

Dear Sir/Madam,

I made application to Donegal County Council on 7th October last for a formal declaration in respect of development that was then ongoing at the above address. The said development is one of several which has been progressed with apparent reliance on the relevant provisions of the exempted development regulations. It is my contention that the development in question does not in fact constitute exempted development within the meaning of the statutory planning and development code. I recently received the relevant declaration (dated 9th December last), stating that the work in question constitutes development, and moreover is exempted development. In the meantime, the development in question has been completed. Accordingly, I wish to seek a formal review of the said declaration by An Bord Pleanála, pursuant to Section 5(3)(b) of the Planning and Development Act 2000 (as amended), so as to determine whether the development in question constitutes exempted development.

The said development comprises the construction of a substantial elevated deck/balcony/viewing platform to the rear of an extension at the above address (which itself was constructed pursuant to planning permission ref. no. 20/51402). It appears that further development has taken place by way of the provision of access to this platform by means of large, glazed sliding doors from the principal living room, which were not indicated in the original application. The planning drawings for which permission exists clearly shows fixed glazing along the elevation in question. This would appear to be a material alteration, thereby also constituting development within the meaning of the planning & development code.

The structure is approximately 1.8m wide, running along the length of the extension and beyond (approximately 20m in total). When originally erected earlier this year, the base of this structure stood approximately 1.5-1.8m above the steeply sloping ground beneath it, which has since been artificially built up with filling material to meet the underside of the structure. The original ground level at this point (prior to the substantial civil works carried out as part of the development) was considerably lower again, thereby rendering the height of the structure well in excess of the parameters required in respect of exempted development. At time of writing, I note that parts of this artificially built-up ground are already beginning to slip due to the steeply sloping nature of the site.

McMorrow, Fanaaghans, Inver, Co. Donegal.

Re: Referral to the Board pursuant to Section 5 (3)(b) of the Planning & Development Act 2000, (as amended) (Related planning applications Ref. No. 20/51402 & 21/50566 — Jonathan & Claire)

Time: *1.30pm*

Fee: € *220*

21 DEC 2021

ABP- *046841-21*

LDG- *046841-21*

AN BORD PLEANALA

Email: *ajandpaul@eircom.net*

An Bord Pleanála,
64 Mariborough Street,
Dublin 1,
D01V902.

Drumellis,
Cavan,
20th December 2021

The background facts of the case are that my wife and I are the owners of an adjoining residential property, and we divide our time between that residence and our principal residence in Cavan. The property where the development is taking place was purchased by the current owners in 2020, and a planning application (ref. no. 20/51402) for substantial alterations and a large extension was made on 30th September 2020. Because County Cavan was subject to level 5 restrictions associated with the Covid 19 pandemic from 1st October until early December, we were precluded from visiting the area, thereby having no means of becoming aware of the matter. A decision to grant planning permission was duly made by Donegal County Council in November 2020, notwithstanding the fact that the subject development involves significant breaches of the council's own County Development Plan.

A further planning application (ref. no. 21/5066) was made in April 2021 for variations/additions to the existing permission, and I became aware of this only while on an essential work-related trip to Donegal. While in my view the planning authority erred considerably in granting the original planning permission, given the extent of its inherent conflict with the Council's Development Plan, the proposed variations added considerable insult to injury by further exacerbating the said conflicts with the Development Plan and thereby the adverse impact of the original scheme, both on the broader environment and on our residential amenity and privacy. One of the most objectionable aspects of the new application was a proposal to erect the structure in question.

We lodged a formal observation with Donegal County Council in respect of this application, which focussed on several repugnant aspects of the revised proposal, principally the inclusion of the structure in question. (It is noteworthy that the lodging of our formal observation resulted in an immediate verbal communication to me by the project architect that the proposed variations would be abandoned, and the subsequent withdrawal of that application).

It is important to note that neither the structure in question nor the associated glazed sliding doors were included in the original permission, but both formed part of the subsequent revised application which was withdrawn. The applicant however proceeded with these elements of the revised plans notwithstanding, and the offending structure is now in place, as are the sliding doors.

It is undisputed that both the structure and the material alterations in question constitute "development" within the meaning of the statutory planning code. Furthermore, in view of the structure's apparent nature, size, and height, as well as the material alteration to the original fenestration, it does not appear to meet the definition of exempted development. Regarding its height above ground level, this should be considered as its height prior to the artificial build-up of the ground below it, which itself constitutes development within the meaning of the relevant statutory provisions. Also relevant in considering whether or not development is exempted is the landscape category applied by the current Donegal County Development Plan to the area in which this development is situated, i.e., "Especially High Scenic Amenity". The provisions of Article 9(vi) of the Planning & Development Regulations 2001 (as amended) are relevant in that context. It should be noted in this regard that the property is one of an elevated row of six houses with direct coastal frontage, which enjoy spectacular views across Inver Bay and Donegal Bay.

It was noted by Ms. Aileen Quinn, A/Executive Planner, Donegal County Council, in her pre-planning letter of 30/07/2020 to the applicants' architect (20/51402) that the applicant should "have regard to the extension of the rear building line vis-a-vis the very steep fall to sea level beyond the existing boundary fence". The substantive structure (for which planning permission exists) appears to breach the line of the said fence, and the offending structure exacerbates the breach and in effect extends the rear building line further beyond that.

It will be noted in my letter of observation of 27th April last that much of the content was concerned with the significant adverse impact on our residential amenity arising from the proposed variations to the existing planning permission. It will also be noted that much of the adverse impact referred to derives in particular from the inclusion in the varied proposal of the structure in question. This structure directly overlooks the rear of our house and our garden in a way that is utterly excessive in the context of the applicants' enjoyment of their own property. The scheme for which permission already exists provides very comprehensively for the maximising of their views and for generous outdoor patio space, without the need for the superfluous additional developments in question, which come at such a high cost in terms both of third-party amenity and of the appropriate planning and development of such uniquely rural and scenic coastal surroundings.

1. Copy of my application to Donegal County Council dated 7th October last, seeking a declaration pursuant to Section 5 of the Planning & Development Act 2000 (as amended) together with supporting documentation;
2. Copy of letter from Donegal County Council dated 9th December last, together with Section 5 Declaration referred to therein;
3. Copy of my letter of observation to Donegal County Council dated 27th April 2021, in respect of planning application ref. no. 21/50566;
4. Copies of three drawings which formed part of the original application for which permission was granted (20/51402), and which are labelled for the purposes of this submission as Drgs. 1A, 2A, & 3A respectively. These drawings illustrate unambiguously the fenestration and balustrade details proposed as part of that application, and the absence of the raised platform referred to above;
5. Copies of three drawings which formed part of the subsequent (withdrawn) planning application (21/50566), and which are labelled for the purposes of this submission as Drgs. 1B, 2B, & 3B respectively. Apart from the enlarged and modified layout, these drawings clearly illustrate a number of material alterations which have been effected on-site, including the large, raised platform described above and the extensive sliding doors through which access is provided;
6. Ten photographs, showing the progression of the excavation, earth-moving, and build-up of the steeply sloping ground below the structure in question, labelled as Photos 1-10 respectively.

The following documents are attached for further elucidation/information in respect of the matter at hand:

I would draw attention also to the relevant provisions of the Council's own current County Development Plan, including (but not limited to) policy ref. NH-P-6, RH-P-1 & RH-P-2, and those contained in Appendix 4, including specific measures in relation to coastal development (ref 2.1). I would also respectfully suggest that a reading of my formal observation of 27th April last will provide additional detail and context which is relevant to the matter at hand. Various other matters outlined therein are also relevant to this specific element of the development, particularly those relating to excavation, cutting, filling, and congruity with the host environment, as well as intrusion/impact on third party amenity and privacy.

It may or may not be relevant to note that the progress of this project was the subject of a documentary which was broadcast on RTE1 television on 15th December last ("My Bungalow Bliss", Episode 3), which records in great detail the design intent as well as the development of the project on site.

While it is my view that the works and material alterations outlined do not in fact constitute exempted development, I recognise that in such cases there is often scope for differing interpretations of the associated regulations. I would contend that in such cases regard should be taken of the adverse impacts both on third party amenities and on the broader environment, the compatibility of the proposed development with the statutory County Development Plan, and the question of what is or is not reasonable in terms of provision for the necessary residential amenities associated with a family home.

I await the Board's formal declaration pursuant to the statutory provisions adduced above, as to whether or not the structure and material alterations referred to constitute exempted development. A cheque in the sum of €220.00 is enclosed, being the associated prescribed fee.

Yours faithfully,



Paul Hayden.

Email: alandpaul@eircom.net

Drumells,
Cavan,
7th October 2021

Planning Department,
Donegal Co. Council,
County House,
The Diamond,
Lifford,
Co. Donegal.
F93Y622.

Re: Planning & Development Act 2000, Section 5 (as amended) – formal declaration by planning authority regarding Exempted Development or otherwise; (Related planning applications ref. no. 20/51402 & 21/50566 – Jonathan & Claire McMorrow, Fanaghans, Inver, Co. Donegal).

Dear Sir/Madam,

I refer to previous correspondence from me dated 23rd June, 10th July, 5th August, and 29th September last, to which I have not received any satisfactory response. In the meantime, the development in question continues to progress rapidly.

