



An
Bord
Pleanála

Inspector's Report ABP-320786-24

Development

Planning permission to install a shipping container underground for the storage of pyrotechnics, timber packing shed, fencing, earth mounds and associated ancillary site works.

Location

Rathoma, Killala, Co. Mayo

Planning Authority

Mayo County Council

Planning Authority Reg. Ref.

24/60390

Applicant

Rocket Pyrotechnics Limited

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant

Rocket Pyrotechnics Limited

Observers

None

Date of Site Inspection

20th February 2025

Inspector

Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located on the eastern side of a local access road in the townland of Rathoma, c. 5.4 km south of Killala, Co. Mayo. The appeal site is located in a rural area outside of a settlement. The predominant land use in the area is agriculture.
- 1.2. The appeal site has a stated area of 0.265 Ha. and comprises a long narrow access track¹, c. 220 metres in length, connecting the main body of the site to the public road. The main body of the site is irregular in shape and comprises a mounded area of land. A watercourse runs along the northern side of the access track and also to the west and south of the main body of the site. Topographical levels on the main body of the site range from c. 25 metres (OD Malin) to c. 30 metres (OD Malin).
- 1.3. There are a number of dwellings to the north and south of the appeal site. Agricultural sheds are situated to the north and south of the appeal site.
- 1.4. The adjoining lands are indicated as being within the applicant's ownership/control as depicted by the blue line boundary.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - Installation of a '40 foot' shipping container (c. 30 sqm) underground for the storage of pyrotechnics.
 - Banking and filling of area to accommodate shipping container.
 - Provision of security fencing around container.
 - Timber shed (4 sqm) for the packaging of pyrotechnics.
 - Double gate and palisade fence (1.8 metres high) and bitumen apron area at site entrance.
 - Upgrade of access road, including turning area within main body of site.
 - Stockproof fence around main body of site.
 - Associated ancillary site works.

¹ Indicated as a right-of-way/wayleave on the OS map

- 2.2. The planning application was accompanied by a cover letter outlining the background the applicant's business; justification for the proposal and location of proposal; and, details of the product to be stored.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to REFUSE permission on the 15th of August 2024 for 1 no. reason as follows -

Having regard to the rural location and the nature and scale of the proposed development and the objectives of the Mayo County Development Plan 2022-2028, in particular Objective EDO 54 regarding commercial development in a rural area, the lack of sufficient justification for the provision of a pyrotechnics storage facility at this location, 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 Mayo County Development Plan 2022-2028 to only permit commercial development in a rural area where there is a proven need to locate therein and would seriously injure the amenities, or depreciate the value, of property in the vicinity. The proposed development therefore would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer generally reflects the reason for refusal. The report also notes that the proposal would not be visually intrusive. The report of the Planning Officer recommends that permission is REFUSED consistent with the Notification of Decision which issued.

3.2.2. Other Technical Reports

Water Services – report recommends that further information is requested.

3.3. Prescribed Bodies

Health and Safety Authority (HSA) – observation notes that refusal of permission is not recommended on the basis of major accidents and that the proposal is not a COMAH establishment.

3.4. Third Party Observations

The report of the Planning Officer refers to 1 no. observation having been received in relation to the planning application. The observation relates to the accuracy of the development description and the obligations of the Planning Authority under the Planning and Development Act, 2000, as amended; the Habitats Directive; the Water Framework Directive; and the requirement to determine whether an EIAR is required.

4.0 Planning History

PA. Ref. 23/60447 – Permission REFUSED for installation of shipping container underground for the storage of pyrotechnics, timber shed and associated ancillary site works. Refusal reason concerned non-compliance with Rural Economic Policy EDO54 of the Mayo County Development Plan 2022 - 2028.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Mayo County Development Plan 2022-2028 is the relevant development plan. The appeal site is not subject to any specific land-use zoning under the Mayo County Development Plan 2022-2028.

5.1.2 The provisions of the Mayo County Development Plan 2022-2028 relevant to this assessment are as follows:

- Volume 1 – Written Statement
 - Rural Economic Policy EDO54 - To facilitate rural enterprises, and resource development (such as agriculture, agri-food sector, agri-tourism, commercial fishing, aquaculture, rural tourism, forestry, bio- energy, the extractive industry,

recreation, cultural heritage, marine enterprise sector, research and analysis) and renewable energy resources (such as wind/ solar/ocean energy) that are dependent on their locality in rural locations, where it can be demonstrated that the development will not have significant adverse effects on the environment, including the integrity of the Natura 2000 network, residential amenity or visual amenity. Where proposals demonstrate measures to promote environmental enhancement through improved ecological connectivity, such as measures in the Pollinator Plan, additional native species planting or blue and green infrastructure measures, these will be favourably considered.

