



An
Bord
Pleanála

Inspector's Report

ABP-311860-21

Development	Permission to construct a house, connection to existing services and all ancillary site development works.
Location	Number 67, Lavey Manor, Lavy Beg, Charlestown, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	21/782
Applicant(s)	Newpark Developments, Ballina Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V. Grant
Appellant	Anne Towey
Observer(s)	None
Date of Site Inspection	19 th October 2022
Inspector	Fergal O'Bric

1.0 **Site Location and Description**

- 1.1 Charlestown is a town in north-east Mayo on the Mayo-Sligo border, located approximately 10 kilometres east of Swinford, 9 kilometres north of Knock airport and approximately 47 kilometres south-west of Sligo. The appeal site is located to the east of the town within the 60 km/h speed control zone. The site is accessed via an internal access road serving the Lavey Manor residential development, which in turn is accessed off a local county road which ultimately connects to the National Primary Route, the N5, further south of the development.
- 1.2 The appeal site comprises an area of 0.05 hectares and is located approximately 0.6 kilometres east of the town centre. The appeal site is located within the southern part of the development and comprises an undeveloped greenfield site within the Lavey Manor development, which is substantially complete, in that fifty nine dwelling units are constructed, two more are at an advanced stage of construction and the majority of the units are occupied.
- 1.3 Immediately to the west and north of the appeal site are two-storey detached dwellings within the development. Immediately east of the appeal site is another vacant site within the residential development. To the south is the internal access road and an area of landscaped open space which is to remain in situ under the current proposals.

2.0 **Proposed Development**

- 2.1 The proposal would comprise the following:

Construction of a two storey dwelling, connection to on-site water services and associated site development works.

- 2.2 The two-storey dwelling would have a ridge height of approximately 7.6 metres and a floor area of 160 square metres (sq. m.). External finishes would

comprise rendered plaster and concrete roof tiles consistent with the finishes within the residential development.

- 2.3 The layout would continue the established built form around the perimeter of a central area of public open space, comprising an area of 2,800 sq. m., The existing watermain and foul sewer network within the development would be utilised.
- 2.4 Access is proposed from the internal service road serving the residential development. The development is served by two-metre wide footpaths and street lighting along the frontage (south) of the development. On-site car parking spaces for the residential unit would be provided.
- 2.5 Further information was submitted in relation to: Site boundary wall finishes; Compliance with Part V requirements in relation to provision of Social Housing; Compliance with the first floor back to back separation distances; Details of Ordnance Datum of internal access road and the finished floor levels of the dwelling; Clarification regarding the position of the service pole to the south of the appeal site and compliance with car parking standards of the Development Plan.

3.0 **Planning Authority Decision**

3.1 Decision

The Planning Authority granted planning permission for the development subject to fourteen planning conditions. The following are considered to be the relevant planning conditions:

Condition number 2: External finishes

Condition number 5: Developer to enter water and wastewater agreement with Irish Water.

Condition number 6: Surface water management

Condition number 11: Submission of a Construction Traffic Management Plan.

Condition number 13: Development Contributions.

Condition number 14: Cash Deposit.

3.2 Planning Authority Reports

3.2.1 The initial Planner's Report dated the 9th day of September 2021 set out the following:

- Accepted the principle of residential development within the established Lavey Manor residential development.
- Further information recommended as set out within Section 2.5 above.

The subsequent Planner's Report dated the 13th day of October 2021 set out the following:

- Noted that the issues raised within the further information request had been adequately addressed.
- Noted the pattern of development in the area, the residential land use zoning pertaining to the site and stated that the development would not be injurious to the amenities of the area nor of property in the vicinity, and therefore, would be in accordance with the proper planning and sustainable development of the area.
- Recommended that permission be granted for the residential unit as submitted on foot of the response to the further information request, subject to the conditions as summarised in Section 3.1 above.

3.3 Technical Reports.

Water Services: No objections.

3.4 Prescribed Bodies

National Roads Office-Mayo County Council: No objections

Transport Infrastructure Ireland: No particular observations to make.

3.5 **Third Party Observations**

One third-party observation received from a neighbouring resident which included similar issues to those raised within the appeal submission including the following:

- Overlooking of neighbouring residential property.
- That surface water from the appeal site ingresses into the neighbouring residential property.
- That no finished floor levels are provided within the planning drawings submitted.

4.0 **Planning History**

4.1 The following is considered to be the relevant planning history pertaining to the appeal site:

Planning Authority reference numbers 21/13/15/16 and 21/574/575. In 2021, planning permission was granted for the construction of individual dwelling houses within the overall Lavey Manor development, connection to existing utilities and ancillary site development works.

