



An
Bord
Pleanála

Inspector's Report ABP-207262-20

Development	2 no mobile homes (previously granted permission) plus other works.
Location	Culdaff Glebe, Culdaff, Co. Donegal.
Planning Authority	Donegal County Council.
Planning Authority Reg. Ref.	19/51568.
Applicants	Shawn Ferguson & Ursula Carr.
Type of Application	Permission
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Una McGinley.
Observers	None.
Date of Site Inspection	14 th July 2020.
Inspector	Philip Davis

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1.0 Introduction

This appeal is by a local resident against the decision of the planning authority to grant permission for a number of alterations to two mobile homes on a plot within a caravan park on the coast along the north of the Inishowen Peninsula in Donegal.

2.0 Site Location and Description

2.1. Culdaff Glebe

The appeal site is within the townland of Culdaff Glebe, a remote coastal area on the north of the Inishowen Peninsula in County Donegal. The townland is on low-lying rocky and boggy land next to a small beach west of the peninsula of Dunmore Head, and about 1.5 km from the village of Culdaff, a small holiday settlement. It is served by a network of narrow paved and unpaved roads and tracks, all very narrow. Within the townland settlement is mostly in a scattering of small houses, most of which appear to be holiday homes, with a substantial mobile home/caravan park on the south side of the main road in the area, overlooking part of the rocky shore, next to a small sandy cove.

2.2. Appeal site

The appeal site, with a site area given as 0.07 hectares, is a long narrow strip of land within the mobile home site, with two mobile homes and an area of land to the front with a septic tank. It is bounded to the west by an unpaved track, with further such mobile homes further west. South, on rising ground, is a track with further holiday units. To the east is a larger plot with a chalet and small café. To the north is the narrow road with a short area of rough grass to the coastal edge where there is a rocky foreshore and a small sandy cove.

3.0 Proposed Development

3.1. As described on the site notice, the proposed development consists of:

- a) Planning permission to retain 2 no. existing mobile homes and 2 no. domestic garage stores on site, previously granted planning permission under reference 05/4041.

- b) Permission to relocate existing caravan no. 1 and domestic garage/store in a south-eastern direction.
- c) Decommissioning of existing septic tank system and permission for new effluent treatment plan and polishing filter to serve 2 no. mobile homes.

Plus all associated site development works.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 6 standard conditions.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Notes the location in a 'stronger rural area' as defined in the Donegal CDP 2018-2024.
- Outlines planning history, notably a permission granted for the retention of 2 no. mobile homes in 2005 (05/4041), and two other permission recently granted to the east for specialist holiday accommodation for people with special requirements (19/5104 and 16/51708).
- Policy on mobile home parks is referred to – TOU-P-18. Note that the site is within a High Scenic Area (map 7.1.1 and an Area of High Scenic Amenity).
- It is considered that the principle of the development on the site has been established, and the character of the area is established by the surrounding caravan park.
- Notes proximity to designated SAC.
- Additional information is requested from the applicant.
- Subsequent to this request for further information the planning authority stated that the information submitted was considered acceptable. It noted an addendum to the Construction Management Plan with regard to Appropriate Assessment. Permission with conditions was recommended.

4.2.2. Other Technical Reports

HSE – made a number of recommendations on the design and layout of the proposed proprietary wastewater system.

4.3. Prescribed Bodies

None on file.

4.4. Third Party Observations

The appellant to this appeal objected to the proposed development.

5.0 Planning History

None on file, but the planning report outlines a number of previous permissions, i.e. 2 no. mobile homes in 2005 (**05/4041**), and two other permission for specialist holiday accommodation for people with special requirements (**19/5104** and **16/51708**).

6.0 Policy Context

6.1. Development Plan

The site is in unzoned open countryside, in an area designated as of High Scenic Amenity (policy NH-P-7). Policies TOU-P-18 and 20 sets out criteria for mobile homes/caravan parks.

