

From: [Paul Devine](#)
To: [planning mailbox](#)
Subject: section 5
Date: 24 February 2025 17:19:47

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Hello, see attached application.

Thank You

Paul Devine

Keadue, Burtonport, F94H2K8



SECTION 5 APPLICATION

FOR DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT

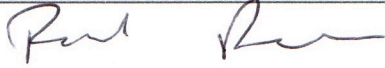
Completed application form & supporting documentation to be returned to the Planning Authority by email to planning@donegalcoco.ie

Name of Applicant(s):	PAUL DEVINE
Agent Name: (if applicable)	
Location of Proposed Development / Works: (Townland or postal address as appropriate and Eircode if available)	KEANE BURTONPORT CO DONEGAL F94 H2 K8
Description of Proposed Development including details of works (where applicable): (Only works listed below will be assessed under this section 5 application)	
ADD PATIO DOOR TO REAR OF PROPERTY ADD PATIO DOOR TO SIDE OF PROPERTY CREATE ALTERNATIVE EMERGENCY ESCAPE ROUTE WITH USE OF PATIO DOORS. CREATE DECKING AREA WITH BALCONY TO SIDE OF HOUSE & DOUBLE USE OF CAR PORT & ACCESS TO ADJACENT PROPERTY.	



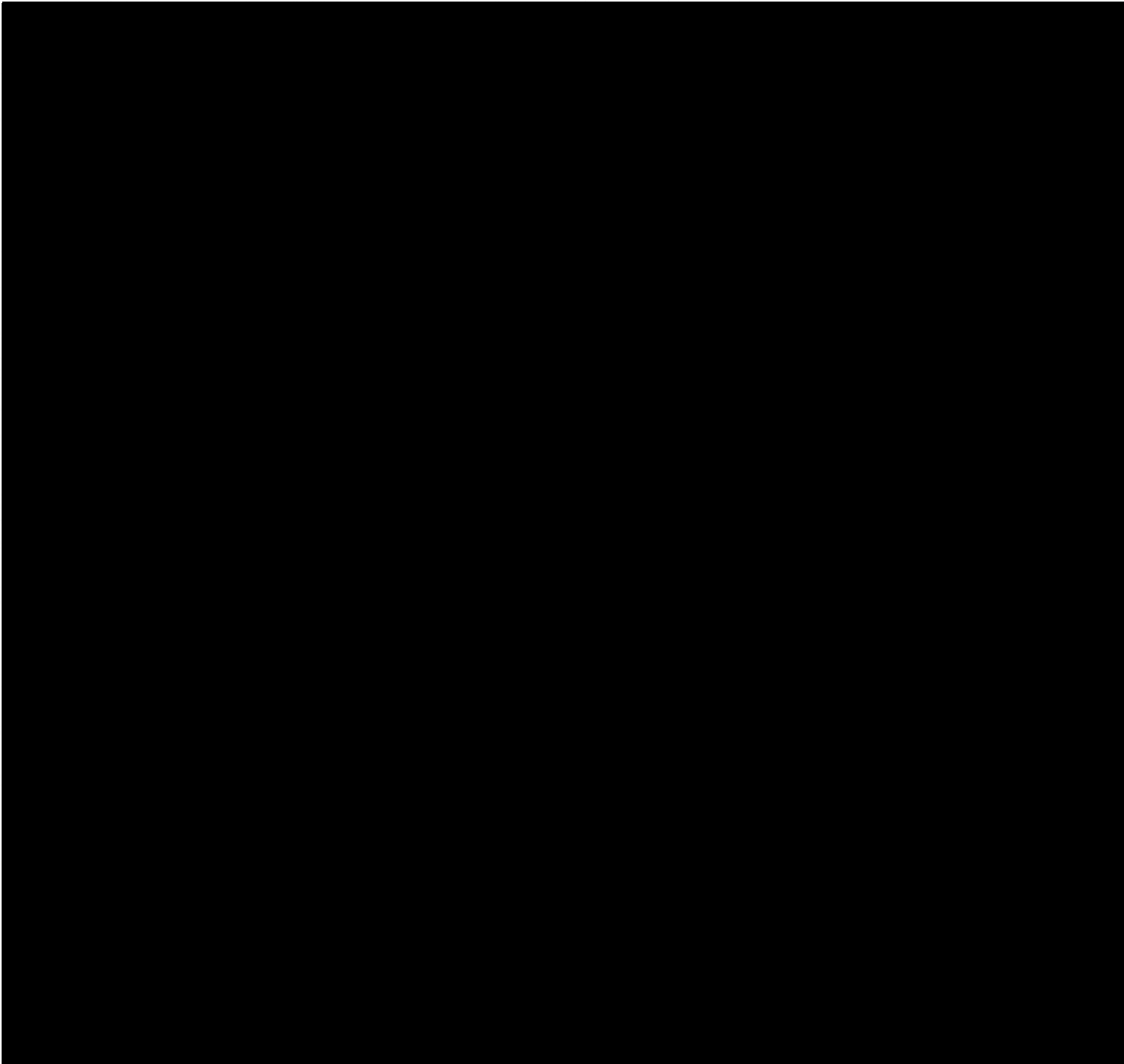
Comhairle Contae
Dhún na nGall
Donegal County Council

