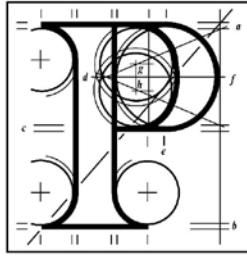


An Bord Pleanála



Inspector's Report

Development: Construction of a community playground and activity park, perimeter fencing and all ancillary site works at Drumgeely, Shannon, Co. Clare.

Application

Planning authority: Clare County Council
Planning application reg. no. 15/324
Applicant: Drumgeely Playground Association
Type of application: Permission
Planning authority's decision: Grant, subject to 5 conditions

Appeal

Appellants: Drumgeely Playground Association
Michael O'Neill & Patricia McCarthy
Type of appeals: First party -v- Condition 2(a)
Third party -v- Decision
Observers: None
Date of site inspection: 3rd February 2016
Inspector: Hugh D. Morrison

Site

The site is located towards the south western extremity of Shannon Town. This site forms part of an area of public open space that is bound to the north west and to the north east by housing estates. To the south, beyond a mound lies the Shannon Estuary and to the south east and the west lie St. Senan's National School and St. John's National School, while to the south west lies Shannon Town United's soccer pitch. The latter school is accompanied by a car park on the far side of which there is cluster of local shops, a public house/off-licence, and a hot food takeaway. Access to the public open space is available via this car park or, alternatively, via a network of streets and rear lanes that serve the housing estates.

The site itself is of amorphous shape and it extends over a level area of 0.394 hectares. This site is situated over the southern central and south eastern portions of the public open space. It is bound to the north by an existing footpath and clusters of semi-mature birch trees exist within the centre of the site. This footpath and the public open space more generally are lit by a series of double headed street lights.

Proposal

The proposal would entail the construction of a community playground and activity park. Within the central and eastern portions of the site, seventeen items of play equipment would be installed. The majority of the existing trees within these portions would be retained and managed. The remaining western portion would be laid out to provide a small playing pitch. The perimeter of the site would be enclosed by means of a 2m high mesh style steel fence to match that which encloses the grounds of the adjacent St. John's National School.

Planning authority's decision

Following the receipt of further information, permission was granted subject to 5 conditions, the second of which states the following:

The proposed development shall be modified as follows:

- (a) The proposed 2m high fencing along the northern boundary of the site, beside the walkway shall be omitted. Fencing shall only be permitted along the western, eastern, and southern boundaries.*
- (b) The fencing on the western boundary shall commence at the same point as that permitted by the fencing on the adjoining site under planning reg. no. 15/17.*
- (c) Two gates (minimum of 1.2m in width) shall be provided to the southern boundary fencing.*

Prior to the commencement of development, the applicant shall submit a revised site layout plan and drawings providing for the above changes for the written agreement and approval of the planning authority. This shall include for details of proposed boundary treatments including heights and colour samples of the proposed fence.

Reason: In the interest of visual amenity and orderly development of the area and in order that the fencing will not detract from the use of the existing footpath/walkway and to allow for ease of access to the proposed playground site in the interest of safety.

Technical reports

- HSA: No objection.
- Road Design: No objection.

Grounds of appeal

First party

Objection is raised to the attachment of condition 2(a) to the draft permission on the following grounds:

- The effect of this condition would be to render the playground unsafe, insecure, and unmanageable.
- The absence of a fence from the northern boundary would debar the playground from being secured at night and so it would be likely to become a venue for anti-social behaviour that would adversely affect the amenities of adjacent dwelling houses. (An adjacent unenclosed maze was removed recently, due to such behaviour). Furthermore, if play equipment is damaged, then children could be injured.
- The proposed playground is modelled on one at Sixmilebridge, where Clare County Council erected a 2m high fence around the entirety of this playground (permitted application 06/1825). This fence is a precedent for the one now proposed.
- Visually, the proposed fence would match that around the grounds of the nearby St. John's National School and the adjoining site of Shannon Town United's proposed changing rooms. Furthermore, its visual impact would be mitigated by a revised landscaping plan for the site.

Third party

- The planning authority in granting permission undertook insufficient consultation with the local community. As a maze was removed from the area of open space in which the proposed playground would be sited, due to

anti-social behaviour, this lack is surprising. (Since this removal such behaviour has abated).

