

ROSCOMMON COUNTY COUNCIL

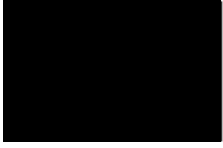
PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

REGISTERED POST

Mary Kenny,



Reference Number: DED 681
Application Received: 20th March 2024
Name of Applicants: Mary Kenny
Agent: Brandon O'Brien Consulting Engineers, Church Street, Roscommon.

WHEREAS a question has arisen as to whether the status of a conservatory that was constructed to the rear of a dwelling house at Ballaghculia, Ballinagare, Castlerea, 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 and 9 of the Planning and Development Regulations, 2001, as amended.
- (c) Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.
- (d) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Act, 2000, as amended.
- (e) The planning history of the site.

AND WHEREAS Roscommon County Council has concluded that:

- (a) The works are development.
- (b) The conservatory that was constructed to rear of a dwelling house as described in this case is not an exempted development as the total area of all extensions to the dwelling exceeds 40m².
- (c) The existing 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 **clarify the status of a conservatory that was constructed to the rear of a dwelling house at Ballaghculia, Ballinagare, Castlerea, 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: 7th May 2024

cc agent via email:



Brandon O'Brien Consulting Engineers,
Church Street,
Roscommon.

Carmel Curley

From: Carmel Curley
Sent: Thursday 9 May 2024 15:53
To: info@brandonobrien.ie
Subject: DED681 - Mary Kenny - Notification of Decision
Attachments: DED681 - Notification of Decision.pdf

Hi,

Please see attached Notification of Decision for Mary Kenny's DED Application No: 681.

Regards,

Carmel

**Carmel Curley, Assistant Staff Officer,
Planning Department, Roscommon County Council,
Aras an Chontae, Roscommon, Co. Roscommon, F42 VR98
☎: (090) 6637100**

✉: planning@roscommoncoco.ie | 🌐 www.roscommoncoco.ie

MAP LOCATION



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

Reference Number:	DED 681
Re:	Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding exempted development status on conservatory that was constructed to rear of a dwelling house.
Name of Applicant:	Mary Kenny
Location of Development:	Ballaghculia, Ballinagare, Castlerea, Co. Roscommon
Site Visit:	03/05/2024

WHEREAS a question has arisen as to whether the following works; regarding exempted development status on conservatory that was constructed to rear of a dwelling house 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 and 9 of the Planning and Development Regulations, 2001, as amended
- (c) Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (Exempt Development – General), as amended
- (d) 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.
- (e) The planning history of the site

Site Location & Development Description

The subject site is located in Ballaghculia, Ballinagare, Castlerea, Co. Roscommon. The subject site contains a single story dwelling house with a single story, flat roof extension (with planning permission, 8009) to the front. There is a conservatory/extension to the rear of the house which this exempted development application is in relation to. The structure is not protected.

There are no European designated sites in, adjoining or in close proximity to the subject site. There is no known heritage related sites/structures in very close proximity to the subject site, as per the Roscommon County Council GIS.

Archaeological and Cultural Heritage

No RMP recorded in the likely zone of influence of the development. No Protected structures or structures listed in the National Inventory of Architectural Heritage the likely zone of influence of the development.

Appropriate Assessment

The closest European sites to the site of the development are Bellanagare Bog PNHA (Site Code 000592) which is located circa 1.4km to the west and Cloonshanville Bog PNHA (Site Code 000614) which is located circa 1.7km to the north.

Having regard to the separation distance between the site and the closest Natura 2000 site and 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, be excluded.

Question arising: Whether the conservatory that was constructed to rear of a dwelling house is or is not development and is or is not exempted development.

Planning History

As per the Roscommon County Council's Planning Registry, no recent planning history has been traced relating to the subject site.

Application no. 8009 in relation to flat roof extension to front of dwelling.

