

ROSCOMMON COUNTY COUNCIL

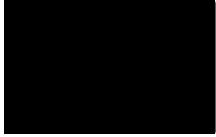
PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

REGISTERED POST

William Kennedy,



Reference Number: DED 675

Application Received: 5th March 2024

Name of Applicants: William Kennedy

Agent: Noel O'Brien, O' Brien Survey & Design, Mountbellow, Co. Galway.

WHEREAS a question has arisen as to whether the renovation of an existing dwelling, works including footpaths, driveways, kerbing and internal works at Derrychaill, Dysart, Ballinasloe, Co. Roscommon., is or is not development and is or is not exempted development:

AND WHEREAS Roscommon County Council, in considering this application, had regard particularly to:

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended.
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended.
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 as amended.
- (d) The planning history of the site.

AND WHEREAS Roscommon County Council has concluded that:

- (a) The works outlined above are development.
- (b) The works, completed and ongoing, fall outside the provisions of Section 4(1)(h) of the Planning & Development Act 2000 as amended.
- (c) The proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the requirement for AA or EIAR does not apply with respect to the current case.

NOW THEREFORE:

By virtue of the powers vested in me by the Local Government Acts 1925 – 2019 and Section 5(2)(a) of the Planning and Development Act 2000 (as amended) and having considered the various submissions and reports in connection with the application described above, it is hereby declared that the said development **to renovate an existing dwelling, works including footpath, driveway, kerbing and internal works at Derrycahill, Dysart, Ballinasloe, Co. Roscommon.,** is development that is **not exempted development** as defined within the Planning and Development Act 2000 (as amended) and associated Regulations.

Signed on behalf of the Council:

Alan O'Connell,
Senior Executive Planner,
Planning.

Date: 22nd July 2024

cc agent:

Noel O'Brien,
O' Brien Survey & Design,
Mountbellow,
Co. Galway.



ADVICE NOTE

Any person issued with a Declaration under Section 5 of the Planning and Development Act, 2000 (as amended) may, on payment to An Bord Pleanála of the prescribed fee, refer a Declaration for review within 4 weeks of the date of the issuing of the Declaration.

Planner's Report on application under
Section 5 of the Planning and Development Act 2000 (as amended)

Reference Number:	DED 675
Re:	Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development.
Name of Applicant:	William Kennedy
Location of Development:	Derrycahill, Dysart, Ballinasloe, Co. Roscommon
Site Visit:	09/07/2024

WHEREAS a question has arisen as to whether the following works; "Renovation of existing dwelling-house, footpaths, driveways, kerbing and internal works" under the Planning & Development Act (Exempted Development) Regulations 2018 at the above address is or is not development and is or is not exempted development.

I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 as amended.
- (d) The planning history of the site

Site Location & Description of Development & Nature of Proposed Development
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Site Location:

The subject site is situated in a rural area to the south-west of the county, in the townland of Feevagh More and is located off a local road [L-7571] which runs perpendicular to the L-7604.

Development Description:

A site visit was conducted on the 9th of July, 2024; as per the Site Layout Plan, the dwelling can be accessed via a singular vehicular access/egress point with an agricultural gate precluding unsolicited access. The immediate perimeter of the subject site is bounded by post and wire fencing, with what appeared to be electric wire fencing preventing access around the building.

As regard to the site topography, the site is undulating in character with the eastern extent of the site being lower than the mid-east/west plateau upon which the existing derelict dwelling sits.

The dwelling is a vernacular Glebe-style property, being a two-storey, detached dwelling, with a hipped slated roof. Two ground-floor bay windows to the northern and southern extent of the front elevation are fitted with three glazed portrait windows. The door frame and the first-floor central window (to the front elevation) share an architecturally distinct 'crescent' arch detail. The property has been fitted with new windows and an entirely new roof structure has been constructed.

Nature of Proposed Works:

The application states the nature of the proposed development/works comprises the "*renovation of an existing dwelling-house, footpaths, driveways, curbing and internal works*". This is supplemented by a detailed "*Specification of Works to be Carried Out*" which itemizes the extent of the proposed works.

European Sites:

As per a review of Roscommon County Council's Geographic Information Systems, the subject site is located in proximity to a European Site.

- Appropriate Assessment

The closest designated sites include; "River Suck Callows SPA" (Site Code 004097) which is located 0.8km north of the subject site, and Killeglan Grassland SAC (Site Code 002214) which is located 1.2km east of the subject site.

Having regard to the separation distances between the site and the closest Natura 2000 site, given the nature of the proposal, there is no real likelihood of significant effects on the conservation objectives of these or other European sites arising from the proposed development. The need for further Appropriate Assessment, therefore, can be excluded.

Architectural / Archaeological Heritage

As per a review of Roscommon County Council's Geographic Information Systems, there are no architectural and/or archaeological heritage sites/structures in proximity to the subject site or property thereon.

- Assessment of Architectural & Archaeological Heritage

The property is not a protected structure; further, the closest structure listed by the National Monuments Service includes a, 'Enclosure' (SMR Number RO050-041004-) located 0.5km east of the site.

Planning History

A review of the site was undertaken using Roscommon County Council's GIS; a planning history assessment of the subject site and property thereon did not yield any conclusive planning history for the site. There are structures evident on the historical maps [25-on the balance of probability that the existing structure was built prior to the enactment of the Planning & Development Act 1963, and as such, holds the benefit of exempted development owing to its established status.

Relevant statutory provisions

Planning and Development Acts 2000 (as amended)

Section 2 (1)

In this Act, "works" include any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3 (1)

In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4 (1)

Defines certain types of development as being 'exempted development'. Of potential relevance is section 4(1)(h) which provides as follows:

"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;

Section 4 (2)

Outlines that the Minister may, by regulations, provide for any class of development to be exempted development for the purpose of this Act. The principal regulations made under this provision are the Planning and Development Regulations.

Planning and Development Regulations, 2001 as amended

Article 6 (1)

Subject to article 9, development of a class specified in column 1 of Part 1 and Part 3 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 3 opposite the mention of that class in the said column 1.

Article 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act –

- (a) If the carrying out of such work would—
 - (i) Contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.
 - (viiB) Comprise development in relation to which a planning authority or an Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

--- From here

Planning Assessment

Hereunder, details the statutory provisions pertinent to this section 5 referral have been set out, they are as follows;

In accordance with the Planning and Development Act, 2000, section 2(1) “works” include “any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure (...)”. It is considered that said proposed works constitute “works”, as defined in section 2 of the said Act.

In accordance with the Planning and Development Act, 2000, section 3(1) “development” means, “except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land”. It is considered that said works constitute development, as defined in section 3 of the said Act.

These works have been considered in the context of Section 4(1)(h) of the Act, 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*”.

