



An
Bord
Pleanála

Inspector's Report ABP-312614-22.

Development	Retention for lighting system for equestrian arena.
Location	Wynmere, Piercetown, Dunboyne, Co. Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	21492.
Applicant	Leslie Fitzpatrick.
Type of Application	Permission (retention).
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant	Mary Charles
Observer(s)	None
Date of Site Inspection	8 th July 2022.
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by a neighbour against the decision of the planning authority to grant permission for the retention of 8 no. 8 metre high lighting columns around a private sand equestrian arena – the grounds of appeal relate to amenity, health and safety.

2.0 Site Location and Description

2.1. Piercetown

Piercetown is a townland/Parish in County Meath around 3 km north of the town of Dunboyne. The area is generally flat open land in the open valley of the upper reaches of the Tolka River as it flows towards Dublin. The main settlement in the area is a small village known as Black Bull next to what was the Fairyhouse railway station. The railway line is now unused – the M3 motorway runs along the Tolka Valley separating the former village from the areas to the west. The appeal site is on the R154 which runs west to east through the area, serving the large farms and studs that characterise the landscape. Apart from the R-road, the area is served by a network of minor roads and private tracks, many following the former lines of drainage channels and limestone quarries. The area is moderately densely populated by rural standards, with many large houses off the main road, often on large sites. The immediate area around the appeal site is generally flat, with a rise in levels further east around the M3, which runs on a shallow embankment across the Tolka Valley.

2.2. Appeal site

The appeal site, with an area give as 0.257 hectares, is a small private equestrian (showjumping) sand arena located just over 100 metres north of the R154 as it runs west from the junction with the M3. It is part of a larger landholding that includes a small field between it and the main road, a small stables immediately to its east, and a substantial dwelling around 70 metres to the south-east. It is accessed via a double lane (one running to the stables, one to the house) between it and the main road. There are 8 pole mounted LED floodlights around the arena.

North of the site is a large open field. To the west is a complex of farm buildings including a substantial 2 storey dwelling. The M3 motorway is just over 350 metres

to the north-east. There is a line of view bungalows on the north side of the R154 within around 250 metres of the site, and another dwelling east of the house on the landholding.

3.0 Proposed Development

The proposed development is for the retention of a lighting system upgrade for the arena consisting of 8 no. 8 metre high lighting columns with LED lights around the arena.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to four generally standard conditions, one of which limits the time the lights can be operated.

4.2. Planning Authority Reports

4.2.1. Planning Reports

There are two planning reports on file, one subsequent to a request for further information.

- Notes planning history and outlines relevant policies, including 10.9.1 on agricultural buildings, NH Pol8 and NH POL9.
- Notes no justification provided for the proposed development – one light is 10 metres from adjoining dwelling.
- Notes that Public Lighting Engineer has requested additional information on the submitted lighting assessment report.
- Roads engineer outlines concerns about glare impacts on the public highway.
- Outlines the context and highlights possible impact on wildlife.
- AA Screening concludes no NIS required. No EIA required.

Following the submission of further information, a second report concluded the following:

- Applicant confirms that the arena is for the sole use of the owner and is not for commercial use. The lights to be used for 2 hours per day only in the winter months.
- Notes that the Transportation Dept is satisfied by the submitted details with regard to glare and that the light spillage report concluded that impacts from the lighting were minimal.
- Notes bat survey concluding that it is unlikely there would be a risk or significant disturbance to local bat populations.
- Concludes that the proposed retention is acceptable, and permission recommended with conditions.

4.2.2. Other Technical Reports

Water Services: NO objections.

Transportation Department: Further information requested. Following the submission of a 'glare report' it is stated that the proposals are acceptable.

Public Lighting: Further information requested.

4.3. Prescribed Bodies

Irish Water: No objections

4.4. Third Party Observations

One objection (neighbouring resident) – repeated following submission of further information.

5.0 Planning History

UD202152: Warning letter regarding the floodlighting.

96/152: Permission for single storey dwelling (on the landholding)

98/243: Retain house as built.

00/1278: Grant for art studio (detached).

17/0139: Retention for single storey extension to house on site.

6.0 Policy Context

6.1. Development Plan

The appeal site is in open countryside with no specific zoning or landscape/habitat designations.

6.2. Natural Heritage Designations

There are no Natura 2000 sites within 10 km. The closest designated habitat is the Rye Water Valley/Carton SAC 001398, south of the area near Maynooth. The site is within the catchment of the Tolka River, which flows to Dublin Bay which has a number of estuarine/littoral SAC's and SPA's.

6.3. EIAR

Having regard to the nature of the proposed development, its relatively small scale, and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

The decision to grant permission has been appealed by a local resident.

- Notes that the lights were erected without planning permission and claims that they are in operation for more than 2 hours a day.
- The appellant states that her child has epilepsy and is very susceptible to exposure to flashing or intense lighting.

