

**SIMON CLEAR & ASSOCIATES
PLANNING AND DEVELOPMENT
CONSULTANTS**

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

17th June 2021

AN BORD PLEANÁLA	
LDG. _____	ABP. _____
17 JUN 2021	
Fee: € _____	Type: _____
Time: 15:45	By: hand

**Re: Referral Regarding The Lamplighter Pub, 79 The Coombe/1 Brabazon Street,
Dublin 8**

Your Ref: ABP-310281-21

Dear Secretary,

I refer to your letter dated 21st May 2021 addressed to Creative Real Estate Limited, College House, 71/73 Rock Road, Blackrock, issued under the provisions of Section 129 of the Planning and Development Act 2000 (as amended) enclosing a referral to An Bord Pleanála from Mr. Andreas Bruggener dated 18th April 2020.

We have been instructed by Creative Real Estate Limited to respond to the referral.

We are very concerned about the nature and content of the information passed to us in respect of this Referral. The owners of this property are being beset by the Referrer with a series of challenges to the legitimate use of their property through the use of planning and other procedures and have to defend their legitimate interests against collateral attacks from this individual as a result of being told to remove unauthorised structures and to cease trespass on the Lamplighter property.



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The photograph at page 33, Item 6.3 of the Referrer's submission is titled 'rear view of the Lamplighter Public House on the day of the dismantling of my spiral staircase in January 2018'. What this photograph shows is workmen dismantling an illegal spiral staircase constructed on the my client's property to access a roof garden created by the referrer, seen with wire railing, posts and photovoltaic array at the top right of the photo. To access this spiral staircase and the roof garden, the referrer breached the outer bricks of a solid, unfenestrated rear wall to access/trespass onto the neighbouring property and when prevented from doing so set out on a course of action to disrupt my client's use of the property. This has included the use of fixed CCTV monitoring of our client's property through the breach in the boundary wherein a glazed doorway was inserted, which remains in place.

What the series of photographs from page 33 to 38 show is an improvement of the existing historic building to excellent, non-defensive (by removal of security grills) and attractive condition. The streetfront presentation is also excellently upgraded to a condition recommended by and supported by DCC under the Liberties improvement scheme. A similar fine example in Dublin is The Ferryman Inn on Sir John Rogerson's Quay, which is an established pub with ancillary overhead accommodation in 18 rooms and operates comfortably with neighbours and presents a fine elevation and animation onto the quays.

Since the previous determination by the Board in respect of use of accommodation on the first and second floors, the owners sought and received a specific use declaration from DCC. This Declaration has not been and cannot be challenged through this Referral and grounds in that regard should be dismissed.

We noted from the previous Inspector's report that there was a difficulty in inspection because of Covid protocols leading to reliance on the planning record, that there appeared to be insufficient probative information as to the established use and this led to speculation that the accommodation overhead the pub may have been single family accommodation.

While the Referrer suggested my statements in relation to the information given to the Board appeared to be a criticism, I would like to clarify that, as a former Inspector for 10 years, most of which as a Senior Inspector, I have full respect for the Board and all staff in An Bord Pleanála. No criticism was intended and I fully respect the difficulty in carrying

out Inspector's tasks based on the information provided and the restrictions on inspection that applied at the time.

To rectify the dearth of empirical, probative information, the respondents have gone to considerable trouble and disruption to provide more reliable information, which has been strengthened with a number of affidavits from persons with first-hand knowledge of the premises for a considerable period, compared to the short-term, speculative suggestions contained in the Referrer's grounds.

In this context it is submitted that the Board should take into account the Simonovich ruling, which is still cited in recent judgements –

And in the case of *Simonovich v. An Bord Pleanála* High Court, Unreported, Lardner J. 24th July, 1988 that judge stated

It is true that neither the Inspector nor the Board was bound by the law of evidence which applies in the courts. They are however concerned to evaluate the evidence including the weight of the evidence and the cases presented to them by the parties and they must act reasonably. In my view this requires that there must be aware and take note of the difference in probative weight and value of evidence given by an expert on matters of historic fact as compared to the evidence given by a non expert.

The applicant relies here, and throughout the application on the *State (Daly) v. Minister for Agriculture [1987] I.R. 161 Simonovich v. An Bord Pleanála* (Unreported Lardner J. 24 July, 1988), *Seery v. An Bord Pleanála* (Unreported Finnegan J. 2 June 2000) and *L.A Ryan v. An Bord Pleanála* (Unreported, Peart J. 6 February, 2003) to the effect: there must be material before a decision maker which can support his decision and that such decision maker must take note of the probative weight and value given to such expert evidence as opposed to that which comes from other witnesses less expert. The Board had before it very considerable documentary material including the Environmental Impact Statement and the Inspector's Report from the Enquiry ordered and the observation of many objectives to the project.

Also, the Narconon case means that Declarations accepted and registered cannot be revisited, unless the planning circumstances have changed. The circumstances have changed in the information provided to DCC, which led to the approved DCC Declaration because additional empirical information as to the established and historical use has now been provided. This was noted in the DCC Planner's Report on Ref. 0444/20.

The Referrer wishes to revisit many issues in the grounds submitted with his Referral. The Referrer has stated that the current planning status of the upstairs accommodation is private residence or letting in excess of 15 days. Both of these statements are factually incorrect in planning terms. The established use is the established use in planning terms. It is confirmed that the premises has an established use as a public house with overhead accommodation,

not being a private residence and with a history for accommodating guests for short and long periods, casual and formal, in effect a guest house over a pub as an ancillary use.

The Referrer is trying to imply a stated limit on capacity in an historic and established use based on a snapshot situation described in a planning application and therefrom to imply a material intensification of use resulting in a material change of use and further speculating that the use had restrictions on the duration of stay.

The declaration sought by the owners relating to use in excess of 15-days was for confirmation in relation to longer term-stay in any event, to deal with legislation definition of short-term and to stop nonsense from the referrer from interfering with the existing operation, which apparently it hasn't. To overcome the acceptance of 15-day letting, the Referrer has now focussed on the shorter term to interfere with the established use by speculation.

Please refer to the detailed response prepared by Brendan Treats, owner (in partnership) and operator of the premises and the numerous Affidavits prepared by individuals with long knowledge and experience of the operation of the premises, which contrasts with the very limited knowledge available to the Referrer. The referrer's case is based on speculation, including as to what might be going on in other people's minds as to their intentions.

In relation to Section 2 of the grounds of Referral, the referrer indicates he bought the property in 2014 for his two children who 'are' studying in Dublin. They have finished college and have been replaced by tenants.

Throughout his submission, the referrer uses grains of information from brochures and old web entries and tries to make these into loaves of fact relating to the future operation of the established use. In that context, where a brochure indicates vacant possession and potential for refurbishment, this is inflated into an abandonment of use. In a property that has almost 200 years of operation, temporary vacancy for sale purposes does not constitute abandonment of a legitimately established use, particularly where the primary use endures.

In Section 3.6 the referer uses 'presumably' as though he has an insight into the owner's mindset. There is also speculation as to my own mindset in preparing reports in Section 5.5 of the referer's submission. This speculation must be dismissed.

Finally, nobody other than the referer has mentioned 18 guests, which is his own estimation through multiplication of bedspace by pillow space even though the space is intended to be comfortable for individuals.

In his conclusions, the referer indicates his 'beliefs' and 'opinions' on several issues that are not borne out by any reasonable measure in the context of actual operation of the accommodation. The referer has attempted to insinuate an additional issue suggesting a 'proposed change of use' from 15-days to shorter periods, when that use is already established in historic terms associated with the permitted use established on 1st October 1964 and ancillary to the primary use and not subsequently abandoned.

An Bord Pleanála should be clear on the law - an established use is a permitted use and includes ancillary uses. Ancillary uses are not abandoned while the primary use is continued. As indicated by Garrett Simons – *A planning unit may be used for several activities: a single primary use and any number of ancillary uses. Generally, it is necessary to compare any proposed change of use against the primary use in order to determine whether or not material change in use is involved. An ancillary use is regarded as part of the primary use so that cessation of the ancillary use does not give rise to a material change in use*¹.

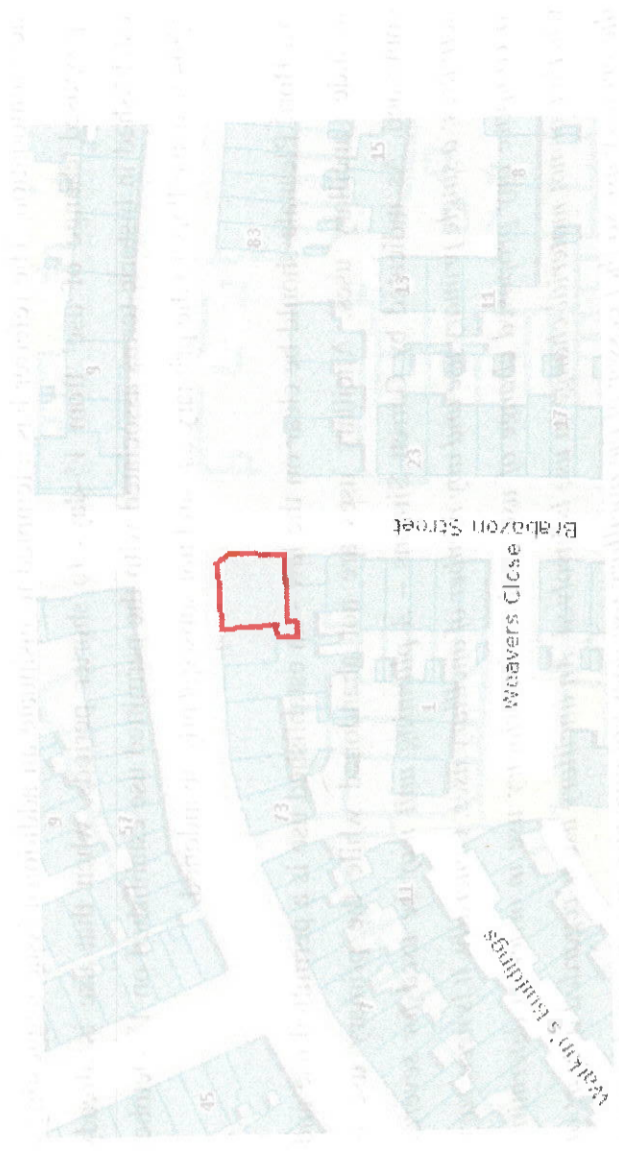
The accommodation use is the ancillary use and the owner is entitled in planning terms to operate the ancillary use as it was established without the restrictions that this absentee neighbour is seeking to impose in retribution for being instructed to remove an unauthorised structure and to stop trespassing.

¹ Planning and Development Law; Garrett Simons; Thomson Roundhall; 1st edition 2-28, citing Rehabilitation Institute v Dublin Corporation judgement.

Site Location and Description

The subject site is occupied by a substantial three-storey, city centre, corner, Victorian era building at the junction of Brabazon Street and The Coombe. It is operated as a public house on the ground floor and there are traditional bar fittings in the interior. The upper floors are in residential accommodation use, occupying 9 bedrooms.

The existing public house has an entrance located on the corner and two windows in each façade, onto the Coombe and Brabazon Street. Three-storey houses are located along the west side of Brabazon Street, as is the access to the overhead residential accommodation located in the Lamplighter building.



Site Location Map with the Lamplighter outlined in Red

The Lamplighter is established in a substantial Victorian era building that was designed with scale and architectural detail to mark an important junction in the inner city. It was designed as a public house occupying the ground floor and residential accommodation on two floors overhead.

The building is a fine Victorian corner site building and a positive feature in the streetscape as is clearly evident in the building form and the materials and decorative details on the façades at first and second floor levels. The Lamplighter premises has a long-established use within the area and community.

The building pre-dates modern planning legislation and the use was established as a permitted use on 1st October 1964, without a requirement for possession of a 'planning permission' certificate – a public house on the ground floor, with residential accommodation overhead on two floors.

The operation of rented accommodation on the upper floors is established by time and is consistent with the type of rented residential accommodation suited to a city centre location. The residential accommodation is not the principal private residence of the owner. Therefore, the accommodation is not affected by the regulations that were introduced on 1st July 2019 regulating development involving a change of use relating to home sharing and limited short term lettings, in a principal private residence in a rent pressure zone, specifying certain notification requirements.

