



An  
Bord  
Pleanála

## Inspector's Report ABP-302807-18

<b>Development</b>	Development of a Religious Cultural Centre.
<b>Location</b>	Area 1, Hebron Industrial Estate, Road 1 Leggettsrath West, Kilkenny.
<b>Planning Authority</b>	Kilkenny County Council
<b>Planning Authority Reg. Ref.</b>	18172
<b>Applicant(s)</b>	The Trustees of the Kilkenny Islamic Centre
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	1. Buggy Motors 2. Eugene McGuinness 3. Shane Hayes
<b>Observer(s)</b>	1. Anne O'Connor
<b>Date of Site Inspection</b>	20 <sup>th</sup> of February 2019
<b>Inspector</b>	Caryn Coogan

## 1.0 Site Location and Description

- 1.1. The site is located within the Hebron Industrial Estate Area 1, Kilkenny City which is beside on of the main entrances to Kilkenny City off the M9 motorway and the City's ringroad. The subject site is located within the smaller Area 1 Industrial estate, and the larger Area 2 is to the east and south of the site.
- 1.2. An Aldi store lies between the subject site/ proposed development, the industrial estate road to the west. There is a Regional Veterinary laboratory between the Hebron Road and the subject site to the north-east. The adjoining site to the north east is located at a lower ground level to the subject site. To the south and rear of the site, there are industrial warehousing units, and to the immediate east is a vacant strip of land. In front of the site between the northern site boundary and the Hebron Road, there is a vacant site.
- 1.3. The Aldi carpark is positioned at a higher ground level than the subject site at approximately 2metres higher along the western site boundary, an embankment and timber rail face is the western boundary.
- 1.4. To the immediate north of Area 1 Hebron Industrial estate is O'Loughlins GAA club and St. Kieran's cemetery. Further west is Nowlan Park, GAA grounds.
- 1.5. Area 1 Hebron Industrial estate, is accessed directly form the Hebron Road and the junction is not a signalled junction, it is a small box junction. The industrial estate road also serves a residential estate to the south west of the industrial estate, Bishop's Birch Place. This is a unique access to a residential estate in Kilkenny whereby the only vehicular to Bishop Birch Place is via an industrial estate. Bishop Birch Place overlooks the Hebron Industrial estate. There is a playing field at the entrance of the estate which acts as a natural buffer area between the houses and the industrial units.
- 1.6. The subject site is 0.7439ha and is elevated above the surrounding area. It is a brownfield site, currently a hard surfaced derelict site. There is palisade fencing along the communal boundary with the delivery area of Aldi, and the warehousing to the south. Vehicular access to the site is from a gate off the Aldi carpark area, and

the north western extremity of the site. The site is featureless in terms of landscape or visual qualities.

## 2.0 Proposed Development

2.1. The proposed development consists of:

- (i) The development of a religious cultural centre comprising of a two-storey place of worship with architectural features including a dome and a turret over the parapet level;
- (ii) a two-storey community building incorporating a community hall with offices and ancillary accommodation on the ground floor and 2No. two-bedroom guest apartments over;
- (iii) 2No. two-storey semi-detached four-bedroom houses (1No. head of community house and 1No. staff house);
- (iv) a two-storey community building incorporating two class rooms and a halal shop on ground floor with a community café over.

The proposal involves the utilising the existing entrance, access road, services and infrastructure permitted under planning reference 08/859 (ABP PL10.232618) and the provision of additional car and bicycle parking; and all associated works and ancillary siteworks.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 26<sup>th</sup> of September 2018, Kilkenny County Council granted planning permission for the proposed development subject to 15No. conditions.

The conditions were standard planning conditions, requiring a development contribution of €20,137.50, a revised site layout to include a pedestrian urban space, revised carpark layout, widening of the Hebron Industrial Estate road, infrastructural issues.

One site specific condition was No. 13 which stated:

*There shall be no call for prayer for services at the mosque.*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports 08/05/2018**

- The mixed zoning objective allows each aspect of the application to be permitted on the subject lands.
- The site is elevated and finished floor levels and building heights are assessed. The height of the dome and turret will stand quite high above the level of the Hebron Road, and the context of the site location within an industrial estate and along a main approach road into the city, it is considered the proposal lacks both physical and visual integration into its surroundings, both immediate and wider context, and a place of worship is out of character with the location.
- Aldi has not given consent to the overflow parking. Under the development plan requirement the proposal requires 53No. spaces. The proposed development has 43No. spaces. The parking issue within busy times of the mosque has not been addressed, nor if it clashes with events in the GAA grounds or funerals in the graveyard.
- The Traffic Impact Assessment based traffic counts on quiet times in the locality.
- The site is not an old burial ground.
- The community facilities should be shared amongst other community groups.
- The houses are isolated and surrounded by industrial/ commercial units. The layouts and design meet with residential standards.
- Development in the area has occurred in an ad hoc manner with no definitive style. The mosque is further ad hoc development. The mosque does not present an attractive/ inviting community space, and appears to be closing itself off in the middle of industrial / commercial buildings.
- A refusal is recommended.

- The recommendation was overruled, and further information issued on 10<sup>th</sup> of May 2018, requesting a revised layout to provide more passive surveillance of the parking area, the re-orientation of the main mosque perpendicular or parallel to established building lines, as the current layout has poor quality frontages. There is concern about the extensive use of galvanised non-climbable metal railings along the boundaries. The items requested are reflective of the concerns expressed in the planning report.

### 3.3 Further Information

The response to the further information was received on **4<sup>th</sup> of September 2018**.

The main building has been amended so that the buildings are set around existing parking, and some parking proposed to the rear of the mosque. The mosque building line conforms to the Aldi building line.

