



An
Bord
Pleanála

Inspector's Report ABP-307857-20

Question	Whether use for occasional events is or is not development or is or is not exempted development?
Location	Newpark House, Newpark Demesne, Newpark, Ballymote, County Sligo
Declaration	
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	ED/396
Applicant for Declaration	Christopher & Dorothy-Ellin Kitchin
Planning Authority Decision	Is development and is not exempted development
Referral	
Referred by	Christopher & Dorothy-Ellin Kitchin
Owner / Occupier	Christopher & Dorothy-Ellin Kitchin
Observer(s)	None
Date of Site Inspection	8 th December 2020
Inspector	Colm McLoughlin

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1.0 Site Location and Description

1.1. The referral site is situated approximately 4km to the northeast of Ballymote town and 1.5km southwest of the N4 national road at Drumfin in County Sligo. It accommodates a detached three-bay two-storey house, known as Newpark House, dating from c.1780 and situated amongst an 80ha demesne comprising a variety of mature gardens, woodlands, agricultural fields and a lake. Other structures and features within the demesne include a lodge, a carriage house, a farmyard complex and estate walls. A tree-lined avenue leads north from a local road on the southern boundary towards the main house on an elevated ridge. The house is included within the Record of Protected Structures (RPS) (ref. 318) appended to the Sligo County Development Plan 2017-2023 and also the National Inventory of Architectural Heritage (NIAH ref. 32403315). The Gate Lodge at the southern entrance is also included in the RPS (ref. 319) and the NIAH (ref. 32403317). According to the Historic Houses of Ireland website, the house is available for individual house visits, groups by arrangement, special family celebrations, meetings and receptions, as well as being available as a film location. Several of the farmyard outbuildings are also available for a limited number of exclusive local events during the summer months under the brand 'Juniper Barn'. The surrounding area is primarily characterised by agricultural fields interspersed with individual houses and farmsteads and bound by mature hedgerows and trees.

2.0 The Question

- 2.1.** The following wording formed the initial question by the referrers to the planning authority:
- 'if the continued hosting of occasional use events at Newpark Demesne is development, and if it is development, is it exempt development in accordance with Class 37 of the exempt development provisions in the Planning and Development Regulations 2001 (as amended)'.
- 2.2.** Following a review of the submitted information and in the interest of clarity, it is considered appropriate that the question referred to the Board be reworded and addressed by the following question:

- whether use for occasional events, is or is not development or is or is not exempted development.

2.3. I intend to proceed with my assessment on the basis of the reworded question.

3.0 Planning Authority Declaration

3.1. Declaration

3.1.1. Pursuant to Section 5 of the Planning and Development Act 2000, as amended (hereinafter referred to as 'the Act'), on the 9th day of July, 2020, the planning authority declared that the proposed works consisting of the continued hosting of occasional events at Newpark Demesne, is considered to constitute development and is not exempted development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation within the report of the Planning Officer (March 2020), reflects the declaration issued by the planning authority and can be summarised as follows:

- the associated barns and lands were in agricultural use at the time of the site visit;
- no works would be required, as only temporary moveable structures would be used in association with the events;
- with the exception of weddings, the occasional events set out by the referrers would be held once per year and would be consistent with the established use of the estate. There remains potential for the estate to be used for multiple weddings throughout the year and the majority of the Juniper Barn website advertises the estate as a wedding venue;
- class 37 of Part 1 to Schedule 2 of the Planning and Development Regulations 2001-2020 (hereinafter referred to as 'the Regulations') provides an exemption for occasional events to be held up to 30 days per year, while the referrers state that seven events would be held annually;

- having inspected the website and given the potential for multiple wedding events to be held annually, the change from agricultural use to the hosting of specific events is a change in material terms, and therefore development;
- an exemption for a change of use of land for social and recreational purposes is provided for under section 4(1) of the Act;
- to address the 'local' limitation in Class 37, the referrers state that one of the couple getting married would need to be from County Sligo or have family originating from County Sligo, however the website does not list this condition;
- a wedding would be of a different nature to the other events listed by the referrers, as weddings are not organised by a local group or organisation, they are a private invite-only event, the attendees would vary and they would not be an annual event. Furthermore, the venue may be chosen regardless of any connection with the local community;
- the hosting of wedding events, of a non-local nature, would not come within the scope of Class 37 and is, therefore, not exempt development.

