

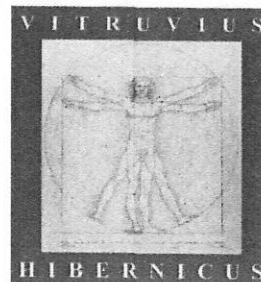
LIAM MADDEN

EU REGISTERED ARCHITECT NETHERLANDS REG. NO. 1180615.001

U.K. REGISTERED ARCHITECT REG. NO. 0461701

ENVIRONMENTAL SCIENTIST

**AN BORD PLEANÁLA**  
LDG- 025665-20  
ABP- \_\_\_\_\_  
14 APR 2020  
Fee: € 220 Type: Cheque  
Time: 97 By: Reg Post  
307



An Bord Pleanála,  
64 Marlborough Street,  
DUBLIN 1.

2<sup>nd</sup> April 2020

Leitrim County Council ref. no. ED 19-31  
Section 5 Request re "The Rock Centre", Ballinamore, Co. Leitrim.

Dear Sir/Madam,

this is a Section 5 Referral to An Bord Pleanála by referrer Liam Madden, Convent Road, Longford N39 EE72 of questions which were the subject of a Section 5 Request to Leitrim County Council who made a declaration on 31<sup>st</sup> March 2020.

Attached are :

- (i) An Bord's referral fee €220,
- (ii) Section 5 Request declaration by Leitrim County Council dated 31.03.20
- (iii) Council acknowledgment/receipt of S.5 request and extension of time notice.
- (iv) S.I. 582 of 2015

Also attached is the Section 5 Request itself, mapping, affidavits and the supporting arguments made. The questions posed are also recited herein and they are :

WHEREAS A QUESTION HAS ARISEN as to :

- (i) whether the use of the then incomplete and abandoned apartments at "The Rock", Ballinamore Co. Leitrim for use as apartments is or is not development, and is or is not exempted development,
- (i) whether the change of use of the then incomplete and abandoned apartments and partly completed on foot of planning permission 04/1546 at "The Rock Centre", Ballinamore, Co. Leitrim to "*The Reception and Care of those seeking International Protection*" is or is not development and is or is not exempted development,
- (iii) whether the built works carried out internally and externally at the above then incomplete apartments currently in use as "*The Reception and Care of those seeking International Protection*" are or are not development and are or are not exempted development,

L. MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC TECH.  
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX  
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND  
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

1.

I submit that the conclusions reached and declarations made by Leitrim County Council are blatantly flawed and display a failure to understand and apply the Planning Act and the Regulations made thereunder.

I take issue with all three declarations and seek that An Bord review the flawed declarations. I say also that attached Council Declarations 1 and 2 obviously contradict one another.

2.

The supporting arguments I relied on are included.

I refer also to further planning precedents regarding use of apartments in Referrals 302856, 302857, 302858, 302859, 302861, 302862, 302865 and 302866.

All deal with short stay lettings of apartments in Chancery Hall, Blackhall Place, Dublin 7.

An Bord has determined that the short stay use of apartments was development and was not exempted development.

3.

(i) I submit that the use of the then incomplete and abandoned apartments in The Rock, Ballinamore established for the first time a residential use and that use has to constitute development. If the use needed permission in 2004, then it needs permission now - whether the use is short stay lettings or long stay is actually irrelevant.

It is significant that a never-used pharmacy shop approved with the parent permission and which remains as a shell was the subject of a Planning Application by the owner/developer in 2019. There is a current Appeal before An Bord in that matter. If the shop-pharmacy needed a new permission then so do the never-used apartments.

(ii) I submit that the use of the then incomplete apartments for the Reception and Care of those seeking International Protection is clearly development and, even if the apartments had been used as residences - which is denied by me and by the owner/developer - the use for refugees would clearly be a material change of use and would constitute development.

(iii) Exemption Classes was introduced in S.I. 582 of 2015 permitting change of use from existing premises which provide residential or overnight accommodation as accommodation for refugees or asylum seekers i.e. protected persons.

This is unambiguously set out in the Explanatory Note to S.I. 582 of 2015 with reference of Class 14(h) which is the relevant Class in this referral.

*Class 14(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons.*

AN BORD PLEANÁLA

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

L. MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICROPROC TECH.  
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX  
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND

RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel/Fax 043-33 41151

- (iv) Instead Class 14(h) expressly refers to :  
*hotel, motel, guesthouse, holiday accommodation, convent, monastery,*  
 Clearly the incomplete and never-occupied apartments did not fall into any of the above. Note especially that each of the above is separated by a comma.
- (v) Class 14(h) also expressly refers to :  
*Defence Forces barracks*  
 Clearly the incomplete and never-occupied apartments did not fall into that.
- (vi) Class 14 (h) further refers to :  
*other premises or residential institution providing overnight accommodation,*  
 Note especially that there is NO comma after *other premises*.  
 Therefore *other premises or residential institution* must be read together as the words are not separated by a comma in the same way as *hotel*, and *motel*, are separated.  
 The manifest intention underpinning the legal draftsman's words lies in the Explanatory Note to S.I. 582 of 2015.
- (vii) It is noteworthy that Class 14(h) does NOT say :  
*from use of any premises to use as accommodation for protected persons.*  
 If these words had been used then any premises whatsoever, regardless of whether it was incomplete, semi-derelict or never-occupied could be used for protected persons. Moreover, there would have been no need to distinguish between a *hotel* and a *hostel*.  
  
 It follows that the relevant phrase “.. *other premises or residential institution providing overnight accommodation* ..” is all one category.  
 It means a *premises providing residential overnight accommodation* or a *residential institution providing residential accommodation*.
- (viii) It is crystal clear that the incomplete, semi-derelict and never-occupied apartments are not and never were a *premises or residential institution providing overnight accommodation*.
- (ix) Finally and importantly I add that there is no Exemption Class within the Act or the Regulations permitting the change of use of apartments to use for housing protected persons.

AN BORD PLEANÁLA

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ABP- \_\_\_\_\_

L. MADDEN B. ARCH. NUI, M. APPL. ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC. TECH.  
 2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX  
 POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND

RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

4.

I submit that the first floor 'corrals' are works, as defined, and therefore are *development*.

I submit that external and internal works to the semi-derelict apartments to render them habitable are works, as defined, and therefore are *development*.

I submit that the parent permission was not in compliance with the attached Conditions and that the permission duration had expired and the development taken as a whole is unauthorised and therefore what exemption might have applied, cannot apply to an unauthorised development.

I submit that there is no Fire Safety Cert. for at least four of the then incomplete apartments and none has been applied for at the time of writing and the commencement of these was therefore doubly illegal : those apartments can never be legal unless/until a Fire Safety Cert. (and also a Disability Access Cert.) issues.

There is no Exemption Class relating to such works for dwellinghouses under Schedule 2 Part 1 of the 2001 Regulations, as amended.

The underlying logic is simple : you cannot have legal development works carried out to an illegal building.

I seek that An Bord declare that :

- (i) the use of the then incomplete and abandoned apartments at "The Rock", Ballinamore Co. Leitrim for use as apartments is development and is not exempted development,
- (i) the change of use of the then incomplete and abandoned apartments and partly completed on foot of planning permission 04/1546 at "The Rock Centre", Ballinamore, Co. Leitrim to "*The Reception and Care of those seeking International Protection*" is material and is therefore development and is not exempted development,
- (iii) the built works carried out internally and externally at the above then incomplete apartments currently in use as "*The Reception and Care of those seeking International Protection*" are development and are not exempted development,

Yours faithfully,

Liam Madden,  
Convent Road,  
LONGFORD  
N39 EE72



<b>AN BORD PLEANÁLA</b>	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

L. MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC TECH.  
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX  
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND  
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151



# Comhairle Contae Liatroma Leitrim County Council

Áras an Chontae  
Cora Droma Rúisc  
Contae Liatroma  
N41 PF67

Áras an Chontae  
Carrick on Shannon  
Co. Leitrim  
N41 PF67

☎ 071 96 20005  
☎ 071 96 21982  
🌐 [www.leitrimcoco.ie](http://www.leitrimcoco.ie)  
✉ [customerservices@leitrimcoco.ie](mailto:customerservices@leitrimcoco.ie)

Follow us on  
  

**This matter is being dealt with by: Vivienne Egan**

**071 9620005 Ext. 504**

31<sup>st</sup> December, 2019

**Our ref.: ED-19-31**

**Liam Madden,  
Convent Road,  
Longford,  
N39 EE72**

**Re: Request for Declaration Regarding Development/Exempted Development  
The Rock Centre, Ballinamore, Co. Leitrim.**


A Chairde,

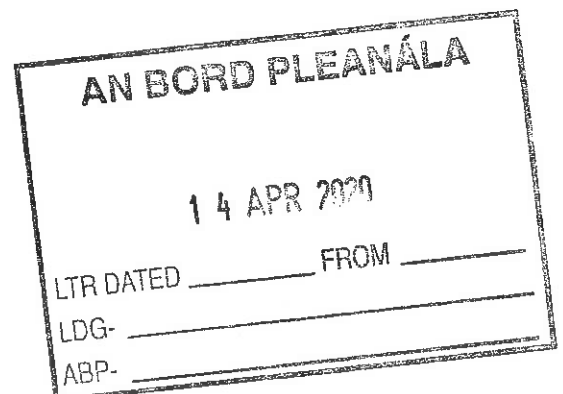
I refer to your application received on 20<sup>th</sup> December, 2019, for a Declaration regarding Development/Exempted Development (Section 5 of the Planning & Development Acts 2000–2019 refers) and wish to inform you that the matter is receiving attention.

Further correspondence in this regard will be addressed to you in due course.

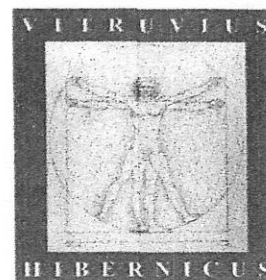
I attach copy of Receipt No 158462 dated 23rd December 2019 in the sum of €80.00.

Is Mise, le Meas,

  
**ADMINISTRATIVE OFFICER  
PLANNING DEPARTMENT  
VE/FK**

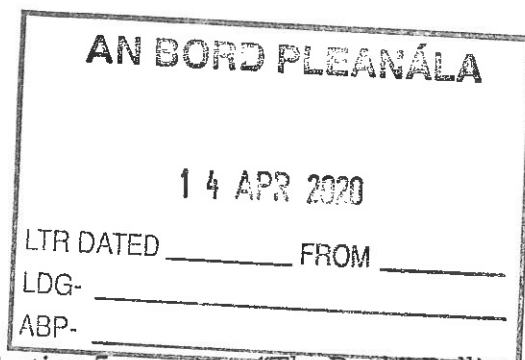


LIAM MADDEN  
EU REGISTERED ARCHITECT NETHERLANDS REG. NO. I.180615.001  
U.K. REGISTERED ARCHITECT REG. NO. 0461701  
ENVIRONMENTAL SCIENTIST



22 Jan. 2020

Ms. Vivienne Egan,  
Planning Office,  
Leitrim County Council,  
Carrick-on-Shannon,  
Co. Leitrim.



Your ref : ED 19-31 Section 5 request re "The Rock" Ballinamore.

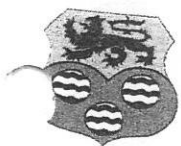
Dear Ms. Egan,

I acknowledge receipt of your letter dated 21 Jan. 2020.  
I comment as follows.

1. The affidavits to which you refer were opened in the High Court, an open forum attended by the parties involved, their legal representatives, members of the public and the press. The content of the affidavits was reported in virtually all newspapers and on TV. The information therein is in the public domain.
2. In marked contrast, any section 5 request is a private consultation between the requestor and the planning authority and the submissions are NOT publically available. The order/decision is all that becomes public and after it is made. The affidavits were lawfully made available to me as I am a consultant in the various matters.
3. The pivotal point is that the owner/developer cannot depart from his sworn position in the affidavits. Moreover, the Minister of Justice is not a party to this Section 5 request nor is/was he involved in any way in the carrying out of the development. He is merely the paymaster. The Minister has washed his hands of the planning issues stating to me in the submitted correspondence that compliance with planning is a matter for the developer.
4. I note that your Council intends to make its decision by 31 March 2019. Irrespective of what decision is made, the questions posed will be referred to An Bord Pleanala for review/ratification/rectification. It is open to you to make a decision to refer the questions directly to An Bord, sidestepping these delicate matters, so to speak.

Yours faithfully,

L. MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC TECH.  
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX  
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND  
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151



# Comhairle Contae Liatroma Leitrim County Council

Áras an Chontae  
Cora Droma Rúisc  
Contae Liatroma  
N41 PF67

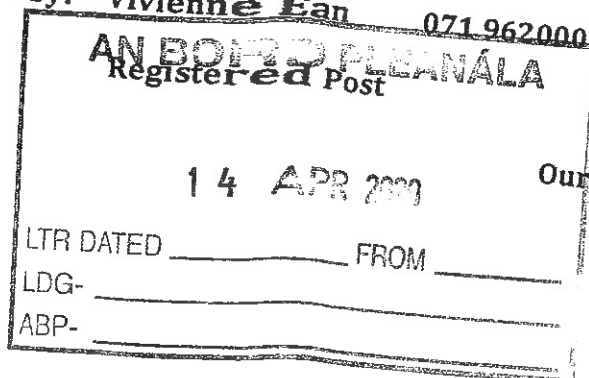
Áras an Chontae  
Carrick on Shannon  
Co. Leitrim  
N41 PF67

☎ 071 96 20005 | 📠 071 96 21982  
🌐 www.leitrimcoco.ie  
✉ customerservices@leitrimcoco.ie  
Follow us on   

This matter is being dealt with by: **Vivienne Ean** 071 9620005 Ext. 510

21<sup>st</sup> January 2020

Mr. Liam Madden  
Convent Road  
Longford  
N39 EE72



Our Ref: ED-19-31

Re: Declaration under Section 5 of the **Planning and Development Act 2000** (as amended) as to whether certain **development** is or is not exempted development at The Rock Centre, Ballinamore, Co. **Leitrim**.

Dear Sir,

I refer to your request in relation to seeking a Declaration in relation to whether certain stated works is or is not exempted development at the **Rock Centre**, Ballinamore, Co. **Leitrim**.

The questions arisen as to whether:

- (i) the use of the then incomplete and **abandoned** apartments at "The Rock Centre", Ballinamore Co. Leitrim for use as apartments **is** or is not development, and is or is not exempted development;
- (ii) the change of use of the then incomplete **and** abandoned apartments and partly completed on foot of planning permission 04/1546 at "The Rock Centre", Ballinamore, Co. Leitrim to "The Reception and Care of those seeking International Protection" is or is not development and is or is **not** exempted development; and
- (iii) the built works carried out internally and externally at the above then incomplete apartments currently in use as "The Reception and Care of those seeking International Protection" are or are not development and are **or** are not exempted development.

AND WHEREAS the said question was referred to Leitrim County Council by Mr Liam Madden on 20 December 2019.

AND WHEREAS Leitrim County Council, in considering this referral, had regard particularly to -

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

Beidh Failte roimh freagra tre **Ghaeilge**

# Leitrim County Council



## **Declaration regarding Development/Exempted Development (Section 5 of Planning & Development Acts 2000 – 2019)**

**Leitrim County Council Reference Number: ED- 19-31**

**WHEREAS** a question has arisen as to whether:

- (i) the use of the then incomplete and abandoned apartments at "The Rock", Ballinamore Co. Leitrim for use as apartments is or is not development, and is or is not exempted development;
- (ii) the change of use of the then incomplete and abandoned apartments and partly completed on foot of planning permission 04/1546 at "The Rock Centre", Ballinamore, Co. Leitrim to "The Reception and Care of those seeking International Protection" is or is not development and is or is not exempted development; and
- (iii) the built works carried out internally and externally at the above then incomplete apartments currently in use as "The Reception and Care of those seeking International Protection" are or are not development and are or are not exempted development.

**AND WHEREAS** the said question was referred to Leitrim County Council, by Mr Liam Madden, on 20<sup>th</sup> December 2019.

**AND WHEREAS** Leitrim County Council, in considering this referral, had regard particularly to –

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

**AND WHEREAS** Leitrim County Council has concluded that the;

- (i) the use of the then incomplete and abandoned apartments at "The Rock", Ballinamore Co. Leitrim for use as apartments is **development and is Exempted Development**
- (ii) the change of use of the then incomplete and abandoned apartments and partly completed on foot of planning permission 04/1546 at "The Rock Centre", Ballinamore, Co. Leitrim to "The Reception and Care of those seeking International Protection" is **not development**;
- (iii) the built works carried out internally and externally at the above then incomplete apartments currently in use as "The Reception and Care of those seeking International Protection" are **development and are exempted development**.

**WITHIN THE MEANING OF THE ABOVE ACT**

<b>AN BORD PLEANÁLA</b>	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	



**The Planning Authority in considering this referral, had regard particularly to:**

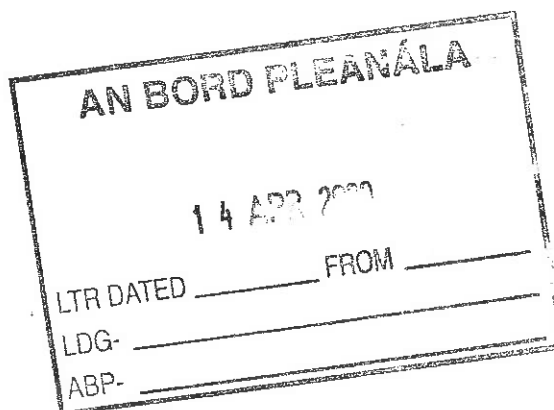
Section 2, 4 and 40 of the Planning and Development Act, 2000 (as amended) and Class 14 of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

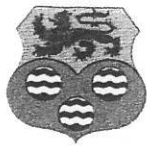
**NOW THEREFORE Leitrim County Council, in exercise of the powers conferred on it by Section 5(2)(a) of the 2000 Act, as amended, hereby declares**

Item (ii) of the Question is **NOT DEVELOPMENT** within the meaning of the Planning and Development Act, 2000 (as amended) and items (i) and (iii) are **DEVELOPMENT** and are **EXEMPTED DEVELOPMENT**.

  
**Administrative Officer**  
**Planning Department**

**Dated this 31<sup>st</sup> day of March, 2020**





# Comhairle Contae Liatroma Leitrim County Council

Áras an Chontae  
Cora Droma Rúisc  
Contae Liatroma  
N41 PF67

Áras an Chontae  
Carrick on Shannon  
Co. Leitrim  
N41 PF67

☎ 071 96 20005  
☎ 071 96 21982  
🌐 [www.leitrimcoco.ie](http://www.leitrimcoco.ie)  
✉ [customerservices@leitrimcoco.ie](mailto:customerservices@leitrimcoco.ie)

Follow us on  
  

This matter is being dealt with by: Vivienne Egan 071 9620005 Ext. 504

31<sup>st</sup> December, 2019

Our ref.: ED-19-31

Liam Madden,  
Convent Road,  
Longford,  
N39 EE72

Re: Request for Declaration Regarding Development/Exempted Development  
The Rock Centre, Ballinamore, Co. Leitrim.

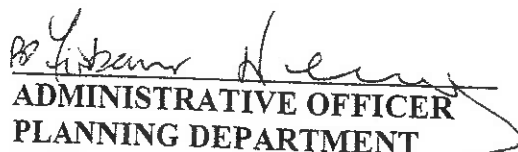
A Chairde,

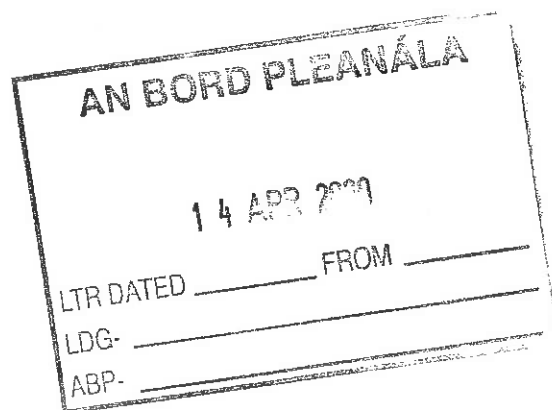
I refer to your application received on 20<sup>th</sup> December, 2019, for a Declaration regarding Development/Exempted Development (Section 5 of the Planning & Development Acts 2000–2019 refers) and wish to inform you that the matter is receiving attention.

Further correspondence in this regard will be addressed to you in due course.

I attach copy of Receipt No 158462 dated 23rd December 2019 in the sum of €80.00.

Is Mise, le Meas,

  
ADMINISTRATIVE OFFICER  
PLANNING DEPARTMENT  
VE/FK



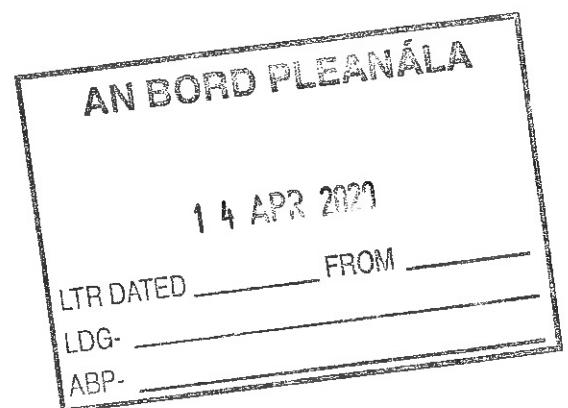


STATUTORY INSTRUMENTS.

**S.I. No. 582 of 2015**

---

PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 4)  
REGULATIONS 2015



- (c) any structure or other land used for the purposes of, or in connection with, the functions of a State authority;”.

(2) Article 5(1) of the Principal Regulations is amended by substituting for the definition of “excluded premises” the following definition:

“ ‘excluded premises’ means—

- (a) any premises used for purposes of a religious, educational, cultural, recreational or medical character,
- (b) any guest house or other premises (not being a hotel or a hostel) providing overnight guest accommodation, block of flats or apartments, club, or boarding house, or
- (c) any structure which was designed for use as one or more dwellings, except such a structure which was used as business premises immediately before 1 October, 1964 or is so used with permission under the Act;”.