I now wish to make application for a formal declaration from Donegal County Council in relation to the matters referred to in detail in the correspondence referred to above, in pursuance of the above statutory provisions.

The declaration sought refers specifically to a structure and ancillary works which were not included in the original planning application in this case (20/51402), but which formed part of the subsequent revised application which was subsequently withdrawn (21/50566). It is clear that the applicant is proceeding with these elements of the revised plans notwithstanding – parts of these works have already been completed, and the intention to proceed with them was confirmed to me verbally some time ago by the project architect. The said works include associated groundworks and material alterations to fenestration.

I would respectfully suggest that in considering the matter, regard should be had to the relevant provisions of the Council's own current County Development Plan, including (but not limited to) policy ref. NH-P-6, RH-P-1 & RH-P-2, and those contained in Appendix 4, including specific measures in relation to coastal development (ref 2.1). It should be noted also that the development is located in an area deemed in the County Development Plan to be one of "Especially High Scenic Amenity". Without repeating the entire contents of my formal observation of 27th April last, various other matters outlined therein are also relevant to this specific element of the development, particularly those relating to excavation, cutting, filling, and congruity with the host environment, as well as intrusion/impact on third party amenity and privacy.

Regarding the attached application, I note that it must be accompanied by certain prescribed drawings. Since this is in fact a third party application I do not have access to proper design drawings, and have therefore included some marked-up versions of drawings which were submitted as part of the planning applications referred to above. They nonetheless serve to convey the core principles of the developments referred to, and a relevant photograph is also included.

Accordingly, please find enclosed the following:

- Completed Section 5 application form;
- Site location map;
- Site layout plan;
- Floorplan;
- Section drawing;
- Photo taken some months ago, showing substructure in place;
- Cheque in the sum of £80, being the prescribed fee.

I await the Council's formal declaration pursuant to Section 5 of the Planning & Development Act 2000 (as amended), as to whether or not the developments referred to constitute exempted development.

Yours faithfully,

Paul Hayden.



SECTION 5 APPLICATION


DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

1. Applicant's Name		PAUL HAYDEN	
2. Name of Agent		N/A	
Contact details must be supplied at the end of this form			
3. Location of Proposed Development:		FAWKSHANS, INVER, CO. DONEGAL	
4. Description of Proposed Development:		MATERIAL ALTERATION TO FENESTRATION AND PROVISION OF SUBSTANTIAL SUSPENDED DECK PLATFORM.	
5. Is development a Protected Structure or within the curtilage of a Protected Structure?		Yes	No
(Indicate as appropriate)		✓	
6. If the answer to question no 5 is yes has a declaration under Section 57 of the Planning and Development Act 2000 (as amended) been requested or issued in respect of the property by the Planning Authority			
7. Applicants Interest in site:		NONE - THIRD PARTY *	
If applicant is not the owner of the site please provide the Name and Address of the owner		DONATHAN + CLAIRE McKEOWN, FAWKSHANS, INVER, CO. DONEGAL	
8. List of plans, drawings etc. submitted with this application:		1. LOCATION MAP 2. SITE LAYOUT PLAN 3. FLOOR PLAN 4. SECTION DRAWINGS 5. PHOTO SHOWING SUBSTRUCTURE	
9. Are you aware of any enforcement proceedings connected to the site? If so please supply details		NO.	

OFFICE USE ONLY	
Ref. No.	
Date Received	
Fee Paid	
Receipt Number	



- NOTES:**
- (a) Application must be accompanied by fee of €80.00
 - (b) Application must be accompanied by:
 - (i) site location map,
 - (ii) site layout plan,
 - (iii) elevations (if applicable).

10. Please provide details of works (where applicable) or proposed development (Only works listed and described under this section will be assessed under this section 5 application)	PLEASE SEE ATTACHED SHEET.	
	11. Signature of Applicant (or Agent):	
12. Dated:	07/10/2021	

Please provide details of works (where applicable) or proposed development

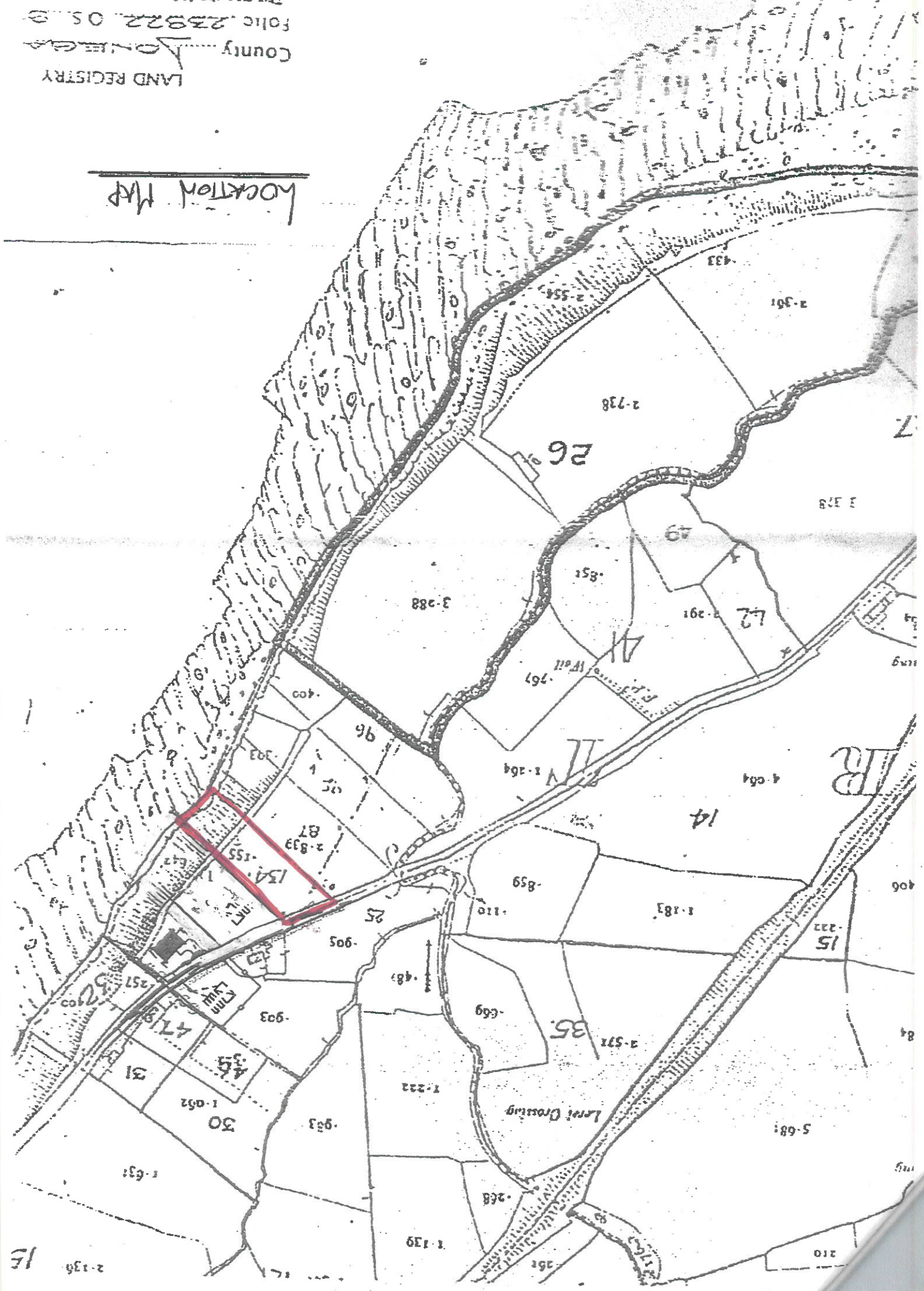
(per Question 10 of the attached application form)

The development in question comprises the erection of a substantial suspended platform fixed to the eastern elevation of a newly erected extension to provide a large, elevated deck/balcony, together with material alterations to fenestration by way of the provision of large sliding doors accessing the said balcony. Permission for the said extension was granted under planning permission ref. no. 20/51402, which made no provision for the additional development outlined above. Permission was subsequently sought (ref. no. 21/50566) for various alterations including the said additional development but was subsequently withdrawn. The steel supports already in place suggest a structure measuring approximately 1.8m wide, running along the combined length of the extension and the pre-existing dwelling house (approximately 20m in total).