- On review of the submission particulars, under the provision of Section 4(1)(h), it is considered that the proposed works, comprising of the “*Renovation of existing dwelling house, footpaths, driveways, curbing and internal works*” do, in principle, constitute exempted development; with the landscaping works falling under Schedule 2, Part1, Class 6 of development. However, a site visit conducted on the 9th of July confirmed that as part of the on-going works to the property, both internal and external, the original roof structure, being of vernacular Glebe-style and having originally featured two centralised chimney stacks, has been re-roofed, and the centralised chimney stacks omitted.

- The removal of the chimney stacks has adversely impacted the architectural character of the building as the works completed have *"materially affect(ed) the external appearance of the structure so as to render the appearance inconsistent with the character of the building"*. As such, the limitations for the application for exempted development, under section 4(1)(h), has been exceeded and the works for which this declaration and referral on development and exempted development under section 5 of the Act, are not considered to constitute exempted development.

With Regard to Article 9(1)(a) of the Planning and Development Regulations, it is reasonable to conclude, on the basis of the information available, that the proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the need for AA does not apply with respect to the current case. It should be noted that any development for which Environmental Impact Assessment or Appropriate Assessment is required shall not be exempted development unless specifically exempted in regulations where there is provision in other legislation for the carrying out of EIA or AA. In addition, the restrictions on exemption Article 9(1)(a)(viiB) exclude development which would otherwise be exempted development under these regulations where an AA is required.

Recommendation

WHEREAS a question has arisen as to whether a proposed development; comprising the *"Renovation of existing dwelling-house, footpaths, driveways, kerbing and internal works"* under the Planning & Development Act (Exempted Development) Regulations 2018, at the site located in *"Derrycahill, Dysart, Ballinasloe, Co. Roscommon"* is or is not development and is or is not exempted development, I have considered this question, and I have had regard particularly to –

- (a) Sections 2, 3, 4 and 5 of the Planning and Development Act, 2000, as amended
- (b) Articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended
- (c) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Acts 2000 as amended.
- (d) The planning history of the site

AND WHEREAS I have concluded that

- The works outlined above are development.
- The works, completed and ongoing, fall outside the provisions of Section 4(1)(h) of the Planning & Development Act 2000 as amended.
- The proposed development individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and that the requirement for AA or EIAR does not apply with respect to the current case.

AND WHEREAS I have concluded that the said development comprising *"Renovation of existing dwelling-house, footpaths, driveways, kerbing and internal works"* at the site located in *"Derrycahill, Dysart, Ballinasloe, Co. Roscommon"* under the Planning & Development Act (Exempted Development) Regulations 2018, are not considered to constitute exempted development.

Signed:

Bláithín Kinsella

Assistant Planner

Date: 12th June 2024

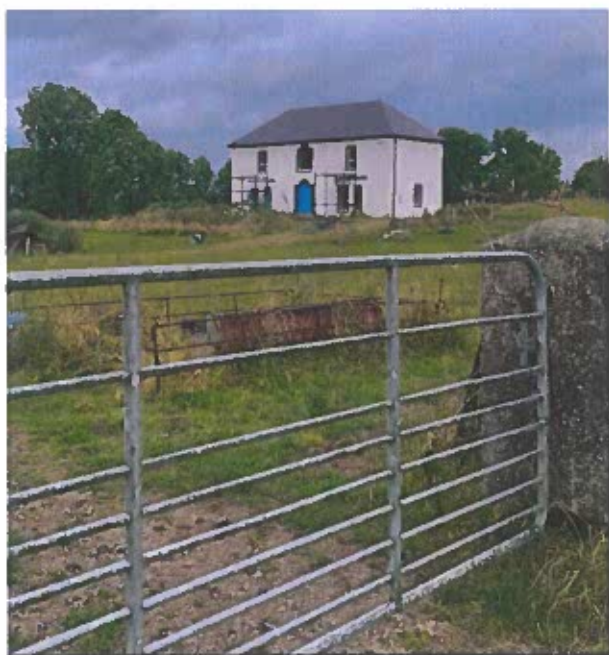
Signed:

