Pa[redacted]Carragher

[redacted]

[redacted]

[redacted]

Co. Monaghan

31/1/2022

RE: Section 5 referral - Works to reinstate the residential use of a derelict structure of which the residential use had been abandoned at Drumquill, Castleblayney, Co. Monaghan

Owner: Mr. John Brennan

Dear Sir/Madam.

I wish to refer the above Section 5 to An Bord Pleanála.

This is the same question that I asked in 2010 and Monaghan County Council stated that the works were development and not exempt development. [copy enclosed]

I submitted this Section 5 in on 25th October 2016 to Monaghan County Council. [original enclosed]

On 24th November 2016, I received a request for further information.

There is no time-limit for a response to a further information request according to the Planning and Development Act 2000 (as revised).

Circumstances arose where I was able to supply further information, which I did on the 16th December 2021.

> *(2) (b) A planning authority may require any person who made a request under subsection (1) to submit further information with regard to the request in order to enable the authority to issue the declaration on the question and, where further information is received under this paragraph, the planning authority shall issue the declaration within 3 weeks of the date of the receipt of the further information*

Having received no response after 3 weeks, I am now referring the question to the Board

> 5(3) (*b*) Without prejudice to *subsection (2)*, in the event that no declaration is issued by the planning authority, any person who made a request under *subsection (1)* may, on payment to the Board of such fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued under *subsection (2)*.

AN BORD PLEANÁLA
LDG- 048397-22
ABP-
01 FEB 2022 o.k
Fee: € 220 Type: Cheque
Time: By: express post

Please also find attached a cheque for the fee of €220. I've also included a receipt from Monaghan County Council for the 25th October 2016. Copies of materials sent to Monaghan County Council are in Folder A, with additional documentation and photographs in Folder B.

While I have provided evidence that the works are development and are not exempted development, the Planning Authority in July 2010 under Section 5 of the Planning and Development Act found that the works to reinstate the residential use of the building to be development and not exempt development. [Please see accompanying letter and internal correspondence from Monaghan County Council regarding the works, at that time.]

Mr. Brennan did not challenge this declaration. He did not apply for a judicial review according to the Planning and Development Act.

The Planning Authority appeared to change its view about original works in 2015 after refusing a retention application by Mr Brennan (File no. 14217 see Planners Report and all subsequent planning applications)

When I discovered this by reading the report on the online eplan, I decided to put the same question to the Council again, to see if they had **officially** changed their mind and if so, why?

I received a response requesting further information in order for the Planning Authority to make a determination. I was surprised because the Council were able to make a declaration on the same question in 2010. I only recently discovered that part of the original Section 5 file has gone missing, including photographs. [Please see letter to Martin Molloy from the Council regarding a Freedom of Information request. This is currently being investigated by the Office of Information Commissioner; ref: OIC-115243-C4R9S7]

I am only asking the same question as in 2010 because the Planning Authority had unofficially changed its mind in 2015. Nothing has changed in the meantime.

There have been a number of court cases recently that have brought clarity about the weight of Section 5 declarations. In fact, in the Court of Appeals decision on the 17th November 2021 which addressed the question of whether the Board could consider a Section 5 where there was already an old Section 5, the Court ruled that the Board was prohibited from examining the merits of the new Section 5 if it was for the same or substantially the same question.

Narconon Trust v An Board Pleanála [2021] IECA 307

> *67. The Board was precluded from determining a section 5 referral in circumstances where a planning authority has previously determined the same, or substantially the same, question in respect of the same land where there is no evidence that there has been a change in the planning facts and circumstances since the planning authority's determination. It had jurisdiction to receive the referral and to commence its determination. Once it became apparent that the question referred was the same, or substantially the same, and in respect of the same land, and that there was no evidence of any change in the planning facts or circumstances, it ought to have concluded that:*

the referral by the notice parties amounted to an impermissible attack on the 2016 declaration, which, in substance, amounted to questioning the validity of the section 5 declaration other than by way of s. 50; that such a challenge is prohibited by s. 50(2); and that for the Board to proceed further to determine the referral on the merits amounted to facilitating a breach of s. 50(2) and was, accordingly, ultra vires.

In effect, this not only means that once the Board is satisfied that this question is substantially the same as the one in 2010, it can dismiss the referral, but also that when the Planning Authority unofficially changed its view, as recorded in the Planners Report 14217, the Planning Authority was acting *ultra vires* in breach on Section 50(2) of the Planning and Development Act.

50. (2) A person shall not question the validity of any decision made or other act done by —

(a) a planning authority, a local authority or the Board in the performance or purported performance of a function under this Act

The reason being is that there is a mechanism in the Planning and Development Act to challenge the original decision and if these avenues are not used then the decision becomes unimpeachable.

S Sweetman v. An Bord Pleanála [2018] IESC para7.5

In such a case it is appropriate to require anyone who wishes to challenge that initial decision to do so within any relevant statutory time limit or time provided for in rules of court. Any failure to do so within such time limit, including any extended time limit which the court may, in accordance with its jurisdiction, permit, will render the initial decision incapable of challenge and will further preclude any challenge to any subsequent decision made in the process which is based on a contention that the initial decision was not lawfully made

Narconon Trust v An Board Pleanála [2021] IECA 307

56. While the Board was not obliged by the terms of s. 138 to dismiss the referrals, once it was clear that the same question in substance as had been decided in 2016 was again being referred on the same facts, the effect of a contrary decision would be to deprive Narconon of the benefit of the 2016 declaration and, accordingly, was an impermissible collateral attack on the 2016 declaration; that declaration was authoritative and binding, including on the Board, and in those circumstances it was appropriate to dismiss the referral and decide that it was precluded from determining the application on its merits

Another reason for concern is that the Planning Authority has granted planning permission File no. 21108 for a septic tank and other ancillary works servicing this unauthorised development under the assumption that the original Section 5 declaration no longer had the force. The Planning Authority's decision to act as if the original Section 5 were invalid is considered in law an indirect collateral attack on the originally legally binding declaration. This grant of planning permission is currently being considered by the Board for another party, Mr. Martin Molloy ref: PL18.312433.

For completeness, I here include particulars as to why this development was not exempt development.

Overview

Ms. Cathleen Stack lived in the house on this site until her death in 1977. [death cert enclosed] The house was supplied with electricity, but it had no running water nor septic tank/wastewater treatment system. In fact, she used a chamber pot. In 1981, this property came into the possession of Mr. Sean Brennan, the applicant's late father. The electricity is disconnected from the house and throughout the years, it becomes dilapidated, derelict and the residential use of the building was abandoned. The Brennan family only used the property for agricultural purposes and the building was used for storage e.g., bales etc. Mr. Brennan even referred to this building as an existing shed in a planning application. (File No. 16235 map enclosed)

I received planning permission for my agricultural shed in 2005. This shed within 100m (34m) from this now agricultural building. The abandoned nature of the building was obvious to all. My application, like all valid applications, was published in the paper and a site notice was erected at the road. Mr. Brennan did not make a submission/observation to the application, nor did he apply for leave to appeal according to the Planning and Development Act 2000.

In 2009, Mr. John Brennan approached me, for written consent to build two houses within 100m of my agricultural shed. I told him that I would have to get legal advice first. The advice given was that occupants of the houses, so close to my agricultural shed, could complain about noises and smells and that if so, this would have a detrimental effect on my farm enterprise, my main source of income. Therefore, I declined to give consent. It was only then that Mr. Brennan decided to reinstate the residential use of the abandoned building as a means to break the 100m. In other words, if the building were recognised as a dwelling house within 34m of my agricultural shed then the other developments could proceed so long as they were outside that new limit of 34m. This is evidenced by the subsequent planning application on this site. He started works in 2010. I contacted the Council, who took photographs on the day and began enforcement proceedings. I asked the Council under Sec.5 of the Planning and Development Act to answer the question whether or not the works exempt development. The Council

declared that the works "is development and not exempt development." Mr. Brennan did not challenge this declaration.

1. I received permission for my agricultural shed in 2005 File no. 051068. The obviously ruinous and abandoned structure was within 100m of the shed. I had a site notice and public notice in the paper as required by all applications.
2. The abandoned structure was in full view for the planning officer, Helen McCourt, during site visits.
3. The Owner/Occupier of this structure did not submit an observation/submission to my planning application.
4. The Owner/Occupier did not apply for leave to appeal my grant of planning permission.
5. The Owner/Occupier did not seek a judicial review
6. The building was without electricity and running water for decades. (accepted by all parties)
7. The building never had a wastewater system.
8. Mr. Brennan claims he upgraded the septic tank in 2006. I witnessed it going in, in 2010. He has claimed in various planning applications that it needed upgrading in 2006, and that he upgraded it again in 2012 and that it was suffering from wear and tear in 2016. The EHC asked for it to be uncovered to see the truth of it all. It has never been done. [letter enclosed]
9. The building was only used for agricultural purposes as admitted by Mr. Brennan Further Information File No. 14217 and planning meeting 18 February 2015 [see Folder A]
10. An affidavit from the late Thomas Greene was recently given to me by a member of his family. This neighbour had never got involved in any of the planning applications. I was told that he felt obliged in conscience to make this affidavit. He lived here all his life. He had cause to use the right of way every day. He stated that the structure was used as an agricultural shed i.e., storing bales etc [affidavit included]
11. Letter from neighbour Martin Molloy stating the structure was used for agricultural purposes [see Folder A]
12. Mr. Brennan asked me to consent to two houses within 100m of my agricultural shed. Only when I didn't give consent, he decided to reinstate the residential use of the building.
13. I rang the Council immediately. (13th April 2010) They inspected the site on the same day, took photographs. The development was clearly unauthorised and the Council immediately started enforcement proceedings. (Ref E10/42)
14. I looked for a Section 5 declaration from the Council. They determined that the works were development and not exempt development. (19th July 2010)
15. The Owner/Occupier did not seek a judicial review according to the PADA
16. Mr. Brennan moved into the building.

17. Mr. Brennan constructed a sizeable extension without planning permission to the original structure. He sought retention of the extension which was refused File No. 14217
18. He does not appeal this decision to An Bord Pleanála
19. He does not seek a judicial review.
20. Planner notes in File No. 14217 that the aerial photographs reveal the structure was roofless from 2005-2010.
21. Mr. Brennan himself submits a planning application File No. 16235 where he identifies the structure on the map as an "Existing Shed"
22. Mr. Brennan claimed that he wanted to live in his ancestral home, yet he built a house 8 miles away and has moved himself and the family in his latest development. (File no. 17557 plans included)
23. Mr. Brennan is a developer and the owner of a building business "Jj Brennan Limted". Company No. 577542 ; Principal Activity: Construction of Residential and Non-Residential Buildings.
24. Freedom of information request reveals part of the original enforcement/ Section 5 files have been lost. In particular, the photographs taken in 2010.
25. Related Files for reference. Planning Application File Nos. 14217,1642,16403,16463,17357, 17395,21108, Ref 10/581, E10/42, E16/27 and An Bord Pleanála Files RL18.RL3811, RL18.RL3532, RL18.RL3594, PL18.301047, RL18.302878, RL18.301312, PL18.301554, PL18.312433
26. This application has been referred to as being unnumbered in several submissions to the Board by Monaghan County Council.

Had the owner/occupier considered that the residential use of the house was not abandoned, he would have objected to my shed and certainly would have challenged the Section 5 declaration. Whatever plans he or his family had for the property, it seems clear that they didn't involve restoring the residential use of the building in question, but rather keeping it as a shed, as was admitted in his plans File no. 16235

The above demonstrates not only had there been a change of use, but that Mr. Brennan's actions reveal that he himself considered the residential use of the building to be abandoned. Only when his development plans didn't succeed, did he consider reinstating the residential use of the building.

Yours sincerely,

Patrick Carragher

Patrick Carragher

Comhairle Contae Mhuineacháin
Monaghan County Council

Acmhainní Daonna
Human Resources
047 30586

Airgeadas
Finance
047 30589

Na Bóithre
Roads
047 30597

Clár na dToghthóirí
Register of Electors
047 30551

Comhshaol
Environment
042 9661240

Na hEalaíona
Arts
047 38162

Iasachtaí /Deontais Tithíochta
Housing Loans/Grants
047 30527

Leabharlann an Chontae
County Library
047 74700

Mótarcháin
Motor Tax
047 81175

Músaem an Chontae
County Museum
047 82928

Pleanáil
Planning
047 30532

Pobal
Community
047 73719

Rialú Dóiteáin/Foirgnimh
Fire/Building Control
047 30521

Oifig Fiontair Áitiúil
Local Enterprise Office
047 71818

Seirbhísí Uisce
Water Services
047 30504/30571

Thursday, November 24, 2016

Patrick Carragher,
[redacted],
[redacted],
Co. Monaghan

Re: Works to reinstate the residential use of a derelict structure of which residential use has been abandoned.

A Chara,

I refer to your application for a certificate of exemption received on 25th October 2016 under the Planning and Development Regulations 2001, as amended, in relation to the above mentioned.

