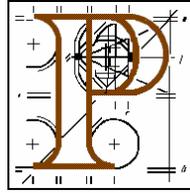


## An Bord Pleanála



### Inspector's Report

**Development:** Football pitches, clubhouse, sports hall, covered stand, new vehicular entrance, associated access roads, footpaths, parking, fencing and netting, associated services and site works at Ballynalina, Kells Road, Kilkenny.

#### Planning Application

Planning Authority: Kilkenny County Council  
Planning Authority Reg. Ref.: 09/126  
Applicant: CLG Sheamuis Stiophain  
Type of Application: Permission  
Planning Authority Decision: Grant Permission

#### Planning Appeal

Appellant(s): John Phealan  
Ballynalina Residents Association  
Type of Appeal: Third Parties V Grant  
Observers: Maria Donnelly  
Vera Phealan  
Stephen and Gina Renehan  
Jim Byrne  
Sean Donnelly  
Date of Site Inspection: 3<sup>rd</sup> February 2010

**Inspector: Kenneth Moloney**

## **1.0 SITE DESCRIPTION**

The appeal site is located approximately 4.5 km south of Kilkenny City in a rural setting with road frontage along the regional road R697. The length of road frontage onto the regional road is approximately 95 metres and there are existing houses which front onto the regional road located immediately north and south of the appeal site. There are also existing houses on the opposite side of the regional road.

To the north of the appeal sites road frontage there are two houses and in between these two houses there is a laneway which provides access to the subject site. It would appear from a visual observation of the area that this laneway is used primarily for agricultural purposes to serve the subject site. The eastern boundary of the appeal site is adjoined by what would also appear to be an agricultural laneway. This laneway is accessed from a local road situated north of the appeal site.

The size of the appeal site is approximately 14.89 ha (36.77 acres) and the shape of the appeal site is irregular. The appeal site is currently in agricultural use and at the date of the site inspection the appeal site was recently ploughed. The appeal site is generally at a slightly lower level than the public road.

The appeal site has distinct field boundaries consisting of mature hedgerows and some matures trees. There is an existing pond situated north east within the appeal site.

## **2.0 PROPOSED DEVELOPMENT**

The proposed development is for the following;

- No. 4 playing pitches
- New warm up / practice pitch
- New clubhouse / changing rooms
- Vehicular entrance from Kells Road
- Footpaths / access roads / landscaping

The proposal also includes a spectator stand which overlooks Pitch no. 1 which has seating to accommodate 398 seats. The proposed development is to be accessed off the regional road and provides an internal access road which is approximately 160m in length. The proposal provides car parking provision for 163 spaces on a tarmac surface. There is also provision for bus parking. The proposal also includes a covered cycle parking stand with provision for 21 spaces. The proposed clubhouse is two-storey in height and has a total floor area of approximately 2208 sq. metres.

Additional information was sought regarding (1) sightlines, (2) revised entrance, (3) mitigation measures to prevent adverse impact on surface water drainage, (4) roadside boundary details, (5) roadside signage, (6) details of bus access, (7) details of turning circle within the grounds, (8) parking provision, (9) details of all

signage and road markings, (10) pedestrian provision within the site, (11) details of access onto local primary road, (12) re-excavation of trial hole on site, (13) clarification of the T & P values, (14) examine overall site for suitable location for polishing filter, (15) drainage, (16) revised phasing programme, (17) management plan for the overall running of the proposed facility, (18) clarify any floodlighting proposals, (19) details of the proposed clubhouse, (20) photomontages, (21) galvanised steel sliding entrance is considered unfavourable, (22) boundary details, (23) existing hedgerows, (24) landscaping and (25) planting proposals along eastern boundary.

The local authority considered that the response to the A.I. was satisfactory. Revised notices were submitted with the A.I. and subsequent to these notices there were additional third party submissions which are attached to the file.

### **3.0 PLANNING AUTHORITY'S DECISION**

The Planning Authority decided to grant planning permission subject to 33 conditions.

- Condition no. 1 – In accordance with submitted plans
- Condition no. 2 – 10 year permission
- Condition no. 3 – Temporary changing facilities / toilets
- Condition no. 4 – No bar use
- Condition no. 5 – No floodlighting
- Conditions no. 6 – 23 – Traffic Safety
- Conditions no. 24 – 26 – Landscaping
- Conditions no. 27 – 28 – Drainage
- Condition no. 29 – 30 – Waste Management
- Conditions no. 31 – 33 – Environmental

Internal Reports: There are 3 internal reports on the file:

- Roads Design: Additional information sought as per additional information request above (items 1 – 11).
- Environment Section: Additional information required as per additional information request (items 12 – 15).
- Parks: Consideration for accommodating playing pitches within existing field boundaries and revised landscaping requested.

Objections: There are 15 third party objections on the planning file and the issues raised have been noted and considered.

### **4.0 PLANNING HISTORY**

- L.A. Ref. 87/336 – Outline planning permission refused for 4 dwellings on a portion of the subject site.

## **5.0 DEVELOPMENT PLAN**

The relevant development plan for the subject site is the Kilkenny County Development Plan 2008 – 2014.

Section 7.2 sets out guidance and policies in relation to recreation and amenities.

Section 9.4, 'Road Network', of the County Development Plan outlines guidance and policies for access.

Section 10.8 'Parking and Loading' outlines the council's guidance in relation to parking and loading standards.

Section 10.30 sets out guidance for cycle facilities

Section 10.33 sets out guidance for waste water treatment

Section 10.37 sets out guidance for Tree and Hedgerow Preservation

## **6.0 NATIONAL GUIDELINES**

### National Spatial Strategy

The appeal site is located within the South East region of the N.S.S., wherein the objectives are to enhance the critical mass through Waterford performing as 'gateway' supported by Kilkenny and Wexford as 'hubs'. The strategy promotes a strong urban-rural structure needed throughout the country to complement development in the east, the strategy therefore builds on identified gateways and hubs.