3.2.2. Other Technical Reports

- None received.

4.0 Planning History

4.1. Referral Site

4.1.1. The planning history associated with the referral site, includes the following planning applications:

- reg. ref. PL17/441 – permission was granted by the planning authority in February 2018 for a house, including outbuildings and wastewater treatment plant, on the southwest boundary of the estate grounds;
- reg. ref. PL96/116 – permission was granted by the planning authority in August 1996 for a septic tank and a percolation area serving the gate lodge.

4.2. Relevant Referrals

4.2.1. The following referrals decided by An Bord Pleanála are considered relevant:

- ABP Ref. PL09.RL3309 – in July 2015 the Board declared that events, including an outdoor cinema event, at the M4 Interchange Park, Celbridge, County Kildare, constituted development that was exempted development. While the events would comprise works, the use would come within the scope of Class 37 of Part 1 to Schedule 2 of the Regulations;
- ABP Ref. PL07.RL3158 – in February 2014 the Board declared that events at Claregalway Castle, Claregalway, County Galway, constituted development that was not exempted development, as the number of events and activities that had taken place in 2013 exceeded the 30-day restriction set out in the conditions and limitations (1) assigned under Column 2 to Class 37 of Part 1 to Schedule 2 of the Regulations;
- ABP Ref. PL15.RL2998 – in April 2013 the Board declared that a proposed weekend music and camper van event (Vantastival) at Bellurgan Park, Bellurgan, Dundalk, County Louth constituted an event, as defined by section 229 of the Act, and under subsection 240(1) of the Act, the holding of an event to which Part XVI applies, and works directly or solely relating to such an event shall not be construed as development within the meaning of the Act;
- ABP Ref. PL22.RL2684 – in April 2010 the Board declared that the erection of a marquee and the use of lands for sports and recreational purposes at Coolbawn Quay, Brookfield, Nenagh, County Tipperary, constituted development and did not constitute exempted development, as the events would not be local and, therefore, would not come within the scope of Class 37 of Part 1 to Schedule 2 of the Regulations;
- ABP Ref. PL04.RL2555 – in February 2009 the Board declared that use of agricultural lands for six motor sports events (autograss racing) per annum at Ballyclough, Mallow, Co Cork constituted development and did not constitute exempted development within the scope of Class 37 of Part 1 to Schedule 2 of the Regulations, as it had not been established that the use would constitute local events.

5.0 Policy & Context

5.1. Sligo County Development Plan 2017-2023

- 5.1.1. As referenced above, the estate house and the gate lodge on the referral site, are both included within the RPS appended to the Development Plan. Section 7.3 of the Development Plan addresses the protection of the architectural heritage of County Sligo, including policies P-ARH-1 to 7. The site is situated in a normal rural landscape character area.

6.0 Statutory Provisions

6.1. Planning and Development Act 2000, as amended

- 6.1.1. Section 2(1) of the Act states the following:
- 'use', in relation to land, does not include the use of the land by the carrying out of any works thereon;
 - 'development' has the meaning assigned to it by Section 3;
 - 'structure' means any building, structure, excavation, or other thing constructed or made on, in or under land, or any part of a structure so defined;
 - 'works' includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'
- 6.1.2. Section 3(1) of the Act states that:
- 'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or over land'.
- 6.1.3. Section 4(1) of the Act sets out various forms of development that are exempted development. Section 4(2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development.
- 6.1.1. Section 4(4) of the Act states that notwithstanding paragraphs (a), (i), (ia) and (l) of subsection 4(1) and any regulations under subsection 4(2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

6.1.2. Subsection 57(1) of the Act states that works to a Protected Structure would only be exempt if it would not materially affect the character of:

(a) the structure, or

(b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

6.1.3. For the purposes of Part XVI of the Act addressing 'Events and Funfairs', Section 229 of the Act provides the following interpretation of an event, which would also require a licence under section 230:

- (a) a public performance which takes place wholly or mainly in the open air or in a structure with no roof or a partial, temporary or retractable roof, a tent or similar temporary structure and which is comprised of music, dancing, displays of public entertainment or any activity of a like kind, and (b) any other event as prescribed by the Minister under section 241.