Alan O'Connell

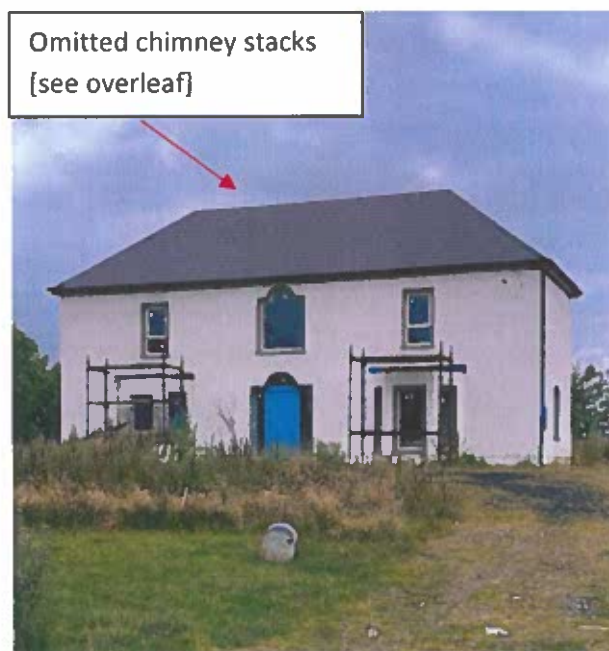
Senior Executive Planner

Date: 12th June 2024

19th July



On approach to dwelling: vehicular entrance



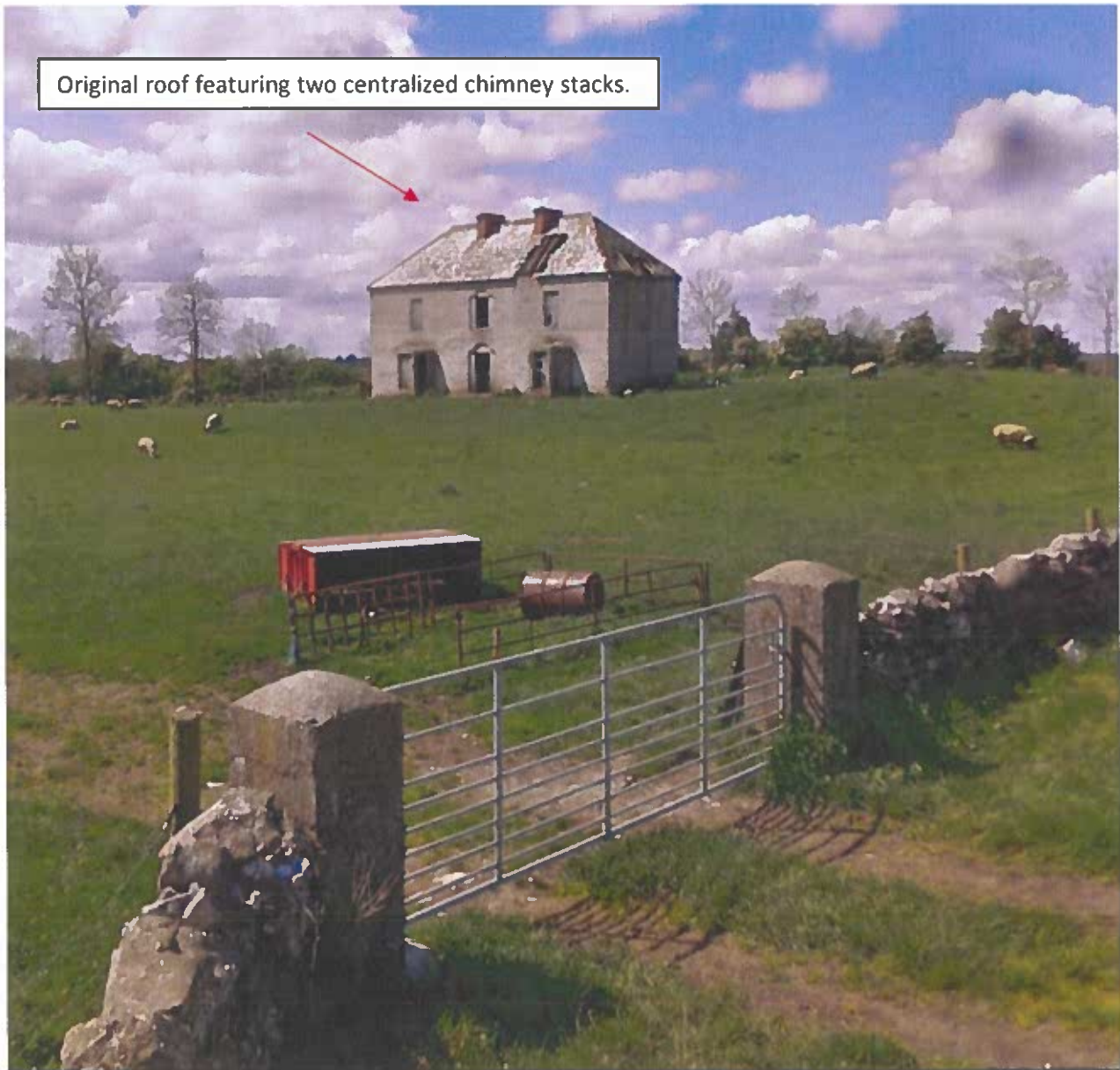
Front elevation



Front/side of dwelling



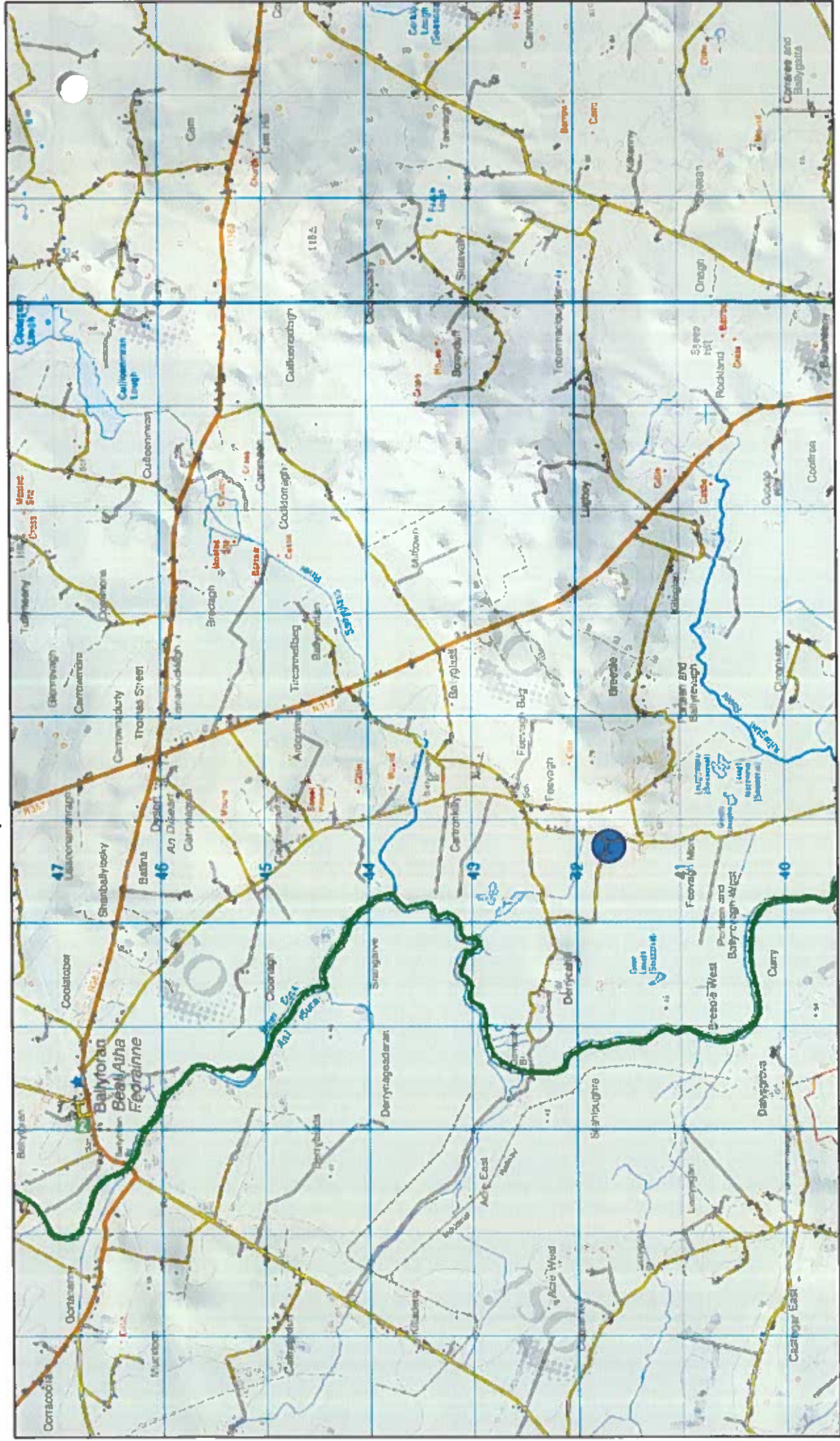
Side/rear of dwelling



Original roof featuring two centralized chimney stacks.

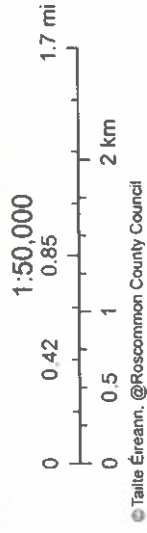
Google street view of property: May 2009

ENDS.



6/11/2024, 4:12:10 PM

 County Boundary

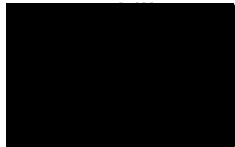




Comhairle Contae
Ros Comáin
Roscommon
County Council



William Kennedy,



Date: 5th March 2024

Planning Reference: DED 675

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.