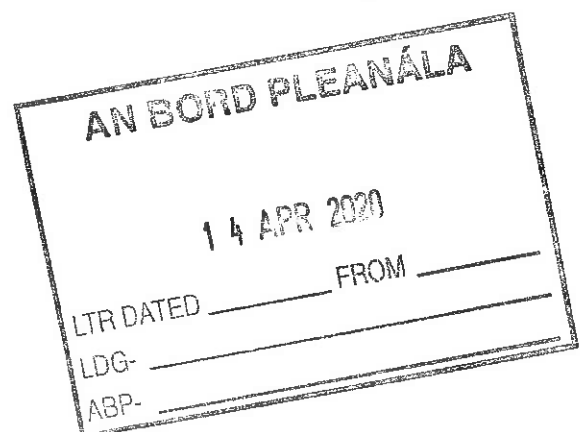
(3) Article 5(1) of the Principal Regulations is amended by inserting after the definition of “painting” the following definition:

“ ‘protected person’, for the purposes of Schedule 2, means—

- (a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013),
- (b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or
- (c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996;”.

*Amendment of Part 1 of Schedule 2 to the Principal Regulations*

4. (1) Subject to paragraph (2), Part 1 (‘Exempted Development - General’) of Schedule 2 to the Principal Regulations is amended by substituting for “Change of use CLASS 14” the following:



S.I. No. 582 of 2015

PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 4)  
REGULATIONS 2015

I, ALAN KELLY, Minister for the Environment, Community and Local Government, in exercise of the powers conferred on me by sections 4(2) and 262 of the Planning and Development Act 2000 (No. 30 of 2000) (as adapted by the Environment, Heritage and Local Government (Alteration of Name of Department and Title of Minister) Order (No. 193 of 2011), hereby make the following regulations with respect to which, pursuant to section 262(4) of that Act, a draft has been laid before each House of the Oireachtas and a resolution approving of the draft has been passed by each such House:

*Citation*

1. (1) These Regulations may be cited as the Planning and Development (Amendment) (No. 4) Regulations 2015.

(2) These Regulations and the Planning and Development Regulations 2001 to 2015 shall be construed as one and may be collectively cited as the Planning and Development Regulations 2001 to 2015.

*Interpretation*

2. In these Regulations, unless otherwise stated—

“the Act” means the Planning and Development Act 2000;

“the Principal Regulations” means the Planning and Development Regulations 2001 (S.I. No. 600 of 2001).

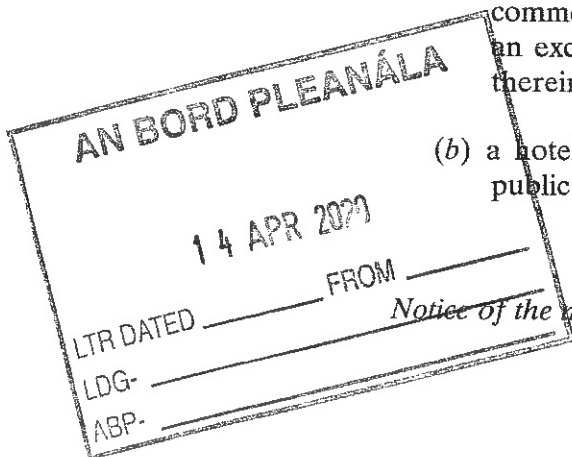
*Amendment of Article 5 of the Principal Regulations*

3. (1) Article 5(1) of the Principal Regulations is amended by substituting for the definition of “business premises” the following definition:

“ ‘business premises’ means—

(a) any structure or other land (not being an excluded premises) which is normally used for the carrying on of any professional, commercial or industrial undertaking or any structure (not being an excluded premises) which is normally used for the provision therein of services to persons,

(b) a hotel, hostel (other than a hostel where care is provided) or public house, or



*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 1st January, 2015.*

“

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>Change of use</i></p> <p>CLASS 14</p> <p>Development consisting of a change of use—</p> <p>(a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,</p> <p>(b) from use as a public house, to use as a shop,</p> <p>(c) from use for the direction of funerals, as a funeral home, as an amusement arcade or a restaurant, to use as a shop,</p> <p>(d) from use to which class 2 of Part 4 of this Schedule applies, to use as a shop,</p> <p>(e) from use as 2 or more dwellings, to use as a single dwelling, of any structure previously used as a single dwelling,</p> <p>(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons,</p> <p>(g) from use as a hotel, to use as a hostel (other than a hostel where care is provided),</p> <p>(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,</p> <p>(i) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons, and</p> <p>(j) from the change of use specified in paragraph (h) or (i) or both, to the permitted use of the premises immediately prior to the change of use specified in the said paragraph (h) or (i) or both.</p>	<p>The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.</p> <div data-bbox="948 1189 1458 1541" data-label="Form"> <p>AN BORD PLEANÁLA</p> <p>14 APR 2020</p> <p>LTR DATED _____ FROM _____</p> <p>LDG- _____</p> <p>ASP- _____</p> </div> <p>Class 14(j) shall not apply after a period of 3 years from the date of the commencement of the change of use specified in Class 14(h) or (i) or both, whichever date is the earliest.</p>

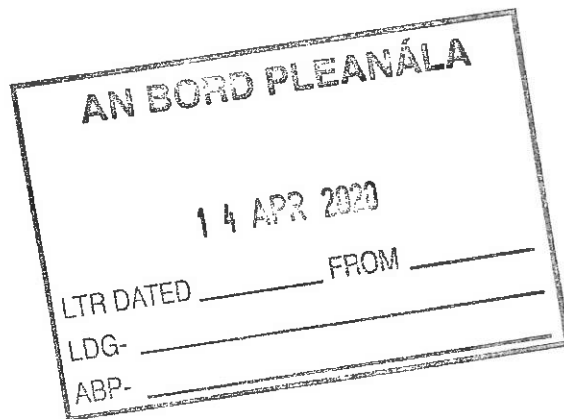
”

(2) For convenience of reference there is set out in the amendment provided for by paragraph (1) the relevant headings that apply for the columns concerned.



GIVEN under my Official Seal,  
17 December 2015.

ALAN KELLY TD,  
Minister for the Environment, Community and Local  
Government.



BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)  
nó trí aon díoltóir leabhar.

DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased from  
GOVERNMENT PUBLICATIONS,  
52 ST. STEPHEN'S GREEN, DUBLIN 2.  
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)  
or through any bookseller.

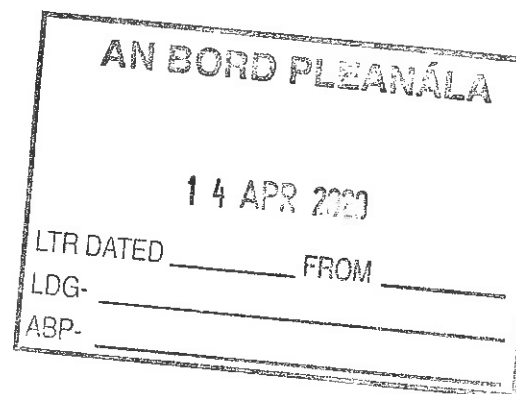
€2.54

ISBN 978-1-4468-2921-9



9 781446 829219

Wt. (B31702), 285. 12/15. Essentra. Gr 30-15.





## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation).*

Article 4 of these Regulations inserts 4 new classes of exempted development into the Planning and Development Regulations 2001 (“the Principal Regulations”), which has the effect that the changes of use specified in the new classes are exempted from the requirement to obtain planning permission. The new classes of exempted development are as follows:

- Class 14(g): Change of use of a premises from a hotel to a hostel (other than a hostel where care is provided);
- Class 14(h): Change of use of various forms of premises providing residential or overnight accommodation to specific use as accommodation for refugees and asylum seekers, as defined in legislation. This class of exempted development will assist in implementing the Government’s Irish Refugee Protection Programme (IRPP), which was established on 10 September 2015 in response to the migration crisis in central and southern Europe;
- Class 14(i): Change of use of various forms of premises providing overnight accommodation to use as an emergency reception and orientation centre (EROC) for refugees and asylum seekers. A network of EROCs will be established by the Department of Justice and Equality for the initial reception of persons arriving in Ireland under the IRPP;
- Class 14(j): Return of premises, the use of which changed under an exemption in Class 14(h) or 14(i), to their permitted use immediately prior to that change of use. It is a condition of this class that the exemption from planning permission will apply for a period of 3 years only from the date of the commencement of the change of use exempted under Class 14(h) or (i) or both.

Article 3 of these Regulations amends the definitions of “business premises” and “excluded premises” in the Principal Regulations to remove the distinction in them between a hotel and a hostel.

In accordance with section 16(3) of the Interpretation Act 2005, these Regulations come into operation at the end of the day before the day on which the Regulations are made.

AN BORD PLEANALA	
14 APR 2007	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

COMHAIRLE CHONTAE LIATROMA  
LEITRIM COUNTY COUNCIL



AN BORD FLEANÁLA

14 APR 2017

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

Declaration Regarding Development / Exempted Development  
(Section 5 of Planning & Development Acts 2000-2017)

APPLICATION FORM

Please note: A fee of €80.00 must accompany this form

1. Name of person seeking declaration [Applicant] LIAM MADDEN
2. Postal Address of Property /Site or Building to which the declaration sought relates  
"THE ROCK CENTRE", BALLINAMORE,  
CO. LEITRIM.
3. Applicant's legal interest in the land or structure. [Give details] NONE
4. State whether or not the applicant is the owner of the property in question [☒Yes] or [☒No] and if {No} please provide the information under item 11 at the end of this form NO
5. State if owner / occupiers are aware of the current application for Declaration under S 5 of the Act [☒Y] / [☒N] NO
6. Type of declaration sought
  - a. That the proposal is or is not development within the Act [Yes] or [No] and if {yes} YES
  - b. That the development is or is not Exempt development [Yes] or [No] YES
7. Provide full description of the question /matter / subject which arises wherein a declaration on the question is sought?

SEE ATTACHED QUESTION WHICH HAS ARISEN

WHETHER THE CHANGE OF USE OF APARTMENTS  
CONSTRUCTED ON FOOT OF PERMISSIONS 04/1546  
AT "THE ROCK CENTRE", BALLINAMORE,  
CO. LEITRIM TO AN EMERGENCY RECEPTION AND  
ORIENTATION CENTRE FOR PROTECTED PERSONS  
IS OR IS NOT DEVELOPMENT AND IS OR IS NOT  
EXEMPTED DEVELOPMENT

*[Handwritten signature area]*

Signature: Liam Madden Date: 23 October, 2019

{The applicant is advised to set out the matter on which the declaration is sought, as comprehensively as possible and should use additional material / pages if necessary, to give as full account as possible of this matter A site map to a scale of not less than 1:2500 based on the Ordnance Survey map for the area, shall be provided to identify the lands in question.}

Additional accompanying documentation provided .....☒ [Yes] / ☐ [No] YES

The applicant is advised that notwithstanding the completion of the above application form, that the planning authority may require the applicant to submit further information with regard to the request in order to enable the authority to issue the declaration on the question.

The applicant is also advised that the Authority may also request other persons, other than the applicant to submit information on the question which has arisen and on which the declaration is sought.

**FOR OFFICE USE ONLY**

Date Received.....	Fee of €80.00 Paid. [Yes] / [No]
Date acknowledged.....	Reference No.: <u>-ED-</u>
Decision:.....	<div style="border: 1px solid black; padding: 5px; text-align: center;"><b>AN BORD PLEANÁLA</b>  <b>14 APR 2020</b>  LTR DATED _____ FROM _____ LDG- _____ ASP- _____</div>
Date declaration made.....	
M.O. No.....	

**APPLICATION FORM : ADDITIONAL CONTACT INFORMATION :**  
**See next page, which must be completed,**

**APPLICATION FORM continued:****ADDITIONAL CONTACT INFORMATION****NOT TO BE MADE AVAILABLE TO THE GENERAL PUBLIC WITH APPLICATION****Please note:**

- The applicant's address **must** be submitted on this page.
- If the applicant/agent wishes to submit additional contact information, this may be included here.
- This page will not be published as part of the planning file.

**8. Applicant:**

Address (Required)	CONVENT ROAD, LONGFORD N39 EE72
Telephone No. (optional)	043-33-41151
Email Address (if any)	VITRUVIUS.HIBERNICUS@hotmail.com
Fax No. (if any)	

**9. Person/Agent acting on behalf of the Applicant (if any):**

Name and Address	LIAM MADDEN CONVENT ROAD LONGFORD N39 EE72
Telephone No. (optional)	
Email Address (if any)	
Fax No. (if any)	

Should all correspondence be sent to the Agent's address? (please tick appropriate box)

(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)

Yes ☒ No ☐**10. Person responsible for preparation of any Drawings and Plans accompanying the application:**

Name and Address	NONE	AN BORD PLEANÁLA
Telephone No. (optional)		14 APR 2009
Email Address (if any)		LTR DATED _____ FROM _____
Fax No. (if any)		LDG- _____
		ASP- _____

**11. Owner (required where applicant is not the owner):**

Name of Owner (Required)	RENCOLL 2 LIMITED
Address (required)	CHAMBER BUILDINGS, NORTH STREET, SWORDS NORTH STREET 650010 Co. DUBLIN.
Telephone No. (optional)	(REGISTERED COMPANY ADDRESS)
Email Address (if any)	

LIAM MADDEN  
EU REGISTERED ARCHITECT NETHERLANDS REG. NO. 1.180615.001  
U.K. REGISTERED ARCHITECT REG. NO. 0461701  
ENVIRONMENTAL SCIENTIST



18 Dec. 2019

The Planning Office,  
Leitrim County Council,  
Aras an Chontae,  
County Buildings,  
Carrick-on-Shannon,  
Co. Leitrim

AN BORD PLEANÁLA	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

Section 5 Request

Dear Sir/Madam,

this is a request made under Section 5 of the Planning and Development Act 2000, as amended. Attached is the €80 fee along with the Council's In-house request form duly completed.

Questions have arisen whether certain matter are or are not development and are or are not exempted development. The purpose of this request is to determine the questions.

The person making the request is Liam Madden, Convent Road, Longford N39 EE72.

## BACKGROUND

1.

It has been widely publicised, locally and nationally, that the completion of building works and the use of apartments in the area known locally as the Rock Centre in Ballinamore, Co. Leitrim was/were carried out.

The use of the incomplete apartments was to be materially changed to "*The Reception and Care of those seeking International Protection*" wherein up to 130 asylum seekers and/or refugees are to be housed and catered for.

It has also been reported that the party proposing the enterprise is Mr. Paul Collins who, I understand, is a principal in Remcoll 2 Limited which is the registered owner of FOLIO LM 20931F where the apartments are sited.

Attached is a Land Registry screen print-out of Folio LM20931F for ease of reference.

On the P.A.'s own files are the drawings on foot of which Planning Permission 04/1546 issued.

In this regard it is noteworthy that no subsequent further or other permission has issued relating to a material change of use of the apartments authorised under permission 04/1546.

L. MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC TECH.  
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX  
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND  
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

2.

I say that the historical background to the accommodation of refugees, asylum seekers, migrants, direct provisions centres and emergency residential orientation centres (EROC) is the subject of detailed lengthy reports in the Irish Times published Monday 18<sup>th</sup> Nov. 2019.

I urge this planning authority to take cognisance of these reports as the reports succinctly set out the two decades of political intervention on foot of EU consensus and Directive(s). It is against this background that my planning investigations were carried out.

I inform the planning authority of two reports in November 2019 Law Society Gazette which offer further insights into the general history, including the commentary by Dr. Bryan MacMahon retired High Court Judge.

One article deals with direct provision centres and the second deals with MUD.

3.

I alert the P.A. to a matter currently before the High Court Record No.8790P in which Remcoll 2 Limited is the Plaintiff. I am not involved in that matter although I have seen the papers including an Affidavit by Paul Collins, a principal in Remcoll 2 Limited.

The Plaintiff's papers are somewhat confused and misleading insofar as the Plaintiff is stated to be Remcoll 2 Limited in one section, in another set of papers there is a second Plaintiff Townbe Limited and the cover letter from Mssrs. Clark Hill Solicitors states their client is Remcoll Capital Limited which company is not the Plaintiff.

The relevant parts of the Collins Affidavit deal with the built works, the costs of the built works, the use of the property and the planning permissions pertaining to the premises, known as "The Rock".

I say that Mr. Collins swears to the renting of 25 units for refugee etc. accommodation but 4 of the apartments, at least, do not have the benefit of a Fire Safety Certificate.  
(As far as I am aware none has been applied for.)

4.

Exhibited with the Collins Affidavit are a Declaration of Identity and Folios and recital of related Planning Permissions prepared by Joseph O Reilly Engineer.

This is a useful starting point.

My records and investigations are at one with Joseph O Reilly's declarations which recite :

Permission 04/C/15 Part 8 Relief Road

Permission 04/1546

Permission 05/544

Permission 07/585

Permission 08/19

<b>AN BORD PLEANÁLA</b>	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

L. MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC TECH.  
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX  
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND  
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

#### Permission 04/C/15 Part 8 Relief Road

This was a Permission from Part 8 of the Planning and development Act 2000, as amended whereby a County Council enters into Consultation with the public where the Council itself intends to be the beneficiary of the development work. There is no appeal process in a Part 8 Consultation.

This is quite different from a private individual making application to a Council seeking planning permission.

I comment that it was disingenuous and misleading of Paul Collins to swear in his Affidavit that the same Relief Road was a private road not taken in charge by the Council when it was the Council itself that initiated the Road and not the original developer, Frank Maxwell and the Part 8 Application was made by the Council and not by Frank Maxwell.

The Relief Road is shown on Google Street View images from as long ago as 2009 which include public lighting on the Relief Road, road markings and public Stop signs. There are no gates on the road preventing public access and no signs to that effect and the public are clearly invited onto the Road and indeed into Tesco within the premises. Moreover, the PRA Folio Map(s) shown clearly marked in YELLOW an easement/right-way along the Relief Road in favour of the Council whether *in personam* or for the benefit of the public generally is not known to me but the manifest intention is clear.

#### Permission 04/1546

I say that this is the permission which is at the heart of this matter.

This permission may be called the "parent permission".

04/1546 issued on 10 June 2005 with a duration/lifetime of 10 years.

04/1546 expired in 2015, over four years ago and was not renewed

The development was abandoned and incomplete. All works ceased, I believe c. 2010

#### Permission 05/544

I say this permission related to minor elevational changes and such to the "parent permission" and the provision of one extra duplex apartment.

This permission was 'piggy-backing' on the parent permission and is of no material consequence.

05/544 issued on 24 Nov. 2005 and expired in 2015

I was unable to ascertain if this permission was availed of.

#### Permission 07/585

This permission was 'piggy-backing' on the parent permission and included 4 further apartments.

07/585 issued on 8 Jan. 2008 and expired in 2013.

A Commencement Notice was served, was rejected and there was no Fire Safety Cert.

<b>AN BORD PLEANÁLA</b>	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	

L. MADDEN B. ARCH. NUI, M. APPL. ENVIR. SC., CERT. ARCH. PROF., D. A. MICRO-PROC TECH.

2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX

POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND

RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

**Permission 08/19**

I say this permission related to the construction of an electrical sub-station adjacent to the parent permission development and no material bearing on these proceedings  
I say it is noteworthy that Engineer Joseph O Reilly's declaration is dated 26 May 2014  
The significance of this date lies in the expiry dates of the parent permission.  
Joseph O Reilly's declaration pre-dates the expiry of the parent permission and therefore stood good at the time of the making of the declaration.

**5.**

- (i) I draw the P.A.'s attention to the Conditions attached to 04/1546.  
I also draw the P.A.'s attention to a letter issued by the planning authority on 3 Feb. 2006 under Section 152 of the Enforcement Section of the Planning and Development Act 2000, as amended.  
I say it is clear from this that there was at the time non-compliance with Conditions no.s 2 to 12 of the parent permission.  
It is said by the P.A. that an effort was made to achieve compliance with Conditions in or about 2006.  
However it is equally clear from the planning file that there remains non-compliance. Enforcement against the original developer is a nonsense due to the lapse of time and the abandonment of the permission and the commercial demise of the original developer.
- (ii) I say it is common case that the original developer fell on hard times and the project was abandoned and that the premises was semi-derelict and uninhabitable.  
The property was placed in Receivership and the Plaintiff(s) purchased the distressed development in 2018 at knock-down price and this is conceded in the Paul Collins Affidavit at paragraph 6 of his Affidavit.
- (iii) The P.A.'s especial attention is drawn to Condition 1 of the parent permission.  
There is no record on the planning file of any request made to change the then permitted use of any of the development. The Permission authorised the built works shown and the use of the commercial units described and the use of 21 residential apartments.
- (iv) I say moreover that change of use by way of Exempted Development is de-exempted if the development contravenes a Condition attached to any permission or if the development falls foul of Article 9 or 10 of the Planning and Development Regulations 2001, as amended, or if the development (i.e. material change of use) concerns a development which itself is unauthorised.  
The parent permission having expired, consent by the planning authority to a change of use would be ultra vires and cannot issue.  
I say also that any putative change of use is largely irrelevant as the apartments were never finished and never used. This is conceded by Paul Collins in his Affidavit.

AN BORD PLEANÁLA

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_  
LDG- \_\_\_\_\_

L. MADDEN B. ARCH. NUI, M.APPL.ENVIR. SC., CERT. ARCH. PROF., DIP. MICROPROC TECH.  
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX

POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND

RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151



Indeed the incomplete apartments were, as sworn by Paul Collins in a semi-derelect condition prior to the commencing of recent works by Paul Collins without the benefit of a Planning Permission and without the benefit of Exemption from the need to seek planning permission.

Paul Collins swears further in his Affidavit that the apartments were uninhabitable. He also swears that the works carried out in pursuit of completing the apartments for asylum seekers, refugees or similar cost €1.2 million.

*(However, he presents to the Court no evidence supporting this figure.)*

- (v) I have checked the entire register of Leitrim County Council, the planning authority, for the years 2016, 2017, 2018 and 2019 and there is no record of any application made for or any declaration under Section 5 of the 2000 Act that the works and change of use are exempted development.
- (vi) Remcoll 2 Limited has recently lodged 4 no. validated planning applications. Mr. Collins's includes in his Affidavit a statement that one of his future development is an application for a Nursing Home. No such application has to date been lodged.
- (vii) No approved Pharmacy in the plans approved in parent permission 04/1546 was established and no use of any retail shop or office area authorised as a Doctor's Surgery or "larder" as Paul Collins terms it authorised under the (expired) parent permission 04/1546.

