



Comhairle Cathrach
& Contae Luimnigh

Limerick City
& County Council

Pleanáil, Comhshaoi agus Cruthú Áite
Comhairle Cathrach agus Contae Luimnigh
Lúimneach

Planning, Environment and Place-Making
Limerick City and County Council
Limerick

An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

16th April 2024

Dear Sir/Madame,

AN BORD PLEANÁLA	
LDG-	<u>071312-24</u>
ABP-	
17 APR 2024	
Fee: €	<u>110.00</u> Type: <u>CHQ.</u>
Time: <u>9.00am</u>	By: <u>Reg Post</u>

In accordance with Section 5(4) of the Planning and Development Act 2000 (as amended), the Planning Authority of Limerick City and County Council (LCCC) requests that the following question, as to what is or is not development or is or is not exempted development, is decided by the Board:

'Whether the change of use of 20 number dwelling houses at Drominbeg, Rhebogue Road, Rhebogue, Limerick to use as student accommodation is or is not development and is or is not exempted development'.

Please find enclosed a cheque from LCCC for the sum of €110.

Background and Context

Planning permission was originally granted by LCCC (Ref: 17/800) on the 19th Oct 2017 for the construction of 17 No. dwelling houses consisting of 16 No. two storey three bedroom, 1 No. two storey two bedroom, garden sheds, access road, footpaths, public parking, landscaping, boundary treatments including connection to existing public foul and surface water sewer network, public watermain and all associated site works. Please see link to the application and associated documents on the LCCC website below:

<https://www.eplanning.ie/LimerickCCC/AppFileRefDetails/17800/0>

The application was subsequently appealed to An Bord Pleanála (ABP-300188-17) and granted permission with conditions.

The site was subject to a recent planning application (Ref:23/60719) for a revised site boundary line, revised boundary treatments and revised landscaping plan as granted under previous planning ref P17/800, that was refused planning permission by LCCC. Please see link to the application and associated documents on the LCCC website below:


<https://www.eplanning.ie/LimerickCCC/AppFileRefDetails/2360719/0>

The site is currently the subject of a live enforcement case DC-505-23 for the alleged change of use of residential dwelling houses to use as student accommodation. Please see copies of the Warning

Letters issued in Appendix A and B as well as the responses received to these letters in Appendix C and D.

If you require any additional information in relation to this request, please don't hesitate to contact me.

Yours sincerely,



Barry Henn

Senior Executive Planner

Planning, Environment, & Place-Making

Limerick City and County Council, Dooradoyle, Limerick.

T: 061 556351 | M: 086 1082836 | E: barry.henn@limerick.ie

DC-505-23
Site Location Map



PLANNING, ENVIRONMENT AND PLACE-MAKING

DC-505-23

Silvergrove Developments Ltd
C/o Ger Dunworth & Associates
4 Riverfront
Howley's Quay
Limerick

WARNING LETTER

**UNDER SECTION 152(1) OF THE PLANNING AND DEVELOPMENT ACTS 2000
as amended**

Dear Sir/Madam,


- (A) You are the owner/occupier of certain lands situate at Drominbeg, Rhebogue Road, Rhebogue, Co. Limerick (hereinafter referred to as "the said lands") which lands are shown coloured red on the map attached hereto.
- (B) It has come to the attention of Limerick City & County Council as the Planning Authority that an unauthorised development may have been/is being/or may be carried out on the said lands, namely change of use of residential dwellinghouses to use as student accommodation for which there is no record of a Planning Permission being granted and is therefore unauthorised.
- (C) You being the person served with this warning letter may make submission or observations in writing to the said Planning Authority regarding the purported offence referred to in paragraph (B) not later than four weeks from the date of service of this warning letter

- (D) You are advised that if the said Planning Authority considers that an unauthorised development is being carried out an Enforcement Notice under the provisions of Section 154 of the Planning and Development Act 2000 as amended may be issued.
- (E) Officials of the said Planning Authority may at all reasonable times, enter the said lands for the purposes of inspection.
- (F) We also wish to point out that in the event of the Court holding that an offence has been committed under Section 151 or Section 154 you can be liable: -
- a. On conviction on indictment, to a fine not exceeding €12,697,380.78, or to imprisonment for a term not exceeding 2 years, or to both, or
 - b. On summary conviction, to a fine not exceeding €5,000, or to imprisonment for a term not exceeding 6 months, or to both.
- (G) The costs reasonably incurred by the said Planning Authority in relation to Enforcement proceedings may be recovered from you in the event of an Enforcement Notice being served on you or where a Court action is taken.

