



An
Bord
Pleanála

Inspector's Report ABP-306248-19

Question	Whether the refurbishment of a boathouse is or is not development or is or is not exempted development.
Location	Inis Oirr, Aran Islands, Co. Galway.
Declaration	
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	ED19/55
Applicant for Declaration	Irish Coast Guard
Planning Authority Decision	Is not exempted development
Referral	
Referred by	Irish Coast Guard
Owner/ Occupier	Irish Coast Guard
Observer(s)	
Date of Site Inspection	No site visit
Inspector	Colin McBride

1.0 Site Location and Description

1.1 The appeal site, is located to the north of Innis Oirr a short distance from the coast. The site is occupied by an existing single-storey boathouse. To the west of the site is Green Coast Beech and to the east is the airport. To the south of the site is a single-storey dwelling. Given the current situation regarding Covid-19 no site inspection was possible. Notwithstanding such I would consider the nature of the application and information on file is such that the application can be assessed without a site inspection. If the Board are of the view that such is not the case then a decision should be deferred pending a time when a site inspection can be facilitated.

2.0 The Question

2.1 Whether the refurbishment of a boathouse is or is not development or is or not exempted development.

3.0 Planning Authority Declaration

3.1 Declaration

A section 5 declaration was submitted to Galway County Council. A determination was issued on the 26th of November 2019 with it determined that the refurbishment carried out to a boathouse is development and is not be exempted development.

3.2 Planning Authority Reports

3.2.1 Planning Reports

Planning report (06/09/19): Further information required including a list of refurbishment works carried out and details of specifications of such.

Planning report (26/11/19) It was determined the refurbishment works including exterior works constitutes development and is not exempted development under Article 4(1)(h) of the Planning and Development Act, 2000 (as amended).

4.0 Planning History

4.1 No planning history.

5.0 Policy Context

5.1 Development Plan

The relevant Development plan is the Galway County Development Plan 2015-2021.

6.0 Natural Heritage Designations

6.1 6 sites within 15Km of the appeal site...

Inishmaan Island SAC

Insihmore Island SAC

Black Head-Poulsallgh Complex SAC

Insiheer Island SAC (the whole island is designated as an SAC)

Cliff of Moher SPA

Insihmore SPA

7.0 The Referral

7.1 Referrer's Case

7.1.1 A referral has been submitted by Grealish Glynn & Associates on behalf of Irish Coast Guard.

- The referral has not been assessed properly with it noted that nowhere in the legislation does it state that complete refurbishment is not exempt and there is no definition of what is or is not a complete refurbishment.

- It is noted that the works carried out are not a complete refurbishment with all internal and external walls, the roof and roof covering retained. The appellants lists the works carried out.
- It is noted there is no change of use or change of internal layout. The only external change is the replacement of the windows and the replacement of the fascia and soffit.
- The history of the existing building is noted with it use as a boathouse long established and the only use it has had since construction in or 1900.
- It is noted that the Planning Authority have not given adequate reason for refusal.

7.2 Planning Authority Response

7.2.1 No response.

8.0 Statutory Provisions

8.1 Planning and Development Act, 2000

Section 2(1)

“Works” includes any act or operation of construction, excavation, demolition, extension, alterations, repair or renewal and

Section 3 provides definition of Development.

3(1) In this Act “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4 provides for Exempted Development

4(1) The following shall be exempted developments for the purposes of this act

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

4(2) (a) The minister may by regulations provide for any class of development to be exempted development for the purposes of this Act

8.2 **Planning and Development Regulations, 2001**

Article 6(1) states-

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9(1) states-

Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

9.0 **Assessment**

9.1 The question arises whether the refurbishment of a boathouse is or is not development or is or not exempted development.

9.2 **Is or is not development**

9.2.1 Firstly the question is whether the works in question constitute development. The definition of works under Section 2 of the Act includes any act or operation of

construction, excavation, demolition, extension, alteration, repair or renewal. The definition of 'development' under Section 3 of the Act includes the carrying out of any works on, in, or under land. The list of works that have been carried out and are subject to the referral include new windows and doors, new fascia and soffit, footpath repaired, new insulation to walls floor and ceiling, new internal doors, rewiring and plumbing, modification of internal layout to provide an accessible toilet, new floor covering, new fire alarm, repainting of the structure and a new kitchen installed. I would consider the works in question would require a level of construction on land and I would conclude that this is development in accordance with Section 3 of the Planning and Development Act, 2000 (as amended).

9.3 Is or is not exempted development

9.3.1 The referrers note that the works carried out are refurbishment works and list the works in question. It is noted there is no change of use and the majority of works are internal. The only external change is the replacement of the windows and doors, the replacement of the fascia and soffit. The referrers' note that the works in question are exempted development under the provisions of Section 4(1)(h) of the Planning and Development Act whereas the Planning Authority do not. The referrer did submit details of the works carried out and photographs in response to further information.

9.3.2 Based on the information on file the proposal is a refurbishment of an existing boathouse. There is no change of use the structure, which has always been a boathouse. The majority of the works carried out are internal with some internal layout modification. The only changes to the external appearance include new windows and doors (no change to the existing size and location of openings) and a new soffit and fascia. I would note that the structure is not a protected structure. I would consider that based on the fact the proposal entails no change of use, the majority of works are internal and the fact there is no change to the external wall or roof finishes, no changes to the structural shape of the boathouse and no changes to the position and size of window and door openings, that the works in question can be considered to consist of the carrying out of works for the maintenance, improvement or other alteration of the existing structure, being works which affect

only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures. In this regard I would note that the works in question would be exempted development under the provisions of Section 4(1)(h) of the Planning and Development Act.

9.4 **Appropriate Assessment**

9.4.1 Having regard to limited nature of the development in this referral, no Appropriate Assessment issues arise; and it is not considered that the development, the subject of the referral, would be likely to have a significant effect individually, or in combination with other plans or projects, on any European site.

10.0 **Recommendation**

10.1 I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the refurbishment of a boathouse is or is not development or is or is not exempted development:

AND WHEREAS the Irish Coast Guard requested a declaration on this question from Galway County Council and the Council issued a declaration on the 26th day of November, 2019 stating that the matter was development and was not exempted development:

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 20th day of December, 2019:

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) of the Planning and Development Act, 2000, as amended,
- (d) articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The refurbishment of a boathouse would comply with Section 4(1)(h) of the Planning and Development Act, 2000, as amended.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the refurbishment of a boathouse is development and is exempted development.

Colin McBride
Planning Inspector

18th May 2020