



An
Bord
Pleanála

Inspector's Report ABP-311801-21.

Development	Construction of 2 Gaelic playing grounds, installation of 2 no. high level ball retention nets.
Location	Knockanemore, Ovens, Co. Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	21/5673.
Applicant(s)	Eire Og Hurling and Football Club.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Dr. Ken Harte Pat & Kathleen Buckley & Others
Observer(s)	None
Date of Site Inspection	27/01/2022.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located to the north western side of the key village of Ovens in Co. Cork, approximately 12km to the west of Cork City and to the south of the N22, approximately 2.5km from the Ballincollig interchange. The site comprises part of the landholding of the local Eire Og GAA Club and lies between an existing full-sized pitch to the north and the rear of existing detached houses to the south. To the north of the existing pitch in this area of the village, there is a large quarry site. Ovens, with Killumney, is identified in the Blarney Macroom MD LAP as a key village and the preferred route for the N22, which divides the two villages, lies to the south of the proposed site, and the existing houses. The site lies outside the settlement boundary and within the Metropolitan Cork Greenbelt.
- 1.2. Access to the proposed development site will be via the existing entrance and car park which serves the existing pitch. This area of the clubs' landholding is detached from the main Pavilion and clubhouse by a local road , Casey's Road, which provides access to the quarry site, a small number of houses and the N22. A pedestrian tunnel under the road connects the two plots. The club grounds include 2 full size pitches, one with floodlights, a clubhouse, parking and a floodlit all-weather pitch. On the lands to the north and north-west of the current proposed development site, there are two further full-sized pitches.
- 1.3. The site the subject of the current application has a stated area of 1.42ha and rises above the level of the existing pitch to the north. There is an existing natural boundary between the houses and the site of varying heights and species.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for development consisting of the construction of 2 no. natural grass Juvenile Gaelic playing grounds, installation of 2 no. high level ball retention nets, erection of 1.6m high fence, relocation of existing scoreboard along with all associated site works., all at Knockanemore, Ovens, Co. Cork.
- 2.2. The application included a number of supporting documents including plans, particulars, completed planning application form, and cover letter.

- 2.3. The proposed development seeks to construct two juvenile sized pitches for the club. The development will also include the erection of high-level ball retention nets and a 1.6m fence.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the development subject to 12 conditions.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history, third-party submissions and the relevant Development Plan and LAP policies and objectives. The report also includes an Appropriate Assessment Screening Report.
- 3.2.2. The initial planning report notes a number of concerns in relation to the proposed development, concluding that further information is required with regard to distances between the development and adjacent septic tanks, car parking, boundary treatments, land ownership, archaeological issues, the impact of the development on an existing dog run, removal of 210m of hedgerow and proximity of pitch side lines to the site boundary. In addition, the potential impacts of the development on existing residential amenity are raised as concern as well as lack of clarity in terms of site levels. The SEP notes the POs report and concludes that while there is no objection in principle to the proposed development further information is required.
- 3.2.3. Following the submission of the response to the FI request, the planning officer was satisfied that most issues of concern raised were appropriately addressed. Matters relating to landscaping are noted and can be addressed by way of condition. The Planning Officer recommends that permission for the proposed development be granted subject to 12 conditions. The Board will note that the SEP accepted the Planning Officers report and concurred with the recommendation to grant

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

3.2.4. Other Technical Reports

Area Engineer: The report notes that an observation from landowners along the southern boundary of the site state that there is a right of way on the southern boundary of the site. This does not appear on the land registry. Boundary treatments have not been clearly specified. The proposed works are an intensification of the existing carpark and the number of car parking spaces has not been specified. Further information required in this regard. In addition, further information is required in relation to the location of neighbouring percolation areas and WWTPs.

Following the submission of the response to the FI request, the Area Engineer noted that all issues raised were addressed. The report concludes advising no objections to the proposed works subject to compliance with conditions.

Environment Report: The report advises no objections subject to conditions.

Archaeologist Report: The report notes that the subject site lies adjacent to a Recorded Monument, a Ringfort and within its Zone of Archaeological Potential. An Archaeological Impact Assessment is required to be submitted. FI required.