Relevant statutory provisions

Planning and Development Acts 2000 (as amended)

Section 2. -(1)

"works" includes 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) of the Act defines certain types of development as being 'exempted development'.

Section 4(1) of the Act 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) of the Planning and Development Act provides that the Minister, by regulations, provide for any class of development to be exempted development. 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 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) applies:

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

Class 1 of Part 1 of Schedule 2: Exempted development - General

Description of Development	Conditions and Limitations
<p><i>Development within the curtilage of a house</i></p> <p>CLASS 1</p> <p>The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.</p>	<p>1. (a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.</p> <p>2. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres. (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.</p> <p>3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.</p> <p>4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house. (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house. (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.</p> <p>5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.</p> <p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p>

	<p>(b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces. 388 (c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed above ground level shall not be less than 11 metres from the boundary it faces.</p> <p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>
--	--

Assessment:

The existing development of the conservatory to rear of a dwelling house, it is stated as having floor space of 11.52m².

From reviewing application 8009 in relation to the existing flat roof extension to the front of the house, this extension is stated to be 440.5 sq. ft or 40.92m².

With regard to the compliance with the conditions and limitations of Class 1 of Part 1 of Schedule 2 (Exempted development - General) the following assessment sets out how these apply to the current proposal:

1. House has previous extension to the front therefore N/A.
2. a. House has previous extension and is stated in the planning file as 40.92m². Conservatory is stated as 11.52m², total area of all extensions to the dwelling is 52.44m².
b. House is detached, therefore N/A.
c. Conservatory is only on ground floor level.
3. Conservatory is only on ground floor level.
4. a. Rear wall does not exceed this height.
b. Rear wall does not exceed this height.
c. Roof height of extension is not higher than the existing house.
5. Extension does not reduce the open space to less than 25m²
6. a. Window is greater than 1m from the boundary it faces.
b. Proposed extension is only on ground floor level.
c. Conservatory is only on ground floor level.
7. Roof is not flat and therefore can not be used as such.

Having reviewed the existing works in the context of the Conditions and Limitations associated with Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, the conservatory to rear of a dwelling house as described in this case is considered not an exempted development.

With Regard to Article 9 (1)(a) of the Planning and Development Regulations, it is reasonable to conclude that on the basis of the information available, it is considered 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 EIA or AA does not apply with respect to the current referral case.

I am satisfied that an Environmental Impact Assessment Report or Natura Impact Statement are not required. 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 Art 9 (1)(a) (viiB) exclude development which would otherwise be exempted development under the regulations where a NIS is required.

Recommendation

WHEREAS a question has arisen as to whether the status of conservatory that was constructed to rear of a dwelling house in Ballaghcullia, Ballinagare, Castlerea, 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 and 9 of the Planning and Development Regulations, 2001, as amended
- (c) Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended
- (d) The record forwarded to Roscommon County Council in accordance with subsection (6)(c) of Section 5 of the Planning and Development Act, 2000, as amended
- (e) The planning history of the site

AND WHEREAS I have concluded that

- a) The works are development.
- b) The conservatory that was constructed to rear of a dwelling house as described in this case is not an exempted development as the total area of all extensions to the dwelling exceeds 40m².
- c) The existing 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 I recommend that a declaration to that effect should be issued to the applicant.



Signed:

