



Attn: The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

AN BORD PLEANÁLA	
LDG-	<u>009069-18</u>
ABP-	_____
15 OCT 2018	
Fee: €	<u>220</u> Type: <u>cheque</u>
Time: _____	By: <u>reg post</u>

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 existing vacant office space and seminar room to a 1-bedroom studio apartment at Ti Choinn, Gleann na Rí, Murrough, Galway

Dear Sir/Madam,

On behalf of our client, **K King Construction Claregalway Ltd. (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/3/15/18) 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 a ground floor office/ seminar room to a 1-bedroom studio apartment at 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 seminar room and office space were granted as ancillary to the main student accommodation, as 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 existing vacant office space and seminar room to a 1-bedroom studio 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.

Outline of Proposed Works

It is proposed to convert a ground floor office/ seminar room to a 1-bedroom studio apartment and connect to the existing services at Ti Choinn, Gleann na Rí, Murrrough, Galway. It is proposed to carry out alterations to the existing windows on the southern elevation serving the office space, these alterations are considered to be non-material alterations and do not render the appearance of the structure inconsistent with the character of the structure or of neighbouring structures. 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).

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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.

Galway City Council Decision

The decision which issued from Galway City Council under GCC Ref. P/DC/3/15/18 (dated 17th September 2018) stated that:

'the seminar room and office space were granted as ancillary to the main student accommodation, as 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:

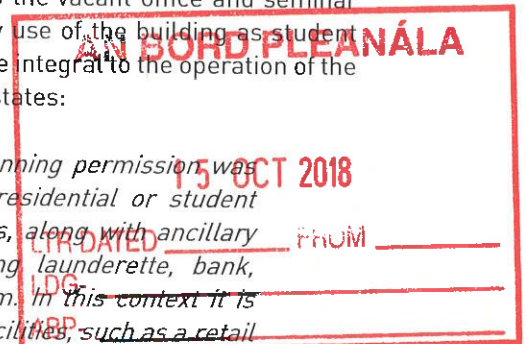
'The development shall be carried out and completed in accordance with the application made on 22/12/1999, as revised and amended by documentation submitted on 28/1/2000 and 10/03/2000 but subject, however, to the requirements of the further conditions hereafter incorporated.

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 office and seminar room 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 and seminar room 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 and seminar room 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 a seminar room and 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 existing seminar room and 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 and seminar room will provide a 1-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:

AN BORD PLEANÁLA
15 OCT 2018
LINDA...
LDG- _____
ABP- _____

- 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/3/15/18, 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
Planner
McCarthy Keville O'Sullivan Ltd.

Encl.

AN BORD PLEANÁLA	
15 OCT 2018	
LTR DATED _____	FROM _____
LDG- _____	
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.	✓

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 15 ✓ OCT 2018
 LTR DATED _____
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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. CHOINN, GLEANN NA RI, MURROUGH, GALWAY

Plan Ref. No. **PREVIOUS Applications 15/359, 02/346 & 99/918**
(If none, give description sufficient to identify)

2. Name of Applicant in full: **K. KING CONSTRUCTION CLAREGWAY LTD.,**

Address if different from No. 1 above) **1st FLOOR, TECHNOLOGY HOUSE, GALWAY TECHNOLOGY PARK, GALWAY**

Tel No. **091 758369**

Email address **INFO@KINGCONSTRUCTION.IE**

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 VACANT OFFICE SPACE & SEMINAR ROOM TO A 1 BEDROOM STUDIO APARTMENT AND CONNECTIONS TO EXISTING SERVICES WITHIN THE BUILDING. OFFICE SPACE & SEMINAR ROOM HAS BEEN VACANT FOR OVER 2 YEARS

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

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

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

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15 OCT 2018
LTR DATED _____ FROM _____
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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 & SEMINAR ROOMS - 194 Sqm

(b) Proposed use of each floor: 1 BEDROOM STUDIO APARTMENT

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

Signature of Applicant (or his Agent): *Walter Doyle*

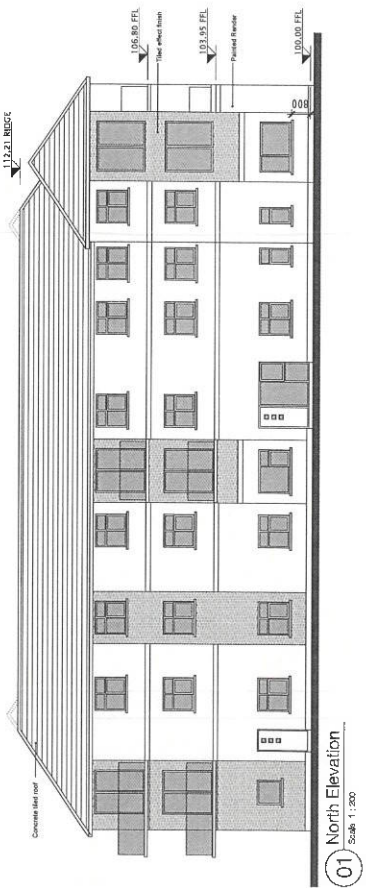
Date: 17/08/2018

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 type="checkbox"/> Appropriate Fee €80.00 <input checked="" type="checkbox"/>

