



An
Bord
Pleanála

Board Direction
03.RL.3506

The submissions on this file and the Inspector's report were considered at a Board meeting held on May 10th, 2017.

The Board decided, as set out in the following Order, and generally as per the inspector's recommendation, that

the re construction and extension of the existing railway cottage including the provision of an onsite effluent treatment system at Garraun, County Clare is development and is not exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether the re construction and extension of the existing railway cottage including the provision of an onsite effluent treatment system at Garraun Kilkee, Co. Clare is or is not development and is or is not exempted development.

AND WHEREAS Dr Tom Nolan c/o Project Design Building Consultants Ltd. requested a declaration on this question from Clare Council and the Council issued a declaration on the 7th day of September, 2016 stating that the matter was development and was not exempted development:

AND WHEREAS An Bord Pleanála in considering this referral, amended the question to whether the re construction and extension of the existing railway cottage including the provision of an onsite effluent treatment system at Garraun Kilkee, Co. Clare is or is not development and is or is

not exempted development.

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)(h), 4(1)(j) and 4(4) of the Planning and Development Act, 2000, as amended,
- (d) Section 17(2) of the Environment (Miscellaneous Provisions) Act, 2011,
- (e) Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (f) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (g) The submission and attachments including photographic material submitted by the referrer, and
- (h) The report and recommendation of the inspector,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the reconstruction and extension including the installation of a new waste water treatment system constitute ‘works’ which come within the meaning of section 2(1) of the Planning and Development Act, 2000 (as amended),
- (b) the works that are the subject of this referral constitute ‘development’ within the meaning of section 3 of the Planning and development Act, 2000 (as amended),
- (c) the development would not be exempted development having regard to s.4(4) of the Planning and Development Act, 2000 (as amended)

and s.17 of the Environment (Miscellaneous Provisions) Act, 2011 as the works are considered to have a likely significant effect on a European Site (the Lower River Shannon SAC) and, based on the information presented by the referrer, the works undertaken were not completed within one year of commencement,

- (d) the works to the original cottage incorporate a raising of the height of the eaves of the cottage, alterations to the roof profile including the removal of the original chimney feature and continuation of the roof slope over the front porch structure. These works are considered to materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure and do not therefore come within the scope of s.4(1)(h) of the Planning and Development Act, 2000 (as amended),
- (e) the reconstructed porch is of a larger scale than that which was originally present on site, no longer serves a porch function, and is considered to be materially different to the original structure such as to render the appearance inconsistent with the character of the structure and does not therefore come within the scope of s.4(1)(h) of the Planning and Development Act, 2000 (as amended),
- (f) the replacement porch structure does not come within the scope of with Class 7 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended) as it not a porch and, in any event, does not come within the size limits set out within this class,
- (g) the construction of the rear extension would have come within the scope of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended) had it been constructed to the rear of an authorised structure,
- (h) The proposed installation of an effluent treatment system on site constitutes works within the meaning of Section 2(1) and

development within the meaning of Section 3(1) of the Planning and development Act, 2000 (as amended) and that such development would not come within the scope of any exemption under Section 4(1) of the Planning and Development Act, 2000 (as amended) or any regulations made under Section 4(4A) of the same 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 reconstruction and extension of the existing railway cottage including the provision of an onsite effluent treatment system at Garraun, County Clare is development and is not exempted development.

Board Member:

Date: May 10th, 2017

Nicholas Mulcahy