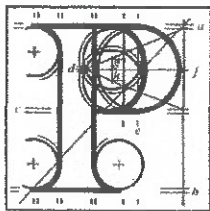


Schedule of documents
Eamonn Murray's appeal of
Galway County Council ED 19/45

1. Application form.
2. List of questions for ABP (6)
3. Reasons and arguments.
4. An important word about previous applications and decisions.
5. A background and history of the Chalet.
6. The building: the refurbishment.
7. Items 1 - 10

| | |
|-------------------------|------------------|
| AN BORD PLEANÁLA | |
| LDG- | 018531-19 |
| ABP- | |
| 20 AUG 2019 | |
| Fee: € 220 | Type: <i>Chg</i> |
| Time: | By: <i>Post</i> |

1



An Bord Pleanála

Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Eamonn Murray

(b) Address

Furbo Hill, Spiddal, Co. Galway H91 P7VF

AN BORD PLEANÁLA
20 AUG 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please also provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

N/A

(b) Agent's address

N/A

1/1

Postal address for letters

3. During the appeal we will post information and items to you or to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1

The agent at the address in Part 2

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Galway Co.Co.

(b) Planning authority register reference number

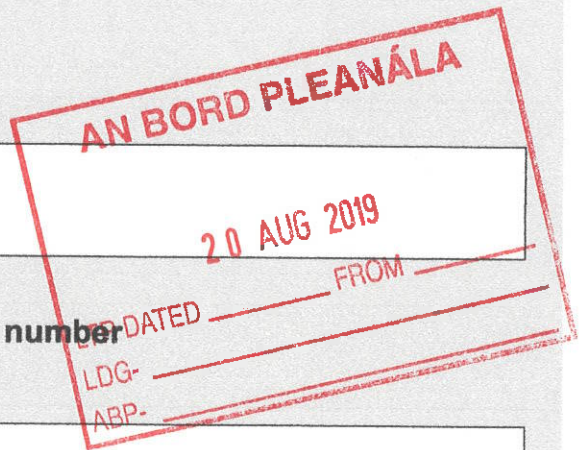
(for example: 18/0123)

ED19/45

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

The Chalet, Furbo Hill, Spiddal, Co. Galway H91 NVY7

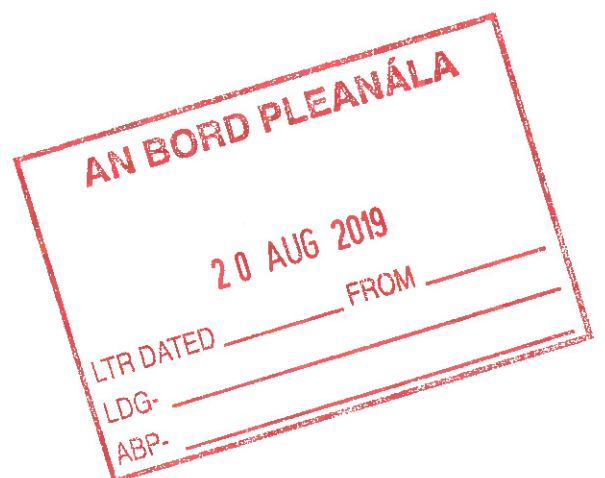


Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

Please see attached page for questions.

No, I do not wish to request
an oral hearing
Ea



2

Questions for ABP (6)

Given that the law obliges/advises us to maintain our waste water treatment systems. (WWT)

And that an Engineer states there was no upgrade during the works carried out and that he considers these works to be 'maintenance and care'. (Item 1)

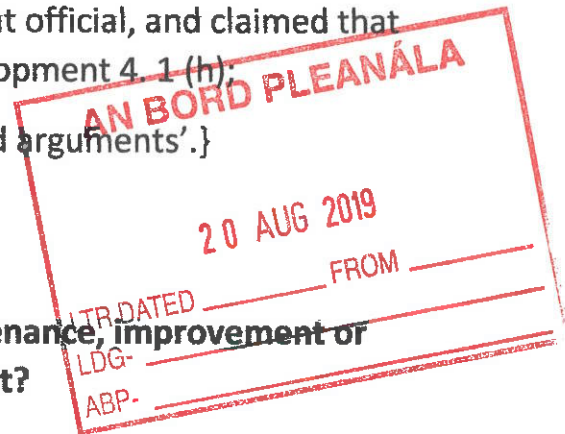
{for a fuller exploration of this issue see 'reasons and arguments'.}

Q 1. Are these maintenance works to a pre-existing WWT system exempt development?

Given that an ABP Inspector (Item 2) , an Engineer (Item 1) & and Architect (Item 3), all agree that the works **do not** '...materially affect the external structure...', and given that Galway Co. Co. have given no other reasons for not granting exemption other than the opinion that the works do '...materially alter...': as three professionals have contradicted that official, and claimed that the works comply with the Law: Planning And Development 4. 1 (h).

{for a fuller exploration of this issue see 'reasons and arguments'.}

Q 2. Are these refurbishment works, for the maintenance, improvement or other alteration of the Chalet, exempt development?



In the event that the decisions, to either question 1. or 2., are other than to grant Exempted Development. I would like to ask the following questions:

2/1

Q 3. Given that the original Chalet is/was an exempted building under legislation, I would like to know with specific reference to planning legislation what process(es) were engaged in during this refurbishment that would invalidate that exemption?

Given that we acknowledge that all works to a building are 'development' (even painting a different colour):

Q 4. Is the 'development' that took place, during the process of this refurbishment and WWT works, development that can be considered 'acceptable development' for the purpose of 'retention' under planning law?

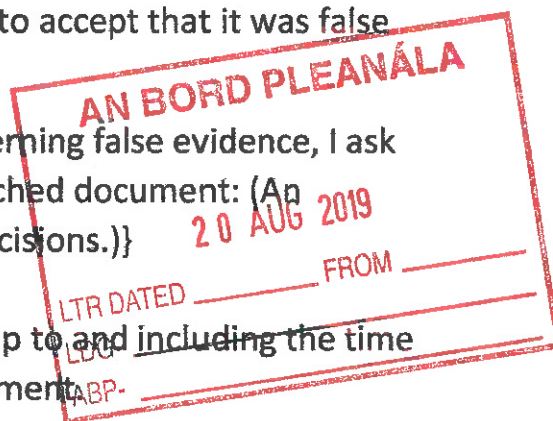
I refer to the inspector's report of ABP-302930-18 (Item 4), ^(item 4A) – where it is stated that the Chalet was missing in 2010, and it appears that it was accepted, and relied on as a matter of fact. And further to refer to the same inspector's report (Item 4B)- where there is no acknowledgement of my having refuted it.

