



An  
Bord  
Pleanála

## Inspector's Report ABP-312456-22

<b>Development</b>	Construction of 28 no. house, and all associated works.
<b>Location</b>	Ballyvary, Castlebar, Co. Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	20865
<b>Applicant(s)</b>	Noel Golden.
<b>Type of Application</b>	Outline Permission.
<b>Planning Authority Decision</b>	Refuse Outline Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Noel Golden
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	23 June 2022.
<b>Inspector</b>	Bríd Maxwell

## **1.0 Site Location and Description**

- 1.1. This appeal relates to a greenfield site located within the village of Ballavary (also known as Bellavary) in Co Mayo. Ballavary village is situated on the N5 Castlebar to Dublin National Primary Road lying approximately 10km to the northeast of Castlebar and 6km to the southwest of Bohola. The appeal site has a stated area of 1.53 hectares and is located on the western side of the village.
- 1.2. Ballyvary is a small village comprising a cluster of dwellings / commercial properties located along a short main street which runs parallel to the N5 which traverses the village in an east/west direction. More recent multiple housing development is located to the south of the village along Keellogues Road. Services within the village include, post office, petrol filling station, small convenience store and a number of public houses a local national school (located circa 800m south of the main street), and a GAA pitch.
- 1.3. The appeal site comprises an amalgam of four field patterns and extends to the south and west of the Main Street within the village. The site fronts onto the local road, a cul de sac, to the north east with a treelined laneway runs along the northwestern site frontage. Residential development adjoins to the north and east of the site. Field boundaries are enclosed by a mix of drystone walls, earth and stone banks, some fine trees and hedgerows. The main fields are in use as pasture. The north-eastern corner of the site is a level level field enclosed by concrete block walls forming common boundaries with dwellings to west and east. Site levels rise generally from north east to southwest with a variation from a spot level at the entrance to the site of 20.5m OD relative to higher level of 29.5mOD towards the southwestern boundary of the site.

## **2.0 Proposed Development**

- 2.1. The application as initially submitted sought outline permission for the construction of a housing development of 28 no semi-detached dwellings (12 no single storey and 16 no two storey), vehicular and pedestrian site access, connection to public services and utilities and all associated and ancillary works and development. Following a request for additional information the proposal was amended with the number of dwellings reduced to 26.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated 8<sup>th</sup> December 2021 Mayo County Council issued notification of the decision to refuse permission for the following reasons.

1. The development site comprises of land not zoned, within the village of Ballavary, which is designated as other towns and villages in the settlement hierarchy set out under the Mayo County Development Plan 2014-2020. Ministerial Guidelines 'Sustainable Residential development in Urban Areas, Guidelines for Planning Authorities' published by the Department of the Environment Heritage and Local Government in May 2009, state that :

For villages of under 400 in population, the typical pattern and grain of existing development suggests that any individual scheme for new housing should not be larger than about 10-12 units due to the absence of a sufficiently developed local infrastructure such as schools and community facilities to cater for development, In view of the above, it is considered that the density is inappropriate development at this location which would constitute an overdevelopment of the site and would be contrary to the Ministerial Guidelines issued to Planning Authorities under Section 28 of the Planning and Development Act 2000 (as amended). The proposed development therefore would be contrary to the proper planning and sustainable development of the area.

2. There is no letter of consent from the trustees of Group Water Scheme consenting to a potable water connection. In the absence of such Consent Mayo County Council are not satisfied that adequate and satisfactory provisions can be made to ensure effective and permanent maintenance of a potable supply of water for the site. Insufficient evidence has been submitted to prove that a potable water supply can be located on site. The development is therefore contrary to proper planning and development of the area and prejudicial to public health.

### **3.2. Planning Authority Reports**

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

Planner's initial report sought additional information to include a Stage 1 and 2 Road Safety Audit, Traffic Impact Assessment and letter of consent from the trustees of local group water scheme regarding water connection. No disposal of surface water to public sewer. An Archaeological assessment also required and a revised layout showing detail of finished floor levels, landscaping, retention of existing trees and hedgerows. The applicant was requested to address issue of scale of scheme in the context of the existing village and services available and having regard to the advice contained in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.