Planning Authority reference number 01/2879. In 2002 planning permission was granted for the development of eighty three two storey dwelling houses, access road, effluent pumping station and connection to public utilities.

5.0 **Policy Context**

5.1 **Mayo County Development Plan 2022-2028**

Sections that are relevant to the current appeal include:

Volume 1, Section 3: Housing

Section 3.4.9 Housing in Towns and Villages

The sustainable growth of compact urban and rural settlements is a top priority of the NPF and RSES, with particular emphasis on the regeneration and repopulation of core and built-up areas. This approach focuses on maximising the use of infill, vacant and under-utilised sites and of buildings that are suitable and capable of re-use to provide housing, amenities, jobs and services.

Housing Policies and objectives:

Policy TVHP7: To promote the development of vacant residential and regeneration sites in all development centres in the county, as appropriate, in accordance with the requirements of the Urban Regeneration and Housing Act 2015 (as amended).

Policy TVH01: To ensure that a suitable variety and mix of dwelling types and sizes is provided in developments to meet different needs, having regard to demographic and social changes, whilst at all times acknowledging and reflecting the existing character of the area.

Objective TVHO12: To review the car parking standards (Table 7 of Section 7.12.1 Vol. II) over the lifetime of the plan to include maximum parking standards. In the interim period, a reduction of parking standard requirements will be considered for urban infill and brownfield locations, subject to the individual merits of each development proposals, with respect to performance-based criteria, in accordance with the provisions of NPO 13.

Section 12: Settlement Plans-Charlestown

Table 12.2 Land use zoning objectives:

Existing residential: To protect the amenity and character of existing residential areas.

Table 12.3 land use zoning matrix. A residential use is permissible in principle under this zoning objective.

Tier 111 Settlements-Charlestown

The appeal site and the Lavey Manor residential development is zoned Existing residential where the objective is “To protect the amenity and character of existing residential areas” A residential use is permissible in principle under this zoning objective.

Volume 2: Development Management Standards:

Section 2.12 Surface water

Section 4.5.3 Urban infill sites

Section 4,7 Public open space

Section 4,8 Private open space

Section 4.9 Boundary treatments.

Section 7.11 Building Lines

Table 7: Car parking Standards:

1 space per 4 bed dwelling plus 1 visitor space

5.2 Natural Heritage Designations

5.2.1 The closest Natura 2000 site is the River Moy Special Area of Conservation (SAC) (site code 002298) which at its closest point is located approximately 0.5 kilometres west of the appeal site boundary.

5.2.2 The closest Natural Heritage Area (NHA) is the Carrowkeel Turlough pNHA which at its closest point is located approximately 6 kilometres south-west of the appeal site boundary.

6.0 The Appeal

6.1 Grounds of Appeal

6.1.1 A third party appeal against the decision to grant planning permission have been submitted by a neighbouring resident from within number 67 Lavey Manor, immediately north and to the rear of the appeal site. The main issues raised by the appellant are synopsised as follows:

Design & layout:

- The development would result in overlooking of the neighbouring residential property to the north.
- Site levels annotated on the drawings are inconsistent with those of the adjoining internal service road and those within the area of the public open space serving the southern section of the development.
- There is a level difference of 1.1 metres between the ground level of the appeal site and the finished floor level of the appellants dwelling.

Residential Amenity:

- The residential amenities of neighbouring dwellings would be unduly impacted upon by reason of overlooking.

Car Parking:

- That the three car parking spaces as conditioned by the Planning authority cannot be provided on site.

6.2 Planning Authority Response

6.2.1 The Planning Authority made the no comments in relation to the planning appeal.

6.3 **First Party response to appeal submissions**

6.3.1 A response was received from Mr Stephen Maughan, on behalf of the applicants, Newpark Developments (Ballina) Limited in relation to the issues raised by the appellant. These include the following:

Principle of Development

Design & Layout:

- The appeal site is located within a partially finished housing development and therefore, constrained by existing site limitations.
- It is considered that a relaxation of residential development standards in relation to separation distances is appropriate in this instance.
- It was envisaged under the parent permission that a dwelling would be constructed on this site and was deemed to accord with the proper planning and sustainable development at that time by the Planning Authority.

Residential Amenity:

- It is proposed to construct concrete block boundary wall to a height of 1.8 metres above ground level on the appeal site which will result in a 2.7 metre boundary when viewed from number 22 Lavey Manor, thus respecting their privacy.