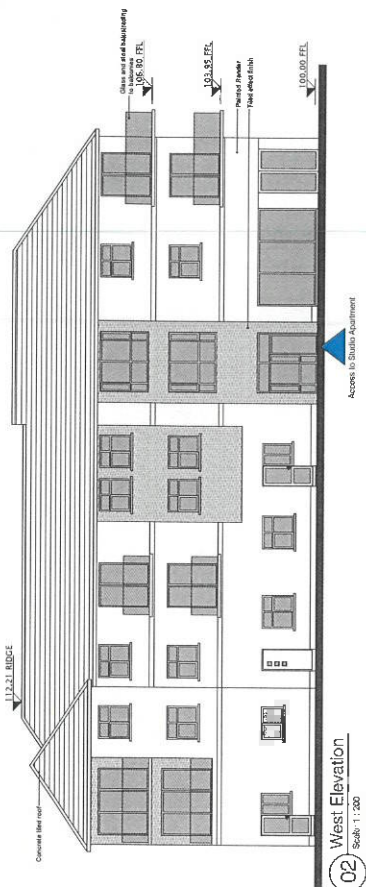
Fees can be paid by cash, cheque, debit card or credit card at the cash office in City Hall. Payment can also be made by phoning Customer Service on (091) 536960.

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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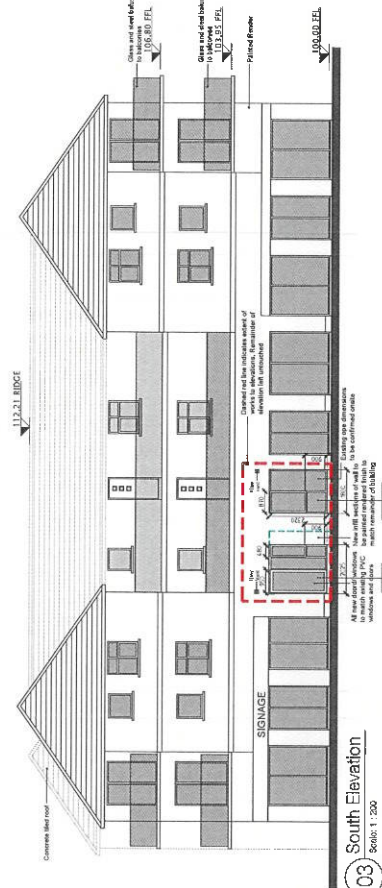
AN BORD PLEANÁLA
15 OCT 2018
LTR DATED _____ FROM _____
LDG- _____
ABP- _____



