

7 Rathasker Heights  
Naas  
Co Kildare  
W91 HF5K

2 June 2021

An Bord Pleanala  
64 Marlborough Street  
Dublin 1  
D01 V902

<b>AN BORD PLEANALA</b>	
LDG-	<u>040411-21</u>
ABP-	
02 JUN 2021	
Fee: €	<u>220</u> Type: <u>Cheque</u>
Time:	<u>11.45</u> By: <u>Hand</u>

Dear Sir/Madam

I confirm that I am submitting an Appeal to an Bord Pleanala for a review of a Declaration ED 421 issued by Sligo County Council on 7 May 2021.

I am attaching the completed Appeal Form and a Grounds of Appeal Submission with attachments.

The acknowledgement by Sligo County Council of my application for a Section 5 Declaration is confirmed by the issue of the Declaration ED 421 which is addressed to me as the Applicant and is included in attachment 9 to the Grounds of Appeal Submission.

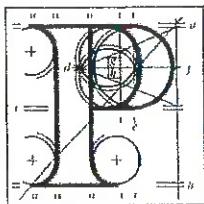
I also confirm that I am paying the Appeal Fee by enclosing a cheque for €220 to this letter.

Regards

  
Kyran Hurley







An  
Bord  
Pleanála

AN BORD PLEANÁLA

02 JUN 2021

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

Planning Appeal Form

## Your details

### 1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Kyran Hurley

(b) Address

7 Rathasker Heights  
Kilcullen Road  
Naas  
Co Kildare  
W91 HF 5K

## Agent's details

### 2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Not Applicable

(b) Agent's address

Click or tap here to enter text.

## Postal address for letters

3. During the appeal we will post information and items to you or to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1

The agent at the address in Part 2

## Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

**(a) Planning authority**

(for example: Ballytown City Council)

Sligo County Council

**(b) Planning authority register reference number**

(for example: 18/0123)

Planning File Register Reference PL 15-23

Section 5 Declaration Reference ED/421

**(c) Location of proposed development**

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

No 41 Carrowhubbock Village, Enniscrone, Co Sligo



## Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

See attached Grounds of Appeal Document

## Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

## Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

## Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

## Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.

Yes, I wish to request an oral hearing

No, I do not wish to request an oral hearing

NALA has awarded this document its Plain English Mark

Last updated: April 2019.



Re: Request for a Review of a Declaration (reference ED 421) by Sligo County Council under Section 5 of Planning and Development Act 2000 (as amended) regarding a raised timber deck and surrounding boundary fences and supporting pillars constructed at the front (west side) of 41 Carrowhubbock Village, Enniscrone, Co. Sligo (register reference 1523)

**AN BORD PLEANALA**

n 2 JUN 2021

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG \_\_\_\_\_

ABP- \_\_\_\_\_

## Grounds of Appeal Submission to An Bord Pleanala<sup>1</sup>

### Introduction

I am the Chairman of the Carrowhubbock Management Company CLG (the Company) and I was requested by the Company to submit a request to Sligo County Council (the Council) for a declaration under Section 5<sup>2</sup> of the Planning and Development Act 2000 (as amended). I received a Declaration<sup>3</sup> from the Council dated 7 May 2021 and the Company is now seeking a review by An Bord Pleanala (the Board) of that Declaration.

The Company believes that the Council, in considering in the declaration that ***“the construction of a 31 sq m patio to the west elevation of the structure at 41 Carrowhubbock Village is an element of the development permitted under PL 15/23 and is therefore authorized”***, is incorrect in declaring that it is permitted development under PL 1523 having regard for the Planning and Development Act and Regulations.

The Company further believes that the Council, in considering in the declaration that ***“the construction of a 1.2 m high glass panel wall along the (front) western edge of the permitted patio is development and is exempted development”***, is incorrect in declaring that this is exempted development within the meaning of the Planning and Development Act and Regulations.

### Description of Development<sup>4</sup>

The elevated deck structure is located to the front of number 41 Carrowhubbock Village and consists of an 11m x 3m patio deck - 31 sq m approximately - the floor level of which is up to 0.7m above ground level. The deck is surrounded by timber walls and a glass panel wall.

On the north side there is a timber wall 1.5m above the deck floor level and 2m above ground level at its highest. On the south side there is a timber wall 1.25m above the deck floor level and 1.93m above ground level at its highest. On the west side there is a wall of glass panels 1.2m above deck floor level and between 1.71m and 1.88m above ground level and separated by vertical timber supports.

The construction of the house extension that was approved under planning register reference PL 1523<sup>5</sup> was completed in May 2019. The image<sup>6</sup> taken in September 2019 shows the completed extension with a newly constructed footpath and newly constructed entrance steps outside the extension and the topsoil graded ready for grass seeding.

<sup>1</sup> The Submission is an attachment to the completed Planning Appeal Form (6 pages)

<sup>2</sup> See KH Application to Sligo Co. Co. for a Section 5 Declaration dated 7 April 2021 (9 pages) in attachment 8

<sup>3</sup> See Sligo County Council Section 5 Declaration dated 7 May 2021 (3 pages) in attachment 9

<sup>4</sup> See Image, Raised Deck as Constructed (1 page) in attachment 12

<sup>5</sup> See Sligo Co. Co. Grant of Permission dated 11 April 2014 (2 pages) in attachment 1

<sup>6</sup> See Google Maps Image Capture Completed House Extension Sept 2019 (1 page) in attachment 13

The construction of the deck structure commenced in late June 2020, almost 12 months after completion of the building of an extension that was approved under planning register reference PL 1523 (which as will be seen below differs markedly from the extension which was actually granted permission).

### **Carrowhubbock Holiday Village<sup>7</sup>**

Carrowhubbock Village is a scheme of 41 holiday homes located to the north of Enniscrone, off the Pier Road. As can be seen from the attached layout the houses are a mixture of individual detached dwellings and terraced or semi-detached houses. The initial development, in the late 1980's, was of 21 single storey houses in units with 2 to 6 houses in each unit all located at the front of the estate. A further 20 detached gable fronted dormers, with an average floor area of approximately 93 sq. metres, were added in 1992 at the rear of the site.

The layout of the scheme means that the houses are surrounded by open grassed areas, with no walls or hedges, other than at the boundaries of the estate, and pedestrian access to the houses is by footpaths through the grassed areas. Car parking areas are located adjacent to the access road and there are no individual car parking spaces adjacent to each house. The uncluttered common open area is a particular feature of the design of the development. Originally the plot of land owned by each house owner consisted of the area occupied by the house only with the rest of the land in the estate forming the common areas managed by the Company. In 1999, to facilitate the development by individual owners of house extensions and conservatories, the Company offered to transfer to each house owner an additional plot extending 10 feet from the external walls of each house. (The application of this general rule in practice meant that where two houses are located close together, the additional plot granted would be split on a pro rata basis on the measurements from the external walls of both houses.)

The house owners, through their membership of the Company and by resolutions passed at AGMs, have protected the uncluttered common open area and general appearance feature by motions confirming that there should not be any above ground structures other than building extensions or conservatories and that there should not be any parking on the grassed areas, even of a temporary nature when emptying or loading cars. A particular resolution passed unanimously at the AGM in 2002 specifically stated that no walls were permitted to be built around any house on the basis that it infringed the clauses on the Purchase Contract preventing changes that adversely affected the overall appearance of the estate. The AGM minute also recorded that house extensions and conservatories were welcomed provided they were in keeping with the overall appearance of the village.

### **Planning History**

#### **Planning Application Register Reference 1523**

Katherine Heffernan and Martin Lyons applied on 23 January 2015, under planning register reference 1523, to construct a 66.50 sq. metre extension to the rear (east) and side (south) of an existing private holiday home, 41 Carrowhubbock Holiday Village, Enniscrone.

According to the plans submitted to Sligo County Council the proposal would consist of a proposed sunroom, utility, bathroom and bedroom and an extended bedroom on the ground floor. At first floor level the development would consist of a TV room on the east side of the house and an open balcony area on the south side of the house. The first floor would be accessed by an external hardwood stair leading from the ground floor on the west side of the house. Timber trellis and screen planting were proposed at the south side of the external stair leading to the proposed first floor balcony. The drawings<sup>8</sup> noted a "proposed patio"

<sup>7</sup> See Map of the Estate and Google Maps Image Captures of the Development (7 pages) in attachment 14

<sup>8</sup> See PL 1523 Extract Ground Floor Plan 2015 Drg 3 and PL 1523 Ground Floor Plan 2015 Drg 4 in attachment 15

on the west side (front of the house) with no dimensions (but scales to 3m deep) with a shallow ramp, approximately 250mm high, from the public path to the level of the patio 1.5m from the house at the north end. It is clear that the drawings intended that the patio would be at ground level as there is no cross section showing to the contrary, no reference to any above ground construction and no reference to the need for any "safety features" that might arise if the patio level gave rise to such an issue. The site plan<sup>9</sup> submitted shows the development on the west and south sides - marked in red - and does not show any raised deck with surrounding walls development on the west (front) side of the house.

The front elevation showed the external stairs including trellis cladding/planting. However as noted above no raised decking or fencing around the stair was shown on the front elevation drawing. The only vertical elements at ground level illustrated was the external stair and trellis/planting to mitigate its impact. The two side elevations – north and south – and the two sections submitted with the application illustrate the stairs leading to the first-floor sunroom and TV room. There is no indication on either the elevations or the sections that there might be a raised patio or deck area to the front of number 41.

Permission was granted for the development on 11 April 2015. In the reasons and considerations for granting permission the Council stated that, subject to compliance with the conditions on the permission, the proposed development would not be injurious to property in the vicinity. Condition 1 of the permission required that "the development shall be carried out in accordance with the plans and particulars submitted to Sligo County Council on 23 January 2015". The reason given for this condition was "in order to clarify the documents to which this permission relates". Condition 2 dealt with the disposal of surface water from the development. No conditions were included in the permission (as provided for under Section 34(5) of the Planning and Development Act) where "*points of detail relating to the permission may be agreed between the Planning Authority and the person carrying out the development*"

### **Proposed "Minor Amendments" under Planning Register 1523**

Almost four years after planning permission was granted for the proposed development the applicant's agent made a submission to Sligo County Council on 23 January 2019<sup>10</sup> proposing some seven "minor alterations" that the applicant wished to make to the proposed development. None of the seven alterations refer to an elevated deck structure with surrounding walls. These are illustrated in drawings (elevations, floor plans and section) accompanying that submission. The Council agreed on 7 February 2019<sup>11</sup> that the amendments, including removing the proposed balcony and stairs, revising the roof profile and amending the external appearance including fenestration, were minor in nature and confirmed that no new planning application was required.

The "minor amendments/alterations" drawings include a Ground Floor Plan with a shaded area on the west side<sup>12</sup> with a note of "proposed timber decking". The alteration marked 3 refers to the removal of external stairs and not to the timber decking. The side elevation<sup>13</sup> has a note stating "fit timber decking". No above ground construction (balustrade or fence) is shown on the elevation and there is nothing to indicate that the proposed deck was to be raised above ground level nor that it would have surrounding walls. No construction details were included to indicate that it would be other than at ground level. The colouring in the drawings mark the outline of the proposed elements to be constructed in red. The timber decking is not marked in red. There is a detailed section showing the construction details from the existing ground level

<sup>9</sup> See PL 1523 Extract Site Location Map (1 page) in attachment 16

<sup>10</sup> See G Feehan Letter to Sligo Co. Co. dated 8 January 2019 (6 pages) in attachment 2

<sup>11</sup> See Sligo Co. Co. Letter to G Feehan dated 7 February 2019 (1 Page) in attachment 3

<sup>12</sup> See PL 1523 Extract Ground Floor Plan 2019 (1 page) in attachment 17

<sup>13</sup> See PL 1523 Extract South Elevation 2019 and PL 1523 Front, Back Elevations 2019 (2 pages) in attachment 18

where the proposed extension would be built but there is no similar construction detail indicating timber decking raised above ground level and with perimeter fencing/posts and glass panels.

Accordingly, when, on behalf of the Company, I made a Planning Enforcement Complaint to the Council on 8 February 2021<sup>14</sup>, the assertion was made that the development was unauthorised. There was not any evidence from the planning file PL 1523 either in the planning permission itself and or in the Council's letter of 7 February 2019 - that planning consent was given to build a raised patio or a raised deck structure nor any balustrade, glass panels or other above ground constructions to the front (west side) of number 41.

There is no indication on any planning application or planning approval document that the "patio" or "timber decking" was other than at ground level. It was stated in an email to me from the Council, in response to the Planning Enforcement Complaint ref ENF 2731, dated 15 February 2021<sup>15</sup> that "following an inspection it appears that the patio/decking area is not inconsistent with the drawings submitted under PL 15/23. Therefore, we do not consider that any enforcement action is warranted". When I queried this finding in a letter dated 22 February 2021<sup>16</sup> the reply letter dated 8 March 2021<sup>17</sup> stated that "the patio/decking area is not inconsistent with the drawings submitted under PL15/23. The inclusion or addition of a handrail would be considered to be a minor alteration from the planning drawings and would not warrant enforcement action".

However, it was and is still unclear to me what planning drawings were referred to in the Council's letters of 15 February 2021 and 22 February 2021. Were they the drawings submitted in 2015, which went through the normal statutory process, or the interactions between the applicant's agent and the Council regarding "minor alterations" which was engaged on in early 2019.

### The Minor Alterations

The "minor alterations" could not be regarded in any way as being minor. They were not immaterial deviations from the permission. As stated above the permission contained just two conditions, one of which was that "the development shall be carried out in accordance with the plans and particulars submitted to Sligo County Council on 23 January 2015" with the reason given for this condition being "in order to clarify the documents to which this permission relates". The "minor alterations" identified by the applicant's agent were actually seven in number and the extent of which are illustrated by him on his drawings.

It is understood in planning law and practice that some degree of flexibility and some tolerance can be given as issues may arise in carrying out a development which were not foreseen in the consideration and approval of the development e.g. changes to external finishes where a specified material may not be available when construction commences. In addition, "points of detail" may be agreed between the applicant and the Planning Authority following the grant of a permission where this is specified in the permission by condition. However, the Council's discretion is limited in this regard on the extent of changes it can agree to.

### Planning Authority Obligations

A Planning Authority is required to faithfully implement what has been decided in the permission. In the case of Tracey v An Bord Pleanala [2010] IEHC 13, MacMenamin J. emphasised that the Planning Authority, in agreeing points of detail, is confined to implementing what has already been decided in the parent

<sup>14</sup> See KH Planning Enforcement Complaint to Sligo Co. Co. dated 8 February 2021 (5 pages) in attachment 4

<sup>15</sup> See Sligo Co. Co. email to KH dated 15 February 2021 (1 page) in attachment 5

<sup>16</sup> See KH Letter to Sligo Co. Co. dated 22 February 2021 (1 page) in attachment 6

<sup>17</sup> See Sligo Co. Co. Letter to KH dated 8 March 2021 (1 page) in attachment 7

permission. This is not what happened in relation to register reference PL 1523 when the Council agreed to a radically altered set of proposals and where the Council had previously stipulated to the applicant (and informed any other interested parties) in condition 1 that "the development shall be carried out in accordance with the plans and particulars submitted to Sligo County Council on 23 January 2015". **It is contended by the Company that the revised proposals put forward by the developer and agreed by the Council required a separate planning permission.** It is also contended that the absence of the requirement for a separate planning permission deprived the management company, the other owners in the estate and any other third parties the opportunity to inspect, review and understand the material alterations that were submitted and approved without being publicly advertised. Notwithstanding this, while the alterations proposed in 2019 and subsequently approved did indicate a timber decking at the west (front) side, there was no indication other than it would be at ground level and not surrounded by timber and glass walls.

