



An
Bord
Pleanála

Inspector's Report ABP-304940-19.

Development

Refurbishment of 2 No. existing tennis courts, installation of 2 No. new tennis courts and all associated siteworks, construction of a new wall for tennis practice, provision of new flood lighting to all four tennis courts, new fencing to the site boundaries and within the site, new accessible entrance and associated works at the existing Clubhouse building entrance, new single storey canopy to the rear and side of the existing Clubhouse, demolition of the existing site entrance and construction of a new recessed entrance in its place on the public road, all associated siteworks, boundary treatments and landscaping works.

Location

Kilcullen Lawn Tennis Club.

Planning Authority

Kildare County Council.

Planning Authority Reg. Ref.

18/1250.

Applicant(s)

Saint Bridget's / Kilcullen Lawn Tennis Club.

Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Multiple Third Party
Appellant(s)	Joseph & Rose Warren May & Kevin Keogh. Joseph J. Warren
Observer(s)	None.
Date of Site Inspection	19 th September, 2019.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. Kildullin is identified as a key growth centre in the County Development Plan, and is located to the south of, and within the hinterland area of the town of Newbridge, and in proximity to the M9 motorway. Kildullin is a busy town which offers a wide variety of services, shops, bars, restaurants and community facilities, including schools, churches and sporting facilities. There are also two business campuses within the town, one to the north and one to the south. The River Liffey dissects the town and is crossed by the historical Kildullin Bridge.
- 1.2. The subject site is located at Logstown, Kildullin, Co. Kildare and is surrounded by residential development to the west, north and east. Access to the site is from the south and the L6074 local road. The site lies to the north of the centre of Kildullin, and is easily accessible from the wider area, being located approximately 65m to the east of the junction with the R448.
- 1.3. The site is currently occupied by the St. Bridget's Lawn Tennis Club, including two all weather tennis courts, associated fencing and a clubhouse. The site has a stated area of 0.365ha.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the refurbishment of 2 No. existing tennis courts, installation of 2 No. new tennis courts and all associated siteworks, construction of a new wall for tennis practice, provision of new flood lighting to all four tennis courts, new fencing to the site boundaries and within the site, new accessible entrance and associated works at the existing Clubhouse building entrance, new single storey canopy to the rear and side of the existing Clubhouse, demolition of the existing site entrance and construction of a new recessed entrance in its place on the public road, all associated siteworks, boundary treatments and landscaping works.
- 2.2. The application included a number of supporting documents including as follows;
 - Plans, particulars and completed planning application form
 - Planning Report

- 2.2.1. Following a request for further information, the development was amended to remove the proposed practice wall, the reduction in the height of fencing from 8m to 3m and the provision of cycle parking spaces. The response includes a Floodlighting Plan for the site. The development proposes the installation of 10 x 12m high poles with 16 luminaries.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 12 conditions including the following:

3. floodlights shall not operate after 22.00 hours Monday – Sunday without prior agreement. The developer shall comply with any future requirements of the PA in relation to adjusting floodlighting.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, the third-party submissions, internal technical and prescribed bodies reports, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The initial report required the submission of further information in relation to the following:

- Land ownership and legal interest in the land
- Floodlighting issues
- Fencing issues and the proposed practice wall
- Sight distances at the entrance, pavement overlay and provision of cycle parking.

Following receipt of the response to the further information request, the applicant amended the development to exclude the practice wall and final planning report concludes that the proposed development is acceptable and recommends that permission is granted subject to compliance with conditions.

This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. Other Technical Reports

Area Engineer: No objection subject to compliance with conditions.

Environment Section: No objection subject to compliance with conditions.

Water Services: No objection subject to compliance with conditions.

Roads & Transportation: Further information required in relation to lighting, cycle parking, sight distance at entrance, pavement at entrance and parking provision.

Following the submission of the response to the FI request, the Roads, Transport and Public Safety department advised no objection subject to compliance with stated conditions.

3.2.3. Prescribed Bodies

Irish Water: No objection subject to compliance with conditions.

3.2.4. Third Party Submissions

There are 5 no. third party objections/submissions, including one with multiple signatories, noted on the planning authority file. The issues raised are summarised as follows:

- The necessity for the scale of the development is questioned.
- Inadequate parking
- Lighting issues and associated light pollution affecting neighbouring property
- Impacts on existing residential amenity
- Title to the property questioned.

