



Planning and Development Acts 2000 to 2018

Planning Authority: South Dublin County Council

Planning Register Reference Number: ED18/0015

WHEREAS a question has arisen as to whether the provision of an electrical kiosk at Applegreen Service Station, Tootenhill House, Tootenhill, Rathcoole, County Dublin is or is not development or is or is not exempted development:

AND WHEREAS Petrogas Group Limited (trading as Applegreen) care of David Mulcahy Planning Consultants Limited of 67 The Old Mill Race, Athgarvan, County Kildare requested a declaration on the question from South Dublin County Council and the Council issued a declaration on the 28th day of June, 2018 stating that the matter is not exempted development:

AND WHEREAS Petrogas Group Limited referred the declaration for review to An Bord Pleanála on the 23rd day of July, 2018:

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

- (a) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) classes 26 and 29 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (d) previous planning permission, planning register reference number SD16A/0280, and
- (e) submissions made during the course of the referral:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the construction of the kiosk comes within the scope of the definition of development set out in Section 3 of the Planning and Development Act 2000, as amended,
- (b) the kiosk, as constructed, did not form part of the permitted development at the site and, by reason of its scale and location, would not be categorised as a de minimis alteration to the permitted development,

- (c) there is no provision for exemption for the electrical kiosk provided for in Section 4 of the Planning and Development Act 2000, as amended, and it does not come within the scope of Section 4(1)(h) of the Act, as amended, not being works for the maintenance, improvement or other alteration of any structure, but consisting of the erection of new structure,
- (d) it has not been demonstrated, in the documentation submitted by the referrer, that this kiosk comes within the scope of Class 29 of Part 1 of the Second Schedule to the Planning and Development Regulations, 2001, as amended,
- (e) there are no provisions for exemption for this electrical kiosk provided for in the Planning and Development Regulations 2001, as amended, and
- (f) therefore, the construction of the electrical kiosk is development and is not exempted development.

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 provision of an electrical kiosk at Applegreen Service Station, Tootenhill House, Tootenhill, Rathcoole, County Dublin is development and is not exempted development.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Stephen Bohan

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019.