The security fencing is amended to a more aesthetically pleasing specification. The landscape proposals have due regard to landscape aims and objectives of the Hebron Road Design Strategy. A Visual impact Statement of the mosque and minaret was submitted, demonstrating localised and distant impacts. It is stated the maximum capacity of patrons at the existing Freshford Road facility is around 70persons. The Traffic Impact Statement is based on evidence based approach to the trip generation potential including analysis for peak and special events. The revised site layout includes a 4.8metre wide carriageway serving carparking to the rear. Soakaways have a revised design.

#### **Planning Report 25/09/2018**

Senior Planner reported on the case. There were 18No. items of further information requested.

The relocation of Community Building No. 2 to the northern corner of the site facing the carpark area. It screens the existing fence along the north eastern site boundary. The mosque building has been redesigned to bring the façade to the fore, with the arch element removed from the design.

The most significant visual impact of the proposal is viewed from the Hebron Road. However, it is accepted the buildings will be elevated above the level of the road, they are set back from the road and not unduly dominant.

The peak number of trips estimated to be generated by the development is given at 84. At the existing premises there is a high car occupancy with an attendance of 89-90 persons generating about 40No. cars. The EID celebration attracts 160-180 persons and 50-60No. cars, In the revised proposal there are 137No. spaces proposed with 54No. spaces dedicated to Aldi. The carparking standards of the development plan requires for the proposal is 53No. spaces, and 62No. required for the Aldi store. It is considered the 137 No. spaces is in excess of the proposed requirement and is acceptable.

The proposal accords with the City Development Plan and the Urban Design Strategy, as it will regenerate a former industrial building site, it accords with the mixed use zoning of the area, it provides an opportunity to provide incremental improvements to the industrial estate, it creates urban spaces in the area, and it introduces a good range of uses. Certain elements of the proposal are commercial developments and development contributions are applicable to those.

Recommendation to Grant Permission.

### **Internal Reports**

Irish Water: No objections

Roads: Grant with Conditions

HSE: No objections

CFO: No objections

Environment: Further Information regarding the soakaway

### **3.3. Third Party Observations**

There was a huge volume of third party objections to the proposed development and it is not necessary to summarise all of them, as all of the issues of concern have been raised in the third grounds of the appeal. The main issues raised in the submissions can be summarised under the following headings:

- Traffic congestion
- Visual Amenity
- Fails to meet with development plan criteria
- Out of character with the area
- Landscaping unacceptable
- Stormwater issues
- Unsuitable location in an industrial estate.
- Events at Nowlan Park, O'Loughlins and the graveyard
- Parking

## 4.0 Planning History

### **10/101**

Permission for development of 1.71Ha of Block D granted under ref. 08/859 (An Bord Pleanala PL10.232618), a discount foodstore, with parking, access and site services provided on foot of permission 08/859 (ABP PL10.232618).

### **08/859 (ABP PL10.232618)**

Permission granted for the demolition of Kilkenny Cooling Systems Unit (4375sq.m.) and Classic Furniture Warehouse (940sq.m.) and the construction of a proposed hotel and discount foodstore. Permission refused for Block C and Block C1.

### **03/1277**

Permission refused for a change of use and partial demolition and redevelopment from factory to ancillary office accommodation to a discount foodstore, retail warehousing and office accommodation at Area 1 Hebron Industrial estate.

## 5.0 Policy and Context

### 5.1. Development Plan

#### **Kilkenny City and Environs Development Plan 2014-2020**

The subject site is zoned Mixed Use

#### **3.4.5.11 Mixed Use**

Objective: To consolidate and facilitate the development of inner suburban sites for mixed use development which will allow for commercial and residential uses.

Permitted Uses: Dwellings, open spaces, places of worship, community facilities, halting sites, nursing homes, Bed and breakfast establishments and guesthouses, home-based economic activity, parks and open spaces, playing fields, car park, park and ride facility, childcare facility, community facility, enterprise centre, funeral home, light industry, medical and related consultants, office based industry, science and technology based industry, local convenience shop, automated teller machines, restaurant, conference facilities, public service installations, hotel, warehousing, including retail warehousing, discount food store, petrol station.

Open for Consideration: recreational use/buildings, waste transfer stations and public house..

3.4.4 In order to stimulate redevelopment along the Hebron Road a new mixed zoning was introduced in the 2008-2014 development plan.

#### ***Mixed Use zonings***

In order to stimulate re-development along the Hebron Road, a new mixed use zoning was introduced in the 2008 – 2014 Development Plan. This was in recognition of the anticipated completion of the M10 Motorway project resulting in the Hebron Road becoming one of the main entrance points to the city. The historical land uses along the Hebron Road do not reflect or promote the future role of this road as an entrance corridor to the city. A limited amount of redevelopment has taken place but there is considerable road frontage to be redeveloped. It is considered appropriate therefore to continue this mixed use zoning.

Any development that takes place along this corridor will have to reflect and promote the role of the Hebron Road as the main entrance corridor to the city. This will require a high quality-built environment.



### **Table 10.5 Land Use Parking Spaces per Unit**

Dwelling House : 2 car parking spaces per unit, 0.25 spaces per unit for visitor parking

Apartments 1.25 spaces per unit, 0.25 spaces per unit for visitor parking

Churches, theatres, public halls 1 car space per 10 seats

Shops 1 space per 20 m<sup>2</sup> gross floor area

### **Hebron Road Urban Design Strategy 2017**

There are two key elements

1. A framework which sets out an integrated approach to land use, movement and development; and
2. Guidelines for the improvement of the street and development of key sites on the road. To prioritise street improvement and to inform decisions on future planning applications on the road.

## **5.2. Natural Heritage Designations**

The subject site is located within an established Industrial estate. It is located a significant distance from the River Nore, and site and is beyond the SAC boundary.

## **5.3. EIA Screening**

Having regard to the brownfield nature of the subject site, together with the scale of the proposed development, 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.

## 6.0 The Appeal

There are a number of third party appeals against Kilkenny Co. Co.' s decision to grant planning permission for the development. The following is a summary of the relevant grounds of appeal from each appeal.

