

CONTACT Nos. FOR SITE VISIT

A. DAN DONNELLY

EILEEN DONNELLY

Beech Lodge,
Rock Road,
Blackrock,
Co. Louth.

Date 18/09/2019

Dear Sir/Madam,

With reference to Case Number -- ABP-305315-19 Planning Authority No. S52019/33, we wish to respond as follows:-

1. Mr Duffy's Argument Point 1

"It is our belief that it is not permitted to carry out exempted development contemporaneous with and adjacent to a permitted development. Construction of the shed commenced some months prior to the house being occupied".

Response

We had moved in prior to the shed being built and so we contest the claim of it being carried out contemporaneously with the permitted development.

Prior to building the domestic shed, we contacted our engineer regarding the shed being categorised as an exempt development. This was confirmed to be correct on three occasions by Louth County Council having visited the site and examining the shed.

Connection date of services

- Electricity 16/1/2019,
- Water and Waste Water 1/2/2019
- First Occupancy: 20/2/2019
- Commencement of shed 6/3/2019

2. Mr Duffy's Argument Point 2

"We contend that the construction of the shed prevents the planting of the laurel hedge along the eastern and southern boundaries, shown on the permitted drawing number 3641-FI-01 dated 10/08/17 and specifically referred to in the Planning Inspector's report. The recent insertion of laurel plants into the 350 mm wide dark space between the shed and solid boundary fence does not constitute compliance with this requirement (Photos 1 & 2). Referring to Section 9 of the current Planning and Development Regulations, development cannot be classified as exempted 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"

Response

We contend that the building of the shed does not contravene Section 9 of the current Planning and Development Regulations. In accordance with An Bord Pleanála's Order PL 1524921 Condition 4, we have planted laurels in enriched soil, not on a concrete foundation, and these plants continue to thrive – ref photos 1&2 attached. Any plants that may fail will be replaced as required under the aforementioned Condition 4.

We refer to Condition 4 of Board Order PL:-1524921

AN BORD PLEANÁLA

LDG- _____

ABP- _____

27 SEP 2019

Fee: € _____ Type: _____

Time: _____ By: Reg Post

"Planting carried out in the 1st planting season, any plants which die can be replaced within the next planting season".

3. Mr Duffy's Argument Point No 3

"During the planning and appeal process, the setback of the proposed development from the eastern boundary was increased from 1.5 to 3 m and this was deemed to be of great importance by the planners concerned (see Planner Report on Further Information, Section 5.0 Assessment as well as Condition 4 of Board Order Pl. 15.249291). The construction of this shed completely undermines this requirement as it brings construction within 350 mm of the boundary fence and 400 mm above it (photos 3-6)"

Response

The building of the shed is not part of the original proposed development and thus was deemed to be exempt by the Louth County Council.

Subsequent to our first occupancy, we built a domestic garden shed to house garden tools etc. It is a separate exempt development as classified by Louth County Council, see attached letters Ref. 19U044 dated 26th April 2019, Ref 19U088 26th dated July 2019, and Ref S5 2019/33 dated 23rd August 2019.

The original proposed development for dwelling house (Planning Ref 17/392) complies with the increased setback on the eastern boundary.

4. Mr Duffy's Argument Point No 4

"The shed is approximately 400 mm higher than the existing boundary fence on the eastern and southern boundaries. It is less than 1 m from a window on the property to the south and reduces the light entering that window and has an adverse impact on the visual amenity".

Response

The shed is well within the building regulations for an exempt development.

- Actual External Dimensions of shed: 11.5 sq.mt. approx. Height 2.4mt.
- Dimensions permitted: 25 sq.mt. Height 3 or 4mt.

In the interest of visual amenity we plastered the shed all round so that no bare block is showing on any neighbour's side.

The window on the property to the South referred to by Mr. Duffy is a utility room toilet window – see photo 3 attached, and already looks out on the existing boundary fence that is less than 1 m from the window, see photo 4 attached. This existing boundary fence was constructed by Mr Duffy. An Bord Pleanala will be aware that the right to a view is not a material planning matter, nor is its protection enshrined in any of the Development plan's policies. We contend that the appellant's main dwelling has no amenities that can be adversely affected by the exempted domestic shed development.

