

From: [CARMEL KELLY](#) on behalf of [planning mailbox](#)
To: [MARTINA PARKE \(PLANNING\)](#)
Subject: FW: Section 5 – Chimney Removal – Saint Johnstown Receipt No. 665428
Date: Friday 13 June 2025 12:04:22
Attachments: [Section 5 Gable end Chimney removal St Johnston.pdf](#)

From: Tom Kennett [REDACTED]
Sent: 13 June 2025 11:44
To: planning mailbox <Planning@Donegalcoco.ie>
Subject: Section 5 – Chimney Removal – Saint Johnstown Receipt No. 665428

You don't often get email from [REDACTED] [Learn why this is important](#)

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Dear Planning Officer,

Please see attached Section 5 form.

I am simply requesting confirmation that the **gable end chimneys**, which are causing the serious issues outlined in the form, can be removed.

I would appreciate a quick response to this relatively straightforward request.

Receipt No. 665428

Kind regards,

Tom Kennett



**Comhairle Contae
Dhún na nGall**
Donegal County Council

SECTION 5 APPLICATION

FOR DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

Completed application form & supporting documentation to be returned to the Planning Authority by email to planning@donegalcoco.ie

Name of Applicant(s):	Tom Kennett
Agent Name: (if applicable)	
Location of Proposed Development / Works: (Townland or postal address as appropriate and Eircode if available)	MAIN STREET SAINT JOHNSTON CO. DONEGAL F93 K2EH
Description of Proposed Development including details of works (where applicable): (Only works listed below will be assessed under <u>this</u> section 5 application)	
<p>Seeking confirmation that removal of both gable end chimneys and extension of the existing roof over the voids qualifies as exempted development.</p> <p>Key issues:</p> <p>Severe water leaks — chimneys act as sponges, soaking and trapping moisture</p> <p>Major heat loss — open structure pulls heat directly out of the building</p> <p>Structural risk — unstable, partly rebuilt in concrete block, risk of collapse</p> <p>High repair cost — full rebuild not viable or necessary</p> <p>Ongoing damage — delays will worsen internal decay and drive up restoration costs</p> <p>Only minimal intervention proposed: extend existing roof covering over gaps — no change to ridge height, structure, or visual character.</p> <p>https://www.buildingsofireland.ie/buildings-search/building/40830011/saintjohnstown-saintjohnstown-saint-johnstown-co-donegal</p>	



Is the development a Protected Structure or within the curtilage of a Protected Structure?	Yes	No
		No
Has a declaration under Section 57 of the Planning and Development Act 2000 (as amended) been requested or issued in respect of the property.	Yes	No
		No
Applicant(s) Interest in the site:	Owner	
If not the Owner of the site, please provide the name of the Landowner:		
Please list types of plans, drawings etc. submitted with this application:	National Inventory of Architectural Heritage (NIAH) Record	
Planning History - list any relevant planning application reference numbers:		
Are you aware of any enforcement proceedings connected to the site? If so, please supply details:	No	

I hereby certify that the information provided is true and accurate	
Signature of Applicant/Agent:	
Date:	13/06/2025



Additional Contact Information

NOT TO BE MADE AVAILABLE WITH APPLICATION

Please note:

- 1) The applicant's address **must** be submitted on this page.

Applicant(s) Details	
Address:	
Eircode:	
Telephone:	
Email Address:	

Agent Details (if applicable)	
Address:	
Eircode:	
Telephone No:	
Email Address:	

Landowner Details (if applicable)	
Address:	
Eircode:	
Telephone No:	
Email Address:	