4.0 Planning History

There is no recent relevant planning history pertaining to the subject site.

5.0 Policy and Context

5.1. Development Plan

The Kildare County Development Plan 2017-2023 is the relevant policy document pertaining to the subject site. Chapter 17 of the Plan deals with Development Standards.

The subject site is located within the landscape character area described as Eastern Transition and a medium sensitivity area with the capacity to accommodate a range of uses without significant adverse effects on the appearance or character of the landscape having regard to localised sensitivity factors.

5.2. Kilcullen Local Area Plan, 2014-2020

The subject site is located within the settlement of Kilcullen, Co. Kildare. The land is zoned 'E' Community and Educational and it is the stated zoning objective to provide for community and educational facilities including schools, religious orders, health care, childcare, meeting halls and other community uses. The site is currently occupied by the Kilcullen Tennis Club and the site has been used as such for many years.

Section 6.11 of the LAP deals with Recreation and Amenity and the following policies are considered relevant:

RA 1: To encourage the provision, improvement and expansion of more varied social, cultural, recreational and sporting facilities to serve the needs of the town.

RA 2: To support and facilitate the development of indoor and outdoor recreational facilities to cater for all age groups on suitable sites and to ensure that these facilities are accessible to all including people with disabilities.

RA 3: To encourage recreational/amenity/community facilities in Kilcullen to be multi-functional and not used exclusively by any one group.

RA 4: To co-operate with sports clubs, schools, community organisations and individuals in the provision of sports and recreational facilities to serve the residents of Kilcullen.

5.3. **Natural Heritage Designations**

The site is not located within any designated site. The closest Natura 2000 site is the Pollardstown Fen SAC (&pNHA)(Site Code: 000396) which is located approximately 7.5km to the north west of the site. In addition, the following sites lie within 15km of the subject site:

- Mouds Bog SAC (Site Code: 002331) (pNHA Site Code: 000395) is located approximately 8.8km to the north of the site
- Poulaphouca Reservoir SPA (Site Code: 004063) (pNHA Site Code: 0007341) is located approximately 10.5km to the east of the site
- River Barrow and River Nore SAC (Site Code: 002162) is located approximately 12.1km to the south west of the site.

5.4. **EIA Screening**

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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 multiple third party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. There are three separate

appeals and the issues raised reflect those as submitted to the Planning Authority and are summarised as follows:

1. Joseph & Rose Warren:

- The development represents 100% expansion without adequate sanitary or parking facilities.
- The proposed floodlighting would be seriously obtrusive and cause serious injury to the residential area.
- Neighbours of the site have certain chronic health issues which are directly exasperated by anxiety.
- There is no objection in principle to the development of the facility.

This appeal includes a report and assessment by Design and Consultancy Services. Of note, it is requested that the Board consider the health and safety, basic hygiene standards required in the relevant regulations and conclude that these standards are not adequately met and therefore, the development would be contrary to proper planning and development.

It is further submitted that the decision to grant may be unsafe and open to legal challenge as the response to the FI request in relation to car parking includes areas outside the red line boundary of the site. It is submitted that existing residents and businesses who use the identified parking areas, and have legal rights to these parking facilities, should have been consulted.

The proposed works to achieve sight distances at the entrance may require the removal of the boundary wall, along with mature trees, signs and utility poles, which is significant.

It is requested that permission be refused.

2. Kevin & May Keogh;

- The PA has not assessed this application as being a 100% increase in capacity without adequate services and facilities.
- Flood lights will have serious consequences for residents.
- The existing courts are not being used

- Inadequate parking
 - Impact on existing residential amenity
3. Joseph J. Warren:
- PA failed to assess the application as an intensification of use
 - Inadequate car parking
 - Flood lighting issues, including direct light spill to adjacent private properties.
 - Inclusion of Condition 3(b) results in a flawed permission.
 - Inaccuracies with the site layout plan

6.2. Applicant Response

The first party has responded to the third-party appeal as follows:

- Notes the appeals focus on elements of the original planning application and not the conditions under which planning was granted.
- The submission advises that the application was amended as follows:
 - reduced number of tennis courts, from 4 to 3, being the minimum required to enter inter-club competitions,
 - increased car parking facilities due to space released by the reduction in courts,
 - revised floodlighting scheme including reduced pole height from 12m to 6m with specialist LED lighting system designed for tennis court applications in residential areas, and
 - revised entrance detail.

