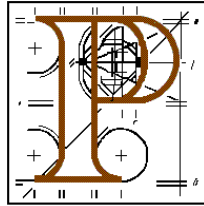

An Bord Pleanála



Inspector's Report

Ref.: PL91. 245719

Development: The construction of (a) five-a-side soccer all weather multi purpose pitch, including lighting standards, (b) handball alley x 2 as well as general lighting requirements, (c) expansion of existing car parking facilities, (d) children's playground, (e) community crèche and all ancillary services, (f) crazy golf course, (g) archery range including backstop shield/netting as required, (h) pop-up children's campsite and picnic area, (i) provision of new walking/jogging trail and ancillary services including a covered section of a screened walkway between two fairways, as well as another protective vertical screen on a different part of the course to protect users, this proposed walkway will have low level lighting. Also, permission for the demolition if necessary of an existing mono pitch shed as well as a smaller shed in order to facilitate the creation of the proposed playground in the same relevant location and demolition of an existing mono pitch shed and boiler house at the rear of an existing bungalow in order to facilitate the new community crèche facility.

Ballyneety Golf Club, Ballyneety, Limerick.

PLANNING APPLICATION

Planning Authority: Limerick City and County Council

Planning Authority Ref.: 14/1196

Applicant: Ballyneety Golf Club

Type of Application: Permission

Planning Authority Decision: Grant subject to conditions

APPEAL

Type of Appeal: Third Party v. Decision

Appellant(s): Robert Benson

Observers: None.

INSPECTOR: Robert Speer

Date of Site Inspection: 3rd February, 2016

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site is located in the small rural village of Ballyneety, Co. Limerick, approximately 8km southeast of Limerick City and 5.5km west of Caherconlish. It is situated to the southwest of the crossroads in the village centre and beyond the main built-up area of the settlement. In this respect it is notable that the village of Ballyneety would seem to have developed historically around the crossroads with most of the existing services, including several shops, a service station and a church, located around same whilst more contemporary housing construction has typically occurred in a linear format along the roadways leading away from the village. The site itself has a stated site area of 73 hectares, is irregularly shaped and is presently occupied by an eighteen-hole course and associated clubhouse facilities etc. operated by Ballyneety Golf Club. It is accessed directly from the R512 Regional Road via an existing service road within the 50kph speed limit which extends westwards through an intervening scheme of recently developed housing known as 'The Glen / The Grove' to provide access to the clubhouse and the adjacent car parking area.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development, as initially submitted to the Planning Authority, consists of the following:

- The construction of a (five-a-side soccer) all-weather multi-purpose pitch (incorporating a basketball court) surrounded by 10m high football netting and including 4 No. 10m high, three-lamp corner floodlights.
- The construction of 2 No. handball alleys extending to a maximum height of 6.1m and general lighting requirements.
- The expansion of the existing car parking facilities to provide for 75 No. additional parking spaces.
- The provision of a children's playground and associated play equipment surrounded by 1.5m high perimeter fencing.
- The redevelopment and change of use of an existing semi-derelict dwelling house into a community crèche facility and all ancillary services.
- The provision of a crazy golf course.
- The construction of an archery range, including a backstop shield/netting as required, and 2 No. alternative designs for an archery rainscreen shelter.
- The provision of a 'pop-up' children's campsite and picnic area.

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- The provision of new walking / jogging trails and ancillary services, including a covered section of screened walkway between two fairways, as well as another protective vertical screen on a different part of the course to protect users (this walkway will include low level lighting). A total of 3 No. route options are proposed (*N.B.* Route Option '3' will extend alongside the rear garden areas of several of the dwelling houses within the adjacent 'The Glen' housing development).
 - The demolition of 3 No. sheds and a boiler house to facilitate the proposed playground and the new community crèche facility.

2.2 In response to a request for further information, the applicant subsequently submitted amended proposals which involved the re-routing of the walking / jogging trails to omit that section of same which previously extended alongside the rear garden areas of several of the dwelling houses within the adjacent housing development. In addition, the revised proposals detailed an amended crèche design and the installation of a new wastewater treatment system (incorporating a septic tank and 3 No. intermittent peat filters with the treated effluent being discharged to ground by way of a soil polishing filter) to accommodate the proposed community crèche facility.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

PA Ref. No. 04/3018. Application by Limerick County Golf Club for permission to upgrade / extend the sewage treatment system and percolation area. This application was withdrawn.

