



An
Bord
Pleanála

Inspector's Report PL19.248877

Development	Clubhouse previously granted under ref: 02/1261, retention of use as firearms dealership, etc..
Location	Derrymore, Blue Ball, Tullamore, County Offaly.
Planning Authority	Offaly County Council.
Planning Authority Reg. Ref.	17/161.
Applicant(s)	Midlands National Shooting Centre
Type of Application	Permission (retention)
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Joe Melia Mark Bannon.
Observer(s)	None.
Date of Site Inspection	6 th November 2017.
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by two appellants against the decision of the planning authority to grant permission for the retention of a number of structures in an extensive shooting club premises on cut-away bog south-west of Tullamore in County Offaly. The grounds of appeal relate to legal, environmental, traffic and related issues.

2.0 Site Location and Description

The appeal site is located in Derrymore townland, about 4 km west of the small village of Blue Ball, and some 12 km south-west of Tullamore in County Offaly. Derrymore is on the eastern side of the Lough Boora Parklands, an extensive area of worked raised bogs and lakes which have been extensively mined by Bord na Mona and are now being developed for other uses. The overall landscape is relatively flat, with a mix of open grazing land, worked bogs, conifer forest and regenerating woodland on abandoned worked bogs. It is served by the R357, which runs on a very straight alignment west from Blue Ball on the N52, crossing the Shannon at Shannonbridge. The area is sparsely populated, with just a scattering of occasional dwellings along the main road and the few other roads in the area.

The appeal site is an extensive area of land with a site area given as 54.649 m² occupied by a series of shooting ranges with associated facilities including a clubhouse with parking, located on the northern side of the R357 just over 4 km from Blue Ball. The site is mostly on formerly worked raised bog. There is woodland on the south side, providing a barrier between the site and the main road – the site is accessed via an unpaved track entrance with a barrier. The most prominent visual features of the site are earthen bunds and barriers around the ranges. The clubhouse (with parking), a single storey structure is on the south-west corner, east of which is a pistol range and a number of steel containers converted to filler rooms (these are where club members can hand make live rounds). The northern part of the site has a series of shooting ranges which include covered firing points, with baffles and firing pits. The longest of these is a thousand+ yard range. There is also a trap house and skeet tower. There are a number of deep drainage ditches running through the site, and one artificial pond. The land is mostly cut bog, naturally regenerating as grass or willow scrub.

Immediately **west** of the site is a dwelling, part of the land ownership, apparently occupied by the landowner. This is surrounded by woodland and baffles. **West**, **north**, and **northeast** of the site are extensive areas of worked raised bogland. There is farmland to the **east**. To the **south**, there are grazing fields between the main parts of the site and the R357. Beyond the road are further fields. To the **south-west** and across the road are the Finnermore Lakes, artificial ponds created relatively recently on cutaway bog. Apart from the landowner's house, the closest dwellings are a pair of relatively new dwellings 300 metres from the site, on the north side of the R357.

3.0 Proposed Development

The development consists of permission to retain clubhouse in so far as it differs from that previously granted under planning permission, reference number 02/1251. Permission is also sought to retain unauthorised use of clubhouse as a registered firearms dealership, unauthorised extensions to the shooting ranges and associated unauthorised structures on site including:

- Sporting trap house,
- Higher tower trap house,
- Lower tower trap house,
- 1000 yard benchrest shed,
- Pistol/rifle zero range,
- Filler rooms 1 & 2,
- Rooms A&B, function room,
- 600-yard target pits,
- 1,200-yard target pits,
- Ground baffles,
- Backstops and mounts and metal shipping container
- And all associated site development works.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 2 no. standard conditions.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- It is noted that the site has two previous retention permissions for shooting grounds and a permission from 2004 for a dwelling. A warning letter had been issued (**UD15/14**) over unauthorised works.
- It is considered that it is not a listed development in Schedule 5 of the 2001 regulations. There are a number of development plan objectives with regard to facilitating the development of cutaway peatlands.
- The development is considered acceptable in principle.

4.2.2. Other Technical Reports

An **AA screening document** notes that it is 8km from SAC 000572 – Clara Bog. It is considered that there would be no likely significant impact, so no NIS is required.

Chief Fire Officer – requests that the applicant shall obtain a Fire Safety Certificate and a Disability Access Certificate and lodge a Commencement notice in accordance with the requirements of the Building Control Act, 2009 before development commences.

Road Section – Road access is considered adequate.

Environment and Water Section – requests standard conditions (water, noise, waste).

4.3. **Prescribed Bodies**

The **OPW** wrote to note that the site is in lands that benefit from the River Brosna Catchment Drainage Scheme and there may be a risk of flooding at the location. It is requested that a 10 metre strip be retained next to major channels to permit access for maintenance.

