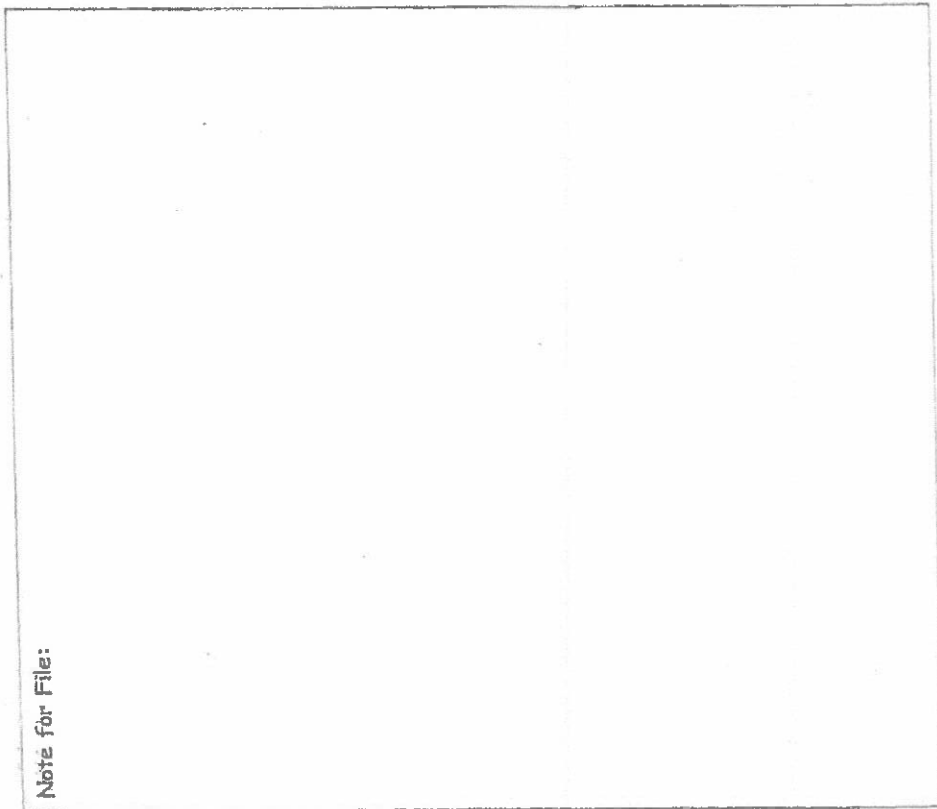


Unauthorised Development

Ref: _____

Note for File:



Signed: _____

Date: _____

Planning Office Fax No. 0749142120

Our Ref: UD14124

3rd June 2014

Marian Thomas



Re: Alleged Unauthorised @ Waterloo Place Donegal Town

A Chara,

I wish to acknowledge receipt of your complaint and advise that this matter is currently being examined and a response will issue to you in due course.

Trusting this is satisfactory,

Mise le meas,

FOR A/SENIOR EXECUTIVE PLANNER
Housing, Corporate & Planning Control Services
/td

I met a labourer on site and interviewed him. He advised:

Liam Duffy.

by the Contractor.

Noraen Partnoo is the owner.

He did not know what the intended use was but he presumed a domestic shed.