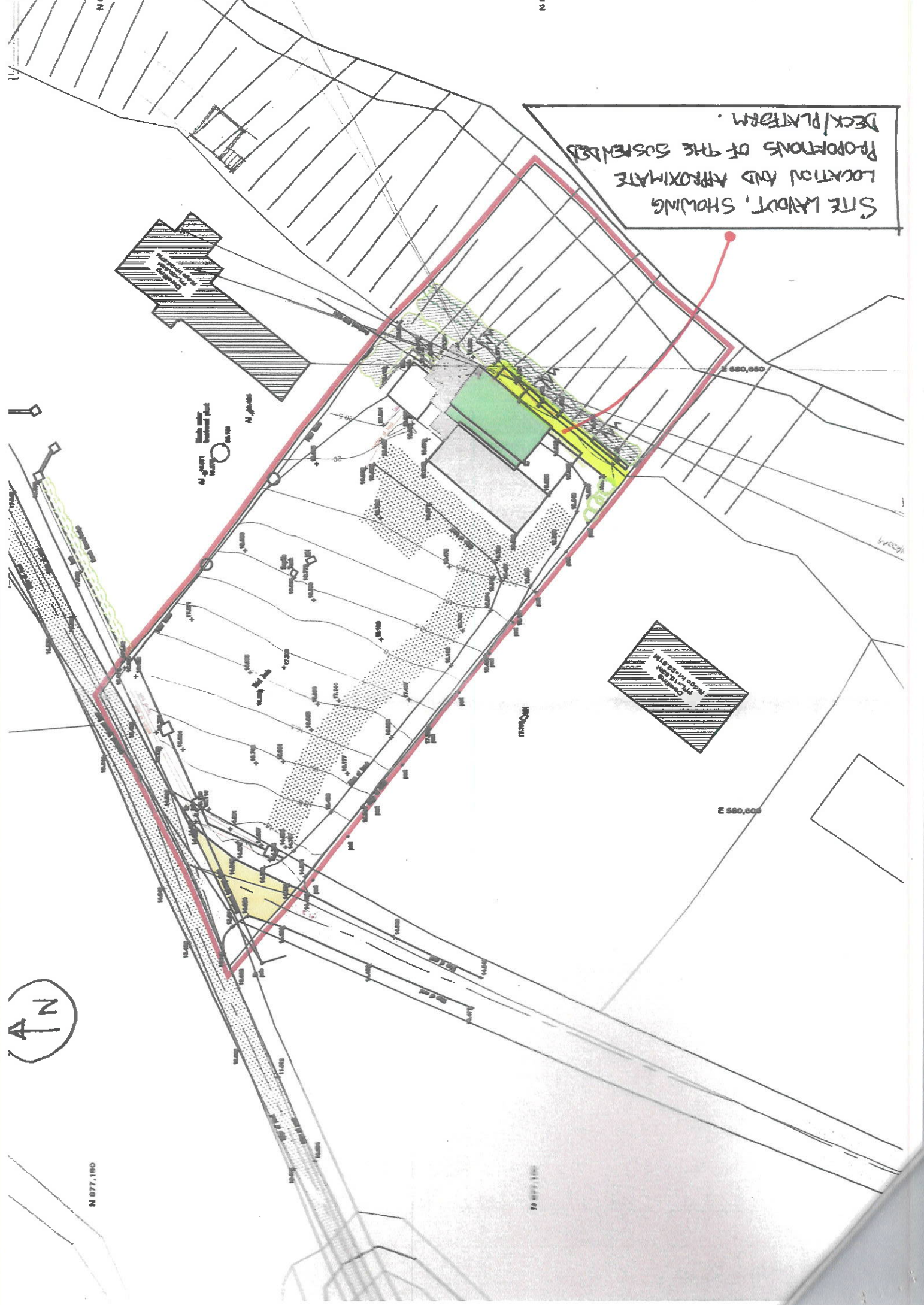
The development also comprises substantial civil works involving the alteration of the ground level underneath the said structure. Prior to the grading of this steeply sloping ground the base of the structure stood approximately 1.5-1.8m above the ground. The original ground level at this point (prior to the substantial civil works carried out as part of the development) was considerably lower again, and the development includes the artificial raising of the ground level to bring it closer to the underside of the structure.

The landscape category applied by the current Donegal County Development Plan to the area in which this development is situated is that of "Especially High Scenic Amenity".

LOCATION MAP



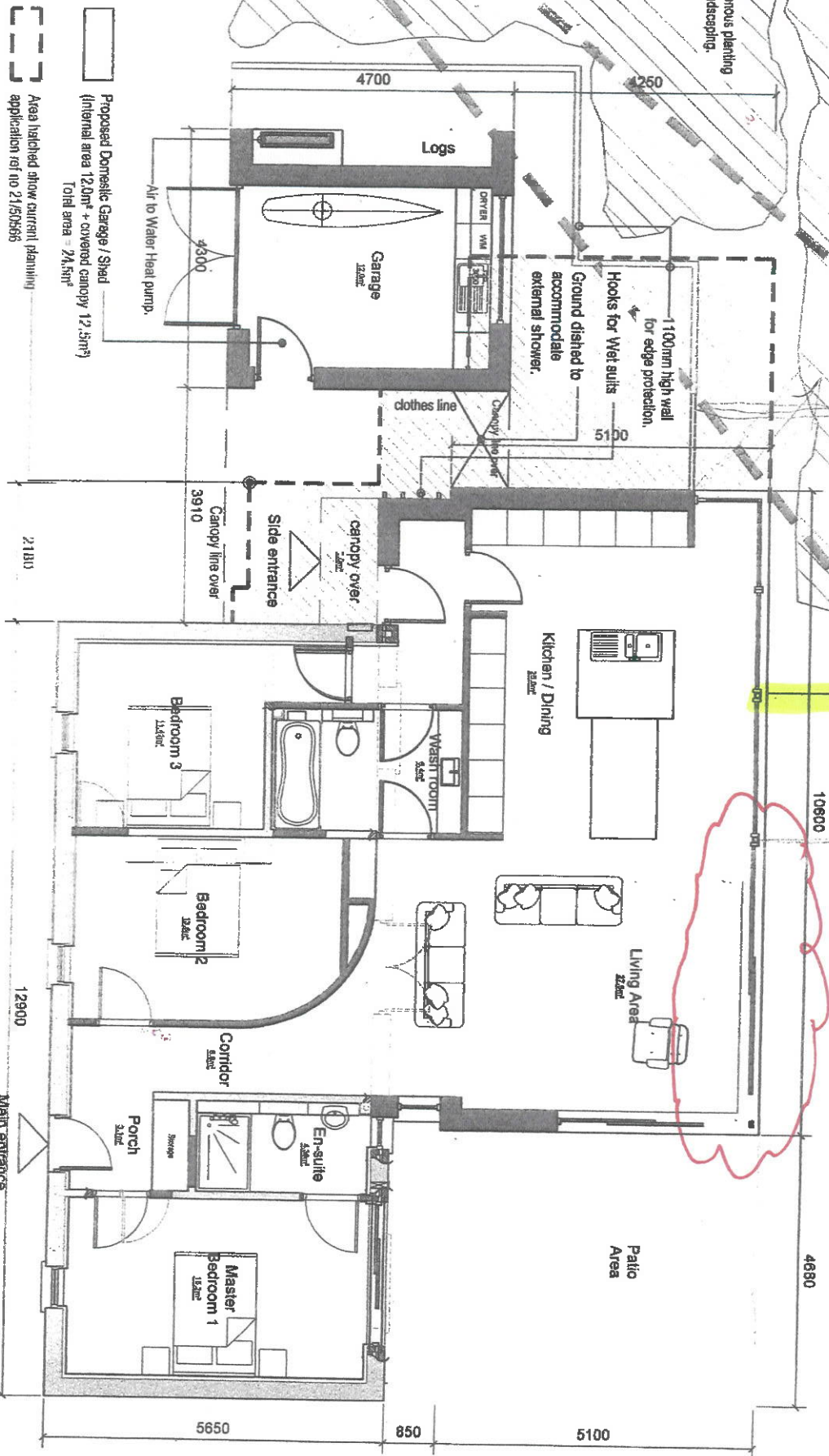
SITE LAYOUT, SHOWING
LOCATION AND APPROXIMATE
PROPORTIONS OF THE SUSPENDED
DECK/PLATFORM.



Boundary

Low Level Indigenous planting by Ash-Tree Landscaping.

Low Level Indigenous planting by Ash-Tree Landscaping.



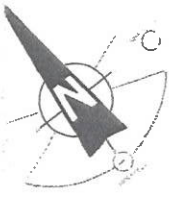
Proposed Domestic Garage / Shed
 (internal area 12.0m² + covered canopy 12.5m²)
 Total area = 24.5m²