The establishment of such uses would be the establishment of totally new uses in contravention of the planning code and would be unauthorised development.

That the then approved apartments were never either completed or used and were, it seems, almost derelict means that the the establishment of a new use, whether as apartments or a direct provision centre for asylum seekers and/or refugees is a development per se and that use requires a permission.

This must be so as the parent permission has been abandoned.

The sworn cost of the development works at €1.20 million is testament to the advanced and prolonged state of semi-derelection of the shell at The Rock which Paul Collins in his Affidavit confirms were uninhabitable.

- (viii) It is clear from the 2009 Google Aerial view when compared with the nationwide published aerial view of the first floor common area between the incomplete shell that extensive corral like fencing off of the first floor terraced area has taken place. The GOOGLE images and photos in the national press show works to the exterior of the apartments which are not works only affecting the interior of the (then) incomplete and derelict and abandoned structure i.e. abandon development in the legal/planning meaning.  
The plans exhibited by Paul Collins with his Affidavit and also on the planning files show no such fencing or corrals.

L. MADDEN B. ARCH. NUI, M. APPL. ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC. TECH.  
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7BX  
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND  
RESIDENCE: VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

AN BORD PLEANÁLA

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

6.

The front page only of the Memorandum of Agreement between the Minister for Justice and Equality and Townbe Limited for "*The Reception and Care of those seeking International Protection*" was exhibited with the Paul Collins Affidavit.

I have sought from the Minister the full details of this agreement, or in redacted format to protect any sensitive commercial information. To date my request has not been fully replied to. It is my view that Agreement should be disclosed, if only in redacted format.

Of huge significant part of what was disclosed to me regards compliance with the planning code. The onus is clearly on Townbe Limited as it is this company which is in contract with the Minister and not Remcoll 2 Limited.

I am advised that Paul Collins declared to a public meeting that his proposals would be for what is commonly called an EROC (emergency reception and orientation centre) but I say that the Minister in correspondence with me has declared it would not be an EROC.

Instead both Paul Collins and the Minister fudge and distort the issue by reference to own-door apartments and such like terms.

It appears to me that both are contradicted by the exhibited front page of the Memorandum of Agreement and the more recent disclosures.

I say what use was permitted by parent permission 04/1546, now long expired, was never established and the permission was abandoned as were the built works about 10 years ago. I say that this is a brand new and unauthorised use without the benefit of planning permission and/or exemption. The proposed new use is a material change from the use authorised in the parent expired permission.

Indeed even the establishment of the original approved use is a new development and therefore a development which requires Planning Permission.

7.

I say further that there is no record of application for or grant of a Fire Safety Certificate, a Disability Access Certificate, the serving of a Commencement Notice and Supervisory Certification all as required under the Building Control Act 1990, as amended, on-line BCMS or in hard copy at the Building Control Authority (Leitrim County Council) for the newly proposed use and the related built works.

I say that the planning position is profoundly simple.

If these works and the use as residential units required Planning Permission in 2004 then it must be that case that this €1.2 million development needs a Permission in 2019.

The establishment of use as a reception and care centre for refugees clearly requires a Permission and is not exempted development.

It is noteworthy that Remcoll 2 Limited has recently applied for Planning Permission for a Pharmacy. It is crystal clear that if permission is required to resurrect a previous permitted user in the parent permission, then permission is also needed to establish a use in the apartments.

L. MADDEN B. ARCH. NUI, M. APPL. ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC. TECH.  
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX  
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND  
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

AN BORD PLEANÁI

14 APR 2020

LTR DATED \_\_\_\_\_

FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ABP- \_\_\_\_\_

8.

I believe the order of magnitude of payments by the State for provision is c. €99 per person per night and for 130 refugees comes to €4.69 million per year.

Breach of the planning code is an offence, a crime.

In effect, if the developments are found to be in breach of planning, a crime, the Minister for Justice would be funding with public monies the commission of a crime.

The Minister's own Contractual Agreement proves the material change of use by its very Title.

The S.I. 582/2015 amendments to the Exemption Classes do not cover apartments.

I say this is case proven.

9.

My reference to MUD (Multi-Unit Development Act 2011) on page 52 of the November 2019 Law Society Gazette is directly pertinent to this unauthorised development.

There is blatant breach of the Act and no Owners' Management Company (OMC) as there was nothing to manage. The care of the intended occupants is proposed to be entrusted to Townbe Limited – or should that be Townbe Unlimited ? - which, according to the developers' Solicitors is and simultaneously is not a plaintiff in these proceedings.

Embarrassingly Clark Hill Solicitors state their client is Remcoll **Capital** Limited.

The Lease Agreement is between Remcoll 2 Limited and Townbe UNLIMITED but the lease is undated and unstamped (and therefore doesn't exist till Stamp Duty is paid).

Paul Collins swears he is a Director of Remcoll 2 Limited yet the signatory for Townbe UNLIMITED is ..... .. Paul Collins !

The Minister for Justice's contract is with Townbe Limited ... a company which doesn't exist !  
(In the light of the above I'm really not surprised the Minister refused to disclose the Contract.)

The politically important question now is whether we'll have a Minister for Justice who doesn't exist after the Election in early 2020 ????

All the above is mere background to the net questions to be determined by the planning authority and/or An Bord Pleanála.

WHEREAS A QUESTION HAS ARISEN as to :

- (i) whether the use of the then incomplete and abandoned apartments at "The Rock", Ballinamore Co. Leitrim for use as apartments is or is not development, and is or is not exempted development,
- (i) whether the change of use of the then incomplete and abandoned apartments and partly completed on foot of planning permission 04/1546 at "The Rock Centre", Ballinamore, Co. Leitrim to "*The Reception and Care of those seeking International Protection*" is or is not development and is or is not exempted development,
- (iii) whether the built works carried out internally and externally at the above then incomplete apartments currently in use as "*The Reception and Care of those seeking International Protection*" are or are not development and are or are not exempted development,

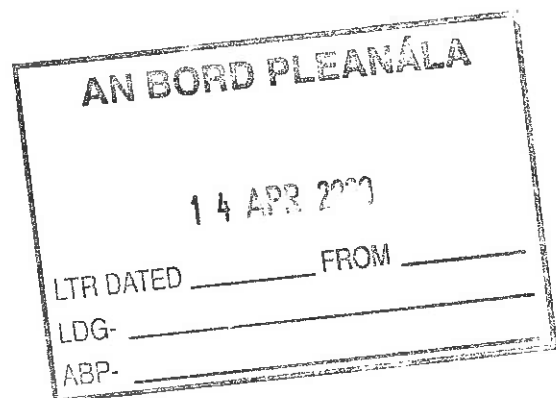
I seek declarations from Leitrim County Council on those questions.

L. MADDEN B. ARCH. NUI, M. APPL. ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC TECH.  
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX  
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND  
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72  
Tel./Fax 043-33 41151

AN BORD PLEANÁLA	
14 APR 2020	
DATE	FROM
ABP-	

Yours faithfully,

Liam Madden,  
Convent Road,  
LONGFORD.  
Co. Longford.  
N39 EE72



L. MADDEN B. ARCH. NUI, M. APPL. ENVIR. SC., CERT. ARCH. PROF., DIP. MICRO-PROC TECH.  
2 THE GATE LODGE, WINDSOR CLOSE, 81 LOWER WINDSOR AVENUE, BELFAST BT9 7DX  
POSTBUS 41882, 1009 DB AMSTERDAM, NEDERLAND  
RESIDENCE : VITRUVIUS HIBERNICUS, CONVENT ROAD, LONGFORD N39 EE72 Tel./Fax 043-33 41151

THE HIGH COURT

Record No. 2019/

Between;

REMCOLL 2 LIMITED AND TOWNBE LIMITED

Plaintiff

-and-

FRED WALSH, GORDON HUGHES, ITA REYNOLDS, BRIAN CRIBBEN, ADRIAN SMITH,  
DESMOND WISLEY and PERSONS UNKNOWN PROTESTING AT THE ROCK CENTRE,  
BALLINAMORE, COUNTY LEITRIM

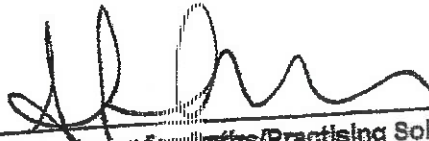
Defendants

AFFIDAVIT OF PAUL COLLINS

EXHIBIT PC4



PAUL COLLINS



Commissioner for Oaths/Practising Solicitor  
Aob

AN BORD PLEANALA	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	
ASP- _____	

Dated this 12<sup>th</sup> day of November 2019

REMCOLL 2 LIMITED

And

TOWNBE UNLIMITED COMPANY

AGREEMENT FOR LEASE

AN DONO PERMATA

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ABP- \_\_\_\_\_

Clark

Solicitor,

8-34 Percy Place

Dublin 4.



**REMCOLL 2 LIMITED** ACTIVE

Activities of head offices (70100)

Company Profile [Partnership](#) [Employment](#)

### Company profile

**Incorporated:**  
2014-06-06  
**SIC Classification:**  
Activities of head offices (70100)

**Company type**  
LTU - PRIVATE COMPANY LIMITED BY SHARES

**Investors:**

4 Investors  
[View all investors »](#)

**Registration Number**  
IE508559

### Description:

REMCOLL 2 LIMITED is a LTD - PRIVATE COMPANY LIMITED BY SHARES company based in CHAMBER BUILDINGS NORTH STREET, SWORDS, NORTH STREET, Ireland, which employs 1 person. The company started trading on the Irish market on 06/06/2014. Company principal data number is IE508559. It's main line of business activity is 70100 Activities of head offices, and the company is noted as Active.

### Financials

According to REMCOLL 2 LIMITED

### Contacts

**Registered address**

CHAMBER BUILDINGS NORTH STREET,  
SWORDS NORTH STREET, 650010, Ireland

**Country Origin:**

Ireland

**Social:**



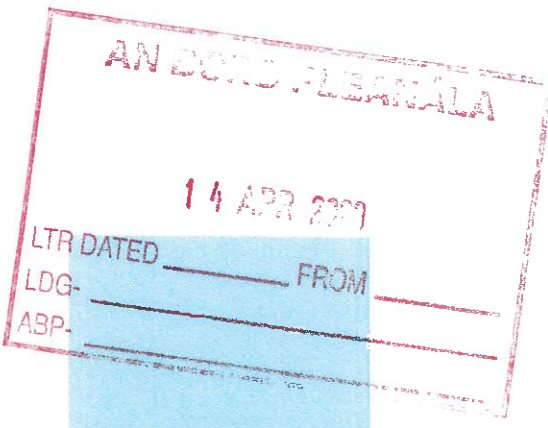
**Get this data**

API, XL, Salesforce

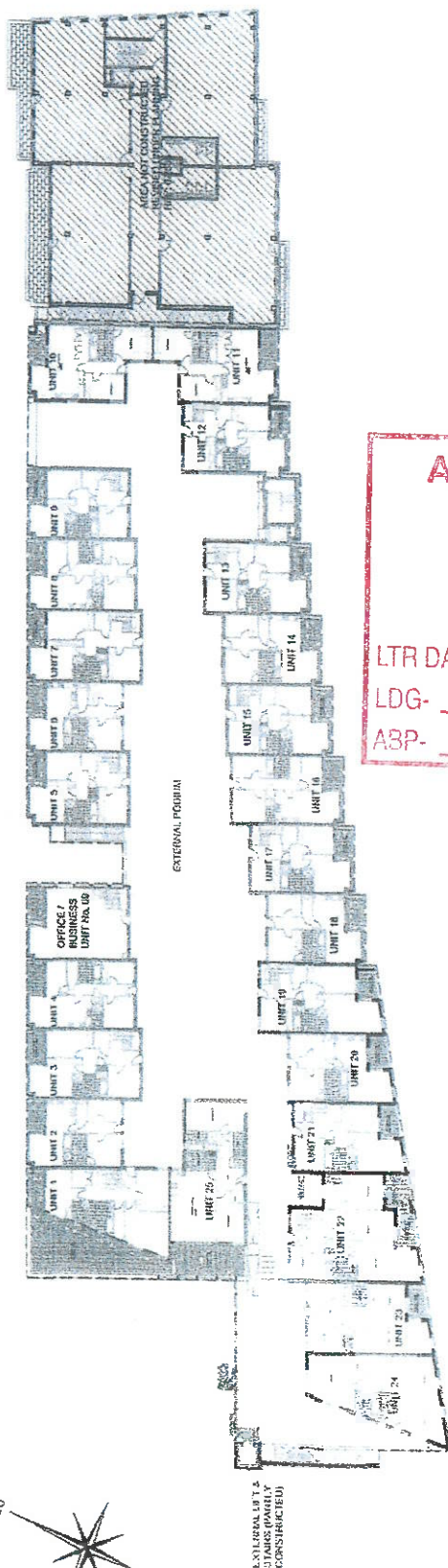
**Request Free Trial**

**Address**

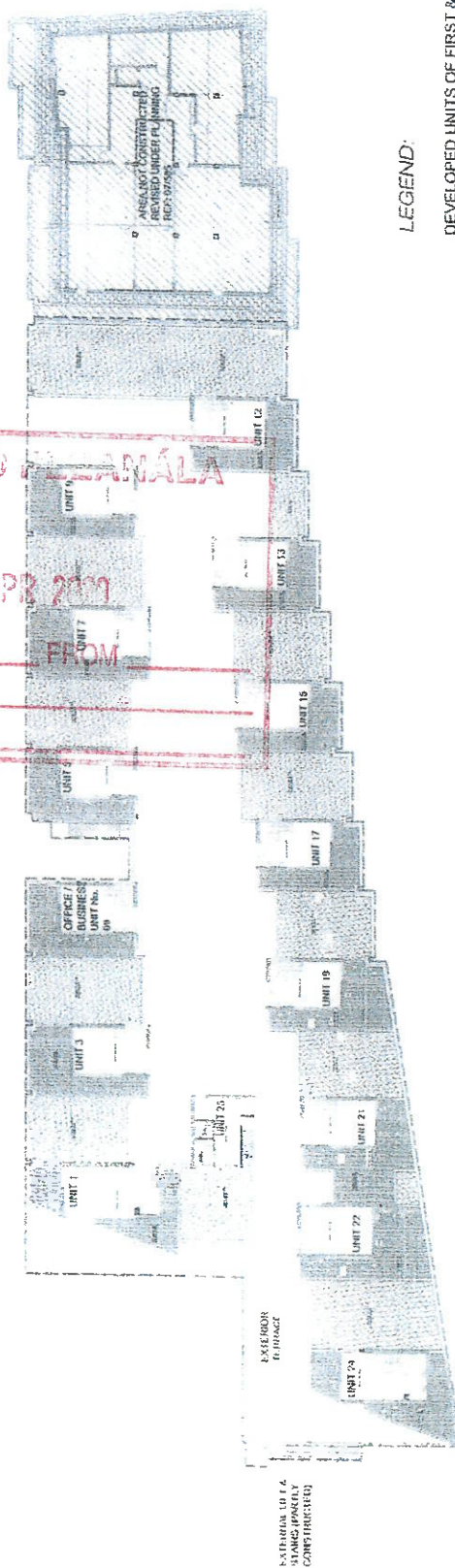
CHAMBER BUILDINGS, NORTH  
STREET, SWORDS  
Ireland







0013-788X/96/0005-0000\$05.00/0



005:1 2/1/26

LEGEND:

DEVELOPED UNITS OF FIRST &  
SECOND FLOORS

UNDEVELOPED UNITS OF FIRST &  
SECOND FLOORS



PROJECT: 2218 THE ROCK CENTRE, BALLINAMORE,  
CO. LEITRIM  
DRAW: DECLARATION OF IDENTITY;  
FIRST & SECOND FLOOR PLANS -  
SHEET 1 OF 1

DRG NO	2218	0004	B1	DRG'S UPDATED	DATE	BY	CHRGD	APPT
SCALE	1:500	SCALE						
REVISION	REV 00	AS-BUILT			00052014	WPS	PK	PN
GRID SIZE	A3	10'X10'						

1. **POSTAL CONTRACTS** ONLY TO BE MADE WITH CONTRACTORS WHOSE CONTRACTS HAVE BEEN APPROVED BY THE POSTAL CONTRACTS COMMITTEE.



Please enter Folio Number(s) or Select County if no Folio is required. Include County prefix before Folio Number e.g. DN1234.

المجلس الوطني لحقوق الإنسان

Folio Number	County	Registered Owner
1A120931F	Leitrim	Remcoff 2 Limited

Делуи 2102483

L5M20931F

Delete

[Next](#)

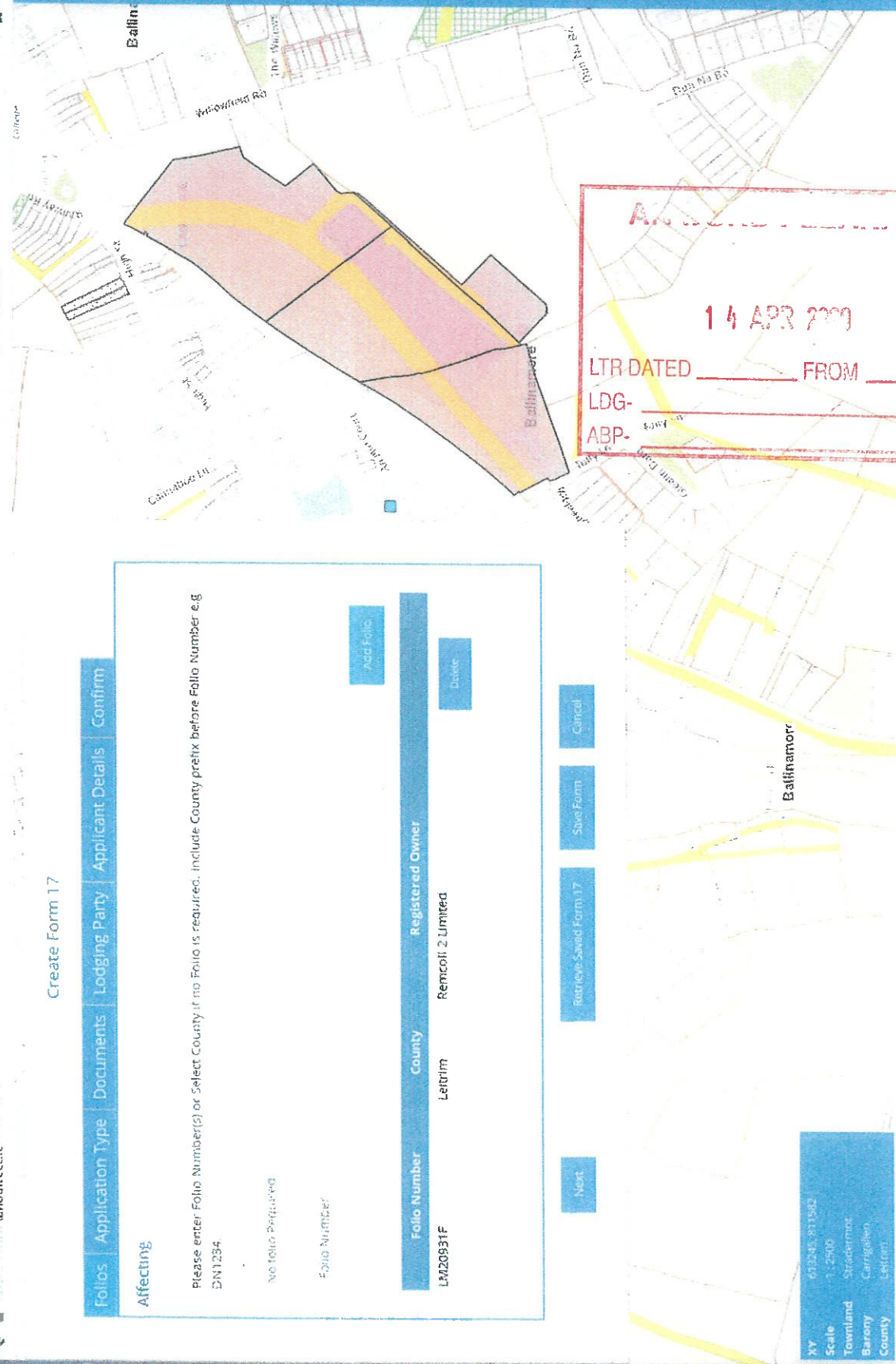
Retrieval Saved Form: 17

Save Form

Cancel

XY	613245.811582
Scale	1:2500
Townland	Stradermot
Barony	Carrigallen
County	Leitrim

**Please Note**  
Your current balance is  
€46.5





# Department to consider State land for direct provision

Emergency options costing in  
the region of €500,000 a week

Operation of State-owned centres is 44%  
cheaper than paying private operators

IRISH TIMES 18 NOV 19

MARK HILLIARD  
and SORCHA POLLAK

State-owned land could be used to provide direct-provision accommodation for the growing number of asylum seekers arriving in the country, Minister of State for Immigration David Stanton has said.

The Department of Justice is considering such a move as pressure mounts to find suitable accommodation for those seeking international protection after recent efforts to provide it in community settings sparked protests.

One such protest in Ballinamore, Co Leitrim, was stood down at the weekend after the High Court granted an injunction against the demonstrators for preventing the completion of work on the proposed lodgings. The court was told there was an attempt to burn down a Tesco store attached to the 25-apartment development and that workers had been subject to threats and intimidation.

The State has become increasingly reliant on emergency options for accommodating asylum seekers at a cost of €500,000 a week, according to a departmental

have to go and get planning permission as well, which would be a more transparent system [than the current private tendering process]."

A senior source familiar with asylum policy confirmed that such an approach was under consideration.

The total bill for accommodation for asylum seekers last year came to €78 million, 17 per cent more than initial estimates and the highest outlay since 2010. The operation of State-owned centres is about 44 per cent cheaper than paying private operators, the spending review states, but these come with a substantial upfront costs to the exchequer.

**'May not be feasible'**

"While completely moving to State-owned accommodation may not be feasible, increasing the number of these types of centres could lead to a reduction in current operational costs."

Some of those protesting against the proposed opening of direct-provision centres in their areas have criticised a lack of consultation before locations are selected, and the building of accommodation

pressure mounts to find suitable accommodation for those seeking international protection after recent efforts to provide it in community settings sparked protests.

