

Comhairle Cathrach Chorcaí Cork City Council



Halla na Cathrach
Corcaigh
T12 T997

City Hall
Cork
T12 T997

Alex Kelly
Scott Murphy
Chartered Building Surveyors
38 Dawson Street
Dublin 2

13/09/18

File Reference:	R 486/18
Description:	Illuminated advertisement
Applicant:	Hilfiger Stores Ireland Limited
Location:	Unit 16 Opera Lane/96-96 St. Patrick's St
Date:	09/08/2018

Dear Sir/Madam,

I am asked by Mr. Patrick Ledwidge, Director of Services, Strategic Planning & Economic Development to refer to your request for a section 5 Declaration at the above named property.

Notwithstanding exemptions outlined in Class 2 of Part 2, Schedule 2 (Exempted Development – Advertisements) of the Planning and Development Regulations 2001 (as amended), having regard to:

- The Planning and Development Act 2000 (as amended);
- The Planning and Development Regulations 2001 (as amended);
- the particulars received by the Planning Authority on 09/08/2018;
- Condition 8(a) of T.P. 06/30595 (as reiterated in Condition 3 of T.P. 07/32543) – the governing permission for the Opera Lane development under which a design strategy for Opera Lane development was agreed and compliance achieved in relation to signage for Unit 16 in early 2010;
- The restriction on exemption outlined in Article 9(1) (a) (i) of Part 2 of the Planning and Development Regulations 2001 (as amended)

the proposed development is over and above the detail agreed under Condition 8(a) of T.P. 06/30595 (and subsequent permissions on site) and is considered therefore to contravene this condition.

The proposed sign is development and is **not** exempted development.

Yours Faithfully,



Paul Hartnett

Assistant Staff Officer
Strategic Planning & Economic
Development
Cork City Council

SECTION 5 DECLARATION – PLANNER’S REPORT

File Reference: R 486/18
Description: Illuminated advertisement
Applicant: Hilfiger Stores Ireland Limited
Location: Unit 16 Opera Lane/96-96 St. Patrick’s St
Date: 09/08/2018

Purpose of Report

Under Section 5 of the Planning and Development Act, 2000 (as amended), if any question arises as to what, in any particular case, is or is not development and is or is not exempted development within the meaning of the Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

Assessment

The question relates to whether the construction of an internally illuminated lightbox 4.5m sq. on the Opera Lane elevation of the Tommy Hilfiger store exempted development.

Relevant Legislation:

Planning and Development Act

Section 2(1),

“exempted development” has the meaning specified in section 4.

“alteration” includes –

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof,

That materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

“land” includes any structure and

“works” 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),

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

‘Exempted Development’ is provided for under Section 4(1)(h) of the Planning and Development Act 2000-2011 including as follows:

“4(1) The following shall be exempted development for the purposes of this Act - ...

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

Section 4(2),

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001, as amended.

Section 4(3),

A reference in this Act to exempted development shall be construed as a reference to development which is—

- (a) any of the developments specified in subsection (1), or*
- (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.*

Planning and Development Regulations

Under Class 2 of Schedule 2, Part 2 (Exempted Development – Advertisements) of the Planning and Development Regulations 2001 (as amended) the following exemption relates to illuminated advertisements:

Illuminated advertisements exhibited as part of any shop or other window display on business premises and other advertisements affixed to the inside of the glass surface of a window of a business premises or otherwise exhibited through a window of such premises. *The total area of any advertisements so exhibited shall not exceed one quarter of the area of the window through which the advertisements are exhibited.*

Under Part 2 Article 9 of the Planning and Development Regulations 2001 (as amended) – the following restriction on exemptions is outlined:

- | | | |
|-----------------------------------|----|--|
| <i>Restrictions on exemption.</i> | 9. | (1) <i>Development to which article 6 relates shall not be exempted development for the purposes of the Act—</i>
<i>(a) if the carrying out of such development would—</i>

<i>(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,</i> |
|-----------------------------------|----|--|

Planning History:

T.P. 06/30595:
stated as follows:

