



**GREEN DESIGN BUILD**  
ENVIRONMENT ARCHITECTURE CONSTRUCTION

142 Upper Leeson Street, Dublin 4, Telephone 01-2325917 Mobile: 087-2287444, info@greendesignbuild.ie

6th August 2019 .

The Secretary  
An Bord Pleanala  
64 Marlborough Street Dublin 1 .

**AN BORD PLEANALA**  
 LDG- 018175-19  
 ABP- \_\_\_\_\_  
 06 AUG 2019 2019  
 Fee: € 220 Type: CH2  
 Time: 17:05 By: hand

REFERRAL Re :  
Kildare County Council Declaration of Exempt development Under Section 5 of Planning Act 2000  
Natural Bakery Company Ltd , Unit 13 Manor Mills Shopping Centre Maynooth Co.Kildare . ED/00740.

Dear Sir/Madam ,

I am making this REFERRAL under the Planning & Development Act 2000 (as ammended) on behalf of my clients Natural Bakery Company Ltd , regarding the decision of Kildare County Council Section 5 decision Unit 13 Manor Mills Shopping Centre Maynooth Co.Kildare . ED/00740. and the prescribed fee cheque of €220 is attached herein . The details of this REFERRAL are outlined as follows :

History / Background .

The Natural Bakery took over a Retail Unit 94sqm (formerly retail Clothes unit) in Manor Mills Shopping Centre Mall , Maynooth early in 2018 . Soon after the Local Authority received a complaint (possibly commercially motivated from another Unit in the shopping mall) about the new Bakery Unit . A Warning Letter was issued (copy attached ) and subsequently despite several letters and phone calls to the Planning Dept , an Enforcement Notice ( UD 7135 ) was issued , centering on the alleged "change of use" from "Retail Clothes Unit " to "Retail Bakery Unit /food production and sales for consumption on and off the premises and with limited ancillary customer seating " . Despite reductions in the level of seating pending the outcome of a Section 5 Declaration , the Council maintained their Enforcement until the seating was removed , pending this Referral .

Referral :

"Use of an existing Retail unit for bakery sales including sandwiches , cakes breads etc for consumption on and off the premises and ancillary use of the unit for tea/coffee with ancillary seating " .

We respectfully request that An Bord Pleanala investigate the above matter where we believe Kildare County Council have made an error in their Section 5 declaration and their extremely narrow interpretation of Retail Shop under the planning acts , despite the obvious evidence to the contrary throughout the country

Yours sincerely,  
Tom Duffy .MRIAI .



Comhairle Contae Chill Dara  
Kildare County Council



Declaration of Development & Exempted Development under  
Section 5 of the  
Planning and Development Act 2000 (as amended)

**WHEREAS** a question has arisen as to whether use of an existing retail unit for bakery sales including sandwiches, cakes, bread and other bakery related products for consumption on and off the premises and ancillary use of bakery retail unit for consumption of food/tea/coffee at Unit 13 Manor Mills Shopping Centre, Maynooth, Co. Kildare is or is not development and is or is not exempted development

**AS INDICATED** on the plans and particulars received by the Planning Authority on 7<sup>th</sup> June 2019

**AND WHEREAS** Natural Bakery Ltd., c/o Thomas P. Duffy, 142 Upper Leeson Street, Dublin 4 requested a declaration on the said question from Kildare County Council

**AND WHEREAS** Kildare County Council as the Planning Authority, in considering this application for a declaration under Section 5 of the Planning and Development Act 2000 (as amended), had regard to;

- (a) Planning and Development Act 2000 (as amended) and
- (b) Planning and Development Regulations 2001 (as amended);

**AND WHEREAS** Kildare County Council has concluded that the development comprises works to which the provisions of the following applies:

- (a) Sections 3 and 5 of the Planning and Development Act 2000 (as amended);
- (b) Articles 5 and 10 of the Planning and Development Regulations 2001 (as amended), and
- (c) The planning history pertaining to the subject site in particular condition No. 9 of 01/2220.

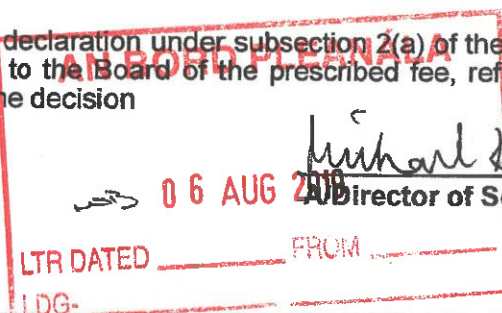
**NOW THEREFORE** Kildare County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the Planning and Development Act 2000 (as amended), hereby decides that -

Use of an existing retail unit for bakery sales including sandwiches, cakes, bread and other bakery related products for consumption on and off the premises and ancillary use of bakery retail unit for consumption of food/tea/coffee at Unit 13 Manor Mills Shopping Centre, Maynooth, Co. Kildare **is development and is not exempted development** for the following reason:

- The use of Unit 13 Manor Mills Shopping Centre is controlled by Condition No. 9 of 01/2220 which states that retail units shall be limited to shop use as set out in the Local Government (Planning and Development) Regulations, 1994, unless prior planning permission for such change of use has been obtained.
- The provision of customer seating for the consumption of food on the premises does not constitute a 'shop' use as defined by the Local Government (Planning and Development) Regulations 1994 and therefore does not comply with Condition No. 9 of 01/2220.
- The change of use from shop to any other use is considered to constitute Development and is not Exempted Development in accordance with Article 10 and Schedule 2, Part 4 of the Planning and Development Regulations 2001 (as amended).

