

An Bord Pleanála,
54 Marlborough St, Rotunda,
Dublin 1,
D01 V902

LDS:	041899-21	
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22 JUL 2021		
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Geert Jan Huysmans & Maria Pilar Duncan
64 Merton Drive,
Ranleagh,
Dublin 6
D06 A0X7

22 July 2021

**DUBLIN CITY COUNCIL - SECTION 5 DECLARATION - APPLICATION NUMBER
0208/21 - APPEAL**

Dear Sir/Madam,

We refer to the above and hereby lodge an appeal against Dublin City Council's decision to declare the two new Velux balconies at 25 Mountainview Road, as exempted development, under Section 5 of the Planning and Development Act, 2000 (as amended). We attach a copy of Dublin City Council's decision ("**Appendix A**"), which is the subject of this present submission, along with a cheque in respect of the An Bord Pleanála's fees for referral requests. We attach a site location map with number 25 Mountainview Road outlined in red ("**Appendix B**").

[Please note that Dublin City Council made an error in their letter dated 30 June 2021, by referring to '**28 Mountainview Road**' at the 'proposal' section, instead of 25 Mountainview Road (highlighted in Appendix A). We contacted Dublin City Council and they rectified the letter on the 21 July 2021 (please see the original and updated letter attached at Appendix A.)

On 4 September 2019, we objected to the Planning Application Reference No. 3679/19, lodged by 25 Mountainview Road, seeking planning permission for '*the construction of a dormer window with balcony and provision of a new roof window to the existing rear roof slope of the existing rear roof slope of the existing dwelling*' at 25 Mountainview Road (see our objection letter at "**Appendix C**"). Permission was granted by Dublin City Council, subject to certain conditions and we subsequently appealed the decision to An Bord Pleanála. An Bord Pleanála refused to grant the planning permission (see An Bord Pleanála decision letter [Case Number ABP-305704-19] at "**Appendix D**") on the following grounds:

'The site of the proposed development is located in a residential conservation area designated by zoning objective Z2 of the Dublin City Development Plan 2016-2022. The proposed development would be out of keeping with the architectural character of the house and as such would contravene policy CHC4 of the development plan which seeks "to protect the special interest and character of residential conservation areas", as well as the guidance on roof extensions at appendix 17.11 to the plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.'

On the 6th January 2020, the applicant of 25 Mountainview Road, lodged a Section 5 Declaration to request whether planning permission was required for the following works to:

1. *Increase size of the existing 4 windows on rear façade;*
2. *Increase size of one existing roof velux on rear roof; and*
3. *Add two velux to rear roof.* (These ‘Velux’ described in the Section 5 proposal were in fact two **Velux balconies**, but were incorrectly and misleadingly described on the Section 5 application lodged with Dublin City Council, as just two ‘Velux’. The specification numbers ‘*GDL SKI9 SDOW1*’ of the two Velux windows, were **omitted** from the Section 5 application that was lodged with Dublin City Council. As a result, the Section 5 application was an inaccurate and misleading representation of the proposed development to be carried out at 25 Mountainview Road. Architectural drawings were lodged with the Section 5 application (“Appendix E”). The Section 5 application and the architectural drawings were **not** made available on the Dublin City Council’s website. The Section 5 application, lodged with Dublin City Council, described the development as two ‘Velux’ and did **NOT** include the essential specification numbers *GDL SKI9 SDOW1*, which determine that these windows are in fact two balconies. There was a discrepancy between the information on the Section 5 application and the architectural drawings lodged with Dublin City Council. The omission of the crucial specification numbers *GDL SKI9 SDOW1*, on the Section 5 application, was entirely misleading. The discrepancy between the information on the Section 5 application and the architectural drawings, combined with the lack of availability of the Section 5 application and drawings online, resulted in a breach of our right to fair procedures. The omission of information and lack of transparency has had a detrimental impact on our opportunity to make a fair and informed appeal of the Section 5 application lodged by the applicant. Our right to fair procedures in this process has been unfairly violated. We raised this issue with Dublin City Council enforcement and the planning enforcement officer was unsure why the architectural plans had not been published online. These architectural plans (“Appendix E”) were drawn to convey two Velux windows and **NOT** two Velux balconies. The architectural plans also failed to show drawings of the two Velux balconies, opened out at a 90 degree angles which was misleading.

See Dublin City Council Planners Report at “Appendix F”

On the 24 January 2021, Dublin City Council issued a split decision (permission and refusal) (“Appendix G”):

1. The works to add two rear rooflights (Velux windows) were declared as exempt development (These Velux windows are in fact two intrusive Velux balconies, but the crucial specification number *GDL SKI9 SDOW1* was not included on Dublin City Council’s decision letter issued online on 24 January 2020. As a result, the decision was inaccurate and misleading and stated that an exemption was granted for two ‘Velux windows’, when in fact an exemption was being granted for two Velux balconies, specification number *GDL SKI9 SDOW1*. This was not made clear on Dublin City Council’s decision letter or on the original Section 5 application lodged by the applicant at 25 Mountainview Road. Dublin City Council did not include the crucial specification number on the letter, which would have enabled us to verify what type of windows were being installed on the roof of 25 Mountainview Road and would have enabled us to make a fair and informed appeal of the decision to An Bord Pleanála within the timeframe.

