



An
Bord
Pleanála

Inspector's Report

ABP 318550-23

Development	Construction of ball stop nets and all associated works at the existing driving range.
Location	The Heath Golf Club, The Heath. Portlaoise. Co. Laois.
Planning Authority	Laois Co. Council.
Planning Authority Reg. Ref.	2360373
Applicant(s)	The Heath Golf Club.
Type of Application	Permission.
Planning Authority Decision	To Grand Permission.
Type of Appeal	Third Party
Appellant(s)	The Heath Community Rights Group.
Observer(s)	None.
Date of Site Inspection	February 13 th , 2024
Inspector	Breda Gannon

1.0 Site Location and Description

- 1.1. The site is located within The Heath, Portlaoise, Co. Laois and on land that comprises an existing golf club with clubhouse and car parking facilities. The site which is located c 6km northeast of Portlaoise is accessed off the R 445 via the L-3811 local road. The M7 motorway lies to the west. The wider area comprises open semi-natural grassland with areas of heath and gorse, which is used as commonage for grazing sheep.
- 1.2. The golf driving range is located to the rear (north) of the clubhouse and is separated from the 3rd and 13th fairway by a row of Scots Pine trees. It has 10 bays and is accommodated in a single storey corrugated structure.
- 1.3. The area is rural in character and the closest settlement is The Heath village to the south west.

2.0 Proposed Development

- 2.1. The proposal is to erect 2 no. ball stop nets extending over a distance of 200m on the east and west sides of the driving range and within the existing golf course. The nets would be 13m high and constructed of a mesh netting secured between poles and fitted with stabilising wires. The poles would be steel/timber and embedded into the ground using a concrete foundation (min 2m). The netting would be 1.2 m above ground level.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission for the development subject to 8 no. conditions which contains the following conditions of note:

Condition No 3: All trees on the application site shall be retained and protected from construction works.

Condition No 5: Any external lighting shall be cowled and directed away from the public roadway and adjoining properties.

Condition No 7: No advertising sign or advertising apparatuses shall be erected without a separate grant of permission.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The site is located in a landscape characterised as a Lowland Agricultural Area. The site does not fall within any archaeological areas. There are a number of monuments in close proximity, but the site is located outside their zone of influence. There are no protected structures on or near the site.

The proposal involves light weight mesh structures which are removed from the public road. The design and siting is considered acceptable. Given the separation distance from adjacent dwelling no negative impacts on residential amenities are predicted. No impacts are likely on The Heath pNHA.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

3.3.1. Details if the application were referred to the following Prescribed Bodies and no reports were received.

- National Parks & Wildlife:
- An Taisce:
- The Heritage Council:

3.4. Third Party Observations

A submission was received by Jackie Hyland on behalf of a group of objectors. It raised issues regarding landowner consent, lack of environmental assessment, site area, impacts on local archaeology, grazing rights and nuisance.

4.0 Planning History

22/298: Permission granted subject to conditions for an extension to the existing patio area to form a larger outdoor dining area and all associated site works at The Heath Golf Club.

19/360: Permission granted for the construction of a dungstead/manure pit and associated site work to the west of the driving range.

18/777: Permission granted for the construction of a dungstead/ manure pit and associated site works to the north of the driving range.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Laois County Development Plan 2021-2027.

BNH 17: The Great Heath of Portlaoise

The Great Heath or The Heath is a rare example of unenclosed natural grassland in Ireland interspersed with small lakes and turloughs. It has one of the most sensitive and valuable landscapes in Laois. It is unique as a natural area (one of the last heathlands to develop in Europe, grazed but unfertilised for hundreds of years, a geological area, an ecological area, a historic area and a widely used amenity area. The area has many interested stakeholders and it requires a study to develop a Landscape Conservation Assessment which would provide a framework for its protection and development into the future.

5.2. Natural Heritage Designations

The proposal is located within The Great Heath of Portlaoise pNHA (Site code: 000881)

The River Barrow and River Nore SAC (Site code 002162) lies c 6.67km south-east of the site.

