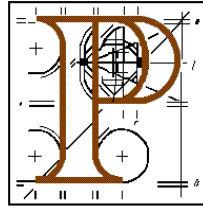


An Bord Pleanála



Inspector's Report

Reference: PL10.245421

P.A. Reference: 15/282

Title: Reconfiguration, ground levelling and earth works and the installation of posts and ball stop nets on juvenile pitch.

Location: Brownstown, via New Ross, County Kilkenny

Applicant: Tullogher-Rosbercon GAA Club

Appellants: Chris and Claire Ogilvie-White

Observers: None

PA: Kilkenny County Council

Type of Appeal: Third party against grant

Decision: Permission granted with conditions

Date of Site Visit: 18th December 2015

Inspector: Philip Davis

1. Introduction

This appeal is by neighbouring residents against the decision of the planning authority to grant permission for the importation of material to build up and flatten ground levels for a new juvenile playing pitch for a GAA Club west of New Ross, County Kilkenny. The grounds of appeal relate mainly to residential amenity. The appellant was granted leave to appeal by the Board (**LV10.LV3264**).

2. Site Description

Photographs of the site and environs are attached in the appendix to this report.

Brownstown, County Kilkenny

Brownstown townland is within a rural area approximately 6 km west-north-west of New Ross, in a rural area on a north-facing slope in the undulating hilly landscape of south Kilkenny. It is around the 100 m AOD contour, with ground levels sloping to the valley of the River Nore to the north and east. The R704 New Ross to Mullinavat Road runs to the south, otherwise the area is served by a network of third class roads. There are numerous houses and farms scattered along the third class road network serving the area, with a few clusters of development, but no distinct villages.

The site and environs

The appeal site, with a site area given as 1.16 hectares, is located on the northern side of a third class road running through Brownstown. It is part of a larger site incorporating the Tullagher-Rosbercon GAA Club. The site is a field which slopes to the north-east, dropping about 5 metres in level from south-west to north-east over about 120 metres. The overall landholding belonging to the club is about 3 hectares, although no precise figure is provided. The appeal site is currently grassed. It is bounded by a mix of hedges and ditches to the north and east.

West of the site is the main pitch for the club, building on a raised platform. Further west is a dwelling facing the road and open countryside.

North of the site, on steadily dropping ground, are open agricultural fields in both arable and pasture use. The River Nore is just under 2 km to the north-east.

South of the site is a new clubhouse for the GAA pitch (south-west corner) with carparking and the entrance to the club. There are two dwellings between the site and the third class road. There are further dwellings on higher ground across the road.

East of the site are open fields on lower levels. There is a large farm complex about 250 metres to the east.

3. Proposal

The proposed development is described on the site notice as follows:

Reconfiguration, ground levelling and earth works, and the installation of posts and ball stop nets on our juvenile pitch.

4. Technical Reports and other planning file correspondence

Planning application

The planning application, with supporting documentation along with plans and specifications was submitted to the planning authority on the 18th May 2015. Following a request for further information, additional plans were submitted on the 14th July 2015, with a clarification of a number of issues, including compliance with previous conditions. It is stated that some 2800m³ (about 350 truckloads), would be required to carry out the works.

Internal and External reports and correspondence.

Environment Section: Noted apparent errors in the submitted drawings and requested additional information on fill requirements and drainage. It is noted that the use of C&D waste on the site would require a waste facility permit. Following the submission of additional information it was stated that there was no objection subject to condition.

Roads Design. It is stated that two conditions from a previous permission were not complied with, and the sight lines at the access are inadequate and not in accordance with the conditions. Although not on file, it is indicated in the planners report that the Roads Design team was satisfied with the revised submission, subject to the completion of outstanding works under P09/120.

Kilkenny CC Planners Report: the first planners report noted the issues with previous conditions not being complied with – additional information was requested in addition to confirmation of compliance. Following the submission of additional information it was considered that subject to conditions the proposed development was acceptable.

5. Decision

The planning authority decided to grant permission subject to 8 conditions. Most are standard conditions – C.2 stated that no waste material to be used except in accordance with a Waste Facility Permit, Condition 7 stated that all unfinished works under P09/120 be completed within two months of the date of the grant of permission and C8 that additional hedgerow planting or a fence be erected along the adjoining residential properties to the south.

6. Planning Context

Planning permissions – appeal site

In June 2009 the planning authority decided to grant permission for the construction of a new club house on the site subject to 11 conditions (09/120). Subsequently, permission was granted for retention to alterations to this development (10/193).

Planning permissions – adjoining areas

None relevant on file.

Development Plan

The site is in a rural area with no specific zoning designations.

Relevant extracts from the Kilkenny County Development Plan are attached in the appendix to this report.

7. Grounds of Appeal

- It is claimed that the site notice was incorrectly sited (not visible from the road) and did not have the required details.
- It is submitted that the raised levels will block views from the house over the Blackstairs Mountains to the north and overshadow their back garden. It is argued that condition 8 by the planning authority – for the planting of screening, will exacerbate this problem.
- It is argued that the noise impact of the safety nets was not assessed adequately.
- It is submitted that they have no issue with the basic principle, but argue that a lower level of land raising – by 0.8 metres to an average level of 97 metres would be acceptable along with allowing the natural beech hedgerow to grow.

