



An
Bord
Pleanála

Inspector's Report ABP-305240-19

Development	Construct nine detached houses, access road, connections to services and site development works
Location	Watersville, Castlebar, County Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	P18/1014
Applicant(s)	McConway Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	McConway Limited
Observer(s)	Ann & Brendan O'Hara
Date of Site Inspection	1 st November 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1.** The appeal site is located within a residential area on the northern side of Castlebar in County Mayo, approximately 800m from the town centre. It is stated to measure 0.7ha and currently comprises undeveloped lands featuring a partially constructed roadway running centrally through the site and overgrown vegetation either side of this. Vehicular access is available to the site via Watersville residential estate off the Pontoon Road (R310 regional road). It is enclosed by a mix of boundaries, including security gates and fencing along the southern side and block walls of different heights.
- 1.2.** The site is surrounded to the east, west and south by two to three-storey detached houses on large plots in the Watersville estate and to the north by single-storey houses along Pontoon Drive. Ground levels on site drop by 8m from the northwest corner to the southeast corner.

2.0 Proposed Development

- 2.1.** The proposed development comprises the following:
 - construction of nine two-storey detached houses, each with vehicular entrances onto a residential service road off the Watersville estate, including eight five-bedroom houses with a GFA of 247sq.m and a four-bedroom house with an attached garage and a GFA of 395sq.m;
 - connections to local services, landscaping, boundary treatments and site development works, including retaining wall structures.
- 2.2.** In addition to the standard planning application documentation and drawings, the application was initially accompanied by an Archaeological Assessment report, a Certificate of Exemption from the provision of Part V housing and correspondence and an extract relating to a previous planning application and appeal on the site. As part of the applicant's further information response, a landscaping details and drawings were submitted for the proposed development.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to refuse to grant permission for the proposed development for the following reason:

- The proposed development would contravene housing objectives and policies as set out in Section 5.8 of the Castlebar & Environs Development Plan 2008-2014, by virtue of its lack of public open space, as well as the impact on the private amenity space of one or more dwellings immediately north of the site by virtue of overlooking, therefore would give rise to a substandard form of development, and would seriously injure the amenities, and depreciate the value of property in the vicinity, and therefore would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (February 2019) requested the following:

- an archaeological assessment;
- details of retaining wall structures;
- revised layout having regard to the Design Manual for Urban Roads and Streets and a 20% requirement for public open space on site;
- details of front garden treatments.

3.2.2. The recommendation within the final report of the Planning Officer (July 2019) reflects the decision of the planning authority and notes the following:

- the applicant is unable to use the lands outside of their control for open space;
- the applicant would be willing to pay a contribution in lieu of the shortfall in open space;
- overlooking of houses in Pontoon Drive would arise.

3.2.3. Other Technical Reports

- Area Engineer – green area / amenity space is required;
- Area Architect – housing layout, house designs and front gardens should be revised, and open space should be provided;
- Archaeology Section – initially requested an archaeological assessment and subsequently agreed that no further investigations would be needed.

3.3. Prescribed Bodies

- Department of Culture, Heritage & the Gaeltacht – no response.

3.4. Third-Party Observations

- 3.4.1. During consideration of the application by the Planning Authority, one third-party submission was received from the residents of No.5 Pontoon Drive, which is adjoining directly to the north of the appeal site. The issues raised in this submission are similar to those raised in an observation in response to the grounds of appeal and they are summarised under the observation below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. The following planning application relates to the appeal site:

- ABP Ref. PL46.227310 / Planning Authority Ref. 07/13605 – a decision to grant planning permission for 11 houses was initially issued by the planning authority in December 2007. Following a first-party appeal of conditions only, in August 2008 An Bord Pleanála decided to omit conditions 9 and 12 relating to a request for special financial contributions and condition 17 relating to the provision of open space off site. The Board also decided to amend the wording of condition no.10 referring to a €20,000 bond required to ensure satisfactory completion of the development.

4.2. Surrounding Sites

4.2.1. Planning applications in the surrounding area primarily relate to infill residential developments, as well as domestic alterations and extensions, including the following:

- Mayo County Council (MCC) Planning Ref. P14/377 – retention permission was granted by the planning authority in October 2014 for the retention of minor elevation changes to a house permitted under Planning Ref. P07/13605, which is located adjoining to the southeast of the appeal site in the Watersville estate.

