

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

AN BORD PLEANÁLA	
LDG-	<u>072970-24</u>
ABP-	
02 JUL 2024	
Fee: €	<u>220</u> Type: <u>CHA</u>
Time: <u>9:05</u>	By: <u>reg p</u>

6th June 2024

Re: Galway Co Council Planning Ref: ED24/65
Declaration of Exempted Development under Section 5 of the Planning & Development Act
2000 – Rear extension to dwelling house.

A Chara,

Please find enclosed an Appeal to a Refusal by Galway Co Council (Ref No. Ed24/65) on behalf of our client Tommy O'Donnell, Cloghnakeava, Gort, Co. Galway. Please find attached the appropriate fee of €220.00.

Should you require any further information, please do not hesitate to contact this office.

Mise le Meas,


Des Glynn B.Sc. Arch.T.

Grealish Glynn & Associates

Client

Tommy O'Donnell

Proposed Development

Rear extension to dwelling house

Address of Development

Cloghnakeava, Gort, Co. Galway

Address of Appellant

Cloghnakeava, Gort, Co. Galway

Ref. No. In Planning Register of Galway County Council

ED24/65

Date

6th June 2024

Prepared by

Des Glynn BSc. Arch. T.
Grealish Glynn & Associates

1. Introduction

After receiving details of the Refusal of Declaration of Exempt Development for our client Tommy O'Donnell, we judged that Galway County Council has dealt with this application unfairly. We have been instructed to prepare an appeal of this decision to An Bord Pleanála. I hope that the following information will lead you to making a just and speedy decision in relation to this matter.

This appeal consists of

Chapter 1 - Introduction

Chapter 2 - Reasons for Refusal

Chapter 3 - Assessment

Chapter 4 - Arguments against Refusal

Chapter 5 - Conclusions

Appendix - Containing a list of attachments to support this appeal

2. Reasons for Refusal

1. The definition of “works” set out in Section 2 of the Planning and Development Act 2000 (as amended);
2. The definition of “development” set out in Section 3 of the said Planning and Development Act;
3. Section (4) of the said Planning and Development Act 2000 (as amended);
4. Article 6 of the Planning and Development Regulations 2001 (as amended);
5. Article 9 of the Planning and Development Regulations 2001 (as amended);
6. ‘Class 1’ Schedule 2 Part 1 of said Planning and Development Regulations;
7. Documents submitted from the referrer in this Section 5 application.

3. Assessment

Having studied the reasons for refusal it is clear that Galway Co. Council has not assessed this application properly. Nowhere in the legislation does it state a time limit on how long a dwelling house can be derelict after which time renovation and extension requires planning permission. There are also substantial administration errors in the refusal as reference is made to a development that has nothing to do with this application. (shaded yellow on refusal)

4. Arguments against Refusal

The development is for a simple sub 40 square metre extension to the rear of a dwelling house. The dwelling house is not particularly old and was most likely built between 1920 and 1940 as it is of cast concrete construction. I have limited pictures of the dwelling house prior to recent renovation works but I have a good picture of the rear of the dwelling house which shows the windows and roof intact before renovation. What is also visible is the cast iron soil vent pipe to the rear of the dwelling which is proof that the septic tank was in place when the house was constructed. There was a bathroom at first floor level in the property. There was also a small rear extension which was demolished to make way for the foundations of the new rear extension. The attached pictures shows the old concrete tile roof in place which was replaced with a new slate roof. It is common practice to now remove chimneys during renovation as they will not be in use and they increase the risk of dampness and roof leaks within the dwelling . The removal of the chimneys does not materially effect the overall appearance of the dwelling and newly constructed houses have no chimneys.

This Refusal goes against legislation which the Government is working hard to produce in order that such derelict dwellings are renovated and brought back into the housing supply in a speedy and timely manner. The development makes the best use possible of an existing structure.

