



An  
Bord  
Pleanála

## Inspector's Report 305492-19

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<b>Development</b>	Change of use of 3 no. assisted living units to private dwelling units
<b>Location</b>	Drum, Knock, Co. Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	P19/211
<b>Applicant(s)</b>	TH Contractors Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	TH Contractors Ltd.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	5 <sup>th</sup> December 2019
<b>Inspector</b>	Louise Treacy

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.075 ha and is located at Drum, Knock, Co. Mayo. The site is located on the eastern side of the town of Knock and is accessed via the R323, which forms its southern boundary. The existing development comprises a terrace of 3 no. single-storey dwelling units (Block A) with private gardens demarcated by timber fencing to the rear. There are 3 no. parallel car parking spaces, a shared circulation space and footpath to the front of the units adjacent to the R323.
- 1.2. A two-storey nursing home building is located directly to the rear/north of the application site. The nursing home and the subject development share a vehicular entrance off the R323, with a second entrance to the nursing home located to the north-west of the application site.
- 1.3. There are 2 no. similar single-storey residential blocks located to the north-east and east of the site, which are accessed from the same entrance off the R323. The block to the north-east (Block C) comprises assisted living units associated with the nursing home. The block to the east (Block B) comprises private dwellings. There are 4 no. grouped car parking spaces located on the eastern side of the internal access road between Blocks A and B.
- 1.4. The site is bounded by a private two-storey dwelling to the west.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the change of use of Block A, house units 1, 2 & 3 from assisted living units to dwelling house use for private sale (previous planning reference nos. P08/363 and P16/1028).

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission issued on 2<sup>nd</sup> September 2019 for 2 no reasons including:

(i) the proposed development would materially contravene the development objectives of the Mayo County Development Plan 2014-2020 due to inadequate private open space provision;

and,

(ii) insufficient evidence of satisfactory vehicle access road and satisfactory car parking arrangement for the proposed development, which would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise.

### **3.2. Planning Authority Reports (14<sup>th</sup> May 2019 and 3<sup>rd</sup> July 2019)**

#### **3.2.1. Planning Reports**

3.2.2. Further information was requested on 14<sup>th</sup> May 2019 in relation to 5 no. items as follows:

- A justification for the development, outlining why assisted living units are not required for the nursing home;
- Details of compliance with the car parking standards of the Mayo County Development Plan 2014-2020;
- A site layout demonstrating compliance with bicycle parking standards of the Mayo County Development Plan 2014-2020;
- Details of compliance with the private and public open space standards of the Mayo County Development Plan 2014-2020;
- Revised plans and elevation drawings of the dwellings including the existing solar panels.

3.2.3. Following the applicant's response to the Request for Further Information on 7<sup>th</sup> June 2019, a request for Clarification of Further Information issued on 3<sup>rd</sup> July 2019 in relation to 2 no. items as follows:

- Whether permission had been granted since Reg. Ref. P16/1028 to separate units 4 and 5 (Block B) from the parent permission;
- Details of how a 2 m footpath, car parking and access road could be achieved to the front of the dwelling units.

- 3.2.4. Following the applicant's response to the Clarification of Further Information Request on 7<sup>th</sup> August 2019, a refusal of planning permission was recommended for 2 no. reasons as identified in section 3.0 of this report.
- 3.2.5. **Other Technical Reports**
- 3.2.6. **National Roads Office Mayo County Council:** No issues raised.
- 3.2.7. **Road Design:** No objection to the proposed development.
- 3.2.8. **Area Engineer (18<sup>th</sup> April 2019 and 2<sup>nd</sup> July 2019):**
- 3.2.9. Following the applicant's Further Information Response, the Area Engineer noted that: (i) the vehicular accesses to Blocks A and B pose a danger for conflict with traffic entering and exiting the development given their location on the radius of the bend; (ii) the proposed car parking at Block A does not comply with Appendix 3 of the 2014-2020 development plan; (iii) the width of the space to the front of the units would make it difficult to exit parked cars on the roadside boundary; and (iv) a car parked adjacent to the bicycle rack may not be able to exit the development when the remaining 2 spaces are occupied.

## 4.0 Planning History

- 4.1. **PA Reg. Ref. 04/2152:** Planning permission granted on 17<sup>th</sup> February 2005 for a 50-bedroom nursing home with all ancillary site works and services at Drum, Knock, Co. Mayo.
- 4.2. **PA Reg. Ref. 08/363:** Planning permission granted on 3<sup>rd</sup> November 2008 to demolish the existing dwelling house and construct a 51-bedroom nursing home and 12 no. associated 1 and 2-bedroom housing units, connection to all public utilities together with all ancillary site works.
- 4.3. Condition No. 30 of this permission required the nursing home and assisted living units to be retained in single ownership and the assisted living units not to be sold or leased separately.
- 4.4. **PA Reg. Ref. P08/36300:** Extension of duration of appropriate period of PA Reg. Ref. 08/363 granted to 2<sup>nd</sup> November 2018.

