



An
Bord
Pleanála

Board Direction
ABP-312803-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/09/2023.

The Board decided, as set out in the following Order, as follows:-

WHEREAS a question has arisen as to whether the repair and renewal of an existing vacant dwelling and all associated works within the curtilage of the dwelling necessary to ensure its effective reuse at Derrymore, Dunmore, Co. Galway is or is not development or is or is not exempted development.

AND WHEREAS Michael and Sharon Hanley, requested a declaration on this question from Galway County Council, and the Council issued a declaration on the 4th day of February 2022 stating that the matter is development and is not exempted development.

AND WHEREAS Michael and Sharon Hanley referred this declaration for review to An Bord Pleanála, on the 18th day of February 2022.

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Section 2(1) of the Planning and Development Act 2000, as amended,

- (b) Section 3(1) of the Planning and Development Act 2000, as amended,
- (c) Sections 4(1) and 4(2) of the Planning and Development Act 2000, as amended,
- (d) Article 6 of the Planning and Development Regulations 2001, as amended,
- (e) Article 9(1)(a)(iii) of the Planning and Development Regulations 2001, as amended,
- (f) Article 10(1) of the Planning and Development Regulations 2001, as amended, and
- (g) Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The subject structure is not in use as a dwelling and is derelict and therefore is not a 'habitable house' as interpreted under section 2(1) of the Planning and Development Act 2000, as amended. The 'reuse' (as described in the referrers' question) of this structure for use as a habitable dwelling constitutes a material change of use and is therefore 'development' as defined under section 3(1) of the Planning and Development Act 2000, as amended. Such a change of use does not come within the scope of article 10 (1) and Part 4 of Schedule 2 of the Planning and Development Regulations 2001, as amended. The original use of the structure, that being as a dwelling, has been abandoned.
- (b) In addition to the material change of use, the works described constitute 'development' as defined under section 3(1) of the Planning and Development Act 2000, as amended. As the subject structure has not been in use as a dwelling for over twenty years, as stated in the plans and

particulars received by the planning authority on the 23rd day of December 2021, and as the works seek to reestablish the abandoned residential use, the Board considers that the additional traffic now generated by the development at the existing entrance would endanger public safety by reason of traffic hazard and obstruction of road users on the adjoining National Secondary Road the N83. The development therefore is not exempted development having regard to the restrictions on exemptions under article 9(1)(a)(iii) of the Planning and Development Regulations 2001, as amended.

- (c) The installation of a new wastewater treatment system and percolation area constitutes 'development' as defined under section 3(1) of the Planning and Development Act 2000, as amended. Such development does not come within the scope of section 4(1) or 4(2) of the Planning and Development Act 2000, as amended, or article 6 of the Planning and Development Regulations 2001, as amended.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the repair and renewal of an existing vacant dwelling and all associated works within the curtilage of the dwelling necessary to ensure its effective reuse at Derrymore, Dunmore, Co. Galway is development and is not exempted development.

Board Member:



Tom Rabbette

Date: 25/09/2023