4.4. **Third Party Observations**

The appellants to this appeal objected for reasons similar to the appeal.

5.0 **Planning History**

The planning report notes that **97/734** granted permission for the retention of shooting grounds on the site. **02/1261** granted retention permission for existing shooting grounds and existing buildings, septic tank, etc.

In 2005 the Board, on appeal (**PL19.212910**), overturned the decision of the planning authority (**04/33**) to refuse permission for a dwelling (the applicants personal dwelling, next to the site).

6.0 **Policy Context**

6.1. **Development Plan**

The site is in unzoned open countryside. A number of policies in the Development Plan (extracts attached in the appendix to this report) support developments in cutaway bog with tourism or recreational uses.

6.2. **Natural Heritage Designations**

The closest EU designated habitat is Clara Bog SAC and Charleville Wood SAC, both around 8-km from the site.

7.0 The Appeal

7.1. Grounds of Appeal

Joe Melia, of New Park, Athlone

- It is submitted that the application fails to address the exact nature of activities and scope of works within the confines of the site.
- It is argued that an EIS should have been required.
- It is noted that the site has ecological value – it is claimed that migratory geese nest nearby.
- It is argued that it results in unacceptable levels of traffic on the access to the R357 and that a traffic impact assessment should have been submitted.
- It is suggested that the applicant is no longer authorised as a registered firearms dealer.
- It is submitted that there is inadequate site services and sanitary facilities for a site of this scale.
- It is submitted that the applicant does not have a sports tax exemption so should not have received an exemption from fees.

Mark Bannon of Stoneyford, County Kilkenny

- It is argued that the proposed development should be subject to EIS.
- It is submitted that the site has ecological sensitivities.
- It is argued that there is an issue with site access and traffic management.
- It is argued that the exact nature of the proposed development is not accurately described in the site notice.
- It is suggested that the applicant is not a registered firearms dealer.
- It is submitted that there are inadequate sanitary facilities.
- It is argued that the applicant should not have been given an exemption from fees.

7.2. Applicant Response

- It is claimed that the appellants are former members and outline reasons why the appeals should be dismissed as vexatious and without substance or foundation.
- It is noted that the planning authority did not consider that EIS was required and that the 'roads' on the site are gravel/sand tracks, and as such it is not a listed development in Schedule 5 of the 2001 Regulations, and is not sub-threshold.
- A statement from an ecologist is attached to argue that the site does not have significant flora or fauna.
- It is noted that the roads engineers had no objection to the site entrance.
- A copy of a certificate of registration as a firearms dealership is attached.
- It is submitted that no increase in site services or sanitary facilities are required as there is no significant increase in the scale of the facilities, beyond that already with permission.
- A letter from the applicant's accountant is attached explaining the status of the Midlands National Shooting Centre with regard to fees.

7.3. Planning Authority Response

The planning authority refers the Board to the planners report and requests that their decision be upheld.

7.4. Observations

None

7.5. Further Responses

None

8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that this appeal can be addressed under the following broad headings:

- Overview of the development
- Nature of the appeal
- EIS requirement
- Principle of development
- Traffic issues
- Public health
- Appropriate Assessment
- Other issues
- Financial contribution

8.1. Overview of the proposed development

The facility is an extensive area used for a variety of shooting ranges, from a small pistol range, to a 1000-yard range, along with skeet shooting and other related activities. There is a dwelling on the site belonging to the owner (outside the red lined area), and I note that in the appeal in which the Board granted permission it was noted that it was considered appropriate to grant permission to allow the owner to live next to the established business. The range appears to have developed since the 1990's. The existing facilities are somewhat more extensive than those previously permitted, but I do not consider that they represent a major intensification of potential use, particularly having regard to the nature of the area.

I note that as a shooting range, firearms dealer, along with filler rooms (i.e. sealed containers for ammunition fabrication), the facilities are subject to licensing and regulation by the Department of Justice and Equality and An Garda Síochána. From the information available on file, I am satisfied that the site has the active consents and licenses required, and in any event the requirements of subsection 34(13) of the 2000 Act, as amended, applies. I would consider that issues of safety and security of weaponry and ammunition on site is a matter for the licensing authority.

8.2. Nature of the appeal

The applicant makes a number of allegations regarding the motive behind the appeal and requests that the Board dismiss the appeal as vexatious. Whatever the motivations behind the appellant's decision to appeal the decision, I would consider the grounds of appeal to be valid planning arguments so I do not recommend that the Board dismiss the appeal for these reasons.

8.3. EIS Requirement

The appellants have argued that the site requires an EIS on the basis of Part 10, Article 93, Part 2, i.e.

1(c) Development consisting of the carrying out of drainage and/or reclamation of wetlands where more than 2 hectares of wetlands would be affected.

10(dd) All private roads which would exceed 2000 metres in length.