Date: 07th May 2024

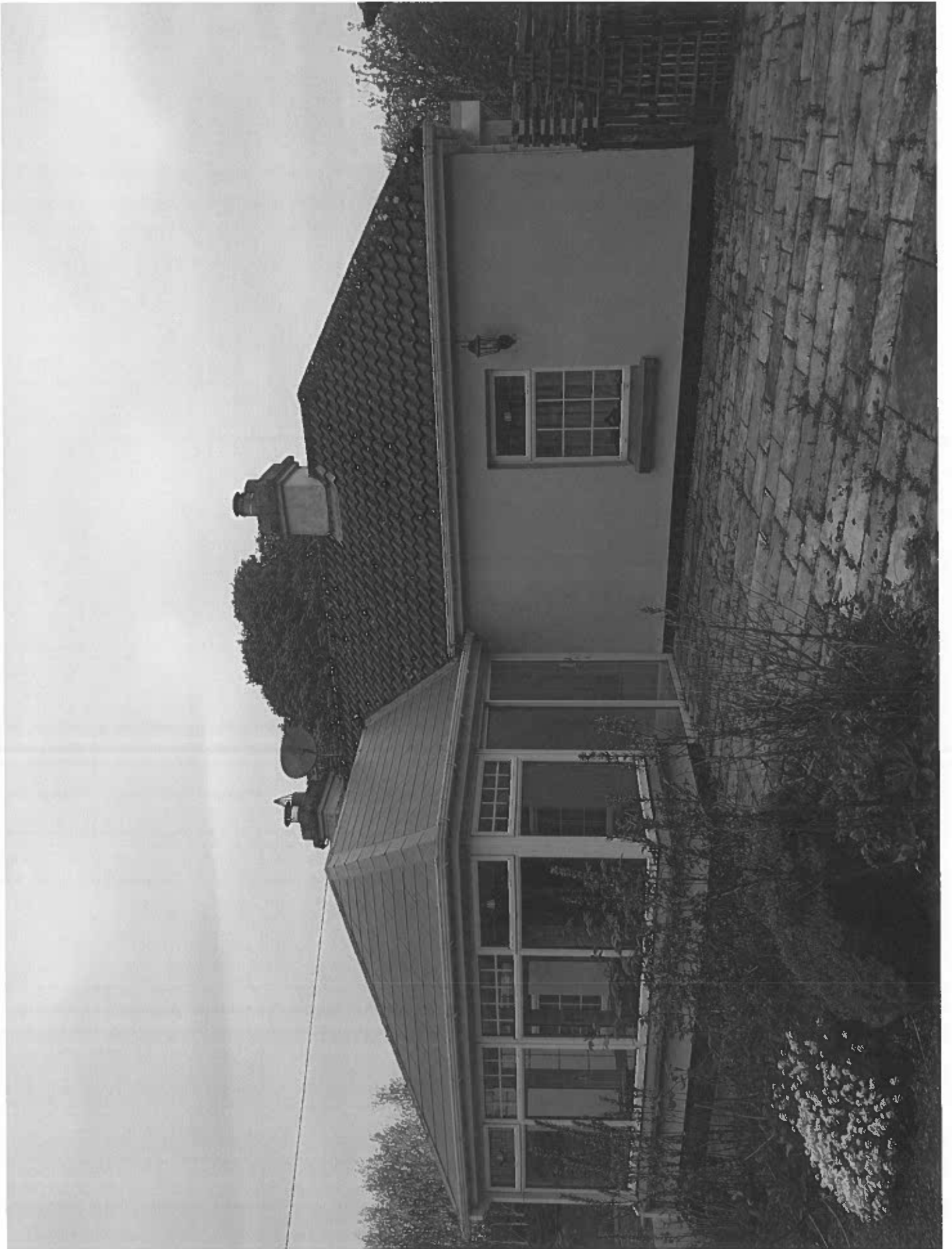
Civil Technician

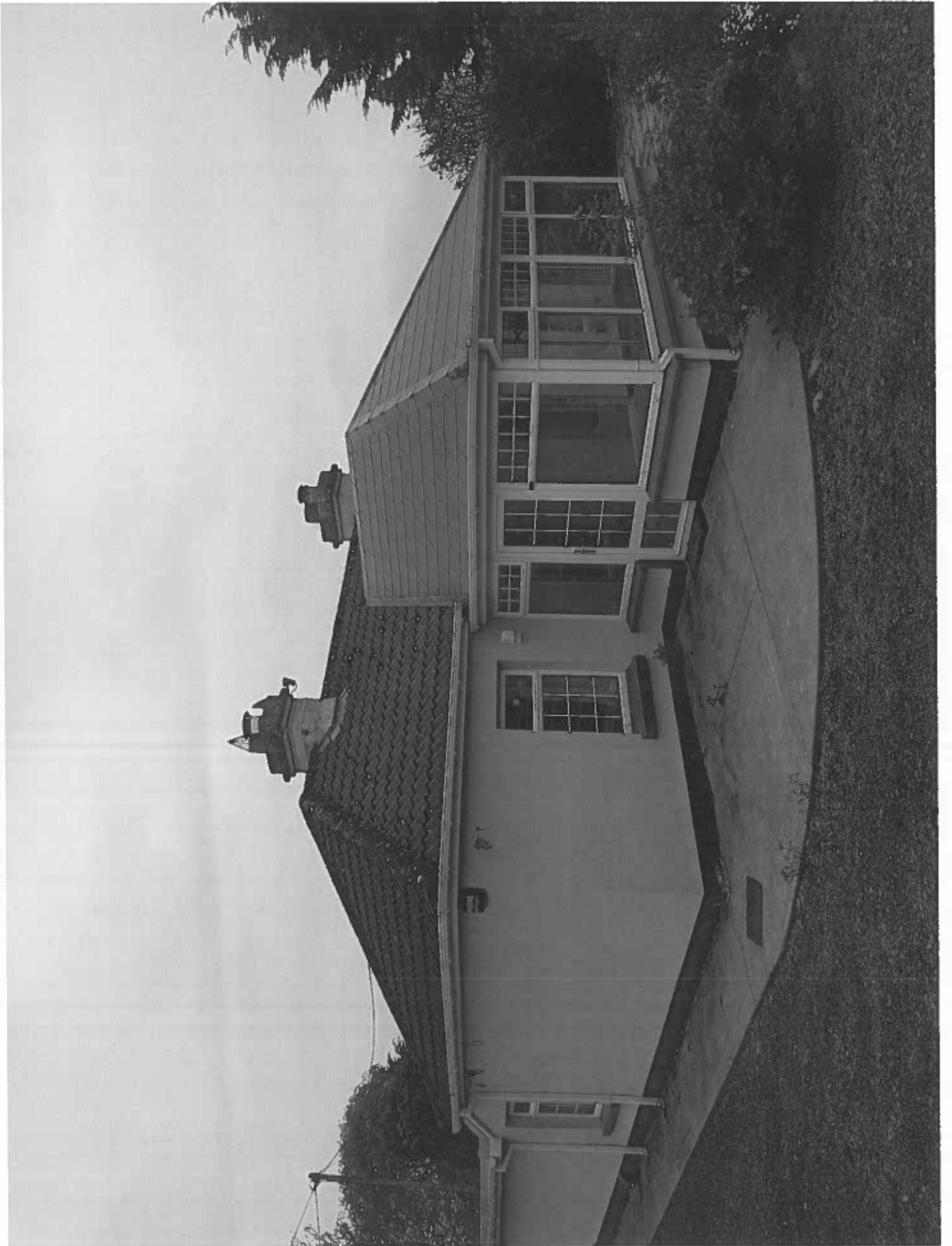


Signed:

Date: 07th May 2024

Senior Executive Planner



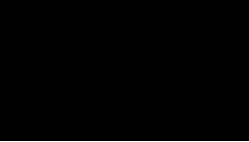




Comhairle Contae
Ros Comáin
Roscommon
County Council



Mary Kenny,



Date: 21st March 2024
Planning Reference: DED 681

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.
Development: Clarification sought of exempted development status on conservatory that was constructed to rear of a dwelling house under the Planning & Development Act (Exempt Development) Regulations 2018 at Ballaghcullia, Ballinagare, Castlerea, Co. Roscommon.

