



Planning and Development Acts 2000 to 2018

Planning Authority: Kilkenny County Council

Planning Register Reference Number: DEC469

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, County Kilkenny are or are not development or are or are not exempted development:

AND WHEREAS Mount Juliet Estate Residents care of Peter Thomson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny requested a declaration on this question from Kilkenny County Council and the Council issued a declaration on the 23rd day of January, 2018 stating that the matter was development and was exempted development:

AND WHEREAS Mount Juliet Estate Residents referred the declaration for review to An Bord Pleanála on the 16th 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, 2001, 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 Regulations, 2001, 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 2000 Act, 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, County Kilkenny are development and are 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.

Philip Jones
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2018.