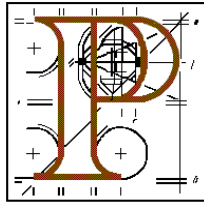


An Bord Pleanála



Inspector's Report

Development Description: Permission to construct a new recessed vehicular entrance and turnstiles, 2.4m high railing to perimeter of site, second playing pitch with 6 no 16m high flood lights (350lux), astroturf pitch with ball skills training wall with 6 no. 12m high floodlights (250lux), parking area, walking and running track with associated lighting, playground and all ancillary site works.

Location Lemybrien, Kilmacthomas, Co Waterford.

Planning Application

Planning Authority:	Waterford City and County Council.
Planning Authority Reg. Ref.:	15/210.
Applicant:	Kilcrossanty GAA Club.
Type of Application:	Permission.
Planning Authority Decision:	Grant Permission subject to conditions

Planning Appeal

Appellants:	Kilcrossanty GAA Club.
Type of Appeal:	First Party v Condition 2.
Observers:	None
Date of Site Inspection:	27 th January 2016
Inspector:	Bríd Maxwell.

1.0 SITE LOCATION AND DESCRIPTION

1.1 The appeal site, which has a stated area of 6.04 hectares, is located within the village of Lemybrien, Co Waterford. The appeal site is occupied by an existing GAA playing pitch and viewing stand, clubhouse building and car parking area which are all located towards the south-eastern part of the site. Vehicular access is from the Local Road L-7028 located towards the south-eastern extremity of the site frontage. The northern part of the site is under grass. St Anne's Court a residential estate of detached single storey dwellings adjoins to the north-west. The common boundary is defined by post and rail or timber fencing. Adjoining lands to the north and east are in agricultural use.

2.0 PROPOSED DEVELOPMENT

2.1 The proposal as set out in public notices is:

Permission to construct a new recessed vehicular entrance and turnstiles 2.4m high railing to perimeter of site, second playing pitch with 6 no 16m high flood lights (350 lux), Astroturf pitch with ball skills training wall with 6 no 12m high floodlights (250 lux), parking area, walking and running track with associated lighting, playground and all ancillary site works.

2.2 The proposed new playing pitch, running track and astroturf pitch and ball skills training wall and perimeter walking track are all located to the rear and east of St Anne's Court. Proposed playground is to be located adjacent to the site entrance with independent playground parking area provided outside the proposed turnstiles to allow the playground to be used when the sports grounds are not open. In response to the Council's request for additional information it was specified that the proposed floodlighting to the walking track is intended to incorporate a push button timer system and a bespoke anti-spill floodlight with a rear reflector cowl

is proposed to limit the backward vertical illumination plane off the floodlight and to minimise backlight spillage.

3.0 PLANNING AUTHORITY'S DECISION & DELIBERATIONS

3.1 Internal Reports.

- Assistant Chief Fire Officer makes no recommendation.
- Senior Executive Engineer's report recommends a special contribution for the provision of new concrete footpath, kerbing, underground cables and public lighting along the road frontage.
- Assistant Planner's initial report sought additional information in respect of proposed footpath, street lighting and floodlighting, entrance and parking area, surface water drainage and attenuation. Following receipt of additional information final planner's report recommends permission subject to conditions.

3.2 Decision

3.2.1 Waterford City and County Council issued its notification to grant permission subject to 12 conditions which included the following of particular note.

- Condition 2. "The floodlighting is for a period of 5 years from the date of this order. The floodlights and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period."
- Condition 3. Revised site layout to be submitted indicating 2m wide footpath extending from the front of St Anne's Court to the proposed new entrance. Footpath to be constructed prior to the opening of the playground. Footpath shall be constructed by the local authority or the developer.
- Condition 5. Floodlights to be installed and operated in accordance with the revised details submitted on 26th August 2015. Prior to the first use of the floodlights the developer to submit monitoring arrangements to ensure compliance with these requirements.

- Condition 7. Hours of operation of the floodlights and lighting to walking track shall be confined to the hours 9.00am to 10.00pm daily Monday to Saturday inclusive. Hours of operation of the floodlights and lighting to walking track and running track shall be confined to the hours of 9.00am to 7.00pm daily on Sundays and bank holidays. Floodlighting and lighting to walking track shall not be provided outside the above specified hours. Full details of low level street lighting to walking track to be submitted.
- Condition 8. Developer to ensure that light emissions do not result in significant impairment of, or significant interference with, amenities and environment beyond the site boundary.
- Condition 9. Landscape plan for boundary treatment / screen planting to the boundary with St Anne's Court. Planting maintained at a height not exceeding 2m.
- Condition 11. Special contribution €20,000 in respect of 2m wide footpath, kerbing, underground cabling and public lighting.