The upstairs residential accommodation has been recently upgraded to meet the requirements of the Dublin City Fire Officer; the entire premises has been rewired and reroofed. The front elevations have been reinstated to the original form on foot of planning permission granted (ABP Ref. 301303 – 18; DCC Ref. 2018/18), as shown below.



The Lampighter building marks the corner in the Coombe and has been fully refurbished for its original use.

The referer's poles, in contrast, upset the parapet line on Brabazon Street.

The Referrer indicates he bought his terraced artisan dwelling in 2014 and therefore, has no practical knowledge of the use of the premises before that date. The primary and ancillary uses to which the building is put, which premises dates back to the 1830s, are all associated with the established use pre-1964 and the primary use has never been abandoned, so the ancillary uses endure.



View on Brabazon Street elevation. The Referrers house is on the left, marked by the vertical poles above the parapet erected by the Referrer to enclose a roof garden created at that level since his purchase in 2014.

Garrett Simons (Judge)² acknowledges the established existence of primary and ancillary uses and multiple uses in buildings and cites the Rehabilitation Institute v Dublin Corporation case³, which found that *an ancillary use is regarded as part of the primary use so that the cesser of the ancillary use does not give rise to a material change in use.*

In the subject premises the public house occupies the ground floor and the residential accommodation occupies the upper floors, under the same ownership and management as

² Planning and Development Law; Garrett Simons; Thomson Round Hall, 2004; 2-28 – 2-33.

³ Rehabilitation Institute v Dublin Corporation, unreported, High Court, Barron J., January 14 1988.

it has done since pre-1964. It never has a restriction on short-term accommodation, as no conditions applied to the uses established on the commencement date. The premises operates at all levels as an established use in accordance with the provisions of planning legislation.

The sworn testimonies of individuals and the record of operation by the owner are superior to any of the mishmash of information, speculation and unsupported opinion provided by the referrer and should be treated as such i.e. superior in the Simonovich context.

Request for Dismissal

Please refer to the Affidavits in Appendices 1 and 2 and the response of Brendan Trears to the unfounded nature of allegations in the grounds of referral.

Please also refer specifically to the enclosed Affidavits sworn by Paul Bermingham and Brendan Trears, co-owners of the Lamplighter, referring to a meeting held with the Referrer in October 2017, which indicate an ulterior motive for the subject Referral. Please also refer to the Narconon v ABP judgement in respect of the Board's obligation, or not, to deal with a referral and the circumstances in which the Board may dismiss and not to consider a referral under the provisions of section 138(1)(b) of the Planning and Development Act 2000, as amended.

Specifically in the Narconon judgement, please refer to paragraph 82, reproduced for convenience below: -

82. In the Inspector's report to the Board, the opinion expressed was that "... it is incumbent on the Board to determine the s. 5(4) referrals before it". Doubtless, this was a genuinely held view offered in good faith but, having regard to the statutory framework in which the Board's powers arise, it is not correct. The Oireachtas, by enacting section 138(1)(b) of the 2000 Act, granted an absolute discretion to the Board to dismiss a referral where the Board is satisfied that it should not be further considered by it, having regard to the nature of it or any previous permission which in the Board's opinion is relevant. The evidence, all of which was available to the Respondent, demonstrates that the Second and Third Notice parties were, as a matter of fact, questioning of the validity of a decision made by the Council, in 2016, in the performance of a function under the 2000 Act, and were doing so, in 2018, by means of their s. 5 applications, despite the provisions of section 50 (2) of the

same Act and the failure of the Second and Third Notice Parties to comply with same. Given the facts identified in this judgment, which were available to the Board, the Board was not obliged to determine the s. 5(4) referrals and lacked the power to do so, lawfully, in light of the limitations on the Board's s. 5 powers necessarily imposed by s. 50 (2) of the 2000 Act, but undoubtedly had the express power not to determine the referrals, in light of section 138(1)(b) of the same Act.

It is submitted that there is evidence from both sides that there was an issue relating to a spiral-stairs erected on the pub premises rear roof and that the staircase was the Referrer's property erected on a neighbour's property by his own admission (page 33) and it was removed. The affidavits aver that the reason for the raft of referrals is with a motive to extract a consideration in the transfer of ownership of the roof area to the Referrer as an inducement to stop issuing requests for declarations and referrals and other methods of objection and interference with the legitimate operation of the premises.

In that context, the Referral is vexatious, without substance or probative foundation and should be dismissed under the provisions of section 138(1)(a) (i) and(ii) and possibly 138(1)(b)(i) and(ii).

Yours sincerely,



Simon Clear.

15/06/2021

Comments on Andreas Bruggeners submission by Brendan Trears Creative Real Estate (CREL)

1.0 Grounds for Appeal,

Andreas Bruggener "I am of the opinion that the internal alteration of a 5-bed accommodation for a max 11 guests to a 9-bedroom accommodation for a maximum of 18 guests is a material intensification of use.

I am of the opinion that the internal alteration of a 5-bed accommodation to a 9 bedrooms guest house accommodation is also a material change of use."

CREL: Please see attached sworn affidavits regarding the use over the last 25+ years. Regarding the internal alteration we have not used this for 18 guests. The rooms are single used as single occupancy double rooms.

2.0 History of the planning issue with use of upstairs rooms.

2.1 Andreas Bruggener "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 utilized and were in an entirely uninhabitable condition. The owners at the 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."

CREL: Both Brendan Trears and Paul Bermingham visited the premises in 2015 alongside the auctioneer John Younge and the then owner Declan Brady. At the time of inspection, I can with certainty confirm that the rooms were habitable and occupied. I also viewed the premises several times alongside my builder Gary Horan in 2016 and again myself and with various other individuals who I can get testimony from in 2016 & 2017 all of which would confirm that the rooms were habitable and occupied. In April 2017 I visited the premises with an insurance broker just before I purchased the premises attached is his report for insurance and an affidavit from him. The statement Mr. Andreas Bruggener has made is false and the statement that he is a craftsman of 40 years is highly questionable as my builders and my sound engineer have pointed out to me that the works of this so-called craftsman of 40 years that he has undertaken in his own premises are to an extremely poor standard and are in fact the cause of many of the issues he has had with his own property. In 2017 Creative Real Estate completely soundproofed our premises with the supervision of an expert sound engineer.

Andreas Bruggener "The only access to these rooms is a narrow hallway under my 1st floor bedroom and then via a stairway that runs directly behind this bedroom."

CREL: This is a misleading statement the corridor is not narrow and to highlight the walls around the staircase and the hallway are professionally sound proofed and fire rated. The construction of this sound proofing / fire rating was undertaken by Creative Real Estate in 2017 and supervised by an expert sound Engineer who tested for extreme levels of sound in the hallway, The sound Engineer claims and has conducted incredibly stressed levels of testing to confirm (similar sound to an airplane jet take off and it

could not be audible) that no sound is penetrating his building from our stairway or corridor / hallway. Its also worth highlighting his measurements of the hallway are incorrect.

2.2 Andreas Bruggener "In 2017 the public house was put on the market with upstairs rooms in uninhabitably condition by the auctioneer John P Younge. The house was offered on the auctioneer's website with the following description which state.

"The upper floors, with separate side street access, are not utilized other than for storage purpose."

And on this description, you can also click on the link to the brochure which state:

"The un-utilized upper floors offer excellent potential for refurbishment as a Managers Flat."

The brochure is still available online.

The property was subsequently sold in this condition to the current owner in the same year."

CREL: The statement "2017 the public house was put on the market with upstairs rooms in uninhabitably condition by the auctioneer John P Younge." This is false, to highlight that the estate agent comments that "The upper floors, with separate side street access, are not utilized other than for storage purpose" this statement was to attract investors who were seeking a fully vacant building. The building was sold with vacant possession, the rooms were all habitable and that the accommodation use as residential rooms for letting on a short-term basis was an established use in the property.

2.3 Andreas Bruggener "Also the purchase price of €398,000 including stamp duty and legal fees for a 320 sqm property in this location is another strong indication that these rooms were sold in a non-rentable condition."

CREL: This statement is clearly trying to display to the reader that the property was purchased in a non-rentable condition, in fact the bar was trading the day we took it over and I had rented a few rooms upstairs that exact day I took it over. It is also worth highlighting that this sale was agreed in mid-2016, the price reflects the market at that time. In 2016 prices for public houses with upstairs accommodation in the Liberties in Dublin 8 were not attracting high figures. I can recall an 8500 Sq ft building with overhead accommodation over retail literally 2 mins away selling for 475k in 2016.

2.4 Andreas Bruggener "The Architectural firm 'H2B Architects' then prepared plans for the later building applications for a boutique hostel no 2545/18 and 2676/18. All submitted plans are dated 15/11/2017.

CREL: This is correct and its worth highlighting to ABP that no development of these plans occurred on site given that planning permission was refused by DCC.

2.5 Andreas Bruggener "Following this, in early January 2018, work commenced to reconstruct the uninhabitable rooms into the current 9 ensuite bedroom layout."

CREL: To note a lot of the information supplied to ABP and DCC by Andreas Bruggener was factually incorrect and there was plenty of false statements within this submission to ABP which I have subsequently proven to be false and proven with facts and affidavits to back up my claims. Mr Andreas Bruggener states the same incorrect statements and false statements over and over in the hope that the reader is taken in by the repeat use of these false and misleading statements.

Again, his comments that he states over and over in the hope the person reading his submission agrees with him that the rooms were uninhabitable is clearly false as per testimony from the previous owner Declan Brady that he had let the rooms, Brendan Trears, Paul Bermingham, Gary Horan (Builder), Ciaran Greene, Stephen McNamee, Brendan Johnston Architect and Neil Brady the Insurance Broker who inspected the property a week before the purchase alongside his insurance report (all attached as Appendix 1). He is clearly trying to paint a picture for the reader that the rooms were uninhabitable and clearly from the testimony of all the above this would prove that his assertions are false. I could try source more testimony's if required.

2.6 Andreas Bruggener "The first planning application 2545/18 for a new hostel was submitted on the 28th of March 2018 to Dublin City Council DCC however was declared invalid. A second 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 then submitted on the 06th of April 2018 to DCC and was refused on the 29th of May 2018 by DCC."

CREL: It must be highlighted that one of the affidavits attached as Appendix 1 is from the architect who prepared the previous drawings submitted under planning Ref: 2676/18. The affidavit identifies that an error was made both the floor plan drawings and in the description of the existing accommodation as a private residence in the notices. The application Reg. Ref: 2676/18 related to the use of the first and second floor as a boutique hostel and no works were undertaken on foot of that application. The subdivision of rooms to create bedrooms and provision of en-suites occurred in late 2018 and I refer to the number of bed spaces being reduced. I also refer you to the assessment in the Planners report attached to Planning Decision 0098/20 which states: 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 to render the appearance inconsistent with the character of the structure or of neighboring 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).

2.8 Andreas Bruggener States " On the 27th of July 2018 an inspection of the 9 bedrooms, kitchen and common room was carried out by DCC fire officer whereupon DCC issued a fire notice dated the 15th of August 2018 (see appendix 5) prohibiting the further use of the premises as residential accommodation. CREL objected against this fire notice by notice of appeal dated 28th August 2018 and continued to let the premises through Airbnb up to September 2018. On foot of this DCC filed a notice of objection to the renewal of their intoxicating liquor license on the 29th of August 2018.

CREL: This fire safety notice was not upheld by DCC and annulled before the courts as the small issues that the DCC Fire Department had with the premises were fully resolved. The main issues were in fact relating to the ground floor pub which we closed in Oct 2018 to accommodate these works.

2.9 Andreas Bruggener "In November and December 2018, the work required by the Fire Notice was carried out and on the 14th of January 2019, the Fire Notice was then annulled."

CREL: This is correct, all works needed by DCC Fire Brigade to be completed were completed and the

building is deemed to be fully in compliance with the Fire Safety regulations by DCC Fire Department.

2.10 Andreas Bruggener "In September 2018, an enforcement case E0864/18 was opened for in relation to this unauthorized short-term letting. According to the enforcement report dated 12/12/2018, the CREL representative stated that during the DCC inspection that the Holiday/ Airbnb type lettings had ceased and that a number of permanent tenants were in situ in the premises. My understanding of permanent tenant is that of a long-term letting and not a short-term letting less than 15 days duration per letting. On the basis of this statement and the submission of a highly questionable declaration that allegedly came from the previous owner (albeit this was not even signed), the enforcement case was then closed by DCC in January 2019."