Development: Permission to renovate existing dwelling house, works including footpaths, driveways, kerbing and internal works under the Planning & Development Act (Exempt Development) Regulations 2018 at Derrycahill, Roscommon.

A Chara,

I wish to acknowledge receipt of your application received on the 5th March 2024, for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development along with the appropriate fee in the sum of €80.00, Receipt No. L01/0/227416 dated 5th March 2024, receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 675**
This should be quoted in all correspondence and telephone queries.

Mise le meas,

Alan O'Connell
Senior Executive Planner,
Planning Department.

Roscommon County Council
Aras an Chontae
Roscommon
09088 37100

05/03/2024 15:27 16

Receipt No : L01/0/22/416

WILLIAM KENNEDY
C/O NOEL O'BRIEN
O'BRIEN SURVEY & DESIGN
MOUNTBELLEW
CO. GALWAY

EXEMPTED DEVELOPMENT

PLANNING APPLICATION FEES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	
DED 675	

Total : 80 00 EUR

Tendered :	80 00
Cheque	
4937	

Change : 0.00

Issued By : Louis Carroll
From : Central Cash Office



Áras an Chontae,
Roscommon,
Co. Roscommon.

Phone: (090) 6637100

Email: planning@roscommoncoco.ie

Roscommon County Council

Application for a Declaration under Section 5 of the Planning & Development Act 2000, regarding Exempted Development

Name:	MR. WILLIAM KENNEDY
Address:	[REDACTED]
Name & Address of Agent:	NOEL O'BRIEN, O'BRIEN SURVEY & DESIGN, MOUNTBELLEW, CO. GALWAY.
Nature of Proposed Works	RENOVATION OF EXISTING DWELLING HOUSE, FOOTPATHS, DRIVEWAYS KIRBING AND INTERNAL WORKS.
Location (Townland & O.S No.)	DIGITAL 3031 DERRYCAHILL, OS. No. ROSCOMMON
Floor Area	155.43 M ²
Height above ground level	TWO STOREY 8.386M HIGH.
Total area of private open space remaining after completion of this development	4366.34 M ²
Roofing Material (Slates, Tiles, other) (Specify)	SLATES.
Proposed external walling (plaster, stonework, brick or other finish, giving colour)	EXISTING PLASTER.
Is proposed works located at front/rear/side of existing house.	INTERNAL AND EXTERNAL WORKS.



Roscommon County Council

Application for a Declaration under Section 5 of the Planning & Development Act 2000,
regarding Exempted Development

Has an application been made previously for this site	NO.
If yes give ref. number (include full details of existing extension, if any)	N/A.
Existing use of land or structure	OLD DWELLING BEING DONE UP.
Proposed use of land or structure	PRIVATE RESIDENCE.
Distance of proposed building line from edge of roadway	35.153M
Does the proposed development involve the provision of a piped water supply	NO, EXISTING SUPPLY.
Does the proposed development involve the provision of sanitary facilities	NO, EXISTING.

Signature: Nigel R. (Agent)

Date: 29/1/2024

Note: This application must be accompanied by:-

- (a) €80 fee
- (b) Site Location map to a scale of 1:2500 clearly identifying the location
- (c) Site Layout plan to the scale of 1:500 indicating exact location of proposed development
- (d) Detailed specification of development proposed



O' BRIEN SURVEY AND DESIGN SERVICES LTD.
Engineers, Surveyors



Mountbellew,
Co. Galway.

Tel: (090) 9679506.

21st February 2024

To whom it may concern,

Re: William Kennedy derelict house at Derrycahill, Dysart, Ballinasloe, Co. Roscommon.

SPECIFICATION OF WORKS TO BE CARRIED OUT.

100mm sub floor with 150 extratherm insulation to include plumbing for underfloor heating system, finish floor with 70mm liquid screed.
Necoflex radon sump acudrain & 1200mm square platform.
Repair roof fit Tyvek breather membrane and replace slates.
Air tightening sealing tape around doors and windows.
Fit new windows and doors with u value of 1.3
Fit 400mm rockwool insulation to attic.
Plaster repairs to match existing indoor and outdoor.
Re do the plumbing and heating.
Air to water system.
Ventilation supplies electrical ventilation to each room.
Electrical works according to Rec1 specification.
Site works, paths and kerbing and construct access ramps to each door.
Second fix woodwork fit all doors and architrave and skirting with iron monger.
Fit out second floor area with new joisting and fit timber floors on same.
Paint and decorate internally and externally.
Ground works, replace soak ways to existing building repair access driveway fit kerbs and gravel the drive way.

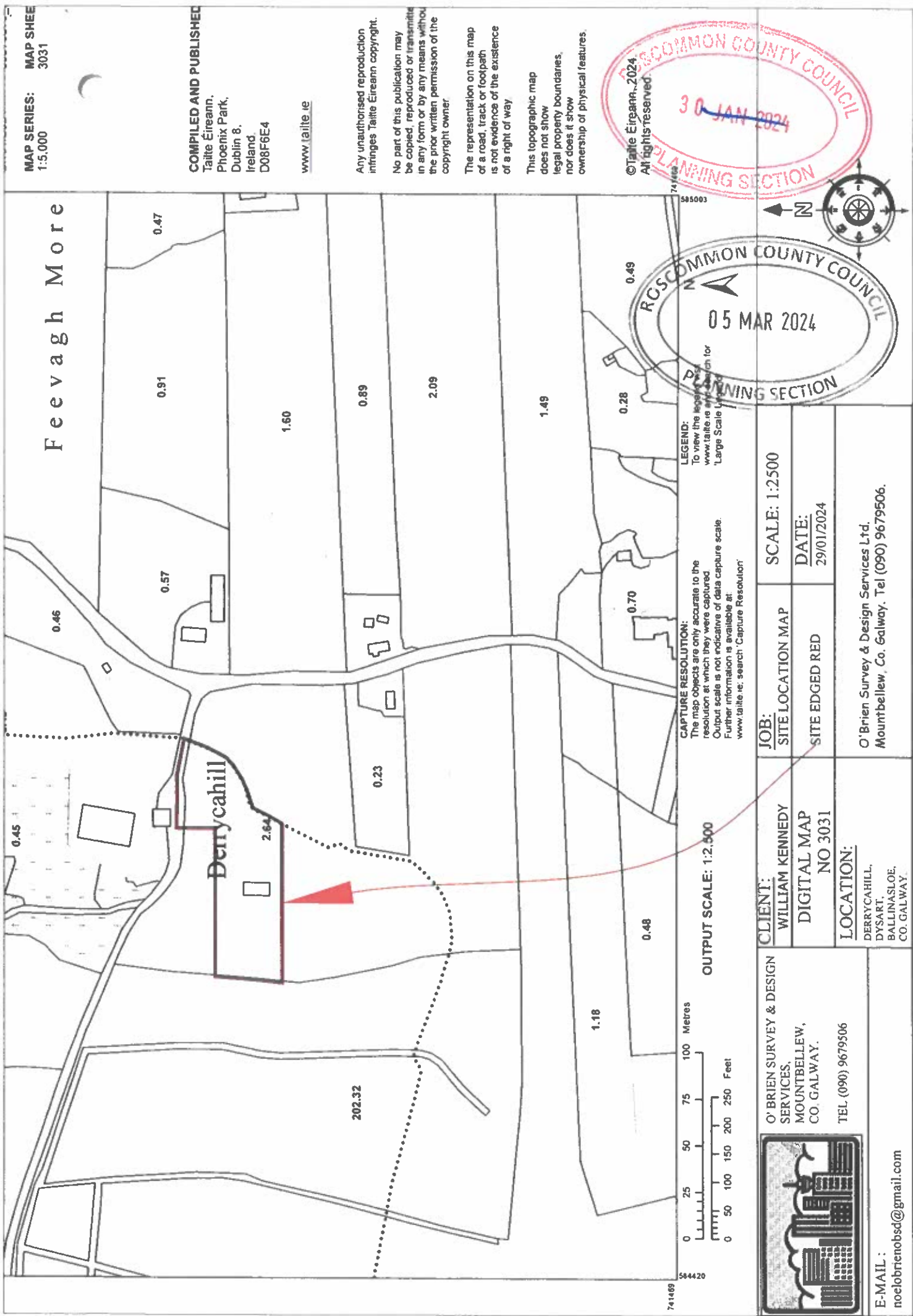
If you require anything further give me a call.