In accordance with Section 5(2) (c) of the Planning and Development Act 2001 (as amended) you are requested to submit the following information in order to enable the authority to issue the declaration in question.

1. *Please submit sustainable evidence that the dwelling, as indicated in your correspondence, that had become "abandoned and derelict" as indicated in your submission.*

Upon receipt of the above details the Planning Authority shall further consider your application in accordance with the Planning and Development Regulations (2001) as amended.

Mise le meas,

Joan Ryan
Administrative Officer
Planning

MON. CO. CO.
PLANNING SECTION
25 OCT 2016
€80 cheque
REG NO. Rec. No. 5023771

EXEMPTED DEVELOPMENT

Applicants Name: Patrick Carragher

Address: [redacted], Co Monaghan

Nature of Proposed Works:

works to reinstate the residential use of a derelict structure of which the residential use had been abandoned

Location: [redacted], Co. Monaghan

Owner: John J. Brennan

Floor Area:

Height above Ground Level:

Total area of private open space remaining after completion of this development:

Roofing Material
(Slates/Tiles, other (Specify) Slates

Proposed external walling
(Plaster, stonework, brick or
Other finish, giving colour) Stone / Red Brick

Is proposed work located
At front/rear/side of existing
House: N/A See Above

Has Application been made previously for this site? If so, give reference number (include full details of existing extensions, if any)

Yes: Previous Letter Included (Section 5)

Related Planning Applications 14217, 1641, 16235, 16403

Existing use of land or structure residential in an unauthorised structure

Proposed use of land or structures residential

Distance of proposed building line from edge of roadway

_____

Does the proposed development involve the provision of:

(a)	A piped water supply	(i) Well	☐	(ii) Public Mains	☑
(b)	Sanitary Facilities	(i) Septic Tank	☑	(ii) Public Mains	☐

I certify that the information given above is correct:

Signature: Patrick Carragher Date: 25/10/2016

Please forward application with a fee of €80.00 to Monaghan County Council, Planning Section, County Offices, The Glen, Monaghan, Co. Monaghan.

Patrick Carragher
[redacted]
[redacted]
Co.Monaghan

Planning Authority
Monaghan County Council
The Glen
Monaghan

24th October 2016

Dear Sirs,

The last occupant of this house was Kathleen Stack who died in 1977. This lady lived in the house with no running water (she used an outside well) and also no sanitary facilities. This woman used a chamber pot. After her passing the lands passed to a third party and soon after Mr Sean Brennan acquired this land (father of JJ Brennan).

Within a few years Ms Stack's dwelling became abandoned and derelict.

In 2005, I received planning permission for my agricultural shed which is in close proximity to this derelict structure. No submissions were received by Monaghan County Council in relation to my planning application.

In 2010, JJ Brennan approached me to sign a consent form to let him build 2 houses within 100 meters of my agricultural shed. On my solicitor's advice I refused to sign. Subsequently, JJ Brennan started works to reinstate the residential use of which the residential use had been abandoned. I reported this to the Council who started enforcement proceedings. On 21st June 2010, I filed a Section 5 Declaration with regards to this unauthorised development. The Council having inspected the site and contacting the landowner as is required by the Planning Act made a determination that the works to reinstate the residential use of this abandoned structure was not exempt development.

The electricity had been disconnected after Ms Stack died in 1977 and was not reconnected until 2011. After a mains water supply started to operate at this time also. This should prove the start-up of occupancy in the house.

Since the Brennans acquired this property, the land was used solely for agricultural purposes and without electricity or running water and for 33 years the structure had fallen into decay with dampness and wind. Photographs taken by Monaghan County Council should confirm this.

Take note that I put this same question in a Section 5 application on 27th July 2016 to Monaghan County Council but received no reply.

Yours sincerely,

Patrick Carragher

Patrick Carragher

Monaghan
COUNTY COUNCIL
COMHAIRLE CONTAE
MHUINEACHÁIN

Arts
047 71114

Community &
Enterprise
047 30500

County Library
047 51143

County Museum
047 82928

Environment
047 30593

Finance
047 30589

Fire/Building Control
047 30521

Higher Education
Grants
047 30550

Housing Estate
Management
047 30529

Housing Loans/Grants
047 30527

Human Resource
Management
047 30586

Motor Tax
047 81175

Planning
047 30532

Register of Electors
047 30547

Roads
047 30597

Water Services
047 30504

Monday, 19 July 2010

Patrick Carragher,
Drumquill,
Castleblayney,
Co. Monaghan.

Re: Exempted Application– - Application to use structure as a dwelling house at Drumquil, Castleblayney, Co. Monaghan.

A Chara,

I refer to your application for a certificate of exemption received on the 21st of June, 2010 under the (Planning & Development) Regulations 2001 as amended in relation to the above mentioned.

On the basis of the information submitted on the 21st of June, 2010, the application is **not considered to be exempt development.**

Mise le meas,

S. Finnegan

Sharon Finnegan
Planning Department.

Monaghan County Council, Council Offices, The Glen, Monaghan, Ireland.
Comhairle Contae Mhuineacháin, Oifigí an Chontae, Bóthar an Ghleanna, Muineachán.
Tel.: 00353 47 30500 | Fax: 00353 47 82739 | Email: info@monaghancoco.ie

MONAGHAN COUNTY COUNCIL

EXEMPT DEVELOPMENT

Applicant: [redacted]
Proposal: Refurbishment of a house.
Location: [redacted] Co. Monaghan.

Assessment
It is noted that the structure and the works in question are subject to ongoing enforcement action (see enforcement reference E10/42).

The crucial factor in this instance is not whether the refurbishment/restoration works are covered by Section 4(1)(h) of the Planning and Development Act 2000, it is whether or not the structure is a house, i.e. has the residential use been abandoned.

Whilst the structure was obviously a house at one time, it is rationally and reasonably taken that the residential use has been abandoned and that the works constitute the refurbishment/restoration of a derelict/abandoned dwelling (see attached Pics taken during the initial enforcement inspection on the 13/04/10; work had only just commenced the previous weekend).

With regard to the issue of abandonment, the key question is; was an evinced intention to resume the residential use demonstrated during the cessation period, see Dublin CoCo v Tallaght Block Company Ltd. In this regard it is noted that the structure was clearly allowed to fall into a state of material disrepair during the cessation period (again see the attached Pics).

Conclusion
It is taken that the residential use of the structure in question has been abandoned, and that the structure was in fact derelict prior to the recent commencement of the refurbishment/restoration works. Accordingly, the structure is not taken to be a 'house' and the proposal is not considered to be exempted development.

It is again noted that the structure and the works in question are subject to ongoing enforcement action.

_____
Ben Clerkin
Assistant Planner
16 July 2010

MONAGHAN COUNTY COUNCIL

PLANNING AND DEVELOPMENT

Re: Unauthorised refurbishment of a derelict/abandoned dwelling house @ Drumquill, Castleblayney, Co. Monaghan.

- Complaint received by the Planning Authority, on the 13/04/10, from Pat Carragher; adjacent landowner.
- Given the nature of the alleged works, an immediate site inspection was carried out on the same day.
- Works as indicated. The offender, JJ Brennan, is in the midst of refurbishing a derelict/abandoned dwelling house (see Pics attached).
- The works (namely, the re-roofing at this juncture) are not covered by a grant of planning permission.

I recommend that a Warning Letter under Section 152 of the Planning and Development Act 2000 be served on John J Brennan, Annadrumman, Castleblayney, Co Monaghan, stating that the re-roofing of the derelict dwelling and the associated site works at Drumquill, Castleblayney, Co Monaghan, are considered to be unauthorised development.

Adequate steps should be taken to regularise the situation immediately.

Ben Clerkin
Assistant Planner
19 April 2010

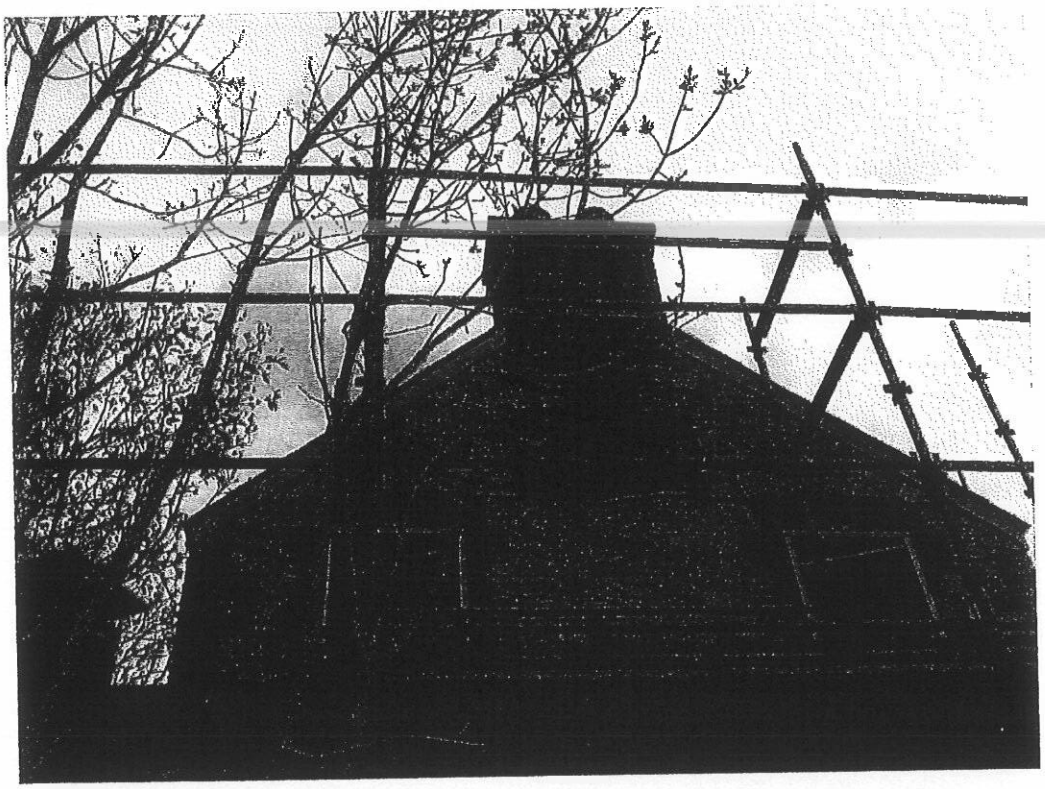
MONAGHAN COUNTY COUNCIL

PLANNING AND DEVELOPMENT

Re: Unauthorised refurbishment of a derelict/abandoned dwelling house @ Drumquill, Castleblayney, Co. Monaghan.

Samantha,

I called at the site again today. The offender, JJ Brennan, is continuing with the refurbishment works. The re-roofing is finished, and brick detailing has been completed around the chimney and openings.



Again, I advised him that as the works are considered to be unauthorised development. He informed me that he had not yet received the warning letter, but was aware that an attempt to deliver it had been made to his address.

Ben Clerkin
Assistant Planner
27 April 2010

MONAGHAN COUNTY COUNCIL

PLANNING AND DEVELOPMENT

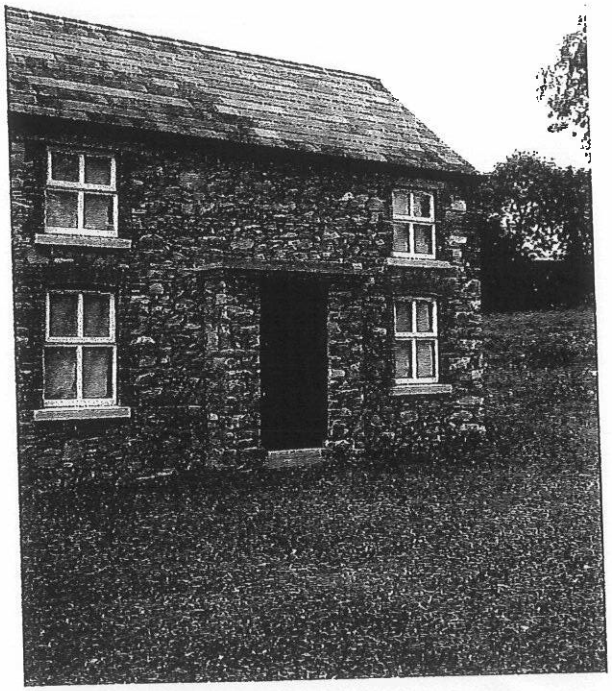
Re: Unauthorised refurbishment of a derelict/abandoned dwelling house @ Drumquill, Castleblayney, Co. Monaghan.

Samantha,

I re-inspected the site today.

The refurbishment works are complete (see Pic below) and, as per a recent S.5 Declaration, it is rationally and reasonably taken that the residential use of the now refurbished structure was abandoned prior to the commencement of the works.

Accordingly, the works constitute the refurbishment/restoration of a derelict/abandoned dwelling. Planning permission for the development should have been obtained.



I recommend that a Warning Letter under Section 152 of the Planning and Development Act 2000 be served on John J Brennan, [redacted], [redacted], Co Monaghan, stating that the refurbishment/restoration of the derelict/abandoned dwelling and the associated site works, at Drumquill, [redacted], Co Monaghan, are considered to be unauthorised development.