I also wish to refer you to my further Application to Galway Co. Co. ED 19/45 where I was, for the first time, demonstrating that the conclusion 'missing Chalet' was based on false and misleading evidence, and was untrue- and I note that Galway Co. Co. in their decision appear to accept that it was false evidence.

{For your better understanding of this issue concerning false evidence, I ask you to acquaint yourself with (Item 8) & the attached document: (An important word about previous applications & decisions.)}

The Chalet was indeed in existence in 2010 and up to and including the time when I commenced and carried out the refurbishment.

I suggest that the decision of the ABP inspector was indeed influenced by this misleading material fact, which was provided by the Galway Co. Co. inspector. This misleading fact, it appears, also influenced the ABP Board to conclude in its Direction that the Chalet was **demolished** some time before 2010 and then a **new Chalet constructed** a number of years later – and thus the Board Direction stated that the development was '*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' (Item 5)

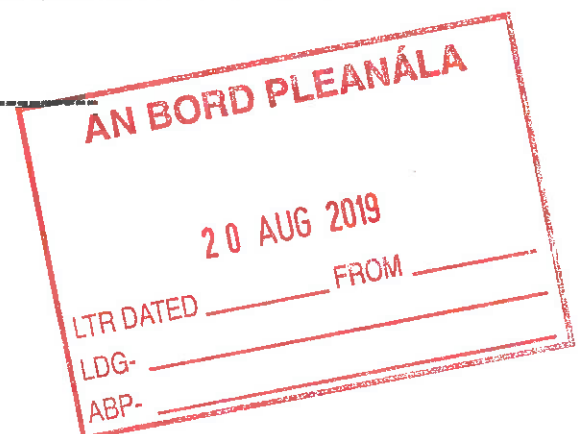
Q 5. Would the conclusion of ABP be different given the change in material evidence?

If the answer to V above is that the conclusion would be different, and that this development could be viewed as a **refurbishment**, a substantial refurbishment, and, therefore '*...works for the maintenance, improvement or other alteration of the structure...'*

And given that the ABP inspector, Sarah Lynch states that it '*...does not materially affect the external structure ...'* (Item 2). And that others, including an Architect (Item 3), and an Engineer (Item 1), agree with her assessment.

Where the Exempt development legislation states: Section 4 (1) (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;*

Q 6. Why then wouldn't the works to the Chalet qualify for Exempted Development?



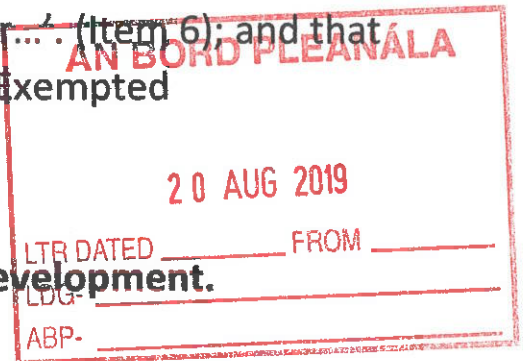
3

Reasons and arguments:

1. The refurbishment works to the Chalet:

Those against granting Exempted development:

The Galway inspector John Jordan writes, ' I am of the opinion that the works carried out materially alter...'. (Item 6); and that is the only reason stated for denying me Exempted Development.



Those in favour of granting Exempted Development.

The ABP inspector, Sarah Lynch, believes the opposite to John Jordan when she writes the works carried out to The Chalet '...do not materially affect...'. (Item 2)

The Engineer, Frank O'Reilly agrees with the ABP inspector. (Item 1)

The architect, Kevin Hough, agrees with the ABP inspector. (Item 3)

Further to the above three professionals it is notable that:

My neighbours seem in agreement (there were no objections or observations to my application for extension: Galway Co. Co. 18/1340)

While I did alter the door position during this refurbishment, I did so for eco-friendly reasons, i.e. to move it out of the prevailing wind which blows in from the sea. The house has been insulated to passive house standards.

3/1

And while I did alter the window layout: The works are not inconsistent with the character of the structure or of neighbouring structures. See the elevations for the following neighbouring houses:

(Item 7A) Eircode H91 XK6K A house within 100m of Chalet: granted permission in 2016.

(Item 7B) Eircode NVY7 The Chalet.

There are also 3, timber-clad & structure, Scandinavian homes, within 200m, with similar appearances to the Chalet:

(Item 7C), Eircode H91 XO5A

(Item 7D) Eircode H91 P7VF

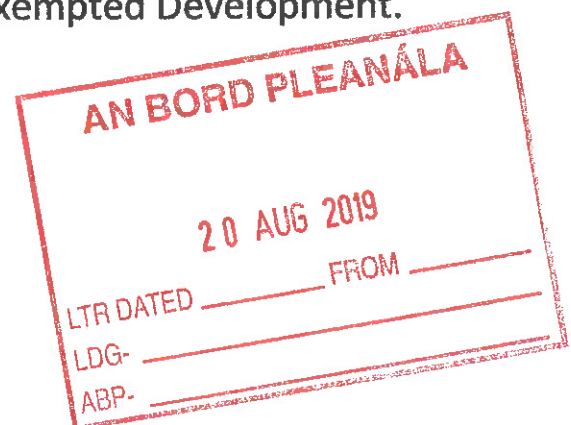
(Item 7E) Eircode H91 AN2C.

This Chalet has never been clearly visible from the road front. It neither over looks anybody nor is it over-looked.

The tree cover has always been kept and it serves as both a privacy aid and a sound barrier.

In conclusion:

I hope you see fit to uphold the opinion of your colleague at ABP, and the two professionals, Architect and Engineer, and agree that the works ‘...do not materially affect the external appearance...’ and therefore, under Planning and Development Act 4 (1) (h) the works are considered Exempted Development.