Please note that any person issued with a declaration under subsection 2(a) of the Planning and Development Act 2000 (as amended) may on payment to the Board of the prescribed fee, refer a declaration to An Bord Pleanála within 4 weeks of the issuing of the decision

08<sup>th</sup> July 2019



Comhairle Contae Chill Dara  
Kildare County Council



**Planning Department**  
PLANNING CONTROL SECTION  
045-980839

Our Ref. UD7135

1st July 2019

Tom Duffy  
Green Design Build  
142 Upper Leeson Street  
Dublin 4

**RE: Development at The Natural Bakery, Manor Mills Shopping Centre,  
Maynooth, Co Kildare.**

Dear Mr. Duffy,

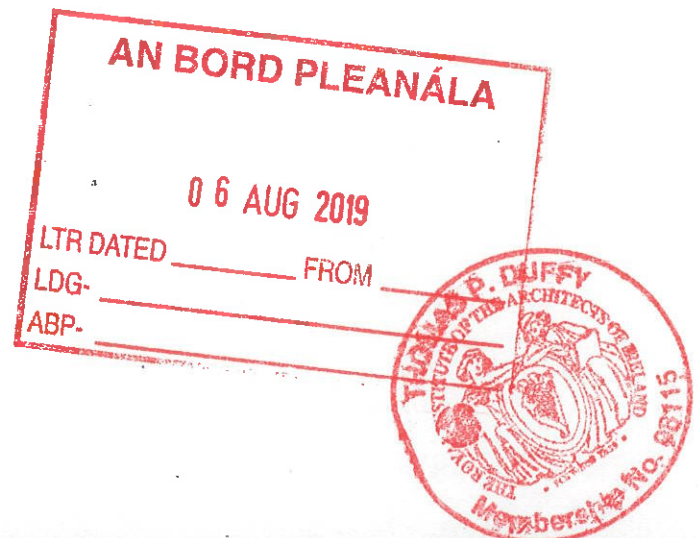
I refer to previous correspondence in relation to the above development.

Please be advised that as the unauthorised development has been removed from the site, the Enforcement Notice issued on 24th August 2018 has been withdrawn.

Accordingly no further enforcement action shall be taken in this regard and the case is now closed.

Yours sincerely,

*pp. O'Maugh*  
\_\_\_\_\_  
Senior Executive Officer  
Planning Department





Comhairle Contae Chill Dara  
Kildare County Council



Date: 08/07/2019  
Our Ref: ED/00740

**REGISTERED POST**

Natural Bakery Ltd  
c/o Thomas P. Duffy,  
142 Upper Leeson Street,  
Dublin 4

**RE: Application for a Declaration of Exempted Development under Section 5 at Unit 13, Manor Mills Shopping Centre, Maynooth, Co.Kildare**

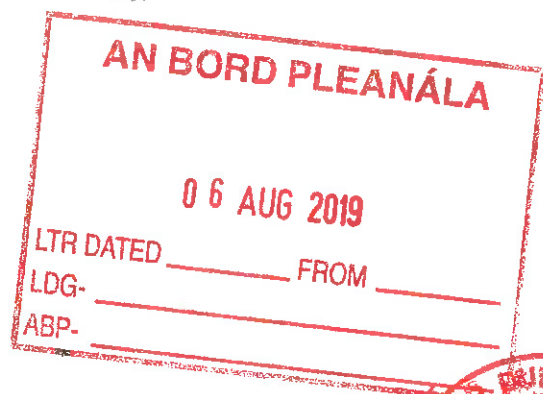
Dear Sir/Madam,

I refer to your correspondence received 07 June 2019 in connection with the above.

Please find attached declaration made under Section 5 of Planning and Development Acts 2000 as amended in this regard.

Yours sincerely,

*W. Dea*  
Senior Executive Officer  
Planning Department



Comhairle Contae Chill Dara  
Kildare County Council



Date: 10/06/2019  
Our Ref: ED/00740

Natural Bakery Ltd  
c/o Thomas P. Duffy  
142 Upper Leeson Street,  
Dublin 4

**RE: Application for a Declaration of Exempted Development under Section 5 at Unit 13,  
Manor Mills Shopping Centre, Maynooth, Co.Kildare**

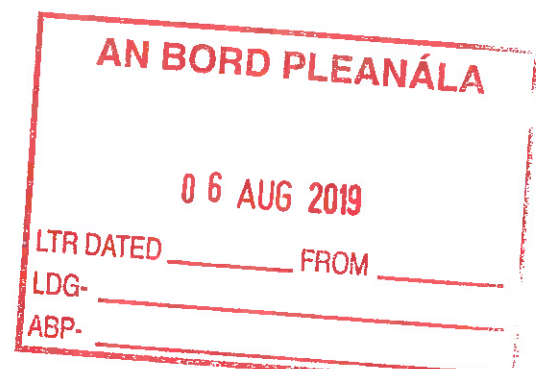
Dear Sir/Madam,

I refer to your correspondence received 07 June 2019 in connection with the above. Your application is now being considered and we will revert in due course.