Governing permission for the Opera Lane redevelopment. Condition 2

- | | |
|---|---|
| <p>2(a) No permission is granted for the demolition of Nos 94-96 St. Patrick Street. Prior to any works commencing on Nos 94-96 St. Patrick Street a new planning permission shall be obtained which includes for a revised treatment to the façades of Nos 94-96 St. Patrick Street and for a revised elevational treatment to the replacement structure at No. 97 St. Patrick Street.</p> | <p>2. The proposed design of the façades in question is not acceptable to the Planning Authority particularly having regard to the prominent location of the site on St. Patrick Street and also its proximity to Protected Structures.</p> |
|---|---|

Condition 8(a) of the governing permission for the Opera Lane development stated as follows:

- | | |
|---|--|
| <p>8. (a) A design strategy for all the retail shopfronts and which seeks to guide tenants regarding signage, security and lighting shall be agreed with the Planning Authority within 3 months of commencement of development.</p> | <p>8. To protect the visual amenities of the area and the amenities of future residents.</p> |
|---|--|

T.P. 07/32543: Permission granted (in response to Condition 2 of T.P. 06/30595 for a revised shopfront design to No. 94-96 St. Patrick including various demolitions and incorporation of structures to provide for new 3 floors of retail space in Units 16, 17, 18 and 19. Condition 3 states as follows:

- | | |
|--|---|
| <p>3. Conditions attached to T.P. 06/305953. shall apply to this permission.</p> | <p>In the interests of the proper planning and development of the area.</p> |
|--|---|

T.P. 09/34208: Permission granted for 2 No. internally illuminated signs.

T.P. 12/35444: Permission granted for the removal of existing signage and installation of 3 new signage panels.

Assessment

The site is located on the junction of St. Patrick's St and Opera Lane. The development referred to under this application for a Certificate of exemption relates to the Opera Lane elevation and consists of an illuminated lightbox – 4.5 sq.m. in area. The advertisement is to be placed internally to the rear of the central panel of a window measuring approx 21.7.8 sq.m. It therefore would not exceed one quarter of its total area.

In a letter dated 23.01.2009 in relation to compliance with Condition 8(a) of T.P. 06/30595 the Planning Authority noted the indicative design framework submitted and it was stated that it was recognized that compliance with Condition 8(a) would be ongoing.

In December 2009 planning application T.P. 09/34208 was received – which was for two fascia type signs spelling out 'Tommy Hillfiger'- one on each street frontage. The signs on the Opera Lane

elevation in existence at the time of the 2009 application (i.e. agreed under the 2006 permission) were two to the right and two to the left of the central window display fronting Opera Lane (which is the area the subject of this application).

By the time that application was being assessed the planner's report noted that construction of the Opera Lane development was nearing completion and compliance with a design strategy had been *generally* agreed – see extract below:

Under T.P.06/30595 Condition 8(a) which refers to a design strategy for all the retail shopfronts which includes signage has been generally complied with though it is recognized that signage is very much dictated by individual requirements. I consider the proposal to be acceptable because of its relatively modest visual impact even if it is internally illuminated in this instance. I note the corporate image.

Compliance with Condition 8(a) was subsequently deemed to have been achieved in respect of Unit 16 as noted in a letter from C.C.C. dated 23.02.2010.

Dear Sir,

Further to your letter received on the 16th February, 2010, the Planning Authority is satisfied that the condition 8a of the Planning Permission TP 06/30595 is being complied with in respect of the following current units:-

Unit 1, Units 4 & 5, Units 7 & 15, Units 9, 10 & 11, Unit 12, Unit 14, Unit 16 and Unit 17a.

This clarifies the current situation to the satisfaction of the Planning Authority.

Under a subsequent application T.P. 12/35444 permission was granted to replace the fascia signs permitted in 2009 with 'Tommy Hilfiger' signs of a different design.

The current application proposes signage over and above that agreed under the Condition 8(a) of the 2006 permission (as referred to in Condition 3 of T.P. 07/32543) and subsequent planning applications in 2009 and 2012.

The proposal constitutes development as defined in the Planning and Development Act. Given that it contravenes Condition 8(a) of T.P. 06/30595 and is considered not to be exempted development.