6.2. Planning and Development Regulations 2001-2020

6.2.1. Subject to restrictions under Article 9 of the Regulations, Article 6(1) states that development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1. Part 1 of Schedule 2 to the Regulations specifies the following relevant class of exempted development under the category 'development for amenity or recreational purposes':

Class 37

Development consisting of the use of land for any fair, funfair, bazaar or circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use	<ol style="list-style-type: none">1. The land shall not be used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year.2. On the discontinuance of such use the land shall be reinstated save to such extent
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	as may be authorised or required by a permission under the Act.
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6.2.2. Article 9 sets out restrictions on these exemptions in stating that development that Article 6 relates to shall not be exempted development if the carrying out of such a development would, inter alia:

- (ii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan;
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,
- (viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

6.2.3. Article 183 of the Regulations sets out that an event at which the audience comprises 5,000 or more people shall be an event prescribed for the purposes of section 230 of the Act.

7.0 The Referral

7.1. Referrers' Case

7.1.1. The referrers' submission, including cover letter, was received by An Bord Pleanála on the 5th day of August 2020 and was accompanied by the following:

- a copy of the planning authority declaration;
- a copy of the Section 5 Referral application documents;
- correspondence from the Irish Georgian Society, the Historic Houses of Ireland, Fáilte Ireland, An Taisce and the Association of Irish Festivals and Events;
- the legal opinion of a Barrister-at-Law.

7.1.2. The submission can be summarised as follows:

Authorised Use

- the primary use of Newpark Demesne is for agriculture with occasional use for various events, including weddings, both preceding and after the enactment of the Local Government (Planning and Development) Act, 1963 (hereinafter referred to as 'the Act of 1963'), and the proposal to continue this use is therefore authorised;
- Newpark Demesne has a longstanding, extensive and varied use for occasional events similar to many other country houses in Ireland, as exemplified in the newspaper articles and personal recollections, and the declaration of the Board with respect to the holding of events at Newpark Demesne would have implications for many other country houses operating in a similar manner;
- should the logic of the planning authority as to what constituted a 'local' event be applied and enforced for other events across the country, a significant proportion would cease to be legally feasible;
- the events run from historic houses, such as Newpark, are broad in range, nature and scale and they are vital in maintaining the built heritage of Ireland,

while providing economic, tourism, social and cultural benefits for their respective local communities and the wider area;

- weddings are comparable to other events that were held at Newpark Demesne prior to the enactment of the Act of 1963, and a small number of events, including modestly-scaled occasional weddings and other similar family celebrations would form part of the authorised use of Newpark Demesne;
- the continued hosting of events is not development, as the events are clearly compatible with the pre-1963 use of the demesne, including the geographical draw of attendees;
- with the exception of weddings, the planning authority accept that the authorised use of the estate clearly comprises the other listed events;

Works

- no works are proposed, as only temporary or moveable structures would be used for the events, such as portaloos and kitchen facilities;

Actual Change of Use

- there needs to be an actual change of use and this question has been overlooked by the planning authority in their consideration of the referral;
- the scale and nature of the proposed events is the same as the historical events, including the wedding events, which were also previously 'invite-only' events;
- it is within the Board's powers to define the occasional use of historic houses for events, including those events proposed, as an authorised use;

Material Change of Use

- case law requires consideration of the effects of the proposed use on the surrounding area and its residents in determining whether or not a material change of use occurs;
- the planning authority did not consider that there would be a requirement for an appropriate assessment or environmental impact assessment of the proposed events and adverse impacts from noise, traffic, air quality and

interference with the landscape were not anticipated by the planning authority to arise;

- the planning authority has failed to provide any planning justification, assessment or explanation to substantiate their opinion that the change from agricultural use to the specific hosting of events would be material;
- the nature, scale, extent and frequency of events, including wedding events, would not result in an intensification of use or a material change of use, as the net effect of the events would be neutral at most, while the proposals would generally align with Development Plan provisions, therefore, development would not arise;
- the list of events previously held and proposed is clearly outlined and in line with the listing on the Juniper Barn website, and other communications media, including local newspapers;
- the planning authority consider that it is only wedding events that trigger a material change in use of the property, primarily based on their potential to be held more than once annually and despite other previous events being held more than once annually;

