

The Secretary,
An Bord Pleanála.
64 Marlborough Street,
Dublin 1
D01 V902

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ABP-	
21 APR 2020	
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By:	Peg Tosh

18th April 2020

Re: First Party Appeal of decision made by Dublin City Council on the 25th March 2020 as to the declaration on development and exempted development under Application No. 0098/20 for development.

Introduction:

Dear Sir/ Madam,

As part of the above-mentioned First Party Appeal, please find enclosed within the USB Stick the following:

- *this Cover Letter,*
- *a Statement Letter from Peter P. Gillett Planning Consultant,*
- *the **Appeal Document**,*
- *all photos included in the body of the Appeal Document,*
- *all appendices referenced in the Appeal Document and*
- *three (3) video clips referenced in the Appeal Document.*

Each of these components are in digital form so that, in our current times of remote work, it is easier to share these documents. This form also allows for the pictures/videos to be enlarged and examined in more detail.

I would also like to take this opportunity to explain briefly why the appeal document is so extensive in its size. As it is unclear how long the COVID-19 travel restrictions will last and with that uncertainty as to when a board

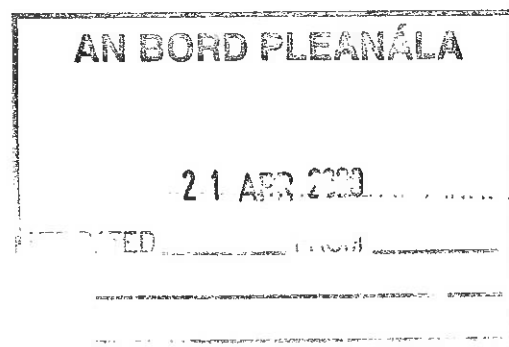
inspector would be able to view the situation on site, I have attached as much information to this application as needed so that the board can obtain a comprehensive understanding of the issues at hand. In addition to this pragmatic point, it is clear to me that Dublin City Council ("DCC" or "the Council") has based their decision primarily on the assertions of the director of the legal entity (Mr. Brendan Trears) which owns the property subject to this application. This decision was made despite receiving documentary evidence from me which directly refutes many of these assertions.

My experience with Mr. Trears has shown that he places little value in factual information and truthfulness. He has made a number of misstatements prior in the hope that I cannot disprove the contents of such. He has gone so far as to assert mistruths about me in a sworn High Court affidavit to present himself as a victim and to discredit me. I believe the same tactics are being applied here with DCC. I am made further uneasy by the fact Mr. Trears has met with DCC on a number of occasions. I have not once met with the Council in relation to this although I have asked for this on a number of occasions. I hope this helps to explain the level of documentary evidence contained within this Appeal.

Sincerely,



Andreas Brüggener





Peter P. Gillett & Associates
TOWN PLANNING & DEVELOPMENT CONSULTANCY

The Secretary
Bord Pleanála
64 Marlborough St,
Dublin 1

17th April 2020

AN BORD PLEANÁLA	
21 APR 2020	
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Re: Decision of Dublin City Council on the 25th March 2020 under Section Five Application ref no 0098/20 to declare the following works to be exempted development

- Construction of a smoking /beer garden to rear of pub in area of previous toilets
- Use of upper floors for student and short-term lettings
- Raising of rear flat roof by c . 600mm and the construction of a 2m high solid fence to create an outside amenity space

Our Client Andreas Bruggener who owns the adjoining dwelling house , has comprehensively detailed the planning history of the pub since it was acquired in recent years and also his relationship with the operators since then . His submission provides information on when the works were carried out, how they were constructed and how they were used up until the shutdown caused by Covid 19. All of the works and material changes of use directly impinge on his residential amenities. We contend that the City Council decision is not correct in planning law. Furthermore it denies him of the opportunity to object and respond to a necessary planning application for retention of development including any mitigation offered by the applicants or by the Planning Authority by way of planning condition controlling use and noise emissions .In brief and having regard also to the detailed evidence of our client we assert that the works and change of uses are not exempt development under The Planning and Development Act 2000 as amended for the following main reasons ;

1. Under section 4.1.h of the Act the following category of development is exempted development "development consisting of the carrying out of works for the maintenance , improvement or alteration of any structure , being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures" **The development comprising of a new open roof structure for the smoking area and the raising of an existing flat roof by a significant height of 600mm for an amenity/deck area and the fence erected are not covered by the above exemption provision for the reasons that the works do materially affect the external appearance of the structure and because the works are not for the improvement or alteration of the structure.**
2. **Also, under the Act , in addition to" works " , a material change in the use of structures or land also constitutes " development " that requires planning permission. The question of whether a material**

change of use has occurred is therefore also relevant .Prior to the change of use the smoking/beer garden area was used as toilets to the pub.While the toilets are part of the pub premises a material change of use can still occur as a result in an intensification of that use. **In our opinion an intensification and material change of use has occurred in this area .The more intensive public bar area has relocated towards the rear and part of the roof left open for the smoking area. At this location it is more visible and audible from adjacent residential properties including that of our clients .** Before this there was no such visible or external audible presence to indicate that this was the rear of bar. The material change and intensification of use have now altered that situation . In respect of the first floor roof, our client points out that this was never used as a sitting out / amenity area and that this only started recently with the Air BnB lettings which we accept are now covered by recent legislation . The use of the raised roof for amenity purposes constitutes a material change in the use of that roof and should be subject to a requirement to seek planning permission .

Conclusion

Our view is that the planning Authority failed to give due regard to the subject legislation and to the context of the existing use and intensity of operation of the public house premises. We request on behalf of our client that the Councils decision be revoked and that the works and change of uses that have taken place be not conserved to be exempted development .

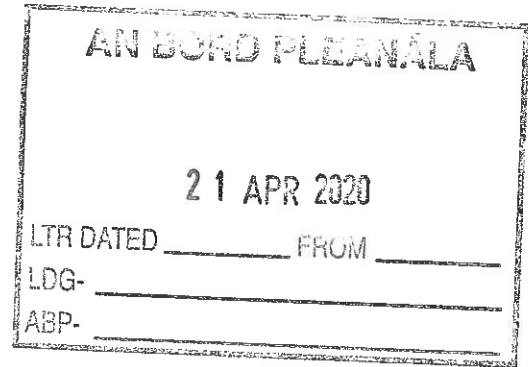
Peter .P.Gillett & Associates

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Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

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The Secretary,
An Bord Pleanála.
64 Marlborough Street,
Dublin 1
D01 V902



16th April 2020

Re: First Party Appeal of decision made by Dublin City Council on the 25th March 2020 as to the declaration on development and exempted development under Application No 0098/20 for the development consisting of:

EXPP:

1. Construction of a smoking/beer garden to rear of pub.
2. Use of upstairs rooms as student/short term letting.
3. Raising of flat roof to rear by c.600mm and construction of a 2m high fence to create an outside amenity area.

Location:

Lamplighters Public House, 79 The Coombe/ 1 Brabazon Street, Dublin 8

Owner:

Creative Real Estate Ltd – Director: Mr. Brendan Trears

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Appeal Document

Dear Sir /Madame,

I, Andreas Bruggener of Gortagullane Muckross, Killarney, Co. Kerry, wish to appeal the above decision as to the declaration on development and exempted development as described in the decision made by Dublin City Council ("DCC" or "the Council") on the 25th March 2020.

I enclose the fee of 220 € and a copy of the original Section 5 application submitted by Mr. Peter P. Gillet Planning Consultant on my behalf.

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- 6.0 Erection of 2m High Fence**
- 7.0 Conclusion**

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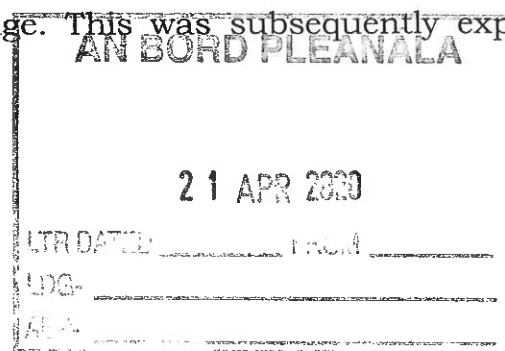
1.0 Grounds for Appeal

My grounds for appeal are as follows:

- That I am of the opinion that the demolition of the toilet block and the conversion of that area into an open smoking area is a material change of use and furthermore an intensification of use.
- That I am of the opinion the modification and change of use of a roof area to an amenity area is a material change of use and furthermore an intensification of use.
- That I am of the opinion the erection of a timber fence has materially affected the external appearance of the structure and of the neighbouring structures as to render it inconsistent with such.

2.0 History of the Premises

2.1 In 2014, I purchased the property located at 2 Brabazon Street to provide safe accommodation for my two children who are both studying in Dublin. At this time, the rooms above the Lamplighter Pub were not utilised and were in an entirely uninhabitable condition. The owners at that time had conveyed their intention to sell the property which resulted in me being invited to view each of these rooms. As I am a craftsman by trade with over 40 years of experience, I could see that these premises had not been occupied for many years, given the obvious state of disrepair. This was confirmed to me by Declan Brady, one of the owners. The “kitchen” consisted of merely an old fireplace/stove. The 2nd floor was in even worse condition, with evidence of extensive and prolonged water damage. This was subsequently explained by the derelict condition of the roof.





2.2 Three years following this on-site visit, the public house was put on the market in this condition by the auctioneer John P. Younge in 2017 and was subsequently sold to the current owner in the same year. (See Appendix 1 - *Marketing Brochure John P. Younge*). The brochure stated that the rooms on the 1st and 2nd floor were “not utilised other than for storage” and each of the rooms are listed with their respective sizes. This is obviously different than the current layout and arrangement.

2.3 The brochure clearly shows that neither the 1st nor 2nd floor had a toilet, not to mention a bathroom. The toilets on the ground floor are part of the Lamplighter Pub and cannot be accessed from the 1st and 2nd floor. I find it troubling that the current owners still seek to argue that such a premise combined with the conditions had been inhabited in the years prior to acquiring such.

2.4 In January 2018, the renovation and reconstruction work commenced which resulted in the current 9-bedroom layout with En-suites and the communal living room and shared kitchen area.

Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

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2.5 After the above works were completed, the planning application (2676/18) *“for change of use of the first and second floor over existing ground floor public house from private residence to boutique hostel.....”* was submitted on 06th of April 2018 to DCC.

2.6 The Planning application was refused on the 29th of May 2018 by DCC.

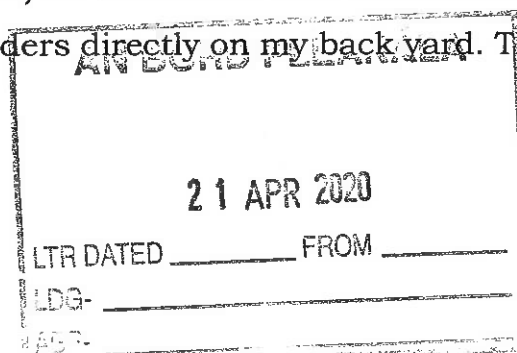
2.7 In June 2018, a minimum of 6 rooms were placed on the market for short term letting via the Airbnb platform. As this intensified over the summer/autumn months, resulting in significant disruption to my property combined with the fact the owner of the Lamplighter was unwilling to address this nuisance, I contacted DCC in September 2018.

2.8 On 25th September 2018 DCC informed me that they have sent a warning letter to the address in question (See Appendix 2).

2.9 By letter dated 04th January 2019 (See Appendix 3) DCC informed me that they had closed the file on the following basis: *“The owner has stated that this use (over Air BnB) has ceased and a number of permanent tenants are now in situ.....A declaration has been received from the previous owner also that these rooms has been used for accommodation for years 1997-2017 when he was in ownership of the building.”*

2.10 At the time, although knowing that this ‘declaration’ was demonstrably false, I chose not to challenge this, as the important to me was that the nuisance associated with the Airbnb cease.

2.11 At the end of March 2019, an additional roof construction was built on top of the existing flat roof which borders directly on my back yard. This area was raised by about 600 mm.



2.12 Shortly after these works were completed, the Airbnb letting commenced once more in May 2019. It was then observed that the new roof area was being used as a leisure area for the guests. Following a multitude of events, from roof parties, guests/tenant spitting into my back yard, throwing waste into it and finally two instances of trespass whereby two individuals climbed into my property, I contacted the owner Brendan Trears and asked him to remedy this. After he failed to respond to this request, I wrote again to DCC on 17th June 2019 (See Appendix 4).

2.13 In response to this inquiry, a warning letter under Section 152 was sent to the Occupier(s) on the 19th June 2019 (See Appendix 5).

2.14 This warning letter did not lead to any improvement and the letting via Airbnb continued and a 'guesthouse' sign was attached to the street façade of the building. It was also at this time that the Lamplighter Pub started to construct a smoking area. These events in tandem prompted me to write another letter to DCC on 30th June 2019 (See Appendix 6). I was hoping that DCC would stop the construction work on the smoking area while they were underway.

2.15 Unfortunately, this did not occur. The activities of the Lamplighter Public House remained as were, the construction of the smoking area was completed and a 2 meter high timber fence was constructed encompassing the leisure area.

2.16 After not hearing from DCC for a number of weeks and the Council's apparent decision not to take any further action after the warning letter pertaining to the Airbnb was sent on the 19th June 2019, I tried to contact the relevant enforcement officer, Mr. Neil Cameron by phone. I also noted at the time that no warning letter was sent out in relation to the construction of the smoking area.

2.17 I was able to speak briefly with Mr. Cameron over the phone. However, he refused to meet me at 2 Brabazon Street in order to get an impression of the situation from

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my side. In addition, he also refused to meet me in his office, and he did not want to comment on the matter over the phone. Having received these comments and knowing that Mr. Cameron had already had several meetings with Mr. Trears on site of the Lamplighter Public House, I found this quite irritating.

2.18 At this stage, having failed in requesting a meeting on site with DCC, I sought to summarize all important points once more in great detail (including pictures, videos and attachments) and send this to Mr. Cameron via email for further review. This was sent to him on the 6th August 2019 (See Appendix 7).

2.19 On 30th August 2019, a Warning Letter under Section 152 was sent to the Lamplighter Lounge (See Appendix 8). Following this and more than 4 months later, DCC closed the case and communicated to me with an email from Mr. Cameron dated 9th January 2020 (See Appendix 9). The rationale and reasoning for this closure is from my perspective incomprehensible.

2.20 Upon contacting An Board Pleanála ("ABP" or "the Board") and discovering that I could not request a review from the Board on the grounds for closing the case contained in Mr. Cameron's email, I sought consultation from Peter Gillet, Planning Consultant. On foot of this, I was advised to apply for a Section 5 Declaration (See Appendix 10) in relation to each of these works in order for the Board to address the matters contained therein.

2.21 On the 25th of March 2020, a decision in relation to this Section 5 Application was made by DCC (See Appendix 11). On the 29th of March 2020, I submitted an application under the Freedom of Information Act 2014 ("FOI") (See Appendix 12). On the 9th of April 2020, I received the inspector's report (See Appendix 13) pertaining to decision taken. I have, as of composing this letter, not yet received further records which I had requested as part of the FOI request.

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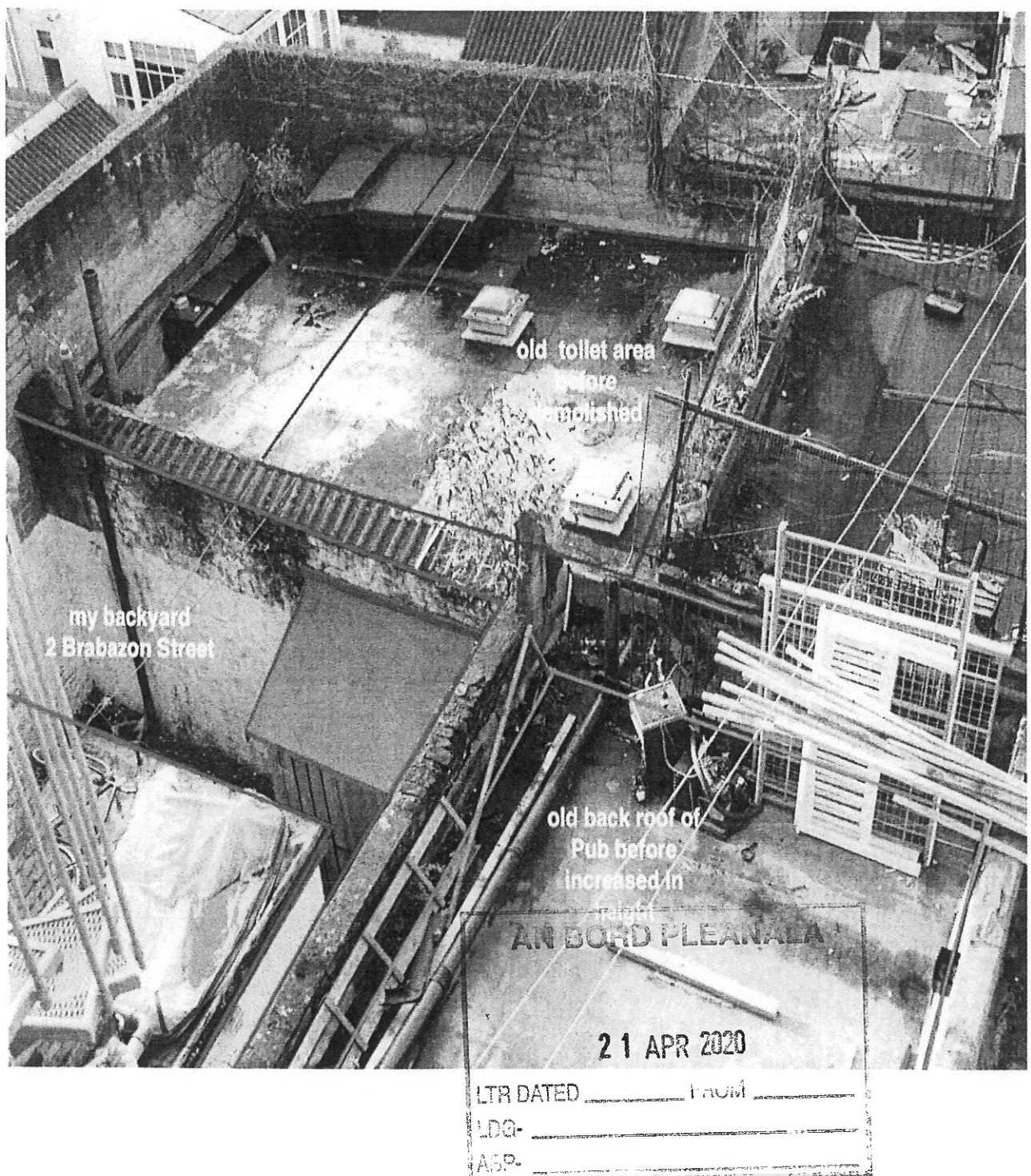
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3.0 Creation of a Smoking Area / Beer Garden

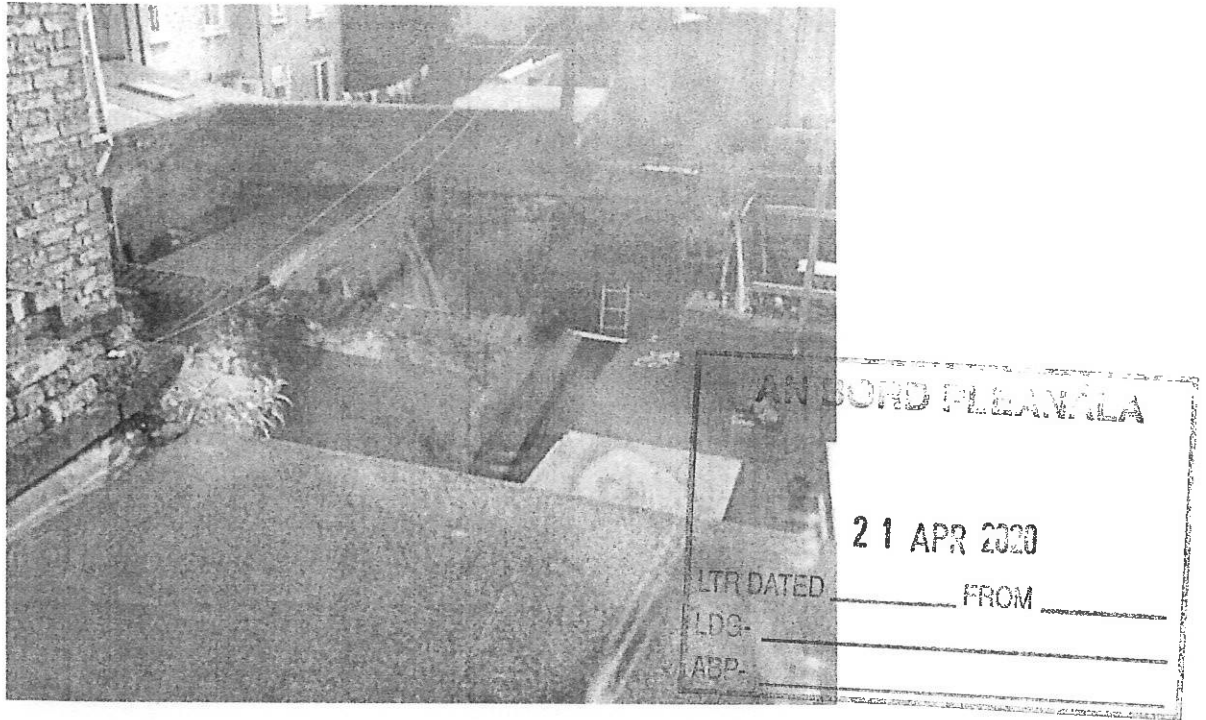
3.1 Until June 2019, the area in question to the rear of the building was simply the toilet area of the Lamplighter Pub. It was also a storeroom. As visible below, the area had a closed roof and 3 skylights:



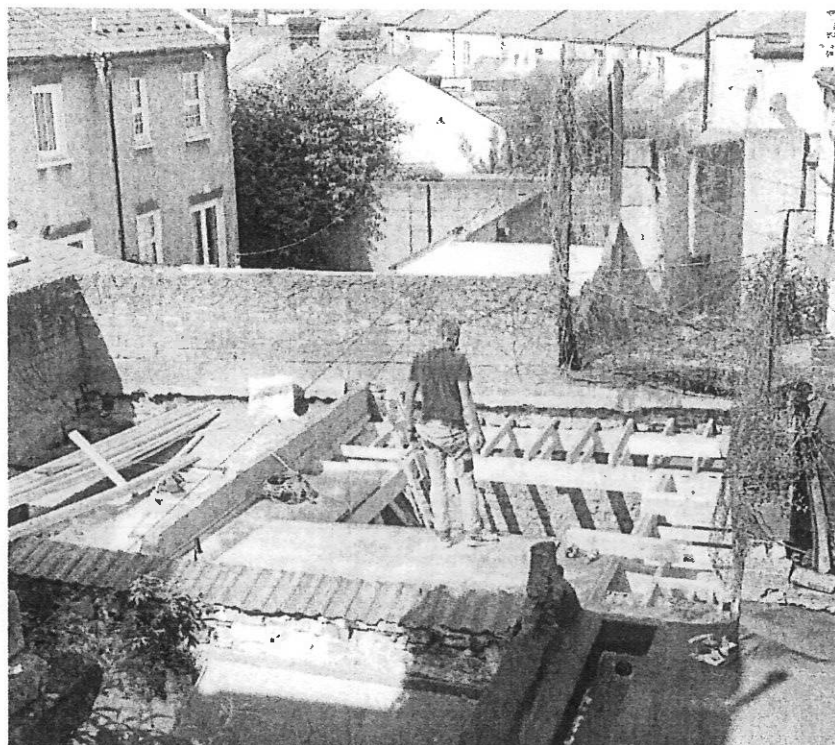
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3.2 In June 2019, the toilet area was completely demolished - *see photo on next page:*



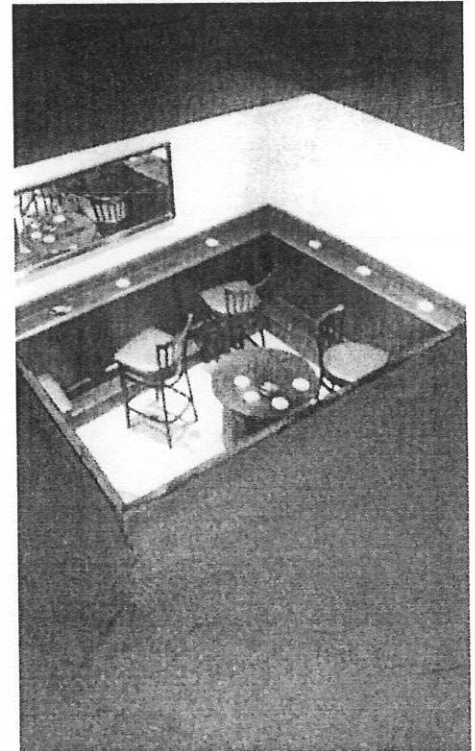
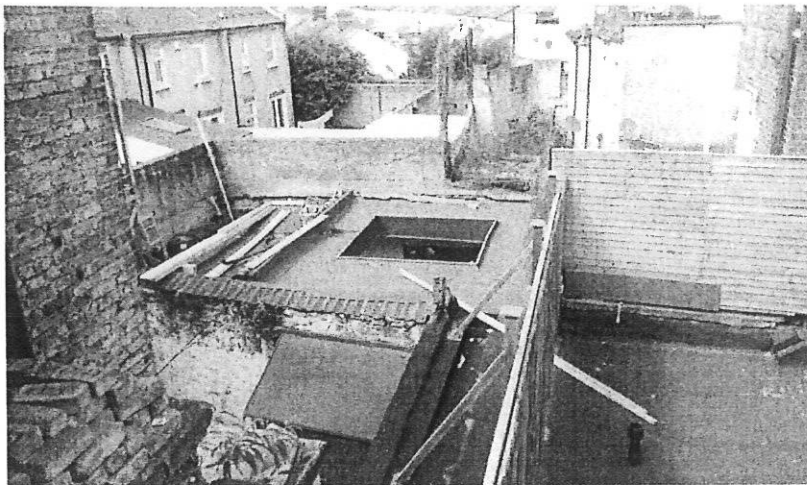
Following this, a new open roof construction was erected - *see photos:*



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The area was then decorated as a smoking/ pub area- *see photos:*



3.3 The smoking area is not within the bounds as laid out in the land registry map of the property Lamplighter Public House, 79 The Coombe/ 1 Brabazon Street, **Folio No.: DN71499L**, which holds a leasehold title:

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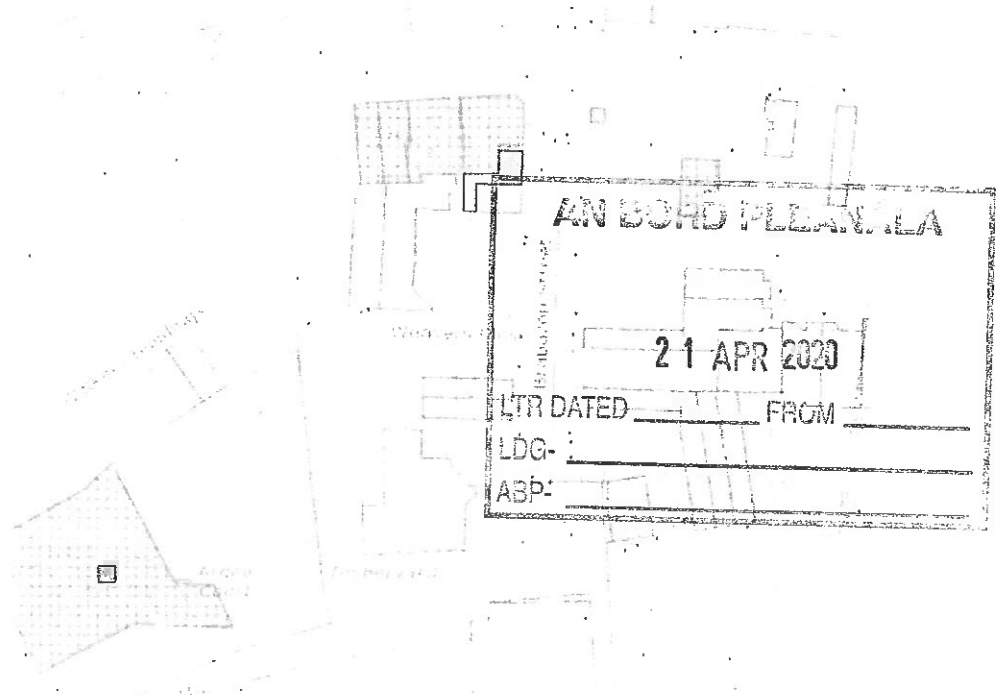
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the smoking area is located within the boundaries of **Folio no.: DN23314F**:



which is partly behind my back yard 2 Brabazon Street **Folio No DN30571F**:



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3.4 The border between *zoning area 4* and *zoning area 1* is in line with the boundary between houses 2 Brabazon Street and 3 Brabazon Street- *zoning map (in direction aerial photo)*:



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Aerial photo which illustrates where this zoning line runs in relation to the smoking area:



3.5 The above shows clearly that the main part of the smoking area is located in *zone 1*. Even if one was to assume that the toilet area has been part of the pub for longer than the zoning plan is in existence and therefore may be under protection for commercial use, I am of the opinion that with such a change of use from a closed building without any noise emissions to an ‘*open lounge area*’, as described by the

DCC inspector in her report, such must be handled with extra care in this zone 1. It is clear that such an open lounge area will always be accompanied with noise emissions, be it patron voices, music or other.