Please find attached receipt no.424550 in respect of the €80 fee, received with thanks.

Yours sincerely,

*CP*  
  
Senior Executive Officer,  
Planning Department





FINANCE CASH OFFICE  
Kildare County Council  
Aras Chill Dara  
Devoy Park  
Naas  
Co. Kildare  
07/06/2019 14:41:53

Receipt No. : FIN1/0/424550

RE: SECTION 5  
REF: NATURAL BAKERY LTD

PLANNING EXEMPT DEVELOP FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	

Total : 80.00 EUR

Tendered :  
Money Order 80.00

Change : 0.00

Issued By : Ann Quinn Finance  
From : Financial Lodgement Area  
Vat reg No.0440571C

Kildare County Council

Declaration of Exempt Development under Section 5,  
of the Planning and Development Act 2000 as amended

Incomplete application forms will  
be deemed invalid and returned



All responses must be in block  
letters

**Section 1**      **Details of Applicants**

1. Name of Applicant(s) A. Surname... Natural Bakery..... Forenames... Ltd.....  
Phone No... 0872287444..... Fax No... N/A.....
2. Address ..... Unit 13 Manor Mills Shopping Centre Maynooth

**Section 2**      **Person/Agent acting on behalf of applicant (if applicable)**

1. Name of Person/Agent: Surname... Thomas Patrick ..... Forenames..... Duffy Finnerty  
Phone No..... 0872287444..... Fax No.....
2. Address..... 142 Upper Leeson Street Dublin 4

**Section 3**      **Company Details (if applicable)**

1. Name of Company ..... Natural Bakery Ltd  
Phone No 0872287444 Fax No... N/A.....
2. Company Reg. No..... N/A.....
3. Address..... Donnybrook Dublin 4

**Section 4**      **Details of Site**

1. Planning History of Site..... Retail Unit in Shopping Centre .....
2. Location of Proposed Development... - Unit 13 Manor Mills Shopping Centre Maynooth
3. Ordnance Survey Sheet No.....
4. Please state the Applicants interest in the site - Owner
5. Please state the extent of the proposed development.....

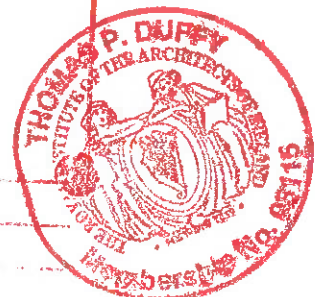
AN BORD PLEANÁLA

06 AUG 2019

DATE

LOG-

REF-



Ancillary use of Bakery Retail unit for consumption of food / tea / coffee .

6. Under what Section of the Planning and Development 2000 as amended and/or what provision of the Planning and Development Regulations 2001 as amended is exemption sought (*specific details required*).....

"Use of Retail Unit for Bakery Sales for Consumption on and off the premises , Ancillary use of Bakery Retail unit for consumption of food / tea / coffee , unit formerly Retail Clothes Shop ."  
"....."

7. Please give a detailed description of the Proposed Development (*Use separate page if necessary*).....

"Use of Retail Unit for Bakery Sales for Consumption on and off the premises , Ancillary use of Bakery Retail unit for consumption of food / tea / coffee , unit formerly Retail Clothes Shop . "....

<b>Section 5</b>	<b>The following must be submitted for a valid application</b>
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(Please Tick)

1.	Site Location Map (1:2500 Rural Areas) (1:1000 Urban Areas)	
2.	A Site Layout Plan (Scale 1:500) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended	
3.	Drawings of the development (Scale 1:50) in full compliance with Article 23 of Planning and Development Regulations 2001 as amended	
4.	All drawings to differentiate between the original building, all extensions and proposed development	
5.	Fee of 80 Euro	

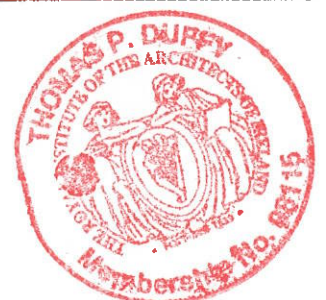
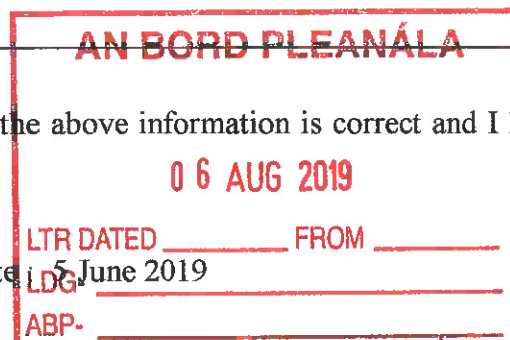
<b>Section 6</b>	<b>Declaration</b>
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I, Thomas Patrick Duffy Finnerty certify that all of the above information is correct and I have submitted all the required documents as outlined at Section 6 above.

Signature:



Date: 5 June 2019







**GREEN DESIGN BUILD**  
ENVIRONMENT ARCHITECTURE CONSTRUCTION

142 Upper Leeson Street, Dublin 4, Telephone 01-2325917 Mobile: 087 – 2287444, info@greendesignbuild.ie

23rd January 2019 .

