



Development

Retention of safety starting gate, floodlights and all associated works and temporary planning permission for a further 5 years for existing BMX track entrance onto public road, boundary fencing, parking and associated works as per grant of permission under Ref. No. DA/101368.

Location

Fairyhouse Road Junction, Glascarn Lane, Ratoath, County Meath.

Planning Authority

Meath County Council.

Planning Authority Reg. Ref.

RA/160587.

Applicant

James McNally.

Type of Application

Retention of Permission and extension of temporary Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party -v- Grant.

Appellants

Chris and Monica Maher.

Observers

None.

Date of Site Inspection

28th April, 2017.

Inspector

Paul Caprani.

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1.0 Introduction

PL17.248122 relates to a third party appeal against the decision of Meath County Council to grant a temporary planning permission for a further five years for an existing BMX bike track facility including entrance onto the public road, boundary fencing, floodlighting, starting gate and associated works. The grounds of appeal argue that the operation of the existing facility having an unacceptable impact on surrounding residential amenity primarily through increased noise and light pollution.

2.0 Site Location and Description

The appeal site is located on the western side of the Fairyhouse Road (R115) in the southern environs of Ratoath Village. Fairyhouse Racecourse is located on the eastern side of the R115 approximately 1.5 kilometres further south. The subject site is rectangular in shape and has a road frontage of approximately 60 metres. The entrance to the site is recessed approximately 6 or 7 metres back from the edge of the adjoining road. The facility covers an area of 1.256 hectares. The front part of the site adjacent to the road accommodates an informal parking area while the area to the rear accommodates the main BMX track with associated track and ramps etc. A smaller BMX practice area is located at the rear part of the site. There are a number of 6 metre poles accommodating floodlighting throughout the site. Wire fencing surrounds the site. Green netting is appended to the fencing along the front boundary of the site (see photographs attached). The website for the facility indicates that summer opening times is Saturday and Sunday 2pm to 5pm and Tuesday and Friday 7pm to 9pm. During the winter the opening times are 7pm to 9pm on Friday 1pm to 4pm on Sunday (weather dependent).

The site is located at the edge of the built-up area of Ratoath and that there are houses to the immediate north of the site and on the western side of the Fairyhouse Road directly opposite the site.

3.0 Proposed Development

Planning permission is sought to extend the life of the BMX track entrance onto the public road together with the retention of the safety starting gate, floodlights and all associated works for a further five years.

4.0 Planning Authority Decision

Meath County Council issued notification to grant retention of planning permission subject to 6 conditions.

Planning Authority Reports

The planning report states that given the temporary nature of the facility which is community/recreational in nature, it is considered that the principle of the development is acceptable on the lands. Reference is also made to SOCOBJ14 where it is the planning objective to provide a swimming pool at the site as a long-term objective.

The report concludes that the proposed development in this instance is acceptable. However, the following further information is required:

- Details of the hour of operation and the hours of floodlighting proposed.
- Please submit a revised layout plan showing all lighting columns and storage containers on site.
- Please submit details of the current use of storage containers on site.
- Please submit detailed elevational drawings of floodlighting poles including lighting in the car park and at the starting gate as well as details of the overall height of the lighting columns and the strength of illumination.
- Please address the concerns raised in the third party observation on file.

Further Information was submitted on the 23rd of December 2017. It states the following:

- In terms of opening hours, it is stated that during the summer months evening sessions are held twice a week from 7 to 9pm and on Saturdays and Sundays 2 to 5pm. The times vary depending on weather and availability of adult club

supervisors. During the winter months it is open at the weekends for shorter periods from 1 to 4pm. No lights will remain on after 9pm on any occasion. All floodlighting is currently positioned to face in a southerly direction except for some lighting columns at the bottom of the track and as per Meath County Council's recommendation. The applicant plans to add some light louvres to disperse the light and not cause any light pollution to surrounding residents. These lights are over 60 metres away from the nearest residence and over 130 metres from the front entrance. The applicant has worked extremely hard to minimise any light pollution arising from the development and seek to work in accordance with guidelines.