3.6 I am of the opinion that the conversion of a closed toilet area to an open smoking area is a material change of use and an intensification of use. This conversion not only intensifies the noise levels but has also created noise emissions to my courtyard for the first time. Before the construction of the smoking area, one could neither hear patron voices nor music from the pub in my back yard. Furthermore, there has never been another smoking or open lounge area elsewhere in the public house prior to this development.

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3.7 Now, as a result of this development, one can easily hear the conversations of the patrons of the pub during both the day and night. In order for the Board to gauge the severity of this, I have included a video titled "noise emissions" which contains some examples of these emission. (See Video - Noise Emissions)

3.8 Prior to this development, there had already been issues with noise emanating from the public house to my property through the connecting wall. This had been dealt with in the Annual Licencing Court when the owners applied for their first music and singing license for the Lamplighter Pub. These proceedings have resulted in a number of contractual agreements, which regulate the volume and time period during which amplified music and other amplified activities may take place.

3.9 These Agreements also oblige the pub owner to provide me with a 'speaker floor plan' and to keep this plan up to date. The last revised speaker plan was sent to me by the pub operator's solicitor on 3rd September 2019 (See Appendix 14). This new speaker plan showcases an additional speaker which has been placed in the smoking area. The effects of this are somewhat obvious and has been well documented in the email I received from one of my tenants on 21st March 2020 when the speaker was

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activated for the first time on the day of the lockdown and was clearly heard from within my property.

“regarding the Lamplighter, last Sunday (the day the pubs were ordered to close), they had a lock in with music blaring louder than ever until late (~1am) “

3.10 As an aside, this development will undoubtedly also have a significant material effect on the future residents of 77/78 The Coombe after the renovation works on this property (currently ongoing) are completed.

3.11 Due to the intensive construction work in the public house over the last 24 months, the aforementioned back yard could use for storage only and not for any kind of recreation. I was hoping that my back yard could be used this summer for leisure once again. However, as the smoking area is opened at noon each day and the voices of the pub patrons can be heard clearly, notwithstanding the noise nuisance which ultimately comes from the amplified music, use of this will only possible at a limited time and manner

3.12 *In summary, I cannot understand how the DCC inspector came to the conclusion that the above outlined conversion did not lead to any intensification of use and therefore it is an exempt development.*

3.13 *I would like to take this opportunity to make clear that it is not my intention to deprive the Lamplighter Pub of a smoking area. But I do believe, that this should be done through a planning application so that at a very minimum the local residents directly affected from this development can have their voices heard.*

3.14 *The fact that I am currently the only direct resident who is voicing his concerns is likely due to the fact that property located at 77/ 78 The Coombe is currently unoccupied*

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(and has been for some time) & undergoing renovations work. The owner of 3 Brabazon Street is currently in the process of selling his property.

4.0 Creation of an Amenity Area

4.1 The owner of the Lamplighter Public House claims that the roof area in question was already used as an amenity area before he purchased the property in 2017 and therefore there was no change of use from a roof area to an amenity area. He bases this statement on the claim that the rooms on the 1st + 2nd floor were rented and occupied throughout the ownership of the previous owner (1997-2017) and that these tenants used the roof area as an amenity area. As proof of such, he had submitted a declaration (See Appendix 15) to DCC that has allegedly come from the previous owner.

4.2 As a consequence of this, he goes on to state that the erection of a 2 m high fence at the property boundary is to be seen *"as maintenance and improvement in respect of the amenity and security of the property"*.

4.3 Starting with the statement that the rooms on the 1st and 2nd floor were rented during the ownership of the previous owner, I can only state from my own on-site visit, that these rooms were certainly not any habitable condition in 2014/2015.

4.4 As I have described in paragraph 2.1 and 2.2, I had the opportunity to view the premises in the turn of the year 2014/2015, which were not habitable at that time.

4.5 In addition, the auctioneer's marketing brochure (See Appendix 1) states that these premises were sold with upper floor in *"not utilised other than for storage purposes"* condition to the current owner in 2017.

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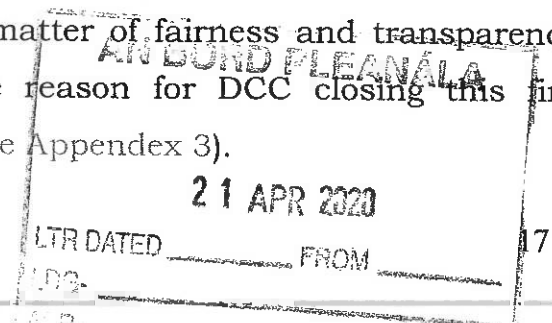
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4.6 Therefore, I was most surprised to learn that the previous owner is now said to have made a different and contradictory statement. When I requested this declaration under the Freedom of Information Act, it was initially refused by DCC on the basis of S37(1), S42(m)(i) and S35(1) of the FOI Act 2014. It was only after I had appealed this decision that this declaration document was sent to me in this censored form, although I had stated in my appeal that I knew both former owners Declan Brady and Robert Prior by name.

4.7 Due to the censored nature of this document, it is not clear to me if this declaration was in fact made by one of the former owners. I strongly believe that it was not. Furthermore, this document does not state when these premises have been let out/occupied last. According to the document in its current form, the most recent letting could have been over 20 years ago.

4.8 As the core question is that of if and when the rooms located on the 1st and 2nd floor were last let/occupied has a direct effect not only on how the rooms can now be used, but also on whether the flat roof can be used by the current tenants as an amenity area without the benefit of planning permission and furthermore whether the timber fence has any function whatsoever, like security, I am of the opinion that DCC should have clarified the contradictory statements between the insubstantial declaration by the current owner and the sale documents / my statement(s). In my view, DCC should have done more to investigate and have enquired directly with the former owner as to when the premises in question was last let/occupied, before declaring (in their email dated 9th January) that they are not in a position to disprove the length of time that the roof have been used for the residents of the rooms above the lamplighter. They should have done this after receiving my statement that the rooms haven't been occupied for at least five years and the auctioneer's marketing brochure (See Appendix 1). This is a simple matter of fairness and transparency, especially as this "declaration" was the sole reason for DCC closing this first enforcement case on the 4th. January 2019 (See Appendix 3).



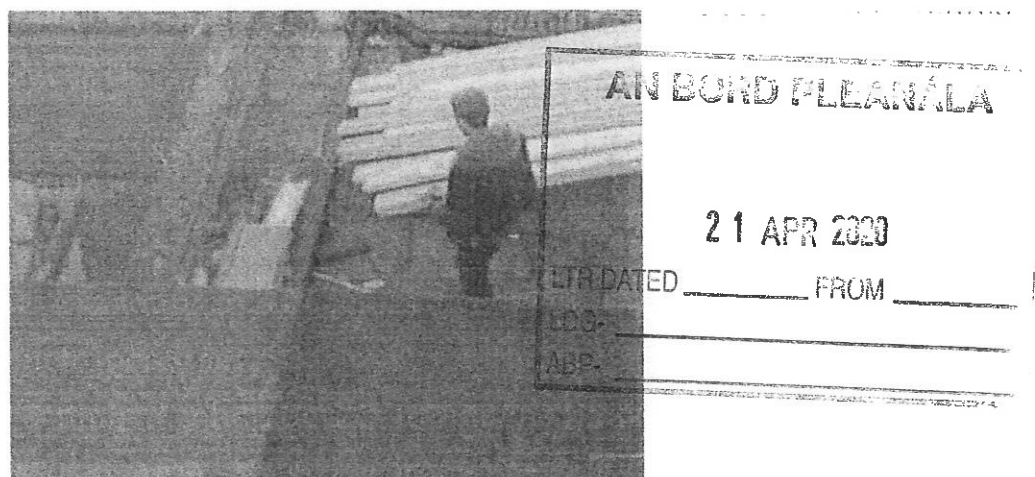
4.9 As it is undisputed that the premises is not and was not a "principal private residence" for either the former or current owner, I have searched the Privat Tenancy Board ("PTB") website to ascertain if any tenants have ever been registered in the past. I could not find any such registration. Unlike DCC, I unfortunately do not have the power to request that the previous owner specify and elaborate on his declaration by stating precisely the dates when the rooms were last occupied.

4.10 In addition, a rental income statement would have been provided as part of the "certified turnover figures" which is mentioned in the auctioneer's marketing brochure (See Appendix 1). Based on this, it would have been easy and very possible for DCC to request these certified turnover figures from the current or previous owner in order to establish, if at least during the certification period, whether the rooms were rented out or not.

5.0 Raising of Roof Height

5.1 In March 2019, Mr. Brendan Trears commenced with the construction on top of the existing roof which increasing the roof area adjacent to my back yard by around 600 mm with a timber construction to match the height of the roof area adjacent the public house as much as structurally possible.

Timber delivery:



Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

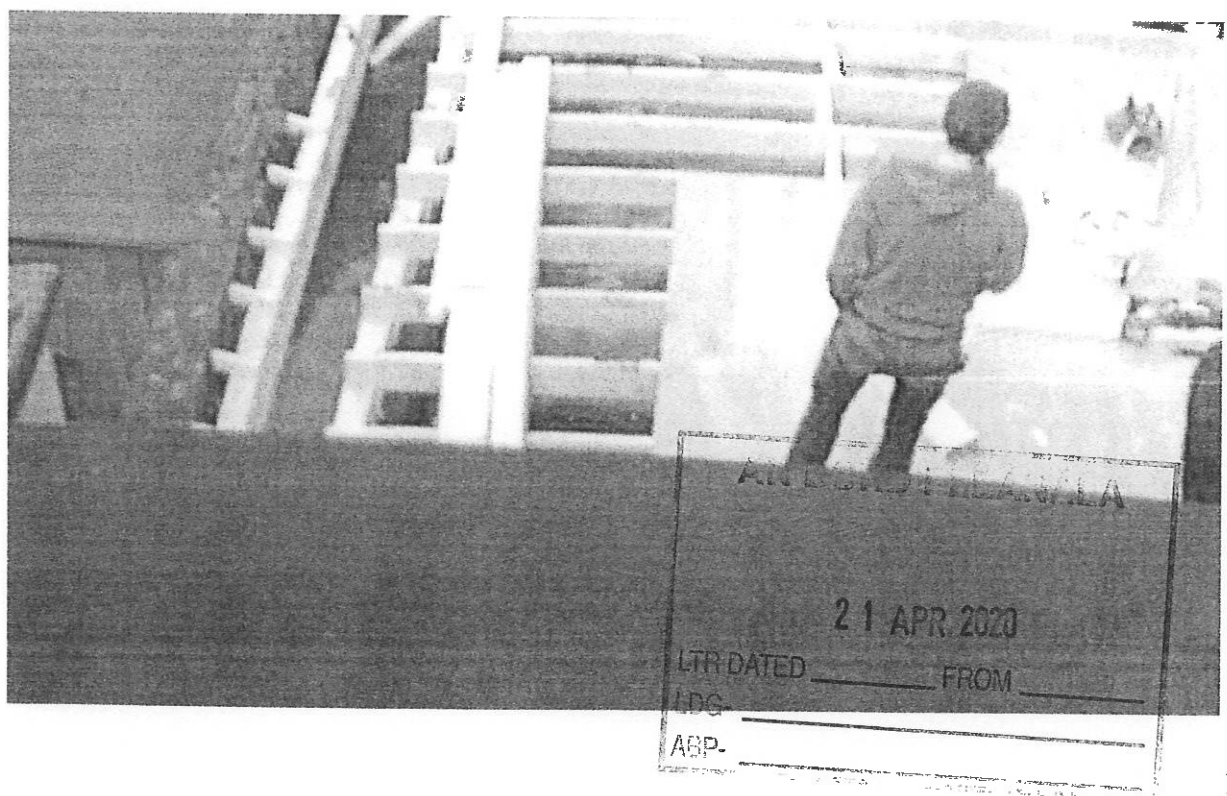
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Construction work in progress – construction on top of existing roof:



It is likely that the timber construction was also intended to add additional reinforce the roof in order for it to be used as a roof terrace.

*Phase of construction and halfway through plywood sheeting - **no insulation***



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Email: andreas@brueggener.com, Tel.: 064 6636633/ 085 7155066

Inspection of the work by the owner's director Mr. Brendan Trears



As shown on the following photos there was a cornice of about 600 mm on the border wall to my back yard before the roof was raised:



21 APR 2020

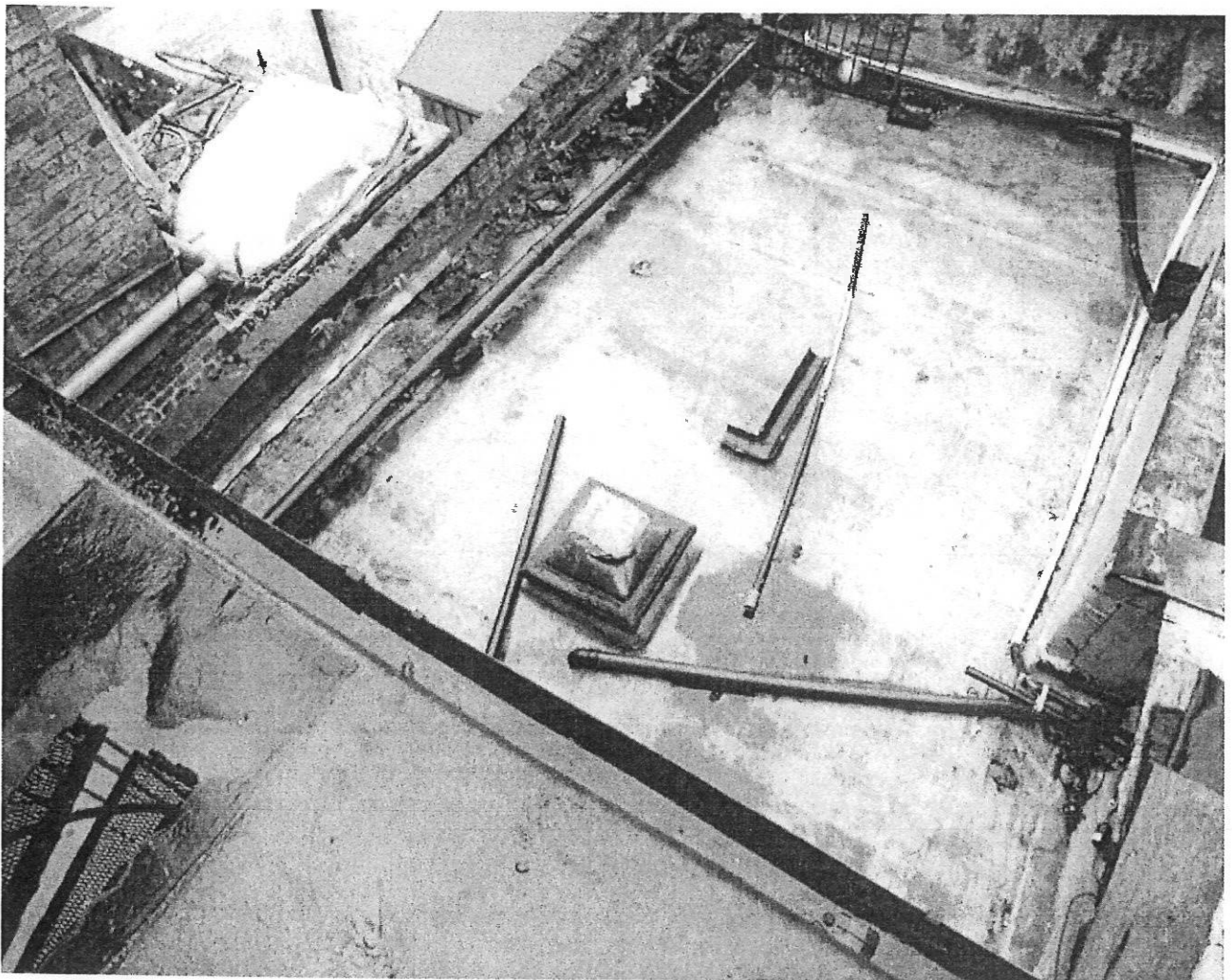
LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

Email: andreas@brueggener.com, Tel.: 064 6636633/ 085 7155066

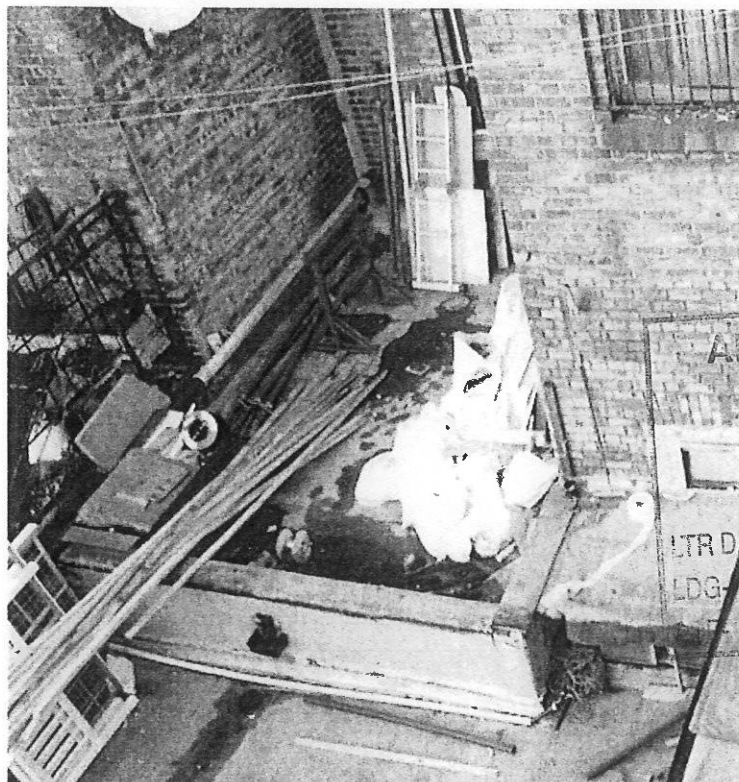
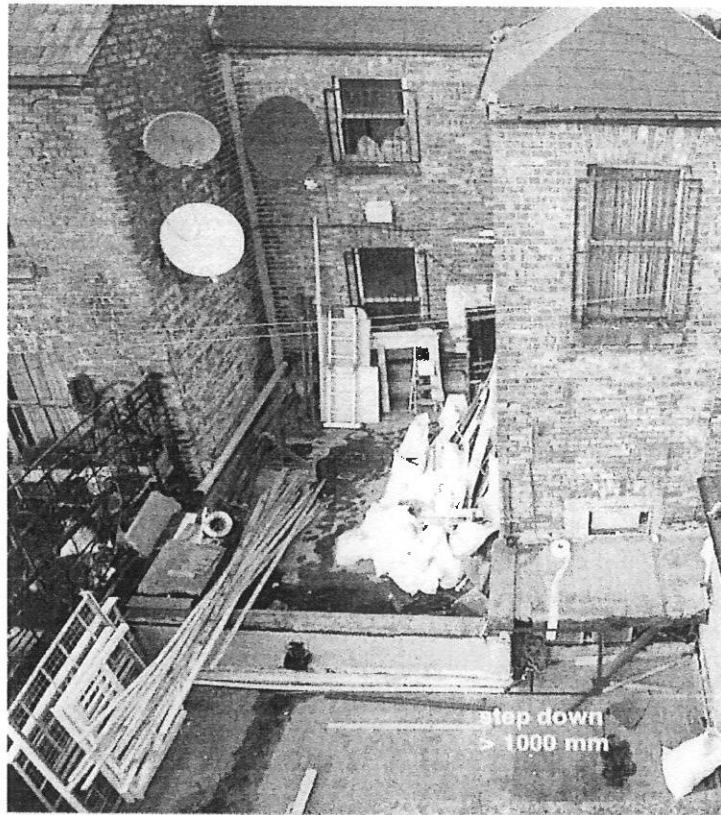


5.2 As shown in the next photos, taken during the renovation of the 1st and 2nd floors, the difference in height between the front and rear roofs was so substantial that crossing was not possible without the assistance of a ladder or stairs. In such a condition, it is clear that this roof, before it was raised by around 600 mm, could not be used as an amenity area. Between 2014 and 2018, my children and I have only seen the former owner, Mr. Declan Brady and bar staff use this area for maintenance works on the air condition. There were never any other persons.

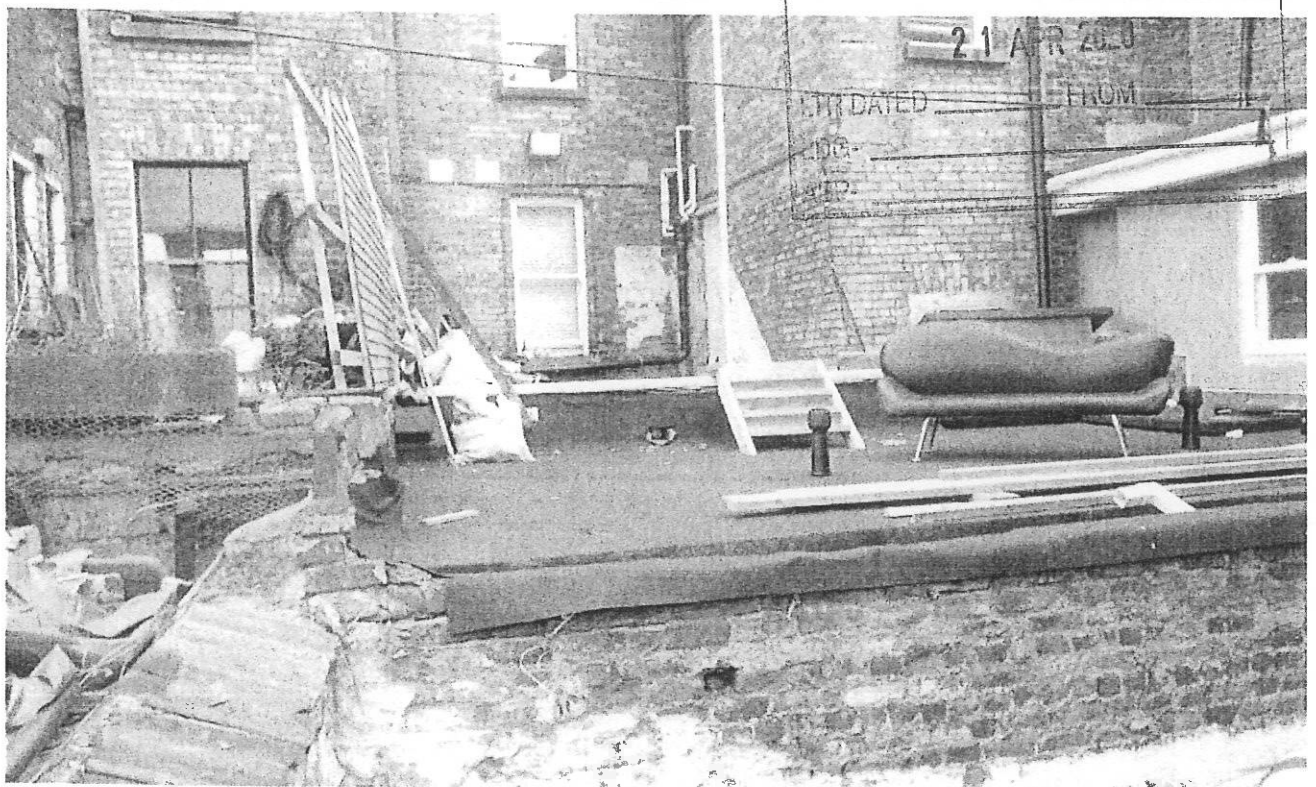
AN BORD PLEANÁLA	
21 APR 2020	
LTR DATED	FROM
LDG-	
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Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

Email: andreas@brueggener.com, Tel.: 064 6636633/ 085 7155066



5.3 As shown in the next photo (taken after the roofing work was completed) the roof was now the same height/ higher than the border wall to my back yard and the difference in height to the back roof was so small that it could be crossed without any equipment:



5.4 The raising of the roof in itself is not of issue to me. The intention of such and subsequent use of this areas as an amenity/leisure space, which later resulted in the construction of a 2 m high fence, now causes however significant issue. As a brief note, the Timber fence (to be discussed later) was erected after the roof was raised, and in my believe, to prevent those Airbnb guests from falling into my back yard. The fact that such a fence did not exist before 2019, I also believe, is also a strong indication that the roof had never been used as an amenity area prior to this.

