



An
Bord
Pleanála

Inspector's Report PL04. 247747

Development

Retention and completion of a woodland pathway, associated plant clearance and landscaping, and the installation of wooden sculptured Stations of the Cross figures.

Location

Knockshanawee, Farnanes, Co. Cork.

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

16/5133

Applicant(s)

Sr. Consilio.

Type of Application

Permission & Permission for Retention

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party v. Decision

Appellant(s)

James Kelleher & Lindsey Buchet

Observer(s)

None.

Date of Site Inspection

7th April, 2017

Inspector

Robert Speer

1.0 Site Location and Description

The proposed development site is located in the rural area of Knockshanawee, Farnanes, Co. Cork, approximately 22km west of Cork City, and occupies an elevated position on a wooded hillside to the east of the R619 Regional Road where it overlooks the lower-lying lands and the N22 National Route to the south. The site itself has a stated site area of 5.0 hectares, is irregularly shaped, and is presently occupied by the Cuan Mhuire voluntary service provider which operates a rehabilitation / treatment centre from the property for individuals suffering from addiction / substance dependency (*N.B.* It is my understanding that the existing facility caters for women only). The wider facility comprises a number of buildings, including a rehabilitation centre, a detox unit and a storage shed, whilst those lands which encompass the northern extent of the site area (wherein the pathway etc. proposed for retention and completion is located), beyond the existing complex of buildings, are characterised by mature mixed woodland and several small disused quarries.

2.0 Proposed Development

The proposed development involves the retention and completion of a woodland pathway (and the associated clearance of plant growth and landscaping works) within the grounds of an existing rehabilitation / treatment centre, in addition to the completion of the installation of a series of 14 No. sets of wooden sculptures representative of the Stations of the Cross at various points along the aforementioned pathway.

3.0 Planning Authority Decision

3.1. Decision

Following the receipt of a response to a request for further information, on 22nd November, 2016 the Planning Authority issued a notification of a decision to grant permission for the retention and completion of the proposed development subject to 3 No. conditions which can be summarised as follows:

Condition No. 1 - Refers to the submitted plans and particulars.

Condition No. 2 – Limits the hours of operation / planting required to complete the proposed development.

Condition No. 3 – Refers to landscaping.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports:

States that the proposed walkway (and the associated wooden sculptures) will be located on private property within a wooded area and will not unduly impact on the residential amenity of any adjoining properties whilst the provision of additional landscaping (as detailed in response to the request for further information) will serve to provide a greater degree of privacy to neighbouring property. Accordingly, it has been concluded that the proposed development, subject to compliance with specified conditions, will not have an adverse impact on the amenities of the area or the local environment, and will accord with the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports:

Cork National Roads Office: No comments.

Area Engineer: No objection.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland: States that the Authority will rely on the planning authority to abide by official policy in relation to development on / affecting national roads as outlined in the 'Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012'.

3.4. **Third Party Observations**

A single submission was received from the appellants, the contents of which are reiterated in the grounds of appeal.

4.0 Planning History

On Site:

PA Ref. No. 02/5738. Was granted on 18th June, 2003 permitting Sr. Consilio permission for the alteration & extension of a dwelling & the change of use to post rehabilitation residential supportive accommodation & biocycle unit.

PA Ref. No. 05/4894. Was granted on 25th November, 2005 permitting Sr. Consilio permission for alterations and extension to post rehabilitation residential supportive accommodation.

PA Ref. No. 09/4307. Was granted on 29th April, 2009 permitting Sr. Consilio on behalf of Cuan Mhuire permission for the retention of change of use of former disused workshop with adjoining units to relief accommodation and support facilities and associated services.

PA Ref. No. 08/6581. Was granted on 29th July, 2008 permitting Sister Consilio of Cuan Mhuire permission for a 9 No. person residential female detoxification, rehabilitation, and therapeutic counselling unit, including staff accommodation, communal facilities and storage space together with associated services

PA Ref. No. 11/4735. Was granted on 24th October, 2011 permitting Sister Consilio of Cuan Mhuire permission for the construction of single storey garden centre with a cafe and associated facilities (the building shall amount to a total area of 266m²), 25 no. car parking bays, set down/loading zone, up-grade works to existing vehicular entrance, new foul water treatment plant and new emergency water storage tank, landscaping works to building and car park surrounding area and works associated with connecting services to the building.

On Adjacent Sites:

PA Ref. No. 03/5019. Was granted on 2nd March, 2004 permitting Patrick & Mary Flynn permission for a dwelling house at Knockshanawee, Co. Cork.

PA Ref. No. 04/9764. Was refused on 21st February, 2005 refusing Pat McCarthy permission for an agricultural entrance at Knockshanawee, Farnanes, Co. Cork.

