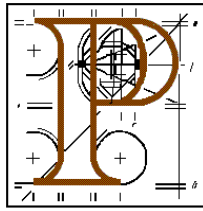


An Bord Pleanála



Inspector's Report

PL26.245516

DEVELOPMENT:-

Use of agricultural lands for a clay pigeon shoot/target range and all ancillary site works at Ballyvake Lane, Coolaknick, Oilgate, Co. Wexford.

PLANNING APPLICATION

Planning Authority: Wexford County Council

Planning Authority Reg. No: 20150152

Applicant: William Hayden

Application Type: Permission

Planning Authority Decision: Grant

APPEAL

Appellant: Margaret Hill

Type of Appeal: 3rd-v-Grant

DATE OF SITE INSPECTION: 14th December 2015

Inspector: Colin McBride

1. SITE DESCRIPTION

- 1.1 The appeal site, which has stated area of 2.277 hectares is located approximately 6km south of Enniscorthy and to the east of the N11. The appeal site is located in a rural area and consists of existing agricultural lands within the town land of Ballyvake. The site is accessed over an existing unsurfaced laneway that emanates from the public road to the west of the site. Where the laneway meets the public road there is an existing dwelling to south. Approximately halfway along the lane there is also an existing dwelling (360m from the site). To the south of the site there are existing buildings in derelict state. The site itself consists of a field defined by existing trees and hedgerow. There is existing stone building on site with wooden steps and a container. Adjoining lands are agricultural in nature.

2. PROPOSED DEVELOPMENT

- 2.1 Permission is sought for the use of agricultural lands for a clay pigeon shoot/target range and all associated ancillary works. The proposal entails the provision of three shooting cages which are 2.4m high and 7sqm in area. The shooting cages are made from timber cladding with acoustic absorbent lining and are open on one side.

3. LOCAL AND EXTERNAL AUTHORITY REPORTS

3.1

- (a) An Taisce (27/03/15): An assessment on noise impact in relation to an adjoining dwelling is required.
- (b) Environment Section (02/04/15): Further information requested including a map of all dwellings/noise sensitive receptors within 400m. A baseline noise survey for the site, an assessment of estimated noise impact, details of intensity of use and details of noise attenuation measures proposed.
- (c) Planning Report (09/04/15): Further information required as per the Environment Section further information request.
- (d) Environment Section (27/08/15): No objection subject to conditions.
- (e) Planning report (27/08/15): The proposal was considered satisfactory and a grant of permission was recommended subject to the conditions outlined below.

4. DECISION OF THE PLANNING AUTHORITY

4.1 Permission granted subject to 11 conditions. Of note are the following...

Condition no. 6: Noise emission limit values conditioned for certain noise receptors.

Condition no. 7: Usage of the development to be confined to a specific period during the year and specific hours.

Condition no. 11: Noise emission limits value.

5. PLANNING HISTORY

5.1 No planning history on the appeal site.

5.2 PL26.228430: Permission refused for a dwelling and associated site works with access from the same laneway providing access to the site.

1. *Having regard to the rapid rate of percolation in the soil, as evidenced by tests, and to the density of existing and proposed dwellings served by wastewater treatment systems and percolation areas, it is considered that the proposed development would give rise to a risk of water pollution and would, therefore, be prejudicial to public health.*

2. *The proposed development would endanger public safety by reason of traffic hazard due to the restricted width, poor alignment and poor condition of the unsurfaced private lane accessing the site and its substandard junction with the public road. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

5.3 PL26.223134: Permission refused for 2 no. dwellings and associated site works with access from the same laneway providing access to the site.

1. *Having regard to the location of the site in an area under strong urban influence associated with Wexford town and Enniscorthy, it is considered that the development does not come within the scope of the housing needs criteria of the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

2. *Having regard to the rapid rate of percolation in the soil, as evidenced by tests, and to the density of existing and proposed dwellings served by waste water treatment systems and percolation areas, it is considered that the*

proposed development would give rise to a risk of water pollution and would, therefore, be prejudicial to public health.

3. *The proposed development would endanger public safety by reason of traffic hazard, having regard to the additional traffic movements, which would be generated, and to the restricted width, poor alignment and poor condition of the unmade private lane accessing the site and its substandard junction with the public road.*

6. PLANNING POLICY

- 6.1 The relevant plan is the Wexford County Development Plan 2013-2019.

7. GROUNDS OF APPEAL

- 7.1 A third party appeal has been lodged by EngCo Resources Ltd on behalf of Margaret Hill, Ballyvake Lake, Coolsnick, Oylegate. The grounds of appeal are as follows...