A second planner's report following submission of additional information asserted that a 10-12 house proposal would be considered more appropriate. Letter of consent from group water scheme outstanding. Concern was expressed that the proposal does not integrate with the natural setting, topography, and established boundaries. These matters were raised in a further letter to the applicant which also included the requirement to submit revised public notices.

Final planner's report recommends refusal as per subsequent decision.

#### **3.2.2. Other Technical Reports**

3.2.2.1 Water Services report notes that the water supply at this location is a group scheme. Irish Water have no assets at this location.

3.2.2.2 Senior Archaeologist - an archaeological assessment required comprising site visit and desk top study followed by geophysical and/or other non-invasive surveys, licensed predevelopment testing, licensed archaeological investigation and archaeological monitoring of ground works.

3.2.2.3 Roads Design Engineer. Requires a stage 1 / 2 road safety audit. A traffic impact assessment will be required if the traffic generated by the development exceeds 10% of the existing traffic level on the L1706. Subsequent report outlines no objection subject to conditions.

### 3.3. Prescribed Bodies

Irish water. Storm water to be disposed to outlets other than the Irish Water network, Pre connection request required in order to determine feasibility of connection to a public water wastewater infrastructure. Confirmation of feasibility required. Water supply would be by way of connection to group scheme.

### 3.4. Third Party Observations

3.4.1 Submission by Michael and Noreen McKeon, Ballyvary, residents of the detached dwelling at the end of a cul de sac owner of agricultural sheds bordering the L57721 to the north of the proposed development.

- Bottleneck within the village at the location of the proposed entrance.
- A traffic flow solution would be required to accommodate additional traffic flow alleviating the current need for cars to use the cul de sac for turning. This assertion is supported by other village residents.
- Question the need for two pedestrian entrances and footpath along the northern boundary wall.
- Concerns regarding anti social behaviour.
- No landscaping provision.

3.4.2 Submission from Kate McKeon, Ballyvary Village, owner of the dwelling immediately adjacent to the northern boundary of the proposed development.

- New development within the village should achieve optimal integration into the existing environment retaining the characteristics of a rural village and protecting the residential amenities of existing inhabitants.
- Concerns arise regarding removal of boundary hedgerow, trees and stone walls. Impacting negatively on the character of the village, public amenity and a protected habitat for animals, birds and insects.

- Layout of semi-detached homes in the north-eastern corner of the site backing to village results in negative visual impact. Corner plot closest to houses 25 and 26 could be better utilised as green landscaped space.
- Question need for two pedestrian entrances and additional footpath along the L57721. Gives rise to potential for increased anti-social behaviour.
- Negative impact on residential amenity arising from proximity of boundary wall and dwelling within 5m and 11.5m respectively. Inadequate setback from local road where 10m is minimum requirement in the development plan.
- Overlooking and light impact.
- Question need for this amount of housing in the village given the level of vacant properties in the village. Notable lack of amenities within the village.
- Road safety audit required.
- Concern regarding surface water run off which runs off the north-eastern corner of the site.
- Lack of consultation with residents.
- Additional detail is required to enable visualisation of the development.

## 4.0 Planning History

No planning history on the appeal site.

I note from Mayo County Councils website a Part VIII proposal for development of 12 dwellings on Keellogues Road, Ballyvary. Public consultation closed 3 August 2022.  
<https://consult.mayo.ie/en/consultation/part-8-12-no-dwellings-keellogues-road-ballyvary>

## 5.0 Policy Context

### 5.1. National Policy

Project Ireland 2040 - National Planning Framework The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".

National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".

National Planning Objective 13 also provides that "In urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected".

