



An
Bord
Pleanála

Board Direction
ABP-309911-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/02/2022.

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

Board Order as follows:-

WHEREAS a question has arisen as to whether the construction of a farm storage shed is or is not development or is or is not exempted development;

AND WHEREAS Diarmuid Breen, Sneem Co. Kerry requested a declaration on this question from Kerry County Council and the Council issued a declaration on the 8th day of March, 2021, stating that the matter was development and was not exempted development;

AND WHEREAS Diarmuid Breen referred this declaration for review to An Bord Pleanála on the 6th day of April 2021.

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

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended,

- (b) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (c) Article 6(3) and article 9(1) of the Planning and Development Regulations 2001, as amended,
- (d) Part 3 of Schedule 2 to the Planning and Development Regulations 2001, as amended,
- (e) The planning history of the site,
- (f) the nature and extent of the works

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The works of construction of a farm storage shed come within the scope of 'development' as set out in Section 3 of the Planning and Development Act 2000 (as amended);
- (b) The proposed agricultural storage shed would come within the scope of exemption provided at Class 9 of Part 3 of Schedule 2 to the Planning and Development Regulations 2001 (as amended).
- (c) The proposed development would endanger public safety by reason of traffic hazard or obstruction of road users and would therefore be restricted by the terms of Article 9(1)(a)(iii) 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 2000 Act, hereby decides that the construction of the farm storage shed at Ardmore, Sneem Co. Kerry is development and is not exempted development.

Note. In not agreeing with the Inspector's conclusions that the proposed development did not comply with the limitations of condition 1 of Class 9, Part 3, Schedule 2 of the Planning and Development Regulations 2001 (as amended) as it shall be used for a purpose other than the purpose of agriculture or forestry, the Board considered that there was inadequate information on the file to make a conclusive determination on this issue.

Furthermore, the Board shared the Inspectors concerns that the proposed development might also be restricted by the terms of Article 9(1)(a)(ii) and Article 9(1)(a)(viii) of the Planning and Development Regulations 2001 (as amended) which pertain to the formation, laying out or material widening of a means of access to a road with a width greater than 4 meters, and to the extension, alteration, retain or renewal of an unauthorised entrance. However, the Board could not be conclusive on these issues, on the basis of the information on the file and the planning history of the site.

Board Member:

Maria FitzGerald

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Date: 25/02/2022

