



An  
Bord  
Pleanála

**Board Direction  
ABP-301372-18**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 06/11/2018.

The Board decided, as set out in the following Order, that the use of the subject shed for agricultural purposes is development and is not exempted development.

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the use of a shed at Marlinstown Bog, Mullingar, for agricultural purposes is or is not development or is or is not exempted development,

**AND WHEREAS** John O'Connell requested a declaration on this question from Westmeath County Council and the Council issued a declaration on the 14<sup>th</sup> day of March, 2018 stating that the matter was development and was not exempted development:

**AND WHEREAS** John O'Connell referred this declaration for review to An Bord Pleanála on the 6<sup>th</sup> day of April, 2018:

**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)(a) of the Planning and Development Act, 2000, as amended,
- (d) article 6(3) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (e) Parts 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history (including enforcement history) of the site:

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

- (a) The construction of the subject shed involved works and therefore comprises development,
- (b) The subject shed, which is relatively recently built, does not have the benefit of planning permission,
- (c) The submissions on file fail to substantiate the claim that the original use of the building when constructed was for agricultural purposes,
- (d) Based on documentation on file from the planning authority, the shed would appear, following its construction, to have been in use for non-agricultural purposes,
- (e) The shed cannot therefore avail of any exemptions that might otherwise be available for use of a building for agricultural purposes under Section 4(1)(a) of the Planning and Development Act, 2000, as amended, or under Planning and Development Regulations, 2001, as amended.

**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 use of the

subject shed for agricultural purposes is development and is not exempted development.

In deciding not to accept the Inspector's recommendation that the use of the building for agricultural purposes was not development, the Board considered that it had not been demonstrated that the use of the building when constructed was for agricultural purposes. In light of this, and in view of the planning history of the site, it was not considered appropriate to consider either the building or its use for agriculture as coming within the scope of exemptions set out in the Act or Regulations.

**Board Member:**

**Date:** 08/11/2018

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Conall Boland