### 6.1 Appeal No. 1: Shane Hayes

- **Traffic Congestion** : The Hebron Industrial Estate comprises of many business which require large heavy goods vehicles accessing the Hebron Industrial estate during the day. Residents of Bishop Birch Place battle their way through the Hebron Industrial estate junction every single day to access their homes. The houses have to access their estate through an industrial estate, and the congestion is getting worse every year with the addition of McDonalds, Aldi, the M9 junction, Greenstar. A further build-up of traffic cannot be permitted without due consideration of the residents of Bishop Birch Place, and the proposed development will lead to an intensification of traffic for over 80No. homes stuck in the industrial estate.

### 6.2 Appeal No. 2 - Eugene McGuinness

Included with the appeal is a memory stick containing video clips showing the impact of traffic on match days in Nowlan Park and O'Loughlins club. Attached also is a petition of 11No. names from households in the immediate area objecting to the proposed development.

The important role of the Islamic community play in society is acknowledged, and the principle of a dedicated place of worship is supported. However, the subject location is totally unsuitable.

- **Visual Impact** : The proposed Mosque is setback form the road and sited to the left of the Aldi building. The design and scale of the building is totally out of character with the area. It has a 21metre dome, and the roof will dominate the skyline extensively. The design and positioning of the building hidden away in the corner is not conducive to improving the overall look of the

industrial estate. It continues the ad hoc piecemeal approach the Council has been trying to avoid.

- **Contravention of Kilkenny City and Environs Development Plan:**

The plan states the Council will located new 'Community Facilities' within existing settlements where population levels warrant a particular service and community facilities should be located close to or within walking distance of housing, accessible to all sectors of the community and facilitate multi-use functions through their design and layout.

There is little or no Muslim population living in the area. The population levels do not warrant the particular service or the size of the development. The facilities do not serve the local community. It would seem to be geared towards catering for the expected increase in the Muslim population encouraged by the size and scale of the development rather than enhancing or encouraging any involvement of local residents. The effect will only lead to further concerns and encourage many false perceptions people may have concerning the development which will in turn discourage integration.

The local community is well served by community facilities O' Loughlins GAA Club is just three hundred metres from the proposed development. Bishop Birch Place has a small multicultural community facility which has been operating for many years and the community has encouraged integration. Despite this open and welcome approach almost all of the residents of Bishops Birch Place and surrounding areas have come out strongly against the new development. A total of 99% of the local community are opposed to the development as can be seen from the attached petition.

- **Traffic and Parking:** Any development within the Hebron Industrial estate has an impact on Bishop Birch Place and its community. It is the only large housing estate in Ireland which is accessed via an active and expending industrial estate. As a result, the shared access must be treated differently as it is a shared accessed to an industrial estate/ housing estate. This is a result of bad planning from the outset.

The access to Bishop Birch Place was originally planned to come through Assumption Place but because local opposition in Assumption Place cited

health and safety issues, the entrance was changed, and the residents were re-routed through the Hebron Industrial estate. The residents of Assumption Place had successfully argued that emergency vehicles would be unable to get through to Bishop Birch Place during a match day in Nowlan Park. Since the 1980s when the original decision was made, the GAA has invested huge money into Nowlan Park and increased the seating capacity. Just 200metres from Hebron Industrial estate is the expanding O Loughlins GAA club, which is an integral part of the local community. There is a busy Aldi within the estate, a busy car showroom, a fuel depot, which carries a lot of traffic.

On the same road Kilkenny Co. Co. are now considering a funeral parlour, and if granted will bring more traffic onto the industrial estate/ residential estate entrance. Directly across the road from the Hebron estate entrance is the largest cemetery in Kilkenny, and a short distance from that is a new McDonalds. There is serious traffic congestion in the locality.

Presently during match day in Nowlan Park, the surrounding area is locked down and Bishop Birch Place it would be inaccessible to emergency vehicles. Furthermore, Bishop Birch Place is used as a turning area for huge trucks who have incorrectly driven through the estate into the housing estate. They turn alongside children playing.

The Traffic Impact Assessment Report accompanying the planning application is totally inadequate. It cannot be relied upon only monitoring traffic in the month of January on 3No. different days at 2No. different times. The method is seriously flawed and cannot give an accurate traffic assessment as it does not take into consideration the activities of Nowlan Park and O'Loughlin's Club. It does not take into consideration both GAA grounds running activities on the same day and a funeral at St. Kieran's cemetery. Muslim burials normally occur within 48hours of passing, and perhaps burials from neighbouring counties will occur within a purpose-built mosque. No allowance has been made for traffic management and parking associated with the planning application. There is a small mosque currently on the Freshford Road, but the traffic analysis does not take into account the draw of a purposely built mosque, which will be the largest mosque in the south-east. The development will generate traffic and require parking.

The mosque drawing indicates the area of worship will accommodate 222No. people. This equates to 22No. spaces laid down by the Council but makes no parking provision for the two large four bedroomed houses, or the two apartments. The parking problem will be particularly acute during Ramadan and Eid. The lack of onsite parking will result in overspill onto adjoining main road and likely to result in the unacceptable traffic management problems and traffic congestion to the detriment of traffic flow and road safety in the vicinity of the development. Businesses in the area have already made complaints regarding parking on the road associated with Aldi site, as cars parked restrict delivery truck access to various businesses. Aldi had to build a large fence to prevent people parking on the road. The increased traffic levels associated with the proposal present a real danger to the residents of Bishop Birch Place and are a risk to pedestrians.

### **6.3 Appeal No. 3 - Buggy Motors**

#### **(i) Traffic and Parking**

The proposed development will generate excessive traffic on the entrance roadway and create parking along the estate road due to a parking shortfall.

The Aldi supermarket has generated a significant level of traffic into the estate and generates a huge volume of parking during peak demand. The actual situation on site is not reflected in the reports submitted.

