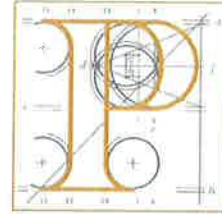


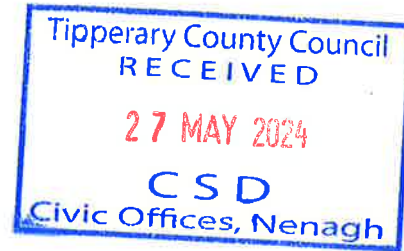
Our-Case Number: ABP-317633-23

Planning Authority Reference Number: S5/23/58



An
Bord
Pleanála

Tipperary County Council
Civic Offices
Nenagh
Co. Tipperary



Date: 24 MAY 2024

Re: Whether the re-activation of the use of the existing entrance to a former residential dwelling is or is not development or is or is not exempted development.
Ballycloona, Carrick-on-Suir, Co. Tipperary.

Board Direction Attached

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned referral under the Planning and Development Acts 2000 to 2022. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

Yours faithfully,

Rory Kelleedy
Executive Officer

RL100PAN

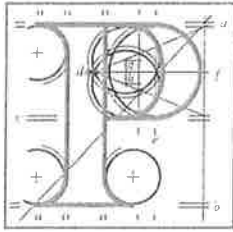
Teil
Glaio Áitiúil
Facs
Láithreán Gréasáin
Ríomhphost

Tel
LoCall
Fax
Website
Email

(01) 858 8100
1800 275 175
(01) 872 2684
www.pleanala.ie
bord@pleanala.ie

64 Sráid Maoilbhríde
Baile Átha Cliath 1
D01 V902

64 Marlborough Street
Dublin 1
D01 V902



An
Bord
Pleanála

Board Order
ABP-317633-23

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: S5/23/58

WHEREAS a question has arisen as to whether the use of the access to the cottage at Ballycloona, Carrick on Suir, County Tipperary is or is not development or is or is not exempted development:

AND WHEREAS Walter Power care of Will McGarry and Associates Consulting Engineers of 15 Mary Street, Clonmel, County Tipperary requested a declaration on this question from Tipperary County Council and the Council issued a declaration on the 6th day of July, 2023 stating that the works, the re-activation of the use of the existing entrance to a former residential dwelling at Ballycloona, Carrick on Suir, County Tipperary was development and was not exempted development:

AND WHEREAS Walter Power referred this declaration for review to An Bord Pleanála, on the 24th day of July, 2023:

AND WHEREAS the Board reformulated the question as follows.
Whether the formation of a vehicle access serving a dwelling house at Ballycloona, Carrick on Suir, County Tipperary is or is not development or is or is not exempted development

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) article 6 and article 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 5 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the site,
- (e) the submissions on file, and
- (f) the report of the Planning Inspector.


AND WHEREAS An Bord Pleanála has concluded that -

- (a) the formation of a vehicular access involves the carrying out of works and is, therefore, development under section 3 of the Planning and Development Act, 2000, as amended;
- (b) on the basis of the documentation submitted, there is no evidence on file that a previous authorised vehicular access existed and served the existing house and therefore there is no evidence on file that the vehicular access, the subject matter of this referral, is being or has been re-activated;
- (c) the vehicular access directly adjoins and accesses onto the N76 national secondary road. This road has a surfaced carriageway width of more

than four metres. Article 9 of the Planning and Development Regulations, 2001, as amended, restricts the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds four metres in width;

- (d) the formation of a vehicular access, being established as development, does not come within the scope of any other provision for exempted development, as set out in the Planning and Development Act 2000, as amended or 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 formation and use of a vehicle access serving a dwelling house at Ballycloona, Carrick on Suir, County Tipperary is development and is not exempted development.



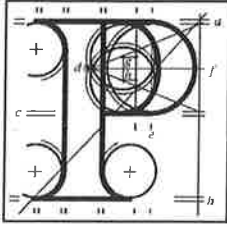
Patricia Calleary

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *23* day of *May* 2024.



An
Bord
Pleanála

Board Direction
ABP-317633-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/05/2024.

The Board decided, as set out in the following Order, as follows:

WHEREAS a question has arisen, as reformulated by the Board, as to whether the formation of a vehicle access serving a dwelling house at Ballycloona, Carrick on Suir, County Tipperary is or is not development or is or is not exempted development,

AND WHEREAS Walter Power care of Will McGarry and Associates Consulting Engineers of 15 Mary Street, Clonmel, County Tipperary requested a declaration on this question from Tipperary County Council and the Council issued a declaration on the 6th day of July, 2023 stating that the matter was development and was not exempted development,

AND WHEREAS Walter Power referred this declaration for review to An Bord Pleanála, on the 24th day of July, 2023,

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

- (a) section 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) Class 5 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the site,
- (e) the submissions on file,
- (f) the report of the inspector.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The formation of a vehicular access involves the carrying out of works and is, therefore, development under section 3 of the Planning and Development Act, 2000, as amended,
- (b) On the basis of the documentation submitted, there is no evidence on file that a previous authorised vehicular access existed and served the existing house and therefore there is no evidence on file that the vehicular access, the subject matter of this referral, is being or has been re-activated;
- (c) The vehicular access directly adjoins and accesses onto the N76 national secondary road. This road has a surfaced carriageway width of more than 4 metres. Article 9 of the Planning and Development Regulations, 2001, as amended, restricts the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,
- (d) The formation of a vehicular access, being established as development, does not come within the scope of any other provision for exempted development, as set out in the Planning and Development Act 2000, as amended or 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 formation and use of a vehicle access serving a dwelling house at

Ballycloona, Carrick on Suir, County Tipperary is development and is not exempted development.

Note: The Board did not consider the planning status of the house as this matter was not included in the question referred.

Board Member: Patricia Calleary Date: 13/05/2024
Patricia Calleary

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