use is therefore not considered to be exempt from planning permission.

However, it must be emphasised that this opinion is given without prejudice to the provisions of Section 5(3) of the Planning & Development Act 2000 - (as amended.) "Where a declaration is issued under this section, any person issued with a declaration may, on payment to the Board of such a fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration."

Mise le Meas,


Caroline Phefan,
A/Director of Services,
Planning Department.

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Fáiltítear roimh chomhfhreagras i nGaeilge / Correspondence in Irish is welcomed

Section 8 of Planning and Development Act 2000, as amended.

Ref. No.: P/DC/3/14/18
Address: Ti Choinn, Gleann na Ri, Galway.
Applicant: Tom King.

Description of Development: Conversion of ground floor offices, at Ti Choinn, Gleann na Ri, for use as a 2-bed apartment.

Planning History

14/324: Permission granted for a development at Block 14 (Ti Choinn), namely the change of use of 2 No. vacant retail units (previously a restaurant and a shop) to 3 no. 2 bed ground floor apartments. This application to include alterations to North-East and North-West elevations as well as all ancillary site works.

04/225: Permission for retention of revisions to previously granted permission (Pl. Ref. No. 90/01). Incl. Provision of refuse compactor, revised car park layout, bin storage areas, bicycle racks and entrance gates/fencing. Granted 19/02/2005.

02/346: Permission for revisions to ground floor of Block Type D (Block 14 - Ti Choinn) previously granted Ref. No. 918/99 and 9/01 to include crèche and administrative offices. Granted 18/07/2002.

01/9: Permission for revisions to Block Type D (Block 14) amendment to Planning Application Ref. No. 918/99 (Private/Student Accommodation - 275 apartments, shops, laundrette, restaurant, bank, conference room auxiliary works) to include revised internal layout and elevational treatment (retail units & apartment numbers unchanged) and reduction in eaves height. Granted 28/01/2001.

99/918: Permission for private residential or student accommodation comprising 5 No. 3 Storey Blocks Type A (total 60 apts.); 3 No. 4 Storey Blocks Type B (total 72 apts.); 5 No. 4 Storey Blocks Type C (total 140 apts.); and ancillary facilities consisting of 3 storey local shops including laundrette, bank, restaurant, caretaker's apt., conference room, with 14 apts, over this block, together with widening the access road. Granted 06/04/2000.

Proposal

The applicant seeks a declaration under the Planning and Development (Amendment) (No. 2) Regulations 2018 [S.I. No. 30 of 2018], in relation to the conversion of ground floor offices, at Ti Choinn, Gleann na Ri, to a 2-bed apartment.

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Relevant legislation

Article 2 of the latter Instrument states as follows - "Amendment of Article 10 of the Principal Regulations 2. Article 10 of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) is amended by inserting the following sub-article after sub-article (5):

- "(6) (a) In this sub-article— 'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres; 'relevant period' means the period from the making of these Regulations until 31 December 2021.*
- (b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3 or 6 (see below) of Part 4 to Schedule 1.*
- (c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph*
- (b)— (i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,*
- (ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3 or 6, and*
- (iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,*

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d)"

CLASS 1

Use as a shop.

CLASS 2

Use for the provision of—

- (a) financial services,
- (b) professional services (other than health or medical services),
- (c) any other services (including use as a betting office),

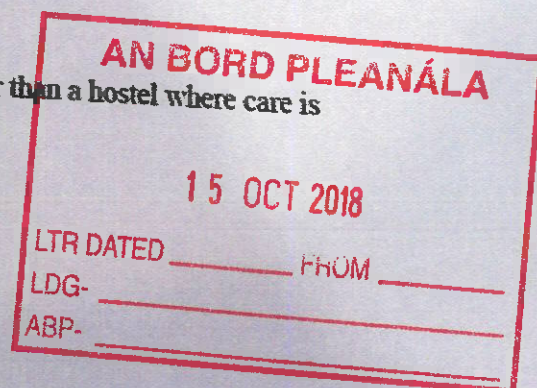
where the services are provided principally to visiting members of the public.

