



An
Bord
Pleanála

Inspector's Report ABP 312952-22.

Development	Variation to Condition No 3 of permission under P. A. Reg. Ref. 11/277 for redevelopment of an existing hockey pitch to an Astro Turf all weather surfaced pitch. Condition No 3 confines use of the hockey pitch to use solely by the school for its own activities.
Location	Dominican College, Taylor's Hill, Galway,
Planning Authority	Galway City Council
P.A. Reg. Ref.	21/297
Applicant	Board of Management, Dominican College.
Type of Application	Permission
Decision	Grant Permission
Type of Appeal	Third Party x Grant
Appellant	Pat Daly and Sean Ward, Taylors Hill Owners.
Inspector	Jane Dennehy.
Date of Inspection	9 th August, 2022

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Decision	4
3.2. Planning Authority Reports	4
3.3. Third Party Observations	4
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Applicant Response	6
6.3. Planning Authority Response	6
7.0 Assessment	6
8.0 Recommendation.....	9
10.0 Reasons and Considerations	9
11.0 Conditions	10

1.0 Site Location and Description

The application site is that of the Dominican College and which is located on grounds on the south side of Taylors Lane and the west side of the Dominican Convent which in turn is to the west side of Rosary Lane. Vehicular access is off Rosary Lane via Taylors Hill Court which also serves as an entrance to fourteen dwellings. The hockey pitch which is also described as a multiple purpose pitch is located at the south west end of the school grounds on the east side of a sports hall and it is adjoined to the south west, south and south east by residential developments.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for variation of the Condition No 3 attached to the grant of permission under P.>Reg. Ref.11/277 according to which the use of the permitted upgraded hockey pitch is restricted to use by the school in connection with its own activities and which excluded renting out or leasing on a commercial basis for reasons of protection of residential amenities.
- 2.2. A detailed written response to an additional information request issued on 19th October, 2022 was lodged on 20th December, 2021. The hours for which the variation of the use is proposed are: - Monday to Friday 5.30 pm – 8.30 pm. Saturday 9.30 am – 6.00 pm with the flooding to be switched off by 7.45 pm on weekdays and by 6.15 pm Saturday, use of the pitch on a year-round basis mainly for hockey matches, involving about forty players coaches etc. and ten to twenty supporters.
- 2.3. The submission also includes details of off parking layouts within the school campus grounds. The total capacity of marked and unmarked car spaces within the school grounds being stated to be is 101 normal spaces and six large spaces all of which would be available out of school hours.
- 2.4. It is also stated that the convent and school have full right of access over the private roadway through the adjoining residential estate of fourteen houses and that the local authority has been requested to consider taking this road in charge. Extracts from lease agreements and associated documentation have been included in the

submission along with a plan showing the extent of the right of way of the private road.

- 2.5. With regard to traffic generation, the trips associated with the use would be at a different time to that which is generated by school use.
- 2.6. Unsolicited additional information comprising a revised site layout plan showing a right of way to the College is provided with a covering letter.

3.0 Decision

- 3.1. The planning authority decided to grant permission subject to a condition whereby the grant of permission would expire on 17th February, 2025 unless of further grant of permission for an extension is obtained. The reason provided is that of the interests of residential amenity.

3.2. Planning Authority Reports

- 3.2.1. A multiple item request for in which details were sought in respect of the extent and frequency of use that would involve external users of the facilities, in respect of parking requirements, layout and vehicular access, it being pointed out that the access roadway is private with issues arising as to sufficient legal interest for its use for non-related traffic and activities,
- 3.2.2. In the planning report dated, 11th February, 2022 concern was indicated as to lack of sufficient legal interest and or consent for use of the access route via a private road and possible implications relating to legal rights of way and title.

A supplement to the report was issued on 17th February, 2022 in which, further, to receive of additional information provided by the applicant it was decided that permission should be granted for a three-year period. Floodlighting is to reduce down from 20.45 pm to 19.45 pm and clarification on parking and access had been provided by the applicant.

3.3. Third Party Observations

Submissions were lodged by three parties, and their objections are on grounds that there is no change in circumstances or justification for removal of the condition

attached to the grant of permission under P. A Reg. Ref. 17/277 In contrast there would be potential for increases to an existing problems in additional traffic generation and volumes of traffic in excess of capacity especially at the junctions with Taylors Hill at R337/R338 at Bishop O'Donnell Road, adverse impacts on residential amenity due to noise, visual impact, floodlighting use all of which affect residential amenities.

A submission in support of the proposal indicates that the proposed variation to the condition would be welcomed as the facilities would add to much needed capacity for recreational sport by adults of all age groups.

4.0 Planning History

P. A. Reg. Ref 11/277: Permission was granted for redevelopment of the hockey pitch to an all-weather Astro turf playing pitch to include fencing, two safety nets at the rear, goalposts and ancillary works. The current proposal is for a variation to Condition No 3 under which use of the pitch is restricted to that associated with the school.

Under Condition No 4

P. A. Reg. Ref. 11/280: Permission was granted for floodlighting for the hockey pitch (subject of the application under P A. Reg. Ref. 11/277 and the current application subject to appeal.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Galway City Development Plan, 2017-2023 according to which the site is subject to the zoning objective CS: *“To provide for and facilitate the sustainable development of community cultural and institutional uses and development of infrastructure for the benefit of citizens of the city.”*

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was lodged by Pat Daly and Sean Ward on behalf of Taylors Hill Owners on 8th March, 2022. According to the appeal:

- There is no justification for overturning the condition attached to the prior grant of permission under P. A. Reg. Ref. 11/277 which was included among the conditions to protect the residential area. There have been no changes to justify the proposal to vary this condition.
- The only access to the pitch is through the private roadway. The appellant party will not give consent for use of this private roadway for access. Commercial traffic would increase liability, and this would be unacceptable for the appellant party.

