

**ROSCOMMON COUNTY COUNCIL**

**PLANNING AND DEVELOPMENT ACT, 2000 (as amended)**

**SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT**

**NOTIFICATION OF DECISION**

Val Mulvihill,



Reference Number: DED 732

Application Received: 28th June 2024

Name of Applicant: Val Mulvihill

Agent: N/A

WHEREAS a question has arisen as to whether the following works; for the change of use from commercial to residential at The Residence, Loughglynn Demense, Loughglynn, 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) Part 1 and 4 of Article 6 of Schedule 2 of the Planning and Development, 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 Acts 2000 as amended.
- (e) The planning history of the site

AND WHEREAS Roscommon County Council has concluded that:

- (a) The works outlined above are development.
- (b) The works fall within the provisions of Section 4(1)(h) of the Planning & Development Act 2000 as amended, 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;*  
However, the change of use from commercial (doctor's surgery) to residential is not an exempt development.
- (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 of **change of use from commercial to residential at The Residence, Loughglynn Demense, Loughglynn, 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: 27<sup>th</sup> August 2024

**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)**

<b>Reference Number:</b>	DED 732
<b>Re:</b>	Application for a Declaration under Section 5 of the Planning & Development Act, 2000, as amended, regarding Exempted Development for the change of use from commercial to residential.
<b>Name of Applicant:</b>	Val Mulvihill
<b>Location of Development:</b>	The Residence, Loughglynn Demense, Loughglynn, Co. Roscommon. (F45 FW52)
<b>Site Visit:</b>	22/08/2024

**WHEREAS a question has arisen as to whether the following works; for the change of use from commercial to residential 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) Part 1 and 4 of Article 6 of Schedule 2 of the Planning and Development, 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 Acts 2000 as amended.
- (e) The planning history of the site

**Site Location & Development Description**

The site contains a derelict commercial building with a shed to the rear of the building the site is located in Loughglynn Demense, Loughglynn, Co. Roscommon and is accessed off the R-325 regional road. The surrounding site around the building is currently been used as an agricultural field and the proposed development consists of the change of use from commercial to a residential unit.

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

**Appropriate Assessment**

The closest European sites to the site of the proposed development are Lough Glinn PNHA (Site Code 001644) which is located circa 0.1km to the east and Drumalough Bog PNHA/SAC (Site Code 001632/002338), which is approximately 3.4km south of the subject site.

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. Therefore, exclude the need for further Appropriate Assessment.

## **Planning History**

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

## **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'. 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,

## Assessment

In accordance with the Planning and Development Act, 2000 Section 3. (1) development is defined as the following: "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". The proposed development is considered to be the carrying out of works. Works are defined in the Act as; "works" includes 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 works constitute development, as defined in Section 3 of the said Act.

The proposal includes the change of use from commercial to residential. These works have 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. The proposed works are not however exempted, as there is no class in Part 1 or Part 4 of Article 6 of Schedule 2 of the Planning and Development, 2001, as amended and articles 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended. Article 10 (6)(b) refers to the change of use to residential from Classes 1, 2, 3, 6 or 12 of Part 4 of Schedule 2, the existing use appears to be class 8 of Part 4 of Schedule 2 and therefore, for the above reason the proposed works is deemed not an exempt 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.

I am satisfied that an Environmental Impact Statement or Appropriate Assessment 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 these regulations where an AA is required.

## Recommendation

**WHEREAS a question has arisen as to whether a proposed development** for the change of use from commercial to residential as outlined above at The Residence, Loughglynn Demense, Loughglynn, 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) Part 1 and 4 of Article 6 of Schedule 2 of the Planning and Development, 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 Acts 2000 as amended.
- (e) The planning history of the site

**AND WHEREAS I have concluded that**

- The works outlined above are development.
- The works fall within the provisions of Section 4(1)(h) of the Planning & Development Act 2000 as amended, 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;*

However, the change of use from commercial (doctor's surgery) to residential is not an exempt development.

- 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 for the change of use from commercial (doctor's surgery) to residential as outlined above at The Residence, Loughglynn Demense, Loughglynn, Co. Roscommon is not an exempted development and I recommend that a declaration to that effect should be issued to the applicant.

Signed:



Date: 27<sup>th</sup> August 2024

Civil Technician



Signed:

Date: 27<sup>th</sup> August 2024

Senior Executive Planner









Comhairle Contae  
Ros Comáin  
Roscommon  
County Council



Val Mulvihill,



Date: 2<sup>nd</sup> July 2024  
Planning Reference: DED 732

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.  
Development: Permission for the change of use from commercial to residential under the Planning & Development Act (Exempt Development) Regulations 2018 at The Residence, Loughglynn Demense, Loughglynn, Co. Roscommon, F45FW52.