Advice to Applicant

- (a) **Prescribed Fee** - €80.00 - You may wish to pay the fee by card by ringing the cash office on 074 9153900. Please note the receipt number in your cover email with the form.
- (b) Application must be accompanied by:
- **Site location map** with site clearly outlined in red (to a scale of not less than 1:1000 in built up areas and 1:2500 in all other areas).
 - **Site layout plan** (Site or layout plans shall be drawn to a scale (which shall be indicated thereon) of not less than 1:500 or such other scale as may be agreed with the planning authority prior to the submission of the application, the site boundary shall be clearly delineated in red).
 - **Elevations** (if applicable) – (plans, elevations and sections drawn to a scale of not less than **1:200**).
 - **Other details** (e.g. landowner consent (if applicable), photographs as appropriate).
- (c) Completed application form & supporting documentation to be returned to the Planning Authority **by email** to planning@donegalcoco.ie
- (d) More information on exempted development can be found on the OPR planning leaflets available at <https://www.opr.ie/planning-leaflets/>



**Comhairle Contae
Dhún na nGall**
Donegal County Council

Áras an Chontae,
Leifear,
Contae Dhún na nGall, F93 Y622

County House,
Lifford,
County Donegal, F93 Y622

T: 074 91 53900
E: info@donegalcoco.ie
W: www.donegalcoco.ie
W: www.ccdhunnangall.ie

Planning Services
E: planning@donegalcoco.ie

E-mail: [REDACTED]

Our Ref: S525/57

17th June, 2025

Tom Kennett

Re: Section 5 - Application for confirmation that removal of both gable & chimneys & extension of the existing roof over the void qualifies as exempted development at Main Street, St. Johnston, Co Donegal.

A Chara,

I wish to acknowledge receipt of your application received on 13th June, 2025 in relation to the above.

Yours sincerely,

Martina Parke

Donegal County Council
Planning Services



From: [Tom Kennett](#)
To: [MARTINA PARKE \(PLANNING\)](#)
Subject: Fw: SECTION 5 APPLICATION
Date: Saturday 21 June 2025 15:03:27
Attachments: [image001.png](#)
[S52557-ACK"D.pdf](#)

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Hi Martina,

I was hoping to get an answer this week as I think it is a fairly simple and straight forward enquiry.

I need to move this project forward would you have any timescale for this.

Thank you

Tom

From: MARTINA PARKE (PLANNING) <MARTINA.PARKE@donegalcoco.ie>
Sent: Tuesday, June 17, 2025 11:14
To: [REDACTED]
Subject: SECTION 5 APPLICATION

Regards

**Martina Parke, Assistant Staff Officer,
Planning Services**



County House, Lifford, Co. Donegal, F93 Y622

Tel: 074 91 53900



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SECTION 5 REFERRAL REPORT – Ref. No: S5 25/57

1.0 INTRODUCTION

- 1.1 The query arises in respect of whether (i) the removal of two number chimneys and extension of the existing roof over the voids qualifies is or is not exempted development?

2.0 SITE

- 2.1 The site is located in an urban area within the Settlement Framework of St Johnston as defined under the current County Donegal Development Plan, 2024-30.
- 2.2 This comprises of an attached dwelling (to one side) located along Main Street, St Johnston.
- 2.3 The existing dwelling is not on the Council's Record of Protected Structures however is it included on the National Inventory of Architectural Heritage(Reg No 40830011refers), being of a Regional Rating and of Architectural Importance, described as follows:

*Attached three-bay three-storey house with attic level, built c. 1870, having two-storey return extension to rear (south) and modern shopfront to the front elevation, c. 1980. **Pitched natural slate roof with brick eaves course, some surviving sections of cast-iron downpipes, and with smooth rendered chimneystacks to the gable ends (east and west).** Cast-iron rooflight to front pitch. Smooth rendered ruled-and-lined with painted plinth course. Square-headed window openings at first and second floor level with painted stone sills, and having six-over-six timber pane timber sliding sash windows. Square-headed door opening to east end of the front elevation having replacement timber door and plain overlight. Square-headed openings to former shopfront having fixed-pane display window and replacement timber door. Road-fronted to the centre of Saint Johnstown with adjacent four-bay two-storey building having integral carriage-arch attached to the west.*