While no further report was submitted by the Archaeologist, I note the comments in the Planning Officers report advising of a conversation with the Archaeologist and the response to the FI request. It is accepted that the site the subject of the application had been excavated as part of quarry activity in the past and due to this former use, any potential archaeological significance would have been disturbed. While confirmation by an archaeologist would be preferred, it is accepted that it is unlikely that the development will have any impact on archaeology.

3.2.5. Prescribed Bodies

None

3.2.6. Third Party Submissions

There are 3 third-party submissions noted in relation to the proposed development. The issues raised are summarised as follows:

- Impact of the development on residential amenity.
- Inadequate information provided.
- Impacts on established rights of way and value of property.
- Ownership of the site is questioned.
- Roads and traffic issues including access, inadequate sight lines at the entrance and intensification of traffic.
- Question of project splitting as fundraising is underway for a number of projects.
- Lack of details relating to retaining features proposed.
- Boundary treatment and fencing details lacking.
- Concerns that floodlighting will be erected.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

ABP re: PL.04.102811 (PA ref: 97/557): Permission granted for the construction of 2 no. pitches, 2 no. field gates and connecting tunnel under public road to Eire Og Hurling and Football Club.

Wider Club landholding:

PA ref: 06/4089: Permission granted by Cork County Council for the construction of a floodlit all-weather pitch, extension to dressing rooms, construction of match officials building and provision of improved entrance to Eire Og Hurling and Football Club.

PA ref: 11/6335: Permission granted to extend the duration of permission 06/4089.

PA ref: 12/5082: Permission granted by Cork County Council for the construction of 8 no. floodlight masts and installation of floodlighting and associated site works to an existing GAA pitch.

PA ref: 15/4931: Permission granted by Cork County Council for the construction of a covered stand and associated site works.

5.0 Policy and Context

5.1. County Development Plan

- 5.1.1. The Cork County Development Plan 2014, as extended, is the relevant policy document relating to the subject site. The site is located outside the zoned area of the key village of Killumney/Ovens and within the rural area of Co. Cork. The site lies within the Metropolitan Cork Greenbelt and as such, Section 4.5 of the Plan, where it deals with Greenbelts, is relevant.
- 5.1.2. The Metropolitan Cork Greenbelt policy has been in operation since 1996 and the Plan notes that this has helped preserve the identity of the City itself with a ring of distinctive and largely unspoilt hillsides and ridges. Given the exceptional housing demands and urban pressures, the plan notes the serious planning challenge and any incremental erosion of Greenbelt lands over time needs to be carefully monitored. The overall zoning objective for Greenbelt lands is for agriculture, recreation or open space uses.
- 5.1.3. The following objectives are considered relevant in terms of the proposed development:
- Objective RCI 5-1: Metropolitan Cork Greenbelt
 - Objective RCI 5-2: Purpose of Greenbelt
 - Objective RCI 5-3: Land Uses within Metropolitan Greenbelt
 - Objective RCI 5-5: Active Uses of Greenbelt Lands
 - Objective RCI 5-6: Long Established Uses.

5.2. Blarney Macroom Municipal District Local Area Plan 2017 (LAP)

- 5.2.1. The subject site is also covered by the Blarney Macroom Municipal District Local Area Plan 2017. Killumney/Ovens is identified in the LAP under the section relating to Key Villages. It is a strategic aim of the Cork County Development Plan, 2014 to establish key villages as the primary focus for development in rural areas in the lower order settlement network and allow for the provision of local services by encouraging and facilitating population growth at a scale, layout and design that reflects the character of each village. The LAP further seeks to support the retention and improvement of key social and community facilities.
- 5.2.2. In terms of Killumney/Ovens, the LAP further notes its attractive rural setting coupled with its proximity to Ballincollig and Cork City have made it a popular location for new development in recent years. It is important that further development maintains the integrity of the surrounding greenbelt and the rural character and setting of the village. With regard to community facilities, the LAP states that it is important that new community facilities are encouraged to locate in the village and that where possible, existing facilities are improved.
- 5.2.3. Objective GO-01 of the LAP sets out the general objectives for Key Villages.
- 5.2.4. In terms of the Metropolitan Cork Greenbelt, it is the overall strategy to protect this area and to provide for facilities for sports and recreation.