### The South East Regional Planning Guidelines, 2004

The Regional Planning Guidelines set out a settlement strategy (Section 4) for the region. Kilkenny City is identified as a hub in the region and Thomastown is identified as a District Town.

Section 7.4 'Leisure Facilities' advises that for the south east region to be successful in achieving 'critical mass' and it is important that these aspects of life are not ignored. The availability of leisure facilities is a quality of life issue that needs to be addressed if the region is to achieve full potential as a place where people choose to live.

Section 8.6 'Amenities' outlines that due to increasing population levels and significant housing demand there is a emphasis on the need for quality open space and recreational opportunities for residents, especially those in urban areas. *'It is envisaged that policies relating to consolidation of the existing built-up areas through increased residential densities and maximising the potential of under-developed lands will place increased importance on the provision of quality open spaces'*.

Planning Authorities are advised that they should;

- Locate areas of open space, recreation and sports facilities within easy access by walking and cycling.
- Locate larger facilities likely to attract significant numbers of people and to be intensive trip generators on routes well served by public transport.

## **7.0 GROUNDS OF APPEAL**

Peter Thomson, Planning Solutions, lodged an appeal on behalf of **John Phelan** who is owner and resident of the property immediately south of the vehicular entrance for the proposed development. The main grounds of appeal are summarised as relating to the following; -

- The open rural landscape has been a prominent feature of the residential amenity enjoyed by the appellants for many years.
- It is noted that the appellant's property is only 3 metres from the boundary and 8 metres from the proposed access.
- It is contended that given the traffic generation from the proposed development that this will act as a traffic hazard for the appellants.
- It is contended that exiting the appellant's property will be dangerous on match days given overtaking traffic travelling in the Kells direction. There will also be difficulty exiting the appellant's property when traffic is leaving the proposed G.A.A. ground.
- It is submitted that there are no measures to prevent parking on the roadside edge between the two entrances. It is stated that cars will park on the road side edge for overflow however it will be no longer safe to park there as it will interfere with sightlines.
- It is contended that the proposed sightlines are inadequate as the northern radius is 15m and the southern only 5m. It is contended that these radius are shown to illustrate compliance with the 145 visibility splay to the north which would not otherwise be achieved given privately owned property.
- It is submitted that agreement will not be forthcoming to alter the roadside margin outside the appellant's property to achieve the proposed sightlines.
- A previous planning history on the appeal site (L.A. Ref. 336/87) refused permission for four houses on traffic grounds as it was considered that the four additional houses would reduce the carrying capacity of the regional road.
- It is contended that the noise and fume impact of the proposed traffic generation would impact negatively on the adjoining residential amenities. It is contended that the same noise will be generated from the warm up / practice pitches adjacent the appellant's house.
- It is submitted that the proposed development amounts to back land development and that if the proposal was for a single house to the back of another house that it would be refused permission. It is therefore argued that the same grounds should apply to the proposed development.
- It is submitted that the proposed development will have a detrimental impact on the established visual amenities from the appellant's property. The appellant currently has views into the rural landscape and this will be taken away by the proposed development. It is submitted that the agricultural zoning objective seeks to safeguard against this visual intrusion of the open countryside and the proposal should be refused on these grounds.

- It is considered that the proposed development is project splitting as it is unclear from the information on the file what is the future proposals for floodlighting and indoor training facility.
- It is contended that should the proposed development be granted permission that it would devalue the adjoining property.
- It is submitted that there are legal matters unsolved including the location of the appellant's wastewater percolation area which is within the appeal site and it is now proposed for planting. Additionally the appellant claims that they have had unlimited access to a portion of land adjoining the road side edge and has been used for depositing hedge clipping and grass.
- The appellant wishes to be informed of any changes that occur from the appeal submissions, particularly in relation to the vehicular entrance.

Peter Thomson, Planning Solutions, lodged an appeal on behalf of the **Ballnalina Residents Association**. The main grounds of appeal are summarised as relating to the following; -

- It is submitted that the residents association have no objection in principle to the GAA Club relocating its facilities or expanding its facilities but is opposed to its relocation to a rural setting.
- It is submitted that the planning authority, in their assessment of the proposed development, have not fully considered all third party submissions and this is evident from the absence of any reference to third party submission in the reasons and considerations. The appellant also notes that the local authority planners report makes no reference to third party submissions to the additional information. It is therefore contended that the planning authority has not had regard to Section 34(3) of the Planning and Development Act, 2000.

#### Development Plan Provisions

- It is contended that the proposal is contrary to the development plan on the following grounds;
  - Contrary to agricultural zoning of the site as proposed use is not permissible or open for consideration
  - In the City Development Plan provisions 'sports grounds' are permitted in '*recreational, amenity and open space*' zoning provision.
  - It is contended that the proposed development is contrary to Section 6 and 7 of the County Development Plan.
  - It is contended that the proposed will have a negative impact on this rural area and nowhere in Section 6 does it state that sports facilities are appropriate in rural areas.
  - Par. 7.2.2.9 of Section 7 of the Plan relates to outdoor recreational facilities in the countryside and it is stated that the development will not normally take place where there is a loss of good agricultural land.
  - It is submitted that the proposal would be contrary to Section 7.2.2.11 (major sports facilities and stadia E.I.A. required) and Par. 7.2.2.12 (noise generating sports).
  - It is submitted that the proposal fails to satisfy the requirements of sustainable development as the proposal is located approximately 4km from the existing built up area and its purpose is to satisfy an urban population.

- It is contended that the proposed development materially contravenes the development plan in a number of respects.

#### Alternative Sites

- It is contended that the applicant has not adequately considered alternative sites and has not giving due regard to a sequential test.
- It is considered that while it may be difficult to locate a suitable urban site this does not render the appeal site suitable.
- It is stated that permission should be refused on the basis that the applicant has not satisfied the sequential site selection process.