5. Mr Duffy's Argument No 5

"In relation to our previous complaint about this development relating to the rear elevation not being constructed in accordance with the permitted drawings, Louth County Council Planning Enforcement Section took a very liberal view in accepting more windows than were permitted."

Response

This is blatantly untrue and purposefully misleading.

The Louth County Council Planning Enforcement Section did not take a liberal view, and did not accept any more windows than were originally permitted. We had hoped to change the obscure main bathroom window to 2 elongated windows of the same overall dimensions and put in a small obscure glass window for ventilation in an en-suite shower room but further to objections by Mr. Duffy we were not permitted to do so. The number of windows along the eastern elevation are as per original planning.

We also note in the Section 5 application, point 7 ([the objection to planting of trees along the boundary](#)).

We struggle to understand this objection.

The background to this is - the appellant, prior to beginning the construction of his own extension less than 1 metre to the boundary, was granted permission by the then owner of the site, Ms. Marcella Carr (Eileen Donnelly's sister), in the interest of good neighbourly relations, to remove the existing southern boundary hedgerow to facilitate the building of a new 1.8mt high fence. Excavation works were orchestrated to deliberately result in the subsequent necessity to fell several boundary trees that were more than 70 years old. See photos 5 & 6 attached. It was agreed with the then owner of the site, Marcella Carr, that he (Mr. Duffy) would replace the felled trees with mature trees at his cost on completion of his extension. This was never done and we planted trees ourselves at our cost.

In conclusion:-

We have built a single storey house on family land adjacent to a family member. We modified the plans on a number of occasions due to objections from Tom and Shirley Duffy (Ref Further /Information and Applicant's response). Planning 17/392 dated 26/6/2017. Despite repeated objections by Mr & Mrs Duffy we substantially completed the house in March 2019.

We contend the house and garden shed, incorporate the highest standards in terms of design, layout and energy efficient materials. It was designed with the least visual impact in mind, is low and not overbearing compared to all the development surrounding us and in no way compromises the residential amenity in the vicinity. See photos 7,8,9 &10 attached.

The appellant has over a number of years, endeavoured to buy this plot from our family as it would greatly enhance the value of the rental property which he owns. On every occasion his requests have been categorically refused. We believe that his continuous objections are as a result of his frustration at not being able to buy this land and increase significantly the value of his rental property on Chapel Pass.

We would consider his objections and any future objections at this stage to be vexatious and frivolous and bordering on harassment. The submission of this Section 5 Declaration appeal is representative of Mr Duffy's misuse of the planning process and the declaration being sought is a means of side stepping the County Council's considered conclusion on the matter in furtherance of his agenda of continuously objecting to the legitimate development of the site. Within the context of the above we respectfully request that the appellant's case be dismissed and the grant of exemption be upheld.

Yours Faithfully
Aidan & Eileen Donnelly





Comhairle Contae Lú
Louth County Council

26th April 2019

Aidan & Eileen Donnelly
ajdonnelly5@gmail.com

Ref: 19 U044

**Re: Alleged unauthorised structure to rear of property at Rock Road,
Blackrock, Co. Louth**

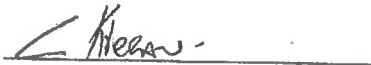
Dear Sir & Madam,

I refer to the above and wish to advise that Louth County Council is satisfied that the shed as constructed can be classed as exempt development.

We are therefore closing our file.

I thank you for your attention given to this matter.

Yours faithfully,



**Cathriona Kieran
Staff Officer
Compliance (Planning Enforcement) Section**

**Direct Line – 042 9324118
Email – planningenforcement@louthcoco.ie**



Comhairle Contae Lú
Louth County Council

26th July 2019

Aidan & Eileen Donnelly
Rock Road
Blackrock
Co. Louth

Ref: 19 U088

Re: Non-compliance with Condition No. 4 of An Bord Pleanála
Reference: PL 15.249291 at Rock Road, Blackrock, Co. Louth

Dear Sir/Madam,

I refer to the above and wish to advise that Louth County Council is satisfied that Condition No. 4 of An Bord Pleanála has been complied with.

The garden shed is classed as exempted development as per class 3 of Schedule 2 Part 1 "Exempted Development – General" of the Planning and Development Regulations (as amended).

We are therefore closing our file.

I thank you for your attention given to this matter.

