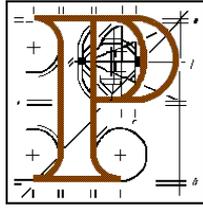


## An Bord Pleanála



### Inspector's Report

**Reference:** PL93.244907

**P.A. Reference:** 14/600156

**Title:** Replacement of 64 holiday homes with 100 unit caravan park development, modification to road layout, landscaping and site works.

**Location:** Kilgrovan, Clonea Strand, Dungarvan, County Waterford

**Applicant:** Lar Whelan Trading

**Appellants:** Mary Pam Morrissey  
The Clonea Concern Group Limited

**Observers:** Michael Morrissey  
Department of Arts, Heritage and the Gaeltacht  
Taidhg Ó Foghlú  
Clonea Beach Awareness Group  
John Corcoran

**PA:** Waterford County Council

**Decision:** Permission granted with conditions

**Date of Site Visit:** 4<sup>th</sup> August 2015

**Inspector:** Philip Davis

## **1. Introduction**

This appeal is by local residents and others against the decision of the planning authority to grant permission for alterations to a previously permitted holiday village. The proposed development includes a number of alterations, most notably the replacement of 64 permitted holiday homes with a caravan park. The grounds of appeal relate mostly to amenity, environmental, and traffic issues.

## **2. Site Description**

Photographs of the site and environs are attached in the appendix to this report.

### **Kilgrovan, Clonea Strand, County Waterford**

Kilgrovan is a townland located next to Clonea Strand, an easterly facing beach located on the eastern side of the Ballynacorty peninsula, a low-lying 2-5 km long and 1.5 km wide headland extending into the sea just east of the town of Dungarvan, County Waterford. The peninsula is part of the 'Gold Coast' tourism area extending east from Dungarvan to the 'Copper Coast' further east. The peninsula is mostly agricultural land on relatively low-lying and flat land, with many holiday related uses including a golf course, holiday and second homes, and various beach and sea related activity centres. The area is served by a network of third class roads, all eventually connecting to the R675 coastal road, which in turn connects to the N25 further north. The former Dungarvan to Waterford railway line is used in some parts as a walk/cycleway, and a spur from this line (known as the Ballinacourty/Clonea spur) runs south down the peninsula, about 300 metres inland from the eastern coast – this too is largely used for leisure walking and cycling.

Clonea Strand is a beach over 1-km in length, with varied soft sand and some rocky sections, sheltered from high seas by the peninsula. A small village centre has formed haphazardly from the 20<sup>th</sup> Century (it is not visible on older OS plans) where a minor road reaches the strand at its mid-point. There are a number of dwellings, guesthouses, and tourism related shops at this centre, in addition to two quite substantial caravan parks. South of Clonea village, the strand extends for a further 750 metres to a rocky headland. At this point there are some dwellings and a large Council carpark, seemingly located there to facilitate access to the beach. Inland of this stretch of Strand there are flat agricultural fields extending west, to and beyond the former railway spur line. This land is mostly in tillage. Closer to Clonea village are a number of dwellings, including one on quite a large landholding (known as the Kilgrovan Estate). The village is approximately 6 km by road from the centre of Dungarvan.

## **The site and environs**

The appeal site, with an area given as 4 hectares, but part of a larger landholding, is an area of flat tillage land south of Clonea Village and between the coast and the former railway spur, now used as a walkway/cycleway. The site is largely ploughed and planted, and bounded to the west by a high hedge and trees, to the south by a ditch and hedge next to the third class country road which serves it, a number of dwellings, and the Council carpark, and mostly open to the north and east.

**North** of the site is the remainder of the landholding, a similar sized area – this too is mostly in tillage, with a small overgrown area on what is believed to be an early Christian church site. Further to the north are open grazing fields associated with the Kilgrovan Estate, and a small quite random cluster of what appears to be holiday homes between the estate and the beach. North of this is a small caravan park and the cluster of buildings – mostly tourism related - at Clonea village. A larger caravan park extends north of the village.

**West** of the site is the former railway spur, in a slight cutting surrounded by dense vegetation. This is now open to the public and is paved with a narrow concrete path. Beyond this are further open fields in tillage and pasture.

