



An  
Bord  
Pleanála

## Inspector's Report PL25M.248607

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<b>Development</b>	Construction of a post-primary school and all associated site works
<b>Location</b>	Dublin Road, Kilbeggan, Co. Westmeath
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	176082
<b>Applicant(s)</b>	Board of Management Scoil Clochair Kilbeggan
<b>Type of Application</b>	Outline permission
<b>Planning Authority Decision</b>	Grant outline permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Maura Moran, Philip and Rose Keegan, Kay Ryan, Noel and Mary Smith
<b>Observer(s)</b>	Educena Foundation, Mercy Secondary School Parents Association
<b>Date of Site Inspection</b>	27 <sup>th</sup> August 2017.
<b>Inspector</b>	Patricia Calleary

# Contents

1.0 Introduction.....	3
2.0 Site Location and Description .....	3
3.0 Proposed Development .....	3
4.0 Planning Authority Decision.....	4
5.0 Planning History.....	6
6.0 Policy Context.....	6
7.0 The Appeal .....	10
7.1. Grounds of Appeal .....	10
7.2. Applicant’s Response.....	11
7.3. Planning Authority Response .....	12
7.4. Observations .....	13
7.5. Further Responses.....	14
8.0 Assessment.....	14
8.1. Introduction .....	14
8.2. Compliance with the development plan.....	15
8.3. Traffic and Road Safety .....	17
8.4. Residential Amenity .....	19
8.5. Other .....	20
8.6. Appropriate Assessment .....	21
9.0 Recommendation.....	23
10.0 Reasons and Considerations .....	24
11.0 Conditions .....	24

## **1.0 Introduction**

- 1.1. This report deals with four third-party appeals against a decision of Westmeath County Council to grant outline permission for a post-primary school to cater for 650 pupils.

## **2.0 Site Location and Description**

- 2.1. The appeal site with a stated area of 3.72 hectares is located to the east of Kilbeggan town in County Westmeath. It is currently accessed off a straight stretch of the R446 regional road where a maximum speed of 100km/h applies. It is generally flat and is currently in agricultural use. There is a dwelling house immediately adjoining the site to the west and agricultural lands lie to the east. There are individual detached houses with long gardens located to the south of the site fronting onto Harbour road. The R446 regional road bounds the site to the north and there is a hard shoulder and grass verge between the road edge and the appeal site.

## **3.0 Proposed Development**

- 3.1. As described on the public notice, the proposed development would consist of the construction of a two-storey 650-pupil post-primary school (c. 8,300sq.m) - including general teaching and administration rooms, a PE Hall with fitness suites, a Special Needs Unit, external stores, ESB substation, 58 staff car park spaces, 70 cycle parking spaces, bus and car set down and pick-up facilities, two basketball courts, hard and grass play areas, soft landscaping, new vehicular and pedestrian site entrance and exit points and associated site development works. The proposed development would also include the following works outside the site boundary: a new footpath and cycle path along the R446 road, new streetlight posts, connection to existing foul sewer network via rising main, traffic calming measures including median islands, new road markings and alteration to existing road markings.
- 3.2. In addition to the normal planning drawings, the application was accompanied by a Feasibility Study, Planning report, Civil Engineering specification, Road Safety Audit (Stage 1/ 2), Traffic Impact Assessment and a Mobility Management Plan.

## 4.0 Planning Authority Decision

### 4.1. Decision

The Planning Authority issued a decision to **grant outline permission**. The decision varied from the planning officer's recommendation. Schedule 3 of the decision provides a report from the Director of Services which is summarised as follows:

- The site is specifically zoned and while it is separated from the village it is adjacent to it;
- The school will serve Kilbeggan and an extensive rural area, the majority who arrive by car and bus and these modes will likely continue into the foreseeable future;
- There are two schools to the eastern side of Kilbeggan town centre, both of which have expanded and are on constrained sites. For this reason, the appeal site has been reserved for a replacement secondary school through the Development Plan;
- The site is serviceable as detailed in the application and is within walking and cycling distance of the town;
- The development is consistent with the policies of the Development Plan.

### 4.2. Planning Authority Reports

#### 4.2.1. Planning Reports

The Planning Officer carried out a detailed planning assessment under the headings, National Policy, Development Plan Policies/Objectives, Road and Traffic safety, Public health and services, Siting and design, Flooding, Appropriate Assessment, EIA Screening and Other screening.

A recommendation to **refuse permission** was put forward for three stated reasons, summarised as follows:

- Reason 1 - Development would be contrary to Policy P-CS4 (to prioritise sequential development). It was also considered that the development would be contrary to policy P-KBN2 which seeks to provide for the future

development of two existing schools in Kilbeggan and to keep them within close proximity and within walking distance of the town centre.

- Reason 2 – Site is located outside of the development boundary of Kilbeggan town on an un-serviced site. It would be contrary to policy seeking to avoid significant developments beyond the outer edges of the existing built-up areas, while intervening lands lie undeveloped. The proposal would fail to maximise benefits of investment in existing infrastructure;
- Reason 3 – Proposed development due to its isolated location outside the development boundary of the town would contravene national policy outlined in DoES & DEHLG (2008) guidelines, ‘The provision of schools and the planning system – a code of practice’.

#### 4.2.2. Other Technical Reports

- Water Services – Report referred, response received from Irish Water;
- Road Design – Recommends that the proposed development can be granted subject to a number of conditions;
- District Engineer – Recommends seeking further information.

#### 4.3. Prescribed Bodies

- Department of Culture, Heritage and Gaeltacht (DCHG) – File referred, no response;
- An Taisce – File referred, no response;
- The Heritage Council – File referred, no response;
- Irish Water – No objection subject to conditions.

#### 4.4. Third Party Observations

4.4.1. A large number of observations / submissions were received, five of which are from elected representatives. Four of the submissions expressed their objections to the development. The remainder of the submissions were letters of support for the new school proposal.

## 5.0 Planning History

5.1.1. No recent relevant planning applications on the appeal site or in the vicinity have been brought to my attention.

## 6.0 Policy Context

### 6.1. Westmeath County Development Plan 2014-2020.

6.1.1. The site is zoned **O-LZ8** with a stated objective 'to provide for, protect and improve Educational and Institutional facilities'. The following extracts from the Development Plan are considered relevant.

#### **Section 7.6 – Education**

- The Council will continue to actively engage with the Department of Education and Skills in relation to spatial policy and the provision of School accommodation.

#### **Section 7.7 – Education Policies and Objectives**

- **P-ED1** - To reserve sites for educational use in those areas where the younger population has increased and there is a demographic demand for further school places. These areas will be reserved through land use zoning in Town Plans and Local Area Plans. The Council will consult with the Department of Education and Skills in planning for future education facilities.
- **P-ED3** - To resist the loss of sites in educational use, unless an appropriate alternative site is available, or it can be demonstrated that the Educational Facility is no longer required, and there is no likelihood of the buildings or the site returning to educational use in the future. The preferred substitute use for the site is community use.
- **P-ED5** - To reduce the need to travel by car to schools. Applications for new Educational facilities or extensions to existing facilities shall be accompanied by a Sustainable Travel Plan. The plan shall indicate how pupils will access the school, shall provide for sustainable modes of travel and encourage alternatives to the car. Regard shall be had to road safety, good design and efficiency in accordance with the Department of Environment, Community and

Local Government Code of Practice on the Provision of Schools and the Planning System, July 2008.

- **O-ED1** -To ensure that all new educational facilities are designed to facilitate social inclusion, incorporating access for people with disabilities, meeting Building Regulation space requirements and incorporating flexibility in design so that they may be suitable for alternative community uses, subject to the overriding need to provide good design for educational purposes.
- **O-ED2** - To consult with the Department of Education and Skills in planning for education and in determining the need for Education Facilities.

### **Section 13.1.20 – Education and Community Policy and Objectives**

- **P-SEC1** - To ensure that there are sufficient and appropriate educational and community facilities available to meet the needs of residents of the area.
- **O-SEC1** - To co-operate with and assist the Department of Education and Skills, and other statutory and voluntary bodies in the provision of new educational and community facilities as the need arises.
- **O-SEC2** -To identify lands to accommodate necessary community, educational and institutional uses within each settlement.

### **Section 13.3.8 - Education**

- Both schools (National Primary and Secondary) have expanded over the years and are on constrained sites. The Convent site to the rear which is currently vacant would be suitable for expansion of educational facilities, given its proximity to the town centre and the adjacent schools. The Convent building is a Protected Structure and the Council would support the appropriate conversion to an Institutional/Community type use to ensure its retention as a building of architectural and historic merit. A site has also been reserved on the Dublin Road to the east of the existing secondary school for a new replacement secondary school.

### **Section 13.3.10 Social, Community and Educational Policies & Objectives**

- **P-KBN2** -To provide for the future development of the two existing schools and to keep them within close proximity and within walking distance to the town centre.
- **P-KBN6** -To reserve lands for a new Secondary School and to provide for extension of the Primary School.
- **O-KBN1**- To provide a bus/vehicular drop off facility at the school campus site.

### **Section 13.4.10 Educational, Social & Community Policies & Objectives**

**P-KGD2** -To provide for the potential future expansion and development of educational, social and community facilities in the settlement, including liaising with the Department of Education and Skills, in relation to the educational needs of the town.

## **6.2. National Planning Policy**

In terms of National Policy, regard is had to the following:

- **Smarter Travel – A Sustainable Transport Future** – A new transport policy for Ireland 2009-2020. It seeks to reverse current unsustainable transport and travel patterns and reduce the health and environmental impacts of current trends and improve our quality of life.
- **The Provision of Schools and the Planning System** (DES and DEHLG, 2008) - This Code of Practice sets out policy for the provision of new schools by an integrated approach between the Department of Education and Skill and planning authorities and for local authorities to support the department in ensuring the timely provision of school sites.



### 6.3. Regional Planning Policy

In terms of National Policy, regard is had to the following:

#### **Midland Regional Authority Regional Planning Guidelines 2010-2022**

- **Strategic Goal 9** - To structure the region in a manner that integrates high quality built and physical environment with essential physical and social infrastructure such as transport and water services as well as schools, retail, community, healthcare and recreation/sporting facilities;
- **Social, Community and Cultural Infrastructure (Policy EP 24)** - Ensure the timely identification of suitable sites that will facilitate the provision of necessary social, community and cultural infrastructure throughout the region.

### 6.4. Natural Heritage Designations

The following Natura 2000 sites (SACs and SPAs) and proposed national heritage (pNHAs) areas are located proximate to the site:

#### **Special Protection Areas (SPA)**

- Lough Ennell SPA (Site Code 000685) is located c. 8km North east of the site.

#### **Scientific Areas of Conservation (SACs)**

- Lough Ennell SAC (Site Code 0004044) -located c. 8km North east of the site;
- Split Hills and Long Esker SAC (Site Code 001831)- located 2.7 km north of the site;
- Raheenmore SAC (Site Code 000582) is located c.9km south east of the site;
- Clara Bog SAC (Site Code 00572) is located 8km southwest of the site;
- Charleville Wood SAC (Site Code 000571) is 10 km south of the site.

#### **Proposed National Heritage Areas (pNHAs)**

- Nure Bog (Site code 001725) is located c.8km north east of the site;
- Cloorcrow Bog (Site code. 002357) is located c.5km north east of the site;
- Daingean Bog (Site code. 002033) c.13.4 km south east of the site.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. Four appeals were received from Maura Moran, Philip and Rose Keegan, Kay Ryan, Noel and Mary Smith. The principal points raised in the grounds of appeal are summarised as follows:

- Posted speed limit needs to be reduced and there is no indication when this would happen. The outline planning permission is not conditional on the speed limit being reduced;
- The service station located 100m east of the site would attract school children and their parents resulting in U-turns to occur which raises road safety concerns due to conflicts with the number of entrances off the R446 past the school used by farm machinery;
- No facility for student cars on the site which will lead to parking on the R446 outside homes and farms;
- Proposed development lies contrary to the sequential approach and will contribute to a loss of vitality and viability within the town. Applicant failed to consider alternative sites;
- Development would be contrary to national policy including Smarter Travel and Code of Practice for Schools and the Planning System;
- Development would be contrary to the Council's policy P-ED5 which seeks to reduce the need to travel to school by car;
- Insufficient detail provided with the planning application and no further information was sought;
- Condition 6a and 6b of the planning decision refer to drainage into an existing drain where consent has not been given;
- Failure to obtain landowner consent to provide new footpath and cycle lane outside of the site boundary and hence application is invalid;
- The dwelling to the west of the site would be negatively impacted for reasons of traffic, obstruction on light, views and flood risk;

- Concerns regarding proximity of ESB substation and gas storage tanks;
- Lack of prior consultation with neighbouring residents.

## 7.2. Applicant's Response

7.2.1. A response by the applicant to the grounds of appeal was received by the Board from David Mulcahy Planning Consultants. The following is a summary of the principal points put forward:

- Applicant has made a submission to Westmeath County Council on its current review of speed limits. Feedback from the Council is that irrespective of the speed limit review process, a reduction in speed limit at the school site would follow as a standalone basis following a grant of planning permission subject to the support of the elected members. Applicant has no objection to a condition of outline planning which restricts the opening of the school until the posted speed limit is reduced from 100 km/h to 50 km/h;
- No footpath is proposed beyond the school in the direction of filling station and it is not clear why U-Turns would occur when there is a dedicated drop-off facility proposed in the school grounds;
- A Mobility Management Plan was submitted as part of the application and the school is fully supportive of promoting sustainable modes of transport and car sharing;
- There will be a dedicated footpath and cycleway leading to the school and bus parking within the school;
- Clear policy objectives and statements contained in the Development Plan which identify the site as suitable for a secondary school;
- Enclosure 1 (sequential test) included with the appeal response provides an analysis of all potential sites in Kilbeggan town, which demonstrates that none of the sites are viable options for the proposed new school;
- Extra space proposed will allow for the provision of a higher quality school environment, sporting facilities, parking, drop-off and amenity areas;
- Information provided was adequate for an application for outline permission;

- Drainage will be to a watercourse which is evident on applicant's folio, with the boundary running along the centreline;
- Letter of consent was received from Westmeath County Council to include land where the footpaths and cycle paths are proposed in the application;
- Smith dwelling (to the west) is located 53.3m from the school and 46.2m from the play/sports areas which are both considerable distances;
- ESB Substations are common place in a residential area and would not pose an issue;
- No shadow impact will result;
- Applicant complied with all legal requirements in respect of alerting the public to the proposal.

7.2.2. The applicant's response was accompanied by four enclosures. These included:

- Sequential test including a diagram and accompanying table (by David Mulcahy Planning Consultants);
- Shadow Diagrams (by Coady Architects);
- Response to engineering items (by ORS Consulting Engineers);
- Letter of Support from the Educena Foundation.

7.2.3. The sequential test listed considerations around the appeal site and seven other sites under the headings of distance, zoning, size, access, availability and constraints. The shadow diagrams included shadows which would be cast on 21<sup>st</sup> March and no shadows appear on property outside of the site boundary. The engineering response dealt with matters around traffic, access, road safety, surface water and waste water drainage.

### 7.3. **Planning Authority Response**

- No response received

## 7.4. Observations

7.4.1. Two observations on the appeal were received by the Board, both stating their support for the proposed development. A summary of each is provided under.

7.4.2. **Educena Foundation** (stated as being trustees to Mercy Secondary School, Kilbeggan)

- Site is owned by property trustees and is readily available;
- Deemed suitable by the Department of Education and Skills in 2009 and would have no site acquisition costs to the State;
- Site is zoned as education in the current Development Plan;
- No other suitable sites available to the Trustees of a voluntary catholic school.

7.4.3. **Mercy Secondary School Parents Association**

- Current school inadequate to cater for the 48% increase in pupil enrolment since 2005 and fear that families will leave the school to commute to other towns with better school facilities;
- Development of a new school has been placed on the Adapt 18 accelerated delivery programme and is wholly supported by the Department of Education and Skills;
- New school would cater for four classes of six students with Autistic Spectrum Disorder (ASD) which will be of significant benefit to the local community;
- Site was gifted by Sisters of Mercy in 2005 as deemed necessary by the N4/M4 development plan and has been zoned 'educational' under respective plans since then;
- Current school site would be used to provide more space and facilities for the adjoining primary school;
- Road Safety – Speed limit change will be supported by Westmeath County Council;
- Town Boundary – Site is just marginally outside the town boundary;

- Alternative sites – Convent site and adjoining lands have been sold and are not available. No other sites are available;
- Development Plan and Ministerial Guidelines – Development of cycle paths and set down area and better ICT facilities will result in more students walking and cycling with lighter school bags;
- Other – Drainage design is appropriate, ESB substation and gas storage will comply with appropriate legislation, school will be two storey in scale.

## 7.5. Further Responses

Three further responses were received from Maura Moran, Philip & Rose Keegan and Noel & Mary Smith. The principal new points raised are summarised as follows:

- Condition 6a and 6b refers to drainage from the proposed site into an existing drain and this could give rise to an increase in ongoing flooding problems;
- Applicant has the option of accessing the watercourse without going through appellants' land;
- If permission is permitted, parking on both sides of the road should be prohibited;
- Development proposal clearly contravenes national policy and ministerial guidelines;
- Road safety issues are not adequately addressed;
- Proposed development is contrary to the sequential approach and sequential justification is questioned.

## 8.0 Assessment

### 8.1. Introduction

- 8.1.1. The key issues that arise in this appeal centre around whether or not the development would be consistent with the development plan policy and objectives together with road safety and traffic concerns and potential impact on established residential amenity. Other issues are also raised in the appeals include drainage,

legal interest for works outside of the site, lack of public consultation and adequacy of the information provided with the planning application. I will address these issues in my assessment below and I also consider the proposal in the context of Appropriate Assessment. At the outset, it is evident that there is an established need for the school which it is stated has enrolment numbers of 522 in 2016, up from 436 in 2012. It is stated that the existing site is constrained in size and cannot cater for the increase and is currently not fit for purpose. The Department of Education and Skills have expressed their support for the school, stating that it is included in the six-year building programme identified by the Department in 2015.

## 8.2. Compliance with the development plan

- 8.2.1. Under the current Westmeath County Development plan, the appeal site has a zoning objective **O-LZ8**, i.e. 'To provide for, protect and improve educational and institutional facilities' and the proposal would be clearly supported by this objective. The school is also supported by numerous policies and objectives which are outlined below.
- 8.2.2. Policy **P-ED1** supports the development. The site is reserved for educational use through land-use zoning and provisions under Section 13.3.8 of the Development plan. This policy also requires the Council to consult with the Department of Education and Skills, which I am satisfied has occurred both during the forward planning process and during the current planning application.
- 8.2.3. I note that the applicant's stated intention for the existing post-primary school site, is to allow for the expansion of the existing primary school which is located on the adjoining site within Kilbeggan. This would achieve objective **PED-3** of the Plan, which seeks to resist the loss of sites in educational use.
- 8.2.4. I am satisfied that Policy **P-ED5** can be achieved in the delivery of the development having regard to the Mobility Management Plan submitted with the application, which demonstrates how sustainable modes of transport, including walking and cycling, can be provided for. The school can be accessed by a footpath and cycle path which would serve to facilitate and promote cycling to and from school. Car sharing is also encouraged.

- 8.2.5. Policies outlined under section 13.1.20 – Education and Community policy and objectives are also supportive of the proposal. These include Policies **P-SEC1** (ensure sufficient educational and community facilities available), Objective **O-SEC1** (co-operate with the Department of Education and Skills), **O-SEC2** (identify lands to accommodate educational and community uses). Section 13.3.8 – Education specifically refers to the expansion of both the existing primary and secondary school having expanded on constrained sites. It states the vacant Convent site to the rear would be suitable for expansion of educational facilities, given its proximity to the town centre and the adjacent schools. It also states that a site has also been reserved on the Dublin Road for a new replacement secondary school. In the response to the appeal, the applicant states that the Convent site has been sold to a third party and is not available for the development of a new post primary school.
- 8.2.6. Section 13.3.10 outlines supporting policy and objectives under the heading of ‘Social, Community and Educational Policies & Objectives’. These include Policies **P-KBN2** (provide for development of schools within walking distance of the town centre), **P-KBN6** (reserve lands for a new secondary school and provide for extension to primary school) and objective **O-KBN1** (To provide a bus/vehicular drop off facility at the school campus site). Policy **P-KGD2** also supports the development in requiring the provision of future development of schools and liaising with the Department of Education and Skills under Section 13.4.10.
- 8.2.7. The development of a post primary school on the appeal site is clearly supported by numerous policies and objectives set out in the current development plan for the area, as detailed above. I accept that it would be sited 350m further away from the town centre than the existing school, which could arguably lie contrary to **P-ED5** (To reduce the need to travel by car to schools). However, I note the applicant’s response to the appeal and the recommendations in the mobility management plan which is enclosed with the application. The appeal site is referenced throughout the plan as being reserved for a new secondary school. It would be provided with a footpath and cycle way from the town to the school, as well as a bus drop-off point within the new site. It is stated that the school would be equipped with high-end ICT infrastructure which would reduce the weight of books and school bags which pupils would have to carry to and from school which would address the biggest deterrent



from walking and cycling to school. I consider the school is otherwise within walking and cycling distance of the town.

- 8.2.8. It is stated in the appeals that the school development would lie contrary to Policy **P-CS4**, to prioritise sequential development including the development of infill and brownfield lands and to consider the relationship of new areas with existing development, in the assessment of development proposals in urban areas. This is a policy set out under the Core Strategy. The site is located on lands zoned for the 'protection and improvement of educational and institutional facilities' and as stated above, extensive policy support exists within the Development Plan for facilitating schools development,
- 8.2.9. I consider the necessity to justify locating the school in a sequential manner must be considered in the context of the clear policy support for the school on the appeal site and the use of the appeal site for a school development is appropriate in principle. I also note the applicant's sequential analysis which demonstrate the appeal site is the most appropriate location.
- 8.2.10. In conclusion, the development of the school is supported through stated educational planning policy and objectives of the current Westmeath development plan, and is therefore wholly acceptable in principle. Other technical and planning matters which arise are discussed below.

### 8.3. **Traffic and Road Safety**

- 8.3.1. A key concern in this appeal centres around the suitability of the site from a traffic and road safety perspective. The appellants submit that the access to and from the school on a busy regional road where the maximum speed limit of 100 km/h applies would be unsafe. It is further submitted that as the reduction of a speed limit is a reserved function and as there is no timescale around when a reduced speed limit would materialise. It is also stated that as the Council's grant of outline permission is not conditional of a reduction in speed limit, outline permission should be refused. In response, the applicant states that they have made a submission to the Local Authority seeking a review of the current speed limit and that such a process would be done on a standalone basis subject to the support of elected members. I note that this would be a separate process subject to the support of the elected

representatives in the area and I also note that a number of elected representatives made submissions on the current application in support of the proposed school. The applicant has stated that they would have no objection to the attachment of a condition which would restrict the opening of the school until the posted speed limit is reduced from 100km/h to 50km/h. I am very aware of the importance of road safety, including the safety of pupils, who would travel to school by different modes of transport, including walking and cycling. It is essential that the school would not open without the reduced speed limit being delivered at the site.

- 8.3.2. It is proposed to provide a 3m shared footpath/cycle path along the southern side of the R446 from the school to tie into the existing R446 to the west leading towards Kilbeggan town. Signage would denote the end of the cycle path.
- 8.3.3. On balance, I accept that in all probability the speed limit would be reduced based on the positive support on file, however, I equally accept that this is not certain at this point. To address this concern, I also consider that the solution put forward by the applicant is reasonable, i.e. that the school would not open until the speed limit along the front of the site is reduced to 50km/hr, and that this could be controlled by way of a planning condition. The reduction in speed limit would be complemented by traffic calming, which include measures such as kerbing on both sides of the carriageway and traffic calming islands.
- 8.3.4. In terms of traffic movement, the regional road has sufficient capacity to cater for the increase in transport movements which would arise. The site is proposed to have a separate entry and exit point and a one-way internal roadway system which allows for traffic to always move in forward gear. Adequate sightlines are achievable from the exit which is proposed at a point to the west of the site. The school layout provides for bus set down area to allow pupils to be dropped off and collected within the school site, and of significance, away from the public road. Adequate provision is also proposed for pupils to enter and leave the site on foot including pedestrian entrances and adequate internal footpaths and crossing points are proposed along the internal routes.
- 8.3.5. The Traffic and Transport Assessment submitted with the application concludes that the existing R446/R389 mini-roundabout junction and the proposed R446/school access junction would operate within capacity up to a timescale of at least 2034.

- 8.3.6. In relation to parking, sufficient but not excessive levels of car parking would be provided on the site to cater for staff and visitors, including 60 staff parking and 40 set down spaces. Student parking is stated to be discouraged by the Department of Education and Skills and as such, no additional car parking is required for students, which is reasonable. A total of 65 bicycle spaces are proposed which complies with the 10% requirement for bicycle parking based on pupil registration numbers, as set out under Table 14.12 of the Development Plan.
- 8.3.7. Having regard to the above, subject to the school not opening until the speed limit on the R446 to the front of the site has been reduced to a maximum speed limit of 50 km/h and all other traffic-calming measures required by the Planning Authority are in place, permission should not be withheld for traffic or road safety reasons. The recommendations set down in the road safety audit are noted and I consider these can and should be taken into account in the design and site layout which would be required at permission consequent stage.

#### **8.4. Residential Amenity**

- 8.4.1. One of the appeals raises concerns regarding the size, height and scale of the development and its close proximity to their dwelling to the west of the site, as well as loss of privacy, obstruction to light, sunshine, views and would generate excessive noise levels.
- 8.4.2. I note this appellant's property boundary directly adjoins the appeal site to its west. It would be located c.50m from the school building complex and c.40m from the play/sports areas and as such is well separated from both. It is also evident from the shadow analysis submitted with the appeal, that no overshadowing onto property outside of the site would occur due to the separation distances involved and the orientation of the proposed school. This issue would be required to be further addressed at permission consequent phase when the building design detail is required to be presented.
- 8.4.3. Safety concerns around the location of an ESB substation and gas storage are also raised in the appeals. ESB substations are routinely required for developments of such a nature and are not associated with any undue impact to residential property.

Gas storage is regulated and is also common place in developments of this scale and nature and should equally not impact on safety of neighbouring residents.

8.4.4. In conclusion, I do not consider that residential amenity issues to any of the dwelling houses proximate to the site would arise.

## 8.5. **Other**

### Drainage

8.5.1. Surface water is proposed to be attenuated prior to discharge to an existing watercourse, which is positioned to the eastern boundary of the site and it is stated that the applicant has riparian rights which would allow the discharge of surface water to the watercourse. By employing Sustainable urban drainage, it is proposed that runoff would be no greater than currently, i.e. greenfield runoff rate.

8.5.2. In relation to flooding, the site is located in an area classified as 'Flood Zone C', where the development is deemed appropriate for the area. The Flood Risk Assessment report submitted with the application concludes that there would be no significant increase in flood risk either within or downstream of the site as a result of the development, having particular regard to attenuation and flow control proposed.

8.5.3. In relation to wastewater, a foul pumping station is proposed which is a pressurised rising main and it is stated that it will be designed in accordance with Irish Water's technical requirements.

8.5.4. In conclusion, I am satisfied that the development can be adequately drained and would not pose a flood risk downstream of the development.

### Legal Interest

8.5.5. The observers contend that the applicant does not have sufficient legal interest to deliver the footpath and cycle way across third party lands which fall outside of the redline boundary. The applicant states that consent has been given by the Local Authority. I consider that it is of relevance to note that a grant of planning permission does not in itself confer the right to implement the permission, as set out under 34(13) of the Planning & Development Act 2000, as amended. Accordingly, I am satisfied that the permission should not be refused because of legal interest / ownership issues.

### Public Consultation.

- 8.5.6. Having regard to the information on file, I am satisfied that the applicant has complied with the statutory requirements, particularly that the applicant published the required newspaper notice and erected a site notice in accordance with the requirements of Article 17 (1)(a) and (b) of the Planning & Development Regulations 2001-2017. The third parties engaged with the process by making their views known through written submissions to the Planning Authority in the first instance and to the Board at appeal stage.

### Adequacy of information received.

- 8.5.7. It is argued that the plans lodged are insufficient to provide the planning authority or members of the public with the required level of detail to assess the impact of the development. The consideration of this aspect is dealt with by the Planning Authority in the initial validation of the application. My advice to the Board is that there is sufficient detail on file to address the appeal, noting the application is for outline permission and the requirement of Article 24 of the Planning and Development Regulations 2001-2017. For the development to be implemented, it will be subject to a permission consequent application where matters of detail will be required to be submitted.

### Development Contributions

- 8.5.8. If permitted at permission consequent stage, the resultant development would not be subject to development contributions in accordance with exemptions and reductions afforded to Section 7.0 (iii) of the Westmeath development contribution scheme 2013-2020 which provides that 'all non-fee paying primary and secondary schools shall be exempt'.

## **8.6. Appropriate Assessment**

- 8.6.1. Article 6 (3) of The EU Habitats Directive (92/43/EEC) requires that 'any plan or project not directly connected with or necessary to the management of the (European) site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site considering its conservation objectives'. A Stage 1

Screening Assessment report was submitted with the application. It identified five Natura sites within 15km of the proposed development. These include the following:

- Split Hills and Long Esker SAC (Site Code 001831) – semi-natural dry grasslands and scrubland facies on calcareous substrates – 2.8km North;
- Clara Bog SAC (Site Code 000572) – Bog -7.73km South-East;
- Lough Ennell SAC (Site Code 000685) – Alkaline fens – 8.08 km North-East;
- Lough Ennell SPA (Site Code 0040044) – Birds – 8.08 km North-East;
- Raheenmore Bog SAC (Site Code 000582) – Bog – 9.39 km South West.

8.6.2. The AA screening report identifies a potential for an ecological link to the Split Hills and Long Esker SAC (Site Code 001831) due to the presence of a drainage ditch running along the east of the site which appears to drain into the River Brosna, which then drains to the SAC.

8.6.3. Split Hills and Long Esker SAC is a prominent wooded esker that stretches for over 6 km. The site is long and narrow, following the glacial deposit remains. It contains species such as Hazel, Ash, Hawthorn, Wych Elm and Oak to name a few, there are several species of grassland that also occur in cleared wooded areas of the protected site. Narrow-leaved Bittercress (*Cardamine impatiens*) and the Red Hemp Nettle (*Galeopsis angustifolia*) occur among the woodland flora within the site.

8.6.4. The conservation objectives for Split Hills and Long Esker SAC are to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

8.6.5. The NPWS identify that the main threat to the site is quarrying for sand and gravel that takes place at several locations and is especially evident on the north western end of the SAC. Despite this threat the site remains an excellent example of a mature natural woodland habitat and as a result the Split Hill and Long Esker SAC is listed on Annex 1 of the European Habitats Directive.

8.6.6. I consider that the possible effects of the proposal on the conservation status of the designated sites include loss/reduction of habitats, disturbance of key species, habitat or species fragmentation, reduction in species density and decrease in water quality and quantity. However, the appeal site does not form part of this or any other

designated site and does not require any resources from any. Hence no direct impacts would arise. Neither would any impact on Annex I habitats be likely due to the type of development and the large separation distance between the location of the proposed development and this European site.

- 8.6.7. In terms of indirect effects, noting the development would connect to the public foul sewer network and that the car park would drain firstly into an interceptor, prior to entering an attenuation tank and discharge to the existing stream along the south-east boundary, no pollutants should escape which would lead to significant effects in terms of the disturbance, displacement or loss of habitats or species on the ecology of this Natura 2000 site. Control measures to further reduce risks of suspended sediment entering a watercourse can be reinforced through an appropriate planning condition regulating compliance with a construction management plan. I consider this would be required prior to the commencement of the development and that such a condition requiring same should be attached to any future grant of permission consequent. With the implementation of good construction management, I am satisfied that the proposal would not result in any habitat loss or reduction in the quality of the habitat and subsequently the conservation status of the Split Hills and Long Esker SAC designated site.
- 8.6.8. In-combination effects are equally unlikely to arise as a result of the development and there are no other plans or projects identified in the vicinity of the proposed school development.
- 8.6.9. Accordingly, it is reasonable to conclude, on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site, and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

## 9.0 Recommendation

- 9.1. I recommend a **GRANT** of permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

## 10.0 Reasons and Considerations

10.1. Having regard to the zoning provisions and educational policies and objectives set out in the Westmeath County development plan 2014-2020, to the demonstrated need for a post-primary school in the area, to the existing character of the area, to the nature and scale of the proposed school development, it is considered that, subject to compliance with the conditions set out below, the proposed development would deliver on stated national and local policy in relation to new schools and in particular the requirement for a new post-primary school for Kilbeggan on the appeal site reserved for a new replacement secondary school in the current development plan. The proposed development would not seriously injure the residential amenities of the area and would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. This outline permission relates solely to the principle of the school and associated development on this site. No development shall take place until an application for permission consequent on the grant of outline permission, has been granted permission in respect of details relating to layout, siting, height, design, external appearance, soft and hard landscape, lighting and means of access. This school development shall be sensitively and site specifically designed to take into account the site context.

**Reason:** In the interest of clarity and to define the subject matter for consideration at permission consequent stage.

2. The school shall not open until the speed limit on the R446 to the front of the site has been reduced to a maximum speed of 50 kilometres per hour to the east of the proposed vehicular entry point and until all other traffic calming measures, details of which shall be



submitted to the planning authority at permission consequent phase.

**Reason:** In the interest of road safety.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works. Details in this regard shall be submitted to the planning authority at permission consequent stage.

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

4. The internal road network serving the proposed development including bus and car set down areas, junctions, vehicle and bicycle parking areas, footpaths, cycle paths and kerbs shall comply with the detailed standards of the planning authority for such road works. Details in this regard shall be submitted to the planning authority at permission consequent stage.

**Reason:** In the interests of amenity and of traffic safety including safety of vulnerable road users.

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

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Patricia Calleary  
Senior Planning Inspector

5<sup>th</sup> September 2017