2. The Waste Water Treatment works:

Three considerations:

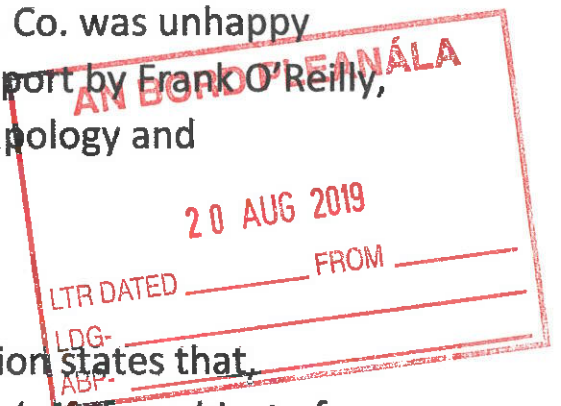
- a) This was maintenance & care to an existing septic tank and percolation area: and not an upgrade of the system.
- b) There was a percolation area already onsite, it prompted the works due to its having malfunctioned.
- c) We are constantly reminded to be vigilant about the upkeep of our WWT systems and the Law of the land advises us and obliges us to do so.

The works carried out to the WWT system involved maintenance and care necessitated by ponding on the percolation area which was noticeable during times of very heavy rainfall.

Local Engineer, Frank O'Reilly, gives the opinion that the works to the WWT were care and maintenance to an existing percolation area and septic tank; it is his opinion they were not an upgrade; and it is his opinion the works would have been advisable. (Item 1)

In ED19/45 The inspector for Galway Co. Co. was unhappy about the contradictions raised in the report by Frank O'Reilly, Engineer: Frank O'Reilly has written an apology and explanation. (Item 10)

In the ABP-320930-18, The Board Direction states that, regarding the works to the WWT system '...if the subject of an advisory notice...would be exempted...' (Item 5)



Please note:

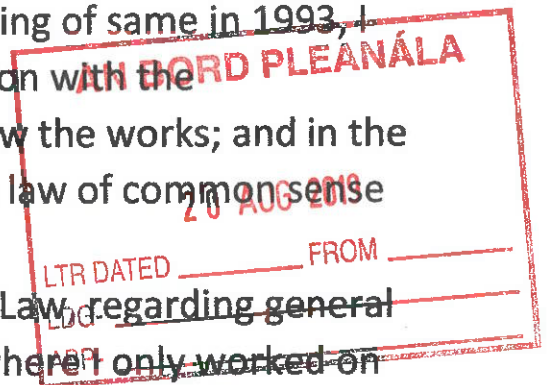
While I did not receive such a notice, I do wonder were such notices being issued in 2012/2013, in any meaningful way, so that I might have been in a position to receive one?

I proffer that one is constantly being advised:

- The law advises us in the strongest terms - it is an offence to not maintain one's WWT.
- In 2012, around the time I was planning the refurbishment, as part of registering the system for Irish Water, I was advised in the brochure, by Irish water, to care for my system and reminded of my obligation.
- When I saw the ponding I knew there was a malfunction in the percolation area; I have a WWT at my own home, and was fully involved in the building of same in 1993, I studied how it works in consultation with the environmental officer who oversaw the works; and in the interests of proper sanitation, the law of commonsense advises me to remedy it.
- How can it be that in obeying the Law, regarding general care and maintenance of WWT, where I only worked on what I had, namely septic tank and percolation area, to bring it back to it's original functionality - how can it be that I am somehow breaking another Law.
- There is a general guideline for exemption that says:
Development is exempt from the planning code mainly in cases where:

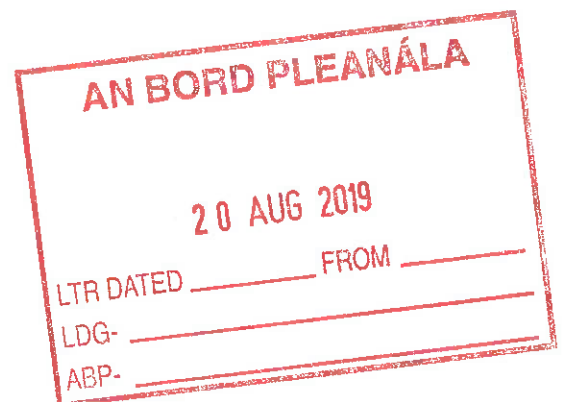
there would be only a limited impact on the surrounding environment,

The only impact is that the percolation area works differently. Works better. Back to what it should be.



In Conclusion

As the works have restored the WWT system back to its original efficiency, where the system is the same, namely, a septic tank and a percolation area which are in the same place they always have been. And given that one is advised by law to maintain WWT systems. I hope you agree that these maintenance and care works to the WWT can be deemed Exempted Development.



4

An important word about previous applications & decisions:

The refurbishment and works carried out at the Chalet have been the subject of 3 previous applications:

- Galway Co. Co. ED 17/20
- Galway Co. Co. ED18/49
- ABP-302930-18

1. The first and most important point that needs to be addressed is that Galway Co. Co. had created and proffered false evidence concerning 'Missing Chalet'.

As of ED19/45, the application that has prompted this appeal, the false evidence has been dropped.

If you would like to see for yourself, here is the explanation of what it was, and how the 'false' evidence can be refuted completely.

(Item 8)

2. That false evidence mis-informed the three planning inspectors and negatively prejudiced my applications.

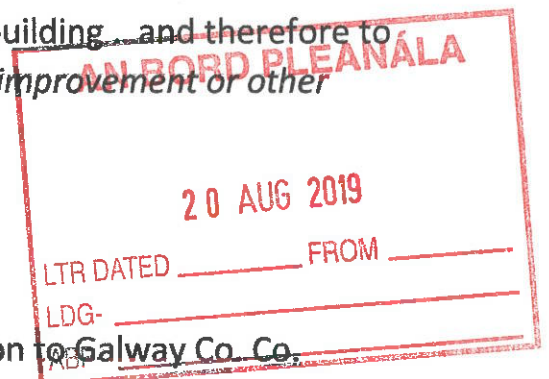
All three reports accepted the Chalet was 'missing' and came to conclusions concerning demolition and construction of a new building... and therefore to the conclusion ... *not in the scope of maintenance, improvement or other alteration.*

(For ED17/20 see 9A)

(For ED 18/49 see 9B)

(For ABP302930-18-see 4A & 4B)

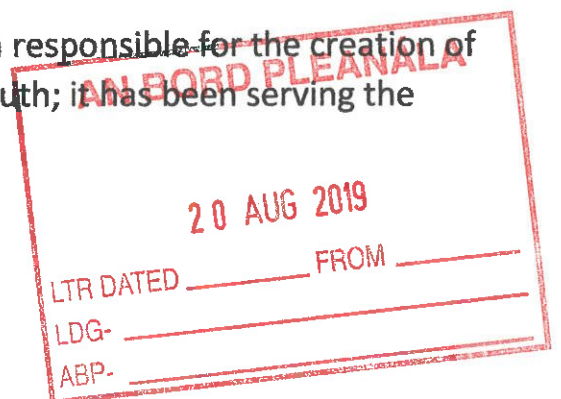
As I have pointed out, in the most recent application to Galway Co. Co. ED19/45 (the subject of this appeal), the Missing Chalet issue is now dropped; and so too are the issues around demolition etc...and the only reason given to not grant exemption is the one concerning the external appearance.