5.5 The owner claims that no additional construction was carried out on top of the existing roof and no increase of about 600 mm took place, but rather that the existing roof area work pertained purely to aid *"insulation requirements of modern*

Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

Email: andreas@brueggener.com, Tel.: 064 6636633/ 085 7155066

refurbishment imply more depth and the build-up raised the roof by 100 mm". (See Inspectors Report). DCC accepts this statement as fact.

5.6 This is accepted as fact, despite me sending a video to Mr. Cameron of DCC on 6th August 2019 which blatantly disproves this statement. In order to further disprove the DCC assessment stating that the work is a *"replacement of the rear roof"* and therefore exempt, I have put together a video of the different stages of the work on the roof raising. (See Video - *increase roof*)

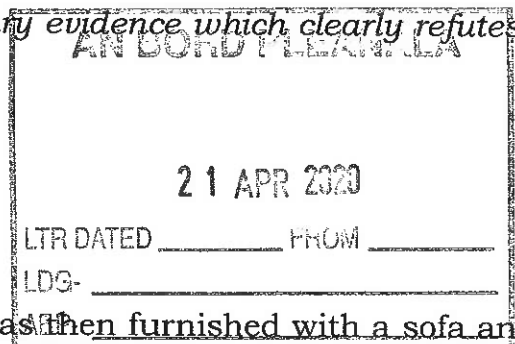
5.7 This video clearly shows that the old roof was not touched and a new construction was built on top of the existing roof that raised the roof area by about 600 mm. Furthermore, no insulation was inserted and the work was inspected and approved by Brendan Trears while the work was in progress.

5.8 *Unfortunately, I have become accustomed to the fact that Brendan Trears does not place much importance in factual information and make misstatements in the hope that I cannot disprove the contents such. This is of course a personal matter.*

5.9 *The fact however that DCC has based their decision on the information provided by Brendan Trears in the face of clear documentary evidence which clearly refutes such statements, leaves me speechless.*

6.0 Erection of a 2m High Fence

6.1 Following its completion, the raised roof was ~~then~~ furnished with a sofa and a small staircase (which was later removed). Then, different individuals (likely Airbnb guests) appeared on the roof and used it as roof terrace/party area. There activities reached breaking point when rubbish was tossed into my property, a number of individuals were observed spitting into my back yard and finally some individuals even trespassed and climbed into my back yard. Following these incidents, I asked

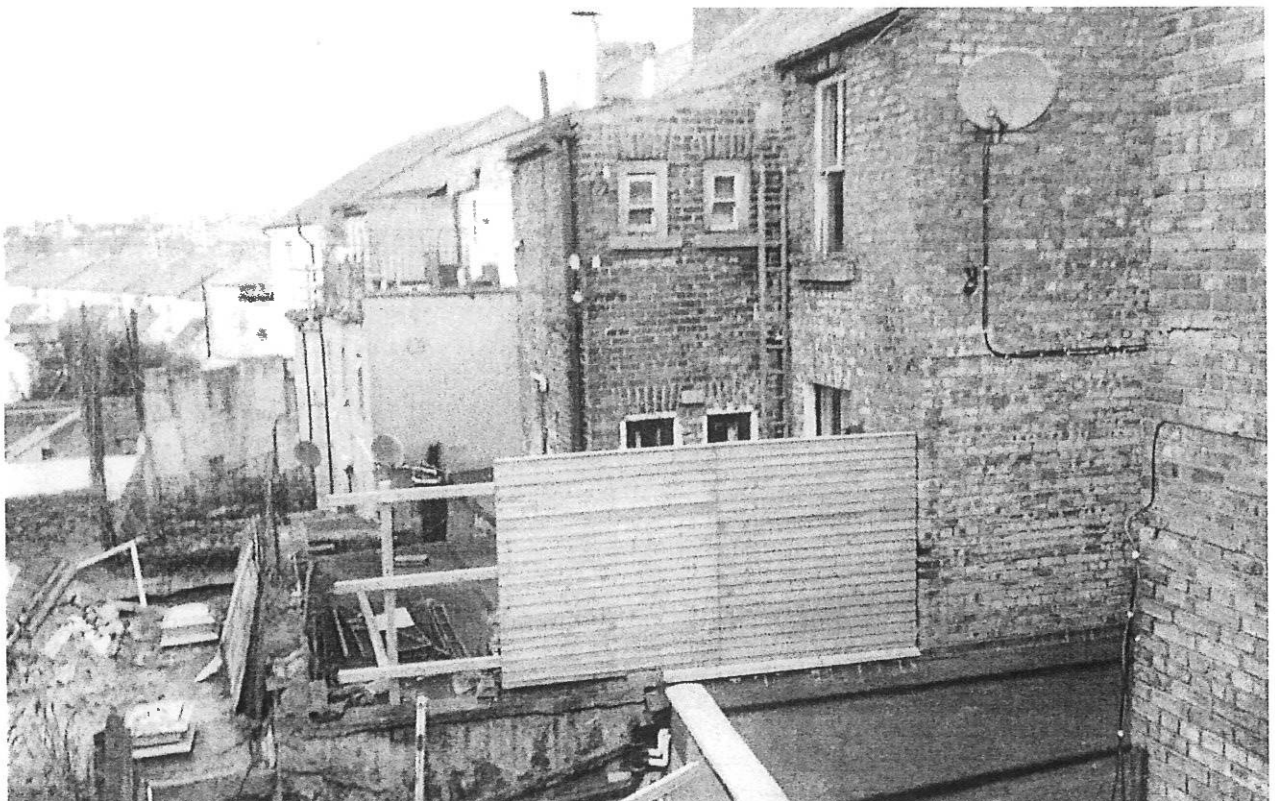


Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

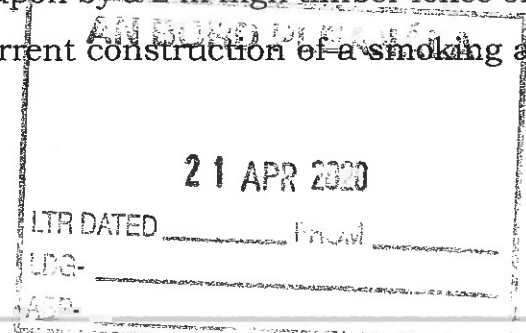
Email: andreas@brueggener.com, Tel.: 064 6636633/ 085 7155066

the owner, Brendan Trears, to make sure that his tenants/guests would not continue to use the roof as a terrace/party area. As this was ignored and nothing changed, I sent a second letter with photos of the described activities to DCC on 17th June 2019 (See Appendix 4) in the hope that DCC would prohibit the use of the roof as terrace/ party area.

6.2 Instead of ceasing with the activities complained of, Brendan Trears decided to erect a 2 m high closed wooden panel:

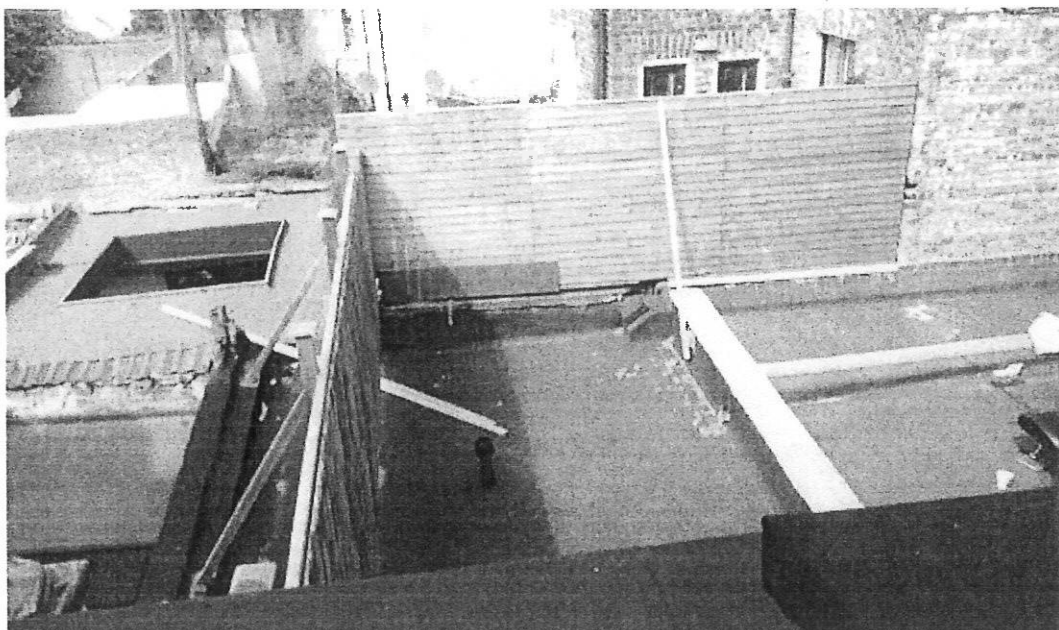


This was later complimented and expanded upon by a 2 m high timber fence on the border wall to my back yard after the concurrent construction of a smoking area/ beer garden was later completed.

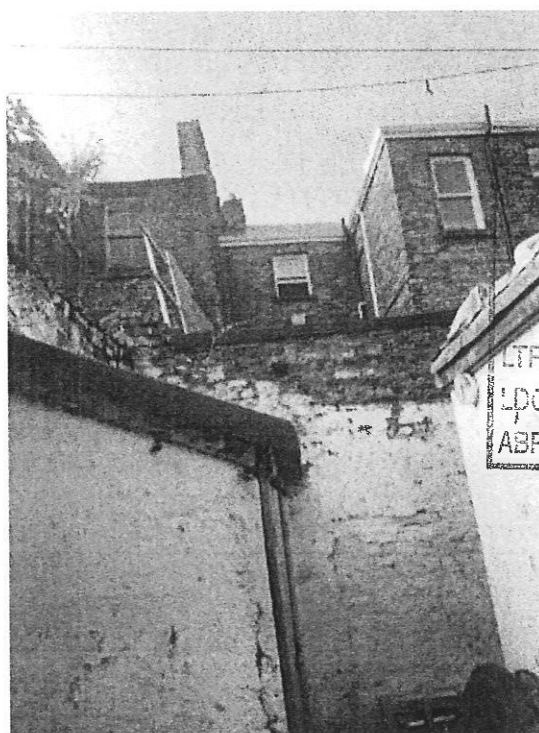


Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

Email: andreas@brueggener.com, Tel.: 064 6636633/ 085 7155066



6.3 As my back yard is small and therefore gets little natural light even without a Timber fence, the fence that has now been erected has led to a significant reduction. Below are photos with a perspective view from my back yard before and after the erection of the fence.



ANDREAS BRÜGGENER

21 APR 2020

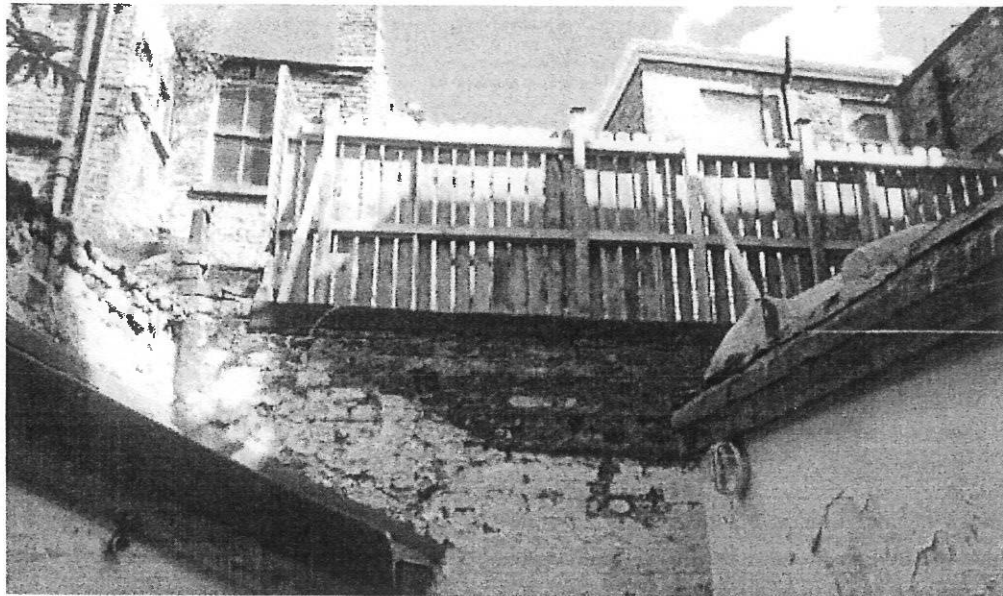
LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

Email: andreas@brueggener.com, Tel.: 064 6636633/ 085 7155066



6.4 The fence is also a major interference to my privacy, particularly when using the back yard. One can look through the fence without being noticed by those in my back yard. The following photo shows such an example and I have also a video attached captures such an intrusion (video = peeping through fence):

Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

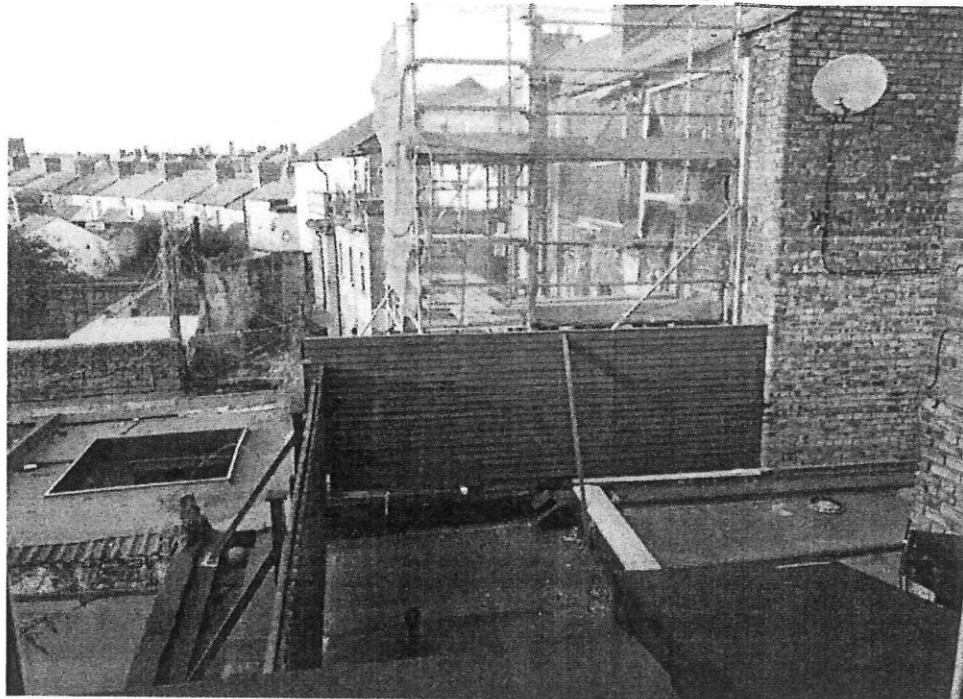
Email: andreas@brueggener.com, Tel.: 064 6636633/ 085 7155066



6.5 I simply cannot comprehend why DCC consider the fence, which also adjoins to the property located at 77/78 The Coombe to be a not 'material' development as stated in their email dated 9th January 2020 (See Appendix 9). As shown in the following photo, this building, which has been uninhabited for years, is currently under renovation. There have been no complaints from this property simply because nobody has lived there during the time of construction work on the roof, smoking area and fence.

21 APR 2020

LETTER DATED _____ FROM _____
ASG-



6.6 I also do not follow the rationale of the Executive Planner in her report (See Appendix 13) that a fence of more than 12 m length and 2 m height, of a closed design and visible from several properties in the area has only an effect on:

“the interior structure or which do not material affect the external appearance of the structure or of neighbouring structures.”

I also do not know what structure the Executive Planner is referring to when she states:

“Furthermore, it is noted that there are other structures, including a spiral staircase, visible to the rear of other Properties in the vicinity.”

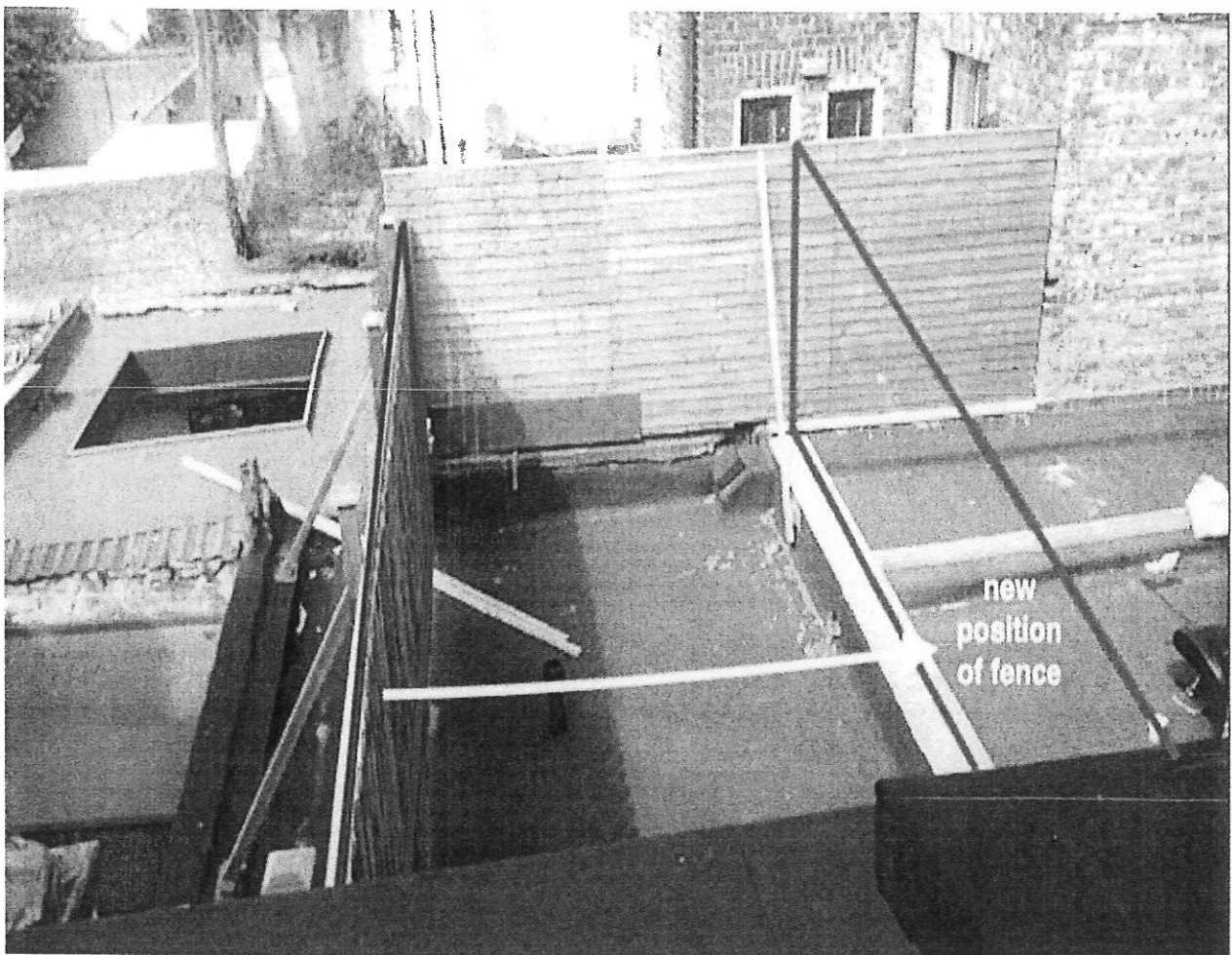
I know of no other fences or similar structure in the vicinity that can be compared with the fence erected on the roof of the Lamplighter Pub. I further do not understand how one can compare a single spiral staircase, no higher than 3 m and

Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

Email: andreas@brueggener.com, Tel.: 064 6636633/ 085 7155066

which boasts an open design which is located directly onto the facade of 3 Brabazon Street, with such a solid/lengthy fence construction.

6.7 As a final remark; I would have had little reservations if the fence was constructed away from my property in line with the wall dividing the front roof of the back roof (see suggestion below) and therefore the use of the roof area behind this new fence position as an amenity area would not cause any problems. This of course would have to have been done through the official channels (i.e. a planning application or Section 5 application).



AN BORD PLEANÁLA

21 APR 2020

LTR DATED _____

LDG- _____

Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry

Email: andreas@brueggener.com, Tel.: 064 6636633/ 085 7155066

7. Conclusion:

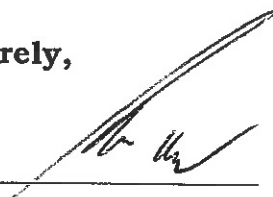
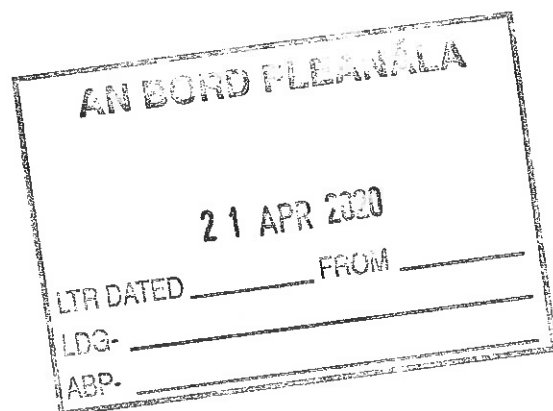
In summary, I strongly believe that the following developments should be classified as developments and not exempt developments:

7.1 The construction of a smoking area adjacent to my back yard is a material change of use, an intensification of use, a development and a not exempt development

7.2 The use of the roof, which is adjacent to my back yard, as an amenity area is a material change of use, a development and a not exempt development.

7.3 The erection of the timber fence has a material effect to the external appearance of the structure and of neighbouring structures to render it inconsistent with the structure and of neighbouring structures, is a development and a not exempt development.

Sincerely,


Andreas Brüggener



Peter P. Gillett & Associates
TOWN PLANNING & DEVELOPMENT CONSULTANCY

Planning Registry
Planning Dept . Block 4
Dublin City Council
Civic Offices ,
Wood Quay , Dublin 8

Re Section 5 Application , Lamplighters Pub, 79 The Coombe

Dear Sir /Madame

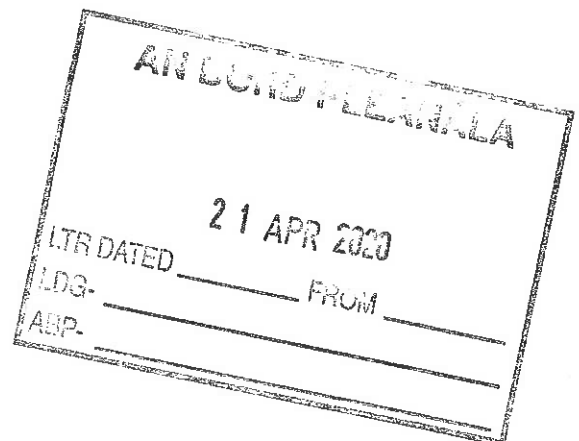
On behalf of Andreas Bruggener of Gortagullane, Muckross, Killarney, Co. Kerry we wish to make formal application for a declaration under Section 5 of the 2000 Planning Act on whether certain works carried out at the above premises are development or exempted development .These issues have been the subject of lengthy correspondence with your Enforcement Section .See EO528/19.In this regard we refer to email dated 9th Jan 2020 from Neil Cameron to our client . This email states **inter alia** that the works and change of uses complained of are exempted development . We disagree with this view and request a formal declaration of our attached S5 application .

Our client owns no;2 Brabazon St which is a residential property to the immediate rear of the pub. Over recent years he has made numerous complaints to the Council regarding the running of this pub which has seriously impacted on his residential amenity . If the Council declare the subject works and change of uses to be exempted development, we intend to appeal the decision to Bord Pleanala to get final resolution of the questions raised . We attach completed application form, fee of €80 , 2 copies of location map and photos .

P. P. Gillett & Associates

Peter P. Gillett & Associates

21/2/2020



DECLARATION ON DEVELOPMENT & EXEMPTED DEVELOPMENT



Dublin City Council

SECTION 5 APPLICATION FORM

NAME OF APPLICANT: ANDREAS BRUEGGENERADDRESS OF APPLICANT: GORTAGULLANE, MUCKROS, KILLARNEY
CO. KERRY, ALSO 2 BRABAZON ST, THE COOMBEEMAIL ADDRESS: ANDREAS@brueggener.comTELEPHONE NO. Day: 064 6636633 Mobile: 085 7155066NAME OF AGENT AND AGENT'S ADDRESS: Peter P. Gilleen & ASS'S
55 GLENCARRAIG, SUTTON, X13TELEPHONE NO. Day: 832 5553 Mobile: 087 7472274

ADDRESS FOR CORRESPONDENCE (if different from above)

21 APR 2020

LTR DATED _____ FROM _____

LDG. _____

ABP. _____

LOCATION OF SUBJECT SITE: LAMPLIGHTERS PUB, 79 JK COOMBE
1 BRABAZON ST.Is this a Protected Structure or within the curtilage of a Protected Structure? ☐If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority? ☐

Please provide details of works (where applicable) or proposed development.
(Note: only works listed and described under this section will be assessed under this section 5 application. Use additional sheets if required.)

