

An  
Bord  
Pleanála

**Board Direction**  
**ABP-318300-23**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/05/2024.

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

**WHEREAS** a question has arisen as to whether the erection of a plant structure for an industrial purpose is or is not development or is or is not exempted development:

**AND WHEREAS** Charles Vial requested a declaration on this question from Donegal County Council and the Council issued a declaration on the day of 28<sup>th</sup> September, 2023 stating that the matter was development and was not exempted development:

**AND WHEREAS** Charles Vial referred this declaration for review to An Bord Pleanála on the 20<sup>th</sup> day of October, 2023:

**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,
- (e) Class 21 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site, and
- (g) the pattern of development on the site:

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

- (a) The subject structure is a building, which would be used as a warehouse in conjunction with the referrer's existing fish processing factory.
- (b) The referrer has not demonstrated that the portion of the site upon which the subject structure would be sited lies on land occupied and used by an industrial undertaker for the carrying on, and for the purposes of, any industrial process.
- (c) The subject structure would not be a "a structure of the nature of plant or machinery", as it would neither merger with any plant and machinery that it supports or be integral to the support afforded to any plant and machinery.
- (d) Consequently, the subject structure, as a building, is development, which is not exempted development under Class 21 of Part 1 of Schedule 2 to 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 erection of a plant structure for an industrial purpose is development and is not exempted development.

**Board Member:**

  
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Stephen Bohan

**Date:** 16/05/2024