2. The works to enlarge the windows on the first floor were declared as non-exempt development **(Despite Dublin City Council's decision to declare the enlargement of the windows as non-exempt, the first floor windows at 25 Mountainview Road have been enlarged contrary to this decision and remain enlarged to date (see photograph at "Appendix G"))**

The two Velux balconies were installed on the roof of 25 Mountainview Road, a number of months after Dublin City Council issued their decision on the 24 January 2020 (see photographs at "**Appendix I**"). This delay disguised the fact that two Velux balconies were being installed on the roof of 25 Mountainview Road until our opportunity to appeal the decision to An Bord Pleanála, within 4 weeks, had expired. Once any opportunity to appeal the decision had passed, the two Velux balconies were installed.

Due to the misleading description of the proposed development in the Section 5 application and Dublin City Council's decision dated 24 January 2020, which described the two Velux balconies as 'Velux windows' and omitted the specification number which identified the type of balconies being installed, we had to lodge our own Section 5 application with Dublin City Council, in respect of the development at 25 Mountainview Road.

By referring to the development as 'Velux windows' rather than Velux balconies and **omitting** the crucial specification number GDL SKI9 SDOW1, which shows that the Velux windows are in fact two Velux balconies, the Section 5 application and Dublin City Councils decision issued online, was misleading and in breach of our constitutional right to fair procedures. The omission of the specification numbers of the Velux balconies on the documentation and the lack of transparency of the section 5 application and architectural drawings on the Dublin City Council website, have had a detrimental impact on our right to appeal this application. As a result of the misleading documentation, we were denied a fair opportunity to appeal the decision.

We lodged numerous complaints to Dublin City Council following the installation of the two Velux balconies. The enforcement officer at Dublin City Council, carried out a site inspection at 25 Mountainview Road and subsequently closed the file on ambiguous grounds (see correspondence from Dublin City Council at "**Appendix J**"). We had numerous phone calls with the Enforcement Officer at Dublin City Council, who admitted the specification numbers of the Velux windows may not have been checked by the planning officer examining this Section 5 application and said there may have been a mistake made in granting the exemption, but that Dublin City Council could not withdraw their decision.

We outline below, our grounds for appealing Dublin City Councils decision.

Velux balconies - negative impact

Breach of privacy

The installation of two new roof balconies on 25 Mountainview Road has had a detrimental impact on our family's right to privacy and our marital right to privacy in our home at 64 Merton Drive, Ranelagh Dublin 6. The two balconies act as watchtowers and provide 25 Mountainview Road with a highly intrusive view into the master bedroom and garden of our property (see photographs at "**Appendix I**"). As a family, we frequently use our garden for eating outside, family gatherings, study, sunbathing, gardening etc. The two Velux balconies open out to become two 90 degree viewing platforms (see photographs at "**Appendix I**") which detrimentally violate our right to the private and quiet enjoyment of our property and our personal and family right to privacy. We can no longer use our master bedroom without our privacy being invaded and without being intrusively overlooked. This development has resulted in the loss of our long standing right to privacy, which we enjoyed in our property, for more than 25 years.

Architectural impact

The properties on Mountainview Road are Victorian in style and have a special architectural character that is worthy of protection. One of the main characteristics of a Victorian house is their exceptionally high ceilings, which makes these dwellings much higher than modern properties. Due to this feature, the two Velux balconies are positioned at an exceptionally high level which excessively overlooks and encroaches on our property and privacy. Furthermore, roof balconies are **not** a feature of Victorian properties and the development negatively impacts the architectural design of the property at 25 Mountainview Road. The two roof balconies are incongruous and completely out of character with the surrounding properties.

Another feature of the Victorian architecture at No. 25 Mountainview Road, is the small townhouse garden. As a result, 25 Mountainview Road is in close proximity to our property at 64 Merton Drive, thus compounding the intrusion of these two balconies.

Residential Conservation Area

The properties on Mountainview Road are a residential conservation area designated by zoning objective Z2 of the Dublin City Development Plan 2016-2022, which states that '*the general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.*' The two balconies on the roof of 25 Mountainview Road are unsuitable developments as they have a negative impact on the architectural quality of the area. The two balconies look totally out of character on the roof of this Victorian property. The balconies are incongruous and injure the overall architectural design of the property. No other residential property on Mountainview road has roof balconies and they are inconsistent with the overall design of similar properties on the street.

On 20 December 2019, An Bord Pleanála refused permission for the construction of a dormer window with balcony (Juliette balcony) on the following grounds - '*The site of the proposed development is located in a residential conservation area designated by zoning objective Z2 of the Dublin City Development Plan 2016-2022. The proposed development would be out of keeping with the architectural character of the house and as such would contravene policy CHC4 of the development plan which seeks*

“to protect the special interest and character of residential conservation areas”, as well as the guidance on roof extensions at appendix 17.11 to the plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.’

The two Velux windows have now been installed on the roof of 25 Mountainview Road, in place of the Juliette balcony and dormer window which was previously denied permission by An Bord Pleanála.

External appearance of the two balconies

The installation of two roof balconies was declared by Dublin City Council, as non-exempt development under *Section 4(1)(h) Planning and Development Act 2000 (as amended)*. Section 4(1)(h) states that the *‘Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures’*. The two Velux balconies which open out at a 90 degree angle, materially affect the external appearance of the structure at 25 Mountainview Road and renders the appearance completely inconsistent with the character of the structure or of neighbouring structures, contrary to Section 4(1)(h) *Planning and Development Act 2000 (as amended)* (see photographs at “**Appendix I**”).