1. CONSTRUCTION OF A SMOKING / BEER GARDEN TO REAR OF PUB
2. USE OF UPSTAIRS ROOMS AS STUDENT / SHORT TERM LETTING
3. RAISING OF FLAT ROOF TO REAR BY C. 600mm &
CONSTRUCTION OF A 2M HIGH FENCE TO CREATE
AN OUTSIDE AMENITY AREA

A 10/3

List of plans, drawings etc. submitted with this application

1 COVER LETTER

2. COPIES OF O.S. MAP 3263-14, SCALE 1:1000

3. COPIES OF PHOTOS OF WORKS

OWNS PROPERTY TO REAR

Please state Applicant's interest in this site: 2 BRABAZON ST.

If applicant is not owner of site, please provide name & address of owner:

CREATIVE REAL ESTATES LTD, COLLEGE HOUSE,
71/73 ROCK RD, BLACKROCK CO DUBLIN

Are you aware of any enforcement proceedings connected to this site?

If so please supply details:

E0528/19. CLIENT HAS MADE NUMEROUS
COMPLAINTS RE: NOISE & UNAUTHORISED DEVELOPMENTS IN PUB

Where there previous planning application/s on this site? ☐

If so please supply details:

2676/18, 2008/18, 2548/18

Signed

P.P. Jellert

Date

24/2/2020

NOTES

Application shall be accompanied by 2 copies of site location map with site clearly outlined in red and a fee of €80.00. Please submit 2 copies of any additional plans/reports etc. you may wish to include as part of the application.

Application shall be forwarded to: Dublin City Council, Planning Registry
Section, Block 4, Floor 0, Civic Offices, Wood Quay, Dublin 8
Contact Details: Phone: 01 222 2149 Fax: 01 222 2675

AN BORD PLEANÁLA

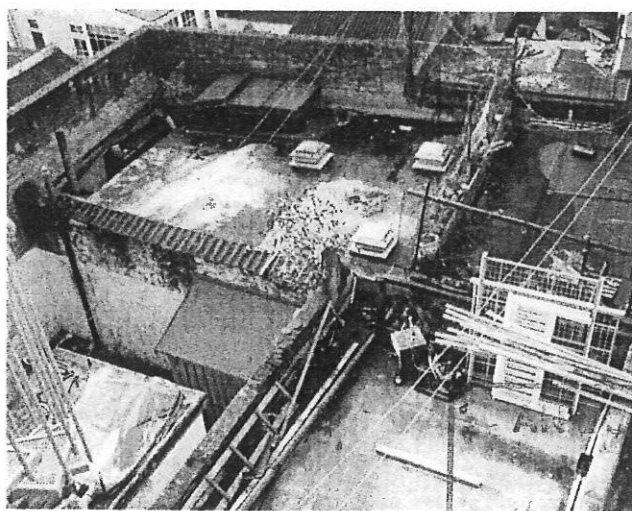
21 APR 2020

LTR DATED _____ FROM _____

LDG- _____

APP- _____

- e) Development before construction work - with skylights for the toilets and storeroom.



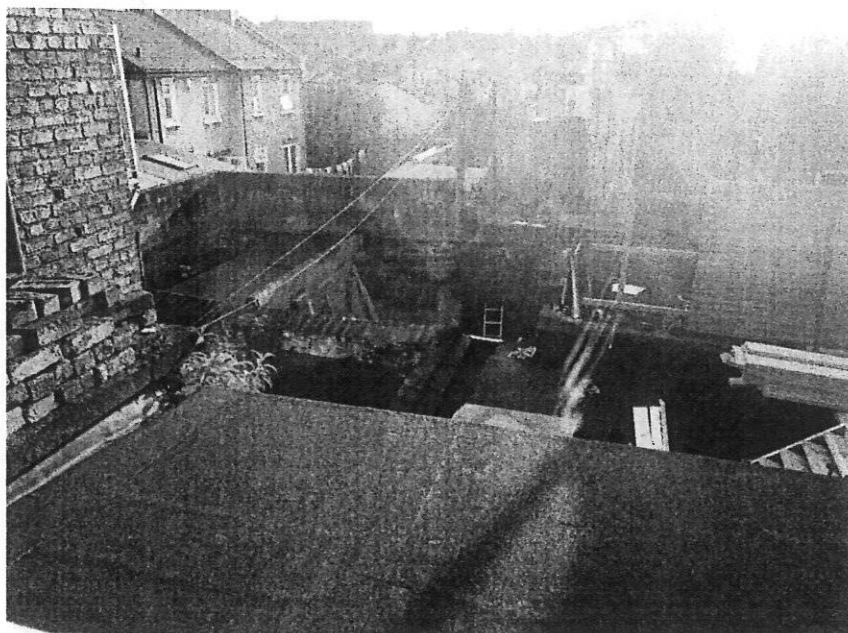
21 APR 2020

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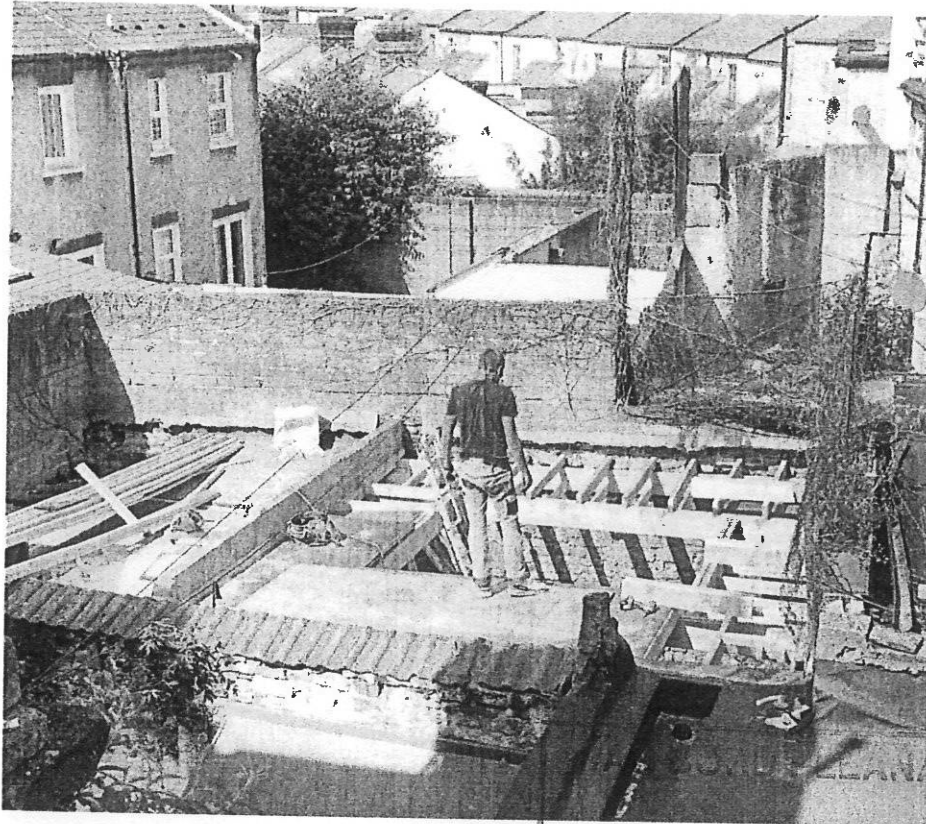
ABP- _____

- f) Development begins after demolishing roof, internal walls, toilets and storeroom.



A10/5

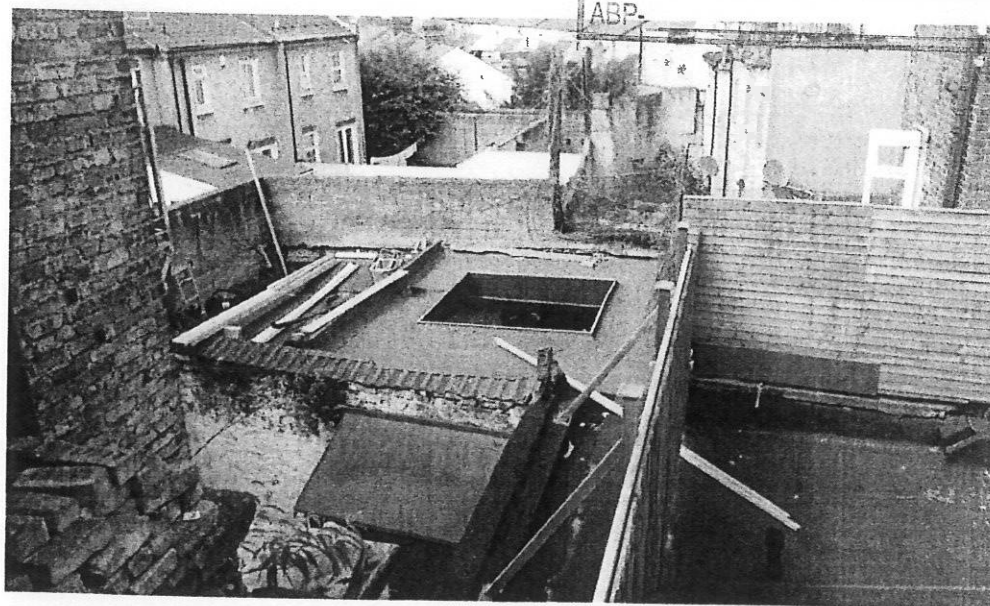
g) partial roof for the beer garden under construction



21 APR 2020

LTR DATED _____ FROM _____
LDG- _____
ABP- _____

h) Beer garden & roof completed



A10/6



BOARD PLEASANT

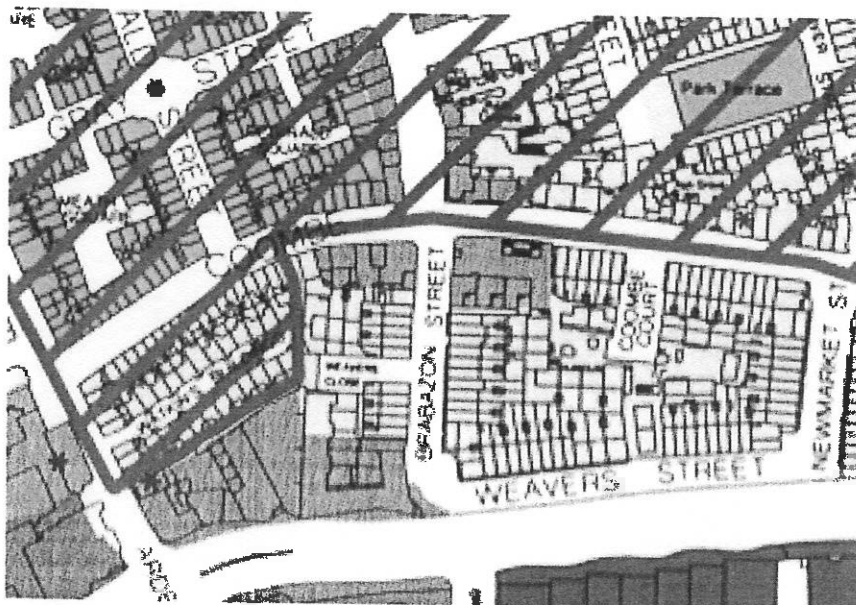
21 APR 2020

DATE DATED _____ FROM _____

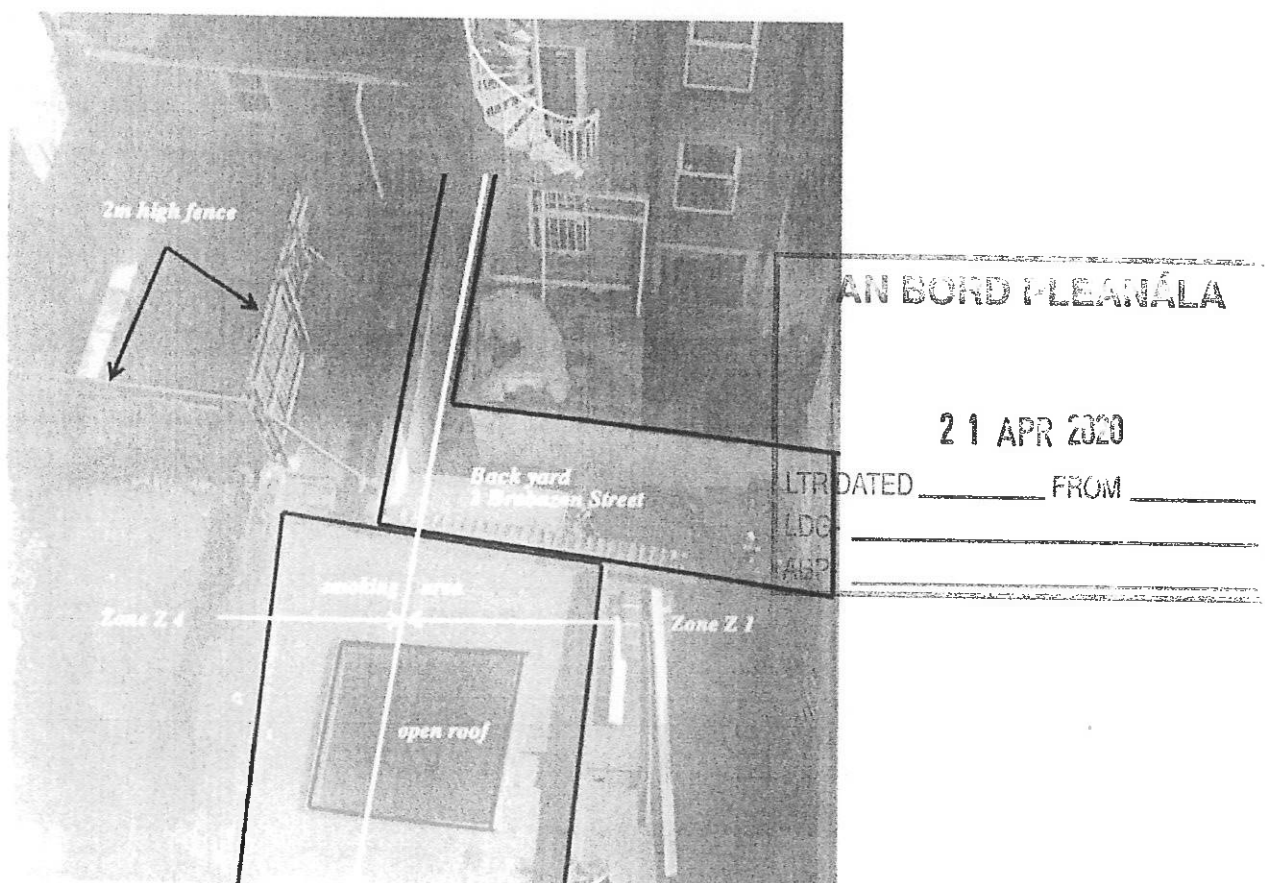


A10/7

The border between zoning area 4 and zoning area 1 is in line with the boundary between houses 2 Brabazon Street and 3 Brabazon Street- zoning map:



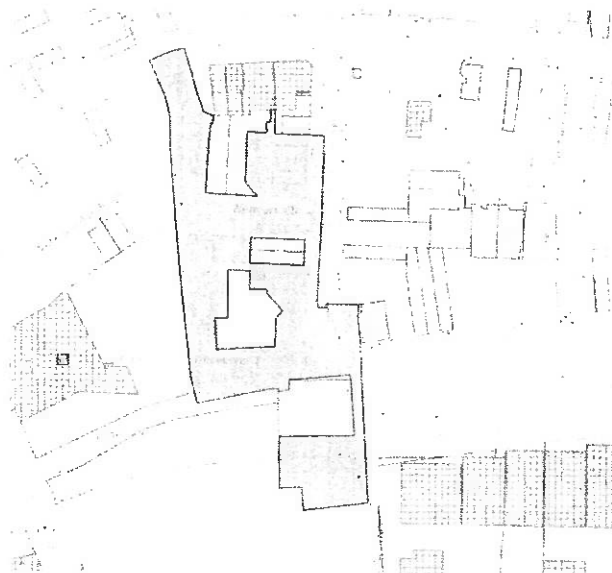
The zoning line in relation to the smoking area following aerial photograph



The smoking area is not within the bounds to the land registration map of the property Lamplighter Pub, 79 The Coombe/ 1 Brabazon Street, **Folio No.: DN71499L** which holds a leasehold title:



the smoking area is located within the boundaries of **Folio no.: DN23314F**:



which is partly behind the back yard 2 Brabazon Street **Folio No DN30571F**:



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

A 10/9

John P. Younge FRICS. FSCSI.,
Auctioneer & Valuation Surveyor.
35, Lower Pembroke Street, Dublin 2, Ireland

Tel: +353 01 661 8428

Web: www.jpyounge.ie

Fax: + 353 01 676 5719

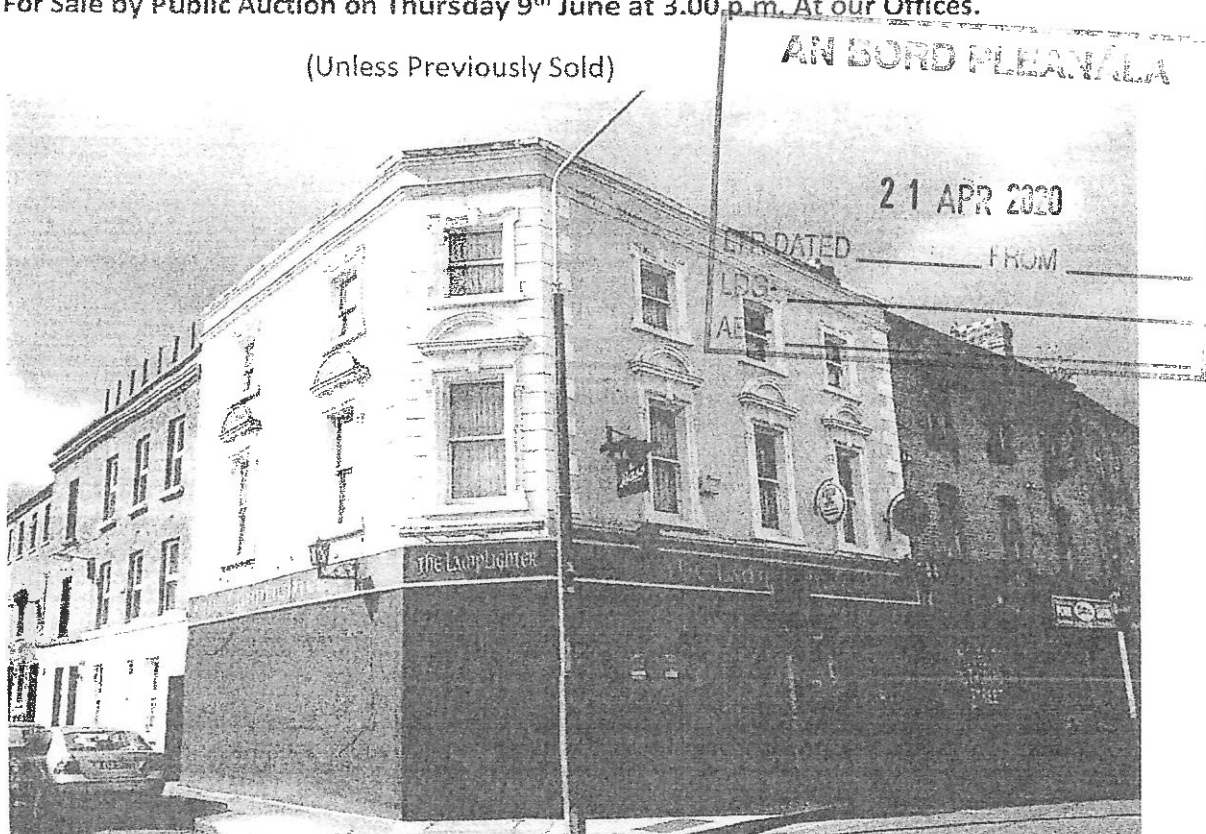
E-mail: jpyoung@eircom.net

WELL ESTABLISHED SOUTH CITY LICENSED PREMISES, WITH BUSINESS POTENTIAL.

**THE LAMPLIGHTER,
79 THE COOMBE, DUBLIN 8.**

For Sale by Public Auction on Thursday 9th June at 3.00 p.m. At our Offices.

(Unless Previously Sold)



The property occupies a prominent trading position, diagonally opposite Meath Street, on the corner of The Coombe and Brabazon Street, in the heart of 'The Liberties', one of the oldest districts of the City, close to Newmarket Square, an area, along with its environs, where considerable redevelopment is envisaged, in the near future.

The Vendor, who is now retiring, has, for the past twenty years, conducted a strictly, mainly local lounge bar trade. The upper floors, with separate side street access, are not utilised other than for storage purposes. The property is within easy walking distance of the busy shopping areas of Meath Street, Thomas Street and Francis Street, just off Newmarket Square. There is no food business carried on at present. Certified turnover figures available.

BER Grading: F.

ACCOMMODATION:

sq.ft.

m2

GROUND FLOOR:

'L' shaped Lounge Bar;	1,398	129.88
------------------------	-------	--------

Passageway to; Ladies and Gents toilets.

Store;	83	7.74
--------	----	------

Outside void at rear, leading to; Boilerhouse & oiltank.

BASEMENT:

Cellar;	526	48.91
---------	-----	-------

FIRST FLOOR:	767	71.26
--------------	-----	-------

Divided as follows; Managers Office; 12'6" x 10', Front Room; 16' x 13',

Corner Room; 17'9" x 15'3", Old Kitchen; 14' x 6'6"

SECOND FLOOR:	673	62.52
---------------	-----	-------

Front Room; 15'9" x 12'6", Corner Room; 17'9" x 15', Back Room; 13' x 6'9", Back Room; 12'6" x 9'9".

Title; Freehold.

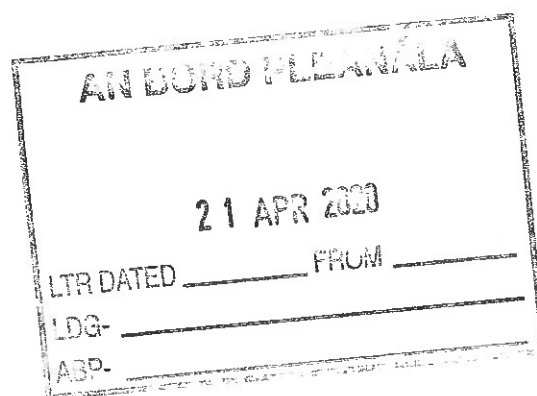
Viewing: Strictly by appointment with the selling agents.

Inventory; Inventory of furniture and effects included in the sale, available on request.

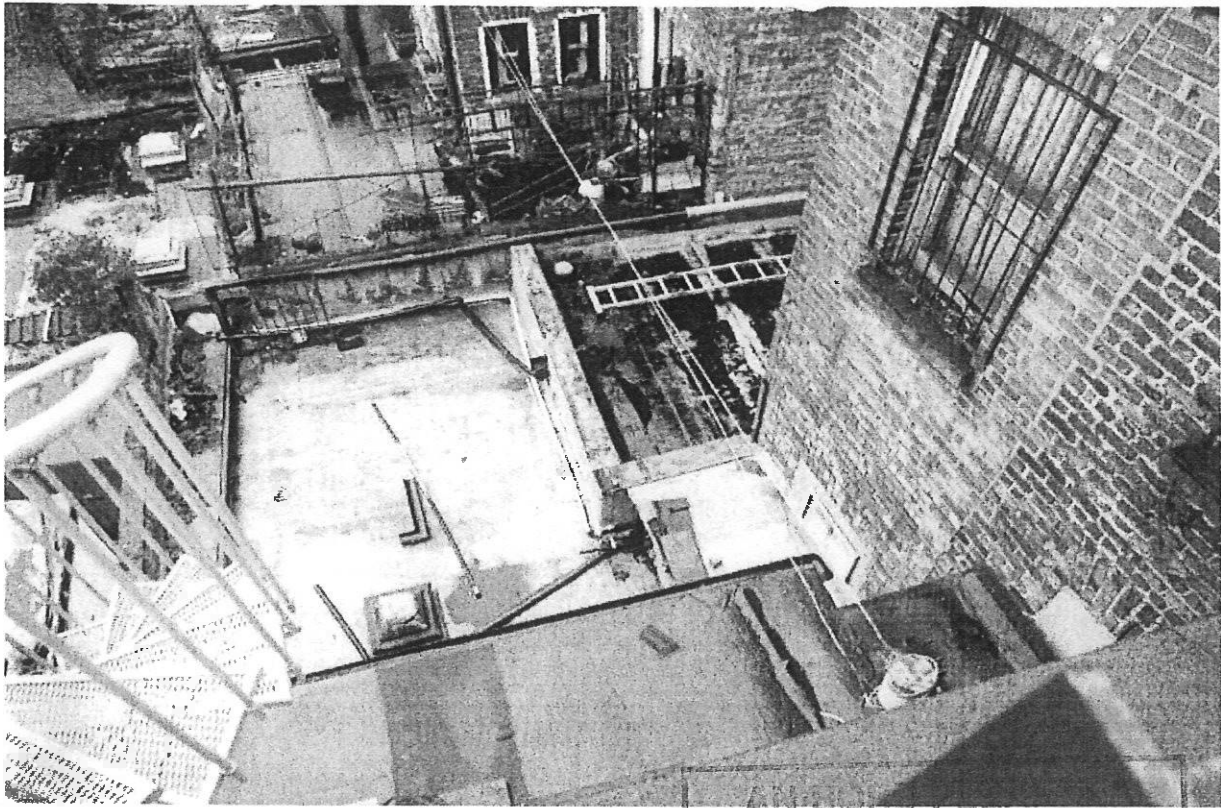
Solicitors with carriage of sale:

YOUNG O'REILLY & CO.

1-2 Lower Leeson Street, Dublin 2. Tel. 01-6712773. Fax. 01-6713054.



