



An
Bord
Pleanála

Inspector's Report ABP-317562-23

Question

Whether the construction of a hardstanding area for storage of material and vehicles and resurfacing of the existing entrance route off Clara Road to facilitate delivery and construction traffic is or is not development or is or is not exempted development.

Location

Clara Road, Tullamore, Co. Offaly.

Declaration

Planning Authority

Offaly County Council

Planning Authority Reg. Ref.

DEC23/15

Applicant for Declaration

Capital Homes

Planning Authority Decision

Is not exempted development

Referral

Referred by

Capital Homes .

Owner/ Occupier

Capital Homes

Observer(s)

None.

Date of Site Inspection

25th of July 2024

Inspector

Caryn Coogan

Contents

1.0 Site Location and Description	4
2.0 The Question	4
3.0 Planning Authority Declaration.....	4
3.1. Declaration.....	4
3.2. Planning Authority Reports	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	6
6.0 The Referral.....	6
6.1. Referrer's Case	6
6.2. Planning Authority Response	11
6.3. Owner/ occupier's response (where not the referrer) ...	Error! Bookmark not defined.
6.4. Further Responses.....	13
7.0 Statutory Provisions.....	14
7.1. Planning and Development Act, 2000	14
7.2. Planning and Development Regulations, 2001	15
7.3. Other (as appropriate).....	Error! Bookmark not defined.
8.0 Assessment	15
8.1. Is or is not development	15
8.2. Is or is not exempted development	16
8.3. Restrictions on exempted development	Error! Bookmark not defined.
9.0 Recommendation.....	19

1.0 Site Location and Description

- 1.1. The site is located on the Clara Road in Tullamore town, Co. Offlay.
- 1.2. The site is part of a larger parcel of land between Clara Road, and Kilbeggan Road. A residential development is currently under construction to the east of the site, but not adjoining the site. (*There is a current appeal on part of the landowner's lands associated with phase 2 of the housing development, Ref. ABP Ref. 319341*). The residential development under construction to the south is known as 'Redwood'.
- 1.3. The main access to the housing development under construction is further south along Clara Road.
- 1.4. The site the subject of this referral is a separate entrance and access road to the estate under construction. The site located between a short cul-de sac serving 8No. detached dwellings, 1No. of which back onto the site, and a detached dwelling addressing Clara Road. The access serves as a construction traffic access and also caters for a number of deliveries.
- 1.5. There is a junction directly opposite the entrance to Moylena housing estate.

2.0 The Question

- 2.1. To carry out works comprising the provision of hard standing for storage of material and vehicle parking and resurfacing of the existing entrance route off Clara Road, Tullamore to facilitate the delivery and construction traffic.

3.0 Planning Authority Declaration

3.1. Declaration

On the 19th of June 2023 Offaly Co. Co. issued a Declaration stating that the hardstanding area for storage of materials and vehicles and resurfacing of the existing entrance route off Clara Road to facilitate the delivery and construction traffic , is development and is not exempted development.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

- The works are considered to be development
- The works are not exempt under Class 9 or 16 of Schedule 2 Part 1.
- The works include the alteration of an existing entrance at a point where the public road is greater than 4metres in width. The Tullamore Engineer has indicated the entrance is a traffic hazard.
- On the basis of Article 9 no exemptions are available for the works
- Furthermore the use of the entrance for construction related traffic to a housing estate is a material intensification of use which requires planning permission.
- The development does not require environmental impact statement or an appropriate assessment.

3.2.2. *Other Technical Reports*

- The Engineer report (30th of May 2023) has indicated the existing entrance on the Clara Road (opposite Moylena junction) has been widened and hardcore put down in the field and verge. The use of the use of the entrance is likely to cause

4.0 Planning History

4.1 **PL2 23/259 (ABP 319341-23)**

Planning permission granted to Tullamore Vita Stilo/ Capital Homes for 98 residential units, creche, remote working hub and gym along Clara Road. The case is currently under appeal.

4.2 **PL2 19/39**

Planning permission granted to Tullamore Vita Stilo/ Capital Homes for the erection of 99No. dwellings along Clara Road and Rahan Road, Tullamore.

