

ROSCOMMON COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACT, 2000 (as amended)

SECTION 5 - DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

NOTIFICATION OF DECISION

REGISTERED POST

Didean Dochas Eireann Teoranta,
Bloom HQ,
Mountrath,
Co. Laois,
R32 DC58.

Reference Number: DED 775
Application Received: 26th September 2024
Name of Applicant: Didean Dochas Eireann Teoranta
Agent: Cunnane Stratton Reynolds Ltd

WHEREAS a question has arisen as to whether the use of the subject premises as a residence for International Protection Applicants at 10 Monksfield Park, Athlone, Co. Roscommon, N37 D2H2, 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 3 and 4 of the Planning and Development Acts 2000 (as amended).
- (b) Article 6 of the Planning and Development Regulations 2001 (as amended).
- (c) Part 4 of Schedule 2 of the Regulations 2001 as amended.
- (d) ABP Ref.-307077-20 in December 2020 the Board decided that '*the use of the premises at The Rockquarter, Cannaboe Street, Ballinamore, County Leitrim as apartments, including residential accommodation for protected persons*', is not development.
- (e) 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).
- (f) The planning history on site.

AND WHEREAS Roscommon County Council has concluded that:

- (a) The use of the subject premises as a residence for International Protection Applications at 10 Monksfield Park, Athlone, Co. Roscommon, N37 D2H2, is not development.

NOW THEREFORE:

By virtue of the powers vested in me by the Local Government Acts 1925 – 2024 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 use the subject premises as a residence for International Protection Applicants at 10 Monksfield Park, Athlone, Co. Roscommon, N37 D2H2, is **not 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: 13th January 2025

cc agent via email: Cunnane Stratton Reynolds Ltd
planning@csrlandplan.ie

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.

Carmel Curley

From: Carmel Curley
Sent: Monday 13 January 2025 14:54
To: info@didean.ie
Cc: planning@csrlandplan.ie
Subject: DED 775 - Notification of Decision
Attachments: DED 775 Notification - Not Development.pdf

A Chara,

Please find attached Notification of Decision for DED Application 775. A hard copy will follow via registered post.

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 775

Name and Address of Applicant: Didean Dochas Eireann Teoranta

AGENT: Eamonn Prenter

WHEREAS a question has arisen as to whether 'the use of the subject premises as a residence for International Protection Applicants' at 10, Monksfield Park, Athlone, Co. Roscommon N37 D2H2 is or is not development and is or is not exempted development:

1.0 Site Location and Description

The site is located within an existing residential development known as Monksfield Park in Monksland, South Roscommon. The application site consists of a two-storey detached dwelling.

2.0 Planning History

16/113: Permission granted for development which will consist of the construction of a Creche/Child care facility, car parking and all associated site.

07/2279: Permission granted to erect a single storey Creche/Montessori only (application made to erect a two-storey building comprised of a Creche/Montessori at ground floor level and 4 No. 2 bedroom apartments at first floor level together with all associated site works at 12 to 15 inclusive)

07/1917: Permission refused to construct a Bin Storage Building

07/1916: Permission refused to vary condition no. 6 of planning permission register reference PD/05/677 to provide a roadway to allow vehicular access between Monksfield and Monksfield Park

05/677: Permission granted for change of house type 3 - houses no's 11 to 20 inclusive 43 to 80 inclusive 93 to 100 inclusive 120 to 127 inclusive and 151 to 166 inclusive for which planning permission register ref. PD/02/1011 and planning permission ref. PD/04/1632 refers

04/1632: Permission granted to vary Planning Permission Ref. No. PD/02/1011 at Cloongowna/Monksland Td., Athlone, Co. Roscommon.

02/1011: Permission granted to erect 153 No. houses, 1 No. Doctors Surgery and 1 No. Creche and carry out all associated site works including connecting to the Public Sewer and Public Water Supply (Application made for 163 Houses)

3.0 Relevant Legislation

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

- a) Sections 3, and 4 of the Planning and Development Acts 2000 (as amended);
- b) Article 6 of the Planning and Development Regulations 2001 (as amended).
- c) Part 4 of Schedule 2 of the Regulations 2001 as amended.

- d) ABP Ref.-307077-20 in December 2020 the Board decided that *'the use of the premises at The Rockquarter, Cannaboe Street, Ballinamore, County Leitrim as apartments, including residential accommodation for protected persons'*, is not development
- e) 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);
- f) The planning history on site.

Planning and Development Act, 2000 (as amended)

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.

4.0 Planning Assessment

The question to be determined in this Section 5 declaration is whether **'the use of the subject premises as a residence for International Protection Applicants' at 10, Monksfield Park, Athlone, Co. Roscommon N37 D2H2** consists of a material change of use. The existing building on site has an established and permitted residential use. The applicant's proposal under this Section 5 application is to use this premises as a residence for International Protection Applicants.

It has been clarified in the submission that no physical works or subdivision to the building is proposed and it is not intended to provide reception or an administrative centre. The Planning Authority is satisfied from the applicant's submission that it is intended that the premise will operate as residential accommodation for protected persons and not as an emergency reception for the care of protected persons. Having established that the intended future use is residential, the status or personal circumstances of the future residents is not a material planning issue.

Based on the clarifications provided in documents received concerning the intended intensity of use the stated residential use would not appear to be such that it could be considered to amount to a material change of use on the basis of intensity alone.

Having regard to the nature of the development the Planning Authority is satisfied that the proposal does not constitute a change of use from the permitted residential use or a change of use within any one of the classes of use specified in Part 4 of Schedule 2 of the Regulations 2001 as amended and therefore is not development.

Having regard to the above, I am satisfied that the general question raised in this referral can be determined as follows: **'the use of the subject premises as a residence for International Protection Applicants' at 10, Monksfield Park, Athlone, Co Roscommon N37 D2H2, is NOT development.**

5.0 Recommendation

WHEREAS a question has arisen as to whether **'the use of the subject premises as a residence for International Protection Applicants' at 10, Monksfield Park, Athlone, Co. Roscommon N37 D2H2, is development and is exempted development, and is or is not exempted development:**

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

- a) Sections 3, and 4 of the Planning and Development Acts 2000 (as amended);

- b) Article 6 of the Planning and Development Regulations 2001 (as amended).
- c) Part 4 of Schedule 2 of the Regulations 2001 as amended.
- d) ABP Ref.-307077-20 in December 2020 the Board decided that '*the use of the premises at The Rockquarter, Cannaboe Street, Ballinamore, County Leitrim as apartments, including residential accommodation for protected persons*', is not development
- e) 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);
- f) The planning history on site.

AND WHEREAS I have concluded that

the use of the subject premises as a residence for International Protection Applicants at 10, Monksfield Park, Athlone, Co. Roscommon is not development and I recommend that a declaration to that effect should be issued to the applicant.

Signed:



**Shane Winters
Executive Planner**

Date: 10th January 2025

Signed:



**Alan O'Connell
Senior/Senior Executive Planner.**

Date: 10th January 2025

Photos taken on 9th January 2025













Carmel Curley

From: Carmel Curley
Sent: Wednesday 2 October 2024 10:44
To: mcarroll@csrlandplan.ie
Cc: planning@csrlandplan.ie; Prithvi Gowda
Subject: Declaration of Exempted Development
Attachments: DED775 - Ack Letter & Receipt.pdf

A Chara,

Please find attached Acknowledgement Letter & Receipt for DED Application 775 on behalf of Dídean Dóchas Eireann Teoranta.

Please note that a hard copy will be issued to the applicants.

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





Comhairle Contae
Ros Comáin
Roscommon
County Council



Dídean Dóchas Eireann Teoranta,
Bloom HQ,
Mountrath,
Co. Laois,
R32 DC58.

Date: 1st October 2024
Planning Reference: DED 775

Re: Application for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended), regarding Exempted Development.
Development: Permission to seek clarification as to whether the use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, can it be considered exempted development under the Planning & Development Act (Exempt Development) Regulations 2018 at 10 Monksfield Park, Athlone, Co. Roscommon, N37 D2H2.

A Chara,

I wish to acknowledge receipt of your application which was received on the 26th September 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. L01/0/230811 dated 1st October 2024, receipt enclosed herewith.

Note: Please note your Planning Reference No. is **DED 775**
This should be quoted in all correspondence and telephone queries.

Mise le meas,


Alan O'Connell
Senior Executive Planner,
Planning Department.

cc agent via email: **Cunnane Stratton Reynolds Ltd**
planning@csrlandplan.ie

Roscommon County Council
Aras an Chortae
Roscommon
09066 37100

01/10/2024 14.57.35

Receipt No.: L01/0/230811

DIDEAN
C/O CUNNANE STRATTON RENOYLDs
GAINSBOROU HOUSE
24 SUFFOLK STREET
DUBLIN 2

EXEMPTED DEVELOPMENT

PLANNING APPLICATION FEES	80.00
GOODS	80.00
VAT Exempt/Non-vatable	
DED 775	

Total : 80.00 EUR

Tendered :
Credit/Debit Card 80.00
3485

Change : 0.00

Issued By : Geraldine Murren
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 (as amended), regarding Exempted Development

Name of Applicant(s)	Didean
Name of Agent	Eamonn Prenter
Nature of Proposed Works	A determination of the above under Section 5 of the Planning and Development Act 2000, as amended.
Location & Address of Subject Property to include, Eircode (where applicable), Townland & O.S No.	10 Monksfield Park, Athlone, N37 D2H2
Floor Area: a) Existing Structure b) Proposed Structure	a) 104.7sqm b) 104.7sqm
Height above ground level:	N/A
Total area of private open space remaining after completion of this development	N/A
Roofing Material (Slates, Tiles, other) (Specify)	N/A

Roscommon County Council

Application for a Declaration under Section 5 of the

Proposed external walling (plaster, stonework, brick or other finish, giving colour)	N/A
Is proposed works located at front/rear/side of existing house.	N/A
Has an application been made previously for this site	Yes
If yes give ref. number (include full details of existing extension, if any)	02/1011 and 04/1632
Existing use of land or structure	Residential
Proposed use of land or structure	Accommodation for International Protection Applicants
Distance of proposed building line from edge of roadway	N/A
Does the proposed development involve the provision of a piped water supply	N/A
Does the proposed development involve the provision of sanitary facilities	N/A

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

Signature:



Date:

27/09/2024



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

CSR Ref: 24298

CUNNANE STRATTON REYNOLDS

Planning Department
Áras an Chontae,
Roscommon,
Co. Roscommon



27th September 2024

Re: Section 5 application for a declaration as to whether use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.

Premises at 61 Monksfield Park, Athlone, N37 A2X7

Dear Sir/Madam,

I refer to the above and enclose this application for a declaration of the above under Section 5 of the Planning and Development Act 2000, as amended which seeks clarity on:

Whether use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development.

This application is made by Cunnane Stratton Reynolds Ltd of Gainsboro House, 24 Suffolk Street, Dublin 2, D02 KF65 on behalf of Dídean Dóchas Eireann Teoranta with an address in the county at Bloom HQ, Mountrath, Co. Laois R32 DC58.

This cover letter sets out our client's application under the following headings:

- The content of this application;
- The applicant;
- The subject premises;
- The subject proposal;
- Planning history;
- Planning context;
- Our client's case; and
- Conclusions

DUBLIN OFFICE
GAINSBORO HOUSE, 24 SUFFOLK ST
DUBLIN 2, D02 KF65
TEL: 01 661 0419
EMAIL: info@csrlandplan.ie

OFFICES ALSO AT:
COPLEY HALL, COTTERS STREET, CORK
TEL: 021 498 9224
EMAIL: corkinfo@csrlandplan.ie

DIRECTORS
Declan O'Leary BAggr Sc (Land-Hort) Dip LA MILI MLI:
Eamonn Prenter BA (Hons) Dip TP MSc MRTPI MIPI
Jim Kelly BAggr Sc (Landscape-Hort) Dip LA MILI CMLI
Keith Mitchell MA (Hons) LA Dip EIA Dip Arb MILI CMLI

ARDACONG, BALLYTRASNA, TUAM
CO GALWAY
TEL: 01 661 0419
EMAIL: galwayinfo@csrlandplan.ie
WWW.CSRLANDPLAN.IE

The Content of this Application

This application contains the following documents:

- This cover letter;
- The completed Section 5 application form;
- Location Plan;
- Site Layout Plan;
- Existing floor plan and existing elevations which also constitute the proposed floorplan and elevations as there are no changes to either the internal layout or the exterior of the subject dwelling;
- Legal Opinion from Eamon Galligan SC and Conor Sheehan BL;
- Architectural Opinion on Planning Compliance;
- Laois County Council's recent Section 5 Declaration Reg. Ref. S5/2024/26;
- Compliance report with Building and & Fire Regulations; and
- Planning application fee of €80.



The Applicant

The applicant in this case is Dídean Dóchas Eireann Teoranta ('Dídean'), which has its main office in County Laois. Dídean have a portfolio of residential properties across the State. Typically, these comprise 2, 3 and 4 bed dwellings in typical residential communities in a variety of locations throughout the State (including one off housing, houses within a housing estate, etc.). In all instances Dídean currently provide and wish to continue to provide residential accommodation for those awaiting political asylum. Dídean facilitate a visiting service or support where required.

In some instances, Dídean also provides supported living, day and community outreach services to both children and adults, as a household or family, or to individuals or groups with a range of support requirements otherwise known as 'direct services' to the occupants of their properties. (Their properties are not used as health care facilities or as 'asylum centres')

Accommodation is provided to international protection applicants on a 6-18 month basis through a contract with a Government Department and Dídean's staff provide direct services, on an occasional basis (c. 3 hours per week on a visiting basis), which is social care services including arranging school places, sourcing doctors, arranging medical cards, IPAS (International Protection Applications Service) appointments, getting medical assessments etc to occupants of the houses.

No staff are based in Dídean's homes. Dídean's team liaise with the adults of the house to assist with arranging the above while integrating into the community.

The services are provided on a visiting basis and would be no different to care being delivered to a traditional domestic setting, for example, for elderly or infirm occupants of a dwelling.

The dwellings provided by Dídean accommodate between three and eight persons. Overcrowding does not occur. The premises are used, and will be used, for residential purposes and are not used and will not be used for reception or administrative purposes.

Various nationalities are accommodated in Dídean's properties (but no persons of Ukrainian nationality).

The above are important considerations in determining whether the use of the properties constitutes development and/or if there has been a material change of use (i.e. a use amounting to development). The advice obtained from Senior Counsel (assisted by Junior Counsel) is that the use is not development.

The Subject Premises

The premises is occupied by a family of international protection applicants at present. No internal or external modifications were undertaken to the house to facilitate the use of the house by international protection applicants. The premises include a rear garden and the dwelling enjoys to nearby amenities and open space.

The house is a typical second hand house that is similar to other houses located in the area.

The Subject Proposal

Dídean wishes to continue to provide residential accommodation and direct services for people seeking asylum ('protected persons') including the provision of visiting services and/or support where required. These services comprise of supported living, day and community outreach services to individuals or groups with a range of complex support requirements known as 'direct services'. The services, as mentioned above, are typically provided for up to 3 hours per week, per individual. It is confirmed that there is on average one vehicle movement to the subject site, and one vehicle movement from the site each day (the occupants do not own or having use of a car). This level of car usage is considered at, or less than, the norm for such a dwelling.

We confirm, on behalf of the applicant, that no physical modifications to facilitate the current use were undertaken. We further confirm that the subject premises do not contain any reception and/or lobby areas, or administrative component, which otherwise might lead to it being categorised as a reception centre. The subject premises will continue to function as a single residential unit or dwelling and has not been, nor will it be, sub-divided.

Planning History

There are no physical works, inside or out, to the subject dwelling, the focus of this application is on the use and whether the use for which the building is currently used, and for which it is intended to be used, constitutes either an intensification of that existing permitted use, or constitutes a material change of use.

Planning permission was originally granted for the subject dwelling as part of a wider housing scheme under reg. ref. 02/1011 and 04/1632. A number of relatively standard planning conditions were attached to all units within the overall development. It should be noted that no conditions were attached to the final grant of planning permission restricting the subject dwelling to single families or excluding any group, non-nationals, political grouping etc.