Roof before construction work to create an outside Amenity area

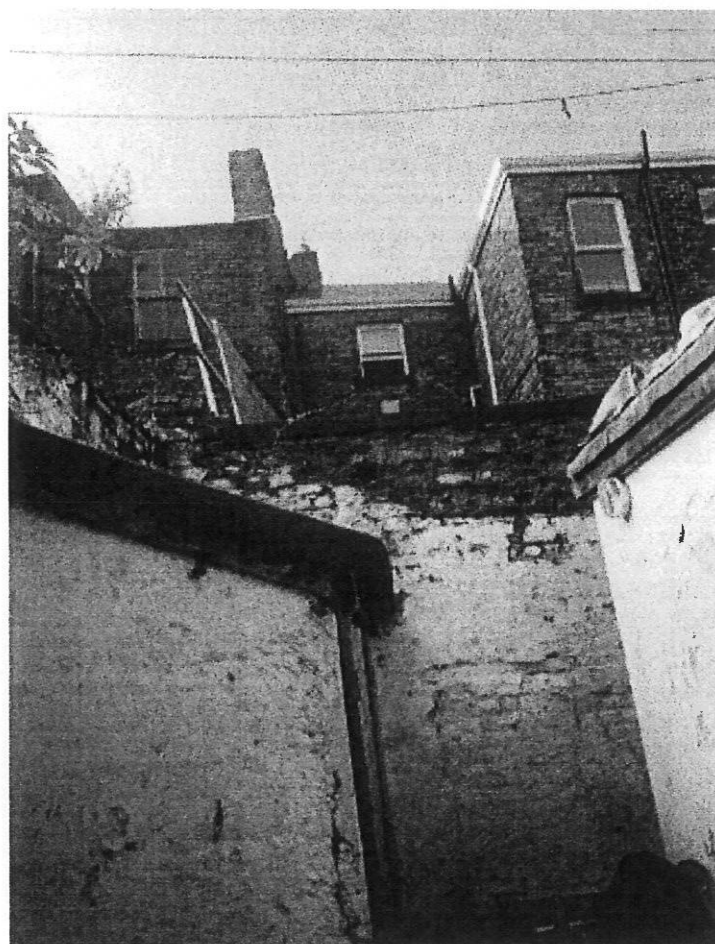
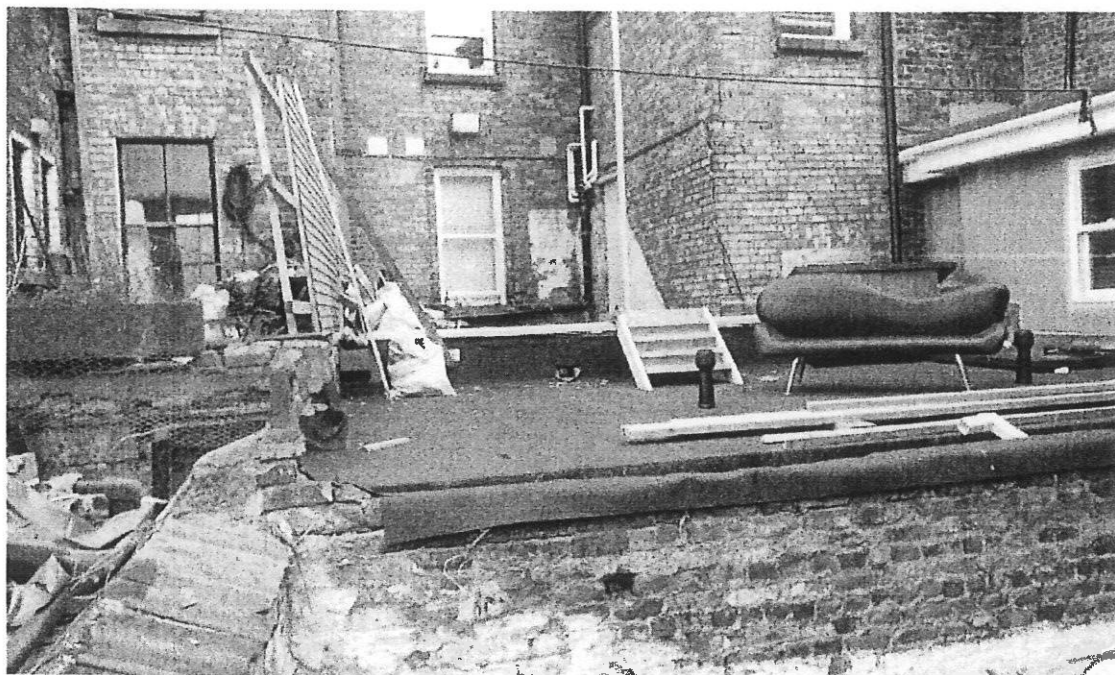


Raising of flat roof



A10/12

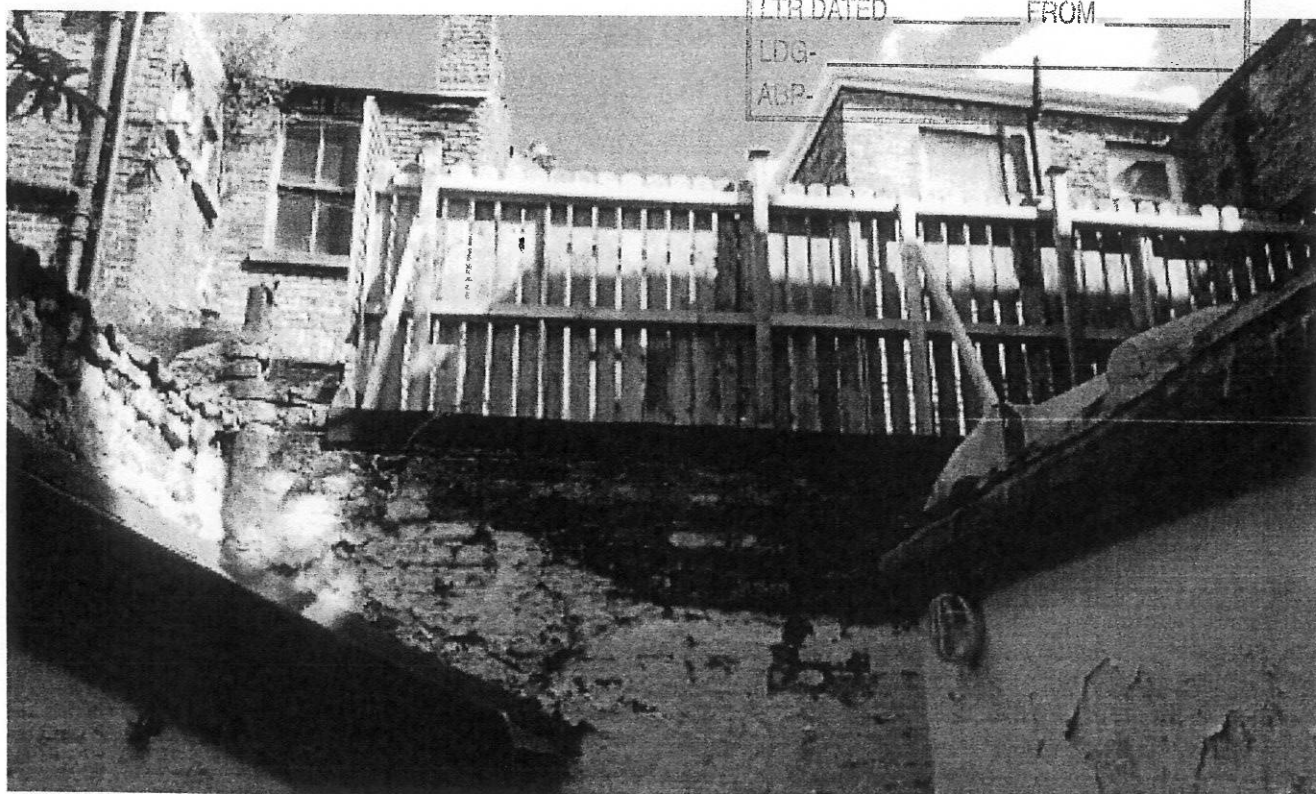
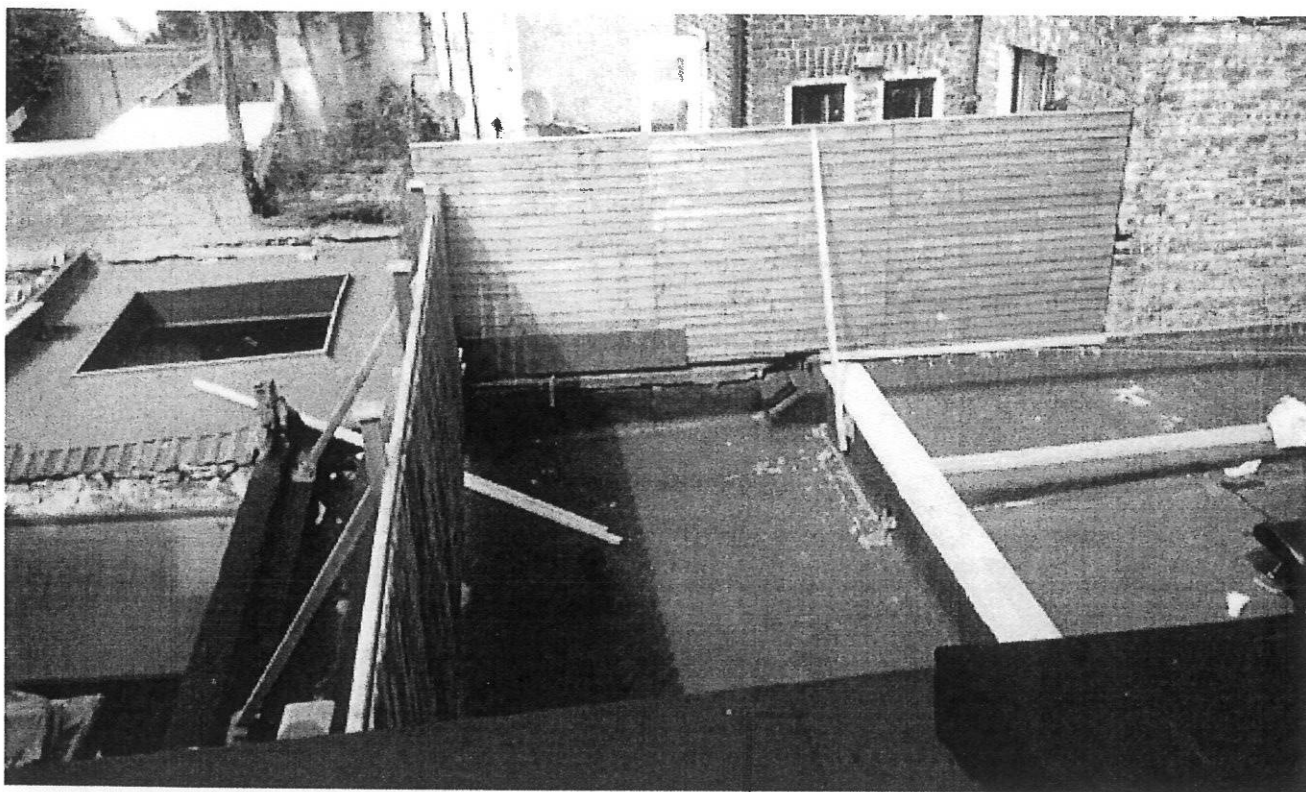
Finish roof without 2 m high timber fence



AN BORD PLEAN	
21 APR 2020	
LTR DATED	FROM
LDG-	
ABP-	

A 10/13

After erecting a 2 m high timber fence



Survived	1968
Revised	2018
Revalued	1923

ITM CENTRE PT COORDS
714666 733547

DESCRIPTION

79 The Globe
12.5.62

MAP SHEETS

1:1000
3283-14

[illegible][illegible]

1. The first part of the document is a list of references. The references are as follows:

- 1. J. H. Van der Hoff, *Journal of the Royal Society of Medicine*, 1910, 3, 101.
- 2. J. H. Van der Hoff, *Journal of the Royal Society of Medicine*, 1910, 3, 101.
- 3. J. H. Van der Hoff, *Journal of the Royal Society of Medicine*, 1910, 3, 101.
- 4. J. H. Van der Hoff, *Journal of the Royal Society of Medicine*, 1910, 3, 101.
- 5. J. H. Van der Hoff, *Journal of the Royal Society of Medicine*, 1910, 3, 101.
- 6. J. H. Van der Hoff, *Journal of the Royal Society of Medicine*, 1910, 3, 101.
- 7. J. H. Van der Hoff, *Journal of the Royal Society of Medicine*, 1910, 3, 101.
- 8. J. H. Van der Hoff, *Journal of the Royal Society of Medicine*, 1910, 3, 101.
- 9. J. H. Van der Hoff, *Journal of the Royal Society of Medicine*, 1910, 3, 101.
- 10. J. H. Van der Hoff, *Journal of the Royal Society of Medicine*, 1910, 3, 101.

[illegible]

$\frac{d}{dt} \left(\frac{\partial L}{\partial \dot{x}} \right) = \frac{\partial L}{\partial x}$

$\frac{d}{dt} \left(\frac{\partial L}{\partial \dot{x}} \right) = \frac{\partial L}{\partial x}$

$\frac{1}{2} \log \left(\frac{1 + \sqrt{1 - 4x}}{1 - \sqrt{1 - 4x}} \right) = \sum_{n=0}^{\infty} (-1)^n x^n$

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Z

Plot Ref. No. 19766895_1_1
Plot Date 11-DEC-2017

100 Matros

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02

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1

2008年

A1 = 2 pages

A 1/1

John P. Younge FRICS. FSCSI.,
Auctioneer & Valuation Surveyor.
35, Lower Pembroke Street, Dublin 2, Ireland

Tel: +353 01 661 8428
Web: www.jpyoung.ie

Fax: + 353 01 676 5719
E-mail: jpyoung@eircom.net

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Outside void at rear, leading to; Boilerhouse & oiltank.

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Cellar;

526

48.91

FIRST FLOOR:

767

71.26

Divided as follows; Managers Office; 12'6" x 10', Front Room; 16' x 13',

Corner Room; 17'9" x 15'3", Old Kitchen; 14' x 6'6"

SECOND FLOOR:

673

62.52

Front Room; 15'9" x 12'6", Corner Room; 17'9" x 15', Back Room; 13' x 6'9", Back Room;
12'6" x 9'9".

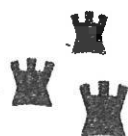
Title; Freehold.

Viewing: Strictly by appointment with the selling agents.

Inventory; Inventory of furniture and effects included in the sale, available on request.

Solicitors with carriage of sale:**YOUNG O'REILLY & CO.****1-2 Lower Leeson Street, Dublin 2. Tel. 01-6712773. Fax. 01-6713054.**

RECORD FILED	
21 APR 2000	
LOCATED	FROM
LDG-	
ASP-	



Comhairle Cathrach
Baile Átha Cliath
Dublin City Council

Feidhmiú Pleanála
An Roinn Pleanála & Forbairt Maoiné
Bloc 4, Urlár 2, Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8

Andreas Bruggener,
Gortagullane Muckcross,
Killarney,
Co. Kerry

Planning Enforcement,
Planning & Property Development Department,
Block 4, Floor 2, Civic Offices
Wood Quay, Dublin 8
T. 01 222 2147 E. planningenforcement@dublincity.ie

25th September 2018

Re: 1 Brabazon street / 79 The Coombe, Dublin 8

Dear Mr. Bruggener,

I refer to your planning enforcement complaint regarding the above address.

We have initiated enforcement procedures in accordance with Part VIII of the Planning & Development Acts 2000 – 2016. As required by the Act, we have issued a Warning Letter to the developer. When dealing with enforcement complaints the City Council is required by legislation to allow the recipient of the enforcement letter up to 4 weeks to respond to the complaint made.

After that 4 week period the council will undertake an inspection to establish if the development requires further enforcement action. Additional investigations may also be necessary to obtain sufficient evidence to sustain legal proceedings.

At the end of our investigation you will be advised in writing of the outcome and whether further enforcement action is warranted.

Further information in relation to our procedures can be obtained from www.dublincity.ie

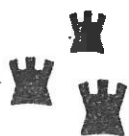
The Planning Enforcement Officer dealing with this complaint is Mr Neill Cameron,
Tel: 222 3534.

Yours faithfully,


For Acting Planning Enforcement Manager

Ref: Shane Kearney/Sharon O'Neill
Tel: 222 3461
Please quote file ref: E0864/18
Email: planningenforcement@dublincity.ie

AN BORD PLEANÁLA	
21 APR 2020	
LTR DATED _____	FROM _____
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Comhairle Cathrach
Baile Átha Cliath
Dublin City Council

Feidhmiú Pleanála
An Roinn Pleanála & Forbairt Maoiné,
Bloc 4, Ulár 2, Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8

Planning Enforcement,
Planning & Property Development Department,
Block 4, Floor 2, Civic Offices
Wood Quay, Dublin 8
T. 01 222 2147 E. planningenforcement@dublincity.ie

Andreas Bruggener
Gortagullane,
Muckross
Killarney
Co Kerry

4th January 2019

Re: 1 Brabazon street / 79 The Coombe, Dublin 8

Dear Andreas,

I refer to your complaint regarding the above address.

Recent investigations carried out by the Planning Enforcement Officer for the area has revealed that this property is no longer listed on Air BnB. The owner has stated that this use has ceased and a number of permanent tenants are now in situ.

The property is set up as a house share with communal sitting room & kitchen facilities. A declaration has been received from the previous owner also that these rooms has been used for accommodation for years 1997-2017 when he was in ownership of the building.

On this basis the file has now been closed.

Should you require any further information please do not hesitate to contact Mr Neil Cameron, Tel: 222 3534

I trust that this information is of assistance to you.

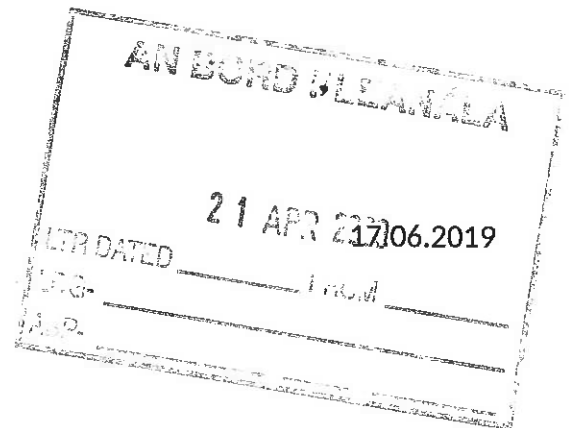
Yours faithfully,


For Acting Planning Enforcement Manager

AN BORD PLEANÁLA	
21 APR 2020	
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Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry
Tel.: 064 6636633

Dublin City Council
Planning Enforcement
Planning & Property Development Department,
Block 4, Floor 2, Civic Office
Wood Quay
Dublin 8



Re: 1 Brabazon Street/ 79 The Coombe, Dublin 8

Dear Sir/ Madam,

I would first and foremost like to apologize for having to re-open this matter, however I feel given the behavior of my neighbour over the past few months I have been left with no other choice.

My last correspondence with your office in relation to the above-mentioned property was a letter dated 04.01.2019 (*copy attached*). The most notable take away from that letter was the fact that DCC received a letter from the previous owner stating that the rooms on the first and second floors were used as accommodation during his ownership (between the years 1997 -2017.)

This statement is demonstrably false. The rooms located on the second floor had been so badly damaged by water leaks from the roof over the years that they were wholly inhabitable. The rooms on the first floor were in an equally bad condition and only used as storage and for the video surveillance of the pub located on the ground floor. I am aware of this, as I was personally on site to view both floors back in 2015. From this visit with the previous owner, one thing was abundantly clear: These rooms had not been used for accommodation for many years. That is why I was so baffled to read the previous owner's statement and I can only speculate as to his motive for making such. Following extensive renovation works by the current owners in 2018, the rooms were then made habitable and as you investigated, were made available on Airbnb for short term lettings.

The fact that the derelict state of the two floors was rectified by the new owners is something I very much welcome, particularly given the dire accommodation situation in Dublin City.

However, the statement received from the current owners, namely that they have now rented the rooms to permanent tenants, is only partly true. Although there are some tenants who live there permanently, there are still many more who still avail of short-term lettings of the other rooms.

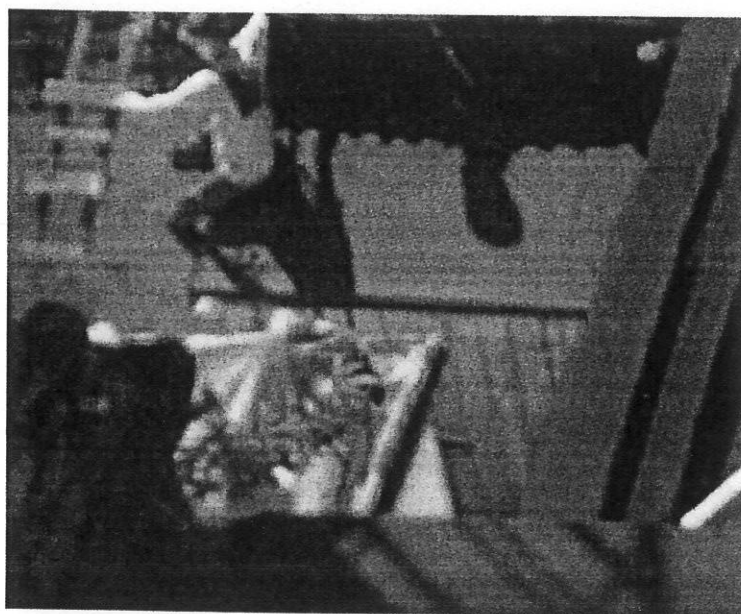
But this is however not the reason I am writing today.

The pressing reason for this letter is that the owners of 1 Brabazon Street, who are also the owner of the adjacent pub, allows their tenants and short-term guests alike to **use the roof of the pub as a roof garden/ balcony**, which understandably results in considerable annoyance to my family and tenants of the property, in terms of both noise and privacy in our back yard.

I have asked Mr. Brendan Trears, one of the owners, several times both verbally and finally in written with a letter dated 07.06.2019 (**copy attached**) to ensure that his tenants and guests do not use the roof as a roof garden/ balcony moving forward. Unfortunately, this has been entirely ignored. I would urge you to please read this letter which outlines my concerns and the recent trespass incidents.

To help contextualize and illustrate the situation, please see below a limited sample of screen shots taken from CCTV footage:

Tenant / Short Term Guest trespassing into my back yard:

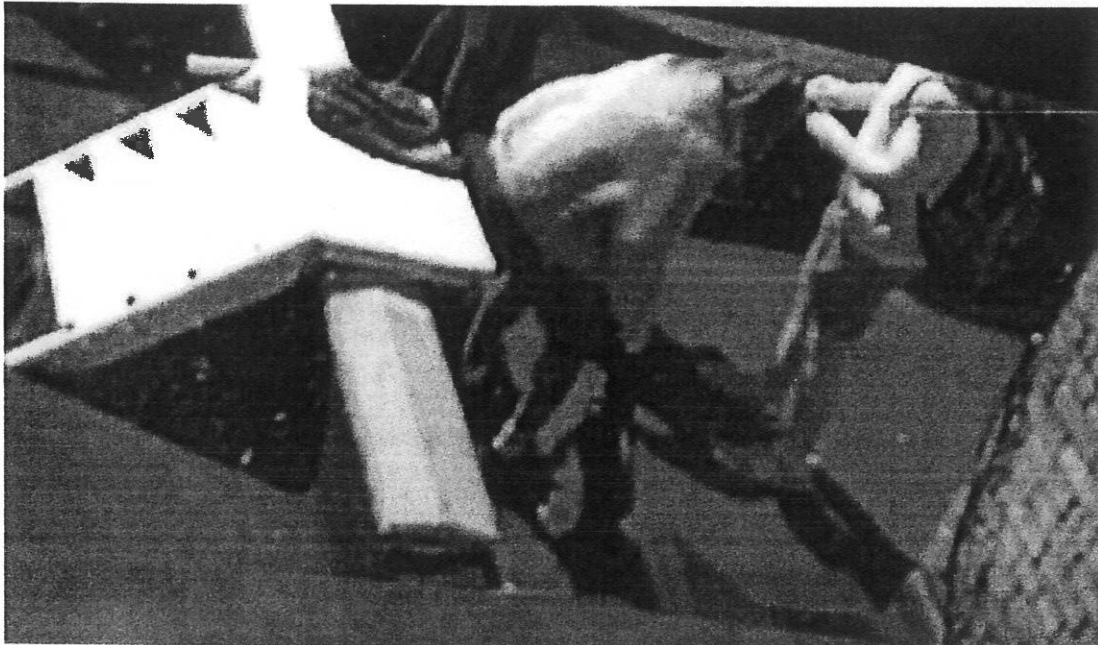


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21 APR 2020	
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another trespasser with his friend standing on the edge (3 meter drop) spectating:



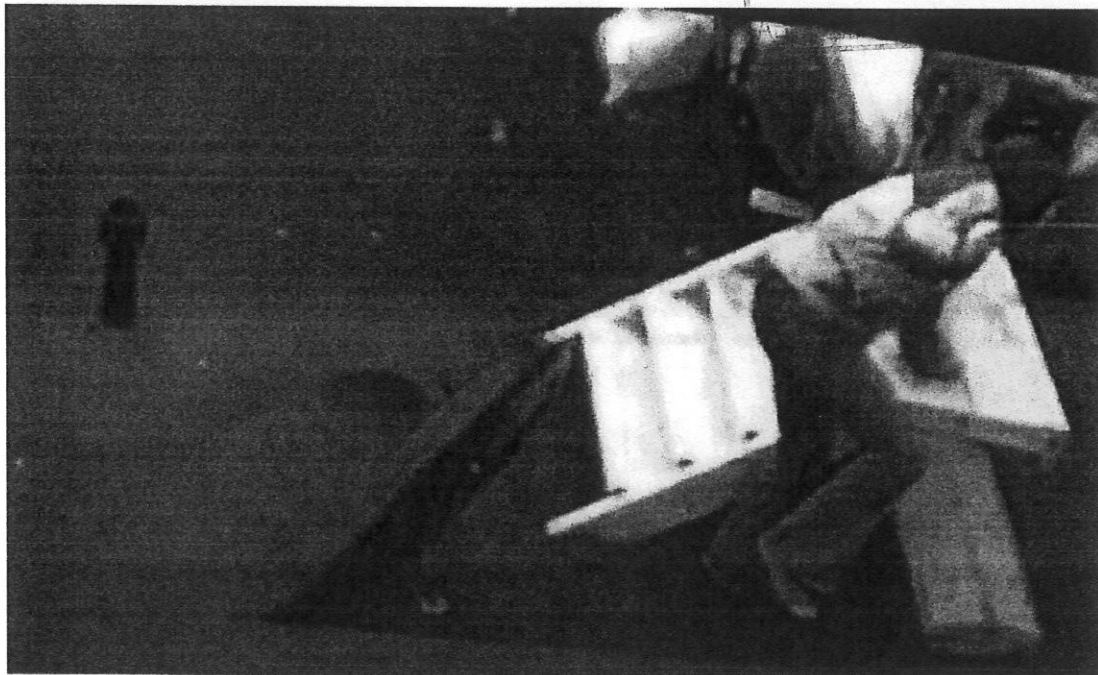
Backpackers:



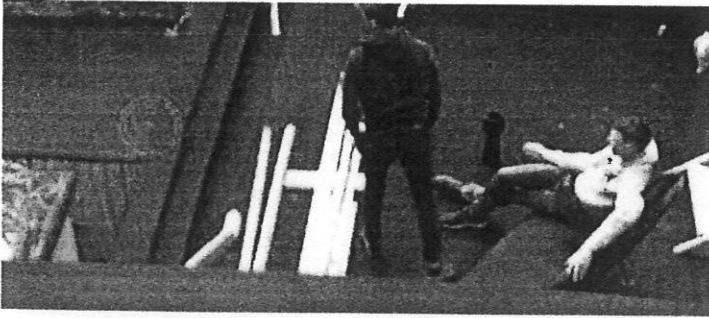
Drunk and disorderly at 5:30 am

21 APR 2020

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Individual spitting into our yard

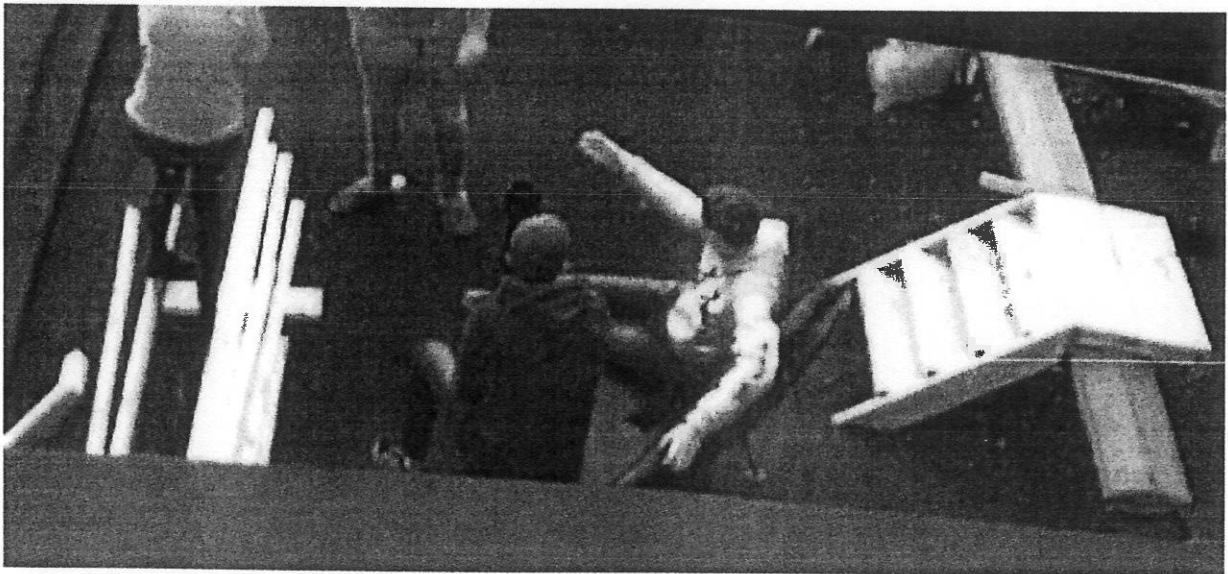


Standing on the edge and spitting (once again) into our yard



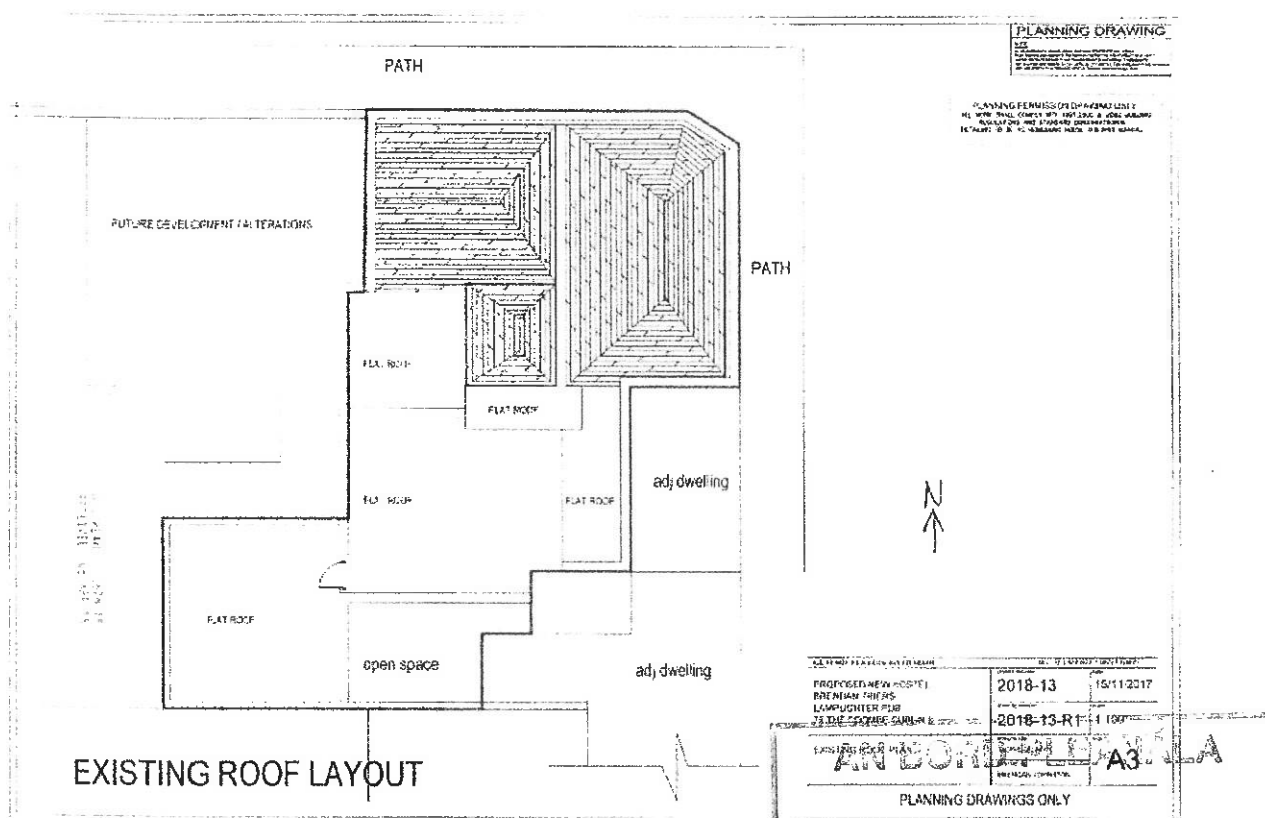
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ASP-	

Party time.....



In their recent planning application (No. 2676/18) the owner: Create Real Estate Limited ("CREL") had applied to build an extension over part of the roof area, which is shown in their drawing "existing roof plan" attached to their building application, and to use the rest as "roof top open space", which appears to me to be a roof garden/ balcony.

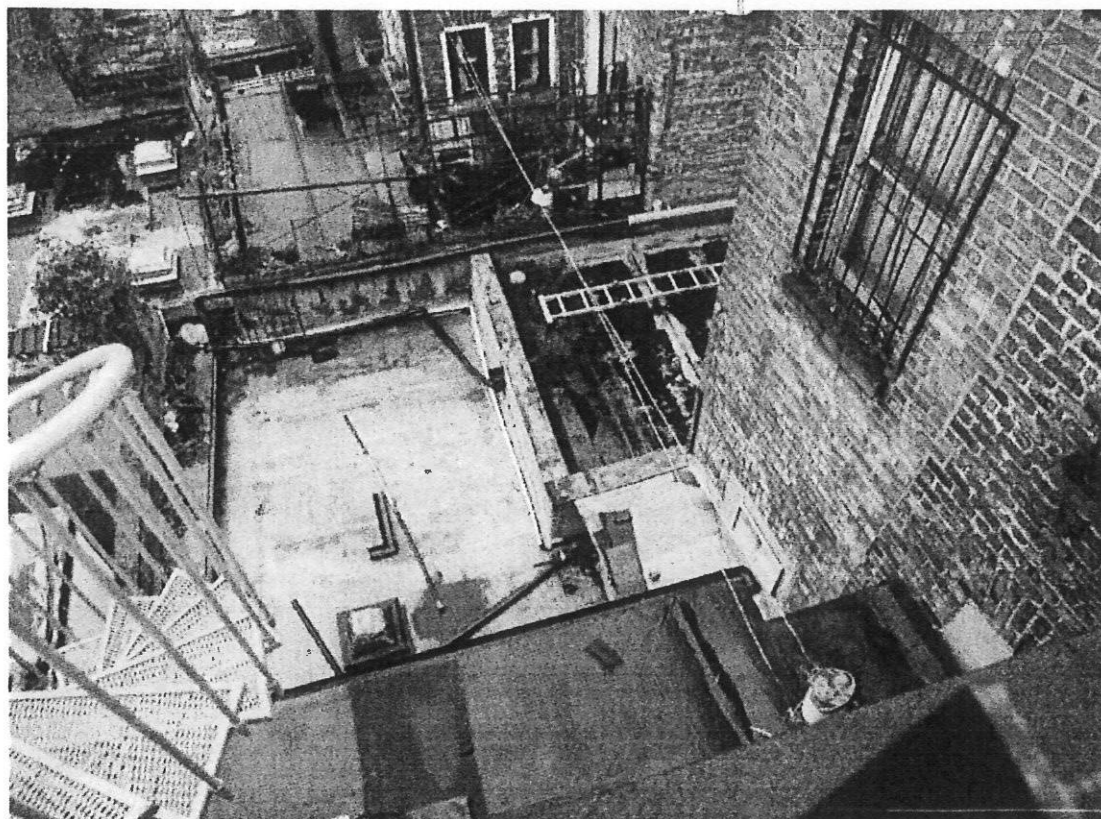
Existing roof layout:

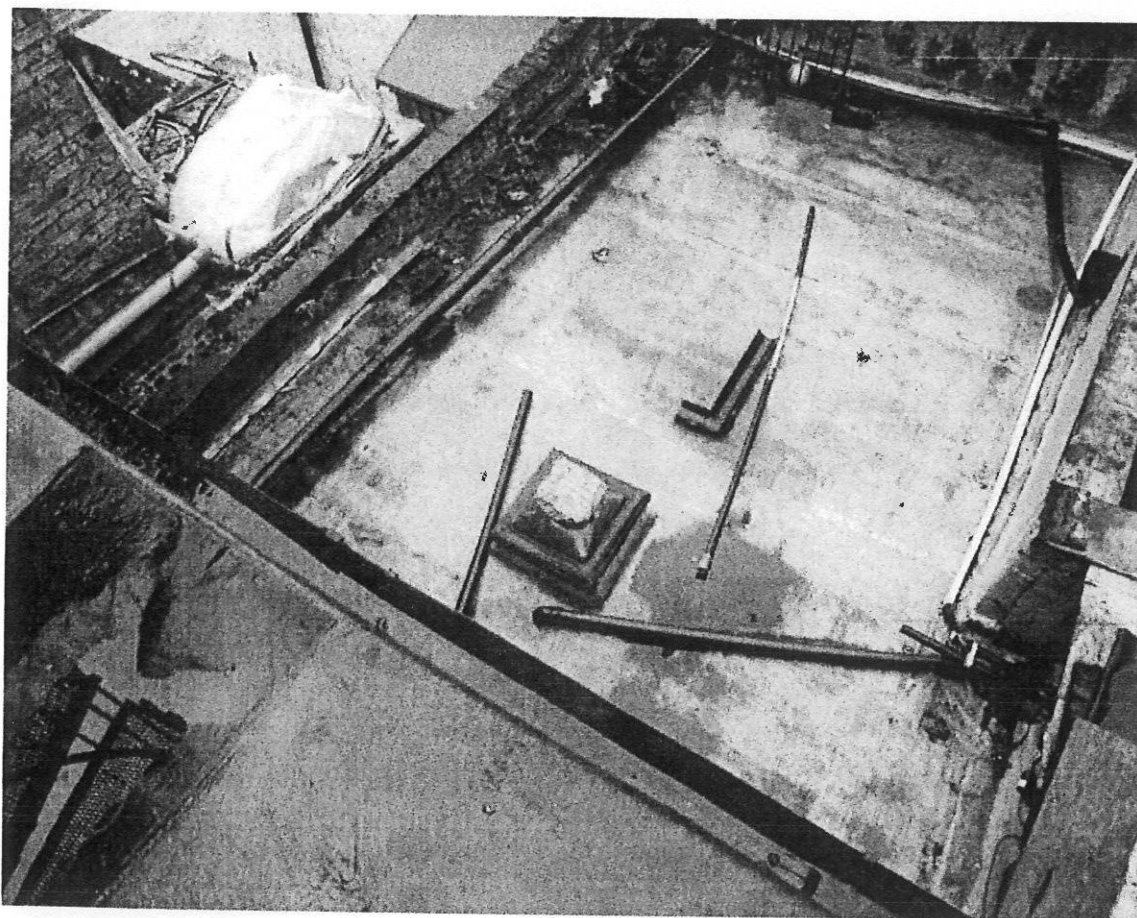


21 APR 2020

Photos of the roof at the stage when Planning application was made: FROM

LDC-





By my understanding, by rejecting the entire planning application, all requests for changes, including extending part of the roof and the conversion of the remaining roof area to a roof garden/ balcony were all rejected.

Despite this rejection, the owners have carried out works on the roof which now facilitates and encourages it's use it as a roof garden/balcony.

- 1) the two roof areas of different heights were re-worked by raising one of the areas significantly. The underlying support of both roof areas has also been strengthened.
- 2) a staircase was built for easy access from the front roof area to the back roof area.
- 3) a screen wall has been erected with the adjacent property 78 The Coombe
- 4) a couch has been permanently placed on the roof.

Increase in roof height shown in mm (approx):

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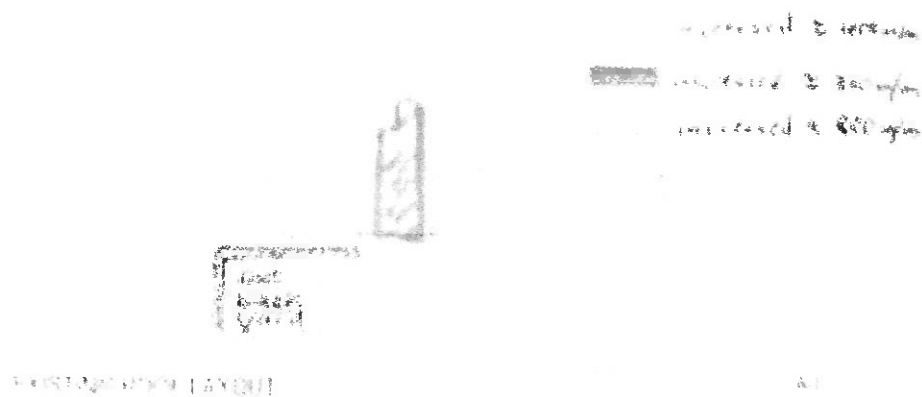
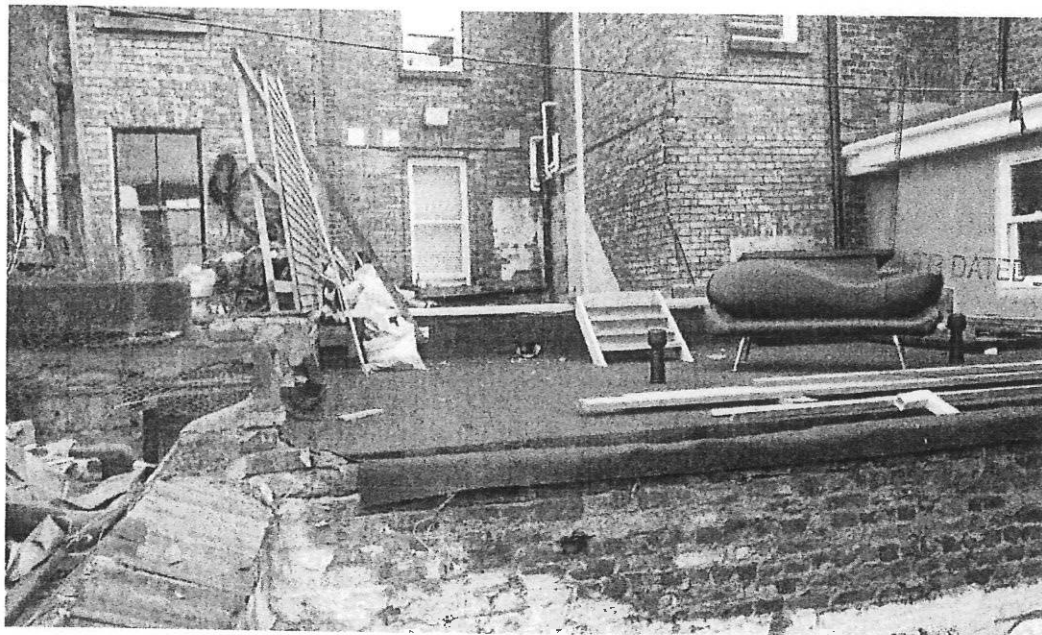


Photo taken from our backyard - new increased roof areas with coach, stairs and screen wall



ORD PLEA.VLA
21 APR 2020
DATE
FROM

ff light of this blatant disregard for a planning decision and significant changes in the use of this roof, ff would like to ask DCC to investigate further and make it clear to CREL that the roof over the pub may not be used as a roof garden/balcony.

ff light of the change, my family and my tenants can only use our back yard area for storage. As we enter the summer month, we would like to use our back yard again in private and without various guests peering down from the roof above. ff am also deeply concerned that given the number of visitors on the roof and the total lack of any barrier/barrister to my property (a drop of 3 meters), that a tenant or short term guest of 1 Brabazon Street will likely fall into my back yard and seriously injure himself.

A4/8

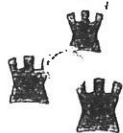
If DDC needs more information or would like to inspect the roof garden, I will happily assist and facilitate access to my property should it be required. I am of course eager to put a stop to this behavior.

Finally, could you also please acknowledge receipt of this letter.

Sincerely,

Andreas Brüggener

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LOG- _____	
APP- _____	



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

Feidhmiú Pleanála
An Roinn Pleanála & Forbairt Maoine
Bloc 4, Urlár 2, Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8

Planning Enforcement,
Planning & Property Development Department,
Block 4, Floor 2, Civic Offices
Wood Quay, Dublin 8
T. 01 222 2147 E. planningenforcement@dublincity.ie

The Occupier(s)
1 Brabazon Street/79 The Coombe
Dublin 8

19TH June 2019

Warning Letter under Section 152 of the Planning and Development Acts 2000
(as amended)

Re: 1 Brabazon Street/79 The Coombe, Dublin 8

21 APR 2020

Dear Sir,

It has come to the attention of Dublin City Council, the Planning Authority, that unauthorised development may have been, is being or may be carried out at the above premises.

It is alleged that the roof of the above premises is being used as a roof garden/balcony without the relevant grant of planning permission.

Please note that this matter is under investigation by the Planning Enforcement Section of Dublin City Council.

You may make submissions or observations in writing to Dublin City Council [Planning Enforcement Section, Planning Department] in this regard not later than four weeks from the date of service of this warning letter.

When a Planning Authority considers that unauthorised development has been, is being or may be carried out, an Enforcement Notice pursuant to Section 154 of the Planning and Development Acts 2000 (as amended) may issue.

Please note that officials of Dublin City Council may at all reasonable times enter on the land described above for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000 (as amended) provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154 of the Planning and Development Acts 2000 (as amended) provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

Section 156 of the Planning and Development Act detailing the penalty provisions are set out in full in the Schedule to this letter.

Any costs reasonably incurred by Dublin City Council in relation to Enforcement Proceedings may be recovered from a person on whom an Enforcement Notice is served or where court action is taken.

If you require any further information please contact Mr Neil Cameron,
Planning Enforcement Officer at 222 3534.
Yours faithfully,



For Acting Planning Enforcement Manager

Ref: Sharon O'Neill

Tel.: 01 222 3461

Please quote File Ref.: E0528/19

Email: planningenforcement@dublincity.ie

Andreas Brüggener, Gortagullane Muckcross, Killarney, Co. Kerry
Tel.: 064 6636633

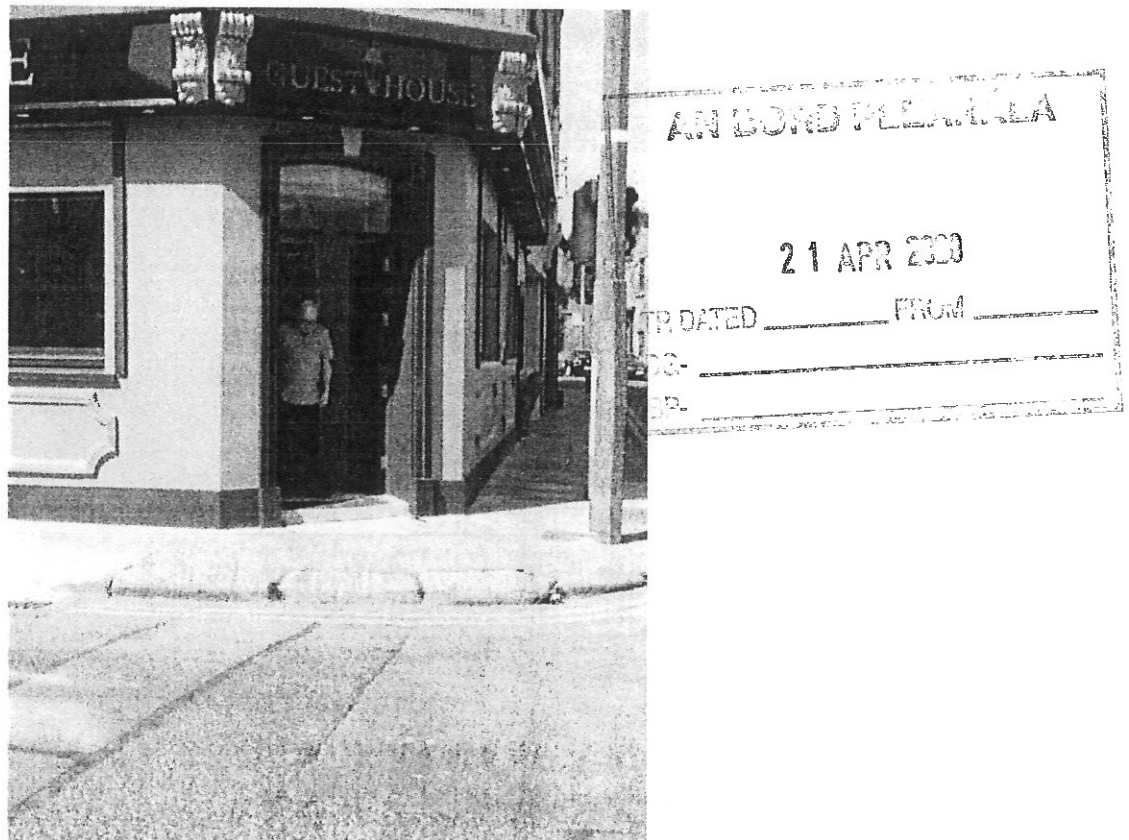
Dublin City Council
Planning Enforcement
Planning & Property Development Department,
Block 4, Floor 2, Civic Office
Wood Quay
Dublin 8

30/06/2019

Re: 1 Brabazon Street/ 79 The Coombe, Dublin 8

Dear Mr. Cameron,

Unfortunately, I have to return once more to the above mentioned matter in light of further reconstruction work, which in my view has spiraled entirely out of control. As I mention in my previous letter dated 17/06/19, that rooms located above the pub are still being rented to short-term guests. As you can see in the photo below, the owner has erected a sign above the front door titled "Guesthouse", officializing the use.



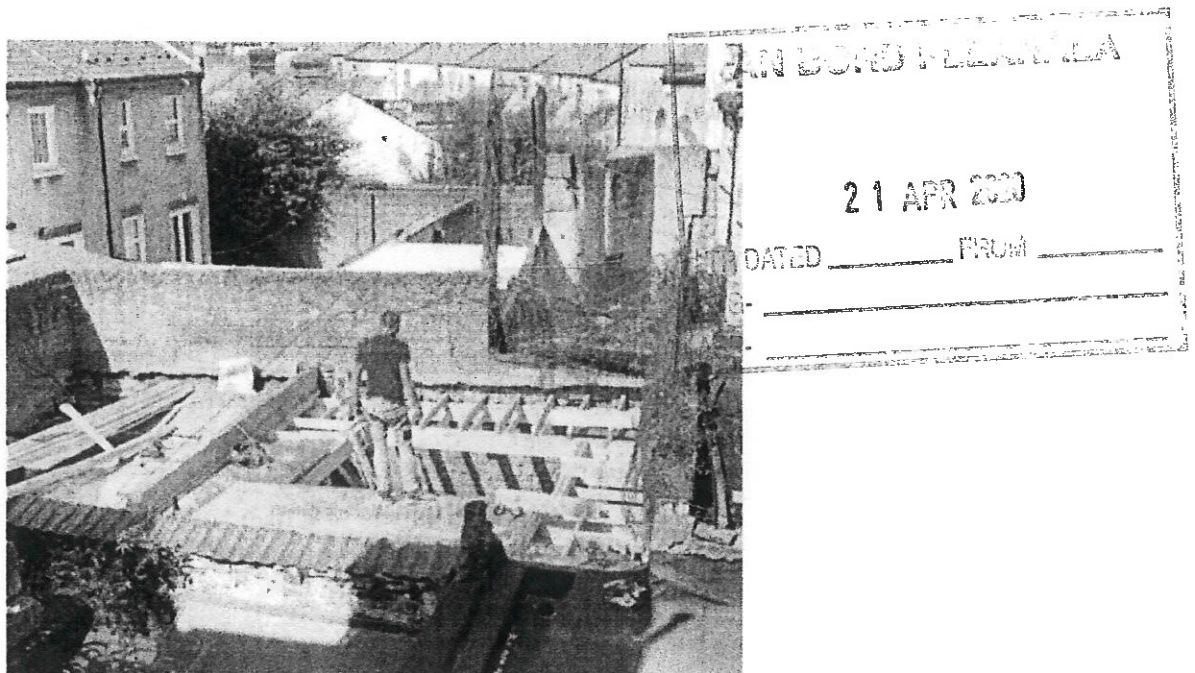
Beyond this, the reconstruction work which has been carried out has gone far beyond what was contained within the planning application (No. 2008/18.)