4.0 PLANNING HISTORY

- 4.1 06/1012 Permission to Kilrossanty GAA Club for a single storey extension comprising of additional changing areas with balcony over, additional floor within existing clubhouse accommodating an gym, new spectator stand, public toilets, flood lighting, electronic scoreboard and new wastewater treatment plant.

5.0 GROUNDS OF APPEAL

- 5.1 The appeal relates solely to condition 2. Grounds of appeal are summarised as follows:
- It would be unfeasible to risk a capital investment of €100,000 for the design, installation of a floodlighting system with a limited lifespan of 5 years.

- Floodlighting is a necessity for winter months and is strongly supported by the local community.
- Floodlighting scheme will be in accordance with best practice and will not detract from established adjacent residential amenity.

6.0 APPEAL RESPONSES

6.1 Planning Authority

6.1.1 The response from the Planning Authority outlines that condition 2 was attached to enable a review of how the floodlighting is working. It is not the intention of the planning authority for the floodlighting to be removed after 5 years merely for the development to be reviewed following a period of operation.

6.2 First Party Response to Planning Authority response to appeal

First party response asserts that the applicant would have no issue with a review of floodlighting.

7.0 POLICY CONTEXT

7.1 DEVELOPMENT PLAN PROVISIONS

7.1.1 The site is governed by the policies and provisions contained in the Waterford County Development Plan 2011-2017. Lemybrien is defined as a settlement node within the County Settlement Strategy. As the lowest tier within the settlement hierarchy settlement nodes have a limited service base and provide an opportunity for future expansion provision of services.

7.1.2 The southern part of the site is zoned Open Space and Amenity whilst the northern part of the site is zoned R3 - Reserved for future residential development 2017-2023.

8.0 PLANNING ASSESSMENT

8.1 Subject to section 139 of the Planning and Development Act, as amended, I consider that a de novo assessment of the development is not warranted in this instance. Having considered the nature of the condition and grounds of appeal, I consider that determination of the application as if it had been made to the Board in the first instance is not warranted and it is appropriate to confine the assessment to determination of the appealed condition number 2 which requires that:

“The floodlighting is for a period of 5 years from the date of this order. The floodlights and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

Reason: To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the period of 5 years.”

8.2 The first party asserts that the condition is unworkable and would threaten the viability of the proposed floodlighting scheme. The Council’s response to the first party appeal appears to moderate the obligation in suggesting that the condition was imposed to enable a review of the floodlighting rather than requiring removal of the floodlighting. However the wording of the condition 2 as specified is clearly not so flexible.

8.3 I note that in response to the council’s request for additional information the submission of the first party outlines that the proposed floodlighting will be designed and installed to comply with current best practice guidelines concerning light spillage. The scheme will provide protective measures to the specific floodlights on the boundary of St Anne’s Court to ensure that they will not detract from the residential amenity. I note that condition 5 requires:

“The floodlights shall be installed and operated in accordance with the revised details submitted on the 26th August 2015. Prior to first use of the

flood lights the developer shall submit details of monitoring arrangements to ensure compliance with these requirements for the written agreement of the Planning Authority” I further note that condition 8 requires that “all operations on site are carried out in a manner such that light emissions do not result in significant impairment of, or significant interference with, amenities and environment beyond the site boundary.”

In my view conditions 5 and 8 adequately set out the parameters and provide for monitoring arrangements in respect of the proposed floodlighting scheme to ensure the protection of established amenity in terms of light emissions. On this basis I consider that Condition 2 is unduly onerous and is not necessary and I therefore recommend that the Board direct the Planning Authority to omit condition 2.

- 8.4 Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and or proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

9.0 RECOMMENDATION

- 9.1 I have read the submissions on file, visited the site, and have had due regard to the provisions of the Waterford County Development Plan 2011-2017. Having regard to the assessment above I recommend that the appeal be determined under section 139 of the Planning and Development Act, as amended that the Waterford City and County Council be directed to REMOVE condition no. 2 and the reason therefore.

DECISION

Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE condition number 2 and the reason therefore.

Bríd Maxwell,
Planning Inspector.
28th January 2016