



An
Bord
Pleanála

Board Order
ABP-318166-23

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: S5/23/90

WHEREAS a question has arisen as to whether the construction of a field access and associated roadway onto a cul-de-sac at Upper Burncourt, Burncourt, Cahir, County Tipperary is or is not development or is or is not exempted development:

AND WHEREAS Sharon Duke and James Joseph Kearney of Upper Burncourt, Burncourt, Cahir, County Tipperary requested a declaration on the said question from Tipperary County Council and the said Council issued a declaration on the 20th day of September, 2023 stating that the said matter is development and is exempted development:

AND WHEREAS Sharon Duke and James Joseph Kearney referred the declaration for review to An Bord Pleanála on the 2nd day of October, 2023:

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

- (a) the nature, extent and scope of the works;
- (b) sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended;
- (c) articles 6 and 9 of the Planning and Development Regulations, 2001, as amended;
- (d) Class 9 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;
- (e) Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended;
- (f) the interpretation of 'road' as contained within the Roads Act, 1993;
- (g) the provisions of the Tipperary County Development Plan 2022-2028 as they apply to the referral site;
- (h) the documentation on file, including submissions from the referrer, the land owner and the planning authority;
- (i) the planning history of the referral site, specifically planning register reference S5/23/16, and
- (j) relevant precedent referrals and judgements;

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the question is not the same, or substantially the same, as the question previously considered and determined by the planning authority under planning register reference S5/23/16 as a 'roadway' did not form part of the question or Determination in that instance;
- (b) the roadway does not come within the scope of Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, as the roadway works do not relate to the repair or improvement of an existing roadway;
- (c) there are no other exemptions applicable to the roadway in question either in the Planning and Development Act 2000, as amended, or the Planning and Development Regulations 2001, as amended;
- (d) the field access comes within the scope of Class 9 of Part 1 of Schedule 2 of 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 construction of a field access on to a cul-de-sac is development and is exempted development,

and,

the construction of the associated roadway is development and is not exempted development at Upper Burncourt, Burncourt, Cahir, County Tipperary.



Tom Rabbette

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board**

Dated this 2nd day of APRIL 2025