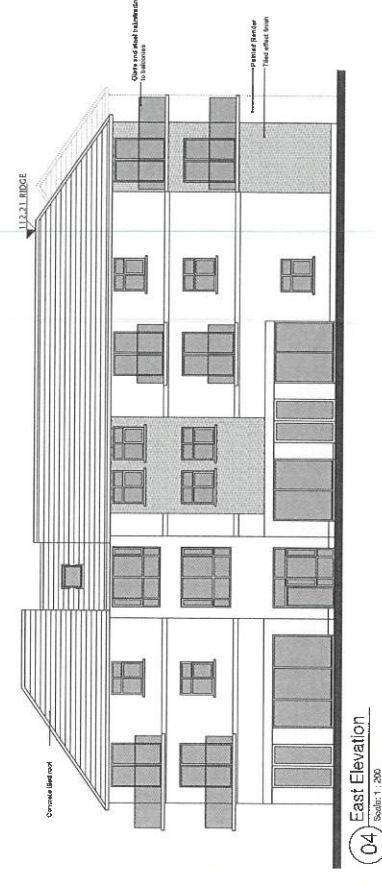
01 North Elevation
Scale: 1:200



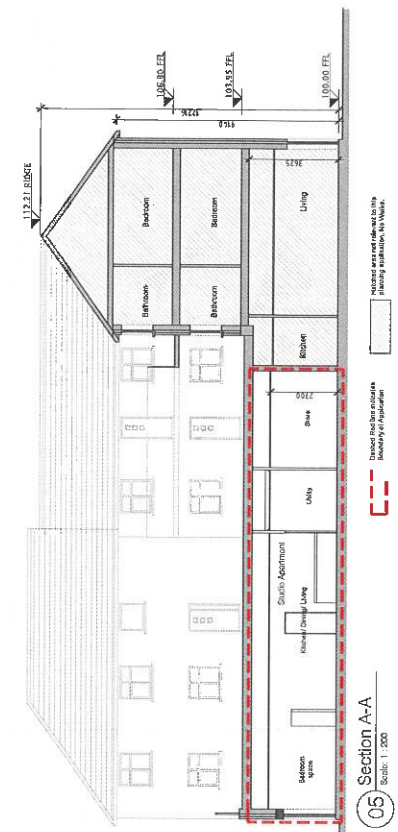
02 West Elevation
Scale: 1:200



03 South Elevation
Scale: 1:200



04 East Elevation
Scale: 1:200



05 Section A-A
Scale: 1:200

AN BORD PLEANÁLA

15 OCT 2018

FROM

LTR LEGAL ABP

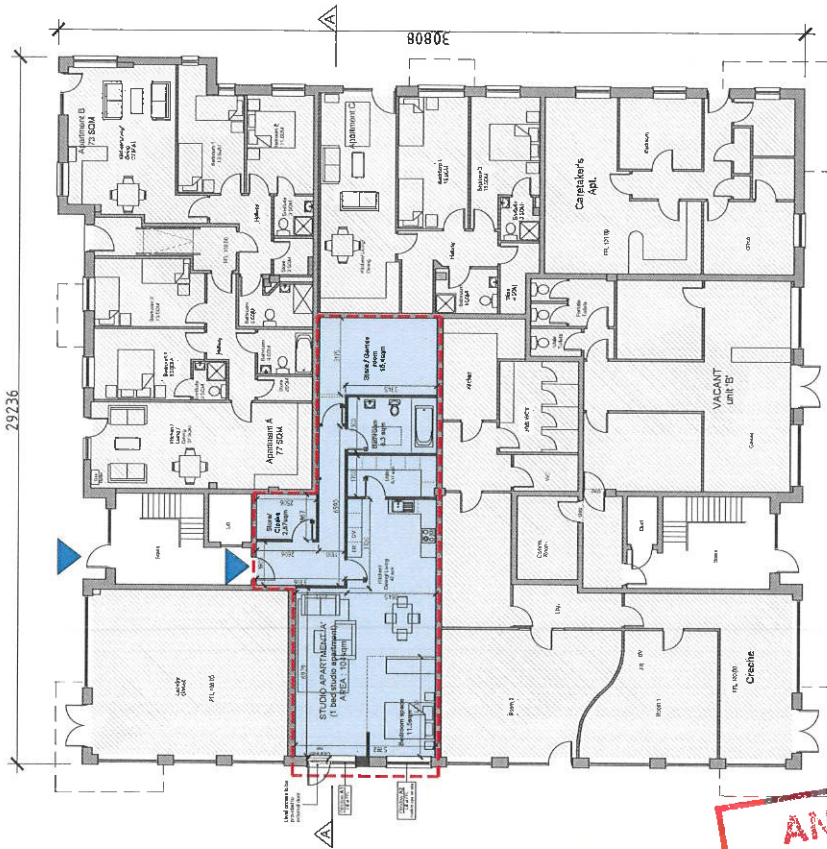
15 OCT 2018

NOTICE TO THE PUBLIC: The Board of Architectural Regulation (ABP) is pleased to announce that it has received a request for a variation of conditions of a planning permission for the proposed development of a new residential building at the site of the former... The Board has considered the request and has decided to grant the variation on the following conditions... The Board's decision is final and cannot be appealed.

No.	Comments	By	Date

Scale: 1:100
Project: Proposed 2 no. Apartments
Client: T. Clavin, Clavin & Co. Ltd., Murrigh
Date: Aug 2018
Checked by: [Signature]

Project No.: 18151
Client No.: 3004
Project Name: PROPOSED ELEVATION SECTIONS
Architect: O'Neill | O'Malley Ltd.
Address: [Address]



01 Ground Floor Plan
 Scale: 1:100
 Unit Building area 750.88sqm
 Proposed volume area: 104 sqm

Proposed Apartment Area:
 Apartment 'A' (Single): 104.00sqm

