



An  
Bord  
Pleanála

## Inspector's Report PL27.RL3542

---

### Question

Whether (i) the use of the GAA grounds for an adventure racing event (ii) related use of the GAA clubhouse is or is not development or is or is not exempted development.

### Location

Laragh GAA grounds, Laragh, Co. Wicklow.

### Declaration

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

71/16.

Applicant for Declaration

Joe O'Neill.

Planning Authority Decision

Is development but is exempted development.

### Referral

Referred by

Joe O'Neill.

Owner/ Occupier

Laragh GAA.

Observer

None.

Date of Site Inspection

10<sup>th</sup> May 2017.

Inspector

Mairead Kenny.

## 1.0 Site Location and Description

- 1.1. The site is located at the outskirts of the village of Laragh, which is in an upland area in the centre of Co Wicklow and which may be best known as the gateway village to Glendalough. The two small urban settlements are very close to each other and might be described as twin villages. The village of Laragh is a typical small village while Glendalough is dominated by the monastic site and the associated visitor centre and has a relatively large hotel, the Glendalough Hotel. The latter is very close to the archway which marks the entry point to the heritage site from the public road. The latter premises effectively is at the western end of the urban development at this location.
- 1.2. The site adjoins a regional road which traverses in a south-easterly direction towards the village of Rathdrum. The boundary at the eastern end of the site is shared by the regional road. The access to the site, which is from the southern end of the site is by way of a minor road. That road also provides entry to a commercial premises known as Glendalough Woollen Mills. To the north of the site houses in the village of Laragh are visible.
- 1.3. The site itself is relatively unremarkable in terms of its features. The narrow access road to the clubhouse grounds adjoins an area of mature trees, which separate much of the site from views from the public road. The clubhouse is a small simple single storey building. The majority of the site is laid out as playing fields for the GAA. There is a new public footpath which is located inside the stone wall adjoining the regional road at the eastern side of the site. Simple lighting structures and goalposts are in place. There is a small car park.
- 1.4. The county road from which the entrance to the site is taken is very narrow and is clearly marked on both sides with double yellow lines to prohibit parking of cars. To the west of the entrance to the GAA grounds there is a hump backed bridge which is a protected structure. The boundary of the site at this location is marked with a low stone wall. The main (regional) road is not defined with any marking. There is a sign the regional road identifying the commercial premises.
- 1.5. Photographs taken at the time of my inspection are attached.

## 2.0 The Question

The question relates to whether or not (i) use of Laragh GAA grounds for an adventure racing event and (ii) use of Laragh GAA clubhouse is development and is or is not exempted development.

Details of the applicant's submission in the request for a declaration describe the event as follows:

- Elite Event Management events include the Glendalough Quest event which takes place annually attracting 1,200 participants.
- The event involves running, cycling and kayaking in the national park.
- Participants arrive at the GAA grounds from 5am and racing begins at 8am with the last group of 150 persons departing at 10am.
- The pitches and clubhouse are used for car parking, race preparation, briefings, food preparation and entertainment.
- Race packs are collected in Dublin or at the Glendalough Hotel. The hotel is the venue for food, music and after party.
- A single photograph of the event is shown on the front of the submission.

## 3.0 Planning Authority Declaration

### 3.1. Declaration

Under EX71/16 the planning authority issued a declaration on the question.

The planning authority declared that the use of the grounds and clubhouse would come within the definition of development as defined under section 3(1) of the PDA 2000 as amended.

The use of the grounds is a temporary use which is of a sporting nature and the placing of temporary or moveable structures or objects on the land in connection with such use comes within the scope of Class 37 of Schedule 2 Part 1 of the PDR 2001 (as amended).

Having regard to the temporary nature of the development it would not be affected by any of the restrictions on exemption under A9(1)(a) and in particular would not contravene a condition or be inconsistent with any use specified in a permission, would not endanger public safety by reason of a traffic hazard or obstruction or road users or impact detrimentally on the Wicklow Mountains SAC.

