



An  
Bord  
Pleanála

## Inspector's Report ABP-309484-21.

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<b>Development</b>	Construction of 25 no. houses.
<b>Location</b>	Garryduff, Castlebar, County Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	20515.
<b>Applicant</b>	G&M McConway Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal (three reasons).
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	G&M McConway Limited.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	May 2021.
<b>Inspector</b>	Philip Davis.

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## 1.0 Introduction

This appeal is against the decision of the planning authority to refuse permission for a 23 unit housing development for three reasons – two relating to flooding, one to layout and design. A previous application on the lands was refused on appeal by the Board for reasons relating to prematurity and layout (**ABP-306400-20**).

## 2.0 Site Location and Description

### 2.1. Garryduff, Castlebar

Garryduff townland is part of the north-western suburbs of Castlebar, the county town of Mayo. Castlebar has a population of around 12,000 and is centred on the older town core around Main Street, half a km from Garryduff. Castlebar Hospital is to the south of the town, with its railway station 1.5 km to the south. Garryduff is a predominantly residential suburban area, with individual houses and small late 20<sup>th</sup> century housing estates extending on each side of the Rathbawn Road as it runs north-west from the town, and Pound Road, a local connector road. The appeal site is located in backlands between Pound Road and Rathbawn Road.

### 2.2. Appeal site

The appeal site is an irregularly shaped area of land with a site area given as 1.287 hectares, located between the backlands of detached dwellings facing Rathbawn Road and a small late 20<sup>th</sup> Century housing estate known as Glen Fort to the west. It is accessed via a service road parallel to Pound Road (L1728) serving Glen Fort. To the south the site is bounded by the rears of a line of mid-20<sup>th</sup> Century 2-storey detached dwellings. To the north is open land. The site is largely flat with a drop in levels to the north and west. It is uncultivated regenerating scrub and woodland. Older OS plans show a watercourse called the Knockthomas stream running through the site, this has been culverted.

## 3.0 Proposed Development

The proposed development consists of a proposed 25 no. dwelling houses, consisting of 6 no. 2 bedroom terrace units, 6 no. 3-bedroom semi-detached units,

12 no. 3 bedroom terrace units and 1 no. 4 bedroom detached unit, with all associated infrastructure.

## 4.0 Planning Authority Decision

### 4.1. Decision

The planning authority decided to refuse permission for three reasons, which I would summarise as follows:

1. It is considered that the proposals to prevent flooding from the culverted stream under the site are inadequate.
2. It is considered premature pending the results of an ongoing Fluvial Flood Risk assessment for the area.
3. It would contravene Section 14.5.4 of the Castlebar and Environs Development Plan 2008-2014 due to its monotonous layout and design.

### 4.2. Planning Authority Reports

#### 4.2.1. Planning Reports

A further information request was sent out prior to a final planning report – this led to revisions that were readvertised. I summarise the main points of the report as follows:

- It is noted that the site is in an area identified as 'pluvial indicative' in the SFRAM mapped areas.
- Notes a range of objections from Glenfort residents.
- Notes planning history of three grants of permission, for 7, 22, and 10 houses, with an overturn of the most recent grant in a decision by the Board (ABP-30400).
- Outlines the responses to the FI request.
- It is considered that the first reason for refusal in the previous Board decision has been overcome in the final proposal. But it is considered that the second

reason – relating to flooding – has not been addressed to the satisfaction of the planning authority.

- Notes the concerns raised by the Town Architect.
- Refusal recommended for three reasons.

#### 4.2.2. Other Technical Reports

**Roads Engineering:** Recommends a number of conditions, including the omission of one dwelling to allow for alignment of proposed Castlebar Relief Road.

**Flood Risk Management:** Notes previous refusal and comments on an earlier application regarding the Knockthomas stream. It is noted that as it is not part of an Arterial drainage Scheme it is unclear who is responsible for the culvert. A number of questions are outlined. A Preliminary flood Risk report notes that the site is in an 1 in 100 year flood event area, and as such a site specific flood risk assessment is required.

**Executive Town Architect** (referred to in the planning report but not on file):  
Outlines a number of concerns with the design and layout.

#### 4.3. Prescribed Bodies

None on file. A letter from **Irish Water** to the applicants (submitted with the further information request), states that a connection to the Irish Water network can be facilitated.