Separately, the Company has been made aware by the owner of No 39 Carrowhubbock Village, a property adjacent to and at a lower floor level than No 41, that he has concerns that his property and his planning rights may have been infringed by the erection of the raised deck structure development at No 41 and the absence of the opportunity for him to have reviewed and objected to that development. There is nothing to suggest that either the developer, or for that matter the Council, gave consideration to the effect of the amendments to the permitted development for the rights of third parties.

**Determination by the Council that in part the raised deck structure is permitted development and also that in part it is exempted development.**

Time may have elapsed from challenging the Council's letter of consent to the changes to the design and layout of the proposed development. However, the determination by the Council that either the initial permission in 2015 or the changes in 2019 are deemed to include permission for a raised deck structure has only been made in May 2021. The position, as it appeared to all third parties up to June 2020 was as follows. The owners of No 41 had applied and received planning permission. They had completed their development including new footpaths around the new house extension, the removal of the contractor's security fencing and the grading and seeding of the newly formed topsoil at the front of their house. This is very clear from the images taken in September 2019. Insofar as third parties had inspected the planning file and discovered the "minor alterations" it seems that this did not provoke any issue for them. It is the further development of a raised deck structure, a year after the completion of the house extension, that has raised the objections of the management company and other third parties and has led to the scrutiny of the planning file and correspondence with the Council regarding the development.

Also, the passage of time from the date on which the Council consented to the 2019 changes does not make what occurred correct or legal and it now has implications for further development on the site viz. the raised timber decking and surrounding walls and supports which have been erected to the front of number 41 will, in all likelihood, become a precedent for other owners to seek to follow with similar developments. The Company has already been approached by one Member proposing to erect a similar raised deck structure.

The Council's error in agreeing to a significantly revised proposal from that permitted in the planning permission has now been further compounded by accepting that the raised decking was permitted under PL 1523. It is not clear whether the Council's declaration relates to the proposals made at the time the permission was granted in 2015 (which refer to a patio) or 4 years later when the applicant's significantly altered proposals (including reference to timber decking) were accepted in the Council's letter to the applicant dated 7 February 2019 without recourse to a new planning application. This is especially the case where the Council appears to be depending on unclear and inconsistent drawings and where this part of the development should have been advertised as part of the planning application in 2015 if one is to follow the Council's contentions. Furthermore, the Council's declaration on 7 May 2021 refers to the construction of a



31 sq m patio being authorized but what is constructed is a **raised timber deck** elevated 0.5m to 0.7m above ground level and not a paved area at ground level. In this declaration the Council refer to a “patio” whereas the Council letter dated 8 March 2021 refers to a “patio/decking area”.

### **Implications of the Council’s Declaration**

The Council’s declaration on 7 May 2021 states that “the construction of a 1.2 m high glass panel wall along the (front) western edge of the permitted patio is development and is exempted development”. I sought clarification of the implications of the declaration on 18 May 2021,<sup>18</sup> in particular, because the owner of No 41 wrote to the Company confirming that she had received a letter from the Council informing her that “you do not need planning permission to lower the side fences at your house to 1.2m. You do not need retention permission if you have already done so”.

The Council’s letter dated 20 May 2021<sup>19</sup> confirms that the alteration of the fences on the northern and southern edges (from the existing 1.5m high and 1.25m high respectively) to 1.2m high would “bring it within the limitations of the exempted development”. This means that the effect, taken together, of the Council’s declaration on 7 May and the email of 20 May is that the walls surrounding the “patio” that are between 1.7 and 1.9m above ground level and constructed at the front of the house are within the limitations of exempted development.

The Planning and Development Regulations 2001 contain restrictions on what are termed exempted developments. It is the Company’s contention that the 1.2m high glass panel wall along the (front) western edge of the raised deck structure the raised patio decking and the other features do not constitute exempted development for the purposes of the Planning Act and Regulations as 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” and “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” (see article 9(1)(a)(i) and article 9(1)(a)(vii) of the Regulations).

**The Council’s Declaration is that “the construction of a 1.2 m high glass panel wall along the (front) western edge of the permitted patio is development and is exempted development”.**

The Company asserts that a more accurate description of the development is “**a construction of a glass panel wall 1.2m above the floor level of a raised deck structure and between 1.7m and 1.9m above ground level**”. It is the Company’s contention that the Council have erred in making their determination regarding exempt development and the Company is submitting that determination to the Board for review.

**The Company asserts that the entire structure should be the subject of a separate planning submission and no part of it should be considered exempted development.**

### **Planning and Development Act and Regulations**

It is the Company’s contention that the entire development, the patio decking, the timber panel walls, the glass panel wall, the balustrades, the steps are not exempted development and the decision of the Council relies on an error in approving the revised proposals without a formal assessment of the impact of those changes and especially their potential effects on third parties.

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<sup>18</sup> See KH Letter to Sligo Co. Co. dated 18 May 2021 (1 page) in attachment 10

<sup>19</sup> See Sligo Co. Co. Letter to KH dated 20 May 2021 (1 page) in attachment 11

Furthermore, the development does not comply with the exemptions provided for under the Planning and Development Acts and Regulations – as follows.

#### General obligation to obtain planning permission

The Planning and Development Act 2000 at section 32 states that there is a general duty to obtain planning permission for development.

*“(1) Subject to the other provisions of this Act, permission shall be required under this Part—*

*(a) in respect of any development of land, not being exempted development, and*

*(b) in the case of development which is unauthorised, for the retention of that unauthorised development.*

*(2) A person shall not carry out any development in respect of which permission is required by subsection (1), except under and in accordance with a permission granted under this Part.”*

As there is a general duty to obtain planning permission to carry out development there is an onus on the developer to demonstrate that the development is in fact exempted. An exemption is considered a privilege and so a development must come clearly and unambiguously within the terms of the Regulations (see *Dillon v Irish Cement*, Supreme Court, 26 November 1984). The development carried out at number 41 does not meet this test.

#### Development

Section 3(1) of the Planning Act 2000 states that *“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”*.

Works are defined in section 2 of the Act as including *“any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure”*.

The erection of the raised timber deck structure to the front of number 41 Carrowhubbock clearly constitutes development as it involves “works” within the meaning of section 3(1) of the Act.

#### Exempted development.

Section 4(1) of the Act states that a number of forms of development shall be exempted developments for the purposes of the Act. Two of these which are relevant to this case are included at section 4(1)(h) and 4(1)(j).

Section 4(1)(h) states that *“development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance*

*inconsistent with the character of the structure or of neighbouring structures;*" shall be exempted development.

The timber decking and associated development – walls, support piers etc. - at number 41 involve alterations which do materially affect the external appearance of the structure. These works affect not only the appearance of the house itself but also render the appearance of the structure inconsistent with the character of the structure and of neighbouring structures. There are no similar elevated, walled in timber decks on the front elevations of any of the houses in the Carrowhubbock Village development. There are 5 houses that have constructed patios in recent years and, in keeping with the open layout design of the estate and the member covenants, none of these have walls or fences erected.

Section 4(1)(j) of the Act states that *"development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such"* shall also be exempted for the purposes of the Act. Thus, the general use of one's garden, patio etc. do not come within the scope of planning legislation. However, it should be noted that this exemption is confined to "use" not "works". In the current case it is the works that are being/have been carried out prior to any use of the structure is the first issue to be addressed. The development works required permission and any use following these works would not enjoy the benefits of any exemption under Section 4(1)(j).

#### Planning and Development Regulations

The Planning and Development Act at section 4(2)(a) provides that *"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..."* (My underline).

These regulations – the Planning and Development Regulations 2001 (as amended) – contain detailed provisions in Schedule 2, Part 1 regarding exempted development. Classes 1 to 8 in Part 1 deal with developments within the curtilage of a house. Article 6(1) of the Regulations state that - *"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."* Thus, the benefit of exemptions (and as mentioned earlier in this submission) is dependent on the restrictions on exemption set out in article 9 viz. if the carrying out of such development would contravene a condition attached to a permission under the Act or would 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. As can be seen above the elevated front decking at number 41 does not comply with these restrictions and therefore does not enjoy the benefits of the exempted development provisions.

Again, in this case the most relevant classes are Classes 3 and 5 which are set out below – the different classes of development and the conditions and limitations on each class. I have also added the Company's observations on the different classes where it applies to the subject case.

It should also be noted that the issue of ground levels is also of relevance as the decking has been erected above ground level as have the walls surrounding the decking together with their piers/pillars. Article 5(2) of the Planning and Development Regulations 2001 (as amended) state that:

In Schedule 2, “unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose “ground level” means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it”.

Extract from the Planning and Development Regulations 2001 (as amended), Schedule 2, Part 1

<b>Column 1 Description of Development</b>	<b>Column 2 Conditions and Limitations</b>	<b>Observations of Management Company</b>
<i>Development within the curtilage of a house</i>		
<b>CLASS 3</b>		
<i>The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</i>	<i>No such structure shall be constructed, erected or placed forward of the front wall of a house. (Remainder of conditions don't apply)</i>	While this class appears to refer to covered structures it is noted that “no such structure shall be constructed, erected or placed forward of the front wall of a house”. The raised patio deck structure is constructed at the front of the house, Accordingly, as it not clearly and unambiguously within the Conditions and Regulations it does not enjoy the benefit of exemption.
<b>CLASS 5</b>		
<i>The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.</i>	<ol style="list-style-type: none"> <li>1. <i>The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.</i></li> <li>2. <i>Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered.</i></li> <li>3. <i>No such structure shall be a metal palisade or other security fence.</i></li> </ol>	As has already been pointed out in this submission, the walls and piers/pillars in front of the house, considered as being exempt development by the Council are between 1.7m and 1.9m above ground level. As these exceed 1.2 metres in height above ground level it follows that the raised deck structure is de-exempted.

## **Conclusion**

I and the other Directors of Carrowhubbock Management Company CLG act in a voluntary capacity in managing the affairs of the owner's management company in the interests of the 41 members/owners.

I confirm that I was asked by the Company to request a review by the Board of the Declaration ref ED 421 that the Council made dated 7 May 2021 regarding "a raised timber deck and surrounding boundary fences and supporting pillars constructed at the front(west) side at 41 Carrowhubbock Village, Enniscrone, Co Sligo".

The Declaration Order stated that the development in question was not "**exempted development**". However, the reasons explaining the order confirm that the Council consider part of the development to be permitted under PL 1523 and part of it to be exempted and a further part again to be not exempted. The Council thereafter clarified that if the 'not exempted' elements were adjusted in height the entire development would be considered either authorised or exempted development.

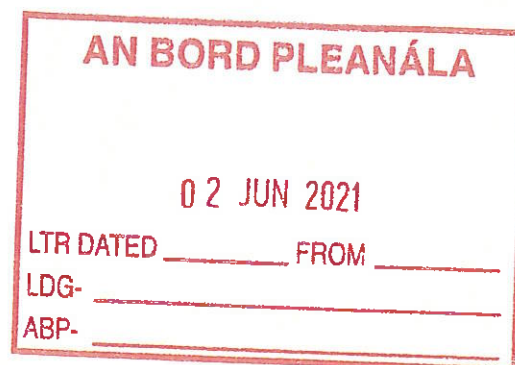
**In requesting An Bord Pleanala to review the Declaration ED421 the Company contends that the entire development, the patio decking, the timber panel walls, the glass panel wall, the balustrades, the steps are not exempted development and the decision of the Council relies on an error in approving the revised proposals without a formal assessment of the impact of those changes and especially their potential effects on third parties.**

Confirming also that the Company is sending a copy of this submission to Catherine Heffernan, an owner of the property at 41 Carrowhubbock Village, as it has previously done with each submission that was made to the Council.

**Kyran Hurley**

**Chairman**

**Carrowhubbock Management Company CLG**



## Attachments

No.	Attachment	Page
1	Sligo Co. Co. Grant of Permission dated 11 April 2014 (2 pages)	1
2	G Feehan Letter to Sligo Co. Co. dated 8 January 2019 (6 pages)	3
3	Sligo Co. Co. Letter to G Feehan dated 7 February 2019 (1 Page)	9
4	KH Planning Enforcement Complaint to Sligo Co. Co. dated 8 February 2021 (5 pages)	10
5	Sligo Co. Co. email to KH dated 15 February 2021 (1 page)	15
6	KH Letter to Sligo Co. Co. dated 22 February 2021 (1 page)	16
7	Sligo Co. Co. Letter to KH dated 8 March 2021 (1 page)	17
8	KH Application to Sligo Co. Co. for a Section 5 Declaration dated 7 April 2021 (9 pages)	18
9	Sligo Co. Co. Section 5 Declaration dated 7 May 2021 (3 pages)	27
10	KH Letter to Sligo Co. Co. dated 18 May 2021 (1 page)	30
11	Sligo Co. Co. Letter to KH dated 20 May 2021 (1 page)	31
12	Image, Raised Deck as Constructed (1 page)	32
13	Google Maps Image Capture Completed House Extension Sept 2019 (1 page)	33
14	Map of the Estate and Google Maps Image Captures of the Development (7 pages)	34
15	PL 1523 Extract Ground Floor Plan 2015 Drg 3 and PL 1523 Ground Floor Plan 2015 Drg 4 (2 pages)	41
16	PL 1523 Extract Site Location Map (1 page)	43
17	PL 1523 Extract Ground Floor Plan 2019 (1 page)	44
18	PL 1523 Extract South Elevation 2019 and PL 1523 Front, Back Elevations 2019 (2 pages)	45

Comhairle Chontae Shligigh  
(SLIGO COUNTY COUNCIL)

Planning and Development Act 2000 (as amended)

NOTIFICATION OF GRANT OF PERMISSION

Katherine Jefferson and Martin Lyons  
C/o Gerard Feehan  
Architectural Planning Services  
Ballyhaan  
Castlebar  
Co. Mayo

Planning Register Number:

PL 15/11

Application Receipt Date:

11/01/2015

Notice is hereby given that Sligo County Council by Order dated 11/01/2015 GRANTED PERMISSION to the above-named, for development of land, in accordance with the documents lodged, namely:-

development consisting of the construction of a 64.38 sqm extension to the rear (east) and side (south) of an existing private holiday home at No. 41 Carrowhubbuck Holiday Village, Carrowhubbuck South, Annascross, Co. Sligo.