Two examples:

- A wide canopy has been constructed to allow for smart lights shining up the facade with fluid changing colors, which illuminate permanently.



- The back section of the pub, store and toilets, has been demolished and a backyard with a part sheltered roof is currently under construction which I believe will be used as a 'smoker's area/ beer garden' for the pub and will cause more nuisance to the neighborhood.



After reviewing the planning application that was granted, I can see that none of these works covered by the planning permission granted, including smaller alterations such as the outside mounted security shutter and part of the advertising/font on the façade.

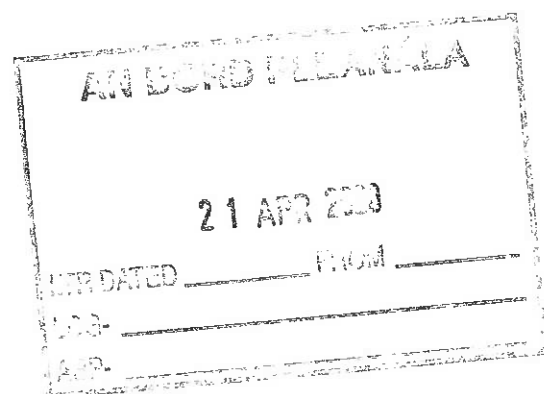
The premise is quite frankly looking (and behaving) now more like a building which has been dropped in from Temple Bar rather than a pub in the Liberties.

I would like to ask that you investigate this work in light of the planning permission granted on 26/02/2018 and 14/08/2108.

Can you also please acknowledge the receipt of this letter.

Yours Sincerely,

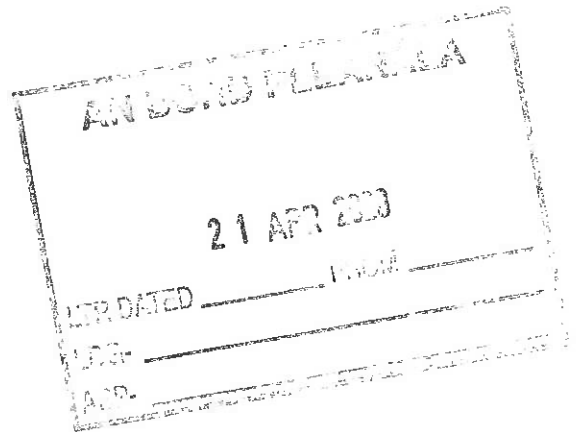
Andreas Brüggener



Andreas Brüggener, Gortagullane Muckross, Killarney, Co. Kerry
Tel.: 064 6636633/ 085 7155066

per email: neil.cameron@dublincity.ie

Dublin City Council
Planning Enforcement
Planning & Property Development Department,
Block 4, Floor 2, Civic Office
Wood Quay
Dublin 8



6th August 2019

Re: 1 Brabazon Street/ 79 The Coombe, Dublin 8
My complain letters dated 17/06/19 and 30/06/19

Dear Mr. Cameron,

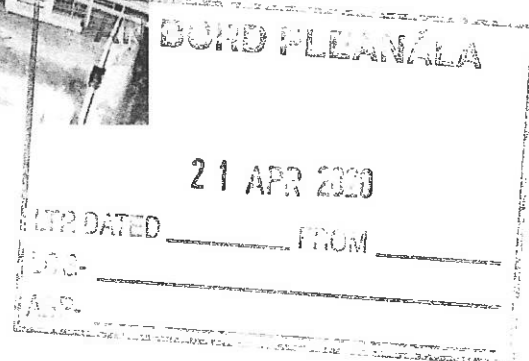
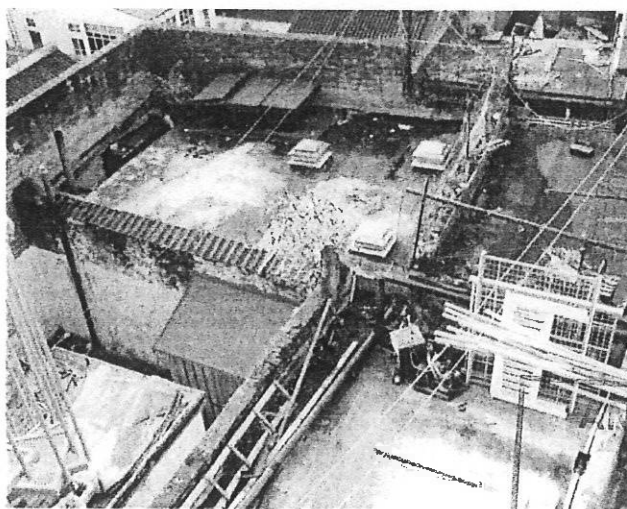
Thank you for speaking briefly with me over the phone last week. Given that it was not possible for us to meet in person last Monday/Tuesday while I was in Dublin and given that you were unable to disclose any information regarding next steps concerning the case over the phone, I would now like to take this opportunity to write this detailed letter to explain and emphasize the urgency for further action by DCC.

Of course, and I am sure it goes without saying, that I would still like to meet with you personally, either on site or in your office to discuss the problem. I believe that an in-person conversation would save us a lot of unnecessary back and forth correspondence.

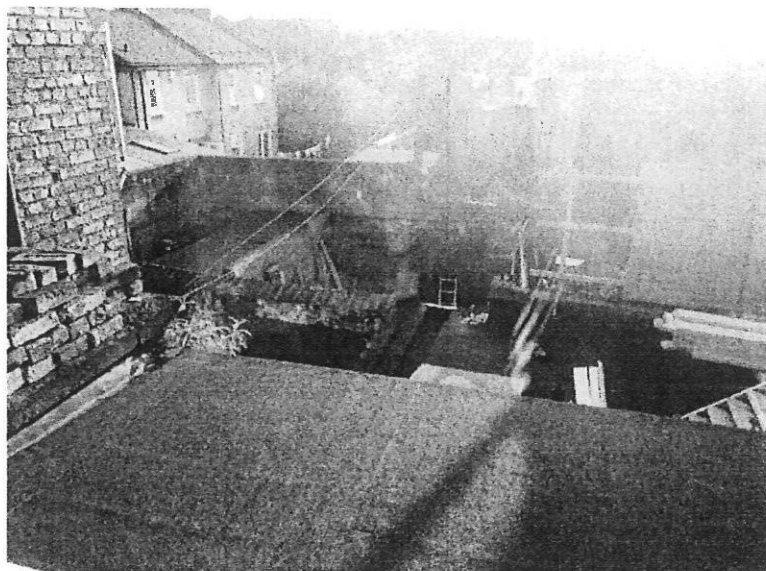
I would like to bring to your attention the following 4 unauthorized developments:

- 1) ***Unauthorised Development comprising of a beer garden constructed by Creative Real Estate Ltd and Weavers Taverns Ltd for which no planning permission was sought and is in breach of the Planning and Development Acts 2000 to 2019.***
 - a) I had initially informed DCC of this activity with my letter dated the 30th June 2019 while the unauthorised development was under construction.
 - b) While constructed without planning permission and under the circumstances that such a commercial development cannot be granted planning permission in a zone classified Z1 (Dublin City Development Plan 2016 -2022), I had expected that my above letter would have prompted DCC to stop the development and prevent the beer garden from opening.
 - c) I had expressly pointed out in my letter the annoyance/nuisance to be expected for the residents when the beer garden would become operational.

- d) As anticipated, this indeed occurred and as a result, we can no longer open our window facing the yard (west) in the evenings or at night since this beer garden opened. (2 videos attached: beer garden I & beer garden II)
- e) Development before construction work - with skylights for the toilets and storeroom.

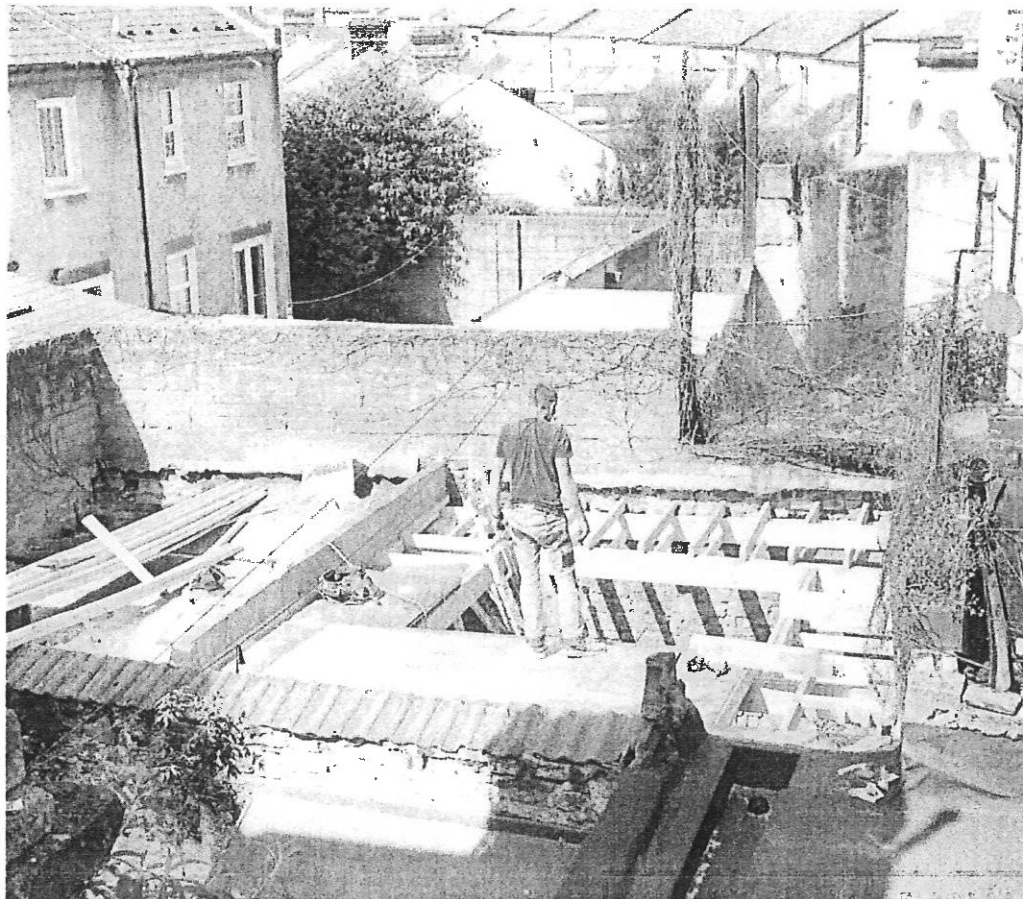


- f) Development begins after demolishing roof, internal walls, toilets and storeroom.

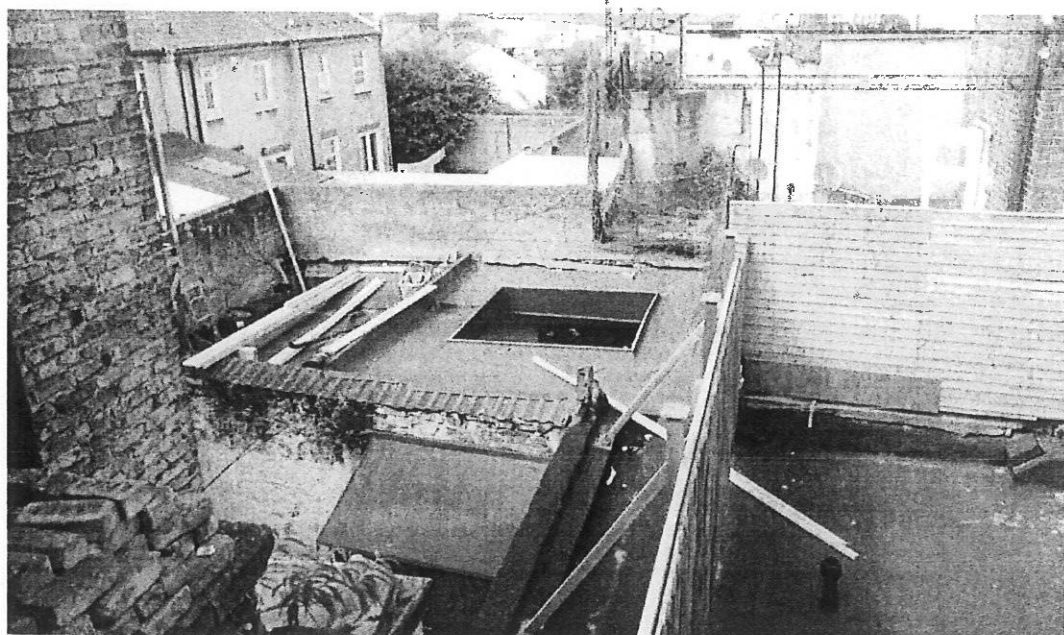


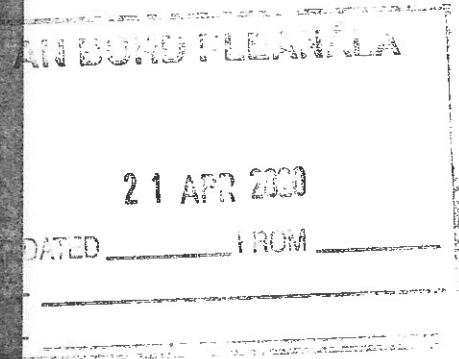
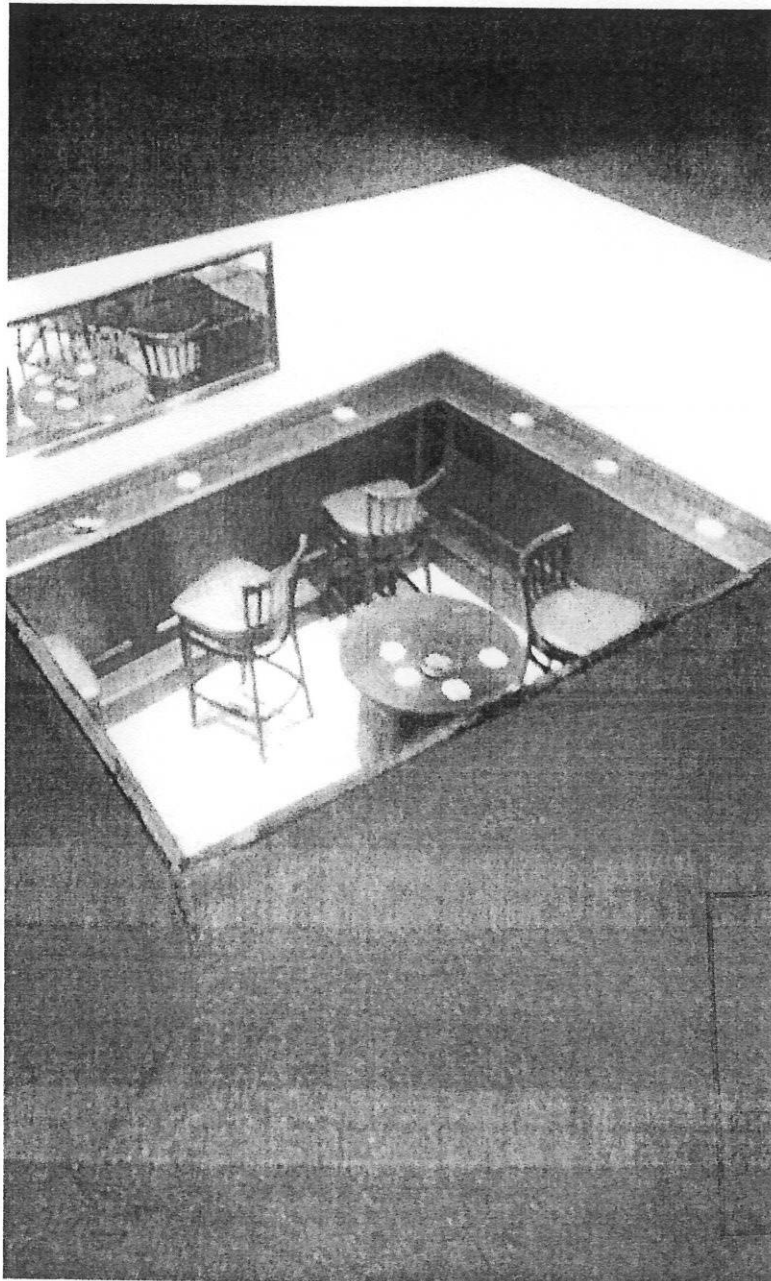
g) partial roof for the beer garden under construction

A7/3



h) Beer garden & roof completed

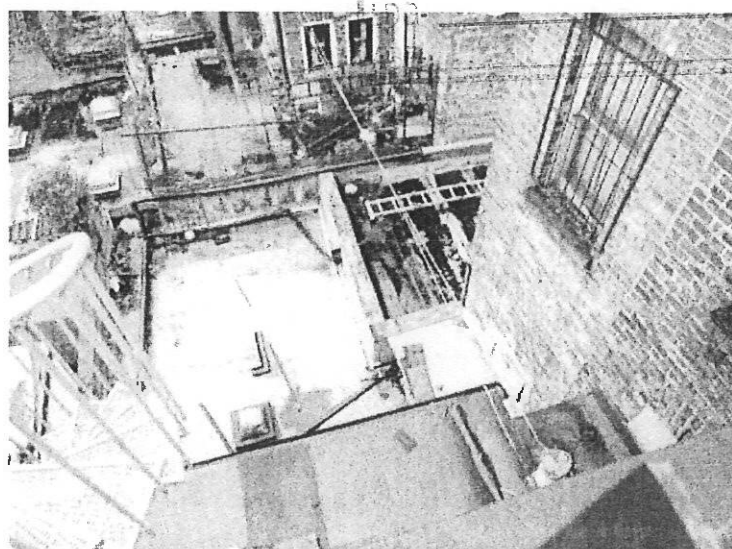




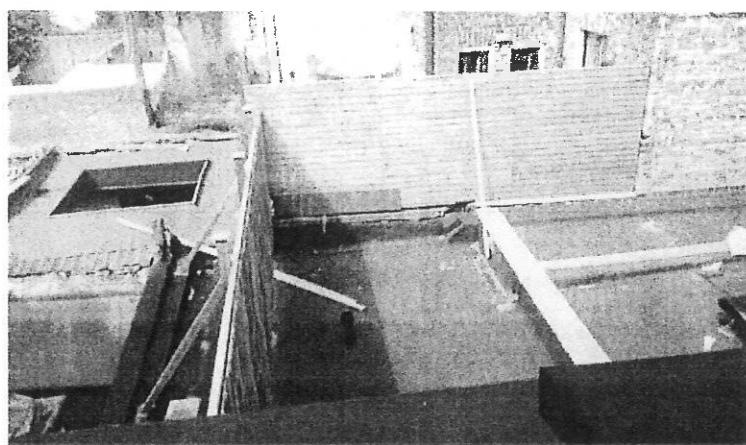
2) *Unauthorised Development comprising of a roof garden constructed by Creative Real Estate Ltd for which no planning permission was sought and is in breach of the Planning and Development Acts 2000 to 2019*

- a) The rooms over the pub with access through 1 Brabazon Street and with access at the rear to the flat roof were uninhabited for years and were only used for storage up until 2018.
- b) I was personally in these rooms to view both floors back in 2014/2015. From this visit with the previous owner, it was abundantly clear that these rooms had not been used for accommodation for many years. I am willing to sign an affidavit to this effect.

- c) As shown in the marketing brochure of the Auctioneer John P. Younge which led to the property being sold in 2017 to the current owners, the upper floors are described in the same manner as I witnesses in 2014/2015. (*attachment: marketing brochure*)
- d) The same marketing brochure also stated 'certified turnover figures' which of course did not show any rental income over the certified period confirming further that the rooms had not been rented out for a minimum of a decade.
- e) Consequently, the flat roof was never used as a roof garden. Since I have become the owner of the 2 Brabazon Street, the only persons I saw access the roof between 2014 and 2019 was the previous owner and pub personal when maintaining their air conditioning system which is located on the roof.
- f) Original roof:



- g) Roof after raised up 2 feet and converted to a Roof garden:



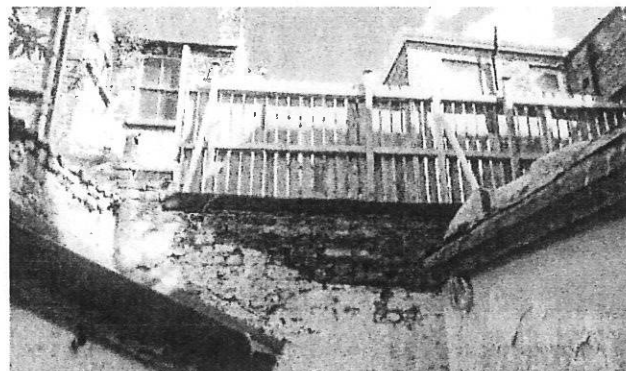
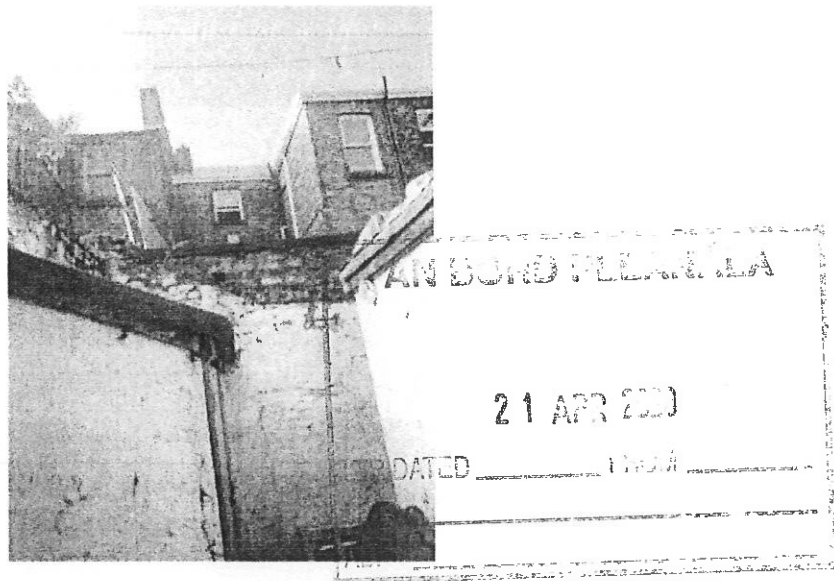
3) ***Unauthorised development comprising of a timber fence erected on the roof by Creative Real Estate Ltd for which no planning permission was sought and is in breach of the Planning and Development Acts 2000 to 2019.***

- a) The flat roof which is attached to my backyard was raised in height by between 60 to 80 cm.

(attached a video: raising roof)

- b) On top of the raised roof there is a 2 meter high timber fence erected which is blocking my free view and a significant amount of natural light from reaching my back yard. Beyond this, I don't want to sit behind a construction site-like fence when I'm in my back yard.

- c) View from back yard before and after the erection of the timber fence



As you can see from the two videos, the fence has also failed in its attempt to stop the Airbnb guests and tenants of 1 Brabazon Street from spitting into my back yard and totally disregarding our privacy. (attached 2 videos: spitting over fence & piping through fence)

4) Airbnb/ short term letting

Brendan Trears, one of the directors of Creative Real Estate Ltd and a non-resident of 1 Brabazon Street is still renting out 4 of his 6 double bedrooms through Airbnb (link to his account:

[https://www.airbnb.ie/rooms/26228796?location=dublin&source_impression_id=p3_1564427720_oz5MCGJKqzoqU0Ne\)](https://www.airbnb.ie/rooms/26228796?location=dublin&source_impression_id=p3_1564427720_oz5MCGJKqzoqU0Ne)

see also (attachment: 2019 reviews)

5) Summary

- *I would like to kindly request that DCC initiate enforcement proceedings against Creative Real Estate Ltd ordering the closure of the unauthorised development comprising of a beer garden immediately.*
- *I would like to kindly request that DCC initiate enforcement proceedings against Creative Real Estate Ltd ordering the closure of the unauthorised development comprising of a roof garden immediately.*
- *I would like to kindly request that DCC initiate enforcement proceedings against Creative Real Estate Ltd to remove the unauthorised development comprising of a timber fence immediately.*

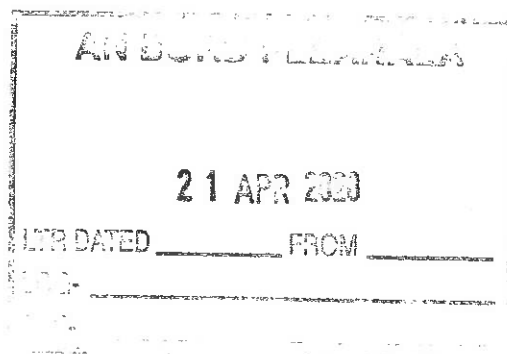
Finally, I would like to make one this clear about the proprietor of the Public House and Premises in question. Mr. Brendan Trears (company director of both entities) has and will continue to present himself as a victim in this dispute and will make hollow promises to rectify any wrongdoing. As two years of District Licensing Court and Circuit Court Proceedings have shown (a well as multiple breached legal agreements), Mr. Trears will happily break the law until compelled to stop as long as it serves his investor/profit-making goals. This conscious and deliberate planning breach is just another example of this behavior.

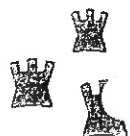
Please do not engage with this strategy of delay and hollow promises, as Mr. Trears is only seeking to increase profits over the summer period to the detriment of the surrounding residents.

The noise permeating from this beer garden is entirely as a result of this unauthorized development and is impacting the sleep of my residents. Prior to this roof opening, no noise could be heard (patron & live music) from the back yard. DCC is the only authority that can put a stop to this noise nuisance by closing the beer garden in the short term for what is a blatant breach of planning law. I hope that you agree and that the matter will be resolved within the next 14 days.

Yours Sincerely,

Andreas Brüggener





Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

A8 = 2 pages

A8/1

Feidhmiú Pleanála
An Roinn Pleanála & Forbairt Maoine
Bloc 4, Ulár 2, Oifigí na Cathrach
An Ché Adhmaid, Baile Átha Cliath 8

Planning Enforcement
Planning & Property Development Department
Block 4, Floor 2, Civic Offices
Wood Quay, Dublin 8
PH: 01 222 2147
E-mail: planningenforcement@dublincity.ie

Lamplighter Lounge,
1 Brabazon Street/79 The Coombe
Dublin 8

30th August 2019

AN BORD PLEANALA

21 APR 2019

6782 4060 170

30/8/19

DATE DATED _____

LOG- _____

A.P. _____

**Warning Letter under Section 152 of the Planning and Development Acts 2000
(as amended)**

Re: 1 Brabazon Street/79 The Coombe, Dublin 8

Dear Sir,

It has come to the attention of Dublin City Council, the Planning Authority, that unauthorised development may have been, is being or may be carried out at the above premises.