CREL: In September 2018 I received a letter from DCC enforcement investigating a potential breach in the planning laws. I was able to demonstrate that no breach occurred as the use of the rooms was an established use. Regarding his statement that the submission from the previous owner was questionable and not signed, I have since asked the previous owner to supply me with an affidavit regarding the use of the upstairs during his ownership given that Andreas Bruggener was accusing me of providing a questionable declaration to the planning authorities in our planning applications. See attached Appendix 1 Affidavit from previous owner which proves that the accommodation was used to its established use.

2.11 Andreas Bruggener "However by July 2019, the rooms were being rented out again via Airbnb and the roof above the pub was also converted into an amenity area for guests. Following this and also due to additional unauthorised development, DCC then launched another enforcement case E0528/19 and a warning letter was sent to the owner of CREL on the 30/08/2019."

CREL: In July 2019, I contacted the enforcement section to inform them that I was letting out 4 of my rooms on the Airbnb for a short period of time. I was informed that this was within the planning rights for the use of this building. I would like to also highlight the affidavits also reference the use of the roof as an amenity area i.e., this roof area has an established use and all we did was upgrade it along with the whole building at the time.

2.12 Andreas Bruggener" After the owner of CREL had his agent Simon Clear respond to the warning letter, DCC had informed me that they then considered the short-term letting, roof terrace and beer garden to be exempt developments. In order to seek certainty on this statement I made application 0098/20 for section 5 exemption with the council. An Exemption certificate was granted in March 2020 by DCC."

CREL: This is correct.

2.13 Andreas Bruggener "I thereupon sent an appeal to ABP requesting a review of the decision made by DCC. ABP subsequently decided in their order ABP 307112-20.

CREL: This is correct.

2.14 Andreas Bruggener "I was of course very relieved that after almost 3 years of uncertainty, the planning status of the rooms in question was finally clarified by this decision."

CREL: To note a lot of the information supplied to ABP and DCC by Andreas Bruggener was factually incorrect and there was plenty of false statements within this current submission to ABP which we have subsequently proven to be false. Mr. Andreas Bruggener states the same incorrect statements and false statements over and over in the hope that the reader is taken in by the repeat use of these false and misleading statements. Appendix 1 highlights this level of false statements and provides the reader with concrete proof / evidence that a lot of the statements from Andreas Bruggener are false, frivolous and

vexatious.

3.0 The Reason for my Section 5 application 0103/21

3.1 Andreas Bruggener States" In his latest planning application (2977/20) an agent for the owner of the Lamplighter Public House has now stated, for the first time that the rooms on the 1st and second floor have been rented to a maximum 11 guests previous to its conversion into 9 bedrooms. Such is claimed through the affidavits submitted by Declan Brady and the architect Johnston.

CREL: There are numerous affidavits I have attached which demonstrate and prove the use of the building over the last 25+ years. Declan Brady Previous Owner, Brendan Johnston Architect, Ciaran Greene Guest, Neil Brady Insurance Broker + plus his report from initial inspection, Gary Horan Builder, Stephen McNamee Guest, Paul Bermingham Owner, Brendan Trears Owner and Greg Crawford Barrman + guest under the previous owner to Declan Brady in 1990s.

All the above testimony and affidavits disproves Andreas Bruggeners false claims & statements, he is quite simply targeting our property trying to damage the title of our building and its established use in an effort by Andreas Bruggener to extract property rights from CREL from an illegal breach / trespass onto our premises through a doorway on his second floor through our wall and onto our property. Please see attached Affidavits from Paul Bermingham and Brendan Trears as Appendix 2.

3.2 Andreas Bruggener "It is also on Record in DCC enforcement case report dated 12/12/2018 and DCC enforcement case report dated 21/08/2019 that these 9 bedrooms were rented out as double bedrooms through Airbnb during the years 2018 and 2019 and this is clearly shown in the Airbnb reviews.

CREL: In 2018 and in 2019 I had 4 rooms on the Airbnb platform for July – September in which I spoke to Neil Cammeron of DCC enforcement section prior to listing the rooms and informed him of my intention to list 4 rooms and that I was only using the building to its established use.

3.3 Andreas Bruggener "Additionally, the agent has stated also for the first time that the rooms on the 1st and 2nd floor are used as guest (short-term letting) accommodation, but such only appears in the drawing text panel and in the planning Application Form under question 13. As this representation was not entirely clear in his application, further information was requested by DCC relating to this application on the 18/08/2020. Two requirements of information included were:

1. The applicant is requested to clarify the use of the existing 9 ensuite bedrooms at both first and second floor level and the planning status for same in this regard It is noted that in the previous application on this site lodged in 2018 under reg 2676/18 that planning permission was refused for a change of use of first and second floors over existing ground floor public house from "private residence" to boutique hostel. So this implies that in 2018 the accommodation above the pub was a 2private residence". There is no record of any Change of use application on record for this property.

and
4. The applicant is requested to clarify the intended use of the additional four ensuite bedrooms which had not been mentioned in the statutory notices.

The agent has stated in his response letter of the 15/02/2021 under paragraph 4 that the existing 9 bedrooms are being used as guest (short-term letting) accommodation. It is therefore clearly operating as a guest house business, as advertised on the main entrance of the Public House since 2018- I therefore question how a guest house can economically operate without allowing for lettings

for less than 14 days.

CREL: In the Architects response to Question 1 stated

"The Lamplighter public house premises was constructed in the 1830's as a commercial property and has been in use as a commercial property since, including on 1st October 1964 and is an established use extending across the full extent of the then established planning unit, both horizontally and vertically. The premises is a public house on the ground floor and accommodation on two floors overhead. The planning officer is correct to note that there is no record of a material change of use application, as there has been no material change of use. The planning application with reference number 2676/18 had mistakenly described the accommodation as "private residence and incorrectly labelled a bedroom on the 1st floor please refer to affidavit from Brendan Johnston confirming those mistakes in Appendix 3. It must be also noted that a recent Section 5 application on this site with reference number 0444/20 which was applied for to clarify issues raised in the Section 5 application reference 0098/20. The purpose of the application 0444/20 was to supply to the planning authority with fundamental information that was overlooked by ABP in their decision on application number 0098/20. Please see attached the planners report that was published for application 0444/20 Appendix 4. The application 0444/20 is supported by 5 no. sworn Affidavits (Appendix 5) which confirm that the accommodation on the first and second floor of the Lamplighter Pub has been used for residential accommodation, for individuals on both a short term and long-term basis and that the accommodation was never the principle private residence of any individual or owner. One of the affidavits submitted is from the architect who prepared the previous drawings submitted under planning Ref. 2676/18. The affidavit identifies that an error was made both the floor plan drawings and in the description of the existing accommodation as a private residence in the notices. The application 0444/20 submission notes that the 9 individual en-suite rooms are 'let on an annual basis, or subject to lodger agreement basis for periods of less than one year and not for any periods of less than 15 days duration.' The attached affidavit from the former owner refers to the letting of the upper floors on a short- and long-term basis during the period 1997 to 2017 and an affidavit is also submitted from a previous staff member of the Lamplighter Public House who also stayed in the subject accommodation. It should be noted that the property was also subject of Fire Safety Notice in respect of the annual Licensing Renewal for the entire premises and a detailed planning history was provided to the Court to confirm the history of use as a public house with ancillary accommodation that was used on a letting basis. This was confirmed with the support of a declaration from the previous owner of the premises. The accommodation is let for periods in excess of 15 days per letting in accordance with the information provided to the DCC Planning Enforcement Section.

In the architect's response to question 4

I refer to Question 13 on the application form which defines the residential use as guest accommodation, the proposed additional bedrooms would for the same guest (short-term letting) accommodation.

In his last comment about the signage, the Lamplighter as a public house has been in existence since before the 1830's. The premises were constructed as a public house as distinct from a private house. Public House, also then referred to as Inn, Hostelry Lodge or Tavern, was a place at which people took lodging. It can be inferred that accommodation for guests was available at the premises since its construction. Therefore, the signage stating "Guest House" is to celebrate and share the true history of this beautiful building.

3.4 Andreas Bruggener "The planning application was refused on 16th March 2021 on the following

grounds:

"Having regard to the nature and scale of the existing building which contains a public house and short-term letting accommodation, it is considered that the proposed development to accommodate a further 4 ensuite bedrooms for short term lets would lead to overdevelopment of this restricted site due to the lack of private open space for these units, the inadequate nature of the communal facilities for these rooms in terms of common room / kitchen facilities and lack of any bicycle parking. The proposal would therefore result in a substandard form of development and would seriously injure the residential amenity of the occupants of the proposed units and would be contrary to the proper planning and sustainable development of the area."

CREL: We are currently drafting plans to develop the site further in which we will address the issues of the planning authority and will be submitting a new application in the coming weeks on this site.

3.5 Andreas Bruggener "I also believe that this development is a form of substandard development and believe the substandard development begun with the conversion of four or five bedrooms into nine bedrooms and the associated downsizing of the bedrooms and communal facilities."

CREL: The subdivision of rooms to create individual bedrooms with private of en-suites instead of the previous layout of shared bedrooms and shared toilet facilities and the number of bed spaces being reduced from 11 to 9 being a form of substandard development is a nonsense statement as the facilities for the guests were massively enhanced with each guest having its own private room and bathroom. This comment clearly makes no sense, and I am truly baffled by it.

3.6 Andreas Bruggener "I would also like to challenge the impression That Mr. Clear seeks to create in his letter, namely that the letting activities via Airbnb have only taken place in 2018 and such no longer occurs."

As previously outlined in detail, the rooms were also let in 2019 via Airbnb and the fact that it was not relet again in 2020 is owed presumably to COVID 19 restrictions. The fact that the account still exists on Airbnb suggests that it will be reactivated when the restrictions for guests' houses are lifted.

It is correct that no increase of the area of the planning unit has taken place but an increase in bedrooms from 4/5 to 9 bedrooms and thus with the decision order No. P3125 from 16th April 2021 a material intensification of use. When This part of the order

"With reference to the above proposal submitted by you, you are hereby notified that the planning authority in pursuance of the powers conferred on it by the planning & development Acts 2000 (as amended) has decided to GRANT Exemption for: The internal alteration of a 5-bed accommodation for a max 11 guests to a 9 bedrooms accommodation for a maximum 18 guests."

Were to be upheld, it would allow the guest rooms in question, that, according to the building regulations, could not even receive a planning permission as a single guest house bedroom, can now be used as double guest room bedrooms with a section 5 exemption certificate.

Bypassing the building regulations is not the purpose of a section 5 procedure.

CREL: I would like to take this opportunity to explain that we were not planning on using Airbnb, but I had in fact let the whole of the upstairs premises on May 22nd, 2020 and secured a good quality tenant who was willing to take the whole of the upstairs portion of the building. This was very much needed as covid had hit our business extremely hard and we were placed under severe financial pressure as CREL had no income from the tenant of the public house downstairs. We were incredibly pleased with securing

this tenant in an exceedingly difficult time for the business however it was in his application to ABP reference ABP-307112-20 that I uncovered that Andreas Bruggener had a covert recording device recording my tenants in their private garden / roof area whilst sunbathing and relaxing in their private roof garden. Upon discovery of this I informed the tenants who were truly shocked by this level of harassment and invasion of their privacy rights from Andreas Bruggener who is watching them remotely from his home in Kerry. They requested to terminate the lease with immediate effect. This led to most of the upstairs premises lying vacant for quite some time and further increasing the already financial strains that covid and the pandemic had brought to the business. There is currently a series of complaints being investigated by the Data Protection Commissioner from myself, tenants and guests in relation to this invasion of our privacy and harassment of my tenants.

3.7 Andreas Bruggener States " As I was unable to use or let my 1st floor room as a bedroom in 2018 and 2019 due to noise and nuisance from the Airbnb and other short term guests' traffic under need this room, I have made this section 5 application request to ensure this does not happen again. As you can see in page 4 & 5 of this letter, the entrance area to the guest rooms is below my room on the 1st and floor and the stairs to the guest rooms are directly behind this room on the 1st floor. Therefore, any intensification of the use of the upstairs Lamplighter rooms leads to a loss of usability of my property and loss of quality of life for me and my tenants.