Subject to the 2 condition(s) set out in the Schedule attached.

Signed on behalf of Sligo County Council.

  
Janet McManera  
Administrative Officer  
PLANNING SECTION

Date: 11/04/15

This permission shall expire FIVE YEARS from the date of the grant of permission.

**SCHEDULE 1 - REASONS AND CONSIDERATIONS**

having regard to the following:

- i. the provisions of the Sligo County Development Plan 2011-2017
- ii. the provisions of the European Local Area Plan 2004-2013
- iii. Article 6.3 of EU Habitat Directive (Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora).
- iv. The report of the Area Engineer.

It is considered that the proposed development, subject to compliance with the following conditions, would not be injurious to the amenities of properties in the vicinity, would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

**SCHEDULE 2 - SCHEDULE OF CONDITIONS**

- 1. The development shall be carried out in accordance with the plans and particulars submitted to Sligo County Council on 23<sup>rd</sup> January 2013.  
**Reason:** In order to clarify the documents to which this permission relates.
- 2. Proper provision shall be made to ensure that no surface water is diverted or allowed to flow onto the adjoining private estate road as a result of this development.  
**Reason:** In the interests of road safety and to prevent damage to the road.



*Architectural Planning  
Services*

Gerard Feehan,  
Ballyhean, Castlebar,  
Co. Mayo. tel 094 9030422  
mob: 087 2170619  
Date 08/01/2019

Sligo County Council,  
Planning Section, City Hall,  
Sligo, Co. Sligo

Attention: Michael

Planning Register Number: PL 15/23

Re Construction of extension to holiday home at No. 41 Carrawhishbeck Holiday Village  
Carrawhishbeck, South. Friskerone, Co. Sligo.

Dear Michael

Further to my telephone call to you some time ago, I am enclosing, for your observations, revised plans and elevations of the proposed extension, showing some minor alterations the applicant wishes to make to that previously granted. See Drg Nos. 3/4 R, 5R, 6R & 7R

The revisions are shown relative to each plan and elevation and are numbered as follows:

- (1) Balcony to be omitted, to be replaced with low-pitch patented roof cladding. The cladding shall be of a profile and colour as similar as possible to existing roof tiles
- (2) Dormer type roof to be omitted and be replaced with "Velux" roof window
- (3) External stairs to be omitted
- (4) External door from proposed extension to be omitted.
- (5) New external emergency exit door to be fitted
- (6) Proposed roof to have same alignment as existing
- (7) Revised fenestration to elevations

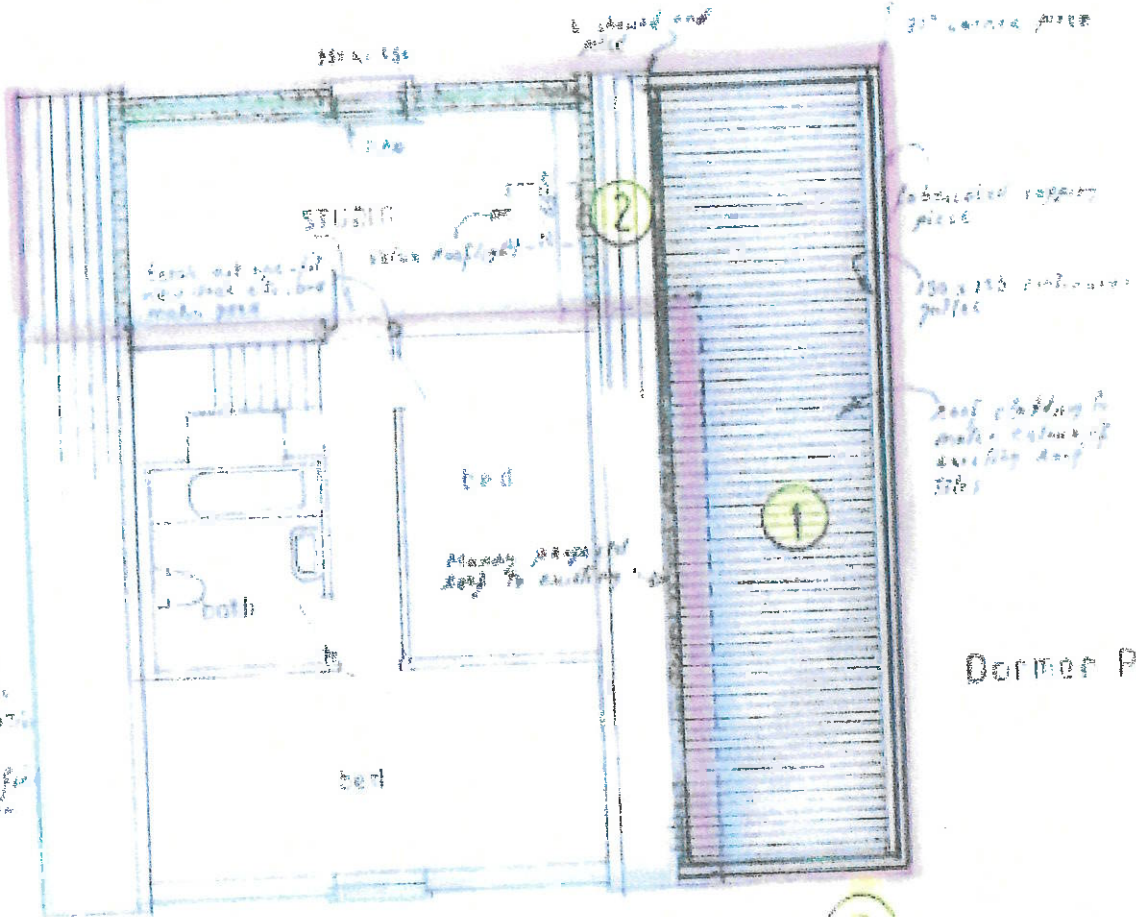
The proposed alterations are, as previously described, of a minor nature and actually lessen the impact of the proposed development on the adjoining properties. Therefore I am assuming that a new planning application will not be necessary in order to rectify matters, but of course I will be guided by your professional opinion

I await hearing from you with your decision, at your earliest opportunity

Yours faithfully

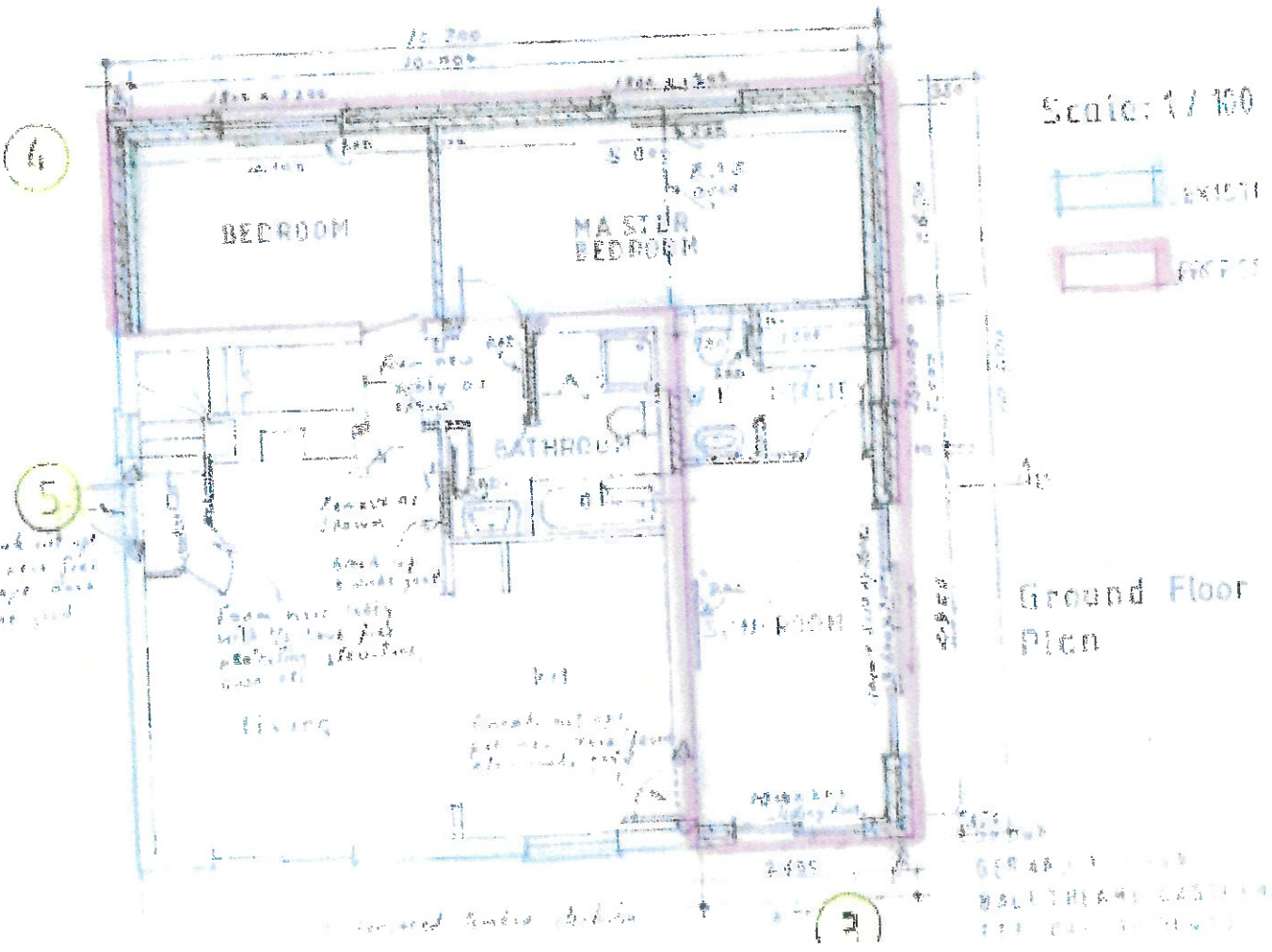
*Gerard Fechan*

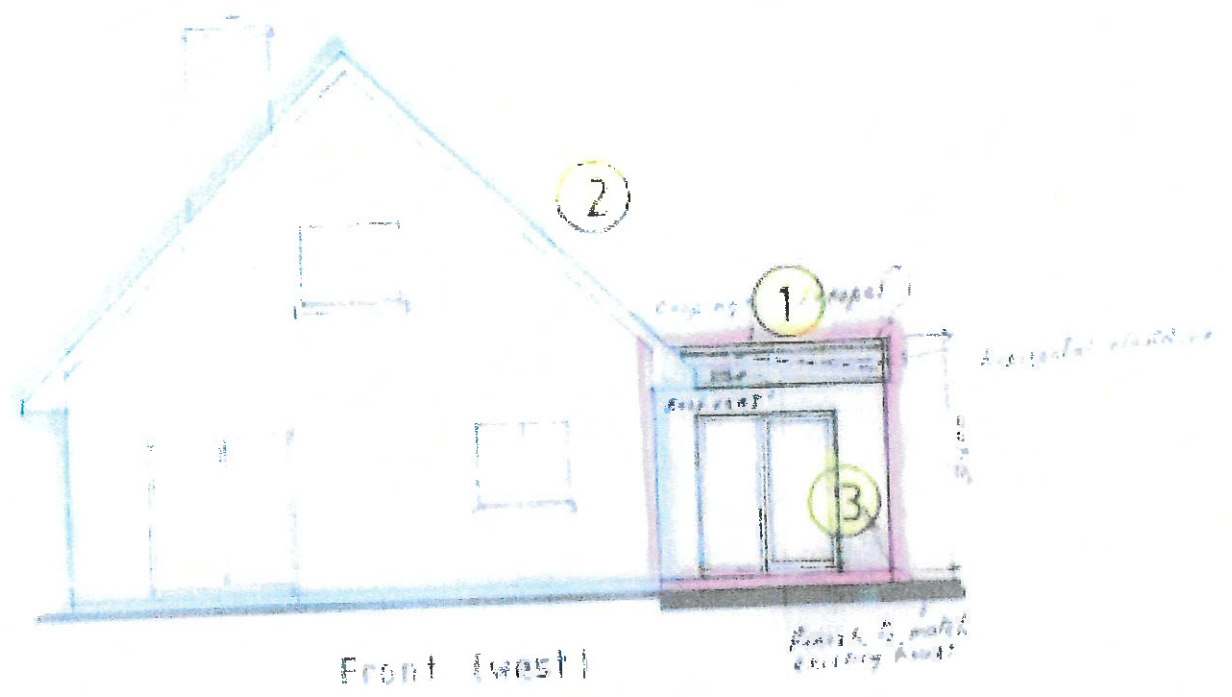
Gerard Fechan



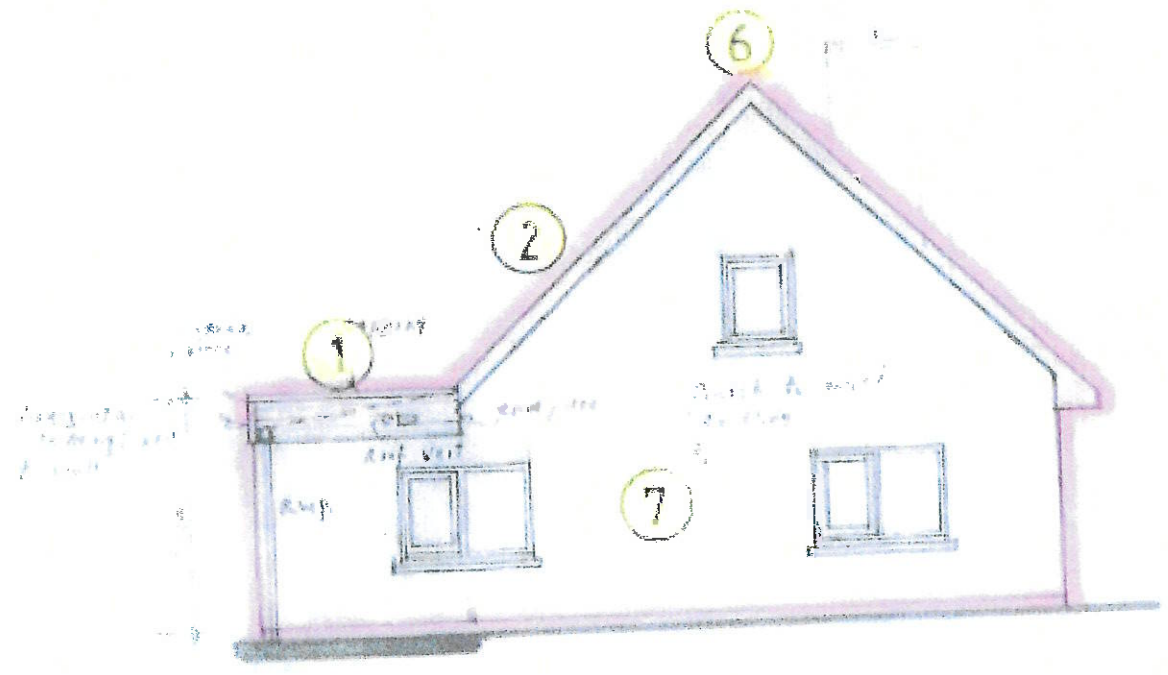
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③



