



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



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

Planning Services

RECEIVED DATE: 18/08/2025

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):	
Agent Name: (if applicable)	
Location of Proposed Development / Works: (Townland or postal address as appropriate and Eircode if available)	
Description of Proposed Development including details of works (where applicable): (Only works listed below will be assessed under <u>this</u> section 5 application)	



Is the development a Protected Structure or within the curtilage of a Protected Structure?	Yes	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
Applicant(s) Interest in the site:		
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:		
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:		

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





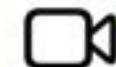




Planning Services

RECEIVED DATE: 18/08/2025

2D



Land



Room



Wall



Architecture



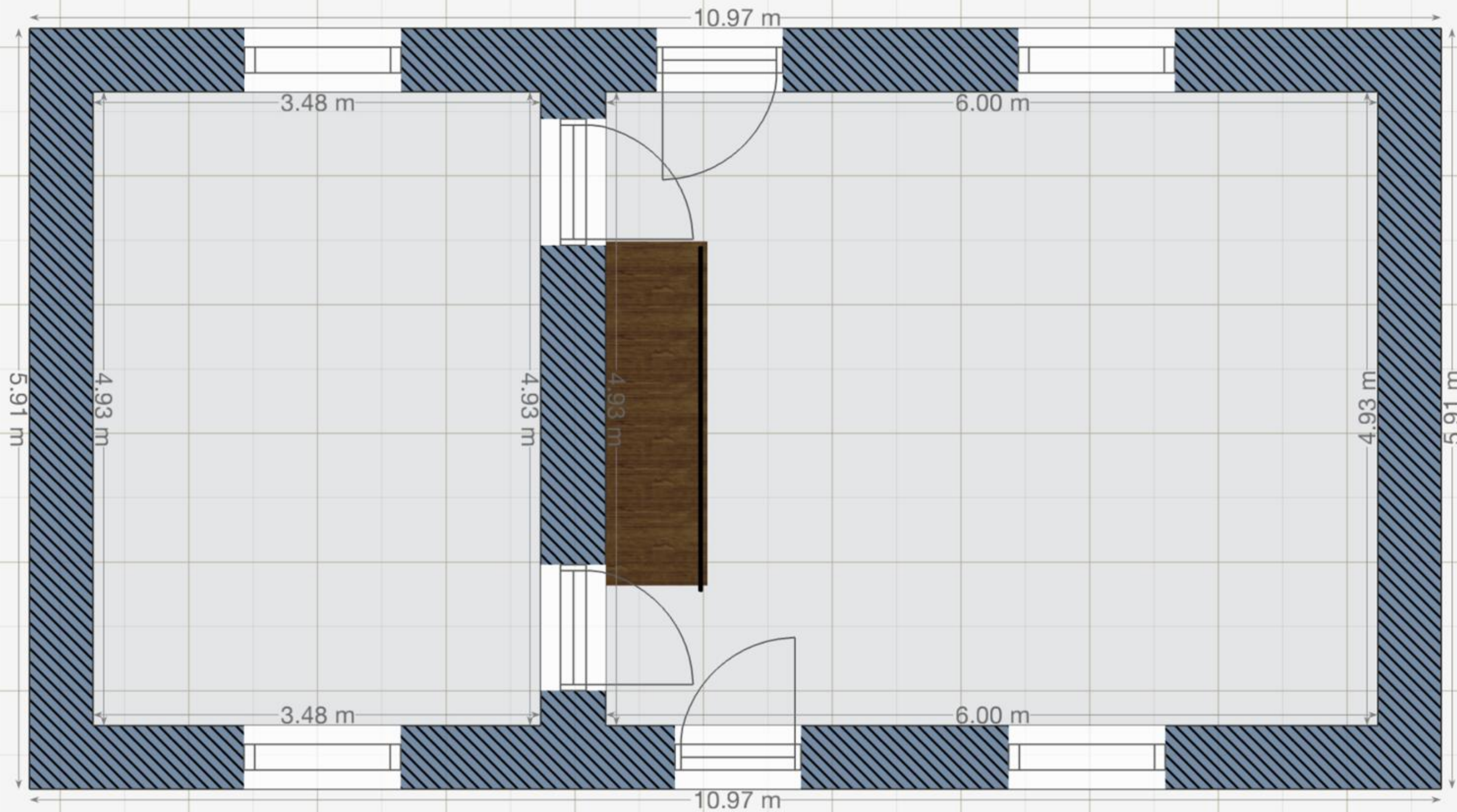
Objects



Textures

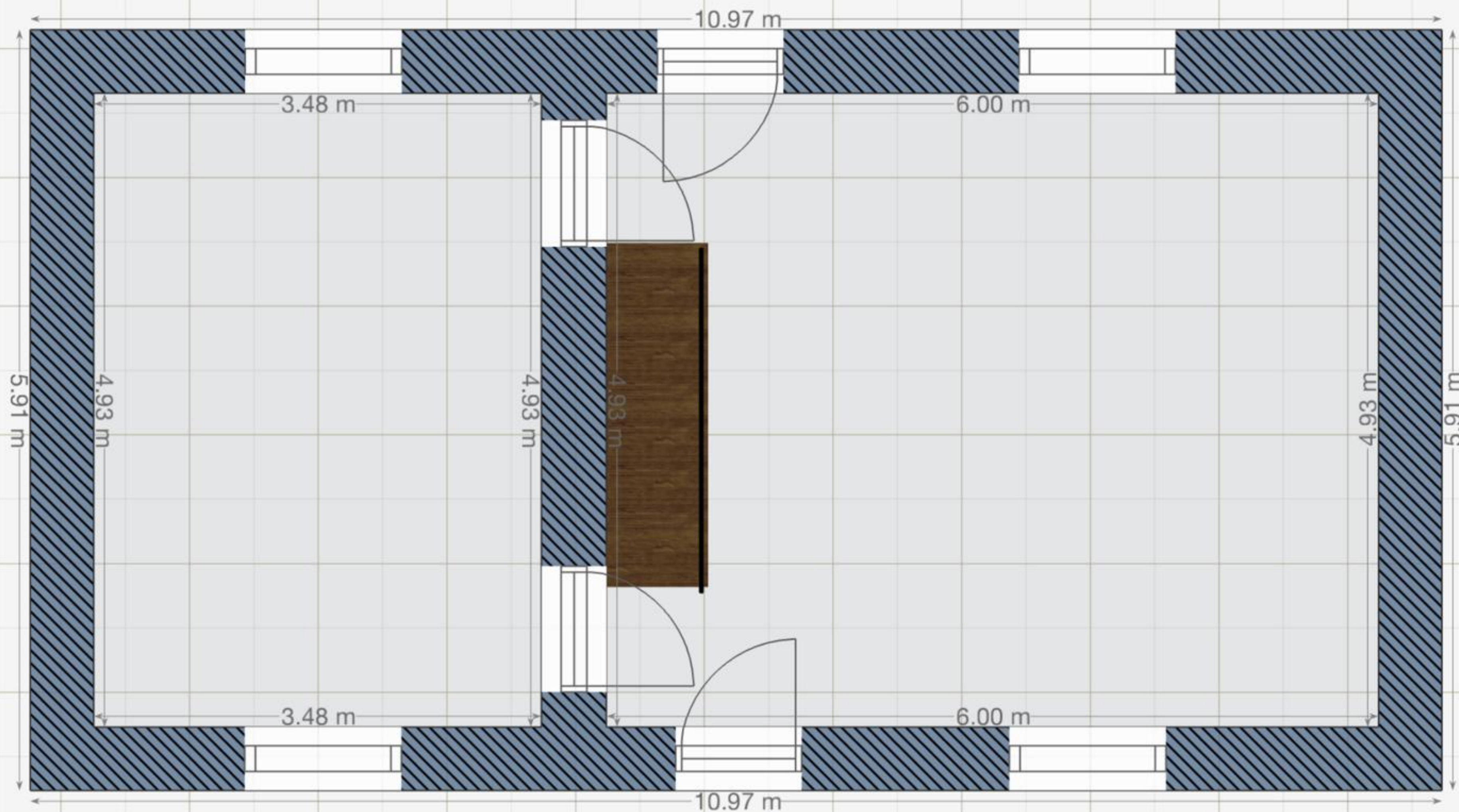


 49.3 m²





49.3 m²





**Tailte
Éireann**

Clárúchán, Luacháil,
Suirbhéireacht
Registration, Valuation,
Surveying



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

Planning Services

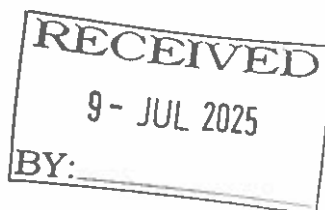
RECEIVED DATE: 18/08/2025

Tailte Éireann Sealed and Certified Copy Folio (& Title Plan)

BRENDAN KELLY SOLICITOR
DX 238003
FALCARRAGH

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

Folio Number: DL36974
Application Number: P2025LR087258J
