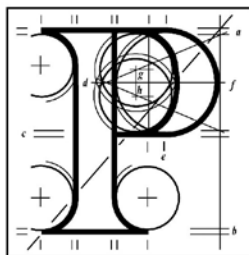


# An Bord Pleanála



## Inspector's Report

**Development:** The demolition of a section of the western boundary wall of Cusack Park and the construction of a new 2.8m high boundary wall in its place complete with turnstile housing, ticket kiosk, and exit gates.

The construction of new toilet block and concession building within Cusack Park.

The demolition of existing ruined buildings and part of an orchard wall and the construction of a new car park complete with associated drainage within the "Cloister Site".

The demolition of the existing entrance and the construction of a new entrance at Abbey Street.

At the "Cloister Site", Abbey Street and Cusack Park,  
Francis Street, Ennis, Co. Clare.

### Application

Planning authority:	Clare County Council
Planning application reg. no.	P15/80
Applicant:	Clare County GAA Board
Type of application:	Permission
Planning authority's decision:	Grant, subject to 11 conditions

**Appeal**

Appellant: DoAHG

Type of appeal: Third party -v- Decision

Observers: None

Date of site inspection: 4<sup>th</sup> February 2016

**Inspector:** Hugh D. Morrison

## Site

The site is located within the north eastern portion of Ennis town centre. This portion of the town centre includes within it Cusack Park, the GAA County Ground, and the Franciscan Abbey or Friary. The Ground lies to the east and the Friary lies to the south west of the site. This portion of the town centre is bound to the north by the River Fergus and the northern boundary of the site abuts part of the southern embankment to this River. The River Fergus meanders to the north west of the site and so its alignment changes from south/north to west/east within the vicinity of the site. Consequently, access to the site from the west is via Club Bridge and Abbey Street. The entrance to the site is through a gateway, which is accompanied to the north and south by Abbeyview House, a three storey Victorian house that is presently in use as a medical surgery and residence, and The Cloister, a two storey former refectory and dormitory that is now in use as a restaurant and public house. To the north of Abbeyview House is Abbeyfield House, a three storey Georgian house, and adjacent to this House is a new Garda Station. To the south lies the Franciscan Friary, which is accompanied by a cloister and a graveyard. The central feature of the Friary is its belfry tower with large pinnacles. To the west of this tower is the nave, which was re-roofed in 2011, and to the east is the chancel.

The site itself is roughly “L” shaped and it extends over an area of 0.835 hectares. This site is effectively divided into three portions: the western portion, which is composed of the access road from the entrance off Abbey Street, the southern portion, which comprises an informal car park on its western side and an orchard on its eastern side, and the northern portion, which comprises a more uneven woodland area with a waterlogged trench in the north western corner. The northern and southern portions of the site are divided from one another by an east/west stone wall, which continues on a north/south alignment to denote the eastern boundary of the southern portion of the site. Elsewhere, a stone wall denotes the southern boundary with the existing grounds to Stamer Park country house and the more southerly western and the more westerly northern boundaries are variously denoted by the stone walls to the East Annex to the Friary and the shells of accompanied outbuildings and the ruins of outbuildings. The more northerly western and the northern boundaries are denoted by steel palisade security fences and the eastern boundary to the northern portion of the site is denoted by a concrete blockwork wall.

## Proposal

As originally submitted, the proposal envisaged the following four elements:

- The demolition of the majority of the eastern boundary wall to the site, i.e. the western boundary wall to Cusack Park and the construction in its place of

a new 2.8m high boundary wall complete with turnstile housing for 16 turnstiles, a ticket kiosk, and three pairs of exit gates.

- The construction of a new toilet block and concession building (total floorspace 90 sq m) within the north western corner of Cusack Park.
- The demolition of existing ruined outbuildings on the more westerly northern boundary of the site and the western part of an orchard wall, i.e. the east/west wall that divides the northern and southern portions of the site, and the construction of a new car park (208 car parking spaces, including 9 mobility impaired car parking spaces, and 5 bus parking spaces) complete with associated drainage.
- The demolition of the existing entrance and the construction of a new entrance at Abbey Street, which would comprise a pair of steel panelled gates accompanied on either side by wrought iron pedestrian gates.

On foot of a request for further information, the third element was amended and augmented as follows: The layout of the car park was altered and the number of car and bus parking spaces was reduced to 204 and 4, respectively, while bicycle stands were introduced in positions adjacent to the new toilet block and the southernmost turnstile housing.

At the appeal stage, underground surface water drainage proposals for the access road were omitted and the applicant undertook to carry out only surface dressing over the existing ground profile. A buffer zone to a depth of 2m is now proposed around the enclosed perimeter of the southern portion of the site. Consequently, 6 further car parking spaces and 1 further bus parking space are omitted to give totals of 198 and 3, respectfully. Adjacent to the western boundary with the Friary, a medieval herbaceous garden is proposed for the corresponding portion of the buffer zone.

### **Planning authority's decision**

Following receipt of further information, the planning authority granted permission subject to 11 conditions, which include the following:

1. Standard introductory condition.
2. Soft landscaping buffers to be provided to a depth of at least 10m from the south western boundary and 3m from the southern boundary.
3. Entrance gate to have a timber finish.

4. The car park to be used for GAA matches and authorised events only. A mobility management plan to be prepared and details of hard surface finishes to be submitted.
5. Archaeological monitoring to be undertaken.
6. Identified mitigation measures to be undertaken in connection with the demolition of the garden wall and all dressed medieval stones in walls to be dismantled to be identified and catalogued.
7. Archaeological report to be prepared.
8. Construction management plan, including construction phase traffic management plan, to be prepared.
9. Drainage condition.
10. Details of changes to Abbey Street in the vicinity of the site entrance to be prepared.
11. Public lighting condition.