Exemptions

- licensing for large events is clearly articulated in the Act, while a clear understanding has emerged within Local Authorities that smaller events can come within the scope of Class 37;
- while 'local' events are exempt under Class 37, many events, including those organised in collaboration with Local Authorities, often draw attendees from international and wider country areas owing to the ability to market events via social media and the attractiveness of the venues;
- the referrers' restriction on weddings to require at least one of the couple being married to originate from County Sligo or have connections with the County would ensure the events come within the limitations of Class 37, as justified by the legal opinion sought by the referrers. In conjunction with the absence of accommodation for guests, this shows a clear contrast with the

wedding events held at Coolbawn Quay Resort and Spa, which were previously the subject of a Board referral (ABP Ref. PL22.RL2684);

- legal opinion from a Barrister-at-Law highlights that use of the dictionary definition for the word 'local' is too narrow and this definition does not have a statutory basis in Irish planning legislation;
- based on the Local Government Act 2001, including the interpretation with respect to a 'local community', meaning 'persons ordinarily resident in the administrative area of the local authority concerned and persons from outside that area who regularly use facilities of a social, economic, recreational, cultural or other nature provided by the local authority', it is clear that a local event can accommodate persons ordinarily resident in a county or regular users of the amenities of a county;
- based on a tribunal decision relating to the Localism Act 2011 for England and Wales, when something is 'local', it is likely, but not necessary, that there will be a link to a defined community, however, it is also key that it is of benefit to a wider community that use the resource;
- the Board's referral declarations under ABP refs. PL07.RL3158 (Claregalway Castle), PL15.RL2998 (Vantastival festival) and PL22.RL2684 (Coolbawn Quay) support the referrers' contention that the list of events are of a local scale and that a local scale event can comprise events where attendees would primarily be drawn from the immediate county area, while some attendees would travel from further afield;
- based on the characteristics, including attendees, organisers, type of function, nature, frequency, duration, refreshments, entry requirements, marketing, entertainment, equipment, access and the scale of previous documented events at Newpark Demesne, including weddings, there is detailed rationale as to why continued occasional wedding events at Newpark Demesne would conform to the previous events;
- the referrers would amend their advertised events, including weddings, to apply the 'local' countywide restriction in holding events on site.

7.2. Planning Authority's Response

- 7.2.1. The planning authority did not respond to the referrers' submission.

7.3. Observations

- 7.3.1. None received.

8.0 Assessment

8.1. Introduction

- 8.1.1. The purpose of this referral is not to determine the acceptability or otherwise of the matters raised in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development within the meaning of the relevant legislation. The referral appears to have arisen following pre-planning consultation between the referrers and the planning authority.

8.2. Is or is not development?

- 8.2.1. The first query to address is whether the use of the demesne for occasional events would be considered to constitute development within the meaning in the Act. Firstly, I note that the details of the proposed events listed by the referrers primarily comprise events that would not conform to the type of events envisaged under Part XVI of the Act or Article 183 of the Regulations, as the subject proposed events would not ordinarily comprise of public performance events requiring a licence from the local authority in order to be held. Furthermore, I have examined the details submitted by the referrers, including reference to the use of temporary or moveable structures, for example, portaloos and kitchen facilities, and the legal interpretations set out initially within the Act, and I am satisfied that the referral question pertains to use only and does not relate to the carrying out of any specific 'works', as defined in the Act.

Actual Change of Use

8.2.2. According to the referrer, Newpark Demesne has been known to be used for various occasional events since 1916 with evidence of these events exemplified by reference to over 100 extracts from the Sligo Champion local newspaper over the 1917 to 1974 period, including adverts and articles. Several of these events are asserted by the referrers to correlate with the events referenced in the written personal recollections submitted with the referral from eight persons with addresses in Sligo. A known list of previous events at Newpark Demesne, is included on page 2 of the referral cover letter to the planning authority, and this list includes sporting, recreation, tourism, cultural, community, educational, heritage, artistic, musical, private functions, weddings and tour events. I am not aware of a planning permission for these occasional use events on the referral site. The referrers propose to host the occasional events listed in table 1 below and I have attempted to broadly categorise the stated events for comparative purposes with the previous known events.