A Chara,

I wish to acknowledge receipt of your application received on the 20th 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. L01/0/227706 dated 21st March 2024, receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 681**
This should be quoted in all correspondence and telephone queries.

Mise le meas,

Alan O'Connell
Senior Executive Planner,
Planning Department.

cc via email: Brandon O'Brien Consulting Engineers,
Church Street,
Roscommon,

Roscommon County Council
Aras an Choritae
Roscommon
09066 37100

21/03/2024 11:11:47

Receipt No L01/0/227706

MARY KENNY
C/O BRANDON O BRIEN CONSULTING ENGINEERS
CHURCH STREET
ROSCOMMON

PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED 681	

Total : 80.00 EUR

Tendered :
Credit/Debit Card 80.00
1297

Change : 0.00

Issued By : Bernadine Duignan
From : Central Cash Office



Church Street
Roscommon
F42 P661

Accident Investigation & Reports
Expert Witness Evidence
Building Surveys, Mapping, Certification

Brandon OBrien Ltd
Consulting Engineers
Telephone: 090 6625005 / 6625878
Email: info@brandonobrien.ie
Website: www.brandonobrien.ie



19th March 2024

Planning Department,
Roscommon Co Co,
Aras an Chontae,
Roscommon Town.

Our ref: CGC269MK

RE: APPLICATION FOR A DECLARATION UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED), REGARDING EXEMPTED DEVELOPMENT.

A chara,

Please find enclosed the application form and associated documents.

As outlined in the application form and shown on the site layout plan, there is a conservatory located at the rear of the dwelling house. This conservatory has a nap plaster finish on the lower section and windows surrounding the external walls. The roof is finished with a standard blue/black slate. The internal floor area of the conservatory is 11.52m². The private open space remaining from this development is 0.37ha (0.914 Acres).

The original dwelling house was constructed prior to the Local Government (Planning and Development) Act 1963. It therefore constitutes exempt development under the act.

The extension to the front of the building was constructed under Planning Application No. 8809.

The conservatory constructed at the rear of the building replaced a porch that was previously in place. Due to the size and location, the conservatory constitutes exempt development under the Planning and Development Regulations 2001, Schedule 2, Part 1, Class 1 in my opinion.

Please do not hesitate to contact me if you have any queries.

Brandon O'Brien Consulting Engineers

Enclosed:

CGC269MK - Declaration-under-section-5-application-form
CGC269MK - Site Location Map
CGC269MK - Site Layout Plan
CGC269MK - Site Photos
CGC269MK - Google Street View – May 2009

**MEMBER OF ASSOCIATION OF CONSULTING FORENSIC ENGINEERS
CHARTERED MEMBER OF THE INSTITUTE OF ENGINEERS IRELAND**



Comhairle Contae
Ros Comáin
Roscommon
County Council



Áras an Chontae,
Roscommon,
Co. Roscommon.

Phone: (090) 6637100

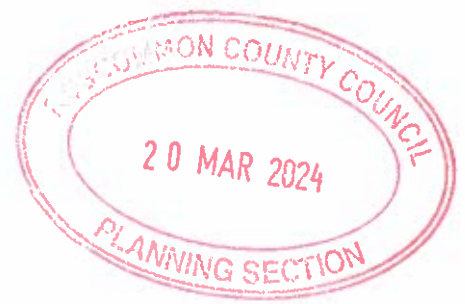
Email: planning@roscommoncoco.ie

Roscommon County Council

Application for a Declaration under Section 5 of the

Planning & Development Act 2000 (as amended), regarding Exempted Development

Name of Applicant(s)	Mary Kenny
Name of Agent	Brandon O'Brien Consulting Engineers
Nature of Proposed Works	Clarification sought of exempt development status of conservatory as constructed to rear of dwelling house.
Location & Address of Subject Property to include, Eircode (where applicable), Townland & O.S No.	Balloshculla, Ballinagare, Castlerea Co. Roscommon
Floor Area: a) Existing Structure b) Proposed Structure	a) <u>107m² Existing House.</u> b) <u>11.52m² Existing Conservatory</u>
Height above ground level:	4.1m (To existing conservatory ridge)
Total area of private open space remaining after completion of this development	.37ha (.914 Acres)
Roofing Material (Slates, Tiles, other) (Specify)	Slates