5. Conclusion

We seek that An Bord Pleanála to grant the Declaration of Exempted Development on the grounds that:

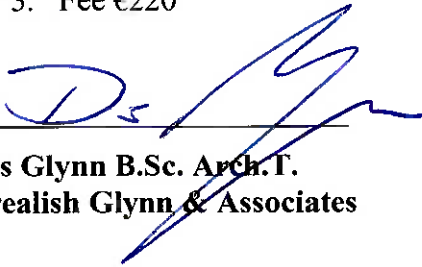
1. The Planning Authority have not given adequate reason for the refusal of this Exemption;
2. Refusing this Exemption creates an undesirable precedent and will discourage people from renovating old houses which is now seen as an important tool to help with the housing crisis and also has less of an environmental footprint than constructing new houses.

3. The re-roofing of the house and removal of the chimneys is a repair that does not make the development out of character with neighbouring developments.

Appendix

Attachments

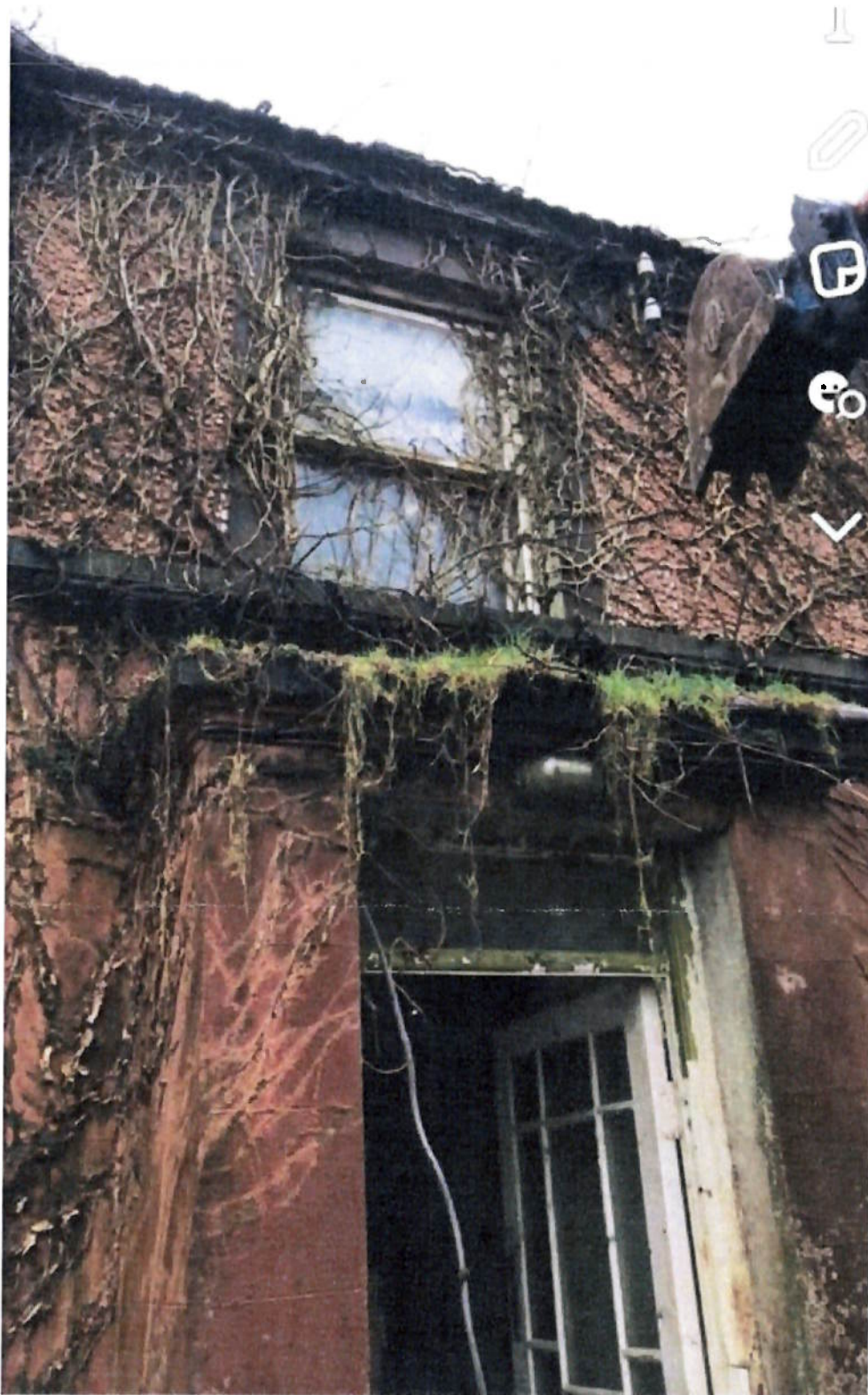
1. Cover Letter
2. Copy of Refusal ED24/65
3. Fee €220