Table 1. Previous & Proposed Events

Previous Known Recorded Events	Proposed Events
Garden fetes (including annual fetes)	Garden fetes
Local and regional sports events, Hunt Harriers, Public Coursing, Sligo Pony Club, Irish Ballooning Club and British Ballooning Association, Equestrian, Annaghmore Estate Shoot	Local sports competitions,
Section 482 Heritage Property public access, access to public gardens and tours	National Heritage Week open days, Ballymote heritage weekends
Private functions and weddings, Irish Cancer Society, Northern Irish Outreach, Irish Countrywomen's Association	Coffee mornings, weddings, brewer's VIP spin-off event
Sligo (archaeology) Field Club	Archaeology workshops
Concerts	Music recitals

Other Events - English Language Training, Newpark Holiday Camps and Film and Photography Venue	Other Events - Yoga day retreats, local biodiversity days
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- 8.2.3. While it is reasonable to conclude that Newpark Demesne was used for a variety of events both prior to the enactment of the Act of 1963 and during the intervening period since, based on the evidence presented it has not been substantiated that the proposed events would align with the scale, intensity, frequency and type of events that were previously held. The evidence submitted to attempt to verify the extent of previous use events includes two letters from personal recollections briefly referring to a single wedding on the demesne, whereas it is clear from the evidence available, including publicly available website details, that significant additional scope to facilitate weddings and similar events on an annual basis would arise through use of the farm outbuildings, including 'Juniper Barn'. There are also minor changes in the typology of proposed events when compared with the previous events. Consequently, I am satisfied that it is reasonable to conclude that the proposed array of events when compared with the evidence submitted and available would result in actual changes in the occasional use of the referral site.

Material Change of Use

- 8.2.4. If the Board are satisfied that an actual change in use would occur, the second issue to consider is whether this actual change constitutes development or not. The definition of 'development' in the Act includes the 'making of any material change of use of any structures or land'. Case law has dictated that various tests can be applied to determine whether or not a change of use is material in planning terms, including whether the character of the uses are patently different, whether issues raised by the change of use would raise matters that would normally be considered by a planning authority if it were dealing with an application for planning permission, including whether different effects would arise from the uses.
- 8.2.5. It is asserted that the previous events on the referral site would typically take place over a single day, across the calendar year and with a total of 12 to 15 events per annum prior to 1964. Some of these events are claimed to have attracted large crowds of several hundred, served by commuter buses and concluding in the early hours with dancing and music, as well as food and drink being served. Over the

2005 to 2019 period, the referrers assert that an average of 13 events per annum were held ranging from 20 to 160 attendees. The referrer intends to host seven events per year, using either the garden, barns, yards or house, and the number of attendees per event would be limited to between 20 to 120 persons.

- 8.2.6. While only minor variations in the typology of proposed events and the numbers of attendees are anticipated when compared with the previous listed events and there is an intention to reduce the number of events, the referrers have not fully substantiated the frequency and nature of the previous occasional use events on the referral site. Substantive evidence that 12 to 15 events previously took place on an annual basis has not been provided with the referral. Many of the 'monthly' events were not solely held on the referral site, as they appear to have been hosted in a circuit style arrangement in conjunction with other venues in the Sligo and wider area. While I recognise the difficulties in attempting to comprehensively substantiate the extent of use during the earlier decades, the evidence provided, in particular the personal recollections and detail relating to recent decades, would appear to point towards at most three to four occasional use events of reasonable scale on the referral site per annum, whereas the referrers envisage seven events per annum.
- 8.2.7. The evidence provided, including the list of previous events, reveals limited references to the use of the farm outbuildings for catering and entertaining purposes, and therefore does not point towards substantive use of the farm outbuildings. The recent opening up of the barns for events, as advertised on the Juniper Barn website, clearly potentially allow for significant scope to use these outbuildings throughout the year and to cater for a more focussed range of events, including weddings, when compared with the previous listed events. The implications of a shift in the mix of events, particularly focussed on the use of the outbuildings, would present distinct planning issues that would need to be assessed should they be presented in a planning application, including the potential impacts on the architectural heritage of the buildings, traffic management and residential amenities.
- 8.2.8. I am satisfied that the change of use arising from the range and number of previous events and the proposed occasional events is material, as the change would raise matters that would normally be considered in a planning application, and, therefore, that this material change of use is 'development' within the meaning of Section 3 of the Act.