It is stated the proposal meets with development plan standards in terms of parking, however peak times parking has not been accounted for. Any overflow from the supermarket and the mosque will occur onto the estate road, and will negatively impact on businesses.

The site layout illustrates the mosque is positioned behind the Aldi store, and will not be visible. Therefore, drivers will have to do a U-turn impacting on traffic safety.

The existing roadway is to be widened significantly and will impact negatively on pedestrians. The existing road is already 7.9metres in width and following completion of development it will be 9.5metres. The DMURS manual has not been taken into consideration, in terms of the median should be no less than 2metres.

There is also a 'Hebron Road Urban Design Manual', which indicated a road width of 7metres.

**(ii) General Items of Concern**

- **Landscaping** : The proposed landscaping is to the rear of the mosque building, and does little to soften the impact of the proposed building.
- **Visual impact Statement:** There was no viewpoint from St. Canices Cathedral
- **Storm Water:** There are 2No. large soakaways proposed under Community Building No. 2
- **Proposed dwellings:** The rear gardens do not meet with minimum garden areas, they are only 7.5metre deeps.

**(iii) Hebron Road Urban Design Strategy**

The subject site presents a major opportunity to transform the area in terms of uses, built form and character as the site is elevated and visible. It is identified as a 'priority' site. The proposed buildings will not provide coherent building within its surrounding environment. The green infrastructure concept sets out to improve potential GI corridors including the Hebron Road and adjoining streets. There are no landscaping proposals to form a buffer to the road and the path networks included within its submission.

The building scale should be relatively modest, and yet the main turret on the mosque building is 16metres high, the equivalent of the 5storey buildings which is contrary to the design strategy for area.

### 6.3 Applicant Response

The applicant has addressed the grounds of the third-party appeal under a number of headings.

- **The proposal is in contravention of the Kilkenny City and Environs Development Plan**

The site is located within an area zoned 'Mixed Use' in the current development plan. The mixed-use zoning seeks to stimulate commercial development along the Hebron Road as many of the historical landuses along the Hebron road are no longer considered appropriate to the areas new role as a strategic approach to the city. The planner's report confirms the proposed uses comply with the mixed-use zoning objective and are acceptable in principle.

The nature and limited scale of the halal shop (60sq.m.) and café (123sq.m.) does not give rise to any issues of retail impact.

The Islamic community, is on the increase throughout Ireland, but it is still a relatively dispersed community across Kilkenny City, and these small pockets of the community could not sustain a series of small scale local community facilities which the appeal appears to be suggesting.

The Islamic Community envisages that the proposed development would be made available and serve non-Islamic community groups.

- **E.I.S.**

An Environmental Impact Statement is not necessary

- **Visual Impact**

There was a visual impact study carried out as part of the planning assessment. The development was shown in the context of the two communication towers in the vicinity, with photographs taken from various locations as prescribed by the planning authority.

The Planner's report concluded the visual impact was localised and minimal, as depicted in the photomontages.

A viewpoint from St. Canice's Cathedral is View No. 12 in the Visual Impact Statement.

The main mosque dome is 12.7metres at its highest point above the ground. The minaret dome is 16.7metres above ground level. The photomontages demonstrate the mosque will not dominate the skyline, and the minaret will be no higher than the 2No. telecommunications structures in the vicinity.

The Hebron Industrial Estate is a long standing traditional general industrial area undergone incremental change in recent years that will continue into the future. This transformation has been ongoing since the adoption of the Kilkenny City and Environs Plan 2008 which introduced a 'Mixed' zone. This has been the introduction of numerous non-industrial uses including a supermarket, car show rooms, a McDonalds.

The Urban Design Framework Plan for the Hebron road adopted in 2017 identifies the site as a priority development site. General industry is not a permitted use under the zoning.

The existing Virgin Media mast to the east is 7.5metres higher than the highest part of the mosque and 4.5metres higher than the top of the minaret.

The Senior Planner noted the proposed buildings will be elevated over the Hebron Road. However, they are setback and not unduly dominant.

- **Traffic and Parking**

Large events within Kilkenny are crucial to the city's economy. The video clips submitted on match days are noted. The clips show:

- There are 2No. illegally parked cars, however, no cars are parked along eastern side of Hebron estate road due to the bollards.
- The road serving Aldi is not blocked by cars
- David Buggy motors is closed on Saturday afternoons and Sundays, the normal times for events in Nowlan Park.
- Traffic been managed by Garda
- The proposed development will not displace illegal parking or unauthorised parking, it will move somewhere else.



- The widening of estate Road 1 as part of the proposals will provide an additional exit lane for traffic onto Hebron Road. This will benefit the flow of traffic on big match days.
- The issue of inappropriate traffic turning into Bishop Birch Place is a traffic management issue, and not one the proposed development will exacerbate.
- Directional signage for the mosque is outlined in the Road Safety Audit.
- The video clips are not representative of the daily situation. The proposed development provides sufficient parking to meet the typical demands arising from its use, there is no reason to conclude it will result in on street parking.
- The TIA used numbers that were reflective of the scale of the local Islamic community. It also factored in the main weekly prayer day (Friday) and Eid al Firt and Eid al-Adha.
- The area is well served by regular public transport.

### **Other Matters**

The petition does not include dates. The pre-application public meeting, had people in favour of the proposal. Most of the attendees signed a petition against the proposal. The petition supporting the proposal was not submitted to the planning authority.

A revised/ correct surface water drainage layout is submitted on appeal.

The rear garden areas of the houses do not back on other residential houses therefore the 22m rule does not apply.

### **6.4 Planning Authority Response**

The planning has responded to issues raised in 2No. of the appeals by Eugene McGuinness and Buggy Motors.

### **Visual Impact**

The overall height is compatible with existing structures in the area eg. Buildings and telecommunications masts.