#### 4.4. Third Party Observations

A letter from signed Glenfort residents outlined concerns about flooding and open space provision in the proposed development. Other individual observations were made highlighting in particular flood issues in the area (photos of past flood events are attached to these submissions).

## 5.0 Planning History

Although not on file, there are three previous permissions outlined in the planning report as having granted permission for dwellings on the site. The final one, 18/995, granted permission for 23 no. houses, but this was refused by the Board on appeal (**ABP-306400-20**). An appeal against the same permission was rejected by the Board. Two reasons were given by the Board for refusal – prematurity pending the preparation of a master plan for the subject site and the remaining zones lands to the north, and that the proposed servicing of the site was inadequate with regard to possible flooding.

## 6.0 Policy Context

### 6.1. Development Plan

The Castlebar LAP 2008 has been extended indefinitely and still applies as the operative plan for the area. The site is zoned as '*Objective B: New residential*' in that plan, as part of a larger area of land extending to the north.

### 6.2. EIAR

Having regard to the nature of the proposed development within an existing urban area and on zoned land and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

### 6.3. Natural Heritage Designations

There are no designated sites in or around Castlebar town. The closest, around 4km to the north, is the **River Moy SAC** site code 002298, but the town is not within that water catchment. All watercourses in Castlebar drain to Clew Bay, about 12km to the west. The **Clew Bay Complex SAC** site code 001482 is designated for a number of coastal and littoral habitats.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

- The applicant gives an overview of the background to the application and argues that the refusal fails to take account of national, regional and local planning policy, in particular the NPF, and is not consistent with the ABP decision (**ABP-306400-20**).
- It highlights what it considers to be the key issues in the appeal, i.e. the failure of the planning authority to recognise that a masterplan had been provided (ABP reason for refusal 1), the flood risk issue was addressed (reason no.2), there are comprehensive proposals submitted for the culvert, the concerns raised by third parties, and the increased density of housing on the site (it notes the Boards comment on the Direction in this regard).
- With regard to concerns over the culvert, it is confirmed that the applicant will take over maintenance of the culvert, and Appendix C and D of the appeal sets out the engineering issues and maintenance proposals.
- Further details are set out for the upgrading and maintenance of the culvert.
- It is noted that there is no evidence that the culvert has caused flooding, and it is restated that the proposed works will reduce any risk.
- It is argued that the Council stating that the site is an 'ongoing pluvial flood risk' is misleading. It is stated that no house is proposed in the area identified at risk of flooding by SFRAM Mapping, and no part of the development area is within the Flood Zone B area. It is emphasised that the proposed works would not exacerbate the flooding issue highlighted by the third parties in their submissions (and photographs).
- It is argued that the works would significantly reduce run-off to the local drainage network and so potentially lower possible risks.
- It is argued that the Council (in reason 2) reference to the absence of a Strategic Flood Risk Assessment (SFRA) is inconsistent with other decisions and is unreasonable, in that there is no apparent standards to 'trigger' such a requirement. It is noted that the Development Management Guidelines state

that prematurity should only be a reason for refusal if there is a specific time frame for such a strategy or plan. It is further noted that a SFRA was submitted with the previous application.

- It is argued that the reference to 14.5.4 in the final reason for refusal is vague, as this does not set out specific requirements. It is argued that the proposed layout is consistent with the existing layout of Glenfort, and that no evidence or substantiation has been provided that the proposed development is in contravention of the development plan.
- It is denied that there is any basis for the statement within the refusal that the use of terraced units is monotonous or repetitive. It is argued that the Council is incoherent in its approach, seemingly preferring semi-detached over terracing, while favouring higher densities.
- It is denied that there is any basis for considering the proposed development to be substandard. It is argued that the proposed layout is in accordance with all standards and can be justified on the basis of existing layouts and design.
- A number of appendices are attached, including an Engineering Report and a Flood Risk Assessment.

## **7.2. Planning Authority Response**

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

## **7.3. Observations**

None.