PA Ref. No. 07/13347. Was granted on 28th August, 2008 permitting Samantha Lucey permission for the demolition of a dwelling and the construction of a dwelling house at Knockshanawee, Farnanes, Co. Cork.

PA Ref. No. 10/8073. Was granted on 6th January, 2011 permitting Jim & Kathleen Curtin permission for the extension and modification of existing dwelling at Knockshanawee, Farnanes, Co. Cork.

PA Ref. No. 13/4141. Was granted on 24th May, 2013 permitting Lindsey Buchet permission for the construction of new two-storey detached dwelling house incorporating 4 no. bedrooms, kitchen, sitting room, first floor terrace, attached garage, a new waste water treatment system & all associated site works at Knockshanawee, Farnanes, Co. Cork.

5.0 Policy Context

5.1. Development Plan

Cork County Development Plan, 2014:-

Chapter 5: Social and Community:

Section 5.6: Healthcare Facilities:

SC 6-1: Healthcare Facilities:

Support the Health Service Executive and other statutory and voluntary agencies and private healthcare providers in the provision of healthcare facilities to all sections of the community, at appropriate locations, with good public transport links and parking facilities.

6.0 The Appeal

6.1. Grounds of Appeal

- The Planning Authority failed to undertake an inspection of the proposed development site from within the appellants' property which is considered to be necessary in order to allow for a reasonable assessment of the implications of the proposal on the residential amenity of their dwelling house.

- The unauthorised development undertaken to date is indicative of the disregard shown for the planning process by the applicant and there are further concerns with regard to the possibility of future non-compliance with any conditions that may be imposed in respect of any grant of permission.
- The Board is requested to give due consideration to all available information as regards the unauthorised development carried out on site to date.
- No consideration has been given to the alternative solutions / layouts suggested by the appellants by either the applicant or the Local Authority.
- The plans and particulars submitted in support of the application are inadequate and do not comply with the statutory requirements of the Planning and Development Regulations, 2001, as amended, nor do they address the issues raised in the appellants' original objection to the proposed development or the subsequent request for further information issued by the Planning Authority. These deficiencies include the following:
 - The application documentation does not make any distinction between the works to be retained and the remaining works which are proposed to complete the development in question.
 - The site layout plan is not supported by any plans or particulars, such as sectional drawings, which provide details of site profiles, dimensions, separation distances etc.
 - No plans, elevations or sections have been submitted pursuant to the requirements of Article 23(1)(b) of the Regulations.
 - No dimensions, profiles or sections etc. of the proposed 'woodland walkway' have been included on Drg. No. 1362-CE-01 Rev. A (dated 9th May, 2016).
- There are concerns that the width of the proposed 'walkway' has been designed to accommodate vehicular traffic and in this respect it is submitted that vehicles have already been observed using the route in question as evidenced by the accompanying photographs.
- The intensification of use of the pathways proposed by the applicant, including the widening and use of same by vehicular traffic, will have a detrimental

impact on the appellants' residential amenity and will also result in the further disruption and deterioration of this woodland setting.

- Given the inadequacy of the application documentation, it is considered that the Board cannot rely on same in its determination of the subject application, with particular reference to the absence of any distinction between those elements of the works which are proposed for retention and completion, and thus it would be unable to impose any conditions which might serve to regulate or control the development in question.
- It is submitted that the subject application should be declared invalid and permission refused accordingly.
- The proposed development will result in the overlooking of the appellants' dwelling house with a consequential loss of privacy and residential amenity.
- The landscaping proposals are entirely inadequate and do not include a sufficient level of detail as regards plant species, boundary treatment or any measures proposed to reinstate the original indigenous woodlands.
- The proposed development will result in a diminution in the use, security and enjoyment of the appellants' property.
- The proposed development will result in the devaluation of the appellants' property by reason of a loss of residential amenity, privacy, security, enjoyment etc.
- Having regard to best planning practice, it is considered that the subject proposal is insensitive and inappropriate to the context and setting of the area, particularly given the need to consider the implications for the residential amenity etc. of the appellants' property.
- The proposal will have an injurious impact on the natural setting and landscape of the area through the loss of trees and woodlands.
- No information has been provided in respect of the proposed construction works or the loading capacities of the access routes and any associated structural requirements etc.

- There are concerns that the full nature and use of both the existing facility on site and the proposed development have not been disclosed by the applicant and were not considered by the Planning Authority in its assessment of the subject application.
- The submitted proposal is contrary to the proper planning and sustainable development of the area.

