



An
Bord
Pleanála

Board Direction
ABP-313950-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 04/09/2024.

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

WHEREAS Kilkenny County Council has referred a question to An Bord Pleanála on the 24th day of June, 2022 as to whether the use of a shed, containers, concrete loading area and access laneway to facilitate potato storage and distribution at lands at Derrylackey, Mullinavat, County Kilkenny is or is not development or is or is not exempted development,

AND WHEREAS An Bord Pleanála has amended the question to read as follows: Whether a shed, containers, concrete loading and other hardstanding areas and access laneway to facilitate potato storage and distribution at lands at Derrylackey, Mullinavat, County Kilkenny is or is not development and is or is not exempted development,

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to – (a) Sections 2(1) and 3(1) of the Planning and Development Act, 2000, as amended, (b) article 6(1) and Parts 1 and 3 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, (c) ABP case Refs. RL3016, RL2806 and 242248, and (d) the documentation on file and the report of the Planning Inspector,

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The use (activity) on site, involving the storage of potatoes, and including washing/grading/packing as the case may be, and subsequent distribution of same falls within the definition of agriculture under Section 2(1) of the Act. As such no change of use or material change of use has occurred. The use or activity as described, therefore, does not constitute development.
- (b) The shed constitutes development. It does not fall within the scope of Class 9, Part 3, Schedule 2 of the Regulations as the floor area of the shed exceeds the maximum threshold of 300sqm under that class. The shed, therefore, does not constitute exempted development.
- (c) The containers/portacabins constitute development. Also used mostly for storage, they add further to Class 9 floor area and, therefore, do not constitute exempted development.
- (d) The concrete loading and other hardstanding areas constitute development. They do not fall within the scope of Class 8, Part 3, Schedule 2 of the Regulations as their combined areas exceed the maximum threshold of 200sqm under that class. They, therefore, do not constitute exempted development.
- (e) The access laneway constitutes development. It does not fall within the scope of Class 13, Part 1, Schedule 2 of the Regulations as the width of the laneway exceeds the maximum threshold of 3.0m under that class. The laneway, therefore, does not constitute exempted development

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, as amended, hereby decides that (a) the use for potato storage and distribution is not development, (b) the shed is development and is not exempted development, (c) the containers/portacabins are development and are not exempted development, (d) the concrete loading and other hardstanding areas are development and are not exempted development, and (e) the access laneway is development and is not exempted development.

Board Member:

Patricia Callear
Patricia Callear

Date: 04/09/2024