- Argues that the proposed development is inconsistent with the character and nature of a rural area.
- Submits that the floodlighting has an unacceptable impact on local amenities by way of light spill, glare, sky glow and clutter.
- It is argued that it has an impact on local wildlife.
- It is submitted that it has a potential impact on traffic and aircraft safety by way of glare.
- The appellant expresses concerns that the arena will become a semi-commercial operation.
- It is further argued that the submitted light impact assessment was not carried out in the context of guidance from the Institution of Lighting Professionals and the baseline survey was not carried out in the winter months.
- It is submitted that the report on impacts on bats is limited and should have addressed wider wildlife issues.

7.2. Applicant Response

- The applicant questions the *bona fides* of the applicant and claims that no such person exists in the townland. Details are set out in support of an argument that no person by the name of 'Mary Charles' lives at the house with the postcode provided.
- It is submitted that the use is compatible with a rural area and in accordance with relevant policy.
- With regard to residential amenity, it is denied that there is any potential impact on the address claimed by the appellant (this is a dwelling to the west, not the immediately adjoining property).
- It is submitted that the Lighting Impact Report submitted addresses all relevant amenity and safety issues and is in accordance with guidelines. The applicant has no objection to the condition that the use of the floodlights is prohibited between 10pm and sunrise.

- It is noted that the planning authority is satisfied that there are no impacts on wildlife.
- It is noted that the planning authority is satisfied there is no hazard to road users and describes the potential impact on aircraft as 'spurious'.
- It is denied that there is any proposal to use the arena for commercial use. It is solely for the use of the applicant's daughters.

7.3. **Planning Authority Response**

The planning authority state that they have no further comment to make on the appeal.

7.4. **Observations**

None.

7.5. **Further Responses**

In response to the applicants claim that the appellant does not exist, the applicant claims that the applicant did not make an attempt to contact them. She submits a copy of her passport and address (A86 CX93).

The appellant restates her objections and outlines details of a paper on the impact of LED lighting flicker on health.

8.0 **Assessment**

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

- Preliminary issues
- Principle of development
- Health/amenity
- Traffic safety
- Wildlife

- Appropriate Assessment
- Other issues

8.1. Preliminary issues

The applicant has questioned the bone fides of the appellant. In response, the appellant has submitted a copy of her passport and details of her address – a dwelling to the west of the site approximately 100 metres from the site (not the adjoining dwelling).

I am satisfied from the information provided that the appellant has standing to make the appeal and that the appeal is valid.

8.2. Principle of Development

The site is in open countryside without a specific zoning designation. The LED lights are ancillary to an equestrian sand arena which is ancillary to a dwelling. I would consider the private equestrian arena to be an acceptable use in a rural area subject to the usual amenity considerations, and while floodlighting is not a necessary element, it is not unreasonable in most circumstances. There are no specific policies relevant to this type of development in the Meath County Development Plan, but the planning authority considers a number of policies relating to agricultural buildings and the protection of amenities to be relevant considerations. I would conclude in this context that the application should be judged on its own merits.

The appellant has raised concerns about the possible commercial use of the arena. While the arena is of a high quality and could potentially be used for small scale events, it does not have permission for this, and I would consider it reasonable to restrict its use by condition to domestic only by condition. The applicant has indicated no objection to this.

8.3. Health/amenity

The LED lights are located around the small arena, with one dwelling (a farmhouse) within 10 metres to the west. The appellant's dwelling is further to the south-west,

about 100 metres from the site. There is a line of dwellings further west of the appellants home and other dwellings east of the applicant's landholding, and one on the opposite side of the main road. The applicant states that they will accept the planning authority condition for a maximum of 2 hours floodlighting per evening, with lights off at 10pm.

The applicant, following requests for further information, submitted a floodlighting report which the appellant argues is not in accordance with general guidelines. There are no statutory guidelines for such reports, but there are a number of recommended standards. The planning authority has accepted that the study is up to standard and I would concur with this conclusion – there is sufficient evidence on file to indicate that the lighting can be operated without significant amenity impacts subject to appropriate controls on timing and light overspill. Given the domestic scale of the operations, I do not consider that an additional study or report is required.

The appellant raises specific issues regarding her child with epilepsy and the possible specific issues associated with LED lighting (as opposed to older types such as halogen or florescent bulbs) and referred to a study highlighting specific possible health issues with LED's. This paper is available online and addresses specific technical issues of LED bulbs with reference to sensitive receptors, which would include those with epilepsy. I note the conclusions of the paper:

This paper assigns no health risk to the biological effects of flicker in the various LED lamps. The hope is that by discussing the issue of flicker within the power electronic community, it will be possible to decide as a community whether or not standards or recommended practices are necessary. We do not attempt to do so here. However, we do offer simple suggestions as to what should be considered when designing lamps, such as flicker frequency, angle of viewing, task being performed, spatial distribution, AC dimmer flicker, etc. Further, it is not difficult to create shut-down or other safety prevention circuits that prevent flickering in the 3Hz-70Hz range when the lamp is in failure mode. This is the flicker range that has risk of photosensitive epilepsy for small minority of the population.