Yours Sincerely,



O' Brien Survey and Design Services





MAP SERIES: 1:5,000
MAP SHEET 3031

COMPILED AND PUBLISHED
Taitte Éireann,
Phoenix Park,
Dublin 8,
Ireland
D08F5E4

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OUTPUT SCALE: 1:2,500

O'BRIEN SURVEY & DESIGN
SERVICES,
MOUNTBELLEW,
CO. GALWAY.
TEL (090) 9679506

CLIENT:
WILLIAM KENNEDY
DIGITAL MAP
NO 3031
LOCATION:
DERRYPACAHILL,
DYSART,
BALLINASLOE,
CO. GALWAY.

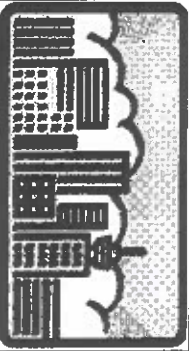
JOB:
SITE LOCATION MAP
SITE EDGED RED

SCALE: 1:2500

DATE:
29/01/2024

E-MAIL:
noelobrienobds@gmail.com

O'Brien Survey & Design Services Ltd.
Mountbellew, Co. Galway. Tel (090) 9679506.



O'BRIEN SURVEY & DESIGN
SERVICES,
MOUNTBELLEW,
CO. GALWAY.
TEL: (090) 9679506

CLIENT: WILLIAM KENNEDY
SCALE: 1:500
PREPARED BY: *Ms. Q2*

LOCATION:
DERRYCAHILL,
DYSART,
BALLINASLOE,
CO. GALWAY

JOB:
SITE LAYOUT MAP