Roscommon County Council

Application for a Declaration under Section 5 of the

Proposed external walling (plaster, stonework, brick or other finish, giving colour)	Map plaster, painted yellow
Is proposed works located at front/rear/side of existing house.	Rear
Has an application been made previously for this site	Yes
If yes give ref. number (include full details of existing extension, if any)	8009. Erection of a Bedroom, Bathroom and Garage and Construction of Septic Tank
Existing use of land or structure	Private Dwelling
Proposed use of land or structure	Private Dwelling
Distance of proposed building line from edge of roadway	19.5m & 31.9 As shown on MAP
Does the proposed development involve the provision of a piped water supply	No, existing connection
Does the proposed development involve the provision of sanitary facilities	No, existing on site treatment system

Planning & Development Act 2000 (as amended), regarding Exempted Development

Signature: 

Date: 19 MAR 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

Land Registry Compliant Map



Tailte
Éireann

**CENTRE
COORDINATES:**
ITM 575115.788992

PUBLISHED:
05/03/2024
ORDER NO.:
50387068_1

MAP SERIES:
1:2 500
1:2 500
MAP SHEETS:
1979-D
2038-B

Brandon O'Brien Ltd Consulting Engineers Chapel Street Ballymore Dublin 4	
Site Layout Map	CGC269MK
Drawn By:	SHANE C
Date:	19MAR2024

COMPILED AND PUBLISHED BY:
Tailte Éireann,
Phoenix Park,
Dublin 8,
Ireland
D08F6E4