PA Ref. No. 07/2503 / ABP Ref. No. PL13.228597. Was refused on appeal on 13th November, 2008 refusing Limerick County Golf and Country Club permission for the erection of 10 No. detached houses, construction of new access road, connection with existing treatment unit and associated site works at Limerick County Golf and Country Club, Ballyneety, Co. Limerick, for the following reason:

- Having regard to the severely deficient sewerage facilities in the area, it is considered that proper provision has not been made to accommodate foul sewer effluent from the proposed development. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

PA Ref. No. 09/951. Was refused on 15th September, 2009 refusing Limerick County Golf & Country Club permission for 7 No. detached houses, construction of a new access road, connection with existing treatment unit and associated site works for the following reason:

- Having regard to the severely deficient sewerage facilities in the area, it is considered that proper provision has not been made to accommodate foul sewer effluent from the proposed development, the proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

3.2 On Adjacent Sites:

PA Ref. No. 12/70. Was granted on 3rd May, 2012 permitting Fiona O'Riordan permission for a 19.2m² single storey extension to the rear of existing dormer dwelling, boundary treatment works and all ancillary site works at No. 11 The Cottages, Ballyneety, Co. Limerick.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

Following the receipt of a response to a request for further information, on 27th October, 2015 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 7 No. conditions which can be summarised as follows:

- Condition No. 1 - Refers to the submitted plans and particulars.
- Condition No. 2 – Refers to the location, installation and maintenance of the wastewater treatment plant and polishing filter.
- Condition No. 3 – Restricts the use of the floodlighting to training and match times with any such use to cease after 22:00 hours.
- Condition No. 4 – Requires at least one standard refuse bin to be provided within the playground.
- Condition No. 5 – Refers to the decommissioning and replacement of obsolete playground equipment.
- Condition No. 6 – Requires the extent of car parking and details of the location of bicycle and bus parking facilities to be agreed in writing with the Planning Authority prior to the commencement of development.

Condition No. 7 – Requires a revised Mobility Management Plan to be submitted for the written agreement of the Planning Authority six months after the first use of the proposed facility.

4.2 Objections / Observations:

A single submission was received from the appellant and the principle grounds of objection contained therein are reiterated in the grounds of appeal.

4.3 Internal Reports:

Assistant Chief Fire Officer: An initial report recommended that further information be sought in order to address the following fire safety concerns:

- The provision of additional final exits from the crèche facility to satisfy travel distance requirements.
- The provision of adequate fire-fighting equipment at the 'pop-up' camp-site with details of same to be submitted to the Fire Service.
- The fire-pit at the camp site to be constructed in such a manner so as to prevent a risk of fire spread.
- The submission of details of the width and surface of the walking track and any additional access points to the path, if provided, that would allow for emergency access.

Following the receipt of a response to a request for further information, a final report was prepared which stated that there was no objection in principle to the proposed development although the applicant should be made aware of its obligations to obtain a Fire Safety Certificate and Disability Access Certificate for the crèche building.

Travel & Transportation: An initial report concluded that the proposed development necessitated the submission a Transport Assessment which would indicate the likely increased site usage arising as a result of the proposed development in addition to providing a justification for the additional car parking provision. It was further recommended that this Transport Assessment assess the existing site access from both a capacity and safety viewpoint in addition to addressing the provision of facilities for cyclist / pedestrian accommodation. The report also requested the submission of a Workplace Travel Plan in accordance with guidance issued by the National Transport Authority.

Following the receipt of a response to a request for further information, a final report was prepared which stated that the submitted Traffic Assessment was acceptable.

Environment (Air, Noise & Water Pollution Control): Recommends the inclusion of a condition in any grant of permission which will require the applicant to provide certification that the proposed lighting, when commissioned, complies with *BS EN 12193:1999 'Light and Lighting – Sports Lighting'* and that any light spillage has been minimised in the interests of residential amenity.

Environment (Waste Management): Recommends the inclusion of a condition in any grant of permission requiring the submission of a Waste (Construction & Demolition) Management Plan for written agreement with the Planning Authority prior to the commencement of development.

Environment: States that there have been serious problems with the existing wastewater treatment plant serving Ballyneety Golf Club and the associated housing for many years and that although the plant was taken in charge by the Local Authority approximately two years ago with the management of same having improved somewhat since, issues remain with regard to the disposal of effluent given the absence of suitable receiving waters. Accordingly, the importance of avoiding any further loadings on the existing plant is emphasised and it is submitted that any additional facilities to be provided on site should be catered for by way of a private treatment plant discharging to ground. In this respect it is also recommended that the following further information be sought in relation to the likely increase in loadings associated with the proposed development:

- An assessment of the P.E. of the proposed crèche facility.
- Details of any additional sanitary facilities to be provided on site to cater for the new outdoor facilities.
- Proposals for on-site treatment to cater for the wastewater generated in the crèche and in any additional sanitary facilities to be provided on site. These proposals should be based on the results of a site suitability assessment carried out by a qualified assessor in accordance with the EPA Code of Practice, 2009.

Following the receipt of a response to a request for further information, a final report was prepared which accepted that the submitted site assessment indicated that the application site was suitable for the treatment and disposal of

effluent by means of a septic tank, intermittent filter system and a soil polishing filter. Accordingly, there was no objection to the proposed development subject to the inclusion of appropriate conditions.

Water Services: Recommends that the applicant be requested to submit full details of all surface water, foul sewer and water supply services.

4.4 Prescribed Bodies / Other Consultees:

Irish Water: No objection subject to conditions.