Complete Building Floor Areas:
 Ground Floor Area: 750.88sqm
 Second Floor Area: 553.97sqm
 Total Floor Area: 1,304.85sqm

No Works proposed to the First or Second Floors

AN BORD PLEANÁLA

15 OCT 2018

LTR DATED _____ FROM _____

LDG- _____

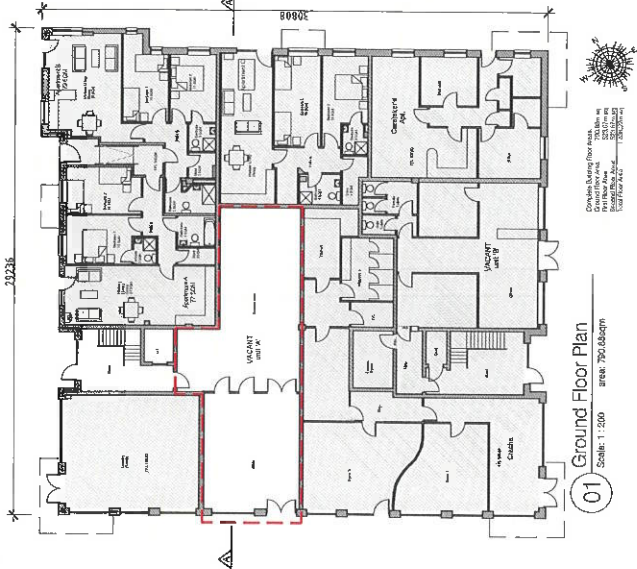
ABP- _____

CONSENT OF THE LOCAL AUTHORITY
 I, the undersigned, hereby certify that the above plan and specification of works proposed to be carried out on the above premises, in accordance with the conditions of the planning permission granted by the Local Authority on the 15th day of October 2018, are in accordance with the said plan and specification of works. I further certify that the works proposed to be carried out on the above premises, in accordance with the conditions of the planning permission granted by the Local Authority on the 15th day of October 2018, are in accordance with the said plan and specification of works. I further certify that the works proposed to be carried out on the above premises, in accordance with the conditions of the planning permission granted by the Local Authority on the 15th day of October 2018, are in accordance with the said plan and specification of works.