It is submitted that this is the basis for the PAs decision to grant planning permission

- The proposed lighting scheme has been designed by a highly regarded specialist to meet the needs of the club whilst addressing the concerns of adjacent residents.

- Contrary to claims within the appeals, the welfare facilities within the proposal are fully compliant with all relevant building regulations and planning requirements.

It is requested that permission be granted for the modest upgrades to the clubs' facilities in order to bring it up to a standard required of an amenity of this nature.

6.3. Planning Authority Response

The Planning Authority submitted a response to the third-party appeal. The response is summarised as follows:

- The club has been in operation at the site form a number of decades and it is considered appropriate to facilitate the expansion providing an accessible town centre amenity.
- The proposed development reinforces and expands an existing sports facility within the confines of the landholding which is zoned for community and educational use.
- The PA maintains its recommendation and decision that planning permission be granted for the proposed development.

6.4. Observations

None

6.5. Further Responses

None

7.0 Assessment

7.1.1. In advance of an assessment of the proposed development, I refer the Board to the response of the first party to the third-party appeals. In particular, I note the comments in the submission with regard to amendments to the development to which the first party submits that Kildare County Council agreed. The amendments are identified as follows:

- reduced number of tennis courts, from 4 to 3, being the minimum required to enter inter-club competitions,
- increased car parking facilities due to space released by the reduction in courts,
- revised floodlighting scheme including reduced pole height from 12m to 6m with specialist LED lighting system designed for tennis court applications in residential areas, and
- revised entrance detail.

I have considered all of the documentation submitted to the Board and cannot find any detail to clearly depict the above amendments. The submitted site layout plans, in response to the FI request, clearly identifies 4 tennis courts, no increase in on site car parking and no details of reduced flood light poles. All of the information presented in the submitted lighting proposal relate to poles of 12.19m in height. The only amendments indicated in the response to the FI are:

- the omission of the practice wall
- reduction in height of fencing – from 8m proposed to 3m
- 12 no. cycle spaces.

Should the Board wish to consider the above, further information will be required as follows:

Revised plans and particulars clearly identifying:

- reduced number of tennis courts, from 4 to 3,
- increased car parking facilities due to space released by the reduction in court numbers,

- revised floodlighting scheme including reduced pole height from 12m to 6m with specialist LED lighting system designed for tennis court applications in residential areas, and
- revised entrance detail to ensure the retention of existing trees.

Any revised plans and assessments should have regard to the actual extent of development in the vicinity of the site, to ensure a full and accurate assessment. Following receipt of the above detail, the Board will be in a position to fully examine the development proposals.

7.1.2. Should the Board be minded to consider the proposed development as submitted and without the above information, and having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards
2. Residential Amenity Impacts
3. Roads & Traffic
4. Other Issues
5. Appropriate Assessment

7.2. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:

7.2.1. The subject site is located within the town of Kilcullen and on lands zoned for 'E' Community and Educational as provided for within the Kilcullen Local Area Plan 2014-2020. It is the stated zoning objective to provide for community and educational facilities including schools, religious orders, health care, childcare, meeting halls and other community uses. The site is currently occupied by the Kilcullen Tennis Club and the site has been used as such for many years. In this regard, I am satisfied that the principle of the proposed development is acceptable.

7.2.2. Section 6.11 of the LAP deals with Recreation and Amenity and the following policies are considered relevant:

RA 1: To encourage the provision, improvement and expansion of more varied social, cultural, recreational and sporting facilities to serve the needs of the town.

RA 2: To support and facilitate the development of indoor and outdoor recreational facilities to cater for all age groups on suitable sites and to ensure that these facilities are accessible to all including people with disabilities.

RA 4: To co-operate with sports clubs, schools, community organisations and individuals in the provision of sports and recreational facilities to serve the residents of Kilcullen.

7.2.3. In terms of the proposed development, I am satisfied that the proposed development seeks to improve and expand a long-standing existing sporting amenity within the town. I also note the location of the Tennis Club within a predominantly residential area and consider that if permitted, the development will support the stated policies of the LAP in principle. Site specific issues require to be considered further below.

7.3. Residential Amenity Impacts

7.3.1. Visual Impacts:

The original development proposed a number of elements which have the potential to result in visual impacts. Such elements include as follows:

- Practice Wall:

The practice wall was to be located along the western boundary of the site, and adjacent to residential properties. The wall itself would rise to approximately 4m in height and is 6.4m in length. In response to the further information request, the applicant removed the proposed wall from the development. Should the Board be minded to grant permission in this instance, I would also recommend that the practice wall be omitted in the interests of existing residential amenity.