Surface Water Management:

- The applicants accept that there has been some surface water ingress to the neighbouring residential property as a result of the fall in levels within the appeal site. Upon development of the works within the appeal site, the site will be mainly impervious and surface water will

outfall to the stormwater drainage network within the development. The applicants intend to construct a land drain to the rear of the site to prevent water ingress to the neighbouring residential property. The applicants would accept a condition to this effect as part of any grant of planning permission.

Traffic and on-site car parking:

- The applicants have submitted a site layout as part of their appeal response demonstrating that there is adequate space within the confines of the appeal site to achieve three on site car parking spaces as conditioned by the Planning Authority.

Other Issues:

- The development as proposed will address the issues of water ingress and residential amenity by reason of overlooking and the parking of three vehicles within the site curtilage can be provided for as per the planning documentation submitted to the Board on the 1st day of December 2021.

7.0 **Assessment**

7.1.1 At the time the Planning Authority made its decision on the 6th day of October 2021, the appeal site was included within the settlement boundary of Claremorris as set out with Volume 2 and the Mayo County Development Plan 2014-2020. The Mayo County Development Pan 2014-2020 has since been superseded by the Mayo County Development Plan 2022-2028, operational since the 10th day of August 2022.

7.1.2 The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

Principle of Development

Design and Layout.

Residential Amenity.

Traffic and Parking.

Other Issues.

Appropriate Assessment.

7.2 Principle of Development

7.2.1 The subject site is located within the Charlestown town boundary and has the benefit of an Existing Residential zoning as defined in the Mayo County Development Plan 2022-2028. The objective is “To protect the amenity and character of existing residential areas”, Residential development is permissible in principle as per Table 12.3 of the Development Plan. Therefore, I am satisfied that the principle of development is acceptable in this instance.

7.2.2 The applicant is seeking to construct a dwelling house within the southern section of an established and permitted housing scheme which is substantially complete. While residential development is permissible in principle on the site under the current zoning, other matters also have to be considered including residential amenity, access, parking and traffic safety issues which were raised by the appellant with her appeal submission. These issues are examined in greater detail in the sections below.

7.3 Design and Layout

7.3.1 From the planning history documentation submitted, it is apparent that the appeal site was originally designated for the provision of residential dwellings. Its layout and configuration lends itself to being used for residential purposes as its layout would continue the pattern of development around the perimeter of the large area of public open space that serves the southern section of the residential development. It is, therefore, reasonable for the developer to seek

to make a better and more sustainable use of this part of the overall residential scheme.

7.3.2 The proposed two-storey dwelling, on site number 67, would continue and complete the line of dwellings of similar design, within the southern section of the development. The proposed two storey dwelling would be consistent with the design, height and external finishes of the established dwellings within the overall development. I do not consider that it would be out of character in any negative sense.

7.3.3 Therefore, I am satisfied that the proposed development is acceptable from a layout and design perspective and, would accord with the proper planning and sustainable development of the area.

7.4 **Residential Amenity**

7.4.1 In terms of site levels, the appellant states that the ground levels within the appeal site are approximately 1.1 metres above her finished floor levels and therefore, there would be overlooking from the first floor windows of the appeal site property into the rear of her property. I acknowledge that there is a fall in levels between the southern section of the Lavey Manor development and the northern section of the development. However, this is also the case with the established dwellings within the development. The development was permitted with a similar design and layout as far back as 2002. There were dwelling(s) permitted on the appeal site since as far back as 2002.

7.4.2 In terms of the first floor separation distances, this is a matter that was raised by the Planning Authority in the further information request. The applicants responded and set out that the first floor separation distances between the proposed dwelling and the appellants dwelling vary from 18.48 metres to 21.5 metres, largely due to the slanted orientation of the appellants dwelling. The applicants state that it is not possible to increase this separation distance and respect the established building line within the southern section of the development and also achieve the in-curtilage parking provision.

7.4.3 Notwithstanding the Development Plan first floor separation distance of 22 metres is not fully achieved in this instance, I am satisfied that the applicants have achieved the maximum separation distance possible, given the building line requirements as set out within the Development Plan are being achieved and having regard to the angled nature of the appellants dwelling, direct overlooking will not arise in this instance. Therefore, it is not considered that adverse overlooking would arise, so as to warrant a refusal of planning permission. I consider that due to the angled orientation of dwellings within the development, the separation distances between dwellings and the existing and proposed boundary treatment, that the neighbouring dwellings would not be adversely impacted upon by reason of overlooking.