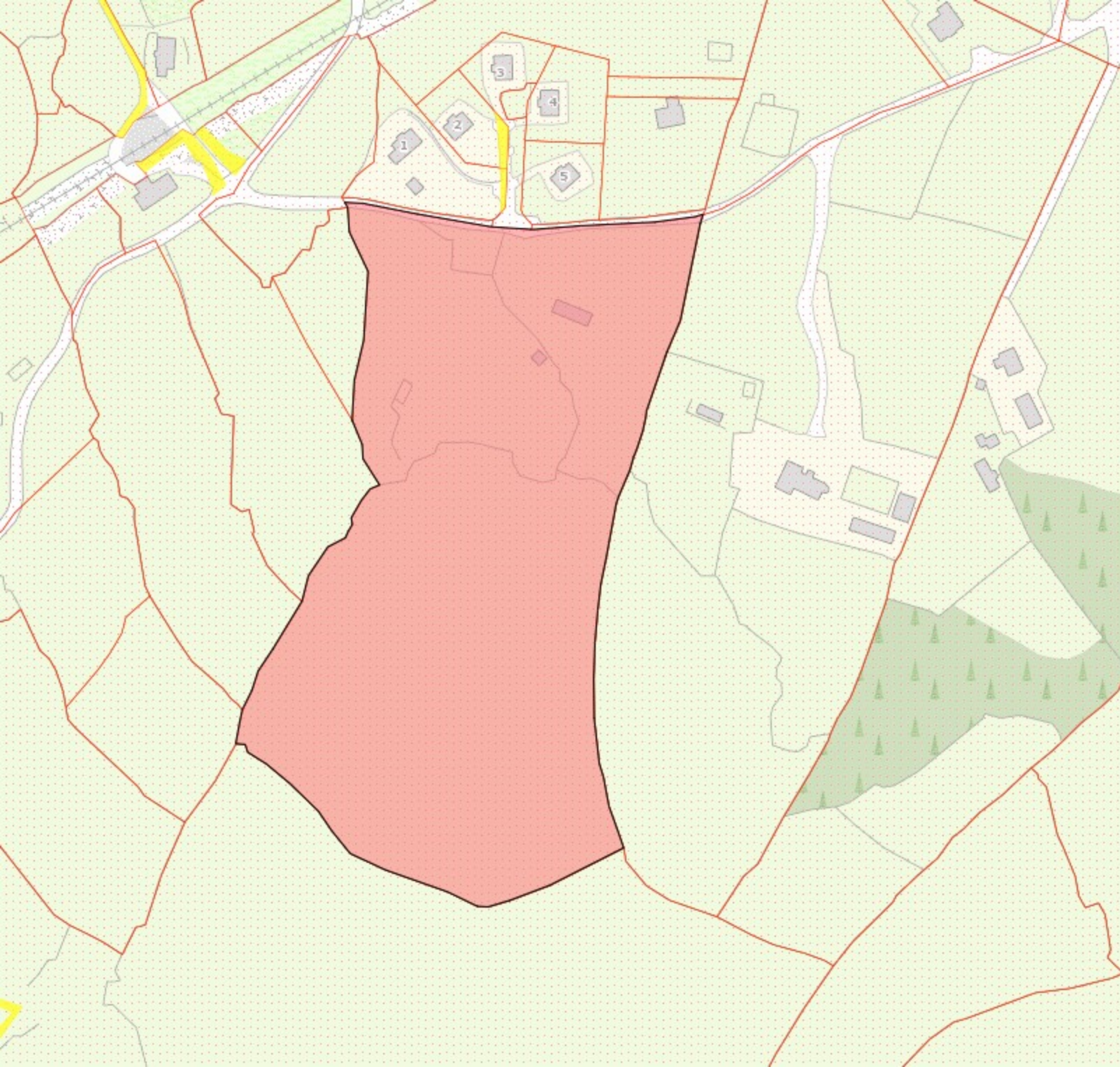
Is the development a Protected Structure or within the curtilage of a Protected Structure?	Yes	No
		✓
Has a declaration under Section 57 of the Planning and Development Act 2000 (as amended) been requested or issued in respect of the property.	Yes	No
		✓
Applicant(s) Interest in the site:	OWNER	
If not the Owner of the site, please provide the name of the Landowner:		
Please list types of plans, drawings etc. submitted with this application:	Photos , DRAWING	
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:	31.01.2025



