

Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Dan O'Brien, c/o Denis O'Sullivan & Associates, Consulting Engineers, Joyce House, Barrack Square, Cork T12 H3V5

06/07/2022

RE: Section 5 Declaration R722/22 14/15 Gillabbey Street, Cork T12 HN80

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 10th June 2022, I wish to advise as follows:

From the details submitted it is considered that the proposed development and works do not fall under any Class of exemption as set out under Schedule 2 Part 1 and Part 4 of the Planning and Development Regulations, 2001 as amended. Therefore, the proposed change of use from a public house to 3 No. residential units is not considered to be exempt development.

The site as detailed in the particulars submitted is located in an Architectural Conservation Area (ACA) as set out in the current Cork City Development Plan. It is considered that the proposed external modifications to the building as it is located in this area would be subject to requiring the benefit of planning permission and therefore the proposed works cannot be considered to be exempted development.

Having regard to:

- The particulars received by the Planning Authority on 10th June 2022
- The provisions of Schedule 2 Part 1 and Part 4 of the Planning and Development Regulations, 2001 (as amended)

the Planning Authority considers that — the change of use of existing licensed premises (public house) to residential accommodation, namely: 3 No. apartments with minor alterations to north (front) and east (side) elevations — IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.





Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Note to applicant:

The proposed front elevation (Gillabbey Street) drawing submitted appears to be inaccurate. This drawing on the Gillabbey St. proposed elevation shows that a new window is to be inserted to replace an existing door entrance. However, the location of the new window labelled in the drawing does not replace a door but replaces an existing window.

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 06th July 2022.

Is mise le meas,

Kate Magner

Development Management Section

Community, Culture and Placemaking Directorate

Cork City Council

Sate Lagre



SECTION 5 DECLARATION - PLANNER'S REPORT

File Reference:

R722/22

Description:

Whether the change of use of existing licensed premises (public house) to residential accommodation namely: 3 No. apartments with minor alterations to north (front) and east (side) elevations is or is not

exempted development?

Applicant:

Denis O'Sullivan

Location:

14/15 Gillabbey Street, Cork

Site inspection:

06/07/2022

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.

Site Location

The site is located at 14/15 Gillabbey Street, Cork. This is a long established inner city area of Cork City with a mixture of mainly residential buildings and business located along this public street.

The Question before the Planning Authority

Change of use of existing licensed premises (public house) to residential accommodation namely: 3 No. apartments with minor alterations to north (front) and east (side) elevations.

Land Use Zoning

Cork City Development Plan 2015-2021

- The site is situated on land zoned for Residential, Local Services and Institutional Uses, where it is the policy of the Council:
 - To protect and provide for residential uses, local uses, institutional uses and civic uses, having regard to employment policies outlined in Chapter 3.
- The site is situated in an area that is area defined as an Architectural Conservation Area (ACA)

Planning History

87/13903 88/14524

96/20482:

Permission for retention of a) 1st floor commercial use b) glass dome over lounge area c) new frontages incorp. New double doors, bay windows and ancillary works was granted subject to conditions to TOM & EILEEN ELLIS.

Planning legislation

Planning and Development Act, 2000 as amended

Section 2(1),

"exempted development" has the meaning specified in section 4.

"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.

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, 2001 as amended

Article 6(1),

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9 sets out restrictions on exemptions specified under article 6.

Article 9(1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development, including (a) if the carrying out of such development would:-

9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act—(a) if the carrying out of such development would—

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,

Development

The first issue for consideration is whether or not the matter at hand is 'development', which is defined in the Act as comprising two chief components: 'works' and / or 'any material change in the use of any structures or other land'.

As noted above Section 3 (1) of the Planning and Development Act states that: 'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or other land.

The construction of the proposed change of use, the subdivision of the building into 3 separate dwelling units/apartments and the proposed external modifications clearly constitutes 'works', which is defined in section 2(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

As the proposal comprises 'works', it is clearly therefore 'development' within the meaning of the Act.

CONCLUSION — is development

Assessment of Exempted Development

The next issue for consideration is whether or not the proposal is exempted development.

The applicant has submitted existing and proposed floor plans and elevations setting out the change of use from a public house to 3 No. dwelling units with proposed external modifications to the front and the side elevation of the existing building. The proposed front elevation drawing appears to be inaccurate as it shows that a new window is to be inserted to replace an existing door entrance. However, the location of the new window labelled in the drawing does not replace a door but replaces an existing window. This needs to be clarified.

