

From: Jonathan Stott <jonathan.stott@gateleyhamer.com>
Sent: 21 October 2019 13:22
To: M42 Junction 6 <M42Junction6@planninginspectorate.gov.uk>
Cc: chairperson warwickshire <Chairperson.warwickshire@gaa.ie>
Subject: M42 Junction 6 DCO - Submission in advance of second Compulsory Acquisition hearing

Good afternoon,

In advance of tomorrow's CA hearing please see the attached updated position statement issued on behalf of the Warwickshire Gaelic Athletic Association. The Applicant is aware that this document is being submit to the Examining Authority today.

I should be grateful if you could acknowledge receipt and confirm that this statement will be considered by the examiners.

Kind regards

Jon

Jonathan Stott MRICS
Managing Director
for Gateley Hamer

t: 0121 212 7865



ext: 3865

jonathan.stott@gateleyhamer.com



The contents of this e-mail are subject to Gateley Hamer's disclaimer. [Click here to read our disclaimer.](#)

Visit our website at www.gateleyhamer.com

Gateley Hamer is a limited company incorporated in England and Wales and regulated by the Royal Institution of Chartered Surveyors. Registered Number: 3948095. VAT Registered Number: GB 991 2809 90. Registered Office: One Eleven, Edmund Street, Birmingham B3 2HJ. Gateley Hamer Limited is regulated by RICS. Gateley Hamer Limited is a member of the Gateley (Holdings) Plc group, a group which also contains Gateley Plc, a public limited company authorised and regulated by the Solicitors Regulation Authority of England and Wales. Gateley (Holdings) Plc, owns businesses which are regulated by the Solicitors Regulation Authority and businesses which are not regulated by the Solicitors Regulation Authority. Gateley Hamer Limited is not regulated by the Solicitors Regulation Authority. Where you have been referred to Gateley Hamer Limited by Gateley Plc then you should note that there are other providers of services similar to those provided by Gateley Hamer Limited and you are not obliged to use Gateley Hamer Limited.

This document is intended to provide an update as to the Warwickshire Gaelic Athletic Association's ('WGAA') position in relation to the draft Development Consent Order ('DCO').

Summary of WGAA's objection

The WGAA's principle point of objection to the DCO has been that Highways England ('the Applicant') failed to include sufficient land within the DCO to enable its existing facility to be reconfigured in a manner that would deliver proportionality and equivalence.

As the Examining Authority ('ExA') is aware the Applicant had originally committed to relocate WGAA's facility in its entirety and the requirement to do that was also stated in the Applicant's Preliminary Environmental Information Report (PEIR), which confirmed that Pairc na hEireann '*would no longer be operationally viable and would have to be relocated*'.

However, the draft DCO submitted for examination did not provide for the facility to be relocated and the WGAA did not consider that the DCO included sufficient land for its facility to be reconfigured in an equivalent and proportionate manner. As such, within its representation, the WGAA requested that the DCO should not be granted until the Applicant has demonstrated that it is able to deliver a proportionate replacement facility that provides the WGAA with equivalence.

What is proportionate and equivalent?

In considering this question it is necessary to take account of the compulsory purchase 'Compensation Code' and be mindful of what WGAA would be entitled to if the Applicant fails to deliver a replacement facility. Under the Compensation Code it is most likely that WGAA's compensation would be assessed in accordance with Rule 5 of section 5 of the Land Compensation Act 1961, which provides for 'equivalent reinstatement'.

Rule 5 states:

'Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the Lands Tribunal is satisfied that reinstatement in some other place is bona fide intended, be assessed on the basis of reasonable cost of equivalent reinstatement'.

In relation to equivalent reinstatement, the Valuation Office Agency's Land Compensation Manual states:

'Equivalent reinstatement should be taken to mean the reinstatement in premises equally effective for the purpose that the premises to be acquired were or would have been serving at the valuation date.