Area hatched show current planning application ref no 21/50585

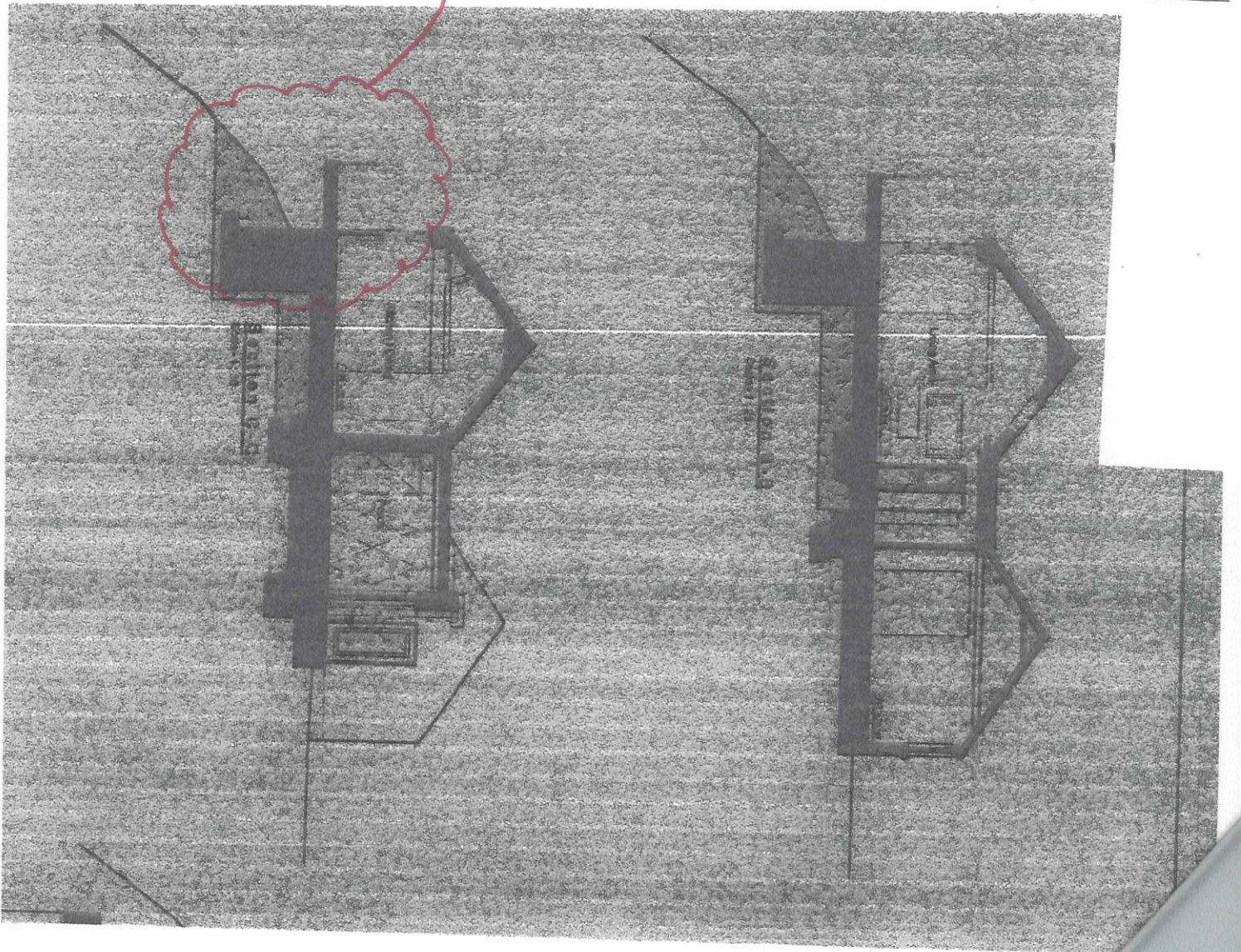
- Notes in relation to Domestic Garage/Shed (Exempt Development)
- The total area must not be greater than 25sqm.
 - The structure must not be forward of the front wall of the house.
 - The external finish of the domestic garage keeping with the house.
 - The height of flat roof must not to exceed 3m.
 - The use is for a shed/store (and not to be lived in).

PROPOSED FLOOR PLAN Scale 1:50

SUSPENDED DECK / PLATFORM OUTLINED IN YELLOW
 MAKEUP ALTERATIONS TO FENESTRATION CIRCLED IN RED



EXTRACT FROM DRAWINGS SUBMITTED WITH
PLANNING APPLICATION REF. 21/50546,
SHOWING DESIGN INTENT IN RELATION TO
THE SUSPENDED DECK/PLATFORM, AND ITS
HEIGHT ABOVE GROUND PRIOR TO GROUNDWORKS
DEVELOPMENT.





Comhairle Contae
Dhún na nGall
Donegal County Council

www.ccdhunannangall.ie www.donegalcoco.ie

Ref. No: S5 21/38

9th December, 2021

Paul Hayden
Drumelis
Cavan

Re: Material alteration to fenestration and the provision of a substantial suspended deck/platform at Fanaghans, Inver, Co Donegal.

A Chara,

I refer to your request received on 1st October, 2021 under Section 5 of the Planning and Development Act, 2000 (as amended). Same has now been decided and I now issue to you herewith the Council's Declaration thereon. You are now advised that, in accordance with Section 5 (3) (a) of the Planning & Development Act, 2000 (as amended) where a Declaration is issued, any person issued with such a Declaration may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a Declaration for review by the Board within 4 weeks of the date of issuing of the Declaration.

Mise, le meas,

For A/Senior Ex. Planner
Planning Services

/mp

DECLARATION

Chief Executive's Order No: 2021PH3194

Reference No: S5 21/38

Name of Requester: Paul Hayden
Drumelis
Cavan

Summarised Description of development the subject matter of request:

Material alteration to fenestration and the provision of a substantial suspended deck/platform

Location: Fanaghans, Inver, Co Donegal

IT IS HEREBY DECLARED THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE

IS Development

IS Exempted Development

WITHIN THE MEANING OF THE ABOVE ACT

The Planning Authority, in considering this referral, had regard particularly to:

- Section 2, 3, 4 and 177U of the Planning and Development Act, 2000 (as amended) and;

- Class 1 and Class 6 of Part 1 of Schedule 2 of Article 6 of the Planning and Development Regulations 2001 (as amended).

And concluded that:

The proposal IS DEVELOPMENT and IS EXEMPTED DEVELOPMENT coming within the scope of Section 4(1)(h) of the Planning and Development Act, 2000 (as amended) and Class 1 and Class 6 of Part 1 of Schedule 2 of Article 6 of the Planning & Development Regulations 2001 (as amended).

Dated this 9th day of December, 2021

For A/Senior Planner
Planning Services

J. O'Connell

Planning Department,
Donegal Co. Council,
County House,
The Diamond,
Lifford,
Co. Donegal.
F93Y622.

Re: Planning Application Ref. No. 21/50566 – Jonathan & Claire McMorrow

Dear Sir/Madam,

On my own behalf and that of my wife Alicia Hayden, I wish to submit a formal observation in relation to the above planning application. In this regard please find attached a cheque for the prescribed fee in the sum of €20.00. We are the co-owners of a private dwelling house adjoining the subject property along its north-eastern boundary. We have owned this property since 2004, and since 2008 we have divided our time between there and the above address. It is our intention to spend most of our time there when we retire, hopefully in the next three to five years. For most of the past year, however, we have been unable to spend time there due to the on-going legal restrictions arising from the Covid-19 pandemic.

At the outset, and while recognising that it is beyond the scope of the matter in question, I wish to express our dismay on discovering the existence of the prior planning permission in respect of this proposal (ref. no. 20/51402). We were in effect denied due process in terms of our right to participate in the planning process in respect of that application, since we were unable to observe the site notice due to legally binding restrictions preventing us from travelling to the area at the time. Equally, the publication of the notice in the Donegal Democrat was not known to us since that newspaper does not circulate in the area where we have been forced to remain.

I only became aware of the current site notice while making a detour to routinely inspect our property while on an essential trip to Donegal recently in the course of my job as a public official with a national remit. In this regard I have the necessary authorisation to make such trips in the course of my work.

As you are aware, the Planning & Development code provides for reference to the High Court where a point of law is concerned, and while we are currently disinclined to make such a reference, this does nonetheless present an interesting legal point regarding the transparency of the process and its openness to public participation in the current circumstances. We will reserve our position in this regard.

Email: alandpaul@eircom.net

Drumelis,
Cavan,
27th April 2021

Turning to the substantive matter, I wish to comment as follows.

Broad environmental impact

The overall size of the extension for which planning permission has already been granted (ref. no. 20/51402) will in fact exceed that of the existing house and raises questions as to its impact on the vernacular character of the existing building from several angles. However, in her pre-planning letter dated 30/07/2020 to the applicants' architects, Ms. Aileen Quinn, A/Executive Planner appears to rely on the fact that "the extension that is proposed is largely to the rear and will be hidden from public view".

The variations proposed in the current application are completely counter to this. Firstly, the proposed variations will result in an extension which will increase the floor area of the existing dwelling by almost 130%, while the current County Donegal Development Plan 2018-2024 stipulates that "proposals for extensions in the case of refurbishment shall, in general, not exceed 50% of the size of the original building...." More significantly, the proposed structure will be wider, longer, and, critically, will have a significantly increased ridge height vis-a-vis the original scheme. The ridge height in particular is contentious, as it should not in any circumstances exceed that of the existing house, and indeed should preferably be lower. While the precise dimension is unclear in the drawings, a crude scaling exercise suggests that it will be c.600mm higher than the existing ridge height. The proposed elongation of the structure towards our property further emphasizes its disproportionate bulk in the context of the original house, as its extensive protrusion beyond the north-eastern gable will be clearly visible from the public road. It will no longer therefore be "hidden from public view" as was indicated as a prerequisite at pre-planning stage, and indeed acknowledged as such by the applicants' architects in their covering letter with the original application in September 2020. The earlier scheme for which permission has already been granted has the virtue of allowing the extension to appear in some way subservient to the existing house; the proposed variation achieves the precise opposite. It will in fact completely overpower the existing house, dwarfing it to caricature proportions, and is utterly at variance with the principle of subsidiarity which is enshrined in the County Development Plan.