Architecturally inappropriate

Balconies are a common feature of dwellings located on the continent, where they often overlook a communal area/ garden. The two Velux balconies seriously overlook our property and are an unacceptable invasion of our family’s right to privacy. Our garden at 64 Merton Drive, Ranelagh is a valued and private green space, it is not a communal garden or public green space to be overlooked by neighbouring properties. There is a small proximity between the dwelling at 25 Mountainview Road and the wall of their garden. As a result, the disproportionately high and overlooking balconies, provide an intrusive view over a large proportion of our garden, to a greater extent than their own.

Storage room

Balconies are an architectural feature which serve to enlarge the living space and range of activities possible in a dwelling without a garden or lawn. The architectural plans for the development at 25 Mountainview Road, clearly convey that the attic would be used as a ‘storage room’ (see “**Appendix K**” and architectural plans available at <https://planning.agileapplications.ie/dublincity>). The installation of two Velux balconies are **not** necessary for the purposes of a storage room and would suggest that this room will not be used as a storage room.

Breach of our right to fair procedures

The Section 5 application and the architectural plans, from Arnold Leahy Architects, were not made available for public view on the Dublin City Council website. The Section 5 application lodged by the applicant, referred to ‘two velux’ and did not provide a specification number or mention the fact that they were Velux balconies. Dublin City Council issued a decision letter on 24 January 2020, which states ‘the works to add two rear rooflights (**Velux windows**) are development and are exempted development’. This decision letter omitted the specification numbers *GDL SKI9 SDOW1*

which indicate that these windows are in fact two Velux balconies and did not indicate that the exemption was for Velux balconies. This omission denied us the opportunity to make a fair and informed appeal against Dublin City Council's decision.

I refer your attention to the photographs of the development at 25 Mountainview Road ("Appendix I") which convey the highly intrusive nature of these overbearing balconies and show the detrimental impact this development is having on our family's right to privacy in our property and our personal right to privacy in our home and our daily lives.

We would be grateful if An Bord Pleanála could please consider our grounds for appeal which we have set out in this letter.

Please contact the undersigned should you have any queries regarding this Section 5 referral.

Yours faithfully



Geert Jan Huysmans



Maria Pilar Duncan

“Appendices A -K”

Application - *Dublin City Council - Section 5 Declaration - Application number 0208/21 - Appeal*

Applicants - *Geert Jan Huysmans & Maria Pilar Duncan*

21-Jul-2021

Geert Jan huysmans & Maria Pilar Duncan
64, Merton Drive
Ranelagh
Dublin 6

Application Number	0208/21
Application Type	Section 5
Registration Date	04-Jun-2021
Decision Date	29-Jun-2021
Decision Order No.	P4028
Location	25, Mountain View Road, Ranelagh, Dublin 6
Proposal	EXPP; Whether the 2 new velux balconies installed on 25 Mountain View Road, are considered development (ie. non-exempt Development)
Applicant	Geert Jan huysmans & Maria Pilar Duncan

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

Note:

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

NOTIFICATION OF DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

In pursuance of its functions under the Planning & Development Acts 2000 (as amended), Dublin City Council has by order dated 29-Jun-2021 decided to issue a Declaration that the above proposed development is EXEMPT from the requirement to obtain planning permission under Section 32 of the Planning & Development Acts 2000 (as amended).

Reasons & Considerations:

The following works are considered to be Exempted Development

The 2 no. roof lights (Velux windows) are development and are exempted development under Section 4 (1) (h) of the Planning and Development Acts, 2000 (as amended).

Signed on behalf of Dublin City Council

for Administrative Officer

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

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

T: (01) 222 2288

E. decisions@dublincity.ie

21-Jul-2021

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

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Dublin City Council, Civic Offices, Wood Quay, Dublin 8.**

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21-Jul-2021



30-Jun-2021

Geert Jan huysmans & Maria Pilar Duncan
64, Merton Drive
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Dublin 6

Application Number	0208/21
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Decision Date	29-Jun-2021
Decision Order No.	P4028
Location	25, Mountain View Road, Ranelagh, Dublin 6
Proposal	EXPP; Whether the 2 new velux balconies installed on 28 Mountain View Road, are considered development (ie. non-exempt Development)
Applicant	Geert Jan huysmans & Maria Pilar Duncan

Please note, an error was made by Dublin City Council, who referred to 28 Mountainview Road instead of 25 Mountainview Road. This was rectified by Dublin City Council on the 21 July 2021



