

An  
Coimisiún  
Pleanála

Commission Order  
ABP-322371-25

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**Planning and Development Act 2000, as amended**

**Planning Authority: Cork City Council**

**Planning Register Reference Number: R91825**

**WHEREAS** a question has arisen as to whether the temporary change of use of the basement, ground, first, second and third floors of the cube building from office to residential accommodation for International Protection Applicants, as per the provisions of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, at The Cube Building, Monahan Road, Ballintemple, Cork is or is not development or is or is not exempted development,

**AND WHEREAS** Cherryinn Limited requested a declaration on this question from Cork City Council and the Council did not issue a declaration,

**AND WHEREAS** Cork City Council referred the matter to An Bord (Coimisiún) Pleanála for consideration on the 24<sup>th</sup> day of April, 2025,

**AND WHEREAS** An Coimisiún Pleanála, in considering this referral had regard to:

- (a) Sections 2(1), 3(1), 4(1)(h) and 181(1)(a) of the Planning and Development Act 2000, as amended,
- (b) Article 6(1) and Article 9(1) of the Planning and Development Regulations 2001, as amended,

- (c) Class 20F of Schedule 2 Part 1 of the Planning and Development Regulations 2001, as amended,
- (d) the provisions of the European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations 2022,
- (e) the planning history of the site,
- (f) the nature of the current use of the Cube Building,
- (g) the pattern of development in the area,
- (h) the provisions of the Cork City Development Plan 2022-2028,
- (i) relevant case law, specifically Leitrim County Council and Dromaprop Ltd. [2024] IEHC 233, and
- (j) the submissions of Cherryinn Limited, Cork City Council, and the observations received,

**AND WHEREAS** An Coimisiún Pleanála has concluded that:

- (a) the temporary change of use of the basement, ground, first, second, and third floors of the Cube Building from office use to accommodate or support displaced persons or persons seeking international protection and associated works constitutes development as defined under Section 3(1)(a) of the Planning and Development Act 2000, as amended, and
- (b) on the basis of the information contained on the file, there is no evidence that the temporary change of use of the basement, ground, first, second, and third floors of the Cube Building from office use to accommodate or support displaced persons or persons seeking international protection and associated works is by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth. In this regard the temporary change of use and associated works do not come within the scope of class 20F of schedule 2 Part 1 of the Planning and Development

Regulations 2001, as amended, and Section 4(1)(h) of the Planning and Development Act 2000, as amended.

**NOW THEREFORE** An Coimisiún Pleanála, in exercise of the powers conferred on it by Section 5(4) of the Planning and Development Act 2000, as amended, hereby decides that the temporary change of use of the basement, ground, first, second and third floors of the cube building from office to residential accommodation for International Protection Applicants, as per the provisions of Class 20(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, at The Cube Building, Monahan Road, Ballintemple, Cork is development and is not exempted development.

In deciding not to accept the recommendation of the Inspector that the proposed change of use and associated works would constitute development and exempted development, the Commission noted the commentary of the Inspector that no documentation was provided in relation to the requirement that the change of use was being carried out by or on behalf of the Minister, which is a specific requirement as set out in the legislation to enable a proposed change of use to come within the scope of Class 20(b). The Commission noted but did not share the view of the Inspector that 'notwithstanding, in practice it is only logical to assume that the occupation of the relevant floors of the building with displaced persons or persons seeking international protection would effectively be carried out on behalf of the Minister'. The Commission determined that the legislation is clear and it is not appropriate to rely on, surmise, or other assumption on this fact.

Furthermore, the Commission noted the comment of the Inspector, that the class [20(b)] does not require a supporting letter, or similar, to be provided and that notwithstanding the absence of supporting documentation from the Minister, '... the proposed use... would be consistent with the provisions of Column 1'. On this matter the Commission disagreed with the Inspector and

considered that the meaning of Class 20(b) can only be determined on a logical reading whereby any such exemption can only be by or on behalf of the Minister. If such a narrowing of the exemption was not intended by the legislature, then that phrasing would not likely have been inserted into the legislation. Equally, if any proposal for a Class 20(b) exemption was allowed to be confirmed merely by an implied assumption that it would effectively be by, or on behalf of, the Minister, this would dilute the appropriate meaning and applicability of the relevant legislation to the point of it not being capable of practical implementation.

The Commission also noted the expressed concerns of third parties to the proposed change of use, with regard to whether or not the detail of the change of use might lead to a traffic hazard by reference to the nature of activity that might arise at the basement area from a new introduced use here, in addition to the continuation of employment use within part of the subject building. While ordinarily this issue would merit at least further consideration, having regard to the substantive reasoning set out above, it was decided not to pursue this issue in the context of the current referral.


Chris McGarry

Planning Commissioner of An Coimisiún  
Pleanála duly authorised to authenticate

the seal of the Commission.

Dated this 20<sup>th</sup> day of April 2026.

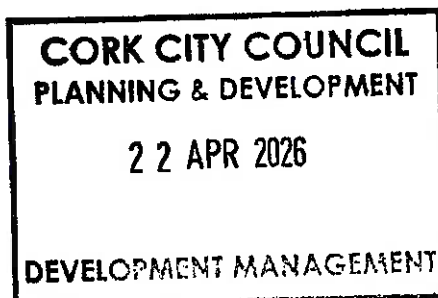
**Our Case Number:** ABP-322371-25

**Planning Authority Reference Number:** R91825



An  
Coimisiún  
Pleanála

Cork City Council  
City Hall  
Anglesea Street  
Cork City  
Co. Cork  
T12 T997



**Date:** 21 APR 2026

**Re:** Whether the temporary change of use of the basement, ground, first, second and third floors of the cube building from office to residential accommodation for International Protection Applicants as per the provisions of class 20f of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended) is development and, if so, is it exempted development.  
The Cube Building, Monahan Road, Ballintemple, Cork

Dear Sir / Madam,

An order has been made by An Coimisiún Pleanála determining the above-mentioned referral under the Planning and Development Act 2000, as amended. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Commission 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 Commission will also make available the Inspector's Report, the Direction and Commission Order in respect of the matter on the Commission's website ([www.pleanala.ie](http://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 Commission is closed.

Yours faithfully,

Rory Kelleedy  
Executive Officer

RL100n

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### Judicial Review Notice

Judicial review of An Coimisiún Pleanála decisions under the provisions of the Planning and Development Act 2000 (as amended)

A person wishing to challenge the validity of a Commission decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000, as amended, contain provisions in relation to challenges to the validity of a decision of the Commission.

The validity of a decision taken by the Commission may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that any application for leave to apply for judicial review must be made within 8 weeks of the decision of the Commission, save for decisions made pursuant to a function transferred to the Commission under Part XIV of the Planning and Development Act 2000, where any application for to apply for judicial review must, as set out in sub-section 50(7), be made within 8 weeks beginning on the date on which notice of the decision of the Commission was first sent (or as may be the requirement under the relevant enactment, functions under which are transferred to the Commission, was first published). These time periods are subject to any extension which may be allowed by the High Court in accordance with sub-section 50(8).

Section 50A(3) states that leave for judicial review shall not be granted unless the Court is satisfied that (a) there are substantial grounds for contending that the decision is invalid or ought to be quashed and (b) that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the costs of certain judicial review proceedings in the High Court; pursuant to Section 50B(1), Section 50B applies to the following proceedings:

- (a) proceedings in the High Court by way of judicial review, or of seeking leave to apply for judicial review, of –
  - (i) any decision or purported decision made or purportedly made,
  - (ii) any action taken or purportedly taken,
  - (iii) any failure to take any action, pursuant to a statutory provision that gives effect to
    - I. a provision of the EIA Directive 85/337/EEC as amended to which Article 10a (as inserted by Directive 2003/35/EC) of that Directive applies,
    - II. the SEA Directive 2001/42/EC, or
    - III. a provision of the IPPC Directive 2008/1/EC to which Article 16 of that Directive applies, or
    - IV. Article 6(3) or 6(4) of the Habitats Directive; or
- (b) an appeal (including an appeal by way of case stated) to the Supreme Court from a decision of the High Court in a proceeding referred to in paragraph (a) or (b);
- (c) proceedings in the High Court or the Supreme Court for interim or interlocutory relief in relation to a proceeding referred to in paragraph (a) or (b).

The general provision contained in section 50B(2) is that in proceedings to which the section applies each party shall bear its own costs. The Court however may award costs against any party in specific circumstances. There is also provision for the Court to award costs of proceedings or a portion of such costs to an applicant, to the extent that the applicant succeeds in obtaining relief, against a respondent or notice party, or both, to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on [www.citizensinformation.ie](http://www.citizensinformation.ie).

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

### Fógra faoi Athbhreithniú Breithiúnach

Athbhreithniú breithiúnach ar chinntí An Coimisiún Pleanála faoi fhorálacha na nAchtanna um Pleanáil agus Forbairt (arna leasú)

Ní fhéadfaidh duine ar mian leis nó léi agóid a dhéanamh in aghaidh bhailíocht chinneadh de chuid an Coimisiúin é sin a dhéanamh ach trí athbhreithniú breithiúnach. Tá forálacha in Alt 50, 50A agus 50B den Acht um Pleanáil agus Forbairt 2000, ama leasú, maidir le dúshláin i leith bhailíocht chinneadh an Coimisiúin.

Ní féidir bailíocht cinnidh ama ghlacadh ag an gCoimisiún a cheistiú ach amháin trí iarratas a dhéanamh ar athbhreithniú breithiúnach faoi Ordú 84 de Rialacha na nUaschúirteanna (S.I. Uimh 15 de 1986). Ceanglaíonn fo-alt 50(6) den Acht um Pleanáil agus Forbairt 2000 go gcaithfear aon iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach a dhéanamh laistigh de 8 seachtaine ó dháta chinneadh an Coimisiúin, seachas cinntí a dhéantar de bhun feidhme aistrithe chuig an gCoimisiún faoi Chuid XIV den Acht um Pleanáil agus Forbairt 2000, i gcás nach mór aon iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach, mar atá leagtha amach i bhfo-alt 50(7), a dhéanamh laistigh de 8 seachtaine ag tosú ar an data ar ar tugadh fógra faoi chinneadh an Coimisiúin ar dtús (nó mar a cheanglófar faoin achtú ábhartha, ar aistríodh feidhmeanna faoi chuig an gCoimisiún, a foilsíodh den chéad uair). Tá no tréimhsí ama seo faoi réir aon síneadh a fhéadfaidh an Ard-Chúirt a cheadú de réir fho-alt 50(8).

Sonraítear in alt 50A(3) nach ndeonófar cead d'athbhreithniú breithiúnach mura bhfuil an Chúirt sásta (a) go bhfuil forais shubstaintiúla ann chun a áitú go bhfuil an chinneadh neamhbhaifí nó gur choir é a chur ar neamhní agus (b) go bhfuil leas leordhóthanach ag an iarratasóir san ábhar is ábhar don iarratas nó i gcásanna a bhaineann le measúnú tionchair timpeallachta ar comhlacht é a chomhlíonann critéir shonraithe.

Tá forálacha in alt 50B maidir le costais imeachtaí athbhreithnithe bhreithiúnaigh áirithe san Ard-Chúirt; de bhun Alt 50B(1), tá feidhm ag alt 50B maidir leis na himeachtaí seo a leanas:

- (a) imeachtaí san Ard-Chúirt mar athbhreithniú breithiúnach, nó trí chead a lorg chun iarratas a dhéanamh ar athbhreithniú breithiúnach, ar -
  - (i) aon chinneadh nó chinneadh airbheartaithe a rinneadh nó a airbheartaítear a rinneadh,
  - (ii) aon ghníomh a rinneadh nó a airbheartaítear a rinneadh,
  - (iii) aon mhainneachtain aon ghníomh a dhéanamh, de bhun forála reachtúla a thugann éifeacht
    - I. d'fhoráil de Threoir EIA 85/337/CEE arna leasú lena mbaineann Airteagal 10a (arna cur isteach le Treoir 2003/35/CE) den Treoir sin,
    - II. do Threoir SEA 2001/42/CE, nó
    - III. d'fhoráil de Threoir IPPC 2008/1/CE a bhfuil feidhm ag Airteagal 16 den Treoir sin maidir léi, nó
    - IV. d'Airteagal 6(3) nó 6(4) den Treoir maidir le Gnáthóga; nó
- (b) achomharc (lena n-áirítear achomharc de chás ráite) chun na Cúirte Uachtaraí i gcoinne breithe ón Ard-Chúirt in imeacht dá dtagraítear i mír (a);
- (c) imeachtaí san Ard-Chúirt nó sa Chúirt Uachtarach le haghaidh faoisimh eatramhach nó idirbhreitheach i ndáil le himeacht dá dtagraítear i mír (a) nó (b).

Is i an fhoráil ghinearálta atá in alt 50B(2) ná go n-íocfaidh gach páirtí in imeachtaí lena mbaineann an t-alt a chostais féin. Féadfaidh an Chúirt, áfach, costais a dhámhachtain in aghaidh aon pháirtí in imthosca sonraithe. Tá foráil ann freisin go ndéanfaidh an Chúirt chostas imeachtaí nó cuid de chostais den sort sin a dhámhachtain d'iarratasóir, a mhéid a eiríonn leis an iarratas faoiseamh a fháil, i gcoinne freagróra nó páirtí fógra, nó an dá cheann, a mhéid a chuir an chaingean nó an t-easnamh ar thaobh an fhreagróra nó an pháirtí fógra go páirteach leis an bhfaoiseamh atá á fháil.

Tá eolas ginearálta ar nósanna imeachta athbhreithnithe bhreithiúnaigh ar fail anseo a leanas, [www.citizensinformation.ie](http://www.citizensinformation.ie).

Séanadh: Mar eolas atá an méid thuas ceaptha. Ní airbheartaíonn sé a bheith ina léirmhíniú ceangailteach ó thaobh dlí ar na forálacha ábhartha agus bheadh sé inmholta do dhaoine atá ag smaoineamh ar chaingean dlí comhairle dlí a lorg.

**Our Case Number:** ABP-322371-25

**Planning Authority Reference Number:** R91825



**An  
Coimisiún  
Pleanála**

Development Management  
Planning and Integrated Development Directorate  
Cork City Council  
City Hall  
Co. Cork

**Date:** 03 November 2025

**Re:** Whether the temporary change of use of the basement, ground, first, second and third floors of the cube building from office to residential accommodation for International Protection Applicants as per the provisions of class 20f of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended) is development and, if so, is it exempted development.  
The Cube Building, Monahan Road, Ballintemple, Cork

Dear Sir / Madam,

I have been asked by the Commission to refer to the above-mentioned referral and, in particular, to the Commission's notice to you under section 126 of the Planning and Development Act, 2000, (as amended), in which it was indicated that the Commission intended to determine this referral before **4 November 2025**.

I regret to inform you that, the Commission will not now be in a position to determine the referral before that date.

The Commission hopes to receive the Inspector's report and recommendation on the referral in the near future. Generally, as soon as the report and recommendation on the case has been received the referral file is sent to the Commission for formal consideration. Most cases are decided within a short period of their being formally considered for the first time at Commission level.

The delay involved is regretted.

If you have any queries in the meantime, please contact the undersigned officer of the Commission at [appeals@pleanala.ie](mailto:appeals@pleanala.ie).



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Yours faithfully,

  
\_\_\_\_\_  
Lisa Quinn  
Executive Officer  
Direct Line: 01-8737158

BPRL91

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**Our Case Number:** ABP-322371-25

**Planning Authority Reference Number:** R91825



**An  
Coimisiún  
Pleanála**

Development Management  
Planning and Integrated Development Directorate  
Cork City Council  
City Hall  
Co. Cork

**Date:** 26 August 2025

**Re:** Whether the temporary change of use of the basement, ground, first, second and third floors of the cube building from office to residential accommodation for International Protection Applicants as per the provisions of class 20f of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended) is development and, if so, is it exempted development.  
The Cube Building, Monahan Road, Ballintemple, Cork

Dear Sir / Madam,

I have been asked by An Coimisiún Pleanála to refer to the above appeal.

It is a statutory objective of the Commission to ensure that every appeal received is determined within eighteen weeks beginning on the date of receipt of that appeal. This is in accordance with section 126(2)(a) of the Planning and Development Act, 2000, as amended. Where it appears to the Commission that it would not be possible or appropriate to determine a particular appeal within this period, a notice must be sent to the parties in accordance with section 126(3)(a) of the Act.

The Commission hereby serves notice under section 126(3)(a) that it will not be possible to determine the case within the statutory objective period due to a current significant backlog of cases. The Commission regrets the delay in determining this case.

The Commission now intends to determine the above appeal before 5th November 2025.

The Commission will take all such steps as are open to it to ensure that the appeal is determined before that date.



**Tell**  
**Glaó Áitiúil**  
**Facs**  
**Láithreán Gréasáin**  
**Ríomhphost**

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If you have any queries in the meantime, please contact the undersigned officer of the Commission at [appeals@pleanala.ie](mailto:appeals@pleanala.ie).

Yours faithfully,



Dáire Littleton Caden  
Executive Officer  
Direct Line: 01-8737

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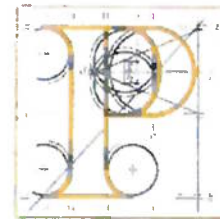
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**Our Case Number: ABP-322371-25**

**Planning Authority Reference Number: R91825**

Cork City Council  
City Hall  
Anglesea Street  
Cork City  
Co. Cork  
T12 T997



**An  
Bord  
Pleanála**

**Date: 21 May 2025**

**Re: Whether the temporary change of use of the basement, ground, first, second and third floors of the cube building from office to residential accommodation for International Protection Applicants as per the provisions of class 20f of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended) is development and, if so, is it exempted development.  
The Cube Building, Monahan Road, Ballintemple, Cork**

Dear Sir / Madam,

An Bord Pleanála has received your recent letter in connection with the above matter.

Section 127(3) of the Planning and Development Act, 2000, (as amended), provides that a party to the appeal shall not be entitled to elaborate in writing upon or make further submissions in writing in relation to, the grounds of appeal stated in the appeal or to submit further grounds of appeal and any such submissions shall not be considered by the Board.

Accordingly, your submission is herewith returned to you.

Yours faithfully,

Dáire Littleton Caden  
Executive Officer  
Direct Line: 01-8737

BP25

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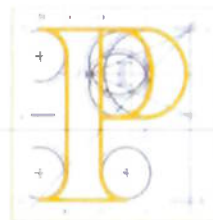
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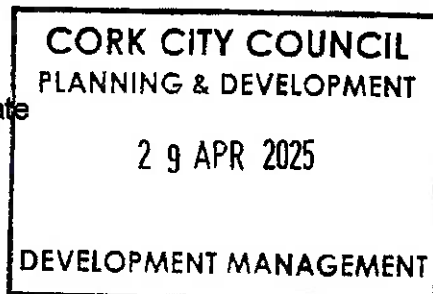
**Our Case Number: ABP-322371-25**

**Planning Authority Reference Number: R91825**



**An  
Bord  
Pleanála**

Development Management  
Planning and Integrated Development Directorate  
Cork City Council  
City Hall  
Co. Cork



**Date: 28 April 2025**

**Re: Whether the temporary change of use of the basement, ground, first, second and third floors of the cube building from office to residential accommodation for International Protection Applicants as per the provisions of class 20f of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended) is development and, if so, is it exempted development. The Cube Building, Monahan Road, Ballintemple, Cork**

Dear Sir / Madam,

An Bord Pleanála has received your referral and will consider it under the Planning and Development Act, 2000, (as amended). A receipt for the fee lodged is enclosed.

In order to comply with section 128 of the Planning and Development Act, 2000, (as amended), please forward, within a period of 2 weeks beginning on the date of this letter, copies of any information in your possession which is relevant to the referral, including:

- (i) details of previous decisions affecting the site;
- (ii) any correspondence that has taken place between the person(s) issued with a declaration under subsection (2)(a) of section 5 of the 2000 Act, (as amended), and the planning authority;
- (iii) the name and address of the owner of the land in question and the name of the occupier of the said land, if different;
- (iv) the names and addresses of all persons notified by you under subsection (2) of section 5 of the 2000 Act, (as amended);
- (v) where no declaration was issued by you, indicate the date that the declaration was due to be issued in accordance with subsection (2) of section 5 of the 2000 Act, (as amended).


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Please note that under section 127(3) of the Planning and Development Act, 2000, (as amended), the person by whom the referral is made shall not be entitled to elaborate in writing upon or make further submissions in writing in relation to the grounds of the referral unless requested to do so by An Bord Pleanála.

Yours faithfully,



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Fergal Ryan  
Administrative Assistant  
Direct Line:

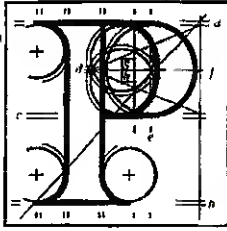
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**Tel**  
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**Facs**  
**Lálthreán Gréasáin**  
**Ríomhphost**

**Tel** (01) 858 8100  
**LoCall** 1800 275 175  
**Fax** (01) 872 2684  
**Website** [www.pleanala.ie](http://www.pleanala.ie)  
**Email** [bord@pleanala.ie](mailto:bord@pleanala.ie)

64 Sráid Maoilbhríde  
Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902



An  
Bord  
Pleanála

Táille Reachtúil  
Statutory Receipt

ABP-322371-25

<b>Ainm an Chustaiméara:</b> <b>Name of Customer:</b>	Development Management
<b>Gníomhaire:</b> <b>Agent:</b>	
<b>Íocaíocht Faighte:</b> <b>Payment Received:</b>	€110
<b>Modh Íocaíochta:</b> <b>Payment Method:</b>	Cheque
<b>Uimh. Aitheantais Lóisteála:</b> <b>Lodgement ID:</b>	LDG-079619-25
<b>Cineál na Lóisteála:</b> <b>Lodgement Type:</b>	Referral
<b>Iarratas ar éisteacht ó bhéal</b> <b>Oral Hearing Request:</b>	No
<b>Dáta Faighte:</b> <b>Date Received:</b>	24/04/2025
<b>Faighte ag:</b> <b>Received by:</b>	Scott Moss

The Secretary,  
An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1, D01V902

22/04/2025

**RE: Section 5 Declaration R918/25: The Cube Building, Monahan Road, Ballintemple**

Dear Sir/Madam,

Please find enclosed a referral under Section 5 (4) of the Development & Planning Act 2000 with a cheque for the referral fee of €10.00.