5

A Background and History of 'The Chalet'.

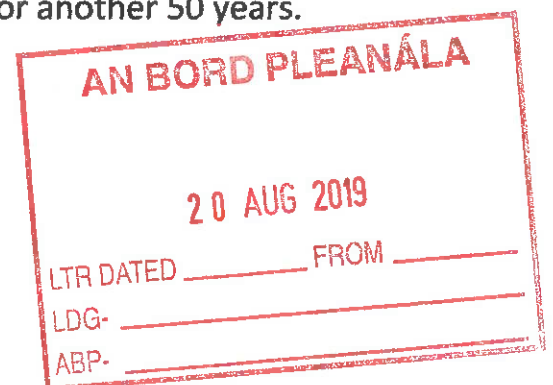
- In 1960 the Chalet was erected by Jerome and Dympna Murray at Furbo.
- It has served as a domestic dwelling since 1960; all 'Murray' family summer-holidays 1960 to 1980; Eamonn Murray (son and present applicant) lived here full time from 1987 to 1993; various tenants, on a year round basis, have enjoyed the home.
- 1963/1964 it received EXEMPT status under planning law.
- 2004: following the death of Jerome, his son Eamonn took over the care and maintenance of the Chalet.
- During the winter of 2012 the bough of a tree, from the woods to the East of the site, fell on and seriously damaged the roof and side wall- and this was the catalyst for all the maintenance works which followed.
- 2013: by the end of this year all works towards maintenance of the site and refurbishment of the building were completed.
- 2017: Eamonn receives a 'warning' letter from the enforcement office.
- What has followed is contrary to what the customer charter promises to a private individual like me: Galway Co. Co. has presided over poor investigation; unjust accusations; and false evidence presented as true. I am aware that this is not the proper place for that discussion, but I can provide proof, of all my assertions, should you want it.
- The very damaging, but false, evidence concerning 'missing Chalet' will be addressed during my submission because it has prejudiced my applications until this latest ED 19/45.
- Since the refurbishment finished, I have had a happy tenant enjoying the Chalet, much as all its previous occupants have done.
- For the Chalet is standing in the same spot; is the same size; is made of the same materials; and is serving the same function- a 39sqm domestic dwelling house.
- It is part of my father's legacy; it has been responsible for the creation of so many of the happy memories of my youth; it has been serving the Murray family for 59 years.



6

The Building: The Refurbishment.

1. This Chalet was 'refurbished'. Substantially.
 2. This Chalet was NOT missing in 2010 or at any other time.
- After 50 years in existence the timber Chalet was showing signs of serious wear and tear; then due to a fallen bough from a neighbouring tree, I feared for the building and I decided to take decisive action.
 - Phone calls to the planning office in 2013 confirmed that I did not need Planning Permission for a refurbishment.
 - There are No Guidelines laid down by Galway Co. Co. to establish how to carry out a refurbishment.
 - In particular, there are no guidelines to establish how to refurbish a timber structure.
 - I sought advice, and assistance, from the experts in Timber Frame Housing, (Flaherty & Goaley; and Scandinavian Homes Galway).
 - I refurbished in line with best practice, both in terms of its environmental impact and in terms of the actual build quality.
 - As I have adopted this eco-friendly living style myself since 1993, when I built an eco-friendly Scandinavian (Timber) home, I was keen to emulate the best qualities of timber frame refurbishment.
 - I refurbished the interior to the highest eco standards- it is effectively a passive house.
 - I installed triple glazing through-out.
 - I totally re-clad the outside with new timbers: it looks like a 'new' build- but then, who would refurbish to look 'old'?
 - It was my intention, and it is my hope, that the works I have carried out will help the Chalet to serve this community for another 50 years.



7

(Items 1 – 10)

AN BORD PLEANÁLA

20 AUG 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____



Re:

The Chalet

Furbo Hill,

Spiddal

Co. Galway

H91 NVY7

To whom it concerns,

I carried out a visual inspection of this site for the purposes of evaluating in my opinion the extent of works carried out.

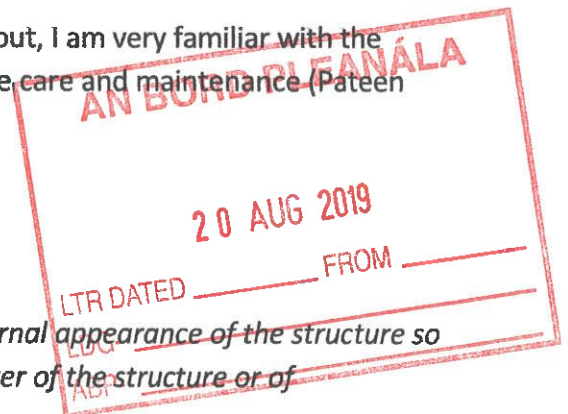
With regard to the building: I used the photograph from the 1970's and satellite imagery from OSI.

With regard to the waste water treatment works carried out, I am very familiar with the quality of workmanship, of the person who carried out the care and maintenance (Pateen Flaherty), and I trust his explanation.

It is my opinion:

Regarding the building:

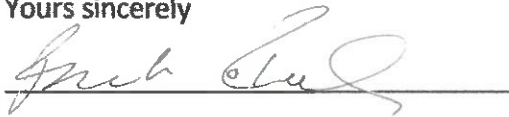
The works carried out '*... do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;*'



Regarding the Waste Water Treatment:

The works carried out come under the heading of care and maintenance. The WWT has not been upgraded to EPA standards (which would have needed planning). It is most likely that after over 50 years in existence such 'care and maintenance', on a site such as this, would have been advisable. Mr Murray's description of ponding, particularly in wet season, is consistent with a percolation area that has ceased to function.