- The proposed playground would be sited in a previously unrestricted green area and in a position close to an established residential area, the full extent of which is not depicted on the submitted plans.
- The proposed playground is being promoted on social media as a facility that would serve a wider than merely local community. Thus, it would generate traffic movements that would lead to a need for parking. While there is a car park to the north west, this car park is already used in conjunction with an adjacent school, a public house/off-licence, a hot food takeaway and a convenience store. Furthermore, the route to the same is more circuitous than from the east and so the aforementioned established residential area would come under pressure from on-street car parking.
- The draft permission refers to the provision of lighting and yet the applicant has not accepted that there would be a need for such lighting.
- The applicant's horticulturalist has surveyed a group of semi-mature trees that form a shelter belt. Notwithstanding Clare County Council's removal of trees and declaration that the remaining ones are safe, this horticulturalist identifies further trees for removal.
- No management plan for the playground has been submitted and the practicality of implementing any such plan and safeguarding this playground from vandalism is regarded as unlikely.

The local need for the proposed playground is questioned as the two local primary schools have a combined roll of 130 pupils and there are less than 100 teenagers and young adults in the immediate locality.

Responses

The planning authority has not responded to the above grounds of appeal beyond that which is already set out in the case planner's report.

The applicant has not responded to the above grounds of appeal.

Planning history

The site:

- Pre-planning consultation occurred on 14th November 2016

Adjacent site to the west:

- 15/17: Construction of changing rooms at existing soccer pitch: Permitted, subject to 7 conditions, the second of which requires that details of fencing be submitted for prior approval.

Adjacent site to the south west:

- 10/92: Erection of a 2.4m high dark green boundary fence, including gates, to soccer pitch: Permitted at appeal PL03.236602.

Development Plan

Under the Clare County Development Plan 2011 – 2017 (CDP), the planning authority undertakes, in objective 5.5(b), “To work with and support communities in the provision of playgrounds, play areas and in building a network of such communities.”

Under the Shannon Town and Environs Local Area Plan 2012 – 2018 (LAP), the site is shown as being inside the settlement boundary and within an area that is zoned open space. Playgrounds are “open for consideration” within this zone. Chapter 7 of the LAP addresses community, social and recreational development. The following objectives are relevant to the current proposal:

- *7.1: To support the consolidation and enhancement of existing community facilities within the Plan area and to facilitate the sustainable development of new community and cultural facilities at appropriate locations.*
- *7.5: To support the consolidation and enhancement of existing recreation facilities within the Plan area.*

Assessment

I have reviewed the proposal in the light of the CDP and LAP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use,
- (ii) Amenity,
- (iii) Traffic, access, and parking,
- (iv) Site management, and
- (v) AA.

(i) Land use

- 1.1 The site forms part of an existing area of public open space, which has been laid out as a grassed area that is traversed by footpaths. The LAP zones this as open space, within which playgrounds are categorised as being “open for consideration”.
- 1.2 The third party appellants question the need for the proposal on the basis that the two local national schools have a combined roll of 130 pupils and there are less than 100 teenagers and young adults in the immediate locality. They state that the proposal is being promoted on social media on the basis that it would serve a wider community than simply the local housing estates. Accordingly, they express concern over traffic generation.
- 1.3 By way of response, I note that, under planning legislation, the applicant is not under any obligation to demonstrate that there is a locally based need for their proposal. I will discuss the question of traffic generation under the third heading of my assessment.
- 1.4 The third party appellants draw attention to a maze that was formerly laid out in the northern portion of the public open space. However, as it became a venue for anti-social behaviour, this maze was removed. Since then the incidence of anti-social behaviour has abated.
- 1.5 Given the aforementioned history of the public open space, the appellants express surprise that the proposal was not the subject of a community consultation exercise before it became the subject of the current planning application. Clare County Council is criticised in this respect.
- 1.6 By way of response, I note that the planning authority is not the applicant but the Drumgeely Playground Association, which has a local address at Cill Chasis, a street in the neighbouring housing estate to the north east of the site. I note, too, that with respect to the planning process, the current application was the subject of the normal statutory public consultation exercise.
- 1.7 The above cited history does indicate that attention should be given to how the site is secured. I will discuss this matter under the fourth heading of my assessment.
- 1.8 I conclude that there is no in principle land use objection to the proposal.

(ii) Amenity

- 2.1 The appellants express concern over the proximity of the proposal to existing dwelling houses to the north east and they state that the submitted plans fail to show the full extent of housing within the vicinity of the site.