**Question Referred**

Whether the temporary change of use of the basement, ground, first, second, and third floors of the Cube building from office use to residential accommodation for International Protection Applicants as per the provisions of class 20F of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended) is development and, if so, is it exempted development?..

**Applicant Details**

Cherryinn Limited,  
22 Northumberland Road,  
Ballsbridge,  
Dublin 4,  
.

**Person/Agent acting on behalf of the Applicant**

Susan Cullen,  
McCutcheon Halley,  
6 Joyce House,  
Barrack Square,  
Ballincollig,  
Cork.  
P31 YX97

Copies of the following documents are included in the appendices of this referral:

- Referral under Section 5(4) of the Planning and Development Act 2000
- Section 5 Declaration application, R918/25.
- Section 5 Declaration detailed submission.

Should additional information be required, please contact me directly on 021 492 4584.

Yours sincerely,

---

**Anthony Angelini,**  
**Assistant Staff Officer**  
**Planning and Integrated Development**  
**Cork City Council**

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
DUBLIN 1  
D01 V902

17/04/2025

## **Referral under Section 5(4) of the Planning and Development Act 2000**

### **Cube Building, Monahan Road, Ballintemple, Cork**

This referral is made under section 5(4) of the Planning and Development Act 2000 (as amended).

This referral is structured as follows:

1. Introduction
  2. Background
  3. Grounds of Referral
  4. Screening for Appropriate Assessment
  5. Conclusion
- Appendices 1 – 4

### **1. Introduction**

#### **1.1 Relevant Legislative Provision**

All relevant legislative provisions of the Planning and Development Act, 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended) are included as **Appendix 1** to this referral. In this referral, 'the Act' means the Planning and Development Act 2000, as amended, and 'the Regulations' means the Planning and Development Regulations 2001, as amended.

#### **1.2 Particulars of Referral**

Various particulars required under Section 127 of the Act are provided with this referral. The subject matter and grounds of the referral and the reasons, considerations and arguments on which they are based are included below in the body of this referral. Also enclosed is the fee of €110.

The referral is made by:

Development Management,  
Planning and Integrated Development Directorate,  
Cork City Council, City Hall, Cork  
Telephone: 021-492-4584  
Email: [anthony\\_angelini@corkcity.ie](mailto:anthony_angelini@corkcity.ie)

#### **1.3 The Question Referred**

As per the application received from Cherryinn Limited, owners of the property, the question referred here, as set out by the applicant, is:

- 1) Whether the change of use of the basement, ground, first, second, and third floors of the Cube building from office use to residential accommodation for International Protection Applicants as per the provisions of class 20F of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended) is development and, if so, is it exempted development?.**

Following a review of the documentation submitted, including the further information, the relevant exempted development provisions and the planning history on site is proposed that the following definition would be more appropriate:

- 1) Whether the temporary change of use of the basement, ground, first, second, and third floors of the Cube building from office use to residential accommodation for International Protection Applicants as per the provisions of class 20F of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended) is development and, if so, is it exempted development?.**

#### **1.4 The Referral Site**

For ease of reference, the lands which are the subject of this referral are referred to as 'the referral site' in this referral.

The referral site is located on Monahans Road, a predominantly commercial/industrial area to the South of the River Lee in the South Docklands area of Cork City. It consists of a four-storey, over basement business and technology office building.

The referral site is zoned, in the *Cork City Development Plan 2022-2028 (CCDP)* as **ZO 4 - Mixed Use Development zoning** where it is an objective: *To provide and promote a mix of residential and other uses to ensure the creation of a vibrant and sustainable urban area.*

## **2. Background**

### **2.1 General Background**

The subject referral to the Board is subsequent to a request for a Planning Authority declaration on the question as set out in Section 1.3 above. The request for declaration is recorded under Cork City Council Ref: R918/25. It should be noted that the referral is a 1<sup>st</sup> Party referral.

The application and cover letter, submitted to Cork City Council on 20<sup>th</sup> February 2025, along with Further Information submitted on 3<sup>rd</sup> April 2025 by McCutcheon Halley Planning Consultants. are attached hereto as **Appendix 2**.

Subsequent to receiving the Section 5 determination application Cork City Council requested Further Information as follows:

1. In relation to Class 20F the following is noted:

*CLASS 20F*

**Temporary** use by or...

The intention of the request is not clear as the question in Section 3 of the application form does not indicate that the proposed use is of a temporary nature only, and it is considered that only a Temporary change of use may be applied for under Class 20F.

The applicant is requested to clarify the details of the question posed to the Planning Authority, namely, that the proposal is for a Temporary Change of use only (in accordance with the requirements of Class 20F of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended)).

2. It is noted that the question in Section 3 of the application form also includes for the change of use of the basement floor area. It is further noted however that the cover letter submitted indicates that the basement is not proposed for a change of use. Additionally, no proposed drawings for the change of use of the basement have been submitted.

The applicant is requested to clarify, and revise the question posed to the Planning Authority in relation to whether the basement area is proposed for a change of use and, if so, proposed floor plans for this area should be provided.

Further Information submitted on 3<sup>rd</sup> April 2025 by McCutcheon Halley Planning Consultants confirming that the proposed change of use is 'Temporary' in nature and that no changes are proposed to the Basement of the building.

As part of the Further Information Request an Advisory Note was attached to the Request for Further Information in relation to the location of the referral site within the middle and outer Seveso Consultation Zone associated with Goulding's Chemicals on Centre Park Road, as follows:

1. It is noted that the existing building comes within the Seveso Consultation Zone associated with Goulding's Chemicals on Centre Park Road. It would appear that the building is located partially within the middle and outer consultation zones. Some development types are restricted in these consultation zones in accordance with HSA guidance.

The applicant is advised to engage with the HSA with regards to the location and type of proposed development to ensure that the proposed development is acceptable within these zones.

Further Information submitted on 3<sup>rd</sup> April 2025 by McCutcheon Halley Planning Consultants confirmed that the applicants have made contact with the HSA regarding same.

Copies of this correspondence are set out in **Appendix 3**.

## **2.2 Site Planning History**

- TP 20/39182 Permission GRANTED for the alteration of south elevation by the inclusion of new windows at first floor level, and associated works at Cube, Monahan Road, Cork.
- TP 16/37179 Permission GRANTED for the alteration of west elevation by the inclusion of new windows, door and associated works at Cube, Monahan Road, Cork.
- TP 08/33194 Permission GRANTED for construction of ESB Substation and Switch Room to service Business and Technology building granted under Reg. No. 06/30815 at Business & Technology Building, Monahan Road, Cork.
- TP 06/30815 Permission GRANTED to demolish existing warehouses and construction of business and technology building comprising of a single level basement carpark, 5 storey building for office use with central courtyard, 2 no. vehicle access points, drop off layby and associated site works at Monahan Road, Cork.

## **2.3 Development Plan Objectives**

### **Cork City Development Plan 2022-2028**

The Cork City Development Plan 2022-2028 (CCDP) was made by the elected members of Cork City Council on 10 June 2022 and came into effect on 8 August 2022.

**Zoning Objective ZO-04 - Mixed Use Development zoning** where it is an objective: *To provide and promote a mix of residential and other uses to ensure the creation of a vibrant and sustainable urban area.*

### **3. Grounds of Referral**

The planning authority requests that the board determine whether the change of use proposed to the referral site, are exempted development. It is considered that the key questions are:

- (1) Whether the temporary change of use of the basement, ground, first, second, and third floors of the Cube building from office use to residential accommodation for International Protection Applicants as per the provisions of class 20F of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended) is development and, if so, is it exempted development.

### **4. Environmental Assessment**

#### ***Screening for Environmental Impact Assessment***

Having regard to the contents of Article 103 (as amended by Article 14 of the Planning and Development (Amendment) (No 3) Regulations 2011) 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 an environmental impact statement is not required to be submitted.

#### ***Screening for Appropriate Assessment***

Section 177U (9) of the Act requires planning authorities to screen applications for a section 5 declaration for appropriate assessment. The provisions of the *Habitats Directive*, the *Appropriate Assessment Guidelines for Planning Authorities 2009* (revised 2010) and the Act are noted. 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 the European sites referred to above. Accordingly it is considered that appropriate assessment is not required.

### **5. Conclusion**

The planning authority looks forward to the Board's consideration and determination of this referral.

Please do not hesitate to contact this office should any further information be required.

encl.

**Appendix 1** – Legislative Provisions

**Appendix 2** – Section 5 Application, cover letter and supporting documents submitted by the applicant

**Appendix 3** – Further Information Request and Further Information Response

**Fee** – €110

## Appendix 1 – Legislative Provisions

### Planning and Development Act, 2000 (As Amended)

#### Section 3(1) Development

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.

#### 4.— Section 4(1a), Exempted Development

(1) The following shall be exempted developments for the purposes of this Act—

(a) development consisting of the use of any land for the purpose of agriculture and development consisting of the use for that purpose of any building occupied together with land so used;

#### Section 4(2),

(2) (a) The Minister may by regulations provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that—

(i) by reason of the size, nature or limited effect on its surroundings, of development belonging to that class, the carrying out of such development would not offend against principles of proper planning and sustainable development, or

(ii) the development is authorised, or is required to be authorised, by or under any enactment (whether the authorisation takes the form of the grant of a licence, consent, approval or any other type of authorisation) where the enactment concerned requires there to be consultation (howsoever described) with members of the public in relation to the proposed development prior to the granting of the authorisation (howsoever described).

(b) Regulations under *paragraph (a)* may be subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.

(c) Regulations under this subsection may, in particular and without prejudice to the generality of *paragraph (a)*, provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purpose being exempted development for the purposes of this Act.

#### Section 4(4)

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

#### Section 5(1)

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this 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.

#### Section 5(4),

(2) Notwithstanding *subsection (1)*, a planning authority may, on payment to the Board of such fee as may be prescribed, refer any question as to what, in any particular case, is or is not development or is or is not exempted development to be decided by the Board.

## 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.

### Schedule 2 – Part 1 – Exempted Development – General

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><b>CLASS 20F</b> Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.</p>	1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.
	2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022 <sup>1</sup> comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001 <sup>2</sup> .
	3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.
	4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.
	5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.
	6. 'displaced persons', for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.
	7. 'international protection', for the purpose of this class, has the meaning given to it in <u>section 2 (1) of the International Protection Act 2015</u> (No. 66 of 2015).

8. 'temporary protection', for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001."

**Article 9 (1)**

Development to which article 6 relates shall not be exempted development for the purposes of the Act –

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,

**Appendix 2 – Section 5 Application, cover letter and supporting documents submitted by the applicant**

**Appendix 3 – Further Information Request and Further Information Response**

**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](mailto:planning@corkcity.ie)

Fón/Tel: 021-4924029

Líonra/Web: [www.corkcity.ie](http://www.corkcity.ie)

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

**1. NAME OF PERSON MAKING THE REQUEST**

Cherryinn Limited

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

Cube Building, Monahan Rd, Ballintemple, Cork, T12 H1XY

**3. 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.*

1. The change of use of the basement, ground, first, second and third floors of the Cube building from office use to accommodate or support displaced persons or persons seeking international protection is exempted development as per the provisions of Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).
2. The associated works to facilitate the proposed use will affect only the interior of the structure and therefore come within the exempted development provisions of Section 4(1)(h) of the Planning and Development Act, 2000.

**ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:**

*(Use additional sheets if required).*

See attached cover letter and drawings.

**CORK CITY COUNCIL**  
**PLANNING & DEVELOPMENT**

04 FEB 2025

**DEVELOPMENT MANAGEMENT**

4. Are you aware of any enforcement proceedings connected to this site?  No  
 If so please supply details:

---

5. Is this a Protected Structure or within the curtilage of a Protected Structure?  No

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?  N/A

6. Was there previous relevant planning application/s on this site?  Yes

If so please supply details:  
 Please refer to cover letter.

---

**7. 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	
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> 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)
(c) If concerning a change of use of land and / or building(s), please state the following:	
<u>Existing</u> previous use (please circle)  Office	<u>Proposed</u> existing use (please circle)  To accommodate or support displaced persons or persons seeking international protection

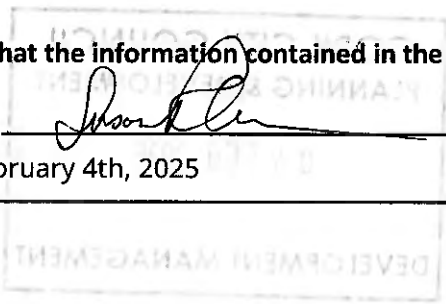
**7. LEGAL INTEREST**

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

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

Signature: 

Date: February 4th, 2025



### **CONFIDENTIAL CONTACT DETAILS**

These details will not be made available to the public.

#### **9. Applicant:**

<b>Name(s)</b>	Cherryinn Limited
<b>Address</b>	22 Northumberland Road, Ballsbridge, Dublin 4, Ireland

#### **10. Person/Agent acting on behalf of the Applicant (if any):**

<b>Name(s):</b>	Susan Cullen		
<b>Address:</b>	McCutcheon Halley, 6 Joyce House, Barrack Square, Ballincollig, Cork		
<b>Telephone:</b>	021-4208710		
<b>E-mail address:</b>	scullen@mhplanning.ie		
<b>Should all correspondence be sent to the above address?</b> (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	Yes	<input checked="" type="checkbox"/>	No <input type="checkbox"/>

#### **11. Owner Details (if the applicant above is not the legal owner):**

<b>Name(s)</b>	N/A
<b>Address</b>	N/A

#### **12. ADDITIONAL CONTACT DETAILS**

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application.

Tel. No. \_\_\_\_\_

Mobile No. \_\_\_\_\_

Email Address: \_\_\_\_\_

For Office Use Only:

File Ref. No. \_\_\_\_\_

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**AREA SCHEDULE MIN. REQ. 4.65 SQM**

NET AREA	2455sqm / 26425.4sqft
KITCHEN - 1 (19 IN NUMBER)	126.4 SQM
KITCHEN - 2 (07 IN NUMBER+19 = 26 TOTAL)	49.8 SQM
STORAGE UNIT (96 TOTAL)	44.8 SQM
DINING AREA - 1 (SEATS 186)	170 SQM
DINING AREA - 2 (SEATS 84 +186 = TOTAL 270)	88.4 SQM
SOCIAL SPACE	79 SQM
LIVING ROOM - 1	22.2 SQM
LIVING ROOM - 2	20.6 SQM
WORKSHOP	23.2 SQM
LAUNDRY ROOM - 1	43.4 SQM
LAUNDRY ROOM - 2	31 SQM
STUDY (8 ROOMS)	47.2 SQM
SECURITY ROOM	13.8 SQM
ADMIN - 1	33 SQM
ADMIN - 2	39.5 SQM
STORE ROOM	42.5 SQM
WC	45.5 SQM
ROOM (09 ROOMS)	248.2 SQM (Based on room area details sheet) 38 BED SPACE (BARRACKS) (30 ROOMS)
COMMON AREA (WORKSHOP RESTROOM)	421 SQM

AREA OUT OF SCOPE

WALL REMOVED

HALF PARTITION

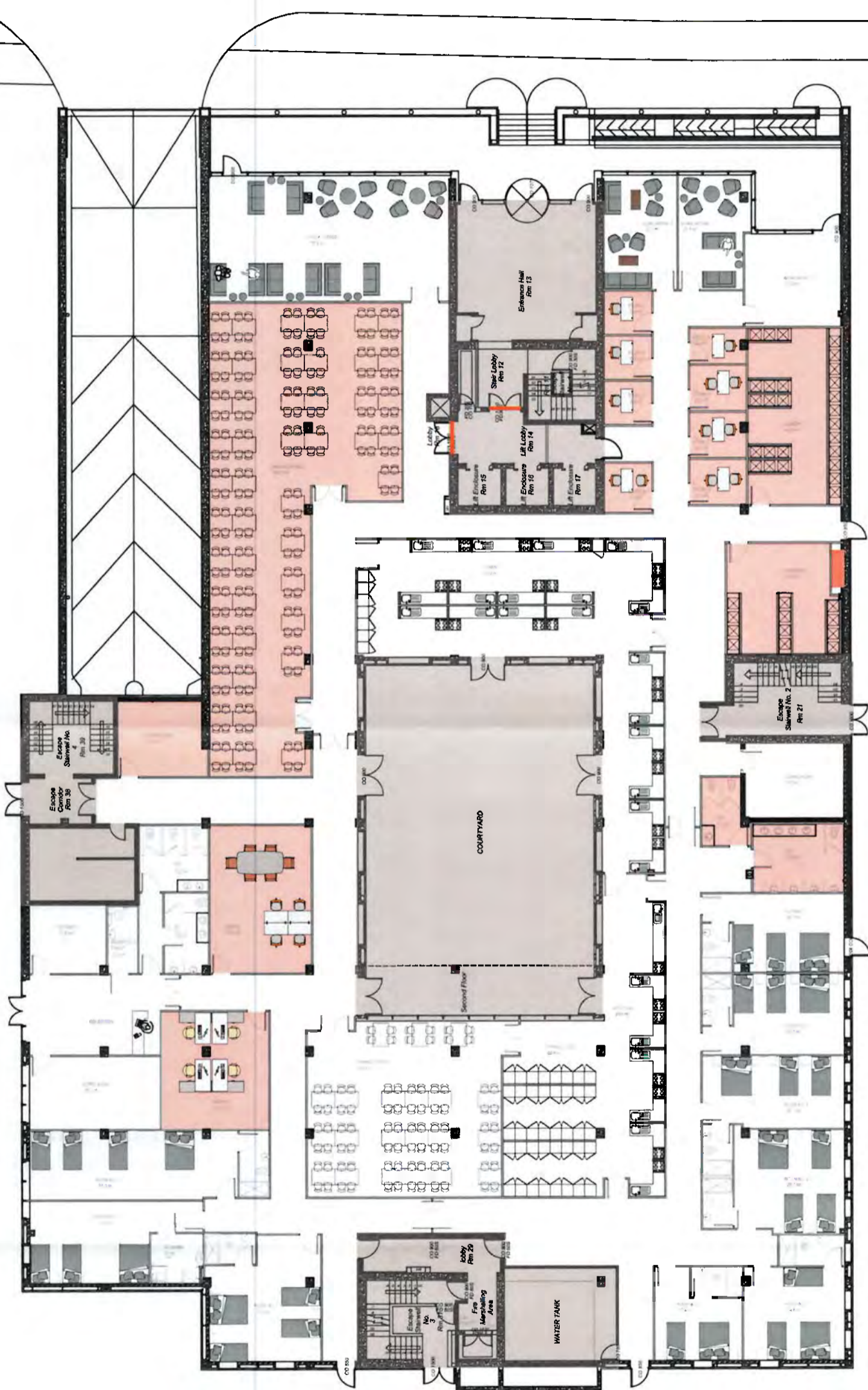
CLOSE OPENINGS

NEW PARTITION

SPACES WITHOUT WINDOW

EMERGENCY ACCESS ONLY

NO ACCESS



GROUND FLOOR PLAN  
 CORK

**CORK CITY COUNCIL  
 PLANNING & DEVELOPMENT**  
 04 FEB 2025  
**DEVELOPMENT MANAGEMENT**

Scale 0 1m 2m 3m 4m 5m 6m 7m 8m 9m

REVISION	DESCRIPTION	DATE
A	PRELIM	23.10.24

PROJECT NAME: GROUND FLOOR	SCALE: 1:250@A3	DATE: OCT 2024
DRAWING TITLE: GENERAL ARRANGEMENT SETOUT	DWG STATUS: <b>PRELIM</b>	APPROVED: SS LW
CLIENT:	PROJECT NO: P24 D097	DWG No: GA-00
	REV: A	

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AREA SCHEDULE MIN. REQ. 4.65 SQM	
NET AREA	2552sqm / 27469.5sqft
BREAKOUT ROOM	119.5 SQM
WORKSHOP/BREAKOUT SPACE	81.5 SQM
STUDY (4 ROOMS)	33.4 SQM
MEETING ROOM	14.5 SQM
SERVICE ROOM	18.7 SQM
STORE ROOM	26 SQM
ROOM (42 ROOMS)	1156.4 SQM (MIN. 4.65 SQM PER ROOM) 188 BED SPACE (AS PER LOCAL BY-LAW)
COMMON AREA (CORRIDORS, STAIRWAYS)	362 SQM

AREA OUT OF SCOPE	SPACES WITHOUT WINDOW
WALL REMOVED	EMERGENCY ACCESS ONLY
HALF PARTITION	NO ACCESS
CLOSE OPENING	
NEW PARTITION	