8.3. Is or is not exempt development?

- 8.3.1. The next issue to consider should the Board agree with the conclusions set out thus far, is whether or not the development in question constitutes exempted development in accordance with the provisions set out in section 4 of the Act. I have examined the provisions set out within Articles 5, 6 and 9 of the Regulations and I consider the only relevant class of exempted development relating to the subject development to be Class 37 of Part 1 to Schedule 2 of the Regulations. Subject to conditions and limitations, Class 37 exempts development consisting of ‘any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or moveable structures or objects on the lands in connection with such use’.
- 8.3.2. The referrers have stated that the land and outbuildings would be reinstated to their authorised use for agricultural purposes following each event. While the annual number and range of events has been stated, the referrers have not strictly stated the overall annual time period for the events. Notwithstanding this, I am satisfied that based on the seven stated annual number of events and the typology of events primarily comprising single-day events, it is reasonable to conclude that exceedance of the 15 and 30 day time limits set out under item (1) of column 2 to Class 37 would not arise. Consequently, I am satisfied that the proposed use below the 15 and 30 day annual limits could come within the conditions and limitations assigned within column 2 of Class 37.
- 8.3.3. According to the information submitted, including the details provided on pages 3 and 4 of the referrers cover letter to the planning authority, I am satisfied that the character of the proposed events to be held on the referral site, would conform to the character of development set out in Class 37, including religious, cultural, educational, political, social, recreational or sporting events. It is also necessary to consider whether or not the events would conform to local events, as envisaged within the Class 37 exemption.
- 8.3.4. The planning authority concluded that with the exception of wedding events, the proposed events would come within the scope of Class 37, and that wedding events, would not come within the scope of Class 37 as they are consider to be of a ‘non-local nature’. In arriving at this conclusion, the planning authority considered that

weddings are different to the other proposed events, as they may not be organised by a local group or organisation, as they are a private invite-only event, as the attendees would vary and as they would not be an annual event. Furthermore, the wedding venue may be chosen regardless of any connection with the local Ballymote community.

- 8.3.5. From the outset I note that the other events listed could theoretically be hosted at Newpark Demesne regardless of any connection with the local community and equally, a wedding could reasonably draw attendees and organisers solely from the Ballymote community. The referrers state that the wedding venue would facilitate 120 persons using the demesne grounds and outbuildings for ceremony, reception and entertainment and that at least one of the couple getting married would reside in Sligo or have family originating from Sligo. The planning authority determined that this did not restrict weddings solely for persons connected with the Ballymote community and, as such, wedding events do not fit within the definition of a local event for the purposes of Class 37.
- 8.3.6. The Act or Regulations do not provide a definition of 'local' and in coming to a conclusion as to whether or not the proposed events would be local or not, the planning authority relied on the Oxford English Dictionary definition for 'local'; 'relating to a particular area or to the area in which a person lives'. In considering a referral (ABP ref. PL07.RL3158) with respect to events such as sports days, day seminars, international conferences, art exhibitions, craft shows, concerts and food fares at Claregalway Castle in Galway, which I consider to be similar events to those proposed to be held at the referral site, albeit excluding weddings, the Board did not consider that these events would not be local events. When considering a referral (ABP ref. PL22.RL2684) regarding events at Coolbawn Quay in Tipperary, including weddings, the Board's Inspector considered that a local event excludes non-local, regional or national events, which would limit the catchment and potential scale of such events. However, in issuing a declaration regarding these events, a specific catchment was not ultimately relied upon by the Board, as the referrer had simply not provided sufficient information to demonstrate if the events would or would not be local. In deciding a referral (ABP ref. PL04.RL2555) regarding motor sports events at Mallow in Cork, the Board's Inspector was of the opinion that these events would not be of a local nature and extent given the absence of information regarding the

origin and destination of attendees and as attendees would potentially be drawn from national and international catchments. The Board ultimately declared that the referrer had not established if the motor sports events would constitute local events in the context of Class 37.