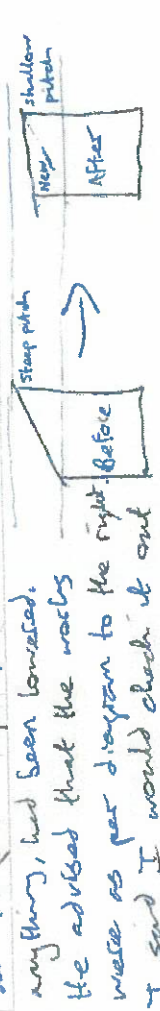
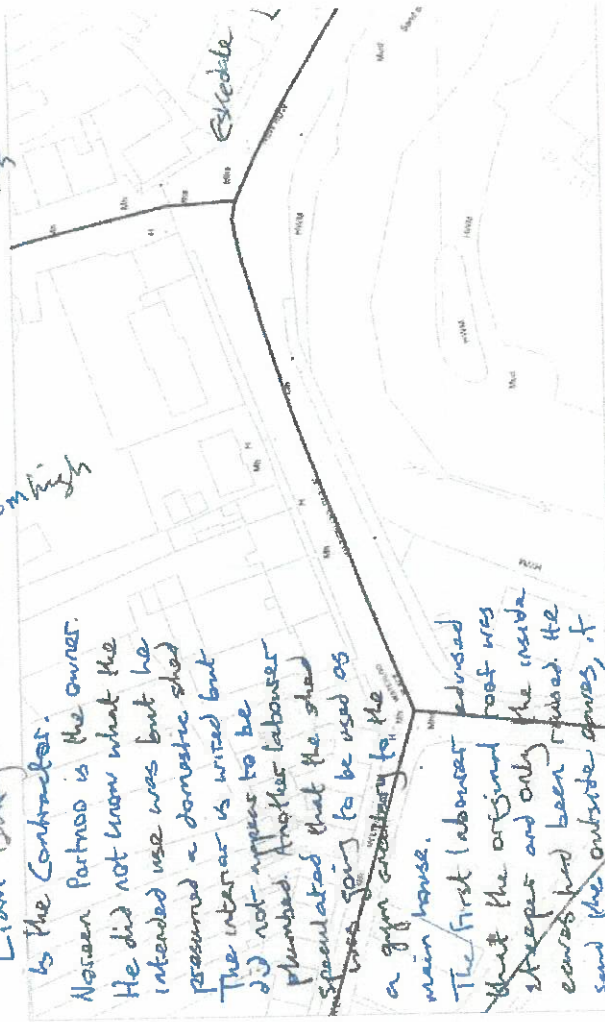
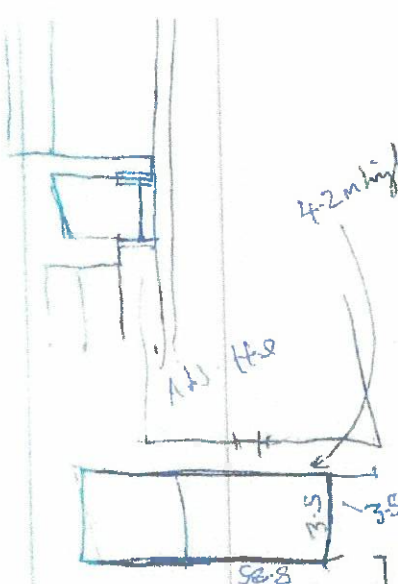
The interior is wired but did not appear to be plumbed.

Another labourer speculated that the shed was going to be used as a gym annex to the main house.

The first labourer advised that the original roof was steep and only the eaves had been raised. He said the outside gables, if anything, had been lowered.

He advised that the works were as per diagram to the right. Before I said I would check it out on Google Street view. The newly built roof is slightly pitched. The first labourer said that the pre-existing shed's roof was constructed by light from the side abutting on at the adjoining house.