#### Vehicular Access

- The applicant has not provided the required 4.5m set back distance as the proposed setback distance is only 2.4m. It is noted from the relocated entrance position and the 2.4m set back the applicant is only able to achieve the sightline vision of 145m. The auto-track entrance confirms that 2.4 set back distance does not work.
- It is submitted that given the design speed and road outside the entrance that a significantly higher level of visibility than the minimum set out in the NRA manual should be provided.
- Having regards to greater visibility the planning history on the appeal site is noted. A previous planning application, i.e. L.A. Ref. 336/87, was refused permission for four houses on traffic grounds as it was considered that the four additional houses would reduce the carrying capacity of the regional road. Additionally the road alignment along the application site is considered the only straight stretch of road from the city limit to a junction south of the appeal site and therefore is the only section of road that allows overtaking. Travelling speeds would normally be 100kph which is the norm along this stretch of road and therefore the required visibility, by NRA Manual Standards, is 215m in both directions at a minimum set back of at least 3m.
- It is noted that the road safety audit for the original entrance is now irrelevant and that no revised road safety audit was carried out for the new entrance.
- It is contended that no consideration has been given to the house entrance immediately south and the entrances opposite and it will now be difficult to exit these entrances.
- There are no measures to ensure no roadside parking on the immediate margin to the appeal site.
- There are no proposals for public footpath provision, public lighting or cycle paths.
- Overall it is considered that the proposal will result in a traffic hazard.
- It is submitted that the reason for the relaxation of the NRA DMRB has not been publicly placed on the file which is contrary to guidelines. It is contended that there are no 'difficult circumstances' to warrant a set back.

#### Access from Local Road

- It is submitted that the applicant has only stated ownership of the narrow lane to the east of the appeal site. It is stated that this lane should be used for agricultural purposes only and should not be used for pedestrian and cyclist access.

- It is submitted that cycle conditions are poor along the local road and also along the Kells Road from Kilkenny City. It is submitted that the local road becomes a rat run for motorists trying to avoid traffic on the Kells Road.
- It is submitted that the immediate area of the appeal site will not be safe for pedestrians and that condition no. 7 is not enforceable.
- It is contended that unauthorised parking along the local road will impact on residential amenities and farm practices.

#### Site Suitability

- It is submitted that no site suitability tests were undertaken at the location of the proposed percolation area associated with the wastewater treatment plant. The applicant revised the location of the percolation area in response to a further information request and no subsequent testing was undertaken. There is no indication on the file of site testing or test holes.
- It is submitted that it is not appropriate to deal with this issue retro respectively. It is also important to determine whether a discharge licence is required for treated effluent.
- It is submitted that there is no assessment of the impact of the proposal on a third party well located north of the proposed treatment plant percolation area.
- There is no evidence whether the proposal will give rise to pollution to the ground waters.
- No tests were undertaken to demonstrate the suitability of surface water drainage.

#### Impact on Residential Amenity

- It is contended that the applicants have underplayed the scale and nature of the proposed sports facility and that it is likely to be used far greater than that stated having regard to correspondence from local schools and the Kilkenny County Board.
- It is contended that this is a city / sub county sports facility.
- It is contended that it will be difficult to resist further intensification proposals once the principle of a sports facility has been established at this facility.
- It is unclear from the information on the file regarding the future proposals for floodlighting and indoor training facility.
- There will be major noise implications on adjoining residents having regard to parking provision and the late opening times of the proposed community hall. It is submitted that the high noise levels will have an adverse impact on surrounding farm animals.
- No photomontages were submitted, as requested by the local authority, to assess the visual impact of the proposed development.
- It is submitted that the proposed development will create an adverse visual impact in this rural area.

#### Impact on natural drainage of the site

- The drainage in the general area is poor.
- The removal of the existing hedgerow will compound surface drainage.
- This is particularly relevant along the eastern boundary and will therefore adversely impact on farmland to the east and north.
- The removal of hedgerow will adversely impact on wildlife habitats.

- The proposed landscaping proposals to replace existing hedgerow with single species trees will do little to compensate the loss.
- It is submitted that the joint owners of the hedgerows have not been consulted about their removal.
- The applicant has not complied with the local authority further information request who requested the applicant retain the existing field boundaries.

#### Impact on farming

- It is submitted that the applicant and the local authority have failed to undertake a full assessment of the impact of the proposal on farming practices.
- It is submitted that the proposed development contravenes the agricultural zoning objective of the appeal site.
- It is submitted that residents in this area are entirely dependent of their farming income.
- It is submitted that adjoining farms, which are at lower level than the appeal site, both existing and proposed levels, will be susceptible to increased surface water drainage. It is submitted that the proposed works including hedgerow removal, proposals to alter ground water and interference with water table will adversely impact adjoining farm land.
- It is submitted that crop spraying will be restricted if the proposed development goes ahead.
- The presence of crowds in close proximity to livestock brings about negative impacts on animal behaviour and productivity.
- The moving of livestock will become difficult when there are large crowds in close proximity. The movement of agricultural machinery in the local area will not be possible when club facilities are in use.

#### Impact on the value of property

- It is contended that should the proposed development be granted permission that it would devalue the adjoining property.
- The proposed development will inhibit farming activity and therefore reduce farm values and productivity.

### **8.0 OBSERVERS**

Five observers have lodged submissions, the names of which are all listed on the cover sheet, and the following is a summary of the principle issues submitted.

- The proposed development is in a rural area and is contrary to the agricultural zoning objective of the site.
- The Kells Road is unsuited to large volumes of traffic as the road has many bends. Accessing and exiting adjacent properties will become increasingly difficult and with the removal of hedgerow on the southern side this may encourage motorists to speed up along the Kells Road. A previous application on the site (L.A. Ref. 336/87) refused permission for four houses on traffic grounds as it was considered that the four additional houses would result in unacceptable traffic. It is therefore considered that the proposed development cannot be justified. Additionally planning permission has been granted (L.A. Ref. 08/1514) for soccer pitches out the Kell's Road and this will add to traffic

in the area. Presently there are approximately 17 entrances in a space of about 250m.