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

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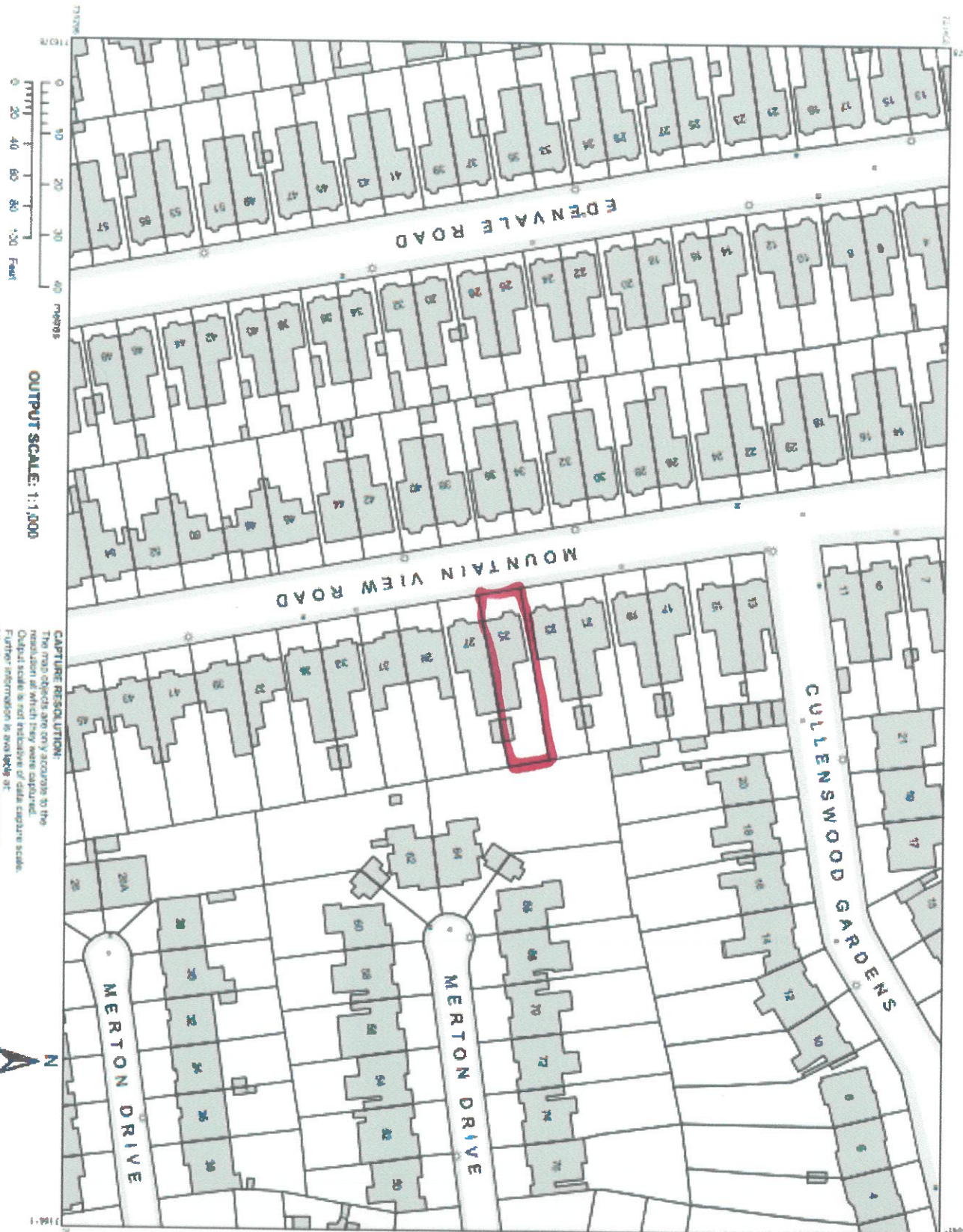
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Signed on behalf of Dublin City Council


for Administrative Officer

Planning Pack Map



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30th August 2019



Mr. Geert Jan Huysmans
Ms. Maria Pilar Duncan
64 Merton Drive,
Ranelagh,
Dublin 6

Planning Department,
Dublin City Council,
Civic Offices,
Wood Quay,
Dublin 8

Re: Objection to planning permission sought for construction of a dormer window with balcony and provision of a new roof window to existing rear roof slope of the existing rear roof slope of the existing dwelling and all associated site development works at No. 25 Mountainview Road, Dublin 6.

Planning application reference: 3679/19
Address: No. 25 Mountainview Road, Dublin 6
Lodgement date: 30th August 2019

Dear Sir/Madam,

We wish to object to the proposed development at No. 25 Mountainview Road, Dublin 6 which consists of a dormer window and balcony. The reasons for our objection are outlined below:

- The proposed structure at No. 25 Mountainview Road will have a detrimental impact on the privacy of our family as it will result in No. 25 Mountainview Road, Dublin 6 having a direct, uninterrupted and highly intrusive view into our private garden and master bedroom of our home. Such an incongruous and intrusive structure will unfairly violate our right to the private and quiet enjoyment of our property. As a family, we frequently use our garden for eating outside, gardening, family gatherings, sunbathing etc. The development of a dormer window and balcony at No. 25 Mountainview Road, Dublin 6, will result in the loss of this long standing privacy which we have enjoyed for more than 20 years.
- The properties on Mountainview Road are Victorian in style. One feature of these houses is their exceptionally high ceilings which makes these dwellings much higher than modern properties. As a result of this unique design feature, any dormer window and balcony would be much higher than on a modern house and akin to a watchtower overlooking our property. The proposed structure would grant No.25 Mountainview Road, Dublin 6 an aerial view, overlooking the most private part of our garden and the master bedroom of our home. This development would give No.25 Mountainview Road, Dublin 6 a right to a view into our private property and in effect, a view into our private daily lives. As stated in paragraph 17.5 of the Dublin City Council *'Appendix 17 Guidelines for Residential Extensions'*, *'the planning system does not give neighbours 'a right to a view''*. Therefore, our overriding right to privacy must take precedence in such circumstances.

