



An  
Bord  
Pleanála

**Board Direction  
ABP-305540-19**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/08/2020.

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the installation of a box culvert/animal underpass for the purposes of moving cattle and the installation of effluent holding tank is or is not development or is or is not exempted development:

**AND WHEREAS** Donal Gerard McDaid of Beagh D.E.D, Crosslare, Carrickmacross, Co. Monaghan, requested a declaration on this question from Council, and the Council issued a declaration on the 5th day of October 2019 stating that the matter is development and is not exempted development. *[delete as appropriate]*

**AND WHEREAS** Donal Gerard McDaid referred this declaration for review to An Bord Pleanála, on the 2<sup>nd</sup> day of October 2019.

**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(1) and Article 9(1) of the Planning and Development Regulations, 2001, as amended, and Class 9 as described in Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (e) Part 1 (Class 41(c)) and Part 3 (Class 9) of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) The planning history of the site and immediate environs,
- (g) The nature of land uses and the pattern of development in the area surrounding the site, including the topography and watercourses and,
- (h) The report of the planning Inspector.

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

- (a) the installation of a box culvert/animal underpass for the movement of animals and the installation of an effluent tank together with their associated works constitutes works;
- (b) the works constitute development pursuant to Section 3 of the Planning and Development Act, 2000, as amended;
- (c) the works constitute development to which the exempted development provisions of Section 4(1) of the Act do not apply;
- (d) the development does not come within the scope of Class 41(c) of Part 1 of Schedule 2 to the Planning and Development Regulations 2001, as amended;
- (e) the development is not exempt by reference to Class 9 of Part 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, as the conditions and limitations set out in (1) (2) and (3) are applicable in this instance;
- (f) the restriction on exemptions outlined in Article 9(1)(a)(v) is applicable in this instance; and,

- (g) The development does not come within the scope of works for agriculture within the scope of Article 8B of the 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 Planning and Development Act, 2000, as amended, hereby decides that that the installation of a box culvert/animal underpass for the purposes of moving cattle and the installation of effluent holding tank is development and is not exempted development.

**Board Member:**

**Date:** 28/08/2020

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Chris McGarry