



Board Direction

Ref: 07.RL.3400

The submissions on this file and the Inspector's report were considered at a Board meeting held on 8th, January 2016.

The Board generally approved of the terms of the attached draft order, subject to the amendments shown in manuscript.

The Board decided that the creation of a pedestrian entrance between the public road and a supermarket car park at Tullyvoheen (Galway Road), Clifden, North Connemara, Co. Galway is development and is not exempted development.

DRAFT ORDER

WHEREAS a question has arisen as to whether the construction of a pedestrian entrance at Tullyvoheen (Galway Road), Clifden, North Connemara, Co. Galway, is or is not development or is or is not exempted development.

AND WHEREAS the said question was referred to An Bord Pleanála by The Planning Partnership, McHale Retail Park, Castlebar, Co. Mayo on behalf of Lidl Ireland GmbH under the provisions of Section 5(3)(a) of the Planning and Development Act, 2000 on the 3rd April 2012.

AND WHEREAS An Bord Pleanála in considering this referral decided to reformulate the question as following:

Whether the creation of a pedestrian entrance between the public road and a supermarket car park at Tullyvoheen (Galway Road), Clifden, North Connemara, Co. Galway is or is not development or is or is not exempted development.

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

- (a) Sections 2(1), 3(1) and 4(1)(h) of the Planning and Development Act, 2000 (as amended),
- (b) Articles 6(1) and 9(1) of the Planning and Development Regulations, 2001,
- (c) Class 13, Part 1, Schedule 2 to the Planning and Development Regulations 2001 (as amended),
- (d) The planning history of the site,
- (e) The location of the site adjacent to public road
- (f) The use of the site as a supermarket.

AND WHEREAS An Bord Pleanála concluded that –

- (a) The works constitute development, being works which come within the scope of section 3(1) of the Planning and Development Act 2000(as amended).
- (b) The works would not come within the scope of section 4(1)(h) of the Planning and Development Act 2000 (as amended) not being works for the maintenance improvement or other alteration of an existing structure,
- (c) The works bound and abut a public road.
- (d) The works come within the restrictions on exempted development contained at Article 9(1)(a)(ii) of the Planning and Development Regulations 2001(as amended) as they comprise the formation of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.
- (e) The works would fall within the description of exempted development set out in Class 13, Column 1 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended). However, the exemption available under this class cannot be availed of by virtue of the restriction on exemption imposed under Article 9(1)(a)(ii) of the said regulations.

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 said works are development and not exempted development.

Board Member: _____
Paddy Keogh

Date: 18th, January 2016