CREL: Again, this statement is factually incorrect, firstly our premises have been professionally sound proofed by Ted Dalton of Dalton Acoustics who tested very extreme levels of noise in my property to see if there was any noise penetrating his property and the findings state there is none, so this statement is another example of a false statement by Andreas Bruggener to the reader. Secondly stating his house was not in full use is a false statement, I have elderly neighbors who took videos of parties spilling out the doorway his property in the summer of 2018 & 2019 of his property at 4, 5 and 6am and they also abused this elderly lady when she asked them to be quiet, but she was shouted at and told to fuck off back into her house. From the footage this lady took its clear it was Andreas Bruggeners daughter that was hosting these wild parties. This was very disturbing as she was caring for her sick husband who was extremely ill with cancer at the time. The elderly neighbor approached me on the street outside my premises and various other neighbors had also stated the same issues to me. This elderly lady was extremely upset and terrified of them. This is a lady who has lived in the liberties all her life and was reduced to tears when telling me of the incidents. She was so afraid and felt bullied in her own home, I advised her to bring this to the attention of the garda in Kevin Street and to report it to DCC. I have a copy of the video this lady took and its clear they were drunk and abusive to her and I can also ask the lady to sign an affidavit to confirm these events alongside the video evidence. Therefore, his above statement is again false and can be proven with the testimony and video evidence of the elderly lady who I could ask to provide a statement / affidavit.

4.0 Occurrence of the Section 5 decision 0444/20

4.1 Andreas Bruggener "As the assessment of my application in the planners report is based almost exclusively on the section 5 decision 0444/20 and the planning officer report leading to this decision and after I was actively prevented by DCC from submitting my concerns on this application 0444/20, I would like to comment on the occurrence of the section 5 application.

CREL: DCC were correct in refusing submissions from a third party in their assessment under the Planning and Development Act 2000, as the section 5 process is not open to public submissions. I must also highlight under the Planning and Development Act 2000 that:

Where a declaration is issued under this section, any person issued with a declaration under subsection (2)(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Subsection (2) (a) Subject to paragraph (b), a planning authority shall issue the declaration on the question that has arisen and the main reasons and considerations on which its decision is based to the person who made the request under subsection (1), and, where appropriate, the owner and occupier of the land in question, within 4 weeks of the receipt of the request.

(b) A planning authority may require any person who made a request under subsection (1) to submit further information with regard to the request in order to enable the authority to issue the declaration on the question and, where further information is received under this paragraph, the planning authority shall issue the declaration within 3 weeks of the date of the receipt of the further information.

To Note As per above from the Planning and Development Act 2000 it clearly states Mr Andreas Bruggener is not the person who asked the question to the planning authority, not the owner of the property and he was not issued a declaration from the planning authority in relation to this question, therefore he has not got a right or entitled under the Planning and Development Act 2000 to make submissions unless the planning authority feel necessary for him to do so.

It is also worth highlighting that if Andreas Bruggener had any reason to question the process of DCC and the decision on the Application 0444/20 he should and had the opportunity to have brought the case forward for Judicial Review in which he did not therefore it must be assumed he accepted the decision.

A lot of the concerns Andreas Bruggener has in the rest of section 4 of his submission are directed towards DCC enforcement and planning unit as some sort of conspiracy against him in which I would be greatly confident it is not the case here. DCC planning and enforcement sections are very competent, and they work extremely hard with very tight deadlines.

5.0 Declaration Letter and Sworn Affidavits in Section 5 Application 0444/20

Andreas Bruggener States " Except for the reference to 5 sworn affidavits and 4 photos of wall and fence remains the 8-page declaration letter from Simon Clear contains no new facts that ABP did not already had to hand for its decision ABP-307112-20. The letter appears to be more likely a criticism of the decision of ABP otherwise one cannot explain the 4 photos that clearly do not contribute anything to a decision in the 5 section application. "

CREL: I can assure you that the letter from Simon Clear was not a criticism of ABP who I understand are very competent and work extremely hard to very tight deadlines. I would like to highlight that the timing of the application ABP 307112-20 was not good for CREL or its representative's, as we were in the depths of the pandemic and people were advised by the government not to leave their home and only for essential movement. For this reason, I was unable to get the sworn affidavits in front of ABP for the case ABP-307112-20. I have since gathered these affidavits / reports attached as Appendix 1 and 2.

5.1 Andreas Bruggener "Affidavit of Declan Brady No 1, Much the same vein as the photos, is the first affidavit from Mr. Brady (Opening wall and Staircase) in no way related to the section 5 application

0444/20. It is more likely an attempt to discredit me in the eyes of DCC.

CREL: Myself and my planning consultant have submitted all affidavits I received from the previous owner. I understand why Andreas Bruggener would not want DCC or ABP to see this affidavit as Andreas Bruggener has stated in many planning applications to both DCC and ABP (0410/18 and ABP 303117-18) that he had permission to create an opening in our wall and erect a staircase in which this affidavit clearly shows that he was not telling the truth to both DCC and ABP and we strongly believed that all affidavits received from the previous owner were in fact relevant to the application 0444/20.

5.2 Andreas Bruggener affidavit of Greg Crawford, I cannot, of course comment on this affidavit, because it concerns a statement about a time even before Mr. Brady ownership. i.e., before 1987. I simply wonder how Mr. Trears found this witness.

CREL: Firstly, Andreas Bruggener has made an error before 1987 should be 1997. Secondly, I would like to highlight Greg Crawford is a remarkably successful businessman who operates an extraordinarily successful business and is a highly regarded figure within his community. Lastly regarding how I found this witness I was informed that he had previously worked and stayed above the pub I now own so I contacted him for his affidavit in which he was more than happy to supply.

5.3 Andreas Bruggener Affidavit of Brendan Trears, the claim that Mr. Trears has stayed in the accommodation between December 2017 and December 2018 for the reconstruction work is well possible and only confirms my statement that from January 2018 onwards the construction of the 9 ensuite rooms took place. That there were other people accommodated during this period can be seen on Airbnb.

CREL: This statement again is nonsense and makes no clear statement for the reader.

5.4 Affidavit of Declan Brady No 2, In my view, this statement is not plausible. Why would Mr. Brady offer the property for sale in 2017 with upper rooms not utilized and a potential for refurbishment as a manager flat when there were 11 guest beds established for rent? The photos that I will present later also contradict his statements.

His testimony does not explicitly state that the rooms above the lamplighter were rented in any form for residential purposes in the years 2014-2017, but once again a blanket statement that rooms were rented for residential purposes (sometime) between the years 1997 -2017. His testimony is also not supported by any conclusive / evidentiary documents such as certified turnover figures that had to be provided to prospective buyers in 2017 which would outline in great detail and prove existence of rental income and thus the letting of rooms.

CREL: Declan Brady affidavit is clear it states that the upper floors of the building were used as residential accommodation for short- and long-term accommodation during my ownership which he highlights at the start was from 1998 to 2017. Its also worth highlighting Mr. Brady never stated that the accommodation was unutilized and potential for a manager's flat this was stated by the agent to attract buyers looking for fully vacant possession. In any case please see the further affidavit from Stephen

McNamee who stayed in the accommodation for short term periods from 2008 to 2018, Gary Horan who inspected the property with me in August 2016, Paul Bermingham owner who inspected the property numerous times from 2015/ 2016 / 2017, Neil Brady who inspected the property in April 2017, Ciaran Greene who lived in the property from May 2017 and Brendan Trears owner who also inspected the property numerous times from 2015/2016/2017 which all back up the contents Mr. Brady's Affidavit.

5.5 Andreas Bruggener "Affidavit of Brendan Johnston, Mr. Johnston state that during his inspection the bedrooms were occupied in full capacity by 11 guests. It can be assumed that this inspection took place before the planning application was submitted to DCC in April 2018. However, Mr. Trears states in his affidavit that he occupied a room between December 2017 and December 2018 and therefore only 4 rooms with a max of 9 guests were let during this period. And, Mr. Clear tempts to explain in his declaration letter why Mr. Johnstons declared the rooms as principal private residences in the planning application wrongly as follows.

"There was also an understandable error in the description of the upstairs as a private residence in the notice. At the time, during the refurbishment, the client Brendan Trears lived in the accommodation for the duration of the works but also let the rooms on a short-term basis at the same time and this is on record in DCC. It was taken by the architect to be the Principal Private residence when it was not."

These statements contradict Mr. Johnstons testimony that he encountered 11 guests during his inspection or if he did, that Mr. Trears was not staying in one of the rooms during the period specified. Either the Architect Mr. Johnston has now encountered 11 guests during his inspection in which case he would have concluded that this property is not the principal private residence of Mr. Trears, or he has encountered Mr. Trears living there with perhaps 9 other guests and therefore assumed that it is Mr. Brendan Trears Principal Private Residence, but then cannot testify that the rooms were occupied by 11 guests.

It seems to me that Mr. Clear in finalizing his declaration letter, realized that he had yet to provide a credible explanation as to why the statement that the rooms above the pub were a principal private residence was an error and Mr. Brendan then made his affidavit on the 10th of December 2020 as to provide grounds for it not considering Mr. Johnstons earlier affidavit.

It is also noteworthy that paragraph 3 of his affidavit is identical in wording to 2 and 5 of Declan Brady affidavit No 2. Mr. Brady's Affidavit was made on the 12th of October 2020 with a solicitor in Dublin 15 and Mr. Johnstons was made on the 16th of October 2020 with a solicitor in Dublin 1. I wonder how the same wording came to be used and who may have specified the wording.

CRL: Andreas Bruggener is trying to confuse and portray to the reader that the property was not occupied by 11 people during the architect's inspection. These are the affidavits of professional people with a high moral standing unlike Andreas Bruggener who has been stating false and incorrect statements to the planning authority over several years. The deponents of these affidavits would be very much shocked that Andreas Bruggener is trying to discredit them. In Mr. Johnstons affidavit it states that "I, your deponent over that the accommodation was set out as shared accommodation, was used by 11

people during my inspection" which is correct and factual, simply myself and my wife (obviously my wife is going to stay with me too) occupied one room as per my affidavit that I occupied a room and the other 4 rooms had 9 people in them.

5.6 Andreas Bruggener "Due to the inconsistencies and insubstantiality I believe that the 5 affidavits and the declaration letter are not sufficient enough to grant a Section 5 Exemption as DCC did.

CREL: Firstly, if he believes the process or the decision on the application no 0444/20 was wrong, he should have brought it forward for Judicial review in which case he did not therefore it can be assumed that he accepted the decision. Secondly as I suspected that he may try discredit the affidavits I have I have since gone about getting testimony and affidavits from other individuals. I have since got affidavits from Stephen McNamee guest, Gary Horan's builder, Ciaran Greene Guest, Paul Bermingham Owner, Neil Brady Insurance Broker and Brendan Trears Owner.

5.7 Andreas Bruggener "The claim that the architect made two errors in the planning application 2676/18 namely (1) in the description and (2) the drawings and further that the owners of CREL Mr. Brendan Trears and Mr. Paul Bermingham had failed to notice this when approving the application, I acknowledge but find entirely unconvincing.

CREL: Brendan Trears and Paul Bermingham are extremely busy professionals with various business interests in vastly different sectors that demand our attention. Brendan Trears and Paul Bermingham unfortunately did not pick up on these errors at the time of submission, mainly due to inexperience from both of us of the planning application and process that we need to watch for at the time but was highlighted to us after the submission by our current architecture firm we use and given the application was refused we did not see it necessary to go back and correct the record. To state we are experienced property developers and investors, I would disagree, we have only a small number of property interests. The architect involved in the application had held his hands up to the slight mistakes and has made an affidavit in relation to these mistakes. I can assure you these mistakes by him were made genuinely and I do not wish to comment further by pointing fingers at people. We all wish to move on and not dwell over past mistakes that have been corrected for the record.