Planning Context

There are several aspects to the planning context which are material considerations in this instance.

The material factors to be considered are the planning history of the subject dwelling which establishes the scope of the permitted residential use and the provisions of the Planning and Development Act 2000 as amended and the Planning and Development Regulations 2001, as amended.

In terms of planning impacts, in respect of the Development Plan zoning maps, we noted that the subject site is zoned for existing residential use and that its existing use is a residential use.

Relevant legislative provisions are set out in the attached Joint Opinion of Counsel to which the Council is referred. In essence, it is considered that there is no material change of use and as there have also been no works undertaken to the property and where the property is not unauthorised, the continued use of the property is its lawful use and as such its use for housing internal protection applicants is not Development within the meaning of the Planning and Development Act, 2000.

The matter of change of use is addressed in the attached legal opinion. In considering that no works have been undertaken to the originally permitted dwelling the opinion addresses whether any change in the use of the subject premises is material in planning terms having regard to *Monaghan County Council v. Brogan* [1987] I.R. 333 where it was found that issues raised by a change of use would be normally considered by a planning authority as if it were dealing with an application for planning permission and in so doing would consider 'residential amenity, traffic safety or policy issues related to the statutory plan'. It was found also that a continuation of the same use does not, in general, amount to development. It is also clear that practical effects of the use, including off-site impacts must be considered. Potential off-site impacts are considered in the legal opinion.

We also add that no other impact would occur including noise impact, visual impact, such as to impair existing residential amenity.

It is also clear from the attached legal opinion attached that the use of the subject premises is not as a hostel requiring a change of use.

The possibility of material intensification is considered in the attached legal opinion and it is concluded that there is no evidence of intensification in this instance, nor is there a concentration of other similar accommodation in the immediate locality.

The provision of direct services is not sufficient to alter the character of the use of the premises as residential.

The Ballinamore Section 5 Declaration made by An Bord Pleanála referred to in Counsels opinion would indicate that where no reception or administrative function is provided, as in this case, and in the absence of any additional material off-site impacts, there is no material change of use from a dwelling.

None of the other questions posed are sufficient to alter that fundamental opinion contained within the legal opinion.



As indicated in the opinion the decision of the County Council should conclude that there is no change of use, no intensification, no development and no requirement to obtain planning permission.

Please see attached a recent Section 5 Declaration from Laois County Council regarding use for international protected applicants in similar circumstances where the County Council concluded clearly that the same use is not development in the first place and no issue of exemption thereafter applies.

Our Client's Case

Our client's case for a positive determination of this Section 5 application in their favour, namely that the subject development does not constitute development is set out in the joining legal opinion of Eamon Galligan SC and Conor Sheehan BL.

Their joint opinion concludes that:

- It is considered that the use the subject premises for the accommodation of protected persons does not give rise to a material change of use from its use as a dwelling and, therefore, does not constitute development requiring planning permission.
- There are no conditions or limitations imposed by the planning permission for the subject dwelling which would prevent it being used for the purposes of accommodating applicants for international protection.
- No physical works or changes to the building have been undertaken, or are required to be undertaken, to accommodate persons applying for international protection.
- There is one kitchen and one living/sitting room serving all residents within the context of a single dwelling. The bathroom is also shared.
- There is currently one family living in the subject premises. Were additional occupants to be accommodated, who were not related, but shared the kitchen and living room facilities in a similar manner, this would not of itself give rise to any material change of use, unless it was accompanied by a material increase in site impacts, which does not appear likely. The position might be different if there was significant car ownership among protected persons, leading to increased traffic or car parking demand, but this would not normally be expected.
- The subject dwelling is being used solely for residential purposes and there is no intention to provide a reception or administrative centre for those seeking international protection at this location that would give rise to a change of use.
- The issue of intensification does not arise. Moreover, it is only where an intensification of use gives rise to material planning impacts that a material change of use by reason of intensification could be taken to have occurred. In the absence of any material vehicular or other off-site impacts in the present case, Counsel conclude that there is no material change of use in this respect.
- The Board's decision and Inspector's Report on the Ballinamore referral referenced in the Counsels opinion supports the view that the use of residential accommodation by protected persons does not constitute development.



Conclusions


The attached legal opinion and the planning case presented in the within submission, shows that the use of the subject premises, does not constitute 'development' through a material change of use, or alternatively through any intensification, that would result in any planning or environmental impact such as would warrant the requirement for obtaining planning permission.

This view is also strongly supported by a Section 5 Referral precedent Declaration made by the Board under Ref. ABP-397077-20 and the precedent established by Laois County Council's recent Section 5 Declaration (their Reg. Ref. S5/2024/26) that use as a dwelling for international protection applicants does not constitute development for any existing residential premises, upon which the applicant relies in the present case.

We trust that this application and supporting documentation is sufficiently comprehensive and robust to enable a positive determination for our client demonstrating that the subject use does not constitute development, and that planning permission is not required in this instance.

If you have any queries please contact the undersigned at the address given below.

Yours sincerely,



Eamonn Prenter MIPI MRTPI
Director

CUNNANE STRATTON REYNOLDS
LAND PLANNING & DESIGN
Dublin, Cork & Galway
www.csrlandplan.ie



Carmel Curley

From: Prithvi Gowda <pgowda@csrlandplan.ie>
Sent: Friday 27 September 2024 09:27
To: Planning Department
Cc: Carmel Curley
Subject: [CSR: 24298] Section 5 Declaration at 10 Monksfield Park, Athlone, N37 D2H2
Attachments: LT23104_R01 10 Monksfield Park, Athlone_Compliance Report_V02.pdf; 10 Monksfield Park, App Form.pdf; 10 Monksfield Park, Cover Letter.pdf; 10 Monksfield Park, Athlone, N37 D2H2 - Floor Plan & Site Location.pdf; Monksfield Elevations.pdf; LCC Decision Ref S5202426.pdf; Final Legal Opinion V5 25 9 24.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Dear Sir / Madam,

Please see attached Section 5 Declaration Form and relevant documents.

We will follow with payment shortly.

Please let me know if you require additional information or any queries.

Kind regards,

Prithvi Gowda *MScUD&P BArch CPM Dip.*
Assistant Urban Designer and Landscape Architect

CUNNANE STRATTON REYNOLDS
LAND PLANNING & DESIGN

Dublin, Cork & Galway

Gainsboro House

24 Suffolk Street

Dublin 2, D02 KF65

☎ 01 661 0419

✉ pgowda@csrlandplan.ie



Cunnane Stratton Reynolds have launched
Town Centre First Plan
for New Ross, County Wexford
(click image to view)

RFT PART 1.6.3 MANDATORY REQUIREMENTS COMPLIANCE WITH BUILDING & FIRE REGULATIONS

(Type 2 Accommodation- MR2)

**10 Monksfield Park,
Athlone,
N37 D2H2**

Prepared for:



Lenztech Ref: LT23104-R01
Version No:1
August 2024

Quality Control

Prepared by

Kevin Staunton

Kevin Staunton CEng
BEng, MIEI
Chartered Engineer

Checked by

Damien Quigley

Damien Quigley
B.Eng (Hons), MIEI
Director, Senior Engineer

Approved by

Kevin Staunton

Kevin Staunton CEng
BEng, MIEI
Chartered Engineer

Revision History

Revision:	Revision Date:	Details:	Authorized:	Name:	Role:
R1	22 nd August 2024	Initial Issue	Kevin Staunton	KS	Senior Engineer

Distribution List

# Hard Copies	PDF Issue:	Association Company Role:
	22 nd August 2024	Client: Fiona Delaney, Chief Financial Officer, Didean



BASIS OF REPORT/FOREWORD

This document has been prepared by Lenztech Surveying & Engineering Ltd. with reasonable skill, care and diligence, and taking account of the manpower, timescales and resources devoted to it by agreement with Dídean (the Client) as part or all of the services it has been appointed by the Client to carry out. It is subject to the terms and conditions of that appointment.

Lenztech Surveying & Engineering Ltd., shall not be liable for the use of or reliance on any information, advice, recommendations and opinions in this document for any purpose by any person other than the Client.

Information reported herein may be based on the interpretation of public domain data collected by Lenztech, and/or information supplied by the Client and/or its other advisors and associates. These data have been accepted in good faith as being accurate and valid.

The copyright and intellectual property in all drawings, reports, specifications, bills of quantities, calculations and other information set out in this report remain vested in Lenztech Ltd. unless the terms of appointment state otherwise.

This document may contain information of a specialised and/or highly technical nature and the Client is advised to seek clarification on any elements which may be unclear to it.

Information, advice, recommendations and opinions in this document should only be relied upon in the context of the whole document and any documents referenced explicitly herein and should then only be used within the context of the appointment.



CONTENTS

1. INTRODUCTION	2
1.1 Outline of Compliance Assessment Requirements	3
2. DOCUMENTATION FOR EVIDENCE ON COMPLIANCE.....	4
2.1 Compliance Review of Building & Fire Regulations TGD A to K.....	5
2.2 Architect/Engineers Opinion on Compliance with Building Regulation.....	6
2.3 Architect/Engineers Opinion on Compliance with Planning :.....	7
2.4 Independent Engineers Review Report	8
2.5 Non-Intrusive Survey Report With Opinion on Pyrite/Mica	9
2.6 Predicted Radon Levels.....	10
2.7 Conservation of Fuel and Energy (Part L)- Compliance	11
2.7.1 Conservation of Fuel and Energy (Part L)- BER Cert.....	12
3. SAFETY STATEMENT	13
APPENDICES	14
Drawings - Floor Plan Layout	14



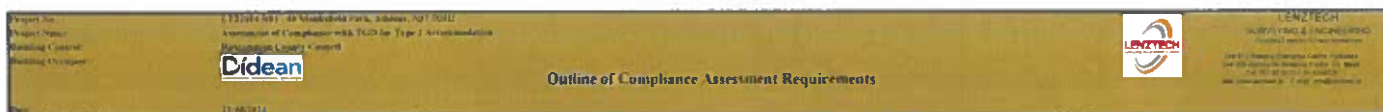
1. INTRODUCTION

- 1.1 Lenztech Surveying & Engineering Ltd. were appointed to carry out the role of Independent Chartered Engineers to provide Evidence of Compliance with the Technical Guidance Documents and in turn the Building Regulations for the property at **10 Monksfield Park, Athlone, N37 D2H2** on behalf of **Didean**.
- 1.2 The purpose of this report is to review and compile all documentation required as part of the "*RFT Part 1.6.3 Mandatory Requirements Compliance with Building and Fire Regulations for Type 2 Accommodations (MR2)*".



1.1 Outline of Compliance Assessment Requirements





2. DOCUMENTATION FOR EVIDENCE ON COMPLIANCE



2.1 Compliance Review of Building & Fire Regulations TGD A to K





Lenztech Surveying & Engineering Ltd.

Unit 20B,
Ashbourne Business Centre,
Ballybin Road, Ashbourne,
Co. Meath,
A84 RH51

Unit B12
National Enterprise Park,
Portlaoise,
Co. Laois,
R32 RT73

T: + 353 (0)57 8510121
E: info@lenztech.ie

YOUR REFERENCE:

OUR REFERENCE: LT23104-R01-05

DATE: 22ND AUGUST 2024

FIONA DELANEY
CHIEF FINANCIAL OFFICER
DÍDEAN
UNIT 3 BLOOM HQ
PATRICK'S STREET,
MOUNTRATH,
CO. LAOIS

Re: COMPLIANCE REVIEW OF BUILDING & FIRE REGULATIONS

Dear Fiona,

Further to the detailed review and inspection, I can confirm that the property at **"10 Monksfield Park, Athlone, N37 D2H2"** remains in compliance with Building Regulations Technical Guidance Documents (TGD) relevant to the time Substantial Completion was achieved.

This includes compliance with:

- TGD A- Structure
- TGD B- Fire Safety-Dwellings
- TGD C- Site Preparation and Resistance to Moisture
- TGD D- Materials & Workmanship
- TGD E- Sound
- TGD F- Ventilation
- TGD G- Hygiene
- TGD H- Drainage & Wastewater Disposal
- TGD J – Heat Producing Appliances
- TGD L- Conservation of Fuel and Energy Dwellings
- TGD M – Access & Use
- TGD K – Stairways, Ladders, Ramps and Guards

Refer to section 2 of this report for supporting information.

Yours Sincerely,

Kevin Staunton, Chartered Engineer, MIEI

For and on behalf
Lenztech Surveying & Engineering Ltd.



2.2 Architect/Engineers Opinion on Compliance with Building Regulation





**OPINION ON COMPLIANCE WITH PLANNING PERMISSION
AND BUILDING REGULATIONS.**

I, **Joseph A. Gorman, B.E.** of J.A. Gorman Consulting Engineers, Forest Park, Mullingar, Co. Westmeath, Civil Engineer, aged 21 years and upwards **HEREBY CERTIFY** as follows;

1. I am a Civil Engineer having qualified as such at University College Dublin in the year 1990 and I am a member of the Institute of Engineers of Ireland.
2. I am the Engineer retained by **Slevin Bros. Ltd** to supervise and make periodic inspections and on completion to issue certificate of compliance with Planning Permission and Building Regulations for the development of 226 houses, at site known as '**Monksfield Park**', Bealnamulla, Athlone, Co. Roscommon hereinafter called the "Relevant Works".
3. I visited the offices of the Planning Authority and there inspected the plans and other documents which were represented by the Planning Authority as those on foot of which the Planning Permissions mentioned at paragraph 4 hereunder were granted.
4. I say that the Relevant Works are covered by Planning Permission, Roscommon Co. Co. Planning Ref: **02/1011**, dated **2nd December 2003** and **04/1632** dated **5th May 2005**.
5. The Relevant Works, Design and the Services thereof are in my opinion in **substantial conformity** with the building regulations made pursuant to the Building Control Act 1990.
6. Commencement Notice of the intention to undertake the Relevant Works was duly given on **26th March 2004** in accordance with the Building Control Regulations 1991 and such notice contained or was accompanied by the information and particulars prescribed by the said Regulations.
7. Having made periodic inspections of the Relevant Works, it is my opinion that **House No. 10** is constructed and completed in **substantial compliance** with Notification of Granting of Planning Permission and Building Regulations, Roscommon Co. Co. Ref: **02/1011**, dated **2nd December 2003** and **04/1632** dated **5th May 2005**.
8. The layout of the sites is in **substantial compliance** with the layout plans as lodged with the Planning Authority. The roads and services at this stage of development are built in substantial compliance with the layout plans as lodged with the Planning Authority. The comparison of the site layout plans with the actual layout was visual only. I say that if the site has not been laid out in strict accordance

with the Planning Permission granted, the differences are unlikely to affect the planning and development of the area as envisaged by the Planning Authority and expressed through the above Planning Permission.

9. The Relevant Works are exempt from any requirements for the making of an application for a Fire Safety Certificate by virtue of the main buildings which are proposed to be used as dwellings.
10. In the event that the Relevant Works and the site works pertaining thereto have not been built and/or laid out exactly in accordance with the said Permissions any disparity is unlikely to affect the planning development of the area as envisaged by the Planning Authority and expressed through such Permission.
11. **TAKE NOTE** that this Certificate is issued solely with a view to providing the compliance with a view to providing evidence for title purposes of the compliance of the Relevant works with the requirements of Planning Legislation and of the Building Control Act, 1990 and the Regulations thereunder. Except insofar as it relates to compliance with the said requirements and Regulations it is not a report on the physical condition or on the structure of the Relevant Works **NOR** does it warrant, represent or take into account any of the following matters:-
 - (a) The accuracy of dimensions in general save where incorporated by virtue of the conditions of the Planning Orders.
 - (b) The following conditions, compliance with which cannot be established at this time.
 - (c) Matters in respect of private rights or obligations.
 - (d) Matters of financial contribution and bonds.
 - (e) Development of the property which may occur after the inspection date.
 - (f) Any other development attached to, associated with or otherwise connected to the relevant development, save in so far as such other development may effect the substantial compliance with the Planning Orders or exemption from the planning control within the meaning of the Planning Acts of the relevant development.