KS (EP) 16/6/14

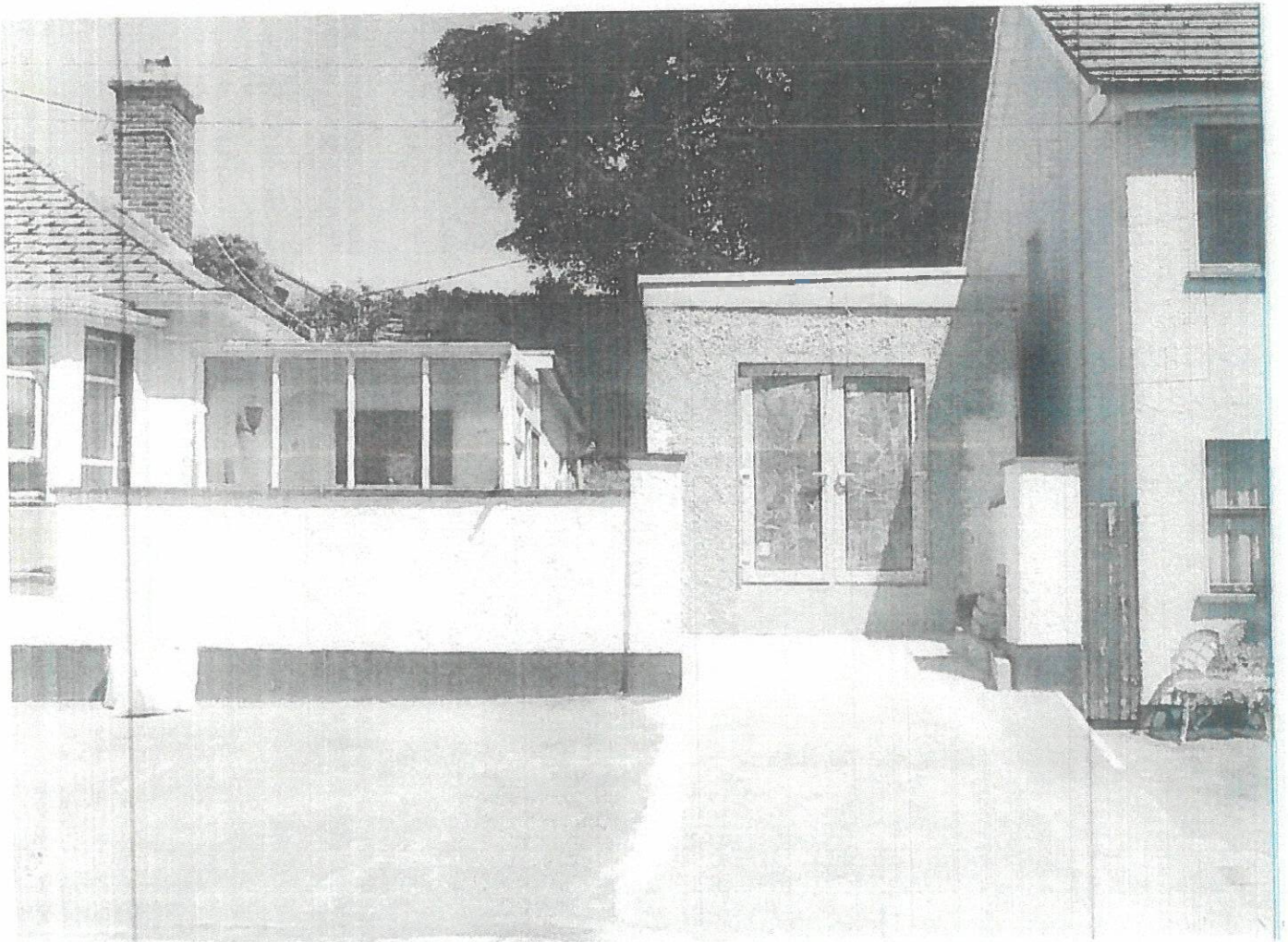


KS (EP) 16/6/14

18 JUL 2014

William Smith 17/6/2014

Taken 16/6/14 by KS (CP)



Address:

Address

Town:

Mobile No:

Home No.:

Work No.:

EMAIL:

Location:

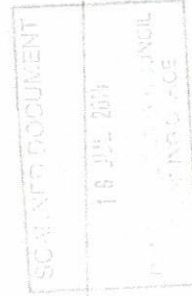
RE:

Enforcement

Description/Details: Killian, can you contact Paul Doherty (Paul Doherty Architects) re an enforcement issue - he didn't give any further details.
Contact No. 074-9723131

AGRESSO NO.:

AGRESSO SUPPLIER NO.:



17/06/2014

KILLIAN SMITH

From: MARY VAN RUIVEN (MILFORD)
Sent: 17 June 2014 11:15
To: KILLIAN SMITH
Subject: Service Request DCC074700000396

crm1sTemplateEmail: -1
ormsecondpagexml: <email><actualdurationinminutes><directioncode formattedvalue="30">30</actualdurationinminutes><directioncode name=""><true></directioncode><transactioncurrencyid name="Euro" type="9106"> {275A0BF8-58B8-E011-8747-0050568A23A2}</transactioncurrencyid><compressed names=""><false></compressed></isregularactivity name=""><false></isregularactivity></readreceiptrequested name=""><false></readreceiptrequested></deliveryreceiptrequested names=""><false></deliveryreceiptrequested></notifications name="">0</notifications></workflowcreated name=""><false></workflowcreated></isbilled names=""><false></isbilled></activitypecodia name="E-mail">4202</activitypecodia></statuscode name="Draft">1</statuscode></email>

A call has been received today in relation to your service, the details of which are below.