REVISION	DESCRIPTION	DATE
A	PRELIM	23.10.24

SECOND FLOOR PLAN  
 CORK

**CORK CITY COUNCIL  
 PLANNING & DEVELOPMENT**  
 04 FEB 2025  
**DEVELOPMENT MANAGEMENT**

Scale 0 1m 2m 3m 4m 5m 6m 7m 8m 9m

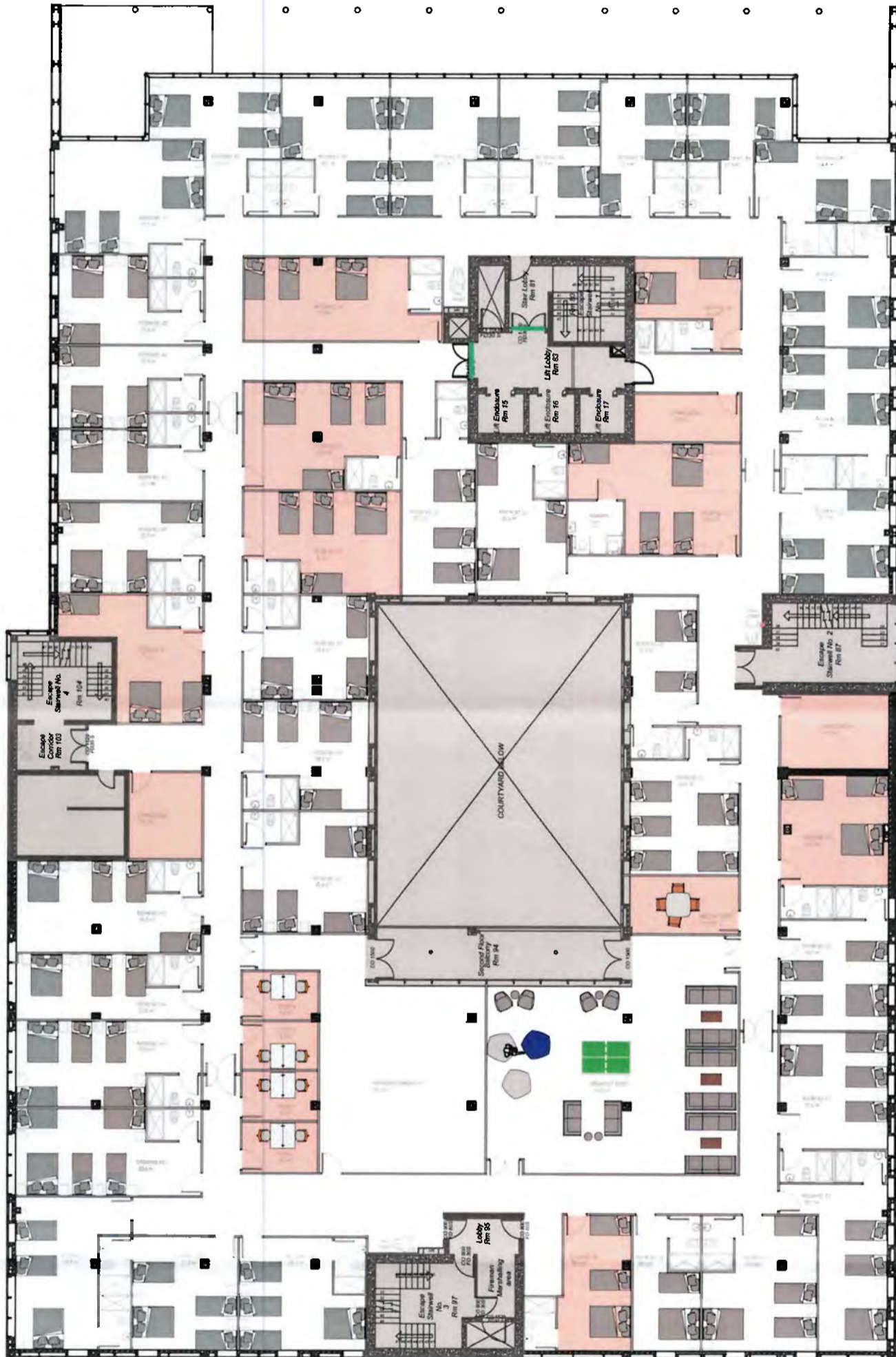
PROJECT NAME: SECOND FLOOR	SCALE: 1:250@A3	DATE: OCT 2024
DRAWN: SS	APPROVED: LW	
DRAWING TITLE: GENERAL ARRANGEMENT SETOUT	DWG STATUS: <b>PRELIM</b>	
	PROJECT NO: P24 D097	
CLIENT:	DWG No: GA-02	REV: A

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**AREA SCHEDULE** MIN. REQ. 4.65 SQM

<b>NET AREA</b>	<b>2552sqm / 27469.5sqft</b>
BREAKOUT ROOM	119.5 SQM
WORKSHOP/BREAKOUT SPACE	81.5 SQM
STUDY (4 ROOMS)	33.4 SQM
MEETING ROOM	14.5 SQM
SERVICE ROOM	18.7 SQM
STORE ROOM	26 SQM
ROOM (42 ROOMS)	1136.4 SQM (MIN. 4.65 SQM PER ROOM) 188 BED SPACE (AS PER IRLA & IRLS SCHEDULE)
COMMON AREA (EXCLUDING WORKSPACE)	362 SQM

AREA OUT OF SCOPE	SPACES WITHOUT WINDOW
WALL REMOVED	EMERGENCY ACCESS ONLY
HALF PARTITION	NO ACCESS
CLOSE OPENING	
NEW PARTITION	



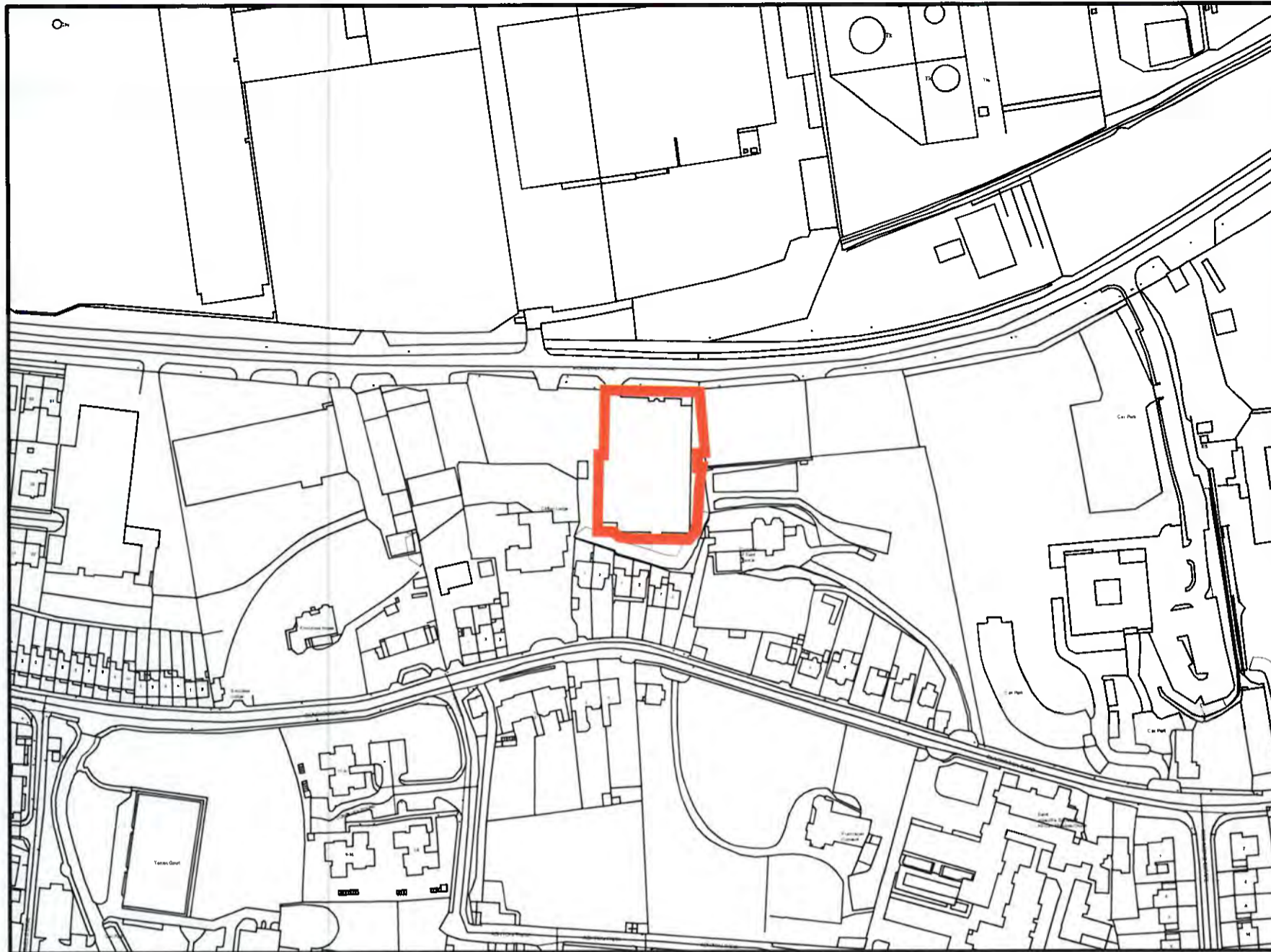
A	PRELIM	23.10.24
REVISION	DESCRIPTION	DATE

THIRD FLOOR PLAN  
 CORK

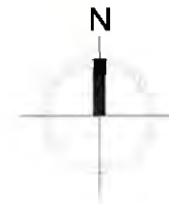
**CORK CITY COUNCIL**  
**PLANNING & DEVELOPMENT**  
 04 FEB 2025  
**DEVELOPMENT MANAGEMENT**

Scale 1m 2m 3m 4m 5m 6m 7m 8m 9m

PROJECT NAME: THIRD FLOOR	SCALE: 1:250@A3	DATE: OCT 2024
DRAWN: SS	APPROVED: LW	
DRAWING TITLE: GENERAL ARRANGEMENT SETOUT	DWG STATUS: <b>PRELIM</b>	
	PROJECT NO: P24 D097	
CLIENT:	DWG NO: GA-03	REV: A



SITE  
 BOUNDARY  
 OUTLINE.  
 OUTLINE  
 OF OTHER  
 LANDS IN  
 OWNERSHIP.  
 WAYLEAVE.



## PROPOSED O.S. MAP. SCALE 1:2500.

### Description:

=====  
 Digital Landscape Model (DLM)

### Publisher / Source:

=====  
 Tailte Éireann

### Data Source / Reference:

=====  
 PRIME2

### File Format:

=====  
 Autodesk AutoCAD (DWG\_R2013)

### File Name:

=====  
 v\_50445456\_1.dwg

### Clip Extent / Area of Interest (AOI):

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 LRX,LRY= 569390.1305,571301.0581  
 ULX,ULY= 568807.1305,571731.0581  
 URX,URY= 569390.1305,571731.0581

### Projection / Spatial Reference:

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 Projection= IRENET95\_Irish\_Transverse\_Mercator

### Centre Point Coordinates:

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 X,Y= 569098.6305,571516.0581

### Reference Index:

=====  
 Map Series | Map Sheets  
 1:1,000 | 6383-12

### Data Extraction Date:

=====  
 Date= 28-Jan-2025

### Source Data Release:

=====  
 DCMLS Release V1.183.119  
 Product Version:

=====  
 Version= 1.4

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Ní ceadmhach aon chuid  
 den fhoilseachán seo  
 a chóipeáil, a atáirgeadh nó a tharchur  
 in aon fhoirm ná ar aon  
 bhealach gan cead i scríbhinn roimh  
 ré ó úinéirí an chóipchirt

Ní hionann bóthar,  
 bealach nó cosán a bheith  
 ar an léarscáil seo agus  
 fianaise ar chead slí.

Ní thaispeánann an léarscáil  
 topagrafach seo teorainneacha  
 réadmhaoinne dlíthiúla,  
 agus ní léiríonn sé úinéireacht  
 ar ghnéithe fisiceacha.

CORK CITY COUNCIL  
 PLANNING & DEVELOPMENT  
 04 FEB 2025  
 DEVELOPMENT MANAGEMENT



# Comhairle Cathrach Chorcaí Cork City Council

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

Cherryinn Limited  
c/o Susan Cullen,  
McCutcheon Halley,  
6, Joyce House,  
Barrack Square,  
Ballincollig.  
P31 YX97

20/03/2025

**RE: Section 5 Request.**

**R918/25: The Cube Building, Monahan Road, Ballintemple**

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on the 20<sup>th</sup> of February 2025, I wish to advise as follows:

The Planning Authority has been tasked with determining whether the temporary change of use of the basement, ground, first, second and third floors of the Cube Building from office use to accommodate or support displaced persons or persons seeking international protection (Class 20F) is exempted development.

It is recommended that the following **FURTHER INFORMATION** be sought:

1. In relation to Class 20F the following is noted:

CLASS 20F  
Temporary use by or....

The intention of the request is not clear as the question in Section 3 of the application form does not indicate that the proposed use is of a temporary nature only, and it is considered that only a Temporary change of use may be applied for under Class 20F.

The applicant is requested to clarify the details of the question posed to the Planning Authority, namely, that the proposal is for a Temporary Change of use only (in accordance with the requirements of Class 20F of Part 1 of schedule 2 of the Planning and Development Regulations 2001 (as amended)).



**We are Cork.**



# Comhairle Cathrach Chorcaí

## Cork City Council

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

2. It is noted that the question in Section 3 of the application form also includes for the change of use of the basement floor area. It is further noted however that the cover letter submitted indicates that the basement is not proposed for a change of use.

Additionally, no proposed drawings for the change of use of the basement have been submitted.

The applicant is requested to clarify, and revise the question posed to the Planning Authority in relation to whether the basement area is proposed for a change of use and, if so, proposed floor plans for this area should be provided.

It is also noted that the existing building comes within the Seveso Consultation Zone associated with Goulding's Chemicals on Centre Park Road. It would appear that the building is located partially within the middle and outer consultation zones. Some development types are restricted in these consultation zones in accordance with HSA guidance.

The applicant is advised to engage with the HSA with regards to the location and type of proposed development to ensure that the proposed development is acceptable within these zones.

It is thus considered that **FURTHER INFORMATION** is required to process the application.

Is mise le meas,

**Anthony Angelini**  
Assistant Staff Officer  
Planning & Integrated Development  
Cork City Council



**We are Cork.**

The Secretary  
Planning Department  
Cork City Council  
City Hall  
Cork

03 April 2025

**Re: Request for a section 5 Declaration seeking confirmation that the temporary change of use of the basement, ground, first, second and third floors of the Cube building from office use to accommodate or support displaced persons or persons seeking international protection (Class 20F) at The Cube Building, Monahan Rd, Ballintemple, Cork, is exempted development.**

Dear Sir or Madam,

Thank you for your email dated 20/03/2025 requesting further information and 01/04/2025 clarifying that a response from the HSA is not required in order to proceed with the application. In response to the request for further information;

1. I have enclosed a revised application form clarifying that the proposed change of use is 'temporary'.
2. There are no changes proposed to the basement layout, therefore please refer to the existing floor plans.

We have written to the HSA requesting clarification that the proposal for the site complies with their health and safety policy. I have enclosed correspondence to reflect this for your records.

To clarify, enclosed is;

- Revised application form,
- Copy of correspondence showing email sent to HSA and copy of email showing response from HSA.

I trust you will find the enclosed satisfactory.

Yours sincerely



Susan R. Cullen  
**McCutcheon Halley**

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 DESIGN, SITE CONSTRUCTION AND SITE TOLERANCE. THE FINAL AREAS CAN ONLY BE CHECKED BY A  
 SURVEYOR APPOINTED BY THE CLIENT UPON COMPLETION OF CONSTRUCTION.

AREA SCHEDULE (MIN. REQ. 4.65 SQM)	
<b>NET AREA</b>	<b>2455sqm / 26425.4sqft</b>
KITCHEN - 1 (19 IN NUMBER)	126.4 SQM
KITCHEN - 2 (97 IN NUMBER+19 = 28 TOTAL)	49.8 SQM
STORAGE UNIT (96 TOTAL)	44.8 SQM
DINNING AREA - 1 (SEATS 186)	170 SQM
DINNING AREA - 2 (SEATS 84 +186 = TOTAL 270)	89.4 SQM
SOCIAL SPACE	79 SQM
LIVING ROOM - 1	22.2 SQM
LIVING ROOM - 2	20.6 SQM
WORKSHOP	23.2 SQM
LAUNDRY ROOM - 1	43.4 SQM
LAUNDRY ROOM - 2	31 SQM
STUDY (8 ROOMS)	47.2 SQM
SECURITY ROOM	13.8 SQM
ADMIN - 1	33 SQM
ADMIN - 2	39.5 SQM
STORE ROOM	42.5 SQM
WC	45.6 SQM
ROOM (39 ROOMS)	248.2 SQM (SEE PLAN)
	30 BED SPACE (SEE PLAN)
<b>COMMON AREA</b> (SEE PLAN)	<b>421 SQM</b>

AREA OUT OF SCOPE	SPACES WITHOUT WINDOW
WALL REMOVED	EMERGENCY ACCESS ONLY
HALF PARTITION	NO ACCESS
CLOSE OPENING	
NEW PARTITION	

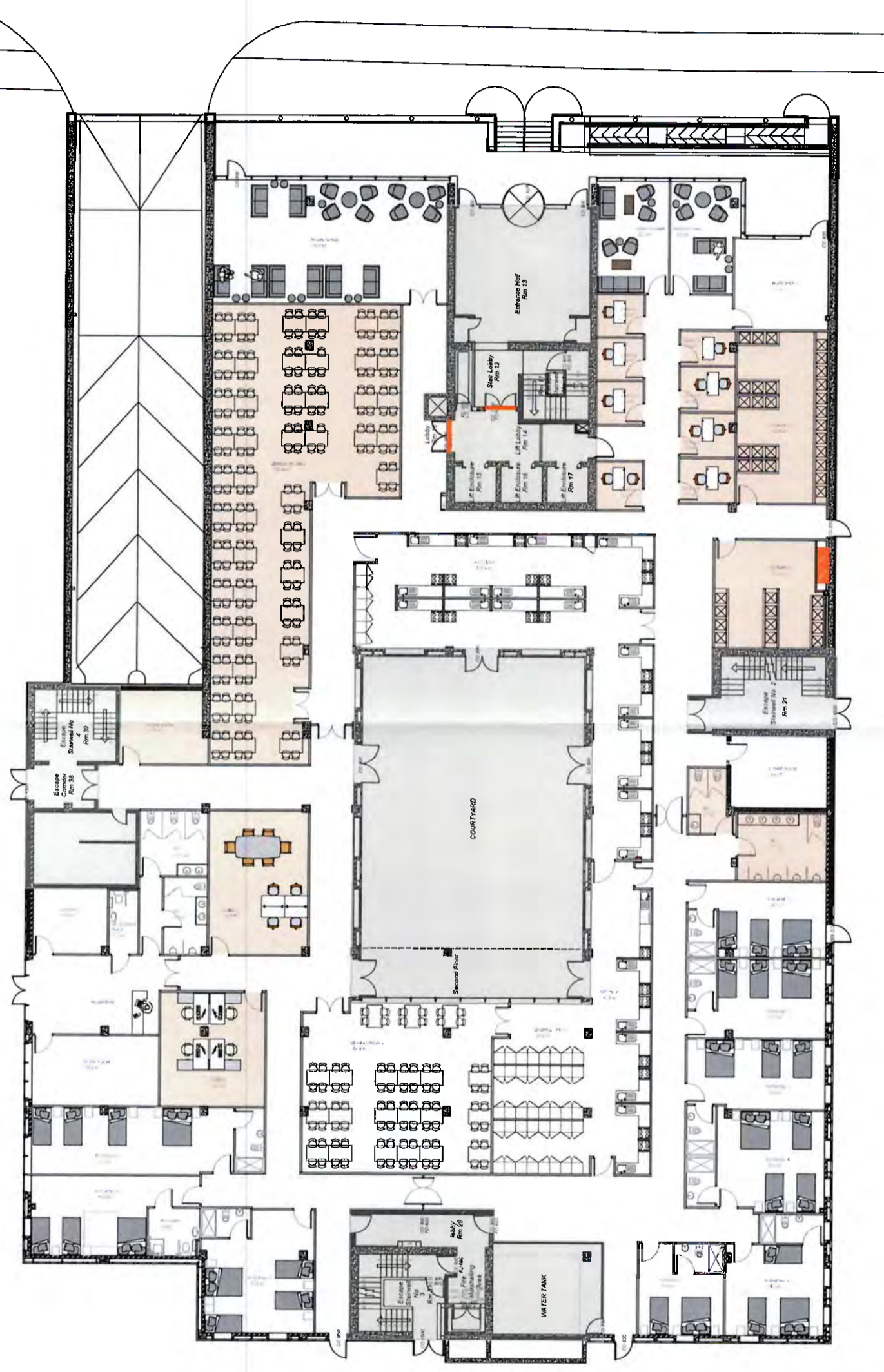
**CORK CITY COUNCIL  
 PLANNING & DEVELOPMENT**

4 0 FEB 2025

**DEVELOPMENT MANAGEMENT**

REVISION	DESCRIPTION	DATE
A	PRELIM	23.10.24

PROJECT NAME: <b>GROUND FLOOR</b>	SCALE: <b>1:250@A3</b>	DATE: <b>OCT 2024</b>
DRAWN: <b>SS</b>	APPROVED: <b>LW</b>	
DWG STATUS: <b>PRELIM</b>	PROJECT NO: <b>P24 D097</b>	
CLIENT:	DWG NO: <b>GA-00</b>	REV: <b>A</b>