Yours faithfully,

Cathriona Kieran
Staff Officer
Compliance (Planning Enforcement) Section

Direct Line – 042 9324118
Email – planningenforcement@louthcoco.ie

Comhairle Contae Lú
Halla an Bhaile
Sráid Crowe
Dún Dealgan
Contae Lú
A91 W20C

Louth County Council
Town Hall
Crowe Street
Dundalk
County Louth
A91 W20C

Local 1890 202303
T + 353 42 9335457
F + 353 42 9334549
E info@louthcoco.ie
W www.louthcoco.ie

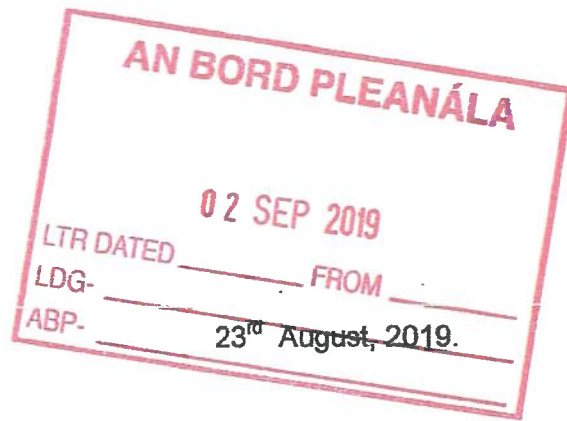
Cuirfear fáilte roimh chomhfhreagras Gaeilge - Correspondence in Irish is welcome



Comhairle Contae Lú
Louth County Council

Mr. Thomas Duffy,
Chapel Pass,
Blackrock,
Co. Louth.

Email: tom@duffy.qa



RE: Ref. S5 2019/33

Re: Application for Declaration of "Exempted Development" Part 1, Section 5, Planning & Development Act 2000 (as amended) whether the construction of a domestic shed in the south east corner of a residential site is development as if it is, is it exempted development having regard to the conditions attached to Planning Reg. Ref. 17/392 (ABP 15.249291) at Rock Road, Blackrock, Co. Louth is or is not development and is or is not exempt development within the meaning of the Planning and Development Act 2000 (as amended).

Dear Sir/Madam,

I wish to acknowledge receipt of your application received on 1st August, 2019 in relation to the above. Having assessed all information and enclosures received with the application the Planning Authority wishes to advise as follows:-

WHEREAS a question has arisen pursuant to Section 5 of the Planning and Development Act 2000 (as amended) whether a single storey domestic shed to the south east corner of an existing residential site is exempt from the requirement to obtain planning permission having regard to the conditions attached to PI. Ref. 17/392, ABP 15.249291,

AND WHEREAS the said question was referred to Louth County Council on the 1st August 2019,

AND WHEREAS Louth County Council in consideration of this question has had regard particularly to:-

- (a) Class 3 of Schedule 2, Part 1, Exempted Development – which is the relevant exempted development class as set out in the Planning and Development Regulations 2001 (as amended)
- (b) Section 2, 3 and 4 of the Planning and Development Act, 2000 (as amended),
- (c) Article 6, of the Planning and Development Regulations 2001 to 2001 (as amended)
- (d) Article 9(1)(a)(i) of the Planning and Development Regulations 2001 (as amended),

Comhairle Contae Lú
Halla an Bhaile
Sráid Crowe
Dún Dealgan
Contae Lú
A91 W20C

Louth County Council
Town Hall
Crowe Street
Dundalk
County Louth
A91 W20C

Local 1890 202303
T + 353 42 9335457
F + 353 42 9334549
E info@louthcoco.ie
W www.louthcoco.ie

Cuirfear fáilte roimh chomhfhreagras Gaeilge - Correspondence in Irish is welcome

(e) Condition 4 attached to Pl. Ref. 17/392, (ABP 15.249291)

AND WHEREAS Louth County Council has concluded based on the information submitted that: -

The existing single storey domestic shed structure falls under Class 3 of Schedule 2, Part 1 of the Planning & Development Regulations, 2001 (as amended) and satisfies all of the conditions and limitations under that Class 3. Furthermore, the structure does not materially contravene condition 4 of Pl. Ref. 17/392, (ABP 15.249291) and as such is not de-exempted having regard to Article 9(1)(a)(i) of the Planning and Development Regulations 2001 (as amended),

NOW THEREFORE Louth County Council in exercise of the powers conferred on it by Section 5 (2) (a) of the Planning and Development Acts 2000 (as amended), hereby decides that the development is 'development' and is 'exempted development'.