NO.	REVISIONS

DATE	BY	REVISIONS

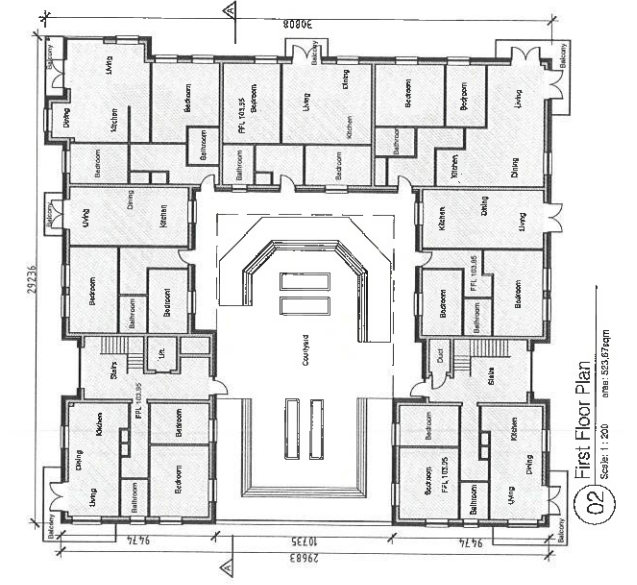
Scale: 1:100
Drawn by: J. O'Neil
Checked by: J. O'Neil
Date: Aug 2018
Project: Proposed 2 no. Apartments
Client: K Kiri Construction Cheshire Ltd
Drawn by: J. O'Neil
Checked by: J. O'Neil



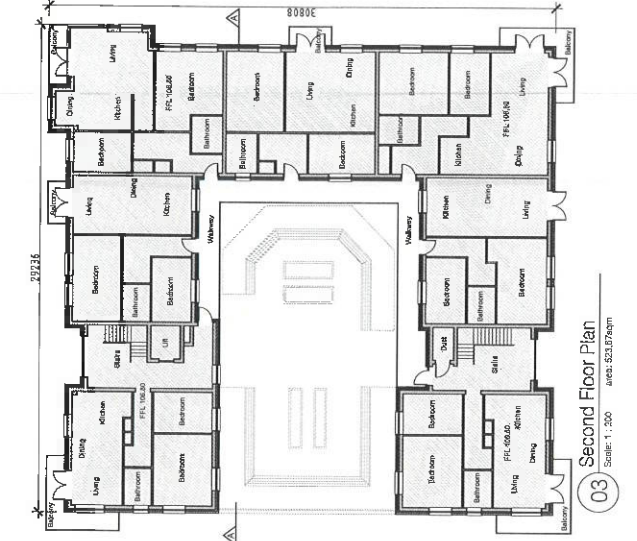
01 Ground Floor Plan
Scale: 1:200
Area: 790.04sqm



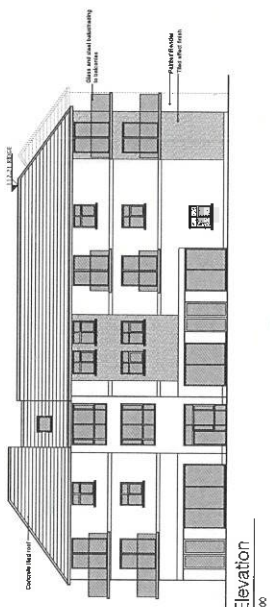
Check the Planning Portal for the latest version of the Planning Permission. The Planning Permission is subject to the conditions of the Planning Permission. The Planning Permission is subject to the conditions of the Planning Permission.



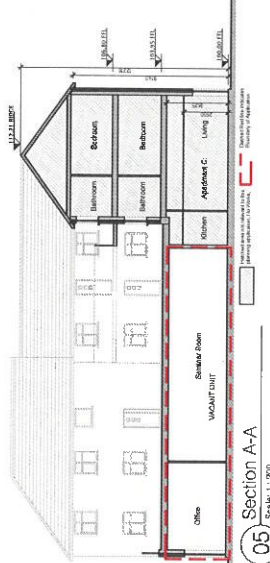
02 First Floor Plan
Scale: 1:200
Area: 553.67sqm