**East** of the site is a narrow strip of rough grass, apparently in Council ownership. On the southern side is a carpark, with capacity for around 50 cars. This directly abuts the strand. The high tide mark is indicated by a storm beach of sea-rounded stones. The main ground level is around 1-2 metres above the high tide mark – in some sections the sea has cut into the coast, exposing till material – there are also indications of occasional artificial rock armouring – the carpark is fully protected with rock armour. On the south-eastern corner is a small cluster of dwellings and a slipway at a point where the beach gives way to a rocky outcrop.

**South** of the site is a third class road, extending directly east from another third class road, and terminating at a slip into the sea. There are scattered dwellings long the length of this road. A laneway extends further south, from the end of the rail spur. Further south are fields, and then a golf course resort at the tip of the peninsula.

## **3. Proposal**

The proposed development is described on the site notice as follows:

*The replacement of 64 no. holiday homes (19 single storey & 45 no. two storey) with a 100 unit caravan park development, including modifications to the road layout, landscaping and*

*ancillary site works. This is a modification to the existing planning permission reference no. PD 07/614 as granted.*

The size of the caravan park was reduced in further amendments. I note that the overall development as granted (on appeal to the Board, with a later time extension granted by the planning authority), included a hotel, self-catering apartments, a holiday village centre with shop, crèche, etc. The proposed development essentially replaces the permitted holiday dwellings with a caravan park, while the other elements remain the same. The proposed access to the caravan park is to the north, along the alignment of the former railway spur.

#### **4. Technical Reports and other planning file correspondence**

##### Planning application

The planning application was submitted on the 22nd August 2014, with plans, specifications and supporting documentation. Subsequent to an FI request, revised plans with a reduction in scale to 70 caravans was submitted on the 13th April 2015.

##### Internal and External reports and correspondence.

A number of local residents and interested parties submitted objections and observations – many of these objections were repeated following the submission of further information.

**Fire Officer:** Recommended standard requirements.

**Department of Arts, Heritage and the Gaeltacht:** It is noted that the proposed development is partially located within the confines of a Recorded Ancient Monument. Monitoring conditions and a buffer zone are recommended.

**An Taisce:** It is submitted that the proposed development contravenes the '*entire basis on which the development was permitted by An Bord Pleanála.*'

**EIA Screening Assessment Report** – concludes that no EIA is required.

**AA Screening Assessment Report.** Notes proximity of Dungarvan Bay SPA within 1 km. Concludes that there are no significant impacts so stage 2 AA not required.

**Engineers** (Smarter Travel Project Office): Notes that while it is preferable to keep the former rail line for pedestrian use only, permission has already been granted for its use as access to the site.

**Planning report:** It is noted that the application is for alterations to an existing permitted development (up to 2018) and that the site is zoned for tourism uses, with caravan park/camping/tenting ‘open to consideration’. It was considered that it does not require EIA if there was a reduction in the number of proposed caravans to 75-77. The proposed development is considered acceptable in principle. Additional information was requested on a number of issues. Following the submission of further information it was considered that the reduction in the scale was acceptable, and permission was recommended subject to conditions.

## 5. Decision

The planning authority decided to grant permission, subject to 21 mostly standard conditions. Condition no. 3 stated that the hotels, suites and public beach recreation area should be constructed first (i.e. a repeat of the permission set by the Board on the original overall permission).

## 6. Planning Context

### Planning permissions – appeal site

In 2004 the Board decided to refuse permission for a hotel/apartment/holiday home scheme on the site for three reasons relating to the visually vulnerable nature of the site and traffic issues (**PL24.207809** – local authority ref **03/659**).

In December 2008 the Board, on appeal (**PL24.229386**), decided to uphold the decision of the planning authority (**07/614**) to grant permission for a development including a 99 bedroom hotel, holiday apartments and holiday homes on the landholding (appeal site plus lands to the north). This decision was against the recommendation of the inspector. Key conditions include condition no. 2 where 13 proposed holiday dwellings were deleted for the reason of visual amenity and condition 3, which stated that the hotel suites and public beach recreation area shall be constructed first on site – no holiday homes to be constructed without the initial agreement of the planning authority. An extension of time was granted to this permission in 2013 (**13/224**), extending it to 21<sup>st</sup> December 2018.