In Summary

A Declaration of Exemption is Granted for the following proposed works as detailed on plans and particulars submitted on 1st August, 2019.

Yours faithfully,

Celine Breen
Celine Breen,
Planning Section.

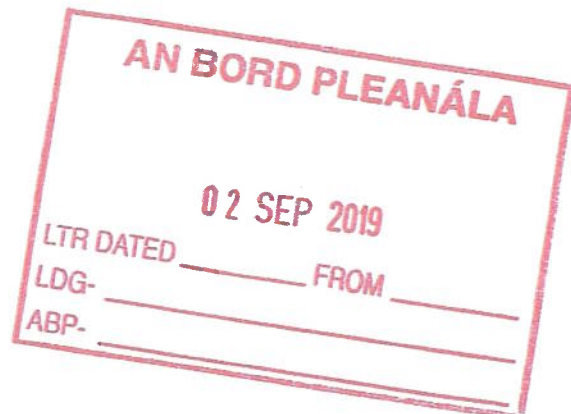


PHOTO 1



PHOTO 1
NORTHERN BOUNDARY

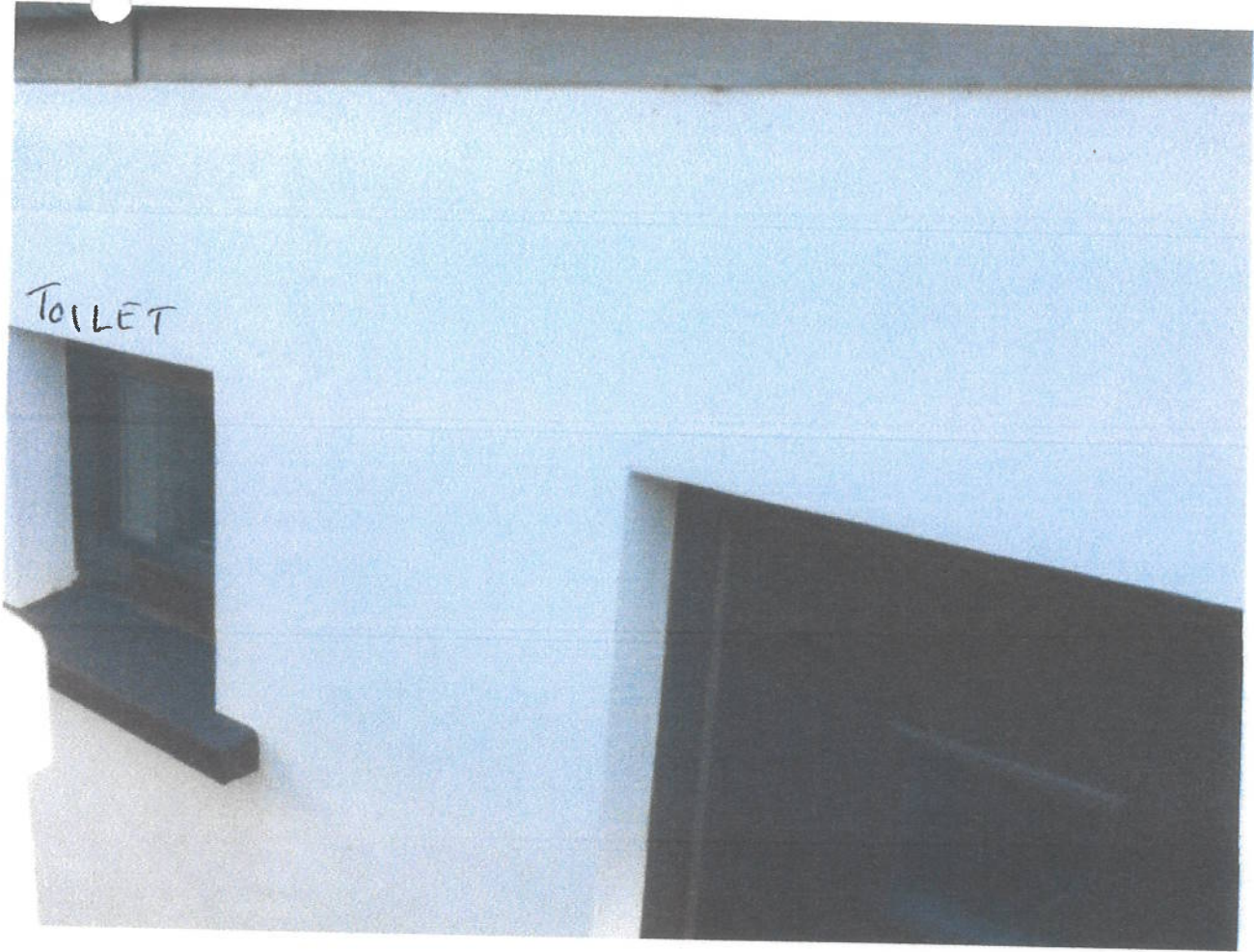
PHOTO 2



PHOTO 2
SOUTHERN BOUNDARY

AN BORD PLEANÁLA
 27 SEP 2019
 LTR DATED _____ FROM _____
 LDG- _____
 ABP- _____

PHOTO 3



Sent from my iPad

PHOTO 3

AN BORD PLEANÁLA

27 SEP 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

