



An
Bord
Pleanála

Board Order 03.RL.3506

Planning and Development Acts 2000 to 2016

Planning Authority: Clare County Council.

Planning Register Reference Number: R16-63.

WHEREAS a question has arisen as to whether the reconstruction and extension of the existing railway cottage at Garraun, Kilkee, County Clare is or is not development or is or is not exempted development:

AND WHEREAS Tom Nolan care of Project Design Building Consultants Limited requested a declaration on the said question from Clare County Council and the said Council issued a declaration on the 7th day of September, 2016 stating that the said matter is development and is not exempted development:

AND WHEREAS the said Tom Nolan referred the declaration for review to An Bord Pleanála on the 4th day of October, 2016:

AND WHEREAS An Bord Pleanála in considering this referral, amended the question to whether the reconstruction and extension of the existing railway cottage, including the provision of an on-site effluent treatment system, at Garraun, Kilkee, County Clare, is or is not development or 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 submissions 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 wastewater 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,

- (c) the development would not be exempted development having regard to section (4) of the Planning and Development Act, 2000, as amended, and section 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 Special Area of Conservation) 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 section 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 section 4(1)(h) of the Planning and Development Act, 2000, as amended,

- (f) the replacement porch structure does not come within the scope of Class 7 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as it is 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 to the Planning and Development Regulations, 2001, had it been constructed to the rear of an authorised structure, and

- (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 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 reconstruction and extension of the existing railway cottage including the provision of an on-site effluent treatment system at Garraun, Kilkee, County Clare is development and is 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.

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

**Dated this day of
2017**