



An
Bord
Pleanála

Inspector's Report ABP-310054-21

Development

Permission to develop 1 senior pitch with ball stop nets, 1 junior pitch, car parking area, modular temporary accommodation structure, boundary fencing including associated site works.

Location

Cloughjordan Football Club,
Townfields, Cloughjordan, Co.
Tipperary.

Planning Authority

Tipperary County Council

Planning Authority Reg. Ref.

20/787

Applicant(s)

Cloughjordan Football Club

Type of Application

Permission

Planning Authority Decision

Grant permission with conditions.

Type of Appeal

Third Party

Appellant(s)

Eileen and Mary Brereton

Observer(s)

(1) Terry Brophy
(2) Sheila Maher

- (3) Christy & Margaret O'Rourke
- (4) Townfields Residents Association
- (5) Eileen and Mary Brereton

Date of Site Inspection

28th July 2021

Inspector

Fergal Ó Bric

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Townfields, Cloughjordan, to the south of the village. The northern portion of the appeal site is located within the development boundary of the village and the southern portion of the appeal site is located on unzoned lands, outside but contiguous to the development boundary. The site has no road frontage and is accessed via a double metal gate in the south-western section of the Townsfields residential estate, immediately east of the site. Saint Michaels Catholic Church and cemetery are located to the north of the site. There are unzoned lands to the west and south of the appeal site. The north-eastern and eastern boundaries are defined by a 2 metre block walls which comprise the rear garden boundaries of the Townsfields estate, the south-eastern, southern, and western boundaries by hedgerows and the northern boundary by a 1.5 metre wall along the perimeter of the cemetery.
- 1.2. The site itself comprises an open area which is in pasture.
- 1.3. The site is in proximity and southwest of the centre of Cloughjordan village. Site levels rise gradually from south to north towards the Main Street.
- 1.4. The site, which is rectangular in configuration, has a stated area of 2.5 hectares and forms part of a larger landownership encompassing agricultural lands further west of the appeal site.

2.0 Proposed Development

- 2.1. The development would comprise the following:
 - 1 senior pitch, with ball stop nets, 1 junior pitch, car parking area, modular temporary accommodation structure, boundary fencing, and associated site works.
- 2.2. Further information was submitted by the applicants in relation to the following: The appropriateness of the development of sports facilities on lands partly zoned for Social and Public. Means of access to the site via the Townsfields residential estate; Bus parking and turning areas; Boundary treatment details and site boundary and land ownership details of the applicants.

- 2.3. The applicants have submitted letters of consent from the two landowners consenting to the making of the planning application on their lands. The applicants would purchase the lands pending a grant of planning permission.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission subject to three conditions. The pertinent conditions include:

- Condition number 2: Surface water management.
- Condition number 3: Management of construction activities on site including construction hours and noise standards.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report reflects the decision to grant permission, following the request for further information as set out within section 2.2 of this report, set out above.

3.2.2. Other Technical Reports

District Engineer: No written report received. Reference made to verbal advice received from District Engineer to the Planning Officer who made reference to the development of a one-way traffic management system.

3.3. Observations

Eight observations were received by the Planning Authority, all from residents within the neighbouring Townsfields residential estate. The issues raised within the observations can be summarised as follows:

- Increased traffic generation through an established residential estate is unacceptable.
- Sports/leisure facilities are not permissible on lands zoned for social and public purposes.

- Impact upon the residential amenity of neighbouring residential properties in terms of overlooking, security concerns, noise impact and anti-social behaviour.
- The hedgerows would be removed and adversely impact upon local biodiversity.
- The six-metre-tall ball nets would adversely impact upon the local landscape.
- Have the applicants the relevant consents to use the access gate within Townfields residential estate.
- A temporary planning permission should only be granted for the development.

4.0 Planning History

In 2007 under planning reference numbers 07510678 planning permission was refused for a residential development comprising 24 houses. Access to the housing was proposed through the Townfields residential estate by means of a right of way permitted under planning reference number 03511053.