5.2. Natural Heritage Designations

The appeal site is not located within or close to any European Site, NHA, or pNHA. The closest European Sites to the subject site are Killala Bay/Moy Estuary SAC (Site Code 000458) and Killala Bay/Moy Estuary SPA (Site Code 004036), which are located c. 6 km north-east of the appeal site.

5.3. EIA Screening

The proposed development is not a class for the purpose of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations, 2001, as amended (or Part V of the 1994 Road Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination for EIA. Refer to Form 1/Appendix 1 of report.

5.4. Grounds of Appeal

This is a first-party appeal against the decision to refuse permission. The grounds for appeal can be summarised as follows;

Background:

- The applicant specialises in firework displays, has operated for 25 years and employs 3 no. full time staff and 15 no. freelance staff. The proposal is for the storage of supplies associated with a firework display business.

- The site is situated on the land owned by the family of the director of the company.
- Rocket Pyrotechnics is a mobile business and provides fireworks displays nationwide.
- The supply and storage of fireworks is subject to licence, which is outside the planning process. This involves input from the Local Authority, Department of Justice and the Fire Department.

The Site/Proposal:

- The closest house is c. 247 metres from the site.
- The container will be positioned in an excavated bunker with an earthen bank placed on top and around the perimeter. The packaging shed will be used for organising supplies prior to being loaded into vehicles for transport.
- Regulations relating to the storage of explosives requires specific separation distances, i.e. 229 metre to the nearest road or building, and therefore possible locations for such a facility are constrained.
- Supplies will be delivered to the site, and when required for an event the site will be accessed by a single vehicle for transport to the site of work. Access to the site will be c. 4 times per week.
- The site will not be used for the sale or manufacture of fireworks, and the proposal will not entail full time staff and will not affect the road network.
- A similar development was previously refused on the same site (PA. Ref. 23/60447 refers).
- Permission was refused for a similar development by Wicklow County Council. This decision was appealed and refused by An Bord Pleanála under ABP. 311171. The Board are requested to recognise the pattern of planning issues with the subject application, and that the applicant has made several attempts to secure permission for the facility which is integral to the operation of the business and its viability.

Grounds of Appeal:

- The uses referred to in Objective EDO54 are not exhaustive and each development should be assessed on its merits.
- In considering whether the proposal is a 'rural enterprise' it is necessary to consider whether the enterprise comprises of, or relates to 'resource development' which by its nature is located in the rural area, and whether the enterprise is dependent on its locality in a rural location. Objective EDO54 refers to a number of uses e.g. extractive industry, wind energy and solar energy, the resource upon which they depend are available in both urban and rural areas, however locating such developments within urban areas would be unsustainable and unsuitable. These developments are not rural however due to their nature they must be located within a rural area. While such uses could be located within an urban area they would likely be deterred due to the requirement to adhere to separation distances, as would be the case with wind turbines, resulting in the sterilisation of surrounding lands. These uses are dependant on a rural locality not because the relevant resource is found there, but because the rural environment provides an environment where the requirements and impacts of the development can be accommodated in a manner which accords with the principles of proper planning and sustainable development. The same principle applies to the proposed development, the storage of explosives requires a setback of over 200 metres to the nearest dwelling/roadway and therefore the proposal must be sited in a rural area and as such does not conflict with Objective EDO54.
- Regarding the contention of the Planning Authority that the proposal would represent haphazard development, and that to permit same would be contrary to the County Development Plan to only permit commercial development in rural areas where there is a proven need to locate there, a function of planning is to direct development to appropriate locations. The proposal does not result in an intensification of use and will not draw customers to the area, the proposal is rather storage associated with an commercial business.

- The contention of the Planning Authority that the proposal would injure amenity or depreciate the value of property is unfounded. The proposal would not be visible and would be situated c. 200 metres from the closest dwelling.
- The proposal, whilst not resulting in employment at the subject location, is critical to the viability of a business.
- Repeated refusals represent a failure of the planning system to understand and support the unique needs of the business.
- The proposal will not result in adverse impacts on Natura 2000 Sites.
- The appeal submission provides specific responses to the matters raised in the Water Services report.
- The appellant has appended a technical report to the appeal submission from a fire consultant which provides details of various regulatory requirements.

5.5. Planning Authority Response

None received.

5.6. Observations

None received.