11(h) All installations for the manufacture, packing, loading or placing in cartridges of gunpowder and explosives or for the recovery or destruction of explosive substances.

I am satisfied that none of these apply. While the oldest versions of the OS maps indicate that the site was raised bog, the lands have clearly been drained and reclaimed for some time (in the 19th century OS plans there are indications of deep drains on the site), long preceding the current use of the site and predating the EIS Directives. The proposed development does not involve any additional reclamation of wetlands. There is a network of tracks on the site, but I do not consider that these constitute 'private roads' as they are unpaved and no more substantial than farm tracks. In any event, these are long established, permitted tracks.

The proposed development does involve the retention of 'filler houses', which are metal containers used by individual members for making ammunition. The use of sealed structures for this is apparently a licensing requirement. I inspected these units and note that they contain no machinery or fixed plant for fabrication – just security cameras and tables available for club members to manually fabricate rounds. I note that the most common dictionary definitions of an 'installation' emphasize that it is '*a large piece of equipment installed for use*'. Notwithstanding therefore the stated use, due to the absence of installed plant/equipment and that it

is clearly not a commercial activity – more of a facility for the use of club members - I do not consider it to be ‘an installation’ under the meaning of the 11(h).

While I note that the broader area has significant interest for flora and fauna, with the abandoned cut lands to the west part of the Boora wetlands project, I would not consider that the site has wildlife value over and above typical low intensity farmland in the area. In any event, I do not consider that the proposed development, which involves relatively minor alterations and additions to a permitted and long established facility, would involve significant impacts on the local environment. I therefore do not consider that the proposed works require an EIS.

8.4. Principle of development

The site is in open countryside and has a planning history dating back to at least 2002 permitting a shooting range on the lands. There are no specific policies in the development plan (or elsewhere) relating to shooting ranges, but a number of policies generally support schemes which generate employment or recreational uses on cutaway bog (nearly all the site appears to have been previously raised bog). In general terms, the site is well protected and isolated and away from population areas – most of the handful of dwellings in the area have been built since the facilities were first started. I would consider that the principle of the use of the site is well established and that there are no policy objections to the retention of the proposed works.

8.5. Traffic

The proposed development is served by an existing access track and junction with the road. This is at a very straight section of the R357 with good visibility in either direction. I do not consider that the proposed works significantly alter the likely traffic use, and I note that the roads section of the planning authority are satisfied that it is adequate and safe. I do not consider that any additional information or a Traffic Impact Assessment are needed.

8.6. Public health

The site is served by an existing septic tank for the clubhouse and associated toilets. This was granted permission previously. There are no proposals to alter the facilities and there is no evidence on file that there is an existing pollution issue – it is noted on the planning file that additional capacity may be required if there is a

significant increase in users for the clubhouse and facilities. But there is no evidence on file or from my site visit that this would be necessary.

8.7. Appropriate Assessment

The closest EU site is Clara Bog SAC, site code 000572, just over 8 km to the north, with Charleville Woods SAC, site code 000571, 9 km to the north-east, and Ferbane Bog SAC, site code 000575, just under 12 km to the west.

Charleville Wood is an old sessile oak wood with conservation interests related to arboreal habitats. Clara Bog and Ferbane Bogs are, as the names suggests, largely intact raised bogs, with their conservation interests relating to maintaining the hydrological and ecological status of those wetlands. Clara Bog is upriver of the Brosna catchment. Although downstream, the Brosna watercourse does not flow into or through Ferbane Bog.

Having regard therefore to the small scale of the proposed development, the separation distance between it and the designated areas, and the absence of any pathways for pollution, I am satisfied that the screening carried out by the planning authority is correct in its conclusions. I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European site no. 000572, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not required.

8.8. Other issues

The site is within the River Brosna Drainage District and may have been historically impacted by flooding. However, given the nature of the use I do not consider that this is an issue. There is no evidence of any archaeology on the site and there are no recorded ancient monuments or buildings on the NIAH in the vicinity. I do not consider that there are any other significant issues raised in this appeal.

8.9. Financial contributions

The planning authority did not require a financial contribution under Section 48 of the 2000 Act. The appellant raised the issue of the tax exempt status of the club. I

am satisfied that the planning authority has correctly applied all relevant rules including the financial contribution scheme.

9.0 Recommendation

I recommend that subject to the conditions set out below, the Board grant permission for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the planning history of the site, the established use of the lands for shooting and the nature of the area, it is considered that subject to the conditions set out below, the proposed development would not significantly impact the local environment or amenities, would not result in a traffic hazard or hazard to health, and would otherwise be in accordance with the proper planning and sustainable development of the area.

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

Reason: In the interest of public health.

3. The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest noise sensitive location between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity of the site.

4. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

Philip Davis
Planning Inspector

13th November 2017