CLASS 3

Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

CLASS 6

Use as a residential club, a guest house or a hostel (other than a hostel where care is provided).



Proposal

The applicant's agent has provided a cover letter on file, which states that the office unit in question has been vacant for over 2 years.

The applicant has provided a breakdown of the internal dimensions / spaces within the proposed apartment. It is stated that the proposed 2-bed apartment (97sqm) is fully compliant with the Design Standard for New Apartments (2018). From an inspection of the floor plans and schedule of information provided, this appears to be the case.

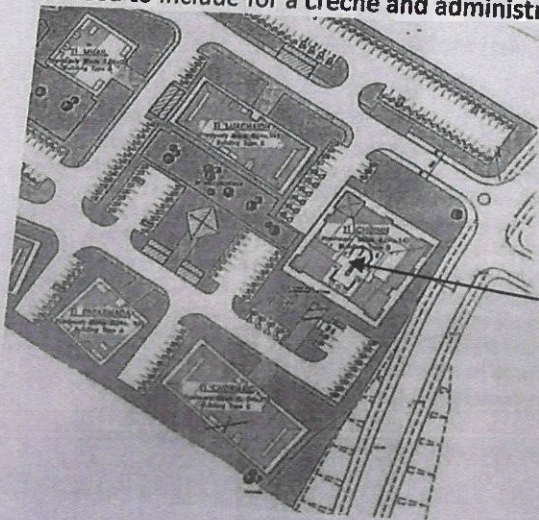
It is proposed to carry out alterations to the existing windows serving the office space. These alterations are considered to be non-material alterations (see existing and proposed southern elevation).

It is stated that it is intended to provide 'private open space' for the new apartment via existing communal open space serving at Ti Choinn, Gleann na Ri. The cover letter states that this is the same situation for the other ground floor apartments in the building. It is also highlighted that the existing level of communal open space amounts to 21,000sqm, with the actual requirement for communal and private open space stated to be 10,000sqm.

Assessment

As referenced in the planning history section above, planning permission was originally granted under Pl. Ref. 99/918 for a private residential or student accommodation comprising a total of 140 no. apartments, along with ancillary facilities consisting of 3 storey local shops including launderette, bank, restaurant, caretaker's apartment and a conference room. In this context it is highlighted that the change of use of any of the ancillary facilities, such as a retail unit or seminar roof, to a residential units, is not considered to be exempt under the abovementioned legislation, as these facilities were granted as an integral part of the original student accommodation.

It is highlighted that the offices in question, are located in Block D as originally granted (see below). The internal layout of this block was subsequently revised under a number of permissions, with the most recent being Pl. Ref. 02/346. In this case the internal layout was revised to include for a crèche and administrative offices (see floor plan on following page).



