



An
Bord
Pleanála

Inspector's Report An Bord Pleanála 305080-19

Question

Whether a caravan park / mobile home park to the rear of Alverno House is or is not development or is or is not exempted development.

Location

Alverno House, Laytown, Co. Meath.

Declaration

Planning Authority

Meath County Council

Planning Authority Reg. Ref.

LBS51933

Applicant for Declaration

Meath County Council

Planning Authority Decision

Not exempted development

Referral

Referred by

Margaret O'Donoghue

Owner/ Occupier

Margaret O'Donoghue

Observer(s)

None

Date of Site Inspection

8th November 2019

Inspector

Brendan Coyne

1.0 Site Location and Description

- 1.1. The subject caravan / mobile home park is located on the northern side of Alverno Terrace, in the village of Laytown, County Meath. The caravan / mobile home park is located to the rear / north a detached three-storey building known as Alverno House, built c.1847. This building is listed as a Protected Structure in the Development Plan (ID MH028-305) and is currently in use as a public house at ground floor level and provides asylum seeker accommodation at upper floor levels.
- 1.2. The caravan / mobile home park is accessed via a driveway, which provides access to a car parking area to the side and rear of Alverno House. The subject caravan / mobile home park contains 4 no. mobile homes and several sheds and container structures.

2.0 The Question

- 2.1. The question before the Board is *'Whether a caravan park / mobile home park to the rear of Alverno House is or is not development or is or is not exempted development'*

3.0 Planning Authority Declaration

3.1. Declaration

On the 11th July 2019, Meath County Council issued a decision declaring that a 'caravan park / mobile home park to the rear of Alverno House, Laytown' is development requiring planning permission, and is not exempted development.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

Basis for the Planning Authority's decision. Includes:

- In 2002, permission was granted under P.A. Ref. SA20035 for a residential scheme to the rear / north of the site. The Planning Report of this application, under the heading 'Site Description', described the site as containing a number of caravans at this time.

- The site of the subject Referral is outside the red line of the application site P.A. Ref. SA20035.
- P.A. Ref. SA20035 indicated that the area of the subject Referral was then occupied by mature trees and did not appear to contain any caravans at that time.
- A Google Earth search of the site, from 2005 to present day, does not indicate any sign of an operational caravan park at this location, during this time.
- No documentary evidence has been submitted, indicating that the site has recently been operating as an authorised caravan park.
- Site inspection found the mobile homes did not appear to be in tourism related use, but rather that of permanent residential use. Garden sheds were observed near the mobile homes.
- The proposed development is considered to be development and is not exempted development, having regard to Article 9(1)(iii) and (vi) of the Planning and Development Regulations 2018 and Section's 3(1), 4(1) and 4(1)(h) of the Planning and Development Act 2000-2018.

3.2.2. Other Technical Reports

None

4.0 Planning History

UD19/043 Alleged unauthorised development on the site. Enforcement proceedings are on-going.

SA50001 / ABP PL 17.211501 Permission refused on the 01/03/2005 to Joe Costello for a mixed use residential / commercial development in 2 blocks comprising, 3 no. retail units, 5 no. apartments, 10 no. parking spaces and associated site works.

SA20035 /ABP PL17 .130819 Permission granted on the 18/02/2003 to Joseph Costello for the construction of 37 no. dwelling units, 2 no. office units, a 700m liner park, landscaping, an access road from Beach Grove estate and associated site works. This is the adjacent Short Shore (Court / Drive / Gate) development, as subsequently constructed.

00/1359 Permission refused on the 11/07/2001 to Joseph Costello for the construction of 48 no. self-contained living units in 6 no. two storey blocks of eight each, access from Beech Grove Estate and associated site works.

5.0 Policy Context

5.1. Meath County Development Plan 2013-2019

Appendix 8 Record of Protected Structures – Alverno House is listed as a Protected Structure (ID MH028-305), as detailed on Sheet No. 28b.

Section 9.6.12 Architectural Conservation Areas - Laytown is designated an Architectural Conservation Area.