Chief Planning Officer .  
Planning Department .  
Planning Control Section  
Kildare County Council  
Devoy Park  
Naas  
Kildare.

Ref : UD7135 . Alleged Unauthorised development at The Natural Bakery Retail Unit Manor Mills Shopping Centre Maynooth Co.Kildare .

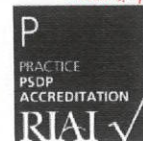
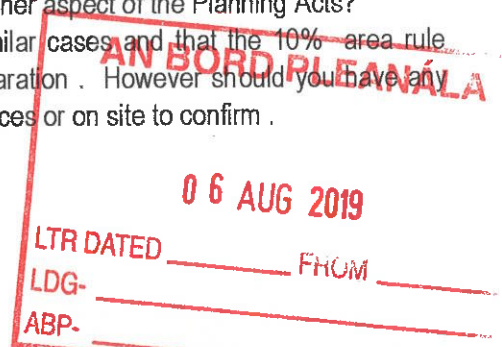
Dear Sir/Madam ,

Further to receipt of your letter dated 20th December 2018 , in response to our of 14/11/18 , please note the following points :

1. I inspected & photographed the Bakery Retail unit on 17th January 2019 and found three high tables and 12 stools .
2. Based on the area of the Retail unit ,and the area occupied by the tables & stools the area for seating is less than 10% of the area of the shop unit . This is generally considered to be "ancillary " to the main Retail use , according to our understanding of Irish Planning Law , and our extensive enquiries with and which have been confirmed by (a) your own very helpful Kildare Planning Dept and the planning departments of (b)Dublin City Council , (c)South Dublin County Council , (d)Dun Laoghaire Rathdown County Council & (e)Fingal County Council . Based on our research therefore we are satisfied that there is no change of use taking place .
3. In your letter you refer to "de minimis" . Can you please explain what you are referring to and if this phrase is used in the development plan for Kildare or if this phrase relates to another aspect of the Planning Acts?
4. We are also satisfied that An Bord Pleanála have clarified many similar cases and that the 10% area rule applies , and therefore there should be no need for a Section 5 Declaration . However should you have any query in relation to this we would be very happy to meet you at your offices or on site to confirm .

Yours sincerely,

Tom Duffy. MRIAI .





**GREEN DESIGN BUILD**  
ENVIRONMENT ARCHITECTURE CONSTRUCTION

142 Upper Leeson Street, Dublin 4, Telephone 01-2325917 Mobile: 087 – 2287444, info@greendesignbuild.ie

30th July 2018 .

The Chief Planning Officer  
Planning Department .  
Kildare County Council  
Naas , Co. Kildare .

Ref : WARNING LETTER UD7135 .  
Natural Bakery Retail Unit no. 13 Manor Mills Shopping Centre Maynooth Co. Kildare .

Dear Sir /Madam ,

I am writing on behalf of the Natural Bakery Retail Unit no. 13 Manor Mills Shopping Centre Maynooth Co. Kildare , in response to your Warning Letter ( alleged change of use from Retail to cafe ) received dated 11th July 2018 , ref . Section 154 Planning & Development Acts 2000-2017 and our response is as follows :

1. The Unit in question is a small Retail Bakery , and Irish owned and operated company employing local people , where the main activity is the preparation / baking on site and sale of Bread and other Baked items (cakes etc ) for consumption off the premises . Details about the Natural Bakery are available online as follows :

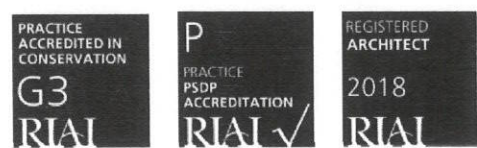
*"We are an Irish company dedicated to bring you the very best breads and pastries made daily, from scratch and with top quality ingredients. We opened our first bakery in Kilmainham in August 2013, after Luke Creighan, owner and director, realised that there was a demand for more authentic, artisan baked goods. He took inspiration from bakeries he'd found across Europe through the years and combined recipes from French, Italy and Central Europe with beloved Irish classics, for an eclectic offer that also includes fine coffee and exceptional service.*

*The concept was soon a success and by 2014, The Natural Bakery was opening shops in Donnybrook, Rathmines, Ranelagh and Stillorgan. In 2015 an online shop followed as well as bricks and mortar locations in Dun Laoghaire, Clarehall, Baggot Street, IFSC and Naas. July 2016 saw the opening of our newest shop in Parkgate Street.*

*Besides the freshness of our products and the fact that we bake everything ourselves, we offer customers long opening hours every day of the week, which makes for a convenient shopping experience, and is part of what makes us a great neighbourhood bakery.*

*Recently, we've started our Grain Project, working to include even more Irish ingredients and developing flour from 100% Irish wheat and cereals. This unique project saw us getting in touch with local farmers and sourcing, milling and baking the ultimate Irish soda bread, as well as plenty of other loaves and sourdoughs."*

AN BORD PLEANALA  
8th AUG 2018  
LDG- FROM



2. Ancillary to the main Retail Bakery use the shop also caters for the following limited minor uses :

- Demonstration space for bakery classes , demonstrations and tasting .
- sandwich / deli prep area .
- coffee/tea sales area .
- limited seating area .