6.2. Applicant Response

6.2.1. A submission was received from the applicant's agent on 1st April 2022. It is stated that it is considered that the decision of the planning authority to grant permission with a condition limiting the duration to a period of three years is reasonable as it allows for all parties to evaluate how the use of the pitch by third parties in addition to the school use.

6.3. Planning Authority Response

6.3.1. There is no submission from the planning authority on file.

7.0 Assessment

7.1. The issues central to the determination of a decision can be considered under the following sub headings.

Rights of way

Nature and extent of proposed use

7.2. Rights of way

- 7.2.1. It would that the applicant has a right of entitlement for access over the private road through the adjoining residential development for traffic associated by third parties using the school hockey pitch with the applicant's consent, by reason of the Board of Management 's existing right of way. There is no documentary evidence that would confirm that such access, subject to the agreement of the applicant is precluded from the right of way held by the Dominican Convent and the Board of Management of the school. It is therefore considered appropriate that the appeal and appeal can be determined further to review of the documentation available, that any outstanding matter of dispute over the applicant's right of way over the access route through the adjoining residential development of fourteen houses, can be resolved through the legal system. The view of the planning officer in the report of 18th February, 2022 on this regard is therefore supported.

7.3. Nature and extent of proposed use.

- 7.3.1. The proposed hours for which the variation of the use, according to the written submission accompanying the application, are the same as the hours of use permitted for the school use under Condition No 4 of the original grant of permission under P. A. Reg. Ref. 11/277. These hours are - Monday to Friday 5.30 pm – 8.30 pm. Saturday 9.30 am – 6.00 pm with the flood lighting to be switched off by 7.45 pm on weekdays and by 6.15 pm Saturday.
- 7.4. In effect, there is no change to the approved hours of use, including the use of the floodlighting by way of variation of condition no 3 of the original grant of permission to allow for third parties to use the pitch as proposed. The pitch may, if the variation is permitted, be more frequently used at these times in that the third parties could use the facilities in addition to the use directly associated with the school itself. However, the total numbers of players, their teams at up to forty players and supporters at up to twenty persons per event is very modest. This variation to the permitted use as provided for under Condition No 3 of the original grant of permission is considered reasonable.
- 7.5. It is agreed with the appellant party that third party use would result in some trip generation and demand for parking but given the numbers of participants by way of

players, team managers and coaches at up to forty persons and supporters at up to twenty per event significant traffic generation and associated problems of congestion and demand for on street parking, would not occur. The availability of parking space within the school grounds is considerable and more than sufficient for the needs of the third parties that may use the pitch. It is agreed with the applicant as submitted in the response to the appeal, that as the traffic generated by the proposed use by third parties which would take place outside of normal school hours would not coincide with the significant traffic and parking demand generated by the school at the start and end of the school day.

- 7.6. With regard to the claim as to potential increase to traffic and congestion and illegal parking, along the access road through the adjoining residential development which is subject to dispute over rights of way, it is considered that the applicant has established in the submission in connection with the applicant and appeal that the proposed variation to the condition would not have a material impact as has been discussed above.
- 7.7. Finally, given the existing community and institutional use and corresponding zoning objective for the school campus lands, which is to *provide for and facilitate the sustainable development of community cultural and institutional uses and development of infrastructure for the benefit of citizens of the city*” it is considered that the availability of sports facilities for the wider community should be encouraged, subject to measures to ensure the protection of amenities of residential areas of adjacent areas subject to residential zoning objectives.

7.8. Environmental Impact Assessment.

- 7.8.1. Having regard to the nature of the proposed development and its location removed from any sensitive locations or features, there is no real likelihood of significant adverse effects on the environment. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

7.9. Appropriate Assessment.

- 7.9.1. Having regard to the scale and nature of the proposed development and to the location removed from any European Sites no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Given the foregoing, it is considered that there are insufficient grounds to refuse to grant permission to vary the condition to allow for some third party use of the hockey pitch or to justify the upholding of the appeal grounds. However, it is also fully agreed with the planning officer that a grant of permission for a period of limited duration of three years is reasonable to as to provide an opportunity for further planning review. A grant of permission for the proposed variation to the condition based on the Reasons and Considerations and subject to conditions which follow below is recommended.

9.0 Reasons and Considerations

- 10.0 Having regard to Galway City Development Plan, according to which the grounds in which the hockey pitch is located are subject to the zoning objective, “CS to *provide for and facilitate the sustainable development of community cultural and institutional uses and development of infrastructure for the benefit of citizens of the city*”, to the extent and nature of the use proposed, which would involve low numbers of participants, supporters and spectators, resulting in low levels of associated trip generation and parking demand and, to the large quantum of parking facilities available within the college grounds, it is considered that subject to the conditions below, the proposed development would not seriously injure the residential amenities of properties in the surrounding area would be acceptable in terms of traffic safety

and convenience and would be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions.

1. The development shall be in accordance with Condition Nos 1, 2, 4, and 5 the grant of permission under P. A. Reg. Ref. 11/277 on 30th May, 2012 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. The use shall cease no later than three years from the date of the order unless, a prior grant of permission for continuation of use has been obtained.
Reason: To allow for further planning review in the interests of the amenities and proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
15th August, 2022