- The removal of 80 metres of hedgerow along the southern side of the proposed vehicular entrance seems excessive for this area.
- It is submitted that the subject site experiences flooding for several months in the year and adjoining sites are at lower level than the appeal site which will result in flooding onto adjoining lands. The appeal site is a natural basin in a flood plain and is not suited to development.
- The adjoining residential amenities will be compromised and the market value of properties will be devalued. The proposal will impact negatively on existing noise levels and also on visual amenities of the area.
- The proposed cycle way on the laneway to the east of the site is objected to on legal grounds as the applicant does not have adequate ownership of same. There is an agricultural right of way along the entire laneway.
- The proposed soak pit to the south east of the appeal site and the sand polishing filter to the north east of the appeal are within close proximity to sand pit on the opposite side of the laneway. The sand polishing filter is approximately 190 metres from a third party domestic waster supply.
- The proposal will impact negatively on adjacent farming practices.
- It is submitted that the local authority granted planning permission without excavating trial holes. No proper site characteristic form was submitted.
- There are unresolved legal issues regarding percolation area and portion of land adjoining front gardens of adjacent properties.
- The proposal represents backland development.
- It is contended that the planning notices are inaccurate as the playing pitches are for hurling not football.
- The need for relocation must be examined given that the current location in the City environs is convenient for access.

## **9.0 RESPONSES**

Tom Phillips and Associates, Planning Consultants, lodged a response submission on behalf of the applicants. The submission includes commentary on the nature, rationale and extent of proposal, advance consultation with local residents, details of changes occurring from further information. The submission also includes details of the statutory planning context and non statutory planning context. The main grounds of the response to appeal submissions are summarised as relating to the following; -

- It is submitted that the planning authority has appropriately assessed the planning application and its merits and has had the benefit of a detailed further information response in assessing the proposed development.

### **Materially Contravenes the Development Plan**

- It is submitted that there is no fundamental departure from the development plan and this is in accordance with Paragraph 5.12 of the Development Management Guidelines for Planning Authorities, June 2007.
- The development plan makes no reference to the inappropriate nature of the proposed use in a rural area.

- It is contended that the proposal is in accordance with Chapter 6 ‘Rural Development of the County Development Plan.
- It is submitted in accordance with Paragraph 7.2 of the County Development Plan an open space, sports and recreational study was commissioned to identify and meet the recreational needs of Kilkenny City and environs.
- The proposed development is in accordance with **Policy RTA14** (adequate recreational space provided) and **Policy RTA15** (strategic approach to the development of open space).
- It is submitted that the proposed development is in accordance with Section 7.2.2.1 (Recreational Facilities) and Section 7.2.2.2 (Protocol for development facilities) of the County Development Plan.
- It is contended that the location of the proposed recreational facility is convenient to national routes and with a catchment of 10 – 20 km would be in accordance with the County Development Plan.
- It is stated that the applicant has had regard to the sequential approach in considering the location of the proposed development and that a new stand alone facility has been the only option available to them.
- It is contended that the application is in accordance with Section 7.2.2.9 ‘Outdoor Recreation in the Countryside’ of the County Development Plan. In this regard the following is noted (a) the proposal will not effect any site of nature conservation or built heritage, (b) the proposal will not impact on best agricultural lands, (c) having regard to the landscaping proposals and the proposed total built area the proposal will not impact on the appearance of the local landscape, (d) the proposed development, given its use, will not adversely impact on the adjoining residential amenities, (e) given the building footprint proposed it will be sympathetic to the surrounding environment, (f) the proposal will be environmentally friendly as there is sustainable transportation including the encouragement of car pooling and use of cyclists.
- It is contended that the proposed development is not considered a ‘noise generation sport’ which is principally associated with motorised and gun/firearm sports.
- It is therefore contended that the proposed development would comply with development plan provisions and would not materially contravene the County Development Plan.

#### Consideration of Alternative Sites

- It is submitted that the applicant has had an extensive and exhaustive search for suitable available sites over a 10-year period.
- Land values particularly in close proximity to the environs of Kilkenny City have been prohibitive in the search for alternative sites.
- A map (Figure 4.1) is submitted illustrating the search for sites in the wider area of the appeal site. Additionally a table (Table 4.1) is submitted which outlines that most of the sites were either unavailable or too expensive.
- Auctioneers services were sought in assisting with the search for alternative sites and correspondence to this regard is contained in Appendix C & D.
- As the GAA is based on the Parish structure the GAA Club has restricted its search within the Parish boundary.
- Contrary to the appellants’ claim a financial consideration is a barrier to site selection given that the search is for GAA Club.

- The Club is currently using the pitches owned by local schools.
- It is submitted that the price of land closer to the City would not ensure the Clubs continued survival and would not be sustainable in financial terms. It is therefore submitted that the special and exceptional circumstances exist to allow the location of a low value use at a more distant location to ensure survival of this sporting club. It is submitted that the local authority acknowledge the reasons for the site selection.
- It is submitted that the appellants states that the immediate needs of the Club could have been met on a smaller site. This is partially true however the applicant choose a larger site to allow for a greater degree of integration of the proposed playing pitches with the local environment.

#### Vehicular Access

- The NRA DMRB standard was altered in 2009 and the set back which sight distances are measured is now 3m (previously 4.5m). The set back might be reduced at the designer's discretion to 2.4m.
- The required sight distance for the road adjoining road (80kph) the appeal site is 145m.
- It is submitted that the road adjoining the appeal site is not the only section of road that allows overtaking.
- In designs standards there is no relationship between required sightlines and frequency of use.
- It is submitted that the provision of sightlines in excess of the requirements of the DMRB have not shown to provide additional benefits.
- The Road Safety Audit is directly related to the revised access. The authors have confirmed to the designer that the revised layout is satisfactory.
- The traffic capacity assessment indicated that the road network is capable of accommodating the traffic generation and it indicates that the adjoining residents will not be *'hostages in their own homes'* as claimed by the appellants.
- The Auto-track assessment ensures safe access for buses.
- Having regards to the amount of parking provision it is contended that roadside parking will not occur. No footpath provision is included along the road as the proposal will not attract pedestrians from the City. Children will be carried by car pooling or minibus.
- It is contended that it is good practice to use DMRB in non-national road situations. The designer has made use of permitted relaxations and recorded the fact. This was discussed in the Road Safety Audit and with the local authority.
- Access onto the local road (LP2630) will be limited to rare occasions, 2 – 3 times a year. Folio maps and land registry details (Appendix D) confirms ownership. Cycle access is proposed onto the local road as it will not inhibit local traffic. It is proposed that cyclist will use the Waterford Road to reach Kilkenny City and will benefit from the hard shoulder and will not need the Kells Road.
- There is no basis that the local road will become a rat run.
- There is sufficient parking within the proposed development.