\*\*\*\*\*

A Chara,

I wish to acknowledge receipt of your application which was received on the 28<sup>th</sup> June 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. L01/0/229209 dated 20<sup>th</sup> June 2024, receipt enclosed herewith.

**Note:** Please note your Planning Reference No. is **DED 732**.  
This should be quoted in all correspondence and telephone queries.

Mise le meas,

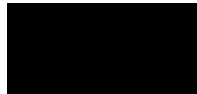
Alan O'Connell,  
Senior Executive Planner,  
Planning Department.

Roscommon County Council  
Aras an tSionnabhaigh  
Roscommon  
00066 37100

20/08/2024 14:22:52

Receipt No : L01/0/220209  
\*\*\*\*\* REPRINT \*\*\*\*\*

VAL MULVHILL



PLANNING APPLICATION FEES	80 00
GOODS	80 00
VAT Exempt/Non-vatable	
DED 726	

Total :	80 00 EUR
---------	-----------

Tendered :	
Cash	726 00

Change :	646 00
----------	--------

Issued By : Bernadine Duignan  
From : Central Cash Office



Áras an Chontae,  
Roscommon,  
Co. Roscommon.


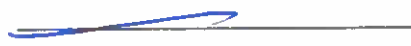
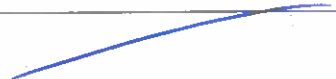
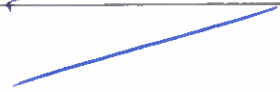
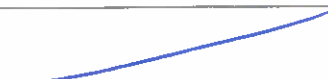
Phone: (090) 6637100

Email: [planning@roscommoncoco.ie](mailto: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)	Joe Mulvihill 
Name of Agent	
Nature of Proposed Works	No works being carried out.
Location & Address of Subject Property to include, Eircode (where applicable), Townland & O.S No.	The Residence, Loughglyn Demense Loughglyn, Co. Roscommon, F45FW52.
Floor Area: a) Existing Structure b) Proposed Structure	a) 420 b) 
Height above ground level:	
Total area of private open space remaining after completion of this development	
Roofing Material (Slates, Tiles, other) (Specify)	

## Roscommon County Council

### Application for a Declaration under Section 5 of the

Proposed external walling (plaster, stonework, brick or other finish, giving colour)	/
Is proposed works located at front/rear/side of existing house.	/
Has an application been made previously for this site	No.
If yes give ref. number (include full details of existing extension, if any)	/
Existing use of land or structure	Derelict for 15 to 20 years.
Proposed use of land or structure	Residential.
Distance of proposed building line from edge of roadway	/
Does the proposed development involve the provision of a piped water supply	/
Does the proposed development involve the provision of sanitary facilities	/

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

Signature:

De M. McNeill

Date:

19/6/24

**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



Just looking for change of use from Commercial to Residential,

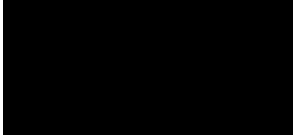


**Tailte  
Éireann**

Clárúchán, Luacháil,  
Suirbhéireacht  
Registration, Valuation,  
Surveying

## Tailte Éireann Special Registration Map

Val Mulvhill



**This page forms part of the official document. Do not detach.**

**Application Number: S2024LR003545G**

**Your Reference:** [REDACTED]

Special Registration Maps can be ordered and printed at a selection of standard metric scales up to and including 1/500 scale.

Properties on this extract of the Tailte Éireann Registration map that are not highlighted in colour appear to form part of unregistered land.

Hard copy ITM maps which have been enlarged from the original Tailte Éireann Surveying published scale for the area cannot be expected to give a higher degree of accuracy than that of the original scale.

1/5,000 and 1/10,000 scale maps may not be acceptable for registration purposes in hard copy form unless the new property is entirely bounded by Tailte Éireann Surveying detail.



An officer duly authorised by Tailte Éireann





DRINEY

Old  
Sheel  
↙

House

LOUG

↙ Septic Tank



DRINEY

1E

LOUG

**Official Tailte Éireann Registration Map**  
This map should be read in conjunction with the folio.

Tailte Éireann (TÉ) Registration mapping is based on TÉ Surveying mapping. Where TÉ Registration maps are printed at a scale that is larger than the TÉ Surveying scale, accuracy is limited to that of the TÉ Surveying map scale.