Mr. McGuinness in one-line state the develop will dominate the skyline and it will be hidden away in the corner.

The buildings as setback form the Hebron Road and the housing estate.

### **Environmental Study**

The objective of the Mixed Use zoning is to consolidate and facilitate the development of inner suburban sites for mixed use which will allow for commercial and residential development. Residential development places of worship and community are itemised as permitted uses within this zoning. The strategic thinking of the zoning is to allow for the regeneration of the area from its historical industrial use in the 1960-70s to a mixed inner suburban area. Overtime this will allow for between integration of Bishop Birch Place into the city.

### **Traffic and Parking**

Deficiencies in the initial TIA were identified and addressed in Items 8-13 of the further information. The Revised TIA has developed an evidenced based approach to the generated traffic which is considered reasonable. The approach is also acceptable to the roads design office that did not raise any further concerns in relation to capacity of existing road system in the area to cater for the development.

It is acknowledged that match days in Nowlan Park there is heavy traffic and parking in the area. The same issues arises at large funerals. This is beyond the remit of the Urban Design Strategy and the proposed development. The proposal should not be refused on the basis of intermittent events in the area. If that view were taken it would prohibit all development along Hebron Road.

### **Landscaping**

The landscaping rectifies the lack of vegetation and supplement planting on the site and at Aldi.

### **Storm Water**

This issue can be dealt with by condition.

### **Proposed Houses**

The zoning objective allows for houses, and the planning authority is satisfied the house design and location meet with development plan requirements. The proposed development will facilitate the widening of the Hebron estate road to provide for a cross section as uses as proposed under the Hebron Road Urban Design Strategy.

## 6.5 Observations

### Dr. Anne O'Connor

It is accepted the Islamic Community has outgrown its premises on the Freshford Road. The proposed new mosque will be a significant building for the local Muslim community but also Kilkenny itself. However, the site and location of the proposed development is poor quality.

### **Policies and objectives of the Kilkenny City and Environs Development Plan 2014-2020**

The development plan states that new community facilities will be located within existing settlements where population levels warrant a particular service, and that community facilities should be within walking distances of housing. There is housing in the area, but the Hebron Road is not considered to be a residential area. It is not a local population observing the Muslim faith. It would appear this mosque is not only to serve the needs of Kilkenny city but the wider region.

Given the extensive facilities proposed within the religious cultural centre, one would expect to see some provision for a greater diversity of use and some sharing of community facilities as the development plan stipulates. This could have been achieved through a more open public process instead of making parts of the scheme accessible to different community groups outside the intended congregation at times of the day when otherwise not in use. The application appears to give no indication of the intention to serve the needs of any group beyond the Muslim community.

The Kilkenny Integration Forum identified greater levels of inter-cultural interaction in its 2013-2017 Integration Strategy. There is the danger of community facilities built for the exclusive use of a particular group will serve to isolate the group further from the wider population.

The development plan states that backland development will only be considered if the development will not detract from the character of the area, be detrimental to the amenities of the area, and be in keeping with the proper planning and development of the area.

- None of the buildings proposed have direct street frontage, apart from the community building, all of the buildings are behind the existing Aldi. The

mosque is hidden away behind a large industrial built shed. The 21metres minaret and the dome of the mosque will be the only things visible form the street, surely this is not to be expected form a place of worship which normally have a civic importance.

- The proposal is ad hoc and piecemeal
- The proposal not only detracts from the overall visual amenity of the area for the local residents, it exacerbates the potential perception of the complex as isolated and inaccessible to the immediate local community. The scheme should have been open and inviting and make a clear effort to contribute to the public realm
- In the revised drawings the mosque is treated as a secondary building to the community building in the revised layout. The community building is the only building that faces the street. The mosque has no street frontage. This reverse hierarchy of buildings and spaces is not expected in high quality urban design with a religious building of such significance.

### **Objectives of the Hebron Road Urban Design Strategy 2017**

The scheme as proposed is set back from the street and is dominated by surface carparking. No genuine public realm has been created within the complex. There are no static spaces in the forecourt fronting the community building, only access pathways to buildings and a large amount of parking spaces for cars. This runs contrary to the recommendation of the Urban Design Strategy.

### **Highway Issues and Parking**

The methodology does not give a holistic assessment of the traffic situation at Hebron because it does not take account of the matches and funerals in the area that occur frequently. The TIA does not give a realistic assessment of the impact of the proposed development has on traffic in the area.

The figures state the mosque on the Freshford Road generates no more than 40Vehicles trips during peak period on a Friday. It is unrealistic to assume there be no growth in the congregation. It is likely the mosque will attract worshippers from a wider area than Kilkenny City. The building has two prayer rooms, one is 187sq.m., and another area 63sq.m. By calculating the floor areas using the AJ Handbook and

subtract circulation areas, the combined prayer area for both rooms is 169sq.m.,and divide the area by 0.75sq.m. per person, this means the total capacity of the mosque is 224No. persons. There are only 43No.carparking spaces proposed, and the development plan standards require one vehicle space per ten seats in places of worship. Also realistically, the mosque could be altered internally to accommodate 570No. persons.

The total number of spaces required as per the development plan is 88No. spaces, not 53No. as stated in consultants report. The 43No. spaces provided on site are inadequate. Whether Aldi carpark will provide an overflow is questionable, because there is no legal agreement with Aldi to use it's carpark.

## **6.6 Submissions in Response to the Applicant's Response to the Appeal**

Eugene Mc Guinness, Anne O'Connor responded with no new material issues arising in their submissions. They reinforced their appeal submission grounds, and clarified issues relating to a public meeting held in O'Loughlins regarding the planning application, which they considered the applicant's agent was trying to mislead the Board.