## **5.2 Section 28 Ministerial Guidelines**

5.2.1 The following Section 28 Ministerial Guidelines are of relevance to the proposed development.

'Urban Development and Building Heights' Guidelines for Planning Authorities

'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')

General Advice provided at 6.3(e) "*The scale of new residential schemes for development should be in proportion to the pattern and grain of existing development. Because of the scale of smaller towns and villages, it is generally preferable that overall expansion proceeds on the basis of a number of well-integrated sites within and around the town/village centre in question rather than*

*focusing on rapid growth driven by one very large site. Above all, it is the function of local area plans and any supplementary local development frameworks to make recommendations regarding the appropriate scale of overall development and any individual new housing schemes and to match the scale and grain of existing development within an overall development boundary. For example, where a small town or village has grown rapidly in recent years, the LAP might recommend the phased development of a variety of sites over time, subject to a proviso that no one proposal for residential development should increase the existing housing stock by more than 10-15% within the lifetime of the development plan or local area plan. For villages of under 400 in population, the typical pattern and grain of existing development suggests that any individual scheme for new housing should not be larger than about 10-12 units due to an absence of a sufficiently developed local infrastructure such as schools and community facilities to cater for development.”*

Circular Letter: NRUP 02/2021

‘Design Manual for Urban Roads and Streets’ (DMURS) • ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’)

## **5.2. Development Plan**

The Mayo County Development Plan 2022-2028 refers. on 29<sup>th</sup> June 2022 and came into effect in 6 weeks on 10<sup>th</sup> August 2021 note that the draft Plan is subject to a Ministerial Direction dated 2 December 2022. The matters raised in the Ministerial Direction do not affect the zoning designations within the Bellavary settlement plan.

In terms of the Core Strategy and Settlement Strategy this is outlined in Chapter 2 of the Plan. I note the allocation with respect to Tier IV settlements as set out at 2.7.7 Core Strategy Table where the Housing Target is 116 units for all 18 Tier IV settlements.



Core Strategy Policies include

*“CSP 1 To promote and facilitate the development of sustainable communities in the county, by managing the level of growth in each settlement to ensure future growth is in accordance with the Core Strategy and County Settlement Hierarchy, in order to deliver sustainable and vibrant rural and urban communities.*

*CSP 4 To support the compact growth of towns and villages to ensure that development proceeds sustainably and at an appropriate scale, density and sequence and in line with the Core Strategy Table.”*

Bellavary is designated as a Tier IV Rural Settlement within the settlement hierarchy.

The appeal site is within the Tier 4 Rural Settlement Consolidation Zone.

The main body of the site is designated as an opportunity site.

The land use zoning matrix sets out that uses permitted within opportunity sites “to provide for residential and appropriate mixed use, community, nursing homes, amenity and other uses generally considered acceptable by reason of location and context.”

Tier IV Rural Settlements are described as towns and villages with local service and limited employment functions, which play an important role in supporting the social, economic and cultural life within rural communities.

*In order to realise the consolidation of the Tier IV Rural Settlements and Tier V Rural Villages, each settlement and village are defined by a development boundary. A single category mixed-use zoning called Rural Settlement Consolidation Zoning applies to all Tier IV Rural Settlements. New development is encouraged to be delivered in a sustainable, sequential manner from the village core outwards, while promoting the reuse and redevelopment of vacant and derelict sites and buildings. The same development approach is adopted for Tier V Rural Villages, with the single category mixed- use zoning referred to as Rural Village Consolidation Zoning. The single category zoning approach provides for a mix of development types, which supports the sustainable growth of the rural area, while providing an alternative in terms of housing choice in the form of vibrant rural communities. A common set of*

*policies and objectives apply to Tier IV Rural Settlements and Tier V Rural Villages.*

#### *Rural Settlement and Village Settlement Plan Policies*

*RSVP 1 To promote the development of rural settlements and villages to meet the needs of these established communities and to provide an alternative choice for those seeking to live in a more rural setting, while supporting existing local services and facilities.*

*RSVP 2 To support the consolidation of Mayo's rural settlements and villages, by promoting proposals that contribute to the sustainable and sequential development of serviceable lands.*