- 4.5. **PA Reg. Ref. 16/1028:** Planning permission granted on 8<sup>th</sup> June 2017 for revisions to nursing home and associated dwellings granted under P08/363 to facilitate current standards by way of the construction of a 54-bedroom nursing home unit to maintain original bed numbers, the construction of 7 no. associated living units and 2 no. independent 2-bedroom houses with new vehicular access (total units reduced from 12 no. to 9 no.) together with all ancillary site works and services.

## 5.0 Policy and Context

### 5.1. Development Plan

### 5.2. Mayo County Development Plan 2014-2020 (incorporating the Knock Area Plan)

- 5.2.1. **Zoning:** The site is zoned “Residential Low Density” (up to 5 units/ha).
- 5.2.2. The housing objectives of Mayo County Council are set out in Chapter 1 of the development plan. Those objectives which are relevant to this case are identified below.
- 5.2.3. **HG-01:** It is an objective of the Council to facilitate the provision of suitable housing including type, size, design and tenure, in the County in accordance with the Core Strategy tables (Table 1(A-C)), the Mayo Housing Strategy and the Development Guidance document accompanying the development plan.
- 5.2.4. **HG-02:** It is an objective of the Council to maximise the use of the existing housing stock throughout the County by exploring the viability of utilising existing vacant housing stock as an alternative to new build.
- 5.2.5. **Public Open Space:** Public open space is required in all housing developments over 3 units. A standard of 10% applies in this case. On small schemes where open space areas would be too small and/or standards cannot be met, developers may be required to make a contribution to the Council towards the provision of open space elsewhere or consider alternative arrangements whereby appropriate community facilities may be provided in lieu of the required open space.
- 5.2.6. **Private Open Space:** All houses in urban/suburban areas shall have a private open space area behind the building line. In general, the requirement shall be a minimum

of 100 m<sup>2</sup> (with a minimum depth of 10 m) for 3/4/5-bedroom houses in housing estates.

5.2.7. A slightly reduced standard may be acceptable for 1 and 2-bedroom houses where a high standard of design is demonstrated; where adequate space is provided for refuse, fuel and bicycle storage; where the majority of houses comply with the minimum garden sizes; and where a particular house performs a particular architectural/townscape role in the overall layout. Where terraced housing is proposed, provision shall be included to allow direct access to rear gardens.

5.2.8. **Parking:** No car parking standard is identified for 1-bedroom dwellings. A car parking requirement of 1 no. space arises for 2-bedroom dwellings, plus 1 no. visitor parking space per residential unit.

5.2.9. **Bicycle Parking:** 1 no. private secure bicycle space per bed space is required for housing developments, with a minimum of 2 spaces required. Visitor bicycle parking is required at a rate of 1 space per 2 housing units.

### 5.3. **Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)**

5.3.1. Table 5.1 of these Guidelines identifies the target gross floor area for housing units and the minimum floor areas for living, bedroom and storage areas likely to be required to satisfy requirements of normal living. Those which are relevant to this case are set out below.

**1-bed/2-person/1-storey house:** 44 m<sup>2</sup> target gross floor area; 11 m<sup>2</sup> min. living room; 23 m<sup>2</sup> aggregate living area; 11 m<sup>2</sup> aggregate bedroom area; 2 m<sup>2</sup> storage.

**2-bed/3-person/1-storey house:** 60 m<sup>2</sup> target gross floor area; 13 m<sup>2</sup> min. living room; 28 m<sup>2</sup> aggregate living area; 20 m<sup>2</sup> aggregate bedroom area; 3 m<sup>2</sup> storage.

5.3.2. The 2 no. 1-bedroom units in this case have an overall floor area of 51.6 m<sup>2</sup>, while the 1 no. 2-bedroom unit has an overall floor area of 71.89 m<sup>2</sup>.

