



An
Bord
Pleanála

Inspector's Report ABP-313431-22

Development	Erection of Pavilion (roofed open structure) for communal, cultural, education and events and gatherings and all associated site works.
Location	Aistear Park, Mountshannon, Co Clare.
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	22/123
Applicant(s)	Mountshannon Community Council
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Michael O'Rourke and others
Date of Site Inspection	29 th December 2022
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The appeal site of 1.49 hectares, is a public open space – Aistear Park which extends from the Main Street of Mountshannon Village to a lower tree lined road along the shore of Lough Derg. The site slopes down from the street at 44.5m OD to 32.4m OD and features a stand of mature trees through which there are scenic island views to the south west and across the lough. The site also has a gallery building concealed by landscaping in addition to other landscape features such as walling/fencing, paving/paths, lawns, play facilities and seating).
- 1.2. The site is partly adjoined by housing development (Mountshannon Court) to the east and a pathway to the lower road along the western boundary separates the park from low density housing. Established houses on the north side of Main Street directly overlook the site in the direction of the Lough.

2.0 Proposed Development

- 2.1. A 178sq.m. pavilion is proposed on the western side of the site where the site slightly dips to a level of 38.99mOD. It is a regular octagon shape spanning 16m in width. A solid pitched roof is proposed with a height sloping from 2.8m to just over 5m at the apex. The roof is supported by purlins tied into a central ring beam and supported on a ring of 8 poles - one at each corner. The roof is clad with dark green agri-sheeting. The application is accompanied by a set of drawings- the site layout includes ground levels. Photomontages are also attached.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority issued a notification of decision to grant permission was by order on 6th April 2022 subject to 4 conditions. These relate inter alia to materials and finishes and floor levels as submitted with site layout.

3.2. Planning Authority Reports

- 3.2.1. Planning Report

Planning Report (4/04/22 and countersigned 6/04.22): The report has regard to the proposed use and location in a public open space and considers the proposal acceptable having regard to the established use of the area for play and the visual and residential amenities of the area, the topography, the built heritage and also flood risk. EIA and AA were also considered. On balance it is acknowledged as providing a focal point in the park with greater potential for events and is considered to be a positive contribution.

3.2.2. Other Technical Reports

Environment Section: No objections subject conditions.

CFO: No objection.

3.3. Prescribed Bodies

Irish water: No objection

3.4. Third Party Observations

Submission by third parties refer to visual impact, obstruction of lake views and anti-social behaviour.

4.0 Planning History

Planning authority ref P95/1134 refers to a grant of permission for an exhibition space in Aistear Park.

Planning authority ref P10/709 refers to a grant of permission for a playground.

Preplanning meeting held in relation to visual impact of proposal on the site.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Clare County Development Plan 2017-2023 is the applicable plan. In Volume 3c of this plan, the appeal site is within the settlement boundary of Mountshannon

Settlement Plan: it is zoned open space (OS1) in this plan and borders a small town-centre as delineated. The open space is flanked by residential zonings with an intervening pathway linking the Main Street to the lower road alongside Lough Derg. The southern section of the site falls within a defined area where the objective TOU03 applies and which relates to amenity development in this part of Aistear Park. The plan states: 'This site has been zoned solely to accommodate the provision of a Holy Island visitor information centre. Other tourism developments will not be permitted in this area. Future development proposals on this site should avoid impacting upon healthy significant mature trees in the area. A Flood Risk Assessment will be required with any future planning application. Any future development application must connect to a Wastewater Treatment Plan (WWTP) with adequate capacity for foul water during operation, or be serviced by an on-site treatment system that will ensure no impact to water quality in the area

5.1.2. The Village is included in the Areas of Architectural Conservation : The village core has been designated as an ACA. It consists of a single wide street, linked to the harbour, with solid, stone-gabled two storey houses on each side. Many of these date from the late 18th century and still retain their traditional character..'

5.1.3. CPD9-23 To support the development of a footpath/ walking route around Lough Derg, linking Killaloe to Tuamgraney and Mountshannon; This is one of the objectives supported by a policy to enhance the tourism facilities : 'Opportunities exist to further develop the area, by promoting and encouraging niche tourism products such as the Mountshannon Bird Viewing Information Point, facilities for water-sports and outdoor activity centres,....'

5.1.4. In volume 4, the site is located within the general designation of Heritage landscape that extends along Lough Derg western shore. The scenic route designation also extends alongside Lough Derg and includes Mountshannon village and this is more clearly delineated in MA5 Areas of Special Control. The route is also listed in Appendix 5 of Volume 1.

5.2. **Natural Heritage Designations**

Lough Derg (Shannon) SPA is 0.1km from the site.

Slieve Aughty Mountains SPA (004168) is approximately 0.5km from the site.