5.3. Draft Cork County Development Plan 2022

The Board will note that the Elected Members of Cork County Council will make the Cork County Development Plan 2022-2028, with or without proposed amendments and adopt the Plan on the 25th of April 2022. The Plan will then come into effect on the 6th of June 2022. The primary designation of the subject site outside the settlement boundary of Killumney/Ovens, within the Metropolitan Cork Greenbelt is not changed in the Draft Plan.

5.4. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Cork Harbour SPA (Site Code: 004030) which is located approximately 16.2km to

the east of the subject site. The Gearagh SAC (Site Code: 000108) lies approximately 19.5km to the west.

Lee Valley pNHA (Site Code: 000094) lies approximately 3.5km to the north-east and Ballincollig Cave pNHA (Site Code: 001249) 4-5km to the east of the subject site.

5.5. EIA Screening

- 5.5.1. The subject appeal does not relate to a class of development which requires mandatory EIA. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.
- 5.5.2. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.
- 5.5.3. Having regard to:
- (a) the nature and scale of the development, and
 - (b) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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

6.1.1. This is a multiple third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed juvenile playing pitches.

6.1.2. **Dr. Ken Harte** submitted an appeal through his agent JMC BE & Partners. The Grounds of appeal are summarised as follows:

- Concerns relating to roads and traffic including the already haphazard car parking which spills over onto the local road network. The road network is substandard, unsuitable and incapable of accommodating existing parking demands let alone any increase.
- Concerns raised that the assessment of roads issues has not been taken into account.
- It is requested that the Board refuse permission for the additional pitches as it will only give rise to further traffic hazards.
- In addition to the above, it is requested that the Board consider the following points of objection:
 - The information does not adequately describe the existing haphazard car parking arrangements.
 - Hazards arising from existing and proposed demands have not been analysed or assessed.
 - Increased traffic and parking demands cannot be accommodated within the site.
 - The proposed development is contrary to the residential amenities of the area and is contrary to the proper and orderly planning and safe and sustainable development of the area.

6.1.3. **Mr. & Mrs Pat & Kathleen Buckley, Mr. & Mrs. Donal & Catherine Cronin and Mr. & Mrs. Martin & Deirdre Daly**, through their agent, JMC BE & Partners, have submitted a joint appeal to the granting of planning permission for the proposed juvenile pitches. The appeal advises that the signatories have always supported the endeavours of the applicants and that revisions to the proposal should be considered to ensure that a planning deficit would not accrue. The grounds of appeal are summarised as follows:

- The application documents submitted are insufficient rendering the application invalid.
- The information submitted with the application and in response to FI request are inadequate.
- The decision of the PA is based on incorrect and inadequate information and is flawed.
- The proposed development will interfere with an established right of way.
- The proposed development will result in adverse impact on the use, enjoyment and residential amenities of the appellants homes, and will devalue property.
- The proposed development is contrary to the proper orderly planning and sustainable development of the area.

6.1.4. The appeal expands on the issues raised above, and in particular, concern is raised that part of the proposed development site comprises an area which has been used by residents for many years and is identified as an established right of way. The issues with the drawings submitted are also noted having regard to the difficulty the Planning Officer noted, and the inclusion of condition 3 in the grant of permission. It is submitted that this is neither adequate or reliable and does not reflect the stated and reasonable expectation of the appellants.

6.1.5. In addition, the appeal references a number of unauthorised developments at the site in terms of access to the site and floodlit car parking provided. In the Boards previous decision – relating to the development of the two existing pitches to the north of the subject site – access to the pitches was via the connecting tunnel under the public road. No permission for parking was given and the access to the pitches

were for agricultural machinery or maintenance machinery only. It is also noted that the developments carried out at the site are not in accordance with the permissions granted.