Conclusion

Notwithstanding exemptions outlined in Class 2 of Part 2, Schedule 2 (Exempted Development – Advertisements) of the Planning and Development Regulations 2001 (as amended), having regard to:

- The Planning and Development Act 2000 (as amended);
- The Planning and Development Regulations 2001 (as amended);
- the particulars received by the Planning Authority on 09/08/2018;
- Condition 8(a) of T.P. 06/30595 (as reiterated in Condition 3 of T.P. 07/32543) – the governing permission for the Opera Lane development under which a design strategy for Opera Lane development was agreed and compliance achieved in relation to signage for Unit 16 in early 2010;

- The restriction on exemption outlined in Article 9(1) (a) (i) of Part 2 of the Planning and Development Regulations 2001 (as amended)

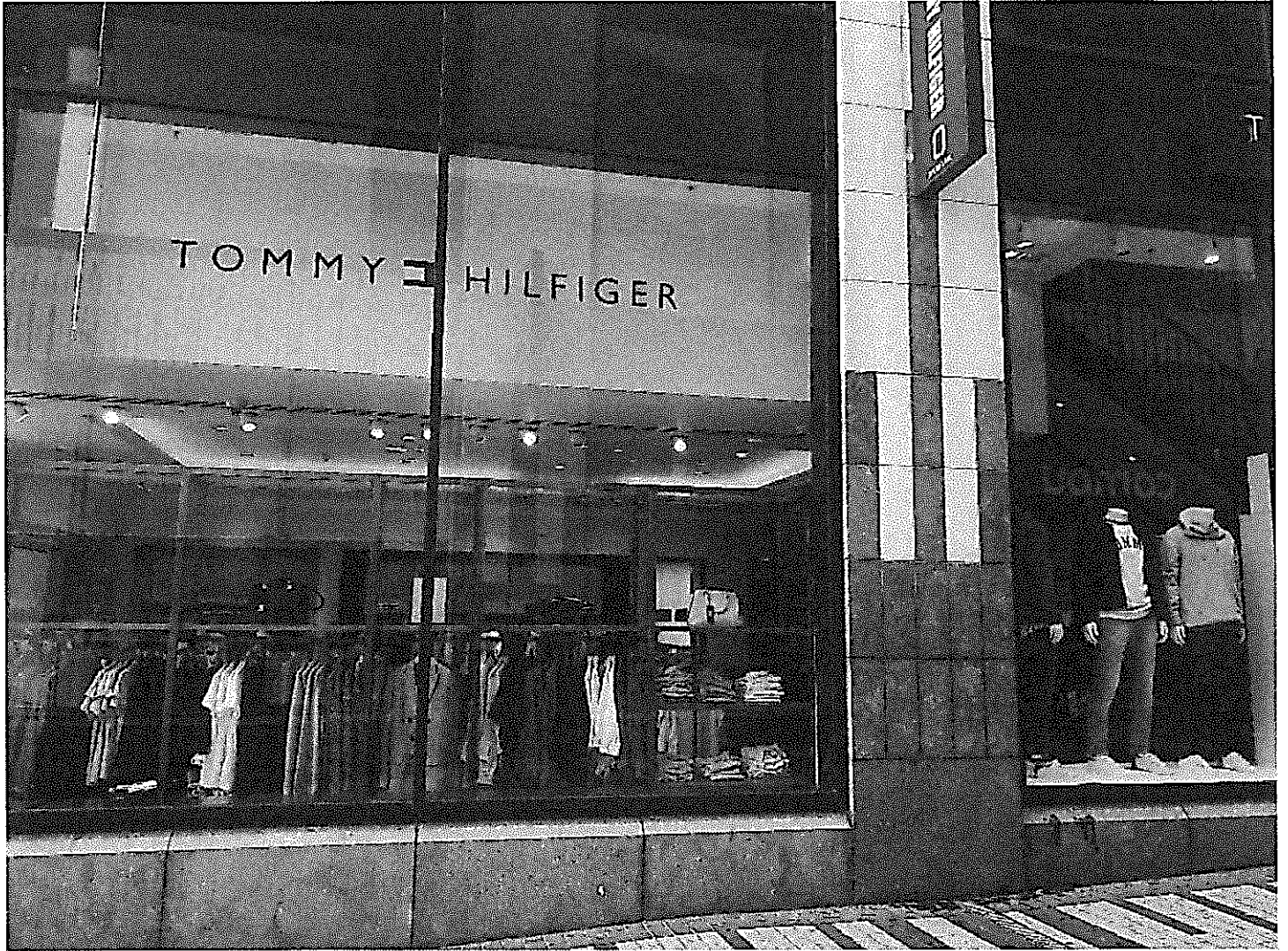
the proposed development is over and above the detail agreed under Condition 8(a) of T.P. 06/30595 (and subsequent permissions on site) and is considered therefore to contravene therefore this condition.