The proposal is for the change of use from an existing public house to 3 No apartments. It is considered that there is no Class of change of use as set out in Schedule 2 Part 1 and Part 4 of the Planning and Development Regulations, 2001 as amended for this change of use. The existing building is a public house and there is not Class of exemption that relates to the change of use from a public house to residential use and indeed the change of use from a public house to use as 3 No. residential units/apartments.

Furthermore, the proposed external changes to the front elevation of the building would not be considered to be exempt also as they do not come under any Class of exempt development as set out in the Exempt Development Regulations.

Finally, the site is located within an area defined as an Architectural Conservation Area (ACA) as set out in the Cork City Development Plan. Therefore, all external modifications to buildings located within this area would require the benefit of planning permission as a full assessment of the proposed changes would have to be assessed from a building conservation perspective.



ACA area where site is located as set out in Cork City Development Plan

Environmental Assessment & Restrictions on Exemption

A number of restrictions on exemption are set out in Section 4(4) of the Act and Article 9 of the Regulations.

Having regard to the contents of Article 103 and Schedule 7 of the Planning and Development Regulations 2001, as amended it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that environmental impact assessment is not required.

The applicant has not submitted an appropriate assessment screening report. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of these European sites. Accordingly it is considered that appropriate assessment is not required.

Recommendation

From the details submitted it is considered that the proposed development and works do not fall under any Class of exemption as set out under Schedule 2 Part 1 and Part 4 of the Planning and Development Regulations, 2001 as amended. Therefore, the proposed change of use from a public house to 3 No. residential units is not considered to be exempt development.

The site as detailed in the particulars submitted is located in an Architectural Conservation Area (ACA) as set out in the current Cork City Development Plan. It is considered that the proposed external modifications to the building as it is located in this area would be subject to requiring the benefit of planning permission and therefore the proposed works cannot be considered to be exempted development.

Having regard to:

• The particulars received by the Planning Authority on 10/06/22

• The provisions of Schedule 2 Part 1 and Part 4 of the Planning and Development Regulations, 2001 (as amended)

the Planning Authority considers that -

the change of use of existing licensed premises (public house) to residential accommodation, namely: 3 No. apartments with minor alterations to north (front) and east (side) elevations — IS DEVELOPMENT and IS NOT EXEMPTED DEVELOPMENT.

Note to applicant:

The proposed front elevation (Gillabbey Street) drawing submitted appears to be inaccurate. This drawing on the Gillabbey St. proposed elevation shows that a new window is to be inserted to replace an existing door entrance. However, the location of the new window labelled in the drawing does not replace a door but replaces an existing window.

Tadhg Hartnett
Executive Planner
Planning Department
Community Culture & Placemaking Directorate
06 July 2022





08 June 2022 Our Ref. 6479/COS

The Development Management Section, Community, Culture & Placemaking Directorate Cork City Council City Hall Anglesea Street Cork

Attention: Planning Department

Re: 14/15 Gillabbey Street, Cork, T12 HN80

Section 5 Declaration

DEVELOPMENT MANAGEMENT CCP

1 0 JUN 2022

CORK CITY COUNCIL

Dear Sir/Madam

We enclose herewith documentation in support of the above application.

Yours sincerely,

Ciarán O'Sullivan, BE. CEng. MIEI EurIng

On behalf of Denis O'Sullivan & Associates

COMHAIRLE CATHRACH CHORCAÍ CORK CITY COUNCIL

Community, Culture & Placemaking Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

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

Fón/Tel: 021-4924709

Líonra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM

under Section 5 of the Planning & Development Acts 2000 (as amended)

Is the construction of a shed at No 1 Wall St, Cork development and if so, is it

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

14/15 GILLABBET STREET, CORK TIZHN80.

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

exempted development?