In 2011 the planning authority decided to grant permission for a modification of 07/614, replacing the 3 no. two storey holiday suite apartment with 22 units with a 3 no. 2-storey buildings comprising 21 holiday suites – subject to standard conditions (**11/404**).

### Planning permissions – adjoining areas

None relevant on file.

### Development Plan

The site is zoned 'T' for 'Tourism', with the objective 'to provide for sustainable tourism uses including the provision of accommodation and tourism related facilities' in the Waterford Council Development Plan 2011-2017. Policy in relation to larger tourism developments is set out in the policy document 'Rural Tourism and Recreational Complexes and Associated Residential Development' (Appendix 7 of the Development Plan).

Relevant extracts from the County Development Plan 2011 (including the Rural Tourism Policy Document in appendix 7 of the Plan) are attached in the appendix to this report.

## **7. Grounds of Appeal**

### Mary Pam Morrissey of Kilgrovan House, Clonea

- It is argued (Folio with map attached) that the applicant has not established rights to use the access in the ownership of CIE for the overall development.
- It is submitted that the access to the site is too narrow and is inadequate for emergency use.
- It is submitted that the use of the access would result in a traffic hazard.
- Concern is expressed at possible flooding arising from the development of the applicants land.
- Concern is expressed at the stability of the former railway embankment.
- A right of way across the railway is claimed (the appellant's family own lands on either side).
- It is requested that screening is provided if the proposed development is granted.

### Clonea Concern Group

The CCG is introduced as an organisation founded to purchase and protect the former railway line as a public amenity.

- It is submitted in some detail that the proposed development should have been subject to EIA and a stage 2 AA – it is argued that the proposed development represents project splitting and a revised EIA should have been carried out – it is also submitted that the 'extension of time' application should not have been granted as it was apparent at the time that an AA should have been carried out.
- It is argued that the development, as its permission if granted would run past the extension date for the overall permitted development,

*de facto* allow the caravan site to be built without the supporting facilities.

- It is submitted that the applicant has insufficient legal interest in the site – specifically the CIE lands required for access – it is submitted that many of the conditions set by the planning authority are unenforceable as the applicant does not own the land in question.
- It is submitted that it is a contravention of the development plan as caravan parks are just ‘open to consideration’ in comparison to the holiday homes which are ‘permitted’. It is submitted that within a coastal area the visual vulnerability of the area should set a high bar for such developments and in the absence of a proper visual assessment a development which is just ‘open to consideration’ should not have been accepted.
- In relation to the development plan, it is submitted that a caravan park would not fall within the meaning of an ‘integrated rural tourism and recreational complex’ as defined.
- It is submitted that since the overall development was granted, the Development Plan has now adapted the ‘European Charter of Pedestrians’ – with related policy INF14 with regard to the sustainable creation of cycle and pedestrian friendly communities. It is submitted that the planning authority did not give sufficient weight to this policy.
- It is submitted that the proposed access was not given sufficient attention in the original permission – It is argued that the railway line is not sufficiently wide for safe cycling, pedestrian, road and emergency access to the main road.
- It is submitted that the proposed development would cause unacceptable damage to woodland and related habitat along the former railway.
- It is argued that the proposed development would not be acceptable within the context of the recorded ancient monument.
- It is argued in some detail that the conditions applied by the planning authority may be unenforceable.

## **8. Planning Authority’s Comments**

It is stated that the proposed development is an amendment to a larger permitted development. It is considered that it does not require EIA (it is noted that an EIA was carried out for the original permission). It is noted that access arrangements were permitted as part of the original permission. A condition was set to address the issue of the permission being carried out independently of the permitted hotel complex.

## 9. Observations

### Michael Morrissey

Argues that the former railway line cannot accommodate access and the intersection with the main road is dangerous and unsuitable.