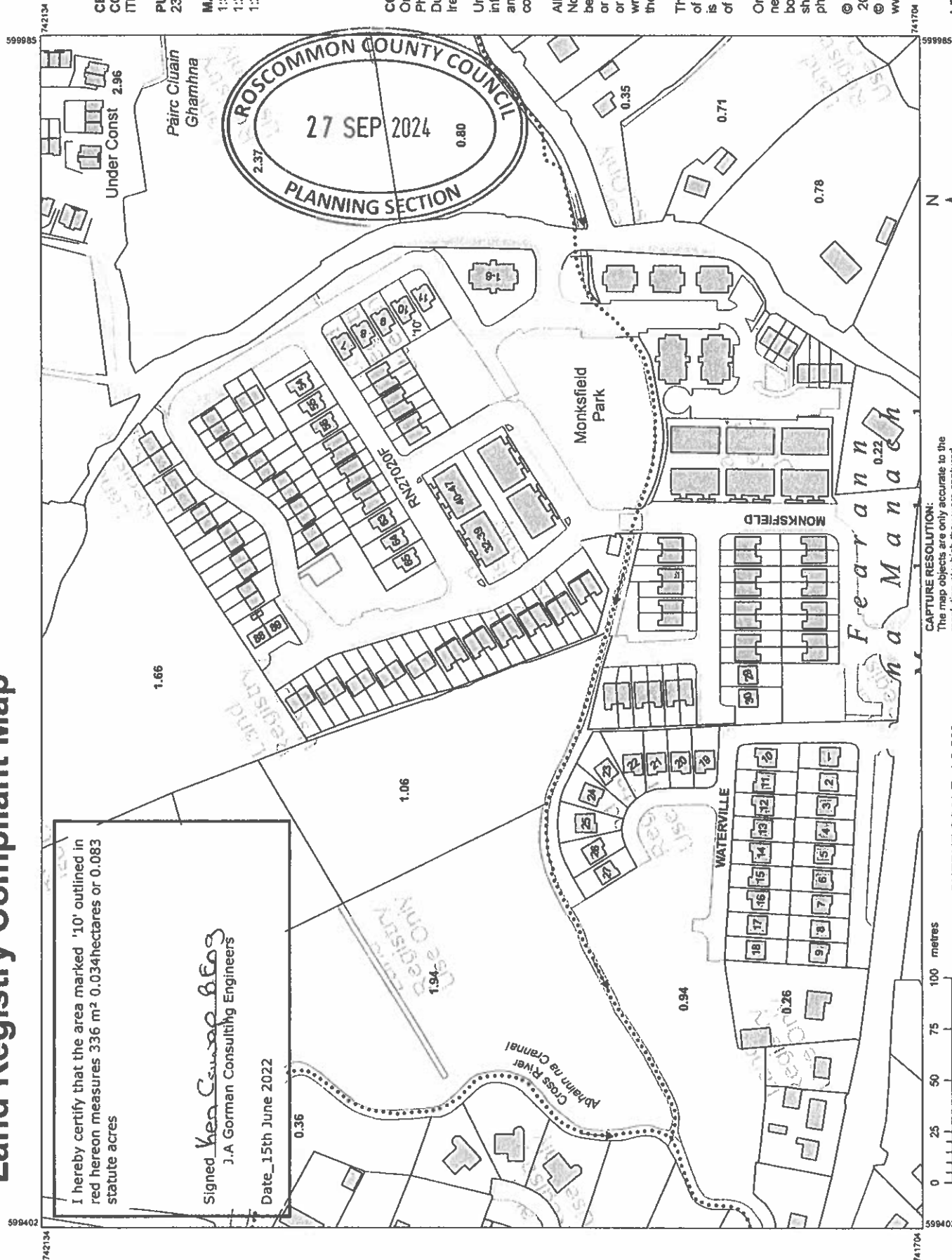
Joe A Gorman , B.E.



Date:

15/6/22





2.3 Architect/Engineers Opinion on Compliance with Planning :





**OPINION ON COMPLIANCE WITH PLANNING PERMISSION
AND BUILDING REGULATIONS.**

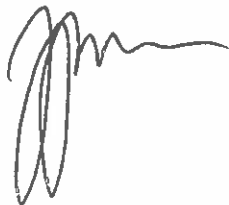
I, Joseph A. Gorman, B.E. of J.A. Gorman Consulting Engineers, Forest Park, Mullingar, Co. Westmeath, Civil Engineer, aged 21 years and upwards HEREBY CERTIFY as follows;

1. I am a Civil Engineer having qualified as such at University College Dublin in the year 1990 and I am a member of the Institute of Engineers of Ireland.
2. I am the Engineer retained by **Slevin Bros. Ltd** to supervise and make periodic inspections and on completion to issue certificate of compliance with Planning Permission and Building Regulations for the development of 226 houses, at site known as '**Monksfield Park**', Bealnamulla, Athlone, Co. Roscommon hereinafter called the "Relevant Works".
3. I visited the offices of the Planning Authority and there inspected the plans and other documents which were represented by the Planning Authority as those on foot of which the Planning Permissions mentioned at paragraph 4 hereunder were granted.
4. I say that the Relevant Works are covered by Planning Permission, Roscommon Co. Co. Planning Ref: **02/1011**, dated **2nd December 2003** and **04/1632** dated **5th May 2005**.
5. The Relevant Works, Design and the Services thereof are in my opinion in **substantial conformity** with the building regulations made pursuant to the Building Control Act 1990.
6. Commencement Notice of the intention to undertake the Relevant Works was duly given on **26th March 2004** in accordance with the Building Control Regulations 1991 and such notice contained or was accompanied by the information and particulars prescribed by the said Regulations.
7. Having made periodic inspections of the Relevant Works, it is my opinion that **House No. 10** is constructed and completed in **substantial compliance** with Notification of Granting of Planning Permission and Building Regulations, Roscommon Co. Co. Ref: **02/1011**, dated **2nd December 2003** and **04/1632** dated **5th May 2005**.
8. The layout of the sites is in **substantial compliance** with the layout plans as lodged with the Planning Authority. The roads and services at this stage of development are built in substantial compliance with the layout plans as lodged with the Planning Authority. The comparison of the site layout plans with the actual layout was visual only. I say that if the site has not been laid out in strict accordance

with the Planning Permission granted, the differences are unlikely to affect the planning and development of the area as envisaged by the Planning Authority and expressed through the above Planning Permission.

9. The Relevant Works are exempt from any requirements for the making of an application for a Fire Safety Certificate by virtue of the main buildings which are proposed to be used as dwellings.
10. In the event that the Relevant Works and the site works pertaining thereto have not been built and/or laid out exactly in accordance with the said Permissions any disparity is unlikely to affect the planning development of the area as envisaged by the Planning Authority and expressed through such Permission.
11. **TAKE NOTE** that this Certificate is issued solely with a view to providing the compliance with a view to providing evidence for title purposes of the compliance of the Relevant works with the requirements of Planning Legislation and of the Building Control Act, 1990 and the Regulations thereunder. Except insofar as it relates to compliance with the said requirements and Regulations it is not a report on the physical condition or on the structure of the Relevant Works **NOR** does it warrant, represent or take into account any of the following matters:-
 - (a) The accuracy of dimensions in general save where incorporated by virtue of the conditions of the Planning Orders.
 - (b) The following conditions, compliance with which cannot be established at this time.
 - (c) Matters in respect of private rights or obligations.
 - (d) Matters of financial contribution and bonds.
 - (e) Development of the property which may occur after the inspection date.
 - (f) Any other development attached to, associated with or otherwise connected to the relevant development, save in so far as such other development may effect the substantial compliance with the Planning Orders or exemption from the planning control within the meaning of the Planning Acts of the relevant development.

Joe A Gorman , B.E.



Date:

15/6/22



Lairu registry compliant map



National Mapping Agency

CENTRE
COORDINATES:
ITM 599694.741919

PUBLISHED: 23/06/2022
ORDER NO.: 50276020_1

MAP SERIES:
1:5,000 3034
1:2,500 3034-D
1:2,500 3035-C

COMPILED AND PUBLISHED BY:
Ordnance Survey Ireland,
Phoenix Park,
Dublin 8,
Ireland.

Unauthorised reproduction
infringes Ordnance Survey Ireland
and Government of Ireland
copyright.

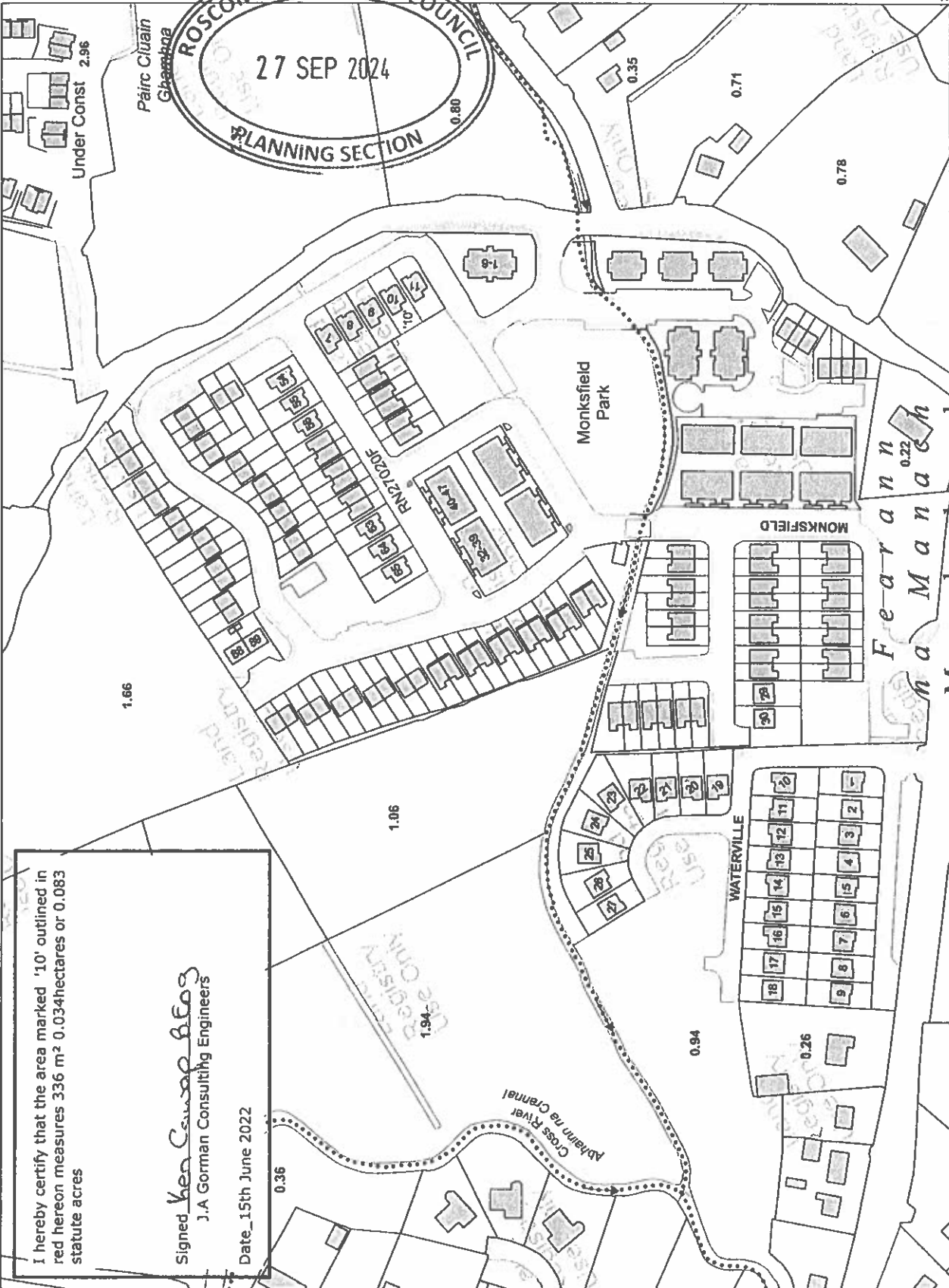
All rights reserved.
No part of this publication may
be copied, reproduced
or transmitted in any form
or by any means without the prior
written permission of
the copyright owners.

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

Ordnance Survey maps
never show legal property
boundaries, nor do they
show ownership of
physical features.

© Suirbheireacht Ordanáis Éireann,
2022
© Ordnance Survey Ireland, 2022
www.osi.ie/copyright

LEGEND:
<http://www.osi.ie>;
search 'Large Scale Legend'



2.4 Independent Engineers Review Report





Lenztech Surveying & Engineering Ltd.

Unit 20B,
Ashbourne Business Centre,
Ballybin Road, Ashbourne,
Co. Meath,
A84 RH51

Unit B12
National Enterprise Park,
Portlaoise,
Co. Laois,
R32 RT73

T: + 353 (0)57 8510121
E: info@lenztech.ie

YOUR REFERENCE:

OUR REFERENCE: LT23104-R01

DATE: 27th AUGUST 2024

FIONA DELANEY
CHIEF FINANCIAL OFFICER
DÍDEAN
UNIT 3 BLOOM HQ
PATRICK'S STREET,
MOUNTRATH,
CO. LAOIS



Re: INDEPENDENT ENGINEERS REVIEW ON COMPLIANCE WITH RELEVANT STATUTORY REQUIREMENTS

Lenztech Surveying & Engineering Limited, Unit B12, National Enterprise Park, Portlaoise have been retained by Dídean, (hereinafter called the Employer) of Unit 3 Bloom HQ, Patrick's Street, Mountrath to review the compliance of the dwelling at **10 Monksfield Park, Athlone, N37 D2H2**, (hereinafter referred to as the "the Relevant Development") with the relevant statutory requirements for Building and Planning & Development regulations.

This review is based on the Visual Inspection only of the Relevant Development and the associated third party Opinion on Compliance prepared at the time of substantial construction completion insofar as the relevant statutory regulations and acts applicable at the time of construction commencement.

On the **17th Day of May 2024** I inspected the Relevant Documents furnished by the Employer to Lenztech Surveying & Engineering Ltd. for the purpose of comparison of the Relevant Development with the Relevant Documents.

On the **18th Day of May 2024** ("the Inspection Date") I carried out a Visual Inspection of the Relevant development for the purposes of comparison of the Relevant Development with the Relevant Documents. The relevant statutory requirements and regulations applicable at the time are those in effect based on the below dates:

Property Ref	Planning Reference	Date of Commencement	Date of Completion
10 Monksfield Park, Athlone, N37 D2H2	Roscommon County Council Ref: 02/1011, 04/1632	26/03/2004	15/06/2022

I have received confirmation from the contractor listed at schedule "A" hereto, that the recent refurbishment works have been constructed in substantial compliance with current Technical Guidance Documents for Building Regulations.

To the extent that the visual inspection as referred to above and not taking into account works which were covered up, inaccessible or otherwise obscured from view, I am of the opinion that the Relevant Building or Works remain in substantial compliance with the statutory requirements applicable at the time of the Relevant Development Construction.

This review relies on the visual inspection, opinions on compliance with Building Regulations and on the confirmation referred to above.

Definitions:

"Building Control Act" means the Building Control Act 1990 and any statutory modification or re-enactment thereof current at the date of the Commencement Notice referred to herein.

"Building", "Works", "Construction" and "Design" have the meanings respectively assigned by the Building Control Act.

"Building Regulations" means regulations made under the Building Control Act

"Confirmations" means statements received from the persons detailed at Schedule "A", confirming substantial compliance of elements of the Relevant Building or Works with Building Regulations

"Substantial Compliance" when applied to Construction means that such construction of the Relevant Building or Works, as is evident by Visual Inspection, is in accordance with the Building Regulations, saving and excepting such deviations as would not in my opinion warrant the issue of enforcement proceedings as provided for in the Building Regulations Control Act.

"Visual Inspection" means an inspection of the Relevant Development as existed on the Inspection Date. No opening up was carried out. The inspection was superficial only and therefore took no account of works which were covered up, inaccessible or otherwise obscured from view.

Schedule A: Confirmations

Contractor: JB Facilities & Maintenance Ltd
Of: 4 Kilkenny Street, Castlecomer, Kilkenny
Element: Contractor



Dated This: 22nd August 2024

Signed:

Kevin Staunton

Kevin Staunton, Chartered Engineer, MIEI
For and on behalf
Lenztech Surveying & Engineering Ltd.

