



An  
Bord  
Pleanála

## Board Direction ABP-320553-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 24/04/2025.

The Board decided, generally in accordance with the Inspector's recommendation, as follows:-

**WHEREAS** a question has arisen as to whether the replacement of an unstable shed to the front of the referrer's property with a shed of similar scale and size, at Poulawaddra, Ballyseedy, Tralee, Co. Kerry, is or is not development, or, is or is not exempted development:

**AND WHEREAS** Margaret and Emmet Kelly requested a declaration on this question from Kerry County Council and the Council issued a declaration on the 30th day of July 2024 stating that the matter was development and was not exempted development:

**AND WHEREAS** Margaret and Emmet Kelly referred this declaration for review to An Bord Pleanála on the 14th day of August 2024:

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

- (a) Sections 2(1), 3(1), and 4(1) of the Planning and Development Act, 2000, as amended;
- (b) Articles 6(1) and 9(1) of the Planning and Development Regulations, 2001, as amended;

- (c) Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (d) the planning history of the site, in particular, planning register reference no. 13/544, and
- (e) the pattern of development in the area:

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

- (a) The replacement of an unstable shed with a shed structure of similar scale and size in a location forward of the front wall of the house comprises works and constitutes development as defined under sections 2(1) and 3(1) respectively of the Planning and Development Act 2000, as amended.

- (b) Given the nature and extent of the works undertaken:-

- (i) the works do not constitute the maintenance, improvement or other alteration to an existing shed but rather constitute the construction of a new shed, and
- (ii) the works are such that they affect more than the interior of the original shed and they materially affect the external appearance of the new shed so as to render its appearance inconsistent with the character of the original shed.

The works, therefore, do not come within the scope of section 4(1)(h) of the Planning and Development Act 2000, as amended,

- (c) The shed, being located forward of the front wall of the house on the site, does not come within the scope of Class 3, Part 1, Schedule 2 of the Planning and Development Regulations 2001, as amended, as it does not comply with Conditions and Limitations No. 1 of said Class.
- (d) The proposal contravenes condition no. 6 of planning register reference no. 13/554 and therefore comes within the restrictions on exempted development pursuant to article 9(1)(a)(i) 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 the replacement of an unstable shed to the front of the referrer's property with a shed of similar scale and size, at Poulawaddra, Ballyseedy, Tralee, Co. Kerry, is development and is not exempted development.

**Board Member:**

  
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Tom Rabbette

**Date:** 24/04/2025