For details of the terms of use and limitations of scale, accuracy and other conditions relating to Land Registry maps, see [www.tailte.ie](http://www.tailte.ie).

This map incorporates TÉ Surveying map data under a licence from TÉ. Copyright © Tailte Éireann and Government of Ireland.

- (centre-line of parcel(s) edged)
- Freehold
- Leasehold
- Subleasehold
- 'S' Register

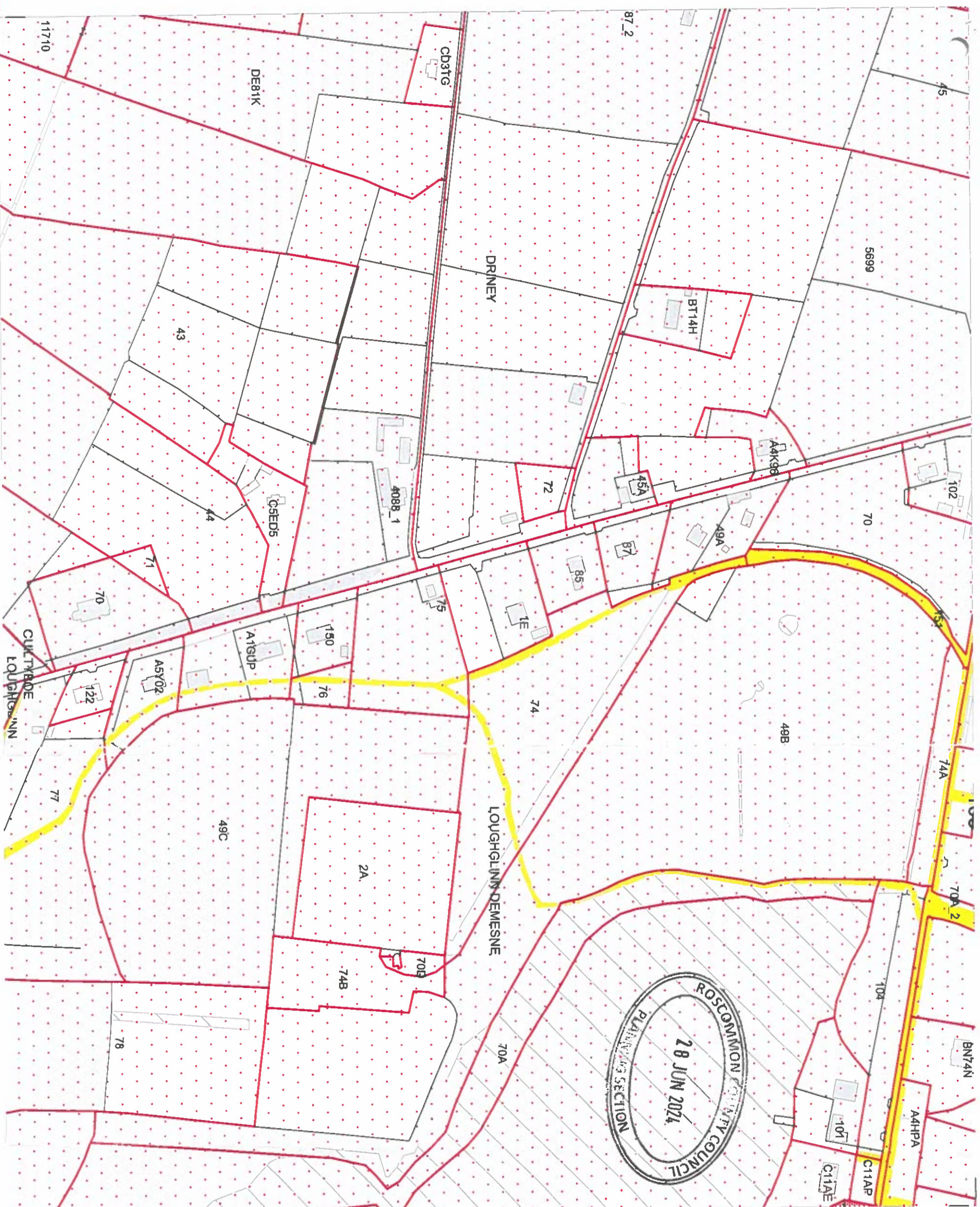
(see Section 8(b)(ii) of Registration of Title Act 1964 and Rule 224 & 225 Land Registration Rules 1972 - 2010).