Adequate steps should be taken to regularise the situation immediately.

Ben Clerkin
Assistant Planner
20 August 2010

Deimhniú Báis

Arna h-eisiúint de bhun na hAchta um Chlárú Sibhialta 2004

Éire

Death Certificate

Issued in pursuance of the Civil Registration Act 2004

Ireland

Clár Uimhir / Registration Number: 232181

Bás a Chláraíodh i gCeantar / Death Registered in the district of: Monaghan

i gCeantar an Chláraitheóra Maoirseachta / in the Superintendent Registrar's District: Monaghan

i gContae / in the County of: Co. Monaghan

PLANNING
9 MAY 2011

Uimh. / No.	Dáta agus Ionad Báis / Date and Place Of Death	Ainm agus Sloinne / Name and Surname	Gnéas / Sex	Stáid / Condition	Aois / Age	Céim, Gairm nó Slí Bheatha / Rank, Profession or Occupation	Cúis Bháis Dheimhneithe agus fad an Tinnis / Certified Cause of Death and Duration of Illness	Sinú, Cálaíocht agus Ionad Cónaithe an Fhaisnéiseora / Signature, Qualification and Residence of Informant	An Dáta a Chlárú / When Registered	Sinú an Chláraitheora / Signature of Registrar
313	19 77 Eleventh February County Hospital Monaghan	Kathleen Stack Dunmaghill Creighanole Castleblayney	Female	single	yrs 80	Home Duties	Pneumonia Certified	Lena Gibbons Daughter County Hospital Monaghan	Twelfth February 19 77	Cláraitheoir Registrar

Deimhnítear gur thiomsíodh na sonraí seo ó clárleabhar coinnithe faoi alt 13 den Acht um Chlárú Sibhialta 2004/Certified to be compiled from a register maintained under section 13 of the Civil Registration Act 2004

Eisithe ag / Issued by **Suzanne Duffy, Registrar** Dáta / Date Of Issue **7 January 2011**

Is cion trom é an deimhniú seo a athrú nó é a úsáid tar éis a athraithe / To alter this certificate or to use it as altered is a serious offence

AFFIDAVIT OF PATRICK CARRAGHER

I Patrick [redacted], Co Monaghan hereby confirm that no person lived in this structure since Ms Stack died in 1977 until Mr JJ Brennan took up occupancy in 2011.

There was no septic tank connected to this structure or lands until Mr JJ Brennan installed a septic tank in 2010. Ms Stack used a chamber pot while she resided in this structure. Electricity was disconnected after Ms Stack's death in 1977 and wasn't reconnected until 2011 when Mr JJ Brennan moved in.

I make this Affidavit from facts within my own knowledge based on the fact that my dwelling house and agricultural shed is within sight of said structure.

SWORN at Monaghan in the County of Monaghan
before me George Wright, A Practising Solicitor,
by Patrick Carragher whose identity has been established
to me before the taking of this Declaration by the
production to me of Driving Licence No 180042240
issued on 3rd May 2012
by the authorities of the RSA of Ireland.,
which is an authority recognised by the Irish Government

dated this 4th day of July. 2016

Patrick Carragher

Practising Solicitor

File no 16235

ORIGINAL SHEET SIZE = A2

LANDSCAPE AS DISCUSSED WITH LANDSCAPER

AREA A:
Area to be planted with:
Fagus Sylvatica
OR
Laurel hedging (15ft in 10yrs)
at rate of 50cm apart. Area shall be kept weed free for 75cm along boundary.

LANDSCAPE AS DISCUSSED WITH LANDSCAPER

AREA A:
Area to be planted with:
Fagus Sylvatica
OR
Laurel hedging (15ft in 10yrs)
at rate of 50cm apart. Area shall be kept weed free for 75cm along boundary.

AREA B:
Area to be planted with low growing shrubs of all year round interest. Shrubs will be maintained on yearly basis.

AREA C:
To be planted with small - medium sized shrubs of all year round interest.

NOTES:
Proposed planting to be carried out in the first planting season following commencement of building operations and permanently retained thereafter. It would be hoped to plant area A as soon as site work commences.

Areas B & C would be planted when house has completed.

Trees would also be planted on completion of house.

All plants will be maintained and kept weed free.

Trees will all be staked and tied to encourage establishment.

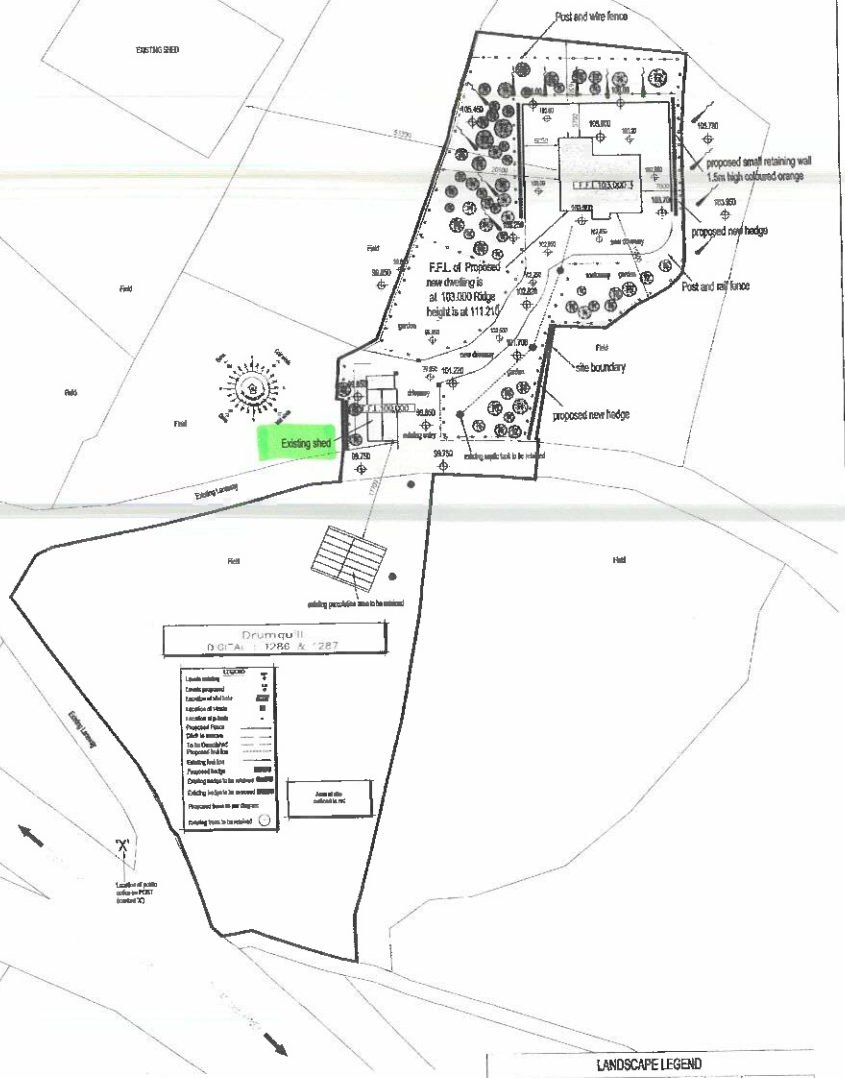
Any plant which fails in the first year of planting will be replaced straight away.

Proposed new dwelling

Existing shed

AREA OF SITE(S) ~ OUTLINED RED

SITE	M²	ACRES	HECTARES
A	6,340.000	1.5681	0.6346
TOTAL	6,340.000	1.5681	0.6346



NOTE
All drainage to be checked on site by the contractor before any work takes place. Architects to be informed of any discrepancy immediately. Figured dimensions only are to be taken from this drawing.

NOTE
All materials & methods of construction to be in full accordance with the new 2000 building regulations and best industry requirements.

SITE DIMENSIONS SHOWN
All dimensions shown are the minimum dimensions required unless stated otherwise. Plans note that in the case of an outline planning application, all minimum dimensions shall include the mass area. If the design and size of the dwelling house alters, all other dimensions may be subject to change on basis of the approved planning application.

EXISTING HEDGEROW TREATMENT
Existing hedgerows, including roadside hedgerows, shall be retained, where possible, and shall be protected from damage during construction. Any portions of the hedgerow that may be damaged during construction shall be replaced with native species to have a hedgerow, in the first planting season after completion of the works.

NON-EXISTING HEDGEROW TREATMENT
The existing roadside hedgerow shall NOT be removed or altered to provide the required visibility splays both near entrance.

WATER SUPPLY
The Existing water supply shall be via the existing scheme that currently serves the site.

EXISTING ENTRANCE
The existing entrance gates to open inwards. Existing hedges to have new 300ø channel drains to prevent any surface water flowing onto LANE from existing driveway.

VISIBILITY SPLAYS
The existing entrance will not be changed as that from existing to dwelling.

SURFACE WATER TREATMENT AT ENTRANCE
All surface water drainage shall be tied and treated in a manner so as to avoid a surface run off towards to main road. An Aco drain or alternatively a gulley grill will be provided at the entrance of the site, as agreed with the client, to ensure no surface water run off problems.

PROPOSED SITE NOTICE
The site notice shall be located on a timber post as shown. It shall be easily readable from the roadside and maintained there for the duration of the planning application.

PLEASE NOTE -
This site and dimension shown hereon are merely for the purposes of the planning application and should not be taken as evidence of title in any way.

SURFACE WATER
Surface water from roofs and paved areas should not enter the sewerage system but shall be disposed of separately by way of a surface water disposal system discharging to drainage system taken to a soakpit.

16/235

SITE LAYOUT MAP

1:500

LANDSCAPE LEGEND

TREE	DESCRIPTION	GIRTH	HEIGHT	HEIGHT AT MATURITY (10 Years)
T1 X 11	Oak	15-20CM	3M	10 + m
T2 X 7	Ash	15-20CM	4M	10 + m
T3 X 5	Sycamore	15-20CM	3.5M	10 + m
T4 X 9	Sorbus	15-20CM	3.5M	6 + m
T5 X 11	Prunis	5-10CM	2.1M	6 + m
T6 X 8	Scots Pine	5-10CM	2.1M	6 + m
T7 X 6	Norway Maple	5-10CM	2.1M	6 + m

PLANNING

CLIENT
JOHN BRENNAN

JOB
PROPOSED DEVELOPMENT AT
DRUMAQUILL, CASTLEBLAYNEY
CO. MONAGHAN.

DRAWING
PROPOSED SITE LAYOUT

DATE 14.06.14 SCALE AS SHOWN
DRN CMC CHECKED DC

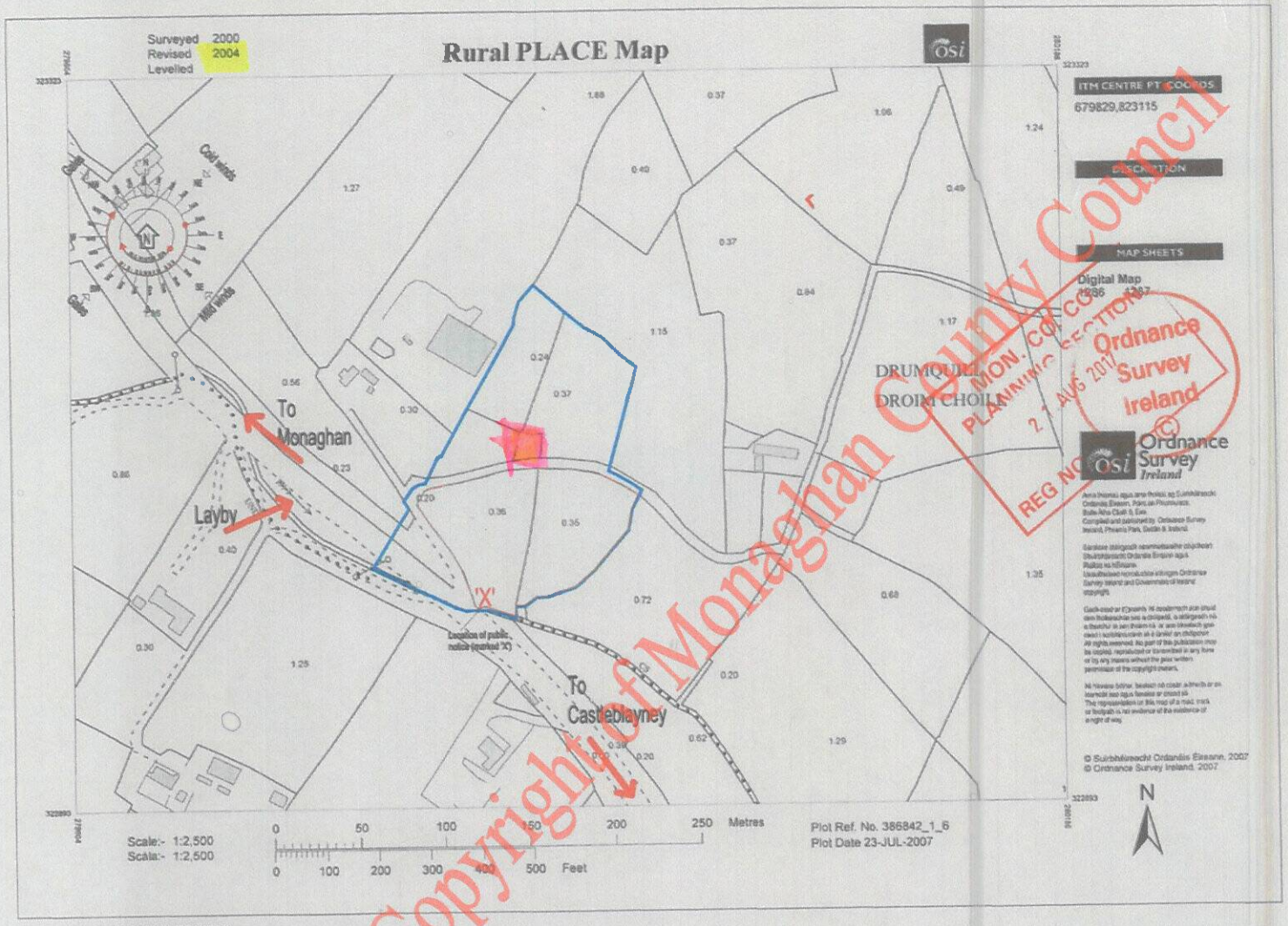
JOB NUMBER 14/149 DRG NUMBER 3.0_S100.00 REVISION