5.3. EIA Screening

- 5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity of the site, 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 proposed ball stop nets are a man-made linear features positioned in the centre of a natural rolling landscape of particular natural beauty.
- The nets which will be 13m high and extend to a distance of 200m and be supported on at least 15 poles which will have a significant negative visual impact on the amenity, its surroundings and those who use the amenity daily, outside of golf course usage.
- The extremely dense netting will create an impermeable surface for all aerial habitats in the area and passing through it. No consideration has been given to the significant impacts on birds, bats and potentially protected species that use the area.
- The great heath is used by the heath community group to graze sheep. The netting will cause significant shading which will impact on grass growth and other terrestrial habitats. It will cause noise impacts that will impact negatively on the sheep and it will restrict access to the driving range by the community rights group if required to tend to sheep.
- To avoid a sail effect on the nets, deep foundations will be required for the poles, which will create significant disturbance to The Heath further impacting habitats, ground water flows and potential archaeology within the footprint of this development. This is expanded upon in the attached AMS report. There is no environmental report to support the application.
- The legal interest and consent to the application is contested. No structures or developments can be authorised without the consent of the community right group.

- The Heath is managed by the OPW and is one of the last heathlands of Europe.
- The development is wholly inappropriate and insensitive to the pNHA and highly sensitive landscape setting.

The appeal is supported by a Cultural Heritage Screening Report (AMS), legal documents and a Report into the History of The Great Heath of Maryborough in Co. Laois (Dr V Costello).

6.2. **Applicant Response**

- The driving range was established in 1987 with an increase in use in recent years. The average range output is 28000 balls per month equivalent to around 800 practice session. The primary consideration in proposing this project is the safety and well being of its members and visiting golfers.
- The driving range is located between two fairways and balls are often hit onto the fairways and rough areas which leads to the retrieval of c 4000-5000 balls per month from outside the designated space, posing a risk to golfers.
- Black coloured mesh has been chosen to minimise visual impact, as recommended by one of the companies experienced in ball stop net installations. The range is located in a hollow with some trees lining the boundaries which mitigates its impact.
- The proposed mesh which will be positioned 1.2m above ground level will not impede the movement of sheep. Pedestrian and vehicular access from both ends of the outfield area will remain unaffected. Public foot traffic tends to follow the perimeter of The Great Heath, generally avoiding the licensed area of the golf club.
- A sail effect is unlikely, supported by the fact that no other golf club with similar netting installations has reported such an occurrence. Existing trees are expected to further diminish any potential sail effect. The mesh design will not contribute to increased noise levels over existing conditions.
- The club has received a letter of consent from the OPW, which was submitted with the application.

- The installation will be executed with competence.

6.3. **Planning Authority Response**

No response to the grounds of appeal were submitted by the planning authority.

7.0 **Assessment**

7.1. **Introduction**

Having examined all the application and appeal documentation on file, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

I consider that the main issues that arise for determination by the Board in relation to this appeal relates to the following:

- Land ownership.
- Impacts on archaeology.
- Impacts on biodiversity.
- Visual Impact.
- Appropriate Assessment.

7.2. **Land ownership**

- 7.2.1. The legal interests of the applicants to carry out the proposed works is contested by the appellants. It would appear from the documentation submitted in support of the appeal that 'The Heath' is in the ownership of the State. The golf club was granted a lease by the Department of Finance in 1971 to operate a golf club on a portion of the land and a licence to use an adjacent portion as a golf course. The Heath is managed on behalf of the State by the OPW and the application is supported by a letter of consent stating that they have no objection in principle to the making of the application. On the basis that the OPW is an agent for the State and they have consented to the making of the application, I consider that the applicants have provided sufficient evidence that they have the legal right to carry out the development.

7.2.2. Section 34 (13) of the Act provides that '*a person shall not be entitled solely by reason of a permission under this section to carry out any development*'. The Development Management Guidelines for Planning Authorities clarify that the planning system is not designed as a mechanism for resolving issues about title to land or premises or rights over land and these are ultimately matters for resolution in the courts.

7.2.3. Having regard to Section 34(13) and the submissions on file, I conclude that the applicant has sufficient legal interest to make a valid planning application and that the Board should not refuse permission for reasons relating to title to land.

7.3. Impacts on archaeology

7.3.1. A Cultural Heritage Screening Report was submitted with the appeal and it highlights the archaeological significance of The Heath as well as features discovered during excavations. It examines the potential for impacts on the archaeological resource within a 500m buffer around the application site. It identifies a number of recorded archaeological sites within the study area (Table 1), none of which occur within the application site.

7.3.2. The report concludes that there while there is no potential for direct impacts on recorded archaeological sites or their associated Zone of Notification, there is potential for impacts on previously undisturbed archaeological features associated with the proposed works. There is also potential for impacts on the setting and landscape of recorded features.

