



An
Bord
Pleanála

Inspector's Report ABP-303704-19

Question	Whether the use of an existing permitted outdoor pursuits area (PL03/419 refers) for clay pigeon shooting is or is not development or is or is not exempted development.
Location	Cranleymore, Edgeworthstown, Co. Longford
Declaration	
Planning Authority	N/A.
Planning Authority Reg. Ref.	DC191.
Applicant for Declaration	N/A.
Planning Authority Decision	N/A
Referral	
Referred by	Longford County Council
Owner/ Occupier	Tom McLoughlin.
Observer(s)	None.
Date of Site Inspection	7 th May 2019
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

1.1. The subject site lies c.2km to the north east of Edgeworthstown, in the townland of Cranleymore, Co. Longford. The site is currently used as an outdoor karting track by 'Midland Karting' with an associated office building and hardstanding (see photographs). The karting track is at a lower elevation than the office building and hardstanding. Mature woodland lies to the north of the karting track and agricultural land alongside other boundaries. Access to the site is from a minor county road, a cul-de-sac, to the west of the N55, which ends at the subject site. A small number of one off houses and farms lie along this route.

2.0 The Question

2.1. The question referred to the Board by Longford County Council is '*Whether the use of an existing permitted outdoor pursuits area (PL03/419 refers) for clay pigeon shooting is or is not development or is or is not exempted development*'.

2.2. The reference case is made to the Board under Section 5(4) of the Planning and Development Act 2000 (as amended).

3.0 Planning Authority Declaration

3.1. Declaration/Planning Authority Report

3.1.1. N/A.

4.0 Planning History

4.1. Under PL14.206562, PA ref. 03/419, planning permission was granted for (i) the continuance of us and extension of a racing track as a Kart Track facility and Club House, and (ii) the change of use from forestry to outdoor pursuits centre. The permission was granted in the context of the history of the site (permission granted under PA ref. 98/574 for karting track and ancillary development) subject to 10 conditions. (The nature of the outdoor pursuits was stated, in the Inspector's report, to consist of a paint gun or laser fun adventure park within the area of the site used for commercial forestry).

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The appeal site lies in the administrative area of the Longford County Development Plan 2015 to 2021. Given the nature of the proposed development, no specific policies are relevant to the case before the Board.

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura 2000 site to the appeal site is Ardagullion Bog SAC (also a pNHA). It lies c.4km to the north west of the site.

6.0 The Referral

6.1. Referrer's Case

- 6.1.1. The planning authority refers to:
- The definitions in the Planning and Development Act 2000 (as amended) in respect of 'unauthorised development', 'unauthorised use', 'unauthorised works', 'works' and 'development', and
 - Class 33, Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), in respect of development for amenity or recreational purposes.
- 6.1.2. They also define 'outdoor pursuits' as an open-air sporting or leisure activity, such as orienteering, mountaineering or canoeing (oxford dictionaries).
- 6.1.3. Having regard to the above, including the elimination of the use of firearms from Class 33 of the exempted development regulations, they consider that use of an existing permitted outdoor pursuits area (PL03/419) for clay pigeon shooting is development and is not exempted development.

6.2. Owner/ occupier's response

- None.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000 (as amended)

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended).

7.2. Planning and Development Regulations, 2001

- Articles 6, 9 and Class 33 of Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended).

8.0 Precedents

8.1. The Board has previously considered this matter under the following references:

- RL2454 – The Board decided that the tower constructed for the purpose of launching clay pigeons was not exempted development.
- RL2882 – The Board decided that the use of agricultural land for use as clay pigeon shoot for limited periods in the year was development and not exempted development.

9.0 Assessment

9.1. Is or is not development

9.1.1. Development is defined in section 3(1) of the Planning and Development Act 2000 (as amended) as *'the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land'*.

