



An
Bord
Pleanála

Board Direction
ABP-307371-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/10/2020.

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

WHEREAS a question has arisen as to whether the construction of a road on private land is or is not development or is or is not exempted development:

AND WHEREAS Joachim Schaefer requested a declaration on this question from Leitrim County Council and the Council issued a declaration on the 27th day of March, 2020 stating that (1) The repair and improvement of a private road constitutes development and such development is exempted development, and; (2) The creation of a private road to access agricultural structures under construction constitutes development and such development is not exempted development.

AND WHEREAS Joachim Schaefer referred this declaration for review to An Bord Pleanála on 18th day of July, 2020:

AND WHEREAS An Bord Pleanála, in considering the referral, had regard 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) 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 13 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and

(f) The pattern of development in the area

AND WHEREAS An Bord Pleanála has concluded that –

- (a) The construction of a road on private land consists of the carrying out of works and therefore constitutes development within the meaning of the Act;
- (b) The northern spur and eastern-most section of the road constitute development which is exempted development under Class 13 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended;
- (c) The northern-most section of the road, comprising a rectangular parcel of compacted stone of approx. 12 m in width, and the southern-most spur of approx. 7 m in width, do not meet the limitations and conditions attached to Class 13, and as such, constitute development which is not exempted development.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5(3) of the 2000 Act, hereby decides that the construction of a private road (1) is development which is exempted development and (2) comprises development which is not exempted development.

Board Member:

Date: 22/10/2020

Michelle Fagan