*RSVP 3 To encourage in-depth residential development in rural settlements and villages, of an appropriate scale, design and density, compatible with the intrinsic character and scale of those settlements/villages.*

*RSVP 4 To support, promote and encourage the appropriate development of infilling, brownfield or the use of derelict or under-utilised land or premises, subject to siting, design, protection of residential amenities and normal planning considerations.*

*RSVP 5 To encourage the re-use of existing vacant buildings for commercial or residential purposes and the development of infill sites to create compact, vibrant rural settlements and villages.*

*RSVP 6 To support public realm enhancements in rural settlements and villages, including signage, public lighting (Dark Sky Friendly), public seating, hard and soft landscaping and improvements to the road and footpath network, where appropriate.*

*RSVP 7 To support rural settlements and villages in their role as local rural service centres for their population and its rural hinterland.*

*RSVO 3 To promote and facilitate residential development commensurate with the nature and scale of the particular rural village or settlement, utilising brownfield and infill opportunities in order to regenerate and consolidate the rural settlements and villages.*

*RSVO 4 To support the development of appropriate housing in rural settlements and villages, in order to provide a choice for those who wish to live in a rural setting but not in the rural countryside, subject to a limited scope for individual small-scale multi-house developments of up to 12 houses only or 10% of the existing housing stock, unless it can be demonstrated to the satisfaction of the Planning Authority that local infrastructure, such as schools, community facilities and waterservices, are sufficiently developed to cater for a larger residential development.*

*RSVO 5 To facilitate the expansion of and provision of new mixed-use and employment generating development within rural settlements and villages at an appropriate size and scale, subject to normal planning requirements and the "good neighbour" principle.*

*RSVO 6 To seek the improvement, consolidation and expansion of the public lighting and footpath network in rural settlements and villages, including a footpath / cycle link, where appropriate and feasible.*

*RSVO 7 To facilitate the expansion of the employment and service base in the village.*

*RSVO 8 To actively support the objectives of the 'Rebuilding Ireland' Strategy to address the shortage of housing.*

*RSVO 9 To protect groundwater resources within Source Protection Zones.*

*RSVO 10 To improve recreational/community/social facilities in rural settlements and villages, where appropriate and as resources allow.*

*RSVO 11 To facilitate additional community facilities and services within the rural settlement and village envelope, where possible.*

*RSVO 12 To promote and facilitate development that is commensurate with the nature and extent of the existing settlement to support their role as local service centres.*

*RSVO 13 To ensure new developments do not adversely impact on the setting and/or integrity of the built or natural heritage in or adjacent to rural settlements and villages.*

*RSVO 14 To facilitate the provision of gateway features and natural edges on the key approaches to rural settlements and villages appropriate, including the implementation of Mayo Community Futures' Community Action Plans.*

*RSVP 9 To support the development of a "New Homes in Small Towns and villages" initiative which would augment the delivery of actions by Local Authorities, Irish Water, communities and other stakeholders, in the provision of services and serviced sites to create "build your own home" opportunities, within the existing footprint of rural settlements and villages, in order to provide new homes to meet housing demand.*

*RSVP 10 To liaise and work in conjunction with Irish Water in the delivery of an adequate level of water and wastewater services in rural settlements and villages, including pursuing wastewater treatment upgrades, where appropriate, through Irish Water's Small Towns and Villages Growth Programme.*

*RSVP 11 To support the creation of cycling infrastructure within the rural villages and settlements, their hinterlands and at areas of interest and attractions. Rural Settlement and Village Settlement Objectives*

*RSVO 1 To ensure that future housing occurs in rural settlements and villages within the settlement/village boundary (based on the sequential approach), where serviced lands are available.*

*RSVO 2 To ensure that all rural settlements and villages develop in a self-sufficient manner, utilising existing physical and social infrastructure, where appropriate*

*RSVO 15 To facilitate public realm improvements in rural settlements and villages, including signage, public seating, hard and soft landscaping and improvements to the road and footpath network, where appropriate and feasible.*

*RSVO 16 To consider proposals for small scale, clustered residential development in rural settlements and villages that are not serviced by a wastewater treatment plant. Subject to complying with the most up-to-date EPA Code of Practice Manual for Wastewater Treatment and Disposal Systems Serving Single Houses*

### 5.3. Natural Heritage Designations

The site is not within the boundary of any European designated area.