One such protest in Ballinamore, Co Leitrim, was stood down at the weekend after the High Court granted an injunction against the demonstrators for preventing the completion of work on the proposed lodgings. The court was told there was an attempt to burn down a Tesco store attached to the 25-apartment development and that workers had been subject to threats and intimidation.

The State has become increasingly reliant on emergency options for accommodating asylum seekers at a cost of €500,000 a week, according to a departmental spending review. It currently costs about €100 per person per night.

**Highest level**

There were 3,762 asylum applications in the first nine months of the year, the highest level since 2008. There was a 20 per cent increase in demand for direct-provision accommodation last year and this is expected to rise to 40 per cent this year.

In an interview with *The Irish Times*, Mr Stanton said he was eager to get away from that approach and is considering alternatives.

"We are exploring every eventuality and every possibility at the moment including any State land that's out there that we can use," he said.

The State does own a number of centres already and probably if we were to use some State land we would

estimates and the highest outlay since 2010. The operation of State-owned centres is about 44 per cent cheaper than paying private operators, the spending review states, but these come with a substantial upfront costs to the exchequer.

**'May not be feasible'**

"While completely moving to State-owned accommodation may not be feasible, increasing the number of these types of centres could lead to a reduction in current operational costs."

Some of those protesting against the proposed opening of direct-provision centres in their areas have criticised a lack of consultation before locations are selected, and the building of accommodation would make the process more publicly transparent. However, such developments would still likely provoke disquiet in communities.

"At the moment we have opened up a tender nationally," Mr Stanton said. "Because of the pressure on the system we need this for people who are seeking international protection."

"I want to get away from the emergency hotel and bed-and-breakfast setup because I'm not happy with that at all."

Mr Stanton said there was no appetite to go the way of some other countries that have provided accommodation in "sleeping bags and tents".

**Local divisions over direct provision reflect differing views on impact of immigration**  
page 4

AN BUNNIA

14 APR 2020

LTR DATED FROM

LDG-

**COMHAIRLE CHONTAE LIATROMA**  
**LEITRIM COUNTY COUNCIL**



**Planning & Development Acts 2000 - 2019**

PLANNING REGISTER under S.7 (2)(r) and (t)

Reference No.: G.1508

S.152 warning letter

Issue date: 3 Feb 2006

Recipient: Frank Maxwell

Reason: Failure to comply with conditions 2 to 12 of grant of permission in respect of file P.04/1546

S.153 decision on enforcement

It is decided not to issue an enforcement notice in respect of this matter as the recipient has engaged with the Planning Authority and is resolving the outstanding compliances.

The Planning Authority would advise that no s152 warning letters and no s154 enforcement notices issued in respect of the developments authorised by grants of planning permission in respect of files:

P.04/1545; P.04/1789; P.05/544; P.06/585; P.07/858

A handwritten signature in black ink, appearing to read 'Martin Donnelly', written over a horizontal line.

**MARTIN DONNELLY.**

Enforcement Officer,  
Economic Development,  
Planning and Infrastructural Services.

Register  
**LEITRIM COUNTY COUNCIL**

**PLANNING & DEVELOPMENT ACT 2000**

**NOTIFICATION OF A GRANT OF PERMISSION**

To: Mr. Frank Maxwell  
C/o Opperman Assoc.  
10 Coke Lane  
Smithfield  
Dublin 7

Planning Register Reference No: P.04/1546

A PERMISSION has been granted to you for the Development described as follows:-  
erect mixed use building over basement containing 141 parking spaces (with vehicular entrance). Supermarket with service yard, 5 retail units, 2 office units, internal courtyard, coffee shop. Office with internal mezzanine, creche with play area. 21 residential units, internal courtyard with pedestrian access and lift core. Dedicated drop off area to be provided for the creche. Landmark 3 storey office block with a lift core with 24 parking spaces @basement level. Single storey car showroom with associated service area to rear, ancillary offices, service area, parts shop, wash bay, staff area, reception & storage area. 18 outdoor display parking spaces to rear. 12 no. 3 bed townhouses with associated on street & off street parking totalling 19 spaces. Also, a further 36 no. on street parking spaces; site development works; construction of new street network connecting into Part 8 relief road (Ref. 04/C/15); public footpaths, hard & soft landscaping. 10 year planning permission is sought at Cannaboe Ballinamore Co. Leitrim in accordance with the documentation submitted and subject to the 26 conditions outlined on the attached Schedule (Schedule 2).

The main reasons and considerations on which the decision is based are detailed on the attached Schedule (Schedule 1)

Signed: B. O'Brien  
/Senior Executive Officer

Date: 10/06/2005

AN BORD PLEANÁLA	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

# Leitrim County Council

## Schedule 1

### Main Reasons and Considerations on which the Decision is based.

Ref. No. in Planning Register: P. 04/1546

Having regard to the location of the proposed development within the town centre, its proximity to the amenities of the town, its location amongst other residential, retail and mixed-use developments, and its proximity to the proposed Ballinamore Relief Road, it is considered that the proposed development, subject to compliance with the conditions set out in the Second Schedule, would not seriously injure the amenities of the area and would be in accordance with the proper planning and development of the area.

Signed:

B O'Brien  
/Senior Executive Officer (Planning)

Date: 10<sup>th</sup> day of June 2005



# Leitrim County Council

## Schedule of Conditions

Ref. No. in Planning Register:- P.04/1546

### Subject to the Following Conditions:-

1. The development shall be executed and completed in its entirety in accordance with plans, particulars, details and specifications lodged as part of this application, as amended by the submissions of 8<sup>th</sup> March 2005 and 13<sup>th</sup> April 2005, save as is hereinafter otherwise required.

Notwithstanding the exempted development provisions of the Planning and Development Regulations, any proposed change of use or occupancy, or any other form of exempted development, i.e. outbuildings, boundary walls, etc., shall be subject to the written agreement of the Planning Authority or Permissions as may be required.

Reason: In the interests of proper planning and development, to ensure the satisfactory completion of the development and in the interests of Development Control.

### Pre-Commencement Conditions (Requiring comprehensive submissions, to be agreed in writing with the Planning Authority, prior to any works on site)

2. Prior to the commencement of work on site, the developer shall submit to the Planning Authority for written agreement, the following:
  - (a) Plans indicating full details of finishes to be incorporated into the structures including colour schemes, materials and textures. All finishes shall be in keeping with the predominant materials used in the vicinity.
  - (b) Plans and details clearly indicating the finishes to all footpaths, roadways, public areas, shared surfaces and the like.
  - (c) Plans and details of all boundary treatments, including the treatment and finishes to be utilised, as well as a planting schedule for the creation, reinstatement and augmentation of boundaries.
  - (d) Plans showing full details of window and door finishes incorporating hardwood timber, unless otherwise agreed with the Planning Authority. All windows and doors shall be in keeping with the overall context of the development.
  - (e) Plans and details of public, private and security lighting for the overall development.
  - (f) Plans indicating full details of the design of the shop fronts with integration of signage, advertising and lighting.

Reason: In the interests of proper Planning and Development.

Dated this 10<sup>th</sup> day of June 2005

B. O'Brien  
Senior Executive Officer (Planning)

AN BORD PLEANÁLA	
14 APR 2005	
LTR DATED _____	FROM _____
LDG- _____	
ADD- _____	

# Leitrim County Council

## Schedule of Conditions

Ref. No. in Planning Register:- P.04/1546

### Subject to the Following Conditions:-

3. The new road required to facilitate the proposed development, a.k.a. the Part 8 Ballinamore Inner Relief Road, shall be constructed by the developer in conjunction with the development permitted herein. No part of said development shall be opened or occupied until such time as the Planning Authority accepts that works are completed to a suitable and appropriate scale.

The developer shall consult with the District Engineer, Mohill Area Office and the Senior Engineer, Roads Section, Leitrim County Council, prior to commencement of development, regarding the proposed new access, relief road, the entrance to the site, relocation of lighting columns, installation of public lighting, landscaping and horizontal and vertical alignment of the road and shall meet their requirements. Any amendments shall be incorporated into revised documentation that shall be submitted to the Planning Authority, prior to the commencement of the development.

**Reason:** In the interests of the proper planning and development of the area and the preservation of the amenities of property in the vicinity.

4. Prior to commencement of work on site, the sum of €10,000 (ten thousand Euro) shall be paid to the Planning Authority, to be expended by them in whole or in part, on remedial work to damage to the carriageway of the public roads, footpaths and water and sewerage services or in the keeping of the public roads clean and safe for road users, if the need arises, directly attributable to site traffic, or returned, in the event of no damage arising.

**Reason:** In the interests of the protection of the public carriageway and the preservation of the amenities of property in the vicinity.

5. A Development Charge shall be paid to the Planning Authority prior to commencement of works in the amount of €287,160 (two hundred and eighty seven thousand one hundred and sixty euro). In the event of works not having commenced on site after the expiration of one year from the date of grant of Permission, these Charges shall be increased quarterly in accordance with the Consumer Price Index.

**Reason:** To contribute towards the costs incurred or to be incurred by the Authority in the provision of services and facilities in accordance with the Development Contributions Scheme for County Leitrim.

Dated this 10<sup>th</sup> day of June 2005

BOBeme  
(Senior Executive Officer (Planning))

AN BORD PLEANÁLA	
14 APR 2005.	
LTR DATED _____	FROM _____
LDG- _____	
APP- _____	

# Leitrim County Council

## Schedule of Conditions

Ref. No. in Planning Register:- P.04/1546

### Subject to the Following Conditions:-

- 
6. Prior to the commencement of work on site, a Development Charge of €120,000 (one hundred and twenty thousand euro) (€2,000 per space x 60 space shortfall) shall be paid to the Local Authority for the provision of 60 no. car parking spaces, being the shortfall in parking requirements for the proposed development.

Reason: To contribute towards the costs incurred and to be incurred by the Authority in the provision of car parking facilities which will facilitate the proposed development.

7. A Construction and Demolition Waste Management Plan shall be submitted to the Planning Authority for written agreement, prior to commencement of works, in accordance with the requirements of the Environmental Services Section of Leitrim County Council.

Reason: In the interests of pollution control.


- 8.(a) The site shall be cordoned off during construction, and accommodation shall be made for pedestrians to be agreed with the Planning Authority, prior to the commencement of development. Appropriate licence(s) shall be obtained.
- (b) Provision shall be made within site boundaries for the temporary accommodation of construction and demolition debris and for the accommodation of building materials.
- (c) There shall be no mixing of concrete or mortar on any part of public property associated with the site.

Reason: In the interests of pedestrian and traffic safety.

9. Drainage calculations, demonstrating the capacity of the pipe networks to discharge the design flows and run-off from the development. Full details of surface water disposal providing drainage design calculations for the proposed networks, demonstrating the capacity of the proposed pipe networks, and drains/watercourses/pipe networks beyond the site to discharge the design flows and run-off from the development. Proposals shall include appropriate attenuation and suitably sized petrol interceptor(s) and grit trap(s) for the surface water collection and distribution system. Details of any works proposed beyond the site boundaries shall be clearly illustrated.

Reason: In the interests of development control and pollution control.

Dated this 10<sup>th</sup> day of June 2005

  
Senior Executive Officer (Planning)



# Leitrim County Council

## Schedule of Conditions

Ref. No. in Planning Register:- P.04/1546

Subject to the Following Conditions:-

10. A Project Management Plan, to include the following measures, shall be submitted to the Planning Authority prior to any part of the development commencing and the development shall not be brought into use other than in full accordance with such details as have been agreed within the plan:
- A detailed method statement outlining the schedule of work for the development of the site
  - A detailed layout of the site and construction operations during the various phases of the development
  - Provision within the site boundaries for the off street accommodation of building materials, vehicles and temporary offices
  - Car and truck parking facilities provided on site during the construction phases of the development
  - Provision of a defined Contractors compound incorporating measures to counteract ground water pollution
  - A spray/wheel washing facility for all construction vehicles leaving the site
  - A defined refueling area, if necessary, away from existing water bodies
  - Adoption of practices during construction that comply with British Standard 5228 "Noise control on Construction and Open Sites Part 1. Code of Practice for Basic Information and Procedures for Noise Control"
  - Detailed proposals for the construction of silt traps to prevent contamination of water courses
  - No mixing of concrete or mortar on any part of the public property associated with the site
  - Location of the temporary access onto the existing road network to facilitate construction traffic

Reason: To ensure that the development is carried out in an orderly and planned manner and in the interests of the amenities of the area.

Dated this 10<sup>th</sup> day of June 2005

Bo Beuna  
Senior Executive Officer (Planning)

AN BORD PLEANÁLA

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LOG- \_\_\_\_\_

# Leitrim County Council

## Schedule of Conditions

Ref. No. in Planning Register:- P.04/1546

### Subject to the Following Conditions:-

11. A Management arrangement for the on-going maintenance of the infrastructure on the development site, including access road(s), car-parks, footpaths, public lighting, landscaped areas, foul sewers, surface water sewers, etc., shall be established and shall be submitted for the agreement of the Planning Authority prior to the commencement of works.

Reason: In the interests of the proper planning and development of the area and the preservation of the amenities of property in the vicinity.

12. The developer shall provide a fully serviced recycling facility for public use on the site. Full details of the facilities, to include size of banks, servicing arrangements and the like, shall be agreed with the Planning Authority prior to commencement of works. The developer shall be fully responsible for the upkeep and servicing of the bring centre and shall provide annual returns to the Planning Authority in this regard. Notwithstanding the foregoing, the developer shall make full provision for compliance with all Packaging Regulations, for the separate storage and collection of the five specified packaging wastes, and shall allow for facilities to enable customers to return packaging waste.

Reason: In the interests of facilitating the recycling of waste products.

13. Details of all lighting or illumination of any part of the buildings or site, to include direction of illumination and intensity, shall be submitted to, and agreed in writing, by the Planning Authority. All external lighting of the proposed development shall be cowed and directed away from the roadway and surrounding properties. Once agreed, no such development shall be carried out, otherwise than in full accordance with the agreed details.

Reason: In the interests of amenity and traffic safety.

14. Any proposed externally visible advertising signs, symbols, or nameplates shall be subject to the prior written consent of the Planning Authority, or to prior Planning Permission if required. More favourable consideration shall be given by the Planning Authority to signs which display a high degree of handcraftsmanship and which are in scale and harmony with their surroundings.

Reason: In the interests of proper Planning and Development.

Dated this 10<sup>th</sup> day of June 2005

*B O'Brien*  
/ Senior Executive Officer (Planning)



# Leitrim County Council

## Schedule of Conditions

Ref. No. in Planning Register:- P.04/1546

Subject to the Following Conditions:-

### Post Commencement Conditions

15. A qualified archaeologist shall be employed to monitor under license the ground disturbances and topsoil removal associated with the development. Should archaeological deposits be uncovered during the course of monitoring, the Archaeologist may have all works stopped, pending a decision on how best to deal with the material. The Archaeologist shall be advised by Development Applications Section, Department of Environment and shall be furnished with an Archaeological report describing the results, within six weeks of monitoring completion. A copy of the report shall also be submitted to the Planning Authority.

Reason: In the interests of the protection of archaeological material or information

16. All site works shall be provided and carried out in accordance with the 'Recommendations for Site Development Works in Housing Areas' – The Department of the Environment and Local Government.

Reason: In the interests of development control and the preservation of the amenities of the completed development.

17. A Management arrangement for the on-going maintenance of the infrastructure on the Estate prior to taking-in-charge, including roads, footpaths, public lighting, green areas, including planting, foul sewers, surface water, etc., shall be established and shall be submitted for the agreement of the Planning Authority prior to the completion of site development works.

Reason: In the interests of the proper Planning and Development of the area and the preservation of the Amenities of Property in the vicinity.

18. Foul water only shall be discharged to the public sewer. Surface water shall be disposed of to the surface water drainage system.

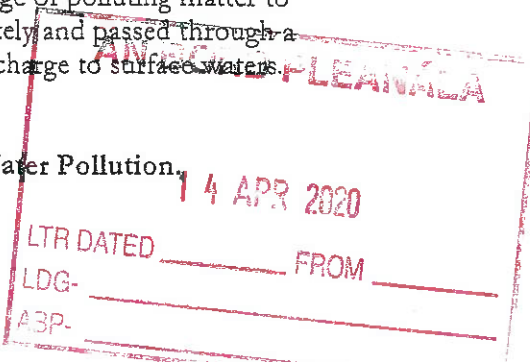
Reason: In the interests of Pollution Control.

19. The developer shall take measures to prevent the discharge of polluting matter to watercourses. All surface water shall be collected separately and passed through a suitably sized petrol interceptor and grit trap prior to discharge to surface waters. Roof water may be discharged directly.

Reason: In the interests of the prevention of Water Pollution.

Dated this 10<sup>th</sup> day of June 2005

*B. O'Brien*  
Senior Executive Officer (Planning)



# Leitrim County Council

## Schedule of Conditions

Ref. No. in Planning Register:- P.04/1546


### Subject to the Following Conditions:-

- 
- 20.(a) A meter shall be provided on public property adjacent to point of supply from the public water main.
- (b) All internal plumbing fittings other than those serving drinking or culinary purposes shall be connected to a roof tank of suitable capacity.
- (c) Services shall be designed and constructed in accordance with Leitrim County Councils "Standards for Water main and Sewer Construction".

Reason: In the interest of the provision of a proper water supply

21. All connections to public services shall be the subject of separate permission applications to the Local Authority. All connections to the public sewers and mains shall be made to the satisfaction of the Planning Authority. Full details of surface water disposal shall be submitted to and agreed with the Planning Authority prior to commencement of works on site.
- Any proposed foul pumping station shall be designed and constructed in accordance with Leitrim County Councils *Specifications for Pumping Stations for Adoption*. It shall have an adequate storage provided in the pumping chamber of at least 12 hours.
  - The required upgrading of the water pumping station shall be designed and constructed in accordance with the requirements of Leitrim County Council.
  - A suitably sized grease trap interceptor will be provided on all waste pipes from cooking and food preparation areas, excluding residential units.
  - A meter shall be provided on public property adjacent to point of supply from the public watermain.
  - The temporary water connection for construction purposes shall be fitted with integrated stopcock, meter and watertight chamber to the Council's specification.
  - All surface water shall be collected separately and passed through a suitably sized petrol interceptor and grit trap prior to discharge to surface waters. Appropriate attenuation shall be catered on-site for surface water arising.

Dated this 10<sup>th</sup> day of June 2005

  
/Senior Executive Officer (Planning)

# Leitrim County Council

## Schedule of Conditions

Ref. No. in Planning Register:- P.04/1546

### Subject to the Following Conditions:-

- Arrangements for the maintenance of the existing drains on adjacent lands between this site and the River shall be put in place and full details shall be agreed with the Planning Authority prior to the commencement of the development.

Reason: In the interests of proper planning and development

22. All service lines and cables serving the proposed development shall be located underground, unless otherwise agreed with the Planning Authority.

Full plans and details as to the relocation of existing ESB and Eircom service lines shall be submitted to the Planning Authority for written agreement, prior to relocation works.

Reason: In the interests of orderly development and visual amenity.

23. (a) The developer shall consult with and shall take cognisance of the requirements of the Fire Authority.

- (i) The Applicant should be advised that a Fire Safety Certificate is required for this development in accordance with the requirements of Part III of the Building Control Regulations 1997. Fire safety certificate application forms are available from Leitrim County Council Fire Department at Priests Lane, Carrick-on-Shannon or online on Leitrim County Council's website [www.leitrim.ie](http://www.leitrim.ie). Each application for a fire safety certificate should be a detailed submission comprising of completed application form, drawings, specifications, calculations etc. that demonstrates compliance with Part B of the Second Schedule to the Building Regulations.
- (ii) The completed application for a fire safety certificate together with the appropriate fee should be submitted to Leitrim County Council Fire Department at Priests Lane, Carrick-on-Shannon. Construction of the development should not commence before the fire safety certificate is granted.
- (iii) A commencement notice is required in respect of this building and/or works. The commencement notice and required fee shall be submitted to Leitrim County Council in accordance with Part II of the Building Control Regulations 1997.

Dated this 10<sup>th</sup> day of June 2005

*Bob Bente*  
Senior Executive Officer (Planning)

AN BORD PLEANÁLA

14 APR 2020

LEITRIM DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

APP- \_\_\_\_\_

# Leitrim County Council

## Schedule of Conditions

Ref. No. in Planning Register:- P.04/1546

### Subject to the Following Conditions:-

- (iv) Suitable and adequate water supply shall be provided for fire fighting purposes in accordance with the requirements of the Chief Fire Officer. This shall include the provision of a ring main of minimum diameter 150 mm around the building with at least 3 hydrants conforming to BS 750:1984 (round thread outlet). Fire hydrants shall be provided at a
  - (iv) distance of not more than 46m from the building and in such a manner that no part of the perimeter of the building is more than 60m from a hydrant.
  - (v) Hydrant indicator marker plates shall be provided to comply with B.S. 3251: 1976. The outlet from a hydrant shall be not greater than 200mm below adjoining ground level. Access to the hydrants shall be readily available at all times and shall not be obstructed by vehicular traffic.
  - (vi) Ready access for fire appliances shall be provided at all times and shall not be obstructed by car parking barriers. Where access roadways are provided on site for fire fighting appliances, a minimum turning circle of 16.8m between kerbs or 19.2 m between walls shall be provided.
  - (vii) Hardstand areas for fire appliances shall be provided adjacent to the building.
  - (viii) The ventilation of cooking equipment should comply with the relevant requirements of B.S. 5720 "Code of Practice for Mechanical Ventilation and Air Conditioning in Buildings" and the requirements of NFPA 96 "Vapour Removal from Cooking Equipment".
  - (ix) L.P.G. Storage and installation shall comply with I.S. 820-2000 Code of Practice for Non-Domestic Gas Installations. Certification showing compliance with this standard shall be submitted to the Fire Authority.
- (c) The development shall comply with the Building Regulations, current edition.

Reason: In the interests of fire safety and public health.

24. The development shall take cognisance of the requirements of the Environmental Health Authority. The developer shall ensure that the special needs of the Physically Disabled are catered for in the overall design and construction of the development viz., dished kerbs, wheel chair accessibility, etc.

Reason: In the interests of proper Planning and Development.

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

Dated this 10<sup>th</sup> day of June 2005

LEG-

APP-

*Bob Beine*

Senior Executive Officer (Planning)



# Leitrim County Council

## Schedule of Conditions

Ref. No. in Planning Register:- P.04/1546

### **Subject to the Following Conditions:-**

25. The developer shall abide by the Child Care (Pre-School Services) Regulations, 1996 and Child Care (Pre-School Services)(Amendment) Regulations, 1997 as administered by the Health Board.