A similar comment was made in relation to the use of the clubhouse and to condition 2 of planning reg. ref. 87/3250. The temporary nature of the use would come within the scope of Class 37 of Schedule 2, Part 1 of the PDR 2001. The use of the clubhouse would not contravene condition 2 having regard to the sporting nature of the event, the usage of the clubhouse being ancillary to the club activity and use of the clubhouse being by members of sports clubs and visitors and given the nature of the activity would be acceptable to the planning authority.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The main points of the planner's report include:

- The question has two elements namely whether the use of the lands as a car park / meeting place / starting point for the Glendalough Quest event is development and is or is not exempted development and separately whether the use of the clubhouse in relation to the event is development and is or is not exempted development.
- Participant numbers and attendees would be below 5,000 persons which is the audience number to which the provisions of licencing under section 230 of the PDA 2000 (as amended) would apply.
- The use of lands for parking, social activities, race start and all purposes associated with the Quest event and the use of the clubhouse in association with the event would (given the scale of activities, character and associated traffic implications) be a material change of use and would constitute development.
- The event is a sporting event and is a one day event and the use of the lands and the clubhouse would come within the provisions of Class 37 of PDR.

- With respect to A9 condition 2 of reg. ref. 87/3250 refers to use of the clubhouse by members and visitors and for ancillary club activities and not for use by other organisations except with the written agreement of the planning authority – would not contravene this condition.
- Would not endanger public safety by reason of traffic hazard due to the temporary nature of the event and the suitability of the roads and entrances
- Would not result in alteration or demolition of protected structures.
- Lands are not within the SAC the boundary to which is along the river and to the west –nature of the uses would not require an appropriate assessment.

## 4.0 Planning History

The planning authority has made a declaration on a related case under EX07/17, which is currently before the Board under RL3568.

The question referred to the use lands within the Wicklow Mountains National Park for an outdoor event involving cycling, running and kayaking. The planning authority determined that the use of the WMNP for a competitive adventure racing event is not development.

Reg. Ref. 87/3250 refers to the construction of the clubhouse and condition 2 regulates its use. The use is restricted to ‘use as a club house by members of a sports club and visitors and not for use by other organisations except with the written agreement of the planning authority’.

## 5.0 The Referral

### 5.1. Referrer’s Case

The declaration includes the substantive legal arguments, which are as follows:

- Event changes the use of the playing fields into a large car park and changes the use of the clubhouse into a restaurant and briefing area and changes the use of the entire site into an entertainment venue.

- Contravenes terms of reg. ref. 87/3250 which refers to use of changing facilities for club members.
- On the day of the event use is primarily as a car park.
- Due to nature of event and the road network, the event would cause serious congestion and hazard and would constitute a traffic hazard.
- Lead to endangerment of protected structure and endanger users of National Park.
- Change of use is material. The parking use is inconsistent with the use of playing fields and is not therefore exempted (A10(1)(c) refers) and constitutes a traffic hazard and is thus not exempted (A9 refers).
- Enclosed copies of orders of RL3309 and RL3404.

The referral submitted indicates that access to their shop was prohibited until early afternoon. Further the operator is a private company not a sports club. Two other events took place but were much smaller in scale. However, the grounds were used as a park and ride for the three months.

## 5.2. **Planning Authority Response**

The planning authority response received by Board on 24<sup>th</sup> March 2017 states

- A further referral was considered under reg. ref. EX07/17 details of which are enclosed
- Details include comments of DAHRRG
- The planning authority is unaware of a park and ride shuttle service being provided continuously for three months in Laragh.
- I refer to the planning history details of EX07/17, which relates to the use of the Park for the event, which are recounted above and which were submitted by the planning authority as part of the response to the current referral.

## 5.3. **Owner/ occupier's response**

The main points of the response by Laragh GAA are:

- Details of the numbers of participants (1021), the race departure time and number of cars (600) and location of parking (on the GAA grounds and in a nearby field) for the adventure racing event are set out.
- No more than short delays of one or two minutes for the duration of the commencement of the race over a two-hour period would have been experienced at Mr O' Neill's premises or shop.
- There were three other small events over the summer.
- The park and ride was related to normal traffic management and operated last summer four or five times and under licence and will not be used this summer.
- Safety management plan for the event enclosed.

#### 5.4. **Further Responses**

None.

## 6.0 **Statutory Provisions**

### 6.1. **Planning and Development Act 2000 as amended**

Section 2 – (1) In this Act, except where the context otherwise requires –

“use”, in relation to land, does not include the use of the land by the carrying out of any works thereon;

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3 – (1) In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Part XVI – section 230 relates to events and fairs.

## **Planning and Development Regulations 2001 as amended**

A6 provides that subject to A9 development of a Class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2.