6.0 Assessment

6.1. Having examined the application details and all other documentation on file, including the appeal and having inspected the site, I consider that the main issues for consideration are;

- Principle of Development
- Impact on Water Quality (New Issue)
- Screening for Appropriate Assessment

6.2. Principle of Development

- 6.2.1. The crux of the decision of the Planning Authority, as set out in its single reason for refusal, is that there is no justification for the proposed development in a rural location, and that the proposal would be haphazard, injurious to the amenity of the area and would devalue property in the vicinity.
- 6.2.2. In response, the appellant contends that the proposed development requires a rural location in order to achieve separation distances required under regulations governing the storage of explosives, and cites examples of other types of development which, whilst not rural in nature, are optimally located in rural locations due to practical constraints which would arise in urban areas, should they be sited there. The appellant also states that the proposal would not adversely affect the amenity or value of property given its location relative to the closest dwelling, and that no adverse impacts on Natura 2000 Sites would arise as a result of the proposed development.
- 6.2.3. Policy in relation to rural enterprise is set out in Objective EDO54 of the Mayo County Development Plan 2022 - 2028. Objective EDO54 provides for the facilitation of rural enterprises and resource development that are dependent on being located in the rural area. Compliance with Objective EDO54 firstly requires that the development under consideration is a 'rural enterprise' and/or 'a resource development', and then subject to meeting these criteria, requires the proposed development to be dependent on a rural location.
- 6.2.4. The basis of the appellant's case is that a rural location would allow the proposed development to meet specific regulatory requirements in relation to the storage of explosives, specifically the achievement of separation distances from houses and roads. While I acknowledge that the achievement of these separation distances would be more easily met within a rural area the fact remains that the proposed development is neither a rural enterprise or a resource development, and therefore the proposed development does not meet the formative requirement(s) of Objective EDO54. In my opinion the auxiliary requirement of Objective EDO54, that being the requirement for the proposed development to be dependent on a rural location, is moot given that former element(s) have not been met. The appellant makes reference to examples of

uses which it states are not rural in nature but yet are referred to in Objective EDO54 as being acceptable in rural areas, i.e. extractive industries, solar and wind developments, due to the fact they benefit from a rural location and the appellant contends that the proposed development should similarly be considered on this basis. Aside from the need to be located a specific distance from certain receptors, the proposed development does not have a need to be located in a rural area, and is not reliant on any specific rural based resource. In my opinion extractive industries, solar and wind developments are not comparable with the storage of pyrotechnics. For example, extractive industries only operate where aggregates arise. Solar developments are compatible with agricultural practices and allow for grazing beneath arrays. Wind developments often require upland locations to avail of wind speeds which are more typically higher in rural upland areas. It is reasonable in my opinion for a development plan objective to facilitate these uses in a rural area and whilst the appellant does not contest this, to draw comparisons to a storage facility for pyrotechnics as needing to be located within a rural area on the basis of meeting licencing requirements cannot be sustained in my view.

- 6.2.5. In summation, it has not been demonstrated that the proposed development is a rural enterprises and/or a resource development, or that it is dependent a rural location. The proposed development would therefore not accord with the requirements of Objective EDO 54 of the Mayo County Development Plan 2022 – 2028. I recommend that permission is refused on this basis.

6.3. Impact on Water Quality (New Issue)

- 6.3.1. A watercourse² runs to the west and south of the main body of the site. The application contains no details in relation to the management of run-off from the site in the event of a fire. Having regard to the substantive issue, that being the principle of the development, I do not recommend that this issue is included as a reason for refusal.

² CLOONAGHMORE_050

6.4. Screening for Appropriate Assessment

- 6.4.1. I have considered the proposed development at Rathoma, Killala, Co. Mayo in light of the requirements S177U of the Planning and Development Act, 2000, as amended. The closest European Sites to the subject site are Killala Bay/Moy Estuary SAC (Site Code 000458) and Killala Bay/Moy Estuary SPA (Site Code 004036) which are located c. 6 km north-east of the subject site. The proposed development comprises permission for the installation of a shipping container underground for the storage of pyrotechnics, a packing shed and ancillary site works.
- 6.4.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is based on the following;
- The distance from nearest European Site(s) and weakness of connectivity between the development site and European Sites provided by the watercourse abutting the development site.
 - The nature and scale of the proposed development.
- 6.4.3. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act, 2000) is not required.

7.0 Recommendation

- 7.1. Having regard to the above it is recommended that permission should be refused for the reason set out below.

8.0 Reasons and Considerations

1. Having regard to the rural location and the nature of the proposed development, Objective EDO 54 of the Mayo County Development Plan 2022-2028, the lack of a sufficient justification for the proposed pyrotechnics storage facility at this

location, 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, and would be contrary to the objectives of the current County Development Plan, specifically Objective EDO54, to facilitate rural enterprises, and resource development that are dependent on their locality in rural locations. The proposed development would, therefore, be contrary to the proper planning and sustainable development.

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.



Ian Campbell
Senior Planning Inspector

2nd July 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála	ABP-320786-24		
Case Reference			
Proposed Development Summary	Planning permission for the installation of a shipping container underground for the storage of pyrotechnics, timber packing shed, fencing, earth mounds and associated ancillary site works		
Development Address	Rathoma, Killala, Co. Mayo		
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	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	X		No further action required. No Screening Required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No		Proposed development is not of a Class.	No Screening Required.

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
No		Proposed development is not of a Class.	No Screening Required.

5. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: Ian Campbell

Date: 2nd July 2025

I Campbell

Decision Quashed