#### **Technical reports**

- DoAHG
  - Archaeology: Clarification of further information requested.
  - Architecture: Clarification of further information requested.
  - Nature Conservation: Following receipt of further information, commentary provided.
- Architectural Conservation Officer/Archaeologist: Following receipt of further information, no objection, subject to conditions.
- Ennis Roads Office: Following receipt of further information, no objection, subject to conditions.
- Chief Fire Officer & Building Control Officer: No objection.
- Road Design: Following receipt of further information, effectively clarification of further information requested.
- NRA: Defers to the planning authority.
- An Taisce: Comments on archaeology and traffic management.

## Consultee

IFI: No objection in principle: attention drawn to a spring on site and recommendations made with respect to the specification of an oversized 3 stage grit and oil interceptor, the installation of a barrier to avoid the collision of vehicles with the flood defence wall, and the retention of where possible of some trees and the planting of additional native species to preserve some wildlife habitat.

## Grounds of appeal

The appellant does not consider that the conditions attached to the draft permission “adequately resolve the material impact on the character, setting, amenity and integrity of the national monument and protected structures”, within the vicinity of the site, that would arise from the proposal. Accordingly, the Board is requested to use powers available to it, under Section 132 of the Planning and Development Act, 2000 – 2015, to request documents, particulars and other information necessary to demonstrate appropriate mitigation of the aforementioned impact:

- (i) Clarify the location and extent of sub-surface and upstanding remains of medieval buildings and features from the Friary at the site entrance and access road from Abbey Street,

Assess the visual impact of the said access road and new entrance gates upon the integrity of the national monument, and

Recommend mitigation measures to protect the character, setting and amenity of the national monument, including, as appropriate, the redesign of the said road and gates or, preferably, the identification of an alternative access route further away from this monument.

- (ii) The omission of car parking spaces from the area outlined in green on drawing CP29-003 Rev B and the specification of a 3m wide buffer along the southern boundary.

- (iii) Soft landscaping proposals for the aforementioned area and buffer and proposals to prohibit vehicles from entering the same,

Hard landscaping proposals for the car park, and

Both sets of proposals to be prepared by a suitably qualified landscaped architect and they should include recommendations with respect to making safe or removing the specimen tree close to the friary.

- (iv) Details of an appropriately sited and designed boundary division to provide a buffer between the car park and the Cloister and surviving Friary fabric to the north and east of the Cloister.

- (v) Details of appropriately designed and directed public lighting that would be compatible with the existing floodlighting of the national monument.
- (vi) In the light of the DP's Strategic Objectives 8 and 23, an assessment of the general effect upon the ACA of routing traffic towards the proposed car park.
- (vii) Quantify any potential increases in particulates arising from the additional traffic that would be generated in the vicinity of the Friary and identify mitigating measures to offset the same.
- (viii) Submit documents illustrating the training that would be given to car park officials to ensure that the national monument and protected structures are protected from traffic on match-days. Where damage arises, measures to ensure its speedy repair should also be set out.

The appellant also requests that a baseline survey of the national monument be undertaken by a structural engineer prior to the commencement of development. Crack monitors should be installed and a detailed post-development report prepared. Likewise, vibrations from site clearance and construction works should be monitored continually, particular with respect to historic masonry fabric.

### **Responses**

The planning authority has not responded to the above cited grounds of appeal.

The applicant has responded as follows:

- (i) Works to the access road would be restricted to surface dressing, thereby eliminating any disturbance to the sub-soil. This dressing would entail a slight fall to either side. It would be finished in tarmac. The only accompanying drainage would be a cut off drain at the entrance to the site.

The impetus for the proposal is the need to provide Cusack Park with another means of access/egress, beyond the existing one from Francis Street to the south east. The absence of a second access/egress would overcome the existing health and safety issue that affects the Park and debars it from operating to capacity. With respect to alternative access routes, none are viable due to the presence of the River Fergus to the north and an Aldi to the east.

- (ii) The proposed buffer zone to the south and west of the site would be 2m deep and it would be planted as a medieval garden with medicinal, culinary, and household species of plants and herbs. The depth proposed by the appellant is considered to be excessive, if the zone is to remain manageable. The said garden would operate as a community facility and it would echo the historic use of the site.

(iii) – (v) A revised landscaping plan shows, in addition to the aforementioned medieval garden, wall climbers for boundary walls, and tree planters within the proposed car park.

The aforementioned buffer zones would be edged with a kerb and lighting would be reduced to minimise any impact upon existing floodlighting of the adjacent national monument.

(vi) The proposal would fulfil two purposes: the provision of an additional route for patrons of Cusack Park, and the provision of vehicular parking for patrons on match days, including players, officials, and medical personnel.

The submitted TIA shows that traffic generated by the proposal would have a minimal impact upon the town centre and that such impact would tend to occur at times when other businesses are not operating.

(vii) Traffic generation would be sporadic and its impact would be negligible, including that of particulates upon the national monument.

(viii) Car park officials will be trained to implement the proposed car park management plan, which will aim to ensure safe vehicular movements. This plan will also address the scenario wherein damage occurs to adjoining property.

### **Response to response**

The appellant has viewed the applicant's revised proposals, which were submitted at the appeal stage. These revisions do not represent an adequate response to the critique of the proposal encompassed in the grounds of appeal. This critique is shared by the OPW, which manages the national monument.

### **Planning history**

#### **Site**

- 98/21/027: 12 three-bed, 22 two-bed, 10 one-bed apartments in 3 three storey buildings, one with built in roofspace, associated car parking, and external works: Permitted.
- 04/21/013: 50 residential units (12 townhouses and 38 apartments) in five blocks, ancillary car parking and associated external works: Permitted, subject to the omission of 4 townhouses.

