

An
Coimisiún
Pleanála

Direction
ABP-321172-24

The submissions on this file and the Inspector's report were considered at a meeting held on 08/12/2025.

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

Draft wording of Commission Order

WHEREAS a question has arisen as to whether the reactivation or reopening of a vehicular access to a 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 of 15 Mary Street, Clonmel, County Tipperary requested a declaration on this matter from Tipperary County Council and the Council issued a declaration on the 23rd day of October, 2024 stating that the matter is development and is not exempted development,

AND WHEREAS Walter Power care of Will McGarry and Associates of 15 Mary Street, Clonmel, County Tipperary referred the matter to An Coimisiún Pleanála on the 1st day of November, 2024,

AND WHEREAS An Coimisiún 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(1) and Article 9(1) of the Planning and Development Regulations 2001, as amended,
- (c) the planning history of the site,
- (d) the submissions and evidence on file, and
- (e) the report of the Planning Inspector,

AND WHEREAS, in arriving at its decision, the Commission had regard to:

- (a) based on the documentation submitted, notwithstanding the letters on file, there is no objective evidence offered that a previous authorised vehicular access existed and served the existing house. The photographic evidence available to the Commission would suggest that the wall continued along the adjoining road and that the cottage was previously served only by pedestrian access. Accordingly, there is no evidence on file that a vehicular access is being or has been re-activated and, accordingly, the Commission treated the question to mean the formation of a vehicular access,
- (b) 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,
- (c) the formation of a vehicular access, established as development by the Commission, does not come within the scope of any exemptions provided for under the Planning and Development Act 2000, as amended, or the Planning and Development Regulations 2001, as amended, and
- (d) the vehicular access directly adjoins and connects to the N76 national secondary road which has a surfaced carriageway width of greater than four metres. Even if the formation of the vehicular access could otherwise be exempted development under Article 6 of the Planning and Development Regulations 2001, as amended, Article 9 restricts exemption where the

development involves 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. This restriction would apply in this case.

NOW THEREFORE An Coimisiún 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 reactivation or reopening of a vehicular access to a cottage at Ballycloona, Carrick-on-Suir, County Tipperary is development and is not exempted development.

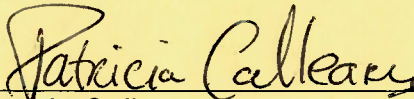
Note:

The commission noted the inspector's view that the house/cottage had been abandoned (in planning terms) and the commission shared this view by reference to case law set out in the inspector's report. Notwithstanding this, the commission limited its assessment to the question before it, namely whether the formation of a vehicular access is or is not development and is or is not exempted development.

Planning

Commissioner:

Date: 08/12/2025


Patricia Calleary