



An
Bord
Pleanála

Inspector's Report

ABP-303973-19

Development	Change of use of Tullassa Shooting Range to Activity Centre.
Location	Tullassa, Ennis, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	181043
Applicant(s)	Michael Haren
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Michael Haren
Observer(s)	Gerard Buggy S. Geoghegan Michael Haren Snr. Mary and Martin Hickey Declan Heven Martin & Anne Commane and Others Mary Haren

Eithne Hickey

Date of Site Inspection

15th May 2019

Inspector

Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Tullassa, approximately 5km west of Ennis. The site is a greenfield site accessed by local roads. The surrounding area is characterised by dispersed rural housing and agricultural buildings. The site sits within a slight depression in the landscape with the surrounding landscape generally at a higher level, with undulating slopes.
- 1.2. On site there are four shooting huts, which face in a northern direction. There is also a single storey building which accommodates a canteen/sitting area and storeroom. There is a further smaller building which accommodates a toilet block.
- 1.3. There is a gravelled access road, with access from the local road to the north-west, as well as a gravelled area to accommodate car parking.

2.0 Proposed Development

- 2.1. The proposed development is as follows:
 - Amendment of Condition No. 2 of Planning Reference P13-560 for the permanent use of the existing facility for clay shooting.
 - Change of use of the site to provide for additional recreational use including archery, golf drive, .17, .22 and air rifles (using low sub-sonic bullets and modifiers) and compact sport clay shooting.
 - To construct an embankment as a noise reduction measure.
 - To construct an additional hut to facilitate compact sporting clay shooting
 - Change of hours of operation.
 - Modify the construction of one of the huts as a noise and safety measure.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse decision for 2 no. reasons relating to (1) Noise disturbance and nuisance and (2) Traffic Hazard.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

Amendment of Condition No. 2 of Planning Reference P13-560 for the permanent use of the existing facility for clay shooting.

- Not considered in the interest of proper planning or residential amenity to amend Condition No. 2 of Planning Reference P13-560 – granting permission would also run contrary to previous split decision under PL16/1020 where permission was refused to extend the opening operating hours.

Change of use of the site to provide for additional recreational use including archery, golf drive, .17, .22 and air rifles (using low sub-sonic bullets and modifiers) and compact sport clay shooting.

- Insufficient information submitted to explain the nature of what is proposed and the consequence for noise and impact on residential amenity.
- No objection in principle to the golf driving range and archery uses.

To construct an embankment as a noise reduction measure.

- No evidence submitted to clearly demonstrate or guarantee the effectiveness of this measure.
- 8m height may look incongruous.

To construct an additional hut to facilitate compact sporting clay shooting

- Hut appears to facilitate continued shooting of a standard 28g cartridge in a southerly direction.
- Not clear how shooting in a southerly direction will reduce noise impact.
- No detail has been submitted to demonstrate potential cumulative noise impacts.

Change of hours of operation

- Applicant has not specified the hours or days proposed except to state that it would provide for the permanent use of the facility for clay shooting.

- It is assumed that it would imply use 7 days a week all year.
- Having regard to the findings of the noise reports it is not considered that it is in the interests of proper planning or residential amenity to permit the change of hours of operation to allow for a permanent use.

Modify the construction of one of the huts as a noise and safety measure.

- Not specified which hut is to be modified/lack of clarity in relation to this proposal.

Noise and Residential Amenities

- It is noted that the noise reports commissioned by the applicants, and the two reports commissioned by the residents differ in terms of their findings.
- Satisfied that the noise being experienced in the vicinity exceeds the 65 dB(A) limit, noise in excess of which can evoke and strong adverse community response.
- Environmental Section report states that noise levels being experienced in the vicinity of the site exceed limits considered acceptable for the protection of residential amenity.
- Having regard to the low background noise level, the location of the dwellings relative to the subject site, the level of noise that has been experienced and recorded where levels have consistently exceeded 65 dB(A), the site is not suitable for permanent use as a shooting range given the adverse effect on residential amenity.