REV DATE DRN NOTES

DO NOT SCALE FROM THIS DRAWING. USE FIGURED DIMENSIONS IN ALL CASES
VERIFY DIMENSIONS ON SITE AND REPORT ANY DISCREPANCIES TO THE ARCHITECT IMMEDIATELY
THIS DRAWING TO BE READ IN CONJUNCTION WITH THE ARCHITECTS SPECIFICATION

• Architectural & Engineering services
• Building / Fire Consultants & Site Surveying
• Site Characterisation & Soil Percolation
CUNNINGHAM DESIGN ASSOCIATES.
Architectural & Building Consultants
Tandaill Lodge, Rockhill, Castleblayney, Co.Monaghan
Tel: 042 9740 [illegible] Fax: 042 9740 [illegible] E-mail: info@cda.ie

Structure referred to as "Existing Shed"



DO NOT SCALE FROM THIS DRAWING, USE FIGURED DIMENSIONS IN ALL CASES. VERIFY DIMENSIONS ON SITE AND REPORT ANY DISCREPANCIES TO THE ARCHITECTS IMMEDIATELY.
THIS DRAWING TO BE READ IN CONJUNCTION WITH THE ARCHITECTS SPECIFICATION.

NOTES

SITE LOCATION MAP

Proposed site is outlined in red. Land owned out lined in blue.

Scale 1/2500

O.S REFERENCE -

DIGITAL - 1286 - 1287

TOWNLAND -

DRUMQUILL

ORIGINAL SHEET SIZE = A3

SITE LOCATION MAP

1:2500

Location of unauthorised works.

Note: OS maps records that there is no structure of significance at this location (2004)

CUNNINGHAM DESIGN ASSOCIATES
Architectural & Building Consultants
Thornford Lodge, Broomfield, Castleblayney, Co.Monaghan
T 042 9743755 F 042 9743754 E www.cunninghamdesign.ie

CLIENT
EAMON BRENNAN

JOB
PROPOSED DEVELOPMENT AT DRUMAQUILL, CASTLEBLAYNEY CO.MONAGHAN.

DRAWING
SITE LOCATION MAP

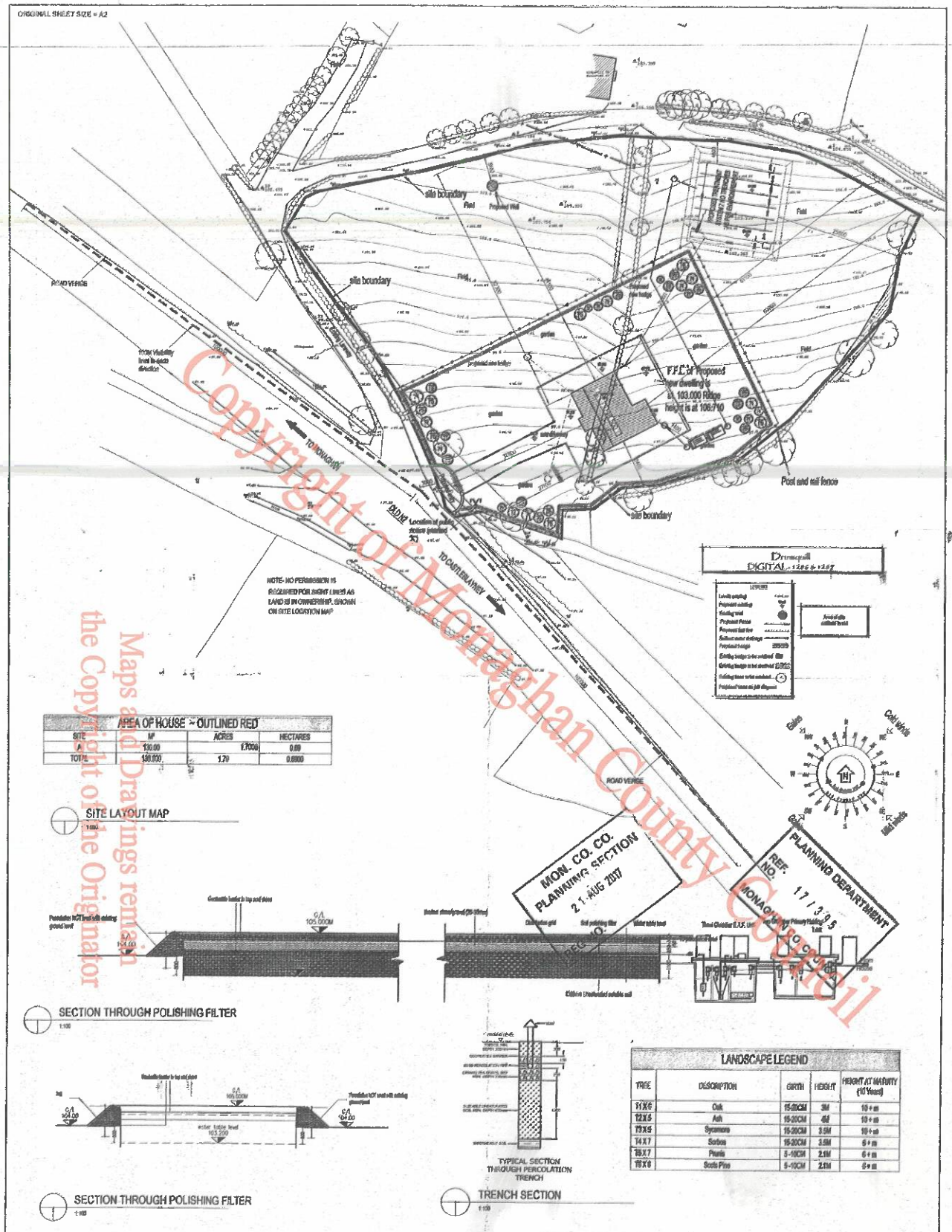
DATE	10.08.17	SCALE	1:2500
DRN	CNC	CHECKED	OC

DWG. SERIES
PLANNING

JOB NUMBER	DWG NUMBER	REVISION
17-148	3.0_S101.00	

Examples of proposed developments

ORIGINAL SHEET SIZE = A2



AREA OF HOUSE ~ OUTLINED RED			
SITE	M²	ACRES	HECTARES
A	130.00	0.0006	0.09
TOTAL	130.000	1.70	0.6900

LANDSCAPE LEGEND				
TREE	DESCRIPTION	GIRTH	HEIGHT	HEIGHT AT MATURITY (10 Years)
11X6	Oak	15-20CM	3M	10+m
12X5	Ash	15-20CM	4M	10+m
13X6	Sycamore	15-20CM	3.5M	10+m
14X7	Sorbus	15-20CM	3.5M	6+m
15X7	Prunis	5-10CM	2.5M	6+m
16X6	Scots Pine	5-10CM	2.5M	6+m

PLANNING

CLIENT
EAMON BRENNAN

JOB
PROPOSED DEVELOPMENT AT DRUMAQUILL, CASTLEBLAYNEY CO.MONAGHAN.

DRAWING
PROPOSED SITE LAYOUT & SECTION THROUGH POLISHING FILTER

DATE 15.06.17 SCALE AS SHOWN
DRN CMC CHECKED DC

JOB NUMBER 17-146 DRG NUMBER 3.0_S100.00 REVISION

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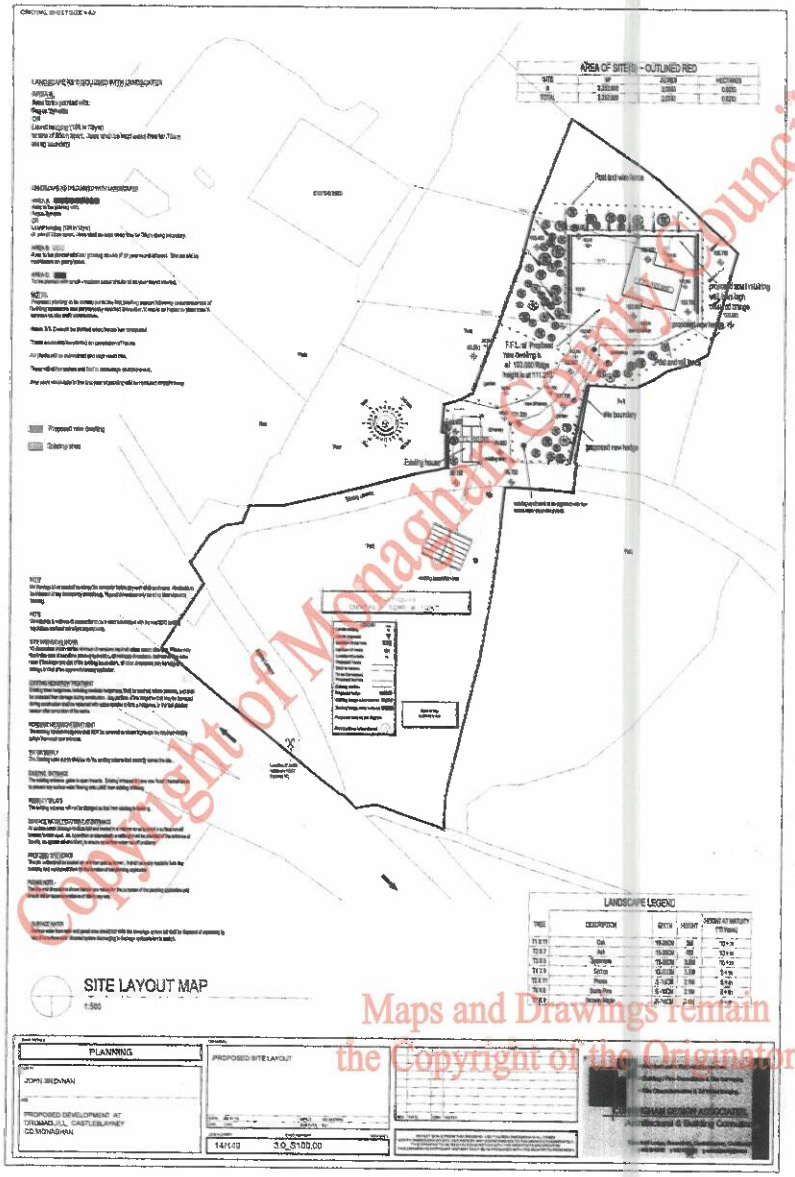
• Architectural & Engineering services
• Building / Fire Consultants & Site Surveying
• Site Characterisation & 3rd Visual Imaging
CUNNINGHAM DESIGN ASSOCIATES.
Architectural & Building Consultants
Thornfield Lodge, Thornfield, Castleblayney, Co.Monaghan
T 042 9740894 F 042 9740854 E thornfieldlodge@eircom.net



This is the developer's latest development where he currently resides

DO NOT SCALE FROM THIS DRAWING USE FIGURED DIMENSIONS IN ALL CASES. VERIFY DIMENSIONS ON SITE AND REPORT ANY DISCREPANCIES TO THE ARCHITECT IMMEDIATELY. THIS DRAWING TO BE READ IN CONJUNCTION WITH THE ARCHITECTS SPECIFICATION. THIS DRAWING IS COPYRIGHT AND MAY ONLY BE REPRODUCED WITH THE ARCHITECTS PERMISSION.

