



An  
Bord  
Pleanála

**Board Direction**  
**BD-001971-18**  
**ABP-302163-18**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 07/12/2018.

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

**WHEREAS** a question has arisen as to whether the provision of an electrical kiosk is or is not development or is or is not exempted development at Applegreen Service Station, Tootenhill House, Tootenhill, Rathcoole, Co. Dublin, is or is not development or is or is not exempted development:

**AND WHEREAS** Petrogas Group Ltd (T/A Applegreen), c/o David Mulcahy Planning Consultants Ltd of 67 The Old Mill Race, Athgarvan, County Kildare, requested a declaration on this question from South Dublin County Council, and the Council issued a declaration on the 26<sup>th</sup> day of June, 2018 stating that the matter is development and is not exempted development.

**AND WHEREAS** Petrogas Group Ltd (T/A Applegreen) referred this declaration for review to An Bord Pleanála, on the 23<sup>rd</sup> day of July 2018.

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 26 and 29 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) Previous planning permission, PA ref SD16A/0280, and
- (e) Submissions made during the course of the referral.

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

- (a) The construction of the kiosk comes within the scope of the definition of development contained in Section 3 of the Planning and Development Act 2000, as amended.
- (b) The kiosk as constructed did not form part of the permitted development at the site and, by reason of its scale and location would not be categorised as a de minimis alteration to the permitted development.
- (c) There is no provision for exemption for the said electrical kiosk provided for in Section 4 of the Planning and Development Act 2000, as amended, and it does 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 any structure, but consisting of the erection of new structure.
- (d) It has not been demonstrated, in the documentation submitted by the referrer, that this kiosk comes within the scope of Class 29 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (e) There are no provisions for exemption for this electrical kiosk provided for in the Planning and Development Regulations 2001, as amended, and

- (f) Therefore, the construction of the electrical kiosk is development and is not exempted development.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the provision of an electrical kiosk at the Applegreen Service Station, Tootenhill House, Tootenhill, Rathcoole, Co. Dublin, is development and is not exempted development.

**Board Member:**

**Date:** 14/12/2018

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Stephen Bohan