Schedule A- Confirmations and Certification

Confirmation & Certification on refurbishment and upgrade works with respect to TGD Part A to K



JB Facilities Maintenance Ltd

09th August 2024

Fiona Delaney
Chief Financial Officer
Dídean
Unit 3 Bloom HQ
Patricks Street
Mountrath
Co Laois



Building Works Carried Out at: 10 Monksfield Park, Athlone

Dear Fiona,

We confirm that it is the opinion of this Company that the building works carried out to the above mentioned address by JB Facilities Maintenance Ltd is in substantial compliance with Building Regulations made pursuant to the Building Control Act 1990.

Signed on behalf of JB Facilities Maintenance Ltd.

A handwritten signature in black ink, appearing to read "Jimmy Boland", written over a horizontal line.

Jimmy Boland
Director
JB Facilities Maintenance Ltd.

2.5 Non-Intrusive Survey Report With Opinion on Pyrite/Mica





Lenztech Surveying & Engineering Ltd.

Unit 20B,
Ashbourne Business Centre,
Ballybin Road, Ashbourne,
Co. Meath,
A84 RH51

Unit B12
National Enterprise Park,
Portlaoise,
Co. Laois,
R32 RT73

T: + 353 (0)57 8510121
E: info@lenztech.ie

YOUR REFERENCE:

OUR REFERENCE: LT23104-R01-02

DATE: 22ND AUGUST 2024

FIONA DELANEY
CHIEF FINANCIAL OFFICER
DÍDEAN
UNIT 3 BLOOM HQ
PATRICK'S STREET,
MOUNTRATH,
CO. LAOIS



**Re: Non-Intrusive Inspection for Opinion on Pyrite/ Mica Mineral defects within Structure in
accordance with NSAI I.S. 465:2015- TGD Part A & C**

Lenztech Surveying & Engineering Limited, Unit B12, National Enterprise Park, Portlaoise have been retained by Dídean, (hereinafter called the Employer) of Unit 3 Bloom HQ, Patrick's Street, Mountrath to undertake a non-intrusive visual assessment on the structure including opinion on the presence of Pyrite/Mica 10 Monksfield Park, Athlone, N37 D2H2 (hereinafter referred to as the "the Relevant Development").

I Kevin Staunton, Chartered Engineer, BEng, MIEI, have provided the following Engineering services for the Employer in connection with the Relevant Development:

- (i) Building Condition Assessment in accordance with Section 5 of I.S 465:2018 at the Relevant Development as defined herein for evidence of defects or deterioration typically encountered with the presence of Pyrite and Mica minerals.

The Building Condition Assessment comprised of a desktop study where the following was assessed;

- History of any known occurrences of similar damage in local area or estate
- Information on the design and construction of the dwelling including location of services
- Information on the geographical location including prevailing winds and rain exposure
- Review of initial planning and certification documentation by others
- Outline construction details of the building, form of construction and any associated typical defects that may present during a subsequent site inspection

- (ii) On the 19th Day of April 2024 ("the Inspection Date") I carried out a Visual Inspection of the Relevant development

The property is considered to be within building **Group 1- Undamaged** as per the classification outlined in Table 1-Building Grouping of I.S.465:2018 with no pattern cracking present or visual structural defects identified during the inspection.

The report findings are contained within the attached schedule.

This opinion is based on the Visual Inspection only of the Relevant Development carried out for the purposes of identification of visible structural defects attributed to potential Pyrite and Mica minerals found within granular material used within the products and materials during the construction of the property.

The assessment was undertaken with consideration to the associated third party Opinion on Compliance prepared at the time of substantial construction completion insofar as the relevant statutory regulations and acts applicable at the time of construction commencement.

It is not a report on the condition or structure of the Relevant Development.

This opinion does not in any way warrant, represent or take into account any of the following matters:-

- (a) Reactive pyrite in sub-floor hardcore or any hardcore material identifiable only through testing and categorisation protocol, as published by the National Standards Authority of Ireland
- (b) It is not an opinion of compliance with any consequential amendments of the Regulations or Acts on or after the date of substantial completion

Definitions:

"Visual Inspection" means an inspection of the Relevant Development as existed on the Inspection Date. No opening up was carried out. The inspection was superficial only and therefore took no account of works which were covered up, inaccessible or otherwise obscured from view.

Dated This: 22nd August 2024

Signed:

Kevin Staunton

Kevin Staunton, BEng, CEng, MIEI

Chartered Engineer

For and on behalf Lenztech Surveying & Engineering Ltd



Schedule A-

Building Condition Assessment Report





LENZTECH
SURVEYING & ENGINEERING
consulting engineers & project management

Unit B12 National Enterprise Centre, Portlaoise Tel: 057 8510121 /
Unit 208 Ashbourne Business Centre, Co. Meath 01 8359729
www.lenztech.ie E-mail: info@lenztech.ie

Building Condition Assessment Report
(in accordance with NSAI I.S.465:2018)

Information on the building

Address:

10 Monksfield Park, Athlone

Eircode:

N37 D2H2

Type of building: Detached

Description of site location e.g. in a residential estate or private site: Residential

Orientation: East Facing

Year built: 2004/05

Floor area (m²):

Year defects first appeared: None

Weather at time of assessment: Dry

Current owner:

Other information e.g. brief history of development of damage:

Site inspection of damage

Chartered Engineer carrying out the inspection:

Kevin Stoughton

Date: 19/04/24

Qualifications: C.Eng, MIEI

Circumstantial Evidence

Source of concrete block materials:

Is there information that the blocks in the dwelling came from manufacturer(s) reported to have supplied blocks to other dwellings exhibiting damage likely to have arisen from deleterious material in concrete blocks?

Yes

No

Was the dwelling constructed within the date range of constructions mentioned in the Report of the Expert Panel on Concrete Blocks [1], and in the geographic areas reported to be affected?

Yes

No

Is there documented information (e.g. Chartered Engineer's Report) that other dwellings in the same estate or locale have exhibited signs of damage likely to have arisen from deleterious material in concrete blocks?

Yes

No

Are other houses in the same estate exhibiting signs of damage likely to have arisen from deleterious material in concrete blocks?

Yes

No





Notes:

External sketches

Site plan

No Defects
Noted

Notes:

→ Note general site features
i.e. level/sloping site,
orientation/local exposure conditions
→ Provide key (see example below)
Photograph Ref No.

Front elevation

No Defects
Noted

Notes:

Web like cracking	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Pattern like cracking (combined horizontal and vertical)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Disintegrated blocks leaving void in external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Outward bowing of external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Wide vertical crack, typically 200 mm from corner	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Displacement at window/door reveals	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Render blown or missing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Horizontal cracks (possibly attributable to day joint in blockwork)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Rear elevation

No Defects
Noted



Notes:

Web like cracking	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Pattern like cracking (combined horizontal and vertical)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Disintegrated blocks leaving void in external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Outward bowing of external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Wide vertical crack, typically 200 mm from corner	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Displacement at window/door reveals	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Render blown or missing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Horizontal cracks (possibly attributable to day joint in blockwork)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Side elevation

No Defects
Noted

Notes:

Web like cracking	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Pattern like cracking (combined horizontal and vertical)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Disintegrated blocks leaving void in external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Outward bowing of external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Wide vertical crack, typically 200 mm from corner	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Displacement at window/door reveals	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Render blown or missing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Horizontal cracks (possibly attributable to day joint in blockwork)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No



Side elevation

No Defects
Noted

Notes:

Web like cracking	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Pattern like cracking (combined horizontal and vertical)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Disintegrated blocks leaving void in external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Outward bowing of external leaf	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Wide vertical crack, typically 200 mm from corner	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Displacement at window/ door reveals	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Render blown or missing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Horizontal cracks (possibly attributable to day joint in blockwork)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Building Grouping per I.S. 465

☐ Group 1

☒ Group 2

☐ Group 3

☒ Group 4

Location of sampling to be marked on the dwelling and/or on sketch elevations

e.g. Front Elevation Sketch

2.6 Predicted Radon Levels





Lenztech Surveying & Engineering Ltd.

Unit 20B,
Ashbourne Business Centre,
Ballybin Road, Ashbourne,
Co. Meath,
A84 RH51

Unit B12
National Enterprise Park,
Portlaoise,
Co. Laois,
R32 RT73

T: + 353 (0)57 8510121
E: info@lenztech.ie

YOUR REFERENCE:

OUR REFERENCE: LT23104-R01-03

DATE: 22ND AUGUST 2024

FIONA DELANEY
CHIEF FINANCIAL OFFICER
DÍDEAN
UNIT 3 BLOOM HQ
PATRICK'S STREET,
MOUNTRATH,
CO. LAOIS

Re: TGD-Part A & C Structure, Site Preparation and Resistance to Moisture- Radon Levels

I **Kevin Staunton, Chartered Engineer, BEng, MIEI**, have completed a desktop study comprising of a review of EPA mapping sources (**Post May 22**) and consider the property at **10 Monksfield Park, Athlone, N37 D2H2**, is within an area where it is predicted that 1 in 5 homes will exceed the reference level of 200 becquerels per cubic metre (Bq/m³). We recommend that a radon consultant should be engaged and radon testing carried out for the subject property.



Signed:

Kevin Staunton

Kevin Staunton, BEng, CEng, MIEI
Chartered Engineer
For and on behalf Lenztech Surveying & Engineering Ltd

2.7 Conservation of Fuel and Energy (Part L)- Compliance





Lenztech Surveying & Engineering Ltd.

Unit 20B,
Ashbourne Business Centre,
Ballybin Road, Ashbourne,
Co. Meath,
A84 RH51

Unit B12
National Enterprise Park,
Portlaoise,
Co. Laois,
R32 RT73

T: + 353 (0)57 8510121
E: info@lenztech.ie

YOUR REFERENCE:

OUR REFERENCE: LT23104-R01-04

DATE: 22ND AUGUST 2024

FIONA DELANEY
CHIEF FINANCIAL OFFICER
DÍDEAN
UNIT 3 BLOOM HQ
PATRICK'S STREET,
MOUNTRATH,
CO. LAOIS

Re: TGD-Part L Conservation of Fuel and Energy – Dwellings **10 Monksfield Park, Athlone, N37 D2H2**

I Kevin Staunton, Chartered Engineer, BEng, MIEI, have inspected insulation upgrade works completed at the subject property. The water tank in the attic space has been covered and insulated and all water pipes in the attic space and hot-press have been lagged. The existing gas fired boiler has also been serviced within this property.

Thereby the upgrade together with insulation works currently provided within the property comply with TGD Part L2.

Signed:

Kevin Staunton

Kevin Staunton, BEng, CEng, MIEI
Chartered Engineer
For and on behalf Lenztech Surveying & Engineering Ltd.



2.7.1 Conservation of Fuel and Energy (Part L)- BER Cert



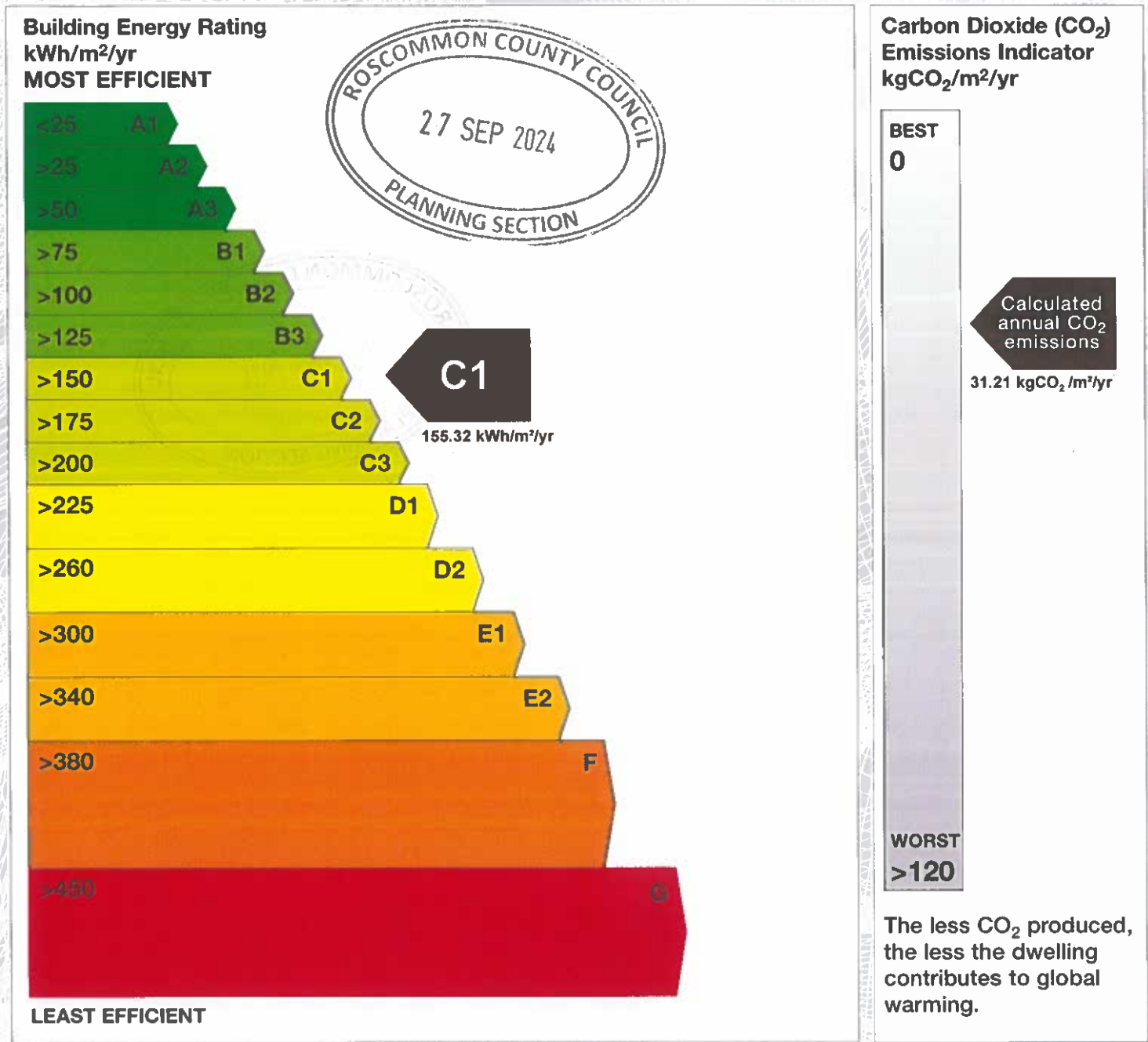
Building Energy Rating (BER)

BER for the building detailed below is: **C1**

Address	10 MONKSFIELD PARK CLOONGOWNA BEALNAMULLA ATHLONE CO. ROSCOMMON
Eircode	N37D2H2
BER Number	116379504
Date of Issue	24/04/2023
Valid Until	24/04/2033
Assessor Number	103077
Assessor Company No	103077

The Building Energy Rating (BER) is an indication of the energy performance of this dwelling. It covers energy use for space heating, water heating, ventilation and lighting, calculated on the basis of standard occupancy. It is expressed as primary energy use per unit floor area per year (kWh/m²/yr).

'A' rated properties are the most energy efficient and will tend to have the lowest energy bills.



3. SAFETY STATEMENT





SAFETY STATEMENT

VERSION 2.0	UPDATED 25 JANUARY 2024



Dídean

CONTENTS

SECTION 1 : INTRODUCTION

- 1.1. Safety Legislation
- 1.2. The Health & Safety Statement
- 1.3. Dídean Safety Policy
- 1.4. Structure and Organisation (Organogram)
- 1.5. Safety Management System
- 1.6. Document Control and Revision Procedure

SECTION 2: MANAGEMENT RESPONSIBILITIES

- 2.1. Introduction
- 2.2. Safety Management Team
- 2.3. Responsibilities
- 2.4. Cooperation of Employees
- 2.4. Contractor Responsibilities

SECTION 3:CONSULTATION,COMMUNICATION AND REPRESENTATION

- 3.1. Consultation
- 3.2. Communication
- 3.3. Representation
- 3.4. Safety Statement

SECTION 4:SAFETY MEASURES

- 4.1. Introduction
- 4.2. Hazard and Risk Reporting
- 4.3. Accident Reporting & Investigation



SECTION 1 INTRODUCTION

1.1 SAFETY LEGISLATION

The Safety, Health, and Welfare at Work Act 2005, (SI No. 10 2005), governs health and safety in the workplace. Dídean management must ensure, so far as reasonably practicable, that the workplace is safe, that the equipment provided is safe, that staff are properly trained and that they work under a system of work that will help to ensure their health and safety whilst at work. Staff must co-operate with these systems of work and the arrangements that are provided, for health and safety reasons.