2. QUESTION/ DECLARATION DETAILS

Sample Question:

Note: only works listed and described under this section will b declaration.	e assessed under the section 5
CHANGE OF USE OF EXISTING LICE (PUB) TO REGIDENTIAL ACCOMMODE APARTMENTS WITH MILLOR AUTERATIONS EAST (SIDE) EXEVATIONS	ATION HAMBLY : 3 No.
ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEV (Use additional sheets if required).	ELOPMENT:
N/A.	
	DEVELOPMENT MANAGEMENT
	1 0 JUN 2022
	CORK CITY COUNCIL

	Are you aware of any enforcement proceeding if so please supply details:	0						
4.	Is this a Protected Structure or within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority?							
5.	If so please supply details:							
	87/13903, 88/14524, 9	6/20482	,					
6.	APPLICATION DETAILS							
Inswe	r the following if applicable. Note: Floor areas and should be indicated in square meters (sq. N	s are measui 1)						
(a	a) Floor area of existing/proposed structure/s		3	54. OM2.				
	b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including t for which planning permission has been obtained)?	those m)	es, please	No Deprovide floor areas. (sq				
_	c) If concerning a change of use of land and /	or building(s), please st	ate the following:				
Exist	Previous use (please circle) (Previous use (please circle) (Previo	roposed/exis	ting use (p	L (3No. ARAKIMGUIS)				
	GAL INTEREST							
	se tick appropriate box to show applicant's I interest in the land or structure	A. Owner		B. Other				
Whe	ere legal interest is 'Other' , please state your rest in the land/structure in question		NA.					
	u are not the legal owner, please state the e and address of the owner if available		NA.					
8.1/	We confirm that the information contained in Signature:		tion is true	e and accurate:				

CONTACT DETAILS

9. Applicant:							
Name(s)	DAN O' BRIDN						
Address	Love House,						
	BARRACK SOLLARE,						
	FAMNGOMG, CORK.						
10. Person/Agent actin	g on behalf of the Applicant (if any):						
Name(s):	DEHIS O SULLIVANAAG	EXATES. COUSTING ENVINDERS					
Address:	JOYCE HOUSE,	- I Conseque Grand					
	BARRACK GOLLARE,						
	tambours, CORK.						
Telephone:	021. 4871781						
E-mail address:	info@dosa.1e						
	nce be sent to the above address? answer is 'No', all correspondence will be	Yes No No					
11. ADDITIONAL CONTA	ACT DETAILS						
voluntary and will onl	tional contact information such as email y be used by the Planning Authority to co uses of administering the application.	addresses or phone numbers is ontact you should it be deemed					
Tel. No.							
Mobile No.							
Email Address:							

For Office Use Only:

File Ref. No. R722 22

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Development Management Section, Community, Culture & Placemaking Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

DATA PROTECTION

"Cork City Council is committed to fulfilling its obligations imposed by the Data Protection Acts 1988 to 2018 and the GDPR. Our privacy statement and data protections policy is available at https://www.corkcity.ie/en/council-services/public-info/cdpr/.

We request that you read these as they contain important information about how we process personal data.

Payment Log

· ·								
Search	Q							Close. ^
Status		Amount		D	ebit date	2		
All	*	min	max	PA TOTAL CONTRACTOR OF THE PARTY OF THE PART	08/06/	2022 - 08/06/2022	Apply	Clear All
	Made en fil for a communication of a contract to the second section of the section of the second section of the s	Territoria (Territo) () () () () () () () () () (aranah Mananan ya kanasa aran ya ya ya	and the second s	mercent a tecesta , a freebour M	eminimum minimum (in) part minimum disententente (in) et minimum disentente (in) e e e		.
COMPLETED								
DATE ①	08/06/2022							
TO	CORK CITY COUNCIL LOCAL FUND IE30AIBK93417880908086							
FROM	CURRENT							
AMT	EUR 80.00	•						
Hide details ^	makan 1966 Parti mananan 1979 Papari manan	deferrenció (n. 14.4 defer ferrencios especial) (n. 14.4 deferrenciós) (n. 14.4 deferrenciós) (n. 14.4 deferre	Pouts dan minima sprop drambala mandanani		or or affirmation and an age	ter a matematic and the state of the state o	THE SAME AND THE S	···
My statement message	OBR Gilabbey			AIB Reference I	۷a	OJOKWŃ7R7XĶĊ1LDU		
Payee message	Exemption Fee Gila		Payee address		City Hall, Cork, Ireland			
Payment information	Declaration of Exemption - OBR Gilabbey Street		Payee bank def	ails	IE30AIBK93417880908086 AIBKIE2DXXX			
Payment option	Standard EUR 0.00				Ireland			
řee ČČY			Authorisation h	istory	(a a a a a a a a a a a a a a a a a a a			
AIB fee					Anne O'Sullivan, created (08/06/2022 at 11:43)			
AlB fees paid by	You							
Other fees paid by	Payee							
Additional transaction <u>fees and charges</u> may apply:		Download payment details						