4.3 **TU 451507**

Permission was granted to James and Kathleen Spollen for a new dormer style dwelling, new entrance and connection to public services. (This permission was not carried out).

5.0 Policy Context

5.1. Development Plan

The relevant development plan for the area is

The Offaly County Development Plan 2021-2027.

Zoned LUZO-04 Objective – to provide for new residential development and other services incidental to residential development.

Tullamore is a key town in the Midlands region with the capacity to act as growth drivers to complement the Regional Growth Centres.

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura site is Charleville Wood SAC (site code 000571) located c1.3km straight line distance from the site.

6.0 The Referral

6.1. Referrer's Case

- 6.1.1 On the 26th of May 2023, Capital Homes applied for a Section 5 Declaration to Offaly Co. Co. to establish whether, the carrying out of construction works comprising of the provision of hardstanding storage of material and vehicle parking and resurfacing of the existing entrance route off Clara Road to facilitate the delivery and construction traffic at Clara Road was development, and if so, whether it was exempted development. The use of the lands is to facilitate completion of a housing development on the adjoining land.

- 6.1.2 The Planning authority issued a Section 5 Declaration on 19th of June 2023 stating it is development and is not exempted development. Capital Homes considers the Section 5 Declaration is incorrect, and that Class 16 applies.

- 6.1.3 The Section 5 Declaration fails to carry out consideration or analysis of the relevant provisions of the Planning and Development Act 2000, as required pursuant to Section 5, and failing to do so reaches a predetermined conclusion that the development is not exempted development.
- 6.1.4 It would appear Offaly Co. Co. have reframed the section 5 application including reference to the following part as the 'proposal' stating that 'the works have already occurred, and have included the resurfacing, expansion and the removal of the gates on the existing entrance to the adjoining public road. These reference works are not the subject matter of the Section 5 in respect of an already existing entrance to the lands the subject matter of the Section 5 Declaration and are factually incorrect.
- 6.1.5 A comprehensive response to the observations and comments in the Planner's Report is set out below.

6.1.6 ***Planning Act Considerations***

- Section 3 of the Planning Act defines 'development'.
- Section 2 the definition of 'works' and 'structure' is relevant.
- The Referrer is of the view the development is exempt under Class 16 of the Planning Act.
- *Planning and Development Regulations 2001*, as amended, provides that the development of a class as specified under Schedule 2 Part 1 be exempted development. The relevant Class is Class 16.

CLASS 16

The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out.

- Capital Homes proposed to construct hardstanding area for the storage of material and vehicles and resurfacing of the entrance route off Clara Road to facilitate delivery of construction traffic is or is not development. The

development proposes to place structures, works, plant or machinery on land adjoining a development that is needed temporarily in connection with the a housing development that was granted under planning reference 19/39. The applicant proposes to resurface (with hardstanding) the route from the existing entrance to the site for the purposes of completion of construction of housing on the adjoining lands. Hardstanding comes within the definition of structure under Section 2 along with any works associated with such structures. Class 16 provides for the storage of plant and machinery for the delivery of materials to the adjoining development.

- The consideration of the entrance does not form part of the Section 5 application. Offaly Co. Co. extended the matters of the Section 5 application to include the entrance.
- The entrance is an existing entrance with a long-established user. The entrance has not been widened as alleged nor is the use of the existing entrance likely to give rise to any alleged traffic hazard. While Offaly Co. Co. may be dissatisfied with the existing entrance, it cannot use its dissatisfaction with an already existing roadway layout as a basis to restrict a long established pre-existing right of way to access the lands. Capital Homes can confirm the access was used for many years for agricultural purposes and in particular heavy machinery on a regular basis.
- No restriction pursuant to Article 9 arises, it is Capital Homes view the exempted development provision remains applicable. Offaly Co. Co. has stated the use of the entrance for construction traffic is likely to cause a traffic hazard, as stated, conclusions in respect of the entrance do not form part of the Section 5 Referral. There is no evidence of Offaly Co. Co. illustrating a traffic hazard.