5.3. EIA Screening

5.4.1 Having regard to the nature of the structure in an existing park, the proposed development is not of a class requiring carrying out of EIA. The necessity for submission of an EIAR can be therefore set aside.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal against the grant of permission has been lodged by Michael O'Rourke of Main Street Mountshannon and others , and the grounds are based on the following issues:

- Visual impact on an exceptional visual amenity that is derived from the site location overlooking Lough Derg. It is submitted that the structure will interfere with views from the Main Street and detract from the amenity of the open space.
- The 178sq.m. structure will fundamentally alter the character of the park. - Reference is made to the planning history and the open nature of the park as envisaged in 1995.
- Absence on clarity of materials of roof – permission should not be granted without this information.
- The visibility of the structure, which is used as a basis for discounting anti-social behaviour as an issue, contradicts the assumptions about visual obtrusion.
- Anti-social behaviour is inevitable during low low levels of passive surveillance,
- Given the limitations of its use given its open nature, the benefits are disproportionate to the year-round permanent damage to the amenity area. It will be rarely used for cultural or educational events.
- The village hall is rarely used and is an alternative as is the hotel.

6.2. Applicant Response

6.2.1 In response to the grounds of appeal the applicant makes the following points:

- The beauty of the village and its setting is acknowledged. This is enhanced by the facilities and local population and organisations making it a perfect place for residents and visitors.
- The park opened 1998 and the need for an open sided shelter has evolved due to weather and Covid.
- The proposal provides a sheltered outdoor focal point for villagers and visitors to meet and socialise both informally and as part of organised events in the park.
- The Parish Hall is limited in size and facilities and the hotel has been closed . The pavilion can provide for open-air alternatives to these venues.
- The design is simple and elegant with no gimmicks.
- It will complement the amphitheatre that is accommodated by the site contours. .
- It will bring a new character but will complement the area.
- Drainage is an integral element.
- Roofing material are to be finalised and will take account of noise insulation.

Photomontages attached and include a photo of a marquee in the site.

6.3. Planning Authority Response

6.3.1 In its response to applicant's response to the grounds of appeal , the planning authority notes the design rationale and intended use of the proposed pavilion and visual impact of same and it is considered that such submissions further support the proposal. On balance the planning authority remains of the view that the development will make a positive contribution to the amenities and social infrastructure of the village.

6.4. Third party counter response

- The appellants submission in relation to potential uses is described as a wish list of which the community is stated to be unaware. It would be an uncomfortable venue for 8 months of the year.
- The marquee for the Arts Festival is 4.5m high and dismantled immediately to ensure no nuisance caused.

- The benefits are disputed and design considerations are doubted in the absence of details regarding finishes and drainage works.

7.0 Assessment

7.1. Issues

- 7.1.1. Having reviewed the file content and inspection the site the key appeal issues under consideration relate to:
- Principle of the proposed development.
 - Visual amenity.
 - Residential amenity – anti-social behaviour.

7.2. Principle of the proposed development

- 7.2.1 The appellants make the case that the proposed pavilion is unwarranted in light of the open space setting and of what is considered to be its unlikely speculative uses and impractical nature.
- 7.2.1. The location of the proposed pavilion is within the development area of Mountshannon and is within zoned open space. As set out in Volume 1, the lands zoned as 'Open Space' are intended to be retained as undeveloped open space, mainly for passive open space related activities. The plan states that the open space/park areas could contain active play facilities such as children's play areas but these would only be a small component of the overall areas involved.
- 7.2.2. The site, as is apparent from the planning history (in pouch), has been developed as a parkland amenity area over the recent decades and it currently provides a range of active and passive amenities by way of a playground, paving, pathways and lawns as well as providing scenic views. The proposed development comprises an approximately 5m high open-sided pavilion structure of 178sq.m. with a span of 16m, set within a landscaped park which is c. 10m in width at its narrowest point.
- 7.2.3. The proposal is a modest enough structure – a simple roof mounted on poles. The provision of a partially sheltered space for outdoor events will, I accept, enhance the facilities of the public park by itself and as part of a wider growing network of active of spaces (footpath and cycle routes). In terms of structural scale and

bulk, the proposed development will, I consider, by itself and cumulatively represent a small component of the wider open space and will therefore, not conflict with the land use objectives. In this context, I do not consider it necessary to justify its need in the context of potentially viable indoor venues as alternatives in the village.

However, issues relating to visual impact and amenity are also valid considerations in this case having regard to other objectives and proximity to residences and these issues are addressed accordingly.