- 2.2 The proposal would be sited in the southern portion of the existing public open space. To the west, the appeal site would adjoin a site that has extant permission for the construction of changing rooms to be used by Shannon Town United in conjunction with their adjacent soccer pitch (application reg. no. 15/17). The appeal site tapers towards the south eastern corner of the area of public open space, where it would be nearest to adjacent dwelling houses, i.e. 24m away.
- 2.3 The proposal would capitalise upon the presence of clusters of existing semi-mature birch trees. If it were to be sited elsewhere within the public open space, then it would not be able to incorporate these trees. Given the presence of the adjoining site to the west and the size of site needed, alternative siting's within the public open space would lead to a greater interface between the proposal and adjacent dwelling houses.
- 2.4 The proposal would be sited within an existing area of public open space, which lies between two national schools and close to an existing soccer pitch. I anticipate that this proposal would lead to a greater intensity of active recreation within the area of the public open space in question than is likely to have existed hitherto. However, as the overall public open space is presently a grassed area, it is capable at present of being used for active recreation and so the proposal would be on a continuum with the same. Given the other active uses in the vicinity of the site, noise generated by them contributes to the ambient noise levels of the locality. Thus, provided the use of the appeal site is capable of being controlled so that it does not function at anti-social hours, I do not consider that the proposal would lead to an inordinate increase in ambient noise levels.
- 2.5 I conclude that the proposal would be compatible with the amenities of the area, provided it does not operate at anti-social hours.

(iii) Traffic, access, and parking

- 3.1 The appellants express concern that, as the proposal would draw people from a wider area than the surrounding housing estates, it would generate traffic that would park on surrounding streets to the north east, thereby leading to congestion. While they acknowledge the presence of the car park to the west of the public open space, they draw attention to existing pressures upon its use and to the circuitous route that has to be undertaken to reach the same.
- 3.2 During my site visit, I observed that the said car park has 23 spaces and that on a Wednesday lunchtime 6 spaces were filled. I also observed that wider access to the site from the north east is via Corrib Drive, a dual carriageway, the design of which is such that it would represent a circuitous route to the site, too.
- 3.3 By way of response to a request for further information at the application stage, the applicant stated that the proposed hours of opening for the community

playground/activity park would be 10.00 – 21.00 in the summer and 10.00 – 18.00 in the winter. I anticipate that the car park is most heavily used in conjunction with the opening and closing of the school day at St. John’s, in the evening in conjunction with the use of the adjacent public house/off-licence and hot food takeaway, and at the weekend in conjunction with the use of Shannon Town United’s soccer pitch. In the case of the former two times, the proposal would tend to draw people outside of these times. In the case of the latter, there may be some overlap. In this respect, slightly less conveniently situated on-street and off-street parking spaces to the west and north of the public house would provide additional parking options.

3.4 By way of response to the same request for further information, the applicant outlined measures that they would take to promote access from the west and use of the said car park.

3.5 I conclude that traffic, which would be likely to be generated by the proposal, would be capable of being satisfactorily accommodated to the west in existing on and off-street car parking spaces.

(iv) Site management

4.1 Questions relating to site management were raised by the planning authority with the applicant under a request for further information. Thus, the hours of opening, caretaker, and maintenance arrangements were discussed along with issues of lighting, the removal of a bench, and the implications of the applicant’s horticulturalist’s report. The planning authority subsequently granted permission, but under condition 2(a) it seeks the removal of the proposed 2m high mesh steel fence from the northern boundary of the site with an existing footpath for reasons of visual amenity, maintenance of the commodiousness of the said footpath, and ease of access to the site.

4.2 The third party appellant expresses concern over several of the items cited above. Thus, attention is drawn to the applicant’s failure to accept the need for lighting and the absence of a submitted management plan for the proposal. The horticulturalist’s report is also questioned on the basis that the subject trees were previously thinned and declared to be safe by Clare County Council.

4.3 During my site visit, I observed that there are two double headed lamp stands sited on the opposite side of the footpath from the site and that their proximity to the site would afford some illumination of the same. In this respect, I note that the proposed hours of opening would mean that the need for illumination would be limited to late afternoon in the darkest months of the year. I also observed the bench that would be removed and, in this respect, I note that the proposal

would entail the provision of four benches, which would be sited throughout the proposed community playground/activity park.

- 4.4 The applicant has indicated that the subsequent management of the proposal has yet to be finalised. In these circumstances, a condition requiring the submission of details of any management structure and future maintenance arrangements could be attached to any permission.
- 4.5 During my site visit, I observed the trees within the site and I noted the need for some thinning of and crown raising to the same. I note that the trees proposed for removal have been the subject of agreement between the applicant's horticulturalist and a County Council official. In these circumstances, I consider that the submitted report and the accompanying interpretation of the same on the submitted site plans provide a reasonable basis for the management of the said trees under the current proposal.
- 4.6 The applicant has appealed condition 2(a) on the basis that it would render the community playground/activity park unsafe, insecure, and unmanageable. They also express the concern that it would be likely to become a venue for anti-social behaviour and they draw attention to precedents for the proposed type of fence both locally and in a comparable playground site in Sixmilebridge.
- 4.7 The reasons for condition 2(a) are cited above.