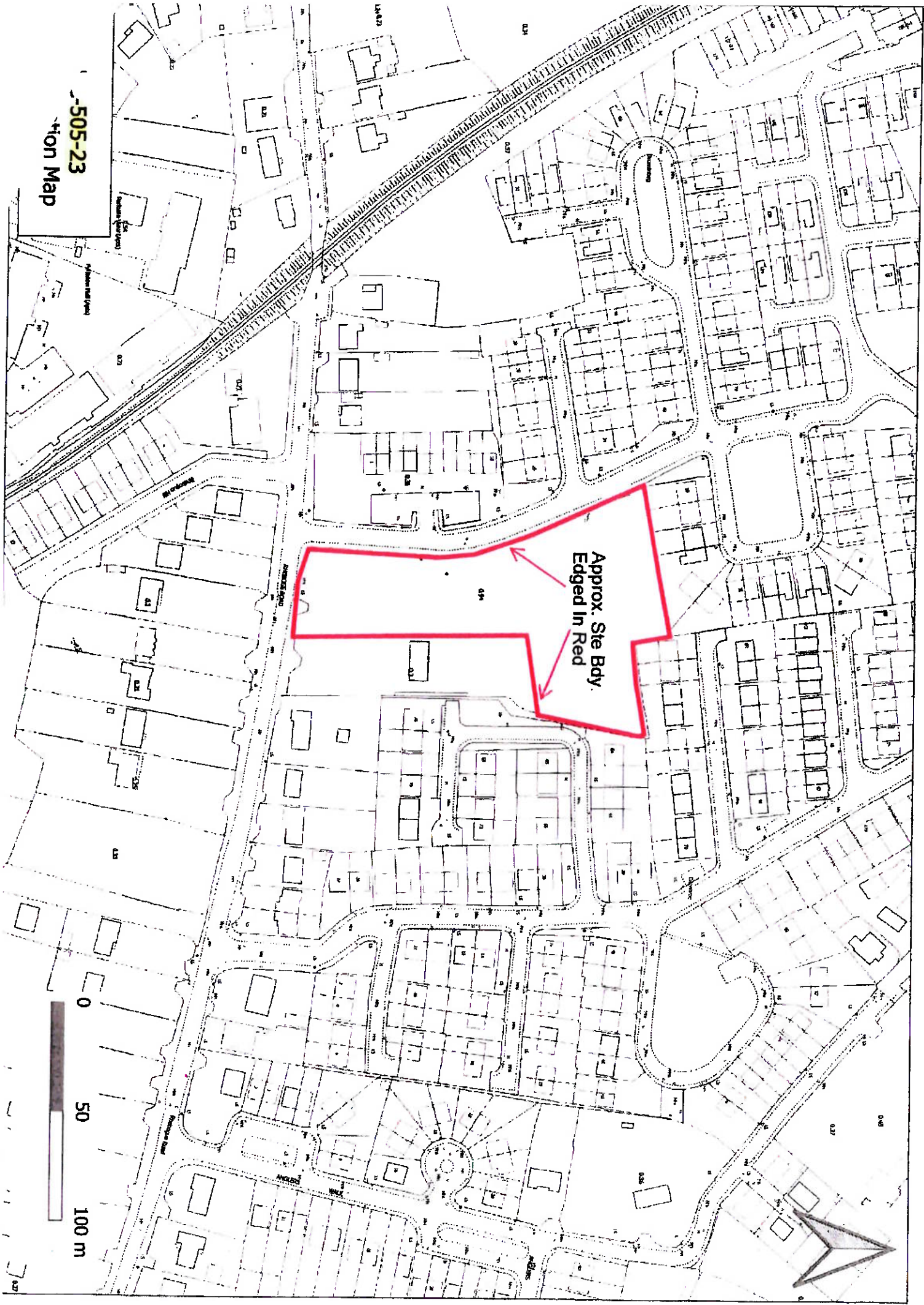
Any queries in relation to this matter should be addressed to Joe Cahill, Development Inspector.

Dated this 13th day of December 2023

Signed on behalf of the said Council.