NOTES

File no. 17557

FRONT ELEVATION
1:100

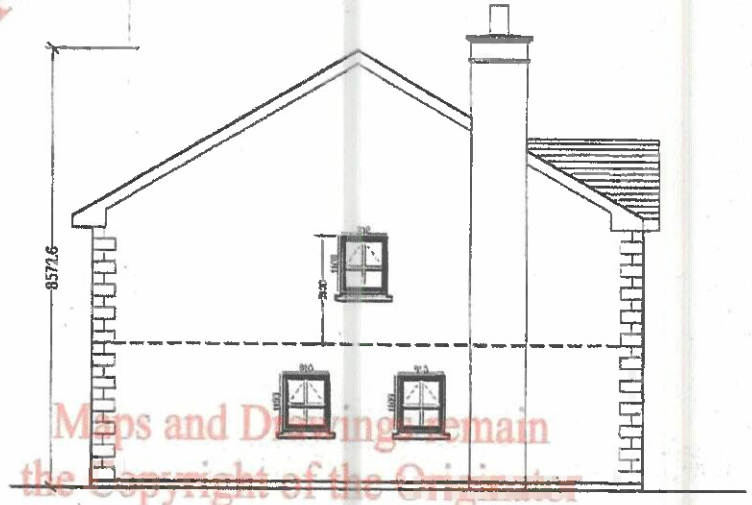
REAR ELEVATION
1:100

FINISHES SCHEDULE

1. BLUE/BLACK ROOF SLATES/TILES
2. UPVC FASCIA SOFFITS BARGE BOARDS
3. RWPS UPVC
4. UPVC DOUBLE GLAZED EXTERNAL WINDOWS & DOORS
5. SMOOTH SAND/CEMENT RENDER FINISH TO BLOCKWORK AND PLINTH

PLANNING DRAWING ONLY

SIDE ELEVATION
1:100



SIDE ELEVATION
1:100

CUNNINGHAM DESIGN ASSOCIATES
Architectural & Building Consultants

CLIENT
JOHN BRENNAN

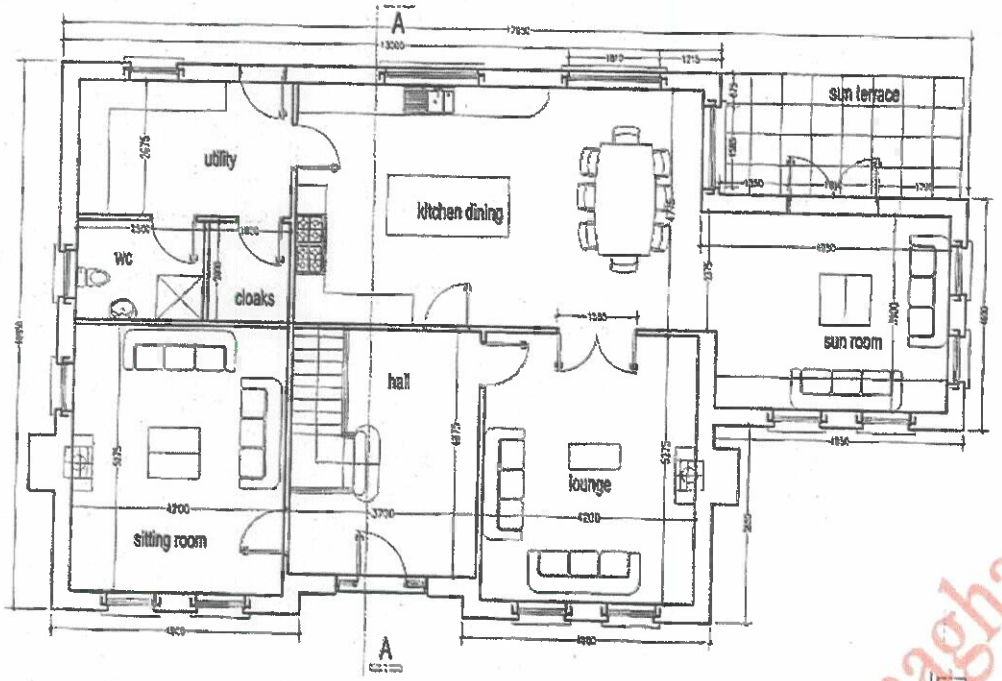
JOB
PROPOSED DWELLING HOUSE AT CORNAHAWLA, BROOMFIELD, CASTLEBLAYNEY, CO.MONAGHAN

DRAWING
PROPOSED ELEVATIONS

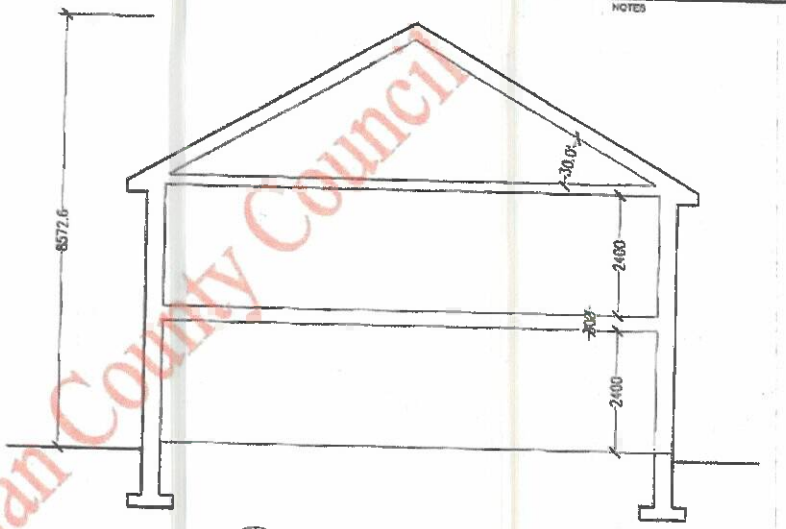
DATE	09/11/2017	SCALE	AS SHOWN
DRN	G.C.	CHECKED	G.C.

DWG SERIES
PLANNING

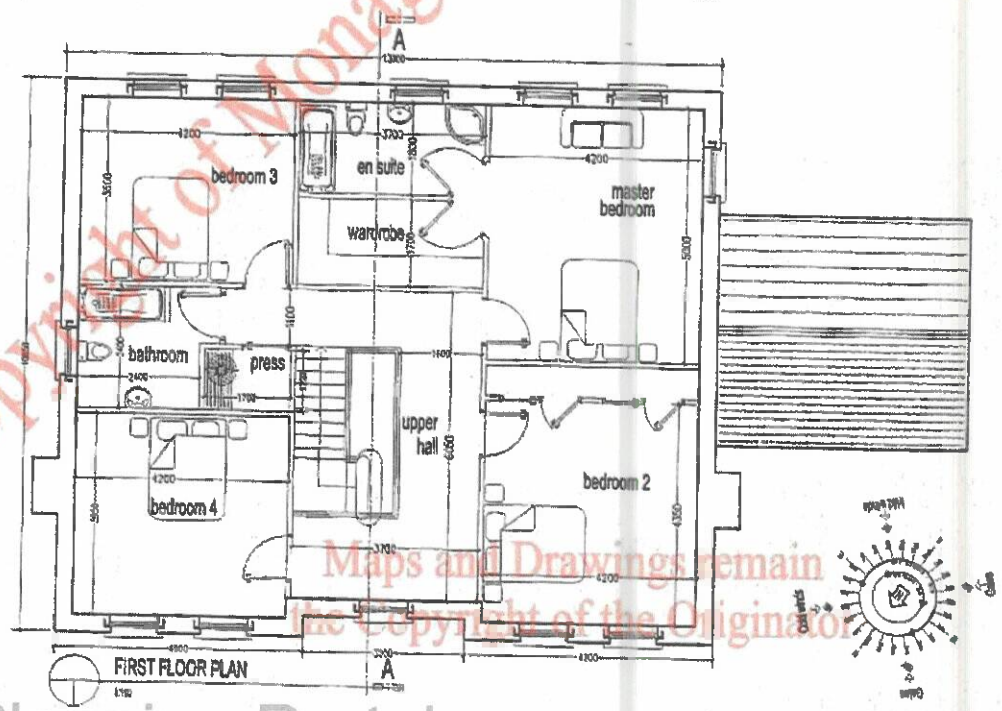
JOB NUMBER	DWG NUMBER	REVISION
17/267	3.0_P100.00	



GROUND FLOOR PLAN
1:50



SECTION A - A
1:50



FIRST FLOOR PLAN
1:50

FINISHES SCHEDULE

1. BLUE/BLACK ROOF SLATES/TILES
2. UPVC FASCIA SOFFITS BARGE BOARDS
3. RWP'S UPVC
4. UPVC DOUBLE GLAZED EXTERNAL WINDOWS & DOORS
5. SMOOTH SANDCEMENT RENDER FINISH TO BLOCKWORK AND PLINTH

AREA OF HOUSE		
LEVEL	M²	FT²
GROUND	143.00	1539.24
FIRST	123.00	1323.96
TOTAL	266.00	2863.20

NOTES

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PLANNING DRAWING ONLY

CUNNINGHAM DESIGN ASSOCIATES
Architectural & Building Consultants

CLIENT
JOHN BRENNAN

JOB
PROPOSED DWELLING HOUSE AT CORNAHAWLA, BROOMFIELD, CASTLEBLAYNEY, CO.MONAGHAN

DRAWING
PROPOSED PLANS & SECTION A - A

DATE	26/11/2017	SCALE	AS SHOWN
DRN	DC	CHECKED	DC

DWG. SERIES
PLANNING

JOB NUMBER	DWG NUMBER	REVISION
17/267	3.0_P101.00	

In the matter of dwellinghouse on property of Sean Brennan situate in the Townland of Drumguill, Castleblayney, Co Monaghan.

1. I Thomas Greene ([redacted] Co. Monaghan, am the registered owner and beneficial owner of lands in Folios 6756, 6757 and 3118F Co Monaghan in the townland of Drumquill (hereinafter called "the Lands"), part of which adjoins the lands of John James Brennan in Folio 6751 Co Monaghan. I was registered as owner of my lands in Folio 6757 in 1977. I have been living and working as a farmer in the townland of Drumquill for the past 60 years.

2. Access to the Lands is along the way the course of which is coloured yellow on map attached hereto. The said Way passes through lands in said Folio 6751 Co Monaghan. I have been passing along the said Way to the Lands since 1977. I am fully familiar with the use of and condition of the structure on Folio 6751.

3. There was a dwelling house (built over 100 years ago) on the lands in said Folio 6751 Co Monaghan. The said dwelling house was occupied by one Cathleen Stack until she died in 1977. Thereafter the said dwelling house became uninhabitable. It was served by electricity but not connected to any water supply or any sewerage system. The said dwelling house became derelict. No person resided in said dwelling house since 1977. I do remember the said dwelling house being used to store agricultural materials eg square bales of hay.

4. Sean Brennan (father of John James Brennan) became the owner of the lands in Folio 6751 in 2007. His son, John James Brennan (orse Sean) Brennan in year 2010 commenced to develop the building on Folio 6751. At that time, he constructed a septic tank as part of the development. I am aware that the said development was not authorised by way of planning permission from Monaghan County Council.

In the matter of dwellinghouse on property of Sean Brennan situate in the Townland of Drumgunill, Castleblayney, Co Monaghan.

1. I Thomas Greene (Born 23rd September, 1933) of Drumgunill, Castleblayney, Co. Monaghan, am the registered owner and beneficial owner of lands in Folios 6756, 6757 and 31188F Co Monaghan in the townland of Drumgunill (hereinafter called "the Lands"), part of which adjoins the lands of John James Brennan in Folio 6751 Co Monaghan. I was registered as owner of my lands in Folio 6757 in 1977. I have been living and working as a farmer in the townland of Drumgunill for the past 60 years.

2. Access to the Lands is along the way the course of which is coloured yellow on map attached hereto. The said Way passes through lands in said Folio 6751 Co Monaghan. I have been passing along the said Way to the Lands since 1977. I am fully familiar with the use of and condition of the structure on Folio 6751.

3. There was a dwelling house (built over 100 years ago) on the lands in said Folio 6751 Co Monaghan. The said dwelling house was occupied by one Cathleen Stack until she died in 1977. Thereafter the said dwelling house became uninhabitable. It was served by electricity but not connected to any water supply or any sewerage system. The said dwelling house became derelict. No person resided in said dwelling house since 1977. I do remember the said dwelling house being used to store agricultural materials eg square bales of hay.