- 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](http://www.landdirect.ie)

**Tailte Éireann Registration operates a non-conclusive boundary system.**  
The TÉ Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a TÉ Registration 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.



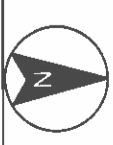
562110 mE, 786490 mN

562910 mE, 787140 mN

Creation Date: 26 February 2024 08:20:42

Application Number: S2024LR003545G

1:2500

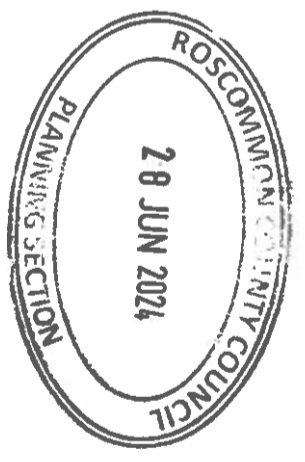


VAL MULVILL

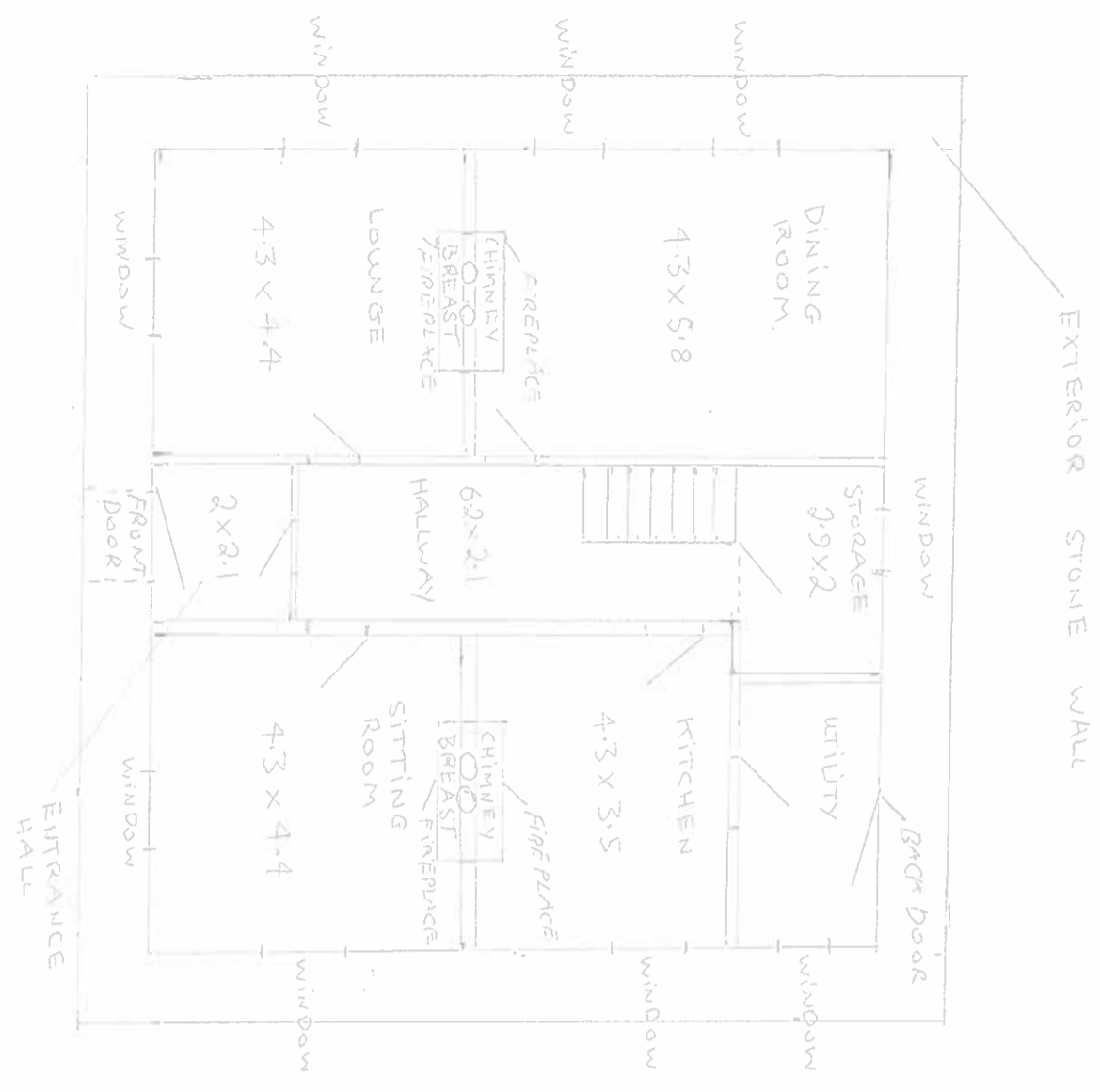
LOUGHLYNN DEMESNE

LOUGHLYNN

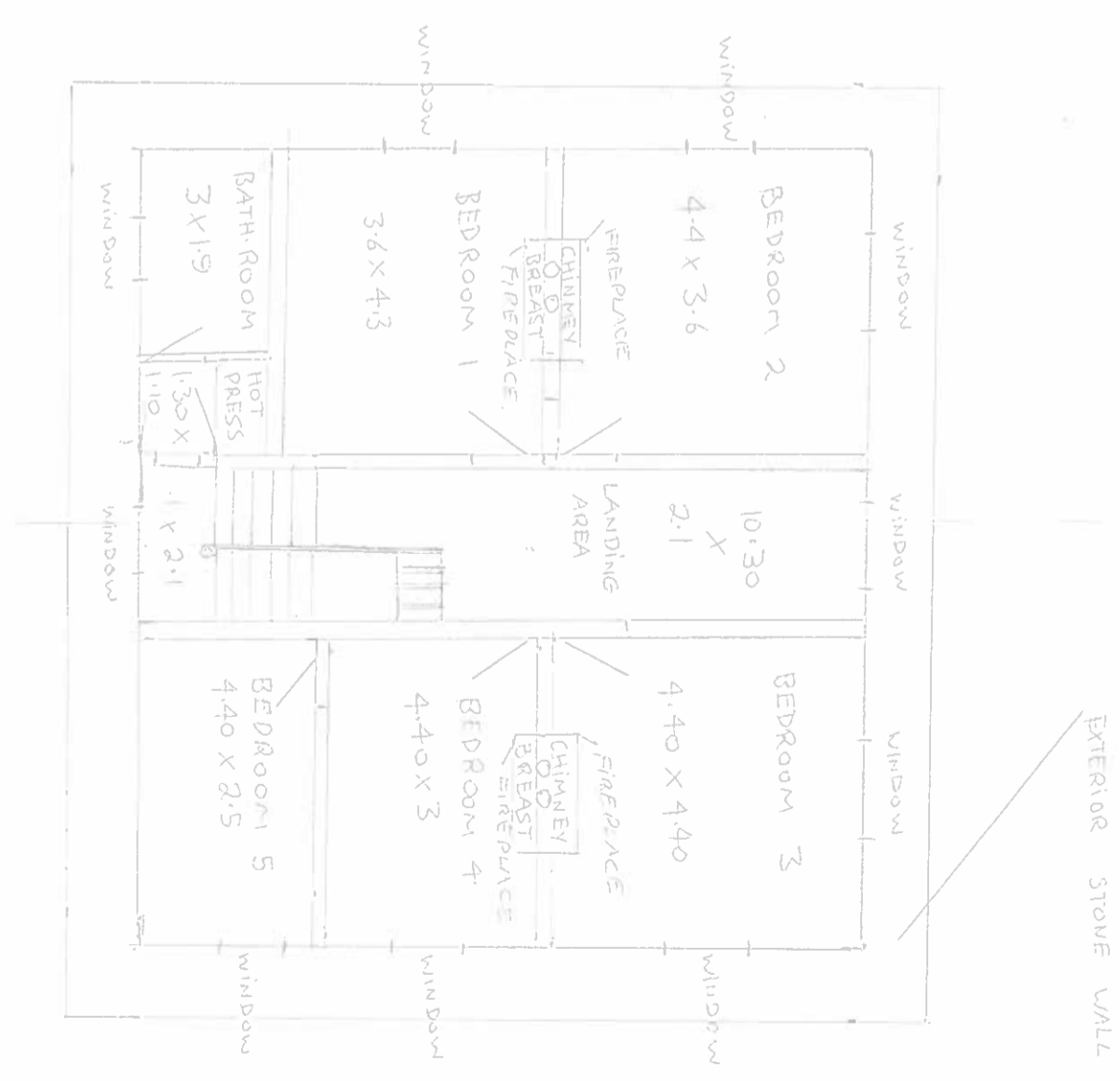
CO ROSCOMMON F45 FW 52



Existing House Layout



GROUND FLOOR



FIRST FLOOR

(Change of Use from Des Surgery to House)



NOAH COUNTY COUNCIL  
SECTION  
2 JUN 2024