5.4. **Natural Heritage Designations:** The boundary of the River Moy SAC is located approximately 540 m to the north-west of the application site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A first party appeal has been lodged by The Planning Partnership on behalf of the applicant, the grounds of which can be summarised as follows:

- The proposed private open space for each unit complies with development plan policy, which allows a reduced standard below 100 m<sup>2</sup> for 1 and 2-bedroom dwellings, with the open space provided being larger than each of the individual dwellings;
- No justification is provided as to how the proposed development would result in a substandard form of residential development. Refusal reason no. 1 is wholly unjustified, inappropriate and inaccurate, with the development having no legitimate potential to depreciate the value of property in the area or to create a precedent;
- The absence of rear access to dwelling no. 2 will not reduce its residential amenity given that it is a 1-bedroom unit, with limited traffic to and from the rear garden;
- A group refuse storage area can be provided for the dwellings by way of planning condition, while sufficient space for fuel and domestic storage is available within each dwelling;
- The design of the dwellings remains unchanged as approved by Mayo County Council under Reg. Ref. 16/1028;
- No material change in the car parking requirement arises on foot of this planning application given that the units are already residential in nature, and are small scale with limited potential occupancy;
- The proposed development would result in a demand for 6 no. car parking spaces for residents and visitors, which is excessive and not reflective of likely demand. The provision of 5 no. parking spaces would match the existing parking requirement for assisted living units;

- The extent and type of parking provided can assist in encouraging the retired community to occupy the units. The Sustainable Residential Development in Urban Areas Guidelines (2009) identify that off-street car parking standards may be relaxed to encourage the occupation of dwellings by households owning fewer cars;
- The 3 no. car parking spaces to the front of the units occupy a shared space as opposed to a formal access road. These spaces are appropriate given the likely limited demand for parking, limited traffic movements and the likely resident profile;
- Should An Bord Pleanála consider the car parking spaces to be constrained, it is submitted that the parking area to the front of units can accommodate at least 2 no. spaces or an alternative 3 space arrangement;
- The risk of traffic hazard could be further mitigated by measures to slow traffic, including a potential ramp across the site entrance, and/or a narrowing of the entrance point to the parking area;
- The units also benefit from 4 no. grouped parking units adjacent to the internal access road, with a fifth space offered by the applicant as part of the planning application process. The potential also exists to create a further 3 no. spaces in this area, which is under the applicant's control. Should this alternative arrangement be considered acceptable by An Bord Pleanála, the existing car parking area to the front of the units could be landscaped as appropriate;
- A precedent has been set under PA Reg. Ref. 16/1028 for the change of use of unit nos. 4 and 5 from assisted living units to independent units, with no concerns raised by the Planning Authority in relation to open space, residential amenity, design or parking. The decision to refuse permission for the current application is entirely inconsistent with this earlier decision;
- The decision to refuse permission fails to take national policy objective nos. 11 & 13 of the National Planning Framework into account, which support the principle of the development;
- The proposed development does not constitute a material contravention of the development plan given that the principle of the development is not in



question. If the Board considers that the provisions of S. 37(2)(b) of the Planning and Development Act, 2000 (as amended) does arise, sufficient criteria exist to enable the Board to overturn the Planning Authority's decision.

## 6.2. **Planning Authority Response**

6.2.1. None received.

## 7.0 **Assessment**

7.1. I am satisfied that the main issues for consideration in this case include:

- Private open space provision
- Car parking
- Appropriate assessment

7.2. Each of these issues is considered in turn below.

### 7.3. **Private Open Space Provision**

7.3.1. Mayo County Council's Planning Officer considered that the private open space to the rear of the dwellings was inadequate for private use. In reaching this conclusion, the Planning Officer noted that each garden falls below the minimum development plan requirement of 100 m<sup>2</sup>; a high standard of design is not demonstrated; adequate space is not provided for refuse, fuel and domestic storage; and, house no. 2 would not have direct access to the rear garden from the front of the unit.

7.3.2. Refusal reason no. 1 of the Planning Authority's Notification of the Decision to Refuse Permission states that, if permitted, the proposed development would contravene materially the development objectives of the Mayo County Development Plan 2014-2020, with specific reference to paragraph 14.2 (private open space standards).

7.3.3. In considering the appropriateness of the private open space provision, I note that the Mayo County Development Plan confirms a minimum requirement of 100 m<sup>2</sup> for 3/4/5-bedroom houses in housing estates. As such, this standard is not relevant in this case given that the subject development comprises 1 no. 2-bedroom unit and 2 no. 1-bedroom units. Notwithstanding the foregoing, I note that the rear garden of

unit no. 1 exceeds 100 m<sup>2</sup> as confirmed in the first party appeal submission, with an area of 109 m<sup>2</sup> provided. As such, the private open space to the rear of unit no. 1 cannot reasonably be deemed inadequate given that it exceeds the minimum standard for larger dwellings.

7.3.4. House nos. 2 and 3 have rear gardens of 75 m<sup>2</sup> and 74 m<sup>2</sup> respectively. In my opinion, this private open space would be entirely appropriate for these 1-bedroom dwellings and would provide a satisfactory standard of residential amenity for future occupants. I further consider that the private open space for these units complies with the development plan, which allows for an unspecified “slightly reduced standard” below 100 m<sup>2</sup> for 1 and 2-bedroom dwellings. In my opinion, the proposed development does not materially contravene the development objectives of the Mayo County Development Plan 2014-2020 in relation to private open space, and as such, the provisions of Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) do not apply in this case.