5.0 Policy & Context

5.1. Castlebar & Environs Development Plan 2008-2014 (as extended)

5.1.1. Within the Castlebar & Environs Development Plan 2008-2014, the appeal site has a zoning 'D – Existing Residential', with a land-use zoning objective 'to protect, preserve, improve and develop existing residential areas; to provide for appropriate infill residential development; to provide for new and improved ancillary services and to provide for facilities and amenities incidental to those residential areas to provide for the improvement of retailing, enterprise and industrial employment needs of the town'.

5.1.2. The site is included in the 'Phase 1 residential lands' for the town and environs, which are areas to be developed in compliance with their current zoning or in compliance with any existing permissions. Revised proposals for appropriate development on these lands may be considered, subject to the requirements of the Development Plan. There are no other specific local objectives identified in the Development Plan for the appeal site.

5.1.3. Objective HO6 of the Plan aims to develop infill sites in existing residential areas of the town, as a means of providing additional housing and increasing density. Other relevant sections of the Development Plan include:

- 5.8 - Housing Design and Layout;
- 5.9 - Serviced Sites in New Residential zones;

- 5.11 - Low Density Housing;
- 14.4.1 - Residential Density;
- 14.4.2 - Public Open Space;
- 14.4.4 - Overlooking/Minimum Rear Garden Size;
- 14.5.1 - Road Standards;
- 14.5.4 - Housing Layout and Design;
- 14.8.1 - Contributions and Securities.

5.2. National Guidelines

5.2.1. The following planning guidance documents are relevant:

- Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2013);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009);
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).

5.3. Environmental Impact Assessment - Preliminary Examination

5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal has been lodged and the grounds of appeal can be summarised as follows:

Planning Policy

- the proposed development complies within zoning objectives, phasing requirements and development management standards contained within the Castlebar & Environs Development Plan 2008-2014;
- proposals adhere to the infill and flexible development approach outlined within the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the National Planning Framework;
- the proposed development would allow the completion of an unfinished housing estate, adhering to the surrounding pattern and style of development and largely replicating the previously permitted development on site, which did not provide for public open space on the site, as this was provided within the original estate;
- the site is in an urban area and is fully serviced;

Open Space

- public open space amounting to approximately 20% of the Watersville estate gross area was previously allocated to the west of the estate and the applicant had outlined in their further information response that they would be willing to contribute towards the enhancement of this space;
- the planning authority's request for the developer to provide public open space off site was noted to be ultra vires when An Bord Pleanála made their decision to omit condition 17 from the previous permission on site (ABP Ref. PL46.227310 / MCC Ref. 07/13605),
- sterilisation of the area, via refusal of planning permission, would not achieve the public open space the planning authority are seeking to acquire for the estate;
- Section 48 development contributions potentially to be levied the proposed development would provide some scope for the existing open space being improved;

Residential Amenities

- the finished-floor level, height, boundary treatment and separation distance of proposed house no.5 (House type G) to the nearest houses along Pontoon Drive, would be similar to what was previously permitted in this area (under MCC Ref. 07/13605);
- alternative or omitted windows for the first-floor rear-facing bedroom and bathroom windows in proposed house no.5 would be acceptable to the applicant, although this would not appear necessary in light of the boundary treatments, separation distances and level differences between the site and housing in Pontoon Drive.

6.2. Planning Authority Response

6.2.1. The planning authority did not respond to the grounds of appeal.

6.3. Observations

6.3.1. An observation was received from the residents of No.5 Pontoon Drive and the issues raised can be summarised as follows:

Planning Policy

- the applicant applied for nine houses in order to avoid the Part V social housing requirements;
- the density of the development has been reduced and a larger house type G (house no.5) is proposed on the northern boundary, replacing the two houses that were previously permitted under MCC Ref. 07/13605;
- the planning authority is not bound by the previous grant of permission;

Open Space

- the proposed development should be refused, as it fails to provide public open space, which should have been provided as part of the previous permitted development;
- the response to the planning authority's request for further information did not suitably address the open space requirement;