6.0 Photo Timeline Upper Rooms.6.1 Andreas Bruggener "Another conclusive and manipulation-free reference that the rooms were vacant for many years before 2018, can be seen on Google street view history. I have taken several screen shots from 1 Brabazon Street and 79 The Coombe of the years between 2009 and 2019 to highlight the following details:

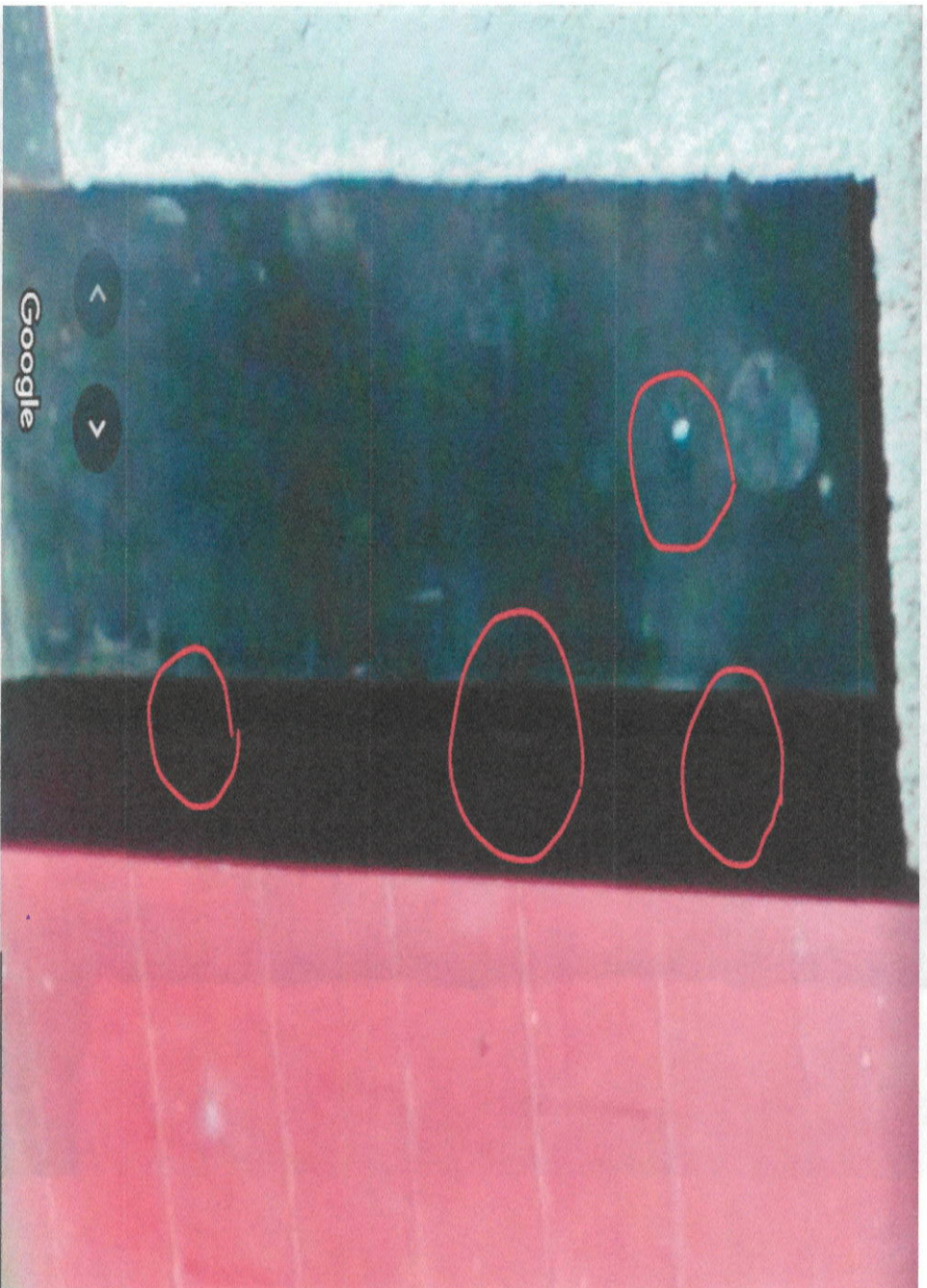
The only access door to the rooms above the pub is under my 1st floor bedroom – called 1 Brabazon Street. Until July 2018 the door was a simple flat steel door without any door handle outside and only with a view peephole as the door was used as the pubs emergency exit door and therefore opened to the outside. The door had emergency exit fitting inside. It is hard to imaging that this door be an entrance door to any guest accommodation.

Also it can be seen that the curtains in the windows in 2009 and 2014 are entirely the same.

In mid 2018, when the 9 bedrooms were built and rented to Airbnb guests, a new steel door with door handle and lock outside was installed so that the door could also be opened from the outside.

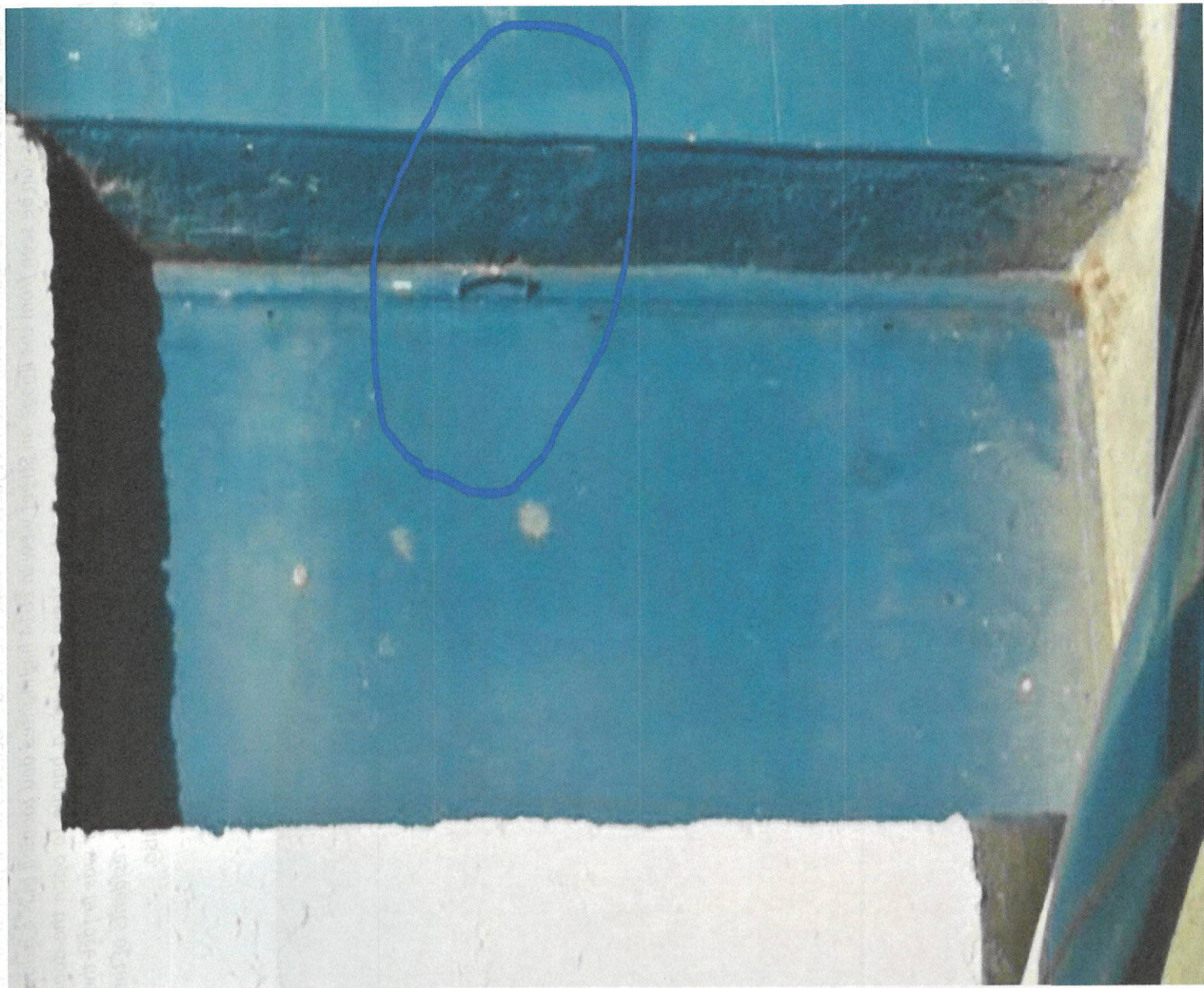
On the photo above you can also see the newly installed windows in the reconstructed upstairs rooms. The last photo above shows the new timber door as the "Guest House" entrance."

CREL: He this section he is again stating incorrect facts in a hope the reader believes this information he has supplied. As can be seen from the image on Street view in 2014 highlighted and zoomed in is a below screenshot from google street view of the door in question there is clearly a handle to open the door from the outside also 3 Chubb lock keyholes, and a peephole all circled in red. This door was in fact the same door used for the main entrance and exit for staff of the pub prior to 2018 and the residents of the upstairs accommodation. The handle and keyholes are clearly visible in the 2009 image also.



Google Street View 2009

© 2009 Google



Google Street View 2014

6.2 Andreas Bruggener "Finally, the street view history of 79 The Coombe, one can also see that within all photos between 2009 and 2017 the same curtains hanging in the windows – a typical sign of a vacant dwelling.

On the photo below you can see the new windows in the reconstructed rooms.

The last photo shows the current appearance with the new main entrance door to the pub and the new signage stating, "Guest House "above it."

CREL: I am truly baffled by this comment of having curtains in windows is a sign of a vacant dwelling. I think he is trying to mislead or fool the reader as to the curtains in question they are in fact the net / lace curtains for privacy that were used throughout the country and are not the typical night-time heavy curtains to block out light. I would believe net curtains in the windows clearly shows the rooms are inhabited and the guests / tenants would have needed these for privacy. I know that nearly every house that is lived in has curtains or blinds or similar nature and I would expect them to have these facing out into a public street for privacy. I would argue that having these net curtains in the windows clearly is further proof that the upstairs accommodation was and is in use during these periods. It further baffles me that it can also be seen from the image in google street view that his property Number 2 Brabazon Street that he had the same style net curtains in all his windows in 2014.

In his last comment about the signage, the Lamplighter as a public house has been in existence since the 1830's. The premises were constructed as a public house as distinct from a private house. Public House, also then referred to as Inn, Hostelry Lodge or Tavern, was a place at which people took lodging. It can be inferred that accommodation for guests was available at the premises since its construction. Therefore, the signage stating "Guest House" is to celebrate and share the true history of this beautiful building.

6.3 Andreas Bruggener "Rear view of the lamplighter Public House on the day of the dismantling of my spiral staircase.

CREL: I would like to highlight that this is an actual image of him and his family trespassing on my property, firstly they did not get permission from the previous owner to erect a spiral staircase on our property as can be seen in Appendix 1 and secondly, he did not ask for permission that day to enter our property to dismantle the staircase. A clear example of how he breaks the law and feels he has a right to trespass onto people's property. As can be seen from these images of the rear we are in a clear out process clearing out the old stuff that we are going to replace and there is an old bed visible on the roof to the left-hand corner of the screen. All these images are captured when we are clearing the old carpets etc and replacing the windows. This clearly shows the property was lived in when all the clear-out stuff was removed to the roof area. He clearly trying to paint an image it was run down and uninhabitable, but it was clearly habitable.

7.0 Conclusion

7.1 Andreas Bruggener "In summary, I strongly believe that the internal alteration of a 4/5 bed accommodation for a max 8/11 guests to a 9 bedrooms accommodation for a maximum of 18 guests is development and not an exempted development as it leads to an intensification of use of the facilities and will therefore require planning permission.

CREL: As we have stated previously the question asked was "whether the internal alteration of a 5 bedrooms accommodation for a maximum of 11 guests to a 9 bedrooms exempted development for a maximum of 18 guests is or is not development and if development whether it is exempted development or not. We do not use them for twin rooms as they are single occupancy double rooms. We have not and will not have 18 guests staying above.

7.2 Andreas Bruggener "Further, I strongly believe that the internal alteration of a 4/5 bed accommodation to 9 bedrooms accommodations a development and not an exempted development as it leads to an intensification of use of the facilities and by reducing the size of the individual bedrooms and the communal facilities it results in a substandard form of development and will therefore require planning permission.

CREL: Is this a new question he is asking as this was not a question asked in the section 5 application to DCC. As explained earlier the subdivision of rooms to create individual bedrooms with private of en-suites instead of the previous layout of shared bedrooms and shared toilet facilities and the number of bed spaces being reduced from 11 to 9 being a form of substandard & intensification of use is a nonsense statement as the facilities for the guests were massively enhanced with each guest having its own private room and bathroom and the bedspaces being reduced. This comment clearly makes no sense, and I am baffled by it.

7.3 Andreas Bruggener "I fully agree that the change of use from sort term lettings to lettings in excess of 15 days duration per letting to short-term letting for any period not exceeding 14 days would constitute a material change of use as defined in section 3 of the planning and development act 2000 (as amended). In this regard any proposed change of use from short term lettings in excess of 15 days duration per letting to short-term letting for any period not exceeding 14 days would be considered development and not exempted development."