SITE EDGED RED
DATE:
29/01/2024

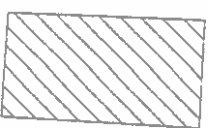
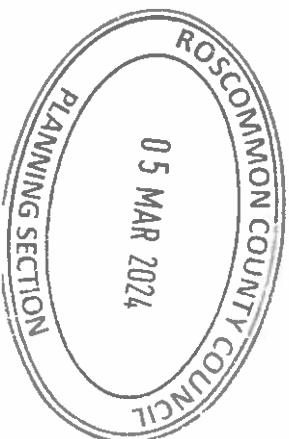
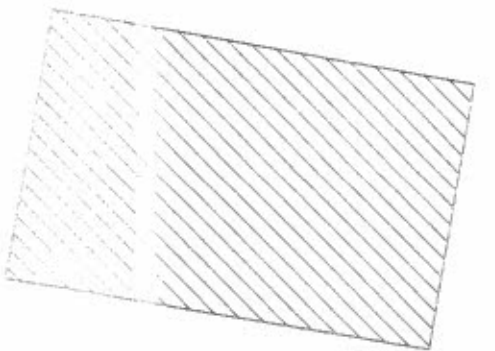
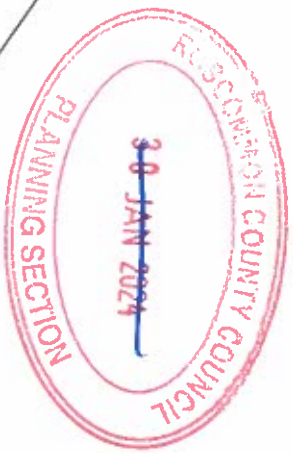
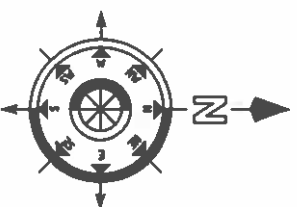
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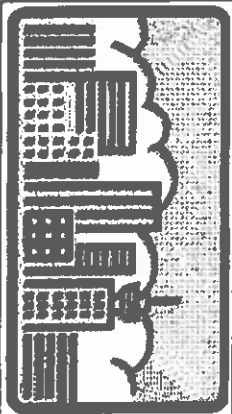
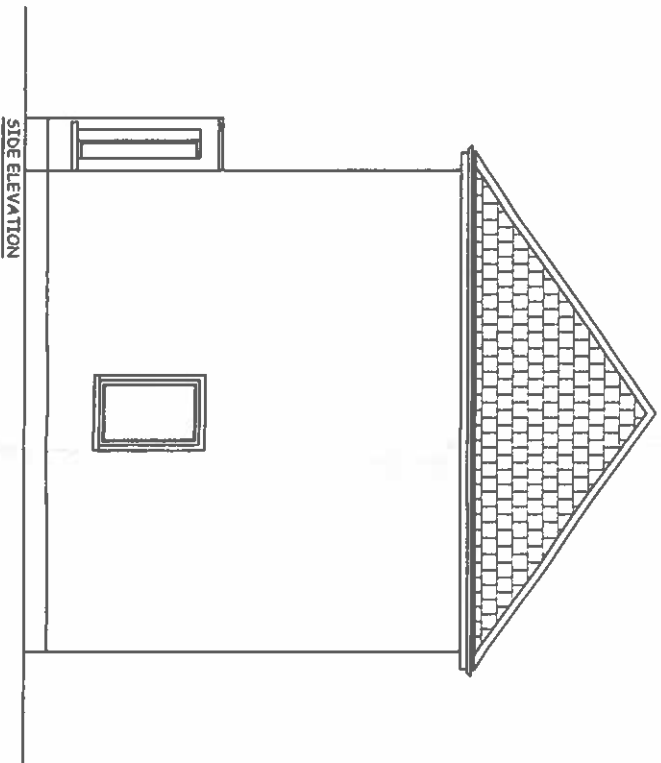
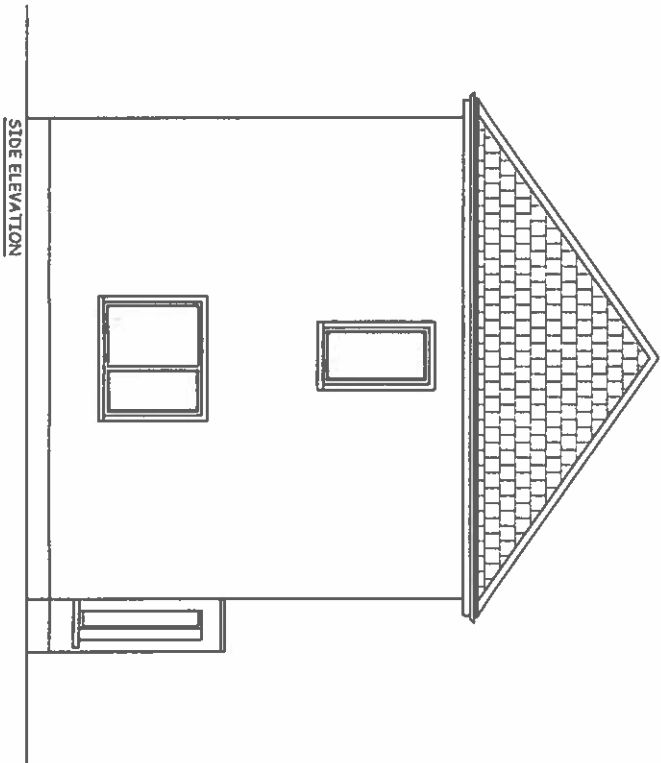
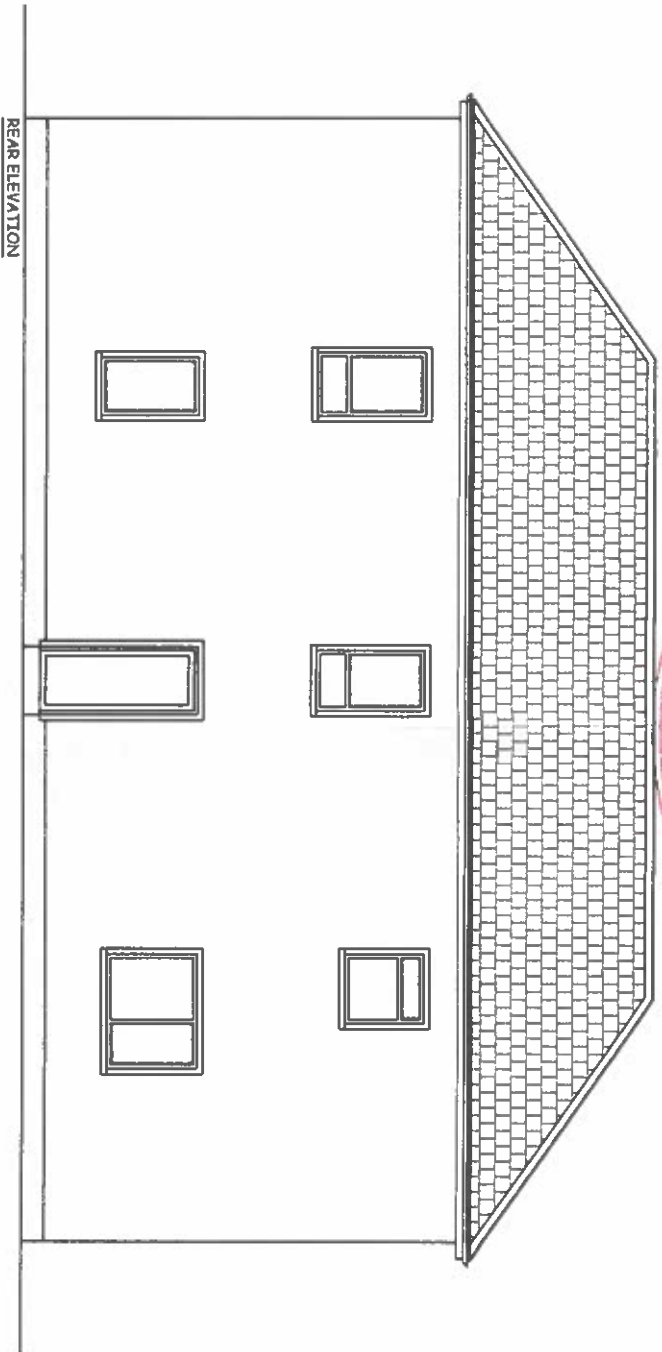
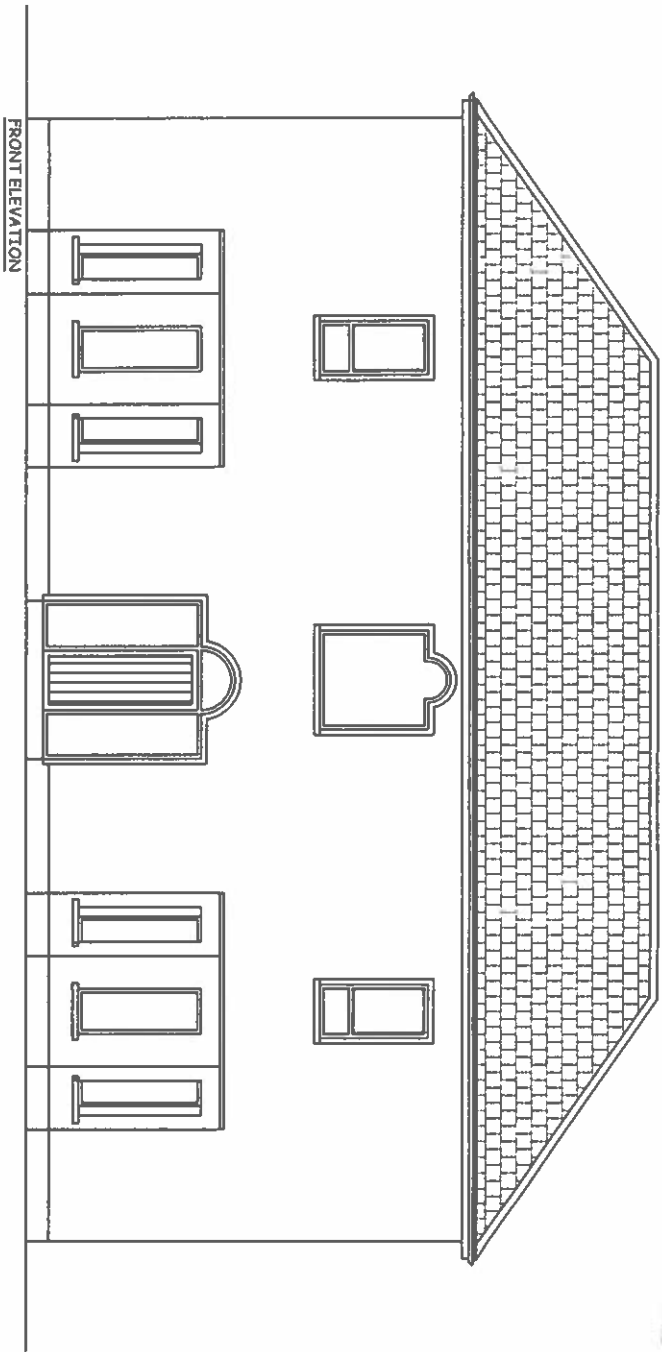
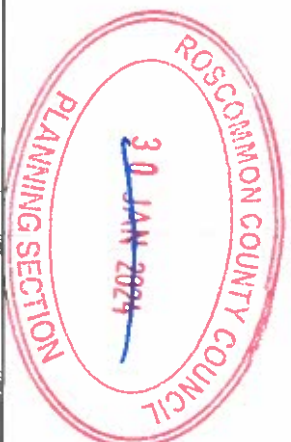
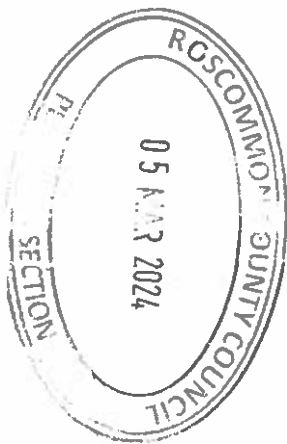
EXISTING
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EXISTING
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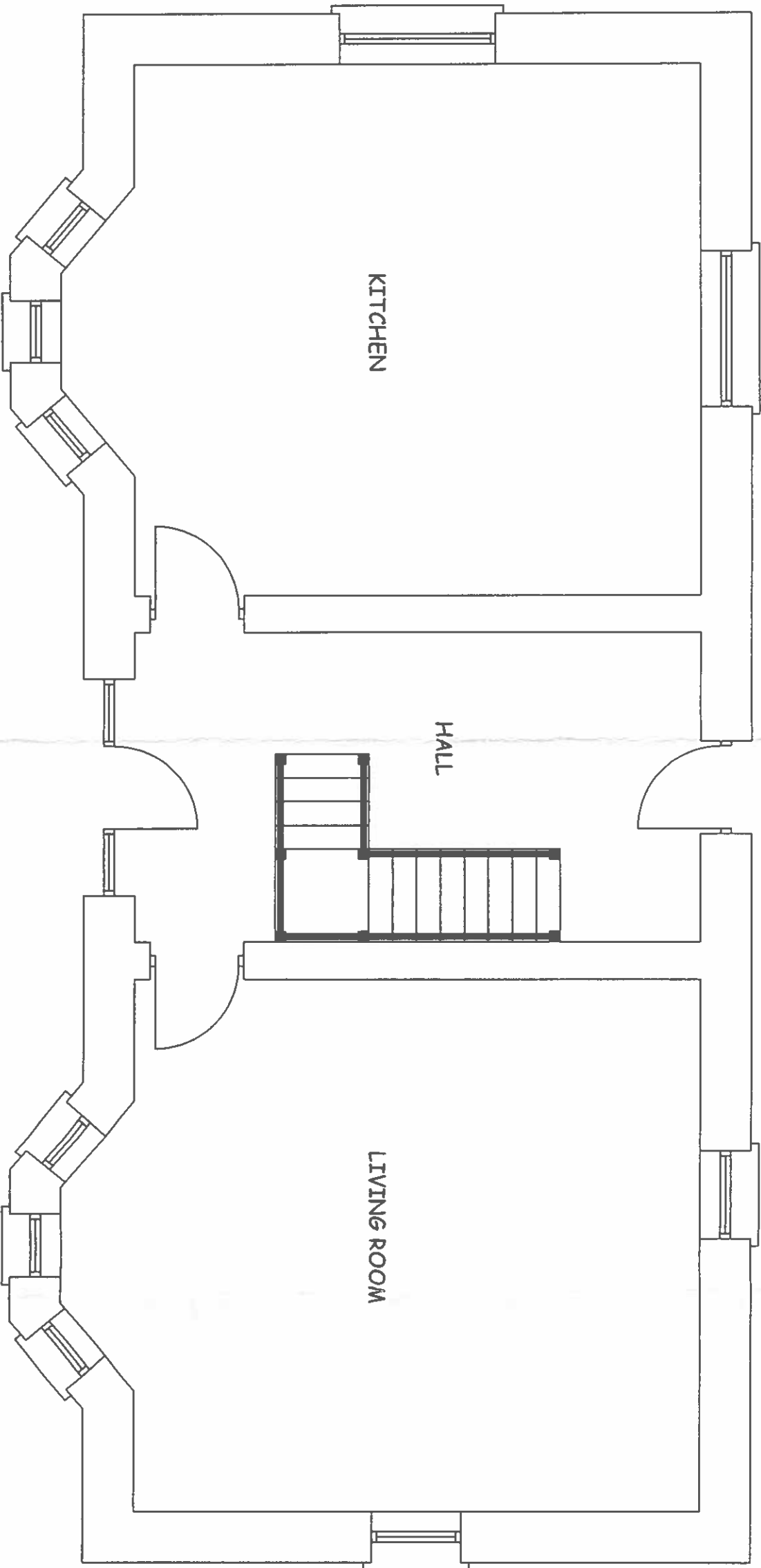
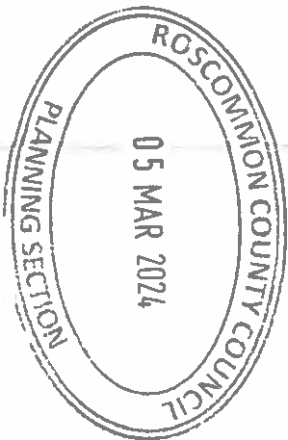
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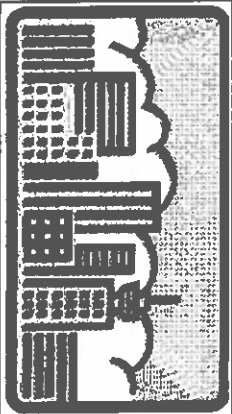