The proposed sign is development and is **not** exempted development.



Evelyn Mitchell,
Senior Executive Planner.





**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

Strategic Planning & Economic Development Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924564/4321

Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

TOMMY HILFIGER (UNIT 16) OPERA AVENUE,
95 - 96 PATRICK STREET, CORK.

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question: Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

IS THE CONSTRUCTION OF A 4.5M² ILLUMINATED
ADVERTISEMENT EXHIBITED THROUGH THE 22.8M²
WINDOW ON THE SIDE ELEVATION OF THE
ABOVE PREMISES CONSIDERED EXEMPTED
DEVELOPMENT?

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets if required).

3. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s		N/A
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?		Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas. (sq m) N/A
(c) If concerning a change of use of land and/or building(s), please state the following:		
Existing/ previous use (please circle)	Proposed/existing use (please circle)	
N/A		


4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		HILFINGER STORES IRELAND LIMITED	
Applicant's Address:		67 BROMPTON ROAD, KNIGHTSBRIDGE, LONDON. SW3 1DB, UK.	
Person/Agent acting on behalf of the Applicant (if any):	Name:	MR. ALEX KELLY	
	Address:	SCOTT MURPHY CHARTERED BUILDING SURVEYORS, 38 DAWSON STREET, DUBLIN 2, IRELAND.	
	Telephone:		
	Fax:		
	E-mail address:		
Should all correspondence be sent to the above address? <small>(Please note that if the answer is No, all correspondence will be sent to the Applicant's address)</small>		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

5. LEGAL INTEREST

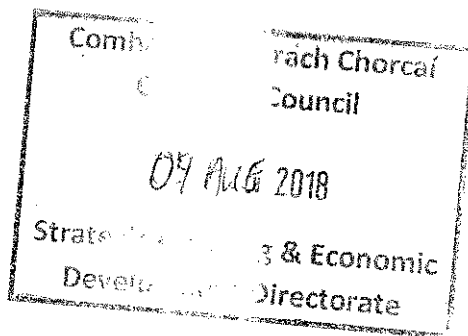
Please tick appropriate box to show applicant's legal interest in the land or structure.	A. Owner	<input checked="" type="radio"/> B. Other
Where legal interest is 'Other', please state your interest in the land/structure in question.	LEASEHOLDER	
If you are not the legal owner, please state the name and address of the owner if available	O'CALLAGHAN PROPERTIES LTD.	

6. I / We confirm that the information contained in the application is true and accurate:

Signature: 

Date: 3rd July 2018





The Development Management Section,
Strategic Planning & Economic Development Directorate,
Cork City Council,
City Hall,
Anglesea Street,
County Cork.

38 Dawson Street,
Dublin 2
T: +353 (0)1 660 6644
E: info@scottmurphy.ie

Our Ref: 18135

3rd July 2018

RE: TOMMY HILFIGER (UNIT 16) OPERA AVENUE, 95 – 96 PATRICK STREET, CORK.

To whom it may concern,

Please find enclosed the completed Section 5 Declaration Application Form in respect of the above-mentioned premises.

Please note there are 2 copies of the application enclosed. Each application contains the following;

- Section 5 Declaration Application Form
- Site Location Map
- Drawing of the area of the proposed work
- Photograph of an example of the proposed lightbox
- Photograph of the existing elevation

Should you have any queries please do not hesitate to contact me.

Yours sincerely


A handwritten signature in black ink that reads "Alex Kelly".

