

## Board Direction ABP-310229-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 06/12/2021.

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 16 square metre shed to the rear of the house, at Kill West, Kill, County Kildare is or is not development or is or is not exempted development.

AND WHEREAS Mimi Keogh, requested a declaration on this question from Kildare County Council, and the Council issued a declaration on the 20<sup>th</sup> day of April 2021 stating that the matter is development and is not exempted development.

**AND WHEREAS** Mimi Keogh referred this declaration for review to An Bord Pleanála, on the 12<sup>th</sup> day of May 2021.

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,

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- (b) Section 3(1) of the Planning and Development Act 2000, as amended,
- (c) Article 6(1) and Article 9(1) of the Planning and Development Regulations 2001, as amended,
- (d) Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001, as amended,
- (e) The documentation submitted with the referral,
- (f) The planning history of the subject site, and
- (g) The report of the Inspector.

## AND WHEREAS An Bord Pleanála has concluded that:

- (a) The development of the shed constitutes development;
- (b) The nature and scale of the shed structure comes within the scope of Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001, as amended;
- (c) None of the conditions and limitations as set out under Column 2 of Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001, as amended applies in this instance,
- (d) The description of the shed structure as set out in the referral documentation, including detail of the timing of its construction in December 2019, means that the provisions of planning permission An Bord Pleanala Reference: 307975-20, including the fact that implementation of this permission would require the removal of the shed on site, and that Condition No. 4 of this permission confirms that development described in Classes 1 and 3 of Part 1 of Schedule 2 to the Planning and Development Regulations

2001, as amended, or any statutory provision modifying or replacing them shall not be carried out within the curtilage of the proposed dwelling house without a prior grant of planning permission, do not apply to the question currently before the Board, as the question is not related to any issue of implementation of this permission.

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 construction of a 16 square metre shed to the rear of the house, at Kill West, Kill, County Kildare, as described in the referral documentation, is development and is exempted development.

**Board Member:** 

Date: 06/12/2021