**GROUND FLOOR PLAN** SCALE: 1:250  
 CORK

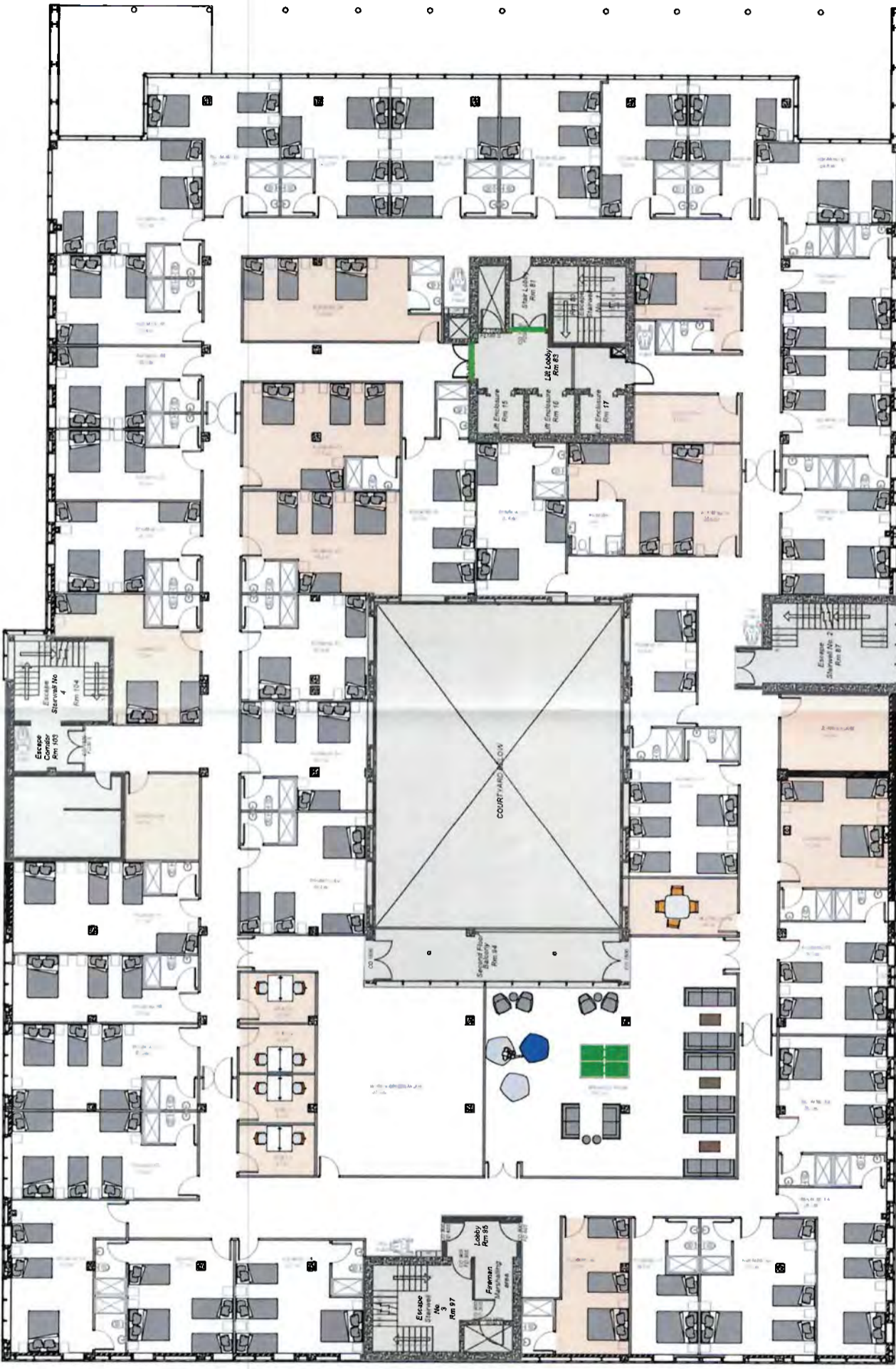


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AREA SCHEDULE (MIN. REQ. 4.65 SQM)	
NET AREA	2552sqm / 27489.5sqft
BREAKOUT ROOM	119.5 SQM
WORKSHOP/BREAKOUT SPACE	81.5 SQM
STUDY (4 ROOMS)	33.4 SQM
MEETINGS ROOM	14.5 SQM
SERVICE ROOM	18.7 SQM
STORE ROOM	28 SQM
ROOM (42 ROOMS)	1136.4 SQM (2.8 sqm per room) 188 BED SPACE (2.2 sqm per room)
COMMON AREA (2nd floor)	382 SQM

 AREA OUT OF SCOPE	 SPACES WITHOUT WINDOW
 WALL REMOVED	 EMERGENCY ACCESS ONLY
 HALF PARTITION	 NO ACCESS
 CLOSE OPENING	
 NEW PARTITION	



REVISION	DESCRIPTION	DATE
A	PRELIM	23.10.24

PROJECT NAME:	SCALE:	DATE:
FIRST & SECOND FLOOR	1:250@A3	OCT 2024
DRAWING TITLE:	DRAWN:	APPROVED:
GENERAL ARRANGEMENT SETOUT	SS	LW
CLIENT:	DWG NO.:	REV.:
	GA-02	A

FIRST & SECOND FLOOR PLAN SCALE 1:250  
 CORK

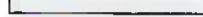



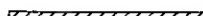



CORK CITY COUNCIL  
 PLANNING & DEVELOPMENT  
 7 0 FEB 2025  
 DEVELOPMENT MANAGEMENT

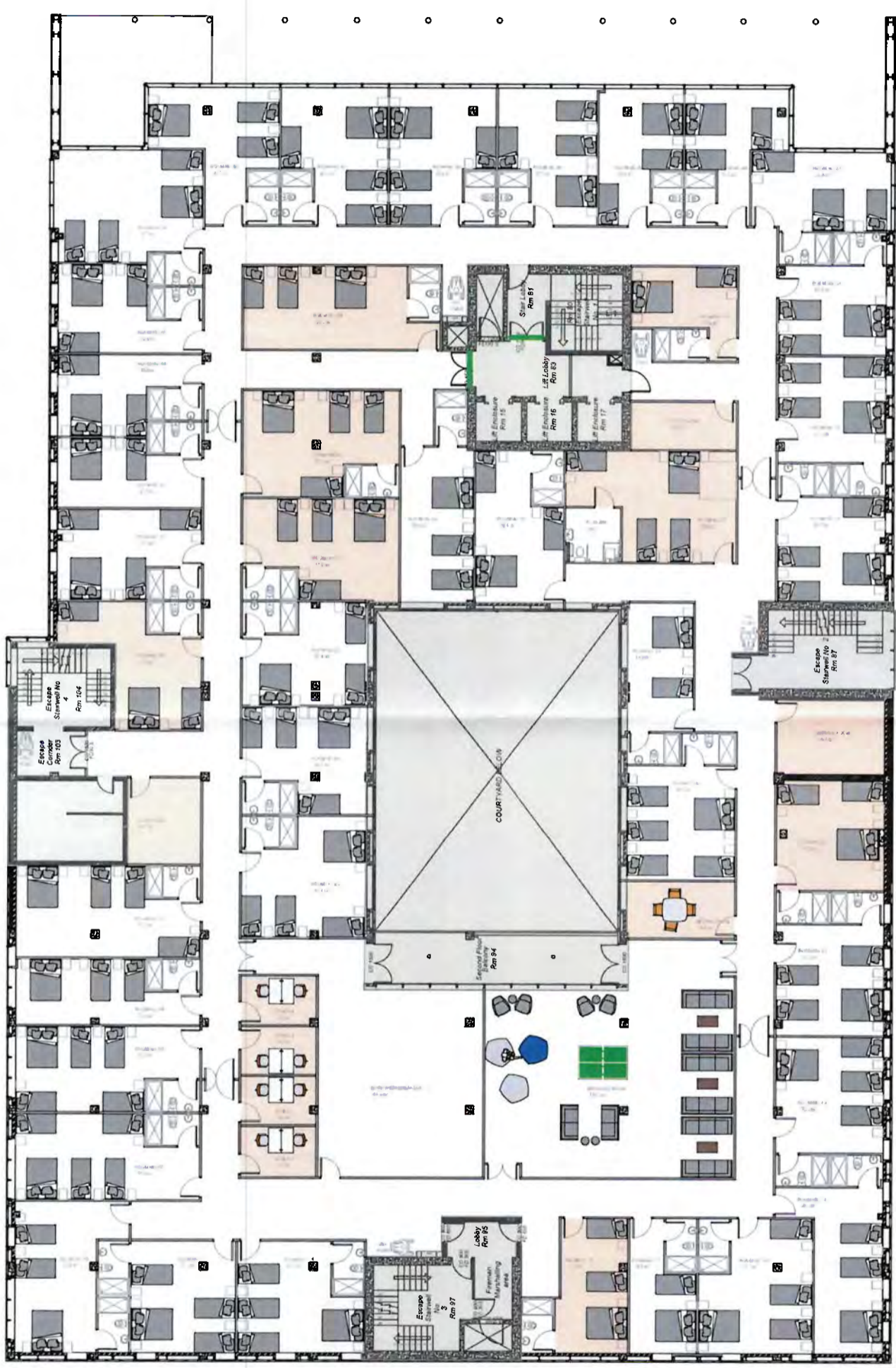


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**AREA SCHEDULE (MIN. REQ. 4.65 SQM)**

<b>NET AREA</b>	2552sqm / 27469.5sqft
<b>BREAKOUT ROOM</b>	118.5 SQM
<b>WORKSHOP/BREAKOUT SPACE</b>	81.5 SQM
<b>STUDY (4 ROOMS)</b>	33.4 SQM
<b>MEETING ROOM</b>	14.5 SQM
<b>SERVICE ROOM</b>	18.7 SQM
<b>STORE ROOM</b>	26 SQM
<b>ROOM (42 ROOMS)</b>	1136.4 SQM (24.000)
	188 BED SPACE (24.000)
<b>COMMON AREA (24.000)</b>	362 SQM

 AREA OUT OF SCOPE	 SPACES WITHOUT WINDOW
 WALL REMOVED	 EMERGENCY ACCESS ONLY
 HALF PARTITION	 NO ACCESS
 CLOSE OPENING	
 NEW PARTITION	



REVISION	DESCRIPTION	DATE
A	PRELIM	23.10.24

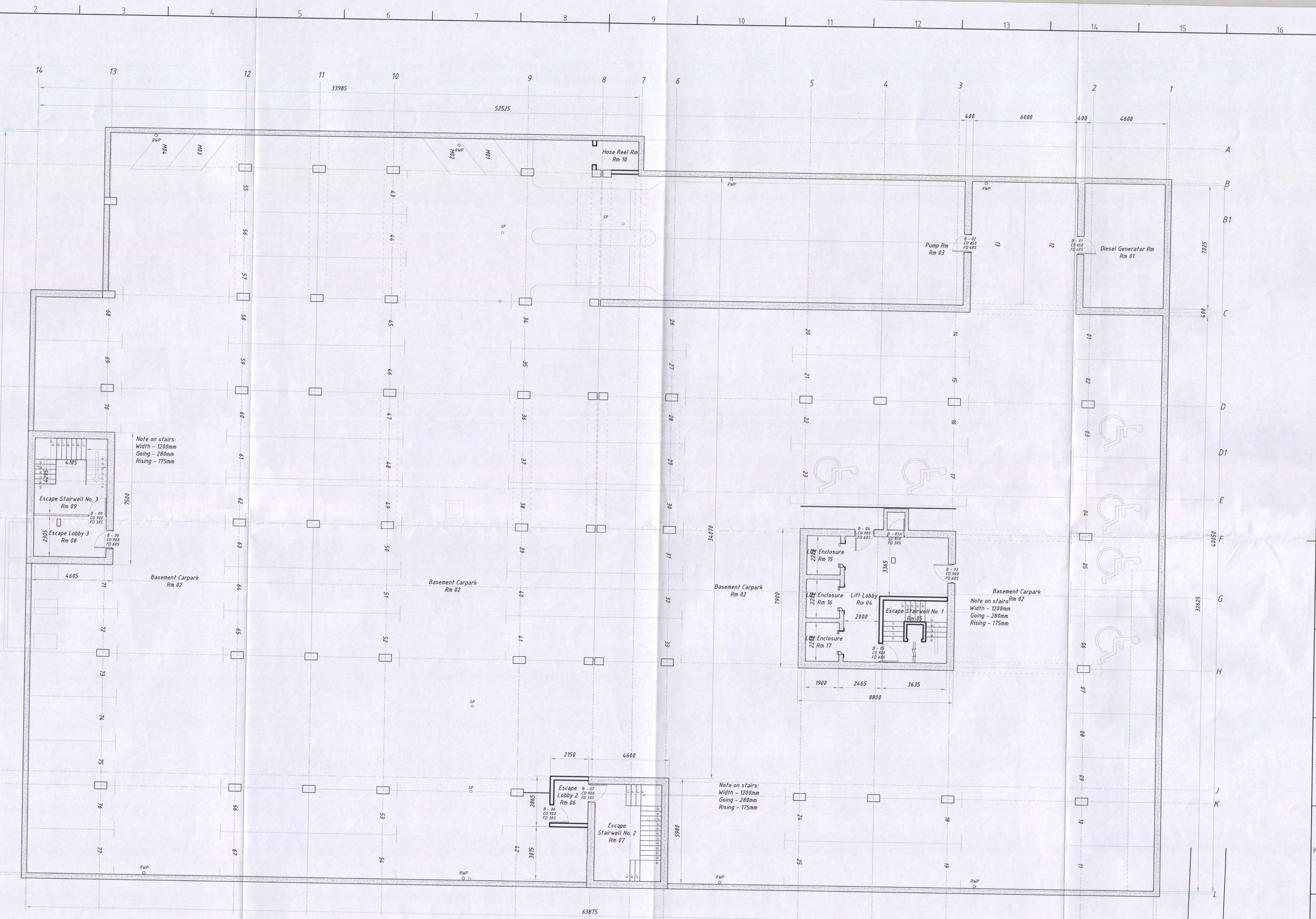
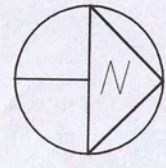
THIRD FLOOR PLAN  
 CORK

SCALE 1:250

**CORK CITY COUNCIL  
 PLANNING & DEVELOPMENT**  
 4 0 FEB 2025  
**DEVELOPMENT MANAGEMENT**



PROJECT NAME: THIRD FLOOR	SCALE: 1:250@A3	DATE: OCT 2024
DRAWN: SS	APPROVED: LW	
DRAWING TITLE: GENERAL ARRANGEMENT SETOUT	DWG STATUS: <b>PRELIM</b>	PROJECT NO: P24 D097
CLIENT:	DWG NO: GA-03	REV: A



Note on stairs:  
Width - 1200mm  
Going - 280mm  
Rising - 175mm

Note on stairs:  
Width - 1200mm  
Going - 280mm  
Rising - 175mm

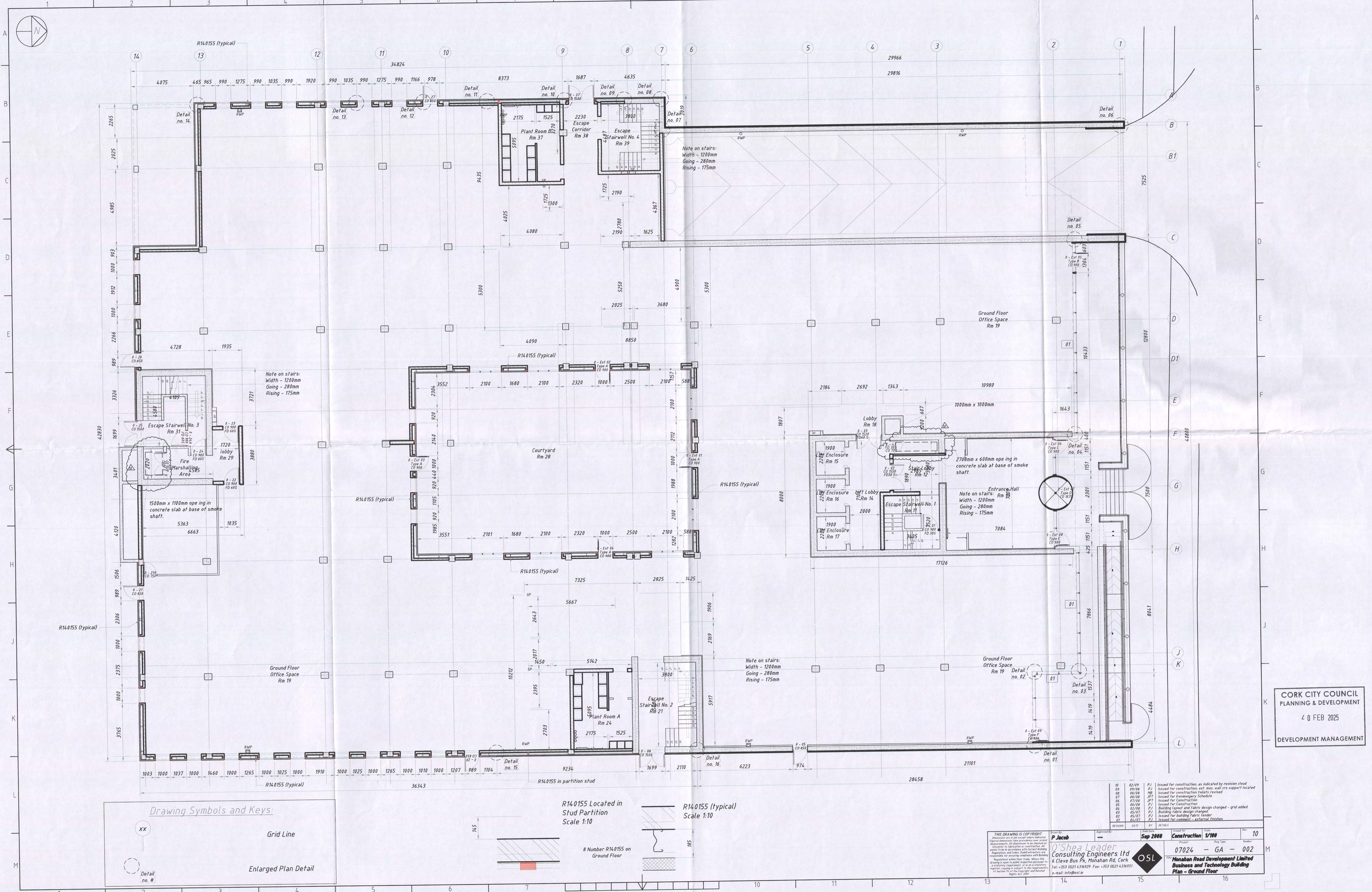
Note on stairs:  
Width - 1200mm  
Going - 280mm  
Rising - 175mm

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40 FEB 2025  
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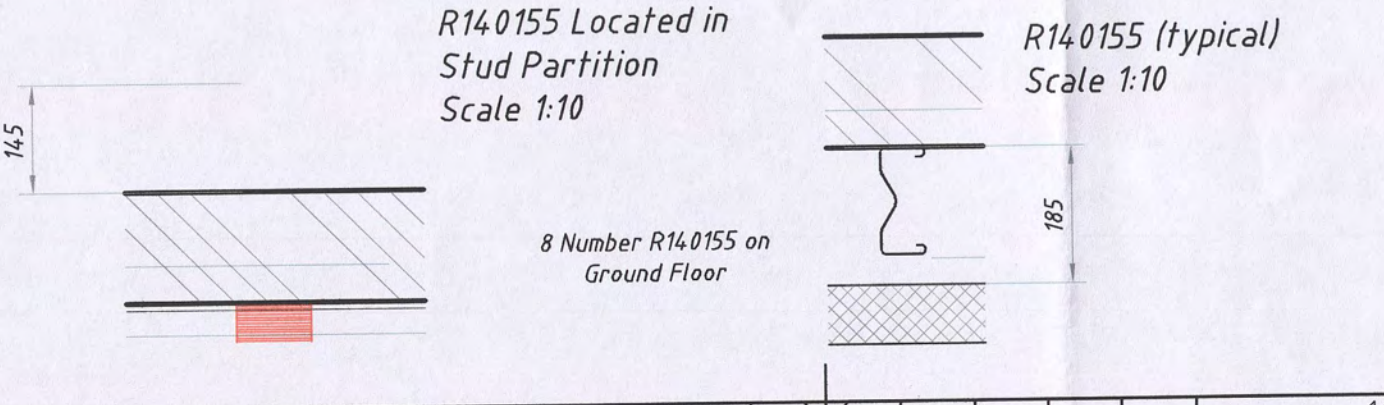
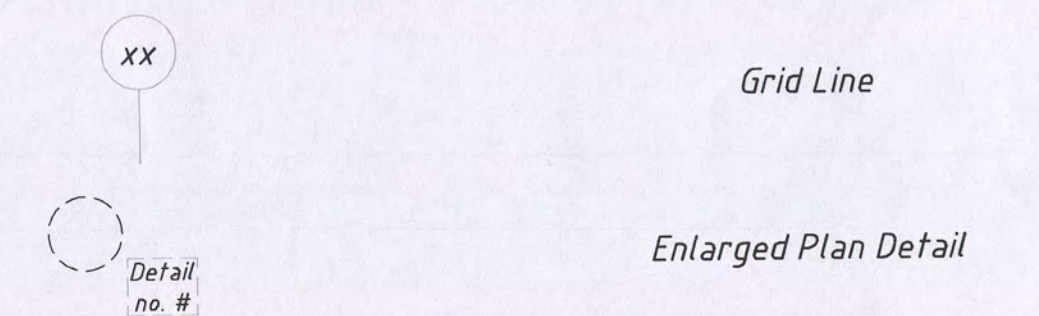
REV	DATE	BY	REASON
07	08/08	JPT	Issued for Preliminary Schedule
06	07/08	JPT	Issued for Construction
05	06/08	PJ	Issued for Construction
04	05/08	PJ	Basement walls lines changed - grid included
03	05/07	PJ	Basement walls lines changed
02	05/07	PJ	Included grid & basement walls changed to sheet piles
01	01/07	PJ	Issued for Comment

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Drawn by: P. Jacob  
Approved by: [Signature]  
Date: Aug 2008  
Project: Construction  
Scale: 1/100  
Sheet No: 07  
Drawing No: 07024 - GA - 001  
Client: Monahan Road Development Limited  
Business and Technology Building  
Plan - Basement



**Drawing Symbols and Keys:**



NO	DATE	BY	REVISION
01	02/09	PJ	Issued for construction, as indicated by revision cloud
02	09/08	PJ	Issued for construction, ext. Max wall crs support located
03	08/08	HB	Issued for construction, fire safety revised
04	08/08	JPT	Issued for Construction Schedule
05	07/08	JPT	Issued for Construction Schedule
06	06/08	PJ	Issued for Construction
07	02/08	PJ	Building layout and fabric design changed - grid added
08	02/08	PJ	Building fabric design changed
09	05/07	PJ	Issued for Building Fabric tender
10	05/07	PJ	Issued for Building Fabric tender
11	04/07	PJ	Issued for common external finishes

