



An  
Bord  
Pleanála

## Inspector's Report ABP-305205-19

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<b>Development</b>	Retention of Containers, Huts, Access Road, Entrance Barrier and site related works
<b>Location</b>	Ballyvoughallan , Woodcock Hill , Meelick, Co Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	18896
<b>Applicant(s)</b>	Cratloe Gun Club
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Oisín and Kate Liston Martin Dolan & Annemarie Dillon .
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	11 <sup>th</sup> October 2019.
<b>Inspector</b>	Bríd Maxwell

## 1.0 Site Location and Description

1.1. The appeal site has a stated area of 1.87 hectares is located in an upland rural area Ballyvoughallan, Woodcock Hill on the western side of a local road L7110 circa 2.5km to the northeast of Cratloe Village in County Clare and circa 8.8km to the northwest of Limerick City Centre. The appeal site is part of a wider area of forestry plantation. There are a number of individual dwellings also in the area including a dwelling circa 400m to the south of the site. and two dwellings within 700m to the northwest of the site. The site has an elongated shape with the local road forming its eastern boundary over a distance of c190m. The ground has a light layer of gravel. Vegetation around the shooting huts comprises mountain scrub including ferns and heather. There are a number of rock outcrops on the site.

## 2.0 Proposed Development

- 2.1. The application as set out in the submitted public notices involves “the retention of containers, huts, access road, entrance barrier and site related works”. The application details indicate that the applicant, Cratloe Gun Club, has been shooting in the general area for a decade. In recent times clay shooting has become more popular and the club shoots clays within the application site on Sunday mornings for two hours. (10.30am to 12.30pm) and also on one day during the Christmas Holidays. This is not characterised as a commercial operation as usually there are less than 10 members in attendance. The activity is described as important to the club as a type of “Men’s shed”.
- 2.2. The huts, arranged north south within the site include a mix of steel shipping containers, and structures with profiled steel cladding or PVC curtain walling. It is outlined that huts 1, 3, 4, 5, and 6 provide shelter. Hut 2 is shop where payment for clay shooting is received. The shipping container is used to store traps, clays etc. Hut 7 houses a permanent clay trap. The hardcore area is provided for car parking. A barrier was installed to deter unauthorised entry and illegal dumping.
- 2.3. I note that in response to the Council’s request for additional information the proposed layout was revised to provide for 4 huts only shooting in the direction northwest. A further amended layout is included as appendix 6 in response to the grounds of appeal.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated 29<sup>th</sup> July 2019 Clare County Council issued notification of its decision to grant permission and 4 conditions were attached which included the following:

- Condition 1 Development in accordance with submitted plans and particulars. In the event that the use of the site as a clay shooting range ceases - structures shall be removed from the site.
- Condition 2. Use of the lands for clay target shooting shall operate between the hours of 10:30am to 12:30pm on Sundays only and not at all on public holidays or Monday to Saturday inclusive. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received by the Planning Authority.
- Condition 3. Within 3 months of the date of final grant of retention, a detailed lead and waste management plan shall be submitted to the Planning Authority for written agreement and approval. No accumulation of waste material shall be permitted on the site.
- Condition 4. Development Contribution €697.50.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- 3.2.1.1 Initial Planner's report notes concern with regard to impact on residential amenity by way of noise and nuisance. Other concerns relate to litter management, surface water and groundwater protection and traffic management. Huts and containers are considered unsightly. Regarding Environmental Impact Assessment the scale and nature of development does not give rise to significant effects and need for EIA can be excluded at preliminary examination.

### 3.2.1.2 A request for additional information issued seeking details of

- Public notices to address overall use of the site.
- Noise assessment by a suitably qualified person in accordance with the document by the Chartered Institute of Environmental Health (CIEH) entitled 'Clay Target Shooting: Guidance on the Control of Noise' January 2003. Noise levels to be measured at the nearest noise sensitive locations. When a shoot is taking place at all of the huts and include for all different cartridge types - standard and subsonic.
- Details of a waste management plan to demonstrate how all wastes including lead shot, plastic/fibre wadding, spent cartridge casings, broken clay pigeons and all associated packaging and municipal wastewater are to be managed,
- Risk assessment with regard to risk to local surface and ground water by discharge of lead shot and other waste. Report to be based on developing a conceptual site model (CSM) for the land and groundwater environment and shall clearly identify all source pathway receptor linkages relating to the activity.
- Details to demonstrate containment of waste within the site.
- Clarify numbers of visitors and details of existing or proposed wastewater treatment and surface water disposal.
- Parking proposals

3.2.1.3 Second planner's report asserts the level of noise is not considered to be unacceptable. None of the values exceed CIEH guidance which states that annoyance is highly likely to occur at a mean SNL of 65 DB(A). Shooting is limited to two hours one day a week. Waste management to be addressed by condition. Permission was recommended subject to conditions.

### 3.2.2. Other Technical Reports

3.2.2.1 Waste Enforcement Officer's report recommends seeking further information regarding waste generation and a waste management plan. Risk assessment with

regard to groundwater lead and accumulation of wastewater. Report to be based on development of conceptual site model for the land and groundwater environment and shall clearly identify all source pathway receptor linkages relating to the activity. Containment of wastewater within the site Waste Enforcement Officer's report following further information response notes insufficient information with regard to waste management. Collection and disposal of 252kg of lead is not outlined. While applicant asserts that waste will be collected after every shoot given the terrain this is not feasible. Based on the information provided it is reasonable to conclude that the proposed waste management plan for the activity does not comply with the provisions of the Waste Management Act 1996.

3.2.2.2 Executive Scientist Environment Section report seeks further information with regard to number of visitors to the site on shooting day, Details of wastewater treatment and disposal. Surface water disposal. Noise assessment by a competent person. Noise to be measured at the nearest noise sensitive locations when shoot is taking place.

Second Executive Scientist Environment Section report notes the guidance provided in "Chartered Institute for Environmental Health" Clay Target Shooting Guidance on the Control of noise. The document states that where shooting takes place in mainly flat open land in the absence of reflecting media a noise buffer zone of at least 1.5km in the general direction of the shooting and not less than 1km in the rearward arc is advisable for noise sensitive premises. It states that shooting should nevertheless nor normally take place with separation distances of less than 1km in the direction of shooting. Noise survey was not carried out in accordance with the guidelines requiring measurement using the shooting noise level index, SNL, defined as the logarithmic of the 25 highest shot levels from the shoot in question over the 30-minute measurement period during shooting. SNL of <50dBA(A) there is little evidence of annoyance at any site whereas levels in the mid 60dBA(A) can cause significant annoyance. Since the survey was not carried out using the recommended guidance for clay pigeon shooting the conclusion of the noise report submitted may not be totally accurate.

### 3.3. **Prescribed Bodies**

3.3.1 Irish Aviation Authority submission indicates that the body has no observations on the application

### 3.4. **Third Party Observations**

3.4.2 Representations from Cllr John Crowe.

3.4.2 Submission from neighbouring residents Martin Dolan and Annemarie Dillon object on grounds of injury to residential and rural amenity. Noise and pollution. Activities commenced in 2015. Impact of lead on well. Public safety and hazard.

3.4.3 Oisín and Kate Liston object strongly to the proposed development. Site is being characterised on social media as a commercial venue. Environmental Impact Assessment required. Proximity to Woodcock Hill NHA. Impact on neighbouring wells. No waste management plan. No noise information. Site is unsuitable. Safe shot fallout distance is inadequate.

## 4.0 **Planning History**

4.1 **UD 15/041** Warning notice issued 30<sup>th</sup> March 2017 for unauthorised development comprising operation of clay pigeon shooting range and erection of associated huts and containers. Enforcement notice served 12<sup>th</sup> October 2018 and 15<sup>th</sup> August 2018.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1 The Clare County Development Plan 2017-2023 refers. The site is within the Western Corridor Working Landscape.

### 5.2. **Natural Heritage Designations**

The site is not within a designated site. The nearest designated sites include

- Woodcock Hill Bog NHA is within 400m to the east of the site.
- The Lower River Shannon SAC is within 4km, to the southwest and south of the site.

### 5.3. EIA Screening

Having regard to the nature and scale of the proposed development and to the nature of the receiving environment, there is no likelihood of significant effects on the environment arising from the proposed development. The need for an 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 third party appeal submitted by Martin Dolan and Annmarie Dillon. Ballycoughallan Woodcock Hill. The second appeal is submitted by Oisín & Kate Liston, Cherry House Woodcock Hill. Both third party appeals raise common issues of concern which I have summarised below. I note that both appeals include a number of various enclosures including a USB with noise recordings and a number of international reports papers and guidelines including the following of particular note:

- Chartered Institute of Environmental Health, Clay Target Shooting Guidance on the Control of Noise, January 2003 UK
- Environmental Protection Authority Victoria, Guide for Managing Contamination at Shooting Ranges, Publication 1710, January 2019.
- US Environmental Protection Agency, Best Management Practices for Lead at Outdoor Shooting Ranges. EPA June 2005.
- The Clay Pidgeon Shooting Association, Clay Target Shooter's Handbook, The Official Guide, CSPA UK 2005.
- The Finnish Environment 4 / 2014 Best Available Techniques, Management of Environmental Impact at Shooting Ranges, Ministry for the Environment, Helsinki 2014.

### 6.1.2 Grounds of third-party appeals are summarised as follows:

- Pollution - In worst case scenario after 5 years 20 tonnes of lead on the ground. Over 700,000 plastic wadding.
- Noise
- Safety concerns
- Devaluation of property.
- Note that gun club moved to the application site in March 2015.
- Note Board decision in relation to development of permanent clay shoot site at Tullassa P13/560 P 16/1020 P18/1043. ABP303973
- Noise assessment dubious background noise levels in mid 40s dB – Not credible. Independent noise assessment should be provided.
- Area is described by the first party as secluded however is within 15 minute drive of O' Connell Street Limerick City Centre and there are 25 houses within 1km. Area is popular for walkers and cyclists.
- Site is unsuitable due to scale, size and configuration. Site runs parallel with the road and within 40-80m of passes.
- Guidance on management of contamination of shooting ranges indicates that the vast majority of lead falls within 100-180m out. The decision to test the soil at 30m is a big oversight.
- CIEH Clay target shooting guidance states “the minimum area required for a new clay target shooting site is between 2 and 4 ha. The appeal site is 1.8 acres. Clays, lead shot, and most of the plastic wadding ends up outside the site in Coillte or Dolan's land.
- CIEH Guidance also sets out a minimum safety zone of 275m in front of shooting stands. Noise buffer of at least 1.5km to the front of the shooting stands and 1km to the rear is advisable (on largely flat sites). Preferably no line of site between the noise source and noise sensitive source. Guidance states only under exceptional circumstances should shooting normally take place within separation distance of less than 1km.



- Failure to take account of two hoses down hill from the site both supplied with water from wells.
- Errors of judgement in testing sites chosen and the conceptual model.
- Long term impact of the accumulation of tens of tons of lead shot in a concentrated area that is subject to large amounts of rainfall in an area of extreme groundwater vulnerability has not been address by the application.
- Levels of usage and consequently waste have been significantly understated in the application.
- Best practice techniques have been completely ignored.

## 6.2. Applicant Response

The response by D Collins Consulting Engineers & Construction Ltd, on behalf of Cratloe Gun Club is summarised as follows:

- Cratloe club has been clay shooting on Woodcock Hill including the application site and adjoining lands for decades.
- Up until recently club members used lightweight portable traps. In 2015 the club carried out works to provide infrastructure on the site unaware that planning permission was required.
- As regards noise trees act as a natural buffer to the transmission of noise. It is ironic that Dolan's felled trees as noise assessment was requested.
- Notably if 25 houses within 1 km there were only two objections.
- Appellants figures with regard to lead amount are totally incorrect. Estimated amount of lead ranges from 252kg to 464kg per annum.
- No objection to carrying out further of soil sampling 180m from the firing position if required by the Board.
- Applicant is happy to use cartridges with a biodegradable wad.
- No documents on control of lead shooting in Ireland / UK which suggests it is not a serious pollutant risk. Notably there was no requirement for lead

pollution risk assessment in a number of recent permissions 17/602 Adare Manor.

- Applicant is willing to discontinue use of lead shot cartridges and introduces the use of steel shot cartridges.
- Changing the direction of shooting to the north west will ensure no material falls within Dolan's land. Lead will fall into Coillte forestry to which email correspondence indicates no objection.
- UK CIEH Clay Target Shooting Guidelines does not have legal bearing in Ireland.
- Firearms and Offensive Weapons Act 1990 is the governing legislation relating to fire arms in Ireland. Under this legislation there is no restriction on the separation distance from road to point of discharge of a shot gun. Under the act clay shooting sites are not defined as shooting ranges and there is no standards for clay shooting sites.
- Gardai have called to the site on two occasions and are satisfied that operations carried out in a controlled and safe manner.

### **6.3. Planning Authority Response**

6.3.1 The Planning Authority did not respond to the grounds of appeal.

## **7.0 Assessment**

7.1. Having considered the application all grounds of appeal and all submissions, I consider that the planning issues in the assessment of the proposed development can be addressed under the following broad headings:

- Procedural Issues and Principle of Development.
- Visual Impact, Noise and Impact on the Amenities of the Area.
- Site configuration and Waste Management

- Appropriate Assessment

## **7.2. Procedural Issues and Principle of Development**

7.2.1 On the matter of the nature of the application, I note that the application is set out as follows:

“ the retention of containers, huts, access road, entrance barrier and site related works.” I note that in response to the Council’s request for additional information with regard to the overall use of the site for shooting purposes, the first party whilst asserting that on the basis that Cratloe Gun Club have been clay shooting in the area and including the site for decades, an application for the use is not required, however given the Club’s wish to co-operate with the local authority a separate application would be made for clay shooting. It could be argued that the incidental use of the land in terms of a limited non-commercial sport is not a material change of use of the land and hence is not development. However, as the use does not form part of the application it is appropriate to assess the development as set out on its planning merit.

7.2.2 On the issue of principle of development there are no specific policy objections within the development plan with regard to the proposal of this type. I note that having regard to the nature of the site an upland wooded area and in the context of the development plan policies to promote rural enterprise, leisure facilities and tourism I consider that there is no objection in principle to the proposal subject to standard proper planning and sustainable development considerations. The key considerations in this regard relate to impact on residential and rural amenity and environmental impacts in terms of waste management.

## **7.3 Visual Impact, Noise and Impact on the Amenities of the Area.**

7.3.1 On the matter of visual impact, I note that whilst the site is within an afforested area the hill-top setting provides extensive views to the south over the Shannon and to Limerick City. I note the somewhat haphazard and untidy nature of the site however the visual impact is not significant over the wider area. As regards traffic levels

arising, I note that based on the limited nature of the use the level of traffic arising is not considered to be significant and can be readily be accommodated.

7.3.2 On the issue of noise disturbance, it is reasonable that given the lack of Irish Guidelines relating to noise levels and shooting, the relevant noise levels and associated impact, can be gauged from UK Guidance specifically Clay Target Shooting: Guidance on the Control of Noise (2003) Institute of Environmental Health, which is extensively referenced within the third-party appellant's submissions. The Guidelines state that "Annoyance is less likely to occur at a mean shooting noise level (mean SNL) below 55dB(A), and highly likely to occur at a mean shooting noise level (Mean SNL) above 65dB(A)

7.3.3 I note the noise assessment survey by Axis Ltd. Environmental Services submitted in response to the Council's request for additional information. The report notes the assessment carried out at two residences R1 890m to the south east and R2 450m to the south east. The assessment asserts that the difference between baseline noise levels and sound pressure during the shoot did not differ significantly enough to consider the activity and environmental nuisance source at the two residences. The assessment was carried out in accordance with ISO 1996P:2016 Part 2 Acoustics – Description, Measurement and assessment of Environmental Noise. Reference was also made to the EPA Guidelines NG4 "Guidance Note for Noise: Licence Applications, Surveys and Assessments in relation to Scheduled Activities" January 2016. The report concludes that noise levels at the two residences did not exceed the 55dB(A)  $L_{aeq,T}$  limit value. Unsolicited additional information from the first party provides additional detail including provision for figures for SNL 25 shots which is specific to Clay Target Shooting Guidance on the Control of Noise, January 2003 CIEH. (SNL is Shooting Noise Level defined as the logarithmic average of the 25 highest shot levels from the shoot in question over a 30-minute measurement period). The report maintains that given the SNL in the range of 49 -55 noise nuisance does not occur. I note that the assessment outlines that the survey was carried out at 3 of the 4 shooting stands as set out in the revised site layout plan. Specific details are not provided.

7.3.4 I have a number of concerns with regard to the submitted assessment. I note that whilst it is submitted that the noise level arising does not exceed the limit, the SNL25 shots level recorded at house two was 55. I further note that since the assessment was carried out the forestry on intervening land has been harvested which is likely to give rise to a significant alteration to the current acoustic environment. I further note that no assessment is provided in terms of the noise impact on residences to the north west of the site. I note that the CIEH Guidelines 2003 outline at 4.4 Directionality *“The propagation of sound from a shotgun is directional with the noise ‘footprint’ around a firing point being roughly pear shaped. Noise levels in the direction of shooting being much greater than noise levels at the same distance to the sides and rear. Shooting high into the air may also cause a wide dispersion of sound. The propagation of sound from a shotgun is a complex process and simple noise predictions (e.g. based on inverse square law) can produce erroneous results.”* I note that notwithstanding the interruption of line of sight in terms of the topography the Clay Target Shooting Guidance on the Control of Noise Guidelines CIEH advise that shooting should not normally take place with separation distances of less than 1km in the direction of shooting except under very exceptional circumstances which have been fully assessed and agreed with the local authority and by affected residents. I consider that further detailed analysis of the noise issues is required to enable a full assessment of the proposal.

7.3.5 Having regard to the details of the appeal file and the nature of the proposals to the characteristics of the site and surrounds, it is considered that the use of site for clay shooting has the potential to give rise to noise nuisance for surrounding properties. Given the lack of clarity within the application documents including the noise impact assessment I consider that the application has not demonstrated with any certainty that the amenities of the surrounding area will be protected from noise and disturbance and therefore refusal is recommended on this basis.

#### **7.4 Site Configuration and Waste Management.**

7.4.1 As regards site configuration the third-party appellants refer to the provisions of the Chartered Institute of Environmental Health, (CIEH) Clay Target Shooting Guidelines dated January 2003 as regards basic site requirements. These guidelines outline

that from a safety and noise viewpoint the minimum area required for clay target shooting sites is between 2 and 4 hectares with a minimum safety zone of 275m in front of the shooting stands in the general direction in which the shooting takes place. On the basis of the size of the site (1.87hectares) and its elongated configuration adjacent to the public road, it is argued that the site does not meet the basic minimum requirements for such a facility. I consider that this is a reasonably well-made argument. I note that the revised layout submitted in response for the further information request by the Council provides for setback distance of 79-89m from the site boundaries which is in my view inadequate in the context of the minimum safety zone of 275m as set out within the guidelines. This was further reduced to within 60m within the revised layout submitted in response to the appeal.

7.4.2 The third-party appellants refer to *The Guidance for Managing Contamination at Shooting Ranges*, Publication 1710, January 2019. Environment Protection Authority Victoria. This document sets out the importance of determining a shot fall zone based on the specific nature of the site and nature of the firearms used. The application does not address this issue in any detail. I note that the response to the appeal, Appendix 6, provides a drawing indicating a shot fall zone of 180m. This is in contrast to the assessment provided within the report submitted by EPC Environmental Planning Consultants with regard to risk to surface water ground water and land which refers to the striking distance of a shot gun of 40m and notes that clays are generally hit within 30m. The first party response to the appeal acknowledges that lead will fall into the adjoining Coillte forestry.

7.4.3 On the issue of potential lead contamination of groundwater surface water and well water supplies in light of the anomalies in various application reports with regard to the fall out zone, I concur with the third-party appellants that this issue has not been adequately addressed. I note that while the four soil samples collected and analysed for total lead and which were found to be in keeping with the range of trace elements in Irish non polluted agricultural soil, the justification for choice of sample location has been questioned. Furthermore, the potential for environmental pollution arising from the development over a prolonged period has not been addressed. I consider that further analysis, detailed waste management and mitigation is required in this regard to prevent pollution and to ensure Best Practice Standards.

## **7.5 Appropriate Assessment**

7.5.1 There is no obvious direct pathway to the Natura 2000 sites in the vicinity. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and 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 on 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 or any European Sites in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

## **8 Recommendation**

8.1 Refuse Permission for the following reasons

### **9.0 Reasons and Considerations**

1. Having regard to the location of the site on a hill top setting and the size and configuration of the site and the immediate landscape characteristics, the nature of the surrounding environment and the proximity to the nearest noise sensitive receptors, it is considered that based on the details submitted it has not been demonstrated that that the development proposed for retention would not 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.

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Bríd Maxwell  
Planning Inspector

6<sup>th</sup> January 2020