

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Clare County

Planning Register Reference Number: P15/609

An Bord Pleanála Reference Number: PL 03.245801

APPEAL by Henry Gerber and others of Firgrove, Hurler's Cross, County Clare against the decision made on the 30th day of October, 2015 by Clare County Council to grant subject to conditions a permission to John Callinan care of Morgan McDonogh of The Bog Road, Kildimo, County Limerick in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Change of use of agricultural land to foot golf leisure activity, portacabin office and wc, ancillary car parking and associated site works, all at Clonmoney West, Hurler's Cross, Bunratty, County Clare.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

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.

REASONS AND CONSIDERATIONS

Having regard to the nature and scale of the proposed development, the modest scale of the construction works involved, the location of the site proximate to Shannon Town, and to the “Agriculture” zoning objective for the site as set out in the Shannon Town and Environs Local Area Plan 2012-2018, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in principle in terms of the land use zoning objective for the site as set out in the Local Area Plan, would constitute a benefit to the community and to tourism in the area, would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would not exacerbate flooding in the vicinity, would not be prejudicial to public health, and would not detract from the curtilage of Clonmoney House, which is listed in the Garden Survey of the National Inventory of Architectural Heritage, with its parklands and woodlands identified as the landscape features of interest. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The use of the site for Footgolf shall cease on or before the expiration of a period of five years from the date of this order. The portacabin shall be removed and the land restored to its former condition prior to the expiry of this time period.

Reason: Having regard to the temporary nature of the facilities to be provided, including the absence of a connection to the public foul sewer, it is considered that a permanent grant of permission would constitute haphazard and disorderly development, and would be prejudicial to public health.

3. The proposed development shall be amended as follows:

- (a) Two chemical WCs shall be provided.
- (b) The proposed car park shall be laid out in accordance with the design dimensions set out in Appendix A1.7.3 of the Clare County Development Plan 2011 – 2017.
- (c) The proposed concrete post and chainlink fencing shall be omitted, and shall be replaced with dark green Paladin fencing, having a maximum height of two metres.
- (d) Any modification that may be required to avoid conflict with electricity lines shall not reorient play towards neighbouring dwellings without adequate separation distances.
- (e) Suitable bicycle parking facilities shall be provided.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health, orderly development, visual amenity, residential amenity, and sustainable transport.

4. The proposed Footgolf facility shall not operate outside the hours of 0900 to 2200 on any day.

Reason: In the interest of orderly development and of the amenities of nearby residential property.

5. The removal or severe pruning of mature or semi-mature trees, hedgerow or other planting is not permitted. No re-contouring of the land is permitted.

Reason: To protect the parkland amenity of the curtilage of Clonmoney House.

6. The proposed development shall not be floodlit, unless otherwise authorised by a prior grant of planning permission.

Reason: In the interest of clarity and residential amenity.

7. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs, advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected within the curtilage of the site, other than the sign shown on the drawings submitted with the application.

Reason: To protect the visual amenities of the area.

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

9. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

10. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

Dated this day of 2016.