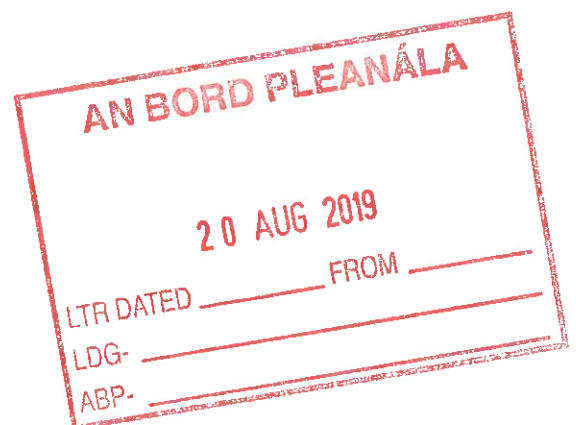
Yours sincerely



Frank O Reilly

CHARTERED ENGINEER C. BUILD ENG, MCABE, FELLOW FCABE, REGISTERED BUILDING SURVEYOR ICIOB, DIP CON MGT, PASSIVE HOUSE CONSULTANT

PROFE Building Engineering and Planning



PROINSIAS O RAGHALLAIGH
CHARTERED ENGINEER C. BUILD ENG, MCABE, FELLOW FCABE, REGISTERED
BUILDING SURVEYOR ICIOB, DIP CON MGT,
PASSIVE HOUSE CONSULTANT
BAILE EAMONN, AN SPIDEAL, CO NA GAILIMHE.
TEL. 087 688 25 47 | EMAIL. oraghallaighp@gmail.com
WEB. www.facebook.com/profebuildingservices



Item 2

Item 2

render the appearance inconsistent with the character of the structure or of neighbouring structures.

8.13. The relevant terms to be applied to the works carried out are improvement and alteration. Having regard to the description of works submitted by the applicant it is doubtful that any of the original structure remains, it is clear from the information supplied by the applicant that the works carried out resulted in the complete replacement of the structure in question. I therefore consider, that based on the extent of works carried out, the development would be more properly described as the demolition of a previously existing chalet and construction of a new chalet within the same footprint.

8.14. Thus, whilst I acknowledge that the appearance of the works does not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure, I consider the extent of works carried out can not be described as improvement and alteration and are more appropriately described as demolition and replacement. As such this element of the works is development and is not exempted development.

8.15. No specific details have been submitted with regard to the repair and maintenance of the existing septic tank. I note that the applicant refers to the works carried out on the septic tank and percolation area provide for a system that is now in accordance with current standards. In order to upgrade a system that is in excess of 50 years old to this level, significant works would be required.

8.16. There are no provisions within either the Planning and Development Act 2000 (as amended) or the Planning and Development Regulations 2001 (as amended) which refer to exemptions for this type development. I therefore conclude that the works carried out to the septic tank and percolation are development and are not exempted development.

8.17. The existing entrance has been widened in previous years by the removal of one entrance pillar, it is noted that the applicant states that these works were carried out as a result of the deterioration of the pillar and whilst I acknowledge the circumstances the resultant development was the widening of an existing access onto a Regional Road for which there are no provisions within either the Planning and Development Act 2000 (as amended) or the Planning and Development

AN BORD PLEANÁLA
20 AUG 2019
LTR DATED _____ FROM _____
LDG- _____
ADP _____

Item 3



**Building Design, Planning & Fire Certification, Surveying & Project Management
Commercial & Residential, Retail, Health Care,**

Kevin Hough, Managing Director

13 Grattan Court

Salthill

Galway

H91 N7FP

Phone: +353 (0) 91 448 655 Mobile: +353 (0) 86 263 0136 email: info@abd.ie or accessbuildingdesign@gmail.com

Attn: Planning Department
Galway County Council
County Buildings
Prospect Hill
Galway
H91 H6KX

Date: Tuesday 13 August 2019

Re: **Single-Storey Timber-Frame House and Services at
Allaphreaghun Td., Furbo, Co. Galway H91 N7Y7
For: Eamonn Murray**

Our Ref.: 721/GCC/721-GCC-L2

To Whom It May Concern:

I, Kevin Hough, of Access Building Design Ltd., have been in private practice since May 1995 and I state the following:

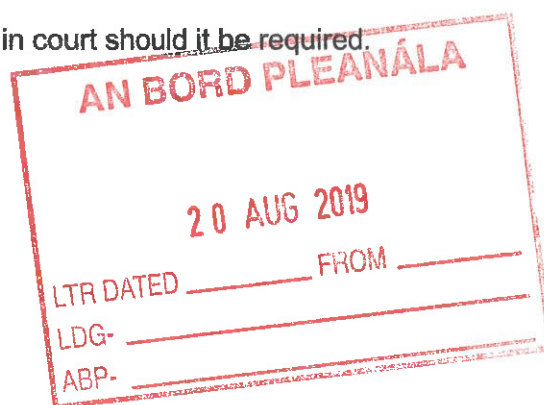
1. I agree with the An Bord Pleanála inspector, Sarah Lynch, '...that the appearance of the works does not materially affect the external appearance of the structure...' and I do consider that the refurbishment that has taken place at The Chalet, Furbo Hill, Spiddal is within the necessary guidelines for Exemption under the Law 4 (1) (h) of The Planning and Development Act 2000.

(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.

2. I further give notice that I am prepared to testify to same in court should it be required.

Yours sincerely,

Kevin J. Hough, Architect
For and on behalf of
Access Building Design



Item 4A

The widened entrance on to R336 regional road is Not Exempt Development as the regional road's width is greater than 4 metres.

Item 4A+4B

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the declaration that the proposed construction of existing timber frame house, existing infrastructure and existing entrance onto the R336 on lands at Furbo Hill, Spiddal County Galway is development under Section 3 of the Planning and Development Act 2000, as amended, and is Not Exempted Development under Article 6 of the Planning and Development Regulations, 2001, as amended, as the existing chalet appears to have been completely replaced and the existing effluent treatment system upgraded to EPA standards after the 1st of October 1964. Furthermore, the widened entrance on to R336 regional road is Not Exempt Development as the regional road's width is greater than 4 metres. The following issues have been considered within the planners report and are summarised as follows:

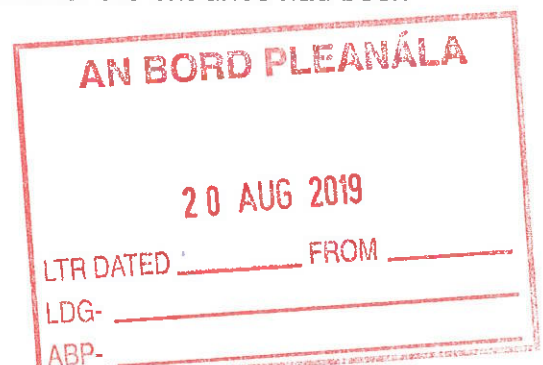
- Google imagery from 2010 shows the chalet missing from the site.
- Upgrade works to effluent treatment system have been carried out post 1st October 1964 and are considered development.
- It has not been established by the applicant whether the entrance had been widened or not post 1st October 2018.