The company must consult with staff on health and safety issues and is entitled to their cooperation in the development of safe systems and safe arrangements for the workplace.

The Safety, Health and Welfare at Work (General Application) Regulations 2007 will also be adhered to where applicable.

1.2 DIDEAN HEALTH & SAFETY STATEMENT

A provision of the 2005 Safety, Health and Welfare at Work Act, requires that employers prepare a Health and Safety Statement. This Statement must describe the organizational and physical arrangements for safety, including the assignment of responsibilities to individuals and a statement of the co-operation required from employees to maintain those standards.

The Statement must refer to the particular hazards in the workplace concerned and must indicate the risks associated with those hazards and the arrangements for control of the particular hazard. This document has been prepared to comply with the company's duty under this provision of the Act.



1.3 DÍDEAN HEALTH AND SAFETY POLICY

Dídean recognises that it has responsibilities under the Safety, Health and Welfare at Work Act 2005, the Safety, Health & Welfare at Work (General Applications) Regulations 2007 to 2023 (as amended) and current health and safety legislation for the health and safety of its workforce whilst at work and others who could be affected by its work activities. We will assess the hazards and risks faced by our workforce in the course of their work and take action to control those risks to an acceptable, tolerable level.

Our Managers and Social Care Team or Social Care Management Team are made aware of their responsibilities and required to take all reasonable precautions to ensure the safety, health and welfare of our workforce and anyone else likely to be affected by the operation of our business.

This business intends meeting its legal obligations by providing and maintaining a safe and healthy working environment so far as is reasonably practicable. This will be achieved through;

- the provision of health and safety leadership in identifying and controlling health and safety risks so identified;
- consultation with our employees on matters affecting their health and safety;
- the provision and maintenance safe plant and equipment;
- ensuring the safe handling and use of substances;
- the provision of necessary information, instruction and training for our workforce, taking account of any who do not have English as a first language;
- making sure that all workers are competent to do their work, and giving them appropriate training;
- the prevention of accidents and cases of work related ill health;
- the active management and supervision of health and safety at work issues;
- having access to competent advice;
- the provision of the necessary resource, financial and other, required to make this policy and our health and safety arrangements effective;
- aiming for a continuous improvement in our health and safety performance and management through a process of regular audit and review; and
- reviewing this policy and associated arrangements on a periodic basis using findings from the audit process, staff consultations and incident investigation to guide change.

We also recognise;

- our duty to co-operate and work with other employers when we work at premises or sites under their control to ensure the continued health and safety of all those at work; and
- our duty to co-operate and work with other employers and their workers, when their workers come onto our premises or sites to do work for us, to ensure the health and safety of everyone at work.

To help achieve our objectives and ensure our workforce recognise their duties under health and safety legislation whilst at work, we will also remind them of their duty to take reasonable care for themselves and for others who might be affected by their activities. These duties are explained on first employment at induction and also set out in an Employee Safety Handbook, given to each worker, which sets out their duties and includes our specific health and safety rules. In support of this policy we have prepared a responsibility chart and specific arrangements.

Signature Fiona Delaney **Date** 16-May-24 | 5:03 AM PDT

Position Chief Financial Officer

Signature Colleen Wall **Date** 16-May-24 | 3:49 AM PDT

Position Chief Operations Officer

The policy is reviewed on a periodic basis.



1.4 ORGANISATION

Health and Safety Management Structure

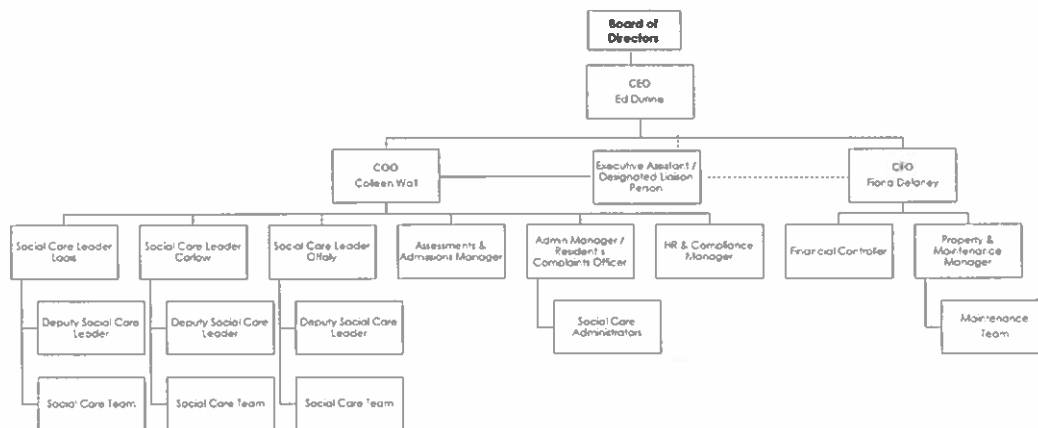
Introduction

The Board of Directors have overall responsibility for the implementation of this policy.

The policy is executed through key personnel who have been allocated specific responsibilities for managing health and safety.

Emphasis is placed on recognising potential hazards and taking steps to minimise their effect on employees and others.

The organisational structure set out below shows the key personnel with health and safety responsibilities.





Dídean

SECTION 2 RESPONSIBILITIES IN RELATION TO HEALTH & SAFETY

2.1 INTRODUCTION

This section outlines the Safety Organisation in place in Dídean and the responsibilities of individuals in relation to safety.

2.2. SAFETY MANAGEMENT TEAM

The Safety Management Team is the senior management team in Dídean. The Safety Management Team will meet on a bi-monthly basis or when necessary. The following are permanent members:

Fiona Delaney, CFO

Colleen Wall, COO

Safety Committee

The Safety Management Team is cross-functional and should be seen as a forum for safety discussions. The meetings are open to observers.

The overall responsibility of the Safety Management Team is to:

- Promote a proactive safety culture in Dídean.
- Communicate all safety objectives.
- Constantly monitor and evaluate safety performance.
- Ensure that the Safety Statement and related safety documents are being revised and updated when necessary.
- Evaluate and approve purchase of safety equipment or safety related activities.
- Deal with current concerns and seek to anticipate future issues.

2.3 HEALTH AND SAFETY MANAGEMENT RESPONSIBILITIES

The Board of Directors have overall responsibility for health and safety matters. We have identified a need for and taken action on the key issues below.

THE MANAGEMENT OF HEALTH AND SAFETY

General

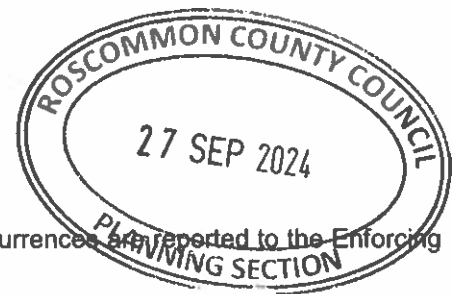
- Provide and resource an effective health and safety management system.
- Provide a suitable means of consultation with employees on health and safety matters.
- Ensure that adequate Employers' Liability Insurance cover is arranged and maintained.
- Ensure that health and safety implications are considered when acquiring new equipment and machinery.
- Ensure that contractors (when employed) are competent and monitored during work.
- Ensure that a process is in place to identify and report hazards.
- Ensure that all employees are provided with appropriate health and safety training.
- Provide measures to protect the health and safety of employees working alone.
- Monitor the health and safety performance of the organisation.

Occupational Health

- Ensure that adequate procedures are in place to identify and address occupational health risks.
- Ensure that the measures required to reduce and control employees' exposure to occupational health risks are in place and used.
- Implement measures to reduce stress within the workplace.

Accidents, Incidents and First Aid

- Record accidents and incidents.
- Complete accident and incident investigations, identify causes and measures for prevention.



Dídean

- Ensure that applicable injuries, diseases, and dangerous occurrences are reported to the Enforcing Authority.
- Ensure that adequate first aid arrangements are in place.

Fire and Emergency Arrangements

Ensure that;

- Adequate arrangements are in place to deal with fire safety at our premises or at our client's premises.
- Employees are aware of the fire and evacuation arrangements and other emergency procedures.
- Emergency equipment is provided, tested, and maintained appropriately.
- Adequate Fire Risk Assessments are completed.

Risk Assessment

Ensure that;

- Risk assessments are undertaken and Safe Systems of Work are produced for all activities that pose a significant risk of harm.
- Risk assessments are documented.
- The outcomes of risk assessments are communicated effectively to employees and others.

Premises

- Provide a suitable and safe working environment for employees with adequate welfare facilities.
- Ensure that the fixed electrical installation is adequately installed and maintained.
- Introduce and maintain measures to control and manage the risks posed by asbestos.
- Ensure good housekeeping standards are instigated and maintained.
- Provide suitable and sufficient maintenance of the facilities provided within the workplace.

Equipment

Ensure that;

- All equipment provided by the organisation is suitable and properly used.
- All work equipment is adequately maintained and safe.
- Portable electrical appliances are adequately maintained, inspected, and tested.
- Appropriate hand tools are provided and maintained.
- Any Personal Protective Equipment (PPE) provided gives suitable protection, is used and that employees are given information, instruction, and training on its use.

Substances

Ensure that;

- All substances are used safely.
- All substances are appropriately stored.

The Responsibility Table on the next page identifies the specific health and safety responsibilities and identifies the individuals they are allocated to. Employees with allocated responsibilities should refer to the associated Safety Arrangements which are available following the responsibility table within this document.

EMPLOYERS RESPONSIBILITIES INCLUDE

- A commitment to managing and conducting our work activities in order to protect your health and safety.
- Providing a safe place of work which is adequately designed and maintained.
- Providing safe means of access and egress to and from the place of work.
- Providing safe plant, equipment, and machinery.
- Providing safe systems of work, e.g. operating procedures.
- Preventing improper conduct likely to put an employee's safety and health at risk.
- Preventing risk to health from any article or substance (including plant, tools, machinery, chemical substances, and equipment) as applicable to the place of work.

Didean

- Providing appropriate information, instruction, training, and supervision, taking account of the employee's capabilities, when an employee begins work or is transferred to new tasks, and when new technology is introduced.
- Providing suitable protective clothing and equipment where hazards cannot be eliminated.
- Preparing and revising emergency plans.
- Designating staff to take on emergency duties as necessary.
- Providing and maintaining welfare facilities for example toilets, changing rooms, canteen area etc.
- Providing, where necessary, a competent person to advise and assist us in securing the safety, health, and welfare of all of our employees.

2.4 EMPLOYEES RESPONSIBILITIES INCLUDE

- Complying with relevant health and safety legislation.
- Ensuring that you are not under the influence of an intoxicant while working as this could endanger your safety, health, and welfare or that of others.
- Ensuring that you do not engage in improper conduct or other behaviour that is likely to endanger your safety, health, and welfare or that of others.
- Co-operating with your employer and any other person to help us and any other person to comply with their legal duties.
- Use in such a manner so as to provide the protection intended, any suitable appliance, protective clothing, convenience, equipment or other means provided (whether for your use alone or for use in common with others) for securing your safety, health and welfare while at work.
- To report to your employer or immediate supervisor, without unreasonable delay, any defects in plant, equipment, place of work or system of work that might endanger safety, health, or welfare at work of any employee or that of any other person of which you become aware.
- No person(s) shall intentionally or recklessly interfere with or misuse any appliance, protective clothing, convenience, or equipment provided in pursuance of any of the relevant statutory provisions or otherwise, for securing the safety, health and welfare of persons arising out of work activities.
- Attend training as may be required or as may be prescribed relating to safety, health and welfare at work or relating to work carried out by you.

MONITORING

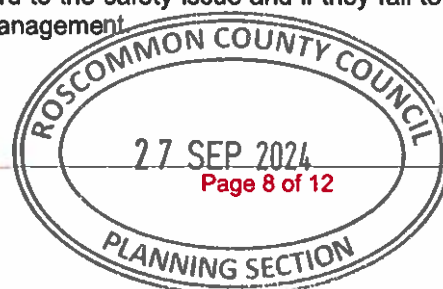
The operation of this policy and arrangements is actively monitored through the periodic review of our completed Safety Record Forms and also by using Periodic Workplace Checklists. The Board of Directors have overall responsibility for this, but some of the routine tasks may be delegated. We also undertake an annual health and safety management review to determine whether our existing health and safety procedures and arrangements are adequate. This is achieved by completing an Annual Health and Safety Review form.

The continual review of the completed Annual Health and Safety Review records and the Periodic Workplace Checklists, along with our comprehensive Safety Records, helps us to check the effectiveness of our Safety Management System.

SECTION 3. CONSULTATION, COMMUNICATION AND REPRESENTATION

3.1. CONSULTATION

The consultative process concerning health and safety matters is a two-way flow of information. The employees are actively encouraged to participate in the consultation process and all reasonable issues will be dealt with quickly and effectively. The Safety Advisor is available for advice, interpretation and consultation and he will facilitate the movement of information from both management and the employees. Each employee should initially contact their line manager with regard to the safety issue and if they fail to gain satisfaction they should continue to raise the matter with the Management.



Dídean - Safety Statement	Issue Date:	Rev Date:
	15/05/2024	15/05/2025

3.2. COMMUNICATION

All employees and sub-contractors will be made aware of the company's safety statement and safety management system. This will be communicated through the site induction on commencement of employment with Dídean. Employees will also be informed of any relevant changes to the safety statement by safety bulletins. In addition to induction process there will be periodic Key working Session's covering the various sections of the safety statement. Health and Safety including Safety Statement is placed as a standing item on all team meeting agendas.

3.3. REPRESENTATION

Employees have the opportunity to elect a safety representative if desired. A safety representative must be elected or appointed when there are twenty or more personnel working on a site.

3.4. SAFETY STATEMENT

A version of the company safety statement is available to all Dídean employees.

SECTION 4. SAFETY MEASURES

4.1. INTRODUCTION

This section outlines additional safety measures to ensure a safe working environment. It also outlines procedures for Hazard and Risk Reporting as well as Accident Reporting and Investigation.

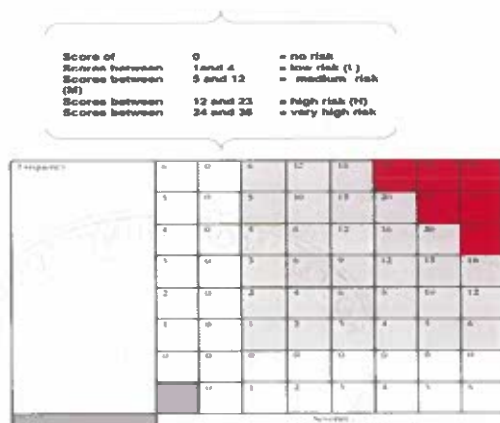
4.2. HAZARD AND RISK REPORTING

All employees have a responsibility to report any hazards observed in Dídean. Hazard and risk reporting are integral components of a company's risk management strategy, often documented in a comprehensive risk register. This register serves as a centralised repository, systematically cataloguing potential hazards and associated risks that the organization may encounter. Please find a link to the risk register:

[Shared Drive - Risk Register and Risk Assessment - All Documents \(sharepoint.com\)](#)

It is essential to acknowledge that the risk register may not be exhaustive, as new risks can emerge, and the business environment is dynamic, the register provides a framework for on-going risk assessment and management.

