



An
Bord
Pleanála

Inspector's Report 305672-19

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| Development | 3 no. 2-storey houses and associated site development works |
| Location | Blackford Manor, Garryduff, Newport Road, Castlebar, Co. Mayo |
| Planning Authority | Mayo County Council |
| Planning Authority Reg. Ref. | 19584 |
| Applicant(s) | JKP Developments |
| Type of Application | Permission |
| Planning Authority Decision | Refuse permission |
| Type of Appeal | First Party |
| Appellant(s) | JKP Developments |
| Observer(s) | Blackfort Avenue-Blackfort Manor Residents Association |
| Date of Site Inspection | 4 th December 2019 |
| Inspector | Louise Treacy |

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.0926 ha and comprises an undeveloped parcel of land within the Blackford Manor residential estate, Garryduff, Newport Road, Castlebar, Co. Mayo. The site is close to the entrance to the housing estate from the R311 Newport Road and is situated at the end of a crescent of 10 no. detached, two-storey dwellings.
- 1.2. The existing dwellings are accessed via an internal estate road which terminates in a cul-de-sac to the front of the application site. The internal access road also encloses an area of communal open space to the front of the dwellings.
- 1.3. The site is bounded by 2-storey dwellings along its northern and western boundaries. A footpath demarcates its southern boundary, while a concrete post and rail fence extends from the north-eastern to the south-eastern site boundaries.

2.0 Proposed Development

- 2.1. The proposed development comprises 3 no. 2-storey houses and associated site development works, including connection to utilities.
- 2.2. One of the proposed dwellings is detached, while the remaining two comprise a semi-detached pair. A total of 6 no. off-street carparking spaces are proposed to the front of the units.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission issued on 17th September 2019 for 2 no. reasons as follows:
 - (i) the proposed development would constitute the over-development of the site,
and,
 - (ii) residential development is not permitted on open space zoned lands.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

3.2.2. Basis of Planning Authority's decision.

3.2.3. In recommending that planning permission be refused in this instance, Mayo County Council's Planning Officer considered that the site was not appropriately zoned for residential development. The Planning Officer further considered that the proposal represented a high-density development which was not in keeping with the existing pattern of development, with the breaking of the established building line and roadside arrangements which do not reflect the existing dwellings.

3.2.4. **Other Technical Reports**

3.2.5. None.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. A total of 14 no. submissions were made on this application from the residents of neighbouring dwellings.

3.4.2. The issues raised include: site notice inaccuracies; overlooking; inconsistent dwelling design; blocking of sightlines to main estate access road; increased traffic; loss of play space; overdevelopment; impractical off-street car parking arrangements; overshadowing, loss of light and flooding of garden to the rear of the application site; construction traffic and nuisance; insufficient open space and parking; and, insufficient housing demand.

4.0 **Planning History**

4.1. **PA Reg. Ref: PD02/2968:** Planning permission sought in 2002 for 12 no. dwellings and associated development.

4.2. Planning permission was subsequently granted for 10 no. dwellings. The 2 no. dwellings which were proposed on the current appeal site were deemed premature pending the determination of the Castlebar Relief Road/Newport Road.

- 4.3. **PA Reg. Ref. P08/13759:** Planning permission granted on 13th January 2009 for the construction of 2 no. two-storey dwelling houses on the subject site and all associated site development and external works and connection to utilities.
- 4.4. The Town Engineer's Report for this application (dated 11th December 2008) confirms that a material contravention of the 1991 development plan was carried out to facilitate the parent application (Reg. Ref PD02/2968). The report also notes that as the route of the Castlebar Relief Road had subsequently been decided, condition nos. 2 and 3 of the parent permission no longer applied. A grant of planning permission was recommended on that basis.

5.0 Policy and Context

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

5.1.1. Zoning

5.1.2. The site is subject to land use zoning "G – Open Space/Amenity" which has the objective "to preserve, provide for and improve active and passive recreational public and private open space". The 10 no. existing dwellings which border the application site are also zoned for open space/amenity purposes. The land use zoning matrix set out in table 15.1 of the development plan confirms that housing is not normally permitted under this zoning objective.