- A revised layout plan has been submitted showing all lighting columns and containers. With regard to the storage containers, it is stated that one of the containers accommodates a toilet block where it is planned to install a waste tank which would have its contents commercially removed every six months. The other 20-foot container accommodates fuse boards for the electricity supply. There is also a 10-foot container to the rear of the track which is used as a registration cabin. All buildings on site are temporary buildings.
- Details for the specification of floodlighting are also submitted.
- Also attached to the submission is a letter signed by a number of residents in the area which raise no objection to the proposal in terms of noise or light pollution.

A further letter of objection has been received from the appellants the contents which have been read and noted.

The final planner's report notes the response to the further information request and considers that the proposed development is deemed to be acceptable and is in accordance with the proper planning and sustainable development of the area. It is therefore recommended that planning permission be granted for the proposal subject to six conditions.

5.0 Planning History

On 25th May, 2011 Meath County Council granted planning permission for a period of five years for an external BMX track, new vehicular entrance from Fairyhouse Road, parking for 25 cars, a container lock-up facility and 2.4 metre high fence and ancillary works. Planning permission was granted subject to seven conditions. Also attached under Ref. DA/S51428 is a declaration from the Planning Authority that works including additional children's pump track to the rear of the current BMX track for young riders is development that is exempted development.

6.0 Grounds of Appeal

6.1. The decision of Meath County Council to issue notification to grant planning permission was appealed by Chris and Monica Maher. The grounds of appeal are outlined below:

- The appellants state that for the previous five years they have been subjected to unacceptable disturbance in terms of noise and light pollution from the proposed development on site. The starting gate which is located close to the appellant's home emits a loud bang when operated. There has also been the use of tannoy loudspeakers at high levels during races. The appellants have on occasions had to vacate their home due to noise levels. Concerns are expressed that the current application will further intensify commercial activities on the subject site. The Fairyhouse Road is a very busy road with ambient noise levels already high in the area.
- It is also contended that Ratoath BMX club have installed unauthorised floodlights on the subject site which shine directly into the appellant's living room, bedroom and hallway. This unauthorised floodlighting has not been properly installed in accordance with the Institute of Lighting Professional Standards and is therefore in direct contravention of Condition No. 6 of the original grant of planning permission. The applicant has removed a large section of hedge and trees directly opposite the appellants' dwelling which has left them particularly exposed due to lighting glare.

- It is noted that no detailed lighting and noise studies have been included as part of the application. Significant concern is expressed in relation to light spill. Although the applicant's proposal states that the club would operate only at certain times of the week Meath County Council have applied no condition in this regard and as such the club can operate without any time constraint.
- A photo is attached indicating the floodlighting on site.

7.0 Appeal Responses

7.1. Planning Authority Response to Grounds of Appeal

The Planning Authority determined that the application lodged was valid in the context of the legislation. The proposed development was considered to be consistent with the policies and objectives of the Meath County Development Plan and it is considered that the conditions attached to the permission to ensure that floodlighting is cowled away from the public road. The facility operates only at limited hours and the fact that no motorised vehicles will use the track together with the temporary period of the permission resulted in the Planning Authority concluding that the proposal is acceptable.

7.2. Applicant's Response to the Grounds of Appeal

It is stated that the only complaint ever received in respect of the club are from the current appellants. The applicant has met individually with all residents adjacent to the track and there has never been any issues in respect of noise and light pollution.

The applicant has installed a professional safety gate at a cost of over €18,000. This gate mechanism is almost totally silent and adheres to international safety guidelines. Any speakers which are used during races have deliberately, on foot of a complaint by the appellant, been directed away from the appellants' home.

Furthermore, in years past all national events were held at the Ratoath BMX site, however in more recent years there have been a number of BMX parks constructed throughout the country which also hold national events. As a result, the number of national events held at the subject site have been two national events in 2015 and

two national events in 2016 where loudspeakers were used. The music starts around 11.30am and finishes around 4pm.

In terms of intensification, of use it is stated that initially as it was the only BMX facility in the country the club had approximately 600 members. Today it has approximately 60 members therefore there is no intensification of the activity on site.