The Appraisal is as follows:

*This plain but imposing three-storey building, probably originally dating to the second half of the nineteenth century, retains much of its original form and character despite the insertion of a later shopfront. **Its visual appeal and integrity are enhanced by the retention of salient fabric such as the natural slate roof and timber sliding sash windows to the upper floors.** This tall narrow building towers over the mainly long low two-storey buildings to the centre of Saint Johnstown and has a strong presence in the streetscape. It is also one of the few buildings in the centre of the town that retains much of its salient fabric, the other buildings having been replaced or incrementally altered over the years. This building is of a type that was, until recent years, a ubiquitous feature of the streetscapes of small Irish towns and villages but is now becoming increasingly rare. Although no longer in use, the building remains an integral component of the domestic built heritage of the locality, representing an early example of the typical mixed-use building form found in Irish towns. Sensitively restored, it would make a strongly positive contribution to the streetscape of Saint Johnstown.*

(source: <https://www.buildingsofireland.ie/buildings-search/building/40830011/saintjohnstown-saintjohnstown-saint-johnstown-co-donegal#carouselExampleIndicators>).

2.0 EVALUATION

In preparing the assessment for this reference, regard has been had to the following statutory provisions:

3.0 EVALUATION

3.1 Planning and Development Act, 2000 (as amended)

Section 2(1)

In this Act, except where the context otherwise requires –

“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 define, and

- (a) Where the context so admits, includes the land on, in or under which the structure is situate...

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the

application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1)

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

Section 4(1)(h):

‘**Exempted Development**’ and Subsection (1) sets out categories of development that shall be exempted development for the purposes of this Act.

Subsection (1) (h) states the following: ‘development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which **do not materially affect the external appearance** of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures’.

Section 4(2)(a)

The Minister may by **regulations** provide for any class of development to be exempted development for the purposes of this Act where he or she is of the opinion that –

- (i) “by reason of the size, nature, or limited effect on its surroundings.....”
- (ii) “the development is authorised, or is required to be authorised, by or under any enactment....”

Section 4(2)(b)

“**Regulations** under paragraph (a) maybe subject to conditions and be of general application or apply to such area or place as may be specified in the regulations.”

Section 4(2)(c)

“**Regulations** under this subsection may, in particular and without prejudice to the generality of paragraph (a) provide, in the case of structures or other land used for a purpose of any specified class, for the use thereof for any other purposes being exempted development for the purposes of this Act”.

Section 177U(9)

“In deciding upon a declaration for the purposes of Section 5 of this Act a planning authority or the Board, as the case maybe, shall where appropriate,

conduct a screening for appropriate assessment in accordance with the provisions of this Section.” Screening for Appropriate Assessment is not required in this instance.

3.2 Planning and Development Regulations, 2001 (as amended)

Article 6(1)

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

Article 9(1)

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

- (a) if the carrying out of such development would -
 - (i)– (xii) (inclusive)

Class 2 of Part 1 of Schedule 2 (*Exempted Development - General*)

- (a) The provision as part of a heating system of a house, of a chimney or flue, boiler house or fuel storage tank or structure.
- (b) The construction, erection or placing within the curtilage of a house of a wind turbine.
- (c) The installation or erection of a solar panel on, or within the curtilage of a house, or any buildings within the curtilage of a house.
- (d) The installation on or within the curtilage of a house of a ground heat pump system (horizontal and vertical) or an air source heat pump.

This is subject to **Conditions and Limitations**

- This does not apply as the applicant is seeking the removal of chimney.