**Reason:** To ensure compliance with regulatory requirements.

26. (a) Suitable and adequate number of refuse bins with lids shall be provided for the storage of refuse. External storage shall consist of rodent-proof containers with tight-fitting lids that are capable of being easily cleaned. Bins and containers shall be stored on a suitably paved surface and a water point shall be provided adjacent to the area for cleaning purposes.
- (b) The developer shall ensure that all public areas adjacent to the development will be maintained free of litter originating from the development and shall provide adequate number of waste bins for the collection of refuse.
- (c) The development shall be serviced by an approved refuse collection service with regular collections in accordance with the amount of refuse generated. The development and general vicinity shall be maintained in a tidy condition.

**Reason:** In the interests of Public and Environmental Health.

AN BORD LEITRIM	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

Dated this 10<sup>th</sup> day of June 2005

B. O'Seama  
Senior Executive Officer (Planning)



# The Property Registration Authority An tÚdarás Clárúcháin Maoine

Land Registry Sealed and Certified Copy Folio (& Filed Plan)

CLOHESSY MINIHANE SOLICITORS  
DX 3020  
LIMERICK

This page forms part of the official document. Do not detach.

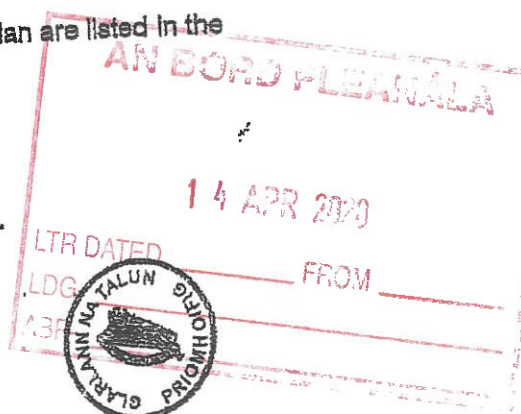
Folio Number: LM20931F  
Application Number: D2018LR156396E  
Your Reference: WEA001008

This document comprises an office copy of the Land Registry record for the above mentioned folio/filed plan as of the date appearing.

Details of dealings pending (if any) on the enclosed folio/filed plan are listed in the Schedule below.

 by the Property Registration Authority.

## Schedule



### Notes:

1. Filed plans should be read in conjunction with the Register. The description of the land in the Register or on the filed plan is not conclusive as to the boundaries or extent of the land (see Section 85 of the Registration of Title Act 1964, as substituted by Section 62 of the Registration of Deeds and Title Act, 2006).
2. Filed plans greater than A3 in size may be provided as separate A3 tiles with an overlap and print gutter. When aligning the tiled sheets, customers are advised to use the underlying topographical detail.
3. On receipt of this record, please check to verify that all the details contained therein are correct. If this is not the case, please return the document to the Property Registration Authority immediately.

Folio Number: LM20931F  
Date Printed: 28/05/2019

Application Number: D2018LR156396E  
Page 1 of 9



# Land Registry

Folio 20931F

County Leitrim

## Register of Ownership of Freehold Land

### Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

For parts transferred see Part 1(B)  
Description

No.

1

The property shown coloured Red as plan(s) DM5UP on the Registry Map, situate in the Townland of CANNABOE, in the Barony of CARRIGALLIN, in the Electoral Division of BALLINAMORE.

The Registration does not extend to the mines and minerals

2

The property shown coloured Red as plan(s) DM48T on the Registry Map, situate in the Townland of CANNABOE, in the Barony of CARRIGALLIN, in the Electoral Division of BALLINAMORE.

The Registration does not extend to the mines and minerals

3

The property shown coloured Red as plan(s) BCM3C on the Registry Map, situate in the Townland of CANNABOE, in the Barony of CARRIGALLIN, in the Electoral Division of BALLINAMORE.

The Registration does not extend to the mines and minerals

4

The property shown coloured Red as plan(s) 35 on the Registry Map, situate in the Townland of TULLY, in the Barony of CARRIGALLIN, in the Electoral Division of BALLINAMORE.

The Registration does not extend to the mines and minerals

### Official Notes

From Folio LM13326F

From Folio LM13326F

From Folio LM13326F

From Folio LM13326F

AN BORD PLEANALA

14 APR 2019

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

A3P- \_\_\_\_\_

Folio 20931F

County Leitrim

No.	Prop No:	Instrument:	Date:	Area (Hectares):	Plan:	Folio No:
<div style="border: 1px solid black; padding: 10px; text-align: center;"> <p><b>AN BORD PLANCHULA</b></p> <p><b>14 APR 2003</b></p> <p>LTR DATED _____ FROM _____</p> <p>LDG- _____</p> <p>ABP- _____</p> </div>						

Land Registry

Folio 20931F

County Leitrim

Part 2 - Ownership

Title ABSOLUTE

The devolution of the property is subject to the provisions of Part  
II of the Succession Act, 1965

No.

1

26-OCT-2018  
D2018LR156396E

REMCOLL 2 LIMITED of Chamber Buildings, North Street, Swords,  
County Dublin is full owner.

AN BORD PLEANÁLA

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ASP- \_\_\_\_\_

## Land Registry

Folio 20931F

County Leitrim

## Part 3 - Burdens and Notices of Burdens

No.	Particulars
1	23-DEC-2005 D2005WS017965P The property No. 4 is subject to the fishing rights and fisheries (if any) excepted by Order of the Land Commission.
2	26-OCT-2018 D2018LR156396E The Grant of Wayleave and such other easements as specified in Instrument Number D2018LR156396E in favour of Turvey Manor Limited the registered owner(s) of the property comprised in folio LM13326F, their heirs, assigns and others as specified therein affecting the part of the property shown coloured yellow on Plan DMSUP, DM48T, BCM3C, 35 of the Registry Map.
3	26-OCT-2018 D2018LR156396E Charge for present and future advances repayable with interest. INDEPENDENT TRUSTEE COMPANY LIMITED, Davycrest Nominees, Wealth Options Trustees Limited and Ciaran Fitzpatrick, Frank Lynch, Sandra Walker, James Rael, Noel Gallivan, Barbara Gallivan, Wealth Options Limited, is owner of this charge. refer to instrument D2018LR156396E for trustee details re: ownership of charge The above charge is also registered on folio WH35155F and WH3305L

AN DORD PLEANÁLA

14 APR 2019

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ASP- \_\_\_\_\_

Registry of mapping, a scale, and original

For details limitations conditions see [www.iam.ie](http://www.iam.ie)

This map is Ireland (O.S.I.) of Ireland.

(e) F L S

Burdens  
R T P W P S S

A full list symbols [www.iam.ie](http://www.iam.ie)

The register non-con The Register not bound descriptive registry

CANNABOE

AN BORD PLEANÁLA

14 APR 2007

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

A3P- \_\_\_\_\_

DM51P

Registry mapping. V a scale the original O

For details limitations conditions see [www.lam.gov.ie](http://www.lam.gov.ie)

This map is Ireland (O from OSI of Ireland.

(ca F L S

Burdens

R Th Pl W Pl S S

A full list symbols [www.lam.gov.ie](http://www.lam.gov.ie)

The regi non-con The Reg not bou descript identifi registry

Willowfield Road

The Willows

DM48T

ABOE C

AN BORD PLEANALA

14 APR 2020

ETR DATED FROM

LDG- 1:30



Registry map  
mapping. A  
scale, accurate  
original OSI

For details of  
limitations of  
conditions of  
see [www.f](http://www.f)

This map is  
Ireland (OSI)  
from OSI. C  
of Ireland.

(ca) FI LI SI  
— — —

### Burdens

Rt Tu Pt Wt Pu Se So  
— — — — — — —  
○ ● ■ ▽

A full list of  
symbols:  
[www.land](http://www.land)

The register  
non-conc  
The Register  
not bound  
descriptive  
identification  
registry n

AN BORD FLEANÁLA

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ASP- \_\_\_\_\_

CARABOE

HOMOC

Willie Court

This map should be read in conjunction with the folio.

Registry maps are based on OSI topographic mapping. Where registry maps are printed at a scale that is larger than the OSI published scale, accuracy is limited to that of the original OSI map scale.

For details of the terms of use and limitations as to scale, accuracy and other conditions relating to Land Registry maps, see [www.lral.ie](http://www.lral.ie).

This map incorporates Ordnance Survey Ireland (OSI) mapping data under a licence from OSI. Copyright © OSI and Government of Ireland.

(centre-line of parcel(s) edged)

— Freehold

— Leasehold

— SubLeasehold

Burdens (may not all be represented on map)

Right of Way / Wayleave

Turbary

Pipeline

Well

Pump

Septic Tank

Soak Pit

A full list of burdens and their symbology can be found at [www.landdirect.ie](http://www.landdirect.ie)



The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a

ABOE



Appendix A -- Folio File Plans LM13326F

AN BORD PLEANÁLA

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ASP- \_\_\_\_\_

This map should  
the follo.

Registry maps at  
mapping. Where  
a scale that is for  
scale, accuracy &  
original OSI map

For details of the  
limitations as to:  
conditions relatn  
see [www.osi.ie](http://www.osi.ie).

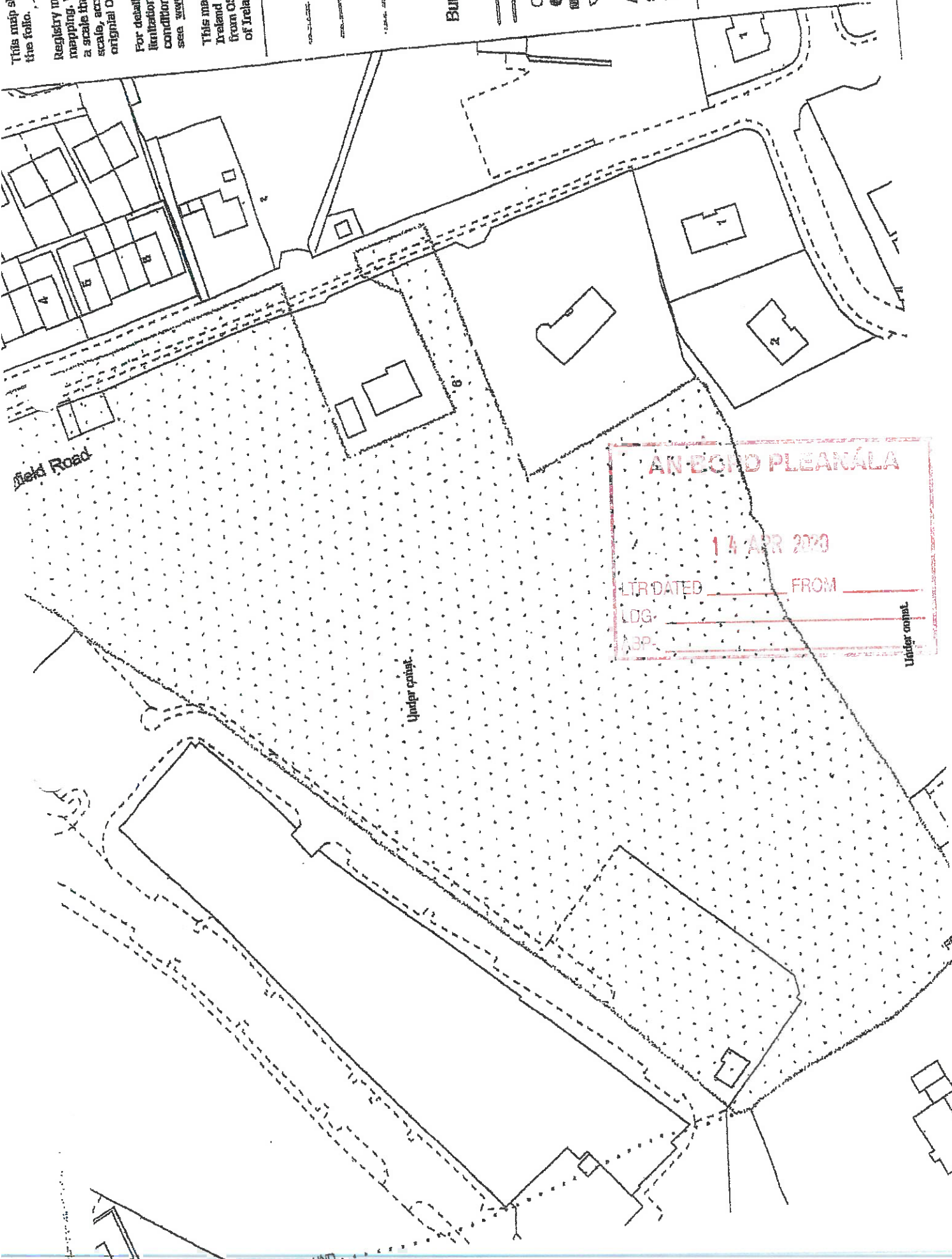
This map incorpu  
Ireland (OSI) map  
from OSI. Copyrig  
of Ireland.

- (centre lin
- Freeh
- Lease
- Suble

- Burdens (may a
- Right of
- Turbary
- pipeline
- Well
- Pump
- Septic Ti
- Soak Pit

A full list of burd  
symbology can l  
[www.landdirect](http://www.landdirect).

The registry sp  
a n-constative  
The Registry of  
not boundaries  
of  
identification l  
Registry maps l  
boundaries of  
the Registration



AN EOID PLEANÁLA

14 APR 2020

LTDATED \_\_\_\_\_ FROM \_\_\_\_\_  
LDG \_\_\_\_\_  
ASP \_\_\_\_\_

Under const.

This map should be used in conjunction with the following information:

Registry maps are prepared by the Land Registry Office. Where a scale is indicated, the accuracy is as shown on the original OSI map.

For details of the limitations as to the conditions relating to the use of the map, see [www.lro.ie](http://www.lro.ie).

This map incorporates Ireland (OS) map from OSI. Copyright of Ireland.

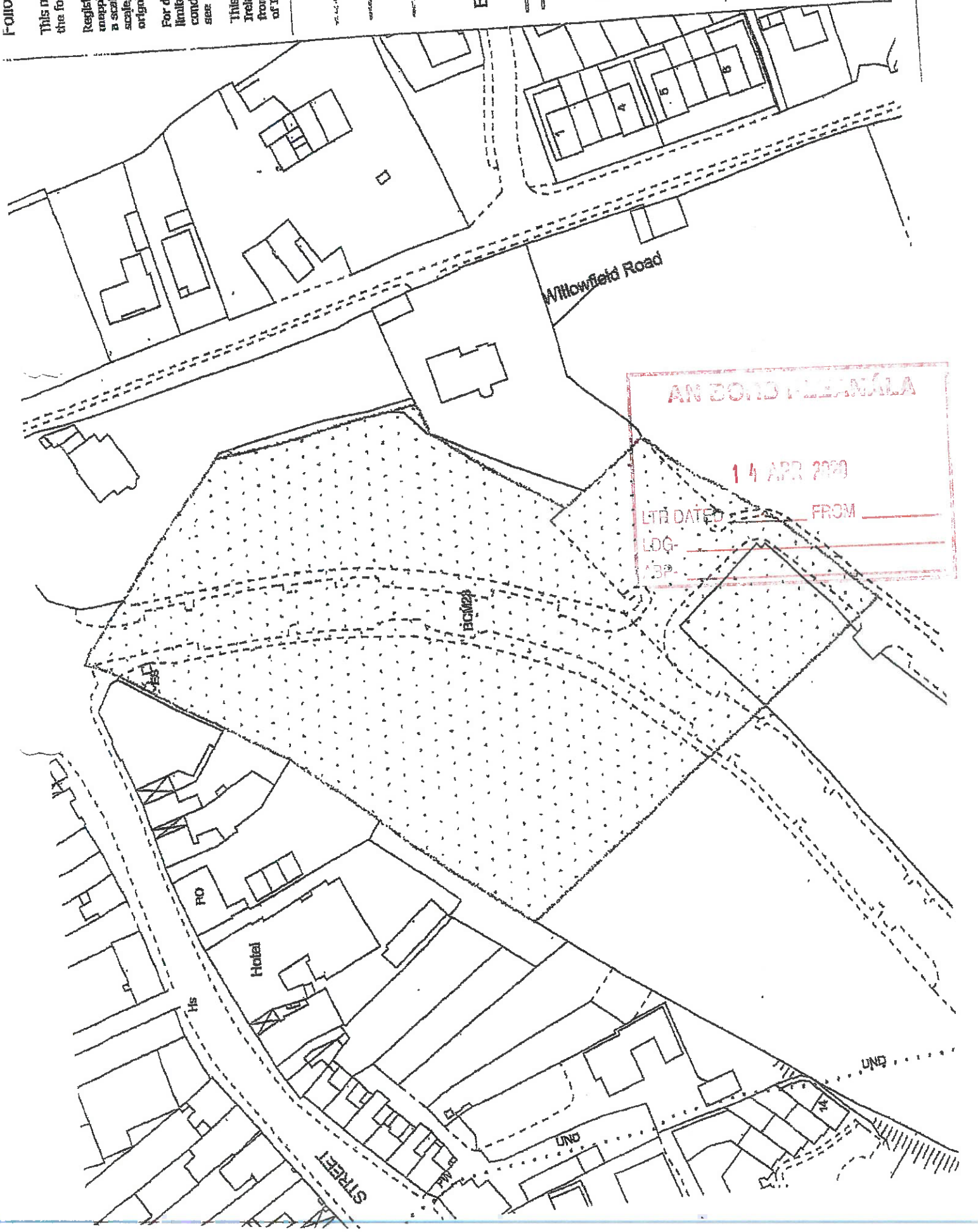
- (centre-line) Freshic
- Leasat
- SubLee

Burdens (may be)

- Right of Way
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit

A full list of burdens and symbols can be found at [www.landdirect.ie](http://www.landdirect.ie)

The registry map is not a substitute for the Registry Office's own boundaries. The identification of the registry map is the boundaries of the registration of the land.



This map should be used in conjunction with the folio.

Registry maps are not to be used for mapping. Where a scale that is less than 1:10,000 is used, accuracy is not guaranteed. For details of the limitations as to scale, accuracy and conditions relating to the use of the map, see [www.prsa.ie](http://www.prsa.ie).

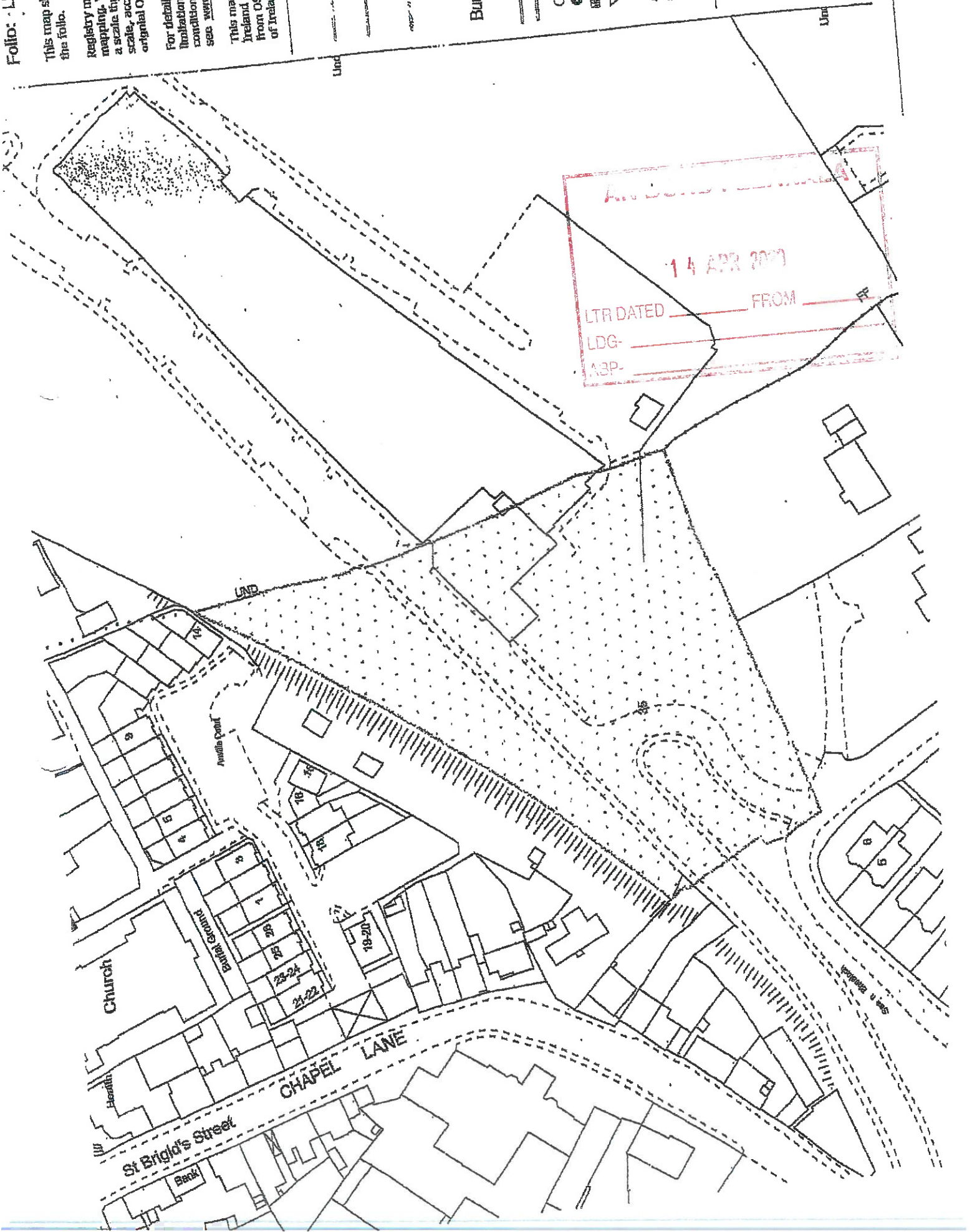
This map is incorporated into the map of Ireland (OSI) map from OSI. Copyright of Ireland.

- (centre line) Freehold
- Leasehold
- Sublease

- Burdens (may be)
- Right of Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit

A full list of burdens and symbols can be found at [www.landdirect.ie](http://www.landdirect.ie)

The registry is not responsible for the accuracy of the information contained in the registry map. The registry is not responsible for the accuracy of the information contained in the registry map.



