



An  
Bord  
Pleanála

## Inspector's Report ABP-304586-19.

---

<b>Development</b>	Retention permission for existing backstop nets and permission for a septic tank and percolation area, permission of 1 no. 8ft by 4ft steel double cubicle toilet block, permission for all associated site development works.
<b>Location</b>	Killina, Rahan, Tullamore, Co. Offaly.
<b>Planning Authority</b>	Offaly County Council.
<b>Planning Authority Reg. Ref.</b>	PL2/19/12.
<b>Applicant(s)</b>	Board of Management, Killina Presentation Secondary School.
<b>Type of Application</b>	Retention and permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Dermot Keyes.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	06 & 23/08/2019.
<b>Inspector</b>	A. Considine.

## **1.0 Site Location and Description**

- 1.1. The site, the subject of this appeal is located to the east of Killina, a rural settlement approximately 9km to the west of Tullamore, which has a number of community facilities including a church, national and secondary schools and a convent. The area includes a number of one-off houses in proximity to the subject appeal site, which fronts onto a small local road.
- 1.2. The site is set back from the public road approximately 70m and backs onto the Grand Canal to the north. Access is over a small gravelled road and the site opens up to the north. The site lies to the rear of a house with 3 houses located to the south of the public road in the vicinity of the site entrance.
- 1.3. The site has been laid out to provide a sports field associated with the secondary school, located approximately 300m to the west of the site. The field includes goal posts and back stop nets to the rear of the goals to the north, adjacent to the canal. There are 2 containers located in the south west corner of the field which are in use as dressing rooms. The site has a stated area of 6.735ha as per the application form, however, I would note that this area should have been in acres. The actual area in hectares is approximately 2.73ha.

## **2.0 Proposed Development**

- 2.1. Permission is sought for a septic tank and percolation area, permission for 1 no. 8 foot by 4 foot steel double cubicle toilet block, permission for all associated site works AND retention permission is sought for existing backstop nets, all at Killina, Rahan, Tullamore.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Offaly County Council decided to grant permission and retention permission for the development as proposed, subject to compliance with 2 conditions, primarily relating to the septic tank and percolation area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The planning report considered the detail and nature of the proposed development, together with submissions made in relation to the proposal, as well as the policy requirements. Following a request for further information, where the PA requested the applicant to the planning status of developments on the site, the report formed the basis of the Planning Authority's decision to grant permission for the development.

### 3.2.2. Other Technical Reports

**Water Services:** No objections raised subject to compliance with conditions.

**Irish Water:** No objections

### 3.2.3. Third Party Submissions:

One objection to the proposed development has been submitted. The issues raised are stated as follows:

1. the development is outside the development envelope of the Killina Sraid
2. no permission for the new entrance, access road or football field.
3. land zoning currently white lands.

## 4.0 Planning History

None relevant to the subject site

## 5.0 Policy and Context

### 5.1. Development Plan

- 5.1.1. The Offaly County Development Plan 2014-2020 is the relevant policy document pertaining to the subject site. The subject site lies outside the development envelope of the rural settlement of Killina on unzoned land. In terms of the development of sports facilities, the following policies and objectives are relevant:

## **Open Space / Amenity Facilities**

- **Policy CSCP–10** It is Council policy to preserve the landuse of existing public and private recreation areas, including sports clubs, built leisure facilities and open space areas. In exceptional circumstances, a change of use may be sought, but must demonstrate that alternative recreational provisions are provided in a suitable location. Further, it is Council policy to identify, where possible, sites for possible future extension adjacent, if appropriate, within settlement plans.

## **Sports and Recreation**

- **Objective CSCO–04** It is an objective of the Council to support and facilitate local community groups / sporting organisations in the development of sport and recreational facilities, in particular through land-use zoning, where appropriate.

### **5.2. Natural Heritage Designations**

The subject site is not located within any designated site, however the Proposed Natural Heritage Area, Grand Canal, Site Code 002104, lies along the northern boundary of the site.

The Charleville Wood SAC, and Charleville Wood pNHA, Site Code 000571, is located 3km to the east of the subject site.