IMPORTANT: When this matter has been dealt with by your service, please inform the Contact Centre ASAP by email with an update and stating the Case No. DLA-87258-L3R0L5 so that the case can be closed.

Paul Doherty - I phoned back @ 11:39am. Paul Doherty said that the original front elevation will went down the side @ the same height and that he would bring in photos to demonstrate same @ c. 2pm today. WS (EP) 17/6/14

DLA-87258-L3R0L5

Our Case No.:

17/06/2014 11:08

Date Received:

Electord Area: Donegal

Citizen: PLANNING AGENT

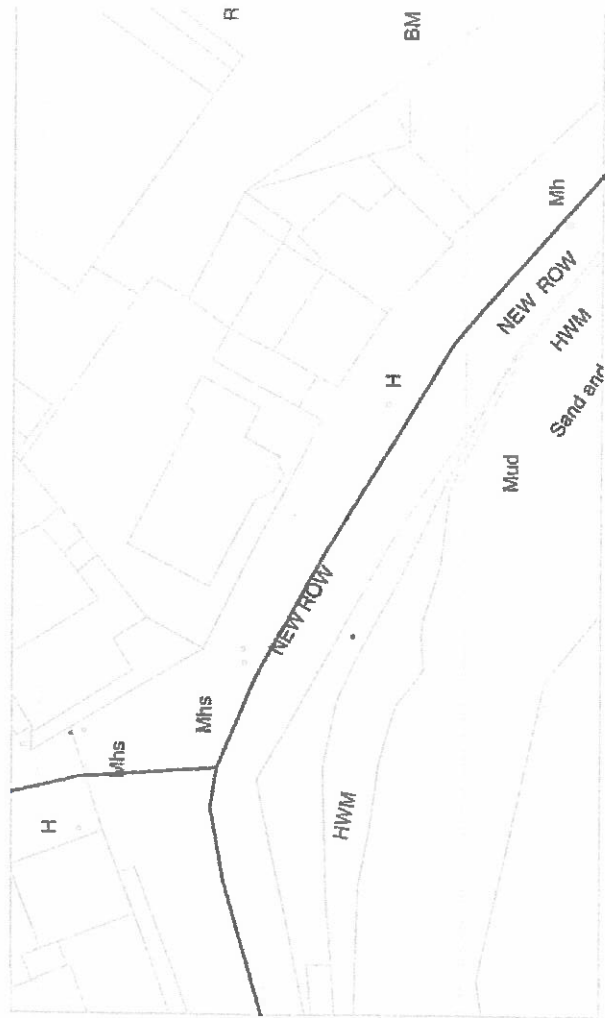
Address: SCANNED DOCUMENT
Address: 18 JUL 2014
Donegal Council
P. WARD

17/06/2014

17/6/14

Submitted by Paul Doherty, Architect,
to KSCEP @ Doneraul Town P.S.C.
on the 17th June 2014.





SCANNED DOCUMENT
18 JUL 2011
E:\GIS\Projects\C\Map
Publishing\...

Of greatest concern was that there is a side elevation window in the gable of the adjoining house which is in close proximity to the modified shed. On the 17th of June 2014 Mr. Paul Doherty, Architect, phoned the Council Offices in Donegal Town and advised that he had been told that I had inspected the site the previous day. I confirmed this to be the case. He confirmed that the owner of the shed and house was a lady called Noreen Portnoo. He claimed that the top of the newly constructed mono-pitch roof was the same height as the height of the original roof. Mr. Doherty visited the Council Offices later that day and produced a photograph showing the pre-alteration structure. This photograph has been attached to file as has the photograph I took of the newly altered shed on the 16th of June last. It is considered that the photograph submitted by Mr. Doherty, when compared with the photograph taken by myself, clearly demonstrates Mr. Doherty's point and that the alterations carried out have not aggravated any additional loss of light to the adjoining property. Mr. Doherty advised that the shed was to be used for purposes ancillary to the enjoyment of the house (principally for storage space) and this was consistent with the findings of my site inspection in that there was no sign of any foul water plumbing or water connection to the altered shed when I inspected it.