### Site Suitability (Drainage)

- Work has been undertaken to ensure that local drainage will not be affected by the proposed development.
- Contrary to the appellants claim site suitability tests were undertaken in the location of the proposed percolation area (See TN02 Figure 002).
- Contrary to the appellants claim test holes were carried out to demonstrate to the planning authority that ground conditions were suitable but later filled in accordance with safety requirements. These tests are detailed in the Water Infrastructure Design Report submitted with the planning documents.
- The local authority has imposed a condition for appropriate percolation test in the area proposed for sand polishing filter.
- The excavation of holes has taken place for the purpose of percolation tests. The test holes were not left open as the site is part of an active agricultural land holding.
- TN01-Figure 001 (Appendix E) illustrates the location of test holes. Further information regarding these test holes is contained in the Water Infrastructure Design Report which accompanied the application.
- A third party well (evident from GSI database) is located approximately 167 metres north of the proposed sand polishing filter.
- Although the topography would allow for north flow direction given the separation distance there is no real impact on the local well.
- The EPA design manual recommend a separation distance of 30m where ground water flow is unknown and the well is located down gradient of the polishing filter.
- Given the amount the water supply requirements and supply the proposed development will have a limited daily discharge and will not require a discharge licence.
- It is not considered that the area of the proposed wastewater treatment plant is the subject of flooding as the plant is proposed at the highest point.
- Significant drainage infrastructure is proposed to deal with surface water drainage. It is submitted that the areas where the appellant indicates ponding are low lying areas. Part of the reason of ponding is that there is no surface water drains.
- The design of the formal drainage system as proposed takes account of the entire development.
- Site testing was carried out for all the ground conditions in the location of soakaways. In accordance with TNO2-Figure 001 two soakaways and the sand polishing filter are proposed.
- The drainage design provides for two soakaways to take account of significant run-off from the adjoining agricultural lane. The design of the drain scheme and the soakaways is contained in Appendix C of the Water Infrastructure Report. The appeal site is generally lower than adjoining sites and will therefore not flow into adjoining sites.

### Impact on adjoining Residential Amenities

- The usage of the facility will be determined by weather conditions and there will be a difference between winter and summer usage. It is contended that usage will cease between November and February. The intensity of the use will peak between May and August.

- There are no proposals for floodlighting.
- The peak period which includes blitz tournaments is likely to occur no more than 3 times a year and this will generate a crowd between 200 and 300 persons.
- The indoor training facility was removed from the application. The indoor training facility is going to be accommodated in its Larchfield Headquarters and the amount of daylight hours during peak period will ensure that floodlighting is not required.
- In relation to noise the closest playing pitch to an opening habitable room window is approximately 130 metres. It is contended that the proposed houses are located west of the playing pitches and considering that prevailing winds tend to travel from a south westerly direction to a north-easterly the sound impact will be minimal. The covered stand is open to the east and away from the neighbouring houses. Increased landscaping is proposed to the rear of the main group of residential houses.
- Traffic will be limited to peak periods. The use of the meeting rooms and community hall will be limited by capacity.
- In relation to visual impact the applicant submitted to the local authority a visual assessment from the N10 Waterford Road. The applicant and the local authority is satisfied that the proposed development will not result in a detrimental impact on the visual amenities of the area.
- The principle built elements have been relocated a further 50-60 metres into the centre of the site whereby the level is some 7 metres lower than the public road and it is considered that the clustering of the proposed buildings will have the appearance of farm buildings and would be similar in scale and nature to an agricultural yard.
- The proposed built facilities are in excess of 100m of the nearest residential boundary, the proposal provides for low level lighting for access and car parking and the proposal includes a walking circuit for the benefit of local users.

#### Impact on Hedgerow / Wildlife

- The proposal retains hedgerow to the north of the warm up area and north of pitches 3 & 4 and is retained for the entire perimeter of the site.
- The proposed landscaping includes the growing of ash trees, which includes some 2.5 acres of planting of native species trees in total.
- Beech hedgerows will be planted between pitches. It is contended that the orientation of the pitches reflects the field pattern.

#### Impact on Farming Viability

- It is not considered that an open space use would be detrimental to farming activities in agricultural land.
- It is equally contended that single dwelling occupiers can equally impact on farming activities.
- The appeal makes reference to impact on livestock while the agricultural land is in use for tillage.

### Impact on Property Values

- It is submitted that the view of an auctioneer in assessing the impact on property values in relation to planning is subjective in nature.
- It is acknowledged that the development exemptions in the Planning Regulations, 2001, allows for an agricultural roofed structure no greater than 75 sq. metres no closer than 100 metres from a residential use.

### Impact on current parking arrangements to adjacent property

- It is contended (in accordance with the TIA) that the worse-case scenario will be that 315 cars will arrive and depart for a match. The TIA indicates that access will operate without congestion and without impacting on the adjacent properties.
- The match traffic will not alter the principles of how the adjoining properties enter or exit their vehicular entrances.
- The radii of the entrance is 15m to the north and 6m to the south. The 15m is allow buses turning into development without having to sweep across the centreline of the Kells Road. The 6 m radius is to ensure that traffic turning left out of the development will not interfere with main line traffic. Buses exiting the development and turning left will wait until their path is clear.
- No works is proposed to be carried on the public road frontage on lands outside the control of the applicant.