7.4.4 The appellant requested that if planning permission is to be granted, that the rear boundary wall be raised in order to minimise the issue of overlooking. I consider this request to be reasonable and therefore, a 1.8 metre rear (northern) boundary wall measured from the ground level of the appeal site should be constructed by the applicants in order to minimise any adverse impact upon the residents within the neighbouring property to the north of the appeal site. This is a matter that can be addressed by means of an appropriate planning condition.

7.4.5 The proposals will allow for the completion of the residential scheme, first permitted in 2002. This would result in the betterment of residential amenities for the residents of Lavey Manor, in that construction noise, vibration, dust and fumes would be finally removed from their residential development.

7.4.6 Therefore, I am satisfied that the proposed design and layout would not negatively impact upon the amenities of neighbouring residential properties.

7.5 **Access, Traffic and Parking**

7.5.1 The layout as permitted by the Planning Authority in 2002 remains in place and the appeal site would be accessed from the established internal service road. It would appear that this layout is dictated by the roads, foul and water

services network routes. I note that neither the National Roads Design Office within the Local Authority nor Transport Infrastructure Ireland raised any objections to the proposed traffic/parking proposals.

7.5.2 There is an existing service road within Lavey Manor. The additional vehicular movements associated with the dwelling would not be material, relative to that generated by the existing residential development. In relation to the three car parking spaces as conditioned by the Planning Authority, I note that the applicants submitted an amended layout to the Board as part an appeal response submission on the 1st day of December 2021 and have demonstrated that three on-site parking spaces can be provided. I note that the established dwellings within the development all have two car parking spaces within their curtilage.

7.5.3 The car parking standards asset out within Table 7 of the Mayo County Development Plan set out that 2 spaces are required for four bedroom dwellings and one visitor space is also required per residential unit. Having regard to the established provision of two spaces per residential unit in the development, the car parking standards as set out within the Development Plan, I am satisfied that the three car parking spaces as set out in the revised layout as submitted to the Board on the 1st day of December 2021, is sufficient to serve the proposed development. I note the location of the appeal site within 600 metres of the town centre and there is footpath connectivity (illuminated) between the appeal site and the town centre, thus making it possible to walk to the town centre and from the appeal site and reducing the need for a motor car in some instances.

7.5.4 In conclusion, I am satisfied that the proposed development is in accordance with the Development Plan standards. I would not accept that the current proposal, in itself, would exacerbate traffic nor parking issues within the overall development.

7.6 Other Issues

7.6.1 The appellants has raised the issue if surface water ingress from the appeal site into her property. She has submitted photographs with her appeal submission to corroborate this point. I note that the issue of surface water management was specifically raised by the Planning Authority as part of the further information request. The appellants responded and set out that best practice SuDS measures would be used to manage surface water within the appeal site. I note that the Planning Authority included a specific planning condition in relation to surface water management proposals. I am satisfied that this matter can be adequately addressed by means of the inclusion of an appropriate planning condition in the event that the Board are satisfied that planning permission should be granted.

7.7 Appropriate Assessment

7.7.1 Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually, or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that planning permission be granted.

9.0 Reasons and Considerations

Having regard to the location of the site on residentially zoned lands in the Mayo County Development Plan, and to the policies and objectives and the development standards in the Plan, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the residential amenities of the area nor 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 by way of further information to the Planning Authority on the 22nd day of September 2021 and by further plans and particulars received by An Bord Pleanála on the 1st day of December 2021, 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. Permission is granted for:

- Site Layout drawing number 886-PL-01, submitted to the Board on the 1st day of December 2021.

Reason: In the interest of proper planning and sustainable development and residential amenity.

3. All rear gardens shall be bounded by block walls, 1.8 metres in height, capped, and rendered, on both sides, to the written satisfaction of the planning authority.

Reason: In the interest of residential and visual amenity.

4. The internal road network serving the proposed development, including the street lighting standards, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

- 5 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 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.

- 6 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 estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility

- 7 a) Water supply and drainage arrangements, including attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

b) A land drain to the rear (northern) boundary of the site shall be installed prior to the occupation of the dwelling. Precise details of the land drain shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

Reason: In the interest of public health.

- 8 The applicant shall enter into water and waste-water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

- 9 Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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 amenities of property in the vicinity.

- 10 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

- 11 Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of the two houses.

Reason: In the interests of amenity and public safety.

- 12 Prior to the 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.

- 13 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.

Fergal Ó Bric

Planning Inspectorate

18th November 2022