Limerick Smarter Travel: Recommends that any grant of permission include conditions requiring the submission of the following items:

- A justification for the number of car parking spaces proposed and the revision of same to correspond with traffic counts and the expected trip generation set out in the submitted Traffic Assessment.
- A revised site layout plan detailing the location of all bicycle and bus parking allocations.
- A revised Mobility Management Plan.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- The appellant's dwelling house / property is located adjacent to the 18th fairway of Ballyneety Golf Club and has been hit by approximately 2,000 No. stray golf balls. The dangers of personal injury arising from these errant golf balls given the siting / positioning of the 18th fairway have been well-documented before the Courts and in this respect it should be noted that measures, such as allowing a tree line to develop between the appellant's property and the fairway, were put before the Courts to remove the danger. Having regard to the foregoing, it is noted that the proposed development includes for the provision of a walking track ('Walking Route 3') between the 18th fairway and the rear of the appellant's property, however, no safety proposals have been provided in respect of same. Accordingly, there are concerns that the applicant is proposing changes to the area in question in the absence of any consultation / agreement with the appellant and that inadequate consideration has been given to how these changes will impact on his safety.

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- Whilst the applicant has indicated that the subject site is connected to the public mains sewer, it is considered that further clarification is required in this respect.
 - There is no public mains sewerage system serving the village of Ballyneety, although there is a wastewater treatment plant located within the confines of the application site. However, there have been pollution issues associated with this treatment plant in the past with the Board having previously ruled on same in its determination of ABP Ref. No. PL13.228597.
 - Whilst an application has been made for the existing wastewater treatment plant on site to be taken in charge, it is the appellant's understanding that although these plans are well advanced they are yet to be finalised.
 - There is a report on file prepared by an engineer with the Environment Section of the Local Authority which states that whilst the operation of the existing wastewater treatment plant has improved, there are still issues arising with regard to the disposal of effluent. This report also states that it is of importance that no additional loadings be placed on the plant at this point in time. In this regard the Board is advised that in excess of 100 No. residential properties, the golf club (with over 700 No. members), the driving range, and the restaurant, are served by the existing treatment plant.
 - The appellant's dwelling house is one of the closest residential properties to the treatment plant and thus there are concerns as regards its continued operation given the previous difficulties associated with same, including instances of sewage backing up from the system.
 - There is a judgement mortgage in the appellant's name (and that of his wife) on those lands included in the subject planning application and the situation regarding this judgement mortgage has not changed with the Land Registry.

The submitted proposal provides for the development of a multi-purpose facility, a community crèche, a 'pop-up' campsite and all-weather pitches etc. Given the fact that the applicant is not the owner of the relevant lands, there are concerns that the subject application will unnecessarily complicate the appellant's situation and could also expose him (and his spouse) to further legal action and nuisance.

- The applicant has declared in the planning application form that it is the owner of the lands in question and that the provision of a letter of consent from the landowner is not applicable in this instance, however, the

applicant has previously stated in a newspaper article (copy attached) that it intends to buy the golf club from a company called Quintas Wealth Management. In this respect, it should further be noted that the Companies Registration Office shows that a company called Ethix Ltd. is the owner of the Ballyneety Golf Club lands although it is the appellant's understanding that this company monitors the activities of the golf club and reports to Quintas Wealth Management. Accordingly, the subject application should have been accompanied by a letter of consent from Ethix Ltd. and / or Quintas Wealth Management. Furthermore, as it appears that the applicant's declaration with regard to ownership of the proposed development site is erroneous, it is suggested that the subject application was granted planning permission without there having been adequate consideration of this declaration by the Planning Authority.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

No further observations.

6.2 Response of the Applicant:

- It is considered that the grounds of appeal relate to the planning application as initially lodged and take no account of the changes proposed to the development at further information stage and which significantly address a number of the issues raised in the appellant's submission.
- By way of background, the Board is advised that '*Limerick County Golf and Country Club*' went into liquidation in 2010 and subsequently fell into a state of dereliction remaining closed and unmaintained for a period of two years. However, in 2012 the community of Ballyneety rallied together and held a number of public meetings which culminated in Quintas Wealth Management providing the necessary finance to re-acquire the site from the liquidator with the money being given to Ethix Ltd. who purchased the property. The 'Ballyneety Members Golf Club Project' was then formed and a management structure for the club put in place. Now known as 'Ballyneety Golf Club', it is envisaged that the re-developed facility will eventually be fully owned by its members and fundraising activities are on-going to raise the necessary capital to fund the buy-back.