Under this permission, the majority of the orchard wall would have been retained and the majority of the southern portion of the site would have been laid out as a garden in the old orchard.



- 07/21/026: Amendments to the foregoing permission whereby 14 additional residential units were proposed for the south eastern corner of the site: Refused at appeal (PL58.223618) on the grounds that it would detract seriously from the character and setting of Ennis Friary, it would constitute overdevelopment leading to a sub-standard of amenity for future occupiers, and it would be served by inadequate car parking provision.
- Pre-application consultation occurred in September 2014.

#### Recent planning applications for Cusack Park

- 09/60: Demolition of 1 no. single storey machinery shed and construction of 1 no. two storey machinery shed and store with lean-to roof, using the existing stone boundary walls on the south and east sides as the new elevational wall for the building with cladding to the north and west elevational walls and associated ancillary site works to the south west corner of existing Cusack Park GAA Facility: Permitted.
- 14/645: Removal of roof from the southern stand and erection of new one, complete with camera accommodation and rear access stairs, construction of new toilet block adjacent to this stand, demolition of turnstile housing and boundary wall on the southern side of the stadium and construction of new turnstile housing and boundary wall: Permitted.

#### Development Plan

The Ennis and Environs Development Plan 2008 – 2014 (DP) remains in force. This Plan shows the site as lying within Ennis Town Centre Boundary. The site is zoned Commercial 1, wherein car parks are permissible in principle. The western portion of the site lies within the Club Bridge Quarter and the eastern portion lies within the Causeway Quarter. One of the key challenges for both of these Quarters is identifying suitable car parking opportunities, as the areas develop.

Policy TR12 of the DP addresses parking provision. This Policy states the following:

*It is the policy of the Council to control the supply of car parking in Ennis and Environs in order to achieve sustainable amenity, economic, environmental, land use and transport objectives. It is also the Council's policy to develop Park and Ride facilities at key locations in the Plan area, subject to the availability of finances.*

The DP shows the site as lying within the Town Centre ACA and, for the greater part, within the Historic Town Boundary and Archaeological Complex. The DP identifies the following buildings within the vicinity of the site as protected structures:

On Abbey Street:

- To the north west of the site: E32: Abbeyfield House

- To the north of the entrance to the site: E33: Abbeyview House
- To the south of the entrance to the site E35: The Cloister
- To the south west of the site: E36: The Old Friary\*

\*National Monument no. 170

To the west of Abbey Street:

- E34: The Club Bridge between Harmony Row and Abbey Street

Off Francis Street:

- E57: Stamer Park

Policy CN6 states that:

*...It is the policy of the Council to only consider proposals for development involving the alteration or addition to a protected structure or its setting where it can clearly be demonstrated that:*

*(a) The proposed development will be compatible with and will not detract from the special character of the structure and its setting;*

*(b) The development will complement and respect the design and character of contiguous buildings and the surrounding area;*

*(c) Features of architectural or historical interest and the historic form and structural integrity of the structures will be retained.*

The site lies within the zone of archaeological potential established around the historic town of Ennis, Recorded Monument CL033-031. Policy CN12 states that:

*It is the policy of the Council to consider proposals for developments that can clearly demonstrate that there would be no adverse impacts upon the archaeological or historical importance of recorded sites or monuments...*

The DP's Habitat Map shows the eastern portion of the site as mixed broadleaf woodland and the western portion as amenity grassland.

Under Table A7.2 of the DP, trees and hedgerows are identified for conservation, under Item 107, entitled Garda Station/Abbey.

### **National planning guidelines**

- Architectural Heritage Protection
- Planning System and Flood Risk Management Guidelines

## Assessment

I have reviewed the proposal in the light of national planning guidelines, the DP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use,
- (ii) Conservation, archaeology, and landscaping,
- (iii) Traffic, access, and parking,
- (iv) Flooding and drainage, and
- (v) AA.

### (i) Land use

1.1 The site is effectively divided into three portions: the western portion, which is composed of the access road from the entrance off Abbey Street, the southern portion, which comprises an informal car park on its western side and an orchard on its eastern side, and the northern portion, which comprises a more uneven woodland area with a waterlogged trench in the north western corner. Thus the western and the western side of the southern portions of the site are in use for the purpose of an informal car park and access and egress to the same. The site entrance from Abbey Street is gated and so the use of this car park is restricted. Signage indicates that it is used by customers of The Cloisters restaurant and public house. (The said access road is wide enough to allow further parking on either side of it, too).

1.2 The planning history of the site does not indicate that the said informal car park has received planning permission. The inspector who reported on appeal ref. no. PL58.223618 visited this site on 9<sup>th</sup> October 2007. His photographs indicate that the access road was insitu and that works had begun within the southern portion of the site consistent with the provision of the informal car park. These photographs also show works being carried out to The Cloisters restaurant and public house. The planning history of this property indicates that extensive works for the same were permitted under application reg. no. 04/21/008 and so the said photographs may well depict the implementation of the same. The provision of a customer car park in conjunction with the upgrade of this property represents a plausible chronology for the informal car park.

1.3 The Ennis and Environs Development Plan 2008 – 2014(DP) remains in force. This Plan shows the site as lying within Ennis Town Centre Boundary. The site is zoned Commercial 1, wherein car parks are permissible in principle. The western half of the site lies within the Club Bridge Quarter and the eastern half lies within the

Causeway Quarter. One of the key challenges for both of these Quarters is identifying suitable car parking opportunities, as the areas develop.

