



An  
Bord  
Pleanála

**Board Direction**  
**ABP-300787-18**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/08/2018.

The Board decided, as set out in the following Order, that

Board Order as follows:-

**WHEREAS** a question has arisen as whether the change of use of a bar and dining room at a race course, to use as a theatre during the summer months, is or is not development or is or is not exempted development.

**AND WHEREAS** Kerry County Council requested a declaration on this question from An Bord Pleanála under Section 5 (4) of the Planning and Development Act as amended:

**AND WHEREAS Kerry County Council** referred this declaration for review to An Bord Pleanála on the 26.01.2018:

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

- (a) Section 2, 3 and 4(1)(h) of the Planning and Development Act, 2000, as amended,

- (b) Article 9 of the Planning and Development Regulations, 2001, as amended,
- (c) Parts 1 and 3 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, with particular reference to Classes 15 and 37 of par1, and
- (d) Part 4 of Schedule 2, of the Planning and Development Regulations, 2001, as amended, with particular reference to Class 11:

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

- (a) The established/permitted use is as a bar (public house) and dining room (restaurant) associated with race events at the racecourse,
- (b) The change of use to a theatre during the tourist season is a factual change of use from the established/permitted use,
- (c) This change would raise material planning considerations due to the intensification of pedestrian and traffic arriving, particularly since the use as a theatre extends beyond race events to the entire tourist season, and therefore is a material change of use and is development,
- (d) The use in question comes within the scope of Class 11 of Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended and the established permitted use is a *sui generis* use not permitted in Part 4 of Schedule 2 to those Regulations, and
- (e) The change of use in question is not within Class 15 of Part 1 of the Second Schedule to the Planning and Development Regulations 2001, as amended, and there are no other exemptions provided for in the Planning and Development Act or Regulations by which such a change of use would constitute exempted development, and the development is therefore not exempted development

**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 change of use of use of a bar and dining room, at a race course, to use as a theatre during the summer months, with shows run every Sunday, Monday, Tuesday, Wednesday & Thursday from April to Mid-October and seven nights weekly for June, July and August is development and is not exempted development.

**Board Member:**

**Date:** 21/08/2018

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Maria FitzGerald