Appendix B - Site Layout Floor Plans

AN BORD PLEANÁLA

14 APR 2009

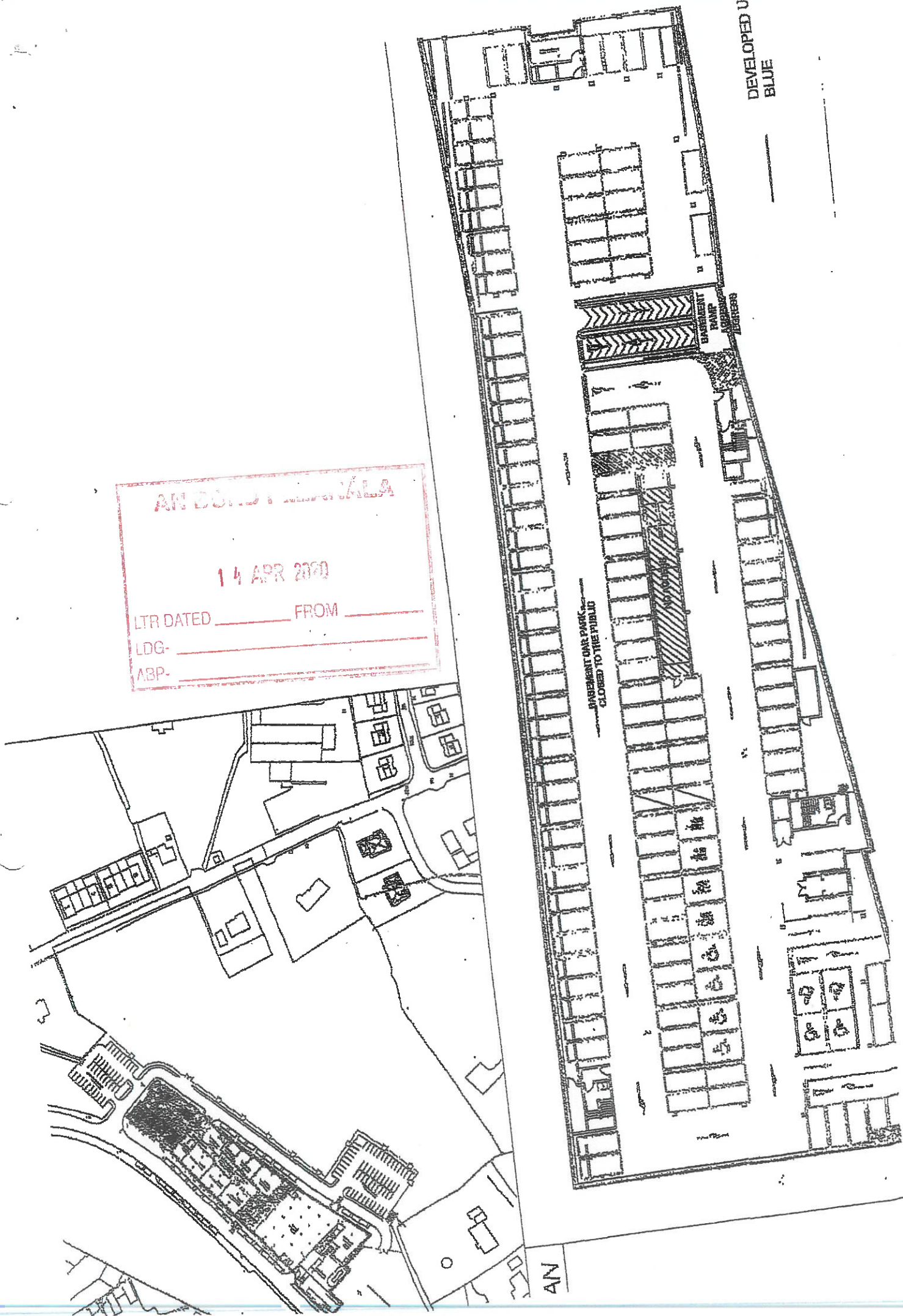
LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ASP- \_\_\_\_\_

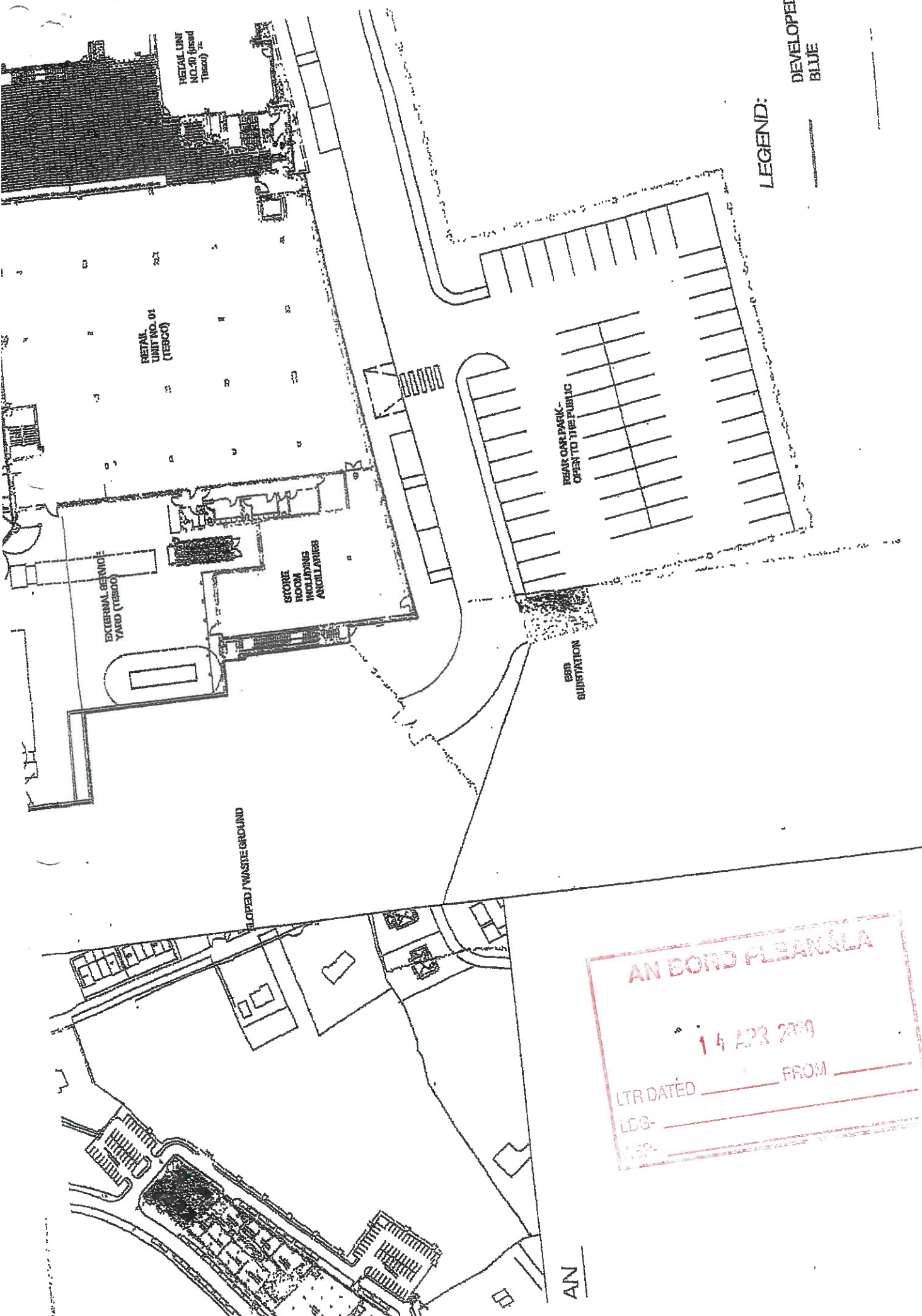


AN DONUT MACHINA  
14 APR 2000  
LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_  
LDG- \_\_\_\_\_  
ABP- \_\_\_\_\_



DEVELOPED U  
BLUE

AN



LEGEND:

DEVELOPED UN  
BLUE

AN BORD PLEANÁLA

14 APR 2009

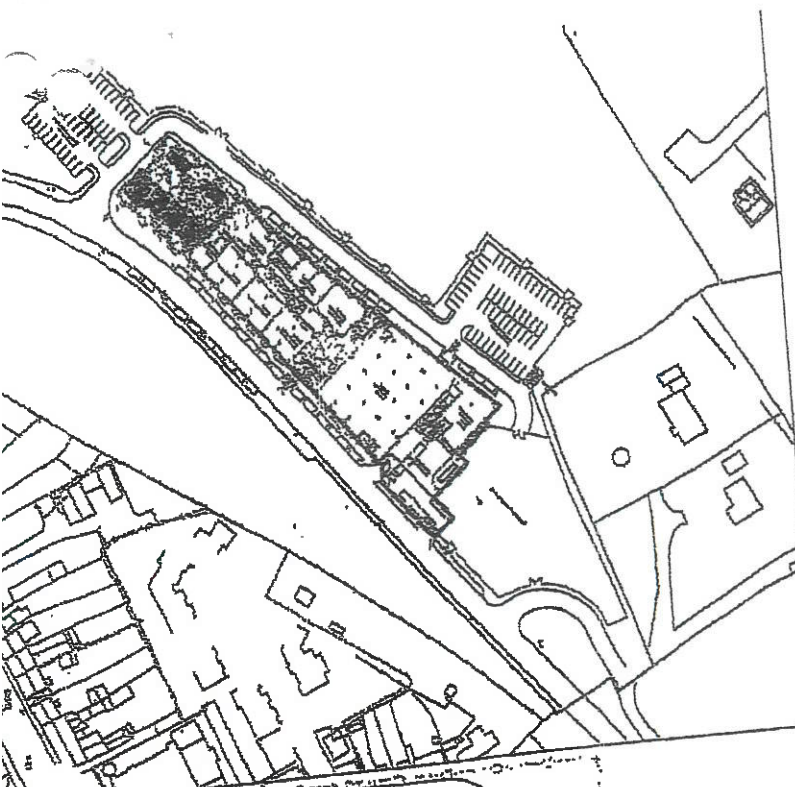
LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ESP- \_\_\_\_\_

AN





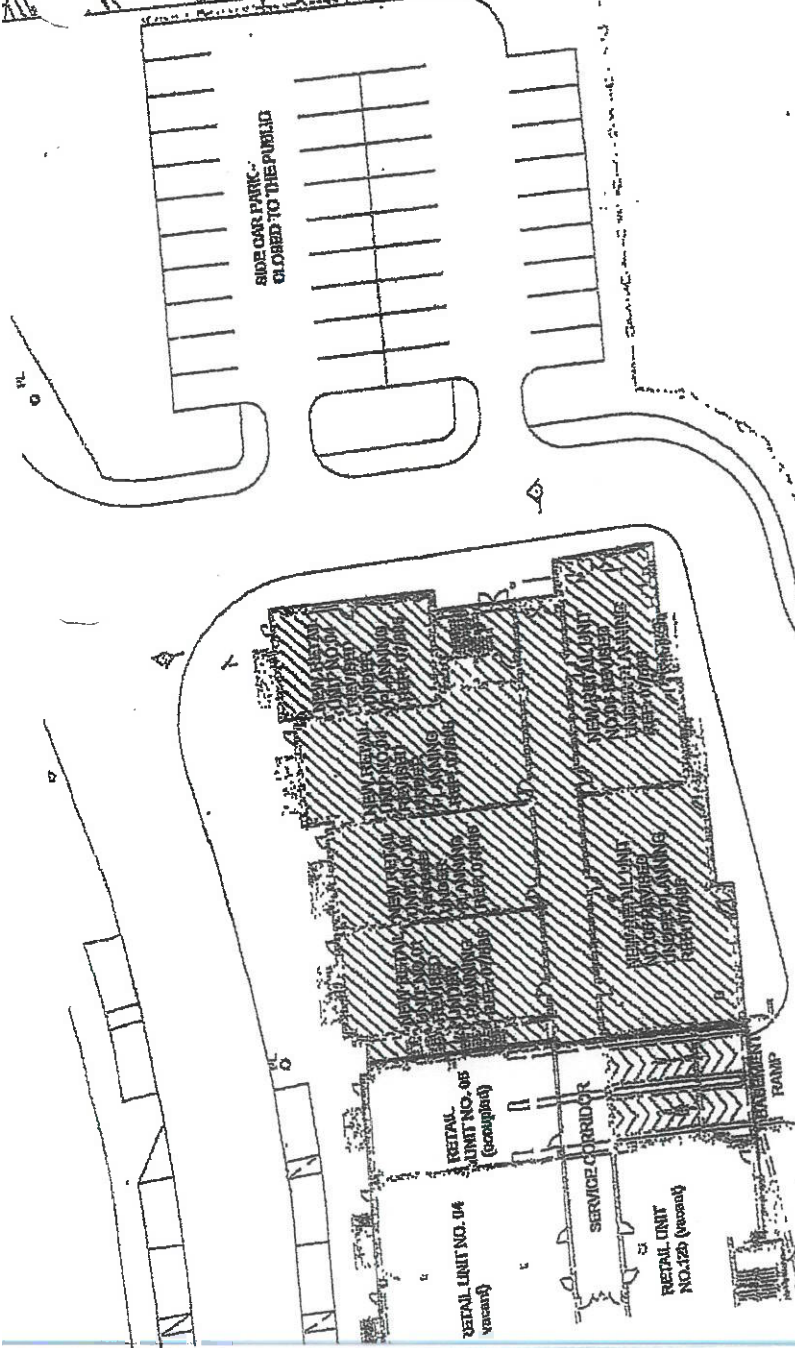
SITE KEY PLAN

Scale 1:2500

1

LEGEND:

DEVELOPED UNIT  
BLUE



AN ECHO PLAN  
14 APR 2009  
LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_  
LDG- \_\_\_\_\_  
ASP- \_\_\_\_\_



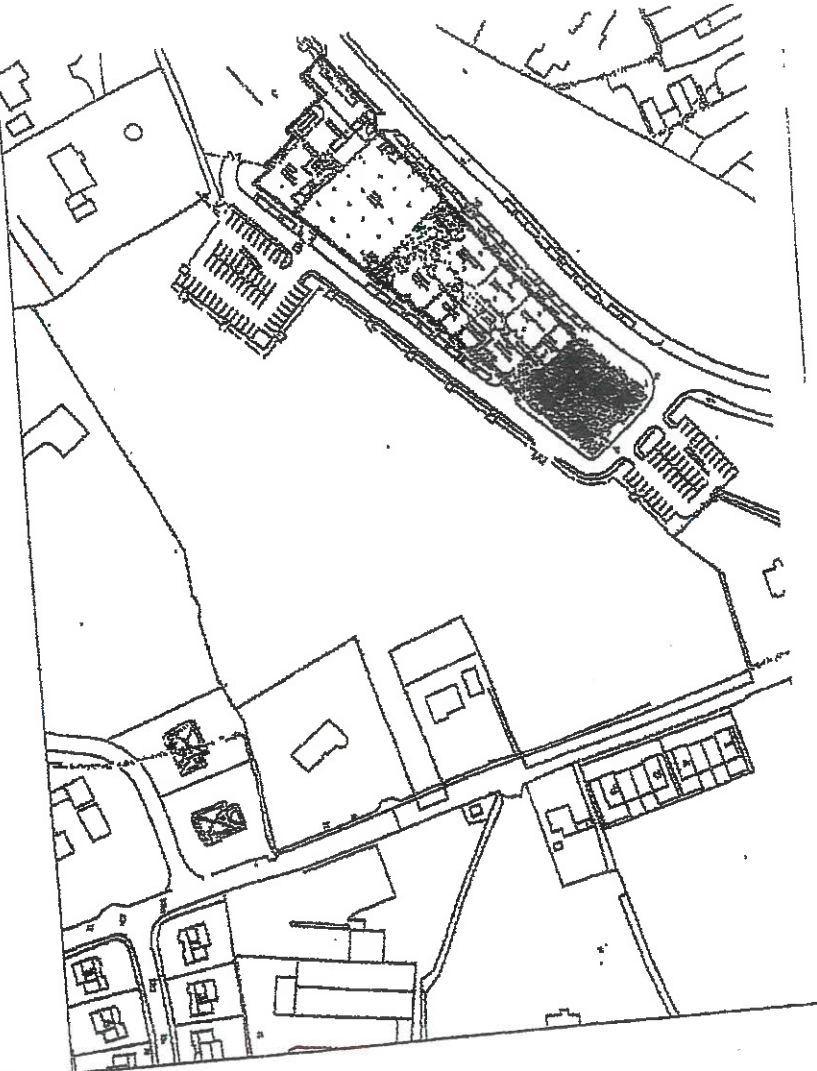
AN



2000 LTR &  
S (OFFICELY  
TRUCKS)

EXTERNAL PODIUM

DEVELOPED UNI  
BLUE



AN BORD PLEANÁLA

14 APR 2000

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ASP- \_\_\_\_\_

PART 8 BAL  
ROAD OUT

AN BOARD PLEANTLA

LTR DATED 14 APR 2011

LDG- FROM

ASP-

HIGH

STREET

57.8

15

10

THE HIGH COURT

Record No. 2019/

Between;

PEMCOIL 2 LIMITED AND TOWNBE LIMITED

Plaintiff

-and-

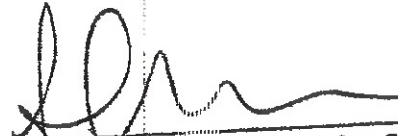
FRED WALSH, GORDON HUGHES, IFA REYNOLDS, BRIAN CULLEN, ADRIAN SMITH,  
DESMOND WISLEY and PERSONS UNKNOWN PROTESTING AT THE ROCK CENTRE,  
BALLINAMORE, COUNTY LEITRIM

Defendants

AFFIDAVIT OF PAUL COLLINS

EXHIBIT PC3

  
\_\_\_\_\_  
PAUL COLLINS

  
\_\_\_\_\_  
Commissioner for Courts/Practising Solicitor  
AdD

AN BORD PLEANÁLA	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	
ASP- _____	

# WALTER P. TOOLAN & SONS SOLICITORS

*Principal Solicitor*

Gabriel A. Toolan

B.A. (Hons.), LLM (Advocacy)

DLS, Dip. Environmental & Planning Law,

Accredited Mediator.

The Law Office

High Street

Ballinamore

Co. Leitrim

N41KV56

*Solicitor*

Dónal Ó Néill, B.A., M.Sc.

Tel. 071 96 44004/96 81000

Fax. 071 96 44788

E-mail: law@wptoolan.com

Date: 10 December 2019

Your Ref:

Our Ref:GT/PD

Mr. Liam Madden

Email: [Vitruvius.hibernicus@hotmail.com](mailto:Vitruvius.hibernicus@hotmail.com)

Dear Liam,

AN BORD FLEAICÉALA	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	

In relation to Section 160 Proceedings I have discussed the matter in detail with Mr. O'Donnell, B.L. who has advised against taking any further action in this matter having regard to how matters have transpired with the local community.

With a view to the group taking legal action I had not received coherent instructions, there was no applicant properly identified and provisions in relation to costs were not made.

Whilst the taking of Section 160 proceedings was a very viable option over a month ago the refusal by the group to take advice to cease their "vigil" and to proceed with bringing a Planning Injunction has been unfortunate for them. The granting of Injunctions and all the related activity has undermined the position greatly.

I enclose a copy of letter received from the Chief State Solicitor's Office dated 29/11/2019 for your attention. I consider it completely unsatisfactory that a full copy of the Agreement appropriately redacted has not been furnished and the furnishing of an appendix is entirely inadequate and I would propose, for record purposes replying to this effect. I enclose herewith draft letter which you might approve which we can place on the record. We had not lodged an Application under the Freedom of Information Act on your behalf previously as matters had come to an impasse and please let me know if this is something that you wish to do now. However I should say that I am not inclined to invest significant additional time and resources into this matter as the legal action which may have been initially contemplated is not now to proceed.

Yours sincerely,



Gabriel A. Toolan,

Walter P. Toolan & Sons



OIFIG AN PHRÍOMH-ATURNAE STÁIT  
CHIEF STATE SOLICITOR'S OFFICE

29<sup>th</sup> November 2019

Walter P. Toolan & Sons Solicitors  
High Street  
Ballinamore  
Co. Leitrim

By Email and Post: [law@wptoolan.com](mailto:law@wptoolan.com)

**Re: Our Client: Minister for Justice and Equality**  
**Your Client: Mr. Liam Madden**  
**Re: Use of apartments at The Rock Centre, Ballinamore, Co. Leitrim**

AN BORD PLEANÁLA

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

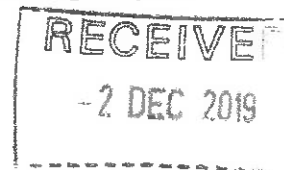
LDG- \_\_\_\_\_

Your Ref: GT/PD \_\_\_\_\_

ABP- \_\_\_\_\_

Our Ref.: JG/2019/05550/

Contact: Jimelle Gallagher  
Direct Dial: 01 417 5192  
[Jimelle\\_Gallagher@csso.gov.ie](mailto:Jimelle_Gallagher@csso.gov.ie)



Dear Sirs,

We refer to your letter of 14<sup>th</sup> November 2019 in relation to the above matter.

We have taken instructions in respect of the three queries contained therein and now respond as follows.

1. As set out in our previous letter of 7<sup>th</sup> November 2019, matters of compliance with all relevant statutory codes, including the Planning Acts, are a matter for Townbe Ltd. The Minister for Justice and Equality is not under an obligation to provide a copy of contracts entered into by the Minister and a third party.

On the basis, however, of your statement that provision of the requested document is hoped to bring this matter to a conclusion, and strictly on the understanding that the Minister will not be entertaining any further requests in relation to this matter, sections 9.1-9.3 of the relevant contract concluded between the Minister for Justice and Equality and Townbe Ltd. in respect of the premises at The Rock, Ballinamore, which relates to compliance with the Planning Acts, are replicated in an Appendix to this letter.

2. Insofar as concerns reference to 130 persons, this is the maximum capacity of the 25 apartments under the Building Regulations (in this respect, it should be noted that the apartments are not all the same size and do not all contain the same number of bedrooms). Twenty-five suitable families will be identified for occupation of the premises and it is proposed to house one family in each apartment. It will not necessarily be the case that each family will comprise the same number of persons as the maximum capacity of the apartment it occupies. In such circumstances, no additional persons will be placed in that apartment.