A9(1)(a) sets out restrictions on the development which would normally be exempted under A6 – includes if the carrying out of such development would -

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users.

### *Schedule 2, Part 1 Exempted development*

#### *Class 37*

Development consisting of the use of land for any fair, funfair, bazaar or circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use.

#### *Conditions and Limitations*

1. The land shall not be used for any such purpose either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year.
2. On the discontinuance of such use the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.

#### Article 183

An event at which the audience comprises 5,000 or more people shall be an event prescribed for the purposes of section 230 of the Act.



## 6.2. Relevant Referrals and Case Law

- 6.2.1. RL3404 Use of an agricultural building and associated lands for small scale events constituted a change of use from existing agricultural use, which was deemed to be material change of use and constituted development. A number of the uses would fall under Class 37. However, would contravene condition of permission. Not exempted development.
- 6.2.2. RL3240 Use of airfield for sponsored parachute jumps. Is development and is not exempted development. Intensification of use as the activity gave rise to increased frequency of take-off and landing of aircraft and resulting noise impacts on residential property which might not have been anticipated in the original permission.
- 6.2.3. RL2970 related to use of agricultural lands by light aircraft (72 flight movements in 12 months). Board determined that a change of use occurred for the time that aircraft approached, landed and took off, and that this was a material change of use of the land. The extent of the material change of use was not so fleeting or infrequent to be considered temporary. Not exempted development.
- 6.2.4. RL2978 Use of public lane beside a public house as a bin store and smoking area was not development. Not a material change of use given the nature and frequency of the use.
- 6.2.5. RL3471 Use of agricultural fields as a car park constituted a change of use of these lands. Raised issues that are material in planning terms including in respect of traffic and residential amenity impacts and is therefore considered to be a material change of use and is development.
- 6.2.6. RL3309 Use of (industrial / related) lands for 12 days for outdoor cinema for attendance by 300 people. Planning conditions not contravened and not a traffic hazard. Exempted development under Class 37.
- 6.2.7. In the case of Galway County Council versus Lackagh Rock Limited [1985] I.R.120, Barron J. held that in order “to test whether or not the uses are materially different, it seems to me that what should be looked at are the matters which the planning authority would take into account in the event of a planning application being made, either for the use on the appointed day or for the present use. If the matters are materially different, then the nature of the use must be materially different”.

## 7.0 Assessment

### 7.1. Is or is not development

- 7.1.1. Regarding whether or not the sporting event is 'development' I consider that the matter falls to whether or not a material change of use is involved. The running of the event does not involve the carrying out of works.
- 7.1.2. A point is made in the submissions that the nature of the use of the site is sporting and that the same applies to the proposed events. The referrer's case relies on the change of use to a car park (primarily) and to a restaurant and entertainment venue for the day of the event.
- 7.1.3. I refer the Board to the small scale of the clubhouse and the nature of the club and the simple playing fields. The existing GAA facility is clearly local in nature and would not be likely to attract large volumes of traffic or players or spectators.
- 7.1.4. The nature of the Quest event, to which the question refers is different in terms of the scale and nature and I return to this matter latter. The question in the first instance is whether the Quest event constitutes a change of use.
- 7.1.5. I have outlined a number of previous referral cases which the Board has determined. RL2970 indicates that regardless of the very short length of time a material change of use may be determined to occur.
- 7.1.6. I am not persuaded that the running of an event as described comprises a change of use in this case. I consider that the use of the sports grounds in association with the organisation and management of adventure race is essentially of a sporting nature. Based on the evidence presented all of the activities which would take place are the same as those which would occur during the normal activities of the GAA grounds. Those uses include preparing for sporting activity, partaking of simple refreshments as part of that preparation and parking of cars by participants and supporters.
- 7.1.7. I do not consider that there is evidence to support the referrer's contention that the use of the grounds is materially changed to a car park or an entertainment venue or in any other respect. The uses associated with the event are the same as those which would normally occur at the site, albeit in a more intensive manner.