9.1.2. Under PA ref. 98/574 permission was originally granted for the use of the appeal site as a karting track (and ancillary structures and works). Under PL 14.206562 permission was granted for the continuance of use and extension of a racing track as a kart facility, and the change of use of land at Cranleymore from forestry to outdoor pursuits area. There is no reference in either of these applications to use of the site for clay pigeon shooting. In contrast, under PL14.206562 reference is made specifically to paint gun or laser fun activities.

9.1.3. My understanding of the clay pigeon shooting is that it is a sporting activity which takes place outside and where, using a shot gun, participants try to shoot a flying clay target. The term 'outdoor pursuits' is defined in the Oxford English dictionary (on-line) as '*an open air sporting or leisure activity, such as orienteering, mountaineering or canoeing*' and I would accept that the activity could fall within this broad definition. However, in planning law, there is no definition of the term. Further, the use has the potential to give rise to noise and environmental impacts (e.g. on animals and bird species) and to give rise to additional traffic movements that are not currently associated with the use of the subject site. I would consider, as a consequence of these effects arising from the inherent nature of the clay pigeon shooting, that it would comprise a substantive and significant change of use on the subject site. I consider that it would, therefore, comprise a material change of use and 'development' under the terms of the Planning and Development Act 2000, as amended.

9.2. Is or is not exempted development

- 9.2.1. Section 4(1) of the Planning and Development Act 2000 (as amended) sets out categories of development which for the purposes of the Act comprise exempted development (see attachments). The proposed development does not fall into any of these.
- 9.2.2. Section 4(2) of the Act states that the Minister may make regulations to provide for any class of development to be exempted development, subject to certain safeguards, including where these by reason of the size, nature or limited effect on its surroundings would not offend against principles of proper planning and development. Section 4(4A) provides that no development shall be exempt if it requires an environmental impact assessment or appropriate assessment.
- 9.2.3. Article 6(1) of the Planning and Development Regulations 2001 (as amended) provides that development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, subject to the provisions of article 9 and subject to that development complying with the conditions and limitations set out in column 2 of Part 1.

- 9.2.4. Article 9 provides certain limitations in respect of development to which article 6 relates, for example, development shall not be exempt if it would contravene a condition of a permission under the Act, endanger public safety by way of traffic hazard.
- 9.2.5. Class 33 of Part 1 of Schedule 2 refers to '*Development for amenity or recreational purposes*' and specifically to '*Development consisting of the laying out and use of land – (a) as a park, private open space or ornamental garden, (b) as a roadside shrine, (c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms) where no charge is made for admission of the public to the land*' [my emphasis].
- 9.2.6. The proposed development does comprise the use of land for a sporting activity. However, as it clearly involves the use of firearms and is a commercial operation and I assume a charge would be made for admission of the public to the land. For these two reasons, I consider that the development therefore falls outside of the exempted development provisions and I would conclude that the proposed development is not exempted development.

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 the use of an existing permitted outdoor pursuits area (PL03/419 refers) for clay pigeon shooting is or is not development or is or is not exempted development:

AND WHEREAS the said question was referred to the Board by Longford County Council on 12th February 2019:

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

- (a) Section 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Article 6 of the Planning and Development Regulations, 2001, as amended,
- (c) Class 33 of Parts 1 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (d) the planning history of the site:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) The use of the lands, to which PA ref. 03/419 and PL 14.206562 refers is for a racing track as a kart facility and outdoor pursuits area.
- (b) Clay pigeon shooting is not expressly permitted in the planning permissions granted in respect of the site.
- (c) Clay pigeon shooting gives rise to impacts in relation to noise, traffic and environmental impacts and comprises a material change of use,
- (d) Clay pigeon shooting does not come within the scope of Class 33 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001 (as amended), *Development for amenity or recreational purposes*, as it involves the use of firearms.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the use of an existing permitted outdoor pursuits area (PL03/419 and PL14.206562) for clay pigeon shooting is development and is not exempted development.

Deirdre MacGabhann

Planning Inspector

13th May 2019