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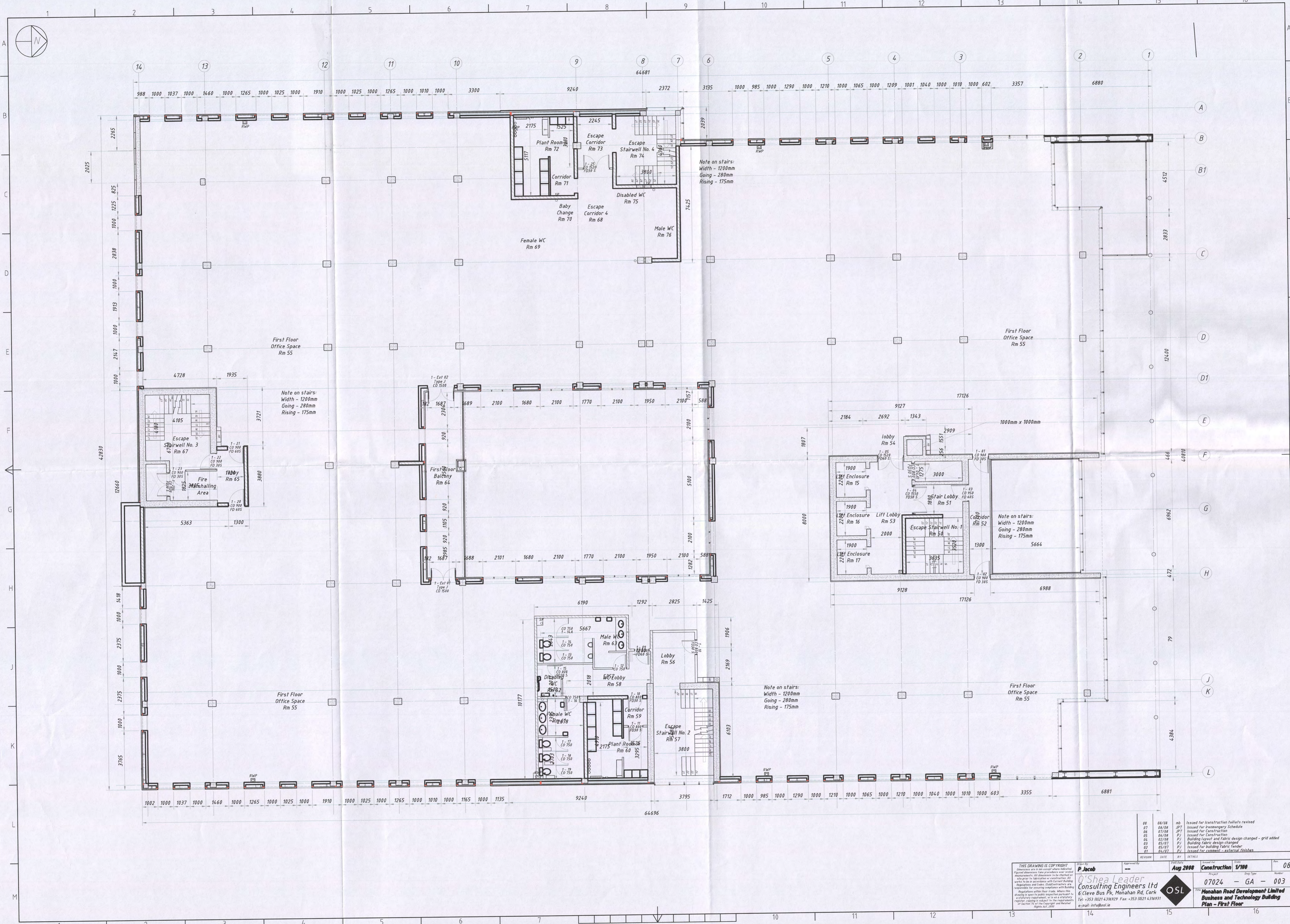
Drawn by: **P. Jacob**  
 Checked by: **P. Jacob**  
 Approved by: **P. Jacob**  
 Date: **Sep 2008**

Project: **07024 - GA - 002**  
 Title: **Monahan Road Development Limited Business and Technology Building Plan - Ground Floor**

Scale: **1/100**  
 Page: **10**

OSL  
 O'Shea Leader Consulting Engineers Ltd  
 6 Cleve Bus Park, Monahan Rd, Cork  
 Tel: +353 (0)21 4378929 Fax: +353 (0)21 4378931  
 e-mail: info@osl.ie

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40 FEB 2025  
DEVELOPMENT MANAGEMENT

REV	DATE	BY	DESCRIPTION
08	08/08	ms	Issued for construction details revised
07	08/08	JPT	Issued for Broombagery Schedule
06	07/08	PJ	Issued for Construction
05	06/08	PJ	Issued for Construction
04	03/08	PJ	Building layout and fabric design changed - grid added
03	05/07	PJ	Building fabric design changed
02	05/07	PJ	Issued for building fabric tender
01	04/07	PJ	Issued for construction - structural finishes

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Drawn by: **P. Jacob**  
 Checked by: **---**  
 Approved by: **---**

Project: **07024 - GA - 003**  
 Drawing: **Construction 1/100**  
 Date: **Aug 2008**  
 Scale: **1/100**  
 Rev: **08**

OSL  
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**Monahan Road Development Limited**  
**Business and Technology Building**  
**Plan - First Floor**







Thank you for contacting HSA - CAS-23626-Y4N9 HSA:0145538



Contact Us <contactus@hsa.ie>

To [Redacted]

Follow up, Start by Thursday 3 April 2025, Due by Thursday 3 April 2025.  
If there are problems with how this message is displayed, click here to view it in a web browser.



Wed 02/04/2025 11:55

**NOTE:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear [Redacted]

Thank you for contacting the Health and Safety Authority. This is to confirm that we have received your correspondence which has been recorded and assigned the reference number CAS-23626-Y4N9

Just as your details are kept confidential, any dealings we have with duty holders and employers in relation to the matter you have raised must also remain confidential. Under health and safety legislation we cannot provide you with details of any specific actions taken or the outcome.

Yours sincerely

HSA Contact Centre

Please do not respond to this email as the account is not monitored. Visit [www.hsa.ie](http://www.hsa.ie) for further information and guidance on workplace safety, health, and welfare matters.

\*\*\*\*\*

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\*\*\*\*\*

Our Ref 022749.0039.BOC/MIM  
Your Ref ABP-322371-25

5 June 2025

By email: [communications@pleanala.ie](mailto:communications@pleanala.ie)  
[bord@pleanala.ie](mailto:bord@pleanala.ie)  
[appeals@pleanala.ie](mailto:appeals@pleanala.ie)

**An Bord Pleanála Reference ABP-322371-25**  
**Planning Authority Reference Number: R918/25**  
**Section 5 Referral relating to The Cube Building, Monahan Road, Ballintemple, Cork (the "Premises")**  
**Our client: Phoenix House Business Centre Limited (IWG)**

Dear Colleagues

We refer to your email of 3 June 2025 in response to our letter dated 27 May 2025. The email states that "*Phoenix House Business Centre Limited (IWG) is not listed as an occupier on any of the documentation received by the Board in relation to this referral*".

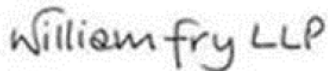
We hereby enclose the following documents which demonstrate that our client is an occupier of the Premises:

1. Redacted copy of the lease between (1) Monahan Road Development Limited and (2) Phoenix House Business Centre Limited; and
2. Rates bill issued by Cork City Council to Phoenix House Business Centre Limited dated 25 February 2025.

Cork City Council is fully aware that our client is the occupier of the Premises in circumstances where our client pays rates to the Council, as the rated occupier. In this regard, we have copied Cork City Council on this letter.

We trust that this is in order, however, should you have any queries please do not hesitate to contact Michelle Martin or Brian O'Callaghan of this office at [michelle.martin@williamfry.com](mailto:michelle.martin@williamfry.com) or [brian.ocallaghan@williamfry.com](mailto:brian.ocallaghan@williamfry.com).

Yours faithfully



William Fry LLP

With CC to- [planning@corkcity.ie](mailto:planning@corkcity.ie)

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(1) Landlord: **Monahan Road Development Limited**

(2) Tenant: **Phoenix House Business Centre Limited**

(3) Management Company: **Monahan Road Development Company Limited**

**LEASE**

**- of -**

**Part of the First Floor**

**PHOENIX HOUSE, MONAHAN ROAD, CORK**

Term: 15 years from            day of            2015

Rent Reviews: Every 5 years

Initial Rent:                      per annum exclusive of VAT (subject to review)

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covers, cowls, louvres and other ancillary apparatus) of whatsoever nature or kind or any of them;

- 1.8 "Decorate" means paint (with at least two coats of good quality paint), polish, repaper or otherwise treat as appropriate all surfaces usually or requiring to be so treated and includes preparation of such surfaces by stripping off, stopping, priming or otherwise, as necessary, washing down washable surfaces, treatment with suitable preservative and restoration, pointing and making good stonework, brickwork, stucco, concrete and other surfaces;
- 1.9 "Decoration Years" means the year ending 31<sup>st</sup> December 2018 and thereafter in every subsequent third year of the Term;
- 1.10 "Demised Premises" means, save as provided in clause 5.4.7, the premises demised by this Lease and more particularly described in the Second Schedule;
- 1.11 "Initial Rent" means [REDACTED] plus VAT (i.e. [REDACTED] plus VAT per square foot) or such other rent as shall be payable in consequence of review pursuant to the provisions of the **Fifth Schedule** hereto. The base rent for rent review purposes at the expiration of year 5 is [REDACTED] per square foot and will be reviewed to market rent (upwards and downward review). The fit out rent of [REDACTED] per square foot will remain static until the expiration of the lease. Both base rent and fit out rent are subject to VAT.
- 1.12 "Insured Risks" means, subject always to such insurance as may ordinarily and reasonably be available to the Landlord and to such exclusions, excesses and limitations as may be imposed by the Landlord's insurers for the time being in respect of any or all of the following risks:
- fire (including subterranean fire), storm, tempest, flood, earthquake, lightning, explosion, impact by any road vehicle, aircraft and other aerial devices and articles dropped therefrom, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and such other risks as the Landlord may in its absolute discretion from time to time determine;
- 1.13 "Landlord" means the party or parties named as "Landlord" at the commencement of this Lease and includes the person for the time being entitled to the reversion immediately expectant on the determination of the Term;
- 1.14 "this Lease" includes the Schedules and any document which is made supplemental hereto or which is entered into pursuant to or in accordance with the terms hereof;
- 1.15 "Lettable Areas" means those parts of the Buildings (including the Demised Premises) leased or intended to be leased to occupational tenants;
- 1.16 "Management Company" means Monahan Road Development Management Company Limited, a limited liability company having its registered office at Unit 6A, Cleve Business Park, Monahan Road, Cork;
- 1.17 "Outgoings" means all rates, taxes and charges (including emergency service charges) of any description (whether or not of a capital or non-recurring nature) which may at any time during the Term be payable in respect of the Demised Premises and the Utilities enjoyed in connection therewith INCLUDING any insurance excesses or other sums not recoverable by the Landlord (unless due to its neglect or default) but EXCLUDING any tax payable by the Landlord upon

the rents herein reserved or occasioned by any disposition of or dealing with the reversion on this Lease;

- 1.18 "Permitted User" means office use;
- 1.19 "the Perpetuity Period" means the period of 21 years from the date of this Lease;
- 1.20 "Plan" means the plans and drawings numbered 1 – 4 annexed to this Lease;
- 1.21 "Planning Acts" means the Local Government (Planning and Development) Acts 1963 to 1999 and the Planning and Development Act 2000-2004;
- 1.22 "Plant" means any lifts, lift machinery, central heating and air conditioning systems, sprinkler system, boilers and other electrical and mechanical machinery, equipment and apparatus of whatsoever nature or kind and wherever installed in the Buildings;
- 1.23 "Prescribed Rate" means the rate per centum per month which exceeds by one half per centum per month the monthly rate of interest for the time being chargeable under Section 1080 of the Income Tax Act 1997 (or such other monthly rate of interest as may from time to time be chargeable upon arrears of income tax) or, as the Landlord may from time to time elect, the rate of 10 per centum per annum;
- 1.24 "Quarterly Gale Days" means the first day of January, first day of April, first day of July and first day of October in every year of the Term.
- 1.25 "Rent Commencement Date" means the first day of the eighth month after the date hereof. ;
- 1.26 "Retained Parts" means all parts of the Buildings which do not comprise Lettable Areas, including, but not limited to:
  - 1.26.1 the Common Parts;
  - 1.26.2 the Car Spaces;
  - 1.26.3 office and residential or other accommodation which may from time to time be reserved in the Buildings for staff;
  - 1.26.4 any parts of the Buildings reserved by the Landlord for the housing of plant or otherwise in connection with or required for the provision of services;
  - 1.26.5 all Conduits in, upon, over, under or within and exclusively serving the Buildings except any that form part of the Lettable Areas;
  - 1.26.6 the main structure of the Buildings and, in particular, but not by way of limitation, the roof, foundations, external walls, internal load bearing walls and the structural parts of the roof ceilings and floors, all party structures, boundary walls, railings and fences and all exterior parts of the Buildings and all roads, pavements, pavement lights and car parking areas (if any) within the curtilage of the Buildings;
- 1.27 "Service Charge" means a maximum of 13% per cent (13 % of the Expenditure as defined in Clause 7);

- 1.28 "Service Charge Commencement Date" means the date hereof;
- 1.29 "Surveyor" means any person appointed by the Landlord (including an employee of the Landlord and the person appointed by the Landlord to collect the rents and manage the Buildings) to perform the function of a surveyor for any purpose of this Lease;
- 1.30 "Tenant" means the party or parties named as "Tenant" at the commencement of this Lease and includes the person entitled for the time being to the Tenant's interest created by this Lease;
- 1.31 "Term" means 15 Years;
- 1.32 "Term Commencement Date" means the date hereof;
- 1.33 "Utilities" means water, soil, steam, air, gas, electricity; radio, television, telegraphic, telephonic and other communications, and other services of whatsoever nature;
- 1.34 "the 1860 Act" and "the 1881 Act" mean respectively the Landlord and Tenant Law Amendment Act, Ireland, 1860 and the Conveyancing Act, 1881.

## 2. INTERPRETATION

- 2.1 Where two or more persons are included in the expression "the Landlord" or "the Tenant" or such expressions include all or either or any of such persons and the covenants which are expressed to be made by the Landlord or the Tenant shall be deemed to be made by or with such persons jointly and severally.
- 2.2 Unless the context otherwise requires—
- 2.2.1 words importing a person include any unincorporated association or corporate body and vice versa;
- 2.2.2 any reference to the masculine gender includes reference to the feminine gender and any reference to the neuter gender includes the masculine and feminine genders;
- 2.2.3 any reference to the singular includes reference to the plural.
- 2.3 Any covenant by the Tenant not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done and to use best endeavours to prevent such act or thing being done by another person.
- 2.4 References to any right of the Landlord to have access to or entry upon the Demised Premises shall be construed as extending to all persons authorised by the Landlord, including agents, professional advisers, prospective purchasers of any interest of the Landlord in the Demised Premises or in the Adjoining Property, contractors, workmen and others.
- 2.5 Any reference to a statute (whether specifically named or not) or to any sections or sub-sections therein includes any amendments or re-enactments thereof for the time being in force and all statutory instruments, orders, notices, regulations, directions, bye-laws, certificates, permissions and plans for the time being made, issued or given thereunder or deriving validity therefrom.

- 2.6 Headings are inserted for convenience only and do not affect the construction or interpretation of this Lease.
- 2.7 Any reference to a clause, sub-clause or schedule means a clause, sub-clause or schedule of this Lease.
- 2.8 Wherever in this Lease either party is granted a future interest in property there shall be deemed to be included in respect of every such grant a provision requiring that future interest to vest within the Perpetuity Period.
- 2.9 If any term or provision in this Lease is held to be illegal or unenforceable in whole or in part, such term shall be deemed not to form part of this Lease but the enforceability of the remainder of this Lease is not affected.

### 3. **DEMISE AND RENTS**

THE Landlord in consideration of the rents herein reserved (including the increases thereof which may arise as hereinafter provided) and the covenants on the part of the Tenant hereinafter contained **HEREBY DEMISES** unto the Tenant the Demised Premises **TOGETHER WITH** the ancillary rights and easements specified in the Third Schedule but **EXCEPTING AND RESERVING** the rights and easements specified in the Fourth Schedule **TO HOLD** the Demised Premises unto the Tenant from and including the Term Commencement Date for the Term **SUBJECT TO** all rights, easements, privileges, covenants, restrictions and stipulations of whatsoever nature affecting the Demised Premises **YIELDING AND PAYING** unto the Landlord during the Term:

- 3.1 Yearly and proportionately for any fraction of a year the Initial Rent and, from and including each Review Date (as defined in the Fifth Schedule), such yearly rent as becomes payable under the Fifth Schedule, and in every case the same is to be paid in the manner notified from time to time by the Landlord by equal quarterly payments in advance on the Quarterly Gale Days;
- 3.2 a percentage or due proportion (equivalent to the same percentage or due proportion of the Expenditure which is used to determine the Service Charge) of all sums (including the cost of periodic valuations for insurances purposes) which the Landlord may from time to time pay for insuring the Buildings against the Insured Risks and other matters referred to in Clause 5.4 all such sums to be paid on demand;
- 3.3 the Service Charge to be paid to the Management Company on demand in accordance with Clause 7.
- 3.4 the rates and water charges applicable to the unit demised in this lease.
- 3.5 Any other sum recoverable by the Landlord as costs or expenses under this Lease, the same to be paid on demand.

### 4. **TENANT'S COVENANTS**

The Tenant throughout the Term **HEREBY COVENANTS** with the Landlord as follows:

#### **4.1 Rents**

To pay the rents in the manner specified in clause 3 (save for the first payments which shall be made on the execution of this Lease) and without any deduction, set-off or counterclaim whatsoever.

#### **4.2 Interest on arrears**

Without prejudice to any other right, remedy or power herein contained or otherwise available to the Landlord, if any of the rents (whether formally demanded or not) or other sums specified in clause 3 remain unpaid for more than seven days after the date when payment was due, to pay interest thereon at the Prescribed Rate from and including the date on which payment was due to the date of payment to the Landlord (both before and after any judgment).

#### **4.3 Outgoings**

To pay and indemnify the Landlord against all Outgoings.

#### **4.4 Repairs**

4.4.1 To repair the Demised Premises and keep them in good repair and, as often as may be necessary, to rebuild, reinstate or replace the Demised Premises;

4.4.2 The Tenant's liability under clause 4.4.1 does not extend to damage in respect of which the Landlord is indemnified under a policy of insurance effected under clause 5.4.1.1 or to damage in respect of which the Landlord has no such entitlement through his own default and, if the damage caused by any of the Insured Risks would otherwise give rise to a right to surrender this Lease under the provisions of Section 40 of the 1860 Act or otherwise, the Tenant hereby absolutely waives and abandons such right.

#### **4.5 Decorations**

In every Decoration Year and also during the last six months of the Term (whether determined by effluxion of time or otherwise) to Decorate in a good and workmanlike manner, using good quality materials, all parts of the Demised Premises requiring decoration in colours to be approved in writing by the Landlord (such approval not to be unreasonably withheld).

#### **4.6 Cleaning and maintenance**

4.6.1 To keep all parts of the Demised Premises clean and tidy;

4.6.2 To clean properly at least once in every month all windows and window frames and all other glass forming part of the Demised Premises.

#### **4.7 Yielding up**

At the expiration or sooner determination of the Term:

- 4.7.1 to yield up the Demised premises having complied with all the Tenant's covenants contained in this Lease, and
- 4.7.2 to yield up the Demised Premises having removed any moulding, sign, writing or painting of the name or business of the Tenant or occupiers, and
- 4.7.3 Tenant, at its absolute discretion, may choose although it is not obligated by the Landlord to do so, to remove all alterations or additions made to the Demised Premises by the Tenant, together with any Tenant's fixtures, fittings, furniture and effects, and restored the Demised Premises to their original prevailing condition.

#### **4.8 Tenant's fixtures and effects**

- 4.8.1 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of (subject to any conditions which the Landlord thinks fit) any fixtures, fittings, furniture and effects left by the Tenant on the Demised Premises for more than seven days after the expiry or sooner determination of the Term;
- 4.8.2 In acting under clause 4.8.1 the Landlord is not liable to the Tenant save having to account for the net proceeds of sale less the cost of storage (if any) and any other expenses reasonably incurred by the Landlord.

#### **4.9 Rights of entry by Landlord**

To permit the Landlord with all necessary materials and appliances at all reasonable times upon reasonable prior notice (except in cases of emergency) to enter and remain upon the Demised Premises for any of the following purposes:

- 4.9.1 to view and examine the state and condition of the Demised Premises and to take schedules or inventories of the Landlord's fixtures and fittings;
- 4.9.2 to exercise any of the rights excepted and reserved by, and to carry out any obligations arising under, this Lease;
- 4.9.3 for any other purpose connected with the interest of the Landlord in the Demised Premises, including, but not limited to, valuing or disposing of the said interest.

Provided that if the Landlord or any other authorised person shall desire to exercise any right of entry on to or over the Property:

- a) they must provide (except in emergency) a minimum of 4 days prior written notice (containing a précis of the work to be carried out) to the Tenant's agent of its intention to visit and inspect the Property;
- b) any person so entering shall carry out such inspection or works (as the case may be) as quickly and efficiently as reasonably possible and cause as little damage destruction and inconvenience as reasonably possible and shall not knowingly interfere with the Tenant's security systems;
- c) any damage caused to the Property and the Landlord's fixtures and fittings or the Tenant's fixtures fittings stock furniture and effects shall be made good as soon as

reasonably practicable at the Landlord's expense to the reasonable satisfaction of the Tenant;

- d) all persons entering the Property will comply with the Tenant's reasonable security requirements of which the Landlord has received prior written details but in any event no entry will be allowed to any strong rooms vaults safes communication rooms or other secure areas unless accompanied by a representative of the Tenant (save in case of emergency) and the Tenant shall procure that a representative of the Tenant is available as reasonably required by the Landlord;
- e) all persons entering are to use all reasonable endeavours not to affect adversely the operation of the Tenant's business carried out at the Property; and
- f) any access (except in emergency) to be at reasonable times where the adverse affect to the Tenant's business will be minimised (save as approved by the Tenant such approval not to be unreasonably withheld or delayed).