6.2. Natural Heritage Designations

The site is a few metres to the south of the North Inishowen Coast SAC, site code 002012, designated for a variety of coastal and shoreline habitats.

7.0 The Appeal

7.1. Grounds of Appeal

Una McGinley of Culdaff Glebe

- It is denied that the applicant has sufficient standing to make the application – in particular, it is stated that land needed for sight lines is within the appellants ownership, and she was not approached for permission. It is argued that the applicant cannot achieve the required 70 metres sight line without this.
- It is further argued that the applicant does not own all the land indicated on the application plan, specifically the land fronting the road. It is questioned as to whether the dimensions indicated on the application forms match the reality on the ground.
- It is questioned whether the proposed proprietary wastewater treatment system is sufficient for two mobile homes. It is argued that as both mobile homes have 3 bedrooms the design criteria should have been for more than 8 person's equivalent.
- It is submitted that the notice was misleading as the garage/stores on the site were not granted permission in 05/4041 as indicated.
- It is submitted that the applicant did not, as requested submit evidence of full legal title to the lands.
- It is also submitted that the plans did not adequately indicate the location of the adjoining holiday home.

7.2. Applicant Response

- It is noted that the planning authority deemed all the land ownership information to have been adequate on submission. It is also stated that no remedial works are required for sight lines.
- It is noted that the appellants sight lines are similar – it is denied there is any traffic hazard, and it is noted that the planning authority are satisfied on this issue.

- It is stated that a full survey of the site has taken place, carried out by Carlson Ireland and all co-ordinates have been confirmed as accurate. A copy is attached.
- It is denied that there is any significant issue with the wastewater treatment system on the site.

7.3. Planning Authority Response

- It is considered that adequate sight lines are available for vehicles using the site.
- It is considered that the applicant has demonstrated sufficient legal interest in the site, and refers to S.34(13) of the Act.
- With regard to public health, it is noted that the EHO officer considered the proposed wastewater treatment system to be acceptable.
- It is confirmed that the sheds on the site were not part of the original permission.
- It is considered that the plans submitted are generally accurate.

8.0 Assessment

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

- Preliminary issues
- Principle of development
- Public health
- Traffic safety
- Visual impact
- Appropriate Assessment
- Other issues

8.1. Preliminary issues

The appellant has raised a number of concerns about the accuracy of the property plans submitted and has questioned whether the applicant has sufficient standing to make the application and to carry out works to secure full sight lines. I note the documents submitted by the applicant and I am satisfied that they have substantive ownership of the property. I would note that under Section 34(13) of the Act, as amended:

‘A person shall not be entitled solely by reason of a permission under this section to carry out any development’.

Having regard to this provision of the Act, I do not consider that any doubts over elements of landownership preclude the Board from making a decision.

I note the appellant’s concerns about the wording of the application, and I concur that it is somewhat ambiguous, however, I am satisfied that the site notice and associated documentation is not misleading to the public, so I do not recommend that the appeal be dismissed for this reason or that the Board seeks to have the application re-advertised.

8.2. Principle of development

The area is unzoned in the Donegal County Development Plan 20018-2024. Culdaff Grebe is indicated as being within a ‘Stronger Rural Area’ with regard to housing policy and an area of ‘High Scenic Amenity’. Relevant policy on developments in existing caravan parks is set out in TOU-P-18 and 20:

TOU-P-18: It is a policy of the Council to consider development proposals for extensions to existing parks for mobiles homes/static caravans (including facilities for Touring Caravans, Campervans, Motorhomes and Camping) in both urban and rural areas excluding areas of Especially High Scenic Amenity where they comply with the following criteria:

- ♣ The specific criteria set out in the Tourism Developments General Criteria Policy (TOU-P-20 refers).

♣ The location siting and design of the development generally accords with the Caravan and Camping Parks Registration and Renewal of Registration Regulations, 2009 or any subsequent related regulations.