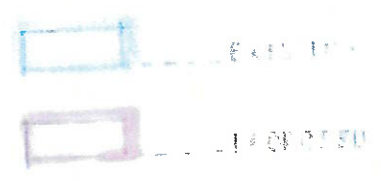


Front (west)

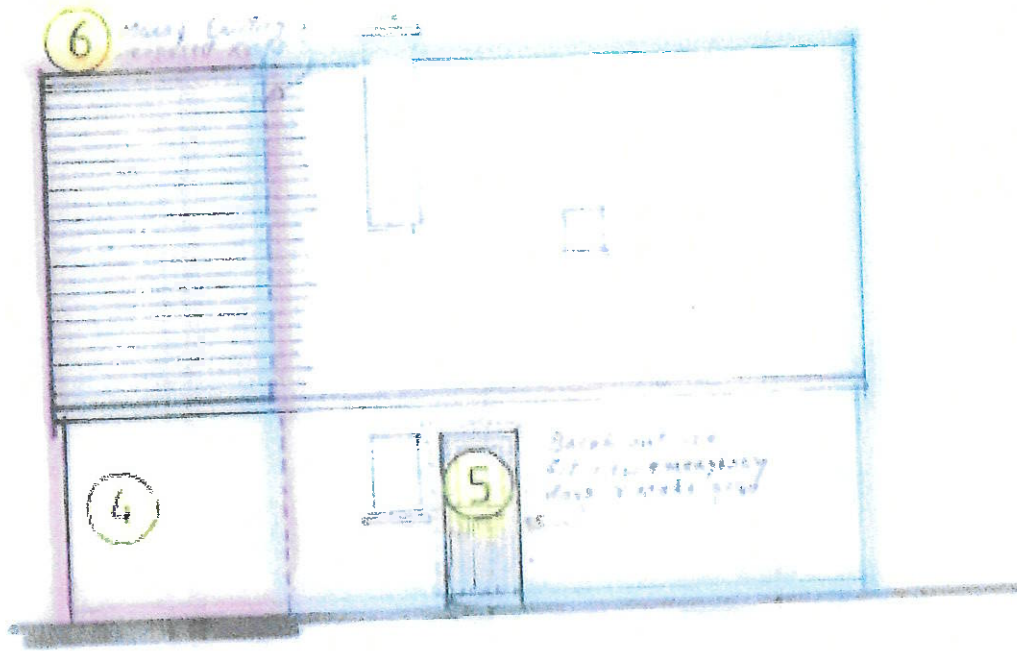


Back (east)

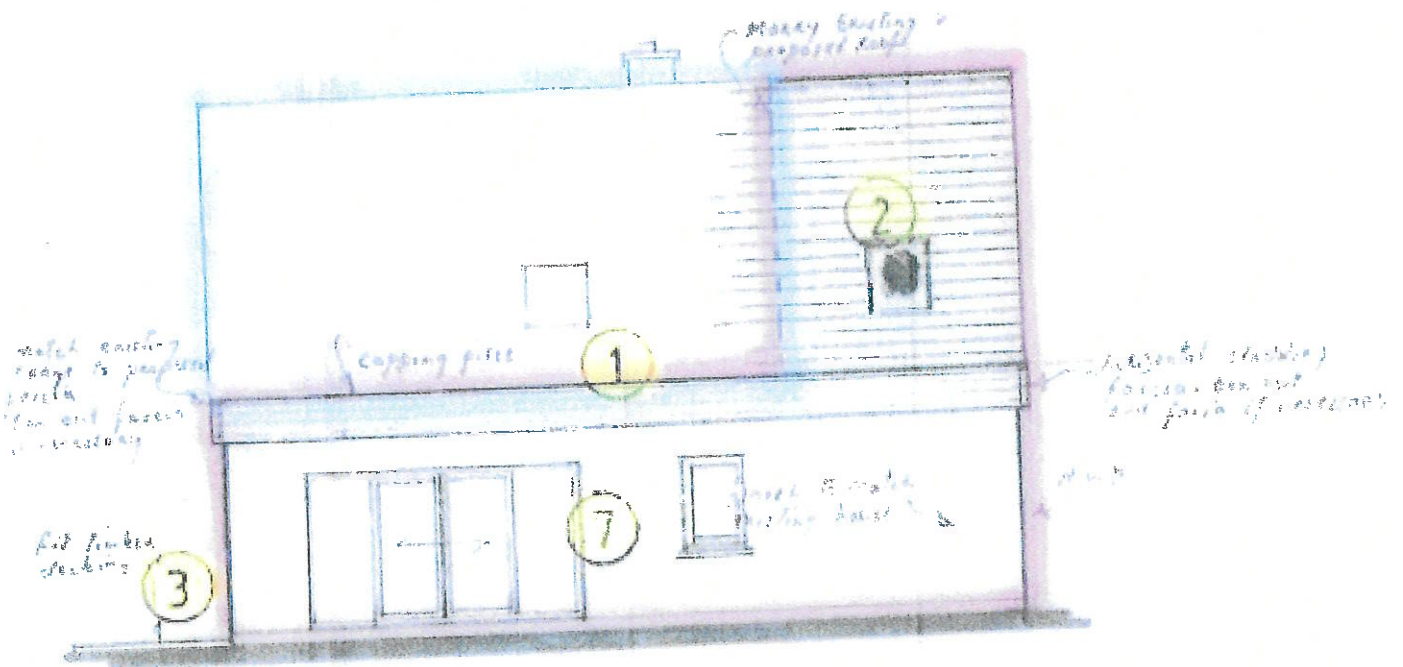
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10/10/2020  
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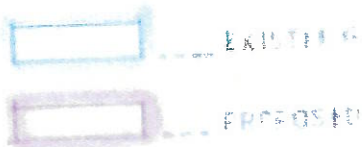


Side (north)



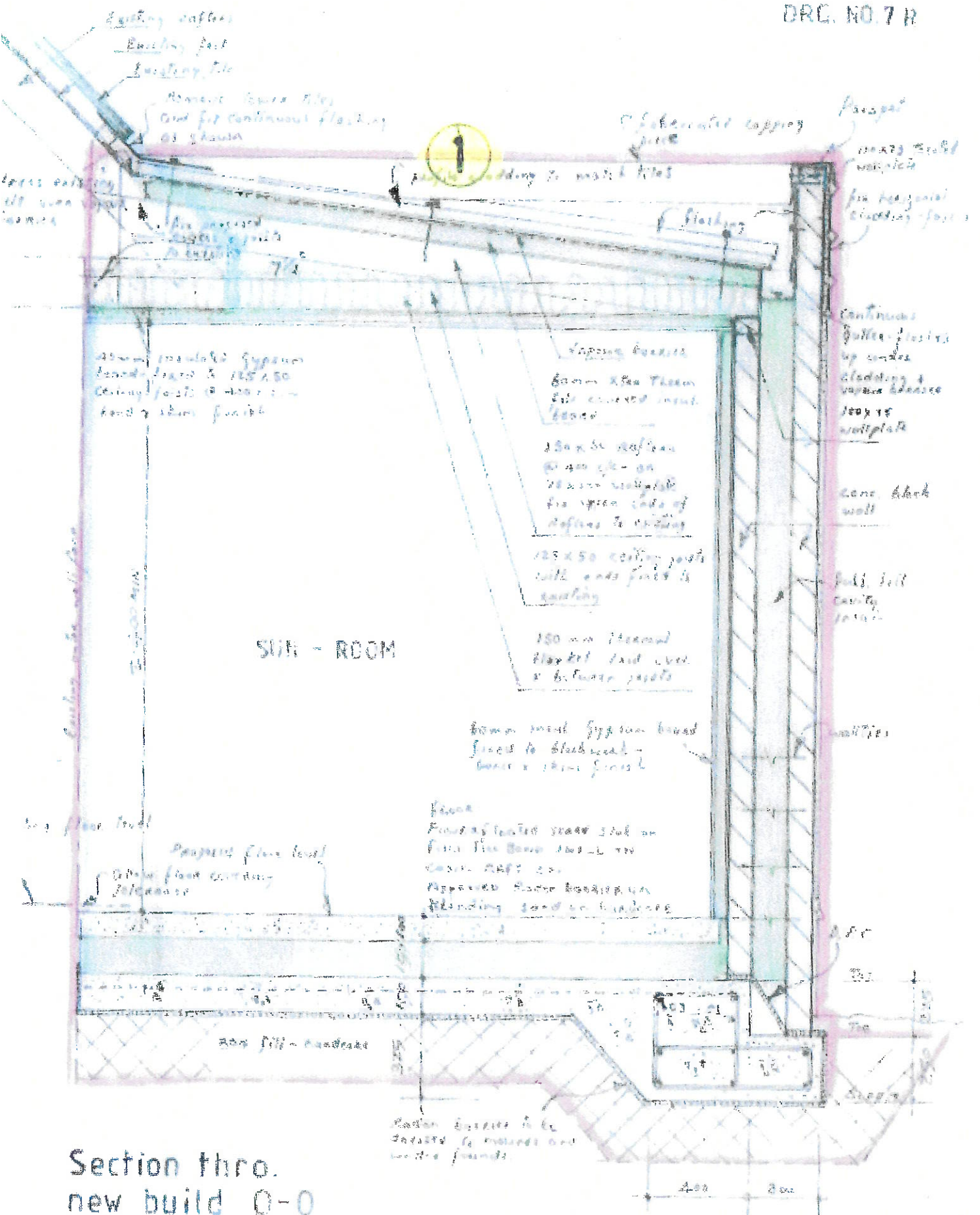
Side (south)

Scale 1/100



25  
 11/11/2024  
 11/11/2024  
 11/11/2024





Section thro. new build 0-0

Scale 1/200

EXISTING  
 PROPOSED

DRAWN  
 HERTHO PLYMAN  
 BALLBEARE CASTLE  
 TEL. 014 90 19822



COMHAIRLE CHONTAE SHLIUIGH  
NAI LANA CATHARACH SHLIUIGH

SLIGO COUNTY COUNCIL  
CITY HALL - SLIGO

T +353 71 911 1111  
F +353 71 911 4499

E info@sligo.ie  
W www.sligo.ie

7<sup>th</sup> February 2019

PL 15/23/KK/NF

Gerald Feehan,  
Architectural Planning  
Services  
Ballyhenry,  
Castlebar,  
Co. Mayo.

**PLANNING AND DEVELOPMENT ACT 2000 (as amended) & PLANNING AND DEVELOPMENT  
REGULATIONS 2001 (as amended)**

RE: Planning permission granted for development consisting of the construction of a 66.50 sqm extension to the rear (east) and side (south) of an existing private holiday home at No. 41 Carrowhubbeck Holiday Village, Carrowhubbeck South, Enniscrone, Co. Sligo

A. Chara,

I refer to the above planning permission and to your submission which was received by the Planning Section on 17<sup>th</sup> January 2019.

Sligo County Council wish to advise you that the proposed modifications consisting of omission of balcony and external stairs, together with the revised roof and fenestration, can be considered minor amendments which do not require planning permission.

Mise, le meas.

*Karen Kennedy*  
JANET MCNAMARA  
ADMINISTRATIVE OFFICER

Copy of email KH to SCC dated 8.2.2021

# Planning Complaint re 41 Carrowhubbock Holiday Village, Enniscrone, Co Sligo

Carrowhubbock

**Kyran Hurley** <kyranmhurley@gmail.com>

Mon, Feb 8,  
4:13 PM

to enforcement@sligococo.ie

Dear Sir/Madam

I am writing to notify you of a Planning Enforcement Complaint about a raised patio deck structure that has been constructed at the front of No 41 Carrowhubbock Holiday Village, Enniscrone Co Sligo. I attach the completed Complaint Form, details of the complaint and a map of the development.

I own a holiday house at Carrowhubbock Holiday Village and I am also the Chairman of Carrowhubbock Management Company CLG which is the owner's management company of which all 41 owners are Members.

The board of management company have been contacted by a number of Members/holiday house owners who, in addition to the four board members, are very dissatisfied with the raised patio deck has been constructed and wish to see it removed as it was built without planning permission and it contravenes the management company covenants.

While I am notifying you of the Planning Enforcement Complaint in a personal capacity I am also informing you that there are many others who will voice their objections also if given an opportunity to do so. It is also likely that some homeowners may not be aware of raised deck structure at No 41 as they have not travelled to their holiday home as a result of the Covid related lockdowns and have been reluctant to travel even when it was permitted.

The owners of the holiday houses own the plots on which their houses are located and, in most cases, also own an adjoining plot that extends to at most 10 feet, which was granted in the initial scheme to facilitate for possible building of extensions/conservatories. The rest of the land in the development, including roads, paths, grassed areas etc are owned by Carrowhubbock Management Company and are managed by the board of directors who are elected by the members and act in a voluntary capacity. The Members confirmed their view, in a motion approved and recorded at an AGM some years ago, that there should not be any hedges, walls or



11

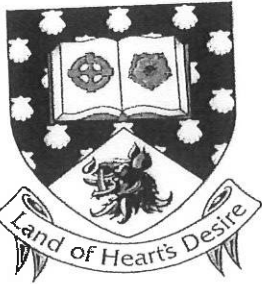
other above ground structures adjacent to the houses other than building extensions/conservatories.

The management company approached the house owner of No 41 last August when the unauthorised structure was near completion, provided the detailed analysis that is included in the attached complaint form regarding non-compliance with planning as well as non-compliance with the management company covenants and requested cessation of the work. This request was refused. The board of the management company wanted to resolve the issue amicably and since August 2020 has written several times and unfortunately the house owner has not engaged meaningfully. In the interim, at least one other house owner now sees this structure, which is totally not in keeping with the appearance of the village, as a precedent and is contemplating a similar development.

If you wish to contact me for any reason, either in my personal capacity as a house owner or in my capacity as Chairman of Carrowhubbock Management Company, please do not hesitate to do so.