### Project Splitting

- Floodlights will not be provided as usage will mainly be during daylight hours during summer period.
- The indoor facility will be at the clubs Larchfield Headquarters.

### Legal Issues

- A solicitor's letter is submitted stating that there is no easement or agreement in the folio or lands register for the location of the appellant's percolation area.
- Additionally it is noted that the appellant does not have any legal access to an adjoining boundary hedge.
- No evidence to contrary has been confirmed in the folio or land registry regarding the appellant's claims.

### Similar Developments Nationally

- It is submitted that there are two recent Board decisions (appeal ref. 229318 and appeal ref. 227417) for the relocation of sporting facilities from urban area to urban-rural setting and although these cases did not achieve positive outcomes there were some important principles established.
- These include (appeal ref. 229318) the proposed development would not adversely impact on the residential or visual amenities of the area. Permission was refused on the basis that the relocation of the sporting facility would mean that a recreational presence would be lost in the urban area.
- In relation to appeal ref. 227417 the inspector did not have wholesale concerns with the relocation of the sporting facility from an urban area to a rural area. The Board refused permission on the basis of ground conditions and road access.

## **10.0 ASSESSMENT**

The main issues to be considered in this case are: -

- 1.0 Principle of Development
- 2.0 Access
- 3.0 Residential Amenity
- 4.0 Site Suitability
- 5.0 Natural Drainage
- 6.0 Other Issues

### 1.0 Principle of Development

The proposal is for the development of 4 no. gaelic sports playing pitches for the training requirements of James Stephens GAA Club with ancillary built facilities. The club presently has one full-size pitch at Larchfield, the traditional home to the Club, and a juvenile pitch is retained at Nuncio Road, both of which are in Kilkenny City. The purpose of the proposed development is to act primarily as a training facility and playing pitch, mainly for juvenile members, as the club has undergone significant expansion due to local population growth. It is contended that the existing facility in Kilkenny City can only accommodate one senior pitch. The clubs current requirements are to cater for over 30 teams for hurling, camogie, and football at all levels. Therefore to provide adequate facilities the current facility is inadequate.

It is anticipated that this will result in teams training most summer evenings and this will be substantially reduced in the winter months. It is outlined that the most intense activity would be underage team blitz /tournaments which could take place about 3 times a year and generally attract a crowd of about 300 – 400 persons.

### 1.1 National Policy

In considering the subject development I would have regard to both national policy and guidelines. The National Spatial Strategy sets out a 20 year vision for the spatial development of the country designed to achieve more balanced social, economic and physical development between the regions. One of the key approaches taken by the N.S.S. in order to achieve balanced regional development is set out in Section 1.1 (iv) 'Planning' of the N.S.S. which states that '*Ireland needs to renew, consolidate and develop its existing cities, towns and villages – i.e. keeping them physically compact and public transport friendly as possible and minimising urban sprawl, ..... Where greenfield development is necessary it should take place through the logical extension of existing cities, towns and villages*'. The N.S.S. encourages more sustainable development which will mean maximising access to and encouraging use of public transport, cycling and walking.

The N.S.S. proposes achieving more balanced regional development by designating a series of gateways and hubs working together to promote regional development in their area. In the south east region Waterford, Kilkenny and Wexford together form a nationally strategic growth triangle. It is stated that

County Town's will complement the critical mass of this growth triangle. These towns will attract investment and employment activities additional to those that need to be located in or near a gateway. This hierarchical system continues down to district towns and villages and smaller settlements.

In general terms the strategy of the N.S.S. is to consolidate urban areas whether they are gateways, hubs, county towns or small towns. A principle of the strategy is the locating of development within existing urban centres which would support and strengthen the development of that urban centre and allow for integrated mixed-use development which would reduce demand for unsustainable transportation modes and which would invigorate and revitalise demand for local services within the centre.

### 1.2 Development Plan

The relevant development plan for the subject site is the **Kilkenny County Development Plan 2008 – 2014**. It is noted from Section 10.1 of the County Development Plan that zoning provisions and objectives will be contained in Local Area Plans which will be prepared for district towns and other settlements. The appeal site is not located within a district town or any other settlement and therefore no zoning provision applies to the subject site. I would note from the **Kilkenny City and Environs Development Plan, 2008 – 2014**, zoning maps that areas outside the built up area are zoned for agricultural purposes. These include areas which are approximately 1 – 2 km north of the appeal site. Having regard to the proximity of the agricultural zoned land in the Kilkenny City and Environs Development Plan I would consider it useful to examine the zoning matrix (Section 9.3.1. of the Kilkenny City and Environs Development Plan) for agricultural land.

In accordance with this matrix the objective for land zoned for agriculture is '*to conserve and protect agricultural land from interference from nonagricultural uses. To prevent premature development of agricultural land adjacent to development areas*'. It is noted from the zoning matrix that the permitted uses include agriculture, horticulture, public service installations and open for consideration would be public open space, guesthouse, restaurant, nursing home, dwelling houses in certain limited cases, halting site, private open space, other uses not contrary to the proper planning and development of the area.

Generally speaking the objectives of the use zoning in a development plan is to serve as a guideline for the control of development so as to achieve the goals set out in this plan. Usually where no specific use zoning is indicated, the primary use can be assumed to be that already existing in the area. In this particular instance the primary use is agriculture. I would therefore consider that the agricultural zoning objective outlined above would be a good guidance for assessing the proposed development and in this regard I would consider that the proposed development, which is active open space, would be generally 'open for consideration'.

The County Development Plan, 2008 – 2014, also sets out criteria for assessing intensive sports facilities (Section 7.2.2.10) and in this regard the criteria includes

compliance with zoning provision, protection of residential amenities and *'it is to be located so as to be accessible to its catchment population and gives priority to walking, cycling and public transport and does not generate unacceptable levels of traffic'*.

### 1.3 Location of Development

The appellant submits that the applicant has not adequately considered alternative sites and that they have not given due regards to the sequential test. I would consider that in the application documentation the applicant has not adequately demonstrated the merits of the location of the proposed development other than stating that their existing facility is inadequate. However in the response to the appeal submissions the applicant sets out the rational for the location of the proposed development.