## **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:

- Principle of Development
- Flooding issues
- Design layout and amenity



- Traffic and access
- Other planning issues
- Appropriate Assessment

### 8.1. Principle of Development

The site is zoned in the Castlebar LAP 2008 (still operable) as 'Objective B: New residential', as part of a larger area of land extending to the north. In such areas, the objective is:

*Objective It is an objective to provide for new residential development, associated facilities and services. The new residential zone relates to c.157ha of lands in 4 distinct areas of the town where it is envisaged that new communities will develop throughout the life of the plan. The areas are intended primarily for housing but may also include a range of other uses particularly those such as schools, crèches and community buildings. A masterplan framework will be required for all sites over 2ha in size detailing layout of services, open spaces, roads, pedestrian linkages and landscaping. An adequate amount of land has been zoned in the draft plan to cater for the projected residential development requirements of the town over the plan period.*

The planning authority refer to a potential route through the lands for a bypass, but this is not indicated on the plans. Specific guidance is set out in the Mayo County Development Plan 2014, which is in the process of being replaced, but still appears to be the operative Plan for the area.

The National and Regional context is set out in a number of policy documents, including *Project Ireland 2040; Rebuilding Ireland* (2016); the Sustainable Urban Development Guidelines 2009 (later updated) and its companion Urban Design Manual, the *Urban Development and Buildings Heights Guidelines for Planning Authorities* (December 2018); and the *Sustainable Urban Housing: Design Standards for New Apartments* (2018), in addition to related guidelines and circulars such as DMURS and the Building Heights Guidelines for Planning Authorities. These policies consistently set out policy objectives for promoting high quality

residential uses within existing urban areas at significantly higher densities than has been the norm in the past, in particular when those sites are served by good public transport networks. The 2018 Departmental guidelines set out the most detail for assessing this type of development, although it focuses its guidance on new build. A key shared policy objective of the National Development Plan, the National Policy Framework, and associated guidelines and circulars is to promote the compact growth of cities and towns of all sizes to add value and create more attractive places in which people can live and work. The preferred approach is to focus on greater reuse of previously developed 'brownfield' land, consolidating infill sites, which may not have been built on before, the reuse of existing buildings appropriately, and the development of sites in locations that are better serviced by existing facilities and public transport. I note that the Castlebar LAP and the current Development Plan (soon to be replaced) predates some of the above guidance.

The proposed site density is, I estimate, around 19 dwellings per hectare. With regards to density, the 2008 LAP states:

In the development of new residential areas, the maximum gross residential density shall be 20 dwellings per hectare (8 dwellings per acre). All proposals should have due regard to the "Residential Density Guidelines for Planning Authorities" 1999 and the final Planning Guidelines on Sustainable Residential Development in Urban Areas and the Best Practice Urban Design Manual once adopted.

This guidance is clearly out of date – I would consider the site to be suburban in nature and zoned as part of a town development plan, in which case I would consider that 6.11 of the 2009 Sustainable Housing Guidelines applies, which sets a target of 20-25 dwellings per hectare as appropriate. Some exemptions for small towns or villages apply in section 6.12, but as Castlebar is the County Town of Mayo I would not consider these applicable, especially as the site is very close to the heart of the town.

In the previous Board decision on file, the following was added to the Direction:

**Note: The Board considered that the density proposed in this instance was insufficient with regard to national policy and would have to be addressed in the context of a masterplan for the total landholding.**

I assume this is a reference to the following paragraph in the Inspectors Report:

*The density of the subject development equates to approximately 18 units per hectare. This is marginally below the level recommended under this sites zoning which would require 20 units per hectare. I consider that the size and configuration of the site would provide for higher density of development at this location and note the original proposal for 33 houses. When considered in the context of the applicant's overall holding this part of the land is closer to the town centre and at lower elevation and thus may offer the best opportunity for different building forms / densities.*

In that previous application, the number of houses was reduced from 33 to 23 following an FI request from the Council.

I would concur with the comment by the Inspector in the previous report that this site has the capacity for significantly more than 23 dwellings – the original proposal for 33 would be more consistent with national policy. It does seem, however, that the planning authority has been somewhat inconsistent in its advice and the application of national policy on housing. Notwithstanding this, national policy is quite clear on this issue and the density issue was highlighted by the Board in the last appeal, and while the proposed number of dwellings has been increased, it is by a very marginal number. I also note that no regard appears to have been given to the recommendation in DMURS with road design – the proposed layout is a continuation of the pattern set by the adjoining Glenfort development.

The applicant also submitted an indicative 'masterplan' (drawing no. 17.129-A0FI-06) which indicated an indicative layout for future developments, but there is insufficient information on this to make any judgement on whether the overall development would have sufficient density to comply with guidelines. It seems

unlikely that this would be likely given the general lack of diversity of dwellings and the significant amounts of grassed space and carparking proposed.