For Director of Service
Planning, Environment and Place-Making



505-23
tion Map

Approx. Site Bdy.
Edged In Red

0 50 100 m



HRA | PLANNING
chartered town planning consultants

3 Hartstonge Street,
Limerick
Tel: [REDACTED]
Fax: [REDACTED]
[REDACTED]
www.hraplanning.ie

Our ref: 22012/01/201223/GR

Planning Enforcement Section
Planning Authority
Limerick City and County Council
County Hall
Dooradoyle
Limerick

By email: [REDACTED]

18th January 2024

Re: Your Reference Warning Letter DC-505-23
Lands at Drominbeg, Rhebogue Road, Rhebogue, Co. Limerick.

Dear Sir/Madam,

HRA PLANNING Chartered Town Planning Consultants has been retained by Silvergrove Developments Ltd C/O Ger Dunworth & Associates, 4 Riverpoint, Howleys Quay, Limerick to respond to the aforementioned Warning Letter issued to it by Limerick City and County Council dated 13th December inst.

Whilst Silvergrove Developments Ltd, is the owner of part of the "**said lands**" outlined in red on the map accompanying the Warning letter, it has advised, and seeks to inform Limerick City and County Council ("the Council"), that it is not the owner of, nor does it have legal interest in the lands in which the alleged unauthorised development has taken place.

For clarification, the extent of ownership of, and legal interest in the "said lands" by Silvergrove Developments Ltd., is confined to the undeveloped southern area of it where no dwelling houses or residential development has occurred.

Moreover, Silvergrove Developments Ltd., has advised, and seeks to inform the Council that it has not engaged in any of the alleged unauthorised development referred to in the warning letter in any other part of the said lands and, that it has no legal interest in the occupation or use of the mentioned "**residential dwellinghouses**" which the alleged unauthorised development relates to.



RTPI
mediation of space • making of place

On the basis of this clarification, Silvergrove Developments Ltd., respectfully requests the Council to confirm by immediate return that it, and the undeveloped portion of land which does not compromise any of the alleged unauthorised development, no longer forms part of this planning enforcement case.

I trust this is of assistance to the Council.

Yours sincerely,



Gary Rowan MRTPI MIPI

Director HRA | PLANNING

PLANNING, ENVIRONMENT AND PLACE-MAKING

DC-505-23

Student Accommodation Services
University of Limerick
Limerick

WARNING LETTER

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as amended**

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 - b. On summary conviction, to a fine not exceeding €5,000, or to imprisonment for a term not exceeding 6 months, or to both.
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Any queries in relation to this matter should be addressed to Joe Cahill, Development Inspector.