5.2. East Meath Local Area Plan 2014- 2020

Zoning The site is zoned 'B1 Commercial / Town or Village Centre' with the Objective 'To protect, provide for and / or improve town and village centre facilities and uses.

5.3. Natural Heritage Designations

The site is located 0.2km to the north and west of the River Nanny Estuary and Shore SPA (Site Code: 004158).

6.0 The Referral

6.1. Referrer's Case

A 1st party referral was received from John Dineen Consultant Engineer acting on behalf of the owner Margaret O'Donoghue, against the decision made by the Planning Authority, that the above works do not constitute exempted development, under the Planning and Development Act 2000 (as amended).

The following is a summary of the issues raised;

- The subject site has been continually used as a caravan park for at least 60 years.
- The Council have collected rates in respect of the caravan park over the years.
- The site is fully serviced to cater for such a development.

Documentation submitted with the referral includes;

- A Site Layout Plan and Location Map.
- An invoice to Alverno House (dated 25/02/2019) for the supply and delivery of 2 no. mobile homes and the removal of 2 no. mobile homes.
- An aerial photograph / postcard image of Alverno House (date unknown) showing c. 5 mobile homes on lands to its east, now developed with residential dwellings in South Shore Court.
- A letter from M.A. Regan, McEntee & Partners Solicitors (dated 21/08/2002) to Mr. Denis J. McLoughlin re. Meath County Council v Hubert & Margaret O'Donoghue and prosecution for failure to comply with a Notice under Section 9 of the Litter Pollution Act 1997. This letter refers to the remains of caravans, window frames and ceramic toilet bowls which have not been cleaned up from the site.
- A letter from the owners, Hugh and Margaret O'Donoghue detailing the following

- They bought Alverno House in 1991 and the adjacent caravan park in 1994.
- In 2002, they sold 90% of the park which at the time had 48 mobile homes on site.
- They retained 10% of the property, which has had 3 mobile homes and 1 container. They removed the container on the 21/02/2019 and replaced it with 1 no. mobile home.
- There are 4 no. mobile homes on site at present.
- 2 no. letters from persons confirming that they have been renting a mobile home from Alverno House for over 11 years. The letters are stamped by the Peace Commissioner, Sean Mc Cormack.

6.2. Planning Authority Response

- The Planning Authority is satisfied that all matters outlined in the submission by the owner were considered in the course of its assessment, as detailed in the Planning Officer's Report.
- The proposed development is considered to be development and is not exempted development within the meaning of the Planning and Development Act 2000 (as amended).

6.3. Further Responses

None

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000 (as amended)

Section 3 Development

S. 3.(1) *In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.*

S. 3.(2)(b) *‘Where land becomes used for any of the following purposes –*
i) the placing or keeping of any vans, tents or other objects, whether or not moveable and whether or not collapsible, for the purpose of caravanning or camping or habitation or the sale of goods,
ii) The storage of caravans or tents, or
iii) The deposit of vehicles whether or not usable for the purpose for which they were constructed or last used, old metal, mining or industrial waste, builders’ waste, rubbish or debris.
The use of the land shall be taken as having materially changed’.

7.2. Planning and Development Regulations, 2001

Part 2 Exempted Development

Article 5(1) Interpretation

“house” does not, as regards development of classes 1, 2, 3, 4, 6(b)(ii), 7 or 8 specified in column 1 of Part 1 of Schedule 2, or development to which articles 10(4) or 10(5) refer, include a building designed for use or used as 2 or more dwellings or a flat, an apartment or other dwelling within such a building;

Article 6 Exempted Development

Art. 6.(1) *Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.*

Schedule 2 Part 1 Exempted Development - General

Class 8 The keeping or storing of a caravan, campervan or boat within the curtilage of a house.

- 1. Not more than one caravan, campervan or boat shall be so kept or stored.*
- 2. The caravan, campervan or boat shall not be used for the storage, display, advertisement or sale of goods or for the purposes of any business.*

3. No caravan, campervan or boat shall be so kept or stored for more than 9 months in any year or occupied as a dwelling while so kept or stored.

