



An
Bord
Pleanála

Inspector's Report ABP-315467-23

Development	Retention of a motorcycle training facility and track, permission to convert an existing container into site office/storage, associated site works and services.
Location	Ballynabarney, Wingfield, County Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20220985
Applicant(s)	Dale Park Adventures Limited
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Terance White & Others.
Observer(s)	None
Date of Site Inspection	28 th June 2023.
Inspector	Peter Nelson

1.0 Site Location and Description

1.1. The site is located in the townland of Ballynabarney, Co. Wexford, close to the Wexford/Wicklow County boundary. The site is located approximately 12km Northwest of Gorey. The motorcycle track is on a site which was previously a sandpit. The site is set back from the road by a c.230m track and is not visible from the road. The site is in a slight hollow and is bounded east and south by forestry and to the north and west by open agricultural land. There are a number of dwellings on the local road adjacent to the site's access road. The stated site is 3.13 hectares.

2.0 Proposed Development

2.1. Retention planning permission is sought for a motorcycle training facility and track, and permission is sought to convert the existing container on-site to an office/store.

3.0 Planning Authority Decision

3.1. Decision

Wexford County Council granted retention permission and permission for the development on the 30th November, 2022. The grant was subject to no.12 conditions, including condition no.3, which requires the proposed noise mitigation measures to be undertaken. Condition no.4 limits the use of the motorcycling training facility for a temporary period expiring on the 30th November 2025. Condition no.6 restricts the hours of operation to 15.00 to 19.00 on Wednesday and 10.00 to 16.00 on Saturday.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first Planning Report dated 8th September 2022 stated that although Schedule 5 of the Planning and Development Regulations (11)(a) requires all permanent racing and test tracks for motorised vehicles be subject to EIAR,

given the scale of the facility and that it is not open to members of the public that Schedule 5 requirements for EIAR do not apply in this case.

- The planning report recommended that the applicant be requested to submit further information, including a Noise Assessment, details of toilet facilities, details of any potential storage and waste generated on-site and details of mitigation measures to be taken in the event of an accidental release of oil or any other hazardous material to be used on site.
- The second Planning Report, dated the 30th November 2022, reflected the Planning Authority's decision to grant. The report concluded that a small motocross track should be considered acceptable as this site is isolated and uses a disused sand quarry.

3.2.2. Other Technical Reports

Senior Executive Scientist report dated 25th August 2022 recommended Further Information.

The Roads Inspection Report dated the 12th August 2022 had no objection to the development subject to the conditions.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

There were 11no. third-party observation received. The issues raised can be summarised as follows:

- Incorrect address on public notice.
- Noise impact on nearby residents.
- Substandard access road.
- Impact on livestock.

- Implications for wildlife and birds.
- Support for the facility for the area.
- The development falls within class 11(a) Part 2 of Schedule 5 and therefore requires an EIAR.
- Development is contrary to Development Plan noise policies.
- Application has not demonstrated that it will not impinge in any significant way upon landscape character.
- Dust generation from the proposed development.
- No toilet facilities on site.
- Impact on Climate Change.
- Need for a motocross facility in the area.

4.0 Planning History

Enforcement

- P.A. Ref. 0129/2014: Possible unauthorised quarry.
- P.A. Ref. 0034/2020: Possible use of disused quarry as motorcycle track.

5.0 Policy Context

5.1. Development Plan

The Wexford County Development Plan 2022-2028 is the operative Development Plan for the area. This plan came into effect on 25th July 2022.

Objective CS18

To protect and promote the quality, character and distinctiveness of the county's rural towns, villages and open countryside while supporting the proportionate growth and appropriately designed development that contributes to their revitalisation and renewal and the development of sustainable communities.

Objective L06

To ensure that developments are not unduly visually obtrusive in the landscape, in particular, in or adjacent to the Upland, River Valley, Coastal or Distinctive Landscape Character Units.

Objective L16

To require Landscape and Visual Impact Assessment Reports to be submitted for developments which may have a significant negative impact on the landscape.

Objective ROS03

To ensure urban and rural communities have access to a range of high-quality open space, sporting, recreation and play facilities that are appropriate in scale and location and are universally accessible and suitable for all ages. These facilities should be located in existing settlements, close to residential areas and other community facilities so as to maximise participation levels and reduce the need to travel.

Objective ROS25

To facilitate a vibrant and active sports sector with increased participation levels, good quality sustainable facilities which are appropriate in scale and location and which provide opportunities for people to play an active role in sport.