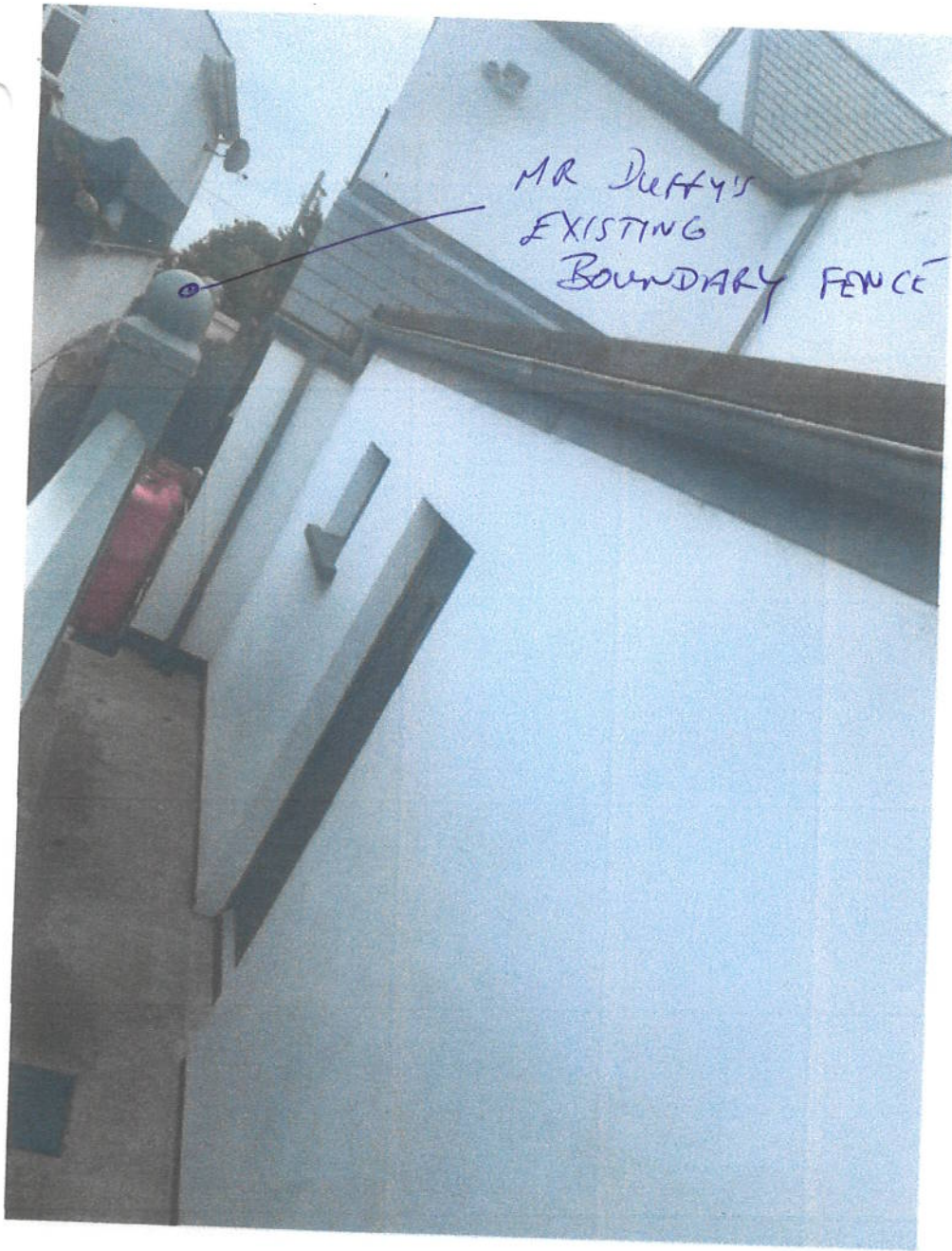


PHOTO 4

AN BORD PLEANÁLA

27 SEP 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

PHOTO 5

AN BORD PLEANÁLA
27 SEP 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

PHOTO 6

AN BORD PLEANÁLA
27 SEP 2019
LTR DATED _____ FROM _____
LDG- _____
ABP. _____

PHOTO 7