- A feature of a Victorian townhouse is a small rear garden. As a result of this feature the dwellings on Mountainview Road have small gardens, thus reducing the proximity between our garden and No.25 Mountainview Road, Dublin 6. This would result in the proposed structure being extremely close, imposing and intrusive on our property.
- This proposed development will set an unacceptable new precedent for other properties alike to build balconies and dormer windows overlooking neighbouring properties, thus compromising the original architecture and aesthetic of existing dwellings.
- From the point of view of architectural conservation, it is important to maintain the integrity of these houses. The proposed development of a dormer window and balcony at No 25 Mountainview Road, Dublin 6 constitutes an incongruous structure that would unbalance the dwellings on Mountainview Road, would seriously injure the residential amenity of and detract from the character of these existing dwellings. Paragraph 17.3 of the *'Appendix 17 Guidelines for Residential Extensions'* states that *'it is important to make sure that any extension does not unacceptably affect the amenities of neighbouring properties. This includes privacy, outlook, daylight and sunlight. It is advisable to discuss your proposal with your neighbours prior to submitting a planning application.'* This proposed development negatively affects the amenities of No.64 Merton Drive, in particular our privacy: these proposals were never discussed with us prior to the submission of the planning application nor thereafter.
- The proposed planning application is contrary to *'Appendix 17 Guidelines for Residential Extensions'* paragraph 17.4 which states that *'extensions should not result in any significant loss of privacy to the residents of adjoining properties' & 'balconies will only be allowed where they are well screened and do not adversely overlook adjoining properties.'* As stated above, the proposed balcony and dormer window will have a seriously intrusive and overlooking impact on our property. In addition, paragraph 17.5 states that *'extensions should be designed so as not to dominate or appear overbearing when viewed from adjoining properties.'* Again, this structure would be both overbearing and dominant when viewed from our property at No. 64 Merton Drive and will have a negative visual impact from an architectural perspective.
- This proposed structure is not in keeping with the original Victorian style architecture and character of the properties on Mountainview Road, Dublin 6, thus creating a visual eyesore. The proposed development is excessive in scale and will affect the character of the neighbourhood as a whole. Paragraph 17.2 of the *'Appendix 17 Guidelines for residential extensions'* outlines a number of guidelines which have not been adhered to in relation to the proposed development at No. 25 Mountainview Road, Dublin 6. It states that proposals for new extensions should *'not have an adverse impact on the scale and character of the dwelling' & 'have no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight'*. This proposed development violates paragraph 17.11 of the *'Appendix 17 guidelines for residential extensions'* which states that *'when extending in the roof, the following principles should be observed: The design of the dormer should reflect the character of the area, the surrounding buildings and the age and appearance of the existing building'*. The design of this structure does not reflect the character of the area or surrounding buildings, nor does it reflect the age and appearance of the existing building as no other house on Mountainview Road has a balcony and dormer window overlooking their neighbouring properties.

- The planning application for the dormer window and balcony indicates that this structure will be a 'storage room'. If it is a storage room as stated on the plans, why would it need to be built with a dormer window and a balcony? The proposed planning application is unacceptable as such a 'storage room' could be built without a dormer window and balcony and without seriously invading the privacy of our property at No. 64 Merton Drive, Ranelagh Dublin 6.

I urge you to consider the unsettling impact this proposed development will have on No. 64 Merton Drive, Ranelagh Dublin 6 together with its intrusive and overbearing appearance. We strongly object to **any form of balcony or dormer window on any level** at No. 25 Mountainview Road Dublin 6. Such an imposing and intrusive structure will seriously violate our right to privacy by granting No 25. Mountainview Road Dublin 6 an aerial view into our property. It would set an unsettling new precedent for further balconies and dormer windows to be added to existing buildings and would seriously injure the residential amenity and aesthetic of such properties. The proposed application would also be contrary to the provisions as set out in paragraphs 17.2, 17.3, 17.4, 17.5 & 17.11 of the *'Appendix 17 guidelines for residential extensions'*.

We look forward to your consideration of the vital concerns raised above in the application for planning permission at no. 25 Mountainview Road, Dublin 6. We enclose a cheque for €20 as required.

Yours sincerely,



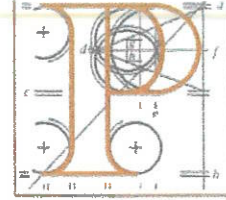
Mr. Geert Jan Huysmans



Ms. Maria Pilar Duncan

Our Case Number: ABP-305704-19

Planning Authority Reference Number: 3679/19



An
Bord
Pleanála

Geert Jan Huysmans and Maria Pilar Duncan
64 Merton Drive
Ranelagh
Dublin 6

Date: 20 DEC 2019

Re: Construction of a dormer window with balcony and provision of a new roof window to existing rear roof slope of the existing rear roof slope of the dwelling.
25, Mountainview Road, Dublin 6

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned matter under the Planning and Development Acts 2000 to 2019. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

A further enclosure contains information in relation to challenges by way of judicial review to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

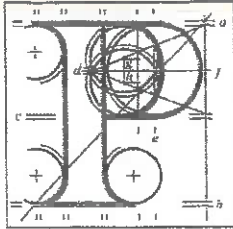
Yours faithfully,

Miriam Baxter
Executive Officer

BP100N

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Glaio Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 3679/19

APPEAL by Geert Jan Huysmans and Maria Pilar Duncan of 64 Merton Drive, Ranelagh Dublin and by Michael Nugent care of Arnold Leahy of 1 Crescent Villas, O'Connell Street, Limerick against the decision made on the 23rd day of September by Dublin City Council to grant subject to conditions a permission to Michael Nugent.