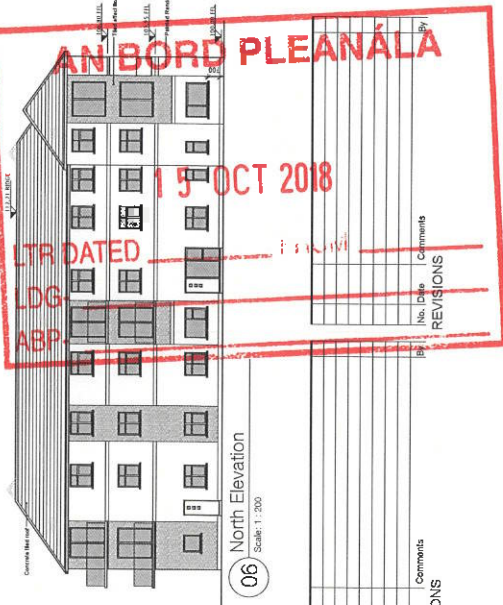
03 Second Floor Plan
Scale: 1:200
Area: 553.67sqm



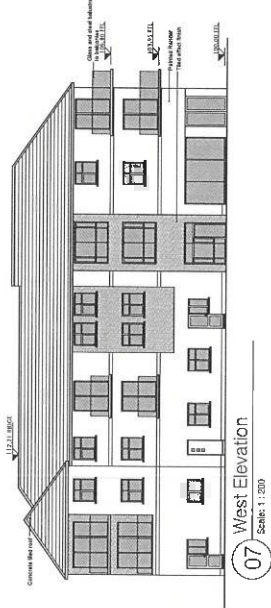
04 East Elevation
Scale: 1:200



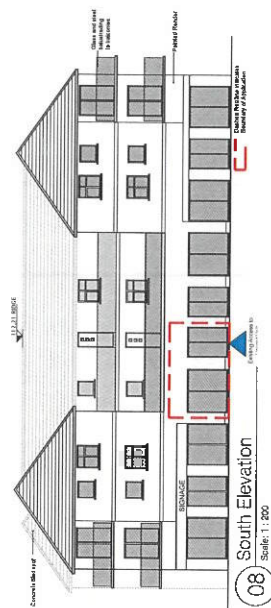
05 Section A-A
Scale: 1:200



06 North Elevation
Scale: 1:200



07 West Elevation
Scale: 1:200



08 South Elevation
Scale: 1:200

No.	Date	Comments	By	Checked By
REVISIONS				

Scale: 1:200
 Drawing Requested: Exempted Development
 Proposed Studio Apartment
 T1 Choinn, Gleann na Rí, Murrugh
 Client: K King Construction Claregalway Ltd.
 Date: August 2018
 Floor plan: A1
 Checked by: LTB/ah

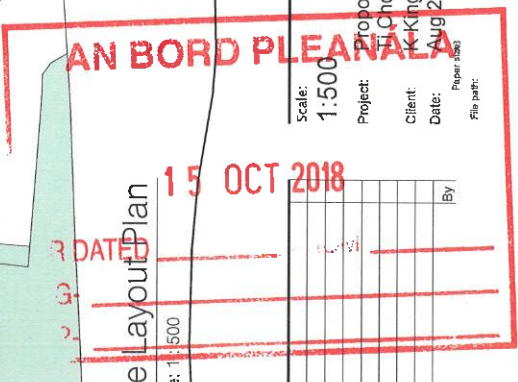
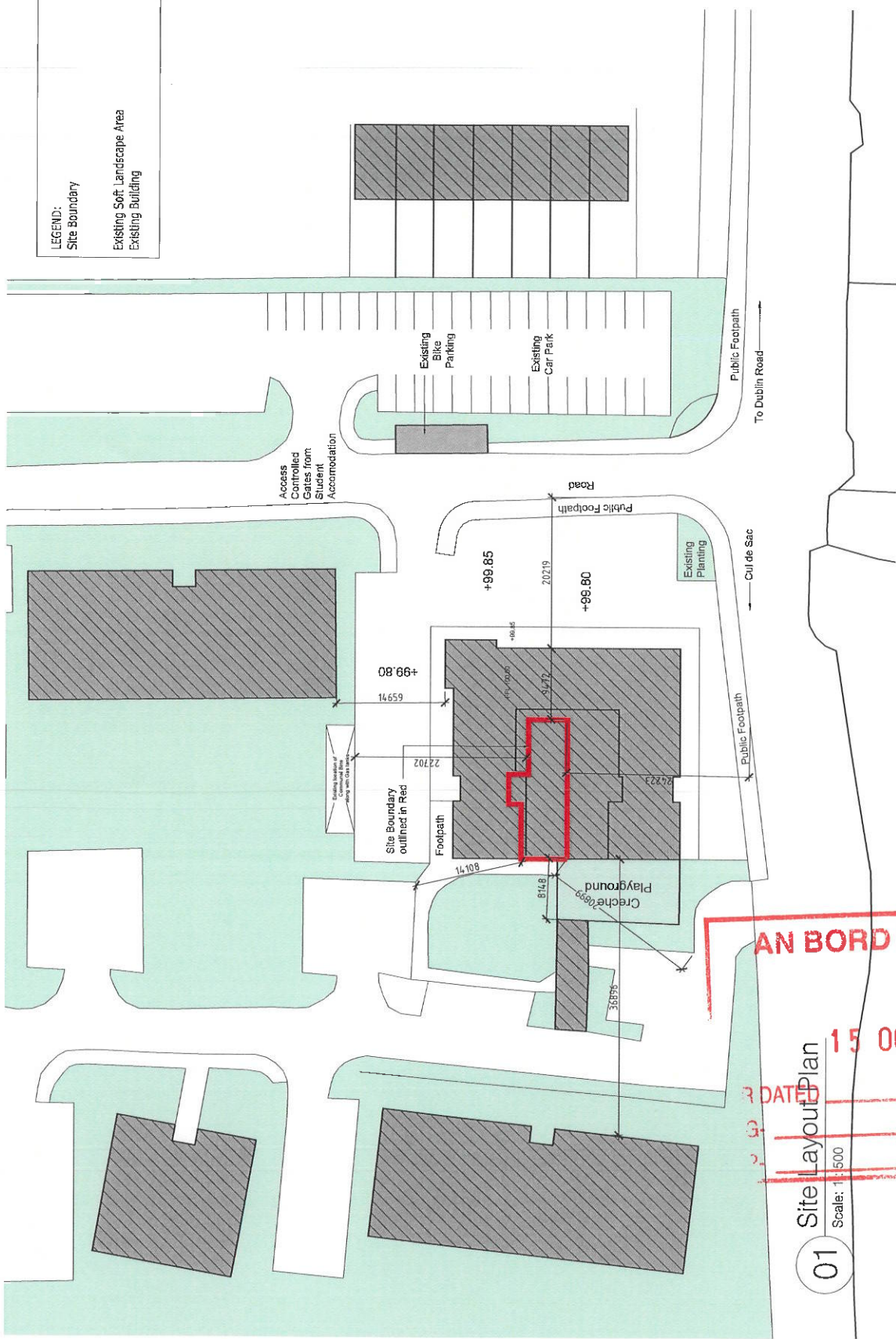
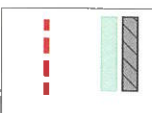
File Ref: 2.04
 Subject: Existing building - Plans, Elevations & Section
 Drawing No: 18161
 Project No: 3002
 Client: O'Neill | O'Malley Ltd.
 Architects + Project Management