6.2. Applicant's Response

- By way of background, it is submitted that the existing woodland pathways have been in place for a considerable period of time and it is the applicant's understanding that they were previously used to access a number of disused stone quarries that are still evident on site.
- The works undertaken in recent years have involved the clearance and realignment (e.g. gradient, shape etc.) of the existing pathways in some places. In particular, the route of the pathway towards its western extent was amended to lessen the gradient of same whilst several further areas were also modified locally in order to accommodate the wooden sculptures of the Stations of the Cross.
- Contrary to the assertions contained in the grounds of appeal, there has been no extensive felling or clearance of trees on site with very few specimens having been removed. Indeed, all of the works were carried out by the facility's own caretaker / groundsman and it was the applicant's understanding that this involved little more than gardening which would be exempt from any requirement to obtain planning permission.
- Once the applicant was advised that planning permission was required for the development in question, all work was suspended.
- With regard to the appellants' concerns that the proposed development will have a detrimental impact on the residential amenity of their property by reason of overlooking, the Board is advised that it is proposed to densely plant the area between the pathway and the western site boundary in order to provide for effective year-round screening. The specifics of this planting

regime are detailed in the landscaping scheme which accompanied the initial planning application and include for the planting of semi-mature evergreen species in order to provide for rapid screening of the appellants' property. Once this planting has been completed it will not be possible to overlook the appellants' dwelling house from the pathway.

- The proposed pathway is intended to provide a safe walking route for residents of the existing facility within a quiet woodland environment. Access to such a '*private sanctuary space – therapeutic, healing, contemplative and restorative environment*' is seen by Cuan Mhuire as an important part of the healing process and the facility's care offering. The privacy of the existing facility is also of importance to Cuan Mhuire and thus it will provide and maintain effective screening along the western site boundary.
- With regard to the concerns raised in the grounds of appeal in respect of the possible use of the pathway by vehicular traffic, it is submitted that there is absolutely no intention, nor is there any reason why, Cuan Mhuire would wish to use the walkway for vehicular purposes.
- Given the intended use of the pathway, and once the proposed planting scheme has been completed, it is considered that the proposed development will have no impact on the residential amenity of the appellant's dwelling house nor will it result in a devaluation of their property.
- The proposed development will provide a valuable amenity to Cuan Mhuire while respecting and enhancing the local environment.

6.3. Planning Authority's Response

None.

7.0 Assessment

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development

- Impact on residential amenity
- Overall design / visual impact
- Appropriate assessment
- Other issues

These are assessed as follows:

7.1. **The Principle of the Proposed Development:**

The proposed development involves the retention and completion of a woodland pathway with associated plant clearance and landscaping works, in addition to the installation of wooden sculptures representative of the Stations of the Cross, in order to provide for an added amenity within the grounds of the existing rehabilitation / treatment centre which presently operates from within the wider site having previously been approved under PA Ref. Nos. 02/5738, 05/4894, 09/4307 & 08/6581. In this respect it is of particular relevance to note that Objective SC 6-1: *'Healthcare Facilities'* of the Cork County Development Plan, 2014 specifically states that the Local Authority will support the Health Service Executive and other statutory and voluntary agencies and private healthcare providers *'in the provision of healthcare facilities to all sections of the community, at appropriate locations, with good public transport links and parking facilities'*. Accordingly, having regard to the planning history of the site, the nature and scale of the proposed development, and the established use of the property as a rehabilitation / treatment facility, in my opinion, the subject proposal represents a complementary and ancillary extension of said use and will make a positive contribution to the continuing development of the existing facility for the benefit of the wider community. Therefore, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

7.2. **Impact on Residential Amenity:**

Concerns have been raised in the grounds of appeal that the proposed development will have a detrimental impact on the residential amenity of the appellants' dwelling

house to the immediate west of the application site, primarily by reason of overlooking with a consequential loss of privacy and security, thereby resulting in the devaluation of that property.

From a review of the available information, and having conducted a site inspection, it is apparent that the westernmost extent of the existing woodland pathway is approximately 9m from the site boundary shared with the appellants' property and that there is a separation distance of c. 22m between the said pathway and the eastern elevation of the appellants' adjacent dwelling house. It is also of relevance to note that there is a considerable difference in ground levels between the respective locations and that the woodland pathway is located in a more elevated position.

Whilst I would acknowledge that intermittent views of the appellants' dwelling house / property are presently available from the existing pathway and that this could be construed as giving rise to a loss of residential amenity / privacy, I am inclined to suggest that any such concerns with regard to overlooking can be satisfactorily mitigated through the implementation (and future maintenance) of an appropriate programme of landscaping alongside the western site boundary which would entail the planting of suitable species in order to provide for an effective level of screening between the respective properties. In this regard I would refer the Board to the landscaping proposal submitted by the applicant on 28th October, 2016 in response to the request for further information which details that it is proposed to undertake a three-tiered approach to planting within 'Zone A' (alongside the western site boundary) as follows:

- The provision of a dense line of 42 No. semi-mature evergreen laurel adjacent to the boundary line.
- The planting of additional woodland infill buffer planting (comprising species such as elder, beech, holly & hazel) on the slope between the site boundary and the pathway.
- The provision of a band of smaller woodland verge planting adjacent to the pathway (totalling approximately 200 No. species planted in a random natural distribution).