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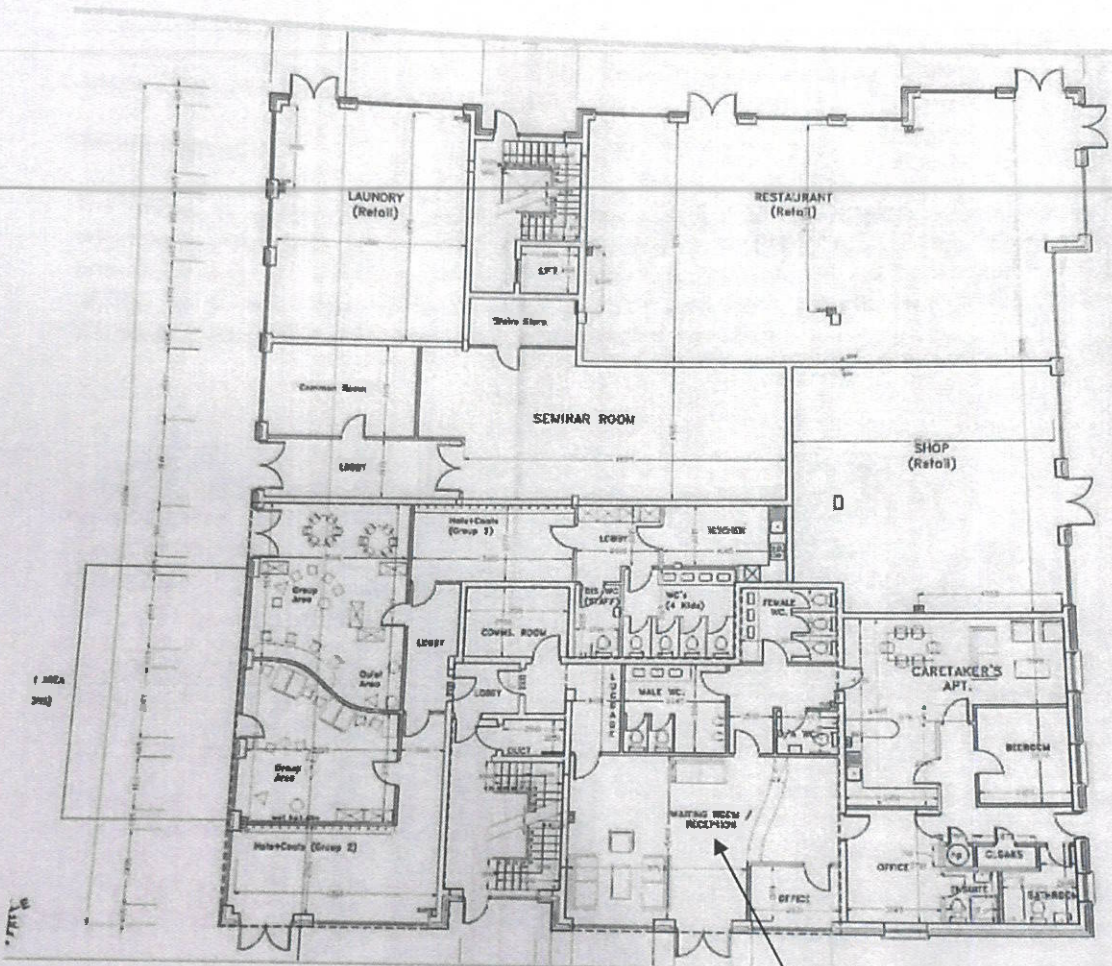
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Amin. Offices

The current application relates to a change of use of the administrative offices shown above. From an inspection of the Planner's report under PI. Ref. 02/346, it is noted that the offices were considered to be ancillary offices (see below).

Planning Appraisal

This application is for revisions to previous approved development which comprise changes to the ground floor to include a crèche and administrative office. The proposed crèche and office replace approved retail units. Block D is part of the overall Gleann Na Ri development and accommodates a number of retail/service units. The proposed ground floor changes cover a floor area of 231sqm, the crèche measures 144.3sqm and the office measures 86.7sqm. The proposed crèche is ancillary to the overall residential development in this area and is considered an associated service and is acceptable and in accordance with the zoning of the area. The proposed office area appears to be ancillary to the services being provided at this location.

With regard to car parking, the Child Care Facilities Report (forward Planning Section, July 2002) sets a standard of one space per 20sqm of operational space. The proposed crèche development will require a minimum of 7 spaces. A development charge is not recommended given that there is no increase in floor space.

The proposed changes are in accordance with the proper planning and development of the area

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In light of the above, given that the offices in question were ancillary to the student accommodation as originally granted, it is considered that the exemption referred to under Article 6 (10 (6)) does not apply in this case

Recommendation

The offices in question were granted as ancillary offices to the student accommodation originally granted under Pl. Ref. 99/918, as amended by Pl. Ref. 02/346. In this regard the proposed change of use would contravene the conditions attached to Pl. Ref. 99/918 and Pl. Ref. 02/346 and therefore requires the benefit of planning permission. The proposed change of use is therefore not considered to be exempt from planning permission.



Peter Staunton
Executive Planner
12/09/2018

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