The applicant's response essentially argues that the principal of the proposed development is to cater for the training needs of a growing GAA Club. In this regard it is stated that there is a wholesale difference between the proposed development and the wholesale relocation of a sporting organisation from its urban core to a rural location.

The applicant in their response submission submits a detailed assessment which was undertaken of alternative sites within the Parish. In this particular instance the applicant examined a total of 7 sites and I would note that the applicant submits that significant difficulties with the other sites were due mainly to site unavailability or the cost factors.

I would accept that given the proximity the City environs that it would be difficult to obtain a suitable site which would be able to accommodate the needs of this GAA Club. However I also note that selected site (the appeal site) is one of the furthest from the City boundary.

### 1.4 Conclusions

I would acknowledge and accept the view of the local authority's planners report which states that *'although the development poses concerns regarding accessibility and car dependency particularly for junior players, the development must be assessed in the context of the need for large / extensive plots of land which are simply not available in its urban catchment'*.

However I would consider that the scale of the proposed development would be significant and would represent a significant intervention to this predominately rural area and there would be scope to attract large crowds to this rural area. I would generally consider proposals to locate a rural GAA Club in a rural area to be acceptable in principle however in this instance the relevant GAA Club is currently located in an urban area and the proposed development, I would consider, would not primarily serve a rural community or sustain or renew established rural communities which is an objective of both regional and national guidelines.

Based on the above national policy and national guidelines I would have concerns with the proposed development given the primarily agricultural use in the area on a site remote from the edge of the City. I would acknowledge the arguments submitted by the applicant that alternative sites were too costly or unavailable however I would consider that the scale of the proposed development would be more akin to a large sporting facility rather than a stand alone training facility.

Having regard to the issue that the GAA Club intends to retain its main facility in the City Centre and that the proposal is for training needs, I have considered the option of reducing the scale of the proposed development by condition, however I would consider that the change required to the proposed development would be significant and I would consider that any such condition would radically alter the nature of the proposed development to which the application relates and this is not recommended by the Development Management Guidelines for Planning Authorities, 2007, (Paragraph 7.7).

I do not consider that the applicant has adequately demonstrated the inherent advantages of locating the proposed development in this rural location. Accordingly I would consider that the proposed development would be contrary to the National Spatial Strategy which seeks to maximize access to and encourage the use of public transport, cycling and walking in facilitating future development and which also seeks to reinforce the key roles of larger and smaller towns and villages in achieving balanced regional development.

## 2.0 Access

### 2.1 Traffic Generation

The submitted TIA determines and quantifies the extent of additional trips generated by the development and the impact of such trips on the operational performance of the road network, in particular the adjoining regional road, R697, and a local junctions LP2630/R697 (north of the appeal site) and LP1016 / R697 (south of the appeal site). The TIA reviews the existing road network, existing traffic situation, anticipated traffic levels and proposed access arrangements.

The TIA concludes that given the nature of the use, which will normally occur outside normal working hours, and the amount of use bearing in mind that the Club intends to retain its existing Club grounds within the City for club games the impact on the R697 Kells Road will be low. It is also concluded that the two junctions referred to above will operate efficiently 15 years after completion.

### 2.2 Sightlines

The original sightlines proposed for the new vehicular entrance were 160 meters in either direction from 3 metres back from the roadside entrance. The local authority were concerned with the proposed sightline provision given established hedges to the north of the proposed entrance and consider that 4.5 metre set back would be more appropriate at this location.

In order to address the visibility concerns the applicant in responding to the additional information request has relocated the proposed vehicular entrance southwards of the original proposed entrance. This revision overcomes the difficulty of removing hedgerows which the applicant is not in control of. The revised entrance provides for a 145m visibility splay at 2.5 metre set back. It is claimed that the relaxation in the set back distance is due to revised standards contained in the NRA DMRB, January 2009.

I note the geometric standards contained in the NRA DMRB where it is contended that normal set back from the roadside edge would be 4.5 metres and a lightly used junction could relax the set back distance to 2.4 metres. I would note the appellants' comments that the section of regional road adjoining the appeal site is a relatively straight stretch which allows for maximum speeds. Based on a visual observation of the area I would concur with this view and would therefore be concerned with the proposed set back distance. I would consider given the proposed intensification of the site, the nature of the existing road that the proposed vehicular access point, having regard to the existing vehicular accesses in the immediate vicinity of the appeal site that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users.

The submitted appeal expresses concern with the impact that the proposed development would have on the local road which is situated north of the appeal site (LP2630).

It is submitted that in exceptional circumstances when the proposal would give rise to an overflow parking a team of traffic management stewards would be in place to marshal traffic away from this area to proper authorised parking.

### 2.3 Cycle Lane

The proposed development provides for a cycle route proposed from the adjoining laneway to the east of the appeal site. The proposed cycle route is proposed from the north east corner of the appeal site from the where the appeal site adjoins the laneway.

The location of the cycle route is opposed on ownership grounds. It is claimed that the applicants do not have adequate legal interest in the subject laneway to make such a proposal. It is also claimed that there is an agricultural right of way over this laneway and any cycle path would interfere with farm machinery or livestock.

The applicant in response to a further information request by the local authority claims that they have freehold title to the majority of the laneway. In general would consider that the cycle proposals within the development site would encourage sustainable transportation to and from the site. However I would concur with the appellants that cycle provision to/from the site to/from the city could result in a hazard given the alignment of the Kell's Road to the City Centre.

## 2.4 Car Parking

The proposed development provides for 163 spaces in a permanent car park, with set down for circa 6 large coaches, two additional car parks are provided circa 86 and circa 400 spaces, on grassed areas. The County Development Plan has no specific standards for sports grounds and sports clubs.

I would consider that the proposed parking provision would adequately meet the needs of the proposed development.