## **7.0 Assessment**

The main issues in this case are:

- (1) Principle of the Development
- (2) Scale, Design & Visual Amenity
- (3) Movement, Access and Parking
- (4) Residential Amenities
- (5) Appropriate Assessment
- (6) Other Issues

### **7.1 The Principle of Development**

The appeal site is zoned Mixed Use in the **Kilkenny City and Environs Development Plan 2014-2020** and the zoning objective is '*To consolidate and*

*facilitate the development of inner suburban sites for mixed use development which will allow for commercial and residential uses'. In accordance with the zoning objective, all of the proposed uses are Permitted In Principle within this zone*

- Community Building
- Place of Worship building
- Shop, café and school
- Dwellings

The uses were acceptable to the planning authority and there were no conditions attached to the decision to grant permission, restricting any use. One site specific condition stated there shall be no call to prayer at the mosque.

According to the development plan, in order to stimulate re-development along the Hebron Road, a new mixed use zoning objective was introduced in the 2008 – 2014 Kilkenny City and Environs Development Plan. This was in recognition of the anticipated completion of the M10 Motorway project, resulting in the Hebron Road becoming one of the main entrance points to the city. The historical land uses along the Hebron Road do not reflect or promote the future role of this road as an entrance corridor to the city. Since the completion of the motorway, a limited amount of redevelopment has taken place but there is considerable road frontage to be redeveloped. The planning authority considered it appropriate to continue the mixed-use zoning. Any development that takes place along this corridor will have to reflect and promote the role of the Hebron Road as the main entrance corridor to the city. This will require a high quality-built environment.

The proposed place of worship, the community building, shop, café and school are uses Permitted in principle under the zoning. Having regard to the adjoining Aldi store. And surrounding commercial uses, I consider the proposed cultural centre will add an interesting activity mix to the immediate area and an interesting architectural statement.

Notwithstanding, the principle and underlying objective associated with the mixed-use zoning, I am concerned about permitting a residential use on the subject site. The Hebron Industrial Estate is as stated, an industrial estate. Within a short

distance to the south east of the subject site, there is a large recycling transfer facility. The two dwellings are located alongside the rear of Aldi, alongside the deliveries area, which are normally early morning deliveries. Activities associated with the Hebron Industrial estate are not compatible with residential uses and could seriously injure the residential amenities of the dwellings proposed and may lead to conflicts between the existing uses in the future. Within the general area of the Hebron industrial estate, there are residential estates. In fact, the Hebron Industrial estate road serving the subject site, also serves a residential estate, Bishop's Birch Place. In planning terms, this is not an acceptable scenario in terms of safety and amenities for the residents of the estate, and according to the third party appeal submission, it would seem to me to be an unique situation which was imposed upon the residents during the 1980s. The only positive aspect to the situation is the houses are positioned at the top of the industrial estate, and not in the middle of it.

The proposed development includes for two four-bedroom semi-detached dwellings located to the rear of the mosque (1No. for the Head of the Community and 1No. staff house) and 2No. two-bedroom guest apartments on the first floor of the Community Building 2 alongside the eastern site boundary. Notwithstanding the mixed-use zoning objective, given the long established industrial location, the uses on the adjoining sites and activities in close proximity to the proposed residential units, and the established pattern and existing landuses in the wider industrial area, it is considered the 4No. residential units within the proposed development are inappropriate.

Given the context of the proposed development and the adjoining land uses and layouts, the residential development on site will not be compatible at this location. Furthermore, there is no justification for permitting 4No. residential units ancillary to the proposed mosque, community facility, shop and school. I recommend the Board attach a condition removing the residential use on site. A revised community building should be provided omitting the first floor level as assessed below.

The proposed mosque building, and community facilities complement the vision of the Mixed Use zoning objective and the Urban Design Strategy for the Hebron Road. However, the residential use does not complement the existing identity of the Hebron

Industrial estate or the recently permitted car sales showrooms and a McDonalds in the area. The re-imagining of the area can be achieved by complimentary mixed uses and architectural statements. The incompatibility of the residential use on the periphery of the Hebron Industrial estate at Bishops Birch Place is well documented on appeal. Diversity inevitably can bring some conflict, and different uses have different needs, not all mixes are appropriate. Mixed use zoning and the Hebron Industrial Estate Urban Design Strategy recognised the easy access from the motorway to the City Centre and aimed at improving the visual qualities of the area. However, it has to be also accepted that the Hebron Industrial estate is a long-established industrial/ commercial use, and the high traffic generators such as distribution warehousing complexes, waste transfer stations will most likely locate close to an existing industrial area and motorway junctions, as is the current case in the Hebron Industrial estate. Therefore including ad hoc piecemeal residential developments within such areas, could lead to long-term conflicts between uses, and this should be avoided at design stage.

Furthermore, I am concerned about the physical isolation of the proposed dwellings from established residential areas in Kilkenny, and the fact they will be located within an industrial estate with security fencing around the site akin to a disconnected compound from the existing community. In my opinion, this form of residential development should be discouraged, as it creates segregation amongst the community. Social and community issues are taken into consideration when considering planning applications for one-off houses in rural areas, in my opinion, social, cultural and community issues are relevant issues when considering this appeal.

## **7.2 Design, Scale and Visual Amenity**

Under the original planning application, the proposed development was setback into the rear of the site. The proposed mosque front building line was set at an angle to the proposed shop unit and existing Aldi Store. The Community building was setback into northwestern extremity of the site, with little or no consideration for the structure two residential units on the first floor, in my opinion, again highlighting the



little regard given to the proposed residential use within the overall development. The two semidetached dwelling back up onto the Aldi delivery area. A very poor and ill-conceived layout was submitted originally. The detailed Planning Report on file dated the 8<sup>th</sup> of May 2018 highlighted the layout concerns and recommended a refusal for the proposal on the foot of visual dominance and obstructive when viewed from the surrounding area. I would share the concerns highlighted in the first Planning Report. The recommendation was overruled, and further information issued which required revisions to the scheme. A revised layout was submitted by way of further information on 4<sup>th</sup> of August 2018. I will concentrate my assessment on the amended proposal submitted on 4<sup>th</sup> of August 2018.