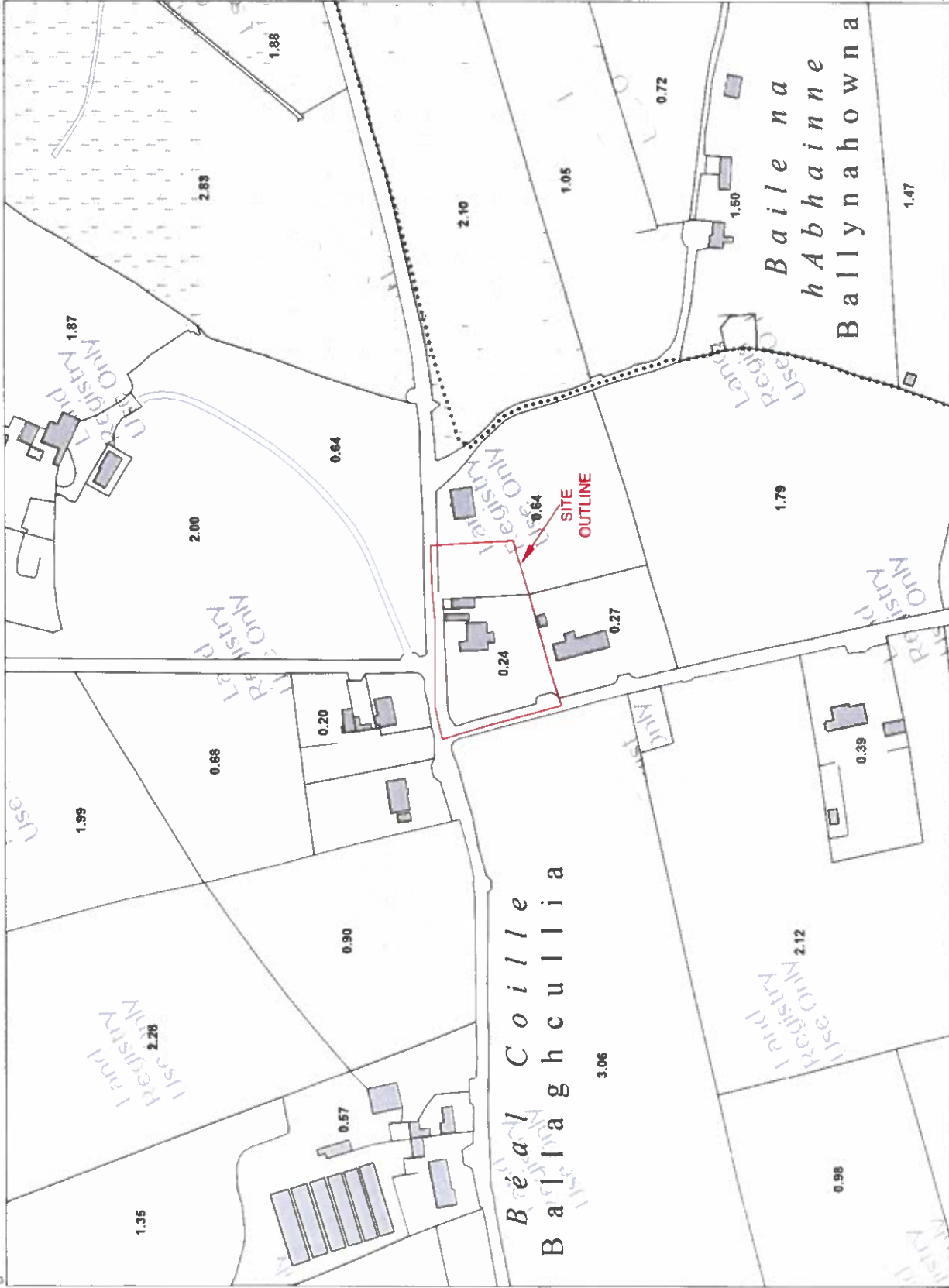
www.tailte.ie

Any unauthorised reproduction
infringes Tailte Éireann copyright
No part of this publication may
be copied, reproduced or transmitted
in any form or by any means without
the prior written permission of the
copyright owner

The representation on this map
of a road, track or footpath
is not evidence of the existence
of a right of way

This topographic map
does not show
legal property boundaries
nor does it show
ownership of physical features

©Tailte Éireann, 2024
All rights reserved.



LEGEND:
To view the legend visit
www.tailte.ie and search for
Large Scale Legend

CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured
Output scale is not indicative of data capture scale
Further information is available at
www.tailte.ie, search 'Capture Resolution'