8.3.7. I do not believe that the intended use of the word 'local' in Class 37, was solely for the purposes of restricting events for persons from a specific geographical area or catchment, as an unreasonably strict interpretation in this manner would otherwise result in extensive events of very limited scale and impact not falling within the exemption. To omit events based on the catchment of the attendees or organisers would therefore be overly onerous and if this was the case other events listed by the referrers, not just limited to weddings, would not come within the scope of the Class 37 exemption. Furthermore, reliance on a dictionary definition and a non-contextualised interpretation of the word 'local' for the purposes of Class 37, fails to recognise its context in the exemption class as an attributive adjective describing the specific type of 'events' envisaged under Class 37 and the fact that it does not specifically relate to local persons or local administrative boundaries for that matter. Consequently, I am satisfied that the use of 'local' with respect to Class 37 is with respect to the event being of a local scale, impact and magnitude of effect, and it is not specific or limited to the attendees or organisers being drawn from a defined geographical area or catchment. Conversely, the exemptions under Class 37 clearly did not envisage events of a regional or national scale, which could potentially come under the terms of Part XVI of the Act or Article 183 of the Regulations. I am therefore satisfied that the proposed occasional events, including weddings, as described by the referrer and considered above, with or without a restriction on the area from which the attendees or organisers would be drawn from, therefore fall within the scope of class 37.

8.3.8. In view of the foregoing, having visited the site and surrounding area, reviewed the provisions of the Sligo County Development Plan 2017-2023 and considered the possible restrictions to exemptions under article 9 of the Regulations, including those relating to traffic hazard, the landscape and features or objects of special interests, I am satisfied that restrictions on the stated exemption would not apply in this case. In conclusion, I am satisfied that the subject proposed change of use constitutes development that is exempted development.

9.0 Appropriate Assessment

- 9.1.1. The nearest European site to the referral site is the Unshin River Special Area of Conservation, which is located 1.5km to the northeast along the N4 national road. Having regard to the existing development on site, the minor nature of the development referenced in the question above, primarily involving a change of use, and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 Recommendation

- 10.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether use for occasional events at Newpark House, Newpark Demesne, Newpark, Ballymote, County Sligo, is or is not development or is or is not exempted development:

AND WHEREAS Christopher & Dorothy-Ellin Kitchin care of Kiaran O'Malley & Co. Ltd. Town Planning Consultants, requested a declaration on this question from Sligo County Council, and the Council issued a declaration on the 9th day of July, 2020, stating that the matter is development and is not exempted development:

AND WHEREAS Christopher & Dorothy-Ellin Kitchin care of Kiaran O'Malley & Co. Ltd. Town Planning Consultants referred this declaration for review to An Bord Pleanála on the 5th day of August, 2020:

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

- (a) Sections 2, 3, 4, 57 and 229 of the Planning and Development Act 2000, as amended,
- (b) Articles 5, 6, 9 and 183 of the Planning and Development Regulations 2001-2020,
- (c) Class 37 to Part 1 of Schedule 2 of the Planning and Development Regulations 2001-2020,
- (d) the submissions on file from the referrer:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the holding of the stated events would constitute an actual change of use when comparing the range of proposed events with the previous stated range of events
- (b) the actual change of use is considered to be a material change of use based on the type and number of proposed events when compared with the previous evidence of events on the referral site, and is, therefore, development within the meaning of Section 3 of the Planning and Development Act 2000, as amended, and;
- (c) the nature and number of the events, including weddings, would come within the scope of Class 37 of Part 1 to Schedule 2 of the Planning and Development Regulations, 2001-2020, whereby the said use is exempted development:

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 use for occasional events at Newpark House, Newpark Demesne, Newpark, Ballymote, County Sligo, is development and is exempted development.

Colm McLoughlin
Planning Inspector

8th December 2020