I will address it in more detail below, under 'flooding', but I also note the requirement under Policy FS-02 (quoted in section 8.2 below) for a design in accordance with Sustainable Urban drainage Systems.

The proposed development is therefore substandard with regard to density requirements, road layout and flooding (in regard to not having had a SuDS led approach). While I have some sympathy for the applicant in that it would appear that the planning authority have not kept its plans and guidelines up to date and appears to have given contradictory advice with regards to layout and density, national policy is quite clear in respect of density, access layout and drainage, and I note the reasonably clear direction given by the Board in the previous appeal. Notwithstanding the provision of a draft masterplan for the overall lands, I conclude that while the land is zoned residential the proposed development is substandard with regard to national published guidance on density and further guidance and development plan policy on its layout and design.

## 8.2. **Flooding issues**

With regard to flood issues, there are a number of policies set out both in the main part of the development plan, including:

### **Policy FS-02**

It is an objective of the Council to require certain developments in the settlements identified in the Core Strategy and Settlement Strategy to incorporate "Sustainable Urban Drainage Systems" as part of the development proposals. Surface Water Management Systems should be designed in accordance with Sustainable Urban Drainage Systems (SUDS).

With additional requirements set out in the Strategic Flood Risk Assessment appendix to the Development Plan to have full regard to the DEHLG/OPW Guidance on "*The Planning System and Flood Risk Management- Guidelines for Planning Authorities*" 2009. The SFRA notes the requirement to apply the sequential

approach to land use and to apply the justification test for developments in areas considered of moderate to high flood risk. It also highlights in section 6.2 (page 41) the importance of the use of Sustainable Urban Drainage Systems (SUDS) in any proposals.

The only reference to SUDS in the documentation that I can identify is in section 4.2.3 of the flood Risk Assessment technical report dated October 2019 where it recommends that “*Opportunities to introduce localised SUDS measures should be considered, such as permeable paving, soakways and rainwater harvesting*”. I find no evidence that serious consideration has been given to even the most basic of these measures, let alone anything remotely close to best practice, which would include at the very least assessing the possibility of opening up the culvert to reduce the speed of run-off from the site. The planning authority made no mention of this in its assessment, but it is referred to a number of times in the previous application and appeal.

The reasons for refusal relate to the issue of possible flooding at the inlet screen area of the culvert, and that the ongoing Fluvial Flood Risk assessment has not been completed. I concur with the general points raised by the applicant that these reasons for refusal are somewhat vague and lacking in specifics. The planning authority do not seem to have a clear idea of what exactly the flood risks are in the area or how to address them – even the status of the culvert was unclear (the applicant has made clear that it will remain the owner’s responsibility, although this raises the question of what happens when the estate is sold off).

Existing information indicates that flooding has occurred to the north, although it is unclear if this is in any way connected with the culvert. A very small part of the site, and not a part where any dwelling is proposed, is within a Flood Risk B zone. But there is evidence – partly acknowledged by the applicant, of pluvial flooding on the site (see the photos on file submitted by observers during the application). The nature and severity of this flooding seems uncertain.

In such a situation and having regard specifically to the provision of the 2009 OPW guidelines, I consider that there is a strong onus on the applicant to demonstrate that all possible flood risks have been assessed as part of the overall masterplan for the lands, and that the future development is in line with SUDS best practice. There is no evidence on file that this was either requested by the planning authority, or that

the applicant has done much more than a minimal assessment with engineering proposals that are a long way from a true SUDS analysis.

For this reason, I consider that the general thrust of the first two reasons for refusal should be upheld by the Board.

### **8.3. Design, layout and amenity**

The proposed development is laid out in a conventional manner, essentially replicating the pattern set by the small estate to the west. The development plan zoning requires a masterplan for the overall area to be provided, but it was only submitted in indicative form. The proposed houses are generally modest in scale and attractively designed, but the layout is very conventional and there is an absence of sufficient detail in the overall plan to assess fully whether it conforms with DMURS requirements and guidelines. The masterplan design features more dead-end roads than would be ideal, but having regard to the awkward shape of the landholding this is hard to avoid. The design does allow for reasonable permeability, although there is little to no specific provision for cycling.