3.2.2. Other Technical Reports

- None

4.0 Planning History

- 18/1340 – Permission was **refused** for the ~~partial~~ dismantling of existing single-storey timber frame chalet and construction of a new first floor extension and relocation of existing entrance.



~~Item~~
Item 4B

5.0 Policy Context

5.1. Development Plan

The site is located in a Class 3 designated rural landscape, which has a landscape sensitivity rating of high.

5.2. Natural Heritage Designations

None

6.0 The Referral

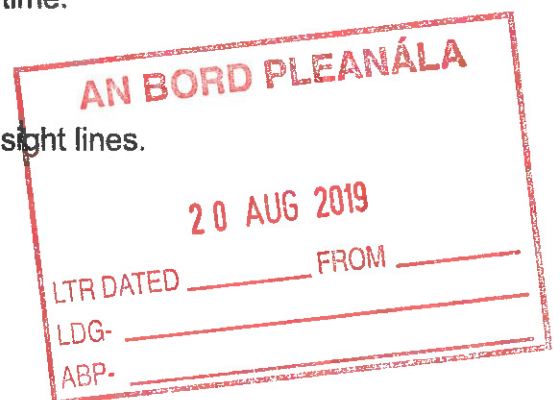
6.1. Referrer's Case

- The chalet has been in situ since 1960.
- It has been refurbished and not replaced.
- Building needed urgent care and maintenance.
- All works were carried out on site.
- The appearance was not materially affected in accordance with Article 4(1)(h).
- It is on the same footprint, is the same size and has the same cubic capacity and the pitch of the roof has been maintained.
- Original cladding was 53 years old and needed to be replaced.
- A letter of support has been submitted with the referral which states that the chalet has been on site for an extensive period of time.
- Entrance had been widened as far back as 2010.
- The pillar had deteriorated, the removal improves sight lines.

*Note of no mention of my refutation of 'Missing Chalet'

6.2. Planning Authority Response

- None



Item 5

- (c) The works for the refurbishment 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;
- (e) The development involving the repair/upgrade of a septic tank and the provision of a percolation area, 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 ;
- (f) The works to the entrance would come within the scope of Class 5 of Part 1 of the Second Schedule to the Planning and Development Regulations 2001, as amended, and are exempted development. On the basis of the documentation submitted with the referral, the Board is satisfied that the works in question have not resulted in the material widening of this means of access to the public road, and accordingly the restrictions on exemption set

Inspector's report to ED 19/45

6(3) of the EU Habitats Directive under Part XAB of the Planning and Development Act, 2000 (as amended), is satisfied that the need for an Appropriate Assessment has been screened out, as a result of the proposed project, individually or in combination with any other projects, as the project is unlikely to have a significant adverse impact on the integrity or conservation objectives on the above named Natura 2000 sites within 15km of the application site.

Proposed works:

Whether works carried out at the chalet and site to maintain and improve, at Furbo Hill, Spiddal.

Nature of the development.

The external repair works falls within the scope of 'works' as defined by the 2000 Act. As such, the works carried out to maintain and improve is 'development' for the purposes of the legislation. In this instance, it is consistent with 'Section 4 (1) h of the 2001 Planning and Development Act, as amended, and is also consistent with the definition, as set out in the schedule, in that:

-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;

Opinion:

Having regard to the above, in particular the nature of the works carried out in conjunction with the Sections 2, 3, 4(1)(h) & 4(4) of the Planning and Development Act 2000 (as amended) and Articles 9(1) (a) (vi), (vii), (viiB) & (viiC) of the Planning and Development Regulations 2001 (as amended), it is considered that the development would constitute development under Section 3 of the Planning and Development Act 2000 (as amended).

Having considered the works that were carried out, and assessing the photos of the chalet submitted by Mr. Murray, in particular the comparison between Photo 'G' from the 1970's and Photo 'H' from the present, I am of the opinion that the works carried out materially alter the external appearance of the structure and so is inconsistent with the original structure that was shown in the submitted photo 'G', therefore it would not fall within 'Section 4 (1) h of the 2000 Planning and Development Act, the works are therefore considered not to be exempted development as per the criteria set out in 'Section 4 (1) h of the 2000 Planning and Development Act.

Also, the submitted Existing Septic Tank Report by Frank O'Reilly states that 'this inspection was a visual one only and that I have not inspected any sub terrain parts of the structure (Sewage Treatment Tank) which were covered, unexposed or inaccessible and I am therefore unable to report that any such part of the tank is free from defect', but he continues on to describe that the tank was emptied and gives a full description of the condition of the inside of the plastered tank even though it is specified on the drawing submitted as a TPW Euro tank which is a precast concrete tank, leading to contradictions in the submitted report.

20 AUG 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Item 8

Google photos

The picture attached here that formed the basis of the 'false' evidence presented by Galway Co. Co., shows the Chalet site taken from the Spiddal/ West side of the site.

What can be seen is 'foliage'.

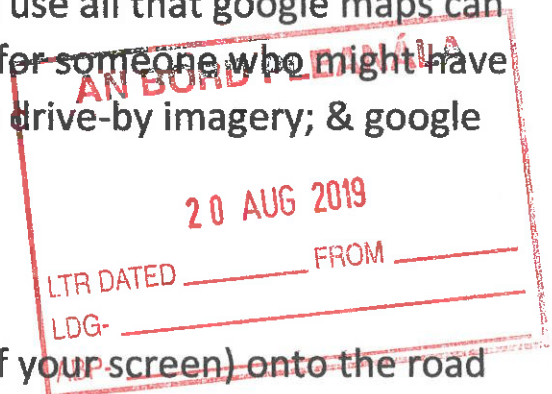
The investigating official concluded that the Chalet was '...not in place'. (This would later be termed, by Galway Co. Co., 'missing Chalet')

It was found on Google maps 2010.