Regards

Kyran Hurley



**PLANNING ENFORCEMENT SECTION  
SLIGO COUNTY COUNCIL**

**COMPLAINT FORM REGARDING ALLEGED  
UNAUTHORISED DEVELOPMENT**

Enforcement Section  
City Hall  
Quay Street  
Sligo

Tel: (071)9114443  
Email: enforcement@sligococo.ie

1. Address / Location of  
alleged unauthorised  
development  
(Attach map if available)

41 Carrowhubbock Holiday Village, Enniscrone, Co Sligo

2. Description of the alleged  
unauthorised development  
(Quote planning reference  
number if relevant)

see attached sheet "Description of the Alleged Unauthorised Development"  
ref Planning File 1523

3. Date work / use  
commenced (Please be as  
specific as possible)

late June 2020

4. Name / Address of  
landowner

Catherine Heffernan, Cashel, Lahardane, Ballina, Co Mayo, F26V021

5. Your name and address  
(This information will be  
kept confidential)

Kyran Hurley, 7 Rathasker Heights, Naas, Co Kildare. W91 HF5K

6. Your telephone number

[REDACTED]

7. Your email address

[REDACTED]

Please complete this form and email to [enforcement@sligococo.ie](mailto:enforcement@sligococo.ie) or post to the above address

SIGNED: \_\_\_\_\_

*K Hurley*

Date: 6 February 2021

Insert sheet to

## Planning Enforcement Section Sligo County Council Complaint Form

### Description of the Alleged Unauthorised Development

A raised timber deck has been constructed at the front (west side) of No 41 Carrowhubbock Village that has not been authorised by Sligo County Council Planning Department. The structure adjoins the house and consists of an 11m x 3m patio deck, the surface of which is up to 0.8m above ground level. There is a timber wall 1.5m high, 2.3m above ground level, on the north side. There is a timber wall 1.25m high on the south side and a wall of 1.2m high glass panels separated by vertical timber supports on the west side. The top of the structure on the west and south sides is up to 2.05m above ground level.

The construction of the deck structure commenced in late June 2020, almost 12 months after completion of the building extension that was approved per Planning File ref 1523 that had a decision date of 11.3.2015, a grant date of 11.4.2015 and an expiry date of 10.4.2020.

The application was for "development consisting of the construction of a 66.50 sqm extension to the rear (east) and side (south) side of the existing private holiday home.

There was no mention in the application letter of construction on the west side. However, the drawings did show an external stairs construction at the west side of the house, at the south end.

The drawings also noted a "proposed patio" on the west side with no dimensions (but scales to 3m wide) with a ramp from the public path to the level of the patio 1.5m from the house at the north end. It is clear that the drawings intended that the patio would be at ground level as there is no cross section showing to the contrary, no reference to any above ground construction and no reference to the need for any "safety features" that might arise if the patio level gave rise to such an issue.

The planning application made on 23.1.2015. A further submission with alterations was made on 23.1.2019. A decision agreeing that the amendments removing balcony and stairs and revising the roof were minor in nature and confirming that no new planning application was required was made on 7.2.2019.

The "minor amendments" drawings include a shaded area on the west side with a note "proposed timber decking". The side elevation has a note stating "fit timber decking". There is not any above ground construction (balustrade or fence) shown on the section and nothing to indicate that the proposed deck is raised above ground level and no construction details to indicate that it is to be other than at ground level. The colouring in the drawings mark the outline of the proposed elements to be constructed in red. The timber decking is not marked in red. There is a detailed

section showing the construction details from the existing ground level where the proposed extension occurs but there is no similar construction detail indicating timber decking raised above ground level and with perimeter fencing/posts and glass panels

Accordingly, there is not any evidence in File 1523 that Planning Approval included permission to build a raised patio or a raised deck structure nor any balustrade, glass panels or other above ground construction on the west side of the house. There is no indication on any planning application or planning approval document that the "patio" or "timber decking" was other than at ground level.

The Carrowhubbock Holiday Village was the first such development in Enniscrone. The design layout means that the houses are surrounded by open grassed areas, without walls or hedges and access to the houses is by footpaths through the grassed areas. Car parking areas are located adjacent to the access road and there are not individual car parking spaces adjacent to each house. The uncluttered common open area is a particular feature of the development. The house owners, through their membership of the management company and resolutions passed at AGM's, have protected this feature by specific motions confirming that there should not be any above ground structures other than building extensions or conservatories and that there should not be any parking on the grassed areas, even of a temporary nature when emptying or loading cars.

Scrutiny of the planning application in 2015 by house owners in Carrowhubbock Village showed a building extension. Had the application included a raised deck structure this would have led to objections. This will also be the case if a new planning application seeking retention is made at this stage.

Copy of email 2 SCC to KH dated 15.2.2021

ENF 2731 - Patio Structure at No. 41, Carrowhubbock  
Holiday Village, Enniscrone  
Carrowhubbock

**Suzanne Siberry** <[ssiberry@sligococo.ie](mailto:ssiberry@sligococo.ie)>

Mon, Feb  
15, 4:25  
PM

to me

Kyran

Following an inspection it appears that the patio/decking area is not inconsistent with the drawings submitted under PL 15/23. Therefore, we do not consider that any enforcement action is warranted.

Regards

**Suzanne Siberry**  
**Senior Staff Officer**  
**Sligo County Council**

Enforcement Section, City Hall, Quay Street, Sligo F91 PP44

+353-71-9114443  
[ssiberry@sligococo.ie](mailto:ssiberry@sligococo.ie)  
[sligococo.ie](http://sligococo.ie) | [sligo.ie](http://sligo.ie)

7 Rathasker Heights  
Naas  
Co Kildare W91 HF5K

22 February 2021

Suzanne Silberry  
Senior Staff Officer  
Sligo County Council  
Enforcement Section, City Hall  
Quay Street  
Sligo F91 PP44

Re ENF 2731

Dear Ms Silberry

I refer to my planning complaint sent by email on 8 February and to your acknowledgement sent by email on 15 February and to your further email to me on 15 February.

The entire text of the second email that you sent on 15 February is as follows: "Following an inspection it appears that the patio/decking area is not inconsistent with the drawings submitted under PL 15/23. Therefore, we do not consider that any enforcement action is warranted."

It is my belief that any objective analysis would find that the patio/decking structure extending generally to between 2.05 and 2.3 metres vertically above ground level is not consistent with the drawings submitted under PL 15/23.

Your statement is that "it appears that the structure is not inconsistent with the drawings". I respect, although at present I do not understand, that you may well have grounds for reaching such a conclusion. May I request that you elaborate and explain the parameters of your assessment and the findings of your determination regarding those parameters.

Secondly, can I ask you to comment on the timing of the construction of patio/decking structure. The development permitted in File 15/23 was completed in May 2019 and the house was occupied from that time. It is my contention that the patio/decking, which commenced in late June 2020, was a separate development from that permitted in File 15/23 and the nature of the development meant that a planning application was necessary and accordingly the construction of the patio/decking was unauthorised.

It is clear from this letter that I am querying the grounds on which you have made the conclusion that you "do not consider that any enforcement action is warranted". If, after I receive your reply to this letter, I disagree with your conclusion can you inform me please of the appeal process that I can avail of to pursue the matter further in the event that I choose to do so.

Regards

  
Kyran Hurley

17



COMHAIRLE CHONTAE SHLIGIGH  
HALLA NA CATHRACH SLIGEACH

SLIGO COUNTY COUNCIL  
CITY HALL SLIGO

+353 71 911 1111  
+353 71 911 4499

info@sligococo.ie  
www.sligococo.ie

Enforcement Section, City Hall, Quay Street, Sligo F91 PP44

Telephone Number:  
Fax Number:

071 911 4443  
071 9138054

E-mail: [enforcement@sligococo.ie](mailto:enforcement@sligococo.ie)

8<sup>th</sup> March, 2021

File Ref: ENF 2731

Kryan Hurley  
7 Rathasker Heights  
Naas  
Co. Kildare  
W91 HF5K

Re: **Patio Structure at No. 41, Carrowhubbock Holiday Village, Enniscrone, Co. Sligo**



Dear Mr. Hurley

I acknowledge receipt of your letter dated the 22<sup>nd</sup> February, 2021.

As stated in previous email the patio/decking area is not inconsistent with the drawings submitted under PL 15/23. The inclusion or addition of the handrail would be considered to be a minor alteration from the planning drawings and would not warrant enforcement action.

The expiry date for the development is five years after the grant date. The grant date was the 11<sup>th</sup> April, 2015 and therefore the expiry date was the 10<sup>th</sup> April, 2020. However, 9 days for each Christmas in that period (45) needs to be added on along with 56 days when the planning timelines were suspended due to Covid - 19. This brings the expiry date to 20<sup>th</sup> July, 2020. However, we would consider the development to have been substantially completed when the house was finished and therefore we do not consider the construction of the patio to be outside the planning timelines.

Yours sincerely

  
Suzanne Siberry  
Senior Staff Officer  
Enforcement Section  
 [sligo.ie](http://sligo.ie)



SLIGO COUNTY COUNCIL  
Comhairle Chontae Shligigh

APPLICATION FORM FOR DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT  
(Planning & Development Act 2000 (as amended)  
(Section 5)

Address: Sligo County Council Planning Section, City Hall, Quay Street, Sligo	Tel: 071 9114455 or 071 9114458  Fax: 071 9114499	E-mail: <a href="mailto:planning@sligococo.ie">planning@sligococo.ie</a>  Website address: <a href="http://www.sligococo.ie">www.sligococo.ie</a>
--	--	---

Name of Applicant: Kyran Hurley  
(Address must be supplied at end of this form)

Description of Development/ Proposed Development for which a Declaration is Sought:  
A raised timber deck and surrounding boundary fences and supporting pillars constructed at the front (west side) of No 41  
Carrowhubbock Village, Enniscrone

Location, townland or postal address of Development / Proposed Development:  
41 Carrowhubbock Village, Carrowhubbock South, Enniscrone, Co Sligo

Interest of Applicant in Development/Proposed Development:  
Owner [ ] Occupier [ ] Other [ x ] (Tick Appropriate box ✓)

If Applicant is the occupier or other please state interest in Development.  
I am an owner of another property in Carrowhubbock Village and I am the Chairman of the owner's management company, Carrowhubbock Management Company CLG.

Name of occupier, if different from applicant: Katherine Heffernan  
(Address to be supplied at end of this form)

If applicant is not the legal owner please state the name of the owner:  
Katherine Heffernan, Maxine Creighton, Chay Creighton, Kier Creighton  
(Address must be supplied at end of this form)

Name of person / agent acting on behalf of the applicant, if any: \_\_\_\_\_  
(Address to be supplied at end of this form)

Reason why proposed development/development is considered exempt or not:  
It is not exempted development within the meaning of the Planning and Development Act and Regulations  
Please indicate when development was carried out (if applicable): June to September 2020

Documents to be included with this application form (please tick ✓)

Site location map [ ] Site layout map [ ] Floor plans & elevations Fee (€80) [ ]  
Scale 1:2500 Scale 1:500

I hereby declare that the information given on this form is correct.

Applicant Signature: K Hurley Date: 7 April 2021



7 Rathasker Heights,  
Kilcullen Road  
Naas,  
Co Kildare W91 HF5K

Sligo County Council  
Planning Section,  
City Hall,  
Quay Street,  
Sligo

7 April 2021

**Re: Request for a declaration under Section 5 of Planning and Development Act 2000 (as amended) regarding a raised timber deck to the front of 41 Carrowhubbock Village, Enniscrone, Co. Sligo**

Dear Sir/Madam,

**Introduction**

I am the Chairman of the Carrowhubbock Management Company CLG and I have been requested by the Company to submit a request for a declaration under Section 5 of the Planning and Development Act 2000 (as amended). I have completed the standard Sligo County Council application form for Section 5 references which I enclose and am including this letter to outline the background to the request.

The declaration seeks to ascertain whether a raised timber deck and surrounding boundary fences and supporting pillars constructed at the front (west side) of number 41 Carrowhubbock Village, Enniscrone are, or are not, development or are, or are not, exempted development within the meaning of the Planning and Development Act and Regulations.

**Description of Development**

The elevated deck structure adjoins number 41 Carrowhubbock Village and consists of an 11m x 3m patio deck - 33sq. metres approximately - the floor level of which is up to 0.8m above ground level. There is a timber wall 1.5m high, 2.3m above ground level, on the north side. There is a timber wall 1.25m high on the south side (some 2m above ground level) and a wall of 1.2m high glass panels separated by vertical timber supports on the west side (again some 2m above ground level). The top of the structure on the west and south sides is up to 2.05m above ground level. The construction of the deck structure commenced in late June 2020, almost 12 months after completion of the building of an extension that was approved under planning register reference 15/23 (which as will be seen below differs markedly from the extension which was actually granted permission).

(Note – given that this declaration is requested by the Management Company of Carrowhubbock Village the measurements given above can only be approximate and the planning authority should therefore confirm the measurements of the development on site itself.)

**Carrowhubbock Holiday Village**

Carrowhubbock Village is a scheme of 41 holiday homes. It is located to the north of Enniscrone, off the Pier Road. As can be seen from the attached layout the houses are a mixture of individual detached dwellings and terraced or semi-detached houses. Twenty of the houses, at the rear of the site, are gable fronted dormers with an average floor area of approximately 93 sq. metres.

The layout of the scheme means that the houses are surrounded by open grassed areas, without walls or hedges, and access to the houses is by footpaths through the grassed areas. Car parking areas are located adjacent to the access road and there are no individual car parking spaces adjacent to each house. The uncluttered common open area is a particular feature of the development. Originally the lands owned by each home owner consisted of the area occupied by the house only. However over the years and to facilitate particular developments around the houses – house extensions and conservatories. – the individual property ownerships now extend some 3 metres out from external walls of each house. (The exceptions to this general rule would be where two houses would be physically closer together and the ownerships from the external walls of both houses would be split on a pro rata basis.) The house owners, through their membership of the management company and resolutions passed at AGMs, have protected the uncluttered common open area and general appearance feature by specific motions confirming that there should not be any above ground structures other than building extensions or conservatories and that there should not be any parking on the grassed areas, even of a temporary nature when emptying or loading cars.

**Planning History**

Katherine Heffernan and Martin Lyons applied on 23 January 2015 under planning register reference 15/23, to construct a 66.50 sq. metre extension to the rear (east) and side (south) of an existing private holiday home, 41 Carrowhubbock Holiday Village, Enniscrone.

According to the plans submitted to Sligo County Council the proposal would consist of a proposed sunroom, utility, bathroom and bedroom and an extended bedroom on the ground floor. At first floor level the development would consist of a TV room on the east side of the house and an open balcony area on the south side of the house. The first floor would be accessed by an external hardwood stair leading from the ground floor on the west side of the house. A ramp from the nearby public footpath would lead to a patio area at ground level. Timber trellis and screen planting were proposed around the external stair leading to the proposed first floor balcony. While the drawings noted a “proposed patio” on the west side with no dimensions (but scales to 3m deep) with a ramp from the public path to the level of the patio 1.5m from the house at the north end. It is clear that the drawings intended that the patio would be at ground level as there is no cross section showing to the contrary, no reference to any above ground construction and no reference to the need for any “safety features” that might arise if the patio level gave rise to such an issue. The site plan submitted shows the development on the west and south sides – marked in red – and does not show any development on the west (front) side of the house.

The front elevation showed the external stairs including trellis cladding/planting. However as noted above no raised decking or fencing around the stair was shown on the front elevation drawing. The only vertical elements at ground level illustrated was the external stair and trellis/planting to mitigate its impact. The two side elevations – north and south – and the two sections submitted with the application illustrate the stairs leading to the first floor sunroom and TV room. There is no indication on either the elevations or the sections that there might be a raised patio or deck area to the front of number 41.