The appeal has a number of photographs and sketch drawings attached illustrating the arguments.

8. Planning Authority's Comments

The planning authority considers that the site notice was in accordance with the regulations. It is not considered that the proposed ball nets could seriously injure residential amenities in the area. Condition no. 8 was imposed for amenity reasons – it is noted that the view towards the Blackstairs Mountains is not a protected view and prospect. There is no objection to the proposed alteration of levels suggested by the appellant.

9. Appellants response

- It is stated that the GAA club is a voluntary organisation which is a focal point for the local community, and the extension is needed to facilitated a thriving juvenile section. It is stated that the opportunity was taken to accept material generated by a contractor wishing to dispose of surplus material from a new national school in the area.
- It is submitted that the site notice was advertised clearly and in accordance with the regulations.
- It is submitted that there is a significant buffer of more than 10 metres between the properties, and as a sign of goodwill they are willing to increase it to 15 metres.
- It is denied that ball stop nets would have any amenity impact.
- It is submitted that reducing the levels would require a cut-and-fill approach which would be prohibitively expensive.

10. Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following headings:

- **Legal issues**
- **Principle of development**
- **Visual impact and amenity**
- **Traffic**
- **Public health**
- **Appropriate Assessment and EIA**
- **Other issues**

Legal issues

The appellant has raised the issue of an inadequate site notice. I am satisfied that the location of the notice would have permitted passers-by to see that an application has been made.

Notwithstanding this, I would have strong concerns about the wording of the application – it is described as ‘*reconfiguration, ground levelling and earth works...*’ on the site notice. To me, this strongly implies that the core element of the works represents a levelling of the existing ground, whereas it is quite clear from the additional information provided in the response that this is a land raising operation, designed in order to absorb material from a nearby construction site. I would be concerned that a casual reading of this site notice by local residents would not convey the reality of an operation which will significantly raise local ground levels and result in an order of 350 truckloads of material being imported along what are very narrow and substandard roads. I find it hard to come to any other conclusion but that the site notice was written in a manner intended to understate the true impact of the proposed works.

Notwithstanding this, as this issue is being dealt with *de novo*, and leave to appeal was granted by the Board to the appellant, who did not comment on the original application, I do not consider that there are sufficient concerns here to justify requiring a new site notice with accompanying advertisements.

I would note that conditions set under P09/120 were not discharged at the time of the decision, and did not appear to have been discharged at the time of my site visit. Condition 7 stated that they should be carried out within 2 months of the grant of permission, although I find the wording of this condition somewhat ambiguous. I would recommend that if the Board is minded to grant permission that a similar condition be set, although it may be better to delay setting out the parking spaces as required until after all works are completed.

Principle of Development

The appeal site is in open countryside without any specific designations. General policy towards playing fields and recreational facilities are set out in section 7.6 of the Kilkenny County Development Plan 2014-2020. I consider that there would be a general presumption in favour of the upgrading of existing local level facilities, subject to the usual planning and environmental considerations.

The landholding has previously been granted permission for GAA related activities – as I noted above there are outstanding issues relating to conditions which have not been discharged – the key one relating to sight-line splays at the entrance, which I would consider crucial for safety. But I am satisfied that this can be addressed by an appropriate condition.

Visual impact and amenity

The site is on a slope which drops to the north and north-east, down to the valley of the Nore. There are two dwellings immediately south of

the site, on relatively flat sites. Both houses have views out to the north, just partly obscured by vegetation.

The proposed development involves a significant raising of land levels, albeit still slightly below the level of the clubhouse/carpark and about 2.5 metres below the level of the main existing pitch. There is no information on file concerning the existing geology – the applicant states that a cut and fill approach cannot be carried out for cost reasons. The final levels have therefore been driven by the cheap availability of import material, not a requirement for pitch design.

The applicant has not provided a cross-section across the adjoining properties, and has not provided spot levels for the residential gardens, so assessing the impact of the change in levels is quite difficult. The appellant's submission, which I have no reason to question, indicates that the ground levels will rise to higher than the height of the existing trimmed beech hedge which runs along the boundary. This would undoubtedly have an impact on the aspect of parts of the rear the gardens, but I would consider it unlikely to have a significant impact on views from the house, especially in summer when the leaves are at full growth. The ball stop nets would undoubtedly increase the perception of bulk from the perspective of the two dwellings, although I would not consider that these nets would, without regard to other aspects of the proposed development, have a significant impact on adjoining amenities. As the pitch is not proposed to be floodlit, I assume it will only be used during daylight hours.

The new landform would, in my opinion, undoubtedly have some amenity impact on the adjoining dwellings. The primary question in this appeal in my opinion would be whether the impact goes beyond what would be considered a serious impact on the adjoining amenities, having regard to the undoubted benefit arising from providing more playing spaces for local youths. On balance I would conclude that having regard to the rural location and the existing playing fields/clubhouse that the impacts would be within an acceptable range. I would note that the condition set by the planning authority for a planted boundary appears quite arbitrary and could itself have an impact – so I do not recommend that it be repeated – the appellant has the option of allowing the existing beech hedge to grow out if necessary.