7.4 Visual impact:

- 7.2.4. It is submitted that the proposed structure will obstruct views of the lake and its islands from the village Main Street and should not be permitted in this scenic area.
- 7.2.5. I note that the delineated natural heritage landscape designation in the maps of the development plan breaks to allow for a more finely grained use of lands within the settlement areas such as Mountshannon. The designated scenic route, in the development plan and specifically within the settlement plan for Mountshannon, as mapped volume 3, includes views from along the Main Street as part of route 28 R463 from Tuamgraney to Mountshannon and incorporates views across the subject site in the direction of Lough Derg and the islands which are clearly visible from the site. The structure is 5m high and is sited in a slight dip in the site. In the context of the site size, this is a small structure in terms of height. However the span of 16m relative to the open area in which it is placed and which has been narrowed by the landscaping associated with the gallery structure to the east of the site contributes to it being quite prominent in the near views from the Main Street. In the context of adjacent houses to the west being around 12m wide it could be quite dominant. I consider a modest reduction in span to 12m would ensure that it is more in keeping with its setting. At this reduced width I do not consider it would be unduly incongruous with the man-made environment of this urban-type park with its range of facilities and mature trees. Nor do I consider that the simple form, height and transparent structure with this reduced span, would be unduly visually obtrusive in more distant views from the Main Street. In the event of permission, a condition requiring agreement of colour scheme, materials and finishes would be a reasonable approach to protect visual amenities. While I note concerns about lack of details and I consider there is a case to be made that a grey slate, matching the Killaloe slate - a

characteristic indigenous feature of the Architectural Conservation Area, would be an appropriate roof finish, I consider this to be a matter for the planning authority to agree.

7.3. Residential amenity

- 7.3.1. There is concern about the use of the structure supporting anti-social behaviour. This is an issue due to its accessibility and unsupervised nature. There is also the issue of accommodating crowd events. Given the open nature of the structure, the pavilion only affords protection from rain, or sun, but is otherwise limited in affording shelter. I do not consider it to be essentially different from the facilities already in existence within the park which already caters for events. Conditions restricting event use and installation of permanent fixtures and fittings, including storing of furniture for example, would help to regulate this matter in the event of permission.

7.4. Other matters

- 7.4.1. Part of the site to the south is governed by objective TOU03 which seeks to facilitate sensitive development of the site having regard to its proximity to Lough Derg – and in particular, reference is made to controlling lighting and the need for an Ecological Impact Assessment for the development of a Holy Island visitors' centre. While the site is within an active parkland setting with playground facilities and the development is extremely modest, I consider a condition regulating the lighting would be appropriate.
- 7.4.2. I also consider, in view of the strategic location and planned cycle routes (CDP 8.13) and sustainability policies supporting cycling in the development plan (section 6.3.10) and development management standards based on CDP5.11 (To support the development of cycle-parking facilities at appropriate locations in all urban areas in the County) and A1-9.3 /p299, that cycle parking should be provided as a matter of course. The rate of 4 spaces per 100 sq.m. for community halls is the most applicable base rate in the plan. Given that the pavilion is part of a wider facility, I consider at least 8 spaces should be provided for an ancillary 178sq.m. pavilion as reduced. This could be at the discretion of the planning authority as I am unaware of the full extent of cycling facilities planned or otherwise in the vicinity.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and limited scale of the development proposed and the receiving environment in a village parkland setting with an intervening road way and embankment for the adjacent SPA and the absence of pathway between the development area and to the site , no appropriate assessment issues arise. 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.

8.0 Recommendation

I recommend a grant of permission based on the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the provisions of the Clare County Development Plan 2017 – 2023 and the modest nature and scale of the proposed development, it is considered that, subject to conditions, the proposed development of the site for an ancillary amenity facility in Aistear Park, would be acceptable in principle. It is further considered that subject to conditions , the proposed development would not be unduly visually obtrusive feature and would be acceptable in terms of visual and residential amenities. The proposal would therefore be in accordance 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, 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 modified such that the span of the roof shall not exceed 12m in plan. Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 3 At least 8 no. bicycle parking spaces shall be provided within the site. Details of the layout and marking demarcation of these spaces shall be submitted to an agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development in the interest of sustainable transportation.

- 4 Details, including samples of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 5 (a) No signage, advertising structures/advertisements, security shutters or other projecting elements, including flagpoles, shall be erected on the pavilion or within the site unless authorised by a further grant of planning permission.
(b) Other than a temporary retractable screen and associated equipment, no other furniture, equipment or large fittings shall be stored overnight in or alongside the pavilion unless authorised by a further grant of planning permission.

Reason: To protect the amenities of the area.

6 The pavilion shall only be used for organised events between the hours of 0900 hours and 2100 hours on Mondays to Thursdays inclusive (excluding public holidays) and only between 0800 hours and 2200 hours on Fridays Saturdays, Sundays and public holidays .

Reason: To protect the amenities of the area.

7 Any illumination associated with the proposed development shall not exceed the hours of 22:00hours and shall at all times be in accordance with an agreed scheme, details (to include levels/intensity, specification, angles, duration, times and dates) of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development on site.

Reason: In the interest of amenity and ecology of the area.

8 All public service cables for the development, including electrical and telecommunications cables shall be located underground throughout the site.

Reason: In the interest of visual amenities of the area.

9 Water supply and drainage arrangements for the site, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Details of this shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interests of the environmental protection

Suzanne Kehely
Senior Planning Inspector

25th January 2023