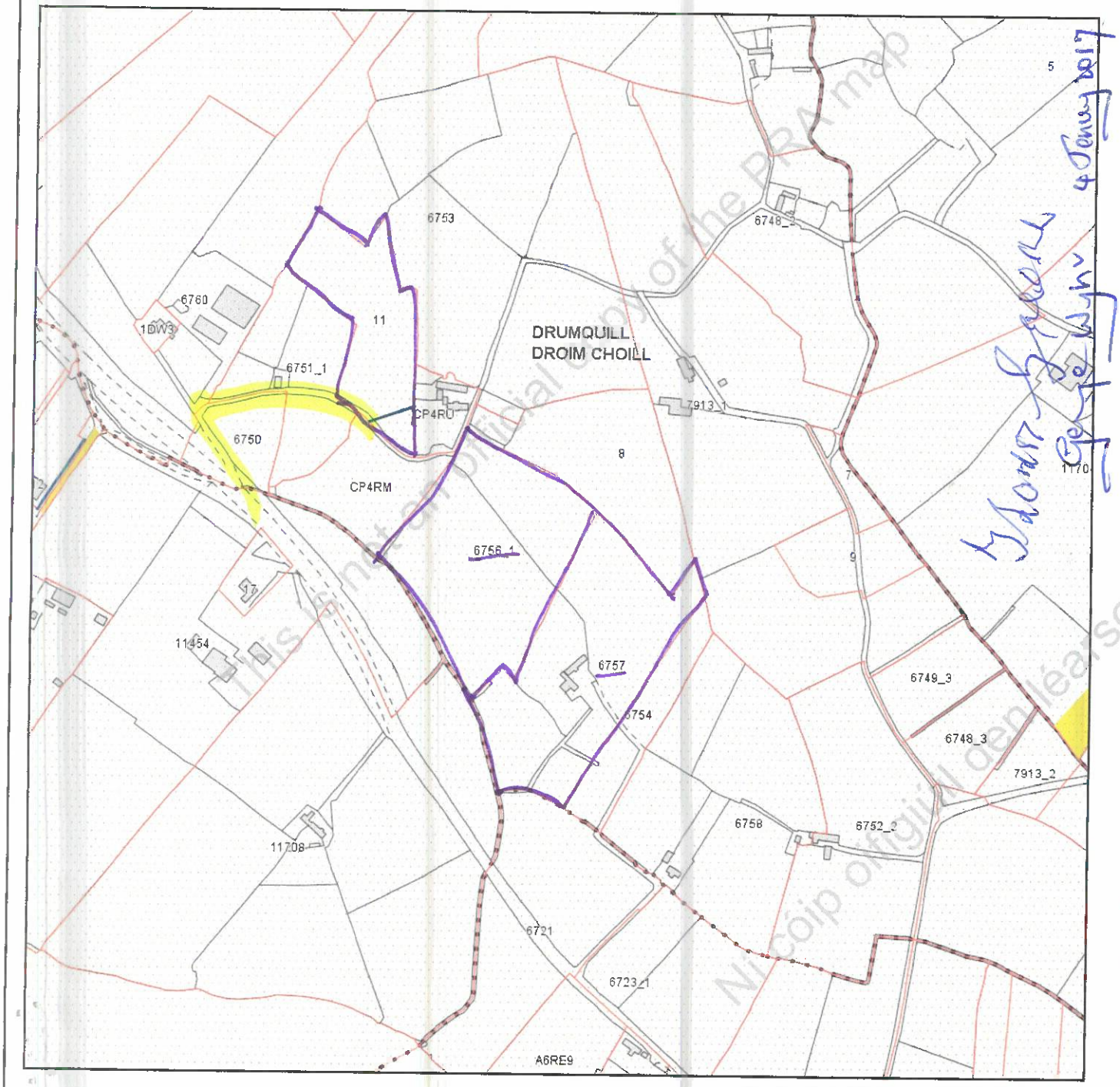
4. Sean Brennan (father of John James Brennan) became the owner of the lands in Folio 6751 in 2007. His son, John James Brennan (orse Sean) Brennan in year 2010 commenced to develop the building on Folio 6751. At that time, he constructed a septic tank as part of the development. I am aware that the said development was not authorised by way of planning permission from Monaghan County Council.

SWORN at Monaghan in the County of Monaghan
before me George Wright, A Practising Solicitor,
by Thomas Greene whose identity has been established
to me before the taking of this Declaration by the
production to me of Driving Licence No. 01013NNWVS
issued on 7th April, 2016 by the Road Safety Authority
which is an authority recognised by the Irish Government
dated this 4 day of January 2017

Thomas Greene

George Wright

Practising Solicitor



Creation Date: 04 January 2017 12:59:39

The Property Registration Authority
An tÚdarás Clárúcháin Maoine

Official Property Registration Map

This map should be read in conjunction with the folio.

Registry maps are based on OSi topographic mapping. Where registry maps are printed at a scale that is larger than the OSi published scale accuracy is limited to that of the original OSi Map Scale.

For details of the terms of use, and limitations as to scale, accuracy and other conditions relating to Land Registry Maps, see www.prai.ie.

(centre-line of parcel(s) edged)

- Freehold
- Leasehold
- SubLeasehold
- 'S' Register

(see Section 8(b)(ii) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

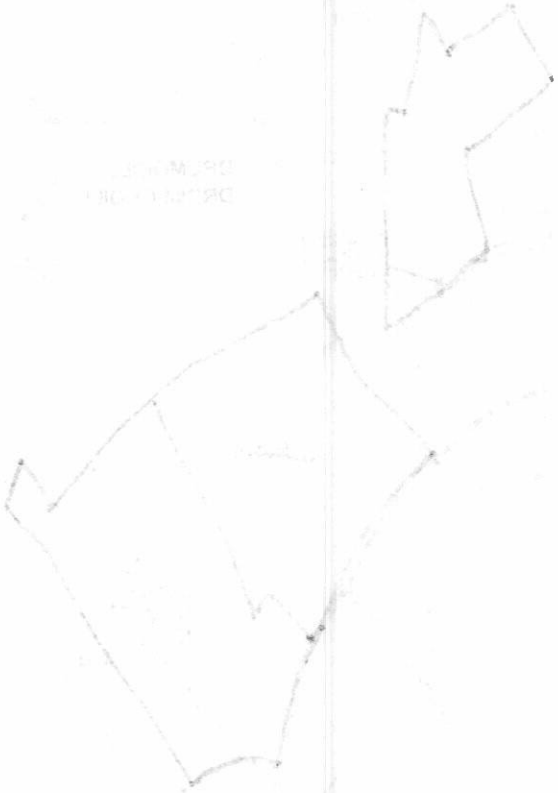
Burdens (may not all be represented on map)

- Right of Way / Wayleave
- Turbary
- Pipeline
- Well
- Pump
- Septic Tank
- Soak Pit

A full list of burdens and their symbology can be found at: www.landdirect.ie

The registry operates a non-conclusive boundary system. The Registry Map identifies properties not boundaries meaning neither the description of land in a register nor its identification by reference to a registry map is conclusive as to the boundaries or extent.

(see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.



ENVIRONMENTAL HEALTH OFFICERS REPORT

Application of: John Brennan.

Agent:

for permission to : Retain dwelling-house etc.

at: Drumquill, Castleblayney Ref No: P14/217.

Water Supply G.W.S. Sewerage P.T.P.

Applicant should be requested;

1. Outline in detail the type of septic tank that exists on site and uncover the said septic tank to facilitate a proper inspection of same.
2. Indicate the extent of the percolation area that was installed in 2012 and uncover all manholes, distribution box and vents to for visual inspection.
3. Indicate if a site tests were carried out prior to the installation of the on-site wastewater treatment system and percolation area and if the said installation was supervised or certified by a competent person.
4. Clearly demonstrate that the existing septic tank and percolation area complies with the Environmental Protection Agency Code of Practice "Wastewater Treatment and Disposal Systems Serving Single Houses." (p.e. ≤ 10).

Dermot McCague.
Env. Health. Officer.
01 April 2015.

Comhairle Contae Mhuineacháin
Monaghan County Council

Acmhainní Daonna
Human Resources
047 30586

Airgeadas
Finance
047 30589

Na Bóithre
Roads
047 30597

Clár na dToghthóirí
Register of Electors
047 30551

Comhshaol
Environment
042 9661240

Na hEalaíona
Arts
047 38162

Iasachtaí /Deontais Tithíochta
Housing Loans/Grants
047 30527

Leabharlann an Chontae
County Library
047 74700

Mótarcháin
Motor Tax
047 81175

Músaem an Chontae
County Museum
047 82928

Pleanáil
Planning
047 30532

Pobal
Community
047 73719

Rialú Dóiteáin/Foirgnimh
Fire/Building Control
047 30521

Oifig Fiontair Áitiúil
Local Enterprise Office
047 71818

Seirbhísí Uisce
Water Services

6th September 2021

Mr. Martin Molloy,
[redacted]
Co. Monaghan
[redacted]

By email to: [redacted]

Re: Request for Internal Review of FOI request 22/2021

Dear Mr. Molloy

I refer to the appeal which you made under the Freedom of Information Act 2014, dated 16th August 2021 seeking a review of the Freedom of Information Officer's decision of 19th July 2021 and my acknowledgement letter of the 16th August 2021. I also refer to my telephone call to you, today, in relation to the outcome of the Internal review process.

Your original FOI request, received on the 28th June was as follows:

- Records pertaining to the unauthorized developments / enforcements files at Drumquill, Castleblayney by Mr. John Brennan from 2010 to the present.

In accordance with Section 21 (2) of the Freedom of Information Act, a final decision on your request for an internal review was made today and I have no option, but affirm the original decision, dated 19 July 2021, because, I cannot locate the records referenced in your appeal.

Unfortunately, despite an extensive review of the file within the Planning & Development unit, hard drives, emails and archive emails, I have been unable to locate the two specific records in question (Photographs referenced in Record No. 3 of the Schedule of Records and the Solicitors Letter referenced in your letter of appeal).

In accordance with the provisions of Section 15 (1)(a) of the Freedom of Information Act, I am satisfied that all reasonable steps have been taken to identify and locate the two specific records you requested in your appeal of 19th July 2021. I am unable to locate the records concerned.

You may appeal this decision by writing to the Information Commissioner at 18 Lower Leeson Street, Dublin 2. There is a fee of €50 for such appeals, other than appeals against a decision to impose a fee. If you wish to appeal, you must usually do so not later than 6 months from the date of this notification. Should you write to the Information Commissioner making an appeal, please refer to this letter. If an appeal is made by you and accepted, the Information Commissioner will fully investigate and consider the matter and issue a fresh decision.

Yours sincerely,

Cathal Flynn,
Director of Corporate Services.
cflynn@monaghancoco.ie

Pat Carragher
[redacted]
[redacted]
Co.Monaghan

15/12/2021

Planning Dept

Monaghan County Council

Co. Monaghan

Dear Sir/Madam

I wish to make the following response to your request for further information regarding a Section 5 declaration concerning an abandoned and derelict building in Drumquill. Please find a copy of the request letter attached. [1]

I wish to note that Monaghan County Council on the 19th July 2010, declared that the reinstating of the residential use of the structure was not exempt development.[2]

The Planning Authority was able to make this judgment because photographs taken on 13th April 2010, [3] showed clearly that the building was abandoned and derelict. These photographs were taken as part of an investigation by Monaghan County Council of a planning breach. A report was written up on 19th April 2010 by Mr Ben Clerkin.

An enforcement file was opened, and it was decided not to pursue the same and "to see how the complainants react" [4]. I wish to note that I was not informed of this decision by the Council not to pursue enforcement action.

In fact, after repeatedly asking the Council for the status of this file[5], I was not informed by the Council until May 2016, that the Council had decided unofficially to take a different view. [6]

I decided to request the current Section 5 on the same structure to find out if the Council had taken this view officially and if so, their rationale for making their decision.

I was perplexed by the Council's request for further information to make their decision, seeing that there was enough information to make a decision in 2010.

From a Freedom of Information request to the Council, this year, it has been revealed that most of the original photographs (13/4/10) and the inspection report (19/4/10) have disappeared.

Some internal correspondence at the time has come to light from the FOI request, which is included. See some quotes below:

"it is rationally and reasonably taken that the residential use of the now refurbished structure was abandoned prior to the commencement of the works"[7]

"With regard to the issue of abandonment, the key question is; was an evinced intention to resume the residential use demonstrated during the cessation period see Dublin CoCo v Tallaght Block Company...the structure was clearly allowed to fall into a state of disrepair...(again see attached pics)[3]

It is clear from above, that the missing pictures demonstrate the dilapidated, derelict, and abandoned nature of the structure.

On February 18th 2015, at a meeting in Monaghan County Council, Mr Brennan besmirched my good name by making unfounded accusations against me. He stated that I wanted €200,000 to sign a letter facilitating his building projects within 100m of my agricultural shed. This is a lie. In fact, no amount of money would be worth putting my livelihood in jeopardy, because of the proximity of dwelling houses. I was also accused of being in trouble with the EPA.[8] Please find attached a letter from the EPA stating the I was not at any time in trouble with them.[9] More lies.

This meeting was also attended by Mr Padraig McNally (Fianna Fáil Councillor) who was then Chairman of Monaghan County Council, yet acting on Mr Brennan's behalf, presumably because of their shared political background. Councillor McNally backed up Mr Brennan, by saying that my complaint was "vexatious" and

that I was "not a model citizen". This partisan intervention by the Chairman of Monaghan County Council in the planning process, supporting a man throwing out false accusations about me, where I had no opportunity to defend myself, is abuse of position and power. This also blurs the line between planning and politics. This meeting began the process of the Council changing their mind, unofficially.[9]

It should be noted that Monaghan County Council have granted permission for a new wastewater treatment plant for this structure to replace the original one on 7/12/2021.[10]

As the Council is aware, from previous planning applications, Mr Brennan was caught lying about the installation of the original septic tank. For one, he said he installed the septic tank when my family had the land rented from him. He then said he upgraded the tank twice, because of wear and tear.