Key for rating on risk register:



Dídean

4.3. ACCIDENT REPORTING & INVESTIGATION

The following procedure must be applied when an accident has occurred. It should also be applied if a near miss has been identified. A near miss is an unplanned or unforeseeable event that could have resulted, but did not result in human injury, property damage or other form of loss. The reporting of an accident or a near miss must start an investigation in order to prevent similar and related accidents in the future. The Procedure and associated forms are available at the below link in sharepoint:

[Policies and Procedures - Policy and Procedures - All Documents \(sharepoint.com\)](#)

LIST OF PERSONS TO WHOM HEALTH AND SAFETY RESPONSIBILITIES HAVE BEEN ALLOCATED

We are required to identify, by name, managers and supervisors who have responsibility for specific workplace functions. Listed here are the functions and named member of staff responsible for their management and implementation. This list will be updated whenever functions are reassigned or transferred to new personnel.

Location: 10 Monksfield, Bealnamulla, Athlone, Co. Roscommon, N37 W5W0	
Date Completed:	15/05/2024
FUNCTION	NAME
Responsibilities	
Directors	Edward Dunne, Fiona Delaney, Colleen Wall
Chairman	Jimmy Tolan
Chief Executive Officer	Edward Dunne
Chief Financial Officer	Fiona Delaney
Chief Operations Officer	Colleen Wall
Social Care Leaders	Social Care Leaders
HR & Compliance Executive	Fiona Lawless

Note: Those persons who have been allocated responsibilities for health and safety issues should ensure that the required risk assessments and safety records are completed, either by them or by other persons and that the required control measures are implemented when work activities take place.

Where more than one person has been assigned responsibility to a particular subject, each should ensure that they have completed records for the areas under their control and together should ensure that the organisation has, collectively, covered all aspects of safety management for that subject.



Dídean

APPENDIX 1 EMPLOYEE CONFIRMATION OF RECEIPT AND CONTENT OF SAFETY STATEMENT

Please read the notes below, then sign and date this form

Part 1

Dídean has prepared a Safety Statement as required under Section 13 of the Safety, Health and Welfare at Work Act 2005 requires that an organisation produce a written programme to safeguard, the safety and health of employees while they work & the safety and health of other people who might be at the workplace.

The Safety Statement represents Dídean's commitment to their employees' health and safety. It states how we will ensure your health and safety and states the resources necessary to maintain and review health and safety laws and standards. Please read the Safety Statement carefully and ensure you take the time to understand it. If you are unsure of any part of this safety statement, please raise questions about the content with your manager. Once you are satisfied that you understand the safety statement in full, please then read the declaration at Part 2.

Part 2

I have read the Safety Statement. I understand, accept and will comply with the contents. I understand that compliance with the conditions set out forms part of my contract of employment. I will keep myself aware of its contents and any updates I am advised about.

Employee signature:

Date:

Name:

Department:

Note: By law employers have to make available to employees relevant information about their health and safety policies, procedures and safe working systems. The same legislation requires employees to follow safety rules, procedures and instructions set by their employer and should confirm that they understand these matters. In the event of refusal to sign this document, arrangements will be made to have the contents read to you and this will be recorded by your manager.



Didean



APPENDICES

Drawings - Floor Plan Layout









COMHAIRLE CHONTAE LAOISE
LAOIS COUNTY COUNCIL

Áras an Chontae
Portlaoise,
Co Laois
R32 EHP9

Registered Post

Our Reference: S5/2024/26

RECEIVED 24 SEP 2024

Dídean,
c/o Eamonn Prenter,
Cunnane Stratton Reynolds,
Gainsboro House,
24 Suffolk Street,
Dublin 2



19th September, 2024

Re : Section 5 Declaration - whether use of the subject premises as a residence for International Protection Applicants constitutes development and whether, if it does, it can be considered exempted development at **Barrowvale, Portlaoise Road, Carlow, Co. Laois R93C9P0?**

A Chara,

I refer to your application for a Section 5 Declaration of Exempted Development under the Planning & Development Acts 2000 (as amended) and subsequent correspondence received.

Please find attached amended Section 5 Declaration which states that; It is considered that the subject premises (68 Barrowvale, Portlaoise Road, Carlow, Co. Laois, R93 C9P0) as a residence for International Protection Applicants **does not** constitute development under the Planning and Development Act 2000 (as amended).

Trusting the above is in order.

Is mise le meas,

Marie Murray
Senior Staff Officer
Planning Department

cc. Nathan Smith, David O'Hara Planning Dept.

Contact the Planning Section:
Planning Phone: 057 866 4039 – Email: planning@laoiscoco.ie



LAOIS COUNTY COUNCIL

DECLARATION UNDER SECTION 5

OF THE PLANNING AND DEVELOPMENT ACT, 2000 as amended

FILE REF: S5/2024/26

C.E.O: 2024/575

NAME OF APPLICANT: Dídean

NATURE OF APPLICATION: whether the use of a dwelling that is in use for the provisions of accommodation for International Protection applicants constitutes exempt development?

LOCATION OF DEVELOPMENT: at 68 Barrowvale, Portlaoise Road, Carlow, Co. Laois R93 C9P0

It is hereby decided in accordance with the documents submitted, in pursuance of the above Act and by order dated 19th September 2024 that the subject premises (68 Barrowvale, Portlaoise Road, Carlow, Co. Laois, R93 C9P0) as a residence for International Protection Applicants **does not** constitute development under the Planning and Development Act 2000 (as amended).



David O'Hara

SENIOR PLANNER

DATE: 19th September 2024

NOTE: Any appeal against a Declaration of a Planning Authority under Section 5, subsection 3(a) of the Planning & Development Act 2000 (as amended) may be made to An Bord Pleanala within four weeks beginning on the date of issue of the Declaration.

For more information on appeals contact An Bord Pleanala, 64 Marlborough Street, Dublin 1.
www.pleanala.ie or email bord@pleanala.ie



– OPINION –



QUERIST: *Dídean Dóchas Éireann Teoranta*

AGENT: *Cunnane Stratton Reynolds Ltd*

SUBJECT: *Dídean Existing Residential Dwellings Nationwide*

I NATURE OF OPINION

1. Counsel have been requested by Agent to jointly advise on whether the use of residential dwellings, either owned or under the control of Querist, by 'international protection' applicants constitutes development. Counsel have also been asked to advise on other associated matters. These matters are considered below.

II BACKGROUND

2. Querist owns and/or controls a portfolio of second-hand residential properties in the State. These are used for the provision of residential accommodation for persons in international protection (IPAs) at present. These generally comprise 2, 3 and 4 bed dwellings in typical residential communities, mostly dispersed across a wide geographical area in villages/towns/and cities across the State. Some of these properties are adjacent to and/or are located close to (within c. 100m) of each other. Querist's properties mostly comprise three-bedroom semi-detached dwellings and Querist intends to accommodate and/or is accommodating c. 4-8 persons in each property, depending on the size of the property. The persons occupying the property may or not be from the same family but share a single kitchen, and other bathroom and sitting room facilities.
3. Querist provides, and wishes to continue to provide, residential accommodation for people seeking asylum and the facilitation of visiting services or support where required ('Services').
4. Counsel are advised that the Services comprise supported living, day and community outreach services to individuals or groups with a range of complex support requirements. The Services are typically and initially provided for a maximum of 3 hours per person per week by Querist's staff and reduce over time. The Services typically concern: orientation, integration including advice on accessing schooling, and on connecting with medical and health teams, including GPs and hospital services. The Services are not exclusively provided during staff visits and are sometimes communicated remotely via telephone calls, and emails etc. Where Querist's properties are located in close proximity to each other staff can make trips to multiple properties in one day. Counsel are further advised that there is, on average, approximately one vehicle movement going to each property, and one vehicle movement coming from it, associated with the

services each day, and that this equates to a typical number of vehicle movements that one would associate with use as a residential dwelling. In the event of shared trips where there is more than one dwelling at a particular location, this is likely to reduce the number of trips.

5. The occupants are typically housed for 6-18 months at a time. No accommodation is provided to Ukrainians (who benefit from temporary protection pursuant to the Temporary Protection Directive 2001/55 EC, activated by EU Council Decision EU 2022/382). The Services are provided through a contract with a Government Department rather than to families, individuals or groups themselves.
6. Agent has confirmed that none of Querist's properties being used for the provision of residential accommodation to IPAs contain any reception areas or administrative components that might alter the character and/or nature of Querist's properties as domestic dwellings. A typical generalised schedule of accommodation in each property is as follows:

- Hallway;
- Sitting Room;
- Dining Room/Kitchen;
- Utility Room;
- Downstairs WC;
- 3-4 bedrooms, often including Ensuite Toilet/Shower;
- First Floor Bathroom/Toilet; and
- Hot Press.



7. We are instructed that no physical modifications were or are required to any of their properties in order to facilitate the specific use of the properties by international protection applicants and our opinion is based on this premise.
8. This opinion is furnished on the basis of the assumption that the use of the properties for housing international protection applicants is not in breach of any condition of any planning permission relating to the use of the premises and that the immediately preceding permitted or established use was a dwelling, which was an authorised use.
9. The purpose of this opinion is primarily to address situations where an enforcement complaint is made to the planning authority on the basis that the commencement of use of dwellings for emergency accommodation for persons of protected status amounts to a change of use, constitutes development, is not considered exempted development and would consequently require planning permission.
10. Against this background the following questions are posed to Counsel (and are later addressed in the Opinion):

- 1) Does the use of a domestic dwelling for accommodation of international protection applicants constitute development?
- 2) Would a single dwelling, occupied by non-related residents, for international protected applicants, require planning permission?
- 3) Does the provision of Services, through visits by Querist's staff to those under international protection, in an existing dwelling, in itself constitute a change of use from use as a dwelling?
- 4) Does the provision of part time or occasional services envisaged attending a residence fall within Use Class 9 (a) (of the Planning and Development Regulations, 2001, as amended) if applied to international protection applicants?
- 5) Counsel are also requested to opine as to whether the care of persons in their own dwelling on an occasional basis would be regarded as 'ordinarily incidental' to the use of a dwelling under Section 4(1)(j) of the Planning and Development Act, 2000 as amended ('2000 Act') in that the use would be 'incidental to the enjoyment of the house as such'.

III RELEVANT STATUTORY PROVISIONS

Planning and Development Act, 2000 (as amended)

11. There is no definition of "*material change of use*" or a "*dwelling*" in the 2000 Act. '*House*' is, however, defined under section 2(1) of the 2000 Act and that definition includes a reference to use as a '*dwelling*'. '*Structure*', '*use*' and '*works*' are also defined in section 2 of the 2000 Act:

"house" means a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied, and where appropriate, includes a building which was designed for use as two or more dwellings or a flat, an apartment or other dwelling within such a building;"

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(i) where the context so admits, includes the land on, in or under which the structure is situate, and

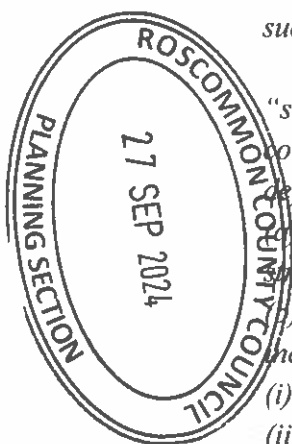
(ii) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

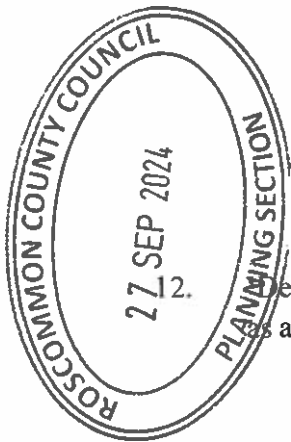
(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii);



"use", in relation to land, does not include the use of the land by the carrying out of any works thereon;



"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."

Development' is defined in section 3(1) of the Planning and Development Act, 2000, as amended ("the 2000 Act") in the following terms:

"In this Act, except where the context otherwise requires, "development" means—(a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or (b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021)." [emphasis added]

13. Section 3(3) provides that the use of a house as two or more dwellings is a material change of use::

"(3) For the avoidance of doubt, it is hereby declared that, for the purposes of this section, the use as two or more dwellings of any house previously used as a single dwelling involves a material change in the use of the structure and of each part thereof which is so used." [section 3(3)]

14. Section 3A(1) provides that the use of a dwelling for short term lettings is a material change of use in certain circumstances:

"(1) The use of a house or part of a house situated in a rent pressure zone for shortterm letting purposes is a material change in use of the house or part thereof, as the case may be." [section 3A]

15. The intended use of each of Querist's properties is not as a "short-term letting", as this is defined under Section 3(5) of the 2000 Act as meaning:

"the letting of a house or part of a house for any period not exceeding 14 days, and includes a licence that permits the licensee to enter and reside in the house or part thereof for any such period in consideration of the making by any person (whether or not the licensee) of a payment or payments to the licensor."

16. Section 4(1) sets out various statutory categories of exempted development. Section 4(1)(j) of the 2000 Act refers to the following type of development as being exempted development:

“development consisting of the use of any structure or other land within the curtilage of a house of any purpose incidental to the enjoyment of the house as such”

17. Section 4(2) of the 2000 Act further empowers the Minister to provide, by regulations, certain classes of exempted development.
18. Section 5 of the 2000 Act empowers a person to seek a declaration from the relevant planning authority on what, in any particular case, is or is not development, or is or is not exempted development.

Planning and Development Regulations, 2001-2024 (as amended)

19. Article 5 of the Planning and Development Regulations 2001 (as amended) (‘the Regulations’) defines a ‘protected person’ as:

“(a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013), (b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or (c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996”

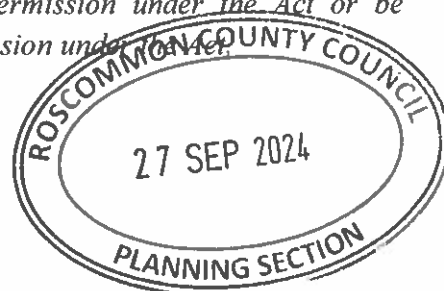
20. ‘Care’ is defined in Article 5 of the Regulations in the following terms:

““care” means personal care, including help with physical, intellectual or social needs;”

21. Article 6 of the Regulations concerns exempted development and provides, *inter alia*, that subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purpose of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1, opposite the mention of that class in the said column 1.
22. Article 9 concerns restrictions on exempted development and provides that development to which article 6 relates shall not be exempted development for the purposes of the Act:

“(1)(a) if the carrying out of such development would—

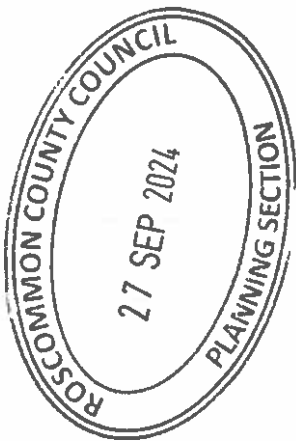
(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,



(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 meters in width,

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft



(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places,

pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,



(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,

(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000.

(viii) 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,

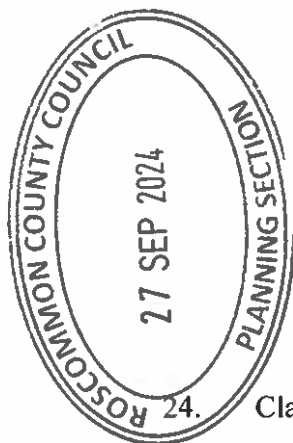
(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,

(xi) obstruct any public right of way,

(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area... ”

23. Article 10 concerns changes of use within the Use Classes specified in Part 4 of Schedule 2. It provides, *inter alia*, that:



“(1) Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

(a) involve the carrying out of any works other than works which are exempted development,

(b) contravene a condition attached to a permission under the Act,

(c) be inconsistent with any use specified or included in such a permission, or

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.

(2) (a) A use which is ordinarily incidental to any use specified in Part 4 of Schedule 2 is not excluded from that use as an incident thereto merely by reason of its being specified in the said Part of the said Schedule as a separate use...”