TOU-P-20: It is a policy of the Council that all development proposals for the creation of new, or the extension of existing Tourist Developments (including Resource Related/Activity based Tourism Product Developments, Campervan/Motorhomes and Touring Caravan Stopover Sites, Hotels, Guest Houses, Tourism Hostels, Holiday Resorts, Mobile County Donegal Development Plan 2018-2024 Part B: Objectives and Policies of the Plan Chapter 9: Tourism Page 161 Homes/Static Caravan Parks Camping Sites, and other Tourist Related Developments) shall comply with the following criteria:

- a) The location, siting and design of the development (including associated infrastructure and landscaping arrangements) is of a high quality, integrates successfully with, and does not, either individually or in combination with existing and permitted developments, have an adverse impact on; the scenic quality, visual amenity, rural character, streetscape, vernacular character or built environment of the area.
- b) The development is not located within sensitive/fragile physical environments (e.g. sand dunes, machairs, etc.), and provides adequate means of protection of such environments by means of fencing and the provision of raised/fenced walkways across beach and sand dune areas.
- c) The development is significantly setback from, and adequately screened from, coastlines, shorelines and river banks.
- d) The development will not detract from the visual setting of the coastline or be visually obtrusive from key points along the coastline.
- e) Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;

- f) It will not have a significant impact on adjacent residential amenities.
- g) There is an adequate means of water supply.
- h) There is existing or imminent programmed capacity in the public wastewater infrastructure for developments within urban areas or suitable on-site effluent treatment facilities to EPA standards can be provided in rural areas.
- i) The development will not cause a traffic hazard, and the existing road network can safely handle any extra vehicular traffic generated by the proposed development.
- j) Adequate parking provision, access and manoeuvring arrangements (including for touring coaches and motorhomes), and servicing areas are provided in line with best practice, and the technical standards and policies of this plan.
- k) The layout of the development provides for a high level of, and prioritises, pedestrian permeability and access.
- l) The development does not create a noise nuisance and will not cause any significant environmental emissions.
- m) The development will not have an adverse impact on the built, scenic, or natural heritage of the area including structures on the RPS/NIAH and Natura 2000 sites;
- n) The development is not located in an area at flood risk and/or will not cause or exacerbate flooding;
- o) The development will not compromise the water quality of water bodies with River Basin Districts designated under the Water Framework Directive or hinder the programme of measures contained within any associated River Basin Management Plan.

Although there is no information on when the caravan park was granted permission, it has been operating as such for some time and the appeal site had a previous permission for this use. I would therefore consider this to be an established use on

the site, and so the application should be addressed on its own merits with regard to the above criteria.

8.3. Public health

There is an existing septic tank on the site, and it is proposed to replace it with a proprietary wastewater treatment system with polishing filter with disposal to groundwater. The appellant has argued that the proposed replacement system should be designed for 10 people on the basis of the number of bedrooms. I note that the EPA guidelines state that for 6 bedrooms the p.e. should be for 8 persons, which is in line with the submission documentation (see the clarification document issued in August 2013 by the EPA).

The EHO/HSE recommendation (on file) is for a minimum of 20 square metres for a raised sand polishing filter for secondary effluent. **This requirement is far less than that set out in EPA guidelines** for such polishing filters as set out in Table 10.1 of the EPA guidance – this indicates that greater than 37.5 square metres are required for a 5 p.e. household. The application drawing indicates that an 8.4 x 2.4 metres pumped distribution soil filter would be over an 11.4 x 5.4 metres underlying soil polishing filter. This is an absolute minimum that would be required, even on ideal geology, and this site is certainly not ideal. The site assessment indicates that the site overlays clay and silt, with a watertable to 1.7 metres and bedrock to 2.1 metres, which is a very substandard type of geology for any wastewater treatment with disposal to groundwater.