With regard to unauthorised floodlights, it is stated that the Meath Area Engineer had no objection to the positioning and placing of floodlights and the Council has also agreed to the lights in the current position. They do not cause any glare to motorists and light spillage is non-existent. The nearest track floodlight is 135 metres away from the entrance. In addition, the applicant has erected a dark mesh type material to the gate at the front entrance in order to increase privacy.

Any tree removal at the entrance was necessitated in order to achieve sightlines and this was a requirement of the Council. In relation to detailed lighting and noise studies, it is stated that all sufficient lighting drawings were submitted and approved with the initial application. It is argued that the floodlights in question are less intrusive than other floodlights in the area. Specific reference is made to Ratoath Tennis Club.

With regard to hours of operation, it states that the club operates on a volunteer basis and the club would never get the volunteers support to open any more than the facility currently does. The applicant has also detailed in the response to the grounds of appeal all the opening times between September 2016 to March 2017 and the number of riders present. The applicants do not normally use the lights during the summer months.

8.0 Development Plan Provision

Development Plan Provision

The site is governed by the policies and provisions contained in the Meath County Development Plan 2013 to 2019 and the Ratoath Local Area Plan. In terms of sporting and leisure facilities, the County Plan acknowledges that sporting, leisure and recreational facilities are essential to social cohesion, promoting a sense of community and enhancing the quality of life. It is also noted that the provision of

facilities for sports and recreation has become an increasingly important planning issue in recent years. Increasing the prosperity together with the lifestyle and health considerations contributes significantly to increases in demands for all kinds of formal and informal recreation facilities.

SOCPOL33 seeks to encourage and support local sports, community groups and other groups in the provision and development of outdoor and indoor sporting and community facilities.

In the Ratoath Local Area Plan the northern portion of the site is zoned “to provide for community recreational and educational facilities”. The southern portion of the site is governed by zoning E2 to provide for light industrial and industrial office type employment in a high quality campus environment subject to the requirements of an approved framework plan and the provision of necessary fiscal infrastructure.

Section 6.5 of the Ratoath Local Plan specifically relates to recreational, sport and leisure facilities. There is a specific objective SOCOBJ14 to “reserve lands (4 acres) on the Fairyhouse Road for the provision of a swimming pool as part of FP Objective 3”.

9.0 Planning Assessment

- 9.1. I have read the entire contents of this file, visited the site and its surroundings and have had particular regard to the issues raised in the grounds of appeal. The main concerns set out in the grounds of appeal relate to noise pollution and light pollution.
- 9.2. In relation to noise pollution, a key point of note is that the facility accommodates BMX bikes and does not accommodate any motorised vehicles. Hence there will be no revving of engines etc. which could significantly contribute to noise nuisance in the area. While the proposed development will give rise to some traffic generation during the periods when the track is operating, these periods are limited and vehicle trips to and from the facility should not give rise to significant levels of nuisance having regard to the fact that the site is located on a reasonably busy regional route linking Ratoath and Dunboyne. I therefore do not consider that the noise generated by traffic will have a significant adverse impact on the appellants’ amenity having particular regard to the modest use of the facility on a weekly basis.

- 9.3. The appellants express concerns that tannoy announcements and music is played during competitions. The applicant in his response to the grounds of appeal acknowledges that music and announcements are made when the venue is hosting a national competition. It is further stated in the grounds of appeal that in recent years these national competitions occur two times a year in May and September. I do not think it can be reasonably argued that the noise arising from the public address system on such an infrequent basis could materially affect the residential amenity in terms of noise on an on-going basis.
- 9.4. With regard to the issue of the starter gun the appellants argue that this is a significant noise generator. However, the applicant states that the club have recently purchased a new starter gate and that the new gate does not give rise to any significant noise.
- 9.5. On the whole I would consider that the noise generated from the proposal would be acceptable in an urban area adjacent to a relatively heavily trafficked regional route. A key consideration in my view is the fact that the club operates on a relatively infrequent basis 2 to 3 times a week for 2 to 3 hours. I consider the noise impact from such activities which are undertaken on a generally infrequent basis would be acceptable and would not significantly adversely impact on residential amenity in terms of noise.
- 9.6. With regard to floodlighting, the photographs submitted with the grounds of appeal would indicate that there is potential for significant light pollution to arise from the proposed development. However, the applicant has indicated in his response to the grounds of appeal that floodlighting operates only occasionally and primarily in the winter months.
- 9.7. The applicant has indicated in his response that between September 2016 and March 2017 the facility opened 36 times over this six-month period (c.6 times a month). Of the 36 times when the facility was in use floodlighting was used on 23 occasions. Having regard to the fact that during the summer months the floodlighting is seldom in use, it appears that any light pollution arising from the proposed development is on the whole infrequent and is confined to approximately once a week for a 2-hour period during the winter months only. I do not consider that any light pollution associated with the development would be likely to give rise to