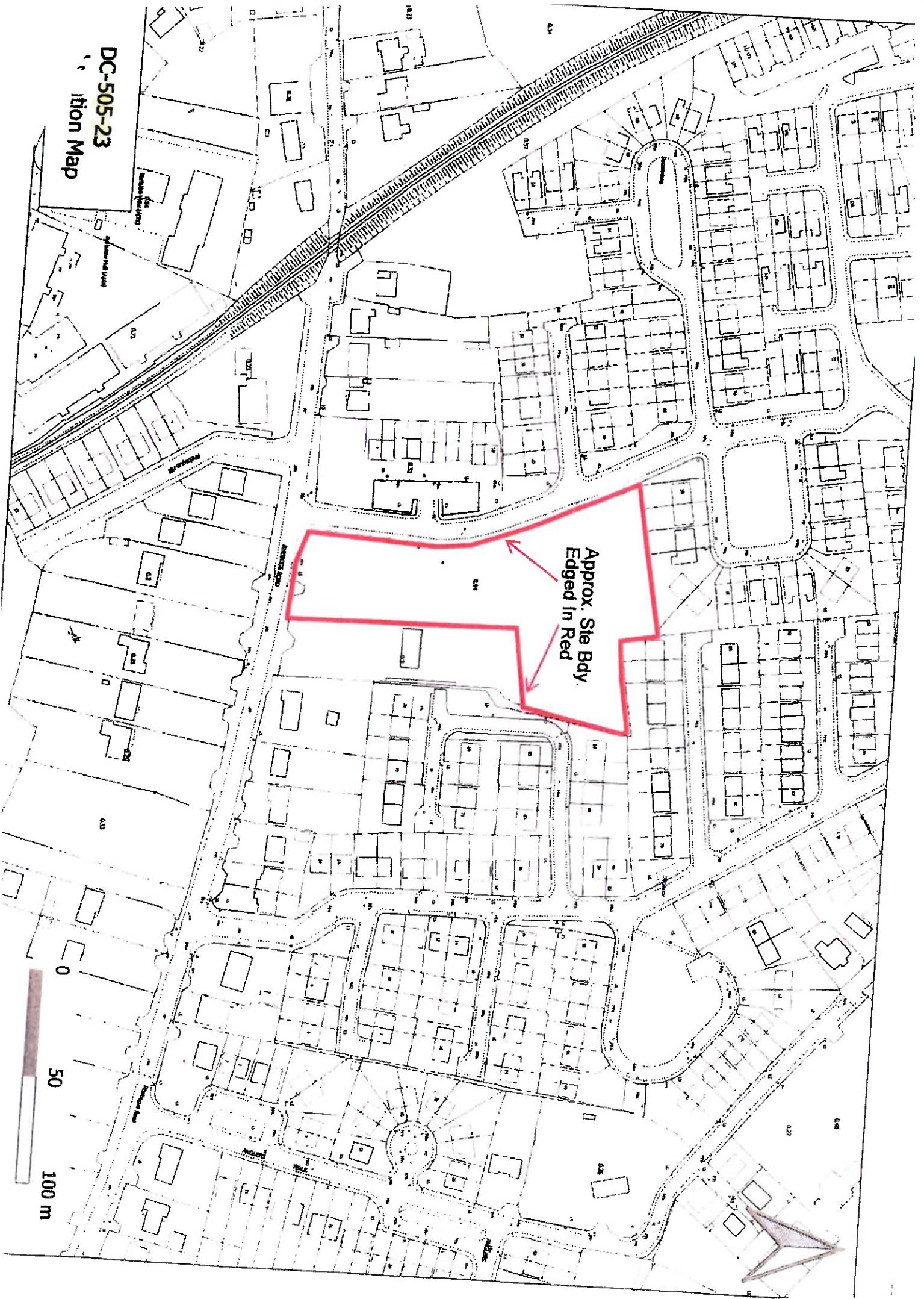
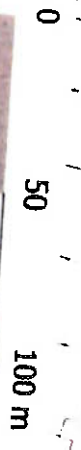
Dated this 13th day of December 2023

Signed on behalf of the said Council.


For Director of Service
Planning, Environment and Place-Making

DC-505-23
Location Map

Approx. Site Bay
Edged In Red



Director of Service
Planning, Environment and Place Making
Limerick City and County Council
County Hall
Dooradoyle
Limerick
V94 WV78

17 January 2024

HW Planning
5 Joyce House,
Barrack Square,
Ballincollig,
Cork
P31 KP84

www.hwplanning.ie

Directors:
Harold Walsh
Conor Frehill

Company Reg. No.
486211

Accreditations
ISO 9001:2015
ISO 14001:2015
ISO 45001:2018

Re: DC-505-23 Response to Warning Letter
Alleged Unauthorised Change of Use of residential dwellinghouses to use as student accommodation at Drominbeg, Rhebogue Road, Rhebogue, Co. Limerick.

Dear Sir/Madam,

We act on behalf of Plassey Trust Company LG and who wish to respond to the Warning Letter issued on December 13th in respect of an alleged unauthorised change of use of residential dwellinghouses to use as student accommodation at Drominbeg, Rhebogue Road, Rhebogue, Co. Limerick. We note that the Warning Letter has been incorrectly addressed to University of Limerick, and Plassey Trust Company LG as owners are responding to the same.

Context

The subject 20 no. dwelling houses were constructed in accordance with a planning permission granted by An Bord Pleanála on March 12th, 2018, ABP-300188-17 and Limerick and City Council Ref 17/800 refers. The dwellings were purchased by Plassey Trust Company LG and are currently occupied by researchers and postgraduates who work at and attend University of Limerick.

The Planning Authority will note that the tenure of the houses, which appear to have been originally intended to be used as social and affordable housing, was raised by the appellants and considered by the Board during the assessment of the planning appeal, ABP-300188-17. The Planning Inspector and Board did not consider the tenure or occupancy of the dwellings to be a material planning matter and there are no conditions on the permission which limit or restrict the category of residents or occupants of the houses.