Your Reference: HAG/3137/POD



This document comprises a sealed and certified copy of the Tailte Éireann record for the above mentioned folio/title plan as of the date appearing.

Details of **dealings pending** (if any) are listed in the **Schedule** below.


An officer duly authorised by Tailte Éireann

Schedule

D2025LR076565N



Notes:

1. Title plans should be read in conjunction with the folio. The description of the land on the folio or on the title plan is not conclusive as to the boundaries or extent of the land (see Section 85 of the Registration of Title Act 1964, as substituted by Section 62 of the Registration of Deeds and Title Act, 2006).
2. Title plans greater than A3 in size may be provided as separate A3 tiles with an overlap and print gutter. When aligning the tiled sheets, customers are advised to use the underlying topographical detail.
3. On receipt of this record, please check to verify that all the details contained therein are correct. If this is not the case, please return the document to Tailte Éireann immediately.

Land Registry**County Donegal****Folio 36974****Register of Ownership of Freehold Land****Part 1(A) - The Property**

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

For parts transferred see Part 1(B)

No.	Description	Official Notes
1	<p>A plot of ground situate in the Townland of TIRLAYDAN and Barony of KILMACRENAN containing 7.9723 Hectares shown as Plan(s) 5, 5A edged RED on the Registry Map (OS MAP Ref(s) 28/2).</p> <p>The Registration does not extend to the mines and minerals</p>	<p>Instrument L.R.56/65358</p>