Listin reces

U - NI - 2 - 33301313

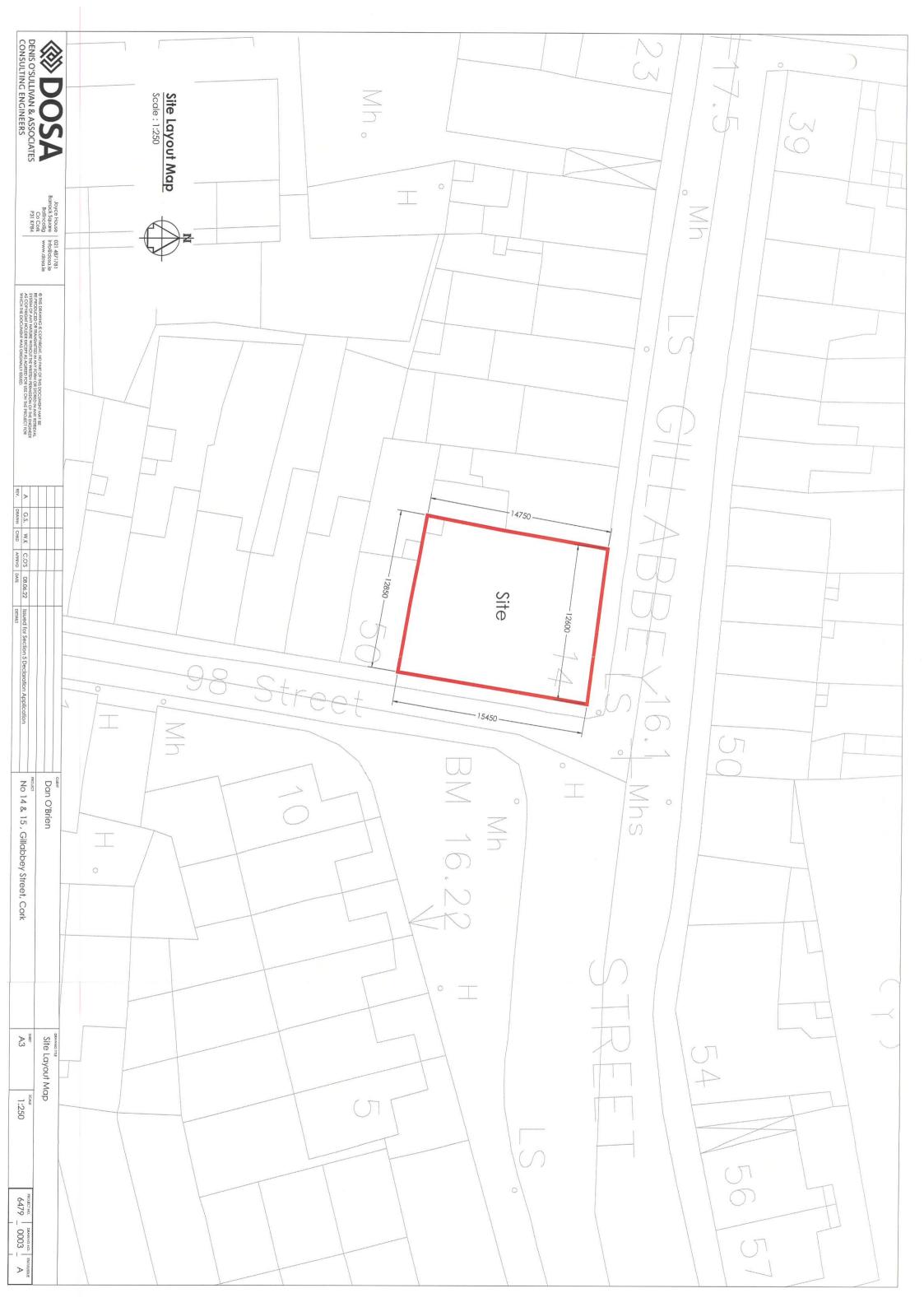
Se vicinis,

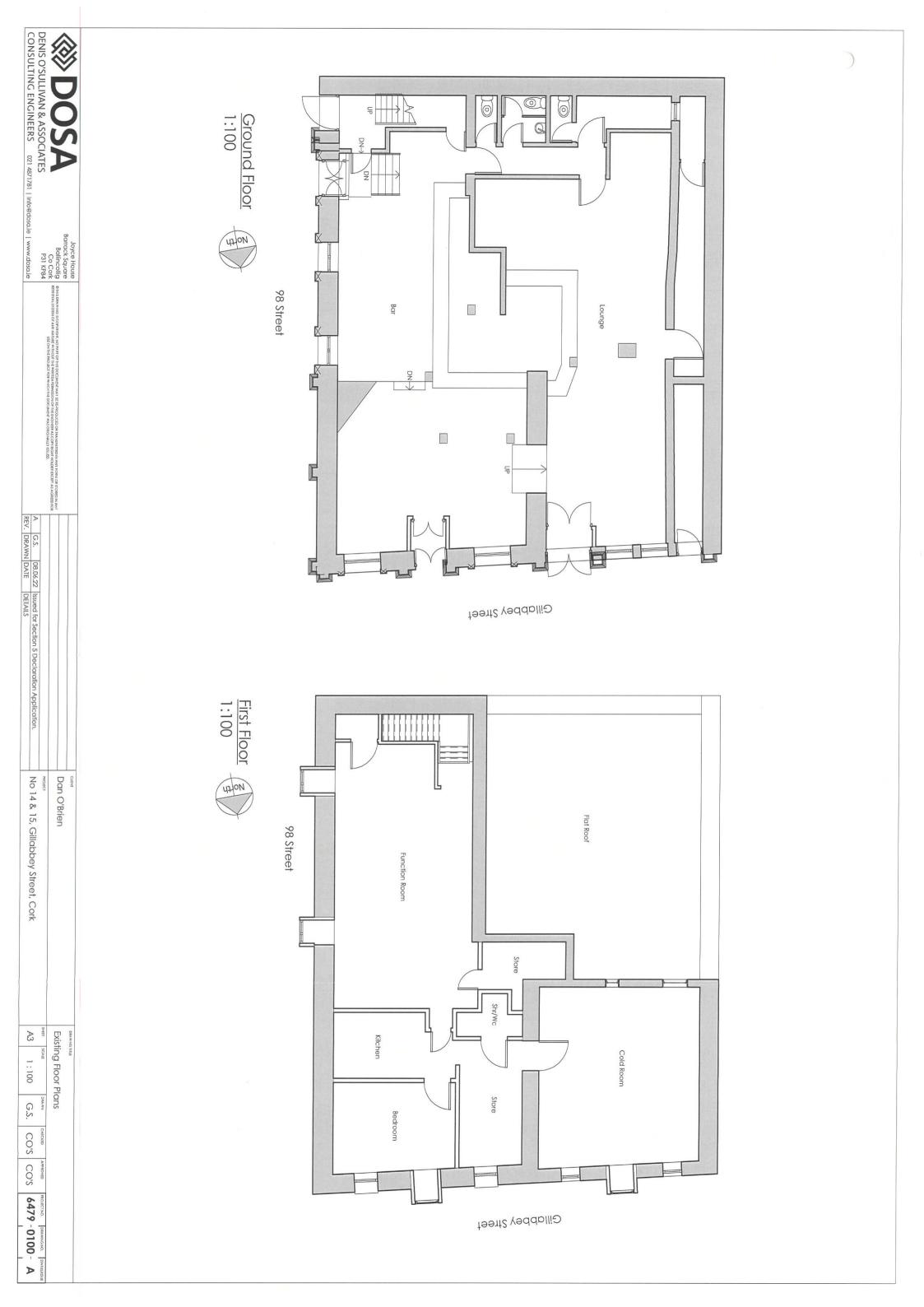