### **5.3. EIA Screening**

Having regard to nature and scale of the 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

### 6.1. Grounds of Appeal

This is a third party appeal against the decision of the Planning Authority to grant permission for the proposed development. The grounds of appeal are similar to those raised with the Planning Authority and include a number of photographs. The grounds of appeal are summarised as follows:

- The development is located outside the development envelope of Killina Sraid and the pitch was installed without planning permission.
- The entrance to the site was installed without planning permission and is not exempted development as it endangers public safety by reason of traffic hazard and obstruction of road users. The public road has a width of approximately 6.7m and the access road 4m. The access has insufficient sightlines and is therefore a traffic hazard.
- The pupils have to walk 300m on the public road with no footpaths and causing a public safety issue.
- It is requested that the Board consider the development envelope of Killina Sraid in order to preserve the rural character and distinctiveness of Killina.
- There is no objection in principle to the expansion of sports facilities provided it is in line with the planning laws and not 300m away from the school.
- Any development cannot endanger public safety by reason of traffic hazard or obstruction of road users.

### 6.2. Applicant Response

The applicant submitted a response to the third party appeal. The response is summarised as follows:

- The recent appeal is part of an ongoing series of appeals / petitions and complaints by the appellant against development works being undertaken by the school, including opposing works which had been granted planning permission by An Bord Pleanala.

- It is considered that the development is exempted development with permission sought for aspects not viewed to be exempt.
- Concern is raised in relation to the nature of the appeal, including photographs of students, taken without consent and it is requested that the Board censor the photographs from publication.
- The photos do not describe a typical view and appear to have been taken on the one day the whole school walked to the sports field for the annual teachers v 6<sup>th</sup> years soccer game.
- A second field has been completed on lands to the rear of the school and this annual event will no longer take place on the appeal pitch.
- The pitch is generally only used for competitive games involving 40 students and connected with the school term and during school hours.
- The school has an 18 seater bus which could be used to transport students the 300m if it is considered a hazard, however the first party does not view students walking as unacceptable.
- There are discussions on-going with Offaly County Council in relation to providing a link between the school and the pitch via the canal greenway which would eliminate the need to walk along the road.
- It is considered that the development complies with the County Development Plan and that the Council arrived at the correct decision. It is requested that the Board arrive at the same decision and submits that a sports field development enhances and contributes to the type of holistic education the school endeavours to deliver.

### 6.3. Planning Authority Response

The Planning Authority submitted a response to the third party appeal referring to the technical reports on file as well as noting that the public road leading to the site is very narrow and precludes speeding in this rural area. It is requested that the Board support the decision to grant permission.

## 6.4. Observations

None.

## 7.0 Assessment

Having regard to the nature of this appeal, and having undertaken a site visit, as well as considering the information submitted, and proposed development, I suggest that it is appropriate to assess the proposed development under the following headings:

- Planning Status of Pitch & Associated Facilities
- The principle of the development and compliance with policy
- Roads & Traffic
- Other Issues
- Appropriate Assessment

### 7.1. Planning Status of Pitch & Associated Facilities

- 7.1.1. Permission is sought for a septic tank and percolation area, permission for 1 no. 8 foot by 4 foot steel double cubicle toilet block, permission for all associated site works and retention permission is sought for existing backstop nets, all at Killina, Rahan, Tullamore. The Board will note that the above all relate to the sports pitch, associated with the secondary school, located 300m to the west of the site, which has been developed at the site. The third-party appellant has raised concerns regarding the principle of the pitch and that the location of the pitch lies outside the development envelope of Killina, as well as raising concerns in terms of the planning status of the of the access road and entrance to the pitch. The appeal also raises concerns in terms of public safety.
- 7.1.2. Before I address the appeal before the Board, I consider it reasonable to determine the planning status of the pitch, access road and entrance to ensure any possible positive recommendation would not consolidate or intensify any potential unauthorised use.

7.1.3. Article 6(1) of the Planning & Development Regulations, 2001 as amended states as follows:-

“Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.”

Article 9(1) of the Planning & Development Regulations, 2001 as amended, provides a number of scenarios whereby development to which article 6 relates shall not be exempted development for the purposes of the Act.

7.1.4. The following existing elements on the site have not been included in an application for retention:

- The Access/track:

In terms of restrictions, Article 9(a) of the Planning & Development Regulations, 2001, as amended, states that development to which article 6 shall not be exempted development for the purposes of the Act, if the carrying out of such development would –

(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road, the surfaced carriageway of which exceeds 4 meters in width.

(iii) endanger public safety by reason of traffic hazard or obstruction of road users.

During my site inspection I measured the width of surfaced carriageway of the public road which has a width of 2.7m. In the context of the site, and its location along a lightly travelled local road, I am satisfied that adequate sight distances are available to ensure a safe access to the pitch, without any hazards arising. I note that the internal track has a width of approximately 2.5m and that no obvious vehicular access is provided to the pitch. Therefore, I am satisfied that the access to the pitch constitutes exempted development under the Planning & Development Regulations, as amended.



