An Coimisiún Pleanála

Direction ACP-323837-25

The submissions on this file and the Inspector's report were considered at a meeting held on 15/10/2026.

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

Commission Order as follows:-

WHEREAS a question has arisen as to whether Whether the installation of a roadway on lands including commonage, fencing, surfacing, drainage works including trenching through the applicant's property, installation of a water pipe and gates, drainage works on the applicant's lands and along the L-1405 is or is not development and is or is not exempted development.

AND WHERE AS Margaret O' Donoghue, requested a declaration on this question from Mayo County Council, and the Council issued a declaration on the 6th day of October 2025 stating that the matter is development and is exempted development.

AND WHEREAS Margaret O' Donoghue referred this declaration for review to An Coimisiún Pleanála, on the 3rd day of November 2025.

The Commission concurred with the Inspector that the information on file demonstrates that the roadway and drainage work constituted works to existing infrastructure, and that the matter of landownership is not a

consideration in the case of a referral and therefore decided the question should be rephased as follows:

Whether the upgrade works to a roadway and drainage (including trenching and drainage pipe), and the installation of fencing and gates, is or is not development and is or is not exempted development.

AND WHEREAS An Coimisiún Pleanála, in considering this referral, had regard particularly 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(2) 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) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, including Classes 9 and 13 of Part 1 and Classes 3 and 4 of Part 3,

(f) the planning history of the site,

(g) the pattern of development in the area:

AND WHEREAS An Coimisiún Pleanála has concluded that:

(a) Under Section 2(1) of the Planning and Development Act, 2000 as amended the works to the road is development;

(b) Under Part 1, Schedule 2, of the Planning and Development Regulations, Class 13 provides for an exemption for repair or improvement of any private street or road or way provided that such private road or way be no greater than three metres in width. Therefore, the works to the road are exempt.

(c) Under Section 2(1) of the Planning and Development Act, 2000 as amended the fencing and gates are development;

(d) Under Part 3, Schedule 2, of the Planning and Development Regulations, Class 4, the construction, erection or maintenance of any fence is considered exempted development provided that its height does not exceed two metres. Therefore, the fencing is exempt. Under Part 1, Schedule 2, of the Planning and Development Regulations, Class 9 refers to construction, erection, renewal or replacement of any gate or gateway as being exempted development provided that its height does not exceed two metres. Therefore, the gates are exempt.

(e) Under Section 2(1) of the Planning and Development Act, 2000 as amended the trenching/ drainage works are development;

(f) Under Part 3, Schedule 2, of the Planning and Development Regulations, Class 3 refers to the construction or maintenance of any gully, drain, pond, trough, pit or culvert, the widening and deepening of watercourses, the removal of obstructions from watercourses and the making or repairing of embankments in connection with such works with no restrictions required in relation to same. Therefore, the drainage and trenching including the installation of a pipe is exempt.

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 upgrade works to a roadway and drainage (including trenching and drainage pipe), and the installation of fencing and gates, is development and is exempted development.

Planning Commissioner:

Date: 19/10/2026

Mary Henchy