In my opinion, the aforementioned planting scheme will serve to effectively screen the appellant's property from the proposed pathway thereby avoiding any undue loss of residential amenity or privacy etc.

In addition to the foregoing, I would suggest that cognisance also should be taken of the established use of the wider application site and the fact that the positioning of the appellants' dwelling house within their lands would seem to have been approved in the full knowledge of same. Furthermore, the evidence of previous quarrying activities noted during the course of my site inspection (as referenced in the applicant's response to the grounds of appeal) would seem to lend some credence to the possibility that there was previously a network of access routes within this part of the overall site, although I would concede that any such pathways may not have extended along the route proposed for retention and completion and may not have been in regular use for a considerable period of time.

With regard to the intended usage of the proposed woodland pathway, it should be noted that the stated purpose of same is to provide for a safe walking route for residents of the existing treatment / rehabilitation facility within a quiet woodland environment as part of the site's care offering. In this respect it should be emphasised that the pathway will not be open to the public and that the specific nature of the existing facility, which is described as catering for women only, requires both privacy and security (Indeed, signage was observed during the course of my site inspection which informed visitors to the facility that access to certain parts of the site was restricted). Furthermore, in response to the grounds of appeal, the applicant has confirmed that the proposed pathway will not accommodate vehicular traffic, and although I would concede that some limited vehicular access may be required in order to allow for the completion of the proposed works (e.g. the installation of the wooden sculptures and the implementation of the landscaping scheme), given the limited scale of the remaining works, and as any associated vehicular usage will be of an interim nature, I am inclined to conclude that any disturbance arising from the foregoing will be limited in both intensity and duration and can be satisfactorily mitigated by way of condition.

Therefore, on balance, it is my opinion that, subject to conditions, the proposed development will not have an undue detrimental impact on the residential amenity of the appellants' adjacent property.

7.3. **Overall Design / Visual Impact:**

Given the limited scale and nature of the works proposed for retention and completion, the siting of same within an established woodland setting which will serve to screen the development from public view, the site location outside of any designated 'High Value' landscape, and the fact that the proposed development will not be readily visible from any scenic route identified for preservation in the County Development Plan, it is my opinion that the subject proposal will not detract from the visual amenity or character of the surrounding rural area.

7.4. **Appropriate Assessment:**

Having regard to the nature and scale of the development proposed for retention and completion, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development proposed for retention and completion would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.5. **Other Issues:**

Procedural Matters:

The appellants have questioned the validity of the subject application on the basis that the submitted plans and particulars fail to comply with the statutory requirements of the Planning and Development Regulations, 2001, as amended. In my opinion, such procedural matters are generally the responsibility of the Planning Authority which in this instance took the view that the submitted documentation satisfied the minimum regulatory requirements and, therefore, I do not propose to comment further on this matter other than to state that the Planning Authority's actions have not infringed the appellants' right to appeal. Furthermore, having reviewed the plans and particulars provided with the planning application, including those details submitted in response to the request for further information, I am satisfied that there is sufficient information on file (as supplemented by a site inspection) to permit a reasoned assessment of the implications of the proposed development both for

adjoining properties and the proper planning and sustainable development of the area.

Previous Instances of Unauthorised Development / Potential Future Non-Compliance:

In relation to the appellants' concerns as regards previous instances of unauthorised development on site, it should be noted that the Board has no function in respect of issues pertaining to enforcement and that the pursuit of such matters is generally the responsibility of the Planning Authority. Furthermore, whilst I would acknowledge the concerns raised in the grounds of appeal as regards the possibility of non-compliance with the terms and conditions of any grant of permission issued in respect of the subject proposal, in my opinion, it would be inappropriate for the Board to speculate on such matters and I would reiterate that any future breaches of condition or instances of unauthorised development should be referred to the Planning Authority.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that permission should be granted for the retention and completion of the proposed development for the reasons and considerations and subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to the nature and scale of the development proposed for retention and completion, the pattern of development in the area, the planning history and established use of the application site, and the provisions of the Cork County Development Plan, 2014, the Board considered that, subject to compliance with the conditions set out below, the proposal would not seriously injure the amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained and completed in accordance with the

plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 28th day of October, 2016 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 within three months of the date of this order and the development shall be retained and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The landscaping scheme shown on drg no. 16/CMC/01, as submitted to the planning authority on the 28th day of October, 2016 shall be carried out within 6 months of the date of this order.

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

Reason: In the interest of residential and visual amenity.

3. Site development and building works shall be carried out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

Robert Speer
Planning Inspector

13th April, 2017