On the basis of the above I am satisfied to conclude that the works carried out constitute development but that they are exempted development by virtue of being works described under S.4(1)(h) & (j) of the Planning and Development Acts 2000 to 2014. In the interests of clarity, S.4(1)(h) is development that consists of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures, and S.4(1)(j) is development consisting of the use of any structure or other land within the curtilage of a house for any purpose incidental to the enjoyment of the house as such.

It is not clear whether or not there actually any issue of encroachment by the lip of the roof into the neighbouring property as the coping on top of the original shed had a slight lip that overhung the original shed. In any regard, if there is any encroachment, firstly, that would be a civil issue between the subject property owner and the owner of the adjoining house and secondly, if there is any encroachment, it is extremely minor.

On the basis of all the above, it is not considered that there is any need to proceed with enforcement action. It is proposed not to proceed following my said inspection with any further Enforcement action as envisaged under Part VIII of the Planning and Development Acts, 2000 in respect of the development concerned.

Recommendation – That on the basis of the above the Council should now decide to close this case in accordance with Section 152 of the said Act on the basis that the works carried out constitute development that is exempted development by virtue of the provisions of S.4(1)(h)&(j) of the Act.

DATED THIS 18th DAY OF JUNE 2014

Signed: Killian Smith (Executive Planner/Enforcement Officer)



PLANNING AND DEVELOPMENT ACT, 2000 – SECTION 152
INSPECTION REPORT AND RECOMMENDATION ARISING

Council Reference – UD/14124

Description of

Alleged Unauthorised Development:

The carrying out of alterations to a domestic garage that do not have the benefit of planning permission.

Location:

"Eskedale", New Row, Donegal Town, Co. Donegal.

Owner/Person

Responsible:

Noreen Portnoo,
[REDACTED]
[REDACTED]

Planning History

No recent history of relevance.

Report

The Planning Authority received a phonecall complaint about a detached domestic garage having been demolished and then having been reconstructed higher than it originally was and the new roof encroaching on the boundary of an adjoining house from a member of the public on the 3rd of June 2014. The complainant further expressed the opinion that the alterations to the garage were possibly carried out to facilitate a change of use to a commercial business premises or possibly self contained living accommodation.

I, Killian Smith, Executive Planner with Donegal County Council, inspected the site on the 16th of June 2014 and found that the original roof of a pre-existing garage had been removed and replaced with a new roof. The garage still has the same footprint as it did before the works were carried out (original walls still present) and is sited within the curtilage of and to the side of an existing bungalow and in close proximity to the gable of the adjoining two-storey end-of terrace house. Both the finishes of the original shed and the new shed match those of the house it is ancillary to, i.e. both the old shed and the newly modified shed have pebble dash walls. The original roof had been a mono-pitch roof. The alterations entailed the raising of the eaves on the side of the shed closest to the bungalow (i.e. the house owned by the owner of the shed) and the construction of a new less steep mono pitch roof. It should be noted that the original front elevation had a parapet wall to its front elevation and that this gave the shed the appearance of being flat roofed as originally viewed from the public street when the original shed was viewed straight on. Furthermore, where there had been a large garage door to the front elevation, that garage door has now been replaced by white PVC twin patio doors. The windows and doors of the house which the shed is ancillary to are also white PVC.

18 JUL 2014

DONEGAL COUNTY COUNCIL
PLANNING SERVICE

Draft Chief Executive Officer's Order No.- 2014 (cont'd)

ORDER Recommendation approved. In accordance with Section 152 of the said Act I have decided NOT to enforce, and I order accordingly, NOT to issue a Warning Letter or an Enforcement Notice or pursue any other Enforcement procedures and that the case be closed in light of the subject development being exempted development.

Dated this 19th day of June 2014



A/SENIOR EXECUTIVE PLANNER
HOUSING, CORPORATE & PLANNING CONTROL SERVICES
DONEGAL COUNTY COUNCIL

RECEIVED DOCUMENT
18 JUL 2014
PLANNING SERVICES OFFICE
DONEGAL COUNTY COUNCIL

Draft Chief Executive Officer's Order No. - 2014

**PLANNING AND DEVELOPMENT ACTS 2000 to 2014 - SECTION 152
DECISION ON ENFORCEMENT**

**Alleged Unauthorised development at "Eskdale", New Row, Donegal Town,,
Co.Donegal:-**

By:- Owner/Developer
Noreen Portnoo, [REDACTED]

Description of Alleged Unauthorised Development:-
Modification of an existing domestic garage.