6.1.7 Appendix 1

The following are comments in response to the Planning report recommendation that the proposal was development and not exempted development.

- (i) The development had not commenced at the time the application was made to Offaly Co. Co. but was undertaken shortly after the application was submitted.

- (ii) The planner acknowledges that the entrance to the land the subject of the Section 5 is an existing entrance from the public road and is not a matter of consideration in the Section 5, and Offaly Co. Co. has erroneously taken account of it in the Section 5 Declaration.
- (iii) The photographs on Page 2 demonstrate the entrance was not widened, save the removal of piers, which is exempted development pursuant of Class 9.
- (iv) Appropriate Assessment is screened out, which is agreed.
- (v) The works are development within the meaning of the Act.
- (vi) Class 9 was not referenced. It is only referenced in respect of the removal of the timber gates and their replacement with temporary Herris fencing gates. The gates are under 2metre and do not raise any traffic issues they are exempt under Class 9. At the time of making the Declaration the means of securing the site had not been agreed upon and it is not a matter for the Section 5 application.
- (vii) The Planner's Report did not assess the actual development. There was no consideration of the issues and any of the works being exempt under Class 16.
- (viii) The grass surface between the back of the public footpath and the entrance gates was removed and resurfaced with hardcore, but this is private land behind the public road and not part of the public road, and did not widen the existing access from the public road.
- (ix) It is incorrect for the planning report to state the S.E. Engineer indicated the entrance was a traffic hazard. He stated the use of the entrance is likely to cause a traffic hazard in that the sightline to the north is deficient. He has not witnessed the construction access in operation. No evidence was submitted that the use of the access was causing a traffic hazard. The existing entrance was a field entrance through which heavy agricultural machinery accessed and the Capital Homes is currently developing the land for housing. The use of the entrance for construction traffic is limited and sporadic. Since it became operational there have been 30 deliveries on average per week. All works cars and vans will continue to use the main entrance to the site. There

are on average 80 men on site which generate around 50 small vehicle arrivals and departures each day. A traffic management plan is in place.

- (x) The planners report refers to the use of the entrance for construction related traffic to a housing estate to a housing estate as being a material intensification of its use. The matter of use of the entrance does not form part of the Section 5 application and the only matter for consideration relates to Class 16 use.
- (xi) The Planner's Report states that based on Article 9 no exemption is available for the 'work's. The Referrer does not agree with this view. The proposed works were limited to construction works comprising of the provision of hardstanding for storage of material and vehicle parking and resurfacing of the existing entrance off Clara Road to the facilitate the delivery and construction traffic. There were no works carried out to or on the public road. The planning authority appears to have interpreted resurfacing of existing route to involve works to existing entrance off the public road.
- (xii) Offaly Co. Co. previously granted a road opening licence Ref: 2021OY0600 on 23/07/2021 for a similar scenario in Tullamore in Silverbrook (Planning ref. 17/199, 18/55, 20/370, 20/371, 21/137, 21/141, 22/53) to facilitate the installation of dished kerbs/ reinforced footpaths for the provision of a temporary site entrance/ storage/ parking area out onto Eiscir Summary Road. The temporary site compound was served by a new entrance granted under licence and is to be decommissioned. The planner's report does not refer to his precedent. The only difference is the current entrance is an existing entrance. Road was development/ exempted development. In that case the
- (xiii) An Bord Pleanala Referral RL3607 was in respect of whether use of lands at Belvedere Road, Wexford as a construction compound to facilitate the development on a site at Belvedere Road. The site was not in or adjoining the development, it was 78m away, and a new vehicular access was required. The development was deemed to be not exempted development under Class 16 as the compound was physically detached form the construction site.

6.2. Planning Authority Response

6.2.1 The planning authority responded on the 26th of July 2023 with the following attached to the correspondence:

- (1) A copy of the Section 5 Declaration application, Planner's Report and Decision;
- (2) Decisions and Planner's Report of previous applications affecting the site (PL2/19/39 and PL2/22/329);
- (3) Enforcement Notice issues on 09/06/2023. A copy of same attached for information purposes along with correspondence between the applicant and Offlay Co. Co.

