



An
Bord
Pleanála

Board Direction
BD-014590-23
ABP-313742-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/11/2023.

The Board decided, as set out in the following Order, that

WHEREAS a question has arisen as to: -

- a) Whether the carrying out of works for the improvement/refurbishment of the existing chalet is or is not development and, if deemed development, is or is not exempted development.
- b) Whether the maintenance & renewal of the existing level access for parking and servicing of the subject chalet by motorised vehicle (referred to in the subject enforcement notice dated the 23rd February 2021 as the 'Raised Stone Platform') is or is not development and, if deemed development, is or is not exempted development.
- c) Whether the clearing of scrub, under and overgrowth of self-seeded and other vegetation and replanting of grassland, native tree species and general landscaping is or is not development and, if deemed development, is or is not exempted development.
- d) Whether the formation of new boundary treatment to define the chalet boundary (as replacing previous boundary structures and gate) not exceeding 1.2 metres in height (Class 11 exemptions as refers to all other scenarios not associated with a domestic dwelling) and a new

gate not exceeding 2 metres (Class 9 Exemptions) is or is not development and is or is not exempted development.

- e) Whether the reconnection and maintenance of existing water supply, wastewater connections and electrical services is or is not development and, if deemed development, is or is not exempted development.

AND WHEREAS Edvinas Cinga & Giedre Cinge requested a declaration on this question from Roscommon Council and the Council issued a *declaration on the 10th day of May, 2022 stating the following: -*

...in respect of (a), (b), (d) & (e):

- 1) The proposed development constitutes development as defined in the Planning & Development Act, 2000, (as amended) and associated Regulations;*
- 2) The proposed development is not exempted development as defined in the Planning & Development Act 2000 (as amended) and associated Regulations.*
- 3) The likelihood of significant impacts on European sites as a result of the proposed development cannot be ruled out and Stage 2 Appropriate Assessment is required.*

And in respect of (c):

- 1) The proposed works does not constitute development as defined in the Planning & Development Act 2000, (as amended) and associated Regulations.*

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,

- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001-2022,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The carrying out of works for the improvement/refurbishment of the existing chalet results in a structure that is materially different in size and appearance to the previously existing structure on the site and thus do not accord with the provisions of Section 4(1)(h) of the said Act.
- (b) Maintenance & renewal of the existing level access for parking and servicing of the subject chalet by motorised vehicle does not constitute exempted development, in accordance with Article 9(1)(a)(viii) of the said Regulations, as it comprises the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use. Further, stage 2 appropriate assessment is necessary as there is a risk of significant effects on Lough Ree SAC and SPA arising from surface water discharges from the site containing suspended solids and/or pollutants.
- (c) The clearing of scrub, under and overgrowth of self-seeded and other vegetation and replanting of grassland, native tree species and general landscaping does not constitute development, in accordance with the meaning provided at Section 3 of the said Act.
- (d) The formation of new boundary treatment to define the chalet boundary, not exceeding 1.2 metres in height, falls generally within the scope of the exempted development provisions of Class 5 of Part 1 of Schedule 2 of the said Regulations but does not constitute exempted development, in accordance with Article 9(1)(a)(viii) of the said Regulations, as it comprises the extension, alteration, repair or renewal

of an unauthorised structure or a structure the use of which is an unauthorised use.

The formation of a new gate not exceeding 2m in height does not constitute exempted development as it exceeds the maximum allowable 1.2m height allowed under Class 5 of Part 1 of Schedule 2 of the said Regulations

- (e) The reconnection and maintenance of existing water supply, wastewater connections and electrical services does not constitute development, in accordance with the meaning provided at Section 3 of the said Act.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the following is not development: -

- c) The clearing of scrub, under and overgrowth of self-seeded and other vegetation and replanting of grassland, native tree species and general landscaping
- (e) The reconnection and maintenance of existing water supply, wastewater connections and electrical services.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, hereby decides that the following is development and is not exempted development: -

- (a) The carrying out of works for the improvement/refurbishment of the existing chalet
- (b) The maintenance & renewal of the existing level access for parking and servicing of the subject chalet by motorised vehicle
- (d) The formation of new boundary treatment to define the chalet boundary, not exceeding 1.2 metres in height, and a new gate not exceeding 2 metres.

Board Member:



Joe Boland

Date: 16/11/2023