

DC 19/11

Registered Mail

11th February, 2019

An Bord Pleanála
64 Marlborough Street
Dublin 1.

Re: Section 5 Referral.

Dear Sirs

This is a referral under Section 5 of the Planning and Development Act, 2000 for a determination by An Bord Pleanála on a question, as to whether works constitute development or exempted development.

Question: *'Whether the use of an existing permitted outdoor pursuits area (PL03/419 refers) for clay pigeon shooting is or is not development or is or is not exempted development'*

Location: Cranleymore, Edgeworthstown, Co. Longford

Context

This is a reference case to An Bord Pleanála made by Longford County Council under Section 5 of the Planning and Development Act 2000 (as amended). Section 5(4) of the Planning and Development Act 2000 (as amended) states:

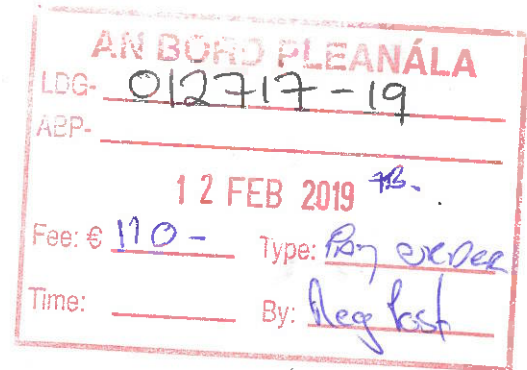
Notwithstanding subsection (1), a planning authority may, on payment to the Board of such fee as may be prescribed, refer any question as to what, in any particular case, is or is not development or is or is not exempted development to be decided by the Board.

Accordingly the following question arises in relation to a proposed development on lands at Cranleymore, Edgeworthstown, Co. Longford.

"Whether the use of an existing permitted outdoor pursuits area (PL03/419 refers) for clay pigeon shooting is or is not development or is or is not exempted development"

Planning History

03-419 Planning permission granted to Tom McLoughlin for continuance of use as a karting track and change of use from forestry to outdoor pursuit area.



STATUTORY PROVISIONS

Legislative Context

Planning & Development Act 2000-2015:

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

“unauthorised development” means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use;

“unauthorised use” means, in relation to land, use commenced on or after 1 October 1964, being a use which is a material change in use of any structure or other land and being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or *section 4* of this Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 or under section 34 or 37G of this Act, being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;

“unauthorised works” means any works on, in, over or under land commenced on or after 1 October 1964, being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or *section 4* of this Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 or under section 34 or 37G of this Act, being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;

“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.

“outdoor pursuits” An open-air sporting or leisure activity, such as orienteering, mountaineering, or canoeing.

https://en.oxforddictionaries.com/definition/outdoor_pursuit

AN BORD PLEANÁLA

12 FEB 2019

LTR DATED _____ FROM

Schedule 2 Part 1 Exempted Development – General

Development for amenity or recreational purposes

CLASS 33

Development consisting of the laying out and use of land—

(a) as a park, private open space or ornamental garden,

(b) as a roadside shrine, or

The area of any such shrine shall not exceed 2 square metres, the height shall not exceed 2 metres above the centre of the road opposite the structure and it shall not be illuminated.

(c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land

Consideration

Having regard to the above permitted development and the definition of outdoor pursuits and also having regard to Class 33 eliminating firearms from the exempted development category the Planning Authority is of the opinion that the use of an existing permitted outdoor pursuits area (PL03/419 refers) for clay pigeon shooting is development that is not exempted development. However, given the nature of the proposed development and the need for clarity in the issue the Planning Authority proposes to refer this question to An Bord Pleanála for a determination.

Recommendation

Accordingly, it is respectfully requested that An Bord Pleanála determine under Section 5(4) of the Planning and Development Act 2000 (as amended): -

“Whether the use of an existing permitted outdoor pursuits area (PL03/419 refers) for clay pigeon shooting is or is not development or is or is not exempted development”

I attach herewith the Section 5 Reference case and the fee of €110.

Yours sincerely



Planning Section