The fact that Mr Brennan has been found out manufacturing stories to suit his cause shows that his testimony is untrustworthy.

I have also included a declaration from Mr Martin Molloy, who lives along the laneway and has a right of way through this property, which he uses every day to access his house. [11]

Please find included a photograph of the structure taken in 2010. [12]

Yours sincerely,

Patrick Carragher

Pat Carragher

2 attachments (701 KB)
PlanningMeeting18-2-15 (1).pdf; EPA emails.pdf;

Dear Adrian,

Please find attached the minutes of a meeting that was chaired by you in the Planning Department of Monaghan County Council on 18th February 2015.

This meeting was attended by Mr John Brennan and among those acting on his behalf was the then Chairman of Monaghan County Council, Councillor Pádraig McNally Fianna Fáil. Councillor Pádraig McNally was also the National President of the Association of Irish Local Government (AILG) at the time.

During this meeting, I was falsely portrayed by more than one party on several counts. While my name was not explicitly mentioned, I was clearly identifiable, being the only objector with an active farming enterprise. I was described as "not a model citizen" and being "in serious trouble with the EPA" among other things.

The minutes of this meeting only came into the public domain, recently, as a result of a freedom of information request. Naturally, I was horrified that my good character, to which I am entitled, was maligned without any chance on my part to defend myself and that this record was in the Planning Department without my knowledge for a period of almost 7 years.

Please also find attached a copy of emails between the EPA and myself stating that I was not, nor have I ever been in trouble with the EPA.

I formally request that you, as Chair of that meeting and Head Planner, rectify the remarks by amending the file on record.

Please forward a copy of the amended record to me, with utmost urgency.

Your sincerely,

Patrick Carragher

For Adrian Hughes

PLANNING DEPARTMENT
REF NO. 17 JAN 2022
MONAGHAN CO. COUNCIL

From: Pat Carragher [redacted]
Sent: Friday 23 July 2021 11:37
To: Wexford Receptionist <REC_WEX@epa.ie>
Subject:

Dear Sir/Madam,

It has come to my attention that at a meeting on 18th Februrary 2015, that has recently entered the public domain that it was stated the I, Patrick [redacted], Co. Monaghan was in serious trouble with the EPA.

I would be grateful, if you would clarify that I am not nor have I been in trouble with the EPA and that I am not nor have I been the subject of a complaint to the EPA.

Kind regards,

Patrick Carragher

Drumquil

From: **Environmental Complaints** <E.Complaints@epa.ie>
Date: Thu 29 Jul 2021, 12:05
Subject: FW: FW: EPA016820
To: pa[redacted]

Dear Mr. Carragher,

Further to your query on 23/07/2021 and our telephone conversation this morning I wish to confirm I have not located a record of any complaints to the EPA referring to you over the period from 2010.

I hope this information is of assistance to you.

Regards
Damien Masterson

Damien Masterson

Inspector II - Networks and Legal Team – Complaints Unit

Office of Environmental Enforcement, Wexford

Cigirc II, Foireann Líonraí agus Dlí – Aonad Gearán

An Oifig um Fhorfheidhmiú Comhshaoil, Loch Garman

053-9170762 (Direct dial)
environmentalcomplaints@epa.ie
www.epa.ie

From: Pat Carragh[redacted]
Sent: Friday 23 July 2021 11:37
To: Wexford Receptionist <REC_WEX@epa.ie>
Subject:

Dear Sir/Madam,

It has come to my attention that at a meeting on 18th Februrary 2015, that has recently entered the public domain that it was stated the I, Patrick [redacted], Co. Monaghan was in serious trouble with the EPA.

I would be grateful, if you would clarify that I am not nor have I been in trouble with the EPA and that I am not nor have I been the subject of a complaint to the EPA.

Kind regards,

Patrick Carragher

Drumquill

From: **Environmental Complaints** <E.Complaints@epa.ie>
Date: Wed 28 Jul 2021, 14:34
Subject: RE: FW: EPA016820
To: pa[redacted]

Dear Mr. Carragher,

The EPA acknowledges receipt of your query on 23/07/2021 with reference to whether you had been the subject of a complaint to or investigation by the EPA.

I've done an initial check of the records available and have not found a match.

If you could contact me directly to provide some further information about your enquiry, it might help me confirm whether or not we have records of such a complaint.

My work mobile number is 087 9232614.

Regards

Damien Masterson

Damien Masterson

Inspector II - Networks and Legal Team – Complaints Unit

Office of Environmental Enforcement, Wexford

Cigirc II, Foireann Líonraí agus Dlí – Aonad Gearán

An Oifig um Fhorfheidhmiú Comhshaoil, Loch Garman

053-9170762 (Direct dial)
environmentalcomplaints@epa.ie
www.epa.ie

Office Meeting 18 Feb 2015

In attendance:

John Brennan	Applicant
Barry Lucy	Planning Consultant
Owen Cunningham	Agent
Cllr P McNally	
Ronan Woods	Monaghan Co Co
Adrian Hughes	Monaghan Co Co

BL stated that it was important to establish that the use of the original structure as a dwelling had not been abandoned, and that there were four central considerations;

Length of time structure vacant:

The dwelling was occupied permanently up until 1977, and intermittently between 1996 & 1998. The intermittent use related to using the dwelling when farming the adjacent lands. JB advised that he took tea in this house when he worked on the farm.

The dwelling had no electricity during the period of intermittent use but relied on a generator. AH queried matters in respect of electoral register and formal correspondence to this address which could substantiate the residential use of the structure.

Structural Soundness:

OC stated that the original walls are retained and are structural sound. JB confirmed that he had removed the internal plaster, removed internal walls, removed first floor, replaced the staircase, and repaired the roof.

PMCN stated that he felt the complaint was vexatious, and that the development would not impact on the neighbours farming enterprise. AH stated that the reason for the complaint was irrelevant, and as the matter had been brought to the attention of the Planning Authority, that it must now be investigated.

Intervening Use

BL stated that the structure had only ever been used for residential purposes.

Intent:

BL stated that it was always the intent of JB to use the structure as a dwelling. JBs father had purchased the land and dwelling with the intention that JB would ultimately live in it.

BL referred to the Councils draft rural housing design Guide which expressed a desire that existing dwellings should be reused. He stated that the dwelling formed part of the existing housing stock in the county. AH advised that the Guide remained in draft form.

BL stated that there was the potential to reduce the size of the extension. This could forma the subject of a new application if the issue of abandonment was addressed.

JB stated that the neighbour was pursuing this matter for financial gain, and that he couldn't afford to give the objector €200k for a letter supporting his application. JB stated that it looked like he was doing things completely wrong; but that 'this was the reason' he had done it this way.

JB stated that he was trying to protect his interests. That the neighbour was running a commercial yard, was selling fue,l and that the neighbour was having serious problems with the EPA. He stated that the neighbour had also taken a ditch out without permission. When queried by AH, JB confirmed that the neighbour was not currently selling fuel from the site.

PMcN stated that the neighbour was not a model citizen, but that this was not an issue.

AH advised that it was up to the applicant to address the matter of abandonment. He stated that there was extensive case law on the topic, and that the planning authority may seek legal advice following the receipt of the AI.

BL stated that they (ie himself and his client) were aware of the potential 'doomsday' outcome in the event that the matter of abandonment is not addressed satisfactorily.

AH advised that JB and his party could use the interview room to conduct their discussions on the matter.

The meeting terminated and AH and RW vacated the room.

Adrian Hughes
18 Feb 2015

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Adrian Hughes
18 Feb 2015

Comhairle Contae Mhuineacháin
Monaghan County Council

Acmhainní Daonna
Human Resources
047 30586

Airgeadas
Finance
047 30589

Na Bóithre
Roads
047 30597

Clár na dToghthóirí
Register of Electors
047 30551

Comhshaol
Environment
042 9661240

Na hEalaíona
Arts
047 38162

Iasachtaí /Deontais Tithíochta
Housing Loans/Grants
047 30527

Leabharlann an Chontae
County Library
047 74700

Mótarcháin
Motor Tax
047 81175

Músaem an Chontae
County Museum
047 82928

Pleanáil
Planning
047 30532

Pobal
Community
047 73719

Rialú Dóiteáin/Foirgnimh
Fire/Building Control
047 30521

Oifig Fiontair Áitiúil
Local Enterprise Office
047 71818

Seirbhísí Uisce
Water Services
047 30504/30571

Thursday, November 24, 2016

Patrick Carragher,
[redacted]
Co. Monaghan

Re: Works to reinstate the residential use of a derelict structure of which residential use has been abandoned.

A Chara,

I refer to your application for a certificate of exemption received on 25th October 2016 under the Planning and Development Regulations 2001, as amended, in relation to the above mentioned.

In accordance with Section 5(2) (c) of the Planning and Development Act 2001 (as amended) you are requested to submit the following information in order to enable the authority to issue the declaration in question.

1. *Please submit sustainable evidence that the dwelling, as indicated in your correspondence, that had become "abandoned and derelict" as indicated in your submission.*

Upon receipt of the above details the Planning Authority shall further consider your application in accordance with the Planning and Development Regulations (2001) as amended.

Mise le meas,

Joan Ryan
Administrative Officer
Planning

Fáiltíonn an tÚdarás Áitiúil roimh chomhfhreagras I nGaeilge.
Comhairle Contae Mhuineacháin, Oifigí an Chontae, An Gleann, Muineachán, Éire.
Monaghan County Council, Council Offices, The Glen, Monaghan, Ireland.
00353 47 30500 00353 47 82739 www.monaghan.ie
eolas@monaghancoco.ie info@monaghancoco.ie

[2]

MON. CO. CO.
PLANNING SECTION
2 5 AUG 2017
REG NO.

Monaghan
COUNTY COUNCIL
COMHAIRLE CONTAE MHUINEACHÁIN

Arts
047 71114

Community & Enterprise
047 30500

County Library
047 51143

County Museum
047 82928

Environment
047 30593

Finance
047 30589

Fire/Building Control
047 30521

Higher Education Grants
047 30550

Housing Estate Management
047 30529

Housing Loans/Grants
047 30527

Human Resource Management
047 30586

Motor Tax
047 81175

Planning
047 30532

Register of Electors
047 30547

Roads
047 30597

Water Services
047 30504

MON. CO. CO.
PLANNING SECTION
2 5 OCT 2016
REG NO.

Monday, 19 July 2010

Patrick Carragher,
[redacted]
Co. Monaghan.

Re: Exempted Application– - Application to use structure as a dwelling house at Drumquil, Castleblayney, Co. Monaghan.

A Chara,

I refer to your application for a certificate of exemption received on the 21st of June, 2010 under the (Planning & Development) Regulations 2001 as amended in relation to the above mentioned.

On the basis of the information submitted on the 21st of June, 2010, the application is **not considered to be exempt development.**

Mise le meas,

S. Finnegan

Sharon Finnegan
Planning Department.

MON. CO. CO.
PLANNING SECTION
1 4 DEC 2016
REG NO.

MONAGHAN COUNTY COUNCIL

EXEMPT DEVELOPMENT

Applicant: [redacted]
Proposal: Refurbishment of a house.
Location: Drumquill, Castleblayney, Co. Monaghan.

Assessment
It is noted that the structure and the works in question are subject to ongoing enforcement action (see enforcement reference E10/42).

The crucial factor in this instance is not whether the refurbishment/restoration works are covered by Section 4(1)(h) of the Planning and Development Act 2000, it is whether or not the structure is a house, i.e. has the residential use been abandoned.

Whilst the structure was obviously a house at one time, it is rationally and reasonably taken that the residential use has been abandoned and that the works constitute the refurbishment/restoration of a derelict/abandoned dwelling (see attached Pics taken during the initial enforcement inspection on the 13/04/10; work had only just commenced the previous weekend).

With regard to the issue of abandonment, the key question is; was an evinced intention to resume the residential use demonstrated during the cessation period, see Dublin CoCo v Tallaght Block Company Ltd. In this regard it is noted that the structure was clearly allowed to fall into a state of material disrepair during the cessation period (again see the attached Pics).

Conclusion
It is taken that the residential use of the structure in question has been abandoned, and that the structure was in fact derelict prior to the recent commencement of the refurbishment/restoration works. Accordingly, the structure is not taken to be a 'house' and the proposal is not considered to be exempted development.

It is again noted that the structure and the works in question are subject to ongoing enforcement action.

Ben Clerkin
Assistant Planner
16 July 2010

[4]

MONAGHAN COUNTY COUNCIL

PLANNING AND DEVELOPMENT

Re: Unauthorised refurbishment of a derelict/abandoned dwelling house @ Drumquill, Castleblayney, Co. Monaghan.

Samantha,

I spoke to Paul re the above; he is firm in his contention that if this ends up in court we would not be able to adequately prove that the house was abandoned pre-works, notwithstanding our recent S.5 Declaration.