Permission was granted for the development on 11 April 2015. In the reasons and considerations for granting permission the Council stated that, subject to compliance with the conditions on the permission, the proposed development would not be injurious to property in the vicinity. Condition 1 of the permission required that “the development shall be carried out in accordance with the plans and particulars submitted to Sligo County Council on 23 January 2015”. The reason given for this condition was “in order to clarify the documents to which this permission relates”. Condition 2 dealt with the disposal of surface water from the development.

Almost four years after planning permission was granted for the proposed development the applicant's agent made a submission to Sligo County Council on 23 January 2019 proposing some seven "minor alterations" that the applicant wished to make to the proposed development. These are illustrated in drawings (elevations, floor plans and section) accompanying that submission. The Council agreed on 7 February 2019 that the amendments, including removing the proposed balcony and stairs, revising the roof profile and amending the external appearance including fenestration, were minor in nature and confirmed that no new planning application was required.

The "minor amendments/alterations" drawings include a shaded area on the west side with a note of "proposed timber decking". The side elevation has a note stating "fit timber decking". No above ground construction (balustrade or fence) is shown on the section and there is nothing to indicate that the proposed deck is raised above ground level. No construction details were included to indicate that it is to be other than at ground level. The colouring in the drawings mark the outline of the proposed elements to be constructed in red. The timber decking is not marked in red. There is a detailed section showing the construction details from the existing ground level where the proposed extension occurs but there is no similar construction detail indicating timber decking raised above ground level and with perimeter fencing/posts and glass panels. Accordingly, there is no evidence from the planning register reference file 15/23 - either in the planning permission itself and or in the Council's letter of 7 February 2019 - that planning consent was given to build a raised patio or a raised deck structure nor any balustrade, glass panels or other above ground constructions to the front (west side) of number 41. There is no indication on any planning application or planning approval document that the "patio" or "timber decking" was other than at ground level. In a letter to me from Sligo Co Council dated 8 March 2021 it is stated that *"the patio/decking area is not inconsistent with the drawings submitted under PL15/23. The inclusion or addition of a handrail would be considered to be a minor alteration from the planning drawings and would not warrant enforcement action"*. However it is unclear what this means – the drawings submitted in 2015, which went through the normal statutory process, or the interactions between the applicant's agent and the Council regarding "minor alterations" which was engaged on in early 2019.

The "minor alterations" could not be regarded in any way as being minor. They were not immaterial deviations from the permission. The permission contained just two conditions, one of which was that "the development shall be carried out in accordance with the plans and particulars submitted to Sligo County Council on 23 January 2015" with the reason given for this condition being "in order to clarify the documents to which this permission relates". The "minor alterations" were identified by the applicant's agent as being seven in number and the extent of which are illustrated by him on his drawings.

It is understood in planning law and practice that some degree of flexibility and some tolerance can be given as issues may arise in carrying out a development which were not foreseen in the consideration and approval of the development e.g. changes to external finishes where a specified material may not be available when construction commences. In addition, "points of detail" may be agreed between the applicant and the planning authority following the grant of a permission. However the Council's discretion is limited in this regard on the extent of changes it can agree to.

A planning authority is required to faithfully implement what has been decided in the permission. In the case of *Tracey v An Bord Pleanála* [2010] IEHC 13, MacMenamin J. emphasised that the planning authority in agreeing points of detail is confined to implementing what has already been decided in the parent permission. This is not what happened in relation to register reference 15/23 when the Council agreed to a radically altered set of proposals and where the Council had previously stipulated to the applicant (and informed any other interested parties) in condition 1 that "the development shall be carried out in accordance with the plans and particulars submitted to Sligo County Council on 23 January 2015". It is

contended by the Management Company that the revised proposals put forward by the developer and agreed by the Council required a separate planning permission.

It is accepted that time may have elapsed from challenging the Council's letter of consent to the changes to the design and layout of the proposed development. However this doesn't make what occurred correct or legal and this now has implications for further development on the site viz. the raised timber decking and surrounding walls and supports which have been erected to the front of number 41. The Council's error in agreeing to a significantly revised proposal to that permitted should not be further compounded by accepting that the raised decking and associated development was either permitted at the time the permission was granted in 2015 or 4 years later when the applicant's significantly altered proposals were accepted in the Council's letter to the applicant dated 7 February 2019 without recourse to a new planning application. This is especially the case where the Council appears to be depending on unclear and inconsistent drawings and where this part of the development should have been advertised as part of the planning application in 2015 if one is to follow the Council's contentions.

The Planning and Development Regulations 2001 contain restrictions on what are termed exempted developments. It is contended that the raised patio decking and the other features do not constitute exempted development for the purposes of the Planning Act and Regulations as 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" and "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" (see article 9(1)(a)(i) and article 9(1)(a)(vii) of the Regulations).

**The raised decking together with its boundary walls and support pillars are neither covered by permission 15/23 and its conditions nor by the Council's letter accepting the applicant's revised proposals in 2019 and are not exempted development and therefore require a separate permission.**

**Planning and Development Act and Regulations**

In the event that Sligo County Council does not accept the Management Company's contentions set out above, that the raised timber decking, walls and vertical piers are not permitted by planning register reference 15/23 or the purported assent given to the significantly revised proposals submitted in 2019, the Company also contends that the development does not comply with the exemptions provided for under the Planning and Development Acts and Regulations.

General obligation to obtain planning permission

The Planning and Development Act 2000 at section 32 states that there is a general duty to obtain planning permission for development.

*"(1) Subject to the other provisions of this Act, permission shall be required under this Part—*

*(a) in respect of any development of land, not being exempted development, and*

*(b) in the case of development which is unauthorised, for the retention of that unauthorised development.*

*(2) A person shall not carry out any development in respect of which permission is required by subsection (1), except under and in accordance with a permission granted under this Part."*

LJ

As there is a general duty to obtain planning permission to carry out development there is an onus on the developer to demonstrate that the development is in fact exempted. An exemption is considered a privilege and so a development must come clearly and unambiguously within the terms of the Regulations (see Dillon v Irish Cement, Supreme Court, 26 November 1984). The development carried out at number 41 does not meet this test.

#### Development

Section 3(1) of the Planning Act 2000 states that *"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"*.

Works are defined in section 2 of the Act as including *"any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure"*.

The erection of the timber deck etc. to the front of number 41 Carrowhubbock clearly constitutes development as it involves "works" within the meaning of section 3(1) of the Act.

#### Exempted development.

Section 4(1) of the Act states that a number of forms of development shall be exempted developments for the purposes of the Act. Two of these which are relevant to this case are included at section 4(1)(h) and 4(1)(j).

Section 4(1)(h) states that *"development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;"* shall be exempted development.

The timber decking and associated development – walls, support piers etc. – at number 41 involve alterations which do materially affect the external appearance of the structure. These works affect not only the appearance of the house itself but also render the appearance of the structure inconsistent with the character of the structure and of neighbouring structures. There are no similar elevated, walled in timber decks on the front elevations of the houses in the Carrowhubbock Village development.

Section 4(1)(j) of the Act states that *"development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such"* shall also be exempted for the purposes of the Act. Thus the general use of one's garden, patio etc. do not come within the scope of planning legislation. However it should be noted that this exemption is confined to "use" not "works". In the current case it is the works that are being/have been carried out prior to any use of the structure is the first issue to be addressed. The development works required permission and any use following these works would not enjoy the benefits of any exemption under Section 4(1)(j).

Planning and Development Regulations

The Planning and Development Act at section 4(2)(a) provides that "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..." (My underline).

These regulations – the Planning and Development Regulations 2001 (as amended) – contain detailed provisions in Schedule 2, Part 1 regarding exempted development. Classes 1 to 8 in Part 1 deal with developments within the curtilage of a house. Article 6(1) of the Regulations state that - "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." Thus the benefit of exemptions (and as mentioned earlier in this submission) is dependent on the restrictions on exemption set out in article 9 viz. if the carrying out of such development would contravene a condition attached to a permission under the Act or would 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. As can be seen above the elevated front decking at number 41 does not comply with these restrictions and therefore does not enjoy the benefits of the exempted development provisions.

Again in this case the most relevant classes are Classes 3 and 5 which are set out below – the different classes of development and the conditions and limitations on each class. I have also added the Management Company's observations on the different classes where it applies to the subject case.

It should also be noted that the issue of ground levels is also of relevance as the decking has been erected above ground level as have the walls surrounding the decking together with their piers/pillars. Article 5(2) of the Planning and Development Regulations 2001 (as amended) state that:

*In Schedule 2, unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose "ground level" means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.*

Extract from the Planning and Development Regulations 2001 (as amended), Schedule 2, Part 1

Column 1 Description of Development	Column 2 Conditions and Limitations	Observations of Management Company
Development within the curtilage of a house		
CLASS 3		
The construction, erection or placing within the curtilage of a house of any tent, awning, shade	No such structure shall be constructed, erected or placed	While this class appears to refer to covered structures it is noted that "no such structure shall be constructed,

<p><i>or other object, greenhouse, garage, store, shed or other similar structure.</i></p>	<p><i>forward of the front wall of a house. (Remainder of conditions don't apply)</i></p>	<p>erected or placed forward of the front wall of a house". The raised patio deck structure is constructed at the front of the house, Accordingly, as it not clearly and unambiguously within the Conditions and Regulations it does not enjoy the benefit of exemption.</p>
<p><b>CLASS 5</b></p>		
<p><i>The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.</i></p>	<p><i>1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres. 2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered. 3. No such structure shall be a metal palisade or other security fence.</i></p>	<p>As has already been pointed out in this submission, the walls and piers/pillars in front of the house are between 2m above ground level and one section of wall is 2.3m above ground level. As these exceed 1.2 metres in height it follows that the raised deck structure is de-exempted.</p>

**Conclusion**

I and the other Directors of Carrowhubbock Management Company CLG act in a voluntary capacity in managing the affairs of the owner's management company in the interests of the 41 members/owners. I confirm that I am requesting a declaration under Section 5 of Planning and Development Act 2000 (as amended) to ascertain whether a raised timber deck and surrounding boundary fences and supporting pillars constructed at the front (west side) of number 41 Carrowhubbock Village, Enniscrone are or are not development or are or are not exempted development within the meaning of the Planning and Development Act and Regulations.

I, and all other interested parties, did not have an opportunity to inspect and consider any plans or drawings of the raised patio deck structure development at any stage in the planning application or planning approval process and had no notice that such a development was proposed. Following the AGM of the Company in August 2020, at which time the members were aware of the raised patio deck structure development for the first time, the Company approached and sought clarification regarding the development from both the owner and Sligo County Council, the current outcome of which is my request for a declaration under Section 5.

I confirm also that I am sending a copy of this letter to Katherine Heffernan, an owner of the property at 41 Carrowhubbock Village.

Yours faithfully,



Kyran Hurley,

Chairman

Carrowhubbock Management Company CLG

Attachments

Section 5 Form

Layout Map Carrowhubbock Village





COMHAIRLE CHONTAE SHLIGIGH  
HALLA NA CATHRACH SLIGEACH

SLIGO COUNTY COUNCIL  
CITY HALL SLIGO

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info@sligococo.ie  
www.sligococo.ie

7<sup>th</sup> May, 2021

File Ref: ED, 421/KK

Kyran Hurley,  
7 Rathasker Heights,  
Naas, Co Kildare,  
W91 HF5K

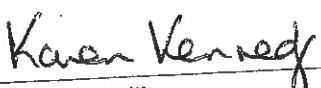
**Re: Application for exemption in accordance with Section 5 of the Planning and Development Act 2000 (as amended) in Respect of a Raised Timber Deck and Surrounding Boundary Fences and Supporting Pillars Constructed at the Front (West Side) at No. 41 Carrowhubbuck Village, Enniscrone, Co. Sligo**

I enclose herewith a declaration in accordance with Section 5 of the Planning and Development Act, 2000 (as amended) in respect of the following:

<b>Name &amp; Address of Applicant:</b>	Kyran Hurley, 7 Rathasker Heights, Naas, Co. Kildare, W91 HF5K
<b>Declaration Requested for:</b>	A raised timber deck and surrounding boundary fences and supporting pillars constructed at the front (west side)
<b>Location:</b>	No. 41 Carrowhubbuck Village, Enniscrone, Co. Sligo
<b>File Reference:</b>	ED 421
<b>Application Received:</b>	12 <sup>th</sup> April, 2021

Where a Declaration is issued under this Section, any persons may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review to the Board within four weeks of the date of issuing of the declaration by Sligo County Council.

Signed on behalf of Sligo County Council

  
Siobhan Gillen  
ADMINISTRATIVE OFFICER  
PLANNING SECTION

 sligo.ie

SLIGO COUNTY COUNCIL  
(Comhairle Chontae Shligigh)

CHIEF EXECUTIVE'S ORDER

P 199/21  
ED/421

APPLICATION FOR DECLARATION OF EXEMPTED DEVELOPMENT PURSUANT TO SECTION 5 OF THE  
PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED)

**Name & Address of Applicant:** Kyran Hurley, 7 Rathasker Heights, Naas, Co. Kildare, W91 HF5K

**Declaration Requested for:** A raised timber deck and surrounding boundary fences and supporting pillars constructed at the front (west side)

**Location:** No. 41 Carrowhubbuck Village, Enniscrone, Co. Sligo

**Having regard to:**

- The provisions of Sligo County Development Plan 2017-2023 and those of the Enniscrone Local Area Plan 2014 – 2020,
- The question submitted by the applicant to the Planning Authority on 12<sup>th</sup> April, 2021,
- The documentation pertaining to the planning application PL 15-23 and subsequent correspondence;
- The measurements taken on site by the Area Planner,
- The definition of works as set out in Section 2 of the Planning and Development Act, 2000 (as amended),
- Sections 3(1), 4(1)(h)(j) of the the Planning and Development Act 2000 (as amended)
- Articles 6(1) and 9(1), together with Schedule 2, Part 1 Class 5 of the Planning and Development Regulations 2001 (as amended)

**The Planning Authority considers that:**

**A raised timber deck and surrounding boundary fences and supporting pillars constructed at the front (west side) at No. 41 Carrowhubbuck Village, Enniscrone, Co. Sligo, would constitute development and is NOT exempted development for the following reasons:**

- The construction of a 31 sq m patio to the west elevation of the structure at No. 41 Carrowhubbuck Holiday Village is an element of the development permitted under PL 15-23 and is therefore authorized;
- The construction of a 1.2m high glass panel wall along the (front) western edge of the permitted patio is development and is exempted development;
- The construction of a 1.45m high timber fence along the northern edge of the permitted patio is development and is **NOT** exempted development.
- The construction of a 1.25m high timber fence along the southern edge of the permitted patio is development and is **NOT** exempted development.

P 109/21  
ED/421

**Order:** Pursuant to Section 5 of the Planning & Development Act 2000 as amended, Sligo County Council hereby decides that the proposed works as submitted to the Planning Authority on 12<sup>th</sup> April, 2021 relating to “a raised timber deck and surrounding boundary fences and supporting pillars constructed at the front (west side) at No. 41 Carrowhubbuck Village, Enniscrone, Co. Sligo, and is not “exempted development” for the reasons set out above.