The Ballyneety Members Golf Club Project (with the backing of Ethix Ltd.) is a community-led initiative and its sole purpose is to revitalise and re-

imagine the development of the golf club facility for the benefit of the community. From the outset it was envisaged that the redevelopment project would consist of 3 No. interdependent stages:

- Stage I – Restoration and redevelopment of the golf facility (course, clubhouse, tuition academy and driving range) which is now complete.
 - Stage II – Possible development of walking trails and other amenities as a major centre for recreation in Co. Limerick i.e. the subject development now under consideration.
 - Stage III – Integration with existing tourism and accommodation facilities. Marketing and promotion will commence once Stage II has been approved and work commenced.
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- The intention is to develop a facility that can be used by the community of Ballyneety regularly as the village is presently lacking in community facilities with no public park, playground or community pitches. Indeed, the use of the clubhouse by groups within the village is already evident with the Bridge Club, Tidy Towns and Residents Associations all using the premises for their meetings. Accordingly, the subject proposal seeks to address the existing facility deficiency in the village.
 - The subject lands are naturally landscaped and can accommodate the proposed development with minimal intervention necessary. In this respect it is submitted that the all-weather pitch, handball alley and crazy golf will all be focused around the existing clubhouse. The walkway will follow a natural safe route around the golf course with a covered section to be provided where it intersects with two fairways and was relocated away from the rear of adjacent housing to the east in response to a request for further information. In addition, use will be made of an unoccupied residential unit and converted into a crèche facility for public use or as a drop-in facility for those wishing to play golf.
 - The existing site access from the R512 Regional Road has been demonstrated by means of a Traffic Assessment to be capable of accommodating the traffic likely to be generated by the proposed development whilst provision has also been made for the inclusion of adequate additional car parking facilities.
 - The crèche facility will be served by an on-site wastewater treatment unit proposed as part of the overall development thereby ensuring no additional loading is generated on the existing treatment plant serving the clubhouse, driving range and 104 No. dwelling houses.

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- The proposed development complies with the policies and objectives of the Limerick County Development Plan, 2010-2016, with specific reference to Objective Nos. SS014, COM05, COM06 & COM08.
 - The submitted proposal does not amend, interfere or alter the layout of the golf course. The proposed walking / jogging trail and other amenity services and infrastructure are positioned within the permitted golf course and seek to take advantage of the natural setting and existing landscape treatment.
 - The suggestion that the proposed development will alter the '*status quo*' of the golf course relative to the appellant's property is rejected. When under previous ownership, the tee box at the 18th hole was temporarily relocated in response to a judgement from the Courts. The tee box remains in this relocated position and has not been moved. Accordingly the subject proposal does not interfere with the layout of the 18th hole and thus does not alter the safety measures historically put in place.
 - It should be noted that the route of the proposed walking / jogging trail was changed in response to a request for further information issued by the Planning Authority which sought to further enhance and protect the residential amenities of those houses in 'The Glen' (including the appellant's dwelling house) which adjoin the site to the east. The revised proposal provides for 2 No. walking / jogging trails (as opposed to three as indicated by the appellant) which have been relocated away from the rear of the dwelling houses in 'The Glen' with enhanced landscaping provided along the eastern site boundary thereby further enhancing the residential amenities of those properties. All other amenity facilities and services are located removed from the eastern site boundary in an effort to respect and maintain the residential amenity of those properties adjoining the golf club.
 - It is considered that the residential amenity of adjacent housing is enhanced due to the improved landscaping and thus no safety concerns arise.
 - The existing wastewater treatment plant on site (which serves the clubhouse and driving range, including the restaurant, bar, toilets & showers, in addition to 104 No. houses in the surrounding estate) has been taken in charge by the Local Authority and thus has effectively become a piece of public infrastructure.
 - Whilst the planning application as initially lodged sought to discharge effluent from the proposed crèche facility to the existing wastewater treatment plant on site, in response to a request for further information, a revised proposal was submitted whereby the proposed crèche will be served by a new dedicated on-site septic tank, intermittent system and soil

polishing filter. This revision has been accepted by the Environment Section of the Local Authority. The remaining developments proposed on site do not have dedicated bathroom facilities.

- At its peak the golf club previously had c. 1,200 No. members, however, such an extensive membership brought its own difficulties with teeing times. Therefore, the applicant anticipates an optimum membership of 750 No. in the future. Accordingly, even if use of the clubhouse were to increase consequent on the proposed development, (including use of its toilet facilities), this would be substantially less than when the club operated at maximum capacity.
- No additional loadings are being placed on the existing wastewater treatment plant at this time.
- The situation regarding the judgement mortgage is not a matter to be considered in the course of the determination of a planning application. Specifically, the determination of whether or not a proposed development accords with the proper planning and sustainable development of the area cannot be influenced by external / historical restrictions on title. These are matters to be addressed in the civil courts and are outside the remit of planning and it is not the Board's function to determine or interfere with property ownership or infringements.
- It is acknowledged that the statutory provisions distinguish between 'owner' and 'applicant' in that Article 22(2)(g) of the Planning and Development Regulations, 2001, as amended, stipulates that where an applicant is not the legal owner of the land or structure, the application must be accompanied by the written consent of the owner. In this instance no written consent is required as the owner is the applicant.