- 6.1.6. There is no evidence that the site was used for quarrying as suggested in the response to the further information request. As such, matters relating to archaeology should be addressed before a planning decision is taken. The conflicting information indicates that the application is unreliable.
- 6.1.7. The proposed works along the southern boundary of the site - adjacent to the residential properties – are not clear and may not accord with the requirements of the EPA Code of Practice for Domestic Waste Water Treatment Systems with regard to minimum separation distances between the system and slopes / cuts.
- 6.1.8. Parking issues during events, games and blitzes is not acknowledged and the holding of such events is not unusual. It is requested that the applicant address unauthorised developments and deal with existing problems which are injurious to the residential amenities and safe use of the area and should cater for more intensive use of the facilities in a safe and respectful manner.

It is requested that the Board refuse the proposed development. The appeal includes a number of enclosures including photographs and correspondence.

6.2. First Party Response to Third Party Appeals

- 6.2.1. The applicant, through their agent, has responded to the third-party appeals. The submission sets out an overview and context of the application, the planning history and the decision of the Planning Authority. The response to the grounds of appeal is summarised as follows:

- There is no planning merit in the appeals and several claims made are not only irrelevant to the planning assessment, but are misleading, exaggerated and spurious.
- Contrary to the appellants assertions, the PA carried out a thorough assessment of the relevant planning issues pertaining to the development.
- The proposed development is in accordance with national, regional and local planning policy, and the nature and extent of the proposed development is

clearly set out in the statutory public notices. Enforcement action taken by the appellants is a different statutory process and are for the PA to assess and consider.

- Whether there is a right of way on the subject site is not necessarily a planning consideration. The applicants are satisfied that there is no such right of way on the site and appellants historic arrangements with the previous landowner are not a planning matter, or a basis for refusal of permission.
- Revised site layout plans responds, despite no legal or other requirement to do so, to the concerns of the residents, retaining a 3m strip to the rear of their properties along the southern boundary of the site to facilitate maintenance of boundaries and septic tanks with access through the club grounds as is currently the case.
- The dog run has been reorientated which has facilitate the moving of the pitches further to the west and away from the southern boundary. The nearest pitch will be 10.48m from any boundary and will be at a lower level than the residential properties. Separation distances to nearby septic tanks are in accordance with the relevant standards.
- The applicants have confirmed that the subject land and the lands to the north have been used in the past as a quarry. Any potential archaeological significance would have been disturbed by these activities.
- As the houses already bound the GAA club grounds, there will be no impact on residential amenity. Existing boundaries are to be retained and no floodlighting is proposed. Access to the site will be via the existing entrance on Caseys Road and the tunnel to the main complex.
- There is no intensification of use as the proposed pitches are to cater for existing members of the juvenile club with no additional traffic generated.
- In terms of car parking, there are a total of 140 spaces adjacent to the Pavilion and main pitches, and a further 70 spaces adjacent to the school and church. This is sufficient to cater for the proposed development at the club.

It is requested that permission be granted.

6.3. **Planning Authority Response**

- 6.3.1. The Planning Authority has submitted a response to the third-party appeal advising that all relevant issues have been covered in the technical reports already forwarded to the Board. The PA has no further comment to make.

6.4. **Further Responses**

- 6.4.1. **Dr. Ken Harte**, third-party appellant, submitted a response to the second third-party appeal supporting the content of the submission. The submission again requests that permission be refused.
- 6.4.2. **Mr. & Mrs Pat & Kathleen Buckley, Mr. & Mrs. Donal & Catherine Cronin and Mr. & Mrs. Martin & Deirdre Daly**, third-party appellant, submitted a response to the second third-party appeal supporting the content of the submission. The submission again requests that permission be refused.

6.5. **Observations**

There are no observations noted in relation to the subject appeal.

7.0 **Planning Assessment**

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, the planning history 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. Planning History
2. Principle of the development & Compliance with the Development Plan & the Blarney Macroom Municipal District Local Area Plan 2017
3. Residential Amenity Issues
4. Roads and Traffic Issues
5. Other Issues