1.4 The planning history of the site indicates that formerly residential development was permitted under application reg. no. 04/21/013 in the northern portion. Car parking ancillary to this development would have been laid out over the northern part of the southern portion of this site, while the majority of the same would have been laid out as a “garden in the old orchard”. A subsequent application reg. no. 07/21/026, which sought to extend the residential development into the south eastern corner of the site, was refused at appeal (ref. no. PL58.223618) on the grounds of conservation, overdevelopment and lack of car parking.

1.5 I conclude that, whereas there is no in principle land use objection to the use of the site as a car park, the planning history of the site indicates that the siting of development within it is the subject of other material planning considerations that may have a bearing on the extent of any car park that can be achieved in practise.

## **(ii) Conservation, archaeology, and landscaping**

2.1 The site lies in the Ennis Town Centre ACA and within the immediate vicinity of a number of protected structures, i.e. on either side of the site entrance, Abbeyview House and The Cloister, and to the south of The Cloister, Ennis Old Friary, which is also a national monument. Other protect structures are situated nearby, i.e. Abbeyfield House to the north west, Club Bridge to the west, and Stamer Park, to the south east. In medieval times, the site may have formed a precinct to the Friary, while in more recent centuries it formed part of walled gardens to Stamer Park, a country house, which dates from the 18<sup>th</sup> century.

2.2 Given the historic standing of the site within its context, the applicant has submitted Archaeological Test Trenching and Impact Assessment Reports. The first of these draws upon the findings of trenches dug in the eastern half of the southern portion of the site and in the northern portion, while the second augments the first by drawing upon the findings of trenches dug in the western half of the southern portion. (Both these Reports also summarise the findings of previous archaeological work undertaken on the site). The first Report states, that while no archaeological features were found, such features may be present at lower levels beneath the top soil. The second Report records that in one trench a ditch was found and in another a brick wall was uncovered, which may have formed part of a greenhouse shown on the Ordnance Survey first edition map from c. 1840. Neither Report indicated any evidence of any precinct wall within the site, to the east of the Friary.

- 2.3 The appellant draws attention to the gap in the archaeological work undertaken insofar as the western portion of the site, which contains the existing/proposed access road, has not been addressed. This gap is considered to be significant as there is evidence of a medieval pavement within this portion of the site and there may be the remains of Friary buildings within the same, too.
- 2.4 The appellant emphasises the need for the aforementioned gap to be closed and, in anticipation of what may be found therein, the need to identify an alternative means of access to the main body of the site is flagged.
- 2.5 The applicant has responded by revising their proposal to ostensibly exclude below ground works from the western portion of the site. Thus, the previously proposed surface water drainage arrangements for this portion of the site, which would involve excavation of the same, have been deleted. The applicant also draws attention to the absence of alternative means of access to Cusack Park, due to the presence of the River Fergus to the north and an Aldi to the east. (Existing access to the GAA County Ground is from Francis Street to the south).
- 2.6 By way of observation, I note that the proposed footpaths in the western portion of the site would be retained and I anticipate that their construction would of necessity entail some excavation works. (I comment further below on the implications of the proposed omission of drainage under the fourth heading of my assessment). Beyond this observation, I do not consider that it would be appropriate to exclude part of the site from proper archaeological assessment, simply because the works proposed for the same would entail limited sub-surface incursions. Such a piecemeal approach would risk the emergence of an incomplete and potentially misleading understanding of the site's archaeology, which, given the presence of the adjacent national monument, would be an unacceptable outcome.
- 2.7 The proposal would entail the demolition of a row of outbuildings, which are in ruins, along the westernmost portion of the northern boundary to the site and the demolition of the western end of a wall, which runs on an east/west alignment and separates the northern and southern portions of the site. Clare County Council's Architectural Conservation Officer/Archaeologist considers that the former date from the late 19<sup>th</sup> century and the latter from the late 18<sup>th</sup>/early 19<sup>th</sup> centuries.
- 2.8 The demolition of the aforementioned outbuildings and wall would be necessary if a means of access between the western and northern portions of the site is to be achieved that would be of a satisfactory standard to accommodate vehicular, cyclist, and pedestrian traffic. The appellant has not raised objection to this aspect of the proposal and I consider that, provided the said outbuildings and wall are photographed and then dismantled in a manner that would facilitate the

salvage of any fabric of archaeological interest, their demolition would be justified. Furthermore, the line of the demolished wall should be reflected in the surfacing materials subsequently laid so that this line remains visible “on the ground” for posterity.

2.9 The appellant draws attention to the area to the rear of The Cloisters restaurant and public house, which comprises a series of outbuildings clustered around a hidden courtyard immediately to the east of the cloisters within the Friary. The appellant expresses concern that this area would be accessible and that it could become a venue for anti-social behaviour/vandalism. Accordingly, it should be excluded by a suitably designed barrier along the southern side of the access road.

2.10 Turning to the setting of the Friary, the appellant draws attention to the Ennis Friary Conservation Plan (EFCP), a non-statutory document that was prepared in 2001. This Plan emphasises the importance of the setting of the Friary and of ensuring that new uses for adjacent lands, for example the applicant’s site, are assessed “in terms of their impact on the Friary, its spiritual and sacred associations and its ultimate protection as a national monument” (page 72). In the light of this stance, the appellant considers that the westernmost part of the southern portion of the site should not be laid out to provide car parking spaces, i.e. the area edged green on the originally submitted site plan (drawing no. CP29-003 revision B) and the area shown as being laid out for car parking spaces nos. 1 – 44 (inclusive) in the applicant’s revised site plan (drawing no. CP29-003 revision D). The appellant also considers that the remaining boundaries to the southern portion of the site should be the subject of a 3m deep buffer zone. Both the sterilised area and the buffer zone should be designed to ensure that they would not be encroached upon by vehicles.

2.11 In response to a request for further information, the applicant submitted a Visual Impact Assessment Report (VIA), which identifies 11 view-points, 9 of which are external and 2 of which are internal to the site. Given that the proposal is for a car park that would be contained within the existing enclosed boundaries of the site, the visual impact of the proposal from the majority of the view-points would be unchanged. From a minority, however, the loss of trees from the site would be evident and from within the site the new site entrance and the formal car park would lead to significant impacts. Proposed mitigation measures include the retention of viable mature trees or replanting of appropriate species and the repair of historic masonry walls.

2.12 During my site visit, I observed that from within the site there are significant views of the Friary available against the western sky, which the applicant’s VIA does not reflect. These views include within them the particularly important and iconic eastern window to the Friary’s chancel. The proposed car park

would be a distraction that would detract from the quality of the experience that they afford and which would otherwise be available in the presence of a more sympathetic treatment of this setting.

- 2.13 Turning to the VIA itself, the design of the new site entrance was raised with the applicant under a request for further information. However, no substantive revisions were forthcoming. Essentially, the specification of a pair of blue steel panelled vehicular gates would fail to respect the location of the site entrance between two historic buildings, which are protected structures, and within the immediate vicinity of a fine historic entrance to a third one, which, too, is a protected structure. Accordingly, this issue remains outstanding.
- 2.14 The applicant's landscape design plan (drawing no. J421D001 revision 01) shows a 2m deep buffer zone to each of the boundaries to the southern portion of the site. Along the sensitive western boundary, this zone would be laid out as a herb garden, with medicinal, culinary, and household species being planted in a series of timber planters, thereby echoing a historic manor or castle garden. The remaining boundaries would be planted with wall climbing species. Other items within this plan included the proposed removal of a large specimen pine tree, which is situated immediately adjacent to the East Annex to the Friary, and the planting of 6 common hornbeam trees throughout the proposed car park. Lighting is shown, too, which distinguishes between the more sensitive western and southern portions of the site and the northern one, i.e. the former would be served by bollard lighting (1m high), so as not to compete with the floodlighting of the adjacent Friary, and the latter would be served by street lighting (8m high).
- 2.15 Drawing upon my site visit, I am persuaded that the appellant's concern over the proposal's proximity to the Friary is justified and that the applicant's response, in the form of the aforementioned landscape design plan, while containing a promising new item in the proposed herb garden, falls far short of a treatment of the western part of the southern portion of the site that would be commensurate with the setting of the Friary. Likewise the need for a generous buffer to the other boundaries of this portion of the site is not reflected in this plan. I do, however, welcome the proposed lighting regime.
- 2.16 The appellant questions why the large specimen pine tree is proposed for removal, as distinct from heavy pruning. Clearly, the position of this tree is such that its removal could have implications for the stability of the East Annex. Thus, relevant expert advice is needed before any decision to remove this tree can be taken with confidence.
- 2.17 Under Map H and Table A.7.2, the trees on the site are identified for conservation (reg. no. 107). Policy EN18 states that the planning authority will

promote the retention and conservation of these trees. The applicant's drawing no. CP29-008 revision A shows the trees on-site. However, no assessment of their state and condition has been submitted and, notwithstanding the commentary in the VIA, none are proposed for retention.

- 2.18 During my site visit, I observed that many of the trees on site have multiple trunks and/or are affected by ivy. Accordingly, I do not anticipate that a tree survey would advise that all of these trees be retained. That said, the opportunity to retain any, where that would be justified on arboricultural grounds, should be realised in order to provide the site with continuing tree cover, while supplementing the same with extensive new tree planting.
- 2.19 The landscape design plan does not indicate what materials would be used to provide the proposed car park with a hard surface. Elsewhere, the applicant indicates that the car park would be paved and the submitted layout presupposes that spaces would be marked out and the circulation routes would be lined. The appellant expresses concern that the *rus-in-urbe* ambience of the site should not be lost and so, in addition to more extensive tree retention and planting, they suggest the specification of green surface materials, such as grass-crete. I concur with this concern and suggestion.
- 2.20 The appellant expresses concern that particulates in fumes from traffic generated by the proposal may prove damaging to the stonework, including statues and carvings, in the Friary. Mitigating measures are called for. The applicant has responded by insisting that traffic would be sporadic, its impact would be negligible, and so no such measures are needed.
- 2.21 I consider that the appellant has identified a potential issue that should be investigated further, in the light of any experience that may be available from comparable situations elsewhere. If the current proposal is scaled down, then ensuing traffic would be reduced and so, presumably, the risk of this potential issue being an actual one would diminish correspondingly.
- 2.22 I conclude that the applicant has undertaken an insufficiently extensive archaeological investigation of the site and that the proposed car park reflects a design approach to the development of the site that pays insufficient attention to its historical setting and to the need to ensure that its green character is perpetuated.

### **(iii) Traffic, access, and parking**

- 3.1 By way of background the applicant explains that the impetus for the proposal is the need to provide Cusack Park with another means of access/egress, beyond the existing one from Francis Street to the south east. The absence of a second



access/egress would overcome the existing health and safety issue that affects the Park and debars it from operating to capacity.

3.2 As discussed under the first heading of my assessment, the DP zoning of the site deems car parks to be permissible in principle from a land use perspective and key challenges for the Club Bridge and Causeway Quarters within which the site lies identify the need for additional car parks. Additionally, Policy TR12 of the DP addresses parking provision. This Policy states the following:

*It is the policy of the Council to control the supply of car parking in Ennis and Environs in order to achieve sustainable amenity, economic, environmental, land use and transport objectives. It is also the Council's policy to develop Park and Ride facilities at key locations in the Plan area, subject to the availability of finances.*

If these various strands are synthesised, then while a Park and Ride approach to the town centre's parking needs may be considered an ideal, the provision of additional car parks within the town centre is not ruled out provided they would meet other planning objectives. The applicant has set out how the proposal would secure their objectives for the optimum use of Cusack Park in a manner consistent with health and safety requirements. They consider that traffic would be more easily managed, too.

3.3 Clearly, with respect to pedestrians, the provision of the proposed turnstiles on the western side of Cusack Park and access/egress through the site in conjunction with the same would enable appreciable numbers of spectators to be redistributed away from Francis Street from where the existing turnstiles are sited. Thus, the wider planning objective of relieving pressure upon Francis Street would be realised.

3.4 Clearly, too, the provision of off-street parking spaces for players, officials, and other GAA personnel would ease the demand on other car parks and on-street car parking spaces in the town centre. However, the size of the proposed car park, which in its latest revised form would provide 198 car parking spaces and 3 bus parking spaces, would represent a significant level of new provision that would provide ample scope for spectator parking. There would thus be likely to be a supply side effect whereby more vehicular traffic is attracted into the town centre on match days.

3.5 As originally submitted, the proposal was accompanied by Traffic and Transportation Assessment (TTA). This Assessment proceeded on the basis that the car park would have 217 car parking spaces. It examined the performance of the two junctions nearest to the site entrance, which are on either side of the Club Bridge, i.e. to the east, the priority junction between the cul-de-sac off which the site is accessed and Abbey Street, and, to the west, the signalised junction on the R352 between Newbridge Road and Harmony Row. Peak hour

traffic counts were taken at these two junctions on Wednesday 18<sup>th</sup> June 2014 between 08.00 & 09.00 and 17.00 & 18.00. Paramics software was used to predict the impact of traffic generated by the proposal for the base and design years of 2014 and 2024, respectfully. Both junctions were predicted to operate within capacity for these years and it was recommended that the cycle times for the signalised junction be adjusted to ensure an optimum flow in the design year.

3.6 Under a request for further information, the aforementioned TTA was critiqued by the planning authority on a number of grounds. Consequently, a new TTA was prepared based on a traffic count at the two aforementioned junctions before and after a match (Munster under-21 hurling semi-final with an attendance of c. 7,000), i.e. Wednesday 15<sup>th</sup> July 2015 between 18.30 & 19.30 and 20.55 & 21.55.

3.7 The applicant acknowledges that the proposed future capacity of Cusack Park would be 20,000 and yet they selected the said match on the basis of advice in the NRA's DMRB, which states that junctions should be designed for the "30<sup>th</sup> highest hourly flow", as during times of peak flow extra traffic management measures would be in place.

3.8 PICADY and OSCADY software was used to model the priority junction and the signal controlled junction, respectfully, for opening, 5, and 15 year forecasts, i.e. 2016, 2021, and 2031. Both junctions were predicted to operate within capacity for these years.

3.9 Clare County Council's Roads Design Planning Report draws attention to the discrepancy between the potential capacity of Cusack Park under its current redevelopment programme of 20,000 and the attendance of c. 7,000 on the selected match day. Thus, while the NRA's advice is noted, the question can reasonably be posed as to whether this match day is sufficiently representative to provide a clear indication of the likely impact of traffic generated by the proposed car park at the said junctions.

3.10 I recognise that Ennis town centre is served by a road network that in part reflects the historic pattern of narrow streets, which include Abbey Street and the Club Bridge adjacent to the site, and that the access routes to the proposed site entrance would entail the use of these streets. Consequently, the capacity of this network to handle vehicular traffic is clearly finite and sensitive to changes in traffic levels. The applicant's TTAs have provided reassurance that the two nearest junctions to the site entrance would have sufficient capacity to accommodate traffic generated by the proposed car park during weekday peak periods and before and after an evening match, when the existing Cusack Park would have been roughly half full. Beyond these scenarios the applicant has not explored how the said junctions would perform when either more spectators are in attendance or when a match is held during the daytime when,

ordinarily, traffic levels would be higher than in the evening. Given these gaps, I am not persuaded that the applicant has demonstrated across a sufficiently representative range of circumstances that the impact of vehicular traffic generated by the proposed car park would be capable of being satisfactorily accommodated within the town centre road network.

- 3.11 The applicant has submitted vehicle turning simulation plans, which illustrate how cars and buses could access the site entrance and spaces within the proposed car and bus park. These plans show how bus movements, which entail turning left from Club Bridge onto the cul-de-sac leading to the site entrance, would require buses to swing wide within the yellow box and to encroach upon a build-out and accompanying perpendicular pay and display car parking spaces on the western side of the cul-de-sac adjoining a riverside wall. The proposal would thus necessitate some reconfiguring of this build-out and these spaces. Additionally, the head of the said cul-de-sac affords access to the Ennis Garda Station and so the issue arises as to how access/egress to the same would be maintained when the proposed site entrance is in use to serve match traffic. A wider redesign of the cul-de-sac maybe necessary if this issue is to be satisfactorily resolved.
- 3.12 On-site parking arrangements were refined during the application stage under a request for further information. Thus, parking spaces were reorganised to ensure ease of manoeuvre and pedestrian facilities were retrofitted into the site layout. Nevertheless, I am concerned that the design approach to the layout of the southern portion of the site, which entails the provision of two distinct areas of car parking, would lead to poor levels of legibility with respect to circulation routes and difficult manoeuvres where linear routes necessitate turning movements or where aisles do not have a consistent clearance width of at least 6m between corresponding spaces. If this portion of the site were to be designed for a single car park, then there would be scope to address and readily overcome these problems. I am also concerned that the design approach has prioritised facilitating vehicle usage over that of pedestrians. Thus, while a 2m wide footpath is now proposed through the western portion of the site into the northern portion, within this latter portion the said footpath serves the southern 8 turnstiles only with no on-going footpath connection to the northern 8 turnstiles. Furthermore, the turnstiles would be accompanied by small areas of hardstanding that would struggle to accommodate even short queues of spectators waiting to pass through the turnstiles. Thus, the layout of the northern portion of the site needs to be redesigned to reflect the needs of pedestrians and well as drivers.
- 3.13 I conclude then that the applicant has failed to demonstrate in a sufficiently representative manner that traffic generated by the proposal would be capable

of being accommodated satisfactorily on the town centre road network. Furthermore, issues pertaining to the design of the cul-de-sac that abuts the site entrance and to the design of the proposed car park remain to be resolved.

#### **(iv) Flooding and drainage**

- 4.1 The DP's Map E1 shows Flood Risk Zones in Ennis. This Map shows the northern portion of the site as lying within Zone A (along with the adjoining Cusack Park) and the western portion as lying within Zone B. Under Table 3.1 of the Planning System and Flood Risk Management Guidelines, car parks are not cited in their own right.
- 4.2 As originally submitted, the applicant in their planning report envisaged the car park as serving not only the GAA on match days but the wider public, too. However, in response to the planning authority's request for further information, the applicant described the wider public use as a long term aspiration that would be the subject of a separate planning application in the future. Thus, the current proposal is for a car park that would serve Cusack Park and so be ancillary to the overall use of the applicant's land as a sport's stadium.
- 4.3 The aforementioned Table 3.1 does not cite sport's stadiums, but it does classify buildings used for leisure and local transport infrastructure as less vulnerable development and amenity open space, outdoor sports and recreation and essential facilities such as changing rooms as water-compatible development. A note attached to this Table states that uses not listed here should be considered on their own merits. While the sport's stadium in question is clearly based on outdoor sport, it also entails the accommodation of large numbers of people in stands and so I consider that as a use it should be classified as a less vulnerable development.
- 4.4 I acknowledge that the present proposal does not relate to the principal of the use of Cusack Park as a sport's stadium, which is well-established, but to a car park that would be ancillary to this stadium. During my site visit I observed that the OPW has undertaken flood protection works in Ennis and that these works include the construction of a flood defence wall just within the northern boundary of the site and that of Cusack Park to the east. Given that the flood risk posed to this town centre site stems from the proximity of the River Fergus, I consider that the presence of this wall would mitigate the same and so any residual flood risk would not be of such an order as to warrant objection to the proposed use of the site as a car park.
- 4.5 The proposal would entail the construction of a new toilet block in the north western corner of Cusack Park. Foul water from this block would be pumped via a new rising main to a manhole adjacent to the existing toilet block in the south

western corner. From there it would discharge by gravity through the existing drainage network to the combined public sewer on Francis Street.

- 4.6 The proposal, as originally submitted, would entail the installation of a surface water drainage system throughout the site. This system would discharge to the River Fergus by gravity via an existing connection point installed within the above cited flood defence wall. This point would be served by a back flap/non-return valve and prior to surface water reaching the same it would pass through a proprietary petrol interceptor and an attenuation tank fitted with a hydro brake designed to control the level of discharge to a rate of 2 litres per second per hectare. A pumping chamber would also be installed to ensure that surface water can be discharged to the River when its level exceeds that of the connection point.
- 4.7 At the appeal stage, the applicant now proposes to revise the aforementioned surface water drainage system by excluding from it the access road in the western portion of the site. Thus, apart from the retention of a cut off drain at the entrance to the site, this road would not be served by any surface water drainage arrangements. Instead reliance would be placed upon a slight camber in the proposed surface dressing to ensure that water is shed. No engineering justification has been provided for this revision. Instead, the applicant explains it on the basis that the potential disturbance of archaeological remains under the access road arising from more extensive excavations would be averted.
- 4.8 Notwithstanding the foregoing paragraph, I note that some excavation work would presumably still be necessary, if the proposed footpath along the westernmost northern boundary of the site is to be provided. I consider that this footpath, which was introduced by the applicant by way of response to a request for further information, would be of importance to ensure the separation of vehicles and pedestrians in the interests of good road management and public safety.
- 4.9 The applicant has not addressed how surface water that gathers in the above cited cut off drain would be handled. In this respect there is no evidence before me that the local authority would be prepared to accept its connection to the existing public surface water drainage arrangements on Abbey Street. Accordingly, there is a risk that this “marooned” drain would lead to ponding at the entrance to the site.
- 4.10 Generally, I am concerned that the applicant’s revision to the proposed surface water drainage system would lead to a situation wherein the access road, which would be more heavily used than at present, would not be constructed to handle surface water efficiently. Specifically, I am concerned that, in the

absence of any commentary on how the proposed cut off drain would function, it may become a particular problem.

- 4.11 I conclude that the residual flood risk that the River Fergus poses to the site would be compatible with its use as a car park use for Cusack Park. I also conclude that, while the proposed foul water drainage arrangements would be satisfactory, the proposed surface water drainage arrangements, in their revised form, would be unsatisfactory.

**(v) AA**

- 5.1 The applicant has undertaken a Stage 1 Screening of the proposal for the purpose of Appropriate Assessment. I will draw upon this Screening, relevant NPWS documentation and my site visit in undertaking my own Stage 1 Screening of this proposal.
- 5.2 Along its northern boundary, the site adjoins the Lower River Shannon SAC (site code 002165) and, under the proposal, a connection within the recently constructed flood defence wall along the southern bank of the River Fergus would be utilised for the purpose of discharging surface water from the site into this River. Accordingly, there would be a source/pathway/receptor route between the site and the adjoining Natura 2000 site.
- 5.3 I have reviewed the Conservation Objectives for the Lower River Shannon SAC. Several of these explicitly refer to the importance of maintaining or improving water quality. Surface water from the site would pass through a proprietary petrol interceptor before discharging into the River Fergus. The risk to water quality would thereby be mitigated by a measure integral to the proposal itself.
- 5.4 One specific conservation objective relates to otters and the need to avoid any significant decline in the extent of their habitat. Prior to the construction of the flood defence wall adjacent to the northern boundary of the site, it is possible that this species could have frequented this site. However, the said flood defence wall has effectively restricted access to the same and so the proposed car park would lead to no change in this situation.
- 5.5 The applicant has submitted a report that addresses the problem of Japanese Knotweed on the site. This highly invasive species could have implications for some of the species that are the subject of Conservation Objectives in the Lower River Shannon SAC. However, the said report outlines the five year eradication plan that was begun to be implemented in 2014 and that is proceeding on site. Thus, the prospect exists that the potential risk posed by this species will be eliminated from the site.

- 5.6 While there are other Natura 2000 sites within a wider radius of the site, I am not aware of any source/pathway/receptor routes between the site and these sites, with the exception of the River Shannon and the River Fergus SPA (site code 004077), which is reached via the source/pathway/receptor route that is described above. I have reviewed the Conservation Objectives for this Natura 2000 site and I do not consider that the proposal would be likely to have a significant effect upon any of them.
- 5.7 In the light of the above discussion I do not consider that the proposal would, during its operational life, be likely to have any significant effects either directly or indirectly or, in conjunction with other projects, cumulatively upon the Conservation Objectives of Natura 2000 sites. Likewise, during its construction phase, provided good construction management practices are observed, I do not consider that this proposal would be likely to have any significant effects either directly or indirectly or, in conjunction with other projects, cumulatively upon the Conservation Objectives of Natura 2000 sites.
- 5.8 It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site Nos. 002165 and 004077, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate assessment (and submission of a NIS) is not therefore required.

### **Conclusion**

The applicant's grounds of appeal have been submitted on the basis that they could be the subject of a request for further information under Section 132 of the Planning and Development Act, 2000 – 2015. The Board may wish to take up this invitation. If so, then, in addition to the archaeological, conservation, and landscaping issues raised by the appellant, the traffic, access, parking, and drainage issues raised elsewhere in my assessment should be raised with the applicant, too.

### **Recommendation**

In the light of my assessment, I recommend that the demolition of a section of the western boundary wall of Cusack Park and the construction of a new 2.8m high boundary wall in its place complete with turnstile housing, ticket kiosk, and exit gates, the construction of new toilet block and concession building within Cusack Park, the demolition of existing ruined buildings and part of an orchard wall and the construction of a new car park complete with associated drainage within the "Cloister Site", and the demolition of the existing entrance and the construction of a

new entrance at Abbey Street, at the “Cloister Site”, Abbey Street and Cusack Park, Francis Street, Ennis, Co. Clare, be refused.

### **Reasons and considerations**

1. The site lies within the Zone of Archaeological Potential established around the historic town of Ennis and it adjoins The Old Friary, which is a national monument and a protected structure, and it is adjacent to other protected structures, including Stamer Park Country House.

Whereas the applicant has undertaken archaeological investigations in the southern and northern portions of the site, the westernmost portion has not been investigated and yet insitu medieval fabric has previously been recorded there, which has been linked to The Old Friary. The proposal envisages an upgrade in the access road to the main body of the site through this portion, including the provision of footpaths and, if good engineering practise is to be pursued, surface water drainage arrangements. Consequently, this proposal would potentially impact upon any archaeology remains therein. Furthermore, investigation is important to ensure that a more complete understanding of the archaeology of the site as a whole within its historical context can be gained.

Accordingly, to permit the proposal in the absence of such investigation would be premature and it would contravene Policy CN12 of the Ennis and Environs Development Plan 2008 – 2014, wherein the planning authority requires that development proposals clearly demonstrate that there would be no adverse impacts upon the archaeological or historical importance of recorded sites or monuments. The proposal would thus be contrary to the proper planning and sustainable development of the area.

2. The site adjoins The Old Friary, which is a national monument and a protected structure. The proposal would entail the provision of car parking spaces within the immediate vicinity of this Friary, the utilitarian presence of which would negate the opportunity for its historical natural setting to be maintained and the use of which would detract from the amenity value of westerly views of the Friary that would otherwise be available. Accordingly, the proposal would be contrary to Policy CN6 of the Ennis and Environs Development Plan 2008 – 2014, wherein the planning authority requires that development proposals would be compatible with,



and so they would not detract from, the special character of the setting of a protected structure. The proposal would thus be contrary to the proper planning and sustainable development of the area.

3. The applicant has submitted two Traffic and Transportation Assessments (TTAs), which assess the impact of traffic generated by the proposal upon the two junctions nearest to the site entrance. While these Assessments predict that there would be capacity within these junctions to accommodate such traffic, they do not address scenarios wherein matches are played at Cusack Park either during the day time, as distinct from the evening, or when higher attendance levels at the County GAA Ground occur. Accordingly, in the absence of TTAs that assess the impact of traffic generated by the proposal upon the said junctions under these scenarios, it would be premature to permit the proposal, as the local road network may be unsuitable to carry the increased road traffic likely to result from it. The proposal would thus be contrary to the proper planning and sustainable development of the area.
4. The proposed car park would fail to provide sufficient pedestrian facilities, particularly with respect to queuing outside the proposed turnstiles, and its design as two separate parking areas in the southern portion of the site would militate against legibility and the consistent provision of good circulation. Accordingly, the proposal would endanger public safety by reason of obstruction of road users and traffic hazard and, as such, it would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison

Inspector

19<sup>th</sup> February 2016