#### **4.10 Compliance with notices**

Upon written notice being given by the Landlord to the Tenant of any breach of covenant-

- 4.10.1 to make good and remedy within sixty days of such notice, or sooner if required in the notice, the breach to the reasonable satisfaction of the Landlord;
- 4.10.2 if the Tenant fails within twenty-one days of such notice, or as soon as reasonably possible in the case of an emergency, to commence and then diligently and expeditiously to continue to comply with such notice, to permit the Landlord to enter the Demised Premises and carry out all or any of the works or other steps necessary for compliance with the notice;
- 4.10.3 to pay all costs and expenses thereby incurred to the Landlord on demand.

#### **4.11 Operation of the Demised Premises**

- 4.11.1 Not to engage in any activity in or on the Demised Premises which may result in-
  - 4.11.1.1 a material increase in the risk of one or more of the Insured Risks happening or of contamination, pollution, or overloading in, on or to the Buildings or the Demised Premises;
  - 4.11.1.2 the creation of any nuisance, annoyance or disturbance affecting the enjoyment of the Buildings or the Adjoining Property or the value or character of the Demised Premises;
  - 4.11.1.3 the obstruction of or interference with the ancillary rights specified in the Third Schedule or with the rights of owners and occupiers of the Buildings or of the Adjoining Property;
  - 4.11.1.4 the interference with or malfunctioning of any fire and safety equipment or appliances installed in the Buildings or the Demised Premises;
  - 4.11.1.5 the Landlord incurring liability or expense under any statutory provision;

#### 4.11.2

- a) Not to place affix or display any sign, advertisement, notice, banner, poster or other notification whatsoever on the outside of the Demised Premises or the Building except a sign bearing the name of the Tenant and the nature of the trade and business carried on at the Demised Premises by the Tenant which may be erected only in a manner, location, size, colour design, form and character approved in writing by the Landlord in its absolute discretion and not to place affix or display any sign, advertisement, notice, poster or other notification whatsoever on the inside of the Demised Premises so as to be visible from outside the Demised Premises unless first approved in writing by the Landlord (such approval not to be unreasonably withheld or delayed).
- b) At the expiration or sooner determination of the Term to remove any such sign, advertisement, notice, banner, poster or other notifications and make good all damage caused to the reasonable satisfaction of the Landlord.
- c) The building (both picture and name) can be used as part of marketing campaigns, brochures etc by the Tenant and there will be no restrictions on photographing any part of a building for use for marketing and advertisement purposes.
- d) The Tenant will have a right to place a sign showing the Tenant's name and trade on any common signage board provided by the Landlord in the main entrance to the Building and immediately adjacent to the doors leading from the Common Parts of the Property and any other such places as the Landlord permits such signs in a size and kind first approved by the Landlord (such approval not to be unreasonably withheld or delayed).

#### 4.12 User

- 4.12.1 Not without the prior written consent of the Landlord (which consent shall not be unreasonably withheld) to use the Demised Premises except for the Permitted User nor to make any application for planning permission or a fire and safety certificate in regard to any change of user or other development relating to the Demised Premises without first giving notice in writing to the Landlord of the intention to make such application;
- 4.12.2 Not to leave the Demised Premises continuously unoccupied (other than for normal holiday periods) without notifying the Landlord;
- 4.12.3 To provide such caretaking or security arrangements as the Landlord or the insurers of the Buildings shall reasonably require in order to protect the Demised Premises from vandalism, theft or unlawful occupation;
- 4.12.4 To provide the Landlord with the name, address and home telephone number of at least two authorised key holders for the time being of the Demised Premises and to notify the Landlord of any changes in the persons so authorised as keyholders of the Demised Premises;
- 4.12.5 Not to use the Demised Premises for any public or political meeting, public exhibition or public entertainment, show or spectacle of any kind, nor for any dangerous, noisy, noxious or offensive trade, business or occupation

whatsoever, nor for any illegal or immoral purpose, nor for residential or sleeping purposes;

- 4.12.6 Not to use the Demised Premises or any part thereof for gambling, betting, gaming or wagering, or as a betting office, or as a club, or for the sale of beer, wines and spirits, nor to hold any auction on the Demised Premises.

#### 4.13 Alterations

- 4.13.1 Not to erect any new buildings or structure or to engage in any works on, or to make any addition or alteration to, the Demised Premises of such a kind that the Demised Premises lose their original identity;
- 4.13.2 Not to make any other addition or alteration to the Demised Premises without the prior written consent of the Landlord (which consent shall not be unreasonably withheld);
- 4.13.3 The Landlord may, as a condition of giving consent under the immediately preceding sub-clause, require the Tenant to enter into covenants or undertakings as to the carrying out and insurance of the additions or alterations to the Demised Premises and as to their reinstatement to their original state at the expiration or sooner determination of the Term;
- 4.13.4 In respect of such additions or alterations, to comply in all respects with the provisions, as appropriate, of the Planning Acts and the Building Control Act and to carry out any related works in a good and workmanlike manner to the satisfaction of the Landlord.
- 4.13.5 Provided that the Tenant may carry out minor external and internal alterations without the consent of the Landlord (subject to the Tenant complying with all applicable building, fire and safety regulations) including, without limitation erection, alterations to or removal of partitioning, conduits, or cabling as long as the Tenant notifies the Landlord in writing within 10 working days of the completion of any works undertaken pursuant to this clause

#### 4.14 Alienation

- 4.14.1 Not to assign, sub-let, part with or share the possession of the entirety of the Demised Premises without the prior written consent of the Landlord (which consent shall not be unreasonably withheld);
- 4.14.2 Not under any circumstances to assign, sub-let, part with or share the possession of or otherwise alienate a part of the Demised Premises;
- 4.14.3 The Tenant in seeking consent to any proposed alienation shall apply in writing to the Landlord and shall provide all information concerning the alienation as the Landlord may reasonably require;
- 4.14.4 In granting consent to any such proposed alienation the Landlord may impose such conditions as are reasonable in all the circumstances.
- 4.14.5 Where the Tenant is a company within the Regus Group of Companies, it shall not require the consent of the Landlord to an assignment to a Group Company where the Group Company is of no lesser financial standing than the Tenant

and the Tenant agrees to deliver the accounts of the Tenant and the assignee to the Landlord at least 21 days prior to the date of the assignment.

- 4.14.6 The Tenant may, notwithstanding any other provision in this Lease, use the Premises as serviced business offices and without the consent of the Landlord may part with possession or occupation of the whole or part or parts of the Premises by way of licence or agreement in the course of its business as a supplier of serviced business office accommodation and associated services. The Tenant shall be under no obligation to provide the Landlord with certified copies of any such licence.

PROVIDED ALWAYS that the tenant, under the operation of this clause, or in any manner however, shall not cause or allow any person coming into possession of any part of the premises to acquire any rights to possession, to ownership, to a statutory Lease or other proprietary interest or easement and shall indemnify and keep indemnified, the landlord in respect of same

**4.15 Registration of dispositions**

To furnish to the Landlord or its solicitors within twenty-one days of the alienation a certified copy of the deed or other instrument evidencing or effecting any alienation of or relating to the Demised Premises.

**4.16 Landlord's expenses**

To pay and indemnify the Landlord against all reasonable costs and expenses properly incurred by the Landlord in relation to:

- 4.16.1 the preparation and service of any notice and of any proceedings under the 1860 Act or the 1881 Act;
- 4.16.2 the preparation and service of any notice and schedule relating to disrepair;
- 4.16.3 the recovery or attempted recovery of arrears of rent or other sums payable under this Lease;
- 4.16.4 procuring the remedying of any breach of covenant by the Tenant;
- 4.16.5 any application for consent required under the terms of this Lease (whether such consent is granted or not);
- 4.16.6 any other action taken at the request of the Tenant.

**4.17 Statutory requirements**

4.17.1 At the Tenant's own expense, to comply in all respects in relation to the Demised Premises with-

- 4.17.1.1 all obligations and requirements arising from or under any statutory provision or imposed under powers conferred on any authority or court of competent jurisdiction;
- 4.17.1.2 any reasonable demand by the Landlord for production of plans, documents and other evidence which the Landlord may require in order to satisfy itself that the provisions of this clause have been or will be complied with.

4.17.2 Upon receipt of any notice or order relating to the Demised Premises or the occupier thereof or of any proposal for the same served or given under the Planning Acts, the Building Control Act or any other statutory provisions, forthwith—

4.17.2.1 to furnish the Landlord with a true copy thereof and any further particulars required by the Landlord;

4.17.2.2 to take all necessary steps to comply with the notice or order;

4.17.2.3 at the written request of the Landlord but at the cost of the Tenant, to make or join with the Landlord in making such objection or representation against or in respect of any such notice, order or proposal as the Landlord may reasonably require.

4.17.3 PROVIDED THAT where any requirement as specified in this clause is made during the last six months of the Term, which does not require immediate implementation and is not required for the Tenant's continued use and enjoyment of the Property, the Tenant shall not be required by the Landlord to incur capital expenditure in connection therewith

#### 4.18 Encroachments and easements

4.18.1 Not to stop up, darken or obstruct, nor allow to be stopped up, darkened or obstructed, any window, rights of light or rights of ways belonging to the Demised Premises;

4.18.2 Not to permit any new easement, encroachment, or any other third party rights to be made or enjoyed over or in respect of the Demised Premises or to acknowledge their existence or to grant any such rights;

4.18.3 As soon as the Tenant is aware of any attempt to claim or exercise such third party rights, forthwith to give written notice thereof to the Landlord and, at the request of the Landlord, to take such steps as may be reasonably required by the Landlord to prevent their acquisition or otherwise deal with them.

#### 4.19 Reletting and planning application notices

To permit the Landlord at all reasonable times during the last six months of the Term to enter upon the Demised Premises and affix and retain without interference upon any suitable parts of the Demised Premises (but not so as materially to affect the access of light and air to the Demised Premises) notices of reletting the same and, as appropriate, any site notice relating to a planning application and to permit all persons with the written authority of the Landlord or its agent to view the Demised Premises at all reasonable hours in the daytime, upon prior notice having been given.

#### 4.20 Indemnity

4.20.1 To keep the Landlord fully indemnified from and against all actions, proceedings, claims, demands, losses, costs, expenses, damages and liability arising directly or indirectly from—

4.20.1.1 breach by the Tenant of any of the provisions of this Lease;

- 4.20.1.2 the use of or works carried out on or to the Demised Premises during the Term;
- 4.20.1.3 any act, neglect or default by the Tenant or any person on the Demised Premises with its actual or implied authority.

All provisions in this Lease whereby the Tenant covenants to indemnify the Landlord shall apply subject to the following:

- a) the Landlord using reasonable endeavours to mitigate its loss;
  - b) before claiming against the Tenant under this clause the Landlord shall (if applicable) serve a notice on the Tenant specifying the breach and giving the Tenant a reasonable period in which to remedy it but nevertheless the Landlord shall continue to be indemnified; and
  - c) no claim as to which the Landlord is seeking an indemnity from the Tenant shall be settled by the Landlord without the prior written consent of the Tenant whose consent is not to be unreasonably withheld or delayed
- 4.20.2 To effect and keep in force such public liability, employer's liability and other policies of insurance (to the extent that such insurance cover is available) as may be necessary to cover the Tenant against any claim arising under the preceding sub-clause and to extend such policy or policies so that the Landlord is indemnified by the insurers in the same manner as the Tenant.
- 4.20.3 Whenever required to do so by the Landlord, to produce to the Landlord the said policy or policies together with satisfactory evidence that the same is/are valid and subsisting and that all premiums due thereon have been paid.

#### **4.21 Landlord's or Management Company's regulations**

To comply with all reasonable regulations made by the Landlord or the Management Company from time to time and notified to the Tenant in writing for the general management and security of the Buildings and any other areas used or to be used in common with others.

#### **4.22 Stamp Duty and Value Added Tax**

To pay to the Landlord—

- 4.22.1 any stamp duty payable on this Lease and its counterpart together with registration fees;
- 4.22.2 any Value Added Tax arising from the grant of this Lease or on the rents reserved by it. The Landlord shall provide a VAT invoice.
- 4.22.3 any Value Added Tax arising on foot of the management and/or service charges payable under the Lease. The Management Company shall provide a VAT invoice.

#### **4.23 Insurance**

- 4.23.1 Not to do or omit to do anything which might cause any policy of insurance relating to the Demised Premises or the Buildings or any Adjoining Property

owned by the Landlord or the Management Company to become void or voidable wholly or in part nor (unless the Tenant has previously notified the Landlord and agreed to pay the increased premium) to do anything whereby any abnormal or loaded premium may become payable.

4.23.2 Subject to the Landlord or the Management Company furnishing the Tenant with a copy of any policy of insurance effected under clause 5.4, to comply, at the Tenant's own expense, with all the requirements under that policy and the recommendations of the insurers relating to the Demised Premises.

4.23.3.1 If so requested by the Landlord, to insure and keep insured in the joint names of the Landlord and the Tenant any glass forming part of the Demised Premises save for external glass, which shall be a matter for the Landlord against breakage (other than as a result of the Insured Risks) for a sum which is not less than the full replacement value thereof for the time being with such insurance company as may from time to time be approved by the Landlord;

4.23.3.2 To pay within seven days of their becoming payable all premiums relating to any such insurance and, whenever reasonably required by the Landlord, to produce the policy of insurance and the receipt for the current year's premium.

#### 4.24 **Registration of Company**

To comply with all statutory requirements necessary to ensure that the Tenant remains on the register of companies.

### 5. **LANDLORD'S COVENANTS**

The Landlord **HEREBY COVENANTS** with the Tenant as follows:

#### 5.1 **Quiet enjoyment**

To permit the Tenant, provided he pays the rent reserved by and otherwise complies with the provisions of this Lease, peaceably to hold and enjoy the Demised Premises during the Term without any interruption by the Landlord or any person lawfully claiming through, under or in trust for it.

#### 5.2 **Exercise of rights**

In exercising any of the Landlord's rights of entry or other rights in relation to the Demised Premises—

5.2.1 to take all necessary steps to ensure that as little damage is done to the Demised Premises and as little inconvenience is caused to their occupiers as is reasonably practicable;

5.2.2 to make good without delay any damage which may be caused by such exercise.

#### 5.3 **Provision of services**

Subject to reimbursement by the Tenant of the Service Charge, to use all reasonable endeavours to provide the following services in accordance with the principles of good estate management:-

- 5.3.1 To keep the Retained Parts in good repair and condition;
- 5.3.2 To keep clean and maintained in a proper manner, the Common Parts including the windows thereof, and any lavatories of which (inter alia) the Tenant has the use, and to keep same adequately lighted, where appropriate, during the Business Hours;
- 5.3.3 During the Business Hours, to provide a lift service by the operation of the lifts now installed or by such substituted lifts as the Landlord, in its absolute discretion, may from time to time decide to install;
- 5.3.4 During the Business Hours, to provide heating to the Demised Premises and the Common Parts to such temperatures as the Landlord may, from time to time, consider adequate and for such periods of the year as the Landlord shall deem desirable;
- 5.3.5 To employ such staff as the Landlord may, in its absolute discretion, deem desirable or necessary to enable it to provide all or any of the services in the Buildings and for the general management and security of the Buildings;
- 5.3.6 To provide and install name boards of such size and design as the Landlord may, in its absolute discretion, determine in the main entrance to the Buildings and at such other locations as the Landlord may consider desirable;
- 5.3.7 To repair and maintain those parts of the Buildings which are not built upon and to keep the same clear of all rubbish and free from weeds and to provide and maintain, at the Landlord's discretion, such plants, shrubs, trees or garden or grassed areas as may be appropriate and to keep the same planted and the grass cut;
- 5.3.8 Any other services which in the reasonable opinion of the Landlord are necessary or desirable from time to time for the comfort convenience and security of the tenants, occupiers and users of the Buildings or any part or parts thereof.

#### 5.4 Insurance

5.4.1 Subject to reimbursement by the Tenant of the tenant's percentage or due proportion of the premiums payable by the Landlord, to insure and keep insured with an insurer of repute located in Ireland in the name of the Landlord-

5.4.1.1 the Buildings against loss or damage by the Insured Risks in the full reinstatement costs thereof (to be determined from time to time by the Landlord or his professional adviser) including:

- (i) Architects, Surveyors, Consultants and other professional fees (including Value Added Tax thereon);
- (ii) the costs of shoring up, demolishing, site clearing and similar expense;

- (iii) all stamp duty and other taxes or duties exigible on any buildings or like contract as may be entered into and all incidental expenses (including planning and buildings regulation fees) relative to the reconstruction, reinstatement or repair of the Buildings;
- (iv) such provision for inflation as the Landlord in its absolute discretion shall deem appropriate;

5.4.1.2 the loss of rent and the Service Charge from time to time payable, or reasonably estimated to be payable, under this Lease (taking account of any review of the rent which may become due under this Lease) following loss or damage to the Buildings by the Insured Risks, for three years or such longer period as the Landlord may, from time to time, reasonably deem to be necessary, having regard to the likely period required for rebuilding and for obtaining planning permission and any other consents, certificates and approvals in connection with the reinstatement of the Buildings;

5.4.1.3 the property owner's, public, employer's and other liability of the Landlord arising out of or in relation to the Buildings;

5.4.1.4 such other insurances as the Landlord may, in its discretion, from time to time deem necessary to effect.

5.4.2 At the request of the Tenant, the Landlord shall produce to the Tenant a copy or extract duly certified by the Landlord of such insurance policy or policies and a copy of the receipt for the last premium or (at the Landlord's option) reasonable evidence from the insurers of the terms of the insurance policy or policies and the fact that it is or they are subsisting and in effect;

5.4.3 If the Buildings are destroyed or damaged by any of the Insured Risks then:

5.4.3.1 unless payment of any of the insurance moneys is refused by reason of any act or default of the Tenant, any under-tenant or any person under its or their control; and

5.4.3.2 subject to the Landlord being able to obtain any necessary planning permission and other necessary licences, certificates, approvals and consents (which the Landlord shall use its reasonable endeavours to obtain); and

5.4.3.3 subject to the necessary labour and materials being and remaining available (which the Landlord shall use its reasonable endeavours to obtain as soon as practicable); and

5.4.3.4 subject to exercise of the right to terminate the Lease under this clause;

the Landlord shall as soon as possible lay out the proceeds of insurance effected under clause 5.4.1.1 in rebuilding and reinstating the Buildings as necessary to make it substantially the same as it was prior to the destruction or damage (but not so as to provide accommodation identical in layout and manner or method of construction if it would not be reasonably practical to do so);

- 5.4.4 If the Landlord is prevented (for any reason other than its act or default) from compliance with the previous provisions of this clause the following provisions apply:
- 5.4.4.1 the Landlord is relieved of its obligations and is solely entitled to all insurance moneys;
  - 5.4.4.2 if the prevention continues for three years and the Lease is not otherwise terminated, the Landlord or the Tenant may at any time after expiry of that period by not less than three months' written notice given to the other party determine this Lease, but without prejudice to any claim by either party against the other in respect of any antecedent breach of its terms;
- 5.4.5 If the destruction or damage to the Buildings renders the Demised Premises unfit for use and occupation and provided the insurance has not been vitiated nor payment of any insurance moneys refused by reason of any act or default of the Tenant, any undertenant or any person under its or their control, the rent and the Service Charge payable under clause 3 of this Lease shall be suspended in accordance with the following provisions:
- 5.4.5.1 the rent and the Service Charge suspended shall be the whole rent or Service Charge or such proportion as is fair according to the nature and extent of the damage to the Demised Premises;
  - 5.4.5.2 the suspension shall last until either the Demised Premises are again rendered fit for use and occupation or the expiration of three years (or such longer period as the Landlord may have insured against) from the date of destruction or damage, whichever is the earlier;
  - 5.4.5.3 where the destruction or damage occurs during a quarter in respect of which rent or the Service Charge has been paid in advance, the Landlord shall refund to the Tenant the proportion of that rent or that Service Charge (apportioned on a daily basis) which is attributable to the period following the date of destruction or damage;
  - 5.4.5.4 any dispute regarding suspension of rent or Service Charge shall be determined by a single arbitrator to be appointed, in default of agreement, upon the application of either party, by or on behalf of the President or acting President for the time being of the Society of Chartered Surveyors in accordance with the provisions of the Arbitration Acts, 1954–1980.
- 5.4.6 As and when requested from time to time by the Tenant, the Landlord shall use its reasonable endeavours:
- 5.4.6.1 to obtain from the Landlord's insurers a waiver of its subrogation rights (if any) against the Tenant in respect of the Demised Premises so long as such a waiver is available in the insurance market from a reputable insurer located in Ireland and any costs reasonably incurred thereby are discharged by the Tenant;
  - 5.4.6.2 to ensure that the insurance policy or policies in respect of the Insured Risks contain a provision that the insurance is not invalidated by any change of occupancy or increase or risk taking place in or on the Demised Premises without the knowledge of the Landlord provided that the Landlord shall immediately upon the same coming to its

knowledge give notice to the insurers and the Tenant shall pay any additional premiums as may be required from the date of such increase of risk.

5.4.7 For the purposes of this clause "Demised Premises" do not include (unless otherwise specified by the Landlord) any additions, alterations or improvements carried out or being carried out by the Tenant.