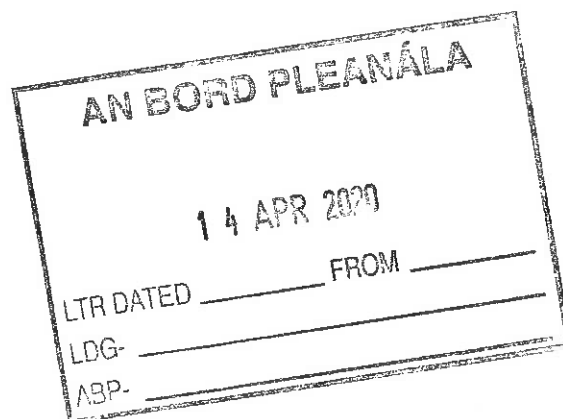
Accordingly, the total number of persons residing in the 25 apartments may be less than 130 persons, and will in no circumstances exceed that number.

3. 'Own-door independent living basis' simply means that each family will occupy a self-contained apartment where the family members will live, cook, eat and sleep as a family unit. (This is in contra-distinction to premises which have communal facilities such as communal kitchens or dining rooms).

We trust that the above addresses your queries and will bring this matter to a conclusion. We would reiterate that, as set out in our previous letter of 7<sup>th</sup> November 2019 and above, in the event that your client does proceed to issue any proceedings against the Minister, such proceedings will be vigorously defended and the Minister will rely on the contents of this letter and previous correspondence to ground an application for costs.

Yours faithfully,

Maria Browne  
**MARIA BROWNE**  
**CHIEF STATE SOLICITOR**



## APPENDIX

### 9.0 STATUTES AND REGULATIONS

9.1 It shall be the responsibility of the Contractor to ensure that the premises complies and operates in accordance with all relevant statutory requirements of Local Authorities and other Agencies in relation to planning, building bye-laws, bedroom capacity, food, food hygiene, water supply, sewage disposal, fire precautions, minimum pay, child protection, legally binding industrial or sectoral agreements and health and general safety, including:

- ▶ Building Control Acts 1990 and 2007;
- ▶ Building Regulations 1997 to 2009;
- ▶ Building Control Regulations 1997 to 2009;
- ▶ Employment Permit Acts, 2003 and 2006;
- ▶ European Communities (Drinking Water) Regulations 2000 to 2007;
- ▶ European Communities (Hygiene of Foodstuffs) Regulations 2000 to 2009;
- ▶ European Communities (Official Control of Foodstuffs) Regulations 1998;
- ▶ Fire Services Acts, 1981 and 2003;
- ▶ Food Hygiene Regulations, 2000;
- ▶ Housing Acts, 1966 to 2004;
- ▶ Industrial Relations Acts 1946 to 2004;
- ▶ National Minimum Wage Act 2000;
- ▶ National Vetting Bureau Acts 2012-2016 (as amended);
- ▶ Planning and Development Acts 2000 to 2005;
- ▶ Private Security Services Act, 2004;
- ▶ Safety, Health & Welfare at Work Act, 2005;
- ▶ Tourist Traffic Acts, 1939 to 2003;
- ▶ Any statutory modification or re-enactment of same; and,
- ▶ Any other relevant Act or Regulations as may be notified by the Minister to the Contractor.

9.2 In the event of the Contractor failing to operate substantially in accordance with the statutory requirements as set out in Clause 9.1, the Minister reserves the right to terminate the Agreement in accordance with Clause 14.1.

9.3 At the request of the Agency, the Contractor shall be obliged to provide evidence of the appropriate planning permission and compliance with building and other relevant regulations for the centre.

<b>AN BORD PLEANÁLA</b>	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	



# WALTER P. TOOLAN & SONS

## SOLICITORS

*Principal Solicitor*

Gabriel A. Toolan

B.A. (Hons.), LL.M. (Advocacy)

DLS, Dip. Environmental & Planning Law,

Accredited Mediator.

The Law Office

High Street

Ballinamore

Co. Leitrim

N41KV56

Tel. 071 96 44004/96 81000

Fax. 071 96 44788

E-mail: law@wptoolan.com

*Solicitor*

Dónal Ó Néill, B.A., M.Sc.

Date: 10 December 2019

Your Ref: JG/2019/05550

Our Ref: GT/PD

Ms. Maria Brown,

Chief State Solicitor's Office,

Osmond House,

Ship Street Little,

Dublin 8,

D08 V8C5

AN BORD

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

BP- \_\_\_\_\_

Your Client: The Minister for Justice and Equality

Our Client: Liam Madden

Re: Use of Apartments at The Rock Centre, Ballinamore, Co. Leitrim

Dear Madam,

We acknowledge receipt of your letter of the 29<sup>th</sup> of November 2019. It is indeed most disappointing that you have chosen not to make available a copy of the appropriate Agreement. We had made it clear that we would accept a redacted copy in terms of any commercial sensitivities that have arisen. The provision of what appears to be an Appendix to some document is entirely inadequate and does not fulfil our client's requirements in this regard and it is inexplicable as to why, in the context of the provision of a facility that the nature and circumstances of the arrangement are not disclosed in full. Obviously the partial disclosure of information which clearly has been done on an entirely selective basis does not satisfy our client's requirements.

Yours faithfully,

Gabriel A. Toolan,

Walter P. Toolan & Sons



OIFIG AN PHRÍOMH-ATURNAE STÁIT  
CHIEF STATE SOLICITOR'S OFFICE

7<sup>th</sup> November 2019

Walter P. Toolan & Sons Solicitors  
High Street  
Ballinamore  
Co. Leitrim

IN COMPLIANCE  
14 APR 2020  
LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_  
LDG- \_\_\_\_\_  
ABP- \_\_\_\_\_

Your Ref.: GT/PD

Our Ref.: JG/2019/05550/

Contact: Jimelle Gallagher  
Direct Dial: 01 417 5192  
Jimelle\_Gallagher@csso.gov.ie

Re: **Our Client: ~~The Minister for Justice & Equality~~**  
**Your Client: Mr. Liam Madden**  
**Re: Use of apartments at The Rock Centre, Ballinamore, Co. Leitrim**

Dear Sirs,

We refer to your letter to our client, the Minister for Justice and Equality, Mr. Charlie Flanagan T.D., dated 30<sup>th</sup> October 2019 on behalf of your client, Mr. Liam Madden, Convent Road, Longford.

We have now taken instructions and can confirm that your letter and the threat of injunctive proceedings under Section 160 of the Planning and Development Act, 2000, as amended, contained therein proceed on a flawed factual premise.

Your letter refers to the intention of the Minister for Justice and Equality to use premises located at The Rock Centre, Ballinamore, County Leitrim as an Emergency Reception and Orientation Centre ('EROC'). There are currently three EROCs in operation in the State, administering to persons with permanent refugee status under the Irish Refugee Protection Programme. None of these are located in Ballinamore and the Minister for Justice and Equality has not entered into any contract to establish an EROC in Ballinamore.

The Minister for Justice and Equality has entered into a contract for the provision of services with Townbe Limited, the owner of a premises comprising 25 no. residential units (apartments) at The Rock Centre in Ballinamore, pursuant to which Townbe Limited (hereinafter 'the Contractor') will provide residential accommodation to applicants seeking international protection within the State. Under the said contract, the Contractor is responsible, *inter alia*, for ensuring that the premises are in compliance with all relevant statutory codes, including the Planning Acts.

Accordingly, the planning status of the apartments located at The Rock, Ballinamore, is a matter for the Contractor and any queries in this respect should be directed at him.

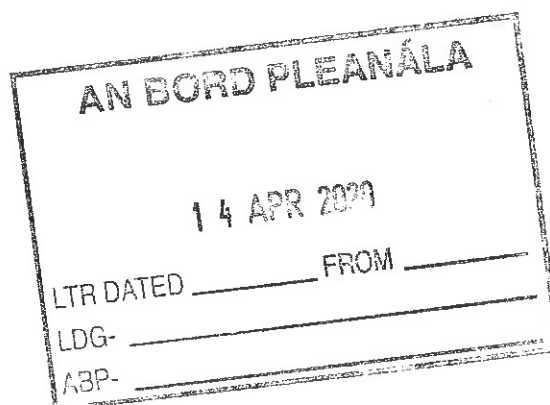
For the avoidance of doubt, however, it appears to the Minister for Justice and Equality that no planning issue arises in respect of the proposed occupation of the 25 apartments. Pursuant to planning permission P04.1546, as amended by permissions P.05/544 and P.07/585, there is planning permission for "25 no. residential units" at the Rock Centre and construction of these 25 apartments has now been completed. It is the intention that these apartments will be occupied by twenty-five families on an 'own-door', independent living basis. Accordingly, the apartments will be in residential use consistent with the relevant planning permissions.

In the light of the above clarification, we trust that your client will not institute any legal proceedings against our client. However, please note that in the event that, notwithstanding the above, your client does proceed to issue proceedings against our client, such proceedings will be vigorously defended and the Minister will rely on the contents of this letter to ground an application for his costs.

Yours faithfully,

Maria Browne

MARIA BROWNE  
CHIEF STATE SOLICITOR





OIFIG AN PHRÍOMH-ATURNAE STÁIT  
CHIEF STATE SOLICITOR'S OFFICE

1st November 2019

YOUR REF.: GT/PD

Walter P. Toolan & Sons Solicitors  
High Street,  
Ballinamore,  
Co. Leitrim  
N41KV56

OUR REF.: POB/2019/05542

CONTACT: PATRICK O'BRIEN  
DIRECT DIAL: 4175179  
Patrick\_O'Brien@csso.gov.ie

**Our Client: The Minister for Justice & Equality**  
**Your Client: Mr Liam Madden**

By email and post: law@wptoolan.com

**RE: Centre at the Rock, Ballinamore, Co. Leitrim**

AN BORD PLEANÁLA	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

Dear Sirs,

We refer to your letter of 30 October 2019 addressed to our client which has been passed to this office today.

You will receive a response once we have had the opportunity to take instructions.

Yours faithfully,

*Chief State Solicitor.*

**MARIA BROWNE,**  
**CHIEF STATE SOLICITOR.**



OIFIG AN PHRÍOMH-ATURNAE STÁIT  
CHIEF STATE SOLICITOR'S OFFICE



4<sup>th</sup> November 2019

YOUR REF.: GT/PD

Walter P. Toolan & Sons Solicitors  
High Street  
Ballinamore  
Co. Leitrim

OUR REF.: JG/AL/2019/05550

CONTACT: JIMELLE GALLAGHER  
DIRECT DIAL: 01 417 5192  
[Jimelle.Gallagher@csso.gov.ie](mailto:Jimelle.Gallagher@csso.gov.ie)

Re: **Liam Madden: Centre at the Rock, Ballinamore, Co. Leitrim**

Dear Sirs,

We refer to your correspondence dated the 30<sup>th</sup> October 2019 addressed to Minister Charlie Flanagan, Department of Justice and Equality in relation to the above matter.

Your letter has been passed to Jimelle Gallagher (Tel: 01 417 5192) who will be dealing with this case.

Please quote the above reference on all further correspondence concerning this matter which **must** be by way of post and/or fax.

Yours faithfully,

*Maria Browne*

MARIA BROWNE  
CHIEF STATE SOLICITOR





OIFIG AN PHRÍOMH-ATURNAE STÁIT  
CHIEF STATE SOLICITOR'S OFFICE



5<sup>th</sup> November 2019

Walter P. Toolan & Sons Solicitors  
High Street  
Ballinamore  
Co. Leitrim

Your Ref.: GT/PD

Our Ref.: JG/2019/05550/

Contact: Jimelle Gallagher  
Direct Dial: 01 417 5192  
Jimelle\_Gallagher@csso.gov.ie

Re: Liam Madden: Centre at the Rock, Ballinamore, Co. Leitrim

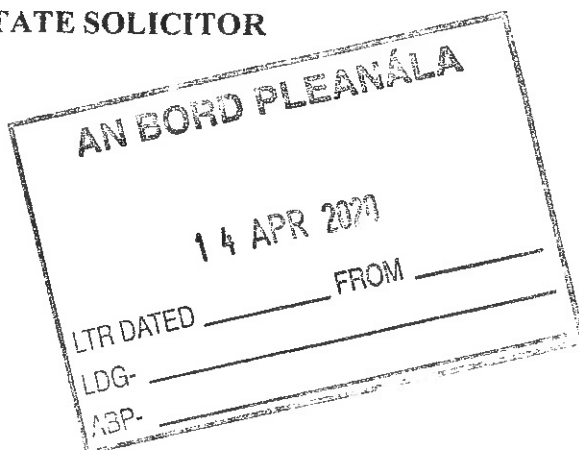
Dear Sirs,

We refer to our letters dated the 1<sup>st</sup> November 2019 and 4<sup>th</sup> November 2019.

We are meeting with our client tomorrow afternoon and will provide a response to your letter dated the 30<sup>th</sup> October 2019 which is addressed to Minister Charlie Flanagan, Department of Justice and Equality by the end of this week.

Yours faithfully,

Maria Browne  
MARIA BROWNE  
CHIEF STATE SOLICITOR



# CLARK HILL

SOLICITORS

**Private & Confidential**

Mr. Adrian Smith  
Smith Monumentals  
High Street  
Ballinamore  
Co. Leitrim  
**BY HAND**

4th Floor  
8-34 Percy Place  
Dublin 4  
D04 P5K3  
Ireland  
DX 179012 Ballsbridge  
t: +353 1 661 3960  
f: +353 1 661 4699  
www.clarkhill.com

**Our Ref:** REMC01/0064

**Date:** 15<sup>th</sup> November 2019

**Re:** The Rock Centre, Ballinamore, Co. Leitrim  
**Our Client:** Remcoll Capital Limited  
**Matter:** Remcoll 2 Limited v Fred Walsh & Ors.

Dear Sir,

We refer to the above matter.

Please find enclosed:

- Attested copy Order of the High Court dated the 15<sup>th</sup> November 2019;
- Copy Plenary Summons;
- Copy Notice of Motion;
- Copy Affidavit of Paul Collins and Exhibits;
- Copy Affidavit of Joseph Grennan and Exhibits;
- Copy Affidavit of Paul Kershaw and Exhibits.

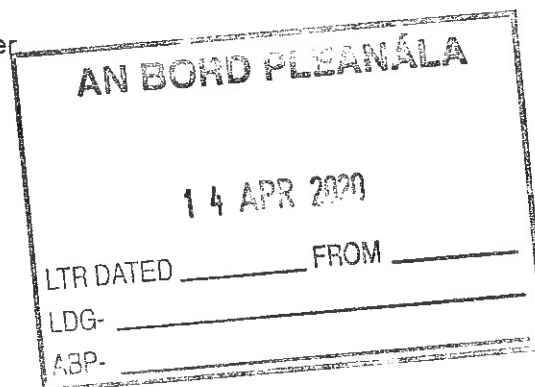
The matter is again before the High Court on **Wednesday the 20<sup>th</sup> November 2019** at 10.30am.

You may wish to seek legal advice on this matter

Yours faithfully,

  
**CLARK HILL**  
**SOLICITORS**

Encl.



J Kirby Tarrant, Sean Nolan, James-Paul Galligan, Elizabeth Burke, Niamh Doyle, Edward Johnston, Jennifer Fay, William Brophy,  
Sam Saarsteiner, Clodagh MacNamara, Janet Tarrant (Consultant)

Austin • Beaumont • Birmingham • Chicago • Collin Country • Dallas • Detroit • Grand Rapids • Houston • Lansing • Las Vegas • Los Angeles  
Mexico City • Morgantown • New York • Philadelphia • Phoenix • Pittsburgh • Princeton • San Antonio • San Diego • San Francisco  
Washington D.C. • Wilmington



THE HIGH COURT

Record No 2019/

Between

REWCOLL 2 LIMITED

Plaintiff

-and-

FRED WALSH, GORDON HUGHES, ITA REYNOLDS, BRIAN CRIBBEN, ADRIAN SMITH,  
DESMOND WISLEY and PERSONS UNKNOWN PROTESTING AT THE ROCK CENTRE,  
BALLINAMORE, COUNTY LEITRIM

Defendants

AFFIDAVIT OF PAUL COLLINS

I, Paul Collins, Company Director of Chamber Building, North Street, Swords, County Dublin, aged eighteen years and upwards make oath and say as follows:-

1. I am employed as the Plaintiff's Chief Executive. I am duly authorised to make this Affidavit for and on behalf of the Plaintiff and I do so from facts within my own knowledge and from a perusal of the books and records of the Plaintiff save where otherwise appears, and where so otherwise appearing, I believe same to be true and accurate.
2. I beg to refer to the pleadings and proceedings already had herein when produced.
3. I make this Affidavit for the purpose of grounding the Plaintiff's application for both Interim and Interlocutory reliefs against the Defendants.

**The property**

4. The property the subject matter of these proceedings is known as The Rock Centre ("known colloquially as "The Rock"), which is entirely comprised in Folio LM20931F ("the Property") at Ballinamore in the County of Leitrim. The Plaintiff is the registered owner of the Property. I beg to refer to a copy of the Filed Plans in respect of the Folio upon which, marked with the characters 'PC1', I have signed my name prior to the swearing hereof. The Property covers a space of just under ten acres.
5. Access to the Property is achieved by the Ballinamore Relief Road, which is not a public road. The Ballinamore Relief Road was constructed by the original developer under a Part 8 Planning Application. The relief road has not been declared a public road under Section 11 of

the Roads Act 1993. In this regard a bag to refer to a copy of the Declaration of Identify sworn by Joseph O'Reilly, Chartered Engineer, and dated the 26<sup>th</sup> May 2014 upon which marked with the characters 'PC2' I have signed my name prior to the swearing hereof.

**Plaintiff's business and interest**

6. The Plaintiff invests in distressed assets and brings them back to marketable condition. The Property was built in 2006 but the original builder was subsequently caught up in the recession and was unable to service the debt associated with the development. The Plaintiff purchased the property in 2018 in a state of disrepair. It had only three tenants and no prospects of regeneration. These tenants were – and remain – Tesco Ireland, Freshways (a fruit and vegetable supplier) and Allure Hair and Beauty.
7. The Property includes 25 apartments which were – at the time of acquisition – in 'shell and core' condition and were not wired or plastered. There were only concrete floors throughout the residential part of the Property. There were leaks throughout the building. The Property has now been brought to full show-house standard. The cost of this upgrade to the Plaintiff has been c. €1.2 million. Due to the activities described below the last element of the works required to make the apartments habitable cannot be completed and no person can move into the Property.
8. The regeneration and development of The Rock Centre is part of a mosaic of development being carried out by the Plaintiff in Ballinamore. The Rock Centre aspect is about 10% of the overall development work in Ballinamore. The Plaintiff has lodged planning applications in respect of 38 residential units and, in a separate application, in respect of a planned three storey office block. The total size of these developments is a combined area of c. 9,950 square metres in size. The Plaintiff plans to construct a one hundred bed nursing home in the area, and a number of "step down units". These 'step down' units are intended for use elderly persons and fill the gap in residential requirements between independent living in a person's own home and residence in a nursing home. These projects, together with the Rock Centre, make up what I have been told is the largest capital investment in Leitrim since 2006. This whole project started in 2012 and I am concerned that years of planning and investment is now in danger of being undermined.
9. As of the 16<sup>th</sup> October there was just a week's outstanding work to be completed to finalise the regeneration of the Property and ensure the residential units are fit for purpose. The works to be completed within the 7-days consist of final works to be done to the plumbing system, the installation of WI-FI access and the completion of fitting out works regarding the attendant commercial units.

### The Contract with the Department

10. On the 16<sup>th</sup> October 2019 a contract was signed between Townbe Limited and the Department of Justice and Equality ("the Department"). Townbe Limited is 80% owned by the Plaintiff in the herein proceedings. This contract provided that Townbe Limited would provide the Department with the use of 25 residential units. For reasons of commercial sensitivity the entire contract cannot be exhibited but I refer to the cover page of same upon which marked with the characters "PC3", I have signed my name prior to the swearing hereof. I further beg to refer to a redacted copy of the Agreement for Lease in place between the Plaintiff and Townbe Limited upon which, marked with the characters "PC4", I have signed my name prior to the swearing hereof. For the reasons outlined below it is not possible for Townbe Limited to provide the services it has contracted with the Department to provide and until Townbe Limited can fulfil its commitment to the Department it is not in a position to complete its lease with the Plaintiff. Townbe Limited has confirmed that in the event that the Property is finished out with the final works described above, that it will execute the lease.

11. The Department's plan is to house twenty-five families in these residential units (stated, alternatively, as a maximum of one hundred and thirty people). The Department has explained to the Plaintiff that generally, the families in question are persons who are either being transferred from emergency accommodation in Ireland or persons seeking asylum who have arrived to Ireland relatively recently. The first families were due to move in on the 4<sup>th</sup> November with further families moving to the Property on a phased basis.

12. The accommodation offered by the Plaintiff to these families is unique in Ireland for the following reasons. The twenty-five units in question are like twenty-five 'show' apartments; they are of the highest quality. Each unit is designed to cater for a family. For the purposes of this kind of accommodation, the Department defines a family as one adult and one child. My understanding is that many of the units will be occupied by one adult and one child. In the circumstances – and without trespassing upon the privacy of the individuals for whom this accommodation is intended – it appears likely that there are twenty-five children who are waiting to move into their new homes and who are presently unable to do so as a result of the protests details below.

13. What makes the units offered by the Plaintiff different from other Centres around the country – apart from the high spec element – is the fact that the Plaintiff strives to be, as I say, "best in class". This is a Centre where the people being accommodated will be able to cater for themselves, where they will have their own front door; in this regard, it will be the first of its kind in Ireland. I have given thought to the environment as a whole, to the fact that there will

be a supermarket right by them, and a GP in the complex too (this latter aspect is dependent on these protests coming to an end). In other centres, people who had never met each other before share a living space; sometimes this is three people in a living space, for example. This Centre is a significant step up from that. It is an important feature of the completed Centre that mental health services will be provided, together with appropriate rooms to enable therapy sessions to be conducted. Every Centre must have what is called a food store, something which I liken to a larder. This stocks niche foods for those in accommodation, and this food can be purchased through a coupon system. It goes without saying that this Centre will have that too.