5.0 Policy and Context

- 5.1. The relevant Development Plan is the North Tipperary County Development Plan 2010 (as varied) where Cloughjordan is designated as a Service Centre. Service Centres are: “Robust settlements that have a capacity to accommodate new residential growth, employment and enterprise and other appropriate uses. The service centres are being targeted for growth at an appropriate scale to service their local hinterlands and to consolidate housing, local employment, public transport, and a range of services. These towns and villages perform important roles as retail and service providers in their local economy and are targeted for continued growth”
- 5.2. The northern part of the site is zoned social and public where the objective is: “To provide and improve social and public facilities”. The larger portion of the appeal site is unzoned but lies contiguous to the development boundary as per the land use zoning map.
- 5.3. There are a number of specific objectives included within the Cloughjordan Settlement Plan which are pertinent to the current proposals as follows:

SC8: It is the policy of the Council to ensure that adequate amenity and recreational open space and facilities, including community facilities and centres are available for all groups of the population at a convenient distance from their homes and places of work. The Council will seek, as appropriate, the provision of community amenity as part of new residential development.

Section 10: Development Management Standards.

Table 10.2 Minimum car-parking standards

Playing Fields-A playing field will generate a minimum requirement for 25 car parking spaces and 2 bus parking spaces.

5.4. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The development proposals are subject to a third-party appeal, made by residents within the neighbouring Townfields residential estate, namely Eileen and Mary Brereton. The issues raised within their appeal submission relate to the following issues:

Principle of Development:

- Under the Social and Public zoning objective sports//leisure facilities are not permitted as per the zoning matrix. The southern portion of the appeals site is zoned open countryside.
- The development should be developed on lands zoned open space/amenity.
- There are no other lands within the village zoned for social and public use.

Right of Access:

- The Townfields residential estate has not been taken in charge. The owners Pinnacle Homes have gone into liquidation.

- The liquidator has refused permission to the applicants to traverse the lands to access the appeal site.
- Construction Arts Ltd did not list any easements in relation to this particular site.
- There are two plots of land owned by Pinnacle Homes Ltd at the entrance to the Townfields residential estate.
- Cloughjordan Football Club (CFC) have no rights or permission to cross these two plots of land.
- This is confirmed in the liquidator's e-mail to the applicants dated 4th February 2021. A copy of the email is included as part of appeal submission.

Traffic/Access

- To grant permission for a sports complex using the residential estate roadway as an access route would not comply with the original design intent or comply with the Recommendations for site Development Works, for Housing Areas, 1998, as published the Department of Environment and Local Government.
- The development would result in increased traffic through a cul-de-sac estate which was not designed as a through road.
- No consideration of the impact upon child safety, road surfaces, widths, alignment, and parking within Townsfields estate has been included within the planning assessment.

Services:

- The applicants state that they will tap into the existing public watermains and foul sewer system.
- The watermains within the Townsfield estate are in the private ownership of Pinnacle Homes Ltd.
- Not all houses within Townfield are connected to the public sewer, approximately ten dwellings to the south of the site are served by a private wastewater treatment plant.

- The applicants have no permission to tap into this private system.
- Irish Water have not commented on the proposal, their input into the proposal would be beneficial.

6.2. Applicant Response

The applicants have issued a response to the third-party appeal submission. The following issues are addressed:

- The current location at Church Field is the best that the football club could hope for, in that it is centrally located within the village as opposed to the near ten-mile round trip to the current field where they play in an agricultural field.
- The football club have moved to seven different locations over the last 25 years.
- The club have investigated lands that have come up for sale in the Cloughjordan area and approached local landowners on an ad-hoc basis but, to date they have not secured lands.
- The club state that during their season that there would be a maximum of one match every Saturday and one match every second Sunday.
- Match day traffic is limited to between three and four hours a weekend. No traffic would be generated during mid-week working hours and there would be no matches or practice sessions on the site 2-3 months of the year.
- The applicants met with the resident's association of Townsfields and amended their plans to address issues highlighted by the residents.
- The club's commitment to the site is such that all of the lands have been purchased, even the northern section which cannot be developed due to its incompatible zoning. Any potential future use of the social and public zoned lands would require a planning application
- The fencing of the land is required in order to identify ownership.
- Churchfield is a landlocked site. The right of entry to the site is retained by its owners and that right would pass on to any new owners of the lands. This has been confirmed to the applicants by the landowner's legal representative's

- The right of way was also acknowledged as part of the planning documentation submitted under a 2007 planning application, reference number 06510322.
- Correspondence from Irish Water has been submitted confirming capacity availability within the local services network.
- The club currently has 80 juvenile and 20 adult members and the location of the appeal site within a village setting would result in the proposed facilities being made available to greater numbers within the community.
- The proposals represent an opportunity to provide a safe, clean, accessible playing facility of vital social importance.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority did not make additional comments in relation to this planning appeal.