Alex Kelly BScHons

Assistant Building Surveyor

For and on behalf Scott Murphy

T: (01) 660 664
E: akelly@scottmurphy.ie

TOMMY  HILFIGER

SA
UP TO 50%

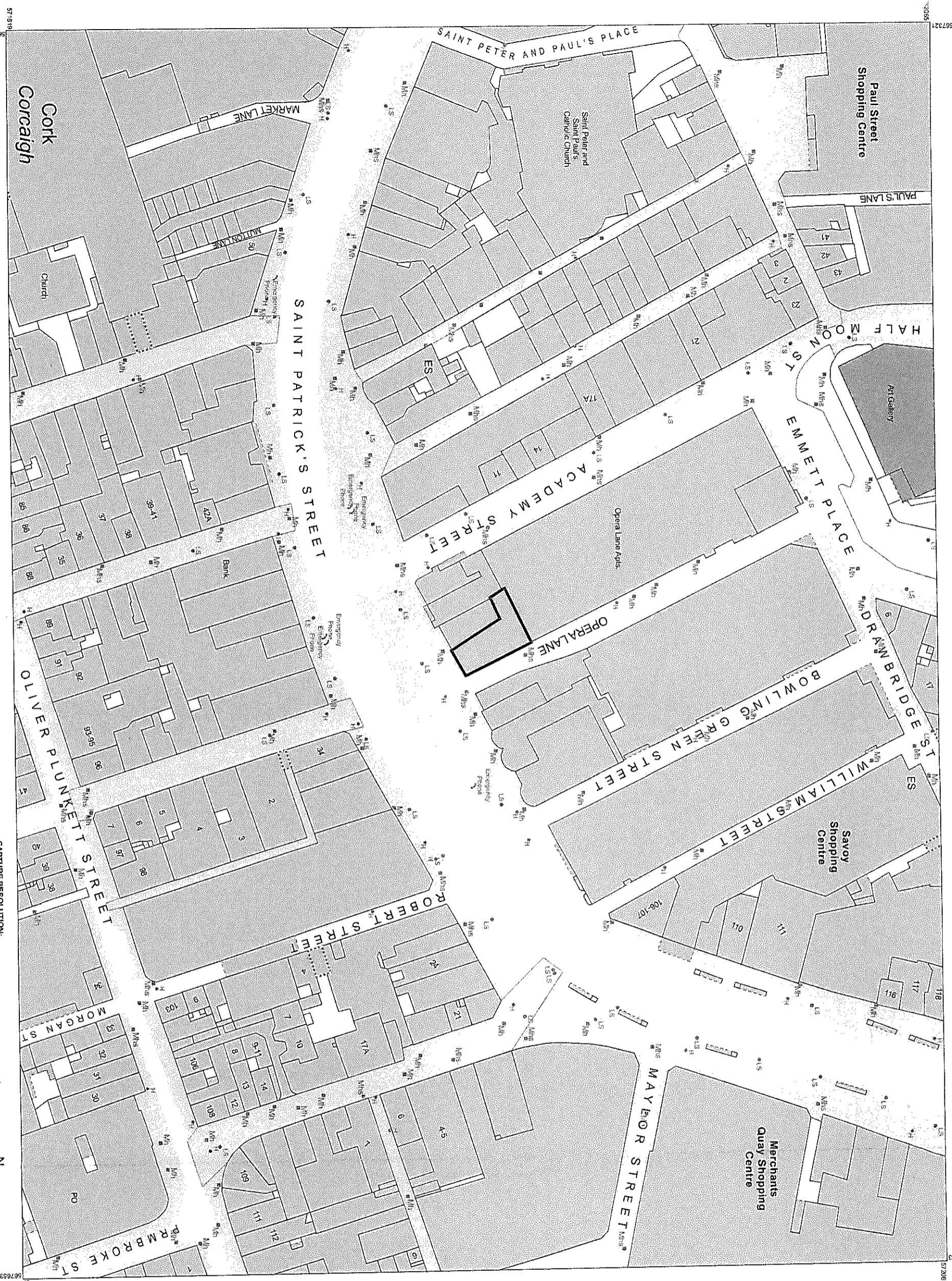
WAMOS

HILFIGER
DE

TOMMY



Planning Pack Map



OUTPUT SCALE: 1:1,000

CAPTURE RESOLUTION:
 The map objects are only accurate to the resolution at which they were captured. Output scale is not indicative of data capture scale. Further information is available at: [http://www.osi.ie/search/Capture Resolution](http://www.osi.ie/search/Capture%20Resolution)




Ordnance Survey Ireland
 National Mapping Agency

CENTRE COORDINATES:
 ITM 567487.571942

PUBLISHED: 18/06/2018
ORDER NO.: 50012018_1

MAP SERIES: 1:1,000
 1:1,000
MAP SHEETS: 6382-10
 6382-15

COMPILED AND PUBLISHED BY:
 Ordnance Survey Ireland,
 Phoenix Park,
 Dublin 8,
 Ireland.