Ref. No:- UD14124

SUBMITTED:Recommendation dated 18th of June 2014 from Killian Smith, Executive Planner/Enforcement Officer, in relation to alleged unauthorised development at "Eskdale", New Row, Donegal Town,, Co. Donegal, consisting of the carrying out of alterations to an existing domestic garage.

As appears there-from he inspected the alleged unauthorised development concerned on the 16th of June 2014. Following the subsequent carrying out of a desktop study it was determined that the works were eligible to be considered exempted development as per development described under Section 4(1), Parts (h) & (j) of the Planning and Development Acts 2000 - 2014.

He has recommended that the Council now decide **NOI** to issue a Warning Letter or an Enforcement Notice or pursue any other Enforcement procedures and that the case be closed arising from the fact that the subject development is exempted development.

RECOMMENDATION: That the Council decide **NOI** to issue a Warning Letter or an Enforcement Notice or pursue any other Enforcement procedures, and that the case be closed in accordance with the report herewith and the recommendation made in light of the subject development being exempted development.

Dated this day of June 2014

**ASSISTANT STAFF OFFICER
HOUSING, CORPORATE & PLANNING CONTROL SERVICES
DONEGAL COUNTY COUNCIL**

DONEGAL COUNTY COUNCIL
PLANNING & DEVELOPMENT
18 JUL 2014
SCANNED DOCUMENT

KILLIAN SMITH

From: LORETTA DEVENNEY
Sent: 11 June 2014 16:05
To: KILLIAN SMITH
Subject: EM, Loretta Devenney, Housing, Corporate and Planning Control Services, DCC-0163023

Follow Up Flag: Follow up
Flag Status: Red
Advisor looking for update

From: ANNE MARIE CRAWFORD On Behalf Of DCCIMFO
Sent: 11 June 2014 13:42
To: LORETTA DEVENNEY
Subject: FW: Loretta Devenney, Housing, Corporate and Planning Control Services

For your information.

From: [REDACTED]

Sent: 11 June 2014 11:27
To: DCCIMFO

Subject: FAQ: Loretta Devenney, Housing, Corporate and Planning Control Services

Your Ref: UD14124

Dear Loretta

Thank you for your letter dated 3 June 2014, acknowledging receipt of my complaint.

I was wondering if any progress has been made with regard to this issue?

Thank you for your attention to this matter.

Kind Regards

[REDACTED]

Sent from Surface Pro 2



17/06/2014

DRAFT

REF NO: UD14 124

2014

Noreen Portnoo



Re: Alleged Unauthorised Development @ 'Eskedale' New Row, Donegal Town, Co. Donegal

A Chara

I refer to the above-mentioned alleged unauthorised development and wish to confirm that following an investigation by the Planning Authority, it was determined that the works were eligible to be considered exempted development as per development described under Section 4(1), Parts (h) & (i) of the Planning and Development Acts 2000 - 2014. Accordingly, the Planning Authority has therefore now decided to close this case.

I trust this clarifies the position of the Planning Authority on this matter at this time.

Mise le méas

A handwritten signature in black ink, appearing to read 'Paul Doherty'.

For A/Senior Executive Planner
Housing, Corporate and Planning Control Services

CC: Paul Doherty Architects, Castle Street, Donegal Town



DRAFT

REF NO: UD14 124

2014

Noreen Portnoo



Re: Alleged Unauthorised Development @ 'Eskedale' New Row, Donegal Town, Co. Donegal

A Chara

I refer to the above-mentioned alleged unauthorised development and wish to confirm that following an investigation by the Planning Authority, it was determined that the works were eligible to be considered exempted development as per development described under Section 4(1), Parts (h) & (i) of the Planning and Development Acts 2000 - 2014. Accordingly, the Planning Authority has therefore now decided to close this case.