2	<p>"One undivided 21st. part" of a plot of ground situate in the Townland of TIRLAYDAN and Barony of KILMACRENAN containing 59.1878 Hectares shown as Plan(s) 22 edged RED on the Registry Map (OS MAP Ref(s) 18, 28).</p> <p>The Registration does not extend to the mines and minerals</p>	<p>Instrument L.R.56/65358</p>

Land Cert Issued: No

Page 1 of 4

Collection No.:

Date Printed: 04/07/2025**Page 2 of 7**

Land Registry**County Donegal****Folio 36974****Part 1(B) - Property****Parts Transferred**

No.	Prop No:	Instrument:	Date:	Area (Hectares) :	Plan:	Folio No:

Land Registry**County Donegal****Folio 36974****Part 2 - Ownership****Title ABSOLUTE**

No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	14-MAR-2011 PATRICK HAGAN of MAGHERARD, GLENVAR, LETTERKENNY, COUNTY DONEGAL is full owner. D1997WS006353U

Land Registry**County Donegal****Folio 36974****Part 3 - Burdens and Notices of Burdens**

No.	Particulars
1	<p>The property is subject to the provisions prohibiting letting, subletting or subdivision specified in Section 12 of the Land Act, 1965, and to the provisions restricting the vesting of interests specified in Section 45 of the said Act in so far as the said provisions affect same.</p> <p>Cancelled D1997WS006353U 14-MAR-2011</p>
2	<p>L.R.56/65358</p> <p>The property is subject to the fishing rights and fisheries (if any) excepted by Order of the Land Commission.</p>



Tailte Éireann

**Clárúcháin, Luacháil,
Suirbhéireacht
Registration, Valuation,
Surveying**

BALLYCALLAN

626210 mE, 935650 mN

Folio: DL36974

This map should be read in conjunction with the folio.