### John Corcoran

A letter from An Taisce to the DoAHG is enclosed. This letter addresses what is considered to be the very high importance of the recorded ancient monument on the site and what is considered to be inadequate proposals to address its sensitivity.

### Taidhg Ó Foghlú

Mr. Ó Foghlú has an address in Australia, but owns a home close by the site. The key points of his observation – objecting to the proposed development – are as follows:

- It is submitted that the zoning is arbitrary and was never intended to justify this type of development.
- There is insufficient evidence that the site is suitable for such a development – such as for the supply of potable water.
- It will impact upon the walkway/cycleway along the former railway spur.
- Points raised by the main appellants are supported.

### Clonea Beach Awareness Group

This group states that they are a long established group which has worked to improve the amenity of Clonea Beach and the area. The key points they raise are as follows:

- They object to the use of the railway spur as a road access and note that it has become far more important for local amenity/tourism since the original permission was granted (results of local survey attached).
- It is noted that the area is not served by public transport.
- It is claimed that the permitted access is inadequate.
- It is questioned whether the overall scheme will ever be implemented as permitted.

A number of other letters are attached to this observation, all objecting to the proposed development.

## 10. Applicants response

None on file.

## 11. Other correspondence

### Department of Arts, Heritage and the Gaeltacht

The Department notes the proximity to an important Recorded Monument in addition to related sites – it recommends a number of detailed conditions.

## 12. Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be addressed under the following headings:

- **Principle of development (local and national policy)**
- **General considerations**
- **Landscape impact**
- **Traffic**
- **Archaeology**
- **Flooding**
- **Appropriate Assessment and EIA**
- **Other issues**

### **Principle of development (local and national policy)**

The appeal site is zoned 'T' for 'tourism' uses, and is implicitly identified as suitable for Integrated Rural Tourism and Recreational Complexes (IRTRC), as defined in Appendix 7 of the County Development Plan. I note from the definition set out in the policy document that caravan parks are not included in the definition of such integrated complexes. Caravan parks are 'open to consideration' in 'T' zoned areas. The landholding has an established planning permission for such an IRTRC, a permission which did not include caravans (all elements permitted are permanent units). The site is identified in the Dungarvan Environs plan as having a scenic view from the sea. I note that the former railway line does not appear to have a specific statutory designation, despite being clearly identified as part of a local network of cycling trails on signposts in the area. The coast, as with most of the coastline of the county, is identified as 'scenically sensitive' on the Scenic Landscape Evaluation Plan in the Development Plan.

I note from the Direction in the Board's decision to grant permission, that it was considered that the previous reason for refusal had been overcome due to the zoning designation, and specific alterations and design details which overcame the previous issues with regard to access and visual impact.

I would therefore conclude, having regard to the zoning designation of the site and the planning history of the site that in principle alterations within the context of the zoning designation and the definition of 'IRTRCs', that tourist based alterations of the existing permission would generally be permissible, but that a caravan park would not normally be

considered automatically acceptable in that context. It would be 'open to consideration', only on the basis that it would not have an unacceptable impact on a sensitive coastal landscape, and this impact should be assessed on the basis of the existing permitted development and the overall policy and environmental context.

### **General considerations**

A significant number of the objections and observations submitted focus on the permitted access to the site, in addition to issues relating to the boundary treatment between the hotel and other elements, including land ownership questions. The proposed development replaces the permitted dwellings, but uses the same access and does not alter the design on the northern part of the landholding, which includes the permitted hotel, apartments, ancillary buildings, and the road access. It does seem however that a number of circumstances have changed since the original granting of permission in 2008, most notably the active development and promotion of the former rail spur as a local amenity. It is signposted as part of a circular cycle route through the peninsula and during my site visit it was apparent that it is very well used and popular with walkers. It is not, however, identified in the Development Plan for this purpose. I note with regard to Departmental Circular PL 5/2015 regarding 'National Way-Marked Ways' that the walk/cycleway in question does not appear to be either a Public Right of Way or a Way-marked Route, even if it is clearly popular and well used by the public and seems to have been subject to public investment.