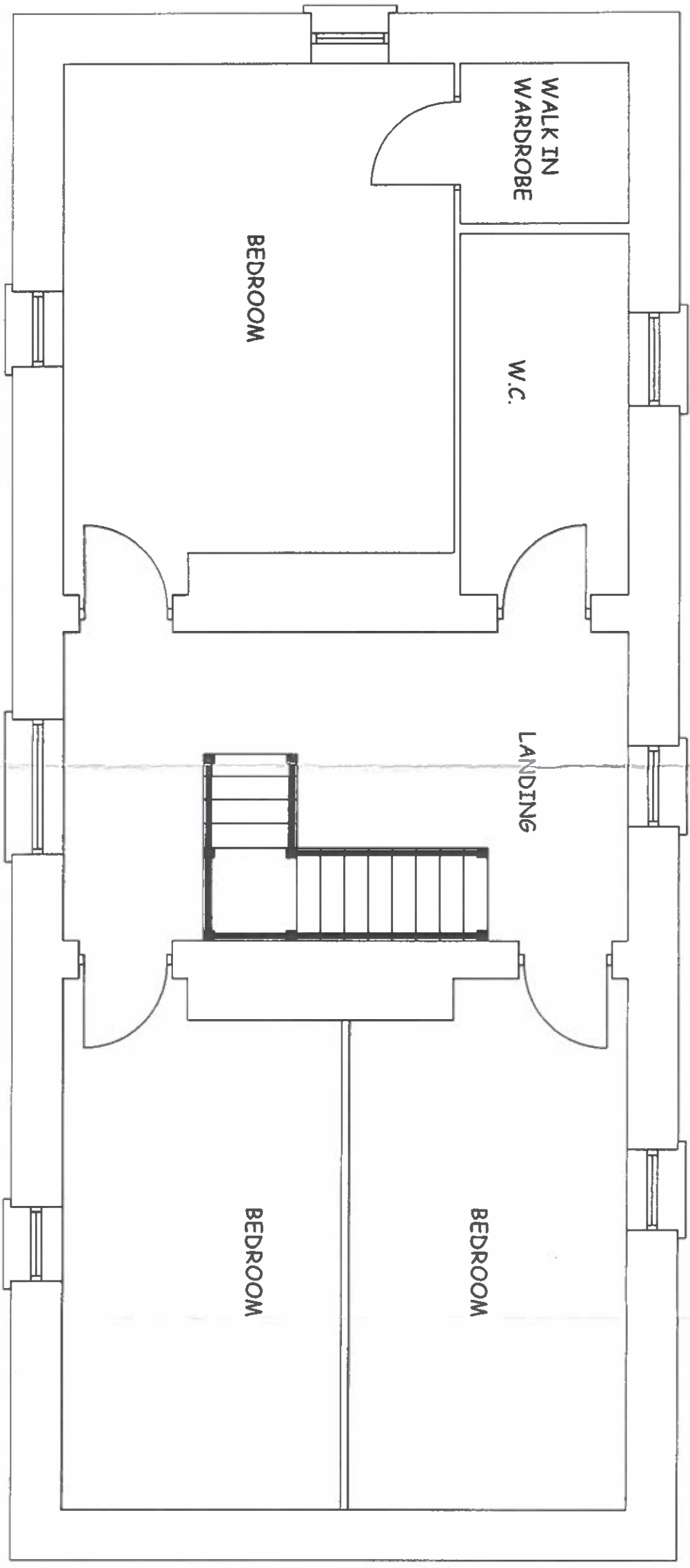
O' BRIEN SURVEY & DESIGN SERVICES, MOUNTBELLEW, CO. GALWAY. TEL (090) 9679506		JOB: RESTORATION OF DWELLING HOUSE		LOCATION: DERRYCAHILL, DYSART, BALLINASLOE, CO. ROSCOMMON.		CLIENT: WILLIAM KENNEDY		DRAWING: FLOOR PLANS ELEVATIONS SECTION OUTLINE SPECIFICATION CONSTRUCTION DETAILS		NOTE: 1. THESE ARE NOT CONSTRUCTION DRAWINGS AND ARE TO BE USED FOR PLANNING PURPOSES ONLY. 2. ALL DIMENSIONS ARE TO BE CHECKED ON SITE PRIOR TO THE COMMENCEMENT OF WORK. 3. USE WRITTEN DIMENSIONS ONLY. 4. ALL WORKS TO COMPLY WITH: THE BUILDING CONTROL REGULATIONS, AND THE CURRENT BUILDING REGULATIONS. 5. THE BUILDER IS RESPONSIBLE FOR CHECKING THE FINAL GRANT OF PLANNING PERMISSION AND MUST BE FAMILIAR WITH ALL ITS CONDITIONS.
		DATE: 03/01/2024				SCALE: 1:100		FLOOR AREA: 1672.42 SQ. FT. 155.43 SQ. M.		