- The appellant owns property adjacent to the appeal site.
- The proposal would be contrary public health and safety with the existing laneway and access substandard, the lack of on-site sanitary facilities or water supply and the lack of a health and safety certificate, risk assessment of fire safety certificate.
- The appellant raises concerns regarding environmental impact noting the proximity of the site to a designated SPA and SAC.
- The appellant raise concerns regarding noise pollution and notes that the relevant guidance indicates the appropriate limits with the noise assessment which is deficient in nature indicating noise levels in excess of the relevant guidance.
- The appellant notes that the activity has gone on for two seasons without enforcement and notes concerns that permitting the development may lead to further unauthorised or unregulated activity.
- Noise levels imposed by way of condition are unachievable without mitigation measures with no detail of such measures provided.
- There is planning history of refusal of development on the laneway due its substandard nature (PL26.228430 and PL26.223134). The appellant notes that the intensity of use would generate significant traffic levels on a substandard laneway and access from the public road.

8. RESPONSES

8.1 Response by Wexford County Council.

- The laneway is of a satisfactory standard with drainage works been carried out to improve the section where it adjoins the public road.
- The conditions attached are to ensure the proposal does not impact adversely in regards to noise impact.
- An Appropriate Assessment Screening was carried out and the proposed development would not have any significant impacts on Wexford Harbour Slob SPA.
- There is support for the proposal from local politicians and An Garda Síochána as well as many letters of support from residents in the area.

8.2 Response by Ian Doyle Planning Consultants on behalf of the applicant William Hayden.

- The proposal is satisfactory in regards to traffic safety and access arrangements.
- Sanitary facilities and a water supply are not necessary (temporary sanitary facilities provided on competition days).
- A health and safety statement, risk assessment and fire safety certificate are not legally required.
- A specialist acoustic engineer was employed to assess noise impact. The proposal and information submitted was reviewed by the Council's Environment Section and deemed to be satisfactory. Mitigation measures are proposed as such will reduce noise impact.
- An EIS is not required and Appropriate Assessment Screening was carried out.
- The applicant wishes the Board to consider amending condition no. 7 in the form of extending the operating hours to 20:00 hours in both cases (weekdays and weekends).

9. OBSERVATIONS

9.1 An observation has been received from Roewena Forrestal & Patrick Atkinson, 'Les Hirondelles', Ballyrannell, Glenbrien, Enniscorthy, Co. Wexford.

- The observers raise concern regarding noise impact, increased traffic on a substandard laneway and restricted visibility at the vehicular entrance.

10. ASSESSMENT

- 10.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development/Development Plan policy

Design/scale/noise impact

Traffic/access laneway

Other issues

10.2 Principle of the proposed development/development plan policy:

- 10.2.1 The relevant plan is the Wexford County Development Plan 2013-2019. The appeal site is located within a rural area. The nature of the proposed use is a use would be more appropriately located within a rural area. In this regard I would consider the principle of the proposed development to be acceptable subject to it being satisfactory in the context of physical impact, the amenities of adjoining properties (noise) and traffic safety.

10.3 Design/Scale/Noise Impact:

- 10.3.1 In terms of overall physical impact, the proposal entails the provision of three shooting cages and a container that is already located on site. There are the ruins of an existing building on site also. In terms of physical and visual impact the scale of structures to be provided on site is extremely modest and such would have no significant visual impact in the surrounding area. I would consider that the level and scale of structures proposed on site to be satisfactory in the context of impact in the surrounding area and such would not significantly alter the rural character of the area.

- 10.3.2 In regards to intensity of use the information on file notes that the gun club that will run the development will use it for practice one evening per week during daylight hours from March to September. It is noted there will be organised events 4 to 5 times per year (March to September) equating to 30-35 shooting events per year weather permitting. It is noted that the development is not a full time commercial venture with no shooting activity outside the times indicated. The main issue in relation to impact relates to noise generation and that subject to the proposal being satisfactory in regards to noise levels, the proposal would be acceptable in the context of the amenities of adjoining properties.

- 10.3.3 In response to further information a map indicating the nearest noise sensitive receptors within 400m of the site was submitted. There appears to be only one dwelling within 400m of the site (approximately 360m from the site) and is the existing dwelling served by the laneway serving the site. An Environmental Noise Impact Assessment was submitted. The Assessment notes that the existing baseline noise level at the nearest noise sensitive

receptor is 33.7 dB La90. It is estimated that shooting noise level at this receptor is 68.6 dB(A) but the implementation of remedial measures should reduce this noise level to 50 dB(A). The remedial measures are the use shooting cages with noise absorbent lining and only open to one side, which is away from the nearest noise sensitive receptor and the majority of dwellings in the vicinity. In the case of the proposed development there is a good degree of separation between the site and adjoining dwellings, with the nearest dwelling being 360m to the west of the site and the next nearest dwellings being over 500m from the site. I would consider that operation of gun club on agricultural lands to be a common occurrence and not out of keeping with the nature of a rural area such as this. The applicant has provided details of existing noise levels, predicted noise level including the predicted noise levels with use of mitigation measures (specified). In granting permission the Planning Authority conditioned certain noise limits and restricted the hours of operation.