Accordingly, we'll have to close the case for now and see how the complainants react.

Ben Clerkin
Assistant Planner
2 September 2010

[redacted]
Drum
Castleblayney
Co Monaghan
24/05/2016

Paul Clifford
Monaghan County Council
Council Offices
The Glen
Monaghan

Re: P16/41 John Brennan
Pervious reference: P14/217

Dear Sirs,

I refer to my letter dated 22nd April 2016 addressed to Darina Kierans and my letter of the 13th May 2016 addressed to Ronan Woods to which I have received no response.

I am disappointed in Monaghan County Council as this decision is causing great stress and annoyance and has a bearing on my livelihood.

I am now referring this question directly to you. I want a detailed description of how Monaghan County Council came to the following decision:

In 2010 Monaghan County Council planning authority considered the works to renovate the existing structure were not exempt but it was not considered expedient to serve and enforcement notice on the applicant in respect of these works. An explanation or this decision has not been disclosed.

Please reply to me within 7 days.

Yours faithfully,

[redacted]

[6] 60

[redacted]

Castleblayney

COPY AS POSTED
26.5.16.

26th May 2016

Dear Sir,

I refer to your recent correspondence as submitted to the Planning Authority on 13th and 25th May 2016 in respect of lands as belonging to Mr Brennan at Drumquill, Castleblayney.

For your reference, I can confirm that a decision was taken by the Planning Authority to not proceed with enforcement action in respect of the long-standing dwelling within the site area as belonging to Mr Brennan on a number of grounds.

As you may be aware the original subject dwelling as belonging to Mr Brennan was constructed pre 1st October 1964. Under the provisions of Section 2 of the Planning and Development Acts the dwelling was in effect 'authorized' at the time of the investigation by the Planning Authority in 2010 & 2011. In summary, the Planning Authority took account of relevant case law on such matters and a considered decision was made that the 'use' of the 'dwelling' was in effect authorized, and therefore not a building or use which could be enforced against under the provisions of the Planning and Development Acts.

Furthermore, in respect of the renovation works to the original subject dwelling, the Planning Authority considered said works to be maintenance type works and under the provisions of Section 4(1)(h) of the Planning and Development Acts and said works were regarded as exempt development. In respect of interior fittings/improvements to the dwelling, this aspect of works does not constitute 'development' as defined under the Planning and Development Act and the Planning Authority had no issues in this regard.

I trust this provides you with an overview of the rationale employed by the Planning Authority in respect of this case.

Sincerely,

Ronan Woods

Planning Officer

[7]

MONAGHAN COUNTY COUNCIL

PLANNING AND DEVELOPMENT

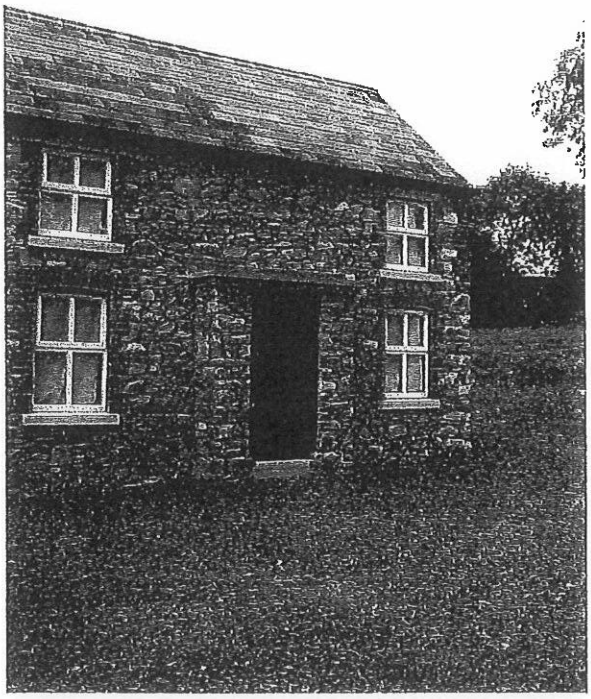
Re: Unauthorised refurbishment of a derelict/abandoned dwelling house @ Drumquill, Castleblayney, Co. Monaghan.

Samantha,

I re-inspected the site today.

The refurbishment works are complete (see Pic below) and, as per a recent S.5 Declaration, it is rationally and reasonably taken that the residential use of the now refurbished structure was abandoned prior to the commencement of the works.

Accordingly, the works constitute the refurbishment/restoration of a derelict/abandoned dwelling. Planning permission for the development should have been obtained.



Office Meeting 18 Feb 2015

In attendance:

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Owen Cunningham	Agent
Cllr P McNally	
Ronan Woods	Monaghan Co Co
Adrian Hughes	Monaghan Co Co

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[9]

From: **Environmental Complaints** <E.Complaints@epa.ie>
Date: Thu 29 Jul 2021, 12:05
Subject: FW: FW: EPA016820
To: [redacted]

Dear Mr. Carragher,

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I hope this information is of assistance to you.

Regards

Damien Masterson

Damien Masterson

Inspector II - Networks and Legal Team – Complaints Unit

Office of Environmental Enforcement, Wexford

Oifigeach II, Foireann Líonraí agus Dlí – Aonad Gearán

An Oifig um Fhorfheidhmiú Comhshaoil, Loch Garman

	053-9170762 (Direct dial)
	environmentalcomplaints@epa.ie
	www.epa.ie

From: Pat Carragher <[redacted]
Sent: Friday 23 July 2021 11:37
To: Wexford Receptionist <REC_WEX@epa.ie>
Subject:

Dear Sir/Madam,

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Kind regards,

Patrick Carragher

Drumquill

[9]
Cont'd

From: **Environmental Complaints** <E.Complaints@epa.ie>
Date: Wed 28 Jul 2021, 14:34
Subject: RE: FW: EPA016820
To: [redacted]

Dear Mr. Carragher,

The EPA acknowledges receipt of your query on 23/07/2021 with reference to whether you had been the subject of a complaint to or investigation by the EPA.

I've done an initial check of the records available and have not found a match.

If you could contact me directly to provide some further information about your enquiry, it might help me confirm whether or not we have records of such a complaint.

My work mobile number is 087 9232614.

Regards

Damien Masterson

Damien Masterson

Inspector II - Networks and Legal Team – Complaints Unit

Office of Environmental Enforcement, Wexford

Cigire II - Fóireann Líonraí agus Dlí – Aonad Gearán

An Oifig um Fhoirfeachtaí ar Chomhshaoil, Loch Garman

053-9170762 (Dhá Líne)
environmentalcomplaints@epa.ie
www.epa.ie

[10]

Comhairle Contae Mhuineacháin
Monaghan County Council

Acmhainní Daonna
Human Resources
047 30586

Airgeadas
Finance
047 30589

Na Bóithre
Roads
047 30597

Clár na dToghthóirí
Register of Electors
047 30551

Comhshaol
Environment
042 9661240

Na hEalaíona
Arts
047 38162

sachtaí /Deontais Tithíochta
Housing Loans/Grants
047 30527

Leabharlann an Chontae
County Library
047 74700

Mótarcháin
Motor Tax
047 81175

Músaem an Chontae
County Museum
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Pleanáil
Planning
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Pobal
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Rialú Dóiteáin/Foirgnimh
Fire/Building Control
047 30521

Oifig Fiontair Áitiúil
Local Enterprise Office
047 71818

Seirbhísí Uisce
Water Services
047 30504/30571

07/12/2021

TO: Pat Carragher
[redacted],
[redacted]
Co. Monaghan

Re: Planning and Development Act 2000 (as amended).
REF.NO: 21/108 - John Brennan, CMD Architects Ltd., Thornford Lodge, Broomfield, Castleblayney Co. Monaghan .

Dear Sir/Madam,

I wish to inform you that by order dated 7/12/2021 Monaghan County Council decided to GRANT. RETENTION to carry out development and site works consisting of permission for 1. The retention of reduced levels and hard surfaced area to side of existing dwelling house, pillar structure housing electricity meter which serves existing dwelling house on site & 2. permission to install new waste water treatment system and percolation area to serve existing dwelling house and all associated site development works. Significant further information relates to revised drawings, revised site characterisation report., at Drumquill Castleblayney Co. Monaghan . I attach copy of Council's decision.

In making its decision on this planning application, the planning authority, in accordance with Section 34(3) of the Planning and Development Act 2000 (as amended), has regarded your submission/observation received, in accordance with Planning and Development Regulations 2001 (as amended).

If you are aggrieved by this decision you may appeal it within four weeks from the day of the decision by forwarding your grounds of appeal to The Secretary, An Bord Pleanala, 64 Marlborough Street, Dublin 1.

Appeals should be addressed to The Secretary, An Bord Pleanala, 64 Marlborough Street, Dublin 1. An appeal by the applicant should be accompanied by this form. **In the case of a third party appeal, the acknowledgement from the Planning Authority of receipt of the submission or observation made by the person to the Planning Authority at application stage should be submitted and the name of the person, particulars of the proposed development and the date of the decision of the Planning Authority should be stated.** The fee for a third party appeal is €220. The appeal must be fully complete, with your name and address, the subject matter of the appeal, the full grounds of appeal and supporting arguments and material, appropriate fee and evidence of payment of submission fee to the Planning Authority.

[11]

4th July 2016

I, Martin Molloy of [redacted] declare that the structure on the property of JJ Brennan had been abandoned and derelict until 2010. I know this by having frequently visited my uncle who lived on his own in a dwelling house on the neighbouring property. Access to my Uncle's house is immediately beside this abandoned structure. I recall over the last thirty or so years how the structure progressively became more dilapidated. I came into possession of my Uncle's property in 2005 and having done some building works of my own I saw the ruined and abandoned nature of this structure daily. All that time until 2010 the property was used for agricultural purposes.

Signed Martin Molloy

Martin Molloy

Comhairle Contae Mhuineacháin
Monaghan County Council

Acmhainní Daonna
Human Resources
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Airgeadas
Finance
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sachtaí /Deontais Tithíochta
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Fire/Building Control
047 30521

Oifig Fiontair Áitiúil
Local Enterprise Office
047 71818

Seirbhísí Uisce
Water Services
047 30504/30571

21/12/21

PLANNING DEPARTMENT
REF NO. 23 DEC 2021
MONAGHAN CO. COUNCIL

Mr Pat Carragher
[redacted]
[redacted]
Co Monaghan

Dear Mr Carragher,

I refer to your letter dated 15th December 2021 in connection with your response to further information to a Section 5 declaration and can advise as follows:-

Unfortunately, you have not attached this letter which you refer to as No. 1 in your attachments.

Could you please forward the letter onto the Planning Department to enable me to refer it onto the relevant planner?

Thank you for your assistance in this matter.

Yours sincerely

Angela Gallagher
Administrative Officer
Planning Section

PAT CARRAGHER
[redacted]
[redacted]
Co. MONAGHAN

23/12/2021

In response to your letter received today, I enclosed another copy of attachment 1. I had asked for a copy of every page of my submission at the desk. I had explained that particulars had been mislaid before. I was told that I would not receive photocopies, even though I have in the past.

For ease of reference, I know that as part of referrals and appeals to An Bord Pleanala, the Planning Authority submitted Planning histories of the site in question and make mention of the Section 5 referral to Monaghan County Council.

An Bord Pleanala reference: RL18.301312, Monaghan C.C refer to this Section 5 as "E16/27"

An Bord Pleanala reference: [redacted] PL18.301554, Monaghan CC refer to the Sec. 5 as "Unnumbered Sec. 5 Referral (July 2016)"
and "E16/27"

An Bord Pleanala reference RL18.RL3532, Monaghan C.C refer to the Sec 5 as "Unnumbered Section 5 Referral dated 4th July 20
and Ref E16/27

These references are found in the Inspector's Report of each file.

Please send me an acknowledgement, stating clearly the official date of my response to Monaghan County Council's request for further information regarding this Section 5 referral.

Yours sincerely, Patrick Corragher

PLANNING DEPARTMENT
REF NO. 23 DEC 2021
MONAGHAN CO. COUNCIL

Comhairle Contae Mhuineacháin
Monaghan County Council

[1]
resubmitted

Acmhainní Daonna
Human Resources
047 30586

Airgeadas
Finance
047 30589

Na Bóithre
Roads
047 30597

Clár na dToghthóirí
Register of Electors
047 30551

Comhshaol
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PLANNING DEPARTMENT
REF NO. 23 DEC 2021
MONAGHAN CO. COUNCIL

Thursday, November 24, 2016

Patrick Carragher,
[redacted],
[redacted]
Co. Monaghan

Re: Works to reinstate the residential use of a derelict structure of which residential use has been abandoned.

A Chara,

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1. *Please submit sustainable evidence that the dwelling, as indicated in your correspondence, that had become "abandoned and derelict" as indicated in your submission.*

Upon receipt of the above details the Planning Authority shall further consider your application in accordance with the Planning and Development Regulations (2001) as amended.

Mise le meas,

Joan Ryan
Administrative Officer
Planning