



An  
Bord  
Pleanála

**Board Direction**  
**BD-000868-18**  
**ABP-300933-18**

The submissions on this file and the Inspector's report were considered at a Board meeting held on August 7<sup>th</sup> 2018.

The Board decided, on a vote of two to one, as set out in the following Order, that the works involved in the removal of a putting course and the creation of a relatively level green open space at Mount Juliet Estate, Thomastown, Co. Kilkenny, are development and are not exempted development.

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the works involved in the removal of a putting course and the creation of a relatively level green open space at Mount Juliet Estate, Thomastown, Co. Kilkenny, are or are not development and are or are not exempted development.

**AND WHEREAS** Mount Juliet Estate Residents, c/o Peter Thompson Planning Solutions, requested a declaration on this question from Kilkenny County Council, and the Council issued a declaration on the 23<sup>rd</sup> day of January 2018, stating that the matter was development and was exempted development.

**AND WHEREAS** Mount Juliet Estate Residents referred this declaration for review to An Bord Pleanála, on the 16<sup>th</sup> day of February 2018.

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

- (a) Sections 2, 3, 4 and 57(1) of the Planning and Development Act, 2000, as amended
- (b) Articles 6 and 9 of the Planning and Development Regulations 2001, as amended,
- (c) Classes 33 and 34 of Part 1 of the Second Schedule to the Planning and Development Regulations, 201, as amended, and
- (d) The planning history of the site, and condition number four of planning permission register reference number P687/97, which stated as follows:-

“The permitted development comprises those works completed up to 5.9.97 and which are subject to a photographic record attached to planning file reference P687/97. No additional construction or landscaping works (notwithstanding the exempted development provisions of the Local Government (Planning and Development) Regulations 1994 as amended) may be carried out within the application site without prior planning permission for the said works”

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

- (a) The works involved in the removal of the putting course and the creation of the open space in question involved works, as defined in Section 2 of the Planning and Development Act, 2000, as amended, and therefore constitute development within the meaning of the Act;

- (b) The development that has taken place would potentially come within the scope of Class 33 of Part 1 of the Second Schedule to the Planning and Development Act, 2000, as amended, but;
- (c) Having regard to the terms and conditions of planning permission register reference number P97/687, and in particular condition number 4 of that permission, the works in question involve construction and landscape works, additional to the works permitted by that planning permission, and therefore would contravene this condition of that permission. The development is therefore not exempted development, having regard to the provisions of Article 9 (1)(a)(i) of 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 works involved in the removal of a putting course and the creation of a relatively level green open space at Mount Juliet Estate, Thomastown, Co. Kilkenny, are development and are not exempted development.

**Board Member**

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Philip Jones

**Date:**

7<sup>th</sup> August 2018