significant amenity issues for residents in the vicinity including the appellant's residence. Certain levels of light pollution will always occur at facilities that incorporate floodlighting including tennis courts, astro turf facilities and other training facilities particularly during winter months. Where light pollution occurs on such an infrequent basis will not in my view justify a refusal of planning permission.

- 9.8. Finally, in relation to this issue I would refer the Board to Condition No. 5 of the Planning Authority's notification to grant planning permission which requires all floodlights to be cowled and divert away from the public road and from neighbouring properties in the vicinity. I recommend that such a condition be attached in the case where the Board deems it appropriate to grant planning permission for the proposed development. This should further mitigate against any light pollution issues.
- 9.9. With regard to the removal of trees and hedgerows to the front of the building, the applicant states that this vegetation was removed in order to achieve requisite sightline as part of the parent permission. I note Condition No. 3(a) of the parent permission requires that entrance details and sightline provision shall accord with the details submitted with the Planning Authority and the further information response dated 23rd March, 2011. It is very possible therefore that the removal of any vegetation along the front boundary of the site was required by way of condition.
- 9.10. Finally, the Board will be minded that the permission sought and the application granted is for a period of five years therefore any potential adverse impact in terms of surrounding residential amenity would be temporary in nature and would not result in any long-term permanent impacts in terms of amenity.

10.0 **Appropriate Assessment**

There are no designated Natura 2000 sites in the vicinity or indeed in the wider area around Ratoath. The nearest Natura 2000 sites the Rogerstown Estuary SPA and SAC, The Rye Water Valley/ Carton SAC and the Malahide Estuary SPA and SAC are at their closest points in excess of 13-18 kilometres away. Therefore, having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European Site, no appropriate assessment issues arise and it is not considered that the proposed

development would be likely to have a significant effect individually or in combination with other plans and projects on a European Site.

11.0 Conclusions and Recommendations

Arising from my assessment above therefore I consider that the applicant for retention of planning permission is acceptable in terms of its impact on surrounding residential amenity and I recommend that the Board grant retention of planning permission for the above development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

12.0 Reasons and Considerations

It is considered that retention of planning permission for the existing development on site would, subject to conditions set out below, be in accordance with the zoning provisions as they relate to the site, would not seriously or adversely impact on surrounding residential amenity and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further information received on the 23rd day of December 2016, except as may otherwise to 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 the 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. This grant of permission shall be limited to a period of five years from the date of this order. On completion of this period the ground area shall be suitably restored to its original condition and landscaped to an orderly appearance unless a subsequent and separate grant of planning permission to extend the life of the BMX facility is granted by the planning authority.

Reason: In the interest of orderly development.

3. The existing container to the south of the car park shall not be used to provide toilet facilities to cater for the development without prior separate grant of planning permission.

Reason: In the interest of public health.

4. Floodlighting to serve the facility shall be sufficiently cowled to divert light away from the public road and from neighbouring properties in the vicinity. Details shall be agreed in writing with the planning authority within three

months of this order.

Reason: In the interest of residential amenity

5. The floodlights shall not operate after 21.00 hours.

Reason: In the interest of residential amenity and the proper planning and sustainable development of the area.

6. No motorised vehicles/bikes shall be permitted to use the BMX track under any circumstances during the lifetime of this permission.

Reason: To protect the residential amenities of the area.

Paul Caprani,
Senior Planning Inspector.

1st June, 2017.