The Mayo County Development Plan does not give specific guidelines for internal amenity and does not have a requirement to comply with BRE209/BS8206. The applicant was not required to submit a Daylight and Sunlight report. The layout is conventional in form and all individual dwellings have satisfactory arrangements for light. Most of the proposed dwellings are oriented on a north/south access, which will result in just one aspect getting most direct sunlight, but there is sufficient front and rear garden space and the layout is such that I consider that each dwelling would achieve all minimum statutory standards and guidance and development plan standards.

I do not consider that the layout would result in any loss of amenity for any dwellings adjoining or near the proposed development by way of overshadowing or other direct or indirect effects.

### **8.4. Traffic and access**

The site is to be accessed via the existing road access to Glenfort, a service road that runs parallel to Pound Road. It is indicated that construction access will be via

the lands to the north. The planning authority requested room for a projected relief road, although there is no information on this on the development plan. The overall layout of the site follows the pattern of Glenfort. The access to the site appears to be adequate for normal traffic. No special provision has been made for cycling, although the nature of the roads ensures that this should not be necessary except at the junctions with the main roads (the draft masterplan indicates two further road connections to the north of the lands). Overall permeability would be good as there are proposed links to all adjoining roads. There is insufficient detail in the overall masterplan to indicate whether it is fully in line with DMURs design recommendation, but I would consider general layout to be acceptable.

The main vehicular access is via a junction with the Glenfort service road and Pound Road. This junction is generally acceptable for further traffic, although there is just a simple crude path for pedestrians to take a short cut and no provision for cyclists to avoid quite a long detour if they wish to travel east towards the schools. This could be significantly improved as part of the overall development – I would recommend a condition to this end if the Board is minded to grant permission.

## 8.5. Other planning issues

### Water and sewerage

Irish Water has indicated that the site can be connected to water and foul drains and there is sufficient capacity in the Castlebar systems for the proposed development, although it is indicated that this is dependent on ongoing improvements to the water supply.

### Cultural heritage

There are no protected structures on or in the vicinity of the site. There is one recorded ancient monument – a ringfort – approximately 100 metres to the north-west. The area around the stream appears to have been drained before the culvert was constructed so there is unlikely to be any archaeological remains on the site. The indicative masterplan submitted indicates that the area around the rath would be preserved as greenspace.

### Development Contributions/Part V

The proposed works would be subject to a standard s.48 Development Contribution. There are no indications on file of any other contributions required or Part V arrangements.

## 8.6. **Appropriate Assessment**

The closes EU designated habitat, around 4km to the north, is the **River Moy SAC** site code 002298, but Castlebar is not within the Moy catchment so there are no potential pathways for pollution. All watercourses in Castlebar drain west to Clew Bay via a number of lakes, about 12km to the west. The **Clew Bay Complex SAC** site code 001482 is designated for a number of coastal and littoral habitats. Having regard to the distance, the attenuation, and the nature of this SAC, I do not consider that there is any likelihood of a significant effect.

I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No's **002298** or **001482** or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 9.0 **Recommendation**

I recommend that the Board uphold the decision of the planning authority to refuse permission for this housing development, for the reasons and considerations set out below.

## 10.0 **Reasons and Considerations**

1. The "Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas" published by the Department of the Environment, Heritage and Local Government in May 2009, require a high quality approach to the design of new housing. The proposed development, with a density of approximately 19



units per hectare, is considered substandard with regard to Section 6.11, which sets a target of 20-25 dwellings per hectare for such urban sites. Having regard to the proposed site layout and house designs for the appeal site and the overall draft masterplan for the area submitted with the application, it is considered that the development would constitute an unattractive and inappropriate housing scheme, which would not accord with the prevailing character of the town. It is considered that the proposed development would, therefore, conflict with provisions of the said guidelines, would seriously injure the amenities of the area and of property in the vicinity, and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development is in an area which is at risk of flooding. Policy FS-02 of the Mayo County Development Plan states that it is an objective of the council to incorporate “Sustainable Urban development Drainage Systems” as part of development proposals. The Board is not satisfied, on the basis of the information lodged with the planning application and in response to the appeal, that the proposed development is designed in accordance with Policy FS-02 and the DEHLG/OPW Guidance on “The Planning System and Flood Risk Management- Guidelines for Planning Authorities” 2009 and as such could to a heightened risk of flooding either on the proposed development site itself, or on other lands. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

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Philip Davis  
Planning Inspector

21<sup>st</sup> February 2022