5.5. The Landlord shall not, for so long as Phoenix House Business Centre Limited (or, pursuant to and subject to the provisions of clause 4.14.5 hereof, a company within the Regus Group of Companies) is the Tenant (a) operate (or allow any person to operate) a business which is in competition with the business activities of the Tenant (including granting a lease of any part of the Building which includes a permitted use as serviced offices (the "Exclusive Use") and/or, (b) save where obliged under statute or by a court, consent to a change of use to the Exclusive Use for so long as the Tenant is the Tenant under the Lease PROVIDED ALWAYS that (subject to clause 5.5(a)) nothing shall prevent the Landlord granting a Lease of any part of the Building for office use at any time.

## 6. PROVISOS

**PROVIDED ALWAYS** as follows:

### 6.1 Forfeiture

Without prejudice to any other right, remedy or power herein contained or otherwise available to the Landlord if:

6.1.1 the whole or any part of the rents or other sums reserved by this Lease is unpaid for fourteen days after becoming payable (whether formally demanded or not); or

6.1.2 there is a breach of any of the Tenant's covenants; or

6.1.3 if the Tenant (being a body corporate) has a winding-up petition presented against it or passes a winding-up resolution (other than in connection with a members' voluntary winding-up for the purposes of amalgamation or reconstruction which has the prior written approval of the Landlord) or resolves to present its own winding-up petition or is wound-up (whether in Ireland or elsewhere) or a Receiver and Manager is appointed in respect of the Demised Premises or of the Tenant; or

6.1.4 if the Tenant (being an individual, or if more than one individual, then any one of them) has a bankruptcy petition presented against him or is adjudged bankrupt (whether in Ireland or elsewhere) or suffers any distress or execution to be levied on the Demised Premises or enters into composition with his creditors or has a receiving order made against him;

THEN, and in any such case, the Landlord may at any time thereafter re-enter the Demised Premises and thereupon the Term absolutely ceases and determines, but without prejudice to any rights or remedies which may then have accrued to the Landlord against the Tenant in respect of any antecedent breach of any of the covenants or conditions contained in this Lease.

**6.2 No implied easements**

Nothing in this Lease shall impliedly confer upon or grant to the Tenant any easement, right or privilege other than those expressly granted (if any) by it.

**6.3 Exclusion of warranty as to user**

Nothing contained in this Lease or in any consent granted or approval given by the Landlord under it implies or warrants that the Demised Premises may be used under the Planning Acts or the Building Control Act for the purpose herein authorised or any purpose subsequently authorised and the Tenant hereby acknowledges that the Landlord has not given or made at any time any representation or warranty that any such use is or will be or will remain a permitted use under those Acts.

**6.4 Use of Demised Premises outside Business Hours**

If the Tenant shall desire, from time to time, to use the Demised Premises outside the Business Hours, then (subject to the Landlord being able to provide such staff, services and security for the Buildings, as the Landlord may, in its absolute discretion, consider necessary or desirable) the Tenant shall be entitled to use and occupy the Demised Premises and have access thereto on the following terms and conditions:

6.4.1 the Tenant on each occasion shall make prior arrangements with the Landlord or with the Surveyor or caretaker and shall comply with any reasonable requirements as to the use and occupation of the Demised Premises and the means of access thereto;

6.4.2 the Tenant shall pay to the Landlord, on demand, the whole of the costs and expenses attributable to the provision of any staff, services and security;

6.4.3 the Landlord shall not be obliged to provide any services to the Demised Premises or the Buildings if the Landlord shall, at any time in its absolute discretion, consider it impractical to do so.

**6.5 Failure by the Landlord to provide services**

The Landlord shall not be liable to the Tenant in respect of any failure by the Landlord to perform any of the services referred to in this Lease, whether express or implied, unless and until the Tenant has notified the Landlord of such failure and the Landlord has failed within a reasonable time to remedy the same and then in such case the Landlord shall (subject to the provisions of Clause 6.7 below) be liable to compensate the Tenant only for actual (but not consequential) loss or damage sustained by the Tenant after such reasonable time has elapsed.

**6.6 Exclusion of Landlord's liability**

The Landlord shall not, in any circumstances, incur any liability for any failure or interruption in any of the services provided by the Landlord or for any inconvenience or injury to person or property arising from such failure or interruption due to mechanical breakdown, failure or malfunction, overhauling, maintenance, repair or replacement, strikes, labour disputes shortages of labour or materials, inclement weather or any cause or circumstance beyond the

control of the Landlord but the Landlord shall use its reasonable endeavours to cause the service in question to be reinstated with the minimum of delay.

#### **6.7 Covenants relating to Adjoining Property**

Nothing contained in or implied by this Lease shall give to the Tenant the benefit of or the right to enforce or to prevent the release or modification of any covenant, agreement or condition entered into by any tenant of the Landlord in respect of the Adjoining Property.

#### **6.8 Effect of waiver**

Each of the Tenant's covenants shall remain in full force both at law and in equity notwithstanding that the Landlord may have appeared to have waived or released temporarily any such covenant, or waived or released temporarily or permanently, revocably or irrevocably a similar covenant affecting other property belonging to the Landlord.

#### **6.9 Applicable Law**

This Lease and all relationships created thereby shall in all respects be governed by and construed and interpreted in accordance with Irish Law.

#### **6.10 Notices**

6.10.1 Any demand or notice required to be made, given to, or served on the Tenant under this Lease is duly and validly made, given or served if addressed to the Tenant (or, if the Tenant comprises more than one person, then to any of them) and delivered personally, or sent by prepaid registered or recorded delivery mail, or sent by telex or telegraphic facsimile transmission addressed (in the case of a company) to its registered office or (whether a company or individual) to its last known address, or to the Demised Premises;

6.10.2 Any notice required to be given or served on the Landlord is duly and validly given or served if sent by pre-paid registered or recorded delivery mail, or sent by telex or telegraphic facsimile transmission addressed to the Landlord at its registered office.

6.10.3 Any notice required to be given or serviced hereunder on the Tenant shall also be addressed to the Group Legal Director at Regus Group Services Limited 268 Bath Road, Slough Berkshire SL1 4DX or such other address as is notified in writing to the Landlord from time to time.

#### **6.11 Confidentiality**

Each party undertakes that it will not during the term of this Lease or at any time thereafter without the consent (which consent may not be unreasonably withheld or delayed) of the other party disclose the terms of this Lease to any person or company unless:

- a) such terms have become public knowledge other than by a breach of this provision;

- b) disclosure is required by any law, court order or the rules and regulations of any stock exchange or other administrative governmental or regulatory authority to which such party may be subject; or
- c) disclosure is to a prospective assignee or transferee of the Lease or to such party's lenders or legal, financial or other professional advisers, provided that such persons agree to be bound by the same duties of confidentiality as are contained in this provision
- d) disclosure is required for the purposes of marketing as part of sale or assignment of loans secured against the secured property and such disclosure is not to exceed the information contained within the Commercial Leases Register of the Property Services Regulatory Authority.

## 7. SERVICE CHARGE

7.1 For the purpose of this Lease, the following expressions have the following meanings:

7.1.1 "Expenditure" means:

7.1.2 the aggregate of all costs, fees, expenses and outgoings whatsoever incurred by the Landlord in complying with its obligations in Clause 5.3 and in respect of the items set out in the Sixth Schedule (whether or not the Landlord is obliged by this Lease to incur the same), including without limitation, all service charges payable by the Landlord to the Management Company in respect of the Demised Premises;

7.1.3 such sums as the Management Company shall, in its absolute discretion, consider desirable to set aside from time to time for the purpose of providing for periodically recurring items of expenditure, whether recurring at regular or irregular intervals;

7.1.4 such provision for anticipated expenditure in respect of any of the services to be provided by the Management Company or any of the items referred to in the Seventh Schedule as the Management Company shall, in its absolute discretion, consider fair and reasonable in the circumstances;

7.1.5 "Financial Year" means the period from the 1<sup>st</sup> day of January in every year to the 31<sup>st</sup> day of December of that year or such other period as the Management may, in its absolute discretion, from time to time reasonably determine;

7.1.6 "Estimated Expenditure" means, for any Financial Year during the Term, such sum as the Management Company shall, from time to time, specify as being, in its absolute discretion, a fair and reasonable estimate of the Expenditure for the current Financial Year based upon a budget prepared by the Management Company and submitted to the Tenant; Provided

that the Management Company may from time to time during any Financial Year, as appropriate, submit to the Tenant revised budgets with respect to its estimate of the Expenditure for that Financial Year whereupon appropriate adjustments shall be made to such sum to reflect the revised budget(s);

- 7.1.7 "Accountant" means any person appointed by the Management Company to perform the function of an accountant in relation to the Expenditure;
- 7.2 The Landlord shall, as soon as convenient after the end of each Financial Year, prepare an account showing the Expenditure for that Financial Year and containing a fair summary of the various items comprising the Expenditure and, upon such account being certified by the Surveyor or Accountant (a copy of which shall be supplied to the Tenant), the same shall be conclusive evidence, for the purposes of this Lease, of all matters of fact referred to in the account;
- 7.3 The Tenant shall pay to the Management Company on account of the Service Charge for the period commencing on the Service Charge Commencement Date down to the end of the following Financial Year and thereafter during each subsequent Financial Year during the Term the same percentage of the Estimated Expenditure ("the Advance Payment") as that upon which the Service Charge is calculated and such payments shall be made by equal quarterly payments in advance on the Quarterly Gale Days (subject to adjustment if the Estimated Expenditure is revised as contemplated by the definition thereof); PROVIDED ALWAYS that the first portion of the Advance Payment shall be a proportionate part of the first quarterly payment of the Advance Payment as notified to the Tenant prior to delivery of this Lease and shall be payable on the execution hereof in respect of the period from and including Service Charge Commencement date to the day before the Quarterly Gale Day following the Service Charge Commencement Date;
- 7.4 If the Service Charge for any Financial Year shall:
- 7.4.1 exceed the Advance Payment for that Financial year, the excess, shall be paid by the Tenant to the Management Company on demand; or
- 7.4.2 be less than the Advance Payment for that Financial Year, the overpayment shall be credited to the Tenant against the next quarterly payment of the Service Charge.
- 7.5 Any omission by the Management Company to include in any Financial Year a sum expended or a liability incurred in that Financial Year shall not preclude the Management Company from including such sum of the amount of such liability in any subsequent Financial Year, as the Management Company shall reasonably determine.
- 7.6 In performing its obligations contained in Clause 5.3, the Management Company shall be entitled, at its discretion, to employ agents, contractors and such other persons as it may think fit and to delegate its duties and powers to them and their fees and expenses (including VAT) shall form part of the Expenditure.
- 7.7 The Management Company may, at its discretion, withhold, add to, extend, vary or make any alterations to any of the services from time to time if the Management Company shall reasonably deem it desirable to do so for the more

efficient management, security and operation of the Buildings, or for the comfort of the tenants in the Buildings.

- 7.8 The provisions of this clause shall continue to apply notwithstanding the expiration or sooner determination of the Term but only in respect of the period down to such expiration or sooner determination, the Service Charge for that Financial Year being apportioned for the said period on a daily basis.

**8. SECTION 29 COMPANIES ACT, 1990**

It is hereby certified for the purposes of Section 29 of the Companies Act 1990 that the Landlord and the Tenant are not bodies corporate connected with one another in a manner which would require this transaction to be ratified by resolution of either.

**IN WITNESS** whereof the parties hereto have executed this Lease in the manner following and on the day and year first above **WRITTEN**.

**FIRST SCHEDULE**  
**(Buildings)**

ALL THAT AND THOSE the Building known as Phoenix House, Monahan Road, Cork together with secure basement car parking spaces and including without prejudice to the generality of the foregoing:

1. all the Conduits and Plant in, upon, over or under and exclusively serving the same;
2. all Landlord's fixtures and fittings now or hereafter in or upon the same;
3. all additions, alterations and improvements thereto;  
but excluding the airspace above and the ground below the Building.

But excluding the airspace above and the ground below the Building.

**SECOND SCHEDULE**  
**(Demised Premises)**

ALL THAT portion of the Buildings comprising 1<sup>st</sup> Floor at Phoenix House, Monahan Road, in the City of Cork as more particularly outlined in red on the Plan or map attached hereto and including:

1. the internal plaster surfaces and finishes of all structural or load bearing walls and columns therein or which enclose the same, but not any other part of such walls and columns;
2. the entirety of all non-structural or non-load bearing walls and columns therein;
3. the inner half severed medially of the internal non-load bearing walls (if any) that divide the same from other parts of the Buildings;
4. the floor finishes thereof [and all carpets] save that the lower limit of the Demised Premises shall not extend to anything below the floor finishes [except that raised floors and the cavity below them shall be included];
5. the ceiling finishes thereof, including all suspended ceilings (if any) and light fittings save that the upper limit of the Demised Premises shall not extend to anything above the ceiling finishes [except that the cavity above any suspended ceilings shall be included];
6. all window frames and window furniture and all glass in the windows and all doors, door furniture and door frames;
7. all sanitary and hot and cold water apparatus and equipment and the radiators (if any) therein and all fire fighting equipment and hoses therein;
8. all Conduits therein and exclusively serving the same;

**THIRD SCHEDULE**  
**(Ancillary Rights)**

The following rights and easements are demised (to the extent only that the Landlord is entitled to make such a grant) to the Tenant to be enjoyed in common with the Landlord and the other tenants and occupiers of the Buildings and tenants and occupiers of the Adjoining Property and all other persons authorised by the Landlord or having the like rights and easements:

1. Subject to any existing or future regulations made by the Landlord:
  - 1.1 the use of [such of] the Common Parts [as shall from time to time be designated for the Tenant's use][shown on the Plans numbered 1 – 4 ] for all proper purposes in connection with the use and enjoyment of the Demised Premises;
  - 1.2 the use of [such of] the passenger lifts in the Building [as shall from time to time be designed for the Tenant's use] [shown on the Plans numbered 1 – 4] for the purpose only to obtaining access to and egress from the Demised Premises;
2. The free and uninterrupted passage and running of the Utilities to and from the Demised Premises through the Conduits which are now, or may at any time during the Term be, in, on, under or passing through or over the Buildings and the Adjoining Property;
3. The right of support and protection for the benefit of the Demised Premises as is now enjoyed from all other parts of the Buildings;
4. The right for the Tenant and the occupiers and other bona fide users of the Demised Premises to use 15 Car Spaces within the Basement Car Park as designated by the Landlord as identified on the map attached hereto for the parking of private motor cars and for no other purpose together with all necessary rights of access thereto and egress therefrom over such route as the Landlord may, from time to time, determine subject to any existing or future regulations made by the Landlord and to the right of the Landlord from time to time, on giving to the Tenant not less than one month's written notice, to alter the position of the space or spaces and designate some other space or spaces as the Landlord may, in its absolute discretion, determine. Pending the demise of the remainder of the Buildings the Tenant and the occupier and other bona fide users of the Demised Premises shall have the right to use the remainder of the Car Spaces in the Basement Car Park, reducing pro-rate as other demises take place in the Buildings.
5. The right to install and retain on the roof of the Building and repair service clean replace remove maintain and inspect such dishes aerals communication equipment and other equipment (in such location previously approved by the Landlord, such approval not to be unreasonably withheld or delayed) reasonably required for the proper operation of the business of the Tenant at the Premises together with a right to install and retain and repair service clean replace remove maintain and inspect conduits on the roof of the Building and on the Common Parts connecting such plant and machinery to the Premises (including a right to replace such plant and machinery and ancillary conduits) and together with a right of access (on giving to the Landlord reasonable prior notice) over the roof of the Building and the Common Parts with or without plant and machinery workmen equipment and apparatus as are necessary for the purposes of inspecting repairing servicing maintaining cleaning replacing and removing such plant machinery and conduits and ensuring it is kept in good and safe repair and condition

and working order and subject to the persons exercising such rights of access causing as little disturbance and disruption as possible to the Landlord or any owners or occupiers of the Building in the exercise of such rights.

The right to place a sign showing the Tenant's name and trade on any common signage board provided by the Landlord in the main entrance to the Building and immediately adjacent to the doors leading from the Common Parts of the Property and any other such places as the Landlord permits such signs in a size and kind first approved by the Landlord (such approval not to be unreasonably withheld or delayed).

6. The Tenant may serve written notice on the Landlord not less than six months prior to the end of the Term requiring the Landlord to grant a further lease of the Premises on the same terms and conditions as this lease but excluding this clause, the Term and the Term Commencement Date but including the rent review provisions provided that:
  - (a) the "Term" in such further lease will be 5 years;
  - (b) the "Term Commencement Date" in such further lease will be the day following the last day of the Term;
  - (c) the "Rent" in such further lease shall be the amount of the Rent payable immediately before the expiration of the Term; and
  - (d) the "Rent Review Date" for the purpose of the rent review provisions of such further lease shall be the "Term Commencement Date" of such lease.

If the Tenant serves a notice pursuant to this clause then (provided that the Tenant has after the expiration of such notice paid all sums properly due and demanded in writing not less than 28 days prior to the expiry of the said notice the Landlord shall grant and the Tenant shall accept a new lease of the Premises on the terms of this clause and the Tenant confirms that the grant of a new Lease is not a waiver by the Landlord of any of the Tenant's breaches under this Lease and the Tenant shall unconditionally execute and deliver to the Landlord a counterpart of the lease within 10 working days of receipt thereof from the Landlord and upon receipt of such counterpart the Tenant unconditionally authorises the Landlord to complete such lease.

The provisions of this clause shall cease if for whatever reason this lease ceases to exist including notwithstanding that notice has been given by the Tenant pursuant to this clause. The right to place such signs showing the Tenant's name and trade on the exterior of the Building such signs in a size and kind first approved by the Landlord (such approval not to be unreasonably withheld or delayed).

7. The tenant shall have the right of first refusal on the remainder of the first floor of the building (exclusive of common areas) and the landlord may not offer to let same to any third party without first notifying the tenant of its intention to do so, giving the tenant a period of 28 days within which to offer to take a Lease of the said area at market rent and on terms identical to those in this Lease subject to the proviso that any fit out of the said area beyond Landlord's Specification shall be a matter for, and discharged by the Tenant, and in default of agreement as to the rent, same shall be settled pursuant to the rent review premiums in this Lease

**FOURTH SCHEDULE**  
**(Exceptions and Reservations)**

The following rights and easements are excepted and reserved out of the Demised Premises to the Landlord and the tenants and occupiers of the Buildings and all other persons authorised by the Landlord or having the like rights and easements:

1. The free and uninterrupted passage and running of the Utilities through the Conduits which are now, or may at any time during the Term be in, on, under, or passing through or over the Demised Premises;
2. The right, at all reasonable times upon reasonable prior notice, except in cases of emergency, to enter (or, in cases of emergency or after the giving of reasonable notice during the Tenant's absence, to break and enter) the Demised Premises in order to:
  - 2.1 inspect, cleanse, maintain, repair, connect, remove, lay, renew, relay, replace with others, alter or execute any works whatever to or in connection with the Conduits and any other services;
  - 2.2 execute repairs, decorations, alterations and any other works and to make installations to the Demised Premises, the Buildings or the Adjoining Property or to do anything whatsoever which the Landlord may or must do under this Lease;
  - 2.3 see that no unauthorised erections additions or alterations have been made and that authorised erections additions and alterations are being carried out in accordance with any consent given herein and any permission or approval granted by the relevant local authority,

PROVIDED THAT the Landlord or the person exercising the foregoing rights shall cause as little inconvenience as possible to the Demised Premises and shall make good, without delay, any damage thereby caused to the Demised Premises;

3. The right to erect scaffolding for the purpose of repairing or cleaning the Buildings and any buildings now or hereafter erected on the Adjoining Property or in connection with the exercise of any of the rights mentioned in this Schedule notwithstanding that such scaffolding may temporarily interfere with the proper access to or the enjoyment and use of the Demised Premises;
4. The right to erect and maintain signs on the Demised Premises and on the Buildings and any premises abutting the same advertising the sale or letting of any premises or for the purposes of a planning or other application in respect of any premises.
5. The rights of light, air, support, protection and shelter and all other easements and rights now or hereafter belonging to or enjoyed by other parts of the Buildings or by the Adjoining Property;
6. The air space over and the ground below the Buildings;
7. Full right and liberty at any time hereafter to raise the height of, or make any alterations or additions or execute any other works to the Buildings or to any buildings on the Adjoining Property, or to erect any new buildings of any height on the Adjoining Property in such a manner as the Landlord or the person exercising the right shall think fit notwithstanding the fact that the same may obstruct, affect or interfere with the amenity of, or access to, the Demised Premises or the passage of light and air to the

Demised Premises but not so that the Tenant's use and occupation thereof is materially affected;

8. The right, subject to recompensing the Tenant for any damage caused thereby, to build on or into any boundary or party wall of the Demised Premises and, after giving not less than seven days prior written notice, to enter the Demised Premises to place and lay in, under or upon the same such footings for any intended party wall or party structure with the foundations therefore as the Landlord shall reasonably think necessary and for such purpose to excavate the Demised Premises along the line of the junction between the Demised Premises and the other parts of the Buildings or the Adjoining Property and also to keep and maintain the said footings and foundations;
9. The right to enter the Demised Premises (in times of emergency or during fire-drills) for the purpose of obtaining access to, or using, any of the fire escapes or routes of escape in the Buildings whether or not in existence at the date hereof.

## **FIFTH SCHEDULE (Rent Reviews)**

### **1. Definitions**

In this Schedule, the following expressions shall have the following meanings:

- 1.1 "Base Rate" means the annual rate of interest for the time being chargeable under section 22 of the Courts Act, 1981.
- 1.2 "the Institute" means the Irish Auctioneers and Valuers Institute;
- 1.3 "the Law Society" means the Law Society of Ireland;
- 1.4 "Review Date" means the first day of the sixth year and the first day of the eleventh year of the Term and any additional date notified under clause 7 of this Fifth Schedule and "Relevant Review Date" shall be construed accordingly;
- 1.5 "the Reviewed Rent" means the rent agreed or determined in accordance with the provisions of this Schedule;
- 1.6 "the Society" means the Society of Chartered Surveyors;

### **2. Rent review**

The rent first reserved by this Lease shall be reviewed at each Review Date in accordance with the provisions of this Schedule and, from and including each Review Date, the rent shall be the open market rent on the Relevant Review Date, as agreed or determined pursuant to the provisions of this Schedule.