### **Mosque Structure**

The mosque structure is square shaped with vertical emphasis in the design detail. There is a metal cladded dome on the centre of the building and a tall turret structure to the side of the mosque. The turret height is 3metres taller than the dome height on the mosque at 16.6metres. The mosque building is a two-storey structure with a total floor area of 1329sq.m. The ground floor includes a large prayer room, a community resource room, a conference room, a morgue, office, reception and toilets only. The first floor includes a smaller prayer room, a large assembly hall, a library and audio visual room.

The building line has been revised to be in line with the front building line of the neighbouring Aldi store and proposed buildings containing the school, café and halal shop.

### **Community Building No. 2**

The building is a flat roofed two storey structure with a total floor area of 407sq.m. The ground floor area includes a congregation hall, toilets, kitchen, store, 2No. offices and more toilets. At first floor level there are 2No. two-bedroom apartments. The apartments each have a small balcony off the dining living area, with no dedicated open space area/ bin storage area, which in my opinion is a substandard form of residential accommodation, and does not meet with the Planning Guidelines for Sustainable Urban Living.

The building finish include knapp plaster, with selected brick cladding detailing and aluminium windows.

### **Café Shop Classrooms**

This building is located alongside the Adli store. The ground floor area, 241sq.m. includes a shop area 80sq.m. and office, store and two classrooms, with toilets. On the first floor there is a large café, kitchen, and toilets. I note there is no dedicated play area associated with the classrooms, no dedicated refuse storage/ recycling facilities to cater for the entire development.

### **Two Semi Detached Dwellings**

The dwellings are two storey semi-detached units, each 149sq.m. with 4No. bedrooms. The houses back onto the delivery area of Aldi, and each have a small rear garden area.

### **Layout**

The front carparking area is in keeping with the existing carparking area associated with the Aldi store. The subject site has no direct road frontage onto the Hebron Industrial estate service road. In my opinion the subject site is effectively a backland site, and access to the proposal is via the Aldi Supermarket access/ carpark/ service road. There is a service road to the rear of the Aldi shop that can serve as an access to the site and carparking is proposed to the rear of the site alongside this access.

The Community Building No. 2 backs onto the north-western site boundary, at a point that is highly visible from the Hebron Road. The two-storey structure includes a very poor rear elevation when viewed from the Hebron Road and the surrounding area. Whilst I accept the previous location for the Community Building was to the rear of the site and provided nothing to the area in terms of Urban Design and enhancement of the visual amenities of the area, the revised location and layout, detracts from the mosque building because it is positioned at a perpendicular angle to the front building line of the mosque, and the back façade to the rear will be highly visible and detract from the visual qualities of the area.

I have recommended the residential use be omitted from the overall scheme. The Community Building No. 2 should be revised to a single storey structure only, incorporating the ground floor community uses only within the structure. This will also reduce the overall height and prominence of this structure when viewed from the neighbouring site and the Hebron Road.

I have also recommended the two semidetached dwellings be omitted from the overall scheme, and a garden area/ a pocket park be provided as a play area associated with the proposed school.

The key features on the site are the Mosque and the Minaret, which are contemporary in design and representative of Islamic architecture. The mosque occupies the most prominent position on the site, which is an elevated site.

The overall area is gradually improving in visual terms since the opening of the junction with the motorway. The car showrooms and the McDonalds add contemporary architecture and quality specifications to the road frontages. In my opinion, the Mosque and the Minaret should be the focal points on the site, and the other buildings subsidiary in visual context.

I examined the Visual Impact Statement accompanying the planning application and viewed the site from various vantage points. The visual impact will be localised. The site is setback from the main Hebron Road, and there is a vacant site between the subject site and the main road, that will mostly likely be developed in the future. The new skyline created by the dome and the Minaret will add visual interest and will convey a different activity to the prevalent industrial/ commercial activity in the area which will add to the visual appeal of the proposed development in architectural and legibility terms. I am satisfied the overall proposal with amendments, ie. Community Building No. 2 revised to single storey, will make a positive contribution to the architectural and cultural heritage of this eastern suburbs of Kilkenny City.

### **7.3 Movement, Access and Parking**

The bulk of the concerns from third party appeals stem from heavy traffic associated with events linked to matches in Nowlan Park, funerals at St. Kieran's Cemetery and

activities at O Loughlin's GAA grounds. The Hebron Road is the one of the main traffic corridor's into the Kilkenny off the M10, it is a heavily trafficked route. The traffic associated with the mosque activities will have minimal impact on current traffic flows in the area as demonstrated in the Traffic Impact Assessment submitted with the planning application. The match days, and concerts associated with Nowlan Park are not reflective of daily traffic in the general area, and traffic on those days is controlled by the Garda.

The proposed development will generate traffic movement and is car dependent. The proposed Mosque is a replacement of the existing facilities on the Freshford Road, where the Muslim community have outgrown the current Mosque location.

As stated, the subject site is located within an existing Industrial estate served by an estate road. This road also serves a residential estate to the south. Access to the Hebron Industrial estate is directly off the Hebron Road (9.2me single carriageway), which serves the Hebron Industrial Estate Areas 1 and 2, and the large Nowlan Park, GAA stadium and a number of residential estates. Opposite the subject site, is a graveyard which is the largest in Kilkenny City, and O'Loughlins GAA club. The Hebron Road is a very busy access route to Kilkenny city from the motorway.

The **Kilkenny City and Environs Development Plan 2014-2020** has the following objectives regarding the Hebron Road:

- **Z3 – Hebron Road** – to prepare an Urban Design Framework Plan for the Hebron Road as the main entrance corridor to the City.
- Any development that takes place along the corridor will have to reflect and promote the role of the Hebron Road as the main entrance corridor to the city. This will require a high quality-built environment.