This situation is highly unsatisfactory, especially with regard to what is presumably a multiplicity of such units on the site – I would question whether the original permission should have been considered with a septic tank with the regulations as applied at the time. But having regard to the existing use of the site and the landholdings planning history, I would consider that this would at least allow for some improvements on what is an existing unsatisfactory situation. I therefore conclude that the application as proposed is acceptable on public health grounds.

8.4. Traffic safety

There is an existing gate to the frontage serving the site. All the other mobile homes in the caravan park access onto a single track next to the appeal site.

The road next to the site is relatively narrow, but it is not a busy road as it loops around the peninsula and its poor quality would not permit high traffic speeds. It is likely to have very little traffic, even during peak tourist season. There are no hedges or other obstructions to visibility, so having regard to the existing gate access I do not consider that it constitutes a new hazard, even if full sight lines cannot be achieved.

So, while the proposed works are not ideal, having regard to the planning history of the site and the current use, I consider the proposed access to be acceptable.

8.5. Visual impact

The caravan park is within a very scenic part of the Inishowen peninsula, albeit one scarred by multiple poorly designed holiday developments, not least the caravan park itself. Due to the open and exposed nature of the landscape and the absence of any attempt at screening, the caravan park is highly visible from many vantage points in the area.

Notwithstanding this, I do not consider that the proposed development is substantially worse than that already on the site.

8.6. Appropriate Assessment

The planning authority screened the application and concluded that a Stage 2 AA was required having regard to the proximity of an SAC. I concur with this conclusion. An NIS was submitted, and later addended following a request by the planning authority.

The site is across the road from grassland next to a rocky bay, which is part of the North Inishowen Coast SAC, site code 002012. The qualifying interests are as follows:

Mudflats and sandflats not covered by seawater at low tide [1140]
Perennial vegetation of stony banks [1220]
Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]
Machairs (* in Ireland) [21A0]
European dry heaths [4030]
Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]
Lutra lutra (Otter) [1355]

The NIS indicates that the closest qualifying interests are mudflats and sandflats located in the adjoining small cove, less than 100 metres from the site. The Conservation Objective with regard to these are '*to maintain the favourable conservation condition of Mudflats and Sandflats not covered by seawater at low tide*'.

The NIS notes an indirect hydraulic link from the site to the SAC via a small watercourse to the east and general run-off from the caravan park.

The NIS (with addendum) adequately addresses the sensitivities of the site and potential impacts from both construction and use of the site. It concludes that there are no likely or significant impacts having regard to the overall proposals (this includes a Construction and Environmental Management Plan submitted later).

While having such uncoordinated and poorly served development close to a designated EU habitat is hardly ideal, the proposed development should somewhat improve an existing development, especially with regard to the septic tank. I also note that the nearest qualifying interest, which is in hydraulic continuity with the site, would not be particularly vulnerable to the type of development proposed.

I therefore consider it reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No 002012, or any other European site, in view of the site's Conservation Objectives.

8.7. Other issues

I do not consider that there are any other substantive planning issues in this appeal. I note that the planning authority consider that a S.48 Development Contribution applies.

9.0 Recommendation

I recommend that the Board grant planning permission for the proposed works for the reasons and considerations set out below, subject to the conditions in the final schedule.

10.0 Reasons and Considerations

Having regard to the planning history of the site and the nature of existing development on the lands and adjoining lands, it is considered that the proposed development would not constitute a traffic hazard, would not endanger public health, and would otherwise be in accordance with the proper planning and sustainable development of the area.

11.0 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. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

3. The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled 'Code of Practice – Wastewater treatment and Disposal Systems Serving Single Houses (p.e ≤ 10)' – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Within three months of the first occupation of one of the two mobile homes, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

4. The mobile homes shall be used for short term tourist accommodation only, and shall not be used as a place of permanent residence.

Reason: The occupation of the proposed dwellings on a permanent basis is unsustainable having regard to their location and design.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the

planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the scheme.

. **Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Philip Davis
Planning Inspector

15th December 2020