While I understand the concerns and opposition expressed, for better or worse the issue of the access was dealt with by the Board at the original planning permission stage and it is clear that the proposed alteration would not significantly alter the pattern or intensity of traffic use of the access if constructed. I therefore do not consider that it is open to the Board to refuse for reasons relating to the inadequacy or otherwise of the access solely, unless there has been a change in use or intensity proposed, and I do not consider this to be the case.

Much the same applies for quite a number of other issues of concern raised, in particular with regard to archaeology. While a very small part of the appeal site is close to the recorded ancient monument, the issue of development around the monument and monitoring/excavation was dealt with at the time of the overall permission. I do not consider that it would be appropriate to re-open this issue, except with regard to that part of the site within the zone of protection around the monument.

I note concerns expressed that the dating of the permissions could lead to the caravan park being constructed by itself, without the hotel or other facilities. I would concur that such a situation would be unacceptable and contrary to the zoning designation and Development Plan policy, but I would consider that it can be addressed by way of condition if the Board is minded to grant.

With regard to issues of the ownership of land or rights of way or access, I would note of course that Section 34(11) of the 2001 Act as amended states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.

### **Landscape Impact**

I would consider that the largest single material change from the original permitted is the visual impact in changing from permanent holiday homes to a caravan park. I note that the Board, in its Direction, recognised the key issue of the visual sensitivity of the coast and deleted a significant number of units on the eastern side to address this. I further note that the previous appeal (prior to the land being zoned for tourism), was refused for a number of reasons, with visual impact being a significant element in two of them.

The site is flat, within a generally quite low-lying landscape. The area does not have the scenic qualities of the Copper Coast to the east, but it is quite a sensitive landscape as the beach is attractive but quite open. Developments in the area, especially just north, have generally been haphazard and range from nondescript to distinctly unattractive. The overall permitted development does have the potential to 'knit together' the disparate elements in the vicinity and create a genuine centre for this area as a tourism and holiday resource, notwithstanding the somewhat sub-optimal access arrangements and their impact on the walk/cycleway.

Caravan parks by their nature are never going to be particularly attractive, dependent as they are on a range of functional temporary structures. They are, however, a feature of many such coastal areas, especially next to beaches. At best, they can be screened and landscaped to prevent them being too intrusive. In its decision on the overall application in 2008, the Board appeared to acknowledge the design importance of the original integrated development, within the context of the zoning designation. In this respect, the cluster of holiday homes with finishes and designs matching the hotel allowed for a reasonable design solution for an integrated architectural composition, which was reasonably well thought-through, if not of the highest architectural quality. But in deleting this element, I consider that the entire design conception as permitted would be undermined. It is quite clear to me from the manner in which the zoning designation was written that it was never intended that caravan parks would be a major component of these developments, precisely in order to ensure a good overall quality of coherent design. I would consider permitting the proposed change to be unacceptable in this regard. For this reason I would recommend that the proposed development be refused as it represents an unacceptable reduction in the overall architectural cohesion of the permitted development, and as such would visually interfere with a sensitive coastal landscape.

### **Traffic issues**

As I have outlined above, I consider that the caravan park as proposed would not materially alter the level, type or intensity of traffic compared to the permitted holiday homes. The modifications to the access indicated on the submitted plans appear to be quite minor. While I would have strong concerns about the interference and loss of what is now a very attractive local amenity – i.e. the walk/cycleway - having regard to the existing permission I do not consider that this is a reason for refusal.

### **Archaeology**

The main recorded ancient monument on the landholding (just north of the red lined area of the site) appears to have been a potentially very important early Christian site – five ogham stones were removed from the site previously and there are indications that there may be more features of interest. The permitted plan protects the area around the site (it is just visible now as an overgrown mound), and the permission includes for archaeological monitoring and testing. I would note that almost all the remainder of the site has been intensively cultivated by machinery, so any archaeological remains near the surface are not likely to have survived.

I have noted the concerns by the appellants and observers, including the DoAHG and An Taisce, but it is clear that the proposed alterations have little significant archaeological implications relative to the permitted works, notwithstanding any conditions that have to be met as part of the overall development. I would therefore recommend that if the Board is minded to grant permission that the conditions set on the original permission be repeated, but additional conditions are not appropriate.