Unauthorised reproduction infringes Ordnance Survey Ireland and Government of Ireland copyright.

All rights reserved. No part of this publication may be copied, reproduced or transmitted in any form or by any means without the prior written permission of the copyright owners.

The representation on this map of a road, track or footpath is not evidence of the existence of a right of way.

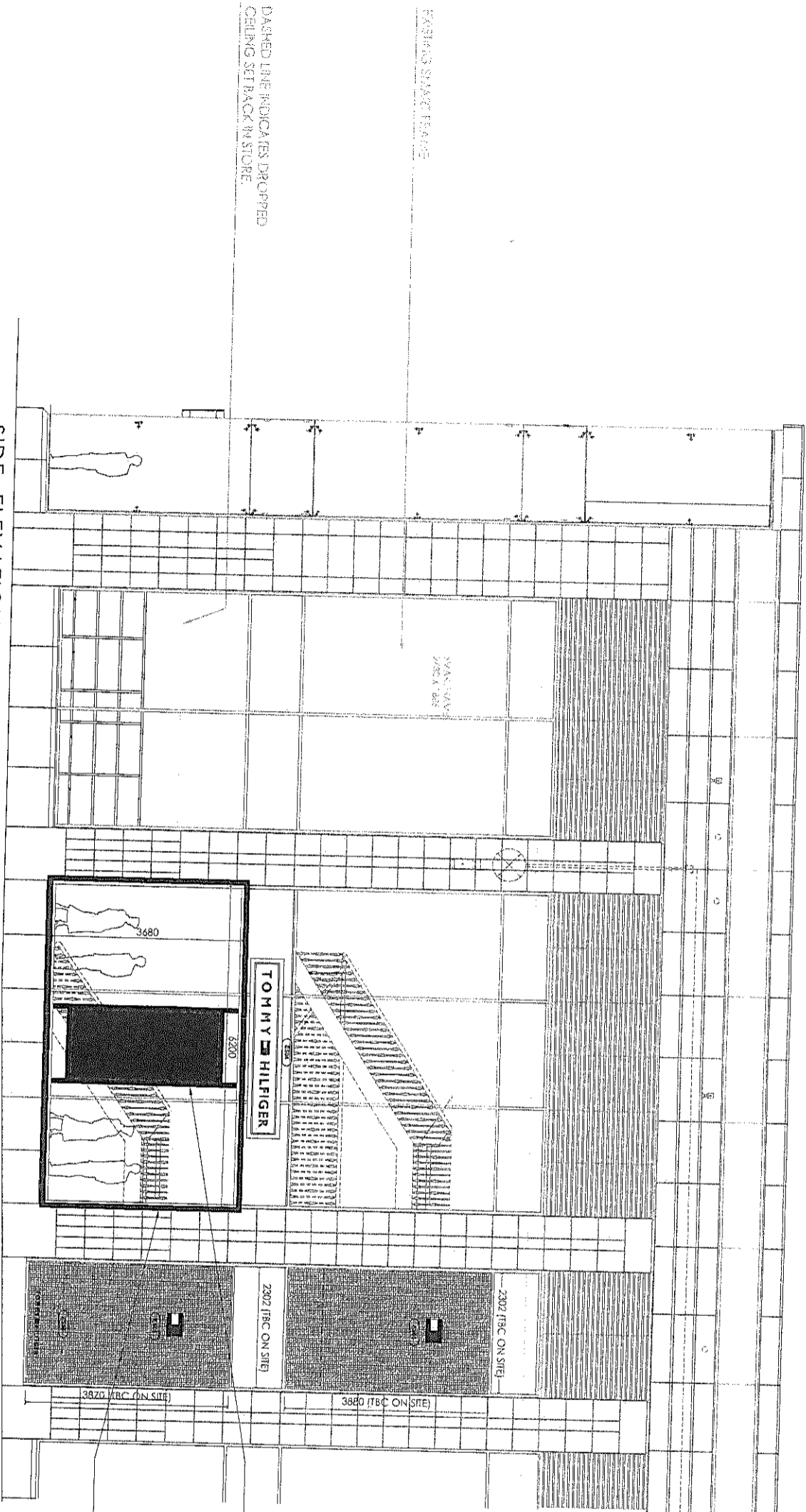
Ordnance Survey maps never show legal property boundaries, nor do they show ownership of physical features.