6.2.2 A summary of the correspondence is as follows:

(a) UD 23/ 33 Enforcement Notice at Clara Road, Tullamore (Date 25/07/23)

The entrance is deemed to be unauthorised on two separate grounds;

- (i) It consists of the material widening of a means to access to a public road and the surfaced carriageway of which exceeds 4metres in width
- (ii) It is considered a traffic hazard (due o lack of sightlines)

On the basis of it being a traffic hazard it was considered that it was an urgent case that required an enforcement notice rather than a warning letters

(b) Letter from applicant's solicitor dated 29th of June 2023

- The applicant notes the Section 5 Decision of Offaly Co. Co. and fully intends to submit an appeal.
- The company denies any unauthorised development alleging 'an unauthorised entrance onto a public road at Clara Road, Tullamore' has been carried out and denies the entrance is a traffic hazard. Given the limited intended use to date, there is no evidence to suggest the long-established access is a traffic hazard, and there is no evidence to suggest that the long established access is a traffic hazard. Offaly Co. Co. cannot use its dissatisfaction with the road layout at this

locations as a basis to restrict the long-established pre-existing right of access to lands.

- The company has prepared a traffic management plan and has fully implemented a traffic management plan. The plan fully addresses any concerns in relation to any alleged traffic hazard.
- There is a longstanding lawful use as an entrance to the lands at this location.
- Planning Reference TU451507 was permission for the continued use of this entrance.

(c) Redwood Housing Project Traffic Management Plan (Dated stamped 30 June 2023)

Traffic Management Plan for temporary construction traffic and compound for a housing development consisting of 106No. units.

(d) Letter from Offaly Co. Co. to applicant's solicitor Dated 23/06/2023

- Offaly Co. Co. considers the entrance to be unauthorised. In response to the applicant's submission regarding the intention to utilise the entrance to facilitate the delivery and construction, citing Class 16 of Part 1 of the Schedule 2 of the Planning and Development Regulations. The planning authority indicated Class 16 was not used to provide a construction entrance to a large scale residential development.
- The planning authority will not withdraw the enforcement notice as the entrance is deemed to be a traffic hazard.

6.2.3 In respect of the planning authority's submission a further email from the planning authority was received at the Bord on 8th of August 2023. A summary of the content which was circulated to the applicant is as follows:

- Offaly Co. Co. notes that an entrance gate and piers have been removed from the entrance which resulted in a significant modification of the entrance.

- Offaly Co. Co. considers that the widening of the entrance on site are ancillary works to the development the subject of the declaration and cannot be reasonably be considered in isolation from the works, particularly having regard to the resurfacing of the entrance route which forms part of the application for a declaration.
- The applicant's production of a Traffic Management Plan indicates a material change of use of the entrance has taken place.
- The relevant Senior Executive Engineer has indicated the entrance is a traffic hazard.
- In the event the Board's referral decision is unclear it could potentially preclude enforcement action from being undertaken. The Board must specify what is exempt and what is not.

6.3. Further Response from Referrer

- 6.3.1 As a detailed Section 5 Referral dated 11th of July 2023 (Section 5 Referral), Offaly Co. Co. fails to properly consider the applicability of the relevant Class 16 exemption in respect of the development. It is our view Class 16 exemption exists for the very purpose of the development.
- 6.3.2 It is the view of Capital Homes that Offaly Co. Co. has predetermined the Section 5 application in circumstances where it had already taken enforcement action against Capital Homes before issuing a decision in the Section 5. The Council did not consider the applicability of the case under Class 16 reasonably and has sought to extend and rename the subject matter of the Section 5 Referral incorrectly determining the matter relying on their decision that the development was unauthorised.
- 6.3.3 Capital Homes are satisfied the use and the works to the entrance are exempted development and are satisfied that the use and works to the entrance are exempt development and no widening to a means of access to a public road as alleged has or will occur.