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Donegal County Council





> Back

Folio Number	DL4495F
Title Level	Freehold
Plan Number	239
Property Number	1
Area of selected plans	4.51 hectares.
Number of Plans on this folio:	1
Address	Keadue Upper, Burtonport, Co. Donegal, F94 H2K8

View Folio PDF

Request Certified Copy

*PRA Boundaries and Plan Area **are not conclusive**. See [Section 62\(2\) of Registration of Title Act 2006](#) and [Rule 8\(3\) of the Land Registration Rules 2012](#).

Print Current View

Help



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Donegal County Council

Planning Services

RECEIVED DATE: 24/02/2025



Planning Services

RECEIVED DATE: 24/02/2025



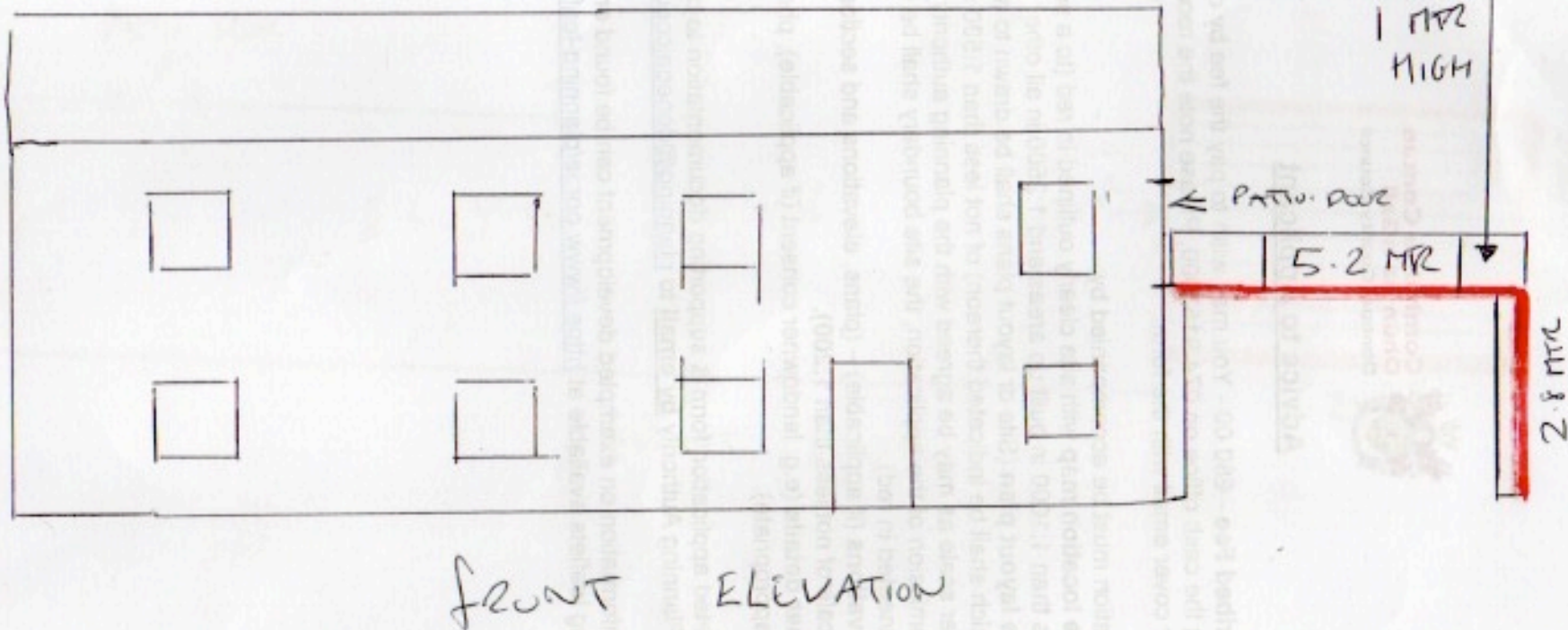




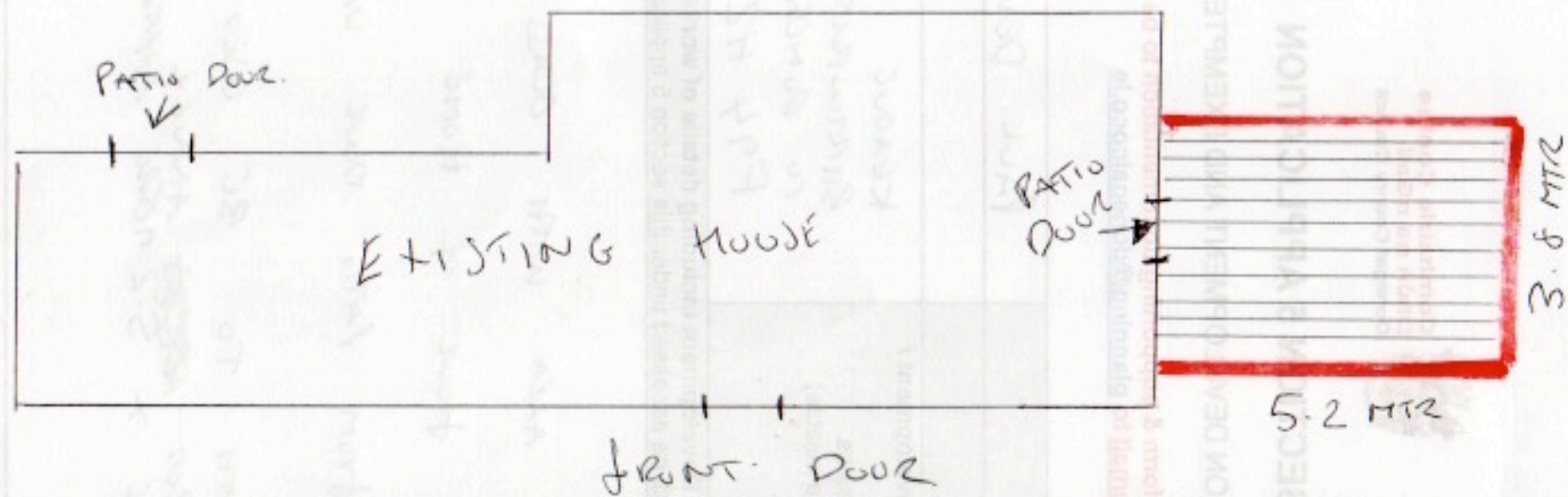
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RECEIVED DATE: 24/02/2025



KIRDS EYE VIEW.





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Donegal County Council

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Leifear,
Contae Dhún na nGall, F93 Y622

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W: www.ccdhunnangall.ie
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E-mail: pauldevine78@hotmail.com

Our Ref: S525/17

26th February, 2025

Paul Devine
Keadue
Burtonport
Co Donegal
F94 H2K8

**Re: Section 5 - Application for proposed development at
Keadue, Burtonport, Co Donegal, F94 H2K8**

A Chara,

I wish to acknowledge receipt of your application received on **24th February, 2025** in relation to the above.

