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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Galway County Council**

**Planning Register Reference Number: ED19/45**

**WHEREAS** a question has arisen as to whether works carried out to maintain and improve a chalet and a septic tank/waste water treatment system at The Chalet, Furbo Hill, Spiddal, County Galway are or are not development or are or are not exempted development:

**AND WHEREAS** Eamonn Murray of The Chalet, Furbo Hill, Spiddal, County Galway requested a declaration on this question from Galway County Council and the Council issued a declaration on the 24<sup>th</sup> day of July, 2019 stating that the matters in question were all development and were not exempted development:

**AND WHEREAS** Eamonn Murray referred the declaration for review to An Bord Pleanála on the 20<sup>th</sup> day of August, 2019:

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

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Classes 1, 3, 5 and 41 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) the submissions on file, including photographs submitted by the referrer, and
- (e) the report of the Inspector:

**AND WHEREAS** An Bord Pleanála has concluded that -

- (a) the original chalet situated on this site was a “house” and a “habitable house” within the meaning of section 2 of the Planning and Development Act, 2000, as amended, and, on the basis of the documentation submitted as part of the referral, was in existence prior to the appointed day of 1st October 1964, and was, therefore, established,
- (b) the works for the maintenance and improvement of the original chalet on the site and the repair/upgrade of the septic tank/wastewater treatment system on the site, all involved the carrying out of works, and, therefore, constitute development within the meaning of the legislation,

- (c) the works for the maintenance and improvement of the original chalet on the site, in so far as can be ascertained from the documentation submitted on the file by the referrer and by the planning authority, involved the substantial removal of the original chalet and its replacement by the structure now existing on the site, and, therefore, notwithstanding that the structure now existing on the site may have had the same floor area and be on the same footprint as the original chalet, would not come within the scope of section 4 (1)(h) of the Planning and Development Act, 2000, as amended, not being works for the maintenance, improvement or other alteration of the original structure, but rather works for the provision of a new structure that has replaced that original structure,
  
- (d) there are no other provisions, in the Planning and Development Act 2000, as amended, or in the Planning and Development Regulations, 2001, as amended, whereby this development would be classified as exempted development, and this development is, therefore, not exempted development, and
  
- (e) the development involving the maintenance/improvement of a septic tank and wastewater treatment system, if the subject of an advisory notice under Section 70(H)(5) of the Water Services Act 2002, as amended, would be exempted development under Class 41(g) of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, but as no evidence of the service of such notice has been supplied as part of this referral, the development in question is not exempted development.

**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 works carried out to maintain and improve a chalet and a septic tank/waste water treatment system at The Chalet, Furbo Hill, Spiddal, County Galway are development and are not exempted development.

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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**Philip Jones**

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2019.**