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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: EX630**

**WHEREAS** a question has arisen as to whether the change of use of a bar and dining room, at a racecourse, to use as a theatre during the summer months at the Killarney Racecourse, Ross Road, Killarney, County Kerry is or is not development or is or is not exempted development:

**AND WHEREAS** the said question was referred to An Bord Pleanála by Kerry County Council on the 26<sup>th</sup> day of January, 2018:

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

- (a) Sections 2, 3(1) 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 Part 1, and
- (d) Part 4 of Schedule 2 to 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 a bar and dining room, at a racecourse, to use as a theatre during the summer months, with shows taking place every Sunday, Monday, Tuesday, Wednesday and Thursday from April to Mid-October and seven nights weekly for June, July and August at the Killarney Racecourse, Ross Road, Killarney, County Kerry is development and is not exempted development.

### **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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**Maria FitzGerald**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2018.**