7.1. Planning History

- 7.1.1. At the outset, I would note the concerns of the third parties in terms of unauthorised development at the subject site. The Board will note that planning permission was granted for the construction of the two existing pitches, located to the north of the current proposed development site, following a third-party appeal to the Board, ABP re: PL.04.102811 (PA ref: 97/557) refers. Under this decision, permission was granted for the construction of 2 no. pitches, 2 no. field gates and connecting tunnel under public road to Eire Og Hurling and Football Club.
- 7.1.2. Of particular note, condition 3 attached to the Boards grant of planning permission explicitly restricted the use of the new field entrance gates to provide access for agricultural machinery or maintenance machinery for the proposed playing pitches only. The reason for this condition is stated 'to prevent unauthorised development'. The Board will note that the primary access to these permitted new pitches was to be via a pedestrian tunnel under the road from the main Eire Og Club grounds, located to the east, with no apparent vehicular access or car parking proposed or permitted to the west, of Casey's Road. The main car parking area for the club, along with dressing rooms and other facilities, are located to the east of Casey's Road, with the main access and car parking located to the south of the main playing pitches and dressing rooms, to the eastern side of the clubs' landholding. The tunnel was installed under Casey's Road to provide for safe pedestrian access between the two areas. It appears that both of the field entrances onto Casey's Road and referred to in the 1997 public notices were constructed.
- 7.1.3. Under PA ref: 06/4089, permission was sought, and granted, for the installation of floodlights on the all-weather pitch and extensions to dressing rooms within the main site of the Eire Og Club grounds – located to the east of Casey's Road – and the construction of a match officials building and the provision of improved entrance to the club grounds located to the west of Casey's Road, and to the north of the current appeal site. This area was also to be serviced by a WWTP system. While one field entrance has been constructed in accordance with the provisions of the Boards 1997 decision – to the southern end of the landholding, permission was granted under PA ref: 06/4089 for the improvements to the northern entrance. I note that a pedestrian entrance was also constructed, but not shown on the permitted plans. Therefore, I

am satisfied that the improved access to the current proposed appeal site appears to have been permitted. The Board will also note that the permitted match officials building was not constructed, and the area of the septic tank and percolation area now lies under the hardstand area of the site, now used as parking.

- 7.1.4. From a consideration of the planning history of the Eire Og Clubs grounds, I note that the car parking area associated with the two permitted pitches located to the west of the main club facilities, and the lighting which has been installed in this area, were not permitted under the 2006 decision. Nor were these elements included on plans submitted as part of the 2012 planning application for floodlights at the main pitch, PA ref: 12/5082 refers. The parking area is however referenced on the drawings submitted under the application for the construction of the covered stand at the main pitch, PA ref: 15/4931 refers. As such, there is no noted grant of planning permission for the setting out of the area for car parking, and no permission for the installation of lighting at this area of the Eire Og Club facilities.
- 7.1.5. The current proposed development of 2 juvenile pitches is to be accessed, as per the submitted plans and particulars, via the permitted improved entrance to the north and over the area identified as gravelled car park on the plans, as well as via the permitted and constructed pedestrian tunnel under Casey's Road. As indicated above, there is no evidence that planning permission for the use of the site as a car park has been granted. In terms of the current proposed development, it is reasonable to consider if a grant of planning permission would facilitate the consolidation and intensification of an unauthorised use or structure. A further question arises in terms of the need for the parking to facilitate the proposed two juvenile pitches. Overall, I consider that no parent of a child using the proposed juvenile pitches, noted to be for use by children aged u4-u12, will drop their child off at the main car park to the east, to use the tunnel, when there is a parking area available – permitted or not – immediately adjacent to the training pitches. Given the age of the intended users of the proposed pitches, it is most likely that parents will drive to the proposed pitches and remain close to the pitch. As such, I consider the parking issue to be relevant to the consideration of the proposed development.
- 7.1.6. The Board will note that there is current enforcement action in relation to the use of the car parking area adjacent to the current proposed site, but there is no reference to the installation of lighting. Notwithstanding the permitting of the improved access

to the site, I note no indication of intent to use the area as a car park as part of the 2006 application. Given the explicit nature of Condition 3 attached to previous grant of planning permission, ABP ref: PL.04.102811, the fact that no permission to alter the principle of this condition has been sought or permitted, and no application to regularise the matter of parking is sought as part of the current application / appeal, I consider it inappropriate for the Board to consider a grant of permission for the proposed development in these circumstances.