## 2.5 Planning History

With regard to the planning history on the appeal site I accept that a previous proposal was refused on traffic grounds, However as I do not have any documentation to hand I am unable to comment regarding the particular issues of this history file.

## 3.0 Residential Amenities

### 3.1 Visual / Landscape Impact

I would note from the topographical survey submitted with the application that the middle of the appeal site, where the proposed buildings are to be located, are approximately 7 metres lower than the western boundary of the appeal site which adjoins the public road and approximately 4 – 6 metres lower than the rear boundaries of the residential properties to the west of the appeal site.

I noted from my visual inspection of the area that the appeal site, which is in use for tillage farming, is generally flat throughout the site and in visual terms I would consider that the attractiveness of the landscape is its openness, given the relatively even gradients and the low lying field boundaries.

I would note the proposed two-storey building and the floor plan at ground level comprises of changing rooms, administration area, multi-purpose room, and at first floor there is offices and a community hall. The proposal also includes a first floor balcony to south of the building and off the offices. There is also an indoor sports hall situated to the north of the aforementioned buildings. The total floor area of the proposed building is approximately 2208 sq. metres. The maximum height of the proposed built is approximately 8 metres above the ground level.

I would therefore consider that having regard to the scale of the proposed buildings and giving the existing landscape that the proposal would have an impact on both the visual amenities of the area and the established landscape character. However the subject site does not have any landscape designation in accordance with development plan provisions and I would consider that the buildings are sufficiently set back (approximately 190 metres) from the adjacent residential properties to avoid any adverse impacts. The spectator stand which has a maximum height of 5.8 metres is set back a minimum of 120 metres would also have a visual impact on the adjacent residential properties.

In general and having regard to the proposed separation distances and landscaping proposals I would not consider that the proposed development would adversely impact on the visual amenities of the area.

### 3.2 Noise / Fumes

It is contended that the proposed development would adversely effect established residential amenities due to the noise and fumes of the traffic generated from the proposed development. I would accept that there would be an increase in noise levels particularly at match times and training times, however I would not consider that the noises emanating from the proposed traffic would seriously compromise residential amenity given the proximity of the established regional road to the same properties. In relation to fumes I would not consider that the appellants has adequately demonstrated that the fumes from the proposed development would adversely impact on their established residential amenities.

### 3.3 Backland

The proposal would result in backland development given the existing residential properties which front onto the regional road. However the important issue is whether this backland development would adversely impact on the established residential amenities. The proposed building is set back approximately 95 metres to the nearest dwelling, which fronts onto the regional road. I would consider this an acceptable distance to ensure that there are no adverse impacts on residential amenity. However I would be concerned with the proposed first floor balcony, notwithstanding the separation distance, and its potential to intrude on the privacy in adjacent residential amenities. I would consider that should the Board favour granting permission that this proposed balcony should be omitted by condition.

### 3.4 Devalue Property

I would consider the proposed development would not unduly impact on the established residential amenities in the area and would not devalue property in the area.

### 4.0 Site Suitability

The local authority was concerned with the submitted P & T tests which accompanied the Site Characteristic Form. The submitted P test was 74 and the result of the T test was 79. The Site Characteristic Form recommends that sand polishing filter is used to receive a hydraulic loading rate of up to 601/m<sup>2</sup> a day this is to optimise phosphate removal. It is considered that this would ensure adequate treatment of effluent before it enters the ground level which will ensure that there is no adverse impact on the water table or any third party wells in the immediate vicinity.

The local authority requested the applicant to address the issues through further information (points 12 – 15)

In response the applicant has revised the location of the proposed sand polishing filter to the north east corner of the appeal site, this would be the furthest distance possible from the adjacent residential properties to the west of the appeal site. The applicant contends in further information response that the revised percolation area yielded a result of 1.3 and this is considered acceptable to the local authority. I would consider this acceptable I would not consider the proposed development would be prejudicial to public health.

#### 5.0 Natural Drainage

I noted from my site inspection that the site had soft ground conditions and there were no visible evidence of water pooling or flooding on the appeal site as suggested by the appellants. It is worth referring to the 1:10,560 'Record Place Map' submitted with the original application. These maps indicates fields that are marshy or experience soft ground and it is evident from this map that the appeal site does not contain marshy land.

I would consider that on the balance of information that the applicant has demonstrated adequately that the proposed development would adequately drain and would not adversely impact on the adjoining lands.

#### 6.0 Other Issues

The appellant has raised issues in relation to project splitting however the applicant has submitted that they do not consider floodlighting would be part of the proposed development given that the training would be held in summer months and would be during daylight hours. Additionally the applicant has submitted that they will not be pursuing an indoor facility on the subject site and this will be catered for elsewhere. I would therefore consider that the applicant has adequately addressed concerns regarding project splitting.

In relation to disputed legal issues between the adjoining landowners and the applicant I would consider that these legal issues would not be a valid reason for refusal and in this regard I would note Section 34(13) of the Planning and Development Act, 2000, which states '*A person shall not be entitled solely by reason of permission under this section to carry out any development*'.

I would acknowledge that the appellant may require a quite rural environment for farming however I would not consider that this would be a reason in itself to preclude the development of land.

#### **7.0 RECOMMENDATION**

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be refused for the reasons set out below.

## REASONS AND CONSIDERATIONS

1. The scale of the proposed sporting facility in a location remote from the edge of City and in an area where the predominate land-use is agriculture and lacking in public services would give rise to unsustainable forms of commuting that would be contrary to the National Spatial Strategy which seeks to maximize access to and encourage the use of public transport, cycling and walking in facilitating future development and which also seeks to reinforce the key roles of larger and smaller towns and villages in achieving balanced regional development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered on the basis of the submissions made in connection with the planning application and the appeal, that the intensity of the proposed development from which significant traffic would be generated, the potential for conflicting turning movements arising from its proximity to existing adjacent vehicular entrances that the Board is not satisfied that that adequate provision has been made for safe and convenient access to the site.

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Kenneth Moloney  
Planning Inspector  
26<sup>th</sup> February 2010