- 6.3.4 The gateway may appear to be widened due to the removal of pier's gate and overgrowth. Capital Homes confirm the width of the gateway was not materially widened nor has the means of access to the lands been widened at all.
- 6.3.5 No evidence that a traffic hazard has been created was submitted by the planning authority. A Traffic Management Plan was prepared and implemented in full.
- 6.3.6 Offaly Co. Co. are not willing to engage on the issues
- 6.3.7 The entrance is a long-standing with a pre-existing right of way of access for use by heavy machinery. There has been no material change of use of the access. There has been and will continue to be limited use of the access to the development the subject matter of the Section 5 Referral.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000

7.1.1 Section 2 of the Act includes the following definitions:

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and “agricultural” shall be construed accordingly;

“Works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal or in relation to a protected structure includes any operation involved in the application or removal of plaster, paint, wallpaper, tiles or any other material to or from the surfaces of the interior to the exterior of the structure.

7.1.2 Section 3(1) of the Planning and Development Regulations 2000, as amended, states the follow: “Development” in this Act means except where the context other requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

7.2. **Planning and Development Regulations, 2001**

7.2.1 Article 6(1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Class 16

The erection, construction or placing on land on, in, over or under which, or on land adjoining which, development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or as exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period in which it is being carried out

Conditions and Limitations:

Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.

8.0 **Assessment**

8.1. **Is or is not development**

8.1.1. The first issue the Board must determine is whether or not the importation and deposition of fill material to create a hardstanding area and the resurfacing of an existing entrance constitutes “works” and if so whether or not the activities undertaken constitute development. The activities undertaken on site involved the importation of fill material for the creation of a hardstanding area for storage of material and vehicle parking, and the resurfacing of an existing entrance. I would consider that such works would constitute development under definition of the Planning and Development Act 2000 as amended.

8.2. Is or is not exempted development

- 8.2.1. On the question as to whether works are exempted development or not exempted development, I am satisfied the area the subject of the referral has been filled with material creating a large area of hardcore material at this location. The Referrer has submitted the development places structures, works, plant or machinery on land adjoining a development (a construction site for a large scale residential development) that is needed temporarily in connection with the development to be exempted development as per Class 16 of the Planning and Development Regulations 20021 (as amended). The existing entrance was also resurfaced with hardstanding material. I note the permission for the residential units was granted planning permission under reference 19/39. I note from the submission documents associated with Ref. 19/39, the subject access, storage area and road did not form part of the submission documents associated the permission granted. There is a separate permitted entrance located further south along Clara Road.
- 8.2.2. The Referrer has submitted that the planning authority's assessment and decision is flawed because it reconfigured the question asked and included 'the existing entrance' into the decision, in addition it failed to assess the merits of the works against the content of Class 16 of the Regulations.
- 8.2.3. The Referrer is of the opinion, the planning authority has expressed it's dissatisfaction with the use of the existing entrance in it's Declaration Order, and it had no regard the long-established pre-existing right of access at the location. Capital Homes proposed to 'construct hardstanding area for the storage of material and vehicles and resurfacing of the existing entrance route off Clara Road to facilitate the delivery of construction traffic'. According to the Referrer, the construction of a temporary hardstanding storage and route from the existing entrance to the construction site falls within the Class 16 provisions, the planning authority should not have taken the consideration of the entrance into the Section 5 application.
- 8.2.4. Capital Homes can confirm the access has been used for many years for agricultural purposes and by heavy machinery on a regular basis.

- 8.2.5. In my opinion, the Referrer is attempting to project split the development to suit Class 16 of the Planning and Development Regulations 2001. I will examine the issue in light of the information provided by the Referrer to the Board.
- 8.2.6. The wording of the referral states the 'carrying out of construction works comprising the provision of a hardstanding area for storage of material and vehicle parking and resurfacing of the existing entrance route'. The hardstanding area is an integral component of the development derived from the access facility off Clara Road. By the Referrer's own description, the existing entrance is the long established pre-existing entrance was used for agricultural purposes (my emphasis) and there was heavy machinery using it on a regular basis. According to Section 2 of the Planning and Development Act 2000 (as amended) the interpretation of **agriculture** is "includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and "agricultural" shall be construed accordingly".
- 8.2.7. In light of the interpretation the agricultural use of the existing entrance to facilitate delivery and construction traffic has effectively materially changed the use of the land/ existing entrance. The use of the existing entrance was converted from agricultural to facilitate construction traffic associated with new residential scheme being constructed by the applicant (planning reference 19/39). In accordance with Section 3 of the Planning and Development Act 2000 (as amended);

(1) In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land'.