- 7.1.7. Should the Board not agree with the above assessment, I proposed to consider the proposed development in terms of compliance with the provisions of the County Development Plan and the Local Area Plan and roads issues, as well as dealing with other matters raised by third-parties.

7.2. Principle of the development & Compliance with the County Development Plan & the Blarney Macroom Municipal District Local Area Plan 2017

- 7.2.1. The proposed development site is located outside the zoned area of the key village of Killumney/Ovens and within the rural area of Co. Cork. The site lies within the Metropolitan Cork Greenbelt and as such, Section 4.5 of the Plan, where it deals with Greenbelts, is relevant. The Metropolitan Cork Greenbelt policy has been in operation since 1996 and the Plan notes that this has helped preserve the identity of the City itself with a ring of distinctive and largely unspoilt hillsides and ridges. Given the exceptional housing demands and urban pressures, the plan notes the serious planning challenge and any incremental erosion of Greenbelt lands over time needs to be carefully monitored. The overall zoning objective for Greenbelt lands is for agriculture, recreation or open space uses.
- 7.2.2. In terms of the provisions of the CDP, I am satisfied that the principle of the proposed development of juvenile GAA pitches within the Metropolitan Cork Greenbelt is acceptable. The development will not give rise to structures which will significantly or adversely affect the visual amenities of the area. I am satisfied that the proposed development is acceptable in principle and adequately accords with the provisions of both the County Development Plan and the Local Area Plan.

7.3. Residential Amenity Issues:

- 7.3.1. The third-party appellants have raised concerns with regard to the potential impact of the development on their existing residential amenities. In this regard, I note the location of the site within the context of the settlement, together with the proximity of the main Eire Og Club grounds to the residential properties. I note that while the playing pitches within the main club grounds have floodlights, none are provided within the site to the west of Casey's Road. The installation of lighting adjacent to the area used for parking has been discussed above.
- 7.3.2. I also note that no floodlights are proposed as part of the current application. As such, and given that the pitches are for juvenile players, and are not of a size which could accommodate adult matches, the use of these pitches will be for children, during daylight hours. Given the proximity of the two adult sized permitted pitches to the north of the current proposed site, I do not consider that a grant of planning permission will result in any significant additional impacts on residential amenity in terms of noise.
- 7.3.3. Having regard to the concerns relating to the use of the land, I note that the subject site is currently fully accessible from the existing playing pitches constructed to the north of the site. Given that the pitches are to be used for juvenile training purposes, I am satisfied that the principle of the development is acceptable and the use of the pitches as proposed, is unlikely to give rise to any significant impacts on the existing residential amenities of the existing properties.
- 7.3.4. The proposed development requires an element of cutting and filling of the site in order to provide a level playing surface. The proposed pitches will be finished approximately 2m below the level of the southern boundary, with the land to the south of the pitch surface sloped upwards at a degree of 25.417°. This sloped area is to be planted as a wildflower / grass meadow. The proposed pitches will be located between 13-19.8m from the existing southern boundary, and I note the first-party submission in response to the third-party appeals which proposes the retention of a 3m wide stripe between the existing southern boundaries and the top of the proposed slope in order to facilitate the continued access to the rear of the residential properties. I am satisfied that this proposal reasonably addresses the

concerns raised by the third-parties with regard to access to the rear of their properties.

7.4. Roads and Traffic Issues:

- 7.4.1. While I note the concerns raised regarding the impact of traffic on the existing residents, I refer the Board to my comments above. In the absence of the car parking issue on the lands to the west of Casey's Road being resolved, I would accept that the proposed juvenile pitches would likely give rise to traffic which might normally use the existing main entrance to the Eire Og Grounds beside the school to drop off and collect children from training, the relocation of the juvenile training to the proposed site, will likely increase traffic along Casey's Road. I note that as no permission for the use of the site to the west of Casey's Road for car parking purposes has been sought or permitted, no assessment of impact has been undertaken.
- 7.4.2. I also note that the current application does not provide for an assessment of traffic or car parking as the proposed development is described as providing for improved facilities for existing members of the Club. As such, it is reasonable to consider that the existing parking facilities within the main body of the clubs' site, is adequate to accommodate the existing members. I also note, that the Cork County Council Area Engineer raises no objections or concerns in this matter.
- 7.4.3. The first party response to the third-party appeals indicate that the Club provides for c140 car parking spaces adjacent to the Pavilion and main pitches, with a further 70 parking spaces available adjacent to the school and church. On the date of my inspection, I counted the spaces available within the club grounds and at the church and school and would agree with the figures presented. These figures do not include the car parking potential of the site which is subject to enforcement action.
- 7.4.4. The third-party appeals have submitted details, including photographs of significant car parking requirements at the site on occasions. I would accept that on occasions, and in particular during large events and important games, the demand for parking will be at a premium. However, as the proposed juvenile pitches are not of a size which would be appropriate for games which might attract such large crowds, I would not consider it reasonable to refuse permission on the basis of car parking provision.