8.0 Assessment

8.1. Is or is not development?

- 8.1.1. The question posed is 'whether a caravan park / mobile home park to the rear of Alverno House is or is not development or is or is not exempted development'
- 8.1.2. The first issue to be decided is whether 'development' has occurred.
- 8.1.3. Section 3.(1) of Act defines 'development' as 'the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land. Section 3.(2)(b)(ii) of the Act states that 'Where land becomes used for the storage of caravans, the use of the land shall be taken as having materially changed'.
- 8.1.4. The critical question therefore, is, whether the use of the lands to the rear of Alverno House as a caravan / mobile home park comprises a material change in the use of the lands.
- 8.1.5. The agent John Dineen Consultant Engineer, acting on behalf of the owner Margaret O'Donoghue, puts forward a case that there has been an established use of a caravan park at this location for at least 60 years, and that the Council have collected rates in respect of the caravan park over the years. To substantiate this claim, relevant documentation submitted includes the following;
- An aerial photograph / postcard image of Alverno House (date unknown) showing c. 5 no. mobile homes on lands further to its east.
 - An invoice to Alverno House (dated 25/02/2019) for the supply and delivery of 2 no. mobile homes and the removal of 2 no. mobile homes.
 - 2 no. letters from persons stating that they have rented and lived in a mobile home at Alverno House for over 11 and 17 years respectively. The letters are stamped by the Peace Commissioner, Sean McCormack.

- 8.1.6. Further to the above, the owners Hugh and Margaret O'Donoghue have submitted a letter stating that they bought Alverno House in 1991 and the adjacent caravan park in 1994. The owners state that in 2002 they sold 90% of the caravan park which at the time had 40 no. mobile homes on site. They retained 10% of the property which had 3 mobile homes and 1 container at the time, and that there are currently 4 mobile homes on the site at present.
- 8.1.7. Having regard to the aerial photograph / postcard image of Alverno House submitted, showing c. 5 no. mobile homes on lands further to its east, these lands are now developed with residential dwellings in South Shore Court. This development was granted permission in 2003 under P.A. Ref. SA20035 / ABP PL17.130819. The Planning Inspectors report of ABP PL17.130819 includes a comprehensive description of the site following an inspection. The report makes no reference to a caravan / mobile home park to the rear of Alverno House.
- 8.1.8. Photographs on file under ABP PL17.130819, taken during site inspection on the 31st December 2002, show 3 no. mobile homes, located on lands further to the east of Alverno House, which are now developed with residential dwellings in South Shore Court. These photographs show that there were no caravans or mobile homes stored on lands immediately to the rear / north of Alverno House at this time.
- 8.1.9. In 2005, a proposed mixed use / residential commercial development was refused permission on the lands to the rear of Alverno House, under SA/50001 and ABP PL 17.211501. Further to site inspection on the 17th June 2005, the Planning Inspector's Report also provides a detailed description of the site. Again, the Inspector's report makes no reference to a caravan / mobile home park to the side, rear or within the vicinity of Alverno House.
- 8.1.10. Photographs on file under ABP PL17. 17.211501, taken during site inspection on the 17th June 2005, show that there were no caravans or mobile homes stored on the lands to the rear / north of Alverno House at this time.
- 8.1.11. O.S. aerial photographs taken in 2005 do not indicate the presence of any caravans / mobile homes stored on the lands to the rear or further to the east of Alverno House at this time.