Within the context of this appeal, there is in my opinion insufficient scientific evidence available to refuse on these grounds, or to provide precise technical specifications for LED bulb use. But in applying the precautionary principle within the context of the planning system, I would consider that restrictions based on time and shading are appropriate and reasonable. As with other issues referred to above, I consider that the time restrictions set by the planning authority is the correct approach in order to protect local amenities and address uncertainties around health impacts.

8.4. Traffic safety

The arena is around 100 metres from the regional road, at a point where the highway is relatively wide, flat, and straight. There is a beach hedge along the boundary. The site is well screened by high trees from the west, but more open to the east. The road rises in level around 2-300 metres from the front of the site to the east as it goes over Black Bull Bridge (the River Tolka crossing) and it runs on an overpass over the M3. With adequate light directional screening, I consider that any impact on the adjoining road would be very unlikely – any glare is likely to affect drivers going westbound near Black Bull Bridge. The extent of vegetation should naturally reduce glare but in winter months there would seem to be a clear line of sight from parts of the bridge to the site, so some form of bulb shielding is necessary to prevent direct glare in that direction.

The applicant submitted a report on glare including control measures – the planning authority accepted the technical aspects and concluded that there was no reasonable possibility of a traffic hazard due to glare or other impacts. I concur with their conclusions.

The appellant also raised the issue of aviation impacts – there was no consultation on this aspect during the application but having regard to the small scale of the lighting in an area where there are a number of floodlit arenas and agriculture/industrial centres I do not consider that there is any basis for considering this to be a hazard.

8.5. **Wildlife**

The site is close to trees and hedgerows and the appellant has raised strong concerns on the impact on wildlife. The applicant submitted a report on potential bat impacts – the report indicates that there are no bat roosts in the immediate vicinity and the treeline is not habitually used by bats.

While there is no question that excessive lighting in the countryside has ecological impacts, given the restricted size of the site and time restraints on its use, there is no evidence that this particular proposal would have a significant impact on wildlife in the area. The overall area is intensively farmed and there is a major motorway nearby, so the contribution of this facility would be minimal.

8.6. **Appropriate Assessment**

There are no Natura 2000 sites within 10 km. The closest designated habitat is the **Rye Water Valley/Carton SAC 001398**, south of the area near Maynooth just over 10km distant. The site is within the catchment of the Tolka River, which flows to Dublin Bay which has a number of estuarine/littoral SAC's and SPA's. These are more than 20 km to the south-east of the site.

The Rye Water Valley SAC is designated SAC with qualifying interests for petrifying springs with tufa, and two species of Whorl snail. As it is not in hydraulic continuity with the Tolka River, any impacts can be screened out. There are no watercourses on or near the site – the closest is the Tolka, around 350 metres to the east. There is more than 20 km attenuation between this part of the Tolka and the designated SAC and SPA in Dublin Bay. Due to the nature and scale of the proposed development I therefore conclude that there would be no significant effects on any qualifying interests of any of the identified Natura 2000 sites.

I have examined the screening in the context of my site visit and other available sources of habitat and environmental data and I am satisfied that it includes sufficient information to allow the Board to carry out a complete assessment of all aspects of the project. I am satisfied that a conclusion of no significant effects can be reached. I am therefore satisfied that the proposed development, in itself or in combination with other plans or projects, would not be likely to have a significant effect the integrity of European sites no. 001398 or any other European site, in view

of these sites Conservation objectives and thus a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.7. Other issues

There are no recorded ancient monuments, protected structures, or areas of archaeological sensitivity close to the stie. The proposal does not have any impact on flooding or drainage. The planning authority do not consider that it requires a development contribution.

I do not consider that there are any other issues raised in this appeal.

9.0 Recommendation

I recommend that the proposed retention of the lighting system be granted planning permission for the following reasons and considerations, subject to the conditions set out below.

10.0 Reasons and Considerations

Having regard to the nature of the area and the small scale of the development it is considered that subject to the conditions set out below the proposed development would not seriously injure the amenities of the area, would not impact on human health or represent a traffic hazard, 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. The equestrian arena and associated lighting columns shall not be used for commercial purposes or any other use incidental to the enjoyment of the dwelling and stables.

Reason: In the interest of orderly development.

3. The arena lighting shall be operated in accordance with the details submitted to the planning authority on the 19th day of October 2021 and in accordance with Meath County Council's 'Public Lighting Technical Specifications and Requirements'.

Reason: In the interest of public safety and the protection of residential amenities and public health.

4. The lighting shall not be used or otherwise be left switched on between the hours of 10.00pm and sunrise daily and shall be switched on for a maximum of 2 hours over any 24 hour period.

Reason: In the interest of residential amenity.

Philip Davis

Planning Inspector

12th August 2022