- the grounds of appeal do not address why at least 10% of the site cannot be allocated for public open space;
- the existing open space serving the Watersville estate is neither landscaped nor maintained;

Residential Amenity

- overlooking to the observers' property to the rear and loss of privacy for the observers would arise, as a result of the scale, design and siting of house no.5. A 3m to 6m landscaped buffer should be provided on the northern boundary following the previous conditions of permission (under Planning Refs. 07/13605 & 89/467);
- existing trees along the northern boundary should be retained for screening purposes;
- house no.5 should be redesigned to address the concerns raised and a separation distance of 22m from the rear of dwellings along Pontoon Drive should be provided.

7.0 Assessment

7.1. Introduction

7.1.1. Subject to planning and environmental considerations addressed below, the principle of constructing nine houses on the subject urban infill site with a zoning phase 1 'Existing Residential' development, complies with relevant housing policies and land-use objectives contained within the Castlebar & Environs Development Plan 2008-2014. The Development Plan states that the purpose of the 'existing residential' zoning is to protect and preserve the amenities of existing residents, while allowing for infill development at a density that reflects the density in the area. Consequently, I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Scale & Layout;
- Public Open Space;

- Residential Amenities;
- Property Values.

7.2. Scale & Layout

- 7.2.1. In August 2008, following an appeal of conditions only, permission was granted for the construction of 11 houses on lands comprising the subject site MCC Ref. 07/13605. The proposed development differs from the previously permitted development in that it excludes the existing house adjoining to the southeast, which was subject of a retention permission under MCC Ref. P14/377 for minor elevational changes. The other main differences between the proposed development and the permitted development, include revised house designs and the loss of one house, primarily as a result of the amalgamation of two plots into one along the northern boundary of the site.
- 7.2.2. The subject proposed development forms part of a larger residential estate on infill urban lands, surrounding by low density housing. Some initial works to layout the previously permitted development appear to have taken place on site, including the partial provision of an estate access road. The scale and layout of the proposed development is largely constrained and dictated by this context. I am satisfied that the development approach taken, including the housing layout, would be in keeping with the density, character and pattern of development in the immediate area and would relate to the surrounding urban form, as required under the provisions of Section 14.5.4 of the Development Plan.

7.3. Public Open Space

- 7.3.1. Part of the planning authority's reason for refusing permission refers to the lack of public open space forming part of the proposed development, which the planning authority consider would lead to a substandard form of development. The proposed development would not involve the provision of any public open space on site. When initially considering the proposed development, the planning authority sought further information and attached an 'advice note' requesting that the proposed layout be revised having regard to guidance within the Design Manual for Urban Roads and Streets and a requirement within the Development Plan for a 20% provision of public

open space on greenfield and suburban housing development sites. The appellant was requested by the planning authority to consider developing a small green at the head of the estate access road by way of an agreement with the adjoining landowner. In response the appellant noted that the provision of open space was not feasible and this approach had previously been adjudicated upon by An Bord Pleanála under Ref. PL46.227310 (Planning Ref. 07/13605), when considering an appeal against conditions. Condition 17 of this previously appealed permission, relating to the provision of open space outside the boundary of the site to serve future residents of the proposed houses. I note that in deciding to direct the planning authority to omit condition 17 from the permission, the Board noted that this would be more appropriately dealt with in accordance with the an amended condition (10) requiring the lodgement of a €20,000 bond to secure the satisfactory completion of the development.

7.3.2. The appellant asserts that the public open space (0.6ha) originally allocated to serve the subject Watersville estate is situated on the western side of the estate and this amounts to 20% of the estate area (3ha). This is not contested by the planning authority. The area identified is not maintained at present and does not function as public open space. This open space area is zoned as 'open space / amenity' in the Development Plan, similar to the open space serving the Pontoon Drive residential estate and other estates in the area. As provided for in the Development Plan, within the application the appellant stated that they would be willing to contribute financially to the shortfall in open space, as a condition of the permission, which would facilitate the planning authority in progressing development of the estate's open space.

