



An
Bord
Pleanála

Board Direction
ABP-304215-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on July 29th, 2019.

The Board decided, as set out in the following Order, that (1) the use of land, being the site edged in red on the map submitted with the request, consisting of the use for any of the purposes of agriculture and consisting of the use for that purpose of any building occupied with and so used is development and is not exempted development, (2) The provision of a building measuring 154.87 square metres internally is development and is not exempted development under Class 9 of Part 3 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, and (3) the building in question would, if provided and used solely as part of the central heating system of the existing house within the same curtilage, constitute a boiler house, and would in such circumstances be development and be exempted development.

Board Order as follows:-

WHEREAS a question has arisen as to whether

- (1) the use of land, being the site edged in red on the map submitted with the request, consisting of the use for any of the purposes of agriculture and consisting of the use for that purpose of any building occupied with and so used is or is not development and is or is not exempted development.

- (2) The provision of a building measuring 154.87 square metres internally as a Class 9 agricultural shed is or is not development and is or is not exempted development, and
- (3) The provision of a boiler house as part of a central heating system for the adjoining house is or is not exempted development.

AND WHEREAS Liam Madden, of Convent Road, Longford, requested a declaration on this question from Longford County Council, and the Council issued a declaration on the 25th March 2019 stating that all the three matters were development and were not exempted development.

AND WHEREAS Liam Madden referred this declaration for review to An Bord Pleanála, on the 16th day of April 2019.

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

- (a) Sections 2, 3 and 4 (1)(a) 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 2 of Part 1, and Class 9 of Part 3, of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) The planning history of the subject site, and the pattern of development in the vicinity, including adjoining residential properties, and

- (e) The documentation on file, including of the inspection carried out by the Inspector of the subject shed and site.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The lands in question, being the site edged in red on the map submitted with the request, are located within the curtilage of the existing dwelling house, and do not form part of an agricultural holding;
- (b) The use of these lands for agricultural purposes would involve a change of use from residential to agricultural, and such change of use would be material, having regard to the pattern of development in the vicinity and the likely impacts on the residential amenities of adjoining properties, and would therefore be development;
- (c) The material change of use in this case would not, having regard to the location of the lands in question within the curtilage of a dwelling, come within the scope of the exemption afforded under Section 4(1)(a) of the Planning and Development Act, and would therefore not be exempted development;
- (d) The erection of the building that is the subject matter of this referral involved the carrying out of works and is therefore development;
- (e) The building in question is not linked to any agricultural activity on the lands in question, and therefore does not come within the scope of Class 9 of Part 3 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, or of any other Class in this Part, and is therefore not exempted development;
- (f) The building in question, having regard to its location within the curtilage of the adjoining dwelling, would, if provided solely as part of the central heating

system of the existing house within the same curtilage, constitute a boiler house within the scope of Class 2 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, and would, if used solely for this purpose as a boiler house, be 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 (1) the use of land, being the site edged in red on the map submitted with the request, consisting of the use for any of the purposes of agriculture and consisting of the use for that purpose of any building occupied with and so used is development and is not exempted development, (2) The provision of a building measuring 154.87 square metres internally is development and is not exempted development under Class 9 of Part 3 of the Second Schedule to the Planning and Development Regulations, 2001, as amended, and (3) the building in question would, if provided and used solely as part of the central heating system of the existing house within the same curtilage, constitute a boiler house, and would in such circumstances be development and be exempted development, all at Stonepark, Longford, Co. Longford.

Note: In reaching its decision, the Board generally concurred with the view of the Inspector that the lands in question, and the building located within the lands, are located within the curtilage of the existing dwelling house. The Board noted that this fact is implicit in the context of the referrer's third question, since the exemption provided for under Class 2 of Part 1 of the Second Schedule to the Regulations relates to circumstances in which such a structure is within the curtilage of a house (as are the exemptions under Classes 1 to 9 of this Part), and indeed noted that the claim for exemption put forward by the referrer specifically referred to Class 2. However, the Board noted that there are no limitations in Class 2 as to the floor area of a boiler house, and accordingly did not accept the Inspector's view that the building in question cannot come within the scope of Class 2, if used solely as such a boiler house. Furthermore, the Board noted, and agreed with, the Inspector that

the subject site is not within, nor part of, any agricultural holding, and that the use of the area for agricultural purposes would be a material change of use and would not be exempted development. The Board also concurred with the Inspector's view that, if the building is used as a boiler house to serve the adjoining house, as claimed by the referrer, then it would fail to comply with the conditions and limitations of Class 9 of Part 3.

[Please issue a copy of this Direction with the Board Order to the parties with the Board Order]

Board Member

Date: 30th July 2019

Philip Jones