



An
Bord
Pleanála

Inspector's Report PL06S.247693

Development	Playing pitch and associated site works
Location	Site south of Oldcourt Road and east of Oldcourt Lane, Oldcourt Road, Ballycullen, Dublin 24
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD16A/0059
Applicant(s)	Capami Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party
Appellant(s)	Capami Ltd.
Observer(s)	None
Date of Site Inspection	22 nd February 2017
Inspector	Joanna Kelly

1.0 Site Location and Description

- 1.1. The appeal site, with a stated site area of 1.97ha is located on lands identified within the Ballycullen/Oldtown Local Area Plan. Ballycullen is approximately 2 kilometres south west of the junction 12 off the M50. The site is accessible via the Oldcourt Lane.
- 1.2. The existing site currently forms part of a larger tract of greenfield lands located to the south of the established urban area of Ballycullen. The existing local road is narrow and of poor vertical and horizontal alignment. There is evidence of dumping in the vicinity of the appeal lands. The lands are located at a higher level than the lands to the north.
- 1.3. There are a number of agricultural structures and commercial structures located along the Oldcourt road. The applicant secured permission on lands west of Oldcourt Lane under File Ref. No. 14A/0180 for a residential development where playing pitches were located.

2.0 Proposed Development

- 2.1. The proposal provides for the provision of a playing pitch, including associated site works, on a site area of 1.97ha.
- 2.2. The details on the file indicate that it is proposed to provide gates at the entrance from Oldcourt Lane and to provide chain link fencing around the perimeter of the site. It is also proposed to stock pile the topsoil on the site.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission for the proposed development subject to 16 no. conditions. Of note are the following conditions:

Condition 2 Revised details for track/trail with a minimum 4m width either east or west of the playing pitch and shall link southwards into the Dublin Mountains.

Condition 3 Revised details for the provision of an east-west pedestrian/cycling link at the north east corner of the playing pitch to connect with the adjoining school site.

Condition 4 Requires the provision of additional accesses and design requirements

Condition 5 20 bicycle parking facilities to be provided.

Condition 6 Detailed drawings required indicating the cut and fill, calculations regarding volume of land to be cut and inert waste to be used for car park, landscaping.

Condition 10 Taking in charge condition

Condition 11 Public lighting scheme

Planning Authority Reports

3.1.1. Planning Reports

The first planning report sets out that the site is identified for a playing pitch in the Ballycullen/Oldcourt LAP. Two submissions were noted raising concerns about, *inter alia*, sharing pitches with school; access to the school; phasing of lands. The role of the site within the larger network of linked public open space is clearly demonstrated within the LAP and the proposed chain link fence is not acceptable. It was recommended that further information be sought in relation to sightlines; improved permeability; public open space and landscape design improvement.

The subsequent planner's report notes the response to further information and notes that the applicant did not consult directly with the Park's Department. Problems relating to the cut and fill required for development on other sites located within the Ballycullen-Oldcourt Plan has given rise to the relocation of substantial volumes of inert waste which is problematic. It is set out that clarification of additional information cannot be sought due to the delay in the applicant's response to the

further information request. However, permission should be granted subject to appropriate condition. The planner recommended a grant of permission subject to conditions.

3.1.2. Other Technical Reports

Water Services Report

No objections subject to conditions

Roads Department

Further information required demonstrating clear sightlines from the proposed access point and any works proposed to achieve these sightlines. Applicant should clarify if this access is temporary or if it is part of the proposed development works in which case a lit 2m footpath should be provided linking into the footpath on Oldcourt Road.

In response to the FI request, it is set out that no pedestrian/cyclist connectivity has been provided into the land to the east of the site which is zoned as a school. Roads has no objection subject to conditions

Landscape and Open Space Planning

First report indicates no objection to the proposal except that fencing/railing around the proposed pitch is not acceptable and a landscaping plan is lacking. Further information is required.

Subsequent report set out that despite the further information request no consultation with this section prior to lodging FI. Landscape plans are deficient in that they fail to provide cross-sections across the pitch and surrounding open space and it is not possible to determine how steep the gradients will be to each side. Clarification of FI is required.

3.2. Prescribed Bodies

Irish Water

No objection

EHO

The proposal is acceptable subject to conditions

4.0 Planning History

There is no recent planning history with the appeal site

Relevant applications in the nearby vicinity include:

File Ref. No. SD15A/0150 Permission granted for construction of 79 no. two storey houses with photovoltaic panels at roof level, a new vehicular access from Oldcourt Road, pedestrian access routes, internal roads and footpaths, open space including children's play area, boundary treatments, hard and soft landscaping, changes in levels, ancillary surface water attenuation areas and all site development works above and below ground. The site is located immediately north of the appeal site. HWBC Allsop was the applicant for the development to the north.

File Ref. No. 14A/0180 Permission granted to Capami Ltd for residential development comprising 138 dwellings on a site area of 5.06 hectares; access to the development will be via a proposed new vehicular entrance from Oldcourt Road. These lands are located approximately 1km west of the Oldcourt Lane. It is noted that there were two third party appeals and a first party appeal which were all withdrawn. Condition 3 of this permission is directly relevant to this appeal. The condition seeks a legally binding undertaking to secure the delivery of the playing pitches.

5.0 Policy Context

5.1. South Dublin County Development Plan 2016-2022

Chapter 3 deals with community infrastructure.

Section 3.13.0 Outdoor sports facilities, including playing pitches, children's play facilities, allotments and community gardens provide important opportunities for outdoor activity and recreation.

C12 Objective 11

To ensure that parks and open spaces are designed as safe spaces and that access for vehicles such as quads and motorbikes is restricted.

C12 Objective 12

To develop specific plans to reclaim those parks that have been disproportionately affected by anti-social behaviour and vandalism through increasing the facilities available to the communities within the parks and in turn increasing the usage of the parks by local people.

5.2. **Ballycullen / Oldtown Local Area Plan**

The Strategy

The overall objective of the LAP is to provide a development framework with residential densities appropriate to the unique location of the lands on the suburban edge of the Dublin Mountain foothills. The Plan provides for the construction of approximately 1,600 additional dwellings (about 4,600 persons) at a range of densities appropriate to the area. The strategy complies with the requirements of the Core Strategy of the County Development Plan 2010 – 2016 and that of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* (2009).

The phasing element provides for the required community, school and parkland facilities either prior to or in tandem with additional residential dwellings. The combined development strategies integrate planned residential neighbourhoods with natural and built heritage features, water management systems, improved accessibility, open spaces and recreational facilities. This includes for a network of walking and cycling routes that will link residential blocks with each other, public transport stops and local shopping while providing routes towards the Dublin Mountains.

Phasing

The purpose of phasing is to ensure that facilities and amenities are provided in a timely manner either prior to or in tandem with residential development rather than at the latter stages of residential development or after such development has taken place.

For the purpose of the Phasing Strategy, the Plan Lands are divided into eastern and western sections using the Ballycullen Road as the point of division. The strategies for each of the two areas comprise three phases. Each phase specifies a quantum of residential development and prescribed key pieces of physical and social infrastructure including community facilities that must be provided prior to the next phase of development. This will help to ensure that key pieces of infrastructure are delivered in a sequential manner as development progresses.

Two primary schools will be required to meet the existing and future population needs of the Plan Lands and its surrounding suburban hinterland.

Phase One on the eastern side of the Plan Lands largely relates to lands that are subject to extant permissions for residential development.

The phasing strategy incentivises revised applications for residential development on these lands.

Appendix 2: LAP

Neighbourhood Equipped Area for Play (NEAP)

The Plan Lands should be developed to include at least one NEAP with a minimum activity area of 1,000 sq.m and play facilities for a wide range of age groups. The NEAP(s) should be provided in one or more of the Neighbourhood Parks and should each be co-located with a LEAP. The activity area in the NEAP should be divided into a play equipment area (at least 8 items) and a hard surfaced area for older children to include a Multi Use Games Area and/or skate park.

6.0 The Appeal

6.1. Grounds of Appeal

First Party Grounds of Appeal

The main points are summarised as follows:

- The appeal is against conditions attached to the decision of the grant of permission which seem to assume that the developer should be responsible for the costs associated with the construction of playing pitches to an undefined standard over and above the requirement of the developer in order to satisfy objective SSP14 of the Ballycullen – Oldcourt Local Area Plan 2014.
- It is set out that additional information was sought and replied to on the assumption that the provision of pitches was the only requirement and that allowances would be made for future connections to schools and other facilities which are not short term requirements and have not yet been fully defined on adjoining lands.
- Conditions 2 - 7 and 11 all relate to satisfying the Council and Parks and Landscaping section as well as public lighting and lighting sections for the provision of pitches to a standard of taking in charge by the council and that the pitches to be made available for use of all field sports, not being exclusive for one sport and that access to the pitches be connected to the adjoining school site and other facilities.
- There is no short term plans for a school on the adjoining site and as such the conditions are ultra vires and of no current relevance nor are they in the spirit of the phasing programme for the residential development in Objective SSP14.
- The lands are privately owned and can be made available to users but it is up to users to agree terms and standards required for their use. The development of playing pitches for continuous active recreation can vary from a simple level grass surface to a fully drained sand based pitch with sprinklers and full flood lighting.

- This application for permission does not require a sophisticated fully developed playing pitch to comply with the LAP and there is no requirement for the standard to be up to a taking in charge standard.
- The application clearly states that the standard of pitches required and that the development of same could be controlled under condition no. 1 only as per the drawings and specifications. Conditions 8, 9 and 10 relate to matters which are for Irish Water.
- The principle objection to the conditions appealed is that they assume a standard of facility well above that required in the application which complies with the objectives of the LAP.
- The lands at Gunny Hill are part of the overall development at Oldcourt and all landowners should be responsible for costs incurred for common infrastructure.
- In this case, the development of the pitches is required by the developer to continue with residential development on overall lands within the LAP otherwise residential development will come to a standstill.

Planning Authority Response

- The planning authority confirms its decision and issues raised in the appeal have been covered in the planner's report.

7.0 Assessment

I consider that the substantive planning issues pertaining to this *de novo* assessment can be encapsulated under the following headings:

- Compliance with the Local Area Plan
- Conditions in notification of grant of permission
- Appropriate Assessment

7.1. Compliance with the Local Area Plan

7.1.1. Condition 3 of the permission granted under Reg. Ref. SD14A/0180, (a site owned by the applicant approx. 1km west of the appeal site) states that

No development shall take place until the applicant, owner or developer of the lands has lodged with the Planning Authority:

- (i) A legally binding undertaking to secure the delivery of the playing pitches on lands to the south-east of the site located between Gunny Hill and Oldcourt Lane as designated under the Ballycullen – Oldcourt Local Area Plan (2014) (fig. 5.6)*
- (ii) A written commitment to this legally binding undertaking and,*
- (iii) The receipt of these requirements has been acknowledged in writing by the Planning Authority.*

Reason: To provide for the achievement, in cooperation with others, of Objective SSP14 of the Ballycullen – Oldcourt Local Area Plan. (2014).

The applicant sets out that this current application for permission complies with the intention of this condition. I note that the wording of this condition requires an “**undertaking to secure the delivery** of the playing pitches...” however it would appear that there is ambiguity as to the full extent of works that the applicant in this instance will carry out. From the documentation on file it would appear that the applicant, in order to fulfil, the requirements of the aforementioned condition, will level and grass the playing pitch. The entrance will be provided with gates and a perimeter fence.

7.1.2. The appeal site is located on the western portion of the LAP lands. The Key Outcomes identified in the LAP for Phase One on the western lands and which are required before Next Phase are as follows:

- Commencement of works on Gunny Hill playing pitches including access
- 1 x NEAP on western side of Plan Lands (see Appendix 2 of LAP)

- Commencement of construction of a school on the designated primary school site on the eastern side of the Plan Lands OR on the designated primary school site on the western side of the Plan Lands.

The rationale set out in the LAP for this phasing is that public open space and children's play facilities will be required to serve new housing development on the western side of the Plan Lands. A primary school is also required to meet the existing population needs of the Plan Lands and its surrounding suburban hinterland.

7.1.3. There is a distinct lack of connectivity of the playing pitch with the permitted residential development (File Ref. 15A/0150) to the north. The purpose of the provision of the pitch is to provide an amenity for new residential developments on the western side of the LAP lands. The County Development Plan advocates that parks and open spaces should be designed as safe spaces and anti-social behaviour should be discouraged. In this context, consideration should be given to both pedestrian and vehicular connections to the proposed playing pitch with existing and future residential developments. A site layout plan with the permitted layout of units granted under File Ref. No. 15A/0150 submitted in response to a further information request, clearly demonstrates the opportunity for the playing pitch to be integrated into the overall LAP lands. There is an opportunity for a more direct route to the pitch via this permitted development rather than from the Oldcourt Lane which is substandard in terms of both width and alignment. It is also questionable as to whether the applicant can achieve the required sightlines in the absence of removing existing hedgerow which is not within the control of the applicant. The opportunity to maximise the passive surveillance of the pitch and maximise its potential use to all existing and future residents or members of the community should be availed of. In this regard, cognisance should be given to the future needs of the facility such as appropriate and adequate provision of changing rooms at a location which does not give rise to conflict in vehicular and pedestrian movements. Furthermore, the full extent of the exact works the applicant will carry out needs to be clearly established to ensure the qualitative nature of the proposal.

7.2. Conditions in notification of grant of permission

- 7.2.1. While the planning authority has granted permission for the proposed pitch, the first party has appealed conditions, although it is somewhat ambiguous what conditions exactly are being appealed. It would appear however that conditions 2-7 and no. 11 which relate to the requirements/standards of the development are the conditions of concern.
- 7.2.2. Condition 2 requires the submission of revised proposals which shall provide for a north-south aligned 'track or trail' of a minimum width of 4m located either east or west of the playing pitch and which shall link southwards into the Dublin Mountains. There is merit in the provision of such a track/trail having regard to the unique context of the site and that it will provide a buffer to the urban area and the foothills of the Dublin Mountains. The wording of the condition is unclear as to whether the applicant actually has to provide this tract or simply indicate the provision of same on the site layout plan.
- 7.2.3. Condition 3 requires the submission of revised proposals which provide for an east-west pedestrian/cycle link at the north east corner of the playing pitch to connect with the adjoining school site. The condition provides a stipulation that if this access is to be gated it should be open between particular hours. Having regard to the adjoining lands which are identified for the provision of educational facilities, it is imperative that there is an appropriate access to and from such complimentary facilities. This condition is therefore considered reasonable and relevant to the application.
- 7.2.4. Condition 4 requires that revised proposals are to be submitted which provide for an additional pedestrian link to connect directly with the access street linking to Old Court Road. There are no details available to this Inspector as to where this pedestrian link maybe located. I am unclear whether this pertains to a possible connection linking the playing pitch to the extant permission north of the appeal site. In this regard, I consider that the playing pitch should be designed so as to have maximum connectivity with the residential lands to the north. In the absence of such

linkages that maximise passive surveillance the benefits of the playing pitch to the community are significantly reduced in terms of amenity value. The pitch is currently designed such that it is a standalone development with separate access from Old Court Lane and fails to integrate with the permitted residential units to the north. An area has been identified for 'possible changing rooms' which would be subject to a future application. The layout of the pitch vis-à-vis the ancillary facilities such as parking, potential location of changing rooms etc. is considered poor and fails to maximise the potential to encourage passive surveillance, minimise undue provision of hard surfaces and maximise the potential to integrate adjoining lands into the future. The planning authority has attempted to address such concerns through the imposition of conditions.

- 7.2.5. Condition 5 requires the provision of a minimum of 20 no. bicycle spaces which is considered reasonable.
- 7.2.6. Condition 6 requires the submission of drawings clearly indicating the volume of cut and fill which is to be kept to a minimum. The condition also requires the submission of how it is proposed to fill the site with inert waste to provide for the level car parking area and the level playing pitch having regard to the severe drop in ground levels and how this area will be secured in place. It is specifically stipulated that retaining walls will not be permitted on these highly vulnerable and visible lands. There is a difference of approximately 2m across the playing pitch area and approximately 6m in the car-park/access road. The planning authority specifically set out that retaining walls are not to be permitted. In terms of public safety, it is unclear how the difference in levels will be accommodated along the north-western boundary of the site and the contiguous lands which form part of the open space zoning but do not form part of the appeal site.
- 7.2.7. Condition 7 requires that the playing pitch will be made available for the use of all field sports and shall not be used exclusively for one particular sport. While I consider this condition reasonable, there is a lack of detail regarding how the playing

pitch will be managed in the future and by whom so as to ensure both compliance with such a condition and also that the condition can be enforced.

7.2.8. Pursuant to examination of the documentation on file it is clear that there is uncertainty as to who is expected to deliver the playing pitches. The applicant has indicated that the purpose of this application is in response to the requirement of Condition 3 of File Ref. No. SD14A/0180. The applicant as set out *“this application for permission does not require a sophisticated fully developed playing pitches to comply with the LAP and there is no requirement for the standard to be up to a taking in charge standard – particularly as there is no definition as to what standards is or for what purpose”*. It is further set out that *“it was never considered by any party that the owner of the playing pitch lands be responsible for costs which would be over and above that which might be incurred for the simple clearing, levelling, fertilising, seeding and cutting grass on the pitches other than providing a public access to the grounds from Oldcourt Lane”*.

7.2.9. There needs to be clarity regarding the standard of works required by this applicant to ensure the delivery of the playing pitch as envisaged within the LAP so as to ensure that it benefits existing and future residents.

7.2.10. In essence, the applicant has attempted to satisfy the quantitative requirements of the application with regard to the development plan/LAP provisions so as to satisfy the requirement of condition 3 of File Ref. No. 14A/0180 which requires the delivery of this pitch. However, the qualitative nature of the proposal is considered to fall short with regard to the development plan provisions. Objectives C12 11 and 12 seek to ensure that parks and open spaces are designed as safe spaces and are not affected by anti-social behaviour. The proposal fails to adequately integrate with both the identified school site immediately east of the appeal site and the residential lands to the north. The proposal would require substantial revisions to ensure appropriate and adequate integration. It is also considered that the lack of a commitment to deliver the facilities associated with the playing pitch gives rise to a real concern that the proposal would not be delivered but rather a favourable decision would be used

to activate an extant permission that was contingent on the delivery of a playing pitch. It is also unclear who would manage the facility into the future.

7.3. **Appropriate Assessment**

- 7.3.1. It is noted that the nearest Natura 2000 sites are as follows: Glenasmole Valley SAC (Site Code 001209 approx. 2.4km south west of the appeal site); Wicklow Mountains SAC and SPA (Site Codes 002122 and 004040 respectively, 4.2km south of the appeal site). The proposal pertains to the provision of a playing pitch adjacent residentially zoned lands. The characteristics of the project involve the levelling of the pitch area and making up of lands where the access road/parking area is proposed. The lands south of the appeal site rise steeply towards the Dublin Mountains.
- 7.3.2. Having regard to nature and scale of the proposed development on serviced lands, the nature of the receiving environment and proximity to the nearest European site and the intervening topography it is reasonable to conclude that no Appropriate Assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site in view of the sites' conservation objectives.

8.0 **Recommendation**

- 8.1. I recommend that the proposed development should be **REFUSED** subject to the reasons and considerations hereunder.

9.0 **Reasons and Considerations**

Having regard to the provisions of the South Dublin County Development Plan 2016-2022; the Ballycullen/Oldcourt Local Area Plan 2014, and in particular the location of the vehicular entrance and layout of the proposed playing pitch vis-à-vis

the layout of the existing extant planning permission File Ref. No. 15A/0150, for a residential development, the proposal fails to adequately integrate with this development and the contiguous lands to the west which is identified for educational purposes. The proposal would result in the provision of open space which is remote from the residential units it is intended to serve. The proposal would give rise to a non-integrated form of development with poor passive surveillance and public lighting provisions which would compromise the quality of the playing pitch. The proposal would be contrary to the proper planning and sustainable development of the area.

Joanna Kelly

Planning Inspector

21st March 2017