Yours sincerely,

Martina Parke

Donegal County Council
Planning Services



SECTION 5 REFERRAL REPORT – Ref. No: S25/17

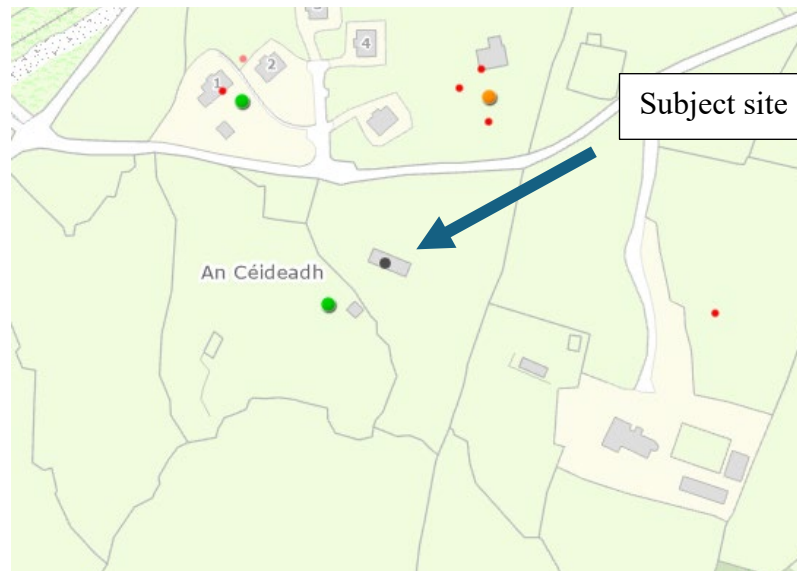
1.0 BACKGROUND

1.1 Location:

Keadue, Burtonport, County Donegal

1.2 Site Description:

The site is occupied by an existing 2 storey detached dwelling house. The site is located within the townland of Keadue.



1.3 Planning History

- No recent Planning History.

2.0. THE QUESTION

The applicant, Paul Devine, 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 or is not development and is or is not exempted development:

- i) Patio door to rear of dwelling
- ii) Patio door to side of dwelling
- iii) Alternative emergency escape route via use of patio doors
- iv) Car port 2.8 metre in height with 1 metre glazed balustrade
- v) 19.76sqm decking area with balcony to side of dwelling
- vi) Access to adjacent property.

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):

Section 4(1) of the Act specifies a series of categories of development considered to be exempted development for the purposes of the Act.

Section 4(1)(h):

Section 4(1)(h) of the Act states that the following shall be exempted development for the purposes of the Act:

‘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 -
 - (i) – (xii) (inclusive)

Class 3 of Part 1 of Schedule 2 (*Exempted Development – General*) (*Development within the curtilage of a dwellinghouse*)

The construction, erection or placing within the curtilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.

Conditions and Limitations:

1. No such structure shall be constructed, erected or placed forward of the front wall of a house.
2. The total area of such structures constructed, erected or placed within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres.
3. The construction, erection or placing within the curtilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.
4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.
5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.
6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.

4.0 ASSESSMENT

- 4.1 Having regard to the question subject of this Section 5 application, drawings on the proposed car port structure to side of the existing dwelling on site have been submitted. The drawings detail a 2.8 metre high structure with 1 metre high glazed balustrade to the balcony. Having regard to the exemptions for development within the curtilage of a dwellinghouse under Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended), the car port structure will exceed the 3 metres in height i.e. 3.8 metres and therefore does not fall within the scope of the exemption as per Class 3 of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).
- 4.2 Consideration has also been given to the proximity to the site to any Natura 2000 sites, the closest being the Gweedore Bay and Islands SAC located approx. 1.587km away. Having regard to the scale and nature of the proposed development, within an existing brownfield site, alongside the physical distances from the nearest Natura 2000 site, and no known direct hydrological links, it is not considered that the proposed development would be likely to have any significant effect, individually or in combination with any other plan or project, and it is considered that Screening for Appropriate Assessment is not required in this instance.

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:

- i) Patio door to rear of dwelling
- ii) Patio door to side of dwelling
- iii) Alternative emergency escape route via use of patio doors
- iv) Car port 2.8 metre in height with 1 metre glazed balustrade
- v) 19.76sqm decking area with balcony to side of dwelling
- vi) Access to adjacent property.