- 8.1.12. A review of Google Earth Street View images of the site, as viewed from South Shore Drive to the north of the site, clearly show that there were no caravans / mobile homes stored on lands to the rear of Alverno House in April 2009.
- 8.1.13. Having reviewed the planning history and historical photographs of the site, it is evident that the lands to the rear / north of Alverno house were not in use as a caravan / mobile home park in December 2002, June 2005 and April 2009. The applicant has not submitted any substantive evidence to demonstrate that the lands to the rear of Alverno House has been in continuous use as a caravan / mobile homes since the 1960's, as stated. The Agent representing the applicant states that the Council has collected rates in respect of the caravan park over the years. No documentation has been submitted substantiating this claim.
- 8.1.14. I am of the opinion therefore, that the lands to the rear of Alverno House have not been in continuous use as a caravan / mobile home park since the 1960's, as stated, and the lands have not been used for the continuous storage of caravans / mobile homes during this time. I consider therefore, that the land to rear of Alverno House has now become used for the storage, rental and occupation of caravans / mobile homes as a caravan / mobile home park, and therefore, the use of the land has materially changed, in accordance with Section 3.(2)(b)(ii) of the Act. This material change of use of the land is, therefore, 'development' in accordance with the Section 3.(1) of Planning and Development Act 2000 (as amended).

8.2. Is or is not exempted development?

- 8.2.1. The next question to ask, is whether the question posed is 'exempted development' in accordance with the relevant provisions of the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

8.2.2. Planning Act - Exempted Development provisions

- 8.2.3. In order to assess whether or not the development carried out on the site constitutes exempted development, regard must be had to Section 4(1) of the Planning and Development Act 2000 (as amended) which refers to and sets out categories of

exempted development for the purposes of the Act. There are no exempted development provisions under this Section of the Act, for the development of a caravan park / mobile home park. The development of a caravan / mobile home park to the rear of Alverno House, therefore, is not exempted development under this Section of the Act.

8.2.4. Planning Regulations - Exempted Development provisions

8.2.5. Article 6 of the Planning and Development Regulations 2001 (as amended) refers to Exempted Development and sets out under Article 6.(1) that, subject to Article 9 (restrictions on exemption), development of a class specified in column 1 of Part 1 of Schedule 2 of the Regulations (exempted development – general) shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1, opposite the mention of that class in the said column 1.

8.2.6. There is no exempted development class specified in column 1 of Part 1 of Schedule 2 of the Regulations for the development of a caravan park / mobile home park. The said development, therefore, is not exempted development under the provisions of Article 6 and Part 1 of Schedule 2 of the Regulations.

8.2.7. Alverno House is not a private residential dwelling and does not come within the definition of a 'house', as defined in Article 5.(1) of the Regulations. As such, exempted development provisions provided under Class 8 of Schedule 2 Part 1 of the Regulations do not apply. Class 8 provides exempted development provisions for the keeping or storing of a single caravan within the curtilage of a house.

8.2.8. In conclusion, having reviewed the available information, it is my opinion that the use of the subject lands as a caravan park / mobile home park and the storage of caravans / mobile homes on the lands thereon, constitutes a material change of use of the lands and therefore constitutes development, in accordance with the provisions of Section 3 of the Planning and Development Act 2000 (as amended).

The use of the lands to the rear of Alverno House as a caravan / mobile home park do not come within the exempted development provisions of the Planning and Development Act 2000 (as amended) or the Regulations made thereunder, and, therefore does not constitute exempted development.

9.0 Recommendation

9.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether a caravan park / mobile home park is or is not development or is or is not exempted development:

AND WHEREAS Margaret O'Donoghue requested a declaration on this question from Meath County Council and the Council issued a declaration on the 11th day of July, 2019 stating that the matter was development and was not exempted development:

AND WHEREAS Margaret O'Donoghue referred this declaration for review to An Bord Pleanála on the 07th day of August, 2019:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 3 and 4 of the Planning and Development Act, 2000 (as amended),
- (b) Articles 5 and 6, and Schedule 2 of the Planning and Development Regulations, 2001 (as amended), and
- (c) The planning history of the site.

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the use of the lands, as a caravan park / mobile home park, constitutes a material change in use of the land, and thereby, constitutes development,
- (b) the said development does not come within the scope of any of the exempted development provisions of Section 4 of the Planning and

Development Act, 2000 (as amended), or Article 6 and Schedule 2 of the Planning and Development Regulations 2001 (as amended).

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 of the 2000 Act, hereby decides that the use of the lands as a caravan park / mobile home park to the rear of Alverno House is development and is not exempted development.

Brendan Coyne
Planning Inspector

31st January 2020.