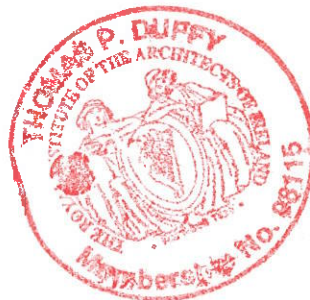
We are satisfied that the Natural Bakery Retail Unit at Manor Mills Shopping Centre is substantially in compliance with the Proper Planning and Development of the area , as can be evidenced from a visit to the shop , however should you require any further information please contact us by email or on 0872287444 .

Many thanks for your co-operation.

Yours sincerely ,



Tom Duffy . Dipl Arch BSc MRIAI  
Green Design Build .



<b>AN BORD PLEANÁLA</b>	
06 AUG 2019	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

Comhairle Contae Chill Dara  
Kildare County Council

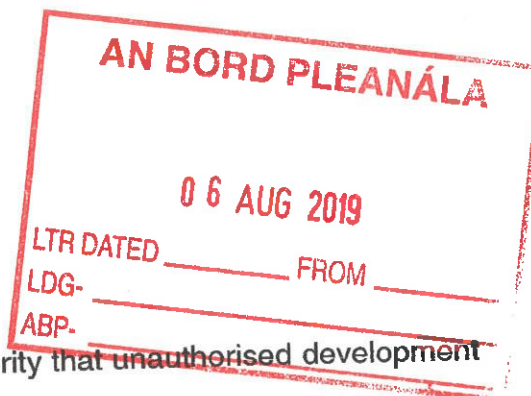


**WARNING LETTER**

Ref No: UD7135

**REGISTERED POST**

Jenna Culligan  
Sigma Retail Partners,  
53 Fitzwilliam Square,  
Dublin 2.



Dear Madam,

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:

- **The change of use from a retail clothes unit to a coffee shop.**

On land at the following address;

- **Manor Mills Shopping Centre, Maynooth, Co. Kildare.**

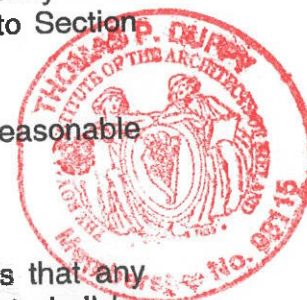
The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning & Development Acts 2000-2017 you are entitled to make submissions or observations **in writing** to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard **not later than four weeks from the date of service of this warning letter.** Please clearly state the reference number in any correspondence to the Council.

Where the Planning Authority considers that unauthorised development may have been, is being or may be carried out, an Enforcement Notice, pursuant to Section 154 of the Act, may be issued.

The Planning Authority's officials or its authorised agent(s), may at all reasonable times enter onto the land for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000-2017 provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the Planning and Development Acts 2000-





Comhairle Contae Chill Dara  
Kildare County Council



2017 provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

The possible penalties involved where there is an offence are as follows:

- Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both,  
Or
- Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

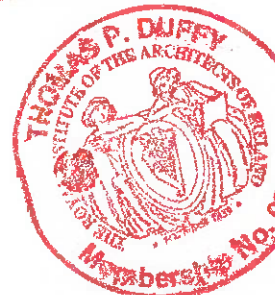
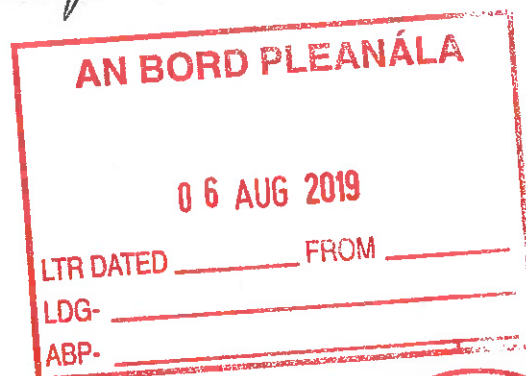
Under Section 154(7) of the Planning & Development Act 2000 - 2017 any costs incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom enforcement notice is served or where a court action is taken.

Your attention is drawn to the provisions of Section 156(6) of the Planning & Development Acts 2000 - 2017, which places the onus on a developer to prove that a development is exempt development and it is to be assumed that it constitutes development until the contrary is shown by the developer. Note also that the onus of proof as to the existence of any planning permission lies with the developer.

Your attention is further drawn to the provisions of Section 162(3) of the Planning and Development Acts 2000 - 2017, which states that enforcement action shall not be stayed or withdrawn (including for an application under Section 160) by reason of an application for permission for retention of a development under Section 34(12) or the grant of any such permission.

Signed:   
P. Minnock  
Director of Services.