### **3. Agreement or determination of the reviewed rent**

- 3.1 The Reviewed Rent may be agreed at any time between the Landlord and the Tenant or, in the absence of agreement, be determined not earlier than the Relevant Review Date by an Arbitrator to be nominated, in the absence of agreement between the parties, upon the application (made not more than two calendar months before or at any time after the Review Date) of the Landlord

(or if the Landlord fails to make such application within twenty-eight days of being requested in writing so to do by the Tenant, then on the application of the Tenant) by either the President of the Law Society, or the President of the Institute or the President of the Society at the discretion of the party entitled to make the application;

- 3.2 In the event of the President or other Officer endowed with the functions of the said President of the Law Society or the Institute or the Society, being unable or unwilling to make the nomination therein mentioned the same may be made by the next senior Officer of the Law Society or the Institute or the Society who shall be so able and willing.

4. **The Arbitrator**

- 4.1 All arbitrations hereunder shall be conducted in accordance with the provisions set forth in the Arbitration Act, 1954-1980.
- 4.2 If the Arbitrator relinquishes his appointment or dies or if it becomes apparent that for any reason he is unable or has become unfit or unsuited (whether because of bias or otherwise) to complete his duties or if he is removed from office by Court Order, a substitute may be nominated in his place and in relation to any such nomination the procedures hereinbefore set forth apply as though the substitution were a nomination de novo, which said procedures may be repeated as many times as may be necessary.

5. **Determination by Arbitrator**

The Reviewed Rent to be determined, by the Arbitrator shall be such as in his opinion represents at the Review Date the full open market yearly rent for the Demised Premises let as a whole without fine or premium:

- (A) ON THE BASIS of a letting with vacant possession thereof by a willing landlord to a willing tenant for a term (commencing on the Review Date) equal to the greater of fifteen years or the residue then unexpired of the Term and subject to the provisions of this lease (other than as to the amount of the Initial Rent but including such of said provisions as pertain to the review of rent);
- (B) ON THE ASSUMPTIONS that:-
- (i) at and until the Review Date all the covenants on the part of the Tenant and the conditions contained in this Lease have been fully performed and observed;
  - (ii) in the event of the Demised Premises having been damaged or destroyed and not having been fully repaired, reinstated or rebuilt (as the case may be) such damage or destruction had not occurred;

and

- (C) HAVING REGARD to other open market rental values current at the Review Date in so far as the Arbitrator may deem same to be pertinent to the determination;
- (D) BUT DISREGARDING any effect on letting value of:-

- (a) the fact that the Tenant is or has been in occupation of the Demised Premises or any part thereof;
- (b) the goodwill which has attached to the Demised Premises by reason of the business carried on thereat;
- (c) any works executed by and at the expense of the Tenant in, on, to or in respect of the Demised Premises other than required works PROVIDED that in the interpretation of this sub-paragraph (c):-

the expression "the Tenant" shall extend to and include the Tenant or any predecessor in title of the Tenant or any party lawfully occupying the Demised Premises or any part thereof under the Tenant

and

the expression "required works" mean works executed by the Tenant in pursuance of an obligation imposed on the Tenant (i) by this Lease or by any Lease of which this Lease is a renewal (other than works which may be required pursuant to clause 4.17) OR (ii) by an Agreement for the granting of this Lease or of any Lease of which this Lease is a renewal or by virtue of any licence or deed of variation relating to the Demised Premises.

## **6. Interim payments pending determination**

- 6.1 If the reviewed rent in respect of any period ("the Current Period") is not ascertained on or before the Review Date referable thereto, rent shall continue to be payable up to the Quarterly Gale Day next succeeding the ascertainment of the reviewed rent at the rate payable during the preceding period AND within seven days of such ascertainment the Tenant shall pay to the Landlord the appropriate instalment of the reviewed rent together with any shortfall between (i) the aggregate of rents actually paid for any part of the Current Period and (ii) rent at the rate of the reviewed rent attributable to the interval between that Review Date and such Quarterly Gale Day and together also with interest at the Base Rate on said shortfall, such interest to be computed on a day to day basis. In the event that the reviewed rent shall be less than the rent actually paid for the Current Period then the Landlord shall repay to the Tenant such overpayment but without interest or costs.
- 6.2 For the purpose of this paragraph the reviewed rent shall be deemed to have been ascertained on the date when the same shall have been agreed between the parties or, as the case may be, on the date of the notification to the Tenant of the determination of the Arbitrator.

## **7. Rent Restrictions**

If at a Review Date the Landlord's right to collect, review or increase the rent as from that Review Date in accordance with this Lease is restricted or modified by law, then when such restriction or modification is removed, relaxed or modified, the Landlord may, by giving not less than seven days' notice in writing to the Tenant, prescribe as an additional Review Date the date of expiration of such notice and the rent payable from such additional Review Date shall be ascertained in accordance with this Schedule.

**8. Memoranda of reviewed rent**

As soon as the amount of any reviewed rent has been agreed or determined, memoranda thereof shall be prepared by the Landlord or its solicitors and thereupon shall be signed by or on behalf of the Tenant and the Landlord and the Tenant shall be responsible for and shall pay to the Landlord the stamp duty (if any) payable on such memoranda and any counterparts thereof, but the parties shall each bear their own costs in respect thereof.

**9. Time not of the essence**

For the purpose of this Schedule, time is not of the essence.

**SIXTH SCHEDULE  
(Service Charge Expenditure)**

**1. Repairs and maintenance**

- 1.1 Repairing, maintaining, decorating and (where appropriate) cleaning, washing down, lighting, heating, servicing and (as and when necessary) altering, replacing, renewing, rebuilding and reinstating the Retained Parts;
- 1.2 Carpeting, furnishing and equipping the Retained Parts as the Landlord may determine including, but not limited to, the provision in the main entrance halls and lift lobby areas of floral decorations, desks, tables, chairs and other fixtures and fittings.

**2. Plant**

Providing, maintaining, repairing, operating, inspecting, servicing, overhauling, cleaning, lighting and (as and when necessary) renewing or replacing all plant within the Retained Parts from time to time, including, but not limited to, all boilers and items relating to the ventilation, heating, air conditioning and hot and cold water systems, the lifts, lift shafts and lift motor rooms and all fuel and electricity for the same and any necessary maintenance contracts and insurance in respect thereof.

**3. Security and emergency systems**

Providing, maintaining, repairing, operating, inspecting, servicing, overhauling, cleaning and (as and when necessary) renewing or replacing all security and emergency systems for the Buildings, including, but not limited to, alarm systems, internal telephone and television systems, generators, emergency lighting, fire detection and prevention systems, any fire escapes for the Buildings and all fire fighting and fire prevention equipment and appliances (other than those for which a tenant is responsible) [and any traffic barriers, car park and traffic control and security systems].

4. **Staff**

The provision of staff (including such direct or indirect labour as the Management Company deems appropriate) for the day-to-day running of the installations and plant and the provision of the other services to the Buildings and for the general management, operation and security of the Buildings and all other incidental expenditure, including, but not limited to:

- 4.1 insurance, health, pension, welfare, severance and other payments, contributions and premiums;
- 4.2 the provision of uniforms, working clothes, tools, appliances, materials and equipment (including telephones) for the proper performance of the duties of any such staff;
- 4.3 providing, maintaining, repairing, decorating and lighting any accommodation and facilities for staff, including any residential accommodation for staff employed in the Buildings and all rates, gas and electricity charges in respect thereof and any actual or notional rent for such accommodation.

5. **Signs etc**

Providing, maintaining and renewing name boards and signs in the main entrance halls, lift lobby areas and any other parts of the Buildings and all directional signs and fire regulation notices and any flags, flag poles and television and radio aerials.

6. **Refuse**

Providing and maintaining any dustbins or other receptacles for refuse for the Building and the cost of collecting, storing and disposing of refuse.

For the avoidance of doubt, the disposal and management of waste is specifically excluded from the remit of the Management Company. Same shall be the sole responsibility of the Tenant.

7. **Landscaping**

Providing and maintaining floodlighting (if any) and any plants, shrubs, trees or garden or grassed areas in the Retained Parts.

8. **Miscellaneous items**

- 8.1 leasing or hiring any of the items referred to in this Schedule;
- 8.2 interest, commission and fees in respect of any moneys borrowed to finance the provision of services and any of the items referred to in this Schedule;
- 8.3 enforcing the covenants in any of the other leases of the Buildings for the general benefit of the tenants thereof as determined by the Management Company.

9. **Insurance**

- 9.1 periodic valuations of the Buildings for insurance purposes;
- 9.2 works required to the Buildings in order to satisfy the requirements and/or recommendations of the insurers of the Buildings;
- 9.3 property owner's liability, third party liability and employer's liability and such other insurances as the Management Company may, in its absolute discretion from time to time, determine;
- 9.4 any amount which may be deducted or disallowed by the insurers pursuant to any excess provision in the insurance policy upon settlement of any claim by the Management.

10. **Common facilities**

Making, laying, repairing, maintaining, rebuilding, decorating, cleansing and lighting, as the case may be, any roads, ways, forecourts, passages, pavements, party walls or fences, party structures, Conduits or other conveniences and easements whatsoever which may belong to, or be capable of being used or enjoyed by the Buildings in common with any Adjoining Property.

11. **Outgoings**

All existing and future rates (including water rates) taxes, duties, charges, assessments, impositions and outgoings whatsoever (whether parliamentary, parochial, local or of any other description and whether or not of a capital or non-recurring nature or of a wholly novel character) payable by the Management Company in respect of the Retained Parts or any part thereof.

12. **Statutory requirements**

Carrying out any works to the Buildings required to comply with any statute (other than works for which any tenant or occupier is responsible).

13. **Representations**

Taking any steps deemed desirable or expedient by the Management Company for complying with, making representations against, or otherwise contesting the incidence of the provisions of any statute concerning planning, public health, highways, streets, drainage and all other matters relating or alleged to relate to the Buildings or any part of it for which any tenant is not directly responsible.

14. **Management**

- 14.1 The proper and reasonable fees, costs, charges, expenses and disbursements (including any VAT payable thereon) of the Landlord, the Surveyor and/or the Accountant and any other person employed or retained by the Landlord for or in connection with surveying and accounting functions, the collection of the rents, (including all costs and expenses incurred in the enforcement of same), the performance of the services and any other duties in and about the Buildings or any part of it relating to the general management, administration, security, maintenance, protection and cleanliness of the Buildings;
- 14.2 The proper and reasonable fees and expense (including any VAT payable thereon) of the Management Company in connection with the management of the Buildings and any of the functions and duties referred to in paragraph 14.1 that may be undertaken by or on behalf of the Landlord, such fees and expenses

to include overheads and profits commensurate with the current market practice of property companies providing management services.

15. **Value Added Tax**

Value Added Tax at the rate for the time being in force chargeable in respect of any item of expenditure referred to in this Schedule to the extent not otherwise recoverable by the Management Company.

16. **Generally**

Any costs and expenses (not referred to above) which the Management Company may incur in providing such other services and in carrying out such other works as the Landlord, in its absolute discretion, may deem desirable or necessary for the benefit of the Buildings or any part of it or the tenants or occupiers thereof, or for securing or enhancing any amenity of or within the Buildings, or in the interests of good estate management.

17. The following shall to be excluded from the Service Charge;
- a) the costs and expenses relating to the collection of all rents, the review of rents and any arrears (to include arrears of rent) due from any occupier of any Lettable Area and the letting and re-letting of Lettable Areas of the Building or any part of parts thereof;
  - b) any cost to the Landlord of remedying any Inherent Defect in respect of the Buildings (including the Conduits and any roads) and the Works (as defined in the Agreement for Lease;
  - c) any costs incurred or rent in respect of or properly attributable to any unlet or unoccupied Lettable Area or any area occupied by the Landlord and the Landlord shall for the avoidance of doubt bear the proportion of the total costs attributable to any such area;
  - d) any costs and expenses for any dealings or attempted dealings by the Landlord with its interest in the Building;
  - e) any cost associated with promoting/advertising/marketing the Building;
  - f) any liability or expense for which the Tenant or other tenants or occupiers of the Building shall individually be responsible under the terms of the tenancy or other arrangement by which it or they use or occupy any part of the Building;
  - g) any expenditure necessitated by any negligence of the Landlord or its servants or agents;
  - h) any expenditure necessitated by the happening of events the cost of which the Landlord is able to recover under any insurance policy save where it is prevented from doing so by any act or default of the Tenant its undertenants or their servants or agents save for the normal insurance excess;
  - i) any cost incurred in connection with the enforcement against any such owner, tenant or occupier of the terms of any transfer, lease or licence under which such owner, tenant or occupier has a liability in respect of any part of the Building save in respect of the Service Charge;
  - j) any expenditure occasioned as part of the original construction of the Building.

**PRESENT** when the Common Seal  
of the **LANDLORD**  
was affixed hereto:

  
Director



Director/  
Secretary

**PRESENT** when the Common Seal  
of the **TENANT**  
was affixed hereto:

  
  
  
  
  
W. M. Smith

  
Director DH

  
Director  
Secretary

Surveyed 1973  
 Revised 2014  
 Levelled 1975

# Land Registry Compliant Map



571445

ITM CENTRE PT. COORDS  
 589098.571531

DESCRIPTION

MAP SHEETS

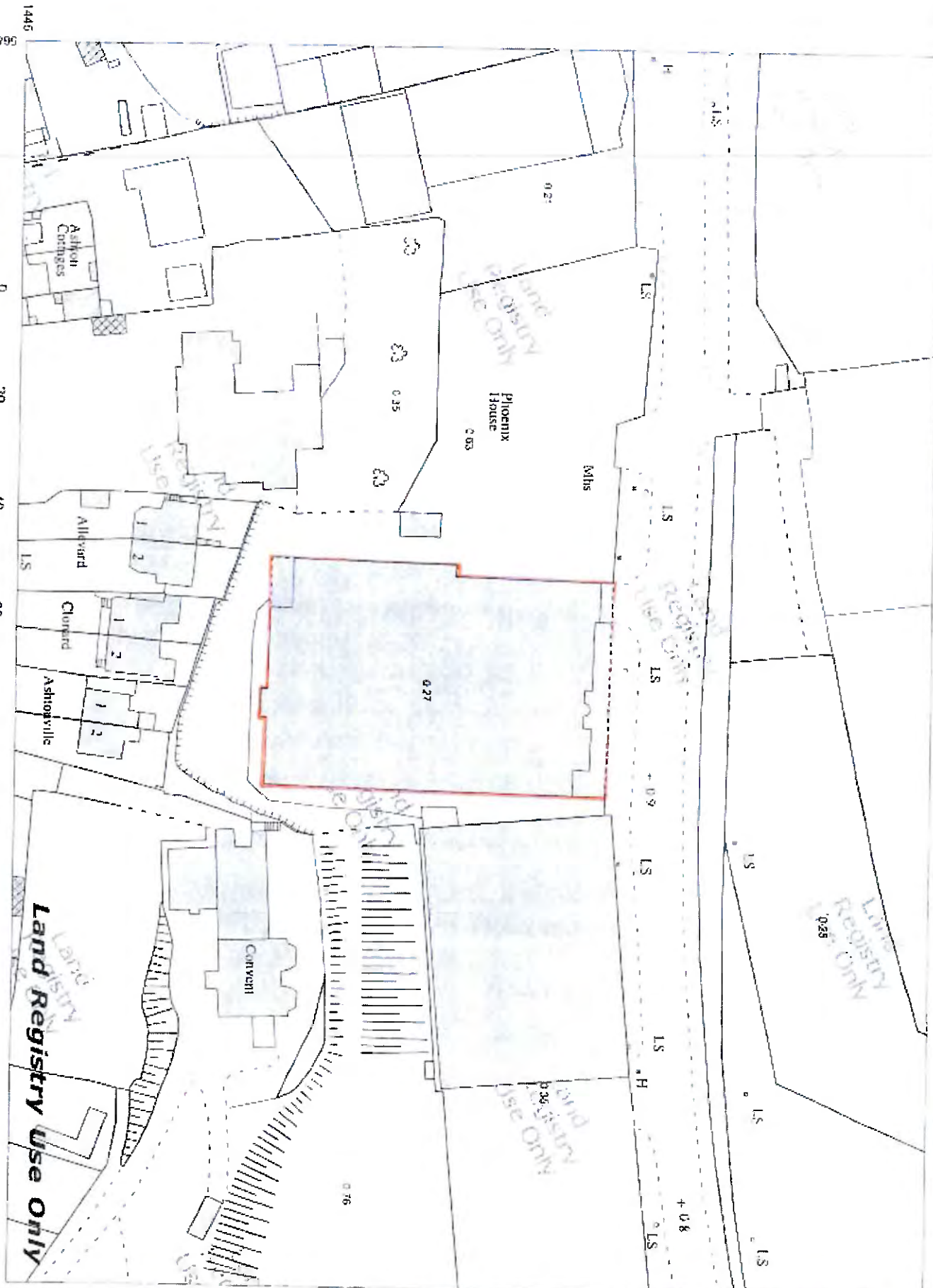
1:1000  
 6383-12



Produced in accordance with the Survey Act 1973, Survey Act 1975, Survey Act 1978, Survey Act 1980, Survey Act 1984, Survey Act 1988, Survey Act 1992, Survey Act 1996, Survey Act 2000, Survey Act 2004, Survey Act 2008, Survey Act 2012, Survey Act 2016, Survey Act 2020, Survey Act 2024, Survey Act 2028, Survey Act 2032, Survey Act 2036, Survey Act 2040, Survey Act 2044, Survey Act 2048, Survey Act 2052, Survey Act 2056, Survey Act 2060, Survey Act 2064, Survey Act 2068, Survey Act 2072, Survey Act 2076, Survey Act 2080, Survey Act 2084, Survey Act 2088, Survey Act 2092, Survey Act 2096, Survey Act 2100.

This map is a planimetric map and does not show any relief or elevation. It is a two-dimensional representation of the land and its features. It is not a topographic map and does not show any contour lines or other features that would indicate elevation. It is a planimetric map and does not show any relief or elevation.

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Scale - 1:1,000  
 Scale - 1:1,000



Plot Ref No. 25215145\_1\_1  
 Plot Date 18-DEC-2014

571445





**COMHAIRLE CATHRACH CHORCAÍ**  
**CORK CITY COUNCIL**

CITY HALL  
CORK  
Tel.: 021-4924484  
Email: rates@corkcity.ie

**RATES BILL**

Rates Bill for the Municipal Rate for service of the year ending 31st December 2025  
*BILLE RÁTAÍ CATHRACH LE HAGHAIDH SEIRBHÍIS NA BLIANA DAR CHRÍOCH 31 NOLLAIG 2025*

Customer Number: 3343324

PHOENIX HOUSE BUSINESS CENTRE LIMITED  
PEMBROKE HOUSE  
28 - 32 PEMBROKE STREET UPPER  
DUBLIN 2  
D02EK84

Rate Number/  
*Uimhir Rátaí* 718045610118

Assessable Valuation: € 676.00

Current Rates: € 52,450.84

Arrears/Credit: € 0.00

Total Amount Due: € 52,450.84

L.A.I.D.: 3343324

Location: MONAHANS ROAD

Arrears/Credit:	Current Rates		Balance at
€ 0.00	€ 52,450.84		€ 52,450.84
<b>Payable Forthwith</b>	<b>Payable Forthwith</b>		

I hereby request payments of the Rate as set out above.

The Rate together with ARREARS/CREDIT: (if any) are PAYABLE on January 2025

*Eilim leis seo go n-iocfar an Rata mar a luaitear thuas.*

*Ta Rata mar aon le Riaraisti (mas ann) iniochta ar 1 Eanáir*

2025

Signed/*Símithe*: Conor Fitzpatrick  
Collector of Municipal Rate

Date/*Dáta*: 25-Feb-2025

**Refer overleaf for further details and methods of Payment**

Please detach and return with your payment

Date \_\_\_\_\_  
Cashier's Stamp

**AIB Bank**  
**lodgement/bank giro credit transfer**

Branch:	A.I.B. BANK, 66, SOUTH MALL, CORK.
Account:	<b>CORK CITY COUNCIL</b>
718045610118 3343324 PHOENIX HOUSE BUSINESS CENTRE LIMITED PEMBROKE HOUSE 28 - 32 PEMBROKE STREET UPPER DUBLIN 2 D02EK84	

Notes	€		
Coins	€		
Total Cash	€		
€ Chq. Total			
	€		

References

Items

SORTING CODE NUMBER      ACCOUNT NUMBER      TRANCODE  
93-41-78      80916188      71



**euro euro euro**

*Please do not write or mark below this line or fold this voucher*

934178 80916188 71

Kevin O' Leary,  
Dassault Systems Limited,  
The Cube,  
Monahan Road,  
Ballintemple,  
Cork.  
T12 H1XY

17th April 2025

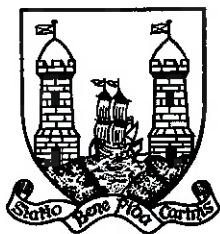
**Re: Section 5 Declaration. R918/25. The Cube, Monahan Road, Ballintemple, Cork.**

Dear Mr O' Leary,

Please note that Section 5 application Ref. No. R918/25 has been referred to An Bord Pleanála for determination.

Yours sincerely,

Anthony Angelini  
Assistant Staff Officer  
Planning and integrated Development



# Comhairle Cathrach Chorcaí Cork City Council

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

Cherryinn Limited,  
c/o Susan Cullen,  
McCutcheon Halley,  
6, Joyce Square,  
Ballincollig,  
Cork.  
P31 YX97

22<sup>nd</sup> April 2025

**Re: Section 5 Declaration. R918/25. The Cube, Monahan Road, Ballintemple, Cork.**

Dear Ms Cullen,

Please note that Section 5 application Ref. No. R918/25 has been referred to An Bord Pleanála for determination.

Yours sincerely,

*Anthony Angelini*  
Anthony Angelini

Assistant Staff Officer

Planning and integrated Development



**We are Cork.**