5.1.3. Section 15.4 of the development plan states that uses which are not normally permitted under a zoning objective will not be considered by the Local Authority, except in exceptional circumstances. The plan further states that the expansion of established and approved uses which do not conform to land use zoning objectives will be considered on their merits.

5.1.4. Housing

5.1.5. **Strategic Objective:** It is the objective of the Council to facilitate and provide for the housing requirements of the plan area to provide for a range of new residential accommodation appropriate to the changing needs of the population, subject to compliance with the Core Strategy.

5.1.6. **General Housing Objective HO1:** It is an objective of the Council to meet the needs of the enlarging and diversifying population of Castlebar and its environs through the

provision of a suitable range of residential types, sizes and styles and in particular, to meet the requirements of smaller household size.

5.1.7. **Residential Density Objective HO6:** It is an objective of the Council to develop infill sites in existing residential areas of the town as a means of providing additional housing and increasing density.

5.1.8. **Housing Design and Layout Policy HP9:** To require a high standard of design and layout of all residential developments in view of requirements for the increase of density of residential development.

5.1.9. **Infill Development:** Proposed development must have due regard to the predominant design features, existing building lines and heights and the existence of particular elements, such as groups of trees and hedgerows, listed buildings or open spaces.

5.1.10. **Residential Development Standards**

5.1.11. The key standards which are relevant to this case include:

- **Private open space:** Required at a rate equivalent to half the gross floor area of the house, but not less than 50 m².
- **Car parking:** 2 no. spaces per family orientated unit is required. In town centre or other locations where the provision of on-site car parking would not be feasible or appropriate for urban design reasons, a contribution will be levied in lieu of car parking.

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

5.2.1. These Guidelines identify target gross floor areas likely to be required to satisfy requirements of normal living. The standards which relate to 2-storey, 4-bedroom dwelling houses as proposed in this case, are set out below.

- **Target gross floor area:** 110 m²;
- **Min. main living room:** 15 m²;
- **Aggregate living room:** 40 m²;
- **Aggregate bedroom area:** 43 m²;

- **Single bedroom:** 7.1 m²;
- **Double bedroom:** 11.4 m²;
- **Main bedroom:** at least 13 m² in dwelling for 3+ persons;
- **Storage:** 6m².

5.2.2. Each of the proposed dwellings has a stated floor area of 125.4 m².

5.3. **Natural Heritage Designations**

5.3.1. None.

5.4. **EIA Screening**

5.4.1. Having regard to the nature and scale of the proposed development, comprising 3 no. residential dwellings in an established residential area which will be served by public water and wastewater connections, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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 on behalf of the applicant by Planning Consultancy Services, the grounds of which can be summarised as follows:

- The parent application for the Blackford Manor estate proposed 2 no. houses which were omitted from the subject site as it was being considered for the alignment of the Castlebar Relief Road to the R311 Newport Road. This formerly planned road route is no longer a constraint on the development of the site;
- The site was never designated or functioned as public open space for the Blackford Manor housing estate, with communal open space already provided to the front of the existing houses;

- The assessment of Mayo County Council's Planning Officer does not refer to the previous planning history of the site, including the granting of permission for 2 no. 2-storey dwelling houses under PA Reg. Ref. PD08/13749. This application was granted permission under the same 2008 development plan zoning which continues to apply to the site;
- Refusal reason no. 1 of the Planning Authority's decision is entirely unfounded given that the proposed dwellings comply with development plan requirements in relation to plot ratio, density, design, building line, corner sites, roadside arrangements and overlooking;
- Refusal reason no. 2, which relates to residential development on open space zoned lands, has no regard to the previous application for 2 no. dwellings on the site which was granted by Castlebar Town Council;
- Section 15.4 of the development plan allows for exceptional circumstances, including the expansion of established and approved uses which do not conform with the land use zoning objectives. The development plan allows such uses to be considered on their merits;
- Should An Bord Pleanála consider that the proposed development constitutes a material contravention of the development plan, sufficient criteria exist to support a grant of permission including: (i) a conflict between the site's open space zoning and development plan objectives regarding infill development and brownfield sites; (ii) compliance with the compact development objectives of the National Planning Framework; (iii) compliance with the Regional Planning Guidelines and the Draft Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly regarding population growth and compact development in Castlebar; (iv) compliance with the Sustainable Residential Density Guidelines regarding the promotion of higher residential densities in appropriate locations; and, (v) consistency with the character and prevailing pattern of development in the area and permissions granted.
- Three dwellings are proposed in the interests of achieving a sustainable urban density on the site, which is consistent with national policy and the principles of urban consolidation.