Date: 11<sup>th</sup> July 2018





Convenience  
2,940 sq m

AN BORD PLEANÁLA

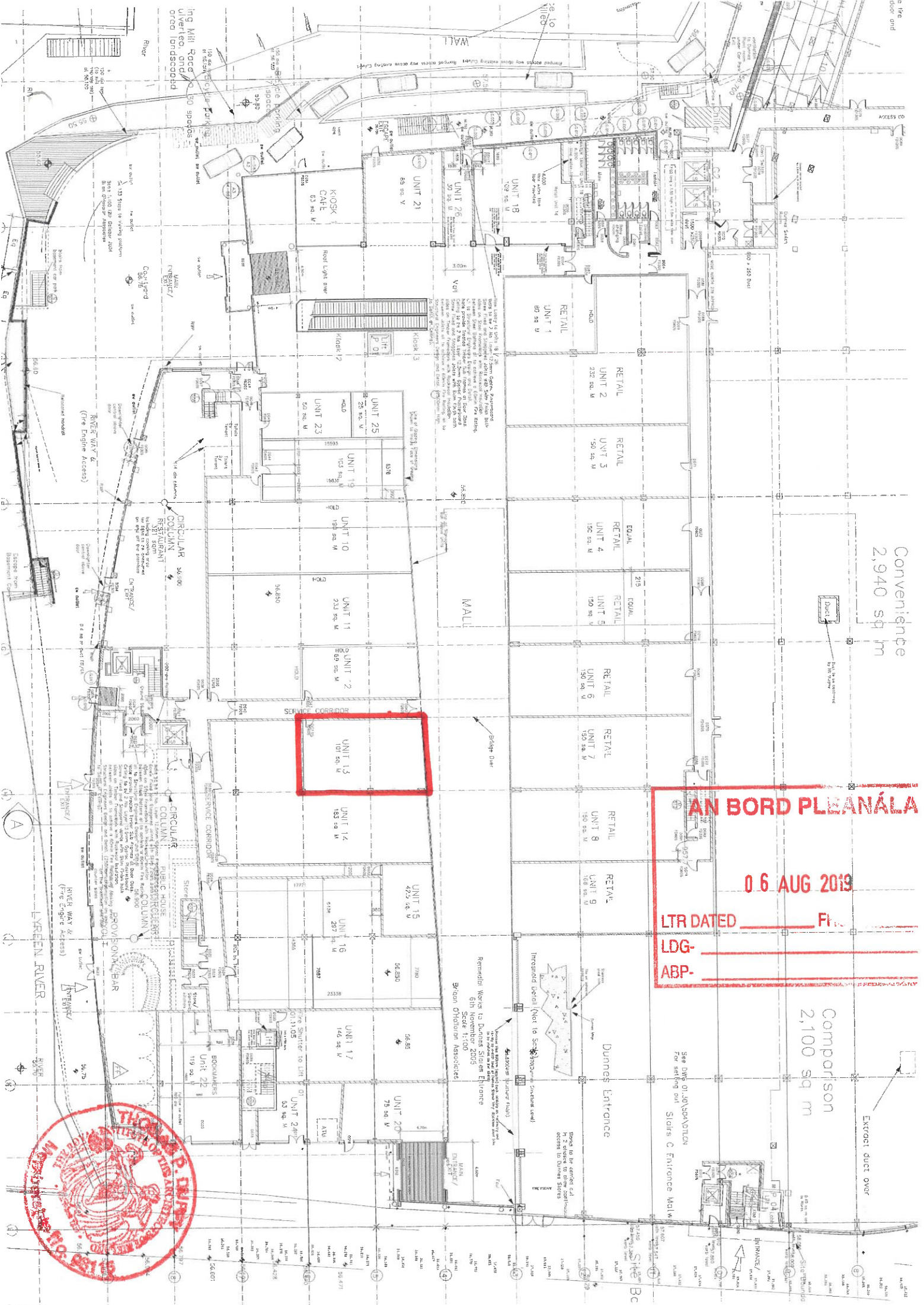
0 6 AUG 2019

LTR DATED \_\_\_\_\_ Fi...  
LDG- \_\_\_\_\_  
ABP- \_\_\_\_\_

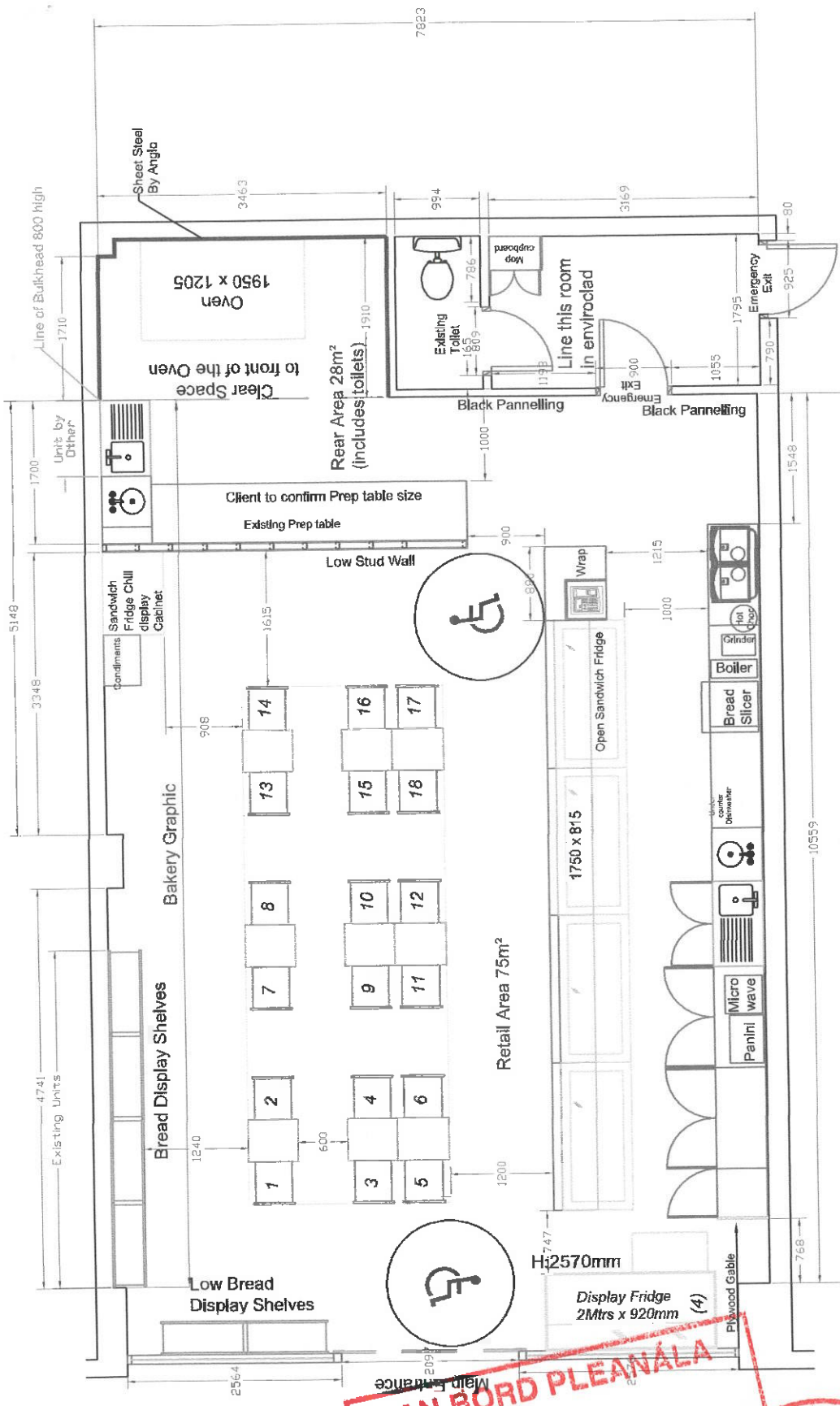
Comparison  
2,100 sq m

See DWG 01-ADAPTATION  
for setting out  
Stairs C Entrance Walk

Extract duct over



N.1.2



\* Subject to Site Survey  
Graphic: Big Bread


Notes:  
Existing Plaster board Ceiling  
Existing Roller Shutter

F/C:3285mm  
Retail Area: 94Mts Sq

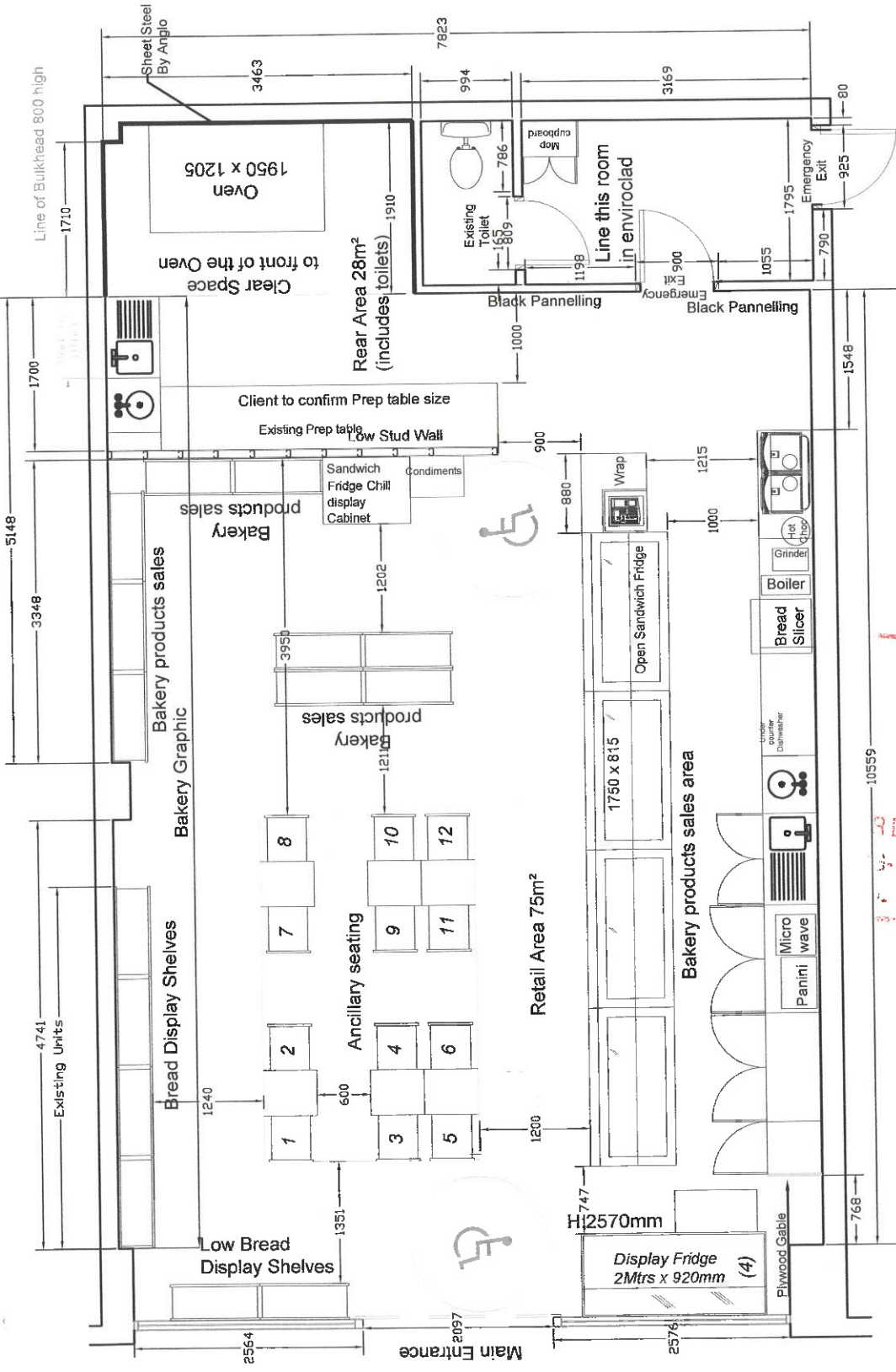
DRAFT

AN BORD PLEANÁLA  
06 AUG 2019  
LTD DATED FROM



 <p>JOHNSTON ARCHITECTS we get there!</p> <p>Address: Unit 12, Bluckell Ind. Est., Dunhills 12, Leixlip, Tel. No. Etc.: +353 (0)1 4196419 Fax No. Etc.: +353 (0)1 4581417 E-Mail: e-design@johnston-architects.com</p>		<p>CAD Filename: 6403A-Natural Bakery-Unit 13 Manor Mills SC-Maynooth Co.Kildare-Plan Rev 8.dwg</p> <p>Drawing No.: 6403A-01</p> <p>Title: Plan</p> <p>Scale: 1:50 on A3</p> <p>Drawn by: D.Kenny</p> <p>Date: 14/03/2018</p>		<p>Client: Luke Creighan</p> <p>Project: The