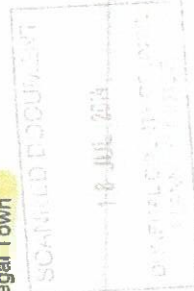
I trust this clarifies the position of the Planning Authority on this matter at this time.

Mise le meas

Handwritten signature in blue ink.

For A/Senior Executive Planner
Housing, Corporate and Planning Control Services

CC: Paul Doherty Architects, Castle Street, Donegal Town



DRAFT

REF NO: UD14 124

2014

Marian Thomas

[REDACTED]

Re: Alleged Unauthorised Development @ 'Eskeedale' New Row, Donegal
Town, Co, Donegal -- Noreen Portnoo

A Chara

I refer to the above-mentioned alleged unauthorised development and wish to confirm that following an investigation by the Planning Authority, it was determined that the works were eligible to be considered exempted development as per development described under Section 4(1), Parts (h) & (i) of the Planning and Development Acts 2000 - 2014. Accordingly, the Planning Authority has therefore now decided to close this case.

I trust this clarifies the position of the Planning Authority on this matter at this time.

Mise le meas



For A/Senior Executive Planner
Housing, Corporate and Planning Control Services



Chief Executive's Order No: 2014PH1053

PLANNING AND DEVELOPMENT ACTS 2000 – SECTION 152
DECISION ON ENFORCEMENT

Alleged Unauthorised development at "Eskedale", New Row, Donegal Town,
Co. Donegal:-

By:- Owner/Developer
Noreen Portnoo, "Eskedale", New Row, Donegal Town, Co. Donegal.

Description of Alleged Unauthorised Development:-
Modification of an existing domestic garage.

Ref. No:- UD14124

SUBMITTED: Recommendation dated 18th of June 2014 from Killian Smith, Executive Planner/Enforcement Officer, in relation to alleged unauthorised development at "Eskedale", New Row, Donegal Town, Co. Donegal, consisting of the carrying out of alterations to an existing domestic garage.

As appears there-from he inspected the alleged unauthorised development concerned on the 16th of June 2014. Following the subsequent carrying out of a desktop study it was determined that the works were eligible to be considered exempted development as per development described under Section 4(1), Parts (h) & (j) of the Planning and Development Acts 2000 - 2014.

He has recommended that the Council now decide **NOI** to issue a Warning Letter or an Enforcement Notice or pursue any other Enforcement procedures and that the case be closed arising from the fact that the subject development is exempted development.

RECOMMENDATION: That the Council decide **NOI** to issue a Warning Letter or an Enforcement Notice or pursue any other Enforcement procedures, and that the case be closed in accordance with the report herewith and the recommendation made in light of the subject development being exempted development.

Seán Ó Súilleabháin

**ASSISTANT STAFF OFFICER
HOUSING, CORPORATE & PLANNING CONTROL SERVICES**

ORDER: Recommendation approved. In accordance with Section 152 of the said Act I have decided **NOI** to enforce, and I order accordingly **NOI** to issue a Warning Letter or an Enforcement Notice or pursue any other Enforcement procedures and that the case be closed in light of the subject development being exempted development.

Seán Ó Súilleabháin

**A/SENIOR EXECUTIVE PLANNER
HOUSING, CORPORATE & PLANNING CONTROL SERVICES**

Dated this 2nd day of July 2014

REF NO: UD14 124

15th July 2014

Marian Thomas



Re: Alleged Unauthorised Development @ 'Eskedaie' New Row, Donegal
Town, Co. Donegal – Noreen Portnoo

A Chara

I refer to the above-mentioned alleged unauthorised development and wish to confirm that following an investigation by the Planning Authority, it was determined that the works were eligible to be considered exempted development as per development described under Section 4(1), Parts (h) & (i) of the Planning and Development Acts 2000 - 2014. Accordingly, the Planning Authority has therefore now decided to close this case.

I trust this clarifies the position of the Planning Authority on this matter at this time.

Mise le meas

**For A/Senior Executive Planner
Housing, Corporate and Planning Control Services**

REF NO: UD14 124

15th July 2014

Noreen Portnoo



Re: Alleged Unauthorised Development @ 'Eskedale' New Row, Donegal Town, Co. Donegal

A Chara

I refer to the above-mentioned alleged unauthorised development and wish to confirm that following an investigation by the Planning Authority, it was determined that the works were eligible to be considered exempted development as per development described under Section 4(1), Parts (h) & (i) of the Planning and Development Acts 2000 - 2014. Accordingly, the Planning Authority has therefore now decided to close this case.