CREL: Again, as we stated we are not currently using the premises for short term stays of less than 15 days however given the testimony and the affidavits regarding use over the last 30 years I feel that it is within our rights under the planning and development act which we have clearly established the use of the premises and demonstrated this use that we should not have any restriction on the duration of stay.

7.4 Andreas Bruggener "I am also of the opinion that the DCC Fire Officer would first have to examine whether the existing access and escape routes are sufficient for an occupancy of the upstairs rooms with up to 18 people, before such occupancy is permitted. But this has not taken place.

CREL: This is yet another statement which makes no sense as can be seen it is noted that the property was also subject of Fire Safety Notice in respect of the annual Licensing Renewal for the entire premises and a detailed planning history was provided to the Court to confirm the history of use as a public house with ancillary accommodation that was used on a letting basis. This was confirmed with the support of a declaration from the previous owner of the premises. The Fire Officer has confirmed that the building is in compliance with the fire safety regulations.

7.5 Andreas Bruggener" Even if DCC is of the opinion that a conversion from 4/5 bedrooms to 9 only single bedrooms has taken place and that this would be exempted development, I do not think that DCC can make the decision that a conversion to 9 bedrooms for up to 18 guests i.e., double bedrooms as requested by me in my section 5 application is also exempt development.

CREL: As per the Planning and Development Act "The Planning Authority considers that whereas the scope of the internal works carried out would come under Section 4(1) (H) of the Planning and Development Act, 2000, as amended, and would not constitute a material change of use under Article 10(1) of the Planning and Development Act and is therefore exempted development."

AFFIDAVIT OF BRENDAN TREARS

I Brendan Trears, 15 The Heights Skerries Rock, Skerries, Co Dublin, aged 18 years and upwards **MAKE OATH** and say as follows:

I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

1. I, your deponent, aver that I am director and shareholder of Creative Real Estate Limited.
2. I, your deponent, aver that from December 2017 to December 2018 I occupied a bedroom during weekdays for convenience purposes on the second floor level of the upstairs accommodation in the Lamplighter Pub at 79 The Coombe Dublin 8 / 1 Brabazon Street Dublin 8 whilst I was refurbishing the accommodation.
3. I, your deponent, aver that upstairs accommodation of 79 The Coombe Dublin 8 / 1 Brabazon Street Dublin 8 was not my primary residence during the renovations and my primary residence was in Skerries Co Dublin.
4. I, your deponent, aver that I shared the accommodation with up to 9 people during this time.

5. I, your deponent, aver that 79 The Coombe Dublin 8 /1 Brabazon Street Dublin 8 was never used as my primary residence, my primary residence was and is currently 15 The Heights Skerries Rock, Skerries, County Dublin.


6. I, your deponent, aver that I appointed Brendan Johnston to prepare and submit the planning application with a reference 2676/18.

7. This Affidavit is made for the benefit of Creative Real Estate.

Sworn by the said

In Dublin, this 10 day of December
2020 before me a qualified Solicitor
by the deponent, who has been identified to
me by the production of Passport issued by
the authorities of Republic of Ireland.

Direct Laws Solicitors
1st Floor, unit 10, Skerries Point,
Skerries, Co Dublin.


Brendan Trears



AFFIDAVIT OF BRENDAN TREARS

I Brendan Trears, 15 The Heights, Skerries Rock, Skerries, Co Dublin, aged 18 years and upwards **MAKE OATH** and say as follows:

I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

1. I, your deponent, aver that I am director and shareholder of Creative Real Estate Limited.
2. I, your deponent, aver that Creative Real Estate Limited is the owner of the property 79 The Coombe/1 Brabazon Street Dublin 8.
3. I, your deponent, aver that I attended a meeting with Paul Bermingham of Creative Real Estate, Andreas Bruggener and Alexander Bruggener both of No 2 Brabazon Street Dublin 8 on Sunday the 29th of October 2017 at 6pm.
4. I, your deponent, aver that the above meeting was held 79 The Coombe Dublin 8 in the premises known as the Lamplighter Lounge in the former rear bar area.
5. I, your deponent, aver that the sole purpose of this meeting was to discuss soundproofing and noise nuisance problems that Andreas Bruggener and

Alexander Bruggener stated they were having with the property 2
Brabazon Street Dublin 8.

6. I, your deponent, aver that the during this meeting I discussed various soundproofing measures that I was implementing under the supervision of Creative Real Estates appointed sound engineer Ted Dalton of Dalton Acoustics.

7. I, your deponent, aver that the at the end of the meeting Paul Bermingham requested that the illegal doorway and staircase that Andreas Bruggener Constructed in 2015 be removed and the party wall be restored to its original state as it was dangerous and did not comply with planning or have the benefit of planning permission.

8. I, your deponent, aver that Paul Bermingham discussed the damage that the staircase did to Creative Real Estates flat roof to which the staircase was attached.

9. I, your deponent, aver that this discussion of damage was immediately dismissed by Andreas Bruggener.

10. I, your deponent, aver that Andreas Bruggener claimed it was for fire purposes and that he had the permission of the previous owner. (Please see Appendix 1)

11. I, your deponent, aver that Andreas Bruggener stated that if he had to remove it, he would send a fire officer into the premises known as the Lamplighter Lounge (79 The Coombe/1 Brabazon Street Dublin 8) to inspect the building stating he knew a fire officer and stated there was no fire cert attached to the premises.

12. I, your deponent, aver that Andreas Bruggener stated he would not drop the objection to the licence transfer and application for the music and signing license. He also stated that he would object to future planning applications, future license applications, would get DCC Fire Brigade into inspect the premises unless we gave him the freehold of the piece of land that he erected his illegal staircase on.

13. I, your deponent, aver that when Paul Bermingham said to him "what if there was no sound problem and you had no grounds to object? You wouldn't be able to object?"

14. I, your deponent, aver that Andreas Bruggener responded that he would keep objecting to the pub licence and future planning applications unless we gave him the freehold piece of land his staircase was erected onto whether there was an actual problem or not.

15. I, your deponent, aver that Myself and Paul Bermingham declined this demand and finished the meeting.

16. I, your deponent, aver that this Affidavit is made for the benefit of
Creative Real Estate.

Sworn by the said Brendan Trears
in the County of Dublin, this 21 day of
January 2021 before me a Practising Solicitor
Commissioner for Oaths by the deponent,
who has been identified to me by the
production of Passport issued by the
authorities of Ireland. passport no. PD998795

Brendan Trears



Practising Solicitor

Lugh J. Ward & Co. Solicitors
9 Seville Place, Dublin 1,
Tel: 819 7010 Fax: 819 7660
Email: info@wardlawyers.eu
Website: www.wardlawyers.eu
DX 112010 Talbot Street.

AFFIDAVIT OF DECLAN BRADY

I Declan Brady of 30 Brookhaven Rise, Blanchardstown, Dublin 15 previous owner of 79 The Coombe & 1 Brabazon Street Dublin 8 from 1998 to 2017 and as operator of the ground floor pub trading as the Lamplighter during this period, aged 18 years and upwards **MAKE OATH** and say as follows:

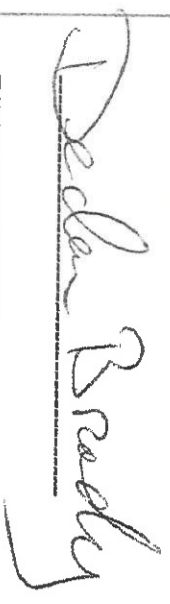
I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

1. I, your deponent, aver that the owner of No 2 Brabazon Street created an opening in our party wall and constructed a staircase on my roof without my consent or any planning permission in 2015.
2. I, your deponent, aver that I never gave permission for this.
3. I, your deponent, aver that the staircase was constructed without my consent over a weekend period.
4. I, your deponent, aver that when I approached him and asked him to remove it and repair the party wall he declined, and he said it was for fire purposes.

5. I, your deponent, aver that I was the owner of the above specified property from 1998 to 2017 and the person who was operating the above property during that time.

6. This Affidavit is made for the benefit of CREATIVE REAL ESTATE LTD.

Sworn by the said Declan Brady at 1 Main Street, Blanchardstown, Dublin 15 in the County of Dublin, this 12th day of October 2020 before me a Commissioner for Oaths by the deponent, who has been identified to me by the production of Public Services Card Number 426293383246 issued by the authorities of Ireland.



DECLAN BRADY



AUDREY HUGHES

Commissioner for Oaths

Audrey Hughes
Commissioner for Oaths
Doyle & Company
Solicitors
1 Main Street
Blanchardstown
Dublin 15
Phone 01-8200666

AFFIDAVIT OF BRENDAN TREARS

I BRENDAN TREARS, 15 The Heights Skerries Rock, Skerries Co Dublin, aged 18 years and upwards **MAKE OATH** and say as follows:

I, Brendan Treads,

make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

1. I, Brendan Treads, your deponent, aver that I am shareholder of Creative Real Estate Limited.

2. I, Brendan Treads, your deponent, aver that Creative Real Estate owns the property 79 The Coombe/1 Brabazon Street Dublin 8.

3. I, Brendan Treads, your deponent, aver that I viewed 79 The Coombe Dublin 8 / 1 Brabazon Street Dublin 8 numerous times in the years 2015, 2016 & 2017.

4. I, Brendan Treads, your deponent, aver that the 1st and 2nd floor ancillary accommodation above the Public House at 79 The Coombe Dublin 8 / 1 Brabazon Street Dublin 8 was in use as short-term letting and occupied during these inspections.

5. I, Brendan Trears, your deponent, aver that the 1st and 2nd floor ancillary accommodation was in a habitable condition during my inspections in 2015, 2016 & 2017.

6. I, Brendan Trears, your deponent, aver that the 1st and 2nd floor ancillary accommodation was in a habitable condition when Creative Real Estate Limited purchased the building on the 12th of May 2017.

7. I, Brendan Trears, your deponent, aver that the 1st and 2nd floor ancillary accommodation was used by up to 11 people during my inspections, on the 1st floor had one large bedroom which accommodated 3 people, the 2nd floor had 4 Rooms which each had 2 people in them. There was a shared shower room and separate toilet on the 2nd floor, communal kitchen and sitting room on the 1st floor.

8. I, Brendan Trears, your deponent, aver that on the 12th of May 2017 Creative Real Estate purchased vacant possession of the entire building located at 79 The Coombe Dublin 8 / 1 Brabazon Street Dublin 8.

9. I, Brendan Trears, your deponent, aver that this Affidavit is made for the benefit of Creative Real Estate.

Sworn by the said Brendan Trears
in the County of Dublin, this 10th day of
MARCH 2021 before me a
Commissioner for Oaths by the deponent,
who has been identified to me by the
production of Passport issued by the
authorities of Ireland.



Brendan Trears



Audrey Hughes
Commissioner for Oaths
Doyle & Company LLP
Solicitors
1 Main Street
Blanchardstown
Dublin 15
Phone 01-8200666

AFFIDAVIT OF PAUL BIRMINGHAM

I Paul Birmingham, 30 Rokeby Park, Lucan, Co Dublin, aged 18 years and upwards **MAKE OATH** and say as follows:

I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

1. I, your deponent, aver that I am shareholder of Creative Real Estate Limited.
2. I, your deponent, aver that Creative Real Estate owns the property 79 The Coombe/1 Brabazon Street Dublin 8.
3. I, your deponent, aver that I attended a meeting with Brendan Trears of Creative Real Estate, Andreas Bruggener and Alexander Bruggener both of No 2 Brabazon Street Dublin 8 on Sunday the 29th of October 2017 at 6pm.
4. I, your deponent, aver that the above meeting was held at 79 The Coombe Dublin 8 in the premises known as the Lamplighter Lounge in the former rear bar area.
5. I, your deponent, aver that the sole purpose of this meeting was to discuss soundproofing and noise nuisance problems that Andreas Bruggener and

Alexander Bruggener stated they were having in the property No 2
Brabazon Street Dublin 8.

6. I, your deponent, aver that the during this meeting Brendan Trears
discussed various soundproofing measures that Creative Real Estate were
implementing under the supervision of Creative Real Estates sound
engineer Ted Dalton of Dalton Acoustics.

7. I, your deponent, aver that the at the end of the meeting I requested that
the illegal doorway and staircase that Andreas Bruggener constructed in
2015 be removed and the party wall be restored to its original state as it
was dangerous and did not comply with planning or have the benefit of
planning permission.