Traffic Impact

- Any intensification of use that would arise from the permanent use of the facility would endanger public safety by reason of a traffic hazard because of the additional traffic movements generated onto a substandard road with acute bends with restricted visibility.

Refusal of permission is recommended.

3.2.2. Other Technical Reports

Environment Section – Request additional information in relation to noise and wastewater/waste.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. 13 no. Third Party observations were received in relation to the proposed development. Issues raised include:

Objecting

- Non-compliance with previous conditions.
- Noise issues/Impact on amenity
- Previous refusals on site
- Traffic Impacts
- Impact on groundwater resulting from lead pollution.
- Proposal is not clear
- Impacts on livestock

Supporting

- Supports other businesses
- No objection to the proposal
- Benefit to health and to the community

4.0 Planning History

13-560 – Grant – Clay shooting range. Conditions of note included:

- Condition 2 – Permission use is for 5 years (from 23/06/2014) after which the site shall be returned to its former condition.
- Condition 3 – The clay shooting range shall only operate between the hours of 10.00am and 18:00pm Saturdays and Sundays.

15-149 – Grant – Amendment to 13-560 to facilitate archery. Conditions of note include:

- Condition 1 (b) permission to expire on the expiry date of 13-560 (i.e. 22nd June 2019).
- Condition 2 – Archery to operate only when shooting range was not operational i.e. 0900 and 1800 Monday to Friday.

16-1020 – **Split Decision** – **Grant Retention** of southern boundary, position of existing entrance and access road, existing office/canteen constructed on site and **Refuse Permission** for extension of operating hours for shooting range to now include Monday to Friday 0900 to 1930. The reason for refusal was related to noise and impact on residential amenity.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The relevant Development Plan is the Clare County Development Plan 2017-2023. The subject site is located in the Western Corridor Working Landscape (within 10km of the M18).

Relevant provisions of the plan include:

- Chapter 6 Economic Development and Enterprise including 6.3.17 Rural Enterprise; CDP 6.26 Development Plan Objective: Tourism
- Section 8.3.3 Water Resources including CDP 8.22 ‘Protection of Water’ Resources/Section 8.4 Water and Wastewater Services including Objectives CDP 8.26 ‘Ennis and Environs Water Supply’ and CDP 8.27 ‘Waste Water Treatment and Disposal’.
- Chapter 9 Tourism including Objective CDP 9.8 Activity and Adventure Tourism, Objective CDP 9.17 Sustainable Tourism, Objective CDP 9.21 Tourism in Ennis and its Environs
- Chapter 13 Landscape including Landscape Character Areas – Area is within the Ennis Drumlin Farmland Character Area and is also designated as being in the Western Corridor Working Landscape. Objective CDP 13.3 ‘Western Corridor Working Landscape’ is applicable.

5.2. Natural Heritage Designations

5.2.1. None.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The **First Party** Grounds of Appeal are as follows:

- Valuable asset to the tourism economy.
- Club/Range has been built up from a small scale.
- Have tried to respond to complaints
- Have always complied with operating hours of planning permission.
- Business has been damaged by the decision.
- Complaints have continued despite changes to business – some complaints made when no shooting was taking place at all.
- Decided include a wider activity centre – to add three additional activities – a .17 rifle range, a .22 rifle range and a Golf Driving Range. – make almost no noise whatsoever.
- Rifles would include moderators and would be virtually silent.
- Application is essential to the survival of Tullassa Shooting Grounds.
- Initial planning application expires on 23rd June 2019
- Committed to continuous improvement with respect to noise reduction.
- An average of 5 to 8 cars arrive on the grounds over the entire weekend.

- Do not consistently shoot all day as a shoot only lasts 10 minutes/can be half an hour between shoots.
- Groups are brought to the range by shuttle bus/have been no incidents.
- Submitted valuation report states that prices would increase.
- Not aware of any traffic incident in the past on the network of narrow local roads.
- Propose to introduce a policy of shuttle bus only access to the proposed activity centre.
- Club members have already committed to carpooling resulting in reduced traffic.

Enclosures

- Noise Impact Assessment
- Summary of Noise Impact Assessment
- Valuation Report
- Letter for bus provider
- Media reports
- Petition in support of the range

6.2. Planning Authority Response

6.2.1. The planning authority response can be summarised as follows:

- At no point did Clare County Council grant permission for a permanent use of the lands for the facility.
- Temporary permissions were granted to enable the Planning Authority to assess the impact of the development over a reasonable length of time.
- Noise levels as cited in the UK Guidance were exceeded.
- It is very difficult to identify suitable locations for the type of facility proposed.
- Would be happy to assist with pre-planning should such a location be identified.

6.3. Observations

6.3.1. 8 no. observations (7 supporting, 1 objecting) were received in relation to the appeal. These issues raised are summarised below:

Mary Haren

- No problem with noise or traffic.
- Is a great facility and to a lot of local businesses.
- Needs to pay back loans and grant if he is not allowed to operate.

Eithna Hickey

- No objections to the shooting grounds.
- Live in Tullassa and have never been affected by the shooting range.
- No extra traffic on the roads – more from local farm contractors than from the range.
- Has been beneficial for the local community.

Declan Haren

- Lives 1.5 miles from the range.
- No problems with noise or traffic on the roads.
- Was delighted to see something coming into the area/can bring friends for a day out.

Michael Haren Senior

- Have no problem with the clay shooting and archery grounds with noise.
- No problem with traffic as bus runs take traffic off the road.
- Helps other business including hotels/b&bs/shops/petrol stations.
- Loans need to be paid back.

G. Buggy

- Supports shooting range
- Brought a viable commercial service to an area otherwise bereft of opportunity

- Have emailed support to Clare County Council
- Applicant has done everything possible to reduce the supposed disruption to his neighbours.
- Complaints are spurious.
- Bringing people into the area.
- Long-term social and economic benefits.
- Operates an inclusive, friendly facility.
- Urge ABP to facilitate the continued operation of Tullassa shooting range.

Martin & Mary Hickey

- No objections to the shooting grounds at Tullassa.
- No problem with traffic and no noise.
- Happy to see planning permission granted.
- Live right beside the grounds and does not bother us.

Martin & Anne Commane & Others

- Local roads are inadequate for this development.
- Noise generated by this development has been and will be unacceptable even with the proposed mitigation being in place.
- Facility never had permission to shoot Monday to Friday.
- During the Christmas period of 2016 residents had to put up with the loudest noise – many shots over 100 dB and frequency of 30 shots a minute.
- Clare County Council refused extension of hours applied for under P16/1020.
- Loud noise continues over the weekend/have to leave our homes to get away from the noise.
- Shuttle buses will add to traffic hazard – being approached but other large vehicles such as farming vehicles and pedestrians.

- Shown in the applicant's noise report that low noise cartridges still exceeded Clare County Council noise limits and also exceed the limits in the UK noise guidance.
- Proposed 8 m high berm would have no impact as there is already a natural 10m high hill which does not contain noise to an acceptable level.
- Noise Impact Assessment is attached as well as a Review of the Applicant's Noise Impact Assessment.
- Applicant's own noise assessment states that the site is not suitable for a shooting range.
- No respect shown by this facility when funerals take place in the local church in Kilnamona.
- No Waste Management Plan for this development.
- Risk to groundwater as the development is directly situated over the Protected Zone for Drumcliff Springs.
- Would devalue property in the area.
- Enclosures included with observation.

Seamus Geoghegan

- Lived in the area for the last 3 years.
- There is no issue with noise emanating from the shooting grounds.
- Can come into our home and sample the noise while shooting is in progress.
- There are no problems with traffic.
- Traffic is absolutely negligible and the roads are capable of handling an increase.
- Recently had home revalued and were told that leisure amenities would increase the value of our home.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development
- Noise
- Traffic Impacts
- Waste management including impact on groundwater
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The proposed development includes a shooting range with extended operating hours, a golf driving range and an archery range. I note there has been previous 5 year temporary permission for a shooting range, which was limited to operating on Saturdays and Sundays (P13/560), and for an amendment to this condition to allow an archery range which was permitted to operate on a Monday to Friday basis, but also limited to the expiry date of P13/560. Both permissions expired on 22nd June 2016.
- 7.2.2. There was a further application (Ref 16-1020) on which there was a split Decision – which granted retention of southern boundary, position of existing entrance and access road, existing office/canteen constructed on site and refused permission for extension of operating hours for shooting range to include Monday to Friday 0900 to 1930. The reason for refusal related to noise and impact on amenity.
- 7.2.3. As such, while a shooting range has been previously allowed on this site, it has been limited to a weekends only on a five year basis, and extended operating hours have previously been refused on the basis of noise impacts. Notwithstanding, the principle of the use itself is not necessarily unacceptable, but the previous reason for refusal, namely noise impacts, are required to be addressed by the applicant (see discussion below).

7.2.4. There is no objection in principle to the golf driving range use as there are no specific policy objections relating to this and it falls within an activity leisure use similar to the shooting range and archery use.

7.2.5. The proposal is also in line with Development Plan policies to promote rural enterprise and tourism.

7.3. **Noise**

7.3.1. Reason for refusal No. 1 of the decision of the planning authority refers to noise nuisance and disturbance for residents, in particular the use of the site for clay shooting on a permanent basis. It was considered that the proposal would seriously injure the residential amenities of the area and depreciate the value of property in the vicinity.

7.3.2. There is general agreement between all parties that, given the lack of Irish Guidelines relating to noise levels and shooting, the relevant noise levels, and associated impacts, can be gauged from the UK Guidance, namely Clay Target Shooting: Guidance on the Control of Noise (Jan 2003) – Chartered Institute of Environmental Health. I have had regard to same.¹ The guidance states that ‘annoyance is less likely to occur at a mean shooting noise level (mean SNL) below 55 dB(A), and highly likely to occur at a mean shooting noise level (mean SNL) above 65dB(A)’.

7.3.3. The appeal submission is accompanied by the originally submitted Noise Impact Assessment, and a summary of same, both prepared by AWN consultants. Noise measurements were conducted at seven locations off-site that represent nearby noise sensitive locations. The noise survey results indicate that at 3 of 6 locations Shooting Noise Levels (SNLs) greater than 55 dB were experienced when shooting was in place (Scenario A – Low Noise Cartridges – Normal Shoot Direction NE). Impacts are reduced slightly when shooting is in an easterly direction (Scenario B), but SNLs are still over 55 dB for 3 of 6 locations. When using standard 28g Cartridges in a Normal Shoot Direction (Scenario C), 6 of 6 locations experience SNLs of 55 dB or above.

¹ <https://www.cieh.org/media/1236/clay-target-shooting-guidance-on-the-control-of-noise.pdf> (accessed 26th August 2019)

7.3.4. In addition to Scenarios A to C, four additional scenarios are considered (Scenarios D to G), which involve shooting with low noise or standard cartridges in a southerly direction, either in the open field adjacent to Shed D or to the rear of Shed D. Two noise sensitive locations are considered (Locations 1 and 7). Utilising standard cartridges results in SNLs of 57dB and 55 dB at Location 1 (Scenario E and G), with lower SNLs under the various different scenarios.

7.3.5. The report concludes that reduced SNL's can be achieved at all off-site noise locations with suitable noise mitigation measures. Mitigation measures are proposed with the documents including:

- Use of subsonic cartridges.
- Provision of Perimeter Noise Barrier – 8m height around Shed D.
- Acoustic absorption – Provision of localised sound absorption within the shooting enclosure.
- In order to continue using standard 28g cartridges, a new shooting area in close proximity to Shed D is recommended, with shooting in a southerly direction and with a new shooting enclosure with internal sound absorption.

7.3.6. Additional noise monitoring is recommended once the mitigation measures are in place.

7.3.7. A Noise Impact Assessment, prepared by ICAN Acoustics, was submitted by Third Parties both at application stage and has been submitted again by an Observer on the appeal (Martin & Anne Commane & Others). This considers noise impacts at 3 no. noise sensitive locations. The measurements taken (Mean SNLs of 74.2 dB, 80.4dB and 80.6dB at locations 1, 2 and 3 respectively) indicate that the SNLs are above the 65dB level, above which guidance states that annoyance is highly likely to occur.

7.3.8. A Review of the applicant's Noise Impact Assessment, also prepared by ICAN Acoustics, was submitted by Third Parties both at application stage and has been submitted again by an Observer on the appeal (Martin & Anne Commane & Others). This points to omissions in the AWN report. Monitoring locations are queried given that some monitoring locations are assessed at distances of 700m to 1400m, while ignoring residential properties at a distance of 28m to 480m from the range. Even

with the use of low noise cartridges noise levels in excess of the guidance occur at residential locations 1, 2 and 3. There is no attempt to quantify or predict the likely reduction offered by the proposed mitigation measures.

- 7.3.9. The report of the Environment Section of Clare County Council dated 22/01/2019, makes reference to a Noise Report carried out on behalf of Clare County Council by Resonate Acoustics, which conducted a noise assessment at two specific dates. On both dates noise levels in excess of 64 dB were reported at all noise sensitive locations measured. The Report of the Environment Section recommended that further information was sought in relation to (i) the sound absorption measures for the two sheds (ii) more detail on the type of cartridges proposed (iii) provide more evidence that the measures proposed will reduce the noise levels to <45dB at all noise sensitive locations.
- 7.3.10. I note the comments of the 7 no. Observation on the appeal who have stated that they support the proposal and have experienced no issues in relation to noise impacts from the range.
- 7.3.11. However, having regard to the evidence on file, and having regard to the nature of the proposal, and having regard to the characteristics of the appeal site and its surrounds, it is my view that the use of the site for clay shooting, using both sub-sonic cartridges and standard 28g cartridges, will result in a noise nuisance for surrounding properties. The applicant's Noise Impact Assessment report highlights that at 3 of the 6 noise sensitive locations considered, that SNLs of 63 dB to 67dB were experienced. While mitigation measures are proposed, including the use of subsonic cartridges, provision of 8m Perimeter Noise Barrier around Shed D, and the provision of localised sound absorption within the shooting enclosure, there is no consideration of how effective these mitigation measures might be, and there are no predicted SNLs tabled, once the mitigation measures are in place.
- 7.3.12. The Third Party noise reports cites Mean SNLs of Mean SNLs of 74.2 dB, 80.4dB and 80.6dB at locations 1, 2 and 3 respectively, although it is not stated if standard 28g cartridges or sub-sonic cartridges were being used at the time of the noise survey. Notwithstanding, this report does highlight significant noise impacts on these three residential properties.

- 7.3.13. I note also the planning history on the site, which has limited the use of the site to clay shooting at weekends only, and an application for extended operating hours to allow additional shooting on Monday to Fridays has previously been refused (Ref 16-1020).
- 7.3.14. I consider the impact of the other uses proposed, the driving range and the archery uses, to be very limited, having regard to surrounding residential amenity.
- 7.3.15. In conclusion, both of the Noise Impact Assessments cite noise impacts on surrounding properties. There is a general lack of clarity within the application documents, including the Noise Impact Assessment, on the nature of the shoots proposed, including the nature and noise impacts of the various gun types cited. There is a lack of clarity in relation to the potential effectiveness of the mitigation measures as outlined in the Noise Impact Assessment prepared on behalf of the First Party. As such, it is my view that application has not demonstrated that the amenity of the surrounding area will be protected from noise and disturbance, and should be refused on this basis.

7.4. Traffic Impact

- 7.4.1. Reason for refusal No. 2 of the decision of the planning authority refers to the creation of a traffic hazard, noting the restrictions narrow local roads utilised to access the site.
- 7.4.2. The applicant has stated that the traffic impact is minimal, and that furthermore, a shuttle bus for clay shooting is provided, in order to minimise the impact on the local road network.
- 7.4.3. I acknowledge that the site is accessed by a relatively poor road network. However, the additional traffic generated by the proposal would not, in my view, result in a traffic hazard, as the increase in traffic volumes would not be material, subject to the shoots being accessed by way of the shuttle bus, as proposed by the applicant. Such shoots are generally utilised by relatively large groups of people, such as stag parties and hen parties, and the use of a shuttle bus system is workable in my view, and could be conditioned in the event that the Board is minded to grant permission.

7.5. Waste Management including on Groundwater

- 7.5.1. I note the report of the Environment Section of Clare County Council who requested Further Information on the how waste generated by the activity is to be managed, as well as a report that deals specially with the risks to the environment by lead shot, and other wastes. I also note that an Observation on the appeal, and number of Third Party submissions at application stage, have cited the impact on lead shots on groundwater, given the site is over the inner protection zone for the Drumcliff Springs.
- 7.5.2. I share this concern and the possibility of soil and water pollution, from lead shot in particular, cannot be discounted. In the absence of such information, I consider that this issue warrants a reason for refusal in itself, given the possibility for environmental pollution arising from the intensification of an activity that was previously limited by a 5 year temporary permission, and limited to Saturdays and Sundays only.

7.6. Appropriate Assessment

- 7.6.1. Legal protection is provided for habitats and species of European importance under the Habitats Directive 92/43/EEC, which established a network of designated conservation areas known as Natura 2000 or European sites, which include Special Areas of Conservation (SAC) under the Habitats Directive and Special Protection Areas (SPA) under the Birds Directive (Directive 2009/147/EC). Article 6(3) of the Habitats Directive requires Appropriate Assessment to be carried out for any plan or project not directly connected with or necessary to the management of a European site (or sites) concerned, but that it likely to have a significant effect thereon, on its own or in combination with other plans or projects, in view of its conservation objectives.
- 7.6.2. The proposed development is not directly connected with or necessary to the management of any European site.

Stage 1 Screening

- 7.6.3. Stage 1 is concerned with determining whether a described development, not being a development directly connected with or necessary to the management of a European site, in itself or in-combination with other described projects or plans, has the potential to have significant effects on any European site.

- 7.6.4. The site is neither in nor near to a Natura 2000 site. There are 18 Natura 2000 sites located within a 15km radius of the appeal site. The closest Natura 2000 site is Pouladatig Cave SAC, located 3.5km to the south-east of the site. There is no obvious direct pathway from the appeal site to the above site, nor to any other Natura 2000 sites beyond.
- 7.6.5. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity to the nearest European Sites and the lack of an apparent pathway to same, it is reasonable to conclude on the basis of the information available on the file, which I consider adequate in order to issue a screening determination, that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European site, or any other European sites, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. Refuse permission.

9.0 Reasons and Considerations

1. Having regard to the nature of the proposed use, the nature of the surrounding environment and the proximity to the nearest noise sensitive receptors, it is considered likely that the use would seriously injure the amenity of the area, and devalue property in the area, as a result of noise and disturbance arising from the shooting activity. As such the proposal is contrary to the proper planning and sustainable development of the area.
2. Having regard to the lack of information in relation to waste impacts and waste management, in particular the risk to the environment as a result of lead shot waste, and other waste arising from the activities proposed, the likelihood of significant soil and groundwater pollution cannot be ruled out. As such the proposal is contrary to the proper planning and sustainable development of the area.

Rónán O'Connor
Planning Inspector

26th August 2019