

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: S5/23/58

WHEREAS a question has arisen as to whether the use of the access to the 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 Consulting Engineers of 15 Mary Street, Clonmel, County Tipperary requested a declaration on this question from Tipperary County Council and the Council issued a declaration on the 6th day of July, 2023 stating that the works, the re-activation of the use of the existing entrance to a former residential dwelling at Ballycloona, Carrick on Suir, County Tipperary was development and was not exempted development:

AND WHEREAS Walter Power referred this declaration for review to An Bord Pleanála, on the 24th day of July, 2023:

AND WHEREAS the Board reformulated the question as follows.
Whether the formation of a vehicle access serving a dwelling house at Ballycloona, Carrick on Suir, County Tipperary is or is not development or is or is not exempted development

AND WHEREAS An Bord 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 and article 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 5 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the site,
- (e) the submissions on file, and
- (f) the report of the Planning Inspector.


AND WHEREAS An Bord Pleanála has concluded that -

- (a) 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;
- (b) on the basis of the documentation submitted, there is no evidence on file that a previous authorised vehicular access existed and served the existing house and therefore there is no evidence on file that the vehicular access, the subject matter of this referral, is being or has been re-activated;
- (c) the vehicular access directly adjoins and accesses onto the N76 national secondary road. This road has a surfaced carriageway width of more

than four metres. Article 9 of the Planning and Development Regulations, 2001, as amended, restricts 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;

- (d) the formation of a vehicular access, being established as development, does not come within the scope of any other provision for exempted development, as set out in the Planning and Development Act 2000, as amended or the Planning and Development Regulations, 2001, as amended:

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 formation and use of a vehicle access serving a dwelling house at Ballycloona, Carrick on Suir, County Tipperary is development and is not exempted development.



Patricia Calleary

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.



Dated this 23 day of May 2024.