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

For details of the terms of use and limitations of scale, accuracy and other conditions relating to T  Registration maps, see www.talite.ie.

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(centre-line of parcel(s) edged)

Freehold

— Leasehold

Subleasehold

Burdens (may not all be represented on map)

Right of Way / Wayleave

— Turbary

— Pipeline

Well



Septic Tank

Soak Pit

A full list of burdens and their symbology can be found at: www.landdirect.ie

www.landdirect.ie

Taite Éireann Registration operates a non-conclusive boundary system.

The T  Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a T  Registration map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.

1:5000 Scale



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Tailte Éireann
Clárachán, Uachtail,
Suirtheleireacht
Registration, Valuation,
Surveying

Folio: DL36974

This map should be read in conjunction with the folio.

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(centre-line of parcel(s) edged)

Freehold

Leasehold

SubLeasehold

Burdens (may not all be represented on map)

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— Turbary

Pipeline

Well

- **Pump**

Septic Tank

Soak Pit



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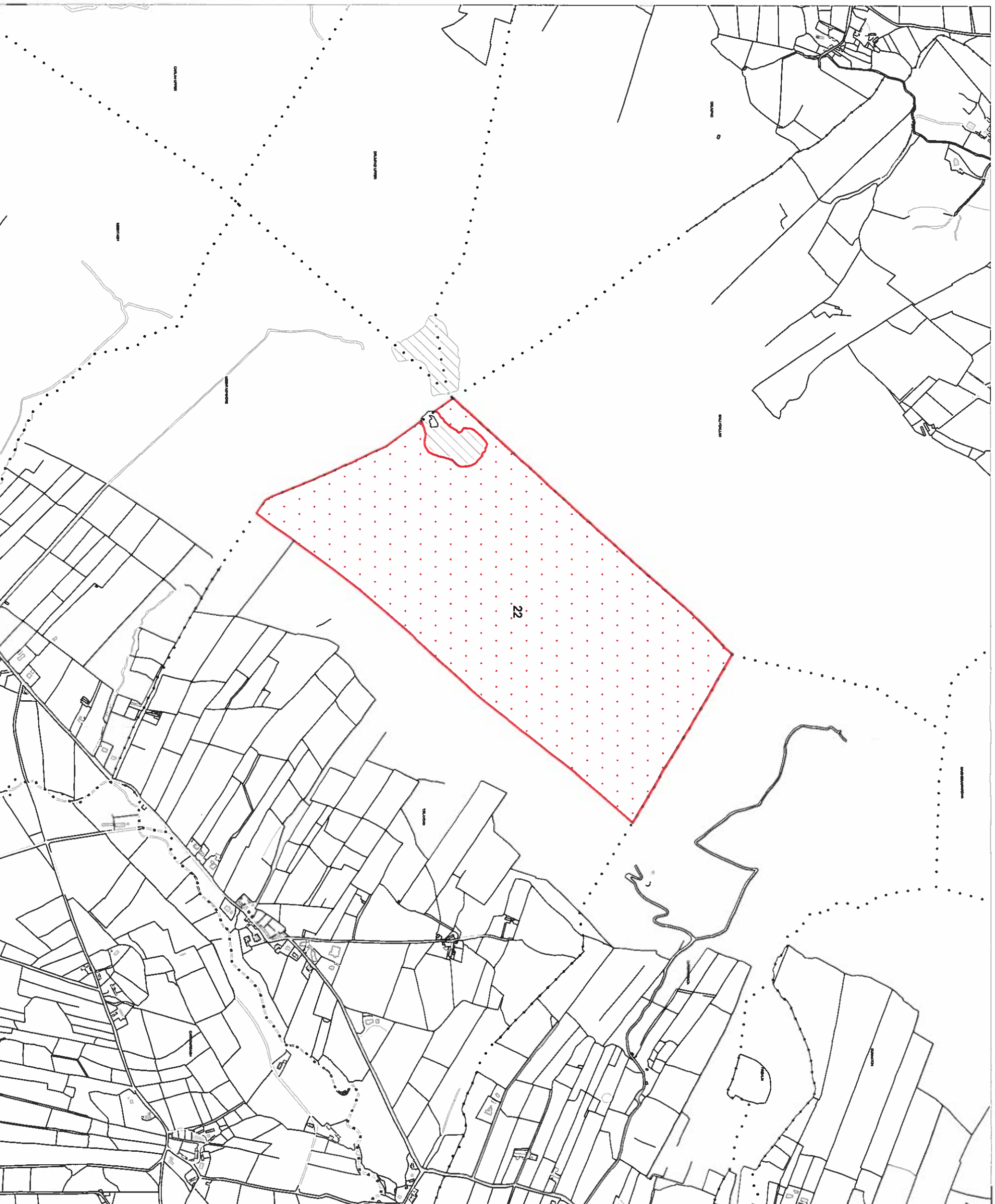
Taite Éireann Registration operates a non-conclusive boundary system.