Although the premises to be acquired are a guide to the premises that should be considered appropriate for the purpose, 'equivalent reinstatement' does not mean the provision of premises alike in all details of construction, embellishment, condition or otherwise'.

Case law has confirmed that equivalent reinstatement extends to delivering replacement premises that comply with modern standards, including Building Regulations and other legal or planning requirements.

Noting that in the absence of reaching an agreed position through the examination process WGAA's compensation would be assessed on the basis of equivalent reinstatement, WGAA's position is that any reconfigured facility using land within the DCO should be delivered in accordance with the

principles of equivalent reinstatement (i.e. build to modern standards and in accordance with Sport England design guidance).

In that regard it is useful to refer to Sport England's representation to the ExA. That representation includes the following statements:

- a. *Sport England (SE) supports the re provisioning of the existing pitches and facilities but wish to ensure that the replacement provision represents equivalent or better quantity and quality.*
- b. *However, options of locating a pitch above or close to a live ESSO Fuel pipeline, which is subject to the associated easements and rights of access in favour of a third party, does not represent equivalent replacement provision.*
- c. *Any replacement ancillary provision such as the Clubhouse should be designed to meet SE or the national governing body guidance. The clubhouse should be well related to the replacement car park, which should provide enough spaces. Whilst acknowledging that the final reconfigured WGAA has not been selected it is viewed that the further works are required to ensure that it is demonstrated that WGAA will have an equivalent or better replacement site.*

With the above comments in mind WGAA's opinion is that in order to deliver proportionate and equivalent mitigation a reconfigured scheme must include:

- two replacement pitches laid out in accordance with GAA design criteria (including pitch measurements and distances between pitches etc);
- a repositioned clubhouse built to modern standards and in accordance with Sport England design guidance, in a central location and in close proximity to the main pitch,
- re-provision of a private means of access,
- replacement car-parking, and
- the relocation of the existing memorial.

WGAA's response to document 8.21

Since the beginning of the Examination the Applicant has submitted document 8.21 'Proposed Proportionate Reconfiguration of the Warwickshire Gaelic Athletic Association Facility'.

The WGAA's view is that the reconfiguration proposed in document 8.21 falls woefully short of delivering a proportionate and equivalent facility for the following reasons:

- a. One of the replacement pitches is located over an existing Esso pipeline and subject to an easement which, as noted by Sport England, '*does not represent equivalent replacement provision. Should the pipeline require works this could render the pitch unusable for a period of time*';
- b. The reconfiguration does not provide for the clubhouse to be relocated, which means it would be much too far away from the two replacement pitches (one of which would be the Association's main pitch). This contravenes Sport England design guidance.
- c. The replacement pitches are closer together than is considered best practice and smaller than WGAA would deliver if it was reconfiguring or relocating the facility of its own volition.

Update regarding WGAA's position

During recent months the WGAA has continued discussions with the Applicant with a view to achieving an agreeable reconfiguration layout. Those discussions have resulted in an acceptable

layout being identified within the confines of the DCO red line boundary. That layout, drawn up by the Applicant's consultants, is provided as Appendix 1 to this note.

Having worked with the Applicant to identify an acceptable reconfiguration the WGAA is now prepared to support the DCO subject to it including compulsory acquisition powers over the full extent of land required to deliver the scheme shown at Appendix 1.

End.

21 October 2019

Appendix 1 – Acceptable reconfiguration scheme



project Páirc na hÉireann location Bickenhill, Solihull	client Highways England	drawing title SKETCH SITE LAYOUT OPTION A	scale @ A3 1:2000 job number 191517	rev date 08.08.2019 drawing number ASK-002-001	drawn HT revision P1	AFL Architects 1st Floor, St George's House, 56 Peter Street Manchester, M2 3NQ t: 0161 236 6263 f: 0161 236 6494 London Office t: +44 (0)20 3096 9263	
--	----------------------------	---	--	---	-------------------------------	--	--