Section 6.3 of the County Development Plan (Rural Housing) includes the promotion of rural housing that "does not detract from the character or quality of the receiving landscape having particular regard to the Landscape Classifications illustrated on Map 7.1.1....." (ref. RH-O-5). The relevant landscape classification in this case is one of "Especially High Scenic Amenity". In Chapter 7 of the Plan, policy ref. NH-P-6 provides that within such areas "only developments of strategic importance or developments that are provided for by policy elsewhere in this Plan shall be considered". In her pre-planning letter dated 30/07/2020 (ref. 20/51402), Ms Quinn acknowledges that "potential for development is limited" in such areas, but then goes on to state that ".....this is an existing dwelling with similar dwellings extending in both directions" and that ".....dwellings to the north east would appear to have been extended from their original form". There is an inference that this latter point justifies a departure from the provisions applying in an area of Especially High Scenic Amenity. I would contend that the forms of both houses to the north east are fully consistent with the prevailing design language in the area, being coherent, rational and uniform, and of similar linear form. While the development then proposed by the applicants was somewhat incongruous vis-a-vis adjacent dwellings, the variations now proposed render any such comparison completely invalid, and are utterly at variance with the relevant provisions of the County Development Plan.

Further provisions in the County Development Plan with which the proposed development is inconsistent include policies RH-P-1 and RH-P-2. The former includes requirements to comply with design guidelines outlined in Appendix 4, to "assimilate into the receiving landscape", and to be "sensitive to the integrity and character of rural areas". The latter prohibits development "which by its positioning, siting, or location would be detrimental to the amenity of the area or of other rural dwellers....." and states that "a proposed dwelling will be unacceptable where it is prominent in the landscape", or "where it fails to blend with the landform, slopes, or other natural features which can help its integration". In the same chapter, the plan goes on to state the following:

"The assessment of integration will be judged from the landscape classification; critical views as seen along stretches of the public road network.....Where a suitable site is identified from such critical viewpoints, it shall be necessary to ensure the proposed dwelling blends into its immediate surroundings.....Proposed housing that would read as skyline development or occupy a top of a slope/ridge location or otherwise be a prominent feature in the landscape will be unacceptable".

I have already referred to the landscape classification and the lack of integration presented in the proposed development, which will be positioned at the very top of the ridge to the rear of the site. The subject dwelling is one of a row of six which are broadly similar in form, and collectively follow the rising contour of the land mass on which they are located. This group of buildings is visible from the distance as one travels along the public road leading from Port, and may be seen from the nearby N56 national primary road, as well as from the link road between the two. While the subject house already deviates slightly from the established building line on either side of it, the proposed development will effectively create a combined mass which will appear much further from the building line and closer to the sea. This combined mass, apart from having a form which will be inconsistent with the other dwellings in the row, will in fact be perched at the very top of the ridge, and will "read as skyline development" as well as being "a prominent feature in the landscape". While I would contend that the original proposal for which permission has already been granted (20/51402) also breaches these principles, the extent of the breach is considerably less due to its smaller mass, lower ridge height, and its consequent partial concealment by the existing dwelling.

The concerns outlined above are exacerbated by the fact that the proposed variations appear to include a substantial cantilevered structure protruding beyond the extension to the south-east, which is absent from the original proposal, thereby further enlarging the combined mass and "pulling" its visual bulk further towards the sea, and indeed across the rear embankment itself. (The available drawings are somewhat ambiguous in this regard, and this element is only apparent in the sectional drawings). The intention appears to be the formation of a viewing platform running the length of the extension, with a return outside the north eastern bedroom which appears to form a balcony measuring c.10 square metres. This feature would appear to challenge Part B, Appendix 4 of the County Development Plan which provides design guidelines including the need for particular sensitivity in respect of "scale, mass, and form" in respect of coastal development (ref. 2.1).

It is worth noting also that reference to visual impacts in pre-planning discussions in respect of the earlier application (ref. 20/51402) appears to have concentrated on those views from the public road (and indeed from that section of the public road directly in front of the house). The proposed development however, complete with the said viewing platform, will have a dramatic and I believe adverse visual impact from the sea, from other parts of the adjacent coastline, and arguably from other parts of Inver Bay. It will appear from those vantage points to protrude beyond the coastline, by virtue of its cantilevered position on a raised platform which is to be built atop the falling embankment and will stand boldly forward of the building line.

While not wishing to labour the point, the County Development Plan contains numerous other provisions which render the proposed development unacceptable. These include the following objectives and policies contained in Chapter 7 (Natural & Built Heritage): NH-O-7, NH-P-8, NH-P-9, NH-P-13, NH-P-15 and NH-P-17. Furthermore, many of the design guidelines provided in Part B, Appendix 4 of the Plan present significant challenges to the proposed development. These include, inter alia, the need for "integration of a new building sensitively and harmoniously within its host setting" as well as consideration of "the detailing and plan form of the surrounding built environment" (ref. 2.3), and the suggested usefulness of photographs "considering in particular the long views towards the site" in the context of planning applications (ref 3.1). Finally, a dedicated heading is provided in this section dealing with Topography (ref.3.2), which provides the following advice:

- "Site your buildings to blend sympathetically with the landscape, integrating rather than dominating the host environment.
- Construction of houses on elevated or exposed sites which will be obtrusive and which will detract from the visual character of the rural area will not be permitted.
- The building should be sited so as not to break the skyline or waterline"

It is clear that little regard was paid to the foregoing design guidelines in the formulation of the variations proposed.

Loss of residential amenity & privacy

Apart from the broader environmental impact on the immediate area and its prevailing design language, the proposed variations will undoubtedly have a further adverse impact on our residential amenities and therefore on the value of our property. These impacts arise in terms of both loss of privacy and loss of visual amenity. While the original scheme will undoubtedly diminish our enjoyment of our property, the proposed variations are utterly unacceptable, specifically in terms of their disproportionate mass and scale and the consequent adverse impact on our residential amenity. The proposed height presents a particular issue in this context, as well as the proposal to extend the new structure a further four meters closer to our shared boundary. In this regard it is noted that Ms. Quinn in her pre-planning letter of 30/07/20 (ref. 20/51402) commented that the original proposal was "generally acceptable" subject to the protection of existing "third party amenities".

Aside from poor planning in the academic sense, the deviation of the existing dwelling from the established building line does not create a specific problem in terms of its neighbours' privacy, since it has no windows in either gable. The proposed extension however, and in particular the variations now under consideration, include extensive fenestration at both ends which will look directly into the rear of the adjacent properties by virtue of its further deviation rearward from the building line. This is significant in terms of erosion of privacy, since the rear of Irish homes is traditionally where privacy is most important (as opposed to the front, which is usually public facing). We note in particular that a window and an adjacent balcony are proposed in the north-eastern elevation of the proposed extension, which will look directly into the rear of our property and indeed will be overlooked by it. Again policy ref. RH-P-2 of the Development Plan is relevant in this context as it prohibits development "which by its positioning, siting, or location would be detrimental to the amenity of the area or of other rural dwellers....."

The substantial cantilevered structure referred to above, which protrudes to the south-east of the extension, and is absent from the original proposal, is particularly problematic in terms of existing residential amenity. The viewing platform which appears to be proposed will exacerbate the problem of overlooking the rear of the adjoining properties by virtue of the increased angle of visibility. Moreover, it incorporates a return outside the north eastern bedroom (accessible from it) which appears to form a balcony measuring c.10 square metres. This will directly overlook the rear of our house.

Civil works/excavation etc.

It is noted that the proposed works involve a considerable degree of disturbance to the steep embankment leading downward to the seashore, which is part of a larger topographical feature running along the coast from the nearby private pier almost to Inver village. The works involved in the revised proposal are more extensive than those in the original one, by virtue both of the enlarged floor plate and of the substantial viewing platform which will apparently extend beyond it. The civil works involved in the proposal are extensive and include, inter alia, major excavations into the embankment itself in order to form a substantial pad foundation supporting approximately 1.8m of dead building before reaching the underside of the floor slab.

In this regard I note that in Section 6.3 of the County Donegal Development Plan, which deals with Rural Housing, policy ref. RH-P-2 specifically states that "proposals for development involving extensive or significant excavation or infilling will not normally be favourably considered", and that "the extent of excavation that may be considered will depend upon the circumstances of the case, including the extent to which the development of the proposed site will blend in unobtrusively with its immediate and wider surroundings". The same section of the Plan goes on to state that "a new dwelling that relies on significant earth works, such as cutting into slopes, filling to create a level platform for development or mounding to achieve integration will all be unacceptable". These principles are further reflected in the design guidelines contained in Part B, Appendix 4 of the Plan which include (at 2.3) advice to "avoid the unnecessary excavation of the site to create a building platform incongruous within its natural setting". I would contend that the proposed development breaches each and every one of these provisions.

As an aside, I would add that our experience in relation to this embankment has been of continuous land slippage during the past twelve years in particular, in response to which we have encouraged the growth of native wild species in the hope of arresting the problem. A small wooden deck with substantial foundations which we originally erected close to the embankment subsequently became unstable, and following temporary underpinning we hope to replace it shortly with an alternative structure further from the embankment, such is our concern as to its instability.