The T_E Registration map identifies properties not boundaries meaning neither the description of land in a folio nor its identification by reference to a T_E Registration map is conclusive as to the boundaries or extent. (see Section 85 of the Registration of Title Act, 1964). As inserted by Section 62 of the Registration of Deed and Title Act 2006.

1:10000 Scale



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**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

Our Ref.: S525/71

by email to: [REDACTED]

18/08/2025

Elizabeth Doherty and Stephen McEwan



**Re: Section 5 - Application for proposed development at
Tirlayden, Glenvar, F92XT25**

A Chara,

I wish to acknowledge receipt of your application received on 18th August, 2025 in relation to the above.

Mise, le meas,

Donegal County Council
Planning Services



SECTION 5 REFERRAL REPORT – Ref. No: S5 25/71

1.0 BACKGROUND

1.1 Location:

Tirleyden, Glenvar, F92XT25

1.2 Site Description:

The site is occupied by an existing derelict two storey dwelling house and is located within the rural area of Tirleyden, Glenvar. The site is isolated on a hillside and accessed via a private laneway. It is noted no information has been given as to when the dwelling was first erected, no information has been given regards effluent treatment, if any, on site. Photographs have been submitted of the existing structure and an image of the proposed finishes have been presented, however they are not considered to be sufficiently detailed elevations or sufficiently detailed proposed floorplans,. The front elevation shown shows a hint of a side projection, which is not evident on the present structure.

1.3 Planning History

No planning history available. The dwelling is derelict does not appear to have been lived in for some a number of decade,

1.4 Proposed Development:

Renovation of a derelict dwelling to include the following works:

- New Windows
- New Hardwood Floor with carbon film underfloor heating
- Insulate loft space
- Rewire entirely
- All new copper plumbing vermin rated
- New insulated oak front door
- Thermal membrane on floor
- Repointing stone
- Partial demolition of internal walls
- Non load bearing walls removed
- New bathroom and kitchen
- Replace some dilapidated stonework

2.0. THE QUESTION

The applicants Elizabeth Doherty and Stephen McEwan has made a submission to Donegal County Council requesting that a Declaration be made

under Section 5 of the Planning and Development Act, 2000 (as amended) as to whether or not the following is exempt from planning permission

- (i) New Windows
- (ii) New Hardwood Floor with carbon film underfloor heating
- (iii) Insulate loft space
- (iv) Rewire entirely
- (v) All new copper plumbing vermin rated
- (vi) New insulated oak front door
- (vii) Thermal membrane on floor
- (viii) Repointing stone
- (ix) Partial demolition of internal walls
- (x) Non load bearing walls removed
- (xi) New bathroom and kitchen
- (xii) Replace some dilapidated stonework

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....