4.0. ASSESSMENT

4.1 County Donegal Development Plan, 2025-30

The subject site is located within the Settlement Boundary for the St Johnston under this Plan. Objective AH-O-1 of the Plan seeks to: *Conserve, manage, protect and enhance the architectural heritage of Donegal namely Protected Structures, Architectural Conservation Areas, **NIAH structures**, designed landscapes and historic gardens, vernacular, historic building stock industrial and maritime built heritage, character and setting of such structures.*

- 4.2. The Planning Authority considers that the pertinent parts of the Planning legislation that should be used in assessing this Declaration are ;

Section 2(1), 3(1) , 4 (1)(h) & 177U(9) of the Planning & Development Act, 2000 (as amended) and Class 1 & 2, Schedule 2, Part 1 (Exempted Development -General), Article 6 and Article 9(1)(a)(iii) & (xi) of the Planning & Development Regulations 2001 (as amended).

- 4.3 The Planning Authority is satisfied that the proposed development being the removal of two number chimneys constitutes the carrying out of works and therefore constitutes development within the meaning given in the Planning and Development Act, 2000 (as amended).

- 4.2 The Planning Authority is also satisfied that the proposed development (being the removal of two number chimneys), constituting development, does *not* come within the scope of exemptions listed under Class of 1 or 2 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended) and is therefore is not exempted development.

- 4.3 The planning authority further notes that this is an attached dwelling, listed on the NIAH of which the erection of chimneys provides a defined structure to the overall building and considers the removal of same, would materially affect the external appearance of the structure and contravene the aforementioned objective of the CDDP, 2024-30.

4.3 Conclusion

It is considered that:

- (1) The proposed development (being the removal of two number chimneys), constitutes “works” and therefore is “development” within the meaning of the Act, and

- (i) Said works are NOT exempted development coming within the scope of Sections 4 (1)(h) of the Planning and Development Act

2000 (as amended) And are otherwise not an exempted class of use under Articles 9(1)(a)(iii) or falls within the exemptions provides for under Class 1 and Class 2 of Part 1 of Schedule 2 (*Exempted Development - General*) of the Planning And Development Regulations, 2001 (as amended).

It should also be noted that in determining the subject section 5 referral regard was had to recent Section 5 referrals to An Bord Pleanala for determination.

5.0. RECOMMENDATION

IT IS HEREBY RECOMMENDED THAT A DECLARATION BE MADE THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE –

IS Development

&

IS NOT Exempted Development

WITHIN THE MEANING OF THE ABOVE ACT

The proposal to:

- (i) Being the removal of two number chimneys, @ Main Street, St Johnston, Co. Donegal.

The Planning Authority in considering this referral, had regard particularly to:

- (a) Section 2, 3, 4 and 177U of the Planning and Development Act, 2000 (as amended), and
- (b) Article 6, 9 and Class 2 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended)

And concluded that:

The proposal IS Development within the meaning of the Planning & Development Act, 2000 (as amended) and is NOT Exempted Development as the planning authority considers that it does not accord with Section 4(1)(h) of the Planning and Development Act 2001 (as amended).

Signed:



Position: **Executive Planner**

Date: **03/07/2025**



Frank Sweeney
Senior Executive Planner
Community Development & Planning Services
04/07/2025

Chief Executive's Order No: 2025PH1979

Planning and Development Acts 2000 (as amended)

SECTION 5:-

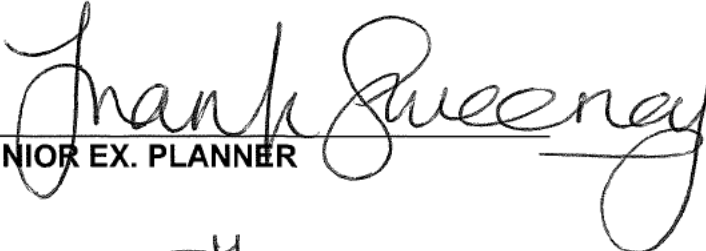
Request received 13th June 2025 from Tom Kennett, [REDACTED]
[REDACTED] in relation to the
removal of two no. chimneys at Main Street, St. Johnston, Co.
Donegal F93 K2EH

SUBMITTED:-

Written request received 13th June 2025 as above and report
dated 4th July 2025 from the Executive Planner (Ref. No: S5
25/57 refers).

