



An
Bord
Pleanála

Inspector's Report PL93.247683.

Development

Retain 9 no. existing floodlighting columns, palisade fence as erected to northern boundary and permission for the erection of a ball catch netting system.

Location

Ballyrandle, Dungarvan, County Waterford.

Planning Authority

Waterford City and County Council.

Planning Authority Reg. Ref.

16/293.

Applicant

Dungarvan Rugby Football Club.

Type of Application

Retention and Permission.

Planning Authority Decision

Grant of permission with conditions.

Type of Appeal

Third Party

Appellant

Kieran Moynihan.

Observer(s)

Residents of An Grianan.

Date of Site Inspection

1st February 2017.

Inspector

Derek Daly.

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1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Ballyrandle approximately 4 kilometres east of the town centre of Dungarvan. The site has road frontage onto the R675 Dungarvan Clonea Regional Route, which defines the site's southern boundary. The site is in an area, which in a wider context is predominantly rural and outside of the Dungarvan built up area. In the immediate area, however, there is a high level of residential development including a major residential development located immediately to the northwest of the appeal site. A number of the residential sites in the housing development share a common boundary with the rugby club grounds. There is also an area of public open space adjoining a section of the rugby club grounds northern boundary and this section of the boundary along the open space is defined by a palisade fence.
- 1.2. There are also individual houses fronting onto the road network which adjoin the appeal site's northeastern and southwestern boundaries and on the southern side of the R675.
- 1.3. On the appeal site is the grounds of the rugby club with a main pitch, clubhouse, parking and training area. The site, which is irregular in configuration, has a stated area of 3.64 hectares.

2.0 Proposed Development

- 2.1. The development as received by the planning authority on the 3rd of May 2016 was for:
 - The retention of 9 no. existing floodlighting columns located around to the west of the main pitch illuminating the training pitch. 2 of the columns are in proximity to the R675 boundary 3 adjoining the western boundary and the remaining columns are between the main pitch and training area. The columns are 12 metres in height comprising timber poles accommodating lighting.

- The retention of a palisade fence 2.35 metres in height as erected located along a 37 metres section of the western portion of the northern boundary including a pedestrian gateway.
- Permission for the erection of a ball catch netting area 40 metres in length and 12 metres in height supported by 5 no timber poles located in close proximity to the northern boundary behind a goalpost on the training area.
- A cover letter was submitted outlining the nature of the works carried out on the site.

Further details were submitted by the applicant in a response to a request of additional information on the 20th of October 2016 comprising:

- A flood lighting study. The study indicates that the lux level is well below maximum recommended levels for a training field. The recommended levels are 100 lumens and the training pitch is 22% below this level. The levels outside of the pitch are on average 6.132 lumens approximately 4.2 metres from the pitch and the recommend level within 5 metres of the pitch is 25 lumens. So the levels are below recommended fighting standards. No mitigation measures to reduce lighting levels are required.
- A comment in relation to moving the netting to a minimum of 10 metres where it is indicated this would result in an “in goal” area with a depth of 5.75 metres. The whole pitch and related infrastructure would have to be moved further south which would result in considerable expense.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decision was to grant permission subject to 8 conditions. Relevant conditions include

- Condition no. 3 relates to the retention of the flood lighting in accordance with the flood lighting survey submitted on the 20th of October 2016.

- Condition no. 6 relates to the hours of operation of the flood lighting 9.00am to 10.00pm Monday to Saturday inclusive and 9.00am to 7.00pm Sundays and bank holidays.
- Condition no. 8 relates to landscaping and the provision of a raised earthen berm 1 metre in height adjacent to the palisade fence and also in relation to the planting of trees.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 23rd of June 2016 refers to

- The planning history.
- The zoning of the site.
- There is no objection in principle to upgrading facilities but concern is expressed in relation to the proximity of the ball catching netting to residential properties.
- There is no objection to the palisade fence but there is an absence of landscaping which should be addressed.
- It is noted that the gate was the subject of a previous agreement but with the provision of netting its removal would remove concerns for the neighbouring residential properties.
- Comment is made in relation to submissions received and there is no objection to the operation of the floodlighting up to 10pm.
- Further information was recommended in relation to a floodlight survey and consideration to locating the ball catching netting fence a minimum distance to 10 metres from the boundary.

A further planning report dated the 10th of November 2016 considers the response acceptable in relation to lighting study and the location of the netting fence and recommended planning permission.

3.3. Third Party Observations

A Submission was received from the residents of An Grianan a housing development to the north of the site outlining issues in relation to the unsightly fence, absence of consultation, rugby balls entering the estate, floodlighting remaining on until 10pm at night and the use of the gate to enter the residential area.

Mr Kevin Moynihan a resident of the An Grianan estate also made a submission referring to;

- The ball catching netting and requesting that it be located a minimum of 20 metres from his boundary and that if the netting proceeds the gateway be removed.
- Issues are raised in relation to the visual appearance of the palisade fence.
- There is no assessment of the effects of the floodlighting on neighbours but it needs control and regulation and to be properly assessed.

4.0 Planning History

The site has been the subject of a number of planning applications for a new dressing room P.A. Ref. No. 12/32 and other facilities 06/1173.

P.A. Ref. No. 08/1173 planning permission granted on the 15th of January 2009 for 9 no 12 metres columns with 2 light fittings on each column. There was no condition limiting hours of use though one was recommended in the planning report.

5.0 Policy Context

5.1. Development Plan

The relevant plan is the Waterford County Development Plan 2011-2017. Within the plan there is a statement and map relating to the Dungarvan Environs.

The site is zoned Open Space and the areas to the north are zoned R1 “protect amenity of existing residential development and provide new residential development – medium density”. The lands to the south of the regional road are zoned green belt.

5.2. Natural Heritage Designations

The nearest Natura site is approximately 750 metres to the west the Dungarvan Harbour SPA.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant with an address of 79 An Grianan and which adjoins the appeal site in a submissions dated the 29th of November 2016 refers to,

- The appellant accepts the needs of the rugby club to train in the winter months but it requires control and regulation.
- The appellant finds that a decision has been made for the uncontrolled use of flood lights on top of his home until 22.00 hours six nights a week.
- The appeal relates to condition no. 3 of the planning authority's decision.
- The condition is based on lighting survey without identifying the light type, light strength, or quantity of flood lights being used in the survey.
- No consideration was made in relation to the use of light types which could minimise the effects of light glare on neighbouring properties.
- There is reference to the rugby club being there first before the residential area but at the time of the construction of the residential area there was no flood lights in existence.
- The permission permits lights until 22.00 hours and the pitches are empty by 21.00 hours.
- The appeal also relates to the retention for a pedestrian gate on the northern boundary. This gate is to retrieve balls from the neighbouring residential area but the netting will prevent the need for this gate.
- This gate is now used for access to the pitch and parking is strained in the An Grianan estate.

- The appeal also relates to the ball catching netting. It is a necessary evil but its location in close proximity to the appellant's property is unreasonable. There is plenty of room to accommodate the netting further from the site boundary.
- The issue of noise and disturbance is referred to and the relocation to 10 metres from the boundary is a critical issue in this regard.

6.2. Applicant Response

The applicant in a response dated the 3rd of January 2017 refers to;

- The lighting survey was carried out in line with best practice recommendations.
- The existing levels are below IRFU recommended levels for a training pitch.
- The light type and wattage of the lights is specified in the report and the lights are identifiable.
- Any restriction less than 10.00pm would be difficult as training continues until 9.30pm and there is a need for float time for the removal of equipment.
- Use of the gateway is restricted in use and not in manner suggested in the grounds of appeal.
- The new fence and gate is a response to damage and the presence of illegal dumping over the years. The fence has curbed public access.
- The appellant received planning permission in 2009 for a dwelling to the south of his property adjoining the rugby club grounds. It was his choice to locate a house nearer the grounds where in situ floodlighting was in place.

6.3. Planning Authority Response

The planning authority in a response dated the 20th of December 2016 consider that the reports and recommendations considered the submissions received; the light report does clearly consider the lighting columns proposed for retention, that the hours of operation are reasonable and request its decision be upheld.

6.4. Observations

The residents of An Grianan in a submission dated the 9th of January 2017 refer to;

- Reference is made to works carried out without consultation with the residents and that the green adjoining the site was left unsightly and uneven.
- The residents feel there should not be a gate in the event that there is netting as the gate is there to retrieve rugby balls which enter the estate.
- There should be a reasonable time for light out and permitting lighting until 10pm on school nights is not reasonable.

7.0 Assessment

- 7.1. The development as applied for comprises three elements and I consider it appropriate to consider each of these elements in turn.
- 7.2. In relation to the **floodlighting**, the development is for retention of 9 no. existing floodlighting columns located around the training pitch/area located to the west of the main pitch illuminating this area. There are 3 lighting columns on the sides of the demarcated training pitch, which has goal posts at either end. The columns have between one and three luminaires focussing light on the pitch. The remaining two 2 columns are in the area to the south of the pitch and the R675 boundary which have a lower lighting output. The columns are 12 metres in height comprising timber poles accommodating the lighting fixtures.
- 7.3. The planning authority requested a lighting survey and details of this survey was submitted giving details of the level of lighting for the training area of 78 lumens, which it is indicated is below the desired standard of 100 lumens for a training area. It is also indicated that along the boundary wall of the nearest house the reading recorded was an average of 6.132.
- 7.4. The main contention of the appellant, who is the owner of the nearest dwelling, is that a decision has been made for the uncontrolled use of flood lights on top of his home until 22.00 hours six nights a week as provided for in condition no. 3 of the planning authority's decision; that the condition is based on lighting survey without identifying the light type, light strength, or quantity of flood lights being used in the

survey and no consideration was made in relation to the use of light types which could minimise the effects of light glare on neighbouring properties. The observer submission also refers to the permitted hours for floodlighting as unreasonable.

- 7.5. The applicant in the response submission considers that the lighting survey was carried out in line with best practice recommendations; the existing lighting levels are below IRFU recommended levels for a training pitch and the light type and wattage of the lights is specified in the report and the lights are identifiable. In relation to hours of operation any restriction less than 10.00pm would be difficult as training continues until 9.30pm and there is a need for float time for the removal of equipment. It is also indicated that the appellant received planning permission in 2009 for a dwelling to the south of his property adjoining the rugby club grounds. It was his choice to locate a house nearer the grounds where in situ floodlighting was in place.
- 7.6. In relation to lighting there was two zones to consider firstly the illuminated zone for the purpose intended which is an outdoor training area and secondly the areas adjoining the illuminated zone, the overspill area. In relation to the illuminated zone there are varying levels of illumination desired depending on whether it is a training area or an area used for a competitive game with higher lux levels required for the latter. It is presumed that the main pitch would be used for competitive games. In relation to the light zone for the training area a level of 78 lux is low for such a facility. For example, in PL243732, Terenure RFC, a light zone of 200 lux for the training area was applied for.
- 7.7. The main issue related to the level of light diffusing from the main light zone. In relation to this matter I would refer to the Institution of Lighting Engineers *Guidance on reduction of Obtrusive Light* 2005 which identifies environmental zones for exterior lighting control. In relation to current levels of light for the residential area levels of between 2.7 and 7.1 lux were recorded in the estate. The areas are identified on the map submitted by way of further information. Applying the guidance document this would equate to between category E2 low district brightness areas rural, small village, or relatively dark urban locations, where average Lux of 5 is indicated and category E3 a medium district brightness area, small town centres or urban locations where average Lux of 10 is indicated. It is also noted that in the data submitted on the 20th of June 2014 an average of 6.132 lumens at the rear boundary

of the houses adjoining the appeal site. The lighting in the overspill area is therefore, I consider, not excessive in the context of the site and area.

- 7.8. It is also reasonable to conclude that the lighting survey submitted by way of further information did record, the light fixtures strengths and numbers; quantity and location of floodlights columns and recorded lighting levels on the playing area, its immediate area and adjoining residential area and also concluded findings based on the data recorded.
- 7.9. It is also noted that there is the precedent of a permission for floodlighting on the site P.A. Ref. No. 08/1173 where planning permission granted on the 15th of January 2009 for 9 no 12 metres columns with 2 light fittings on each column. Although details were not submitted by the planning authority, the appellant has constructed a dwelling to the side of his original semi-detached dwelling subsequently, in effect between an existing semi-detached dwelling and the boundary with the rugby club, with minimal separation between the new dwelling and the boundary, superseding a previous permission for a sunroom in this area (P.A. Ref. 06/727).
- 7.10. In relation to the hours of operation, condition no. 6 refers to the hours of operation of the flood lighting 9.00am to 10.00pm Monday to Saturday inclusive and 9.00am to 7.00pm Sundays and bank holidays and the appellant and observer consider this as excessive. It is not unreasonable to consider that training would occur until 9pm at minimum and in this context a limit of 10pm is reasonable. I would note that in in PL243732, Terenure RFC the Board in its decision to grant permission specified that “the proposed floodlighting shall only be used between 15th September and 1st April in any year. Within this period, the proposed floodlights shall not be operated or in use between 2200 and 0900 hours, Monday to Friday and 1900 to 0900 hours on Saturday and Sunday”. The imposition of a similar condition would, I consider, be reasonable.
- 7.11. In relation to the retention of a **palisade fence** 2.35 metres in height as erected located along a 37 metres section of the western portion of the northern boundary including a pedestrian gateway, I would agree that in its current state it is visually quite stark in the context of its location adjoining a public open space. To mitigate the impact, it is proposed to plant native beech hedging along the boundary. Condition no.8 (a) of the planning authority’s decision specifies a raised earthen berm in

addition to planting with hedgerow planting and in (b) it also refers to the planting consisting of indigenous trees along this boundary though whether it is limited to the length of the boundary of the palisade fence is not clear. I consider an overall landscaping scheme for this area adjoining the northern boundary should be required i.e. the palisade fence and extended to include the area to the rear (north) of the ball catch netting area.

- 7.12. In relation to the gate in the palisade fence I would have no objection to the gate. I would accept that the introduction of ball netting area does reduce the need for a gate but does not necessarily eliminate it. A condition stating that the gate is not to be used for general access to the rugby grounds would be desirable though if a berm and planting is developed the use of the gate for purposes other than retrieval of errand rugby balls may not be that optimal as the berm would have to be navigated and the hedging when it grows.
- 7.13. In relation to the **ball catch netting area** 40 metres in length and 12 metres in height supported by 5 no timber poles which is located in close proximity to the northern boundary behind a goalpost on the training area there would appear to be no objection by parties in principle to the netting. The issue relates to its location or to be specific the separation distance from the netting to the boundary.
- 7.14. In the grounds of appeal, the appellant considered it as a necessary evil but its location in close proximity to the appellant's property is unreasonable; there is plenty of room to accommodate the netting further from the site boundary and the relocation to 10 metres from the boundary is a critical issue in this regard.
- 7.15. The planning authority raised this by way of further information raised this matter and the applicant indicated that to accommodate a 10 metre distance would reduce the dead goal area to 5.75 metres which does not work and moving the pitch would involve considerable expense.
- 7.16. I do not accept this position. It is not the main playing pitch, it is a training pitch and area. It is not an enclosed playing area. Having examined the area including the southern end of the playing area I would not consider the training area could not be modified to provide for a minimum separation distance of 10 metres. There is sufficient land to accommodate dead goal areas at both ends. There would be the costs of moving the goal posts and some minor levelling and contouring at the

southwestern corner of the training pitch but I cannot accept that other works including alteration of floodlighting columns or cabling would be necessary. Machinery will be on the site to erect the netting and the modifications to the training pitch could be accommodated when this occurs. I therefore consider that it is reasonable to provide a minimum 10 metres separation from the boundary.

8.0 Recommendation

- 8.1. It is recommended that permission for the development be **granted** for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the nature of the development, the existing use on the site and the planning history of the site it is considered that subject to 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 the 3rd of May, 2016 and as amended on the 20th of October 2016, 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 interests of clarity.

2. The proposed floodlighting shall only be used between the 15th September and 1st April in any year. Within this period, the proposed floodlights shall not be operated or in use between 2200 and 0900 hours, Monday to Friday and 1900 to 0900 hours on Saturday and Sunday.

Reason: To protect the residential amenities of property in the vicinity of the site.

- 3 The ball catch netting system shall be located a minimum distance of 10 metres from any section of the northern boundary of the site

Reason: To protect the residential amenities of property in the vicinity of the site.

- 4 The section of the boundary to be landscaped shall be extended to include not only the length of palisade fence but extended north-eastwards to include the area behind the ball catch netting system. The landscaped area which shall adjoin the site boundary shall provide for

- A raised contoured earthen berm 1 metre in depth and varying between 0.5 and 1 metre in height.
- The top of the berm shall be planted with native hedgerow species and the area shall also be interspersed with a mixture of indigenous native trees.

Details regarding the species to be planted together with a timescale of implementation shall be submitted to and agreed with the planning authority within three months of the date of this order.

Reason: In the interests of visual amenity

5. The gate in the palisade fence shall not be used as a means of general

public entrance and admittance to the site and shall not be used other than during periods of training for purposes associated with training.

Reason: To protect the residential amenities of property in the vicinity of the site and in the interest of orderly development.

6. The existing lighting columns and associated infrastructure on the site which are not part of this development shall be removed from the site and the lands restored within 6 months of this grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity of the site and in the interest of visual amenity.

- 7 Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

Derek Daly
Planning Inspector

6th February 2017