The use of the existing entrance has materially changed from agricultural purposes to facilitate the delivery of construction traffic.

8.2.7 **Planning and Development Regulations, 2001 (as amended)**

- 8.2.8 Article 6 states that subject to Article 9, development of a class specified in Column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act provided that such development complies with the conditions and limitations

specified in Column 2 of the said Part 1 opposite the mention of that Class in the said Column 1

8.2.9 In relation to Temporary Structures and Uses, Class 16 refers to the erection, construction or placing on land on, in, over or under which or on land adjoining which development consisting of works (other than mining) is being or is about to be, carried out pursuant to a permission under the Act or exempted development, of structures, works, plant or machinery needed temporarily in connection with that development during the period of which it is being carried out.

8.2.10 The conditions and limitations as they apply to Class 16 are as follows: Such structures, works, plant or machinery shall be removed at the expiration of the period and the land shall be reinstated save to such an extent as may be authorised or required by a permission under the Act.

8.2.11 In this instance, it is considered that the subject hardstanding area relates to storage of material and vehicles or machinery that are needed temporarily in connection with the construction of the Redwood housing development on Clara Road. Class 16, however, is specific in that such development must be carried on the land or **adjoining** the land where the works are being or about to be carried out. The subject referral site is in fact physically separated from the construction site by a distance of approximately 50 metres. It is located to the west of the construction site and is physically separated from it by a field (also owned by the Referrer). Adjoining” is not defined in the Planning and Development Regulations. According to the Oxford English Dictionary, “adjoining” is defined as “next to or joined to something”. It is considered, therefore, that the lands on which the hard standing area is located does not constitute lands adjoining the site on which the development of the courthouse is being carried out. There is a hard surfaced roadway connecting both sites. (See Photo plates)

8.2.12 Accordingly, the development does not come within the exempted development provisions of Class 16 of Part 1 of Schedule 2 to the Planning and Development Regulations 2001.

8.2.8. **Appropriate Assessment**

8.2.9. Having regard to the nature and extent of the development within an established urban area, and that the distance of the site to nearest European site, no appropriate

assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site

9.0 Recommendation

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the carrying out of construction works comprising the provision of hardstanding for storage of material and vehicle parking and resurfacing of the existing entrance route off Clara Road to facilitate the delivery and construction traffic is or is not development or is or is not exempted development:

AND WHEREAS Capital Homes requested a declaration on this question from Offaly Council and the Council issued a declaration on the 19th day of June 2023 stating that the matter was development and was not exempted development:

AND WHEREAS Capital Homes referred this declaration for review to An Bord Pleanála on the 12th day of July 2023:

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) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,

- (d) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (e) the planning history of the site,
- (f) the pattern of development in the area:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The use of the existing entrance off Clara Road, Tullamore to facilitate the delivery and construction traffic would constitute a material change of use from the pre-existing agricultural use and the change of use would constitute a material change of use that is development under section 3 of the Planning and Development Act 2000 (as amended) having regard to the interpretation of term 'agriculture' under section 2 of the Planning and Development Act 2000 (as amended)
- (b) the land at Clara Road, on which the hardstanding area for the storage of material and vehicle parking is located, does not constitute land adjoining the land on which the development is being carried out, but is physically separated from that land
- (c) accordingly, the hardstanding area does not come within the exempted development provisions of Class 16, Schedule 2, Part 1 to the Planning and Development Regulations 2001 and
- (d) does not come within any of the other exempted development provisions of the Act or Regulations

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the provision of a hardstanding area for the storage of material and vehicle parking and resurfacing of the existing entrance route off Clara Road to facilitate the delivery and construction traffic is development and is not exempted development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Caryn Coogan
Planning Inspector

30th of August 2024