



An  
Bord  
Pleanála

**Board Direction**  
**BD-016204-24**  
**ABP-317248-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/05/2024.

The Board decided this referral in accordance with the following draft Order.

**WHEREAS** a question has arisen as to whether the removal of old wooden and paladin fence, etc. above the old stone wall and the erection of c. 56 linear metres of a replacement timber fence affixed to and above the old stone boundary wall is or is not development or is or is not exempted development:

**AND WHEREAS** Kieran O'Malley & Co. Ltd. on behalf of Milltown Golf Club Trustees Limited requested a declaration on this question from Dún Laoghaire-Rathdown County Council and the Council issued a declaration on the 5<sup>th</sup> day of May, 2023 stating that the matter was development and was not exempted development:

**AND WHEREAS** Kieran O'Malley & Co. Ltd. on behalf of Milltown Golf Club Trustees Limited referred this declaration for review to An Bord Pleanála on the 1<sup>st</sup> day of June, 2023:

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

- (a) sections 2(1), 3(1) and 4(1) of the Planning and Development Act, 2000, as amended,
- (b) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Parts 1 and 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, including in particular Class 11 and Class 34 thereof,
- (d) the planning history of the site,
- (e) the pattern of development in the area,
- (f) a “golf course” encompassing an area greater than the “greens and fairway” and may more appropriately be considered in accordance with a formally-constituted definition by the relevant sporting regulatory body in Ireland,
- (g) the lack of sufficient information being presented to demonstrate the replacement fence, in this case constituting c. 56 linear metres of perimeter fencing on the interface with the public streetscape, was not material and therefore incidental:

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

- (a) The works of alteration to the golf course comprising the removal of old wooden and paladin fence, etc. above the old stone wall and the erection of c. 56 linear metres of a replacement timber fence affixed to and above the old stone boundary wall comes within the meaning of Section 3 of the Planning and Development Act 2000 (as amended) and are, therefore, development.

(b) The works to the golf course, not being works replacing a fence that shall not exceed 1.2 metres or the height of the structure being replaced, whichever is the greater, and in any event shall not exceed 2 metres do not come within the scope of Class 11 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, (as amended).

(c) The works to the golf course, being works different in character and height to the pre-existing fence and for which sufficient information has not been presented to demonstrate such works are not material, are not therefore considered works of an incidental nature to the maintenance and management of the golf course, and do not come within the scope of Class 34 of Part 1 of Schedule 2 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 2000 Act, hereby decides that the removal of old wooden and paladin fence, etc. above the old stone wall and the erection of c. 56 linear metres of a replacement timber fence affixed to and above the old stone boundary wall is development and is not exempted development.

**Board Member**

Eamonn James Kelly  
Eamonn James Kelly

**Date:** 03/05/2024