- 7.1.8. A change of use may occur by reason of intensification of use and that must also be taken into account by the Board. My conclusion on this matter is that due to the very infrequent occurrence of such events (a main event of up to 1,200 participants and three other events of much smaller scale), it is not reasonable in my opinion to conclude that there is an intensification of use.
- 7.1.9. On the matter of intensification of use, I consider that it is appropriate to place considerable weight on the very short duration of the overall event. The main event would occur over one half day. During that period the operator's submission is that the first race is at 8am and the last at 10am. There would be further activity later in the day as cars and possessions are collected. The referrer's submission indicates that by early afternoon there is limited effect on movement of cars along the road. The information prepared for race participants indicates that the Glendalough hotel is the main venue for food, music and after-party.
- 7.1.10. I submit that there is a limited time during which cars would come and go and the very limited impacts which this development would generate in terms of noise. I do not consider that it would be reasonable to conclude that there would be an adverse impact on the visual or residential amenities of the area.
- 7.1.11. I conclude that there are no material planning consequences from the running of the events and that the use of the grounds remains as a sporting-related premises and that due to the occasional and very short-term nature of the activities there is no intensification of use.
- 7.1.12. Finally, I consider that it is reasonable to take into account the nature of the village in which the site is located. The village of Laragh would on occasion be subject to both traffic congestion and relatively high level levels of on-street parking as well as relatively high levels of walkers and tourists. On cessation of the event, there would be no evidence that it had occurred.
- 7.1.13. Regarding the congestion on the local road during an event, my opinion is that this does not bring the event under the requirement for development.
- 7.1.14. I am satisfied that having regard to the nature of the locality and the temporary and short-term nature of the subject activity it would not be deemed to be out of character with the general area.

- 7.1.15. All of the above lead me to conclude that the events would not be reasonably described as constituting a material change of use by reason of intensification of use.
- 7.1.16. Arguments presented on behalf of the referral relating to the potential for traffic hazard, adverse impact on the natural or cultural heritage of this area would be relevant only in relation to restrictions on development which might otherwise be exempted development. A similar point applies in relation to the conditions of the permission. If the Board is in agreement with my conclusion that the activity is not development, these matters have no bearing.
- 7.1.17. I therefore conclude that the running of the events as described at this location is not development.

## **7.2. Other issues**

- 7.2.1. I consider that if the Board decides that the question refers to 'development' there are two particular aspects of the arguments presented in this case which warrant further comment. These relate to Class 37 and the planning history of the clubhouse.
- 7.2.2. The planning authority has decided that the development is not exempted development by reason of Class 37. The latter relates only to 'local' events. This is not a local event in my opinion. I agree with the referrer that the event would be of national scale.
- 7.2.3. The planning history does not in my opinion restrict development which would otherwise be deemed to be exempted development (e.g. under Class 37). The specific wording of condition 2 clearly allows the use of the clubhouse by 'other organisations' where the written agreement of the planning authority is obtained. In effect the submissions of the planning authority on these referrals constitutes the obtaining of written agreement and the planner's report is referenced in this regard.
- 7.2.4. Finally I refer the Board to the condition which regulates the use of the clubhouse. Subject to the written agreement of the planning authority a wide range of uses might be deemed to be authorised.
- 7.2.5. I provide the above comment as supplementary information, which does not alter my recommendation.

## 8.0 Recommendation

8.1. I recommend that the Board should decide this referral in accordance with the following draft order.

**WHEREAS** a question has arisen as to whether (i) the use of the GAA grounds for an adventure racing event (ii) related use of the GAA clubhouse is or is not development or is or is not exempted development:

**AND WHEREAS** Joe O'Neill requested a declaration on this question from Council and the Council issued a declaration on the 1<sup>st</sup> day January, 2017 stating that the matter is development and is exempted development:

**AND WHEREAS** Joe O'Neill referred this declaration for review to An Bord Pleanála on the 25<sup>th</sup> day of January, 2017:

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000,
- (c) Section 4(1)(a) of the Planning and Development Act, 2000, as amended,
- (d) The established use and planning history of the site and
- (e) The pattern of development in the area:

**AND WHEREAS**

An Bord Pleanála has concluded that:

- (a) The established and authorised use of the site is for sporting events
- (b) The activities on the site during the occasional use of the grounds

and clubhouse are of similar nature and would not result in material planning consequences

- (c) The proposed occasional use of the lands as specified does not constitute a material change of use of the sports fields and clubhouse.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that (i) the use of the GAA grounds for an adventure racing event and (ii) use of the GAA clubhouse is not development.

---

Mairead Kenny  
Senior Planning Inspector

26<sup>th</sup> February 2018