



An  
Bord  
Pleanála

**Board Direction  
61.RL3808**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 21.06.2018.

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

Board Order as follows:-

**WHEREAS** a question has arisen as to whether the construction of a railing and footpath and 1.2m high bow top railing at lands adjacent to No.6A Devon Park Salthill, Galway is or is not development or is or is not exempted development:

**AND WHEREAS** O'Neill O'Malley Architects on behalf of the Sisters of Mercy Western Province requested a declaration on this question from Council and the Council issued a declaration on the 24th day of August, 2017 stating that the matter was development and was not exempted development:

**AND WHEREAS** O'Neill O'Malley Architects on behalf of the Sisters of Mercy Western Province referred this declaration for review to An Bord Pleanála on the 19th day of September, 2017:

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

particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) article 6(1), article 9(1) and article 10(1) of the Planning and Development Regulations, 2001, as amended,
- (d) Classes 11 and 13 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (e) the planning history of the site,
- (f) the pattern of development in the area:

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

- (a) The construction of a railing and footpath and 1.2m high bow top railing at lands adjacent to No.6A Devon Park constitute works, that come within the scope of Section 3(1) of the Planning and Development Act 2000, and therefore, constitute development,
- (b) The construction of the railing would come within the scope of the exemptions provided under Classes 11 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, and the construction of the footpath would come within the scope of Class 13 of part 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended.
- (c)

However, as these developments would involve the enclosure of part of the approved open space developed under P1.Ref.No.97/8, the construction of the railing and footpath would come within the scope of the restriction on exemption imposed under Article 9(1)(a)(i) of these Regulations and would not therefore be exempted development.

**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 construction of a railing and footpath and 1.2m high bow top railing at lands adjacent to No.6A Devon Park Salthill, Galway is development and is not exempted development.

**Board Member**

**Date:** 22.06.2018

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Terry Prendergast