Proposed Development: Construction of a dormer window with balcony and provision of a new roof window to existing rear roof slope of the existing rear roof slope of the existing dwelling and all associated site development works, at 25 Mountainview Road, Dublin.

Decision

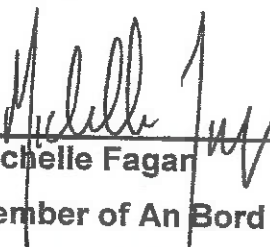
REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

The site of the proposed development is located in a residential conservation area designated by zoning objective Z2 of the Dublin City Development Plan 2016-2022. The proposed development would be out of keeping with the architectural character of the house and as such would contravene policy CHC4 of the development plan which seeks “to protect the special interest and character of residential conservation areas”, as well as the guidance on roof extensions at appendix 17.11 to the plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.


Michelle Fagan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this 19th day of December 2019.

Dublin City Council
Declaration on Development and Exempted Development
Section 5 of the Planning and Development Act 2000

EXPP: 0011/20
Location: 25, Mountainview Road, Dublin 6
Date Received: 16-May-2019
Decision Due Date: 12-Jun-2019

Development

The applicant requests a declaration on whether planning permission is required for increasing the size of the existing 4 windows on the rear façade, increasing the size of one existing roof Velux window on rear roof and the addition of two Velux windows to the rear roof.

Site Description

No. 25 is a two storey semi-detached redbrick dwelling is located on the eastern side of Mountain View Road.

The subject site is zoned Z2 in the 2016-2022 Dublin City Development Plan, with the objective 'To protect and/or improve the amenities of residential conservation areas.' There are no specific objectives in the Development Plan or in any Local Area Plan, designating the site as an area of archaeological, geological, historical, scientific or ecological interest. The property is not a Protected Structure or National Monument.

Relevant Planning History

<i>Planning Ref:</i>	<i>Description:</i>	<i>Decision:</i>
3679/19	Construction of a dormer window with balcony and provision of a new roof window to existing rear roof slope of the existing rear roof slope of the existing dwelling and all associated site development works.	Approved subject to conditions by DCC and Refused by ABP*

* The reason for refusal was as follows:

The site of the proposed development is located in a residential conservation area designated by zoning objective Z2 of the Dublin City Development Plan 2016-2022. The proposed development would be out of keeping with the architectural character of the house and as such would contravene policy CHC4 of the development plan which seeks "to protect the special interest and character of residential conservation areas", as well as the guidance on roof extensions at appendix 17.11 to the plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Relevant Enforcement History

None

Legislation

The following is the relevant legislation.

Planning and Development Acts, 2000 (as amended)

Section 2 (1) defines "works" as follows:

"includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure."

Section 3 (1) defines "Development" as follows:

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

Section 4 (1) (h) – sets out exempted development for the purposes of the Act as follows:

“Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures”.

Assessment

This assessment will determine whether planning permission is required for increasing the size of the existing four windows on the rear façade, increasing the size of one existing roof Velux window on rear roof and the addition of two Velux windows to the rear roof.

The subject period property is located within a residential conservation area. I note recently a dormer window with a Juliette balcony and associated glazed door was refused planning permission on appeal as it was considered out of character with the architectural character of the subject property and in contravention of zoning objective Z2. Furthermore, I note there are no relevant precedents for full height first floor window openings as significant in area as those proposed by this Section 5.

Having regard to the above it is determined that the proposed significant increase in area of the two existing rear first floor windows would alter the external appearance of the structure so as to render its appearance inconsistent with the character of the structure and surrounding properties. Therefore these works would not exempted development under section 4 (1) (h) of the Planning and Development Acts, 2000 (as amended).

It is noted other surrounding properties have larger glazed openings at ground floor. It is therefore determined the proposed increase in area of the two existing rear ground floor windows would not alter the external appearance of the structure so as to render its appearance inconsistent with the character of the structure and surrounding properties. Therefore these works would be exempted development under section 4 (1) (h) of the Planning and Development Acts, 2000 (as amended).

Furthermore, it is determine increasing the size of one rooflight and the addition of a further rooflight all to the rear of this property are minor work and would not sufficiently alter the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or surrounding properties. I note none of the proposed minor works would be visible from the streetscape. These works would therefore be exempted development under section 4 (1) (h) of the Planning and Development Acts, 2000 (as amended).

Recommendation

The following works are considered to be Exempted Development

The works to enlarge the two existing ground floor rear window openings and to enlarge one existing rear rooflight opening (Velux window) and add two rear rooflights (Velux windows) are development and **are exempted development** under Section 4 (1) (h) of the Planning and Development Acts, 2000 (as amended).

The following works are not considered to be Exempted Development

The works to enlarge the two existing first floor rear window openings are development and **are not exempted development** under Section 4 (1) (h) of the Planning and Development Acts, 2000 (as amended).

The applicant should be advised accordingly.