EXISTING BUILDING
 Project No: 18161
 Drawing No: 3002
 Client: O'Neill | O'Malley Ltd.
 Architects + Project Management
 1: 200 (08/17/2018)
 2: 200 (08/17/2018)
 3: 200 (08/17/2018)
 4: 200 (08/17/2018)
 5: 200 (08/17/2018)



O'Neill | O'Malley Ltd.
 Architects + Project Management

LEGEND:
Site Boundary
Existing Soft Landscape Area
Existing Building



01 Site Layout Plan
Scale: 1:500

No.	Date	Comments	By

Scale: 1:500

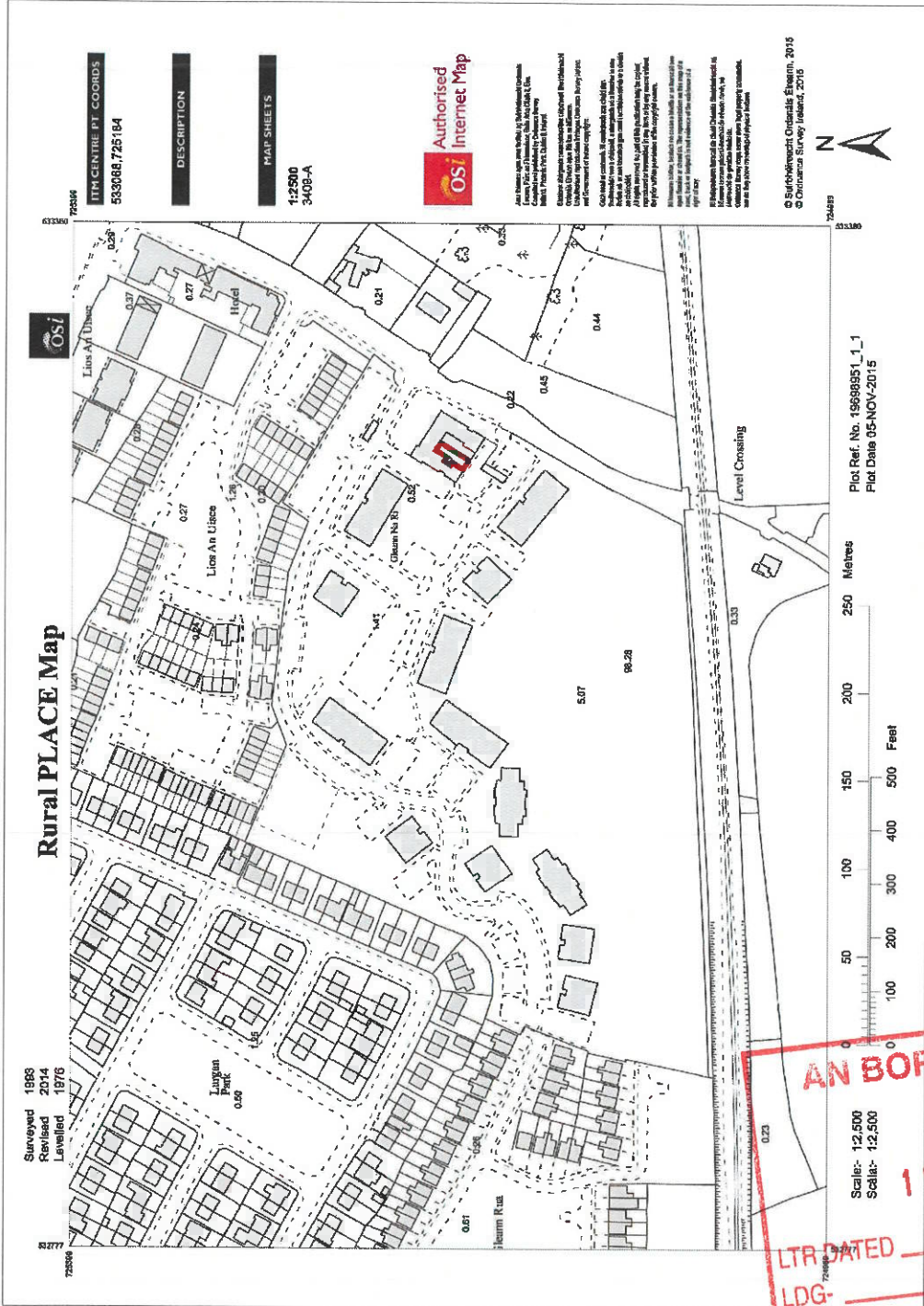
Project: Proposed Studio Apartment
J. O'Connell, Gleann na Ri, Murrone
Client: K-King Construction Claregalway Ltd
Date: Aug 2018
Paper: A3
File path:
Checked by: SOR
L1:Bealle

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

Project No. 18161
Drawing No. 3001
Rev. -



Second Floor,
Technology House,
Galway Technology Park,
Palanore, Galway,
T: +353 (0)91 771033
F: +353 (0)91 771587
E: info@omnlb



Ordnance Survey Licence No. AR0113318

		Project No.	18161	Drawing No.	3000	Rev.	-
		File Ref.	3.09	Subject	LOCATION MAP		
		Drawing Purpose:	Exemption Application				
		Proposed Studio Apartment					
		Ti Choimn, Gleann na Ri, Murrrough					
		Client: X King Construction Claregalway Ltd.					
		Date: Aug 2018	Drawn by: SOR	Checked by:			
		CTB file:					
		LTB file:					
No.	Date	Comments	By				
REVISIONS							

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 771567
 E: info@onm.ie



Comhairle Cathrach na Gaillimhe
Galway City Council

Halla na Cathrach
Bóthar an Chofáiste
Gaillimh
H91 X4K8

City Hall
College Road
Galway
H91 X4K8

Our Ref: P/DC/3/15/18

17th September 2018

K King Construction Claregalway Ltd.,
c/o O'Neill O'Malley,
1st Floor, 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 existing vacant office space and seminar room to a 1 bedroom
studio apartment, and connections to existing services within the building.**

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 seminar room and office space were granted as ancillary to the main student accommodation, as 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".

AN BORD PLEANÁLA

15 OCT 2018

Mise le Meas,

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

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Fáiltear roimh chomhfhreagras i nGaeilge / Correspondence in Irish is welcomed

Section 5 of Planning and Development Act 2000, as amended.

Ref. No.: P/DC/3/15/18
Address: TI Choinn, Gleann na RI, Galway.
Applicant: K. King. Construction Ltd.

Description of Development: Conversion of ground floor office space and seminar room, at TI Choinn, Gleann na RI, for use as a 1-bed studio 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 creche 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.

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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 office / seminar room, at TI Choinn, Gleann na Ri, to a 1-bed studio apartment.

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).

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APP _____

Proposal

The applicant's agent has provided a cover letter on file, which states that the office / seminar room 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 (104sqm) 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.

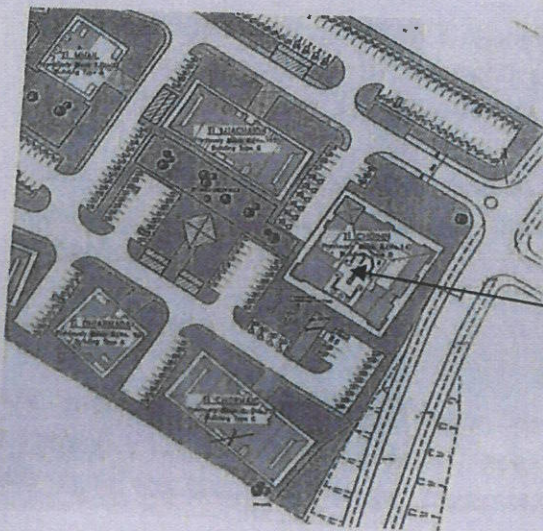
It is proposed to carry out alterations to the existing windows serving the office space. These alterations are considered to be non-material alterations (see existing and proposed southern elevation).