The River Moy SAC (Site Code 002298) is within approximately 600m to the west of the site.

The Lough Conn and Lough Cullin SPA (Site Code 004228) is located within approximately 6km to the north of the site.

### 5.4. EIA Screening

- 5.4.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 5.4.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
  - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)
- 5.4.3. It is proposed to construct a residential development of 26 dwellinghouses (Initial proposal 28). The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 1.53ha and is located within the existing built-up area but not the business district. The site area is therefore well below the applicable threshold of 10 hectares.
- 5.4.4. The appeal site is a greenfield site extending to the backlands of the main street of Ballyvary. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any

European Site as discussed below and there is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of the Group water Scheme, Irish Water and Mayo County Council, upon which its effects would be marginal.

**5.4.5. Having regard to: -**

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- and the results of the strategic environmental assessment of the Mayo County Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The appeal is submitted by The Planning Partnership on behalf of the first party. Grounds of appeal are summarised as follows:

- The proposed development is entirely appropriate and suitable. Refusal reasons are disproportionate, unwarranted and based on incorrect and inconsistent interpretation and procedure.
- Proposal is wholly consistent with the development plan and national policy and will deliver a meaningful addition to the housing stock in the village.
- The local authority have placed undue significance on an isolated comment of the Sustainable Residential Development in Urban Areas Guidelines (SRDUA) under Section 6.3(e)) which is not a specific policy or objective and in doing so effectively disregard the vast body of local and national planning policy which directly supports the principle of development.
- Discretionary obstacle imposed in relation to water supply connection agreement that has not been applied in numerous other scenarios.
- The public watermain provide by PBKs group water scheme passes the site entrance and connection is entirely feasible and available in principle. Capacity is available as confirmed in email from group secretary appended (Appendix D) It is not possible to obtain a letter of consent from the GWS for procedural reasons.
- Application is for outline permission which seeks to establish the acceptability in principle of the development.
- Fact that the site is not zoned should not be a barrier as the development plan does not provide a zoning plan structure for smaller settlements in the County however has a clear presumption in favour of development on sites such as the subject site on the basis of the sequential approach.

- The appeal site adjoins the built up area, is serviced with water supply and mains sewerage connected to public lighting and footpath network and will be a good neighbour to adjoining development.
- Discouragement of housing within a serviced village would be contrary to the National Planning Framework and National Policy Objective 11.
- Conclusion regarding density and overdevelopment is baseless. Threshold of 10-12 units primarily relates to the pace of development to avoid being overwhelmed in a short period by large scale development.
- Proposed density equates to 17 no units per hectare which is relatively low. Proposal would have an indicative plot ratio of 0.21:1.
- Comprehensive justification for the development is provided in the design statement and further elaborated in the response to the request for additional information.
- Scale of the proposal in the context of the electoral area is inconsequential - 7% of existing. In the context of the village the proposal would over time result in an additional c30% of housing stock which is entirely in accordance with national regional and local planning objectives.
- Development is envisaged on a phased basis. A 5 year grant of outline permission as proposed would enable applications for permission consequent to be granted up to 2027-2028 with such permissions having a 5 year lifetime as standard.
- Scale is comparable to other examples in Co Mayo where housing schemes have been permitted in excess of 10-12 units in a small village. Examples given. 19/540 Belcarra. (17 houses), Part VIII Mulranny (16 houses), 19/236 Kilmaine (17 houses), 16570 Ballindine (18 houses).
- Department Circular Letter NERUP 02/2021 highlights the dated nature of SRDUA and the need for context to be applied to any particular scenario, Referencing the need for significantly increased housing supply.