- The Pitch:

Class 33(c) of the Planning & Development Regulations, 2001 as amended provides that Development consisting of the laying out and use of land – (c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.

There is no evidence to suggest that significant works were required to lay out the pitch and, in this regard, I am satisfied that the pitch constitutes exempted development under the Planning & Development Regulations, as amended. I will discuss roads and traffic issues further below.

- Dressing Rooms

The Board will note that two portacabins have been located on the site to be used as dressing room facilities associated with the pitch. In the context of the exempted development regulations, the following is considered relevant:

Column 1 Description of Development	Column 2 Conditions and Limitations
<p><i>Development for amenity or recreational purposes</i></p> <p>CLASS 33</p> <p>Development consisting of the laying out and use of land—</p> <p>(a) as a park, private open space or ornamental garden,</p> <p>(b) as a roadside shrine, or</p>	<p>The area of any such shrine shall not exceed 2 square metres, the height shall not exceed 2 metres above the centre of the road opposite the structure and it shall not be illuminated.</p>

<p>(c) for athletics or sports (other than golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), where no charge is made for admission of the public to the land.</p>	
<p>Class 37</p> <p>Development consisting of the use of land for any fair, funfair, bazaar or circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use.</p>	<p>1. The land shall not be used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year.</p> <p>2. On the discontinuance of such use the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.</p>

7.1.5. The applicants agent has submitted their opinion that as the dressing rooms are temporary and demountable, and are ancillary to the use of the football pitch, the dressing rooms are, therefore, exempted development under Class 33(c) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended. In the context of the Class 33 development, I do not consider that the Planning and Development Regulations provide for ancillary structures associated with the use of the land as a sports facility. The dressing rooms therefore, are not exempted development, in my opinion, under this class of development.

7.1.6. Class 37, however, facilitates the provision of temporary or movable structures on the land in connection with a recreational or sporting event. I would not consider that the dressing rooms fall under this Class of development either as the sports that take place on the site are not associated with a 'local event'. In addition, while the applicant indicates that the pitch is not used daily, rather for competitive games throughout the school year, there is no indication how many games are held on the

pitch over the course of the year. The dressing rooms therefore, are not exempted development, in my opinion, under this class of development.

7.1.7. In light of the above, I would agree with the Planning Authority that the planning status of the dressing rooms needs to be regularised.

## 7.2. **The principle of the development and compliance with policy**

7.2.1. In terms of the principle of the development, located outside the development envelope of the small rural settlement of Killina, I note that the following County Development Plan Objective is relevant:

### **Sports and Recreation**

- **Objective CSCO-04** It is an objective of the Council to support and facilitate local community groups / sporting organisations in the development of sport and recreational facilities, in particular through land-use zoning, where appropriate.

7.2.2. The implication of the appeal would seem to suggest that the pitch development is unacceptable as it is not located within the development envelope of Killina. However, I would note that while the objective refers to land-use zoning, there is no indication that there is a blanket ban on such developments outside of zoned areas. The subject site lies within 300m of the existing school, which has approximately 500 students, and I note that the pitch is used for school games only. The Board will also note that the actual pitch itself is not included in the description of development in terms of retention as the principle of the pitch has been determined as being exempted development. Overall, I consider that the principle of the access to the pitch at this location is also acceptable and in compliance with the Offaly County Council Development Plan policies and objectives. I will deal with roads issues raised further below.

7.2.3. In terms of the elements of development the subject of this application, being the retention of existing backstop nets and permission for a septic tank and percolation area, permission of 1 no. 8ft by 4ft steel double cubicle toilet block, I would conclude that the backstop nets are located to the back of the goals to the north of the site and adjacent to the Canal. The nets do not constitute any significant visual impact in this landscape and I have no objection to their retention. In terms of the proposed

installation of the toilet block and septic tank, the Board will note their location in the corner of the site. The structure will not be visible from any public road and are not of a scale as to warrant any concerns. I would not agree with the concerns of the third party appellant that the development impacts upon the rural character of the area. I have no objection to the proposed development in this context.