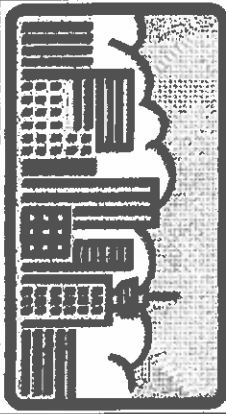
GROUND FLOOR PLAN



O'BRIEN SURVEY & DESIGN SERVICES, MOUNTBELLEW, CO. GALWAY. TEL (090) 9679506		JOB: RESTORATION OF DWELLING HOUSE		LOCATION: DERRYCAHILL, DYSART, BALLINASLOE, CO. ROSCOMMON.		CLIENT: WILLIAM KENNEDY		DRAWING: FLOOR PLANS ELEVATIONS SECTION OUTLINE SPECIFICATION CONSTRUCTION DETAILS		NOTE: 1. THESE ARE NOT CONSTRUCTION DRAWINGS AND ARE TO BE USED FOR PLANNING PURPOSES ONLY. 2. ALL DIMENSIONS ARE TO BE CHECKED ON SITE PRIOR TO THE COMMENCEMENT OF WORK. 3. USE WRITTEN DIMENSIONS ONLY. 4. ALL WORKS TO COMPLY WITH: THE BUILDING CONTROL REGULATIONS, AND THE CURRENT BUILDING REGULATIONS. 5. THE BUILDER IS RESPONSIBLE FOR CHECKING THE FINAL GRANT OF PLANNING PERMISSION AND MUST BE FAMILIAR WITH ALL ITS CONDITIONS.
DATE: 03/01/2024		SCALE: 1:50		FLOOR AREA: 1672.42 SQ. FT. 155.43 SQ. M.						



FIRST FLOOR PLAN



O'BRIEN SURVEY & DESIGN SERVICES, MOUNTBELLEW, CO. GALWAY. TEL (090) 9679506		JOB: RESTORATION OF DWELLING HOUSE		LOCATION: DERRYCAHILL, DYSART, BALLINASLOE, CO. ROSCOMMON.		CLIENT: WILLIAM KENNEDY		DRAWING: FLOOR PLANS ELEVATIONS SECTION OUTLINE SPECIFICATION CONSTRUCTION DETAILS		NOTE: 1. THESE ARE NOT CONSTRUCTION DRAWINGS AND ARE TO BE USED FOR PLANNING PURPOSES ONLY. 2. ALL DIMENSIONS ARE TO BE CHECKED ON SITE PRIOR TO THE COMMENCEMENT OF WORK. 3. USE WRITTEN DIMENSIONS ONLY. 4. ALL WORKS TO COMPLY WITH: THE BUILDING CONTROL REGULATIONS, AND THE CURRENT BUILDING REGULATIONS. 5. THE BUILDER IS RESPONSIBLE FOR CHECKING THE FINAL GRANT OF PLANNING PERMISSION AND MUST BE FAMILIAR WITH ALL ITS CONDITIONS.
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