  
Director of Services

*12.7th May 2021*  
Date

*To Whom this function has been delegated in accordance with the provisions of Section 154 of the Local Government Act, 2001, by Order No. No. 43/20 dated 08/10/2020.*

7 Rathasker Heights,  
Kilcullen Road  
Naas,  
Co Kildare W91 HF5K

Sligo County Council, Planning Section,  
City Hall,  
Quay Street,  
Sligo

18 April 2021

Re: File Ref : ED 421/KK

Dear Sir/Madam,

I refer to the letter I received dated 7 May 2021.

The Chief Executive's Order attached to that letter declared that the works as set out in my letter to Sligo County Council on 12 April 2021 is not "exempted development".

Please clarify what the implication of this order is for the works (a raised timber deck and surrounding boundary fences and supporting pillars constructed at the front (west side) at No 41 Carrowhubbock Village, Enniscrone, Co Sligo).

Is it the case that the order means

- (a) that the works must be removed in full or
- (b) that the side walls must be reduced to 1.2 meters high and the works then submitted to Sligo County Council for retention planning permission or
- (c) that the works as existing must be submitted to Sligo County Council for retention planning permission?

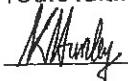
I am particularly interested in having clarification of this as soon as possible for the following reasons.

Firstly, the owner of the property at No 41 Carrowhubbock Village asserted, at a general meeting on 14 May of the owners of properties at Carrowhubbock Village at which 18 owners attended, that she had been speaking to "senior people in Sligo County Council who had assured her that the decking was completely authorised".

Furthermore, in a letter dated 16 May to the Owners Management Company Board the owner wrote that she had received a letter from Sligo County Council informing her that "you do not need planning permission to lower the side fences at your house to 1.2m. You do not need retention permission if you have already done so"

I look forward to hearing from you.

Yours faithfully,



---

Kyran Hurley

Copy email Sligo County Council to KH dated 20 May 2021

## FW: Letter to Sligo Co Co Planning Section Carrowhubbock

**Siobhan Gillen** <[sgillen@sligococo.ie](mailto:sgillen@sligococo.ie)>

Thu, May 20, 3:06  
PM (7 days ago)

to me

Dear Kyran,

Further to your email below and attached correspondence, please be advised that the purpose of the Section 5 Exempted Development provisions are simply to allow a person to question whether a development constitutes exempted development or not. The outcome of the declaration does not impose any further mandatory obligations on either the applicant, developer or the planning authority.

In circumstances where the planning authority has determined that development has been carried out which requires planning permission (i.e. not exempted development), it will be matter for the enforcement section of the relevant planning authority to determine whether any enforcement action is warranted.

The person who has carried out the works can remedy the breach by either removing the unauthorised structure or by altering the structure to bring it within the limitations of the exempted development provisions. Alternatively, they may decide to apply for retention of the structure by making a planning application to the planning authority to regularise the development.

I hope this clarifies your query. Should you require any further assistance, please do not hesitate to contact this office.

Thank you.

Regards,  
Siobhán

**Siobhán Gillen**  
*Administrative Officer*  
**Planning Section**  
**Sligo County Council,**







5/27/2021

Google Maps

4 ~~38~~ Carrowhubbock Holiday Village

~~38~~ Carrowhubbock Holiday Village - Google Maps

IMAGE OF COMPLETED HOUSE EXTENSION SEPT 2019



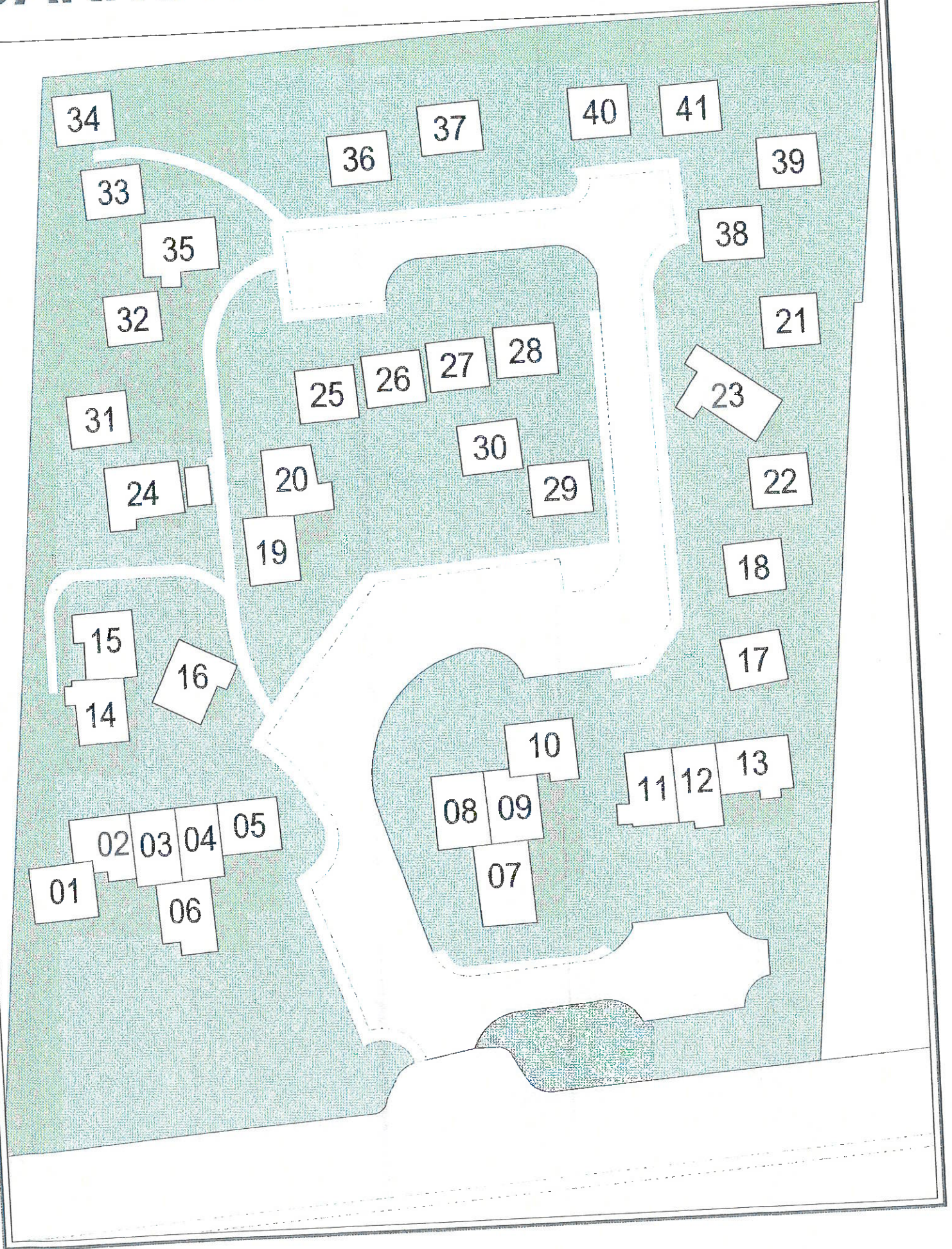
Google

Image capture: Sep 2019 © 2021 Google

55



# CARROWHUBBOCK VILLAGE





Google Maps Carrowhubbock Holiday Village

IMAGE 1, FRONT, FACING NORTH



Google

Image capture: Sep 2019 © 2021 Google



IMAGE 3, CENTRE, FACING NORTH

10 Carrowhubbock Holiday Village

Google Maps



Google

Image capture: Sep 2019 © 2021 Google



IMAGE 2, FRONT, FACING SOUTH



Google

Image capture: Sep 2019 © 2021 Google

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Sf



5/27/2021

10 Carrowhubbock Holiday Village - Google Maps

IMAGE 4, CENTRE, FACING SOUTH

Google Maps 10 Carrowhubbock Holiday Village



Image capture: Sep 2019 © 2021 Google



5/27/2021

Google Maps

38 Carrowhubbock Holiday Village

IMAGE 5, REAR, FACING NORTH



Image capture: Sep 2019 © 2021 Google

38 Carrowhubbock Holiday Village



Nos 39, 40, 41  
Carrowhubcock Holiday Village



IMAGE 6, REAR, FACING EAST

No 38

No 40

No 41

Google

Image capture: Sep 2019 © 2021 Google

<https://www.google.com/maps/@54.2187506,-9.0923305,3a,29.4y,105.57h,90.4t/data=!3m6!1e1!3m4!1s0HdBjkPTb8DJvJq1KV4ebw!2e0!7!16384!8!8192>



Proposed Sun-room

break out open air with  
open frame glazing  
walls, screening etc

Proposed external  
timber screen

Stairs to be screened  
from general view  
with timber trellis  
and screen planting