Robert Brereton
Assistant Planner
20th January 2020

Date 27-Jan-2020

Arnold Leahy Architects
1 Crescent Villas
O'Connell Avenue
Limerick

Application No.	0011/20
Registration Date	06-Jan-2020
Decision Date	24-Jan-2020
Decision Order No	P2187
Location	25, Mountainview Road, Dublin 6
Proposal	EXPP: Increase size of existing 4 windows on rear façade. Increase size of one existing roof velux on rear roof . add two velux to rear roof.
Applicant	Michael Nugent

Dear Sir/Madam

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 works to enlarge the two existing ground floor rear window openings and to enlarge one existing rear rooflight opening (Velux window) and add two rear rooflights (Velux windows) are development and are exempted development under Section 4 (1) (h) of the Planning and Development Acts, 2000 (as amended).

subject to the conditions specified in Schedule 1,

SCHEDULE 1 CONDITIONS AND REASONS

It is noted other surrounding properties have larger glazed openings at ground floor. It is therefore determined the proposed increase in area of the two existing rear ground floor windows would not alter the external appearance of the structure so as to render its appearance inconsistent with the character of the structure and surrounding properties. Therefore these works would be exempted development under section 4 (1) (h) of the Planning and Development Acts, 2000 (as amended).

It is determined increasing the size of one rooflight and the addition of a further rooflight all to the rear of this property are minor work and would not sufficiently alter the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or surrounding properties. I note none of the proposed minor works would be visible from the streetscape. These works would therefore be exempted development under section 4 (1) (h) of the Planning and Development Acts, 2000 (as amended).

Date 27-Jan-2020

and to **REFUSE EXEMPTION** for :

The works to enlarge the two existing first floor rear window openings are development and are not exempted development under Section 4 (1) (h) of the Planning and Development Acts, 2000 (as amended).

for the reasons set out in Schedule 2

SCHEDULE 2 REASONS

The subject period property is located within a residential conservation area. I note recently a dormer window with a Juliette balcony and associated glazed door was refused planning permission on appeal as it was considered out of character with the architectural character of the subject property and in contravention of zoning objective Z2. Furthermore, I note there are no relevant precedents for full height first floor window openings as significant in area as those proposed by this Section 5.

The proposed significant increase in area of the two existing rear first floor windows would alter the external appearance of the structure so as to render its appearance inconsistent with the character of the structure and surrounding properties. Therefore these works would not exempted development under section 4 (1) (h) of the Planning and Development Acts, 2000 (as amended).

Signed on behalf of Dublin City Council

for Assistant Chief Executive

"Appendix H"

First floor windows at 25 Mountainview Road, Ranelagh Dublin 6

Photograph which shows that the first floor windows at 25 Mountainview Road, have been enlarged contrary to Dublin City Council's decision, dated 24 January 2020, which refused exemption for "works to enlarge the two existing first floor rear window openings" as they are development and not exempted development under s4(1)(h) Planning and Development Acts 2000, as amended.



"Appendix I"

Photograph 1

Two Velux Balconies on the roof of 25 Mountainview Road. This is the view from the Master bedroom at 64 Merton Drive Ranelagh Dublin 6 and shows the highly intrusive nature of these viewing platforms.



Photograph 2

Two Velux Balconies on the roof of 25 Mountainview Road. This is the view from the Master bedroom at 64 Merton Drive Ranelagh Dublin 6 and shows the highly intrusive nature of the two Velux balconies. The Velux Balconies are overlooking our master bedroom and garden and greatly diminish our right to privacy in our property.



Photograph 3

This shows the view of the two Velux balconies at 25 Mountainview road, overlooking our property at 64 Merton Drive Ranelagh Dublin 6.





Jerry Huysmans,
64 Merton Drive,
Ranelagh,
Dublin 6.

9th June 2021

Re: 25 Mountainview Road, Dublin 6

Dear Mr. Huysmans,

I refer to your complaint regarding the above address

The Planning Enforcement Officer carried out a site inspection at the property. The windows installed are not as large as those which were not considered exempted development under the Section 5 that was lodged. The windows are to the rear of the Z2 zoned property and are considered to be exempted development.

The owners have also installed Velux windows the specification of which were included on the Section 5 and considered exempt. However the specification of the velux are a balcony style and a Juliette balcony was refused planning permission from ABP. Notwithstanding that, this design was considered exempt and therefore is authorised.

No further enforcement action is warranted and on this basis the file has now been closed.

Should you require any further information please do not hesitate to contact The Planning Enforcement Officer, Ms. Michelle Murphy, Tel: 222 3119.

I trust that this information is of assistance to you.