©Suirbhreacht Ordánais Éireann, 2018
 ©Ordnance Survey Ireland, 2018
www.osi.ie/copyright

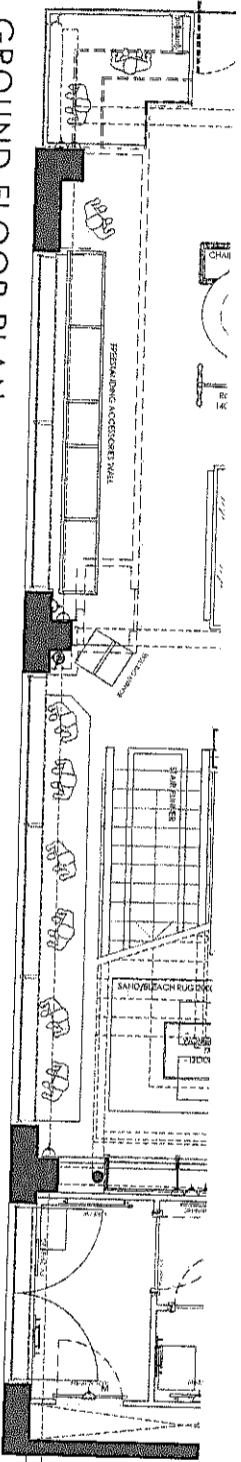
LEGEND:
[http://www.osi.ie/search/Large Scale Legend](http://www.osi.ie/search/Large%20Scale%20Legend)

ALT	LOCATION	DESCRIPTION	QTY	SIZE (MM)	SUPPLIED BY	INSTALLED BY
E304	EXISTING SHOPFRONT FASCIA	ILLUMINATED INDIVIDUAL LETTER SIGN	1	3900 X 170	SIGNAGE MANUFACTURER	TH GC EXTERNALLY
E305	EXISTING SHOPFRONT FASCIA	TH FLAG LOGO	2	441 X 310	EXISTING	EXISTING
E306	EXISTING SHOPFRONT GLAZING	TOMMY HILFIGER DECAL	2	1200 X 65	EXISTING	EXISTING
E306	SECOND FLOOR STAIRCASE LANDING	DERMIA NEON	1	1042 X 329 X 22	EXISTING	EXISTING
TOTAL			4			

ALL DRAWINGS ARE TO BE READ IN CONJUNCTION WITH LATEST STANDARD DETAILS AND BUILDING SPECIFICATION WHICH CAN BE ACCESSED ON BUTZSAW.



SIDE ELEVATION



GROUND FLOOR PLAN



51, St. Andrew Road
 office address, N15 2Y
 telephone: +44 (0) 1842 524 579
 telex: +44 (0) 7794 72 200
 website: www.thepavilion.com

TOMMY HILFIGER

ANCHOR

project:
CORK
 UNIT 16, PATRICK STREET,
 OPERA AVENUE,
 CORK,
 ROI.

drawing title:
PROPOSED LIGHT BOX

designer: CW
 scale: 1/50 @A1
 1/100 @A3
 job no.: 2004094
 checked: CS
 dwg no.: SK401
 revision: SK1

Without limitation or prior notice, the client hereby grants the contractor the right to use the drawings and specifications for the project and the design for the purpose of construction. The contractor shall be responsible for the accuracy of the drawings and specifications. The drawings are the property of the client and shall remain the property of the client. The drawings are not to be used for any other purpose without the written consent of the client.