I trust this clarifies the position of the Planning Authority on this matter at this time.

Mise le meas

**For A/Senior Executive Planner
Housing, Corporate and Planning Control Services**

Cc: Paul Doherty Architects, Castle Street, Donegal Town

REF NO: UD14 124

15th July 2014

Noreen Portnoo



Re: Alleged Unauthorised Development @ 'Eskedale' New Row, Donegal Town, Co. Donegal

A Chara

I refer to the above-mentioned alleged unauthorised development and wish to confirm that following an investigation by the Planning Authority, it was determined that the works were eligible to be considered exempted development as per development described under Section 4(1), Parts (h) & (i) of the Planning and Development Acts 2000 - 2014. Accordingly, the Planning Authority has therefore now decided to close this case.

I trust this clarifies the position of the Planning Authority on this matter at this time.

Mise le meas

**For A/Senior Executive Planner
Housing, Corporate and Planning Control Services**

Cc: Paul Doherty Architects, Casile Street, Donegal Town

AFFIDAVIT OF MARIAN THOMAS

I, Marian Thomas, of 3 New Toberaheena, Cahir Road, Clonmel, Co. Tipperary, aged eighteen years and upwards **MAKE OATH** and say as follows:-

1. I make this affidavit on my own behalf, from facts within my own knowledge save where otherwise appears, and where so appearing I believe the same to be true and accurate.
2. I am the beneficial owner of a two-storey, semi detached house at New Row, Mullins, Donegal Town, Co. Donegal.
3. I make this affidavit in the context of referral pursuant to section 5(3) of the Planning and Development Act 2000 as amended in relation to a review of a declaration by Donegal County Council on a question that arose as to what, in a particular case, is or is not development or is or is not exempted development.
4. A single window providing light to the stairs, landing and hall is located on the gable wall of the aforementioned two-storey house. A detached garage is located to the north west of the aforementioned two-story house on an adjacent site. The distance between the two-story house and the garage is circa 0.5 metres.
5. In or around 2014, the roof profile of the detached garage which consisted of a mono-pitch roof behind a parapet gable was altered and increased in height circa 0.5 metres adjacent to the aforementioned two-storey house. I believe the use of the garage ceased and the structure was changed into a residential gymnasium. Other works were carried out to the garage structure to which I have no objection.
6. In or around 2014, a complaint was made to Donegal Co. Council about the said works to the garage. Donegal Co. Council considered that the works were exempted development pursuant to sections 4(1)(g) and 4(1)(h) of the Planning and Development Act 2000 as amended and no enforcement proceedings were initiated. The file relating to the said complaint was obtained from Donegal Co. Council on or about the 27th April 2022 and same indicates that the Council accepted the submission of the architect for the owner of the garage that the alterations to the roof profile had not aggravated any additional loss of light to the aforementioned two-storey house. The submission by the architect for the owner of the garage to the Council was incorrect and no opportunity was offered to counteract that submission.
7. I am certain that the alteration and increase in height of the roof profile of the garage resulted in blocking in the lower section of the gable window in the aforementioned two-storey house. Prior to the alterations to the roof profile of the garage, the window was not blocked as the highest point of the mono-pitch roof was level with the window cill. I am a truthful person and have no reason to assert any untruths in this matter.
8. The alteration and increase of the roof profile of the garage has caused a loss of daylight and sunlight to the hall, stairs and landing in the aforementioned two-storey house. The

blocking of part of the window has damaged the residential amenity of the
aforementioned two-storey house and the higher roof profile is just circa 0.5 meters
from the gable window.

SWORN by the said MARIAN THOMAS at New
Quay, Clonmel in the County of Tipperary this 20th day
of June 2022 before me a ~~Commissioner~~
~~for Oaths~~/Practising Solicitor and I know the
Deponent

Marian Thomas
(Marian Thomas)

Dáire Maguire
~~Commissioner for Oaths/~~
Practising Solicitor