As part of the proposed development, it is proposed to improve the layout of the Hebron Industrial Estate Road 1 starting at the junction with the Hebron Road and extending to the Aldi carpark access point, by upgrading to a two-lane approach on the Hebron Industrial Estate Road 1. This improvement is in keeping with the

*Hebron Road Urban Design Strategy 2017*, and will facilitate a future signalization of the junction if required.

### **Access**

There is no direct access from the site onto the Hebron Industrial estate road (8metre wide single carriageway with footpaths on both sides). Access to the proposed development is via the existing entrance to the Aldi Discount Foodstore. The Aldi access road is 6metres wide with 2metre footpaths on each side. The access will become a shared access, and the carparking areas will be shared. A letter of consent has been submitted to this affect. The proposed access arrangement is acceptable in traffic safety terms.

### **Traffic**

A revised Traffic Impact Assessment was submitted as part of the Further Information. The proposed development is to serve the local Islamic population in Co. Kilkenny which is estimated to be 300 No. persons. There will be daily prayers at the Mosque. There are five daily prayer sessions with time starts varying throughout the year. The main prayer time and most visited is the second prayer time on Friday between 13.00 and 14.00 hours. There are two special days in the Islam calendar that will attract larger crowds/ traffic volumes/ parking. These are Eid al-Fitr and Eid al-Adha. The prayer times are usually between 9.00 -10.00 am on those days. At present, the existing mosque on the Freshford Road attracts 40No. cars on Friday prayer and at the Eid Celebration is rises to 70. No. cars. The number of cars can be expected to increase over time, and this can be catered for within the 137No. carpark area serving the site and Adli.

The key outcomes of the assessment peak on a peak traffic count of 84, indicate there will be marginal increase in queues, and the junction at the industrial estate and the Hebron Road will operate within capacity.

### **Parking**

The proposed development includes for 35No. spaces, and the Traffic Impact Assessment states there are 102No. spaces at Aldi available to the mosque, giving a total of 137No. spaces on site. This is not the case, the applicant cannot include the entire Aldi carpark as part of the Mosque parking provision, because the Aldi supermarket is constantly busy from 9.00am -9.00pm daily. However as the traffic turnover at both developments is high, and there is no longterm parking associated with either use, the proposed provision is considered to be sufficient.

The Kilkenny City and Environs Development Plan 2014-2020 outlines the recommended carparking requirement. According to the development plan. a place of worship requires 1 space per 10seats, in this instance it is 222 prayer mats, and the applicant has based the parking calculation on one seat is 4sq.m. with a requirement of 22No. spaces. The shop, café and school could share Aldi carparking area, as school is mainly a drop off. The Community Hall has only been calculated with 4No. spaces, which seems very low, however it is classified under Table 10.5 as a public hall, therefore has similar parking requirement to a place of worship. The removal of the residential element of the scheme will result in 5No. spaces been made available.

Having regard to the development plan standards, and the availability of shared carparking spaces with Aldi, it is my opinion, there is sufficient carparking to cater for the proposed development. Certain event days on site can be catered for within the curtilage of both sites and the overall carparking provision.

#### **7.4 Appropriate Assessment**

There is no Natura 2000 site within or adjoining the subject site. The closest site is the River Nore SPA which is located south of the Dublin Road and there is no natural link between the subject site and the Natura 200 site.

Given the scale, urban location and brownfield nature of the subject site, and the distance from any Natura 2000 site, it is not considered that the proposed development will result in significant adverse impacts on any designated site.

## 7.5 Other Issues

Issues relating to landscaping and surface water drainage can be dealt with by of condition, and in agreement with the planning authority, who has addressed these matters in the further information request.

The proposed development is unlikely to interfere with the flight path of swans who nest in the area. The Minaret structure will be at a lower level than the two telecommunication towers located within the Hebron Industrial Estate. An Environmental Impact Statement in this regard is not required. The development is a of a modest scale on a brownfield site within a long established industrial area.

The issue regarding the public meeting held in O'Loughlins Club and signatures is a civil matter between the parties, and is beyond the remit of the Board, in fact, the applicant's response to this issue on appeal is not a relevant planning issue to the appeal.

## 8.0 Recommendation

Having considered the site, the appeal file and assessed this case, I have recommended the omission of the residential use within the overall proposal for a number of reasons included in my assessment. I consider this to be a new issue. In addition, the alterations required to the current proposal to omit the residential use are significant, and I believe the relevant parties should be notified of same.

## 8.0 Reasons and Considerations

Notwithstanding the Mixed Use zoning objective associated with the subject site in the current **Kilkenny City and Environs Development Plan 2014-2020**, it is considered that the proposed residential use within the overall development proposal is an inappropriate and unacceptable landuse at this location having regard to the industrial and commercial land uses associated with the Hebron Industrial Estate and the wider area.

The proposed development will result in an incompatible form of residential development within an existing industrial area, and could seriously injure the

residential amenities associated with the proposed dwelling units within the scheme. The proposed residential developments are considered to be piecemeal, ad hoc and substandard given their inappropriate siting and design, and may lead to social segregation of the Islamic community from the wider community.

The Board invites you to revise the overall development to:

1. Omit the 4No. residential units from the overall scheme,
2. Submit a revised the site layout excluding the 2No. semi-detached units and provide a small park/ play area ancillary to the proposed school,
3. Submit revised elevation and floor plans for Community Building No. 2 to include a single storey structure only with community uses on the ground floor only. The residential use shall be omitted from the building.
4. Include a dedicated area for recycle/ refuse storage associated with the overall development

The applicant is advised that this issue is a new issue raised by the Board and cannot form part of a decision by the Board.

The applicant is also advised that failure to comply with the requested revisions may result in an unfavourable decision from the Board.

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Caryn Coogan  
Planning Inspector

19/03/2019