the succession will be a succession of

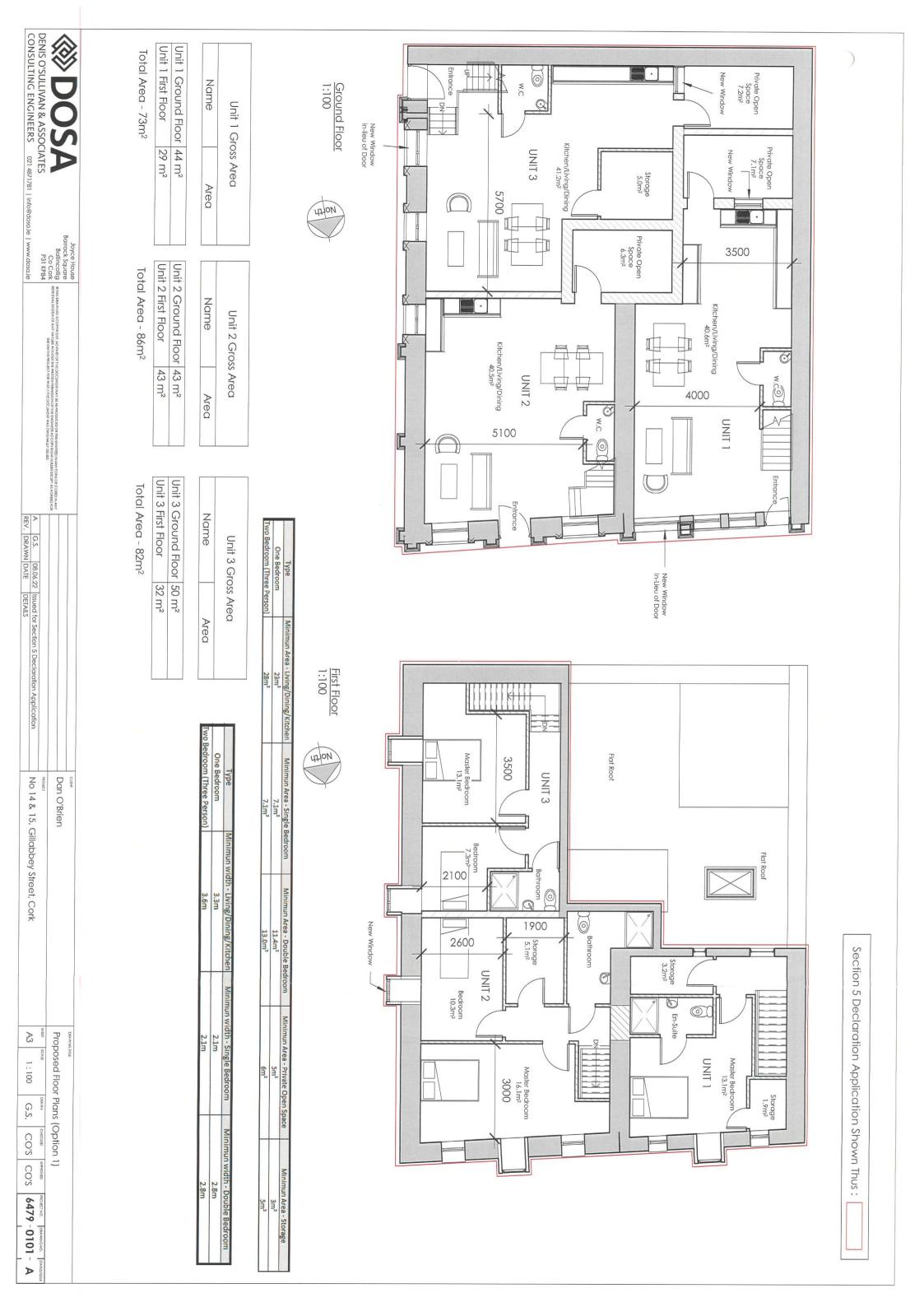
5 July 1973 A. L. (2002) E.

.



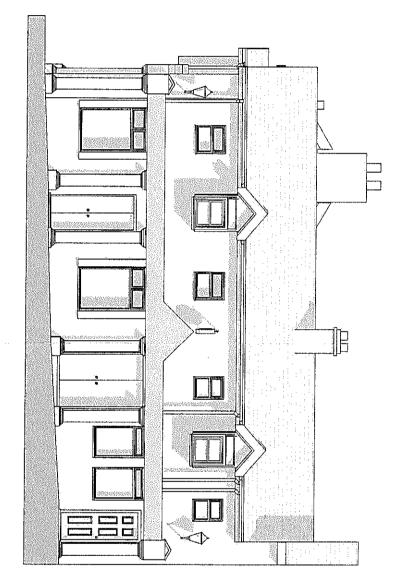








Gillabbey Street 1:100



98 Street 1:100