6.2. **Planning Authority Response**

6.2.1. None.

6.3. **Observations**

6.3.1. One observation has been received from the Blackfort Avenue-Blackfort Manor Residents Association. The issues raised therein reflect those of the third-party submissions to the Planning Authority, with no new issues raised.

7.0 **Assessment**

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

- Planning History / Principle of Development
- Land Use Zoning
- Size, Scale and Design of Proposed Dwellings
- Road Access
- Appropriate Assessment

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

7.3. **Planning History / Principle of Development**

7.3.1. Mayo County Council's Planning Officer noted that 2 no. detached houses were proposed on the subject site under the parent application for the residential estate (PD02/2968) but were subsequently omitted by condition pending the resolution of the Castlebar Relief Road/Newport Road. While there is no report on file from the Engineering Department of Mayo County Council, discussions were held between the Planning Officer and the Road Design Office which confirmed that there is no current road alignment which may impact on the proposed development. This is supported by a review of map no. 1 (land use zoning) of the Castlebar Town and Environs Development Plan 2008-2014 (as extended).

7.3.2. The Planning Officer's Report does not include any assessment of PA Reg. Ref. P08/13759, under which permission was subsequently granted on the subject site in January 2009 for the construction of 2 no. dwelling houses. In assessing this

application, the Area Engineer of Castlebar Town Council noted that a material contravention of the 1991 development plan had been carried out to facilitate the parent application, which included 2 no. dwellings on the subject site. The Area Engineer also considered that the omission of these dwellings by way of condition nos. 2 and 3 of the parent permission was no longer relevant, given that the route of the Castlebar Relief Road had been decided.

- 7.3.3. Having regard to the foregoing, it is evident that the justification for omitting the 2 no. dwellings from the subject site as originally proposed is no longer relevant. It is also considered that there is an established precedent for residential development at this location. While the observer submits that the site is used informally as a children's play space, it is noted that communal open space is already provided to the front of the existing dwellings and that the subject site is poorly overlooked in terms of its value as an amenity space. Thus, the development of the site for residential purposes is considered acceptable in principle in this instance.

7.4. Land Use Zoning

- 7.4.1. The subject site is zoned for "open space/amenity" purposes under the development plan. The land use zoning matrix confirms that residential development is not normally permitted on such lands. Refusal reason no. 2 of the Planning Authority's decision states that the proposed development would be contrary to Section 15.4 Land Use Zoning Matrix of the Castlebar and Environs Development Plan 2008-2014 (incorporating variations 1-5) as extended, as the proposed residential development is not a permissible use on lands zoned for open space.
- 7.4.2. In providing further clarification in relation to uses which are "not normally permitted" under a land use zoning objective, Section 15.4 of the development plan confirms that the expansion of established and approved uses will be considered on their merits. No discussion is included in Mayo County Council's Planning Officer's Report in relation to this provision.
- 7.4.3. The applicant's agent puts forward a justification for the granting of planning permission in this instance in the event An Bord Pleanála considers that a material contravention of the development plan arises. However, given that the development plan allows proposals which comprise an expansion of established and approved uses to be considered on their merits, it is considered that the proposed

development does not represent a material contravention of the development plan. As such, the provisions of Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) do not apply in this case.