### **Flooding**

The site is low-lying, but there are no watercourses through the land and it seems not to have been subject to any historic tidal flooding – the orientation of the coastline protects it from the biggest seas. At some stage, rising sea levels would have to be addressed, presumably through further armouring of the shoreline. The permission essentially repeats the overall flood and drainage proposals for the original proposal – these would seem to be adequate.

### **Appropriate Assessment and EIA**

The original permission was subject to EIA, and the Board has already ruled that this application is sub threshold and does not require EIA or an alteration to the original EIA.

The applicants have noted that the renewal of the permission granted by the planning authority should have been accompanied by an AA, but there is no evidence this is so. I would certainly note that the 2008

permission did not include the level of detail on the impacts on European sites as would be expected under the current legislative regime.

The screening by the planning authority noted that there are two SPA's in the vicinity. The Dungarvan Harbour SPA (site code 004032) is just under 1-km away – this designates littoral and tidal zones within the Harbour to the west of the peninsula, and includes the coast of the peninsula to its southern point. This SPA is designated for the conservation value of a variety of typical sea coast birds, such as geese and oystercatchers. Slightly further away, and to the east, are the cliffs and coastal area of the Mid Waterford Coast SPA (site code 004193) which is designated for cormorant, herring gull, chough and peregrine falcon.

The planning authority carried out a stage 1 screening for AA and concluded that there was no evidence of any significant impact on the conservation objectives of either SPA due to the nature of the site and the separation distances involved. The site is intensively cultivated, so while it is certainly possible that some of the species listed under the conservation objectives (most notably herring gull) may use the site for occasional foraging, it would seem clear that such an impact is not likely. I note that the access works would require the removal of a significant amount of mature and semi-mature vegetation along the railway spur – but this type of habitat is not suitable for the listed species in either SPA. To this extent, I concur with the conclusion of the planning authority.

The appellants have raised the issue of the apparent lack of an AA for the time extension – and as such, there is a question over whether the overall development is in conformance with requirements under the Habitats Directive. There is insufficient information on file to come to a definitive conclusion on this, but having regard to the separation distance between the site and the designated habitats, and the generally intensively cultivated nature of the site (although there is some uncultivated long grass on the shoreline, in the area under Council ownership), I do not consider that there would in any event be a requirement for a stage 2 assessment.

### **Other issues**

The proposed development would be subject to a S.48 Development contribution, which the planning authority calculates as €63,000. No other development contribution applies.

There is no indication on file or from other available sources that there is any issue with the provision of water or wastewater to the site – the development is to be served by the public sewer, but water would be from a borehole on site. Storm water would be discharged to the sea.

I do not consider that there are any other significant planning issues arising from this appeal.

### **13. Conclusions and Recommendations**

Having regard to the zoning designation of the site, specifically that caravan parks are 'open for consideration', and the definition of Integrated rural Tourism and Recreational Complexes in Appendix 7 of the Waterford County Development Plan, in addition to its location on a sensitive coastal area, I conclude that the proposed alteration to the permitted development would seriously injure the visual amenities of this visually sensitive coastal area.

I recommend therefore that planning permission be refused for the replacement of holiday homes by a caravan park for the reasons and considerations set out below.

### **REASONS AND CONSIDERATIONS**

The proposed development replaces holiday homes with a caravan park, a use which is 'open for consideration' in areas zoned 'T' for Tourism in the Waterford County Development Plan 2011 but is not included within the definition of Integrated Rural Tourist and Recreational Complexes as set out in Appendix 7 of that plan. The site is located on a sensitive coastal area next to a popular recreational beach. It is considered that the proposed development granted permission under ABP planning reference PL.24.229386, modified in planning reference 14/404 with a time extension granted by the planning authority in planning reference 13/224 represented an architecturally coherent approach to building an integrated tourism complex in a visually sensitive coastal area. It is considered that the replacement of holiday homes with a caravan park would represent an unacceptable degradation of the architectural qualities of the permitted development, and would therefore seriously injure the visual amenities of this sensitive coastal area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Philip Davis,  
Inspectorate.  
28<sup>th</sup> August 2015**