

An
Bord
Pleanála

Board Order
ABP-320553-24

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: EX1245

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

AND WHEREAS Margaret and Emmett Kelly of Poulawaddra, Ballyseedy, Tralee, County Kerry 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 works were development and were not exempted development:

AND WHEREAS Margaret and Emmett 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 number 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.

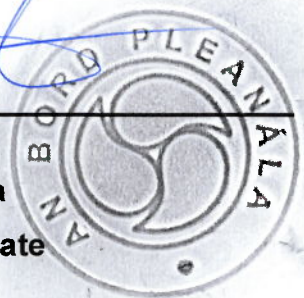
The works, therefore, do not come within the scope of section 4(1)(h) of the Planning and Development Act 2000, as amended,

- (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 number 1 of said Class.
- (d) The proposal contravenes condition number 6 of planning register reference number 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, County Kerry, is development and is not exempted development.


Tom Rabbette

Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.



Dated this 28th day of April 2025.