7.3.5. I further consider that the rear gardens of all three properties provide sufficient space to accommodate refuse and fuel storage within each property boundary. In my opinion, this is a preferable arrangement to the remote refuse storage solution put forward by the applicant’s agent. While I note that house no. 2 does not have independent access to its rear garden being situated in the middle of the terrace, I consider that some flexibility must be provided in this case given that the dwellings are already constructed.

#### 7.4. **Car parking**

7.4.1. In considering the appropriateness of the proposed car parking arrangements, the Area Engineer of Mayo County Council considered that the vehicular access arrangement to the site poses a danger for conflict with traffic entering and exiting the development, given its location on the radius of a bend. It was further considered that the car parking does not comply with development plan standards; that the restricted width of the space would make it difficult to exit parked cars; and, that a car parked adjacent to the bicycle rack may not be able to exit the development when the remaining 2 spaces are occupied.

7.4.2. I agree that there is limited space to the front of the dwelling units to accommodate 3 no. parked cars in a parallel arrangement. In a scenario where all three spaces were

occupied, turning movements into and out of the spaces would likely be significantly restricted, particularly to the front of unit no. 1. Passengers exiting parked cars would also be required to step into the landscaped buffer adjacent to the roadside boundary. I also note that there is limited visibility for cars exiting the application site onto the main internal access route, with restricted views of cars entering the site from a north-westerly direction along the R323.

- 7.4.3. The applicant's agent has put forward two alternative parking arrangements in the event the Board shares the Planning Authority's concerns regarding the proposed car parking to the front of the units. The first of these alternatives includes the reallocation of the parking space to the front of unit no. 2 to the front of unit no. 1, resulting in two adjacent parking spaces to the front of this unit. The third car parking space would remain as originally proposed to the front of unit no. 3. In my opinion, this alternative arrangement would continue to be substandard due to the restricted width of the shared space to the front of the units and the visibility concerns noted above.
- 7.4.4. The second alternative parking arrangement includes the provision of 3 no. additional parking spaces to the existing grouped parking area on the eastern side of the main internal access road. These spaces are proposed on lands within the applicant's control and would result in a total of 7 no. grouped spaces at this location (3 no. resident parking spaces for block A and 4 no. visitor parking spaces). The applicant's agent notes that the existing spaces in this area are dedicated to units nos. 1- 5, and as such, the 4 no. proposed visitor spaces would serve both blocks A and B. In the event this arrangement is acceptable to the Board, the applicant's agent has expressed a willingness to landscape the car parking area to the front of the dwelling units.
- 7.4.5. In my opinion, this revised parking arrangement would be acceptable. The parking spaces are located opposite the subject dwellings along the main internal access road, and as such, are in reasonable proximity with satisfactory levels of passive surveillance. While it is noted that the development plan requires visitor parking at a rate of 1 no. space per residential unit, it is considered that the provision of 4 no. spaces to serve 5 no. units (3 no. in block A and 2 no. in block B) would be acceptable, given the location of the site within an urban area where visitor trips may reasonably occur by sustainable modes. The revised car parking arrangement and

the landscaping of the shared space to the front of the dwelling units can be addressed by way of condition.

## 7.5. **Appropriate Assessment**

- 7.5.1. Given that the development is connected to the public water supply and drainage networks, and having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

## 8.0 **Recommendation**

- 8.1. I recommend that planning permission be granted subject to conditions.

## 9.0 **Reasons and Considerations**

- 9.1. Having regard to the site's location on serviced urban land, the nature and scale of the proposed development and the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 **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 7 <sup>th</sup> June 2019 and 7 <sup>th</sup> August 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 and the development shall be carried out and
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	<p>completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The existing grouped parking area on the eastern side of the internal access road shall be extended to provide an additional 3 no. car parking spaces (7 no. spaces in total), with 1 no. space permanently assigned to each of house nos. 1, 2 and 3. The remaining 4 no. spaces shall be reserved as visitor car parking. Details of the layout and demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority within 6 months of the date of this Order.</p> <p><b>Reason:</b> To ensure adequate off-street parking provision is available to serve the proposed development.</p>
3.	<p>The 3 no. car parking spaces to the front of the dwelling units shall be omitted and the remaining shared space shall be suitably landscaped, details of which shall be submitted to and agreed in writing with, the planning authority within 6 months of the date of this Order.</p> <p><b>Reason:</b> To ensure a satisfactory standard of development and in the interests of residential amenity.</p>

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Louise Treacy  
 Planning Inspector

8<sup>th</sup> January 2020