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, seminar room or offices, 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 office / seminar room 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. 02/316. 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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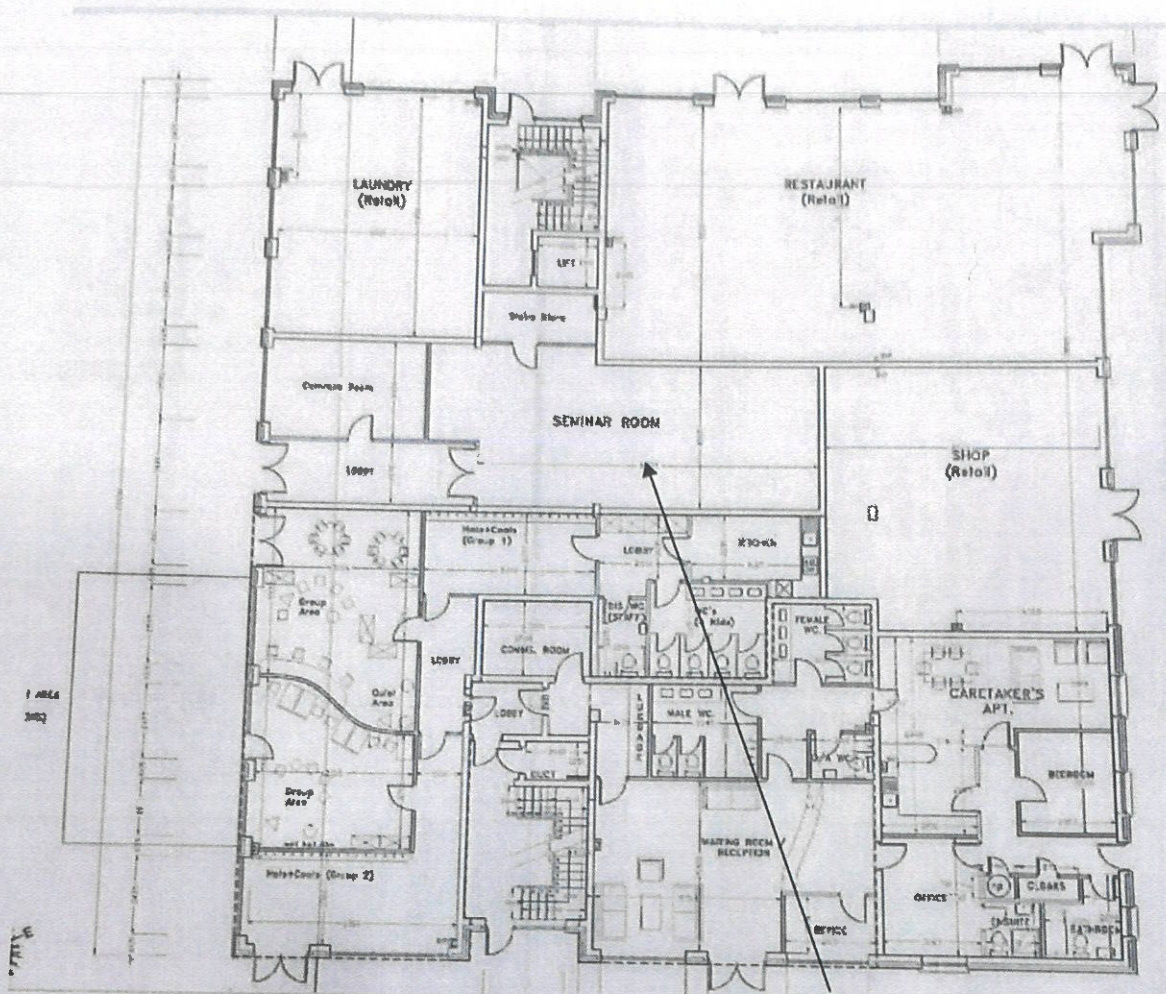
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BLOCK D



Office / Seminar room

The current application relates to a change of use of an office space / seminar room shown above. It would appear from the floor plan above that the area in question relates to a common room and a seminar room, as opposed to an office space and a seminar room.

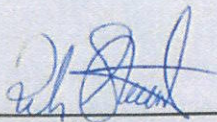
In any case, given that the uses in question were ancillary to the student accommodation as originally granted, it is considered that the exemption referred to under Article 6 (1) (6) does not apply in this case.

Recommendation


The seminar room and office space were granted as ancillary to the main student accommodation, as originally granted under PI. Ref. 99/918, as amended by PI. Ref. 02/346. In this regard the proposed change of use would contravene the conditions attached to PI. Ref.

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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


CEP

12/09/18

AN BORD PLEANÁLA

15 OCT 2018

LTR DATED _____ CHOM _____

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ABP- _____