Natural Bakery-Maynooth</p> <p>Location: Unit 13 Manor Mills SC, Maynooth Co. Kildara</p> <p>Cutting List No: Cl-</p> <p>© Copyright 2018</p>		<p>Revision Table:</p> <table border="1"> <thead> <tr> <th>DATE</th> <th>BY</th> <th>REASON</th> </tr> </thead> <tbody> <tr> <td>26/03/18</td> <td>MN</td> <td>Layout Changes</td> </tr> <tr> <td>03/05/2018</td> <td>DK</td> <td>Layout Changes to back counter, Ref AJ</td> </tr> <tr> <td>09-05-18</td> <td>PC</td> <td>Swapped sides of shop</td> </tr> <tr> <td>10/05/2018</td> <td>DK</td> <td>Change to prep area additional hand sink added in</td> </tr> <tr> <td>11-05-18</td> <td>PC</td> <td>Changes to electrical</td> </tr> </tbody> </table>		DATE	BY	REASON	26/03/18	MN	Layout Changes	03/05/2018	DK	Layout Changes to back counter, Ref AJ	09-05-18	PC	Swapped sides of shop	10/05/2018	DK	Change to prep area additional hand sink added in	11-05-18	PC	Changes to electrical	<p>NOTES:</p> <ol style="list-style-type: none"> <li>Do Not Scale From Drawing</li> <li>All Dimensions in Millimetres (mm).</li> <li>All Dimensions To Be Checked On Site.</li> </ol> <p>Date: _____</p> <p>Accepted By: _____</p>	