7.5. Size, Scale and Design of Proposed Dwellings

- 7.5.1. Refusal reason no. 1 of Mayo County Council's Notification of the Decision to Refuse Permission states that the proposed development would give rise to the overdevelopment of the site, based on its size and scale and the existing pattern of development at this location and, if permitted, would seriously injure the amenities and/or depreciate the value of property in the vicinity.
- 7.5.2. Mayo County Council's Planning Officer considered that the proposal constituted a high-density development which was not in keeping with the existing pattern of development. It was further considered that the 3 no. dwelling units had been designed as an independent scheme from the Blackford Manor housing estate, with the breaking of the established building line and roadside arrangements which did not reflect the existing dwellings.
- 7.5.3. In my opinion, the proposed development would be acceptable on the subject site. Each of the dwellings exceeds the target gross floor area identified for 2-storey, 4-bedroom dwellings under the Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes for Sustaining Communities (2007). As such, it is considered that the units would offer a good standard of accommodation for future occupants.
- 7.5.4. A rear garden in excess of 12 m long is proposed for each unit and as such, no overlooking of the residential properties to the rear (north/northwest) of the site can reasonably occur. The proposed detached dwelling adjacent to No. 3 Blackfort Avenue includes a bathroom window at the first-floor level fronting onto this neighbouring dwelling. In the event planning permission is granted in this instance, the use of obscuring glazing in this window would be appropriate to avoid any undue overlooking. This matter can be addressed by way of planning condition.
- 7.5.5. I further consider that no significant overshadowing of any neighbouring property will occur on foot of the proposed development, given the separation distances which would arise to the dwellings to the rear of the site and the north/north-easterly orientation of the development relative to No. 3 Blackfort Avenue.

- 7.5.6. In considering the character and design of the proposed dwellings in the context of the 10 no. existing units within the crescent, I note that the proposed building height matches that of the existing. While the proposed development comprises 1 no. detached dwelling and 1 no. semi-detached pair, I consider that the proposed design and configuration of the units would be acceptable at this location and would have no negative impact on the character or amenities of the existing dwellings. The proposed dwellings will be accessed via the same internal estate road as the existing dwellings, and in my opinion, will read as an extension of the existing scheme rather than an independent development.
- 7.5.7. It is considered that the configuration of the 6 no. off-street car parking spaces is unacceptable and that the spaces are significantly restricted. The spaces which are intended to serve the detached unit extend across the front building line of the adjacent unit, while the spaces serving one of the semi-detached units cannot be accessed independently.
- 7.5.8. While the development plan requires 2 no. car parking spaces to be provided per family-orientated unit, it is considered that 1 no. space per unit would be acceptable given the proximity of the site to the town centre of Castlebar (approximately 900 m) and objective (HO6) of the development plan which seeks to develop infill sites in existing residential areas of the town as a means of providing additional housing and increasing density. I further note the presence of a limited number of visitor parking spaces adjacent to the existing area of communal open space. In the event planning permission is granted in this instance, the revised car parking arrangements can be addressed by way of condition.

7.6. Road Access

- 7.6.1. The observer and third parties in this case have raised extensive concerns in relation to the road access which leads into the estate from the R311 Newport Road. It is submitted that numerous accidents have taken place on the access road and that the open nature of the subject site facilitates views of oncoming traffic, thus helping to reduce potential conflicts. In considering the points which have been raised, I note that the configuration of the existing access road is not open for re-assessment under this appeal case.

7.7. Appropriate Assessment

- 7.7.1. Given that the development is proposed to be 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 existing pattern of residential development at this location, the planning history of the site and the development plan provisions which enable the expansion of established and approved uses not conforming to land use zoning objectives to be considered on their merits, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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| 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. |
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| | Reason: In the interest of clarity. |
| 2. | <p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 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.</p> <p>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.</p> |
| 3. | <p>The proposed development shall be amended to include 1 no. off-street car parking space only to the front of each dwelling unit. Revised drawings showing compliance with this requirement, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: To ensure a satisfactory parking layout in the interests of traffic safety.</p> |
| 4. | <p>Opaque glazing shall be provided to the bathroom window at the first-floor level of the detached dwelling unit.</p> <p>Reason: In the interest of residential amenity.</p> |
| 5. | <p>A naming/numbering scheme for the dwellings shall be submitted to and agreed in writing with the planning authority prior to the occupation of the dwellings.</p> |

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| | Reason: in the interest of orderly street numbering. |
| 6. | Water supply and drainage arrangements, including the disposal of surface water and the diversion of on-site services, shall comply with the requirements of the planning authority for such works and services. Reason: In the interest of public health. |
| 7. | Prior to the commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water. Reason: In the interest of public health. |
| 8. | Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will 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. |
| 9. | The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste. Reason: In the interests of public safety and residential amenity. |

Louise Treacy
Planning Inspector

29th January 2020