24. Class 9 of Part 4 of Schedule 2 (linked to Article 10) refers to:

“Use for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose)”

25. Class 14 of Part 2 of Schedule 1 of the Regulations refers to changes of use of types of development that are exempted development (subject to conditions and limitations¹) including:

(f) from use as a house, to use as a residence for persons with an intellectual or physical disability or mental illness and persons providing care for such persons;

(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,²

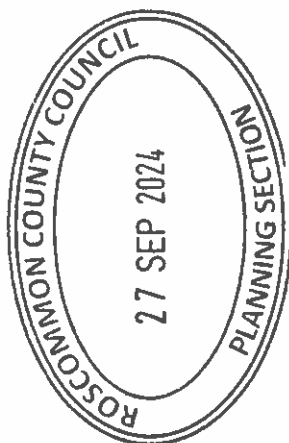
(i) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (h) of the said premises or institution, or

part thereof, to use as an emergency reception and orientation centre for protected

¹ Limitations in column 2 include that the “The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.”

persons... ”

26. Class 20F of Part 2 of Schedule 1 of the Regulations provides that the following is exempted development (subject to conditions and limitations):



“Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction.”

IV OPINION ON LEGAL ISSUES

Does the use of a domestic dwelling for accommodation international protection applicants (IPAs) constitute development?

27. The question of whether the use of a residential dwelling for accommodation of IPAs is development depends on whether it constitutes a material change of use. In some instances, the carrying out of works could suggest a change of use if the purpose of the works was to facilitate subdivision of a dwelling so that it involved the creation of one or more additional dwelling units.
28. Querist confirms that no works have been, or are intended to be undertaken, at Querist’s properties for the purposes of accommodating IPAs other than minor works of maintenance or repair, which would fall within the scope of Section 4(1)(h) of the Planning and Development Act 2000, as amended. We are specifically advised that no works providing for subdivision e.g. by providing an extra kitchen or kitchenette, have been carried out to any of the dwellings.
29. The core issue to be addressed is therefore whether the use of Querist’s properties by IPAs represents a material change of use from the immediately preceding use as a dwelling.

in Ballinamore. Subsequent correspondence between these parties dated the 29th November, 2019, clarifies that 25 families would occupy the subject 25 apartments, which would be used on an 'own-door independent living basis', with no communal living facilities. Having visited the referral site, it is clear that the residential accommodation is being operated in a manner similar to other apartment developments, with gated access and servicing by a management and security suite. Facilities beyond those that would normally form part of an apartment complex were not in evidence and the facility does not feature any particular additional reception, orientation or care services. The facility is not operating as an emergency reception for the care of protected persons, it is being operated as residential accommodation, as per the permitted use and the status or personal circumstances of the apartment residents is not a material planning issue. I am satisfied that the current use of the apartments is not as a facility for the reception and care of protected persons and does not constitute a change of use from the permitted use and, therefore, does not constitute development." [Emphasis added]

40. We also note that a recent Section 5 declaration by Laois County Council (ref. S5/2024/26) (September 2024 confirms that the use of one of Querist's residential properties (68 Barrowvale, Portlaoise road, Carlow, Co. Laois) "*as a residence for International Protection Applicants does not constitute development under the Planning and Development Act 2000 (as amended).*"

41. The use of dwellings in Querist's portfolio is an entirely different use from use as a hostel but it is perhaps instructive to consider the characteristics of the latter use. While under different statutory provisions, and in a different jurisdiction, in *Panayi v Secretary of State for the Environment* (1985) 50 P&CR 109, (Queens Bench Division - England) the court considered whether the use of four self-contained flats amounted to a change of use to 'hostel' use. Kennedy J held that the Planning Inspector had been entitled to conclude: (i) that the premises were being used as a "hostel"; and (ii) that a material change of use had taken place from the use for which planning permission had been granted. It was argued in that case that the presence of some of the features below combined were sufficient to distinguish the use of the premise as that of a hostel:



- a) The presence of dormitories and/or communal or shared facilities.
- b) The use of the premises in accommodating specific categories of people, e.g., the young, or the homeless.
- c) Whether the premises are serviced and/or supervised.
- d) Whether payment is made by the local authority.
- e) Whether payment is on a nightly basis
- f) Whether the residents are transient in the sense that they are 'placed' in accommodation whilst awaiting accommodation elsewhere.

42. In the case of each of Querist's properties it is understood that:



- (a) No dormitories or communal facilities have been installed to facilitate the use - the permitted kitchen and living room in each house is unaltered.
- (b) The subject accommodation in each instance is for international protection applicants. However, its use is not limited to young or old occupants. Furthermore, the accommodation provided by Querist is not a reception facility, nor are the dwellings used as an administrative centre, in any instance. Rather each house is in residential use.
- (c) No carers are based in any of Querist's dwellings and there are no staff located on site supervising occupants/residents.
- (d) Payment is made by a Government Department;
- (e) Payment is not made on a nightly basis;
- (f) Accommodation is not being provided on a short-term basis – occupants are being accommodated for a period of c. 6–18 months at a time.

43. When one considers these characteristics of hostel use it can readily be concluded that the use of Querists' properties does not fit into this category of use. We are advised by Agent that no traffic impacts arise from the use of any of the dwellings over and above what would normally be associated with visitors to a house. It follows that there is no *material* intensification of use of the dwelling in terms of off-site traffic impacts as a result of the occupation by IPAs. Any services provided to the occupants by Querist are on an occasional basis. The intended occupancy level of each unit (i.e.) by c.4-8 persons are consistent with the typical level of occupancy of a 3-4 bedroom dwelling. In terms of level of occupancy, therefore, no issue of intensification would appear to arise. However, we will consider the issue of intensification of use in more detail below.
44. In principle, the use has not changed in that each dwelling continues to be used for the provision of residential accommodation where the use does not have material off-site planning impacts, including, in particular, traffic impacts associated with any occasional (non-business related) services provided on a visiting basis.

Material Intensification of Use

45. As briefly mentioned above, an increase in the intensity of use of itself is not sufficient to give rise to the need to obtain permission. The intensification must be material in planning terms when its impacts on the locality are considered. The remarks of Clarke J (as he then was) in *Cork County Council v Slattery Pre-Cast Concrete* [2008] IEHC 291 are of relevance in determining whether an intensification of an established use is material:

"The assessment of whether an intensification of use amounts to a sufficient intensification to give rise to a material change in use must be assessed by reference to planning criteria. Are the changes such that they have an effect on the sort of matters which would properly be considered from a planning or environmental perspective? Significant changes in vehicle use (and in particular heavy vehicle use (that might not otherwise be expected in the area)) are one such example, changes in the visual amenity or noise are others."

46. For the reasons outlined above, and on the basis of the facts as furnished by Agent to Counsel, there are no off-site or other impacts on the locality which are material in planning terms. The houses will essentially be used in the same way as they were used as dwellings prior to their occupation by IPAs. It is therefore considered that the use of these dwellings by IPAs for the provision of residential accommodation does not represent a material intensification of the permitted use such as to give rise to a material change of use.

Can the planning code make a distinction between residents or occupants of a different political status (i.e. those internationally protected and those not?).

47. Specific exemptions have been provided in legislation to allow for the conversion of certain non-residential premises to house protected persons. The Irish planning system specifically enables distinctions to be drawn/conditions to be attached to planning permissions restricting the use of structures to persons of a particular class or description. However, this restriction can only be imposed where it serves a planning purpose. Section 38(2) of the 2000 Act provides:

"Where permission is granted under this Part for a structure, the grant of permission may specify the purposes for which the structure may or may not be used, and in case the grant specifies use as a dwelling as a purpose for which the structure may be used, the permission may also be granted subject to a condition specifying that the use as a dwelling shall be restricted to use by persons of a particular class or description and that provision to that effect shall be embodied in an agreement under section 47". [Emphasis added]

48. A working assumption has been made that there are no conditions restricting the use of any of Querist's properties to use for a particular class or category of persons attached to any planning permission. In general, planning is not concerned with the class or type of persons carrying out a particular use, but focusses instead on the planning or environmental impacts. Planning permission ensures for the benefit of the land under section 38(2) of the 2000 Act, i.e. it runs with the land.

Would a single dwelling, occupied by non-related residents, who are internationally protected applicants, require planning permission?

49. If there is occupancy by persons without family or other connections where kitchen and other facilities are shared, this may operate no differently in planning terms to occupation by a family/ household provided that the planning and environmental impacts are no different. Occupancy by unrelated persons/non-family units could potentially generate a higher car parking requirement and, as a consequence, potentially greater off-site traffic impacts. However, such a consideration would appear unlikely to arise in the context of occupation by IPAs, most of whom would not be expected to have cars, given the manner of their arrival in the country.



Does the provision of remote, part time or occasional services envisaged attending a residence fall within Use Class 9 (a) if applied to international protection applicants?

50. Class 9 provides that a change between the following types of use are exempted development:

"Use—

(a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose),

(b) as a hospital or nursing home,

(c) as a residential school, residential college or residential training centre."

51. Class 9 does not apply as each of Querist's properties is a 'house' for the purposes of the 2001 Regulations.

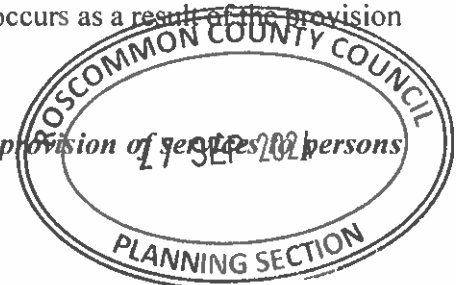
Does the provision of the services, through visits to those under international protection, in an existing dwelling, in itself constitute a change of use?

52. The question of whether the maximum provision of three-hours of care services per person, per week, sometimes provided remotely, amounts to a change of use or a material change of use depends on the planning impacts. On the basis of the services provided, it is considered that this level of provision of care would be akin to a visiting nurse providing 'in the community' care and as such would not give rise to a change of use. Moreover, unless there were any material planning impacts, e.g. in terms of traffic generated etc., it could not be regarded as a *material* change of use. We are instructed that in terms of trip generation there will be just one vehicular movement in and one movement out per day associated with the provision of care services. It is difficult to see how this could be regarded as a change of use which was material in planning terms. Such a level of trip generation would be regarded as ordinarily incidental to the use of a typical dwelling.
53. In *Westmeath County Council v Quirke* (unreported, High Court, 23rd May 1996) the Court noted that:

"Many alterations in the activities carried out on the land constitute a change of use, however, not all alterations will be material. Whether such changes amount to a material change of use is a question of fact..... Consideration of the materiality of a change in use means assessing not only the use itself but also its effects."

54. On the basis of the low level of care services supplied, we are therefore of the opinion that no material change of use of Querist's properties occurs as a result of the provision of care services.

Please opine on whether you hold the view that the provision of services to persons



in their own dwelling on an occasional basis would be regarded as ‘ordinarily incidental’ to the use of a dwelling under Section 4(1)(j) of the Act in that the use would be ‘incidental to the enjoyment of the house as such’.

55. Section 4(1)(j) provides the following development is exempted development:

“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”

56. Insofar as exemptions are to be strictly construed, on one reading section 4(1)(j) applies not to a house itself but to any structure or other land within the curtilage of a house. On this basis, the use of the house itself for the provision of care is not incidental to the use of other land within the curtilage of a house. If it does apply to the house itself, a care use would, in our opinion, be incidental to the enjoyment of the dwelling house as such. Occasional visits to the home by friends or family or by care professionals making house visits is part of the ordinary or normal use of a dwelling house provided that the visits are at a level which do not give rise to any disamenity and are subordinate in land use terms to the primary use as a dwelling. The position might change if there were significant off-site impacts associated with the secondary use. The test usually applied in UK case law is whether the use is reasonably or ordinarily incidental to the use of the dwelling house in this sense. In *Emin v Secretary of State for the Environment* [1989] JPL 909, Eyre QC (sitting as a deputy High Court judge) stated:

“The fact that such a building had to be required for a purpose associated with the enjoyment of a dwelling house could not rest solely on the unrestrained whim of him who dwelt there but connoted some sense of reasonableness in all the circumstances of the particular case. That was not to say that the arbiter could impose some hard objective test so as to frustrate the reasonable aspirations of a particular owner or occupier so long as they were sensibly related to his enjoyment of the dwelling. The word ‘incidental’ connoted an element of subordination in land use terms in relation to the enjoyment of the dwelling house.” [Emphasis added]

57. If the correct interpretation is that the exemption does not apply to the main house itself, the analysis does not change much as the issue is as to whether the provision of occasional care visits in a domestic setting is ancillary to the primary use of the dwelling as a residence. To be ancillary, the applicable test is generally considered to be whether the use in question is ‘ordinarily incidental’ or, to put it another way, a use which is *normally* incidental to the primary use as a dwelling. In our opinion, weekly care visits are ordinarily incidental to the primary use as a dwelling. The position might be viewed differently if the residential care were being provided permanently in each dwelling.
58. The introduction of services in terms of the use of a dwelling under consideration should not be material if it does not give rise to any material off-site impacts. As indicated above,



the number of vehicular trips likely to be generated by the provision of these direct services is no different to that expected for a house in occupation as a dwelling.



V CONCLUSION

59. Having regard to the foregoing considerations, and subject to any qualifications or assumptions expressed above, it is considered that the use of Querist's portfolio of dwellings for the accommodation of IPAs does not give rise to a material change of use from their use as dwellings and, therefore, does not constitute 'development' requiring planning permission for the following reasons:
- a. Querist's properties are being and are intended to be used solely for residential purposes which is essentially the same use as their preceding use as dwellings prior to their occupation by IPAs.
 - b. Querist's properties are not being used either as reception or administrative centres for those seeking international protection and do not contain any such facilities internally.
 - c. In many instances there is just one family living in Querist's properties. Where additional occupants are accommodated, who are not related, they share the same kitchen and living room facilities. Therefore, the occupation by IPAs would not of itself give rise to any material change of use, unless it were accompanied by a material increase in off-site impacts such as significantly increased traffic, which, for the reasons discussed above would appear highly unlikely. The position might be different if there was significant car ownership among IPAs, leading to increased traffic or car parking demand, but this would not normally be expected given the manner of arrival of these persons.
 - d. Based on our instructions and the information furnished in terms of the level of occupancy (typically 4-8 persons in 3-4 no. bedrooms), the issue of intensification does not appear to arise. Moreover, it is only where an intensification of use gives rise to material planning impacts that a *material* change of use by reason of intensification could be taken to have occurred. In the absence of any material vehicular or other off-site impacts in the present case, it is our opinion that there is no material change of use in this respect in the current or intended use of any of Querist's properties.
 - e. The Board's decision and related planning Inspector's Report on the Ballinamore (Co. Leitrim) referral and more recent Section 5 declaration by Laois County Council (S5/2024/26) dated September, 2024 in respect of No. 68 Barrowvale, Graigecullen, Co. Laois, also support the conclusions of this opinion that the use of residential dwellings by protected persons does not constitute development.
60. Nothing further occurs at this time. We can advise further if required.