- With respect to the first of these, I observed during my site visit that the type of fence proposed presently encloses the grounds of the nearby St. John's National School and the soccer pitch used by Shannon Town United. Furthermore, the permitted changing rooms for Shannon Town United would be sited on land adjoining the site to the west and their grounds would be enclosed by means of a fence that would tie in with the School's, the implication being that it would be of the same type. This type is designed to be transparent and so, while fulfilling the role of a security fence, it has a significantly reduced visual impact in comparison to, for example, a palisade steel security fence.

The case planner's report expresses concern over the visual impact of the proposed fence along the northern boundary of the site. I note from the submitted site plan that this fence would follow the line of the footpath and thus project forward of the existing and proposed fences to the School and changing rooms. I note, too, that no play equipment is proposed for installation in the northernmost corner of the site in question. Thus, if the route of the fence were to be "squared-off" to align with the comparable fences to the west, then the aforementioned projection into the centre of the public open space would be negated.

- With respect to the second reason, I consider that, provided a grass verge of 500 mm is left between the line of the fence and the nearside edge of the footpath, the commodiousness of this footpath would be capable of being maintained.
- With respect to the third reason, I consider that the proposed two gates from the said footpath would provide adequate access to the site. I also consider that a balance needs to be struck between accessibility and the need to physically secure the site, not least in the light of the history of anti-social behaviour that previously occurred nearby in the former maze, which was removed from the overall area of public open space.

4.8 I conclude that, given the proposed hours of operation, the lighting requirements of the proposal would be limited and they would be capable of being adequately met by existing lighting, the proposed management of trees within the site would be reasonable, and other management matters can be satisfactorily addressed by condition. I also conclude that the enclosure of the entire site would be necessary to secure the proposal, the type of fence proposed would be appropriate, and that its inherent and relative visual impact within the context of the appeal site would be acceptable, provided it is re-routed to coincide with the alignment of the east/west fence to the side of St. John's National School. Condition 2(a) should therefore be omitted.

(v) AA

5.1 The site lies a short distance to the north of the Lower Shannon SAC and the River Shannon and River Fergus SPA. The proposal is for a community playground/activity park within an existing area of public open space, which is separated from the Shannon Estuary by a landscaped mound. Accordingly, I am not aware of any direct source/pathway/receptor route between the site of this proposal and the said Natura 2000 sites and, provided good construction management practice is adopted, I do not anticipate that there would be any significant impacts upon the Conservation Objectives applicable to these sites.

5.2 Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Recommendation

In the light of my assessment, I recommend that the construction of a community playground and activity park, perimeter fencing and all ancillary site works at Drumgeely, Shannon, Co. Clare, be permitted.

Reasons and considerations

Having regard to the planning history of the public open space and the open space zoning of the site within the Shannon Town and Environs Local Area Plan 2012 – 2018, the proposed community playground/activity park would be an appropriate use of the site during the hours of operation that have been proposed for the same. Likewise, the proposed accompanying perimeter fencing would, subject to minor realignment, be compatible with the visual amenities of the area, within which similar such fencing already exists. The proposed management of trees in conjunction with the provision of the community playground/activity park would be reasonable. Traffic generated by the proposal would be capable of being accommodated in existing car parking spaces to the north west of the site. This proposal raises no Appropriate Assessment issues. It would thus accord with the proper planning and sustainable development of the area.

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 10th day of September 2015, 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 proposed development shall be amended as follows:
 - (a) The 2m high, steel mesh, dark green fence along the northern boundary shall be set back by 500 mm from the nearside edge of the existing footpath.
 - (b) The 2m high, steel mesh, dark green fence along the northern boundary shall be re-routed across the northernmost portion of the site so as to align with the existing east/west fence to the side of St, John's National School.
 - (c) Details of the following items: the proposed access gates to the site, the proposed type of seating to be installed in the site, and the surface treatments to be laid down throughout the site.

Revised drawings at a scale of 1: 100 showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to safeguard the commodiousness of the footpath and in the interests of visual amenity and public safety.

3. The trees on the site shall be managed in accordance with the horticulturalist's report dated 15th February 2015 and the submitted site plans, unless any variations to this report and these plans are agreed in writing by the planning authority.

Reason: In the interests of orderly and well-planned development.

4. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of 2 metres from the trunk of the tree or the centre of the shrub, and to a distance of 2 metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

5. 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 intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

6. Prior to the commencement of use of the proposed community playground/activity park, the developer shall submit to the planning authority a management plan for the site, which shall include a scheme for the future maintenance of play equipment and features.

Reason: In the interest of visual and residential amenity.

7. The proposed community playground/activity park shall only be used between the hours of 10.00 and 21.00 hours during the months of April to September (inclusive) and 10.00 and 18.00 hours during the months of October to March (inclusive).

Reason: In the interest of residential amenity.

Hugh D. Morrison

Inspector

11th February 2016