DATE	BY	REASON																									
26/03/18	MN	Layout Changes																									
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11-05-18	PC	Changes to electrical																									





REGISTERED ARCHITECT  
2019  
**RAI**

**GREEN DESIGN BUILD**  
142 UPPER LEESON STREET, DUBLIN 4  
MCS: 007 2837444  
TEL: 01-2325917

PROJECT:  
NATURAL BAKERY  
UNIT 13,  
MANORS MILL S. C.  
MAYNOOTH  
CLIENT:  
LUKE CREGHAN

TITLE:  
GROUND FLOOR PLAN

SCALE: 1:100  
DRAWN BY: DB  
DATE: 06/08/2019

DRAWING NUMBER:  
**083-ED-S5-01**

\* Subject to Site Survey  
F/C: 3285mm  
Retail Area: 94Mts Sq

**AN BORD PLEANA**  
06 AUG 2019

Notes:  
Existing Plaster board Ceiling  
Existing Roller Shutter

**GROUND FLOOR LAYOUT**  
SCALE 1:50

DECLARATION OF EXEMPT DEVELOPMENT UNDER SECTION 5  
USE OF EXISTING RETAIL UNIT FOR BAKERY SALES INCLUDING SANDWICHES, CAKES, BREAD, AND OTHER BAKERY RELATED PRODUCTS FOR CONSUMPTION ON AND OFF THE PREMISES, ANCILLARY USE OF BAKERY RETAIL UNIT FOR CONSUMPTION OF FOOTEA/COFFEE, UNIT FORMERLY RETAIL CLOTHES SHOP