- Fencing:

The existing development on the site includes the club house, two tennis courts and associated fencing. The existing fencing on the site rises to approximately between 3-5.5m in height. The development initially proposed the erection of new fencing rising to 4m in height with an additional 4m of netting, 8m in total. In the context of visual amenity, I would have concerns in this regard.

Following the request for further information, the Board will note that the applicant amended the fencing proposals to reflect the height and scale of the existing fencing. I am satisfied that should the Board be minded to grant planning permission in this instance, the fencing should be in accordance with the details submitted to the Planning Authority on the 27th May, 2019.

- Works to the Clubhouse:

The development proposes works to the existing clubhouse in the form of an accessible entrance and a single storey canopy to the rear and side of the building. The canopy is to be a lean-to timber structure and the plans submitted indicate that seating will be provided within the covered space to the rear and side of the clubhouse. In addition, a ramped access to the front door of the building is proposed. I have no objection to these elements of the proposed development.

- Entrance to site:

The proposed development includes works to the front of the site in order to improve access to the Tennis Club. The existing small gated entrance is to be recessed and enlarged to include pedestrian access independent of the vehicular access. The works will include the removal of 2 trees and the relocation of signage. In principle I have no objection to these proposed works and will discuss roads and traffic issues further in Section 7.4 of this report.

7.3.2. Floodlighting:

The development before the Board includes proposals for floodlighting for the 4 tennis courts proposed. The existing two courts on the site do not have floodlighting at present and the applicant submitted a Floodlighting Proposal for the site following

a request for further information. The response to the FI identifies that the floodlight poles will be 12m in height and 10 poles are proposed. In total, 16 luminaires are proposed to be housed on the 10 poles proposed, covering the four tennis courts. The proposed poles are to be located approximately 3m from the western boundary, between 0.8-1m from the eastern boundary, and between 0.1-0.6m from the southern boundary and between 4-7.5m from the northern boundary.

The Board will note that Tennis Ireland developed an information document, published in May 2011, to advise affiliated tennis clubs in designing, installing, operating and maintaining tennis club facilities. Section 17 deals with Floodlighting and Section 17.8 Layouts/Fittings states that:

Conventional tennis court lighting systems consist of a number of floodlights mounted on several columns located at various points around the courts. Generally, the minimum column height is 6m, the maximum not normally exceeding 10m, and there are different types of lamps and light fitting each with its own characteristics. The type of system is predominantly dictated by local issues; residents, houses, the environment, residential or open field and by the planning authority.

Section 17.8.2 of the information document deals with 'Contentious area with environmental / planning issues' and offers solutions including:

'the application of six low level columns [6m to 8m high] per court, fitted with a minimum of six lower powered luminaires per court. This will produce the correct uniformity, minimise glare and control spillage. Although more columns and luminaires are required with this scheme, the impact in daylight is reduced by the lower column height – another key factor in planning terms. When planning approval can be achieved for the use of 8m high columns, the uniformity is equal to that of the 10m high corner lit scheme described previously.'

In terms of visual impacts, I would note that the proposed floodlights will represent a new impact in the surrounding landscape. The existing street lights in the vicinity of the site rise to approximately 5.5m in height and therefore, the proposed poles, rising to 12m, will be highly visible in the wider area. The Floodlighting Proposal advises that with a higher mounting height, there is improved control, minimised glare light

spill and optimal quality of play. I would consider that the light from the proposed floodlights represents a more significant impact in terms of residential amenity. This is compounded by the location of the site and the proximity to existing residential development.

The Guidance Notes for the Reduction of Obtrusive Light, Institution of Lighting Engineers, 2011 is considered particularly relevant in this case and the submitted proposal puts emphasis on the classification of the environment into which the floodlights are to be located as Lighting Environmental Zone 'E3'. Such areas are defined for lighting purposes as 'Medium District Brightness' and are 'suburban: small town centres or suburban locations'. In accordance with Table 2 of the Guidance Notes, light intrusion into windows is limited to 10 lux vertical (E_v). The applicant advises that the proposed floodlight design is in compliance with this requirement with a maximum light intrusion into windows of 9.59 lux vertical (E_v) at a height of 1.5m.