Had the official used the technology for what it offers he could have moved the camera angle down to the front of the site, and there through the trees, the Chalet, in 2010, is clearly still in situ.

Here's how to do it: (if you know how to use all that google maps can offer...please forgive that this is written for someone who might have no idea how to use google maps; google drive-by imagery; & google drive-by historical imagery.)

1. Go to google.maps
2. Find your way to the Chalet site.
3. Drop the yellow man (see on rhs of your screen) onto the road at the Spiddal, or West, corner of the site.
4. You should see a view over the entrance to the Chalet as it was in 2018.
5. Now, at the top left of your (picture) screen, there is an option to press an arrow beside Street View.
6. A small screen will appear.
7. It should show 2009 -----2018.
8. The small screen is showing the picture, from that vantage point, from 2009.
9. By clicking on the small screen it will make that picture appear on your large screen.



Now you should be able to see a camper van on site, and from this angle the Chalet is also not visible, because of the trees onsite.

Next:

1. Bring your curser down the road, an arrow appears on the road, press once to move yourself into a new position- try to get in front of the site.
2. Keep moving down to the front of the site.
3. Angle the camera to give you a view into the site, through the trees, and you'll see the Chalet there in 2009.
4. Now, this is a tricky bit, sometimes the little screen shows

2009 (white dot)-----(White dot)------(White dot) 2018.

a) If it does that's good:

press on the 2nd white dot to the right of 2009 and the little screen will change to ----currently shown: feb 2010.

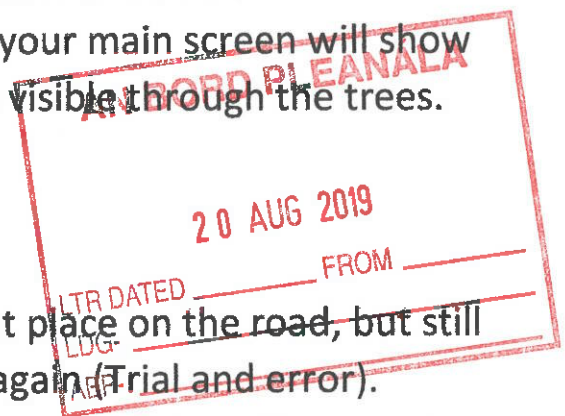
Now press on that little screen and your main screen will show Feb 2010 and the Chalet will still be visible through the trees.

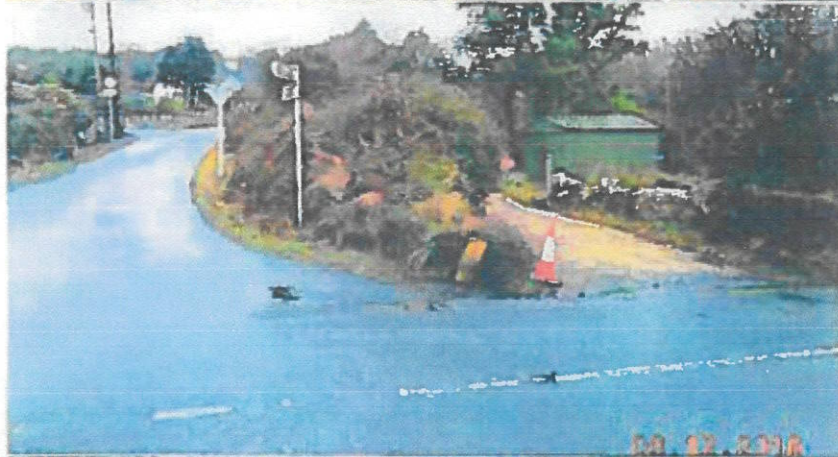
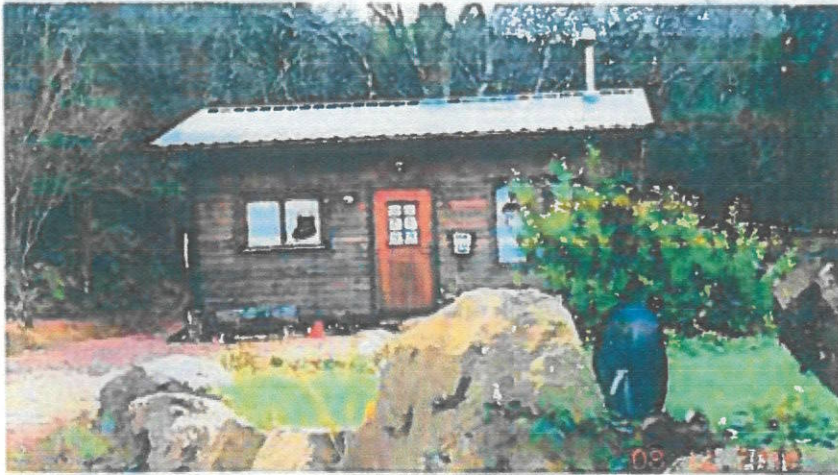
b) If the little screen doesn't:

then move your curser to a different place on the road, but still in front of the site, and press once again (Trial and error).

Eventually, the option to access that second dot will appear in the little screen-but, note, you press the curser on the road of the big screen while watching the change on the little screen.

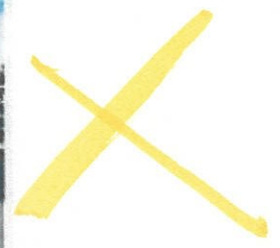
Then follow directions as at 4. above.





Photos showing chalet in Dec 2016 and Google Imagery below dated Feb 2010 showing no chalet in place

AN BORD PLEANÁLA
 20 AUG 2019
 LTR DATED _____ FROM _____
 04 AUG 2019
 ASP: _____



9A

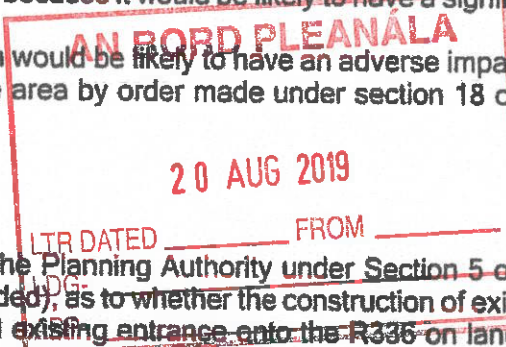
GALWAY CC
ED 17/20

Report By James Russell 29/6/2018

? Approved by Saoirse Kennedy?