It is alleged that the following breaches of planning regulations have occurred at 1 Brabazon Street/79 The Coombe, Dublin 8 without the relevant grant of planning permission.

1. The unauthorised use of a roof to the rear roof of Lamplighter Lounge 1 Brabazon Street/ 79 the Coombe, Dublin 8 as a seating area without the benefit of planning permission.
2. The unauthorised construction of a 2 metre High wooden fence with metal supporting poles to the rear roof of Lamplighter Lounge 1 Brabazon Street/ 79 the Coombe, Dublin 8 without the benefit of planning permission.
3. The unauthorised construction of a smoking area/beer garden with seating and barrels, wooden shelves and paneling recessed spot lighting in a blue fixed canopy with an opening to the centre without the benefit of planning permission.
4. The installation of seven upward facing lights three to the Brabazon street elevation and four to The Coombe elevations and colour changing lights installed to front elevations of Lamplighter Lounge without the benefit of planning permission.
5. The breach of condition 2 of An Bord Pleanala ruling ABP-301303-18 which states that details of shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development with regard to the signage on the Lamplighter Lounge that is displayed to the front elevations of 1 Brabazon Street/79 The Coombe with built in spotlights and four recessed roller shutters to the four windows, two windows on both elevations of the Lamplighter Lounge.

6. The unauthorised use of habitable rooms located on the first and second floor of the lamplighter Lounge as short term accommodation without the benefit of planning permission.

Please note that this matter is under investigation by the Planning Enforcement Section of Dublin City Council.

You may make submissions or observations in writing to Dublin City Council [Planning Enforcement Section, Planning Department] in this regard not later than four weeks from the date of service of this warning letter.

When a Planning Authority considers that unauthorised development has been, is being or may be carried out, an Enforcement Notice pursuant to Section 154 of the Planning and Development Acts 2000 (as amended) may issue.

Please note that officials of Dublin City Council may at all reasonable times enter on the land described above for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000 (as amended) provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154 of the Planning and Development Acts 2000 (as amended) provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

Section 156 of the Planning and Development Act detailing the penalty provisions are set out in full in the Schedule to this letter.

Any costs reasonably incurred by Dublin City Council in relation to Enforcement Proceedings may be recovered from a person on whom an Enforcement Notice is served or where court action is taken.

If you require any further information please contact **Mr Neil Cameron**, Planning Enforcement Officer at 222 3534.
Yours faithfully,

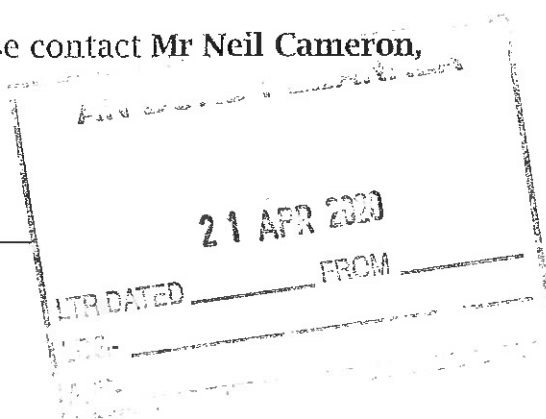

For Acting Planning Enforcement Manager

Ref: Shane Kearney

Tel.: 01 222 3585

Please quote File Ref.: E0528/19

Email: planningenforcement@dublincity.ie



Betreff: E0528/19 the lamplighter lounge

Datum: Donnerstag, 9. Januar 2020 um 15:26:18 Mittlere Greenwich-Zeit

Von: Planning Enforcement

An: Andreas Brüggener

Dear Mr. Bruggener,

Regarding your correspondence on the 30/12/19 about enforcement file E0528/19 the lamplighter lounge. The file has been discussed with the acting enforcement manager John Downey.

With regard to the beer garden /smoking area. The beer garden/smoking area can be considered exempt under section 4.1(h). The beer garden/smoking area is located within the area of what is considered the licensed premises of the public house.

The fencing to the rear is considered a minor breach/issue as it has put place for safety reasons but given the height and location it is not considered material.

There has been representations made that the roof has been used as an amenity for the tenants in the rooms for a period of time. Planning enforcement is not in a position to disprove this length of time the roof has been used for the residents of the rooms above the Lamplighter Lounge in its current use or under the previous owners use.

The use of the public house and accommodation to the upper floors has been used for accommodation and is set up as a house share with a communal sitting room and kitchen facilities and is the permitted use.

The façade light illuminations on the pub are inward facing which reduce light spillage on neighbouring properties and does not alter the appearance of the elevations and therefore can be considered exempt under section 4.1(h).

With regard to The breach of condition 2 of An Bord Pleanála ruling ABP-301303-18 which states that details of shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This condition has not been complied with.

The owner of the lamplighter has been informed of this breach and planning enforcement are currently awaiting a response with regard to this issue.

Regards

Neil Cameron
Planning Enforcement Officer
Dublin City Council

Phone: 01 2223534

Email: neil.cameron@dublincity.ie

Feidhmiú Pleanála, An Bord Pleanála & Forairt Pleanála.

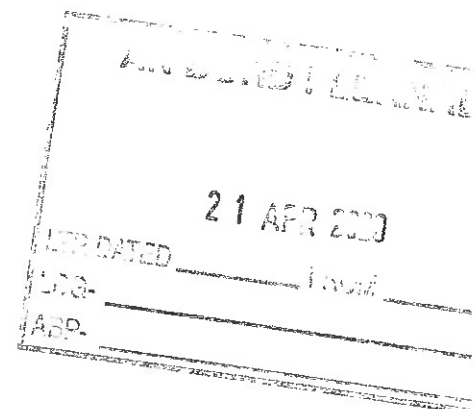
Bloc 4, Urlár 2, Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8

Planning Enforcement, Planning & Property Development Department

Block 4, Floor 2, Civic Offices, Wood Quay, Dublin 8

T +353 1 222 2147 | F +353 1 222 2569 |

E: planningenforcement@dublincity.ie



Smaoinigh ar an timpeallacht sula ndéanann tú an ríomhphost seo a phriontáil. Please consider the Environment before printing this mail.

An Roinn Pleanála & Forbairt Maoine, Bloc 4, Urlár 3, Oifigi na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8.

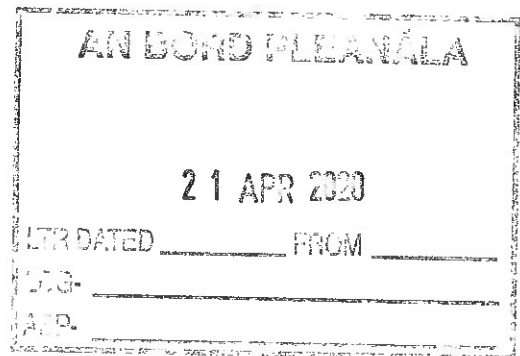
Planning & Property Development Department, Block 4, Floor 3, Dublin City Council, Civic Offices, Wood Quay, Dublin 8.

T: (01) 222 2288

E. planning@dublincity.ie

30-Mar-2020

Peter P. Gillett & Associates
55, Glencarraig
Sutton
Dublin 13



Application Number	0098/20
Application Type	Section 5
Registration Date	27-Feb-2020
Decision Date	25-Mar-2020
Decision Order No.	P2887
Location	Lamplighters Pub, 79 The Coombe / 1 Brabazon Street, Dublin 8
Proposal	EXPP: 1. Construction of a smoking/beer garden to rear of pub. 2. Use of upstairs rooms as student/short term letting. 3. Raising of flat roof to rear by c.600mm and construction of a 2m high fence to create an outside amenity area.

Applicant Andreas Bruggener

- If you have any queries regarding this Decision, please contact the number shown above

Note:

Any person issued with a declaration on development and exempted development, may, on payment of the prescribed fee, refer a declaration for review by A Bord Pleanála within four weeks of the date of the issuing of the declaration.

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Acts 2000 (as amended), Dublin City Council has by order dated 25-Mar-2020 decided to issue a Declaration that the above proposed development is EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Acts 2000 (as amended).

Reasons & Considerations:

The works to the public house in relation to the provision of smoking area, replacement of the rear roof and the construction of a timber fence are deemed exempted development within the meaning of the Planning and Development Acts 2000, as amended, as set out under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

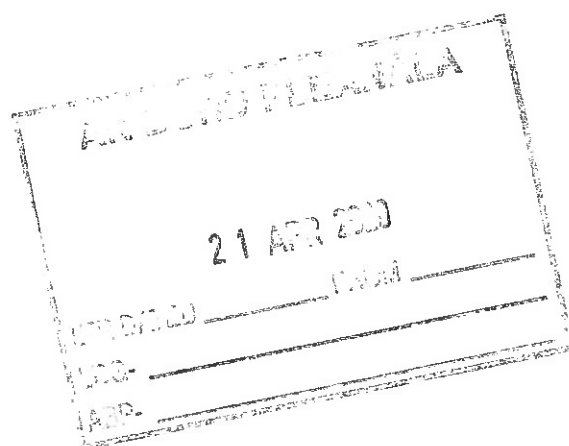
The use of the upstairs accommodation for short term let for a duration of 15 days or more, is deemed exempted development, as set out under Section 3A of the Planning and Development Act 2000 (as amended).

Signed on behalf of Dublin City Council

for Assistant Chief Executive

Note:

Any person issued with a declaration on development and exempted development, may, on payment of the prescribed fee, refer a declaration for review by an Bord Pleanála within four weeks of the date of the issuing of the declaration.



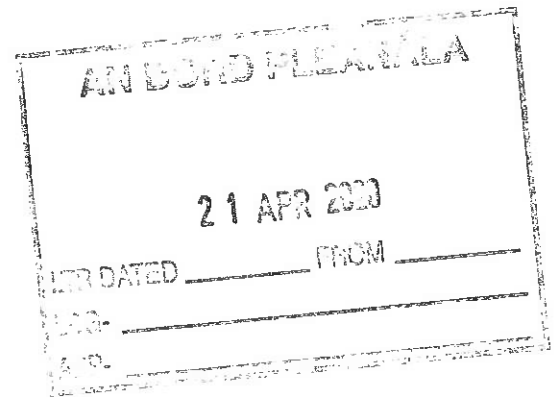
A 12 = 2 pages

A 12/1

**Andreas Brüggener, Gortagullane Muckross, Killarney, Co.
Kerry**

Email: andreas@brueggener.com, Tel.: 064 6636633/ 085 7155066

Dublin City Council
Freedom of Information Officer
Information Management Unit
Corporate Services Department
Civic Offices
Wood Quay
Dublin 8



29th March 2020

Re: FOI Request – Planning Application Reference 0098/20

Dear Sir/Madame,

Under The Freedom of Information Act 2014, I would like to request any and all documents which relate to my **Planning Application Reference 0098/20**, specifically:

1. The inspectors report leading to the decision.
2. All documents of third parties relating to this application and its decision.
3. All email and call logs of third parties with Dublin City Council in relation to this application and its decision.

I would like to kindly ask that my application is processed as quickly as possible, as I require the above information for an appeal to An Bord Pleanála, which is subject to a time limit.

Should you need any more information, please feel free to contact me at the above quoted number or email address.

Kind Regards,

Andreas Brüggener

A12/2



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

Rannóg um Bhainistíocht Faisnéise, An Roinn Dlí,
Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8. Éire

Information Management Section, Law Department
Civic Offices, Wood Quay, Dublin 8, Ireland
T. 01 222 3775. E. foi@dublincity.ie

30 March 2020

Andreas Bruggener
andreas@brueggener.com

Our Ref: FOI/7647/2020

Acknowledgement of Freedom of Information request

Dear Andreas Bruggener,

I refer to your email requesting records from Dublin City Council under the Freedom of Information Act 2014.

Acknowledgement

Dublin City Council received your request on 30 March 2020. A decision would normally be made within 4 weeks (20 working days) of receipt of your request. This means that a decision will be issued not later than 28 April 2020.

The decision maker handling your request is Greg Bryan at 2223108.

There are some limited situations under the FOI Act which could mean that the period for a final decision may be longer than this 4 week period. If this occurs in the case of your request, you will be advised promptly in writing setting out the reason and the new decision date.

Non-reply by us deemed to be a refusal

If you have not heard from us once the allotted time has expired, you are automatically entitled to appeal to Dublin City Council for a review of the matter. This review proceeds on the legal basis that the initial request is considered to be refused once the specified time for responding to it has expired. The review is a full and new examination of the matter carried out by a more senior member of staff of this body.

In the event that you need to make such an appeal, you can do so by writing to me at the above address. You should state that you are appealing because an initial decision was not sent to you within the time permitted. In that event, you would normally have 4 weeks (after the initial decision should have been sent to you) in which to make the appeal. Dublin City Council will, however, allow the appeal to be made late in appropriate circumstances. ***In any correspondence with the City Council regarding your FOI request please quote the above Reference Number.***

Yours sincerely,

Martin O'Halloran
Freedom of Information Office

AN BORD PLEANÁLA	
21 APR 2020	
LTR DATED _____	FROM _____
LOG- _____	

Dublin City Council

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000

EXPP:	0098-20
Location:	Lamplighter's Public House, 79 The Coombe, Dublin 8
Date Received:	27th February 2020
Decision Due Date:	25th March 2020
Proposal:	Construction of a smoking/beer garden to rear of pub. Use of upstairs rooms as student/short term letting. Raising of flat roof to rear by c.600mm and construction of a 2m high fence to create an outside amenity area.

Proposal

The applicant seeks a declaration on whether the following works are development or exempted development:

1. Construction of a smoking/beer garden to rear of pub.
2. Use of upstairs rooms as student/short term letting.
3. Raising of flat roof to rear by c.600mm and construction of a 2m high fence to create an outside amenity area.

Site Description

The subject site is a Licensed Premises (Public House) located on the corner of Brabazon Street and the Coombe in the south inner city of Dublin. The subject structure is not a Protected Structure.

Site Zoning

The subject site has the Land Use Zoning Objective Z4 'To provide for and improve mixed-services facilities'

The subject site is located within the boundary of the Liberties Local Area Plan (2009) and SDRA 16 Liberties and Newmarket Square.

Flood Risk Assessment

The subject site is located in Flood Zone C.

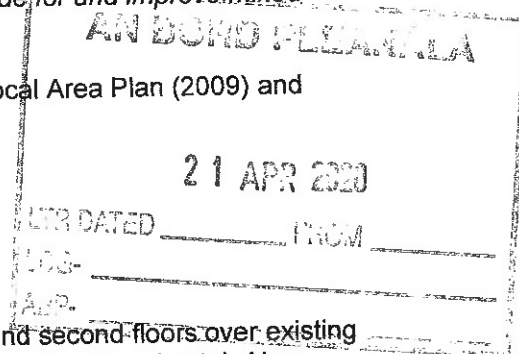
Planning History on subject site

There following planning history is relevant to the subject site.

2676/18

Permission refused for change of use of first and second floors over existing ground floor public house from private residence to boutique hostel. Also extensions to existing first and second floors to rear over public house allowing for additional 4 new bedrooms with en-suite, also removal of existing roof to allow for new third floor penthouse which will consist of 4 new bedrooms, new lounge and kitchen. With reception area on first floor and all associated site works. The reasons for refusal are as follows:

1. Having regard to the nature and scale of the proposed development to accommodate a proposed 'boutique hostel', the lack of adequate information submitted regarding the nature of this hostel, the proximity of the first, second and third floor extensions to adjoining residential properties along Brabazon Street, it is considered that the proposed development would be seriously injurious to the residential amenities of properties in the vicinity, could lead to overshadowing, loss of daylight, excessive noise and general disturbance and would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the architectural significance of this building, and having



regard to the removal of the roof and inappropriate addition at third floor level, it is considered that the proposed development would be an incongruous form of development at this important street corner, would be visually obtrusive and would seriously injure the residential and visual amenities of properties in the vicinity and would be contrary to the proper planning and sustainable development of the area.

2008/18

Permission granted/3rd party appeal/granted for repositioning of front door to corner, modification and upgrade to front facade, new signage, 2 new windows to side facing onto Brabazon Place. Increasing windows by 200mm facing onto Coombe Road for additional light and all associated site works.

Statutory Provisions

Planning and Development Act 2000 (as amended)

Section 2 (1) of the Act states: -

'alteration' includes

- a) plastering or painting or the removal of plaster or stucco,
- b) the replacement of a door, window or roof, that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures".

21 APR 2009

LTR DATED FROM

'development' has the meaning assigned to it by Section 3,

'structure' means any building, structure, excavation, or other thing constructed or made on, in or under land, or any part of a structure so defined."

'works' includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

Section 3 (1) states:-

"In this Act, "development" means, except where the context otherwise requires, the carrying out of works on, in, over or under land, or the making of any material change of use of any structures or other land."

Section 4 (1) sets out various forms and circumstances in which development is exempted development for the purposes of the Act.

Section 4 (1)(h) states:- *(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;*

Section 3A defines short-term letting as *'the letting of a house or apartment, or part of a house or apartment, for any period not exceeding 14 days.'*

Assessment

The works which are the subject of this declaration requested under Section 5 of the Planning and Development Act 2000 (as amended), are assessed as follows:

1. The construction of a smoking/beer garden to the rear of pub.

The applicant states that a smoking/beer garden has been constructed to rear of pub and has submitted photographs of the flat roof of the toilet area to the rear of the public house, before and after works to the roof where carried out.

In response to the application, the owner of the premises states that the toilets were relocated internally and the displaced lounge area (as a result of the relocated toilets) was moved to the previous location of the toilets, in order to provide a smoking area for staff and customers. The roof of the former toilet area was replaced as part of the relocation and improvement works being carried out.

21 APR 2020

ITS DATED FROM

It is noted that an opening was provided in the center of the roof of the former toilet area. However there has been no increase in floor area of the public house or intensification of use and the works are within the floorplate of the licensed premises. There has been no visual change to the premises.

It is therefore considered that the smoking area is consistent with the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures. Therefore the works are deemed exempted development within the meaning of the Planning and Development Acts 2000, as amended, as set out under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

2. *Use of upstairs rooms as student/ short term letting*

The applicant states that the upstairs rooms of the premises is used as student accommodation and short term letting. In response to the application the owner states that the premises has not been used as a 'principle private residence' and that the provision of short-term rented accommodation in rooms on the first floor of the premises to students, workers and visitors is an established pre 1963 use and that the lettings are typically longer than 15 days duration.

Short-term letting is defined in Section 3A of the Planning and Development Act 2000 (as amended), as the letting of a house or apartment, or part of a house or apartment, for any period not exceeding 14 days. Therefore the short term letting of the upper floor of the premises is only considered to be development if the duration of the short term let is 14 days or less.

3. *Raising of flat roof to rear by c. 600mm and construction of a 2 metre high fence to create an outside amenity area.*

The applicant states the flat roof to rear of the premises has been raised by approximately 600mm and that a 2 metre high fence has been constructed to create an outside amenity area on the roof.

In response to the application, the owner states that insulation requirements of a modern refurbishment imply more depth and the build-up raised the roof by 100mm. There has been no new roofing with the intention of creating a new outside amenity area. The owner also states that the wooden fence at the rear of the premises is for the maintenance and improvement in respect of the amenity and security of the property.

The fence is not visible from the public realm. Furthermore, it is noted that there are other structures, including a spiral staircase, visible to the rear of other properties in the vicinity.

It is therefore considered that fence and raised flat roof are consistent with the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures. The works are deemed exempted development within the meaning of the Planning and Development Acts 2000, as amended, as set out under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

Recommendation

The works to the public house in relation to the provision of smoking area, replacement of the rear roof and the construction of a timber fence are deemed exempted development within the meaning of the Planning and Development Acts 2000, as amended, as set out under Section 4(1)(h) of the Planning and Development Act 2000 (as amended).

The use of the upstairs accommodation for short term let for a duration of 15 days or more, is deemed exempted development, as set out under Section 3A of the Planning and Development Act 2000 (as amended).

A 13/4

Carol Smyth
Executive Planner
24th March 2020

ANDORD PLEA	
21 APR 2020	
DATE DATED	11:00 AM
LOG-	
APR-	

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A 14/1

**PAULA MCHUGH
SOLICITOR**

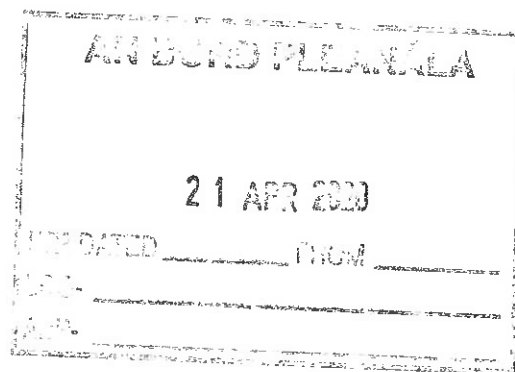
14A Farrenboley Cottages
Milltown Dublin 14
Tel: (01) 216 4488
Fax: (01) 216 4489
DX 76005 Dundrum
e-mail: paula@paulamchugh.ie

Your Ref:

Our Ref: PMCH

Date 3rd September, 2019

Denis A. Linehan
Solicitors
DX 73002 Charleville
CORK
denislinchanandco@eircom.net



Dear Sirs,

Re: My Client: Weavers Tavern Limited
Your Clients: Andreas Bruggener and Alexander Bruggener
Licencing: 4TH SEPTEMBER, 2019 Court 23 Dublin District Court

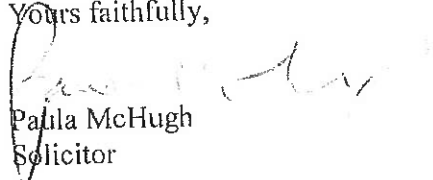
I refer to previous correspondence and attach the following for your attention:

1. Letter from Dalton Acoustics Limited confirming the Limiter is set.
2. A copy of the current speaker floor plan

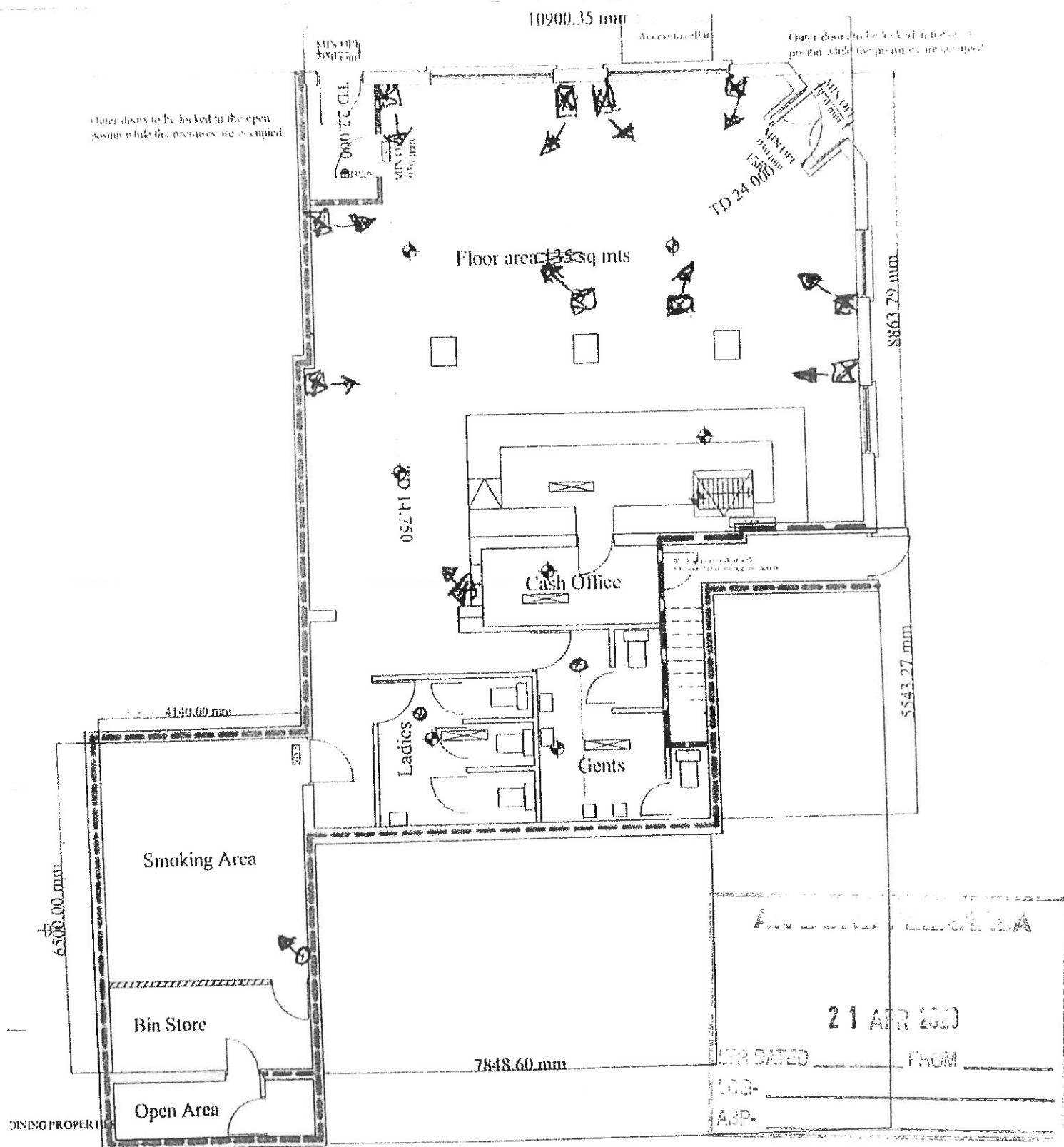
Kindly acknowledge receipt and confirm that your client has no objection to the licence before the court tomorrow.

I await hearing from you.

Yours faithfully,


Paula McHugh
Solicitor

A 14/2



SEA NOT SUBJECT TO APPLICATION

A 15 6a

To Whom it may concern,

I, _____ am one of the former owners of 79 the Coombe / 1 Brabazon Street Dublin 8 from 1997 to 2017 and operator of The Lamplighter Pub at the ground floor level of the above premises during the same period.

I can confirm that the upper floors of the building were let as residential accommodation on a short and long term basis during my ownership and by previous owners.

Dated this _____ day of November 2018

Kind regards

Address:

Phone Number: