



An
Bord
Pleanála

Inspector's Report ABP-302270-18

Development	Construct astro turf (MUGA) all weather pitch, ball wall, floodlights and ball stop netting
Location	Abbeyhalfquarter, Ballina, Co Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	17703
Applicant(s)	Sean Duffy Community Centre
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party (Condition Only)
Appellant(s)	Sean Duffy Community Centre.
Observer(s)	None
Date of Site Inspection	20 th November 2018
Inspector	Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located on the eastern side of Ballina Town in County Mayo.
- 1.2. The site, 1.68ha in area and approx. square in shape, comprises an existing community centre (448 sqm), grass playing pitch (1256 sqm), and associated facilities. The site is accessed from Healy Terrace with a laneway linking from the street to this backland site. The site is bounded by a laneway to the south and west of the pitch, which provides rear access to the terraced dwellings along Healy Terrace. To the east of the site, in line with the community centre building, is a private gym, which is in a converted warehouse type unit. To the north is an existing industrial estate.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Construction of a new astro-turf (MUGA) all-weather pitch together with 2 no. goalposts
 - Construction of 2 no. 9m wide x 5m high hurling wall complete with buttress supports as necessary and 1m high ball stop netting above (total height = 6m)
 - Provision of 2.5m high wire mesh security fence incorporating access gates with 3.5m high ball stop netting and associated support poles above fence (total height = 6m) to perimeter of proposed new astro-turf (MUGA) pitch
 - Provision of 4 no. 12m high octagonal galvanised steel floodlight columns, each complete with 3 no. LED floodlight luminaires

3.0 Planning Authority Decision

3.1. Decision

GRANTED, subject to thirteen conditions, including the following:

C7: The Multi Use Games Area pitch and hurling wall shall be for the exclusive use of Sean Duffy Community Centre and Ardnaree Sarsfields GAA members only. It shall not be used as a multiple user commercial facility and shall not be rented out to other clubs or individuals.

Reason: In the interest of clarity, to control the volume of traffic and noise generated, in the interests of traffic safety and residential amenity

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report reflects the decision of the planning authority. I note further information was requested in relation to a number of issues, including a request for a lighting study; mitigation proposed in relation to loss of parking spaces; accessibility to existing car park; design of the MUGA; hours of operation of the MUGA; clarity in relation to how noise and light pollution are to be mitigated. Upon receipt of the further information from the applicant, a grant of permission was issued.

3.2.2. Other Technical Reports

Road Design Office: No objection to the proposed development.

Ballina Municipal District: Further information requested in relation to loss of parking spaces, access to parking, MUGA lighting, drainage, hours of use, mitigation proposed for noise and light pollution. Following receipt of further information, permission was recommended subject to condition in relation to monitoring of parking.

Architectural Report: Request for a lighting study to consider impact of 12m high floodlights.

Archaeologist: Request for an archaeological assessment to be submitted.

3.3. Prescribed Bodies

No reports received.

3.4. Third Party Observations

An objection was received from the Ardnaree Residents Association. Concerns were raised in relation to noise and visual impact of the hurling wall; loss of car parking spaces; late night use of the facility and impact of noise and light; and impact on market value of neighbouring residential properties.

4.0 Planning History

None.

5.0 Policy Context

5.1. Mayo County Development Plan 2014-2020

(Mayo County Development Plan Review Process is paused until after the Regional Spatial & Economic Strategy (RSES) is published)

5.2. Ballina Town and Environs Development Plan 2009-2015 (as extended)

- **Zoning Objective RL:** Recreation/Leisure, 'to provide for recreational amenity, open space and leisure facilities'.
- Section 2.13.6, Zoning Categories, set out the principle function of each use zone. For RL, the following is stated:

Solely for Recreation/Leisure Use (RL)

To provide for public open space

To provide for recreation/amenity development

To protect visual and scenic amenity

Any proposed development including the development of paths or other leisure facilities, on the land zoned RL in the vicinity of the Moy and Brusna

rivers shall be subject to a Habitats Directive Assessment in Accordance with Article 6 (3) of the Habitats Directive and development will only be permitted in accordance with the results and recommendations of such an assessment.

- **Section 2.7.3:** It is the policy of Ballina Town Council and Mayo County Council to:....
 - Encourage the development and improvement of existing sports facilities in the town in co-operation with the various clubs and associations.
 - Encourage the provision of the broadest range possible of sports and leisure facilities.
 - Promote participation in sport and to facilitate the development of the sports facilities in the town.
- **Objective CC1:** To facilitate the development of sports and leisure facilities within the town.
- **Objective RL15:** The Council will investigate ways of improving the quality and capacity of existing sporting and recreational facilities through initiatives in both the public and private sector. Sources of funding will be investigated to achieve this at government level through the Lottery, with the governing bodies of the sports and through private development proposals.

5.3. **Natural Heritage Designations**

The nearest Natura site is the Killala Bay/Moy Estuary SAC (000458), approx. 1.2km west of the site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The applicant has submitted an appeal against Condition No. 7, issued by Mayo County Council. The grounds of appeal is summarised as follows:

- As per the Development Management Guidelines, condition 7 is unnecessary as it does not serve the purpose it was intended to serve, ie restriction of traffic and user numbers; it is not relevant to planning as it attempts to dictate who can and cannot use a recreational facility; it is unenforceable as the county council could not control facility users; and it is unreasonable. It is requested that the condition be omitted. Any amendment would not serve to address the matters raised.
- Restricting the use of the facility to two specific clubs would not aid the Council to control traffic volumes using the facility, which is part of a larger community and recreation complex managed by Sean Duffy Community Centre, which includes meeting rooms, gymnasium, study, and GAA football playing fields with associated dressing rooms (Ardnaree Sarsfields CLG).
- Numbers using the playing pitch and hurling wall would be very limited. The playing pitch (50mx25m) would suit games for two teams of 5 adults or two teams of 7 to 8 children. The hurling wall would be suitable for use by 4 to 5 persons at any one time. The volume of traffic that would be attracted by these elements of a much large community/recreational facility would be extremely low.
- The facility is located in an inner urban area. Many teams and groups that travel to the facility do so by private bus. The proposed condition would not address traffic volumes or traffic safety.
- The condition would be unenforceable as the council would not have the resources to monitor the facility and ensure all users are members of the two clubs.
- The condition restricts the use of the facility to non-members attending community events such as sports days, cul-camps, inter-club competitions for various sports, groups from local schools and attendees from the Western Care facility. It would not be feasible to enlist all visitors to the facilities as either members of the community centre or GAA club. The condition is unreasonable and contrary to ministerial guidelines.

- Section 7.6 of the Guidelines states that planning authorities should be sparing in their approach to occupancy conditions given the associated limitations of such conditions.
- To source funding for the facility from Leader, Sports Capital etc, a facility must be available to as wide a range of local community groups and not just the community centre and GAA club members.
- The Community Centre is funded under Pobal Community Services Programme and provides a wide range of services to the wider Ardnaree Area. The condition undermines the centre's attempts to provide services to the community in restricting rental and use of the facility by non-members.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. This is a first party appeal against planning condition 7 issued by Mayo County Council, which states:

C7: The Multi Use Games Area pitch and hurling wall shall be for the exclusive use of Sean Duffy Community Centre and Ardnaree Sarsfields GAA members only. It shall not be used as a multiple user commercial facility and shall not be rented out to other clubs or individuals.

Reason: In the interest of clarity, to control the volume of traffic and noise generated, in the interests of traffic safety and residential amenity.

- 7.2. Having regard to the nature of the development proposed and the condition subject of this appeal, I consider a de novo consideration of the proposal is not warranted and I recommend the Board should use its discretionary powers under Section 139 of the Planning and Development Act 2000 (as amended), and restrict its consideration to the terms of condition no. 7.
- 7.3. The applicant has reviewed condition 7 of the permission issued by the planning authority in the context of the Development Management Guidelines for Planning Authorities (2007). The applicant is of the view that the condition is unnecessary as it does not serve the purpose it was intended to serve, ie restriction of traffic and user numbers; it is not relevant to planning as it attempts to dictate who can and cannot use a recreational facility; it is unenforceable as the county council could not control facility users; and it is unreasonable. It is requested that the condition be omitted. The applicant contends that any amendment of the condition would not serve to address the matters raised in the reason for the condition. Access to the facility should be open to the community and access to funding for the facility will be restricted by this condition.
- 7.4. The site is zoned for recreation/leisure use. The proposed development is in accordance with the zoning objective and acceptable in principle at this location.
- 7.5. I note that the proposal was deemed to be acceptable by the planning authority, with development specific conditions attached in relation to parking, hours of operation and the hours for use of the flood lighting, in the interest of residential amenity and traffic safety. The reason for condition 7 is stated to relate to volume of traffic and noise generated, traffic safety and residential amenity. Given the planning assessment indicates no issues in relation to these planning issues, subject to a number of specific conditions, I do not consider it necessary or reasonable to further implement a wider condition limiting the users of this permitted development, which is on appropriately zoned land within a town centre. No empirical evidence has been presented within the planning report that would suggest there is a maximum number that the site can cater for. It is, in my view, desirable that recreational facilities are accessible to all in the community, as supported by the policies and objectives of Ballina Town and Environs Development Plan 2009-2015 (as extended), specifically Objective CC1.

7.6. Overall, I am of the view that the condition is unnecessary, it is not enforceable and it is not reasonable. I recommend that condition 7 be omitted.

Appropriate Assessment

7.7. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Environmental Impact Assessment

7.8. Having regard to the minor nature and scale of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

8.1. Having regard to the nature of the condition the subject of the appeal and based on the reasons and considerations set out below, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 as amended, to **REMOVE** condition number 7.

9.0 Reasons and Considerations

9.1. Having regard to:

- (a) the provisions of the Ballina and Environs Development Plan 2009-2015,
- (b) the existing pattern of development in the area, and
- (c) the nature and scale of the proposed development,

the Board considered that the limitation of the use of the Multi Use Games Area pitch and hurling wall to community centre and GAA members only, as set out in condition 7, was not warranted or in the interests of the proper planning and sustainable development of the area.

Una O'Neill
Senior Planning Inspector

28th November 2018