The disturbance proposed by the applicants (which is already in progress) will further destabilise the embankment, including the adjacent section which is in our ownership and forms part of our property. It is noted by Ms. Aideen Quinn, A/Executive Planner, in her pre-planning letter of 30/07/2020 to the applicants' architect (20/51402) that the applicant should "have regard to the extension of the rear building line vis-à-vis the very steep fall to sea level beyond the existing boundary fence". This boundary fence has already been breached, and the variation proposed involves a structure that protrudes well beyond it.

Conclusion

We absolutely acknowledge the right of the applicants to tailor their home to their needs and it is not in our nature to create obstacles for people going about their legitimate business. Equally, we recognise that we ourselves have been very fortunate to be able to enjoy for many years the considerable amenities offered by our own adjoining property, and we accept that some diminution in those amenities may be inevitable in the on-going and inexorable process of development by and for all citizens.

We have no wish to inhibit their efforts to provide increased accommodation for their family; indeed, we welcome their willingness as new purchasers of the house to invest in improving it. We contend however that their objectives could be met just as effectively by a scheme that would be less injurious to our property and to the local landscape. In this regard the covering letter from McCabe Architects with the original application (20/51402) states that "the owners have a young family and require additional living space and a third bedroom", and that "ideally the applicants wish to maximise the views from the additional space". The scheme for which permission has already been granted (ref 20/51402) delivers fully on all of these stated requirements. As an aside, it is noteworthy that while the applicants indeed wish to "maximise the views" the proposed variations will serve to diminish the views enjoyed by others, including those from our property.

We are also concerned regarding the manner in which the substantive proposal in this case received planning permission without any opportunity for input by us, as is intended by the both the spirit and the letter of the Planning and Development Acts. It is interesting to note that the Planning code in the UK (which is based on the same principles in terms of openness, transparency, and public participation) requires that the owners of neighbouring properties are specifically notified of such applications. It is unfortunate that the Irish code omits this provision.

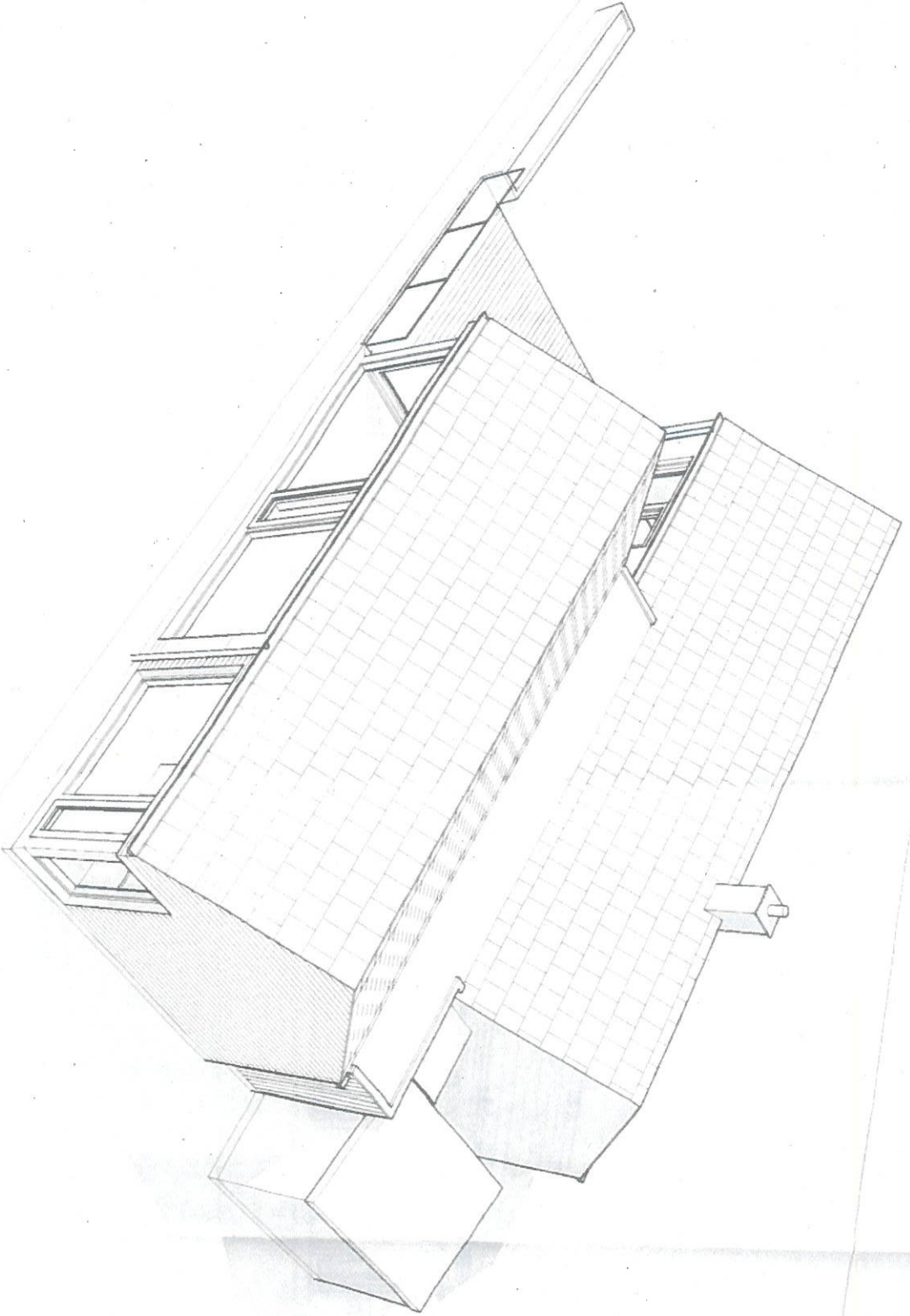
The proposal for which permission is now being sought adds considerable insult to injury in this regard, as it pays even less regard to our established residential amenity and privacy than does the original proposal, not to mention its scant regard to the broader environment and the provisions of the current County Donegal Development Plan. It is only by virtue of a chance visit to the property as outlined above that we became aware of the current planning application, which arose from my curiosity after observing the significant civil works that were ongoing when I visited. As an aside, it is clear that the substructure already in place reflects the proposed variations, as distinct from the original scheme, which indicates either a presumption that permission will be granted or a remarkable disregard for the cost of potentially nugatory works.

We are anxious to limit the extent of the negative impact on the broader environment and on our property, while not seeking to diminish any valid potential for our neighbours to enjoy theirs. We respectfully contend therefore that the current application for proposed variations to the existing permission be refused.

Yours faithfully,

Paul Hayden.

DRG. 1A



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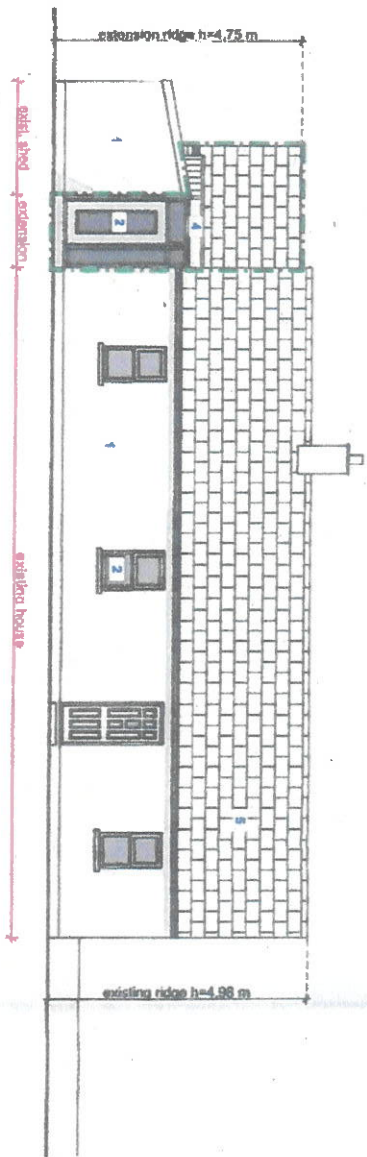
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Draw No: 2020.25
Client: Jonathan & Claire Mc Morrow
Project: HOUSE EXTENSION/REFURBISHMENT
Layout ref: P08
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Issue Date: 31.08.2020

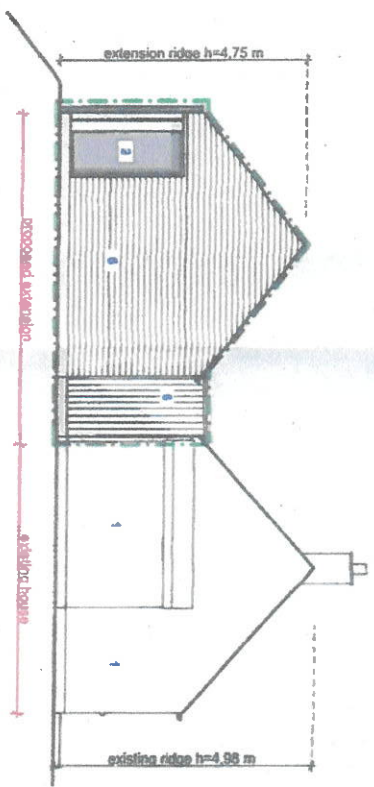
Donegal - 074 97 43012
Sligo - 071 93 00554
info@mc cabbe architects