Plassey Trust Company LG note and acknowledge that the dwellings were permitted and constructed as residential dwelling houses and not purpose built student accommodation. We wish to highlight that no works have been carried out or alterations made, which would render the units only suitable for occupation by students.

The dwelling houses in question are currently occupied by post graduates and researchers, who have 51 week tenancy agreements, which are registered with the Residential Tenancies Board. Tenancy agreements are 51 weeks to allow a brief period for change of tenants but can be rolling

tenancies allowing tenants to remain in the properties for the duration of their time at University of Limerick. Notwithstanding the fact that the occupants are researchers and postgraduates, it is noteworthy that the *National Student Accommodation Strategy* highlights that approximately 18% of full-time students in Ireland are accommodated in purpose built student accommodation¹, which suggests that the vast majority of students occupy residential accommodation which has not been designed, constructed or permitted as purpose built student accommodation. Therefore, if it were the case that the houses in question were currently occupied by students, that would be similar to the numerous other residential properties in both Limerick and nationwide that are occupied by students.

Response

The Warning Letter alleges that there is a change of use of residential dwelling houses to use as student accommodation. If it were the case that the occupants were students, we consider that the issue to be decided is does the occupation of the dwelling houses constitute a material change of use.

We are unaware of a Section 5 Declaration, Referral or Case Law in which the occupation of residential dwelling houses by students has been considered. In 2019 An Bord Pleanála did determine that the use of student accommodation for year-round short term letting at Amnis House, Western Road, Cork was development and was not exempted development, ABP-304692-19 refers. The Board reached this determination based on the fact that Amnis House was permitted as a purpose built student accommodation and conditions of that permission restricted the use to student accommodation and for no other purpose.

Case law established by *Mc Mahon - v - Dublin Corporation* 1997 1 ILRM 227, found that the use of houses for short term letting was a material change of use from the authorised use as private residences and determined that a change of use is material if the character of the proposed use is substantially different from the permitted, in so far as it impacts on the proper planning and sustainable development of the area. These circumstances do not arise in this instance as the occupation of the dwellings by researchers and postgraduates is not substantially different from that permitted.

As outlined above the permission for the existing dwellinghouses does not restrict the type of occupant of the houses and the houses remain suitable for occupation by a broad range of tenants such as individuals in house share arrangements or by families. The occupation of the dwellings by students would not in itself raise any fresh planning considerations given that the dwellings are being used as designed and permitted. In addition, the residents of the dwellings share the same catering arrangements and would be considered to form a single household in accordance with the CSO definitions.

In summary we wish to highlight the following facts of the case to the Planning Authority;

- The houses have been constructed in accordance with ABP-300188-17;

¹ National Student Accommodation Strategy, pg. 16

- There are no conditions restricting the use or occupation of the dwellings to a particular tenure or category of tenant;
- The dwelling houses in question are currently occupied by post graduate students and researchers, who have tenancy agreements registered with the Residential Tenancies Board;
- No works have been carried out which would render the houses only suitable for occupation by students or any other category of tenant;
- The houses remain suitable for occupation by a broad range of tenants such as individuals in house share arrangements or by families;
- The majority of students in Limerick (and elsewhere) are accommodated in residential dwellings such as the subject dwellings;
- The residents of the dwellings share the same catering arrangements and would be considered to form a single household in accordance with the CSO definitions. This would be similar to any other categories of persons occupying the houses;
- The occupation of the dwellings by a particular category of tenant does not in itself raise any fresh planning considerations given that the dwellings are being used as designed and permitted.

The occupation and use of the houses by researchers and postgraduates in the manner in which they were designed and constructed is not substantially different from that permitted and does not have any material impacts on the proper and sustainable development of the area. Therefore, we do not consider that the occupation of the houses by postgraduates and researchers constitutes a material change of use, it does not represent development and no planning permission is required for the same.

If the Planning Authority were to consider that the use of dwelling houses by students constituted a material change of the use in itself, then this decision would have widespread ramifications for all dwellings occupied by students in Limerick as it would suggest the majority of existing accommodation is unauthorised.

We would be grateful for acknowledged of the receipt of this response and following its consideration, confirmation that the enforcement file on this matter has been closed.

Please do not hesitate to contact us if you have any further queries.

Yours Sincerely



Harry Walsh
HW Planning