OUTPUT SCALE: 1:2,500

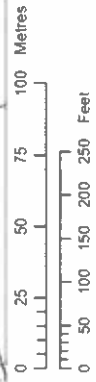




PHOTO 1

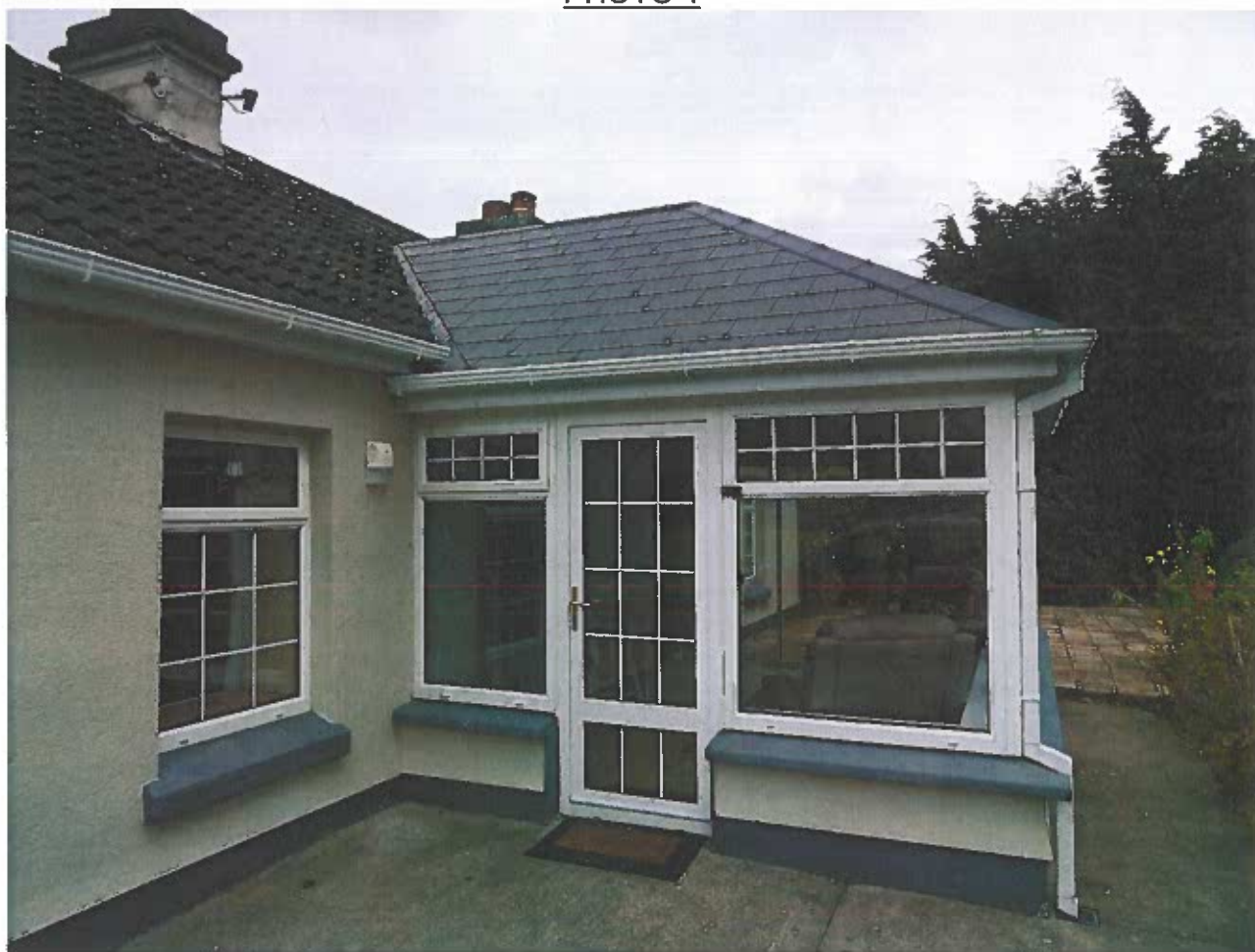


PHOTO 2



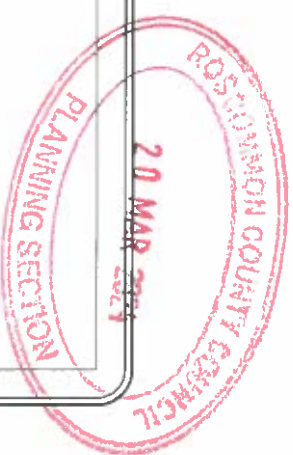
PHOTO 3



PHOTO 4



GOOGLE STREET VIEW IMAGE – May 2009



Brandon O'Brien Ltd.
Consulting Engineers
Church Street,
Roscommon.
TEL: 090 6625005
EMAIL: info@brandonobrien.ie



PROJECT:
SECTION 5 SUBMISSION
CGC269MK
DATE: 19MAR2024

LOCATION:
BALLAGHCULLIA,
BALLINAGARE,
CASTLEREA,
CD. ROSCOMMON

CLIENT: MARY KENNY
SCALE: 1:500
PAPER SIZE: A3 297 x 420

DRAWING:
SITE LAYOUT PLAN

REVISIONS:
DATE: