



An
Bord
Pleanála

Inspector's Report

ABP-311171-21

Development	Installation of a 40ft metal shipping container with 3.2m high earth mounding to all sides for the safe and secure storage of pyrotechnics (class 1 hazardous goods).
Location	Toberpatrick, Tinahely, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	21154
Applicant(s)	Rocket Pyrotechnics
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Rocket Pyrotechnics
Observer(s)	None
Date of Site Inspection	16 th December 2021
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 0.2 hectares is located in a rural area of Co. Wicklow, c. 4km east of Tinahely.
- 1.2. The site is located in the corner of an agricultural field and accessed from a laneway. The laneway is in poor condition with a number of sharp bends and poor surface treatment. There is no other development in close proximity to the site. A residence and farmyard are located at the entrance to the laneway. The area is a scenic rural area is designated as 'Rolling Lowlands' in the Development Plan.

2.0 Proposed Development

- 2.1. Permission is sought for the following:
 - Metal container with a stated area of c. 30m² and a height of 2.5m. It is proposed that the container would be used for the storage of pyrotechnics.
 - Timber packing shed with a stated area of 4.m² and a height of 2.4m. It is proposed that the packing shed would be used for the dry, safe, and secure transfer of pyrotechnics from the main storage container into delivery containers for transfer off site for events.
 - Mounded earth slopes are proposed on two sides and to the rear of the container.
 - Underground fire water storage tanks, a well, and security fencing are also proposed.
- 2.2. Unsolicited Further Information was submitted to the Planning Authority dated the 25th of May 2021 in relation to traffic impact assessment and visual impact.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Permission refused by the Planning Authority for one reason as follows:

Having regard to:

- (a) The rural location and the nature and scale of the development and the objectives of the County Development Plan as they relate to commercial development in a rural area.
- (b) The lack of a sufficient justification for the provision of a pyrotechnics storage facility at this location.
- (c) The elevated and exposed nature of the site within a designated 'Rolling Lowlands' Landscape.
- (d) And the surrounding pattern of development in the area.

It is considered that the proposed development would represent haphazard sporadic development in a rural area, would be contrary to the objectives of the CDP 2016-2022 to only permit commercial developments in a rural area where there is a proven need to locate therein, would result in a reduction of the visual amenity of the area and be detrimental to its rural character and would therefore be contrary to proper planning and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Development is not considered to have a proven need to locate in Toberpatrick. Considered that visual impact is significant. With regard to vehicular access, it is not deemed that sufficient justification for the location of the development has been submitted.
- A second report dated the 21st of July 2021 noted the unsolicited Further Information submitted and recommended refusal for the proposed development.

3.2.2. Other Technical Reports

Chief Fire Officer: No objection subject to conditions.

Waste Management Department: The importation of soil will require authorisation from the Waste Management Department. Access road needs upgrading.

Area Engineer: No objection.

3.3. Prescribed Bodies

3.3.1. No reports.

3.4. Third Party Observations

3.4.1. Representations from 3 No. councillors.

4.0 Planning History

PA Ref. PRR 20/578

Permission refused by Planning Authority for a similar development at this location.

5.0 Policy Context

5.1. Development Plan

The operative plan for the area is the Wicklow County Development Plan 2016-2022

Chapter 5 Economic Development

Relevant Objectives – RUR1 and RUR2.

Appendix 1: Development and Design Standards- Section 3- Commercial/
Employment development in Rural Areas.

Appendix 5 – Landscape Assessment

The site is located within ‘Rolling Lowlands’ landscape category – Map 10.13 (e).

5.2. Natural Heritage Designations

5.2.1. None relevant.

5.3. EIA Screening

- 5.3.1. Having regard to nature of the development comprising a storage only facility for pyrotechnics, 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

The grounds of appeal can be summarised as follows:

- Rocket Pyrotechnics is a family owned business based in Co. Wicklow. They have worked in the professional fireworks display business for 25 years.
- Due to Brexit and the changes it brings to the supply chain, Rocket Pyrotechnics business model is no longer sustainable without securing a pyrotechnics storage facility.
- It is our belief that Wicklow County Council refused permission because it is a unique and one-off type proposal and there are no specific policies with regard to this type of development in the county development plan.
- An isolated and rural location is the only viable option for such a development for health and safety reasons as there is a 150 metre exclusion zone for storing pyrotechnics.
- The proposed site was selected as the company director resides at the entrance to the lane so security and control of access can be well monitored.
- It is also located close to Ardmore and Ashford studios as a portion of work is associated with the film industry.
- Irish Army explosive material is stored at isolated rural locations.
- Irish Industrial Explosives have a storage facility in a rural location.

- Letter from Department of Justice is included with the appeal which outlines that an exclusion zone of 150m is required for 'low density' distance and 300m for 'vulnerable distance'.
- The site is not located even close to the top of the hill and the grassed mounding proposed will ensure that the site is not visually prominent.
- A photomontage image report is attached to the appeal which indicates that the proposed grassed embankment will screen the proposed development.
- The Board is referred to the Traffic Impact Assessment on file which concludes that the proposed development will not increase traffic volumes because the director's place of residence is located adjacent to the site and the proposed development can be accommodated by the existing road network.
- Various amendments were made to this application from the history application on the site to address the concerns of the Chief Fire Officer.

6.2. **Planning Authority Response**

- None submitted.

6.3. **Observations**

- None.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Traffic Safety
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The subject site is located within the rural townland of Toberpatrick, Tinahely, Co. Wicklow. The area is primarily agricultural in nature. It is proposed to install a metal shipping container with 3.2m high earth mounding on both sides and to the rear for the storage of pyrotechnics (fireworks) together with a 4m² timber packing shed for the packing and unpacking of pyrotechnics.
- 7.2.2. The reason for refusal by the Planning Authority related primarily to visual impact in an area designed as 'Rolling Lowlands', to the lack of justification for the provision of a pyrotechnics storage facility at this location, together with the objectives of the County Development Plan as they relate to commercial development in a rural area.
- 7.2.3. The appeal states that 'it is our opinion that Wicklow County Council refused permission for this development because it is a unique and one-off type proposal and there are no specific policies with regard to this type of development in the county development plan.' It notes that there is a statutory requirement to have a 150 metre exclusion zone for storing pyrotechnics and as a result, an isolated and rural location is the only viable option for such a development for health and safety reasons.
- 7.2.4. Relevant Development Plan Policy includes RUR 1 and RUR 2. RUR 1 allows for employment generating development in the rural area where it is proven that it requires to be located in a rural area (i.e. dependent on existing local resource) and will have a positive impact on the location. RUR 2 allows for small scale commercial/ industrial developments that are not dependent on existing local resource subject to a number of criteria including that the nature and scale of the proposed development and the proposed process or activity to be carried out, shall be appropriate to and compatible with, the character of the rural environment of the site at which the development is proposed, and shall not be detrimental to the rural amenity.
- 7.2.5. Based on the information submitted with the application, I am satisfied that this application relates to a storage facility only for pyrotechnics. Information submitted with the application indicates that there will be sporadic weekly visits to store and collect pyrotechnics as needed for shows with no employees on site. The company describes itself as one of Ireland's leading professional fireworks companies. It specialises in weddings, festivals, concerts, sporting, corporate and TV events. At

present, the pyrotechnics are imported from Britain but Brexit is having a significant detrimental impact on their supply chain.

- 7.2.6. I acknowledge that having regard to the statutory requirements in relation to the exclusion zone set out by the Department of Justice, a rural location would be appropriate for this sort of development. However, I am not satisfied that the applicant has provided sufficient justification for the need for the development at this particular location in rural County Wicklow. The main justification appears to relate to the proximity to the director's place of residence and the proximity to film studios in Aughrim and Ardmore, however I am of the view that these reasons are inadequate. I am satisfied that customers associated with this business are drawn from a wide geographical area throughout Ireland and the business is not required to locate on this site for proximity to customers.
- 7.2.7. I have examined the visual impact information and photomontages submitted with the application and appeal. The site is located in scenic landscape which is designated as 'Rolling Lowlands' in Appendix 5 of the Development Plan. I note that rolling lowlands generally have a higher capacity to absorb development than other landscapes areas in County Wicklow. Whilst I note that mounding is proposed, and the area has some capacity to absorb development due to the undulating landscape in the area, the area is a very scenic and natural landscape and I am not satisfied that a metal container surrounded by mounding is compatible with the character of the rural environment at this location. As such, I consider that the proposed development would detract from the visual and rural amenities of the area.
- 7.2.8. In conclusion, I am not satisfied that the applicant has provided sufficient justification for the need for the development at this particular location or that the proposed development is compatible with the rural amenities and scenic qualities of the area or with Development Plan policies in relation to commercial businesses in rural locations.

7.3. **Traffic Safety**

- 7.3.1. I note that the access roadway to the site is in very poor condition and was not accessible by car on the date of inspection. The site is essentially accessed by a long and winding farm track with sharp bends and poor surface treatment. I note that

there are reports on file from both Waste Management and the Chief Fire Officer which state that the access track will require upgrading. I note that a traffic impact assessment was submitted with the unsolicited further information and the appeal. The main conclusions of this are that the proposed development will not give rise to an increase in traffic volumes as the director's residence is located beside the proposed site and his future use of the road will not change. It is expected that trip generation during the Summer would be 3 to 4 times a week and 1 to 2 times a week during the Winter. It is expected that the delivery and collection of goods will be by the company director only and will be by van or 4 by 4. There will be no articulated vehicles or third parties used in the delivery of goods.

- 7.3.2. I refer the Board to the photos taken on the site inspection and consider that notwithstanding the low volumes of traffic predicted, it is my view that the proposed development would endanger public safety by reason of traffic hazard.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development, and its distance 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 or projects on a European site.

8.0 Recommendation

- 8.1. I recommend refusal for the following reasons:

9.0 Reasons and Considerations

1. Having regard to the objectives of the planning authority as set out in the current Wicklow County Development Plan including objectives RUR 1 and RUR 2, it is considered that the proposed development is not dependent on local resources and inadequate justification has been submitted to demonstrate the need for a storage facility for pyrotechnics at this location.

Furthermore, having regard to the location of the site in an area designated as 'Rolling Lowlands', it is considered that the proposed development would seriously injure the rural and visual amenities of the area and would detract to an undue degree from the rural character of the area. The proposed development would, therefore, be contrary to the objectives of the said Development Plan and would be contrary to the proper planning and sustainable development of the area.

2. The application site is served by a substandard road network which is inadequate in width and alignment. The proposed development would give rise to additional traffic movements on this substandard road network and would, therefore, endanger public safety by reason of traffic hazard.

Emer Doyle
Planning Inspector
30th December 2021