6.4. Observations

Five third party appeal observations from residents within the neighbouring Townsfields residential estate have been received. The issues raised within the observations relate to the following matters:

- The proposal would increase traffic levels through the Townsfields residential estate without any traffic calming measures being proposed. The Townfield estate is open plan with few boundaries between the houses and the internal access roadway.
- Access and exit to the appeal site are proposed through the Townfield estate, although the Area Engineer has suggested that a one-way system to and from the site be considered.
- The existing access laneway (east of the church grounds) from the Templemore Road to the appeal site is wide enough for vehicles to traverse and should be explored as an access option to the appeal site.
- The easement provided by Construction Arts Ltd does not correspond to references included within the Deed of Sale.

- A public liability issue arises for the Townsfields residents as access to and from the sports facilities would be on the footpaths and roads within their responsibility until the residential estate is taken in charge.
- As the Townsfields estate is not taken in charge the burden of maintaining footpaths, streetlighting and wastewater treatment plant remains with the residents with no financial or legal burden being placed on the applicants.
- Farm machinery for spreading manure and/or cutting silage will pass through the estate as the access laneway is no longer sufficiently wide for large agricultural machinery to pass down.

6.5. Appellants response to first party appeal observation

- The proposals would not result in the development of a community-based amenity, but solely an amenity for members of Cloughjordan football club.
- The decision of the Planning Authority contradicts the Development Plan.
- To say that they could not acquire land elsewhere is not a reason for permitting the sports facilities at this location.
- The planning and development of the village should not be compromised to satisfy the desires of 20 adult members of the soccer club.
- How can the current proposals be permitted rather than striving to reduce hazards and improve traffic/pedestrian safety within housing estates?
- The design of the internal access road through Townfields does not provide for bus traffic.
- No part of the site is correctly zoned for the proposed sports facilities use.
- With the fencing off of the development as set out within the planning documentation, how could the development be described as an amenity for the local community?
- There are two plots of land owned by Pinnacle Homes Ltd at the entrance to the Townfields residential estate.
- The Townsfields residential estate has not been taken in charge. The owners Pinnacle Homes have gone into liquidation.

- The liquidator has refused permission to traverse the lands to access the appeal site lands.
- Construction Arts Ltd did not list any easements in relation to this site.
- Construction Arts limited has been liquidated and is de-registered as a company.
- The residents hold the only key to the double gate, the access point to the appeal site to access the wastewater treatment plant for maintenance purposes. Directors of Construction Arts Ltd and have been resident in the UK for many years.
- The correspondence from Irish Water is merely a preliminary response to an initial connection query.
- Many other soccer clubs in the County have their facilities located in the open countryside.

7.0 Assessment

7.1. The issues to be addressed as part of my assessment are those raised within the appeal submission and observations. I consider that the issues of design of the modular building and residential amenity have been addressed in a satisfactory manner. Therefore, the following are considered to represent the main issues that arise for assessment in relation to the appeal and can be addressed under the following headings:

- Principle of Development
- Traffic and Parking
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The appeal site comprises a total area of 2.5 hectares. The northern portion of the appeal site, comprising approximately one hectare of land is zoned for social and public purposes within the Cloughjordan Settlement Plan as set out within the North Tipperary County Development Plan 2010 (NTCDP) (as varied)., Approximately 0.7 hectares of this 1 hectare would remain undeveloped under the current proposals

and the applicants have stated that this area would be subject of a future planning application. Approximately 0.3 hectares of the Social and Public zoned lands would be used as part of the setting out of the proposed senior pitch and part of the internal access road. The remainder of the senior pitch, the junior pitch, the parking areas and the modular structure for the changing rooms, toilets and showers would all be located on unzoned lands.

7.2.2. Under Section 3.0 of the Cloughjordan Settlement Plan-pertaining to Land Use Zoning Framework the following is set out “Whilst the land use-zoning will give an indication of the acceptability or otherwise of a particular use in particular areas, proposed development will also be assessed in terms of compliance with the policies set out in the written statement and the development management standards set out in Chapter 10. The Land-Use Zoning Matrix is intended as a general guideline in assessing the acceptability or otherwise of development proposals, although the listed uses are not exhaustive. Factors such as density, height, massing, traffic generation, public health, design criteria, visual amenity, and potential nuisance by way of noise, odour and pollution are also significant and relevant to the proper planning and development of the area....In relation to development proposals in Settlement Nodes, such proposals will be assessed in accordance with Chapters 3 and 10 of the County Development Plans and in accordance with the proper planning and sustainable development of the areas”. Therefore, I am satisfied that the current proposals for the development of sports facilities can be assessed on their merits and in accordance with the proper planning and sustainable development of the area.