Ballyneety Gold Club is operated by its members and the community of Ballyneety. Ethix Ltd. (with finance from Quintas Wealth Management) purchased the property from the liquidator and proceeded to register the name 'Ballyneety Golf Club' in 2012 which manages the property on a day to day basis (the accompanying Business Registration Certificate confirms the relationship of Ethix Ltd. and Ballyneety Golf Club). The applicant in this instance is Ethix Ltd. which has applied under the legally registered trading name of 'Ballyneety Golf Club'. Accordingly, the declaration made in the application form is not erroneous and the application has been made in full compliance with the relevant statutory provisions.

- The proposed development represents a step forward for the Ballyneety Golf Club Estate which was brought out of liquidation by the drive and

determination of its members and the people of Ballyneety. It further comprises Phase II of an overall development project which will enhance facilities on the estate for the betterment of the overall community.

7.0 DEVELOPMENT PLAN

Limerick County Development Plan, 2010-2016:-

Appendix 1: Settlements

The proposed development site is identified in Section 8.5: 'Ballyneety – Tier 5 Settlement' as comprising an area of 'Amenity/Open Space'.

Chapter 3: Urban and Rural Settlement Strategy:

Section 3.5.5: *Tier 5 Small Villages with a range of infrastructural, social and community facilities:*

These are smaller settlements generally ranging in population from 150 – 400 people with some essential infrastructure (i.e. Council water and/or sewage facilities) and a range of community infrastructure that provide for convenience and daily needs of the local population and surrounding area. They also provide some small-scale employment opportunities and local level community facilities, such as primary schools, churches, local sporting facilities and a community hall.

Policy SS P10: It is the policy of the Council to support the sustainable development of tier 5 settlements.

Objective SS O14: Development within tier 5 settlements:

Within these settlements the Council shall facilitate development subject to compliance with objectives SSO1-SSO6 and the following:

- a) The scale of new residential schemes for development shall be in proportion to the pattern and grain of existing development and shall be located within or immediately contiguous to the core area. In this regard any development shall enhance the existing village character and create or strengthen a sense of identity and distinctiveness for the settlement.
- b) New commercial developments shall generally be located within the core area and shall contribute positively to the village street-scape.

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- c) New community and social facilities shall be provided in conjunction with residential development as required.

Chapter 6: Community and Recreation:

Policy COM P1: It is the policy of the Council to seek to improve the provision of community infrastructure and recreational opportunities for the wider community in co-operation with relevant bodies, in a sustainable manner in accordance with the settlement strategy of this Plan.

Objective COM O5: Accessibility for the Wider Community:

It is the Council's objective to:

- a) Seek the provision of appropriate, inclusive and accessible, safe amenity, recreational open space and community facilities that are available for all sectors of the community, both urban and rural at a convenient distance from their homes and places of work.
- b) Ensure that community facilities, recreation, play and leisure facilities are fully accessible to all users and are compliant with current legislative requirements.

Objective COM O6: New Development:

Proposals for recreation, leisure and community facilities and extensions, conversions and reuse of existing facilities shall be permitted where it can be demonstrated that such facilities will:

- a) be accessible to local residents, pedestrians, cyclists and those with special mobility needs;
- b) not significantly detract from the amenity and character of the surrounding area; and
- c) provide adequate access and parking facilities.

Section 6.6: Childcare Facilities:

The Council will facilitate the provision of childcare facilities in a manner, which is compatible with land-use and transportation policies, and adheres to the principles of sustainable development and social inclusion. In particular, the

location of childcare facilities shall minimise travel distance and maximise opportunities for disadvantaged communities.

Suitable locations for childcare facilities are as follows:

- Town and neighbourhood centres,
- Areas of concentrated employment,
- Large scale retail developments,
- In or within close proximity of schools and educational facilities,
- In or adjacent to community centres, and
- Adjacent to public transport nodes.

Objective COM O16: Provision of Services:

It is the objective of the Council to permit the provision of part-time, full day care and after school care facilities provided that:

- a) the activities would not cause an unacceptable level of disturbance to the amenities of people living nearby;
- b) traffic and car parking generated by the development would not have an unacceptable impact or be a hazard to road safety; and
- c) the development is of a suitably high quality standard to benefit the children using the facility, and
- d) the location is sustainable, minimizing the amount of car trips.

Section 6.10: *Leisure and Recreational Facilities*

Section 6.10.3: *Walking Routes, Cycling Routes, Right of Way*

Chapter 8: Transport and Infrastructure:

Section 8.2.6.1: *Strategic Regional Roads:*

Policy IN P8: Strategic Regional Road Network:

It shall be the policy of the Council to protect the investment in the Strategic Regional Road Network, prevent the premature obsolescence of this network and maintain and improve road safety and capacity.

Objective IN O14: Specific improvements and additions to the strategic regional road network:

It is an objective of the Council to give priority to the protection and improvement of sections of the Strategic Regional road network including the following:

- a) R525 The Montpelier-O'Briensbridge crossing including 60 metre buffer;
- b) R521 Newcastle West to Ardagh, Daar bridge and re-alignment;
- c) R513 Ballyaderg Bridge and realignment;
- d) R506 Annacotty industrial estate to Cappaghmore;
- e) R503 Annacotty roundabout to Newport Tipperary border;
- f) Newcastle West distributor road; and
- g) R512 Kilmallock Road.

Chapter 10: Development Management Standards:

Section 10.9: Community and Recreation:

Section 10.9.1: Childcare Facilities

Section 10.9.2: Caravan Parks and Camping Sites

Section 10.11.9: Strategic Regional Roads:

The Council will restrict frontage development onto strategic regional roads, in order to protect the capacity of these roads and not compromise their management and improvement to enhance their safety and capacity, as per Policy IN P8 and Objective INO14, Chapter 8, Transport and Infrastructure.

8.0 ASSESSMENT

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Impact on residential amenity
- Wastewater treatment and disposal
- Traffic implications
- Procedural issues

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- Appropriate assessment
 - Other issues

These are assessed as follows:

8.1 The Principle of the Proposed Development:

8.1.1 The proposed development site is located on the fringe of the small rural village of Ballyneety and in view of the planning history and established use of the site as a sports / recreation facility, in my opinion, the proposed development would represent a complementary extension of said use and would contribute to its continuing development which would be of beneficial value to the wider community. Therefore, I am satisfied that in this instance the proposed development is acceptable in principle.

8.2 Impact on Residential Amenity:

8.2.1 The principle concerns raised in the grounds of appeal with regard to the potential impact of the proposed development on the amenity of surrounding properties relate to the dangers of personal injury arising from errant golf balls given the siting / positioning of the 18th fairway relative to the rear garden areas of 'The Glen' housing development to the immediate east. In this respect reference has been made to past instances of stray golf balls striking the appellant's property and ameliorative measures previously put before the Courts in order to address the associated dangers which included allowing a tree line to develop between the appellant's property and the fairway. More specifically, concerns have been raised that the development of Walking Route No. 3 (as detailed in the '*Site Layout including Walking / Jogging Trail*' which accompanied the initial planning application received by the Planning Authority on 5th December, 2014), which extends alongside the rear garden areas of several of the dwelling houses within the adjacent 'The Glen' housing development, will serve to undermine the aforementioned commitment as regards the development of a tree line between the appellant's property and the 18th fairway. In this regard I would advise the Board that 'Walking Route No. 3' is shown on the submitted site layout plan as comprising a 'tree-lined pathway' which will pass (in part) through an existing tree stand within the relevant lands. Accordingly, it has been asserted in the grounds of appeal that the applicant is proposing changes to the area in question in the absence of any consultation / agreement with neighbouring residents and that inadequate consideration has been given to how these changes will impact on the safety of those residents (including the appellant).

8.2.2 Whilst I would acknowledge the legitimacy of the appellant's safety concerns as regards the dangers posed by errant golf balls, I would advise the Board in the first instance that the safety implications and liability considerations associated with the operation of the existing golf course are, in my opinion, beyond the remit of this appeal and that any dispute arising in this respect is essentially a civil matter for resolution between the parties concerned. However, I would accept that if the effect of the proposed development was to pose an increased risk of injury etc. to neighbouring residents due to the removal of any landscaping or other screening / protective measures consequent on the carrying out of the works in question, this would be a material planning consideration in the assessment of the subject application.

8.2.3 Having reviewed the available information, it is of particular relevance at this point to note that the applicant has already submitted amended proposals in response to a request for further information issued by the Planning Authority wherein it has sought to address the safety (and residential amenity) considerations associated with the proposed development of 'Walking Route No. 3' through the re-design of the walking / jogging trails to omit that section of same which would have previously extended alongside the rear garden areas of several of the dwelling houses within the adjacent housing development. Accordingly, in reference to the revised walking track details as outlined in Drg. No. RFI-01-BGC-2015: *'Proposed Local and Village Amenity Walks'* and submitted to the Planning Authority on 1st October, 2015, it is my opinion that the specific concerns raised in the grounds of appeal have already been satisfactorily addressed (*N.B.* For clarity purposes, I would advise the Board that the identification of the proposed walking route as continuing northwards onto the village centre refers to an existing pathway).

8.2.4 In addition to the foregoing, I note that the applicant has responded to the grounds of appeal by asserting that the relocation of the tee box at the 18th hole in response to a previous judgement from the Courts remains in place and that the subject proposal does not interfere with the layout of the 18th hole and thus does not alter the safety measures historically put in place.

8.2.5 Following consideration of the foregoing, it is my opinion that the proposed development, as amended by the plans and particulars lodged with the Planning Authority on 1st October, 2015 in response to the request for further information, will not give rise to any significant diminution in the residential amenity of adjoining properties given the location of the proposed amenity facilities and services away from eastern site boundary.

8.3 Wastewater Treatment and Disposal:

8.3.1 The proposed development involves the construction / provision of a number of new amenities / services within the wider site and thus concerns have been raised that the associated increase in the number of visitors / users will place increased loadings on the existing wastewater treatment plant which presently serves the golf course (including the clubhouse) and associated adjacent housing. In this regard I would refer the Board to the initial report compiled by the Environment Section of the Local Authority which states that there have been serious problems with the existing wastewater treatment plant for many years and that whilst it was taken in charge by the Local Authority approximately two years ago with the management of same having improved somewhat since, issues remain with regard to the disposal of effluent given the absence of suitable receiving waters. This report proceeds to emphasise the importance of avoiding any further loadings on the existing treatment plant before ultimately recommending that the applicant submit proposals for the installation of a new private wastewater treatment system with a discharge to ground in order to accommodate the additional demands consequent on the proposed development.

8.3.2 From a review of the plans and particulars which accompanied the initial planning application, it would appear to have been the applicant's intention at the outset of the proposal to connect the proposed development (with particular reference to the crèche facility) to the public mains sewer. Indeed, this would seem to be in reference to the existing wastewater treatment plant serving the golf course which has purportedly been taken in charge by the Local Authority, however, it is readily apparent from the available information (including the planning history of the site) that such a proposal would not be acceptable given the on-going difficulties associated with the existing system. Therefore, in response to a request for further information issued by the Planning Authority, the applicant has submitted revised proposals which have sought to install a new effluent treatment system on site specifically to cater for the wastewater loadings arising from the development of the proposed crèche facility. Accordingly, whilst such a proposal is acceptable in principle, it is necessary to review the available information in order to ascertain if the subject site is suitable for the system proposed and the disposal of treated effluent to ground.

8.3.3 The Site Characterisation Form which has accompanied the applicant's revised proposals states that the trial hole encountered 300mm of topsoil overlying 1,000mm of SILT / CLAY followed by 1,500mm of subsoil comprising

elements of clay, silt, gravel, sand, cobbles and boulders, to the depth of the excavation at 2.8m below ground level. No water ingress or water table were evident and no bedrock was encountered. The percolation tests would also seem to have yielded results that indicate the site is suitable for the discharge of treated effluent to ground (*N.B.* The presentation of the results derived from the percolation testing as shown in the Site Characterisation Form do not follow typical practice, however, on the basis of my own calculations using the data provided, the relevant 'T'-value would appear to be 24min/25mm).

8.3.4 Following an analysis of the additional information, a further report was prepared by the Environment Section of the Local Authority which concluded that the submitted site assessment had indicated that the application site was suitable for the treatment and disposal of effluent by means of a septic tank, intermittent filter system and a soil polishing filter. Accordingly, there was no objection from the Local Authority on environmental grounds to the proposed development subject to the inclusion of appropriate conditions.

8.3.5 Having considered the available information, with particular reference to the amended wastewater treatment proposals submitted in response to the request for further information, including the Site Characterisation Form and the appended 'Site Layout Plan', it would appear that the subject site is suitable for the discharge of treated effluent to ground and that the overall design of the proposed wastewater treatment system complies with the minimum requirements of the relevant EPA Code of Practice.

8.4 Traffic Implications:

8.4.1 The proposed development site is accessed directly from the R512 Regional Road via an existing service road which also serves an adjacent housing development. In this respect I would refer the Board in the first instance to the Traffic Assessment of the proposed development submitted by the applicant on 1st October, 2015 in response to a request for further information issued by the Planning Authority. This report details that traffic modelling for the proposed development was initially derived from traffic counts conducted on the afternoon of (Saturday) 7th March, 2015 which were subjected to further extrapolation having regard to comparative figures available for Saturday, 26th July, 2014 in order to estimate the likely turning movements at the existing junction with the R512 Regional Road during a typical '*Saturday Afternoon Summer Peak Hour*'. The likely additional trip generation associated with the proposed development was then calculated following detailed discussions with the applicant as regards the predicted maximum level of use of each of the

additional activities proposed. A subsequent analysis of this data for an opening year of 2020 and future assessment years of 2025 & 2035, which also took account of composite growth factors based on the NRA Project Appraisal Guidelines, concluded that the existing access junction with the R512 Regional Road would continue to operate satisfactorily with the proposed development in all of the aforementioned scenarios without further improvement.

8.4.2 In relation to the specific design of the existing junction arrangements, the submitted Traffic Assessment has also confirmed that the visibility splays / sightlines and the stopping sight distances are presently are in excess of current safety related design requirements.

8.4.3 With regard to the proposal to expand the existing car park in order to provide an additional 75 No. car parking spaces, having regard to the likely additional trip generation as set out in the Traffic Assessment, the likely usage of the proposed facilities, the proximity of the site to Ballyneety village centre and the availability of pedestrian connections to same, in addition to the likelihood of some degree of synergy with the established uses on site, I am satisfied that the level of additional parking provision is reasonable. However, in light of the requirements of the County Development Plan with regard to the provision of adequate parking facilities for bicycles, motorcycles and the mobility impaired, in addition to the need to ensure the suitable definition of parking spaces and circulation aisles through the provision of kerbing and landscaped planters in keeping with the existing car park, I would recommend the inclusion of an appropriate condition in any grant of permission whereby the foregoing matters could be agreed with the Planning Authority prior to the commencement of development. Whilst I would concede that these revisions could result in a slight lowering of the total number of car parking spaces proposed, I am inclined to suggest that any such reduction will be within acceptable limits and that the remaining parking facilities will be adequate to accommodate the likely demands of the proposed development.

8.4.4 The applicant has also submitted a Workplace Travel Plan and whilst I would acknowledge the concerns raised in the submission of Limerick Smarter Travel with regard to same, it is my opinion that the measures outlined such as the promotion of cycling and the proposal to provide a continuous footway along the southern side of the access road within the grounds of the golf club will serve to advance a modal shift away from the private car at the site.

8.4.5 Accordingly, on the basis of the available information, I am satisfied that the proposed development will not endanger public safety by reason of traffic hazard and that the surrounding road network has sufficient capacity to accommodate the increased traffic volumes and turning movements consequent on the proposed development.

8.5 Procedural Issues:

8.5.1 The appellant has questioned the validity of the subject application on the basis that the applicant may not have sufficient legal interest in the proposed development site to make the application. In my opinion, such procedural matters are generally the responsibility of the Planning Authority which in this instance took the view that the applicant had demonstrated sufficient interest in the site to make the application and that the submitted documentation satisfied the minimum regulatory requirements. Accordingly, I do not propose to comment further on this matter.

8.5.2 In relation to the appellant's concerns that the proposed development may serve to complicate the situation with regard to a judgement mortgage in his name (and that of his wife) on those lands included in the subject planning application and that it could also expose him to further legal action and nuisance, it is my opinion that this is essentially a civil matter for resolution between the parties concerned which is not directly relevant to the determination of the subject appeal and in this respect I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*'.

8.6 Appropriate Assessment:

8.6.1 Having regard to the nature and scale of the development in question, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.7 Other Issues:

8.7.1 Overall Design and Layout:

8.7.1.1 Given the overall scale and nature of development proposed and its siting within the confines of an established leisure / recreational facility, I am satisfied that the submitted proposal is generally acceptable in terms of its overall design

and will not give rise to any significant undue visual impact on the surrounding rural environment.

8.7.2 Floodlighting and Other Lighting:

8.7.2.1 The specifics of the proposed floodlighting for the playing pitch and any other lighting requirements on site can be satisfactorily addressed by way of condition in the event of a grant of permission.

9.0 RECOMMENDATION

Having regard to the foregoing I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

Reasons and Considerations:

Having regard to the nature and scale of the proposed development and the existing established use of the site as a sports/recreation facility, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience, 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 as amended by the further plans and particulars submitted on the 1st day of October, 2015, 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. The proposed development shall be amended as follows:

-
- a) A 1.8m wide pedestrian footpath shall be provided along the southern side of the access road within the grounds of the golf club.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of traffic and pedestrian and safety.

3. Details of the materials, colours and textures of all the external finishes to the proposed community crèche building, archery range and the covered sections of screened walkway shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

5.

- a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 1st day of October, 2015, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

- b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

- c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first

operation of the community crèche and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

- d) Surface water soakways shall be located such that the drainage from the community crèche and paved areas of the site shall be diverted away from the location of the polishing filter.
- e) Within three months of the first operation of the community crèche, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

6. Parking for the development shall be provided in accordance with a detailed parking layout which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The layout shall provide for:-

- a) 3 No. parking spaces which shall be reserved for persons with physical disabilities, which shall be not less than the dimensions set out in the document "Building for Everyone" (National Disability Authority),
- b) 3 No. parking bays for motorcycles,
- c) circulation aisles with a minimum width of 6.1 metres (unless otherwise agreed with the Planning Authority),
- d) kerbing, planters, and landscaping within the boundary of the parking area,
- e) lining or other method of demarcation of the individual spaces.

Reason: To ensure a satisfactory parking layout in the interests of pedestrian and traffic safety and of visual amenity.

7. 10 No. bicycle parking spaces shall be provided within the site. Details of the layout and marking demarcation of these spaces shall be submitted to,

and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

8. The hours of operation of the floodlights shall be confined to between 0900 hours and 2200 hours, Monday to Saturday inclusive and to between 0900 hours and 2100 hours on Sundays and public holidays.

Reason: In the interest of the amenities of adjoining residential properties.

9. The floodlights or any equivalent replacement floodlights shall consist of 4 No. 10m high, three-lamp, corner floodlights as specified in the application. The floodlights shall be directed onto the playing surface of the pitch and away from adjacent housing. The floodlights shall be directed and cowled such as to reduce, as far as possible, the light scatter over adjacent houses.

Reason: In the interest of residential amenity and traffic safety.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

Signed: _____

Robert Speer
Inspectorate

Date: _____