Timber trellis  
screening with  
screen planting

Proposed stairs

Perhaps a canopy  
for screen connection

Proposed patio

Ground floor plan

demolish existing  
back fence  
connection

Comp & south  
wall

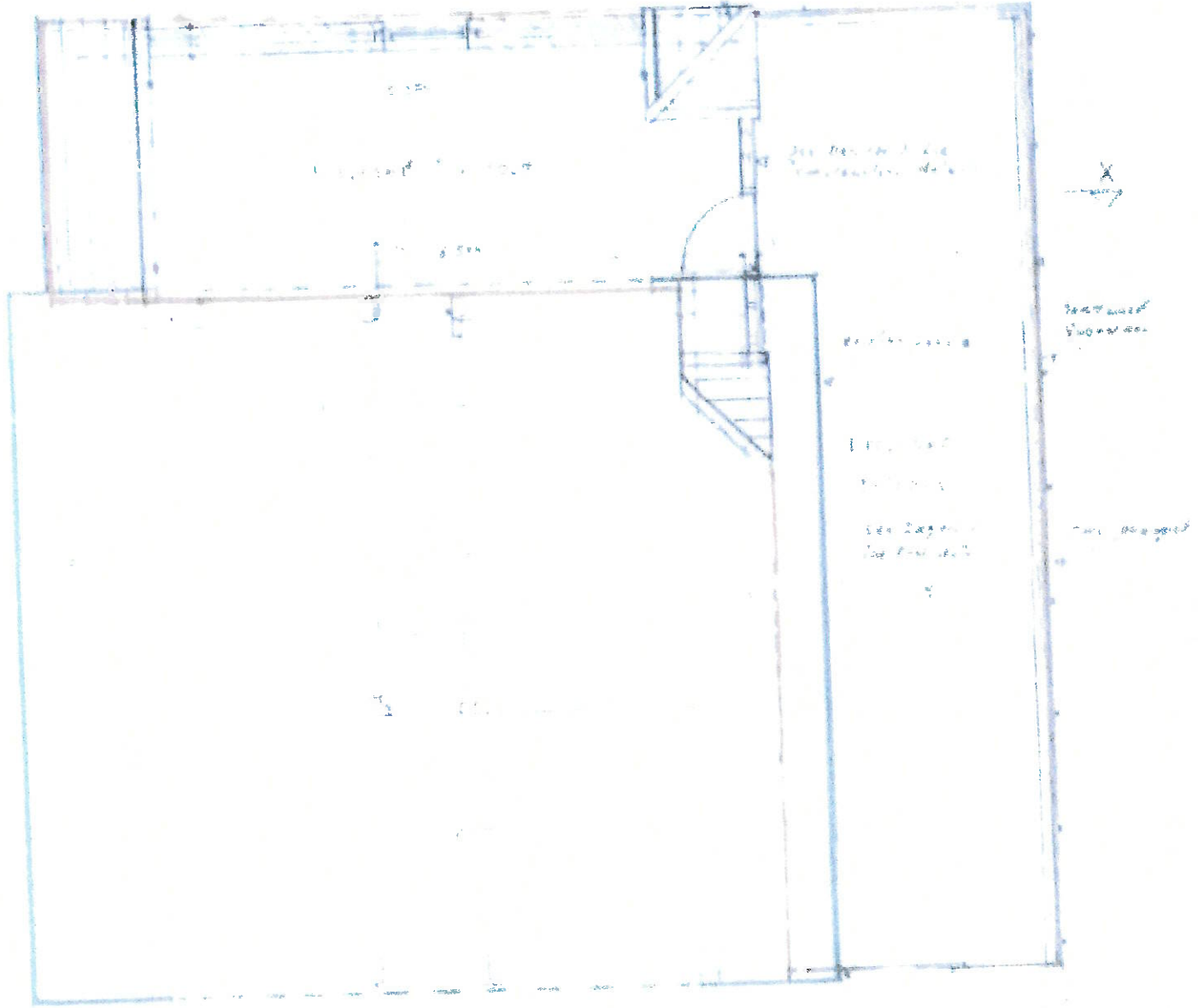


EXISTING HOUSE

PROPOSED EXTENSION



US 0411  
DERRIG & LEAHY  
BALLYHEANE INDUSTRIAL ESTATE  
TEL: 054 90 8092



Former plan



EX. TRC HOUSE



PROPOSED EXTENSION



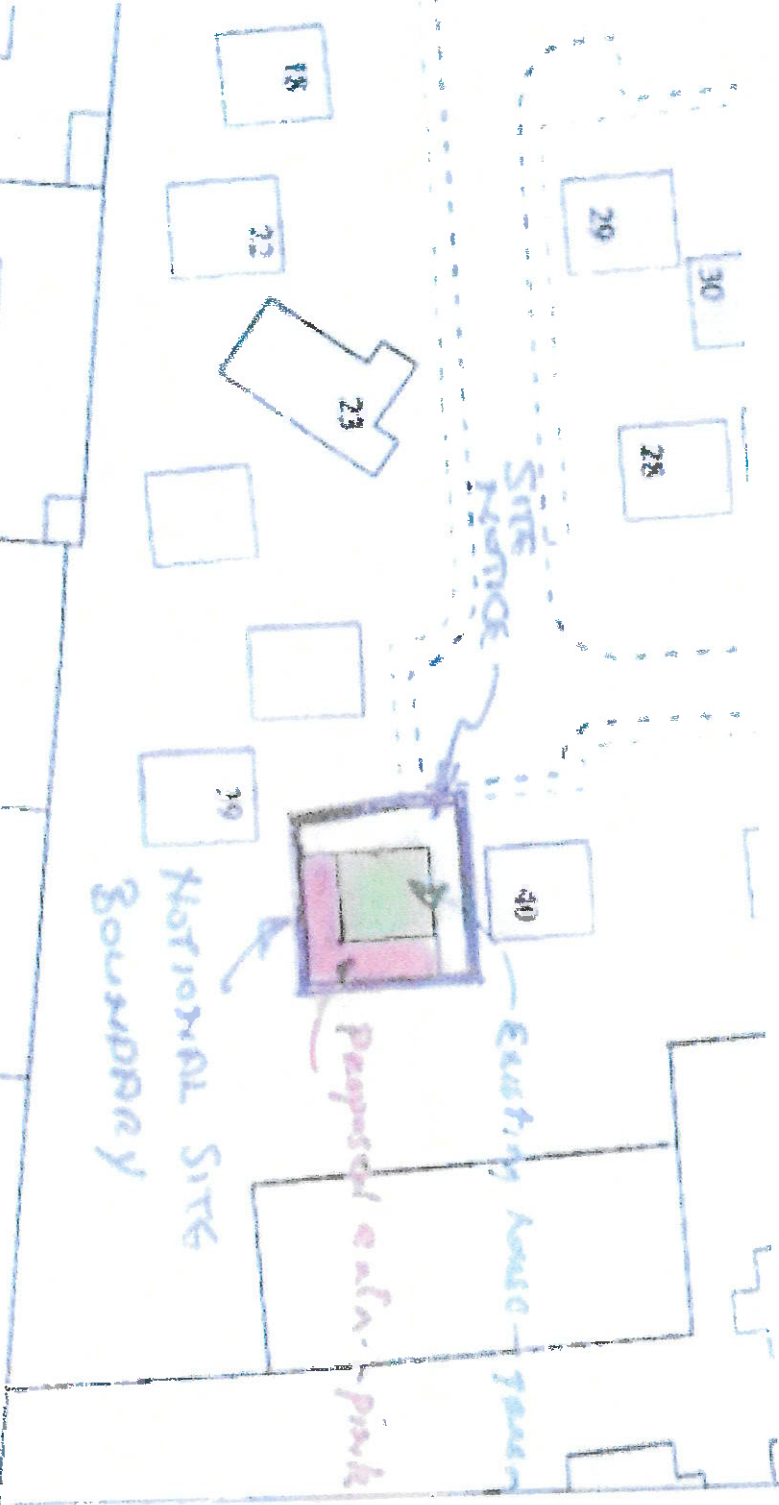
PL 1523 EXTRACT SITE LOCATION MAP

60 80 100 Metres  
200 250 Feet

Plot Ref No. 25215328  
Plot Date 19-DEC-2014

DRAWN BY  
GERARD FEHAI

BY THE NAME CASTLEBAR



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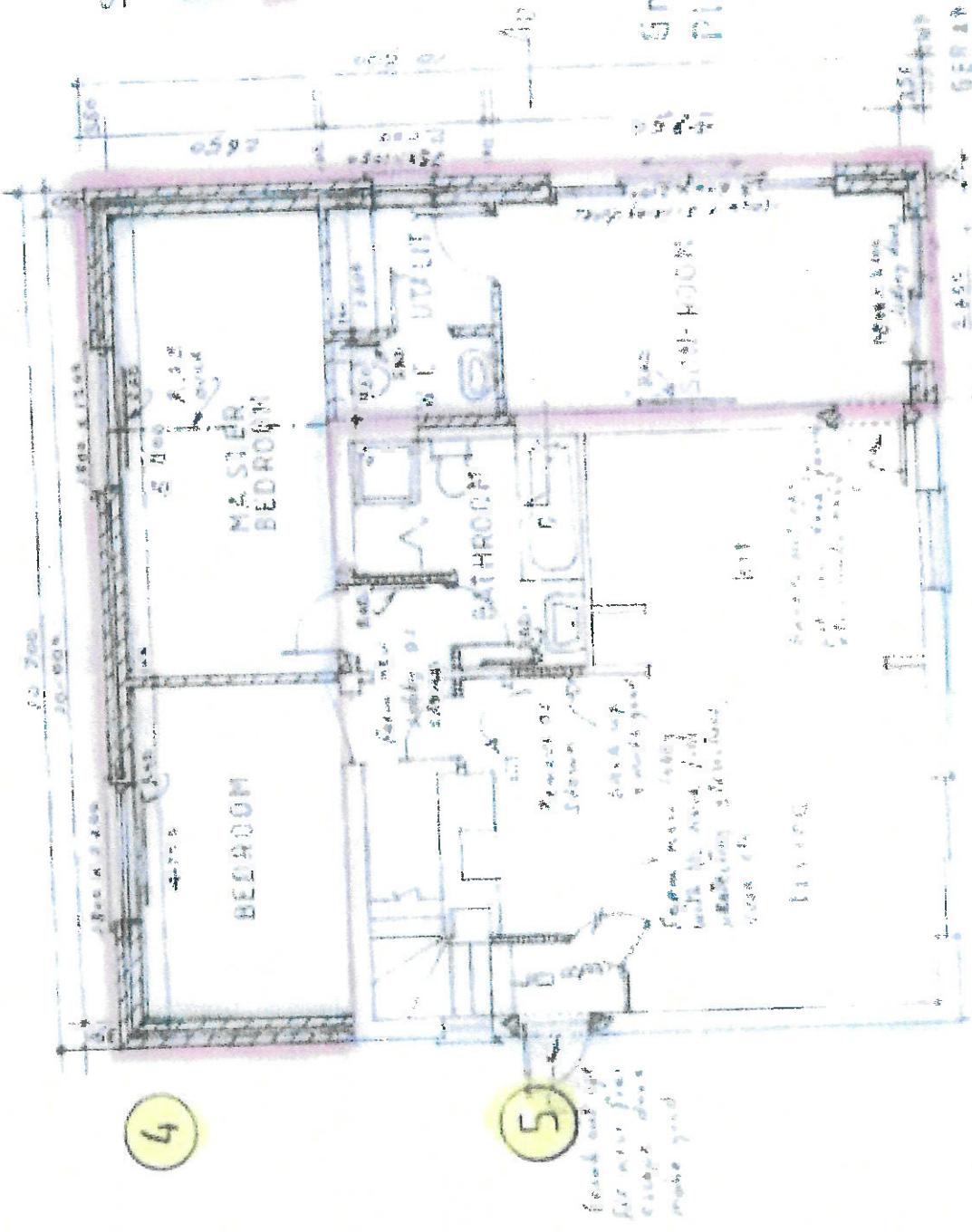
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PL 1523 EXTRACT GROUND FLOOR PLAN 2019

Scale: 1/100



Ground Floor  
Plan



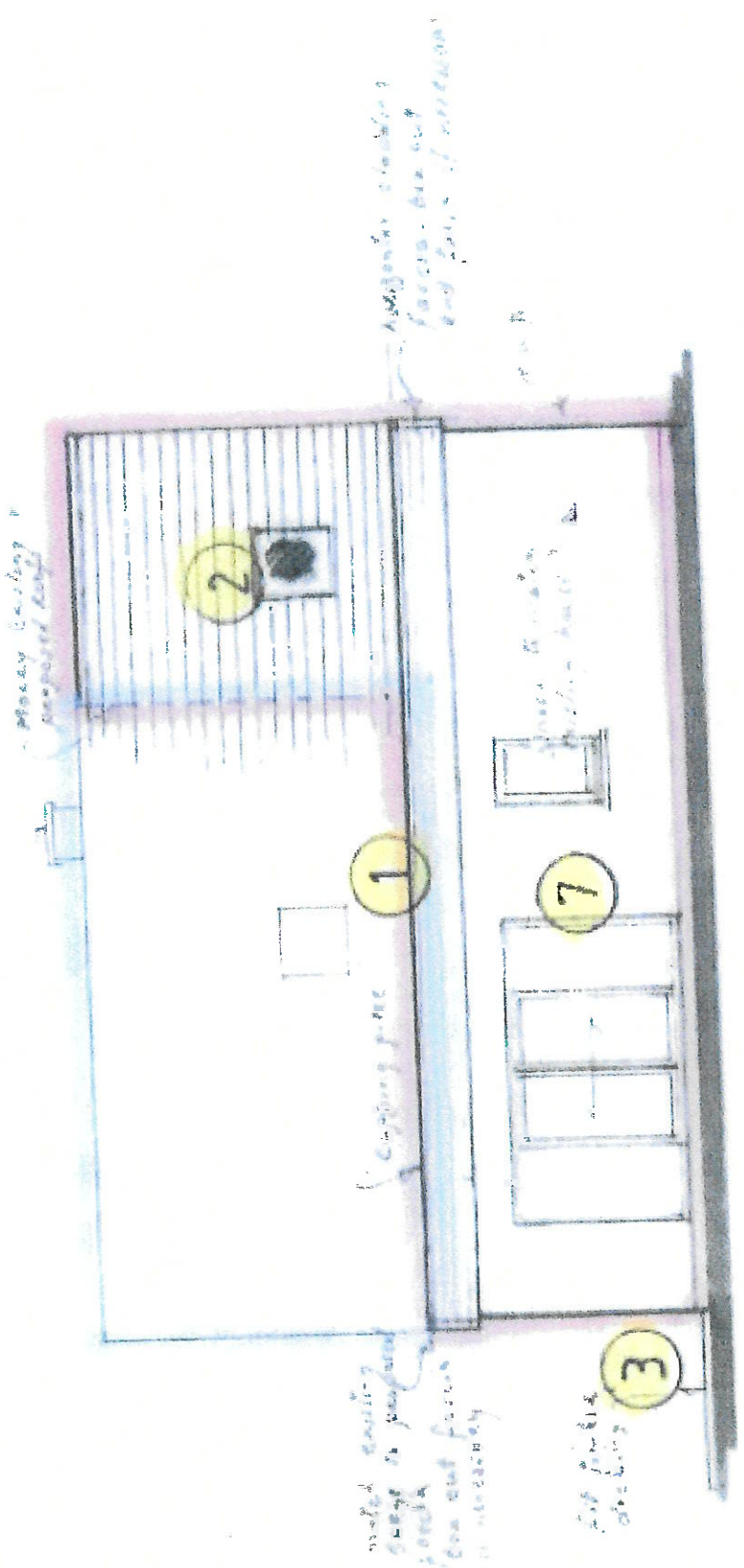
GERARD J. ...  
 BALTIMORE, MARYLAND  
 111 BALTIMORE ...

3

Proposed Fire escape

1111 ...  
 1111 ...  
 1111 ...

PL 1523 EXTRACT SOUTH ELEVATION 2019

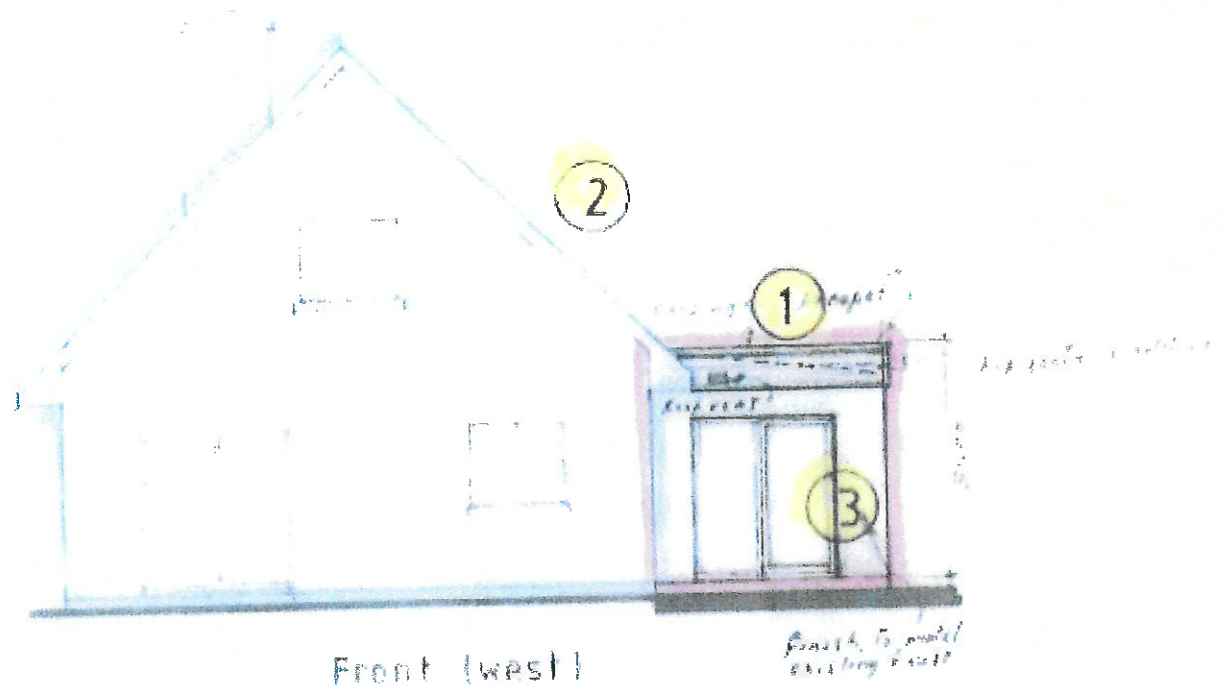


Side (south)

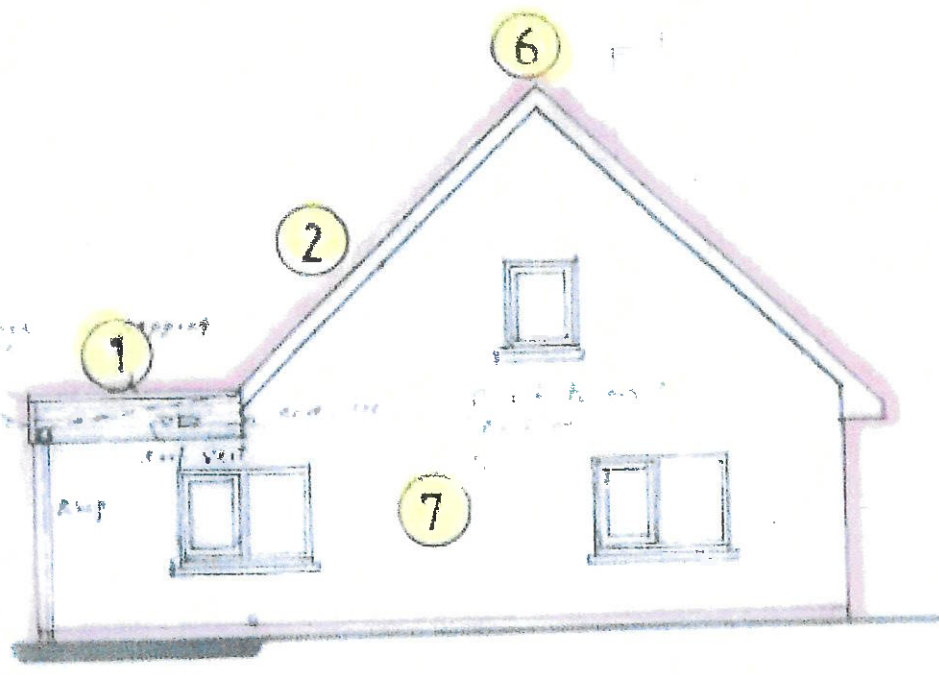
Scale 1/100



DATE: 14/08/2019  
 DRAWN BY: [illegible]  
 CHECKED BY: [illegible]



Front (west)



Back (east)

Scale 1/100