#### The protest

14. A public meeting was held in Ballinamore on Wednesday the 16th of October, which was attended by approximately one hundred and fifty people. This was set up by the townspeople of Ballinamore to discuss the overall developments being proposed for Ballinamore which will involve the Plaintiff investing c. €30 million in the Ballinamore area and which is expected to generate significant employment. I was invited and attended this meeting to explain the overall development and surrounding complex. It became clear through the course of the meeting that there was only one item really on the agenda and that was discussion of the proposed asylum centre. Indeed, I was informed that the entirety of the additional development was simply a ruse to distract attention from the asylum centre. This is not the case.
15. A second public meeting was then held two nights later, on Friday the 18th of October, at which the residents of Ballinamore decided to oppose the planned development of the Rook and to create a twenty-four-hour picket around the centre. I was not invited to this meeting but I was told by some of those who were present about this outcome.
16. On the following night, Saturday 19th of October, an unknown person attempted to set fire to the building. In this regard I beg to refer to the Affidavit of Joseph Grennan and to a photograph of the damage caused, upon which and marked with the characters 'PC6' I have signed my name prior to the swearing hereof. The Court will see what appear to be dark stains on the floor of the main entrance area to the building. The video footage clearly shows what happened and I beg to refer to a copy of same, upon which and marked with the characters 'PC6' I have signed my name prior to the swearing hereof. A man entered the property in the early hours of the morning, carrying a container of petrol. He proceeded to douse the floor with same and after some minutes struck a match and set the petrol on fire. The fire that resulted was relatively harmless on that occasion. It was extinguished without the need for the emergency services. What will not fall to strike this Honourable Court however, is how different the outcome could have been. Only fifteen feet away from where the fire took

place is Tesco's premises, a premises which contains a great deal of flammable material. If that person had taken a different course, the fire could have been far more extensive and could have caused untold damage. I became more conscious of this, and more fearful, after it was reported in the national media that Leitrim TD Martin Kenny's car had been burnt out in the small hours of the night outside his home, which is near Ballinamore. Mr Kenny had made remarks which were supportive of the Ballinamore asylum centre and critical of what he called "fearmongering" about asylum seekers. In this regard I beg to refer to a true copy of the newspaper report of that incident which appears in the Irish Independent on 28<sup>th</sup> October, 2019 and upon which, marked with the letters "PC7", I have signed my name prior to the swearing hereof.

17. A full time, twenty-four-hour picket was put in place at the Property on Sunday the 20<sup>th</sup> of October. The minimum number I have witnessed participating in this picket is 20 individuals while I have witnessed as many as 45 individuals picketing the Property. There is a notification system in place between the protesters which allows numbers to be rapidly increased. This notification system involves the blowing of whistles which appears to be quite effective as the area is small and many protesters live or work near the Property. A makeshift campsite has been established at the site. Builders attempting to gain access to the centre have been intimidated by members of the picket line and subsequently refused entry to carry out finishing works. 90% of all contractors hired have refused to enter the premises due to fear of the people around the centre. I beg to refer to a copy of the Irish Times report in relation to these events, dated 21<sup>st</sup> October 2019, upon which and marked with the characters "PC8" I have signed my name prior to the swearing hereof.

18. Large blocks of concrete and water tanks were set up in front of all entrances to the centre to stop any access into or egress from the premises. Members of the security team were locked inside the centre overnight as these blockades were set up. These events occurred over the course of the night of the 22<sup>nd</sup> to 23<sup>rd</sup> October.

19. On Tuesday the 22<sup>nd</sup> October a cordon or 7 feet tall wirefencing was erected around the rear of the Property by the protesters. They also changed a lock in one of the access doors, which gave access to a fire escape, to stop workers gaining access to the building. The front of the building was blocked by the protesters and again access to workers was blocked. Glue was used to seal the locks on access doors so the doors could not be opened.

20. Shortly after these events I met and spoke with some of the leaders of the protest. These individuals included Mr. Gordon Hughes (a local auctioneer), Ms. Ita Reynolds (a local County Councillor) and Mr. Brian Cribben (a local pharmacist) and I also spoke with Mr Adrian Smith (a local businessman) on the phone, these individuals who held themselves out to me as the spokespeople for the protesters. I explained that the protests were putting my employees in danger and in the event of a fire overnight the fire brigade would have no access to the

building. Considering the earlier arson attack on the building this was a major concern. The blocks of concrete and water tanks were subsequently removed from around the building which leads me to surmise that the individuals I spoke to have influence over the activities of the protestors.

21. On 7 November, RippleCom, a telecommunications company, sent a worker to provide the centre with internet access. Protestors refused the worker entry to the building to carry out planned works. I beg to refer to the Affidavit of Joseph Grennan in this regard. It was decided that it was unsafe for this worker to enter the building and provide Wi-Fi to the Property.

22. Security staff were told by picketers that "people will be hurt" if they attempted to cross the picket line to finish off works to the building and I beg to refer to the Affidavit of Joseph Grennan in this regard.

#### Timing of this application

23. The moment that the RippleCom employee was prevented from accessing the Property marked a watershed in the activities of the protestors. The possibility of this kind of protest – a copycat protest of those in Oughterard and Achill Island – was in the air from the 16<sup>th</sup> October. It began in earnest on Sunday the 20<sup>th</sup>. From the 16<sup>th</sup> October to the 7<sup>th</sup> November was a period of just over three weeks. I hoped that the protestors would see sense. I hoped that the Minister for Justice and Equality, or the Government in some shape or form, might have stepped in and brought people together somehow. In that period of just over three weeks, I was prepared to think of the attempted arson attack as a lucky miss and something that would not be repeated. I was prepared to put up with the disturbance caused by the protest for some limited amount of time, in the hope that the situation would resolve itself. In all that time, no employee or agent of the Plaintiff's was barred access to the Property. The security men, for example, could gain access; though it was difficult it was not impossible. When the RippleCom worker was prevented access on 7<sup>th</sup> November that marked a turning point, in that it was made clear to me that certain protestors were prepared to use violence to achieve their ends and that the protestors were making a distinction between the security men and all other professionals whose purpose was to bring the Centre another step closer to completion. The RippleCom worker was prepared to try and force his way past protestors but I advised him (through Joe Grennan) to leave it and walk away, because I was afraid of a violent altercation. When it was reported to me that one of the protestors had told a member of security staff that "people will be hurt" I was in no doubt that this was meant.

24. On 12<sup>th</sup> November the architect who was engaged to conduct the final works in relation to the fit-out of the GP facility travelled to the Property from Cork. He had been engaged by the Plaintiff to carry out a drawing of the GP's rooms as they would look when finished. Although



he was permitted to gain access to the Property, but he was prevented from moving from room to room within the Property. The fact that this interference took place within the actual confines of the Property has made it clear to me that the protestors' activities are not slowing down, but are becoming bolder. I do not want anyone acting for the Plaintiff to be injured and I believe that without the intervention of the Court work on the Property will continue to be paralysed.

#### Difficulty in Identifying Individuals

25. The damage which has been caused to the property has occurred under cover of darkness. The security and management staff at the property are not familiar with the area or the individual protestors. Neither the security workers employed by the Plaintiff nor I am in a position to identify the majority of the individuals who are carrying out this campaign against the Plaintiff.
26. I have very real concerns about protecting staff who act on my behalf at the Property. This is, of course, an extremely serious concern. In addition, the protests are preventing access to the Property to allow final essential work be completed.
27. Moreover, I am concerned at the damage being done to the Property on an on-going basis and I am of the very strong opinion that I have made all reasonable efforts to address the concerns of those involved in these protests but to no avail. I cannot envisage these protests ending without the intervention of the Court.
28. Having spoken with each of them, and given the fact that they each held themselves out as person who were in some way involved in organising the protest activity, I believe that Mr. Fred Walsh, Mr. Gordon Hughes, Ms. Ita Reynolds, Mr. Brian Cribben and Mr. Adrian Smith have considerable influence over the protestors at the site. They have held themselves out to me on various occasions as "spokespeople". Ms. Ita Reynolds is a local Councillor and I spoke to her by phone to outline my vision for the regeneration of the area on the night before the public consultation meeting described above. I have subsequently met Ms. Reynolds on one occasion at the Property where she has been engaged as a protestor. In the period since the protest began I have met Fred Walsh four to five times, Gordon Hughes three to four times, Adrian Smith once, and Brian Cribben every time I have been there. On each occasion they were there in their capacity as protestors, and it was clear to me that they were people who had influence over the other protestors. Fred Walsh in particular is experienced in issues of local activism - being involved at a senior level at meetings relating to the organisation of protests against the owners of Quinn Industrial Holdings - and I believe that he has a significant leadership role in the present protests. In circumstances where it is not possible to

name the majority of those engaged in protest, I am advised that it is appropriate to bring proceedings against these persons.

#### Damage

29. There has been a dramatic decrease in footfall at the property. Tesco first occupied the property in 2010 and are the key tenant. I have genuine concerns around the lease agreement as the Plaintiff can no longer provide unfettered access to the Property. The protests have caused a drastic decrease in the attractiveness of the units at the Property to prospective tenants.
30. I had personally arranged for a prospective tenant to begin occupancy of the premises on completion of the Property but this occupancy cannot begin while the building remains incomplete and access is blocked. It is ironic that this tenant is RooDoo, a medical clinic which will provide a GP service. One of the complaints of protestors is that there is only one GP to serve the Ballinamore area and in this regard I beg to refer to a report of The Irish Times dated the 25<sup>th</sup> October 2019 upon which marked with the characters 'PC9' I have signed my name prior to the swearing hereof.
31. The protests have now created a situation where the media coverage suggests the occupancy of the Property is to be paused. For the avoidance of doubt, I confirm that no such suggestion has ever been made to me. However, it is a matter of considerable concern to me that these protestors seem to be moving ever closer to achieving their aim of jeopardising the future of the asylum centre.
32. To be very clear, the twenty-five units which are earmarked for asylum seekers are a hair's breath away from completion. In some of the units, all that's needs to be done is to dress the beds. I estimate that each unit requires no more than three hours' work to make it ready to be lived in. Thus, if the protest were to stop now, I believe that all of the twenty-five units would be ready in a matter of 72 hours. For the premises earmarked for the GP's practice to be ready, I would estimate that seven days' work would be needed. The only other element to make the Centre fully functioning for its purpose is to stock the food store, which I described earlier as something like a larder. It would not take long to stock it with a range of foodstuffs, and once it is up and running it begins to regulate itself, in that people request certain foodstuffs and we seek them out and stock them. Thus, this Centre is on the cusp of readiness and if the protest were to stop I believe families could be accommodated within seven days.
33. The protest activities are resulting in on-going loss and damage to the Plaintiff in the following ways: extra cost of employing additional security staff, damage to fences and property delays in relation to completion dates, and consequent lost rental income due to this delay. I do not

AN BORD PLEANALA

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

A3P- \_\_\_\_\_

believe the Plaintiff will ever recover these costs from the Defendants, even if successful in these proceedings.

34. The protests have now brought this project, which is extremely close to completion, to a standstill. As stated above, c. €1.2 million has been invested in the residential units alone and the protests have one aim and one aim only – to prevent the completion of the asylum centre and to prevent the performance of the contract between Townbe Limited and the Department. Due to the rural location it is a difficult task to attract tenants to Ballinamore at the best of times and it is now near impossible to do so. The GP occupancy of the property will not occur without the completion of the Property. The prospects for the Rock Centre had been good prior to the protests with business improving for the key tenant Tesco. The contract with the Department is simply not replaceable and the loss which will be suffered should the contract not be performed is not quantifiable.

35. Townbe is a subsidiary of the Plaintiff. It intended to take a twenty-five year lease with the Plaintiff in respect of the 25 units. It was agreed that the lease was to commence on the first of November this year but same has not been formally executed yet. Townbe will not complete the lease until the protests are stopped because until such time, the Plaintiff cannot finish out the Property. The Department has a three month break clause in its contract with Townbe. The protests put in jeopardy Townbe's contract with the Department, which puts in jeopardy the lease arrangement agreed between Townbe and the Plaintiff. This is another clear and imminent source of loss and damage for the Plaintiff.

36. On the date of swearing of this Affidavit I received an undated and unsigned letter from an individual who identifies themselves as a local of Ballinamore. This individual raises serious concerns which he/she holds regarding the motives of the protesters and identifies Freddie Walsh and Gordon Hughes in particular as leaders of the protest. The individual advises that he/she intends to raise these concerns with the Gardaí and others but will only do so anonymously as this person is in fear of the protesters. In this regard I beg to refer to a copy of said letter upon which marked with the characters 'PC10' I have signed my name prior to the swearing hereof. I have no reason to doubt the authenticity of the concerns expressed in this correspondence.

#### Undertaking as to damages

37. My solicitors have advised me that the Court must consider a number of factors in relation to the granting of injunctive relief, and I am advised that same – fair issue to be tried as to the lawfulness or otherwise of the protest activities complained of, the adequacy of damages; the balance of convenience, and so on – are a matter of legal submission.

14 APR 2020

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

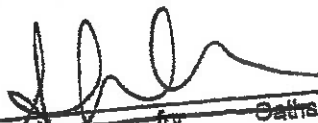
LDG- \_\_\_\_\_

ASP- \_\_\_\_\_

38. I have been further advised by my solicitor of the requirement to provide an undertaking as to damages and of the effect of such an undertaking. On behalf of the Plaintiff, I hereby give an undertaking to the Court that, if it transpires at the hearing of the action that an Interim or Interlocutory Injunction has been wrongly granted, the Plaintiff will indemnify the Defendants against any loss found by the Court to have been incurred by the Defendants as a consequence of the Interim or Interlocutory Injunction having been wrongly granted.

39. In the above circumstances I ask the Court to grant the reliefs sought in the *ex parte* docket and, when the Interlocutory Motion is heard, the reliefs sought in the Notice of Motion.

Sworn by the said Paul Collins  
At 8-34 Penry Place of Dublin  
In the County  
On the 14th day of November  
2019  
Before me a Commissioner for  
~~Oaths~~ Practising Solicitor and I  
know the Deponent

  
\_\_\_\_\_  
Commissioner for Oaths/ A-20  
Practising Solicitor



Filed on the  
Plaintiff.

day of

2019, by Clark Hill Solicitors, solicitor for the

AN BORD PLEANÁLA	
14 APR 2020	
LTR DATED _____	FROM _____
LDG- _____	
ASP- _____	

THE HIGH COURT

Record No. 2019/

Between:

REMCOLL 2 LIMITED AND TOWNBE LIMITED

Plaintiff

-and-

FRED WALSH, GORDON HUGHES, ITA REYNOLDS, BRIAN CRIBBEN, ADRIAN SMITH,  
DESMOND WISLEY and PERSONS UNKNOWN PROTESTING AT THE ROCK CENTRE,  
BALLINAMORE, COUNTY LEITRIM

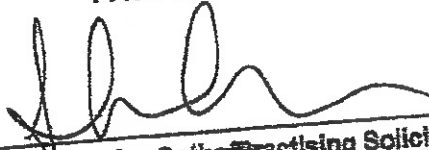
Defendants

AFFIDAVIT OF PAUL COLLINS

EXHIBIT PC2



PAUL COLLINS



Commissioner for Oaths Practising Solicitor  
Add

**MEMORANDUM OF AGREEMENT**

**BETWEEN**

**THE MINISTER FOR JUSTICE AND EQUALITY**

**AND**

**TOWNBE LIMITED**

**FOR**

**THE RECEPTION AND CARE OF THOSE SEEKING  
INTERNATIONAL PROTECTION AT**

**THE ROCK CENTRE, BALLINAMORE, CO. LEITRIM**

**FOR THE PERIOD  
FROM 4th November 2019 TO 01<sup>ST</sup> November 2020**



Dated this            day of            2019

**BETWEEN REMCOLL 2 LIMITED** having its registered office at 2<sup>nd</sup> Floor, Chamber Buildings, North Street, Swords Co. Dublin ( hereinafter called "The Landlord" which expression where the context so admits or requires shall be deemed to include the person or persons deriving title under the said Company ) of the One Part and **TOWNBE UNLIMITED COMPANY** having its registered office at 2<sup>nd</sup> Floor, Chamber Buildings, North Street, Swords Co. Dublin (hereinafter called "The Tenant" which expression where the context so admits or requires shall be deemed to include the person or persons deriving title under the Tenant) of the Other Part.

**WHEREBY IT IS AGREED** as follows:-

1. The Landlord hereby agrees to demise unto the Tenant **ALL THAT AND THOSE** 25 Units being part of the building known as the Rook Centre, Ballinmore, County Leitrim being part of the lands comprised in Folio 20931F County Leitrim (hereinafter called the "Demised Premises") for the term of [REDACTED] hereinafter called the "Term") from the Commencement Date (as hereinafter defined) subject to the initial yearly rent of [REDACTED] plus vat (hereinafter called "the Lease").
2. The Lease shall be in the form to be agreed between by the Landlord and Tenant. The Tenant agrees that the Tenant will accept the Lease and will execute the original and a counterpart thereof.
3. The Commencement Date of the Term shall be the 01<sup>st</sup> Day of October 2019.
4. The Lease shall be a full repair and insuring lease
5. The initial yearly rent shall be subject to review on the sixth anniversary of the Commencement Date and shall be Consumer Price Index linked.

6. The Tenant shall not assign or sublet the benefit of this Agreement without the consent in writing of the Landlord.
7. Any notice, demand or other communication required or permitted to be given or made under this Agreement shall be addressed or sent to the part at the address set out in this Agreement or such other address as such part may previously have notified to the other in writing. Any such notice or demand shall be validly given or made if delivered personally or if dispatched by prepaid letter post addressed as aforesaid and shall be deemed to be given or made, if delivered by hand, at the time of deliver or, if sent by post, four days after the same shall have been posted.

IN WITNESS whereof the parties aforesaid have hereunto executed this Agreement the day and year first herein WRITTEN

SIGNED on behalf  
of REMCOLL 2 LIMITED  
in the presence of:

*[Signature]*  
*[Signature]*  
S-34 By the

*Marie [unclear]*  
*(Director)*

SIGNED on behalf  
of TOWNBE UNLIMITED COMPANY  
In the presence of:

*[Signature]*  
*[Signature]*  
8-31 Kyle  
D. Y

*[Signature]*  
(Director)

Dated this                      day of                      2019

**REMCOLL 2 LIMITED**

**And**

**TOWNBE UNLIMITED COMPANY**

**AGREEMENT FOR LEASE**

**Clark Hill  
Solicitors,  
8-34 Percy Place  
Dublin 4.**

THE HIGH COURT

Record No. 2019/

Between;

REMCOLL 2 LIMITED AND TOWNBE LIMITED

Plaintiff

-and-

FRED WALSH, GORDON HUGHES, ITA REYNOLDS, BRIAN CRIBBEN, ADRIAN SMITH,  
DESMOND WISLEY and PERSONS UNKNOWN PROTESTING AT THE ROCK CENTRE,  
BALLINAMORE, COUNTY LEITRIM

Defendants

AFFIDAVIT OF PAUL COLLINS

EXHIBIT PC5

  
\_\_\_\_\_  
PAUL COLLINS

  
\_\_\_\_\_  
Commissioner for Oaths/Practising Solicitor  
A.D.

## DECLARATION OF IDENTITY

I, **JOSEPH O'REILLY**, B.Sc.(Eng.), Dip. Eng., C. Eng., M.I.E.I., Chartered Engineer of Joseph M O'Reilly Consulting Engineers Limited, Unit 1 St Therese's Place, Flowerhill, Navan, Co. Meath, aged 18 years and upwards do solemn and sincerely declare as follows:

1. I am a partner / principal and I am a registered member of the IEI.
2. I have been retained by **Patrick Horkan & Kieran Wallace of KPMG** in their capacity as **Joint Receivers Over Certain Assets of Gabriel Toolan and Frank Maxwell**, to act as Engineer and to prepare this Declaration of Identity in respect of the property known as **The Rock Centre, Ballinamore, County Leitrim** ("the Property").
3. I am familiar with the Property having inspected it for the purposes of preparing this Declaration of Identity and the maps appended hereto showing the boundaries of the Property outlined in red on Folio File Plans LM13326F – refer to Appendix A, and Site Layout Floor Plans outlining the constructed units to date – refer to Appendix B.
4. I confirm that the Property is located and wholly comprised within the lands outlined in red on the plans attached to Folio LM13376F.
5. I confirm that the following planning permissions relate to the Property:
  - Planning Permission 04/C/15 – Part 8 Relief Road;
  - Planning Permission 04/1546;
  - Planning Permission 05/544;
  - Planning Permission 07/585; and
  - Planning Permission 08/19

dated between August 2004 and April 2008, based on my inspection of the Property as shown on the maps attached in Appendix B.

6. We are not aware that the Property is subject to any rights of way other than those contained within the Leases granted in relation to the Tesco and Hairdressing Units as follows:

(a) Lease dated 26 August 2008 between (1) Gabriel Toolan and Frank Maxwell, (2) The Rock Centre Management Company Limited and (3) Tesco Ireland Limited, for a term of 25 years and subject to the covenants and conditions contained therein.

(b) Short Term Business Letting Agreement dated 18 February 2013 between (1) Patrick Horkan and Kieran Wallace acting as joint receivers over certain assets of Gabriel Toolan and Frank Maxwell and (2) Lorraine McCaffrey t/a Allure Hair and Beauty in respect of Unit 1, Rock Quarter for a term of 12 months for 1 February subject to the terms contained therein.

7. The Property is serviced by the following utilities and services:



- a) Public foul sewer
- b) Public water mains
- c) Gas
- d) Electricity (hereinafter "the Services")

8. I confirm that access to the Property is directly from the Ballinamore Relief Road (constructed by the developer under a Part 8 Planning Application - 04/C/15) which abuts the Property. This relief road was not constructed by the Local Authority and therefore has not been declared a public road under Section 11 of the Roads Act 1993. No right of way is required for access to the Property from the Ballinamore Relief Road.

9. I make this solemn declaration conscientiously believing the same to be true pursuant to the Statutory Declarations Act 1938.

DECLARED before me by the said at  
In the City of NAUAS  
this 26 day of MAY 2014 before me a  
Commissioner for Oaths/ Practising Solicitor  
and I know who identified the Declarant to me.

**PATRICK O'REILLY**  
*[Signature]*  
Practising Solicitor/Commissioner for Oaths  
Commissioner for Oaths  
The Old Courthouse  
4 Ludlow Street  
Navan Co. Meath

*Joseph O'Neil*  
*Northy*  
*26th May 2014*

*[Signature]*