7.2.4. I note that the applicant submitted a site suitability assessment as part of the planning application. The Site Assessment Report notes that the bedrock or the water table were not encountered in the trial pit, which was dug to 2.8m bgl. The assessment identifies that the site is located in an area where there is a Groundwater Protection Scheme and categorises the site as being a regionally important aquifer (Rk) with high vulnerability. A Groundwater Protection Repease of R1 is indicated. The bedrock type is 'Unbedded Limestone'. \*T tests were carried out on the site at 800mm bgl, yielding an average value of 36.00, and a \*T result of 13.94. No \*P tests were carried out at the site. The report concludes, recommending a septic tank with a capacity of 4m<sup>3</sup> and percolation area comprising 72m of percolation trench at an invert level of -0.5m. The system will discharge to groundwater. In the context of the proposed development, I am satisfied that the proposal is acceptable.

### 7.3. Roads & Traffic

7.3.1. The third party has raised concerns in terms of the traffic hazard and public safety issue arising from the pitch development. It is considered that insufficient sight distance exist at the entrance and as there is no public footpath between the site and the school. It is also submitted that there is no potential to provide any as the stone walls are protected in order to preserve the rural character and distinctiveness of Killina and therefore pupils walking on the road is a traffic hazard and public safety issue.

7.3.2. Having undertaken a site inspection, I am satisfied that the development is not so significant as to give rise to any roads and traffic issues. The public road is lightly trafficked and while I acknowledge that a match at the pitch might generate a number of students and teachers walking from the school, I do not consider this to be so significant as to warrant a refusal of planning permission. There is no facility for car parking at the pitch and it is clear that access to same is on foot. I note the

submission of the School regarding the possibility of using the schools 18 seater bus to carry the students too and from the site if considered necessary and would conclude that such a move to be wholly unnecessary from a safety point of view. The public road is small and narrow and traffic speeds are limited.

- 7.3.3. In addition to the above, I note the recent development of a pitch to the rear of the school building and car park. It is indicated that the use of the pitch the subject of this appeal will be further reduced. In the rural context, I am satisfied that the development the subject of this appeal is acceptable from a roads and traffic point of view.

#### **7.4. Other Issues**

- 7.4.1. The Board will note the concerns raised by the Planning Authority in relation to the existing dressing rooms erected on the site. These structures are submitted as being temporary and demountable by the applicant, are ancillary to the use of the football pitch and are therefore, considered to be exempted development under Class 33(c) of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended. In their decision to grant planning permission for the 'retention of existing backstop nets and permission for a septic tank and percolation area, permission of 1 no. 8ft by 4ft steel double cubicle toilet block', the Planning Authority issued a separate letter to the applicant advising that the dressing room structures on site are not exempted development and should either be removed or regularised by means of a planning application.
- 7.4.2. I have considered the status of all of the existing facilities on the site, including the pitch, entrance and dressing rooms, and have concluded that the planning status of the existing dressing rooms only is unclear. In this context, it may be considered that a grant of planning permission would consolidate or intensify an unauthorised use for which it would be inappropriate for the Board to consider the grant of a permission. However, I am satisfied that the planning status of the primary use of the wider site as a playing pitch is sound and therefore, I would agree with the approach of the Planning Authority in relation to the dressing rooms. The pitch would still operate as a pitch even if the dressing rooms were removed.

### **7.5. Appropriate Assessment:**

The subject site is not located within any designated site, however the Proposed Natural Heritage Area, Grand Canal, Site Code 002104, lies along the northern boundary of the site. The Charleville Wood SAC, and Charleville Wood pNHA, Site Code 000571, is located 3km to the east of the subject site. Having considered the nature and scale of the proposed development, in the rural area, together with the separation distance between same and the Natura 2000 site, it is appropriate to conclude that this project should not proceed to Stage 2 of the AA process and that an Appropriate Assessment is not necessary as there is little or no potential for significant effects to Natura 2000 sites.

### **8.0 Recommendation**

I recommend that planning permission be granted for a septic tank and percolation area, for the steel double cubicle toilet block and that retention permission be granted for the existing backstop nets, all at Killina, Rahan, Tullamore.

### **9.0 Reasons and Considerations**

Having regard to the nature and scale of the development proposed, together with the location and established use of the site as a playing pitch associated with the local secondary school, the pattern of development in the area, the provisions of the Offaly County Development Plan 2014-2020 and submissions to the file, it is considered that subject to compliance with the conditions set out below, the proposed development, for which permission and retention is sought, would not seriously injure the amenities of the area, would be acceptable in terms of visual amenity and traffic safety and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be retained and completed in accordance with the agreed particulars.

**Reason:** In the interests of clarity

---

A. Considine  
Planning Inspector  
26<sup>th</sup> August, 2019