7.2.3. I note that under the zoning matrix of the NTCDP that sporting/leisure uses are not permitted on lands zoned for social and public use. However, I note that only 0.3ha, or approximately 12% of the total appeal site area would be used for sporting and leisure uses. Therefore, although this would represent a contravention of the zoning objective on approximately 12% of the total site area, no contravention of zoning would occur on 88% of the site area. As a result, the majority of the development would be on unzoned lands. The zoning objective is “To provide and improve social and public facilities”. I am satisfied that the current proposal would provide improved social facilities within and contiguous to the development boundary of Cloughjordan village. Therefore, I do not consider that the proposals would contravene materially

the Social and Public land use zoning objective in this instance, given only a small portion of the overall development contravenes the zoning objective.

- 7.2.4. I note the provisions of specific objective SC 8 within the Cloughjordan Settlement Plan which seeks to “ensure that adequate amenity and recreational open space and facilities, including community facilities and centres are available for all groups of the population at a convenient distance from their homes and places of work”. I consider that the current proposals would assist in realising this specific objective as set out within the Plan.
- 7.2.5. It is stated within the applicants appeal observation that in order to access their current facilities involves taking a ten-mile round trip. This would not be sustainable, and the facilities are not readily accessible to its club members who would reside within the village and its environs. Therefore, the provision of sports facilities, more readily accessible to the community and in proximity to their homes should be welcomed in principle.
- 7.2.6. I note the approach adopted by the Planning Authority where they outlined that the lands would be for recreational purposes and having regard to the provisions of the SC8 specific objective, and notwithstanding the small area of land that are zoned for Social and Public purposes that would be included within the development proposals, and that no fixed installations are proposed within this part of the appeal site, that on balance, the proposals are considered acceptable. I consider that the principle of the development to be acceptable, subject to issues in relation to access, traffic and parking and land ownership being addressed appropriately. These will be considered in the assessment below.

7.3. Traffic and Parking

- 7.3.1. The applicants are proposing to access the appeal site through the internal access road that serves the Townfields residential estate to the east of the appeal site. There is a narrow access laneway to the appeal site, immediately east of St Michaels church, however, these lands are outside of the red line application site boundary and therefore not under consideration as part of this development. The appeal site is landlocked and there is no other option but to use the access gate through Townfields. The applicants have made provision for 40 car parking spaces and two bus parking spaces on site. The applicants have stated that there would be

football matches every Saturday and every second Sunday in addition to practice sessions during evening times for up to 9-10 months of the year, serving the juvenile and adult teams.

- 7.3.2. The appellants have raised issues about safety within their residential development given the increase in traffic generation that would arise from movements associated with the sporting facilities. The applicants have stated that the right of entry to the appeal site is retained by the current landowners (Construction Arts Ltd-Alison Riley) and its successors, which sets out the following “and assign at all times by day and night for the purpose of gaining access to and egress from the retained property”. This has been confirmed to the applicants by the landowner’s legal representative’s, a copy of correspondence to this effect has been submitted. The applicants state that details of this right were submitted as part of the planning documentation submitted under a 2007 planning application, reference number 06510322.
- 7.3.3. Section 5.13 of the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts. Section 34(13) of the Planning and Development Act 2000 (as amended) states: A person shall not be entitled solely by reason of a permission under this section to carry out any development. I am satisfied that the provisions outlined above give the Board sufficient comfort to permit the proposed sports facilities development.
- 7.3.4. I acknowledge the concerns raised by the neighbouring residents in terms of safety. However, a community sports facility is proposed in this instance. Therefore, traffic associated with this type of development would be concentrated to evening times and to three to four hours on a Saturday and every alternate Sunday during the season, which is stated to last for 9-10 months. I note that the District Engineer within the Local Authority did not raise any specific objections on traffic grounds, albeit these comments were verbal, though referenced by the Planner within their report. However, on balance, I consider, that given the proposal pertains to the development of community related sports facilities, its location proximate to the village centre, which would allow for sustainable patterns of travel including walking and cycling, that the proposal could be permitted for a temporary period of five years, over which time the local authority engineers could observe and assess the impacts of

the proposals in terms of traffic safety, volume, and frequency. Thereafter, a further planning application would have to be made by the football club to the Planning Authority regarding the continuation of use of the lands for sports and recreational purposes.