While I consider the appellant's suggestion to reconfigure the site, but at a lower level to be reasonable – and it would be the ideal solution - it would appear that the proposed development would not be viable without the importation of material. It is regrettable that the site notice and application did not make clear in the first instance that this was the case by explaining more clearly the nature of the proposed development.

Traffic

There is no assessment of the impact of upgrading the facilities will have on local traffic – the local road network is not really designed for the sort of intensive use a major GAA pitch will have – undoubtedly most the ‘juveniles’ using the pitch will be driven there for training and games. But having regard to the existing facilities and the planning history I would consider it within the bounds of acceptability.

The construction works will generate a very significant number of heavy truck loads – estimated at 350. The applicant has stated that it will come from nearby school upgrading works, but it is unclear as to which national school is referred to – the closest is about 4 km west of the site. I would have strong concerns about such a level of traffic on a very narrow and substandard road, but it would seem this material will be generated anyway, and the works may well shorten needed haul roads. So as the impact will be temporary I would consider it acceptable.

The planning authority noted that the permitted sight lines were not in accordance with the previous permission. It would seem that in order to achieve the required 80 metres to the west and 145 metres to the east it might require the removal of a hedge not within the applicants ownership – but without sight of the full file for the previous decision it is not possible to say for certain. But it would appear the applicant has no issue with achieving it. Notwithstanding this, I would recommend a condition such that works cannot commence until written confirmation has been received that the sight lines have been established.

Public health

The wastewater treatment disposal area for the clubhouse is on the north-eastern corner of the site. This part of the site is not proposed to be raised or otherwise interfered with. It would seem that it is possible to carry out the works without interfering with the percolation area so there are no implications for public health – but it should be an important component of the construction works to ensure this part of the site is not used for storage or plant movements to prevent damage or compaction.

Appropriate Assessment and EIA

There is no record no file to indicate that the planning authority carried out an AA screening of the proposed development.

The proposed development is within the catchment of the River Nore. The River Barrow and Nore SAC, site code 2162 includes a tributary to the west of the site and an associated oak woodland. At its closest, this woodland part of the SAC is less than 700 metres from the appeal site. The woodlands around the river to the north-east are down slope and around 1.3 km from the site. I would note that part of a potential

haul route for material from the west from the site actually crosses through part of the designated area.

The relevant part of the conservation objectives of site code 2162 would be the protection of water quality in order to preserve a variety of freshwater species including the Nore freshwater pearl mussel, crayfish, lamprey and shad, in addition to associated oak/holly woods (the latter seem to be the closest designated habitat).

While the site is within the catchment of the river, I did not see any evidence of nearby springs or watercourses and none are indicated on older OS maps – the closest watercourses seem to arise in fields about 150 metres to the north-east, and there are some springs a further 200 metres beyond. There do not appear therefore to be any direct pathways between the site and direct streams draining to the Nore or its tributaries. I would therefore be satisfied that subject to appropriate controls on the landraising work, there would not be an impact in itself, or in combination with the other related site works. I therefore consider that it is reasonable to conclude on the basis of the information on the file, which I would consider adequate in order to issue a screening determination, that the proposed development, either in itself or in combination with other works in the area, would not be likely to have a significant effect on European Site No. 002162, or any other European Site, and a Stage 2 AA is not therefore required.

Due to the relatively small scale of the proposed development, which does not fall within any of the relevant categories for EIA under the Regulations, and the absence of any sensitive environmental receptors the question of a requirement for EIA does not arise.

Other issues

The site is not indicated on any available sources to be prone to flooding. There are no recorded ancient monuments or protected structures in the vicinity.

The proposed development is apparently not subject to any Development Contribution under the approved scheme.

11. Conclusions and Recommendations

I conclude that the proposed development would not seriously injure the residential amenities of any dwellings in the area and would otherwise be in accordance with the proper planning and sustainable development of the area.

I recommend therefore that subject to conditions, planning permission for the proposed juvenile pitch be **granted** for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having regard to the planning history of the site and the location within an established GAA club facility it is considered that subject to the conditions set out below the proposed development would not seriously injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Works shall not commence on site until the planning authority confirms in writing that all works required under conditions no. 5 and 6 of planning reference P09/120 have been completed to its satisfaction.

Reason: In the interest of orderly development and traffic safety.

3. Prior to the commencement of development the developer shall submit for the approval of the planning authority a construction management plan for the works. This shall include details for hours of work, control of run-off, storage of topsoil and other materials, protection measures for trees and the wastewater treatment plant on the site, arrangements for control of dirt on the highway from heavy vehicles, and other such matters as required by the planning authority to protect local amenities and prevent damage or congestion on the public highway.

Reason: In the interest of orderly development and the protection of amenities

Philip Davis,
Inspectorate.
19th January 2016