*“While the principles approaches and general requirements of the Sustainable Residential Development Guidelines continue to be applicable to the*

*objectives of the NPF, namely the development of compact, sustainable and liveable settlements, these are in need of review, given the renewed emphasis the NPF places on tailored, plan led, and design focussed compact growth.”*

- National Policy Objective 13 of the National Planning Framework states that “In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.”
- Request the board to overturn the decision of Mayo County Council.

## **6.2. Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

## **6.3. Observations**

None



## **7.0 Assessment**

**7.1** I consider that the issues arising can be assessed under the following headings:

Principle of development

Scale, Density, Design and Layout

Traffic and Servicing

Appropriate Assessment

## **7.2 Principle of Development**

7.2.1 The application site is located within the Ballavary tier IV rural settlement consolidation zone and the main part of the site is designated as an opportunity site. I note that there is no specific reference within the Development Plan text to this specific opportunity site, however the opportunity site zoning objective seeks to promote the sustainable consolidation of towns and villages with a focus on vacant, underutilised infill and brownfield sites to provide appropriate uses, including the delivery of high quality residential commercial employment uses, and the delivery of renewable energy uses. The opportunity site concept is further revealed in General Placemaking Objective BEO 25 which sets out that the development of Opportunity Sites should contribute positively to the character of the settlement and proposals should include of an urban design statement, site brief/masterplan to demonstrate the rationale for the proposal and how it will interact within its context and the wider urban area. I note that as the current application is for outline permission the level of detail provided is limited. I note that a design statement is provided at section 4.3 of

the cover letter submitted with the application by Planning Partnership. The indicative design and layout is addressed at 7.3 below.

7.2.2 Clearly having regard to the location of this site to the rear of the Main street, Ballavary, and to its identification (main body of the site) as an opportunity site within the recently adopted Mayo County Development Plan 2022-2028, the principle of development of the site is welcome and in accordance with the Settlement Strategy and National Policy Objective 35 to increase residential density in settlements. It is therefore appropriate to assess more detailed matters regarding scale, density, design and layout.

### **7.3 Scale, Density, Design & Layout**

7.3.1 On the matter of scale the first reason for refusal of the local authority referred to overdevelopment and excessive density and referred to the Sustainable Residential Development In Urban Areas, Guidelines for Planning Authorities 2014-2020. I note that these guidelines recommend that :

*“ The scale of new residential schemes for development should be in proportion to the pattern and grain of existing development. Because of the scale of smaller towns and villages, it is generally preferable that overall expansion proceeds on the basis of a number of well-integrated sites within and around the town/village centre in question rather than focusing on rapid growth driven by one very large site. Above all, it is the function of local area plans and any supplementary local development frameworks to make recommendations regarding the appropriate scale of overall development and any individual new housing schemes and to match the scale and grain of existing development within an overall development boundary. For example, where a small town or village has grown rapidly in recent years, the LAP might recommend the phased development of a variety of sites over time, subject to a proviso that no one proposal for residential development should increase the existing housing stock by more than 10-15% within the lifetime of the development plan or local area plan. For villages of under 400 in population, the typical pattern and grain*

*of existing development suggests that any individual scheme for new housing should not be larger than about 10-12 units due to an absence of a sufficiently developed local infrastructure such as schools and community facilities to cater for development.”*

7.3.2 I note that the planner's report sets out the reasoning which led to the conclusion regarding overdevelopment, and it would appear from review that it is based more so on the timing and sequencing of development within the village rather than the density or quantum of development per se. The proposal provides for 26 houses on the site of 1.53 hectares equating to a density of 17 units per hectare which would be considered low and unambitious in the context of the advice contained within the Sustainable Residential Development Guidelines for Development within small towns and villages which recommend a graduated approach to the application of densities (30-40+ centrally located sites, 20-35 edge of centre sites, 15-20 edge if small town / village – provided such lower density does not represent more than about 20% of the total new planned housing stock for the particular town / village.)