8. I, your deponent, aver that I discussed the damage that the staircase did
to Creative Real Estates flat roof to which the staircase was attached.

9. I, your deponent, aver that this discussion of damage was immediately
dismissed by Andreas Bruggener.

10. I, your deponent, aver that Andreas Bruggener claimed it was for fire
purposes and that he had the permission of the previous owner. (Please
see Appendix 1)

11. I, your deponent, aver that Andreas Bruggener stated that if he had to remove it, he would send a fire officer into the premises known as the Lamplighter Lounge (79 The Coombe/1 Brabazon Street Dublin 8) to inspect the building stating he knew a fire officer and stated there was no fire cert attached to the premises.

12. I, your deponent, aver that Andreas Bruggener stated he would not drop the objection to the licence transfer and application for the music and signing license. He also stated that he would object to future planning applications, future license applications, would get DCC Fire Brigade into inspect the premises unless we gave him the freehold of the piece of land that he erected his illegal staircase on.

13. I, your deponent, aver that when I said to him "what if there was no sound problem and you had no grounds to object? You wouldn't be able to object!"

14. I, your deponent, aver that Andreas Bruggener responded that he would keep objecting to the pub licence and future planning applications unless we gave him the freehold piece of land his staircase was erected onto whether there was an actual problem or not.

15. I, your deponent, aver that Myself and Brendan Trears both declined this demand and finished the meeting.


16. I, your deponent, aver that this Affidavit is made for the benefit of
Creative Real Estate.

Sworn by the said Paul Bermingham


in the County of Dublin, this 21 day of

January 2021 before me a Practising Solicitor
~~Commissioner for Oaths~~ by the deponent,

who has been identified to me by the
production of Passport issued by the
authorities of Ireland. Passport no. P03241583



Paul Bermingham



Practising Solicitor

Hugh J. Ward & Co. Solicitors
9 Seville Place, Dublin 1
Tel: 819 7010 Fax: 819 7660
Email: info@wardlawyers.eu
Website: www.wardlawyers.eu
DX 112010 Talbot Street

AFFIDAVIT OF DECLAN BRADY

I Declan Brady of 30 Brookhaven Rise, Blanchardstown, Dublin 15 previous owner of 79 The Coombe & 1 Brabazon Street Dublin 8 from 1998 to 2017 and as operator of the ground floor pub trading as the Lamplighter during this period, aged 18 years and upwards **MAKE OATH** and say as follows:

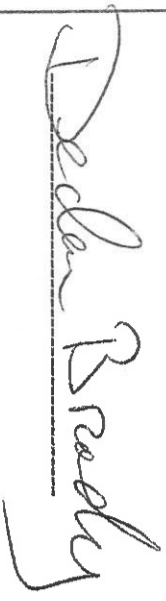
I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

1. I, your deponent, aver that the owner of No 2 Brabazon Street created an opening in our party wall and constructed a staircase on my roof without my consent or any planning permission in 2015.
2. I, your deponent, aver that I never gave permission for this.
3. I, your deponent, aver that the staircase was constructed without my consent over a weekend period.
4. I, your deponent, aver that when I approached him and asked him to remove it and repair the party wall he declined, and he said it was for fire purposes.


5. I, your deponent, aver that that I was the owner of the above specified property from 1998 to 2017 and the person who was operating the above property during that time.

6. This Affidavit is made for the benefit of CREATIVE REAL ESTATE LTD.

Sworn by the said Declan Brady at 1 Main Street, Blanchardstown, Dublin 15 in the County of Dublin, this 12th day of October 2020 before me a Commissioner for Oaths by the deponent, who has been identified to me by the production of Public Services Card Number 426293383246 issued by the authorities of Ireland.



DECLAN BRADY



AUDREY HUGHES

Commissioner for Oaths

Audrey Hughes
Commissioner for Oaths
Doyle & Company
Solicitors
1 Main Street
Blanchardstown
Dublin 15
Phone 01-8220666

AFFIDAVIT OF BRENDAN JOHNSTON

I BRENDAN JOHNSTON, of H2B Architects, 20 Moyview, Kildakey, Co Meath, aged 18 years and upwards **MAKE OATH** and say as follows:

I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

1. I, your deponent, aver that I made an error in the classification of the upstairs accommodation in the application to Dublin City Council dated the 6th April 2018 with application number 2676/18.

2. I, your deponent, aver that I incorrectly classified the accommodation as private residence when it should have stated residential accommodation. I can confirm that the residential accommodation was not the principal private residence of the owner.

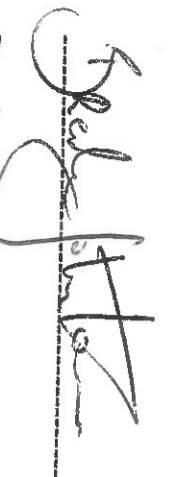
3. I, your deponent, aver that the accommodation was set out as shared accommodation, was used by 11 people during my inspection, on the 1st floor there was one large bedroom which accommodated 3 people marked incorrectly as lounge in my floor plans, the 2nd floor had 4 Rooms which each had 2 people in them. There was a shared shower room and separate toilet on the 2nd floor, communal kitchen and sitting room on the 1st floor. The roof to the rear of the 1st floor was also being used as a roof garden for

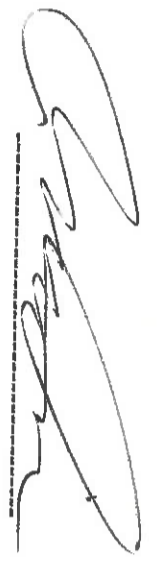
drying clothes and as a general outside space for dining and general relaxation.

4. This Affidavit is made for the benefit of Creative Real Estate.

Sworn by the said Brendan Johnston
in the County of Dublin, this 16th day of
October 2020 before me a FRANCIS SULLIVAN
~~Commissioner for~~

FR Oaths by the deponent, who has been
identified to me by the production of
Passport issued by the authorities of
Ireland. PV 3685325


Brendan Johnston



Commissioner for Oaths

David Sullivan

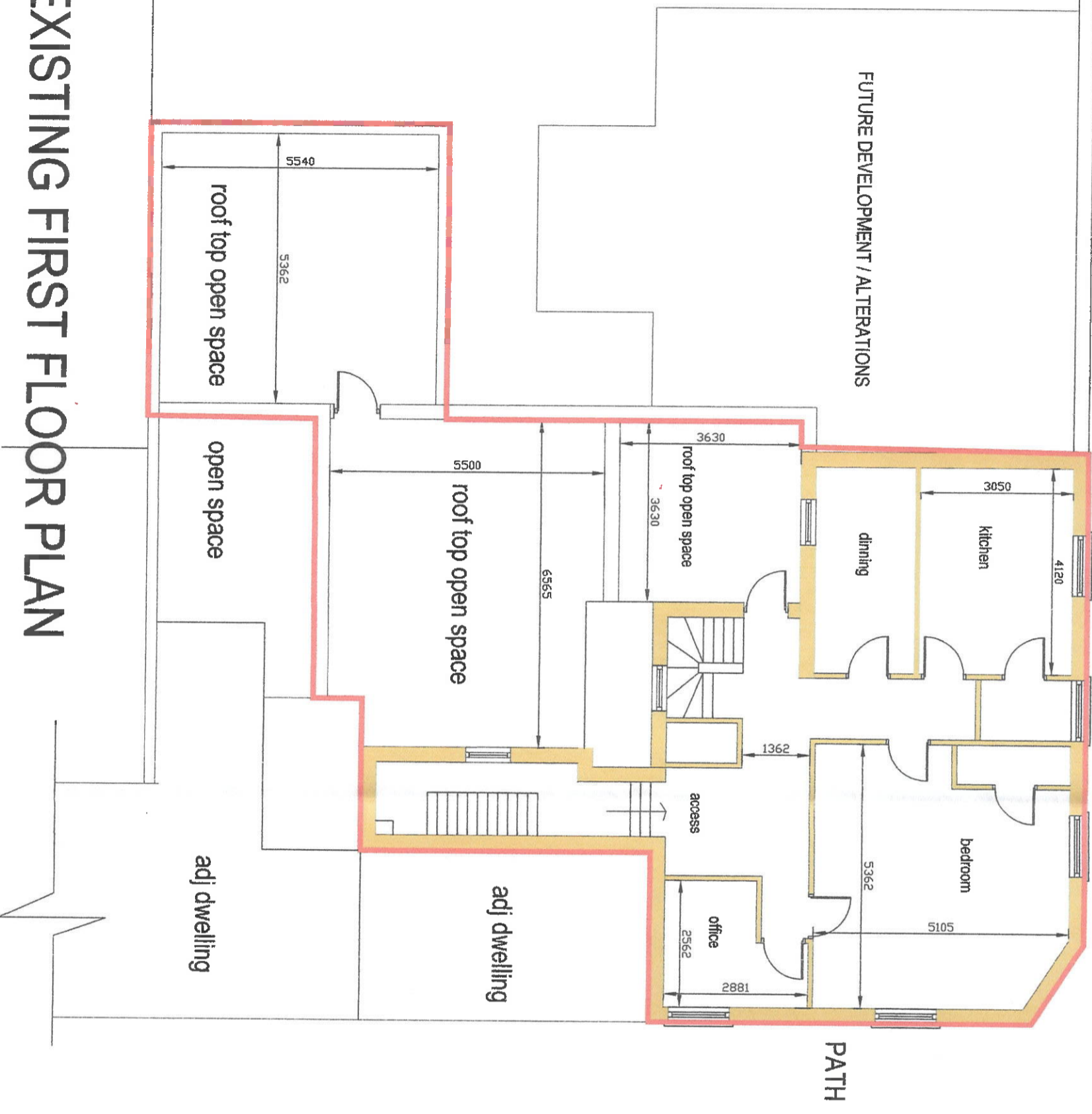
Francis Sullivan

KILLEEN

SOLICITORS
COMMISSIONER FOR OATHS
14 MOUNTJOY SQUARE, DUBLIN 1
Telephone: 855 5587 / 855 5197 (3 lines)
Telefax: 855 4031

PATH

EXISTING FIRST FLOOR PLAN



PATH

PLANNING DRAWING

NOTE
 ALL DIMENSIONS, HEIGHTS, AREAS, LEVELS AND CONSTRUCTIONAL DETAILS
 SHALL BE AS SHOWN ON THIS DRAWING UNLESS OTHERWISE SPECIFIED.
 THE DRAWING SHALL BE SUBJECT TO THE CURRENT REGULATIONS AND STANDARDS
 OF THE LOCAL AUTHORITY AND THE NATIONAL CONSTRUCTION MANUAL.
 THE DRAWING SHALL BE SUBJECT TO THE CURRENT REGULATIONS AND STANDARDS
 OF THE LOCAL AUTHORITY AND THE NATIONAL CONSTRUCTION MANUAL.

PLANNING PERMISSION DRAWING ONLY
 ALL WORK SHALL COMPLY WITH 1997, 2000 & 2002 BUILDING
 REGULATIONS AND STANDARD CONSTRUCTIONAL
 DETAILING TO BE AS HOMEROND HOUSE BUILDING MANUAL.

H2B 20 MOY VIEW KILDALKEY CO. DUBLIN		tel: 01 4030922 / 087 1326871	
project number:	2018-13	date:	15/11/2017
drawing number:	2018-13-1B	scale:	1:100
designed by:	JACKIE QUINN	size:	A3
checked by:	BRENDAN JOHNSTON		

EXISTING PLAN

PLANNING DRAWINGS ONLY

AFFIDAVIT OF DECLAN BRADY

I Declan Brady, of 30 Brookhaven Rise, Blanchardstown, Dublin 15, previous owner of 79 The Coombe & 1 Brabazon Street Dublin 8 from 1998 to 2017 and as operator of the ground floor pub trading as the Lamplighter during this period, aged 18 years and upwards **MAKE OATH** and say as follows:

I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

1. I, your deponent, aver that the upper floors of the building were used as residential accommodation on a short-term and long-term basis during my ownership and by the previous owners.
2. I, your deponent, aver that the ancillary accommodation was used by up to 11 people during my ownership and by the previous owner.
3. I, your deponent, aver that on the 1st floor I had one large bedroom which accommodated 3 people and on the 2nd floor I had four rooms which each had 2 people in them.
4. I, your deponent, aver that there was a shared shower room and separate toilet on the 2nd floor, communal kitchen and sitting room on the 1st floor.
5. I, your deponent, aver that the roof to the rear of the 1st floor was also used as a roof garden for drying clothes and as a general outside space for dining and general relaxation.
6. I, your deponent, aver that the guests or tenants I would have had over the years were bar staff, students and visitors to Dublin city from UK or the Country.