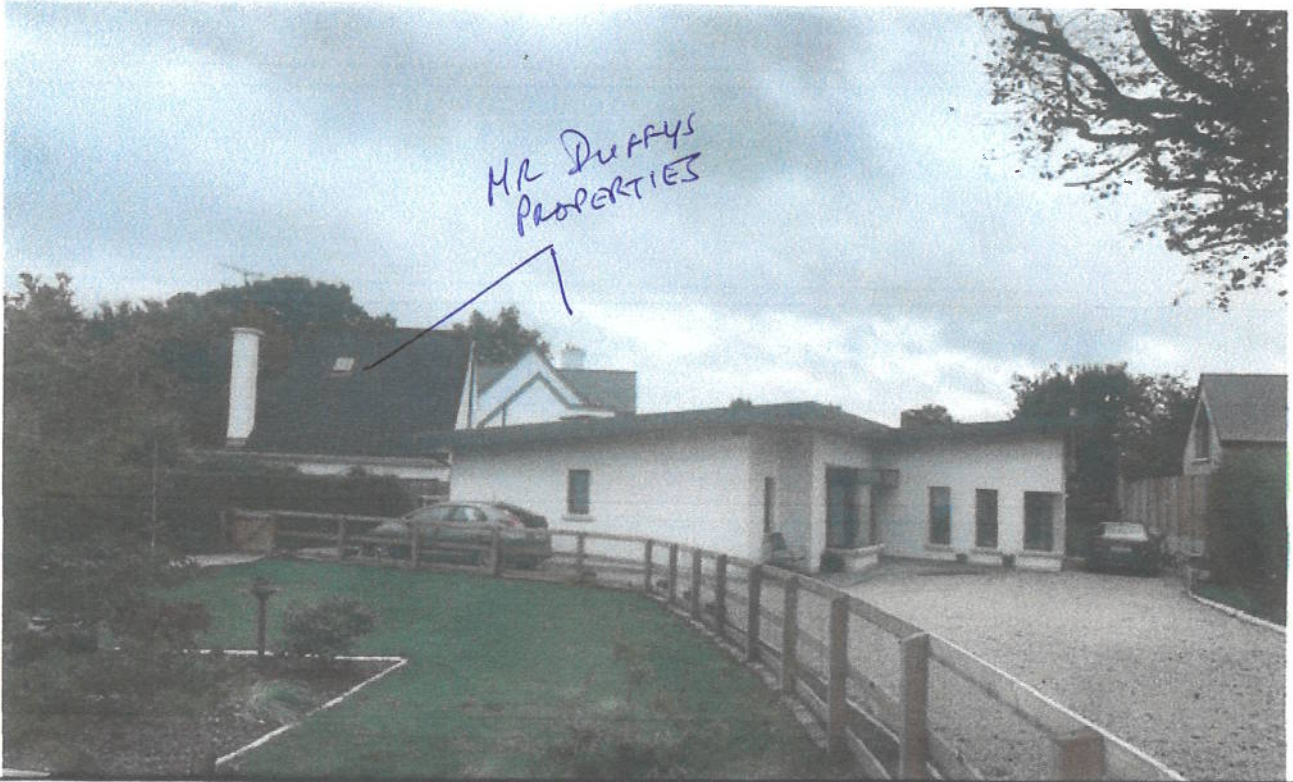
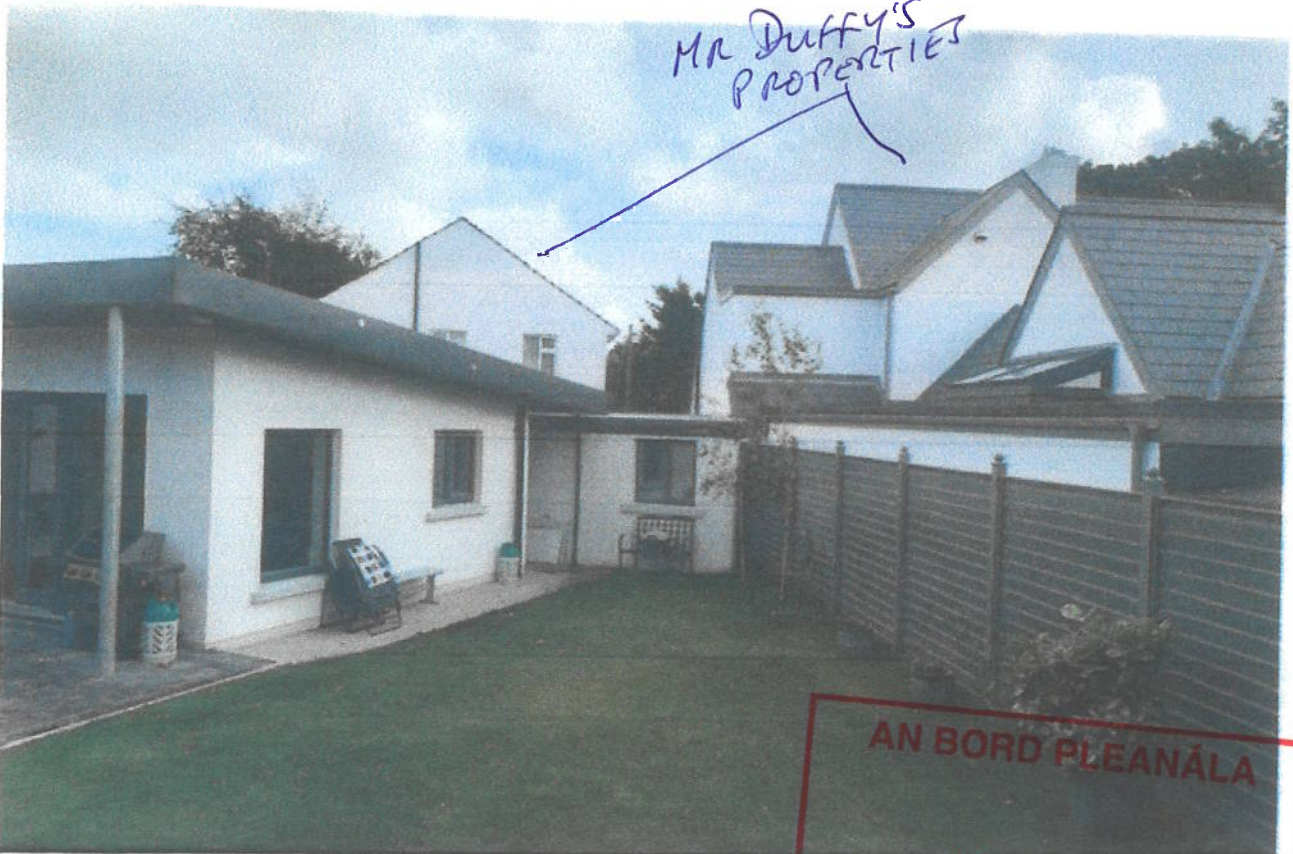


PHOTO 8



AN BORD PLEANÁLA
27 SEP 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

PHOTO 9



DOMESTIC
GARDEN
SHED

PHOTO 10



AN BORD PLEANÁLA
27 SEP 2019
LTR DATED _____ FROM _____
LDG- _____
ABP _____