



An  
Bord  
Pleanála

**Board Direction**  
**ABP-317633-23**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/05/2024.

The Board decided, as set out in the following Order, as follows:

**WHEREAS** a question has arisen, as reformulated by the Board, as to 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** 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 6<sup>th</sup> day of July, 2023 stating that the matter was development and was not exempted development,

**AND WHEREAS** Walter Power referred this declaration for review to An Bord Pleanála, on the 24<sup>th</sup> day of July, 2023,

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

- (a) section 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) articles 6 and 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,
- (f) the report of the 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 4 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 4 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 Planning and Development Act, 2000, as amended, 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.

**Note:** The Board did not consider the planning status of the house as this matter was not included in the question referred.

Board Member: Patricia Calleary. Date: 13/05/2024  
Patricia Calleary