7.3.3 This graduated approach is restated within Circular Letter NRUP 02/2021, issued on 21 April 2021 by the Department of Housing Local Government and Heritage, which seeks to clarify matters on the application of residential densities in towns and villages. The circular outlines the necessity to adapt the scale, design and layout of housing in towns and villages to ensure that suburban or high density urban approaches are not applied uniformly, and that development responds appropriately to the character, scale and setting of the town or village. The circular letter reiterates the difficulty in applying prescriptive density standards in locations that display a variety of contexts and land uses, such as those that can be found in towns and villages that have evolved organically over hundreds of years. The emphasis is placed on tailored, plan led, and design focussed compact growth.

7.3.4 The Mayo County Development Plan includes Rural Settlement and Village Settlement Objective RSVO 4 which is to support the development of appropriate housing in rural settlements and villages, in order to provide a choice for those who wish to live in a rural setting but not in the rural countryside, subject to a limited scope for individual small-scale multi-house developments of up to 12 houses only or

10% of the existing housing stock, unless it can be demonstrated to the satisfaction of the Planning Authority that local infrastructure, such as schools, community facilities and water services, are sufficiently developed to cater for a larger residential development.

7.3.5 Taking account of the policy context as set out above, it is my view that the application does not set out a justification of the scale of development as proposed. The application documentation is vague in terms of detail of the particularities of the local housing market and there is no detailed analysis of social and economic infrastructure within the village. In the absence of such detail I consider that it would be difficult to defend the proposed deviation from the consistent advice with regard to proportional growth related to context.

7.3.6 As regards the design and layout, I consider that the proposal fails to appropriately address the site context. I consider that a gradual and well-integrated design and layout would be required for the site. The appeal site presents as an ideal extension of the village centre and any such extension should take account of the established character of development and existing site features. I consider that the layout as currently configured is suburban in character and is inward looking and entirely detached from the established adjacent development within the village centre. Rather than incremental organic growth I consider that the proposal is disjointed and would represent an inappropriate development of the site. On the basis of the foregoing I consider that a fundamental re-imagining of the design approach to the site is necessary.

## **7.4 Servicing and Other matters**

7.4.1 The council's second reason for refusal was on the basis of failure to demonstrate consent with regard to connection to a potable water supply from the trustees of the local group water scheme. I note that included with the grounds of appeal the applicant has submitted an email from the Manager of the PBKS Group Water Scheme indicating that the scheme is currently at 1/3 of capacity and there is ample

capacity to support the proposed development. I consider therefore that this issue does not form a barrier to development.

7.4.2 On the issue of traffic and access, I note the findings of the Transport Assessment Report by NRB Consulting Engineers and Road Safety Audit by Traffico submitted in response to the request for additional information. The Transport Assessment report asserts that the completed development will have an unnoticeable impact on the established local traffic conditions and can be easily accommodated on the road network. I consider that there are no significant traffic or road safety issues which would prevent an appropriate development of the site.

7.4.3 On the matter of archaeological impact I note the Archaeological Assessment by Richard Crumlish, Consultant Archaeologist submitted in response to the request for additional information. It notes that there are no identified archaeological features within the site. The nearest recorded monument Ringfort RMP No MA070-157 lies c 400m west of the site in Laghtavarry Tonwland. Given the size of the site and scale of the development pre development testing of the site is recommended.

## **7.5 Appropriate Assessment Screening**

7.5.1 The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under Part XAB, section 177U of the Planning and development Act 2000 (as amended) are considered fully in this section.

7.5.2 The application is accompanied by an Appropriate Assessment Screening report prepared by Patrick O Grady, Engineer and Environmental Consultant entitled *“Assessment in Accordance with Article 6 of the Habitats Directive 92/42/EEC Stage 1 Screening Application for Outline Planning Permission for 28 houses and associated site development works at Ballyvary Co Maayo”*. The screening concluded that the development is unlikely to present a discernible impact on the integrity of the River Moy SAC or any other European Site. This represents a Finding

of No significant effects. Therefore, an appropriate assessment Natura Impact Statement (Stage 2 will not be required for the proposed development.