10.3.4 I have looked at similar developments that been assessed by the Board. One of the most relevant applications is PL04.230717. In assessing this proposal the inspectors report refers to The Chartered Institute of Environmental Health (CIEH) who issued Guidance on the Control of Noise from Clay Target Shooting in January 2003. The inspector noted that the guidelines indicate that “a minimum site area of 2-4 hectares and a minimum safety zone of 275m in front of the shooting stands is recommended. Similarly a noise buffer zone of at least 1.5km to the front of the shooting stands and 1km to the rear is advisable (on largely flat sites). Preferably there should be no line of site between the noise source and a noise sensitive site. The guidance goes on to state that only under very exceptional circumstances should shooting normally take place with separation distances of less than 1km. The frequency and duration of events may need to be decreased as the noise buffer zones decrease. The provision of noise barriers built to the rear and sides of shooting stands may help provide a solution to noise intrusion (soft finish barriers such as straw bales are listed). The use of low noise cartridges is referred to as being less noisy than “game” or “clay” cartridges though competitive shoots do not use low noise (or subsonic) cartridges. The Building Research Establishment (BRE) 1997 document is referred to in the CIEH document and states “*at shooting noise levels below the mid 50’s dB (a) there is little evidence of significant levels of annoyance at any site, whereas for levels in the mid to high 60’s, significant annoyance is engendered in the majority of the sites. For levels in between however the extent of the annoyance varies considerably from site to site*”. Appendix 4 in the CIEH document advises that “*planning permission should not normally be granted for a major shoot if the mean Shooting Noise Level (SNL) exceeds 55 dB(A) where the background level is less than 45 d(A)*”. In granting permission the Board conditioned that noise levels at the nearest noise sensitive locations

shall not exceed 55 dB(A) (30 minutes Leq) between the operating hours and 45 dB(A) (15 minute Leq) at any other time. The order and inspectors report is attached.

10.3.5 In the case of the proposed development the Noise Impact Assessment indicates that with implementation of mitigation measures (enclosed shooting cages) that noise levels at the nearest receptor is 68.6 dB(A) but the implementation of remedial measures should reduce this noise level to 50 dB(A). The mitigation measures are as per the recommendations of the guidelines use under PL04.230717. Based on such and the information submitted including the noise impact assessment I would recommend a grant of permission, but would impose a condition providing for noise levels at the nearest noise sensitive locations not to exceed 55 dB(A) (30 minutes Leq) between the operating hours and 45 dB(A) (15 minute Leq) at any other time. I would also recommend attaching a condition requiring a noise survey and noise monitoring programme in the event of a grant of permission. I would recommend that the hours and frequency of operation be as per that conditioned under condition no. 7.

10.4 Traffic/access laneway:

10.4.1 The appellant notes that existing laneway and entrance from such onto the public road is substandard noting that there has been dwellings refused permission for access of the existing laneway (see planning history). The last refusal (PL06.228430) noted that "the proposed development would endanger public safety by reason of traffic hazard due to the restricted width, poor alignment and poor condition of the unsurfaced private lane accessing the site and its substandard junction with the public road. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area".

10.4.2 The existing laneway is unsurfaced, is restricted in width and alignment and junction with public road is substandard due to the acute angle with which the laneway joins the public. At the time of the site visit I noted that despite drainage channels the laneway was flooded severely in places due to excess water. I would have concerns regard the generation of significant additional traffic on this laneway and junction. Based on the information on file the proposed development is to host shooting events and based on indication of the level shooters that can be facilitated, the level of traffic likely to be generated for these events is significant and in concentrated period. I would of the view that the proposed use although intermittent in comparison to the provision of a new dwelling on the laneway, would be likely to generate a significant level of traffic in a concentrated period of time. Having regard to the condition, width and alignment of the existing laneway and the layout of junction with the public road, taken in conjunction with the likely level of traffic

generated, the proposed development would endanger public safety by reason of traffic hazard.

10.5. Other Issues:

10.5.1 The appeal site is not located within a designated Natura 200 site (SPA or SAC) and having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be unlikely to have a significant effect individually or in combination with other plans or projects on a European site.

10.5.2 The appellants raise issues enforcement and unauthorised development as a matter of concern. Issues of enforcement are not a relevant planning consideration and fall under the remit of Planning Authority.

RECOMMENDATION

I recommend a refusal based on the following reason.

REASONS AND CONSIDERATIONS

1. The proposed development would endanger public safety by reason of traffic hazard, having regard to the additional traffic movements, which would be generated, and to the restricted width, poor alignment and poor condition of the unmade private lane accessing the site and its substandard junction with the public road.

Colin McBride
18th December 2015