Conor Sheehan BL
Eamon Galligan SC

25th September 2024



LEGEND

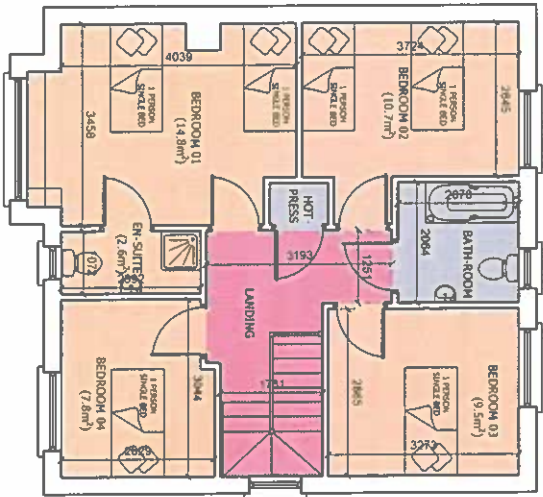
COMMUNAL SPACES

BEDROOMS

CIRCULATION AREA

FLOOR AREAS:

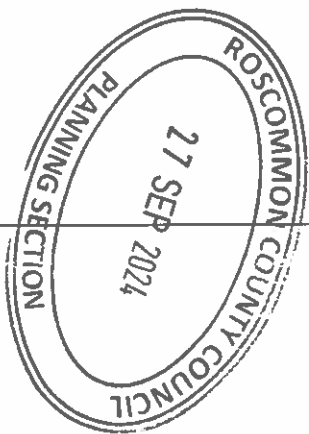
GROUND FLOOR 73.79qm
FIRST FLOOR 60.25qm
Total 133.95qm



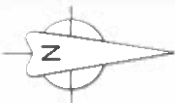
FIRST FLOOR PLAN
Scale 1:125



GROUND FLOOR PLAN
Scale 1:125



SITE LOCATION MAP



NOTES

Dídean
PARTNERSHIP INTEGRATION INCLUSION

REV	DATE	DESCRIPTION	BY	CHK
R1	27/09/24	Final for approval	DD	DD

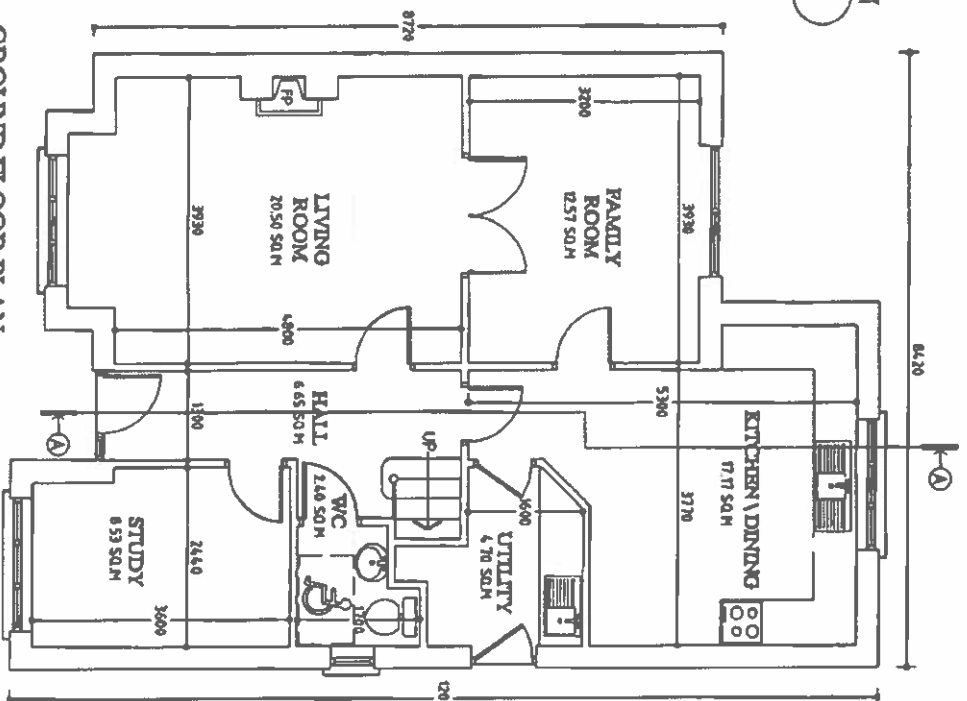
PROJECT
LENZTECH SURVEYING & ENGINEERING LTD



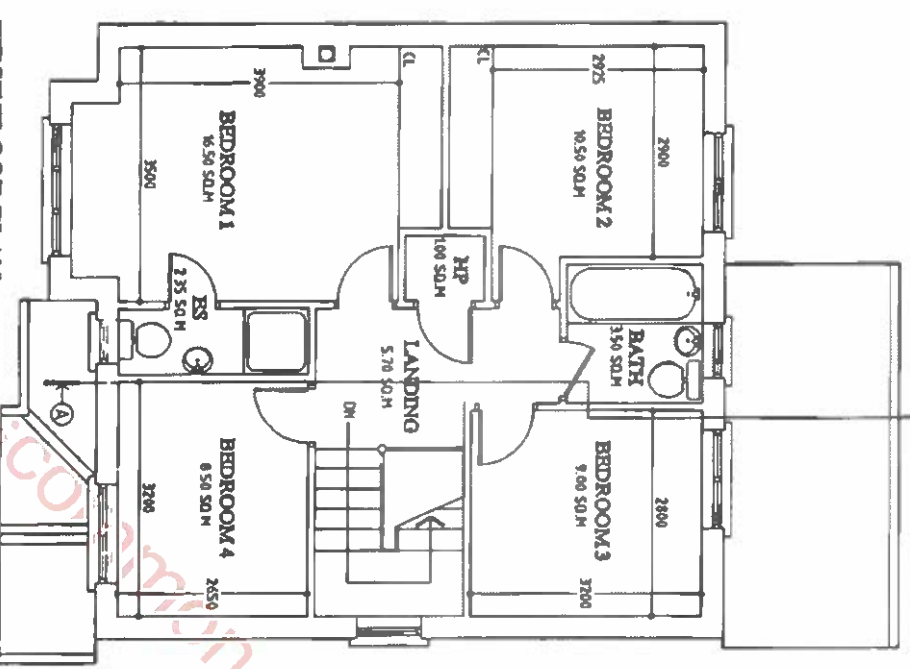
PROJECT
ATHLONE
TITLE
10 MONKSFIELD PARK, ATHLONE, NS2 D242
ATHLONE - FLOOR PLANS

REPORT ISSUE

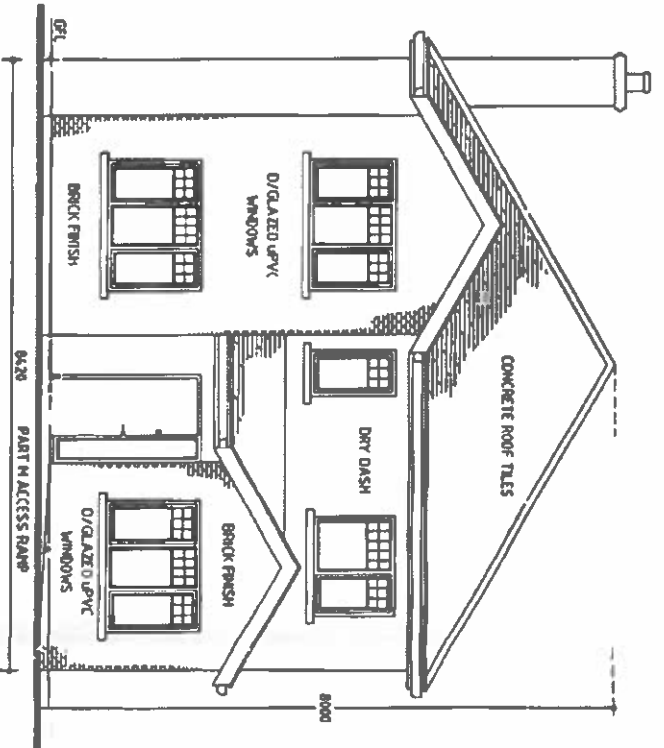
DRAWN	DD	CHECKED	DD
DATE	27/09/24	DATE	27/09/24
AS SCALE	AS SHOWN	SCALE	1:125
REF	23104-R-01	REF	R1



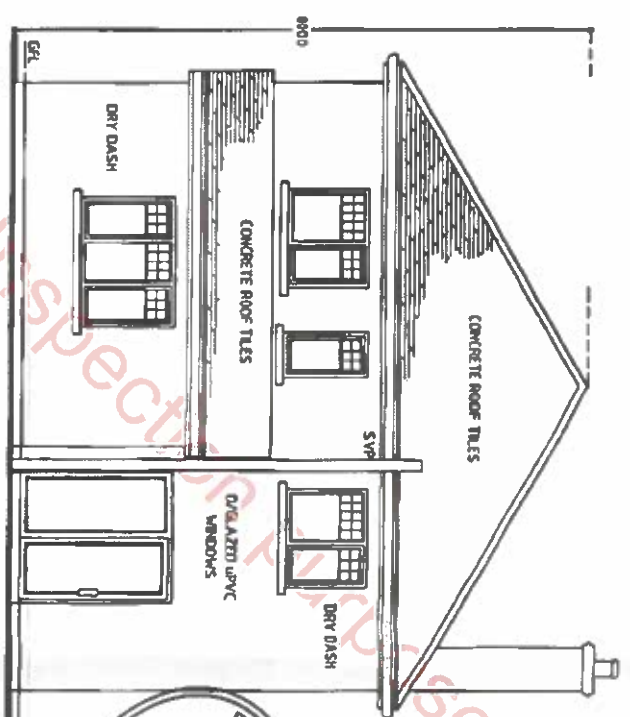
GROUND FLOOR PLAN.
FLOOR AREA 77.10 SQ.M



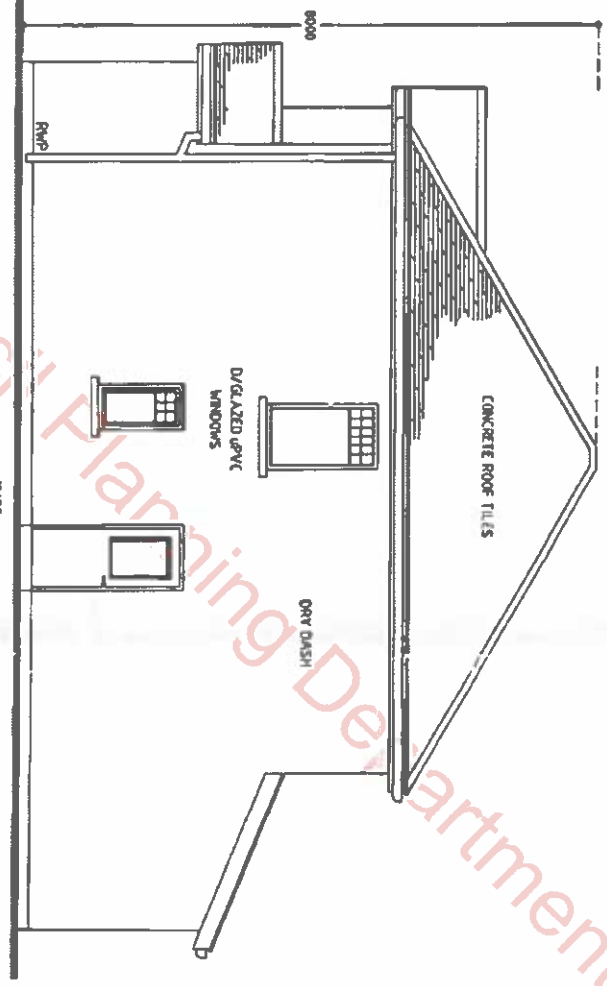
FIRST FLOOR PLAN.
FLOOR AREA 64.50 SQ.M



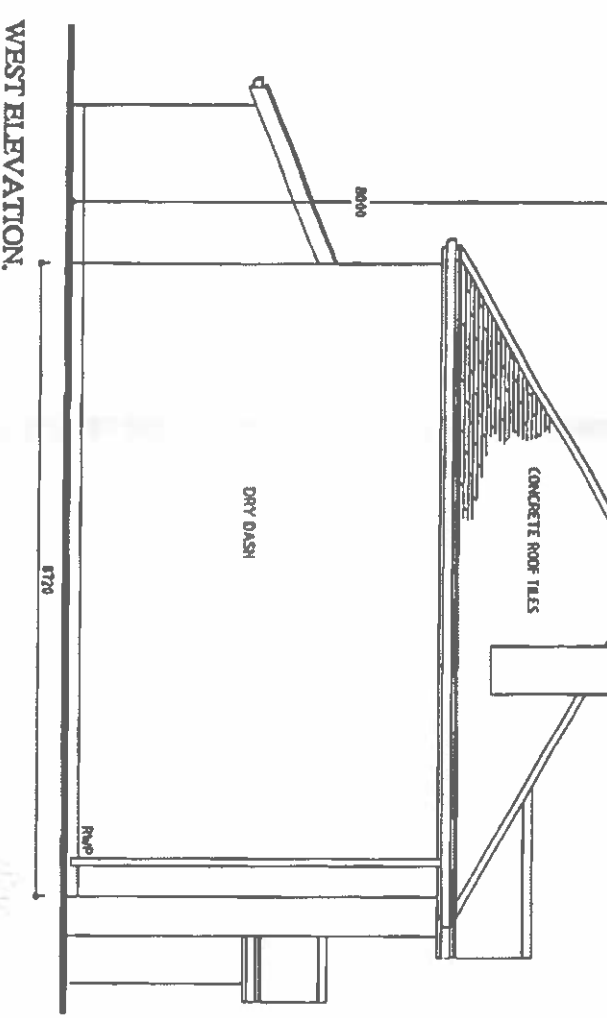
SOUTH ELEVATION.



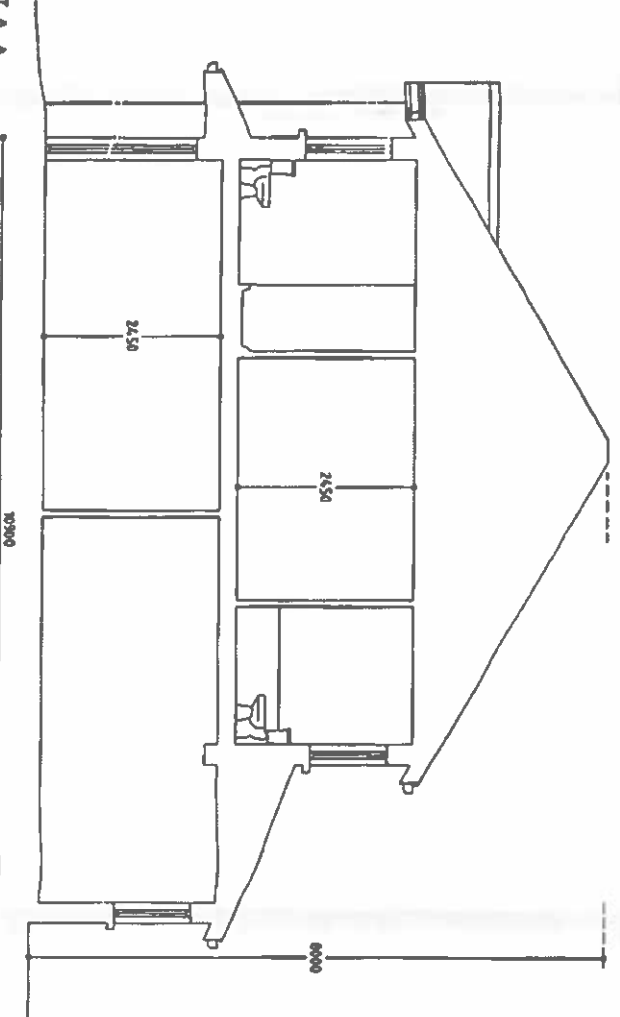
NORTH ELEVATION.



EAST ELEVATION.



WEST ELEVATION.



CROSS SECTION A-A

- NOTES
1. THIS DRAWING IS THE COPYRIGHT OF PHILIP GINNELL, REGISTERED ARCHITECT.
 2. THIS DRAWING IS TO BE USED FOR PLANNING APPLICATION PURPOSES ONLY AND FOR NO OTHER USE.
 3. DO NOT SCALE FROM THIS DRAWING.
 4. USE FIGURED DIMENSIONS ONLY.
 5. READ THIS DRAWING IN CONJUNCTION WITH DRAWING NO 2083 D - 01, 06, 07, 08, 09, 10 & 11.



A3

CLIENT: SLEVIN BROS.
PROJECT: PROPOSED DEVELOPMENT COMPRISED OF 1 NO. 4 BED TWO STOREY DETACHED HOUSE, 2 NO. 4 BED TWO STOREY SEMI-DETACHED HOUSES AND 18 NO. 3 BED TWO STOREY SEMI-DETACHED HOUSES.
LOCATION: 1-2 B MONKSFIELD, 12-15 B MONKSFIELD PARK AND 66-77 MONKSFIELD PARK, CLOONAGHNA V. MONKSLAND, ATHLONE, CO. ROSCOMMON.
TITLE: PLANNING APPLICATION DRAWING
SITE NO.1
TWO STOREY 4 BED DETACHED HOUSE TYPE, GROUND AND FIRST FLOOR PLANS, ELEVATIONS AND CROSS-SECTION.
PROJECT NO. 2083 D. DRAWING NO. 05 PL. REVISION: 01
DATE: 01/03/16 SCALE: 1/100. DRAWING: 01
PHILIP GINNELL
MURAL ARCHITECT
CULLION, MULLINGAR, CO. WESTMIDLE
T. 044 9340271. M. 086 8224687. E. ginnell@roscommon.ie