I am further satisfied that the proposed pitches will serve the needs of existing members of the club and as such, can be considered acceptable in principle. In acknowledging the third-party frustrations in terms of roads and traffic issues associated with the overall club, I do not consider a grant of permission in this instance will result in any significant increase in traffic using the public roads in the vicinity of the site. Adequate car parking is also provided for within the club grounds adjacent to the main club facilities. I have noted my concerns regarding the use of the land laid out for car parking immediately adjacent to the subject site previously. Should the Board be minded to grant permission in this instance, a condition should be included preventing the use of the adjacent lands for parking associated with the juvenile pitches unless the matter is regularised by way of a grant of planning permission.

7.5. Other Issues:

7.5.1. Procedural Issues:

The appellants have submitted concerns regarding the information submitted in support of the planning application and questions the validity of the application. In particular, the issue of the use of the site for quarrying is raised. I note that the planning application form initially indicated that no quarrying was carried out at this site. In response to the further information request, the applicant suggests that the area including the subject application site together with the two existing pitches to the north, were part of the larger quarry site and quarrying occurred. This is disputed by the third-parties and the matter is raised in relation to the archaeological potential of the site.

I note that the site is located within the zone of influence of an identified National Monument, which is located approximately 24m from the boundary of the site. The Board will note that this monument site is identified as a Ringfort - Rath ref: CO073-053----, which was shown on the 1842 and 1903 OS 6-inch maps. The site, on a natural knoll, was enclosed by a 200ft (60.96m) contour line on the 1903 and 1939 OS 6-inch maps. A house has been constructed on the site and local information suggests that the ringfort was levelled in c1900.

While I acknowledge the above, I note that if permitted, parts of the cutting of the site to provide the pitches will be located within the 200ft contour line associated with the now removed archaeological feature. Given the conflicting information relating to the previous use of the site for quarrying, or not as the case may be, I consider that in the event of a grant of planning permission, a condition requiring that a suitably qualified archaeologist attend the site during the construction works, including all preparation and ground works associated with the construction of the playing pitches, should be included to monitor said works. A full report should be provided to the Planning Authority, and should any features of archaeological significance be found, all works should cease pending a full archaeological assessment. No pitch should be brought into operation until said report has been submitted to the Planning Authority and approved by the County Archaeologist.

7.5.2. Right of Way:

The Board will note the third-party submissions regarding the existence of a right of way along the southern area of the proposed development site which bounds the residential properties. The submissions indicate that there are existing access points along the boundary which provide access to the subject area by the residents, with the issue of the dog run also being addressed by the applicants. I note that residents have occupied the area for the purposes of maintaining boundary hedgerows, trees and for other landscaping management practices. The proposed retention of a 1-1.5m strip along the boundary by the applicant to facilitate ongoing access for such maintenance was considered by the third parties to be insufficient and due to the height of some trees and hedgerows, would result in an unsafe system of work. The appellants are seeking a reasonable width of approximately 3m which would facilitate the continued use of the stripe to provide for the maintenance area.

In response to the above, I note that the applicant has indicated that while the residents may have had an informal arrangement with the former landowner, there is no right of way attached to the land. In an effort to address the concerns of the residents, I note that the applicant has submitted an alternative layout which will relocate the pitches from the southern boundary such that a 3m stripe will be retained to accommodate the residents in terms of access to the rear of their properties for landscaping and septic tank maintenance matters. Additional sections

are also provided. In acknowledging these submissions, I note that they are not to scale, and the sections are difficult to read. However, I would accept that the amendments seek to address the concerns of the residents as detailed in their submissions to the Planning Authority, and in the third-party appeal submissions.