Yours faithfully,

For Acting Planning Enforcement Manager

Ref: Joe Ryan

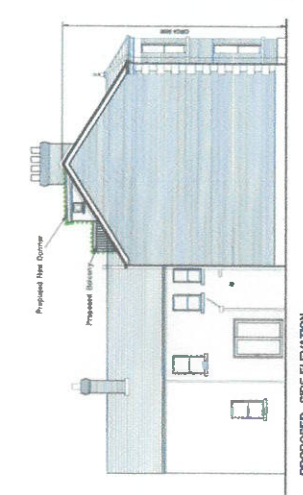
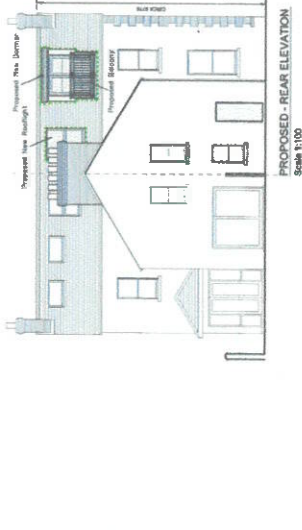
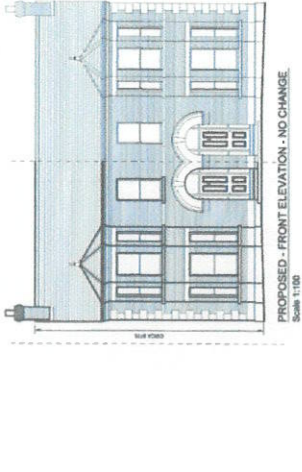
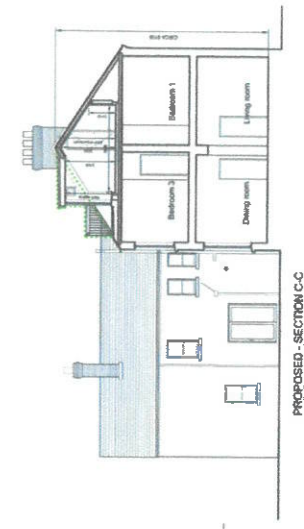
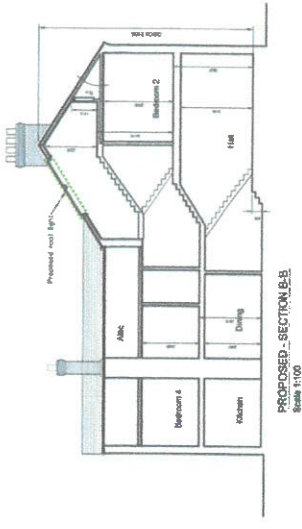
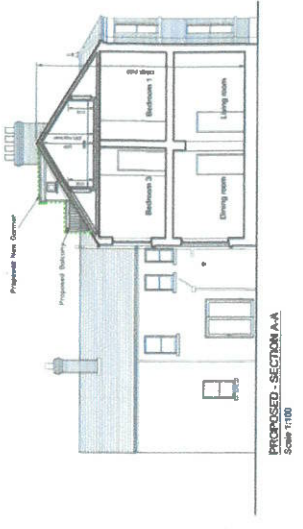
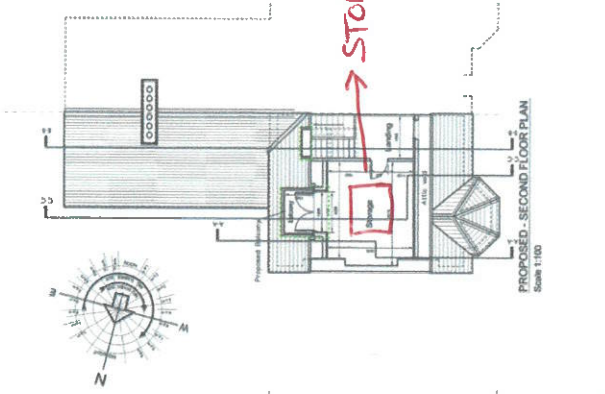
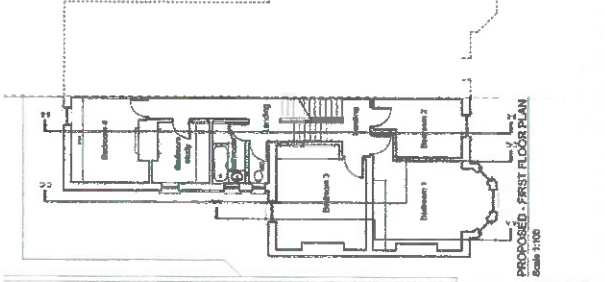
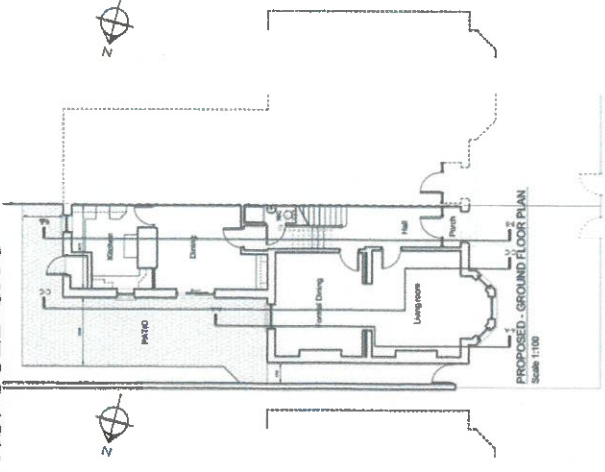
Tel: 222 3116

Please quote file ref:E0844/20

PROPOSED GA'S

NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF RICHMOND, VIRGINIA ZONING ORDINANCE AND ALL APPLICABLE CODES.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF RICHMOND, VIRGINIA ZONING ORDINANCE AND ALL APPLICABLE CODES.
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10. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF RICHMOND, VIRGINIA ZONING ORDINANCE AND ALL APPLICABLE CODES.



DIC PLAN NO 2076-19
RECEIVED 02 AUG 19

DATE	NO.	REVISION
02	02	

PROJECT: PROPOSED BRADYWOODS TO 25 BRADYWOODS ROAD, SUITE 100
 DRAWING: PROPOSED GA'S - CONTIGUOUS ELEVATION
 SCALE: 1:100
 SHEET: 02

Arnold Leach
ARCHITECTS

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