In response, third parties consider that the Lighting Environmental Zone applicable is 'E2' being 'low district brightness: Village or relatively dark suburban locations.' In such areas the maximum light intrusion is limited to 5 lux. In the context of the subject site, I am inclined to agree with the third parties in this regard.

The existing site is located in a primarily residential area with limited public lighting in the vicinity. While I accept that conditions can be attached to restrict the hours of operation of the floodlights, given the proximity of the proposed 12m high floodlight poles to existing residential boundaries, and in the absence of any details relating to the alternatives indicated by the applicant, I would have serious reservations regarding the impact of the proposed floodlights on existing residential amenity by reason of excessive light spill into neighbouring residential properties. In the context of the scale and height of the floodlight poles, being 12m in height, I am not satisfied that the impacts can be mitigated in terms of landscaping.

7.4. Roads & Traffic

- 7.4.1. The proposed works to the tennis club include the construction of a new recessed entrance in place of the existing vehicular access to the site, as well as formally

laying out 12 car parking spaces. Following a request for further information, the applicant included 12 cycle spaces.

- 7.4.2. The Board will note that the original revised entrance proposals provided for the removal of two trees, while it appears that the updated site layout plan provides for the removal of 6 trees, including 4 to the east of the existing entrance. This appears to be proposed in order to increase sight distances at the entrance to the site. I find this excessive and wholly inappropriate given the context of the site within a mature residential setting. Should the Board be minded to grant permission in this instance, I recommend that the trees to the east of the proposed revised entrance should be retained and maintained as part of the redevelopment of the site.
- 7.4.3. In terms of parking, the Board will note that the Kildare County Development Plan does not provide specific standards for Tennis Clubs. The Board will note that third parties have raised concerns in terms of the applicants identification of existing parking in the vicinity of the site as an alternative to on-site parking. While I acknowledge the concerns raised, I note that the areas identified appear to be public car parking spaces and therefore, could realistically be used by those attending the Tennis Club. In terms of 'existing rights' to the identified parking spaces as raised by third parties, I could not locate any evidence which restricts their use to existing residents or business owners in the area. In addition, I would not consider that the applicant in this instance sought to lay claim to the parking areas as to include them as part of the 'red line' boundary of the site.
- 7.4.4. In addition, I again refer the Board to the comments submitted by the applicants in response to the Third Party Appeals. In particular, the Board will note the comments in relation to amendments to the proposed development to include the reduction in the number of tennis courts from 4 to 3 and the proposed increase in parking facilities due to space released by the reduction in court numbers. It would appear that additional car parking is to be provided on-site but in the absence of any clear detail to this effect, further information should be requested.

7.5. Other Issues

7.5.1. Map Issue

The Board will note that a third-party raises a concern in relation to the maps used incorrect maps to assess lighting impacts. The Board will note that an adjacent property was extended which results in the rear wall of the house being located closer to the party boundary. There is no planning history in relation to this extension. This matter should be rectified by the applicant.

7.5.2. Existing Clubhouse Facilities

The third parties have raised a number of concerns in terms of the services and facilities available in the existing clubhouse being inadequate to accommodate the proposed development and the anticipated increase in membership. In terms of the Tennis Ireland Information Document, Section 18 of the document deals with 'Clubhouse and Pavilion'. The document provides recommendations for the provision of male and female changing facilities, including the provision of showers and toilets.

The existing clubhouse provides for 3 WCs in total, which appear to be unisex. There are no changing or shower facilities within the existing building. I would consider that the existing facilities are probably below the required standards for modern Tennis Clubs and I note the comments of the applicant in terms of the proposed future redevelopment of facilities. I consider that the existing facilities should be improved and increased in light of the clubs plans for expansion, and certainly before inter-club competitions are held on the site. Should the Board be minded to grant planning permission in this instance, I recommend that a condition to this effect be included.

7.5.3. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.5.4. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Pollardstown Fen SAC (& pNHA)(Site Code: 000396) which is located approximately 7.5km to the north west of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I recommend that planning permission be refused for the proposed development for the following stated reason.

9.0 Reasons and Considerations

It is considered that the proposed flood lighting columns and flood lights would seriously injure the residential amenities of the adjoining properties, by reason of visual obtrusiveness and nuisance associated with light over-spill when the flood lights are in use. The proposed development would, therefore, be contrary to the proper planning and development of the area.

A. Considine
Planning Inspector
22nd October, 2019