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)

4.—(1) The following shall be exempted developments for the purposes of this Act—

(h) 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.”

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 -

Sub-paragraphs (i) – (xii) (inclusive)

Class 1 of Part 1 of Schedule 2 (*Exempted Development – General*)
(*Development within the curtilage of a dwellinghouse*)

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.

Conditions and Limitations:

- 1(a) Where the house has not been extended previously, the floor area of any such extension shall not exceed 40 square metres.
- (b) Subject to paragraph (a), where the house is terraced or semi-detached, the floor area of any extension above ground level shall not exceed 12 square metres.
- (c) Subject to paragraph (a), where the house is detached, the floor area of any extension above ground level shall not exceed 20 square metres.
- 2(a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.
- (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 12 square metres.
- (c) Subject to paragraph (a), where the house is detached and has been extended previously, the floor area of any extension above ground level, taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 20 square metres.
3. Any above ground floor extension shall be a distance of not less than 2 metres from any party boundary.
- 4 (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.
- (b) Where the rear wall of the house includes a gable, the height of the walls of any such extension shall not exceed the height of the side walls of the house.

- (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.
- 5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.
- 6(a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.
- (b) Any window proposed above ground level in any such extension shall not be less than 11 metres from the boundary it faces.
- (c) Where the house is detached and the floor area of the extension above ground level exceeds 12 square metres, any window proposed at above ground level shall not be less than 11 metres from the boundary it faces.
- 7. The roof of any extension shall not be used as a balcony or roof garden.

4.0 ASSESSMENT

4.1 Is or is not development

The proposed works — including replacement windows and doors, rewiring, plumbing, insulation, repointing of stonework, partial demolition of internal walls, and general renovation — all fall within the definition of “works” under Section 2(1) of the Act. Accordingly, they constitute “development” as defined under Section 3(1).

4.2 Is or is not exempted development

The key issue is whether the proposed works fall within Section 4(1)(h) of the Act as exempted development for “maintenance, improvement or other alteration” of a structure. While internal alterations (rewiring, plumbing, new kitchen/bathroom, removal of non-loadbearing walls, insulation) would generally fall within exempted development, the context of the existing building must be considered.

The dwelling is long-derelict, appears to have been uninhabited for decades, and is in a ruinous condition. From site photographs, it is evident that the building is not habitable and its long period of non-use points to abandonment of residential use. Case law (e.g. *Meath County Council v. Daly*; *Cork Co Co v. Ardfert Quarries Ltd*) establishes that prolonged non-use with no evidence of intention to resume constitutes abandonment.

On that basis, the proposed renovation cannot be considered simple “improvement” or “maintenance” of an existing dwelling. Rather, it represents a re-establishment of a residential use that has been abandoned. Such resumption would constitute a material change of use **and** thus is development requiring permission.

4.3 Works materially affecting external appearance

The submission includes only limited proposed elevations, but it is clear that:

- Replacement of stonework, new fenestration, and alteration of external features will materially affect the external appearance.
- There is uncertainty regarding the authenticity of the side projection shown, which is not part of the existing structure.

As such the works would not fall within Section 4(1)(h) as exempted, since they would materially affect external appearance.

4.4 Restrictions on Exemption

Even if some of the proposed works could otherwise fall within exempted categories (e.g. internal rewiring, plumbing, insulation), Article 9 restrictions must be considered. In particular:

- The structure does not currently constitute a “habitable house” within the meaning of the Act.
- The resumption of residential use would constitute a material change of use, which is not exempted.

4.5 Appropriate Assessment

Having regard to the location of the site on a rural hillside, isolated from European sites, and the scale/nature of the works, it is considered that the proposal would not be likely to have significant effects on a European site. Screening for Appropriate Assessment is therefore not required.

