



Comhshaol, Pobal agus Rialtas Áitiúil  
Environment, Community and Local Government

To: Directors of Planning Services, City and County Councils  
CC: Chief Executives, City and County Councils, An Bord Pleanála.

Circular Letter PL 5/2015

21 August 2015

**Re: Matters relating to National WayMarked Ways – clarification between permissive trails as distinct from public rights of way.**

I am directed by Mr. Paudie Coffey, T.D., Minister of State at this Department with special responsibility for Housing and Planning to bring to your attention the distinction between public rights of way and National Way Marked Ways (permissive trails) and the degree to which the existence of such permissive trails should be taken on board in arriving at decisions on planning applications and appeals.

**Background**

Public Rights of Way

Public rights of way are covered under Section 14 of the Planning and Development (Amendment) Act 2000. Public rights of way are deemed accessible at all times by members of the public. Members of the public such as recreational users entering onto these designated routes do so by right and not by permission. Many of these rights of way are indicated by local authorities in their development plans.

Permissive Trails

In contrast to public rights of way, many long distance walking routes exist on a permissive access basis. The National Waymarked Way network is a particular category of walks which were created under the long distance walking routes committee established in 1979. While they were labelled as National Waymarked Ways, they are not to be confused with designated Public Rights Of Way and, being permissive in nature, such consent can be withdrawn at any time by the landowner. The use of the term Way Marked Way indicates that the trail in question is marked or sign posted, directing the recreational user along a defined trail, albeit a permissive access trail.

More than 4,000 kilometres of routes have been established to date in the Republic of Ireland. The National Trails Office which sets minimum standards for trails, currently has approximately 770 walking trails listed on the National Trails Register, the majority of which have been developed inside the last ten years and all on a permissive basis.

The vast majority of private landowners in Ireland willingly allow recreational use of their lands.

The rights of walkers and ramblers are specified in the Occupiers' Liability Act 1995, which includes "recreational user" as a category of users of privately-owned lands. Under the Act, a recreational user is a person present on the premises or land of a private citizen, without charge (other than a reasonable charge for parking facilities) for the purposes of engaging in a recreational activity. Under these circumstances, the owner of the land is obliged only to not intentionally injure or harm the recreational user or act with reckless disregard for the recreational user's welfare. This is an important distinction because it removes previous insurance liability concerns, which still apply to an invited visitor onto private land.

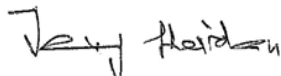
### **Co-operation between land owners, the local authority and recreational users**

On-going co-operation between a range of stakeholders including private landowners, the State, recreation bodies, tourism providers and community interests supports access to the countryside.

Given the context above, a decision to refuse planning permission solely or primarily due to the proximity of the development to a designated Way Marked Way can have the potential to negatively affect the permissive access to a part of a Way Marked Way. Instead, it will usually be more appropriate to base the decision on relevant factors concerning siting and design considerations without referencing their impacts on a permissively enabled waymarked trail, which can change over time.

Planning authorities, including An Bord Pleanála, should carefully weigh up the potential for local opposition to developments impacting on permissive trails, as well as any significant adverse effects on the current level of access to private lands for recreational purposes, in framing their decisions.

Accordingly, decisions on planning applications and appeals should not solely or predominantly reference adverse impacts on Permissive Way Marked Ways and trails as reasons for refusal.



Terry Sheridan  
Principal  
Planning Policy