



An  
Bord  
Pleanála

**Board Direction  
ABP-306762-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/04/2021, 11,05/2021 and 19/08/2021.

**WHEREAS** a question has arisen as to whether:

- (a) the widening and surfacing of the access lane with hardcore,
- (b) the infilling of marl hole with material, and
- (c) the proposed restoration and reuse of a derelict house as a habitable dwelling,

all at Ballina Upper Blackwater, County Wexford are or are not development or are or are not exempted development:

**AND WHEREAS** Frances Hopkinson care of Peter Thomson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny requested a declaration on the said question from Wexford County Council and the said Council issued a declaration on the 7<sup>th</sup> day of February, 2020 stating that the said matter was exempted development:

**AND WHEREAS** the said Frances Hopkinson referred the declaration for review to An Bord Pleanála on the 28<sup>th</sup> day of February, 2020:

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

- (a) Sections 2 and 3 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6, 8 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (d) Class 11 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (e) the submissions on the file, and
- (f) the report of the Planning Inspector:

**AND WHEREAS** An Bord Pleanála has concluded that -

- (a) the widening and surfacing of the access lane with hardcore constitutes development as it does not come within the scope of Class 13 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, because of non-compliance with the Conditions and Limitations set out in Column 2 as parts of the access road exceed three metres in width,
- (b) the filling of the marl hole constitutes development and does not come within the scope of the exemption set out in Article 8(C) of the Planning and Development Regulations, 2001, as amended, in respect of land reclamation, because the material used for infill is unknown and may consist of waste,
- (c) the filling of the marl hole does not come within the scope of Class 11 of Part 3 of Schedule 2 of the Planning and Development Regulations, 2001, as

amended, because the work was not carried out for the purpose of drainage of wetlands, and

- (d) the proposed restoration and reuse of a house, which is not considered to be derelict, as a habitable dwelling is development and is exempted development:

**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:

- (a) the widening and surfacing of an access lane with hardcore is development and is not exempted development,
- (b) the infilling of a marl hole with material is development and is not exempted development, and
- (c) the proposed restoration and reuse of a house as a habitable dwelling is development and is exempted development,

all at Ballina Upper, Blackwater, County Wexford.

**Board Member:** *Terry Prendergast* **Date:** 20/08/2021  
Terry Prendergast

**Note:** The Board did not agree with the Inspector that the existing access constitutes a traffic hazard. It considered the access suitable for residential use.

Please issue Direction with Order.

