



An  
Bord  
Pleanála

**Board Direction**  
**ABP-301312-18**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 10/12/2018.

The Board decided, as set out in the following Order, that

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the:

- (1) Installation of a septic tank and percolation area,
- (2) Construction of a house and connection to septic tank (reworded to whether the construction of a structure within the curtilage of an existing house and all associated site development works to include site clearance and connection to a septic tank), and
- (3) Erection of a pillar box on a right of way,

is or is not development or is or is not exempted development:

**AND WHEREAS** Patrick Carragher requested a declaration on this question from Monaghan County Council and the Council did not issue a declaration within four weeks of the receipt of the request:

**AND WHEREAS** Patrick Carragher referred this declaration for review to

An Bord Pleanála on the twenty second day of March 2018:

**AND WHEREAS** An Bord Pleanála, in considering the referral had regard particularly to-

- (a) Section 2, 3 and 4 of the Planning and Development Act 2000, as amended,
- (b) Article 6(1) and Article 9(1) of the Planning and Development Regulations 2001-2018,
- (c) Class 26 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001-2018,
- (d) Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001-2017,
- (e) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) The pattern of development in the area,
- (g) The submissions on file and the report of the Inspector.

**AND WHEREAS** An Bord Pleanála has concluded that **(1)**:

- (a) the installation of a septic tank and percolation area on, in or under the land involves the carrying out of works, as defined under section 3(1) of the Planning and Development Act, 2000, and is, therefore, development;
- (b) the development that has taken place does not come within the

scope of section 4(1) of the Planning and Development Act 2000, as amended;

- (c) the development that has taken place does not come within the scope of any class of development listed in Part 1 of Schedule 2 to the Planning and Development Regulations 2001, as amended;
- (d) there is no evidence that the septic tank and percolation area have the benefit of a grant of planning permission or pre-date the commencement of the Local Government (Planning and Development) Act 1963.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(b) of the 2000 Act, hereby decides that the installation of a septic tank and percolation area at Drumquill, Castleblaney, County Monaghan is development and is not exempted development.

**AND WHEREAS** An Bord Pleanála has concluded that **(2)**:

- (a) the construction of a structure within the curtilage of an existing house and all associated site development works to include site clearance and connection to a septic tank constitutes works, which in turn constitutes development within the meaning of the Planning and Development Act 2000, as amended, and the development does not benefit from any exemption under Section 4 of the Act.

(b)

The works to the structure that has taken place does not come within the scope of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, as they do not comply with all of the conditions and limitations of Column 2 of Class 3, and specifically do not comply with the conditions and limitations of 1,2,4 and 5 of the same class. Specifically, the works would not meet the requirements set out under Condition and Limitation

numbers 1, 2,4 and 5 of Column 2 of Class 3 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended.

- (c) The connection of the structure to a septic tank does not come within the scope of any exempted development status either under the provisions of the Planning and Development Act, 2000, as amended, or under Article 6 of the Planning and Development Regulations, 2000, as amended, and is therefore not exempted development.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(b) of the 2000 Act, hereby decides that the construction of a structure within the curtilage of an existing house and all associated site development works to include site clearance and connection to a septic tank at Drumquill, Castleblaney, County Monaghan is development and is not exempted development.

**AND WHEREAS** An Bord Pleanála has concluded that **(3)**:

- (a) The construction of a pillar structure to house an electricity meter on the edge of a laneway constitutes works, which in turn constitutes development within the meaning of the Planning and Development Act 2000, as amended.
- (b) The development of the structure that has taken place does not come within the scope of any provisions afforded exempted development status under Section 4(1)(g) of the Planning and Development Act 2000, as amended.
- (c) The development of the structure does not come within the scope of any class afforded exempted development status for the purposes of the Planning and Development Act 2000, as amended.

**AND NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5(3)(b) of the Planning and Development Act 2000, as amended, hereby decides that the (1) Installation of a septic tank and percolation area, (2) the construction of a structure within the curtilage of an existing house and all associated site development works to include site clearance and connection to a septic tank, and (3) Erection of a pillar box on a right of way, at Drumquill, Castleblaney, County Monaghan is development and is not exempted development.

**Board Member:**

**Date:** 10/12/2018

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Terry Prendergast