- 7.3.5. The forty car parking spaces and the two bus parking spaces would exceed the Development Plan standards as set out within Table 10.2 of the Tipperary Development Plan. Given the numbers of players registered with the club, provides for 80 juveniles and 20 adults and that buses are used infrequently on match days, I am satisfied that parking provision on site is sufficient to serve the sporting facilities proposed. Given the location of the proposed sports facility on the southern perimeter of the village, I am satisfied that there are opportunities for playing members to use more sustainable means of transport to the appeal site, either in foot or by bicycle. The issue of a bicycle stand on site is a matter that can be addressed by means of an appropriate planning condition.

7.4. Appropriate Assessment Screening

- 7.4.1. The site is not located within any European site. The closest such European site to the subject site is the Lough Derg Easter Shore Special Area of Conservation (SAC) which is located c.15.6 kilometres to the south-west of the site at the closest point.
- 7.4.2. The proposal comprises the development of sports pitch facilities, parking facilities and a modular building to the south of Cloughjordan village.
- 7.4.3. The conservation objectives for the Lough Derg eastern shore SAC (002241) are to maintain the favourable conservation condition of the following qualifying interests:
- Juniperus communis formations on heaths or calcareous grasslands [5130].
 - Calcareous fens with Cladium mariscus and species of the Caricion; davallianae [7210].
 - Alkaline fens [7230].
 - Limestone pavements [8240].
 - Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0].

- *Taxus baccata* woods of the British Isles [91J0].

7.4.4. The sports facility would not generate any foul discharges or surface water pathways that would impact on the conservation objectives of the Lough Derg SAC. Given the nature of the works which would not require deep excavations, the degree of separation between the subject site and the European site, and the fact that the development would tap into existing public foul and water services, I do not consider that there is a clear pathway for emissions from the site arising from construction activities to reach the SAC and therefore I do not consider that there are any likely significant negative impacts arising in this regard.

7.4.5. Having regard to the above, the proposed development is not likely to have significant effects on the Lough Derg Eastern Shore SAC site or any other European sites, in the light of the conservation objectives of these sites.

8.0 Recommendation

8.1. I recommend that permission be granted subject to the following conditions and reasons:

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the North Tipperary Development Plan 2010 – 2016 as varied, the provisions of the Cloughjordan settlement Plan, the location of the site within and contiguous to designated urban boundary and to the nature, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously the residential or visual amenities of the area, nor result in the creation of a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 12th day of March 2021, 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 prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2 (a) Planning permission for the sports pitches, ball netting, parking areas and modular building shall apply for a period of five years from the date of this order. These structures and related ancillary sports facilities shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

(b) The site shall be reinstated on removal of the sports facilities and ancillary development. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the date of expiry of this permission.

Reason: To enable the impact of the development to be re-assessed.

- 3 Prior to the commencement of development details of the following shall be submitted to, and agreed in writing with, the planning authority:

(a) A covered bicycle parking shelter with capacity for a minimum of 12 bicycles immediately adjacent to the modular structure

Reason: In the interest of sustainable development.

- 4 Advertising structures/devices erected within the site shall not be visible when viewed from outside the curtilage of the site.

Reason: In the interest of visual amenity.

- 5 The ball netting shall be erected prior to the commencement of use of the playing pitches.

Reason: In the interest of residential amenity.

- 6 Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

- 7 The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.

Reason: In the interest of public health.

- 8 That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

- 9 The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) Existing trees, hedgerows specifying which are proposed for retention as features of the site landscaping

(ii) The measures to be put in place for the protection of these landscape features during the construction period

(iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech, or alder and which shall not include prunus species.

(iv) Details of screen planting which shall not include cupressocyparis or leylandii.

(b) Specifications for mounding, levelling, cultivation, and other operations associated with plant and grass establishment

(c) A timescale for implementation including details of phasing.

All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

- 10 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of traffic management, including timing and routing of construction traffic, measures to obviate queuing of construction traffic, details of materials and staff compounds, *details of hoardings and security fencing, intended construction practice for the development*, including noise, dust and vibration mitigation measures and off-site disposal of construction / demolition waste. A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of public safety and residential amenity.

11 Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

Fergal Ó Bric
Planning Inspectorate

19th November 2021