Item 9 AtB

- (i) contravene a conditions attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan.
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.
- (viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."



Planning Assessment:

The applicant is seeking written opinion from the Planning Authority under Section 5 of the Planning and Development Act, 2000 (as amended), as to whether the construction of existing timber frame house, existing infrastructure and existing entrance onto the R336 on lands at Furbo Hill, Spiddle, County Galway constitutes exempted development or not within the meaning of the Planning and Development Acts, 2000 (as amended) and Planning and Development Regulations, 2001 (S.I. No. 600 of 2001) (as amended).

The applicant has stated in documents lodged with the Section 5 application that the property was built in 1960 and has had a continued ESB connection from 1960. The use and occupancy of this unit has been set out from the 1960s to present day. The Planning Officer acknowledges that prior to 1st of October 1964, no permission was required for works.

In this instance, concerns are expressed regarding the maintenance works. Google imagery taken in February 2010 shows the wooden chalet structure missing compared to the existing situation on site. Therefore, it can be concluded that the existing chalet was constructed post 1st of October 1964.

In relation to the access road, while the applicant states that the same entrance has been serving the property since the 1960s, it has not been established by the applicant as to whether this access was materially widened or not post 1st of October 2018.

The upgrade works to the effluent treatment system on site have occurred post 1st of October 1964, are considered development works that would require planning permission.

Opinion:

Having regard to the above and the documents included with the Section 5 application, it is considered that the proposal is development and is not exempted development.

Report by John Jordan ^{9B} 11/10/2018
and Valerie Loughnane (SEP)

(E0/18/49
Galway Co Co

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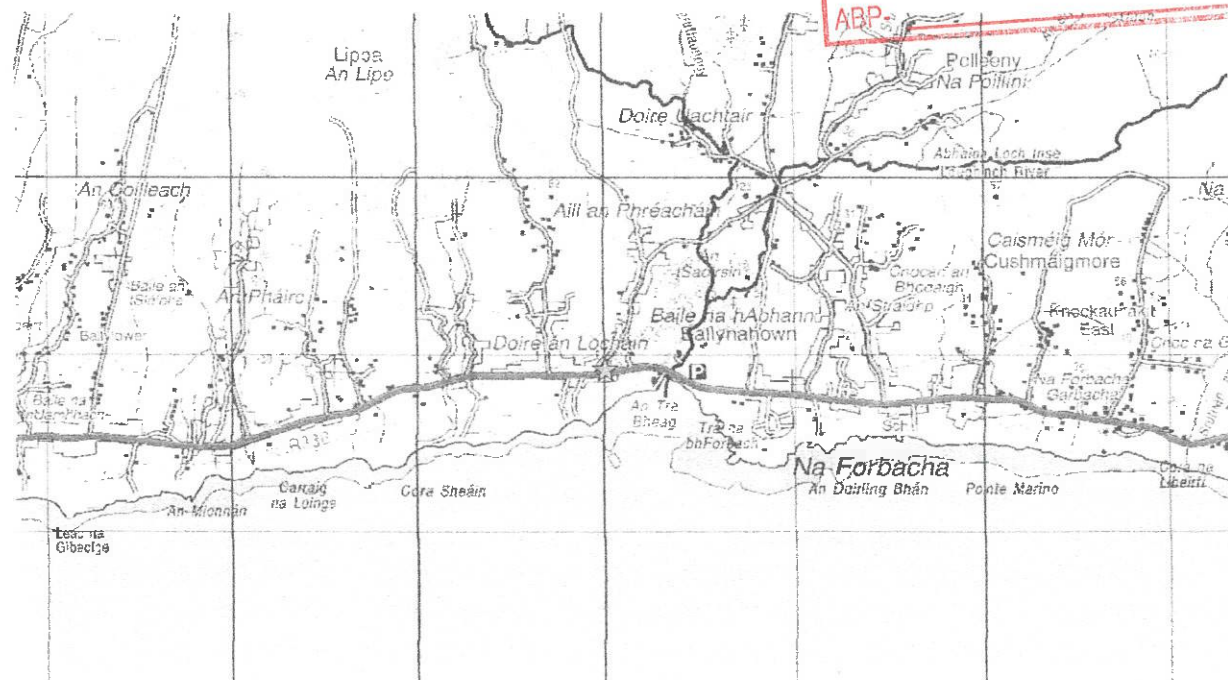
Planning history:

18/1340 Eamonn Murray, to consist of: partial dismantling of existing single-storey timber-frame chalet (39.4 sqm.), construction of a new first floor extension (39.4 sqm.) and balcony, and relocation of existing site entrance gate and associated site works. Gross floor space of proposed works, 78.8sqm. **New Application.**

Galway County Development Plan, 2015-2021:

Landscape:

The site is located within a Class 3 designated rural landscape, which has a landscape sensitivity rating of 'High'.



Item 10



PROFE | BUILDING ENGINEERING & PLANNING

Mr. Eamonn Murray

Ail na Phrreaghain,

Na Forbacha,

Co na Gaillimhe.

Date: 11th August 2019

RE: Unauthorised Structure/Chalet at Ail na Phreaghain, Na Forbacha. Material alterations to the structure.

Dear Eamonn,

In relation to the planners report from Galway County Council in relation to the application for Exempted Development file ref ED 19/45 there were two items noted relating to the report submitted by my office. I can confirm that these were administration errors from a previous report as a template would be similar in nature.

I can confirm the following:

The survey under taken did review the workings of the tank inside and out, however the sub terrain (i.e percolation area) was not excavated therefore it was a visual survey only.

I trust this will clarify up any misleading information in my report, and apologies for the errors.

Should anyone from the Planning Dept. wish to contact my office to confirm same please do not hesitate to make contact,

Yours Sincerely

Frank O Reilly.

AN BORD PLEANÁLA
20 AUG 2019
LTR DATED _____ FROM _____
LDG- _____
ABP- _____

PROINSIAS O RAGHALLAIGH
CHARTERED ENGINEER C. BUILD ENG, MCABE, FELLOW FCABE, REGISTERED
BUILDING SURVEYOR ICIOB, DIP CON MGT,
PASSIVE HOUSE CONSULTANT
BAILE EAMONN, AN SPIDEAL, CO NA GAILIMHE.
TEL. 087 688 25 47 | EMAIL. oraghallaighp@gmail.com
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