



An
Bord
Pleanála

Board Direction
05E.RL.3501

The submissions on this file and the Inspector's report were considered at a Board meeting held on April 6th, 2017.

The Board decided, as set out in the following Order, and generally as per the inspector's recommendation, that:

works to development of roadway capable of accommodating heavy machinery and delivery vehicles is development and is not exempted development at Toberkeen, Dungloe, Co. Donegal.

Board Order as follows:-

WHEREAS a question has arisen as to whether works to development of roadway capable of accommodating heavy machinery and delivery vehicles is or is not development or is or is not exempted development is or is not development or is or is not exempted development:

AND WHEREAS Daniel Mulligan requested a declaration on this question from Donegal County Council and the Council issued a declaration on the 20 day of July, 2016 stating that the matter was development and was exempted development:

AND WHEREAS Daniel Mulligan referred this declaration for review to An

Bord Pleanála on the 14 day of August, 2016:

AND WHEREAS An Bord 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(1)(a) 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) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) The relevant planning and enforcement history associated with the site and nearby lands,
- (g) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The works constitute development within the meaning of Section 3 of the Planning and Development Act 2000
- (b) The development does not come within the scope of Class 13 as it is not of the nature of repair or improvement, does not come within the boundary of any private street or way,
- (c) The development does not come within the scope of Class 13, in any event, as the works do not come within the condition and limitation which states that the width of any such private footpath or paving shall not exceed 3 metres.

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 works to development of roadway capable of accommodating heavy machinery and delivery vehicles is development and is not exempted development at Toberkeen, Dungloe, Co. Donegal.

Board Member:

Date: April 7th, 2017

Nicholas Mulcahy