Objective ROS28

To support local community and sports groups in developing sports facilities and to consider the development of such facilities at appropriate locations in the county. These facilities, if possible, should be clustered with other community facilities such as community centres and open spaces to create multi user community hubs. The Planning Authority will ensure that sufficient land is zoned in local area plans to facilitate sports clubs and community organisations. The Council will ensure that land is available to accommodate proposals to future proof the expansion of clubs in urban settings and in areas where there is zoned land. Where a site is located away from the centre of a town or village, this will be considered on its merits and how the site would be accessible by walking and cycling. The development must also be appropriate to its location and is subject to compliance with the Habitats Directive and normal planning and environmental criteria.

5.2. **Natural Heritage Designations**

Slaney River Valley Special Area of Conservation: c.2.8km from the appeal site.

5.3. **EIA Screening**

See Section 7.0

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The main points of appeal can be summarised as follows:

- Failure to submit an EIAR as development falls under Part 2, 11 (a) of Schedule 5 of the Planning and Development Regulations.
- The planning application is invalid due to incorrect notices and fees.
- Errors in the Noise Assessment Report.
- Ambiguity in the wording of the condition restricting hours of operation.
- Questionable need for an additional motocross facility in the area.
- Failure to submit a Flood Risk Assessment
- Failure to submit a Natura Impact Assessment.
- Negative Visual Impact

6.2. **Applicant Response**

The main points of the applicant's response can be summarised as follows:

- The application is for a motocross training facility and will not be used for racing or testing; therefore, an EIAR is not required.
- An experienced professional carried out The Noise Assessment Report and complies with all current regulations.
- The appellants failed to acknowledge the noise mitigation measures proposed in the report.

- The applicant is happy to sign an agreement to confirm and abide by the stated operating hours.
- The other motocross facility close to the subject site is an unregulated practice track in continuous use with no noise mitigation measures.
- The landowner has committed to undertake any measures required to drain away the temporary small water gathering.
- The development has little if any, visual impact.

6.3. **Planning Authority Response**

- None

6.4. **Observations**

- None

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, carried out a site inspection, and having regard to the relevant local/regional/national policies and guidance, I consider that the key issue on this appeal is as follows:

- Environmental Impact Assessment
- Appropriate Assessment

7.2. **Environmental Impact Assessment**

7.2.1. Class 11 (a) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, lists "all permanent racing and test tracks for motorised vehicles" as one for which a mandatory Environmental Impact Assessment is required. The Planning Authority, in their report, considers that an EIAR is not required as the development is for the retention of a relatively small motocross training track for club members and will not be open to the public. The applicant also considers that as this application is for a training facility, an EIAR is not required. In their appeal, the

appellant has highlighted a previous Board decision (Ref. PI 27.238199) to refuse the retention of a 1.45 km similar private motocross track at Barraderry North, Kiltgran, County Wicklow. Reason No.1 of the refusal stated that as the development to be retained required an EIAR, the Board was precluded from considering a grant of planning permission.

- 7.2.2. Class 11(a) of Part 2 of Schedule 5 does not differentiate between private or public tracks and does not give a size threshold for tracks. I, therefore, consider that the development, which seeks retention of a motocross track, would fall within this category.
- 7.2.3. On this matter, section 23(c) of the Planning and Development (Amendment) Act 2010 and amended section 34(12) of the 2000 Act (as amended) provides that a retention application cannot be considered by a planning authority for a development which would have required environmental impact assessment (EIA).
- 7.2.4. Having regard to the above, I consider that the Board is precluded from considering a grant of permission in this case.

7.3. **Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development and its distance from the Slaney River Valley Special Area of Conservation, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

- 8.1. I have read the submissions on file, visited the site, and have had due regard to Class 11(a) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended), and section 34(12) of the 2000 Act (as amended). It is considered that the Board is precluded from considering a grant of planning permission in this case. I recommend permission be REFUSED for the following reason:

9.0 Reason and Considerations:

In accordance with Class 11(a) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, which refers to "all permanent racing and test tracks for motorised vehicles", the development to be retained is one for which a mandatory Environmental Impact Assessment is required. Section 34(12) of the 2000 Act (as amended) provides that a retention application cannot be considered by a planning authority for a development which would have required Environmental Impact Assessment (EIA). The Board, therefore, is precluded from considering a grant of planning permission in this case.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Peter Nelson
Planning Inspector

10th July 2023