ORDER:-

Having considered the said request, the report of the Executive
Planner, and the record forwarded to the Council by An Bord
Pleanála in compliance with Sub-Section 6(c) of the said Section
I have concluded that a declaration on the questions in the said
request should be made in the terms of that in the Schedule to
this Order, the main reasons and considerations therefore being
detailed therein. I therefore Order that the declaration issue to
the said requester and the owners/occupiers of the land
concerned and, further, that it be entered in the Council's
Planning Register in compliance with Sub-Section (5) of the said
Section.


SENIOR EX. PLANNER

DATED THIS 8th DAY OF JULY 2025

MME

Chief Executive's Order No: 2025PH1979

Ref.No: S5 25/57

SCHEDULE

IT IS HEREBY DECLARED THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE

IS Development

IS NOT Exempted Development

WITHIN THE MEANING OF THE ABOVE ACT

The Planning Authority in considering this referral, had regard particularly to:

- Section 2, 3, 4 and 177U of the Planning and Development Act, 2000 (as amended), and Article 6, 9 and
- Class 2 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended)

And concluded that:

The proposal **IS DEVELOPMENT** within the meaning of the Planning & Development Act, 2000 (as amended) and **IS NOT EXEMPTED DEVELOPMENT** as the planning authority considers that it does not accord with Section 4(1)(h) of the Planning and Development Act 2001 (as amended).

JS 08/07



**Comhairle Contae
Dhún na nGall**
Donegal County Council

Áras an Chontae,
Leifear,
Contae Dhún na nGall, F93 Y622

County House,
Lifford,
County Donegal, F93 Y622

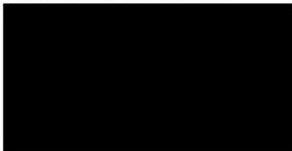
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W: www.donegalcoco.ie
W: www.ccdhunnangall.ie

Planning Services
E: planning@donegalcoco.ie

Ref. No: S525/57

8th July 2025

TOM KENNETT



Re: Removal of two no. chimneys at Main Street, St. Johnston, Co. Donegal F93 K2EH

A Chara,

I refer to your request received on 13th June 2025 under Section 5 of the Planning and Development Act, 2000 (as amended). Same has now been decided and I now issue to you herewith the Council's Declaration thereon. You are now advised that, in accordance with Section 5 (3) (a) of the Planning & Development Act, 2000 (as amended) where a Declaration is issued, any person issued with such a Declaration may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a Declaration for review by the Board within 4 weeks of the date of issuing of the Declaration.

Mise, le meas,

**For Senior Ex. Planner
Planning Services**

/jmcc

Planning and Development Acts, 2000 (as amended)
(Declaration and Referral on Development and Exempted Development)

DECLARATION

Chief Executive's Order No: 2025PH1979

Reference No: S525/57

Name of Requester: Tom Kennett



Summarised Description of development the subject matter of request:

Removal of two no. chimneys

Location: Main Street, St. Johnston, Co. Donegal F93 K2EH

IT IS HEREBY DECLARED THAT THE SUBJECT MATTER OF THE REQUEST AS ABOVE

IS Development

IS NOT Exempted Development

WITHIN THE MEANING OF THE ABOVE ACT

The Planning Authority in considering this referral, had regard particularly to:

- Section 2, 3, 4 and 177U of the Planning and Development Act, 2000 (as amended), and Article 6, 9 and
- Class 2 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended)

And concluded that:

The proposal **IS DEVELOPMENT** within the meaning of the Planning & Development Act, 2000 (as amended) and **IS NOT EXEMPTED DEVELOPMENT** as the planning authority considers that it does not accord with Section 4(1)(h) of the Planning and Development Act 2001 (as amended).

A handwritten signature in black ink, appearing to be 'M. ...', positioned above a horizontal line.

For Senior Ex. Planner
Planning Services

Dated this 8th day of July 2025