A handwritten signature in blue ink, appearing to be 'Des Glynn', is written over a horizontal line.

**Des Glynn B.Sc. Arch.T.
Grealish Glynn & Associates**



Recent Picture of rear of house before reroofing. Note concrete tile roof intact and soil vent pipe to first floor toilet.



Only picture available of front of house showing front door and first floor window intact.



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Aras an Chontae,
Cnoc na Radharc,
Gaillimh

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Web: www.galway.ie

Comhairle Chontae na Gaillimhe
Galway County Council

Tommy O'Donnell,
C/o Grealish Glynn & Associates,
1 The Punchbowl,
Ennis Road,
Gort,
Co. Galway

06th June 2024

RE: Declaration of Exempted Development under section 5 of the Planning & Development Act 2000

ED24/65 – Rear extension to dwelling house at Cloghnakeava, Gort, Co. Galway.

DECISION – NOT EXEMPTED DEVELOPMENT

A Chara,

The Planning Authority, in considering this Section 5 application, had regard particularly to

- (a) The definition of "works" set out in Section 2 of the Planning and Development Act 2000 (as amended).
- (b) The definition of "development" set out in Section 3 of said Planning and Development Act.
- (c) Section 4 of said Planning and Development Act 2000 (as amended).
- (d) Article 6 of the Planning and Development Regulations 2001 (as amended).
- (e) Article 9 of the Planning and Development Regulations 2001 (as amended).
- (f) 'Class 1' Schedule 2 Part 1 of said Planning and Development Regulations.
- (g) Documents submitted from the referrer in this Section 5 application.

The Planning Authority, in exercise of the powers conferred on it by Section 5 of the 2000 Planning Act (as amended), hereby decides that:

The construction of single storey extensions to rear of existing dwelling at Sonnagh Old, Kilchreest, Loughrea, Co. Galway is development and is **not exempted development** as it contravenes Article 9 Restriction on Exemptions (1)(a)(viii) of the 2001 Planning and Development Regulations (as amended):
'consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use'

→ Nothing to do with this application obvious administration error.

Opinion:

Having regard to the above, in conjunction with the Sections 2, 3 & 4 of the Planning and Development Act 2000 (as amended) and Articles 6 & 9 of the Planning and Development Regulations 2001 (as amended), it is considered that the development would constitute development under Section 3 of the Planning and Development Act 2000 (as amended).

Having considered the works proposed the Planning Authority is of the opinion that the proposed works contravenes Article 9 Restriction on Exemptions (1)(a)(viii) of the 2001 Planning and Development Regulations (as amended):

'consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use'

With the works already carried out, as observed during the technicians site visit on 23rd May, we the Planning Authority consider that the construction of a new roof along with the removal of 2 chimney's would not fall within the scope of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and therefore would be considered unauthorised development and require planning permission.

'development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.'

Also, the Planning Authority has concluded that:

- The works required to bring the original derelict structure back into habitable use do not fall within the scope of Section 4(1)(h) of the Planning and Development Act 2000 (as amended) and require planning permission.
- There is no provision in the Planning and Development Regulations 2001 (as amended) and the associated Planning and Development Act 2000 (as amended) whereby the extension to the rear of a derelict dwelling which has not been in use as a dwelling for a considerable period of time would constitute exempted development.
- Finally, it is noted that any upgrades or installation of a new wastewater treatment system would not be covered under exempted development.

Please note that you may appeal this decision to **An Bord Pleanála** within four weeks of the issue of this declaration on payment of the prescribed fee.

Mise le meas


John O'Connor
Planning & Sustainable Development Unit