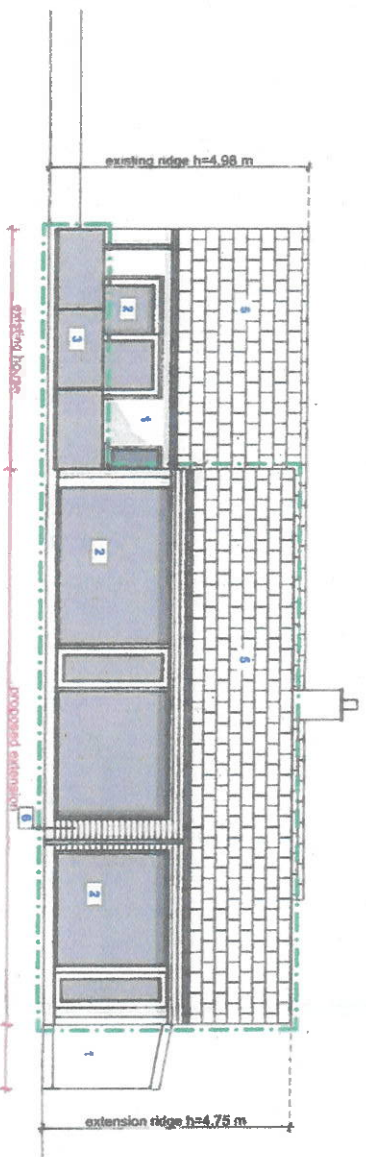
DRG. 2A



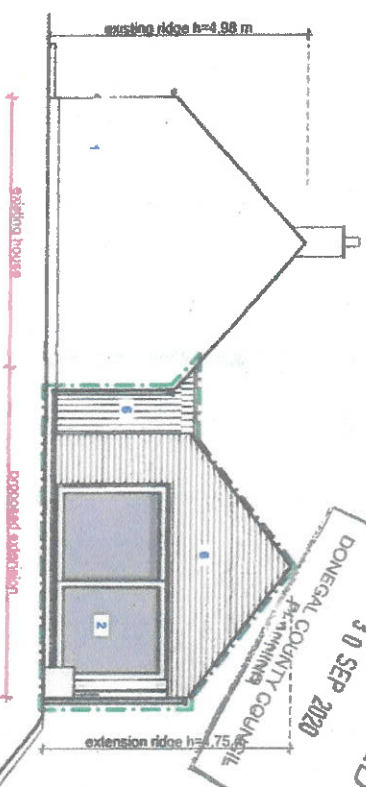
7 Elevation North-West 1:100



9 Elevation North-East 1:100



8 Elevation South-East 1:100



10 Elevation South-West 1:100

SCALE 1:100
0 1000 2000 3000 4000 5000mm

1. Smooth render finish to walls
2. Tinted non-reflective triple glazed skid-clad windows and doors
3. Tinted non-reflective frameless glass balustrade
4. Standing seam zinc flat roof / fascia
5. Blackslates natural slate roof
6. Natural wood cladding

PLANNING ISSUE	
mcabe ARCHITECTS	
074 87 4312 074 87 2107 087 66 6317 www.mcabearchitects.ie info@mcabearchitects.ie	
CLIENT	Jonathan & Claire Mc Morrow
PROJECT	HOUSE EXTENSION/REJURISDICTION AT FENNAGHAN, INVER, CO. DONEGAL
TITLE	PROPOSED ELEVATIONS
JOB #	2020-25
DATE	2020-25
SCALE	1:100
NO. SHEET	2020-25-P07

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DRG. 3A



Extension footprint: 22,5 m²
GFA proposed: 119,5 m²

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CLIENT
 Jonathan & Claire Mc Morrow

PROJECT
 HOUSE EXTENSION/REFURBISHMENT
 AT FANNAGHAN, INVER, CO. DONEGAL

TITLE
 PROPOSED G.F. PLAN



DATE
 2020-25

FILE NO.
 2020-25-P04



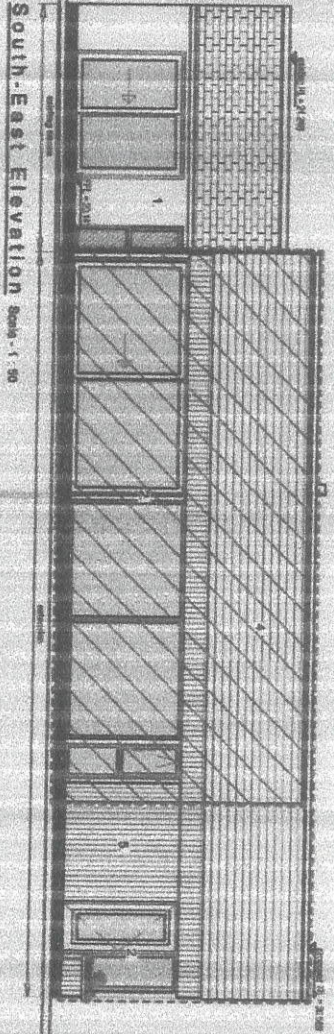
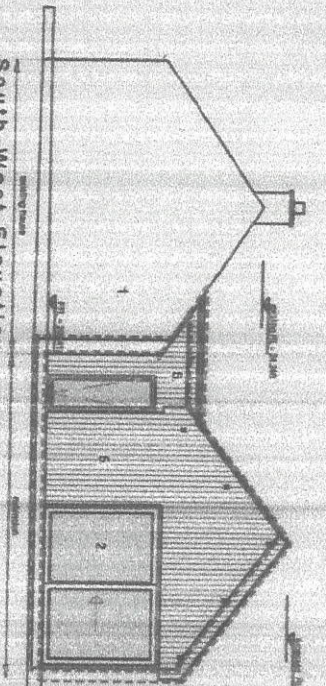
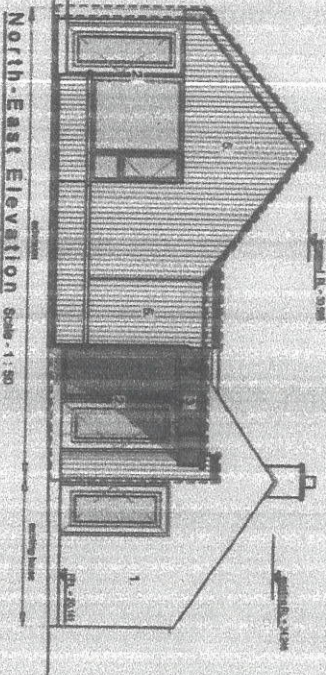
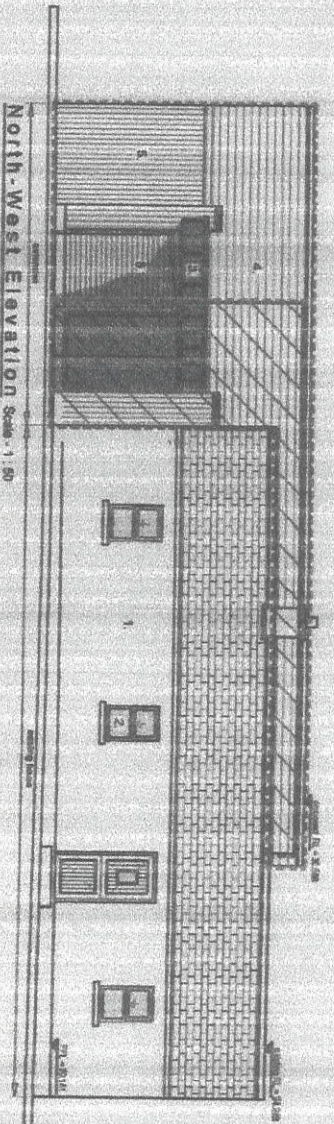
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DRG. 1B

Planning Key:

Existing Building	
Extension granted	
Planning 20/15/462	
Proposed Extension	
Demolished / Removed	

- Proposed External Finishes:**
1. Smooth render finish to walls
 2. Timber non-reflective style cladd on shed windows & doors
 3. Standing grain zinc flat roof fascia
 4. Blue/black natural slate roof
 5. Natural wood cladding



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Client: Jonathan & Catherine Madhony