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 Articles 6(3), 9(1) and Class 3 of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

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 it does not fall within the scope of Class 3 of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended) which relate to development within the curtilage of a dwellinghouse.

Advice

Applicant is advised that the existing dwelling within the overall folio DL4495F to the rear of the property the subject of this Section 5 referral (evident in the photograph submitted with the referral) does not appear to have any planning consents for renovations works nor the change of use from outbuilding to residential use, if that is the case, then permission for the same will also be required.

A. Bradley

Assistant Planner
11/03/2025.

JS

Frank Sweeney
Senior Executive Planner
Community Development & Planning Services, 14/03/2025

Chief Executive's Order No: 2025PH0736

Planning and Development Acts 2000 (as amended)

SECTION 5:-

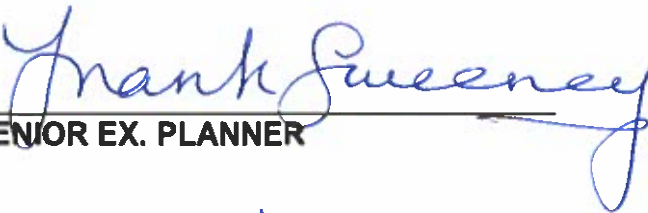
Request received 24th February 2025 from Paul Devine, Keadue, Burtonport, Co. Donegal F94 H2K8 in relation to a patio door at the rear and side of the dwelling, emergency escape route via use of patio doors, car port, decking area with balcony to side of the dwelling and access to adjacent property at Keadue, Burtonport, Co. Donegal F94 H2K8

SUBMITTED:-

Written request received 24th February 2025 as above and report dated 11th March 2025 from the Assistant Planner (Ref. No: S5 25/17 refers).

ORDER:-

Having considered the said request, the report of the Assistant 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 21st DAY OF MARCH 2025

Chief Executive's Order No: 2025PH0736

Ref.No: S5 25/17

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,
- Articles 6(3), 9(1) and Class 3 of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

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 it does not fall within the scope of Class 3 of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended) which relate to development within the curtilage of a dwellinghouse.

Advice

Applicant is advised that the existing dwelling within the overall folio DL4495F to the rear of the property the subject of this Section 5 referral (evident in the photograph submitted with the referral) does not appear to have any planning consents for renovations works nor the change of use from outbuilding to residential use, if that is the case, then permission for the same will also be required.



**Comhairle Contae
Dhún na nGall**
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Planning Services
E: planning@donegalcoco.ie

Ref. No: S525/17

21st March 2025

PAUL DEVINE
KEADUE,
BURTONPORT,
CO. DONEGAL
F94 H2K8

Re: A patio door at the rear and side of the dwelling, emergency escape route via use of patio doors, car port, decking area with balcony to side of the dwelling and access to adjacent property at Keadue, Burtonport, Co. Donegal F94 H2K8

A Chara,

I refer to your request received on 24th February 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: 2025PH0736

Reference No: S525/17

Name of Requester: Paul Devine
Keadue,
Burtonport,
Co. Donegal
F94 H2K8

Summarised Description of development the subject matter of request:

A patio door at the rear and side of the dwelling, emergency escape route via use of patio doors, car port, decking area with balcony to side of the dwelling and access to adjacent property

Location: Keadue, Burtonport, Co. Donegal F94 H2K8

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,
- Articles 6(3), 9(1) and Class 3 of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended).

The proposal **IS DEVELOPMENT** within the meaning of the Planning and Development Act, 2000 (as amended) and **IS NOT EXEMPTED DEVELOPMENT** as it does not fall within the scope of Class 3 of Part 1 of Schedule 2 of the Planning & Development Regulations 2001 (as amended) which relate to development within the curtilage of a dwellinghouse.

Advice

Applicant is advised that the existing dwelling within the overall folio DL4495F to the rear of the property the subject of this Section 5 referral (evident in the photograph submitted with the referral) does not appear to have any planning consents for renovations works nor the change of use from outbuilding to residential use, if that is the case, then permission for the same will also be required.



For Senior Ex. Planner
Planning Services

Dated this 21st day of March 2025