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:

Renovation of a derelict dwelling at Tirleyden, Glenvar, F92XT25, to include replacement windows and doors, rewiring, plumbing, insulation, repointing of stonework, partial demolition of internal walls, new kitchen and bathroom, and associated works.

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

- a. Sections 2, 3, 4 and 177 of the Planning and Development Act, 2000 (as amended), and

- b. Articles 6 and 9 of the Planning and Development Regulations, 2001 (as amended), including the restrictions on exemption, and
- c. Relevant case law and previous An Bord Pleanála determinations regarding derelict and long-abandoned dwellings.

And concluded that:

The proposal is development within the meaning of the Planning and Development Act, 2000 (as amended) and **is not exempted development**, as the works go beyond maintenance or improvement, would materially affect the external appearance of the structure, and would involve the resumption of a residential use that has been abandoned. The works therefore fall outside the scope of exemptions under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended).

It should be noted that in determining the subject Section 5 referral, regard was had to recent Section 5 applications referred to An Bord Pleanála for determination and the decisions of An Bord Pleanála.



Executive Planner
Development Applications Unit
11/09/2025



Frank Sweeney
Senior Executive Planner
Community Development & Planning Services
12/09/2025

Chief Executive's Order No: 2025PH2670

Planning and Development Acts 2000 (as amended)

SECTION 5:-

Request received 18th August 2025 from Elizabeth Doherty & Stephen McEwan, [REDACTED] in relation to the renovation of a derelict dwelling at Tirlayden, Glenvar, Co. Donegal F92 XT25.

SUBMITTED:-

Written request received 18th August 2025 as above and report dated 11th September 2025 from the Executive Planner (Ref. No: S5 25/71 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 12th DAY OF SEPTEMBER 2025

Chief Executive's Order No: 2025PH2670

Ref.No: S5 25/71

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:

- Sections 2, 3, 4 and 177 of the Planning and Development Act, 2000 (as amended), and
- Articles 6 and 9 of the Planning and Development Regulations, 2001 (as amended), including the restrictions on exemption.

•

And concluded that:

The proposal **IS DEVELOPMENT** within the meaning of the Planning and Development Act, 2000 (as amended) and **IS NOT EXEMPTED DEVELOPMENT**, as the works go beyond maintenance or improvement, would materially affect the external appearance of the structure, and would involve the resumption of a residential use that has been abandoned. The works therefore fall outside the scope of exemptions under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended).

js 12/09.



**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

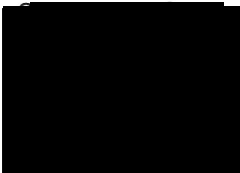
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W: www.ccdhunangall.ie

Planning Services
E: planning@donegalcoco.ie

Ref. No: S525/71

12th September 2025

ELIZABETH DOHERTY & STEPHEN MCEWAN



Re: The renovation of a derelict dwelling at Tirleyden, Glenvar, Co. Donegal F92 XT25.

A Chara,

I refer to your request received on 18th August 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 Coimisiún 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: 2025PH2670

Reference No: S525/71

Name of Requester: ELIZABETH DOHERTY & STEPHEN MCEWAN



Summarised Description of development the subject matter of request:

The renovation of a derelict dwelling

Location: Tirilayden, Glenvar, Co. Donegal F92 XT25

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:

- Sections 2, 3, 4 and 177 of the Planning and Development Act, 2000 (as amended), and
- Articles 6 and 9 of the Planning and Development Regulations, 2001 (as amended), including the restrictions on exemption.

•

And concluded that:

The proposal **IS DEVELOPMENT** within the meaning of the Planning and Development Act, 2000 (as amended) and **IS NOT EXEMPTED DEVELOPMENT**, as the works go beyond maintenance or improvement, would materially affect the external appearance of the structure, and would involve the resumption of a residential use that has been abandoned. The works therefore fall outside the scope of exemptions under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended).

A handwritten signature in blue ink, appearing to be 'M. O'Sullivan', written over a horizontal line.

For Senior Ex. Planner
Planning Services

Dated this 12th day of September 2025