I would also note that the matter of rights of way / land ownership disputes should not be addressed by the planning system. Section 5.13 of the 2007 Development Management Guidelines states that 'The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land, these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, 'a person is not entitled solely by reason of a permission to carry out any development.'

Having regard to the information submitted with the application, I am satisfied that the applicant has sufficient legal interest in the land, to make the planning application. The provisions of Section 34(13) of the Planning and Development Act should be advised to the applicant in the event of a grant of planning permission.

7.5.3. Existing Wastewater Treatment Systems:

The Board will note the concerns raised by third parties with regard to the impact of the proposed cutting into the site on the operation of the existing private wastewater treatment systems servicing the existing houses to the south of the proposed development site. This matter was raised in the Planning Authority's request for further information. The PA accepted that if installed in accordance with SR6 and the EPA CoP 2021, then no percolation area should be located within 3m of the site boundary. As no cutting is proposed within 1m of the southern boundary, the proposal will fully comply with the requirements of the EPA Code of Practice for Domestic Waste Water Treatment Systems, with a minimum of 4m separation distance between the systems and the proposed slope/cuts.

The first-party, in response to the third-party appeals, has indicated, section 3.28 of the submission to the Board refers, that a revised site layout is submitted which responds to the issue of proximity of the proposed slope/cut to the southern boundary. The matter is raised in terms of the alleged right of way, but also affects the compliance of the development in terms of the existing wastewater treatment systems serving the houses. The applicant proposes to retain a 3m wide stripe to the

rear of the houses, along the southern boundary and as such, the slope/cutting into the site to provide the level playing surface, will be at least 6m from any existing WWTP system. I am satisfied that this is acceptable.

7.5.4. Development Contribution:

The subject development is not liable to pay development contribution, and no condition to this effect should be included in any grant of planning permission.

8.0 Appropriate Assessment

8.1. Introduction:

The site is not located within any designated site. The closest Natura 2000 site is the Cork Harbour SPA (Site Code: 004030) which is located approximately 16.2km to the east of the subject site. The Gearagh SAC (Site Code: 000108) lies approximately 19.5km to the west.

- 8.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 8.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site.
- 8.1.3. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.
- 8.1.4. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:

- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

8.2. AA Screening Report

- 8.2.1. The application was not accompanied by an Appropriate Assessment Screening Report.

8.3. Consultations and Observations

- 8.3.1. The Planning Authority undertook AA Screening as part of its overall assessment of the proposed development.
- 8.3.2. No other issues relating to AA are noted from any party to the subject appeal.

8.4. Screening for Appropriate Assessment:

- 8.4.1. The purpose of AA screening, is to determine whether appropriate assessment is necessary by examining:
- a) whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
 - b) the likely effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives and considering whether these effects will be significant.
- 8.4.1. I note that the proposed development is not directly connected with or necessary to the management of a European site. The following sites are located within 20km of the subject site:
- Cork Harbour SPA (Site Code: 004030) - 16.2km to the east.
 - The Gearagh SAC (Site Code: 000108) - 19.5km to the west.

8.4.2. I would note that the ecology of the species and / or the habitat associated with the above Natura 2000 sites are neither structurally nor functionally linked to the proposal site. The proposed development will not connect to any public water services and will not provide any WC facilities on the site. There is no obvious potential impact pathway connecting the designated site to the development site and therefore, it might be concluded that no significant impacts on these Natura 2000 sites is reasonably foreseeable.

8.5. Conclusion on Stage 1 Screening:

8.5.1. I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

9.0 Recommendation

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

10.0 Reasons and Considerations

1. On the basis of the submissions made in connection with the planning application and appeal, it appears to the Board that the proposed development is dependent upon part of the wider landholding, the use of which is unauthorised for the carrying on of car parking and that the proposed development would facilitate the consolidation and intensification of this unauthorised use. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances.

A. Considine
Planning Inspector
21/04/2022