7.3.3. I can find no evidence on the file that details of the application was referred to the National Monuments Service. Arising from the potential for impacts on sub-surface archaeological features, I recommend should the Board be minded to grant permission for the development, that a condition be attached requiring archaeological monitoring of all groundworks by a suitably qualified archaeologist, in line with the recommendations set out in the screening report.

7.3.4. The majority of the recorded archaeological features within the study area are Ring Barrows. Having regard to the low lying nature of these features, some of which occur when the golf course itself, I do not consider that the proposed ball stop nets will impact to any significant extent on their character or setting, to warrant refusal of the application.

7.4. Impacts on biodiversity.

- 7.4.1. The appellants have raised issues regarding the potential impacts of the development on the unique heath environment. I note that there will be ground disturbance associated with the installation of the concrete foundations for the pole supports and the nets will create a barrier to movement along a stretch of 200m either side of the driving range. This being said, the works are confined to the area occupied by the existing golf course, and on lands that is already impacted by activities associated with its operation and maintenance. There will be no impacts on the wider heath area, or its habitats that would prejudice its unique grassland environment.
- 7.4.2. The proposed nets may cause some impediment to birds traversing the golf driving area. However, it is likely that the area is currently avoided by species whilst in operation due to the nature of activities carried out. Bats may forage in the area but there is no evidence of significant roost potential in the form of buildings or mature trees close to the driving range. A 1.2 m gap will be provided under the base of the nets which will ensure that a wildlife corridor is maintained for species that may use the area, and for grazing sheep. Any species that would avoid the area would have access to an abundance of similar habitat in the wider area such that no significant effects are likely to occur.
- 7.4.3. I do not accept that the proposed nets will significantly impact on grass growth as contended by the appellants. Similarly, the land take associated with the foundations will be minimal and its impact on the grassland habitat and grazing potential will be insignificant. The proposed nets will be constructed of a dense mesh material which is not likely to result in significantly noise impacts that would cause disturbance to grazing sheep or other species.

7.5. Visual Impact

- 7.5.1. The nets which will extend up to 13m in height and over a distance of 200m will be most visible within the golf course itself and from the local road to the north. There are currently trees along the eastern and western extremities of the driving range and the planning authority requires these to be retained. While the installation of the nets will introduce a new visual feature into the area, the localised impact needs to be balanced against the improvements in safety to golfers on the adjacent fairways.

While it will not be possible to completely mitigate these impacts, views will be constrained by existing vegetation and appropriate net colour, which I consider should be green to blend in with surroundings, and not black as proposed.

7.6. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, the absence of emissions therefrom, and the distance from any European site it is concluded that no Appropriate Assessment issues arise as the proposed development would not 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. On the basis of the above assessment, I recommend that permission be granted for the proposed development for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

Having regard to the established use of the site as a driving range within an existing golf course, it is considered that subject to the conditions set out below, the proposed development would not impact significantly on the visual amenities of the area, or on the cultural heritage or biodiversity of the area and would not, therefore, be contrary to the proper planning and sustainable development of the area.

10.0 **Conditions**

1.	<p>The development to be carried out and completed shall be 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.</p> <p>Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority within one month of the date of this Order and the development shall be completed in accordance with agreed particulars.</p> <p>Reason: In the interests of clarity</p>
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2.	<p>The ball stop nets shall be green in colour to details to be submitted and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interests of visual amenity.</p>
3.	<p>The existing trees along the perimeter of the site shall be retained and protected during site development works to details to be submitted to and agreed in writing with the planning authority.</p> <p>Reason: In the interests of visual amenity.</p>
4.	<p>Any external lighting shall be suitably cowled and directed inwards towards the site.</p> <p>Reason: To prevent overspill into the wider environment.</p>
5.	<p>Surface water and drainage arrangements shall be in accordance with the requirements of the planning authority.</p> <p>Reason: In the interests of proper and efficient drainage.</p>
6.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no advertising signs or structures shall be erected on the site without a prior grant of planning permission.</p> <p>Reason: In the interests of visual amenity.</p>
7.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard the developer shall-</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and</p>

	<p>(c) provide arrangements, suitable to the planning authority, for the recording and removal of any archaeological material which the authority considers it appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to preserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
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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.

.Breda Gannon
Planning Inspector

28th February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 318550-23		
Proposed Development Summary	Construction of ball stop nets and all associated works at the existing driving range.		
Development Address	The Heath Golf Club. The Heath. Portlaoise. Co. Laois.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	X
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____