7.5.3 The applicant's stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European sites within a possible zone of influence of the development. Having reviewed the documents, submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development alone or in combination with other plans and projects on European sites.

7.5.4 The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on a European Site.

7.5.5 The applicant provides a description of the development at Section 4.2 of the Screening report. In summary the proposal involves outline permission for the development of 28 semi detached dwelling units including access from the Main Street and all associated site works. The development Site is described at Section 4.2 -4.3. It comprises a greenfield site comprising improved agricultural grassland. Taking account of the characteristics of the proposed development in terms of its location and scale of works, the issues considered for examination in terms of implications for likely significant effects on European sites:

Construction related – uncontrolled surface water / silt /construction related pollution

Habitat Loss / fragmentation

Habitat disturbance /species disturbance (construction and or operational)

7.5.6 The development site is not located in or immediately adjacent to a European Site. The closest European site is the River Moy SAC (Site Code 002298) which is within

approximately 600m to the west of the site. The Lough Conn and Lough Cullin SPA (Site Code 004228) is located within approximately 6km to the north of the site.

7.5.7 As regards Lough Conn and Lough Cullin SPA its qualifying interests are

Tufted duck

Common scoter

Common gull

Greenland White Fronted Goose

Wetland and Waterbirds

Having regard to the separation distance (6km) and lack of hydrological connection, the size and scale of works, it is reasonable to conclude that there is no possibility of significant effects and the Lough Conn and Lough Cuillin SPA can be screened out from further consideration.

7.5.8 The features of interest associated with the River Moy SAC include:

- Active raised bogs.
- Degraded raised bogs still capable of natural regeneration.
- Depressions on peat substrates of the Rhynchosporion.
- Alkaline fens.
- Old Sensile Oak woodlands.
- Alluvial forests.
- White Clawed Crayfish.
- Sea Lamprey.
- Brook Lamprey.
- Salmon.
- Otter.

The subject site is sufficiently removed to ensure that the proposed development will not impact on the designated habitats. The proposed development will be contained within the site with no potential for disturbance effects. There appears to be no hydrological connection between the subject site and the River Moy or any tributaries associated with the River Moy. Thus it is reasonable to conclude on the basis of the information on 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 the River Moy SAC (Site Code: 002298) or any other European site in view of the site's conservation objectives and a Stage 2 Appropriate Assessment (and the submission of an NIS) is not therefore required.

## **8.0 Recommendation**

- 8.1. I have read the submissions on the file, visited the site, had due regard to the development plan and all matters arising. I recommend that outline permission be refused for the following reasons.

### **Reasons and Considerations**

1. The appeal site is located within the village of Ballavary a Tier IV rural settlement and lies within the rural settlement consolidation zone for the village. It is an objective of the Development Plan RSVO 4 "To support the development of appropriate housing in rural settlements and villages, in order to provide a choice for those who wish to live in a rural setting but not in the rural countryside, subject to a limited scope for individual small-scale multi-house developments of up to 12 houses only or 10% of the existing housing stock, unless it can be demonstrated to the satisfaction of the Planning Authority that local infrastructure, such as schools, community facilities and waterservices, are sufficiently developed to cater for a larger residential development. It is considered that the proposed development by reason of its scale and layout would be contrary to the said objectives, and contrary to the Core Strategy, would set an undesirable precedent for similar such development in



the vicinity and would thus be contrary to the proper planning and sustainable development of the area.

2. Having regard to its design, layout and configuration, it is considered that the proposed development would fail to respond to the unique characteristics of the site, would achieve poor connection with the established village centre and would not contribute to a sense of place making. The proposed development would, therefore, be contrary to the provisions of the Mayo County Development Plan 2022-2028, would injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

---

Bríd Maxwell  
Planning Inspector  
12<sup>th</sup> December 2022