Project: HOUSE EXTENSION/RE-ARRANGEMENT AT TANAPURAN, WYVERN, CO. DORSET

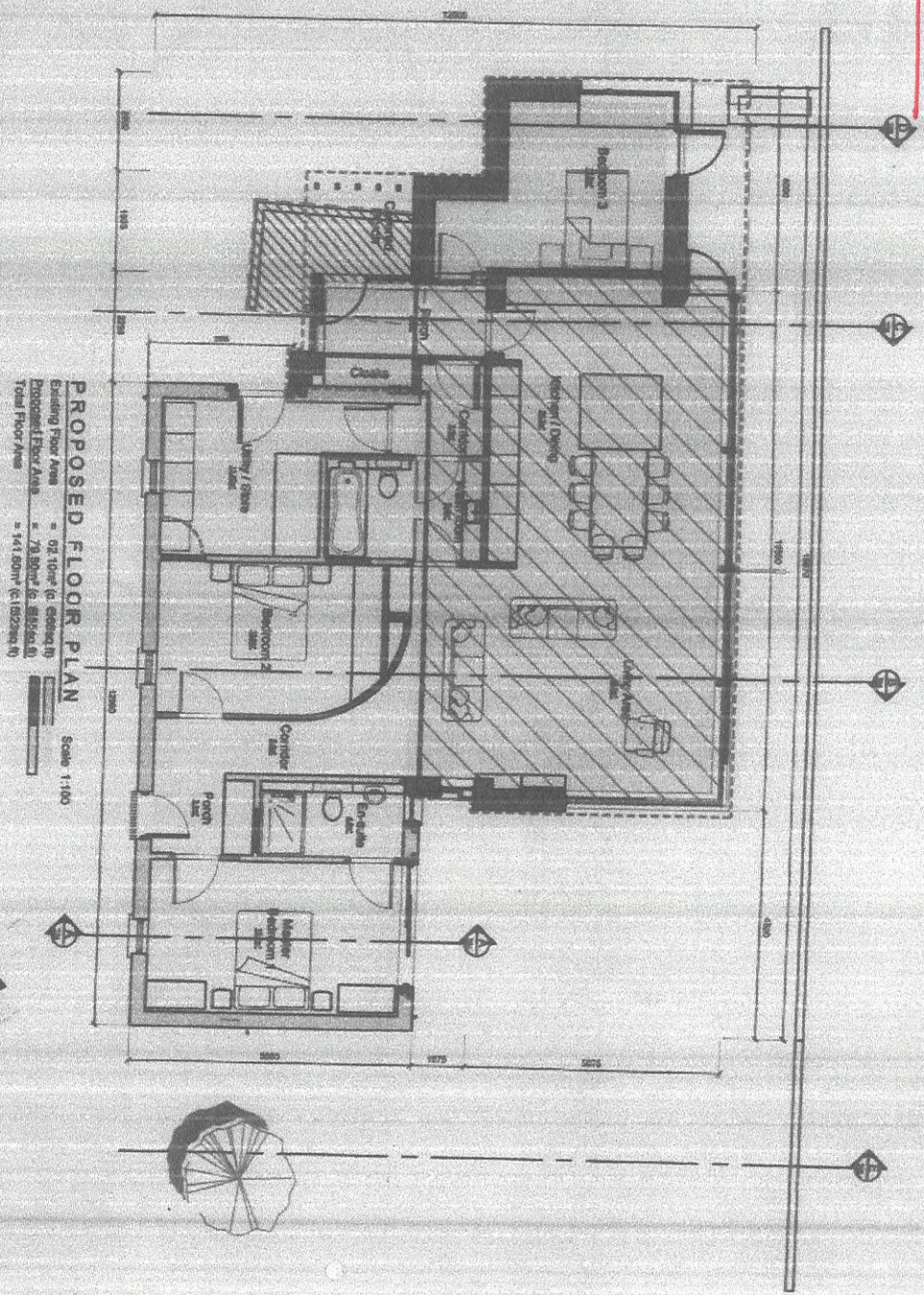
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DATE: 2020-02-25

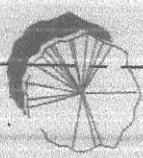
2020-025-F07

DRG. 2B

Planning Key	
	Existing Building
	Extension granted Planning 20/0514/2
	Proposed Extension
	Demolished / Removed



PROPOSED FLOOR PLAN Scale 1:100
 Existing Floor Area = 62,106sq ft (5,740sq m)
 Proposed Floor Area = 78,509sq ft (7,250sq m)
 Total Floor Area = 141,605sq ft (13,125sq m)



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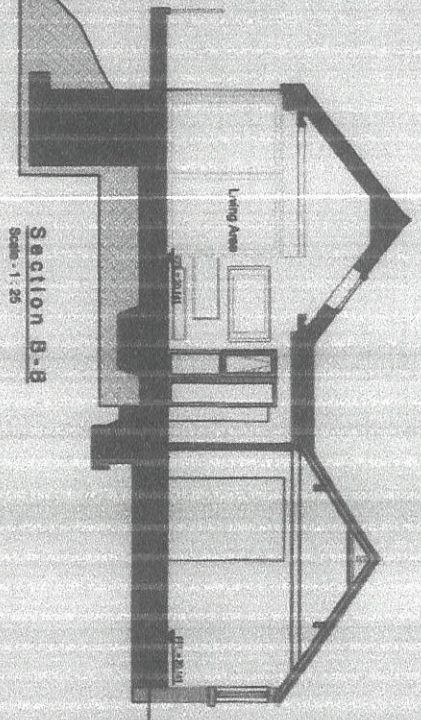
Project: HOUSE EXTENSION WITH PLANNING
 AT FAYALDHAM, INVER, CO. DORSET

PROPOSED
 GROUND FLOOR PLAN

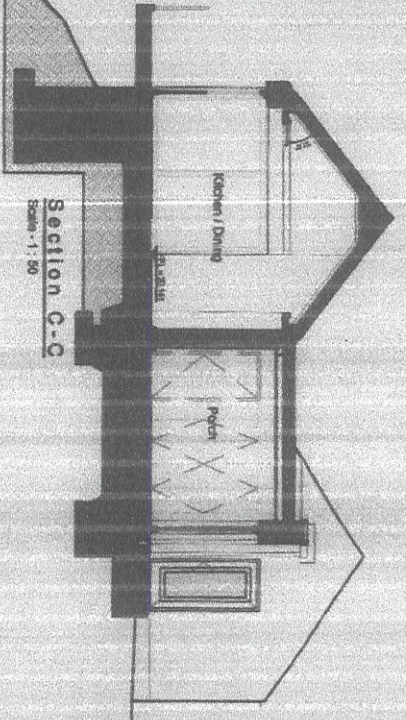
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2020-026-P04

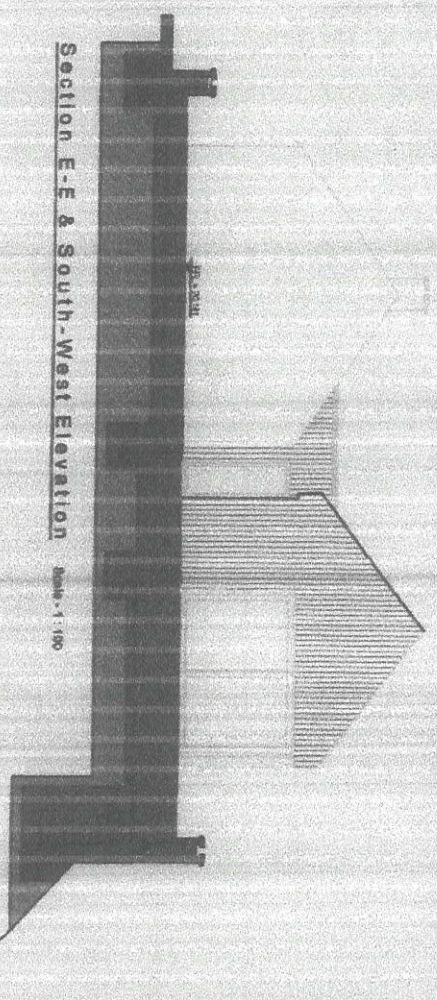
DRG. 3B



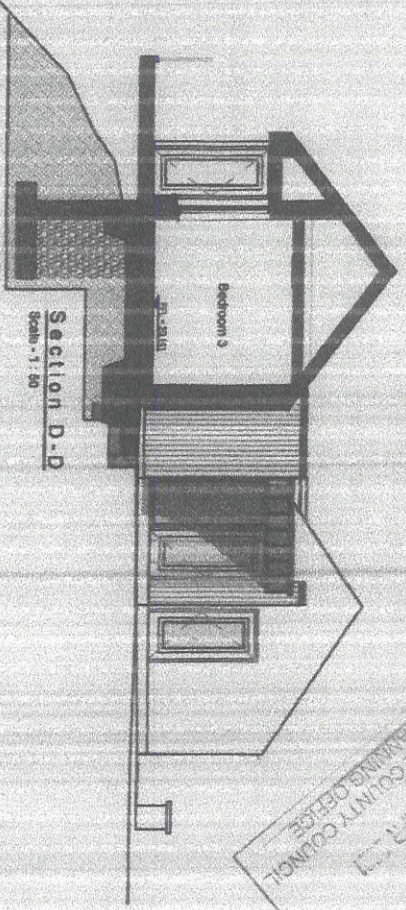
Section B-B
Scale - 1:20



Section C-C
Scale - 1:50



Section E-E & South-West Elevation Scale - 1:100



Section D-D
Scale - 1:50



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client: Jonathan & Claire McKelroy
product: HOUSE EXTENSION/REFURBISHMENT
AT FANKAGHAN, INVEH, CO. DONEGAL
RM 1009
title: PROPOSED SECTIONS

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DATE: 2020-02-19
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DATE: 2020-02-19
PROJECT: 2020-02-19-P06