7.3.3. Given the existing allocation of open space intended to serve the estate, which the proposed development would form part of, and the zoning objectives for this open space area and the site, I am satisfied that there is not a necessity to provide public open space on the appeal site, as part of the proposed development.

7.4. Residential Amenities

7.4.1. I am satisfied that the orientation, scale and siting of the proposed houses on site relative to the neighbouring residential properties that are situated on different ground levels to the appeal site, is such that the potential for excessive

overshadowing and undue overbearing impacts of neighbouring properties would not arise.

- 7.4.2. Part of the planning authority's reason for refusing the proposed development was based on the potential impact of the proposed development on the residential amenities of one or more properties adjoining to the north along Pontoon Drive, as a result of overlooking. Based on the layout of the proposed housing and their relationship with and distance from properties along Pontoon Drive, this could only reasonably occur with respect to house no.5 (House type G).
- 7.4.3. The Development Plan outlines that first-floor windows should not directly overlook opposing first-floor windows and a separation distance of at least 22m would be required between first-floor windows. The four proposed first-floor rear windows serving house no.5 would be positioned a minimum of 9m to 11m from the rear boundaries with the nearest properties along Pontoon Drive. Two of these windows would serve bathrooms and would be of obscure glazing according to the appellant, while the two other windows would serve a bedroom. The properties along Pontoon Drive are situated on ground that is approximately 3.3m higher than the ground-floor level of proposed house no.5. As a result, and as illustrated in the cross section drawing for house no.5 (Drawing No.20 Revision A) submitted with the further information response, views from the bedroom windows to the rear of properties along Pontoon Drive would be largely obstructed by the existing rear boundary treatments along Pontoon Drive. The proposed layout of the development would be typical for an urban context such as the subject area. Consequently, I am satisfied that the proposed development would not lead to excessive direct overlooking of properties along Pontoon Drive and the residential amenities of neighbouring properties would not be unduly impacted on.
- 7.4.4. The proposed houses would be provided with gross floor areas of between 247sq.m and 395sq.m, which would be substantially in excess of target standards set out within the Department's 'Quality Housing Guidelines'. The minimum living-room areas, aggregate living areas, aggregate bedroom areas, storage areas and natural lighting requirements are all achieved for each of the proposed house types. I am satisfied that the private amenity space, internal space and internal layouts for the proposed houses would also provide an appropriate level of amenity for future occupants.

- 7.4.5. In conclusion, I am satisfied that the proposed development would not injure the residential amenities of the area and would also provide a suitable level of amenity for future residents of the houses.

7.5. Property Values

- 7.5.1. The reason for refusal issued by the planning authority refers to the potential for the proposed development to depreciate the value of property in the vicinity. Arising from this assessment, in particular with regard to the impact of the proposed development on neighbouring residential amenities, and cognisant of the fact that the site was previously subject to a permission for a similar nature and scale of development to that now proposed and the vacant and overgrown condition of these urban infill lands, there is no evidence to support claims that the proposed development would be likely to result in the depreciation of property values in the vicinity.

8.0 Appropriate Assessment

- 8.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the zoning objectives for the site, to the planning history for the site, to the nature, scale and layout of the proposed development, and to the existing pattern of development in the vicinity, it is considered that subject to compliance with the conditions below, the proposed

development would respect the character of existing development within the area, would not be required to provide for public open space on site, would not seriously injure the residential amenities of the area or of property in the vicinity and would provide a suitable level of amenity for future occupants. The proposed development would, therefore, 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, as amended by the further plans and particulars submitted on the 4th day of July, 2019, 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 materials, colours and textures of all the external finishes to the proposed houses shall be submitted to and agreed in writing with the planning authority before the commencement of construction of the houses.

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

3. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-
 - (a) details of all proposed hard surface finishes within the development;
 - (b) proposed locations of trees and other landscape planting in the

development, including details of proposed species and settings;

(c) details of proposed internal boundary treatments, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

4. a) The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.
- b) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This Plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, traffic management measures and off-site disposal of construction and demolition waste.

Reason: In the interests of public safety and residential amenity.

6. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

vicinity.

7. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

8. Proposals for a house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

9. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

10. 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.

Colm McLoughlin
Planning Inspector

9th December 2019