7. I, your deponent, aver that this property was never used as my Principal Private Residence during my ownership and I believe the same for the previous owner.

8. I, your deponent, aver that during my ownership I resided at my house in Harold's Cross Dublin 6 which was my Principal Private Residence.

9. I, your deponent, aver that that I was the owner of the above specified property from 1998 to 2017 and the person who was operating the above property during that time.

10. This Affidavit is made for the benefit of CREATIVE REAL ESTATE LTD.

Sworn by the said Declan Brady at 1 Main Street, Blanchardstown, Dublin 15 in the County of Dublin, this 12th day of October 2020 before me a Commissioner for Oaths by the deponent, who has been identified to me by the production of Public Services Card Number 426293383246 issued by the authorities of Ireland.



DECLAN BRADY



AUDREY HUGHES
Commissioner for Oaths

Audrey Hughes
Commissioner for Oaths
Doyle & Company
Solicitors
1 Main Street
Blanchardstown
Dublin 15
Phone 01-8200666

AFFIDAVIT OF GREG CRAWFORD

I Greg Crawford, of 25 Talbot Downs, Castleknock, Dublin 15, aged 18 years and upwards **MAKE OATH** and say as follows:

I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

1. I, your deponent, aver that I worked as a barman and caretaker of the upstairs accommodation in the Lamplighter Pub at 79 The Coombe Dublin 8 / 1 Brabazon Street Dublin 8 during the mid-90's, I worked for the owner Brendan Dunne who owned the premises at the time.

2. I, your deponent, aver that I stayed above the lamplighter pub throughout the mid-90's, I would stay there during my college term and occasionally for periods during the summer months.

3. I, your deponent, aver that I shared the accommodation with usually up to 10 other people during my time. The guests and tenants were usually a mix of students, staff, lads up working from the country and tourists. The accommodation was laid out as shared accommodation with shared kitchen, dining, toilet facilities and a general outside roof garden area.

4. This Affidavit is made for the benefit of Creative Real Estate.

Sworn by the said
Greg Crawford
in the County of Dublin, this 18 day of
November 2020 before me a

Commissioner for Oaths by the deponent,
who has been identified to me by the
production of Passport issued by the
authorities of Ireland.

Greg Crawford

Greg Crawford

Audrey Hughes

Commissioner for Oaths

Audrey Hughes
Commissioner for Oaths
Doyle & Company
Solicitors
1 Main Street
Blanchardstown
Dublin 15
Phone 01-8200666

AFFIDAVIT OF STEPHEN MCNAMEE

I, Stephen McNamee of 3 Gullistan Cottages, Rathmines, Dublin 6, aged 18 years and upwards **MAKE OATH** and say as follows:

I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

~~S McNamee~~ *STEPHEN McNamee*

1. I, your deponent, aver that I stayed on a short term basis at above the Lamplighter Public House 79 The Coombe Dublin 8 / 1 Brabazon Street Dublin 8 when working in Dublin from the period of 2008 to 2018. I would use the accommodation frequently for periods up to one month.

~~S McNamee~~ *Stephen McNamee*

2. I, your deponent, aver that the accommodation was set out as shared accommodation, was used by 11 people during my stays, on the 1st floor there was one large bedroom which accommodated 3 people, the 2nd floor had 4 Rooms which each had 2 people in them. There was a shared shower room and separate toilet on the 2nd floor, communal kitchen and sitting room on the 1st floor. The roof to the rear of the 1st floor was also used as a roof garden for drying clothes and as a general outside space for dining and general relaxation.

3. This Affidavit is made for the benefit of Creative Real Estate.

Sworn by the said Stephen McNamane
in the County of Dublin, this 4 day of
March 2021 before me a Commissioner for
Oaths by the deponent, who has been
identified to me by the production of
Drivers Licence issued by the authorities of
Ireland.



Stephen McNamane



COMMISSIONER FOR OATHS
15 GAILLARD STREET, DUBLIN
CLAREMONT

Commissioner for Oaths

AFFIDAVIT OF CIARAN GREENE

I, Ciaran Greene of 3 Grove Park, Rathmines, Dublin 6, aged 18 years and upwards **MAKE OATH** and say as follows:

I, Ciaran Greene make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

1. I, Ciaran Greene, your deponent, aver that I occupied a room in the upstairs accommodation at the premises at 79 The Coombe Dublin 8 / 1 Brabazon Street Dublin 8 from the 12th May 2017 until 1st March 2018.

2. I, Ciaran Greene, your deponent, aver that the accommodation was set out as shared accommodation, was used by 11 people during my time at the property, on the 1st floor there was one large bedroom which accommodated 3 people, the 2nd floor had 4 Rooms which each had 2 people in them. There was a shared shower room and separate toilet on the 2nd floor, communal kitchen and sitting room on the 1st floor. The roof to the rear of the 1st floor was also used as a roof garden for drying clothes and as a general outside space for dining and general relaxation.

3. This Affidavit is made for the benefit of Creative Real Estate.

Sworn by the said Ciaran Greene
in the County of Dublin, this 10th day of
March 2021 before me a Commissioner for
Oaths by the deponent, who has been
identified to me by the production of DKWing
Uence
~~Passport~~ issued by the authorities of
Ireland.

Ciaran Greene

Ciaran Greene

Audrey Hughes

Commissioner for Oaths
Audrey Hughes
Commissioner for Oaths
Doyle & Company LLP
Solicitors
1 Main Street
Blanchardstown
Dublin 15
Phone 01-8200666

AFFIDAVIT OF NEIL BRADY

I, Neil Brady of 19 Collegewood, Castleknock, Dublin 15, aged 18 years and upwards **MAKE OATH** and say as follows:

I, Neil Brady make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

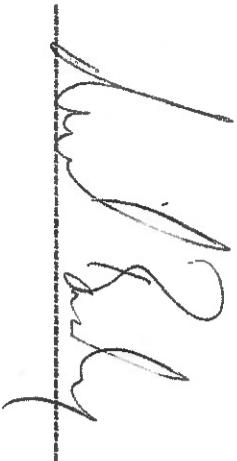
1. I, Neil Brady, your deponent, aver that I inspected the Lamplighter Pub and ancillary accommodation at 79 The Coombe Dublin 8 / 1 Brabazon Street Dublin 8 on the 28th of April 2017 for the purposes of providing an insurance quote for Brendan Trears who was purchasing the property.

2. I, Neil Brady, your deponent, aver that property at ground floor was in use as a Public House and the 1st and 2nd floors were laid out as residential accommodation which was in a habitable condition.

3. I, Neil Brady, your deponent, aver that the accommodation was set out as follows on the 1st floor there was one large bedroom which could accommodate 3 people, the 2nd floor had 4 large rooms which each could accommodate 2 people in them. There was a shared shower room and separate toilet on the 2nd floor, communal kitchen and sitting room on the 1st floor. This Affidavit is made for the benefit of Creative Real Estate.

4. This Affidavit is made for the benefit of Creative Real Estate.

Sworn by the said Neil Brady
in the County of Dublin, this 10th day of
March 2021 before me a Commissioner for
Oaths by the deponent, who has been
identified to me by the production of
Passport issued by the authorities of
Ireland.



Neil Brady



Commissioner for Oaths

Audrey Hughes
Commissioner for Oaths
Doyle & Company LLP
Solicitors
1 Main Street
Blanchardstown
Dublin 15
Phone 01-8200666

AFFIDAVIT OF GARY HORAN

I, Gary Horan of 59 Norfolk Road, Phibsborough, Dublin 7, aged 18 years and upwards **MAKE OATH** and say as follows:

I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears believe same to be true.

1. I, your deponent, aver that I qualified carpenter with over 20 years' experience.
2. I, your deponent, aver that I inspected the premises at 79 The Coombe Dublin 8 / 1 Brabazon Street Dublin 8 on the 18th August 2016 at the request of Brendan Trears who was purchasing the property.
3. I, your deponent, aver that property at ground floor was in use as a Public House and the 1st and 2nd floors were in use as residential accommodation which was in a habitable condition and was occupied by tenants / guests at the time of inspection.
4. I, your deponent, aver that the accommodation was set out as follows on the 1st floor there was one large bedroom which could accommodate 3 people, the 2nd floor had 4 large rooms which each could accommodate 2


people in them. There was a shared shower room and separate toilet on the 2nd floor, communal kitchen and sitting room on the 1st floor.

5. This Affidavit is made for the benefit of Creative Real Estate.

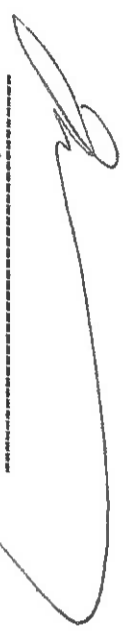
Sworn by the said Gary Horan

in the County of Dublin, this 9th day of September 2021 before me a Commissioner for

Oaths by the deponent, who has been identified to me by the production of Passport issued by the authorities of Ireland.



Gary Horan



Commissioner for Oaths

Thomas M. Rowley
Solicitor

Rowley Law Solicitors
56 Main Street
Rathfarnham
Dublin 14

Appendix 1
NB Report.

PUBLICHOUSE SUBMISSION

The Lamplighter Pub



Proposers Details

Insured: Weavers Taverns Ltd t/a The Lamplighter Pub

Address: 79 The Coombe Dublin 8.

Business Description: Public House.

Building/Security Information: 3 storey terrace with basement. Is approximately 100yrs +. It is of standard construction with timber flooring the section to the rear of the property where the toilets are located has a flat roof. Our client occupies the basement, ground floor. The 2nd/3rd floor are currently unoccupied but are listed for residential use the plan is to rent these units to private individuals immediately. The fire & security alarm are serviced and monitored there are fire blankets and extinguishers throughout the property, all windows on ground floor have shutters or steel bars and the main door is very secure with multiple Chubb locking systems. There are 4 CCTV cameras in operation through the pub floor the property also illuminated and sign posted exits a documented cleaning system is in place for the toilets and rest of the bar. The property is currently underwritten by Lloyds Syndicare 1991.

General Information: The bar is in the process of being purchased and the new owner (Brendan Treas) has vast experience of running pubs in both the UK and Ireland he will work on site himself and is retaining existing staff. Opening hours are 10:30hrs to 23:30hrs Monday to Thursday extending to 12:30hrs Friday/Saturday and 23:00hrs Sunday. Age range of clientele is 35 yrs to 60yrs made up mostly of what would be described as regulars. There are no restaurant facilities.

Appendix 1
NB report

Material Damage All Risks Section

[REDACTED]

Business Interruption Section

[REDACTED]

Money Section

[REDACTED]

Employers Liability Section

[REDACTED]

Public Liability Section

[REDACTED]

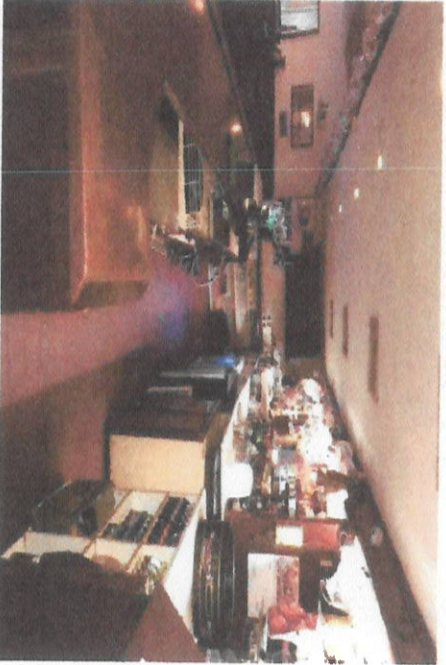
Claims History

[REDACTED]

Additional Photos Below

Appendix 1
NB Report.

Additional Photos Below



LOCKTON COMPANIES LLP (DUBLIN BRANCH)
Mellanham House, 55 Great Strand Street Dublin 1
Tel: (W) 353 1 8585 200 / Fax: (W) 353 1 8585 226
www.lockton.com

Registered in England & Wales at The St. Botolph Building, 138 Houndsditch, London EC3A 7UG. Company number: 1211675
Authorised and regulated by the Financial Services Authority and the Irish Revenue.

