



An  
Bord  
Pleanála

Board Direction  
ABP-315560-23

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/05/2023.

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the reconfiguration of golf course (location of new Tee) and associated orientation of play is or is not development or is or is not exempted development

**AND WHEREAS** Patrick K. Moore requested a declaration on this question from Donegal County Council and the Council issued a declaration on the 21<sup>st</sup> day of December 2022 stating that the matter was development and was exempted development

**AND WHEREAS** Patrick K. Moore referred this declaration for review to An Bord Pleanála on the 13<sup>th</sup> day of January 2023

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

- (a) Section 2(1), 3(1) and 4(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) Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,

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

- (a) the reconfiguration of golf course (location of new Tee) and associated orientation of play is likely to have included acts of construction and/or excavation, and hence would comprise 'works' and 'development' within the meaning of Section 2(1) and Section 3(1) of the Planning and Development Act, 2000, as amended, respectively,
- (b) the development would come within Article 6 of the Planning and Development Regulations, 2001 and Class 34 of Part 1 of Schedule 2 (General Development) being an alteration or alterations to the layout of an existing golf course, and which do not include any extension to the area of a golf course.
- (c) Article 9 (Restrictions on exemption) of the Planning and Development Regulations, 2001, as amended, does not apply and therefore the Development to which Article 6 relates shall not be de-exempted development for the purposes of the Act,

**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 reconfiguration of golf course (location of new Tee) and associated orientation of play is development and is exempted development.

In deciding not to accept the inspector's conclusion that the development would not be exempted development because the subject Tee could result in golf balls oversailing third party lands and that any such oversailing would comprise a material change of use of third-party lands (from agriculture to golf course) and therefore comprise an extension of the golf course area, the Board did not share this view. The Board instead concluded that any oversailing occurrences that may occur, would not

give rise to a material change of use of land or constitute 'development' within the meaning of Section 3(1) of the Planning and Development Act, 2000, as amended. The Board was otherwise satisfied that the development as described would not lead to an extension of the golf course and the alterations to the layout and contained wholly within the existing golf course are a Class of development (Class 34) specified within Schedule 2 to which Article 6(1) of the Planning and Development Regulations 2001 refers.

**Board Member:**

Patricia Calleary  
Patricia Calleary

**Date:** 17/05/2023

